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ANNUAL TOWN MEETING

April 28, 29, May 3, 5, 10, 12, 13, 17, 19, 26, June 7 and 9, 1999

The meeting was televised by Amherst Community Television and shown on the Government Channel 20.

The 240th Annual Town Meeting was called to order by Moderator, Harrison Gregg at 7:50 p.m. There were 250 town meeting members. 126 checked in and a quorum was declared. The call and return of the warrant were read by Town Clerk, Margaret Z. Nartowicz. The moderator was sworn to the faithful performance of his duties by the town clerk and the newly elected town meeting members were sworn to the faithful performance of their duties by the moderator. Peter Shea, Hilda Greenbaum, James Pistrang, Kenton Tharp, James Scott and H. Oldham Brooks were sworn as tellers. Articles 1 - 5 were considered. Town meeting voted unanimously to consider Articles 10 and 11 after the disposition of Article 52.

Town meeting voted unanimously to consider Articles 48 and 49 at 7:30 p.m. on May 5, 1999.

ARTICLE 1. *Reports of Boards and Committees*

Voted unanimously that the Town hear only 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 4/28/99.

ARTICLE 2. *Authorization for Compensating Balance Accounts*

Voted unanimously that the Town 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 4/28/99.

ARTICLE 3. *Optional Tax Exemptions*

Voted unanimously that the Town authorize a maximum exemption of 100 percent for taxpayers qualifying for exemption under M.G.L. Ch. 59, Sec. 17D, 22, 37A, and 41C.

Action taken on 4/28/99.

ARTICLE 4. *Transfer of Funds - Unpaid Bills*

Voted unanimously that the Town raise and appropriate \$2,538.82 to pay unpaid bills of prior years.

Action taken on 4/28/99.

ARTICLE 5. *FY 2000 Operating Budget*

Voted that the Town adopt a comprehensive operating budget for the ensuing year and raise and appropriate money therefor.

GENERAL GOVERNMENT

Voted that the Town appropriate \$3,279,011 for General Government, that the salary of the Moderator be fixed at \$10, that of the Board of Selectmen at \$300 each, that of the Elector under the Oliver Smith Will at \$20 and that to meet such appropriation \$3,279,011 be raised by taxation.

Action taken on 4/28/99.

PUBLIC SAFETY

Voted unanimously that the Town appropriate \$5,678,367 for Public Safety and that to meet such appropriation \$4,978,367 be raised by taxation and \$700,000 be transferred from Ambulance Receipts Reserved for Appropriation.

Action taken on 4/28/99.

PUBLIC WORKS

Voted that the Town appropriate \$1,632,122 for Public Works and that to meet such appropriation \$1,530,122 be raised by taxation, \$100,000 be transferred from Parking Meter Receipts Reserved for Appropriation, and \$2,000 be transferred from the Sale of Cemetery Lots Account.

Action taken on 4/28/99.

10:17 p.m. Town meeting voted to adjourn to Thursday, April 29, 1999 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 196 town meeting members were checked in.

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The adjourned session of April 29, 1999 was called to order by the moderator at 7:46 p.m. 125 town

meeting members checked in and a quorum was declared. Article 5 was considered.

PLANNING/CONSERVATION/INSPECTIONS

Voted that the Town raise and appropriate \$846,373 for Planning/Conservation/Inspections.
Action taken on 4/29/99.

COMMUNITY SERVICES

Voted that the Town raise and appropriate \$1,009,205 for Community Services.
Action taken on 4/29/99.

(appropriation includes \$5,000 for a Senior Nursing Center nurse voted by tallied vote YES 88, NO 75)

DEBT SERVICE

Voted unanimously that the Town appropriate \$1,904,813 for payment of the Town's General Fund indebtedness and that to meet such appropriation \$1,854,319 be raised by taxation and \$50,494 be transferred from Parking Meter Receipts Reserved for Appropriation.
Action taken on 4/29/99.

LIBRARY SERVICES

Voted unanimously that the Town appropriate \$1,522,347 for Library Services and that to meet such appropriation \$1,036,708 be raised by taxation, \$70,076 be transferred from the State Aid to Library Account, and \$415,563 be accepted from Jones Library, Inc.
Action taken on 4/29/99.

ELEMENTARY SCHOOLS

Voted that the Town raise and appropriate \$13,770,188 for the Amherst Elementary Schools.
Action taken on 4/29/99.

10:32 p.m. Town meeting voted to adjourn to Monday, May 3, 1999 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 171 town meeting members were checked in.

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The adjourned session of May 3, 1999 was called to order by the moderator at 7:47 p.m. 125 town meeting members checked in and a quorum was declared. Articles 5 and 6 were considered.

REGIONAL SCHOOLS

Voted that the Town raise and appropriate \$7,546,985 as its proportionate share of the operating and capital costs of the Amherst-Pelham Regional School District.
Action taken on 5/3/99.

WATER FUND

Voted that the Town appropriate \$2,937,504 for the Water Fund and that to meet such appropriation \$2,937,504 be made available from Water Fund revenues of the current year.
Action taken on 5/3/99.

SEWER FUND

Voted that the Town appropriate \$2,538,975 for the Sewer Fund and that to meet such appropriation \$2,405,975 be made available from the Sewer Fund revenues of the current year and \$133,000 be made available from Sewer Fund Surplus.
Action taken on 5/3/99.

SOLID WASTE FUND

Voted that the Town appropriate \$957,976 for the Solid Waste Fund and that to meet such appropriation \$957,976 be made available from Solid Waste Fund revenues of the current year.
Action taken on 5/3/99.

GOLF COURSE

Voted that the Town appropriate \$270,500 for the Golf Course Fund and that to meet such appropriation \$232,101 be made available from Golf Course revenues of the current year and \$38,399 be made available from Golf Course Fund Surplus.
Action taken on 5/3/99.

ARTICLE 6. *Petition - FY 2000 Operating Budget - Special Needs Program Director*

Voted that the Town appropriate \$25,000 for the continuation of the Open Arms Program and that to meet such appropriation \$25,000 be transferred from Free Cash in the Undesignated Fund Balance of the General Fund.
Action taken on 5/3/99.

10:05 p.m. Town meeting voted to adjourn to Wednesday, May 5, 1999 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 191 town meeting members were checked in.

Articles 48 and 49 are first to be considered at the adjourned session of May 5, 1999.

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ARTICLE 7. *Petition - FY 2000 Operating Budget - Passages Summer Day Camp*

Voted unanimously to dismiss. [“To see if the Town will raise and appropriate \$19,500 for the operation of the Passages Summer Day Camp for Amherst teens.”]

Action taken on 5/12/99.

ARTICLE 8. *Petition - Discontinue D.A.R.E. Program*

Voted Yes 90, No 60 to refer to the School Committee. [that the Town recommend to the School Committee: 1) That the DARE Program be discontinued. 2) That it be replaced with another program or programs which the School Committee judges to be more helpful and effective.]

Action taken on 5/12/99.

10:41 p.m. Town meeting voted to adjourn to Thursday, May 13, 1999 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 189 town meeting members were checked in.

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The adjourned session of May 13, 1999 was called to order by the moderator at 8:20 p.m. 126 town meeting members checked in and a quorum was declared. Articles 9, 12, 14 and 16 - 19 were considered.

Town meeting voted to consider Article 15 at 7:30 p.m. on May 17, 1999.

Town meeting voted unanimously to consider Article 13 at 7:30 p.m. on Wednesday, May 19, 1999.

ARTICLE 9. *Reserve Fund*

Voted that the Town raise and appropriate \$110,000 for the Reserve Fund for FY 2000.

Action taken on 5/13/99.

ARTICLE 10. *Emergency Management*

MOTION #1 **Voted** that the Town raise and appropriate \$50,000 for telephone system replacement in Town Hall, Bangs Community Center, Jones Library, and possibly Fire Station and Department of Public Works.

MOTION #2 **DEFEATED Yes 61, No 81** [that the Town appropriate \$50,000 for an emergency generator and to meet such appropriation raise \$25,000 by taxation and transfer \$25,000 from Free Cash in the Undesignated Fund balance of the General Fund.]

Action taken on 6/9/99.

ARTICLE 11. *Petition - Capital Program - Emergency Shelter*

Voted to dismiss. [“Should Amherst spend \$60,000 to equip the Bangs Community Center as a ‘Fully functional for a prolonged period emergency shelter, for Y2K or other emergencies’ (quote from Barry Del Castilho memo 2/26/99)”]

Action taken on 6/9/99.

ARTICLE 12. *Retirement Assessment*

Voted unanimously that the Town appropriate \$1,831,316 for the Hampshire County Retirement System assessment and to meet such appropriation raise \$1,681,316 from taxation and transfer \$150,000 from the Retirement Reserve Fund.

Action taken on 5/13/99.

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The adjourned session of May 19, 1999 was called to order by the moderator at 7:47 p.m. 125 town meeting members checked in and a quorum was declared. Articles 13 and 21 - 29 were considered.

ARTICLE 13. *Hampshire Council of Governments Assessment*

Voted that the Town raise and appropriate \$109,439 for the Hampshire Council of Governments.

Action taken on 5/19/99.

ARTICLE 14. *Special Services - Amherst Community Television*

Voted unanimously that the Town raise and appropriate \$4,000 for Amherst Community Television and related expenses.

Action taken on 5/13/99.

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The adjourned session of May 17, 1999 was called to order by the moderator at 7:46 p.m. 126 town meeting members checked in and a quorum was declared. Articles 20 and 15 were considered.

Town meeting voted unanimously to elect David Ross as Moderator pro tempore for Article 15.

Town meeting voted to defer consideration of Article 15 until after Article 20.

ARTICLE 15. *Special Services - Human Services*

Voted unanimously that the Town raise and appropriate \$135,820 for the following human services:

- Amherst Survival Center
- Big Brothers/Big Sisters
- Helen Mitchell Family Outreach Project
- Learning for Life
- Not Bread Alone
- Children's Aid and Family Services
- Homesharing - UMASS
- Everywoman's Center
- Food Bank
- Senior Health Services
- Amherst Family Center
- First Call for Help
- Hampshire Health Access
- Tapestry Health Systems
- School-Age Tuition Assistance Fund

Action taken on 5/17/99.

