

RESULTS
SPECIAL TOWN MEETING
November 5, 2014

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 W. Pistrang at 7:06 p.m. There were 248 town meeting members. 125 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 Town Meeting to rise and observe a moment of silence in memory of those town meeting members who had passed away since the last town meeting. Town Meeting stood in recognition of Leeta Bailey, Robert Grose, Otto Stein, Jack Wolf, Zella Harrington, Paulette Henderson-Brooks, Gale McClung, and Tony Mushovic, Jr.

Nonny Burack, Tim Neale, David Mullins, Richard Cairn, Pamela Rooney, and Adrienne Terrizzi were sworn in as tellers.

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

VOTED 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 11/5/2014

(Reports were presented by Kay Moran, Chair of the Finance Committee, Richard Roznoy, Chair of the Transportation Plan Task Force, David Webber, Chair of the Planning Board, and Rob Crouner, Chair of the Planning Board Zoning Subcommittee)

ARTICLE 2. Transfer of Funds – Unpaid Bills (Finance Committee)

VOTED unanimously to DISMISS

[To see if the Town will, in accordance with Chapter 44, Section 64 of the Massachusetts General Laws, appropriate and transfer a sum of money to pay unpaid bills of previous years.]

Action taken 11/5/2014

ARTICLE 3. Free Cash (Finance Committee)

A.

VOTED unanimously to appropriate and transfer \$170,073 from Free Cash in the Undesignated Fund Balance of the General Fund to the following accounts: \$102,583 to the OPEB Trust Fund of the Town of Amherst; \$4,206 to the Town of Pelham; and \$63,284 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 11/5/2014

B.

VOTED by a declared two-thirds to appropriate and transfer the sum of \$1,354,023 from Free Cash in the Undesignated Fund Balance of the General Fund to the Stabilization Fund.

Action taken 11/5/2014

ARTICLE 4. Zoning Amendment – Special Districts Reorganization (Planning Board)

VOTED to refer article back to Planning Board.

[To see if the Town will amend Articles 2, 3, 4, 10 and 11, and the Table of Contents of the Zoning Bylaw, as follows:

- A. **Amend and reorganize Section 3.2, Special Districts, from Section 3.22 on, by deleting the ~~lined-out~~ language, adding the language in bold italics, re-enumerating existing sections as shown (replacing existing numerals with the numerals shown), and amending the Table of Contents accordingly, as follows:**

3.22 Resource Protection Districts

3.220 Flood Prone - Conservancy (FPC) District

3.2200 This section does not authorize any person to trespass, infringe upon or injure the property of another, and it does not excuse any person of the necessity of complying with other sections of this Bylaw or other applicable laws, regulations and bylaws.

- 1.* The invalidity of any portion of the FPC District shall not invalidate any other portion or provision thereof.

3.2201 The purposes of this District are:

- 1.* To provide that lands in the Town of Amherst subject to seasonal or periodic flooding as described hereinafter shall not be used for residences or other purposes in such a manner as to endanger the health or safety of the occupants thereof.
- 2.* To protect persons and property within the Town of Amherst from the hazards of flood inundation by assuring the continuation of natural flow patterns and the maintenance of adequate and safe floodwater storage capacity.
- 3.* To protect the community against pollution and costs which may be incurred when unsuitable uses occur along water courses, wetlands, ponds and reservoirs, or in areas subject to flooding.

3.2201 The FPC District shall consist of those geographical areas hereinafter delineated which by virtue of their relationship to components of the natural hydrology of the Town of Amherst, have substantial importance to the protection of life and property against the hazards of floods, erosion, and pollution, and in general are essential to the public health, safety, and welfare. Those geographical areas include flood prone areas, natural water storage areas adjacent to ponds, rivers, streams and wetlands as well as reservoirs.

The FPC District is considered to be:

- 1.* All areas designated as the FPC District on the Official Zoning Map on file in the Town Clerk's Office. The FPC District is determined by the following information: Department of Interior Map of Flood Prone Areas 1969; Soils Survey, 1965; Wetlands Map, 1973; Town of Amherst base map, 1972, as revised; historical flood information; hydrologic surveys; U.S.G.S. topographic maps; and other topographic surveys.
- 2.* All land within a minimum of 75 feet horizontally of the crest of the bank of the Mill River.
- 3.* All land within a minimum of 50 feet horizontally of the crest of the bank of Cushman Brook, Amethyst Brook, Adams Brook, Hearthstone Brook, Swamp Brook, and Hawley Brook downstream from North East Street.
- 4.* All land within a minimum of 25 feet horizontally of the crest of the bank of flowing and intermittent streams not otherwise specified in Section ~~3.2230, 3.2231, 3.2232~~ **3.2201, 1., 2., and 3.**, but designated on the Town Base Map, 1972 as revised.

3.2202 The reference documents for the FPC District shall be the Official Zoning Map and the Town of Amherst base map, dated 1972, as revised, for determining the name and

location of streams and other water bodies. The Town Base Map shall be on file in the Town Clerk's office.

3.2203 Where an elevation above mean sea level (MSL) is a boundary for the FPC District, the planimetric representation of that elevation shall be determined by the most recent topographic survey of the area. The topographic survey must be done by a registered land surveyor, or other professional approved by the Planning Board.

3.2204 If any portion of a lot falls within the FPC District, that portion may be used to meet the lot area and yard requirements for the district in which the remainder of the lot is situated.

