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TOWN WARRANT
Annual Town Meeting
April 30, 1997

Hampshire, ss.

To one of the Constables of the Town of Amherst, in said county, Greetings:

In the name of the Commonwealth of Massachusetts you are hereby directed to notify the registered voters of the Town of Amherst of the **Annual Town Meeting** to be held in the Auditorium of the Amherst Regional Junior High School in said Amherst at seven-thirty o'clock p.m. on **Wednesday, the 30th day of April**, nineteen hundred and ninety-seven, when the following articles will be acted upon by town meeting members:

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

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

ARTICLE 2. Town Bylaw - Two Thirds Votes (Town Moderator)

To see if the Town will take the following action under provisions of Section 2 of Chapter 448 of the Acts of 1996 of the Commonwealth of Massachusetts:

1. Begin, with the 1997 Annual Town Meeting the practice, in matters requiring a two thirds vote by statute, of allowing voice votes to stand unless questioned.
2. Amend Article I, Section 1, 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 raising 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 tallied 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 standing vote.”

ARTICLE 3. Authorization for Compensating Balance Accounts (Select Board)

To see if the Town will 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.

ARTICLE 4. Optional Tax Exemptions (Select Board and Board of Assessors)

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

ARTICLE 5. Transfer of Funds - Unpaid Bills (Select Board)

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.

ARTICLE 6. Capital Program - Town Hall Transfer
(Select Board and Town Hall Building Committee)

To see if the Town will 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).

ARTICLE 7. FY 97 Operating Budget Amendments (Finance Committee)

To see if the Town will amend the FY 97 operating budget by increasing the Reserve Fund in General Government.

ARTICLE 8. Limit on Property Taxes (By Petition of L. Kelley)

“To see if the Town will limit, for the current year, the property tax collected. The upper limit of the property tax collected should not exceed:

The Fiscal Year 1997 Base
Plus 2.5% of the Base
Plus FY 1998 New Growth
Minus \$264,000”

ARTICLE 9. FY 98 Regional School Assessment (Regional School Committee)

To see if the Town will accept the provisions of Chapter 151, Section 220 of the Massachusetts Acts of 1996 allowing total Minimum Contributions to the Region for FY 98 to be assessed in accordance with the Amherst-Pelham Regional Agreement.

ARTICLE 10. FY 98 Operating Budget (Finance Committee)

To see if the Town will adopt a comprehensive operating budget for the ensuing year and raise and appropriate money therefor.

ARTICLE 11. Reserve Fund (Finance Committee)

To see if the Town will raise and appropriate \$85,000 for the Reserve Fund for FY 98.

ARTICLE 12. Retirement Assessment (Select Board)

To see if the Town will raise and appropriate \$1,321,862 for the Hampshire County Retirement System assessment.

ARTICLE 13. Special Services - Amherst Community Television (Select Board)

To see if the Town will raise and appropriate \$4,000 for Amherst Community Television and related expenses.

ARTICLE 14. Special Services - Human Services
(Select Board and Human Services Funding Committee)

To see if the Town will 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

ARTICLE 15. Special Services - Transportation Subsidies (Select Board)

To see if the Town will 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.

ARTICLE 16. Special Services - Congregate Housing (Select Board)

To see if the Town will 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.

ARTICLE 17. Capital Program - Chapter 90 (Joint Capital Planning Committee)

To see if the Town will authorize the expenditure of \$712,000 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.

ARTICLE 18. Capital Program - Conservation
(Conservation Commission and Joint Capital Planning Committee)

a. To see if the Town will 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. To see if the Town will 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.

ARTICLE 19. Capital Program - Equipment (Joint Capital Planning Committee)

To see if the Town will appropriate \$759,350 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 \$639,350 by taxation and transfer \$120,000 from Ambulance Receipts Reserved for Appropriation.

ARTICLE 20. Capital Program - Leaf Loader (By Petition of H. Brooks)

“To see if the Town will raise and appropriate a sum of money to purchase a leaf loader(s) for residential leaf pickup.”

ARTICLE 21. Capital Program - Buildings and Facilities (Joint Capital Planning Committee)

To see if the Town will raise and appropriate \$316,650 to repair and/or improve buildings and facilities.

ARTICLE 22. Capital Program - Athletic Fields (Joint Capital Planning Committee)

To see if the Town will appropriate and transfer \$31,000 from the Stabilization Fund for athletic fields.

ARTICLE 23. Capital Program - Comprehensive Plan
(Planning Board, Select Board and Joint Capital Planning Committee)

To see if the Town will 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.

