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**Annual Town Meeting**  
**April 24, 25, May 1, 8, 15, 16, 20, 22, 30, June 3 & 6, 2002**

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

The 243<sup>rd</sup> Annual Town Meeting was called to order by the Moderator, Harrison Gregg at 7:53 p.m. There were 227 town meeting members. 114 checked in and a quorum was declared. The call and return of the warrant were read by Town Clerk, Margaret Z. Nartowicz. The Moderator was sworn to the faithful performance of his duties. Town meeting members were sworn to the faithful performance of their duties. Articles 1 - 7 were considered on April 24<sup>th</sup>. Hill Boss, Hilda Greenbaum, Deanne Sloan Riddle, James Pistrang, James Scott and H. Oldham Brooks were sworn as tellers.

ARTICLE 1. Reports of Boards and Committees (Select Board)

**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 4/24/02.

ARTICLE 2. Petition – University Childcare Program (N. deProsse)

**VOTED** that the Town of Amherst state to the University of Mass-Amherst that closing the University Child Care classrooms is not in the Town or University community's best interest. We request that the University immediately halt its plan to close the University Child Care Center classrooms and include UMass student, faculty, and employees as well as community child care providers and parents in the planning of equitable, affordable, and stable long-term child care services at UMass.

The Town of Amherst will not be able to absorb the children of the new student families who will be arriving in Town this summer. The area childcare market is extremely tight and there are waiting lists at all centers and by fall all the programs will be full. We ask the Town Meeting to support the SaveUCC coalition of parents and supporters who wish to work with UMass in finding alternatives to the current UCC structure in order to maintain current levels of services, staffing, compensation and service to low income families.

Action taken on 4/24/02.

ARTICLE 3. Petition – Resolution – Civil Rights and Civil Liberties (Dover and Théberge )

**VOTED YES 119, NO 51** the following resolution:

“Civil Rights and Civil Liberties

PREAMBLE

The citizens of Amherst are concerned that actions of the Attorney General of the United States and the U.S. Justice Department since the September 11, 2001 attacks pose significant threats to Constitutional protections in the name of fighting terrorism. Such undermining of basic civil rights and liberties run the serious risk of destroying freedom in order to save it.

The Attorney General asserted before the Senate Judiciary Committee that civil libertarians who criticized the Department's policies “aid terrorists ... erode our national unity and diminish our resolve.” We disagree. We believe that respect for Constitutional rights is essential for the preservation of democratic society.

Among the actions to date that have raised our concern are the following:

- More than 1,000 people were detained in the weeks following the September 11 attacks, most without being charged, some impeded in their ability to contact lawyers or their families.
- The Department has issued an order authorizing federal prison officials to listen in on the confidential attorney-client communications of persons in federal custody, without court review.
- The Justice Department has announced a nationwide effort to locate and interview as many as 5,000 recent immigrants – all men ages 18 to 33, primarily from Middle Eastern nations. Guidelines for these interviews include inquiries into individual's political beliefs and the beliefs of families and friends, and whether or not an individual “supports” any cause that terrorists espouse.
- The USA PATRIOT Act, passed hurriedly in October 2001, creates a new crime, “domestic terrorism,” so broadly defined that it could conceivably apply to acts of civil disobedience. Persons associated - through membership dues or legal activity - with organizations defined as terrorist are subject to surveillance and may themselves face prosecution. The Act gives the FBI and the CIA greater rights to wiretap phones, monitor e-mail, survey medical, financial and student records, and break into homes and offices without prior notification.

The proposed Warrant Article places the Town of Amherst on record in support of Constitutional rights for all its residents, regardless of their citizenship, religion, ethnicity, or place of national origin. It calls upon all of its citizens to respect those rights. It also asks Town employees not to cooperate with federal investigators seeking to interrogate people on the basis of their ethnicity, their religious belief, or the beliefs of their families and friends – following the example of police departments in Oregon, California, and Texas, among others, that have refused to carry out such interviews.

This Article is not intended to inhibit or prevent the apprehension, trial, or conviction of people who have carried out or planned attacks against the United States or any other country. We believe, however,

that we are still a nation based on laws and that a threat to any one person's Constitutional rights is a threat to the rights of us all.

**WHEREAS** the Declaration of Independence of the United States holds as self-evident that all people are created equal and are endowed with the unalienable rights of life, liberty, and the pursuit of happiness; **WHEREAS** the First Amendment of the United States Constitution specifies that no law be made "respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievance";

**WHEREAS** the Fourth Amendment declares that "the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized";

**WHEREAS** the Fifth Amendment states that no person "shall be compelled in any criminal case to be a witness against himself";

**WHEREAS** the Sixth Amendment guarantees defendants "the right to a speedy and public trial, by an impartial jury..., and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense";

**WHEREAS** the Eighth Amendment states that "excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted";

**WHEREAS** the Fourteenth Amendment prohibits the government from denying "to any person within its jurisdiction the equal protection of the laws";

**THEREFORE, BE IT RESOLVED** that the Town of Amherst affirms the rights of all people – including United States citizens and citizens of other nations – within the Town in accordance with the Bill of Rights and the Fourteenth Amendment of the U.S. Constitution; and

**BE IT FURTHER RESOLVED** that Amherst Town Meeting calls upon all Town officials and employees to respect the civil rights and liberties of all members of this community, including those who are citizens of other nations; and

**BE IT FURTHER RESOLVED** that Amherst Town Meeting calls upon all private citizens – including residents, employers, educators, and business owners – to demonstrate similar respect for civil rights and civil liberties, especially but not limited to conditions of employment and cooperation with investigations; and

**BE IT FURTHER RESOLVED** that, to the extent legally possible, no Town employee or department shall officially assist or voluntarily cooperate with investigations, interrogations, or arrest procedures, public or clandestine, that are judged to be in violation of individuals' civil rights or civil liberties as specified in the above Amendments of the United States Constitution;

**BE IT FURTHER RESOLVED** that the Town Clerk communicate this resolution to all Town departments, the General Court, the Governor and Attorney General of the Commonwealth of Massachusetts, the Massachusetts Congressional delegation, the United States Attorney General, and the President of the United States; and

**BE IT FURTHER RESOLVED** that the provisions of this Resolution shall be severable, and if any phrase, clause, sentence, or provision of this Resolution is declared by a court of competent jurisdiction to be contrary to the Constitution of the United States or of the Commonwealth of Massachusetts or the applicability thereof to any agency, person, or circumstances is held invalid, the validity of the remainder of this Resolution and the applicability thereof to any other agency, person or circumstance shall not be affected thereby."

Action taken on 4/24/02.

#### ARTICLE 4. Petition – Resolution – Opposing Sanctions and Force Against Iraq (I. Spiegelman)

**VOTED to dismiss.** ["A Resolution Opposing Economic Sanctions and Military Action Against Iraq Since military action against Iraq is likely to be counter-productive and likely to fragment the coalition against terrorism assembled after 9/11, and could further destabilize the Middle East, the Amherst Representative Town Meeting urges President Bush and the Congress to:

- 1) Renounce the use of military force against Iraq including bombing attacks and invasion; and
- 2) End the United Nations' Economic Sanctions against Iraq responsible for the preventable deaths of from 350,000 to 500,000 children since 1991. Have copies of this resolution sent to President Bush and our Congressional Representatives."]

Action taken on 4/24/02.

#### ARTICLE 5. Petition – Districting Advisory Board (V. O'Connor)

**VOTED** that the town request that the Select Board reconvene the Districting Advisory Board after the town's 2000 Census appeals have been decided and direct the Advisory Board to revise such precincts as may be affected by the outcome of the town's appeals of the preliminary results of the federal 2000 census, primarily precinct sets 1 and 3, 4 and 5, 9 and 10, and 7 and 8, and further request such Districting Board to use the latitude provided by the Constitution and the Amherst Town Government Act to take into account clearly manifest errors the Bureau of the Census may be unwilling or unable to correct.

Action taken on 4/24/02.

#### ARTICLE 6. Petition – Employee Benefits for Domestic Partners (L. Maley)

**VOTED UNANIMOUSLY to dismiss.** [“To see if the town will vote to direct the Select Board and Town Manager, Library Director and Jones Library Board of Trustees, and School Superintendent and Amherst School Committee to provide as a non-negotiable human right in all employment contracts, labor agreements, and personnel bylaws of all agencies of the town, Jones Library, Incorporated, and Amherst School Department that the domestic partners of all persons so employed shall, regardless of sexual orientation, be entitled to health insurance coverage and their town employee partners to family, maternity/paternity, and bereavement leave on the same basis as other town employees upon confirmation of their domestic partnership status by oath of affirmation to a joint declaration prescribed by the town employee’s employing agency.”]  
Action taken on 4/24/02.

