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ANNUAL TOWN MEETING
April 25, 30, May 2, 7, 9, 14, 17, 21, 24, June 4, 7 and 11, 2001

The meeting was televised by Amherst Community Television and shown on the Government Channel.

The Annual Town Meeting was called to order by the Moderator, Harrison Gregg at 7:45 p.m. There were 254 town meeting members. 128 checked in and a quorum was declared. The call and return of the warrant were read by Town Clerk, Margaret Z. Nartowicz. Articles 1, 2, 3 and 5-15 were considered on April 25th.

ARTICLE 1. *Reports of Boards and Committees*

Voted that the Town hear only those reports of Town officers, the Finance Committee, and any other Town boards or committees which are not available in written form.

Action taken on 4/25/01.

ARTICLE 2. *Resolution – MCAS*

Voted that the Town adopt the following resolution:

WHEREAS, the Town of Amherst fully supports the objectives of providing adequate funding of education for students in all communities and of ensuring that public education is of high quality, and recognizes the right of the people of Massachusetts to ensure that state and local funds for education are used efficiently, and

WHEREAS, a “high-stakes” testing program will harm students by increasing high school drop-out rates, discouraging other middle and high school students who perform at marginal levels, and unnecessarily frustrating some younger children, especially those with special needs and linguistic challenges, who are unable to meet the unreasonably high benchmarks for passing the Massachusetts Comprehensive Assessment System (MCAS) as required by the Massachusetts Department of Education, and

WHEREAS, there is inadequate verification that the MCAS test results distinguish failing performance from performance that needs improvement, and

WHEREAS, the Education Reform Act requires a variety of assessment instruments and no single test is an adequate measure of student performance, and

NOW THEREFORE, BE IT RESOLVED, that the Town of Amherst opposes the use of a passing grade on the tenth-grade Language Arts and Mathematics MCAS tests as a mandatory requirement of graduation from high school, and

THEREFORE, the Town of Amherst calls on the Great and General Court to prohibit the use of the MCAS test results as a mandatory requirement for a high school diploma.

FINALLY BE IT RESOLVED that the Town Clerk, upon the dissolution of this town meeting, be directed to forward a copy of this resolution to Acting Governor Jane Swift; to Thomas Finneran, Speaker of the House; to Thomas Birmingham, President of the Senate; to the Chair and Members of the Joint Committee on Education; to State Senator Stanley Rosenberg; to State Representative Ellen Story; and to the Massachusetts Department of Education and Board of Education.

Action taken on 4/25/01.

ARTICLE 3. *Petition – Resolution – MCAS*

Voted to dismiss. [To see if the town will vote the following resolution on MCAS:

Whereas, the town of Amherst fully supports the objectives of providing adequate public education funding for students in all Massachusetts communities and of ensuring that public education is of high quality, and recognizes the right of the people of Massachusetts to ensure that state and local funds for public education are used efficiently; and,

Whereas, the Massachusetts Comprehensive Assessment System (MCAS), promoted by the Massachusetts Business Alliance as a method for justifying the country's growing income inequality and produced by the Massachusetts Department of Education and Board of Education, is an expensive testing system apparently designed for certificates of mastery, but poorly suited for use in competency determination as required for high school graduation by the Education Reform Act of 1993; and,

Whereas, judging or evaluating school systems solely or primarily on the basis of their students' performance on MCAS has encouraged some school committees, administrators and teachers to place undue emphasis on preparing students for the MCAS test and insufficient emphasis on other aspects of education such as research skills, perseverance, and other cognitive and non-cognitive skills not easily measured in a standard test environment; and,

Whereas, the "high-stakes" MCAS testing program has the potential to harm students by increasing high school drop-out rates, discouraging other middle and high school students who perform at marginal levels, and unnecessarily frustrating some younger children, especially those with special needs, who are unable to meet the unreasonably high benchmarks for passing the MCAS; and,

Whereas, MCAS devalues students' creative skills, wastes classroom time with a testing regime longer than the Massachusetts Bar exam, produces results that directly conflict with positive student achievement on other standardized tests, and, contrary to humane educational and teaching policy, has created an atmosphere of fear and failure; and,

Whereas, the percentage of students in a given municipality who are categorized as failing MCAS tests in various curriculum areas appears to relate directly to the per capita income of families in that community, thereby providing dangerously misleading impressions of the capabilities of those public school children; and,

Whereas, no single test is an adequate measure of student performance; and,

Whereas, the use of MCAS as a sole measure of school performance fails to satisfy provisions of the Educational Reform Act calling for a variety of assessment instruments, including consideration of work samples, project and portfolios, facilitating authentic and direct gauges of student performance and providing a means to compare student performance with students in other states and other nations; and,

Whereas, there is inadequate verification that the MCAS test results distinguish failing performance from performance that needs improvement; and,

Whereas, the Department of Education and Board of Education have ignored or discounted the potentially harmful consequences of high stakes MCAS testing on high school dropout rates, threatened to deny high school diplomas to a majority of the students in the Commonwealth, and disregarded the circumstances of the many students who face specific linguistic and learning challenges by supporting proposals that such students who fail tenth-grade MCAS tests be eligible only for certificates of attendance;

Now, Therefore, Be It Resolved that the Amherst Representative Town Meeting opposes the use of a passing grade on the tenth-grade MCAS tests as requirement of graduation from high school; and,

Further, Be It Resolved that the Amherst Representative Town Meeting calls on the Great and General Court to prohibit the use of a passing grade on the tenth-grade MCAS test results as a requirement for a high school diploma; and,

Finally, Be It Resolved that the Town Clerk, upon the dissolution of this town meeting, be directed to forward a copy of this resolution to the Governor, to Thomas Finneran, Speaker of the House, to Thomas Birmingham, President of the Senate, to the Chair and Members of the Joint Committee on Education, to State Senator Stanley Rosenberg, to State Representative Ellen Story and to the Massachusetts Department of Education and Board of Education.]

Action taken on 4/25/01.

The meeting voted to defer consideration of Article 4 until Wednesday, May 2, 2001.

ARTICLE 4. *Petition – Special Act - Amherst Town Government Act*

(text of proposed special act follows motions)

(Opening Motion: that the town authorize and direct the Select Board to file as a substitute for the special act request of the February 26, 2001 session of the February 12, 2001 Special Town Meeting a petition to the General Court for a special act reforming the town's charter by repealing the existing Representative Town Meeting Act and Town Manager Act and replacing them with a special act to be known as the Amherst Town Government Act consisting of the text of the February 26th request amended to include the following sections as worded:)

MOTION 1.

Voted Yes 88, No 68 to refer to the Charter Commission. [the text labeled "Opening Motion", and to amend the special act request for a Town Government Act by substituting for the text of sections 1.3 and 2.42 the text of the identically numbered sections printed in petitioner's motion sheet.]

Action taken on 5/2/01.

MOTION 2.

DEFEATED Yes 65, No 86. [the text labeled "Opening Motion", and to amend the special act request for a Town Government Act by substituting for the text of section 2.43 the text of the identically numbered section printed in petitioner's motion sheet.]

Action taken on 5/2/01.

MOTION 3.

Voted Yes 99, No 53 to dismiss. [the text labeled "Opening Motion", and to amend the special act request for a Town Government Act by substituting for the text of section 3.1 the text of the identically numbered section printed in petitioner's motion sheet.]

Action taken on 5/2/01.

MOTION 4.

Voted Yes 90, No 63 to refer to the Charter Commission. [the text labeled "Opening Motion", and to amend the special act request for a Town Government Act by substituting for the text of sections 3.222 and 4.54 the text of the identically numbered sections printed in petitioner's motion sheet.]

Action taken on 5/2/01.

MOTION 5.

DEFEATED [the text labeled "Opening Motion", and to amend the special act request for a Town Government Act by substituting for the text of sections 4.53 and 4.65 the text of the identically numbered sections printed in petitioner's motion sheet.]

Action taken on 5/2/01.

MOTION 6.

- 1) **DEFEATED** [the text labeled “Opening Motion”, and to amend the special act request for a Town Government Act by substituting for the text of section 3.253 the text of the identically numbered section printed in petitioner’s motion sheet.]
- 2) **DEFEATED** [the text labeled “Opening Motion”, and to amend the special act request for a Town Government Act by substituting for the text of section 4.613 the text of the identically numbered section printed in petitioner’s motion sheet.]
- 3) **DEFEATED** [the text labeled “Opening Motion”, and to amend the special act request for a Town Government Act by substituting for the text of section 4.63 the text of the identically numbered section printed in petitioner’s motion sheet.]

Action taken on 5/2/01.

MOTION 7.

Voted to refer to the Finance Committee. [the text labeled “Opening Motion”, and to amend the special act request for a Town Government Act by adding numbered section 3.27 – Select Board Compensation as printed in petitioner’s motion sheet.]

Action taken on 5/2/01.

MOTION 8.

Voted unanimously to dismiss. [the text labeled “Opening Motion”, and to amend the special act request for a Town Government Act by substituting for the text of section 4.7 the text of the identically numbered section printed in petitioner’s motion sheet.]

Action taken on 5/2/01.

MOTION 9.

DEFEATED [the text labeled “Opening Motion”, and to amend the special act request for a Town Government Act by substituting for the text of section 5.2 the text of the identically numbered section printed in petitioner’s motion sheet.]

Action taken on 5/2/01.

Text of proposed special act [“To see if the town will authorize and direct the Select Board to file as a substitute for the special act request of the February 26, 2001 session of the February 12, 2001 Special Town Meeting the following petition to the General Court for a special act reforming the town's charter by repealing the existing Representative Town Meeting Act and Town Manager Act and replacing them with a special act to be known as the Amherst Town Government Act, as follows, deletions to the text of the February 26th request being shown in ~~strikethru~~ and additions in **boldface**:

AN ACT relative to the Amherst town government.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of same, as follows:

SECTION 1. Chapter 10 of the acts of 1936, as amended by Chapter 49 of the acts of 1959, Chapter 1088 of the acts of 1973 and Chapter 404 of the acts of 1998, and Chapter 11 of the acts of 1951, as amended by Chapter 512 of the acts of 1972, are hereby repealed and replaced with the following, which shall constitute the charter of the Town of Amherst:

1. Election Provisions

1.1 Town government positions to be filled by election

The town shall elect town meeting members, a moderator, members of the select board and school committee, a planning board, and trustees of the town library. The town shall also elect, on the same ballot, Town representatives to the following state or regional authorities: Oliver Smith Will Electors, Redevelopment Authority, Housing Authority, and Hampshire Council of Governments. All are subject to any applicable provisions of the law. The terms of office of such officers or boards shall not be interrupted.

1.2 Districting

1.21 Advisory Board

Every ten years, upon receipt of the final results of the decennial federal census, the select board shall appoint a districting advisory board composed of nine members from diverse geographic areas of the town, plus the town clerk or the town clerk's designee as a non-voting, member ex-officio.

1.22 Process and reporting

The districting advisory board shall recommend to the select board a division of the territory of the town into not less than five precincts, each of which shall be plainly designated. The precincts shall be so established as to consist of compact and contiguous territory with numbers of inhabitants as nearly equal as feasible, and bounded as far as possible by the center line of known streets and ways or by other well-defined limits.

The districting advisory board shall include in its recommendations to the select board a map or maps of the precincts as established or revised from time to time, with the numbers of inhabitants therein. The select board shall report its decisions on said recommendations to the town clerk, who shall forthwith give written notice thereof to the state secretary, stating the number and designation of the precincts, the number of inhabitants of each precinct and such other information as shall be required by law. Any revision of such precincts shall take effect upon receipt of the approval of the state secretary in writing, after which the town clerk shall notify each household of registered voters of said revisions, and shall also cause to be posted in at

least one public place in each precinct a map of description of that precinct, with the names and residences of the registered voters therein.

1.3 Conduct of elections

Meetings of the registered voters of the several precincts for elections, for primaries, and for voting upon any question to be submitted to all the registered voters of the town, shall be held on the same day and at the same hour and at such places within the town as the select board shall in the warrant for such election direct, **except that the polls shall open by at least seven o'clock in the morning and close not earlier than eight o'clock in the evening.** The provisions of the general laws relating to precinct voting at elections shall apply to all elections and primaries in the town.

