

CHARLES RYAN
President

LELAND DINGEE
At Large

SEAN POWERS
At Large

JOHN MULLANEY
District 2

THOMAS BOWES
District 3



CHARLES KOKOROS
Vice President
District 1

HENRY JOYCE
District 4

RONALD DENAPOLI
District 5

PAUL "DAN" CLIFFORD
District 6

OFFICE OF THE TOWN COUNCIL

December 7, 2010

MINUTES

A meeting of the Town Council was held in the Horace T. Cahill Auditorium, Braintree Town Hall, on Tuesday, December 7, 2010 beginning at 7:30p.m.

Council President Ryan was in the chair.

Clerk of the Council, James Casey, conducted the roll call.

Present: Charles B. Ryan, President
Charles Kokoros, Vice President
Leland Dingee
Sean Powers
John C. Mullaney
Thomas Bowes
Henry N. Joyce
Ronald DeNapoli
Paul Dan Clifford (Arrived Late at 7:33pm/Left Early 8:45pm)

Others: Peter Morin, Chief of Staff
Edward Spellman, Finance Director
Karen Shanley, Human Resource Director
Peter Kurzberg, School Superintendent
Board of Assessors
Marie George, Deputy Assessor
Joseph Powers, Town Clerk
Eric Kinsherf, Town Auditor

The meeting was opened with the pledge of allegiance and there was a moment of silence for all those serving in our armed services, past and present.

CORRESPONDENCE

None

ANNOUNCEMENTS

- **056 10 Council President:** Seasonal Flu Clinic, December 9th
- **064 10 Council President:** Sustainable Braintree – 3rd Annual Green Gala
- **065 10 Council President:** Braintree Community Youth Center
- **068 10 Council Kokoros:** Braintree Christmas Party for Toys for Tots
- **066 10 Council President:** Full-Day Kindergarten Program Survey

APPROVAL OF MINUTES

- November 18, 2010

Motion: by Councilor Kokoros to Approve

Second: by Councilor Dingee

Vote: For (7), Against (0), Abstain (2-Powers, DeNapoli)

CITIZEN CONCERNS/COUNCIL RESPONSE

None

OLD BUSINESS

- **048 10 Council President:** Council Reappointment Policy

Councilor Dingee, Chairman Ordinance and Rules Committee, provided an overview of the proposed policy was copied from Braintree Professional Management Association (BPMA) previous contract, which has now been recently removed from the contract, and reported that the Committee unanimously voted for favorable action.

Councilor Bowes asked why the reappointment policy was no longer in the union contract. Karen Shanley, Human Resource Director, commented that members of the BPMA are no longer appointed and was no longer needed.

Councilor Kokoros commented that he does not see a need for a policy; if the Council does not notify the employee of reappointment then the employee would continue to serve at will.

Councilor Bowes presented an amendment to the policy; in section 1, changing sixty (60) days to thirty (30) days and striking sections 2 and 3 from the policy. Council President Ryan called for a roll-call vote.

Motion: by Councilor Bowes to Amend as noted

Second: by Councilor DeNapoli

Vote: For (5-Bowes, DeNapoli, Clifford, Powers, Ryan), Against (4)

Motion: by Councilor Bowes on the main motion as amended

Second: by Councilor DeNapoli

Vote: For (6-Bowes, Mullaney, DeNapoli, Clifford, Powers, Ryan), Against (3)

- **10 073 Verizon:** Joint Petition with BELD – 531 Pond Street

Councilor DeNapoli, Chairman of Public Works Committee, reported the Committee recommended favorable action.

Motion: by Councilor Kokoros to approve

Second: by Councilor Bowes

Vote: Unanimous

- **10 072 Board of Assessors:** FY2011 Tax Levy

Motion: by Councilor Kokoros to Open Public Hearing

Second: by Councilor DeNapoli

Vote: Unanimous

Board of Assessors called their joint meeting with the Council to Order.

