

ANNUAL TOWN MEETING

April 30, May 5, 7, 12, 14, 15, 19 & 28, 1997

The meeting was televised by Amherst Community Television and shown on the Government Channel 20.

The 238th Annual Town Meeting was called to order by the Moderator, Harrison Gregg at 7:42 p.m. There were 252 Town Meeting Members. 130 checked in and a quorum was declared. The call and return of the warrant were read by Town Clerk, Cornelia D. Como. The moderator was sworn to the faithful performance of his duties and the newly elected town meeting members were sworn to the faithful performance of their duties by the moderator. A moment of silence was observed in memory of Tim Cowles, Steve Ziperstein and Inez Hegarty. Roger Wallace, Hilda Greenbaum, James Pistrang, Nonny Burack, James Scott, Seymour Friedman, Barbara Ford, Robert Ackermann and Arthur Keene were sworn as tellers. Elisa Campbell served as Moderator Pro Tem while articles two and fourteen were discussed.

ARTICLE 1. *Reports of Boards and Committees*

Voted unanimously 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 4/30/97.

ARTICLE 2. *Town Bylaw - 2/3 Vote*

MOTION # 1. Voted unanimously that the 1997 Town Meeting, in accordance with Section 2 of Chapter 448 of the Acts of 1996 of the Commonwealth of Massachusetts begin at once the practice of allowing voice votes to stand unless questioned in matters requiring a two thirds vote by statute.

MOTION # 2. Voted to amend Article I, Section I, Paragraph 6 of the Town Bylaws by deleting the language in brackets and adding the shaded language as follows:

All votes unless otherwise provided for by law shall in the first instance be taken by 'ayes' and 'noes' voice vote. Immediately following the voice vote at the request of any member and if 40 members manifest their concurrence, the vote of each member shall be tallied by the use of a card bearing his name and indicating his vote, each town meeting member rising and casting his own vote only, such cards to be collected by the tellers and to be counted, the count to be determinative of the question. If no [member requests a tally vote, following the voice vote] tallied vote is to be taken, and if the moderator is in doubt as to the voice vote, or if any member questions the voice vote, or if a four fifths or nine tenths vote is required by statute and the vote is not unanimous, the vote shall be taken by counted standing vote. When a two thirds vote is required by statute, a counted standing vote shall not be taken unless the voice vote is doubted by the moderator or questioned by a member.

Action taken on 4/30/97.

ARTICLE 3. *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 4/30/97.

ARTICLE 4. *Optional Tax Exemptions*

Voted unanimously that the Town authorize a maximum exemption of 100 percent for taxpayers qualifying for exemption under M.G.L. Ch. 59, Sec. 17D, 22, 37A, and 41C.

Action taken on 4/30/97.

ARTICLE 5. *Transfer of Funds - Unpaid Bills*

Voted unanimously to DISMISS.

Action taken on 4/30/97.

ARTICLE 6. *Capital Program - Town Hall Transfer*

Voted that the Town appropriate and transfer \$50,000 from Article 8, Special Town Meeting, November 1994 (Town Hall Repairs - Renovations) to Article 6, Special Town Meeting, October 1995 (Town Hall Renovations).

Action taken on 4/30/97.

ARTICLE 7. *FY97 Operating Budget Amendments*

Voted that the Town amend the FY 97 operating budget by increasing General Government from \$2,711,613 to \$2,811,613 for the purpose of increasing the Reserve Fund and to meet such additional appropriation, transfer \$100,000 from Free Cash in the Unreserved Fund Balance of the General Fund. Action taken on 4/30/97.

ARTICLE 8. *Limit on Property Taxes*

DEFEATED.

Action taken on 4/30/97.

ARTICLE 9. *FY 98 Regional School Assessment, (Accept Chap. 151, Sec. 220)*

DEFEATED. YES 74, NO 96

Action taken on 4/30/97.

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10:05 p.m. The meeting voted to adjourn to Monday, May 5, 1997 at 7:30 p.m. in the auditorium of the Amherst Regional Junior High School. 196 town meeting members were checked in

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The adjourned session of Monday, May 5, 1997 was called to order by the moderator at 7:52 p.m. 140 town meeting members were checked in.

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ARTICLE 10. *FY 98 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 \$2,845,237 for General Government, that the salary of the Moderator be fixed at \$10, that of the Board of Selectmen at \$300 each, that of the Elector under the Olive Smith Will at \$20, and that to meet such appropriation \$2, 845,237 be raised by taxation.

Action taken on 5/5/97.

PUBLIC SAFETY

Voted that the Town appropriate \$5,099,722 for Public Safety, that \$4,499,722 be raised by taxation and that \$600,000 be transferred from Ambulance Receipts Reserved for Appropriation.

Action taken on 5/7/97.

PUBLIC WORKS

Voted that the Town appropriate \$1,486,763 for Public Works and that \$1,375,763 be raised by taxation, that \$109,000 be transferred from Parking Meter Receipts Reserved for Appropriation, and that \$2,000 be transferred from the Sale of Cemetery Lots Account.

Action taken on 5/5/97.

PLANNING/CONSERVATION/INSPECTIONS

Voted unanimously that the Town raise and appropriate \$734,034 for Planning/Conservation/Inspections.

Action taken on 5/5/97.

COMMUNITY SERVICES

Voted that the Town raise and appropriate \$873,942 for Community Services.

Action taken on 5/5/97.

DEBT SERVICE

Voted that the Town appropriate \$1,200,909 for payment of the Town's General Fund indebtedness and that to meet such appropriation \$1,149,092 be raised by taxation and \$51,817 be transferred from Parking Meter Receipts Reserved for Appropriation.

Action taken on 5/5/97.

LIBRARY SERVICES

Voted unanimously that the Town appropriate \$1,318,905 for Library Services, and that to meet such appropriation, \$922,494 be raised by taxation, \$72,269 be transferred from the State Aid to Library Account, and \$324,142 be accepted from Jones Library, Inc.

Action taken on 5/5/97.

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9:50 p.m. The meeting voted to adjourn to Wednesday, May 7, 1997 at 7:30 p.m. in the auditorium of the Amherst Regional Junior High School. 183 town meeting members were checked in.

