

injunction barring the current owner from further altering the property or transferring any interest in the property. On August 11, 2008, we filed a Motion for Summary Judgment on all claims raised in the Town's complaint. On January 12, 2010, the Land Court allowed the Town's Motion for Summary Judgment, holding that the defendants had improperly deprived the Town of its right of first refusal. The parties have continued to negotiate a potential resolution, without success to date. The Land Court has set a trial date in February 2014 on the issue of the purchase price at which the Town may choose to purchase the property. The trial will include the issue of whether and the extent to which the defendant's removal of trees and gravel should diminish the purchase price.

2. Klansek v. Town of Brimfield
Worcester Superior Court, C.A. No. 2013-2011-A

This is an action by the former Building Inspector, who claims that he is entitled to a larger portion of the building permit fee paid for a large-scale solar development project. The Town intends to actively defend this litigation, which is still in the very early stages, with no discovery having yet been undertaken.

3. Tree House Brewing Co., LLC v. Brimfield Zoning Board of Appeals
Land Court Misc. No. 13 MISC 478780

This was an appeal from a decision of the Zoning Board of Appeals to order the plaintiff to cease and desist operation of a brewery on property located at 63 St. Clair Road. Plaintiff had argued that the use was exempt from zoning as an agricultural use protected under the state zoning act. After several months of litigation, a settlement agreement was reached, whereby the plaintiff agreed to relocate its operations to another town. The action has now been dismissed.

Respectfully submitted,

Jonathan M. Silverstein, for the firm
of Kopelman and Paige, P.C.,
Town Counsel

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Office of the Town Clerk

Annual Report - March 2014

LOCAL ELECTION JUNE 3, 2013

* Indicates unopposed

Moderator - One Year	* Michael P. Miller	466
Board of Selectmen - Three Years	Susan S. Hilker	199
	Paul E. McCarthy	192
	Martin J. Kelly	179
	Judith M. Carpenter	62
	R. Mitchell Frazier	32
Board of Assessors - Three Years	* Carolyn M. Haley	494
Tantasqua Reg Sch Cmte - Three Years	* Sheila Noyes-Miller	482
Planning Board - Five Years	* Sheila K. McCarthy	476
Cemetery Commission - Three Years	* Richard A. Sieweck	476
Elementary School Cmte - Three Years (Two Open Seats)	* Jennifer A. Foley	443
	* Michele-Lee Shea	416
Lincoln Fund Trustee - Three Years	* Richard A. Sieweck	472
Harding Fund Trustee - Three Years	* Sarah E. Meitzler	476
Housing Authority - Five Years	* Gina M. Lynch	495
Library Trustee - Three Years (Two Open Seats)	* Charlotte D. Hudson	444
	* Mary Ann Santella	424
Board of Health - Three Years	* Tammi Wallace-Wood	472
Tree Warden - One Year	* Zack Lemieux	508

Town Clerk's Report

Election Results – continued

PRIMARY FOR US SENATOR April 30, 2013
Total votes cast: 354

Republican	GABRIEL E. GOMEZ	74
	MICHAEL J. SULLIVAN	61
	DANIEL B. WINSLOW	42
	Blank	1
		<hr/> 178
Democratic	STEPHEN F. LYNCH	74
	EDWARD J. MARKEY	102
	Blank	0
		<hr/> 176

SPECIAL ELECTION FOR US SENATOR June 25, 2013
Total votes cast: 809

GABRIEL E. GOMEZ	520
EDWARD J. MARKEY	283
RICHARD A. HEOS	4
Blank	2

Population Statistics – Calendar year 2013

All residents: 3534
17 and under: 613
65 and older: 617
Registered voters: 2624

Vital Records Recorded- reported for calendar year 2013

Resident Marriages: 9
Births: 11
Deaths: 14

Respectfully submitted,

Robert Sullivan, Town Clerk

Town of Brimfield
The 282nd Annual Town Meeting
May 20, 2013 - Brimfield Town Hall
Minutes and Actions

Michael Miller, moderator, called the meeting to order at 7:19 PM

177 registered voters in attendance.

General Announcements:

Diane Panaccione, for the Board of Selectmen, presented Carol DelNegro the following proclamation to thank her for nineteen years of service to Brimfield. After the document was read the entire assembly came to its feet with long and enthusiastic applause.

CERTIFICATE OF APPRECIATION
PRESENTED TO

CAROL M. DELNEGRO

OFFICIALS AND RESIDENTS OF THE TOWN OF BRIMFIELD HEREBY EXTEND SINCEREST CONGRATULATIONS IN RECOGNITION OF YOUR RETIREMENT ON AUGUST 31, 2012 FROM 19 YEARS OF PUBLIC SERVICE AND COMMUNITY INVOLVEMENT IN THE TOWN OF BRIMFIELD.

LET IT BE KNOWN THAT RESIDENTS AND OFFICIALS OF THE TOWN HEREBY ACKNOWLEDGE THE DEDICATION AND COMMITMENT OF CAROL M. DELNEGRO FOR HER YEARS OF SERVICE AS A LOYAL EMPLOYEE, HOLDING NOT ONLY A TERM AS SELECTMEN, BUT SELECTMEN'S ASSISTANT, CHIEF PROCUREMENT OFFICER, FLEA MARKET COORDINATOR, ANIMAL INSPECTOR, MEMBER OF THE CASINO STUDY COMMITTEE, CONSERVATION COMMISSION AND DOMESTIC VIOLENCE TASK FORCE.

WORDS CANNOT PROPERLY EXPRESS OUR GRATITUDE FOR YOUR CONTRIBUTIONS, KINDNESS AND THE WISDOM YOU BROUGHT TO OUR DAILY LIVES!

BEST WISHES!

THOMAS C. MARINO
CHAIRMAN, BOARD OF SELECTMEN

STEPHEN R. FLESHMAN
SELECTMAN

DIANE M. PANACCIONE
SELECTMAN

Mr. Sieweck reminded the meeting that the Bylaws of the Town of Brimfield require that an article brought up for reconsideration which was previously voted by the meeting can only be reconsidered within 60 minutes of the vote which disposed of the article. He also reminded the meeting that a tabled article can be brought back for consideration at any time.

Mr. Michael Moloney, representing the Finance Committee, rose to thank Mr. Norm Silberman for his sixteen years of tireless efforts as a member of the Finance Committee. Norm's many contributions included fifteen years as Chairman, the driving force behind our current capital improvement plan, the always vigilant "fifty thousand foot view" and a dedication to serving the best strawberry shortcake in Brimfield.

Procedural Announcements:

The moderator reminded the meeting (and requested Town Clerk note the same) that the articles placed on the Town Warrant by the Board of Selectmen may not necessarily be supported by the Board of Selectmen, pro or con.

The moderator announced that all speakers must be recognized and will be limited to five minutes when explaining a motion which they have placed before the meeting; there will be a two minute limit to questions and comments about a motion under discussion; and all amendments are required to be seconded.

Other notes: - Articles that are marked with an asterisk * denote that they are taken out of order
- "ATM" is used throughout these minutes to mean this Annual Town Meeting
- [brackets] are used to add explanatory information where necessary
- If an amendment to a motion is defeated, the amendment is not recorded

ARTICLE 1: To hear reports of the officers and agents heretofore chosen by the Town and take any other action thereon. (Selectmen)

>Motion made by Finance Committee (per Chairperson) and seconded: "Recommend approval and move that the reports of the officers and agents be accepted as written in the Town Report."

Motion to approve Article 1 passed by show of voting cards. (7:34 PM)

>Motion made by Finance Committee (per Chairperson) and seconded: "The Finance Committee moves that Article 2 [Revolving Fund] be tabled until after consideration of Articles 3 and 4"

Motion to table Article 2 passed by show of voting cards. (7:35 PM)

The Finance Committee announced that the ATM should refer to the Committee's final recommendations on Articles 3 and 4, copies available at the front of the Great Hall, which updates the figures in the Town Warrant.

***ARTICLE 3:** To see if the Town will vote to raise and appropriate \$ _____ for various elected town officers for the ensuing fiscal year July 1, 2013 to June 30, 2014; or, take any other action thereon. (Board of Selectmen)

>Motion made by Finance Committee (per Chairperson) and seconded: "Recommend and move that the Town raise and appropriate the sum of \$190,108, as detailed in the Finance Committee Recommendations accompanying the Warrant, for the purpose stated in the article."

Motion to approve Article 3 passed by show of voting cards. (7:47 PM) Please see Appendix #2 for account details adopted by passage of Article 3.

***ARTICLE 4:** To see if the Town will vote to raise and appropriate \$ _____ for various departments and activities of the Town, payment of debts and defraying of expenses of the ensuing fiscal year, July 1, 2013 to June 30, 2014, and direct how the same shall be expended; or, take any other action thereon. (Board of Selectmen)

>Motion made by Finance Committee (per Chairperson) and seconded: "Recommend and move that the Town raise and appropriate the sum of \$8,086,628, as detailed in the Finance Committee Recommendations accompanying the Warrant, for the purpose stated in the article."

>Motion made by Susan Hilker to amend Finance Committee motion and seconded: "Move that the description of line item 48 [account #0171-5114 Conservation Agent] be changed to read 'Conservation Administrator'."

Motion to amend the original motion passed by show of voting cards. (8:07 PM)

>Motion made by Diane Panaccione to amend Finance Committee motion and seconded by Fire Chief: "Move that account line item 70 [#0220-5882 Public Safety Complex Expense] be funded at \$2000."

Motion to amend the original motion passed by show of voting cards. (8:28 PM)

>Motion made by Susan Hilker to amend Finance Committee motion and seconded: "Move that line item 75 [0241-5112 Building Commissioner/Zoning Officer] be amended to \$22,000 with no fees."

Motion to amend the original motion passed by show of voting cards. (9:12 PM)

>Motion made by Susan Hilker to amend Finance Committee motion and seconded: "Move that line item 76a [Building Department Office Expenses] be changed from \$2000 to \$4000 to include adequate funds for mileage."

Motion to amend the original motion passed by show of voting cards. (9:15 PM)

>Motion made by Stephen Fleshman to amend Finance Committee motion and seconded: "Move that line item 96 [#0422-5434 Multi-Town Clerk] be reduced to zero"

Motion to amend the original motion passed by show of voting cards. (9:25 PM)

The moderator requested that the Finance Committee recalculate and restate the amount to be funded by Article 4 before the final vote on Article 4. The Finance Committee Chairperson then stated: "Recommend and move that the Town raise and appropriate the sum of \$8,088,128, for the purpose stated in the article."

