

ANNUAL REPORT OF THE TOWN CLERK

Calendar Year 2008

Calendar year 2008 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 14th full year of service to the Town of Brimfield.

POPULATION Jan 2008: 3443 Age under 17: 515 Age 65 and over: 451 Federal 2000 Census: 3339	REGISTERED VOTERS Dec 31, 2008: 2550 (includes inactive) Democrats: 586 Republicans: 437 Unenrolled (independent): 1506 Other designations: 16
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Elections and Registrations – In the cycle of elections, 2008 was the busy year of the four-year cycle: February Presidential Primary, May Annual Town Meeting, June General Election, state Primary in September, the combined Federal-State election in November and one Special Town Meeting in November. These events are fully reported below.

Historical Election of 2008 –The run-up to the presidential election of 2008 was very intense. Our voter registration increased 14% between January and November. There was just more of everything—more voters, more absentee ballots, a last minute “special purpose” voting category created by the governor (an administrative nightmare that still makes me kinda mad). Voters were extremely motivated by circumstances. It had been several elections since there was no incumbent running, making the election very fresh, with all new names. As the national parties selected their nominees, it was clear that Americans would have either their first African-American president or their first female vice president.

As elections gathered in the dim morning light of November 4, everyone was enthusiastic and excited to see what the day would bring. It brought Brimfield’s highest total vote ever, and the second highest percentage vote, 81%, exceeding the statewide (72%) and national averages. It was second only to the 1960 contest between Kennedy and Nixon in statewide averages (84%). Before the day was done, 29 dedicated voters worked at the polls, the biggest crew I have ever brought in for any election.

A photo record was kept of the day, from opening jobs to the end. For the Town Clerk that was 17 hours at the Town Hall. This special notebook will be stored in the town archives, as part of our shared election history.

TOTAL VOTES CAST (including special ballots)	2049 (81%)
Baldwin-Castle	7
Barr-Root	10
McCain-Palin	979
McKinney-Clemente	5
Obama-Biden	984

Street Census -- The 2008 street census was conducted on time, with a modest return. The 2009 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.

VITAL EVENTS

2008 marriages recorded: 29
 2008 births recorded: 30
 2008 deaths recorded: 13

DFW SPORT LICENSING

2008 Hunting and Sporting licenses, all classes: 12
 2008 Fishing and Trapping licenses, all classes: 2
 Special Permit Stamps, all classes: 17

DOG LICENSE STATISTICS

Individual dogs licensed, 2008: 427
 Kennels issued, 2008: 26 representing dogs 91
 Unlicensed dogs (rabies current) Dec 31, 2008 = 309
 Unlicensed dogs (rabies expired) Dec 31, 2008 = 288

*(*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)*

Bylaws – The bylaw submission to the Attorney General after the 2008 Town Meeting was especially difficult due to numerous amendments to zoning bylaws. Each vote had to be presented to the Attorney General, documenting the existing bylaw, the bylaw votes by Town Meeting, comparisons, the final bylaw as voted, along with background materials. The package submitted to the Attorney General was 124 pages.

At the 2008 Annual Town Meeting, the town voted to authorize the Town Clerk to work town committees on a recodification of the general bylaws. A last minute request by the Building Inspector added the zoning bylaws to the scope of work. Drafts of the new numbering schemes were presented to all committees which are referenced in the bylaws. The General Bylaw plan was completed in January 2009 and the Zoning Bylaw plan in February of 2009. The recodification will require action by the Annual Town Meeting in 2009.

A number of articles were passed which resulted in a consolidation of personnel bylaws. This was long needed, and had been attempted several times in the past 20 years, with no real success. The revised personnel bylaw, with all additions, has been published as a stand-alone piece and assures that all employees can be treated equitably in all employment related matters.

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. 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 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.

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 2008: \$ 16,251.77
 Town Clerk Fees, Calendar 2008: \$ 2325.70
 Town Clerk Certification Allowance 2008: \$1000.00

Election workers and *Board of Registrars, calendar 2008 payments: (*one election, one town meeting, one special town meeting; not an accounting record*)

Democrats	Republicans	Independents/Others
Joseph DiFabio \$22.50	Philips Carpenter \$24.00	Shirley Backofen \$21.25
Susan Hilker \$49.50	Cynthia Clark * \$813.88	Karen Connors \$27.00
Ron Ignatz - volunteer	Anne Dutka \$90.00	Joan Erban \$252.00
Alicia Lenahan - volunteer	Chris Kelly \$72.00	Carolyn Haley \$90.00
Michael MacFadden \$49.50	Kay Koprowski \$463.50	Sheila Hawk \$22.50
Katie Moloney \$27.00	Adam McCurdy \$24.00	April Learned \$49.50
Pamela Moriarty \$27.00 + volunteer	Sandy Morris \$27.00 + volunteer	Janice Ludeman \$40.50 + volunteer
Lorraine Norton \$463.50	Deb Tierney \$24.00	Sarah Meitzler \$72.00
Diane Panaccione \$72.00	Barbara Spencer \$27.00	Ginger Rousseau \$45.00
Theresa Prospero * \$251.50	Carol Warren \$27.00	Eleanor Snelgrove \$67.50
Beth St Clair \$279.00		Kirsten Weldon \$27.00
	Donald Norton Constable \$97.75	
	William Roberts Constable \$76.50	

Annual Town Meeting Actions, May 19, 2008

The certified budget and recap of all financial articles appears at the end of this report

The 276th Annual Town Meeting, having been duly posted, was called to order by Moderator Michael Miller at 7:00 PM on May 19, 2008 at the Town Hall. The Town Clerk reported a quorum was present (100 persons) and, in the absence of Moderator Robert Cheney, The moderator made announcements for various charitable endeavors and upcoming town events.

* denotes articles taken out of order

PROCEDURAL NOTE: The articles below marked (*) are routine articles requiring annual approval and have been approved at previous town meetings. The Finance Committee may, at its discretion, make a single consent motion for approval of these routine authorizations (Articles: 8, 9, 11, 12, 13)

ARTICLE 1: Motion made and seconded to hear reports of the officers and agents heretofore chosen by the Town. **So voted without dissent on May 19, 2008 at 7:25 PM.**

ARTICLE 2: Motion made and second to establish the following revolving funds under MGL Chapter 44, Section 53E ½.

