

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

October 19, 2010

MINUTES

A meeting of the Town Council was held in the Horace T. Cahill Auditorium, Braintree Town Hall, on Tuesday, October 19, 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
Leland A. Dingee
John C. Mullaney
Thomas Bowes
Henry N. Joyce
Ronald DeNapoli
Paul Dan Clifford

Not Present: Sean Powers

Others: Mayor Sullivan
Eric Kinsharf, Town Auditor
Carolyn Murray, Town Solicitor
Joseph Powers, Town Clerk
William Bottiggi, General Manger BELD
Arthur Graziano, Human Resource Director BELD
Christine Stickney, Director Planning and Community Development
Lauren Murphy, Director Housing Authority
Patrick Carr, Historical Society
Shannon Hume, School Committee

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.

Council President Ryan asked if the Council Members would take item #052-10 out of order to allow Mayor Sullivan to speak on the issue.

Motion: by Councilor Joyce to take item #052-10 out of order

Second: by Councilor Dingee

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

Mayor Sullivan commented on Question #3 that will be on the November 2, 2010 election ballot and impacts to the community if it passes. Mayor Sullivan indicated that the Town would see local aid reduced by approximately \$700,000 this fiscal year and approximately \$2.5 million in FY2012 if the question is approved by the voters. Mayor Sullivan further stated regardless of Question #3 results, he anticipates local aid being cut this fiscal year.

CORRESPONDENCE

None

ANNOUNCEMENTS

- **030 10 Council President:** Sustainable Braintree
- **049 10 Council President:** Highland/Liberty PTO's Haunted House
- **050 10 Councilor Dingee:** Thayer Public Library Spooky Stories
Councilor Joyce: Grown-Up Spelling Bee
Councilor Joyce: Marge Crispin Center Fundraiser

APPROVAL OF MINUTES

- October 5, 2010

Motion: by Councilor Kokoros to Approve

Second: by Councilor Bowes

Vote: For (7), Against (0), Absent (1-Powers), Abstain (1-Ryan)

CITIZEN CONCERNS/COUNCIL RESPONSE

None

- **10 061 BELD:** Early Retirement Incentive Program

Committee on Ways & Means Chairman, Councilor Mullaney, read the Executive Summary of the Financial Analysis prepared by the Town Auditor, Eric Kinsherf. Councilor Mullaney reported that the Committee recommended favorable action.

Erick Kinsherf, Town Auditor, explained that the ERI would add approximately \$400,000 to \$600,000 to the retirement system expense. Costs are offset by reducing the BELD operating budget through the elimination of one position at an annual salary of \$97,000. Additionally, in a normal retirement, there is a buyout of sick time and vacation time, estimated to be \$72,000. Employees participating in the ERI Program would forfeit their sick time and vacation time buyout with funds distributed to the retirement system to offset retirement costs.

William Bottiggi, General Manager BELD, commented that employees who could participate in the program are to have 20 years of credited services. Five employees opted into the program and would receive three (3) years on age or years of service, or a combination of the two; not to exceed three years towards retirement.

Councilor Kokoros read the following motion; "That the Town vote to accept the provisions of Section 66 of Chapter 188 of the Acts of 2010 for the purpose of establishing an early retirement incentive program for employees of the Braintree Electric Light Department."

Motion: by Councilor Kokoros to approve
Second: by Councilor Joyce
Vote: For (8), Against (0), Absent (1-Powers)

OLD BUSINESS

- **10 063 Mayor:** CPC Recommendations

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

The Clerk of the Council notified Members that Motion #4 needs to be amended; line 5 the words "Handicap Accessibility" stricken out and the words "Improved Security" inserted in its place.

Councilor Mullaney reported that the Committee on Ways & Means recommended favorable action on each of the five requests.

Council President Ryan asked if there were any comments from the public. No one came forward.

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

Councilor Kokoros read the motion # 1 as printed in the September 16, 2010 memo from Mayor Sullivan.

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

Councilor Kokoros read the motion # 2 as printed in the September 16, 2010 memo from Mayor Sullivan.

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

Councilor Kokoros read the motion # 3 as printed in the September 16, 2010 memo from Mayor Sullivan.

