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**Special Town Meeting  
October 28, 30, November 6 and 13, 2002**

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 7:45 p.m. There were 234 town meeting members. 118 checked in and a quorum was declared. The call and return of the warrant were read by Town Clerk, Margaret Z. Nartowicz. A moment of silence was held in remembrance of former Town Clerk, Cornelia D. Como and former town meeting member, Aldith Allen. The Moderator recognized the dedicated service of several town committee members. New town meeting members were sworn to the faithful performance of their duties. Article 1 and a portion of Article 8 were considered on October 28<sup>th</sup>.

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

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

Action taken on 10/28/02.

The Wednesday, October 30, 2002 session, adjourned from October 28, 2002, was called to order by the moderator at 7:42 p.m. 117 town meeting members checked in and a quorum was declared. Articles 2, 3, 4, 5, 6, 7, 9, 10 and 11 were considered. Consideration of Article 8, Motion E was postponed until 7:30 p.m. on November 13, 2002.

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

**VOTED unanimously** that the Town raise and appropriate \$2,340.60 to pay unpaid bills of prior years.

Action taken on 10/30/02.

ARTICLE 3. Debt Rescission (Select Board)

**VOTED unanimously** that the Town rescind the following borrowing authorizations:

Special Town Meeting, October 1991, Article 20a - \$580,000 for Atkins Treatment Plant  
Special Town Meeting, April 1992, Article 17 - \$200,000 for Closing Cell II of Sanitary Landfill  
Special Town Meeting, May 2001, Article 2A - \$840,000 for Middle Street Sewer Extension  
Action taken on 10/30/02.

ARTICLE 4. Senior Tax Exemptions (Select Board)

**VOTED unanimously** that the Town accept, for Fiscal Year 2003, the provisions of Chapter 184, Section 51 of the Acts of 2002, amending Chapter 59, Section 5(41C) of the Massachusetts General Laws, by decreasing the eligibility age for senior tax exemptions from 70 to 65, by increasing the amount of the exemption by 20%, by increasing the gross receipts limit from \$13,000 to \$20,000 if single and from \$15,000 to \$30,000 if married, by increasing the whole estate limit from \$28,000 to \$40,000 if single and from \$30,000 to \$55,000 if married, and by increasing the whole estate exclusion for the value of the applicant's domicile from no more than two units in addition to the unit occupied by the applicant to **no** more than three additional units.

Action taken on 10/30/02.

ARTICLE 5. Conservation Restriction – Pelham Watershed Land (Conservation Commission)

**VOTED unanimously** that the Town convey a Conservation Restriction over a portion of premises located at 302 Amherst Road, Pelham, MA, to the Commonwealth of Massachusetts Department of Fisheries, Wildlife and Environmental Law Enforcement, in accordance with requirements of the Massachusetts Aquifer Land Acquisition Program and the "Option to Purchase Conservation Restriction" agreed to by the Town and the Commonwealth in June 2002, the premises further described as follows: a 36.893 parcel of land held by the Town for water supply purposes and located off of the northerly side of Amherst Road as shown on a plan of land dated June 10, 2002, and recorded in the Hampshire County Registry of Deeds in Plan Book 193, Page 38, and further described in deed to the Town of Amherst recorded in Book 6694, Page 41.

Action taken on 10/30/2002.

ARTICLE 6. Capital Program – Fire Pumper (Joint Capital Planning Committee)

**VOTED unanimously** that the Town raise and appropriate an additional \$40,000 for a fire pumper.

Action taken on 10/30/02.

ARTICLE 7. FY 03 Golf Course Fund Budget (Finance Committee)

**VOTED** that the Town amend the vote taken under Article 33 - FY 2003 Operating Budget - Golf Course Fund, April 24, 2002 Annual Town Meeting by rescinding the Golf Course Fund appropriation and instead appropriate \$348,121 for the Golf Course Fund and that to meet such appropriation \$239,554 be made available from Golf Course revenues of the current year, that \$28,667 be transferred

from Golf Course Surplus and that \$79,900 be transferred from Free Cash in the Undesignated Fund Balance of the General Fund.

