

MINUTES OF THE BRAINTREE TOWN COUNCIL  
Council Chambers, Cahill Auditorium, Town Hall

**February 6, 2008**

Present: Leland A. Dingee, President  
Charles B. Ryan, Vice-President  
Harold J. Randolph  
Charles C. Kokoros  
John C. Mullaney  
Thomas M. Bowes  
Henry N. Joyce  
Ronald E. DeNapoli  
Paul Dan Clifford

Also Present: Donna Fabiano, Town Clerk

Council President Dingee called the Town Council Meeting to order at 7:30 p.m. All Councilors answered to a roll call.

**Correspondence**

Council President Dingee reported that there was no new correspondence.

**Announcements**

**Appointment of Liaison to Tri-Town Water District Commission**

Council President Dingee stated that the Mayor will be attending meetings of the Tri-Town Water District Commission. President Dingee felt that the Council will have input to the Tri-Town Water District Commission and would need some type of representation. He informed the Council that Councilor Kokoros has been a member of the Tri-Town Water District Commission for approximately ten years and has the knowledge and expertise. President Dingee asked Councilor Kokoros to be the liaison to this Council and Councilor Kokoros has accepted this position. Councilor

Kokoros will report anything back to the Council that may have to go before Finance or the D.P.W.

## **MINUTES**

### Town Council Meeting January 22, 2008

MOTION: by Councilor Joyce to approve the Town Council Meeting Minutes of January 22, 2008

SECOND: by Councilor Kokoros

Discussion: Councilor Clifford made corrections to the Minutes. On page 4 under "Public Hearings (Chief of Staff and Operations position)," the sentence reads: *He feels that Mr. Morin not only will add his skills as a wonder manager, but as an Attorney, he will be able to assist the Town Solicitor in make decisions.* The word "wonder" should be changed to "wonderful."

On page 8 under "Public Hearings (Town Solicitor position)," the sentence reads: *Councilor Clifford commented that for those who are interested in the hiring of an in-house Counsel versus using Kopelman and Paige, it is a cost neutral proposition.* Councilor Clifford would like to insert the words "at worst case" after Kopelman and Paige. The corrected sentence should read: *Councilor Clifford commented that for those who are interested in the hiring of an in-house Counsel versus using Kopelman and Paige, at worst case it is a cost neutral proposition.*

On page 9 under "New Business," the sentence reads: *In this case, it was an accident by hitting a pothole that caused more than \$600 in damages and the resident was irritated because they did not receive a reply.* Councilor Clifford would like to strike the words "more than" and say "nearly." The corrected sentence should read: *In this case, it was an accident by hitting a pothole that caused nearly \$600 in damages and the resident was irritated because they did not receive a reply.*

MOTION: by Councilor Clifford to approve the Minutes as amended

SECOND: by Councilor Randolph

VOTE: Unanimous

**COMMUNICATIONS AND REPORTS FROM THE MAYOR, TOWN OFFICERS AND TOWN BOARDS**

**08-010** *Notice of Proposed Appointment* – Assistant to Mayor

Council President Dingee read Mayor Sullivan’s 1/23/08 memo regarding Notice of Proposed Appointment – Assistant to Mayor. Mayor Sullivan submitted Mark J. Cusack for appointment to the position of Assistant to the Mayor.

MOTION: by Council Vice-President Ryan to refer 08-010 to the Ways and Means Committee  
SECOND: by Councilor Mullaney  
VOTE: Unanimous

**08-011** *Notice of Proposed Appointment* - Chief of Staff and Operations

Council President Dingee read Mayor Sullivan’s 1/23/08 memo regarding Notice of Proposed Appointment – Chief of Staff and Operations. Mayor Sullivan submitted Peter J. Morin for appointment to the position of Chief of Staff and Operations.

Councilor Mullaney asked Council President Dingee if it is possible to waive the procedure of sending it to the Ways and Means Committee in light of the fact that this is a selection by the Mayor and in all likelihood is going to be approved. He thought there was a provision in our Charter to allow it to be approved on a vote at tonight’s meeting.