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The adjourned session of Monday, May 7, 1997 was called to order by the moderator at 7:42 p.m. 129 town meeting members were checked in.

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REGIONAL SCHOOL

Voted that the Town raise and appropriate \$6,618,754 as its proportionate share of the operating and capital costs of the Amherst-Pelham Regional School District.

Action taken on 5/7/97.

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10:07 p.m. The meeting voted to adjourn to Monday, May 12, 1997 at 7:30 p.m. in the auditorium of the Amherst Regional Junior High School. 182 town meeting members were checked in.

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The adjourned session of May 12, 1997 was called to order by the moderator at 7:45 p.m. 140 town meeting members were checked in.

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ELEMENTARY SCHOOLS

Voted unanimously that the Town raise and appropriate \$12,323,518 for the Amherst Elementary Schools.

Action taken on 5/12/97.

WATER FUND

Voted that the Town appropriate \$1,631,213 for the Water Fund operating budget, \$665,539 for payment of Water Fund debt, \$162,000 for Water Fund capital, that \$2,575,319 be made available from Water Fund revenues of the current year and that \$114,502 be made available from Water Fund Surplus.

Action taken on 5/12/97.

SEWER FUND

Voted unanimously that the Town appropriate \$1,688,143 for Sewer Fund operating budgets, \$112,281 for payment of Sewer Fund debt, \$663,000 for Sewer Fund capital, that \$2,684,174 be made available from Sewer Fund revenues of the current year and that \$133,257 be made available from Sewer Fund Surplus.

Action taken on 5/12/97.

SOLID WASTE FUND

Voted unanimously that the Town appropriate \$420,316 for Solid Waste Fund operating budgets, \$677,787 for payment of Solid Waste Fund debt, \$10,000 for Solid Waste Fund capital and that \$1,046,809 be made available from Solid Waste Fund revenues of the current year.

Action taken on 5/12/97.

GOLF COURSE

Voted that the Town appropriate \$177,188 for the Golf Course Fund operating budget and \$124,320 for Golf Course Fund debt, that \$109,832 be raised by taxation and that \$200,500 be made available from Golf Course revenues of the current year.

Action taken on 5/12/97.

ARTICLE 11. Reserve Fund

Voted unanimously that the Town raise and appropriate \$85,000 for the Reserve Fund for FY 98.

Action taken on 5/12/97.

ARTICLE 12. Retirement Assessment

Voted unanimously that the Town raise and appropriate \$1,321,862 for the Hampshire County Retirement System assessment.

Action taken on 5/12/97.

ARTICLE 13. Special Services - Amherst Community Television

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

Action taken on 5/12/97.

ARTICLE 14. Special Services - Human Services

Voted unanimously that the Town raise and appropriate \$123,357 for the following human services:

Amherst Survival Center	\$ 27,000
Cambodian American Association	\$ 8,000
Big Brothers/Big Sisters	\$ 18,500
Helen Mitchell Outreach	\$ 17,000

Learning for Life	\$ 5,000
Not Bread Alone	\$ 5,000
Children's Aid and Family Services	\$ 7,000
Homesharing - UMASS	\$ 1,200
Everywoman's Center	\$ 2,500
Food Bank	\$ 1,080
Senior Health Services	\$ 5,000
Amherst Family Center	\$ 1,000
First Call for Help	\$ 6,000
Men's Resource Center	\$ 5,000
School-Age Tuition Assistance Fund	\$ 14,077

Action taken on 5/12/97.

ARTICLE 15. *Special Services - Transportation Subsidies*

Voted that the Town endorse no-fare public transit services to the Echo Hill, Cushman, and Orchard Valley areas of the Town and for 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 5/12/97.

ARTICLE 16. *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 5/12/97.

ARTICLE 17. *Capital Program - Chapter 90 Funds*

Voted unanimously that the Town authorize the expenditure of Chapter 90 funds for the following purposes and further authorize the Treasurer to borrow in anticipation of reimbursement of these funds from the Commonwealth of Massachusetts:

Parking Lot Resurfacing	\$ 25,000
Road Resurfacing	\$500,000
Intersection Design	\$ 40,000
Dump Truck	\$ 72,000
Backhoe	\$ 75,000

Action taken on 5/12/97.

ARTICLE 18. *Capital Program - Conservation*

a. Voted that the Town acquire by purchase or eminent domain, for conservation purposes, a 7.5 - acre parcel owned by the Heirs of Asahel Gage, consisting of all of Map 28A, Parcel 11, of the Town Cadastre, located on the Holyoke Range west of Route 116.

b. Voted that the Town raise and appropriate \$20,000 to assist the Department of Food and Agriculture of the Commonwealth of Massachusetts with the purchase of Agricultural Preservation Restrictions on farms in Amherst.

Action taken on 5/12/97.

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10:03 p.m. The meeting voted to adjourn to Wednesday, May 14, 1997 at 7:30 p.m. in the auditorium of the Amherst Regional Junior High School. 176 town meeting members were checked in.

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The adjourned session of Wednesday, May 14, 1997 was called to order by the moderator at 7:42 p.m. 129 town meeting members were checked in.

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ARTICLE 19. *Capital Program - Equipment*

Voted that the Town appropriate \$759,350 to purchase, repair, and/or install the following items of equipment and be authorized to turn in or sell corresponding items of equipment as part payment and that to meet such appropriation \$639,350 be raised by taxation and \$120,000 be transferred from Ambulance Receipts Reserved for Appropriation.

- Photocopier
- Town/School Administrative Computers
- Senior Van
- Police Cruisers (4)
- Ambulance
- Ambulance Equipment
- Pickup Truck
- Leaf Vacuum

Dump Truck
Bucket Truck
MARS Computer Upgrade
Library Local Area Network Expansion
School Bus
Special Education Van
School Computers

Action taken on 5/14/97.

ARTICLE 20. *Capital Program - Leaf Loader*

DEFEATED. YES 55, NO 84

Action taken on 5/14/97.

