



Annual Town Meeting Actions, May 17, 2010

The 279th Annual Town Meeting, having been duly posted, was called to order by Moderator Michael Miller at 7:10 PM on May 17, 2010 at the Brimfield Elementary School. The Town Clerk reported a quorum was present (voters entered at check in = 121).

*** denotes articles taken out of order**

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

ARTICLE 1: Motion made and seconded that the reports of the officers and agents be accepted as written in the Town Report. **So voted without dissent on May 17, 2010 at 7:17 PM.**

ARTICLE 2: Motion made and seconded to authorize revolving funds under MGL Chapter 44, Section 53E ½, (Chart of Accounts in Appendix). **So voted without dissent on May 17, 2010 at 7:23 PM.** (chart of revolving funds, as voted, appended) *ALSO NOTE: Article 28 adds a new revolving fund not voted in this article*

NAME	AUTHORIZ- ED TO AND FOR THE USE OF	REVENUE SOURCE	AUTHORIZED EXPENDITURES	FY 11 MAXIMUM TO BE EXPENDED	DISPOSITION AT CLOSE OF FY 11
Dog Revolving Fund	Town Clerk	Licensing fees	General administration of dog licensing	\$2000	If re-authorized, amount in excess of \$2000 in FY11 shall close to general fund
Recreation Revolving Fund	Recreation Committee	Participant fees	League fees, equipment, umpire and referee services and general expenses of committee	\$20,000	
Building Inspector Revolving Fund	Building Inspector	Inspection fees	Inspection services and related expenses of building inspector	\$40,000	If re-authorized, amount in excess of \$2000 (excluding inspection fees payable to the Inspector) in FY11 shall close to the general fund; \$100 to be transferred to the Demolish Building Account and \$1000 shall carry forward to the Building Inspector Revolving Fund in subsequent fiscal year
Electrical Inspector Revolving Fund	Electrical Inspector	Inspection fees	Inspection services and related expenses of electrical inspector	\$10,000	If re-authorized, amount in excess of \$1000 (excluding inspection fees payable to the Inspector) in FY11 shall close to the general fund
Historical Revolving Fund	Historical Commission	Sale of maps, publications and other fund raising materials,	General expense of committee special projects	\$10,000	If re-authorized, amount shall carry forward to Historical Revolving Fund in subsequent fiscal year

		grant revenue			
Cable TV Revolving Fund	Cable TV Advisory Committee	Annual subscriber fee payments from cable provider; fees paid for duplication of video tapes and general donations	Supplies and equipment for local access programming and general expenses of the committee	\$1500	
Cemetery Revolving Fund	Cemetery Commission	Burial and foundation fees	Expensed related to burials and foundations	\$10,000	
Plumbing and Gas Inspection Revolving Fund	Board of Health	Inspection fees	Inspection services and related expenses of plumbing and gas inspections	\$12,000	If re-authorized, amount in excess of \$1000 (excluding plumbing and gas fees payable to the Inspector) at close of FY11 shall close to the general fund
Food Vendor Revolving Fund	Board of Health	Inspection fees	Inspection services and related expenses of the certified food Inspector.	\$25,000	If re-authorized, amount in excess of \$1000 (excluding food fees payable to the Inspector) at the close of FY11 shall close to the general fund
Bins and Bags Revolving Fund	Board of Health	Sales of Trash Bags and Recycling Bins	Purchase of trash bags and recycling bins for resale to authorized vendors	\$20,000	If re-authorized, amount in excess of \$500 at close of FY11 shall close to the general fund
Tobacco Revolving Fund	Board of Health	Permit Fees	Costs of compliance and enforcement activities	\$500	If re-authorized, amount in excess of \$500 at close of FY11 shall close to the general fund
HAZMAT Revolving Fund	Fire Department	Fees from services rendered during HAZMAT emergencies	Costs associated with related HAZMAT emergencies, including control materials, staff response and truck time	\$10,000	If re-authorized, amount in excess of \$1000 at close of FY11 shall close to the general fund
Fire Inspector Revolving Fund	Fire Department Inspector	Inspection fees	Inspection services and related expenses of fire inspector	\$10,000	If re-authorized, amount in excess of \$1000 (excluding inspection fees payable to the Inspector) at close of FY11 shall close to the general fund
Senior Center Revolving Fund	Council on Aging	Participation fees and donations	Administrative, office and programs expenses	\$15,000	

