



FINANCE COMMITTEE REPORT AND RECOMMENDATIONS FOR THE NOVEMBER 8, 2010 SPECIAL TOWN MEETING

Traditionally, the Finance Committee Report includes the full text of the warrant articles. Because this warrant includes some very long zoning articles, those articles are not repeated in this report in order to reduce printing and mailing expenses. Please refer to the Warrant from the previous mailing for the wording of articles not repeated in this report.

When the Finance Committee submitted its report to Annual Town Meeting, we expressed our concern about the projections for the state's finances in Fiscal Year 2012 and the possible consequences for the aid that it provides to local communities. Amherst depends upon the state for 22% of its revenue.

While local property taxes have been predictable and stable, state aid has been unpredictable and varies from year to year. In prior periods when state revenue declined, we could use reserves to supplement that revenue source. We did so through FY 09. We used a small amount of reserves in FY 10 and none in FY 11. This is an unprecedented period. With the expectation of further reductions in FY 12, we will have four years of successive state aid reductions.

The size of the reduction for FY 12 is unknown, but it will depend upon whether voters approve initiatives on the November 2 state election ballot (Questions 1 and 3) that will reduce sales tax rates and revenues. The Massachusetts Taxpayers Foundation advises communities to assume a 12.5% reduction from the present year if these voter initiatives fail, and a 30% reduction if they pass. We project that without the reduction in sales tax, taxing to the levy limit established by the 2010 override, and no use of reserves, Amherst faces a \$2.17 million deficit in FY 12. This is likely to double if Question 3 passes. This will be another difficult budget year as we seek to find additional revenue and further reductions in expenditures to eliminate this deficit.

The Commonwealth's financial dilemma

The state faces a structural deficit for FY 12 of at least \$2 billion. Even with modest improvements in the economy, state tax revenues in FY 11 would be barely above FY 10 without the increase of the sales tax from 5% to 6.25%. With the additional sales tax, total tax revenues were less than FY 08 and barely greater than FY 09. State aid to towns and cities was reduced by 19% from FY 09 to FY 11, three consecutive years of reductions. The state used its reserves and stimulus funds from the federal government to pay even this reduced amount. Both of those sources of funds are depleted and will not be available in FY 12. If the sales tax continues to be based upon the 6.25% rate, the state faces a \$2 billion deficit in the next year.

It is therefore reasonable to project an extraordinary and unprecedented fourth year of reduction in state aid for FY 12, with no reduction in state sales tax revenue. However, this report is being written before the November 2 election when voters will consider two propositions that would reduce sales tax rates and revenues. The most extreme proposal is Question 3, which would reduce the sales tax from 6.25% to 3%, effective January 1. That would reduce revenues by \$1 billion in the present year and by \$2.5 billion in FY 12. That is additional to the \$2 billion deficit projected with no change in the tax rate.

Such a reduction in revenue and the Commonwealth's financial condition would have a substantial impact on the state's ability to help local communities, including Amherst.

Amherst's financial health

The Town has to manage its finances to meet its needs with the resources available to it. It has done so responsibly as was recognized by Standard & Poors when it conducted the bond rating review last year and assigned a rating of "AA With A Stable Outlook."

The Town ended FY 10 with a modest (unaudited) surplus of \$712,793. That is 1.1% of the total town budget, a remarkably small variance for an enterprise of our size. It is likely that revenues and expenses will never perfectly match projections. The small size of the variance demonstrates that our Town is managed very well. We are fortunate that the variance ended up as a surplus to add to the Free Cash portion of our reserves.

Each year Town Meeting allocates a Reserve Fund to the Finance Committee which is then used to supplement any deficits in budgets as originally voted. The amount appropriated for that fund in FY 10 was \$100,000, which is the amount usually set aside for that purpose. In July, the Finance Committee transferred \$60,328 from that fund to Community Services to cover a deficit in the Veterans' Benefits budget. There were more claims and benefits due than projected when the FY 10 budget was adopted. The state will reimburse the Town for 75% of that amount which will be additional revenue in a future year. The \$36,672 remaining in the Reserve Fund is transferred into the Free Cash account.