An amendment was offered and seconded and voted without dissent to 1)strike the word "inspector," in the fourth column and insert the word "department" in its place, 2) amend the amount in the fifth column to be \$40,000, and 3) strike the text in the sixth column and replacing it with these "If re-authorized, amount in excess of \$7000 (excluding inspection fees payable to the Inspector) in FY 09 shall close to the general fund. \$2000 shall carry forward to the Building Inspector Revolving Fun in subsequent fiscal year and \$5000 be transferred to the Demolish Building Account."

The main motion was voted, as amended, without dissent on May 19, 2008 at 7:29 PM.

NAME	AUTHORIZED TO AND FOR THE USE OF	REVENUE SOURCE	AUTHORIZED EXPENDITURES	FY 08 MAXIMUM TO BE EXPENDED	DISPOSITION AT CLOSE OF FY 09
Dog Revolving Fund	Town Clerk	Licensing fees	General administration of dog licensing	\$2000	If re-authorized, amount in excess of \$2000 in FY09 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 <u>department</u>	\$30,000 \$40,000	If re-authorized, amount in excess of \$1000 (excluding inspection fees payable to the Inspector) in

					FY09 shall close to the general fund If re-authorized, amount in excess of \$7000 (excluding inspection fees payable to the Inspector) in FY 09 shall close to the general fund. \$2000 shall carry forward to the Building Inspector Revolving Fun in subsequent fiscal year and \$5000 be transferred to the Demolish Building Account.
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 FY09 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	Board of Health	Inspection fees	Inspection services and related expenses	\$12,000	If re-authorized, amount in excess

Inspection Revolving Fund			of plumbing and gas inspections		of \$1000 (excluding plumbing and gas fees payable to the Inspector) at close of FY09 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 FY09 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 FY09 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 FY09 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 and truck time	\$10,000	If re-authorized, amount in excess of \$1000 at close of FY09 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 FY09 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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ARTICLE 3: Motion made and seconded to raise and appropriate \$178,096.00 for salaries for various elected town officers for the ensuing fiscal year July 1, 2008 to June 30, 2009. **So voted without dissent on May 19, 2008 at 7:31 PM.**

ARTICLE 4: Motion made and seconded to raise and appropriate \$8,027,273.00 for various departments and activities of the Town, payment of debts and defraying of expenses of the ensuing fiscal year, July 1, 2008 to June 30, 2009, and direct how the same shall be expended.

An amendment was offered, seconded and **defeated overwhelmingly** to change budget line 25 to \$2500 and reducing line 26 to -0.

An amendment was offered, seconded and **defeated overwhelmingly** to change line 26 to \$5000.

The main motion, for the budget as presented without amendment was voted without dissent on May 19, 2008 at 8:05 PM.

ARTICLE 5: To see if the Town will vote to raise and appropriate, or otherwise transfer from available funds, a sum of money to pay unpaid bills or overdrawn accounts for FY2008; or, take any other action thereon. (Board of Selectmen) **PASSED OVER WITHOUT ACTION.**

ARTICLE 6: To see if the Town will vote to raise and appropriate, or otherwise transfer from available funds, a sum of money to pay unpaid bills or overdrawn accounts for any fiscal year prior to FY2008; or, take any other action thereon. (Board of Selectmen) **PASSED OVER WITHOUT ACTION.**

ARTICLE 7: Motion made and second 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 on May 19, 2008 at 8:07 PM.**

***ARTICLE 8:** Motion made and second 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 on May 19, 2008 at 8:07 PM.**

***ARTICLE 9:** Motion made and second 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 on May 19, 2008 at 8:07 PM.**

ARTICLE 10: To see if the Town will vote to raise and appropriate, or otherwise transfer from available funds, the sum of \$ _____ 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; or, take any other action thereon. (Highway Surveyor) **PASSED OVER WITHOUT ACTION.**

***ARTICLE 11:** 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 on May 19, 2008 at 8:07 PM.**

***ARTICLE 12:** 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, 2008 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 on May 19, 2008 at 8:07 PM.**

***ARTICLE 13:** 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 on May 19, 2008 at 8:07 PM.**

ARTICLE 14: To see if the Town will vote to raise and appropriate, or otherwise transfer from available funds, the sum of \$500 to be added to the Conservation Fund as authorized by M.G.L. chapter 40, section 5 (51); or, take any other action thereon. (Conservation Committee) **PASSED OVER WITHOUT ACTION.**

ARTICLE 15: To see if the Town will vote to raise and appropriate, or otherwise transfer from available funds, the sum of \$20,000 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; or, take any other action thereon. (Highway Surveyor) **PASSED OVER WITHOUT ACTION.**

ARTICLE 16: Motion made and seconded to authorize the Town Clerk to codify the town's general and zoning bylaws to bring greater conformity to the headings, sub-headings, section and sub-sections and outlining format. A draft outline shall be submitted to the Board of Selectmen, the Moderator and the Bylaw Committee. The Bylaw Committee shall include the proposed outline at a hearing held under Town Bylaws, Article I, Section 5B. **So voted without dissent on May 19, 2008 at 8:13 PM.**

***ARTICLE 17:** Motion made and seconded to amend the General Bylaws ARTICLE XXIX, Personnel Board and Personnel Plan, by removing it in its entirety and replacing it with the following:
ARTICLE XXIX: Personnel Bylaw

Section 1: General Authority

- 1.1 The Board of Selectmen shall administer the provisions of this bylaw and shall determine all questions arising thereunder. The Board of Selectmen shall, from time to time, establish rules for the conduct of its affairs not inconsistent with this bylaw, and may at any time amend or revoke same. Such rules may provide for the appointment of subcommittees, advisors and consultants, who may make recommendations for action by the Board of Selectmen.
- 1.2 Within its appropriation, if any, the Board of Selectmen may employ such personnel and incur such expenses as it deems necessary.

Section 2: Statutory Authority

This Personnel Bylaw is adopted pursuant to the authority granted by the so-called Home Rule Amendment, Article LXXXIX, of the Constitution of the Commonwealth and MGL c. 41, §§108A and 108C.

