

RESULTS
SPECIAL TOWN MEETING
November 4 and 6, 2013

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

The Special Town Meeting was called to order by the Moderator, James Pistrang at 7:10 p.m. There were 246 town meeting members. 124 checked in and a quorum was declared. The call and return of the warrant was read by Town Clerk, Sandra J. Burgess.

The Moderator asked for a moment of silence in memory of former Town Meeting Members Norman Ford and Lillian Silver who passed away since the last town meeting.

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

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

Action taken 11/4/2013

[Reports were given by Town Manager John Musante, and Andrew Steinberg, on behalf of the Finance Committee]

ARTICLE 2. Public Art Commission (Select Board)

VOTED unanimously to amend the action taken under Article 7 of the 1990 Annual Town Meeting by increasing the membership of the Public Art Commission from five members to seven members.

Action taken 11/4/2013

ARTICLE 3. Transfer of Funds – Unpaid Bills (Finance Committee)

VOTED unanimously in accordance with Chapter 44, Section 64 of the Massachusetts General Laws, to appropriate and transfer a sum of money to pay unpaid bills of previous years.

Action taken 11/4/2013

ARTICLE 4. FY 14 Budget Amendments (Finance Committee)

A.

VOTED unanimously to amend the action taken under Article 16 of the 2013 Annual Town Meeting Fiscal Year 2014 Operating Budget by increasing the appropriations and the amounts to be raised by taxation for the Public Safety account by \$63,299, the Conservation and Development account by \$16,653, and the Community Services account by \$19,146 and to meet such increased appropriation by decreasing the appropriation and the amount to be raised by taxation for General Government by \$99,098.

Action taken 11/4/2013

B.

VOTED unanimously to raise and appropriate \$21,711 from FY14 Estimated Revenue to amend the budget voted in Article 16 of the 2013 Annual Town Meeting (FY 2014 Operating Budget) to increase the appropriation for the Community Services budget by \$17,847 and the General Government budget by \$3,864 to fund the salary, expenses and benefits of a part-time public health nurse.

Action taken 11/4/2013

ARTICLE 5. Free Cash (Finance Committee)

A.

VOTED to appropriate and transfer \$156,118 from Free Cash in the Undesignated Fund Balance of the General Fund to the following accounts: \$114,090 to the OPEB Trust Fund of the Town of Amherst; \$6,450 to the Town of Pelham; and \$35,578 to the Amherst-Pelham Regional School District to account for Medicare Part D reimbursements received by the Town of Amherst for prescription drug costs incurred by the Health Claims Trust Fund for Town of Amherst, Amherst-Pelham Regional School District, and Town of Pelham members.

Action taken 11/4/2013

B.

VOTED unanimously to appropriate and transfer \$1,326,223 from Free Cash in the Undesignated Fund Balance of the General Fund to the Stabilization Fund.

Action taken 11/4/2013

ARTICLE 6. Capital Program – Debt Repurpose (Finance Committee)

VOTED to appropriate the following unexpended amounts of money that were initially borrowed to finance capital projects that are now complete, and for which no further liability remains, to pay a portion of the costs of replacement of the boiler at the Wildwood School authorized by Article 21 of the Annual Town Meeting May 15, 2013 and to reduce by a like amount the portion of the Wildwood School boiler project funding to be raised by taxation, as permitted by Chapter 44, Section 20 of the General Laws:

<u>Original</u>	<u>Borrowed</u>	<u>Unexpended</u>	<u>Repurpose</u>
Town Hall Exterior Repairs	\$505,000	\$17,878.98	Wildwood School boiler

Voted: ATM Article 23, June 18, 2007 and STM Articles 8(B) and 8(C), Nov. 7, 2007

Action taken 11/4/2013

ARTICLE 7. Capital Program – Equipment (Joint Capital Planning Committee)

A.

VOTED to raise and appropriate \$12,000 to purchase new equipment and to meet such appropriation \$12,000 be raised by taxation.

Action taken 11/4/2013

B.

VOTED unanimously to raise and appropriate \$31,700 to purchase new equipment and to meet such appropriation \$31,700 be transferred from the Ambulance Receipts Reserved for Appropriation Account

Action taken 11/4/2013

C.

VOTED unanimously to repurpose \$55,167 of funds originally appropriated under Article 19 of the 2013 Annual Town Meeting for the purchase of CPR assist devices and instead use such sum for the purchase of hydraulically assisted stretchers for the Fire Department ambulances.

Action taken 11/4/2013

ARTICLE 8. Capital Program – Acceptance of State Grants (Finance Committee)

A.

