

BRAINTREE BOARD OF SELECTMEN

MINUTES

January 8, 2007

Regular meeting of the Braintree Board of Selectmen, held on Monday, January 8, 2007, at 7:00 p.m. at Braintree Town Hall, in the Carl R. Johnson, Jr. Chambers, One JFK Memorial Drive, Braintree, Massachusetts

IN ATTENDANCE: Charles B. Ryan, Chairman; Joseph W. Hubbard, Vice Chairman; Darrin M. McAuliffe, Clerk; Charles Kokoros; Joseph Powers

ALSO PRESENT: Sue Kay, Interim Executive Secretary; Carolyn Murray, Town Counsel; Deborah Carlino, Recording Secretary; members of the press and public

Chairman Ryan opened the meeting at 7:00 p.m.; all members of the Board who were present answered to a roll call. Chairman Ryan then led those present in a moment of silence and the Pledge of Allegiance.

ANNOUNCEMENTS:

--There are several vacancies: Fair Housing Committee (several vacancies); Community Preservation Commission (1 vacancy); Contributory Retirement Board (1 vacancy).

-Firefighter Entrance Exam – the Town of Braintree will administer a written Firefighter Entrance Examination for the position of Firefighter on March 24, 2007 (snow date: March 31, 2007) in the Cafeteria of Braintree High School. Applications may be obtained at the Braintree Personnel Dept., Town Hall, One JFK Memorial Drive, Braintree, MA 02184. A \$40 processing fee (no personal checks), driver's license and a copy of your birth certificate must be submitted with the application. Completed applications must be returned to the Personnel Dept. no later than 4:30 p.m. on February 2 2007.

-Christmas Tree pickup will be conducted by Waste Management for two weeks the same day as trash pickup. January 8th through January 12th; January 16th through January 20th; no pickup January 15th due to holiday. Trees must be curbside by 7:00 a.m. After these dates, residents must dispose of trees at the Plain Street Cemetery Compost site Wednesday through Sunday 7:30 a.m. to 12:00 p.m. and 1 p.m. to 3 p.m. until January 31st, 2007 when the site closes for the season. For more information contact Waste Management at 1-800-262-5633 or after 5 p.m. 508-337-1287; or the Highway Dept. at 781-794-8950.

-the Braintree Police and Highway Dept. wish to remind all residents there is no on street or sidewalk parking during all snow emergencies. Any snowfall results in a snow emergency, in which a parking ban is in effect immediately. Violators will be subject to fines, as well as towing at owner's expense. Also, please be aware that snow blowing, shoveling or otherwise dispensing snow, water or any other debris onto the public way is a violation of Town ByLaws and violators will be subject to fines.

-the Braintree Alliance for Safe and Healthy Youth will be holding a meeting on Wednesday, January 17, 2007 at 3:00 p.m. at the Braintree High School Media Center Round Tables. Future scheduled meetings are: March 21, 2007 and May 16, 2007. For more information contact Paula Dowd, Coordinator of Nursing Services at 781-848-4000 x2224 or Katy Welch, Director of Health and Family and Consumer Sciences at x2235.

-The Town of Braintree will hold a no-limit public auction of tax passion possession properties on Saturday, January 20, 2007, at 10:00 a.m. Sale will be held in the auditorium of the Braintree Town Hall, One JFK Memorial Drive. For more information call 781-794-8114 or www.braintreema.gov/finance/auction.pdf

APPROVAL OF MINUTES:

MOTION: by Mr. Hubbard to approve the minutes of December 18, 2006

SECOND: by Mr. Kokoros

UNANIMOUSLY VOTED

MOTION: by Mr. Hubbard to approve the Executive Session minutes of June 26, 2006
SECOND: by Mr. Kokoros
UNANIMOUSLY VOTED

MOTION: by Mr. Hubbard to approve the Executive Session minutes of July 24, 2006
SECOND: by Mr. Kokoros
UNANIMOUSLY VOTED

