

ANNUAL REPORT OF THE TOWN CLERK

Calendar Year 2006

Calendar year 2006 meant a full round of typical business for the Town Clerk, beginning with the annual street census and dog licensing and ending with annual reports to various state agencies. This was my 12th full year of service to the Town of Brimfield.

POPULATION	REGISTERED VOTERS
Jan 2006: 3407	Dec 31, 2006: 2335 (includes inactives)
Age under 17: 578	Democrats: 536
Age 65 and over: 611	Republicans: 410
	Unenrolled (independent): 1369
	Other designations: 20
Federal 2000 Census: 3339	

Elections and Registrations – In the cycle of elections, 2006 had three elections: the local election in June, the state primary in September and the state/federal election in November. The turnout in June (102) and the turnout in November (1470) were an astonishing contrast. The turnout in November was among the highest vote counts we have ever had in Brimfield.

Street Census -- The 2006 street census was conducted on time, with a modest return. The 2007 local census is in progress as I write this report. The accuracy of the street list depends entirely on the prompt and complete return of the census forms by every resident. Return your street list promptly – it's the law.

Yet again, I can report that the state legislature continues to study the possibility of discontinuing the local street list. Discussion (and even failed legislation) has been going on for more than five years about replacing it with so-called "administrative lists" generated from driver licensing and other state agencies. Given a choice, I would continue the local street list, as it serves many purposes.

Vital Records -- Due to confidentiality rulings, names and dates of vital events are not published by the Town Clerk.

VITAL EVENTS

2006 marriages recorded: 14
2006 births recorded: 34
2006 deaths recorded: 34

Division of Fisheries and Wildlife -- Sales of all classes of hunting and fishing licenses declined sharply in 2006, in our town and across the Commonwealth. This is both a state and national trend and a concern to the conservation and environment communities. Selling sport licenses is not mandatory for the Town Clerk, but I prefer to continue to offer this service for my constituents. Saturday hours are particularly helpful for sporting men and women seeking licenses.

DFW SPORT LICENSING

2006 Hunting and Sporting licenses, all classes: 11
2006 Fishing and Trapping licenses, all classes: 15
Special Permit Stamps, all classes: 6

Dog Licensing – Dog licensing increased in 2006. Finally. Every year I have tried something new and different to get all dogs licensed: postcards, reminders in the census, posting lists of unlicensed dogs... sometimes these efforts have offended people, but if it gets them into the office to register their dog and demonstrate it has been vaccinated for the deadly rabies disease, then I am not sorry for their hurt feelings when I remind them.

DOG LICENSE STATISTICS

Individual dogs licensed, 2006: 499
Kennels issued, 2006: 9
representing dogs 133

Unlicensed dogs (rabies current) Dec 31, 2006 = 221
Unlicensed dogs (rabies expired) Dec 31, 2006 = 196

(*These numbers from my data base certainly include dogs which have died or been transferred to new owners; the Town Clerk welcomes information to update individual dog ownership)

Each year the **Dog Revolving Fund** turns over about \$2000 to the town's general fund. The accountant's report contains additional information on all Revolving Funds.

Outreach and Resources – This year I opened the Town Hall and gave mini-tours to 3rd grade students emphasizing the building's history and use for civic business as well as social center. I continued to be available to town officers and citizens with questions about petitions, public records, open meetings, conflict of interest, and town meeting procedures. I welcome inquiries from youth leaders for help with civics assignments or special programs about voting and town government. Many persons were assisted with family history projects.

Archives -- I continued to monitor internet auctions, looking for documents and paper ephemera relating to Brimfield history and especially the Town Hall. I am willing to buy documents in order to return interesting and important material to the town (no town funds were used to purchase any of the items below). I have gone up against two sellers who were offering what appeared to be official town records. One attempt to return documents to Brimfield failed, and another was successful.

I was able to stop the auction of five manuscript documents which I believed were official town records. I was especially concerned because they were being offered as separate items, with the auction ending just seconds apart. I was willing to pay to buy them back, but the chances of getting locked in a contest with some other bidder and being outbid in the last second (which does happen!) with five different bids going, was a daunting thought. Instead I decided to fight. I asked for and received help from Massachusetts Supervisor of Public Records, who communicated with the seller and opened the door to a deal. The items were taken out of the auction. I issued a gift receipt for the market value, and the documents were returned to the Town of Brimfield.

