

ANNUAL REPORT OF THE TOWN CLERK

Calendar Year 2009

Calendar year 2009 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 15th full year of service to the Town of Brimfield.

Closure of the Town Hall – The emergency closing of the Town Hall on March 3, 2009 had a deep, deep impact on my office, continuing into 2010. Constituent services have been compromised and many requests are taking days to answer (instead of on-demand, over the counter), town meetings and elections were relocated gobbling up resources (time, labor, expense), routine documents are being filed in two places, security (both locked and fire resistant) for cash, vital records, and licensing is inadequate to say the least.

The Board of Selectmen, and their administrative assistant Carol DeNegro responded to the emergency promptly and professionally. Communications about what had happened and what was planned to physically shore up the damaged roof timber frame were excellent. I was offered a temporary office within a few weeks (sharing with the Cemetery Commission in the annex). This left some serious holes in my functions: working out of plastic storage bins, two desks but only one office chair, a shared computer to do only the most mundane of chores (i.e. it is not secure for confidential materials).

The computer situation turned out to be a supreme irony. In January, selectmen agreed to fund a new Town Clerk computer with the Town Clerk expense covering some tech services to bring it online at the Town Hall. I made a commitment to work more hours at my Town Hall office and to keep all town records on the new computer. Wireless internet service was provided. Just a few weeks after this was accomplished, the Town Hall had to be closed. The new town computer was left behind, along with the state Center Voter Registry (CVR) network computer. There was just no space and insufficient electrical to bring all that equipment to my temporary office (the state laser printer alone is the size of a dormitory refrigerator!). My commitment to work more hours at the Town Hall was gasping in the debris.

Eventually, I was granted limited access to go into the Town Hall, but by then tasks such as the street census and dog licensing were falling behind. These are now up-to-date. I am retrieving records and requested documents from the Town Hall office and vault as needed. I continue to use the CVR for town meeting and local election, which were the only election events scheduled for the next 12 months. Then came the double whammy of an additional town meeting and two state elections, which required many, many hours in the Town Hall to create voter lists and enter data needed on the CVR. Once again, I found myself creating documents on my personal, at-home computer. I now have documents stored on four computers (at home, at Town Hall, nominally on the shared computer at the annex, and the CVR). It is a challenge to say the least.

Frankly, after the great initial response to the emergency, there has been a disappointing lack of action, with a full seven months passing before selectmen hired an engineering firm for the evaluations and specifications. I had hoped it would take a year for basic repairs to be done. It has been a year now, with no commitment (meaning funding) for the repairs. It will likely be another year before repairs are completed.

H. 4133 and Unfunded Mandates – In June 2009, the Massachusetts General Court passed a bill commonly referred to as the Ethics Reform Bill. Among the several amendments were changes to the Conflict of Interest Law, the Open Meeting Law, and Campaign Finance. In each of these areas, new compliance burdens were directly placed on town clerks. At least two of these require expenditures from local budgets, which were not funded to include the new tasks. And, of course, there are new procedures that will affect town officials: elected, appointed and hired.

Conflict of Interest. Highlights include an expanded and carefully worded definition of what constitutes a gift, new procedures for handling complaints and investigations, and expanded penalties for violations. The Town Clerk piece involves distribution of the Conflict of Interest Law to all employees (elected, appointed, hired). Town clerks have always distributed a summary of the conflict law to elected and appointed officials, but the new statutes expands what must be distributed (a 12-page booklet), how often it must be distributed (annually) and to whom. In addition, each employee has to sign an acknowledgment of receipt of the materials and file it with the Town Clerk. Because town clerks don't typically have employment records, I was pleased to have the full cooperation of the Town Treasurer in obtaining employee names. The required materials were printed; the treasurer took responsibility for distributing the materials to those who received a paycheck and I took responsibility for distribution to others. Employees (all of them from the kitchen helper to the school principal, from elected selectmen to volunteers on the Memorial Day Committee) are required to take an online training course before April 2010 and every other year thereafter and file a certificate of completion with the Town Clerk. All these new paper documents must be kept for undetermined number of years.