Peter Morin, Chief of Staff, read the November 30, 2010 memo he provided members of the Council. Mr. Morin informed Committee Members that it is the recommendation of the Board of Assessors and the Mayor that the Town maintain the current residential shift of 175%. Adoption of the shift would result in an estimated residential tax rate of \$10.20 per thousand dollars, up 53 cents from last year. The average residential value has declined from a year ago; from \$355,000 in FY2009 to \$341,000 in FY2010. The net result would increase the average residential tax bill about \$45 to \$60 for the year. The projected commercial and industrial tax rate is \$23.39. The mean average projected commercial/industrial tax bill would increase from \$14,690 to \$15,744.

Mr. Morin further commented that the tax burden on residential taxpayers for FY2010 would be 59% of total property taxes and 76% of total property values. Each of these values have been declining for the past few years.

Mr. Morin commented that the Board of Assessors and the Mayor has requested the Committee to recommend favorable action on the "Residential Tax Shift" and the "Small Business Exemption" and to decline to adopt the "Open Space Discount" and "Residential Exemption".

Councilor Clifford asked Mr. Morin to explain why taxes are going up when property values have decreased. Mr. Morin commented that under Proposition 2 ½ the town can increase the tax levy a maximum of 2 ½ percent over the previous year plus any new growth. New growth was approximately \$1.3 million this year. To raise revenue when property taxes are declining, the tax rate increases and when property values increase, the tax rate declines.

Councilor Mullaney asked on what date were property values set for the current tax period. Mr. Morin stated there is a one year lag in property values and for this year's tax rate; they were set in January 2010.

Council President Ryan asked if any member of the public would like to speak on the issue. Mr. Peter Smith of Marshall Street asked how the assessed property values are set. Mr. Morin explained that every third year properties are visited by the assessing firm and properties are revalued based on that inspection. On the in-between years, values are increased or decreased based on market conditions.

Councilor Bowes read a letter that was sent by the South Shore Chamber of Commerce dated December 7, 2010 noting their opposition to the "unfair tax shift imposed on commercial property owners." Mr. Morin explained that the tax shift was adopted by the Town in 1986. Since its adoption, the Town has continued to see growth in the commercial and industrial sector.

Motion: by Councilor Kokoros to Close Public Hearing

Second: by Councilor DeNapoli

Vote: Unanimous

Motion: by Councilor Kokoros to adopt the **Residential Tax Shift**

Second: by Councilor DeNapoli

Vote: Unanimous

Motion: by Councilor Joyce to adopt the **Small Business Exemption**

Second: by Councilor DeNapoli

Vote: For (8), Against (0), Abstain (1-Kokoros)

Motion: by Councilor Joyce to adopt the **Open Space Discount**

Second: by Councilor DeNapoli

Vote: For (0), Against (9)

Motion: by Councilor Joyce to adopt the **Residential Exemption**

Second: by Councilor DeNapoli

Vote: For (0), Against (9)

Board of Assessors adjourned for the evening.

Councilor Clifford left the meeting at 8:45pm

- **10 059 (A) Mayor:** Supplemental Appropriation – W & S Distribution System Improvements

Motion: by Councilor Kokoros to Open Public Hearing

Second: by Councilor DeNapoli

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

Council President Ryan read the September 2, 2010 memo from Mayor Sullivan that outlines his request.

Councilor Mullaney reported that the Committee on Ways and Means recommended favorable action.

Council President Ryan asked for public comment; no one came forward.

Motion: by Councilor Kokoros to Close Public Hearing

Second: by Councilor DeNapoli

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

Motion: by Councilor Kokoros to approve Order 10 059 (A)

Second: by Councilor DeNapoli

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

- **10 075 Mayor:** Proposed Order Allowing Refunding of Bonds

Motion: by Councilor Kokoros to Open Public Hearing

Second: by Councilor DeNapoli

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

Council President Ryan read the November 9, 2010 memo from Mayor Sullivan outlining his request.