MOTION: by Mr. Hubbard to approve the Executive Session minutes of August 14, 2006
SECOND: by Mr. Kokoros
VOTE: 4:0:1 (abstaining; Mr. Powers)

MOTION: by Mr. Hubbard to approve the Executive Session minutes of August 28, 2006
SECOND: by Mr. Kokoros
VOTE: 4:0:1 (abstaining; Mr. Powers)

MOTION: by Mr. Hubbard to approve the Executive Session minutes of September 25, 2006
SECOND: by Mr. Kokoros
UNANIMOUSLY VOTED

NEW BUSINESS:

RE: Introduction of new Library Director, Elizabeth Wolfe

IN ATTENDANCE: Edith Weinberg, Chairman of the Trustees of the Thayer Public Library

The Board was introduced to Ms. Wolfe and wished her will in her new position.

RE: Close the Warrant for the Special Town Meeting – February 12, 2007

Article 1 To see if the Town will transfer from available funds a sum of money to supplement monies previously appropriated under Article 4 of the May 2006 Annual Town Meeting for Fiscal Year 2007 departmental budgets, or take any other action relative thereto.

Article 2 To see if the Town will transfer from available funds a sum of money to meet the payment of certain bills incurred prior to July 1, 2006, that were a) unpaid bills in excess of appropriation; and b) unpaid bills not in excess of appropriation, or take any other action relative thereto.

Article 3 BY THE FIRE DEPARTMENT – To see if the Town will transfer or borrow a sum of money to enter into a ten year lease/purchase agreement to replace a pumping engine, or take another action relative thereto.

IN ATTENDANCE: Deputy Chief Ken McHugh

Deputy Chief McHugh explained that they were seeking to enter into a ten year lease at \$50,000 per fiscal year to replace a pumping engine. The engine to be replaced has a cracked frame. The engine is 17 years old and estimated cost to repair is \$75,000 to \$200,000. This engine is a heavily used piece of equipment.

Article 4 BY THE DEPARTMENT OF PUBLIC WORKS, HIGHWAY DIVISION – To see if the Town will transfer from available funds or borrow a sum of money to enter into a ten year lease/purchase agreement to replace a 310 backhoe used for burials, or take any other action relative thereto.

IN ATTENDANCE: **Richard Grey, Highway Superintendent**

Mr. Grey introduced the new Cemetery Superintendent, Walter Sullivan to the Board.

Mr. Grey advised that they were asking to replace a 1994 John Deere 310D backhoe/loader at an estimated cost of \$80,000. This machine is used on a daily basis for excavating graves, developing and

maintenance of all four Town Cemeteries. It is in dire need of several costly repairs. The current machine is 13 years old and in addition to costly repairs, it has now also become an employee safety issue. There are distinct possibilities of personal injury or even death in its current condition. The current approximate cost for repairs is \$25,000; the approximate value of the machine is only \$10,000.

Article 5 BY THE BRAINTREE ELECTRIC LIGHT DEPARTMENT -

Ms. Kay advised that these lots were already approved by Town Meeting and that this was just housekeeping.

Article 6 BY THE PARKS AND RECREATION DEPARTMENT – To see if the Town will vote to petition the General Court for special legislation to amend Ch. 189 of the Acts of 2005, An Act Establishing a Mayor/Town Council for the Town of Braintree for the purpose of removing the Parks and Recreation Dept. from under the jurisdiction of the Dept. of Public Works, or take any other action relative thereto.

IN ATTENDANCE: William Hedlund, Superintendent of Parks/Recreation

Mr. Hedlund explained to the Board that the Board of Parks and Playgrounds Commission at their recent meeting voted to seek a warrant article for the February 12, 2007 Special Town Meeting. The purpose of this warrant article request is to seek a Town Meeting vote of support for the filing of a Home Rule Petition with the Massachusetts General Court that would amend the Town of Braintree “Mayor/Town Council Charter” government structure. It is the Commission’s view that parks, recreation, school facility maintenance, golf course and summer programming should not become part of the local dept. of public works for numerous observations. The Commission believes that it would best serve the interests of the citizen taxpayers of the Town of Braintree to exempt the current operations of the Braintree Parks and Recreation Dept. from being absorbed into the Dept. of Public Works modeled after the Town of Weymouth’s relatively new government. Instead, the Commissioners are in agreement that the proven more effective government models existing in the Cities of Newton and Quincy among others, would better reflect how our services are to be provided under the new form of government that takes effect January 2, 2008.