1.4 Election of select board members

At each annual election there shall be elected in place of those select board members whose terms are about to expire an equal number of members, each to serve for three years. The select board members shall serve until their successors are elected and qualified. If, for any reason, a vacancy or vacancies occur in the membership of the select board, the remaining members shall call a special election to fill the vacancy or vacancies for unexpired term or terms, except that if such vacancy or vacancies occur less than ninety (90) days prior to the annual election and no fewer than three select board members remain in office, the vacancy shall remain until such annual election.

1.5 Elections of representative town members

1.51 Number of members

The number of elected town meeting members in all precincts shall be equal among all the precincts and in each precinct shall be the largest number divisible by three which will cause the total elected membership to be as near two hundred forty (240) as possible.

1.52 Nominations

Nomination of candidates for town meeting member to be elected under this act shall be made by nomination papers which shall bear no political designation; to the name of a candidate for re-election shall be added the words "Candidate for Re-election." Nomination papers shall be signed by at least one registered voter of the precinct in which the candidate resides, and shall be filed with the town clerk at least forty-nine (49) days before the election. No nomination paper shall be valid in any respect to any candidate whose written acceptance is not thereon or attached thereto when filed.

1.53 Elections

1.531 Balloting

The registered voters in any precinct affected by any revisions of precincts, at the first annual town election following such revision, and conformable to the laws relative to elections not inconsistent with this act, shall elect by ballot the number of registered voters from said revised precinct, other than the officers designated herein as town meeting members ex-officio, to be town meeting members of the town.

1.532 Term of office

The first third, in the order of votes received, of members so elected in each precinct shall serve a three-year term, the second third in such order shall serve a two-year term, and the remaining third in such order shall serve a one-year term from the day of the annual town election; and thereafter, except as provided herein, at each annual town election the registered voters of each precinct shall, in like manner, elect for the term of three years, one-third of the number of elected town meeting members to which such precinct is entitled, and shall at each election fill for the term or terms any vacancy or vacancies then existing in the number of elected town meeting members in such precinct.

In case of a tie vote affecting the division into thirds, as aforesaid, the members elected from the precinct at the same election, other than those whose terms of office are affected by such tie vote, shall by ballot determine which members receiving such tie vote shall serve for the longer and which for the shorter term. In the case of a tie vote affecting the election of town meeting members in any precinct otherwise than to term of office, the members elected from such precinct at the same election shall by ballot determine which of the candidates receiving such tie vote shall serve as town meeting member from such precinct. The terms of office of all elected town meeting members from every precinct revised as aforesaid shall cease upon the election of their successors as hereinafter provided.

1.533 Notification

The town clerk shall, after the election of town meeting members, forthwith notify such members by mail of their election.

1.534 Members assuming ex-officio status

Any elected town meeting member who becomes by appointment or election one of the officers designated as town meeting members ex-officio shall, upon such appointment or election, cease to be an elected town meeting member.

1.54 Term of office of members

Town meeting members elected to fill vacancies between town elections shall serve until the next annual town election.

1.541 Vacancies between election and annual meeting

In the event of a vacancy in the full membership of town meeting following the annual town election, and prior to the annual town meeting of the same year, such vacancy shall be filled by the losing candidate at the same election with the largest number of votes in that precinct who shall serve only until the next annual town election. If there is a tie vote among two or more such candidates, the remaining elected members of the same precinct shall, by ballot, choose from among those tied and the winner shall serve until the next annual

town election. In such cases, the town clerk shall call a special meeting of the remaining elected members of such precinct to be held within thirty (30) days following the annual town election, and shall cause to be mailed to every such member a notice specifying the purpose, time and place of the meeting, not less than five (5) days preceding the date scheduled. In the event there are no candidates available to fill the vacancy, the procedures outlined in Section 1.542 shall be followed.

1.543 Vacancies occurring after annual meeting

1.5421 Filled by precinct member elections

In the event of any vacancy in the full number of elected town meeting members from any precinct, the town clerk shall, not less than thirty (30) days prior to the first special town meeting after October 1 but before December 31, mail written notice of such vacancy to the remaining elected members of the precinct and shall publish said notice in a newspaper of general circulation in the town. Nomination papers to fill any vacant seat may be filed by any registered voter of the precinct with the town clerk until the close of business on the eighth (8th) day following the date of publication. The town clerk shall on or before the close of business on the seventh (7th) day thereafter certify the qualified candidates, mailing to the remaining town meeting members in the precinct a copy of such certification together with a written ballot identifying the qualified candidates and the number of vacancies to be filled. The remaining elected town meeting members of the precinct shall, on or before the seventh (7th) day following said mailing, cause their ballots to be delivered to the town clerk in a sealed envelope. On the first business day following said seventh (7th) day the town clerk shall open the envelopes at a duly noticed public meeting and shall certify the election of those with the largest number of votes, ties to be resolved by the town clerk by lot.

1.5422 Filled by precinct member meetings

In the event of any vacancy in the full number of elected town meeting members from any precinct which cannot be filled by means of the above-mentioned procedure, the remaining elected members of the precinct may choose a successor from among the registered voters thereof. Upon petition therefor, signed by no fewer than ten (10) elected town meeting members from the precinct, or if the entire number of elected town meeting members from said precinct is fewer than eighteen (18), by a majority thereof, notice of any vacancy shall be made promptly to the remaining elected town meeting members from the precinct wherein the vacancy or vacancies exist by the town clerk, who shall call a special meeting of such members for the purpose of filling a vacancy. The town clerk shall cause to be mailed to every such member, not less than five (5) days before the time set for the meeting, a notice specifying the object, time and place of the meeting. At the said meeting, a majority of the elected town meeting members from such precinct shall constitute a quorum, and they shall elect from their own number a chair and a clerk. The chair and clerk shall count the ballots and shall make a certificate of such election and forthwith file the same with the town clerk, together with a written acceptance by the member or member so elected, who shall thereupon be deemed elected and qualified as a town meeting member or members.

1.543 Resignations and removals

A town meeting member may resign by filing a written resignation with the town clerk, and such resignation shall take effect on the date of such filing. A town meeting member ex-officio or elected town meeting member who removes from the town shall cease to be a town meeting member, and an elected town meeting member who removes from one precinct to another may serve only until the next annual town election.

2. Representative Town Meeting

2.1 Powers and limits of town meeting

2.11 Powers

The town of Amherst shall have the capacity to act through and be bound by its town meeting members, who shall, when convened from time to time, as herein provided, constitute representative town meetings; the representative town meeting shall exercise exclusively, so far as will conform to the provision of this act, all powers vested in the municipal corporation.

Action in conformity with all the provisions of law now or hereafter applicable to the transaction of town affairs in town meeting, shall, when taken by a representative town meeting in accordance with the provisions of this act, have the same force and effect as if such action had been taken in a town meeting open to all the voters of the town as organized and conducted before the establishment of representative town government.

2.12 Limits

This act shall not abridge the right of the inhabitants of Amherst to hold general meetings, as that right is secured to them by the constitution of the commonwealth; nor shall this act confer upon any representative town meeting in Amherst the power finally to commit the town to any measure affecting its municipal existence or changing its form of government, without action thereon by the voter of the town at large at an annual town election, using the ballot and checklist therefore in accordance with the applicable provisions of the Massachusetts General Laws.

2.2 Organization

2.21 Membership

2.211 Members

Any representative town meeting held under the provisions of this act, except as otherwise provided herein, shall be limited to the town meeting members elected by precinct, together with the following members

ex-officio: the moderator, the members of the select board, the members of the school committee, the president of the town library trustees, the chair of the finance committee, the town manager, and such other town meeting members ex-officio as may be provided for in the bylaws of the town without being subject to section thirty-two of chapter forty of the Massachusetts General Laws. Any elected town meeting member who becomes by appointment or election one of the officers designated as town meeting members ex-officio shall, upon such appointment or election, cease to be an elected town meeting member.

2.212 No compensation

Town meeting members elected by precinct shall receive no compensation. This prohibition shall not apply to the receipt of non-governmental funding for care providers to the families of members who are the sole care-givers for elderly or disabled relatives, or for children.

2.2 The moderator

The moderator shall be elected by ballot at each annual town election and shall serve as the moderator of all town meetings, except as otherwise provided by law, until a successor is elected and qualified. Nomination for and election of the moderator shall be as in the case of all other elective town officers, and any vacancy in the office of moderator shall be filled by the town meeting members as the first order of business at the next town meeting following the occurrence of the vacancy. If the moderator is absent or must step down due to conflict of interest, a moderator pro tempore shall be elected by the town meeting members.

2.3 Finance Committee

There shall be a finance committee consisting of seven members to be appointed by the moderator. It shall be the duty of this committee to investigate all proposals in the articles of the warrant for any town meeting that shall in any way affect the finances of the town and to recommend to the town at the time of said meeting a course of action thereon, and in general to make recommendations to the town in regard to any financial business of the town. It shall have control of the reserve fund of the town and make appropriations therefrom.

2.3 Operations of town meeting

2.31 Notification

The town clerk shall notify the town meeting members of the time and place at which representative town meetings are to be held and the notices shall be sent by mail at least ten (10) days before the meeting.

2.32 Rules and procedures

A majority of the town meeting members shall constitute a quorum for doing business, but a lesser number may organize temporarily and may take a recess or adjourn from time to time, but no town meeting shall adjourn to a date that falls after the next elect of town meeting members.

2.33 Public participation

All meetings shall be public. Subject to such conditions as apply to the members of the representative town meeting, any registered voter of the town who is not a town meeting member may speak at a representative town meeting, but shall not vote. Persons who are not registered voters of the town may, subject to the same conditions, speak at any representative town meeting if the town meeting votes that they may do so.

2.34 Action on the warrant

All articles in the warrant for any town meeting shall be acted on and determined exclusively by town meeting members at a meeting to be held at such time and place as shall be set forth by the select board in the warrant for the meeting, subject to the referendum herein provided for. No article in the warrant of any representative town meeting shall be finally disposed of by a vote to lay upon the table, indefinitely to postpone or to take no action thereunder.

2.4 Referendum

A final vote of any representative town meeting passing or rejecting a measure under any article in the warrant shall not be operative until after the expiration of five (5) days, exclusive of Saturdays, Sundays and legal holidays, from the dissolution of the meeting. If, within said five (5) days, a petition, signed by registered voters of the town totaling not fewer than five (5) percent of the total number of registered voters of the town which number shall not include the number of inactive voters, containing their names and addresses substantially as they appear on the list of registered voters, is filed with the select board, asking that the question or questions involved in such vote be submitted to the registered voters of the town at large, then the operation of such vote shall be further suspended pending the determination as hereinafter provided. If such petition is not filed within said period of five (5) days, the vote of the representative town meeting shall become effective and operative upon the expiration of said period.

2.41 Excluded measures

The following measures shall not be the subject of a referendum called under the provisions of this section: votes to adjourn; votes authorizing the expenditure of less than twenty thousand dollars; votes appropriating money for the payment of notes or bonds of the town and interest becoming due in the then current financial year; votes for the temporary borrowing of money in anticipation of revenue; votes rejecting proposed zoning bylaw amendments; votes declared by preamble by a two-thirds vote of the town meeting members present and voting thereon to be an emergency measure necessary for the immediate preservation of the peace, health, safety or convenience of the town.

2.42 Election procedure

The select board, upon the filing of a petition under this section, shall submit said petition to the registrars of voters who shall within ten (10) days certify the signatures thereon. Within ten (10) days of receipt of written notice of certification of a sufficient number of signatures, the select board shall call a special town

election, which shall be held as soon as practicable in accordance with law after the issuing of the call, for the sole purpose of presenting to the registered voters at large the question or questions so involved. The polls shall be opened **by at least seven o'clock in the morning** ~~during hours to be determined by the select board but they shall be open no later than noon~~ and shall be closed not earlier than eight o'clock in the evening. All votes upon any question so submitted shall be taken by ballot, and the voter check list shall be used in the several polling places in the same manner as in the election of town officers. No ballots shall be removed or counted before the closing of the polls. The question or questions to be submitted to be voted on at said special town election shall be stated on the ballot in substantially the same language and form in which they were stated when finally presented to the representative town meeting by the moderator, as appears from the records of such town meeting.