9:58 p.m. Town meeting voted to adjourn to Wednesday, May 19, 1999 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 178 town meeting members were checked in.

Article 13 is first to be considered at the adjourned session of May 19, 1999.

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ARTICLE 16. *Special Services - Congregate Housing*

Voted unanimously that the Town raise and appropriate \$50,000 for the development and coordination of support services essential to the tenants of congregate housing, said program to be fully reimbursed by the Department of Elder Affairs.

Action taken on 5/13/99.

ARTICLE 17. *Special Services - Transportation Subsidies*

Voted unanimously that the Town endorse no-fare public transit service to the Echo Hill, Cushman and Orchard Valley/Elf Hill areas of the Town, elderly and disabled special transportation services, and a pilot service known as the Amherst Shuttle, and approve the levying of an assessment by the Commonwealth of Massachusetts for the Town's proportionate share of the cost of such services.

Action taken on 5/13/99.

ARTICLE 18. *Capital Program - Equipment*

Voted that the Town appropriate \$547,300 to purchase, repair, and/or install the following new or replacement equipment and be authorized to turn in or sell corresponding items of equipment as part payment and to meet such appropriation raise \$379,300 from taxation and transfer \$168,000 from Ambulance Receipts Reserved for Appropriation.

Town computers	Pickup truck (Public Works)
Small used tractor (downtown maintenance)	Parks mower
Building maintenance equipment	C/W MARS upgrade (library catalogs)
Police cruisers (4)	Library internet PC's
Ambulance (Ambulance Receipts)	School bus
Fire Department computers (Ambulance Receipts)	Pickup truck (Amherst Schools)
Fire car (Ambulance Receipts)	Special Education van (Amherst Schools)
Paramedic equipment (Ambulance Receipts)	

Action taken on 5/13/99.

ARTICLE 19. *Capital Program - Chapter 90*

Voted that the Town authorize the expenditure of \$508,000 of Chapter 90 funds for the following purposes and further authorize the Treasurer to borrow in anticipation of reimbursement of these funds from the Commonwealth of Massachusetts.

- Dump truck
- Wildwood school zone lights

Intersection design
Road resurfacing
Drainage improvements
Action taken on 5/13/99.

10:00 p.m. Town meeting voted to adjourn to Monday, May 17, 1999 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 142 town meeting members were checked in.

Article 15 is first to be considered at the adjourned session of May 17, 1999.

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ARTICLE 20. *Capital Program - Buildings and Facilities*

a. **Voted** that the Town raise and appropriate \$471,500 to repair and/or improve the following buildings and facilities:

Town Hall roof	Wildwood/Marks Meadow School floors
Police Facility electrical work	Fort River School oil tank, remove and replace
Police Facility security system repair	Crocker Farm School roof repair
Munson Library electrical work	South Amherst School window sills and repointing
Munson Library air conditioning	Fort River School renovations
DPW building improvements	West Cemetery improvements
Parks Garage	Downtown trash containers
School playground improvements	War Memorial Pool decking repair
Wildwood School noise abatement	Risk assessment of the old landfill

b. **Voted unanimously** that the Town appropriate \$69,700 to replace a portion of the Middle School roof and to meet such appropriation transfer \$69,700 from the Stabilization Fund.

c. **DEFEATED Yes 55, No 107** [that the Town raise and appropriate \$75,000 to develop a Comprehensive Plan for the Town.]

Action taken on 5/17/99.

ARTICLE 21. *Capital Program - Land Acquisition – Station Road*

Voted by a declared 2/3 vote that the Town:

- a. authorize the Select Board to acquire by purchase, gift, eminent domain, or otherwise 85.15 acres more or less, land now or formerly of Lawrence and Evelyn Slobody and Slobody Farm, lying northerly of Station Road, being Parcel 20D-70 of the Town Cadastre;
- b. authorize the Select Board to sell approximately 8.7 acres of said Parcel 20D-70, in two separate sales of 6.0 acres more or less and 2.7 acres more or less, with the proceeds applied to said purchase;
- c. authorize the transfer of the remaining 76.45 acres more or less to the Conservation Commission for management in accordance with Massachusetts General Laws, Chapter 40, Section 8C;
2. appropriate \$875,000 for said purchase, and to meet said appropriation transfer \$37,500 from Water Fund revenues of the current year; transfer \$7,500 from Art. 20, FY 99; raise \$30,000 from taxation; borrow \$525,000 in accordance with M.G.L. Chapter 44, section 7, clause 3; accept \$275,000 or more in gifts, bequests, grants, or otherwise; and authorize the Treasurer to borrow in anticipation of receipts of such grants;
3. authorize the Conservation Commission to seek funding from the Massachusetts Self-Help Program under M.G.L. Chapter 132A, Section 11, and to enter into contracts with the Commonwealth of Massachusetts for the project;
4. authorize the Conservation Commission to lease or rent land and outbuildings to be acquired under this article for agricultural purposes, under the provisions of Massachusetts General Laws, Chapter 30B, for a period of not longer than 30 years for the land and not longer than 10 years for any buildings.

Action taken on 5/19/99.

ARTICLE 22. *Petition - Water Fund - Land Acquisition - Station Road*

DEFEATED Yes 90, No 72 (2/3 vote not attained) [that the town (1) appropriate \$8,000 for the purchase of 9.3 acres off Station Road for conservation and watershed purposes, the land being a portion of Map 24B, Parcel 4 of the Town Cadastre, now or formerly of Jeffrey Honig; (2) to meet such appropriation make \$8,000 available from Water Fund revenues of the current year; and, (3) authorize the Select Board to acquire said parcel to be managed and controlled by the Conservation Commission under Massachusetts General Laws, Chapter 40, Section 8C.]

Action taken on 5/19/99.

ARTICLE 23. *Stabilization Fund*

Voted to dismiss. [To see if the Town will appropriate and transfer a sum of money to the Stabilization Fund for FY 2000.]

Action taken on 5/19/99.

ARTICLE 24. *Free Cash*

Voted to dismiss. [To see if the Town will appropriate and transfer a sum of money from Free Cash in the Undesignated Fund Balance of the General Fund to reduce the tax levy of the 2000 Fiscal Year.]

Action taken on 5/19/99.

ARTICLE 25. *Amendment to Regional Agreement*

Voted unanimously that the Town amend the Amherst-Pelham Regional School District Regional Agreement in the following matter:

1. Add Table of Contents.
2. Section III.e: Change to: "In accordance with Section 14D of Chapter 71 of the General Laws as amended, debt may be incurred for the above purpose pursuant to the provisions of Section 16(d) of the General Laws, as amended. (See Appendix 1)
3. Add Appendix 1: Chapter 71 Section 16(d)
4. Section IV.a.: Change to: "The Regional District Schools shall be located within the boundaries of the four towns that comprise the Region."
5. Section VI.c: Change "tests" to "books and equipment."
6. Section VI.e.: Insert after "Operating costs for the ensuing Fiscal year shall be apportioned annually" the words "pursuant to the provisions of Section 6 of Chapter 70 (See Appendix 2), as amended,".
7. Add Appendix 2: Chapter 70 Section 6
8. Section VI.g: Revise to read, "The Regional School District is authorized if it so votes, to execute a lease, or leases, to provide space for educational purposes."
9. Section VII.a: Revise item "4. Debt" to read "4. Debt [not passed as a town debt exclusion]"
10. Section VII.a: Change "forty-five days" to "forty days."
11. Section VII.b: Delete current section and replace with, "Pursuant to the provisions of Section 16B of Chapter 71, the Regional School District Treasurer shall certify those amounts apportioned for each municipality to the treasurers of the several municipalities within thirty days from the day on which the annual budget is adopted by a two-thirds vote of the Regional District School Committee, but not later than April thirtieth. Further, the aforementioned certification will be made to the treasurers not less than thirty days before the earliest town meeting of a member town."
12. Section VII.c: Delete current section and replace with, "Pursuant to the provisions of Section 16B of Chapter 71, the annual regional school district budget as adopted by a two-thirds vote of the Regional School District Committee shall require the approval of two-thirds of the local appropriating authorities of the member municipalities."
13. Section IX.b: Insert at the beginning of this section the following new language, "Unless provided for in the General Laws and."
14. Section IX.d: Insert at the beginning of this section the following new language, "To the extent allowed by the General Laws and."
15. Section X.a: Delete the first sentence of this section and insert the following new first sentence, "The district shall provide transportation for pupils attending the regional district schools as well as pupils attending the elementary schools of member towns in accordance with the General Laws and in further accordance with the policy of the Regional School Committee."
16. Section XV: Add title, "Termination of Agreement."

Action taken on 5/19/99.

ARTICLE 26. *Conveyance of Land - West Pomeroy Lane*

Voted by a declared 2/3 vote that the Town:

- a. rescind the action taken under Article 14, Special Town Meeting, October 26, 1998, Conveyance of Land – West Pomeroy Lane; and
- b. authorize the Select Board to convey a certain parcel of vacant land on West Pomeroy Lane, shown as Map 19D Parcel 29 on the Town Tax Map, containing 56,556 square feet, more or less, for the construction of low- or moderate-income housing thereon, subject to affordable housing restrictions to be imposed thereon; and at a price determined through a competitive request for proposal process.

Action taken on 5/19/99.

ARTICLE 27. *Sewer Easement Exchange - University Drive*

Voted by a declared 2/3 vote that the Town authorize the Select Board to exchange Sewer Easements with Lincoln Pulp & Paper Co., Lincoln Land & Timber Co., and the Arbors at Amherst Limited Partnership relative to property located on the easterly side of University Drive whereby the Town will abandon its easement rights in an old sewer line and acquire new easement rights to operate the new line recently constructed in the area, no appropriation being required.

Action taken on 5/19/99.

ARTICLE 28. *Easement Acquisition – Snell Street – Bikeway Connector*

Voted unanimously that the Town authorize the Select Board to acquire by purchase, gift, eminent domain or otherwise the following easements over land on Snell Street for the proposed multi-purpose path to be known as the Amherst – UMass Bikeway Connector:

- (a) an easement over Parcels 13D-74 and 75 of the Town Cadastre, land of the Ralph L. Cooley Estate;
- (b) an easement over Parcels 13D-71 and 13D-72 of the Town Cadastre, land of Michael L. Katz; and
- (c) an easement over Parcel 13D-64 of the Town Cadastre, land of Marvin J. Spence and George A. Spence.