VOTED unanimously to: (1) authorize the Select Board and/or Conservation Commission to renovate, repair, rehabilitate, improve, and/or restore all or a portion of the land, structures and facilities on the

parcels of land on State Street and Mill Street, identified on Assessors Map 2D as Parcel 8 and Assessors Map 5B as Parcels 16, 113, 129, 130, which land shall remain under the care, custody, management and control of the Conservation Commission under the provisions of G.L. c. 40, §8C; (2) to appropriate and transfer \$36,000, of which \$15,000 shall be transferred from Article 20 of the 2013 Annual Town Meeting, \$3,000 from the Puffer's Pond Gift Account, and any remaining balance shall be borrowed in accordance with G.L. c. 44, §§7, 8C and/or any other enabling authority, and to authorize the Treasurer, with the approval of the Select Board, to issue any bonds or notes that may be necessary for that purpose pursuant to G.L. c. 44, and/or any other enabling authority, for the purpose of renovating, repairing, rehabilitating, improving, and/or restoring said land and the structures and facilities thereon; and (3) to authorize the Select Board, the Town Manager, and/or the Conservation Commission, to file on behalf of the Town any and all applications and /or reimbursements from the Commonwealth of Massachusetts deemed necessary under the Land and Water Conservation Fund Act (P.L. 88-578, 78 Stat 897) and/or any other applications for funds, gifts, grants, under any federal and/or other state program, in any way connected with the scope of this article, and to enter into all agreements and execute any and all instruments as may be necessary or appropriate to effectuate such article.
Action taken 11/4/2013

B.

VOTED by a declared two-thirds to: (1) transfer the care, custody, and control of the parcel of land located at 95 Montague Road, which contains 1.0 acres, more or less, and is described in a deed recorded with the Hampshire Registry of Deeds in Book 1592, Page 158, from the board or officer having custody thereof for the purposes for which it is currently held to the Town Manager for recreational purposes under the provisions of G.L. c. 45, § 14, as it may be amended, and other Massachusetts statutes related to recreation, to be managed and controlled by the Leisure Services and Supplemental Education (LSSE) Commission; (2) to appropriate and transfer \$200,000, of which \$60,000 shall be transferred from Article 24A of the 2013 Annual Town Meeting and the remaining balance shall be borrowed in accordance with G.L. c. 44, §§7, 8C and/or any other enabling authority, and to authorize the Treasurer, with the approval of the Select Board, to issue any bonds or notes that may be necessary for that purpose pursuant to G.L. c. 44, and/or any other enabling authority for the purpose of repairing, rehabilitating, improving, and/or restoring said land and the structures and facilities thereon, including, without limitation, the water line, sidewalks, public restrooms, fencing, pool, and the pool building; and (3) to authorize the Town Manager and/or the LSSE Commission to file on behalf of the Town any and all applications for grants and/or reimbursements from the Commonwealth of Massachusetts under the Urban Self-Help Act (PARC Act) (301 CMR 5.00) and/or others in any way connected with the scope of this article, and to enter into all agreements and execute any and all instruments including the conveyance of a perpetual restriction in accordance with M.G.L. Chapter 184 as required by Section 12(a) of Chapter 44B or Chapter 293 Section 10 of the Acts of 1998 as amended, as may be necessary on behalf of the Town to affect the foregoing. Said restriction may be granted to any organization qualified and willing to hold such a restriction.
Action taken 11/4/2013

ARTICLE 9. Special Act – Abatement of Taxes (Select Board)

VOTED unanimously to authorize the Select Board to petition the General Court for special legislation, as set forth below, to authorize the Board of Assessors to accept an abatement application from the Amherst Committee for a Better Chance, Inc., (“ABC House”); provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Select Board approves amendments to the bill before enactment by the General Court; and provided further that the Select Board is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition; or take any other action relative thereto.

AN ACT authorizing the late filing of a tax abatement application for the Amherst Committee for a Better Chance, Inc.

Section 1. Notwithstanding any general or special law to the contrary, the board of assessors of the Town of Amherst shall accept an application for abatement of property tax on behalf of the Amherst Committee for a Better Chance, Inc. for the tax year 2013. This application shall be considered timely if filed with the assessors within 90 days after the effective date of this act.

Section 2. This act shall take effect upon its passage.
Action taken 11/4/2013

ARTICLE 10. Watershed Land Acquisition - Amherst (Select Board)

VOTED by a declared two-thirds to (1) authorize the Select Board, in its capacity as the Board of Water Commissioners, to acquire by purchase, gift, or eminent domain, for water supply protection purposes, all or any portion of two parcels of land in the Town of Amherst, being identified as Parcels 39 and 21 on Amherst Assessors' Map 3D, which portions shall contain twelve acres, more or less, (2) appropriate \$ 360,750 for acquisition of such land and costs related thereto, and, to meet such appropriation, transfer \$360,750 from the Water Fund Surplus; and (3) authorize the Select Board, the Town Manager, and/or such other boards as they deem appropriate, to file on behalf of the Town all applications under the Massachusetts Department of Environmental Protection Drinking Water Supply Protection Grant Program and/or other applications for funds, gifts, grants, including grants of reimbursement under any federal and/or other state program, in any way connected with the scope of this acquisition, and to enter into all agreements and execute any and all instruments to effectuate the foregoing acquisition, provided that the Select Board is authorized to acquire these parcels only if, prior to acquisition, the Town has received a commitment for award of a Drinking Water Supply Protection Grant or other federal and/or state program, to defray at least fifty percent (50%) of the amount appropriated under this article, which may be defrayed by reimbursement to the Town following acquisition, or take any action relative thereto.

