

Sean E. Powers  
President  
At Large

Shannon L. Hume  
At Large

CHARLES C. Kokoros  
District 1

John C. Mullaney  
District 2

Thomas M. Bowes  
District 3



Charles B. Ryan  
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

### SEPTEMBER 20, 2016

## MINUTES

A meeting of the Town Council was held in the Horace T. Cahill Auditorium, Braintree Town Hall, on September 20, 2016 beginning at 7:30p.m.

Council President Powers was in the chair.

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

Also Present: Christine Stickney, Director Planning & Community Development  
Al Varasso, American Legion member  
James Gullage, American Legion Commander  
Kimberly Bielan, Esq. MARCUS, ERRICO, EMMER & BROOKS, P.C.  
Travis Winden, resident

### APPROVAL OF MINUTES

- September 6, 2016

Motion made by Councilor Ryan to Approve Minutes of September 6, 2016

**Motion:** by Councilor Ryan

**Second:** by Councilor Bowes

**Vote:** For (8), Against (0), Absent (0), Abstain (1-Clifford)

### CORRESPONDENCE

- Memo from Mayor Sullivan re: Update on the Braintree Police Department Evidence Room

### CITIZEN CONCERNS/COUNCIL RESPONSE

- None

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

- 027 16 Councilor Clifford: An Obligation to Lead – Opioid Epidemic (Update)  
The Committee is currently writing a report and will update the Council after the report is complete.
- 104 16 Councilor Hume: Parks & Recreation Committee (Update)  
Councilor Hume met with Nelson Chin to discuss repairs and needs in each park in Braintree. Nelson Chin will ask for funding thru a Capital Request to fix all the needs in Perry Park. Councilor Hume gave an update on all the Parks repairs and updates. Councilor Hume stated graffiti is an issue. It is tough to clean. The Parks Department will address any that you see in a timely manner.

## **OLD BUSINESS**

- 16 040 Mayor: Termination of Sewer Easement and Grant of Utility Easement 2001 Washington Street or take up any action relative thereto

Motion by Councilor Ryan to take from TABLE Order 16 040 and RECONVENE

**Motion:** by Councilor Ryan

**Second:** by Councilor Bowes

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

The Committee on the Department of Public Works recommendations from Chairman Mullaney was stated it was unanimously voted for favorable recommendation to the full Council.

Councilor Ryan read the following Motion:

### **TERMINATION OF SEWER EASEMENT AND GRANT OF UTILITY EASEMENT 2001 Washington Street, Braintree Massachusetts**

Reference is hereby made to certain parcels of land located at 2001 Washington Street, Braintree, Massachusetts owned by 2001 Washington Street LLC, a Massachusetts limited liability company with a business address of 35 Fay Street, Unit E-107B, Boston, MA 02118, as evidenced by a certain deed dated November 15, 2013, and recorded with Norfolk County Registry of Deeds in Book 31906, Page 415 (hereinafter referred to as the “Premises”). Further reference is hereby made to that certain easement granted by the County of Norfolk to the Town of Braintree, dated December 7, 1977, and recorded with the Norfolk County Registry of Deeds in Book 5414, Page 631, and shown on a certain plan of land dated November 17, 1977, recorded with Norfolk County Registry of Deeds as Plan No. 1046 of 1977, which easement was granted to the Town of Braintree for constructing, maintaining and operating a sewer system servicing property located on Division Street in Braintree, Massachusetts (hereinafter referred as the “Sewer Easement”).

WHEREAS, 2001 Washington Street LLC has performed certain improvements located at the Premises; and

WHEREAS, in order to accommodate such improvements, the Town of Braintree has agreed to terminate all right, title and interest in the Sewer Easement; and

WHEREAS, the parties have agreed to enter into this Agreement for the purpose of terminating all interests of and to the Sewer Easement, and to establish a new grant of easement to the Town of Braintree within said Premises, as described below;

NOW THEREFORE, for good and valuable consideration of ten dollars \$10.00, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties do hereby agree as follows.

1. The Town of Braintree, on behalf of itself, and all successors and assigns, (the "Town of Braintree") does hereby permanently terminate all of its right, title and interests to and from the Sewer Easement, intending to, and hereby extinguishing and abandoning, all rights to such Sewer Easement. The location of the Sewer Easement being abandoned is shown on that certain plan recorded herewith, entitled "Utility and Access Easements Plan of Land, 2001 Washington Street, Braintree, Massachusetts, dated May 2, 2016, prepared by Dana F. Perkins, Inc., Consulting Engineers and Land Surveyors, 1049 East Street, Tewksbury, Massachusetts, 01876", (the "Plan") and is labelled on such Plan as the "SEWER EASEMENT TO BE ABANDONED".

2. The 2001 Washington Street LLC, in consideration of the abandonment of the Utility Easement, as stated above in Section 1 of this agreement, does hereby grant a perpetual, non-exclusive, twenty (20') foot wide utility easement to the Town of Braintree, the location of such easement is shown on said Plan and labeled thereon as "Utility Easement – 20' Wide Easement Area = 13,713 sf +/-". Such easement shall be used solely for constructing, maintaining, repairing, replacing and removing the existing and future underground utility lines, pipes, wires, ducts, conduits, and connections and facilities, and all appurtenances thereto, of every kind and nature, for the purpose of providing water, drainage, gas, electrical and/or other utility services and/or sanitary sewer services to properties located on or near Division Street in Braintree Massachusetts, ( hereinafter referred to as the "Utility Easement").