**ARTICLE 7. Town Bylaws – Animal Welfare (Select Board)**

**VOTED unanimously** that the town replace Article II, Conduct of Persons in Control of Animals in the Town Bylaws with the following Animal Welfare Bylaw:

**Animal Welfare Bylaw**

**Preamble**

The animal welfare regulations are herein established for the purpose of promoting the health, safety, and general welfare of the Town of Amherst and its animals. This bylaw contains standards relating to the treatment, confinement and keeping of dogs; and cat regulations. The intent of this bylaw is to enhance the quality of life of citizens and animals in the Town of Amherst, and to protect the general public from damage that may be caused by unregulated animals.

**1. Validity**

This bylaw is not intended to derogate or limit any powers, rights, or obligations set forth in M.G.L. Chapter 140, but is in addition thereto.

**2. License Requirement**

Any owner/guardian or keeper of a dog six (6) months of age or older shall cause that dog to be licensed as required by M.G.L. Chapter 140, Section 137, commencing on April 1 of each year.

**3. License Fee**

The fee for every license shall be set by the Town Clerk in accordance with M.G.L. Chapter 40, Section 22F. The fee for a license for any dog that has been neutered or spayed and for which a certificate from a registered veterinarian has been presented to the Town Clerk, shall be set at no more than one-third (1/3) of the fee set by the Town Clerk in accordance with this section. The appropriate license fee, proof of rabies vaccination and neutering/spaying certificate, if any, must be presented to the Town Clerk at the time of application for a license, and, in addition, a stamped self-addressed envelope must accompany an application for a license by mail.

- A. A penalty of thirty dollars (\$30.00) shall be imposed upon all owners/guardians or keepers of dogs failing to renew licenses before June 1 of each year. This penalty shall take effect on June 1 of each year.
- B. No license fee shall be charged for specially trained service animals, provided one of the following: a doctor’s prescription, a doctor’s letter on office letterhead, a letter from a service animal training program, or a photo ID of said service animal is shown that such an animal is currently being/has been trained to assist an individual with a disability in accordance with M.G.L. Chapter 140, Section 139, the Americans with Disabilities Act and M.G.L. Chapter 272, Section 98a. Application shall be made for a license as provided in this bylaw, and license tags issued by the Town must be worn by any such service dog.
- C. In accordance with M.G.L. Chapter 140, Section 138, the owner/guardian or keeper of any dog six months old or older who is a new resident of the Town of Amherst shall register said dog within thirty days of taking up residence, subject to a late fine in accordance with Section 3.A.
- D. No license fee will, or part thereof shall, be refunded because of subsequent death, loss, spaying, neutering, removal from the Town of Amherst, or other disposal of the dog for which the license has been issued, nor shall any fee for a license issued to a new resident be prorated.

**4. Dog Regulations**

- A. It shall be a violation of this bylaw for which the owner/guardian or keeper shall be liable for a dog to:
  - i. go beyond the confines of the owner/guardian’s or keeper’s property unless the dog is held firmly on a leash, or is under the control of its owner/guardian or keeper, subject to restrictions of Section 5.A.
  - ii. disturb the peace or quiet or endanger the safety of any person or other animal, by biting, barking, howling, or in any other manner
  - iii. be unrestrained in violation of any order of the Select Board or of the Animal Welfare Officer
  - iv. frighten, kill, maim or otherwise injure another’s fowl, livestock or domesticated animal
  - v. chase another’s vehicle on any way open to public travel
  - vi. be unlicensed or untagged in violation of state law or of this bylaw.

Violation of this subsection may be subject to a penalty of fifty dollars (\$50.00) for each such violation.

- B. Any person may make a complaint to the Animal Welfare Officer regarding an alleged violation of the preceding subsection. Upon receipt of such complaint, the officer shall investigate, and may issue a written order that the dog be temporarily restrained or muzzled, as the officer deems necessary. Within twenty-one days of the issuance of such a written order, the officer shall file a report requesting a Select Board hearing. On receipt of such report and after examination of the complaint, the Select Board may take actions it deems necessary. The owner/guardian or keeper of a dog subject to such an order of the Select Board may within ten days file an appeal in district court.
- C. The Animal Welfare Officer may impound any dog determined by her/him to be involved in a violation of either of the two preceding subsections hereof. If the owner/guardian or keeper can be ascertained by some identification device on the dog, the Animal Welfare Officer shall immediately advise that person of the dog's impoundment, the procedures for reimbursing the animal holding facility, the right to redeem the dog, and licensing procedures if applicable. Any dog so impounded and unredeemed after 10 days may be disposed of as provided in Chapter 140, Section 151A of the Massachusetts General Laws.

## **5. Dogs Unleashed**

- A. No dog shall be permitted to be unleashed while in any public park, public playground, public building, or public recreational field or facility, or in any school yard or school recreational field during school hours or after-school hours when an athletic or other event is occurring on school grounds, or in the downtown business areas. Notwithstanding the prohibitions contained in the preceding sentence, the Conservation Commission, Leisure Service and Supplemental Education Commission, Amherst and Amherst-Pelham Regional School Committees, Select Board or Town Manager may issue regulations which may permit dogs to be unleashed on land controlled by said Commission, Committee, Board or Town Manager.

Violation of this subsection may be subject to a penalty of twenty-five dollars (\$25.00) for each such violation.

- B. Any dog found to be unleashed while in any public park, public playground, public building, or public recreational field or facility, or in any school yard or school recreational field during school hours or after-school hours when an athletic or other event is occurring on school grounds, or in the downtown business areas of the Town of Amherst, except as allowed in Section 5.A., may be apprehended and confined by the Animal Welfare Officer and/or a Police Officer.
- C. Any dog found to be unleashed while in any public park, public playground, public building, or public recreational field or facility, or in any school yard or school recreational field during school hours or after-school hours when an athletic or other event is occurring on school grounds, or in the downtown business areas of the Town of Amherst and not in the presence of its owner/guardian or keeper, except as allowed in Section 5.A., shall be apprehended and confined by the Animal Welfare Officer and/or a Police Officer. Upon impoundment of any dog in accordance with this subsection or the preceding subsection, the Animal Welfare Officer shall notify forthwith the licensed owner/guardian or keeper of said dog, giving the said owner/guardian or keeper a period of ten (10) days within which to recover the dog. For each and every dog picked up by the Animal Welfare Officer or her/his agent there shall be a pickup fee in increasing amounts for each occurrence, not to exceed fifty dollars (\$50.00). Fees, including the daily fee for the care of the dog, are payable by the owner/guardian or keeper before retrieval of the dog shall be allowed.
- D. It shall be unlawful for any person to fasten, chain or tie a dog to a stationary object for a period of time in the downtown business area so as to create an unhealthy situation for the animal or a potentially dangerous situation for a pedestrian, as determined by the Animal Welfare Officer.

Violation of this section may be subject to a penalty of twenty-five dollars (\$25.00) for each offense.

- E. The Animal Welfare Officer of the Town of Amherst and/or any Police Officer of said town shall enforce the provisions of this section of the bylaw.

## **6. Prohibits Dog Waste Excretion on Public Ways**

- A. It shall be unlawful for the owner/guardian or keeper having care of a dog to permit such dog, either willfully or through failure to exercise due care or control of such animal, to excrete any solid waste upon any sidewalk, public street or public park, schoolyard or school recreational field, or public recreational areas, or upon any real property other than the real property owned or controlled by such owner/guardian or keeper. No violation of this section shall be deemed to have occurred if the owner/guardian or keeper of the offending animal promptly and voluntarily removes the animal waste.

- B. Violation of this section may be subject to a penalty of fifteen dollars (\$15.00) for each offense.
- C. This regulation shall not apply to a dog accompanying any handicapped person who, by reason of his/her handicap, is physically unable to comply with the requirements of this section.

**7. Conduct of Persons in Control of Animals Other than Dogs**

Cattle and other animals in the public way. A person who owns or is in control of any goat, sheep, swine, horse, cow, other neat cattle, or fowl, shall not permit such animal to go at large in any of the streets, commons or parks of this town, and shall not drive or lead such animal along or upon any of the sidewalks, parks or commons of this town, except in the case of sidewalks for the purpose of immediately crossing the same. Horses used by the police department shall be excluded from this prohibition.

Violation of this subsection may be subject to a penalty of fifty dollars (\$50.00) for each violation.

**8. Frightening Animals**

No person by noise, gesture or other means shall maliciously frighten any horse or other domestic animal in any street or public place in this town.

Violation of this subsection may be subject to a penalty of twenty-five dollars (\$25.00) for each violation.

**9. Cat Regulations**

- A. Cats shall be immunized against rabies and records kept in accordance with M.G.L. Chapter 140, Section 145B.
- B. The Health Director, Town Animal Inspector, Police Officers, and the Animal Welfare Officer shall enforce the provisions of this bylaw.

**10. Severability Clause**

The provisions of this bylaw shall be deemed severable, so that the invalidity of any one provision of the bylaw shall not affect the validity of another provision, and if any part of this bylaw shall be adjudged unconstitutional, inconsistent with state law, or otherwise invalid, such judgment shall not affect any other valid part of this bylaw.

