

RESULTS
ANNUAL TOWN MEETING
May 2, 4, 9, 11, 16, 18, 23 and 25, 2011

The meeting was televised by Amherst Community Television and shown on the government channel.

The 253rd Annual Town Meeting was called to order by the Moderator, Harrison Gregg at 7:38 p.m. There were 251 town meeting members. 126 checked in and a quorum was declared. The call and the return of the warrant were read by Town Clerk, Sandra J. Burgess.

The Town Moderator was sworn to the faithful performance of his duties. The Moderator swore in newly elected and re-elected town meeting members.

The Moderator recognized Ms. Katherine Appy on her election to the School Committee, and Ms. Stephanie O'Keeffe and Ms. Diana Stein on their re-election to the Select Board.

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 on 5/2/2011

Margaret Roberts gave a report for the Town Meeting Coordinating Committee.

ARTICLE 2. Transfer of Funds – Unpaid Bills (Select Board)

DISMISSED [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 on 5/2/2011

ARTICLE 3. Optional Tax Exemptions (Select Board)

VOTED unanimously to authorize a maximum additional exemption of up to 100 percent for taxpayers qualifying for exemption under Chapter 59, Section 5, Clauses 17D, 22, 37A, or 41C of the Massachusetts General Laws.

Action taken on 5/2/2011

ARTICLE 4. Adjust MGL c59 §5K Senior Property Tax Work-off Exemption (Select Board)

VOTED to adjust the exemption provided for under Chapter 59, Section 5K, by allowing an approved representative, for persons physically unable, to provide such services to the town.

Action taken on 5/2/2011

ARTICLE 5. Right of Way and Easements Boltwood Place (Select Board)

VOTED unanimously to authorize the Town Manager to grant to Western Massachusetts Electric Company a permanent easement on portions of two Town-owned parcels of land located off of Main Street, which parcels are described more particularly in deeds recorded with the Hampshire Registry of Deeds in Book 2134, Page 287 and Book 6171, Page 321, and which portions to be subject to the easement are shown on the plan entitled “‘Proposed Easement’ Plan of Land in Amherst, Massachusetts, prepared for Archipelago Investments LLC,” dated April 5, 2011, prepared by Harold L. Eaton and Associates, Inc., on file with the Town Clerk, for the transmission of intelligence and the furnishing of electric service to the property located at 43-51 North Pleasant Street and shown on Assessors Map 14A as Parcel 48, on such terms and conditions, and for such consideration, which may be nominal consideration, as the Town Manager deems appropriate.

Action taken on 5/2/2011

ARTICLE 6. Acquire Right of Way - Meadow Street Reconstruction (Select Board)

VOTED to authorize the Select Board to acquire, by gift, purchase or eminent domain, for public way purposes in connection with the Meadow Street reconstruction project, the fee to and/or related construction, drainage, utility and other easements in, on, under and across certain parcels of land, all as shown on the plans entitled “Reconstruction and related work on Meadow Street,” prepared by the Amherst Department of Public Works, which are on file with the office of the Town Clerk.

Action taken on 5/2/2011

ARTICLE 7. Acquire Right of Way and Easements - Main Street Reconstruction (Select Board)

VOTED unanimously to authorize the Select Board to acquire, by gift, purchase or eminent domain, for public way purposes in connection with the Main Street reconstruction project, the fee to and/or related construction, drainage, utility and other easements in, on, under and across certain parcels of land, all as shown on the plans entitled “Reconstruction and related work on Main Street,” prepared by the Amherst Department of Public Works, which are on file with the office of the Town Clerk.

Action taken on 5/2/2011

ARTICLE 8. Acquire Rights of Way and Easements - Wildwood Safe Routes to School Project (Select Board)

VOTED unanimously to authorize the Select Board to acquire, by gift, purchase or eminent domain, for public way purposes in connection with the Wildwood Safe Routes to School Project, the fee to and/or related construction, drainage, utility and other easements in, on, under and across certain parcels of land, all as shown on the plans entitled "Wildwood Safe Routes to School Plan," prepared by the TEC, Inc., which are on file with the office of the Town Clerk.

Action taken on 5/2/2011

ARTICLE 9. Authorization for Compensating Balances (Select Board)

VOTED unanimously to accept the provisions of Chapter 44, Section 53F of the Massachusetts General Laws, which authorize the Treasurer to enter into written agreements with banking institutions pursuant to which the Treasurer agrees to maintain funds on deposit in exchange for banking services.

Action taken on 5/2/2011

ARTICLE 10. FY 2011 Budget Amendments (Finance Committee)

A. VOTED to amend the action taken under Article 9 of the 2010 Annual Town Meeting – Fiscal Year 2011 Operating Budget by increasing the appropriations and the amounts to be raised by taxation for Community Services by \$100,000, and to meet such increased appropriation by decreasing the appropriation and the amount to be raised by taxation for Public Safety by \$100,000.

Action taken on 5/2/2011

B. DISMISSED [To see if the Town will amend the action taken under Article 10 of the 2010 Annual Town Meeting (Reserve Fund) and appropriate and transfer a sum of money from Free Cash in the Undesignated Fund Balance of the General Fund.]

Action taken on 5/2/2011

ARTICLE 11. Retirement Assessment (Select Board)

VOTED unanimously to raise and appropriate \$3,256,793 for the Hampshire County Retirement System assessment.

Action taken on 5/2/2011

ARTICLE 12. Regional Lockup Assessment (Select Board)

VOTED to raise and appropriate \$31,323 for the Hampshire County Regional Lockup Facility assessment.

Action taken on 5/2/2011

ARTICLE 13. Amherst-Pelham Regional School District Assessment Method (Amherst-Pelham Regional School Committee)

VOTED to approve following the existing Amherst-Pelham Regional School District Agreement for allocating the total amount to be contributed by each member town of the District for Fiscal Year 2012 as required by Section VI of the Regional Agreement.

Action taken on 5/2/2011

The Moderator swore in the following town meeting members as tellers for the duration of the May 2, 2011 Annual Town Meeting: Nancy Gordon, Hilda Greenbaum, Nonny Burack, James Pistrang, James Scott, and H. Oldham Brooks.

ARTICLE 14. FY 2012 Operating Budget (Finance Committee)

COMMUNITY SERVICES

VOTED Yes 92; No 75 to raise and appropriate \$1,575,402 for Community Services.

Original vote taken on 5/2/2011

[A motion to increase the amount to \$1,580,152 was defeated by a Tally Vote: Yes 64, No 100]

Reconsideration on 5/9/2011

On May 9, 2011 a motion was made to reconsider the Community Services functional area. The motion to reconsider passed by a tally vote, Yes 93, No 72.

Upon reconsideration Town Meeting voted to increase the Community Services budget by \$65,250. A tally vote was taken on the motion to increase. Article 14 – Community Services reflects the increased amount voted.

At 10:40 pm on May 2, 2011, town meeting voted to adjourn to Wednesday, May 4, 2011 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 185 town meeting members were checked in.

The May 4, 2011 session was called to order by the Town Moderator, Harrison Gregg, at 7:44 p.m. 126 town meeting members were checked in.

Ms. O’Keeffe, Chair of the Select Board moved to consider Article 24 on Monday, May 16, at 7:30 p.m. Town Meeting passed the motion.

PUBLIC SAFETY

VOTED unanimously to appropriate \$8,497,470 for Public Safety and that to meet such appropriation \$6,390,108 be raised by taxation and \$2,107,362 be transferred from the Ambulance Receipts Reserved for Appropriation Account.

Action taken on 5/4/2011

PUBLIC WORKS

VOTED unanimously to raise and appropriate \$1,941,230 for Public Works.

Action taken on 5/4/2011

CONSERVATION AND DEVELOPMENT

VOTED to raise and appropriate \$885,862 for Conservation and Development.

Action taken on 5/4/2011

[Several motions were made to decrease the appropriation for Conservation and Development: O’Connor by \$30,000; Franklin by \$51,172; Eddings by \$80,255; and Greeney by \$140,789. Rules of Order for Town Meeting, Section 7, provide that when two or more motions are made with regard to the same subject relating to sums of money, numbers or times, the question shall first be put upon the largest sum or number, and the longest time. Accordingly Town Meeting voted first on the Finance Committee motion. The Finance Committee motion having passed the amendments to decrease the appropriation failed by default.]

At 10:24 p.m. on May 4, 2011, town meeting voted to adjourn to Monday, May 9, 2011 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 176 town meeting members were checked in.

The May 9, 2011 session was called to order by the Town Moderator, Harrison Gregg, at 7:44 p.m. 126 town meeting members were checked in.

Ms. O’Keeffe, Chair of the Select Board, moved to consider Article 20, on Wednesday, May 11, at 7:30 p.m. Town meeting passed the motion.

A motion was made to reconsider the Community Services functional area. The motion to reconsider passed by a tally vote, Yes 93, No 72.

ELEMENTARY SCHOOLS

VOTED to raise and appropriate \$20,758,598 for the Amherst Elementary Schools.