People asked "How could this happen? Were they stolen?" The answer is best found in the fact that we had no centralized offices for town records until the Town Hall was built in 1878. I have no idea how or where records were kept before that time. Even after that time and continuing to the present day, many officials keep records at home. It is likely that the records offered on the internet were inherited by family members, kept in an attic for years, and eventually offered at an estate sale, making their way into "the market." In fact, the documents coming up for sale in the past year seem to have a common

thread with Aaron Mighell. Aaron Mighell was one of the original proprietors, and a veteran of service in the American Revolution, with the rank of lieutenant. Between 1772-1789 he served various terms as Town Clerk, Assessor, Treasurer, Constable and representative to the General Court. The documents I have seen are consistent with these jobs and are either addressed to, or signed by, Aaron Mighell. The good news is that many of documents I have seen are contemporaneous manuscript copies of what is already recorded in official town records. Another interesting note, in early January, two documents were offered on the internet which the seller described as having a tear out of the lower left hand corner. FYI: this is the space where Mr. Mighell typically would make a notation that this was a copy of an official town record. So, the seller just tears out that corner and represents the document as a unique original. Zoom, up goes the price.

Documents and ephemera acquired for the Town Archives:

Year	Item acquired from internet auction:
1758	Ms. copy of petition of 17 citizens to the Town seeking to lay out a road "to the top of the hill" a little north of Mr. Peter Haines, with specific common land to be used for same
1779	Call for proprietors meeting to consider action against John (Tuffs?) for keeping possession of 23 acres which the proprietors consider common land
1780	To Aaron Mighell, proprietor, request to call proprietors meeting to consider another division of land
1780	Signed Aaron Mighell, Treasurer, pay voucher to James Blashfield, 400 pounds
1780	Signed Aaron Mighell, Treasurer, pay voucher to Jonathan Stebbins, 700 pounds with interest and contra receipt
1780	Signed Aaron Mighell, Treasurer, pay voucher to Samuel Draper, 900 pounds with interest and contra receipt
1899	Letter of J.L. Bacon to Mr. E. Sherwood in Odessa NY, plan to enter the nursery business and alluding to the loss of Bacon's Hotel Brimfield to fire; superb engraved letterhead image of Hotel Brimfield
1905	Small handbill, Children's Night at the Grange, Town Hall
1905	Small handbill, Washington's Birthday Party, Grange, Town Hall
1912	Dance Card, Hitchcock Free Academy Hallowe'en Ball, Town Hall
c. 1900	Photo postcard, back view of Town Hall, Salisbury, Library from meadow

Certified Municipal Clerk - In 2006 I was earned the designation of Certified Massachusetts Municipal Clerk (CMMC). The designation is granted on the basis of experience, general education, specialized education, and special projects, among other criteria.

Oath of Office - All persons appointed to a position under Massachusetts statutes or local bylaws must take an oath of office. Every election. Every appointment. Every term. Failure to take the oath can bring the officer and the town into vulnerable positions, if a decision or action of the officer is questioned. Every appointee, whether new or incumbent, must take the oath of office with the Town Clerk *before* entering into the duties of the office.

Availability -- The Town Clerk is posted for regular offices hours on **Tuesday evenings (6:30-8:00 PM) and Saturday mornings (9-11 AM)**. Please call 245-4100 (X 7) during office hours. Alternate summer hours (June-August) may be posted.

Payroll, Wages, Fees -- The Town Clerk keeps fees as provided by MGL for several services performed for state agencies, including selling of sport licenses (Division of Fisheries and Wildlife), certified vital

records (Dept. of Public Health), DBA Certificates (Secretary of the Commonwealth), Mobile Home Homesteads (Register of Deeds), and Pole Locations (Dept. of Public Utilities). The Town Clerk is a Notary Public and a Justice of the Peace. **There is never a charge for notary services to town residents.**

Pamela E. Beall, Town Clerk

Notary Public and Justice of the Peace

Town Clerk Salary, Calendar 2006: \$ 16,002.50

Town Clerk Fees, Calendar 2006: \$ 1859.62

Election workers and *Board of Registrars, calendar 2006 payments: *(three elections and one town meeting; not an accounting record)*

Democrats

Joe DiFabio \$21.25
 Susan Hiller \$29.75
 Alice Kolbe \$51.00
 Michael MacFadden \$29.75
 Pamela Moriarty VOLUNTEER
 Lorraine Norton \$310.25
 Diane Panaccione VOLUNTEER
 Theresa Prospero * \$68.00
 Beth St Clair \$323.00

Republicans

Cynthia Clark * \$369.75
 Anne Dutka \$29.75
 Chris Kelly \$51.00
 Kay Koprowski \$310.25
 Adam McCurdy \$25.38
 Sandy Morris \$29.75
 Barb Spencer \$29.75
 Carol Warren \$29.75

Independents/Others

Shirley Backofen \$76.50
 Karen Connors \$21.25
 Joan Erban \$55.25
 Carolyn Haley \$25.38
 Janice Ludeman \$55.25
 Sarah Meitzler \$29.75
 Ginger Rousseau \$29.75
 Eleanor Snelgrove \$29.75
 Kristen Weldon \$25.38
 Donald Norton Constable \$365.50
 William Roberts Constable \$310.25

ANNUAL TOWN MEETING ACTIONS, MAY 16, 2005

The Annual Town Meeting, having been duly posted, was called to order at 7:10 PM on May 15, 2006 at the Town Hall, Moderator Robert Cheney presiding. The Town Clerk reported a quorum was present. The moderator made announcements for various charitable endeavors.