Original motion to approve Article 4, with five(5) amendments, passed by show of voting cards. (9:28 PM) Please see Appendix #3 for account details adopted by passage of Article 4.

***ARTICLE 2:** To see if the Town will vote to establish the following revolving funds under M.G.L. chapter 44, section 53E 1/2, (Chart of Accounts in Appendix), or, take any other action thereon (Various Boards and Departments)

>Motion made by Finance Committee (Chairperson) and with a second by the Selectmen: "Recommend approval of the group of revolving funds authorized under MGL Chapter 44, Section 53E 1/2 listed in Appendix #1, also including the Cemetery Revolving Fund as read and described on the paper given to the Town Clerk [\$10,000 for the Cemetery Revolving Fund];

except for the Building Inspector Revolving Fund, which should be deleted from the list; and move that such funds be established for the purposes stated for FY 2012."

Motion to approve Article 2 passed by show of voting cards. (9:30 PM) Please see Appendix #1 for account details adopted by passage of Article 2.

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 FY13; or, take any other action thereon. (Board of Selectmen)

Moderator advised the ATM that he was skipping Article 5 because there are no unpaid bills or overdrawn accounts for any years prior FY2013

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 FY13; or, take any other action thereon.

(Board of Selectmen)

Moderator advised the ATM that he was skipping Article 6 because there are no unpaid bills or overdrawn accounts for any years prior FY2013.

ARTICLE 7: To see if the Town will vote, pursuant to Chapter 420 of the Acts of 2010, to limit expenditures from the Brimfield Flea Market Fund for administrative, operating, maintenance and emergency services to an amount not in excess of \$150,000 for FY14 and provided further, that any funds remaining in said account over \$50,000 for FY14 shall close to the general fund; or, take any other action thereon. (Board of Selectmen)

>Motion made by Finance Committee (per Chairperson) and seconded: *"Recommend and move that the Town limit the Brimfield Flea Market Fund expenditures to \$150,000 for FY14, and that any funds remaining in said account over \$50,000 for FY14 shall close to the general fund as stated in the article."*

Motion to approve passed by show of voting cards. (9:31 PM)

The Moderator stated that Articles 8, 9, 11, 12, and 13 were to be considered as group because all dealt with routine authorizations. (NB: Procedure is consistent with past practice and no objection was heard)

***ARTICLE 8:** To see if the Town will vote to accept as available funds, the sum of \$250,000, or any other amount, to be made available to the Town by the Massachusetts Department of Transportation Highway Division, and, to use the funds for qualifying on state approved roads and Chapter 90 projects in the Town of Brimfield according to State contract; or, take any other action thereon. (Highway Surveyor)

***ARTICLE 9:** To see if the Town will vote 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; or, take any other action thereon. (Highway Surveyor)

***ARTICLE 11:** To see if the Town will vote 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; or, take any other action thereon. (Board of Selectmen)

***ARTICLE 12:** To see if the Town will vote 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, 2013 in accordance with the provisions of M.G.L. 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; or, take any other action thereon. (Board of Selectmen)

***ARTICLE 13:** To see if the Town will authorize the Board of Selectmen, as required by Chapter One, Section 5.1 of the Town Bylaws 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; or, take any other action thereon. (Board of Selectmen)

>Motion made by Finance Committee (per Chairperson) and seconded: *"For the purpose of re-establishing a group of routine authorizations involving no change from prior year, recommend approval of the following authorizations for FY 2014 and move such authorizations be re-established for the purposes stated in their respective articles: Articles 8, 9, 11, 12, and 13"*

Motion to approve passed by show of voting cards. (9:33 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)

>Motion made by Finance Committee (per Chairperson) and seconded: *"Recommend and move that the Town raise and appropriate the sum of \$0.00 for the purpose stated in the article."*

Motion to approve passed by show of voting cards. (9:33 PM)

ARTICLE 14: To see if the Town will vote to raise and appropriate, or otherwise transfer from available funds, the sum of \$15,000 to the Treasurer's Department for the purpose of paying costs associated with the tax title process; or, take any other action thereon. (Treasurer)

>Motion made by Finance Committee (per Chairperson) and seconded: *"Move that the Town raise and appropriate the sum of \$15,000 for the purpose stated in the article."*

Motion to approve passed by show of voting cards. (9:34 PM)

ARTICLE 15: To see if the Town will vote to raise and appropriate or otherwise transfer from available funds, the sum of \$1,000.00 to be added to the Conservation Fund as authorized by M.G.L. chapter 40, section 8C; or, take any other action thereon. (Conservation Commission)

>Motion made by Finance Committee (per Chairperson) and seconded: *"Recommend and move that the Town raise and appropriate the sum of \$500 for the purpose stated in the article."*

Motion to approve passed by show of voting cards. (9:34 PM)

ARTICLE 16: To see if the Town will vote to raise and appropriate, or otherwise transfer from available funds, 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; or, take any other action thereon. (Highway Surveyor)

>Motion made by Finance Committee (per Chairperson) and seconded: "Recommend and move that the Town raise and appropriate the sum of \$30,000 for the purpose stated in the article."
Motion to approve passed by show of voting cards. (9:34 PM)

ARTICLE 17: To see if the Town will vote to raise and appropriate, or otherwise transfer from available funds, the sum of \$500.00 to the Highway Department for the purpose of funding the Town of Brimfield's portion of the administrative costs for the Regional Highway Equipment Coop program; with the expectation that in the future this expenditure will be added to a line item in the Highway Department Budget; or, take any other action thereon. (Highway Surveyor)
>Motion made by Finance Committee (per Chairperson) and seconded: "Move that we take no action."
Motion to take no action passed by show of voting cards. (9:35 PM)

ARTICLE 18: To see if the Town will vote to raise and appropriate, or otherwise transfer from available funds, including the Capital Purchase Stabilization Fund, or borrow the sum of \$13,550 for the purpose of upgrading the Fire Department's Breathing Air Supply System to support current breathing apparatus technology and safety standards; or, take any other action thereon. (Fire Chief)
>Motion made by Finance Committee (per Chairperson) and seconded: "Recommend and move that the Town transfer \$13,550 from the Capital Purchase Stabilization Fund for the purpose stated in the article."
Motion to approve passed by show of voting cards - 2/3 majority. (9:35 PM)

ARTICLE 19: To see if the Town will vote to raise and appropriate, or otherwise transfer from available funds, including the Capital Purchase Stabilization Fund, or borrow the sum of \$33,000.00 to be expended by the Board of Selectmen, subject to the requirements of applicable public bidding laws, to purchase and equip one new Ford Interceptor, Dodge Charger, Chevy Caprice or other type vehicle for use by the Brimfield Police Department as a patrol vehicle, or take any other action thereon. (Chief of Police)
>Motion made by Finance Committee (per Chairperson) and seconded: "Recommend and move that the Town transfer \$33,000 from the Capital Purchase Stabilization Fund for the purpose stated in the article."
Motion to approve passed by show of voting cards - 2/3 majority. (9:36 PM)

ARTICLE 20: To see if the Town will vote to amend the General Bylaws by inserting a new Chapter 7.0, entitled "Non-Zoning Wetlands Protection By-law", in the form set forth below:

Chapter 7.0: Non-Zoning Wetlands Protection Bylaw

Section 1.0: Purpose

The purpose of this bylaw is to protect the wetlands, water resources, and adjoining land areas in the Town of Brimfield by regulating activities deemed by the Brimfield BCC (hereinafter referred to as the BCC) likely to have a significant or cumulative effect on resource area values, including but not limited to the following: public or private water supply, groundwater, flood control, erosion and sedimentation control, storm damage prevention,

water quality, prevention and control of pollution, fisheries, wildlife habitat, rare species habitat including rare plant and animal species, agriculture and aquaculture deemed important to the community (collectively, the "resource area values protected by this bylaw").

This bylaw is intended to utilize the Home Rule authority of this municipality to protect additional resource areas, for additional values, with additional standards and procedures stricter than those of the Wetlands Protection Act (G.L. Ch. 131 /40) and Regulations there under (310 CMR 10.00), subject, however, to the rights and benefits accorded to agricultural uses and structures of all kinds under the laws of the Commonwealth and other relevant bylaws of the Town of Brimfield.

Unless otherwise stated in this bylaw, the jurisdiction, exceptions, time period and application procedures, definitions and enforcement standards of the Wetlands Protection Act shall apply.

Section 2.0: Jurisdiction

Except as permitted by the Conservation Commission no person shall commence to remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter the following resource areas: any freshwater wetlands, marshes, wet meadows, bogs, swamps, vernal pools, springs, banks, reservoirs, lakes, ponds of any size, beaches, and lands under water bodies; lands adjoining these resource areas out to a distance of 100 feet, known as the buffer zone; rivers, streams, brooks and creeks, whether perennial or intermittent; lands adjoining these resource areas out to a distance of 200 feet, known as the riverfront area; lands subject to flooding or inundation by groundwater or surface water (collectively the "resource areas protected by this bylaw"). Said resource areas shall be protected whether or not they border surface waters.

For new projects within jurisdiction, a minimum of a 25-foot "No Disturb Zone," to be naturally vegetated, shall be maintained or provided within the 100-foot buffer zone, adjacent to wetland resource areas. The Commission reserves the authority to create a wider "No Disturb Zone" within the 100-foot buffer zone if deemed necessary to protect the wetland resource area.

Section 3.0: Exemptions and Exceptions

The applications and permits required by this bylaw shall not be required for work performed for normal maintenance or improvement of land in agricultural and aquacultural use as defined by the Wetlands Protection Act regulations at 310 CMR 10.04. The permit and applications required by this bylaw shall apply to the harvesting of forestry products under the provisions of M.G.L. ch. 132 sec. 40-46 when an approved forest cutting plan has been properly filed with the Conservation Commission.

The applications and permits required by this bylaw shall not be required for maintaining, repairing, or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph, or other telecommunication services, provided that written notice has been given to the Conservation Commission prior to commencement of work, and provided that the work conforms to any performance standards and design specifications in regulations adopted by the Commission.

The permits and applications required by this bylaw shall not apply to emergency projects necessary for the protection of the health and safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or the Town of Brimfield; provided that advance notice, oral or written, has been given to the Commission prior to commencement of work or within 24 hours after commencement; provided that the Commission or its agent certifies the work as an emergency project; provided that the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency; and with the protective measures required by the commission are complied with.

Other than stated in this bylaw, the exceptions provided in the Wetlands Protection Act (G.L. Ch. 131 §40) and regulations (310 CMR 10.00) shall not apply under this bylaw.