Action taken on 5/19/99.

ARTICLE 29. *Petition - Conservation Land Designation - Sand Hill Road/State Street*

Voted Yes 110, No 34 that the Town transfer 13.9 acres of land between Sand Hill Road and State Street known as Parcel 133 of Map 5-B now informally managed for the Town by the Conservation Commission to the formal management and control of the Conservation Commission under Massachusetts General Laws, Chapter 40, Section 8C.

Action taken on 5/19/99.

10:20 p.m. Town meeting voted to adjourn to Wednesday, May 26, 1999 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 174 town meeting members were checked in.

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The adjourned session of May 26, 1999 was called to order by the moderator at 7:47 p.m. 125 town meeting members checked in and a quorum was declared. Articles 30 - 36 were considered.

Ann Grose was sworn as a teller.

ARTICLE 30. *Town Bylaw – Amendments to Wetlands Protection Bylaw*

Voted that the Town adopt the following amended Wetlands Protection Bylaw by deleting the language in brackets and adding the language in ***bold italics***, as follows:

TOWN OF AMHERST WETLANDS PROTECTION BYLAW

[Section 1.] I. Purpose

The purpose of this bylaw is to protect the wetlands, [related] water resources, and adjoining land areas in the Town of Amherst by [prior review and control of] ***controlling*** activities deemed by the Conservation Commission likely to have a significant or cumulative effect upon [wetland] ***resource area*** values, including but not limited to the following: public and private water supply, groundwater, flood control, erosion and sedimentation control, storm damage prevention, ***water quality***, [prevention of] water pollution ***prevention***, [fisheries, wildlife] wildlife habitat, ***rare species habitat including rare plant species, agriculture, aquaculture***, and recreation values, ***deemed important to the community*** ([to be known] collectively, [as] the [wetland] “***resource area*** values protected by this bylaw”). ***This bylaw is intended to utilize the Home Rule authority of this municipality to protect additional resource areas, for additional values, with additional standards and procedures stricter than those of the Wetlands Protection Act (G.L. c. 131 Sec. 40) and Regulations thereunder (310 CMR 10.00 et seq.)***.

[Section 2.] II. Jurisdiction

Except as permitted by the Conservation Commission or as provided in this bylaw, no person shall ***commence to*** remove, fill, dredge, build upon, ***degrade, discharge into***, or ***otherwise*** alter the following resource areas: [a.] any freshwater wetland; [riverine wetland]; marsh; wet meadow; bog; [or] swamp; [or within one hundred (100) feet of said areas]; ***isolated wetland; vernal pool***; [b. Any] bank; [or beach, or within one hundred (100) feet of said areas] ***reservoir***; [c. Any lake] pond; river; [creek;] ***perennial*** stream; [whether intermittent or continuous, natural or manmade] intermittent stream; ***watercourse; water within water bodies***; [d. Any] land under [aforesaid waters] ***water bodies***; [e. Any] land subject to flooding or inundation by groundwater, surface water, ***or*** storm flowage; [or within one hundred (100) feet of said areas; f. Isolated wetlands including kettle holes, or within one hundred (100) feet of said areas; g. Seasonal wetlands, or within one hundred (100) feet of said areas;] ***and land abutting any of the aforesaid resource areas as set out in VII.4 below (collectively the “resource areas protected by this bylaw”). Said resource areas shall be protected whether or not they border surface waters.***

[Section 3.] III. Conditional Exceptions

The application and permit required by this bylaw shall not be required for maintaining, repairing, or replacing, but not substantially changing or enlarging, an existing [or] **and** lawfully located structure or facility used in the service of the public to provide electric, gas, [water,] telephone, telegraph, or other telecommunication services, or sanitary [sewers and] **or** storm sewers, [provided that the structure or facility is not substantially changed or enlarged] provided that written notice has been given to the Commission [at least forty-eight (48) hours] prior to **the** commencement of work, and provided that the work conforms to performance standards **and design specifications** in regulations adopted by the Commission.

The application and permit required by this bylaw shall not be required for work performed for [the] normal maintenance or improvement of land[s] **which is lawfully** in agricultural use **at the time the work takes place, provided that written notice has been given to the Commission prior to commencement of work, and provided that the work conforms to performance standards and design specifications in regulations adopted by the Commission.**

The application and permit required by this bylaw shall not [apply to] **be required for** emergency projects necessary for the protection of the health or safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or a political subdivision thereof; provided that advance notice, oral or written, has been given to the Commission, prior to commencement of the work or within [twenty-four] 24 hours after commencement; provided that the [Conservation] Commission or its agent certifies the work as an emergency project; provided that the work is performed only for the time and place certified by the [Conservation] Commission for the limited purposes necessary to abate the emergency; and provided that within [twenty-one] 21 days of commencement of an emergency project a permit application shall be filed with the Commission for review as provided [in] **by** this bylaw. Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

The application and permit required by this bylaw shall not be required for exemptions under the Rivers Act (310 CMR 10.58{:6}).

Other than stated in this section, the exceptions provided in the Wetlands Protection Act (G.L.c. 131 Sec. 40) and Regulations (310 CMR 10.00 et seq.) shall not apply under this bylaw.

[Section 4.] IV. [Requests for Determinations and Applications for Permits] *Applications for Permits (Notice of Intent or NOI) and Requests for Determination (RFD)*

Written application shall be filed with the Commission to perform activities [regulated by this bylaw] affecting resource areas protected by this bylaw. The **permit** application shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the [environment] **resource areas protected by this bylaw**. No activities shall commence without receiving and complying with a permit issued pursuant to this bylaw.

The Commission in an appropriate case may accept as the **permit** application and plans under this bylaw the Notice of Intent and plans filed under the Wetlands Protection Act (G.L. c. 131 Sec. 40) **and Regulations (310 CMR 10.00 et seq.)**.

Any person desiring to know whether or not a proposed activity or an area is subject to this bylaw may request in writing a determination from the Commission. Such a Request for Determination (**hereafter RFD**) shall [contain data] **include information** and plans [specified by the regulations of] **as are deemed necessary by** the Commission.

[The Commission in an appropriate case may accept as the request under this bylaw the Request for Determination of Applicability filed under the Wetlands Protection Act, G.L. c. 131, Sec. 40.]

At the time of [an application or request] **a permit (NOI) or RFD Application**, the applicant shall pay a filing fee specified in **the** Regulations of the Commission. [This] **The** fee is in addition to that required by the Wetlands Protection Act (G.L. c. 131 Sec. 40) **and Regulations (310 CMR 10.00 et seq.)**. **The filing fee shall be commensurate with the reasonable expenses incident to the licensing.**

Upon receipt of a permit application or RFD, or at any point during the hearing process, the Commission is authorized to require [the] **an** applicant to pay [the costs and expenses of any expert consultant deemed necessary by the Commission to review the application.] **a fee for the reasonable costs and expenses borne by the Commission for specific expert engineering and other consultant**

services deemed necessary by the Commission to come to a final decision on the application. This fee is called the “consultant fee.” The specific consultant services may include, but are not limited to, performing, or verifying the accuracy of, resource area survey and delineation; analyzing resource area functions and values, including wildlife habitat evaluations, hydrogeologic and drainage analysis; and researching environmental or land use law.

The Commission may require the payment of the consultant fee at any point in its deliberations prior to a final decision. Any unused portion of the consultant fee shall be returned to the applicant unless the Commission decides at a public meeting that additional services will be required.

The Commission may waive the filing fee, *consultant fee*, and costs and expenses for a *permit* application or [request] *RFD* filed by a government agency. [And may waive the filing fee for a Request for Determination filed by a person having no financial connection with the property which is the subject of the request.]

[Section 5.] V. [Public] Notice and Hearings

[An application or a Request for Determination shall be hand delivered or sent by certified mail to the Commission. The Commission shall notify all abutters according to the most recent records of the assessors, including those across a traveled way or body of water. The notice to abutters shall state where the request or application, including any accompanying documents may be examined or obtained.] *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 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. The notice to abutters shall have enclosed a copy of the permit application or request, with plans, or shall state where copies may be examined and obtained by abutters. An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission.* When a person requesting a determination is other than the owner, the request, the notice of the hearing, and the determination itself shall be sent by the Commission to the owner as well as to the person making the request.

The Commission shall conduct a public hearing on any *permit* application or RFD, with written notice given at the expense of the applicant, five [5 working] *business* days prior to the hearing, in a newspaper of general circulation in the Town of Amherst.

The Commission shall commence the public hearing within [twenty-one] 21 days from receipt of a completed permit application or RFD unless [the applicant extends the twenty-one day time period by a signed written waiver] *an extension is authorized in writing by the applicant.*

The Commission shall issue its permit or determination in writing within [twenty-one] 21 days of the close of the public hearing thereon *unless an extension is authorized in writing by the applicant.*

The Commission in an appropriate case may combine its hearing under this bylaw with the hearing conducted under the Wetlands Protection Act (G.L. c. 131 Sec. 40) *and Regulations (310 CMR 10.00 et seq.).*

The Commission shall have the authority to continue the hearing to a certain date announced at the hearing or to an unspecified date, for reasons stated at the hearing, which may include the *anticipated or requested* receipt of additional information [offered by] *from* the applicant or others [information and plans required of the applicant] deemed necessary by the Commission in its discretion, or comments and recommendations of *the* boards and officials listed in [Section 6.] *VI below.* [If a date for continuation is not specified, the hearing shall reconvene in twenty-one days after the submission of a specified piece of information or the occurrence of a specified action. The date, time and place of said hearing shall be published in a newspaper of general circulation in the Town of Amherst five (5) working days prior to the continuation, at the expense of the applicant, and written notice shall be sent to any person who so requests in writing.] *If the hearing is postponed to an unspecified date, the applicant is responsible for the expense of advertising the rescheduled hearing, such notice to appear five business days prior to the hearing, in a newspaper of general circulation in the Town of Amherst. In addition, the applicant must send written notice of the rescheduled hearing to any person who has requested it.*

[Section 6.] VI. Coordination with Other Boards

Any person filing a permit application or RFD with the Commission shall provide [written notice] **a copy** thereof at the same time, by certified mail (*return receipt requested*) or hand delivery, to the [board of selectmen], zoning board [of appeals, board of], planning board, health *inspections*, town engineer, and building commissioner. ***A copy shall be provided in the same manner to the Conservation Commission of the adjoining municipality, if the application or RFD pertains to property within 300 feet of that municipality. An affidavit of the person providing notice, with a copy of the notice mailed or delivered, shall be filed with the Commission.*** The Commission shall not take final action until the boards and officials have had [fourteen] 14 days from receipt of notice to file written comments and recommendations with the Commission, which the Commission shall take into account but which shall not be binding on the Commission. The applicant shall have the right to receive any [such] comments and recommendations, and to respond to them at a hearing [of the Commission], prior to final action.

