

RESULTS
SPECIAL TOWN MEETING
November 8 and 10, 2010

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 7:40 p.m. There were 254 town meeting members. 128 checked in and a quorum was declared. The call and return of the warrant was read by Town Clerk, Sandra J. Burgess.

Mr. Gregg introduced the new Town Manager, John Musante, and new Finance Committee member, Gary Abbott, who is a town meeting member in Precinct 7.

Mr. Gregg recognized three members who had passed away since the last town meeting: John Roberts, Nancy Foster, and Chadwick Johnson. Town Meeting stood for a moment of silence.

Mr. Gregg introduced Dr. Floris Wilma Ortiz-Marrero who received the state Teacher of the Year Award.

Upon a motion made by Ms. O’Keeffe town meeting voted to consider Article 8 beginning at 7:30 p.m. Wednesday, November 10, 2010.

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

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

Mr. Hayden introduced Mr. Yoshiichi Takahashi, Mayor, Town of Kanegasaki who addressed town meeting.

Mr. Aaron Hayden presented a report on behalf of the Energy Task Force.

Daniel Clapp of the Council on Aging introduced Dr. Randall who spoke briefly about the 2010 Survey of Amherst Residents Over 50 which he had conducted at the request of the Council on Aging.

Andrew Steinberg presented the Finance Committee report.

Action taken 11/8/2010.

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

VOTED 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 11/8/2010.

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

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

Road, West Bay Road and West Street, altered and laid out by the Town of Amherst,” dated February 2009 and recorded in Plan Book 223, Plan 11.

<i>Grantor</i>	<i>Property Address</i>	<i>Interest Acquired by Town</i>	<i>Book and Page</i>
Ronald A. Jacque and Deborah G. Jacque	1260 West Street	Temporary Construction Easement	Book 10173, Page 119
Michael D. Moriarty and Ashley Moriarty	1240 West Street	Temporary Construction Easement	Book 10173, Page 124
Apple Brook West, LLC	1194 West Street	Temporary Construction Easement	Book 10173, Page 127
Richard D. Konicek and Kathleen J. Moran	1034 West Street	Temporary Construction Easement	Book 10173, Page 132
Dorothy Lashway	11 Mountain View Circle	Temporary Construction Easement	Book 10173, Page 136
Michael A. Lesy and Lisa C. Stouffer	10 Mountain View Circle	Temporary Construction Easement	Book 10173, Page 139
Seymour Epstein and Alice H. Epstein, Trustees of Balderwood Realty Trust	Bay Road	Deed of Fee and Easements	Book 10173, Page 194
Hampshire Village II Community Corporation	Rambling Road	Deed of Fee and Easements	Book 10173, Page 203
David C. Kelly and Allan C. McNeely	1184 West Street	Deed of Fee and Easements	Book 10173, Page 207
National Yiddish Book Center, Inc.	1021 West Street	Deed of Fee and Easements	Book 10180, Page 31
Orchard Run Associates	West Street	Deed of Fee and Easements	Book 10173, Page 62
Atkins Peach-Berry Hill, Inc.	West Street	Deed of Fee and Easements	Book 10173, Page 62
Hampshire College	West Street	Deed of Fee and Easements	Book 10173, Page 62
Valley Properties Land Trust	West Street	Deed of Fee and Easements	Book 10173, Page 62

Action taken 11/8/2010.

ARTICLE 4. FY 11 Budget Amendments (Finance Committee)

A: VOTED to amend the action taken under Article 9 of the 2010 Annual Town Meeting – Fiscal Year 2011 Operating Budget by increasing the appropriation and the amount to be raised by taxation for the Public Safety account by \$205,832 and by decreasing the appropriation and the amount to be raised by taxation for the General Government account by \$205,832.

Action taken 11/8/2010.

B: VOTED to amend the budget voted under Article 9 of the 2010 Annual Town Meeting (FY 2011 Operating Budget) for the Elementary Schools by reducing the appropriation by \$113,124.

Action taken 11/8/2010.

C: VOTED unanimously to appropriate and transfer \$66,347 from Free Cash in the Undesignated Fund Balance of the General Fund to the Health Claims Trust Fund to account for Medicare Part D reimbursements received by the Town of Amherst for prescription drug costs incurred by the Health Claims Trust Fund for Town of Amherst, Amherst-Pelham Regional School District, and Town of Pelham members.

Action taken 11/8/2010.

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

VOTED by a declared two-thirds that the sum of \$4,500,000 be appropriated to pay costs of repairing various roadways throughout the Town and for the payment of all costs incidental and related thereto, and that to meet this appropriation, the Treasurer, with the approval of the Select Board, is authorized to borrow said amount under and pursuant to Chapter 44, Section 7 of the General Laws, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor.

Action taken 11/8/2010.

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

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

Action taken 11/8/2010.

ARTICLE 7. Community Preservation Act (Community Preservation Committee)

- A. VOTED unanimously** to (a) authorize the Select Board to acquire from John J. and Susan M. Stosz, by gift, purchase, or eminent domain, a certain parcel of land located north of East Leverett Road, containing a total of 5.60 acres, more or less, and identified on Assessors Map 3B Parcel 80 of the Town Cadastre, which parcel shall be under the care, custody, management and control of the Amherst Conservation Commission in accordance with G.L. Chapter 40, Section 8C for conservation and passive recreation purposes; (b) appropriate the sum of \$150,000 for the acquisition of said parcels and costs related thereto, of which \$45,000 shall be transferred from the Community Preservation Fund annual revenues and the remaining \$105,000 shall be borrowed in accordance with G.L. Chapter 44B, the Community Preservation Act, and further authorize the Treasurer, with the approval of the Select Board, to issue any bonds or notes that may be necessary for that purpose, as authorized by G.L. Chapter 44, or any other enabling authority; (c) authorize the Town Manager, the Select Board, and/or the Conservation Commission, as they deem appropriate, to file any and all applications under the LAND Program (G.L. Chapter 132A, Section 11) and/or any other applications for funds in any way connected

with the scope of this acquisition, and enter into and execute any and all agreements and instruments on behalf of the Town as may be necessary or appropriate to effectuate said acquisition; and (d) further, authorize the Select Board and/or the Conservation Commission to convey a perpetual conservation restriction on said parcels in accordance with G.L. Chapter 184, as required by G.L. Chapter 44B, Section 12(a).

