

**BRAINTREE BOARD OF SELECTMEN**

**MINUTES**

**March 26, 2007**

Regular meeting of the Braintree Board of Selectmen, held on Monday, March 26, 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); Commission on Disabilities (1 vacancy).

-The compost site at the Plain Street Cemetery will open for the season on Wednesday, April 4, 2007. Site Hours: Wed thru Sun: 7:30 a.m. to 12 p.m. and 1 to 3 p.m. Closed Mondays, Tuesdays and Holidays. Permits are required: residential stickers (781) 794-8200; landscaping permits (781) 794-8950.

**APPROVAL OF MINUTES:**

MOTION: by Mr. Hubbard to approve the minutes of March 12, 2007

SECOND: by Mr. Powers

UNANIMOUSLY VOTED

**NEW BUSINESS:**

**RE: Request from Commission on Disabilities to Use Handicapped Parking Fines Fund for:**

**-Remodeling of the Council on Aging Restrooms (\$2000)**

**-To Enhance Police Dept. Computer Dispatch System (\$6500)**

IN ATTENDANCE: Sean Powers; Bill Greco; Deputy Police Chief Kevin McHugh; Sharmila , Council on Aging Director

The Commission on Disabilities is requesting \$2000 from the Handicapped Parking Fines Fund for the Council on Aging for the purpose of augmenting funds needed for the remodeling of the restrooms to create handicapped accessible facilities.

MOTION: by Mr. Hubbard to approve the expenditure of \$2000 for the Council on Aging remodeling of the restrooms with the funds to come from the Commission on Disabilities handicapped parking fund

SECOND: by Mr. McAuliffe

UNANIMOUSLY VOTED

Further, the Commission voted to allocate \$6500 from this fund to enhance the Braintree Police Dept.'s computer dispatch system that would allow the dispatcher to inform residents and allow police, fire and EMS to be aware that there is a disabled or handicapped person at the location of the call.

MOTION: by Mr. McAuliffe to approve the expenditure of \$6500 for the Police Dept's computer dispatch system with the funds to come from the Commission on Disabilities handicapped parking fund  
SECOND: by Mr. Kokoros  
UNANIMOUSLY VOTED

**RE: Request for Approval of Keyspan Energy Petition – Hoover Avenue**

IN ATTENDANCE: Francis O'Leary

The Board received a request from Keyspan Energy for a petition to install and maintain approximately 275', more or less, of 2" gas main in Hoover Avenue from the existing 2" gas main in Logan Road southerly to the existing 2" gas main in Hoover Avenue at Saint Michael Road all of which is to replace the existing 2" gas main which is to be abandoned.

The Board received memos from: Engineering Dept. (no objection); Highway Dept. (no objections); Water/Sewer Dept. (no objection as long as the gas main is at least 3' distant, horizontally, from the existing water and sewer mains. Also, they ask that they be required to schedule a pre-construction meeting to discuss and confirm the final location of the main); BELD (no objection).

MOTION: by Mr. Kokoros to approve the request subject to staff's recommendations  
SECOND: by Mr. Hubbard

**DISCUSSION:**

Mr. McAuliffe asked re: the work being done at the intersection of Route 37 and Peach Street. There are a number of residents that are complaining about taking a left turn onto Peach Street when heading south on Route 37. It is requested that this work be expedited if possible.

UNANIMOUSLY VOTED

**RE: Update from Charles Ryan, Chairman**

The Board had a brief ceremony honoring the accomplishments of Mr. Hubbard, as this would be his last meeting as a Selectman. Also present was Rep. Joseph Driscoll who spoke on Mr. Hubbard's behalf.

**Whereas there was a brief recess**

**RE: PUBLIC HEARING: Request from 906 Inc. d/b/a Sintra Restaurant to Alter Premises**

IN ATTENDANCE: Frank Marinelli, Esq.; Scott McGoldrick

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

The Board received an application from 906 Inc. d/b/a Sintra Restaurant to alter the licensed premises at 906 Washington Street to wit: increase the restaurant by approximately 722 sqft. To their existing 1567 sqft. For a total gross area of 2289 sqft. And to increase the total seating to 51 seats.

