

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 - AGENDA -

July 14, 2015 • Horace T. Cahill Auditorium, Town Hall • Starting Time: 7:30_{PM}

PLEDGE OF ALLEGIANCE/MOMENT OF SILENCE

ANNOUNCEMENTS

- Council President: Recognition: Helen Magri - 100 Years Old

APPROVAL OF MINUTES

- June 16, 2015

CORRESPONDENCE

CITIZEN CONCERNS/COUNCIL RESPONSE

- Councilor's Concerns: Tri Town Water Board: MWRA.

COMMUNICATIONS AND REPORTS FROM THE MAYOR AND TOWN BOARDS

- 033 15 Council President: Discussion – Town Auditor position
- 038 15 Eric Kinsherf: Town Auditor - Report Updates
- 036 15 Council President: Periodic Review of Charter and Ordinances – Appoint members
- 039 15 Mayor: Periodic Review of Charter and Ordinances – Appoint members

OLD BUSINESS

- 15 019 REZONE: Proposed Zoning Amendment – Article VII (Area Regulations) (**PUBLIC HEARING**)
(Tabled on 7/7/15 at O&R meeting until all Councilors are available to attend the presentation by the Planning Department)
- 15 022 National Grid Petition: 52 Victoria Avenue or take up any action relative thereto
- 15 023 Mayor: Request for Ratification FY2015 Bonding Authorization 15 002 and 15 003 or take up any action relative thereto (**PUBLIC HEARING**)
- 15 024 Mayor: Six Capital Article Requests or take up any action relative thereto (**PUBLIC HEARING**)
- 15 025 Mayor: Establishment of OPEB Trust or take up any action relative thereto (**PUBLIC HEARING**)
- 14 022 Council President: Update of Chapter 5-565: Peddling & Solicitation (Former By-Law chapter 5.32) or take up any action relative thereto
- 074 14 Councilor Ryan: 5 Year Moratorium or take up any action relative thereto

NEW BUSINESS

None

Refer to the Committee on the Department of Public Works

- 15 026 National Grid Petition: 45 Packard Drive or take up any action relative thereto

Refer to the Committee on Ordinance & Rules/ Committee on Ways & Means

- 15 027 Retirement Board Members Compensation or take up any action relative thereto

Refer to the Committee on Ordinance & Rules

- 15 031 REZONE: Peterson Pool/Rink Athletic Facility - Carson Field Property BHS or take up any action relative thereto

Refer to the Committee on Ways & Means

- 15 028 East Braintree Fire Station – Additional Funding Request
- 15 029 BELD - Watson 3 Generating Station – Authorization to Borrow
- 15 030 Peterson Pool/Rink Athletic Facility – Authorization to Transfer Custody of Property or take up any action relative thereto
- 15 032 Mayor: Appointment – Community Preservation Committee – Kevin Bears or take up any action relative thereto (SAME NIGHT ACTION)

Topics the Chair does not reasonably anticipate will be discussed

UPCOMING MEETINGS:

Committee on the Department of Public Works – **Tuesday, August 11@5:00pm**

Committee on Ordinance & Rules – **Tuesday, August 11@ 5:30pm**

Committee on Ways & Means – **Tuesday, August 11@ 6:30pm**

Next Council Meeting - **TUESDAY, AUGUST 11, 2015@ 7:30pm**

ADJOURNMENT



Thomas M. Bowes
President
District 3

Shannon L. Hume
At Large

CHARLES B. Ryan
At Large

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OFFICE OF THE TOWN COUNCIL

June 16, 2015

MINUTES

A meeting of the Town Council was held in the Horace T. Cahill Auditorium, Braintree Town Hall, on Tuesday, June 16, 2015 beginning at 7:32p.m.

Council President Bowes was in the chair.

The Clerk of the Council conducted the roll call.

Present: Thomas Bowes, President
Sean Powers, Vice President
Paul Dan Clifford
Shannon Hume
Charles Kokoros
John Mullaney
Stephen C. O'Brien
Michael Owens
Charles Ryan

Also Present: Joseph C. Sullivan, Mayor
Michael Coughlin, Chief of Staff
Ed Spellman, Director of Finance
Thomas Whalen, DPW Director
Stephen J. O'Brien, DPW Superintendent
Dave McKenna, Assistant Highway Superintendent
Project Prove Students, Family, Teachers

APPROVAL OF MINUTES

• June 2, 2015

Motion: by Councilor Powers to Approve Minutes of June 2, 2015

Second: by Councilor Kokoros

Vote: For (9), Against (0), Absent (0), Abstain (0)

COMMUNICATIONS AND REPORTS FROM THE MAYOR AND TOWN BOARDS

• 022 15 Council President: Discussion: DPW - Snow & Ice

Mayor Sullivan made some opening remarks in regards to the DPW Snow & Ice removal. Our Town is approximately 14 plus square miles. We had 63 pieces of equipment both public and private. We created snow farms to put what snow we were able to move.

Councilor Owens stated he would like the Committee on the Department of Public Works to look at the report and have a de-briefing. Councilor Owens asked about in the future a possible Customer Management System to log and track calls and responses. Mayor Sullivan replied they call it a Resident Response System and Mike Coughlin currently logs and tracks calls and responses.

Councilor Powers stated this is a thorough report. Nancy Kennedy was fielding calls and being the voice of the DPW. She deserves much credit.

Councilor Mullaney stated DPW Director deserves much credit though everything was not great. Colby Road was bad. It was icy, possibly a lack of pre-treatment. It was only one lane. If a car was coming down you would have to back down to let it by.

At 8:47pm Councilor Clifford and Councilor Kokoros left the Council Chambers to return at 8:49pm. They were not present when Councilor Owens made the following Motion therefore, Abstaining:

Motion made by Councilor Owens to forward this request to the Committee on the Department of Public Works for a de-briefing

Motion: by Councilor Owens

Second: by Councilor Ryan

Vote: For (9), Against (0), Absent (0), Abstain (2-Clifford, Kokoros)

CITIZEN CONCERNS/COUNCIL RESPONSE

• 035 15 Jean Healey – Propose the Town create a flag to those serving in the Military

Ms. Jean Healey stated this proposal is to prepare and ship to Braintree men and women serving in the military a Town flag for their personal use. The greeting would reflect the pride and gratitude of the Town for the service they render for peace in the world. Young men and women serving in hazardous areas especially will benefit from the hometown assurance of their well-being and safety. The flag would be a size to mount on a wall in their bunk room. Families are invited to send the person's name, rank, serial number and address to the Town's Veterans Agent for processing. The flag will be shipped to the family who would then send it to their loved ones. A town wide appeal would be made for donations to finance this project.

Motion made by Councilor Kokoros to forward this request to the Veterans Services Committee

Motion: by Councilor Kokoros

Second: by Councilor Powers

Vote: For (9), Against (0), Absent (0)

OLD BUSINESS

- **15 021 Mayor: Supplemental Appropriations #4 or take up any action relative thereto (PUBLIC HEARING)**

Motion by Councilor Powers to Open Public Hearing

Motion: by Councilor Powers

Second: by Councilor Kokoros

Vote: For (9), Against (0), Absent (0)

Committee on Ways & Means Report (Chairman Mullaney) - Committee recommends favorable action on Council Order 15 021

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

Motion by Councilor Powers to Close Public Hearing

Motion: by Councilor Powers

Second: by Councilor Kokoros

Vote: For (9), Against (0), Absent (0)

The following Motions were read by Councilor Powers

1. Department of Public Works – Recreation and Community Events

MOTION: That the sum of \$10,000 be transferred from the DPW Department- Capital / Program 69-Capital / Electric Vehicle account to the DPW Department / Program-015 Recreation and Communities Events program / July 4th Parade Festivities account.

Motion: by Councilor Powers

Second: by Councilor Kokoros

Vote: For (9), Against (0), Absent (0)

2. Department of Public Works – Highway

MOTION: That the sum of \$12,000 be transferred from the DPW Department- Capital / Program 69-Capital / Electric Vehicle account to the DPW Department / Program-06 Highway program / Overtime account.

Motion: by Councilor Powers

Second: by Councilor Kokoros

Vote: For (9), Against (0), Absent (0)

3. Police

MOTION: That the sum of \$30,000 be transferred from the Police Department/ Program-02 Building Maintenance program/ Equipment Maintenance account to the Police Department/ Program-03 Equipment Maintenance program/ Gasoline account.

Motion: by Councilor Powers

Second: by Councilor Kokoros

Vote: For (9), Against (0), Absent (0)

4. Law

MOTION: That the sum of \$16,100 be transferred from the Planning and Community Development Department / Program 04 Planning / Zoning Administrator account to the Law Department /Program 01- Administration / Claims Settlements account.

Motion: by Councilor Powers

Second: by Councilor Kokoros

Vote: For (9), Against (0), Absent (0)

ENTERPRISE FUND TRANSFER

5. Water and Sewer Enterprise

MOTION: That the sum of \$56,100 be transferred from the Water Department / Program 51-Debt Interest/ Bond Interest account to the Water Department / Program-50 Debt Principal / Bond Principal account.

Motion: by Councilor Powers

Second: by Councilor Kokoros

Vote: For (9), Against (0), Absent (0)

NEW BUSINESS

Refer to the Committee on the Department of Public Works

- 15 022 National Grid Petition: 52 Victoria Avenue or take up any action relative thereto

Refer to the Committee on Ways & Means

- 15 023 Mayor: Request for Ratification FY2015 Bonding Authorization 15 002 and 15 003 or take up any action relative thereto
- 15 024 Mayor: Six Capital Article Requests or take up any action relative thereto
- 15 025 Mayor: Establishment of OPEB Trust or take up any action relative thereto
- 020 15 BELD: Watson 3 Development or take up any action relative thereto

ADJOURNMENT

It was unanimously voted to adjourn the meeting at 9:03p.m.

Respectfully submitted,

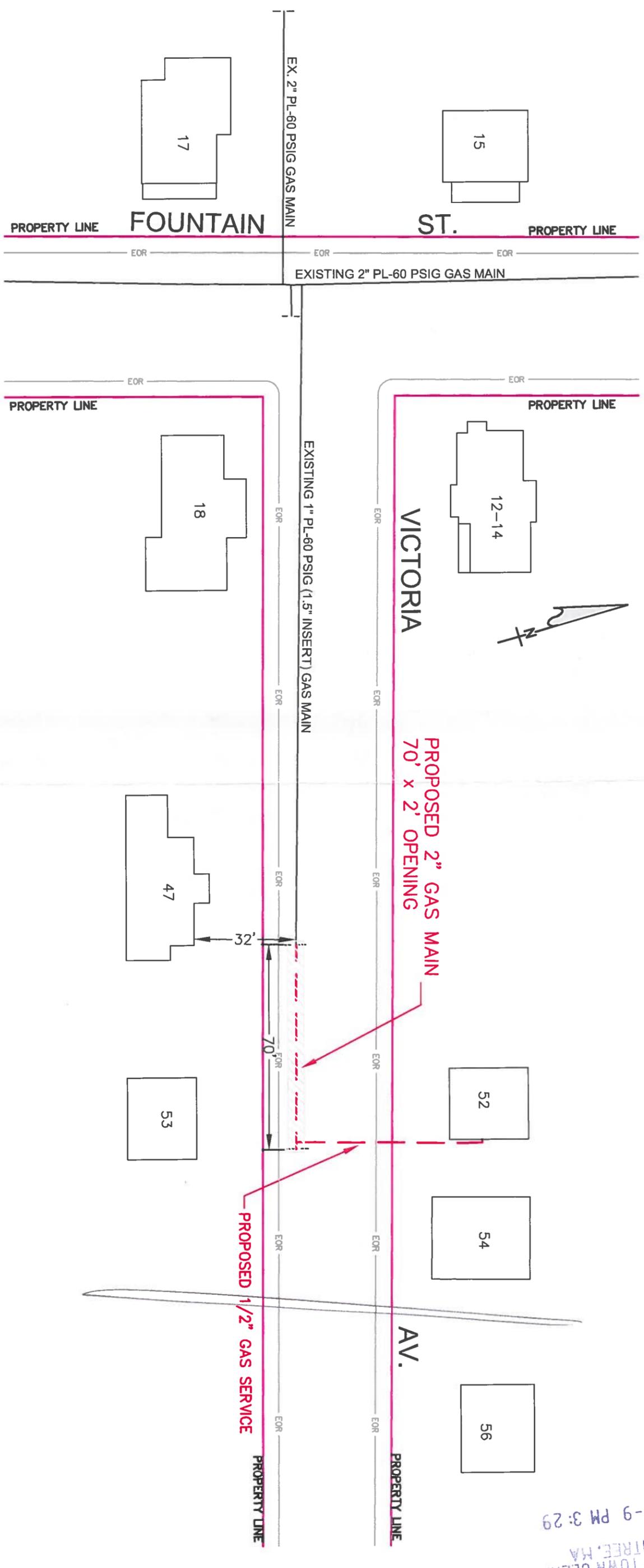
Susan M. Cimino

Clerk of the Council

Documents provided for Meeting

- June 2, 2015 Council Meeting Minutes
- 022 15 Council President: Discussion: DPW - Snow & Ice Report
- 15 021 Mayor: Supplemental Appropriations #4 or take up any action relative thereto

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BRAINTREE, MA
2015 JUN -9 PM 3:29



LEGEND

- PROPOSED GAS
- EXISTING GAS
- PROPERTY LINE
- EDGE OF ROADWAY
- PROPOSED OPENING

NOTE:

THE LOCATION OF SURFACE AND UNDERGROUND OBJECTS SHOWN ARE NOT WARRANTED TO BE CORRECT. CALL 811 BEFORE YOU DIG UTILITIES AND STREET LINES COMPILED FROM AVAILABLE DATA SOURCES. NO FIELD VERIFICATION PERFORMED.