Subdivision Control Law Revolving Fund	Planning Board	Engineering receipts and inspection services fees	Receipts for engineering and inspection services and to reimburse developers unexpended fee balances.	\$40,000	
---	-------------------	---	---	----------	--

***ARTICLE 3:** Motion made and seconded to raise and appropriate \$185,758.00 for various elected town officers for the ensuing fiscal year July 1, 2010 to June 30, 2011. (*Note: itemized in the budget recap appended*).

AMENDMENT - Motion made and seconded to amend the salaries with an increase of 3%.
Amendment defeated on May 17, 2010 at 7:37 PM.

AMENDMENT - Motion made and seconded to amend the salaries with an increase of 2%.
Amendment passed on a hand count of 64 in favor and 35 opposed on May 17, 2010 at 7:50 PM.

The main motion, incorporating the amendment for 2%, was voted without dissent on May 17, 2010 at 7:50 PM.

***ARTICLE 4:** Motion made and seconded to raise and appropriate \$7,736,676.00 for various departments and activities of the Town, payment of debts and defraying of expenses of the ensuing fiscal year, July 1, 2010 to June 30, 2011, and direct how the same shall be expended. (*note: the budget recap includes two floor amendments to amounts for dog officer and ambulance*). **So voted without dissent on May 17, 2010 at 9:14 PM.**

ARTICLE 5: To see if the Town will vote to raise and appropriate, or otherwise transfer from available funds, a sum of money to pay unpaid bills or overdrawn accounts for FY2010; or, take any other action thereon. (Board of Selectmen) **The moderator passed over this article with no motion and no action was taken.**

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 FY2010; or, take any other action thereon. (Board of Selectmen) **The moderator passed over this article with no motion and no action was taken.**

ARTICLE 7: Motion made and seconded to take no action on funding the sum of \$15,000 for Tax Title Expenditures. **So voted no action without dissent on May 17, 2010 on May 17, 2010 at 8:20 PM.**

PROCEDURAL: Motion made and seconded to approve and grant authorizations in routine article: Articles 8, 9, 11, 12, and 13. **So voted without dissent on May 17, 2010 at 8:21 PM.**

ARTICLE 8: Motion made and seconded to accept as available funds, the sum of \$250,000 to be made available to the Town by the Massachusetts Highway Department, and, to use the funds for qualifying on state approved roads and Chapter 90 projects in the Town of Brimfield according to State contract; or, take any other action thereon. **So voted without dissent on May 17, 2010 at 8:21 PM.**

***ARTICLE 9:** Motion made and seconded to authorize the Highway Surveyor to enter into contracts for the usual and customary operations of public works including the care and upkeep of town ways and bridges. **So voted without dissent on May 17, 2010 at 8:21 PM.**

ARTICLE 10: Motion made and second to raise and appropriate, or otherwise transfer from available funds, the sum of \$ 0 [zero] to be used in conjunction with and in addition to any funds allotted by the Commonwealth for the construction, reconstruction and improvement of town roads. **So voted without dissent on May 17, 2010 at 8:22 PM.**

***ARTICLE 11:** Motion made and seconded to authorize the Treasurer with the approval of the Selectmen to borrow money in anticipation of reimbursements from allotments by the state and county for highways, including bridges. **So voted without dissent on May 17, 2010 at 8:21 PM.**

***ARTICLE 12:** Motion made and seconded to authorize the Treasurer with the approval of the Selectmen to borrow money, from time to time, in anticipation of revenue, grants and reimbursements from state and federal agencies in the fiscal year beginning July 1, 2010 in accordance with the provisions of the General Laws, chapter 44, section 4 and to issue a note or notes payable within one year and to renew any note or notes as may be given for a period of less than one year, in accordance with M.G.L. chapter 44, section 57. **So voted without dissent on May 17, 2010 at 8:21 PM.**