The FY 11 budget was balanced with a combination of additional cuts and new resources, most notably the override passed by the voters in March. Three amendments to the current budget (FY 11) will be presented as Article 4 and are explained below.

FY 12 budget process

We have already explained the challenge for the next year. It will be particularly difficult for the Amherst and the Regional Schools as the stimulus and Education Jobs Fund grants that replaced part of the reduction in Chapter 70 funds will not be available again. Some of the Education Jobs Fund grant can and will be carried over for use in the next year.

The Finance Committee will issue preliminary guidelines for the development of budgets in early November. We will establish targets for the Schools, Region, Library, and municipal services and provide guidance for the format and content of budgets. The Budget Coordinating Group is a forum for the Finance Committee, the elected policy boards for the schools, town, and library, and the chief executive and financial officers to share information and coordinate the development of budgets. An essential component of the BCG is the coordination of the calendar to assure that all processes enable the Finance Committee to develop and present a balanced budget for your consideration at the Annual Town Meeting in May.

There are several ways to remain informed and involved in this process. The government section of the Town web site has a budget page and sections for the Finance Committee and the Budget Coordinating Group. Finance Committee meetings are public, televised later on ACTV, and available for viewing in the Meetings on Demand section of the ACTV web site. Budget Coordinating Group agenda, minutes, and meeting summaries are posted on the Town web site.

The Finance Committee welcomes your questions and comments. Communications by email should be directed to fincom@amherstma.gov. Finance Committee Members:

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

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

RECOMMENDED by a Finance Committee vote of 7-0.

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

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.

RECOMMEND DISMISSAL by Finance Committee vote of 7-0

This is a standard article on all Town Meeting Warrants to allow Town Meeting approval to pay any bills that for any of a variety of reasons were not paid before the books for a fiscal year were closed and for which no funds were encumbered. It is apparent that there are no unpaid bills and dismissal is therefore appropriate.

**ARTICLE 3. Atkins Corner Project Easements
(Department of Public Works)**

To see if the Town will vote to supplement and confirm the votes taken under Article 7 of the 2007 Annual Town Meeting and Article 5 of the 2009 Annual Town Meeting and authorize the Select Board to acquire, by gift, purchase, or eminent domain, for public way purposes in connection with the Atkins Corner intersection project, the fee to and related construction, drainage, utility and other easements in the properties identified below and shown on a plan entitled “Plan of Land in the Town of Amherst, Hampshire County, Bay Road, West Bay Road and West Street, altered and laid out by the Town of Amherst,” dated May 2009 and recorded with the Hampshire Registry of Deeds in Plan Book 223, Plan 18, and on a plan entitled “Temporary Easement Plan in the Town of Amherst, Hampshire County, Bay Road, West Bay Road and West Street, altered and laid out by the Town of Amherst,” dated February 2009 and recorded in Plan Book 223, Plan 11.

<i>Grantor</i>	<i>Property Address</i>	<i>Interest Acquired by Town</i>	<i>Book and Page</i>
Ronald A. Jacque and Deborah G. Jacque	1260 West Street	Temporary Construction Easement	Book 10173, Page 119
Michael D. Moriarty and Ashley Moriarty	1240 West Street	Temporary Construction Easement	Book 10173, Page 124
Apple Brook West,	1194 West	Temporary	Book 10173,