Section 3: Definitions

For the purpose of this Bylaw, the following definitions shall apply:

Appointed Official – An appointed person chosen when an elected official leaves a position other than at the customary time of election. The replacement will be appointed in accordance with state statutes. The compensation for appointed officials, if any, shall be handled similarly to Elected Officials.

Appointing Authority – The Board of Selectmen is the appointing authority for all appointed Town positions unless statute requires otherwise, and, excludes employees of the U61/TRSS.

Benefits Eligibility – Regular employees are eligible for benefits according to terms of policies approved by the Board of Selectmen and/or by Town Meeting for those benefits by law.

Continuous Employment – Employment uninterrupted except for required military service and for authorized vacation, sick leave and other approved leaves.

Elected Official – An elected person chosen for a position in a Town election or appointed to such a position to fill a vacancy.

Employee – Persons hired to work for the Town, excluding Appointed Officials and employees under separate contract and/or employees under the direction of Union 61/Tantasqua Regional School System. Employees shall be full-time, part-time, or temporary/seasonal, as defined below.

Extended Family – The extended family shall include the employee's brother-in-law, sister-in-law, grandfather, grandmother, grandchild, mother-in-law and father-in-law.

Immediate Family – The immediate family shall include the employee's spouse, child, parent, and siblings.

Town - Town of Brimfield, Massachusetts.

Work Status Definitions

Exempt/Non-Exempt Employee – Pursuant to the Fair Labor Standards Act (FLSA), 29 USC, Section 201-216 (as amended), employees holding certain positions are deemed to be exempt from the overtime requirements of the FLSA ("exempt employees"), while employees holding other types of positions are entitled to overtime under the FLSA. The determination of whether a particular position is exempt from the overtime requirements of the FLSA is often determined on a case-by-case basis, but the following general criteria apply.

An exempt employee is a salaried employee who earns more than \$455/week and is employed in an executive, administrative or professional capacity and the position the employee holds meets one of the following classifications:

Executive – Primary duty is to manage a department, direct the work of other employees and participate in the hiring, firing, promotion or other decisions affecting the status of an employee.

Administrative – Primary duty is office or non-manual work directly related to management policies of directly assisting an executive that includes the exercise of discretion and independent judgment with respect to matters of significance.

Professional – Primary duty is office or non-manual work that requires advance knowledge acquired by specialized study; work is intellectual and the result is not standardized, or, requires invention, imagination, originality or talent in a recognized field of artistic or creative endeavor.

A non-exempt employee may include a safety employee who is a "first responder," or one whose primary duty is not executive, administrative or professional in nature, and who, whether paid a salary or hourly wage, is entitled to overtime pay whenever his/her actual hours exceed 40 in the standard work week.

Once the standard work week is established, it may not be changed in order to avoid payment of overtime.

Full-Time Employee – An employee who regularly works 35 or more hours per week throughout the year. Unless otherwise provided, an employee in this category is entitled to all benefits as defined in this document. Town of Brimfield employees who currently work 30 or more hours per week on the date the Personnel Bylaw is accepted by town meeting shall be treated as full time employees as defined and subject to all benefits awarded to full time employees so long as said employee(s) maintains a regular minimum work schedule of 30 hours or more weekly.

Independent Contractor – A person who is free from control and direction in connection with the performance of the service to the Town, both under a contract for the performance of service and in fact; the service is performed outside of the usual course of the business of the Town; and the person is customarily engaged in an independently established trade, occupation, profession or business of the same nature as that involved in the service performed. Independent contractors are exempt from federal and state withholding requirements.

Part-Time Employee – An employee who regularly works at least 20 hours per week up to 35 hours a week throughout the year. Unless otherwise provided, an employee in this capacity is entitled to all benefits on a pro-rated basis in relation to the regular number of hours worked in the appointed position and as defined in this document. Hours worked as an elected official may not be combined with hours worked in an appointed capacity in determining the employee's status.

Temporary and Seasonal Employee – An employee in a full or part time position which is not likely to require the services of an employee on a year-round basis. Seasonal employees and employees hired for a specific project are considered temporary employees.

Volunteer – A person who performs services to the Town without promise, expectation, or receipt of compensation for the services rendered. A volunteer performing such services receives either no compensation or is paid expenses, reasonable benefits or a nominal fee to perform such services. For the purpose of this section, "reasonable benefits" and "nominal fee" shall mean a benefit or nominal payment to a volunteer that is not a substitute for compensation or tied to the volunteer's productivity. A volunteer must also offer their services freely and without coercion from the Town, and they must not be otherwise employed by the Town to perform the same services for which they propose to volunteer. A volunteer is exempt from the receipt of the federal minimum wage, but they may be deemed an "employee" who is subject to federal and state withholding requirements if they receive a non-exempt benefit or a nominal fee. Unless otherwise required by law, or provided by this policy, a volunteer shall not receive Town benefits.

Section 4: Application

All town departments and positions in the town service for which compensation is paid (whether full-time, part-time, or temporary/seasonal) shall be considered as being within the scope of coverage, unless otherwise stated, and shall be subject to, and have the benefits of, this bylaw, with the following exceptions and/or limitations:

- 4.1 In conformance with Chapter 41, Section 108 of the General Laws, as amended, salaries paid to elected town officials shall be established annually by vote of the Town Meeting. The Board of Selectmen shall, however, maintain the required records to properly evaluate the worth of such service, and on request, shall make recommendations as to equitable salaries for these positions.
- 4.2 Positions under the direction and control of the School Committee in conformance with Chapter 41, Section 108A of the General Laws, as amended, shall not be included unless such inclusion shall be at the specific request of the School Committee.

Section 5: Job and Position Descriptions

The Board of Selectmen may amend, revise or create job and position descriptions, following policies which the Board will adopt. The amendment or revision of a job description may be initiated by an employee, a member of the board, or, the employee's supervisor. Subsequent changes in compensation may be subject to available appropriations for same.

Section 6: Personnel Policies

- 6.1 The Board of Selectmen may include such policies as determined to be necessary to the effective management of the town's workforce. Policies may include, but are not limited to, procedures for revision of individual job and position descriptions, procedures for classification or grade changes for individuals, drug-free workplace, sexual harassment, hiring procedures, termination procedures, recognition program, and safe workplace policies.
- 6.2 Supplementary policies shall always be consistent with federal law and state statutes, shall be adopted by a majority vote of the Board membership;

So voted without dissent on May 19, 2008 at 8:44 PM.