***ARTICLE 13:** Motion made and seconded to authorize the Board of Selectmen, as required by Town Bylaw, Section 5.0, Subsection 5.1, to enter into contracts for general insurance, workers' compensation insurance, medical benefit insurance and ambulance services within the scope and requirements defined by M.G.L. chapter 30B as amended. **So voted without dissent on May 17, 2010 at 8:21 PM.**

ARTICLE 14: Motion made and seconded to raise and appropriate the sum of \$30,000 to the Highway Department for the purpose of oiling and Type-I work and other related materials on various roads, to be expended by the Highway Department subject to applicable public bidding laws. **So voted without dissent on May 17, 2010 at 8:23 PM.**

ARTICLE 15: Motion made and seconded to raise and appropriate the sum of \$500 to be added to the Conservation Fund as authorized by M.G.L. chapter 40, section 8C. **So voted without dissent on May 17, 2010 at 8:24 PM.**

ARTICLE 16: Motion made and seconded to authorize the Board of Selectmen to acquire, by purchase, gift or eminent domain or otherwise, for conservation, open space and passive recreation purposes in accordance with M.G.L. chapter. 40, section 8C, the remaining fee interest in the parcel of land on Steerage Rock Mountain off Steerage Rock Mountain Road, shown on Assessors Map 7, Block A, Lot 19 and described in a deed dated June 21, 1927 from Henry E. Corey to Donald C. Corey, recorded with the Hampden County Registry of Deeds in Book 1370, Page 11, such interest to be placed in the jurisdiction and control of the Conservation Commission; and further, that \$1183.30 be transferred from account #01-122-3561, the Norcross Grant, for this purchase and any expenses related thereto; and, to authorize the Board of Selectmen to enter into all agreements and take all related actions necessary or appropriate to carry out this acquisition. **So voted without dissent, with 2/3 vote in the affirmative, declared by the moderator without challenge, May 17, 2010 at 8:25 PM.**

ARTICLE 17: Motion made and seconded to authorize the Board of Selectmen to accept a deed in lieu of tax foreclosure pursuant to M.G.L. chapter 60, section 77C, conveying fee title to all or portions of the parcel of real estate owned by Lawrence E. Whitworth and Eugene Whitworth, and more particularly described as Brimfield Assessors parcel 6A-F-19 and further identified as Oakwood Road, recorded in Hampden County Registry of Deeds, Book 3842, Page 598; said land to be conveyed to the Town free and clear of any liens or encumbrances except for municipal tax liens securing payment of outstanding real estate taxes; and, upon conveyance to the Town, to be held for general municipal purposes or for disposition thereof by sale or otherwise. Furthermore, to authorize the Board of Selectmen to undertake any act or to execute any document necessary to consummate this transaction in accordance with the provisions of M.G.L., chapter 60, section 77C, and further to authorize the Board of Selectmen to convey said land by sale or otherwise. **So voted without dissent on May 17, 2010 at 8:25 PM.**

ARTICLE 18: Motion made and seconded to authorize the Board of Selectmen to petition the General Court for a special act as set forth below to establish a special fund for operation of the Brimfield Flea Market subject to certain expenditure limitations as set forth therein; provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approve amendments to the bill before enactment by the General Court; and, provided further that the Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition:

AN ACT ESTABLISHING A SPECIAL FUND IN THE TOWN OF BRIMFIELD:

Be it enacted by the Senate and House of Representatives in General Court assembled and by authority of the same, as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, there shall be established in the town of Brimfield a fund, to be known as the Brimfield Flea Market fund, to which shall be credited all fees, proceeds and other receipts received by the town in conjunction with the operation of the Brimfield Flea Market, which fund may be expended by the Brimfield Board of Selectmen without further appropriation for the administrative, operating and maintenance costs, including emergency services, associated with said flea market, provided, however, that town meeting shall annually impose a limit on expenditures there from and may provide that receipts remaining in the fund at the end of the fiscal year in excess of \$10,000 be returned to the general fund. Provided further that the Board of Selectmen may expend in any fiscal year an amount not exceeding the amount equivalent to five percent (5%) of the amount raised by taxation by the town in the most recent fiscal year for which a tax rate has been certified under section 23 of chapter 59 of the General Laws. The fund established pursuant to this act shall not be considered a revolving fund for the purposes of section 53E ½ of chapter 44 of the general laws or be included for purposes of determining the aggregate limit of all revolving funds authorized under section 53E ½ of said chapter 44.

SECTION 2: This act shall take effect upon its passage.

So voted with nominal dissent on May 17, 2010 at 9:02 PM.

ARTICLE 19: Motion made and seconded to take no action on the questions of accepting 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 and preservation of land for recreational use, the creation, preservation and support of community housing, and the rehabilitation and restoration of such open space, land for recreational use and community housing that is acquired or created as provided under said Act; that the amount of such surcharge on real property shall be 1% of the annual real estate tax levy against real property and that such surcharge shall commence in fiscal year 2011; and that the town hereby accepts the following exemptions from such surcharge under Section 3A of said Act: (1) \$100,000 of the value of each taxable parcel of residential real property, and, (2) property owned and occupied as a domicile by any person who would qualify for low income housing or low or moderate income senior housing in the Town as defined in Section 2 of said Act. **So voted to take no action without dissent on May 17, 2010 at 9:38 PM.**

ARTICLE 20: Motion made and seconded to accept the provisions of M.G.L. chapter 64L, section 2(a) authorizing the imposition of a local excise in the statutory amount of .75% on the sale of restaurant meals originating within the town. **The motion was defeated by overwhelming majority on May 17, 2010 at 9:49 PM.**

ARTICLE 21: Motion made and seconded to confirm the vote of the town on February 26, 1990 special town meeting accepting M.G.L. chapter 64A, Section 3A, authorizing the imposition of a local excise tax on the rental of rooms in hotels, motels, lodging houses and bed and breakfast establishments within the town, to correct a typographical error in the statutory reference (i.e., from M.G.L. c.64O to M.G.L. c.64G), and, further to set the rate for said tax at six (6) percent of the total amount of rent for each such occupancy. **The motion was defeated by overwhelming majority on May 17, 2010 at 9:50 PM.**

ARTICLE 22: Motion made and seconded to adjust the senior tax exemption amount from \$750 to \$1000.00, pursuant to M.G.L. chapter 59, section 5, clause 41C . **So voted overwhelmingly on May 17, 2010 at 9:56 PM.**

ARTICLE 23: Motion made and seconded to authorize town officials to borrow the sum of \$110,000.00 for the purpose of making extraordinary repairs to the Town Hall including all costs incidental and related thereto; and, as funding therefore, to authorize the Treasurer, with the approval of the Board of Selectmen, to borrow said sum and issue bonds and notes therefore pursuant to M.G.L. chapter 44, section 7(3A) or any other appropriate authority. **So voted with 2/3 vote in the affirmative, declared by the moderator without challenge, May 17, 2010 at 10:35 PM.**

ARTICLE 24: Motion made and seconded to take no action on the question of transferring a sum of money from the FY2010 appropriation of the Cemetery Expense Account #04-91-5460 to the Cemetery Wage Account #04-91-5116. **So voted to take no action, without dissent, on May 17, 2010 at 10:35 PM.**

ARTICLE 25: Motion made and seconded to authorize the Board of Selectmen to sign a three (3) year contract for on-line banking services for the Town of Brimfield. **So voted without dissent on May 17, 2010 at 10:35 PM.**

ARTICLE 26: Motion made and seconded to adopt a new Zoning Map entitled, "Zoning Map for the Town of Brimfield, Massachusetts," dated January 12, 2010 with the drawing number of 09317, as on file with the Town Clerk.

