

Town Meeting Actions

May 16, 2011

Voters in attendance: 166

Notices and announcements: During the recess, Moderator Miller asked for a moment of silence to honor **Francis G. Simanski**, who died May 11 of this year. He served with distinction as principal of Tantasqua High School for eight years, and was an involved educator, serving in various school systems beginning in 1969.

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

ARTICLE 1: Motion made and seconded that the reports of the officers and agents be accepted as written in the Town Report. **So voted without dissent on May 16, 2010 at 7:15 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 16, 2010 at 7:16 PM.**

ALSO NOTE: Article 14 adds a new revolving fund not voted in this article)

NAME	AUTHORIZ-ED TO AND FOR THE USE OF	REVENUE SOURCE	AUTHORIZED EXPENDITURES	FY 12 MAXIMU M TO BE EXPENDE D	DISPOSITION AT CLOSE OF FY 12
Dog Revolving Fund	Town Clerk	Licensing fees	General administration of dog licensing and payment of operational costs of regional dog care facility	\$2000	If re-authorized, amount in excess of \$2000 in FY12 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 FY12 shall close to the general fund; \$1000 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 FY12 shall close to the general fund

Historical Revolving Fund	Historical Commission	Sale of maps, publications and other fund raising materials, grant revenue	General expense of committee special projects	\$10,000	If re-authorized, amount shall carry forward to Historical Revolving Fund in subsequent fiscal year
Cable TV Revolving Fund	Cable TV Advisory Committee	Annual subscriber fee payments from cable provider; fees paid for duplication of video tapes and general donations	Supplies and equipment for local access programming and general expenses of the committee	\$1500	
Cemetery Revolving Fund	Cemetery Commission	Burial and foundation fees	Expensed related to burials and foundations	\$10,000	
Plumbing and Gas Inspection Revolving Fund	Board of Health	Inspection fees	Inspection services and related expenses of plumbing and gas inspections	\$12,000	If re-authorized, amount in excess of \$1000 (excluding plumbing and gas fees payable to the Inspector) at close of FY12 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 FY12 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 FY12 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 FY12 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 FY12 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 \$192,028 for various elected town officers for the ensuing fiscal year July 1, 2011 to June 30, 2012. **So voted with nominal dissent May 16, 2011 at 7:43 PM.**

AMENDMENTS OFFERED TO PARTICULAR LINES ITEMS WERE DEFEATED.

ARTICLE 4: Motion made and seconded to raise and appropriate \$7,845,922 for various departments and activities of the Town, payment of debts and defraying of expenses of the ensuing fiscal year, July 1, 2011 to June 30, 2012, and direct how the same shall be expended. **So voted with nominal dissent May 16, 2011 at 7:48 PM.**

ARTICLE 5: Motion made and seconded to take no action to pay unpaid bills or overdrawn accounts for FY2011. **So voted no action without dissent May 16, 2011 at 7:48 PM.**

ARTICLE 6: Motion made and seconded to take no action to pay unpaid bills or overdrawn accounts for any fiscal year prior to FY2011. **So voted no action without dissent May 16, 2011 at 7:48 PM.**

ARTICLE 7: Motion made and seconded to raise and appropriate \$15,000 for Tax Title Expenditures. **So voted without dissent May 16, 2011 at 7:48 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 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 contracts. **So voted without dissent May 16, 2011 at 7:50 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 May 16, 2011 at 7:50 PM.**

ARTICLE 10: Motion made and seconded to raise and appropriate, or otherwise transfer from available funds, the sum of \$ - 0 - 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 May 16, 2011 at 7:52 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 May 16, 2011 at 7:50 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, 2011 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 May 16, 2011 at 7:50 PM.**

***ARTICLE 13:** Motion made and seconded authorize the Board of Selectmen, as required by Town Bylaw Article V, Section 2, to enter into contracts for general insurance, workers' compensation insurance, medical benefit insurance and ambulance services within the scope and requirements defined by M.G.L. chapter 30B as amended. **So voted without dissent May 16, 2011 at 7:50 PM.**

ARTICLE 14: Motion made and seconded t, to limit expenditures from the Brimfield Flea Market Fund, pursuant to Chapter 420 of the Acts of 2010, for administrative, operating, maintenance and emergency services to an amount not in excess of ~~\$110,000~~ 130,000. for Fiscal Year 2012 and provided further, that any funds remaining in said account over \$35,000 for FY12 shall close to the general fund.