* denotes articles taken out of order

ARTICLE 1: Motion made and seconded to accept the reports of the officers and agents as written in the Town Report. **So voted unanimously at 7:13 PM on May 15, 2006.**

ARTICLE 2: Motion made and seconded to approve the group of revolving funds under MGL Chapter 44, Section 53E 1/2, as presented below. **So voted unanimously at 7:14 PM on May 15, 2006.**

NAME	AUTHORIZED TO AND FOR THE USE OF	REVENUE SOURCE	AUTHORIZED EXPENDITURES	FY 07 MAXIMUM TO BE EXPENDED	DISPOSITION AT CLOSE OF FY 07
Dog Revolving Fund	Town Clerk	Licensing fees	General administration of dog licensing	\$2000	If re-authorized, amount in excess of \$2000 in FY07 shall close to general fund
Recreation Revolving Fund	Recreation Committee	Participant fees	League fees, equipment, umpire and referee services and general expenses of committee	\$20,000	

Building Inspector Revolving Fund	Building Inspector	Inspection fees	Inspection services and related expenses of building inspector	\$25,000	If re-authorized, amount in excess of \$1000 (excluding inspection fees payable to the Inspector) in FY07 shall close to the general fund
Electrical Inspector Revolving Fund	Electrical Inspector	Inspection fees	Inspection services and related expenses of electrical inspector	\$10,000	If re-authorized, amount in excess of \$1000 (excluding inspection fees payable to the Inspector) in FY07 shall close to the general fund
Historical Revolving Fund	Historical Commission	Sale of maps, publications and other fund raising materials, grant revenue	General expense of committee special projects	\$10,000	If re-authorized, amount shall carry forward to Historical Revolving Fund in subsequent fiscal year
Cable TV Revolving Fund	Cable TV Advisory Committee	Annual subscriber fee payments from cable provider; fees paid for duplication of video tapes and general donations	Supplies and equipment for local access programming and general expenses of the committee	\$1500	
Cemetery Revolving Fund	Cemetery Commission	Burial and foundation fees	Expensed related to burials and foundations	\$10,000	
Plumbing and Gas Inspection Revolving Fund	Board of Health	Inspection fees	Inspection services and related expenses of plumbing and gas inspections	\$12,000	If re-authorized, amount in excess of \$1000 (excluding plumbing and gas fees payable to the Inspector) at close of FY07 shall close to the general fund
Bins and Bags Revolving Fund	Board of Health	Sale of Trash Bags and Recycling Bins	Purchase of trash bags and recycling bins for resale to authorized vendors	\$12,500	If re-authorized, amount in excess of \$500 at close of FY07 shall close to the general fund
Tobacco Revolving Fund	Board of Health	Permit Fees	Costs of compliance and enforcement activities	\$500	If re-authorized, amount in excess of \$500 at close of FY07 shall close to the general fund
Food Vendor Revolving Fund	Board of Health	Inspection Fees	Inspection services and related expenses of the certified food inspector	\$6000	If re-authorized, amount in excess of \$1000 (excluding food fees payable to the inspector) at the close of FY 07 shall close to the general fund
HAZMAT Revolving Fund	Fire Department	Fees from services rendered during	Costs associated with related HAZMAT emergencies, including control materials, staff	\$10,000	If re-authorized, amount in excess of \$1000 at close of FY07 shall close to the general fund

		HAZMAT emergencies	response and truck time		
Fire Inspector Revolving Fund	Fire Department Inspector	Inspection fees	Inspection services and related expenses of fire inspector	\$1000	If re-authorized, amount in excess of \$1,000 (excluding inspection fees payable to the Inspector) at close of FY07 shall close to the general fund
Senior Center Revolving Fund	Council on Aging	Participation fees and donations	Administrative, office and programs expenses	\$15,000	
Subdivision Control Law Revolving Fund	Planning Board	Engineering receipts and inspection service fees	Receipts for engineering and inspection services and to reimburse developers unexpended fee balances	\$40,000	

ARTICLE 3: Motion made and seconded to raise and appropriate the sum of \$172,296 as detailed in the appendix for salaries for various elected town officers for the ensuing fiscal year July 1, 2006 to June 30, 2007. **So voted unanimously at 7:18 PM on May 15, 2006.**

ARTICLE 4: Motion made and seconded to raise and appropriate the sum of \$7,460,495.00 for the use of various departments and activities of the Town, payment of debts and defraying of expenses of the ensuing fiscal year, July 1, 2006 to June 30, 2007, as detailed in the appendix, amendments included, for the operating budget. **So voted unanimously at 8:06 PM on May 15, 2006.**

