



Braintree Town Council Committee on Ordinance & Rules

One JFK Memorial Drive
Braintree, Massachusetts 02184

MEMBERS

David Ringius, Jr, Chairman
Steven Sciascia, Vice- Chairman
Julia Flaherty, Member
Lawrence Mackin, Jr, Member

April 13, 2021 MINUTES

A meeting of the Committee on Ordinance & Rules was held Remote via Zoom Webinar on Tuesday, April 13, 2021 beginning at 6:30pm.

Chairman Ringius was in the Chair.
Clerk of the Council, Susan Cimino conducted the roll call.
All votes were conducted by Roll Call Vote.

Present: David Ringius, Jr, Chairman
Steven Sciascia, Vice-Chairman
Julia Flaherty, Member

Not Present: Lawrence Mackin, Jr, Member

Also Present: Crystal Huff, Assistant Town Solicitor
James Arsenault, DPW Director
Stephen C. O'Brien, District 4 Town Councilor
Thomas Devin, School Committee Chairman
George Kokoros, School Committee

Approval of Minutes

• March 30, 2021

A Motion was made by Councilor Flaherty approve Minutes of March 30, 2021

Motion: by Councilor Flaherty approve Minutes of March 30, 2021

Second: by Councilor Sciascia

Roll Call Vote: For (3 – Flaherty, Ringius, Sciascia), Against (0), Absent (1 - Mackin), Abstain (0)

Old Business

- **054 20 Councilor Mackin: Motion to Establish an Independent Peterson Pool Oversight Authority/Committee or take up any action relative thereto**

Chairman Ringius asked for a Motion to Take off the Table item 054 20

A Motion was made by Councilor Sciascia to Take off the TABLE item 054 20

Motion: by Councilor Sciascia to Take off the TABLE item 054 20

Second: by Councilor Flaherty

Roll Call Vote: For (3 – Flaherty, Ringius, Sciascia), Against (0), Absent (1 - Mackin), Abstain (0)

Chairman Ringius stated Councilor Mackin could not be here to discuss this tonight. At our last O&R meeting we did table this because we had a Motion prepared by Councilor Mackin and there are questions on the legalities of this Motion. Attorney Huff took a look at the legal side of this again and made some suggestions. Since Councilor Mackin could not make this meeting and this is his proposal we may want to table this item if it is the will of the O&R members.

Councilor Mackin's Amended Version 3/30/2021:

Motion to Establish an Independent Peterson Pool Oversight Authority/Committee

1. *Establish/create an independent 5-member Peterson Pool Oversight Authority/Committee*
 - a. *Two (2) representatives from town council. One of the Council Representatives will be Councilor Flaherty as the project resides in District 1. The other Council Representative will be Councilor Mackin as the creator of this committee.*
 - b. *Three (3) Braintree residents. Residents shall be chosen by the council representatives on the committee.*
2. *Any individual who was a member of the Braintree Town Government or a town employee while the relationship with Developer, David Boucher was active, April of 2015 – August of 2019 is excluded from serving on this authority/committee. This is to avoid any potential conflict of interest (see #3).*
3. *Part of this authority/committee's responsibilities will be reviewing past actions to establish a baseline and accountability.*
4. *To fulfill its responsibilities and due-diligence this authority/committee holds the full authority to call before it any and all current and past parties it deems essential to the process; the Committee is authorized to view and obtain all documents it requests.*
5. *All meetings will be carried by BCAM for purposes of transparency and official and legal record (if BCAM agrees). Meeting minutes shall be taken for each meeting as well.*
6. *This authority/committee shall meet as often as needed to fulfill its duties.*
7. *Within 45 days of its first meeting this authority/committee shall provide a summary "Next Steps" plan with tentative milestones, including a tentative end dates to report progress.*

Included Responsibilities of the Committee

- *Providing an independent assessment of milestones.*
- *Providing an independent assessment of scheduling.*
- *Providing an independent assessment any payments made. This cover payments coming out of the Peterson Trust or from the Town of Braintree.*
- *Providing independent review of contractual changes.*

This authority/committee will have the authority to examine all activities, communications, etc. that transpired between the Town of Braintree, David Boucher, 5 Capital Management, and BSC Consultants. The objective here is to establish accountability for the mismanagement of \$1 million.