[Section 7.] VII. [Determinations,] Permits and Conditions

The Commission shall have the authority, after a public hearing, to determine whether a specific parcel of land contains or does not contain resource areas protected under this bylaw. If the Commission finds that no such resource areas are present, it shall issue a negative determination.

If the Commission, after a public hearing [on the permit application], determines that the activities which are subject to the *permit* application, ***or the land and water uses which will result therefrom***, are likely to have a significant *individual* or cumulative [detrimental] effect upon the [wetland] *resource area* values protected by this bylaw, the Commission, within [twenty-one] 21 days of the close of the hearing, shall issue or deny a permit for the activities requested. If it issues a permit, the Commission shall impose conditions which the Commission deems necessary or desirable to protect those values, and all activities shall be done in accordance with those conditions. ***The Commission shall take into account the cumulative adverse effects of loss, degradation, isolation, and replication of protected areas throughout the community and the watershed, resulting from past activities, permitted and exempt, and foreseeable future activities.***

The Commission is empowered to deny a permit for failure to meet the requirements of this bylaw; for failure to submit necessary information and plans requested by the Commission; for failure to meet the design specifications, performance standards, and other requirements in regulations of the Commission; for failure to avoid or prevent *unacceptable* significant or cumulative [detrimental] effects upon the [wetland] *resource area* values protected by this bylaw; and where no conditions are adequate to protect those values. ***Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing.***

Lands within 200 feet of rivers and within 100 feet of other resource areas, are presumed important to the protection of these resources because activities undertaken in close proximity to resource areas have a high likelihood of adverse impact upon the wetland or other resource, either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of the activities. These adverse impacts from construction and use can include, without limitation, erosion, siltation, loss of groundwater recharge, poor water quality, and loss of wildlife habitat. The Commission therefore may require that the applicant maintain a strip of continuous, undisturbed vegetative cover within, or in some instances up to the full extent of the 200-foot or 100-foot buffer area, unless the applicant convinces the Commission that the area or part of it may be disturbed without harm to the values protected by the bylaw.

To prevent wetlands loss, the Commission shall require applicants to avoid wetlands alteration wherever feasible; shall minimize wetlands alteration; and, where alteration is unavoidable, shall require full mitigation. The Commission may authorize or require replication of wetlands on a two-to-one basis as a form of mitigation, but only with adequate security, professional design, and monitoring to assure success, because of the high likelihood of failure of replication.

A permit shall expire three years from the date of issuance. Notwithstanding the above, the Commission [in] ***at*** its discretion may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission ***prior to such work***. Any permit may be renewed once for an additional one year period, ***provided that a request for a renewal is received in writing by the Commission prior to expiration. Notwithstanding the above, a permit may contain requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all owners of the land.***

For good cause the Commission may revoke or [amend] ***modify*** a permit ***or determination*** issued under this bylaw after public notice to the holder of the permit ***or determination, notice to the***

public and town boards, pursuant to V and VI above, and a public hearing.

The Commission in an appropriate case may combine the permit or [other action on an application] *determination* issued under this bylaw with the Order of Conditions or [other action issued or taken] *Determination of Applicability* issued under the Wetlands Protection Act (G.L. c. 131 Sec. 40) *and Regulations (310 CMR 10.00 et seq.)*.

No work proposed in any permit application shall be undertaken until the permit issued by the Commission with respect to such work has been recorded in the registry of deeds or, if the land affected is registered land, in the registry section of the land court for the district wherein the land lies, and until the holder of the permit certifies in writing to the Commission that the permit has been recorded.

[Section 8.] VIII. Regulations

After public notice and public hearing, the Commission shall promulgate rules and regulations to [accomplish] *effectuate* the purposes of this bylaw *effective when voted and filed with the town clerk*. [These regulations shall be consistent with the terms of this bylaw.] The Commission may amend the rules and regulations after public notice and public hearing. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this bylaw. Unless otherwise stated in this bylaw or in the rules and regulations promulgated under this bylaw, the definitions, procedures, and performance standards of the Wetlands Protection Act (G.L. c. 131 Sec. 40) and [associated] Regulations (310 CMR 10.00 *et seq.*) *as most recently* promulgated [April 1983] shall apply.

[Section 9.] IX. Definitions

The following definitions shall apply in the interpretation and implementation of this bylaw. *(For additional definitions, see Regulations II.)*

The term “person” shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to town bylaws, administrative agency, public or quasi-public corporation or body, this municipality, and any other legal entity, its legal representative, agents, or assigns.

The term “alter” shall include, without limitation, the following activities when undertaken to, upon, within, or affecting resource areas protected by this bylaw:

- A. Removal, excavation, or dredging of soil, sand, gravel, clay, minerals, or aggregate materials of any kind
- B. Changing of preexisting drainage characteristics, flushing characteristics, [salinity distribution] sedimentation patterns, flow patterns, or flood retention characteristics
- C. Drainage, or other disturbance of water level or water table
- D. Dumping, discharging, or filling with any material which may degrade water quality
- E. Placing of fill, or removal of material, which would alter elevation
- F. Driving of piles, erection or repair of buildings or structures of any kind
- G. Placing of obstructions or objects in water
- H. Destruction of plant life including cutting of trees
- I. Changing [water] temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of [surface and ground water] *any waters*
- J. Any activities, changes, or work which may cause or tend to contribute to pollution of any body of water or groundwater
- K. *Incremental activities which have, or may have, a cumulative adverse impact on the resource areas protected by this bylaw.***

[Section 10.] X. Security

As part of a permit issued under this bylaw, in addition to any security required by any other municipal or state board, agency, or official, the Commission may require that the performance and observance of the conditions imposed [hereunder] *thereunder (including conditions requiring mitigation work)* be secured wholly or in part by *one or both of the methods described below*:

- A. By a proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the Commission, *to be released in whole or in part upon issuance of a Certificate of Compliance for work performed pursuant to the permit.*
- B. [In addition or in the alternative, the Commission may accept as security] *By accepting a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of this municipality whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed. This method shall be used only with the consent of the applicant.*

[Section 11.] XI. Enforcement

No person shall remove, fill, dredge, build upon, degrade, or otherwise alter resource areas protected by this bylaw, or cause, suffer, or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with a permit or an enforcement order issued pursuant to this bylaw.

The Commission, its agents, officers, and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this bylaw and may make or cause to be made such examinations, surveys, or sampling as the Commission deems necessary, *subject to the constitutions and laws of the United States and the Commonwealth.*

The Commission shall have authority to enforce this bylaw, its regulations, and permits issued thereunder by violation notices, administrative orders, and civil and criminal court actions. Any person who violates [any provision] *provisions* of this bylaw may be ordered to restore the property to its original condition and take other action deemed necessary to remedy such violations, or may be fined, or both.

Upon request of the Commission, the board of selectmen and the town counsel shall take legal action for enforcement under civil law. Upon request of the Commission, the chief of police shall take legal action for enforcement under criminal law.

Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in enforcement.

Any person who violates any provision of this bylaw, [including any causing suffering or allowing of illegal work, any failure or refusal to comply with an enforcement order, violation, notice, or administrative order, and any failure or refusal to remove illegal fill, restore property, or obtain necessary Commission approval, or any person who violates the permits issued thereunder, shall be punished by a fine of not more than three hundred dollars (\$300.00). Each day or portion thereof during which a violation continues shall constitute a separate offense. This fine may be in addition to any levied under the Wetlands Protection Act G. L. c. 131 Sec. 40.

In the alternative to criminal prosecution, the Commission may elect to utilize the non-criminal disposition procedure set forth in G.L. c. 40, Sec. 21 D. The fine for any violation disposed of through this procedure shall be two hundred dollars (\$200.00) for each offense. Each day or portion thereof during which a violation continues shall constitute a separate offense and each provision of the bylaw or permit violated shall constitute a separate offense. This fine may be in addition to any levied under the Wetlands Protection Act, G.L. c. 131 Sec. 40. For purposes of non-criminal disposition, the Conservation Director, Assistant Conservation Director, and Police officers shall all be the enforcing persons.] *or regulations, permits, or administrative orders issued thereunder, or has failed to obtain the necessary Commission approval, shall be punished by a fine of not more than \$300. Each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense, and each provision of the bylaw, regulations, permits, or administrative orders violated shall constitute a separate offense.*

As an alternative to criminal prosecution in a specific case, the Commission may issue citations under the non-criminal disposition procedure set forth in G.L. c. 40 Sec. 21D, which has been adopted by the Town in Article VI, Section 1(b) of the general bylaws. The enforcing persons shall be the Conservation Director, Wetlands Administrator and Police officers.

[Section 12.] **XII. Burden of Proof**

The applicant for a permit shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the *permit* application will not have unacceptable significant or cumulative effect upon the resource area values protected by this bylaw. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

XIII. Appeals

A decision of the Commission shall be reviewable in accordance with G.L. c. 249 Sec. 4.

[Section 14.] **XIV. Relation to the Wetlands Protection Act**

This bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act (G.L. c. 131 Sec. 40) and [the] Regulations (*310 CMR 10.00 et seq.*) thereunder.

[Section 15.] **XV. Severability**

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof, nor shall it invalidate any permit or determination which previously has been issued.

XVI. Effective Date

This revised bylaw goes into effect when approved by the Attorney General and published by the town clerk as set forth in G.L. c. 40 Sec. 32. A project for which the permit was filed or final Order of Conditions was issued prior to that date is subject to the previous bylaw.