2.43 Determination of result

A question put to the voters at large under the provisions of this section shall be determined by a vote of the same proportion of voters voting thereon as would have been required by law had the question been finally determined at a representative town meeting. ~~No action of the representative town meeting shall be reversed unless a number of registered voters equal to at least eighteen (18) percent of all the active registered voters shall so vote. Otherwise the action~~ **The result** shall take effect immediately upon the certification by the town clerk of the vote upon the referendum.

2.44 Calculations

To determine the total number of active voters of the town in making calculations required by this section, the town clerk shall use the number of active voters as of the dissolution of the town meeting at which the question, proposed to be submitted to voters of the town at large, was voted upon by town meeting members. The number of inactive voters at the dissolution of said town meeting shall be excluded from the calculations.

3. The Select Board

3.1 Organization

The five members of the select board shall be elected at large. ~~as the~~ **They shall be the town's chief elected officials, and the chair of the select board shall be the town's chief executive officer.**

3.2 Powers and duties

The select board shall exercise such powers as are provided to municipalities or to boards of selectmen in the Massachusetts General Laws which have not been superseded by the provisions of this act. It shall be responsible for the general governance of the town. Other powers and duties shall include, but not be limited to those listed below.

3.21 Policy making

The select board shall initiate policy proposals as well as consider and make decisions on policy recommendations brought to it. It shall make guidelines for the in preparation of the annual budget proposal. It shall review and make recommendations on the proposed annual budget.

3.22 Appointive

3.221 Town manager

The select board shall appoint the town manager on merit and fitness and shall supervise the manager as provided in section 4.1 of this act.

3.222 Other select board appointments

The select board shall appoint on merit and fitness and may remove for cause, ~~members of the board of appeals, personnel board, election officers, the registrars of voters except the town clerk and~~ **members of all standing committees of the town, and** such members of boards, committees and commissions as are needed or as provided by town bylaws, town meeting action or acts of the Massachusetts legislature, with the exception of the finance committee ~~and such regulatory boards, committees and commissions listed in Section 3.223.~~

3.223 Select board confirmation of appointments

The select board shall confirm appointments **of department heads** by the town manager ~~to the following regulatory boards and commissions: the conservation commission, the board of health, the planning board, and the historical commission.~~

3.224 Supervision of committees

The select board shall supervise the boards, committees, and commissions that they appoint to ensure that the charge is carried out in a timely manner and that meetings are held in conformance with the Massachusetts Open Meeting Law.

3.23 Legislative

3.231 Town meeting warrant

The select board shall call and issue warrants for town meeting.

3.232 Recommendations to town meeting

The select board shall make recommendations to town meeting.

3.233 Town meeting actions

The select board shall implement appropriately the actions of town meeting.

3.234 Referendum ballots

The select board shall approve the placement of items on the town's ballot for referendum vote. The select board shall determine by majority vote whether to allow debt exclusion(s) from or override(s) of the levy limit. The select board shall frame the question(s) for the override(s) and debt exclusion(s).

3.24 Regulatory

3.241 Licenses and permits

The select board shall issue certain licenses and permits as provided by state law and town bylaw.

3.242 Bylaw enforcement

The select board shall oversee appropriately the enforcement of sections of the town bylaw.

3.243 Water and sewer duties

The select board shall serve as the water commission and as the sewer commission.

3.244 Regulation of public ways

The select board shall control and regulate the public ways.

3.25 Financial

3.251 Budget

The select board shall make recommendations to the town on the annual operating budget and the capital program.

3.252 Signing bonds and notes

The select board shall sign all bonds and notes for the borrowing of money.

3.253 Reviewing grants

The select board shall ~~approve review~~ all contracts of over one ~~hundred thousand million~~ **hundred thousand** dollars and all grants with implication of future financial decisions beyond the current fiscal year.

3.254 Encouraging joint financial planning

The select board shall encourage joint financial planning among town, school and library officials.

3.26 Investigative

The select board may, subject to appropriation, employ experts, counsel and other assistants and incur other expenses.

3.27 Salary

The salary of select board members shall not be less than \$2,000 per annum.

4. The Town Manager

4.1 Appointment of town manager

The select board shall appoint a town manager who shall be a person especially fitted by training and experience to perform the duties of the office and who shall be appointed without regard to political affiliation and in accordance with state and federal anti-discrimination laws and regulations.

The town manager need not be a resident of the town or of this commonwealth when appointed, but shall become a resident of the town within six months or within such time as stipulated in the contract at the time of appointment and remain such while in office. The town manager shall devote full time to the duties of the office and shall therefore not hold any other elective or appointive paid governmental office, nor shall the town manager engage in any other business, unless such actions are approved by the select board. This does not exclude the manager's participation in related professional organizations.

Before entering upon the duties of the office, the town manager shall be sworn to the faithful and impartial performance thereof by the chair of the select board, or by the town clerk, or by a justice of the peace.

4.2 Appointment of a temporary manager

Any vacancy in the office of the town manager shall be filled as soon as possible by the select board. Pending the appointment of a town manager or the filling of any vacancy, the select board may appoint a suitable person as temporary acting town manager to perform all the duties of the office.

4.3 Acting town manager

The town manager may designate by letter filed with the select board a qualified officer of the town to perform the duties of manager during the manager's temporary absence. If the manager fails to make such designation, the select board may designate an officer of the town to perform the manager's duties until the manager returns.

4.4 Compensation of town manager and employment contract 4.41 Compensation of manager

The town manager shall receive such compensation for services rendered as the select board shall determine.

4.42 Employment contract

The town manager shall enter into a written contract with the town for a period not to exceed five years which may be renewed **with the approval of town meeting** for additional terms **not to exceed fifteen (15) years**.

4.5 The manager's powers of appointment

4.51 Appointment and removal of officers and employees

Except as otherwise provided in this act the town manager shall appoint on merit and fitness and may remove all town officers and employees for whom no other method of selection or removal is provided, except employees of the school department and town library. All appointments and removal of personnel shall be subject to the provisions of state and federal anti-discrimination laws, collective bargaining agreements, the limitations of existing appropriations and the town's personnel policies.

4.52 Initial compensation of employees

The town manager shall fix, subject to the provisions of collective bargaining agreements, the limitations of existing appropriations and the town's personnel policies, the initial compensation of all appointed town officers and employees, except employees of the school department and the town library in accordance with applicable provisions of section one hundred and eight A of chapter forty-one of the Massachusetts General Laws if adopted.

4.53 Appointment of town counsel

The town manager shall, **subject to the approval of the select board**, have the power to employ and discharge town counsel.

4.54 Other appointments

The town manager shall appoint **on merit and fitness and may remove for cause**, ~~with the approval of the select board, members of the planning board, conservation commission, historical commission, and board of health. The town manager shall appoint the~~ **principal** assessor and **such** members of boards, committees and commissions as are **not required by this act to be appointed by the select board** ~~needed or as provided by~~ **and whose appointment by the town manager is in accordance with** by town bylaws, **select board or** town meeting action, or acts of the Massachusetts legislature. ~~All appointments to boards, committees and commissions shall be made on merit and fitness. The manager may remove for cause the appointees mentioned in this section.~~

4.55 Supervision of committees

The town manager shall supervise the boards, committees, and commissions that the manager appoints to ensure that the charge is carried out in a timely manner and that meetings are held in conformance with the Massachusetts Open Meeting Law.

4.6 Administrative powers and duties

The town manager shall be the chief administrative and fiscal officer of all town agencies, other than the schools and the library. In addition to specific powers and duties provided in this act the town manager shall have the general powers and duties enumerated below.

4.61 Administration and reorganization of departments and offices

4.611 Supervision

The town manager shall supervise and direct the efficient and responsible administration of all officers and employees appointed by the town manager and their respective offices and departments, and of all functions for which the town manager is given responsibility by the select board, or under the laws of the commonwealth, this act, and bylaws passed by town meeting.

4.612 Examination of town records

The town manager may without notice examine the records of any office or department under the manager's control and have access to all town books, papers, and electronic records for information necessary for the proper performance of the manager's duties.

4.613 Reorganization

The town manager may, **subject to the approval or direction of the select board**, in accordance with the provisions of this act and except as otherwise expressly prohibited by the Massachusetts General Laws reorganize, consolidate or abolish such departments or offices as are under the manager's authority, in whole or in part; establish such new departments or offices as the manager deems necessary; and transfer the duties, powers, and appropriation when incidental to the reorganization of one department or office to another.

4.62 Information and advice to the select board

4.621 Attendance at select board meetings

The town manager shall attend regular meetings of the select board except meetings at which the board considers the manager's salary, formulation of the manager's employment contract, and the manager's removal.

4.622 Ensure records available to select board

The town manager shall ensure that all town offices keep full and complete records, **including a full and complete inventory of all town property both real and personal**, which shall be available to the select board, and upon request to others as required by law.

4.623 Advice about needs of town

The town manager shall keep the select board fully advised as to the needs of the town and shall recommend to the select board for adoption such measures requiring action by them or by the town as deemed necessary or expedient.

4.63 Supervision of town properties

The town manager shall, **subject to the approval of the select board**, ~~supervise have jurisdiction over~~ the rental, use, maintenance, and repair of all town properties except school property and property under the control of the town library trustees. The town manager shall **be an ex-officio member of building committees appointed by the select board which** shall be responsible for the preparation of plans and the supervision of ~~work~~ **major** repairs or renovations on existing buildings or ~~on~~ the construction of new buildings other than school buildings and buildings under the control of the library trustees. The town manager shall maintain and repair school buildings if and to the extent that the school committee requests, and the town manager shall maintain and repair buildings under the control of the library trustees if and to the extent that they so request.

4.64 Supplies, contracts and approval of warrants

4.641 Purchase of supplies

The town manager shall purchase all supplies, materials and equipment and shall award all contracts for all departments of the town except the schools and the town library unless, and to the extent that, the school committee or the trustees of the town library may request by signed requisition.

4.642 Approval of warrants

The town manager shall receive all warrants for the payment of town funds in accordance with the provisions of section fifty-six of chapter forty-one of Massachusetts General Laws. The approval of any such

warrant by the town manager shall be sufficient authority to authorize payment by the town treasurer, but the select board shall approve all warrants in the event of a vacancy in the office of town manager.

4.65 Prosecution of litigation

The town manager shall, **subject to the approval of the select board**, ~~have authority to~~ prosecute, defend and compromise all litigation to which the town is a party. ~~and to~~ **The manager shall** employ special counsel whenever in the judgement of the select board it may be necessary.

4.66 Other administrative duties

4.661 Administer provisions of general and special laws

The town manager shall administer either directly or through a person or persons appointed in accordance with this act all provisions of general and special laws applicable to said town, all bylaws voted by town meeting, and all regulations established by the select board.

4.662 Other duties

The town manager shall perform such other duties, consistent with the office, as may be required by state law, the bylaws of the town, or by vote of the select board or of the town meeting.

4.7 Annual review of the town manager

The select board shall conduct an annual review for the purpose of assessing the strengths and weaknesses of the manager's performance.

The review shall be based on a written list of performance criteria developed by the select board. Copies of the criteria with an invitation to submit written comments shall be **mailed to town meeting members, members of committees with whom the manager has worked and made** available to the public **electronically and** in the select board office. After due consideration **of all comments** the select board shall prepare a written report of its evaluation. The report shall be placed in the manager's personnel file and a written summary may be released to the public.

4.8 Review at the end of contract period

The select board shall conduct an employment review at the end of the contract period to determine if the manager's employment contract shall be renewed. In the event of the non-renewal of the manager's employment contract the provisions of Section 4.9 shall apply.

4.9 Removal of the town manager

The select board, by a vote of three (3) or more members of the board, may remove the town manager by the following procedures: At least thirty (30) days before such proposed removal shall become effective, the select board shall file a preliminary written resolution with the town clerk setting forth in detail the specific reasons for the manager's proposed removal, a copy of which resolution shall be delivered to the town manager.