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

Councilor Kokoros read the motion # 4 as printed in the September 16, 2010 memo from Mayor Sullivan and amended.

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

Councilor Bowes read the motion # 5 as printed in the September 16, 2010 memo from Mayor Sullivan.

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

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

Council President Ryan noted that Order 10 012 is a continuation of a Public hearing from September 21, 2010.

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

- Chapter 5-550 Gasoline Stations

Carolyn Murray, Town Solicitor, explained that the major differences between the proposed ordinance and the old by-law was a distinction has been made from gas stations and automotive repair garages, the number of outside, overnight storage of vehicles has been increased from 4 to 6 vehicles, and no facility could operate between the hours of 8p.m. and 7a.m. Those facilities that were granted permission from the old Board of Selectmen would have three months to produce documents that allowed the facility to store more than six and/or operate between the restricted hours would be grandfathered.

Councilor Kokoros commented that it was unfair to restrict the small garages on the number of vehicles they could store on their lot and made a motion to strike section 5.550.020 "Storage of Motor Vehicles".

Councilor Dingee commented on enforcement of vehicle storage. He explained that if the Town does not know how many vehicles are authorized it would make it difficult for enforcement. He suggested that they should print the number of allowable vehicles on the permit to avoid the problem in the future. Ms. Murray explained that Section 5.550.040 should address that issue.

Motion: by Councilor Kokoros to strike Section 5.550.020

Second: by Councilor Mullaney

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

Councilor Kokoros made a motion to strike Section 5.550.030 Rules and Regulations as he did not want the Licensing Board to possibly make a regulation that would impose a limit on vehicle storage as outlined the Section 5.550.020. Chairman of the Licensing Board, Joseph Powers, commented that he would like to Council not to action on the motion as the section is standard language for many ordinances. Ms. Murray further explained that with the section, the Licensing Board could not make rules that were not consistent with the ordinance.

Councilor DeNapoli questioned if the Section would regulate stand-alone tow yards. Ms. Murray explained that the intent is to cover those gasoline stations or automotive repair garages that have a towing component of their services. It would not govern independent tow yards.

Nicholas Pesirides, of 130 Congress Street and operator of an automotive repair garage at 357 Grove Street, commented on the need of a small business owner to have sufficient storage spaces to meet the needs of its customers.

Councilor Mullaney presented an alternate motion; "The Board of License Commissioners may from time to time make reasonable regulations governing the

administrative procedure relating to gasoline stations, automotive repair garages and motor vehicle towing services.” Ms. Murray commented that the Town Charter [Section 5-7 (c-iv)] states that the board of license commissions, shall have the responsibilities of all of the powers with respect to licenses which before the adoption of the charter were exercised by the board of selectmen. The current by-law governing gasoline stations and automotive repair garages gave the right for making rules and regulations to the board of selectmen and, by charter, would extend it to the board of licensing. However, the Town Councilor is the legislative body and can create laws that give the legislative framework of an ordinance. Any rules and regulations created must be consistent with the ordinance. In this case, if the licensing board created a rule that imposed a defined number of vehicles were allowed she would argue that it was inconsistent with the prevision of section 5.550.040.

Motion: by Councilor Mullaney on alternate motion

Second: by Councilor Joyce

Vote: For (3-Dingee, Joyce, Mullaney), No (5), Absent (1-Powers)

Motion: by Councilor Kokoros to strike Section 5.550.030 Rules and Regulations

Second: by Councilor DeNapoli

Vote: For (5), No (3-Dingee, Joyce, Mullaney), Absent (1-Powers)

Councilor Kokoros commented that he would like to see inserted into section 5.550.040 (Requirements for Storage Permits) the following section from Section 5.550.020 (Storage of Motor Vehicles), and change three (3) months to six (6) months and then made the following motion to add to Section 5.550.040; “provided, however, that any gasoline station or automotive repair garage that was previously granted permission by the former Board of Selectmen or any other legal entity of the Town to store more vehicles than determined by the Board of License Commissioners shall have six (6) months from the date of final passage of this ordinance to present proof of such permission to the Board of License Commissioners, who shall incorporate such permission into the gasoline station’s or automotive repair garage’s written permit.”

