

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

June 15, 2010

MINUTES

A meeting of the Town Council was held in the Horace T. Cahill Auditorium, Braintree Town Hall, on Tuesday, June 15, 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 (Arrived late 8:32pm)
Leland A. Dingee
Sean Powers
John C. Mullaney
Thomas Bowes
Henry N. Joyce
Ronald DeNapoli
Paul Dan Clifford

Others: Peter Morin, Chief of Staff
Carolyn Murray, Town Solicitor
Members, Licensing Board
Members, Sustainable Braintree
Various Residents

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

- 030 10 Councilor Ryan: Recognition Award – Sustainable Braintree.

ANNOUNCEMENTS

- **030 10** Announcement: Councilor Ryan—Sustainable Braintree
- **032 10** Announcement: Councilor Ryan—Gardeners' Guild Plant Sale
Announcement: Councilor Bowes—Town Clerk Office
Announcement: Councilor Joyce—July 4th Events

APPROVAL OF MINUTES

- June 8, 2010

Motion: by Councilor Bowes to Approve

Second: by Councilor DeNapoli

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

CITIZEN CONCERNS/COUNCIL RESPONSE

None

OLD BUSINESS

PUBLIC HEARINGS

Committee on Ways & Means

- **10 050 Mayor:** FY2011 Community Preservation-Historic Preservation Reserve

Motion: by Councilor Bowes to open public hearing

Second: by Councilor DeNapoli

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

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

Councilor Bowes read into the record the May 28, 2010 memo from Mayor Sullivan outlining the request.

Council President Ryan asked if anyone from the public would speak on Order 10 050. No one came forward.

Motion: by Councilor Bowes to close public hearing

Second: by Councilor DeNapoli

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

Councilor Bowes read the following motion; In accordance with the provisions of Chapter 44B, Section 5 of the General Laws and the recommendation of the Community Preservation Committee, that the sum of \$216,000 be appropriated from the Community Preservation Historic Preservation Reserve for purposes of funding the restoration and preservation of

exterior historic features at the Highland Elementary School, including but not limited to the stone building façade, the cupola, exterior lighting, front doors, and certain windows, in accordance with the revised November 13, 2009 scope of work submitted by the Braintree School Department, and as amended by the Community Preservation Committee on April 12, 2010. Said funds are to be expended under the direction of the Community Preservation Committee and administered by the Director of Planning and Community Development.

Motion: by Councilor Bowes to Approve
Second: by Councilor DeNapoli
Vote: For (8), Against (0), Absent (1-Kokoros)

- **10 051 Mayor:** FY2010 Line Item Transfer—Council on Aging

Motion: by Councilor Bowes to open public hearing
Second: by Councilor DeNapoli
Vote: For (8), Against (0), Absent (1-Kokoros)

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

Councilor Bowes read into the record the May 28, 2010 memo from Mayor Sullivan outlining the request.

Council President Ryan asked if anyone from the public would speak on Order 10 051. No one came forward.

Motion: by Councilor Bowes to close public hearing
Second: by Councilor DeNapoli
Vote: For (8), Against (0), Absent (1-Kokoros)

Councilor Bowes read the following motion; THAT THE SUM OF \$500 BE TRANSFERRED FROM THE COUNCIL ON AGING/PROGRAM 03 – BUILDING MAINTENANCE/ BUILDING REPAIRS ACCOUNT AND THE SUM OF \$2,000 BE TRANSFERRED FROM THE COUNCIL ON AGING/PROGRAM 03 – BUILDING MAINTENANCE/FUEL OIL ACCOUNT FOR THE PURPOSE OF TRANSFERRING \$2,500 TO THE COUNCIL ON AGING/PROGRAM 02 – EQUIPMENT MAINTENANCE/OUTSIDE MOTOR VEHICLE ACCOUNT.

Motion: by Councilor Bowes to Approve
Second: by Councilor DeNapoli
Vote: For (8), Against (0), Absent (1-Kokoros)

- **10 012 Mayor:** Title 5 Ordinance – Licenses and Permits

Motion: by Councilor Bowes to continue public hearing for orders #10 012

Second: by Councilor Mullaney

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

Chairman of Ordinance and Rules, Councilor Dingee, reported that the Committee recommends favorable action on all proposed Title 5 Ordinances except 5-400 “Amusement Games”, which was voted; For (1-Mullaney), Against (1-Dingee), Abstain (1-Joyce).

