

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

MAY 30, 2017

MINUTES

The **Annual Town Meeting** of the Town Council, was held in the Cahill Auditorium, Braintree Town Hall, on Tuesday, May 30, 2017 beginning at 7:04p.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: Joseph C. Sullivan, Mayor
Joseph Reynolds, Chief of Staff
Ed Spellman, Finance Director
Lisa Maki, Town Solicitor
Paul Shastany, Police Chief
James O'Brien, Fire Chief
Karen Shanley, Human Resource Director
James Arsenault, DPW Director
Christine Stickney, Planning & Community Development Director
Marybeth McGrath, Municipal Licenses & Inspections Director
Frank Hackett, School Superintendent
Sharmila Biswas, Elder Affairs Director
James Casey, Town Clerk
Jeffrey Kunz, Trash & Recycling Director
Dan Sullivan, Town Auditor
Mike Wilcox, Braintree Chamber of Commerce
Kimberly Bielan, Moriarty Troyer & Malloy LLC

ANNOUNCEMENTS

- 038 17 Braintree Chamber of Commerce: Pizza Palooza, June 27th 5-7:30pm BRAINTREES4TH.ORG to purchase tix. Mike Wilcox stated never did we think this would be this popular. We have had to limit ticket sales to 2,000 tickets. They are \$7 per person. No tickets will be sold at the door. A second website is SouthShoreChamber.org for tickets.
- Community Inclusion Awards – Councilor Bowes thanked the committee and congratulated those who received these awards.

APPROVAL OF MINUTES

- April 25, 2017

Motion: by Councilor Ryan to Approve minutes of April 25, 2017

Second: by Councilor Bowes

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

- May 2, 2017

Motion: by Councilor Ryan to Approve minutes of May 2, 2017

Second: by Councilor Bowes

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

OLD BUSINESS

- 17 027 Mayor: FY2018 Operating Budget or take up any action relative thereto (PUBLIC HEARING)
Motion by Councilor Ryan to Open Public Hearing for Order 17 027
Motion: by Councilor Ryan
Second: by Councilor Bowes
Vote: For (9), Against (0), Absent (0)

Council President Powers asked if any member of the Council or General Public want to speak on Order 17 027?

Mayor Sullivan came to the podium and stated I filed the Budget per the Charter on May 1, 2017 to the Town Council. I note the review and clarifications that took place with the Committee on Ways & Means. We have healthy reserves and strong capital. Thank you to the Department heads that strive to do their best every day. The Braintree School Building Authority will be established with this Budget. We are on course for better buildings for our schools. This is our guiding blueprint. Thank you to Ed Spellman and Joe Reynolds. Both have helped shape this Budget.

Council President Powers referred to Councilor O'Brien (Committee Chair) for Committee on Ways & Means recommendation.

Chairman O'Brien thanked to all who made themselves available including the Mayor, it is a lot of work, I get it and his staff including Chief of Staff Joe Reynolds and Finance Director Ed Spellman who is always rapid with a response. He works 7 days a week. He gets us the information we need to make our decisions. Chairman O'Brien named all staff who made themselves available and who attended the Ways & Means meetings. Chairman O'Brien stated Dan Sullivan, our Town Auditor was very crucial in moving the Budget forward. Thank you to the Committee of Ways & Means for a tremendous task and many hours reviewing this Budget in and out of meetings. We are here to provide favorable recommendation to

the Full Council on the Budget. It comes with some continuing concerns. Last year I tried giving the tax payers of Braintree some sort of break. I tried but it did not get approved. This year I have decided not to do that.

Chairman O'Brien stated first I have the letter from our Town Auditor stating a good analysis on why the Budget has increased: the fiscal year 2018 budget increased approximately \$4,500,000 from fiscal year 2017. The School Department contractual salaries increased \$2,200,000; Town contractual salaries increased \$500,000; transfer to the Braintree School Building Authority (new appropriation) increased \$1,020,000 and employee benefits for pension and health insurance increased approximately \$800,000. The majority of all other appropriations of the Town remained relatively the same as in fiscal year 2017.

