

CHARLES C. KOKOROS
President
District 1

LELAND A. DINGEE
At Large

SEAN E. POWERS
At Large

CHARLES B. RYAN
At Large

JOHN C. MULLANEY
District 2



THOMAS M. BOWES
Vice President
District 3

HENRY N. JOYCE
District 4

RONALD E. DENAPOLI
District 5

PAUL "DAN" CLIFFORD
District 6

OFFICE OF THE TOWN COUNCIL

October 16, 2012

7:30 pm MINUTES

A meeting of the Town Council was held in the Horace T. Cahill Auditorium, Braintree Town Hall, on Tuesday, October 16, 2012 beginning at 7:30p.m.

Council President Kokoros was in the chair.

The Clerk of the Council conducted the roll call.

Present: Charles Kokoros, President
Thomas Bowes, Vice President
Leland Dingee
Sean Powers
Charles B. Ryan
John Mullaney
Henry N. Joyce
Paul Dan Clifford

Not Present: Ronald DeNapoli

Others: Joseph C. Sullivan, Mayor
Russell Jenkins, Deputy Police Chief
Peter Morin, Chief of Staff,
George Lang, Grove Street Braintree LLC
Jack Garland, Attorney
Joe Powers, Town Clerk
Debra Starr, Principal Clerk
Various Residents

CORRESPONDENCE

None

ANNOUNCEMENTS

- 042 12 Council President: Morrison School/PTO 5K Jingle Jaunt
- 039 12 Council President: Seasonal Flu Clinic – October 24th
- 045 12 Councilor Joyce: Great Grown Up Spelling Bee
- 046 12 Councilor Powers: July 4th Committee 50's Dance
- 048 12 Council President: Annual Haunted Hayride
Councilor Joyce: Recreation Department Events
Councilor Powers: Gift for Mary Fundraiser

APPROVAL OF MINUTES

- **October 2, 2012**

Motion: by Councilor Bowes to approve

Second: by Councilor Ryan

Vote: For (8), Against (0), Absent (1-DeNapoli)

CITIZEN CONCERNS/COUNCIL RESPONSE

None

OLD BUSINESS

Committee on Personnel Issues

- 12 046 Mayor: Appointment of Police Chief – Russell Jenkins **(Same Night Action Requested)**

Council President Kokoros noted that at the 7:00pm Council meeting Order 12 045 was referred to Committee. The Committee on Personnel Issues held a meeting at 7:15pm to review and present their recommendation to members at 7:30pm meeting of the Council. Mayor Sullivan has requested same night action on the appointment of the new Police Chief and if there are no objections we will move forward with the Order.

Councilor Dingee commented he normally would be opposed to same night actions unless there are of emergency items or if sufficient information has been provided beforehand to allow him as well as the public to make an informed decision. Mayor Sullivan has provided background information on his selection and the interview process was broadcast over local cable. He has no objections.

Committee Chairman Powers reported that the Committee had reviewed the appointment submitted by Mayor Sullivan and commented on the extensive interview process. Councilor Powers reported that the Committee recommends favorable action on the appointment.

Motion: by Councilor Powers to approve Order 12 046

Second: by Councilor Bowes

Vote: For (8), Against (0), Absent (1-DeNapoli)

- 041 12 Town Clerk: Appointment of Assistant Town Clerk – Debra Starr

Committee Chairman Powers reported that the Committee had reviewed the appointment submitted by Town Clerk Powers; commenting on the overall interview process. Councilor Powers reported that the Committee recommends favorable action on the appointment.

Motion: by Councilor Bowes to approve Order 041 12

Second: by Councilor Ryan

Vote: For (8), Against (0), Absent (1-DeNapoli)

Committee on Ordinance & Rules

- **12 043 Grove Street Braintree LLC: Street Acceptance Petition – Stone Crest Drive**

Committee Chairman Powers reported that the Committee had reviewed the application for acceptance of Stone Crest Drive and reports that the Committee recommends favorable action.

Council President Kokoros reported for the records that he knows the applicant and shares a business condominium building with Mr. Lang. He stated that he has no financial interest in this application.

