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**SPECIAL TOWN MEETING
November 10 and 17, 2008**

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

The Special Town Meeting was called to order by the Moderator, Harrison Gregg at 7:38 p.m. There were 248 town meeting members. 125 checked in and a quorum was declared. The call and the return of the warrant were read by Town Clerk, Sandra J. Burgess.

The Moderator swore in newly elected town meeting members.

Mr. Gregg asked Town Meeting to stand for a moment of silence in memory of Frank Wells who passed away in June of this year.

Gerald Weiss recognized all citizens who serve on committees, particularly the following citizens who have completed their service of at least two full three-year terms, or three full two-year terms consecutively.

Council on Aging – Elsie Fetterman 2002 – 2008

Comprehensive Planning Committee – Douglas Kohl 2002 – 2008 and Joanne Levenson 2001 – 2008

Conservation Commission – Eleanor Manire-Gatti 2002 – 2008

Finance Committee – Alice Carlozzi 1993 – 2008

Housing Partnership/Fair Housing Committee – Franklin Wells (Posthumous Recognition) 2002 – 2008

Public Works Committee – Steve Puffer 1989 – 2008

Town/Commercial Relations Committee – Peter Grandonico, Jr. 2002 – 2008

Mr. Weiss made the following procedural motion:

To postpone Articles 6 and 11 to November 17, 2008 at 7:35 p.m. Motion was seconded and voted unanimously.

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

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

Action taken on 11/10/2008.

(Reports were given by Larry Shaffer, Town Manager; Barry Roberts, 250th Celebration Committee; Bob Saul, Facilitation of the Community Choices Committee; and Brian Morton, Finance Committee)

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

VOTED unanimously to DISMISS. *(To see if the Town will, in accordance with Chapter 44, Section 64, of the Massachusetts General Laws, appropriate and transfer a sum of money to pay unpaid bills of previous years.)*

Action taken on 11/10/2008.

ARTICLE 3. Collector Demand Charge (Select Board)

VOTED that the Town charge for each written demand issued by the collector a fee of \$10 to be added to and collected as part of the tax, as authorized by Massachusetts General Laws Chapter 60, Section 15, effective as of January 1, 2009.

Action taken on 11/10/2008.

ARTICLE 4. FY 2009 Budget Amendments (Finance Committee)

A. **VOTED** to amend the action taken under Article 12 of the 2008 Annual Town Meeting – Fiscal Year 2009 Operating Budget to distribute the amount appropriated for FY 09 salary adjustments for Town employees from General Government to Public Safety, Public Works, Planning, Conservation, and Inspections, and Community Services and to transfer sums of money between these accounts to balance the FY 2009 Fiscal Year, by decreasing the appropriation and the amount to be raised by taxation for the General Government account by \$162,797 and by increasing the appropriations and the amounts to be raised by taxation for the following accounts by \$162,797: Public Safety by \$105,172, Public Works by \$30,026, Planning, Conservation, and Inspections by \$7,803, and Community Services by \$19,796.

Action taken on 11/10/2008.

B. **VOTED** to amend the budget voted under Article 12 of the 2008 Annual Town Meeting (FY 2009 Operating Budget) and appropriate \$10,262 for the Transportation Fund and to meet such appropriation \$10,262 be transferred from Transportation Fund Surplus.

Action taken on 11/10/2008.

C. **VOTED** to amend the budget voted under Article 12 of the 2008 Annual Town Meeting (FY 2009 Operating Budget) and appropriate \$80,000 for the Solid Waste Fund and to meet such appropriation \$80,000 be transferred from Solid Waste Fund Surplus.

Action taken on 11/10/2008.

ARTICLE 5. Stabilization Fund: Appropriate/Transfer from Free Cash (Finance Committee)

VOTED by a declared two-thirds to appropriate and transfer \$460,000 from Free Cash in the Undesignated Fund Balance of the General Fund to the Stabilization Fund.

Action taken on 11/10/2008.

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The November 17, 2008 session, adjourned from November 10, 2008 was called to order by the Town Moderator, Harrison Gregg, at 7:51 p.m. 124 town meeting members were checked in.