The Town did not use general fund free cash or stabilization funds to balance the fiscal year 2018 operating budget. This is consistent with prior years.

We have a lot of free cash currently \$12,179,279. For the past three years it was \$14.2, \$12.9 and \$14.5. The Towns recommended target rate is 10%.

We went through the Town's Levy. We will be coming close to our Levy capacity. Because of the combined effect of the increase in nonexempt debt service and local receipts being accurately estimated, the Town will most likely have little excess levy capacity for the foreseeable future.

General Fund debt service as it compares to other communities is relatively low. It is a great thing because we are in good shape as a Town.

The Water/Sewer Enterprise Fund free cash is \$3.5 million but we have some building issues that may need some maintenance coming up.

The stabilization fund, with a fund balance of \$9,739 is approximately \$6,286,000 short of its targeted 5% of current year appropriations. A five year report on these appropriations was requested by Councilor Clifford.

The Trash fee is an item I brought to the Mayor's staff because I felt it is a place where we could possibly get a reduction for the residents in their taxes. This trash fee did precede the Mayor. Many towns have this in their real estate taxes. Here it is separated and viewed by the residents as a tax.

There are some other concerns like the Mayor's office that is growing. This is an area I scrutinize. There is money in Life Sciences \$10,000. I recommend if no results next year that we really scrutinize that money.

Police/Fire overtime is a bit out of control and costs the Town money. Opioid money needs to be spent and we need leadership to make this happen. \$1.7 million in School Department administrative positions should be scrutinized next year if possible.

Chairman O'Brien stated the income we receive: The meals tax is a nice extra income for the Town. The trash fee was brought forward for a reduction to the residents. It is not an easy tax to eliminate but residents have asked me. There are concerns for those on fixed incomes. We have a tremendous tax rate. Braintree has a lower than surrounding Town's tax rate at \$10.74 per \$1,000. If we include the trash fee the effective tax rate would be \$10.92 per \$1,000.

The Budget was discussed at the Committee on Ways & Means meetings and unanimously voted for favorable recommendation to the Full Council.

Mayor Sullivan responded stating Mr. Chairman you noted we have the lowest residential tax rate in Norfolk County. This Budget is a complicated process. The growth in the Mayor's office is two new positions being the Constituent Services position and the Opioid position. As a community we have come together to fund those two positions. As in terms of the Life Sciences we are making great progress in that. The Trash/Recycling program has worked for us. We have increase our recycling and reduced the trash fee. The Selectmen voted this fee for services. The \$55 Senior discount is still in place. We have done a lot of good work here.

Councilor Mullaney stated 6 of the past 10 years I was Chairman of the Ways & Means. If I had a problem I would go to the Mayor. The meals tax has brought \$1.6 million in current budget. I am proud of this Budget.

Councilor Kokoros stated this Budget is balanced in a conservative way.

Councilor Ryan stated I support this Budget.

Councilor Hume stated on a positive note the ADA Coordinator position is now full-time. East and South renovations are being funded. I commend James Arsenault, DPW Director for his time and being at our meetings. The Elder Affairs building is in use all day. This is a great Budget before us.

Councilor Bowes stated the Mayor always has an open door policy. He listens to people and he gets it.

Councilor Owens stated I appreciate this work and the budget discussion. This translates to real effects in our community.

Councilor Clifford stated we need the Partnership to move initiatives ahead more quickly.

Council President Powers stated thank you for this Budget process. We are investing in our future with this Budget.

Councilor Ryan read each department's FY2018 proposed budget totals.