Section 4.0: Applications and Fees

Written application shall be filed with the Conservation Commission to perform activities affecting resource areas protected by this bylaw. The permit application shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the resource areas protected by this bylaw. No activities shall commence without receiving and complying with a permit issued pursuant to this bylaw.

The Commission in an appropriate case may accept as the application and plans under this bylaw any application and plans filed under the Wetlands Protection Act (G.L. Ch. 131 §40) and regulations (310 CMR 10.00), but the Commission is not obliged to do so.

Any person desiring to know whether or not a proposed activity or an area is subject to this bylaw may in writing request a determination from the Commission. Such a Request for Determination of Applicability (RDA) or Abbreviated Notice of Resource Area Delineation (ANRAD) filed under the Act shall include information and plans as are deemed necessary by the Commission.

At the time of an application, the applicant shall pay a filing fee specified in regulations of the Commission. The fee is in addition to that required by the Wetlands Protection Act and regulations. Failure to submit the fee will result in denial due to incomplete project application. The said fees shall be paid to the Town of Brimfield and deposited into a separate account from the account established for filing fees paid under the state Wetlands Protection Act and shall be expended by the Commission for the administration and enforcement of this bylaw and the Wetlands Protection Act.

Pursuant to G.L. Ch. 44 §53G, the Commission may impose reasonable fees upon applicants for the purpose of securing outside consultants including engineers, wetlands scientists, wildlife biologists or other experts in order to aid in the review of proposed projects. Such funds shall be deposited with the town treasurer, who shall create an account specifically for this purpose. Additional consultant fees may be required where the requisite review is more extensive than originally calculated or where new information requires additional consultant services.

Only costs relating to consultant work done in connection with a project for which a consultant fee has been collected shall be paid from this account, and expenditures may be made at the sole discretion of the Commission. Any consultant hired under this provision shall be selected by, and report exclusively to, the Commission. The Commission shall provide applicants with written notice of the selection of a consultant, identifying the consultant, the amount of the fee to be charged to the applicant, and a request for payment of that fee. Notice shall be deemed to have been given on the date it is mailed or delivered. The applicant may withdraw the application or request within five (5) business days of the date notice is given without incurring any costs or expenses.

The entire fee must be received before the initiation of consulting services. Failure by the applicant to pay the requested consultant fee within ten (10) business days of the request for payment shall be cause for the Commission to declare the application administratively incomplete and deny the permit without prejudice, except in the case of an appeal. The Commission shall inform the applicant and Department of Environmental Protection (DEP) of such a decision in writing.

The applicant may appeal the selection of an outside consultant to the Board of Selectmen, who may disqualify the consultant only on the grounds that the consultant has a conflict of interest or is not properly qualified. The minimum qualifications shall consist of either an educational degree or three or more years of practice in the field at issue, or a related field. The applicant shall make such an appeal in writing, and must be received within ten (10) business days of the date that request for consultant fees was made by the Commission. Such appeal shall extend the applicable time limits for action upon the application.

Section 5.0: Notice and Hearings

Any person filing an application or a Request for Determination of Applicability with the Commission shall, at the same time, give written notice thereof, by certified mail (with return receipt), to all abutters within 100 feet of the property line of the applicant, according to the most recent records of the Assessors, including those across a traveled way or body of water. The notice to abutters shall include a copy of the application or request, with plans, or shall state where plans can be examined and obtained by abutters free of charge.

The Commission shall conduct a public hearing on any application or request for determination. A notice of the time and place of the hearing shall be given by the Commission at the expense of the applicant not less than five working days prior to the hearing by publication in a newspaper of general circulation in the municipality.

The Commission shall commence the public hearing within 21 days from receipt of a completed application of request for determination.

The Commission shall issue its permit or determination in writing within 21 days of the close of the public hearing thereon.

The Commission in an appropriate case may combine its hearing under this bylaw with the hearing conducted under the Wetlands Protection Act, G. L. c 131, Section 40.

The Commission shall have the authority, with the consent of the applicant, to continue the meeting or hearing to a date and time certain announced at the hearing, for reasons stated at the hearing, such as conducting a site visit or obtaining additional information. If the applicant does not consent to a continuation of the hearing the hearing shall be closed and a decision rendered based on the information available to the Commission.

Section 6.0: Permits and Conditions

If the Commission, after a public hearing, determines that the activities which are subject to the permit application, or the land and water uses which will result there from, are likely to have a significant or cumulative effect upon the resource area values protected by this bylaw, the Commission within 21 days of the close of the hearing shall issue or deny a permit for the activities requested. The Commission shall take into account the extent to which the applicant has avoided, minimized and mitigated any such effect. The Commission also shall take into account any loss, degradation, isolation, and replacement or replication of such protected resource areas elsewhere in the community and the watershed, resulting from past activities, whether permitted, unpermitted or exempt, and foreseeable future activities. If it issues a permit, the Commission shall impose conditions which the Commission deems necessary or desirable to protect said resource area functions and values, and all activities shall be conducted in accordance with those conditions. The Commission shall have the authority to attach conditions to a negative determination issued under this bylaw, specifying how the work will be completed. Where no conditions are adequate to protect said resource area values, the Commission is empowered to deny a permit for failure to meet the requirements of this bylaw.

Where no conditions are adequate to protect said resource area values, the Commission is empowered to deny a permit for failure to meet the requirements of this bylaw. It may also deny a permit: for failure to submit necessary information and plans requested by the Commission; for failure to comply with the procedures, design specifications, performance standards, and other requirements in regulations of the Commission; or for failure to avoid, minimize or mitigate unacceptable significant or cumulative effects upon the resource area values protected by this bylaw. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing.

In reviewing activities within the buffer zone, the Commission shall presume the buffer zone is important to the protection of other resource areas because activities undertaken in close proximity have a high likelihood of adverse impact, either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of the activities. These adverse impacts from construction and use can include, without limitation, erosion, siltation, loss of groundwater recharge, poor water quality, and loss of wildlife habitat. The Commission may establish, in its regulations, design specifications, performance standards, and other measures and safeguards, including setbacks, no-disturb areas, no-build areas, and other work limits for protection of such lands, including without limitation strips of continuous, undisturbed vegetative cover, unless the applicant convinces the Commission that the area or part of it may be disturbed without harm to the values protected by the bylaw.

In reviewing activities within the riverfront area, the Commission shall presume the riverfront area is important to all the resource area values unless demonstrated otherwise, and no permit issued hereunder shall permit any activities unless the applicant, in addition to meeting the otherwise applicable requirements of this bylaw, has proved by a preponderance of the evidence that (1) there is no practicable alternative to the proposed project with less adverse effects, and that (2) such activities, including proposed mitigation measures, will have no significant adverse impact on the areas or values protected by this bylaw. The Commission shall regard as practicable an alternative which is reasonably available and capable of being done after taking into consideration the proposed property use, overall project purpose (e.g., residential, institutional, commercial, or industrial), logistics, existing technology, costs of the alternatives, and overall project costs.

To prevent resource area loss, the Commission shall require applicants to avoid alteration wherever feasible; to minimize alteration; and, where alteration is unavoidable and has been minimized, to provide full mitigation. The Commission may authorize or require replication of wetlands as a form of mitigation, but only with specific plans, professional design, proper safeguards, adequate security, and professional monitoring and reporting to assure success, because of the high likelihood of failure of replication.

The Commission may require a wildlife habitat study of the project area, to be paid for by the applicant, whenever it deems appropriate, regardless the type of resource area or the amount or type of alteration proposed. The decision shall be based upon the Commission's estimation of the importance of the habitat area considering (but not limited to) such factors as proximity to other areas suitable for wildlife, importance of wildlife "corridors" in the area, or actual or possible presence of rare plant or animal species in the area. The work shall be performed by an individual who at least meets the qualifications set out in the wildlife habitat section of the Wetlands Protection Act regulations (310 CMR 10.60).

The Commission shall presume that all areas meeting the definition of "vernal pools" under §8 of this bylaw, including the adjacent area, perform essential habitat functions. This presumption may be overcome only by the presentation of credible evidence which, in the judgment of the Commission, demonstrates that the basin or depression does not provide essential habitat functions. Any formal evaluation should be performed by an individual who at least meets the qualifications under the wildlife habitat section of the Wetlands Protection Act regulations.

Section 7.0: Regulations

After public notice and public hearing, the Commission shall promulgate rules and regulations to effectuate the purposes of this bylaw, effective when voted by the commission and filed with the town clerk. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this bylaw. At a minimum these regulations shall reiterate the terms defined in this bylaw, define additional terms not inconsistent with the bylaw, and impose filing and consultant fees.

Section 8.0: Definitions

The following definitions shall apply in the interpretation and implementation of this bylaw.

The term "alter" shall include, without limitation, the following activities when undertaken to, upon, within or affecting resource areas protected by this bylaw:

- A. Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind
- B. Changing of preexisting drainage characteristics, flushing characteristics, sedimentation patterns, flow patterns, or flood retention characteristics
- C. Drainage or other disturbance of water level or water table
- D. Dumping, discharging, or filling with any material which may degrade water quality
- E. Placing of fill, or removal of material, which would alter elevation
- F. Driving of piles, erection, expansion or repair of buildings, or structures of any kind
- G. Placing of obstructions or objects in water
- H. Destruction of plant life including cutting of trees.
- I. Changing temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of any waters
- J. Any activities, changes, or work which may cause or tend to contribute to pollution of any body of water or groundwater
- K. Incremental activities which have, or may have, a cumulative adverse impact on the resource areas protected by this bylaw.

The term "person" shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to town bylaws, administrative agency, public or quasi-public corporation or body, this municipality, and any other legal entity, its legal representatives, agents, or assigns.

The term "rare species" shall include, without limitation, all vertebrate and invertebrate animals and all plant species listed as endangered, threatened, or of special concern by the Massachusetts Division of Fisheries and Wildlife, regardless whether the site in which they occur has been previously identified by the Division.

The term "vernal pool" shall include, in addition to scientific definitions found in the regulations under the Wetlands Protection Act, any confined basin or depression not occurring in existing lawns, gardens, landscaped areas or driveways which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, contains at least 200 cubic feet of water at some time during most years, and provides essential breeding and rearing habitat functions for amphibian, reptile or other vernal pool community species, regardless of whether the site has been certified by the Massachusetts Division of Fisheries and Wildlife. The boundary of the resource area for vernal pools shall be 100 feet outward from the top of the bank.

Except as otherwise provided in this bylaw or in associated regulations of the Commission, the definitions of terms and the procedures in this bylaw shall be as set forth in the Wetlands Protection Act (G.L. Ch. 131 §40) and regulations (310 CMR 10.00).