ARTICLE 5: Motion made and seconded to raise and appropriate, the sum of -0- to pay unpaid bills or overdrawn accounts for FY2006. **So voted unanimously at 8:12 PM on May 15, 2006.**

ARTICLE 6: Motion made and seconded to raise and appropriate, the sum of -0- to pay unpaid bills or overdrawn accounts for any fiscal year prior to FY2006. **So voted unanimously at 8:12 PM on May 15, 2006.**

ARTICLE 7: Motion made and seconded to accept funds to be used in conjunction with and in addition to any funds, including grant awards, allotted by the Commonwealth for the purpose of the Main Street Streetscape Project. **Motion fails overwhelmingly at 8:13 PM on May 15, 2006.**

ARTICLE 8: Motion made and seconded to accept as available funds, the sum of \$250,000 to be made available to the Town by the Massachusetts Highway Department, and, to use the funds for qualifying on state approved roads and Chapter 90 projects in the Town of Brimfield, according to state contracts.

An amendment was offered and seconded to add the words "according to state contracts" to the main motion. **Amendment passes overwhelmingly at 8:13PM on May 15, 2006.**

The main motion, as amended, was voted unanimously at 8:13 PM on May 15, 2006.

OMNIBUS MOTION: Motion made and seconded to approve Articles 9, 10, 12, 13, 14, and 16, as presented in the warrant. **So voted unanimously at 8:14 PM on May 15, 2006.**

***ARTICLE 9:** Motion made and seconded (OMNIBUS MOTION) to authorize the Highway Surveyor to enter into contracts for the usual and customary operations of public works including the care and upkeep of town ways and bridges. **So voted unanimously at 8:14 PM on May 15, 2006.**

***ARTICLE 10:** Motion made and seconded (OMNIBUS MOTION) to raise and appropriate the sum of \$25,000 to the Highway Department for the purpose of oiling and Type-I work and other related materials on various roads, to be expended by the Highway Department subject to applicable public bidding laws. **So voted unanimously at 8:14 PM on May 15, 2006..**

ARTICLE 11: Motion made and seconded to raise and appropriate the sum of -0- to be used in conjunction with and in addition to any funds allotted by the Commonwealth for the construction, reconstruction and improvement of town roads. **So voted unanimously at 8:15 PM on May 15, 2006.**

***ARTICLE 12:** Motion made and seconded (OMNIBUS MOTION) to authorize the Treasurer with the approval of the Selectmen to borrow money in anticipation of reimbursements from allotments by the state and county for highways, including bridges. **So voted unanimously at 8:14 PM on May 15, 2006.**

***ARTICLE 13:** Motion made and seconded (OMNIBUS MOTION) to authorize the Treasurer with the approval of the Selectmen to borrow money, from time to time, in anticipation of revenue, grants and reimbursements from state and federal agencies in the fiscal year beginning July 1, 2006 in accordance with the provisions of the General Laws, Chapter 44, Section 4 and to issue a note or notes payable within one year and to renew any note or notes as may be given for a period of less than one year, in accordance with M.G.L. Chapter 44, Section 57. **So voted unanimously at 8:14 PM on May 15, 2006.**

***ARTICLE 14:** Motion made and seconded (OMNIBUS MOTION) to authorize Selectmen, as required by Town Bylaw Article V, Section 2, to enter into contracts for general insurance, workers' compensation insurance, medical benefit insurance and ambulance services within the scope and requirements defined by M.G.L. Chapter 30B as amended. **So voted unanimously at 8:14 PM on May 15, 2006.**

ARTICLE 15: Motion made and seconded to take no action on funded a sum of money for Tax Title expenditures. **So voted unanimously FOR NO ACTION at 8:17 PM on May 15, 2006.**

***ARTICLE 16:** Motion made and seconded (OMNIBUS MOTION) to raise and appropriate the sum of \$500 to be added to the Conservation Fund as authorized by M.G.L. Chapter 40, Section 5 (51). **So voted unanimously at 8:14 PM on May 15, 2006.**

ARTICLE 17: Motion made and seconded to accept a monument dedicated to our Townspeople who served Brimfield during the Revolutionary War. **So voted overwhelmingly at 8:19 PM on May 15, 2006.** (NOTE: Sponsor Bernie Samek stated that the monument was a gift, without associated costs and could be erected wherever selectmen direct).

ARTICLE 18: Motion made and seconded to raise and appropriate \$6829.00 to be expended by the Council on Aging for a Receptionist/RUOK Coordinator/Support Staff for the Brimfield Senior Center. **So voted unanimously at 8:23 PM on May 15, 2006.**

ARTICLE 19: Motion made and seconded to transfer from the Capital Purchase Stabilization Fund the sum of \$20,000 to be expended by the Brimfield Elementary School for the purpose of installing a Wastewater Holding Tank as required by the Department of Environmental Protection. **So voted**

overwhelmingly, with 2/3 vote declared by the moderator on voice vote at 8:26 PM on May 15, 2006.