The manager may reply in writing to the resolution and may request a public hearing. if the manager so requests, the select board shall hold a public hearing not earlier than twenty (20) days nor later than thirty (30) days after the filing of such request.

After the public hearing, if any, otherwise at the expiration of thirty (30) days following the filing of the preliminary resolution, and after full consideration, the select board by a vote of three (3) or more members of the board may adopt a final resolution of removal.

In the preliminary resolution, the select board may suspend the manager from duty, but shall in any case cause to be paid to the manager forthwith any unpaid balance of salary due in terms of the contract or salary for the next three (3) calendar months following the filing of the preliminary resolution, whichever is greater.

5. Budgetary Process and Fiscal Management

5.1 Annual operating budget

On or before the sixteenth (16th) day of January of each year, the town manager shall submit to each member of the select board and finance committee a recommendation in writing of the appropriations for the town government for the ensuing fiscal year, showing specifically the amount required to meet the interest and maturing bonds and notes or other outstanding indebtedness of the town, and showing specifically the amount recommended to be provided for each fund and department, together with a statement of the expenditures for the current year.

The manager shall also submit a statement showing all revenue received by the town in at least the two preceding fiscal years together with an estimate of the receipts of the current year and an estimate of the amount of income from all sources of revenue exclusive of taxes upon property in the ensuing year and shall report the probable amount required to be levied and raised by taxation to defray all expenses and liabilities of the town. For the purpose of enabling the town manager to make up the annual estimate of expenditures, all boards, officers and committees of the town shall, upon the manager's written request, furnish all information in their possession, and before November sixteenth (16th) submit to the manager in writing a detailed estimate of the appropriations required for the efficient and proper conduct of their respective departments during the next fiscal year.

5.2 Capital improvement program

The town manager shall develop a capital improvement program for the town departments supervised by the manager and present that program to the select board and finance committee on or before the fifteenth (15th) day of February of each year. This capital improvement program shall include but not be limited to: a clear concise summary of its contents; a listing of all capital expenditures proposed to be made, by years, during the five fiscal years next ensuing, with supporting information as to the need for each such expenditure; preliminary cost estimates, methods and recommended time

schedules for entering into bonded indebtedness; and the estimated annual cost of operating and maintaining any new facility or piece of major equipment recommended.

The town manager shall work with the Superintendent of Schools and the Library Director and with the advise of a joint capital planning committee comprised of representatives from the select board, finance committee, school committee and library trustees, shall to develop a capital improvement program for the ensuing fiscal year to be presented to the select board, finance committee, school committee and library trustees in time to be included in the finance committee report to the next annual town meeting.”]

10:36 p.m., May 2, 2001 - The meeting voted to adjourn to Monday, May 7, 2001 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 165 town meeting members were checked in.

* * *

The Monday, May 7, 2001 session, adjourned from May 2, 2001, was called to order by the moderator at 7:47 p.m. 127 town meeting members checked in and a quorum was declared. The meeting began with consideration of Public Safety under Article 17 and ended with consideration of Debt Service under Article 17.

ARTICLE 5. Indemnification of Public Officials

Voted to dismiss. [Shall the Town vote to accept the provisions of section thirteen of chapter two hundred and fifty-eight of the General Laws which provides that the town shall indemnify and save harmless municipal officers, elected or appointed, from personal financial loss and expense including reasonable legal fees and costs, if any, in an amount not to exceed one million dollars, arising out of any claim, demand, suit or judgment by reason of any act or omission except an intentional violation of civil rights of any person under any law, if the official at the time of such act or omission was acting within the scope of his or her official duties or employment?]

Action taken on 4/25/01.

ARTICLE 6. Petition – Resolution - Annual Public Hearings

Voted unanimously to refer to the Select Board. [“Petition – Resolution – Annual Public Hearings By the Select Board With Wide Citizen Input To Establish A High Priority List Of At Least A Dozen Town Policy-Making Directives and Budget Priorities

WHEREAS, in an effort to make the policy-making and budget-priority functions of Select Board more transparent and inclusive;

NOW, THEREFORE, BE IT RESOLVED, that the Amherst Representative Town Meeting urges the Amherst Select Board to hold annual public hearings in the Fall with invited input from town meeting members:

1. To review old policies and budget priorities;
2. To renew on-going policies and budget priorities;
3. To initiate new policies and budget priorities; and,

FURTHER, BE IT RESOLVED, that the Amherst Town Meeting recommends that the Amherst Select Board then establish a “high priority” list of at least a dozen town policy-making directives and budget priorities which it deems to be most important for the well-being of the town and its citizens.”]

Action taken on 4/25/01.

ARTICLE 7. Petition – Special Act - Resident Aliens

Voted that the town authorize the Select Board to file with the legislature a special act entitled, An Act authorizing local voting rights for permanent resident aliens residing in Amherst, as follows:

Section 1. Notwithstanding the provisions of section one of chapter fifty-one of the General Laws, or any other general or special law, rule or regulation to the contrary, resident aliens eighteen years of age or older and who reside in the town of Amherst may, upon application, have their names entered on a list of voters, established by the town clerk, for the town of Amherst and may thereafter vote in any election for local offices and local ballot questions.

Section 2. The Select Board of Amherst is authorized to formulate regulation and guidelines to implement the purpose of this act.

Section 3. Nothing in this act shall be construed to confer upon permanent resident aliens the right to vote for any state or federal office or any state or federal ballot question.

Action taken on 4/25/01.

ARTICLE 8. Petition – Voting Machines

Voted to dismiss. [To see if the town will vote to request that funds appropriated under Article 27 of the 2000 Annual Town Meeting for new voting machines not be spent until a committee of politically diverse Amherst residents who have run for office:

- A. determines that any new voting machines will: 1) prevent the casting of more votes for a given office than there are seats to be filled; 2) where relevant, count clearly but imprecisely filled-out hand-marked paper ballots with a 10-trial consistency and accuracy of 100%; 3) be fully capable of

operating during an electrical power outage; 4) separately record, count, and preserve the record of each precinct's vote; and 5) be absolutely secure from electronic tampering; or,

- B. concludes that affordable new machines are not capable of meeting the requirements of Section "A" above, whereupon they shall recommend a long term maintenance and parts replacement program for the voting machines now in use by the town.]

Action taken on 4/25/01.

ARTICLE 9. *Town Bylaw - Community Preservation Committee Bylaw*

Voted that the Town amend the Town Bylaws by adding a Community Preservation Committee Bylaw as follows:

There shall be a community preservation committee, pursuant to and with the authority granted under Section 5, as now or hereafter amended, of Chapter 44B of the Massachusetts General Laws consisting of nine members. In accordance with Section 5(a) Its membership shall include one member of the conservation commission as designated by the commission, one member of the historical commission as designated by the commission, one member of the planning board as designated by the board, one member of the leisure services and supplemental education commission as designated by the commission, and one member of the Amherst Housing Authority as designated by the authority, and four representatives of other town boards or committees or citizens at-large as designated by the Select Board. The Select Board shall make all appointments to the committee. The members of the committee shall be appointed for three year terms except that at the outset three shall be appointed for a one-year term, three for a two-year term and three for a three-year term. Any vacancy shall be filled by the Select Board in accordance with Section 5(a) of Chapter 44B. The members shall serve without compensation. The committee shall elect its own chair and secretary, each for a one-year term. The committee shall not meet or conduct business without the presence of a quorum. A majority of the members of the committee shall constitute a quorum. The committee shall approve its actions by majority vote. Recommendations to the Town Meeting shall include their anticipated costs. The secretary shall keep minutes of its meetings and attend to its correspondence.

The committee shall study the needs, possibilities and resources of the town regarding community preservation. The committee shall consult with the conservation commission, the historical commission, the planning board, the Leisure Services and Supplemental Education Commission in its capacity as park commissioners, and the housing authority. The committee shall also consult with and coordinate its recommendations with the Joint Capital Planning Committee. As part of its study, the committee shall hold one or more public informational hearings on the needs, possibilities and resources of the city or town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the city or town.

The committee shall make recommendations to the Town Meeting annually for the acquisition, creation and preservation of open space, for the acquisition and preservation of historic resources, for the acquisition, creation and preservation of land for recreational use, for the creation, preservation and support of community housing and for rehabilitation or restoration of such open space, historic resources, land for recreational use and community housing that is acquired or created as provided in the Community Preservation Act. In determining its recommendation to the Town Meeting, the committee shall consider the requirement of the Community Preservation Act that the Town Meeting spend or set aside for later spending not less than 10% of the annual revenues for open space (not including recreational use), not less than 10% for historic resources, and not less than 10% for community housing, or, upon amendment of the Act, such other requirements as may be contained therein. With respect to community housing, the community preservation committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites.

The committee may include in its recommendation to the Town Meeting a recommendation to set aside for later spending funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund to accomplish that specific purpose or to set aside for later spending funds for general purposes that are consistent with community preservation.

Action taken on 4/25/01.

ARTICLE 10. *Transfer of Funds – Unpaid Bills*

Voted unanimously that the Town raise and appropriate \$3,516.49 to pay unpaid bills of prior years.

Action taken on 4/25/01.

ARTICLE 11. *Solid Waste Fund - Rescind Appropriation*

Voted unanimously that the Town rescind the action taken under Article 14 of the Annual Town Meeting of 1994 which appropriated \$75,000 of unexpended bond proceeds to the Landfill Monitoring Trust Fund.

Action taken on 4/25/01.

ARTICLE 12. *Authorization for Compensating Balance Accounts*

Voted unanimously that the Town accept the provisions of Chapter 44, section 53F of the Massachusetts General Laws, which authorize the Treasurer to enter into written agreements with banking institutions pursuant to which the Treasurer agrees to maintain funds on deposit in exchange for banking services. Action taken on 4/25/01.

ARTICLE 13. *Optional Tax Exemptions*

Voted that the Town authorize a maximum exemption of 100 percent for taxpayers qualifying for exemption under M.G.L. Chapter 59, Sections 17D, 22, 37A, and 41C. Action taken on 4/25/01.

ARTICLE 14. *Retirement Assessment*

Voted that the Town raise and appropriate \$1,909,013 for the Hampshire Regional Retirement System assessment. Action taken on 4/25/01.

ARTICLE 15. *Hampshire Council of Governments Assessment*

Voted that the Town raise and appropriate \$115,200 for the Hampshire Council of Governments Assessment. Action taken on 4/25/01.

10:00 p.m., April 25, 2001 - The meeting voted to adjourn to Monday, April 30, 2001 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 183 town meeting members were checked in.

* * *

The Monday, April 30, 2001 session, adjourned from April 25, 2001, was called to order by the moderator at 7:44 p.m. 128 town meeting members checked in and a quorum was declared. Hill Boss, Hilda Greenbaum, Nonny Burack, James Pistrang, James Scott and H. Oldham Brooks were sworn as tellers. Article 16, and General Government and Public Safety under Article 17 were considered. Consideration of Public Safety under Article 17 was postponed to after Article 4.

ARTICLE 16. *Petition – Electric Rates*

Voted that the Town adopt the following resolution and appropriation in the amount of \$9,880.00. Resolution to seek lower electric rates in a competitive electricity market.

Whereas, the Commonwealth of Massachusetts, by enacting Chapter 164 of the Acts of 1997, has established a competitive marketplace through deregulation and restructuring of the electric utility industry; and,

Whereas, citizens of the Town of Amherst in Hampshire County have substantial economic, environmental, and social interests at stake; and,

Whereas, Amherst's residential and business consumers are interested in reducing their electric rates;

Be it resolved, the Town Meeting Members of Amherst, grant the Board of Selectmen authority to develop and participate in a contract, or contracts, for power supply and other related services, independently, or in joint action with other towns. If such contracts are to be approved, individual consumers would retain the option not to participate and to choose any alternative for service they desire, and

Be it further resolved, that the Selectmen will appoint a representative to a countywide committee to oversee such joint action, and to appropriate a sum of money for the work of this committee and to meet such appropriation transfer \$9,880.00 from free cash.

Action taken on 4/30/01.

