



Braintree Town Council Committee on Ordinance & Rules

One JFK Memorial Drive
Braintree, Massachusetts 02184

MEMBERS

David Ringius, Jr, Chairman
Shannon Hume, Vice- Chairman
Julia Flaherty, Member
Charles Ryan, Member

April 5, 2023 MINUTES

A meeting of the Committee on Ordinance & Rules was held Remote via Zoom Webinar on Wednesday, April 5, 2023, beginning at 7:02pm.

Chairman Ringius was in the Chair.

Clerk of the Council, Susan Cimino conducted the roll call to begin the meeting

Present: David Ringius, Jr, Chairman
Shannon Hume, Vice-Chairwoman
Julia Flaherty, Member
Charles Ryan, Member

Also Present: Meredith Boericke, Council President
Crystal Huff, Town Solicitor
Jim Arsenault, DPW Director
Ben Hulke, Asst DPW Director

David Ringius, Jr, Chairman of the Committee on Ordinance & Rules asked for a moment of silence for our first responders and all those serving home and abroad.

Approval of Minutes

- None

Old Business

• 22 037 President Boericke: Tree Ordinance or take up any action relative thereto

Chairman Ringius asked if there is a motion to Take off the Table Order 22 037

A Motion was made by Councilor Hume

MOTION: to Take off the Table Order 22 037

Motion: by Councilor Hume to Take off the Table Order 22 037

Second: by Councilor Ryan

Roll Call Vote: For (4 – Flaherty, Hume, Ringius, Ryan), Against (0), Absent (0), Abstain (0)

President Boericke stated the overarching goal of this Ordinance is to strengthen Massachusetts State Law Chapter 87, Tree Protection Law. To provide Braintree residents with a transparent and timely notification process for public tree removal and a way to create a formal mechanism to replace trees when they do need to be removed whether through replanting or in a case of private developers payment into a tree replacement fund. The key tenants provides for public trees along public ways and town owned lands. It does not apply to land within the Conservation Commission jurisdiction. It is also exempt in the time of an emergency. Public notification and a public hearing are required before trees come down to let residents in the area as well as a district councilors know that sometimes there is a good reason for trees to be removed and again to let residents know ahead of time and the reason and how we will replace them. Those replacement trees would be planted within 18 months in close proximity to where they were removed as possible.

President Boericke stated thank you to the Mayor's staff in helping with their expertise and crafting this.

Councilor Ryan asked if this was created from looking at another communities ordinance. Crystal Huff, Town Solicitor stated this was an organically create ordinance. At first Council President Boericke brought this compiled from similar communities. Through the course of our many meetings we've drafted some organic and kind of one-off and truly unique for Braintree.

President Boericke stated this began with looking at not only the Massachusetts State law but also tree protection ordinances in municipalities mostly in metro Boston. Councilor Ryan stated I wanted to see if this was modeled after other communities that had already gone through this process. I will be supporting this.

Councilor Flaherty stated I appreciate this defines which kinds of trees should be used to replace trees that are removed. I see that there is a tree replacement fund. Will this fund be to replace trees? How will this be budgeted/funded.

President Boericke stated this originally was to be applied to the town and the developers clearing land. Primarily the developers would pay into the Tree Replacement Fund based on a formula which is based on inches per diameter, breast height around and the statute is up to \$500 per inch. One of the first things we

discussed with staff is to break apart the tree protection for developers that's going to be separate. An amendment to the zoning bylaws to be held as part of the site plan review process. We will need to set up a Revolving fund for the Tree Replacement fund. The residents and district councilors will be notified and then the tree committee will oversee where the tree will be replanted if they can't be in the same spot.

Councilor Flaherty stated I am happy to support this.

Councilor Hume asked about BELD, seeing they will be on this tree committee, how will this work. President Boericke stated one of my first stops for trees was with BELD because vegetation management is one of the key components of electric reliability. I wanted to make sure BELD was involved in the discussions from the beginning of this process and that they're tree replacement program is separate from this. Having a BELD Commissioner on the committee will really facilitate dialogue.