ARTICLE 18: Motion made and seconded to amend the General Bylaws ARTICLE XXIV: Personnel Bylaw: Group Health Insurance by removing it in its entirety and moving it to ARTICLE XXIX: Personnel Bylaw with the following new title:

Section 12: Group Health Insurance

So voted without dissent on May 19, 2008 at 8:16 PM.

ARTICLE 19: Motion made and seconded to amend the General Bylaws, ARTICLE XXIX, Personnel Board and Personnel Plan, by accepting and inserting the following:

Section 7: Holidays and Holiday Pay

Employees scheduled to work on a continuing basis for 20 or more hours per week are eligible for holiday pay. The following are paid holidays:

- *New Year's Day
- President's Day
- Memorial Day
- Labor Day
- *Veterans Day
- *Christmas Day
- Martin Luther King, Jr. Birthday
- Patriot's Day
- *Independence Day
- Columbus Day
- Thanksgiving

Holiday pay for employees working less than 35 hours, but more than 20 hours per week, shall be the pro-rated schedule of hours (or the employee's regularly scheduled hours for that week day that the holiday falls on). Temporary/seasonal employees will not receive holiday pay.

Example: An employee who normally works a five-day, 25-hour work schedule each week (5 days @ 5 hours each day), would be entitled to 5 hours holiday pay.

Holidays falling on Saturday shall be observed on Friday and holidays falling on Sunday shall be observed on Monday. Should an employee be required to work on the holiday, an employee shall receive either compensatory time or compensation on a time and one-half basis for every hour worked. * Holidays denoted above with asterisk shall be observed on the day on which they occur.

An amendment was offered, seconded and **passed overwhelmingly** to mark certain days as fixed date holidays and add ****** Holidays denoted above with asterisk shall be observed on the day on which they occur."

An amendment was offered, seconded and **passed overwhelmingly** to add the following explanation with in the text: Example: An employee who normally works a five-day, 25-hour work schedule each week (5 days @ 5 hours each day), would be entitled to 5 hours holiday pay.

The main motion was voted, with amendments noted, without dissent on May 19, 2008 at 8:16 PM.

ARTICLE 20: Motion made and seconded to amend the General Bylaws, ARTICLE XXIX, Personnel Board and Personnel Plan, by accepting and inserting the following:

Section 8: Bereavement Leave

An employee shall be entitled to bereavement leave, without loss of pay and without having any part of sick leave benefits charged against their accumulated sick time, of up to five working (5) days, for the purpose of arranging for and attending the funeral of a member of the employee's immediate family, and up to three (3) working days shall may be granted by the employee's Supervisor for the purpose of arranging for and attending the funeral of a member of the employee's extended family, as defined above, to also include an aunt, uncle or other relative not otherwise defined.

An amendment was offered, seconded and **passed overwhelmingly** to strike the work "may" and replace with the word "shall".

An amendment was offered, seconded and **defeated overwhelmingly** to strike the words "...or other relative not otherwise defined."

The main motion, with one amendment noted, was voted without dissent on May 19, 2008 at 8:32 PM.

ARTICLE 21: Motion made and seconded to amend the General Bylaws, ARTICLE XXIX, Personnel Board and Personnel Plan, by accepting and inserting the following:

Section 9: Vacation Leave

9.1 Vacation days are to be used in the year awarded, July 1 – June 30. In the rare event that an employee cannot use vacation days in the year awarded, up to five (5) days shall may be carried over with the supervisor's advance approval into the next fiscal year and must be used prior to September 1 of the current calendar year. Any other unused vacation time is forfeited. The Town will not pay an employee in lieu of vacation time.

9.2 Employees are eligible for vacation based upon completed service as of June 30th each year. Vacation is credited to the employee as of July 1. Vacation days may be taken after 3 months of employment. Vacation days may be used in increments of ½ day.

9.3 Employees should request the use of vacation days by filing a vacation day request form with their supervisors. Requests will be reviewed based upon staffing requirements and other factors.

9.4 Full Time Employees Vacation Schedule:

<u>Completed Service as of June 30:</u>	<u>Vacation:</u>
Less than 5 years	2 weeks
5 years but less than 10 years	3 weeks
10 years but less than 25 years	4 weeks
25 years of more	5 weeks

9.5 Employees hired during the year will receive vacation as follows:

<u>If Hired In:</u>	<u>Vacation:</u>
July or August	8 days
September or October	6 days
November or December	4 days
January to March	2 days
April to June	0 days

9.6 Vacation days for Part Time employees are awarded using the same schedule but are pro-rated on their regular work week vs. a 35 hour work week. (Example: an employee that normally works a 25 hour schedule each week is entitled to 7 days vacation for less than 5 years of service (25/35=.71, .71*10 days = 7.10, rounded to 7 days).

9.7 Vacation time is paid at the employee's base pay rate at the time of vacation. It does not include overtime or any special other form(s) of compensation.

An amendment was offered, seconded and **passed overwhelmingly** to strike the work "may" and replace with the word "shall".

An amendment was offered, second, and **defeated overwhelmingly** to strike "25 year or more = 5 weeks"

The main motion, with one amendment noted, was voted without dissent on May 19, 2008 at 8:37 PM.

ARTICLE 22: Motion made and seconded to amend the General Bylaws, ARTICLE XXIX, Personnel Board and Personnel Plan, by accepting and inserting the following:

Section 10: Personal Leave

- 10.1 Employees shall be granted up to three (3) days leave with pay in each fiscal year for conducting personal business. Employees must complete a Request for Leave form to request use of personal time in advance of the required date of personal leave. Part time employees who work at least twenty (20) hours per week are eligible for pro rated leave, consistent with regular hours worked, each fiscal year.
- 10.2 Unused personal leave will not be compensated should the employee leave the employment of the town;
- So voted without dissent on May 19, 2008 at 8:38 PM.**

ARTICLE 23: Motion made and seconded to amend the General Bylaws, ARTICLE XXIX, Personnel Board and Personnel Plan, by accepting and inserting the following:

Section 11: Sick Leave

- 11.1 Sick leave is established for the purpose of sustaining income when an employee is ill. For the protection of the Town, the supervisor may require documentation of illness if an illness requires more than four (4) sick days in succession. Sick leave will be granted only to full and part time employees who work 20 or more hours per week on a continuous basis, accruing at a rate of one (1) sick day per month throughout the year. Sick leave can not be used in advance of accruing it.
- 11.2 Sick leave compensation shall be at the employee's rate of pay in effect at the time the leave is used. Sick leave may be accrued up to a maximum of twenty (20) days.
- 11.3 Upon successful completion of the probationary period, an employee is eligible for earned sick leave time retroactively to the date of hire. Unused sick leave will not be compensated should the employee leave the employment of the Town;
- So voted without dissent on May 19, 2008 at 8:41 PM.**

ARTICLE 24: Motion made and seconded to amend the General Bylaws ARTICLE XXX: Removal of Certain Appointed Positions, by removing it in its entirety.