The Board received memos from: Police Dept. (recommend favorable action); Fire Dept. (no objections; life safety issues will be dealt with through construction plans); Building Dept. (no objections; further, the Zoning Board of Appeals has already approved this application so they are confident that all parking and code requirements have been addressed); Board of Health (no objection); Planning Board (recommended favorably because the alteration of the space does not increase the parking requirements with a condition that all applicable permits are obtained prior to the commencement of construction for the expansion); Water/Sewer Dept. (no objection; the restaurant owner has previously installed grease treatment so he is compliant with that requirement).

Mr. Marinelli advised that the hours of operation would remain the same.

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

MOTION: by Mr. McAuliffe to approve as recommended by Staff  
SECOND: by Mr. Hubbard  
UNANIMOUSLY VOTED

**RE: Discussion with Cook & Co. – Health Ins. Rates**

IN ATTENDANCE: Peter Kenny of Cook & Co.

Mr. Kenny presented the Board with an updated sheet showing the insurance rates for the upcoming year. (see “Braintree Fiscal Year 2008 for period 7/1/07 through 6/30/08”)

Ms. Kay advised that they met with the Health Insurance Committee and that they were concerned with the rates and percentage increase. There is discussion re: increasing the employee’s co-pays being increased from \$5 to \$10 to help offset the expenses.

MOTION: by Mr. Hubbard to set the rates as presented by Cook & Co. (see attached)  
SECOND: by Mr. Powers  
UNANIMOUSLY VOTED

**RE: CONTINUED PUBLIC HEARING: Request from 777 Auto, 1563 Washington Street for a Class II License and 18 Vehicle Storage**

IN ATTENDANCE: Michael Modestino, Esq.; Svetlin Popov; Hristo Grozdanov

MOTION: by Mr. Hubbard to take this matter off the table  
SECOND: by Mr. Kokoros  
UNANIMOUSLY VOTED

The Board received an application from Svetlin Metodiev Popov and Hristo Georgiev Grozdanov requesting a Class II License with 18 vehicle storage for the proposed facility 777 Auto located at 1561 Washington Street previously operated as Old Colony Auto Sales.

The Board received a memo from: Annette McLaughlin advising that the one adverse observation from the Planning Board who voted to recommend denial of this license application was a vote contrary to its own staff’s recommendation who commented favorably for this new applicant. There are no other departmental recommend denials of this license application. There is a brief history of past Class II auto sales business activity at this location: Old Colony Auto Sales 2003-2006; Highland Auto Sales 1993-2003; Tom E’s Auto Sales 1990-1993; L&W Auto Sales 1988-1989; Harold Furlani Auto Sales. Despite there being multiple license holders who’ve attempted to develop a successful used auto sales business at this location, there is no reason apparent why this license should be denied to this applicant. Also, from the Police Dept. (recommending favorable action); Fire Dept. (no objection as long as vehicles are parked in the designated areas); Building Dept. (no objections as per the plans dated 9/16/03 for this location as long as the unregistered vehicle and office furniture being stored on the property are removed prior to issuance by the BOS. In addition, no outside repairs of vehicles and storage of any vehicle parts will be allowed); Planning Board 4-1-0 to recommend denial based on the finding that this property is not a good location for this quantity of vehicles).

Atty. Modestino advised that they were seeking the same usage as past owners have done for over 20 years. One of the applications is a website designer and there business plan entails marketing and sales of used vehicles over the internet. They intend to advertise the sale of vehicles in local newspaper and automotive trade publications as well. Both applicants have full time employment elsewhere and both