Action taken on 5/26/99.

ARTICLE 31. Zoning Bylaw – Caretaker Apartments

Voted by a declared 2/3 vote that the Town amend Section 5.016 by deleting the lined-out language and adding the language in **bold italics**, as follows:

5.016 Dwellings in ~~Industrial and Commercial~~ **Office, Research & Industrial** Districts

~~In an Industrial District and in a any Commercial~~ **Office Park (OP), Professional Research Park (PRP) or Light Industrial (LI) District, one dwelling units may be considered permitted as an accessory use on any lot where the dwelling such unit or units is are determined by the permitting authority to be necessary for the accommodation of a manager, custodian, security guard, or other employee essential to the operation of the principal non-residential use of the lot. This may include accommodation for such employee's immediate family or household. Not more than 10% of the gross floor area (GFA) of all buildings, as determined by the Building Commissioner, shall be devoted to such accessory residential use. A larger percentage of residential GFA may but be allowed only if such dwelling is specifically authorized by the Board of Appeals under a Special Permit.**

Action taken on 5/26/99.

ARTICLE 32. Zoning Bylaw – Non-conforming Uses

Voted by a declared 2/3 vote that the Town amend Section 9.2 of the Zoning Bylaw by adding the language in bold italics, as follows:

9.20 Any lawful building or structure, or uses of a building, structure or land, existing at the time of adoption of this Bylaw or any amendment thereto which does not conform to the regulations thereof may be continued. However, except as hereinafter set forth, a non-conforming building or structure shall not be structurally altered, enlarged, nor reconstructed **so as to increase its non-conformity under this bylaw.**

9.200 Under Section 11.1, the Building Commissioner may permit the repair, structural alteration, reconstruction, extension or enlargement of a lawful, dimensionally non-conforming single family or two family dwelling, or a portion thereof, or accessory structures thereto, provided the proposed change does not constitute a change of use under this Bylaw, and the following conditions are met:

9.2000 In the case of a building non-conforming solely because of insufficient lot

frontage or lot area, or both, the proposed change shall meet all dimensional requirements for front setback, side and rear yards, building coverage, lot coverage, maximum floors, and maximum height.

9.2001 *In the case of a dimensionally non-conforming building with sufficient lot frontage and lot area, where said building, or a portion thereof, is non-conforming as to one or more of the dimensional requirements for front setback, side and rear yards, building coverage, lot coverage, maximum floors or maximum height, all dimensional requirements met by the building prior to the proposed change shall be met after completion of the proposed change.*

Action taken on 5/26/99.

ARTICLE 33. *Zoning Bylaw – Demolition Delay*

Voted unanimously that the Town amend the Zoning Bylaw by adding the following Article 13:

ARTICLE 13 DEMOLITION DELAY FOR STRUCTURES OF HISTORICAL OR ARCHITECTURAL SIGNIFICANCE

SECTION 13.0	POLICY
SECTION 13.1	PURPOSES
SECTION 13.2	DEFINITIONS
SECTION 13.4	PROCEDURE
SECTION 13.5	STANDARDS FOR DESIGNATION AS A SIGNIFICANT STRUCTURE
SECTION 13.6	EMERGENCY DEMOLITION
SECTION 13.7	ENFORCEMENT AND REMEDIES
SECTION 13.8	SEVERABILITY

SECTION 13.0 DECLARATION OF POLICY

Finding that the economic, cultural and aesthetic standing of the Town of Amherst can best be maintained and enhanced by due regard for the historical and architectural heritage of the Town and by striving to discourage the destruction of such cultural assets, it is hereby declared as a matter of public policy that the protection, enhancement, perpetuation and use of structures of historical and architectural significance, located within the Town of Amherst, is a public necessity, and is required in the interest of the prosperity, civic pride and general welfare of the people.

SECTION 13.1 PURPOSES

The purposes of this Bylaw are to:

- 13.10 Designate, preserve, protect, enhance and perpetuate those structures and sites within the Town that reflect outstanding elements of the Town's cultural, artistic, social, economic, political, architectural, historic or other heritage;
- 13.11 Foster civic pride in the vestiges and accomplishments of the past;
- 13.12 Stabilize or improve the aesthetic and economic vitality and values of such structures and sites;
- 13.13 Protect and enhance the Town's attraction to tourists and visitors;
- 13.14 Promote the use of historical or architectural structures and sites for the education and welfare of the people of the Town;
- 13.15 Promote good urban design including the perpetuation of related private open spaces;
- 13.16 Promote and encourage continued private ownership and utilization of such buildings and sites now so owned and used: and
- 13.17 Provide owners of significant structures with time to consider alternatives to demolition.

SECTION 13.2 DEFINITIONS

The provisions of this bylaw shall be liberally construed to effect the purposes expressed or implied in Section 13.1. Definitions of the following words and phrases shall be construed and understood according to their common and usual meaning unless the contrary is clearly indicated:

"Commission" - The Amherst Historical Commission.

"Demolition" - Any act of pulling down, destroying, removing or razing a structure or portion thereof, or commencing the work of total or substantial destruction with the intent of completing the same.

"Demolition Permit" - A permit issued by the Building Commissioner under the State Building Code for the demolition of a building or structure.

"Significant structure" - A structure or site found by the Amherst Historical Commission to contribute to the historical or architectural heritage or resources of the Town pursuant to Section 13.4 of this Bylaw.

"Structure" - Any edifice, object or building of any kind that is constructed or erected and requires more or less permanent location on the ground or attachment to an object with permanent location on the ground, not including wheels.

SECTION 13.3 PROCEDURE

- 13.30 No permit for demolition of a significant structure shall be issued except as provided in this bylaw.
- 13.31 Every application for a demolition permit shall be made upon a form provided by the Building Commissioner, and shall be signed by the owner or the owner's agent under the power of attorney. Every application shall include such locational information, plans and narrative description and justification of the proposed demolition as shall be required under Historical Commission rules and regulations for such applications.
- 13.32 Upon receipt of any application for a demolition permit, the Building Commissioner shall within five (5) days transmit a copy thereof to the Amherst Historical Commission.
- 13.33 Within thirty (30) days of the Commission's receipt of a copy of the application for a demolition permit, the Commission shall hold a public hearing on such application, and shall make a determination as to whether the structure is a significant structure under one or more of the criteria set forth in Sections 13.40 and 13.41. The Commission shall give written notice of the time and place of the hearing, not less than seven (7) days prior to the hearing, to the owner by certified mail, and by posting and by publication once in a local newspaper. The Commission may conduct a site visit prior to the hearing.
- 13.34 If, within thirty (30) days of the Commission's receipt of a copy of an application for a demolition permit, no public hearing has been held, or no finding by the Commission has been filed with the Building Commissioner, the Building Commissioner may, subject to the requirements of the State Building Code and any other applicable laws, bylaws, rules and regulations, issue the demolition permit.
- 13.35 If after holding a public hearing the Commission shall determine that the structure is not a significant structure because it fails to meet one or more of the criteria set forth in Section 13.41, or if the Commission shall determine that the structure is a significant structure meeting one or more of the criteria set forth in Section 13.41, but that the proposed demolition would not be detrimental to the historical or architectural heritage or resources of the Town, then the Commission shall notify the Building Commissioner in writing of its findings within fourteen (14) days of said determination. Upon receipt of such notification, or upon expiration of said fourteen (14) days without such notice, the Building Commissioner may issue a demolition permit, subject to the requirements of the State Building Code and any other applicable laws, bylaws, rules and regulations.
- 13.36 If, after such hearing, the Commission determines that the structure is a significant structure and that the proposed demolition would be detrimental to the historical or architectural heritage or resources of the Town, then it shall file written notice with findings, of its determination to the applicant and the Building Commissioner, and no demolition permit shall be issued until six (6) months after the date of such determination by the Commission.

SECTION 13.4 STANDARDS FOR DESIGNATION AS A SIGNIFICANT STRUCTURE

The Historical Commission shall determine that a structure or site be designated as a *significant structure* if it meets one or more of the following criteria:

- 13.40 It is listed on, or is within an area listed on, the National Register of Historic Places, or is the

subject of a pending application for listing on said National Register, or;

13.41 The Commission determines that the structure meets one or more of the following three criteria:

13.410 **Historical Importance.** The structure meets the criteria of historical importance if it:

13.4100 Has character, interest or value as part of the development, heritage or cultural characteristics of the town of Amherst, the Commonwealth of Massachusetts or the nation, or;

13.4101 Is the site of an historic event, or;

13.4102 Is identified with a person or group of persons who had some influence on society, or;

13.4103 Exemplifies the cultural, political, economic, social or historic heritage of the community.

13.411 **Architectural Importance.** The structure meets the criteria of architectural importance if it:

13.4110 Portrays the environment of a group of people in an era of history characterized by a distinctive architectural style, or;

13.4111 Embodies those distinguishing characteristics of an architectural type, or;

13.4112 Is the work of an architect, master builder or craftsman whose individual work has influenced the development of the Town, or;

13.4113 Contains elements of architectural design, detail, materials or craftsmanship which represents a significant innovation.

13.412 **Geographic Importance.** The structure meets the criteria of geographic importance if:

3.4120 The site is part of, or related to, a square, park, or other distinctive area, or;

13.4121 The structure, as to its unique location or its physical characteristics, represents an established and familiar visual feature of the neighborhood, village center, or the community as a whole.

SECTION 13.5 DEMOLITION

Notwithstanding the provisions of Section 13.36, the Building Commissioner may issue a demolition permit for a *significant structure* under any of the following circumstances:

13.50 If at any time, after inspection, the Building Commissioner shall determine that the structure poses an imminent threat to the public health or safety of the community under Section 13.63, and so advises the Commission in writing, or;

13.51 The Commission is satisfied that there is no reasonable likelihood that either the owner or some other person or group is or will be willing to purchase, preserve, rehabilitate or restore such building, and so advises the Building Commissioner in writing, or;

13.52 The Commission is satisfied that the owner has made continuing bona fide and reasonable efforts to locate a purchaser who would be willing to preserve, rehabilitate and restore the subject building but that such efforts have been and will continue to be unsuccessful, and so advises the Building Commissioner in writing.