AMENDMENT made and seconded to change the amount to \$130,000. Amendment passed and is incorporated in to the main motion. **The main motion was voted without dissent May 16, 2011 at 8:03 PM.**

ARTICLE 15: Motion made and seconded to raise and appropriate \$500 to be added to the Conservation Fund as authorized by M.G.L. chapter 40, section 8C. **So voted without dissent May 16, 2011 at 8:03 PM.**

ARTICLE 16: Motion made and seconded to raise and appropriate \$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 May 16, 2011 at 8:04 PM.**

ARTICLE 17: Motion made and second to amend the General Bylaws by inserting a new Section 3.0 in Chapter 6 (Roads and Highways), entitled, "Temporary Repair of Private Ways," to provide as follows:

3.1 The Town of Brimfield is hereby authorized to make temporary repairs to private ways solely for the purpose of facilitating snow plowing of such ways, and, excluding all drainage repairs, as may be authorized by the Board of Selectmen as set forth in section 3.2.

3.2 No repair may be made to a private way under authority of this bylaw without the prior approval of the Board of Selectmen with regard to the location and scope of repair.

3.3 In order to be eligible for repair under this bylaw, a particular private way shall have been open to public use for a term of at least one year, unless such repair is otherwise determined by the Board of Selectmen to serve a public purpose.

3.4 It shall not be necessary that any such repair be deemed to be "required by public necessity" or that any abutters petition for such repair. No betterments shall be assessed for such repairs and no cash deposit shall be required.

3.5 The Town of Brimfield shall not be liable for bodily injury, death or damage to personal property caused by reason of a defect or want of repair in any private way, on account of any repair made under the authority of this bylaw. Temporary repairs undertaken pursuant to the authority set forth herein shall not constitute "maintenance" of such way so as to give the way the status of a way "maintained and used as a public way" under the Massachusetts Subdivision control Law.

The Bylaw Committee made both written and oral report for favorable action.

AMENDMENT was offered and seconded to add sentence "For purposes of 3.1, 3.2, 3.3, 3.4, and 3.5 the term "private way" includes rights of way longer than 500' and providing primary access to more than 2 lots. **Amendment fails at 8:22 PM**

AMENDMENT was offered and seconded to add sentence "For purposes of 3.1, 3.2, 3.3, 3.4, and 3.5 the term "private way" includes rights of way longer than 1000' and providing primary access to more than 2 lots. **Amendment fails at 8:29 PM**

The main motion, as presented and without amendment, was passed overwhelmingly on May 16, 2011 at 8:30 PM.

ARTICLE 18: Motion made and seconded to transfer from Capitol Purchase Stabilization Account \$14,000 to be expended by the Board of Selectmen, subject to the applicable public bidding laws, to upgrade the fuel reading system located at the Highway Department. **So voted with nominal dissent, with 2/3 vote declared by the moderator on May 16, 2011 at 8:32 PM as authorized by Town Bylaw Chapter One, Section 3.6.**

ARTICLE 19: Motion made and seconded to take no action on the presented text regarding the Community Preservation Fund, namely to accept section 3 to 7, inclusive, of chapter 44B of the General Laws, otherwise known as the Massachusetts Community Preservation Act, by approving a surcharge on real property for the purposes permitted by said Act, including the acquisition, creation and preservation of open space, the acquisition, preservation restoration and rehabilitation 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 1/2% of the annual real estate tax levy against real property and that such surcharge shall commence in fiscal year 2012; 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 qualifies for low income housing or low or moderate income senior housing in the Town as defined in Section 2 of said Act. **The motion for no action was passed on a hand count of 95 in favor of no action and 54 opposed on May 16, 2011 at 9:18 PM.**

ARTICLE 20: Motion made and seconded to approve the \$1,109,324 borrowing authorized by vote of the Tantasqua Regional School District on March 16, 2011, for the purpose of paying costs of the roof replacement at the Tantasqua Junior High School located at 320 Brookfield Road, Fiskdale, Massachusetts, and, for the payment of all costs incidental and related thereto.

AMENDMENT was made and seconded to substitute the value of \$300,000 for the amount stated. After explanation by school business manager, **the amendment was defeated with nominal dissent at 9:23 PM.**

The main motion, as presented and without amendment, passed on a 2/3 voice vote with nominal dissent, called by the moderator as authorized by Town Bylaw Chapter One, Section 3.6 at 9:25 PM.