Councilor Mullaney reported that the Committee on Ways and Means recommended favorable action.

Councilor Joyce asked if Mr. Morin could provide the estimated amount of bonds that could be refinanced and the approximate savings. Mr. Morin commented that there were approximately Twenty-million in general obligation bonds that could be refinanced resulting in a saving of approximately \$200,000.

Council President asked for public comment; no one came forward.

Motion: by Councilor Kokoros to Close Public Hearing

Second: by Councilor DeNapoli

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

Motion: by Councilor Kokoros to approve Order 10 075
Second: by Councilor DeNapoli
Vote: For (8), Against (0), Absent (1-Clifford)

- **10 076 Mayor:** Proposed Orders for the Issuance of Green School Bonds

Motion: by Councilor Kokoros to Open Public Hearing
Second: by Councilor DeNapoli
Vote: For (8), Against (0), Absent (1-Clifford)

Councilor Mullaney reported that the Committee on Ways and Means recommended favorable action and read the November 9, 2010 memo from Mayor Sullivan requesting approval of Green School Bonds.

Council President asked for public comment. Peter Kurzberg, Superintendent of Braintree Schools commented on the need of replacing the windows in the subject schools.

Motion: by Councilor Kokoros to Close Public Hearing
Second: by Councilor DeNapoli
Vote: For (8), Against (0), Absent (1-Clifford)

Councilor Kokoros read the first of four motions for bonding request; identified as #10 076 (A).

Motion: by Councilor Kokoros to approve Order 10 076 (A)
Second: by Councilor DeNapoli
Vote: For (8), Against (0), Absent (1-Clifford)

Councilor Kokoros read the second of four motions for bonding request; identified as #10 076 (B).

Motion: by Councilor Kokoros to approve Order 10 076 (B)
Second: by Councilor DeNapoli
Vote: For (8), Against (0), Absent (1-Clifford)

Councilor Kokoros read the third of four motions for bonding request; identified as #10 076 (C).

Motion: by Councilor Kokoros to approve Order 10 076 (C)
Second: by Councilor DeNapoli
Vote: For (8), Against (0), Absent (1-Clifford)

Councilor Kokoros read the last of four motions for bonding request; identified as #10 076 (D).

Motion: by Councilor Kokoros to approve Order 10 076 (D)

Second: by Councilor DeNapoli

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

• **10 077 Mayor:** Supplemental Appropriation – AFSCME Contract

Motion: by Councilor Kokoros to Open Public Hearing

Second: by Councilor DeNapoli

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

Councilor Mullaney reported that the Committee on Ways and Means recommended favorable action and read the November 17, 2010 memo from Mayor Sullivan requesting approval of the AFSCME Collective Bargaining Agreement.

Karen Shanley, Director of Human Resources, provided an overview of the changes to the contract between the Town and the American Federation of State, County, and Municipal Employees, AFL-CIO Union (AFSCME). Ms. Shanley explained that the agreement before the Council consist of two separate contracts; one agreement for the period of July 1, 2009 to June 30, 2010 at status quo and a second agreement for three years beginning July 1, 2010. The three year agreement consists of a 6% raise; at 2% per year. The Union agreed to accept Option 2 for health insurance effective January 1, 2011. The agreement has a light duty provision that will reduce workers' compensation costs and sick time expenses, four new positions assigned to the Facilities and Equipment Maintenance Division, the reclassification of several clerical positions and reorganization of the Labor Unit.

Councilor Joyce asked if the new positions were for the proposed maintenance department. Ms. Shanley responded yes.

Council President asked for public comment. No one came forward.

Motion: by Councilor Kokoros to Close Public Hearing

Second: by Councilor DeNapoli

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

Councilor Kokoros read the motion as printed in the Mayor's November 17th memo.