Section 9.0: Security

As part of a permit issued under this bylaw, in addition to any security required by any other municipal or state board, agency, or official, the Commission may require that the performance and observance of the conditions imposed thereunder (including conditions requiring mitigation work) be secured wholly or in part by one or both of the methods described below:

- a) By a proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the Commission;
- b) By accepting a restriction, easement or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of Brimfield whereby the

permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed. This method shall be used only with the consent of the property owner.

Section 10.0: Enforcement

No person shall remove, fill, dredge, build upon, degrade, or otherwise alter resource areas protected by this bylaw, or cause, suffer, or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with a permit or an enforcement order issued pursuant to this bylaw.

The Commission shall have authority to enforce this bylaw, its rules and regulations, and permits issued thereunder by letters, phone calls, electronic communication and other informal methods, violation notices, non-criminal citations under G.L. Ch. 40 §21D, and civil and criminal court actions. Any person who violates provisions of this bylaw may be ordered to restore the property to its original condition and take other action deemed necessary to remedy such violations, or may be fined, or both.

Upon request of the Commission, the Board of Selectmen and the Town Counsel shall take legal action for enforcement for non-criminal citations under G.L. Ch. 40 §21D, and civil and criminal court actions.

Upon request of the Commission the Chief of Police shall take legal action for enforcement under criminal law. Municipal boards and officers including any police officer or other officer having police powers shall have authority to assist the Commission in enforcement.

Any person who violates any provision of this bylaw, or regulations, permits, or administrative orders issued thereunder, shall be punished by a fine of not more than \$300. Each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense, and each provision of the bylaw, regulations, permits, or administrative orders violated shall constitute a separate offense.

As an alternative to criminal prosecution in a specific case, the Commission may issue citations pursuant to G.L. Ch. 40 §21D, which has been adopted by the Town in Section 2.1.3 of the Town General Bylaws. The Commission or its agent shall be the enforcing person. The penalty shall be \$100 for the first offense, \$200 for the second offense, and \$300 for the third and subsequent offenses. Each day or portion thereof that such violation occurs or continues shall constitute a separate offense.

Section 11.0: Burden of Proof

The applicant requesting a permit under this bylaw shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the application will not have a significant negative or cumulative effect upon the wetland resource areas protected by this bylaw. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

Section 12.0: Waiver

The Commission may waive specifically identified and requested procedures, design specifications, performance standards, or other requirements set forth in its regulations, provided that: the Commission finds in writing after said public hearing that there are no reasonable conditions or alternatives that would allow the proposed activity to proceed in compliance with said regulations; that avoidance, minimization and mitigation have been employed to the maximum extent feasible; and that the waiver is necessary to accommodate an overriding public interest or to avoid a decision that so restricts the use of the property as to constitute an unconstitutional taking without compensation.

Section 13.0: Appeals

A decision of the Commission shall be reviewable in a court of competent jurisdiction, in accordance with G.L. Ch. 249 §4.

Section 14.0: Relation to the Wetlands Protection Act

This bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act (G.L. Ch. 131 §40) and regulations (310 CMR 10.00) thereunder. It is the intention of this bylaw that the purposes, jurisdiction, authority, exemptions, regulations, specifications, standards, and other requirements shall be interpreted and administered as stricter than those under the Wetlands Protection Act and regulations.

Section 15.0: Severability

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof, nor shall it invalidate any permit, approval or determination which previously has been issued or.

Or, take any other action thereon. (Conservation Commission)

>Motion made by the Conservation Commission (per Chairperson) and seconded: "Move to approve the article as written"

Motion to approve was defeated by show of voting cards. (10:17 PM)

Moderator announced that he had determined, after consultation with Town Counsel, that Articles 21, 22, 23, 24, 25, and 26 should be considered by the ATM as a group since all pertain to approval of Flood Plain Maps.

ARTICLE 21: To see if the Town will vote to amend Section 3.12 of the Zoning Bylaws, entitled "District Boundaries", as set forth below, by deleting the strikethrough text and inserting in place thereof the underlined:

3.12 District Boundaries

~~The Flood plain District is herein established as an overlay district. The District includes all special flood hazard designated on the Brimfield Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program (NFIP) dated August 2, 1982 as Zone A, AE, AH, AO, AI-30, A99, V, VI-30, VE and the FEMA Flood Boundary & Floodway Map dated August 2, 1982, both maps which indicate the 100-year regulatory flood plain. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Flood Insurance Study booklet dated February 2, 1982. The FIRM, Floodway Maps and Flood Insurance Study booklet are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official & Conservation Commission.~~

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Brimfield designated as Zone A or AE on the Hampden County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Hampden County FIRM that are wholly or partially within the Town of Brimfield are panel numbers

25013C0267E, 25013C0269E, 25013C0286E, 25013C0287E, 25013C0288E, 25013C0289E, 25013C0291E, 25013C0292E, 25013C0293E, 25013C0294E, 25013C0457E, 25013C0459E, 25013C0476E, 25013C0477E, 25013C0478E, 25013C0479E, 25013C0481E, 25013C0482E, 25013C0483E, and 25013C0484E dated July 16, 2013.

The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Hampden County Flood Insurance Study (FIS) report dated July 16, 2013. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official, Conservation Commission.
Or, take any other action thereon. (Board of Selectmen and Planning Board)

ARTICLE 22: To see if the Town will vote to amend Section 3.13- of the Zoning Bylaws, entitled, ("Floodway Data", as set forth below, by deleting the strikethrough text)

3.13 Floodway Data

In Zone A, ~~AI-30~~, and AE along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
Or, take any other action thereon. (Board of Selectmen and Planning Board)

ARTICLE 23: To see if the Town will vote to amend Section 3.14 of the Zoning Bylaws entitled "Base Flood Elevation Data", as set forth below, by inserting the underlined text:

3.14 Base Flood Elevation Data

Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is the lesser within unnumbered a zones.
Or, take any other action thereon. (Board of Selectmen and Planning Board)

ARTICLE 24:

To see if the Town will vote to amend Section 3.15 of the Zoning Bylaws, entitled, "Notification of Watercourse Alternation", as set forth below, by deleting the strikethrough text and inserting the underlined text:

3.15 Notification of Watercourse Alternation Notify, in a riverine situation, the following, of any alteration or relocation of a watercourse:

- Adjacent Communities
- ~~Bordering States (optional)~~
- NFIP State Coordinator

MA Office of Water Resources, ~~100 Cambridge Street, Boston, MA 02202-251~~
Causeway Street, Suite 600-700, Boston, MA 02114-2104

NFIP Program Specialist, Federal Emergency Management Agency, Region 1, 99
High Street, 6th Floor, Boston, MA 02110

- FEMA Region I, Room 462, McCormack Office Building, Boston, MA 02109

Or, take any other action thereon. (Board of Selectmen and Planning Board)

ARTICLE 25: To see if the Town will vote to amend Section 3.17 of the Zoning Bylaws entitled, "Reference to Existing Regulations", as set forth below, by deleting the strikethrough text and inserting the underlined text in place thereof:

3.17 Reference to Existing Regulations

The Flood plain District is established as an overlay district to all other districts. All development in the district, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the following:

- ~~Section of the Mass. State Building Code which addresses flood plain and coastal high hazard area (currently 780 CMR 2102.0, "Flood Resistant Construction");~~ Sections of the Massachusetts State Building Code (780 CMR) which address floodplain and coastal high hazard areas;
- ~~Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.001);~~ Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
- ~~Inland Wetlands Restriction, DEP (currently 302 CMR 6.00);~~ Inland Wetlands Restriction, DEP (currently 310 CMR 13.00); ~~Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CRM 15, Title 5);~~ Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5);

Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations;
Or, take any other action thereon. (Board of Selectmen and Planning Board)

ARTICLE 26: To see if the Town will vote to amend Section 3.18.2. of the Zoning Bylaws entitled, "Other Use Regulations", as set forth below, by deleting the strikethrough text:

3.18.2 In Zones ~~AI-30~~ and AE, along watercourses that have a regulatory floodway designated on the Brimfield FIRM, encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge;

Or, take any other action thereon. (Board of Selectmen and Planning Board)

>Motion made by Planning Board (per Chairperson) and seconded: "Move that Articles 21, 22, 23, 24, 25, and 26 be approved as written."

Motion to approve passed by show of voting cards -2/3 majority (10:17 PM)

ARTICLE 27: To see if the Town will vote to amend the Zoning Bylaws to adopt in section 2.1 "Types of Districts" by inserting "Adult Entertainment District" as defined by MA General Law, and also adding a Section 3.6.7 to read as follows "Adult Entertainment district to be located from the westerly side of Monson Road to the easterly side of what was now or formally known as Broadway Road for a depth of 500 feet from the highway bounds of US RT 20";

Or, take any other action thereon. (Planning Board)
>Motion made by Planning Board (per Chairperson) and seconded: "Move that the Article be withdrawn"

Motion to withdraw passed by show of voting cards. (10:19 PM)

ARTICLE 28: To see if the Town will vote to amend Section 7.2 of the Zoning Bylaws entitled, "Site Plan Approval-Projects Requiring Site Plan Approval", as set forth below, by inserting the underlined text:

Section 7.2 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, 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 or changes of use of less than 25% of the existing floor area. [amended May 2008, May 2011 and May 2012]

Or, take any other action thereon. (Planning Board)
>Motion made by Planning Board (per Chairperson) and seconded: "Move that the Article be approved as written."

Motion to approve passed by show of voting cards. – 2/3 majority (10:27 PM)

ARTICLE 29: To see if the Town will vote to amend Section 1.2 of the Zoning Bylaws entitled, "Definitions", by adopting the following definition:

Storage Trailer – A structure originally constructed for transportation use i.e.: truck trailer, sea cargo container, rail container.

Or, take any other action thereon. (Planning Board)
>Motion made by Planning Board (per Chairperson) and seconded: "Move that the Article be approved as written."

Motion to approve passed by show of voting cards. – 2/3 majority (10:27 PM)

ARTICLE 30: To see if the Town will vote to amend Section 10 of the Zoning Bylaws, entitled, "Trailers", by inserting a new section 10.4 entitled, "Storage Trailers" to read as follows:

Storage Trailers are not permitted as accessory structures within the Business Zone with the following exceptions: a period not to exceed seven (7) consecutive days three (3) times per year relative to the Flea Market in the established Districts and seven (7) days prior and seven (7) days after the (7) consecutive days three (3) times per year relative to the Flea Market in the established Districts. The Planning Board may grant approval for special events that require storage trailers on a temporary basis as they deem fit.

