

**FRANKLIN TOWN COUNCIL
MINUTES OF MEETING
November 13, 2019**

A meeting of the Town Council was held on Wednesday, November 13, 2019, at the Franklin Municipal Building, Council Chambers, 355 East Central Street, Franklin, Massachusetts. Councilors present: Andrew Bissanti, Brian Chandler, Robert Dellorco, Eamon McCarthy Earls, Melanie Hamblen, Glenn Jones, Matthew Kelly, Thomas Mercer, Deborah Pellegrini. Councilors absent: None. Administrative personnel in attendance: Jamie Hellen, Town Administrator; Mark Cerel, Town Attorney; Chrissy Whelton, Assistant to the Town Administrator.

ANNOUNCEMENTS: ► Chair Mercer announced the meeting is being recorded by *Franklin TV* and available for viewing on Comcast Channel 11 and Verizon Channel 29. This meeting may also be recorded by others.

SWEARING IN OF TOWN COUNCIL AND TOWN CLERK: Ms. Teresa Burr, Town Clerk, conducted the swearing in of all the Town Council members. Ms. Nancy Danello, Assistant Town Clerk, conducted the swearing in of Teresa Burr, Town Clerk.

ELECTION OF OFFICERS FOR CHAIR, VICE CHAIR, CLERK:

Nominations were accepted for Town Council Chair. **Nomination of Mercer by Jones. SECOND by Dellorco. No Discussion. Motion to Close nominations for Chair by Jones. SECOND by Dellorco. No Discussion. VOTE (to close nominations): Yes-9, No-0, Absent-0. VOTE (for Chair): Yes-9, No-0, Absent-0.**

Nominations were accepted for Town Council Vice Chair. **Nomination of Dellorco by Pellegrini. SECOND by Hamblen. No Discussion. Motion to Close nominations for Vice Chair by Jones. SECOND by Dellorco. No Discussion. VOTE (to close nominations): Yes-9, No-0, Absent-0. VOTE (for Vice Chair): Yes-9, No-0, Absent-0,**

Nominations were accepted for Town Council Clerk. **Nomination of Jones by Earls. SECOND by Dellorco. Motion to Close nominations for Clerk by Hamblen. SECOND by Dellorco. No Discussion. VOTE (to close nominations): Yes-9, No-0, Absent-0. VOTE (for Clerk): Yes-9, No-0, Absent-0.**

Chair Mercer called a three-minute recess.

CITIZEN COMMENTS: None.

APPROVAL OF MINUTES: ► *September 18, 2019 and October 16, 2019.* ► **MOTION to Approve the September 18, 2019 meeting minutes by Jones. SECOND by Dellorco. No Discussion. ► VOTE: Yes-9, No-0, Absent-0. ► MOTION to Approve the October 16, 2019 meeting minutes by Dellorco. SECOND by Hamblen. No Discussion. ► VOTE: Yes-9, No-0, Absent-0.**

PROCLAMATIONS/RECOGNITIONS: None.

APPOINTMENTS: ► *Cultural District Committee: Evan Chelman.* ► Mr. Jones read the appointment. ► **MOTION to Appoint Evan Chelman to serve as member of the Cultural District Committee for the remainder of a 3-year-term to expire on June 30, 2021, by Jones. SECOND by Dellorco. Discussion:** ► Mr.

Hellen stated Mr. Chelman is present at tonight's meeting. He will be filling the seat of a member who left the position. ► **VOTE: Yes-9, No-0, Absent-0.**

HEARINGS: None.

LICENSE TRANSACTIONS:

- a. ***Mormax Corporation d/b/a BJ's Wholesale Club, Change of Manager, 100 Corporate Drive.*** ► Mr. Jones read the license transaction. ► **MOTION to Approve** the request by Mormax Corporation d/b/a BJ's Wholesale Club, Inc. #105 for a Change of Manager to Matthew T. Ricci, by **Jones. SECOND** by **Dellorco. Discussion:** ► Mr. Hellen stated this is very standard procedure for a change of manager for a liquor license. ► Mr. Kelly requested information from Mr. Ricci. ► Mr. Ricci reviewed his background and experience working in the alcohol industry. He explained he works in receiving. As an assistant manager, he is in charge of receiving everything that needs to be out for sale on the store floor. He will be responsible for the alcohol. ► Mr. Bissanti asked if all the employees are getting TIPS certified and trained. ► Mr. Ricci said all cashiers and those working on the front line are trained; they have classes at regular intervals. ► **VOTE: Yes-9, No-0, Absent-0.**

- b. ***JDJ Ichigo Ichie, Inc., New All Alcohol License, 837 West Central Street.*** ► Mr. Jones read the license transaction. ► **MOTION to Approve** the request by JDJ Ichigo Ichie, Inc. for a new all alcoholic beverages restaurant license and approve the Manager, Ling Yao Li a/k/a David Li, by **Jones. SECOND** by **Dellorco. Discussion:** ► Mr. Hellen stated this is a new application; it is a new ownership group. ► Attorney Michael Doherty of Doherty, Duggan, Cannon, Raymond and Weil, P.C., representing the applicants, brothers David Li and Jimmy Li, stated this is a family business. He reviewed their work experience, education, and background. He reviewed the restaurant menu and noted they were TIPS trained and certified. ► Mr. Kelly and Mr. Bissanti thanked the applicants for submitting a complete application packet. ► **VOTE: Yes-9, No-0, Absent-0.**