**11. Non-Criminal Disposition**

Any enforcing person, as set forth below, taking cognizance of a violation of this bylaw, may, as an alternative to initiating criminal proceedings, enforce this bylaw non-criminally pursuant to M.G.L. Chapter 40, Section 21D. For purposes of this section, the following shall be enforcing persons: Animal Welfare Officer and Police Officer. The specific penalty for violation shall be the amount established in this bylaw.

Action taken on 4/24/02.

10:18 p.m., April 24, 2002 - The meeting voted to adjourn to Thursday, April 25, 2002 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 192 town meeting members were checked in.

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The Thursday, April 25, 2002 session, adjourned from April 24, 2002, was called to order by the moderator at 7:48 p.m. 115 town meeting members checked in and a quorum was declared. Articles 9, 10, 11, 12 were considered. Consideration of Article 8 was postponed until 7:30 p.m. on May 1, 2002. Consideration of Article 16 was postponed to after Article 8. Consideration of Article 13 was postponed until 7:30 p.m. on May 30, 2002.

**ARTICLE 8. Petition – Offers of Real Property (NOVA Fair Housing)**

**DEFEATED** [that the Town adopt the following resolution by deleting the ~~lined out~~ language in Article 8 and adding the language in ***bold italics*** as follows: “In the event that any real property with a value exceeding ~~\$5,000~~ ***\$25,000*** is offered to the Town of Amherst, either for sale or in the form of a gift or donation, the Town employee, official or representative to whom the offer is conveyed shall immediately notify the Select Board, the Joint Capital Planning Committee, and the Town Manager of the offer. ~~Upon receipt of notice of the offer, the Town Manager promptly shall cause to be published in a local newspaper a notice sufficient to inform Amherst residents of the offer and its terms. No sooner than 30 days after notice of the offer has been published,~~ ***Within 60 days after receipt of notice of the offer,*** the Select Board shall ***consider and vote in executive session*** ~~vote~~ on whether to accept or reject the offer. Until such time as the Select Board has taken its vote, no Town employee, official or representative shall convey to a third party that the real property that is the subject of the offer is available to that third party.”]

Action taken on 5/8/02.

**ARTICLE 9. Petition – Development Proposals and the Zoning Bylaw (NOVA Fair Housing)**

**DEFEATED** [that the Town adopted the following resolution: “The Amherst Planning Department shall not recommend, advocate for, or otherwise support any commercial or residential development in the Town of Amherst that would contravene or override the Amherst Zoning By-law, without first presenting to Town Meeting reasons why the Zoning By-law should be contravened or overridden, and obtaining Town Meeting’s approval for such action.”] (A motion to refer to the Planning Board was also defeated.)

Action taken on 4/25/02.

ARTICLE 10. Petition – Economic Impact Analysis of Housing Proposals (NOVA Fair Housing)

**DEFEATED** [that the Town adopt the following resolution: “In the event the Town of Amherst receives or otherwise becomes aware of a proposal for the construction of a residential housing development in the Town of Amherst in excess of ~~four~~ eight units, including without limitation single family, apartment, condominium or cooperative units, the Amherst Planning Department shall conduct a(n) ~~comprehensive~~ analysis of the economic impact the proposed development will have on the Town’s finances, including an analysis of the expected tax revenues the development will generate as compared to the expected increased costs to the Town for infrastructure, police and fire protection, education and other municipal services. The Planning Department’s analysis shall be completed and delivered to the Select Board, the Planning Board, the Zoning Board of Appeals, and each other Town board, committee or commission that may be called upon to review or approve any aspect of the development, before such review or approval is undertaken.”]

Action taken on 4/25/02

ARTICLE 11. Petition – Amherst Residents Advocacy Committee (NOVA Fair Housing)

**VOTED to refer the Article to the Charter Commission.** [“There shall be an Amherst Residents Advocacy Committee consisting of five members, each member to be appointed by the Select Board for a three year term. The principal purposes of this Committee are:

1. to assist Amherst residents who may be impacted by proposed commercial or residential development and other land use changes in the Town of Amherst, in understanding the administrative processes and procedures governing such land use changes; and
2. to advocate on behalf of Amherst residents before those boards, committees, commissions, officials and other governing bodies responsible for the planning, overseeing, authorizing and/or approving such land use changes.”]

Action taken on 4/25/02.

ARTICLE 12. Petition – Resolution - Town Commons (V. Kaynor)

**VOTED** that the Town to adopt the following resolution: “Whereas the town’s historic town commons continue to be threatened by encroachment and whereas they lack effective legal protection, therefore, be it resolved that the town vote to request that the Select Board and Planning Board establish appropriate mechanisms to afford maximum protection to all of the town’s commons including the entire central common (both north and south of Route 9), and those at Cushman, East Street, and South Amherst. Protections shall include but not be limited to: 1) surveying and establishing boundaries for each parcel of common, 2) laying out each common as a parcel or parcels, and 3) designating or zoning these parcels as “town common, thereby affording the protection under article 97 of the Massachusetts State Constitution.”

Action taken on 4/25/02.

ARTICLE 13. Petition – Academy Square (N. Gordon)

**DEFEATED** [“To see if the Town will ask the Selectboard to appoint a “blue ribbon commission” to consider the possible public uses of Academy Square.”]

Action taken on 5/22/02.

10:00 p.m., April 25, 2002 - The meeting voted to adjourn to Wednesday, May 1, 2002 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 150 town meeting members were checked in.

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The Wednesday, May 1, 2002 session, adjourned from April 25, 2002, was called to order by the moderator at 7:45 p.m. 116 town meeting members checked in and a quorum was declared. Articles 16 and 14 were considered. Consideration of Article 8 was postponed a second time, until 7:30 p.m. on May 8, 2002. Consideration of Article 38 was postponed to after Article 8. Consideration of Article 18 was postponed until 7:30 p.m. on May 15, 2002.

ARTICLE 14. Petition – Resolution – Housing Policy (V. O’Connor)

**1) VOTED to refer to the Housing Partnership/Fair Housing Committee.**

“Whereas, the town’s 1990’s policy of encouraging the construction of expensive single-family homes and de-emphasizing affordable housing: 1) was contrary to the town’s role as the home of the Commonwealth’s flagship public University campus, 2) encourage families to locate in Amherst whose jobs required them to commute long-distances by automobile, 3) led to building upon resource areas and farmland, 4) resulted in the loss of significant affordable housing resources at Rolling Green and Puffton Village IV without meaningful opposition by town officials, and 5) threatens to diminish the town’s sense of community;

**2) VOTED**

Now, Therefore, Be It Resolved, that the town adopt a Housing Policy of actively encouraging the Amherst Housing Authority and other public, private, and non-profit entities to acquire existing housing for reuse as family housing, and to construct carefully and publicly planned new housing, for the primary purpose of housing Amherst’s public and private employees, and that this policy include the disposition of surplus town land appropriate for affordable housing, with the understanding that the town shall maintain its commitment to village center zoning, to preserving farmland, resource and flood-prone areas, and to providing neighborhoods in town with suitable conservation and recreation areas; and

Be It Further Resolved that the Housing Partnership/Fair Housing Committee be directed to develop such a policy.”

Action taken on 5/1/02.

ARTICLE 15. Petition – Zoning Bylaw and Conveyance – East Street School Site (V. O’Connor)

**VOTED to DISMISS.** [“To see if the town will vote:

1. to authorize the transfer from the School Committee to the Select Board for the purposes of constructing an affordable single-family home thereon, the care, custody, and control of a sufficient portion of the northerly area of the site of the East Street School located on the west side of South East Street and designated as Parcel 20 of Map 15A of the town cadastre; and,
2. to authorize the Town to convey, based on the most advantageous proposal, the land described above for the construction of owner-occupied housing for a family whose income ranges from 40% to 80% of the area's median annual family income as determined by the United States Department of Housing and Urban Development, and that any consideration for such conveyance be not less than the fair market value of said parcel: 1) minus the value of any easement(s) and the value of any required plantings and/or Historical Commission requirements; 2) subject to affordable housing restrictions providing long-term affordability; 3) bearing a direct relationship to the annual family income of the purchasing family; and 4) taking into account the cost of construction and sale price of said affordable housing to an eligible family; and,
3. to revise the zoning bylaw and zoning map by transferring Parcels 18, 19, and the northerly portion of Parcel 20 from the R-VC District to the R-G District.”]

Action taken on 5/8/02.

**ARTICLE 16. Zoning Bylaw - Critical Resource Districts (Farmland, Watershed, Aquifer) (Planning Board)  
VOTED to refer to the Planning Board.**

[To see if the Town will amend the Official Zoning Map by changing the designation of properties currently zoned Farmland Preservation (FP) to Farmland Conservation (FC), and to amend Articles 2, 3, 4, 6, 12 and 14 of the Zoning Bylaw by deleting the ~~lined-out~~ language and adding the language in ***bold italics***, as follows:

**A. Amend and reorganize the following selected subsections of Article 2, as follows:**

2.05 ~~Resource Protection Districts~~ ***Flood Protection District***

**FPC Flood-Prone Conservancy**

The FPC District consists of those geographical areas which, by virtue of their relationship to components of the natural hydrology of the Town of Amherst, have substantial importance to the protection of life and property against the hazards of floods, erosion, and pollution and ***so are***, in general, ~~are~~ essential to the public health, safety, and welfare. To this end, the number and types of uses allowed are restricted.

