1. 6:00 P.M. Committee Of Ways & Means
   Documents:
   19 NOV 19 WM AGENDA.PDF

2. 6:00 P.M. Committee Of Ways & Means
   Documents:
   19 NOV 19 WM MTG.PDF
AGENDA
Tuesday, November 19, 2019
Starting Time – 6:00p.m.

Johnson Chambers, Town Hall

1. Pledge of Allegiance/Moment of Silence

2. Roll Call

3. Approval of Minutes
   • October 30, 2019

4. Old Business
   • 19 042 Mayor: Transfer Control of Town Forest Land to Conservation Commission or take up any action relative thereto

5. New Business
   • 19 043 Mayor: Authorization to Fund South Middle School or take up any action relative thereto (PUBLIC HEARING at full Council)
   • 19 044 Mayor: To Approve the purchase and resale of an affordable-housing unit at Turtle Crossing and the expenditure of funds for that purpose or take up any action relative thereto (PUBLIC HEARING at full Council)

6. Adjournment
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6. Adjournment
A meeting of the Committee of Ways & Means was held in the Cahill Auditorium, Braintree Town Hall, on Wednesday, October 30, 2019 at 6:00p.m.

Councilor Bowes was in the Chair.
The Clerk of the Council conducted the roll call.

Present: Thomas Bowes, Chairman
Shannon Hume, Vice-Chair
Stephen C. O’Brien, Member
Timothy Carey, Member
Thomas Whalen, Member

Also Present: Nicole Taub, Town Solicitor
Joseph Reynolds, Chief of Staff
Karen Shanely, Human Resource Director
Paul Shastany, Chief of Police
Mark Dubois, Chief of Police
Brian Kyes, Chief of Police Chelsea
Kenneth Murphy, Officer/VP of MA Coalition of Police
Karen MacAleese, Interim Deputy Chief
Dan Clifford, former Council member
Larry Mackin, resident
John McKinley, resident

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

Approval of Minutes
• None
New Business
• 19 038 Mayor: Appointment - Chief of Police, Mark W. Dubois or take up any action relative thereto

Nicole Taub stated on behalf of Mayor Sullivan thank you for setting aside time tonight to review the decision to appoint Chief Mark Dubois to serve as our next Chief of Police. As has been the case with all prior mayor appointments that have come before this committee, we are here to review the Mayor’s appointment and are prepared to answer any questions you have regarding Chief Dubois’ qualifications for the position.

On July 1, 2019, the Mayor announced the search for the next Chief of Police, which was necessary due to the impending retirement of Chief Paul Shastany. A search committee was put together of highly experienced law enforcement personnel who were tasked with reviewing all of the applicants, conducting preliminary interviews and recommending finalists for the Mayor’s consideration. The committee included Chief Brian Kyes of the Chelsea Police Department, Retired Chief Ed Deveau of the Watertown PD, Chief Kelly Nee of the Boston University PD, Human Resources Director and Town Solicitor. In total the committee has over 100 years of police experience and was committed to ensuring that the most qualified candidate was selected to serve this community.

28 resumes were received in response to the job posting published on July 1, 2019. The committee conducted interviews of 10 candidates, including all of the internal applicants for the position. The committee then unanimously recommended finalists to move forward in the process and meet with the Mayor.

Chief Brian Kyes, who is currently chief of the Chelsea Police Department and a member of many law enforcement organizations, has previously participated in search committees and assessment centers relative to the appointment of a chief of police and is a well-respected member of the law enforcement community. Chief Kyes stated he was asked to serve on a selection committee along with retired Chief Ed Deveau of the Watertown PD and Chief Kelly Nee of the Boston University PD. There were 28 candidates who applied for the job. We made a decision to narrow that down to 10 applicants. We looked at each resume and letter for consideration on our own time and selected our 10 and sent them to a point person in a “blind” fashion. No one knew each other’s selections. That was done by mid-August. There was a significant number of overlaps selected of candidates for the top 10. We discussed these at length and decided on 10. We interviewed in September. I found this to be a very professional process and very thorough. Mayor Sullivan asked all members of the committee to be fair and impartial.