Or, take any other action thereon. (Planning Board)

>Motion made by Planning Board (per Chairperson) and seconded by Board of Selectmen: "Move that the Article be passed over."

Motion to "pass over" passed by show of voting cards. – 2/3 majority (10:28 PM)

ARTICLE 31: To see if the Town will vote to amend the zoning Bylaws by inserting a new chapter 7A, entitled, "Large-Scale Ground-Mounted Solar Photovoltaic Installations" and 7B, entitled, "Small-Scale Solar Photovoltaic Installations".

7A. Large-Scale Ground-Mounted Solar Photovoltaic Installations

1.0 Purpose

The purpose of this bylaw is to provide for the regulation of Large-Scale Ground-Mounted Solar Photovoltaic Installations, as defined herein, by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety and minimize impacts on scenic, natural and historic resources, and to provide adequate financial assurance for the eventual decommissioning of such installations.

1.1 Applicability

This section applies to Large-Scale Ground-Mounted Solar Photovoltaic Installations proposed to be constructed after the effective date of this section, as well as to physical modifications to such installations presently existing or hereafter constructed that materially alter the type, configuration, or size of the installation or related equipment or impact abutters.

2.0 Definitions

These definitions shall apply to Section 7A and Section 7B.

Large-Scale Ground-Mounted Solar Photovoltaic Installation: A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and has a minimum nameplate capacity of 250 kW DC.

Rated Nameplate Capacity: The maximum rated output of electric power production of the Photovoltaic system in Direct Current (DC).

Site Plan Approval Authority: The site plan approval authority as designated by the Zoning Bylaws.

Solar Photovoltaic Array: an arrangement of solar photovoltaic panels.

Zoning Bylaws: The Town of Brimfield Zoning Bylaws.

3.0 General Siting Standards

3.1 Lot Requirements

Large-Scale Ground-Mounted Solar Photovoltaic Installations shall be permitted on lots larger than 5 acres.

3.2 Site Control

The project proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed Large-Scale Ground-Mounted Solar Photovoltaic Installation.

3.3 Setbacks

For Large - Scale Ground-Mounted Solar Photovoltaic Installations, front, side and rear setbacks shall be as follows:

- (a) Front yard: The front yard depth shall be at least 100 feet.
- (b) Side yard. Each side yard shall have a depth at least 100 feet.
- (c) Rear yard. The rear yard depth shall be at least 100 feet.

3.4 Height of Structures

The height of any structure associated with a Large-Scale Ground-Mounted Solar Photovoltaic Installation shall not exceed 20 feet.

3.5 Project Area

The total area of a Large-Scale Ground-Mounted Solar Photovoltaic Installation, including all appurtenant structures and improvements, shall not exceed ten (10) acres.

4.0 Permit Process, Requirements & Enforcement

4.1 Site Plan Review

Large-Scale Ground-Mounted Solar Photovoltaic Installations shall be constructed, installed, used and modified only in conformity with site plan approval issued by the Site Plan Approval Authority in accordance with the Zoning Bylaws. The requirements set forth in this chapter shall be applied coincident with the site plan approval requirements set forth in Section 7.0 of the Zoning Bylaws and any amendments thereto. The requirements of this section shall take precedence in the event of a direct conflict.

4.2.1 Required Documents

Pursuant to the site plan approval process, the project proponent shall provide the following:

- i. A site plan prepared, stamped and signed by a Professional Engineer licensed to practice in Massachusetts showing property lines and physical features, including roads, for the project site, proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures, and existing trees 6" caliper or larger;
- ii. Blueprints or drawings of the installation signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures;
- iii. One or three line electrical diagram detailing the installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;
- iv. Documentation of the major system components to be used, including the PV panels, mounting system, and inverter;
- v. Name, address, and contact information for proposed system installer;
- vi. Name, address, phone number and signature of all project proponents and property owners;
- vii. The name, contact information and signature of any agents representing the project proponent;
- viii. Documentation of actual or prospective access and control of the project site;
- ix. An operation and maintenance plan (see also Section 6.6);
- x. Zoning district designation for the parcel(s) of land comprising the project site;
- xi. Proof of liability insurance written by companies licensed to provide such insurance in Massachusetts and with coverage limits at commercially acceptable levels;
- xii. Description of financial surety that satisfies Section 6.3. ;
- xiii. A list of any hazardous materials proposed to be located on the site in excess of household quantities and a plan to prevent their release to the environment, as appropriate;
- xiv. Documentation by an acoustical engineer of the noise levels projected to be generated by the installation;
- xv. Documentation of soil types on all land involved with the project;

- xvi. Locations of wetlands and Priority Habitat Areas defined by the Natural Heritage & Endangered Species Program (NHESP);
- xvii. Locations of floodplains or inundation areas for moderate or high hazard dams; and
- xviii. Provision of water including that needed for fire protection.

The Site Plan Approval Authority may require additional information, data or evidence as it deems necessary pursuant to the site plan approval process, or may waive information requirements as it deems appropriate.

All material modifications to a Large-Scale Ground-Mounted Solar Photovoltaic Installation made after site plan approval has been issued shall require approval of the Site Plan Approval Authority under the site plan approval process.

5.0 Design Standards

5.1 Lighting

Lighting of Large-Scale, Ground-Mounted Solar Photovoltaic Installations shall be consistent with local, state and federal law. Overnight lighting shall not be permitted unless required by the Site Plan Approval Authority or by local, State or Federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting of the installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

5.2 Signs and Advertising

Signs on Large-Scale, Ground-Mounted Solar Photovoltaic Installations shall comply with the Zoning Bylaws. A sign consistent with this section shall be required to identify the owner and provide a 24-hour emergency contact phone number. Large-Scale, Ground-Mounted Solar Photovoltaic Installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the installation.

5.3 Utility Connections

Reasonable efforts, as determined by the Site Plan Approval Authority, shall be made to place all utility connections from the Large-Scale, Ground-Mounted Solar Photovoltaic Installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

5.4 Fencing

The Large-Scale, Ground-Mounted Solar Photovoltaic Installation shall be fenced so as to control access to the facility. The fence setback from the property line will be a minimum of 90 feet.

5.5 Land Clearing, Soil Erosion and Habitat Impacts

Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the Large-Scale, Ground-Mounted Solar Photovoltaic Installation or otherwise prescribed by applicable laws, regulations, and bylaws.

5.6 Control of Vegetation

Herbicides shall not be used to control vegetation at the installation. Mowing, grazing or using geotextile materials underneath the solar array are possible alternatives.

5.7 Noise

Noise generated by Large-Scale Ground-Mounted Solar Electric Installations and associated equipment and machinery shall conform to applicable state and local noise regulations, including the DEP's Division of Air Quality noise regulations, 310 CMR 7.10. A source of sound will be considered in violation of said regulations if the source's broadband sound level is more than 65 dba 10 feet from the source.

5.8 Facility Access and Conditions

The Large-Scale, Ground-Mounted Solar Photovoltaic Installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the Fire Chief and Emergency Medical Services. The owner or operator shall be responsible for maintaining the installation and any access road(s) that are not accepted public ways maintained by the responsible public authority.

The owner and operator of the installation shall identify a responsible person for emergency purposes and public inquiry and shall at all times throughout the life of the installation maintain current contact information (name, address, telephone number, e-mail address) for such person(s) on file with the Building Inspector, the Fire Chief, and the Site Plan Approval Authority.

5.9 Screening

Large-Scale Ground-Mounted Solar Photovoltaic Installations shall be screened from view by a staggered and grouped planting of shrubs and small trees having a minimum depth of fifteen (15) feet. Such plantings shall use native plants and a mix of deciduous and evergreen species and may be located within the setback area.

5.10 Appurtenant Structures

All appurtenant structures to Large-Scale, Ground-Mounted Solar Photovoltaic Installations shall be subject to applicable dimensional regulations as set forth in the Zoning Bylaws, including such regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including

but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be shaded from view by vegetation and/or joined or clustered to avoid adverse visual impacts.

6.0 Additional Provisions

6.1 Discontinuance and Decommissioning.

The Large-Scale Ground-Mounted Photovoltaic Installation, or any substantial part thereof, not in operation for a period of one hundred and fifty (150) continuous days or more without written permission from the Site Plan Approval Authority, or that has reached the end of its useful life, shall be considered discontinued and shall be removed. Upon written request from the Building Inspector addressed to the contact address provided and maintained by the owner and operator as required above, the owner or operator shall provide evidence to the Building Inspector demonstrating continued use of the installation. Failure to provide such evidence within thirty (30) days of such written request shall be conclusive evidence that the installation has been discontinued. The owner or operator of the installation shall notify the Site Plan Approval Authority and Building Inspector by certified mail of the proposed date of discontinued operations and plans for removal.

6.2 Removal Requirements

The owner or operator shall physically remove the installation no more than one hundred and fifty (150) days after the date of discontinued operations.

Removal shall consist of:

- (a) Removal of the installation in its entirety, including all associated structures, equipment, security barriers and transmission lines from the site.
- (b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
- (c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Site Plan Approval Authority may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

If the owner or operator of the large-scale, ground-mounted solar photovoltaic installation fails to remove the installation in accordance with the requirements of this section within 150 days of discontinuance or the proposed date of decommissioning, the Town of Brimfield shall have the right, to the extent it is otherwise duly authorized by law, to enter the property and remove the installation at the expense of the owner of the installation and the owner(s) of the site on which the installation is located.

6.3 Financial Surety

Proponents of Large-Scale, Ground-Mounted Solar Photovoltaic Installations shall provide to the Town, prior to construction, a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the Town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the Site Plan Approval Authority. Such surety will not be required for municipally- or state-owned installations. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

6.4 Compliance with Laws, Bylaws and Regulations

The construction and operation of all Large-Scale Ground-Mounted Solar Photovoltaic Installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of the installation shall be constructed in accordance with the State Building Code.

6.5 Building Permit and Building Inspection

No Large-Scale Ground-Mounted Solar Photovoltaic Installation shall be constructed, installed or modified as provided in this section without first obtaining a building permit.

6.6 Fees

A site plan approval application for a Large-Scale Ground-Mounted Solar Photovoltaic Installation shall be accompanied by the required fee, and, in accordance with the site plan approval requirements of the Zoning Bylaws, a deposit sufficient to cover any expenses connected with a public hearing and review of plans, monitoring and inspections fees, including but not limited to the costs of any engineering, legal or planning consultant services necessary for review purposes. An application for the required building permit shall be accompanied by the appropriate fee. All other fees that shall be required by permitting parties (Conservation Commission, etc.) shall be administered according to their regulations.