Councilor Bowes read the following motion”

“AT THE REQUEST OF GROVE STREET BRAINTREE LLC THAT THE TOWN VOTE TO ACCEPT THE LAYOUT OF STONE CREST DRIVE AS A TOWN WAY, AS LAID OUT ON A PLAN ENTITLED “ROADWAY AS-BUILT IN BRAINTREE, MASSACHUSETTS, STONE CREST DRIVE,” DATED JUNE 1, 2011, REVISED THROUGH JUNE 22, 2011, PREPARED BY BORDERLAND ENGINEERING, INC., AND FILED WITH THE OFFICE OF THE TOWN CLERK ON SEPTEMBER 11, 2012, AND AS DESCRIBED BY THE TOWN ENGINEER IN THE MEETS AND BOUNDS OF SAID ROAD, WHICH IS ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE. TO THE EXTENT THAT SAID PLAN PREPARED BY BORDERLAND ENGINEERING, INC. AND SAID DESCRIPTION PREPARED BY THE TOWN ENGINEER DIFFER, THE PHYSICAL MEETS AND BOUNDS AS DESCRIBED BY THE TOWN ENGINEER SHALL

PREVAIL. STONE CREST DRIVE IS ACCEPTED BY THE TOWN OF BRAINTREE AS A TOWN WAY, TOGETHER WITH ALL BENEFITS AND RESPONSIBILITIES CURRENTLY APPURTENANT TO THE STATUS OF "PUBLIC WAY" WITHIN THE COMMONWEALTH. ALL WATER AND SEWER LINES WITHIN THIS LAYOUT, ALL EASEMENTS SHOWN ON THE REFERENCED PLAN, AND OWNERSHIP OF THE DRAINAGE SYSTEM WITHIN THE ROADWAY AND TO ITS DISCHARGE POINT(S) ENTERING ANY DETENTION BASINS, RETENTION BASINS OR SIMILAR STORMWATER IMPOUNDMENTS ARE ALSO ACCEPTED WITH THIS ACCEPTANCE AS A PUBLIC WAY. OWNERSHIP AND MAINTENANCE OF DETENTION BASINS, RETENTION BASINS OR SIMILAR STORMWATER IMPOUNDMENTS IS SPECIFICALLY EXCLUDED FROM THIS ACCEPTANCE. THIS ACCEPTANCE SHALL NOT BE CONSIDERED A FEE TAKING. NO DAMAGES ARE AWARDED. FURTHER, THE MAYOR AND THE DEPARTMENT OF PUBLIC WORKS ARE AUTHORIZED TO TAKE ANY ACTION NECESSARY TO CARRY OUT THIS VOTE."

Motion: by Councilor Bowes to approve Order 12 043

Second: by Councilor Ryan

Vote: For (8), Against (0), Absent (1-DeNapoli)

The Clerk of the Council advised Mr. Lang that a certified copy of the Council Order would be available for him to pick-up by the end of the week and it was his responsibility to file the Council Order and a copy of the Mylar Plans (copy without meets and bounds) with the Norfolk County Registry of Deeds to finalize the street acceptance process. Mr. Lang acknowledged he understood.

- 12 009 Scott Palmer: Rezone of 7-11 Independence Avenue (**CONTINUATION OF PUBLIC HEARING**)

Councilor Bowes made a motion to continue the public hearing on Order 12 009.

Motion: by Councilor Bowes to continue public hearing

Second: by Councilor Ryan

Vote: For (8), Against (0), Absent (1-DeNapoli)

Attorney John Garland provided an overview of the request for the rezoning petition and noted that an update to the current environmental report has been submitted to the Council Office. Additionally, Mr. Garland noted that no development plans have been submitted to the Town at this time. His client, Mr. Fitzgerald, is willing to step-up and address any environmental and back taxes.

Council President Kokoros read into the records a petition submitted to the Council Office from residents of Homles and Fairfield Streets. Additionally, Council President Kokoros read into the records a letter from Mayor Sullivan requesting favorable consideration on the rezoning petition. He then read the Table of Principal Uses for General Business zoning that are “uses allowed by right”.

