

ANNUAL REPORT OF THE TOWN CLERK

Calendar Year 2007

Calendar year 2007 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 13th full year of service to the Town of Brimfield.

POPULATION	REGISTERED VOTERS
Jan 2007: 3386	Dec 31, 2007: 2377 (includes inactive)
Age under 17: 537	Democrats: 547
Age 65 and over: 423	Republicans: 417
Federal 2000 Census: 3339	Unenrolled (independent): 1396
	Other designations: 17

Elections and Registrations – In the cycle of elections, 2007 had one elections (the local election in June), the Annual Town Meeting and one Special Town Meeting (October). These events are fully reported below.

Street Census – The 2007 street census was conducted on time, with a modest return. The 2008 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. A "task force" was created in 2007, with representation from Town Clerks, to study the alternatives. Discussion (and even failed legislation) has been going on for more than six 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 – On 2007, after long discussion and serious lobbying by the Massachusetts Town Clerk, the Massachusetts Registry of Vital Records provided a CDROM which allows Town Clerks to create records with a word processing program, and to save them as digital records. Gone are typed or handwritten records! Don's worry, hard copies on archival paper are still created, and stored in perpetuity in the vault.

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

VITAL EVENTS

2007 marriages recorded: 16
2007 births recorded: 30
2007 deaths recorded: 25

Division of Fisheries and Wildlife – Sales of all classes of hunting and fishing licenses held steady in 2007 in our town and across the Commonwealth. 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

2007 Hunting and Sporting licenses, all classes: 11
2007 Fishing and Trapping licenses, all classes: 12
Special Permit Stamps, all classes: 11

Dog Licensing – Dog licensing diminished in 2007. I find the high number of unlicensed dogs to be alarming. I don't understand what motivates people to neglect this health and safety necessity. Dog must have rabies vaccinations. Dogs must be registered (licensed) to identify and control nuisance dogs and assure that dogs are protected from the deadly disease of rabies.

DOG LICENSE STATISTICS

Individual dogs licensed, 2007: 358
Kennels issued, 2007: 19 representing dogs 83
Unlicensed dogs (rabies current) Dec 31, 2007 = 286
Unlicensed dogs (rabies expired) Dec 31, 2007 = 255

(*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.

Bylaws – The bylaw submission to the Attorney General after the 2007 Town Meeting was especially difficult due to numerous substitute motions, amendments, and amendment to amendments. Each article had to be presented to the Attorney General, documenting the existing bylaw, the bylaw votes by Town Meeting, comparisons, the final bylaw as voted, and background materials. The package submitted to the Attorney General was 66 pages.

The Town Clerk makes a heartfelt appeal to sponsors of bylaws: Please draft bylaws with sufficient time for all reviews: selectmen, Town Counsel, Bylaw Committee, Finance Committee and all interested parties. Frankly, the bylaws at the 2007 Town Meeting – both flea market and gravel removal – were not submitted in the best form, had not been reviewed by the appropriate parties, and resulted in unnecessary and unproductive confusion during debate, including the incredible dissent by Planning Board members from the report delivered by the Planning Board chairman. The Town Meeting should not be a forum for reconstructing poorly written bylaws. Bylaws should be carefully crafted and thoughtfully researched in advance, making floor amendments to the point or not necessary at all.

The Town Clerk is a non-voting advisor to the Bylaw Committee and is always willing to assist citizens with Town Meeting petitions and crafting bylaw changes.

Outreach and Resources – I worked closely with a group of citizens to lay the groundwork for a vote on the Community Preservation Act, which will be on the ballot in June, 2008. 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 -- A new document storage system was initiated for vital records. The new system encapsulates each record in an archival transparent sleeve. This eliminates much handling by "dirty" human hands, prevents tearing, and eliminates permanent binding of records into books (which can be difficult to read and photocopy).

I continued to monitor internet auctions, looking for documents and paper ephemera relating to Brimfield history and especially the Town Hall. In 2007 no purchases were made for the archives.

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, CMMC Town Clerk
Notary Public and Justice of the Peace
Town Clerk Salary, Calendar 2007: \$ 16,293.94
Town Clerk Fees, Calendar 2007: \$ 2059.10
Town Clerk Certification Allowance 2007: \$1000.00

Election workers and *Board of Registrars, calendar 2007 payments: *(one election, one town meeting, one special town meeting; not an accounting record)*

Democrats

Pamela Moriarty VOLUNTEER
Lorraine Norton \$76.50
Diane Panaccione VOLUNTEER
Theresa Proseri * \$63.75
Beth St Clair \$76.50

Republicans

Cynthia Clark * \$190.00
Anne Dutka \$21.25
Chris Kelly \$21.25
Kay Koprowski \$76.50
Deb Tierney \$18.75

Independents/Others

Shirley Backofen \$21.25
Joan Erban \$21.25
Janice Ludeman \$21.25
Eleanor Snelgrove \$21.25
Donald Norton Constable \$97.75
William Roberts Constable \$76.50



Annual Town Meeting Actions, May 21, 2007

The certified budget and recap of all financial articles appears at the end of this report, after page 27

The Annual Town Meeting, having been duly posted, was called to order at 7:12 PM on May 21, 2007 at the Town Hall. The Town Clerk reported a quorum was present (148 persons) and, in the absence of Moderator Robert Cheney, called the 275th Annual Town Meeting to order. The floor was opened for nominations for a *pro temp*s Moderator. The name of Michael Miller was entered into nomination. There being no other nominations, Mr. Miller was elected moderator by acclamation. The moderator made announcements for various charitable endeavors and also expressed appreciation for Robert Cheney's long service to the town as Moderator. [NOTE: Mr. Cheney was out of town on unavoidable business; this was to have been his final town meeting, as he declined to run another term, after nearly 20 years of service.]

* 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 without dissent at 7:17 PM on May 21, 2007.**

ARTICLE 2: To see if the Town will vote to establish the following revolving funds under MGL Chapter 44, Section 53E ½, for FY 08:

NAME	AUTHORIZED TO AND FOR THE USE OF	REVENUE SOURCE	AUTHORIZED EXPENDITURES	FY 08 MAXIMUM TO BE EXPENDED	DISPOSITION AT CLOSE OF FY 08
Dog Revolving Fund	Town Clerk	Licensing fees	General administration of dog licensing	\$2000	If re-authorized, amount in excess of \$2000 in FY08 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	\$30,000	If re-authorized, amount in excess of \$1000 (excluding inspection fees payable to the Inspector) in FY08 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 FY08 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 FY08 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.	\$15,000	If re-authorized, amount in excess of \$1000 (excluding food fees payable to the Inspector) at the close of FY08 shall close to the general fund
Bins and Bags Revolving Fund	Board of Health	Sales 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 FY08 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 FY08 shall close to the general fund
HAZMAT Revolving Fund	Fire Department	Fees from services rendered during HAZMAT emergencies	Costs associated with related HAZMAT emergencies, including control materials, staff response truck time	\$10,000	If re-authorized, amount in excess of \$1000 at close of FY08 shall close to the general fund
Fire Inspector Revolving Fund	Fire Department Inspector	Inspection fees	Inspection services and related expenses of fire inspector	\$10,000	If re-authorized, amount in excess of \$1000 (excluding inspection fees payable to the Inspector) at close of FY08 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 services' fees	Receipts for engineering and inspection services and to reimburse developers unexpended fee balances.	\$40,000	
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So voted without dissent at 7:18 PM on May 21, 2007.

