



Office of the Town Clerk
Annual Report - March 2015

LOCAL ELECTION JUNE 2, 2014 408 Ballots Cast
 * Indicates unopposed

Moderator - One Year	* Michael P. Miller	289
Board of Selectmen - Three Years	Judith M. Carpenter	201
	Martin J. Kelly	190
Tantasqua Reg Sch Cmte - Three Years	* Daniel J Valcour	285
Elementary School Cmte - Three Years	* Delia Brower	286
Tree Warden - One Year	* Zack Lemieux	312
Board of Health - Three Years	* Magda H Polack	289
(Two Open Seats)	* Karen H Marino	258
Housing Authority - Five Years	* Elizabeth Ortona	284
Harding Fund Trustree - Three Years	* Maury J Tamarkin	293
Lincoln Fund Trustee - Three Years	* Anthony Bys	295
Board of Assessors - Three Years	* Robert P Sullivan	326
Library Trustee - Three Years	* Catherine Johnson	280
(Two Open Seats)	* Michael Defalco	267
Planning Board - Five Years	Jennifer L Elmore	154
	Judith A Sessler	81
	Uriah T Smith	71
	James C Stearns Jr	70
Cemetery Commission - Three years	* Phillips B Carpenter	307

Town Clerk's Report - continued

Population Statistics - Calendar year 2014

All residents: 3557
 17 and under: 632
 65 and older: 621
 Registered voters: 2634

Vital Records - reported for calendar year 2014

Resident Marriages: 11
 Births: 32
 Deaths: 14

Town of Brimfield
The 283rd Annual Town Meeting
May 19, 2014 - Brimfield Town Hall
Minutes and Actions

Michael Miller, moderator, called the meeting to order at 7:09 PM

96 registered voters in attendance.

Procedural Announcements:

The moderator reminded the meeting 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; individuals will be limited to two minutes when addressing the meeting 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.
- [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. (Board of 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. (7:20 PM)

The Moderator allowed Article 26 to be taken out of order because the action on this article could influence the details to be considered in Articles 2, 3, & 4.

***ARTICLE 26:** To see if the Town will vote to amend Chapter 3 section 4.1 of the Brimfield General Bylaws by inserting the underlined text as follows:

No Town Officer and no salaried employee of the Town or any agent of any such officer or employee shall receive any compensation for his services to the Town except his official salary. Expense money is not to be allotted to the payment of compensation for service. All Town officers and employees, whether appointed or elected shall pay all fees received by them by virtue of their office or position into the Town treasury. Or take any other action thereon. (Board of Selectmen)

Recommend and move that the town amend Chapter 3, Section 4.1 of the Brimfield General Bylaws as stated in the article.

>Motion made by Finance Committee (per Chairperson) and seconded: "Recommend and move that the town amend Chapter 3, Section 4.1 of the Brimfield General Bylaws as stated in the article."

Motion to approve Article 1 passed by show of voting cards. (7:22 PM)

ARTICLE 2: To see if the Town will vote to establish the following revolving funds under M.G.L. c. 44, §53E ½, (Chart of Accounts in Appendix), or, take any other action thereon. (Various Boards and Departments)

>Motion made by Finance Committee (per Chairperson) and seconded: "Recommend approval of the group of revolving funds authorized under MGL Chapter 44, Section 53E 1/2 listed in Appendix #1 and move such funds be established for the purposes stated for FY 2015."

>Motion made by Susan Hilker to amend Finance Committee motion and seconded: "Move to amend Article 2 (as illustrated in Appendix #1) under Authorized Expenditures in the Dog Revolving Fund so that the phrase General administration of dog licensing be struck and replaced by the phrase Purchase of dog licenses and tags."

Motion to amend Article 2 passed by show of voting cards. (7:24 PM)

Original motion to approve Article 2, with one(1) amendment, passed by show of voting cards. (7:24 PM)

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, 2014 to June 30, 2015; 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 \$198,691, 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. (7:33 PM)

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, 2014 to June 30, 2015, 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 \$8,180,320 as detailed in the Finance Committee Recommendations accompanying the Warrant, for the purpose stated in the article."

>Motion from the floor to amend Article 4 made and seconded: "Move to amend line item 132, [acct # 0241-5113] **Building Inspector Clerk** to read \$7167."