James W. Pistrang was elected Moderator pro tem for the duration of the discussion of Article 6. Mr. Pistrang was sworn to the faithful performance of his duties as Moderator pro tem before taking up Article 6.

The following town meeting members were sworn in as tellers: Hilda Greenbaum, Nancy Gordon, Dorwenda Bynum-Lewis, James Scott, Nonny Burack, and David Mullins.

ARTICLE 6. Establishment of Municipal Housing Trust (Housing Partnership/Fair Housing Committee)

VOTED YES 95: NO 71 to refer back to the Housing Partnership / Fair Housing Committee.

[To see if the Town will vote to accept G.L. c.44, §55C, and establish a Municipal Affordable Housing Trust to be known as the Amherst Affordable Housing Trust Fund, whose purpose shall be to provide for the creation and preservation of affordable housing for the benefit of low and moderate income households, and further to amend the General Bylaws of the Town by inserting a new Bylaw in Article IV to be entitled “Amherst Affordable Housing Trust Fund,” as follows:

AMHERST AFFORDABLE HOUSING TRUST FUND

1. There shall be a Board of Trustees of the Amherst Affordable Housing Trust Fund, composed of seven members, of whom at least one shall be a member of the Select Board, at least one shall be the Town Manager, and at least two shall be members of the Housing Partnership/Fair Housing Committee. The Select Board shall appoint the Trustees

for terms not to exceed two years, except that two of the initial trustee appointments shall be for a term of one year, provided said Trustees may be re-appointed at the discretion of the Select Board. Vacancies shall be filled by the Select Board for the remainder of the unexpired term. Any member of the Board of Trustees may be removed by the Select Board for cause after the opportunity of a hearing.

2. The Trustees are hereby authorized to execute a Declaration of Trust and Certificate of Trust for the Amherst Affordable Housing Trust to be recorded with Hampshire District Registry of Deeds and filed with Hampshire Registry District of the Land Court.
3. The powers of the Board of Trustees, all of which shall be carried on in furtherance of the purposes set forth in G.L. c. 44, § 55C, shall include the following:
 - a. to accept and receive real property, personal property or money, by gift, grant, contribution, devise or transfer from any person, firm, corporation or other public or private entity, including but not limited to money, grants of funds or other property tendered to the trust in connection with any ordinance or by-law or any general or special law or any other source, including money from G.L. c. 44B;
 - b. to purchase and retain real or personal property, including without restriction investments that yield a high rate of income or no income;
 - c. to sell, lease, exchange, transfer or convey any personal, mixed, or real property at public auction or by private contract for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertaking relative to trust property as the Board deems advisable notwithstanding the length of any such lease or contract;
 - d. to execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases and other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the Board engages for the accomplishment of the purposes of the Trust;
 - e. to employ advisors and agents, such as accountants, appraisers and lawyers as the Board deems necessary;
 - f. to pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the Board deems advisable;
 - g. to apportion receipts and charges between incomes and principal as the Board deems advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation depletion or otherwise;
 - h. to participate in any reorganization, recapitalization, merger or similar transactions; and to give proxies or powers of attorney with or without power of substitution to vote any securities or certificates of interest; and to consent to any contract, lease, mortgage, purchase or sale of property, by or between any corporation and any other corporation or person;
 - i. to deposit any security with any protective reorganization committee, and to delegate to such committee such powers and authority with relation thereto as the Board may deem proper and to pay, out of Trust property, such portion of expenses and compensation of such committee as the Board may deem necessary and appropriate;
 - j. to carry property for accounting purposes other than acquisition date values;
 - k. to borrow money on such terms and conditions and from such sources as the Board deems advisable, to mortgage and pledge trust assets as collateral;
 - l. to make distributions or divisions of principal in kind;
 - m. to comprise, attribute, defend, enforce, release, settle or otherwise adjust claims in favor or against the Trust, including claims for taxes, and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation, and subject to the provisions of this act, to continue to hold the same for such period of time as the Board may deem appropriate;
 - n. to manage or improve real property; and to abandon any property which the Board determined not to be worth retaining;
 - o. to hold all or part of the Trust property uninvested for such purposes and for such time as the Board may deem appropriate; and
 - p. to extend the time for payment of any obligation to the trust.
4. The Board of Trustees shall provide for an annual audit of the books and records of the Trust. Such audit shall be performed by an independent auditor in accordance with accepted accounting practices. Upon receipt of the audit by the Board of Trustees, a copy shall be provided forthwith to the Select Board.]