REVISIONS

NO.	DESCRIPTION	DATE	DRBY	APP BY

nationalgrid

40 SYLVAN ROAD
WALTHAM, MA 02451

GRANT OF LOCATION

PROPOSED LOCATION OF 2" GAS MAIN

52 VICTORIA AV., BRAINTREE, MA 02184

ENGR./DRFTMAN	DATE	SIZE	PRESSURE	MATERIAL	LENGTH	WORK ORDER NO.
J.M.P./N.C.	05/27/2015	2"	H.P.	PLASTIC	70'	1010420

SCALE: N.T.S.

SHEET 1 OF 1

DRAWING NO.
GP-BRA

1010420-15-61



#15-022

Office of the
Board of Assessors

ONE JOHN FITZGERALD KENNEDY MEMORIAL DRIVE

BRAintree, MASSACHUSETTS 02184

TEL: (781) 794-8050 • (781) 794-8056

FAX: (781) 794-8068

DATE: June 9, 2015
APPLICANT: National Grid
OWNER: Brian O'Keefe
Donna O'Keefe
PROPERTY LOCATION: 52 Victoria Ave
MAP AND PLOT: 1028 0 69

RECEIVED TOWN CLERK
BRAintree, MA
2015 JUN - 9 PM 3:29

This is to certify that at the time of submission of this form to the Board of Assessors, the names and addresses of the parties assessed as adjoining owners to the parcel of land shown and described are as written and are the parties according to the records of the Assessors.

Office of the Board of Assessors (E.S.)

Robert M Cusack
Chairman

Braintree Abutters List

ParcelID	Location	Owner	Co-Owner	Mailing Address	City	State	Zip
1028 0 68	54 VICTORIA AV	ALTIG JOSEPH M		54 VICTORIA AVE	BRAINTREE	MA	02184
1028 0 69	52 VICTORIA AV	O'KEEFE BRIAN	O'KEEFE DONNA J TBYE	52 VICTORIA AVE	BRAINTREE	MA	02184
1028 0 71	32 VICTORIA AV	VU DUC	NGUYEN KIM QUI TBYE	32 VICTORIA AVE	BRAINTREE	MA	02184
1028 0 73	14 FOUNTAIN ST	CHENEY MICHAELA		14 FOUNTAIN ST	BRAINTREE	MA	02184
1028 0 74	15 FOUNTAIN ST	PANSA PASQUALE	PANSA GUISEPPINA	15 FOUNTAIN ST	BRAINTREE	MA	02184
1028 0 76	22 VICTORIA AV	GALLAGHER RUSSELL D	GALLAGHER MARY F TBYE	22 VICTORIA AV	BRAINTREE	MA	02184
1028 0 81	VICTORIA AV	BRAINTREE TOWN OF	LAND LOW VALUE	WASHINGTON ST	BRAINTREE	MA	02184
1028 0 84	7 VICTORIA AV	GARVAN PATRICK J	GARVAN SHEILA B	7 VICTORIA AVE	BRAINTREE	MA	02184
1028 0 86	17 FOUNTAIN ST	LUISI RONALD F	LUISI KERRI B	17 FOUNTAIN ST	BRAINTREE	MA	02184
1028 0 89	18 FOUNTAIN ST	MANGANELLO LUCILLE LE	MANGANELLO JOHN C / ROI	18 FOUNTAIN STREET	BRAINTREE	MA	02184
1028 0 90	47 VICTORIA AV	KUANG ZHEN L	WU ANGELA TBYE	47 VICTORIA AVENUE	BRAINTREE	MA	02184

End of Report

#15 - 022

2015 JUN - 9 PM 3: 29

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BRAINTREE, MA

#15-022

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BRAINTREE, MA

2015 JUN -9 PM 3:29

ABUTTER LIST

14 FOUNTAIN ST
15 FOUNTAIN ST
17 FOUNTAIN ST
18 FOUNTAIN ST

Cheney Michael A
Pansa Pasquale
Luisi Ronald F
Manganello Lucille le

14 Fountain St
15 Fountain St
17 Fountain St
18 Fountain Street

Braintree
Braintree
Braintree
Braintree

MA 1028 073
MA 1028 074
MA 086
MA 089

7 VICTORIA AV
22 VICTORIA AV
32 VICTORIA AV
47 VICTORIA AV
52 VICTORIA AV
VICTORIA AV

Garvan Patrick J
Gallagher Russell D
Vu Duc
Comlin Jeffrey J
O'keefe Brian
Braintree Town Of

7 Victoria Ave
22 Victoria Ave
32 Victoria Ave
47 Victoria Ave
52 Victoria Ave
Washington St

Braintree
Braintree
Braintree
Braintree
Braintree
Braintree

MA 1028 084
MA 76
MA 71
MA 90
MA 69
MA 68
MA 81

54 Victoria Ave

PETITION OF NATIONAL GRID FOR GAS MAIN LOCATIONS

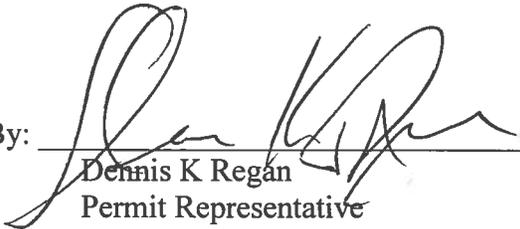
1 5 - 0 2 2

Town of Braintree / Town Council:

The Nationalgrid hereby respectfully requests your consent to the locations of mains as hereinafter described for the transmission and distribution of gas in and under the following public streets, lanes, highways and places of the **Town of Braintree** and of the pipes, valves, governors, manholes and other structures, fixtures and appurtenances designed or intended to protect or operate said mains and accomplish the objects of said Company; and the digging up and opening the ground to lay or place same:

To install and maintain approximately 70 feet more or less of 2 inch gas main in Victoria Ave., Braintree. From the existing 1 ½ inch gas main at house # 47, easterly to house # 52 for a new gas service.

Date: **June 8, 2015**

By: 
Dennis K Regan
Permit Representative

Town of Braintree / Town Council:

IT IS HEREBY ORDERED that the locations of the mains of the Nationalgrid for the transmission and distribution of gas in and under the public streets, lanes, highways and places of the **Town of Braintree** substantially as described in the petition date **June 8, 2015** attached hereto and hereby made a part hereof, and of the pipes, valves, governors, manholes and other structures, fixtures and appurtenances designed or intended to protect or operate said mains and/or accomplish the objects of said Company, and the digging up and opening the ground to lay or place same, are hereby consented to and approved.

The said Nationalgrid shall comply with all applicable provisions of law and ordinances of the **Town of Braintree** applicable to the enjoyment of said locations and rights.

Date this _____ day of _____, 20____.

I hereby certify that the foregoing order was duly adopted by the _____ of the City of _____, MA on the _____ day of _____, 20____.

By: _____

Title

MN # 144-8502-1010420

**RETURN ORIGINAL TO THE PERMIT SECTION
NATIONAL GRID
40 SYLVAN RD, WALTHAM, MA 02451
RETAIN DUPLICATE FOR YOUR RECORDS**

RECEIVED TOWN CLERK
BRAINTREE, MA
2015 JUN - 9 PM 3: 29

15 022

National Grid Petition – Victoria Avenue

Staff Recommendations

To install and maintain approximately 70 feet more or less of 2 inch gas main in Victoria Avenue. From the existing 1 1/2 inch gas main at house # 47, easterly to house # 52 for a new gas service.

BELD: Engineering has reviewed this permit #15 022 and has no underground electric utility conflicts within the proposed scope of work.

DPW: This street is not under moratorium and no Town construction is pending this year. We'd recommend that the petition be granted under the normal conditions, with emphasis on the requirements that the gas main be laid outside of the trench of the water mains in service and that the trench pavement not be left low for any length of time. We also recommend that the following requirement be added to the permit, if it is to be granted:

“Neither National Grid nor any of its contractors is authorized to close any street or to close a direction of travel to facilitate their work without authorization from the Director of the Department of Public Works or the Highway Superintendent. The Chief of Police can also authorize a closure for a police or fire emergency. Construction zone traffic safety issues are to be addressed by using appropriate traffic control signs and devices and the use of police officers for traffic control to safely guide traffic through the work zone. If a closure is authorized by the DPW, it shall not be implemented until signs and police officers (where needed) are properly in place in conformity with the written plan prepared by the contractor's engineer and approved by the DPW and Police Department.”

Edward J. Spellman, Jr.
Director of Finance

RECEIVED TOWN CLERK
BRAINTREE, MA
2015 JUN 12 AM 10:41



Joseph C. Sullivan
Mayor

TOWN OF BRAintree
DEPARTMENT OF MUNICIPAL FINANCE
One JFK Memorial Drive, Braintree, MA 02184
Tel: 781-794-8035 Fax: 781-794-8181

To: Thomas M. Bowes, President of the Council
Clerk of the Council
Town Clerk

Cc: Joseph C. Sullivan, Mayor
Michael Coughlin, Chief of Staff and Director of Operations

From: Edward Spellman,  Director of Municipal Finance

Date: June 1, 2015

RE: Request for Ratification – FY2015 Bonding Authorization 15-002 and 15-003

RECEIVED TOWN CLERK
BRAINTREE, MA
2015 JUN 12 AM 10:43

On February 5, 2015 the Town Council voted unanimously to approve two bonding orders #15-002 and #15-003. At that meeting the five members present voted unanimously (5 – 0) to approve the orders. Four members were absent from that Council meeting.

Our Bond Council has ruled the two thirds requirement to approve a bonding authorization is 2/3 of the full council or six members. Accordingly we are asking that the Town Council ratify, the two votes taken back on February 5, 2015, Council Order 15-002 and Council Order 15-003.

Your review and ratification of the previously passed CO 15 002 and CO 15 003 is requested.

As this request involves a loan authorization, advertising and a public hearing is required under Sections 2-9 and 6-7 of the Town Charter.

IN TOWN COUNCIL

ORDERED:

Ordered, that Order No. 15 002 of this council adopted on February 5, 2015, which order provided as follows:

That the Town of Braintree appropriates the sum of Four Million Six Hundred-Fifty-Five Thousand Dollars (\$4,655,000) to pay costs of the following capital projects:

<u>PROJECT</u>	<u>AMOUNT</u>	<u>AUTHORIZING STATUTE</u>
• Roadway Resurfacing	\$1,135,000	Ch. 44, s. 7(5)
• Roadway Resurfacing	\$ 365,000	Ch. 44, s. 7(6)
• Police Building Improvements	\$ 124,000	Ch. 44, s. 7(3A)
• Fire Station East Braintree Renovations	\$ 400,000	Ch. 44, s. 7(3A)
• Fire Station Headquarters Renovations	\$ 425,000	Ch. 44, s. 7(3A)
• School Projects and Building Renovations	\$ 700,000	Ch. 44, s 7(3A)
• DPW Building Renovations	\$ 166,000	Ch. 44, s. 7(3A)
• DPW Facilities Yard Building repairs	\$ 40,000	Ch. 44, s 7(3A)
• DPW Facilities Smith Bathhouse repairs	\$ 40,000	Ch. 44, s 7(3A)
• Daugherty Gym Elevator Addition	\$ 150,000	Ch. 44, s 7(3A)
• DPW Cemetery Vehicles	\$ 70,000	Ch. 44, s 7(9)
• DPW Highway Equip. Truck & Sander	\$ 215,000	Ch. 44, s 7(9)
• DPW Recreation Golf Pump House	\$ 120,000	Ch. 44, s 7(3A)
• Elder Affairs Addition	\$ 705,000	Ch. 44, s 7(3)

and for the payment of all other costs incidental and related thereto; that the amounts indicated above for each project are estimates and that the Mayor may allocate more funds to any one or more of such projects, and less to others, so long as, in the judgement of the Mayor, each of the projects described above can be completed within the total appropriation made by this Order; that to meet this appropriation, the Treasurer, with the approval of the Mayor, is authorized to borrow said amount under and pursuant to the authorizing statutes described above, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor.

is hereby ratified, approved and confirmed in all respects.

TOWN OF BRAINTREE, MASSACHUSETTS

IN TOWN COUNCIL

ORDERED:

Ordered, that Order No. 15 003 (1) of this council adopted on February 5, 2015,

which order provided as follows:

That the Town of Braintree appropriates the sum of Three Million Dollars (\$3,000,000) to pay costs of Town-wide water distribution system improvements, and for the payment of all other costs incidental and related thereto and that to meet this appropriation, the Treasurer, with the approval of the Mayor, is authorized to borrow said amount under and pursuant to Chapter 44, Section 8 of the General Laws, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor.

is hereby ratified, approved and confirmed in all respects.

IN TOWN COUNCIL

ORDERED:

Ordered, that Order No. 15 003 (2) of this council adopted on February 5, 2015,

which order provided as follows:

That the Town of Braintree appropriates the sum of One Million Five Hundred Twenty Thousand Dollars (\$1,520,000) to pay costs of wastewater system rehabilitation projects, and for the payment of all other costs incidental and related thereto and that to meet this appropriation, the Treasurer, with the approval of the Mayor, is authorized to borrow said amount under and pursuant to Chapter 44, Section 7(1) of the General Laws, or pursuant to any other enabling authority and to issue bonds or notes of the Town therefor.

is hereby ratified, approved and confirmed in all respects.