My budget covered \$635.00 for this tasks, funds which were never requested in my budget. Imagine what was spent across the Commonwealth! A few cities and towns have made formal requests to the state auditor and the Division of Local Service to declare this an unfunded mandate. Don't hold your breath. It could be identified as an unfunded mandate, but actually receiving an annual allocation may taken an eternity.

Open Meeting Law. H 4133 made a complete revision to the Open Meeting Law. Changes to legal notification procedures (when, where, what) will apply to every multi-member board or committee. The good news is the new rules won't apply until July 1, 2010. A newly created Division of Open Government in the Office of the Attorney General has not been staffed as yet and its first mission will be to make rules and regulations to carry out the new law. And, it does need clarification and interpretation. I made a presentation at two Town Clerk conferences asking for immediate amendments to some of the most odious provisions. At least the town clerks had an opportunity to speak to this before the rules and regulations are written. I plan to work with the Board of Selectmen in May and June to explain the changes to our boards and committees and to come up with good working solutions for the odd things it requires. The AG office doubts it will have regulations in place before July. The new burden for town clerks, like the Conflict of Interest piece, is distribution of the new law. In the past, we have provided a summary of the Open Meeting Law to boards and committees. Now we must provide 1) information materials from the AG office, 2) the law itself, and 3) the regulations. I have no idea how many printed pages this will be, but it will be more than I have been accustomed to do in the past. Also, like the Conflict of Interest piece, I must get a signed acknowledgement and receipt, in which the recipient must swear that they have read and understand the materials. Annually. Another unfunded mandate.

One of the positive provisions of the new OML is a procedure for resolution of complaints at the local level. The AG Office will not accept a request to investigate until local procedures have failed.

Campaign Finance. This part of H. 4133 will have the least impact on local officials and my office. There are some changes to levels of donations and from whom they may be accepted. The most significant changes involve enforcement and compliance. Town clerks must now post any campaign finance reports involving more than \$1000 on the town's website (and leave them up for seven years). Since no one has met that revenue threshold (as best I can recall) for the past 15 years, I don't expect a lot of new work on my part.

Elections and Registrations – In the cycle of elections, 2009 was originally scheduled for only one election (the local election in June), but the loss of Senator Edward M. Kennedy kicked in a special primary (Dec 2009) and special election (Jan 2010). We also convened the Annual Town Meeting and one Special Town Meeting. These events are fully reported below.

Street Census -- The 2009 street census was conducted on time, with a modest return. However, due to the emergency closing of the Town Hall at the critical time when census responses were being received, the data was entered into the state CRV computer later than usual. A master report was created, but was not published for general distribution. The 2010 local census is in progress as I write this report.

As 2009 drew to a close, Town Clerks were learning about new security rules which prohibit the publication of any list of names with accompanying security data, now defined to include birth dates. Unfortunately, the state CVR pre-programmed software for creating the customary street list and name lists includes dates of birth. This needs to be addressed by the state, so that the customary printable lists are consistent with the new security laws.

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.

Legislative discussion, ongoing since 2007, to discontinue the local street census is at a standstill, with no new bills pending.

POPULATION	REGISTERED VOTERS
Jan 31, 2009: 3450	Dec 31, 2009: 2569 (includes inactives)
Age under 17: 395	Democrats: 589
Age 65 and over: 524	Republicans: 440
Federal 2000 Census: 3339	Unenrolled (independent): 1525
	Other parties or designations: 15

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

VITAL EVENTS
2009 marriages recorded: 10
2009 births recorded: 22
2009 deaths recorded: 24

Division of Fisheries and Wildlife -- Sales of all classes of hunting and fishing licenses held steady in 2009 in our town while continuing to drop 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
2009 Hunting and Sporting licenses, all classes: 9
2009 Fishing and Trapping licenses, all classes: 13
Special Permit Stamps, all classes: 10

Dog Licensing -- Dog licensing was about the same as the previous year. Dogs 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, 2009: 446 including those in kennels

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 2009 Town Meeting was completed in a timely manner and all submissions were approved. This included a complete recodification of the General Bylaws and Zoning Bylaws. The recodification was completed with welcome oversight of the Bylaw Committee, a public hearing, and Town Counsel. No content was changed in the recodification, but the bylaws were reorganized into a more user-friendly format.