Councilor O’Brien stated thank you for being here Chief Kyes. Thank you for identifying the process. The general public may feel the Town Council has some information on how the process goes and that we are more involved than we actually are. As we sit here tonight the only thing the Mayor has to provide to us for a decision is in fact the candidate that he has selected. It is interesting to know about the 28 because I can’t find that documented anywhere. I didn’t know there were 28 and had no idea there were 10 that were “widdled” down and I certainly had no idea there were 3 finals selected. We have heard from many people we have the ability to change the process or somehow vet the candidates
more than the ability that we have, we don’t. There is one candidate before us. That is the selected candidate and that is who we have to vet. That is what I am personally doing.

Councilor O’Brien asked Chief Kyes when he received the 28 candidates did you review all 28?

Chief Kyes stated we received a package of all 28 resumes and letters of consideration and any additional accompanying documents. It was our responsibility to go through each of the 28 and make a determination of who we felt would be the most qualified candidate at least the top 10 for the first phase. That is pretty much the industry standard. You get a large group and vet it down to something manageable so you can have them in for interviews. Yes we did go through each and every piece of paper for every single candidate submitted.

Councilor O’Brien asked if there were candidates that weren’t even qualified.

Chief Kyes stated not that I recall but for a police chief the size of a city like Braintree I would certainly think the rank of at least Lieutenant or above should be something considered.

Councilor O’Brien asked about Police Chiefs or department personnel being involved.

Chief Kyes stated in my experience there has never been anyone involved in the local department being part of the process. It is people outside so no bias. Sometimes outside committees are hired and people are getting paid. Here in Braintree there was no financial arrangement. We volunteered our time. We had no ties to Braintree and there was no other individual from the police department involved in the process.

Councilor O’Brien asked how many times did you meet with Chief Dubois?

Chief Kyes stated initially the top 10 were given an hour interview. I met with him once.

Councilor Carey asked about the top 28 resumes and how they were forwarded in a “blind” fashion. Can you explain that a little more?

Chief Kyes stated everyone on this panel were put to a task to take a significant group of resumes and packages of 28. We were to come up with 10 that we would submit to the point person who was designated as the Human Resource Director and submit that information via email in a blind fashion so only this point person would see them.

Councilor Carey asked if all resumes had full information including where they were employed.

Chief Kyes stated yes it was a full resume.

Councilor Hume asked what qualities you saw that set this appointee aside from everyone else.

Chief Kyes stated training, education, experience, as far as the candidates in the top 10 he was the only police chief. He’s been a police chief for over 7 years and involved in policing over 25 years. He’s an attorney, military leader, his character was on paper highly qualified certainly and I think during the interview process and the hours’ time we had with him he really took what he had on paper to a whole other level, in my opinion.

Councilor O’Brien asked does it concern you the candidate in front of us comes from a smaller town. Chief Kyes stated it doesn’t. The Chief has experience coming up the ranks in a larger department in Shrewsbury. It is certainly the leadership traits and characteristics the chief has certainly translate.

Nicole Taub, Town Solicitor stated as Mayor Sullivan has stated publicly, this was not an easy decision given the quality of the candidate pool; however, the qualifications Chief Dubois has that will enable him to lead our police department are undeniable. You have been provided his resume. The
appointment of Chief Dubois to serve as our next Chief of Police is not a political one. On the contrary, Chief Dubois’ appointment is based on his extensive qualifications and experience in law enforcement – all of which make him the most qualified candidate for the position and to best serve the needs of our department and our community upon Chief Shastany’s retirement next month.

Chief Dubois stated I went into considerable research and decision making when I applied. I spoke to a lot of people involved in the community. I spoke with the General Manager of the South Shore Plaza, and police officers. I spoke with Chief Shastany for over an hour one day to get a feel for the community. I did a lot of research on what I could remotely. With all that I thought it was an excellent fit and I was very excited to apply. I was very excited to get selected by the Mayor. I would like to address the size of the community that I am coming from. If you look at my overall experience there is different times and levels that fit well for Braintree. In Maynard I developed all the executive skills necessary like budgets, personnel, civil service. Doesn’t matter the size of the department the issues are the same. Shrewsbury is very similar to Braintree. Population being about 38,000.