Motion: by Councilor Kokoros to approve Order 10 077

Second: by Councilor DeNapoli

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

- **10 045 Councilor Dingee:** Chapter 9-800 Sex Offender Residency Restrictions

Motion: by Councilor Kokoros to Open Public Hearing

Second: by Councilor DeNapoli

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

Councilor Dingee provided an overview of the proposed ordinance; explaining it had taken over a year to write and had been sent to the Attorney General Office for comment. Their comments have been incorporated into the final document.

Council President asked for public comment. No one came forward.

Motion: by Councilor Kokoros to Close Public Hearing

Second: by Councilor DeNapoli

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

Motion: by Councilor Kokoros to waive reading of the Ordinance

Second: by Councilor DeNapoli

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

Motion: by Councilor Kokoros to approve Order 10 045

Second: by Councilor DeNapoli

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

- **10 038 Mayor:** Title 6 Ordinance – Animals

Motion: by Councilor Kokoros to Open Public Hearing

Second: by Councilor DeNapoli

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

Councilor Dingee provided an overview of the process of reviewing Chapter 6, 7, 8 and 9 Ordinance's.

Council President asked for public comment. No one came forward.

Motion: by Councilor Kokoros to Close Public Hearing

Second: by Councilor DeNapoli

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

Councilor Kokoros provided an overview of **Chapter 6-100 Dogs and Other Animals.**

Motion: by Councilor Kokoros to approve **Chapter 6-100**

Second: by Councilor DeNapoli

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

Councilor Kokoros provided an overview of **Chapter 6-200 Migratory Waterfowl.**

Motion: by Councilor Kokoros to approve **Chapter 6-200**

Second: by Councilor DeNapoli

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

- **10 039 Mayor:** Title 7 Ordinance – Reserved

Motion: by Councilor Kokoros to Open Public Hearing

Second: by Councilor DeNapoli

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

Councilor President Ryan commented that Title 7 is reserved for future use.

Council President asked for public comment. No one came forward.

Motion: by Councilor Kokoros to Close Public Hearing

Second: by Councilor DeNapoli

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

Motion: by Councilor Kokoros to approve **Title 7 – For Future Use**

Second: by Councilor DeNapoli

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

- **10 040 Mayor:** Title 8 Ordinance – Health & Safety

Motion: by Councilor Kokoros to Open Public Hearing

Second: by Councilor DeNapoli

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

Council President asked for public comment. No one came forward.

Motion: by Councilor Kokoros to Close Public Hearing

Second: by Councilor DeNapoli

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

Councilor Kokoros provided an overview of **Chapter 8-100 Burglar Alarm Systems.**

Motion: by Councilor Kokoros to approve **Chapter 8-100**

Second: by Councilor DeNapoli

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

Councilor Kokoros provided an overview of **Chapter 8-200 Flammable Storage License Fees.**

Motion: by Councilor Kokoros to approve **Chapter 8-200**

Second: by Councilor DeNapoli

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

Councilor Kokoros provided an overview of **Chapter 8-300 Fire Alarm and Fire Protection Systems.**

Motion: by Councilor Kokoros to approve **Chapter 8-300**

Second: by Councilor DeNapoli

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

Councilor Kokoros provided an overview of **Chapter 8-400 Garbage Collection and Disposal.**

Motion: by Councilor Kokoros to approve **Chapter 8-400**

Second: by Councilor DeNapoli

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

Councilor Kokoros provided an overview of **Chapter 8-500 Mandatory Recycling for Residential Properties**.

Motion: by Councilor Kokoros to approve **Chapter 8-500**

Second: by Councilor DeNapoli

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

Councilor Kokoros provided an overview of **Chapter 8-600 Hazardous Materials**.

Motion: by Councilor Kokoros to approve **Chapter 8-600**

Second: by Councilor DeNapoli

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

Councilor Kokoros provided an overview of **Chapter 8-700 Swimming Pools**.

