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SPECIAL TOWN MEETING
May 9, 2001

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

The Special Town Meeting was called to order by the Moderator, Harrison Gregg at 7:46 p.m. There were 253 town meeting members. 127 checked in and a quorum was declared. The call and return of the warrant were read by Town Clerk, Margaret Z. Nartowicz. Hill Boss, Hilda Greenbaum, Nonny Burack, James Pistrang, H. Oldham Brooks and Robert Kusner were sworn as tellers.

ARTICLE 1. *Capital Program – Crocker Farm Renovation Project*

Voted unanimously that the Town amend the action taken under Article 26 of the 2000 Annual Town Meeting by increasing the appropriation and borrowing authority from \$6,823,749 to \$8,508,603 and by deleting the following: "...subject to approval by the State Board of Education for a school construction grant of at least 65%...".

Action taken on 5/9/01.

ARTICLE 2. *Capital Program – Sewer Fund – Middle Street and Betterment Policy*

Voted Yes 112, No 40

- A. That the Town appropriate \$2,600,000 for construction of a sewer and sewer facilities on Middle Street, Potwine Lane, South Orchard Drive, Sherry Circle, Blossom Lane, Bay Road and Barry Circle and for the acquisition of land and easements in furtherance of the construction of said sewer and sewer facilities and that to meet such appropriation borrow \$2,600,000 in accordance with M.G.L. c. 44, Section 8, Clause 15, or any other applicable law.
- B. That the Select Board be authorized to acquire, by purchase, gift, eminent domain or otherwise, including authorization to petition the General Court for approval as to any parcel listed below so requiring such approval in accordance with Amendment Article 97 of the Massachusetts Constitution, permanent and temporary easements for the construction of pumping stations and other related facilities and to provide temporary access for the construction of said pumping stations on any parcel listed below:
1. a permanent easement containing 2800 square feet, more or less, on land of Arthur W. Dahowski and Nancy J. Dahowski, on the west side of Middle Street being a portion of Map 26A, Parcel 43 of the Town Cadastre;
 2. a temporary access and construction easement containing 6800 square feet, more or less, on land of Arthur W. Dahowski and Nancy J. Dahowski, on the west side of Middle Street being a portion of Map 26A, Parcel 43 of the Town Cadastre;
 3. a permanent easement containing 1200 square feet, more or less, on land of William E. Hart and Victoria A. McKay Hart, on the east side of Middle Street being a portion of Map 26A, Parcel 43 of the Town Cadastre;
 4. a temporary access and construction easement containing 1600 square feet, more or less, on land of William E. Hart and Victoria A. McKay Hart, on the east side of Middle Street being a portion of Map 26A, Parcel 43 of the Town Cadastre;
 5. a permanent easement containing 1527 square feet, more or less, on land of Jean P. Brunelle and Lorraine H. Brunelle, on the north side of Potwine Lane being a portion of Map 23A, Parcel 8 of the Town Cadastre;
 6. a temporary access and construction easement containing 6400 square feet, more or less, on land of Jean P. Brunelle and Lorraine H. Brunelle, on the north side of Potwine Lane being a portion of Map 23A, Parcel 8 of the Town Cadastre;
 7. a portion of the land of the Inhabitants of the Town of Amherst, consisting of 3283 square feet, more or less, on the south side of Potwine Lane being a portion of Map 23A, Parcel 8 of the Town Cadastre;
- C. That the entire cost of the construction of said sewer and sewer facilities be paid by the Town, and that no betterment assessment be imposed upon estates benefited by the construction of said sewer and sewer facilities as provided in M.G.L. Chapters 80 and 83.

Action taken on 5/9/01.