Motion to amend Article 4 passed by show of voting cards. 53 yes, 36 no. (8:17PM) Original motion to approve Article 4, with one (1) amendment

[revised total for Article 4 to \$8,182,713] passed by show of voting cards. (8:26 PM)

ARTICLE 5: To see if the Town will vote to raise and appropriate, or otherwise transfer from available funds, a sum of \$ to pay unpaid bills or overdrawn accounts for FY14; 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 \$500 for an unpaid bill from FY 2013."*

Motion to approve Article 5 passed by show of voting cards. (8:27 PM)

ARTICLE 6: To see if the Town will vote to raise and appropriate, or otherwise transfer from available funds, a sum of \$ to pay unpaid bills or overdrawn accounts for any fiscal year prior to FY14; or, take any other action thereon. (Board of Selectmen)

>Motion made by Finance Committee (per Chairperson) and seconded: *"Recommend and move that the Town take no action for the purpose stated in the article."*

Motion to take no action on Article 6 passed by show of voting cards. (8:28 PM)

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 FY15 and provided further, that any funds remaining in said account over \$50,000 for FY15 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, pursuant to Chapter 420 of the Acts of 2010, limit the Brimfield Flea Market Fund expenditures to \$150,000 for FY15, and that any funds remaining in said account over \$50,000 for FY15 shall close to the general fund as stated in the article."*

Motion to approve Article 7 passed by show of voting cards. (8:29 PM)

Procedural note: The Moderator explained that he would allow the Finance Committee to make a single motion for approval of a group of routine authorizations (Articles 8, 9, 11, 12 & 13), pointing out that this was the customary practice in Brimfield.

***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, 2014 in accordance with the provisions of M.G.L. c. 44, § 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. c. 44, § 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. c. 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 2015 and move such authorizations be re-established for the purposes stated in their respective articles: 8,9,11,12 & 13"*

Motion to approve Articles 8, 9, 11, 12 & 13 passed by show of voting cards. (8:30 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 for the purpose stated in the article."*

Motion to approve Article 10 passed by show of voting cards. (8:31 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 Article 14 passed by show of voting cards. (8:31 PM)

ARTICLE 15: To see if the Town will vote to raise and appropriate or otherwise transfer from available funds, the sum of \$500.00 to be added to the Conservation Fund as authorized by M.G.L. c. 40, § 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 Article 15 passed by show of voting cards. (8:32 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 Article 16 passed by show of voting cards. (8:32 PM)

ARTICLE 17: To see if the Town will vote to raise and appropriate, borrow, or otherwise transfer from available funds, the sum of \$180,000 to be expended by the Highway Surveyor subject to the requirements of applicable public bidding laws to purchase and equip a (new) 6 wheel dump truck greater than 35,000 GVW with plow and sander for use of the Brimfield Highway Department, pursuant to

the Town's Capital Expenditure Plan; or, take any other action thereon. (Highway Surveyor)

>Motion made by Finance Committee (per Chairperson) and seconded: *"Recommend and move that the Town transfer from the Capital Purchase Stabilization fund the sum of \$180,000 for the purpose stated in the article."*

Motion to approve Article 17 passed by a 2/3 majority of show of voting cards. (8:32 PM)

ARTICLE 18: To see if the Town will vote to raise and appropriate, borrow, or otherwise transfer from available funds, the sum of \$20,000 to be expended by the Highway Surveyor subject to the requirements of applicable public bidding laws for the purpose of repairing the salt shed roof pursuant to the Town's Capital Expenditure Plan; 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 \$20,000 for the purpose stated in the article."*

Motion to approve Article 18 passed by show of voting cards. (8:32 PM)

ARTICLE 19: To see if the Town will vote to accept the provisions of M.G.L. c.40, § 22F, which allows elected boards and officials to set reasonable fees and charges for licenses, permits and services provided by said elected boards and officials, or by boards or appointees under their jurisdiction, provided that such fees and charges are retained entirely by the Town, and provided further that the fee or charge being collected immediately prior to acceptance of this section for any license, permit, certificate service or work shall be utilized until a new fee or charge is fixed under M.G.L. c.40 § 22F; or take any other action thereon. (Board of Selectmen)

>Motion made by Finance Committee (per Chairperson) and seconded: *"Recommend and move that the Town accept the provisions of M.G.L. Chapter 40, section 22F as stated in the article."*

Motion to approve Article 19 passed by show of voting cards. (8:40 PM)

ARTICLE 20: To see if the Town will vote to establish an Agricultural Commission to represent the Brimfield farming and agricultural community, as well as other farming and forestry activities, with the composition and charge of such Commission to be as follows:

There shall be an Agricultural Commission in the Town of Brimfield. Said Commission shall serve as facilitators for encouraging the pursuit of agriculture in Brimfield, and shall promote agriculture-based economic opportunities in the

Town; and advise appropriate Town Boards as needed. Furthermore said Commission shall work for the preservation of agricultural and forest lands, and shall pursue all initiatives appropriate to creating a sustainable agricultural community.