ARTICLE 3: Motion made and seconded to raise and appropriate \$174,228.00 for salaries of various elected town officers for fiscal year 2008.

Amendment made and seconded to amend selectmen's salaries to the sum of \$5412.
Amendment defeated.

The main motion was voted overwhelmingly without amendment at 7:22 PM on May 21, 2007.

ARTICLE 4: Motion made and seconded to raise and appropriate \$7,822,694.00 for various departments and activities of the Town, payment of debts and defraying of expenses for FY 2008.

Amendment made and seconded to reduce the police chief salary to half of the amount recommended. **Amendment defeated.**

The main motion was voted overwhelmingly without amendment at 8:25 PM on May 21, 2007.

ARTICLE 5: Motion made and seconded to raise and appropriate \$28,988.00 to pay unpaid bills or overdrawn accounts for FY2007. **So voted without dissent at 8:26 PM on May 21, 2007.**

ARTICLE 6: Motion made and seconded to raise and appropriate \$700 to unpaid bills or overdrawn accounts for any fiscal year prior to FY2007. **So voted without dissent at 8:26 PM on May 21, 2007.**

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 Brownfields Assessment Program. **So voted without dissent at 8:28 PM on May 21, 2007.**

OMNIBUS MOTION: Motion made and seconded to approve Articles 8, 9, 12, 13, 14, and 16 as presented in the warrant. **The articles were voted without dissent at 8:30 PM on May 21, 2007.**

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 contract. **So voted without dissent at 8:30 PM on May 21, 2007.**

***ARTICLE 9:** Motion made and seconded 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 without dissent at 8:30 PM on May 21, 2007.**

ARTICLE 10: Motion made and seconded to raise and appropriate \$30,000 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 without dissent at 8:31 PM on May 21, 2007.**

ARTICLE 11: Motion made and seconded to take no action on funds 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 without dissent that no action be taken at 8:31 PM on May 21, 2007.**

***ARTICLE 12:** Motion made and seconded 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 without dissent at 8:30 PM on May 21, 2007.**

***ARTICLE 13:** Motion made and seconded 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, 2007 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 without dissent at 8:30 PM on May 21, 2007.**

***ARTICLE 14:** Motion made and seconded 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 without dissent at 8:30 PM on May 21, 2007.**

ARTICLE 15: Motion made and seconded to raise and appropriate \$15,000 for Tax Title expenditures. **So voted without dissent at 8:32 PM on May 21, 2007.**

***ARTICLE 16:** Motion made and seconded to raise and appropriate \$500 to be added to the Conservation Fund as authorized by M.G.L. chapter 40, section 5 (51). **So voted without dissent at 8:30 PM on May 21, 2007.**

ARTICLE 17: Motion made and seconded to transfer \$16,619.00 from the FY 07 Elementary Install Tank account #A01-03-20-5701 to the FY07 Elementary School Expense Account #A01-03-20-5700. **So voted without dissent at 8:34 PM on May 21, 2007.**

ARTICLE 18: Motion made and seconded to take no action to authorize the Brimfield Library Board of Trustees to proceed with a feasibility study to examine options for expanding and renovating the current library building, or, build a new facility, and, to raise and appropriate the sum of \$20,000 to be expended by the Library Trustees for said study. **Motion for no action was defeated overwhelmingly at 8:51 PM.**

SUBSTITUTE MOTION: The moderator accepted a substitute motion which was seconded to authorize the Brimfield Library Board of Trustees to proceed with a feasibility study to examine options for expanding and renovating the current library building, or, build a new facility, and, to raise and appropriate \$20,000 to be expended by the Library Trustees for said study. **So voted overwhelmingly at 8:53 PM on May 21, 2007.**

ARTICLE 19: Motion made and seconded to take no action to authorize the Brimfield Library Board of Trustees to apply for, accept, and expend any state grants that may be available for the planning project as noted in Article 18. **Motion for no action was defeated overwhelmingly at 8:54 PM.**

SUBSTITUTE MOTION: The moderator accepted a substitute motion which was seconded to authorize the Brimfield Library Board of Trustees to apply for, accept, and expend any state grants that may be available for the planning project as noted in Article 18. **So voted overwhelmingly at 8:55 PM on May 21, 2007.**

ARTICLE 20: Motion made and seconded to authorize the Board of Selectmen to petition the General Court for a special act as set forth below to establish a special fund for operation of the Brimfield Flea Market subject to certain expenditure limitations as set forth therein; provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approve amendments to the bill before enactment by the General Court; and, provided further that the Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition:

AN ACT ESTABLISHING A SPECIAL FUND IN THE TOWN OF BRIMFIELD:
Be it enacted by the Senate and House of Representatives in General Court assembled and by the authority of the same, as follows:

SECTION 1: Notwithstanding the provisions of any general or special law to the contrary, there shall be established in the town of Brimfield a fund, to be known as the Brimfield Flea Market fund, to which shall be credited all fees, proceeds and other receipts received by the town in conjunction with operation of the Brimfield Flea Market, which fund may be expended by the Brimfield Board of Selectmen without further appropriation for the administrative, operating and maintenance costs, excluding emergency services, associated with said flea market, provided, however, that town meeting shall annually impose a limit on expenditures therefrom and may provide that receipts remaining in the fund at the end of the fiscal year in excess of \$10,000 be returned to the general fund. Provided further that the Board of Selectmen may expend in any fiscal year an amount not exceeding the amount equivalent to five percent (5%) of the amount raised by taxation by the town in the most recent fiscal year for which a tax rate has been certified under section 213 of chapter 59 of the General Laws. The fund established pursuant to this act shall not be considered a revolving fund for purposes of section 53E ½ of chapter 44 of the general laws or be included for purposes of determining the aggregate limit of all revolving funds authorized under section 53E ½ of said chapter 44.

SECTION 2: This act shall take effect upon its passage. **So voted overwhelmingly at 9:13 PM on May 21, 2007.**

ARTICLE 21: Motion made and seconded to amend Brimfield Bylaw "Article VIII – Section 2, Flea Markets, Section I, Duration and Hours of Operation" by striking the following in section

(2) "the first Tuesday after the Independence Day holiday in July" and insert in its place "the second Tuesday in July."

The Bylaw Committee reported favorably on the proposed amendments.
So voted without dissent at 9:35 PM on May 21, 2007.