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. Poorly crafted bylaws for town meeting action result in unnecessary and unproductive confusion during debate. The Town Meeting should not be a forum for reconstructing poorly written bylaws.

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 – In February, the town made a commitment to host a website with Virtual Town Hall, a vendor which has developed templates which are specific to municipal use. Unfortunately, the rollout for this coincided with the closing of the Town Hall and I lost the online connection needed to enter material on the Town Clerk's web page. I have a plan of action to remedy this early in 2010.

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. Some of these tasks were made more difficult without access to materials kept at the Town Hall. I was not able to honor requests for civics projects from youth groups (involving, as they did, tours of the Town

Hall), and requests for personal family history research (beyond vital records) had to be postponed.

Archives – A project to transfer loose vital records into archival storage sleeves and binders was begun in 2008 and discontinued in 2009 when access to vault storage was limited. This project will resume when my office is made whole again.

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. When the new Open Meeting Law takes effect (barring any regulation that says differently) the Oath of Office must be taken within two weeks of the appointment or election for multi-member boards and committees and within 30 days for everyone else, in order to meet the distribution and acknowledgement requirements of the Conflict of Interest and Open Meeting Law notifications.

Availability -- The Town Clerk is posted for regular offices hours (temporary office at the annex) on **Tuesday evenings (6:30-8:00 PM)** and **Saturday mornings (9-11 AM)**. Please call 245-4100 (X 7) during office hours. Please understand that records which must be retrieved from the Town Hall can not be provided instantly under the current temporary office conditions.

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. **There is never a charge for notary services to town residents.**

Pamela E. Beall, CMMC Town Clerk
 Town Clerk Salary, Calendar 2009: \$ 17,358.50
 Town Clerk Fees, Calendar 2009: \$1256.00
 Town Clerk Certification and Election List Allowance 2009: \$1100.00

Election workers and *Board of Registrars, calendar 2009 payments: (two elections, Annual Town Meeting, one special town meeting; not an accounting record)

Democrats	Republicans	Independents/Others
Pamela Moriarty VOLUNTEER	Cynthia Clark * \$243.00	Shirley Backofen \$33.75
Lorraine Norton \$211.50	Anne Dutka \$51.75	Joan Erban \$159.75
Diane Panaccione VOLUNTEER	Chris Kelly \$18.00	Karen Connors \$51.75
Theresa Prosperi * \$67.50	Kay Koprowski \$211.50	Eleanor Snelgrove \$51.75
Beth St Clair \$126.00	Sandra Morris VOLUNTEER	Ginger Rousseau \$51.75
	Chris Kelly \$18.00	Sarah Meitzler \$33.75
	Carolyn Haley \$18.00	William Roberts Constable \$211.50
		Donald Norton Constable \$252.00

ANNUAL TOWN MEETING ACTIONS, MAY 18, 2009

The 278th Annual Town Meeting, having been duly posted, was called to order by Moderator Michael Miller at 7:10 PM on May 18, 2009 at the Town Hall. The Town Clerk reported a quorum was present.

* denotes articles taken out of order

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

PROCEDURAL NOTE: The Finance Committee may, at its discretion, make a single consent motion for approval of any routine authorizations.

POSTPONE: There was considerable debate lasting almost an hour on a proposal by selectmen to postpone votes on financial articles until June 23.

Motion made and seconded to postpone action on articles 3, 4, 14, 15, 18, 19, 20, 23, 24, 27, 28, 29, 30, 38, 39, 40, 41, and 42 until an adjourned session on June 23. **So voted overwhelmingly on a card count by the moderator of 58 yes and 50 no.** A subsequent motion was made and seconded to reconsider the vote on this article which failed on a call of the moderator.

FINANCIAL ARTICLES: As the meeting progressed, questions were raised about additional articles which were financial articles, not included in the original list put forward by selectman Diane Panaccione. The moderator allowed additional articles to be added to the postponement list, specifically articles 7, 8, 10, and 26.