DEPARTMENT	FY18*	FY18	VARIANCE
	PROPOSED	RECOMMENDED	
	\$	\$	+/-
111-Town Council	316,814	316,814	
121-Office of Mayor	569,457	569,457	
133-Municipal Finance	8,647,454	8,647,454	
151-Law Department	399,735	399,735	
152-Human Resources	19,726,326	19,726,326	
161-Town Clerk	370,004	370,004	
175-Plan.& Comm. Dev.	608,300	608,300	
210-Police Department	9,225,087	9,225,087	
220-Fire Department	8,491,785	8,491,785	

241-Municipal Lic. & Insp.	999,054	999,054
300-Education	64,709,631	64,709,631
350-Blue Hill Reg. Sch.	2,702,125	2,702,125
400-Public Works Dept.	8,088,822	8,088,822
541-Elder Affairs	304,393	304,393
610-Library	1,473,444	1,473,444
TOTAL GENERAL FUND	126,632,431	126,632,431
TOTAL GOLF FUND	1,577,452	1,577,452
TOTAL WATER/SEWER FUND	17,982,512	17,982,512
<u>GRAND TOTAL</u>	<u>146,192,395</u>	<u>146,192,395</u>

***as submitted by Mayor 5/1/2017**

Council President Powers ask if there is any other discussion on Order 17 027?

Motion by Councilor Ryan to Close Public Hearing for Order 17 027

Motion: by Councilor Ryan

Second: by Councilor Bowes

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

Councilor Ryan read the following Motions:

1. That the Town of Braintree raise and appropriate the sum of \$126,632,431 to provide for all of the expenses for the maintenance and operation of the Town's several departments and programs for the fiscal year 2018 and that the several sums herein set forth are hereby approved for the several purposes and are subject to the source of funding for said expenditures as outlined on the attached Exhibit A, specifically, that the sum of \$84,113 be transferred from Golf Course receipts, the sum of \$250,000 be transferred from the Overlay Surplus account, the sum of \$9,700 be transferred from the Waterways Improvement fund, the sum of \$22,000 be transferred from the Sale of Cemetery Lots, the sum of \$600,118 be transferred from Water and Sewer receipts, the sum of \$123,554 be transferred from the Town owned land account, the sum of \$75,000 be transferred from the Municipal Building Insurance Fund, the sum of \$21,736 from the Handicap parking fine account and the balance to be raised in the tax levy.

Motion: by Councilor Ryan

Second: by Councilor Bowes

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

2. That the Town of Braintree appropriate the sum of \$1,577,452 to provide for all of the expenses for the maintenance and operation of the Town's Golf Course and related programs for the fiscal year 2018 and that the several sums herein set forth are hereby approved for the several purposes as outlined on the attached Exhibit A, specifically, and that the sum of \$1,577,452 be raised in the Golf Course receipts.

Motion: by Councilor Ryan

Second: by Councilor Bowes

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

3. That the Town of Braintree appropriate the sum of \$17,982,512 to provide for all of the expenses for the maintenance and operation of the Town's Water and Sewer Division and related programs for the fiscal year 2018 and that the several sums herein set forth are hereby approved for the several purposes as outlined on the attached Exhibit A, specifically, that the sum of \$103,694 be transferred from the Water Sewer Rehabilitation Fund and the balance of \$17,878,818 be raised in the Water and Sewer receipts.

Motion: by Councilor Ryan

Second: by Councilor Bowes

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

4. Pursuant to General Law Chapter 44, Section 31D, the town is authorized to incur a liability in excess of the amount appropriated for snow and ice for fiscal year 2018.

Motion: by Councilor Ryan

Second: by Councilor Bowes

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

- 17 028 Mayor: FY2018 Budget – Community Preservation Committee or take up any action relative thereto (PUBLIC HEARING)

Motion by Councilor Ryan to Open Public Hearing for Order 17 028

Motion: by Councilor Ryan

Second: by Councilor Bowes

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

Council President Powers asked if any member of the Council or General Public want to speak on Order 17 028?

Council President Powers referred to Councilor O'Brien (Committee Chair) for Committee on Ways & Means recommendation.