The Commission shall consist of five members who are substantially engaged in the pursuit of agriculture or forestry. All members shall be residents of the Town or owners and farmers of agricultural or forestry property within the Town. Each member shall be appointed by the Board of Selectmen for a term of three years, provided that the Board of Selectmen shall initially appoint two members for terms of three years; two members for terms of two year; and one member for a term of one year. Any vacancy on said Commission shall be filled by the Board of Selectmen for the remainder of the unexpired term after consultation with the remaining member or members of the Agricultural Commission; Or, take any other action thereon. (Board of Health)

– *The Finance Committee deferred the opening motion to the Board of Health.*

>Motion made by Board of Health and seconded: “Recommend and move that the town approve the article as written for the purposes stated in the article.”

Motion to approve Article 20 passed by show of voting cards. (8:43 PM)

ARTICLE 21: To see if the Town will vote to amend the General Bylaws by inserting a new chapter, Chapter 7.0: Non-Zoning Wetlands Protection Bylaw, which shall provide as follows:

Section 1.0: Purpose

The purpose of this bylaw is to protect the Town of Brimfield’s various fresh water wetlands systems, essential to supporting core and critical natural resources and their adjoining land areas by regulating activities deemed by the Brimfield Conservation Commission (hereinafter referred to as the Commission) 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, M.G.L. c. 131,

§40 (“Wetlands Protection Act”), and regulations promulgated there under, 310 CMR 10.00, (“Regulations”), 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, certified vernal pools, springs, banks, reservoirs, lakes, ponds, beaches, and lands under water bodies; intermittent streams, brooks and creeks; and lands adjoining these resource areas out to a distance of 100 feet, known as the buffer zone; perennial rivers, streams, brooks and creeks; 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.

The jurisdiction of this bylaw shall not extend to uses and structures of agriculture that enjoy the rights and privileges of laws and regulations of the Commonwealth governing agriculture, including work performed for normal maintenance or improvement of land in agricultural or aquacultural uses as defined by the Regulations, specifically 310 CMR 10.04. 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 either a wider or narrower “No Disturb Zone” within the 100-foot buffer zone as the Commission deems necessary or sufficient to the protection of 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 aquaculture use as defined by the Regulations, specifically 310 CMR 10.04.

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, sewer, 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: (i) the work is to be performed by an agency of the Commonwealth or the Town of Brimfield and advance oral or written notice has been given to the Commission prior to commencement of work or within 24 hours after commencement; (ii) the Commission or its Agent certifies the work as an emergency project; (iii) the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency; and, (iv) the protective measures required by the Commission are complied with.

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 and Regulations, 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 M.G.L. c. 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.

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 Regulations, specifically 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 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, that 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 and Regulations.

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 M.G.L. c. 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 may take legal action for enforcement for non-criminal citations under M.G.L. c. 40, §21D, and civil and criminal court actions.

Upon request of the Commission the Chief of Police may 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, the Commission may utilize non-criminal disposition pursuant to M.G.L. c. 40, §21D and Section 2.1.3 of the General Bylaws. For purposes of non-criminal disposition, the Commission or its

agent, or any police officer of the Town of Brimfield, shall be the enforcing person. The penalty for violations of any provision of this bylaw, or regulations, permits or administrative orders issued thereunder, 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 M.G.L. c. 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 and Regulations. 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, take any other action thereon. (Conservation Commission)

- *The Finance Committee deferred the opening motion to the Conservation Commission.*

>Revised motion made by Conservation Commission and seconded: "*Recommend and move that the town approve the article as written in the Town Report with the deletion of the following two(2) entire paragraphs: 1.) Section 6, the paragraph beginning with the phrase 'The Commission shall presume...' and 2.) Section 8, the paragraph beginning with the phrase 'The term vernal pool shall include...' "* Motion to approve Article 21 failed by a show of voting cards. (9:07 PM)