Action taken 11/8/2010.

B. **VOTED unanimously to DISMISS** [To see if the Town will appropriate and transfer a sum of money from FY 2011 Community Preservation Fund annual revenues to the Open Space Reserve.]

Action taken 11/8/2010.

C. **VOTED** to appropriate a sum of \$25,000 for Community Preservation Act Affordable Housing Purposes recommended by the Community Preservation Act Committee and to meet such appropriation \$17,200 to be transferred from Fund Balance reserved for Affordable Housing and \$7,800 from FY2011 CPA estimated revenues.

Action taken 11/8/2010.

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

DEFEATED Yes 96, No 62 (Motion failed to achieve a two-thirds vote)

[To see if the Town will amend Table 3, Dimensional Regulations, and Articles 4, 6, 12, and 14 of the Zoning Bylaw by deleting the ~~lined-out~~ language, adding the language in *bold italics*, and replacing language, as follows:

A. **Remove the current Article 14, Phased Growth, in its entirety, and replace it with the following new article:**

ARTICLE 14 DEVELOPMENT MODIFICATION

SECTION 14.0 INTENT & PURPOSE

The purpose of this Article is to ensure that growth and development in Amherst occur in an orderly and planned manner, in accordance with the recommendations of the Master Plan adopted by the Planning Board. This Article is intended to encourage types and patterns of residential and commercial growth which reflect the values of the community, to mitigate the impacts of such development, and to maintain high quality municipal services for an expanding population.

SECTION 14.1 REGULATIONS

14.10 GENERAL REGULATIONS & ASSIGNMENT OF POINTS

The regulations of this Article shall apply to all residential and mixed use development in Amherst. In those zoning districts in which Table 3, Dimensional Regulations, establishes a maximum residential density through the use of minimum lot area and additional lot area/family, the Permit Granting Board shall, or the Special Permit Granting Authority may, as applicable, modify the residential density (number of dwelling units) for residential or mixed uses under Article 3 and residential developments under Articles 4 and 6 as part of the approval of any development. Similarly, for mixed uses under Section 3.325 the Permit Granting Board shall, or Special Permit Granting Authority may, as applicable, modify the dimensional requirements under Table 3 for building coverage (percent of lot covered by buildings), maximum floors, height and other dimensions, as provided under Section 14.3.

14.100 The provisions of this section shall be applied only to residential uses, residential development methods, residential accessory uses, and mixed uses under Section 3.325 meeting the following thresholds:

In the 'outlying' (R-N, R-O, and R-LD) districts – A net total of four (4) or more new dwelling units.

In the 'center' (B-G, B-L, B-VC, B-N, COM, R-G, R-VC and R-F) districts – A net total of six (6) or more new dwelling units.

- 14.101 Under Sections 14.2 and 14.3 of these regulations, wherever a single positive or negative point score is shown and the application meets the criteria of the section in question, that point score and no other shall be assigned. An exception shall be where Permit Granting Board or Special Permit Granting Authority determines that the assignment of the points depends upon a characteristic or quality of the proposed development or subject property which is partial; for example, where a subject property is located in more than one zoning district. In such instances, the points assigned shall be pro-rated based upon the percentage of the characteristic or quality present as determined by the Permit Granting Board or Special Permit Granting Authority. Wherever a range of potential points is shown, the Permit-Granting Board or Special Permit Granting Authority shall apply such standards or criteria as it deems necessary and appropriate to determine the appropriate point score. In all cases, points assigned shall not exceed the minimums or maximums shown. Unless otherwise specified, developments shall be eligible for all points for which they qualify.
- 14.102 Nothing in this section shall be construed as limiting the authority of the Special Permit Granting Authority to grant, modify or deny an application for a Special Permit under this section or to impose such conditions, safeguards and limitations on an application as are consistent with the provisions of Sections 10.3 and 10.4 of this Bylaw.
- 14.103 The provisions of this section shall not apply to those projects for which a valid Site Plan Review application was received prior to [date of adoption].
- 14.104 For each application, the Permit Granting Board and Special Permit Granting Authority shall determine points and modify the development at the time of permit approval. Similarly, under any application involving Definitive Subdivision approval, the Planning Board shall determine points and modify the development at the time of subdivision approval.

14.2 MODIFICATION POINT SYSTEM

The Permit Granting Board or Special Permit Granting Authority, as applicable, shall assign points to eligible developments under the following categories of public welfare. Points assigned in each category shall be cumulatively totaled and applied to Section 14.30, Development Modification Table, to determine what modifications, if any, shall be applied to the residential unit count or dimensional aspects of a proposed development. All applications for definitive subdivisions, Special Permits, and Site Plan Review approval eligible under Section 14.10 shall include a proposal from the applicant for the assignment of points under this section and a resulting point total.

14.20 HOUSING DEVELOPMENT

It is the policy of the Town of Amherst to encourage a full and diverse mix of housing serving all residents. The provisions of this section are intended to act in concert with the other provisions in this Bylaw addressing affordable housing, density bonuses, and inclusionary requirements.

14.200 AFFORDABLE & DIVERSE HOUSING

It is the policy of the Town of Amherst to preserve and expand the community's supply of low and moderate income affordable housing.