3.2205 Where a water body may be subject to more than one of the preceding designations, the more stringent shall apply. All water bodies or wetlands encircled by an area designated above are hereby included within the FPC District. The Building Commissioner shall determine the "crest of the banks" of streams when necessary.

3.2206 In instances where the Planning Board is authorized to issue a Site Plan approval in the FPC District, the following factors shall be considered in assuring the protection from flood hazards:

Drainage

Elevation of buildings

Adequacy of sewage and refuse disposal

Control of erosion and sedimentation

Location of equipment

Storage of buoyant material

Extent of paving

Effect of fill, roadways or other encroachments on flood runoff and flow

Storage of chemicals and other hazardous substances

3.2207 In instances where the Special Permit Granting Authority issues a Special Permit in the FPC District said Authority must find that such factors as those listed in Section ~~3.228~~ **3.2206** above will not appreciably affect the water table or water quality, reduce flood storage capacity, or interfere with the natural flow and drainage pattern of the area.

3.2208 No dumping, filling, channeling, or alteration of the natural course of a water body or stream shall be permitted within the FPC District except where it is demonstrated that such use is consistent with agricultural or conservation purposes and public health and safety. Such use shall not appreciably affect the water table, reduce flood storage capacity, or interfere with the natural flow and drainage pattern of the area.

3.2209 Structures associated with the allowable uses indicated in Section 3.3, and accessory structures, shall not be located within the Flood Prone-Conservancy District without a Special Permit from the Zoning Board of Appeals.

3.221 Watershed Protection (WP) District

3.2210 General

The Watershed Protection District is an overlay district and shall be superimposed on other districts established by this Bylaw. Restrictions and prohibitions of land use in the underlying district shall remain in full force and shall not be modified by the conditions of the WP District unless superseded by the restrictions and prohibitions of the WP District.

3.2211 Establishment of District

The Watershed Protection District shall consist of those geographic areas shown by the Official Zoning Map. This District is configured to include those lands, which by virtue of their natural slope and soils, relate directly to the public water supply system, insofar

as being areas where water flows overland into the ~~recharge areas as defined by the ARP District in Section 3.25 and into the~~ Atkins Reservoir.

3.2212 Purpose

The purpose of this district is to protect the public health by preventing contamination of the surface water flowing overland into Atkins Reservoir ~~or into the aquifer of the Lawrence Swamp Basin.~~

3.2213 Restrictions and Prohibitions

The following are restricted or prohibited, as the case may be, in the WP District, except as part of normal agricultural operations.

1. The release upon or within any land or water in the WP District of any hazardous materials is prohibited, except otherwise provided in Section 3.24.
2. Industrial or commercial uses which involve, as their primary business activity, hazardous material in amounts exceeding the minimum threshold amount requiring compliance with the Mass. Dept. of Environmental ~~Protection Quality Engineering~~ Hazardous Waste Regulations, 310 CMR 30, as amended, are prohibited.
3. Commercial uses which involve, as their primary business activity, hazardous materials, including but not limited to, truck or bus terminals, car washes, gasoline sales, motor vehicle service and repair shops, fuel oil storage and sales, and wood preserving, stripping and refinishing operations are prohibited.
4. The use of septic system chemical cleaners which contain hazardous materials, including but not limited to methylene chloride and 1-1-1 trichlorethane is prohibited.
5. Underground storage and/or transmission of oil or other petroleum products not in a containment structure approved by the Permit Granting Board, except for liquified petroleum gases and gasoline which shall require a Special Permit in accordance with Section ~~3.244~~ **3.2213, 7.**, is prohibited.
6. Industrial or commercial storage of sodium chloride and other de-icing materials, pesticides, herbicides, fertilizers, and other hazardous lawn and garden chemicals is prohibited.

Sodium chloride, if used for ice control, shall be used at the minimum level consistent with public highway safety standards. The base ratio shall be 1 part salt to 10 parts sand, with higher levels of salt used only where necessary to maintain public safety.

Calcium chloride, chemically treated abrasives and other alternative de-icing materials shall be used to the maximum extent feasible for winter road maintenance. Municipal storage of all such snow and ice chemicals shall occur on a paved surface, with berms, within a covered structure designed to prevent the generation and escape of contamination run-off or leachate.

The outdoor storage of de-icing materials or pesticides, herbicides, fertilizers, and other hazardous lawn and garden chemicals for home use is prohibited.

7. Industrial or commercial uses which involve the storage, use or presence of any oil, petrochemical product, pesticide, herbicide, fertilizer, or other hazardous leachable materials on any site within the WP District shall require a Special Permit from the Zoning Board of Appeals. A Special Permit shall be issued only upon a specific finding that the hazardous material(s) will be transported, stored, used and disposed of in a manner that will not constitute a threat to ~~the Lawrence Swamp Aquifer or~~ the Atkins Reservoir.

8. Pesticides, herbicides, fertilizers and other leachable lawn and garden chemicals shall be used in accordance with **the applicable Lawn Care R** regulations of the Massachusetts Pesticide Board, 333 CMR ~~10.03 (30, 31)~~, as amended.
9. Runoff water shall not be diverted from land in this district into another watershed basin.
10. Any uses of land or related activities specifically restricted or prohibited under 310 CMR 22, including 310 CMR 22. 20A-20G and 22.21, as amended, and all such Amherst Board of Health regulations as may apply.

