

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

### January 20, 2010

### MINUTES

A meeting of the Town Council was held in the Horace T. Cahill Auditorium, Braintree Town Hall, on Wednesday, January 20, 2010 beginning at 7:50 p.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 A. Dingee  
Sean E. Powers  
John C. Mullaney  
Thomas Bowes  
Henry N. Joyce  
Ronald DeNapoli  
Paul Dan Clifford

Others: Eric Kinsherf, Town Auditor  
Joseph Powers, Town Clerk  
Marybeth McGrath, Director Municipal Licenses & Inspections  
Carl Johnson, Attorney for Messina Residential Properties, LLC

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**

- **001-10** Councilor Mullaney: Thayer Public Library – Electronics Collection Day
- **003-10** Health Department: H1N1 Flu Clinic
- **006 10** Councilor Joyce: Knights of Columbus Free Throw Contest
- Councilor Joyce: January 19<sup>th</sup> Election Food Donations
- Councilor Kokoros: Senator Elect Scott Brown

## **APPROVAL OF MINUTES**

- January 4, 2010
  - Motion:** by Councilor Kokoros to approve as amended.
  - Second:** by Councilor DeNapoli
  - Discussion:** Page 3, First line add “Vice”
  - Vote:** Unanimous
- January 5, 2010
  - Motion:** by Councilor Kokoros to approve.
  - Second:** by Councilor DeNapoli
  - Vote:** Unanimous

## **CITIZEN CONCERNS/COUNCIL RESPONSE**

None

## **OLD BUSINESS**

### **PUBLIC HEARING**

- **09 054** Messina Residential Properties, LLC: Application for Rezoning
  - Motion:** by Councilor Kokoros to open Public Hearing
  - Second:** by Councilor Bowes
  - Vote:** Unanimous

Councilor Kokoros read into the record the December 23, 2009 letter from the Planning Board noting the unanimous recommendation of favorable action on the proposed rezone petition.

Committee Chairman DeNapoli reported that the Committee on Ordinance & Rules voted 4-0 for approval of the petition.

Council President Ryan read into the records the January 20, 2010 letter from Mayor Sullivan noting his support of the application.

Council President Ryan asked if any member of the public would like to speak on the application. No comments from the public were presented.

**Motion:** by Councilor Kokoros to close Public Hearing  
**Second:** by Councilor Bowes  
**Vote:** Unanimous

Councilor Kokoros made the following motion “Approval of Rezoning Application of 376 Franklin Street as presented by Messina Residential Properties, LLC. And as outlined in the December 23, 2009 letter from the Braintree Planning Board.”

**Motion:** by Councilor Kokoros to approve as read  
**Second:** by Councilor Bowes  
**Vote:** Unanimous

### **PUBLIC HEARING - CONTINUATION**

- **09 061 Councilor Mullaney:** License to sell Liqueurs and Cordials

**Motion:** by Councilor Kokoros to open Public Hearing  
**Second:** by Councilor Bowes  
**Vote:** Unanimous

Committee Chairman DeNapoli noted that the Committee on Ordinance & Rules has not made a recommendation on the issue.

Councilor Mullaney requested members to refer to the documentation provided in their meeting envelopes and then read Chapter 138 of the MGL, Section 12 “In any city or town which votes to accept the provisions of this paragraph, a common victualler, who holds a license under this section to sell wines and malt beverages may, upon written approval, also sell liqueurs and cordials pursuant to said license, subject, however, to all other licensing provisions of this chapter.” Further, Councilor Mullaney commented, a Councilor member previously asked the difference between Liquors/Cordials and other alcohols. The attached documentation shows that most liqueurs range between 15% and 55% alcohol by volume while, other alcohols are at 80%+ by volume.

Councilor Kokoros commented that in addition to the seven Wine & Malt Common Victualler licenses, the seven Wine & Malt Package Goods Store licenses would also be eligible to sell liquors and cordials. Councilor Mullaney stated MGL grants the right to sell liquors and cordials only to the holders of the common victualler license.

Councilor President Ryan asked if anyone from the public would like to speak on the issue.

Joseph Powers, Chairman of the Licensing Board stated the Board has only had a discussion on the issue and no vote was taken. He stated that the charge of the Board was to carry out policy, not direct policy. If adopted, the licensing board would abide by the decision of the Council.

Marybeth McGrath, member of the Licensing Board, commented the State does not define what is a liquor or cordial; they leave that decision up to the Town. However, if a violation occurs and it is appealed to the ABCC, then the State would make a determination their own.

Councilor Mullaney asked if the Town could develop a list of liquors and cordials. Mr. Powers responded yes, but the ABCC always reserves the right to reject.