Action taken 11/4/2013

ARTICLE 11. Community Preservation Act (Community Preservation Act Committee)

DEFEATED Yes 72 No 90

[To see if the Town will vote to: (a) authorize the Select Board to acquire by gift, purchase, and/or eminent domain, for open space purposes, all or a portion of two (2) parcels of land located off Belchertown Road, shown on Assessors Map 15C as Parcels 22 and 54 containing approximately 19.70 acres, and described in a deed recorded with the Hampshire County Registry of Deeds in Book 9423, Page 318, which land shall be under the care, custody, management and control of the Conservation Commission under the provisions of G.L. c. 40, §8C; (b) appropriate the sum of \$150,950 for the acquisition of said land and costs related thereto, of which \$41,785 shall be transferred from the Community Preservation Act Fund Balance and the remaining \$109,165 shall be borrowed in accordance with G.L. c. 44B, §11, and to authorize the Treasurer, with the approval of the Select Board, to issue any bonds or notes that may be necessary for that purpose pursuant to G.L. 44B, §11, G.L. c. 44, and/or any other enabling authority; (c) authorize the Select Board, the Town Manager, and/or the Conservation Commission, as they deem appropriate, to file on behalf of the Town any and all applications under the LAND Program (G.L. c. 132A, §11) and/or any other applications for funds, gifts, grants, under any federal and/or other state program, in any way connected with the scope of this acquisition, and to enter into all agreements and execute any and all instruments as may be necessary or appropriate to effectuate the foregoing acquisition; and, further, (d) authorize the Select Board and/or the Conservation Commission to convey a restriction on said land in accordance with G.L. c. 184, as required by G.L. c. 44B, §12(a).]

Action taken 11/4/2013

ARTICLE 12. Acquisition of Easements – Pomeroy Lane and West Street Intersection (Select Board)

VOTED unanimously to authorize the Select Board to acquire, by gift, purchase and/or eminent domain, for public way purposes, temporary and permanent, for the construction of roadways and safety improvements at the Pomeroy Lane and West Street Intersection, and for all uses and purposes incidental thereto, which easements are shown on a plan entitled “Pomeroy Village Center Improvements” prepared by the Town, dated September 2013, which is on file in the office of the Town Clerk.

Action taken 11/4/2013

At 10:05 p.m. on Monday, November 4, 2013, town meeting voted to adjourn to Wednesday, November 6, 2013 at 7:00 p.m. in the auditorium of the Amherst Regional Middle School. 171 town meeting members were checked in.

The November 6, 2013 session was called to order by the Town Moderator, James Pistrang, at 7:06 p.m. 124 town meeting members were checked in

ARTICLE 13. Zoning Amendment - Medical Marijuana Uses (Planning Board)

VOTED by a declared two-thirds to amend Section 3.360, Medical Uses, and Article 12, of the Zoning Bylaw, as follows:

A. Under Section 3.360, Medical Uses, add a new Section 3.360.4, as follows:

3.360.4 Registered Marijuana Dispensaries (RMDs)

3.360.40 Medical Marijuana Treatment Center (MMTC)

R-O

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

*Allowed only in those B-L Districts which co-occur with the R&D overlay district. For other standards and conditions see Section 3.360.41.

See definition under Article 12.

3.360.41 Off-Site Medical Marijuana Dispensary (OMMD)

R-O

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

Standards and Conditions

See definition under Article 12.

1. Purposes. It is recognized that the nature of the substance cultivated, processed, and/or sold by medical marijuana treatment centers and off-site medical marijuana dispensaries may have objectionable operational characteristics and should be located in such a way as to ensure the health, safety, and general well-being of the public as well as patients seeking treatment. The specific and separate regulation of Registered Marijuana Dispensaries (RMDs) as Medical Marijuana Treatment Centers (MMTCs) and Off-site Medical Marijuana Dispensaries (OMMDs) facilities is necessary advance these purposes and ensure that such facilities are not located within close proximity of minors and do not become concentrated in any one area within the Town of Amherst.

Subject to the provisions of this Zoning Bylaw, Chapter 40A of the Massachusetts General Laws, and 105 CMR 725.000, MMTCs and OMMDs will be permitted to provide medical support, security, and physician oversight that meet or exceed state regulations as established by the Massachusetts Department of Health (DPH).

2. Application Requirements. Above and beyond the standard application requirements for Special Permits, an application for a use under this section shall include the following:
 - a) The name and address of each owner of the facility/operation;
 - b) Copies of all required RMD registrations issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the facility;
 - c) Evidence that the Applicant has site control and the right to use the site for a facility in the form of a deed or valid purchase and sale agreement, or, in the case of a lease, a notarized statement from the property owner and a copy of the lease agreement;
 - d) A notarized statement signed by the organization's Chief Executive Officer and corporate attorney disclosing all of its designated representatives, including officers and directors, shareholders, partners, members, managers, directors, officers, or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the Applicant must disclose the identity of all such responsible individual persons;
 - e) In addition to what is normally required in a site plan pursuant to Section 11.2, details showing all exterior proposed security measures for the premises, including lighting, fencing, gates and alarms, etc. ensuring the safety of employees and patrons and to protect the premises from theft or other criminal activity.
 - f) A Management Plan as required under the Rules and Regulations of the Special Permit Granting Authority, including a description of all activities to occur on site, including all provisions for the delivery of medical marijuana and related products to OMMDs or off-site direct delivery to patients.
 - g) A traffic impact report as set forth in the Rules and Regulations of the Special Permit Granting Authority shall be developed and submitted with the application.
3. Regulations. The following regulations shall apply to uses under this section:
 - a. Use Regulations.
 - 1) Uses under this section may only be involved in the uses and activities permitted by its definition as limited by state law, and may not include other businesses or services in the same building.
 - 2) No marijuana shall be smoked, eaten or otherwise consumed or ingested on the premises.
 - 3) The hours of operation shall be set by the Special Permit Granting Authority, but in no event shall a facility be open to the public, nor shall any sale or other distribution of marijuana

occur upon the premises or via delivery from the premises, between the hours of 8:00 p.m. and 8:00 a.m.