Action taken on 11/17/2008.

(A friendly motion to remove the language “or take any other action relative thereto” was carried. A motion made by Hwei-Ling Greeney to insert “at least one shall be a member of the Committee on Homelessness” was defeated.)

Harrison Gregg resumed his duties as Moderator following the vote on Article 6.

ARTICLE 7. Zoning Bylaw - Duplexes in R-G & R-VC (Planning Board)

VOTED by a declared two-thirds to amend Section 3.321, Two family detached dwelling, of the Zoning Bylaw by changing the permit requirement in the R-G and R-VC Districts from Special Permit (SP) to Site Plan Review (SPR).

VOTED by a declared two-thirds to add the following new language under Standards and Conditions:

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

Action taken on 11/10/2008.

(Article was divided at the request of Al Woodhull)

ARTICLE 8. Zoning Bylaw - B-G & B-VC Residential Density (Planning Board)

VOTED by a declared two-thirds to amend Sections 3.322, 3.323, and footnote b. of Table 3, Dimensional Regulations of the Zoning Bylaw, by deleting the ~~lined out~~ language and adding the language in ***bold italics***, as follows:

A. Amend footnote b. of Table 3, Dimensional Regulations, as follows:

- b. Applies to Residences Uses only (Section 3.32). In the B-G and B-VC districts, the Basic Minimum Lot Area shall apply only to the first dwelling unit on the ground floor ***of subdividable dwellings and converted dwellings. For townhouses, apartments, buildings containing dwelling units in combination with stores or other permitted commercial uses, and other permitted multi-unit residential uses in these districts, the Basic Minimum Lot Area and Additional Lot Area requirements shall not apply.*** ~~For a Section 3.325 use, or any other use in the districts where all residential dwelling units are located on upper floors, no Basic Minimum Lot Area shall be required and the Additional Lot Area/Family requirement shall apply to all dwelling units.~~

B. Amend Section 3.322, Town House:

A management plan, as defined in terms of form and content in the Rules and Regulations adopted by the ~~Zoning Board of Appeals~~ ***Permit Granting Board or Special Permit Granting Authority*** shall be included as an integral part of any application made under this section. All dimensional regulations in Article 6 shall be observed. ***In all districts, the Permit Granting Board or Special Permit Granting Authority shall apply the provisions of Sections 3.2040 and 3.2041 to any construction, renovation, or expansion resulting in the creation of new dwelling units under this section.***

C. Amend Section 3.323:

No more than 50% of the total number of dwelling units shall be of any one size (i.e. # of bedrooms). A management plan, as defined in terms of form and content in the Rules and Regulations adopted by the ~~Zoning Board of Appeals~~ **Permit Granting Board or Special Permit Granting Authority** shall be included as an integral part of any application under this section. ***In all districts, the Permit Granting Board or Special Permit Granting Authority shall apply the provisions of Sections 3.2040 and 3.2041 to any construction, renovation, or expansion resulting in the creation of new dwelling units under this section.***

Action taken on 11/10/2008.

ARTICLE 9. Zoning Bylaw - Recreation Facilities (Planning Board)

VOTED to refer motion under parts A, B, D, and E of this article back to the Planning Board.

[A. Amend Article 12 by adding the following language as Section 12.27, and renumbering the remaining sections as appropriate:

12.27 Recreation: The refreshment of body and mind through active or passive forms of play, amusement, engaged study, contemplation or relaxation.

