

Thomas M. Bowes  
President  
District 3

Shannon L. Hume  
At Large

CHARLES B. Ryan  
At Large

CHARLES C. Kokoros  
District 1

JOHN C. MULLANEY  
District 2



Sean E. Powers  
Vice President  
At Large

Stephen C. O'Brien  
District 4

Michael J. Owens  
District 5

PAUL "DAN" CLIFFORD  
District 6

## OFFICE OF THE TOWN COUNCIL

### March 18, 2014

## MINUTES

A meeting of the Town Council was held in the Horace T. Cahill Auditorium, Braintree Town Hall, on Tuesday, March 18, 2014 beginning at 7:30p.m.

Council President Bowes was in the chair.

Prior to the start of the meeting the Council President read statement into the records the following statement "Mayor Sullivan has authorized the use of remote participation for March 18, 2014 to allow Councilor Clifford, who is out of state, to participate in tonight's Council meeting. Commonwealth of Massachusetts Open Meeting Laws allows remote participation for several reasons; with geographical distance being one.

Those participating in a meeting remotely must do so in compliance with the regulations issued by the Attorney General. All votes taken during the time the participant is engaged in the meeting must be by a roll-call vote.

The Mayor revokes remote participation effective March 19, 2014.

The Clerk of the Council conducted the roll call.

Powers – Yes	Ryan – Yes	Hume - Yes
Kokoros – Yes	Mullaney – Yes	Bowes – Yes
O'Brien – Yes	Owens – Yes	Clifford - Yes

Present: Thomas Bowes, President  
Sean Powers, Vice President  
Shannon Hume  
Charles Ryan  
Charles Kokoros  
John Mullaney  
Stephen O'Brien (left meeting at 7:55pm)  
Michael Owens  
Paul Dan Clifford (remote participation/left meeting at 7:50pm)

Others: Michael Coughlin, Chief of Staff and Operations  
Edward Spellman, Finance Director  
Peter Morin, Chief of Staff  
Russell Jenkins, Chief of Police  
James O'Brien, Fire Chief  
Maureen Murray, Superintendent of Schools  
Peter Kress, Business Manager Braintree Schools  
Eric Kinsherf, Town Auditor  
Thomas Whalen, DPW Director  
Michael Nelligan, Powers and Sullivan, Auditors

After roll call, the Council President informed members that it is anticipated that tonight's meeting will last between 2-3 hours. Councilor Clifford has requested several items be taken out of order this evening to allow his participation on these items.

If there are no objections Orders 013-14, 010 14 and 024 14 will be taken out of order. No member objected.

- **013 14 Council President: Re-Appointment Clerk of the Council or take up any action relative thereto**

Councilor Mullaney, Chairman of the Committee on Personnel Issues, reported that members made a favorable recommendation on the re-appointment of the Clerk of the Council.

Councilor Kokoros commented that as the President the past two years Mr. Casey did an exceptional job during his term. Councilor Ryan noted that Mr. Casey does an outstanding job, is dedicated, works with little supervision and is a self-starter. Council President Bowes remarked that Mr. Casey has made the transition into the President seat very smooth for him.

Councilor Powers made the following motion, seconded by Councilor Kokoros; Pursuant to Section 2-8 (c) of the Charter of the Town of Braintree the Town Council re-appoints James M. Casey as Clerk of the Council effective May 1, 2014.

On a roll-call vote

Powers – Yes	Ryan – Yes	Hume - Yes
Kokoros – Yes	Mullaney – Yes	Bowes – Yes
O'Brien – Yes	Owens – Yes	Clifford - Yes

- **010 14 Council President: Vote on Third Executive Session pursuant to G.L. c. 30A, Sec. 21(a) purpose number 3: "To discuss with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares. or take up any action relative thereto**

The Council President commented that the Council has discussed this item in executive session on several occasions over the last several weeks and, as required by the Commonwealth of Massachusetts Open Meeting Laws, must take a vote in open session to conclude this matter.

Motion

Councilor Powers made the following motion, seconded by Councilor Kokoros; I move that the Council adopt the terms and conditions of the Separation Agreement and Release dated March 7, 2014 between the Town Council and Joseph Powers.