Action taken on 10/30/02.

ARTICLE 8. Capital Program - Community Preservation Act Committee Recommendations  
(Community Preservation Act Committee)

MOTION A

**VOTED** that the Town appropriate \$20,000 for an Historic Preservation Survey and to meet such appropriation, transfer \$20,000 from the Community Preservation Fund Undesignated Fund Balance.  
Action taken on 10/28/02.

**VOTED** that the Town appropriate \$130,000 for the Amherst Housing Authority and to meet such appropriation, transfer \$130,000 from the Community Preservation Fund Undesignated Fund Balance.  
Action taken on 10/28/02.

**VOTED** that the Town appropriate \$13,000 for open space property appraisals and to meet such appropriation, transfer \$13,000 from the Community Preservation Fund Undesignated Fund Balance.  
Action taken on 10/28/02.

MOTION B

**VOTED** that the Town transfer \$17,577 from the Community Preservation Fund Undesignated Fund Balance to the Reserve for Historic Preservation.

Action taken on 10/28/02.

MOTION C

**VOTED by a declared 2/3 vote** that the Town authorize the Select Board to purchase, jointly with the Commonwealth of Massachusetts Department of Food and Agriculture, an Agricultural Preservation Restriction on a portion of Parcel 26D-4 of the Town Cadastre, located at 1720 South East Street, from Edith Gray; and transfer \$20,000 from the Community Preservation Fund Undesignated Fund Balance toward said purchase.

Action taken on 10/28/02.

MOTION D

**VOTED by a declared 2/3 vote** that the Town authorize the Select Board to purchase Parcel 23B-60 of the Town Cadastre, located west of Middle Street, from John and Adele S. Simmons for conservation purposes under Chap. 40, Sec. 8C; transfer \$60,000 from the Community Preservation Fund Undesignated Fund Balance toward said purchase; and authorize the Town to apply for and receive grants, gifts, and bequests toward said purchase.

Action taken on 10/28/02.

MOTION E

**VOTED by a tally vote Yes 118, No 35** that the Town appropriate \$500,000 for athletic fields at Plum Brook and a riding ring at Station Road and to meet such appropriation authorize the Treasurer to borrow \$500,000 in accordance with M.G.L. Chapter 44, Section 7(25) and other applicable laws.

Action taken on 11/13/02.

Discussion under Motion E began and a motion to dismiss Motion E was made on October 28<sup>th</sup>. After considerable discussion under the motion to dismiss, the meeting voted to adjourn at 10:05 p.m. to Wednesday, October 30, 2002 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 159 town meeting members were checked in.

The Wednesday, October 30, 2002 session, adjourned from October 28, 2002, was called to order by the moderator at 7:42 p.m. 117 town meeting members checked in and a quorum was declared. Janet Chevan, Robert Kusner, H. Oldham Brooks, Deanne Sloane Riddle, Hill Boss and Hilda Greenbaum were sworn as tellers. The motion to dismiss Article 8, Motion E was defeated Yes 38, No 101. Article 8, Motion E was postponed until 7:30 p.m. on Wednesday, November 13, 2002.

ARTICLE 9. Capital Program – Sewer Fund – Chapel Road/Mechanic Street Sewer Extension  
(Select Board)

**VOTED to refer the Article to the Select Board** [To see if the Town will appropriate \$1.4 million for design and construction of a sewer and sewer facilities on Chapel Road/Mechanic Street and for the acquisition of land, easements and other interests in land in furtherance of the construction of such sewer and sewer facilities, and to meet such appropriation authorize the Treasurer to borrow in accordance with M.G.L. Chapter 44 Section 7(1) and other applicable laws.]

Action taken on 10/30/02.

ARTICLE 10. Capital Program – Sewer Fund - Sewer Facilities Plan (Select Board)

**VOTED** that the Town appropriate \$100,000 to update the Sewer Facilities Plan and to meet such appropriation transfer \$100,000 from the Undesignated Fund Balance of the Sewer Fund.

Action taken on 10/30/02.