Action taken on 5/9/2011

At 10:07 p.m. on May 9, 2011, town meeting voted to adjourn to Wednesday, May 11, 2011 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 174 town meeting members were checked in.

The May 11, 2011 session was called to order by the Town Moderator, Harrison Gregg, at 7:57 p.m. 126 town meeting members were checked in.

Town Meeting elected Susan Audette to serve as Temporary Clerk for the May 11, 2011 session of the May 2, 2011 Annual Town Meeting.

Ms. Audette was sworn to the faithful performance of her duties by the Moderator, Harrison Gregg.

Town Meeting began with consideration of Article 20 – Community Preservation Act

GENERAL GOVERNMENT

VOTED unanimously to appropriate \$6,091,477 for General Government, that the salary of the Moderator be fixed at \$100, that of the Select Board at \$300 each, that of the Elector under the Oliver Smith Will at \$20, and that to meet such appropriation, \$5,992,262 be raised by taxation and \$99,215 be transferred from the Ambulance Receipts Reserved for Appropriation Account.

Action taken on 5/11/2011

DEBT SERVICE

VOTED unanimously to appropriate \$1,890,852 for payment of the Town’s General Fund indebtedness, and to meet such appropriation \$1,670,157 be raised by taxation, \$175,851 be appropriated and transferred from Community Preservation Fund annual revenues, and \$44,844 be appropriated from Wildwood School Roof Reserved for Debt Service Account.

Action taken on 5/11/2011

REGIONAL SCHOOLS

VOTED to approve the Amherst-Pelham Regional School District operating and capital budget of \$28,214,835 and that the Town raise and appropriate \$13,506,166 as its share of that budget.

Action taken on 5/16/2011

WATER FUND

VOTED unanimously to appropriate \$3,685,975 for the Water Fund and that to meet such appropriation \$3,441,432 be made available from Water Fund revenues of the current year and \$244,543 be transferred from Water Fund Surplus.

Action taken on 5/16/2011

SEWER FUND

VOTED to appropriate \$3,432,604 for the Sewer Fund and that to meet such appropriation \$3,194,205 be made available from Sewer Fund revenues of the current year and \$238,399 be transferred from Sewer Fund Surplus.

Action taken on 5/16/2011

LIBRARY SERVICES

VOTED unanimously to approve the Library Services operating budget of \$2,192,736, and that the Town raise and appropriate \$1,644,736 as its share of that budget.

Action taken on 5/18/2011

SOLID WASTE FUND

VOTED unanimously to appropriate \$549,716 for the Solid Waste Fund and that to meet such appropriation \$537,000 be made available from Solid Waste Fund revenues of the current year and \$12,716 be transferred from Solid Waste Fund Surplus.

Action taken on 5/18/2011

TRANSPORTATION FUND

VOTED to appropriate \$977,045 for the Transportation Fund and that to meet such appropriation \$888,357 be made available from Transportation Fund revenues of the current year and \$88,688 be transferred from Transportation Fund Surplus.

Action taken on 5/18/2011

ARTICLE 15. Reserve Fund (Finance Committee)

VOTED unanimously to raise and appropriate \$100,000 for the Reserve Fund for FY 2012.

Action taken on 5/18/2011

ARTICLE 16. Capital Program – Chapter 90 (Joint Capital Planning Committee)

VOTED unanimously to authorize the expenditure of the sum of \$500,000 of Chapter 90 funds for qualifying purposes and further authorize the Treasurer to borrow in anticipation of reimbursement of these funds from the Commonwealth of Massachusetts.

Action taken on 5/18/2011

ARTICLE 17. Capital Program – Equipment (Joint Capital Planning Committee)

VOTED unanimously to raise and appropriate \$790,604 to purchase, repair, and/or install new or replacement equipment, and to meet such appropriation, \$720,604 be raised by taxation, and \$70,000 be transferred from the Ambulance Receipts Reserved for Appropriation Account.

Action taken on 5/18/2011

ARTICLE 18 Capital Program – Buildings & Facilities (Joint Capital Planning Committee)

VOTED to raise and appropriate \$505,500 to repair and/or improve buildings and facilities, and to meet such appropriation, \$466,500 be raised by taxation, and \$39,000 be appropriated from Overlay Surplus.

Action taken on 5/18/2011

[A motion was made to reduce the amount to be raised and appropriated by \$50,000. In accordance with Section 7 of the Rules of Order for Town Meeting, a vote was first taken on the higher amount. The vote for the higher amount passed and the motion to amend failed by default.]

ARTICLE 19. Capital Program – Bond Authorization Centennial Water Treatment Plant
(Joint Capital Planning Committee)

VOTED unanimously to appropriate \$4,000,000 for the purpose of making repairs and improvement to the Centennial Water Treatment Plant, including the extension of a sewer line to the plant, and to meet that appropriation, authorize the Treasurer, with approval of the Select Board, to borrow such amount.

Action taken on 5/18/2011

ARTICLE 20. Community Preservation Act (Community Preservation Act Committee)

A.

1. **VOTED** to appropriate from Community Preservation Act Fund Estimated Revenues a sum of \$70,000 for Community Preservation Act Affordable Housing Purposes Items 1-3, in terms of the Article.

	Project	Total Appropriation	Source of Appropriation
	AFFORDABLE HOUSING		
1	Habitat for Humanity 1 unit to be built on Belchertown Road	\$40,000	\$40,000 from CPA FY12 Estimated Revenues
2	Appraisal and Surveys	\$20,000	\$20,000 from CPA FY12 Estimated Revenues
3	Hawthorne House Feasibility Study (total project \$20,000, \$10,000 from Historic Preservation)	\$10,000	\$10,000 from CPA FY12 Estimated Revenues
	Total Affordable Housing	\$70,000	

Action taken on 5/11/2011

- 2a. **VOTED** to appropriate from Community Preservation Act Fund Estimated Revenues a sum of \$20,000 for Community Preservation Act Historic Preservation Purposes, item 4, in terms of the Article.

	HISTORIC PRESERVATION		
4	Consultant to oversee and complete 8 or more projects previously funded by CPA funds	\$20,000	\$20,000 from CPA FY12 Estimated Revenues

Action taken on 5/11/2011

- 2b. **VOTED** to appropriate from Community Preservation Act Fund Estimated Revenues a sum of \$288,600 for Community Preservation Act Historic Preservation Purposes, items 5-13, in terms of the Article.

	HISTORIC PRESERVATION		
5	Hawthorne House Feasibility Study (total project \$20,000, \$10,000 from Affordable Housing)	\$10,000	\$10,000 from CPA FY12 Estimated Revenues
6	Amherst Historical Society Structural and Feasibility Study	\$35,000	\$35,000 from CPA FY12 Estimated Revenues
7	Hope Church Roof Rehab, Foundation and Drainage Work	\$45,000	\$45,000 from CPA FY12 Estimated Revenues
8	North Amherst Community Farm Repairs for stabilization of Large Barn, Structural Evaluation and Feasibility Study	\$25,000	\$25,000 from CPA FY12 Estimated Revenues
9	Jones Library Conservation of Historic Paintings	\$15,000	\$15,000 from CPA FY12 Estimated Revenues
10	North Amherst Library Foundation Restoration	\$10,000	\$10,000 from CPA FY12 Estimated Revenues
11	Jones Library Chimney Restoration	\$113,000	\$113,000 from CPA FY12 Estimated Revenues
12	Kimball House Historic Preservation 575 North East street (5 th and final year)	\$25,600	\$25,600 from CPA FY12 Estimated Revenues
13	Archival Material Conservation & Restoration: Town Clerk - special collections	\$10,000	\$10,000 from CPA FY12 Estimated Revenues
	Total Historic Preservation	\$288,600	

Action taken on 5/11/2011

3. **VOTED** to appropriate from Community Preservation Act Fund Estimated Revenues a sum of \$50,000 for Community Preservation Act Recreation Purposes item 14, in terms of the Article.

	RECREATION		

14	Multi-use Bike Path Connecting UMass with North Amherst Feasibility Study	\$50,000	\$50,000 from CPA FY 12 Estimated Revenues
	Total Recreation	\$50,000	

Action taken on 5/11/2011

4. **VOTED unanimously** to appropriate from Community Preservation Act Fund Estimated Revenues a sum of \$1,500 for Community Preservation Act Administrative Purposes, item 15 in terms of the Article.

	ADMINISTRATIVE		
15	To Fund CPC Administrative Expenses.	\$1,500	\$1,500 from CPA FY 12 Estimated Revenues
	Total Administrative	\$1,500	

Action taken on 5/11/2011

B.

VOTED unanimously to appropriate from Community Preservation Act Fund Balance a sum of \$200,000 as a “Budgeted Reserve” for Community Preservation Act purposes.

Action taken on 5/11/2011

C.