On a roll-call vote

Powers – Yes	Ryan – Yes	Hume - Yes
Kokoros – Yes	Mullaney – Yes	Bowes – Yes
O’Brien – Yes	Owens – Yes	Clifford - Yes

- **024 14 Council President: Discussion - Appointment of Interim Town Clerk or take up any action relative thereto**

Council President Bowes commented that in 2009, when the Town Clerk’s position was last vacant, the process for hiring a new Town Clerk, from advertising the position, to interviewing candidates (68), to the final selection, took over four and one-half months. Following this timeline, the process would be completed sometime in August. The State Primary Election is scheduled for September 9<sup>th</sup>; leaving approximately one-month for the new Town Clerk to prepare for this election. What is the will of the Council?

Councilor Kokoros stated that based on the previous timeline for naming a town clerk and the closeness of the election I would like to take up discussion for same night action.

Council President Bowes stated that if there are no objections this Order will be taken up this evening to appoint an Interim Town Clerk.

Councilor Hume commented that she does not have any information on the order and objects to same night action. By rule, any one member objecting same night action, the Order is placed on the next Council Agenda.

On a motion by Councilor Powers, seconded by Councilor Kokoros, the Order was referred to the Committee on Personnel Issues.

On a roll-call vote

Powers – Yes	Ryan – Yes	Hume - Yes
Kokoros – Yes	Mullaney – Yes	Bowes – Yes
O’Brien – Yes	Owens – Yes	Clifford - Yes

On a motion by Councilor Powers, seconded by Councilor Kokoros, to authorize the Council President to give notice to the Director of Human Resources to advertise the position, in similar media publications as in 2009, by no later than April 4, 2014.

On a roll-call vote

Powers – Yes	Ryan – Yes	Hume - Yes
Kokoros – Yes	Mullaney – Yes	Bowes – Yes
O’Brien – Yes	Owens – Yes	Clifford - Yes

At this time, 7:50pm, Councilor Clifford terminated the remote participation.

## **CORRESPONDENCE**

None

## **ANNOUNCEMENTS**

- 021 14 Councilor Hume: B.F.F.E. Marathon Run for S.E.P.A.C.
- 023 14 Councilor O’Brien: White's Hill Planning Board Hearing / Alycia Rice / Click Fix
- 025 14 Councilor Hume: Run for Charlotte
- 026 14 Councilor Owens: Update on Safety Measures on Grove Street
- Councilor Powers: Super Saturday Road Race
- Council President: Attorney General’s Response on Open Meeting Complaint

At 7:55pm, Councilor O’Brien left the meeting.

## **APPROVAL OF MINUTES**

- March 4, 2014

**Motion:** by Councilor Powers to approve

**Second:** by Councilor Kokoros

**Vote:** For (7), Against (0), Absent (2-Clifford, O’Brien)

## **CITIZEN CONCERNS/COUNCIL RESPONSE**

None

## **COMMUNICATIONS AND REPORTS FROM THE MAYOR AND TOWN BOARDS**

- **019 14 – Council President: FY2013 Outside Auditor Management Letter, Reports on Federal Award Programs and Report on Examination of Basic Statements**

Michael Nelligan, Powers & Sullivan Auditors, reviewed FY 2013 audit findings as reported in the following three audit reports: 1) Management Letter, 2) Comprehensive Annual Financial Report and 3) Reports on Federal Award Programs. Mr. Nelligan noted that the General Fund Unreserved fund balance is at 15% with a total reserve fund balance at 17%. He noted that bond companies look favorably on towns with a total reserve of between 8-15%. Councilor Mullaney noted if reserves

continue to increase what would be the best avenue for the town with any excess over 15%. Mr. Nelligan stated he would recommend the excess be placed in a stabilization fund.

Mr. Nelligan noted that the Braintree is only a handful of towns that have begun to fund their long term benefit liability; at \$2 million.

## OLD BUSINESS

- **14 008 Mayor: Appropriation – East Middle School Feasibility Study (PUBLIC HEARING)**

Motion by Councilor Powers to open public hearing on Order 14 008.

**Motion:** by Councilor Powers

**Second:** by Councilor Kokoros

**Vote:** For (7), Against (0), Absent (2-Clifford, O'Brien)

Councilor Mullaney, Chairman of the Committee on Ways and Means, reported that the Committee voted favorable action.