Councilor Carey asked as an outsider what would your challenges be to overcome and how would you be able to do that.

Chief Dubois stated it would be developing trust within the police department and the community. That takes a little time understanding my personality, my expectations. The challenges are getting a feel for the priorities internally and externally and being successful in achieving those and responding to them. Initially it would be just to get to know how the police department operates as personnel and how they interact with the community and all those relationships.

Councilor Hume stated we are the Ways & Means and we are governed by the Charter. We all had the opportunity to meet with you individually. I want to read the part of the Charter on the appointment that applies to us:

SECTION 2-10: COUNCIL REVIEW OF CERTAIN APPOINTMENTS
The mayor shall submit to the town council the name of each person the mayor desires to appoint to any town office, as a department director, or as a member of a multiple-member body, but not including any position that is subject to the civil service law. The town council shall refer each name that is submitted to it to a standing committee of the town council which shall investigate each candidate for appointment and may make a report, with recommendations, to the full town council not less than 7 nor more than 21 days after the referral. The committee may require any person whose name has been referred to it to appear before the committee, or before the town council, to give any information relevant to the appointment that the committee, or the town council, may require. Appointments made by the mayor shall become effective on the thirtieth day after the date on which notice of the proposed appointment was filed with the clerk of the council, unless 6 members of the town council shall within those 30 days vote to reject the appointment, or unless the town council has sooner voted to affirm the appointment. The question on rejection of any appointment made by the mayor shall not be subject to the procedure of charter objection provided in section 2-9 (b) of this charter.
Councilor Bowes, Chairman stated he now would allow members of the public to come forward to speak, state your name and you will be limited to 5 minutes.

Officer Kenneth Murphy, VP of MA Coalition of Police and I represent the Unions within the Braintree Police Department. He stated no doubt the process is thorough and well explained this evening. We are days from an election. Would the new Mayor have a voice? Why would the current Mayor appoint so close to the new Mayor coming in? That new Mayor might like to select a department head more in line, but maybe Chief Dubois is. There were many applicants and it seems like a very professional process. The Mayor said he reviewed the applicants. Did he actually interview more than one?

Nicole Taub, replied the Mayor stated the initial process began in July in light of the retirement of Chief Shastany in November. It was important so there be no lapse in time in the leadership of the police department. As to the second question, there were three finalists and one decided not to move forward with this process. The Mayor interviewed 2 of them. The selection committee was relied upon for expertise.

Larry Mackin, Milton Road, running for Town Councilor in District 6 stated the selection of a new police chief has become a controversial issue in town. Many residents believe the selection should not be left to the outgoing Mayor. A new Mayor should have a say in this decision. Before the current chief the mayor appointed an interim. He should do that here. I would hope the committee will hold a vote and the council will hold a meeting before the election on Tuesday.

Councilor Bowes stated the calendar for the Town Council is made a year in advance. The next meeting is November 6th which is the day after the election. A change in meeting is up to the Council President.

Dan Clifford, 265 Saint Claire Street stated this vote should be taken up before the election. It is within the purview of the Council President to call a special meeting. November 4th would be the only date available now.

Councilor Bowes stated your concerns will be relayed to the Council President. I plan to have a motion made one way or the other tonight you will know how 5 members are going to vote.

John McKinley, 56 Logan Road stated tonight is not about if Chief DuBois is qualified. It is about the obvious bias to an officer in the Braintree Police Department. The fact not one of the 4 BPD officers were given a second interview gives the appearance of political bias of our current elected official against our very qualified officers.

Councilor Bowes stated this is not bias. There was a selection committee of 5 individuals who chose the finalists. Council has no decision in the matter. It is an Executive Branch matter. It is up to the Mayor and his staff on who is going to be on the selection committee. We will take a vote in this committee tonight. This committee will make a recommendation. I heard from others they would like a meeting on Monday. I will do my best to relay that message to the Council President.

John McKinley, 56 Logan Road stated it was clear the mayor did not want to hire within. No one on the BPD even made the second cut.