MOTION: by Councilor Mullaney to make 08-011 same night action  
SECOND: by Councilor Kokoros

MOTION: by Council Vice-President Ryan to approve 08-011  
SECOND: by Councilor Mullaney  
VOTE: Unanimous

MOTION: by Council Vice-President Ryan to reconsider 08-010, the Assistant to the Mayor position  
SECOND: by Councilor Randolph  
VOTE: Unanimous

MOTION: by Council Vice-President Ryan to approve the appointment of Mark J. Cusack, Assistant to the Mayor, 08-010  
SECOND: by Councilor Randolph  
VOTE: Unanimous

**08-012** *Proposed Ordinance* - Title 1, Chapter 1.08 General Penalty

Council President Dingee read Mayor Sullivan's 1/24/08 memo regarding Proposed Ordinance 08-012.

MOTION: by Council Vice-President Ryan to refer 08-012 to the Ordinance and Rules Committee  
SECOND: by Councilor Mullaney  
VOTE: Unanimous

**08-013** *Proposed Ordinance* – Title 2, Chapter 2-100 Town Elections

Council President Dingee read Mayor Sullivan's 1/24/08 memo regarding Proposed Ordinance 08-013.

MOTION: by Council Vice-President Ryan to refer 08-013 to the Ordinance and Rules Committee  
SECOND: by Councilor Joyce  
VOTE: Unanimous

**08-014** *Proposed Ordinance* – Title 2, Chapter 2-200 Mayor

MOTION: by Council Vice-President Ryan to refer 08-014 to the Ordinance and Rules Committee  
SECOND: by Councilor Randolph  
VOTE: Unanimous

**08-015** *Designation of Chapter for Approved Ordinance* – Title 2, Chapter 2-207, Chief of Staff and Operations

Council President Dingee read Mayor Sullivan's 1/24/08 memo regarding Designation of Chapter for Approved Ordinance. On 1/3/08, Mayor Sullivan submitted a proposed ordinance for the position of Chief of Staff and Operations. This ordinance was approved by the Council on 1/22/08. At that time, this ordinance was not assigned a Chapter number, as it was not

yet determined where this ordinance would be placed within the municipal code. Now that we have begun the process of revising the Town's Ordinances, he is submitting the Chief of Staff and Operations ordinance to the Council for the sole purpose of assigning a Chapter number.

**MOTION:** by Council Vice-President Ryan that the Town Council for the Town of Braintree that the Chief of Staff and Operations Ordinance previously approved by the Council be designated as Title 2, Chapter 2-207 within the Town's Municipal Code. 08-015

**SECOND:** by Councilor Randolph

**VOTE:** Unanimous

Council President Dingee announced that 08-015, Title 2, Chapter 2-207, Chief of Staff and Operations, has been unanimously passed as same night action by the Council.

**08-016** *Proposed Ordinance* – Title 2, Chapter 2-208 Acting Mayor

There is an attachment to Mayor Sullivan's 1/24/08 memo that describes the two sections: Section 2.208.010 Temporary Absence and Section 2.208.020 Powers of Acting Mayor.

**MOTION:** by Council Vice-President Ryan to refer 08-016 to the Ordinance and Rules Committee

**SECOND:** by Councilor Randolph

**VOTE:** Unanimous

**08-017** *Proposed Ordinance* – Title 2, Chapter 2-209 Assistant to Mayor

Council President Dingee stated that this proposed ordinance was approved by the Council on January 22, 2008. It is for the position of Assistant to the Mayor. This ordinance was not assigned a Chapter number, as it was not yet determined where this ordinance would be placed within the municipal code. The Mayor, in consultation with the Transition Committee II, revised this proposed ordinance to reformat it to conform with other ordinances and by striking a portion of the last sentence relative to employment benefits. The Mayor is submitting the revised Assistant to the Mayor ordinance for the Council's consideration.

MOTION: by Council Vice-President Ryan to refer 08-017 to the Ordinance and Rules Committee  
SECOND: by Councilor Randolph  
VOTE: Unanimous

**08-018** *Request for re-appropriation for Human Resources Consultant*

Council President Dingee read Mayor Sullivan's 1/31/2008 memo regarding 08-018.

MOTION: by Council Vice-President Ryan to refer 08-018 to the Ways and Means Committee  
SECOND: by Councilor Randolph  
VOTE: Unanimous

**08-019** *Request for re-appropriation for Town Solicitor*

Council President Dingee read Mayor Sullivan's 1/31/08 memo regarding 08-019.