Mr. Powers questioned the timing of this article. Why is this being requested now? What is being asked at this late stage; it does not seem appropriate at this time. We are well over two years from the discussion and completion of the Charter. Although, he appreciates where this is coming from; he appreciates the dedication of the Parks/Playgrounds Board, however it is not appropriate at this time.

Chairman Ryan explained that it was 7:35 p.m. and there was public hearing scheduled for 7:30 p.m. It was noted that the public hearing would be opened and completed and then the Board could go back to further discuss this matter.

RE: PUBLIC HEARING: Request for a Wine & Malt Package Store License for Sun Retail, Inc. d/b/a Luke’s Convenience Store located at 411 Pond Street

IN ATTENDANCE: Jon Aieta, Esq.; Guy Labate; Christopher Asirvatham

MOTION: by Mr. Kokoros to open the public hearing

SECOND: by Mr. Hubbard

UNANIMOUSLY VOTED

The Board received an application from Sun Retail, Inc. d/b/a Luke’s Convenience Store for a Wine and Malt Package Store License located at 411 Pond Street to be exercised on the premises consisting of a

one story, 1600 sqft. wood framed building containing one main front entrance/exit, a walk in cooler, front counter and shelving within the premises.

The Board received memos from: the Police Dept. (recommending favorable action on the issuance of the license); Fire Dept. (no objections); Building Dept. (after receiving a number of complaints from residents re: tractor trailers backing out onto Pond Street and other related issues with traffic conveyance at this site, it is the opinion of this Dept. that no approval for a Wine/Malt License should be granted. Further, the abutting land is Zoned Business B and is made up of single and multi-family homes; there is a day care center within 300' of the parking area; and both Granite and Pond Street are already heavily traveled areas so any traffic increase would definitely be detrimental to the surrounding neighborhood. In addition, within less than a mile from the referenced location there are already two full service liquor stores and one convenience store with beer and wine so the need for additional availability in the area is unnecessary.); Board of Health (The current food establishment and tobacco sales permits issued by this dept. for the referenced establishment identify the current establishment owner as Joppu Lukose. If a transfer or ownership has/will occur at this establishment, the applicant must immediately contact this dept. re: compliance with rules and regs.); Planning Board (unanimously voted to recommend denial. The site is within 500' of BASE).

Atty. Aieta explained that the applicants are currently TIPS certified, as well as current employees and that any future employees will also be required to be certified. They will have a small selection of wine and such that has been requested by their current patrons. They do not expect a large increase in business due to the granting of the license. However they are trying to offer convenience for their existing clientele.

The Board received from Atty. Aieta a web page printout of BASE and what it is. BASE (Braintree After School Enrichment) is a quality school aged child care program located in Braintree. They provide children, preschool through grade 7 with the opportunity to play and learn in a safe and caring environment. Also provided was a copy of the MGL Ch. 138, Sec. 16C re: licenses for premises near schools or churches.

Atty. Aieta advised that although the establishment was within 500' from BASE, it was not a school, but a child care center and should not negatively impact this application. He has met with the Building Inspector and the site is properly zoned for this type of business. The applicants use box trucks for deliveries; the larger tractor trailer trucks may be coming or going to the industrial parks nearby.

Mr. Hubbard stated that he was concerned with the additional traffic this license will create. This license will expand the business from this store, which is what the business wants. This establishment is located in a horrible intersection as it is, and this business is in the middle of it and by granting this license would only be adding more traffic. Also, he is concerned with the delivery trucks. There is no good time for deliveries to this site.