ARTICLE 22: To see if the Town will vote to accept Sections 3 to 7, inclusive, of Chapter 44B of the General Laws, otherwise known as the Massachusetts Community Preservation Act, by approving a surcharge on real property for the purposes permitted by said Act, including the acquisition, creation and preservation of open space, the acquisition, preservation, rehabilitation and restoration of historic resources, the acquisition, creation, preservation, rehabilitation and restoration of land for recreational use, the acquisition, creation, preservation and support of community housing, and the rehabilitation and restoration of such open space and community housing that is acquired or created as provided under said Act; that the amount of such surcharge on real property shall be 1% of the annual real estate tax levy against real property commencing in fiscal year 2015; and that the Town hereby accept one or more of the following exemptions from such surcharge permitted under Section 3(e) of said Act: (1) property owned and occupied as a domicile by any person who qualifies for low income housing or low or moderate income senior housing in the Town, as defined in Section 2 of said Act; (2) class three, commercial, and class four, industrial, properties as defined in G.L. c.59, §2A; (3) \$100,000 of the value of each taxable parcel of residential real property; and (4) \$100,000 of the value of each taxable parcel of class three, commercial property, and class four, industrial property as defined in section 2A of said Chapter 59, or take any other action thereon. (Open Space and Recreation Plan Committee)

>Motion made by Finance Committee (per Chairperson) and seconded: "*Recommend and move that the town take No Action for the purpose stated in the article.*"

Motion to take no action on Article 22 passed by a show of voting cards. (9:14 PM)

ARTICLE 23: To see if the Town will vote to authorize and approve an agreement for payments-in-lieu-of-taxes ("PILOT") pursuant to M.G.L. c. 59, § 38H(b), and M.G.L. c. 164, § 1, or any other enabling authority, as negotiated by the Board of Selectmen and on file with the Town Clerk, between the Town of Brimfield and SE Solarne 2 and SH Solarne 2 for both real property and personal property associated with a privately owned and operated solar photovoltaic facility to be located on property located at 193 Sturbridge Road, Brimfield, which property is owned by SE Solarne 2 and SH Solarne 2, shown as Map 6, Block D, Lot 11, Map 14, Block A, Lot 21 and Map14, Block A, Lot 21.3 on the Town of Brimfield Assessors' Maps for a term of up to thirty (30) years on such terms and conditions as the Board of Selectmen deems to be in the best interest of the Town; and to take all actions necessary to implement and administer such agreement; or take any other action thereon. (Board of Selectmen)

-The Finance Committee (per Chairperson) explained to the meeting that they were making a "contingent motion" because the Committee was concerned that the agreement lacked a provision to pay for end-of-life expenses.

>Motion made by Finance Committee (per Chairperson) and seconded: "Contingent on the addition of a decommissioning clause incorporated into the agreement that funds the removal of all equipment and restoration of the site by a secured bond, recommend and move that the Town approve the article as amended."

At this time the Moderator declared a recess so that Jonathan Silverstein (Town Counsel), Stephen Fleshmen (Board of Selectmen), Andrew Wooden (the owner of SE Solarne 2 and SH Solarne 2) and Roy Bishop (taxation consultant for the Town Brimfield) will have time to confer about a decommissioning clause for this article. (9:38 PM)

The Moderator called the meeting back into session at 9:53 PM and asked Jonathan Silverstein to address the meeting about the agreement reached with the solar company regarding the decommissioning clause as requested by the Finance Committee.

Jonathan Silverstein briefly outlined the terms of the decommissioning agreement negotiated during the recess, specifically that Mr. Worden will pay for an independent engineer to estimate the costs to decommission the facility, the parties will negotiate a decommissioning agreement, and the owner will pay the Town's legal/consulting costs associated therewith. Andrew Worden rose to state that he concurred with Mr. Silverstein's explanation and reiterated his agreement to the terms outlined by Mr. Silverstein. Mr.

Silverstein added that the decommissioning agreement should be kept separate from Article 23 as a matter of form. The Moderator, therefore, asked if the Finance Committee wished to change the motion presented and the Finance Committee agreed.

The Finance Committee withdrew the original motion so a replacement motion could be made.

>Motion (replacement) made by Finance Committee (per Chairperson) and seconded: "Recommend and move that the town approve the article as written."
Motion to approve Article 23 passed by show of voting cards. (9:58 PM)

ARTICLE 24: To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for special legislation increasing the size of said board from three members to five members as set forth below; provided, however, that the General Court may make clerical or editorial changes of form only to such bill, unless the Board of Selectmen approves amendments to the bill prior to enactment by the General Court, and provided further that the Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition:

SECTION 1. Notwithstanding any general or special law to the contrary, the board of selectmen of the town of Brimfield shall consist of 5 members. At the 2015 annual town election the town shall elect 2 new members in addition to the 1 member otherwise to be elected. The 2 new seats shall be contested separately from the expiring office, with the candidate receiving the highest number of votes to serve a term of 3 years and the candidate receiving the second highest number of votes to serve a term of 2 years. Thereafter, all members of the board of selectmen shall serve terms of 3 years. Selectmen in office on the effective date of this act shall serve until the expiration of their terms.