ARTICLE 24. Capital Program - Land Acquisition - Corner of Amity and Prospect Streets
(By Petition By V. O’Connor)

“To see if the Town will appropriate \$350,000 for the acquisition from D.H. Jones Real Estate, Inc., or its successor by eminent domain, purchase, gift or otherwise, of Parcel 214 of Map 14A of the Town Cadastre, located at southeast corner of Amity and South Prospect Streets and comprising 12,000 square feet more or less, for parking, pedestrian, and other municipal purposes, and to determine whether such appropriation shall be raised by taxation, the transfer of available funds, by borrowing, or otherwise and further to authorize the application for and acceptance of any gifts, bequests, or grants from the Commonwealth of Massachusetts or otherwise and further authorize the Treasurer to borrow in anticipation of reimbursement for said grants.”

ARTICLE 25. Stabilization Fund (Select Board)

To see if the Town will appropriate and transfer a sum of money to the Stabilization Fund for FY 98.

ARTICLE 26. Free Cash (Select Board)

To see if the Town will appropriate and transfer a sum of money from Free Cash in the Undesignated Fund Balance of the General Fund to reduce the tax levy of the 1998 Fiscal Year.

ARTICLE 27. Capital Program - Sewer Fund - Old Belchertown Road Sewer Extension
(Select Board)

To see if the Town will 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.

ARTICLE 28. Economic Opportunity Area (Select Board)

a. To see if the Town will 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. To see if the Town will 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.

ARTICLE 29. Zoning Bylaw - Phased Growth (Planning Board)

To see if the Town will 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.

ARTICLE 30. Zoning Bylaw - Special Permits & Site Plan Review (Planning Board)

To see if the Town will 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.**

ARTICLE 31. Zoning Bylaw - Wireless Communication (Planning Board)

To see if the Town will amend Sections 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 3.340, 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. 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

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. 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. Said height shall not exceed 125 feet above the ground. In non-residential districts, the Permit Granting Authority may allow a lesser setback if such modification provides adequate safety and such modification will not significantly impact the character and appearance of the neighborhood. In making a request for such a modification, 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:

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.

B. 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 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 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, dishes and other such structures attached to a building in association with commercial and public wireless communication use 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 limitation. For towers and other such free-standing structures associated with wireless communications uses, the provisions of Section 3.340.2 shall 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, 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, 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, as set forth in Section 3.340.2, j., or dishes for these purposes measuring two (2) meters or less in diameter; nor amateur radio facilities 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.

“To see if the Town will vote to 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.”

ARTICLE 33. Special Act - Conflict of Interest (Select Board)

To see if the Town will 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 members 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.

ARTICLE 34. Street Acceptance - Amherst Woods (Select Board)

To see if the Town will accept as town ways Woodlot Road, Wildflower Drive, Old Farm Road, and all other roads in the Amherst Woods Subdivision not accepted as town ways, 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

ARTICLE 35. Street Acceptance - Hawley Meadows (By Request of R. Patterson and P. Jones)

To see if the Town will 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.

ARTICLE 36. Resolution - Bicycle Lanes (Public Transportation Committee)

To see if the Town will 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.

ARTICLE 37. Town Bylaw - Access to Recycling Center (By Petition of V. O'Connor)

“To see if the Town will vote to amend the town bylaw to require that access to the recycling center at the landfill on Belchertown Road be restricted to persons who live or work in the towns of Amherst, Pelham, or Shutesbury, and that town employees be authorized to verify a person’s right to use the landfill for recycling purposes by requests for a current picture i.d.”

ARTICLE 38. Residences of Mentally Retarded Persons (By Petition of B. Ricci)

“This warrant article relates specifically to state or vendor operated residences of mentally retarded persons in the care of the Department of Mental Retardation. The article is not to be viewed as pejorative in any sense; it is inclusive. It is intended to assure individual well-written Individual Support Plan (ISP) resulting from ISP-team involvement and parent/guardian/sibling involvement.

Need for the article is based upon the accidents, near tragedies, and physical beatings to innocent Amherst citizens resulting directly from inadequate DMR funding and further resulting from meager, poor, or non-existent supervision.

Amherst has an enviable record of inclusion; it ranks among the leading towns in Massachusetts in this category. However, with over 100 retarded persons who are living among us, it is imperative that the DMR assure adequate funding for these programs.”

ARTICLE 39. Resolution - Union Town (By Petition of F. Stern)

“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.”

ARTICLE 40. Resolution - Marijuana for Medical Purposes (By Petition by A. Hasenfeld)

“To see if the Town will vote 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 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.”