3.2214 Special Permits/Site Plan Review

- I. For all uses which require either a Special Permit or Site Plan Review in accordance with Section 3.3, and that are located in the WP District, the following information shall be required as part of the application submission:
 - a. A site plan which shall show, at a minimum:
 - 1) Drainage plans, showing location of drainage facilities and direction in which surface water is to be drained
 - 2) Erosion and sedimentation control measures
 - 3) Measures to prevent contamination of surface drainage from any potential on-site pollutants
 - b. In addition, for any commercial or industrial use involving hazardous materials, a written operating plan shall be filed which shall include physical and management provisions for:
 - 1) Protecting hazardous materials from vandalism
 - 2) Prevention of corrosion of containers or piping and subsequent leakage of hazardous materials
 - 3) Indoor storage of all hazardous materials
 - 4) Storage area features such as impervious floor surfaces with no interior drains
 - 5) Measures to prevent hazardous material spills during transport, transfer or use
 - 6) Notification, containment and clean-up in the event of hazardous materials spills
 - 7) Evidence of insurance, bonding or other financial security adequate to cover the cost containment and clean-up of any hazardous material spills
 - 8) The availability and feasibility of proposed disposal methods
 - 9) Safe storage, transfer, and disposal of accumulated hazardous waste materials
 - c. The operating plan shall identify all chemicals, pesticides, fuels and other hazardous materials and estimates of the amounts of such materials to be used each month for the first two years of operation. Following approval of a permit, records shall thereafter be retained showing the actual amounts used each month.

2. Uses permitted by either a Special Permit or Site Plan Review shall submit two (2) copies of an annual report containing actual data for each month and describing any changes in the operation or physical conditions on the premises. The annual report shall also describe any changes in operations or conditions expected or proposed for the upcoming year. One copy of the annual report shall be forwarded to the Board of Health. Annual reports shall be due on the anniversary of the granting of the approval, or within fourteen (14) working days of that date.
3. The applicant shall file ~~six (6)~~ **the required number of** copies of the proposed operating plan with the ~~Zoning Board of Appeals (Special Permit)/Planning Board (Site Plan Review)~~ **Permit Granting Board or Special Permit Granting Authority**. Copies shall be transmitted, within 7 days, to the ZBA/Planning Board, Conservation Commission, Board of Health, and Building Commissioner, for their review and recommendations.
4. The ~~Zoning Board of Appeals and Planning Board~~ **Permit Granting Board or Special Permit Granting Authority** may require reasonable additional information it finds necessary for adequate assessment of the proposed use.
 - a. The **Permit Granting Board or Special Permit Granting Authority shall make the** following findings ~~shall be made~~ for any approvals granted:
 - 1) The ~~permit granting board shall find that the~~ proposal either is in harmony or is not in harmony with the purposes and intent of this section and must specify reasons therefore.
 - 2) The ~~permit granting board shall find that the~~ proposed use provides for adequate sewage disposal and water service systems.
 - 3) The ~~permit granting board shall find that the~~ proposed use will not have an adverse environmental impact on any watershed, watercourse or waterbody in the WP District during construction.
 - 4) The ~~permit granting board shall find that the~~ proposed use will not adversely affect the quality and quantity of water in the ~~Lawrence Swamp Basin or the~~ Atkins Reservoir.

3.2215 Exemptions

In any instance where a property owner disputes the inclusion of their property in the WP District, the owner may engage a professional hydrogeologist, or engineer or geologist with experience in hydrogeology to determine if that property should be included in the WP District, based on the definition of and purposes of the district and on the characteristics of the property. Based on this determination, the property owner may apply to the Zoning Board of Appeals for a Special Permit for any use that would otherwise be permitted in the underlying zoning district but which is prohibited or constrained by the restrictions of the WP District. The Board shall find, based on Sections ~~3.241~~ **3.2211** and ~~3.242~~ **3.2212**, that the property either is or is not exempt from the provisions of Section ~~3.24~~ **3.221** and may, therefore, issue a Special Permit.

Residential Development

~~For all parcels of land which are located in that area of the WP Overlay District which is associated with the Lawrence Swamp Aquifer, the following requirements shall be met:~~

~~Residential subdivisions requiring approval under M.G.L. Ch. 41, the Subdivision Control Law, shall be laid out as cluster developments in accordance with Section 4.3 of the Zoning Bylaw.~~

3.222 Aquifer Recharge Protection (ARP) District

3.2220 General

The Aquifer Recharge Protection (ARP) District is an overlay district and shall be superimposed on other districts established by this Bylaw. Restrictions and prohibitions of land use in the underlying district shall remain in full force, and shall not be modified by the conditions of the ARP District unless superseded by the restrictions and prohibitions of the ARP District.

3.2221 Establishment of District

The Aquifer Recharge Protection (ARP) District shall consist of those geographic areas shown on the Official Zoning Map. This District is configured to include all those lands which by virtue of their natural slope, soils, subsurficial geology and water tables relate directly to the recharge of groundwater into the large aquifer located in the Lawrence Swamp basin consisting of the Zones I, II and III aquifer recharge areas for the Town of Amherst's public wells.

3.2222 Purpose

The purpose of this district is to protect the public health by preventing contamination of the ground and surface water flowing into the aquifer of the Lawrence Swamp Basin, which is the major water supply for the Town.

3.2223 Prohibitions

The following uses are prohibited in the ARP District, except as part of normal agricultural operations.