VOTED unanimously to: (a) authorize the Select Board to acquire from John J. and Susan M. Stosz, by gift, purchase, or eminent domain, a portion of a certain parcel of land located north of Market Hill Road, and identified on Assessors Map 3C Parcel 19 of the Town Cadastre, which portion contains 17 acres, more or less, and shall be under the care, custody, management and control of the Amherst Conservation Commission in accordance with M.G.L. Chapter 40, Section 8C for conservation and passive recreation purposes, and subject to certain easements and/or other rights to be reserved by the owners (b) appropriate the sum of \$150,000 for the acquisition of said parcels and costs related thereto from the Community Preservation Act fund balance, and further authorize the Treasurer, Town Manager, Select Board and/or the Conservation Commission to 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 M.G.L. Chapter 184, as required by M.G.L. Chapter 44B, Section 12(a).

Action taken on 5/11/2011

Ms. O’Keeffe nominated James Pistrang to serve as Moderator Pro Tem for the duration of the May 16, 2011 session. No other nominations being received, Ms. O’Keeffe cast a ballot for James Pistrang.

At 10:02 p.m. on May 11, 2011, town meeting voted to adjourn to Monday, May 16, 2011 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 165 town meeting members were checked in.

The May 16, 2011 session was called to order by the Moderator Pro Tem, James Pistrang, at 7:38 p.m. 126 town meeting members were checked in.

James Pistrang, Moderator Pro Tem, was sworn to the faithful performance of his duties.

Town meeting resumed with consideration of Article 24.

ARTICLE 21. Authorize Transfer of Land at Wentworth Farm (Conservation Commission)

VOTED unanimously to transfer the care, custody and control of two certain parcels of land located on Old Farm Road, which parcels are a portion of the land described in a deed recorded with the Hampshire Registry of Deeds in Book 3222, Page 13 and approximately shown as Parcels A and B on a sketch plan entitled “Wentworth Farm” and on file with the Town Clerk, from the School Committee and from any other board currently having custody of said parcels for school and general municipal purposes to the Conservation Commission for the following purposes: (a) to transfer the parcel shown on said plan as Parcel A for open space purposes and for the purpose of conveying an agricultural preservation restriction thereon, as required by the 2007 Mitigation Agreement entered into between the Town and the Department of Agricultural Resources, and to authorize the Conservation Commission to convey said restriction on such terms and conditions as the Conservation Commission deems appropriate, and (b) to transfer the parcel shown on said plan as Parcel B for conservation purposes.

Action taken on 5/18/2011

At 10:03 p.m. on May 18, 2011, town meeting voted to adjourn to Monday, May 23, 2011 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 152 town meeting members were checked in.

The May 23, 2011 session was called to order by the Town Moderator, Harrison Gregg, at 7:46 p.m. 126 town meeting members were checked in.

Town Meeting resumed with consideration of Article 22 – Free Cash.

ARTICLE 22. Free Cash (Finance Committee)

VOTED to appropriate and transfer \$65,250 from Free Cash in the Undesignated Fund Balance of the General Fund to balance the 2012 Fiscal Year Budget.

Action taken on 5/23/2011

ARTICLE 23. Stabilization Fund (Finance Committee)

VOTED unanimously to DISMISS [To see if the Town will appropriate and transfer a sum of money from the Stabilization Fund to balance the Fiscal Year 2012 Budget.]

Action taken on 5/23/2011

ARTICLE 24. Authorize Term of Lease for Old Landfill (Select Board)

VOTED to authorize the Town Manager to lease all or any portion of the Old Landfill across Belchertown Road from the existing Transfer Station from time to time by one or more leases for such term of years up to 30 years and for such consideration as the Town Manager shall determine, for the purpose of installing and operating thereon a solar array for electric power generation and distribution, and to authorize the Town Manager to grant such easements in, on, under and across over said land for utility and access purposes, as reasonably necessary to install and operate such a solar array, and further to authorize the Town Manager to enter into a power purchase agreement with any lessee of such property to purchase all or a portion of the electricity production of the solar array and to enter into an agreement with the local utility to participate in the Net Metering program pursuant to the Acts of 2008, c. 169, §78, the so-called Green Communities Act, as may be amended.

Action taken on 5/16/2011

[Two motions to amend Article 24 were defeated]

At 10:07 p.m. on May 16, 2011, town meeting voted to adjourn to Wednesday, May 18, 2011 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 196 town meeting members were checked in.

The May 18, 2011 session was called to order by the Town Moderator, Harrison Gregg, at 7:46 p.m. 126 town meeting members were checked in.

Town Meeting resumed with consideration of Article 14 – Library Services.

ARTICLE 25. Authorize West Street Land Acquisition - Community Development Block Grant
(Community Development Committee - CDC)

VOTED unanimously to (1) authorize the Select Board to acquire, by gift, purchase or eminent domain, for affordable housing purposes, a parcel of land located on West Street, identified on Assessors Map 22B as Lot 1, and being the second tract of land described in a deed recorded with the Hampshire Registry of Deeds in Book 990, Page 481, owned by Dorothy A. Lashway, Roberta C. Britt, Beverly E. Savage, and Leonard R. Hebert, (2) authorize the Town Manager and/or his designee to file on behalf of the Town any and all applications for funds in any way connected with the scope of this acquisition and accept gifts of funds therefor; and (3) further, authorize the Select Board, the Town Manager, and/or such other boards as may be appropriate, to enter into all agreements and execute any and all instruments to effectuate said purchase.

Action taken on 5/23/2011

ARTICLE 26. Bylaw Amendment – Wetlands Protection (Conservation Commission)

VOTED to amend Section V and Section VI of the Town of Amherst Wetlands Protection Bylaw, adding the language in bold italics, as follows:

A. Amend Section V. as follows:

Any person filing a permit application or a RFD with the Commission at the same time shall give written notice thereof, by certified mail (return receipt requested), ***or certificates of mailing***, or hand delivered, to all abutters at their mailing addresses shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line of the applicant, including any in another municipality or across a body of water.

B. Amend Section VI. as follows:

Any person filing a permit application or RFD with the Commission shall provide a copy thereof at the same time, by certified mail (return receipt requested), ***or certificates of mailing***, or hand delivery, to the zoning board, planning board, health inspections, town engineer and building commissioner.

Action taken on 5/23/2011

ARTICLE 27. Bylaw - Adoption of Stretch Energy Code (Select Board)

VOTED unanimously to adopt the “Stretch Energy Code” set forth in the State Building Code at 780 CMR 120.AA (i.e., Appendix 120.AA), as may be amended from time to time, and to amend the Town of Amherst General Bylaws by inserting a new Article entitled “Stretch Energy Code” in Article IV, Regulations Relating to Real Estate and Real Estate Users, as set forth below:

Stretch Energy Code

1. Adoption. The Town of Amherst has adopted the provisions of 780 CMR 120.AA (i.e., Appendix 120.AA of the State Building Code or the “Stretch Energy Code”), as may be amended from time to time, in place of the provisions set forth under 780 CMR 13.00, 34.00, 61.00 and 93.00.

2. Purpose. The purpose of the Stretch Energy Code shall be to provide the Town with a more energy efficient alternative to the base energy code otherwise set forth under the State Building Code.

Action taken on 5/23/2011

The Moderator swore in the following town meeting members as tellers for the: Robert Kusner, Judy Simpson, and Adrienne Terrizzi.

ARTICLE 28. Zoning Amendment – Duplexes (Planning Board)

DEFEATED Yes 81, No 49 (failed to obtain two-thirds vote)

[To see if the Town will amend Section 3.321 and Article 12 by deleting the ~~lined-out~~ language and adding the language in **bold italics**, as follows:

A. Amend Section 3.321, as follows

3.321 Two family detached dwelling (*duplex*)

3.3210 Class I Duplex

Zoning Districts

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

Standards & Conditions

For a Class I Duplex, one (1) or both of the two (2) dwelling units shall be occupied by a resident owner.

3.3211 Class II Duplex

Zoning Districts

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
SP	SP	SP	SP	<i>N</i>	<i>N</i>	<i>N</i>	<i>N</i>	SPR	<i>N</i>	<i>N</i>	<i>N</i>	<i>N</i>	<i>N</i>
(N)	(N)												

Standards & Conditions

In a Class II Duplex, neither dwelling unit is occupied by a resident owner. The Special Permit Granting Authority or Permit Granting Board, as applicable, may require the presence of an on-site resident manager as a condition of approval.

[For Sections 3.3210 and 3.3211, inclusive]

In all districts, the Special Permit Granting Authority or Permit Granting Board, as applicable, shall apply the provisions of Sections 3.2040 and 3.2041 to any construction, renovation, or expansion resulting in the creation of a new two family detached dwelling or the addition of a single new dwelling unit to an existing single family residence such that a two family detached dwelling (*duplex*) is created.

Where the two dwelling units are arranged side by side, said units shall either share at least one common wall abutting habitable space on both sides, or, the Special Permit Granting Authority or Permit Granting Board, as applicable, may allow a duplex where the two units do not share a common wall abutting habitable space, but are instead connected structurally and continuously by a shared foundation, walls, and roof. The Special Permit Granting Authority or Permit Granting Board may make such an allowance only following a review and determination that the design of the proposed duplex is compatible with the architecture of the surrounding neighborhood.

B. Amend Article 12, as follows:

12.12 Dwelling Unit, **Two Family Detached (Duplex):** A *single residential* building containing two dwelling units, arranged *vertically* one above the other, or *horizontally* side by side, each with a separate entrance.]