Maureen Murray, Superintendent of Schools, commented that the proposed project is similar to what was done at South Middle School. The feasibility study is the first step in a multi-step process to secure funding with the Massachusetts School Building Authority (MSBA). It is anticipated that MSBA will pay approximately 48% of the total project costs. The overall project is projected at \$6 million.

Peter Kress, Business Manager, explained that the MSBA has instituted in rules since the South Middle School project. The town will submit to the MSBA the results of the feasibility study for review. The MSBA reviews what is proposed and may make further recommendations as part of the overall scope of the project.

Councilor Mullaney asked what would the estimated cost of build a new East Middle School. Mr. Kress responded around \$45 million dollars.

Council President Bowes asked if any other member of the Council or any one from the public would like to speak on the Order. No one came forward.

**Motion:** by Councilor Powers to close the public hearing

**Second:** by Councilor Kokoros

**Vote:** For (7), Against (0), Absent (2-Clifford, O'Brien)

**Motion:** by Councilor Powers to approve

**Second:** by Councilor Kokoros

**Vote:** For (7), Against (0), Absent (2-Clifford, O'Brien)

- **14 009 Mayor: Appropriations FY14 - Various Departments or take up any action relative thereto**

Motion by Councilor Powers to open public hearing on Order 14 009.

**Motion:** by Councilor Powers

**Second:** by Councilor Kokoros

**Vote:** For (7), Against (0), Absent (2-Clifford, O'Brien)

Councilor Mullaney, Chairman of the Committee on Ways and Means, reported that the Committee voted favorable action on each of the sixteen appropriation requests. He noted that the Committee asked for and will be provided with a five-year analysis of overtime when the Chief comes before the Committee for the FY2015 Budget. Members want to see if the 24-hour shifts actually reduced overtime as it was originally planned when it went into effect.

Chief O'Brien explained that his Table of Organization is 89 employees; 84 Firefighters, 21 per group, and 4 Administrative positions, and the Fire Chief. The 17 man minimum, which includes Engine 1, Engine 2, Engine 3, Engine 4 and Ladder 2 and the Fire Dispatcher. Contract allows 5 members to take vacation time per shift; 2 Officers and 3 Privates. A full complement of personnel (21) with 5 on vacation time reduces the shift to 16, requiring 1 Firefighter to be hired to fill shift to the 17 man minimum. The new tower truck was put into service creating a need for an 18 man minimum per shift and increasing the overtime needed to fulfill the manning clause in the contract. He notes that Braintree is an "Older" [years on the job] with 30 Firefighters with 5-weeks of vacation, 29 with 4-weeks of vacation, 15 with 3-weeks of vacation and 6 with 2. Additionally, each Firefighter is awarded 3 personal days each year.

Council President Bowes asked if any member of the Council or any one from the public would like to speak on any of the sixteen appropriation requests. No one came forward.

**Motion:** by Councilor Powers to close the public hearing

**Second:** by Councilor Kokoros

**Vote:** For (7), Against (0), Absent (2-Clifford, O'Brien)

- 1 DPW: That the sum of \$5,000 be transferred from the Finance Department/ Program 01- Administration / 9C Reserve account to the DPW Department / Program 10- Traffic / Roadway Marking account.

**Motion:** by Councilor Powers to approve

**Second:** by Councilor Kokoros

**Vote:** For (7), Against (0), Absent (2-Clifford, O'Brien)

- 2 DPW: That the sum of \$20,000 be transferred from the Town's Stabilization Fund to the DPW Department / Program 6- Highway / Tree Removal account.

**Motion:** by Councilor Powers to approve

**Second:** by Councilor Kokoros

**Vote:** For (7), Against (0), Absent (2-Clifford, O'Brien)

- 3 DPW: That the sum of \$25,000 be transferred from the Finance Department/ Program 01- Administration / 9C Reserve account appropriated to the DPW Department / Program 18- Grounds Maintenance / Fertilizers-Lime account.

Motion: by Councilor Powers to approve  
Second: by Councilor Kokoros  
Vote: For (7), Against (0), Absent (2-Clifford, O'Brien)

- 4 DPW: That the sum of \$81,786 be transferred from Fiscal Year 2013 certified Free Cash to DPW Department / Program 12- Environmental Affairs and Solid Waste Collection/ Bin-Cart account.