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10:35 p.m. The meeting voted to adjourn to Thursday, May 15, 1997 at 7:30 p.m. in the auditorium of the Amherst Regional Junior High School . 174 town meeting members were checked in.

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The adjourned session of Thursday, May 15, 1997 was called to order by the moderator at 7:53 p.m. 126 town meeting members were checked in.

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ARTICLE 21. *Capital Program - Buildings and Facilities*

Voted that the Town raise and appropriate \$316,650 to repair and/or improve the following buildings and facilities.

Town Hall Roof Repair
Bangs Center Repairs
Munson Building Repairs
Jones Library Repairs
Fort River Gym Floor Replacement
School Building Needs Audit
Wildwood Carpet Replacement
Downtown Improvements
Curbeuts and Crosswalks

Action taken on 5/15/97.

ARTICLE 22. *Capital Program - Athletic Fields*

Voted unanimously that the Town appropriate and transfer \$31,000 from the Stabilization Fund for athletic fields.

Action taken on 5/15/97.

ARTICLE 23. *Comprehensive Plan*

Voted that the Town raise and appropriate \$15,000 to undertake a Town-wide "visioning" process that will result in a report that includes community planning goals and recommendations as to whether the Town should go forward with a comprehensive planning process.

Action taken on 5/15/97.

ARTICLE 24. *Capital Program - Land Acquisition - Corner of Amity and Prospect Streets*

Voted unanimously to DISMISS.

Action taken on 5/15/97.

ARTICLE 25. *Stabilization Fund*

Voted that the Town raise and appropriate \$250,309 to the Stabilization Fund.

Action taken on 5/15/97.

ARTICLE 26. *Free Cash*

Voted unanimously to DISMISS.

Action taken on 5/15/97.

ARTICLE 27. *Sewer Fund - Old Belchertown Road Sewer Extension*

Voted that the Town appropriate \$62,000 to extend approximately 1,300 feet of 8" sewer line on Old Belchertown Road and to meet such appropriation transfer \$62,000 from Sewer Fund Surplus.

Action taken on 5/15/97.

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10:02 p.m. The meeting voted to adjourn to Monday, May 19, 1997 at 7:30 p.m. in the auditorium of the Amherst Regional Junior High School.

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The adjourned session of May 19, 1997 was called to order by the moderator at 7:38 p.m. 128 town meeting members were checked in.

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ARTICLE 28. *Economic Opportunity Area*

Voted YES 98, NO 68

a. That the Town designate the East Amherst Economic Opportunity Area (EOA), as provided under M.G.L. Chapter 23A, Sections 3A-3H, for a term of not more than twenty (20) years, for the purpose of providing property tax relief to certified projects located within the EOA, in the form of Tax Increment Financing and/or Special Tax Assessment. The proposed parcels of the EOA, to be called the "East Amherst EOA", include those portions of the below listed properties which fall within the Professional Research Park (PRP) zoning district and are shown on Official Tax Maps as: 21B-4, 21B-7, 21B-16, 21B-18, 21B-66, 21B-67.

b. That the Town designate the North Amherst Economic Opportunity Area (EOA), as provided under M.G.L. Chapter 23A, Sections 3A-3H, for a term of not more than twenty (20) years, for the purpose of providing property tax relief to certified projects located within the EOA, in the form of Tax Increment Financing and/or Special Tax Assessment. The proposed parcels of the EOA, to be called the "North Amherst EOA", include those portions of the below listed properties which fall within the Professional Research Park (PRP) zoning district and are shown on Official Tax Maps as: 1D-1, 2A-7, 2C-2, 2C-3, 2C-8, 2C-9, 2C-12, 2C-30, 2C-35.

Action taken on 5/19/97.

ARTICLE 29. *Zoning Bylaw - Phased Growth*

Voted unanimously that the Town extend the expiration of the Phased Growth Bylaw by amending Section 14.10 of the Zoning Bylaw, deleting the language in brackets and adding the shaded language, as follows:

14.10 Beginning on the effective date of this Article, and continuing for [ten] **eleven** calendar years, no building permit for a new residential unit shall be issued unless in accordance with the regulations of this Article.

Action taken on 5/19/97.

ARTICLE 30. *Zoning Bylaw - Special Permits & Site Plan Review*

Voted that the Town amend Sections 10.38 (10.395) and 11.242 by adding a new subsection 11.2420 and renumbering the remaining subsections 11.2421 through 11.2424, as follows:

11.2420 Within the B-L, B-VC, COM, OP, LI and PRP Districts, and any residential zoning district where the project in question occurs within the boundaries of a National Historic Register District, the Board shall, if it deems the proposal likely to have a significant impact on its surroundings, be permitted to use the design principles and standards set forth in Sections 3.2040 and 3.2041, 1) through 9) to evaluate the design of the proposed architecture and architecture and landscape alterations. Within the B-G and abutting B-L districts, and for any Town project within any district, the provision of Section 3.20, Design Review, shall remain in effect.

and by adding the following shaded language to subsection 10.395:

10.395 The proposal does not create disharmony with respect to the terrain and to the use, scale and architecture of existing building in the vicinity which have functional or visual relationship thereto. Within the B-L, B-VC, COM, OP, LI and PRP Districts, and any residential zoning district where the project in question occurs within the boundaries of a National Historic Register District, the Special Permit Granting Authority shall, if it deems the proposal likely to have a significant impact on its surrounding, be permitted to use the design principles and standards set forth in Section 3.2040 and 3.2041, 1) through 9) to evaluate the design of the proposed architecture and landscape alterations. Within the B-G and abutting B-L district, and for any Town project within any district, the provisions of Section 3.2, Design Review, shall remain in effect.

Action taken on 5/19/97.

ARTICLE 31. *Zoning Bylaw - WIRELESS COMMUNICATION*

Voted unanimously that the Town amend Sections 3.21, 3.340, 6.15, 6.16, 6.19 and Article 12, Definitions, of the Zoning Bylaw by adding the shaded language (), as follows:

A. Amend Section 3.21, Educational District (ED), by adding the following new Section 3.215:

3.215 For wireless communications uses, the provisions of Section 3.340.2 shall apply and prevail.

B. Amend Section 3.340, by adding the following new language under subsection 3.340.2 and renumbering the existing subsection 3.340.2 as 3.340.3:

3.340.2 Wireless communications facility or other similar communications use.

R-O

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

SP SP SP SP SP SP SP SP SP SP SP SP SP SP

Excluding any office, storage, or repair use unless otherwise allowed by the regulations of the district.