6.7 Operation & Maintenance Plan

The project proponent shall submit a plan for the operation and maintenance of the Large-Scale Ground-Mounted Solar Photovoltaic Installation, which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operational maintenance of the installation.

6.8 Utility Notification

No Large-Scale, Ground-Mounted Solar Photovoltaic Installation shall be constructed until evidence has been given to the Site Plan Approval Authority that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar photovoltaic installation owner or operator's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

6.9 Emergency Services

The Large-Scale Ground-Mounted Solar Photovoltaic Installation owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Fire Chief. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the installation shall be clearly marked.

6.10 Waiver

The Site Plan Approval Authority may waive specifically identified and requested procedures, design specifications, performance standards, or other requirements set forth in this bylaw, provided that the Site Plan Approval Authority finds in writing that there are no reasonable conditions or alternatives that would allow the proposed activity to proceed in compliance with said regulations; that avoidance, minimization and mitigation have been employed to the maximum extent feasible; and that the waiver is necessary to accommodate an overriding public interest or to avoid a decision that so restricts the use of the property as to constitute an unconstitutional taking without compensation.

7B. Small-Scale Solar Photovoltaic Installations

1.0 Purpose

The purpose of this section is to provide for regulation of non-commercial small-scale solar photovoltaic installations and facilities and minimize the impacts on scenic, natural, and historic resources of the Town. The provisions set forth in this section of the Zoning Bylaws shall apply to the construction, operation, repair, and/or removal of small-scale and roof-mounted solar photovoltaic installations, as defined herein, and to physical modifications that materially alter the type, configuration, or size of these installations or related equipment.

2.0 Definitions

Non-Commercial Solar Photovoltaic Installation: A solar installation that generates power primarily consumed on-site.

Small-Scale Solar Photovoltaic Installation: A solar photovoltaic system with a nameplate capacity under 250 kW.

Small-Scale Ground-Mounted Solar Photovoltaic Installation: A Small-Scale Solar Photovoltaic Installation that is structurally mounted on the ground.

Roof-Mounted Solar Photovoltaic Installation: A Non-Commercial Small-Scale Solar Photovoltaic Installation where the solar arrays are mounted on a building roof.

3.1 Roof-Mounted Solar Photovoltaic Installations

Roof-Mounted Solar Photovoltaic Installations shall be located so as not to increase the total height of the structure more than one (1) foot above the applicable zoning regulations related to height in the zoning district in which it is located, or such other height as is determined by the Building Commissioner to be essential for proper operation, but in no case more than four (4) feet.

3.2 Small-Scale Ground-Mounted Solar Photovoltaic Installations

- (1) All installations shall have an automatic and manual means of shutdown with clear instructional signage.
- (2) Front, side and rear setbacks shall be as follows:
 - (i) Front yard: The front yard depth shall be at least 100 feet.
 - (ii) Side yard. Each side yard shall have a depth at least 50 feet.
 - (iii) Rear yard. The rear yard depth shall be at least 50 feet.
- (3) The total surface area of all Small-Scale, Ground-Mounted Solar Photovoltaic Installations on any one lot shall not exceed twenty-five (25) percent of the minimum open space requirement of the zoning district in which it is located as specified in the Table of Dimensional Requirements or 2,500 square feet, whichever is less.
- (4) The maximum height of Small-Scale, Ground-Mounted Solar Photovoltaic Installations shall not exceed fifteen (15) feet.
- (5) The installation shall be a Non-Commercial Solar photovoltaic installation.
- (6) Dimensional exceptions may be allowed by special permit from the Zoning Board of Appeals.
- (7) Small-Scale Ground-Mounted Solar Photovoltaic Installations shall be adequately screened from the neighboring lot line and street view as determined by the Building/Zoning Official.
- (8) The installation must be fenced sufficient to protect people and animals.

3.4 Site Plan Review.

Small-Scale, Ground-Mounted Solar Photovoltaic Installations shall undergo site plan review by the Site Plan Approval Authority and the following documents shall be required:

- (a) Sun and shadow diagrams specific to the proposed installation to determine the solar access.
- (b) Detailed information, including maps, plans or dimensional sketches showing proposed location of the installation, including any setbacks from property lines or distances from structures which are used for habitation on adjacent properties.
- (c) Site drawings showing the building footprint, property lines, location and the dimensions of solar collectors, ridgeline of roof and description of the solar system.
- (d) Elevation drawings showing heights of buildings and solar installation above the roof.

3.5 Permitting

No Small-Scale Solar Photovoltaic Installation shall be constructed, installed or modified as provided in this section without first obtaining a building permit.
All data listed above shall be submitted to the Building/Zoning Official. All other necessary permits, such as electrical, shall be obtained through the Building Official/Zoning Official.

3.6 As Built Plans

As-built plans shall be submitted prior to final inspection.

3.7 Compliance with Laws, Bylaws and Regulations

The construction and operation of all Small-Scale Solar Photovoltaic Installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, noise, electrical, and communications requirements. All buildings and fixtures forming part of a solar energy installation shall be constructed in accordance with the State Building Code. (Board of Selectmen)

>Motion made from the floor and seconded: "Move that the Article be passed over."
Motion to "pass over" passed by show of voting cards. (10:45 PM)

ARTICLE 32: To see if the Town will vote, pursuant to Chapter One, Section 5.1 of the General Bylaws, to authorize the Board of Selectmen to negotiate and execute, in accordance with G.L. c.23K, §15(9), one or more Surrounding Community Agreement(s) with respect to proposals for the development and operation of Class 1 and/or Class 2 gaming facilities, and further to authorize said Agreement(s) to be for a term in excess of one year; or, take any other action thereon. (Board of Selectmen)

>Motion made by Board of Selectmen (per Diane Panaccione) and seconded: "Move that the Article be approved as written."
Motion to approve passed by show of voting cards. (10:46 PM)

ARTICLE 33: To see if the Town will vote to accept M.G.L. chapter 59, section 5N, authorizing the Board of Selectmen to establish a program to allow Veterans who qualify for participation to volunteer to provide services to the Town in exchange for a reduction in the real property tax obligations of that veteran on the veteran's tax bills, in addition to any exemption or abatement to which that person is otherwise entitled, not to exceed \$1,000.00 and not to exceed the current minimum wage of the Commonwealth per hour; and further to see if the Town will vote to adjust the exemption by

- 1) allowing an approved representative for persons physically unable to provide such services to the Town; or
- 2) allowing the maximum reduction of the real property tax bill to be based on 125 volunteer service hours in a given year, rather than \$1,000.00;

Or, take any action thereon. (Board of Selectmen)

>Motion made by Finance Committee (per Chairperson) and seconded: "Recommend adoption of M.G. L. CH 50, section 5N for the purpose of authorizing the Board of Selectmen to establish a

program allowing qualified veterans to provide services to the town in exchange for up to a \$1,000 reduction in property tax obligations as stated in the article."

Motion passed by show of voting cards. (10:47 PM)

ARTICLE 34: To see if the Town will vote to amend the General Bylaws by deleting the term "dog officer" and replacing it with the term "Animal Control Officer" everywhere it appears in Chapter 2, Section 4.0, and by amending Chapter 4, Section 5.0 as indicated below, with additions shown in bold and deletions shown in ~~strikethrough~~.

Section Dog Control 5.0

5.1 Purpose

The purpose of this bylaw is to prevent the creation of a nuisance by dogs within the town boundaries and to prevent the spread of disease to and by dogs, by providing for the orderly regulation and control of dogs in the Town of Brimfield.

5.2 Definitions

As used in the bylaw, unless the context indicates otherwise

Dogs -- shall mean all animals of the canine species, both male and female.

Owner -- shall mean any person or persons, firm, association or corporation owning a dog.

Keeper -- shall mean any person or persons, firm, association or corporation keeping or harboring a dog, however temporarily such may be

Kennel -- shall mean a pack or collection of dogs on a single premise, including a commercial boarding or training kennel, commercial breeder kennel, domestic charitable kennel, personal kennel or veterinary kennel, as those terms are defined in Massachusetts General Laws, Chapter 140, Section 136A. ~~shall mean a pack or collection of dogs on a single premises, whether maintained for breeding, boarding, sale, training, hunting, or other purposes, including any shop where dogs are offered for sale and also including every pack or collection of more than three four dogs six months old or over, owned or kept by a person on a single premises, irrespective of the purpose for which they are maintained.~~

Massachusetts General Law, Chapter 140, Section 136A shall be referenced to clarify or define other terms which may be applicable to the provisions of this bylaw

5.3 Licensing

The Town Clerk shall be responsible for the licensing of dogs and shall be the custodian of all records relating to dog licensing. Revenue from licensing shall be deposited with the treasurer for the general fund, unless a separate fund has been established and authorized by town meeting. The Town Clerk shall be

allowed a licensing fee as provided in MGL Chapter 140, Section 147, for each individual or kennel license issued within the provisions of this bylaw.

The Town Clerk shall grant a license only upon presentation of a veterinarian's certification that such dog has been vaccinated in accordance with the provisions of MGL Chapter 140, Section 145B. The Town Clerk may accept alternate documentation of rabies vaccination, as specified in MGL Chapter 140, Section 137, ~~including a metal rabies tag bearing a date and identification number.~~

5.3.1 License Fees

Licensing fees are established as follows:

Male or Female dog	\$10.00
Spayed or Neutered	\$ 5.00
Kennel up to 4 dogs	\$20.00
Kennel 5 to 10 dogs	\$35.00
Kennel 11 to 25 dogs	\$50.00

5.3.2 Validity and Late Fees

Licenses are valid for a one year, from April 1 to March 31. Licenses will be available on January 1 of each year. All owners or keepers of dogs aged six months or older within the current licensing year shall complete an application for same with the Town Clerk and obtain a license for said dog. A late fee of \$3.00 per month, per dog, may be charged by the Town Clerk on every license issued after March 31 of each year.

5.4 Kennels

The owner of operator of a Kennel, as defined in this Bylaw and specifically including every pack or collection of more than 4 dogs, 3 months of age or older, on a single premises, irrespective of purpose for which they are maintained, shall obtain a kennel license in lieu of individually licensing the dogs. All kennels may shall be inspected by the Animal Control Officer prior to the issuance of a kennel license or renewal thereof and licenses may be revoked, suspended, or reinstated following all the provisions of Massachusetts General Laws, Chapter 140, Section 137C.