Motion: by Councilor Powers to approve  
Second: by Councilor Kokoros  
Vote: For (7), Against (0), Absent (2-Clifford, O'Brien)

- 5 DPW: That the sum of \$2,500 be transferred from the Town's Stabilization Fund to the DPW Department / Program 9- Highway / Police Detail account.

Motion: by Councilor Powers to approve  
Second: by Councilor Kokoros  
Vote: For (7), Against (0), Absent (2-Clifford, O'Brien)

- 6 DPW: That the sum of \$60,000 be transferred from the Town's Stabilization Fund to the DPW Department / Program 2- Facilities and Equipment Maintenance Highway / Building Repairs account.

Motion: by Councilor Powers to approve  
Second: by Councilor Kokoros  
Vote: For (7), Against (0), Absent (2-Clifford, O'Brien)

- 7 DPW: That the sum of \$3,500 be transferred from be transferred from the Finance Department/ Program 01- Administration / 9C Reserve account to the DPW Department/ Program 02- Facilities and Equipment Maintenance / Consultant account.

Motion: by Councilor Powers to approve  
Second: by Councilor Kokoros  
Vote: For (7), Against (0), Absent (2-Clifford, O'Brien)

- 8 FIRE: That the sum of \$100,000 be transferred from the Fire Department/ Program 04- Fire suppression / Uniform branch account to the Fire Department/ Program 04- Fire Suppression /Overtime account.

Motion: by Councilor Powers to approve  
Second: by Councilor Kokoros  
Vote: For (7), Against (0), Absent (2-Clifford, O'Brien)

9 FIRE: That the sum of \$150,000 be transferred from be transferred from the Finance Department/ Program 01- Administration / 9C Reserve account to the Fire Department/ Program 04- Fire Suppression /Overtime account.

Motion: by Councilor Powers to approve  
Second: by Councilor Kokoros  
Vote: For (7), Against (0), Absent (2-Clifford, O'Brien)

10 FIRE: That the sum of \$45,000 be transferred from Fiscal Year 2013 certified Free Cash to the Fire Department/ Program 02- Building Maintenance / Equipment Maintenance account.

Motion: by Councilor Powers to approve  
Second: by Councilor Kokoros  
Vote: For (7), Against (0), Absent (2-Clifford, O'Brien)

11 FIRE: That the sum of \$25,000 be transferred from Fiscal Year 2013 certified Free Cash to the Fire Department/ Program 03- Equipment Maintenance / Equipment Maintenance account.

Motion: by Councilor Powers to approve  
Second: by Councilor Kokoros  
Vote: For (7), Against (0), Absent (2-Clifford, O'Brien)

12 FIRE: That the sum of \$45,000 be transferred from Fiscal Year 2013 certified Free Cash to the Fire Department/ Program 03- Equipment Maintenance / Parts and Accessories account.

Motion: by Councilor Powers to approve  
Second: by Councilor Kokoros  
Vote: For (7), Against (0), Absent (2-Clifford, O'Brien)

13 Legal Services: That the sum of \$25,000 be transferred from the Town's Stabilization Fund to the Law Department/ Program 01- Administration / Legal Services account.

Motion: by Councilor Powers to approve  
Second: by Councilor Kokoros  
Vote: For (7), Against (0), Absent (2-Clifford, O'Brien)

14 Legal Services: That the sum of \$36,054 be transferred from the Town's Stabilization Fund to the Law Department/ Program 01- Administration / Town Solicitor account.

Motion: by Councilor Powers to approve  
Second: by Councilor Kokoros  
Vote: For (7), Against (0), Absent (2-Clifford, O'Brien)

15 SCHOOL: That the sum of \$167,000 be transferred from Fiscal Year 2013 certified Free Cash to the Capital projects fund School Department / Program 30-300 Capital / Monatiquot School account.

Motion: by Councilor Powers to approve  
Second: by Councilor Kokoros  
Vote: For (7), Against (0), Absent (2-Clifford, O'Brien)

16 POLICE: That the sum of \$1,500 be transferred from the Town's Stabilization Fund to the Police Department / Program 04 Patrol Bureau/ EMS Supplies account.