Motion: by Councilor Kokoros to amend Section 5.550.040 Requirements for Storage Permits

Second: by Councilor DeNapoli

Vote: For (7), No (0), Abstain (1-Dingee), Absent (1-Powers)

- Chapter 5-570 Precious Metal Dealers

Carolyn Murray provided an overview of the proposed changes in Chapter 5-570 Precious Metal Dealers and provided insight into a recent event concerning a police investigation of stolen property that was acquired by a precious metal dealer.

Council President Ryan asked if any member of the Council or anyone from the public would like to speak on the two ordinances that were presented.

Michael Gardner, owner of Eddie and Mike's Sunoco on Union Street, commented that he has operated as a twenty-four station since April of 1969 and explained the importance of a 24-hour operation; location off the highway, backup fuel services for town vehicles.

Motion: by Councilor Kokoros to close public hearing

Second: by Councilor Bowes

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

Motion: by Councilor Kokoros to approve Chapter 5-550 Gasoline Stations and Automotive Repair Garages as amended

Second: by Councilor Bowes

Vote: For (6), Against (0), Abstain (2-Dingee, Clifford), Absent (1-Powers)

Motion: by Councilor Kokoros to approve Chapter 5-570 Precious Metal Dealers

Second: by Councilor Bowes

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

The Town Solicitor provided members with a procedural motion to repeal the previous by-laws for the two ordinances. Councilor Kokoros read the following motion "That the Town Council vote to repeal by-law Chapter 5.24 (Gasoline Stations and by-law Chapter 5.36 (Precious Metal Dealers) under Title V, 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."

Motion: by Councilor Kokoros as read

Second: by Councilor Bowes

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

COMMUNICATIONS AND REPORTS FROM THE MAYOR AND TOWN BOARDS

- **053 10 Councilor Mullaney:** Licensing Board

Councilor Mullaney read the October 14, 2010 email he had sent to Council President Ryan requesting that the Licensing Board appear before the Council to address the four issues outlined in his email. Councilor Mullaney commented that the Charter bestowed power upon a small group of

people and we as a town must be ever vigilant that the power is exercised fairly and honestly. He would like to have the Licensing Board explain what happened on the four issues.

Motion: by Councilor Mullaney to refer to the Committee on Ordinance & Rules

Second: by Councilor Dingee

Vote: For (7), Against (1-DeNapoli), Absent (1-Powers)

- **047 10 Council President:** 2011 Massachusetts Municipal Association Annual Meeting

Council President Ryan asked members if they intended to attend the MMA Annual Meeting in January they should inform the Clerk of the Council by November 5th.

- **051 10 Council President:** Evaluation Update

Council President Ryan informed members that the performance evaluation period for the Clerk of the Council had expired on October 12th and on the performance evaluations submitted he attained a satisfactory performance evaluation. Following the recently adopted policy on performance evaluations he has approved a one-step increase for the Clerk of the Council to become effective on his anniversary date of November 1st.

NEW BUSINESS

Refer to Committee on Ordinance & Rules

- **048 10 Council President:** Council Reappointment Policy

Motion: by Councilor Kokoros as read

Second: by Councilor Bowes

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

ADJOURNMENT

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

Respectfully submitted,
James M. Casey
Clerk of the Council

Documents provided for Meeting

- **030 10 Council President:** Sustainable Braintree
- **049 10 Council President:** Highland/Liberty PTO's Haunted House
- **050 10 Councilor Dingee:** Thayer Public Library Spooky Stories
- **October 5, 2010**
- **10 061 BELD:** Early Retirement Incentive Program
- **10 063 Mayor:** CPC Recommendations
- **10 012 Mayor:** Title 5 Ordinance – Licenses and Permits
 - Chapter 5-550 Gasoline Stations
 - Chapter 5-570 Precious Metal Dealers
- **052 10 Mayor:** Question 3 – Impact on Town of Braintree
- **053 10 Councilor Mullaney:** Licensing Board
- **047 10 Council President:** 2011 Massachusetts Municipal Association Annual Meeting
- **051 10 Council President:** Evaluation Update
- **048 10 Council President:** Council Reappointment Policy