ARTICLE 3. *Amherst Sewer System Act*

MOTION 1. Voted unanimously that

The Select Board is hereby authorized and directed to petition the General Court to amend the existing Act Authorizing the Town of Amherst to Construct a System of Sewerage, to read as follows:

AN ACT authorizing the Town of Amherst to construct a system of sewerage.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of same, as follows:

SECTION 1. Chapter 484 of the acts of 1912, as amended, shall be amended to read as follows:

Be it enacted, etc., as follows:

SECTION 1. The town of Amherst is hereby authorized to lay out, construct, maintain and operate a system or systems of main drains and common sewers for a part or the whole of its territory and through the premises of the University of Massachusetts at Amherst, with such connections and other works as may be required for a system of sewage disposal; and, for the purpose of providing better surface or other drainage, guarding against pollution of waters, and otherwise protecting the public health, may lay, make and maintain such main drains as it deems best. For the purposes aforesaid the town may extend its system into the town of Hadley and establish therein a filtration plant or otherwise provide for the disposal of such sewage.

SECTION 2. The selectmen shall also be the board of sewer commissioners. Said board shall have the power to take or acquire by purchase or otherwise, any lands in fee and any water rights, rights of way and easements, public or private in said towns of Amherst and Hadley, necessary for any of the purposes mentioned in this act, and may construct such main drains and sewers under or over any bridge, aqueduct, conduit, railroad, railway or way, or within the location of any railroad or railway, and may enter upon and dig up any private land, highway or other way, or railroad or railway location, for the purpose of laying such main drains and sewers, and of maintaining and repairing the same, and may do any other thing necessary or proper for the purposes of this act: *provided, however*, that said board shall not take in fee any land of a railroad corporation, and that it shall not, except as the right may now exist, enter upon or construct any drains or sewers within the location of any railroad corporation, except at such time and in such manner as it may agree upon with such corporation, or, in case of failure to agree, as may be approved by the board of railroad commissioners.

SECTION 3. Said board of sewer commissioners, in order to take any lands in fee, water rights, rights of way or easements shall cause to be recorded in the registry of deeds for the county of Hampshire a statement signed by a majority of the board, containing a description thereof as certain as is required in a conveyance of land, and specifying that the same are taken under authority of this act; and upon such recording the title to the lands, water rights, rights of way or easements described in such statement shall vest in the town of Amherst, which shall pay all damages therefor and all other damages sustained by any person or corporation through any action of said board under this act. Said board at the time of such taking shall notify the owners thereof in writing, and may agree with any person or corporation injured hereunder upon the damages sustained by such person or corporation; and if the damages are not agreed upon, a jury in the superior court for said county may be had to determine the same, upon petition of either party, in the manner provided by law for determining the damages for land taken for the laying out of highways; but in the case of a taking no suit or petition shall be brought after the expiration of two years from the date of the recording of the taking as herein provided; and in all other cases no suit or petition shall be brought after the expiration of two years from the time when the cause of action accrues.

SECTION 4. In every case of a petition for the assessment of damages or for a jury, the town of Amherst may, at any time, file in the office of the clerk of the court an offer in writing to pay the petitioner a sum therein specified as damages; and if the petitioner does not accept the same within thirty days after notice of such offer, and does not finally recover a sum greater than that offered, not including interest from the date of the offer on the sum so recovered, the town shall recover costs from the date of such notice, and the petitioner shall be entitled to costs only to the said date.

SECTION 5. The town of Amherst, for the purpose of paying the necessary expenses and liabilities incurred under this act, may incur indebtedness, and may issue from time to time therefor bonds, notes or scrip; and the debt and loan authorized by this act and the bonds, notes or scrip issued therefor shall not be reckoned in determining the statutory limit of indebtedness of the town. Such bonds, notes or scrip shall be payable within periods not exceeding thirty years from the dates of issue, and shall bear interest at the then-prevailing interest rate. They shall be signed by the treasurer of the town and countersigned by a majority of the selectmen. The town may from time to time sell such securities, or any part thereof, at public or private sale. The proceeds thereof shall be retained in the treasury, and the treasurer shall, upon the order of said board, pay therefrom the expenses incurred for the purposes aforesaid.