FINANCE COMMITTEE REPORT – SPECIAL TOWN MEETING 11/8/10

LLC	Street	Construction Easement	Page 127
Richard D. Konicek and Kathleen J. Moran	1034 West Street	Temporary Construction Easement	Book 10173, Page 132
Dorothy Lashway	11 Mountain View Circle	Temporary Construction Easement	Book 10173, Page 136
Michael A. Lesy and Lisa C. Stouffer	10 Mountain View Circle	Temporary Construction Easement	Book 10173, Page 139
Seymour Epstein and Alice H. Epstein, Trustees of Balderwood Realty Trust	Bay Road	Deed of Fee and Easements	Book 10173, Page 194
Hampshire Village II Community Corporation	Rambling Road	Deed of Fee and Easements	Book 10173, Page 203
David C. Kelly and Allan C. McNeely	1184 West Street	Deed of Fee and Easements	Book 10173, Page 207
National Yiddish Book Center, Inc.	1021 West Street	Deed of Fee and Easements	Book 10180, Page 31
Orchard Run Associates	West Street	Deed of Fee and Easements	Book 10173, Page 62
Atkins Peach-Berry Hill, Inc.	West Street	Deed of Fee and Easements	Book 10173, Page 62
Hampshire College	West Street	Deed of Fee and Easements	Book 10173, Page 62
Valley Properties Land Trust	West Street	Deed of Fee and Easements	Book 10173, Page 62

RECOMMENDED by a Finance Committee vote of 6-0, 1 absent.

Article 3 is a housekeeping matter. Town Meeting already authorized the acquisition of easements needed for the road improvements at Atkins Corner. The current Town Counsel recommends different language that corrects wording and formatting for these easements than was originally authorized. The easements

themselves are unchanged and there are no direct financial consequences, though there is a financial benefit to the elimination of legal risk from easements that are not optimally worded.

**ARTICLE 4. FY 11 Budget Amendments
(Finance Committee)**

- A. To see if the Town will amend the budget voted under Article 9 of the 2010 Annual Town Meeting (FY 2011 Operating Budget) to transfer a sum of money from General Government to Public Safety to balance the 2011 Fiscal Year.

RECOMMENDED by a Finance Committee vote of 7-0.

When Annual Town Meeting approved the FY 11 operating budget in May, negotiations with the firefighters union on a new contract were concluding. The funds needed to pay any increases that might result from the negotiations were included in the General Government budget. This motion would transfer \$205,832, the exact amount needed for negotiated wage adjustments, from General Government to Public Safety.

- B. To see if the Town will amend the budget voted under Article 9 of the 2010 Annual Town Meeting (FY 2011 Operating Budget) for the Elementary Schools by reducing the appropriation by \$113,124.

RECOMMENDED by a Finance Committee vote of 7-0.

In May, Annual Town Meeting voted an elementary school budget for FY 11 which included state aid that was 4% less than the amount received in FY 10. State officials had informed the Town that the aid would be an unspecified combination of Chapter 70 aid and State Fiscal Stabilization Funds received as a grant. Since the percentage of each was not known at the time, Town Meeting voted on the assumption that all state aid would be Chapter 70. Instead, \$113,124 will come as a State Fiscal Stabilization Funds grant. Grants can be spent without appropriation by Town Meeting. Therefore, the FY 11 elementary school appropriation should be reduced by \$113,124. The elementary schools will still have the same total amount of money to spend.

- C. To see if the Town will appropriate and transfer \$66,347 from Free Cash in the Undesignated Fund Balance of the General Fund to the Health Claims Trust Fund 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.

RECOMMENDED by a Finance Committee vote of 7-0.

The Town, including its elementary schools, the Town of Pelham and the Regional Schools provide health benefits to employees through a Health Claims Trust Fund (HCTF), which is administered by the Town. Medicare Part D, enacted in 2003, reimburses health care insurers, including our HCTF, for approximately 28% of eligible prescription drug costs incurred by subscribers. The state Department of Revenue requires that the money go to the Town of Amherst General Fund. Since the payments for the prescriptions came from the HCTF and since it would not be right for Amherst to keep all of the reimbursement, this part of the article asks to appropriate \$66,347 from Free Cash (where the reimbursement will be when Free Cash is certified next year) to the Health Claims Trust Fund where it rightfully should be. Annual Town Meeting in 2009 accomplished this transfer for

FINANCE COMMITTEE REPORT – SPECIAL TOWN MEETING 11/8/10

Fiscal Years 2008 and 2009. The Special Town Meeting in fall 2009 did the same thing for Fiscal Year 2010. A similar motion will be presented annually at every fall Special Town Meeting.