b. Locational and Physical Requirements

- 1) All aspects of a MMTC or OMMD relative to the acquisition, cultivation, possession, processing, sales, distribution, dispensing, or administration of marijuana, products containing marijuana, related supplies, or educational materials must take place at a fixed location within a fully enclosed building and shall not be visible from the exterior of the business.
- 2) No outside storage of marijuana, related supplies, or educational materials is permitted.
- 3) No MMTC shall have a gross floor area in excess of 25,000 square feet.
- 4) No OMMD facility shall have a gross floor area accessible to patients which is in excess of 2,500 square feet, except as may be permitted under 3., e., 1), c). Space in an OMMD facility which is dedicated to administration or operations and is accessible only to employees of the facility shall not be included in this limitation.
- 5) Ventilation – all facilities shall be ventilated in such a manner that:
 - a) No pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere; and
 - b) No odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the MMTC or OMMD facility or at any adjoining use or property.
- 6) A number of signs determined to be sufficient by the Special Permit Granting Authority shall be displayed on the exterior of the facility's entrance in plain sight of clients stating that "Registration Card Issued by the MA Department of Public Health Required" in text two inches in height.

c. Reporting Requirements

- 1) All Special Permit holders for uses under this section shall provide the Police Department, Fire Department, Building Commissioner, Board of Health, and Special Permit Granting Authority with the names, phone numbers, mailing and email addresses of all management staff and key-holders, including a minimum of two (2) operators or managers of the facilities identified as designated contact persons to whom notice should be made if there are operating problems associated with any use under this section. All such contact information shall be updated as needed to keep it current and accurate.
- 2) The designated contact persons shall notify the Police Department, Fire Department, Building Commissioner, Board of Health, and Special Permit Granting Authority in writing:
 - a) A minimum of thirty (30) days prior to any change in ownership or management of a facility regulated under this section, and
 - b) A minimum of twelve (12) hours following a violation, a potential violation, or any attempts to violate any applicable law, or any criminal, potential criminal, or attempted criminal activities at a facility regulated under this section.
- 3) The designated representatives of permitted facilities shall file an annual report with the Special Permit Granting Authority and shall appear before said Authority to present the report no later than January 31st of each year, providing a copy of all current applicable state licenses for the owners and facilities, to demonstrate continued compliance with the conditions of the Special Permit.
- 4) The designated contact persons shall be required to respond by phone or email within twenty-four (24) hours of the time of contact and inquiry regarding operation of the facility by a town official to the telephone number or email address provided as the contact for the business.

d. Transfer/Discontinuance of Use

- 1) A Special Permit granted under this Section is non-transferable and shall have a term limited to the duration of the applicant's ownership of the premises as a MMTC or OMMD.
- 2) Any MMTC or OMMD permitted under this section shall be required to remove all material, plants equipment and other paraphernalia in compliance with 105 CMR 725.105 (J), (O) prior to expiration of its DPH Registration or immediately following revocation or voiding of its DPH Registration.

e. Prohibitions.

- 1) The building(s) in which the proposed uses occur shall not be located:
 - a) Within three hundred (300) feet of any building:
 - i. containing another MMTC or OMMD; or
 - ii. in which is located a public or private elementary school, middle school, secondary school, preparatory school, licensed daycare center, or any other facility in which children commonly congregate in an organized ongoing formal basis; or
 - iii. owned by and operated as part of the campus of any private or public institution of higher learning, or
 - iv. housing a public library; or
 - v. any residential use, excepting a mixed-use building under Section 3.325; or
 - b) Within, on the same lot as, or on a lot immediately adjacent to a licensed pharmacy; or
 - c) Within buildings that contain any pharmacy, medical doctor offices or the offices of any other professional practitioner authorized to prescribe the use of medical marijuana. An exception shall be that the Special Permit Granting Authority may grant permission for palliative and therapeutic care uses in the same building in which an MMTC or OMMD is operated; or
 - d) Within a building containing residential units, including transient housing or group housing such as hotels, motels, lodging houses, or dormitories.
- 1) The proposed use shall not display:
 - a) Off-premises signage; or
 - b) On-premises signage or other marketing on the exterior of the building or in any manner visible from a public way, which, in the opinion of the Special Permit Granting Authority, may promote or encourage:
 - i. The use or abuse of marijuana or other drugs for non-medical purposes; or
 - ii. The use or abuse of marijuana or other drugs by minors; or
 - iii. The active marketing of marijuana or other drugs for medicinal purposes.
An exception shall be that the Special Permit Granting Authority shall not prohibit signage which is required by the MA Department of Public Health.