IN TOWN COUNCIL

ORDERED:

Ordered, that Order No. 15 003 (3) of this council adopted on February 5, 2015,

which order provided as follows:

That the Town of Braintree appropriates the sum of Three Hundred Thousand Dollars (\$300,000) to pay costs of the following capital projects:

<u>Project</u>	<u>Amount</u>	<u>Authorizing Statute</u>
Surry Lane Pump Station	\$300,000	Ch 44, s 7(9)

and for the payment of all other costs incidental and related thereto; that to meet this appropriation, the Treasurer, with the approval of the Mayor, is authorized to borrow said amount under and pursuant to the authorizing statutes described above, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor.

is hereby ratified, approved and confirmed in all respects.

IN TOWN COUNCIL

ORDERED:

Ordered, that Order No. 15 003 (4) of this council adopted on February 5, 2015,

which order provided as follows:

That the Town of Braintree appropriates the sum of Two Hundred Forty-Nine Thousand Dollars (\$249,000) to pay costs of the following capital projects:

<u>Project</u>	<u>Amount</u>	<u>Authorizing Statute</u>
Fairway Mower	\$100,000	Ch. 44, s 7(9)
Sprayer Fertilizer & Pesticide	\$54,000	Ch. 44, s 7(9)
Rough Mower	\$65,000	Ch. 44, s 7(9)
Clubhouse Deck repairs	\$30,000	Ch. 44, s 7(3A)

and for the payment of all other costs incidental and related thereto; that the amounts indicated above for each project are estimates and that the Mayor may allocate more funds to any one or more of such projects, and less to others, so long as, in the judgment of the Mayor, each of the projects described above can be completed within the total appropriation made by this Order; that to meet this appropriation, the Treasurer, with the approval of the Mayor, is authorized to borrow said amount under and pursuant to the authorizing statutes described above, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor.

is hereby ratified, approved and confirmed in all respects.

#15-024

RECEIVED TOWN CLERK
BRAintree, MA

Edward J. Spellman, Jr.

Director of Finance 2015 JUN 15 PM 12:31



Joseph C. Sullivan
Mayor

TOWN OF BRAintree
DEPARTMENT OF MUNICIPAL FINANCE
One JFK Memorial Drive, Braintree, MA 02184
Tel: 781-794-8035 Fax: 781-794-8181

To: Thomas M. Bowes, President of the Council
Susan Cimino, Clerk of the Council
James Casey, Town Clerk

Cc: Joseph C. Sullivan, Mayor
Michael Coughlin, Chief of Staff and Director of Operations

From: Edward Spellman, Director of Municipal Finance

Date: June 8, 2015

Re: Six Capital Article Requests **REVISED**

We are forwarding the following bonding article requests for your review and consideration. Specifically we seek to:

- 1) Rescind several existing bond authorizations, no longer needed for the purposes for which they were initially approved
- 2) Appropriate and authorize bonding for improvements to the Braintree High School irrigation system
- 3) Transfer of unexpended funds from High School carpet replacement to High School bathroom renovations
- 4) Authorize Bond Refunding to reduce interest rates on existing bonds
- 5) East Middle School feasibility study
- 6) Re-designate the purpose of a fire capital expenditure for a Forestry truck to the purchase of a Hazmat vehicle.

The first request is to rescind three bond authorizations that are no longer needed. We have three projects whose costs had been authorized to be borrowed but which are no longer needed. One is a remaining balance of a trash and recycling cart authorization, the second is an authorization to replace a swimming platform at Sunset Lake and the third was an authorization for the Hollingsworth playground reconstruction.

The cart and playground projects have been completed and we no longer need the unexpended authorizations to remain on our books. The swimming platform authorization is discussed in item number two below. The playground project was paid for by a combination of a 75% State Grant and 25% from an appropriation of Community Preservation Act funds.

These projects are noted on the attached list with a (R) in the column titled rescind completed or unneeded authorization. To clean up the towns authorized and unissued debt schedules for this and future disclosure statements we are requesting that you vote to rescind these three unnecessary bond authorizations.

A bond authorization requires a 2/3 vote to approve. To rescind bond authorizations requires only a simple majority.

The second request is from the DPW. The DPW requests that a previous bond authorization to replace a swimming platform at Sunset Lake be repurposed to fund improvements of the High School irrigation system. The Town has decided not to replace the platforms because once they were removed an unintended benefit occurred. The Lake had been plagued with the problem of geese landing on the platform and causing water quality problems for the swimmers and neighbors. With the platform gone there was nowhere for the geese to land which has improved the Lake's water quality.

In lieu of the platform the DPW seeks to repurpose the \$40,000 bond authorization to be used to make improvements to the high school field irrigation system.

The third request is regarding the transfer unexpended funds originally appropriated and borrowed to pay costs of Braintree High School carpet replacements. The project has been completed and that no further financial liability remains. These funds will be transferred to the Braintree High School bathroom renovation account for which renovations are ongoing.

The fourth request is an authorization to allow the Treasurer to be allowed to refund any previously issued bonds that meet the refunding criteria and will save the town money by reducing the interest rates on existing bonds. This motion will give the town the authorization to refund any prior authorized bonds. You may recall that you approved a similar article back in FY 2010 some five years ago. Generally, bonds when issued contain a no call provision for the first ten years and bond issues years 11-30 normally contain a call provision at the option of the issuer. This can occur when interest rates are falling and provide a savings.

The fifth request is for an additional \$130,000 to the East Middle school feasibility study. You may recall that back in March of 2014 the Town Council approved CO 14-008 for \$300,000 to pay the costs for the feasibility study for extraordinary repairs to the East Middle School. Originally we believed that the \$300,000 was sufficient to cover the hiring of the Owners Project Manager (OPM) and the architect to prepare the preliminary plan design and original cost estimates for the East Middle School Project. These steps are required to move forward in the MSBA grant approval process. To accomplish these two tasks we require a total of \$430,000. The breakdown is as follows \$105,000 for the owner's project manager and \$325,000 for the architects preliminary design and cost estimate work.

The sixth and final request is from the Fire Department. The Fire Department has notified us that they were able to obtain a part for the 1997 Forestry truck that had previously not been available for the repairs to this vehicle. The Chief has informed me that with the part he believes that the vehicle will last a number of additional years. Based on this development the Chief has requested approval to re-designate the \$39,780 capital vehicle replacement to the purchase of a new Hazmat vehicle. The current vehicle was previously gifted to the department as a utility vehicle and was never properly designed or outfitted to deal with today's hazmat needs of the Fire Department.

The original vote for a Fire Department truck was general enough to cover either purpose, however, we wanted to come before the Council to specifically explain this development and make you aware of the change in type of vehicle. The original vote has been copied to the Council.

Going forward we will work closely with the fire department to make sure that all capital items, including vehicles, are included in the five year capital requests to better meet and project the departments capital needs.

Accordingly, your review and approval of the following orders is requested.

First - To rescind previous bond authorizations

MOTION:

That the Town of Braintree rescinds the following amounts that have been authorized to be borrowed, but which are no longer needed for the purposes for which they were initially approved:

<u>Amount</u>	<u>Approval</u>	<u>CO /STM</u>	<u>Purpose</u>
\$4,000	8/13/2013	13-032	DPW Trash and Recycle Carts
\$40,000	5/13/2014	14-020	DPW Recreation Equipment
<u>\$230,487</u>	8/12/2014	14-049	Hollingsworth playground
<u>\$274,487</u>			

Second – To approve bond authorization for high school irrigation system

MOTION:

That the Town of Braintree appropriates the sum of Forty Thousand Dollars (\$40,000) to pay costs of improvements to the High School Irrigation System, and for the payment of all other costs incidental and related thereto and that to meet this appropriation, the Treasurer, with the approval of the Mayor, is authorized to borrow said amount under and pursuant to Chapter 44, Section 7(9) of the General Laws, or pursuant to any other enabling authority and to issue bonds or notes of the Town therefor.

Third – To repurpose bond authorization

MOTION:

That in accordance with Chapter 44, Section 20 of the General Laws, the sum of \$44,205.00 is transferred from unexpended amounts originally appropriated and borrowed to pay costs of Braintree High School carpet replacement, which project has been completed and for which no further financial liabilities remain, to pay costs of Braintree High School bathroom renovations.

Fourth - Bond refunding authorization**MOTION:**

That in order to reduce interest costs, the Treasurer is authorized to provide for the sale and issuance of refunding bonds under G. L. c. 44, Sec. 21A to refund all or any portion of the remaining principal of and redemption premium and interest on any of the Town's general obligation bonds outstanding as of the date of this vote.

Fifth – East Middle School authorization**MOTION:**

That the Town appropriate the amount of One Hundred and Thirty Thousand (\$130,000) Dollars for the purpose of paying costs of for the feasibility study for extraordinary repairs to the East Middle School, located at 305 River Street, Braintree Massachusetts 02184, including the payment of all costs incidental or related thereto, and for which the Town may be eligible for a grant from the Massachusetts School Building Authority (“MSBA”), said amount to be expended under the direction of the School Building Committee. To meet this appropriation the sum of One Hundred and Thirty Thousand \$130,000 Dollars be transferred from the Town’s Building Capital Stabilization fund. The Town acknowledges that the MSBA’s grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any costs the Town incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the Town.

A bond authorization requires a 2/3 vote to approval however to rescind an existing bond authorization or to authorize the bond refunding authorizations requires only a simple majority. Since the request involve bond authorizations a public hearing is required under section 2-9 of the Town Charter.

TOWN OF BRAINTREE
 AUTHORIZED AND UNISSUED DEBT
 FOR THE YEAR ENDED JUNE 30, 2015

7/10/2015

<u>description</u>	<u>date</u>	<u>council order</u>	<u>legal authorization</u>	<u>original amount</u>	<u>balance 6/30/2014</u>	<u>fy2015 activity</u>	<u>balance 6/30/2015</u>		<u>may 2015 issue</u>	<u>Rescind</u>
Sewer MWRA	5/31/2011	11-013B	C44 or any other enabl	1,271,388	1,155,200	(1,155,200)	-	M		
Town Hall and Water Building	10/24/2005	5 stm	44s7(3A)	1,500,000	850,000		850,000		357,000	
Water treatment Plant Eng.	5/10/2006	30	44s7(22)	300,000	228,000		228,000			
Water Mains	5/10/2006	31	44 s 8 (7a)	100,000	100,000		100,000			
Fire Station Building Repairs	5/21/2013	13-005A	44s 7(3A)	268,000	268,000	-	268,000	fy 2015	268,000	
School Projects	5/21/2013	13-005A	44s 7(3A)	700,000	620,000		620,000	fy 2015	270,000	
School Security Upgrades	5/21/2013	13-005A	44s 7(3A)	279,000	196,000		196,000	fy 2015	164,000	
DPW Engineering Drainage Work	5/21/2013	13-005A	44 s7(9)	180,000	180,000	-	180,000	fy 2015	-	
DPW Building Repairs	5/21/2013	13-005A	44s 7(3A)	107,000	107,000	-	107,000	fy 2015	-	
Water Distribution System	5/21/2013	13-005C	44 s 7+8 or any other	3,500,000	1,382,000		1,382,000	fy 2015 balance	1,382,000	
Sewer MWRA	5/21/2013	13-05B	44s7(1) or any other	738,000	738,000	(594,800)	143,200	M (1,750,000)		
DPW Trash and Recycle Carts	8/13/2013	13-032	44 s7(9)	905,000	4,000		4,000	R		4,000
Road Projects C44s7(5) FY 2015 Capital	5/13/2014	14-020	44s 7(6)	1,700,000	1,700,000		1,700,000		1,550,000 150,000	
Police Station Building Repairs	5/13/2014	14-020	44s 7(3A)	32,000	32,000		32,000			
Police Station Building Electrical Repairs	5/13/2014	14-020	44s 7(3A)	24,000	24,000		24,000			
School Building Renovation	5/13/2014	14-020	44s 7(3A)	455,000	455,000	R R R (72,000) (100,000) (82,000)	201,000			
Daugherty Gym Locker Room Improvements	5/13/2014	14-020	44s 7(3A)	50,000	50,000		50,000			
Daugherty Gym Repairs Ceiling, Windows BEMA	5/13/2014	14-020	44s 7(3A)	300,000	300,000		300,000			
DPW Underground Storage Tank Replacement Golf Cour	5/13/2014	14-020	44 s7(9)	80,000	80,000		80,000			
DPW Cemetery Equipment Dump Truck, Plow & Access	5/13/2014	14-020	44 s7(9)	113,000	113,000		113,000		86,000	
DPW Cemetery Roads	5/13/2014	14-020	44s 7(6)	100,000	100,000		100,000		18,000	
DPW Highway New Mechanic Bay	5/13/2014	14-020	44s 7(3A)	44,000	44,000		44,000			
DPW Highway Equipment Dump Truck, Plow & Accessor	5/13/2014	14-020	44 s7(9)	450,000	450,000		450,000		252,000	
DPW Recreation Equipment Dump Truck, Plow & Access	5/13/2014	14-020	44 s7(9)	65,000	65,000		65,000	R		40,000
DPW Playground Equipment	5/13/2014	14-020	44 s7(9)	150,000	150,000		150,000	0	15,000	
Water System Improvements	5/13/2014	14-019	44 s8	3,000,000	3,000,000		3,000,000	3,000,000	702,000	
Hollingsworth playground	8/12/2014	14-049	44s7(25)	230,487	230,487	15 024 Copy of 6-8-15 support debt memo authorized	230,487	R		230,487