- 1.** Business and industrial uses, including but not limited to metal plating, chemical manufacturing, wood preserving, furniture stripping, dry cleaning and auto body repair, which generate, treat, process, store or dispose of hazardous waste, except for the following:
 - a.** Very small quantity generators of hazardous waste, as defined by 310 CMR 30.00, as amended, may be allowed by the Special Permit Granting Authority in accordance with Section ~~3.250~~ **3.2220** of this bylaw;
 - b.** Household hazardous waste collection centers or events operated pursuant to 310 CMR 30.390, as amended;
 - c.** Waste oil retention facilities required by M.G.L. Ch. 21, Sec. 52A, as amended, and;
 - d.** Treatment works approved by the Massachusetts Department of Environmental Protection and designed in accordance with 314 CMR 5.00, as amended, for the treatment of contaminated ground or surface waters.
- 2.** Industrial or commercial uses which dispose of process waste waters on site.
- 3.** Truck or bus terminals, car washes, gasoline sales, motor vehicle service and repair shops, commercial fuel oil storage and sales, solid waste landfills, dumps, auto recycling, auto graveyards, junk and salvage yards, landfilling or storage of sludge and septage, with the exception of the disposal of brush or stumps.
- 4.** Underground storage of liquid petroleum products, except for the following:
 - a.** Storage for normal household use, outdoor maintenance, and heating of a structure;
 - b.** Waste oil facilities required by statute, rule or regulation;
 - c.** Emergency generators required by statute, rule or regulation;

- d. Treatment works approved under 315 CMR 5.00 for treatment of ground or surface waters;
 - e. Underground storage tanks for gasoline which existed at the time of adoption of this bylaw may be replaced, provided that any such replacement tank is of no greater volume, and shall be provided with a secondary containment system in compliance with the Massachusetts Fire Safety Code (527 CMR); provided that such storage, listed in items a. through e. above, is in free standing containers within buildings or above ground and in either case is provided with secondary containment facilities, impermeable and capable of holding a spill equal to 1.5 times the total volume of the primary container. The replacement of any underground storage tanks for heating oil which existed at the time of adoption of this bylaw shall meet the requirements of the Board of Health.
- 5. The outdoor storage of salt, de-icing materials, pesticides, herbicides, fertilizers and other hazardous lawn and garden chemicals for home use is also prohibited.
 - 6. Dumping or disposal on the ground, in water bodies, or in residential septic systems of any toxic chemical including but not limited to septic system chemical cleaners which contain toxic chemicals such as methylene chloride and 1-1-1 trichlorethane, or other household hazardous waste.
 - 7. Stockpiling and disposal of snow or ice removed from highways or streets located outside the ARP District that contains sodium chloride, calcium chloride, chemically treated abrasives or other chemicals used for snow and ice removal.
 - 8. Wastewater treatment plants or works subject to a groundwater discharge permit under 310 CMR 5.00, except for the following:
 - a. The replacement or repair of an existing system that will not result in any increase in the design capacity of said system;
 - b. The replacement of an existing subsurface sewage disposal system with wastewater treatment works that will not result in any increase over the design capacity of the existing system, and;
 - c. Treatment works designed for the treatment of contaminated ground or surface waters subject to 314 CMR 5.00, as amended.
 - d. Industrial or commercial storage of sodium chloride and other de-icing materials, pesticides, herbicides, fertilizers, and other hazardous lawn and garden chemicals is prohibited.
 - e. Excavation of earth, sand, gravel and other soils or geologic materials shall not extend closer than ten (10) feet above the long-term (20 year) average annual high water table on the site, except to provide for structural foundations, utility conduits and public works. This prohibition also shall not apply to the installation or maintenance of on-site septic systems.

3.2224 Restricted Uses

The following uses are restricted in the ARP District:

- 1. Sodium chloride, if used for ice control, shall be used at the minimum level consistent with public highway safety standards. The base ratio shall be 1 part salt to 10 parts sand, with higher levels of salt used only where necessary to maintain public safety. Calcium chloride, chemically treated abrasives and other alternative de-icing materials shall be used to the maximum extent feasible for winter road maintenance. Municipal storage of all such snow and ice control chemicals shall occur on a paved surface, with berms, within a covered structure designed to prevent the generation and escape of contamination run-off or leachate.

2. Fertilizers, pesticides, herbicides and other leachable lawn and garden chemicals shall be used in accordance with the **applicable Lawn Care R** regulations of the Massachusetts Pesticide Board, 333 CMR ~~10.03 (30,31)~~, as amended, with manufacturer's label instructions, and all other necessary precautions to minimize adverse impacts on surface and groundwater.
3. Industrial or commercial uses which involve the storage, use or presence of any oil, petrochemical product, pesticide, herbicide, fertilizer, or other hazardous leachable materials on any site within the ARP District, shall require a Special Permit from the Zoning Board of Appeals. A Special Permit shall be issued only upon a specific finding that the hazardous material(s) will be transported, stored, used and disposed of in a manner that will not constitute a threat to the Lawrence Swamp Aquifer. Any facility for the storage of such materials shall have secondary containment and shall be covered.

3.2225 Drainage

1. To the extent possible, runoff from impervious surfaces shall be recharged on the site by being diverted to areas covered with vegetation for surface infiltration. No more than 15% of the net runoff from a lot, calculated after development, may be diverted out of the ARP District. All detention or retention basins, ponds and similar drainage structures shall be permanently maintained in full working order by the property owner, unless otherwise specified by the permit granting authority.
2. The rendering impervious of more than 15% of the lot area or 2,500 square feet, whichever is greater, is permitted under a Special Permit, provided that a system for artificial recharge of precipitation to groundwater is developed which the Special Permit Granting Authority finds adequately protects against the degradation of groundwater quality. For non-residential uses, recharge shall be storm water infiltration basins or similar systems covered with natural vegetation. Dry wells shall be used only when other methods are infeasible. For all non-residential uses, all such basins and wells shall be preceded by oil, grease and sediments traps to facilitate removal of contamination. Any and all recharge areas, basins, wells and traps shall be permanently maintained in full working order by the property owner.