MOTION: by Council Vice-President Ryan to refer 08-019 to the Ways and Means Committee  
SECOND: Councilor Randolph  
VOTE: Unanimous

**REPORTS OF COMMITTEES**

Ways & Means Committee, Councilor Mullaney, Chair

**08-020** Clerk to the Council (Section 2-8(c), Chapter 189 of the Acts of 2005) – Job Description & Salary Range.

Councilor Mullaney stated that it has been the position of the Ways & Means Committee to hire a Clerk for the Council as quickly as possible. The committee agreed that the Clerk would work for the Council President, but in the office of the Town Clerk for her to manage that person if she needs assistance doing other work of the Town Clerk.

The recommendation is that the salary range would be an M-6 from \$42,837 - \$49,518. The committee would like to hire a skilled person who could not

only perform the job of a Clerk, but also have the ability to work alone and serve the Council as an Administrative Secretary just short of a legal secretary.

MOTION: by Councilor Mullaney to post a notice to hire a Clerk to the Council, 08-020, as an M-6 with a salary range of \$42,837 - \$49,518

SECOND: by Councilor Joyce

Discussion: Council President Dingee believes this job description and salary range has to be sent to the Mayor's office for approval. Once approved, the position can be advertised.

Councilor Mullaney withdrew his Motion.

MOTION: by Councilor Mullaney to refer the job description and salary range for 08-020, Clerk to the Council, to the Mayor's office for approval.

SECOND: by Councilor Randolph

Discussion: Councilor Mullaney considers the confidentiality clause to be a significant item. The language was provided by the Town Solicitor and has been put in the job description because they believe this should be a non-bargaining unit position.

MOTION: by Council Vice-President Ryan to accept 08-020, Clerk to the Council job description and proposed grading and confidential position

SECOND: by Councilor Randolph

Discussion: Councilor Clifford spoke about discussions that the Ways and Means Committee had regarding one of the items listed under "Required Qualifications" for this position: *Associate's Degree preferred, high school diploma required.* The Ways and Means Committee wanted to bring it to the Council for further discussion. He feels strongly that the position should require at least an Associate's Degree.

MOTION: by Councilor Clifford that under "Required Qualifications" for 08-020, an Associate's Degree would be required

SECOND: by Councilor DeNapoli

Discussion: Councilor Mullaney disagrees because it would be possible for someone with a high school diploma to be a very qualified person. Also, one of the required qualifications is to have five years of experience in general administrative work. By saying that an Associate's Degree is preferred, they can use this as a selective device in interviewing people. He disagrees with Councilor Clifford's motion.

Councilor Joyce agrees with Councilor Mullaney. He feels that a person could be well qualified with 10 or 15 years of experience.

Councilor Clifford feels that an Associate's Degree would show a certain amount of professionalism beyond just requiring a high school education. If it is satisfactory to the rest of the Council, he suggested that it be rephrased as "an Associate's Degree is required or the equivalent thereof" in terms of experience.

Councilor Clifford withdrew his first motion.

MOTION: by Councilor Clifford that the requirement be an Associate's Degree or the equivalent thereof for 08-020

There was no second to the motion.

Councilor DeNapoli would like to see at least an Associate's Degree required for this position.

Councilor Clifford stated that he will re-submit the first motion.

MOTION: by Councilor Clifford that the qualifications required for this position, 08-020, include an Associate's Degree

SECOND: by Councilor DeNapoli

Discussion: Councilor Randolph referred to the amendment. He stated that an Associate's Degree could be required, but you still have the requirement of five years of experience. He would not like to see the Council limiting someone from applying who has the ability and has worked in the field for 10 or 15 years and knows municipal government, but does not have an Associate's Degree and would not apply. It should be open to those who are

capable and have the experience. He would recommend not accepting this amendment.

Councilor Mullaney read some of the required qualifications included in the job description. He does not want to reject a person who has a wonderful background, but does not have an Associate's Degree.

Council President Dingee called the motion on the amendment to a vote. A roll call vote was taken.

VOTE: 3 in favor, 6 opposed

Councilors Kokoros, DeNapoli and Clifford voted in favor of the amendment. Councilors Joyce, Mullaney, Bowes, Randolph, Ryan and Dingee opposed the amendment.

Council President Dingee stated that the motion on the amendment does not pass.