TOWN OF BRAINTREE
 AUTHORIZED AND UNISSUED DEBT
 FOR THE YEAR ENDED JUNE 30, 2015

7/10/2015

<u>description</u>	<u>date</u>	<u>council order</u>	<u>legal authorization</u>	<u>original amount</u>	<u>balance 6/30/2014</u>	<u>fy2015 activity</u>	<u>balance 6/30/2015</u>	<u>may 2015 issue</u>	<u>Rescind</u>
School Education Technology	11/5/2014	14-064	44s7(28+29)	254,000	-	254,000	254,000	129,000	
Great Pond Dam Repair Project	11/5/2014	14-065	44s8(25)	652,277	-	652,277	652,277		
Road Projects C44s7(5) FY 2016 Capital	2/5/2015	15-002	44s 7(5)	1,135,000		1,135,000	1,135,000		
Road Projects C44s7(6) FY 2016 Capital	2/5/2015	15-002	44s 7(6)	365,000		365,000	365,000		
Police Station Building Generator & Lockers	2/5/2015	15-002	44s 7(3A)	124,000		124,000	124,000		
Fire Station East Braintree Building Renovation C44 s 7(3a)	2/5/2015	15-002	44s 7(3A)	400,000		400,000	400,000	-	
Fire Station Headquarters Building Renovation C44 s 7(3a)	2/5/2015	15-002	44s 7(3A)	425,000		425,000	425,000		
School capital	2/5/2015	15-002	44s 7(3A)	700,000		700,000	700,000		
DPW Facilities Building repairs C44 s7 (3a)	2/5/2015	15-002	44s 7(3A)	166,000		166,000	166,000		
DPW Facilities Yard building repairs	2/5/2015	15-002	44s 7(3A)	40,000		40,000	40,000		
DPW Facilities Smith Beach Bathhouse repairs	2/5/2015	15-002	44s 7(3A)	40,000		40,000	40,000		
Daugherty Gym elevator C44 s 7(3a)	2/5/2015	15-002	44s 7(3A)	150,000		150,000	150,000		
DPW Cemetery (1) 4x4 6 wheel ,(1) 4x2 6 wheel , (1) swee	2/5/2015	15-002	44 s7(9)	70,000		70,000	70,000		
DPW Highway 10 wheel truck with roll off dumpster & sand	2/5/2015	15-002	44 s7(9)	215,000		215,000	215,000		
Golf pump house	2/5/2015	15-002	44s 7(3A)	120,000		120,000	120,000		
Elder Affairs Addition	2/5/2015	15-002	44s 7(3)	705,000		705,000	705,000		
Water System Improvements	2/5/2015	15-003	44 s8	3,000,000		3,000,000	3,000,000		
Sewer MWRA	2/5/2015	13-05B	44s7(1) or any other	1,520,000		1,520,000	1,520,000	M 1,663,200	sum M
Surry Lane Pump Stations (Removal)	2/5/2015	15-003	44 s7(9)	300,000		300,000	300,000		
Fairway mower	2/5/2015	15-003	44 s7(9)	100,000		100,000	100,000		
Sprayer Fertilizer and Pesticide	2/5/2015	15-003	44 s7(9)	54,000		54,000	54,000		
Rough mover	2/5/2015	15-003	44 s7(9)	65,000		65,000	65,000		
Clubhouse Deck	2/5/2015	15-003	44s 7(3A)	30,000		30,000	30,000		
Total For Fiscal Year 2015				27,272,152	<u>12,391,200</u>	<u>8,856,764</u>	<u>21,247,964</u>	<u>5,343,000</u>	<u>274,487</u>
					12,391,200		21,247,964		
					-	882,764	-		

Edward J. Spellman, Jr.
Director of Finance

Joseph C. Sullivan
Mayor



TOWN OF BRAINTREE
DEPARTMENT OF MUNICIPAL FINANCE
 One JFK Memorial Drive, Braintree, MA 02184
 Tel: 781-794-8035 Fax: 781-794-8181

TO: Thomas Bowes, Council President
 Clerk of the council
 Town Clerk

CC: Joseph C. Sullivan, Mayor
 Michael Coughlin, Chief of Staff and Director of Operations

FROM: Edward Spellman, Director of Municipal Finance

RE: Establishment of OPEB Trust

DATE: June 11, 2015

Attached for your review please find a proposal to establish an Other Post-Employment Benefit (OPEB) Trust. As you are aware, since fiscal year 2011, the Town has funded an OPEB liability line item in order to address the Town's liability for health insurance for its retired employees. The appropriation and has grown by \$145,000 annually to \$870,000 for FY 2016 and has a current trust balance of \$4,527,985 has been contributed by the Town and enterprise funds to address OPEB as of May 31, 2015.

The proposed order would allow the appropriated money to be placed into a trust so it could be invested and managed. The Trustees shall be the Mayor, the Director of Municipal Finance and the Director of Human Resources or their designees. The trustees decide how the trust is invested and how funds are disbursed to assist in covering OPEB expenses.

The Town retains the discretion on how much funding shall be appropriated for deposit into the trust. However, once the funds are deposited, the Town cannot invade the trust to use the funds for other purposes. The establishment of the trust will allow for interest and earnings to be realized on the trust's funds, further reducing the OPEB obligation and requiring lower appropriations in the future.

OPEB trusts are important to establish and are looked upon favorably by bond rating agencies as a prudent fiscal management tool. I welcome any questions you may have regarding the proposed order and the OPEB Trust.

Accordingly, your review and approval of the following motion is requested.

MOTION: That the Town of Braintree hereby establishes an irrevocable Other Post Employment Benefits (OPEB) Trust Agreement, attached.

TOWN OF BRAINTREE
OTHER POST-EMPLOYMENT BENEFITS ("OPEB") TRUST
AGREEMENT

TRUST AGREEMENT made this _____ day of _____, 2013 by and between the Town of Braintree, acting through its Mayor (the "Town") and the duly serving members of the Board of Trustees (the "Trustees").

WITNESSETH:

WHEREAS, the Town has established certain other post-employment benefits ("OPEB"), other than pensions, for eligible former employees of the Town; and

WHEREAS, the Town has accepted the provisions of G.L. c. 32B, Section 20 as amended by Acts 2011, Chapter 68, Section 57; and

WHEREAS, the Town wishes to establish an irrevocable trust (hereinafter the "Trust") for the purpose of funding OPEB obligations as required to be reported under Government Accounting Standards Board ("GASB") Statements 43 and 45 or as may be required under any superseding Statements; and

WHEREAS, the Trust is established by the Town with the intention that it qualify as a tax-exempt trust performing an essential governmental function within the meaning of Section 115 of the Code and Regulations issued thereunder and as a trust for OPEB under G. L. c. 32B, §20.

NOW, THEREFORE, in consideration of the foregoing promises and the mutual covenants hereinafter set forth, the Town and the Trustees hereby agree as follows.

ARTICLE I

DEFINITIONS

As used herein, the following terms shall have the following meanings:

- 1.1 "Code" means the Internal Revenue Code of 1986, as amended from time to time.
- 1.2 "ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time and any successor statute.

1.3. "GASB 43 and 45" shall mean Government Accounting Standards Board, Statement No. 43 and Statement No. 45, Accounting and Financial Reporting by Employers for Post-Employment Benefits Other Than Pensions.

1.4. "Other post-employment benefits" or "OPEB," shall mean post-employment benefits other than pensions as that term is defined in GASB 43 and 45 including post-employment healthcare benefits, regardless of the type of plan that provides them, and all post-employment benefits provided separately from a pension plan, excluding benefits defined as termination offers and benefits.

1.5. "Retired Employee" means those persons who have retired from employment with the Town and who are qualified to receive retirement benefits pursuant to G.L. c. 32 or as otherwise provided by law.

1.6. "Trust" means the Town of Braintree OPEB Trust as hereby established.

1.7. "Trustee" mean the duly serving members of the Board of Trustees, and any successor Trustee appointed as provided pursuant to Article 5.

1.8. "Trust Fund" means all the money and property, of every kind and character, including principal and income, held by the Trustees under this Trust.

1.9. "HCST Board" means the Health Care Security Trust board of trustees established pursuant to G.L. c. 29D, Section 4.

1.10. "SRBTF" means the State Retiree Benefits Trust Fund established pursuant to G.L. 32A, Section 24.

ARTICLE 2

PURPOSE

2.1. The Trust is created for the sole purpose of providing funding for OPEB, as determined by the Town, or as may be required by collective bargaining agreement, or by any general or special law providing for such benefits, for the exclusive benefit of the Town's Retired Employees and their eligible dependents and for defraying the reasonable administrative, legal, actuarial and other expenses of the Trust. The assets held in the Trust shall not be used for or diverted to any other purpose, except as expressly provided herein.

2.2. It is intended that the Trust shall constitute a so called "Qualified OPEB Trust" according to the standards set forth in GASB 43 and 45 and that it further qualify as an Integral Part Trust for all purposes under Article I 15(c) of the Code or under any comparable provision of future legislation that amends, alters, or supersedes the Code.

ARTICLE3

ESTABLISHMENT OF TRUST

- 3.1 In order to implement and carry out the provisions of G.L. c. 32B, §20, the Town hereby establishes this Trust which shall be known as the "Town of Braintree OPEB Trust."
- 3.2 The Trust shall be irrevocable, and no Trust fund shall revert to the Town until all OPEB owed to retired Town employees have been satisfied or defeased.
- 3.3 The principal location of the Trust shall be Town of Braintree, 1 JFK Memorial Drive Braintree, Massachusetts 02184.
- 3.4 The Trustees hereby accept the trusts imposed upon them by this Trust Agreement and agree to perform said trusts as a fiduciary duty in accordance with the terms and conditions of this Trust Agreement.
- 3.5 The Trustees shall hold legal title to all property of the Trust and neither the Town, nor any employee, official, or agent of the Town, nor any individual, shall have any right, title, or interest to the Trust.
- 3.6 The Trust shall consist of such sums of money as shall from time to time be paid or delivered to the Trustees by the Town, which together with all earnings, profits, increments and accruals thereon, without distinction between principal and income, shall constitute the Trust hereby created and established. Nothing in this Agreement requires the Town to make contributions to the Trust to fund OPEB. Any obligation of the Town to pay or fund benefits shall be determined in accordance with applicable law and any agreement to provide OPEB.

ARTICLE4

TRUST FUNDING

- 4.1 The Trust Fund shall be credited with all amounts appropriated or otherwise made available by the Town and employees of the Town as a contribution to the Trust for the purposes of meeting the current and future OPEB costs payable by the Town, or any other funds donated or granted specifically to the Town for the Trust, or to the Trust directly.
- 4.2 The Trustees shall be accountable for all delivered contributions but shall have no duty to determine that the amounts received are adequate to provide the OPEB Benefits determined by the Town.

4.3. The Trustees shall have no duty, expressed or implied, to compel any contribution to be made by the Town, but shall be responsible only for property received by the Trustees under this Trust Agreement.

4.4. The Town shall have no obligation to make contributions to the Trust to fund OPEB, and the size of the Trust may not be sufficient at any one time to meet the Town's OPEB liabilities. This Trust Agreement shall not constitute a pledge of the Town's full faith and credit or taxing power for the purpose of paying OPEB, and no retiree or beneficiary may compel the exercise of taxing power by the Town for such purposes. The obligation of the Town to pay or fund OPEB obligations, if any, shall be determined by the Town or applicable law. Distributions of assets in the Trust are not debts of the Town within the meaning of any constitutional or statutory limitation or restriction.

4.5. Earnings or interest accruing from investment of the Trust shall be credited to the Trust. Amounts in the Trust Fund, including earnings or interest, shall be held for the exclusive purpose of, and shall be expended only for, the payment of the costs payable by the Town for OPEB obligations to Retired Employees and their dependents, and defraying the reasonable expenses of administering any plan providing OPEB Benefits as provided for in this Trust Agreement.

4.6. Amounts in the Trust Fund shall in no event be subject to the claims of the Town's general creditors. The Trust Fund shall not in any way be liable to attachment, garnishment, assignment or other process, or be seized, taken, appropriated or applied by any legal or equitable process, to pay any debt or liability of the Town, or of retirees or dependents who are entitled to OPEB.

ARTICLE 5

TRUSTEES

5.1. The Trust shall be administered by a Board of Trustees consisting of three members as follows: (I) The Mayor or his designee, (II) The Director of Municipal Finance shall serve as *ex officio* members; (III) the Human Resources Director or her designee, for a term of three (3) years. Upon the resignation or removal of the Mayor or The Director of Municipal Finance, the position of Trustee shall be deemed vacant until such time as the underlying Town position is filled on either a permanent or temporary basis. The Town Treasurer shall serve as a non-voting member of the Board of Trustees. Any member of the Board of Trustees may be removed by the Mayor with the consent of the Town Council for cause.