12.270: Recreation, Active: Indoor or outdoor leisure activity involving the physically active use of the body, whether undertaken by individuals (hiking, running, bicycling, skiing, climbing, etc.) or involving organized participatory activity with others, specialized equipment, and occurring at prescribed sites, fields, courses, structures, or buildings developed or improved for that purpose. Active recreation uses include but are not limited to golf courses, playgrounds, tot lots, skateboarding parks, courts for tennis and other court games, swimming pools, and fields for team sports such as baseball, soccer, basketball, football, lacrosse, Ultimate Frisbee, and similar activities. Active recreation may involve motorized or non-motorized vehicles.

12.271: Recreation, Outdoor: Leisure activity which may be either active or passive recreation, occurring outdoors. Outdoor recreation uses may be either commercial or non-commercial in nature. Outdoor recreational uses may involve either minimal or extensive improvements or development of sites, structures, and buildings, and may include outdoor amusement facilities, fields, rides, racing or riding tracks, campground facilities, golf courses, miniature golf facilities, shooting ranges, hunting or fishing preserves, and similar uses. Non-commercial outdoor recreation uses include but are not limited to hiking, camping, bicycling, bird watching and other nature study, rock-climbing, boating, horseback riding, skiing, snowmobiling, picnicking, etc. For the purposes of this Bylaw, outdoor recreation shall be considered to include traditional consumptive forms of outdoor recreation including but not limited to hunting, fishing, trapping, gathering, and similar activities.

12.272: Recreation, Passive: Leisure activity involving moderate physical activity, the use of improved or unimproved sites, structures, or buildings, and which may involve observation of nature or other study. Examples include but are not limited to seating areas, picnicking, hiking, bird watching or other nature study, and similar uses.

B. Amend Article 12 by adding the following language as Section 12.38 (or the appropriate section in alphabetical order), and renumbering the remaining sections as appropriate:

12.38 Usable Open Space: Open land, including but not limited to required common land, that is provided, improved and maintained for active or passive recreation in association with residential uses or development methods under this Bylaw, and which is accessible for the use of all residents of a residential use or development, and/or members of the public. Usable open space shall be contiguous areas of sufficient size to support their proposed use(s), and may be developed and available for play areas, seating or picnicking areas, tot lots, gardens, off-road trails (including but not limited to hiking, jogging, bridle and bicycle trails, as well as those paths and easements which provide access or connection to such trails, regardless of location), ball or playing fields, basketball or tennis courts or similar facilities as are appropriate. Usable open space shall not include parking areas, roadways, sidewalks, private yards or land within wetlands as determined by the Conservation Commission, except as hereinafter provided, and may include areas that are substantially undeveloped and free of structures. Except as may be otherwise provided for in this Bylaw, undeveloped land areas (ex., wetlands) that are inaccessible on foot or otherwise may constitute no more than twenty-five percent (25%) of the total area of usable open space provided for the purpose of any permit under this Bylaw.

D. Amend the title of Section 3.315 to read:

3.315 Outdoor commercial recreational use

E. Amend Section 4.570 by removing the phrase "and/or wetlands" from the last sentence.]

Action taken on 11/10/2008

(Motion by Robert Kusner to amend Part B by deleting everything between “except as hereinafter provided,” and “under this Bylaw.” Was defeated)

VOTED unanimously to refer Part C of Article 9 back to the Planning Board for further review.

[To see if the Town will amend Sections 3.315, 4.570, 10.397, 11.2403, and Article 12 of the Zoning Bylaw, by adding the language in *bold italics*, as follows:

C. Amend Sections 10.397 and 11.2403, as follows

10.397 The proposal provides adequate recreational facilities, open space and amenities for the proposed use. *Except in the B-G and B-VC districts, or as may be otherwise required in this Bylaw, all residential uses or developments containing a total of four or more dwelling units shall provide a minimum of 1,000 square feet of usable open space for active or passive recreation per dwelling unit. The Special Permit Granting Authority may allow up to fifty percent (50%) of this requirement to be met by existing active or passive off-site recreational facilities located within 1,000 feet of the subject property and capable of being readily and safely accessed on foot.*

11.2403 Provision of adequate recreational facilities, open space and amenities. *Except in the B-G and B-VC districts, or as may be otherwise required in this Bylaw, all residential uses or developments containing a total of four or more dwelling units shall provide a minimum of 1,000 square feet of usable open space for active or passive recreation per dwelling unit. The Permit Granting Board may allow up to fifty percent (50%) of this requirement to be met by existing active or passive off-site recreational facilities located within 1,000 feet of the subject property and capable of being readily and safely accessed on foot.]*

Action taken on 11/17/2008.