Action taken on 5/23/2011

ARTICLE 29. Zoning Amendment – Residential Parking Requirements (Planning Board)
DEFEATED Yes 78, No 42 (failed to obtain two-thirds vote)

[To see if the Town will amend Sections 7.00 and 7.1 of the Zoning Bylaw, as follows:

A. Amend Section 7.00 by reorganizing sentences, deleting the ~~lined-out~~ language, and adding the language in **bold italics** as follows:

7.00 In all districts except Educational Districts, off-street parking spaces shall be provided and maintained in connection with the construction, conversion or increase in *dwelling* units or dimensions of buildings, structures or use. ***The provisions of this section shall apply to parking spaces for cars, vans, light trucks, and similar vehicles used predominantly for personal transportation. Parking for commercial vehicles or vehicles used for private or public transit shall be governed under the provisions of Sections 7.1, 7.3 and 7.5. ~~such~~ Except as may be otherwise required by the Permit Granting Board or Special Permit Granting Authority, as applicable, parking spaces ~~to~~ shall be provided in at least the following minimum amounts.***

7.000 For dwellings, including apartments:

7.0000 Residential parking required:

1. ***In the B-G, B-L abutting B-G, B-VC, B-N, R-G and R-VC districts - One (1) parking space per dwelling unit, except in the Municipal Parking District or as may be otherwise provided under this Bylaw.***
2. ***In all districts where the following residential uses are allowed - One (1) parking space per dwelling unit for accessory supplemental apartments, caretaker/manager apartments accessory to commercial uses, town houses, apartments, and buildings containing dwelling units in combination with stores or other permitted business or commercial uses.***
3. ***In the R-N, R-O, and R-LD Districts - ~~Two~~ (2) parking spaces for each dwelling unit, except as provided for under 2., above.***

7.0001 Parking spaces for cars or similar vehicles parked in the front setback shall be on a parking paved surface such as concrete, bituminous asphalt, masonry pavers, oil and stone, gravel, trap rock, or a similar material (see Section 7.100).

7.0002 In any residential district, ~~There~~ shall be a maximum of two (2) cars or similar vehicles allowed to be parked in the front setback of any property. Any such parking shall be in marked or delineated parking spaces on paved surfaces and located so as to not obstruct or unreasonably constrict access for regular use and emergency vehicles.

B. Amend Section 7.1 by deleting the ~~lined-out~~ language and adding the language in **bold italics**, by adding a new Section 7.100, and by renumbering the remaining sections accordingly, as follows:

SECTION 7.1 DESIGN STANDARDS AND LANDSCAPE STANDARDS

The purposes of these design and landscaping requirements are to provide for: the safe and efficient flow of pedestrian and vehicular traffic; the separation of parking areas from abutting streets; visual relief from expanses of unbroken blacktop and vehicles; proper drainage and snow removal; and general visual enhancement of parking areas. Residential uses of four or fewer units shall be exempt from Sections ~~7.100~~ ***7.101*** and ~~7.101~~ ***7.102***.

7.10 Design Standards

7.100 Paving: For the purposes of this bylaw, a paved parking surface shall be considered to be one which has a prepared subgrade and compacted gravel base with a minimum total 12 inch depth, appropriate grading and drainage, and which is surfaced with a minimum 2 inch top coat of concrete, asphalt, masonry pavers, oil and stone, gravel, trap rock, or similar material, as approved or modified by the Town Engineer. To the extent feasible, permeable or porous paving shall be employed in new construction or site renovations or improvements.

~~7.100~~ ***7.101 Slope: Parking areas used for parking and vehicle maneuvering shall have grades not to exceed five percent slope.***

Driveways used exclusively for ingress or egress or interior parking lot circulation shall have slopes not exceeding 12 percent except within 30 feet of the road, in which case the slope shall not exceed 5 percent.

~~7.101~~ ***7.102 Set back from buildings: except for parking within an enclosed structure, no parking space shall be located within eight feet of a building wall. No access aisle, entrance or exit driveway shall be located within five feet of a building. Loading docks are exempt from this requirement.***

~~7.102~~ ***7.103 Dimensions, Marking & Delineation: Parking areas shall be clearly delineated and shall be provided with a permanent dust-free surface and adequate drainage. Each parking space shall be at least 9 feet x 18 feet in size, and all parking areas must have adequate access and maneuvering areas. The Zoning Board of Appeals (SP) or the Planning Board (SPR) may allow, upon application, small car parking spaces (8 feet x 16 feet) to be substituted for up to fifty percent of the standard parking spaces. Compact parking spaces shall be designated by clearly visible signs.***

In all parking areas of 8 or more parking spaces, individual spaces shall be painted, marked or otherwise delineated in a manner sufficient to visibly identify said spaces.

Curb radii, driveway width, and other such dimensions shall comply with the "Street and Site Work Construction Standards", adopted by the Select Board, as such standards may be amended, unless otherwise specified in Section 7.1, Design Standards and Landscape Standards.

Ramps between parking areas of different elevations shall not exceed 12 percent slope, with a maximum 5 percent transition slope for a minimum length of 20 feet at the upper and lower end of the ramp slope. All parking plans involving ramps shall be accompanied by profiles showing the ramp, ramp transitions, and overhead and wall clearances.

~~7.103~~ **7.104** Lighting: adequate lighting shall be provided for all parking areas of ~~10~~ **8** spaces or more if these areas are to be used at night. ~~Any illumination, including security lighting, shall be arranged so as to reflect away from adjoining properties and rights of way. Residential projects containing eight or fewer dwelling units are exempt from 7.103.~~ ***All exterior site lighting associated with parking areas shall be downcast and shall be directed or shielded to eliminate light trespass onto any street or abutting property and to eliminate direct or reflected glare perceptible to persons on any street or abutting property and sufficient to reduce a viewer's ability to see. Adjacent properties shall be protected from light intrusion through the use of cut-off luminaries, light shields, lowered height of light poles, screening or similar solutions. All exterior site lighting shall be kept extinguished outside of normal hours of use, except for lighting necessary for site security and the safety of employees and visitors, which lighting shall be activated and controlled through motion sensors or similar technology.***

7.105 Entrance and exit driveways: for parking areas containing fewer than 5 spaces, the minimum width of entrance and exit drives shall be 10 feet wide for one-way use and 18 feet wide for two-way use. For facilities containing five or more spaces, such drives shall be a minimum of 10 feet wide for one-way use and 18 feet wide for two-way use. The minimum curb radius shall be 15 feet. The maximum width of such driveways at the property line shall be 24 feet. The permit granting board may modify these width and radius limitations to facilitate traffic flow and safety.

Driveways shall be located and designed so as to minimize conflict with traffic and provide clear visibility and sight distances for the observation of approaching pedestrian and vehicular traffic. The design and layout of driveways and circulation serving parking areas of 5 or more spaces shall prevent vehicles from backing into a street in order to exit the site. Circulation design, layout, and signs associated with non-residential uses shall direct exiting vehicles in a safe and convenient manner toward main thoroughfares and away from secondary streets passing through adjacent residential neighborhoods. No portion of the driveway at the edge of the street pavement shall be closer than 75 feet from an intersection, unless allowed by the Special Permit Granting Authority or Permit Granting Board.]

Action taken on 5/23/2011

At 10:25 p.m. on May 23, 2011, town meeting voted to adjourn to May 25, 2011 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 147 town meeting members were checked in.

The May 25, 2011 session was called to order by the Town Moderator, Harrison Gregg, at 8:00 p.m. 126 town meeting members were checked in.

ARTICLE 30. Zoning Amendment – Watershed Protection (WP) District Lot Coverage
(Planning Board)

VOTED unanimously to amend Section 6.18 and Table 3, Dimensional Regulations and footnotes of the Zoning Bylaw by adding the language in ***bold italics***, as follows:

A. Amend Section 6.18, as follows:

6.18 Maximum Lot Coverage

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.

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.

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.

B. Amend Table 3, Dimensional Regulations, by adding o. as a superscript to the title of Maximum Lot Coverage (%) in Table 3, and adding the following new text to the Footnotes, as follows:

o. See Section 6.18.

Action taken on 5/25/2011

ARTICLE 31. Zoning Amendment – Permit Submission Requirement
(Zoning Bylaw - Planning Board)

VOTED unanimously to amend Section 11.220 by deleting the ~~lined-out~~ language and adding the language in ***bold italics***, as follows:

11.220 An applicant for site plan review shall file ***with the Planning Department*** an application form, fee, ~~six~~ ***the required number of*** copies of the site plan, and any additional information as may be required, ~~with the Planning Department~~ ***in the Planning Board's Rules and Regulations***. A copy of the application shall be filed with the Town Clerk ~~by the applicant~~.