- 5.2. The Mayor shall call for the first meeting of the Trustees and shall serve as the initial Chairperson of the Trustees to facilitate the organization of the Trustees.
- 5.3. A Trustee may resign by providing the Town Clerk and Board of Trustees Chairperson with written notice thereof.
- 5.4. In the event the Trustee appointed by the Mayor resigns, is removed, or is otherwise unable to serve, the Mayor shall appoint a Trustee to fill the vacancy for the remainder of the term.
- 5.5. Whenever a change occurs in the membership of the Board of Trustees, the legal title to property held by this Trust shall automatically pass to those duly appointed successor Trustees.
- 5.6. Each future Trustee shall accept the office of Trustee and the terms and conditions of this Trust Agreement in writing.
- 5.7. Upon leaving office, a Trustee shall promptly and without unreasonable delay, deliver to the Trust's principal office any and all records, or other documents or other items in his possession or under his control belonging to the Trust.
- 5.8. The Trustees shall be special municipal employees for purposes of G.L. c. 268A and shall be subject to the restrictions and prohibitions set forth therein.

ARTICLE 6

POWERS OF THE TRUSTEES

6.1. The Trustees shall have the power to control and manage the Trust and the Trust Fund and to perform such acts, enter into such contracts, engage in such proceedings, and generally to exercise any and all rights and privileges, although not specifically mentioned herein, as the Trustees may deem necessary or advisable to administer the Trust and the Trust Fund or to carry out the purposes of this Trust. In addition to the powers set forth elsewhere in this agreement, the powers of the Trustees, in connection with their managing and controlling the Trust and its General Fund, shall include, but shall not be limited to the following:

6.1.1. To receive, hold, manage, invest and reinvest all monies which at any time form part of the Trust, whether principal or income, provided however that there shall be no investment directly in mortgages or in collateral loans and further provided that the Trustees shall comply with the provisions of Article 7 of this Trust Agreement, applicable law and any investment policy adopted by the Trustees concerning the investment and management of Trust assets.

6.1.2. To hold cas for such length of time as the Trustees may determine without

liability for interest thereon.

6.1.3. To develop and recommend an actuarially determined funding schedule subject to approval of the Town Council and Mayor and subject to the Town's appropriation process.

6.1.4. To employ suitable agents, advisors and counsel as the Trustees may deem necessary and advisable for the efficient operation and administration of the Trust, to delegate duties and powers hereunder to such agents, advisors and counsel, and to charge the expense thereof to the Trust. The Trustees are entitled to rely upon and may act upon the opinion or advice of any attorney approved by the Trustees in the exercise of reasonable care. The Trustees shall not be responsible for any loss or damage resulting from any action or non-action made in good faith reliance upon such opinion or advice. All delegated authority shall be specifically defined in any by-laws adopted by the Trustees or the written minutes of the Trustees' meetings.

6.1.5. To hire independent contractors as the Trustees may deem necessary or advisable to render the services required and permitted for the proper operation of the Trust, and to charge the expense thereof to the Trust.

6.1.6. To continue to have and to exercise, after the termination of the Trust and until final distribution, all of the title, powers, discretions, rights and duties conferred or imposed upon the Trustees hereunder, by any by-laws adopted by the Trustees or by law.

6.1.7. To construe and interpret this Trust Agreement and other documents related to the purposes of the Trust.

6.1.8. To authorize certain Trustees or other appropriate persons to make payments from any appropriate account for purposes of the Trust and to authorize disbursements of funds accumulated in the trust to the Town for the sole purpose of payment of OPEB in accordance with an actuarially determined funding schedule.

6.1.8. To receive and review reports of the financial condition and of the receipts and disbursements of the Trust and the Trust Fund.

6.1.9. To adopt by-laws, rules, regulations, formulas, actuarial tables, forms, and procedures by resolution from time to time as they deem advisable and appropriate for the proper administration of the Trust, including participation criteria, provided the same are consistent with the terms of this Trust Agreement and applicable laws.

6.1.10. To purchase as a general administrative expense of the Trust so-called director's liability insurance and other insurance for the benefit of the Trust and/or the protection of

the Trustees, Trust officers, employees, or agents against any losses by reason of errors or omissions or breach of fiduciary duty or negligence.

6.1.11. To enter into any and all contracts and agreements for carrying out the terms of this Trust Agreement and for the administration and operation of the Trust and to do all acts as they, in their discretion, may deem necessary or advisable. Except as otherwise directed by the Trustees, all such contracts and agreements, or other legal documents herein authorized, shall be executed by the Chairperson, or Secretary as may be voted by the Trustees.

6.1.12. To receive contributions or payments from any source whatsoever but such contributions or payments may not be utilized for any purpose unrelated to the provision of OPEB as herein provided or properly authorized expenses.

6.1.13. To pay taxes, assessments, and other expenses incurred in the collection, care, administration, and protection of the Trust.

6.1.14. To do all acts, whether or not expressly authorized herein, which the Trustees may deem necessary or proper in connection with the administration of the Trust, although the power to do such acts is not specifically set forth herein.

6.1.15. To compromise, settle or arbitrate any claim, debt, or obligation of or against the Trust or Trust Fund; to enforce or abstain from enforcing any right, claim debt or obligation, and to abandon any shares of stock, bonds, or other securities, or interests determined by it to be worthless; to prosecute, compromise and defend lawsuits, but without the obligation to do so, all at the risk and expense of the Trust.

6.1.16. To hire one or more consultants, actuaries, accountants, attorneys, or other professionals to assist with the administration of the Trust Fund and to pay such amounts that the Trustee deems to be reasonable, including, without limiting the generality of the foregoing, third party firms to provide legal, tax, accounting and audit services to the Trust.

6.1.17. To comply with all requirements imposed by applicable provisions of law.

6.1.18 If so authorized by vote of the Town Council with approval of the Mayor in accordance with G.L. c. 32A, Section 24 to direct the Treasurer/Custodian to take all steps necessary to invest the funds in the SRBTF.

6.1.19. If so directed by vote of the Town Council with approval of the Mayor in accordance with G.L. c. 32B, Section 20, to take all steps necessary to designate HCST Board as custodian of the Trust assets and thereby invest the funds in the SRBTF.

ARTICLE 7

LIMITATION OF TRUSTEES' POWERS, DUTIES AND RESPONSIBILITIES

7.1. Nothing contained in the Trust Agreement, either expressly or by implication, shall be deemed to impose any powers, duties or responsibilities on the Trustees other than those set forth in this Trust Agreement.

7.2. The Trustees shall have such rights, powers and duties as are provided to a named fiduciary for the investment of assets under ERISA. The Trustees shall not be liable for the making, retention or sale of any investment or reinvestment made by the Trustees as herein provided or for any loss to or diminution of the Trust Fund or for anything done or admitted to be done by the Trustees with respect to the Trust Agreement or the Trust Fund except as and only to the extent that such action constitutes a violation of the law or gross negligence.

7.3. The Trustees, in their discretion, may purchase as an expense of the Trust Fund such liability insurance for themselves or any other fiduciary selected by the Trustees as may be reasonable. The Town, in its discretion, may also purchase liability insurance for the Trustees, and as the Town may select, for any person or persons who serve in a fiduciary capacity with respect to the Trust.

7.4. The Town shall not assume any obligation or responsibility to any person for any act or failure to act of the Trustees, any insurance company, or any beneficiary of the Trust Fund. The Trustees shall have no obligation or responsibility with respect to any action required by this Trust Agreement to be taken by the Town, any insurance company, or any other person, or for the result or the failure of any of the above to act or make any payment or contribution, or to otherwise provide any benefit contemplated by this Trust Agreement.

7.5. Neither the Trustees nor the Town shall be obliged to inquire into or be responsible for any action or failure to act on the part of the other. No insurance company shall be a party to this Trust Agreement, for any purpose, or be responsible for the validity of this Trust Agreement, it being intended that such insurance company shall be liable only for the obligations set forth in the policy or contract issued by it.

7.6. The Trustees shall invest and manage Trust assets as a prudent investor would, using the judgment and care under the circumstances then prevailing that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital, pursuant to G.L. c. 203C.

ARTICLE 8

ACTIONS BY THE TRUSTEES

- 8.1. A majority of Trustees may exercise any or all of the powers of the Trustees hereunder and may execute on behalf of the Trustees any and all instruments with the same effect as though executed by all the Trustees.
- 8.2. The Trustees may, by instrument executed by all of the Trustees, delegate to any attorney, agent or employee such other powers and duties as they deem advisable, including the power to execute, acknowledge or deliver instruments as fully as the Trustees might themselves and to sign and endorse checks for the account of the Trustees of the Trust.
- 8.3. No Trustee shall be required to give bond.

ARTICLE 9

LIABILITY OF THE TRUSTEES

- 9.1. A Trustee shall not be liable for any mistake of judgment or other action made, taken or omitted by the Trustee in good faith, nor for any action taken or omitted by any other Trustee or any agent or employee selected with reasonable care, and the duties and obligations of the Trustees hereunder shall be expressly limited to those imposed upon them by this Trust Agreement.
- 9.2. No successor Trustee shall be held responsible for an act or failure of a predecessor Trustee.
- 9.3. Trustees are public employees for purposes of G.L. c. 258, and shall be indemnified by the Town against any civil claim, action, award, compromise, settlement or judgment by reason of an intentional tort to the same extent and under the same condition as other public employees of the Town.
- 9.4. A Trustee shall not be liable for any mistake of judgment or other action made, taken or omitted

ARTICLE 10

MEETINGS OF THE TRUSTEES

- 10.1. The Trust may meet at such times and at such places as the Trustees shall determine.

10.2. The Trustees shall comply with the Open Meeting Law, G.L. c. 30A, §§18-25 and its implementing regulations.

10.3. A quorum at any meeting shall be a majority of the Trustees then in office.

ARTICLE 11

TAXES, EXPENSES, AND COMPENSATION

11.1. It is intended that the Trust will be a Code Article 115 trust. As such, it is expected that there will be no income taxes owed by the Trust. To the extent that any taxes are imposed on the Trust, the Trustees shall use the assets of the Trust Fund to pay for any taxes owed.

11.2. All reasonable costs and expenses of managing and administering the Trust and the Trust Fund, and reimbursement for reasonable fees incurred through the use of third party vendors or agents, shall be paid from the Trust unless the Town chooses to pay the expenses directly.

ARTICLE 12

ACCOUNTS

12.1. The Trustees shall keep complete and accurate accounts of all of the Trust's receipts, investments, and disbursements under this Trust Agreement. Such records, as well as all other Trust records, shall be retained and made available for public inspection and or copying in accordance with the requirements of the Public Records Law, G.L. c. 66, §10 and G.L. c. 4, §7, clause 26^h and their implementing regulations. The person or persons designated by the Town shall be entitled to inspect such records upon request at any reasonable time.

12.2. The books and records of the Trust shall be audited annually by an independent auditor in accordance with accepted accounting practices. The results of the audit shall be provided to the Town at the same time as it is presented to the Trustees.

12.3. The Trust Fund shall be subject to the Commonwealth of Massachusetts Public Employee Retirement Administration Commission's triennial audit, or as otherwise may be required by applicable law.

ARTICLE 13

ANNUAL REPORTS

13.1. The Trustees shall furnish to the Town annually, or more frequently if the Town so requests, a statement of account showing the condition of the Trust Funds and all investments, sales, income, disbursements and expenses of the Trust and the Trust Fund. The Trustees shall comply with all reporting requirements as set forth in G.L. c. 32B, section 20.

ARTICLE 14

INVESTMENTS OF TRUST FUNDS

14.1. The Trustees hereby authorize and direct the Town Treasurer to invest and reinvest the amounts in the Trust Fund not needed for current disbursement, consistent with the prudent investor rule, and as provided in the Investment Policy which is attached to this instrument and hereby incorporated; provided, however, that if directed by vote of the Town Council with approval of the Mayor, the Town Treasurer shall be authorized to invest said amounts in the Trust Fund in the SRBTF; and further provided that if HCST is appointed as custodian of the trust as provided in Paragraph 15.1 below, HCST shall be authorized to invest and reinvest said amounts in the Trust Fund in accordance with its Investment Policy.

14.2. In no event shall the funds be invested directly in mortgages or in collateral loans.

ARTICLE 15

CUSTODY OF THE TRUST

15.1. The Trustees hereby appoint the Town Treasurer as custodian of the Trust Fund and authorize the Treasurer to employ an outside custodial service to maintain custody of the Trust Funds. All funds in the Trust Fund shall be accounted for separately from all other funds of the Town. Such appointment shall be in effect unless and until, by vote of the Town Council with approval of the Mayor in accordance with G.L. c. 32B, Section 20, and subject to acceptance of HCST, HCST is appointed as custodian of the Trust assets. In the event such appointment of HCST as custodian is revoked or otherwise terminated, the Town Treasurer shall automatically be reappointed as custodian of the Trust Fund without further necessary action.

15.2. The Town Treasurer, with the authorization of the Trustees, shall establish one or more checking accounts, which may be interest bearing or non-interest bearing accounts. Such checking account or accounts shall be funded solely from the Trust Funds, and the Trustees may authorize the Town Treasurer to draw on such checking accounts for the payment of OPEB and for the administrative expenses of the Trust.

ARTICLE 16

TERMINATION OF THE TRUST

16.1. The Trust shall continue unless and until terminated pursuant to applicable state or federal law or regulation, or until all such health care and other non-pension benefits, current and future, payable by the Town have been satisfied or defeased.

16.2. Upon termination of the Trust pursuant to 16.1, subject to the payment of or making provision for the payment of all obligations and liabilities of the Trust and the Trustees, the net assets of the Trust shall revert to the Town, unless otherwise required by state or federal law or regulation.