have been employed as part-time sales associates for Payless Auto in Methuen. The applicants plan to operate the business from 8 a.m. to 8 p.m. six days a week. In the winter this may be adjusted to 8 a.m. to 6 p.m. when business is slower. There will only be one partner on duty at a given time. The applicants have signed three year lease for the property with the property owner, John O'Rourke, Trustees of the Barber Shop Trust commencing on March 1, 2007. They anticipate selling used vehicles in the \$5000 to \$10,000 range. Further, they do not plan on a lot of walk in business based upon the nature of the marketing they plan to pursue. They believe that five walk-in customers a day will be the average and generally only 1-2 at a time. It will take 30-45 days to fill up the vehicle inventory on the lot. They anticipate that once sales have been generated, they generally will have fewer than eighteen vehicles on the lot at any given time. The applicant's landlord, Mr. O'Rourke, also operates a barbershop from the premises. His hours of operation are Monday, Tuesday, Thursday, Friday and Saturday from 8 a.m. to 2 p.m. He sometimes goes home early if business is slow. He also takes winter vacations to Florida on a regular basis. He contends that he has usually no more than 5-6 customers a day and around 25 per week. He employs no other barbers and does not cut children's hair. He usually has only one customer in a chair and a maximum of one waiting if at all. The property owner and the applicants have agreed to place markers on the pavement directing vehicular traffic in a one way manner into the entrance on the side of the used car lot and exiting near the entrance to the barber shop. There will be safe and adequate space for passage of vehicular traffic and emergency vehicles in the parking lot. Given the size of the lot 13,800 sqft. There should be more than adequate room for the 18 used vehicles, customer parking and employee parking for the two businesses involved.

Mr. McAuliffe would like to table this matter to the next meeting as he is the liaison to the Planning Board and would like to find out why they voted to deny this applicant. He would like time to meet with the Planning Board Chairman re: the two denials and the reasons for same.

MOTION: by Mr. McAuliffe to table this matter to April 9<sup>th</sup>, 2007  
SECOND: by Mr. Kokoros  
VOTE: 3:2 (against: Mr. Powers; Mr. Hubbard)

**RE: Request from Police Dept. for Approval of Contract – MHQ (1 Vehicle \$27,543)**

MOTION: by Mr. Kokoros to approve the contract to MHQ in the amount of \$27,543  
SECOND: by Mr. Hubbard  
UNANIMOUSLY VOTED

**RE: Interview and Appoint New Constable for 3 year term – Daniel McNamara**

MOTION: by Mr. McAuliffe to appoint Daniel McNamara as a Constable for a 3 year term  
SECOND: by Mr. Hubbard  
VOTE: 4:0:1 (abstaining: Mr. Kokoros)

**RE: Award Bid for Front End Backhoe Loader for Cemetery Dept.**

The Board received a memo advising that there were three bidders for one backhoe/loader for the Cemetery Dept. on a four year lease. The bidders were: Schmidt Equipment (\$17,168.84 annually for 4 years); South-Worth Milton Caterpillar (\$67,000); Casey & Dupuis (\$18,155 annually for four years). It is recommended that the Board award the bid to Schmidt as they were the lowest responsive and responsible bidder.

MOTION: by Mr. McAuliffe to award the bid for the front end backhoe loader for the Cemetery Dept. to Schmidt Equipment in the amount of \$17,168.84 annually for four years  
SECOND: by Mr. Hubbard  
VOTE: 4:1 (against: Mr. Kokoros)

**RE: Take Position: Annual Town Meeting Articles  
Article 7- BOS 53<sup>rd</sup> week pay period  
Article 23 – Water/Sewer – replace water mains**

**-Article 7- BOS 53<sup>rd</sup> week pay period**

MOTION: by Mr. McAuliffe to recommend favorable action  
SECOND: by Mr. Hubbard  
VOTE: 4:1 (against: Mr. Powers)

**- Article 23 – Water/Sewer – replace water mains**

MOTION: by Mr. McAuliffe to recommend favorable action  
SECOND: by Mr. Hubbard  
UNANIMOUSLY VOTED

**RE: Vote Approval of Activities and Use Limitation on BELD Property**

Mr. Kokoros advised that we tabled this matter at the last meeting as we were waiting on the status of funds from Citgo.

Ms. Kay advised that she spoke with BELD and they are waiting for the money to be transferred.

MOTION: by Mr. Powers to approve and sign the Notice of Activity and Use Limitation as presented  
SECOND: by Mr. Hubbard

**DISCUSSION:**

Mr. Powers stated that this was a very important document that needed to be signed in order to protect our neighbors as well as the Town. We should not connect other issues to this agreement.

Mr. Kokoros stated that we have not received the funds that are due and we should not sign this agreement until that money is received. There is no one present from BELD this evening and he is not comfortable voting on this this evening.