Action taken on 5/25/2011

ARTICLE 32. Zoning Amendment – Filling of Land (Planning Board)

VOTED by a declared two-thirds vote to amend Sections 3.12 and 5.10 of the Zoning Bylaw, by deleting the ~~lined-out~~ language and adding the language in ***bold italics***, as follows:

A. Amend Section 3.12, as follows:

3.12 Earth Removal and Filling of Land

3.121 Any application to the Zoning Board of Appeals for a Special Permit, or to the Planning Board for ***Site Plan Review or*** Definitive Subdivision Plan Approval, as specified in Sections 3.1225, 3.1226, 3.374 and 5.10, shall include the following specific information:

3.1211 The location of the proposed excavation or filling;

3.1212 The legal name and address of the owner of the property;

3.1213 The legal name and address of the petitioner;

3.1214 Names and addresses of all abutting property owners including those on the opposite side of any streets;

3.1215 A plan of land involved prepared by a Registered Land Surveyor, showing all manmade features, property lines, vegetative cover, watercourse, drainage swales, soil characteristics and existing topography by ~~five~~ ***two*** foot contours plus a strip 100' wide surrounding said land;

3.1216 A plan of land showing ~~five~~ ***two*** foot contours of the finish grading and drainage of the site with clear identification of the top and toe slopes after the proposed completion of the excavation or filling project;

3.1217 The estimated quantity of material to be removed or added and topsoil to be stripped and replaced.

3.1218 The proposed form of bond to be used.

B. Amend Section 5.10, as follows

SECTION 5.10 FILLING OF LAND (See Sections 3.121 & 3.122)

Any filling of land accessory to the development of property, which raises the existing grade of any portion of a property 5,000 square feet or more in area by an average of two (2) feet or more, or any such filling which raises the existing grade of any portion of a property 2,000 square feet or more in an area by an average of five (5) feet or more shall require a Special Permit ***from the Special Permit Granting Authority authorized to act under the applicable section of the bylaw. Where no other permit is required under this bylaw for the proposed or existing principal use(s) of the property, such filling shall require a Special Permit from the Zoning Board of Appeals. In all cases, such filling shall be*** subject to the following conditions:

5.100 No slope created by the filling operation shall be finished at a grade in excess of the natural angle of repose of the materials.

- 5.101 All filled areas which are not to be built upon within one (1) year shall, upon completion of the operation, be covered with not less than four (4) inches of loam, brought to the finish grade, seeded and mulched in a satisfactory manner.
- 5.102 No permit for the filling of land shall be issued if such filling will: 1) endanger public health or safety; 2) constitute a nuisance; 3) result in a detriment to the normal use of the adjacent property; 4) cause significant erosion or sedimentation due to improper drainage design or management; or 5) result in traffic hazards in residential areas or excessive congestion, or physical damage on public ways.
- 5.103 In granting a permit for such an accessory use, the ~~Zoning Board of Appeals~~ **Special Permit Granting Authority** may impose reasonable requirements on grading, seeding and planting, barriers needed for public safety, control of erosion and drainage and other appropriate aspects of the use.
- 5.104 The ~~Zoning Board of Appeals~~ **Special Permit Granting Authority** may require a suitable performance bond or other security adequate to ensure satisfactory compliance with provisions of this section.

Action taken on 5/25/2011

ARTICLE 33. Petition - Zoning Bylaw – Accessory Livestock or Poultry (Gerber et al)
VOTED by a declared two-thirds vote to amend Section 5.014 and Article 12, of the Zoning Bylaw, by deleting the lined out language and adding the language in ***bold italics***, as follows:

A. **Amend Section 5.014, as follows:**

5.014 Livestock or Poultry

The raising or keeping of livestock or poultry for use by residents of the premises shall be considered as an accessory use ~~that is to residential uses in selected residential districts in Amherst, and shall not be permitted in other districts.~~ ***All livestock and poultry raised and kept as an accessory use, whether for food, as pets, or for other uses, shall be raised and kept in a safe and humane manner consistent with best agricultural practices, and shall be subject to the regulations of this section and all applicable local and state laws. The accessory raising or keeping of livestock or poultry in residential districts:***

5.0140 *Shall be* allowed by right in the Outlying Residence (**R-O**) and Low-Density Residence (**R-LD**) Districts;

5.0141 *Shall be allowed* ~~subject to approval of a Special Permit by the Board of Appeals, in the General Residence (R-G), Village Center Residence (R-VC), and Neighborhood Residence (R-N) and Residential Village Center Districts, under the following provisions: and not permitted elsewhere.~~

5.0141.0 ***Only selected domesticated fowl (hens, ducks, pigeons, and doves) and domesticated rabbits (including domesticated hares) may be raised and kept as an accessory use. On such properties, no roosters, geese, swans, turkeys, pheasants, peacocks, guinea fowl, pygmy goats, potbellied pigs, or any other livestock or poultry shall be permitted, except under the provisions of a Special Permit granted by the Zoning Board of Appeals.***

5.0141.1 ***No more than a combined total of twelve (12) total adult domesticated fowl and rabbits shall be kept on any property, regardless of the number of dwelling units. Only reproductively mature fowl and rabbits shall be considered adults counting toward this maximum.***

5.0141.2 ***Domesticated fowl and rabbits shall be confined with fencing or other secure enclosure, which enclosure and any associated sheltering structure shall be set at least ten (10) feet from any property lines and twenty (20) feet from residential structures on any adjacent property. Within such an enclosure, a minimum of ten (10) square feet of open yard area shall be provided per adult animal. Upon receipt of a signed affidavit from all owners of property affected by a setback, in which said owners agree to a specific medication, the Building Commissioner may vary the setback from the property lines in question for***

enclosures, and for sheltering structures within the height and setback limitations established for accessory structures under Section 6.15.

5.0141.3 *Within or attached to any such enclosure shall be provided a secure sheltering structure (e.g. coop, dovecote, ~~or~~ hutch, or shed as appropriate) of sufficient size to ensure the health and safety of the animals.*

5.0142 *In all cases, the accessory keeping and raising of livestock or poultry shall require registration of said livestock or poultry with the Amherst Health Department and shall permit regular inspections by the Animal Welfare Officer under applicable state and local law or regulations. All Special Permits issued under this section shall include as conditions of approval the submission of evidence of such registration.*

5.0143 *Any provision of Section 5.014, Livestock or Poultry, may be waived or modified under a Special Permit granted by the Zoning Board of Appeals for compelling reasons or for public health, safety, and general public welfare.*

5.014-4 *No provision of Section 5.014, Livestock or Poultry, shall apply to farm properties or agricultural operations recognized under MGL Ch. 40A, Section 3, as amended.*

B. Amend Article 12, by adding the following new definitions in alphabetical order, and renumbering the remaining sections accordingly:

12. *Livestock and Poultry: All domesticated mammals and birds that are ~~eustomarily~~ raised and kept for agricultural purposes, including but not limited to horses, ponies, donkeys, mules, cattle, goats, llamas, alpacas, swine, sheep, rabbits, hares, and fowl, which shall be defined as including, but not limited to, chickens (hens and roosters), turkeys, pigeons, capons, ducks, geese, swans, pheasants, peacocks, guinea fowl, emus, and all wild mammals and game birds raised and kept in accordance with state and local law. Except as provided for under Section 5.014, livestock and poultry shall not include domesticated animals raised and kept as pets such as dogs, cats, rabbits various species of rodents, exotic birds, reptiles, fish, amphibians or wild animals ~~eustomarily~~ as provided for ~~raised and kept as pets~~ in accordance with state and local law.*

12. *Pets: Domesticated animals such as dogs, cats, rabbits, selected exotic mammals (pot-bellied pigs, dwarf goats, etc.), various species of rodents (rats, mice, guinea pigs, hamsters, ferrets, chinchillas, etc.), exotic birds, reptiles, fish or amphibians. The keeping of wild animals, exotic birds, fish, reptiles, and amphibians as pets is subject to the requirements of M.G.L. Ch. 131, Sections 23, 25 and 26A, as amended, and 321 CMR 2.12 and 9.01, as amended.”*

Action taken on 5/25/2011

[A motion to exclude rabbits from the article failed]

ARTICLE 34. General Bylaw - Animal Welfare (Planning Board Alternative to Petition)
(Planning Board)

VOTED to amend Article II, General Regulations, Animal Welfare Bylaw, by deleting the ~~lined-out~~ language and adding the language in ***bold italics***, as follows:

A. Amend Article II, as follows:

ANIMAL WELFARE BYLAW
(ATM – April 24, 2002 Art. 7)

Preamble

The animal welfare regulations ~~are~~ herein established ***are*** for the purpose of promoting the health, safety, and general welfare of the Town of Amherst and its animals. This bylaw contains standards relating to the treatment, confinement and keeping of dogs; ~~and~~ cat regulations, ***and regulations governing the raising or keeping of livestock and poultry on residential properties.*** The intent of this bylaw is to enhance the quality of life of citizens and animals in the Town of Amherst, and to protect the general public from damage, ***injury or illness*** that may be caused by unregulated animals.

1. Validity

This bylaw is not intended to derogate or limit any powers, rights, or obligations set forth in M.G.L. Chapter 140, but is in addition thereto.

2. License Requirement

Any owner/guardian or keeper of a dog six (6) months of age or older shall cause that dog to be licensed as required by M.G.L. Chapter 140, Section 137, commencing on April 1 of each year.