Council President Ryan asked for a motion to waive the reading of the ordinance.

Motion: by Councilor Bowes to waive the readings

Second: by Councilor DeNapoli

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

- **Title 5: Chapter 5-100 – Licenses and Permits**
- **Title 5: Chapter 5-200 – Licenses and Permits of Delinquent Taxpayers**
- **Title 5: Chapter 5-450 – Food Sales**
- **Title 5: Chapter 5-500 – Fortunetellers, Palmists and Similar Practitioners**
- **Title 5: Chapter 5-560 – Junk, Secondhand and Salvage Dealers**
- **Title 5: Chapter 5-565 – Peddling and Soliciting**
- **Title 5: Chapter 5-575 – Printed Matter Vending Machines**
- **Title 5: Chapter 5-580 – Taxicabs**
- **Title 5: Chapter 5-585 – Yard Sales**

For each of the above proposed ordinances Council Members and the public were asked but provided no comments.

- **Title 5: Chapter 5-550 – Gasoline Stations**

Councilor Clifford commented that he had spoken with Councilor Kokoros earlier in the day and he had requested that Chapter 5-550 Gasoline Stations be tabled until he arrives. Joseph Powers, Chairman of the Licensing Board, requested that the Ordinance be tabled to a future date to allow the Licensing Board to review the Ordinance once again.

- **Title 5: Chapter 5-570 – Gasoline Precious Metal Dealers**

Joseph Powers, Chairman of the Licensing Board, requested that the Ordinance be tabled to a future date to allow the Licensing Board to review the Ordinance once again.

- **Title 5: Chapter 5-590 – Trash Haulers**

Robert Campbell, 38 Fallon Circle, commented that trash haulers have been working as early as 4:00am and would like to see a reasonable time frame for picking up trash be placed into the ordinance. Russ Forsberg, Building Inspector and member of the Licensing Board, commented that the General By-Laws have a noise restriction that prohibits work to begin before 7:00am; Monday through Saturdays, and excludes work on Sundays.

- **Title 5: Chapter 5.08 – Alcoholic Beverages**

Councilor Mullaney, member of the Ordinance and Rules Committee, commented that he voted against deleting the By-Law/Ordinance as being recommended by the Transition Committee and the Committee on Ordinance and Rules. He realized that it was a duplication of State Law but felt that it should remain as an Ordinance.

- **Title 5: Chapter 5.14 – Fees**

Councilor President Ryan noted that the Transition Committee has recommended deleting the Ordinance as it is duplicative of Licensing Board's authority to establish certain licensing fees.

Councilor Bowes motioned to close the public hearing for all proposed ordinances except 5-400 Amusement Games, 5-550 Gasoline Stations and 5-570 Precious Metal Dealers.

Motion: by Councilor Bowes to close the public hearing as noted

Second: by Councilor DeNapoli

Vote: For (7), Against (1-Mullaney), Absent (1-Kokoros)

Chapter 5-100 – Licenses and Permits

Motion by Councilor Bowes to approve **Chapter 5-100** as printed in the Town Council handout.

Motion: by Councilor Bowes to approve

Second: by Councilor DeNapoli

Discussion: No comments from Council Members or public

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

5-200 – Licenses and Permits of Delinquent Taxpayers

Motion by Councilor Bowes to approve **Chapter 5-200** as printed in the Town Council handout.

Motion: by Councilor Bowes to approve

Second: by Councilor DeNapoli

Discussion: No comments from Council Members or public

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

5-450 – Food Sales

Motion by Councilor Bowes to approve **Chapter 5-450** as printed in the Town Council handout.

Motion: by Councilor Bowes to approve

Second: by Councilor DeNapoli

Discussion: No comments from Council Members or public

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

5-500 – Fortunetellers, Palmists and Similar Practitioners

Motion by Councilor Bowes to approve **Chapter 5-500** as printed in the Town Council handout.

Motion: by Councilor Bowes to approve

Second: by Councilor DeNapoli

Discussion: No comments from Council Members or public

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

5-560 – Junk, Secondhand and Salvage Dealers

Motion by Councilor Bowes to approve **Chapter 5-560** as printed in the Town Council handout.