SECTION 2. This act shall take effect upon passage.

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

- The Finance Committee deferred the opening motion to the Board of Selectmen.
>Motion made by the Board of Selectmen (per Susan Hilker) and seconded: "Recommend and move that the town approve the article as written."
Motion to approve Article 24 passed by show of voting cards. (9:59 PM)

ARTICLE 25: To see if the town will vote to amend Chapter 1 Section 5.1 of the Brimfield General Bylaws as follows, no board or officer shall make any contract

in behalf of the Town; the execution of which shall necessarily extend beyond one year from the date thereof, unless the contract contains the language "subject to annual appropriation" except as otherwise provided by law, unless specific authority to do so has been given by vote of the Town or take any other action thereon. (Board of Selectmen)

>Motion made by Finance Committee (per Chairperson) and seconded: *"Recommend and move that the town approve for the purposes stated in the article."*

Motion to approve Article 25 passed by show of voting cards. (9:59 PM)

*** The Moderator allowed Article 26 to be taken out of order because the action on Article 26 could influence the details to be considered in Articles 2, 3, & 4. (See above)**

ARTICLE 27: To see if the Town will vote to raise and appropriate or otherwise transfer from available funds the sum of \$ for the purpose of implementing recommendations for energy efficiency as shown in the recent energy audit conducted by National Grid, or take any other action thereon. (Board of Selectmen)

>Motion made by Finance Committee (per Chairperson) and seconded: *"Recommend and move that the Town take no action for the purpose stated in the article."*

Motion to take no action on Article 27 passed by show of voting cards. (9:59 PM)

ARTICLE 28: To see if the Town will vote to raise and appropriate or otherwise transfer from available funds the sum of \$ for executing the next step of the Master Facility Plan, or take any other action thereon. (Board of Selectmen)

>Motion made by Finance Committee (per Chairperson) and seconded: *"Recommend and move that the Town take no action for the purpose stated in the article."*

Motion to take no action on Article 28 passed by show of voting cards. (10:01 PM)

ARTICLE 29: To see if the Town will vote to amend Section 1.2 of the Zoning Bylaws, entitled "Definitions", as set forth below, by rearranging the current order of the words/phrases to list them alphabetically, which change is ministerial and clerical in nature and makes no change to the definitions themselves.

1.2 Definitions

All terms and words not otherwise defined in this bylaw shall have the meaning given in Webster's Unabridged Dictionary (latest edition). [adopted May 1975, amended May 2012]

Business District -- The Business District is shown on the Zoning Map and is located along US Route 20 at a depth of 500 feet from the established side lines of US Route 20, as laid out by the Commonwealth of MA, with the exception of the portion on the Northerly side of US Route 20 from Crystal Brook to Sherman Brook, and, with the exception of the portion along US Route 20 between Wales Road (US Route 19 South) and Holland Road, north of Haynes Hill Road, to a depth of 750 feet from the established side lines of US Route 20, as laid out by the Commonwealth of MA. [added May 2010]

Dwelling -- A building or dwelling unit, or any part thereof, containing accommodations for permanent occupancy, including single-family semi-detached and two-family houses, boarding or lodging homes, but not including transient accommodations such as in motels or hotels.

Family Camping Ground -- A parcel of land on which there is temporarily located, or intended to be temporarily located, two or more camping devices.

Frontage - Frontage, as used in this bylaw, means that portion of a property that is located within the Town of Brimfield and borders upon one of the following types of way: (a) a public way, or (b) a way shown on a plan approved in accordance with the Subdivision Control Law and constructed in accordance with such plan and approval, or, (c) a way in existence when the Subdivision Control Law became effective in the Town of Brimfield, having discretionary opinion of the Planning Board, adequate width, grades and construction for the proposed use and for the provision of municipal services therefore. [added May 2007, amended May 2012]

Pet Rescue Shelter -- Building or structure used for the purpose of housing dogs and cats received by the shelter as rescue animals and not for breeding or sale, with the exception of an adoption fee which may be charged by the Shelter. [added May 2012]

Storage Trailer – A structure originally constructed for transportation use i.e.: truck trailer, sea cargo container, rail container.[added May 2013]

Trailer – Any vehicle which is or can be used as a dwelling and which is, has been, or can be mounted on wheels.