14.2000 Any development meeting the thresholds established under Section 14.10 which includes 25% or more of its units as affordable housing for low income households as defined under Article 12 and as eligible to be counted under the Subsidized Housing Inventory (SHI) maintained by the Mass. Dept. of Housing and Community Development or its successor under the provisions of MGL Ch. 40B, and which is subsidized by federal, state or local programs, or proposed by the Amherst Housing Authority, or by a non-profit or limited dividend partnership, or by a municipal housing trust under the provisions of MGL Ch. 44, Section 55C, or any development which includes 25% or more of its units as non-subsidized housing units priced

to be affordable to households whose income is equal to or less than 80% of the median income for Amherst and which provides that the mix of affordable and market rate housing built in any one year is equivalent to the overall mix for the entire development, and which further provides that resale restrictions are established by the developer which ensure that the affordable units remain affordable for a period of forty years. +20

14.2001 Any development meeting the thresholds established under Section 14.10 which includes 25% or more of its units for moderate income households as defined under Article 12, and which is subsidized by federal, state or local programs, or proposed by the Amherst Housing Authority, or by a municipal housing trust under the provisions of MGL Ch. 44, Section 55C, or by a non-profit or limited dividend partnership, or any development which includes 25% or more of its units as non-subsidized housing units priced to be affordable to households whose income is greater than 80% or equal to or less than 120% of the median income for Amherst and which provides that the mix of affordable and market rate housing built in any one year is equivalent to the overall mix for the entire development, and which further provides that resale restrictions are established by the developer which ensure that the affordable units remain affordable for a period of forty years. +15

14.2002 Any development meeting the thresholds established under Section 14.10 which includes 12% - 24% of its units for low and/or moderate income households and meets the other criteria listed in Sections 14.2000 or 14.2001, above. +10

14.2003 Any development meeting the thresholds established under Section 14.10 which, exclusive of affordability, provides one unit, or 10% or more of its units, whichever is greater, as dedicated for the exclusive use of housing diverse population groups for a period not less than 30 years. Such groups may include, but are not limited to, the elderly, persons with disabilities, the homeless, and others eligible for public housing assistance under state and federal law. Developments that include attached units or apartments to meet these needs may be counted. +3 to+10

14.2004 Any development meeting the thresholds established under Section 14.10 but not bound by the requirements of Section 15.10 which provides one or more affordable housing units meeting the criteria listed in Sections 14.2000 or 14.2001:

14.20040 Includes one (1) affordable unit +5
 For each additional affordable unit beyond one (1) +2

[not to exceed a total of 15 pts.]

14.20041 Includes no affordable units. -5 to-10

14.2005 Any development meeting the thresholds established under Section 14.100 which provides units fully accessible under the provisions of the ADA and AAB, where affordable units meeting the criteria listed in Sections 14.2000 or 14.2001

are also being provided:

14.20050	Includes one (1) accessible unit For each additional accessible unit beyond one (1)	+3 +1 [not to exceed a total of 10 pts.]
14.20051	Includes no accessible units.	-3 to-7

14.201 RESIDENTIAL DEVELOPMENT METHODS

It is the policy of the Town of Amherst to encourage the production of housing that is clustered in design and layout, so as to provide the greatest density of needed housing while requiring the least extent of roadways, utilities, and services, and consuming the least amount of critical resource lands in remaining open areas.

14.2010	Any development constructed under the cluster provisions of Section 4.3, the PURD provisions of Section 4.4, or the OSCD provisions of Section 4.5 of the Zoning Bylaw. For any development which includes both clustered lots and standard lots, the increase shall be pro-rated based on the percentage of cluster lots to total lots in the development.	+1 to+5
14.2011	Any conventional residential subdivision development consisting of 4 or more lots, including standard frontage lots or flag lots created on both existing and proposed new ways.	-10

14.21 CENTERS & MIXED USE DEVELOPMENT

It is the policy of the Town of Amherst to preferentially direct appropriate residential and mixed use development to existing built areas and centers with existing infrastructure, services, and transportation, and to actively discourage such development in Amherst's remaining open, outlying areas.

14.210	Any residential use under Sections 3.322-3.325 (inclusive) and 3.329, or residential development method or conversion within the B-G, B-VC, B-L, B-N, R-G or R-VC districts.	+15
14.211	Any permitted residential use under Sections 3.322-3.325 (inclusive) and 3.329, or development or conversion not within the B-G, B-L, B-VC, B-N, R-G or R-VC districts but located within 1,000 feet of said districts and also within 500 feet of a federal or state highway or local street designated as arterial (principal, urban major or urban minor) by the Massachusetts Executive Office of Transportation or its successor.	+5
14.212	Any use under Section 3.325 within the COM District.	+3 to +7
14.213	Any residential use or development located within the R-N, R-O or R-LD zoning district(s) and meeting the threshold established under Section 14.10, excepting uses or developments with 25 percent or more of their total housing units affordable under the provisions of Sections 14.2000 or 14.2001 of this Bylaw.	-5 to -15

14.22 CRITICAL NATURAL RESOURCE PROTECTION

It is the policy of the Town of Amherst to preserve and protect critical natural resources and the lands supporting or containing them, and to prevent or mitigate development on said lands.

14.220	AQUIFER & WATERSHED - The preservation of critical	
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existing or potential areas of public water supply or recharge.

14.2200 Development in the Aquifer Recharge Protection
(ARP) or Watershed Protection (WP) overlay districts:

No public sewer	-15
On public sewer	-7

14.2201 Any development in the ARP or WP districts which provides no permanent protection or retention of open space. -7

14.221 WETLANDS & WILDLIFE HABITAT

The preservation of unique or critical natural resources, including wetlands as defined under state and local law, and wildlife habitats of state significance under 310 CMR 10.02, designated pursuant to 321 CMR 10.30 through 10.40, inclusive, including habitats identified under the Natural Heritage Endangered Species Program (321 CMR 10 and 310 CMR 10, as amended).

14.2210 Permanent protection and retention of the lands described under this section, above and beyond that mandated under state and local environmental regulations, in the following amounts:

500-5,000 sq. ft.	+1 to +10
For every additional 5,000 sq. ft.	+2

[not to exceed a total of +15 pts.]

14.2211 Permanent protection and retention of lands described under this section, where they provide: 1) habitat suitable for fish or game species, 2) public access, and 3) sufficient distance from any hard-surfaced roads and any dwelling or building in regular use on adjacent properties, such that a minimum of 90 percent (90%) of the land area to be protected meets the requirements of MGL Ch. 131, Sec. 58, as amended, and is protected in the following amounts:

Minimum 5 acres	+3 to +10
For every additional 1 acres	+2

[not to exceed a total of +20 pts.]