Motion: by Councilor Kokoros to approve **Chapter 8-700**

Second: by Councilor DeNapoli

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

- **10 041 Mayor:** Title 9 Ordinance – Public Peace, Morals and Welfare

Motion: by Councilor Kokoros to Open Public Hearing

Second: by Councilor DeNapoli

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

Council President asked for public comment. No one came forward.

Motion: by Councilor Kokoros to Close Public Hearing

Second: by Councilor DeNapoli

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

Councilor Kokoros provided an overview of **Chapter 9-100 Offenses Against Public Peace and Decency**.

Motion: by Councilor Kokoros to approve **Chapter 9-100**

Second: by Councilor DeNapoli

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

Councilor Kokoros provided an overview of **Chapter 9-200 Public Consumption of Alcoholic Beverages.**

Motion: by Councilor Kokoros to approve **Chapter 9-200**

Second: by Councilor DeNapoli

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

Councilor Kokoros provided an overview of **Chapter 9-300 Release of Impounded Vehicles.**

Motion: by Councilor Kokoros to approve **Chapter 9-300**

Second: by Councilor DeNapoli

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

Councilor Kokoros provided an overview of **Chapter 9-400 Property Offenses.**

Motion: by Councilor Kokoros to approve **Chapter 9-400**

Second: by Councilor DeNapoli

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

Councilor Kokoros provided an overview of **Chapter 9-500 Weapons.**

Motion: by Councilor Kokoros to approve **Chapter 9-500**

Second: by Councilor DeNapoli

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

OMNIBUS PROCEDURAL MOTIONS

Motion by Councilor Kokoros that the Town Council vote to repeal all by-laws under Title 6, 7, 8 and 9 General Provisions as approved by Town Meeting through December 31, 2007 and as subsequently approved by the attorney General and printed in the General By-laws of the Town through September 2008.

Motion: by Councilor Kokoros to approve

Second: by Councilor DeNapoli

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

COMMUNICATIONS AND REPORTS FROM THE MAYOR AND TOWN BOARDS

None

NEW BUSINESS

Refer to Committee on Ordinance & Rules

- **067 10 Clerk of the Council:** Council Rule 28 – Proposed Amendment

Motion: by Councilor Kokoros to refer Order 067 10 to Committee

Second: by Councilor DeNapoli

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

ADJOURNMENT

It was unanimously voted to adjourn the meeting at 9:50p.m.

Respectfully submitted,

James M. Casey

Clerk of the Council

Documents provided for Meeting

- **056 10 Council President:** Seasonal Flu Clinic, December 9th
- **064 10 Council President:** Sustainable Braintree – 3rd Annual Green Gala
- **065 10 Council President:** Braintree Community Youth Center
- **068 10 Council Kokoros:** Braintree Christmas Party for Toys for Tots
- **066 10 Council President:** Full-Day Kindergarten Program Survey
- **November 18, 2010 Minutes**
- **048 10 Council President:** Council Reappointment Policy
- **10 073 Verizon:** Joint Petition with BELD – 531 Pond Street
- **10 072 Board of Assessors:** FY2011 Tax Levy
- **10 059 (A) Mayor:** Supplemental Appropriation – W & S Distribution System Improvements
- **10 075 Mayor:** Proposed Order Allowing Refunding of Bonds
- **10 076 Mayor:** Proposed Orders for the Issuance of Green School Bonds
- **10 077 Mayor:** Supplemental Appropriation – AFSCME Contract
- **10 045 Councilor Dingee:** Chapter 9-800 Sex Offender Residency Restrictions
- **10 038 Mayor:** Title 6 Ordinance - Animals
- **10 039 Mayor:** Title 7 Ordinance - Reserved
- **10 040 Mayor:** Title 8 Ordinance – Health & Safety
- **10 041 Mayor:** Title 9 Ordinance – Public Peace, Morals and Welfare
- **067 10 Clerk of the Council:** Council Rule 28 – Proposed Amendment