ARTICLE 1: Motion made and seconded that the reports of the officers and agents be accepted as written in the Town Report. **So voted without dissent on May 18, 2009 at 7:49 PM.**

ARTICLE 2: Motion made and seconded to authorize revolving funds under MGL Chapter 44, Section 53E ½. **So voted without dissent on May 18, 2009 at 7:50 PM.**

NAME	AUTHORIZED TO AND FOR THE USE OF	REVENUE SOURCE	AUTHORIZED EXPENDITURES	FY 10 MAXIMUM TO BE EXPENDED	DISPOSITION AT CLOSE OF FY 10
Dog Revolving Fund	Town Clerk	Licensing fees	General administration of dog licensing	\$2000	If re-authorized, amount in excess of \$2000 in FY10 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 \$2000 (excluding inspection fees payable to the Inspector) in FY10 shall

					close to the general fund; \$100 to be transferred to the Demolish Building Account and \$1000 shall carry forward to the Building Inspector Revolving Fund in subsequent fiscal year
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 FY10 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 FY10 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.	\$25,000	If re-authorized, amount in excess of \$1000 (excluding food fees payable to the Inspector) at the close of FY10 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 FY10 shall close to the general fund
Tobacco	Board of	Permit Fees	Costs of compliance and	\$500	If re-authorized, amount

Revolving Fund	Health		enforcement activities		in excess of \$500 at close of FY10 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 FY10 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 FY10 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	

***ARTICLE 3:** Motion made and seconded to raise and appropriate the sum of \$185,453.00 for compensation to various elected town officers for the ensuing fiscal year July 1, 2009 to June 30, 2010. **So voted without dissent on June 23, 2009 at 8:31 PM. [Budget included at end of Town Clerk's Report]**

***ARTICLE 4:** Motion made and seconded to raise and appropriate the sum of \$7,816,821.00 for various departments and activities of the Town, payment of debts and defraying of expenses of the ensuing fiscal year, July 1, 2009 to June 30, 2010. **So voted without dissent on June 23, 2009 at 9:17 PM. [Budget included at end of Town Clerk's Report]**

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 FY2009. **Passed over without motion or vote on May 18, 2009 at 7:50.**

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 FY2009. **Passed over without motion or vote on May 18, 2009 at 7:50.**

***ARTICLE 7:** Motion made and seconded to raise and appropriate the sum of \$15,000 for Tax Title Expenditures. **So voted without dissent on June 23, 2009 at 9:18 PM.**

***ARTICLE 8:** Motion made and seconded 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 overwhelmingly on June 23 at 9:19 PM.**

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 on May 18, 2009 at 8:11 PM**

PROCEDURAL NOTE: Articles 9, 11, 12, and 13 were passed as a group on an omnibus motion from the Finance Committee.

***ARTICLE 10:** Motion made and seconded to appropriate any funds received from the Commonwealth for the construction, reconstruction and improvement of town roads. **So voted overwhelmingly on June 23, 2009 at 9:23 PM.**

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 18, 2009 at 8:11 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, 2009 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 18, 2009 at 8:11 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 18, 2009 at 8:11 PM**

***ARTICLE 14:** Motion made and seconded to raise and appropriate the sum of \$500 to be added to the Conservation Fund as authorized by M.G.L. chapter 40, section 8C. **So voted without dissent on June 23, 2009 at 9:24 PM.**

***ARTICLE 15:** Motion made and seconded to raise and appropriate the sum of \$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 on June 23, 2009 at 9:24 PM.**

ARTICLE 16: Motion made and seconded to transfer the sum of \$ 700.00 of the FY2009 appropriation from the Cemetery Expense Account #04915460 to the Cemetery Perpetual Care Account # 04-91-3570. **So voted without dissent on May 18, 2009 at 8:12 PM.**

ARTICLE 17: Motion made and seconded to transfer the sum of \$2,796.59 from the Town Hall Gutters & Windows Account #01-01-95-6220 to the Town Building Improvements Account #01-01-95-6420. **So voted without dissent on May 18, 2009 at 8:16 PM.**