So voted without dissent at 8:44 PM on May 19, 2008.

THE PLANNING BOARD MADE REFERENCE TO WRITTEN REPORT OF FAVORABLE RECOMMENDATIONS AND MOTIONS FOR ALL ZONING ARTICLES.

ARTICLE 25: Motion made and seconded to amend the Zoning Bylaw by striking in its entirety Section II-E, Frontage, and replacing it with the following:

Section II-E. Frontage - Frontage, as used in this bylaw, means that portion of a property that is located within 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 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.

So voted on call of the moderator overwhelmingly 2/3 vote in favor at 9:17 PM on May 19, 2008.

ARTICLE 26: Motion made and seconded to amend the Zoning Bylaws by striking XII, Intensity Regulations, Sections V-A and Section V-B, and replacing them with the following:

Section V-A. A dwelling, building or structure erected in any district shall be located on a lot having not less than the minimum requirements set forth in the table below. No existing lot shall be changed as to size or shape so as to result in the violation of the requirements set forth below, and no more than one primary structure shall be located on each lot.

District	Minimum Lot Area (Sq.Ft.)(a)	Minimum Lot Frontage (Ft.)(a)	Minimum Front Yard (Ft.)(b)	Minimum Side Yard (Ft.)	Minimum Rear Yard (Ft.)	Building Height Limit (Ft.)©	Maximum Lot Coverage (inc. accessory buildings)
Residential	65,340	150	25	15	40	35 Must comply with State Bldg. Code	30%
Agricultural-Residential	65,340	150	35	15	40	35 Must comply with State Bldg. Code	20%
Business	65,340	150	25	15 (d)	40 (e)	40	60% Business 40% Residential
Industrial	65,340	250	25	40 (d)	40 (e)	50	60%

FOOTNOTES:

- Existing non-conforming lots may be built upon and pre-existing non-conforming structures or uses may be extended or altered only in accordance with the applicable provision of Chapter 40A, Section 6 of the Mass General Laws, or Section V-C of this bylaw.
- To be measured from the right-of-way line where a plan of the way is on file with the Registry of Deeds or, in the absence of such a plan, from a line 25 feet from and parallel with the center line of the traveled way.
- The limitation on height of buildings shall not apply in any district to chimneys, ventilators, towers, spires, or other ornamental features of buildings which are in no way used for living purposes.
- Side yard dimensions will be 50 feet when adjacent to Agricultural/Residential District and Residential District.
- Rear yard dimension will be 50 feet when adjacent to Agricultural/Residential District and Residential District.

Amendment offered and seconded and defeated overwhelmingly to modify section d of the footnotes.

Amendment offered and seconded and passed overwhelmingly to restore "35 feet" in the table where there is reference to the "state building code."

The main motion as amended was voted overwhelmingly on card count with 2/3 vote, 43 in favor and 20 opposed at 9:37 PM on May 19, 2008.

ARTICLE 27: Motion made and seconded to amend the Zoning Bylaws by striking in its entirety Section VI-F-1, Projects Requiring Site Plan Approval, and replacing it with the following:

1. Projects Requiring Site Plan Approval:

The Construction or exterior alteration of or change of use of:

- A non-residential/agricultural structure or use
- A commercial or business structure or use
- An industrial structure or use
- Any other use specified in this zoning bylaw which indicates Site Plan Approval is required

No building permit, special permit or other municipal permit shall be issued and no application for such permits shall be accepted for any of the above uses unless a site plan has been endorsed by the Planning Board after consultation with other boards, including but not limited to the following: Building Inspector, Board of Health, Board of Selectmen, Conservation Commission, Highway Department, Fire Department and Police Department. The Planning Board may waive any or all requirements of site plan review for external enlargements of less than 25% of the existing floor area.

So voted overwhelmingly on call of the moderator of 2/3 vote, which was challenged. Passed on card count with 2/3 vote, 51 in favor and 17 opposed at 9:40 PM on May 19, 2008.

Motion made and seconded to reconsider the vote on the above. Moderator accepted the motion. The motion failed on 2/3 vote called by the moderator, with only one voice in favor, at 9:40 PM.

ARTICLE 28: Motion made and seconded to amend the Zoning Bylaw, Section VI-F-3-a by striking the last sentence which reads "The Planning Board shall within five (5) days, transmit one copy each to the Building Inspector, Board of Health, Conservation Commission, Board of Selectmen, Highway Department, Fire Department and Police Department."

So voted overwhelmingly on call of the moderator of 2/3 vote at 9:41 PM on May 19, 2008.

ARTICLE 29: Motion made and seconded to amend the Zoning Bylaws Section VI-F- 4. Required Site Plan Contents, by striking the first paragraph and replacing it with the following:

All site plans shall be prepared by a registered architect, landscape architect, or professional engineer and a professional land surveyor unless this requirement is waived by the Planning Board because of unusually simple circumstances. All site plans shall be on standard 24" x 36" sheets and shall be prepared at a sufficient scale to show:

So voted overwhelmingly on call of the moderator of 2/3 vote at 9:44 PM on May 19, 2008.

ARTICLE 30: Motion made and seconded to amend the Zoning Bylaw, Section VI-F-5-a by striking it in its entirety and replacing it with the following:

- a. The Planning Board shall refer copies of the application within 15 days to the Building Inspector, Board of Health, Conservation Commission, Board of Selectmen, Highway Department, Fire Department and Police Department who shall review the application and submit their recommendations and comments to the Planning Board. Failure of Boards to make recommendations within 35 days of the referral of the application shall be deemed to be lack of opposition.