14.2212 Any development involving the disturbance and replication on the subject property of wetlands as defined under state and local law, or within any critical habitats of state significance.

500-5,000 sq. ft.	-5 to -10
Each additional 5,000 sq. ft.	-5

[not to exceed a total of -20pts]

14.222 FLOODPRONE AREAS

The reasonable regulation of flood-prone areas in Amherst is a priority for reasons of public safety, preservation of property, and the protection of environmental values.

14.2220 Any development or accessory use in the FPC District other than in association with farming or another extensive land resource use permitted by right. -7

14.2221 Any development or accessory use on property that

includes FPC District where said development occurs outside of or mitigates impacts on the flood-prone areas. +3 to+5

14.2222 Any development or accessory use providing permanent protection for flood-prone areas, in the following amounts:

2,000-5,000 sq. ft. +3 to +5
 For every additional 5,000 sq. ft. +2
 [not to exceed a total of 15 pts.]

14.223 CRITICAL FARMLAND

It is a priority of the community of Amherst to preserve and promote farming and related resource-based activities as a part of Amherst’s economic and cultural heritage, as a viable lifeway for Amherst residents, as a responsible use of land, as an important local source of food, and as an activity which sustains and fosters a connection to the land among citizens.

Protection and retention of farmland and the promotion of farming activity.

14.2230 Development on agricultural land, defined as land classified prime, unique or of state and local importance by the USDA SCS, or land characterized by active agricultural use as defined in MGL Ch. 128, Section 1A. -10

14.2231 In the Farmland Conservation (FC) District, retention and preservation under permanent agricultural restriction of agricultural land in the following amounts:

2 to <5 acres +2 per acre
 5 or more acres +5 per acre
 [not to exceed a total of 20pts.]

14.2232 Any development in the R-LD/FC districts providing no permanent protection or retention of farmland.-7 to -10

14.2233 Provision of a minimum 150 foot buffer zone, including a fence and screening vegetation, between new residential buildings and the property boundary of a working farm +3 to +5

14.2234 Provision or creation of community gardens as part of any development outside the FC District.

In a ‘center’ district (Section 14.10) +5 to +10
 In an ‘outlying’ district (Section 14.10) +3 to +10
 For use by the general public +3 to +7

14.2235 Frontage or flag lot development under M.G.L. Ch. 41, Section 81P, with frontage located outside the FC District and a portion of lot area abutting or within the FC District.

14.22350 More than 5,000 sq. ft. of individual or average lot area in the FC District. -7

14.22351 2,500-5,000 sq. ft. of individual or

average lot area in the FC District. -5

14.22352 Less than 2,500 sq. ft. of individual or average lot area in the FC District. -3

14.22353 No lot area in FC District. 0

14.23 CRITICAL HISTORIC RESOURCES

It is the policy of the Town of Amherst to preserve, restore, rehabilitate, and, as appropriate, adaptively reuse its critical historic and archeological resources.

14.230 The permanent preservation of unique or critical historic or archeological resources on properties which: 1) are listed on the National or Massachusetts Registers of Historic Places, or, 2) are located in any local historic district established under MGL Ch. 40C, as amended, or, 3) are listed on the Amherst Historic Resource Inventory, or, 4) have been determined by the Amherst Historical Commission to be a significant structure under the provisions of Article 13 or as a separate review conducted at the request of the Permit Granting Board or Special Permit Granting Authority under this section:

14.2300 Permanent preservation of the resource through the conveyance of a deed restriction or easement in perpetuity, or fee simple interest to the Commonwealth, the Town, or a qualified non-profit organization, the principal purpose of which is the preservation of historic or archeological resources. +7 to +15

14.2301 Treatment of the resource in accordance with the U.S. Secretary of the Interior's Standards for the Treatment of Historic Properties, under the following categories, as defined therein:

- Preservation +7 to +15
- Rehabilitation +3 to +10
- Restoration +3 to +7
- Reconstruction +3 to +5

14.2302 Demolition of a structure:

- Without benefit of a demolition permit -5 to -15
- Prior to the end of a demolition delay period imposed by the Amherst Historical Commission. -3 to -15
- After a demolition delay period imposed by the Commission has ended -3 to -10

Note: No points shall be deducted where: 1) the Historical Commission has granted permission for issuance of a demolition permit under any provision of Article 13, or 2) the Building Commissioner has issued an emergency demolition permit under Section 13.6.

14.2303 Removal or willful or negligent alteration or destruction of significant distinguishing characteristics of: 1) any critical historic resources under the provisions of Section 13.7, or 2) any critical archeological resource listed by the Massachusetts Historical Commission. -3 to -15

14.24 SUSTAINABLE SITE & BUILDING DESIGN

It is the policy of the Town of Amherst to mandate, promote, and assure development which adheres to principles of energy efficiency and sustainability in terms of location, siting, materials, energy use, and design.

- 14.240 Site and building design which allows for increased density of residential units in the 'center' districts (see Section 14.10) and which, in the judgment of the Permit Granting Board or Special Permit Granting Authority, responds to, preserves, replicates, reinforces and/or enhances and improves the historical, architectural, and spatial character of a village center or a residential neighborhood. +5 to +10
- 14.241 Site and building design which respond to, incorporate and protect natural features such as vegetation, topography, water courses, significant street or shade trees and scenic views. +5 to +7
- 14.242 Site design and building construction which, in the judgment of the Permit Granting Board or Special Permit Granting Authority, maximize sustainable design and energy conservation and efficiency, including but not limited to super-insulation, appropriate reuse of existing or salvaged materials, use of sustainably obtained or recycled materials, green roofs and permeable paving, and alternative Energy sources, including, but not limited to, passive solar design, on-site energy generation (heat exchange/heat pump technology, geo-thermal, photo-voltaic solar, solar heating or cooling, wind generation, small-scale biomass, and similar sources. +3 to +10
- 14.243 Site design and building construction which meet the requirement for LEED or equivalent certifications for energy or the use of sustainable forest products or other building materials. +7 to +15
- 14.244 Site design and building construction whose design provides unobstructed access to solar and wind for adjacent properties. +5
- 14.245 Site and building designs which employ universal accessibility design for new construction, renovations, and redevelopment, including redesign and renovation of existing residences and structures to assure the ability of mobility-impaired residents to visit neighbors. +3 to +10
- 14.246 Site and building design which fail to address any three of the above. -5 to -15

In no event shall more than a total of 50 points be assigned under this section.