ARTICLE 5. Capital Program – Bond Authorization (Joint Capital Planning Committee)

To see if the Town will appropriate \$4,500,000 to pay costs of repairing various roadways throughout the Town and for the payment of all costs incidental and related thereto, and to determine whether this amount shall be raised by borrowing in accordance with Chapter 44, Section 7 of the General Laws or pursuant to any other enabling authority.

RECOMMENDED by a Finance Committee vote of 6-0, 1 absent.

This expense is already in the Capital Plan, is consistent with Financial Policy, and is a prudent means to manage the allocation of capital funds. The road bond would be funded for FY 12 and beyond within the amount of money to be allocated to capital from the levy, which funds cash-funded capital projects and debt service. The Joint Capital Planning Committee, which prioritizes projects, determined that our roads are a high priority. It is prudent to issue these bonds when interest rates are low, and doing so now will enable work to begin in 2011. This debt obligation will not require a larger future allocation to the capital budget that would reduce operating budgets.

ARTICLE 6. M.G.L. Chapter 32B, Section 20 – Other Post Employment Benefits Liability Trust Fund (Finance Committee)

To see if the Town will vote to accept the provisions of M.G.L. c. 32B, § 20 that allows the Town to establish an Other Post Employment Benefits Liability Trust Fund and a funding schedule for the fund.

RECOMMENDED by a Finance Committee vote of 7-0.

OPEB, or “Other Post Employment Benefits” liabilities, are comprised almost exclusively of estimated future healthcare insurance premiums for retired employees. The Town currently funds current retiree health costs on a “pay as you go” basis as part of the annual budget appropriation. FY 09 was the first year that the Government Accounting Standards Board (GASB) required cities and towns to calculate and quantify this unfunded liability earned by current employees on municipal balance sheets. Setting up an OPEB Trust Fund is the first step in preparing to fund the OPEB liability in a more cost effective manner over the long term by combination of budget appropriations and investment earnings from an OPEB Trust Fund. A future Town Meeting would be asked to consider and approve any appropriations into such a trust fund.

ARTICLE 7. Community Preservation Act (Community Preservation Committee)

- A. To see if the Town will: (a) authorize the Select Board to acquire from John J. and Susan M. Stosz, by gift, purchase, or eminent domain, a certain parcel of land located north of East Leverett Road, containing a total of 5.60 acres, more or less, and identified on Assessors Map 3B Parcel 80 of the Town Cadastre, which parcel shall be under the care, custody, management and control of the

FINANCE COMMITTEE REPORT – SPECIAL TOWN MEETING 11/8/10

Amherst Conservation Commission in accordance with G.L. Chapter 40, Section 8C for conservation and passive recreation purposes; (b) appropriate the sum of \$150,000 for the acquisition of said parcels and costs related thereto, of which \$45,000 shall be transferred from the Community Preservation Fund annual revenues and the remaining \$105,000 shall be borrowed in accordance with G.L. Chapter 44B, the Community Preservation Act, and further authorize the Treasurer, with the approval of the Select Board, to issue any bonds or notes that may be necessary for that purpose, as authorized by G.L. Chapter 44, or any other enabling authority; (c) authorize the Town Manager, the Select Board, and/or the Conservation Commission, as they deem appropriate, to file any and all applications under the LAND Program (G.L. Chapter 132A, Section 11) and/or any other applications for funds in any way connected with the scope of this acquisition, and enter into and execute any and all agreements and instruments on behalf of the Town as may be necessary or appropriate to effectuate said acquisition; and (d) further, authorize the Select Board and/or the Conservation Commission to convey a perpetual conservation restriction on said parcels in accordance with G.L. Chapter 184, as required by G.L. Chapter 44B, Section 12(a).