At 10:09 p.m. on November 10, 2008, the meeting voted to adjourn to Monday, November 17, 2008 at 7:35 p.m. in the auditorium of the Amherst Regional Middle School. 171 town meeting members were checked in.

ARTICLE 10. Zoning Bylaw & Map- Professional Offices in Light Industrial District (Planning Board)

A. VOTED Yes 104: No 46 to amend Section 3.358.1, Technical or professional office, of the Zoning Bylaw by changing the permit requirement in the Light Industrial (LI) District from N (No) to SP (Special Permit), as follows:

3.358.1 Technical or professional office such as architect, engineer, lawyer, financial services, or similar office providing services predominantly by appointment to the public in person on the premises

R-O

<u>R-LD</u>	<u>R-N</u>	<u>R-VC</u>	<u>R-G</u>	<u>R-F</u>	<u>B-G</u>	<u>B-L</u>	<u>B-VC</u>	<u>COM</u>	<u>OP</u>	<u>LI</u>	<u>PRP</u>	<u>FPC</u>
N	N	SP	N	N	SPR	SPR	SPR	SPR	SPR	N	SPR	N

SP

For the purposes of this section, the public shall be defined as including all persons acting as customers or clients receiving services. “Predominantly by appointment” shall mean that a majority of customers or clients who are provided services in person on the premises during any extended period of operation (monthly, quarterly, or annually) shall do so through prior appointment. Exceptions shall be discretionary follow-up visits by customers or clients with regard to services already provided, visits by affiliated professionals or consultants, salespersons, service contractors (delivery, maintenance, etc.), and the like. Office uses under this section shall advertise their on-premises services as being available to the general public only by appointment.

Action taken on 11/17/2008

(The article was divided at the request of Vincent O’Connor. A motion to refer Part A back to the Planning Board was defeated by a Tally Vote YES 64: NO 91. Vote on Main motion was counted by Tally Vote)

B. VOTED by a declared two-thirds to amend the Official Zoning Map by changing the zoning designation on the following properties in the following manner:

Map 11D, Parcel 183 – Extending the LI District into the north and northwest portions of the property, currently zoned R-G, such that the entire property is within the LI District.

Map 14B, Parcel 98 – Rezoning the eastern end of the property from LI to R-G, such that the entire property is within the R-G District.

Action taken on 11/17/2008.

(A motion to change the map and parcel reference from 48 to 98 was voted.)

ARTICLE 11. Larch Hill Article 97 (Hitchcock Center) (Conservation Commission)

VOTED by a declared two-thirds pursuant to G.L. c. 40, §15A to transfer the care, custody, management and control of all or a portion of the following described parcel of land from the Conservation Commission for conservation purposes to the Conservation Commission for conservation purposes and for the purpose of leasing for environmental education, which parcel of land is shown as “Parcel A” on a sketch plan on file with the Town Clerk, and is a portion of the Town-owned land known as “Larch Hill” and described more particularly in a deed recorded with the Hampshire District Registry of Deeds in Book 1743, Page 250, together with use of the access easement appurtenant to said land; and to authorize the Select Board to seek legislative approval for such transfer and lease under Article 97 of the Amendments to the Massachusetts Constitution; such transfer to become effective when the Conservation Commission determines that Parcel A is no longer needed solely for conservation purposes and upon the enactment of said Article 97 legislation.

Action taken on 11/17/2008.

(Motion made in terms of the article excluded the language “or take any action relative thereto” as it was determined by the Moderator to have no meaning.)

The business of the warrant having been completed, the meeting voted to dissolve at 10:20 p.m. on Monday, November 17, 2008. 173 town meeting members were checked in.

Attest:

Sandra J. Burgess
Town Clerk