ARTICLE 20: Motion made and seconded to authorize the Board of Selectmen to acquire by purchase, gift or eminent domain, and, to accept the deeds and grant of temporary and/or permanent easements to the inhabitants of the Town of fee simple and easement interests in the parcels described below, upon such terms and conditions as it shall determine appropriate for bridge and highway purposes and for purposes of the Kings Bridge Road Bridge Construction Project, said parcels of land being owned individually by Judith Powers, Barbara Bak, Larry Muniec and Pamela Lessard in life estate for Charles Muniec and Evelyn A. Muniec; and, Michael DelNegro and Carol M. DelNegro, parcels of land to be described on a plan of land entitled "Preliminary Right-of-Way Plan," a copy to be placed on file with the Town Clerk; and, to transfer up to \$5000 of Chapter 90 funds, to be expended by the Highway Surveyor, for such purposes. **So voted unanimously at 8:27 PM on May 15, 2006** (see reconsideration below)

***Motion was made and seconded to reconsider Article 20. So voted unanimously at 8:35 PM on May 15, 2006.**

Motion was made and seconded to approve the action on Article 20, excepting to strike the words "up to" from the original motion. The vote on article 20 was duly reconsidered with the amendment. **The main motion with amendment passes unanimously at 8:39 PM on May 15, 2006.** (NOTE: the affect of the reconsidered vote and amendment is reflected above in the primary vote on Article 20.)

ARTICLE 21: Motion made and seconded to transfer the sum of \$35,000 from the Capital Purchase Stabilization Fund to be expended by the Board of Selectmen subject to the requirements of applicable public bidding laws for the replacement of one 1984 Chevrolet one ton highway vehicle pursuant to the Town's Capital Expenditure Plan. **So voted unanimously with 2/3 vote declared by the moderator on voice vote at 8:29 PM on May 15, 2006.**

ARTICLE 22: Motion made and seconded to transfer the sum of \$30,000 from the Capital Purchase Stabilization Fund to be expended by the Board of Selectmen subject to the requirements of applicable public bidding laws for the purchase of one police vehicle pursuant to the Town's Capital Expenditure Plan. **So voted overwhelmingly, with 2/3 vote declared by the moderator on voice vote at 8:32 PM on May 15, 2006.**

ARTICLE 23: Motion made and seconded to transfer the sum of \$500 of the FY2006 appropriation from the Cemetery Expense Account #04-91-5460 to the Cemetery Perpetual Care Account #04-91-3570. **So voted unanimously at 8:33 PM on May 15, 2006.**

***ARTICLE 24:** Motion made and seconded to raise and appropriate ~~\$3,000~~ \$10,000.00 to be expended by the Planning Board to retain the services of a Planning Consultant to advise the Planning Board on zoning issues relevant to community growth.

PROCEDURAL: The moderator accepted a motion to table Article 24 pending votes on other zoning articles. **So voted overwhelmingly with 2/3 voice vote declared by the moderator at 8:39 PM on May 15, 2006.**

PROCEDURAL: The moderator accepted a motion to remove from the table Article 24. **So voted overwhelmingly at 10:20 PM (after action on Article 31)**

The main motion was duly considered after being taken off the table.

Amendment was offered and seconded to add the words "to the Pioneer Valley Planning Commission to retain services under the planning Board Assistance Program" in place of the words "to retain the services of a Planning Consultant." **Amendment fails overwhelmingly at 10:30 PM on May 15, 2006.**

Amendment was offered and seconded to change the sum of money to \$25,000.00. **Amendment fails overwhelmingly at 10:35 PM on May 15, 2006.**

Amendment was offered and seconded to change the sum of money to \$10,000.00. **Amendment passes overwhelmingly at 10: 40 PM on May 15, 2006.**

The main motion, as amended was taken up. **So voted overwhelmingly at 10:50 PM on May 15, 2006.** (NOTE: the affect of the vote and amendment is reflected above in the primary vote on Article 24.)

ARTICLE 25: Motion made and seconded to raise and appropriate \$5700 to the use of the Historical Commission for the purpose of repair and restoration of the Soldier's Memorial. **So voted unanimously at 8:39 PM on May 15, 2006.**

ARTICLE 26: Motion made and seconded, in accordance with M.G.L. Chapter 40, Section 4A, to authorize the Board of Selectmen, in consultation with the Board of Health, to enter into an inter-municipal agreement with one or more other governmental units to provide public health services which the Board of Health is authorized to perform, for a term not to exceed 25 years. **So voted overwhelmingly at 8:42 PM on May 15, 2006.**

ARTICLE 27: Motion made and seconded to take no action on acceptance of the provisions of M.G.L., Chapter 32B, Section 7A, authorizing the Town to pay a subsidiary or additional rate, in addition to the payment of fifty percent of the premium for contributory group life and health insurance for employees in the service of the town and their dependents.