ARTICLE 17. *FY 2002 Operating Budget*

Voted that the Town adopt a comprehensive operating budget for the ensuing year and raise and appropriate money therefor.

GENERAL GOVERNMENT

Voted that the Town appropriate \$3,827,901 for General Government, that the salary of the Moderator be fixed at \$100, that of the Board of Selectmen at \$300 each, that of the Elector under the Oliver Smith Will at \$20, and that to meet such appropriation \$3,797,901 be raised by taxation, and \$30,000 be transferred from the Ambulance Receipts Reserved For Appropriation Account.

Action taken on 4/30/01.

10:26 p.m., April 30, 2001 - The meeting voted to adjourn to Wednesday, May 2, 2001 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 180 town meeting members were checked in.

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The Wednesday, May 2, 2001 session, adjourned from April 30, 2001, was called to order by the moderator at 7:44 p.m. 128 town meeting members checked in and a quorum was declared. The meeting began and ended with consideration of Article 4.

PUBLIC SAFETY

Voted that the Town appropriate \$6,745,927 for Public Safety and that to meet such appropriation \$5,955,927 be raised by taxation and \$790,000 be transferred from the Ambulance Receipts Reserved for Appropriation Account.

Action taken on 5/7/01.

PUBLIC WORKS

Voted unanimously that the Town raise and appropriate \$1,670,814 for Public Works.

Action taken on 5/7/01.

PLANNING/CONSERVATION/INSPECTIONS

Voted that the Town raise and appropriate \$841,204 for Planning/Conservation/Inspections.

Action taken on 5/7/01.

COMMUNITY SERVICES

Voted that the Town raise and appropriate \$1,249,609 for Community Services.

Action taken on 5/7/01.

DEBT SERVICE

Voted that the Town raise and appropriate \$1,963,507 for payment of the Town's General Fund indebtedness.

Action taken on 5/7/01.

10:01 p.m., May 7, 2001 - The meeting voted to adjourn to Wednesday, May 9, 2001 at 7:35 p.m. in the auditorium of the Amherst Regional Middle School. 175 town meeting members were checked in.

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The Wednesday, May 9, 2001 session, adjourned from May 7, 2001, was called to order by the moderator at 9:57 p.m. 127 town meeting members checked in and a quorum was declared. No articles were considered.

9:58 p.m., May 9, 2001 - The meeting voted to adjourn to Monday, May 14, 2001 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 168 town meeting members were checked in.

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The Monday, May 14, 2001 session, adjourned from May 9, 2001, was called to order by the moderator at 7:45 p.m. 127 town meeting members checked in and a quorum was declared. The meeting considered Library Services through Water Fund under Article 17.

LIBRARY SERVICES

Voted that the Town approve the Library Services operating budget of \$1,742,393 and that the Town raise and appropriate \$1,160,460 as its share of that budget, that \$93,330 be transferred from the State Aid to Library Account, and that \$488,603 be provided by Jones Library, Inc.

Action taken on 5/14/01.

ELEMENTARY SCHOOLS

Voted that the Town raise and appropriate \$15,590,512 for the Amherst Elementary Schools.

Action taken on 5/14/01.

REGIONAL SCHOOLS

Voted unanimously that the Town approve the Amherst-Pelham Regional School District operating and capital budget of \$21,675,666 and that the Town raise and appropriate \$7,820,306 as its proportionate share of that budget.

Action taken on 5/14/01.

WATER FUND

Voted unanimously that the Town appropriate \$3,378,101 for the Water Fund and that to meet such appropriation \$3,378,101 be made available from Water Fund revenues of the current year.

Action taken on 5/14/01.

10:04 p.m., May 14, 2001 - The meeting voted to adjourn to Thursday, May 17, 2001 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 185 town meeting members were checked in.

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The Thursday, May 17, 2001 session, adjourned from May 14, 2001, was called to order by the moderator at 7:56 p.m. 127 town meeting members checked in and a quorum was declared. Gerald Jolly was sworn as teller. The remaining budget items under Article 17, and Articles 18 – 26 were considered. Article 19 was postponed to May 21st at 7:30 p.m. Article 24 was deferred to May 21st at 7:35 p.m. Further consideration of the main motion under Article 26 was postponed to May 21st.

SEWER FUND

Voted that the Town appropriate \$2,435,886 for the Sewer Fund and that to meet such appropriation \$2,435,886 be made available from Sewer Fund revenues of the current year.

Action taken on 5/17/01.

SOLID WASTE FUND

Voted that the Town appropriate \$889,339 for the Solid Waste Fund and that to meet such appropriation \$889,339 be made available from Solid Waste Fund revenues of the current year.

Action taken on 5/17/01.

GOLF COURSE FUND

Voted that the Town appropriate \$326,048 for the Golf Course Fund and that to meet such appropriation \$326,048 be made available from Golf Course revenues of the current year.

Action taken on 5/17/01.

TRANSPORTATION FUND

Voted Yes 97, No 29 that the Town appropriate \$470,529 for the Transportation Fund and that to meet such appropriation \$443,832 be made available from Transportation Fund revenues of the current year and \$26,700 be made available from Transportation Fund Surplus.

Action taken on 5/17/01.

ARTICLE 18. *Reserve Fund*

Voted unanimously that the Town raise and appropriate \$85,000 for the Reserve Fund for FY 2002.

Action taken on 5/17/01.

(Voted to postpone consideration of Article 19 to Monday, May 21st at 7:30 p.m.)

ARTICLE 19. *Charter Commission*

Voted that the Town raise and appropriate \$7,000 for Charter Commission expenses.

Action taken on 5/21/01.

ARTICLE 20. *Special Services - Amherst Community Television*

Voted unanimously that the Town raise and appropriate \$4,000 for Amherst Community Television and related expenses.

Action taken on 5/17/01.

ARTICLE 21. *Special Services - Human Services*

Voted unanimously that the Town raise and appropriate \$151,195 for the following human services:

- Amherst Survival Center
- Helen Mitchell Family Outreach Project
- Helen Mitchell Family Outreach Domestic Violence Response Project
- Big Brothers/Big Sisters
- Not Bread Alone
- Center for New Americans
- Children's Aid and Family Services
- HomeSharing
- Everywoman's Center
- Food Bank of Western Massachusetts
- Amherst Family Center
- First Call For Help
- Hampshire Health Access
- Men's Resource Center
- Safe Passages
- Service Net/Interfaith Cot Program
- YWCA/Youth Outreach Program
- School-Age Tuition Assistance Fund

Action taken on 5/17/01.

ARTICLE 22. *Special Services - Congregate Housing*

Voted unanimously that the Town raise and appropriate \$45,000 for the development and coordination of support services essential to the tenants of congregate housing, said program to be fully reimbursed by the Department of Elder Affairs.

Action taken on 5/17/01.

ARTICLE 23. *Petition – Public Transportation Funding*

Voted to dismiss. [To see if the Town will appropriate from the Transportation Enterprise Fund sufficient revenue to cover the difference between the UMass/Five Colleges Reimbursements and the Commonwealth "Cherry Sheet" deduction for transit service provided under agreements with the PVT.A.]

Action taken on 5/17/01.

(Voted to defer consideration of Article 24 until Monday, May 21st at 7:35 p.m.)

ARTICLE 24. *Petition – “Academy Lot” Parking Revenues*

Voted Yes 106, No 53 that town meeting advise the Select Board to find a way that the net revenues from Parcel 215, Map 15C may be used in accordance with the intentions expressed by the Amherst academy when the land was transferred to the Town.

Action taken on 5/21/01.

ARTICLE 25. *Special Services - Public Transit Services*

Voted unanimously that the Town endorse no-fare public transit service to the Amity Street/University Drive/Village Park, Echo Hill, Cushman and Orchard Valley/Elf Hill areas of the Town, the weekend (year-round) service on the South Amherst/North Amherst/Belchertown Road routes, elderly and disabled special services, and approve the levying of an assessment by the Commonwealth of Massachusetts for the Town's proportionate share of the cost of such services.

Action taken on 5/17/01.

10:22 p.m., May 17, 2001 - The meeting voted to adjourn to Monday, May 21, 2001 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 146 town meeting members were checked in.

* * *

The Monday, May 21, 2001 session, adjourned from May 17, 2001, was called to order by the moderator at 7:45 p.m. 127 town meeting members checked in and a quorum was declared. Articles 19, 24 and 26 were considered.

ARTICLE 26. *Petition – Additional Town Center Evening Bus Service*

Voted that the Town endorse additional no-fare public transit service in the vicinity of the Town Center during evening hours, and approve the levying of an assessment by the Commonwealth of Massachusetts for the Town's proportionate share of the cost of such service.

Action taken on 5/21/01.

9:58 p.m., May 21, 2001 - The meeting voted to adjourn to Thursday, May 24, 2001 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 175 town meeting members were checked in.

* * *

The Thursday, May 24, 2001 session, adjourned from May 21, 2001, was called to order by the moderator at 7:54 p.m. 126 town meeting members checked in and a quorum was declared. Article 36 and Articles 27 – 30 were considered. Joshua Balis and Ludmilla Pavlova-Gillham were sworn as tellers.

ARTICLE 27. *Petition – Main/Amity Street Intersection Design*

Voted that the town recommend that bicycle lanes be of high priority in the upcoming reconstruction of the Main Street, Pleasant Street, Amity Street intersection and that, besides the planned bicycle lanes on North and South Pleasant Streets, bicycle lanes on Main Street and Amity Street be recommended.

Action taken on 5/24/01.

ARTICLE 28. *Petition – Route 9/South Pleasant Street Intersection Design*

Defeated Yes 59, No 75 [that the Town recommend that the plans for the redesign of the route 9/South Pleasant Street intersection be altered to minimize impact on the town common by eliminating the proposed left turn lane on route 9 westbound.]

Action taken on 5/24/01.

ARTICLE 29. *Slope Easement – Northampton Road/South Pleasant Street*

Voted that the Town be authorized to acquire, by purchase, gift, eminent domain or otherwise, a permanent slope easement of 799 feet, more or less, on land of the Trustees of Amherst College, at the southeasterly side of Northampton Road (Route 9/116) and on the west side of South Pleasant Street (Route 116), being a portion of Map 14A, Parcel 190 of the Town Cadastre.

Action taken on 5/24/01.

ARTICLE 30. *Bus Turn Off/ Route 9*

Voted unanimously

A. That the Town be authorized to acquire, by purchase, gift, eminent domain or otherwise, the following permanent and temporary easements for the construction of a bus turn-off and other related facilities and to provide temporary access for the construction of said bus turn-off:

1. a permanent easement containing 1230 square feet, more or less, on land of Caroline Flower, on the southwesterly side of Belchertown Road (Route 9) being a portion of Map 18A, Parcel 47 of the Town Cadastre;
2. a temporary easement containing 670 square feet, more or less, on land of Caroline Flower, on the southwesterly side of Belchertown Road (Route 9) being a portion of Map 18A, Parcel 47 of the Town Cadastre.

- B. That the Town authorize the expenditure of \$3,000 of Chapter 90 funds for the acquisition of said easements and for the cost of an appraisal of the fair market value of said easements and for other related expenses in furtherance of the acquisition of said easements.

Action taken on 5/24/01.

10:07 p.m., May 24, 2001 - The meeting voted to adjourn to Monday, June 4, 2001 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 149 town meeting members were checked in.

* * *

The Monday, June 4, 2001 session, adjourned from May 24, 2001, was called to order by the moderator at 7:43 p.m. 126 town meeting members checked in and a quorum was declared. Articles 31 – 35 and Article 40 were considered.