16.3. The powers of the Trustees shall continue until the affairs of the Trust are concluded.

ARTICLE 17

AMENDMENTS

17.1. The Trust may only be amended as set forth herein. The Town may amend the Trust at any time as may be necessary to comply with the requirements for tax exemption under Section 115 of the Code, to conform the Trust to the laws of the Commonwealth of Massachusetts and to meet the financial reporting standards set forth by the Government Accounting Standards Board (GASB) to be treated as funded through a qualifying trust or equivalent arrangement.

17.2. This Trust Agreement may be amended, but not revoked, from time to time by the Town, subject to the following limitations:

17.2.1. The assets of the Trust may not be used for or diverted to any other purposes prior to satisfaction of the Town's OPEB obligations, and reasonable expenses of administering the Trust.

17.2.2. The duties and liabilities of the Trustees cannot be substantially changed without their written consent.

17.2.3. Any amendment to this Trust shall be executed in writing.

ARTICLE 18

MERGER

18.1. The Town may provide for the merger of the Trust with one or more other trusts established by the Town or other government entities for similar purposes as may be provided by law.

ARTICLE 19

SEVERABILITY OF INVALID PROVISIONS

19.1. If any provision of this Trust Agreement is determined invalid, illegal, or unenforceable for any reason, then the provision shall be severed from the remaining provisions of the Trust Agreement for any reason, and the remaining parts of the Agreement shall be construed to give the maximum practical effect to the purposes stated herein, as if the invalid, illegal, or unenforceable provision was never a part.

ARTICLE 20

MISCELLANEOUS

20.1. This Trust Agreement shall be interpreted, construed and enforced, and the Trust hereby created shall be administered in accordance with and governed by the laws of the United States and of the Commonwealth of Massachusetts.

20.2. The titles to Articles of this Trust Agreement are placed herein for convenience of the reference only, and the Trust Agreement is not to be construed with reference thereto.

20.3. No person shall be obliged to see to the application of any money paid or property delivered to the Trustees, or as to whether or not the Trustees have acted pursuant to any authorization herein required, or as to the terms of this Trust Agreement. In general, each person dealing with the Trustees may act upon any advice, request or representation in writing by the Trustees, or by the Trustees' duly authorized agent, and shall not be liable to any person in so doing. The certification of the Trustees that they are acting in accordance with this Trust Agreement shall be conclusive in favor of any person relying thereon.

20.4. This Trust Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original but all of which together shall constitute but one instrument, which may be sufficiently evidenced by any counterpart.

20.5. Until advised to the contrary, the Trustees may assume this Trust is entitled to exemption from taxation under Section 115 of the Internal Revenue Code of 1986 or under any comparable section or sections of future legislation that amend, supplement or supersede one or both of those sections of the Internal Revenue Code.

IN WITNESS WHEREOF, the parties hereto have caused this Trust Agreement to be executed in their respective names by their duly authorized officers as of the day and year first above written.

BOARD OF TRUSTEES:

Trustee

Trustee

Trustee



Town of Braintree
Contributory Retirement System

74 Pond Street, 2nd Floor
Braintree, MA 02184

July 7, 2015

Ms. Susan Cimino
Clerk for the Council
Braintree Town Hall
One J.F.K. Memorial Drive
Braintree, MA 02184

RECEIVED TOWN CLERK
BRAINTREE, MA
2015 JUL -7 PM 2:54

Dear Susan,

The Braintree Contributory Retirement Board respectfully requests to meet with the Braintree Town Council Members to discuss adopting the following local option:

1. M.G.L. c. 32 §20(6) – *Retirement Board Members Compensation*

Enclosed you will find the referenced legislation with an explanation and the Board's rationale for moving forward with this request. If you or the Council members require any additional information or have any questions, please do not hesitate to contact me at (781)794-8211, or jmartineau@braintreema.gov.

Requested Motion:

That the Town vote to accept the provisions of M.G.L. c. 32, s. 20(6), as amended by Section 34 of Chapter 176 of the Acts of 2011, to allow the elected and appointed members of the Braintree Contributory Retirement Board to receive a stipend of not less than \$3,000 nor more than \$4,500 per year

Sincerely,

Jeanne Martineau, Director
Braintree Contributory Retirement System

Cc: BCRS Board Members

RECEIVED TOWN CLERK
BRAINTREE, MA

2015 JUL 7 11 25 4

M.G.L. c. 32 Contributory Retirement Systems for Public Employees

§20(6) – Retirement Board Members Compensation

(6) *Retirement Board Members Compensation.* — The elected and appointed members of a city, town, county, regional, district or authority retirement board upon the acceptance of the appropriate legislative body shall receive a stipend; provided, however, that the stipend shall not be less than \$3,000 per year and not more than \$4,500 per year; provided, further, that the stipend shall be paid from funds under the control of the board as shall be determined by the commission; and provided, further, that an ex-officio member of a city, town, county, district or authority retirement board upon the acceptance of the appropriate legislative body shall receive a stipend of not more than \$4,500 per year in the aggregate for services rendered in the active administration of the retirement system.

NARRATIVE:

The Braintree Contributory Retirement Board Members typically meet on the fourth Wednesday of every month, and at times schedule random meetings to accommodate members of the System and their attorneys for purposes of confidential hearings. Occasionally, there is also a need for financial reviews, or money manager interviews, however, the Board typically incorporates such interviews into their regular meetings, thus significantly extending their meeting period.

The Board is governed under M.G.L. c. 32, and below you will find just two of the most recent changes to this law which require extensive time and full disclosure on the part of Retirement Board members:

Section 20(7)

Retirement Board Member Training. — During each full term of service retirement board members shall undertake 18 hours of training; provided, however, that not less than 3 hours of such training shall take place each year and not more than 9 hours may take place in any single year; provided, however, that nothing in this subdivision shall prohibit such retirement board members from undertaking more than 18 hours of training.

Such training shall consist of 9 hours sponsored by the commission, which shall include, at a minimum, the topics of fiduciary responsibility, ethical conduct and conflict of interest and 9 hours of training on topics prescribed by the commission provided by the Massachusetts Association of Contributory Retirement Systems or other local, state, regional and national organizations recognized by the commission as having expertise in retirement issues of importance to retirement board members or other entities, as the commission may determine.

Section 20C.

Retirement Board Member Statement of Financial Interest. — (a) Every member of a retirement board shall file a statement of financial interests for the preceding calendar year with the commission: (i) within 30 days of becoming a member of a retirement board; (ii) by May 1 of each year thereafter that the person is a member of a retirement board; and (iii) by May 1 of the year after the person ceases to be a member of a retirement board.

(see statement attached)

The Board is also governed under Public Employee Retirement Administration (PERAC) Regulations, 840 CMR 1-27. Below we have included only the first regulation to emphasize the fiduciary duty that is placed upon the members of the Braintree Retirement Board.

1.01: Board Members' Duty

1. A board member shall discharge all of his/her duties solely in the interest of members and their beneficiaries, and
2. For the exclusive purpose of:
 1. Providing benefits to members and the beneficiaries; and
 2. Defraying reasonable expenses of administering the system
3. With the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims.
4. By diversifying the investments of the system so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.
5. In accordance with the Massachusetts General Laws, the rules and regulations promulgated by the Commission, and the rules and regulations adopted by the Board and approved by the Commission.

1:02: Liability For Breach of Fiduciary Duty

1. Failure to comply with the fiduciary standard set forth in M.G.L. c. 32, § 23 and in 840 CMR 1.01 may subject the fiduciary to personal liability for any losses to the system resulting from such failure.
2. If a fiduciary knowingly participates in or knowingly conceals an act or omission of a co-fiduciary which is a breach of fiduciary duty the fiduciary may be subject to personal liability for any losses to the system resulting from such breach.
3. If, by failing to comply with his/her fiduciary duty, a fiduciary enables a co-fiduciary to breach his/her fiduciary duty, the fiduciary may be subject to personal liability for any losses to the system resulting from such breach.
4. If a fiduciary has knowledge of a breach of fiduciary duty by a co-fiduciary and the fiduciary fails to make reasonable efforts under the circumstances to remedy the breach of fiduciary duty, the fiduciary may be subject to personal liability for any losses to the system resulting from such breach.

As you can read above, the Braintree Retirement Board Members assume an abundance of personal liability for their duties, which they take very seriously. They work closely with their financial and legal counsel to ensure that they are in compliance with all investment and member-related regulations, and they have oversight responsibility for a portfolio in excess of one-hundred and seventy- million dollars.

There are 104 Massachusetts Retirement Boards which are governed under c. 32. Enclosed you will find a survey demonstrating that Braintree is one of twelve Boards who do not offer a stipend of any kind. The Board is requesting that the Council vote to accept the local option under M.G.L. c. 32, §20(6), and grant the Braintree Contributory Retirement Board Members a stipend as allowed in legislation. Your consideration of this matter is greatly appreciated.

**PUBLIC EMPLOYEE
RETIREMENT ADMINISTRATION COMMISSION
5 MIDDLESEX AVE – 3RD FLOOR
SOMERVILLE, MA 02145
(617) 666-4446**

STATEMENT OF FINANCIAL INTERESTS FOR CALENDAR YEAR 2014

Please provide the requested information. As required by G.L. c. 32, Section 20C, the Financial Disclosure Law, you must answer all questions to the best of your knowledge. If your answer to any question is "none" or if any question is not applicable, check "Not Applicable." If extra space is needed to complete a response, attach additional pages, clearly noting the question to which the information relates. If the Commission needs to contact you regarding this form, we will use the contact information provided in Question 1.

1. Reporting Data

Person Reporting:	
Current Home Address:	
City:	
State:	
Zip:	
Home Phone:	
Office Phone:	
Email:	
Name of spouse residing in your household:	<input type="checkbox"/> Not Applicable
Name of dependent child(ren) residing in your household (you do not need to provide the name of minor children):	<input type="checkbox"/> Not Applicable

2. Retirement Board

This question indicates the reason you are required to file a Statement of Financial Interests and must be completed. Identify each position you held in 2014 or now hold as a Retirement Board Member.

Board on which you serve(d):	
Start Date:	
End Date if applicable:	

3. Other Government Position(s) (including position as an employee of a retirement board)

Identify any other government position(s) held in 2014 by you and/or an **IMMEDIATE FAMILY** member (spouse or dependent child) in any federal, state, county, district or municipal agency, whether compensated or uncompensated, full- or part-time. This also includes work performed pursuant to any consulting or contracted agreement with any such agency.

Do **NOT** include the name of any **IMMEDIATE FAMILY** member in your answer. Instead, put, e.g; "Spouse" or Child".

Not Applicable

Name of Governmental Entity:	
Position Held:	
Filer or Immediate Family Member:	

4. Employment and Other Associations with Businesses and Non-Governmental Entities (Including Non-Profit Organizations)

Identify each **BUSINESS** with which you and/or an **IMMEDIATE FAMILY** member (spouse or dependent child) were associated in 2014 as an employee, or as a partner, sole proprietor, officer, director, or in any similar managerial capacity, whether compensated or uncompensated, full- or part-time. **Include any business from which you have taken a leave of absence.**

Do **NOT** include the name of any **IMMEDIATE FAMILY** member in your answer. Instead, put, e.g; "Spouse" or Child".

Not Applicable

Name of Business:	
Address:	
Position Held:	
Filer or Immediate Family Member:	

5. Business Ownership/Equity

Identify any **BUSINESS** in which you and/or an **IMMEDIATE FAMILY** member owned more than 1% of the **EQUITY** at any time during 2014.

Do **NOT** include the name of any **IMMEDIATE FAMILY** member in your answer. Instead, put, e.g; "Spouse" or Child".

Not Applicable

Name of Business:	
Address:	
Percentage Owned (Filer Only):	

6. Gifts

Identify any GIFTS with a fair market value aggregating more than \$100 received by you and/or an **IMMEDIATE FAMILY** member at any time during 2014 if the source of the gift is a person having a direct interest in a matter before the retirement board of which you are a member.

Do **NOT** include the name of any **IMMEDIATE FAMILY** member in your answer. Instead, put, e.g; "Spouse" or Child".

Not Applicable

Name of Source:	
Address of Source:	
Affiliation of Source:	
Individual Giving on Behalf of Source:	
Recipient:	
Value (Filer Only):	

7. Honoraria

Identify any **HONORARIUM** aggregating more than \$100 received by you and/or an **IMMEDIATE FAMILY** member at any time during 2014 if the source of such honoraria is a person having a direct interest in a matter before the retirement board of which you are a member.

Do **NOT** include the name of any **IMMEDIATE FAMILY** member in your answer. Instead, put, e.g; "Spouse" or Child".

Not Applicable

Name of Source:	
Address of Source:	
Affiliation of Source:	
Individual Giving on Behalf of Source:	
Recipient:	
Value (Filer Only):	

8. Reimbursements

Identify any **REIMBURSEMENTS** aggregating more than \$100 received by you and/or an **IMMEDIATE FAMILY** member at any time during 2014 if the source of the reimbursement is a person having a direct interest in a matter before the retirement board of which you are a member.

Do **NOT** include the name of any **IMMEDIATE FAMILY** member in your answer. Instead, put, e.g; "Spouse" or Child".

Not Applicable

Name of Source:	
Address of Source:	
Affiliation of Source:	
Individual Giving on Behalf of Source:	
Recipient:	
Value (Filer Only):	

9. Securities and Investments

Identify each **SECURITY** or other **INVESTMENT**, with a fair market value in excess of \$1,000, beneficially owned by you and/or an **IMMEDIATE FAMILY** member as of December 31, 2014.