2.06 ***Critical Resource Protection Overlay Districts***

***The following critical resource overlay districts have, by virtue of their relationship to components of the natural hydrology, soils and other natural systems of Amherst, substantial importance to the protection of human life and property as well as the health of these systems, and so are, in general, essential to the public health, safety, and welfare. To this end, the number, types and density of land uses allowed may be restricted.***

**ARP Aquifer Recharge Protection**

The ARP District is an overlay district intended to provide additional protection to those lands which, by virtue of their location, slope, soils, subsurficial geology and water tables, constitute the recharge area for Zones I, II and III of the public water supply wells of the Town of Amherst within the Lawrence Swamp Aquifer.

**WP Watershed Protection**

The WP District is an overlay district intended to provide additional protection to those lands which, by virtue of their location, slope and soils, ~~make up~~ ***comprise*** the watersheds of ***Atkins Reservoir***, ~~the~~ a public water supply reservoir ***of the Town of Amherst***.

**FC Farmland Conservation**

The FC District is an overlay district configured to include and intended to protect those lands which, by virtue of ***the agricultural suitability of*** their soils, ***their*** acreage, ***and their*** location adjacent to and contiguous with other farmland, ~~and lack of protection under existing underlying zoning,~~ ***comprise*** the critical farmland of the Town of Amherst.

2.07 ***Wetlands Overlay District***

**WD Wetlands District**

The WD District is an overlay district consisting of lands defined as wetlands by the provisions of the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, Section 40.

**B. Amend the following selected subsections of Article 3, as follows:**

3.24 Watershed Protection (WP) District

3.2442 The following findings shall be made for any approvals granted:

1. The permit granting ~~B~~***board*** shall find that the proposal either is in harmony or is not in harmony with the purposes and intent of this section and must specify reasons therefore.
2. The permit granting ~~B~~***board*** shall find that the proposed use provides for adequate sewage disposal and water service systems.
3. The permit granting ~~B~~***board*** shall find that the proposed use will not have an adverse environmental impact on any watershed, watercourse or waterbody in the WP District during construction.
4. The permit granting ~~B~~***board*** shall find that the proposed use will not adversely affect the quality and quantity of water in the Lawrence Swamp Basin or the Atkins Reservoir.

3.246 Residential Development

3.2460 Residential subdivisions requiring approval under M.G.L. Ch. 41, the Subdivision Control Law, shall be laid out as ~~cluster~~ **Critical Resource** ~~and~~ Developments in accordance with Section 4.327 of the Zoning Bylaw.

3.2461 **For flag lots not part of a Critical Resource Development, with frontage located outside the WP District and a majority of lot area within the WP District, the lot area requirements shall be as follows:**

*Minimum lot area*            **40,000 sq.ft.**  
*Maximum lot area*           **50,000 sq.ft.**

**All other dimensional requirements for these lots shall be the same as those specified in Table 3 for Cluster Development flag lots in the R-N District.**

3.25 Aquifer Recharge Protection (ARP) District

3.2585 The following findings shall be made for any approvals granted:

1. The permit granting ~~B~~board shall find that the proposal either is in harmony or is not in harmony with the purposes and intent of this section and must specify reasons therefore.
2. The permit granting ~~B~~board shall find that the proposed use provides for adequate sewage disposal and water service systems.
3. The permit granting ~~B~~board shall find that the proposed use will not have an adverse environmental impact on any watershed, watercourse or waterbody in the ARP District during construction.
4. The permit granting ~~B~~board shall find that the proposed use will not adversely affect the quality and quantity of water in the Lawrence Swamp basin.

3.2591 Residential Development

For all parcels of land which are located **simultaneously** in both the **Low Density Residence (R-LD) District and ARP overlay** ~~D~~district and the ~~Low Density Residence District (R-LD)~~, the following requirements shall be met:

1. Residential subdivisions requiring approval under M.G.L. Ch. 41, The Subdivision Control Law, shall be laid out as ~~cluster~~ **Critical Resource** ~~and~~ Developments in accordance with Section 4.3 of the Zoning Bylaw.
2. **For flag lots not part of a Critical Resource Development, with frontage located outside the ARP District and a majority of lot area within the ARP District, the lot area requirements shall be as follows:**

*Minimum lot area*            **40,000 sq.ft..**  
*Maximum lot area*           **50,000 sq.ft.**

**All other dimensional requirements for these lots shall be the same as those specified in Table 3 for Cluster Development flag lots in the R-N District.**

3.28 Farmland Conservation (FC) District

3.283 Residential Development

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

3.2831 ~~Cluster~~ **Critical Resource** ~~and~~ Developments **and open space community developments (OSCDs)** in the FC District shall conform to the provisions of Sections 3.284 and 3.285 of this bylaw.

3.2832 For flag lots **not part of a Critical Resource Development**, with frontage located outside the FC District and a majority of lot area within the FC District, the lot area requirements ~~for these lots~~ **shall be** as follows:

	<i>With public sewer</i>	<i>Without public sewer</i>
Minimum lot area	20,000 sq. ft.	<b>40,000 sq. ft.</b>
Maximum lot area	30,000 sq. ft.	<b>45,000 sq. ft.</b>

All other dimensional requirements for these lots shall be the same as those specified in Table 3 for Cluster Development flag lots in the R-N District.



3.284 Standards for Planning Board Site Plan Review (SPR) Approval

***In the FC District, the Planning Board shall grant a Site Plan Review (SPR) Approval for a ~~cluster~~ Critical Resource Development in the FC District provided it finds that in addition to meeting the provisions of Sections 11.2 and 11.3, the proposed use conforms to the provisions of Section 3.285, Farmland Conservation Development Standards, and Section 4.38, Cluster Development and Critical Resource Development Design Standards of this Bylaw.***

**Amend Section 3.285, as follows:**

- 3.2850 To the maximum practical extent, all buildings and roads shall be located on that portion of the site with soils least suitable for the production of crops and livestock. This provision shall not apply to the location of on-site septic disposal facilities, which must be placed in soils meeting ***the requirements of*** the Massachusetts Environmental Code.
1. ***To assist the permit granting board in making this determination, copies of the application and site plan shall be transmitted to the Farm Committee, which shall have thirty-five (35) days to report its findings concerning the suitability of soils on the subject property for the production of crops and livestock, and the relationship of those soils to the overall geometry of said property. Failure to report in the allotted time shall constitute approval by the Farm Committee. The permit granting board may grant an extension of this time period, in response to a written request from the Farm Committee for such an extension.***
  2. ***The Farm Committee or the permit granting board may, at the cost of the applicant, engage the services of an independent professional agronomist, soils scientist or other qualified consultant to assist in evaluating a site or project.***
- 3.2851 Individual or multi-unit community septic systems may be allowed in ~~cluster~~ ***Critical Resource*** Developments in the FC District where public sanitary service is not reasonably available, subject to Board of Health approval, conditions and restrictions.
- 3.2852 Within the common land provided in the ~~Cluster~~ ***Critical Resource*** Development, a maximum of 5,000 square feet per dwelling unit shall be set aside as usable open space for active and passive recreation.
- Upon request of the applicant, the Planning Board may waive this maximum, where such a change would be consistent with the purposes of this Bylaw. In making their decision, the Planning Board shall consider whether the maximum feasible amount of common land has been set aside as permanently preserved farmland, while maintaining adequate amounts of usable open space for active and passive recreation for the ~~Cluster~~ ***Critical Resource*** Development.
- 3.2856 The ~~Planning Board~~ ***permit granting board*** may approve the use of portions of the 150 foot buffer strip between the residential and farmland portions of the ~~cluster~~ ***Critical Resource*** Development as usable open space for the recreational use of ~~cluster~~ development residents, provided such use will not impact adversely on adjacent farming activity and is consistent with Section 4.31 of the Zoning Bylaw.

**C. Amend and reorganize the following selected subsections of Article 4, as follows:**

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.
<b>SPR</b>	=	<b>SITE PLAN REVIEW</b>	<b><i>The Development Method is permitted if a site plan review approval is issued by the Planning Board</i></b>
SP	=	SPECIAL PERMIT	The Development Method is permitted if a special permit is issued by the Board of Appeals.
SPP	=	SPECIAL PERMIT PLANNING BOARD	The Development Method is permitted if a special permit is issued by the Planning Board.

TABLE 2

BYLAW NUMBER	METHOD	DEVELOPMENT METHODS					
		ZONING DISTRICTS					
		R-LD	R-O	R-N	R-VC	R-G	R-F
4.2	CONVENTIONAL RESIDENTIAL SUBDIVISION DEVELOPMENT	Y	Y	Y	Y	Y	Y
4.3	CLUSTER DEVELOPMENT <b><i>or CRITICAL RESOURCE DEVELOPMENT</i></b>	SPR	SPR	SPR	SPR	SPR	<del>N</del> <b><i>SPR</i></b>
4.4	PLANNED UNIT RESIDENTIAL DEVELOPMENT	N	SP*	SP*	SP	SP	<del>N</del> <b><i>SP</i></b>
4.5	OPEN SPACE COMMUNITY						

\* Applies only to those areas included in an overlay district called "PURD DISTRICT" as shown on the Official Zoning Map; otherwise, not permitted.