ARTICLE 22: Motion made and seconded to amend Brimfield Bylaw Article VIII – Section 2, Flea Markets, Section H (4) by striking the entire section and inserting in its place the following:

"Section H (4)

- a. No tents, booths, tables, wares, signs, vehicles or other temporary obstructions shall be permitted within 35' of the center line of the paved surface of Route 20 except where determined in writing by the Police Department or Fire Department not to be detrimental to the public safety provided however that where a permanent guard rail has been erected by the Massachusetts Highway Department less than 35' from said center line this provision shall not apply to land which immediately abuts and lies behind such guard rail.
- b. No tents, booths, tables, wares, signs, vehicles or other temporary obstructions shall be permitted within 6' of the paved surface of Mill Lane, Warren Road, Colonial Park Drive or Prospect Hill Road except where determined in writing by the Police Department or Fire Department not to be detrimental to public safety.
- c. Any owner/operator or other land owner who knowingly violates this section or who permits any violation to continue shall be subject to a fine of \$200, in the case of an owner/operator, loss or non-renewal of their annual license."

The Bylaw Committee reported favorably on the proposed amendment.
Main motion was passed without dissent without amendment at 9:29 PM on May 21, 2007.

ARTICLE 23: Motion made and seconded to amend Brimfield Bylaw Article VIII – Section 2, Flea Markets, Section I, Duration and Hours of Operation by adding the following:

"(4) If, prior to the first legal day of operation, any Flea Market owner/operator allows vendors to go upon its premises to prepare for the legal opening, then such Flea Market owner/operator shall prominently display a sign or signs to clearly indicate that the Flea Market is closed to the public. The owner/operator of such market shall take reasonable measures to prevent the public from entering upon the premises except for the purpose of patronizing a full-time business, unrelated to the flea market, that may also be located on the premises.

(5) In order to reduce public inconvenience, enhance public safety and minimize the necessity of police traffic management, each Flea Market should permit its vendors to go upon the premises sufficiently in advance of its opening to prevent lines of vendor vehicles on the public ways.

(6) The selectmen may, at their discretion, permit the sale of tent supplies and related items beginning on the Friday Monday before the "legal period" as set forth in (2) above. ~~No Flea Market shall have more than one tent supply vendor.~~ Tent supply vendors must have a vendor's permit. When doing business prior to the "legal period" access to any tent supply vendor must

be from the street and the tent supply dealer must be separated from the rest of the Flea Market by a fence."

The Bylaw Committee reported favorably on the proposed amendment, excepting Section 6. Motion made and seconded to amend the motion by striking the word "Friday" in part (6) and inserting the word "Monday". **Amendment adopted without dissent.**

Motion made and seconded to amend the motion by striking the sentence "No Flea Market shall have more than one tent supply vendor" from part (6). **Amendment adopted overwhelmingly.**

Motion made and seconded to amend the motion by striking the last sentence "When doing business...". **Amendment failed overwhelmingly.**

Main motion with two amendments passed overwhelmingly at 9:42 PM on May 21, 2007.

ARTICLE 24: Motion made and seconded to amend Brimfield Bylaw Article VIII, Section 2, Flea Markets, Section J, Emergency Service Fees by striking the entire section and inserting in its place the following:

"Section J, Emergency Service Fees:

1. Emergency Services Fees:

Within not more than 30 days following each Flea Market, the Selectmen shall determine the "emergency services cost" by adding the reasonable and necessary cost reasonably attributed to the Flea Market of the following: Police wages; Fire Department wages; Ambulance services; fuel for Police Department and Fire Department vehicles; "No Parking" signs and the posting of same; flea market coordinator's salary; Police Department and Fire Department insurance, and any other reasonable cost directly attributable to the Flea Market.

2. Vendor Days and Cost per Vendor Day

The Selectmen shall determine the number of vendor days for each owner/operator by ~~multiplying~~ adding the number of vendors set up for business on the owner/operator's premises on the first each day of business ~~by the number of days of operation (e.g., if an owner/operator had 100 dealers set up for business on the first day of business and operated for two days then 200 vendor days would be attributable to that owner/operator).~~ The Selectmen shall add the number of vendor days for all of the flea markets to determine the "total vendor days." The selectmen shall then divide the "emergency services cost" by the "total vendor days" to determine the "cost per vendor day."

For purposes of this section of the Bylaw, Food Vendors shall be counted as Vendors for the purpose of determining the total number of vendor permits issued by an owner/operator.

3. Emergency Services Fee:

The "Emergency Services Fee" for any owner/operator shall be determined by multiplying the number of vendor days attributable to that owner/operator's flea market by the cost per vendor day. The emergency services fee shall be due and payable 21 days from the day of mailing by the Selectmen."

The Bylaw Committee reported favorably on the proposed amendment.

Motion made and seconded to amend part 2 above by striking the first sentence and inserting in its place the sentence "The selectmen shall determine the number of vendor days for each owner/operator by multiplying the number of vendors set up for business on the owner/operator's premises on the first day of business by the number of days of operation (e.g., if an owner/operator had 100 dealers set up for business on the first day of business and operated for two days then 200 vendor days would be attributable to that owner/operator). **Amendment passed overwhelmingly.** [Note: this amendment is modified by amendment noted below]

Motion made and seconded to amend the amendment above by changing the word "multiplying" to the word "adding", by changing the words "the first day" to the words "each day" and striking all the words to the end of the sentence beginning with the words "...by the number of days...". **Amendment to the amendment passed overwhelmingly.**

Main motion as amended was passed without dissent at 10:17 PM on May 21, 2007.

ARTICLE 25: Motion made and seconded to amend Brimfield Bylaw Article VIII – Section 2, Flea Markets, Section L, Penalties by striking the entire section and inserting in its place the following:

L. For failure to pay any license or emergency service fees under subsection J (or subsection D), or, for knowingly allowing vendors without permits to display and/or sell wares at their flea market, or, for knowingly allowing vendors to sell goods outside the permitted days of operation, a flea market owner/operator shall forfeit the right to renew a license for the ensuing year under the provisions of chapter 140, sections 54 and 55 of the Massachusetts General Laws (Town Bylaw article IV, section 6a).

The Bylaw Committee reported favorably on the proposed amendment.

PROCEDURAL: Motion made and seconded to table the motion until Town Meeting 2008. **Motion to table fails overwhelmingly.**

The main motion passed overwhelmingly without amendment at 10:27 PM on May 21, 2007.

ARTICLE 26: Motion made and seconded to amend Brimfield Bylaw Article VIII – Section ., Flea Markets, Section C. Vendor Permits by striking the entire section and inserting in its place the following:

1. Cost of Vendor Permit: The cost of each vendor permit shall be determined annually or at shorter intervals by the Selectmen in accordance with the law of the Commonwealth of Massachusetts.

2. Distribution of Permits and Payment to Town: Vendor permits may be distributed by owner/operators or by the Town. The total cost of permits issued by the owner/operator shall be remitted to the Town not later than 10 days after the last day of each flea market. The owner/operator shall be responsible for payment for any vendor permits it issues. ~~Checks issued~~

~~by vendors directly to owner/operators in payment of their permit shall not be accepted by the Town.~~

3. Records of Vendor Permits Issued: The owner/operator shall return all unused vendor permits. Each owner/operator shall maintain a record of each permit issued by it which shall include the vendor's name, address and a Massachusetts sales tax identification number. A copy of this record shall accompany the owner/operators remittance to the Town.