3.2226 Split Zoning

For any lot that is divided by the ARP District boundary, whose frontage is not located in the ARP District and for which a proposed use (allowed by the underlying zoning district) is restricted by either the location of the District boundary or the dimensional requirements of the ARP District, an owner may apply to the Zoning Board of Appeals, for a Special Permit for a waiver of the restrictions or dimensional requirements of the ARP District provided the Board makes the findings required in Section ~~3.2585~~ **3.2228**, 6.

3.2227 Dimensional Regulations

1. Lot Coverage

Maximum lot coverage for residentially zoned land--15%
 Maximum lot coverage for PRP zoned land--50%

2. Building Coverage

Maximum building coverage for residentially zoned land--10%
 Maximum building coverage for PRP zoned land--25%

3.2228 Special Permits/Site Plan Review in the ARP District

- 1.** For all uses which require either a Special Permit or Site Plan Review in accordance with Section 3.3, the following shall be required as part of the application submission:
- 2.** A site plan which shall show, at a minimum:
 - a.** Drainage recharge features and provisions to prevent loss of recharge.
 - b.** Erosion and sedimentation control measures.
 - c.** Provisions to prevent soil compaction.
 - d.** Measures to prevent contamination from petroleum products or hazardous chemicals.
 - e.** Provisions to prevent seepage from sewage disposal systems.
- 3. a.** In addition, for any commercial or industrial use involving hazardous materials, a written operating plan shall be filed which shall include physical and management provisions for:
 - i.** Protecting hazardous materials from vandalism.
 - ii.** Prevention of corrosion of containers or piping and subsequent leakage of hazardous materials.
 - iii.** Indoor storage of all hazardous materials.
 - iv.** Storage area features such as impervious floor surfaces with no interior drains.
 - v.** Measures to prevent hazardous materials spills during transport, transfer or use.
 - vi.** Notification, containment and clean-up in the event of hazardous materials spills.
 - vii.** Evidence of insurance, bonding, or other financial security adequate to cover the cost of containment and clean-up of hazardous materials spills.
 - viii.** The availability and feasibility of proposed disposal methods.
 - ix.** Safe storage, transfer, and disposal of accumulated hazardous waste materials.
- b.** The operating plan shall identify completely all chemicals, pesticides, fuels and other hazardous materials and estimates of the amounts of such materials to be used each month for the first two years of operation. Following approval of a permit, records shall thereafter be retained showing the actual amounts used each month.
- c.** Uses permitted by either a Special Permit or Site Plan Review shall submit two (2) copies of an annual report containing actual data for each month and describing any changes in the operation or physical conditions on the premises.

The annual report shall also describe any changes in operations or conditions expected or proposed for the upcoming year. One copy of the annual report shall be forwarded to the Board of Health. Annual reports shall be due on the anniversary of the granting of the approval, or within fourteen (14) working days of that date.

4. The applicant shall file ~~six (6)~~ **the required number of** copies of the proposed operating plan with the ~~Zoning Board of Appeals (Special Permit)/Planning Board (Site Plan Review)~~ **Permit Granting Board or Special Permit Granting Authority**. Copies will be transmitted, within 7 days, to the ZBA/Planning Board, Conservation Commission, Aquifer Protection Committee, Department of Public Works, Board of Health, and Building Commissioner, for their review and recommendations.
5. The ~~Zoning Board of Appeals and Planning Board~~ **Permit Granting Board or Special Permit Granting Authority** may require such additional information as they find necessary for adequate assessment of the proposed use. ~~The Zoning Board of Appeals and Planning Board~~ **and** may, consistent with their regulations adopted pursuant to M.G.L. Ch. 44, **Section 53G**, employ outside consultants, including, but not limited to hydrogeologists, in the review of the proposed use.
6. The **Permit Granting Board or Special Permit Granting Authority shall make** following findings ~~shall be made~~ for any approvals granted:
 - a. The ~~permit granting board shall find that the~~ proposal either is in harmony or is not in harmony with the purposes and intent of this section and must specify reasons therefore.
 - b. The ~~permit granting board shall find that the~~ proposed use provides for adequate sewage disposal and water service systems.
 - c. The ~~permit granting board shall find that the~~ proposed use will not have an adverse environmental impact on any watershed, watercourse or waterbody in the ARP District during construction.
 - d. The ~~permit granting board shall find that the~~ proposed use will not adversely affect the quality and quantity of water in the Lawrence Swamp basin.

3.229 Exemptions & Residential Development

1. Exemptions

In any instance where a property owner disputes the inclusion of their property in the ARP District, the owner may engage a professional hydrogeologist or groundwater engineer to determine if that property should be included in the ARP District based on the definition and purposes of the district and on the characteristics of the property.

Based on this determination, the property owner may apply to the Zoning Board of Appeals for a Special Permit for any use that would otherwise be permitted in the underlying zoning district but which is prohibited or constrained by the restrictions in the ARP District. Sections ~~3.2583~~ **3.2228, 4.**, and ~~3.2584~~ **3.2228, 5.** of this bylaw shall apply to all applications for exemption under this section. The Board shall find, based on Sections ~~3.251~~ **3.2221** and ~~3.252~~ **3.2222**, that the property either is or is not exempt from the provisions of Section ~~3.25~~ **3.222** and may therefore issue a Special Permit.