5.4.1 Special Kennels

Owners of kennels of more than 25 dogs shall be considered a Special Kennel and shall make application to the Town Clerk on a form provided for this purpose by the Town Clerk, together with a listing of all dogs then occupying the kennel premises. The owner shall reply faithfully and under penalties of perjury concerning all the information so requested.

A Special Kennel license shall be granted only after a favorable inspection by the ~~Dog-Officer~~ Animal Control Officer and after a public hearing to be

conducted by the Town Clerk. Said hearing shall be publicly posted not less than 10 days in advance of hearing and notice of such hearing shall be mailed to all abutters of the kennel property. A Special Kennel license may be renewed for up to five years without inspection or public hearing provided there are no written complaints on file concerning the care and keeping of dogs on the premises. This provision shall apply to all Special Kennels making license application in 1997.

5.5 Restraint of Dogs

No person owning or keeping a dog in Town shall allow such dog to roam with the actual knowledge, and permission of such person. All dogs not on the premises of the owner or the keeper, or upon the premises of another person, with the knowledge, and permission of such person, shall be restrained by a chain or leash.

5.5.1 The presence of any dog on the land of any person, other than the owner or keeper of such dog, when such dog is not restrained, as above mentioned, shall be primary evidence of a violation of the Bylaw.

5.5.2 Any dog found at large, in violation of this Bylaw, shall be caught and confined by the Animal Control Officer ~~Dog-Officer~~, who shall notify, forthwith, the licensed owner or keeper of such dog, giving the owner or keeper of such dog a period of ten (10) days within which to obtain a license and recover the dog.

5.6 Disposition of Confined Dogs

Dogs confined under the authority of this bylaw shall be confined by the Animal Control Officer ~~dog-officer~~ in a place suitable for the detention and care of dogs and kept in a sanitary condition. There shall be charged to the owner or keeper of the dog being claimed, the sum of ~~\$10.00~~, \$40.00 together with the boarding fee covering actual costs per day. Said sum is to be paid to the Animal Control Officer ~~dog-officer~~ as direct compensation by the owner or keeper before the dog is released from the custody of the Animal Control Officer ~~dog-officer~~. No dog may be released until the Animal Control Officer ~~dog-officer~~ is satisfied that the licensing and all other provisions of this bylaw have been met by the owner or keeper.

At the end of a ten-day period, any dog confined by the Animal Control Officer ~~dog-officer~~, may be disposed of in the manner provided by MGL Chapter 140, Section 151A.

5.7 Violations and Enforcement

In addition to the enforcement provisions of Chapter 4, section 5.5.2 (confinement of roaming dogs) and Section 5.6 (payment of board fee and

Animal Control Officer ~~dog officer~~ charge of \$10-\$40), whoever owns or keeps a dog found to be at large and unrestrained in violation of Chapter 4, section 5.5 and 5.5.1 may be penalized by means of a non-criminal disposition (ticket) of the violation, with a warning on the first offense and a fine of \$25.00 for a second and each subsequent offense, to be issued by the Dog Officer or any police officer, following all the provision of Massachusetts General Laws, Chapter 40, Section 21D.

5.7.1 Enforcement After a Public Hearing

If after a public hearing held under Massachusetts General Laws, Chapter 140, Sections ~~137C~~ or 157 upon complaint of an aggrieved citizen, the owner or keeper of a dog found to be a nuisance ~~by aggressive behavior toward people, livestock or other domesticated animals, or barking behavior~~ nuisance dog or a dangerous dog, as those terms are defined in said statute shall be subject to the orders of the Board of Selectmen regarding the keeping of the dog, and may be penalized as set forth in MGL, chapter 140, section 157A and, or by means of a non-criminal disposition (ticket) of the violation, with a fine of \$25.00 for each offense, to be issued by the Board of Selectmen following all the provisions of the Massachusetts General Laws, Chapter 40, Section 21 D. (Sections 7A+7B adopted May 1999)

5.8 Relation to Mass. General Laws

Massachusetts General Laws, Chapter 140, Sections 136 to 174D and subsequent amendments shall apply to any circumstances not provided for in this bylaw. In such cases, references to "the county" or "county commissioners" shall mean the town and the Board of Selectmen. References to the "dog fund" shall mean the accounts directed and established by the Town of Brimfield for administrative expenses relating to dog licensing.

5.8.1 Amendments to be Consistent with General Laws

No amendment to this article shall be proposed or adopted which is contrary to Massachusetts General Laws existing at the time of adoption of this bylaw, or which is considered outside of the authorizations contained in MGL Chapter 140, Section ~~147A~~ 173, providing for the Town of Brimfield to withdraw from the Hampden County Dog Fund, which was accepted by the Annual Town Meeting of 1992. (adopted May 1988; amended June 1996)

Or take any other action relative thereto. (Board of Selectmen)

>Motion made by Board of Selectmen (per Diane Panaccione) and seconded: "Move that the Article be approved as written."

Motion to approve passed by show of voting cards. (10:54 PM)

ARTICLE 35: To see if the Town will vote to accept the provisions of M.G.L. chapter 59, section 5, clause 54 allowing the Town to exempt \$2,500.00 of fair cash value on personal

property accounts to be taxed beginning with fiscal year FY2014; or, take any action thereon. (Board of Assessors)

>Motion made by Finance Committee (per Chairperson) and seconded: "Recommend adoption of M.G. L. CH 59, section 5, clause 54 allowing the Town to exempt \$2,500 of fair cash value on personal property accounts to be taxed beginning with FY2014 as stated in the article."

Motion to approve passed by show of voting cards hands. (10:54 PM)

ARTICLE 36: To see if the Town will vote to accept the provisions of M.G.L. chapter 59, section 5, clause 37A, providing tax relief to certain blind residents, to be effective on taxes issued after July 1, 2013; or, take any other action thereon.

(Board of Assessors and Collector)

>Motion made by Finance Committee (per Chairperson) and seconded: "Recommend adoption of M.G. L. CH 59, section 5, clause 37A providing tax relief to certain blind residents effective on taxes issued after July 1, 2013 as stated in the article."

Motion passed by show of voting cards. (10:55 PM)

ARTICLE 37: To see if the Town will vote to adjust the exemption requirements for the property tax exemption provided to certain persons over 65 years of age, under M.G.L. chapter 59, section 5, clause 41C, by increasing gross receipts limit from \$13,000 to \$20,000 if single and from \$15,000 to \$30,000 if married; increase whole estate limit from \$28,000 to \$35,000 if single and from \$30,000 to \$40,000 if married, to be effective on taxes issued after July 1, 2013; or, take any other action thereon. (Board of Assessors and Collector)

>Motion made by Finance Committee (per Chairperson) and seconded: "Recommend the adjustment of exemption requirements for the property tax exemption provided to certain persons over 65 years of age under M.G. L. CH 59, section 5, clause 41C as stated in the article."

Motion passed by show of voting cards. (10:57 PM)

ARTICLE 38: To see if the Town will vote to create a three person building permit fee oversight panel consisting of one person appointed by each of the following departments: 1.) Board of Assessors, 2.) Tax Collector, 3.) Planning Board. Such panel is to set reasonable fees to ensure safe building inspection standards, compensation and disbursement schedule. For new structures, the panel will follow the formula developed by the Nation Code Council in accordance with State Code guidelines, with fees to be set annually by July 1st. Compensation to the Building Department from the fees is not to exceed 70% of total permit fee. No authority is granted to the panel beyond that stated in this article; or, take any other action thereon. (By Petition)

>Motion made by Finance Committee (per Chairperson) and seconded: "Recommend approval of a three person building permit fee oversight panel as stated in the article."

Motion defeated by show of voting cards. (11:02 PM)

ARTICLE 39: To see if the Town will vote to amend By-Laws Chapter VIII. Section 2.3.2. entitled, "Flea Market Exceptions", by inserting the following new sections:

2.3.2.8 The outdoor use of any business or commercial property for the sale of used items of personal property which may be referred to as a "combined tag sale" or a "community

wide tag sale" provided that such use shall not occur on any property within ten (10) days of any legal Flea Market period.

2.3.2.9. The outdoor use of any business or commercial property for the conduct of what is commonly known as a "craft show" at which goods which are substantially made or crafted by the exhibitors, may be displayed and sold provided that such use shall not occur on any property within ten (10) days of any legal Flea Market period; or, take any other action thereon. (By Petition)

>Motion made by the petitioner (David Lamberto) and seconded: "*Move to approve the Article as written*"

Motion made by Susan Hilker and seconded: "*Sections 2.3.2.8 and 2.3.2.9 shall be amended to read:*

2.3.2.8 *The outdoor use of any property that holds a current flea market operating license for the sale of used items of personal property which may be referred to as a "combined tag sale" or a "community wide tag sale" provided that such use shall not occur on any property within ten (10) days of any legal Flea Market period.*

2.3.2.9. *The outdoor use of any property that holds a current flea market operating license for the conduct of what is commonly known as a "craft show" at which goods which are substantially made or crafted by the exhibitors, may be displayed and sold provided that such use shall not occur on any property within ten (10) days of any legal Flea Market Period.*"

Amendment to the original motion passed by show of voting cards.

>Motion made by the petitioner(David Lamberto) to amend the original motion and seconded to add the following:

"2.3.2.10 Such use shall not exceed three (3) days, twice per year on any such property. No such events may be scheduled simultaneously on more than one parcel of land."

Amendment to the original motion passed by show of voting cards.

Motion to approve Article 39 with two(2) amendments passed, 26 yes 19 no, by counted show of voting cards. (11:34 PM)

>Motion from the floor to adjourn at 11:36 PM until Wednesday at 7:00 PM and seconded.

Motion defeated by a show of voting cards. (11:37 PM)

ARTICLE 40: To see if the Town will vote to create the following General Bylaw pertaining to public comment at meetings of all elected and appointed boards and commissions:

"At all public meetings of all elected or appointed boards and commissions, the Chairperson will allow time for members of the public to address the board concerning any agenda item prior to the board voting on that item or disposing of any agenda item in any other way";

Or, to take any other action thereon. (By Petition)

>Motion made by the petitioner (Judith Sessler) and seconded: "*Move that the Article be approved as written.*"

Motion defeated, 17 yes, 35 no, by counted show of voting cards. (11:42 PM)

ARTICLE 41: To see if the Town will vote to amend the Town of Brimfield General Bylaws, Section 4.1 (*Officers to be Elected, Terms*) by striking the phrase "*a Town Treasurer for three years*" and by this same article, pursuant to Massachusetts General Law Chap. 41, Section 1B, vote to make the office of Town Treasurer a position to be appointed by the Board of Selectmen upon the expiration of the current Treasurer's elected term or the vacancy of the office; or, take any other action thereon. (By Petition)

Moderator stated that he wished to be removed from his duties only for Article 41 and asked that the ATM choose Thomas Marino to preside in his absence.