Also examining if any town officials exhibited negligence in their duties which allowed this to occur. This includes questions such as:

- *Why wasn't a proper background check done on BSC? Did we look to see if they had completed any projects like this before? (they had not)*
- *Why wasn't it verified that BSC could secure financing PRIOR to the contract being signed? (not 4 years afterwards, after we paid them \$1 million)*
- *Why was BSC Partners not required to create a Performance Bond for the project, as stated in the RFP?*
- *What was the business justification for a contract that was written to create a situation where for 3 years payments of \$1.5 million would be made but no construction had to be performed?*
 - *How did this decision benefit the project? (As opposed to a project like the Thayer sports complex which was finished less than two years after signing a contract).*
- *What was the justification for signing a release of liability for BSC and allowing them to walk away with \$1 million dollars and no consequences?*
 - *How were these actions in the best interests in the town of Braintree?*

A Motion was made by Councilor Sciascia to TABLE item 054 20 to the next O&R meeting

Motion: by Councilor Sciascia to TABLE item 054 20 to the next O&R meeting

Second: by Councilor Flaherty

Roll Call Vote: For (3 – Flaherty, Ringius, Sciascia), Against (0), Absent (1 - Mackin), Abstain (0)

New Business

- **053 20 Councilor O'Brien: Maintenance Department Recommendation or take up any action relative thereto**

Chairman Ringius stated this was proposed by District 4 Councilor O'Brien. This is in essence a consolidation of Maintenance Departments. Whereby the town and school maintenance would be consolidated. This could perhaps yield certain savings. This is also a very layered proposal and would need to go through a number of checks and balances and have the agreement of a number of different parties. Attorney Huff has made a legal analysis of this proposal.

Crystal Huff, Assistant Town Solicitor stated this is under MGL C71 s37M and our own Town Charter Article 4 section 4-5.3.

SECTION 4-5: SCHOOL COMMITTEE POWERS AND DUTIES

The school committee shall have all powers which are conferred on school committees by general laws and any additional powers and duties that may be provided by the charter, by ordinance, or otherwise and are not inconsistent with the grant of powers conferred by general laws. The powers and duties of the school committee shall include the following:

- 1) To appoint a superintendent of the schools who shall be charged with the day-to-day administration of the school system, subject only to policy guidelines and directives adopted by the school committee and, upon the recommendation of the superintendent, to establish and appoint assistant or associate superintendents as provided in [section 59 of chapter 71](#) of the General Laws;*
- 2) To make all reasonable rules and regulations for the management of the public school system and for conducting the business of the school committee as may be considered necessary or desirable;*
- 3) To adopt and to oversee the administration of an annual operating budget for the school department, subject to appropriation by the town council. The school committee shall have general charge and superintendence of all school buildings and grounds and shall furnish all school buildings with proper fixtures, furniture and equipment. **The school committee shall provide ordinary maintenance of all school buildings and grounds, but the town council may, by ordinance, provide for the establishment of a central municipal maintenance department which may, subject to the approval of the school committee, include maintenance of school buildings and grounds.***

Whenever the school committee shall determine that additional classrooms are necessary to meet the educational needs of the community, at least 1 member of the school committee, or a designee of the school committee, shall serve on the agency, board or committee to which the planning or construction of the new, remodeled or renovated school building is delegated.

Our Town Charter stated pursuant to an Ordinance... The Town Council would have to pass an Ordinance ...with approval from the School Committee..

Labor negotiations would need to be involved, equipment discussion would need to happen as well. Attorney Huff thought the Ordinance should come first to have something concrete to vote on. The other way is to vote if the Town Council likes this idea of consolidation and if they would like to move forward with it. Then the Ordinance could be drafted.

Councilor Sciascia stated in the proposal from Councilor O'Brien his proposal asked the Town Solicitor to draft an Ordinance on this.

Attorney Huff stated we can draft an Ordinance if it is the will of the Council. It does seem a little early to draft an Ordinance. We need to know if it is the will of the Council to go forward with this proposal.

Chairman Ringius stated if School Committee does not want this then we are dead in the water with this.

Councilor O'Brien stated the way I read the Charter ... *but the town council may, by ordinance, provide for the establishment of a central municipal maintenance department...*

In my opinion that needs to go first. It continues... *which may, subject to the approval of the school committee, include maintenance of school buildings and grounds.*

Councilor O'Brien continued I found over a million dollars in consolidation of departments not just schools. In the Education & Library Committee we discussed this but it was way early with this idea. The Mayor cannot do anything without an Ordinance. This should be an Ordinance first and then go to the other Committee. It looks as the Org Chart for Schools the Schools report to the Mayor. We should start in O&R with some guidance on an Ordinance and go on from there.