The Councilors went back to the main motion. There was no further discussion.

VOTE: Unanimous to approve the main motion for 08-020

MOTION: by Council Vice-President Ryan to refer 08-020 to the Mayor's Office.

SECOND: by Councilor Randolph

VOTE: Unanimous

**08-021 Auditor (Section 2-8(a), Chapter 189 of the Acts of 2005) -- Job Description & Salary Range**

Councilor Mullaney recommended that the job description for the Town Auditor be approved. Under the "Nature of Work" section of the job description, it states that the Town Auditor may have access to and assist the Town Council with gathering financial information pertaining to the formulation of policy and certain confidential issues. Councilor Mullaney stated that this would be a non-bargaining unit position. He recommended that the Council forward this job description to the Mayor and the salary range would be M-17 with a range of \$64,201.79 - \$74,550.01.

MOTION: by Council Vice-President Ryan to approve the Town Auditor's position, 08-021, as a Grade M-17 confidential employee.

SECOND: by Councilor Randolph

VOTE: Unanimous

MOTION: by Council Vice-President Ryan to refer 08-021 to the Mayor for approval

SECOND: by Councilor Randolph

VOTE: Unanimous

**08-022** Re-appointment of Town Clerk (Section 2-8b), Chapter 189 of the Acts of 2005)

Council President Dingee stated that the Council did vote on re-appointing the Town Clerk at their last meeting. Town Counsel requested a Measure Number. The Measure Number will be 08-022.

MOTION: by Council Vice-President Ryan to accept Measure 08-022 to re-appoint the Town Clerk

SECOND: by Councilor Randolph

VOTE: Unanimous

#### Ordinance and Rules Committee, Councilor DeNapoli, Chair

Council Rules Proposal (Section 2-6(c) Chapter 189 of the Acts of 2005) – Rules of Procedure

Councilor DeNapoli reported that the Ordinance and Rules Committee held a Public Hearing on 1/29/08 at 8:00 p.m. for the purpose of discussing and adopting the Council Rules (Section 2-6(c) Chapter 189 of the Acts of 2005) – Rules of Procedure. The Ordinance and Rules Committee voted unanimously to recommend favorable action for the full Council to adopt the proposed rules.

Councilor DeNapoli stated that all Councilors have received a copy of the Final Draft which contains all changes.

Councilor Randolph pointed out that the Table of Contents indicates thirteen pages, but the document consists of eleven pages. Council President

Dingee assumed that when the document was reformatted, there were fewer pages and the Table of Contents needs to be revised.

MOTION: by Council Vice-President Ryan to accept Braintree Town Council Rules 2008-2009 as proposed by the Ordinance and Rules Committee

Discussion: Council President Dingee had an objection to a change on Rule Eight.

Rule Eight: Clerk and Employees

The Clerk and other officers and employees of the Council shall (work for every member of the Council. Every Councilor may have the right to request the Clerk and/or employees of the Council to perform work requested by a Councilor. The President will have the right to prioritize all work received from the Councilors. The President shall manage the Clerk and all employees of the Council).

TO BE DELETED (be under the control and direction of the President during sessions of the Council).

Council President Dingee feels that some of the language is not needed because Rule Eight says that “The Clerk and other officers and employees of the Council shall be under the control and direction of the President during sessions of the Council.” The evening meetings are the sessions and it does not refer to the time during the day when the person is working. All Councilors would have access to the Clerk during the day and the Clerk would be doing the work for all the Councilors.

MOTION: by Council President Dingee to amend Rule Eight to read:  
The Clerk and other officers and employees of the Council shall be under the control and direction of the President during sessions of the Council.

SECOND: by Councilor Mullaney

Discussion: Councilor Mullaney stated that it was the will of the committee to insert this language after intense discussion. He wanted something mentioned in the Rules that even if there was a Council member who was not liked, that person could be assured that they could give the work to the

Clerk and it would be completed. The committee recognizes that they need organization and that the President of the Council has a right to direct the Clerk and prioritize the work.

Councilor Mullaney opposes the amendment.

Council President Dingee said that the Council President puts the agendas together and runs the meetings. If the language remains in the Rules, it is saying that during the sessions any of the Councilors can direct the Clerk without going through the President.