Councilor Ryan asked if a brief description of the environmental issues at the site could be presented to the Council. Robert Leventry, of Green Environmental provided an overview of the environmental issues on the site. He commented that he has been involved with this site since 2008; being retained by Mr. Palmer. Three storage tanks and a hydrolic lift system were identified at the site. All have since been removed from the site. A high concentration of contamination continues close to the property line at Independence Avenue; with lesser concentrations as you move down from the site. Approximately 700 cubic yards of soil have been removed from the site over the years and he estimated that approximately 500 cubic yards may still need to be removed.

Councilor Clifford asked for an approximation of the total costs to clean the site. Mr. Leventry stated, based on his experience of similar automotive sites, he would estimate \$100,000 at the low end and \$200,000 at the high end.

Councilor Ryan asked if the property would need to be cleaned before any redevelopment could be done on the site. Attorney Garland commented that the Town and any lender would not move forward until it was done.

Councilor Mullaney asked if the current contamination has any negative impact to the residents. Mr. Leventry explained that data does not show the it would be a danger.

Councilor Cliffed questioned if any ground water contamination could be seeping into the water supply. Mr. Leventry stated he did not believe that the Town’s drinking water supply is near the site in question.

Edward Talbert of Braintree reported that there was a stream running in the back of the property towards the Home Depot and wanted to if that had been contaminated. Mr. Leventry he was not aware of a stream in the area. However, during the full assessment of the site it would be identified if one does exist.

Brian Black of Braintree wanted to know how the cleanup would be paid for. Attorney Garland commented that Mr. Fitzgerald is aware of the potential liability with the land. He would not be able to get financing if the site were not cleaned up.

George Hammel of Braintree asked who would be responsible for cleanup that spread beyond the property. Mr. Leventry noted that DEP does not work at the boundaries but at the site it started. They are responsible for the costs of all cleanup.

Kenneth Barry of Braintree commented that he lives directly across the street from the property and is in favor of getting the site cleaned up and is in favor of the application to get the property cleaned up as soon as possible.

James McPhee of Braintree had a concern about rezoning and how special permits work. Council President Kokoros explained that a special permit requires a super majority vote of the Planning Board and allows them to help shape the development. The special permit does not go on forever. It may be extended if there are certain delays during the development process and it would come with a number of conditions put on by the Planning Board.

Brian Black of Braintree provided members of the Council with a copy of the April 26, 2011 minutes and commented that the Council discussed the proposed TD Bank development during the rezoning application process. Council President Kokoros informed Mr. Black that there have not been any plans submitted. Attorney Garland confirmed the fact that plans have not been submitted.

Councilor Joyce asked if the rezone is approved when would the taxes be paid. Attorney Garland commented that he could only speak on the Braintree taxes and they would be paid prior to any plans being submitted to the Planning Board.

Council President Kokoros asked if there were any additional comments from either members of the Council or the Public. No member of the Council or public came forward.

Motion: by Councilor Ryan to close public hearing

Second: by Councilor Bowes

Vote: For (8), Against (0), Absent (1-DeNapoli)

The Chairman of the Ordinance & Rules Committee, Councilor Powers, reported that the Committee had recommended favorable action on the rezoning application.

Councilor Powers read the following motion”

“At the request of Mr. Scott Palmer, that the Town Council vote to amend its Zoning Map, as most recently amended, by re-zoning from Residence B Zoning District to General Business District two parcels of land commonly known as 7-11 Independence Avenue in Braintree: one parcel identified on the Town of Braintree Assessors Plan 2068, Plot 18 and containing 8,742 square feet of area, and the second parcel identified as the residentially zoned portion of the land shown on the Town of Braintree Assessors Plan 2068, Plot 22 and containing 7,997 square feet of area. Said parcels to be re-zoned are shown on a plan entitled “7-11 Independence Avenue in Braintree Mass. And 245 Independence Avenue in Quincy Mass.”, prepared by Neponset Valley Survey Assoc., Inc, dated February 6, 2012, as submitted with the petitioner’s application for re-zoning filed with the Town Council on March 8, 2012, as on file with the Office of the Town Clerk, and as described as follows:

Legal Description of 7 Independence Avenue, Braintree:

A certain parcel of land with buildings thereon situated in Braintree and bounded and described as follows: Easterly, By Independence Avenue, Thirteen Feet (13.00’); Southerly, by part of Lots 21 and 31, One Hundred Eighty Six Feet (186.00’); Westerly, by a private Way called Bennett Lane, Sixty-Eight Feet and 66/100 (69.66’); Northerly, by area of Zone Ind. A, Eighty-Eight Feet and 43.100 (88.43’); Easterly, by areal of Zone GB., Eighty-Seven Feet (87.00’); Southerly, by area of Zone GB., One Hundred Feet (100.00’). Said parcel contains 7,977 square feet of land.

Legal Description of Portion of 11 Independence Avenue, Braintree:

A certain parcel of land with the buildings thereon situated in Braintree and bounded and described as follows: Easterly, by Independence Avenue, Forty-Seven Feet (47.00’); Southerly, by land N/F Francis of Assisi Residence at Braintree, One Hundred Eighty-Six Feet (186.00’); Westerly, by a private way called Bennett Lane, Forty-Seven Feet (47.00’); Northerly, by parts of Lots 22-23 and 29-30, One Hundred Eight-Six Feet (186.00’). Said parcel contains 8,742 square feet of land.”

Motion: by Councilor Powers to approve Order 12 009

Second: by Councilor Clifford

Vote: For (7), Against (1-Clifford), Absent (1-DeNapoli)

COMMUNICATION AND REPORTS FOR THE MAYOR AND TOWN BOARDS

None

NEW BUSINESS

Refer to Committee on Ways & Means

- **12 045 Mayor: Appropriation from Community Preservation Fund – Feasibility Study for Former Norfolk County Hospital Land**

Motion: by Councilor Ryan to refer Order 12 045 to Committee

Second: by Councilor Bowes

Vote: For (8), Against (0), Absent (1-DeNapoli)

Administrative

- 044 12 Clerk of Council: Proposed Council Meeting Calendar for 2013

The Clerk of the Council asked members to review the proposed 2013 meeting calendar and contact him prior to the next meeting of the Council if they had any conflicts.

- 12 047 (047 12) Town Clerk: Call to Election for the State Election, November 6, 2012

Town Clerk Powers provided an overview of two administrative procedures, “inactive voter postcard” and “precinct location mailer postcard” he will use prior to the election.

Councilor Bowes read into the records the “Call to Election” for the November 6th election.

Motion: by Councilor Bowes to Approve Order 12 047

Second: by Councilor Powers

Vote: For (8), Against (0), Absent (1-DeNapoli)

ADJOURNMENT

It was unanimously voted to adjourn the meeting at 9:44p.m.

Respectfully submitted,

James M. Casey

Clerk of the Council

Documents provided for Meeting

- October 2, 2012 Minutes
- 042 12 Council President: Morrison School/PTO 5K Jingle Jaunt
- 039 12 Council President: Seasonal Flu Clinic – October 24th
- 045 12 Councilor Joyce: Great Grown Up Spelling Bee
- 046 12 Councilor Powers: July 4th Committee 50's Dance
- 048 12 Council President: Annual Haunted Hayride
- 12 046 Mayor: Appointment of Police Chief – Russell Jenkins **(Same Night Action Requested)**
- 041 12 Town Clerk: Appointment of Assistant Town Clerk – Debra Starr
- 12 043 Grove Street Braintree LLC: Street Acceptance Petition – Stone Crest Drive
- 12 009 Scott Palmer: Rezone of 7-11 Independence Avenue **(CONTINUATION OF PUBLIC HEARING)**
- 12 045 Mayor: Appropriation from Community Preservation Fund – Feasibility Study for Former Norfolk County Hospital Land
- 044 12 Clerk of Council: Proposed Council Meeting Calendar for 2013
- 047 12 Town Clerk: Call to Election for the State Election, November 6, 2012