ARTICLE 31. *Sewer and Access Easement – Kestrel Lane*

Voted unanimously

- A. That the Town be authorized to acquire, by purchase, gift, eminent domain or otherwise, the following permanent easements:
1. a permanent easement containing 1082 square feet, more or less, on land of Tofino Associates, Inc., for the relocation and construction of a sewer force main and to provide access by foot and vehicle for the construction, maintenance, repair and replacement of said force main, on land of Tofino Associates, Inc., on Lot 7 and shown as Easement 7A on a plan entitled “Plan of Revised Lots 7 & 8 at ‘The Meadows at Amherst Fields, Amherst, Massachusetts,’ Prepared for Tofino Associates, Inc.,” dated February 26, 2001, by Almer Huntley, Jr. & Associates, Inc., being a portion of Map 21A, Parcel 3 of the Town Cadastre;
 2. a permanent easement containing 2156 square feet, more or less, on land of Tofino Associates, Inc., for the relocation and construction of a sewer force main and to provide access by foot and vehicle for the construction, maintenance, repair and replacement of said force main, on land of Tofino Associates, Inc., on Lot 7 and shown as Easement 7B on a plan entitled “Plan of Revised Lots 7 & 8 at ‘The Meadows at Amherst Fields, Amherst, Massachusetts,’ Prepared for Tofino Associates, Inc.,” dated February 26, 2001, by Almer Huntley, Jr. & Associates, Inc., being a portion of Map 21A, Parcel 3 of the Town Cadastre;
 3. a permanent easement containing 8744 square feet, more or less, for the relocation and construction of a sewer force main and to provide access by foot and vehicle for the construction, maintenance, repair and replacement of said force main and a permanent easement for access by foot and vehicle from Kestrel Lane to the town conservation area to the north for the purpose of maintaining said conservation area, on land of Tofino Associates, Inc., on Lot 8 and shown as Easement 8A on a plan entitled “Plan of Revised Lots 7 & 8 at ‘The Meadows at Amherst Fields, Amherst, Massachusetts,’ Prepared for Tofino Associates, Inc.,” dated February 26, 2001, by Almer Huntley, Jr. & Associates, Inc., being a portion of Map 21A, Parcel 3 of the Town Cadastre.
- B. That the custody and control of an existing sewer easement, containing 5706 square feet, more or less, on land of Tofino Associates, Inc., on Lots 7 & 8 and shown as Sewer Easements 7-E1, 7-E2, 8-E1 and 8-E2 on a plan entitled "Plan of Amended Lots at ‘The Meadows at Amherst Fields in Amherst, Massachusetts,’ Prepared for Tofino Associates, Inc.,” dated February 24, 1995, by Almer Huntley, Jr. & Associates, Inc., being a portion of Map 21A, Parcel 3 of the Town Cadastre, be transferred from the Select Board in its capacity as Sewer Commission to the Select Board for the purpose of abandoning said easement and conveying same to Tofino Associates, Inc.

Action taken on 6/4/01.

ARTICLE 32. *Water Line Easement – Summerfield Road*

Voted unanimously

- A. That the Town be authorized to acquire, by purchase, gift, eminent domain or otherwise, the following permanent easements for the relocation and construction of a water main and to provide access by foot and vehicle for the construction, maintenance, repair and replacement of said water main:
1. a permanent easement on land of Amherst Village, Inc. and/or Sabrina Realty Limited Partnership, on the westerly side of Summerfield Road on Lots 40 and 41 as shown as “Proposed 20’ Wide Water Easement” on a plan entitled “Topographical Plan, East Woods, Amherst, Massachusetts,” dated January 26, 1996 and revised April 2, 1996, by Heritage Surveys, Inc., being a portion of Map 21A, Parcels 159 and 160, respectively, of the Town Cadastre;
 2. a permanent easement on land of Amherst Village, Inc. and/or Sabrina Realty Limited Partnership, on the easterly side of the cul-de-sac on Summerfield Road on Lot 40 and 41 as shown as “Approximate Location of 20.00’ Wide Water Line Easement (To Remain)” on a plan entitled “Topographical Plan, East Woods, Amherst, Massachusetts,” dated January 26, 1996 and revised April 2, 1996, by Heritage Surveys, Inc., being a portion of Map 18C, Parcel 199 of the Town Cadastre;
 3. a permanent easement in and under Summerfield Road commencing at Lot 41 and terminating at the end of the cul-de-sac at Lot 33 as shown on a plan entitled “Topographical Plan, East Woods, Amherst, Massachusetts,” dated January 26, 1996 and revised April 2, 1996, by Heritage Surveys, Inc.
- B. That the custody and control over a certain water line easement on land of Amherst Village, Inc. and/or Sabrina Realty Limited Partnership, on Summerfield Road and on Lots 28, 29, 30, 31, 32, 39 and 40, as

shown as “Proposed 20’ Wide Water Easement” on a plan entitled “Topographical Plan, East Woods, Amherst, Massachusetts,” dated January 26, 1996 and revised April 2, 1996, by Heritage Surveys, Inc., being a portion of Map 21A, Parcels 147, 148, and 149, Map 18C, Parcels 117, 118 and 119, and Map 21A, Parcels 158 and 159, respectively, be transferred from the Town Manager in his role as Water Commissioner to the Select Board for the purpose of abandoning said easement and conveying same to Amherst Village, Inc. and/or Sabrina Realty Limited Partnership.
Action taken on 6/4/01.

ARTICLE 33. *Capital Program - Chapter 90*

Voted unanimously that the Town authorize the expenditure of \$435,000 of Chapter 90 funds for qualifying purposes and further authorize the Treasurer to borrow in anticipation of reimbursement of these funds from the Commonwealth of Massachusetts.
Action taken on 6/4/01.

ARTICLE 34. *Capital Program – Equipment*

Voted unanimously that the Town appropriate \$626,300 to purchase, repair, and/or install the following new or replacement equipment and to meet such appropriation raise \$70,334 by taxation, transfer \$51,000 from Ambulance Receipts Reserved for Appropriation and transfer \$504,966 from FY 01 additional Lottery Receipts:

- Town Photocopiers
- Information Systems
- Police Cruisers (4)
- Bullet Proof Vests
- Fire Department Brush Fire Skid Tank
- Paramedic Defibrillators (Ambulance Receipts)
- Fire Department Protective Gear
- DPW Pickup Truck (2)
- Conservation Department Tractor
- Library Computers
- School Bus
- School Sped Van
- School Computers

Action taken on 6/4/01.

ARTICLE 35. *Capital Program - Buildings and Facilities*

a. **Voted Yes 132, No 32** that the Town appropriate \$811,000 to repair and/or improve the following buildings and facilities and to meet such appropriation raise \$274,122 by taxation and transfer \$536,878 from the Stabilization Fund:

- Bangs Center Major Maintenance (Exterior)
- North Amherst School Roof Repairs
- Cushman School Major Maintenance (Electrical, Fire Alarm, Tank Removal)
- Central Fire Station Repairs
- North Fire Station Repairs
- Police Station Security System Repairs
- Public Works Building Renovations
- East Street School Boiler
- Marks Meadow Renovations
- Unitarian Plaza and Kellogg Ave. Sidewalk Design (ADA)
- War Memorial Comfort Station Design
- GASB 34/Fixed Asset Accounting Software
- Puffer’s Pond Dredging

Action taken on 6/4/01.

b. **Voted by a declared 2/3 vote** that the Town appropriate \$130,000 to construct a sidewalk on College Street from South Whitney Street to South East Street and to meet such appropriation borrow \$130,000 in accordance with M.G.L. Chapter 44, Section 7, Clause 6 or any other applicable laws.

Action taken on 6/4/01.

ARTICLE 36. *Capital Program - Build-Out and Future Growth Analysis*

Voted that the Town appropriate \$25,000 for a Build-Out and Future Growth Analysis and to meet such appropriation, transfer \$10,000 from Sewer Fund Surplus and \$5,000 from Water Fund Surplus and raise \$10,000 from taxation.

Action taken on 5/24/01.

ARTICLE 37. *Capital Program – Sewer Fund – Middle Street and Betterment Policy*

Voted to dismiss. [To see if the town will appropriate \$2,600,000 for construction of a sewer and sewer facilities on Middle Street, Potwine Lane, South Orchard Drive, Sherry Circle, Blossom Lane, Bay Road and Barry Circle, to meet such appropriation borrow \$2,600,000 in accordance with M.G.L. Chapter 44, Section 7, Clause 1, or any other applicable law, and to determine what portion, if any, of such cost shall be paid by the

Town and what portion, if any, shall be paid by property owners in accordance with M.G. L. Chapters 80 and 83, or other applicable law.]

Action taken on 6/7/01.

ARTICLE 38. Stabilization Fund

Voted unanimously to dismiss. [To see if the Town will appropriate and transfer a sum of money to the Stabilization Fund for FY 2002.]

Action taken on 6/7/01.

ARTICLE 39. Free Cash

Voted unanimously that the Town transfer \$7,000 from Free Cash in the undesignated fund balance of the General Fund to reduce the tax levy of the 2002 Fiscal Year.

Action taken on 6/7/01.

ARTICLE 40. Resolution – Toxic Chemicals

Voted Yes 76, No 72 to refer to the Board of Health. [that the Town support a Board of Health regulation to limit citizen exposure to toxic chemicals.]

Action taken on 6/4/01.

10:22 p.m., June 4, 2001 - The meeting voted to adjourn to Thursday, June 7, 2001 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 179 town meeting members were checked in.

* * *

The Thursday, June 7, 2001 session, adjourned from June 4, 2001, was called to order by the moderator at 7:51 p.m. 125 town meeting members checked in and a quorum was declared. The meeting began with Article 37. Nancy Ratner and Simon Alciere were sworn as tellers.

ARTICLE 41. Zoning Bylaw – Open Space Community Development

Defeated Yes 96, No 50 [to amend Sections 3.283, 4.0, 4.1, add a new Section 4.5, and amend Article 12 and Section 14.4 of the Zoning Bylaw by deleting the ~~lined-out~~ language and adding the language in **bold italics**, as follows:

A. Amend Section 3.283, as follows:

3.2830 Residential subdivisions requiring approval under M.G.L. Ch. 41, Subdivision Control Law, shall be laid out as cluster developments in accordance with Section 4.3, **Cluster Development, or as open space community developments in accordance with Section 4.5, Open Space Community Development (OSCD)**, of the Zoning Bylaw.

B. Amend Sections 4.0 and 4.1, as follows:

SECTION 4.0 OVERVIEW

This bylaw permits ~~three (3)~~ **four (4)** methods which may be utilized to develop land for residential purposes where such Uses are permitted in Section 3.3. The ~~three~~ **four** methods are:

- Conventional Residential Subdivision Development;
- Cluster Development ~~and~~;
- Planned Unit Residential Development (PURD); **and**
- Open Space Community Development (OSCD)**

In order to ensure development which is compatible with the Purposes and Intent of this Bylaw, the ~~three~~ **four** Development Methods shall comply with the General Development Standards set forth in Section 4.1, and the applicable Standards set forth in Section 4.32 and 4.42.

The Zoning Districts in which the ~~three~~ **four** Development Methods may be used are indicated on Table 2. Nonresidential zoning districts are not included in Table 2 because the ~~three~~ **four** Development Methods described in this section apply only to residential development.

The abbreviations used in the Table are defined as follows:

Y	=	Yes	The Development Method is permitted by right
N	=	No	The Development Method is not permitted in the zoning district
SP	=	SPECIAL PERMIT	The Development is permitted if a Special Permit is issued by the Zoning Board of Appeals
SPP	=	SPECIAL PERMIT, PLANNING BOARD	The Development is permitted if a Special Permit is issued by the Planning Board

TABLE 2
DEVELOPMENT METHODS

BYLAW		ZONING DISTRICTS
NUMBER	METHOD	<u>R-LD R-O R-N R-VC R-G R-F</u>

4.2	CONVENTIONAL RESIDENTIAL SUBDIVISION DEVELOPMENT	Y	Y	Y	Y	Y	Y
4.3	CLUSTER DEVELOPMENT	SPP	SPP	SPP	SPP	SPP	SPP
4.4	PLANNED UNIT RESIDENTIAL DEVELOPMENT	N	SP*	SP*	SP	SP	SP
4.5	OPEN SPACE COMMUNITY DEVELOPMENT	SPP	SPP	SPP	SPP	SPP	N

* Applies only to those areas included in an overlay district called "PURD DISTRICT" as shown on the Official Zoning Map.