The following standards and conditions shall apply to commercial and public wireless communication uses and facilities:

1. **Setback & Height.** Towers, antenna, antenna support structures and other vertical elements of wireless communication facilities located in a residential district or upon a property abutting a residential use shall be set back from the nearest residential lot line a distance at least equal to their height. In all districts, the height of wireless communications towers shall not exceed 125 feet above the ground. In non-residential districts, the Permit Granting Authority may allow a lesser setback or greater height if such modification provides adequate safety, promotes co-location or improves design, and will not significantly impact the character and appearance of the neighborhood. In making a request for a lesser setback, the manufacturer or qualified licensed designer shall certify that the tower is designed to collapse upon itself in the event of failure. The Permit Granting Authority may also allow lesser setbacks necessary to allow for the use of an existing structure.

2. Design provisions for such facilities shall include, but are not limited to:

a. No new tower shall be used which involves a lattice construction, requires three (3) or more legs and/or requires guy wire supports.

b. No tower or other facility structure shall contain any signs or other devices for the purpose of advertisement.

c. The visible portions of support facilities and structures such as vaults, equipment buildings or enclosures and utilities shall be constructed out of and/or finished with non-reflective materials.

d. All towers, antenna, antenna support structures and similar facilities shall be of neutral colors that are harmonious with, and blend with, the natural features, buildings and structures in the surroundings; provided, however, that such facilities located on the exterior of a building shall be of colors that match and/or blend with those of the building.

e. All building-mounted facilities shall be designed and located so as to appear to be an integral part of the existing architecture of the building.

f. All electronic and other related equipment and appurtenances necessary for the operation of any wireless communication facility shall, whenever possible, be located within a lawfully pre-existing structure or completely below grade. When a new structure is required to house such equipment, the siting, design and materials of said structure shall be harmonious with, and blend with, the natural features, buildings and structures in the surroundings.

g. All satellite dishes shall be of mesh construction, unless technical evidence is submitted demonstrating that this requirement is infeasible. Microwave dishes are exempted from this provision.

- h. All wireless communication facilities shall be protected against unauthorized climbing or other access by the public.
- i. Whenever feasible, design and siting of towers shall avoid the need for application of Federal Aviation Administration (FAA) lighting and painting requirements. Except as required by the FAA, towers shall not be artificially lighted.
- j. Applicants shall submit eight (8) view lines shown in a one (1) mile radius from the site, beginning at true North and continuing clock-wise at forty-five (45) degree intervals. Said view lines shall, to the extent feasible, be taken from existing vantage points commonly used by the public, such as public ways, buildings or facilities. The submittal shall include unaltered photographs taken from eye level (5 feet above grade) which show the existing condition of these view lines, as well as accurate scale perspective elevation drawings, computer-altered photographs or other accurate representations showing said view lines with the facility in place.
- k. Landscape plans submitted with the application shall identify all existing vegetation, shall indicate which vegetation is to be retained on-site, and shall show all proposed new vegetation and other landscape treatments.

3. Co-Location.

- a. All new wireless communication facilities shall be co-located, to the maximum extent practicable and technologically feasible, with one or more existing wireless communication facilities, towers, buildings or other structures whose height, location and characteristics meet the needs of the proposed facility.
- b. All new wireless communication towers or support structures shall be designed, to the maximum extent practicable and technologically feasible, for co-location of antennas and other necessary facilities for at least three other wireless communication providers, shall offer space to all other providers at market rates, and shall provide for towers that can be expanded upward. Any Special Permit granted for a new facility under this section may be conditioned upon the written agreement of the facility operator to allow the co-location of other wireless communication providers on commercially reasonable terms.
- c. Any applicant proposing not to co-locate their facility or proposing to locate their facility in a residential district shall provide written evidence and documentation demonstrating why it is not feasible for their facility to be co-located with existing facilities or sited in other, non-residential districts.

4. Frequencies. All telecommunications facilities shall be operated only at Federal Communications Commission (FCC) designated frequencies, power levels and standards, including FCC Radio Frequency Emissions standards. The applicant shall provide certification demonstrating that the maximum allowable frequencies, power levels and standards will not be exceeded. Certifications shall include technical specifications, a written explanation of those specifications, and, if necessary, field verification. The Permit Granting Authority may condition any Special Permit granted under this section upon a periodic submittal of certification of compliance with said standards.

5. Repair & Upkeep. All wireless communication facilities shall be maintained in good order and repair. Paint finishes shall be maintained and repaired when blemishes are visible from the property line. The applicant shall provide an inspection schedule, and shall file copies of inspections with the Building Commissioner.

6. License & Permits. The operator of every wireless communication facility shall submit to the Building Commissioner copies of all licenses and permits required by other agencies and governments with jurisdiction over the design, construction, location and operation of said facility, and shall maintain such licenses and permits and provide evidence of renewal or extension thereof when granted.

7. Removal. All structures associated with a wireless communications use shall be removed within one (1) year of the cessation of said use. If applicable, an annual certification

demonstrating continued compliance with the standards of the Federal Communications Commission, Federal Aviation Administration and the American National Standards Institute, including provisions for required maintenance, shall be filed with the Building Commissioner by the permit holder.

Prior to the issuance of a building permit for a wireless communications use, the applicant shall post and submit a bond or other financial surety acceptable to the Town in an amount sufficient to cover the cost of demolishing and/or removing the facility in the event the Building Commissioner condemns the property or deems it to have been abandoned or vacant for more than one year. Said amount shall be certified by an engineer, architect or other qualified professional registered to practice in the Commonwealth of Massachusetts. In the event the posted amount does not cover the cost of demolition and/or removal, the Town may place a lien upon the property covering the difference in cost.