Motion: by Councilor Bowes to approve

Second: by Councilor DeNapoli

Discussion: No comments from Council Members or public

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

5-565 – Peddling and Soliciting

Motion by Councilor Bowes to approve **Chapter 5-565** as printed in the Town Council handout.

Motion: by Councilor Bowes to approve

Second: by Councilor DeNapoli

Discussion: No comments from Council Members or public

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

Councilor Kokoros arrived at 8:32pm.

5-575 – Printed Matter Vending Machines

Motion by Councilor Bowes to approve **Chapter 5-575** as printed in the Town Council handout.

Motion: by Councilor Bowes to approve

Second: by Councilor DeNapoli

Discussion: No comments from Council Members or public

Vote: Unanimous

Chapter 5-580 – Taxicabs

Motion by Councilor Bowes to approve **Chapter 5-580** as printed in the Town Council handout.

Motion: by Councilor Bowes to approve

Second: by Councilor DeNapoli

Discussion: No comments from Council Members or public

Vote: Unanimous

Chapter 5-585 – Yard Sales

Motion by Councilor Bowes to approve **Chapter 5-585** as printed in the Town Council handout.

Motion: by Councilor Bowes to approve

Second: by Councilor DeNapoli

Discussion: No comments from Council Members or public

Vote: Unanimous

Chapter 5.08 – Alcoholic Beverages

Motion by Councilor Bowes to approve recommendation to delete as unnecessary and duplicates regulations issued by ABCC.

Motion: by Councilor Bowes to approve

Second: by Councilor DeNapoli

Discussion: Councilor Mullaney commented that the ordinance would reinforce the ABCC policy of not granting liquor licenses within 500 feet of a church or school.

Vote: For (7), Against (2-Dingee, Mullaney)

Chapter 5.14 – Fees

Motion by Councilor Bowes to approve recommendation to delete as unnecessary and duplicative of Licensing Board's authority to establish certain licensing fees.

Motion: by Councilor Bowes to approve

Second: by Councilor DeNapoli

Vote: Unanimous

Councilor Bowes motioned to reconvene the public hearing on ordinances 5-400 Amusement Games, 5-550 Gasoline Stations and 5-570 Precious Metal Dealers.

Motion: by Councilor Bowes to reconvene public hearing as noted

Second: by Councilor DeNapoli

Vote: Unanimous

Chapter 5-400 – Amusement Games

Councilor Mullaney read into the records a letter from Alan Weinberg, 19 Windemere Circle, and requesting consideration that the Council delays a decision on the amusement game ordinance until next month. Councilor Mullaney made a motion to table however it did not receive a second.

Carolyn Murray, Town Solicitor, provided a clarification on the various versions of the proposed amusement game ordinance that has come before the Council and highlight the changes from the original draft (attachment B) to the most recent draft (attachment E). Additionally, Ms. Murray explained that the Zoning By-laws of the Town require that a special permit is required for a amusement center and it can on be located in a Business, Highway, or Commercial defined area.

Councilor DeNapoli presented a motion to refer the new draft (attachment E) to the Committee on Ordinance & Rules. Committee Chairman Dingee explained that the ordinance is properly before the Council. The Committee had reviewed the ordinance (attachment B) and presented the Committee recommendation at the April 12, 2010 Council meeting. The recommendation from the Committee was For (1-Mullaney), Against (1-Dingee), and Abstain (1-Joyce). Councilor DeNapoli withdrew his motion.

Councilor Powers asked the Town Solicitor to clarify "happy hour" and "gaming". Ms. Murray commented that happy hours and gaming are illegal in Massachusetts.

Councilor Kokoros read the amusement game ordinance, as printed in attachment E.

Councilor Kokoros asked what recourse the applicant would have if they were denied the special permit by the Planning Board. Ms. Murray explained that they would have recourse under Chapter 40A on Zoning. And, if denied by the licensing board, they could appeal to the courts for judgment.

Council President Ryan asked if there could be any gambling or cash rewards provided under the ordinance. Ms. Murray said no.

Councilor DeNapoli asked if any alcohol could be served in the amusement game area. Ms. Murray said no; section 5.400.020 (G.2) addresses that concern.

Councilor Clifford asked if drinking could be consumed in the amusement game area. He observed drinking and “jello shots” being served and consumed at the Providence RI location. Ms. Murray commented that there is nothing in the ordinance that prohibits drinking in the game room. The Council could offer an amendment to restrict it however.