SECTION 13.6 EMERGENCY DEMOLITION

13.60 If a building or structure poses an immediate threat to public health or safety due to its deteriorated condition, the owner of such building or structure may request issuance of an emergency demolition permit from the Building Commissioner.

- 13.61 Upon receipt of any application for an emergency demolition permit, the Building Commissioner shall within five (5) days transmit a copy thereof to the Amherst Historical Commission.
- 13.62 As soon as is practicable, but within 14 days after receipt of such an application, the Building Commissioner shall inspect the building or structure with a team consisting of the Commissioner, Town Engineer, Fire Chief, Historical Commission Chair and two (2) other members of the Commission selected by the Chair, or the designees of said officials.
- 13.63 Within 5 days after inspection of the building or structure, and after consultation with other members of the inspection team, the Building Commissioner shall determine: 1) whether the condition of the building or structure represents a serious and imminent threat to public health and safety, and; 2) whether there is any reasonable alternative to the immediate demolition of the building or structure which would protect public health and safety.
- 13.630 If the Building Commissioner finds: 1) that the condition of the building or structure poses a serious and imminent threat to public health and safety, and; 2) that there is no reasonable alternative to the immediate demolition of the building or structure, then the Commissioner may issue an emergency demolition permit to the owner of the building or structure.
- 13.631 If the Building Commissioner finds: 1) that the condition of the building or structure does not pose a serious and imminent threat to public health and safety, and/or; 2) that there are reasonable alternatives to the immediate demolition of the building or structure which would protect public health and safety, then the Commissioner may refuse to issue an emergency demolition permit to the owner of the building or structure.
- 13.64 Upon issuing an emergency demolition permit under the provisions of this section, the Building Commissioner shall submit a brief written report to the Commission describing the condition of the building or structure and the basis for his/her decision to issue an emergency demolition permit.

Nothing in this section shall be inconsistent with the procedure for the demolition and/or securing of buildings and structures established by M.G.L. Chapter 143, Sections 6-10.

SECTION 13.7 ENFORCEMENT AND REMEDIES

The following enforcement and remedies shall apply under this bylaw:

- 13.70 The Historical Commission is authorized to adopt rules and regulations to carry out its duties and functions under this bylaw.
- 13.71 The Commission and the Building Commissioner are each authorized to institute any and all proceedings in law or equity they shall deem necessary and appropriate to obtain compliance with the requirements of this bylaw, or to prevent a violation thereof.
- 13.73 No building permit shall be issued with respect to any premises upon which a significant structure has been demolished in violation of this bylaw for a period of two (2) years from the date of the completion of such demolition.

SECTION 13.8 SEVERABILITY

If any section, paragraph or part of this bylaw be for any reason declared invalid or unconstitutional by any court, every other section, paragraph and part shall continue in full force and effect to the extent that the overall purposes of this article can still be met.

Action taken on 5/26/99.

ARTICLE 34. Petition – Zoning Bylaw - Driveways

Voted by a declared 2/3 vote that the Town amend Section 7.7 of the Zoning Bylaw by deleting the language that is ~~struck out~~ and inserting the language in ***bold italics***, as follows:

SECTION 7.7 ACCESS REQUIREMENTS & ~~COMMON~~ DRIVEWAYS

7.71 Common *and Individual* Driveways

- 7.710 Common driveways shall not be considered public ways and shall not provide lot frontage

- 7.711 Common driveways shall not provide access to more than four frontage and/or flag lots.
- 7.712 Common driveways shall be *not less than* sixteen (16) feet in width *and with all curve radii adequate for fire and other emergency vehicles*; constructed with bituminous asphalt, concrete, oil & stone, compacted gravel, or other similar material according to accepted construction standards; and shall include two (2) foot wide shoulders on each side free of obstructions such as trees, fences, poles, and bushes. *An individual driveway shall be constructed in accordance with the same standards, but shall be not less than twelve (12) feet in width, and need not provide clear shoulders.*
- 7.713 **Driveway Lengths.**
- 7.7130 The maximum length of a common driveway shall be four hundred (400) feet. ~~unless otherwise provided for in this section.~~ *A common driveway shall be measured along its centerline from its point of intersection with the paved or otherwise improved section of the street to the most distant portion of its turnaround.*
- 7.7131 *The length of an individual driveway originating at a common driveway plus the length of the common driveway measured from the point of intersection of the center lines of the individual and common driveways to the paved or otherwise improved section of the street, shall not exceed twelve hundred (1200) feet. Measurement of the individual driveway shall be along its centerline from its point of intersection with the center line of the common driveway to its termination at the building it serves, or to the portion of the vehicle storage area closest to said building.*
- 7.7132 *Longer driveways may be allowed by the Planning Board in accordance with Section 7.722.*
- 7.7133 *The length of an individual driveway originating at a street shall not be limited.*
- 7.714 Common driveways shall not exceed a 5% grade within fifty (50) feet of the intersection of the driveway and the paved or otherwise improved section of the street.
- 7.715 The maximum grade of any common *or individual* driveway shall be 10%. Short sections may exceed 10% with the approval of the Planning Board *in accordance with Section 7.722*, but in no event shall any section exceed 15%. *Individual driveways not over two hundred (200) feet long, extending directly from a street, and not exceeding 15% grade are not subject to this requirement.*
- 7.716 The intersection angle between ~~the~~ *a* common driveway center line and the street center line shall not be less than sixty (60) degrees.
- 7.717 The curb radii of ~~the~~ *a* driveway at its intersection with the streets shall be in accordance with the Regulations of the Amherst Department of Public Works.
- 7.718 There shall be a turnaround located at the end of a common driveway adequate for fire and other emergency vehicles.
- 7.719 Street addresses for all dwelling units on ~~the~~ *a* common driveway shall be posted in a manner sufficient for public safety purposes both at the intersection of the common driveway and the street and at the intersection of the common driveway and each individual driveway.
- 7.720 An agreement providing access over the common driveway to all lots and making all lots served by the common driveway jointly responsible for maintenance and repair, including snowplowing, shall be recorded at the Hampshire County Registry of Deeds. Evidence of the recording shall be submitted to the Building Commissioner prior to the issuance of a building permit for any such lot served by the common driveway.
- 7.721 The Planning Board may require engineered plans for the driveways and drainage if it deems such plans necessary.

7.722 For any lot within a Definitive Subdivision Plan, the Planning Board may allow a ~~common driveway in excess of four hundred (400) feet~~ ***longer than specified in Section 7.713*** or may allow a section of ~~the a~~ driveway to exceed 10% grade provided that such modification meets the provisions of Sections 6.330 – 6.335.

For Subdivision Approval Not Required lots, the Planning Board may grant a Special Permit to allow a ~~common driveway in excess of four hundred (400) feet~~ ***longer than specified in Section 7.713*** or may allow a section of ~~the a~~ driveway to exceed 10% grade provided that such modification meets the provisions of Sections 6.330-6.335.

Action taken on 5/26/99.

ARTICLE 35. *Petition - Zoning Bylaw - Bird Forage*

MOTION #1 **DEFEATED Yes 52, No 94** [that the town amend Section 10.392 and 11.2414 of the Zoning Bylaw by adding the phrase in italics boldface:

10.392 The proposal provides adequate landscaping, including the screening of adjacent residential uses, provision of street trees, landscape islands in the parking lot and a landscape buffer along the street frontage ***with plantings consisting primarily of native trees, shrubs, herbaceous and woody ground covers and plant buffers***

11.2414 Provision of adequate landscaping, including the screening of adjacent residential uses, provision of street trees, landscape islands in the parking lot and a landscape buffer along the street frontage ***with plantings consisting primarily of native trees, shrubs, herbaceous and woody ground covers and plant buffers***]

MOTION #2 **DEFEATED** [that the town amend Section 10.392 and 11.2414 of the Zoning Bylaw by adding the phrase in italics boldface:

10.392 The proposal provides adequate landscaping, including the screening of adjacent residential uses, provision of street trees, landscape islands in the parking lot and a landscape buffer along the street frontage ***with plantings sufficient to maintain or enhance the amount and variety of bird forage available on the existing site***

11.2414 Provision of adequate landscaping, including the screening of adjacent residential uses, provision of street trees, landscape islands in the parking lot and a landscape buffer along the street frontage ***with plantings sufficient to maintain or enhance the amount and variety of bird forage available on the existing site***]

Action taken on 5/26/99.

ARTICLE 36. *Petition - Zoning Bylaw - Minimum Residential Front Setbacks*

Voted to refer to the Planning Board. [“To see if the town will vote to amend the minimum residential front setbacks in Table 3 – Dimensional Regulations of the Zoning Bylaw as follows: Minimum Front Setback (in feet) by District

	R-LD	R-O	R-N	R-VC	R-G	R-F
existing	40	40	30	25	25	40
proposed	15	15	15	10	10	20”]

Action taken on 5/26/99.

10:12 p.m. Town meeting voted to adjourn to Monday, June 7, 1999 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 171 town meeting members were checked in.

* * *

The adjourned session of June 7, 1999 was called to order by the moderator at 7:47 p.m. 126 town meeting members checked in and a quorum was declared. Articles 37 - 40 and 43 - 45 were considered.

Town meeting voted to consider Article 42 after the disposition of Article 11.

ARTICLE 37. *Zoning Bylaw – Minimum Residential Front Setbacks*

Voted to refer to the Planning Board. [To see if the Town will amend the minimum residential front setbacks in Table 3, Dimensional Regulations, of the Zoning Bylaw by adding a new superscript “*n.*” to the heading “Minimum Front Setback (ft.)” and by adding the following footnote at the bottom of the table:

n. In residential districts, the front setback may be reduced under a Special Permit from the Zoning Board of Appeals, but shall not be less than fifty percent (50%) of the requirement shown.]

Action taken on 6/7/99.

ARTICLE 38. *Petition - Zoning Bylaw - Limit on Residential Units*

Voted to refer to the Planning Board. [that the town vote to amend the Standards and conditions of Section 3.325 so they read as follows (addition in italics):

Section 3.325 Building containing dwelling units in combination with stores or other permitted business or commercial uses.