ARTICLE 11. Petition – Sewer – Mountain View Circle (B. Bouricius)

**VOTED** that the town appropriate \$20,000 for design and construction of a sewer and sewer facilities on Mountain View Circle, that to meet such appropriation \$16,000 be transferred from the Sewer Fund Surplus and \$4,000.00 in donations be accepted from Mountain View Circle residents, and that the Select Board be authorized to accept Conservation Restrictions on two acres, more or less, of land adjacent to Sweet Alice Brook.

Action taken on 10/30/02.

10:14 p.m., October 30, 2002 – The meeting voted to adjourn to Wednesday, November 6, 2002 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 150 town meeting members were checked in.

The Wednesday, November 6, 2002 session, adjourned from October 30, 2002, was called to order by the moderator at 7:47 p.m. 117 town meeting members checked in and a quorum was declared. The meeting took action on Articles 12, 13, 17, 18 and 19.

ARTICLE 12. Petition – Special Act – Runoff Voting Process (B. Bouricius)

**VOTED** that the Town adopt the following resolution:

Whereas, it is desirable to have the members of the town's committees and boards be elected by a majority of those who vote in municipal elections; and,

Whereas, the requirements of the 26<sup>th</sup> Amendment to the United States Constitution, and the Amherst and Hampshire College and University of Massachusetts academic calendars make either spring or fall municipal primaries or preliminary elections difficult to schedule;

Now therefore, be it resolved that the Amherst Representative Town Meeting request the Select Board appoint a commission whose purpose shall be to investigate using Instant Runoff voting and other preferential voting methods in Amherst.

Action taken on 11/6/02.

ARTICLE 13. Town Bylaws – Handicapped Parking (Select Board)

**VOTED** to amend the Town Bylaws, Article II, Handicapped Parking, by increasing the penalty in Section 2 from \$50 to \$100 and by deleting Section 3 and replacing it with the following language:

This bylaw shall be enforced by Town of Amherst Police Officers, Parking Enforcement Officers or the Disabilities Access Coordinator. This bylaw may be enforced through the non-criminal disposition method provided in Section 21D of Chapter 40 of the General Laws of the Commonwealth of Massachusetts. For purposes of non-criminal disposition, the enforcing persons shall be those town officials set forth in this section of the bylaw and the specific penalty shall be as provided in Section 2 of this bylaw.

Action taken on 11/6/02.

ARTICLE 14. Zoning Map – Farmland Conservation (Planning Board)

**VOTED by a declared 2/3 vote** that the Town amend the Official Zoning Map by changing the designation of the Farmland Preservation (FP) District, wherever it appears, to Farmland Conservation (FC).

Action taken on 11/13/02.

ARTICLE 15. Zoning Bylaw – Common Land Protection (Planning Board)

**VOTED Yes 98, No 37** that the Town amend Sections 4.350 and 4.351 of the Zoning Bylaw by deleting the ~~lined-out~~ language and adding the language in ***bold italics***, as follows:

- 4.350 ***Except in the WP, ARP and FC districts, A***all common land hereunder shall either (1) be conveyed to the Town of Amherst and be accepted by it for park or open space use, or (2) be conveyed to a non-profit organization, the principal purpose of which is the conservation of open space, (3) be conveyed to a corporation or trust owned or to be owned by the owners of the lots or residential units within the development, or (4) be conveyed to a private, non-profit or public entity for the purposes of farming, with a restriction enforceable by the Town of Amherst being recorded which provides that such land shall either be actively farmed or kept in an open and natural state. 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 second and third ownership alternatives listed above, a restriction enforceable by the Town of Amherst shall be recorded providing that such land shall be kept in an open or natural state and not be built upon for residential use or developed for accessory uses such as parking or roadway.