4. Display of Vendor Permits: Each vendor shall prominently display the Vendor Permit during the conduct of business.

5. Subletting: If it is determined by the Selectmen that a "vendor" is conducting business without a "vendor permit," the owner/operator shall be assessed the cost of the vendor permit and, for purposes of allocating emergency services costs, the number of "vendor days" attributable to such owner/operator shall be adjusted accordingly. The purpose of this provision is to control "subletting" whereby multiple spaces rented to a single vendor are actually used for the conduct of business by several vendors.

The Bylaw Committee reported favorably on the proposed amendment.

Motion made and seconded to amend part 2 by deleting the last sentence which begins with the words "Checks issued ...". **Amendment passes overwhelmingly.**

The main motion, as amended, was passed overwhelmingly at 10:38 PM on May 21, 2007.

ARTICLE 27: Motion made and seconded to accept the provisions of Massachusetts General Law, chapter 59, section 59A, "Abatement for Purpose of Continuing Environmental Cleanup on Sites Zoned for Commercial or Industrial Use where there has been a release of oil or hazardous material," and adopt the General Bylaw set forth herein pursuant thereto:

Brownfields Tax Abatement Agreements

A. Purpose

It is the intent of the Town to offer tax abatements to encourage the continued environmental cleanup and redevelopment of sites zoned for industrial and commercial use ~~from~~ or at which there has been a release of oil or hazardous material.

B. Subject Properties

Property that may be the subject of a tax abatement agreement pursuant to this bylaw must:

1. Be a site or portion of a site from or at which there has been a release of hazardous material;
2. Be owned by an eligible person, as that term is defined in G.L. c. 21E, sec. 2;
3. Be zoned for commercial or industrial use.

C. Abatement Agreements

1. The Treasurer is hereby authorized to negotiate agreements for the abatement of real estate taxes, interest and/or charges (hereinafter, "Abatement Agreements") with owners of eligible properties, the terms of which Abatements shall be subject to approval by the Board of Selectmen.
2. Abatement Agreements may allow for reductions in outstanding taxes, interest and/or charges.
3. Abatement Agreements shall include, but not be limited to, the following terms:
 - a. The amount of outstanding real estate taxes;

- b. The percent of interest to accrue if determined applicable by the Treasurer and the property owner;
 - c. The description of quantifiable monthly payments;
 - d. The inception date of monthly payments;
 - e. The date of final payment;
 - f. The late penalties to be imposed; and,
 - g. Any and all other contractual terms as arranged between the Treasurer and the property owner.
4. All Abatement Agreements shall be executed by the Chairman of the Board of Selectmen and the property owner, whose signatures shall be notarized and attested by the Town Clerk.
 5. Copies of all Abatement Agreements shall be provided to the Massachusetts Department of Environmental Protection, The United States Environmental Protection Agency, the Massachusetts Commissioner of Revenue, the Board of Selectmen, and, the property owner.

The Bylaw Committee reported favorably on the proposed amendment.

So voted overwhelmingly at 11:02 PM on May 21, 2007.

ARTICLE 28: Motion made and seconded adopt the following bylaw relevant to "Tag Sales":

ARTICLE XXXI: Tag Sales

No person shall conduct a tag sale, attic sale, garage sale, lawn sale, rummage sale, yard sale, barn sale or any other similar casual sale of personal property whereby the public at large is or can be made aware of the same in the Town of Brimfield except in accordance with the following requirements; provided, however, that a flea market shall not constitute a tag sale subject to regulation under this bylaw:

1. The Tag Sale shall be restricted to the sale of personal property belonging to the resident or residents of the property at which the Tag Sale is held; or, in the case of a neighborhood tag sale, shall be restricted to personal property belonging to the participating resident of that neighborhood.
2. The Tag Sale shall be limited to not more than two (2) consecutive days and the hours of operation shall not begin before 8:00 a.m. and shall not extend beyond sunset.
3. No Tag Sale shall commence without the resident first notifying the Board of Selectmen of the address and date on which the tag sale will occur.
4. Tag Sales by a resident or residents of a single property on more than two (2) occasions in any given calendar year and sales of property belonging to other persons shall not be permitted except as otherwise authorized by Section 1 of this bylaw, without the issuance of a Junk Dealer License from the Board of Selectmen. In such instances, the resident or residents shall comply with applicable General and Zoning Bylaw requirement.
5. Temporary signs advertising the Tag Sale may be erected on the day(s) of the sale in accordance with Zoning Bylaw requirements and shall be promptly removed at the conclusion of the sale. Signs that create a nuisance or threat to public safety are prohibited and shall be removed at the request of the zoning official or police officer.
6. The Tag Sale holder shall be responsible for orderly parking and traffic flow. If parking or traffic flow conditions create a threat to the safety of the public, the Tag Sale event shall be terminated at the request of a police officer.

7. No Tag Sale event shall be held at a time or place so that it negatively impacts or interferes with any other public event in the community.
8. All items from a Tag Sale, including any tables and shelves to display items for sale, shall be removed from view of the street within 24 hours of the close of the tag sale.
9. Enforcement: This Bylaw may be enforced by the Board of Selectmen or any Police Officer of the Town of Brimfield by non-criminal disposition in accordance with G.L. c. 40, s.21D and Section of the General Bylaws. Violations of this bylaw shall be punishable by a fine of \$100.00 for each offense, and shall include, but not be limited to, items which are not personal property of the resident holding the Tag Sale; holding sales more than two (2) times per year without procurement of a Junk Dealer License; failing to notify the Board of Selectmen of the Tag Sale or holding Tag Sales on more than two (2) consecutive days.

Occasional sales by political, civic, philanthropic, educational, religious or non-profit organizations shall be exempted from these regulations.

The Bylaw Committee reported unfavorably on the proposed bylaw.

Motion made and seconded to amend Section 2 by omitting reference to "two consecutive days."
Motion for amendment failed.

Motion made and seconded to amend Section 4 by omitting reference to "two occasions."
Motion for amendment failed.

Motion made and seconded to amend Section nine by omitting reference to "two times" and "two consecutive days."
Motion for amendment failed.

Motion failed overwhelmingly at 11:02 PM on May 21, 2007.

ADJOURNMENT: The Moderator accepted a motion, which was seconded and passed overwhelmingly, to adjourn the Annual Town Meeting to Thursday, May 24, 2007 at 7:00 PM.

TOWN MEETING RECONVENED: The Annual Town Meeting was reconvened on May 24, 2007; a quorum being present (90 persons) the meeting was called to order by Moderator *pro tempore* Michael Miller at 7:12 PM.