Motion: by Councilor Powers to approve  
Second: by Councilor Kokoros  
Vote: For (7), Against (0), Absent (2-Clifford, O'Brien)

- **14 011 Mayor: Line Item Transfer – BPMA Collective Bargaining Agreement or take up any action relative thereto**

Motion by Councilor Powers to open public hearing on Order 14 011.

**Motion:** by Councilor Powers  
**Second:** by Councilor Kokoros  
**Vote:** For (7), Against (0), Absent (2-Clifford, O'Brien)

Councilor Mullaney, Chairman of the Committee on Ways and Means, reported that the Committee voted favorable action.

That the Town vote to amend the wage and salary classification schedules, as most recently amended by appropriating the sum of \$53,749.62 for the purpose of funding a wage increase for Braintree Professional Managers Association (BPMA) effective July 1, 2013, and for this purpose, the sum of \$13,283.84 be transferred from the Human Resources Department/Program 02 Employee Benefits/Benefits Reserve account and the sum of \$40,465.78 be transferred from the Finance Department/ program 01 Administration /9C reserve account, and further, that the Director of Municipal Finance is authorized to allocate said sums to and among the various accounts affected thereby in such amounts as are proper and required.

Michael Coughlin reviewed the February 20, 2014 memo from Mayor Sullivan. Mr. Coughlin noted that in addition to the 6% salary increase over the three year contract (2%/4%/0%) there were a few language changes. Employees will be allowed to trade-in 3 sick days for 1 vacation date. In addition, the Treasurer/Collection will now be included in the BPMA while the Library Director will no longer be in the association.

Council President Bowes asked if any member of the Council or any one from the public would like to speak on the Order. No one came forward.

Motion: by Councilor Powers to close the public hearing  
Second: by Councilor Kokoros  
Vote: For (7), Against (0), Absent (2-Clifford, O'Brien)

Motion: by Councilor Powers to approve  
Second: by Councilor Kokoros  
Vote: For (7), Against (0), Absent (2-Clifford, O'Brien)

- **14 012 Mayor: Parking Tickets – Fines and Late Payment Penalties or take up any action relative thereto**

Motion by Councilor Powers to open public hearing on Order 14 012.

**Motion:** by Councilor Powers  
**Second:** by Councilor Kokoros  
**Vote:** For (7), Against (0), Absent (2-Clifford, O'Brien)

Councilor Powers, Chairman of the Committee on Ordinance & Rules, reported that the Committee amended the parking penalty schedule for Handicap parking zone and Blocking handicap curb cut from \$100 to \$150 voted and recommends favorable action on motion #1, as amended and on motion #2 as presented.

Councilor Mullaney, Chairman of the Committee on Ways and Means, reported that the Committee voted favorable action on motion #1, as amended and on motion #2 as presented.

Councilor Ryan asked Chief Jenkins if he was comfortable with the proposed amendment of increasing the fines on handicap parking zone and blocking handicap curb cut. Chief Jenkins noted he was happy with what was presented.

Councilor Mullaney commented that there were 243 tickets issued for handicap parking violations over the past three years; 2011-38, 2012-55 and 2013-150. Under current policy, the Town is unable to pursue violators. The new policy will allow the Town to mark the registration of vehicles at the Registry of Motor Vehicles and prevent violators for re-registering their vehicles until the fine and penalties are paid.

Councilor Kokoros noted that the proposed increase in handicap parking fines should not be viewed as the Town collecting more revenue as handicap parking fines, by law, go directly to the Commission on Disabilities.

Council President Bowes asked if any member of the Council or any one from the public would like to speak on the Order. No one came forward.

1. Motion: That the Town vote to adopt the new parking penalty schedule as amended by the Committee on Ordinance and Rules and presented below under the direction of the Director of Municipal Finance as authorized by The Massachusetts General Law Chapter 90 Section 2A effective April 1, 2014.