Councilor Bowes stated please stick to the facts. You just heard from Chief Kyes on the process.
Karen MacAleese stated were any of the chiefs that were on the panel, did any members of their departments interview and were they finalists?
Nicole Taub, stated it is the Town’s position that it is a person’s decision to seek employment outside of their current position is a private one. It is not for the town to disclose anyone’s decision to do that. With the experience of the search committee it is inevitable that individuals would be familiar whether through a direct report or otherwise with candidates that come through the process. I can assure you every member of the search committee conducted themselves in a professional and unbiased manner.

Karen MacAleese asked did the chief’s interview anyone from their departments because they would have knowledge of that person and our chief was not allowed to be on that process.
Nicole Taub, stated it is inevitable that you would come across individuals you know or work side by side with or know in a professional organization or otherwise. I would also like to remind people there were two individuals from this community on this panel begin our HR Director and myself who were familiar and worked with all of the internal candidates that considered their resume for consideration.

Councilor O’Brien asked Chief Dubois to share his drive and passion. It is very impressive the person before us is a chief but also an attorney. You know and understand the law.

Chief Dubois stated his father and brother were in the military. When I got out of high school I went to sign up for the military but my parents and brother talked me out of it. I knew I wanted to go into Law Enforcement but I took another route. This really bothered me because I always really wanted to be involved in the military and serve. I put myself through college receiving my associates, bachelor and law degree. I still had this nagging to go into the military and decided to sign up for the Army. I have been in 12 years. It is one of the better decisions I have made. It is very rewarding.

Councilor O’Brien asked Chief Dubois what the Guard “work” requires of you.
Chief Dubois stated in the Trial piece we work from our homes. It will not interfere with any policing. It will be a minimal impact.

Councilor Bowes stated we here in Braintree are very close to Accreditation.
Chief Dubois stated that is very impressive. It is not an easy process. I have been involved in updating policies and procedures in previous Towns, getting certified and accomplishing Accreditation. It is a long process but I work closely with the union also to make sure they are on board with everything. It is a team effort to accomplish. It completely professionalizes your operation.

Councilor Hume stated I have been involved in many search committees myself. I believe in the process. I believe it works. It is no easy task. I thank all of you coming before us and willing to speak.
Motion made by Councilor Hume for favorable recommendation to the full Council.

Councilor O'Brien stated “Second for Discussion” during the Motion being read: I came into this process wanting a reason not to vote. Same night action is unacceptable. This is the process. We are bound by it. I am glad another member read the detail from the Charter (2-10). We have one candidate to look at. I wanted a reason to be negative. I was concerned no one on the committee interviewing was from Braintree. I was concerned Chief Shastany was not involved but Chief Kyes helped with my fears that the process is an industry process. We don’t see candidates or review any others. I thought what could happen if we vote no. Chief Kyes stated this was the only Chief who put his name “in the bucket”. I looked and refuse to look anymore. I am very happy with the candidate we have in front of us.

**MOTION:** To Approve in accordance with Sections 2-10 and 3-3 of the Charter, the Appointment of Mark W. DuBois as Chief of Police of the Braintree Police Department for a 3 year term.

**Motion:** by Councilor Hume for favorable recommendation to the full Council  
**Second:** by Councilor O’Brien  
**Vote:** For (5– Bowes, Carey, Hume, O’Brien, Whalen), Against (0), Absent (0), Abstain (0)

Councilor O’Brien stated the Library conference room is booked if a Vote by this current Council is approved/scheduled by Council President to be held on Monday, November 4, 2019.

**Old Business**
- None

It was unanimously voted to adjourn the meeting at 7:18p.m.

Respectfully submitted,  
Susan M. Cimino  
Clerk of the Council

**Documents provided for Meeting**

- 19 038 Mayor: Appointment - Chief of Police, Mark W. Dubois or take up any action relative thereto
MEMORANDUM

TO: Charles B. Ryan, President of the Town Council
   Town Council
   James Casey, Town Clerk
   Sue Cimino, Clerk of the Council

FROM: Joseph C. Sullivan, Mayor

DATE: October 10, 2019

RE: Transfer of Control of Town Forest Land to the Conservation Commission

With this request to the Town Council I am requesting approval for the transfer of the parcels of land in the Town Forest from the Office of the Mayor to the Conservation Commission.