Ms. Kay advised that she has spoken with the Financial Director at BELD and that they were waiting on the finalization of the transfer of funds from Citgo.

Ms. Murray advised that she spoke with Kathleen O'Donnell who has been handling the negotiation of this matter and it was noted that once this document was signed, the remainder of the funds would be forwarded to BELD and thereafter Town Hall.

MOTION: by Mr. McAuliffe to table this matter to our April 9th meeting  
SECOND: by Mr. Kokoros  
VOTE: 2:3 (against: Mr. Ryan; Mr. Powers; Mr. Hubbard)

**AMENDMENT:**

MOTION: by Mr. Kokoros that the Board will sign document, however, Town Counsel will hold said document until the funds have been received  
SECOND: by Mr. Hubbard  
VOTE: 4:1 (against: Mr. McAuliffe)

MAIN MOTION: VOTE: 4:1 (against: Mr. McAuliffe)

**RE: Request for Approval for the Friends of the Library to Assign the Purchase and Sales Agreement to the Board of Selectmen**

Ms. Murray advised that the Library Trustees are looking to purchase 816 Washington Street in order to expand the parking for the library. The Friends of the Library have to assign the right to the Board of Selectmen so that the BOS can purchase the property. The Friends will be providing a large sum to the

Town for the purchase of the property with the remainder coming from a state grant. All the funding sources are in place.

MOTION: by Mr. Powers to approve as requested  
SECOND: by Mr. Hubbard  
UNANIMOUSLY VOTED

**RE: Vote to Appoint Melissa Santucci as the Alternate Representative to the MAPC-Metropolitan Area Planning Council**

Ms. Kay advised that the Planning Board Chairman, Ron DiNapoli has recommended this for approval.

MOTION: by Mr. Hubbard to move approval  
SECOND: by Mr. Powers  
UNANIMOUSLY VOTED

**RE: Reserve Fund Transfer Request from Executive Secretary for Building Permit Software**

MOTION: by Mr. Kokoros to approve the reserve fund transfer request in the amount of \$2900  
SECOND: by Mr. Hubbard  
UNANIMOUSLY VOTED

**RE: Vote Appointment to Fill Vacancy on Transition Committee**

MOTION: by Mr. McAuliffe to appoint Robert Galewski, the Building Inspector to the Transition Committee  
SECOND: by Mr. Hubbard  
UNANIMOUSLY VOTED

**RE: Reappointments:**

- David Littlewood – Inspector of Animals (1 year term)
- Michael Higgins – Community Preservation Committee (3 year term)
- Roger Whitcomb – Constable (3 year term)

MOTION: by Mr. McAuliffe to reappoint David Littlewood – Inspector of Animals (1 year term)  
SECOND: by Mr. Hubbard  
UNANIMOUSLY VOTED

MOTION: by Mr. Powers to reappoint Michael Higgins – Community Preservation Committee (3 year term)  
SECOND: by Mr. Hubbard  
UNANIMOUSLY VOTED

MOTION: by Mr. Hubbard to reappoint Roger Whitcomb – Constable (3 year term)  
SECOND: by Mr. McAuliffe  
VOTE: 4:0:1 (abstaining: Mr. Kokoros)

**Chairman Ryan recused himself from this matter and left the meeting**

**RE: Vote to Support MWRA Advisory Board Resolution**

The Board received a Resolution in Support of Restoring the 40% cut in the FY08 Commonwealth Sewer Rate Relief Fund as follows:

Whereas, the Commonwealth Sewer Rate Relief Fund is a statewide program, providing over \$60 million to 140 communities throughout the Commonwealth at its peak in 2002 and funded at \$25 million in FY07; and,

Whereas, Governor Patrick cut 40% of the Sewer Rate Relief Fund in the FY08 budget reducing the line item from \$25 million to \$15 million; and