ARTICLE 29: Motion made and seconded to authorize the Board of Selectmen, in accordance with M.G.L. chapter 40, section 4A, and in consultation with the Board of Health, to enter into an inter-municipal agreement with one or more other governmental units to provide for mutual aid and assistance between municipalities entering into the Agreement to provide services to prevent and combat the effects of a mass casualty incident or emergency and disasters as defined in Chapter 639 of the Acts of 1950 when a local emergency has been declared and local resources are insufficient to meet the unusual need. **So voted without dissent at 7:13 PM on May 24, 2007.**

ARTICLE 30: Motion made and seconded to take no action to accept section 3 to 7 inclusive of chapter 44B of M.G.L., otherwise known as the Massachusetts Community Preservation Act, by approving a surcharge on real property for the purposes permitted by said Act, including the acquisition, creation and preservation of open space, the acquisition and preservation of historic

resources, the acquisition, creation and preservation of land for recreational use, the creation, preservation and support of community housing, and, the rehabilitation and restoration of such open space, historic resources, land for recreational use and community housing that is acquired or created as provided under said Act; to determine the amount of such surcharge on real property as a percentage of the annual real estate tax levy against real property; to determine whether the Town will accept any of the exemptions from such surcharge permitted under Section 3(e) of said Act; and, to raise and appropriate or otherwise fund, the sum of \$4,200.00 to be expended by the Tax Collector to purchase necessary computer software for the implementation of said act. **Motion for no action failed overwhelmingly.**

SUBSTITUTE MOTION. The moderator accepted a substitute motion, seconded, to accept section 3 to 7, inclusive, of chapter 44B of the General Laws, otherwise known as the Massachusetts Community Preservation Act, by approving a surcharge on real property for the purposes permitted by said Act, including the acquisition, creation and preservation of open space, the acquisition and preservation of historic resources, the acquisition, creation and preservation of land for recreational use, the creation, preservation and support of community housing, and the rehabilitation and restoration of such open space, historic resources, land for recreational use and community housing that is acquired or created as provided under said Act; that the amount of such surcharge on real property shall be 3% of the annual real estate tax levy against real property and that such surcharge shall commence in fiscal year 2009; and that the town hereby accepts the following exemptions from such surcharge under Section 3e of said Act: \$100,000 of the value of each taxable parcel of residential real property and property owned and occupied as a domicile by any person who qualifies for low income housing or low or moderate income senior housing in the Town as defined in Section 2 of said Act. **So voted on card count, 45 in favor and 26 opposed at 7:33 PM on May 24, 2007.**

ARTICLE 31. Motion made and seconded to amend Zoning Bylaws by inserting into Section IV-A, Residential Districts, Section 2C, a number "(v)" which shall state "Elderly Housing Community shall be on one parcel or on contiguous parcels of land totaling at least five (5) acres in size."

Planning Board made favorable report on the proposed amendment.

So voted on call of the moderator, overwhelmingly 2/3 vote in favor at 7:46 PM on May 24, 2007.

ARTICLE 32. Motion made and seconded to amend by inserting into the Brimfield Zoning Bylaws in a Section II (Definitions), a Section "II-E" with the following definition, "Frontage, as used in this bylaw, means that portion of a property that is located with the Town of Brimfield and borders upon one of the following types of way: (a) a public way, or (b) a way shown on a plan theretofore approved in accordance with the subdivision control law, or (c) a way in existence when the subdivision control law became effective in the Town of Brimfield."

Planning Board made favorable report on the proposed amendment.

So voted overwhelmingly on card count with 2/3 majority; 42 in favor and 20 opposed at 7:52 PM on May 24, 2007.

ARTICLE 33: Motion made and seconded to take no action to amend by inserting into the Brimfield Subdivision Control Law in Section II A (definitions), "Frontage means, as defined in M.G.L. chapter 41, section 81, on (a) a public way, or, (b) a way shown on a plan theretofore approved in accordance with the subdivision control law, or, (c) a way in existence when the subdivision control law became effective in the city or town in which the land lies and within the town boundaries of the Town of Brimfield."

Planning Board made favorable report on the motion for no action, noting for the record that the Subdivision Control Regulations are not subject to bylaw-type approval by Town Meeting.
Motion for no action passed without dissent at 7:59 PM on May 24, 2007.

PROCEDURAL RE: ARTICLE 34. Planning Board recommended some action and asked for Article 34 to be held over for action later in the meeting. Moderator granted request.

***ARTICLE 34:** Motion made and seconded to take no action to amend Brimfield Zoning Bylaw Article XII, Section IV-C Business District by adding subsection 3. as follows:

3. Uses which may be permitted by Special Permit issued by the Planning Board, further regulated in Section VI of this bylaw.

a. Warehousing – Storage Facility

And, amend Brimfield Bylaw Article XII by adding the following section:

7.0 Waiver of Requirements
(reserved)

9.0 Severability

If a court of competent jurisdiction holds any provision of this bylaw invalid, the remainder of the bylaw shall not be affected thereby. The invalidity of any section, 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 for no action passed without dissent at 9:32 PM on May 24, 2007.

NOTE: Articles 35 and 36, offered alternatives for action which would amend zoning bylaws relative to gravel removal. Numerous counter proposals and interpretations created considerable debate as well as procedural motions on town floor. **All motions to amend the zoning bylaw were defeated, resulting in no change to the gravel removal zoning bylaw in existence at this date.** Having said that clearly, the notes below summarize the numerous motions, amendments and reconsideration votes on May 24.

***ARTICLE 35:** Motion made and seconded to amend Brimfield Zoning Bylaw "Article XII, Section IV-B. Agricultural-Residential Districts, Subsection 2, Uses which may be permitted by the Board of Appeals in accordance with the regulations appearing in Section VIII-B (2)" by striking section "c" in its entirety and insert in its place:

"c" "Earth" removal as further regulated in Section VI-I of this Bylaw"

and add the following section:

Section VI-I EARTH REMOVAL AND EXTRACTIVE OPERATIONS

1.0 Scope

This Section shall apply to all earth removal operations in the Town of Brimfield except as otherwise provided in this section.

2.0 General Provisions

2.01 Within the Town of Brimfield, the removal of topsoil, loam, sand, gravel, or rock (earth) from any property shall be permitted only after issuance of a Special Permit from the Zoning Board of Appeals (Board).

2.02 In issuing such a permit under this Bylaw, the Board may impose such conditions, not specifically provided for herein, as it may deem necessary for the adequate protection of the neighborhood.

2.03 The Board may adopt reasonable rules and regulations to carry out the purposes of this Bylaw. Such regulations shall take effect upon their being filed in the office of the Town Clerk.

2.04 Any person violating the provisions of this by-law shall be subject to the enforcement provisions of this Bylaw.

3.0 Definitions

3.01 Abutter: The owner(s) of land directly abutting the applicants lot(s) including land directly across the opposite side of an abutting way from the applicants lot(s) and any owner of land which directly abut such lots, which are within three hundred (300) feet of the applicants lot(s).

3.02 Board: The Zoning Board of Appeals of the Town of Brimfield.

3.03 Earth: All forms of soil including, without limitation, sod, loam, sand, gravel, clay, peat, hardpan, rock, quarried stone or mineral products.

3.04 Lot: In addition to the definition of lot presented elsewhere in this Bylaw, for purposes of this Bylaw all contiguous land held in the same ownership shall constitute one lot even though such land was acquired by deed containing more than one parcel or by more than one deed and even though such land is shown on a plan or plans as divided into more than one parcel.

3.05 Owner: The owner of a lot with respect to which earth is sought to be removed or the person lawfully standing in the stead of such owner, as a lessee or tenant or person with written authorization for such removal from the owner.