BYLAW COMMITTEE REPORT: The Bylaw Committee reported that the subject of Chapter 32B, as presented in Articles 27 and 28 was discussed at a public hearing April 25, 2006, without recommendation for action.

So voted unanimously TO TAKE NO ACTION at 8:43 PM on May 15, 2006.

ARTICLE 28: Motion made and seconded to take no action to amend Town Bylaw, Article XXIV: Personnel Bylaw: Group Health Insurance by deleting the current text of Section IV. Payment Basis, and inserting in place thereof, "All employees eligible for coverage under the Town's offered health insurance plan(s) shall be governed by M.G.L., Chapter 32B, Section 7A. **So voted unanimously TO TAKE NO ACTION at 8:43 PM on May 15, 2006.**

Article 29: Motion made and seconded to amend the Town of Brimfield Zoning Bylaws, Section IV-B.2 by striking "c. Soil, gravel, loam and sand removal" and substituting the following:

- c. Soil, gravel, loam and sand removal in the following cases only:
1. The materials removed will be used by the Town of Brimfield or any department or agency thereof.

2. Removal will be limited to not more one thousand (1000) cubic yards total from a lot.
3. The following activities are exempted from this bylaw:
 - a. Removal of not more than a total of five hundred (500) cubic yards from a lot for a purpose related to constructing a building or other structure and associated facilities on such lot in accordance with a building permit;
 - b. Removal of not more than a total of five hundred (500) cubic yards from a lot for constructing or improving a private way on such lot;
 - c. Removal of not more than five hundred (500) cubic yards relative to agriculture, horticulture or floriculture.

PLANNING BOARD REPORT: Mr. Killian reported that the Planning Board disapproves the bylaw as it was initially written and presented in the warrant. The substitutions made in the motion as presented on the floor were not reviewed and no recommendation can be made.

PROCEDURAL: Motion made and seconded to table Article 29. **Motion to table fails on voice vote at 8:55 PM on May 15, 2006.**

So voted with 2/3 vote (89 in favor; 44 opposed) at 9:20 PM on May 15, 2006.

ARTICLE 30: Motion made and seconded to amend Brimfield Bylaw "Article VIII - Section 2. Flea Markets. A. Definitions", by striking the existing section, and, adopting and inserting in its place the following:

VIII Section 2. Flea Markets
A. DEFINITIONS:

FLEA MARKET: For the purposes of this by-law any of the following businesses, unless excepted in Section 1A below, shall be considered a "Flea Market":

- b. A business which displays, sells, or offers for sale, any merchandise outdoors; or
- b. A business which rents space outdoors to another merchant or merchants (hereinafter referred to as "Vendors") for the purpose of displaying, selling or offering for sale any merchandise outdoors;
- c. A business which displays, sells or offers for sale, any merchandise both indoors and outdoors, but such business shall be considered to be a Flea Market only to the extent that said business is conducted outdoors; and
- d. A business which rents space both indoors and outdoors to another merchant or merchants (hereinafter referred to as "Vendors") for the purpose of displaying, selling or offering for sale any merchandise, but such business shall be considered to be a Flea Market only to the extent that such business is conducted outdoors.

OWNER/OPERATOR: Any individual, corporation, trust, limited liability company, partnership or other legal entity having ownership or control of the premises upon which a flea market is being operated shall be considered to be an owner/operator for the purposes of this by-law.

VENDOR: A merchant who rents, contracts to use, or uses, any space outdoors for the purpose of displaying, selling or offering for sale any merchandise shall be considered to be a "vendor." In the event that a merchant rents space which is partially indoors and partially outdoors, said merchant shall be considered to be a Vendor only with respect to that portion of the business conducted outdoors.

OUTDOORS: The term "outdoors" for the purpose of this by-law shall include the commonly understood dictionary definition which is "not enclosed" or "having no roof," but any merchandise displayed as follows shall also be considered to be outdoors: in or under a tent, tarp, or similar temporary cover; in a truck, trailer, van, vehicle or other moveable conveyance; in or under a pavilion or other permanently roofed structure used seasonally for the temporary sale, display, or offer for sale, of merchandise.

A1 EXCEPTIONS TO THIS BY-LAW

Notwithstanding the foregoing, nothing in the "Flea Market" By-law shall be construed to prohibit or regulate any of the following which may or not be regulated by other town by-laws:

- a. The outdoor sale or display of fruit, vegetables, flowers, cordwood, Christmas trees and wreaths, or any unprocessed agricultural products;
- c. The short term non-commercial outdoor use of any residential property for the sale, by the owner of the property, of used personal items, which use is most commonly referred to as a "tag sale" or "yard sale;"
- d. The sale of gasoline, diesel fuel, motor oil, propane or other petroleum products;
- e. The outdoor sale or display of new or used automobiles;
- f. The outdoor sale of ice or soft drinks not intended to be consumed on the premises;
- g. The temporary, clearly incidental, short term, uncovered outdoor display of merchandise by a merchant whose permanent business is conducted indoors; and,
- g. The outdoor sale of merchandise incidental to any outdoor activity for which a permit has been issued or for which a permit is not required such as, but not necessarily limited to, an auto show, civic or religious fundraiser, horse show, concert or circus.