ARTICLE 21: Motion made and seconded to transfer \$6,000 from the FY2011 appropriation for the Cemetery Expense Revolving Account #04-91-5460 to the Cemetery Perpetual Care Expendable Account # 04-91-3570. **So voted without dissent May 16, 2011 at 9:45 PM.**

ARTICLE 22: Motion made and seconded to charge for each written demand issued by the Tax Collector, a fee of \$15.00 to be added to and collected as part of the tax, as authorized by Massachusetts General Laws, Chapter 60, Section 15, effective July 1, 2011. **So voted without dissent May 16, 2011 at 9:46 PM.**

ARTICLE 23: Motion made and seconded to accept a bylaw amendment, by adding a new section 1A to chapter 2

*Section 1A: Appointment by Selectmen or Moderator, Qualification
Appointments made by the Board of Selectmen or Moderator to any multi-person board or committee shall be from among the registered voters of the Town of Brimfield, unless specifically provided otherwise by the Massachusetts General Laws or these bylaws. All appointees shall, before entering upon their official duties, be sworn to the faithful performance thereof by the Town Clerk.*

The Bylaw Committee made both written and oral report for favorable action. The motion fails on a card count of 40 in favor and 53 opposed on May 16, 2011 at 9:57 PM.

ARTICLE 24: Motion made and seconded to amend the Brimfield Zoning Bylaws, Section 7.5.2, by deleting the last word, "hearing" and replacing it with the following words, "the hearing closing." *Planning Board distributed written report and offered further explanation orally. The motion passed without dissent with 2/3 voice vote called by the moderator on May 16, 2011 at 9:59 PM as authorized by Town Bylaw Chapter One, Section 3.6 at 9:25 PM.*

ARTICLE 25: Motion made and seconded to amend the Brimfield Zoning Bylaws, Section 7.2, by inserting after the words, "external enlargements" in the last sentence, the following words, "or a change of use." *Planning Board distributed written report and offered further explanation orally. The motion passed with nominal dissent with 2/3 voice vote called by the moderator on May 16 at 10:03 PM as authorized by Town Bylaw Chapter One, Section 3.6 at 9:25 PM.*

ARTICLE 26: Motion made and seconded to amend the Brimfield Zoning Bylaws, Section 7.6, by inserting after the words, "90 days following the" the following words, "closing of the." *Planning Board distributed written report and offered further explanation orally. The motion passed without dissent, 2/3 voice vote called by the moderator on May 16, 2011 at 10:04 PM as authorized by Town Bylaw Chapter One, Section 3.6 at 9:25 PM.*

ARTICLE 27: Motion made and seconded to raise and appropriate \$5,000 to be expended by the Board of Selectmen to retain the services of a Planning Consultant to advise the Planning Board on zoning issues relevant to community growth. **So voted without dissent on May 16, 2011 at 10:04 PM.**

ARTICLE 28: Motion made and seconded to take no action on a sum of money to be expended by the Board of Selectmen to retain the services of a licensed design professional, subject to the requirements of applicable public bidding laws, to perform a full facility evaluation of the Town Hall to

include, but not be limited to, necessary repairs and maintenance required due to facility deferred maintenance, energy efficiency and upgrades, hazardous material(s) and removal as well as other code conformance issues; and, further, to assess the current status of the building's foundation, and primary and secondary structural systems, in order to develop a baseline for proposing a comprehensive restoration plan for the structure. **The motion for no action was defeated and the moderator accepted a substitute motion from selectmen.**

SUBSTITUTE MOTION was made and second to raise and appropriate \$12,000 to be expended by the Board of Selectmen to retain the services of a licensed design professional, subject to the requirements of applicable public bidding laws, to perform a full facility evaluation of the Town Hall to include, but not be limited to, necessary repairs and maintenance required due to facility deferred maintenance, energy efficiency and upgrades, hazardous material(s) and removal as well as other code conformance issues; and, further, to assess the current status of the building's foundation, and primary and secondary structural systems, in order to develop a baseline for proposing a comprehensive restoration plan for the structure. **The substitute motion was passed without dissent on May 16, 2011 at 10:22 PM.**

ARTICLE 29: Motion made and seconded to raise and appropriate the sum of \$10,000 to be expended by the Board of Selectmen for the purpose of retaining the services of a licensed design professional, subject to the requirements of applicable public bidding laws, to prepare a formal needs study assessing the Town's municipal facilities for future growth. **The motion was defeated on May 16, 2011 at 10:30 PM.**

NOTE: After considerable discussion of funding options, Selectman Marino stated that the town would have up to \$25,000 available in discretionary accounts to use for the stated purpose and that selectmen would like such a study to be comprehensive in addressing the needs and options.