ARTICLE 41. Resolution - Military Spending (By Petition of V. Morales)

“To see if the town will vote 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 to 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.”

ARTICLE 42. Resolution - Abolition of Nuclear Weapons (By Petition of C. Johnson)

“To see if the Town will 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.”

ARTICLE 43. Town Bylaw - Human Rights and Democracy in Nigeria
(By Petition of F. Holmquist)

“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 was declared a democratic republic on October 1, 1963, nonetheless military governments have ruled the nation 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, 1993, 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, 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, Nigerian leaders and democracy groups have called on the international community to impose sanctions against Nigeria in order to effect change; 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 declares the right to measure the moral character of its business partners in determining with whom it seeks to have business relations; and

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

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 Treasurer, and any notes, bonds, or securities issued by the Town of Amherst.
- B. The "Town Treasurer" shall mean the Town Treasurer of the Town of Amherst, or any authorized representative of the Town Treasurer.
- 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.

"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. 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 which has any outstanding loan to:

- (a) the government of Nigeria, or
- (b) any person organized under the laws of Nigeria, or
- (c) any person for the express purpose of doing business with, conducting operations in, or trading with any private or public entity located in Nigeria.

2. The prohibitions of this Section shall not apply to any bank or financial institution which submits a Statement in 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 Treasurer shall endeavor to select that bank or financial institution which conforms to the greatest extent with the intent of this divestment act.

2. The Town Treasurer shall periodically report to the Board of Selectmen each and every exercise of waiver implemented pursuant to this subsection. The Town Treasurer shall develop rules and regulations which specifically address both the criteria and reporting procedures. Such rules and regulations shall be approved by the Board of Selectmen.

C. Statement Required

1. Before any Town funds can be deposited or invested in any bank or financial institution, the Town Treasurer shall obtain from each bank or financial institution a Statement certifying that it does not have any outstanding loan of the type listed in subsection A of this Section, or, in the alternative, the Town Treasurer shall obtain from each bank or financial institution a Statement stating that the policy of the bank or financial institution is to not make any such future loans until democratic rights are restored in Nigeria. The Statement shall require the bank or financial institution to notify the Town Treasurer if it subsequently enters into any loan described in this subsection, or if the policy prohibiting such loans is changed.

2. The requirements of this Section shall be satisfied by ensuring that no Town funds are invested or deposited by banks or financial institutions 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 Treasurer 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 Treasurer shall require the withdrawal or divestment of those funds within one hundred twenty (120) days after the date of determination of noncompliance.

3. The Town Treasurer shall make use of information provided by the Investor Responsibility Research Center and other reliable sources in the compilation of a List of persons who are described in subsection A of this Section. The Town Treasurer shall update and amend the List semi-annually, or more frequently as deemed necessary by the Town Treasurer.

4. Any person who is identified on the List and is thereby potentially affected by this Section shall be entitled to a review of the determination by appeal to the Town Treasurer. Request for such review shall be made within forty-five (45) days of notification, or seven (7) days of the date of Town advertisement of a pending contract or purchase, of interest to the person seeking review.

5. The Town Treasurer shall provide an annual written report on the implementation of this By-Law to the Amherst Town Meeting.

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 that are manufactured or produced in Nigeria.

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 who buys, sells, leases or distributes 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.

C. Contracts and Purchases.

1. Persons submitting bids to or entering into contracts-with the Town of Amherst shall be required to disclose 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. 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 V. Duration of Policy

This By-Law shall take effect ten (10) days from the day on which the Amherst Town Meeting is dissolved and remain in effect from the established effective date until democratic rights are restored in Nigeria.

AND, FURTHER, BE IT RESOLVED that the Amherst Town Clerk be directed forthwith upon the dissolution of the 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
Association
United Nations
Senator Edward M. Kennedy
Senator John F. Kerry
Representative John W. Olver”

Senator Stanley Rosenberg
Representative Ellen Story
Massachusetts Municipal

General Sani Abacha of Nigeria
Nigerian Ambassador to the United States
Nigerian Ambassador to the U.N.

ARTICLE 44. Parking Garage (By Petition of P. Kitchell)

“A. To see if the Town will raise and appropriate, subject to a guarantee of 75% reimbursement by the Commonwealth of Massachusetts, \$4,000,000 for construction of a parking garage and vehicular and pedestrian ways and for other municipal purposes in Boltwood Walk substantially according to the designs proposed by the Pro Bono Design Group, so called, for the acquisition of land and easements necessary for the construction of said garage, and to determine whether such appropriation shall be raised by taxation, by transfer of available funds, by borrowing, or otherwise and further to authorize the application for and acceptance of any gifts, bequests, or grants from the Commonwealth of Massachusetts or otherwise and further to authorize the Treasurer to borrow in anticipation of reimbursements for said grants.