The Planning Board made oral report with favorable recommendation and offered explanation of the history and development of the new zoning map.

So voted without dissent, with 2/3 vote in the affirmative, declared by the moderator without challenge, on May 17, 2010 at 10:47 PM.

ARTICLE 27: Motion made and seconded to amend the Zoning Bylaws by inserting in Section 1.2, a definition for “Business District” to read as follows:

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;

The Planning Board made oral report with favorable recommendation and offered explanation of necessity of new definition.

So voted without dissent, with 2/3 vote in the affirmative, declared by the moderator without challenge, on May 17, 2010 at 10:48 PM.

ARTICLE 28: Motion made and seconded that a Bike Trail Revolving Fund be established under the provisions of Massachusetts General Laws, Chapter 44, Section 53E ½ to pay for expenditures authorized by the Brimfield Trail Committee for bicycle trail improvement projects, and that to transfer the sum of \$5,000 be transferred from Certified Free Cash to said fund. All expenditures from the revolving fund are to be reimbursed in full from awarded grants, and the total expended from the fund is not to exceed \$15,000 in FY 2011. The Brimfield Trail Committee shall report the income and expenditures of the fund in the Annual Town Report. **So voted without dissent on May 17, 2010 at 10:49 PM.**

ARTICLE 29: Motion made and seconded to transfer the sum of \$36,000 from the Capital Purchase Stabilization Fund, to be expended by the Board of Selectmen, subject to the requirements of applicable public bidding laws, for the purchase and equipping of a ¾ ton pickup truck with plow for use of the Brimfield Highway Department. **So voted without dissent, with 2/3 vote in the affirmative, declared by the moderator without challenge, May 17, 2010 at 10:57 PM.**

ARTICLE 30: Motion made and seconded to transfer the sum of \$31,000 from the Capital Purchase Stabilization Fund, to be expended by the Board of Selectmen, subject to the requirements of applicable public bidding laws, for the purchase and equipping of one new Ford Crown Victoria, Dodge Charger, Chevy Impala or similar type vehicle for use of the Brimfield Police Department as a patrol vehicle. **So voted without dissent, with 2/3 vote in the affirmative, declared by the moderator without challenge, May 17, 2010 at 11:04 PM.**

ARTICLE 31: Motion made and seconded to expand the purposes for which the sum of \$10,300 appropriated under Article 19 of the May 18, 2009 Annual Town Meeting, which sum was originally appropriated for vegetation management to eliminate and control the growth of milfoil in Lake Sherman, to include environmental engineering services to prepare lake management, chemical treatment and drawdown plans as required by the Department of Environmental Protection in preparation of the treatment of milfoil in Lake Sherman, Little Alum Pond and Mill Pond, said sum to be expended by the Board of Selectmen. **So voted with nominal dissent on May 17, 2010 at 11:27 PM.**

ARTICLE 32: Motion made and seconded to take no action on the question of appropriating a sum of to treat the milfoil for the historical Lake Sherman. **So voted to take no action without dissent on May 17, 2010 at 11:28 PM.**

ARTICLE 33: Motion made and seconded to amend General Bylaw, Chapter Five, Section 2.3 Flea Markets, Subsection 2.3.3 Owner/Operator Licensing, by striking the words, “~~within 30 days of the request for license.~~” “within 90 days of the deadline”.

The Bylaw Committee made both written and oral report. Recommended disapproval, as there would be no window requiring action on the license.

AMENDMENT: Motion was made and seconded to amend the main motion by striking the words, “~~within 30 days of the request for license~~” and inserting in their place the words “within 90 days of the deadline”. **Amendment was passed without dissent.**

The main motion, as amended, was taken up and voted without dissent on May 17, 2010 at 11:32 PM.