### SECTION 4.3 CLUSTER DEVELOPMENTS & *CRITICAL RESOURCE DEVELOPMENTS*

#### 4.30 General Description

4.300 A "Cluster Development" shall mean a residential development in which the building and accessory uses are clustered together with reduced lot sizes, into one or more groups. The land not included in the building lots shall be permanently preserved as open space. ***A Cluster Development shall not be located in a critical resource overlay district.***

4.301 ***A "Critical Resource Development" shall mean a residential development located in the WP, ARP and FC critical resource overlay districts. In a Critical Resource Development, residential buildings and accessory uses are sited close together into one or more groups in such a way as to minimize impacts on the resource(s) being protected. Lot sizes are reduced and residential density within the developed section of the subject property may be higher than would otherwise be permitted in the underlying residential zoning district(s). If the Affordable Units provisions of Section 4.33 applies, total residential density on the entire property may be higher than would otherwise be permitted in the underlying residential zoning district(s). Land not included in residential building lots or lots occupied by uses accessory thereto shall be permanently preserved as open space in such a way as to protect and sustain the natural resources, as provided for under Section 4.35.***

#### 4.31 Purpose

It is intended that a Cluster Developments and *Critical Resource Developments* be developed as an entity by a landowner, or association of adjacent landowners, in which ***permitted so as to allow*** an alternative patterns of development ~~may be permitted~~ by which the following benefits are likely to be gained:

4.316 Protection of ***critical*** natural resources, including but not limited to ***watersheds***, aquifers, wetlands and farmland.

#### 4.32 Use and Dimensional Standards

4.320 A one-family detached dwelling, a zero lot line single family dwelling, a two-family detached dwelling (duplex), or attached dwellings, or other lawful accessory building may be constructed on certain lots in a Cluster ***or Critical Resource*** Developments (as herein defined and limited) although such lots have less area, frontage, and/or rear and side yard dimensions than normally required.

#### 4.323 Density/Setbacks

4.3231 The maximum ***base*** density of ***lots in*** a cluster subdivision ***or critical resource development***, ~~except for an affordable cluster, shall not may exceed the allowed density for a standard subdivision in any zoning district, said density to be calculated by taking the parcel area, subtracting 10% of that area~~ ***for road and utility allowance*** and dividing that number by the minimum lot area of the zoning district in which the parcel is located. ***The permit granting board or authority may reduce the road and utility allowance below 10%, provided it finds that such a reduction would allow for improvement to the design of the development and would be consistent with the purposes of this Bylaw.***

***4.3231.0 In addition it is the intention of this Section that the An affordable eCluster subdivision Development or a Critical Resource Development in the FC District, as defined under Section 4.33, not may result in more lots and/or more dwelling units than would be approved for a standard subdivision under a Definitive Subdivision Plan on the same property.***

***4.3231.1 An affordable critical resource development in the WP or ARP Districts shall not result in more lots than would be approved for a standard subdivision under a Definitive Subdivision plan on the same property, but may result in more dwelling units.***

4.326 The entire development shall be serviced with public sanitary sewer system, except in the WP District, ARP and WP districts associated with the Lawrence Swamp Aquifer, and in the FC Districts. In these ***critical resource protection*** districts, the Board of Health may, in accordance with state and local health regulations, authorize individual and/or shared septic systems in Cluster ***Critical Resource*** Developments where public sanitary sewer service is not reasonably available.

#### 4.327 ***Critical Resource Development - Dimensional Regulations*** ~~FC District~~

~~In the FC District, d~~Dimensional regulations for Cluster ***Critical Resource*** Developments shall be as follows:

4.3270 The maximum number of building lots 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 identified on federal flood insurance maps.

2. Subtract 10 percent of the resulting Net Parcel Area for road allowance.
3. Divide the remaining 90 percent of the Net Parcel Area by the Basic Minimum Lot Area for the underlying zoning district. The resulting figure shall be the maximum number of building lots allowed in the ~~Cluster~~ **Critical Resource** Development.

4.3271 In the **WP, ARP and FC** overlay districts, the Basic Minimum Lot Area for the underlying zoning district shall be used only for determining the maximum number of building lots possible in a ~~Cluster~~ **Critical Resource** Development and for determining the amount of common land to be provided. Otherwise, all dimensional regulations for ~~Cluster~~ **Critical Resource** Developments in the ~~FC District~~ shall be the same as those specified in Table 3 for Cluster Developments in the R-N District, except as noted in Sections **3.2461, 3.2591, 2., 4.3272 and 4.3273.**

4.3272 In addition to the dimensional regulations specified in Table 3, there shall be a maximum lot area for ~~cluster~~ lots **developed as part of a Critical Resource Development**, as follows:

	<i>With public sewer</i>	<i>Without public sewer</i>
<del>Cluster</del> Maximum lot area	20,000 sq. ft.	<b>40,000 sq. ft.</b>
<del>Cluster</del> Maximum flag lot <del>max. area</del>		
<b>ARP and WPDistricts</b>	<b>50,000 sq. ft.</b>	<b>50,000 sq. ft.</b>
<b>FC District</b>	30,000 sq. ft.	<b>45,000 sq. ft.</b>

4.3273 A ~~40-foot~~ buffer zone **strip** of open space and/or common land shall be provided along any edge of ~~between~~ the residential **uses in** portion of a ~~Cluster~~ **Critical Resource** Development which and any abuts **abutting** adjacent or on-site farmland **in accordance with the provisions of Section 3.2855 and 3.2856.**

#### 4.33 Affordable Units

4.330 The Planning Board may authorize a greater number of ~~dwelling units~~ **building lots** than would be allowed by the density requirements of Section 4.3231 or **Section 4.327** ~~only~~ if a minimum of 10% of the total ~~units~~ **lots** in the development ~~are~~ **contain** affordable **dwelling** units as herein defined. In no event shall the Board authorize a greater number of ~~dwelling units~~ **building lots** than 120% of the maximum number of ~~units~~ **lots** otherwise allowed **under the applicable development method.** For the purposes of this calculation, ~~10% of the normal parcel size shall be subtracted for the road and utility allowance determined under Section 4.3231 shall be subtracted from the development parcel~~ prior to calculating the maximum density allowed.

4.331 Attached units **permitted under this section** shall only be allowed in ~~Cluster~~ **Developments or Critical Resource Developments** that include affordable units.

#### Amend Section 4.34, reorganizing and renumbering subsections, as follows:

#### 4.34 Common Land Standards

The total area of Common Land for **Cluster Developments or Critical Resource Developments** shall equal or exceed the sum of the following:

4.340 The area by which all single-family dwelling lots are reduced below the basic minimum lot area normally required in the zoning districts.

4.341 The area by which all two-family dwelling lots are reduced below the minimum lot area normally required in the zoning districts for a two-family dwelling.

4.342 **The area by which all subdividable dwelling lots are reduced below the minimum lot area normally required in the zoning districts for a subdividable dwelling containing 1-3 dwelling units, as applicable.**

#### 4.3423 ~~Projects~~ **Attached Dwellings**

**4.3430 Cluster developments** that contain attached dwellings shall provide common land in accordance with the following formula: Subtract from the total parcel area the sum of a) and b), with a) being the area devoted to roads or rights-of-way and b) being the total area of all building lots. The remaining area shall be common land.

**4.3431 For attached dwellings in Critical Resource Developments, common land provided shall equal the usable open space per unit required under Section 4.345.**

4.3434 Land within the FPC District may be used to fulfill up to 60% of the Common Land requirements in Cluster Developments **and up to 50% of Common Land requirements in Critical Resource Developments.**

4.3445 Within the common land provided in the Cluster **or Critical Resource** Development, at least 2000 square feet per dwelling unit must be usable open space for active and passive recreation. Such space shall not include parking space, roadway, sidewalk area, land within the FPC District or Wetlands as determined by the Conservation Commission. Usable open space shall be defined to include such facilities as contiguous open space available for play, tot lots, gardens, hiking/jogging trails, tennis courts, or similar facilities.

- 4.346 In the FC District, all Common Land in a ~~cluster~~ **Critical Resource Development** not set aside as usable open space for active and/or passive recreation shall be permanently set aside as farmland, as provided for under Section 4.351.