Trailer Camp – A parcel of land on which there is located or intended to be located two or more trailer homes occupied for living purposes.

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

–The Finance Committee deferred the opening motion to the Planning Board.

>Motion made by Planning Board (per Chairperson) and seconded: *“Recommend and move that the town approve the article as written.”*

Motion to approve Article 29 passed by a 2/3 majority show of voting cards. (10:03 PM)

ARTICLE 30: To see if the Town will vote to amend Section 2.1 of the Zoning Bylaws, entitled “Types of Districts”, as set forth below, by deleting the strikethrough text and inserting in place thereof the bold, underlined text in order to correct the section number for the Flood Plain reference:

2.1 Types of Districts

For purpose of the bylaw, the Town of Brimfield is hereby divided into the following types of use districts:

- Residential
- Agricultural-Residential
- Business
- Industrial
- Flood Plain (see Zoning Section 3-6 **3.10**)
- Multiple Dwelling District for the elderly

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

–The Finance Committee deferred the opening motion to the Planning Board.

>Motion made by Planning Board (per Chairperson) and seconded: *“Recommend and move that the town approve the article as written.”*

Motion to approve Article 30 passed by a 2/3 majority show of voting cards. (10:03 PM)

ARTICLE 31: To see if the Town will vote to amend 3.2.5 and 3.2.5.1 within Section 3.2 of the Zoning Bylaws, entitled “Residential Districts – Permitted Uses”, as set forth below, by deleting the strikethrough text and inserting in place thereof the bold underlined text:

3.2 Residential Districts – Permitted Uses

Permitted Uses:

3.2.1 Detached one-family dwelling

3.2.2 Religious, education or municipal use

3.2.3 Hospital, sanitarium, convalescent home

3.2.4 Renting of rooms or furnishing of board for not more than four (4) persons in a dwelling regularly occupied for residential purposes

3.2.5 Accessory uses customarily incidental **and secondary to the**

residential use ~~to the above permitted main uses,~~ including but not limited to the following:

3.2.5.1 Use of a room or rooms in a dwelling for a customary home occupation conducted solely by a resident with no more than one **person besides the residents regularly employed or operative** ~~one employee, such as dressmaking, candy making or~~ **in** the practice of a recognized profession.

3.2.5.2 Use of premises or building thereon in connection with his trade by a resident artisan who works primarily away from the premises, such as a carpenter, electrician, painter or plumber, provided that no manufacturing or business requiring heavy machinery or substantially continuous employment be carried on and that no evidence of the use be visible or audible to the public or abutters.

3.2.5.3 Display of a sign pertaining to a use permitted on the premises with a total area of not more than six (6) square feet. (adopted March 1975)

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

–The Finance Committee deferred the opening motion to the Planning Board.

>Motion made by Planning Board (per Chairperson) and seconded: "Recommend and move that the town approve the article as written."

Motion to approve Article 31 passed by a 2/3 majority show of voting cards. (10:04 PM)

ARTICLE 32: To see if the Town will vote to amend Section 4 of the Zoning Bylaws, entitled "Intensity Regulations", as set forth below, by deleting the strikethrough text and inserting in place thereof the bold underlined text in order to clarify application of the bylaw:

Zoning Bylaw Section 4: Intensity Density Regulations

Section	Intensity Density Regulations
4.0	

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

-The Finance Committee deferred the opening motion to the Planning Board.

>Motion made by Planning Board (per Chairperson) and seconded: "Recommend and move that the town approve the article as written."

Motion to approve Article 32 passed by a 2/3 majority show of voting cards. (10:04 PM)

ARTICLE 33: To see if the Town will vote to amend Section 7.2 of the Zoning Bylaws, entitled "Projects Requiring Site Plan Approval", as set forth below, by deleting the strikethrough text and inserting in place thereof the bold underlined text in order to correct a wording type:

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 and written approval received from~~ 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, May 2012 and May 2013]

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

-The Finance Committee deferred the opening motion to the Planning Board.

>Motion made by Planning Board (per Chairperson) and seconded: "Recommend and move that the town approve the article as written."