***ARTICLE 18:** Motion made and seconded to raise and appropriate the sum of \$5,000 to pay for an actuarial study in compliance with GASB 45 (Governmental Accounting Standards Board)

which requires the accounting for OPEB (Other Post Employment Benefits). **So voted without dissent on June 23, 2009 at 9:24 PM.**

***ARTICLE 19:** Motion made and seconded to raise and appropriate the sum of \$10,300 to be expended by the Board of Selectmen for aquatic vegetation management to eliminate and control the growth of milfoil in Lake Sherman. **So voted without dissent on June 23, 2009 at 9:52 PM.**

***ARTICLE 20:** Motion made and seconded to take no action on providing funds to be expended by the Planning Board to retain the services of Consultants to perform services relative to zoning and planning issues. **So voted without on June 23, 2009 at 9:53 PM.**

ARTICLE 21: Motion made and seconded to designate the Board of Selectmen as the appointing authority for the board or officer responsible for the issuance of trench permits in accordance with the provisions of M.G.L., chapter 82A, section 2 and 520 CMR 14.00. **So voted overwhelmingly on May 18, 2009 at 8:30 PM.**

ARTICLE 22: Motion made and seconded to authorize the Board of Selectmen to submit an application for, and accept grant funds from, the Executive Office of Transportation through its STRAP (Small Town Road Assistance Program, 720 CMR 11:00) program, to be expended by the Board of Selectmen subject to applicable public bidding laws, and, to be utilized for the "Roadway Improvement Project – Sturbridge Road/Main Street (Route 20) at Brookfield Road, North Main Street and Wales Road (Route 19) in the Town of Brimfield" for engineering, redesign and construction of said project. **So voted without dissent on May 18, 2009 at 8:35 PM.**

***ARTICLE 23:** Motion made and seconded to take no action on the request for funds to purchase one ¾ Ton pickup truck with plow to replace the current 1984 Chevrolet ¾ ton pickup truck for use of the Highway Department, pursuant to the Town's Capital Expenditure Plan. **So voted without dissent on June 23, 2009 at 9:54 PM.**

***ARTICLE 24:** Motion made and seconded to take no action on the request for funds to purchase one police vehicle pursuant to the Town's Capital Expenditure Plan. **So voted without dissent on June 23, 2009 at 9:54 PM.**

***ARTICLE 25:** Motion made and seconded to transfer the sum of \$12,000 from the Capital Purchase Stabilization Fund, to be expended by the Board of Selectmen subject to the requirements of applicable public bidding laws, for the replacement of the deteriorated handicap access ramp at the Town Hall Annex building referencing the October 31, 2008 notification from the Town's insurance carrier, pursuant to the Town's Capital Expenditure Plan. **So voted without dissent, on 2/3 vote call by the moderator on June 23, 2009 at 9:56 PM.**

***ARTICLE 26:** Motion made and seconded to transfer the sum of \$25,000 from the Capital Purchase Stabilization Fund, to be added to the \$60,000 transferred from same by Special Town Meeting vote of November 6, 2008, for a total of \$85,000 to be expended by the Board of Selectmen, subject to the requirements of applicable public bidding laws, to replace the Fire Station building roof and for the payment of all other costs incidental and related thereto pursuant to the Town's Capital Expenditure Plan. **So voted without dissent, on 2/3 vote call by the moderator on June 23, 2009 at 9:57 PM.**

***ARTICLE 27:** Motion made and seconded to take no action on the request for funds to purchase a fire truck. **So voted without dissent on June 23, 2009 at 9:58 PM.**

***ARTICLE 28:** Motion made and seconded to take no action relative to payment of interest and principal on debt incurred by purchase of a fire truck. **So voted without dissent on June 23, 2009 at 9:58 PM.**

***ARTICLE 29:** Motion made and seconded to raise and appropriate the sum of \$ 20,000.00 for the purpose of retaining the services of a structural engineer, subject to the requirements of applicable public bidding laws, to prepare plans, specifications, calculations and a cost estimate for remodeling, reconstructing or making extraordinary repairs to the Town Hall including all costs incidental and related thereto. **So voted overwhelmingly on June 23, 2009 at 10:01 PM.**

***ARTICLE 30:** Motion made and second to take no action relative to payment of interest and principal on debt incurred for hiring of a consulting engineer for repairs to the Town Hall. **So voted without dissent on June 23, 2009 at 10:01 PM.**

ARTICLE 31: Motion made and seconded to rezone the section of land on U.S. Route 20 from Warren Road, westerly to Crystal Brook, and northerly, to a depth of 500 feet, to a Business/Commercial Zone, as stated in the article.