3.06 Person: Person shall include corporations, societies, associations, partnerships and trusts.

3.07 Removal: Stripping, digging, excavating or blasting earth from one lot and removing or carrying it away from said lot.

4.0 Special Permit Required

4.01 Except as otherwise provided no earth shall be removed from any lot in the Town of Brimfield unless the Board grants a Special Permit to the owner of such lot. The Brimfield Conservation Commission shall have the right to participate in the required public hearing including the right to question the petitioner. Within fourteen (14) days of the conclusion of the hearing the Conservation Commission shall file with the Board a report containing its' recommendations.

4.02 Each application for a Special Permit shall be filed as per M.G.L. Chapter 40A Section 9 and the Brimfield Zoning Board of Appeals Procedures with a copy sent to the Conservation Commission and shall be accompanied by the following information and support documentation:

4.02.01 The location and Assessors Parcel ID of the lot on which it is proposed to carry out earth removal operations.

4.02.02 The legal name and address of the owner(s) of the lot and, if different, the name and address of the applicant.

4.02.03 Evidence of the applicant's ownership or authority to seek the permit.

4.02.04 A list, certified by the Brimfield Board of Assessors, of the names and addresses of all abutters, as per section 3.01 of this Bylaw.

4.02.05 The applicant shall file a complete set of plans of the lot on which it is proposed to carry out the earth removal operations together with the surrounding land to a distance of at least one hundred (100) feet showing all manmade features, property lines, vegetative cover, soil characteristics, drainage – natural and manmade and existing and proposed grades by five (5) foot contour intervals. A Land Surveyor or Engineer, registered in the Commonwealth of Massachusetts, shall affix his/her seal to such plans.

4.02.06 The form of the bond proposed to be submitted in accordance with Section 5.10 of this Bylaw.

4.03 No Special Permit shall be issued for a period in excess of five (5) years. The duration of the Special Permit including the beginning and terminating dates shall be set forth on the Special Permit. Any Special Permit granted for earth removal shall lapse after one year, and including such time required pursuing or awaiting the determination of an appeal from the grant thereof, if a substantial use thereof has not commenced, except for good cause. The Board as per Section 6.0 of this Bylaw may renew a Special Permit.

5.0 Standards for Evaluation and Conditions.

Applications for Special Permits may be granted, denied or granted in part and denied in part. Each Special Permit issued by the Board shall be subject to the following conditions which shall be set forth on the Special Permit:

5.01 Topsoil and/or loam stripped from the operating areas shall be stockpiled and seeded with an erosion control seed mixture, and used in restoring the area.

5.02 No excavation shall take place within 100 feet of a wetland or nearer than thirty (30') feet to any lot boundary unless the abutting land is subject to an Earth removal permit granted under this Bylaw and the owner of such abutting land has granted written approval of such excavation.

5.03 No area shall be excavated or filled so as to cause the accumulation of freestanding water unless the Board shall permit the creation of a pond or retention area upon the approval of the Conservation Commission.

5.04 Excavation for removal of earth shall not extend closer than five (5) feet above the annual high groundwater table. A monitoring well may be required to be installed by the property owner to verify groundwater elevations.

5.05 The active operation area shall not exceed 25% of the entire site and at no time exceed a total of five (5) acres at any one time for excavation. Natural vegetation shall be left and maintained on undisturbed land for screening and noise reduction purposes. Opening of new areas requires restoration of old areas.

5.06 Vertical slopes are not to exceed twenty-five (25) feet. Operation greater than twenty-five (25) feet must be terraced.

5.07 Earth, which has been excavated from the lot, may be stored on the premises. Road grindings may be stored only if specified in the Special Permit. Hazardous wastes are not allowed to be stored on the premises.

5.08 Site access road shall be treated with a suitable material to reduce dust and mud for a distance of 150 feet back from the public or private way. The applicant shall be responsible for cleaning spillage on such way. Access road entrances shall include a gate or other secure mechanism to restrict public access to the site. No trespassing signs must be posted at eye level, at fifty (50') foot intervals around the perimeter of the lot.

5.09 Operation hours shall be between 7:00 a.m. and 6:00 p.m., Monday through Saturday. Operation is prohibited on Sunday and Massachusetts recognized holidays.

5.10 The applicant shall post a performance bond with the Treasurer of the Town of Brimfield. Said bond shall be equal to the assessed land value of the parcel or parcels being used for earth removal operations or as determined by the Board to be sufficient to guarantee compliance with the terms and conditions of the permit.

5.11 The Board may allow the use of trucks, loaders, excavators, screening equipment or other equipment the Board deems appropriate. Crushers and similar equipment are allowed only if specifically referenced in the Special Permit.

Abandoned or unused equipment may not be stored on the property.

5.12 The Town of Brimfield Inspector of Buildings may inspect all permitted sites without notice.

5.13 Such other reasonable requirements consistent with the provisions of this Bylaw and such rules and regulations as the Board may adopt hereunder including, but not limited to, grading, seeding and planting, fencing necessary for public safety, methods of removal, hours of operations, routes of transportation of earth removal, control of drainage and disposition of waste incidental to the removal operations.

6.0 Renewal

Upon application for a renewal of a Special Permit the Board may in its discretion grant three (3) renewals for periods of up to three (3) additional years each without a public hearing provided, however, that the Board has given notice of such application by advertisement in a newspaper of general circulation in the Town and by mail to all abutters, as they appear upon the most recent tax list, and written notice of objection by any abutter to such renewal has been filed with the Town Clerk within twenty-one (21) days of the giving of such notice.

7.0 Standards for Restoration of Earth Removal and Extractive Operations

7.01 Restoration shall be carried on simultaneously with excavation so that, for excavation only, when any five (5) acre operation area has been excavated at least three (3) of those acres must be restored before work commences on the next three (3) contiguous acres. All excavations of less than a three (3) acre operation must be restored within one growing season from completion of operations, unless otherwise instructed by the Board.

7.02 The land shall be left so that natural storm drainage shall leave the property at the original natural drainage points, and so that the total discharge at peak flow as well as the area of drainage of any one point is not increased.

7.03 No slope created shall be finished at a grade in excess of two horizontal feet to one vertical foot.

7.04 Upon the conclusion of earth removal operations, all areas upon which such operations have been conducted shall be covered with not less than four (4) inches of topsoil capable of supporting vegetation, brought to the finished grades and seeded with suitable cover crops except where ledge rock is exposed. All large stones and boulders, which protrude above finished grade, shall be buried or removed. The Board may require the applicant to guarantee growth of cover crop on such areas within two (2) years of seeding.

8.0 Exemptions

The following earth removal operations are exempted from the provisions of this Bylaw:

8.01 Earth removal operations for any municipal purpose by or on behalf of the Town of Brimfield or any department or agency thereof.

8.02 Earth removal operations that are customarily incidental to agriculture, horticulture, floriculture, or viticulture.

8.03 The removal of not more than five hundred (500) cubic yards of earth from a lot for the purpose of constructing a building or other structure and associated facilities on such lot in accordance with a building permit.