**Motion:** by Councilor Kokoros to close Public Hearing  
**Second:** by Councilor Bowes  
**Vote:** Unanimous

Councilor DeNapoli made a motion not to approve Order 09 061. The motion was seconded by Councilor Kokoros. On discussion, Councilor Mullaney made a motion to table in order to obtain additional information as well as to allow the Licensing Board to take a vote on the proposed Order. The motion to table was seconded by Councilor Dingee.

**Motion:** by Councilor Mullaney to Table  
**Second:** by Councilor Dingee  
**Vote:** Roll-call vote: For: (4-Ryan, Dingee, Mullaney, Joyce)  
Against: (5-Powers, Bowes, Kokoros, DeNapoli, Clifford)

**Motion:** by Councilor DeNapoli not to approve  
**Second:** by Councilor Kokoros  
**Vote:** Roll-call vote: For: (5-Powers, Bowes, Kokoros, DeNapoli, Clifford)  
Against: (4-Ryan, Dingee, Mullaney, Joyce)

## **PUBLIC HEARING**

- **10 001 COUNCILOR MULLANEY:** Increase in Meals Tax

**Motion:** by Councilor Kokoros to open Public Hearing  
**Second:** by Councilor Mullaney  
**Vote:** Unanimous

The Chairman of the Committee on Ways & Means, Councilor Mullaney, reported that the Committee voted to table the Order until a future date in order to gather additional information.

Councilor Kokoros commented that he was opposed to table and wanted to put the issue to rest.

Councilor Dingee stated he was not for or opposed at this time. Government is run by collecting taxes. Real estate taxes are 100% paid by residents. With the proposed local meals excise tax, approximately 80% would be paid by non-residents. He would like to table in order to collect additional data and hear from residents for presentation at a future time.

Councilor Clifford reported that the Department of Revenue (DOR) estimated the local meals excise tax would generate \$566,000 for Braintree. Councilor Clifford asked if the Town Auditor could confirm the estimate. Eric Kinsherf, Town Auditor, stated it was in that range.

Councilor Kokoros read into the record a letter dated January 20, 2010 from the South Shore Chamber of Commerce who are against the implementation of a local option meals tax.

**Motion:** by Councilor Kokoros to close Public Hearing

**Second:** by Councilor Mullaney

**Vote:** Unanimous

**Motion:** by Councilor Mullaney to Table

**Second:** by Councilor Dingee

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

**Motion:** by Councilor DeNapoli not to approve

**Second:** by Councilor Kokoros

**Vote:** For: (6) Against: (0) Abstain (3-Dingee, Joyce, Mullaney)

#### **PUBLIC HEARING**

- **10 004 MAYOR:** Line Item Transfer for Water and Sewer

The Clerk of the Council reported that Mayor Sullivan had withdrawn his request.

Councilor Dingee left the chambers at 9:33pm

#### **Committee on Ways & Means**

- **10 007 MAYOR:** Notice of Appointment – Fire Chief

**Motion:** by Councilor Kokoros to approve Kevin J. Murphy as Fire Chief

**Second:** by Councilor Bowes

**Vote:** For: (8) Against: (0) Absent (1-Dingee)

Councilor Dingee returned to the chambers at 9:35pm

#### **COMMUNICATIONS AND REPORTS FROM THE MAYOR AND TOWN BOARDS**

- **002-10 Town Auditor:** Town Auditor 2009 Report
- **005-10 Town Auditor:** FY2010 Budget Update

Eric Kinsherf, Town Auditor, provided an overview of his 2009 Report and provided an update on the FY2010 Budget.

Councilor Clifford commented that he hoped that the Council President would include all Council Members in setting goals and that a quantitative measurement would be included to understand how the goal achieved. Additionally, within the findings he would like to see included the financial impact in terms of dollars as well as a recommendation to reconcile the findings and what the cost would be within the recommendation to include a return on investment.

Council President Ryan stated he would like the Town Auditor to provide a monthly report on what he has been working on and to include a quantitative measurement on each goal.

- **007-10 Council President:** Committee Assignments

Council President Ryan informed members that he would complete committee assignments before the next scheduled meeting of the Council.

## **NEW BUSINESS**

### **REFER TO COMMITTEE**

#### **Committee on Ways & Means**

- **10 008 MAYOR:** Notice of Appointment – Weymouth-Braintree Regional Recreation Conservation District Board of Commissioners – Barbara Hurley
- **10 009 MAYOR:** Notice of Appointment – Weymouth-Braintree Regional Recreation Conservation District Board of Commissioners – John Keaveney

**Motion:** by Councilor Kokokors to refer Orders #10 008 and #10 009 to Committee

**Second:** by Councilor Bowes

**Vote:** Unanimous

## **ADJOURNMENT**

It was unanimously voted to adjourn the meeting at 10:10p.m.

Respectfully submitted,  
James M. Casey  
Clerk of the Council