PLANNING BOARD made oral report, recommending favorable action.

TABLED: Motion made and seconded to lay on the table Article 31. **So voted overwhelmingly on May 18, 2009 at 9:01 PM.**

ARTICLE 32: Motion made and seconded to amend General Bylaws, ARTICLE VIII: Junk Dealer Licenses, Section J. Emergency Service Fees, paragraph (1) Emergency Service Fees, by deleting the current text in its entirety and in place thereof the following:

Within not more than 30 days following each Flea Market, the Selectmen shall determine the "emergency service cost" by adding the reasonable and necessary cost reasonably attributed to the Flea Market of the following: Police wages, Fire Department wages and Ambulance services.

So voted overwhelmingly on May 18, 2009 at 9:27 PM.

ARTICLE 33: Motion made and seconded to amend General Bylaws, Article I General Provision 1. Section 7 – Enforcement, (b) Non-criminal disposition, by increasing the fine for violation of Article VIII, Section 2C, Flea Market Vendor Permits, from \$25.00 to \$250.00. **So voted overwhelmingly on May 18, 2009 at 9:30 PM.**

ARTICLE 34: Motion made and seconded to amend General Bylaws, Article VIII: Junk Dealer Licenses, Section L. Penalties, by inserting a new sentence at the conclusion of said section, as follows: "Additionally, the flea market owner/operator shall pay a fine of \$250 per day, per violation, under this section. **So voted overwhelmingly May 18, 2009 at 9:37 PM.**

ARTICLE 35: Motion made and seconded to amend the General Bylaws, as presented in Exhibit A (May 2009 Presentation Draft as set forth in the handout), as on file with the Town Clerk, by making non-substantive, ministerial amendments thereto for the purpose of recodifying the General Bylaws to create a more uniform presentation, organized topical structure, reader-friendly format to aid searches, and convenient format for inserting future amendments. The recodification of General Bylaws incorporates, without any change to text, all bylaws in the version current to, and last published on, September 22, 2008, a renumbered outline format, addition of, or amendment to, headings and subheadings, replacement of words all in capital letters with standard upper and lower case letters, and amendment of internal references to existing bylaws. All bylaw amendments approved by the Annual Town Meeting of May 18, 2009 and Special Town Meeting of June 23, 2009, shall be renumbered and incorporated into the recodification. **So voted overwhelmingly on June 23 at 10:07 PM.**

ARTICLE 36: Motion made and seconded to amend the Zoning Bylaws, as presented in Exhibit B (May 2009 Presentation Draft), as on file with the Town Clerk, by making non-substantive, ministerial amendments thereto for the purpose of recodifying the Zoning Bylaws to create a more uniform presentation, organized topical structure, reader-friendly format to aid searches, and convenient format for inserting future amendments. The recodification of Zoning Bylaws incorporates, without any change to text, all bylaws in the version current to, and last published on, September 22, 2008, a renumbered outline format, addition of, or amendment to, headings and subheadings, replacement of words all in capital letters with standard upper and lower case letters, and amendment of internal references to existing bylaws. **So voted without dissent; 2/3 called by moderator on May 18, 2009 at 9:47 PM.**

ARTICLE 37: Motion was made and seconded to take no action. Although the moderator took a vote on the question of no action, he set aside that vote when challenged by a number of voters as to the procedure for accepting a substitute motion and a substitute motion was subsequently presented and allowed.

Motion made and second for the town 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 1 1/2% of the annual real estate tax levy against real property and that such surcharge shall commence in fiscal year 2011; and that the town hereby accepts the following exemptions from such surcharge under Section 3a 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. **The motion was defeated by one vote, on card count of the moderator 46 in favor and 47 opposed on May 18, 2009 at 10:00 PM.**

MEETING ADJOURNED AT 10:00 PM TO RECONVENE, AS PREVIOUSLY AGREED, ON JUNE 23, 2009 TO TAKE UP FINANCIAL AND OTHER UNFINISHED ARTICLES.