SECTION 4.1 GENERAL DEVELOPMENT STANDARDS

The ~~three~~ **four** Development Methods listed in Section 4.0, Overview, shall be undertaken in accordance with the following General Standards:

- 4.10 All Development in the Town shall conform to the Design Standards and Required Improvements set forth in the Rules and Regulations Governing the Subdivision of Land and the Site and Street Work Construction Standards of the Town, as amended.
- 4.11 The frontage of lots shall be on existing or proposed minor or secondary streets as defined by the Amherst Planning Board's Rules and Regulations Governing the Subdivision of Land, except as provided for in Section 4.4214 **and Section 4.534**.

C. Add a new Section 4.5, as follows

SECTION 4.5 OPEN SPACE COMMUNITY DEVELOPMENT

4.50 General Description & Purpose

An Open Space Community Development (OSCD) shall mean a principally residential development located on contiguous land and including dwelling units and accessory facilities owned individually and/or in common. In comparison to Conventional Residential Subdivision Development, an Open Space Community Development (OSCD) shall allow a mix of housing types and may allow the concurrent development of selected non-residential uses compatible with and supportive of the residential development. An OSCD may allow organized groups of households to construct dwelling units and common facilities for their collective and individual ownership and use. It is intended that an Open Space Community Development (OSCD) be a Development Method that is flexible in nature and allows for modification of lot size, bulk or type of dwelling, density, intensity of development, or required open space in the regulations of any district established by this Zoning Bylaw, so as to result in patterns of land use that are more compact and more efficiently laid out on a smaller area of a site, while preserving more open space and other natural and cultural features elsewhere. Land not used for residential, approved non-residential, or accessory purposes shall be permanently preserved as open space according to the methods hereinafter described.

It is expected that the following benefits may be gained through use of this Development Method:

- 4.500 *Compact, economical and efficient layout, installation, construction and maintenance of buildings, streets, utilities and public facilities.*
- 4.501 *Efficient allocation, distribution and maintenance of common public and private open space.*
- 4.502 *Land development and uses that are harmonious with and which conserve, protect and enhance:*
 - 4.502.0 *Natural resources of the land, including critical resource areas such as wetlands, floodplains, wildlife habitat, greenbelts and farmland, and*
 - 4.502.1 *Traditional resource-based land uses and practices, including farming, logging, aquaculture, and similar uses in order to preserve the cultural heritage of such uses in Amherst, as well as the traditional land development patterns and recreational opportunities resulting from and enabled by these traditional resource-based land uses.*
 - 4.502.2 *Historical and archeological resources, including buildings, structures, sites and materials.*
- 4.503 *Efficient use of land so as to increase the options for and the supply of affordable housing.*
- 4.504 *Housing development that allows for integration of a variety of housing types appropriate to various social and economic groups within any given development project.*

4.51 Use Standards

- 4.510 *The following Principal uses shall be permitted in an Open Space Community Development (OSCD):*
 - 4.5100 *One-family detached dwelling*
 - 4.5101 *Two-family or semi-detached dwelling*

4.5102 Subdividable dwelling

4.5103 *If allowed in the underlying zoning district(s), buildings or structures comprised of multiple dwelling units.*

4.5104 *Kindergarten, day nursery or other facility for the day care of children.*

4.5105 *If allowed in the underlying zoning district(s), buildings containing dwelling units in combination with stores or other permitted business or commercial uses (section 3.325), ~~retail store (Section 3.350.0), convenience store (Section 3.350.1) and/or grocery, bakery, deli, or similar establishment (Section 3.350.2)~~, where the Special Permit Granting Authority finds that, in addition to meeting the provisions of Section 10.38, the proposed use provides goods and/or services which will appropriately serve the households in the proposed residential development and the surrounding neighborhood.*

4.511 *The following aggregated accessory uses and facilities shall be permitted in an OSCD:*

4.5110 *Community building or common house including meeting rooms, kitchen and dining facilities for the use of residents and guests.*

4.5111 *Library*

4.5112 *Laundry*

4.5113 *Place of meditation or worship*

4.5114 *Office space*

4.5115 *Workshop/studio/trades building*

4.5116 *Other shared or common facilities for maintenance and other ancillary purposes serving the residential community.*

4.52 Density Standards

4.520 *The maximum number of residential units allowed in an Open Space Community Development shall be calculated as follows:*

- 1.** *Determine the Net Parcel Area by subtracting 50% of the area of all Unbuildable Land Area from the total parcel acreage. Unbuildable Land Area shall consist of the combined acreage of all wetlands, FPC District and 100-year floodplain areas. 100-year floodplain areas shall consist of those areas so designated on federal flood insurance maps.*
- 2.** *Subtract 8% of the Net Parcel Area for roadways, parking and utilities.*
- 3.** *Divide the remaining buildable land area by the minimum lot area required in the applicable zoning district(s).*
- 4.** *Multiply the resulting lot count by 1.2 (120%).*

4.521 *See Section 4.55 for density provisions for affordable units.*

4.53 Dimensional Standards

4.530 *Separate lots for residential dwellings shall be permitted, but are not required. If provided, the lots shall meet or exceed the minimum lot area requirements for cluster subdivisions for the applicable zoning districts(s).*

4.531 *Where individual building lots are proposed, frontage need not be provided on an established way, nor shall the rear and side yard setbacks in Table 3 apply, except that non-zero lot line buildings shall be separated as required by applicable fire and building codes.*

4.532 *Zero lot lines shall be allowed in an OSCD, and side yards need not be provided on that side of a dwelling unit that shares a party wall or double wall with an adjacent dwelling unit. Where zero lot lines are proposed, maintenance easements and covenants shall be provided to ensure access for maintenance and utility repairs or replacement.*

4.533 *Single-family dwelling units shall not comprise more than 50% of the total number of dwelling units.*

4.534 *There shall be no more than four (4) dwelling units allowed in a single building.*

4.535 *Front setbacks shall be observed for the applicable zoning district(s), but the Special Permit Granting Authority may modify lot frontage and side and rear setback requirements to meet the needs of the development and public safety. Buildings shall be separated as required by applicable fire safety and building codes.*

4.536 *A 40-foot buffer zone of open space and/or common land shall be provided along any edge of the residential portion of an OSCD that abuts adjacent or on-site farmland.*

4.54 Sanitary Sewer

4.540 *The entire development shall be connected with the public sanitary sewer system, except that where such sewer connection is not reasonably available, the Board of Health may, in accordance with state and local health regulations, authorize development of and connection to a package sewage treatment plant, or individual or shared septic systems. The option of individual or shared septic systems shall not be available in the Aquifer Recharge Protection (ARP) or Watershed Protection (WP) overlay districts.*

4.55 Affordable Units

4.550 *In an OSCD that includes affordable units in accordance with Sections 4.333-4.334, the maximum unit count established under Section 4.520 may be increased by the number of*

affordable units proposed. The additional number of units allowed under this provision shall not exceed 15% of the maximum otherwise permitted.

4.551 *Affordable units shall be geographically dispersed throughout the development, except that the Special Permit Granting Authority may, for compelling reasons of development function and site design consonant with the purposes of this Bylaw, allow such units to be clustered.*

4.56 Common Land Standards

4.560 *The following minimum percentages of total parcel area in an OSCD shall be retained as substantially undeveloped Common Land kept open and undeveloped for buildings, roadways and walkways, parking and utilities:*

Zoning Districts

	<u>R-LD</u>	<u>R-O</u>	<u>R-N</u>	<u>R-VC</u>	<u>R-G</u>
<i>Minimum % Open Space</i>	75	65	60	50	50

4.561 *A minimum of 50% of the Common Land in an OSCD shall be upland exclusive of wetlands, FPC District and 100-year-floodplain.*

4.562 *Common Land shall be laid out in large, contiguous areas as appropriate to its natural or cultural characteristics and its proposed use(s), as set forth under Sections 4.502 and 4.563.*

4.563 *Common land ownership shall be as provided for under Section 4.35.*

4.57 Open Space Community Development (OSCD) Design Requirements

4.570 *Within in an Open Space Community Development (OSCD), a minimum of 2,000 square feet per dwelling unit shall be usable open space for active and passive recreation. Usable open space shall be defined to include contiguous open space developed and available for play, tot lots or playgrounds, gardens, hiking/jogging trails, bicycle trails, ball or playing fields, basketball or tennis courts or similar facilities as are appropriate to the needs of the development. Usable open space shall not include parking areas, roadways, sidewalks or land within wetlands as determined by the Conservation Commission (except as hereinafter provided). Up to 40 percent of total usable open space may be located in an FPC District and/or wetlands, as appropriate to the intended recreation use(s), in accordance with the provisions of Section 3.22, and as permitted by the Conservation Commission.*

4.571 *The design requirements of Section 4.38, Cluster Development Design Requirements, shall apply to an OSCD.*

4.572 *For an OSCD within the FP district, the design requirements of Section 3.285 shall apply. For an OSCD outside of the FP District, the provisions of Sections 3.2850, 3.2853, 3.2854, 3.2857-3.2859 shall apply.*

4.573 *Vehicular access, internal circulation and related parking shall be located and designed so as to minimize their impact on adjacent residential uses outside the OSCD.*

4.58 Review and Approval Process

4.580 *A minimum of thirty percent (30%) of the total dwelling units in an OSCD shall be under agreement for conveyance to parties who will occupy said dwelling units prior to application for a Special Permit under this section. The express intent of this provision is to encourage the early and continuing involvement of residents in the design, development and management of an OSCD. This requirement for occupancy shall be ongoing and shall be made a condition of the Special Permit.*

4.581 *The Special Permit Granting Authority for an Open Space Community Development (OSCD) shall be the Planning Board, in accordance with the provisions of Section 10.3, the purposes, standards and requirements of Section 4.5, and such other requirements of this bylaw as may be applicable.*

4.582 *Subsequent approval of such portion(s) of an OSCD as constitute a subdivision shall be required as set forth in the Subdivision Control Law, including approval of the streets and utility system. A favorable action which may be made by the Planning Board on a Special Permit application shall not, therefore, be deemed either to constitute subdivision approval under the Subdivision Control Law or the Rules and Regulations Governing the Subdivision of Land, nor to imply that subdivision approval will be granted.*

4.583 *Each application for an Open Space Community Development (OSCD) containing land within the Flood-Prone Conservancy (FPC) District shall be accompanied by an additional set of plans and documents for transmittal to the Conservation Commission. Within ten (10) days of receipt of the application, the Planning Board shall transmit a copy thereof to the Conservation Commission. The Commission shall, at its discretion, investigate the proposed development and report in writing its recommendations to the Planning Board within 35 days of the date of application. The Planning Board shall not take final action on approval*

of the application until it has received a written report from the Conservation Commission or until the 35 day period has passed without receipt of such a report.

- D. Amend Article 12 by adding the following new Section 12.00, as follows, and renumbering the remaining sections accordingly:

12.00 Aggregated accessory uses: One or more uses customarily accessory to principal residential uses as allowed in this Zoning Bylaw, where such accessory use(s) are aggregated, used and shared in common by the occupants of more than one residential dwelling unit located on the same property or a different property from the accessory use(s).

- E. Amend the following sections of Section 14.4, Modifications to Schedule, as follows:

14.46 PURD/**OSCD**

Any development which is constructed under the PURD provisions of Section 4.4 **or the OSCD provisions of Section 4.5** of the Zoning Bylaw 30 pts.]

Action taken on 6/7/01.

ARTICLE 42. Zoning Bylaw - Restaurant/Bar Definition

Voted by a declared 2/3 vote that the Town amend Sections 3.352, 3.353, 5.04, 10.38, 11.24 and Article 12 of the Zoning Bylaw as follows:

- A. Amend Sections 3.352 and 3.353 of the Use Chart by deleting the ~~lined-out~~ language, adding the language in **bold italics** and renumbering the remaining sections of the Use Chart accordingly, as follows:

3.352. Food & Drink Establishments

3.352.0 Class I Restaurant, *café*, lunchroom, cafeteria or similar place.

R-O

R-LD R-N R-VC R-G R-F B-G B-L B-VC COM OP LI PRP FPC

N N N N N ~~SP~~ ~~SPR~~ ~~SP~~ ~~SPR~~ ~~SP~~ ~~SPR~~ SPR N N N N

For serving food or beverage to persons inside the building, where either a) no alcohol is served and the establishment is not open after 11:30 p.m., or; b) alcohol is served, the establishment is not open after 11:30 p.m., and any outside wall of that portion of the building occupied by the establishment is located more than 150 feet from any residential dwelling in a Residence district. A management plan, as defined in terms of form and content by the permit granting board or authority, shall be included as an integral part of any application made under this section. The management plan shall address patrons gathered outdoors on the property, including those awaiting entry. Any service of food or beverages outside the building shall be to persons seated at tables for the purpose of outdoor dining.