I offer this recommendation after discussions that I have had with our planning and conservation department as well as the chairperson and other members of the conservation commission and other citizens. The purpose of this land transfer is to ensure that the land within the Town Forest will be permanently dedicated for use solely for open space and conservation purposes, including passive recreation — and to protect this land from any consideration of future development forever and a day.

The 1942 Annual Town Meeting voted, under Article 56 of the warrant, to establish the Town Forest, to be comprised of several parcels of land that had been taken by the Town in tax title foreclosure proceedings. The 1943 Annual Town Meeting, under Article 32 of the warrant, voted to assign additional tax-title parcels to the Town Forest. Several parcels were added to the Town Forest thereafter, in some cases by gift or other conveyance to the Town from private parties. The total area of the Town Forest is approximately 126 acres.
Pursuant to Chapter 45, Section 21 of the General Laws, which authorizes the establishment and management of town forests, the Town Forest was initially managed by a Town Forest Committee. When the new Mayor-Town Council form of government was established, the Town Charter did not provide for the continuation of the Town Forest Committee, and control of the Town Forest passed to the Office of the Mayor as the Town’s executive authority.

Chapter 45, Section 21 of the General Laws does not specify or limit the allowable uses of land that is managed as a town forest. Consequently, while the land within the Braintree Town Forest is currently undeveloped and kept in a natural state, this status could be changed in the future, if the Town were to decide to develop the land for the Town’s own purposes, or to dispose of the land to a private party. I am therefore proposing that the Town Forest be transferred to the care, custody, and control of the Conservation Commission, and that the land be formally dedicated to use solely for open space and conservation purposes (including passive recreation). This would eliminate the possibility that land within the Town Forest might be developed in the future.

Under Section 15A of Chapter 40 of the General Laws, a two-thirds vote of all the members of the Town Council is required to approve the transfer of municipal property that is designated for a specific purpose, from the control of one officer or board to the control of another officer or board, for a different municipal purpose. Section 15A also requires that, prior to that vote, the officer currently in control of the property is to determine that the property is no longer needed for its previous purpose. I hereby make that determination for the Town Forest land.

The attached Motion, if so approved by the Town Council, will transfer the Town Forest land from the Office of the Mayor to the Conservation Commission, and will dedicate the Town Forest land to use solely for open space and conservation purposes, including passive recreation. (The list of the assessors parcels that are currently included in the Town Forest is undergoing review to confirm its completeness, and will be provided prior to Town Council action on the Motion.)

I respectfully request that the Town Council act favorably on the following Motion:

**MOTION:** That the Town Council, pursuant to Section 15A of Chapter 40 of the General Laws of the Commonwealth, vote to transfer from the Office of the Mayor to the care, custody, and control of the Conservation Commission, the parcels of land that comprise the Town Forest, as listed on the attached Exhibit*; and, further, that said parcels shall be dedicated for use solely for open space and conservation purposes, including passive recreation.

* Exhibit to be provided by the Office of the Mayor upon review of assessors records
MEMORANDUM

TO: Charles B. Ryan, President of the Town Council
   Town Council
   James Casey, Town Clerk
   Sue Cimino, Clerk of the Council

FROM: Joseph C. Sullivan, Mayor

DATE: October 30, 2019

RE: #19-042 (Transfer of Control of Town Forest Land to the Conservation Commission): Supplemental Information

In a Memorandum dated October 10, 2019, I requested approval for the transfer of the parcels of land in the Town Forest from the Office of the Mayor to the Conservation Commission. The Memorandum indicated that the list of parcels to be transferred was undergoing review and cross-checking against the Assessors records, before being submitted to the Town Council.

Attached hereto is “Exhibit A: Town Forest Parcels To Be Transferred To The Conservation Commission.” Also attached is a map showing the location of the parcels that are to be transferred.