***ARTICLE 38:** Motion made and seconded to see if the Town will vote to transfer the sum of \$20,000 from Free Cash to be added to the Capital Purchase Stabilization Fund. **So voted overwhelmingly on June 23, 2009 at 10:08 PM.**

***ARTICLE 39:** Motion made and seconded to transfer the sum of \$28,000 from the FY2009 School Expense Account: #01-0320-5700 to the Snow & Ice deficit. **So voted without dissent on June 23, 2009 at 10:08 PM.**

***ARTICLE 40:** Motion made and seconded to transfer the sum of \$ 33,355.00 from the Capital Purchase Stabilization Fund to fund the payment of the interest and principal due in FY2010 on the Capital Purchase Debt authorized by FY2005. **So voted without dissent on June 23, 2009 at 10:09 PM.**

***ARTICLE 41:** Motion made and seconded to transfer a sum of \$50,000.00 from Free Cash to be added to the Stabilization Fund. **So voted without dissent on June 23, 2009 at 10:09 PM.**

***ARTICLE 42:** Motion made and seconded to transfer the sum of \$427,937 from certified Free Cash to reduce the tax rate in FY2010 or for any other purpose. **So voted without dissent on June 23, 2009 at 10:10 PM.**

Having no further business the 278th Annual Town Meeting of the Town of Brimfield was dissolved at 10:10 PM on June 23, 2009.

A true copy, ATTEST:

Pamela E. Beall, CMMC
Town Clerk

BYLAW APPROVALS

The bylaws changes represented in articles 32, 33, 34, and 35 (General Bylaws) and article 35 (Zoning Bylaws) were submitted for review and approval by the Attorney General. All were returned with approval on October 29, 2009. The approval and opinion was signed by Kelli E. Gunagan, Assistant Attorney General, on behalf of Martha Coakley. The REQUIRED NOTICE of this approval was posted as required by law. The general laws are considered effective on the date of posting October 31, 2009 and the zoning bylaws are deemed effective on the date voted by Town Meeting (May 18, 2009).

THE FY 10 BUDGET FOLLOWS

RESULTS GENERAL ELECTION JUNE 1, 2009

Total votes cast: 597
Registered votes: 2575
Percent votes cast: 23%

Moderator (1 year)
* Michael P. Miller 336
Ian Lynch [write in] 134

Selectmen (3 year)
* Diane Panaccione 413

Treasurer (3 year)
*Kirsten Weldon 450

Collector (3 year)
*Susan Hilker 457

Town Clerk (3 year)
*Pamela Beall 437

Assessors (3 year)
* Joan Navarro 353
Judith Sessler 223

[note: a failure to elect was declared
when candidate Navarro declined to take
the oath of office]

2 Board of Health (3 year)
* Richard Costa 293
* Steven Farrick 364

Constables (3 year)
* Thomas Brown 386
* Stephen Denning 371
Charles Leveille 322
* Donald Norton 405
* William Roberts 358
* Robert Hanna 328

2 Elem School Comm (3 year)
*Daniel Valcour 362
*Amy Campbell 343

Tree Warden (1 year)
* Robert L. Hanna 471

Cemetery Comm (3 year)
* James A. Adams 359
Michael L. Wales 195

2 Library Trustees (3 year)
* Judith Sessler 301
* Maury Tamarkin 358

Harding Trustee (3 year)
* Richard Siewick 407

Lincoln Trustee (3 year)
* Joseph Killian 46

Housing Authority (5 year)
* Elizabeth Ortona 415

Planning Board (5 year)
* Jenna Elmore 406

Highway Surveyor (3 year)
*Robert Hanna 453
Jason Hoenic 122

SPECIAL TOWN MEETING ACTIONS, JUNE 23, 2009 AND JULY 28, 2009

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: Motion made and seconded to amend Article VIII Section 2 Flea Markets of the Town's General Bylaws as follows:

By amending Section C(5) to delete the following language from the end of the first sentence, "...and, for purposes of allocating emergency services costs, the number of "vendor days" attributable to such owner/operator shall be adjusted accordingly."