RECOMMENDED by a Finance Committee vote of 7-0.

The acquisition of the Stosz property on East Leverett Road will be an important addition of open space land in an area where the Town already has assembled other properties as open space. It will be funded by a combination of Community Preservations Funds and grants. Recommending allocation of Community Preservation Funds is a responsibility of the Community Preservation Act Committee. The Finance Committee concluded that this expenditure is an appropriate use of these funds.

- B. To see if the Town will appropriate and transfer a sum of money from FY 2011 Community Preservation Fund annual revenues to the Open Space Reserve.

RECOMMENDED by a Finance Committee vote of 7-0.

The Community Preservation Act requires that a minimum of 10% of CPA funds be used each year for open space purposes. After the Annual Town Meeting, that requirement had not been met for FY 11. If Town Meeting approves Part A of this Article, that requirement will be met and the Community Preservation Act Committee intends to recommend the dismissal of this part of the Article. Should Town Meeting not support the motion under Part A, FY 11 funds must be transferred into the Open Space Reserve to meet the minimum allocation required for that purpose. In either event, these are appropriate actions.

- C. To see if the Town will appropriate a sum of money from the Community Preservation Fund Affordable Housing Reserve to hire a consultant to research the means of preserving the affordability of the Rolling Green Apartments and to represent the Town in negotiations with the owners to acquire, create, and/or support community housing.

RECOMMENDED by a Finance Committee vote of 7-0.

Rolling Green Apartments include a significant number of subsidized rental units. When it was originally constructed, the financing required that these units be maintained as affordable housing for a determined period that is scheduled to end in the next couple of years. This is referred to as an “expiring use.” This part of the article will allocate \$25,000 from the Community Preservation Fund to hire a consultant to research the means by which these units can be continued as affordable. Affordable housing is a goal in the Master Plan, and these units are essential to meeting the minimum requirement of MGL Chapter 40B. Recommending allocation of Community Preservation Funds is a responsibility of the Community

Preservation Act Committee. The Finance Committee concluded that this expenditure is an appropriate use of these funds.

**ARTICLE 8. Zoning Amendment - Development Modification
(Planning Board)**

Please refer to the warrant for the text of this article.

RECOMMENDED by a Finance Committee vote of 6-0, 1 absent.

This Article proposes adoption of a Development Modification Bylaw and other amendments intended to replace the current Phased Growth Bylaw. Phased Growth was rendered unconstitutional by a 2004 Supreme Judicial Court decision and will “sunset” permanently on November 15. The proposed new Bylaw includes guidelines from the Phased Growth Bylaw and adds new community criteria consistent with the Master Plan. Applications to develop multi-unit residential or mixed use projects will be reviewed according to a point system that reflects values the Town wishes to promote and subtracts points for aspects of proposals the Town wishes to discourage. Projects could be increased in size or made smaller as a result. There will be little additional burden on staff because, as has been the case under Phased Growth, the applicant will have the initial responsibility to generate proposals according to the point system. The Planning Department has tested the proposed system on five projects to assure that it is manageable and performs as expected.

**ARTICLE 9. Zoning Amendment - Accessory Livestock or Poultry
(Planning Board)**

Please refer to the warrant for the text of this article.

Referral to the Planning Board RECOMMENDED by a Finance Committee vote of 7-0.

This Article would modify the criteria for residents to raise or keep livestock or poultry. The Planning Board intends to move that the Article be referred back to the Planning Board for further study.

**ARTICLE 10. Zoning Amendment - Farm Stands & Farmland
(Planning Board)**

Please refer to the warrant for the text of this article.

RECOMMENDED by a Finance Committee vote of 6-0, 1 absent.

This Article will amend a zoning bylaw related to farm stands and farmland to respond to changes in state law. This is a technical change. The Finance Committee supports changes in zoning bylaws needed to comply with applicable law.