**Amend Section 4.35, reorganizing and amending Sections 4.350 and 4.351, as follows:**

4.35 **Disposition of Common Land Ownership**

- 4.350 ***For cluster developments and open space community developments, All eCommon Land hereunder shall be disposed of as follows:***

**4.350.0** ~~eConveyed to a corporation or trust owned or controlled, or to be owned or controlled, by the owners of the lots or residential units within the development. Under the second and third alternatives listed above~~ ***In this case, a restriction enforceable by the Town of Amherst shall be recorded by the corporation or trust, and with each conveyance, providing that such land shall be kept in an open and natural state and not be built upon for residential use or developed for accessory uses such as parking or roadway. If such a corporation or trust is utilized, as indicated herein, ownership thereof shall pass with conveyances of the lots or residential units. If a trust is utilized, control thereof shall pass with conveyances of the lots or residential units.***

**4.350.1** ~~eConveyed to a non-profit organization, the principal purpose of which is the conservation of open space.~~

**4.350.2** ~~eConveyed to a private non-profit organization or a public entity for the purpose of farming, with a restriction enforceable by the Town of Amherst being recorded which provides that such land shall either be actively farmed and managed for related accessory resource-based land uses, or shall be kept in an open and natural state available for such uses.~~

**4.350.3** ~~eConveyed to the Town of Amherst or the Commonwealth of Massachusetts and be accepted by it for park, open space or farming purposes.~~

- 4.351 ***For Critical Resource Developments*** ~~In the FP, WP, ARP and FC Districts, that portion of the eCommon Land which is set aside as permanently preserved farmland and and all Unbuildable Land Area shall be protected by a permanent agricultural preservation restriction recorded on the deed~~ ***preserved as open space and used and managed as appropriate to protect water quality (WP and ARP districts) and/or to be kept available for use as farmland and related accessory resource-based land uses (FC District). In the latter case, the land shall be kept as active farmland, or shall be kept in an open and natural state for future farming uses, and shall not be built upon for residential use or developed for accessory uses such as parking or roadway.***

**4.3510** ~~Title to this permanently preserved farmland~~ ***Common Land*** may remain with the original ~~farmland~~ owner ***or another private individual or entity (hereinafter "owner")***, or ~~may~~ be conveyed to the Town of Amherst, the Commonwealth of Massachusetts, a ***corporation or trust functioning as a*** homeowners association, or a non-profit ~~farmland~~ trust or similar conservation organization whose principal purposes include the ***protection of water quality or the preservation of farmland and related accessory resource-based land uses, as appropriate.*** ~~The agricultural restriction recorded on the deed shall be enforceable by the Town of Amherst. It land shall be kept as active farmland or kept in an open or natural state for future farming uses, and shall not be built upon for residential use or developed for accessory uses such as parking or roadway.~~

4.36 **Review and Approval Process**

- 4.360 Approval will be by Site Plan Review by the Planning Board, in accordance with the standards set forth in Sections 11.2 and 11.3, with the purposes of Cluster Development ***and Critical Resource Development*** as set forth in Sections 3.28 and 4.31, as applicable, and with the design requirements of Sections 3.285 and 4.38, as applicable.

- 4.361 Subsequent approval by the Planning Board of such portions of ~~the~~ ***a Cluster Development or Critical Resource Development*** 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 Site Plan Review 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 such approval will be given.

4.37 **Flood-Prone Conservancy**

Each application for a Cluster Development ***or Critical Resource Development*** containing land within the Flood-Prone Conservancy district shall be accompanied by an additional set of plans and documents. Within ten days after receipt of the application the Planning Board shall transmit a copy thereof to the Conservation Commission which said Commission may, in its discretion, investigate the proposed development and report in writing its recommendation to the Board. The Planning Board shall not take final action on approval until it has received a report thereon from the Conservation Commission or until said Commission has allowed 35 days to elapse after receipt of such application without submission of a report.

4.38 **Cluster Development & Critical Resource Development Design Requirements**

- 4.384 **Protection of Environmentally Sensitive Areas:** the Board may reduce the number of lots otherwise allowed for the protection of ***watersheds***, aquifers, wetlands, ***farmland*** or other ***critical or*** environmentally sensitive areas.

4.385 Building Siting: the Planning Board may review and approve the sites of all buildings, structures, driveways and parking areas for each lot and may establish building envelopes for all buildings within a ~~e~~Cluster subdivision **Development or Critical Resource Development**.

**D. Amend Section 6.32, as follows:**

6.32 The area of each flag lot, exclusive of the access strip, shall be at least double the minimum lot area normally required for that district. ~~e~~**Exceptions shall be as follows:**

**6.320** ~~i~~In a Cluster Subdivision Development, in which case it shall be at least double the minimum lot area required for a cluster lot in that district.

**6.321** In the **ARP, WP and FC District overlay zoning districts, or in a Critical Resource Development**, the area of flag lots shall be as provided for in Sections **3.2461, 3.2591, 2., 3.2832, 4.2371** and 4.3272.

**E. Amend Section 12.10, as follows:**

12.10 Dwelling Unit, Attached: a building containing three (3) or more units, each unit having a separate entrance. **A three (3) unit subdividable dwelling shall not be considered an attached dwelling unit.**

**F. Amend Sections 14.43 and 14.44, as follows:**

14.43 OPEN SPACE/FARMLAND

14.431 Protection and retention of farmland according to the following impacts on working farms.

Development on agricultural land, defined as land classified prime, unique or of state and local importance by the USDA SCS or land characterized by active agricultural use as defined by Chapter 61A of the Mass. General Laws.

-30 pts.

~~In the Farmland Conservation (FC) District,~~  
~~Retention and preservation of agricultural land, as a percentage of the total area of the~~  
any proposed development, under permanent agricultural restriction.

2 pts./5% of total project area protected (max. 30 pts.)

Provision of a ~~100~~**150**-foot buffer zone, including a fence and screening vegetation, from the property boundary of a working farm.

5 pts.

**14.432 FC District**

**14.4320 Frontage or flag lot development under M.G.L. Chapter 41, Section 81P, with frontage located outside the FC District and a portion of lot area abutting or within the FC District**

**More than 5,000 sq. ft. of individual or average lot area in FC District. -30 pts.**

**2,500 - 5,000 sq. ft. of individual or average lot area in FC District. -15 pts.**

**Less than 2,500 sq. ft. of individual or average lot area in FC District. - 5 pts.**

**No lot area in FC District. 0 pts.**

**14.4321 Flag lots with frontage located outside the FC District and a majority of lot area within the FC District**

**More than 27,500 sq. ft. of individual or average lot area in FC District. -30 pts.**

**27,500 sq. ft. or less, and more than 25,000 sq. ft. of individual or average lot area in the FC District. -15 pts.**

**25,000 sq. ft or less, and more than 25,000 sq. ft. of individual or average lot area in the FC District -5 pts.**

**22,500 sq. ft. or less of individual or average lot area in FC District. 0 pts.**

**For the purposes of this section, lot area or average lot area, as applicable, shall be calculated by dividing the total area specified for all residential lots by the total number of lots in the development.**

14.44 **AQUIFER & WATERSHED PROTECTION**

Development in the Aquifer Recharge Protection (ARP) and Watershed Protection (WP) Overlay Districts.

Average lot size one-half acre or less, no public sewer	- 30 pts.
Average lot size more than one-half acre, no public sewer	-15 pts.
Average lot size one acre or less, public sewer	- 5 pts.
Average lot size more than one acre, public sewer.	0 pts.
<i>No public sewer</i>	<i>- 30 pts.</i>
<i>Public sewer</i>	<i>- 15 pts.</i>

- 14.471 Amelioration of other development impacts, such as the development of lower densities than otherwise permitted in the outlying areas of the town, i.e., the R-N District (within the FC and ARP overlay districts) and the R-O and R-LD districts, or the preservation of natural, agricultural, historic, archeological or cultural resources, significant street or shade trees and scenic views.]

Action taken on 5/1/02.

10:00 p.m., May 1, 2002 - The meeting voted to adjourn to Wednesday, May 8, 2002 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 175 town meeting members were checked in.

\* \* \*

The Wednesday, May 8, 2002 session, adjourned from May 1, 2002, was called to order by the moderator at 7:44 p.m. 116 town meeting members checked in and a quorum was declared. Articles 8, 38, 15, 17, 19 and 20 were considered. A motion to postpone Article 15 to after Article 37 was defeated and a motion to postpone Article 38 to after Article 39 was defeated. Robert Kusner and Daniel Cooley were sworn in as tellers.

ARTICLE 17. Zoning Bylaw - Definitions – Special Permit Granting Authority/Permit Granting Board (Planning Board)

**VOTED unanimously** that the Town amend the Zoning Bylaw to add the following new language in ***bold italics*** under Section 12.25, revise the language in existing Section 12.30, and renumber the remaining sections of Article 12 accordingly, as follows:

- 12.25 ***Permit Granting Board: That Board designated by the Zoning Bylaw to hear and decide Site Plan Review applications.***
- 12.30 Special Permit Granting Authority: The Zoning Board of Appeals and the Planning Board are designated as the Special Permit Granting Authorities, ***as provided within the Articles of this Bylaw.***

Action taken on 5/8/02.

ARTICLE 18. Petition - Zoning Bylaw – Light Industrial Zone to Flood Prone Conservancy (M. Power) **VOTED Yes 109, No 45** to amend the Zoning Bylaw by zoning as Flood-Prone Conservancy that portion of parcel 8, map 4D on the town cadastre within the boundaries of verified flooding shown on the map dated January 2001 and titled “Observed and Documented Flooding – Vicinity of Meadow Street and Route 116, Amherst, MA, September 17, 1999”, as distributed to town meeting members.