4.351 In the ~~FP~~ **WP, ARP and FC** ~~D~~ districts, ~~that portion of the eCommon L~~and which is set aside as permanently preserved farmland and **and** all Unbuildable Land Area (**hereinafter within this section collectively referred to as “Common Land”**) in a residential development shall be protected by a permanent agricultural preservation restriction recorded on the deed **preserved as open space. Said Common Land shall be kept in an open or natural state, or as active farmland, and shall be used and managed so as to protect public water supplies (in the WP and ARP districts) and/or to preserve farmland and related accessory resource-based land uses (in the FC District, and in the WP or ARP districts where appropriate). Common Land shall not be built upon for residential use or developed for accessory uses such as parking or roadway.**

**4.351.0** Title to this ~~permanently preserved farm~~ **Common L**and may remain with the original ~~farmland~~ owner **or another individual or entity (hereinafter “owner”)**, or **may** be conveyed to the Town of Amherst, the Commonwealth of Massachusetts, a **corporation or trust functioning as a** homeowners association, or a non-profit ~~farmland~~ trust or similar conservation organization whose principal purposes include the protection of water quality **and/or the** preservation of farmland **and related accessory resource-based land uses, as appropriate.** ~~The agricultural restriction recorded on the deed shall be enforceable by the Town of Amherst. It shall be kept as active farmland or kept in an open or natural state for future farming uses, and shall not be built upon for residential use or developed for accessory uses such as parking or roadway.~~

**4.351.1** **The applicant shall submit a management plan detailing the future use and management of the Common Land. Review and approval of the management plan shall be a condition of the Site Plan Review approval.**

Action taken on 11/13/02.

ARTICLE 16. Petition - Zoning Bylaw and Map – Resource Protection Amendments  
(Resource Protection Coalition)

“To see if the town will vote to amend the Official Zoning Map by changing the designation of properties zoned Farmland Conservation (FC) and/or Neighborhood Residential (R-N), Outlying Residential (R-O), or Limited Density Residential (R-LD) to Agricultural (AG), and to amend Articles 2, 3, 4, 6, and 14 of the Zoning Bylaw by deleting the ~~lined out~~ language and adding the language in **bold italics**, as follows:

No motion was made under Section A.

Section B.

**VOTED unanimously** to amend Sections 3.3240 and 3.3241 as follows:

Amend Section 3.3240 “Subdividable Dwelling” so that Condition #4 shall read, “This use ~~will~~ **shall** not be permitted in the Aquifer Recharge Protection (ARP) **or Watershed Protection (WP) overlay** districts.”

No motion was made under Section C.

Amend section 3.3241 “Converted Dwelling” so that the final sentence of Condition #2 shall read, “Conversion in the Aquifer Recharge Protection (ARP) **or Watershed Protection (WP) overlay** districts shall not be permitted.”

Action taken on 11/13/02.

Section D.

**VOTED unanimously** to amend Section 3.285 of the Zoning Bylaw by adding the language in bold italics as follows:

3.2850 To the maximum practical extent, all buildings and roads shall be located on that portion of the site with soils **determined by the permit granting board to be** least suitable for the production of crops and livestock. This provision shall not apply to the location of on-site septic facilities, which must be placed in soils meeting **the requirements of** the Massachusetts Environmental Code.

**1. To assist the permit granting board in making this determination, copies of the application and site plan shall be transmitted to the Farm Committee, which shall**

*have thirty-five (35) days to report its findings. Upon notification by the permit granting board, the Farm Committee shall assemble an expert panel consisting of professional agronomists, soils scientists and other qualified professionals to evaluate and report on the suitability of soils, including but not limited to the historical uses thereof, and the overall agricultural viability of the farm property, consistent with the purposes of the bylaw. Failure to report in the allotted time shall constitute approval by the Farm Committee. The permit granting board may grant at least one extension of this time period in response to a written request from the Farm Committee for such an extension based on a need for additional time resulting from parcel size, project complexity, time of year, or other factors.*

2. *The permit granting board may, consistent with its regulations adopted pursuant to M.G.L., Ch. 44, 53G, engage the service of independent professional agronomists, soils scientists, or other qualified consultants at the cost of the applicant, to assist in evaluating a site or project.*

Action taken on 11/13/02.

Section E.

**VOTED unanimously** to amend Section 4.330 of the Zoning Bylaw by deleting the ~~lined out~~ language and adding the language in **bold italics**, as follows:

- 4.330 The Planning Board may authorize a greater number of ~~dwelling units~~ **building lots** than would be allowed by the density requirements of Section 4.3231 **or Section 4.327** 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 ~~dwelling units~~ **building lots** than 120% of the maximum number of ~~units~~ **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 allowances prior to calculating the maximum density normally allowed.