4. Findings. In addition to the findings required under Section 10.38, and meeting the provisions of Articles 7, 8, and all other applicable sections of this Bylaw, the Special Permit Granting Authority shall find that the proposed use:
 - a. Meets a demonstrated need.
 - b. Meets all of the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will as proposed be in compliance with all applicable state laws and regulations.
 - c. Is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest.
 - d. Provides a secure indoor waiting area for patients.
 - e. Provides an adequate pick up/drop off area.

- f. Provides adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals, and that the storage and/or location of cultivation of marijuana is adequately secured in enclosed, locked facilities.
- g. Adequately addresses issues of vehicular and pedestrian traffic, circulation, parking and queuing, especially during peak periods at the facility, and adequately mitigates the impacts of vehicular and pedestrian traffic on neighboring uses.

B. Add the following new definitions to Article 12, Definitions, in alphabetical order and re-enumerate the remaining existing sections accordingly:

12.__ Medical Marijuana Treatment Center (MMTC): A use operated by a not-for-profit entity registered and approved by the MA Department of Public Health in accordance with 105 CMR 725.000, and pursuant to all other applicable state laws and regulations, also to be known as a Registered Marijuana Dispensary (RMD), that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. An MMTC shall explicitly include facilities which cultivate and process medical marijuana, and which may also dispense and deliver medical marijuana and related products.

12.__ Off-Site Medical Marijuana Dispensary (OMMD): A medical marijuana facility that is located off-site from any cultivation/processing facility that is controlled and operated by the same registered and approved non-profit entity which operates an affiliated MMTC but which serves only to dispense the processed marijuana, related supplies and educational materials to patients registered and qualified under the provisions of 105 CMR 725.00 or their personal caregivers.

Action taken 11/6/2013

ARTICLE 14. Zoning Amendment - Affordable Duplexes (Planning Board)

VOTED by a declared two-thirds to amend Section 3.321, Two Family Detached Dwelling (Duplex), of the Zoning Bylaw, by adding the following new Section 3.3212, as follows:

3.3212 Affordable Duplex

R-O

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

SPR SPR SPR SPR N N N N SPR N N N N N
(SP) (SP)

Standards & Conditions

An affordable duplex shall be defined as a two family detached dwelling in which at least one (1) unit shall be affordable in perpetuity or to the greatest extent allowed by law, and eligible to be counted on the Commonwealth’s 40B Subsidized Housing Inventory (SHI) under the provisions of 760 CMR 50.03 (2) (a) and (b) as amended. Affordable units as described above need not be owner-occupied.
Action taken on 11/6/2013

ARTICLE 15. Zoning Amendment - Fraternity Residence (R-F) Dimensions (Planning Board)

VOTED Yes 112 No 51 to amend Table 3, Dimensional Regulations, by deleting the ~~lined-out~~ dimensions and adding the dimensions in ***bold italics***:

R-F

	Existing	Proposed	
Basic Minimum Lot Area (sq. ft.) ^h	40,000	<i>20,000</i>	[For information only] [same as R-N]
Additional Lot Area/Family (sq. ft.)	----	----	
Basic Minimum Lot Frontage (ft.)	150	<i>100</i>	[same as R-G]
Basic Minimum Front Setback (ft.) ^a	25	<i>20</i>	[same as R-N]
Basic Minimum Side and Rear Yards (ft.) ^g	20	<i>10</i>	[same as R-G]
Maximum Building Coverage (%)	20 ^a	<i>45</i> ^a	[same as R-F for <u>lot</u> coverage]
Maximum Lot Coverage (%) ^o	45 ^a	<i>65</i> ^a	[same as B-N]
Maximum Floors ^a	3	<i>5</i>	[same as B-G]
Maximum Height (ft.) ⁿ	40 ^a	<i>55</i> ^a	[same as B-G]

[Included for informational purposes only]

- a. Requirement may be modified under a Special Permit, issued by the Special Permit Granting Authority authorized to act under the applicable section of this bylaw. In applying the criteria established in Section 10.395, the Special Permit Granting Authority shall consider the proposed modified dimensional requirement in the context of the pattern(s) of the same dimensions established by existing buildings and landscape features in the surrounding neighborhood.
- Action taken 11/6/2013

ARTICLE 16. Zoning Amendment – Permit Granting Bodies and Signs (Planning Board)

VOTED by a declared two-thirds to amend Section 7.9 and Article 8 by deleting the ~~lined-out~~ language and adding the language in ***bold italics***, as follows:

A. Amend Section 7.90, as follows:

SECTION 7.9 WAIVERS

- 7.90 Any section or subsection of Article 7.0, Parking Regulations, may be waived or modified by the ~~pPermit gGranting bBoard~~ or ***Special Permit Granting Authority authorized to act under the applicable section of the Bylaw*** for compelling reasons of safety, aesthetics, or site design.
- 7.91 Parking space requirements under Section 7.0 may be modified when one or more of the following conditions are met to the satisfaction of the ***Permit Granting Board or Special pPermit gGranting aAuthority***:
 - 7.910 Peak parking needs generated by on-site uses occur at different times.
 - 7.911 A significant number of employees, tenants, patrons or other parking users of the site are common to and shared by more than one use on the site.