Motion to approve Article 33 passed by a 2/3 majority show of voting cards. (10:05 PM)

ARTICLE 34: To see if the Town will vote to amend Section 7.3.1 under Section 7.3 of the Zoning Bylaws, entitled "Application for Site Plan Approval", as set forth below, by inserting the underlined text:

7.3 Application for Site Plan Approval

7.3.1 Each application for Site Plan Approval shall be submitted to the Planning Board by the current owner of record, accompanied by eight (8) copies of the site plan, and one electronic copy (ie. PDF, etc.) [amended May 2008]

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

-The Finance Committee deferred the opening motion to the Planning Board.

>Motion made by Planning Board (per Chairperson) and seconded: "Recommend and move that the town approve the article as written."

Motion to approve Article 34 passed by a 2/3 majority show of voting cards. (10:08 PM)

ARTICLE 35: To see if the Town will vote to amend the Zoning Bylaws, by deleting, in its entirety, the title and text of Section 12, entitled "Rate of Development", as set forth below in strikethrough text, which section was applicable to development in the Town for a term of six years following its effective date in May 2006, which period has now expired:

Zoning Bylaw Section 12: Rate of Development

Section 12.0	Rate of Development Bylaw
-----------------	---------------------------

12.1 Purpose and Intent

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

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

Information, time and capacity to incorporate such growth into a plan for the community that conserves open space and allows for controlled growth;

The opportunity to prepare a Capacity and Needs Assessment for the school system and establish a Capital Improvements Plan for the school system;

Time to adopt effective land use regulations such as the Community Preservation Act, zoning for estate lots and other measures to conserve open space;

The governmental tools and town policies required to insure that Brimfield maintains its unique character and to increase its levels of affordable housing.

For the period from 1996 through 2005, an average of twenty five (25) building permits for new Residential Dwelling Units have been issued each year in the Town of Brimfield. Consequently,

upon approval and implementation of this bylaw, no more than twenty five (25) new building permits for Residential Dwelling Units shall be issued in any year.

12.2 Definitions

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

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

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

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

Building Permit: An official document or certification that is issued by the Building Inspector which authorizes the construction, alteration,

enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving or repair of a building

or structure.

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

12.3 Applicability

~~This bylaw applies to the issuance of building permits for all new residential dwelling units, and excludes rebuilding of an existing residential dwelling unit. [amended May 2008]~~

12.4 Issuance of Building Permits

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

12.4.1

Receipt of Applications

~~Completed applications, including plans, for building permits shall be dated and time stamped upon receipt by the Building Department. Permits shall be issued on a first-in-time basis subject~~

12.4.2

Allotments: Calendar

~~Within any calendar month, no more than two (2) building permits for new residential dwelling units may be issued, with the exception of the final month in which 3 building permits for new residential dwelling units may be issued. Unused permit allotments are to be carried forward for issuance in the subsequent month until the 25 permits authorized have been issued. If at the end of the consecutive twelve (12) month period, the 25 permits authorized above have not been used, the unused permits shall be carried over to the next consecutive twelve (12) month period.~~

12.4.3

Allotments: Per Applicant

~~No more than three (3) of the building permits authorized by Section 12.4.2 for new residential dwelling units shall be issued to any one applicant or set of applicants involving one or more of the same principals within a single year. Multifamily residential developments, nursing homes and congregate care facilities shall be~~

~~phased to comply with this requirement.~~

12.5 Exemptions

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

12.5.1 ~~An application for a building permit for the enlargement, restoration or~~

~~reconstruction of a dwelling in existence at the date of application for a building permit, provided that no additional Residential Dwelling Unit is created.~~

12.5.2 ~~Residential dwelling units necessary to an education or religious institution that is exempt from zoning use regulations per M.G.L. Chapter 40A, Section 3.~~

12.5.3 ~~Elderly Housing Communities as allowed under Section 3.3.3.~~

12.5.3 ~~Dwelling units to be built under any Commonwealth or federal program or statute categorizing said unit(s) as low or moderate income housing, or otherwise defined as an affordable housing unit provided that such housing units have affordable housing restrictions to ensure that they remain affordable for no less than the time period specified by the program or statute.~~

12.6 Time Limitation

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

12.7 Severability

~~If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of the town's zoning bylaw. [section added May 2006]~~

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

~~The Finance Committee deferred the opening motion to the Planning Board.~~

>Motion made by Planning Board (per Chairperson) and seconded: *"Recommend and move that the town approve the article as written."*

Motion to approve Article 35 passed by a 2/3 majority show of voting cards. (10:09 PM)