Action taken on 11/13/02.

Section F.

**VOTED unanimously** to refer to the Planning Board and Conservation Commission.

[F. Amend Section 4.323 Density/Setbacks and Section 4.3270

4.323 Density/Setbacks

- 4.3230 Unless otherwise provided for, the Dimensional Regulations of Table 3 shall be complied with.
- 4.3231 The maximum **base** density of **lots in** a cluster subdivision, except for an affordable cluster, ~~shall not exceed the allowed density for a standard subdivision in any zoning district, said density shall to be calculated by taking subtracting from the total parcel area acreage 75% of the unbuildable land area as defined in Section 4.327, then subtracting 840% of that the resulting net buildable parcel acreage for roadways, parking and utilities, and dividing that number the resulting net parcel acreage by the minimum lot area of the zoning district in which the parcel is located. In addition, it is the intention of this Section that the cluster subdivision not result in more lots than would be approved for a standard subdivision under a Definitive Subdivision Plan.~~

4.327 FC District

In the FC District, dimensional regulations for Cluster Subdivisions shall be as follows:

- 4.3270 The maximum number of building lots shall be calculated as follows:
1. Determine the Net Parcel Area by subtracting ~~7550%~~ **50%** of the area of all Unbuildable Land Area from the total parcel acreage. Unbuildable Land Area shall consist of the combined acreage of all wetlands, **and** FPC District and 100-year floodplain areas (**whichever of these two is greater**). 100-year floodplain areas shall consist of those areas so identified on federal flood insurance maps.
  2. Subtract ~~840%~~ **10%** of the resulting Net Parcel Area for **roadways, parking and utilities. 00.3 allowance.**
  3. Divide the remaining ~~90 percent of the~~ Net Parcel Area by the Basic Minimum Lot Area for the underlying zoning district. The resulting figure shall be the maximum number of building lots allowed in the Cluster Development.]

Action taken on 11/13/02.

Section G.

**VOTED unanimously** to amend Sections 14.43 and 14.44, as follows:

14.43 Open Space/Farmland

14.431 Protection and retention of farmland according to the following impacts on working farms

- Development on agricultural land, defined as land classified prime, unique or of state or local importance by the USDA SCS or land characterized by active agricultural use as defined by Chapter 61A or the Mass. General Laws. -30 pts.
- In the Farmland Conservation (FC) District, ~~r~~Retention and preservation of agricultural land, as a percentage of the total area of the proposed development, under permanent agricultural restriction. 2pts./5% of total project area protected (max. 30 pts.)
- Provision of a ~~100~~ 150-foot buffer zone including a fence and screening vegetation, from property boundary of a working farm. 5 pts.

**14.432 FC District**

**14.4320 Frontage or flag lot development under M.G.L. Chapter 41, Section 81P, with frontage located outside the FC District and a portion of lot area abutting or within the FC District**

- More than 5,000 sq. ft. of individual or average lot area in FC District* -30 pts.
- 2,500-5,000 sq. ft. of individual or average lot area in FC District* -15 pts.
- Less than 2,500 sq. ft. of individual or average lot area in FC District* -5 pts.
- No lot area in FC District* 0 pts.

14.44 Aquifer and Watershed Protection

A. Development in the Aquifer Recharge Protection (ARP) and Watershed Protection (WP) Overlay Districts

- ~~Average lot size one half acres or less, no public sewer~~ -30 pts.
- ~~Average lot size more than one half acres, no public sewer~~ -15 pts.
- ~~Average lot size one acre or less, public sewer~~ -5 pts.
- ~~Average lot size more than one acre, public sewer~~ -0 pts.

- No public sewer -30 pts.*
- Public sewer -15 pts.*

Action taken on 11/13/02.