Chairman O'Brien stated this was discussed at the Committee on Ways & Means and unanimously voted for favorable action to the Full Council.

Council President Powers ask if there is any other discussion on Order 17 028?

Motion by Councilor Ryan to Close Public Hearing for Order 17 028

Motion: by Councilor Ryan

Second: by Councilor Bowes

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

Councilor Ryan read the following Motions:

1. In accordance with the provisions of chapter 44b, section 5 of the general laws and the recommendation of the community preservation committee, that the sum of \$95,000 be appropriated from the community preservation fund to the community housing reserve for acquisition, creation, preservation, or support of **community housing** or the rehabilitation or restoration of community housing that is acquired or created as provided in chapter 44b, section 5, of the general laws.

Motion: by Councilor Ryan
Second: by Councilor Bowes
Vote: For (9), Against (0), Absent (0)

2. In accordance with the provisions of chapter 44b, section 5 of the general laws and the recommendation of the community preservation committee, that the sum of \$95,000 be appropriated from the community preservation fund to the open space reserve for the acquisition, creation, or preservation of **open space** or the rehabilitation or restoration of open space that is acquired or created as provided in chapter 44b, section 5, of the general laws.

Motion: by Councilor Ryan
Second: by Councilor Bowes
Vote: For (9), Against (0), Absent (0)

3. In accordance with the provisions of chapter 44b, section 5 of the general laws and the recommendation of the community preservation committee, that the sum of \$95,000 be appropriated from the community preservation fund to the historic resources reserve for the acquisition, preservation, rehabilitation, or restoration of **historic resources** as provided in chapter 44b, section 5, of the general laws.

Motion: by Councilor Ryan
Second: by Councilor Bowes
Vote: For (9), Against (0), Absent (0)

4. In accordance with the provisions of chapter 44b, section 5 of the general laws and the recommendation of the community preservation committee, that the sum of \$450,000 be appropriated from the community preservation fund to the community preservation **budgeted reserve** as provided in chapter 44b, section 5, of the general laws.

Motion: by Councilor Ryan
Second: by Councilor Bowes
Vote: For (9), Against (0), Absent (0)

5. In accordance with the provisions of chapter 44b, section 5 of the general laws and the recommendation of the community preservation committee, that the sum of \$35,000 be appropriated from the community preservation fund to for fiscal year 2018 administrative operating fund as provided in chapter 44b, section 5, of the general laws said funds to be expended under the direction of 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)

- 17 029 Mayor: FY2018 Revolving Accounts or take up any action relative thereto (PUBLIC HEARING)
Motion by Councilor Ryan to Open Public Hearing for Order 17 029

Motion: by Councilor Ryan

Second: by Councilor Bowes

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

Council President Powers asked if any member of the Council or General Public want to speak on Order 17 029?

Council President Powers referred to Councilor O'Brien (Committee Chair) for Committee on Ways & Means recommendation.

Chairman O'Brien stated this was discussed at the Committee on Ways & Means and unanimously voted for favorable action to the Full Council.

Council President Powers ask if there is any other discussion on Order 17 029?

Motion by Councilor Ryan to Close Public Hearing for Order 17 029

Motion: by Councilor Ryan

Second: by Councilor Bowes

Vote: For (8), Against (0), Absent (1-Hume)

Councilor Ryan read the following Motions:

1. That the Department of Elder Affairs be authorized to use a revolving fund in accordance with the provisions of Massachusetts general laws chapter 44, section 53e1/2 that may be spent by the Department of Elder Affairs without further appropriation during the fiscal year commencing July 1, 2017, to pay salaries, expenses, and contractual services required to provide services and activities for the town's elderly residents. The Department of Elder Affairs revolving fund is to be credited with all fees and charges received during fiscal year 2018 from persons using said programs. The Department of Elder Affairs may spend up to \$30,000 in revolving fund monies during fiscal year 2018.
Motion: by Councilor Ryan
Second: by Councilor Bowes
Vote: For (8), Against (0), Absent (1-Hume)
2. That the Board of Health be authorized to use a revolving fund in accordance with the provisions of Massachusetts general laws chapter 44, section 53e 1/2 that may be spent by the Board of Health without further appropriation during the fiscal year commencing July 1, 2017, to pay for salaries, expenses, and contractual services associated with purchasing, promoting, and administering public health immunizations and for public health education programs. The Board of Health revolving fund is to be credited with all fees and charges collected during fiscal year 2018 for immunizations administered under the department of public health. The Board of Health may spend up to \$50,000 in revolving fund monies during fiscal year 2018.
Motion: by Councilor Ryan
Second: by Councilor Bowes
Vote: For (8), Against (0), Absent (1-Hume)
3. The Library Trustees be authorized to use a revolving fund in accordance with the provisions of Massachusetts general laws chapter 44, section 53e1/2 that may be spent by the Library Trustees without further appropriation during the fiscal year commencing July 1, 2017, for the purchase of

library books, audiovisual materials and other library materials. The Library Trustees revolving fund is to be credited with all fines and fees collected during fiscal year 2018 for lost or overdue library materials. The library trustees may spend up to \$45,000 in revolving fund monies during fiscal year 2018.

Motion: by Councilor Ryan

Second: by Councilor Bowes

Vote: For (8), Against (0), Absent (1-Hume)

4. That the Library Trustees be authorized to use a revolving fund in accordance with the provisions of Massachusetts general laws chapter 44, section 53e1/2 that may be spent by the Library Trustees without further appropriation during the fiscal year commencing July 1, 2017, for the costs associated with the support and promotion of special programs, including salaries related thereto. The Library Trustees revolving fund is to be credited with all revenue from the rental of meeting rooms collected during fiscal year 2018. The Library Trustees may spend up to \$5,000 in revolving fund monies during fiscal year 2018.

Motion: by Councilor Ryan

Second: by Councilor Bowes

Vote: For (8), Against (0), Absent (1-Hume)

5. That the Mayor be authorized to use a revolving fund in accordance with the provisions of Massachusetts general laws chapter 44, section 53e1/2 that may be spent by the Mayor, in conjunction with the recycling coordinator, without further appropriation during the fiscal year commencing July 1, 2017, for the purchase of home composting bins, curbside recycling bins, recycling bags and for the collection of fees and payments for recycling materials, including hazardous waste. The recycling revolving fund is to be credited with all fees collected during fiscal year 2018. The Mayor may spend up to \$3,000 in revolving fund monies during fiscal year 2018.

Motion: by Councilor Ryan

Second: by Councilor Bowes

Vote: For (8), Against (0), Absent (1-Hume)

6. That the Mayor be authorized to use a revolving fund in accordance with the provisions of Massachusetts general laws chapter 44, section 53e1/2 that may be spent by the Mayor, in conjunction with the recycling coordinator without further appropriation during the fiscal year commencing July 1, 2017, for the collection of fees and payments from the collection of revenue-generating materials and to use the income to promote town recycling initiatives and events, including household hazardous waste events. The recycling revolving fund is to be credited with all fees collected during fiscal year 2018. The Mayor may spend up to \$50,000 in revolving fund monies during fiscal year 2018.

Motion: by Councilor Ryan

Second: by Councilor Bowes

Vote: For (8), Against (0), Absent (1-Hume)

7. That the School Committee be authorized to use a revolving fund in accordance with the provisions of Massachusetts general laws chapter 44, section 53e1/2 that may be spent by the School Committee without further appropriation during the fiscal year commencing July 1, 2017, to pay for salaries, expenses, and contractual services associated with the operation of full day kindergarten. The

revolving fund is to be credited with all full day kindergarten fees and charges collected during fiscal year 2018. The School Committee may spend up to \$667,500 in revolving fund monies in fiscal year 2018.