**ARTICLE 11. Zoning Amendment - Medical Use Definitions
(Planning Board)**

To see if the Town will amend Sections 12.251 and 12.252, by deleting the ~~lined-out~~ language and adding the language in ***bold italics***, as follows:

12.251 Medical center: ***An aggregate of medical, dental, psychiatric group practices, or medical offices, or both, Two (2) or more medical group practices, or an equivalent aggregation of medical offices, operating in the same building or on the same property, which may also contain associated principal or accessory uses such as diagnostic testing facilities, physical therapy, therapeutic or counseling services, pharmacies, medical supply retailers, and similar uses. A medical center shall not include medical residential facilities.***

12.253 Medical group practice: A medical, dental, or psychiatric practice ***larger than a medical office, including the full time equivalent of four (4) or more principal health care providers, and three (3) or more other medical or dental professionals, exclusive of and administrative or clerical staff, providing services on the premises. A medical group practice and its principal health providers shall offer medical services within one area of medical practice (ex., general practice, orthopedics, cardiology, obstetrics and gynecology, oncology, etc.) or within a small number of closely related areas of medical practice, and may also contain in-house diagnostic testing facilities, medical counseling services, and similar services, or may be associated with other similar accessory or complementary principal uses in the same building.***

RECOMMENDED by a Finance Committee vote of 7-0.

This Article will amend two definitions in the Zoning Bylaw. The clarification will assist with the application of the Bylaw and encourage appropriate development.

**ARTICLE 12. Town and School Purchasing Food From Local Farms
(Agricultural Commission)**

Whereas, the Town of Amherst has a long history of supporting local farms and agriculture, most recently evidenced by the adoption of a local Right-to-Farm bylaw;

Whereas, the citizens of Amherst value good nutrition especially for our children and recognize that food grown close to home by people we trust is likely to be safer, fresher and therefore more nutritious;

Whereas, Amherst is located in the Pioneer Valley of the Connecticut River, an area rich with agricultural communities and excellent farming operations;

Whereas, escalating climate change, diminishing supplies of readily available and inexpensive fossil fuels, and continued economic stress may be at least partially ameliorated by increasing availability and consumption of local foods.

Therefore, be it resolved that, pursuant to the Uniform Procurement Act MGL c.30B,§4(d) it is the stated preference of the Town of Amherst that all governmental bodies, including the town's schools, make every effort to purchase agricultural products, grown or produced as part of a Massachusetts farming operation, with preference given to farmers in the town and nearby communities when appropriate and

allowed by law. This preference extends to stating such a preference when any governmental body is advertising for bids or contracts for purchases of agricultural products of \$25,000 or more.

RECOMMENDED by a Finance Committee vote of 7-0.

This article will establish a mandate for the Town and Schools to preferentially purchase food from local farms. The experience of other schools and towns around Massachusetts that have adopted similar policies has demonstrated that a preferential purchase of food from local sources is, overall, expense neutral. Additionally, the Finance Committee supports this Article because it will expand markets for farm businesses in Amherst and increase the general welfare and vitality of an important component of Amherst's economic base.

**ARTICLE 13. Petition – Dog Welfare
(Vickers)**

To see if the Town will adopt the following general bylaw:

In order to enhance the quality of life of citizens and dogs in the Town of Amherst, and to protect the general public from damage and nuisance that may be caused by dogs confined outdoors, this bylaw prohibits the continuous outside confinement or tethering of dogs between the hours of 11:00 p.m. and 7:00 a.m. and prohibits the confinement or tethering of dogs outside for more than eight (8) total hours in any 24-hour period except when certain conditions are met.

Prolonged Confinement of Dogs Outside

(A) Prolonged Chaining or Tethering of Dogs is Prohibited.