7.912 A parking management plan approved by the *Permit Granting Board or Special Permit Granting Authority* is implemented with occupancy of the building or buildings. Said plan shall include the implementation of such measures as car and van pooling, bicycling and public transit use sufficient to reduce the need for parking. ~~The permit granting authority may require p~~Periodic documentation of reductions in vehicle trips and parking utilization as a result of the parking management plan *may be required as a condition of any permit granted under this section.*

B. Amend Section 8.41, as follows:

8.41 *An off-site* directional or identification sign may be erected and maintained in any district where the ~~Board of Appeals~~ *Permit Granting Board or Special Permit Granting Authority authorized to act under the applicable section of the Bylaw for the use(s) associated with the sign(s)* acting under Section 10.3, finds that such signs will serve the public convenience, will not endanger the public safety, and will be of such size, location, and design as will not be detrimental to the neighborhood. *Where an off-site directional or identification sign serves a geographic destination but not a specific land use, a Special Permit from the Zoning Board of Appeals shall be required.*

C. Add a new Section 8.5, Modifications & Waivers, as follows:

SECTION 8.5 MODIFICATION & WAIVERS

Any section or subsection of Article 8, Sign Regulations, may be waived or modified by the Permit Granting Board or Special Permit Granting Authority authorized to act under the applicable section of the Bylaw for compelling reasons of public convenience, public safety, aesthetics, or site design.

Action taken 11/6/2013

(Article was divided at the request of a Town Meeting Member. Town Meeting members considered Part A, and Part B and C separately.)

ARTICLE 17. Zoning Amendment – Dimensional Interpretation (Planning Board)

VOTED by a declared two-thirds to amend Section 6.1 of the Zoning Bylaw, by deleting the ~~lined out~~ language, adding the language in *bold italics*, and reorganizing and re-enumerating the affected sections, as follows:

SECTION 6.1 INTERPRETATION

The following explanation shall apply to the column headings in Table 3.

6.10 *Lot Area Requirements*

6.100 Basic Minimum Lot Area - Except as herein specified, no dwelling or other principal building shall be constructed or used on a lot having less than the prescribed basic minimum lot area in square feet.

6.101 Cluster Minimum Lot Area - No dwelling or other principal building in a Cluster Development shall be constructed or used on a lot having less than the prescribed cluster minimum lot area, in square feet.

- 6.102** Additional Lot Area Per Family - No dwelling for use by more than one family shall be constructed, converted, or occupied unless the lot contains at least the basic minimum area plus the prescribed additional area per family for each family in excess of one.
- 6.11** Standard Lot Frontage and Cluster Lot Frontage
- 6.110** Except as herein specified, no dwelling or other principal building shall be constructed or used on a lot having less frontage on a street than the prescribed minimum standard lot frontage, or cluster lot frontage in cluster development.
- 6.111** Such frontage shall be measured along a continuous street right-of-way line on which the lot abuts, except that the frontage of lots on the convex side of a curve in a street may be taken as the straight distance between the points on the side lot lines intersected by the prescribed minimum setback line. In the case of lots which have more than one-half of their frontage along the curve of a permanent turnaround (at the end of a dead end street) or of a similar curved street segment serving no more than six (6) dwelling structures, said straight distance between the points on the side lot lines need not exceed seventy (70) percent of the prescribed minimum. On corner lots, where the included angle is less than 135 degrees, either street may be considered as the frontage street, but not both together. This requirement shall not apply to dwellings in a Planned Unit Residential Development.
- 6.112** In the General Business (B-G), Limited Business (B-L), Commercial (COM), Village Center Business (B-VC) and Neighborhood Business (B-N) districts, frontage requirements apply to Residence Uses only (Section 3.32).
- 6.12** Minimum or Maximum Front Setback
- 6.120** The minimum front setback shall be determined by a line parallel to the street right-of-way line extending from one side lot line to the other. No part of *the body of* any building, except *eaves, gutters, architectural elements, and* uncovered steps, and no accessory structure (other than a sign) having a height of more than four (4) feet shall be placed within or protrude into the area between the setback line and the street line. In the case of corner lots, the setback line shall be observed for all bordering streets.
- 6.121** In the General Business (B-G) District, the 20 foot minimum front setback applies only to a part of a building which is within 200 feet of the side boundary of a Residence District abutting on the same street within the same block; otherwise, no setback is required.
- 6.13** Minimum Side Yard
- 6.130** 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. *No part of the body of any building or accessory structure, except eaves, gutters, architectural*

elements, and uncovered steps, shall be placed within or protrude into the area between the side lot line and the side yard setback line. An accessory structure may be located within the minimum side yard only if it is located behind the front building line.

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

6.132 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 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.

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

6.14 Minimum Rear Yard

6.140 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. *No part of the body of any building or accessory structure, except eaves, gutters, architectural elements, and uncovered steps, shall be placed within or protrude into the area between the rear lot line and the rear yard setback line.*

6.141 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 10 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.