2. Residential Development

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

Residential subdivisions requiring approval under M.G.L. Ch. 41, The Subdivision Control Law, shall be laid out as cluster developments in accordance with Section 4.3 of the Zoning Bylaw.

3.223 Farmland Conservation (FC) District

3.2230 General

The Farmland Conservation District is an overlay district and shall be superimposed on other districts established by this Bylaw. Restrictions and prohibitions of land use in the underlying districts shall remain in full force and shall not be modified by the conditions of the FC District unless superseded by the restrictions and conditions of the FC District.

3.2231 Establishment of District

The Farmland Conservation District shall consist of those geographic areas shown as FC District on the Official Zoning Map. This District is configured to include those lands which, by virtue of their soils, acreage, location adjacent to and contiguous with other farmland forming discrete blocks, and lack of protection under existing zoning, comprise the critical farmland areas of the Town of Amherst.

3.2232 Purpose

The purposes of the Farmland Conservation District are to:

- 1.* Promote and protect the practice and continued economic viability of farming through conservation of those lands on which farming is most viable while allowing development of other portions of farm properties for residential and other non-farming use;
- 2.* Maintain an adequate base of agricultural land and activity in Amherst to help ensure the continued economic viability of local farming and thereby contribute to the continued availability of agricultural support services;
- 3.* Preserve the continued economic value of land for farmers and farmland owners by retaining portions of farm properties as developable for residential and other non-farm purposes, thereby supporting the continued economic viability of individual farms and farming in Amherst;
- 4.* Preserve the culture and landscape of farming, which help define the character of Amherst

3.2233 Residential Development

- 1.* Residential subdivisions requiring approval under M.G.L., Ch. 41, Subdivision Control Law, shall be laid out as cluster developments in accordance with the provisions of this section and Section 4.3, Cluster Development, or as open space community developments in accordance with Section 4.5, Open Space Community Development (OSCD), of the Zoning Bylaw.
- 2.* Cluster developments in the FC District shall conform to the provisions of Sections ~~3-284~~ **3.2234** and ~~3-285~~ **3.2235** of this bylaw.
- 3.* For flag lots with frontage located outside the FC District and a majority of lot area within the FC District, the lot area requirements for these lots are as follows:

Minimum lot area 20,000 sq. ft.
Maximum lot area 30,000 sq. ft.

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

3.2234 Standards for ~~Planning Board~~ Site Plan Review (SPR)

The ~~Planning Board~~ **Permit Granting Board** shall grant Site Plan Review (SPR) Approval for a cluster development in the FC District provided it finds that, in addition to meeting the provisions of Section 11.2 and 11.3 of the Zoning Bylaw, the proposed use conforms to the provisions of Section ~~3.285~~ **3.2235**, Farmland Conservation Development Standards and Section 4.38, Cluster Development Design Standards, of this Bylaw.

3.2235 Farmland Conservation Development Standards

- I.* To the maximum practical extent, all buildings and roads shall be located on that portion of the site with soils least suitable for the production of crops or livestock. This provision shall not apply to the location of on-site septic disposal facilities, which must be placed in soils meeting the Massachusetts Environmental Code.
 - a.* To assist the ~~p Permit g Granting b Board~~ **Permit Granting Board or Special Permit Granting Authority** in making its determination, copies of the application and site plan shall be transmitted to the ~~Farm Committee~~ **Agricultural Commission**, which shall have thirty-five (35) days to report its findings. Upon notification by the ~~p Permit g Granting b Board~~ **Permit Granting Board or Special Permit Granting Authority**, the ~~Farm Committee~~ **Agricultural Commission** shall assemble an expert panel consisting of professional agronomists, soils scientists and other qualified professionals to evaluate and report on the suitability of soils, including but not limited to the historical uses thereof, and the overall agricultural viability of the farm property, consistent with the purposes of the bylaw. Failure to report in the allotted time shall constitute approval by the ~~Farm Committee~~ **Agricultural Commission**. The ~~p Permit g Granting b Board~~ **Permit Granting Board or Special Permit Granting Authority** may grant at least one extension of this time period in response to a written request from the ~~Farm Committee~~ **Agricultural Commission** for such an extension based on a need for additional time resulting from parcel size, project complexity, time of year, or other factors.
 - b.* The ~~p Permit g Granting b Board~~ **Permit Granting Board or Special Permit Granting Authority** may, consistent with its regulations adopted pursuant to M.G.L., Ch. 44, **Section 53G**, engage the service of independent professional agronomists, soils scientists, or other qualified consultants at the cost of the applicant, to assist in evaluating a site or project.
- 2.* Individual or multi-unit community septic systems may be allowed in cluster developments in the FC District where public sanitary service is not reasonably available, subject to Board of Health approval, conditions and restrictions.
- 3.* Within the common land provided in the Cluster Development, a maximum of 5,000 square feet per dwelling unit shall be set aside as usable open space for active and passive recreation.

Upon request of the applicant, the ~~Planning Board~~ **Permit Granting Board or Special Permit Granting Authority** may waive or modify this maximum, where such a change would be consistent with the purposes of this Bylaw. In making ~~their~~ **its** decision, the ~~Planning Board~~ **Permit Granting Board or Authority** shall consider whether the maximum feasible amount of common land has been set aside as permanently preserved farmland, while maintaining adequate amounts of usable open space for active and passive recreation for the Cluster Development.