Motion made from the floor and seconded: "*Move to elect Mr. Marino to be Moderator in Mr. Miller's absence for Article 41 only.*"

Motion for temporary moderator passed by show of voting cards. (11:43 PM)

Mr. Marino took the podium and assumed the position of Moderator.

>Motion made by the petitioner (Judith Sessler) and seconded: "*Move that the Article be approved as written.*"

Motion defeated by a show of voting cards. (12:06 AM)

Mr. Marino stepped down from the podium and Mr. Miller resumed the position of Moderator at 12:07 AM

ARTICLE 42: To see if the Town will vote to amend Chapter Two of the Brimfield General Bylaws by adding a new section 10.0, to read as follows; or take any other action relative thereto.

10.0 No elected or appointed department head, selectmen, or chair of any paid board or committee may receive compensation in excess of \$1,000 per year for serving as an appointed employee of any department within the town, unless specifically authorized by the Town Meeting. (By Petition)

>Motion made by the petitioner (Susan Hilker) and seconded: "*Move to take no action on the Article*"

Motion to take no action passed by show of voting cards. (12:08 PM)

ARTICLE 43: To see if the Town will vote to rescind the authorization for the Building Inspector Revolving Fund, and establish a budget line item for the annual salary to be paid for the part time position of Building Commissioner and a budget line item for his expenses, or take any other action relative thereto. (By Petition)

>Motion made by the petitioner (Susan Hilker) and seconded: "*Move to take no action on the Article*"

Motion to take no action passed by show of voting cards. (12:09 PM)

ARTICLE 44: To see if the town will vote to amend Chapter Two of the Brimfield General Bylaws by adding a new section 9.0, to read as follows, or take any other action relative thereto.

Section 9.0 Agenda Format and Minutes for All Boards and Committee Meetings

9.1 An agenda will be prepared for every meeting at the direction of the Chairperson of the Committee and publicly posted at least forty-eight hours prior to the scheduled meeting. A copy of the agenda will also be forwarded to the Town Clerk. The Chairperson shall place on the agenda any item requested by any member of the Committee, provided that the request is in writing, a general overview of the topic is included and it is made available to the chairperson no later than one week prior to the meeting for which the agenda is being prepared.

All items introduced at the meeting, but not specifically included in the agenda, will be heard by the Committee but will be continued to the next meeting, unless the Committee votes to act on the item that night.

All regular and adjourned business meetings of the Committee shall include, but not be limited to, the following agenda items:

Opening of meeting by the Chairperson
Approval of the Minutes
Communications
Public Access
Old Business
New Business
Adjournment

9.2 Minutes will be kept at each meeting. A signed copy of the minutes will be placed on file in the Town Clerk's office as soon as they are approved by the Board or Committee.

An electronic copy will also be provided to the Town Clerk to be posted on the Town Website.
(By Petition)

>Motion made by the petitioner (Susan Hilker) and seconded: "Move to accept the Article as written"

Motion defeated 18 yes to 26 no, by a counted show of voting cards. (12:11 PM)

ARTICLE 45:

WHEREAS, We the people adopted and ratified the United States Constitution to protect the free speech and other rights of people, not corporations;

WHEREAS, Corporations are not people but instead are entities created by the law of states and nations;

WHEREAS, for the past three decades, a divided United States Supreme Court has erroneously transformed the First Amendment into a powerful tool for corporations seeking to evade and invalidate the people's laws;

WHEREAS, this corporate misuse of the First Amendment and Constitution has reached an extreme conclusion in the United States Supreme Court's ruling in Citizens United v. Federal Election Commission;

WHEREAS, this ruling in Citizens United v. Federal Election Commission:

- overturned longstanding precedent prohibiting corporations from spending corporate general treasury funds in our elections;

- unleashes a torrent of corporate money in our political process unmatched by any campaign expenditure totals in United States history;
- purports to invalidate state laws and even state Constitutional provisions separating corporate money from elections;
- and presents a serious and direct threat to our republican democracy;

WHEREAS, Article V of the U.S. Constitution empowers and obligates the people and states of the United States of America to use the constitutional amendment process to correct egregious decisions of the United States Supreme Court that go to the heart of our democracy and self-government; and

WHEREAS, the people and states of the United States of American have strengthened the nation and preserved liberty and equality for all by amendment process throughout our history, including in seven of the ten decades of the 20th Century, to reverse seven erroneous Supreme Court decisions.

NOW THEREFORE BE IT RESOLVED THAT THE RESIDENTS OF BRIMFIELD, MASSACHUSETTS CALL UPON THE UNITED STATES CONGRESS TO PASS AND SEND TO THE STATES FOR RATIFICATION A CONSTITUTIONAL AMENDMENT TO REVERSE CITIZEN UNITED V. FEDERAL ELECTION COMMISSION TO RESTORE CONSTITUTIONAL RIGHTS AND FAIR ELECTIONS TO THE PEOPLE. (By Petition)

Point of order from floor asking for quorum count. Moderator asked voters to raise voting cards and counted 58 voters in attendance. Town bylaw requires a minimum of 50 voters.

>Motion made by the petitioner (Dale Labonte) and seconded: "Move to approve the Article as written"

Motion to approve passed by show of voting cards. (12:15 PM)

ARTICLE 46: To see if the Town will vote to raise and appropriate, or otherwise transfer from available funds, the sum of \$ to pay principal and /or interest due in FY14 on the Fire Truck purchase so authorized by the May, 2012 Town Meeting; or, take any other action thereon. (Board of Selectmen)

>Motion made by the Finance Committee (per Chairperson) and second Selectmen: "Recommend and move that the Town raise and appropriate the sum of \$73,248 to pay interest and/or principal due in FY2014 on the fire truck purchase authorized by the May, 2012 Town Meeting for the purpose stated in the article."

Motion passed by show of voting cards. (12:16 PM)

ARTICLE 47: To see if the Town will vote to raise and appropriate, transfer from the Stabilization Fund, borrow, or otherwise fund the sum of \$ to pay the deficit created by appropriations required to meet the Town's emergency needs as a result of the October 2011 snowstorm, which is the amount not recovered from the State as a grant, or, take any other action thereon. (Board of Selectmen)

>Motion made by Finance Committee (per Chairperson) and second Selectmen: "Move that the Town transfer up to the sum of \$32,165 from the Stabilization Fund as may be required to pay for

costs of the October 2011 storm that are not eventually reimbursed by other sources for the purpose stated in the article."

Motion to transfer passed by show of voting cards with a 2/3 majority. (12:17 PM)

ARTICLE 48: To see if the Town will vote to raise and appropriate, or otherwise fund, the sum of \$ to pay principal and/or interest due in FY14 on the (date) borrowing in anticipation of reimbursements by State and Federal agencies of disaster spending as authorized in Article 12 at the May 2012 town meeting; or, take any other action thereon. (Board of Selectmen)

>Motion made by Finance Committee (per Chairperson) and second by Selectmen: "Move that the Town raise and appropriate \$2,705. to pay for interest and principal due in FY2014 on the debt incurred from disaster spending as authorized in Article 12 of the May 2012 Town Meeting for the purpose stated in the article."

Motion passed by show of voting cards with a 2/3 majority. (12:18 PM)

ARTICLE 49: To see if the Town will vote to transfer from the Capital Purchase Stabilization Fund; or, otherwise fund, the sum of \$ to pay the interest and principal due in FY14 on the Town Hall engineering and repairs authorized by May, 2009 town meeting; or, take any other action thereon. (Finance Committee)

>Motion made by Finance Committee (per Chairperson) and second by Selectmen: "Recommend and move that the Town transfer from the Capital Equipment Purchase Stabilization Fund the sum of \$23,925 to pay interest and principal due in FY2014 on the FY2010 debt incurred to repair the Town Hall, as stated in the article."

Motion to transfer funds passed by show voting cards with a 2/3 majority. (12:18 PM)

ARTICLE 50: To see if the Town will vote to transfer from the Capital Purchase Stabilization Fund, or otherwise fund, the sum of \$ to pay the interest and principal due in FY14 on the Capital Purchase Debt authorized in FY2005; or, take any other action thereon. (Finance Committee)

>Motion made by Finance Committee (per Chairperson) and second by Selectmen: "Recommend and move that the Town transfer from the Capital Equipment Purchase Stabilization Fund the sum of \$24,341 to pay interest and principal due in FY2014 on the FY2005 debt incurred to purchase several vehicles, as stated in the article."

Motion to transfer funds passed by show of hands with a 2/3 majority. (12:19 PM)

ARTICLE 51: To see if the Town will vote to transfer the sum of \$ from Free Cash to be added to the Capital Purchase Stabilization Fund; or, take any other action thereon. (Finance Committee)

>Motion made by Finance Committee (per Chairperson) and second by Selectmen: "Recommend and move that the Town transfer the sum of \$142,525 from certified Free Cash to the Capital Purchase Stabilization Fund, as stated in the article."

Motion to transfer funds passed by show of voting cards with a 2/3 majority. (12:19 AM)

ARTICLE 52: To see if the Town will vote to transfer \$ from Free Cash and \$ from the Assessor's Overlay Surplus and any other available funds to reduce the tax rate in FY2014 or for any other purpose; or, take any other action thereon. (Finance Committee)

>Motion made by Finance Committee (per Chairperson) and seconded: "Recommend and move that the Town transfer the sum of \$35,242 from certified Free Cash and \$30,000 from Overlay Surplus to reduce the tax rate for FY 2014, as stated in the article."

Motion to transfer funds passed by show voting cards. (12:19 AM)

ARTICLE 53: To see if the Town will vote to transfer a sum of money from Stabilization to balance the FY14 budget; or, take any other action thereon.

(Finance Committee)

>Motion made by Finance Committee (per Chairperson) and seconded: "Recommend and move that the Town transfer the sum of \$63,000 from the Stabilization Fund to reduce the tax rate for FY 2014, as stated in the article."

Motion to transfer funds passed by show of voting cards with a 2/3 majority. (12:20 AM)

>Motion from the floor made to adjourn the meeting and seconded.

Motion to adjourn passed on a voice vote. (12:20 AM)

Moderator adjourned the 2013 Town of Brimfield Annual Town Meeting at 12:20 AM

The above minutes with the attached appendices #1, #2 & #3(44 pages total) are the complete and true record of the Annual Town Meeting of the Town of Brimfield of May 20, 2013.

Robert P Sullivan
Town Clerk,
Brimfield, Massachusetts