3. License Fee

The fee for every license shall be set by the Town Clerk in accordance with M.G.L. Chapter 40, Section 22F. The fee for a license for any dog that has been neutered or spayed and for which a certificate from a registered veterinarian has been presented to the Town Clerk, shall be set at no more than one-third (1/3) of the fee set by the Town Clerk in accordance with this section. The appropriate license fee, proof of rabies vaccination and neutering/spaying certificate, if any, must be presented to the Town Clerk at the time of application for a license, and, in addition, a stamped self-addressed envelope must accompany an application for a license by mail.

- A. A penalty of thirty dollars (\$30.00) shall be imposed upon all owners/guardians or keepers of dogs failing to renew licenses before June 1 of each year. This penalty shall take effect on June 1 of each year.
- B. No license fee shall be charged for specially trained service animals, provided one of the following: a doctor's prescription, a doctor's letter on office letterhead, a letter from a service animal training program, or a photo ID of said service animal is shown that such an animal is currently being/has been trained to assist an individual with a disability in accordance with M.G.L. Chapter 140, Section 139, the Americans with Disabilities Act and M.G.L. Chapter 272, Section 98a. Application shall be made for a license as provided in this bylaw, and license tags issued by the Town must be worn by any such service dog.
- C. In accordance with M.G.L. Chapter 140, Section 138, the owner/guardian or keeper of any dog six months old or older who is a new resident of the Town of Amherst shall register said dog within thirty days of taking up residence, subject to a late fine in accordance with Section 3.A.
- D. No license fee will, or part thereof shall, be refunded because of subsequent death, loss, spaying, neutering, removal from the Town of Amherst, or other disposal of the dog for which the license has been issued, nor shall any fee for a license issued to a new resident be prorated.

4. Dog Regulations

- A. It shall be a violation of this bylaw for which the owner/guardian or keeper shall be liable for a dog to:
 - i. go beyond the confines of the owner/guardian's or keeper's property unless the dog is held firmly on a leash, or is under the control of its owner/guardian or keeper, subject to restrictions of Section 5.A.
 - ii. disturb the peace or quiet or endanger the safety of any person or other animal, by biting, barking, howling, or in any other manner
 - iii. be unrestrained in violation of any order of the Select Board or of the Animal Welfare Officer
 - iv. frighten, kill, maim or otherwise injure another's fowl, livestock or domesticated animal
 - v. chase another's vehicle on any way open to public travel
 - vi. be unlicensed or untagged in violation of state law or of this bylaw.

Violation of this subsection may be subject to a penalty of fifty dollars (\$50.00) for each such violation.

- B. Any person may make a complaint to the Animal Welfare Officer regarding an alleged violation of the preceding subsection. Upon receipt of such complaint, the officer shall investigate, and may issue a written order that the dog be temporarily restrained or muzzled, as the officer deems necessary. Within twenty-one days of the issuance of such a written order, the officer shall file a report requesting a Select Board hearing. On receipt of such report and after examination of the complaint, the Select Board may take actions it deems necessary. The owner/guardian or keeper of a dog subject to such an order of the Select Board may within ten days file an appeal in district court.
- C. The Animal Welfare Officer may impound any dog determined by her/him to be involved in a violation of either of the two preceding subsections hereof. If the owner/guardian or keeper can be ascertained by some identification device on the dog, the Animal Welfare Officer shall immediately advise that person of the dog's impoundment, the procedures for reimbursing the animal holding facility, the right to redeem the dog, and licensing procedures if applicable. Any dog so impounded and unredeemed after 10 days may be disposed of as provided in Chapter 140, Section 151A of the Massachusetts General Laws.

5. Dogs Unleashed

A. No dog shall be permitted to be unleashed while in any public park, public playground, public building, or public recreational field or facility, or in any school yard or school recreational field during school hours or after-school hours when an athletic or other event is occurring on school grounds, or in the downtown business areas. Notwithstanding the prohibitions contained in the preceding sentence, the Conservation Commission, Leisure Service and Supplemental Education Commission, Amherst and Amherst-Pelham Regional School Committees, Select Board or Town Manager may issue regulations which may permit dogs to be unleashed on land controlled by said Commission, Committee, Board or Town Manager.

Violation of this subsection may be subject to a penalty of twenty-five dollars (\$25.00) for each such violation.

B. Any dog found to be unleashed while in any public park, public playground, public building, or public recreational field or facility, or in any school yard or school recreational field during school hours or after-school hours when an athletic or other event is occurring on school grounds, or in the downtown business areas of the Town of Amherst, except as allowed in Section 5.A., may be apprehended and confined by the Animal Welfare Officer and/or a Police Officer.

C. Any dog found to be unleashed while in any public park, public playground, public building, or public recreational field or facility, or in any school yard or school recreational field during school hours or after-school hours when an athletic or other event is occurring on school grounds, or in the downtown business areas of the Town of Amherst and not in the presence of its owner/guardian or keeper, except as allowed in Section 5.A., shall be apprehended and confined by the Animal Welfare Officer and/or a Police Officer. Upon impoundment of any dog in accordance with this subsection or the preceding subsection, the Animal Welfare Officer shall notify forthwith the licensed owner/guardian or keeper of said dog, giving the said owner/guardian or keeper a period of ten (10) days within which to recover the dog. For each and every dog picked up by the Animal Welfare Officer or her/his agent there shall be a pickup fee in increasing amounts for each occurrence, not to exceed fifty dollars (\$50.00). Fees, including the daily fee for the care of the dog, are payable by the owner/guardian or keeper before retrieval of the dog shall be allowed.

D. It shall be unlawful for any person to fasten, chain or tie a dog to a stationary object for a period of time in the downtown business area so as to create an unhealthy situation for the animal or a potentially dangerous situation for a pedestrian, as determined by the Animal Welfare Officer.

Violation of this section may be subject to a penalty of twenty-five dollars (\$25.00) for each offense.

E. The Animal Welfare Officer of the Town of Amherst and/or any Police Officer of said town shall enforce the provisions of this section of the bylaw.

6. Prohibits Dog Waste Excretion on Public Ways

A. It shall be unlawful for the owner/guardian or keeper having care of a dog to permit such dog, either willfully or through failure to exercise due care or control of such animal, to excrete any solid waste upon any sidewalk, public street or public park, schoolyard or school recreational field, or public recreational areas, or upon any real property other than the real property owned or controlled by such owner/guardian or keeper. No violation of this section shall be deemed to have occurred if the owner/guardian or keeper of the offending animal promptly and voluntarily removes the animal waste.

B. Violation of this section may be subject to a penalty of fifteen dollars (\$15.00) for each offense.

C. This regulation shall not apply to a dog accompanying any handicapped person who, by reason of his/her handicap, is physically unable to comply with the requirements of this section.

7. Cat Regulations

A. *Cats shall be immunized against rabies and records kept in accordance with M.G.L. Chapter 140, Section 145B.*

B. *The Health Director, Town Animal Inspector, Police Officers, and the Animal Welfare Officer shall enforce the provisions of this bylaw.*

8. Urban Livestock or Poultry Regulations

The raising or keeping of livestock or poultry for private purposes as an incidental use by the owner(s) of any single-family residential property or on any parcel under one ownership with no more than three dwellings thereon, shall be permitted and regulated under the provisions of this

bylaw and other applicable local and state regulations. The provisions of this bylaw shall not apply to farm properties or agricultural operations recognized under MGL Ch. 40A, Section 3.

A. Regulations - All livestock or poultry governed by this by-law shall be raised and kept in a safe and humane manner, consistent with best agricultural practices and as required under all applicable state and local regulations. Best practice regulations for the raising and keeping of livestock or poultry in Amherst under this bylaw may be promulgated by the Health Director, following consultation with the Animal Welfare Officer and the Agricultural Commission. Said regulations shall be published and otherwise made available to members of the public and prospective registrants.

Best practice regulations shall include, but are not limited to, the following minimum standards:

- 1) Enclosure & Shelter. Domesticated fowl or rabbits shall be confined with fencing or other enclosure sufficient to prevent access to the animals by dogs or other predators, which enclosure shall contain a minimum of ten (10) square feet of open area per adult animal. Within or attached to any such enclosure shall be provided a covered, predator-proof shelter or roosting structure (e.g. coop, dovecote, hutch, or shed, as appropriate) that is thoroughly ventilated, of sufficient size to admit free movement of the animals, designed to be easily accessed, cleaned and maintained by the owners, and at least 2 square feet per animal in size. As appropriate to the species, animals may be required to be shut into the shelter coop at night, from sunset to sunrise.*
- 2) Feed Storage. Feed shall be stored in a secure, rodent- and predator-proof container in a manner that will not attract pests.*
- 3) Waste. Accumulated waste shall be stored in a covered container and removed from the property at suitable intervals, or composted on site in a manner that will not attract pests or promote disease. No animal manure may be put into household trash. Applicants must have a compost bin set up at the time of any inspection.*
- 4) Odors & Noise. Odors from domesticated fowl and rabbits, their waste, compost, or other related substances shall not be perceptible at the property boundaries. It shall be a violation of these regulations for the owner, custodian, or keeper of any animal governed under these regulations to allow the animal(s) to be a nuisance to any neighbors, including but not limited to: noxious odors from the animals or their enclosure; and noise of a loud and persistent and habitual nature. Complaint shall be to the Health Director.*

The Animal Welfare Officer may interpret these standards and apply stricter standards, as authorized under state law.