- 4.* Common land set aside as permanently preserved open farmland shall have appropriate contiguous acreage, configuration and access to enable continued viable farmland operations.
- 5.* All roadways, drainage systems and utilities shall be laid out in a manner so as to have the least possible impact on adjacent or on-site agricultural lands or uses.
- 6.* No building containing dwelling units shall intrude into a minimum 150 foot buffer strip separating residential uses from adjacent or on-site farmland. Said buffer strip

may include private property and Common Land. The ~~p Permit g Granting b~~ **Board or Special Permit Granting Authority, as applicable**, may reduce this distance requirement where screening, substantial vegetation, land contour or other features of the site are deemed to provide sufficient buffering, and where such a change is consistent with the purposes of this Bylaw. An exception to this distance requirement shall be permitted for no more than one (1) dwelling unit associated with the management and operation of agricultural uses of the farmland. Said dwelling unit shall be included in the maximum number of lots provided for under Section 4.327.

7. The ~~p Permit g Granting b~~ **Board or Special Permit Granting Authority, as applicable**, may approve the use of portions of the 150 foot buffer strip between the residential and farmland portions of a cluster development as usable open space for the recreational use of cluster development residents, provided the board or authority determines such use will not impact adversely on adjacent farming activity and is consistent with Section 4.31 of the Zoning Bylaw.
8. Every reasonable effort shall be made to maintain views of open agricultural lands from nearby public ways.
9. Each dwelling unit and structure shall be integrated into the existing landscape through use of building placement, landform treatment and screening.
10. Applicants are encouraged to site dwelling units and other structures:
 - a. Within any woodland contained on the parcel;
 - b. Into woodlands along the edges of fields;
 - c. In locations where new construction can be visually screened or absorbed into natural vegetative or topographic features;
 - d. In locations where the greatest number of units can take advantage of solar heating, summer breezes, vegetative wind screens, and other climatic site characteristics that can be utilized through siting and design.

3.23 Residential Special Districts

3.230 Planned Unit Residential Development (PURD) District.

~~This~~ **The PURD District** is an overlay district and shall be superimposed on the other districts as indicated in Table 2 Development Methods in this Bylaw. See Section 4.4, Planned Unit Residential Development.

3.24 Business Special Districts

3.240 Municipal Parking (MP) District

See Section 7.4 of this Bylaw for Purpose and Requirements.

3.241 Research & Development (RD) District

3.2410 General

The Research & Development (R&D) District is an overlay district and shall be superimposed on other districts established by this Bylaw. Restrictions and prohibitions of land use in the underlying districts shall remain in full force and shall not be modified by the conditions of the R&D District unless superseded by the restrictions and conditions of the R&D District.

3.2411 Establishment of District

The Research & Development (R&D) District shall consist of those geographic areas shown as R&D District on the Official Zoning Map. This District is configured to include those lands which, by virtue of their location with respect to institutions of higher learning, transportation corridors, utilities, village centers, services, and other factors, are appropriate for the siting of research, development, and testing businesses.

3.2412 Purpose

The purposes of the Research & Development (R&D) District are to:

1. Facilitate and promote the establishment, development, and expansion of information-and technology-intensive research and development businesses in Amherst.
2. Provide opportunities for the establishment of research and development businesses, including but not limited to those derived from or associated with the research and testing activities of departments or agencies of the University of Massachusetts, Amherst College, and Hampshire College.
3. Require that any research and development businesses established in Amherst are located, designed, and operated in conformance with all federal, state and local regulations regarding public health and safety.
4. Expand employment opportunities for Amherst residents in the fields of research and development.
5. Broaden and diversify the community's property tax base.

3.2413 Permit Required

Within the R&D District, any uses under Sections 3.372.0 and 3.372.1 directly involved or associated with research, development and testing activities, including any associated accessory light manufacturing which would otherwise be regulated in the underlying zoning district under a Special Permit (SP) by the Zoning Board of Appeals shall instead be regulated under Site Plan Review (SPR) approval by the Planning Board. An exception shall be any accessory research or testing to be conducted outdoors, which shall require a Special Permit granted by the Special Permit Granting Authority authorized to act under the applicable section of the Bylaw.

3.2414 Review Period

Notwithstanding the provisions of Sections 10.323 and 11.230, within the R&D District, the Fire Chief, Building Commissioner, Board of Health, Town Engineer, and Conservation Department shall have forty-five (45) days to report their findings on any application made under Sections 3.372.0 and 3.372.1 which involves the use, production or storage of materials identified as flammable, toxic, hazardous or explosive.

- B. **Amend Articles 2, 3, 4, 10 and 11, by re-numbering all references to subsections of Section 3.22 that are located in existing sections elsewhere in the Bylaw, by deleting the ~~lined-out~~ language and adding the language in bold italics, as follows:**

Section 2.25

- 2.25 For boundary interpretations in the Flood Prone Conservancy district, see also Section 3.22~~3~~**01**, 3.22~~4~~**02** [Note: the number 4 is lined out], 3.22~~5~~**03**, and 3.22~~7~~**05** of this Bylaw.

Section 3.11

- 3.11 Building Near Ponds

No permanent structure shall be located within 100 feet of any pond or Surface Water Impoundment of flood retention area without a Special Permit from the Zoning Board of Appeals permitting such structure within 100 feet. Such Permit shall not be issued unless the Zoning Board of Appeals takes into consideration the following in addition to the findings required by Section 3.220, if applicable, and by Article 10.