Action taken on 5/15/02.

ARTICLE 19. Petition – Conservation Land – Wentworth Farm (V. Morales)

**VOTED Yes 74, No 64 to refer this article to the Select Board.** [that the Town transfer 25-30 acres of land bounded by Belchertown Road, Old Farm Road, and Land of the Conservation Commission abutting the Fort River and composed of parcels 46 of Map 18A of the Town Cadastre and of those portions of Parcels 17 and 18 of Map 18A, not now Conservation Land but informally managed for the Town by the Conservation Commission, from the care and custody of the Select Board to the formal management and control of the Conservation Commission under Massachusetts General Laws, Chapter 40, Section 8C]

Action taken on 5/8/02.

ARTICLE 20. Conservation Restriction – Station Road (Conservation Commission)

**Voted by a declared 2/3 vote** that the Town:

1. authorize the Select Board to purchase a Conservation Restriction, under Sections 31, 32, and 33 of Massachusetts General Laws Chapter 184, over 10 acres of land more or less, belonging to Richard Slobody, being a portion of Parcel 55, Map 20D, of the Town Cadastre, located east of South East Street north of Station Road, said Conservation Restriction to be for conservation purposes under the management and control of the Conservation Commission under M.G.L. Chapter 40, Section 8C;
2. appropriate \$190,000 for said purchase and to meet such appropriation accept \$186,000 in Self-Help grant funds under M.G.L. Chapter 44, Section 6A, and donations from the Kestrel Trust, accept a \$4,000 donation from the Sewer Fund, and further, authorize the Select Board to borrow in anticipation of receipt of grant funds in accordance with M.G.L. Chapter 44, Section 6A.

Action taken on 5/8/02.

10:12 p.m., May 8, 2002 - The meeting voted to adjourn to Wednesday, May 15, 2002 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 153 town meeting members were checked in.

\* \* \*

The Wednesday, May 15, 2002 session, adjourned from May 8, 2002, was called to order by the moderator at 7:45 p.m. 116 town meeting members checked in and a quorum was declared. Articles 18, and 21 – 25 were considered.

ARTICLE 21. Conservation Restriction – South Pleasant Street (Conservation Commission)

**VOTED unanimously** that the Town approve an amendment to a Conservation Restriction over land at 521 South Pleasant Street belonging to the Common School that would delete the ~~lined-out~~ number and would add the number in ***bold italics***, as follows:

“subject to a Conservation Restriction under M.G.L. Chapter 184, Sections 32 and 34, in favor of the Town of Amherst requiring that at least ~~75~~ ***70*** percent of the surface area of said premises shall always be maintained uncovered by any structure or pavement and in a condition suitable for the growth of vegetation.”

Action taken on 5/15/02.

ARTICLE 22. Watershed Protection (Conservation Commission)

**VOTED by a declared 2/3 vote** that the Town:

1. authorize the purchase of up to 50 acres of land located at 302 Amherst Road, Pelham, Massachusetts, owned by Willem vanPelt, for watershed protection purposes;
2. appropriate \$77,000 for such purchase and to meet such appropriation accept \$46,000 in grant funds from the Massachusetts Aquifer Land Acquisition Program and transfer \$31,000 from Water Fund Surplus.

Action taken on 5/15/02.

ARTICLE 23. Street Acceptances – Jenks Street and Greenleaves Drive (Select Board)

**VOTED** that the Town establish as Town ways and accept the layout as Town ways, Jenks Street and Greenleaves Drive, or any portion thereof, as laid out by the Board of Selectmen on or before April 24, 2002, bound and as described below, and to authorize said Board to take by eminent domain, purchase, or otherwise acquire any fee, easement or other interest in land necessary therefor, no appropriation being required.

JENKS STREET – A strip of land 50 feet in width beginning at the North end of Jenks Street (a 1950 Town Way), thence running easterly about 550 feet into a cul-de-sac, including the following right-of-way and easements:

- a. Right-of-way (20 feet wide) over land of Amherst Housing Authority (lots 11 and 12) and Paddock (parcels 15B-11, 15B-12, 15B-13, 15B-64 and 15B-78) to Pelham Road.
- b. Drainage Easement (20 feet wide) over lot 2 and land of Amethyst Brook Conservation Area.
- c. Pathway Easement (10 feet wide) over lot 10 to land of Amethyst Brook Conservation Area.

All as shown on a plan recorded in the Hampshire County Registry of Deeds in Plan Book 154 Page 69.

GREENLEAVES DRIVE – A strip of land 50 feet in width beginning at the southerly side of Northampton Road with a flared end, thence running southerly approximately 920 feet with a width of 50 feet to a flared end, thence running west approximately 323 feet to the Hadley/Amherst Town line with a width of 50 feet, as shown on a plan recorded at the Hampshire County Registry of Deeds in Plan Book 4819 page 246.

Action taken on 5/15/02.

ARTICLE 24. Abandon Sewer Easement – University Drive (Select Board)

**VOTED unanimously** that the town abandon a certain sewer easement taken over the property of Clarity Realty, Ltd., located at 205 University Drive, and shown as Parcel 70 on Assessors' Map 13D.

Action taken on 5/15/02.

ARTICLE 25. Chapel Road Sewer (Select Board)

**VOTED unanimously to dismiss.** [To see if the town will appropriate \$76,500 for design of a sewer and sewer facilities on Mechanic Street, Chapel Road and Southeast Street and to meet such appropriation authorize the Treasurer to borrow in accordance with M.G.L. Chapter 44 Section 7(1) and other applicable laws.]

Action taken on 5/15/02.

9:56 p.m., May 15, 2002 - The meeting voted to adjourn to Thursday, May 16, 2002 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 168 town meeting members were checked in.

\* \* \*

The Thursday, May 16, 2002 session, adjourned from May 15, 2002, was called to order by the moderator at 7:50 p.m. 116 town meeting members checked in and a quorum was declared. Articles 26, 27, 28, 29, 30, 31, 32 were considered.

ARTICLE 26. Closeout of Landfill (Select Board )

**VOTED** that the Town appropriate \$400,000 for design and temporary closing of the sanitary landfill and to meet such appropriation transfer \$400,000 from Solid Waste Fund Surplus.  
Action taken 5/16/02.

ARTICLE 27. Transfer of Funds – Unpaid Bills (Select Board)

**VOTED unanimously to dismiss.** [To see if the Town will, in accordance with Chapter 44, Section 64, appropriate and transfer a sum of money to pay unpaid bills of previous years.]  
Action taken 5/16/02

ARTICLE 28. Authorization for Compensating Balance Accounts (Select Board)

**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 5/16/02

ARTICLE 29. Optional Tax Exemptions (Select Board)

**VOTED** that the Town authorize a maximum additional exemption of up to 100 percent, subject to other statutory limitations, for taxpayers qualifying for exemption in accordance with Chapter 73, Sections 4, Acts of 1986.  
Action taken 5/16/02

ARTICLE 30. Senior Services for Property Tax Reductions (Select Board)

**VOTED** that the Town accept the provisions of M.G.L. Chapter 59, Section 5K providing for reduction in property tax liability in exchange for volunteer services by persons over age 60.  
Action taken 5/16/02

ARTICLE 31. Retirement Assessment (Select Board)

**VOTED unanimously** that the Town raise and appropriate \$1,948,408 for the Hampshire Regional Retirement System assessment.  
Action taken 5/16/02

ARTICLE 32. Hampshire Council of Governments Assessment (Select Board)

**VOTED unanimously** that the Town raise and appropriate \$ 100,958 for the Hampshire Council of Governments Assessment.  
Action take on 5/16/02.

9:00 p.m., May 16, 2002 - The meeting voted to adjourn to Monday, May 20, 2002 at 7:35 p.m. in the auditorium of the Amherst Regional Middle School. 140 town meeting members were checked in.

\* \* \*

The Monday, May 20, 2002 session, adjourned from May 16, 2002, was called to order by the moderator at 10:15 p.m. A quorum was declared by the moderator. Town meeting voted to consider Article 13 at 7:30 p.m. on May 22, 2002. No other articles were considered.

10:16 p.m., May 20, 2002 - The meeting voted to adjourn to Wednesday, May 22, 2002 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 174 town meeting members were checked in.

\* \* \*

The Wednesday, May 22, 2002 session, adjourned from May 20, 2002, was called to order by the moderator at 7:50 p.m. 116 town meeting members checked in and a quorum was declared. Articles 13, and 33 (General Government and Public Safety) were considered.

ARTICLE 33. FY 2003 Operating Budget (Finance Committee)

**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 \$4,035,714 for General Government, that the salary of the Moderator be fixed at \$100, that the Board of Selectmen at \$300 each, that of the Elector under Oliver Smith Will at \$20, and that to meet such appropriation \$4,003, 714 be raised by taxation and \$32,000 be transferred from the Ambulance Receipts Reserved for Appropriation Account.  
Action taken 5/22/02.