- B. Registration & Inspections - Prior to acquiring livestock or poultry, the property owner shall register with the Amherst Health Department an application describing fully and accurately their proposal to raise and keep livestock or poultry, and registering the property involved. The Health Director may require that such applications be made on forms provided by the Amherst Health Department. All registration applications shall be reviewed and approved, denied, or approved with conditions by the Health Director after consultation with the Animal Welfare Officer. Any approved registrant shall thereafter abide by the provisions of the best practice regulations established hereunder and any specific conditions imposed under the approval, and shall permit annual inspections and such other inspections of the premises as may be required by the Animal Welfare Officer under the provisions of MGL Ch. 129, Section 7.*
- C. Fees - Under the provisions of MGL. Ch. 40, Section 22F, the Health Director is authorized to set reasonable fees for registration and such inspections as may be required. There shall be no reimbursement or pro-rating of application or inspection fees.*
- D. Notice – Except as provided for under Section F., as part of every application made under these regulations, an applicant shall provide a copy of a certified abutter's list obtained from the Assessor and written notice of their intent to raise or keep livestock or poultry, to be sent by the Health Department by standard mail to parties in interest as required under MGL Ch. 40A, Section 11. The notice shall fully and accurately describe the location and the proposed number and type of animals, as well as all associated structures and facilities. The notice shall also indicate that abutters have the right to file with the Health Director written comments in support of or objecting to the application, and shall indicate the deadline for submission of comments.*
- E. Administrative Hearing - Where no special permit will be required under Amherst's zoning for the keeping or raising of animals for which application is also being made under these regulations, the Health Director shall not act on said application until more than fourteen (14) working days have passed since the mailing of notice to abutters. If at the end of that period the Health Director has received written comments whereby the owners of a majority of the abutting*

properties have expressed objection to the application, the Director shall schedule and hold, within thirty (30) days of the deadline for receiving abutter comment, an administrative hearing for the purpose of taking public testimony regarding the proposal. The Director shall give written notice of the time and place of the hearing, not less than seven (7) days prior to the hearing, to the applicant by certified mail, to abutters and parties in interest by mail, by posting with the Town Clerk, and by publication once in a newspaper of local circulation. Failure to hold an administrative hearing within the specified time period shall be considered to constitute a constructive grant of approval of the application.

- F. Exception - No certified abutters list, nor any notice to abutters, nor an administrative hearing shall be required in those instances where a special permit will also be required under Amherst's Zoning Bylaw for the keeping or raising of animals subject to an application under this bylaw.*
- G. Decision – Following the close of an administrative hearing, the Health Director shall within five (5) working days render a decision in writing based upon compliance of the proposal with best practices and such other factors of public health and welfare as the Director may deem appropriate. In approving an application, the Health Director may, following consultation with the Animal Welfare Officer, impose any reasonable conditions, safeguards and limitations including conditions above and beyond those specified in the best practices regulations developed under this section, all as in compliance with existing zoning and other regulations.*
- H. Violations – Violation of this section may be subject to a penalty of \$25.00 for each offense, with each day the violation continues constituting a separate offense.*
- I. Enforcement – Enforcing persons shall be the Animal Welfare Officer, the Health Director, or the Health Inspector/Sanitarian.*

§ 9. Conduct of Persons in Control of Animals Other than Dogs

Cattle and other animals in the public way. A person who owns or is in control of any goat, sheep, swine, horse, cow, other neat cattle, or fowl, shall not permit such animal to go at large in any of the streets, commons or parks of this town, and shall not drive or lead such animal along or upon any of the sidewalks, parks or commons of this town, except in the case of sidewalks for the purpose of immediately crossing the same. Horses used by the police department shall be excluded from this prohibition.

Violation of this subsection may be subject to a penalty of fifty dollars (\$50.00) for each violation.

§ 10. Frightening Animals

No person by noise, gesture or other means shall maliciously frighten any horse or other domestic animal in any street or public place in this town.

Violation of this subsection may be subject to a penalty of twenty-five dollars (\$25.00) for each violation.

9. Cat Regulations

~~A. Cats shall be immunized against rabies and records kept in accordance with M.G.L. Chapter 140, Section 145B.~~

~~B. The Health Director, Town Animal Inspector, Police Officers, and the Animal Welfare Officer shall enforce the provisions of this bylaw.~~

10 11. Severability Clause

The provisions of this bylaw shall be deemed severable, so that the invalidity of any one provision of the bylaw shall not affect the validity of another provision, and if any part of this bylaw shall be adjudged unconstitutional, inconsistent with state law, or otherwise invalid, such judgment shall not affect any other valid part of this bylaw.

11 12. Non-Criminal Disposition

Any enforcing person, as set forth below *herein*, taking cognizance of a violation of this bylaw, may, as an alternative to initiating criminal proceedings, enforce this bylaw non-criminally pursuant to M.G.L. Chapter 40, Section 21D. For purposes of this section, the following shall be enforcing persons: Animal Welfare Officer, *Health Director*, and Police Officer. The specific penalty for violation shall be the amount established in this bylaw.

Action taken 5/25/2011.

VOTED to DISMISS [To see if the Town will amend Article II, General Regulations, Animal Welfare Bylaw, by deleting the ~~lined out~~ language and adding the language in ***bold italics***, as follows:

B. Amend Article II, as follows:

ANIMAL WELFARE BYLAW

(ATM – April 24, 2002 Art. 7)

Preamble

The animal welfare regulations ~~are~~ herein established ***are*** for the purpose of promoting the health, safety, and general welfare of the Town of Amherst and its animals. This bylaw contains standards relating to the treatment, confinement and keeping of dogs; ~~and~~ cat regulations, ***and regulations governing the raising or keeping of livestock and poultry on residential properties.*** The intent of this bylaw is to enhance the quality of life of citizens and animals in the Town of Amherst, and to protect the general public from damage, ***injury or illness*** that may be caused by unregulated animals.

1. Validity

This bylaw is not intended to derogate or limit any powers, rights, or obligations set forth in M.G.L. Chapter 140, but is in addition thereto.

2. License Requirement

Any owner/guardian or keeper of a dog six (6) months of age or older shall cause that dog to be licensed as required by M.G.L. Chapter 140, Section 137, commencing on April 1 of each year.

3. License Fee

The fee for every license shall be set by the Town Clerk in accordance with M.G.L. Chapter 40, Section 22F. The fee for a license for any dog that has been neutered or spayed and for which a certificate from a registered veterinarian has been presented to the Town Clerk, shall be set at no more than one-third (1/3) of the fee set by the Town Clerk in accordance with this section. The appropriate license fee, proof of rabies vaccination and neutering/spaying certificate, if any, must be presented to the Town Clerk at the time of application for a license, and, in addition, a stamped self-addressed envelope must accompany an application for a license by mail.

- F. A penalty of thirty dollars (\$30.00) shall be imposed upon all owners/guardians or keepers of dogs failing to renew licenses before June 1 of each year. This penalty shall take effect on June 1 of each year.
- G. No license fee shall be charged for specially trained service animals, provided one of the following: a doctor's prescription, a doctor's letter on office letterhead, a letter from a service animal training program, or a photo ID of said service animal is shown that such an animal is currently being/has been trained to assist an individual with a disability in accordance with M.G.L. Chapter 140, Section 139, the Americans with Disabilities Act and M.G.L. Chapter 272, Section 98a. Application shall be made for a license as provided in this bylaw, and license tags issued by the Town must be worn by any such service dog.
- H. In accordance with M.G.L. Chapter 140, Section 138, the owner/guardian or keeper of any dog six months old or older who is a new resident of the Town of Amherst shall register said dog within thirty days of taking up residence, subject to a late fine in accordance with Section 3.A.
- I. No license fee will, or part thereof shall, be refunded because of subsequent death, loss, spaying, neutering, removal from the Town of Amherst, or other disposal of the dog for which the license has been issued, nor shall any fee for a license issued to a new resident be prorated.

4. Dog Regulations

- A. It shall be a violation of this bylaw for which the owner/guardian or keeper shall be liable for a dog to:
 - i. go beyond the confines of the owner/guardian's or keeper's property unless the dog is held firmly on a leash, or is under the control of its owner/guardian or keeper, subject to restrictions of Section 5.A.
 - ii. disturb the peace or quiet or endanger the safety of any person or other animal, by biting, barking, howling, or in any other manner
 - iii. be unrestrained in violation of any order of the Select Board or of the Animal Welfare Officer
 - iv. frighten, kill, maim or otherwise injure another's fowl, livestock or domesticated animal
 - v. chase another's vehicle on any way open to public travel
 - vi. be unlicensed or untagged in violation of state law or of this bylaw.