Whereas, the state has continued its commitment to other wastewater relief projects such as the Septic System Repair Tax Credit, which costs approximately \$20 million annually and provides a 40% tax credit up to \$6000 over four years for repair or replacement for 15,000 septic users; and  
Whereas, 2.5 million ratepayers in the MWRA Service Area annually pay the debt on over \$6.4 billion in capital projects, including the Boston Harbor cleanup and other infrastructure projects; and  
Whereas, the payments on debt on these capital projects represent nearly 60% of the Massachusetts Water Resources Authority's operating budget; and,  
Whereas, absent the Sewer Rate Relief fund, rate revenue requirements for MWRA communities are estimated in increase from FY07 to FY13 by over \$271 million; and,  
Whereas, homeowners in the MWRA system already pay some of the highest rates in the nation;  
And Whereas, a 2004 affordability analysis found rates in the MWRA service area present a substantial social and economic burden to homeowners and are threatening the economic viability of the region;  
Therefore be it resolved, that the Town of Braintree requests that the Governor and Legislature at a minimum restore the 40% cut to the Commonwealth Sewer Rate Relief Fund providing at least \$25 million to offset water and sewer rates in FY08.

MOTION: by Mr. McAuliffe to support the MWRA Advisory Board Resolution as read  
SECOND: by Mr. Powers  
UNANIMOUSLY VOTED

**Chairman Ryan returned to the meeting**

**RE: Update from DPW Director – Trash Program and Collections**

IN ATTENDANCE: Tom Whalen, DPW Director

Mr. Whalen provided an update re: the circumstances and difficulties the Dept. of Public Works has experienced since the inception of the trash fee program. The DPW has recently hired an independent auditor to review and reconcile the delinquent accounts for fiscal years 2004 and 2005. We believe the accounts for the years 2006 and 2007 do not need to be audited as the Dept. has a good handle on them. The auditor has reviewed approximately 80% of the accounts for the years 2004 and 2005. There were over 9000 accounts in the Town then. At this time, the audit has revealed that the Town is owed \$41,204 for 2004 and \$61,815 for 2005. The Dept. has determined that for 2006, the outstanding collection is \$12,573.

Further, in FY07, the DPW instituted a separate billing system through Data National. This system appears to be working well. To date, the total of delinquent accounts owed to the Town in the current year is \$34,275. This is representing an additional 1000 accounts over last year. Separating trash billing from the water and sewer bills eliminated many of the problems and trash collections are not part of the Data National financial system of the Town.

Attempts to implement penalties to these accounts who have not paid repeatedly and identification of the "Opt Out" residents for the trash handlers have been negatively received by a number of residents. This is due to the amount of work associated and the lack of staff to assist in the oversight. Mistakes have been made. This is currently true in the case of the situation involving Thomas and Colleen McDonnell. The Dept. apologizes for the inconvenience caused by our lack of effective communication and we appreciate Mr. and Mrs. McDonnell's patience in this matter. The "NTS" marker system will not be utilized to identify the accounts in the future. Town Counsel has notified the Dept. that we have the right to lien the property of the delinquent accounts and we will follow that policy.

Several of the Board members apologized to Mr. and Mrs. McDonnell as well for any embarrassment that they may have received.

**OTHER BUSINESS:**

**RE: Take Position: Annual Town Meeting Articles  
Article 22 – Bra/Wey Recreation**

MOTION: by Mr. Hubbard to recommend favorable action

SECOND: by Mr. Kokoros  
UNANIMOUSLY VOTED

Mr. Kokoros wanted to ask the Executive Secretary to notify the necessary Dept. re: the spraying of mosquitoes in the area. There are a number of ball fields and we need to stay on top of this safety issue.

**RE: Vote to lay out following streets as public ways: Christina Drive, Foxhill Drive, Oak Ledge Drive, and Forbes Road from its intersection with Grandview Road, southwesterly to the Forbes/Brooks Connector and the Brooks Drive southwesterly, easterly and southerly to its intersection with West Street**

MOTION: by Mr. Kokoros to recommend favorable action

SECOND: by Mr. Hubbard  
UNANIMOUSLY VOTED

**Chairman Ryan recused himself from this matter and left the meeting**

**RE: Executive Session**

MOTION: by Mr. Kokoros to go into Executive Session to consider the purchase, exchange, taking, lease or value of real property if such discussion may have a detrimental effect on the negotiating position of the governmental body.

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. Powers; Mr. Kokoros; Mr. McAuliffe)

It was unanimously voted to adjourn the meeting at 10:25 p.m.

Respectfully submitted,  
Deborah Carlino  
Recording Secretary