3. The Town of Braintree hereby acknowledges and agrees that it is perpetually obligated to maintain, repair and replace the Utility and/or utility connections, piping, conduit and/or equipment and apparatus installed within the Utility Easement area and/or pursuant to this grant, and shall at all times maintain such connections in good working order and repair. The above Utility Easement is also expressly granted with the obligation on the part of the Town of Braintree to: (a) repair, at its own cost, any damage to the Premises or improvements thereon, arising from such exercise of any and all rights granted in this agreement; (b) if such right or exercise requires excavation of any portion of any area within the Utility Easement, the Town of Braintree must: i) provide reasonable advance written notice to the then owner of the Premises prior to commencing such excavation, and ii) to restore, at its own cost, the surface of the Premises to the same condition thereof as immediately prior to such excavation, only at such times and in such manner, as to avoid unreasonable interruption in the then owner's use and enjoyment of the Premises, as the case may be; and (c) to comply with all applicable laws, statutes, regulations and ordinances now or hereafter in effect pertaining to the Premises.

4. All notices and other communications hereunder shall be in writing and shall be deemed duly given: (a) when deposited with the U.S. Postal Service and mailed by registered or certified mail, return receipt requested, postage and registration or certification charges prepaid addressed as follows:

If to the Town Of Braintree:

Director of Department of Public Works  
Town of Braintree  
1 JFK Memorial Drive  
Braintree, MA 02184

If to 2001 Washington Street LLC, while said entity owns said Premises (otherwise to the then owner of said Premises):

Douglas A. Troyer, Esq.  
Marcus, Errico, Emmer & Brooks, P.C.  
45 Braintree Hill Office Park, Suite 107  
Braintree, MA 02184  
[dtroyer@meeb.com](mailto:dtroyer@meeb.com)  
Telephone: (781) 843-5000  
Fax: (781) 843-1529

or (b) upon actual delivery when delivered by hand during usual business hours addressed to the same parties specified in subparagraph (a) above, except that either party may by written notice to the other designate another address which shall thereupon become the effective address of such party for the purposes of this paragraph.

5. To the extent necessary to effectuate the extinguishment of the Sewer Easement, and effectuate the grant of the Utility Easement, each of the parties hereto shall execute such other documents as may reasonably be required by the other party hereto, for the purpose of further implementing, evidencing and confirming the rights, easements and agreements which are the subject hereof.

6. This agreement, including all rights, benefits, easements, covenants, agreements and obligations hereunder, shall inure to the benefit of and shall be binding upon the parties and their respective successors and assigns.

7. This agreement shall not be modified, amended or otherwise changed without the express written consent of the each of the parties.

8. The laws of the Commonwealth of Massachusetts shall govern the validity, interpretation, construction and performance of this Agreement.

**Motion:** by Councilor Ryan

**Second:** by Councilor Bowes

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

- 16 042 Town Clerk: Code Adoption Ordinance or take up any action relative thereto  
This item is to be rescheduled to a later date.

- 16 045 Mayor: Community Preservation Act Committee Appropriation Request - Exterior Restoration of the former Union School – (American Legion) or take up any action relative thereto (Public Hearing )

Motion by Councilor Ryan to Open Public Hearing for Order 16 045

**Motion:** by Councilor Ryan

**Second:** by Councilor Bowes

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

Council President Powers asked if there was any discussion:

Christine Stickney was present and explained the need for this appropriation.

Refer to the Chairman of the Ways & Means Committee Councilor O'Brien recommendations.

Council President Powers asked if the Council or the general public want to speak on Order 16 045.

Hearing None – Councilor Ryan made a Motion to close the public hearing.

Motion by Councilor Ryan to Close Public Hearing for Order 16 045

**Motion:** by Councilor Ryan

**Second:** by Councilor Bowes

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

Councilor Ryan read the following Motion:

In accordance with the provisions of Chapter 448 of the General Laws and with the recommendation of the Community Preservation Committee, appropriate \$70,000.00 from the CPA Unreserved Fund for the purpose of an historic exterior assessment and universal accessibility to the Union School located at 435 Washington Street. Said funds are to be expended under the direction of the Community Preservation Committee and by the Director of Planning and Community Development.

**Motion:** by Councilor Ryan

**Second:** by Councilor Bowes

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

## **NEW BUSINESS**

- None

Motion by Councilor Ryan to refer the following to Committees:

### **Refer to the Committee on the Department of Public Works**

- 16 046 National Grid Petition: Audubon Avenue or take up any action relative thereto
- 16 047 National Grid Petition: Glenrose Avenue or take up any action relative thereto
- 16 048 National Grid Petition: Washington Street or take up any action relative thereto
- 16 049 National Grid Petition: South Street, Woodedge Ave & Woodedge Lane or take up any action relative thereto
- 16 050 National Grid Petition: Hawthorn Road or take up any action relative thereto
- 16 051 National Grid Petition: Claremont Street or take up any action relative thereto
- 16 052 National Grid Petition: Townsend Avenue or take up any action relative thereto

**Refer to the Committee on Ways & Means**

- 107 16 Council President: BELD Presentation – Discussion or take up any action relative thereto

**Topics the Chair does not reasonably anticipate will be discussed**

**UPCOMING MEETINGS:**

Next Council Meeting is - **TUESDAY, October 4, 2016@ 7:30pm**

**ADJOURNMENT**

It was unanimously voted to adjourn the meeting at 8:10p.m.

Respectfully submitted,

Susan M. Cimino  
Clerk of the Council

**Documents provided for Meeting**

- 16 040 Mayor: Termination Of Sewer Easement and Grant of Utility Easement 2001 Washington Street or take up any action relative thereto
- 16 042 Town Clerk: Code Adoption Ordinance or take up any action relative thereto
- 16 045 Mayor: Community Preservation Act Committee Appropriation Request - Exterior Restoration of the former Union School – (American Legion) or take up any action relative thereto