8.04 The removal of not more than five hundred (500) cubic yards of earth from a lot for the purpose of constructing or improving a private driveway on such lot.

8.05 The removal of not more than five hundred (500) cubic yards of earth from a lot for any purpose other than constructing a building, associated facilities or improving a driveway on such lot. All amounts of earth removed from a lot within any period of ten (10) years shall be added together in the computation of such total.

9.0 Waiver of Requirements

9.01 In the case of an application for a permit to remove more than five hundred (500) cubic yards of earth from a lot for the purpose of constructing a building or associated facilities on such lot in accordance with a building permit or constructing or improving a private driveway on such lot, the Board may in its discretion waive any or all of the requirements of Section 4.02.05, Section 4.02.06, Section 5.08, Section 5.10, or Section 7.0 of this Bylaw.

9.02 In the case of an application for a permit to remove more than five hundred (500) cubic yards and less than five thousand (5,000) cubic yards of earth from a lot for any purpose other than constructing a building, associated facilities, or constructing or improving a private driveway, the Board may in its discretion waive any or all of the requirements of Section 4.02.05, Section 5.08, or Section 7.0 of this Bylaw.

10.0 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 sections or parts of any section or sections of this bylaw shall not effect the validity of the remainder of the town's zoning bylaw.

Planning Board made report recommend unfavorable action [NOTE: This appears contrary to the motion, which was made by the Planning Board]

PROCEDURAL: Motion was made and seconded to table action on Article 35. **Motion to table passed overwhelmingly at 8:06 PM.**

RECONSIDERATION: The moderator accepted a motion to reconsider the action on Article 35 from a person who voted on the prevailing side. **Motion to reconsider failed overwhelmingly at 9:06 PM on May 24, 2007.**

***ARTICLE 36:** Motion made and seconded to amend Brimfield Zoning Bylaw "Article XII, Section IV-B. Agricultural-Residential Districts, Subsection 2. Uses which may be permitted by the Board of Appeals in accordance with the regulations appearing in Section VIII-B (2)" by striking the following in its entirety:

"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. The removal will be limited to not more than one thousand (1000) cubic yards total from 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."

and insert in its place:

"c. Soil, gravel, loam and sand removal,"

Planning Board made unfavorable report. However, two Planning Board members took exception to the report as presented (both written and oral), stating that the Planning Board approved the amendment and the recommendation was stated incorrectly by the chairman.

PROCEDURAL. Motion made and seconded to table Article 36. Motion to table was defeated at 8:20 PM on May 24, 2007.

Motion made and seconded to add, after item c: "Any hearings held by the Zoning Board of Appeals (ZBA) must have a legal review by a qualified attorney before any final decisions can be rendered to the parties involved in the hearing." **Amendment defeated at 8:44 PM.**

The main motion, without amendment, was defeated on card call at 8:47 PM on May 24, 2007.

RECONSIDERATION: The moderator accepted a motion to reconsider the action on Article 35 from a person who voted on the prevailing side. **Motion to reconsider passed overwhelmingly 41 in favor and 33 opposed at 9:06 PM on May 24, 2007.**

The motion to amend the bylaws as stated above was again debated, with Zoning Officer Jack Keough commenting. **The motion was defeated on card count of 40 in favor and 30 opposed (2/3 vote not met) at 9:30 PM on May 24, 2007.**

ARTICLE 37: Motion made and second to take no action to accept M.G.L., chapter 59, subsection 5K, which authorizes the Board of Selectmen to establish a property tax work-off

program for taxpayers over 60 years of age meeting certain statutory requirements in which participating taxpayers volunteer their services to the Town in exchange for a reduction in their annual property tax obligation up to the maximum of \$750 per fiscal year at a maximum hourly rate equal to the state's minimum wage; such program to begin in FY08. **Motion for no action passed without dissent at 9:32 PM on May 24, 2007.**

ARTICLE 38: Motion made and seconded to transfer \$138,856.00 from certified free cash to the Capital Purchase Stabilization Fund. **So voted without dissent at 9:33 PM on May 24, 2007.**

ARTICLE 39: Motion made and seconded to transfer \$70,000 from certified free cash to the Stabilization Fund. **So voted without dissent at 9:34 PM on May 24, 2007.**

ARTICLE 40: Motion made and seconded to transfer the sum of \$37,863.00 from the Capital Purchase Stabilization Fund for payment of interest and principal due in FY2008 on the Capital Purchase Debt authorized in FY2005. **So voted without dissent at 9:35 PM on May 24, 2007.**

ARTICLE 41: Motion made and seconded to transfer \$260,523.00 from certified free cash to reduce the tax rate in FY2008. **So voted without dissent at 9:36 PM on May 24, 2007.**

Having no further business, the 275th Annual Town Meeting of the Town of Brimfield was dissolved at 9:36 PM on May 24, 2007.

A true copy, ATTEST:

Pamela Beall, CMMC, Town Clerk

Salaries for Elected Officials and Operating Budget follow below.

BYLAW APPROVALS

The bylaws changes represented in articles 21, 22, 23, 24, 25, and 26 (General Bylaws) and 31 and 32 (Zoning Bylaws) were submitted for review and approval by the Attorney General. All were returned with approval on September 19, 2007. Flea Market bylaws in Articles 22, 24 and 25 were approved with a caution about enforcement matters. 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 24, 2007 and the zoning bylaws are deemed effective on the date voted by Town Meeting (May 21 or 24, 2007).

The bylaws changes represented in article 27 (General Bylaws) was submitted for review and approval by the Attorney General. It was returned with approval on November 13, 2007. 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 November 19, 2007.

RESULTS GENERAL ELECTION JUNE 4, 2007

Total votes cast: 436
Registered votes: 2313
Percent votes cast: 25%

Moderator (1 year)

* Michael P. Miller 377

Selectmen (3 year)

* Thomas Marino 353

Judith A. Sessler 131

Assessors (3 year)

* Carolyn M. Haley 283

Stephen A. Phifer 168

2 Board of Health (3 year)

* Clayton L. Thomas 404

Elem School (3 year)

* Mark K. Richter 307

* Jody M. Fleshman 320

Tree Warden (1 year)

* Robert L. Hanna 396

Cemetery Comm (3 year)

* William F. Roberts 257

Michael L. Wales 196

2 Library Trustees (3 year)

* Charlotte Day Hudson 374

* Mary Ann Santella 14

Harding Trustee (3 year)

* Sarah E. Meitzler 373

Lincoln Trustee (3 year)

* Richard A. Siewick 362

Tantasqua School Comm

* Sheila Noyes-Miller 362

Planning Board (5 year)

* David M. Killian 391

Planning Board (1 year)

* Sheila K. McCarthy 384



Special Town Meeting Actions, October 23, 2007

The Special Town Meeting was called to order at 7:00 PM by Moderator Michael Miller. The Town Clerk reported that the meeting was duly posted and that a quorum was present.