8. Modifications. The Permit Granting Authority may modify any provision of these standards and conditions if it can be demonstrated that it is technically infeasible to meet said standards or conditions, or that their effect is to prohibit the proposed use throughout the town, or if such modification will promote use of existing buildings or structures, co-location of wireless communications uses, improve safety or design, or otherwise promote the purposes of this bylaw.

C. Amend Sections 6.15, 6.16 and 6.19 as follows:

6.15 Minimum Side Yard

The minimum side yard shall be the area between the side lot line and the side yard setback line, extending from the front yard to the rear lot line. An accessory structure may be located within the minimum side yard only if it is located behind the front building line.

An accessory structure having a height of six feet or less shall be set a minimum of three feet from the side lot line. An accessory structure over six feet in height shall be set back a distance equal to its height.

In the General Business (B-G) and Light Industrial (LI) districts, minimum side yards shall be at least 20 feet when adjoining a residence district. Otherwise, side yards are not required, but if provided shall be at least ten feet. In the General Residence (R-G) District, a single story garage, tool shed, gazebo or other similar accessory structure may, under a Special Permit, be located within the side yard behind the frontline of the principal building if such use, location, and proposed dimensions are consistent with the prevailing pattern of existing development for such structures in the neighborhood.

For towers or other structures associated with commercial and public wireless communications uses, the provisions of Section 3.340.2 shall apply and prevail.

6.16 Minimum Rear Yard

The minimum rear yard shall be a similar unbroken area along the rear lot line, subject to the same provision regarding accessory buildings and structures as the rear portion of the required side yard.

In the General Business (B-G) and Light Industrial (LI) districts, minimum rear yards shall be at least 20 feet when adjoining a residence district. Otherwise, rear yards are not required, but if provided shall be at least ten feet. For towers or other structures associated with commercial and public wireless communications uses, the provisions of Section 3.340.2 shall apply and prevail.

6.19 Maximum Height

The maximum height of a building shall be measured from the highest point of any roof or parapet to the average finished grade on the street side of the structure, provided that in no case shall the height of any exterior face of a building exceed the permitted height by more than ten feet. Height limitations shall not apply to chimneys, spires, cupolas, TV antennae (reception antennae only) and other parts of buildings or structures not intended for human occupancy. Towers, antennae, panels, dishes and other such structures attached to a building in association with commercial and public wireless communication uses shall not exceed the maximum height of said building, as above defined, by more than ten feet. Related electronic equipment and equipment structures shall not exceed the maximum height. For towers and other such free-

standing structures associated with wireless communications uses, the provisions of Section 3.340.2 shall apply and prevail.

- C. Amend Article 12, Definitions, by adding the following new subsection 12.32, and renumbering the remaining subsections accordingly:

12.32 **Wireless Communications Facilities:** Facilities used for the principal purpose of commercial or public wireless communications uses, such as cellular telephone services, enhanced specialized mobile radio services, microwave communications, personal wireless communications services, paging services and the like, as defined in Section 704 of the Federal Telecommunications Act of 1996, as amended. Such facilities shall include towers, antennae, antennae support structures, panels, dishes and accessory structures. For the purposes of this bylaw, wireless communications facilities do not include the following accessory uses or structures: antennae or dishes used solely for residential household television and radio reception; antennae or dishes used for commercial or public purposes which are not visible from any neighboring property or public way, or dishes for these purposes measuring two (2) meters or less in diameter; nor amateur radio facilities, including towers under sixty-five (65) feet above ground, actively used in accordance with the terms of any amateur radio service license issued by the Federal Communications Commission (FCC), provided that the tower is not used or licensed for any commercial use.

Action taken on 5/19/97.

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10:10 p.m. The meeting voted to adjourn to Wednesday, May 28, 1997 at 7:30 p.m. in the auditorium of the Amherst Regional Junior High School. 178 town meeting members checked in

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The adjourned session of May 28, 1997 was called to order by the moderator at 7:45 p.m. 130 town meeting members were checked in.

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ARTICLE 32. Zoning Bylaw - Converted Dwellings

Voted that the Town amend paragraph #5 of the Standards and Conditions of Section 3.324 - Converted dwelling - by deleting the language in brackets and adding the language in **boldface**, as follows:

5. [The proposed c]Conversions **other than those from one to two units** shall be suitably located in the neighborhood in which it is proposed, as deemed appropriate by the Zoning Board of Appeals. The lot, **of such other conversions**, if in a residential district, shall fall within one of the following areas: a) close to **a** heavily traveled street[s]; b) close to **a** business, commercial [&] **or** educational district[s]; c) already developed for multi-family use.

Action taken on 5/28/97.

ARTICLE 33. Special Act - Conflict of Interest

Voted YES 76, NO 67 that the Town authorize the Select Board to petition the General Court for a Special Act substantially as follows:

Notwithstanding the provisions of section seventeen of chapter two hundred and sixty-eight A of the General Laws, appointed members of any town board, commission, committee or other appointive governmental body of the town whose members have been designated by the Select Board of the town to be special municipal employees shall not be deemed in violation of paragraph (a) of section seventeen of said chapter for receiving compensation regarding a particular matter which is pending before the town board, commission, committee, or other governmental body on which any such member serves, or which is, or within one year has been, under their official responsibility provided that (1) the member does not participate either directly or indirectly in the review or decision on the particular matter; (2) as soon as the conflict is known, the member files with his or her appointing authority and with the town clerk a statement making full disclosure of the member's interest and interests of the member's immediate family and business associates in the particular matter under review; and (3) the appointing authority makes a written finding that on the facts and circumstances of the case the interest of the member, the member's immediate family, or business associate is compatible with the interest of the town and the member's continued service. Nothing contained herein shall be construed to exempt members from paragraph (c) of said section seventeen of said chapter two hundred and sixty-eight A.

Action taken on 5/28/97.

ARTICLE 34. Street Acceptance - Amherst Woods

Voted to DISMISS.

Action taken on 5/28/97.