No person owning or keeping a dog in the town shall chain or tether a dog to a stationary object including but not limited to any structure, dog house, pole or tree for longer than eight (8) total hours in any 24-hour period. Any tethering employed shall not allow the dog to leave the owner/guardian's or keeper's property. The tether must be designed for dogs (e.g., logging chains and other lines or devices not for the purpose of tethering dogs may not be used). No chain or tether shall weigh more than one-eighth (1/8) of the dog's body weight. Nothing in this section shall be construed as prohibiting a person from walking a dog on a hand-held leash.

No dog under the age of six (6) months shall be tethered outside for any length of time.

(B) Permissible Outside Confinement.

A person owning or keeping a dog in the town may confine such dog outside for up to eight (8) total hours in a 24-hour period through the use of any of the following three methods:

(1) Inside a pen or secure enclosure, if the following conditions are met:

- (a) The pen or secure enclosure has adequate space for exercise with a dimension of at least one hundred (100) square feet. Commercial dog kennels with pens intended for the temporary boarding of dogs are exempt from this requirement.
- (b) The pen or secure enclosure is constructed with chain link or other similar material as determined by the Building Inspector, with all four (4) sides enclosed.
- (c) The minimum height of the fence is adequate to successfully confine the dog.

- (2) A fully fenced, electronically fenced, or otherwise securely enclosed yard, wherein a dog has the ability to run but is unable to leave the enclosed yard.
- (3) A trolley system or a tether attached to a pulley on a cable run, if the following conditions are met:
- (a) Only one dog may be tethered to each cable run.
 - (b) The tether must be attached to a properly fitting collar or harness worn by the dog, with enough room between the collar and the dog's throat through which two (2) adult fingers may fit. Choke collars and pinch collars are prohibited for the purposes of tethering a dog to a cable run.
 - (c) There must be a swivel on at least one end of the tether to minimize tangling of the tether.
 - (d) The tether and cable run must each be at least ten (10) feet in length. The cable must be mounted at least four (4) feet but not more than seven (7) feet above ground level.
 - (e) The length of the tether from the cable run to the dog's collar or harness must allow continuous access to clean water and appropriate shelter at all times as described in paragraph (C) of this bylaw. The trolley system or tether must be of appropriate configuration to confine the dog to the owner/guardian's or keeper's property, to prevent the trolley system or tether from extending over an object or an edge that could result in injury or strangulation of the dog, and to prevent the trolley system or tether from becoming tangled with other objects or animals.

(C) Access to Water and Shelter.

Any person owning or keeping a dog in the town confined outside in accordance with Paragraph (B) of this section must provide the dog with access to clean water and an appropriate dog shelter. The dog shelter must allow the dog to remain dry and protected from the elements. Such shelter shall be fully enclosed on at least three sides, roofed, and have a solid floor. The entrance to the shelter shall be flexible to allow the dog's entry and exit, and sturdy enough to block entry of weather elements. The shelter shall contain clean bedding and be small enough to retain the dog's body heat and large enough to allow the dog to stand, lie down, and turn comfortably. The enclosure shall be structurally sound and in good repair. Suitable drainage must be provided so that water, ice, or waste is not standing in or around the shelter.

(D) No Outside Confinement at Night.

No person owning or keeping a dog in the town may leave a dog chained, tethered or confined outside between the hours of 11:00 p.m. and 7:00 a.m.

(E) Exceptions to Outdoor Confinement.

Exceptions to the above restrictions on outdoor confinement shall be made for dogs actively engaged in conduct directly related to the business of shepherding or herding cattle or other livestock or conduct that is directly related to the business of cultivating agricultural products, if the restraint is reasonably necessary for the safety of the dog.

(F) Cruel Conditions and Inhumane Chaining or Tethering are Prohibited.

No person owning or keeping a dog in the town may subject the dog to cruel conditions or inhumane chaining or tethering at any time. Cruel conditions and inhumane chaining or tethering are defined but not limited to the following conditions:

- (1) Filthy and dirty confinement conditions, including but not limited to exposure to excessive animal waste, garbage, dirty water, noxious odors, dangerous objects that could injure or kill the dog upon contact, or other circumstances that could cause harm to the dog's physical or emotional health.
- (2) Taunting, prodding, hitting, harassing, threatening or otherwise harming a tethered or confined dog.