So voted overwhelmingly on call of the moderator of 2/3 vote at 9:44 PM on May 19, 2008.

ARTICLE 31 Motion made and seconded to amend the Zoning Bylaws Section VII-C, Trailers by striking it in its entirety and replacing it with the following:

VII-C. The provisions of VII-A shall not apply to licensed vendors at flea market grounds in Business and Agricultural-Residential zones for a period not to exceed seven (7) consecutive days three (3) times per year;

So voted overwhelmingly on call of the moderator of 2/3 vote at 9:45 PM on May 19, 2008.

ARTICLE 32: Motion made and seconded to amend the Zoning Bylaws Section VIII-A, Enforcement, by striking it in its entirety and replacing it with the following:

VIII-A Enforcement. The Board of Selectmen shall appoint a Zoning Officer for a term of one (1) year who is charged with enforcing this bylaw. No building shall be built or altered and no use of land or building shall be begun or changed without a permit. No building shall be occupied until a certificate of occupancy has been issued.

The provisions of this bylaw, the conditions of a permit granted under this bylaw, or any decisions rendered by the Zoning Board of Appeals or Planning Board under this Bylaw, may be enforced by the Zoning Officer by non-criminal complaint pursuant to the provisions of General Laws, Chapter 40, Section 21D. The fine for any violation disposed of through this procedure shall be one hundred dollars (\$100.00) for the first offense, two hundred dollars (\$200.00) for the second offense, and three hundred dollars (\$300.00) for the third and subsequent offense. Each day of a violation is considered a separate offense.

Motion made and seconded to amend the bylaw by changing the works "may" to the word "shall." Amendment defeated overwhelmingly.

The main motion, without amendment was voted overwhelmingly on call of the moderator of 2/3 vote at 9:55 PM on May 19, 2008.

ARTICLE 33: Motion made and seconded to amend the Zoning Bylaw by striking in its entirety Section VIII-E, Applications for Permits, and replacing it with the following:

VIII-E. Applications for permits. Any building, sign or structure to be erected, altered or changed in use shall require a building permit from the Inspector of Buildings.

The Inspector of Buildings shall first determine that no town bylaw affecting land, building or structure has been or will be violated, and may require any information needed in order to determine the legality or illegality of the proposed use. Any application for such a permit shall be accompanied by a site plan, showing the shape and dimensions of the building, lot to be built on including the locations and size of all buildings or structures affected.

The Inspector of Buildings shall take action in writing on an application for a permit, either granting the permit or disapproving the application, within thirty (30) calendar days of receipt of the application.

Buildings begun but not completed within two (2) years of the date of the permit shall be deemed a violation of this bylaw and enforcement shall fall under section VIII-A Enforcement of this Zoning By-law.

Amendment offered and second to add the word "calendar" to paragraph two to read "thirty (30) calendar days"; amendment passed overwhelmingly.

The main motion, as amended, was passed overwhelming on call of the moderator for 2/3 vote at 9:58 PM on May 19, 2008.

ARTICLE 34: Motion made and seconded to amend the Zoning Bylaw by striking in its entirety Section VIII-F,-3-0, Rate of Development Applicability, and replacing it with the following:

3.0 Applicability

This bylaw applies to the issuance of building permits for all new residential dwelling units, and excludes rebuilding of an existing residential dwelling unit.

So voted overwhelmingly on call of the moderator of 2/3 vote at 10:01 PM on May 19, 2008.

ARTICLE 35: Motion made and seconded to amend the Zoning Bylaw, Article VIII-B. Board of Appeals, by striking it in its entirety and replacing it with:

VIII-B. Board of Appeals

- A. There shall be a Zoning Board of Appeals of three (3) members and two (2) associate members to be appointed by the Selectmen, as provided in Chapter 40A of the General Laws, which shall act on all matters within its jurisdiction under this bylaw and Chapter 40A of the General Laws.
- B. The Board of Appeals shall have the following powers:
 - 1. To hear and decide appeals, as provided in Chapter 40A, Section 8 of M.G.L.
 - 2. To hear and decide petitions for variances set forth in Chapter 40A, Section 10 M.G.L.
 - 3. To hear and decide appeals from decisions of a zoning administrator, if any, in accordance with Chapter 40A, section 13.
 - 4. To hear (Change the “d” in the second word to “r”) and decide applications for Findings upon which the Board is empowered to act under said ordinance or ordinances.

If the rights authorized by a variance are not exercised within one year of the date of grant of such variance, they shall lapse, and may be re-established only after notice and a new hearing.

Motion failed overwhelmingly on call of the moderator failing to attain of 2/3 vote at 10:28 PM on May 19, 2008.

ARTICLE 36: To amend the Zoning By-laws by inserting a section VIII-G, Special Permits, was **passed over without action.**

ARTICLE 37: To amend the Zoning By-laws section IV-A-2, Residential Districts, relative to special permits was **passed over without action.**

ARTICLE 38: To amend the Zoning By-laws section IV-B-2, Agricultural/ Residential Districts relative to special permits was **passed over without action.**

ARTICLE 39: To amend the Zoning By-laws by section IV-C-2, Business Districts, relative to special permits was **passed over without action.**

ARTICLE 40: To amend the Zoning By-laws by section IV-D-2, Industrial Districts, relative to special permits was **passed over without action.**

ARTICLE 41: To amend the Zoning By-laws section VI-G-10 Procedures and Pre-Application Review, relative to special permits, was **passed over without action**

ARTICLE 42: To amend the Zoning By-laws section VI-H, Common Driveways, relative to special permits, was **passed over without action.**

ARTICLE 43: Motion made and seconded to amend the Zoning Bylaws by inserting in Section IV-B-1 Agricultural – Residential Districts, Permitted Uses, the following:

- h. Permitted vendors shall be allowed to park and occupy house trailers which contain eating and sleeping accommodations on the grounds of a flea market owner/operator for a period not to exceed 7 consecutive nights during the months of May, July and September. This temporary use will allow vendors to protect their wares
- i. Earth removal for the following:
 - a. Residential driveway construction, provided that the quantity of materials removed does not exceed that actually and reasonably necessary displaced by the construction of the driveway.
 - b. Construction of a principal or accessory use permitted by this section as evidenced by a current and valid building permit – provided that the quantity of materials removed does not exceed that actually displaced by the portion of the principal or accessory use below finished grade.
 - c. Earth removal operations conducted by the Town of Brimfield

- d. Prior to undertaking any earth removal activities under this section, the applicant must obtain written authorization from the Building Inspector, which authorization shall specify the allowable location and extend of earth removal activities.