ARTICLE 35. Street Acceptance - Hawley Meadows

Voted that the Town accept as town ways Cherry Lane, Emily Lane, and Weaver Circle, all as laid out by the Select Board and shown on plans of land filed with the Town Clerk, and authorize the Select Board to take by eminent domain, purchase or otherwise any fee, appurtenant rights, easements or other interest in land therefor, no appropriation being required.

Action taken on 5/28/97.

ARTICLE 36. *Resolution - Bicycle Lanes*

Voted that the Town adopt the following resolution:

WHEREAS, cycling is safe, environmentally attractive, and an increasingly popular means of transportation in Amherst,

WHEREAS, a solution to the parking and traffic problems in Amherst must include increased reliance on alternative modes of transportation,

BE IT RESOLVED, that Town Meeting supports the goal of creating and maintaining a network of bicycle lanes and other bicycle related improvements for transportation within Amherst,

BE IT FURTHER RESOLVED, that Amherst should attempt to avoid making roadway plans or changes that will make the future implementation of bicycle lanes more difficult until a comprehensive review has been completed.

Action taken on 5/28/97.

ARTICLE 37. *Town Bylaw - Access to Recycling Center*

Voted to refer to the Solid Waste Committee for further study.

Action taken on 5/28/97.

ARTICLE 38. *Residences of Mentally Retarded Persons*

Voted to DISMISS.

Action taken on 5/28/97.

ARTICLE 39. *Resolution - Union Town*

Voted "Whereas, a strong and vibrant labor movement is vital to the struggle for economic security and justice for all working families and a safety net for those not working.

Whereas, collective bargaining has created a middle class, a forty hour work week and the weekend and is still the most effective system available to address the ever growing wage gap.

Whereas, the higher the concentration of union organization within a town, the better the wages, benefits and conditions of employment within said town.

Whereas, our town wishes to foster a positive pro-labor climate conducive to union organizing and union growth within the private sector, public sector and building trades.

Be it resolved, that Amherst Town Meeting hereby declares Amherst, Massachusetts a Union Town.

Be it further resolved, Amherst wholeheartedly endorses and supports an employee's right to form, join and/or assist a union of his/her choice and do hereby condemn all unfair labor practices and other similar violations of labor law perpetrated by employers against their employees."

Action taken on 5/28/97.

ARTICLE 40. *Resolution - Marijuana for Medical Purposes*

Voted that the Town adopt the following resolution related to the use of marijuana for medical purposes:

Whereas, cannabis medical preparations include products made from cannabis sativa 1. (commonly known as marijuana) intended for use by paraplegics and the terminally ill for the relief of pain; by sufferers of glaucoma to slow the progress of their disease; by sufferers of paraplegia, multiple sclerosis, epilepsy and other conditions for the reduction of muscular spasms; by AIDS patients or patients undergoing cancer chemotherapy for the stimulation of appetite and the prevention of severe nausea and emesis; and by other persons suffering from medical conditions, herein not listed, which threaten life, limb, or the senses; and,

Whereas, cannabis medical preparations have been used for thousands of years throughout the world, and for over one hundred years within the United States of America until they were effectively banned by the Federal congress in 1937, despite the objections of the American Medical Association; and,

Whereas, The General Court of the Commonwealth of Massachusetts, with the support of Senator Stanley Rosenberg and Representative Ellen Story, approved legislation providing a certification process to protect users of marijuana for medical purposes from criminal prosecution for marijuana possession, and this legislation was signed into law by the Governor William Weld; and,

Whereas, Federal agencies have refused to recognize any medical role for marijuana; have continued to maintain a prohibition against such medical use in the states of Arizona and California contrary to referendums passed by voters in these states which amended their laws to allow the medical use of marijuana; have actively intimidated doctors in many states with threats of license revocation and legal prosecution for the honest, formal medical recommendation of marijuana and some other drugs; and have shown bias in the acceptance, interpretation and sponsorship of scientific research concerning the use of marijuana; and,

Whereas, these and other federal policies, as well as existing Massachusetts state policies which are not effected by the above-mentioned certification process, do threaten residents of the Town of Amherst who would use marijuana medically, and do force them to choose between consequences of a legal nature and the pain, suffering, and deterioration of disease.

NOW, THEREFORE BE IT RESOLVED that the Amherst Representative Town Meeting commends Legislators Rosenberg and Story, requests of them that other state policies be reviewed and made consistent with the certification process; and salutes the Governor William Weld, further urges him to monitor the Commonwealth's certification process to ensure that applications are processed confidentially and expeditiously; and further

BE IT RESOLVED that the Amherst Representative Town Meeting requests President William J. Clinton, Senators Edward M. Kennedy and John F. Kerry, and Representative John W. Olver to take whatever steps are necessary to reverse the named federal policies regarding the medical use of marijuana; and further

BE IT RESOLVED that the Town Clerk be instructed to send each named Federal and State official a certified copy of the above resolution.

Action taken on 5/19/97.

ARTICLE 41. *Resolution - Military Spending*

Voted that the town adopt the following resolution on reducing and redirecting United States military spending:

Whereas, the security of our nation is dependent not on military might, but on the well-being and vitality of our citizens and those of other nations; and,

Whereas, the seven countries currently identified by the Pentagon as our primary adversaries have a combined annual military budget of \$15 billion, while the United States military budget for FY 1997 is \$265 billion; and,

Whereas, the United States FY 1997 military budget remains at Cold War levels, and contains \$11.4 billion not requested by the Pentagon and \$40 billion in excess of what many former military leaders and leading business executives consider sufficient; and,

Whereas, current Pentagon spending outweighs all military threats, and creates fewer jobs than increased spending on domestic programs would deliver; and,

Whereas, shifting funds from military spending to education, the environment, and repairing our infrastructure would dramatically improve the well-being of our citizens and strengthen our ability to cooperate with other nations as well as compete successfully in the world market;

NOW, THEREFORE BE IT RESOLVED that the Amherst Representative Town Meeting requests that the President and our representatives in Congress work together to reduce the proposed FY 1998 military budget by at least \$40 billion; and,

Be It Further Resolved that one-third of said \$40 billion reduction in military spending be used to reduce the federal budget deficit in lieu of previously authorized cuts to Food Stamps and other federal health, welfare, and nutrition programs; and,

Be It Further Resolved that the remaining \$27 billion be returned to municipal and county governments, and to the several states, in the form of revenue sharing, to enable us to rebuild our communities and inner cities, repair and expand our schools, educate our children, support affordable housing for low-income

families, maintain and improve public transportation including Amtrak, insure the quality of our air, water, and food, protect prime farmland from development, and preserve wildlife habitat; and,

Be It Further Resolved that the Amherst Town Clerk forward a copy of this resolution to President of the United States William J. Clinton, to Senators Edward M. Kennedy and John F. Kerry, and to Representative John W. Olver.