14.25 TRANSPORTATION

It is the policy of the Town of Amherst to develop a balanced, accessible, safe, and environmentally responsible transportation and circulation system that serves users of public transit, pedestrians, bicyclists, and drivers, and that is connected within and among different transportation modes both in Amherst and the region.

- 14.250 Above and beyond the requirements of subdivision regulations, where applicable, access to or the provision of pedestrian, bicycle, or public transit facilities for residential uses and developments meeting the thresholds established under Section 14.10:
 - 14.2500 Access to existing sidewalks, or to existing multi-use paths meeting ADA/AAB Regulations for handicapped accessibility, including walking, bicycle or bridle paths or trails located within the site, connecting the site to adjacent public ways, or creating links to existing off-site paths. +5 to +10
 - 14.2501 Provision of new sidewalks or other multi-use paths meeting ADA/AAB Regulations for handicapped accessibility, including new walking, bicycle or bridle paths or trails located within the site, connecting the site to adjacent public ways, or creating new links to existing off-site paths.
 - 14.25010 Where such paths or trails are fully accessible to members of the general public. +7 to +10

14.25011	Where such paths or trails are provided but are accessible only to residents of the development and not to members of the general public.	+1 to+3
14.25012	Failure to provide such paths and trails.	-3 to -7
14.2502	Access to or provision of a public transit stop and connections thereto, including but not limited to stops for buses and passenger rail service.	
14.25020	Access to one or more existing public transit stops connected to the site via existing sidewalks or pedestrian paths, where a stop is located:	
	Within 500 feet of the site	+10
	Within 1,000 feet of the site	+5
14.25021	No public transit stop located within 1,000 feet of the development.	-5 to -10
14.25022	Provision of a new public transit stop connected to the site via existing or new accessible pedestrian paths, where the new stop is located:	
	Within 500 feet of the site	+15
	Within 1,000 feet of the site	+10
14.25023	Provision of a new accessible public sidewalk connection between the site and any existing public transit stop(s) within 1,000 feet of the site.	+5 to +10
14.25024	Failure to provide an accessible sidewalk connection to an existing public transit stop located within 1,000 feet of the site.	-7 to -10
14.2503	Provision of new public transportation alternatives, including but not limited to car or bicycle sharing programs, shuttle transit, or, contribution to or participation in the development of multi-modal facilities or new alternative public transit modes, including but not limited to monorail, light rail, and similar modes.	+5 to+15

14.3 DEVELOPMENT MODIFICATION CALCULATIONS

14.30 Development Modification Table

Points accumulated under Section 14.2 shall be totaled and the total point score shall determine the percentage of change, if any, to the total residential unit count, mixed use building coverage, or other dimensions, as hereinafter provided in this section.

Total Points	B-G B- L ¹ B-VC	B-N R-G R-VC	R-N B-L ²	R-O R-LD	COM	R-F	FPC
90 or more	40%	35%	25%	20%	15%	0%	0%
80 to 89	35	30	25	15	15	0	0
70 to 79	30	25	20	10	10	0	0
60 to 69	25	20	15	5	10	0	0
50 to 59	20	20	15	5	10	0	0

40 to 49	15	15	15	5	5	0	0
30 to 39	15	10	10	0	5	0	0
20 to 29	10	5	5	0	5	0	0
10 to 19	5	5	5	0	0	0	0
0 to 9	0	0	0	0	0	0	0
-10 to -1	-5	-5	-5	-5	0	0	0
-20 to -11	-10	-5	-5	-5	-5	0	0
-30 to -21	-15	-10	-10	-5	-5	0	0
-40 to -31	-15	-15	-10	-10	-10	0	0
-50 to -41	-20	-20	-15	-15	-15	0	0
-60 to -51	-25	-20	-15	-15	-20	0	0
-70 to -61	-30	-25	-20	-20	-25	0	0
-80 to -71	-35	-30	-25	-25	-30	0	0
-81 or less	-40	-35	-25	-30	-35	0	0

¹ B-L abutting B-G

² B-L not abutting B-G

14.31 Residential Uses or Development

The standard maximum density established for any residential land use or residential development method under Table 3 and Article 4 of this Bylaw shall be modified, and increased or decreased based upon the total points accumulated under Section 14.1. Using the Development Modification Table above, the total points shall indicate, for the zoning district in which the development is located, a specific percentage increase or decrease in the maximum density (number of dwelling units), where the standard maximum density shall be considered equal to 100% (or 1.0) and the figure shall represent the percentage of that standard maximum density by which the total is increased or decreased.

Under this section, for cluster subdivisions and OSCDs in the R-O and R-LD districts, the maximum number of lots or units, as applicable, otherwise allowed under the development method may be increased by the number of affordable units proposed, not to exceed 120 percent of the maximum otherwise allowable. This limitation shall not apply in other districts where these development methods are available.

In calculating the total number of dwelling units resulting from this modification, the provisions of Section 4.12 shall apply.

14.32 Mixed Uses

The standard maximum building coverage permitted under Table 3 for any mixed use under Section 3.325 shall be modified, and increased or decreased based upon the total points accumulated under Section 14.1. Using the Development Modification Table, the total points shall indicate, for the zoning district in which the development is located, a specific percentage of increase or decrease in the maximum building coverage for the applicable zoning district, where the standard maximum building coverage, as calculated in square feet, shall be considered equal to 100% (or 1.0) and the specific percentage derived shall be the percentage of the standard maximum building coverage by which total building coverage shall be increased or decreased.

In calculating the resulting square footage of maximum building coverage resulting from this modification, any fractional portion greater than or equal to 0.5 of a single percentage (1.0%) of total resulting building coverage shall be rounded up to the nearest whole percentage, and any fractional portion less than 0.5 of a single percentage (1.0%) of total building coverage shall be rounded down to the nearest whole percentage.