Atty. Aieta stated that the products would be segregated within the store; they have a need by their existing clientele. They do not want to lose business to the other convenience stores because they do not offer liquor. The existing store is not a large store, they will have limited offerings due to the size of the store, and they have adequate parking for the existing store. Also, the delivery trucks are mostly box trucks that park in the side bays that are used for deliveries only and do not interfere with customers coming and going.

Mr. Powers stated that he would debate the fact that BASE is not a school. It is irrelevant as it is filled throughout the day with all ages of children. Convenience stores should not be liquor stores. BASE may not be a school, however the area is zoned Residential B and the building is filled with children.

Barbara Smith, a resident of River Bend (an abutter) spoke against the license and added that the store is so close to BASE and the children. Also, the traffic is terrible and the litter that this will create from those tossing out their trash. She does not feel that this would be a safe environment for the children in this area.

MOTION: by Mr. Kokoros to close the public hearing
SECOND: by Mr. Hubbard
UNANIMOUSLY VOTED

MOTION: by Mr. Kokoros to deny the request for a Wine and Malt Package Store License for Sun Retail, Inc. d/b/a Luke's Convenience Store located at 411 Pond Street based on recommendations of staff and comments made this evening
SECOND: by Mr. Hubbard
UNANIMOUSLY VOTED

(cont) Article 6 BY THE PARKS AND RECREATION DEPARTMENT – To see if the Town will vote to petition the General Court for special legislation to amend Ch. 189 of the Acts of 2005, An Act Establishing a Mayor/Town Council for the Town of Braintree for the purpose of removing the Parks and Recreation Dept. from under the jurisdiction of the Dept. of Public Works, or take any other action relative thereto.

IN ATTENDANCE: William Hedlund, Superintendent of Parks/Recreation

Mr. Hedlund advised that it was late in 2006 that he realized that the Park/Playgrounds would be brought into the DPW. He was not aware that they would be affected in this fashion. He did not attend any of the Charter meetings or speak with any Charter members during the research of the Town's charter. He would ask that the BOS put this on the warrant so that the Town Meeting members are allowed to hear a full presentation and can make the ultimate decision re: this matter.

Mr. Kokoros stated that he would like to allow Town Meeting to hear the argument re: this. He was on the Parks/Playgrounds Board back when the DPW was formed and he remembers why the Parks/Playgrounds was not put under the DPW at that time. Out of respect to Mr. Hedlund, he would like to allow Town Meeting to decide on this rather than the BOS.

Mr. Hubbard stated that the Charter Commission did try to reach out to everybody, residents, employees, everyone – to come in and speak their thoughts in order that they be able to make an intelligent decision re: the drafting of the Charter. Why at this eleventh hour? Why not at a 2005 Town Meeting when this was voted on by the voters for this type of government. This was before the voters and the voters decided on this Charter as presented. The time for this change was a year ago, not now.

Kevin Houchin spoke re: the Charter drafting and advised that the Charter has been drafted to be changed and amended. The Mayor can amend this Charter and create a Parks/Playgrounds in its own merit. Doing this change now could confuse the voters, and as this is a change to the Charter it may not go very smoothly through the state due to the recent change in the government.

Paul O'Rielly added that the Charter Commission did not directly request input from the Depts. They held about 20 public meetings that were open to the public for public comment. He finds it hard to believe that anyone was not aware of the progress. This is come before the BOS for a warrant article for an emergency Special Town Meeting; when it is not of an emergency nature. Why was this not brought forward at the May, 2006 Annual Town Meeting, October, 2006 Special Town Meeting and now it is being brought forward for the emergency Special Town Meeting in February, 2007. Why?