Action taken on 5/28/97.

ARTICLE 42. *Resolution - Abolition of Nuclear Weapons*

Voted that the Town direct the Select Board to inform the President of the United States and Senators Kennedy and Kerry of the Town's request that the United States Government commit itself to the abolition of nuclear weapons by 1) ending all nuclear testing, 2) taking all nuclear forces off alert, 3) ratifying the Comprehensive Test Ban Treaty, and 4) initiating multilateral negotiations on a treaty to eliminate nuclear weapons.

Action taken on 5/28/97.

ARTICLE 43. *Town Bylaw - Human Rights and Democracy in Nigeria*

VOTED:

WHEREAS, the citizens of the Town of Amherst recognize the moral responsibility of communities to take positive steps to end human rights abuses and support legitimately elected governments; and

WHEREAS, the nation of Nigeria, with a current population of over one hundred million people, independent on October 1, 1960, and declared a democratic republic on October 1, 1963, nonetheless has been ruled by military governments for approximately 26 out of its 35 years of independence; and

WHEREAS, in June 1993, a democratic, presidential election to end military rule was held and monitored by national and international observers; and

WHEREAS, Chief Moshood K. O. Abiola was believed to have won the election, but the reigning military regime annulled the vote before formal results were announced, and put the nation in the hands of a military-appointed interim civilian government; and

WHEREAS, General Sani Abacha overthrew the transitional government in November 1993 and promised to return the country to civilian rule, but has nonetheless continued to rule the country through a dictatorship; and

WHEREAS, Chief Abiola has been in prison since June 1994 while he awaits trial on charges of treason for proclaiming himself President on the first anniversary of the 1993 election, and has, according to his personal physician, undergone a serious decline in his health since arrest; and

WHEREAS, on June 4, 1996, Kudirat Abiola, wife of Chief Moshood K. O. Abiola who had been campaigning for her husband's release, was assassinated 200 yards from a police roadblock; and

WHEREAS, the reigning military regime has also engaged in massive human rights abuses, disbanded the national and state legislatures and removed elected civilian governors, banned the free press, shot and killed peaceful pro-democracy protesters, and arbitrarily arrested human rights and environmental activists, trade unionists and community leaders in an effort to crush the democratic aspirations of the Nigerian people; and

WHEREAS, human rights investigators from such groups as Amnesty International have documented massacres of defenseless communities by the Nigerian army and the systematic use of murder, torture and rape of pro-democracy activists by government security forces; and

WHEREAS, on November 10, 1995, nine activists of the Ogoni tribe, including Ken Saro-Wiwa, a renowned writer, environmentalist and human rights activist, were executed by the military government; and

WHEREAS, Nigerian leaders and pro-democracy groups have called on the international community to impose sanctions against Nigeria in order to effect change; and

WHEREAS, on Wednesday, March 12, 1997, Nigeria's military government charged Nobel laureate Wole Soyinka, in exile since 1994, and 11 other opposition leaders with treason, for which the maximum penalty is death, over the spate of bomb explosions in the country; and

WHEREAS, in 1994, United States oil companies, by their purchase of more than \$4 billion worth of oil, indirectly financed the dictatorship through taxes and royalties on oil paid to the state-owned Nigerian National Petroleum Company, thereby undermining the Nigerian democracy movement; and

WHEREAS, oil exports from Nigeria account for more than ninety percent of Nigeria's foreign exchange earnings and seventy-five percent of its budget revenues; and

WHEREAS, the United States Supreme Court has upheld the power of a municipality to make legitimate economic decisions without being subject to the restraints of the interstate Commerce Clause when it participates in the market place as a corporation or a citizen as opposed to exerting its regulatory powers; and

WHEREAS, the Town of Amherst has the right to measure the moral character of its business partners in determining with whom it seeks to have business relations;

NOW, THEREFORE, BE IT RESOLVED that the Amherst Town Meeting adopt the following By-Law:

AND, FURTHER, BE IT RESOLVED that the Amherst Town Clerk be directed forthwith upon the dissolution of this Town Meeting to send a certified copy of this By-Law to the following parties:

President William Jefferson Clinton
Secretary of State Madeleine K. Albright
William Richardson, U.S. Ambassador to the
United Nations
Senator Edward M. Kennedy
Senator John F. Kerry
Representative John W. Olver

Senator Stanley Rosenberg
Representative Ellen Story
Massachusetts Municipal Association
General Sani Abacha of Nigeria
Nigerian Ambassador to the United States
Nigerian Ambassador to the U.N.

Section 1. Definitions:

- A. "Town funds" shall mean all monies, grants, or other general or enterprise funds received and managed by or otherwise under the control of the Town Finance Director, and any notes, bonds, or securities issued by the Town of Amherst.
- B. The "Town Finance Director" shall mean the Town Finance Director of the Town of Amherst, or any authorized representative of the Town Finance Director.
- C. The "Town" or "Town of Amherst" shall mean the Town of Amherst, or any entity or official agent acting under the direction of the Amherst Town Meeting.
- D. "Commodities" shall include, but not be limited to, supplies, goods, commodities, vehicles, machinery, and equipment.
- E. "Loans" shall include any financial transaction involving Nigerian entities whether entered into as a singular institution or as a participant in a lending consortium. Such transactions would include purchasing securities, investing in assets, lending monies, making interest-bearing deposits, extending lines of credit, or any other such transaction that is anticipated to result in a return, directly or indirectly, of assets.
- F. "Professional Services" shall mean the performance of any work or labor and shall also include investment counseling, underwriting, providing brokerage services, acting as a trustee or escrow agent, providing any consulting advice or assistance, or otherwise acting as an agent pursuant to a contractual agreement.
- G. "Person" shall mean any individual, firm, partnership, corporation, association, or any other organization or entity, however formed. "Person" shall include any parent, subsidiary, affiliate, division, or franchisee of the person.
- H. The "government of Nigeria" shall mean any public or quasi-public entity operating within Nigeria, including, but not limited to, municipal, provincial national, or other government bodies, including all departments and agencies of such bodies, public utilities, public facilities, or any national corporation in which the public sector of Nigeria has a financial interest or operational responsibilities.
- I. "Doing business with" shall include but not be limited to license, franchise, supply, distribution, management or training agreements, or payment of a tax levy, fee, duty, charge, or similar sum to the government of Nigeria, except those payments necessary to prevent the use of its name, trademark, trade name, trade secret, copyright or patent in Nigeria.
- J. "List" shall mean a List provided and periodically updated by The Africa Fund using information provided by the U.S. Commerce Department and/or other reliable sources of banks, financial institutions, vendors, suppliers, service providers, or persons who have any outstanding loan to or who buy, sell, lease, produce, or distribute commodities and/or professional services to:
 - 1. the government of Nigeria, or
 - 2. any person organized under the laws of Nigeria, or
 - 3. any person who does business with any private or public entity located in Nigeria, or conducts operations in Nigeria.
- K. All terms used in this By-Law shall be construed in a manner consistent with the intent of this By-Law.

Section II. Deposit and Investment of Town Funds in Banks and Financial Institutions

- A. General Prohibited Transaction
 - 1. No Town funds shall be deposited or remain deposited in, or be invested or remain invested in the stocks, bonds, securities, or other obligations of, any bank or financial institution named on the List.
 - 2. The prohibitions of this Section shall not apply to any bank or financial institution which submits a Statement certifying its compliance with the requirements of subsection "C" of this Section.

3. The prohibitions of this Section shall not apply to Town funds invested under a trust indenture or investment agreement or otherwise invested by the Town under a pre-existing contractual obligation, provided that such funds, if invested or deposited in non-compliance with this By-Law, shall be withdrawn or divested at the earliest possible maturity date.

B. **Waivers**

1. In the event that no bank or financial institution is available which is capable of performing the desired function, or the Town will incur a significant financial loss as a consequence of the prohibitions of Section II.A.1 and 2 above, the Town Finance Director shall endeavor to select that bank or financial institution which conforms to the greatest extent with the intent of this divestment act.
2. If waivers are required, the Town Finance Director shall develop rules and regulations which specifically address both the criteria and reporting procedures. Such rules and regulations shall be approved by the Select Board. The Town Finance Director shall periodically report to the Select Board each and every exercise of waiver implemented pursuant to this subsection.

C. **Statement Required**

1. Before any Town funds can be deposited or invested in any bank or financial institution named in the List, the Town Finance Director shall send a written inquiry to each such named bank or financial institution and shall request a Statement certifying that it does not have an outstanding loan to any Person named on the List.
2. The requirements of this Section shall be satisfied by ensuring that no Town funds are invested or deposited by banks or financial institutions named on the List which fail to submit the Statements required by this Section.

D. **Compliance**

1. The withdrawal or divestiture required by this Section shall be completed within one hundred twenty (120) days after the effective date of this By-Law.
2. If the Town Finance Director determines that Town funds have been deposited or invested in a bank or financial institution which subsequently comes into non-compliance with this By-Law, the Town Finance Director shall require the withdrawal or divestment of those funds within one hundred twenty (120) days after the date of determination of noncompliance.

Section III. Contracting and Purchasing With Town Funds

A. **General Prohibited Transaction**

The Town of Amherst shall be prohibited from entering into any contractual agreement for the purchase of any commodities produced by any Person named on the List. The processes set forth in Sections II.B. and C regarding Waivers and Statement Required for Banks and financial Institutions shall apply to these transactions as well.

B. Pursuant to the findings set forth herein above, it shall be Town policy to minimize the expenditure of Town funds on goods and services produced by any Person named on the List.

C. **Contracts and Purchases.**

1. Persons submitting bids to or entering into contracts with the Town of Amherst who are named in the List shall be required to certify their compliance with this By-Law.
2. All bid advertisements and contracts shall state the Town policy set forth in subsection B of this Section and urge contractors to comply with the policy in making purchases and subcontracts.

Section IV. Reporting

The Town Finance Director shall report annually to the Amherst Town Meeting on the implementation of this By-Law.

Section V. Severability

This By-Law shall be enforced to the full extent of the authority of the Town of Amherst. If any section, subsection, paragraph, sentence or word of this By-Law is deemed to be invalid or beyond the authority of the Town of Amherst, either on its face or as applied, the invalidity of such provision shall not affect the other sections, subsections, paragraphs, sentences or words of this By-Law, and the applications thereof; and to that end the section, subsections, paragraphs, sentences and words of this By-Law shall be deemed severable.

Section VI. Supremacy of State and Federal Law

Existing Contracts and Procurements of the town that fail to comply with the provisions of this By-Law, if otherwise compliant with applicable state and federal law, will not thereby be void or voidable.

Section VII. Duration of Policy

This By-Law shall take effect ninety (90) days from the day on which the Amherst Town Meeting is dissolved and shall remain in effect until the Select Board finds after a public hearing that democratic rights have been restored in Nigeria and Town Meeting subsequently repeals the By-Law. Upon completion of their Public Hearing and prior to a Town Meeting, the Select Board may vote to suspend or modify the operation of this By-Law.

Action taken on 5/14/97.

ARTICLE 44. *Parking Garage*

Voted to DISMISS.

Action taken on 5/28/97.

ARTICLE 45. *Parking Garage*

Voted to DISMISS.

Action taken on 5/28/97.

The business of the warrant having been completed, the meeting voted to dissolve at 10:47 p.m. 251 town meeting members were checked in.

Attest:

Cornelia D. Como
Town Clerk