Councilor Sciascia asked what the preference is from Councilor O'Brien as to what the next step is. Councilor O'Brien stated I would like Legal Counsel create an Ordinance to create a Central Maintenance Department and not just with Schools. The Maintenance Department and Facilities Department do a great job.

Chairman Ringius stated when you read the Charter to include the schools we would need approval from the School Committee. Is your intent to create a Central Maintenance Department with everything else even if the Schools do not vote to be part of this?

Councilor O'Brien stated yes. I do believe Schools should be part of this. To consolidate and bring every department under one Maintenance Department and yes even without schools.

Chairman Ringius stated could the Town Council draft and Ordinance for all departments to have a Centralized Maintenance Department without Schools?

Attorney Huff stated it certainly seems it could I would like to look into this further but this section of the charter is **SECTION 4-5: SCHOOL COMMITTEE POWERS AND DUTIES.**

Jim Arsenault, DPW Director stated as long as the staff and department are all under the DPW that would be fine. We use staff for all different uses.

Councilor Flaherty asked what your envision is for the DPW department? Is it a broadening of the DPW Department?

Councilor O'Brien stated I think of this as a division of the DPW department. Yes – in the current existing "division".

Councilor Flaherty stated this would be a massive undertaking to have the maintenance of the entire town.

Jim Arsenault, DPW Director stated there are a lot of opportunities to have a consolidated department. DPW will get the impossible taken care of. We do not shy away from getting things done. We are able to do a lot of different projects due to our in-house staff. Doing things in-house is a lot less expensive than bidding projects out.

Councilor Flaherty asked about the facilities/staffing of the School Department.

Jim Arsenault, DPW Director stated they have staffing and facilities that would be helpful to the maintenance department. It would be a good blending of the two. It would give us more staffing to get things done. Our staff is very flexible.

Thomas Devin, Chairman School Committee stated everyone thinks going from one maintenance department to another maintenance department is just a flick of a switch. It is not. There are different types of maintenance. Take the fiscal and have it go to the physical. We know the capabilities but will this burn them out if they take over all parts of the town. Schools square footage is more than 4 to 5 times that of the Town. I see situations that are going to be problematic. I would like to sit down with the DPW Director and have a discussion of the over 30 years of experience I have.

George Kokoros, Chair of subcommittee Finance & Operations of the School Committee asked director Arsenault to present to this subcommittee if it is to move forward. The Mayor is one member of the School Committee. We report to the people who elected us.

Councilor Sciascia asked Assistant Town Solicitor Huff to craft language for an Ordinance for this Consolidated Maintenance Department.

Attorney Huff stated yes we can assist in crafting language for this.

Chairman Ringius stated I believe we can create this Ordinance without including the School Committee at this point. Our job is to focus on the Ordinance at this point.

Chairman Ringius stated Councilor O'Brien did request an Ordinance be crafted is this correct?

Councilor O'Brien stated yes. I would vote we go to outside Counsel for this but yes, I would like an Ordinance created.

Councilor Flaherty asked about labor contracts.

Attorney Huff stated in research I have done it seems towns have consolidated Maintenance Departments but the part that takes the longest to iron out is the labor contracts.

Chairman Ringius stated my suggestion is to continue this meeting to another date. I would like to have a representative from the Mayor's office to shed some light on their thoughts and get them on record. I would like to have a skeleton of an Ordinance drafted to see what this would begin to look at.

Chairman Ringius stated can you please draft an Ordinance on this Attorney Huff?

Attorney Huff stated I can do this but the Ordinances I have reviewed are very complicated. I could provide a draft within a month or so. This will not be a swift process. It is complicated and I want to get it right.

A Motion was made by Councilor Flaherty to TABLE item 053 20 to the next O&R meeting

Motion: by Councilor Flaherty to TABLE item 053 20 to the next O&R meeting

Second: by Councilor Sciascia

Roll Call Vote: For (3 – Flaherty, Ringius, Sciascia), Against (0), Absent (1 - Mackin), Abstain (0)

It was unanimously voted by Roll Call to adjourn the meeting at 7:47 p.m.

Respectfully submitted,
Susan M. Cimino
Clerk of the Council

Documents provided for Meeting

- Minutes of March 30,2021
- 054 20 Councilor Mackin: Motion to Establish an Independent Peterson Pool Oversight Authority/Committee or take up any action relative thereto
- 054 20 Councilor Mackin: Amended - Motion to Establish an Independent Peterson Pool Oversight Authority/Committee or take up any action relative thereto
- 054 20 Memo - Legal Opinion from Crystal Huff, Town Solicitor
- 053 20 Councilor O'Brien: Maintenance Department Recommendation or take up any action relative thereto