Standards and Conditions: A management plan, as defined in terms of form and content in the Rules and Regulations adopted by the Permit Granting Authority, shall be included as an integral part of the application made under this section. *Except for the B-G (General Business) District, the authorization of more than four residential units shall be by special permit from the permit granting authority presently required to publicly review the business or commercial use.* In the Commercial District, residential uses may be permitted above the ground floor only.

Action taken on 6/7/99.

ARTICLE 39. *Zoning Bylaw - Commercial/Residential Buildings*

Voted by a declared 2/3 vote that the Town amend the Standards and Conditions of Section 3.325 of the Zoning Bylaw by deleting the lined-out language and adding the language in ***bold italics***, as follows:

3.325 Building containing dwelling units in combination with stores or other permitted business or commercial uses.

Standards & Conditions

A management plan, as defined in terms of form and content in the Rules and Regulations adopted by the Permit Granting Authority shall be included as an integral part of any application made under this section. In the Commercial (**COM**) District ~~residential uses may be permitted above~~ ***there shall be no dwelling units, nor portions thereof other than entries thereto as required, on the ground first floor only. No more than ten percent (10%) of the gross floor area on the first floor shall be associated with or incidental to, whether for storage or other purposes, the residential uses on upper floors.***

Action taken on 6/7/99.

ARTICLE 40. *Petition - Zoning Map - Northampton Road Parcel - Re-zone to "Office Park* (Note: The correct Map reference is 13D.)

DEFEATED [that the Town amend the Official Zoning Map by rezoning 324 Northampton Road (Map 13D, Parcels 64 and 26) from Neighborhood Residence (R-N) to Office Park (OP).]

Action taken on 6/7/99.

* * *

The adjourned session of May 12, 1999 was called to order by the moderator at 7:45 p.m. 126 town meeting members checked in and a quorum was declared. Articles 41, 7 and 8 were considered.

Nonny Burack was sworn as a teller.

ARTICLE 41. *Petition - Rescind Parking Garage Authorization*

DEFEATED Yes 51, No 124 [that the Town rescind the authorization to build a parking garage in Boltwood and to advise the Town Manager to develop alternative plans for parking facilities that will expand surface parking including a park-and-ride system.]

Action taken on 5/12/99.

ARTICLE 42. *Petition - Town Bylaw - Residential Parking Permits*

Voted that the Town amend section 3, Article 2 of the Amherst Town By-laws [Residential Parking] by deleting words in square brackets and inserting words in ***bold italics***:

SECTION 3. The Board of Selectmen of the Town of Amherst is hereby authorized and empowered to cause studies and investigations to be made, either on its own initiative or upon request of resident(s) of the Town, to determine a) whether a residential neighborhood or area is subject to long-term parking by individuals accessing educational, commercial or other facilities within the Town and b) whether such long-term parking has the effect of depriving residents of such neighborhood or area of adequate parking for themselves or for invitees or guests and/or of impeding access by emergency and/or other municipal vehicles. Upon a finding that a neighborhood is subject to such long-term parking and such long-term parking has the effect of depriving residents of such neighborhood or area from finding adequate parking and/or of impeding access by emergency and/or other municipal vehicles, the Board of Selectmen may define the neighborhood or area so affected, and may impose reasonable regulations [upon]for parking in such neighborhood or area as defined by the Board of Selectmen. ***Residents of***

such neighborhood or area shall be notified in writing of such regulations proposed by the Board of Selectmen, and a public hearing on the regulations shall be held. Such regulations may include, but shall not be limited to, issuance of permits to residents of such neighborhood or area for parking by themselves, their invitees or guests, and issuance of permits to residents of such neighborhood or area suspending parking meter fees and/or time limits for all or part of the day at certain specified parking meters. In addition, in promulgating rules and regulations under this section, the Board of Selectmen may designate a neighborhood or area to be regulated as a “tow zone” in which vehicles parked without a permit in violation of this bylaw may be towed pursuant to the provisions of section IV, below.
Action taken on 6/9/99.

*Meeting dissolved after consideration of Article 42. See end of record of votes.

ARTICLE 43. *Petition - Parking Meters, Rates, and Changes*

MOTION #1 **DEFEATED** [that the Town roll back the maximum parking meter rate from the current 30 cents per hour to 25 cents per hour.]

MOTION #2 **DEFEATED** [that the Town remove from service all new parking meters added within the last 12 months.]

MOTION #3 **DEFEATED** [that the Town enact a 2-year moratorium on new charges for on-street parking.]

Action taken on 6/7/99.

ARTICLE 44. *Petition - Incentives for Ride-sharing*

Voted unanimously that the Town request that the Public Transportation & Bicycle Committee work with the Town Manager and Jones Library Director to develop and implement a low-cost incentive plan to encourage a significant fraction (initially, 5-10%) of Town and Library employees to voluntarily commute to work in Amherst Center by ride-sharing, public transportation, bicycle, or on foot.

Action taken on 6/7/99.

Town meeting voted to elect David Ross as Moderator pro tempore for Article 45.

ARTICLE 45. *Petition - Route 9/South Pleasant Street Design Plans*

Voted that the town recommend eliminating parking on South Pleasant Street between Route 9 and Walnut Street, thereby making it unnecessary to widen the west side of this section of road in the upcoming reconstruction of the Route 9/South Pleasant Street intersection.

This would:

- i) improve safety for all users, and
- ii) allow for continuous bike lanes from the Rail Trail to Main Street, without widening the west side of this section of road.

Action taken on 6/7/99.

10:37 p.m. Town meeting voted to adjourn to Wednesday, June 9, 1999 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 160 town meeting members were checked in.

* * *

The adjourned session of June 9, 1999 was called to order by the moderator at 7:50 p.m. 126 town meeting members checked in and a quorum was declared. Articles 46, 47, 50 - 52, 10, 11 and 42 were considered.

Arthur Keene was sworn as teller.

ARTICLE 46. *Petition – Resolution -Expediting the Repair of the Calvin Coolidge Bridge*

Voted that the Town adopt the following “Resolution on Expediting the Repair of the Calvin Coolidge Bridge”:

WHEREAS, the Calvin Coolidge Bridge is Hampshire County's single most important vehicular traffic link, carrying 40,000 vehicles per day; and,

WHEREAS, use of the Calvin Coolidge Bridge and its approaches is proposed to be impacted by repairs and expansion for a period of two years; and,

WHEREAS, the costs associated with a) alleviating the effects of restricted access to the Calvin Coolidge Bridge during the construction period, b) coping with increased air pollution due to slowed traffic flow on and near the Bridge, and c) the impact of the above on the region’s economy for individuals, businesses, and public and private entities, are likely measurable in the tens of millions of dollars;

NOW, THEREFORE, BE IT RESOLVED, that the Amherst Representative Town Meeting request that the Cellucci Administration treat the expansion and repair of the Calvin Coolidge Bridge and its eastern approach as an emergency project, and consider adopting and funding measures such as a) requiring that bid documents for this project specify that work be done simultaneously on the Bridge and its eastern approach, b) requiring 2 shift/16-hour work days during some phases of project construction, c) authorizing 6-day work weeks and/or 3 shifts/24-hour work days as justified, d) paying a contractor bonus for each day the project is completed in less than the construction period specified, and e) allocating and timely releasing sufficient funds to allow the prepositioning of materials necessary to avoid construction delays, all with the intent that the duration of the project be reduced to the minimum amount of time necessary for its completion; and,

FURTHER, BE IT RESOLVED, that upon the dissolution of this 240th Annual Town Meeting, the Town Clerk send a copy of this resolution with the vote thereon to Governor A. Paul Cellucci, Senators Edward M. Kennedy and John Kerry, Representative John W. Olver, State Senator Stanley Rosenberg, State Representative Ellen Story, Secretary of Transportation and Construction Matthew Amorello, and John Hoey, district #2 Highway Director for the Massachusetts Highway Department.
Action taken on 6/9/99.

ARTICLE 47. *Petition - Special Act - Rent Protections for At Risk Housing*

Voted that the Town authorize the Select Board to petition the General Court for a Special Act authorizing the Town to control rents in governmentally, or formerly governmentally involved housing, in so much as there is a threat that many low income individuals and families may be displaced as a result of repayment of mortgage financing, loss of use or rent restrictions, expiring or expired subsidy contracts, and expected increases in rent.

The Home Rule Act would allow the Town to establish the maximum rent for the governmentally or formerly governmentally involved housing as the rent in effect before the basis for federal or Massachusetts Housing Finance Agency (MHFA) rent preemption lapsed, adjusted to ensure fair net operating income.

Action taken on 6/9/99.

* * *

The adjourned session of May 5, 1999 was called to order by the moderator at 7:52 p.m. 125 town meeting members checked in and a quorum was declared. Articles 48 and 49 were considered.

Town meeting voted to consider Article 41 on May 10, 1999, immediately after the Special Town Meeting.

ARTICLE 48. *Petition - Smoking Legislation – Smoking in All Restaurants and Bars*

MOTION #1 Voted that the town request that State Senator Stanley Rosenberg and State Representative Ellen Story: File, sponsor and support legislation prohibiting smoking in all restaurants and bars throughout the Commonwealth of Massachusetts.

MOTION #2 Voted that we ask our representatives to urge legislative support for promotion of the aim of enforcing smoking bans throughout the Commonwealth from funds to be paid to the various states from the court-ordered assessments against the tobacco companies.

Action taken on 5/5/99.

ARTICLE 49. *Petition - Resolution - Smoking Education and Smoking in Bars*

DEFEATED Yes 63, No 120 (Tally vote) [that the Town resolve to encourage the Board of Health to educate the citizens of Amherst as to the health risks involved with smoking; and

Further resolve that Town Meeting advises the Board of Health that its well intentioned ban on smoking in bars goes too far; and

Further resolve that Town Meeting urge the Board of Health to allow bars in operation prior to January 1, 1998 to install affordable and reasonable safeguards which will reduce the risks of second-hand smoke in their establishments; and

Finally resolve that bars which install such safeguards be allowed to permit smoking until such a time that either a regional or a state-wide ban on smoking goes into effect.]

Action taken on 5/5/99.

10:02 p.m. Town meeting voted to adjourn to Monday, May 10, 1999 at 7:35 p.m. in the auditorium of the Amherst Regional Middle School. 192 town meeting members were checked in.

* * *

The adjourned session of May 10, 1999 was called to order by the moderator at 10:17 p.m. and a quorum was declared. No articles were considered.