ARTICLE 30: Motion made and seconded to take no action on a sum of money to be expended by the Board of Selectmen to acquire by gift, purchase, or otherwise for general municipal purposes, the property described as Assessors Map #11, Block A, Lot 9, and further, to authorize the Board of Selectmen to acquire property, execute instruments. **The motion for no action was passed with nominal dissent on May 16, 2011 at 10:46 PM.**

ARTICLE 31: Motion made and seconded to take no action on transfer of funds from the Capital Purchase Stabilization Fund to be expended by the Board of Selectmen for aquatic vegetation management to eliminate and control the growth of milfoil in Lake Sherman, Little Alum Pond and Mill Pond. **The motion for no action was passed with nominal dissent on May 16, 2011 at 11:15 PM.**

ARTICLE 32: Motion made and seconded to accept a bylaw amending Chapter 5, section 2.3.4.2 Distribution of Permits and Payments to the Town by deleting the number "10" and replacing it with the number "3." *The Bylaw Committee made both written and oral report in favor of the amendment. So voted overwhelmingly on May 16, 2011 at 11:30 PM.*

ARTICLE 33: Motion made and seconded to take no action on purchase of a fire truck. **The motion for no action was defeated at 11:36 PM.**

SUBSTITUTE MOTION was made, seconded to appropriate the sum of \$290,000 for the purpose of purchasing and equipping a fire truck, including all costs incidental and related thereto, and to meet said appropriation, to authorize the Treasurer with the approval of the Board of Selectmen to borrow said sum pursuant to G.L. c. 44, section 7 or any other enabling authority and issue bonds and notes therefor; and to authorize the Board of Selectmen to take all other action necessary to carry out the purposes of this vote; and further, while it is recognized that the Board of Selectmen may authorize such borrowing at any time, it is anticipated the Board will not take such action until the Town has voted at an election to exempt from the provisions of Proposition 2 ½ so called, the amounts necessary to pay the principal and interest on such bonds or notes.

Substitute motion, as presented and without amendment, passed on a 2/3 voice vote with one dissenting vote noted, as called by the moderator as authorized by Town Bylaw Chapter One, Section 3.6, at 11:43 PM.

ARTICLE 34: To see if the town will vote to transfer from the Capital Purchase Stabilization Fund, or otherwise fund, the sum of \$7,250 to pay the interest and principal due in FY2012 on the Fire Truck Debt authorized by May 2011 Annual Town Meeting. **There was no motion offered and no action taken on May 16, 2011 at 11:44 PM.**

ARTICLE 35: Motion made and seconded to take no action to transfer \$33,000 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 of vehicle for the use of the Brimfield Police Department as a patrol vehicle. **The motion for no action was passed without dissent on May 16, 2011 at 11:45 PM.**

ARTICLE 36: Motion made and seconded to transfer from the Capital Purchase Stabilization Fund \$24,465 to pay the interest and principal due in FY2012 on the Town Hall engineering and repairs authorized by May, 2009 town meeting. **So voted with nominal dissent with 2/3 vote declared by the moderator on May 16, 2011 at 11:45 PM.**

ARTICLE 37: Motion made and seconded to transfer \$35,760 from Free Cash to be added to the Capital Purchase Stabilization Fund. **So voted without dissent on May 16, 2011 at 11:45 PM.**

ARTICLE 38: Motion made and seconded to transfer from the Capital Purchase Stabilization Fund \$26,294 to pay the interest and principal due in FY2012 on the Capital Purchase Debt authorized in FY2005. **So voted without dissent on May 16, 2011 at 11:45 PM.**

ARTICLE 39: Motion made and seconded to take no action to transfer a sum of money from Free Cash to be added to the Stabilization Fund. **So voted no action without dissent May 16, 2011 at 11:45 PM.**

ARTICLE 40: Motion made and seconded to transfer \$381,661 from Free Cash, and \$30,000 from the Assessors Overlay Surplus, to reduce the tax rate in FY2012. **So voted without dissent May 16, 2011 at 11:47 PM.**

Having no further business motion was made and seconded to dissolve the 280th Annual Town Meeting of the Town of Brimfield.

Prepared by
Town Clerk
Pamela E. Beall, CMMC

NOTICE OF BYLAW APPROVALS: General Bylaws, Zoning Bylaws and amendments thereto, which were voted by the Town Meeting, were submitted in a timely fashion to the Municipal Law Division of the Office of the Attorney General. The Attorney General's approval of the submissions relating to Articles 17 and 32 (General Bylaws) and Articles 24, 25 and 26 (Zoning Bylaws), was received July 5, 2011, posted and published as required by law.