3.352.1 Class II Restaurant or bar

R-O

R-LD R-N R-VC R-G R-F B-G B-L B-VC COM OP LI PRP FPC

N N N N N ~~SP~~ ~~SP~~ ~~SP~~ ~~SP~~ N N N N

For serving food or beverage to persons inside the building, where a) the establishment is open after 11:30 p.m. whether alcohol is served or not, or; b) regardless of hours of operation, where alcohol is served and any outside wall of that portion of the building occupied by the establishment is located 150 feet or less from any residential dwelling in a Residence district. A management plan, as defined in terms of form and content by the permit granting board or authority, shall be included as an integral part of any application made under this section. The management plan shall address patrons gathered outdoors on the property, including those awaiting entry. Any service of food or beverages outside the building shall be to persons seated at tables for the purpose of outdoor dining.

3.352.2 Class III Drive-up restaurant, Refreshment stand, drive-in, or other similar place for the serving of food or beverages to persons outside the building.

R-O

R-LD R-N R-VC R-G R-F B-G B-L B-VC COM OP LI PRP FPC

For the service of food or beverages outside the building via a drive-up window or other similar method to persons remaining in their vehicles.

B. Amend Section 5.04 by adding the language in ***bold italics*** to Section 5.041 (accessory seasonal outdoor dining) and by adding the following new Section 5.042:

5.041 Seasonal outdoor dining, including sidewalk cafes, courtyard or terrace dining and similar uses may be permitted in the B-G, B-L, B-VC and COM districts as an accessory use to: ***1) a restaurant, café, lunchroom, cafeteria, refreshment stand, drive-up, fast-food eatery*** or similar eating establishment, or; ***2) to a bakery, deli, or other similar establishment for the production and sale of food or beverage on the premises, or; 3) to a retail store or convenience store selling prepared and packed food or beverage on the premises,*** under a Special Permit or Site Plan Review approval, whichever is required for the principal use. ***In the case of a retail or convenience store selling prepared and packaged food on the premises, any unpackaged food or beverage such as ice cream or soft drinks sold in association with any accessory seasonal outdoor dining use shall be sold and served only through a limited-access walk-up window or similar facility, to be consumed out of doors.***

In residential districts, seasonal outdoor dining may be permitted under a Special Permit as an accessory use to a farm stand restaurant. Where appropriate health, fire and building permits have been obtained, seasonal outdoor dining uses may also include the outdoor preparation and cooking of food or beverages.

5.042 Live or pre-recorded entertainment involving music and/or human voice, whether amplified or unamplified, may be permitted in the B-G, B-L, B-VC and COM districts as an accessory use to a restaurant, bar, inn or bed and breakfast (Section 5.0102 only) under a Special Permit or Site Plan Review, whichever is required for the principal use, except that a Special Permit shall be required whenever any accessory entertainment is proposed and any outside wall of that portion of the building occupied by the principal use is located 150 feet or less from a residential dwelling in a Residence district.

The following conditions shall apply to any entertainment permitted under this section:

5.0420 Such entertainment shall be clearly accessory and incidental to the principal use.

5.0421 Sound produced by the proposed entertainment shall not generally exceed 70 dB (A) as measured at any boundary of the property on which the establishment is located, as determined by the regulations adopted pursuant to Section 5.0422.

5.0422 In order to develop reasonable and effective conditions under this section, the Planning Board shall develop regulations for the measurement of sound undertaken under Section 5.0421, and may require such information as they may deem necessary. The permit granting board or authority may impose a probationary period involving one or more monitoring tests, including but not limited to sound measurements taken during live performances and/or use of sound systems. Permit conditions may include, but are not limited to, requirements for sound-proofing, limits on volume within rooms where entertainment occurs, and any other reasonable measures the permit granting board or authority may deem necessary.

C. Amend the following sections of Section 10.38, as follows:

10.382 The proposal would not constitute a nuisance due to air and water pollution, flood, noise, ***odor***, dust, vibration, lights or visually offensive structures or site features.

10.385 The proposal reasonably protects the adjoining premises against ~~any possible~~ detrimental or offensive uses on the site, including ***air and water pollution, flood, noise, odor, dust, vibration, lights or visually offensive structures or site features*** ~~an unsightly or obnoxious appearance.~~

D. Amend the following sections of Section 11.24, by adding language to Section 11.2402, replacing existing Section 11.2416 with the following language, renumbering existing Section 12.2416 as 12.2417, and renumbering the remaining sections in order, as follows:

11.2402 Protection of abutting properties from detrimental site characteristics ***resulting from the proposed use, including but not limited to air and water pollution, flood, noise, odor, dust, vibration, lights or visually offensive structures or site features.***

11.2416 *Protection of adjacent properties by minimizing the intrusion of air and water pollution, noise, odor, dust and vibration through appropriate site and structure design and the use of appropriate design and materials for containment, ventilation, filtering, screening, sound-proofing and -dampening and other similar solutions.*

E. Amend Article 12, Definitions, by adding the following new sections and renumbering the remaining sections accordingly, as follows:

- 12.04 *Bar: A food and drink establishment or a part of such an establishment devoted primarily to the service and consumption of alcoholic beverages on the premises, and in which the service of food is only incidental.*
- 12.09 *Drive-up restaurant: A restaurant, refreshment stand, fast-food eatery, or other similar place for the service of food or beverages, some portion of which is served to persons remaining in their vehicles outside the building, via a drive-up window or other similar method.*
- 12.26 *Restaurant: An establishment or part of an establishment devoted primarily to the service and consumption of food and beverages on the premises. Any such establishment shall be considered a restaurant if the service of food is its primary activity and the service of alcoholic beverages, if any, is incidental to the sale, service and consumption of food and non-alcoholic beverages.*

Action taken on 6/7/01.

Article 46 was considered on June 7th after Article 42.

10:31 p.m., June 7, 2001 - The meeting voted to adjourn to Monday, June 11, 2001 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 159 town meeting members were checked in.

* * *

The Monday, June 11, 2001 session, adjourned from June 7, 2001 was called to order by the moderator at 7:46 p.m. 125 town meeting members checked in and a quorum was declared. The meeting considered Articles 43-45. Nancy Ratner and Simon Alciere were sworn as tellers.

ARTICLE 43. Zoning Bylaw – Dimensional Regulation

Voted unanimously to refer to the Planning Board. [To see if the Town will amend Table 3, Dimensional Regulations, by deleting the ~~lined-out~~ language and adding the language in ***bold italics***, as follows:

A. Add a superscript “a” to the values in Table 3 for Basic Minimum Lot Area and Basic Minimum Lot Frontage (ft.) in the R-LD, R-O, R-N, R-VC and R-G districts.

B. Modify existing footnote “a” in Table 3 as follows:

- a. Requirement may be modified under a Special Permit, issued by the Special Permit Granting Authority authorized to act under the applicable section of this Bylaw.

~~It~~ *For cases of proposed modified basic minimum front setback and/or modified basic minimum lot area and/or basic minimum lot frontage within residential zoning districts, in applying the criteria established in Section 10.395 the Special Permit Granting Authority shall: 1) consider the proposed modified front setback modification(s) in the context of the established pattern(s) of front setbacks such dimensions established by as reflected by existing residential buildings lots in the surrounding neighborhood and: 2) consider the manner in which the subject lot was created and the date of creation of the lot.*

Such dimensional modification(s) shall be permitted only on lots with frontage on an established public way, where the said modification(s) shall either: 1) in any Residence district except the R-F District, render a non-conforming existing single family dwelling and lot conforming, or; 2) in the R-G, R-VC and R-N districts only, render a non-conforming vacant lot conforming as a single family building lot.

The modified dimension(s) shall not be less than 90% of the median of the corresponding dimension(s) in the surrounding neighborhood. The surrounding neighborhood shall be defined using the following criteria:

- i) *If the subject lot is located within an approved and recorded subdivision, then the subdivision shall define the neighborhood, unless the Special Permit Granting Authority finds unique circumstances (e.g., a large subdivision and/or one in which there are reasonably distinctly different areas in terms of lot sizes and/or dimensions) to determine otherwise.*

ii) *Normal boundaries, such as major streets, open space, significant nearby non-residential uses and the like shall be used.*

iii) *No fewer than five lots, and every lot any portion of which is within 500 feet of the subject property, shall be included. The majority of said lots must be in residential use. Large parcels of undeveloped land, non-residential property, and abutting subdivisions where the corresponding dimensions are significantly different shall not be considered.*

Action taken on 6/11/01.

ARTICLE 44. *Petition-Resolution-Section 12.122 of the Zoning Bylaw: Family: "A group of unrelated individuals, not to exceed 4..."*

Voted that the Town adopt the following resolution:

WHEREAS, the constitutional validity of Section 12.122 of the Zoning By-Laws has been questioned publicly by previous Town Counsel; and

WHEREAS, Section 12.122 of the Zoning By-Laws may have a disproportionate and discriminatory impact on college students residing in Amherst;

NOW, THEREFORE, BE IT RESOLVED, that Amherst Town Meeting requests that the Housing Partnership/Fair Housing Committee and the Community Policing Problem-Solving Partnership evaluate and recommend alternative means to afford neighborhoods the protection that Section 12.122 is intended to provide, report any zoning bylaw recommendations to the Planning Board, and report their findings and non-zoning recommendations to the Fall 2001 Special Town Meeting; and that Amherst Town Meeting further requests that, subsequent to the adoption of any such recommendations, the Planning Board re-examine Section 12.122.

Action taken on 6/11/01.

ARTICLE 45. *Petition - Affordable Housing*

Voted Yes 87, No 69 to dismiss. [to refer to the Housing Partnership/Fair Housing Committee.]

Action taken on 6/11/01.

(Meeting dissolved after consideration of Article 45.)

ARTICLE 46. *Petition – Resolution - 10 South Prospect Street - Demolition Delay*

Voted that the Town adopt the following resolution:

WHEREAS, property owner D. H. Jones has requested a permit to demolish the three-story, red-and-cream house known as 10 South Prospect Street, and

WHEREAS, this building has been designated a "significant structure" by the Amherst Historical Commission, as an example of a historically valuable architectural style (Queen Anne Vernacular), which stands at the gateway to the Lincoln-Gaylord Historic District, listed on the National Register of Historic Places, and

WHEREAS, this building is structurally sound and currently home to three households, and

WHEREAS, demolition of this building is an integral part of a complex package of zoning bylaw amendments and land exchanges that will, if approved, enable the property owner to construct a new commercial building on Amity Street, and

WHEREAS, no other aspect of this development scheme can proceed until Amherst Town Meeting has voted to approve the land swap and zoning change involved, and

WHEREAS, neither the property owner nor the Select Board is prepared to submit either the zoning change or the land swap for a vote at this 2001 Annual Town Meeting, and

WHEREAS, the six-month demolition delay unanimously voted by the Amherst Historical Commission under the terms of Article 13 of the Amherst Zoning Bylaw is due to expire before Town Meeting is likely to vote on the land swap and zoning change involved,

NOW THEREFORE, BE IT RESOLVED, that the Town of Amherst respectfully requests property owner D. H. Jones to delay demolition of the building known as 10 South Prospect Street until a zoning bylaw amendment and land exchange involved in an Amity Street development scheme have been resolved by a definitive vote of the Amherst Town Meeting.

Action taken on 6/7/01.

After consideration of Article 45 and the business of the warrant having been completed, the meeting voted to dissolve at 8:39 p.m. on June 11, 2001. 163 town meeting members were checked in.

Attest:

Margaret Z. Nartowicz
Town Clerk