Town meeting voted to adjourn to Wednesday, May 12, 1999 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 205 town meeting members were checked in.

Article 41 is first to be considered at the adjourned session of May 12, 1999.

* * *

ARTICLE 50. *Petition - Resolution - Nigeria*

Voted Yes 74, No 69 that the Town adopt the following "Resolution to Support Nigeria's Transition to Democracy".

WHEREAS Nigeria, Africa's most populous nation and America's largest African trading partner, has endured military rule for 28 of its 38 years of independence,

WHEREAS under a series of military coups the Nigerian people have endured the killing, jailing, and exile of thousands of human rights and pro-democracy activists, journalists, environmentalists, and trade union and religious leaders, the banning of the free press, and suspension of basic human and civil rights, as documented by the U.S. State Department, Amnesty International, and the United Nations,

WHEREAS Nigeria is dependent on oil exports for 90 percent of its vital hard currency earnings and over 80 percent of government revenue, and the United States purchases roughly half of that oil annually,

WHEREAS there has been growing evidence of direct collaboration between the oil companies Shell, Mobil, Chevron, and Texaco and Nigerian government security forces in the continuing repression of environmental protesters in Nigeria's Niger Delta oil fields, where scores of people have been killed by the outgoing regime during this year alone,

WHEREAS Nigeria's current military leadership has recently concluded a series of elections culminating in the election of retired General Olusegun Obasanjo as the nation's president, and has promised to hand over power to the elected government May 29, 1999,

NOW, THEREFORE, BE IT RESOLVED that the Town of Amherst, Massachusetts commends the Nigerian people for their courageous and nonviolent struggle to restore democracy, human rights and respect for the rule of law in Nigeria, and calls on that country's newly elected government to move rapidly to restore democracy by:

- Repealing all oppressive and unjust laws,
- Establishing a transparent process to write a democratic constitution that will ensure minority group rights and protect all human rights including freedom of speech, freedom of the press and freedom of assembly, and
- Withdrawing all military forces from the Niger Delta, and working with the people of the Delta and the oil companies to bring an end to pollution and oppression throughout the region and to make restitution to the citizens of the Delta for loss of life, livelihoods, and destruction of their environment,

AND, FURTHER, BE IT RESOLVED that the Amherst Town Clerk be directed forthwith upon the dissolution of this Town Meeting to send a certified copy of this Resolution to the following parties:

Nigerian President Olusegun Obasanjo
Nigerian Ambassador to the United States
Nigerian Ambassador to the U.N.
President William Jefferson Clinton
Secretary of State Madeleine K. Albright
William Richardson, U.S. Ambassador to the United Nations
Senator Edward M. Kennedy
Senator John F. Kerry
Representative John W. Olver
Senator Stanley Rosenberg, Massachusetts
Representative Ellen Story, Massachusetts
Action taken on 6/9/99.

ARTICLE 51. *Petition - Resolution - Tibet*

Voted that the town adopt the following: RESOLUTION ON TIBET.

WHEREAS, the Chinese People's Republic invaded the independent country of Tibet in 1949-50, and, after the Government of Tibet surrendered to prevent further bloodshed, both parties signed a 17-Point Agreement on Peaceful Measures for the Liberation of Tibet in 1951, in which the Chinese People's Republic guaranteed to maintain the existing political system of Tibet, the status and functions of the Dalai Lama, and freedom of religion, but subsequently destroyed over 6,000 Buddhist monasteries, killed hundreds of religious figures, and attempted to eradicate Buddhist belief and practices, whereupon in 1959 the Government of Tibet repudiated that Agreement; and

WHEREAS, the United Nations General Assembly passed Resolution #1353 in 1959, Resolution #1723 in 1961, and Resolution #2079 in 1965 which called for "respect of the Tibetan peoples' distinctive cultural and religious life" and "for the cessation of [Chinese government] practices which deprive the Tibetan people of their fundamental human rights and freedoms, including their right to self-determination;" and the Sub-Commission on Prevention of Discrimination and Protection of Minorities of the United Nations Commission on Human Rights in Resolution 1991/10 - "Situation in Tibet" called upon "the Government of the People's Republic of China to fully respect the fundamental rights and freedoms of the Tibetan people;" and

WHEREAS, the Legal Inquiry Committee on Tibet of the International Commission of Jurists (ICJ) in a 1960 report to the Secretary General of the United Nations set forth extensive evidence that "acts of genocide have been committed in Tibet in an attempt to destroy the Tibetans as a religious group," documented extensive violations of the human rights of Tibetans defined by the Universal Declaration of Human Rights, and found that the 1959 repudiation of the Agreement on Peaceful Measures for the Liberation of Tibet by the Tibetan government was fully justified under international law; and a December 1997 ICJ report recommended, in addition to addressing seven specific recommendations to the People's Republic of China, that the United Nations General Assembly resume debate on the Tibet question based on its 1959, 1961, and 1965 resolutions, and that the United Nations Commission on Human Rights appoint a Special Rapporteur for Tibet; and

WHEREAS, since 1988 the United States Congress has enacted nine resolutions on the status of Tibet, stating most clearly in 1991 Concurrent Resolution # 271 that "Tibet, including those areas incorporated into the Chinese Provinces of Sichuan, Yunnan, Gansu and Qinghai, is an occupied country under the established principles of international law whose true representatives are the Dalai Lama and the Tibetan Government-in-exile as recognized by the Tibetan people;" and Congress has mandated in Section 536(b) of Public Law 103-236 that the United States State Department include a separately titled report on Tibet in its Annual Country Reports on Human Rights; and

WHEREAS, as part of its efforts to absorb Tibet, the Chinese Government is conducting economic development in Tibet contrary to the wishes of the Tibetan people as expressed by the Tibetan Government-in-exile's "Guidelines for International Development Projects in Tibet" which advocates small-scale, decentralized economic development initiatives over which Tibetans have control, and opposes any development which intensifies and promotes the transfer of Chinese citizens into Tibet or which leads to the destruction of Tibet's fragile environment; and

WHEREAS, the Chinese government is currently committing systematic human rights violations in Tibet, including the murder of detainees, torture, disappearances, arbitrary arrest, detention without public trial, denial of free speech and free press, population transfer, coerced sterilization and abortion, suppression of Tibetan Buddhism, and the widespread destruction of Tibetan culture; and

WHEREAS, His Holiness the Dalai Lama, recipient of the 1989 Nobel Peace Prize and political leader of the Tibetan Government-in-exile has repeatedly tried to enter into negotiations without preconditions with the government of the People's Republic of China concerning the status of Tibet and the human rights of Tibetans in Tibet, but the government of the People's Republic of China has thus far refused to even agree to initial discussions; and

WHEREAS, the Tibetan freedom movement has adopted and practices Buddhist non-violent principles even in the face of brutal Chinese government repression, and the Tibetan people have called upon the world community to actively support their struggle for human rights, economic justice, and self-determination;

NOW, THEREFORE, BE IT RESOLVED that the Amherst Representative Town Meeting

1. supports the conclusion of the United States Congress that Tibet, including those areas incorporated into the Chinese Provinces of Sichuan, Yunnan, Gansu and Qinghai is, under the established principles of international law, an occupied country whose true representatives are the

Dalai Lama and the Tibetan Government-in-exile as recognized by the Tibetan people; and

2. supports the 1997 International Committee of Jurists recommendations that the People's Republic of China:

enter into discussions with the Dalai Lama and the Tibetan Government-in-exile, facilitated by the United Nations Secretary General if necessary, on a solution to the question of Tibet based on the will of the Tibetan people, any solution to include a referendum of the Tibetan people to be held under United Nations supervision; respect the fundamental human rights of the Tibetan people, cooperate with the United Nations mechanisms for the protection of human rights, and allow unrestricted access to Tibet by independent human rights monitors;

end those practices which threaten to erode the distinct cultural, religious and national identity of the Tibetan people, and in particular, cease policies which result in the movement of Chinese citizens into Tibetan territory; and

3. supports the right of the Tibetan people to control economic development in Tibet; and

4. urges individuals and companies doing business in Tibet to follow the development guidelines of the Tibetan Government-in-exile.

AND, FURTHER, BE IT RESOLVED that the Amherst Town Clerk be directed forthwith upon the dissolution of this town meeting to send a certified copy of this Resolution on Tibet to the following parties:

President William Jefferson Clinton Madeleine Albright, United States Secretary of State Peter Burleigh, United States Ambassador to the United Nations James Sasser, United States Ambassador to the People's Republic of China Senator Edward M. Kennedy Senator John F. Kerry Representative John W. Olver State Senator Stanley Rosenberg State Representative Ellen Story	Jiang Zemin, President of the People's Republic of China Li Zhaoxing, People's Republic of China Ambassador to the United States Qin Huasin, People's Republic of China Ambassador to the United Nations His Holiness the Dalai Lama, Head of the Tibetan Government-in-exile Dawa Tshering, Representative of the Tibetan Government-in-exile to North and South America.”
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Action taken on 6/9/99.

ARTICLE 52. *Petition - Resolution - Military Spending, Jobs Bill, Nuclear Weapons*

Voted to dismiss. [“To see if the Town will vote to adopt the following resolution:

Be it resolved that the Amherst Representative Town Meeting calls upon the U.S. Congress to make deep cuts in military spending, including the elimination of the proposed National Missile Defense System (Star Wars). The savings generated should be used to fund a comprehensive jobs bill which would provide training for additional employment in the fields of education, health care, child care, public transportation, environmental clean-up, and low-income housing construction, AND

Be it also resolved that the Amherst Representative Town Meeting calls upon the President and Senate to sign a Nuclear Weapons Convention by the year 2000 agreeing to the elimination of all nuclear weapons within a timebound framework, AND

Further be it resolved that the Amherst Town Clerk be directed upon the dissolution of the Town Meeting to send a copy of these resolutions to the President, our two Senators and our U. S. Representative.”]

Action taken on 6/9/99.

After consideration of postponed articles 10, 11 and 42, the business of the warrant was completed. The meeting voted to dissolve at 10:58 p.m. on June 9, 1999. 164 town meeting members were checked in.

Attest:

Margaret Z. Nartowicz

Town Clerk