14.33 Any residential or mixed use accruing more than 50 total points may also increase the number of floors for existing or proposed buildings by a single floor above the maximum for the applicable zoning district. In those instances, the Permit-Granting Board or Special Permit Granting Authority, as applicable, may modify the maximum height as it deems appropriate in order to accommodate the additional floor, except that the increase above the maximum allowed height shall not exceed fifteen (15) feet.

Additionally, for any residential use scoring 50 or more points, or any mixed use scoring 60 or more points in the B-G, B-L, B-VC, B-N, and COM districts, the Permit Granting Board or Special Permit Granting Authority may modify the minimum front, side, and rear setbacks and the maximum lot coverage. Under this provision, front, side, and rear setbacks need not be provided, but may be set as determined by the Permit Granting Board or Special Permit Granting Authority. If provided, side and rear setbacks shall be at least 10 feet. Maximum lot coverage may be increased by an amount not exceeding 10 percent of the requirement under Table 3.

B. Add a new superscript o. to the title of Table 3, Dimensional Regulations, and a corresponding new footnote, as follows:

o. The dimensional regulations and resulting densities of Table 3 may be modified under the provisions of Article 14, Density & Dimensional Modification.

C. Amend the following existing subsections of Article 4, Development Methods, and add a new Section 4.4221, as follows:

[Affordable clusters]

4.330 The Planning Board ~~may authorize a greater~~ **shall modify the** number of building lots ~~that would be allowed by the density requirements of Section 4.3231 or Section 4.327~~ **in accordance with the provisions of Article 14.** ~~only if a minimum of 10% of the total dwelling units in the development are affordable units as herein defined. In no event shall the Board authorize a greater number of building lots than 120% of the maximum number of lots otherwise allowed under the applicable development method. For the purpose of this calculation, 10% of the total parcel size shall be subtracted for road allowance prior to calculating the maximum density normally allowed. See Section 4.12.~~

[OSCD affordable units]

4.550.0 In any OSCD that includes affordable dwelling units in accordance with Sections 4.333-4.334, the maximum density established under Section 4.520 may be ~~modified~~ **increased in accordance with the provisions of Article 14.** ~~by the number of affordable units proposed. Additional units allowed under this provision shall not exceed 20% of the maximum otherwise permitted under Section 4.520.~~

[OSCD accessible units]

4.551.0 In any OSCD that includes dwelling units fully handicapped accessible under the provisions of Massachusetts Architectural Access Board regulations (521 CMR), as amended, the maximum density established under Section 4.520 may be ~~modified~~ **increased in accordance with the provisions of Article 14.** ~~by the number of accessible units proposed, except that no accessible units may be counted as part of such a density bonus unless separate affordable dwelling units are also being provided. Additional accessible units allowed under this provision shall not exceed 10% of the maximum otherwise permitted under Section 4.520.~~

[PURD affordable units]

4.4221 *In any PURD that includes affordable dwelling units in accordance with Sections 4.333-4.334, or dwelling units fully handicapped accessible under the provisions of Massachusetts Architectural Access Board regulations (521 CMR), as amended, the maximum density that could otherwise be established under this section may be modified in accordance with the provisions of Article 14.*

D. Amend Sections 6.17 and 6.18, by adding the new sentence “See Section 14.3.” to the end of each section.

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

12. __ **Historic or Archeological Resources, Critical:** *Sites, landforms, structures, objects or features which are: (1) located on properties or themselves listed on the National Register of Historic Places, or (2) included in the Amherst Historic Resource Inventory, or have been, (3) found by the Amherst Historical Commission to be*

significant under the provisions of Section 13.4 of this Bylaw, whether as part of a demolition delay proceeding or otherwise.

- 12.____ Housing, Affordable: Affordable housing units are units which may be rented or purchased by those who meet the guidelines for maximum annual income for low-income or moderate-income family or household. The income limit for low-income shall be 80% of the median income for Amherst and the income limit for moderate-income shall be 120% of median income for Amherst.

Median income for Amherst shall be as calculated by the U.S. Department of Housing & Urban Development, or any successor agency and shall be adjusted for family size.

Permanently preserved affordable housing shall be defined to include any dwelling units providing affordable housing for low or moderate income households as defined above, where said units are: (1) eligible to be counted under the Subsidized Housing Inventory (SHI) maintained by the Mass. Dept. of Housing and Community Development or its successor under the provisions of MGL Ch. 40B, or (2) proposed by the Amherst Housing Authority or a non-profit or limited dividend partnership or a municipal housing trust under the provisions of MGL Ch. 44, Section 55C, and subsidized by federal, state or local programs, or (3) non-subsidized housing units priced to be affordable to low or moderate income households. Under (2) and (3) above a deed restriction enforceable by the Town of Amherst shall be recorded providing that the affordable units will remain affordable at the level specified for a period of forty years.

- 12.____ *Preservation, Permanent: For the purposes of this Bylaw, permanent preservation of any land, property, or resources hereunder shall entail either (1) conveyance to the Commonwealth of Massachusetts for the specified public purpose(s), or (2) conveyance to the Town of Amherst and acceptance of it for the specified public purpose(s), or (3) conveyance to a non-profit organization or public trust, the principal purpose of which is consonant with the public purpose(s) being served under the Bylaw, or (4) conveyance to a corporation or trust owned or to be owned by the owners of the land, property, or resources in question. If such a corporation or trust is utilized, as indicated herein, ownership thereof shall pass with conveyances of the lots or residential units. Under the third and fourth ownership alternatives listed above, a deed restriction enforceable by the Town of Amherst shall be recorded providing that such land, property, or resource shall, in perpetuity, be owned, maintained, and utilized in a state and manner consistent with the public purposes for which the preservation in question has been established. For the permanent preservation of housing, see the definition for Housing, Affordable.*

- 12.____ *Scenic View: A scenic view is a wide angle or panoramic field of sight constituting or affording pleasing views of relatively undisturbed natural features to which the public has access and which may include views of unique natural and/or man-made structures and activities. A scenic view may be visible to the public from a stationary viewpoint or while travelling along an existing or proposed roadway, waterway, or path. A scenic view may afford visual access to a distinct but distant object, such as a mountain, or a nearby object.]*

Action taken on 11/10/2010.