Councilor Hume asked if this will work as other boards do under the Charter once appointed by the Mayor. Solicitor Huff stated yes. The same process appointed by the mayor and approved by the Council.

Councilor Hume stated Madame President, I know you did a lot of work on this. I will be supporting this tonight.

Chairman Ringius asked if there is a motion for Order 22 037.

Motion read by Councilor Ryan for favorable recommendation to the full Council

MOTION: To approve Order 22 037 President Boericke: Tree Ordinance or take up any action relative thereto as submitted

A Motion was made by Councilor Ryan

Motion: by Councilor Ryan for favorable recommendation to the full Council to approve Order 22 037 as submitted

Second: by Councilor Hume

Roll Call Vote: For (4 – Flaherty, Hume, Ringius, Ryan), Against (0), Absent (0), Abstain (0)

New Business

• 007 23 Councilor Maglio: LGBTQ+ Pride Ordinance or take up any action relative thereto

Councilor Maglio stated this idea stems from the fact that last year for Pride Braintree actually raised its first flag in recognition, awareness and support and advocacy for LGBTQ plus members of our community. It was well received and well embraced. Being able to have that take place every year without having to depend on whether you have a counselor who kicks off this process or if there's a mayor who does. I looked at a lot of other communities and their pride ordinances and language and came up with something that would fit our needs. Solicitor Huff has been able to make some

recommendations on it. Timing is great because pride is coming up again this June, as it will every year.

DRAFT READS:

LGBTQ+ Pride ORDINANCE

The Town of Braintree supports the rights, freedoms, and equal treatment of lesbian, gay, bisexual, transgender, and queer (LGBTQ+) individuals and acknowledges that LGBTQ rights are human rights.

Through the Mayor's Office, the Town of Braintree will support efforts to ensure the safety of our LGBTQ+ residents, as well as ensure the protection of rights and freedoms of LGBTQ+ residents. Through the Mayor's Office and in collaboration with the Town Council, every June the Town of Braintree will celebrate "LGBTQ+ Pride Month" to provide an annual, public opportunity to learn about the contributions and strengths of the LGBTQ+ community, as well as to end the violence, discrimination, and inequality the LGBTQ+ community continues to endure. The celebration will include flying the Progressive Rainbow flag in front of Town Hall.

There was a legal review by Crystal Huff our Town Solicitor with comments from her:

As requested, I have conducted legal review of the proposed LGBTQ+ Pride ordinance. The proposed ordinance would establish an annual LGBTQ+ Pride Month in June, which would include educational activities, and the display of the Progressive Rainbow Flag in front of Town Hall. Upon careful and thorough review, it is my legal opinion that the proposed LGBTQ+ Pride ordinance, with the inclusion of some minor revisions as set forth below, will be legally acceptable.

As currently drafted, the proposed ordinance violates the separation of powers enshrined in the Town Charter, Article 1, §1.3, which states in relevant part that:

The administration of the fiscal, prudential and municipal affairs of Braintree, with the government thereof, shall be vested in an executive/administrative branch headed by a mayor and a legislative branch to consist of a town council. The legislative branch shall never exercise any executive/administrative power, and the executive/administrative branch shall never exercise any legislative power.

Consequently I recommend that reference to the Mayor's Office in the ordinance be struck as remedy. The Council may also want to consider the insertion of language to establish a committee to organize and plan the June LGBTQ+ Pride Month celebration, as the Council has authority to do so. Additionally, I recommend one textual change consisting of the insertion of language in red into the first sentence of the second paragraph for clarity: *The Town of Braintree will support efforts to ensure the safety of our LGBTQ+ residents, as well as support efforts to ensure the protection of rights and freedoms of LGBTQ+ residents.*

In summation, the proposed LGBTQ+ Pride Month Ordinance with the inclusion of the recommended revisions from the Solicitor's Office is valid.

Crystal Huff stated the Council also has the right to form a committee for this.

Councilor Flaherty asked if other groups like someone wanting to celebrate Hitler's birthday wanted to fly a flag.

Crystal Huff stated we did discuss this and we did not want to get into a situation where we would have to fly any groups flag. The town has control over our government speech. It does not make this a public free speech flagpole.