- (3) Subjecting the dog to dangerous conditions, including attack by other animals.

(G) Violations and Penalties

Any person owning or keeping a dog in the town who violates any provisions of this ordinance are subject to the following penalties and enforcement actions:

- (1) First violation. Violator will be subject to a warning only unless the town deems conditions warrant a penalty, in which case the violator will be subject to a fine of fifty dollars (\$50.00) and must meet remediation requirements set forth by the town no later than ten (10) calendar days after the violation. Failure to satisfy the conditions of the first violation shall immediately subject the violator to a second violation.
- (2) Second violation. Violator will be subject to a fine of one hundred dollars (\$100.00) and must meet remediation requirements set forth by the town no later than ten (10) calendar days after the violation. Failure to satisfy the conditions of the second violation shall immediately subject the violator to a third violation.

Third violation. Violator will be subject to a fine of three hundred dollars (\$300.00), impoundment of the dog in the town's shelter at the owner/guardian's expense pending compliance with the by-law, and potential loss of ownership of the dog.

NO RECOMMENDATION by a Finance Committee vote of 7-0.

This proposed Bylaw will assist the Animal Welfare Officer and the Police to protect the welfare of animals and the safety of the community. The intent is not to generate fines. There is no likely increase in the time of the Animal Welfare Officer to enforce the Bylaw, and it may actually save time. There is no apparent financial impact from this proposal.

ARTICLE 14. Petition – Bring Dollars Home

(Hooke)

WHEREAS, the financial resources available for use by governments at the local, county, state and federal levels in the United States are limited, and

WHEREAS, an inordinate level of military expenditure is being spent by the U.S. federal government for warfare in Iraq, Afghanistan and Pakistan, and

WHEREAS, the people of Amherst, Massachusetts are collectively paying or becoming indebted for \$128.7 million since these wars' inception in 2001, (National Priorities Project) not including funds requested in 2010, of their limited financial resources for such warfare, and

WHEREAS, this warfare creates great and unnecessary harm to the people of Iraq, Afghanistan and Pakistan and to U.S. military personnel and their families, and

WHEREAS, the education services, medical care, housing, other essential public services, infrastructure repairs, and family and private sector financing in Amherst and throughout the Commonwealth of Massachusetts have been substantially reduced in order for an excessive portion of available financial resources to be diverted from the constructive economy to unnecessary warfare,

THEREFORE BE it resolved that Amherst Special town Meeting 2010:

FINANCE COMMITTEE REPORT – SPECIAL TOWN MEETING 11/8/10

- 1) Call for a public discussion in the Town of Amherst about the cost of the wars in Iraq and Afghanistan/Pakistan to our community to education, transportation, security and basic citizen needs, and
- 2) Call on Representative John Olver and Senators John Kerry and Scott Brown
 - a) to oppose all legislation brought before the U.S. House of Representatives and Senate that provides further funding for the U.S. warfare and military occupation in Iraq, Afghanistan and Pakistan (while still supporting funds for reconstruction), and
 - b) to take strong and forceful action to influence the full House of Representatives to terminate funding of these military occupations, and
 - c) to sign onto and support resolutions that prohibit any increase in the number of troops in Afghanistan.

And be it further resolved that copies of this Resolution be sent to the President of the United States, the United States Senators from Massachusetts, and the United States Representative from Massachusetts' First District.

NO RECOMMENDATION by a Finance Committee vote of 6-1.

This proposed Resolution is, in part, based upon findings by an independent group that federal expenditures for wars in Iraq and Afghanistan have affected the funds available to support the Town and initiatives valued in our community. The Finance Committee could not conclude that this link was sufficiently direct and identifiable to warrant taking a position on the Article.