Councilor Dingee commented that he was happy that to see language added to tighten things up. However, he is still concerned on what Braintree is to be known as and what happens outside of the establishment.

Councilor Clifford commented that he did a telephone poll of 2,000 households in his district and 68% were against changing the ordinance.

Council President Ryan opened comment up to the public.

Harry Brett, Hanson MA, and business agent for the plumbers union, spoke in favor of the ordinance. The changes in the ordinance expand oversight and increase the fees for any violations.

Carl Johnson, Attorney for the Simon Group, explained that the Simon Group has invested million of money into the South Shore Plaza. The Simon Group is confident that the tenant will have a positive benefit to the mall and community. The ordinance provides sufficient protection for the community.

Linda Kopkind, Acorn Circle, opposes the ordinance claiming it will provide a hangout for troublemakers.

Christopher Griffin, Hollingsworth Avenue, supports the ordinance claiming that it was tailored for only one company and would create jobs.

David Shaw, Washington Street, opposed the ordinance commenting that it can be used for dozens of business, not just one. Additionally, he comments that there has been interest for other business to occupy the building. All would have created jobs.

Alan Flowers, Fallon Circle, states that the ordinance would be a disaster for Braintree; alcohol, people hanging around – a receipt for disaster.

Elizabeth Page, Storrs Avenue, commented unemployment should not be the primary thing to base a long time decision on. Changing the by-law changes the character of the town.

Peter Morin, Massachusetts Avenue, commented that he is speaking as a resident not as the Chief of Staff to the Mayor. He doesn't feel it will have a negative impact on the character of the Town. Duxbury and Hingham do not have an ordinance that prohibits gaming rooms in their Towns.

James Turley, Fallon Circle, states he is opposed to this activity in Town. If the Town is opposed, the Council, who represents the Town, should consider what the residents want.

Councilor Dingee asked if all ordinance reviewed by the Committee on Ordinance and Rules were presented by the Transition Committee. Ms. Murray commented that the ordinances were reviewed by the two Transition Committees, Department Heads and impacted boards and the Mayor.

Councilor Bowes commented that as a member of the Committee on Ways & Means he had heard from many Department Heads regarding their needs. Schools concerned with class sizes, Police with not enough personnel on the streets. Passing this ordinance will provide annual revenue to address these issues. He would support this ordinance rather than increasing the meals tax.

Councilor Kokoros motioned to continue the public hearing on ordinances 5-550 Gasoline Stations and 5-570 Precious Metal Dealers until July 13, 2010.

Motion: by Councilor Kokoros to continue public hearing as noted
Second: by Councilor Bowes
Vote: Unanimous

Councilor Kokoros motioned to close the public hearing on 5-400 Amusement Games.

Motion: by Councilor Kokoros to close public hearing as noted
Second: by Councilor Bowes
Vote: Unanimous

Councilor DeNapoli made a positive motion to approve ordinance 5-400 Amusement Games. Motion was seconded by Councilor Kokoros.

Council President Ryan called for a roll-call vote:

Councilor Kokoros	No	Councilor Clifford	No
Councilor Mullaney	Yes	Councilor Powers	Yes
Councilor Bowes	Yes	Councilor Dingee	No
Councilor Joyce	No	Councilor Ryan	Yes
Councilor DeNapoli	Yes		

On a vote of five (5) in favor and four (4) against, the motion carries.

Councilor Dingee left the Council Chambers at 8:40pm.

Councilor Kokoros presented the following motion; That all By-laws under Title V, Licenses and Permits, with the exception of Chapter 5.24 – Gasoline Stations and Chapter 5.35 – Precious Metal Dealers, 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 be repealed.

Motion: by Councilor Kokoros

Second: by Councilor Bowes

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

- **015 10 Councilor Ryan:** Personnel Issues
Note: Item was not taken up at the meeting.

COMMUNICATIONS AND REPORTS FROM THE MAYOR AND TOWN BOARDS

None

NEW BUSINESS

None

ADJOURNMENT

On a vote of 7 for, 1 against, and 1 absent, it was voted to adjourn the meeting at 10:41p.m.

Respectfully submitted,
James M. Casey
Clerk of the Council