MOTION: by Mr. Kokoros to accept Articles 1 through 5 to be put on the warrant for the Special Town Meeting to be held February 12, 2007
SECOND: by Mr. Hubbard
UNANIMOUSLY VOTED

MOTION: by Mr. Kokoros to accept Article 6
NO SECOND BY THE BOARD

MOTION: by Mr. Hubbard to close the warrant for the Special Town Meeting to be held February 12, 2007
SECOND: by Mr. Powers
UNANIMOUSLY VOTED

RE: Open the Warrant for the Annual Town Meeting – beginning May 7, 2007

MOTION: by Mr. Hubbard to open the Warrant for the May 7, 2007 Annual Town Meeting
SECOND: by Mr. Kokoros
UNANIMOUSLY VOTED

Mr. Kokoros asked that an article be placed on the warrant for streets acceptances.

RE: Request for a Common Victualler License for Rosie's Pizza, 305 Pond Street

Ms. Kay advised that it has been requested by the applicant for this matter to be tabled.

MOTION: by Mr. Hubbard to table this matter as requested by applicant
SECOND: by Mr. Powers
UNANIMOUSLY VOTED

RE: Set a date for the Annual Budget Hearing

MOTION: by Mr. Kokoros to set the date for the annual budget hearing for Friday, February 2, 2007
SECOND: by Mr. Hubbard
UNANIMOUSLY VOTED

RE: Request by the Dept. of Planning & Conservation to accept a gift check from the Flatley Co. in the amount of \$30,000 (Rockdale Street Office Building)

The Board received a memo from Peter Lapolla, Director of Planning and Conservation advising that on February 20, 2001, the Planning Board approved construction of an office building on Rockdale Street. Under Condition #76, the applicant was to contribute the sum of \$30,000 to help fund the development or implementation of a traffic improvement plan.

MOTION: by Mr. Hubbard to accept a gift check from the Flatley Co. in the amount of \$30,000 (Rockdale Street Office Building) as requested by the Dept. of Planning & Conservation
SECOND: by Mr. Kokoros
UNANIMOUSLY VOTED

RE: Discussion: Grease Treatment Program Contract

IN ATTENDANCE: Tom Whalen, DPW Director

Mr. Whalen advised that a contract was put out for rebid for the Internal Grease Treatment Program used in municipal buildings. After rebidding there remained several questions from the bidders. These concerns created numerous addendums to the bid documents. It has also created a protest by one of the bidders.

Ms. Murray advised the Board that they had three options: reject all bids; rebid; award the contract to one of the bidders. There were three bids received: Nature's Whey (\$23,650.50); Suburban Waste Services (\$24,697.50); Global (\$14,225).

MOTION: by Mr. Hubbard to award the contract to Global in the amount of \$14,225 based a finding that Nature's Whey bid was not properly acknowledging the addendum or the bid
SECOND: by Mr. Kokoros
UNANIMOUSLY VOTED

OTHER BUSINESS:

Mr. Kokoros asked that a letter be sent to the new Governor to request funds to refill the police, fire and school positions that we lost previously; as well as much needed capital funding.

Mr. Powers also asked to be added to the wish list, funding for school building assistance fund that it be continued and to also sustain support of the Massachusetts Preservation Fund.

It was requested changing the next meeting date from January 22, 2007 to January 29, 2007.

Chairman Ryan recused himself and left the meeting

RE: Executive Session

MOTION: by Mr. Kokoros to go into Executive Session to discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the government's bargaining or litigating position. Also, to conduct strategy sessions in preparation for negotiations with non-union personnel; to actually conduct collective bargaining and contract negotiations with non-union personnel.

SECOND: by Mr. Hubbard

ROLL CALL VOTE: 4:0 (Mr. Hubbard; Mr. Powers; Mr. Kokoros; Mr. McAuliffe)

MOTION: by Mr. Kokoros to come out of Executive Session to adjourn

SECOND: by Mr. Hubbard

ROLL CALL VOTE: 4:0 (Mr. Hubbard; Mr. Kokoros; Mr. McAuliffe; Mr. Powers)

It was unanimously voted to adjourn the meeting at 9:25 p.m.

Respectfully submitted,
Deborah Carlino
Recording Secretary