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

VOTED to refer the article back to the Planning Board for further study.

[To see if the Town will amend Section 5.014 and Article 12, of the Zoning Bylaw, by deleting the lined out language and adding the language in *bold italics*, as follows:

5.014 Livestock or Poultry

The raising or keeping of livestock or poultry for use by residents of the premises shall be considered as an accessory use ~~that~~ *is to residential uses in selected residential districts in Amherst, and shall not be permitted in other districts. All livestock and poultry raised and kept as an accessory use, whether for food, as pets, or for other uses, shall be subject to the regulations of this section and all applicable local and state laws, including MGL Ch. 40A, Section 3, as amended.*

5.0140 The accessory raising or keeping of livestock or poultry in residential districts:

5.01400 Shall be allowed by right in the Outlying Residence (R-O) and Low-Density Residence (R-LD) Districts;

5.01401 Except as provided for under Section 5.0141 below, shall be subject to approval of a Special Permit by the Board of Appeals or the Special Permit Granting Authority authorized to act under the applicable section of this Bylaw, as applicable, in the General Residence (R-G), Village Center Residence (R-VC), and Neighborhood Residence (R-N) and Residential Village Center Districts, and not permitted elsewhere.

5.01402 In all cases, the accessory keeping and raising of livestock or poultry shall require registration of said livestock or poultry with the Amherst Health Department and regular inspections by the Animal Welfare Officer under applicable state law or regulations. All Special Permits issued under this section shall include as conditions of approval the submission of evidence of such registration and inspections.

5.0141 In the General Residence (R-G), Village Center Residence (R-VC), and Neighborhood Residence (R-N) Districts on properties less than 30,000 sq. ft. in area, only domesticated rabbits (which shall include domesticated hares for the purpose of this Bylaw), and selected domestic fowl (ducks, pigeons, doves, and hens) may be raised and kept as an accessory use. On such properties, no roosters, geese, swans, turkeys, pheasants, peacocks, guinea fowl, pygmy goats, potbellied pigs, or any other livestock or poultry shall be permitted. For the purpose of this regulation, only reproductively mature rabbits and fowl shall be considered adults counting toward maximum requirements.

On properties 30,000 sq. ft. in area or more in these districts, other livestock and poultry may be raised and kept only under a Special Permit, except that no Special Permit shall be required for the keeping and raising of livestock or poultry on properties of 2 acres or more meeting the thresholds established under MGL Ch. 40A, Section 3.

5.0142 On any given property in these districts, the maximum allowable number of adult rabbits and selected domestic fowl, any combined total thereof, or other livestock or poultry, shall be as follows, based upon the size of the property and regardless of the number of dwelling units:

Maximum Total Number of Animals

<u>Property Area</u>	<u>By Right (No Special Permit)</u>	<u>Special Permit Only</u>
Less than 10,000 sq. ft.	3	More than 3*
10,000 sq. ft. to <12,000 sq. ft.	4	More than 4*
12,000 sq. ft. to <20,000 sq. ft.	6	More than 6*
20,000 sq. ft. to <30,000 sq. ft.	8	More than 8*
More than 30,000 sq. ft.	10	More than 10 or any number of other livestock or poultry.*

*As determined by the Special Permit Granting Authority.

On properties of two acres or more meeting the thresholds established under MGL Ch. 40A, Section 3, any number of livestock and poultry may be kept and raised as of right consistent with the provisions of state law. On properties of less than five acres that do not meet the thresholds established under MGL Ch. 40A, Section 3, the keeping of any number of livestock or poultry shall be permitted only under a Special Permit.

5.0143 All livestock or poultry shall be raised and kept in a safe and humane manner, consistent with best agricultural practices and as required under all applicable local and state regulations.

5.0144 Any provision of Section 5.014, Livestock or Poultry, may be waived or modified by the permit granting authority for compelling reasons of public health, safety, and general public welfare.

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

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

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

Action taken 11/8/2010.

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

VOTED by a declared two-thirds to amend Section 3.312 and Article 12 of the Zoning Bylaw, by deleting the ~~lined out~~ language and adding the language in ***bold italics***, as follows:

A. Amend Section 3.312

3.312 Salesroom or farm stand for the sale of nursery, garden or other agriculture produce (including articles of home manufacture from such produce)

Class I and Class II farm stands shall be located on a farm shall be property a minimum of two (2) acres in size where it can be demonstrated that the sale of products produced from the agricultural use of the property annually generates at least \$1,000 per acre based on gross sales dollars, or, on a property a minimum of five acres in size for both Class I and Class II facilities.

3.3120 Class I *Farm stand*

R-O

R-LD R-N R-VC R-G R-F B-G B-L B-VC B-N COM OP LI PRP FPC

SPR SPR SPR SPR SPR SPR SPR SPR SPR SPR SPR SPR SPR

Standards & Conditions

For produce grown during either June, July, August & September of every year, or during the harvest season of the crop(s) raised on land of the owner or lessee, at least 25 percent of such products for sale, based on either gross sales dollars or volume, have been produced by the owner or lessee of the land on which the facility is located. For produce generated without regard to seasons, at least 25% of such products for sale, based on either gross annual sales or annual volume, have been produced by the owner or lessee of the land on which the facility is located, and at least an additional 50 percent of such products for sale, based upon either gross annual sales or annual volume, have been produced in Massachusetts on land, other than that on which the facility is located, used for the primary purpose of

commercial agriculture, aquaculture, silviculture, horticulture (including the growing and keeping of nursery stock and the sale thereof), floriculture or viticulture, whether by the owner or lessee of the land on which the facility is located or by another, all as provided for under MGL Ch. 40A, Sec. 3, as amended.