ARTICLE 1: Police Vehicle. Motion made and seconded to transfer \$18,000 from the Capital Purchase Stabilization Fund to be expended by the Police Chief subject to the requirements of applicable public bidding laws for the purchase of a new or used 4 x 4 vehicle to replace the department's existing 1993 Jeep Cherokee 4 x 4, for use of the Brimfield Police Department, pursuant to the Town's Capital Expenditure Plan. **So voted overwhelmingly with 2/3 required vote declared by the moderator on October 23, 2007 at 7:11 PM.**

ARTICLE 2: Fire Vehicle. Motion made and seconded to transfer \$4,000 from the Capital Purchase Stabilization Fund to be expended by the Fire Chief, to retrofit and equip a 1994 Ford Pickup E-350 secured from the Federal Excess Property Program to be used by the Fire Department for use as a brush truck to replace the department's 1969 brush truck, pursuant to the Town's Capital Expenditure Plan. **So voted overwhelmingly with 2/3 required vote declared by the moderator on October 23, 2007 at 7:14 PM.**

ARTICLE 3: Town Hall Annex Gutter etc. Motion made and seconded to transfer \$9,000 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 installation of new gutters and storm windows on the Town Hall Annex pursuant to the Town's Capital Expenditure Plan. **So voted overwhelmingly with 2/3 required vote declared by the moderator on October 23, 2007 at 7:16 PM.**

ARTICLE 4: Town Hall Annex Painting. Motion made and seconded to transfer \$56,000 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 preparation and painting of the Town Hall Annex building, pursuant to the Town's Capital Expenditure Plan. **So voted overwhelmingly with 2/3 required vote counted 78 in favor and 8 opposed, on October 23, 2007 at 7:40 PM.**

ARTICLE 5: Group Insurance. A motion for no action was made and seconded and no vote was taken, by decision of moderator, at 8:00 PM.

ARTICLE 6: Compensation Van Drivers. A motion for no action was made and seconded and after some explanation by the moderator, a substitute motion was accepted.

SUBSTITUTE MOTION: Motion made and seconded to transfer \$3,900 from the Stabilization Fund to provide a daily \$15.00 stipend to Council on Aging Van Drivers who are ineligible to participate in the Senior Property Tax Work Off Program. **So voted overwhelmingly with 2/3 required vote counted 50 in favor and 11 opposed, on October 23, 2007 at 8:14 PM.**

ARTICLE 7: Bike Trails. Motion made and seconded to transfer \$5,000 from the Stabilization Fund, to be expended by the Board of Selectmen through the Brimfield Bike Trail Committee, for the purpose of reciprocal grants in which the town will disperse the money and be reimbursed at a future date; the money may only be used when a grant is awarded to the Brimfield Bike Trail Committee; pursuant to the Town's Capital Expenditure Plan. **So voted without dissent with 2/3 required vote declared by the moderator on October 23, 2007 at 8:17 PM.**

ARTICLE 8: Community Preservation Committee. Motion made and seconded to amend town bylaws by adding a section to create a "Community Preservation Committee" with the text presented in handout at this meeting, which is as follows:

Community Preservation Committee Bylaw

A: Establishment

There is hereby established a permanent committee of the Town to be known as the Community Preservation Committee, consisting of seven voting members, pursuant to G.L. c. 44B, section 5.

The composition of the committee, the appointing authority and the term of office for the committee members shall be as follows:

One member appointed by Conservation Commission for an initial term of two years; one member appointed by the Historical Commission for an initial term of two years; one member appointed by the Planning Board for an initial term of three years; one member appointed by the Housing Authority for an initial term of three years; one member appointed by the Recreation Committee for an initial term of one year; and the Board of Selectmen shall appoint two members for initial terms of two years and three years.

Their successors shall be appointed for terms of three years. Other than the at-large members appointed by the Board of Selectmen, members of the Community Preservation Committee must remain voting members of the committee which appointed them. In those instances when members of the Community Preservation Committee cease to be voting members of the committee that appointed them, the appointing committee shall designate a voting member to fill the remainder of the unexpired term.

Should any of the officers and commissions, boards, or committees who have appointing authority under this bylaw no longer be in existence for whatever reason, the Board of Selectmen shall appoint a suitable person to serve in their place.

Any member of the Committee may be removed for cause by their respective appointing authority after hearing.

B: Duties

(1) The Community Preservation Committee shall study the needs, possibilities and resources of the town regarding community preservation. The committee shall consult with existing municipal boards, including the Conservation Commission, the Historical Commission, the Planning Board, the Highway Department, the Open Space Plan Committee, the Recreation Committee, and the Housing Authority, or persons acting in those capacities or performing like duties, in conducting such studies. As part of its study, the committee shall hold one annual public informational hearing, or more at its discretion, on the needs, possibilities and resources of the town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the town.

(2) The Community Preservation Committee shall make recommendations to the Town Meeting for the acquisition, creation and preservation of open space; for the acquisition, preservation, restoration and rehabilitation of historic resources; for the acquisition, creation and preservation of land for recreational use; for the acquisition, creation, preservation and support of community housing; and for the rehabilitation or restoration of such open space, land for recreational use and community housing that is acquired or created as provided in the Community Preservation Act. With respect to community housing, the Community Preservation Committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites. Recommendations to the Town Meeting shall also include the committee's anticipated costs.

(3) The Community Preservation Committee may include in its recommendation to the Town Meeting a recommendation to set aside for later spending funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund to accomplish that specific purpose or to set aside for later spending funds for general purposes that are consistent with community preservation.

(4) In every fiscal year, the Community Preservation Committee must recommend either that the legislative body spend, or set aside for later spending, not less than 10% of the annual revenues in the Community Preservation Fund for open space (not including land for recreational use); not less than 10% of the annual revenues in the Community Preservation Fund for historic resources; and not less than 10% of the annual revenues in the Community Preservation Fund for community housing.

C: Effective Date

This bylaw shall take effect upon approval by the Attorney General of the Commonwealth, and after all requirements of G.L. c.40, section 32 have been met. Each appointing authority shall have thirty days after approval by the Attorney General or after the acceptance of the Community Preservation Act, which ever comes later, to make the initial appointments referenced in Section A.

This bylaw shall have no effect unless and until the town accepts the Community Preservation Act on an election ballot as provided in G.L. c. 44B.

The Bylaw Committee reported favorably on the proposed amendment.

So voted overwhelmingly on October 23, 2007 at 8:40 PM.

ARTICLE 9: Technology Services. Motion made and seconded to transfer \$10,000 from the Stabilization Fund, to be expended by the Board of Selectmen subject to the requirements of applicable public bidding laws, for the purpose of contracting information technology services and maintenance for the Town Hall computer system. **So voted overwhelmingly with 2/3 required vote declared by the moderator on October 23, 2007 at 8:52 PM.**

Having no further business, the meeting was dissolved at 8:52 PM.

A true record of the proceedings of the Special Town Meeting, October 23, 2007, ATTEST:

Pamela E. Beall, CMMC, Town Clerk

BYLAW APPROVALS

The bylaws changes represented in article 8 (General Bylaws) was submitted for review and approval by the Attorney General. It was returned with approval on NOVEMBER 15, 2007. 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 November 21, 2007.