ARTICLE 36: To see if the Town will vote to raise and appropriate, borrow or otherwise transfer from available funds, the sum of \$30,000 to be expended by the School Committee for the purpose of installing new playground equipment and tee ball field improvements on the elementary school fields. (By Petition)

>Motion made by Finance Committee (per Chairperson) and seconded: *"Recommend and move that the Town take no action for the purpose stated in the article."*

Motion to take no action on Article 36 passed by show of voting cards. (10:09 PM)

ARTICLE 37: To see if the Town will vote to raise and appropriate, or otherwise transfer from available funds, the sum of \$90,313.50 to pay principal and/or interest due in FY15 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 seconded: *"Move that the Town transfer the sum of \$90,313.50 from the Stabilization Fund to pay for principal and interest due in FY2015 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 to approve Article 37 passed by a 2/3 majority show of voting cards. (10:13 PM)

ARTICLE 38: To see if the Town will vote to raise and appropriate, or otherwise transfer from available funds, the sum of \$66,600.00 to pay principal and /or interest due in FY15 on the Fire Truck purchase authorized by the May, 2012 Town Meeting; or, take any other action thereon. (Finance Committee)

>Motion made by Finance Committee (per Chairperson) and seconded: *"Recommend and move that the Town raise and appropriate the sum of \$66,600 to pay interest and principal due in FY2015 on the fire truck purchase authorized by the May, 2012 Town Meeting for the purpose stated in the article."*

Motion to approve Article 38 passed by show of voting cards. (10:14 PM)

ARTICLE 39: To see if the Town will vote to transfer from the Capital Purchase Stabilization Fund, or otherwise fund, the sum of \$23,155.00 to pay the interest and principal due in FY15 on the Town Hall engineering and repairs authorized by the May, 2009 Town Meeting; or, take any other action thereon. (Finance Committee)

>Motion made by Finance Committee (per Chairperson) and seconded: *"Recommend and move that the Town vote to Raise and Appropriate the sum of \$23,155 to pay interest and principal due in FY2015 on the FY2010 debt incurred to repair the Town Hall, as stated in the article."*

Motion to approve Article 39 passed by show of voting cards. (10:14 PM)

ARTICLE 40: To see if the Town will vote to transfer from the Capital Purchase Stabilization Fund, or otherwise fund, the sum of \$20,425.00 to pay the interest and principal due in FY15 on the Capital Purchase Debt authorized in FY05; or, take any other action thereon. (Finance Committee)

>Motion made by Finance Committee (per Chairperson) and seconded: *"Recommend and move that the Town Raise and Appropriate the sum of \$20,425 to pay interest and principal due in FY2015 on the FY2005 debt incurred to purchase several vehicles, as stated in the article."*

Motion to approve Article 40 passed by show of voting cards. (10:15 PM)

ARTICLE 41: To see if the Town will vote to transfer from Free Cash the sum of \$ 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 seconded: *"Recommend and move that the Town transfer the sum of \$279,193 from certified Free Cash to the Capital Purchase Stabilization Fund."*

Motion to approve Article 41 passed by a 2/3 majority show of voting cards. (10:16 PM)

ARTICLE 42: To see if the Town will vote to transfer \$ from Free Cash and \$50,000 from the Assessor's Overlay Surplus or from any other available funds, to reduce the tax rate in FY15 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 \$50,000 from Overlay Surplus to reduce the tax rate for FY 2015."*

Motion to approve Article 42 passed by show of voting cards. (10:16 PM)

ARTICLE 43: To see if the Town will vote to transfer the sum of \$ from available Funds to the Stabilization Fund to replace in full or in part the amount transferred last year from Stabilization to balance the FY14 budget; or take any other action thereon.

(Finance Committee) *“Recommend and move that the Town transfer the sum of \$63,000 from Certified Free Cash to the Stabilization Fund to replace funds transferred to balance the FY 2014 budget at the 2013 May Town Meeting.”*

>Motion made by Finance Committee (per Chairperson) and seconded: *“Recommend and move that the Town transfer the sum of \$63,000 from Certified Free Cash to the Stabilization Fund to replace funds transferred to balance the FY 2014 budget at the 2013 May Town Meeting.”*

Motion to approve Article 43 passed by show of voting cards. (10:17 PM)

Moderator adjourned the 2014 Town of Brimfield Annual Town Meeting at 10:21 PM

The above minutes with the attached appendices #1, #2 & #3 are the complete and true record of the Annual Town Meeting of the Town of Brimfield of May 19, 2014.

Robert P Sullivan
Town Clerk,
Brimfield, Massachusetts