And, by deleting Section J(2) in its entirety and replacing it with the following:

(2) Area-Days and Cost Per Area-Day.

a. The Selectmen shall determine the number of area-days for each owner/operator by multiplying the total square footage of each lot used for flea market purposes by the number of days such lot is open for flea market business. The Selectmen shall then add the number of area-days for all of the owner/operators to determine the "total area-days". The selectmen shall then divide the "emergency services cost" by the "total area-days" in order to determine the "cost per area-day."

b. For purposes of this section, it shall be presumed that the entire area of a lot, as shown in the records of the Board of Assessors, is used for flea market purposes excluding the footprint of any residential and commercial structure, no portion of which is used by a vendor as defined herein. If an owner/operator, who utilizes only a portion of its lot for flea market purposes, wishes to have its area-days calculated based only on the actual portion of the property occupied for flea market purposes, such determination shall be made in accordance with the following procedure:

1. No later than January 31 of any given year, the owner/operator shall submit to the Selectmen a plan depicting the lot upon which the flea market will be conducted, with the portion of the property occupied for flea market purposes delineated. Such delineation shall remain in effect for all events within that calendar year and shall remain in effect for all subsequent years unless a new plan is submitted by January 31 of the ensuing year.
2. The plan shall be prepared by a Massachusetts Registered Land Surveyor and shall indicate the total number of square feet to be used or occupied for flea market purposes, including all areas used for vendor space (including food vendors), access areas, pedestrian areas, seating areas, and all other areas used by or for flea market vendors or patrons but excluding separately designated passenger parking areas in which no other flea market activities take place.
3. The area to be occupied for flea market purposes shall be delineated with permanent survey stakes or other markers and the owner/operator shall be responsible for ensuring that such markers remain in place and readily identifiable at all times. The surveyed area shall be subject to inspection by the Flea Market Coordinator, police personnel and such other town official as the Selectmen shall designate. Such permanent survey stakes shall

not be moved or altered without the prior consent of the Selectmen, and anyone violating this section may be subject to criminal prosecution as set forth in Chapter 266, section 94 of the Massachusetts General Laws.

4. No flea market activity shall occur outside of the surveyed area. In the event any Flea Market Activity takes place out of the surveyed area, such owner/operator shall be subject to the penalties set forth in Section L of this Bylaw.

And, by amending section J(3) as follows by deleting the language indicated by strike-thru text and adding the underlined language:

(3) Emergency Services Fee The "Emergency Services Fee" for any owner/operator shall be determined by multiplying the number of ~~vendor-days~~ area-days attributable to that owner/operator's flea market by the cost per ~~vendor-day~~ area-day. The emergency services fee shall be due and payable 21 days from the day of mailing by the Selectmen which mailing shall contain the calculation used by the Selectmen in determining the total Emergency Services Fee being assessed.

The Bylaw Committee reported made no recommendation in a written report, but did offer some observations about the need to amend flea market bylaws to provide for regulations related to normal flea market operations.

Motion was made and seconded to table the article. **Motion to table passed on a card count of 68 to 61.**

Motion was made to reconsider the vote to table [moderator explained this would have the same affect of taking it "off the table"]. **Motion to reconsider failed on voice vote called by the moderator.**

Motion was made and seconded to adjourn the Special Town Meeting to July 28, 2009 at 7:00. **Motion to reconvene passed on voice vote called by the moderator.** After some confusion as to the vote, the moderator asked again for a vote and the motion was passed.

Having no further business, the meeting was adjourned to be reconvened July 28, 2009.

ADJOURNED SESSION – The reconvened Special Town Meeting was called to order on July 28, 2009 with a quorum present.

A motion was made and seconded to take Article 1 off the table. **On a card count of 17 in favor and 29 opposed, the article was not taken off the table.**

The meeting was duly dissolved.

A true record of the proceedings of the Special Town Meeting, June 23 and July 28, 2009,

ATTEST:

Pamela E. Beall, CMMC, Town Clerk