Chairman Ringius stated I wanted to piggy-back on what Solicitor Huff stated that we are without ramifications to have something flown that we don't want to get flown.

Councilor Ryan stated the Town of Braintree takes great pride in the fact we are an inclusionary community.

Councilor Hume stated I agree with this theory. I am just not sure it is appropriate to be an Ordinance. I am looking for clarification on this.

Councilor Maglio stated last year there was a lot of discussion on how to go about the first flag raising. There seemed to be a lot of lack of clarity. It was decided to work on an Ordinance for the second year so it is not up to the whims of whoever is in the office at the time and that we all support and institutionalize.

Solicitor Huff stated the draft has some directives in it which separates it from a proclamation. It facilitates that these events will actually happen. It is difficult to enforce action directives in a proclamation.

Councilor Hume asked who will be directing this?

Solicitor Huff stated this year it will be the Mayor. It will be up to the Council. The Council has the authority to create a pride month committee.

Councilor Hume stated I think that is more appropriate to create a committee.

Councilor Hume stated we have an inclusion committee that has an annual event for inclusion and awards and there is no ordinance on that. Same thing with the New England Organ Donor – different groups supporting a cause with flags. I support the idea but thinking a committee. The committee could guide the events.

Chairman Ringius asked if there was a next mayor who did not want to be part of this then they could choose not to but with an Ordinance the Council can still move forward.

Councilor Ryan stated I wonder if we are better off doing a proclamation instead. We don't need another committee of the Town Council for this. We need to show we are an inclusionary town and we support everyone.

Councilor Flaherty stated I think that the importance of inclusion in Braintree is great enough that it merits and ordinance, because I do not want the celebration of pride to be vulnerable to the political winds as they shift back and forth. Unless we issue a proclamation each year it doesn't have any force. I think the Ordinance is merited and I'm going to support it.

Chairman Ringius stated an Ordinance is a permanent thing until it gets rescinded. A Proclamation would have to be reissued every year. So when we're truly looking to protect the rights and show

those members of our community that identify as LGBTQ plus that we choose to support them and our town is truly behind them and mindful of what they go through/have gone through and that we stand in solidarity and welcome them as members of our community, an Ordinance makes it permanent. We do need to remove reference to the mayor's office.

Councilor Maglio stated this was not meant to form another committee of the Council. It is if nothing else a flag would be raised and that there's an option for education, awareness for as much or as little. Ultimately, the Mayor is in charge of the flag. This makes it something that will happen every year for basic civil and human rights.

Chairman Ringius asked if there is a motion for Item 007 23.

Motion made by Councilor Flaherty for favorable recommendation to the full Council Item 007 23.

MOTION:

UPON THE REQUEST OF COUNCILOR MAGLIO, THE TOWN OF BRAINTREE THROUGH THE BRAINTREE TOWN COUNCIL, IT IS SO ORDERED:

The Town of Braintree supports the rights, freedoms, and equal treatment of lesbian, gay, bisexual, transgender, and queer (LGBTQ+) individuals and acknowledges that LGBTQ rights are human rights. The Town of Braintree will support efforts to ensure the safety of our LGBTQ+ residents, as well as ensure the protection of rights and freedoms of LGBTQ+ residents. Every June the Town of Braintree will celebrate "LGBTQ+ Pride Month" to provide an annual, public opportunity to learn about the contributions and strengths of the LGBTQ+ community, as well as to support efforts to ensure the protection of rights and freedoms of LGBTQ+ residents. The celebration will include flying the Progressive Rainbow flag in front of Town Hall.

Motion: by Councilor Flaherty for favorable recommendation to the full Council to approve Item 007 23

Second: by Councilor Ryan

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

It was unanimously voted by Roll Call to adjourn the meeting at 7:54 p.m.

Respectfully submitted,
Susan M. Cimino, Clerk of the Council

Documents provided for Meeting

- 22 037 President Boericke: Tree Ordinance or take up any action relative thereto
- 007 23 Councilor Maglio: LGBTQ+ Pride Ordinance or take up any action relative thereto