3.3121 Class II *Farm stand*

R-O

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

For produce grown during June, July, August & September of every year, or during the harvest season of the primary crop(s) raised on land of the owner or lessee, at least 15% of the products for sale shall be produced by the owner or lessee of the land on which the facility is located. For produce generated without regard to seasons, at least 15% of such products for sale, based on either gross annual sales or annual volume, have been produced by the owner or lessee of the land on which the facility is located, and at least an additional 50 percent of such products for sale, based upon either gross annual sales or annual volume, have been produced in Massachusetts on land, other than that on which the facility is located, used for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture (including the growing and keeping of nursery stock and the sale thereof), floriculture or viticulture, whether by the owner or lessee of the land on which the facility is located or by another.

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

12. *Farmland: Land under agricultural use as defined in MGL Ch. 128, Section 1A, and MGL Ch. 61A, Sections 1 and 2, inclusive, as amended, and, including for the purposes of this Bylaw, the lawful propagation and raising of wild or game species under applicable state and federal law, and, land under agricultural use whose soils are classified as prime, unique, or of state and local importance by the USDA Soil Conservation Service. The provisions of MGL Ch. 40A, Section 3, shall apply.*

Action taken on 11/8/2010.

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

VOTED unanimously to amend Sections 12.251 and 12.252, by deleting the ~~lined out~~ language and adding the language in ***bold italics***, as follows:

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

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

testing facilities, medical counseling services, and similar services, or may be associated with other similar accessory or complementary principal uses in the same building.

[The motion included re-numerating both of the amended sections.]

Action taken 11/8/2010.

At 10:00 p.m. on November 8, 2010, the meeting voted to adjourn to Wednesday, November 10, 2010 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 170 town meeting members were checked in.

The November 10, 2010 session, adjourned from November 8, 2010, was called to order by the Town Moderator, Harrison Gregg, at 7:39 p.m. 128 town meeting members were checked in.

Select Board Chair, Stephanie O'Keeffe, recognized the following people for their service to the town:

Connie Kruger – Board of Assessors from 2004 to 2010

Doris Holden – Council on Aging from 2004 to 2010

Marilyn Blaustein – Finance Committee from 2003 – 2010

Sandra Sulsky – Board of Health from 2004 to 2010

Edith Byron – Amherst Cultural Council from 2004 to 2010

Anne Burton – Amherst Cultural Council from 2002 – 2010

Vince O'Connor – Public Works Committee from 2004 – 2010

Robert Crouner – Public Works Committee from 2004 - 2010

Town Meeting resumed with Article 8. James E. Scott, H. Oldham Brooks, James W. Pistrang, Nonny Burack, Hilda B. Greenbaum, and Nancy M. Gordon were sworn in as tellers by the Moderator.

ARTICLE 12. Town and School Purchasing Food from Local Farms (Agricultural Commission)
VOTED unanimously to accept the following resolution:

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

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

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

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

Therefore, be it resolved that, pursuant to the Uniform Procurement Act MGL c.30B, §4(d) it is the stated preference of the Town of Amherst that all governmental bodies, including the town's schools, make every effort to purchase agricultural products, grown or produced as part of a Massachusetts farming operation, with preference given to farmers in the town and nearby communities when appropriate and allowed by law. This preference extends to stating such a preference when any governmental body is advertising for bids or contracts for purchases of agricultural products of \$25,000 or more.

Action taken on 11/10/2010.

ARTICLE 13. Petition – Dog Welfare (Vickers)

VOTED to adopt the following general bylaw:

In order to enhance the quality of life of citizens and dogs in the Town of Amherst, and to protect the general public from damage and nuisance that may be caused by dogs confined outdoors, this bylaw regulates the confinement and tethering of dogs.

Prolonged Confinement of Dogs Outside

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

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

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

(B) Permissible Outside Confinement.

A person owning or keeping a dog in the town may confine such dog outside, subject to the restrictions stated elsewhere in this by-law, through the use of any of the following three methods:

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

(a) The pen or secure enclosure has adequate space for exercise with a dimension of at least one hundred (100) square feet. Commercial dog kennels with pens intended for the temporary boarding of dogs are exempt from this requirement.

(b) The pen or secure enclosure is constructed with chain link or other similar material as determined by the Building Inspector, with all four (4) sides enclosed.

(c) The minimum height of the fence is adequate to successfully confine the dog.

(2) A fully fenced, electronically fenced, or otherwise securely enclosed yard, wherein a dog has the ability to run but is unable to leave the enclosed yard.

(3) A trolley system or a tether attached to a pulley on a cable run, if the following conditions are met:

(a) Only one dog may be tethered to each cable run.

(b) The tether must be attached to a properly fitting collar or harness worn by the dog, with enough room between the collar and the dog's throat through which two (2) adult fingers may fit. Choke collars and pinch collars are prohibited for the purposes of tethering a dog to a cable run.

(c) There must be a swivel on at least one end of the tether to minimize tangling of the tether.

(d) The tether and cable run must each be at least ten (10) feet in length. The cable must be mounted at least four (4) feet but not more than seven (7) feet above ground level.

(e) The length of the tether from the cable run to the dog's collar or harness must allow continuous access to clean water and appropriate shelter at all times as described in paragraph (C) of this bylaw. The trolley system or tether must be of appropriate configuration to confine the dog to the owner/guardian's or keeper's property, to prevent the trolley system or tether from extending over an object or an edge that could result in injury or strangulation of the dog, and to prevent the trolley system or tether from becoming tangled with other objects or animals.

(C) Access to Water and Shelter.

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

(D) No Outside Confinement at Night.

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

(E) Exceptions to Outdoor Confinement.

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

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

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

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

(G) Violations and Penalties

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

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

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

Action taken on 11/10/2010.

ARTICLE 14. Petition – Resolution to Bring the War Dollars Home (Hooke)

VOTED Yes 74, No 32, to vote the following resolution:

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

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

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

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

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

THEREFORE BE it resolved that Amherst Special town Meeting 2010:

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

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

Action taken 11/10/2010.

The business of the warrant having been completed, at 10:47 p.m. the meeting voted to dissolve. 174 town meeting members were checked in.

Attest:

Sandra J. Burgess

Town Clerk