Motion failed overwhelmingly on call of the moderator failing to attain of 2/3 vote at 10:40 PM on May 19, 2008.

ARTICLE 44: To amend the Zoning Bylaws by striking section IV-B-2-c, relative to new section for soil, gravel and loam removal was **passed over without action.**

ARTICLE 45: Motion made and seconded to amend the Zoning Bylaws by adding a Section VI-I, Earth Removal, that states the following:

Section VI-I. Earth Removal

A. Purpose

The removal of earth materials can lead to environmental, topographical, and aesthetic degradation within the Town of Brimfield. The intent of the Town under this section is to mitigate the impact of construction on nearby properties and neighborhoods and the Town as a whole by regulating earth removal.

The zoning board shall be the Special Permit Granting Authority for the purpose of this Earth Removal Bylaw.

B. Definition

“Earth materials” are the soils, subsoil and rock that make up the topography of the land as it exists prior to movement or removal. Earth materials include, but are not limited to, sod, loam, sand, clay, gravel, stone, quarry stone, peat or mineral products.

C. Special Permit

1. Requirements - Earth removal may take place with a Special Permit and Site Plan Approval from the zoning board on lots within the following zoning districts: Business, Agricultural-Residential and Commercial. It is prohibited in all other districts. Applications must be filed in accordance with M.G.L. Chapter 40A, Section 9, and the procedures found in this Bylaw, as well as any rules and regulations that the zoning board may from time to time adopt, pursuant to MGL chapter 40A, section 9, and the applicant shall provide the Conservation Commission with a copy of the application. Those Special Permits issued prior to the adoption of this Bylaw will remain valid in any location provided the use has not been discontinued for 2 years or more. If the use has been discontinued for 2 years or more or if the Special Permit was not properly exercised or recorded at the Registry of Deeds within such two-year period, the owners of those operations shall comply with this Bylaw.

In order to be considered valid and in force, a Special Permit issued under this Bylaw must be recorded at the Registry of Deeds and proof of recording provided to the zoning board.

2. Application – In addition to meeting the Special Permit Application Requirements set forth above, the Applicant shall submit the following to the zoning board:

- a. Location of the proposed excavation
- b. Statement of purpose of the earth removal
- c. Plan of the land involved showing:
 - all existing and proposed features, property lines, existing elevations at 10-foot intervals
 - proposed elevations at 10-foot intervals including the finish grade after the completion of the proposed excavation

- water bodies, flood plains, wetlands, drainage structures, direction and rate of groundwater flow, and private and public wells
- d. Estimated quantity of material proposed for removal
- e. Erosion control measures
- f. Approximate date of commencement and anticipated duration of the earthwork
- g. Measures proposed for mitigating potential noise, dust, visual impact and other waste or emissions from the site
- h. List of equipment to be used on the site and number and type of vehicle trips per day during hauling, including the routes the vehicles will utilize
- i. Restoration standards including elevations, grades, distribution of topsoil, planting and drainage plans
- j. Location of any proposed structures, both permanent and temporary.
- k. Required re-use plan on a scale sufficient to show finish grades, and containing planned re-use including landscaping and suitable erosion control
- l. Evidence of compliance with Storm water Management Regulations and all other required permits including but not limited to Building, Planning, and Conservation shall be provided to the Zoning board prior to commencement of operations

3. General Conditions/Operating Standards

In addition to the following general conditions, any other reasonable requirements may be imposed by the Zoning board to protect plant and animal habitat, property values and the town from permanent or temporary hazards including those which may result from conditions after excavation operations have ceased. Requirements may be imposed on material handling methods on site or transport of materials through the town. Said requirements may include: grading, seeding, planting, fencing necessary for public safety, methods of removal, location and use of structures, hours of operation, routes of transportation, drainage control and disposition of waste incident to the operation.

- a. No excavation shall be permitted below the grade of a road bounding the property at any point nearer than 100 feet to such road.
- b. No excavation below natural grade shall take place within 100 feet of any property 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 extraction.
- c. No material shall be removed below an elevation which is five feet above the historical high groundwater table (as determined from on-site monitoring wells and historical water table fluctuation data compiled by the U.S.G.S., whichever is higher). The property owner is responsible for the proper installation of a monitoring well. In addition, no slope created by the removal operation shall be greater than 3:1.
- d. The total area within the lot under excavation shall not exceed five acres at any one time. Said 5-acre excavated area must be restored to the standards set forth in sub-paragraph "g" below, and in accordance with any restoration conditions of the special permit prior to beginning excavation operations on another area.
- e. An opaque fence or solid barrier at least 6 feet high shall be erected to limit access where excavation is occurring.
- f. All buffer areas shall be vegetated with native trees and shrubs, maintaining naturally existing vegetation wherever possible and planting and maintaining native vegetation where necessary, to screen neighboring properties from visual noise, dust and other impacts of the operation.
- g. Upon completion of the operation, all excavated areas shall be covered with no less than 4 inches of loam, brought to finish grade and seeded in a manner sufficient to prevent soil erosion.
- h. No excavation of earth products shall be allowed within the Floodplain District if the result will lower the water table or interfere with natural flow patterns or reduce the flood storage capacity.

- i. A permit for any earth products removal may be issued for a period not to exceed 5 years. Upon re-application, the Zoning board may issue one or more extensions of said permit, none of which shall exceed 5 years.
- j. The Zoning board may require a reasonable performance bond in an amount sufficient to ensure compliance with this section and with the terms of the Special Permit.
- k. The required re-use plan or any part thereof that applies to an area where the earth removal use has been abandoned shall be put into effect within 1 year of abandonment.