ARTICLE 34: Motion made and seconded to take no action on the question that Hall Place Road be properly prepared for paving and then paved. **So voted no action, with nominal dissent, on May 17, 2010 at 11:38 PM.**

ARTICLE 35: Motion made and seconded to accept as a public way pursuant to a Definitive Plan signed by the Planning Board on February 23, 1987, all of Carriage Drive. **So voted without dissent on May 17, 2010 at 11:42 PM.** *(Note: see Article 40, a companion article clarifying the acceptance)*

ARTICLE 36: To see if the Town will vote authorize any & all municipal employees, whether appointed, elected, hired or volunteer to also be elected to a position within the same department providing the individual(s) is to be in full compliance with the following restrictions:

Said employees must have held the subordinate position prior to being elected to the superior position. Said employees will refrain from participating in discussion relative to the duties or responsibilities of the subordinate position. Also, employee must make full disclosure of all potential conflicts of interest according to MGL Ch-268A S-25A. Further, compensation for the subordinate position shall be fixed at the annual Town meeting and no other compensation will be allowed according to the provision of MGL Ch-41 S-108.

Elected Board member(s) will be required to obtain “Special Municipal Employee” required by MGL Ch-41 S-25. Said status, approval will be sought from a vote of the Board of Selectmen in accordance

with above aforementioned MGL Ch. 41 S. 25. **The moderator deferred to the petitioner to make a first motion and none was offered. The moderator passed over without action on May 17, 2010 at 11:42 PM**

ARTICLE 37: To see if the Town will authorize a General & Personnel By-law change for said "Special Municipal Employees" to serve in FY2011 beginning July 1, 2010. **The moderator deferred to the petitioner to make a first motion and none was offered. The moderator passed over without action on May 17, 2010 at 11:43 PM**

ARTICLE 38: Motion made and seconded to take no action on transferring \$24,600 from the Fire Station Roof Account #02-20-5873 to be used for up to a three percent (3%) wage/salary increase for Town employees. **So voted no action without dissent on May 17, 2010 at 11:43 PM.**

ARTICLE 39: Motion made and seconded to transfer a sum of money from the Fire Station Roof Account #02-20-5873 to be returned to the Capital Purchase Stabilization Fund. **So voted without dissent, with 2/3 vote in the affirmative, declared by the moderator without challenge, May 17, 2010 at 11:43 PM.**

***ARTICLE 40:** Motion made and seconded to authorize the Board of Selectmen to acquire, on behalf of the Town, by purchase, gift, eminent domain or otherwise, rights sufficient to use Carriage Drive, as heretofore laid out by the Board of Selectmen, for all purposes for which public ways are used in the Town of Brimfield. **So voted without dissent on May 17, 2010 at 11:43 PM.**

ARTICLE 41: Motion made and seconded to transfer \$18,237.00 from FY2010 Regional School Assessment Account #03-20-5321 to be added to the Capital Purchase Stabilization Fund. **So voted without dissent, with 2/3 vote in the affirmative, declared by the moderator without challenge, May 17, 2010 at 11:44 PM.**

***ARTICLE 42:** Motion made and seconded to transfer \$27,271.00 from the Capital Purchase Stabilization Fund, and in addition to transfer the sum of \$2,800.00 for debt service authorized in FY 2010 (Article 23), both sums to pay interest and principal due in FY 2011 on the Capital Purchase Debt authorized in FY 2005. **So voted without dissent, with 2/3 vote in the affirmative, declared by the moderator without challenge, May 17, 2010 at 11:48 PM.**

ARTICLE 43: Motion made and seconded to transfer \$92,161.00 from Certified Free Cash to be added to the Capital Purchase Stabilization Fund. **So voted without dissent May 17, 2010 at 11:46 PM.**

ARTICLE 44: Motion made and seconded to transfer the sum of \$167,682 from Certified Free Cash and \$50,000 from Overlay Surplus to reduce the tax rate for FY 2011. **So voted without dissent on May 17, 2010 at 11:48 PM.**

Having no further business the 279th Annual Town Meeting of the Town of Brimfield was dissolved at 11:50 PM on May 17, 2010

A true copy, ATTEST:

Pamela E. Beall, CMMC
Town Clerk