Councilor Kokoros stated that the committee took the rule that Weymouth put together for a specific purpose, but our Ordinance and Rules Committee created another purpose for the rule. The original purpose was to allow the President to be the person in charge during the meetings. Councilor Kokoros feels that the language gives everyone an opportunity to direct the Clerk during the sessions.

Council President Dingee suggested making another rule to govern the day to day work of the Clerk.

Councilor Kokoros suggested changing the rule to Rule 8A and Rule 8B.

Council President Dingee withdrew his amendment.

**MOTION:** by Councilor Mullaney to amend the motion to leave the first paragraph of Rule Eight as is. In the second paragraph eliminate the words “to be deleted” and add the words “the Clerk and other officers and employees of the Council shall be under the control and direction of the President during sessions of the Council.”

**SECOND:** by Council Vice-President Ryan

**VOTE:** Unanimous

There was no further discussion on the main motion.

**VOTE:** Unanimous to approve the main motion

Council President Dingee announced the Braintree Council Rules 2008-2009 have been adopted.

## **NEW BUSINESS**

### Commission on Disabilities

Council President Dingee met with the Commission on Disabilities recently and they expressed their concern about the access to Town Hall. There is access for the handicapped in the rear of the Auditorium and in the basement on the side of the building. There is talk that the basement entrance may be eliminated in the future. There is concern about the access in the rear of the Auditorium because the door is sometimes locked.

The Commission on Disabilities would like to have handicap access to the front door of Town Hall. Since the buildings are under the Mayor's supervision, Council President Dingee suggested that they bring those concerns to the Mayor. President Dingee wants the Council to be aware of this should there be any Ordinances coming before the Council.

### Ways and Means Committee Proposals

Councilor Mullaney brought the Council up to date on what the Ways and Means Committee intends to discuss at their upcoming meetings. There is a great concern that they will have to look for money due to a decrease of funding from the State. They will be discussing at least two proposals and one is that they increase the alcohol license fee from \$2,000 to \$10,000. They plan to take their time in doing this and make sure everyone in the Town has an opportunity to voice their concerns.

Councilor Mullaney said that Councilor Clifford has raised the issue of increasing the meals tax, which could bring in an estimated \$1.1 million to the Town. Councilor Mullaney would like to hear from the businesses in Town as to whether this will have a negative impact on them. It will be a long process because it will need the Council's approval and changes at the State legislature.

Councilor Clifford spoke about the 1 percent tax and he looks at it as more of an investment than a tax. He explained that on a per capita basis, the impact on the residents of the Town would be \$6.57 a year and it would bring in \$1.1 million per year. Eighty percent of the \$1.1 million would be paid by non-Braintree residents. He invited any constituents or voters of the

Town to contact him if they would like to discuss this tax. He feels that when this is given full disclosure at public meetings it will become clearer.

Councilor Clifford later made some clarifications to his prior statements. He added that regarding the 1 percent meals investment, there will be specific earmarks for property tax reduction. It is consistent with Governor Patrick's Municipal Partnership Act that is currently up on Beacon Hill. There will be public hearings and the Council will have to accept and approve it. It will be then and only then that it would move ahead to Beacon Hill for home rule petition acceptance.

Council President Dingee instructed Councilor Clifford to bring the proposal to the Town Clerk's office when it is ready.

MOTION: by Council Vice-President Ryan to adjourn the meeting at 8:50 p.m.

SECOND: by Councilor Randolph

VOTE: Unanimous

MOTION: by Council President Dingee to reconvene the meeting at 8:52 p.m.

SECOND: by Councilor Randolph

VOTE: Unanimous

### **08-023 Notice of Proposed Appointment – Town Solicitor**

Council President Dingee stated that this item arrived late in the packets and it was not on the agenda.

Council President Dingee read the 2/5/2008 memo from Mayor Sullivan. The Mayor submitted Carolyn M. Murray for appointment to the position of Town Solicitor.

MOTION: by Council Vice-President Ryan to approve Carolyn M. Murray for appointment to the position of Town Solicitor, 08-023, as same night action.

SECOND: by Councilor Randolph

VOTE: Unanimous

### **ADJOURNMENT**

MOTION: by Council Vice-President Ryan to adjourn the meeting at  
8:55 p.m.

SECOND: by Councilor Randolph

VOTE: Unanimous

Respectfully submitted,

Patricia Thorpe  
Recording Secretary