6.15 Maximum Building Coverage

6.150 Maximum building coverage shall be computed as the percentage of the total lot area which may be covered by all principal and accessory buildings and structures. For the purposes of the subsection, a portion of a lot shall be considered as being covered by a structure if it is enclosed on at least three sides by a wall or other substantially sight-impervious fence more than six feet high (whether or not having a roof), or if it has any part of any structure above it in a vertical line.

6.151 In the case of a Cluster Development as defined in Section 4.3, building coverage shall be calculated as the percentage of the total area of the development which may be covered by all principal and accessory buildings and structures.

6.16 Maximum Lot Coverage

6.160 Maximum lot coverage shall include the percentage of a lot covered in the manner described in Section 6.17, Maximum Building Coverage, plus that portion of a lot covered by driveways, parking areas, walkways, tennis courts, swimming pools or other similar surfaces.

6.161 For the purposes of this Bylaw, all such surfaces, whether constructed of impermeable materials (i.e., concrete, bituminous asphalt, oil and stone and the like) or constructed of permeable materials (i.e., gravel, peastone and the like) shall be included in the calculation of maximum lot coverage.

6.162 In the Watershed Protection (WP) overlay district, no use of land shall result in the rendering impermeable of more than 15% of the total area of any lot, or more than 20% with artificial recharge, or a total of 2,500 square feet, whichever is greater.

6.17 Minimum and Maximum Height

6.170 In all districts, the minimum or maximum height of a building shall be measured as the vertical distance from the average finished grade on the street side of the structure to the highest point of the roof for flats roofs, to the deck line for mansard roofs, and to the average height (midpoint) between the highest eaves and ridge of the main body of the roof for gable, hip, shed, saltbox, and gambrel roofs, or combinations thereof.



6.171 In the B-G, B-L, B-VC, B-N, COM, and R-VC districts, the maximum height of buildings may be modified under a Special Permit granted by the Special Permit Granting Authority authorized to act under the provisions of this bylaw for compelling reasons of building function, utility, or design, including but not limited to allowing construction of the full number of maximum floors under difficult site conditions such as steep grades, or with a pitched roof design, or similar conditions. In granting any such modification, the Special Permit Granting Authority shall consider the patterns of height and roof styles established by existing buildings, structures, and landscape features in the surrounding area, and provided that in no case shall the height of any exterior face of a building exceed the permitted height by more than ten (10) feet.

6.172 Height limitations shall not apply to chimneys, spires, cupolas, TV antennae 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.

6.18 Minimum or Maximum Floors

6.180 *A floor or story in a residential or non-residential building shall be considered to be that portion of a building, other than a half-story in a top floor (attic) or basement, between any floor and the ceiling or roof next above it, as measured under the Massachusetts Building Code.*

6.181 *A half-story in a top floor shall be a lawful habitable space with required means of access and egress and in which a minimum seven (7) foot floor-to-ceiling height exists in at least half of the habitable floor area but no less than one-third of the habitable floor area of the full story below.*

6.182 *A basement half story shall be any lawful habitable space with required means of access and egress and in which a minimum seven (7) foot floor-to-ceiling height exists in at least half of the habitable floor area but no less than one-third of the habitable floor area of the full story above, and where more than half of the habitable space is located above the average finished grade of the exterior of the building.*

Action taken 11/6/2013

ARTICLE 18. Zoning Amendment – Uses Allowed in Mixed-Use Buildings (Planning Board)

VOTED by a declared two-thirds to amend Section 3.325 of the Zoning Bylaw by deleting the ~~lined-out~~ language and add the language in ***bold italics***, as follows:

3.325 ~~Mixed-use B building containing dwelling units in combination with stores or other permitted business or commercial uses~~

Standards & Conditions

A mixed-use building shall be a building containing dwelling unit(s) in combination with permitted retail, business, institutional, government, public service, consumer service, office or similar principal use(s) and lawful accessory use(s).

A management plan, as defined in terms of form and content in the Rules and Regulations adopted by the Permit Granting Authority shall be included as an integral part of any application made under this section. In those Limited Business (B-L) Districts not abutting the B-G District, and in the Commercial (COM) District, a Special Permit from the Special Permit Granting Authority

authorized to act under this section of the bylaw shall be required wherever proposed residential uses above the first floor exceed ten (10) dwelling units. The proposed use shall meet the criteria of Section 10.38 or Section 11.24, as applicable, with respect to the site and potential conflicts between the residential and commercial use(s).

In the Commercial (COM) District, no dwelling units, nor any internal space associated with a dwelling unit shall occupy any first floor portion of a building facing onto a street, public plaza, or other space customarily used by the public. First floor residential dwelling units and any required entries thereto, shall be located on the rear of buildings, adjacent to any required parking and private open space associated with and serving those units. No more than forty percent (40%) of the first floor Gross Floor Area (GFA) shall be used for residential purposes, which shall include not more than fifteen percent (15%) of said GFA associated with or incidental to, whether for storage, required entries, stair/elevator towers, or other purposes, any residential uses on upper floors.
Action taken 11/6/2013

**ARTICLE 19. Petition – Zoning Amendment –Uses Allowed in Mixed-Use Buildings (Perot et al)
DEFEATED**

[To see if the Town will amend section 3.325 of the Zoning Bylaw by deleting the ~~lined-out~~ language and adding the language in *bold italics*, as follows:

3.325 *Mixed Use* building containing dwelling units in combination with stores or other permitted business or commercial use.