Violation of this subsection may be subject to a penalty of fifty dollars (\$50.00) for each such violation.

- B. Any person may make a complaint to the Animal Welfare Officer regarding an alleged violation of the preceding subsection. Upon receipt of such complaint, the officer shall investigate, and may issue a written order that the dog be temporarily restrained or muzzled, as the officer deems necessary. Within twenty-one days of the issuance of such a written order, the officer shall file a report requesting a Select Board hearing. On receipt of such report and after examination of the complaint, the Select Board may take actions it deems necessary. The owner/guardian or keeper of a dog subject to such an order of the Select Board may within ten days file an appeal in district court.
- C. The Animal Welfare Officer may impound any dog determined by her/him to be involved in a violation of either of the two preceding subsections hereof. If the owner/guardian or keeper can be ascertained by some identification device on the dog, the Animal Welfare Officer shall immediately advise that person of the dog's impoundment, the procedures for reimbursing the animal holding facility, the right to redeem the dog, and licensing procedures if applicable. Any dog so impounded and unredeemed after 10 days may be disposed of as provided in Chapter 140, Section 151A of the Massachusetts General Laws.

5. Dogs Unleashed

- A. No dog shall be permitted to be unleashed while in any public park, public playground, public building, or public recreational field or facility, or in any school yard or school recreational field during school hours or after-school hours when an athletic or other event is occurring on school grounds, or in the downtown business areas. Notwithstanding the

prohibitions contained in the preceding sentence, the Conservation Commission, Leisure Service and Supplemental Education Commission, Amherst and Amherst-Pelham Regional School Committees, Select Board or Town Manager may issue regulations which may permit dogs to be unleashed on land controlled by said Commission, Committee, Board or Town Manager.

Violation of this subsection may be subject to a penalty of twenty-five dollars (\$25.00) for each such violation.

- B. Any dog found to be unleashed while in any public park, public playground, public building, or public recreational field or facility, or in any school yard or school recreational field during school hours or after-school hours when an athletic or other event is occurring on school grounds, or in the downtown business areas of the Town of Amherst, except as allowed in Section 5.A., may be apprehended and confined by the Animal Welfare Officer and/or a Police Officer.
- C. Any dog found to be unleashed while in any public park, public playground, public building, or public recreational field or facility, or in any school yard or school recreational field during school hours or after-school hours when an athletic or other event is occurring on school grounds, or in the downtown business areas of the Town of Amherst and not in the presence of its owner/guardian or keeper, except as allowed in Section 5.A., shall be apprehended and confined by the Animal Welfare Officer and/or a Police Officer. Upon impoundment of any dog in accordance with this subsection or the preceding subsection, the Animal Welfare Officer shall notify forthwith the licensed owner/guardian or keeper of said dog, giving the said owner/guardian or keeper a period of ten (10) days within which to recover the dog. For each and every dog picked up by the Animal Welfare Officer or her/his agent there shall be a pickup fee in increasing amounts for each occurrence, not to exceed fifty dollars (\$50.00). Fees, including the daily fee for the care of the dog, are payable by the owner/guardian or keeper before retrieval of the dog shall be allowed.
- D. It shall be unlawful for any person to fasten, chain or tie a dog to a stationary object for a period of time in the downtown business area so as to create an unhealthy situation for the animal or a potentially dangerous situation for a pedestrian, as determined by the Animal Welfare Officer.

Violation of this section may be subject to a penalty of twenty-five dollars (\$25.00) for each offense.

- J. The Animal Welfare Officer of the Town of Amherst and/or any Police Officer of said town shall enforce the provisions of this section of the bylaw.

6. Prohibits Dog Waste Excretion on Public Ways

- A. It shall be unlawful for the owner/guardian or keeper having care of a dog to permit such dog, either willfully or through failure to exercise due care or control of such animal, to excrete any solid waste upon any sidewalk, public street or public park, schoolyard or school recreational field, or public recreational areas, or upon any real property other than the real property owned or controlled by such owner/guardian or keeper. No violation of this section shall be deemed to have occurred if the owner/guardian or keeper of the offending animal promptly and voluntarily removes the animal waste.
- B. Violation of this section may be subject to a penalty of fifteen dollars (\$15.00) for each offense.
 - C. This regulation shall not apply to a dog accompanying any handicapped person who, by reason of his/her handicap, is physically unable to comply with the requirements of this section.

7. Cat Regulations

- A. *Cats shall be immunized against rabies and records kept in accordance with M.G.L. Chapter 140, Section 145B.*
- B. *The Health Director, Health Inspector, Town Animal Inspector, Police Officers, and the Animal Welfare Officer shall enforce the provisions of this bylaw.*

8. Urban Livestock or Poultry Regulations

The raising or keeping of livestock or poultry for private purposes as an incidental use on any single-family residential property or on any parcel under one ownership with no more than three dwellings thereon, shall be permitted and regulated under the provisions of this bylaw and other applicable local and state regulations. The provisions of this bylaw shall not apply to farm properties or agricultural operations recognized under MGL Ch. 40A, Section 3.

- A. *Regulations - All livestock or poultry governed by this by-law shall be raised and kept in a safe and humane manner, consistent with best agricultural practices and as required under all applicable state and local regulations. Best practice regulations for the raising and keeping of livestock or poultry in Amherst under this bylaw may set forth by the Health Director, following consultation with the Animal Welfare Officer and the Agricultural Commission. Said regulations shall be published and otherwise made available to members of the public and prospective registrants.*

Best practice regulations shall include, but are not limited to, the following minimum standards:

- 5) *Enclosure & Shelter. Domesticated fowl and rabbits shall be confined with fencing or other enclosure sufficient to prevent access to the animals by dogs or other predators, which enclosure shall contain a minimum of ten (10) square feet of open area per adult animal. Within or attached to any such enclosure shall be provided a covered, predator-proof shelter or roosting structure (e.g. coop, dovecote, or hutch, as appropriate) that is thoroughly ventilated, of sufficient size to admit free movement of the animals, designed to be easily accessed, cleaned and maintained by the owners, and at least 2 square feet per animal in size. As appropriate to the species, animals may be required to be shut into the shelter coop at night, from sunset to sunrise.*
- 6) *Feed Storage. Feed shall be stored in a secure, rodent- and predator-proof container in a manner that will not attract pests.*
- 7) *Waste. Accumulated waste shall be stored in a covered container and removed from the property at suitable intervals, or composted on site in a manner that will not attract pests or promote disease. No animal manure may be put into household trash. Applicants must have a compost bin set up at the time of any inspection.*

- 8) **Odors & Noise.** *Odors from domesticated fowl and rabbits, their waste, compost, or other related substances shall not be perceptible at the property boundaries. It shall be a violation of these regulations for the owner, custodian, or keeper of any animal governed under these regulations to allow the animal(s) to be a nuisance to any neighbors, including but not limited to: noxious odors from the animals or their enclosure; and noise of a loud and persistent and habitual nature. Complaint shall be to the Health Director.*

The Animal Welfare Officer may apply stricter standards, as authorized under state law.

- B. **Registration & Inspections** - *Prior to acquiring livestock or poultry, the property owner, or the owner of the livestock or poultry with written permission from the property owner, shall register with the Amherst Health Department an application describing fully and accurately their proposal to raise and keep livestock or poultry, and registering the property involved. The Health Director may require that such applications be made on forms provided by the Amherst Health Department. All registration applications shall be reviewed and approved, denied, or approved with conditions by the Health Director and Animal Welfare Officer. Any approved registrant shall thereafter abide by the provisions of the best practice regulations established hereunder and any specific conditions imposed under the approval, and shall permit annual inspections and such other inspections of the premises as may be required by the Animal Welfare Officer under the provisions of MGL Ch. 129, Section 7.*
- C. **Fees** - *Under the provisions of MGL. Ch. 40, Section 22F, the Health Director is authorized to set reasonable fees for registration and such inspections as may be required. There shall be no reimbursement or pro-rating of application or inspection fees.*
- D. **Violations** – *Violation of this section may be subject to a penalty of \$25.00 for each offense, with each day the violation continues constituting a separate offense.*
- E. **Enforcement** – *Enforcing persons shall be the Animal Welfare Officer, the Health Director, or the Health Inspector.*

§ 9. Conduct of Persons in Control of Animals Other than Dogs

Cattle and other animals in the public way. A person who owns or is in control of any goat, sheep, swine, horse, cow, other neat cattle, or fowl, shall not permit such animal to go at large in any of the streets, commons or parks of this town, and shall not drive or lead such animal along or upon any of the sidewalks, parks or commons of this town, except in the case of sidewalks for the purpose of immediately crossing the same. Horses used by the police department shall be excluded from this prohibition.

Violation of this subsection may be subject to a penalty of fifty dollars (\$50.00) for each violation.

§ 10. Frightening Animals

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11 12. Non-Criminal Disposition

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Action taken 5/25/2011

The business of the warrant having been completed, the meeting voted to dissolve at 9:46 p.m. on Wednesday, May 25, 2011. 137 town meeting members were checked in.

Attest:

Sandra J. Burgess
Town Clerk