PUBLIC SAFETY

**VOTED** that the Town appropriate \$6,970,419 for Public Safety and that to meet such appropriation \$6,160,419 be raised by taxation and \$810,000 be transferred from the Ambulance Receipts Reserved for Appropriation Account.  
Action taken 5/22/02.



10:16 p.m., May 22, 2002 - The meeting voted to adjourn to Tuesday, May 30, 2002, at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 158 town meeting members were checked in.

The Thursday, May 30, 2002, session, adjourned from May 22, 2002, was called to order by the moderator at 7:50 p.m. 116 town meeting members checked in and a quorum was declared. Article 33 (Public Works, Planning/Conversation/Inspections, Community Services, Debt Service and Elementary Schools) was considered.

#### PUBLIC WORKS

**VOTED unanimously** that the Town raise and appropriate \$1,668,329 for Public Works.  
Action taken on 5/30/02.

#### PLANNING/CONSERVATION/INSPECTIONS

**Voted unanimously** that the Town raise and appropriate \$830,288 for Planning/Conservation/Inspections.  
Action taken on 5/30/02.

#### COMMUNITY SERVICES

**VOTED** that the Town raise and appropriate \$1,259,911 for Community Services. (Total amount includes an amendment to increase the Community Service budget by \$6,363.00.)  
Action taken on 5/30/02.

#### DEBT SERVICE

**VOTED unanimously** that the Town raise and appropriate \$2,048,953 for payment of the Town's General Fund indebtedness.  
Action take on 5/30/02.

10:28 p.m., May 30, 2002 - The meeting voted to adjourn to Monday, June 3, 2002 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 155 town meeting members were checked in.

The Monday, June 3, 2002 session, adjourned from May 30, 2002, was called to order by the moderator at 7:44 p.m. 116 town meeting members checked in and a quorum was declared. Articles 33 (Library Services, Regional School, Water Fund, Sewer Fund, Solid Waste Fund and Transportation Fund), 34 and 35 were considered. The meeting voted to postpone consideration of Article 33 – Golf Course Fund to 7:30 p.m. on Thursday, June 6<sup>th</sup>.

#### LIBRARY SERVICES

**VOTED** that the Town approve the Library Services operating budget of \$1,777,718 and that the Town raise and appropriate \$1,202,619 as its share of that budget, that \$91,586 be transferred from the State Aid to Library Account, that \$457,513 be provided by Jones Library, Inc. and that \$26,000 be provided by gifts and donations.  
Action taken on 6/3/02.

#### ELEMENTARY SCHOOLS

**VOTED** that the Town raise and appropriate \$16,056,016 for the Amherst Elementary Schools.  
Action taken on 5/30/02.

#### REGIONAL SCHOOL

**VOTED unanimously** that the Town approve the Amherst-Pelham Regional School District operating and capital budget of \$21,953,327 and that the Town raise and appropriate \$8,005,669 as its proportionate share of that budget.  
Action taken on 6/3/02.

#### WATER FUND

**Voted unanimously** that the Town appropriate \$3,364,703 for the Water Fund and that to meet such appropriation \$3,364,703 be made available from Water Fund revenues of the current year.  
Action taken on 6/3/02.

#### SEWER FUND

**VOTED** that the Town appropriate \$2,723,949 for the Sewer Fund and that to meet such appropriation \$2,723,949 be made available from Sewer Fund revenues of the current year.  
Action taken on 6/3/02.  
(A motion to reconsider the article on 6/6/02 was defeated by a tally vote of yes: 48, no:80.)

#### SOLID WASTE FUND

**VOTED unanimously** that the Town appropriate \$506,873 for the Solid Waste Fund and that to meet such appropriation \$322,961 be made available from Solid Waste Fund revenues of the current year and \$183,912 be transferred from Solid Waste Fund Surplus.  
Action taken on 6/3/02.

**GOLF COURSE FUND**

**VOTED** that the Town appropriate \$298,221 for the Golf Course Fund and that to meet such appropriation \$269,554 be made available from Golf Course revenues of the current year and \$28,667 be transferred from the Golf Course Surplus.

Action taken on 6/6/02.

**TRANSPORTATION FUND**

**VOTED** that the Town appropriate \$724,762 for the Transportation Fund and that to meet such appropriation \$724,762 be made available from Transportation Fund revenues of the current year.

Action taken on 6/3/02.

**ARTICLE 34.** Reserve Fund (Finance Committee)

**VOTED unanimously** that the Town raise and appropriate \$ 85,000 for the Reserve Fund for FY 2003.

Action taken on 6/3/02.

**ARTICLE 35.** Special Services - Amherst Community Television (Select Board)

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

Action taken on 6/3/02.

10:05 p.m., June 3, 2002 - The meeting voted to adjourn to Thursday, June 6, 2002 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 156 town meeting members were checked in.

The Thursday, June 6, 2002 session, adjourned from June 3, 2002, was called to order by the moderator at 7:43 p.m. 116 town meeting members checked in and a quorum was declared. Articles 33 (Golf Course Fund), 36, 37, 39, 40, 41, 42, 43, 44 and 45 were considered. Aaron Wilson and Sandra Mullin were sworn in as tellers.

**ARTICLE 36.** Special Services - Human Services  
(Select Board and Human Services Funding Committee)

**VOTED unanimously** that the Town raise and appropriate \$153,495 for the following human services:

- Amherst Survival Center
- Casa Latina Outreach Program
- Family Outreach of Amherst Domestic Violence Response Project
- Big Brothers/Big Sisters
- Family Outreach of Amherst
- 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
- Men's Resource Center
- Safe Passages
- Service Net/Interfaith Cot Program
- YWCA/Youth Outreach Program
- School-Age Tuition Assistance Fund

Action taken on 6/6/02.

**ARTICLE 37.** Special Services - Congregate Housing (Select Board)

**VOTED unanimously** that the Town raise and appropriate \$45,000 for the development and coordination of support services for tenants of congregate housing and related housing units, said program to be fully reimbursed by the Executive Office of Elder Affairs.

Action taken on 6/6/02.

**ARTICLE 38.** Special Services – Transportation Subsidies  
(Select Board and the Public Transportation Committee)

**VOTED unanimously** that the Town endorse no-fare public transit service to the Amity Street/University Drive, Village Park, Echo Hill, Cushman, Orchard Valley and Elf Hill areas of the Town, year-round weekend service on the South Amherst/North Amherst/Belchertown Road routes, elderly and disabled special transportation 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 5/8/02.

ARTICLE 39. Additional Town Center Evening Bus Service (Public Transportation Committee)

**VOTED** that the Town raise and appropriate \$12,000 for additional no-fare public transit service in the vicinity of the Town Center during evening hours by adding two additional runs of the Amity Shuttle every Monday through Friday.

Action taken on 6/6/02.

ARTICLE 40. Capital Program - Chapter 90 (Joint Capital Planning Committee)

**VOTED** that the Town to authorize the expenditure of \$185,000 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 6/6/02.

ARTICLE 41. Petition – Motor Vehicles (K. Jones)

**VOTED** that the Town adopt the following resolution:

“To see if the town will vote that, when the Town of Amherst purchases motor vehicles for its municipal operations, each vehicle purchased must be the most fuel-efficient model available and/or the model with the lowest emissions rating available that will fulfill the intended municipal function; provided that the vehicle also meets other normal procurement criteria, including price and reliability.”

Action taken on 6/6/02.

ARTICLE 42. Capital Program – Equipment (Joint Capital Planning Committee)

**VOTED unanimously** that the Town appropriate \$943,000 to purchase, repair, and/or install new or replacement equipment and be authorized to turn in or sell corresponding items of equipment as part payment and to meet such appropriation raise \$803,000 from taxation and transfer \$140,000 from Ambulance Receipts Reserved for Appropriation.

Action taken on 6/6/02.

ARTICLE 43. Capital Program - Buildings and Facilities (Joint Capital Planning Committee)

**VOTED by a declared 2/3 vote** that the Town appropriate \$461,500 to repair and/or improve buildings and facilities and to meet such appropriation raise \$265,236 by taxation and transfer \$196,264 from the Stabilization Fund.

(Total amount includes an amendment to reduce the appropriation and the transfer of funds from the Stabilization Fund by \$60,000.)

Action Taken on 6/6/02.

ARTICLE 44. Stabilization Fund (Select Board)

**VOTED unanimously to dismiss.** [To see if the Town will appropriate and transfer a sum of money to the Stabilization Fund for FY 2003.]

Action taken on 6/6/02.

ARTICLE 45. Free Cash (Select Board)

**VOTED unanimously** that the Town appropriate and transfer \$1,218,363 from Free Cash in the Undesignated Fund Balance of the General Fund to reduce the tax levy of the 2003 Fiscal Year.

Action taken on 6/6/02.

After consideration of Article 45 and the business of the warrant having been completed, the meeting voted to dissolve at 10:35 p.m. on June 6, 2002. 143 town meeting members were checked in.

Attest:

Margaret Z. Nartowicz  
Town Clerk