4. Enforcement

The Zoning Officer may issue a Cease and Desist Order for a violation of the Special Permit and shall also be responsible for monitoring the performance bond. The zoning board together with the Zoning Officer shall review the amount of the bond every 2 years and may require an increase in the bond, if necessary, to ensure compliance with the terms of the Special Permit, including any amendments. Failure of the applicant to post such additional bond amount shall result in immediate termination of the special permit. The bond amount shall not be reduced nor shall the bond be released until the applicant has certified in writing and the Zoning Officer has determined and confirmed in writing that all conditions of this section and the Special Permit have been met.

5. Inspections

Inspections of earth removal operations permitted under this Bylaw shall be conducted, at minimum, every 2 years prior to bond review and may be conducted without notice at any time by the Zoning Officer.

6. Exceptions

Earth removal activities incidental to a residential use shall fall under section IV-B-l-i of the zoning by-laws. The Building Inspector shall determine whether a special permit is necessary for proposed earth removal activities.

Motion failed overwhelmingly on call of the moderator failing to attain of 2/3 vote at 10:55 PM on May 19, 2008.

ARTICLE 46: Motion made and seconded to amend the General Bylaws by striking Article I, Section 7-4, Building/Zoning, and replacing it with the following:

c.) Building/Zoning – The non-criminal method of disposition may be used for building and zoning violations issued by the Brimfield Building/Zoning Officer or his agent, pursuant to state laws, codes and regulations to the full extent authorized by MGL Chapter 40, Section 21D and this non-criminal fine for each such violation, if not otherwise specified, shall be one hundred dollars (\$100.00) for the first offense, two hundred dollars (\$200.00) for the second offense and three hundred dollars (\$300.00) for the third and subsequent offense. Each day of a violation is considered a separate offense.

So voted without dissent at 10:56 PM on May 19, 2008.

ARTICLE 47: Motion made and seconded to transfer a \$46,424.00 from the FY2008 Regional School Assessment budget to fund the Snow & Ice deficit. **So voted without dissent on May 19, 2008 at 10:57 PM.**

ARTICLE 48: Motion made and seconded to transfer from the Capital Purchase Stabilization Fund, or otherwise fund, a sum of \$36,588.00 to fund the payment of the interest and principal due in FY2009 on the Capital Purchase Debt authorized in FY2005; **So voted without dissent, 2/3 vote declared by moderator, on May 19, 2008 at 10:57 PM.**

ARTICLE 49: Motion made and seconded to transfer \$205,539.00 from certified free cash and \$55,991.00 from overlay surplus to reduce the tax rate in FY2009. **So voted without dissent on May 19, 2008 at 10:58 PM.**

Having no further business, the 277th Annual Town Meeting of the Town of Brimfield was dissolved at 10:59 PM on May 19, 2008.

A true copy, ATTEST:
Pamela Beall, CMMC, Town Clerk

FY 09 Salaries for Elected Officials and Operating Budget follow at the end of this report.

BYLAW APPROVALS

The Attorney General has returned an approval of all bylaws submitted subsequent to the Annual Town Meeting. These include the following:

Article 24 – general bylaws	Delete section re: removal of certain appointed positions
Article 25 – zoning	Amend definition of frontage
Article 26 - zoning	Amend Intensity Regulations (chart)
Article 27 - zoning	Amend site plan approval criteria With carefully worded caution from Attorney General
Article 28 - zoning	Amend procedure for transmission of applications
Article 29 - zoning	Amend content of Require Site Plan
Article 30 - zoning	Amend procedure for transmission of applications and recommendations
Article 31 - zoning	Exempt trailers on flea market grounds
Article 32 - zoning	Amend enforcement procedures and fine
Article 33 – zoning	Amend procedures for applications
Article 34 – zoning	Amend Rate of Development applicability
Article 46 – general bylaws	Amend enforcement provisions, zoning violations

RESULTS OF GENERAL ELECTION JUNE 2, 2008

Total votes cast: 475
Registered votes: 2412
Percent votes cast: 20%

Moderator (1 year)
 * Michael P. Miller 336
Selectmen (3 year)
 * Stephen Fleshman 339
Assessors (3 year)
 * Frank Boffoli 237
 Judith Sessler 215
2 Board of Health (3 year)
 * Karen Marino 352
 * Magda Polack 311
Elem School (3 year)
 * Sharon Palmer 342
Tree Warden (1 year)
 * Robert L. Hanna 364
Cemetery Comm (3 year)
 * Philips Carpenter

2 Library Trustees (3 year)
 * Charlene Coleman 282
 * Catherine Johnson 266
 Maurry Tamarkin 172
Harding Trustee (3 year)
 * Maurry Tamarkin 328
Lincoln Trustee (3 year)
 * Anthony Bys 356
Tantasqua School Comm
 * Geoffrey Earls 58
Planning Board (5 year)
 * Sheila McCarthy 267
 Meaghan Kimball 120
Housing Authority (5 year)
 Gina Lynch 350
Question (Community Preservation Act)
 Yes = 193 *No =271

Special Town Meeting Actions, November 6, 2008

The warrant for the Special Town Meeting having been duly posted, the Town Clerk reported that a quorum was present and the meeting was called to order by Moderator Michael Miller at 7:16 PM, having been somewhat delayed by a large voter turnout.

ARTICLE 1: Motion made and seconded to disapprove the borrowing of up to \$2,000,000 authorized by vote of the Tantasqua Regional School District Committee on September 16, 2008 to pay costs of designing and constructing synthetic turf athletic fields and for the payment of all other costs incidental and related thereto.
On voice vote, the moderator could not call the vote. On count of cards by tabulators the motion to disapprove passes with 83 in favor and 66 opposed at 8:38 PM on November 6, 2008.

ARTICLE 2: Motion made and seconded to transfer the sum of \$60,000.00 from the Capital Stabilization Fund, to be expended by the Board of Selectmen subject to the requirements of applicable public bidding laws to replace the roof on the Brimfield Fire Station building and for the payment of all other costs incidental and related thereto, pursuant to the Town's Capital Expenditure Plan.
So voted without dissent at 8:53 PM on November 6, 2008. Moderator declared 2/3 vote in favor.

Having no further business, the meeting was dissolved at 8:53 PM.

A true record of the proceedings of the Special Town Meeting, November 6, 2008.

Pamela Beall, CMMC
 Town Clerk