The Exhibit and the map include all of the Assessors’ parcels that are included in the Town Forest, with the exception of four small parcels (totaling 0.65 acres) that are located within the area of land that is bounded by Liberty Street and Old Liberty Street. These four parcels were separated from the remainder of the Town Forest when Liberty Street was constructed. Since these four parcels are not contiguous with the remainder of the Town Forest, the stated objective of preserving the Town Forest for open space and conservation purposes (including passive recreation) will not be adversely affected by excluding these four disconnected parcels from the
remainder of the Town Forest that is to be transferred to the Conservation Commission. The
total area of land to be transferred to the Conservation Commission remains approximately 126
acres, the figure stated in the previous Memorandum.
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**Total Acreage:** 126.08
To: Charles B. Ryan, President of the Council  
Susan Cimino, Clerk of the Council  
James Casey, Town Clerk  

From: Joseph C. Sullivan, Mayor  

Cc: Joseph Reynolds, Chief of Staff and Director of Operations  
Edward Spellman, Director of Municipal Finance  

Date: November 5, 2019  

RE: Request for Borrowing Authorization for South Middle School Building Project  

I am pleased to report that the Massachusetts School Building Authority ("MSBA") recently approved our project to construct a new South Middle School. The project will consist of building a completely new middle school. This significant new addition to our school system will accommodate our 5th graders adjustment to middle school. The total project is expected to cost $86.5 million of which the MSBA has committed to reimbursing the Town at least 53.96% of eligible costs. According to the MSBA guidelines the Town is required to authorize the full amount of the project, and the MSBA will reimburse the Town for its share.  

At this time, I am requesting that the Town Council vote to authorize the Town to borrow a "not to exceed" amount of $86.5 million for the new South Middle School with the understanding that the amount borrowed will be reduced by reimbursements received from the MSBA. A motion approving the bond authorization is attached hereto. As you are aware, we are able to accomplish this work without an override or debt exclusion request of the community. With proper planning and our financial strength we are able to incorporate this work within our existing budgetary allotments.  

Please be advised that, pursuant to Section 2-9 of the Town’s Charter, this borrowing authorization must be published in a newspaper at least 10 days before its final passage. Also, Section 6-7 of the Charter requires that the Town Council conduct a public hearing on this request, with notice of the public hearing being advertised 7 to 14 days prior to the date set for
the public hearing. One advertisement covering both the amount of the appropriation order and notice of the public hearing will suffice.

Finally, this authorization requires an initial reading before the matter is referred to a subcommittee for recommendation. Your cooperation was appreciated by conducting the initial reading of this matter at your meeting on October 15 and conducting the public hearing on November 19.

Thank you for your continued support on this very important project.
TOWN OF BRAINTREE, MASSACHUSETTS

IN TOWN COUNCIL

ORDERED:

That the Town appropriate the amount of Eighty-Six Million Five Hundred Eighty-Five Thousand Nine Hundred Nineteen Dollars ($86,585,919) for the purpose of paying costs of designing, constructing, equipping and furnishing a new South Middle School, to be located behind the existing South Middle School at 232 Peach Street in Braintree, Massachusetts, including the payment of all costs incidental or related thereto (the "Project"), which school facility shall have an anticipated useful life as an educational facility for the instruction of school children for at least 50 years, and for which the Town may be eligible for a grant from the Massachusetts School Building Authority ("MSBA"), said amount to be expended under the direction of the School Building Committee. To meet this appropriation the Treasurer, with the approval of the Mayor, is authorized to borrow said amount under M.G.L. Chapter 44, or pursuant to any other enabling authority. The Town acknowledges that the MSBA's grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any project costs the Town incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the Town; provided further that any grant that Town may receive from the MSBA for the Project shall not exceed the lesser of (1) fifty-three and ninety-six hundredths percent (53.96%) of eligible, approved project costs, as determined by the MSBA, or (2) the total maximum grant amount determined by the MSBA; and that the amount of borrowing authorized pursuant to this vote shall be reduced by any grant amount set forth in the Project Funding Agreement that may be executed between the Town and the MSBA. Any premium received upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with M.G.L. c. 44, §20, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.

Note:  As this request involves a loan authorization, advertising and a public hearing is required under Sections 2-9 and 6-7 of the Town Charter. In accordance with M.G.L. c. 44, §1, approval requires the affirmative vote of two-thirds of all members of the Town Council.