Standards & conditions

A mixed-use building shall be a building containing one or more dwelling units in combination with retail stores, or other commercial, permitted business, or similar use(s).

A management plan, as defined in terms of form and content in the Rules and Regulations adopted by the Permit Granting Authority shall be included as an integral part of any application made under this section. In those Limited Business (B-L) Districts not abutting the B-G District, ~~and in the Commercial (COM) District~~, a Special Permit from the Special Permit Granting Authority authorized to act under this section of the bylaw shall be required wherever proposed residential uses above the first floor exceed ten (10) dwelling units. *In the Commercial (COM) District, a mixed-use building abutting the Residence Neighborhood (R-N) or the Professional Research Park (PRP), a Special Permit from the Special Permit Granting Authority authorized to act under this section shall be required whenever proposed residential uses exceed six (6) dwelling units.* The proposed use shall meet the criteria of Section 10.38 or Section 11.24, as applicable, with respect to the site and potential conflicts between the residential and commercial use(s).

In the Commercial (COM) District, no dwelling units, nor any internal space associated with a dwelling unit shall occupy any first floor portion of a building facing onto a street, public plaza, or other space customarily used by the public. First floor residential dwelling units and any required entries thereto, shall be located in the rear of buildings, adjacent to any required parking and private open space associated with and serving those units. No more than forty percent (40%) of the first floor Gross Floor Area (GFA) shall be used for residential purposes, which shall include not more than fifteen percent (15%) of said GFA associated with or incidental to, whether for storage, required entries, stair/elevator towers, or other purposes, any residential uses on upper floors.]
Action taken 11/6/2013

ARTICLE 20. Petition – Resolution - Divestment of Funds from Fossil Fuel Companies (Alice Swift et al)

VOTED the following resolution:

WHEREAS, Global warming, caused primarily by the burning of fossil fuels, is a serious threat to current and future generations in Amherst and around the world; and

WHEREAS, Global warming is already causing costly disruption of human and natural systems both in Amherst and throughout the world including the increase in extreme weather leading to power failures, flooding, drought, food and water shortages, property damage and death; the severe acidification of oceans; and the rapid melting of Arctic ice and rise in sea levels causing devastation of coastal areas; and

WHEREAS, The effects of global warming will further intensify with increased temperatures such that almost every government in the world (including the United States) has agreed through the 2009 Copenhagen Accord that any warming above a 2°C (3.6°F) rise would be unsafe for human habitation; and

WHEREAS, For the purposes of this resolution, a “fossil fuel company” shall be defined as any of the two hundred publicly-traded companies with the largest coal, oil, and gas reserves as measured by the gigatons of carbon dioxide that would be emitted if those reserves were extracted and burned, as listed in the Carbon Tracker Initiative’s “Unburnable Carbon” report; and

WHEREAS, At least two-thirds of existing fossil fuel reserves will have to remain underground - unburnable and worthless - resulting in a “carbon bubble” if the world is to meet existing internationally agreed targets to avoid the threshold for "dangerous" climate change; and

WHEREAS, There is a national movement underway to divest from fossil fuel companies as both a moral action and a means of weakening the fossil fuel industry politically, with (so far) 11 U.S. municipalities including Seattle and San Francisco resolving to divest their portfolios of fossil fuel companies and hundreds of religious and higher learning institutions considering divestment from fossil fuel companies; and

WHEREAS, The Town of Amherst has a moral duty to protect the lives and livelihoods of its inhabitants from the threat of global warming and believes that its investments should support a future where citizens can live healthy lives without the catastrophic impacts of a warming environment; and

WHEREAS, Leadership is critical to build national momentum for the movement to divest from fossil fuel companies; and

WHEREAS, Amherst is showing leadership in sustainability, having articulated and demonstrated this leadership in various ways, such as Sustainable Amherst, hiring a Sustainability Coordinator, and the designation as a Massachusetts Green Community.

THEREFORE, BE IT RESOLVED, That Amherst Town Meeting urges the Hampshire County Retirement Board and the Town Treasurer to review their investment portfolios in order to identify any holdings that include direct or indirect investments in fossil fuel companies; and, be it

FURTHER RESOLVED, That Amherst Town Meeting urges the Hampshire County Retirement Board and the Town Treasurer to adopt policies precluding any new investments in fossil fuel companies or indirect investments that include holdings in fossil fuel companies; and, be it

FURTHER RESOLVED, That Amherst Town Meeting urges the Hampshire County Retirement Board and the Town Treasurer to release yearly updates, available to the public, detailing progress made towards full divestment; and be it

FURTHER RESOLVED, That Amherst Town Meeting endorses proposed state legislation requiring divestment of statewide retirement funds {Pension Reserves Investment Trust (PRIT)} from fossil fuel companies, and precluding such investment in the future; and directs that this resolution and letters of support for divestment legislation be sent to elected officials including Senator Rosenberg, Representative Story, Governor Patrick, and Steven Grossman, Treasurer of the Commonwealth.

Action taken 11/6/2013

The business of the warrant having been completed, Town Meeting voted to dissolve at 10:08 p.m. 173 town meeting members were checked in.

Attest:

Sandra J. Burgess