ARTICLE 17. Zoning Bylaw – PRP - Professional Offices (Planning Board)

**Voted to refer to the Planning Board.** [To see if the Town will amend Sections 3.358 and 3.359 of the Use Chart (Section 3.3) of the Zoning Bylaw, by deleting the ~~lined out~~ language and adding the language *in bold italics*, as follows:

3.358 Bank, loan agency, real estate, insurance or other ~~business or professional~~ *similar* office providing services to the *general* public in person on the premises

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

Standards & Conditions

*For the purposes of this section, the general public shall be defined as including all persons as customers or clients not receiving services by appointment. Exceptions shall be affiliated professionals or consultants conducting business with the office use, salespersons and service contractors (delivery, maintenance, etc.).*

*In the PRP District, no drive-through facilities or service shall be allowed in connection with a permitted use.*

3.359 *Technical or professional office such as architect, engineer, lawyer, financial services, or similar office providing services by appointment to clients in person on the premises, or, administrative business office or similar* ~~Business or professional~~ office not providing services to the *general* public in person on the premises.

R-0													
R-LD	R-N	R-VC	R-G	R-F	B-G	B-L	B-VC	COM	OP	LI	PRP	FPC	
N	N	SP	N	N	SPR	SPR	SPR	SPR	SPR	SPR	SPR	N	
											(SP)		

Standards & Conditions

*For the purposes of this section, the general public shall be defined as including all persons acting as customers or clients not receiving services by appointment. Exceptions shall be affiliated professionals or consultants conducting business with the office use, salespersons and service contractors (delivery, maintenance, etc.).*

In the R-VC District, the Zoning Board of Appeals may grant a Special Permit for an *technical or professional* office ~~for professional or office uses not dealing directly with~~ *that provides services by appointment to clients in person on the premises, or that does not provide services to the general public in person on the premises.* The Zoning Board of Appeals

may grant a Special Permit providing it finds that, in addition to meeting the provisions of Article 7 and Section 10.38, the proposed office uses meets the following conditions:

1. Is located on the ground floor only, and occupies no more than 50 percent of the gross floor area of the structure, exclusive of storage space.
2. Shall be allowed only as a second Principal use, where the first Principal use is a residential use consisting of one dwelling unit.
3. Shares a property line with or is adjacent to another property with a similar use permitted under this section or a property in the B-L, B-VC or COM districts.
4. Employs no more than 5 persons who work on-site.
5. Where located in an existing building, the residential character of the structure and site shall be maintained.]

Action taken on 11/6/02.

**ARTICLE 18.** Zoning Map – Old Belchertown Road – PRP to R-O (Schaffer Bacon/Zahradnik)

**DEFEATED, 2/3 vote not obtained, Yes 76, No 48** [that the Town amend the Official Zoning Map by rezoning from Professional Research Park (PRP) District to Outlying Residence (R-O) District a portion of Map 21B, Parcel 18 of the Assessor's Map measuring approximately 61,750 sq. ft. and shown as the westerly area of lots 10 and 11 on an October 2, 2002 survey plan prepared by Harold L. Eaton and Associates Inc., entitled "Preliminary Subdivision Plan, Plan of Land in Amherst, Massachusetts, prepared for AlenDev, LLC." ]

Action taken on 11/6/02.

**ARTICLE 19.** Zoning Map– Belchertown Road – PRP to R-O (Palley/Zahradnik)

**Voted to dismiss.** [To see if the Town will amend the Official Zoning Map by rezoning Map 18B, Parcels 4 & 7, from Professional Research Park District (PRP) to Outlying Residence (R-O).]

Action taken on 11/6/02.

10:02 p.m., November 6, 2002 – The meeting voted to adjourn to Wednesday, November 13, 2002 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 139 town meeting members were checked in.

The Wednesday, November 13, 2002 session, adjourned from November 6, 2002, was called to order by the moderator at 7:42 p.m. 117 town meeting members checked in and a quorum was declared. The meeting took action on Articles 8 (Motion E), 14, 15 and 16.

The business of the warrant having been completed, the meeting voted to dissolve at 10:38 p.m. on November 13, 2002. 160 town meeting members were checked in.

Attest:

Margaret Z. Nartowicz  
Town Clerk