Section 4.360 (Cluster Review and Approval Process)

- 4.360 Approval shall be by Site Plan Review by the Planning Board, in accordance with the standards set forth in Section 11.2 and 11.3, with the purposes of Cluster Development as set forth in Sections ~~3.28~~ **3.223** and 4.31, as applicable, and with the design requirements of Section ~~3.285~~ **3.2235** and 4.38, as applicable.

Section 4.536 (OSCD farm buffer zone)

- 4.536 A buffer zone of private property, common land and/or usable open space for active or passive recreation shall be provided along any edge of the residential portion of an OSCD that abuts adjacent or on-site farmland, in accordance with Sections ~~3.2855 and 3.2856~~ **3.2235, 6. and 7.**

Section 4.57

4.57 Open Space Community Development (OSCD) Design Requirements

- 4.570 Within an Open Space Community Development (OSCD), a minimum of 2,000 square feet per dwelling unit shall be usable open space for active and passive recreation. Usable open space shall be defined to include contiguous open space developed and available for play areas, tot lots, gardens, off-road trails (including but not limited to hiking, jogging, bridle and bicycle trails, as well as those paths and easements which provide access or connection to such trails, regardless of location), ball or playing fields, basketball or tennis courts or similar facilities as are appropriate to the needs of the development. Usable open space shall not include parking areas, roadways, sidewalks or land within wetlands as determined by the Conservation Commission (except as hereinafter provided). Up to 40 percent of total usable open space may be located in an FPC District and/or wetlands, as appropriate to the intended recreation use(s), in accordance with the provisions of Section 3.220, and as permitted by the Conservation Commission.
- 4.571 The design requirements of Section 4.38, Cluster Development Design requirements, shall apply to an OSCD.
- 4.572 For an OSCD within the FC district, the design requirements of Section ~~3.285~~ **3.2235** shall apply. For an OSCD outside of the FC District, the provisions of Sections ~~3.2850, 3.2853, 3.2854, 3.2857~~ ~~3.2859~~ **3.2235, 1., 4., 5., 8., 9. and 10.** shall apply.

Section 10.390 (Special Permit Findings)

- 10.390 The proposal ensures protection from flood hazards as stated in Section ~~3.228~~ **3.2206**, considering such factors as: elevation of buildings; drainage; adequacy of sewage disposal; erosion and sedimentation control; equipment location; refuse disposal; storage of buoyant materials; extent of paving; effect of fill, roadways or other encroachments on flood runoff and flow; storage of chemicals and other hazardous substances.

Section 11.2418 (Site Plan Review Criteria/Design Guidelines, Environmental)

- 11.2418 Protection from flood hazards as stated in Section 3.2206, considering such factors as: elevation of buildings; drainage; adequacy of sewage disposal; erosion and sedimentation control; equipment location; refuse disposal; storage of buoyant material; extent of paving; effect of fill, roadways or other encroachment on floor runoff and flow; storage of chemicals and other hazardous substances.

Action taken 11/5/2014

**ARTICLE 5. Petition – Zoning Amendment – Inclusionary Zoning (Maurianne Adams et al)
DEFEATED Yes 110, No 79**

To see if the Town will vote to Amend Section 15.10 of the Amherst Zoning Bylaw by adding the language in *boldface italics*.

SECTION 15.1 REGULATIONS

To ensure the purposes of this section, the following regulations shall apply to residential development in Amherst:

15.10 All residential development requiring a Special Permit *for any aspect of a proposed use or development, including, but not limited to, dimensional modifications*, and resulting in additional new dwelling units shall provide affordable housing units at the following minimum rates:

<u>Total Development Unit Count</u>	<u>Required Affordable Unit Provision</u>
1-9 units	None*
10-14 units	Minimum one (1) dwelling unit
15-20 units	Minimum two (2) dwelling units
21 units	Minimum 12% of total unit count

*While provision of affordable units is not required for developments containing 1-9 units under this section, the Bylaw encourages affordability and provides for incentives. See Section 4.33 and 4.55.

Where two or more units are required to be provided under this section, a minimum of forty-nine percent (49%) of affordable units shall be eligible and countable for the purpose of the Commonwealth's 40B Subsidized Housing Inventory (SHI) or its successor. Calculation of the number of total affordable units or the number of SHI-eligible units shall, if the required percent of the total results in a fraction, be rounded up to the next whole number where the fractional portion is less than 0.5.]

Action taken 11/5/2014.

(A motion to refer to the Planning Board for further study was defeated, Yes 83, No 107)

ARTICLE 6. Petition – Certification for Fluoridation of Amherst Town Water (Muthoni C. Magua et al)

DEFEATED

[That the town meeting request that the Select Board, in their role as the Water Commissioners for the Town, direct the Town Manager to arrange for testing of every shipment of fluoride obtained from whichever supplier utilized, China or otherwise, and provide certified documentation that shall be supplied to the Board of Health, the Department of Public Works, and the public that: The product is free from toxic heavy metals, by which is meant the undiluted fluoride powder is tested by an independent EPA certified U.S. based laboratory using Inductively Coupled Plasma-Mass Spectrometry (ICP-MS) instrumentation with part per trillion resolution and found to contain no more than 1 part per billion for each of the following: lead, arsenic, aluminum, strontium, tungsten, mercury, and uranium. The detailed reporting of such will be posted on the Department of Public Works website, as soon as the test results become available and no later than January 15, 2015.]

Action taken 11/5/2014

The business of the warrant having been completed, the meeting voted to dissolve at 10:51 p.m. on November 5, 2014. 197 town meeting members were checked in.

Attest:

Sandra J. Burgess
Town Clerk