Do **NOT** include the name of any **IMMEDIATE FAMILY** member in your answer. Instead, put, e.g; "Spouse" or Child".

Exclude cash and bank accounts; money market funds; certificates of deposit; retirement plans; profit – sharing plans; 401(k) or other deferred compensation plans; Keogh plans; insurance policies; Commonwealth U-Plan or U-Fund; tangible property held and used for non-commercial purposes, such as antiques and artwork; and investments held as a trustee, nominee, or agent for another person.

Not Applicable

Name of Issuer:	
Description of Security:	
Principal Place of Business(Only for Non-Publicly Traded Securities):	
Owner (Filer or Immediate Family Member):	

10. Current Home/Residence Mortgage Information

Identify all mortgages for your current home/residence, including home equity and reverse mortgage loans, in excess of \$1,000, outstanding on December 31, 2014, for which you and/or an **IMMEDIATE FAMILY** member were obligated. You are not required to disclose your current home address.

Do **NOT** include the name of any **IMMEDIATE FAMILY** member in your answer. Instead, put, e.g; "Spouse" or Child".

Not Applicable

Creditor Name:	
Creditor Address:	
Interest Rate:	
Year Mortgage Due or Terminated:	

11. Non – Current Home/Residence Mortgage Information

Identify all mortgages that are not for your current home/residence, including home equity and reverse mortgage loans, in excess of \$1,000, outstanding on December 31, 2014, for which you and/or an **IMMEDIATE FAMILY** member were obligated. For an **IMMEDIATE FAMILY** member, do not report the **AMOUNTS** borrowed and owed.

Do **NOT** include the name of any **IMMEDIATE FAMILY** member in your answer. Instead, put, e.g; "Spouse" or Child".

Not Applicable

Address of Property:	
Creditor Name:	
Creditor Address:	

Original Amount Borrowed if the mortgage loan was NOT for your current home/residence (Filer Only):	
Amount Owed if the mortgage loan was NOT for your current home/residence (Filer Only):	
Interest Rate:	
Year Mortgage Due or Terminated:	

12. Creditor Information

Identify each debt, loan or other liability, other than mortgages reported above, in excess of \$1,000, owed by you and/or an **IMMEDIATE FAMILY** member as of December 31, 2014. Use categories of **AMOUNT** where applicable. **EXCLUDE: Any liability of \$1,000 or less; installment loans (cars, household effects, etc.); educational loans; medical and dental debts; credit card purchases (other than cash advances); support or alimony obligations; debts owed to a spouse or CLOSE RELATIVE; and debts incurred in the ordinary course of a BUSINESS.**

Do **NOT** include the name of any **IMMEDIATE FAMILY** member in your answer. Instead, put, e.g; "Spouse" or Child".

Not Applicable

Creditor Name:	
Creditor Address:	
Original Amount Borrowed (Filer Only):	
Amount Owed (Filer Only):	
Interest Rate:	
Year Due or Terminated:	
Loan Collateral:	

13. Debts Forgiven

Identify each creditor who at any time during 2014 forgave any indebtedness in excess of \$1,000 owed by you and/or an **IMMEDIATE FAMILY** member, if the creditor is a person having a direct interest in a matter before the retirement board of which you are a member. **EXCLUDE: Any debts forgiven by a spouse, a CLOSE RELATIVE, or the spouse of a CLOSE RELATIVE.**

Do **NOT** include the name of any **IMMEDIATE FAMILY** member in your answer. Instead, put, e.g; "Spouse" or Child".

Not Applicable

Creditor Name:	
Address:	
Amount Forgiven (Filer Only):	

14. Certification

I, _____, certify under the pains and penalties of perjury that:
(Signature)

- I made a reasonably diligent effort to obtain the required information concerning myself and **IMMEDIATE FAMILY MEMBER(S)**; and
- The information provided on this form and any attachments is true and complete, to the best of my knowledge.

Submitted _____
(Date)

The following **IMMEDIATE FAMILY** member(s) declined to disclose information which is necessary to complete this form fully and accurately. You are not required to disclose the name of your spouse or any dependent child(ren). Where applicable, you should answer this portion of the question by indicating the relationship, e.g., "Filer and Child(ren)," "Spouse," "Spouse and Child(ren)" or "Child(ren)."

The following are the specific question(s) for which information could not be obtained from an **IMMEDIATE FAMILY** member(s):

The following are the specific question(s) which I decline to answer in whole or in part, because I assert the information is privileged by law:

Please explain the basis of your claim of privilege:

IMPORTANT:

1. No **RETIREMENT BOARD MEMBER** shall be allowed to continue in his duties unless he has filed an SFI with the Commission. The Commission will notify your retirement board immediately if you fail to timely file.
2. A faxed SFI cannot be accepted.
3. You must file by mail or in person, and must submit the original SFI and one (1) copy to complete the filing. The Commission will date-stamp and return the additional copy to you as proof of filing.
4. Please check to see that you answered every question. If a question is not applicable or the answer is none, you must check the "Not Applicable" box.

	<u>Retirement Board</u>	<u>All Members</u>	<u>Treas</u>	<u>Chair</u>	<u>Ex-Officio</u>
1 NO	Braintree	-	-		
2 NO	Brookline	-	-		
3 NO	Concord	-	-		
4 NO	E Hampton Cnty	-	-		
5 NO	Fairhaven	-	-		
6 NO	Framingham	-	-		
7 NO	Lexington	-	-		
8 NO	Mass Teachers	-	-		
9 NO	Milford	-	-	-	
10 NO	MWRA	-	-		-
11 NO	Reading	-	-		
12 NO	State Retirement	-	-		
1 SOME	Danvers	-	-		1,500.00
2 SOME	Dedham	-	-		1,500.00
3 SOME	Hingham	-	1,500.00		3,000.00
4 SOME	Hull	-	-		3,000.00
5 SOME	Marblehead	-	-		1,500.00
6 SOME	Maynard	-	3,000.00		3,000.00
7 SOME	Minuteman Reg	-	1,500.00		
8 SOME	Natick	-	-	-	1,500.00
9 SOME	Needham	-	-	3,000.00	
10 SOME	North Adams	-	2,000.00		
11 SOME	Northbridge	-	-		3,000.00
12 SOME	Plymouth	-	3,000.00	3,000.00	
13 SOME	Shrewsbury	-	-		3,000.00
14 SOME	Wellesley	-	-		1,500.00
15 SOME	Winchester	-	-		3,000.00
16 SOME	Winthrop	-	-		3,000.00
17 SOME	Andover		3,000.00		3,000.00
18 SOME	Falmouth		1,500.00		1,500.00
19 SOME	Milton		1,500.00		1,500.00
20 SOME	Saugus		1,920.00		3,000.00
21 SOME	Stoneham		3,000.00		3,000.00
22 SOME	Swampscott				3,000.00
1 YES	Adams	3,000.00	3,000.00		
2 YES	Amesbury	3,000.00	-		
3 YES	Attleboro	3,000.00	1,000.00		
4 YES	Belmont	3,000.00	-		
5 YES	Berkshire Cnty	3,000.00		5,000.00	
6 YES	Beverly	3,000.00	1,500.00		
7 YES	Blue Hills	3,000.00			
8 YES	Brockton	3,000.00			
9 YES	Chelsea	3,000.00	1,500.00		
10 YES	Clinton	3,000.00	850.00		
11 YES	Dukes Cnty	3,000.00			
12 YES	Fall River	3,000.00	3,000.00		
13 YES	Fitchburg	3,000.00	-		
14 YES	Gardener	3,000.00	300.00		
15 YES	Greater Lawrence Sanitation	3,000.00			
16 YES	Greenfield	3,000.00	3,000.00		
17 YES	Hampden Cnty	3,000.00	\$25,642.68		
18 YES	Haverhill	3,000.00	1,200.00		
19 YES	Holyoke	3,000.00			
20 YES	Lawrence	3,000.00	3,000.00		
21 YES	Leominster	3,000.00	3,000.00		
22 YES	Lynn	3,000.00	-		

	<u>Retirement Board</u>	<u>All Members</u>	<u>Treas</u>	<u>Chair</u>	<u>Ex-Officio</u>
23 YES	Marlborough	3,000.00	-	-	
24 YES	Mass Housing Fin	3,000.00	-		
25 YES	Massport	3,000.00			
26 YES	Melrose	3,000.00			
27 YES	Methuen	3,000.00	1,500.00		
28 YES	Newton	3,000.00	-		
29 YES	North Attleboro	3,000.00	-		
30 YES	NorthHapmton	3,000.00	3,000.00		
31 YES	Peabody	3,000.00	1,500.00		
32 YES	Pittsfield	3,000.00	1,500.00		
33 YES	Plymouth County	3,000.00			
34 YES	Quincy	3,000.00	-		
35 YES	Revere	3,000.00	3,000.00		
36 YES	Salem	3,000.00			
37 YES	Southbridge	3,000.00	3,000.00		
38 YES	Springfield	3,000.00	-		
39 YES	Wakefield	3,000.00	1,500.00		
40 YES	Waltham	3,000.00	3,000.00		
41 YES	Webster	3,000.00	3,000.00		
42 YES	West Springfield	3,000.00	1,500.00		
43 YES	Westfield	3,000.00	3,000.00		
44 YES	Woburn	3,000.00	3,000.00		
1 YES	Somerville	3,600.00	3,600.00		
1 YES	Franklin Reg.	4,000.00	8,000.00	8,000.00	
2 YES	Montague Ret	4,000.00	-		
3 YES	Watertown	4,000.00			
1 YES	Arlington	4,500.00	3,000.00		
2 YES	Barnstable Cnty	4,500.00			
3 YES	Boston	4,500.00	-		
4 YES	Bristol cnty	4,500.00	-		
5 YES	Cambridge	4,500.00	1,500.00		
6 YES	Chicopee	4,500.00	1,500.00		
7 YES	Essex Regional	4,500.00			
8 YES	Everett	4,500.00	3,000.00		
9 YES	Gloucester	4,500.00	1,500.00		
10 YES	Hampshire Cnty	4,500.00		54,807.96	
11 YES	Lowell	4,500.00	2,000.00		
12 YES	Malden	4,500.00			
13 YES	Medford	4,500.00	1,500.00		
14 YES	Middlesex cnty	4,500.00	-		
15 YES	New Bedford	4,500.00	1,500.00		
16 YES	Newburyport	4,500.00	2,500.00		
17 YES	Norfolk Cnty	4,500.00			
18 YES	Norwood	4,500.00	1,500.00		
19 YES	Taunton	4,500.00	3,000.00		
20 YES	Weymouth	4,500.00	-		
21 YES	Worcester	4,500.00	-		
22 YES	Worcester Reg	4,500.00	-		

FINAL DRAFT FOR COUNCIL APPROVAL

Chapter 5-565 - PEDDLING AND SOLICITING

(Former By-law Chapter 5.32)

Council Order 10 012- Passed in Council June 15, 2010- Signed by Mayor June 21, 2010

SECTION 5.565.010 Peddling of Goods, Wares and Merchandise-License Required

No person shall hawk or peddle goods, wares or merchandise within the limits of the Town, except as otherwise authorized by law, without first obtaining a license therefor from the Commonwealth of Massachusetts in accordance with the provisions of Chapter 101 of the General Laws. (ATM 5-10-2005 Art. 37 (part); prior code § 99-1)

SECTION 5.565.020 Transient Vendors-Local license Required

A person licensed by the Commonwealth of Massachusetts as a transient vendor under the provisions of Chapter 101, Section 3 of the General Laws shall, before making any sales of goods, wares or merchandise within the limits of the town, make application to the Board of License Commissioners for a local license; such local license shall be subject to such reasonable rules and regulations and to the payment of a license fee in accordance with the provisions of Chapter 101, Section 5 of the General Laws. (Prior code § 99-3)

SECTION 5.565.030 Hawkers and Peddlers-Permit Required

A person licensed by the Commonwealth of Massachusetts as a hawker or peddler under the provisions of Chapter 101, Section 22 of the General Laws shall, before making any sale of goods, wares or merchandise within the limits of the Town, apply for a permit from the Board of License Commissioners; such permit shall be subject to such reasonable rules and regulations as may from time to time be made by the Board of License Commissioners. (Prior code § 99-4)

SECTION 5.565.040 Temporary Licenses for Charitable Organizations and Veterans

The Board of License Commissioners may from time to time make reasonable rules and regulations governing the granting of temporary licenses to any organization engaged exclusively in charitable work, or to a post of any incorporated organization of veterans who served in the military or naval service of the United States in time of war or insurrection for the sale of flags, badges, medals, buttons, flowers, souvenirs and similar small articles, in accordance with the provisions of Chapter 101, Section 33 of the General Laws. (Prior code § 99-6)

SECTION 5.565.050 Solicitation and Canvassing

A. Purpose.

The purpose of this ordinance is to protect the citizens of Braintree from crime, undue annoyance and fraudulent door-to-door solicitors and canvassers by requiring those who wish to engage in such activity to register with the Braintree Police Department.