SECTION 6. The town shall, at the time of authorizing the said loan or any part thereof, provide for the payment thereof in such annual payments as will extinguish the same within the time prescribed by this act; and when a vote or votes to that effect have been passed the amount required thereby, less the amount that may be appropriated therefor, as provided in the following section, shall without further vote be assessed by the assessors of the town in each year thereafter, in the same manner in which other taxes are assessed, until the debt is extinguished.

SECTION 7. The receipts from sewer assessments, and from payments made in lieu thereof, and the premiums, if any, received from the sale of bonds, notes or scrip issued under authority of this act, shall be applied by the board to the payment of charges and expenses incident to the maintenance and operation of said system of sewerage, or to the extension thereof, except that the town may apply any part of such receipts to the payment of the interest upon bonds, notes or scrip issued under authority of this act and not otherwise provided for, or to the payment for redemption of such bonds, notes or scrip, as the town shall by vote determine, and the said receipts shall be used for no other purpose. If the said receipts shall not in any year be sufficient for the purposes aforesaid, the town shall raise forthwith by taxation, in the same manner in which money is raised and appropriated for other town purposes, the balance required therefor.

SECTION 8. The town of Amherst shall by vote determine what proportion of the cost of said system or systems of sewerage and sewage disposal said town shall pay. The remaining cost of said systems, if any, shall be borne by the owners of estates situated within the territory embraced by them and benefited thereby in accordance with G.L. c. 80 and c. 83, as those statutes may, from time to time, be amended.

SECTION 9. An assessment made under the provisions of section eight shall constitute a lien upon the estate in accordance with General Laws c. 80, as those statutes may, from time to time, be amended.

SECTION 10. [Repealed]

SECTION 11. The University of Massachusetts at Amherst is hereby authorized to construct a system of sewerage for the buildings which now are or may hereafter be constructed upon the premises of the university, and said university and Amherst College and Hampshire College may discharge sewage into the system established by the town, the university and colleges each paying in the first instances such portion of the cost of construction of the system, and there-after annually such portion of the cost of maintaining and operating the same, as may from time to time be agreed upon by said board of sewer commissioners and the university and colleges or either of them. But in the event that no such agreement is made the amounts to be paid hereunder shall be determined by three commissioners to be appointed by the supreme judicial court upon the application of said board or said university or colleges or either of them. The award of such commissioners shall be final and binding upon the parties, but such award, by reason of changed circumstances, may upon the application of either party be revised from time to time.

SECTION 12. All contracts made by said board of sewer commissioners shall be made in the name of the town and shall be signed by the board; but no contract shall be made or obligation incurred by the board for any purpose in excess of the amount of money appropriated by the town therefor.

SECTION 13. Said board may from time to time prescribe rules and regulations for the connecting of estates and buildings with main drains and sewers, and for the inspection of the materials, the construction, alteration and use of all connections and drains entering into such main drains or sewers, and may impose penalties not exceeding three hundred dollars for every violation of any such rule or regulation. Such rules or regulations shall be published not less than once a week for three successive weeks in some newspaper published in the town of Amherst, if there be any, and if not, then in some newspaper published in the county of Hampshire, and shall not take effect until such publication has been made.

SECTION 14. [Repealed]

SECTION 15. This act shall take effect upon its passage.
Action taken on 5/9/01.

MOTION 2. **Voted** that
The special act legislation requested herein shall be adopted precisely as provided herein, except for clerical or editorial changes of form only and, as to substantive amendments, with the prior approval of the Amherst Select Board. The Select Board is hereby authorized to approve amendments to the requested legislation, which amendments shall be within the scope of the general public objectives of this petition.
Action taken on 5/9/01.

The business of the warrant having been completed, the meeting voted to dissolve at 9:56 p.m. on May 9, 2001. 168 town meeting members were checked in.

Attest:

Margaret Z. Nartowicz
Town Clerk