BYLAW COMMITTEE REPORT: The Bylaw Committee reported that Article 30 was discussed at a public hearing on April 25, 2006 and recommended approval. A suggestion for a change to Section 2 was incorporated in the main motion.

So voted unanimously and without debate at 9:20 PM, May 15, 2006

RECESS WAS REQUESTED BY THE MODERATOR FROM 9:20 TO 10:00 PM.

ARTICLE 31: Motion made and seconded to adopt and amend the Brimfield Zoning Bylaws by adding the following: Section VIII-F. RATE OF DEVELOPMENT BYLAW:

ARTICLE XII ZONING BYLAW

SECTION VIII-F. RATE OF DEVELOPMENT BYLAW

1.0 Purpose and Intent:

1.1 The purpose of this bylaw is to ensure that the issuance of building permits for new residential construction will be consistent with the rate of growth experienced over the previous ten (10) calendar years (from 1996 through 2005) in the Town of Brimfield. The town seeks to ensure that growth occurs in a manner that can be adequately supported by town services; particularly, that services such as public safety, schools, roads and human services are provided at a level of quality expected by the citizenry and affordable to the town. The conservation of open space via a rate of development bylaw was a summary recommendation of Brimfield's Community Development Plan.

1.2 This article will provide the town, its boards and its agencies with:

- A. Information, time and capacity to incorporate such growth into a plan for the community that conserves open space and allows for controlled growth;
- B. The opportunity to prepare a Capacity and Needs Assessment for the school system and establish a Capital Improvements Plan for the school system;
- C. Time to adopt effective land use regulations such as the Community Preservation Act, zoning for estate lots and other measures to conserve open space;
- D. The governmental tools and town policies required to insure that Brimfield maintains its unique character and to increase its levels of affordable housing.

For the period from 1996 through 2005, an average of twenty-five (25) building permits for new Residential Dwelling Units have been issued each year in the Town of Brimfield. Consequently, upon approval and implementation of this bylaw, no more than twenty-five (25) new building permits for Residential Dwelling Units shall be issued in any year.

2.0 Definitions:

As used in this Bylaw, the following words shall have the meanings specified herein:

Affordable Housing Restriction: A covenant agreement, deed restriction, or other legal instrument, acceptable in form and substance to the Town of Brimfield, that effectively restricts occupancy of an affordable housing unit to a qualified purchaser or qualified renter, and which provides for administration, monitoring and enforcement of the restriction during the term of affordability. An affordable housing restriction shall run with the land in perpetuity or for the maximum period of time allowed by law, so as to be binding on and enforceable against any person claiming an interest in the property. An affordable housing restriction shall be enforceable under the provisions of M.G.L. Ch. 184, Section 32, and be approved by the Department of Housing and Community Development.

Affordable Housing Unit - A dwelling unit with an Affordability Deed Restriction available at a cost of no more than 30% of gross household income of households at or below 80% of the Area Median Income as reported by the U.S. Department of Housing and Urban Development, including units listed under M.G.L. Ch. 40B sect. 20-24 and the Commonwealth's Local Initiative Program.

Applicant: Individuals, partnerships, corporations, trusts and other legal entities in which the applicant of record holds a legal or beneficial ownership of greater than one (1) percent.

Building Permit: An official document or certification that is issued by the Building Inspector which authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving or repair of a building or structure.

Residential Dwelling Unit: Living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation, whether in a complete, individual unit or a unit sharing common facilities.

3.0 Applicability:

This Bylaw applies to the issuance of building permits for all new residential dwelling units.

4.0 Issuance of Building Permits:

The Building Inspector shall issue building permits in accordance with the following:

- 4.1 Completed applications, including plans, for building permits shall be dated and time-stamped upon receipt by the Building Department. Permits shall be issued on a first in time basis subject to Section 4.2, below.
- 4.2 Within any calendar month, no more than two (2) building permits for new residential dwelling units may be issued, with the exception of the final month in which 3 building permits for new residential dwelling units may be issued. Unused permit allotments are to be carried forward for issuance in the subsequent month until the 25 permits authorized have been issued. If at the end of the consecutive twelve (12) month period, the 25 permits authorized above have not been used, the unused permits shall be carried over to the next consecutive twelve (12) month period.
- 4.3 No more than three (3) of the building permits authorized by Section 4.2 for new residential dwelling units shall be issued to any one applicant or set of applicants involving one or more of the same principals within a single year. Multifamily residential developments, nursing homes and congregate care facilities shall be phased to comply with this requirement.