Motion: by Councilor Ryan

Second: by Councilor Bowes

Vote: For (8), Against (0), Absent (1-Hume)

8. That the Mayor be authorized to use a revolving fund in accordance with the provisions of Massachusetts general laws chapter 44, section 53e1/2 that may be spent by the Mayor, in conjunction with the golf greens superintendent without further appropriation during the fiscal year commencing July 1, 2017, for the collection of fees and payments from the collection of revenue generated from clinics and payments for group and individual lessons and the sales of pro shop materials fees collected during fiscal year 2018. The Mayor may spend up to \$90,000 in revolving fund monies during fiscal year 2018.

Motion: by Councilor Ryan

Second: by Councilor Bowes

Vote: For (8), Against (0), Absent (1-Hume)

- 17 003 Termination and Grant of Easements at 2001 Washington Street or take up any action relative thereto

TERMINATION AND GRANT OF EASEMENTS

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 C/o CRE Management LLC, 133 Pearl Street, Suite 300, Boston, MA 02110. ("Owner"), 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 certain easements set forth in an Access and Easement Agreement by and between the County of Norfolk (the "County") and Lahaina Realty Limited Partnership ("Lahaina") dated February 20, 1998, and recorded with the Norfolk County Registry of Deeds in Book 12287, Page 154 (the "Easement Agreement").

WHEREAS, Lahaina granted several easements to the County in and through the Premises, for the benefit of three parcels of real estate then owned by the County, and referenced in said Easement Agreement as: (i) the "Parcel B Property"; (ii) the "Parcel C Property"; and (iii) as the "Land Court Property", (referred to collectively as the "Benefited Parcels"); and

WHEREAS, the County has subsequently granted title to the Benefited Parcels to the Town of Braintree. The Parcel B Property and the Parcel C Property were granted from the County to the Town of Braintree by deed dated June 2, 2010 and recorded with the Norfolk County Registry of Deeds in Book 27717, Page 492. The Land Court Property was deeded to the Town of Braintree by Deed dated December 19, 2007, and filed with the Norfolk County Land Court District of the Registry of Deeds as Document 1144264, with Certificate of Title No. 176058.

WHEREAS, Owner has performed certain improvements located at the Premises; and

WHEREAS, in order to accommodate such improvements, the Town of Braintree has agreed to terminate certain easement rights and interests it holds burdening the Premises, as detailed herein; and

WHEREAS, in exchange for the termination of easement terminations, Owner has agreed to grant a new access and utility easement over a portion of the Premises to the Town of Braintree;

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

1. The Town of Braintree is the easement holder of the following easements granted originally to the County in Section 3 of the Easement Agreement, and are shown on that certain plan recorded herewith, entitled “Termination of Utility and Access Easements Plan of Land, 2001 Washington Street, Braintree, Massachusetts”, dated April 3, 2017, prepared by DanaPerkins, Inc., Consulting Engineers & Land Surveyors, 1057 East Street, Tewksbury, Massachusetts 01876 (the “Termination Plan”):
 - (a) The perpetual non-exclusive right and easement to utilize that portion of the Premises originally shown on the plans recorded with the Easement Agreement as a (i) “Right of Way & Utility easement”, for purposes of (i) pedestrian and vehicular access, ingress, and egress, and (ii) the installation, use, maintenance, service, repair, removal, and replacement of Utility Improvements. The easement is shown on the Termination Plan as “Easement 3A”;
 - (b) The perpetual right and easement to utilize that portion of the Premises originally shown on the plans recorded with the Easement Agreement as “utility easement” (being triangular in shape and located to the south of the “Access and Utility Easement and adjacent to Washington Street) for the installation, use, maintenance, service, repair, removal and replacement of Utility Improvements. This easement is shown on the Termination Plan as “Easement 3B”;
 - (c) The perpetual right and easement to utilize those portions of the Premises originally shown on the plans recorded with the Easement Agreement as “20.00’ wide drainage & utility easement” for the installation, use, maintenance, service, repair, removal and replacement of Utility Improvements.” This easement is shown on the Termination Plan as “Easement 3C-1”.