B. To see if the Town will appropriate \$100,000 for the acquisition from the Amherst Redevelopment Authority or its successor by eminent domain, purchase, gift or otherwise, of Parcels 60, 333, 224, and

285 of Map 14A of the Town Cadastre, located in Boltwood Walk and comprising 22,000 square feet more or less, for parking, pedestrian, and other municipal purposes, and to determine whether such appropriation shall be raised by taxation, by the transfer of funds, by borrowing, or otherwise and further to authorize the application for and acceptance of any gifts, bequests, or grants from the Commonwealth of Massachusetts or otherwise and further to authorize the Treasurer to borrow in anticipation of reimbursement for said grants.

- C. To see if the Town will appropriate \$250,000 for the acquisition from the estate of Richard Sandler or its successor by eminent domain, purchase, gift or otherwise, of the easterly portion of Parcel 46 of Map 14A of the Town Cadastre, located in Boltwood Walk and comprising of 10,000 square feet more or less, for parking, pedestrian, and other municipal purposes, and to determine whether such appropriation shall be raised by taxation, by the transfer of funds, by borrowing, or otherwise and further to authorize the application for and acceptance of any gifts, bequests, or grants from the Commonwealth of Massachusetts or otherwise and further to authorize the Treasurer to borrow in anticipation of reimbursement for said grants.
- D. To see if the Town will authorize the Board of Selectmen to discontinue and abandon that portion of Lessey Street beginning at the westerly exit of Clark House parking lot and proceeding west to its intersection with Boltwood Walk, and to transfer the discontinued section of Lessey Street to Sweetser Park or other public use.”

ARTICLE 45. Parking Garage (Select Board)

- A. To see if the Town will appropriate, subject to a guarantee of \$3,000,000 reimbursement by the Commonwealth of Massachusetts, \$4,350,000 for construction of a parking garage and vehicular and pedestrian ways and for other municipal purposes in Boltwood Walk and vicinity and for the acquisition of land and easements necessary for the construction of said garage, and to determine whether such appropriation shall be raised by taxation, by the transfer of available funds, by borrowing, or otherwise, and further to authorize the application for and acceptance of any gifts, bequests, or grants from the Commonwealth of Massachusetts or otherwise and further to authorize the Treasurer to borrow in anticipation of reimbursements for said grants.
- B. To see if the Town will authorize the acquisition from the Amherst Redevelopment Authority or its successors by eminent domain, purchase, gift or otherwise, of Parcels 60, 333, 224, and 285 of Map 14A of the Town Cadastre, located in Boltwood Walk and comprising 22,000 square feet more or less, for parking, pedestrian, and other municipal purposes.
- C. To see if the Town will authorize the acquisition from Judith Sandler and/or the estate of Richard Sandler or their successors by eminent domain, purchase, gift or otherwise, of the easterly portion of Parcel 46 of Map 14A of the Town Cadastre, located in Boltwood Walk and comprising 10,000 square feet more or less, for parking, pedestrian, and other municipal purposes.
- D. To see if the Town will authorize the acquisition from the 87 North Pleasant Street Family Partnership or its successors by eminent domain, purchase, gift or otherwise, of the easterly portion of Parcel 45 of Map 14A of the Town Cadastre, located in Boltwood Walk and comprising 11,000 square feet more or less, for parking, pedestrian, and other municipal purposes.

You are hereby directed to serve this call by posting attested copies thereof at the usual places:

Prec. 1	North Amherst Post Office	Prec. 6	Fort River School
Prec. 2	North Fire Station	Prec. 7	Crocker Farm School
Prec. 3	Marks Meadow School	Prec. 8	Munson Library
Prec. 4	Amherst Post Office	Prec. 9	Wildwood School
Prec. 5	Bangs Community Center	Prec. 10	Campus Center/UMass

Hereof fail not and make return of this warrant with your doings thereon at the time and place of said meeting.

Given under our hands this 14th day of April , 1997.

Bryan C. Harvey
Brenna Y. Kucinski
Hill Boss
Eva Schiffer
Homer W. Cowles

Board of Selectmen

Hampshire, ss.

April 15, 1997

In obedience to the within Warrant, I have this day as directed posted true and attested copies thereof at the above designated places, to wit:

Sgt. Scott P. Livingstone
Constable