B. Definitions.

1. "Solicitation or canvassing" means traveling by foot, motor vehicle or any type of conveyance, from place to place, from house to house, or from street to street, whether for salary, commission or other remuneration, whether on behalf of oneself or another person, business, firm, corporation, organization or other entity, and (a) selling, leasing or taking orders for the sale of any goods, wares, merchandise or services whatsoever, including, but not limited to, books, periodicals, food, and home improvement services, or attempting to so sell, lease or take orders, whether or not advance payment on such sales is collected; or (b) seeking or requesting donations of money, goods or services for any for-profit entity or nonprofit entity; even if the original solicitation is made in writing, by telephone or any electronic communication;

2. "Residential property" includes without limitation each individual dwelling unit.

3. Exempted entities include registered religious organizations, political information drops, social groups and other non-commercial community groups.

C. Prohibition and Requirements.

1. No person shall engage in solicitation or canvassing in or upon any private residential property in the Town of Braintree, and no business, firm, corporation, organization or other entity shall arrange for any person to engage in solicitation or canvassing in or upon any residential property, without first registering with the Chief of Police not less than **ten business days** before commencing such solicitation or canvassing and obtaining from the Chief of Police a certificate evidencing such registration.
2. Persons engaged in solicitation or canvassing shall **prominently display around their neck a Town issued florescent orange lanyard, visible at all times on the chest area. This will contain the identification number, Start date and expiration date (not to exceed 30 days), current photo, name, company name, signature and phone number of company official responsible for the operation, and shall have on their person the Braintree police approved certificate of registration and shall produce such certificate upon request. Failure to wear the provided lanyard shall result in a violation of \$250 per individual and \$2000 per primary employing entity. If a fine is issued to any party or entity, said party will be prohibited from soliciting in the Town of Braintree until the fine is paid.**

3. Immediately upon encountering an occupant of any residential property, a person engaged in solicitation or canvassing shall present such certificate of registration for Inspection and inform the occupant of the nature and purpose of his/her business, and If he/she is representing an organization, firm, or other entity.
4. Each person engaged in solicitation or canvassing in or upon any residential premises shall immediately leave such premises upon the request of the occupant.
5. No person shall engage in solicitation or canvassing in or upon any residential property upon which is displayed a sign prohibiting trespassing, solicitation or canvassing.
6. No person engaging in solicitation or canvassing shall misrepresent in any way his/her true objective, status or mission or that of any organization on behalf of which he/she is so engaged.
7. Persons engaging in solicitation or canvassing shall comply with all federal, state and local laws and regulations, including but not limited to consumer protection laws such as Chapters 93, 93A and 2550 of the Massachusetts General Laws. **Braintree Police shall provide all applications with Chapter 5-565- PEDDLING AND SOLICITING and highlight Section 5.565.50**
- 8. Anyone applying to solicit must provide a direct contact name and telephone number of the direct supervisor or person responsible for the management of all those soliciting. This individual must be accessible via phone at all times should issues arise.**
- 9. Unsolicited – No person shall place, deposit or throw or cause to be placed, deposited or thrown upon or into a motor vehicle, which is parked on any street, lane, parking lot or other public place, any leaflet, pamphlet, poster, handbill, flyer or any paper containing printed or written matter, whether advertising or not, with the exception of any violation ticket or summons issued pursuant to lawful authority. (Ref. G. Penalty)**

D. Registration.

1. Application. Persons seeking registration certificates in accordance with this ordinance shall apply therefore not less than **ten business days** before commencing solicitation or canvassing in the Town of Braintree. Such application shall be signed under the penalties of perjury and shall contain the following information on a form provided by the Chief of Police:
 - a. Applicant's name, home address and telephone number;
 - b. Name of applicant's business, firm, corporation, organization, or other entity represented, business address and telephone number;
 - c. Applicant's date of birth;
 - d. Applicant's Social Security Number;

- e. Applicants must produce a copy of their driver's license or a photograph will be taken by the Braintree police department at the time of registering;
 - f. Length of time for which applicant seeks to conduct business in the town of Braintree;
 - g. Description of the nature of the business and the goods or services to be sold or purpose(s) for which donations are to be requested;
 - h. If applicant is operating or being transported by a motor vehicle, the year, make, model, color, registration number, state of registration, owner's name and address of each such vehicle;
 - i. **Each applicant must provide a Criminal Offender Record Information (C.O.R.I.) check for each individual solicitor to the Braintree Police that has been completed in the past 60 days. Applicants who have been convicted (found guilty) of any of the following offenses within the past seven years are prohibited from soliciting in Braintree: burglary, drug distribution, level 2 and level 3 sex offenders, breaking and entering, larceny, robbery, receiving stolen property, assault, fraud, sexual misconduct, and unlawfully carrying weapons;**
 - j. Applicant must also consent to a criminal history check to be conducted by the Chief of Police or his/her designee.
2. Contents of Certificate: Each certificate of registration shall contain the signature of the Chief of Police or his/her designee and shall show the name, address and photograph of the holder of the certificate, date of issue and registration number.
 3. Expiration of Certificate: Each certificate of registration issued pursuant to this ordinance shall expire thirty (30) days from the date of issue. Certificates must be returned to the Braintree Police Department when the applicant has concluded his/her or her solicitation activities in the Town of Braintree.
 4. Transfer of Certificate: No certificate of registration may be transferred to any other person or entity.
 5. Revocation of Certificate: The Chief of Police may revoke the certificate of registration of any solicitor or canvasser for violation of any provision of this ordinance or for providing false information on the application.
 6. Duties of Police Department: The Police Department shall keep a record of all certificates of registration, including registration numbers, and applications therefor for a period of six years after application. Enforcement authority of this ordinance shall be by criminal complaint filed by the police department.

E. Exception:

The provisions of this ordinance shall not apply to the following persons:

1. Any person duly licensed under Chapter 101 of the General Laws, or to any person exempted under Chapters 101, Chapter 149, Section 69, and Chapter 180, Section 4 of the General Laws, or any other General Law.
2. Any officer or employee of the town, county, state or federal government on official business; or
3. Route salespersons or others having established customers making periodic deliveries to such customers or making calls upon prospective customers to solicit orders for periodic route deliveries, including but not limited to news carriers.
4. Individuals seeking to engage in exclusively Non-Commercial Communication.

5. Exempted entities include registered religious organizations, political information drops, social groups and other non-commercial community groups.

F. Severability:

If any section, subsection, sentence, clause, phrase or portion of this ordinance shall be declared Invalid or held unconstitutional by any court of last resort, the remainder shall continue in full force and effect.

G. Penalty.

Whoever violates any provision of this ordinance shall be liable to a penalty of not less than three hundred dollars (\$300.00) for each offense, or take any other action relative thereto. **Exemption being only other fines outlined in former sections. In such sections outlined fines would apply.** (STM 10-8-2002 Art.18; STM 5-6-1996 Art. 15; prior code § 99-7).

- 074 14 Councilor Ryan: 5 Year Moratorium or take up any action relative thereto

074 14 Proposed change to the 5 Year Moratorium:

The Committee on the Department of Public Works met on July 8, 2015 and are planning on moving forward with favorable recommendation to the Full Council with the below Motion(s) .

Motion per Carolyn Murray – “Below is some language that could be used for a proposed motion to amend the Town ordinances:”

MOTION:

(1) To see if the Town will vote to amend its General Ordinances, Chapter 12.08 - Excavation and Obstructions, by amending Section 12.08.010, Permit, for the purpose of adding a new paragraph D and paragraph E as printed in the attachment hereto.

(Please note that the attached text must in fact be attached to this motion, or the entire text of paragraphs D and E must be read as part of the motion.)

074 14 Proposed change to the 5 Year Moratorium:

A second Motion was made by the Committee on the Department of Public Works stating:

Mike Coughlin and Carolyn Murray stated via email they feel the proposed legislation take effect following its adoption by the Council and approval of the Mayor – not to be retroactive.

MOTION:

(2) Proposed amendment to General Ordinances, Chapter 12.08 – Excavation and Obstructions, Section 12.08.010 – Permit D. and E. be effective immediately and applicable to all previous roadways in the past 10 years.

Make the following change to the Town Ordinances, Section 12.08.010, ADD subsections D. and E., as follow:

12.08.010

- D. Except as noted in Section E. below, no permit shall be granted within the moratorium period specified below for any non-emergency¹ excavation within the improved area.

Improvement	Description	Longitudinal Trench	Transverse Trench (or transverse plus longitudinal totalling less then 150 feet.)
Reconstruction	New pavement over repaired or replaced granular base ²	10 years	5 years
Mill & Overlay	New pavement over milled existing pavement	10 years	5 years
Overlay	1-inch plus full lane width overlay of existing pavement ²	10 years	5 years
Shim with Microsurface, Chip Seal, Cape Seal, etc.	Less than 1-inch full width surface treatment over paved shim along middle area of road	10 years	5 years
Microsurface, Chip Seal, Cape Seal, etc.	Less than 1-inch full width surface treatment over existing pavement	10 years	3 year
Other treatments	Not known at this time	TBD ³	TBD ³

- E. The Town Council may grant a petition of National Grid or other gas company for a permit to excavate in an improved area under the moratorium and may require such mitigation and repairs as it sees fit, and it may require that surety be posted to secure the completion of the required mitigation and repairs.

The Mayor may grant a petition of others for a permit to excavate in an improved area under the moratorium for public safety related concerns, and may require such mitigation and repairs as he sees fit, and he may require that surety be posted to secure the completion of the required mitigation and repairs.

The minimum mitigation and surface repair requirement that should be expected for longitudinal excavation in an improved area in the first seven years of the moratorium is for full width curb to curb milling and re-paving for the full length of the excavation along the road plus another 25 feet at each end.⁴

The minimum mitigation and surface repair requirement that should be expected for a.) all transverse excavation or for b.) longitudinal excavation in the last three years of the moratorium is crown to curb milling and re-paving the extent of the excavation plus another 5 foot length each edge in the direction of traffic.⁴

All pavement markings shall be replaced in-kind. Curbs and sidewalks must be repaired or replaced, each to the satisfaction of the Highway Superintendent. Infrared treatment of seams may be required at the discretion of the Highway Superintendent.

¹ Emergency excavations for National Grid or other gas company shall consist of excavation to fix a "Grade 1" leak. For all others an emergency shall be as defined in Massachusetts' "DIG SAFE" law, MGL C.82 S 40 and 40A through 40E.

² Includes improved sidewalks

³ To be determined by the Town Council as cases arise.

⁴ Length and/or width of repair may be varied at intersections and in other special circumstances.

Per 3/3/15 DPW Comm. Mtg.

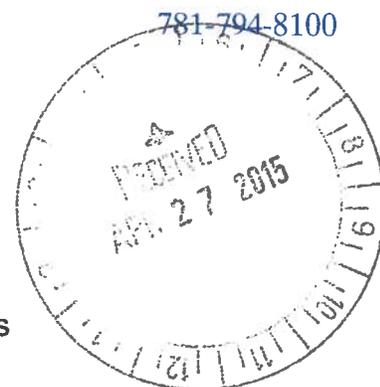


Office of the Mayor

One JFK Memorial Drive
Braintree, Massachusetts 02184

Joseph C. Sullivan
Mayor

TO: Susan Cimino, Clerk of the Council
FROM: Peter J. Morin, Town Solicitor *PJM*
RE: Review of Proposed Street Opening Moratorium Guidelines
DATE: April 27, 2015



Pursuant to your request I have reviewed the proposed amendment to Section 12.08.10 of the Town's Ordinances, namely relating to a moratorium on street openings.

Massachusetts General Law Chapter 164 section 70 requires a utility company to obtain the written consent of the Town Council to open a street "so far as necessary to accomplish the objects of said corporation..." Public utilities are further required by this statute to "put all such streets, lanes and highways in as good repair as they were when opened, and upon failure to do so within a reasonable time shall be guilty of a nuisance."

The Supreme Judicial Court has interpreted this statute to obligate the public utilities to restore opened streets to their prior condition, and to limit the ability of municipalities to impose further obligations on utilities to ensure streets are restored. First in Boston Gas v. Somerville, 420 Mass. 702, 704-5 (1995), the Court held that Somerville could not require opened streets be repaired using city-specified contractors, materials and repair techniques. In a subsequent decision, Boston Gas v. Newton 425 Mass. 697 (1997), the Court held that Newton could not impose fees for inspection and maintenance of road openings. In both cases the Court emphasized that imposition of restrictions or requirements greater than restoring the opened road to its prior condition was inconsistent with M.G.L. c. 164 section 70. The Court cited the purpose of this statute is to "ensure uniform and efficient utility services to the public." Somerville, supra at 706, see also, Newton, supra footnote 13 in which the Court states differences between municipalities in assessing costs impedes the uniformity of gas distribution.

The proposed ordinance does not impose additional costs through the imposition of a fee as in Somerville or Newton. However, the utility would likely view the codifications of restrictions on their ability to obtain a permit as an added imposition in conflict with state law. Moreover, the Council's limitation on the definition of an emergency (though

informed by statute) would also be viewed adversely by the utility. I believe the Court would act consistent with precedent and find in the utility's favor.

The Supreme Judicial Court has stated that the remedy under M. G. L. c 164 for municipalities dissatisfied with the closure of a road opening by a public utility is a nuisance action. A nuisance action is a court complaint that a utility has failed to restore the street to its prior condition, thereby creating a public nuisance, requiring a further repair or monetary compensation.

The current five year moratorium practice has generally been respected by public utilities. However, in cases in which the Council is concerned that the roads have not been returned to their prior condition, it would be appropriate to bring a nuisance action against the utility. Taking additional regulatory action as proposed would likely be seen as inconsistent with state law.

Please do not hesitate to contact me should you have additional concerns.