5.0 Exemptions:

The following shall be exempt from the provisions of this Bylaw:

- 5.1 An application for a building permit for the enlargement, restoration or reconstruction of a dwelling in existence at the date of application for a building permit, provided that no additional Residential Dwelling Unit is created.
- 5.2 Residential dwelling units necessary to an education or religious institution that is exempt from zoning use regulations per M.G.L. Chapter 40A, Section 3.
- 5.3 Elderly Housing Communities as allowed under Article XII, Section IV-A-2-c.
- 5.4 Dwelling units to be built under any Commonwealth or federal program or statute categorizing said unit(s) as low or moderate income housing, or otherwise defined as an affordable housing unit provided that such housing units have affordable housing restrictions to ensure that they remain affordable for no less than the time period specified by the program or statute.

6.0 Time Limitation

This Rate of Development Bylaw shall be in effect for a period of six (6) years after its effective date. After this time period, the regulations of this bylaw shall no longer apply to development proposals in the Town of Brimfield.

7.0 Severability:

If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of the town's zoning bylaw.

MOTION made and seconded to vote by checklist-and-ballot. **Motion fails overwhelmingly on voice call of the moderator.**

So voted (the main motion) passes with 2/3 vote (87 in favor; 43 opposed) at 10:17 PM on May 15, 2006.

Motion made and seconded to reconsider Article 31. **Failed overwhelmingly at 10:18 PM on May 15, 2006.**

ARTICLE 32: PROCEDURAL The sponsor requested that that moderator accept two motions, the article being susceptible of division.

FIRST MOTION: Motion made and seconded to amend the Official Zoning Map by changing both sides of Route 20 (Sturbridge Road) to Residential District, bounded as follows: On the north and east side of US Route 20, the change will begin at the property of Hitchcock Academy/town brook and continue east to the far side of the first intersection of West Old Sturbridge Road. On the south and west side of US Route 20, the change will begin at the property of St. Christopher Church/town brook and continue east to Mass. Highway mile marker 87, located across from the first intersection of West Old Sturbridge Road.

PLANNING BOARD REPORT: Mr. Killian stated that the Planning Board disapproves the zoning amendment as presented in the warrant.

Motion fails overwhelmingly on vote of 71 NO and 22 YES at 10:57 PM on May 15, 2006

SECOND MOTION: Motion made and seconded to raise and appropriate the sum of \$2000 to amend the official zoning map to incorporate approved changes not presently shown on said map. **So voted overwhelmingly, with 66 YES and 20 NO at 10:57 PM on May 15, 2006.**

PROCEDURAL: Motion was made and seconded to reconsider Article 32. **Motion fails overwhelmingly at 11:02 PM on May 15, 2006.**

ARTICLE 33: Motion made and seconded to transfer \$130,000.00 from certified "free cash" to the Capital Purchase Stabilization Fund. **So voted unanimously at 11:04 PM on May 15, 2006**

ARTICLE 34: Motion made and seconded to transfer \$25,000 from "free cash" to the Stabilization Fund. **So voted unanimously at 11:04 PM on May 15, 2006.**

ARTICLE 35: Motion made and seconded to transfer from the Capital Purchase Stabilization Fund \$39,138 to fund the payment of the interest and principal due in FY2007 on the Capital Purchase Debt authorized in FY2005. **So voted unanimously at 11:05 PM on May 15, 2006.**

ARTICLE 36: Motion made and seconded to transfer \$163,000.00 from "free cash" to reduce the tax rate in FY2007. **So voted unanimously at 11:06 PM on May 15, 2006.**

DISSOLUTION: Motion made by the Town Clerk and seconded to dissolve the 275th Annual Town Meeting. **So voted overwhelmingly and with enthusiasm at 11:06 PM on May 15, 2006.**

Respectfully submitted for the official records of the Town of Brimfield,

Pamela E. Beall, CMMC

Town Clerk

Salaries for Elected Officials and Operating Budget follow below.

BYLAW APPROVALS

The bylaws changes represented in articles 30 (General Bylaws) and 29 and 31 (Zoning Bylaws) were submitted for review and approval by the Attorney General. All were returned with approval on August 30, 2006. The Attorney General deleted line 3e in Article 29, citing protections for agricultural uses. The Attorney General strongly recommended that the town have a further review of Article 31, as the period of the moratorium (6 years) has not been tested in a court case to determine if such a duration is consistent with the state constitution. The approval and opinion was signed by Kelli E. Gunagan, Assistant Attorney General, on behalf of Thomas F. Reilly. The **REQUIRED NOTICE** of this approval was posted as required by law. The general laws are considered effective on the date of posting (September 5, 2006) and the zoning bylaws are deemed effective on the date voted by Town Meeting (May 15, 2006).