Fine	Current Penalty	New Penalty	Councilor Powers Amendment
Handicap parking zone	100	100	150
Blocking handicap curb cut		100	150
In a bus stop		100	
Within 10 feet of a fire hydrant	50	50	
Fire station entrance	15	25	
Fire lane	15	25	
Within an intersection	15	15	
Interfering with snow removal	15	15	
On a crosswalk	15	25	
On a sidewalk	15	25	
Blocking public or private driveway	15	25	
Wrong direction one way street	15	15	
Within 20 feet of an intersection	15	15	
Restricted area	15	15	
Overtime parking	15	15	
Double parking	15	15	
Right wheels more than 12" from curb	15	15	
On a bridge	15	15	
Overnight parking	5	5	

Motion: by Councilor Powers to approve  
 Second: by Councilor Kokoros  
 Vote: For (7), Against (0), Absent (2-Clifford, O'Brien)

Motion: That the Town vote to adopt the new parking ticket late fee schedule presented below under the direction of the Director of Municipal Finance as authorized by The Massachusetts General Law Chapter 90 Section 2A effective April 1, 2014.

<u>Fine</u>	<u>1ST Late Fee</u>	<u>2ND Late Fee</u>	<u>Non- renewal Fee</u>
Handicap parking zone	10	15	20
Blocking hp curb cut	10	15	20
In a bus stop	10	15	20
Within 10 feet of a fire hydrant	10	15	20
Fire station entrance	10	15	20
Fire lane	10	15	20
Within an intersection	10	15	20
Interfering with snow removal	10	15	20
On a crosswalk	10	15	20
On a sidewalk	10	15	20
Blocking public or private driveway	10	15	20

Wrong direction one way street	10	15	20
Within 20 feet of an intersection	10	15	20
Restricted area	10	15	20
Overtime parking	10	15	20
Double parking	10	15	20
Right wheels more than 12" from curb	10	15	20
On a bridge	10	15	20
Overnight parking	10	15	20

Motion: by Councilor Powers to approve  
 Second: by Councilor Kokoros  
 Vote: For (7), Against (0), Absent (2-Clifford, O'Brien)

**NEW BUSINESS**

**Refer to Committee on Personnel Issues**

- **14 013 National Grid Petition: Woodedge Avenue or take up any action relative thereto**

Motion: by Councilor Powers to refer to committee  
 Second: by Councilor Kokoros  
 Vote: For (7), Against (0), Absent (2-Clifford, O'Brien)

**Refer to Committee on Ways & Means**

- **14 014 Councilor Clifford: Chapter 134 of the Acts of 2008 – Extension to FY2016 or take up any action relative thereto**

Motion: by Councilor Powers to refer to committee  
 Second: by Councilor Kokoros  
 Vote: For (7), Against (0), Absent (2-Clifford, O'Brien)

- 010 14 Council President: **Third Executive Session** pursuant to G.L. c. 30A, Sec. 21(a) purpose number 3: "To discuss with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares.

Councilor Bowes noted that this Order was placed on the agenda and would be taken up only if the Council failed to adopt the terms and conditions of the Separation Agreement and Release dated March 7, 2014 between the Town Council and Joseph Powers. With it being approved earlier in the evening, this item will not be taken up.

**ADJOURNMENT**

It was unanimously voted to adjourn the meeting at 9:12p.m.

Respectfully submitted,  
 James M. Casey  
 Clerk of the Council

## Documents provided for Meeting

- March 4, 2014 Minutes
- 013 14 Council President: Re-Appointment Clerk of the Council
- 010 14 Council President: **Third Executive Session** pursuant to G.L. c. 30A, Sec. 21(a) purpose number 3: “To discuss with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares.
- 024 14 Council President: Discussion - Appointment of Interim Town Clerk
- 019 14 – Council President: FY2013 Outside Auditor Management Letter, Reports on Federal Award Programs and Report on Examination of Basic Statements
- 14 008 Mayor: Appropriation – East Middle School Feasibility Study
- 14 009 Mayor: Appropriations FY14 - Various Departments
- 14 011 Mayor: Line Item Transfer – BPMA Collective Bargaining Agreement
- 14 012 Mayor: Parking Tickets – Fines and Late Payment Penalties
- 14 013 National Grid Petition: Woodedge Avenue
- 14 014 Councilor Clifford: Chapter 134 of the Acts of 2008 – Extension to FY2016
- 024 14 Council President: Discussion - Appointment of Interim Town Clerk