- (d) The perpetual right and easement to utilize those portions of the Premises originally shown on the plans recorded with the Easement Agreement as “10’ Utility Easement” for the installation, use, maintenance, service, repair, removal and replacement of Utility Improvements.” This easement is shown on the Termination Plan as “Easement 3C-2”.
2. The Town of Braintree, on behalf of itself, and all successors and assigns, does hereby permanently terminate the following rights, title and interests:
 - (a) terminate all of its right, title and interests to and from Easement 3A that is shown on the Termination Plan, intending to, and hereby extinguishing and abandoning, all rights to Easement 3A that it holds, including but not limited to all rights and interests granted under the terms of the Easement Agreement.
 - (b) terminate all of its right, title and interests to and from Easement 3C-1 shown on the Termination Plan, intending to, and hereby extinguishing and abandoning, all rights to Easement 3C-1 which it holds, including but not limited to all rights and interests granted under the terms of the Easement Agreement;
 - (c) terminate all of its right, title and interests to and from Easement 3C-2 shown on the Termination Plan, intending to, and hereby extinguishing and abandoning, all rights to Easement 3C-2 which it holds, including but not limited to all rights and interests granted under the terms of the Easement Agreement;
3. With the sole exception of the termination of easement rights referenced in Section 2 of this instrument, all other rights, interests, easements, benefits and obligations contained in the Easement Agreement shall remain in full force and effect, it being the intention to modify the Easement Agreement solely as stated herein. The Town of Braintree **does not** release its easement rights to Easement 3B, which is shown on the Termination Plan as remaining. In addition, this instrument shall not alter any other easements, rights, or interests held by Owner under the Easement Agreement, as successor in title to Lahaina, benefitting the Premises.
4. Owner does, in consideration of the abandonment of the interests described in Section 2 of this instrument, hereby grant a perpetual, non-exclusive Access and Utility Easement to the Town of Braintree, for the purposes of (i) pedestrian and vehicular access, ingress and egress, and (ii) the installation, use, maintenance, service, repair, removal and replacement of utilities for the benefit of Parcel C, the location of such easement is shown on that certain plan

recorded herewith, entitled “Easement Plan of Land, 2001 Washington Street, Braintree, Massachusetts”, dated April 3, 2017, prepared by Dana F. Perkins, Inc., Consulting Engineers & Land Surveyors, 1057 East Street, Tewksbury, Massachusetts 01876 (the “Easement Plan”), and such is labelled on such Easement Plan as “NEW ACCESS AND UTILITY EASEMENT - AREA=36,555 SF +/-, (the “New Easement”).

5. 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
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.

6. To the extent necessary to effectuate the extinguishment of the easements described in Section 2 of this instrument, the grant of the New Easement, or to affirm any easement, right, or interest contained in the Easement Agreement, and not being terminated by the Town of Braintree, 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, and terminations, which are the subject hereof.
7. 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.

8. This agreement shall not be modified, amended or otherwise changed without the express written consent of the each of the parties.
9. 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 (8), Against (0), Absent (1-Hume)

NEW BUSINESS

- None

ADJOURNMENT

It was unanimously voted to adjourn the meeting at 9:06p.m.

Respectfully submitted,

Susan M. Cimino

Clerk of the Council

Documents provided for Meeting

- 17 003 Termination and Grant of Easements at 2001 Washington Street or take up any action relative thereto
- 17 027 Mayor: FY2018 Operating Budget or take up any action relative thereto (PUBLIC HEARING)
- 17 028 Mayor: FY2018 Budget – Community Preservation Committee or take up any action relative thereto (PUBLIC HEARING)
- 17 029 Mayor: FY2018 Revolving Accounts or take up any action relative thereto (PUBLIC HEARING)