- c. ***Little Shop of Olive Oils, Inc. New Wine and Malt Retail Package Store License, 5 Main Street.*** ► Mr. Jones read the license transaction. ► **MOTION to Approve** the request by Little Shop of Olive Oils, Inc. for a new Wine and Malt Retail Package Store License and approve the Manager, Michael J. Wilkinson, by **Jones. SECOND** by **Dellorco. Discussion:** ► Mr. Hellen stated this is a new license application. This is only to sell beer and wine onsite and taken off the premises to be consumed. ► Mr. Wilkinson stated they would like to offer their customers a pairing of fine wines with their olive oils and vinegars. This would be complementary product being sold in a small section of their store. ► Mr. Dellorco confirmed they would be TIPS certified. ► Ms. Pellegri asked for the criteria to allow a beer and wine license. This applicant sells olive oils. Could a hairdresser request to sell beer and wine in their shop? ► Town Council members asked questions about the use of this license for a small venue and voiced concerns regarding the amount of space in the store that can be allotted to the selling of beer and wine. ► Mr. Kelly expressed concern that he does not want to see too many liquor store establishments in the downtown. ► Mr. Cerel reviewed the statutory criteria for selling beer and wine; it is up to the local licensing authority which is the Town Council. The Town Council can limit the amount of square footage to be used for selling alcohol. He noted the appropriate legal standard is public convenience, not economic competition which is not grounds to deny a license. ► Mr. Bissanti stated he thinks Mr. Wilkinson's venue is well suited for selling beer and wine. ► Mr. Hellen stated that in the Town Council members' packets there is a layout of a floor plan which is required by the ABCC. If the applicant altered this plan, the applicant would need to return to the Town Council. He confirmed this is the Town's last Wine and Malt Retail Package Store License for consumption to be taken off premises. He discussed the quotas set by the state of said licenses. ► Joseph DeGaetano, owner of Ferrara's Market, 20 West Central

Street, stated his family business was started in 1961. The applicant's location from the corner of his building to the applicant's front lawn is only 150 ft. He sells beer and wine products, as well. He feels there should not be any competition between businesses; the small businesses should be working together and not against each other. He thinks there are enough licenses in a small are of Town already. He is not for this license. ► Mr. Mark Lenzi, Franklin Liquors, 363 East Central Street, stated that as a business owner, he supports Mr. Wilkinson's goal and approach to selling beer and wine. He thinks the applicant should be supported. ► **Motion to Close the Public Hearing by Dellorco. SECOND by Hamblen. No Discussion. ► VOTE (to close the public hearing): Yes-9, No-0, Absent-0. ► VOTE (to approve the license): Yes-8, No-1, Absent-0.** (Ms. Pellegrini voted no.)

- d. **JAC Restaurant, LLC d/b/a Joe Allen's Casual Dining and Bar, New All Alcohol License, 14 East Central Street.** ► Mr. Hellen confirmed the Town received notice from the manager of JAC Restaurant, LLC d/b/a Joe Allen's Casual Dining and Bar, that they would be withdrawing their application for a New All Alcohol License; therefore, no action is needed by the Town Council.

PRESENTATIONS/DISCUSSIONS: ► Town Attorney Mark Cerel Presentation: Open Meeting Law, Public Records, Public Hearings, & Ethics Presentation. ► Mr. Cerel narrated a slideshow presentation regarding Open Meeting Law, Public Records Law, Ethics Law, and Conducting Public Hearings. He stated he has provided the Town Council members with his comprehensive memorandum dated November 13, 2019 emphasizing the statutory provisions and legal procedures which continue to have specific application to the Town Council and its individual members. He noted his memorandum included three attachments which he reviewed: 11-9-11 OML Presentation for Town Council, Mark G. Cerel, Town Attorney; Overview of State Ethics Law, G.L. Chapter 268A, as Revised in 2009; and Outline for Workshop on Holding Public (Adjudicatory) Hearings and Rendering Decision in Municipal Permit and Approval Cases. The slideshow contained a copy of his two-page memorandum which he read aloud. He highlighted that the open meeting law requirement that a quorum of a public body can only meet for business purposes and deliberation at a duly posted public meeting. He stated that serial communications or subcommittees cannot be used to avoid compliance. Two or more people delegated with a specific task will most likely be considered a subcommittee which requires posting meetings and taking minutes. Meetings must be posted 48 business hours prior to the meeting. He reviewed remote participation which the Town Council voted to adopt; however, it is at the Chair's discretion whether to allow it. A physical quorum must be present and all votes must be by roll call. He then discussed Public Records Law. He noted electronically created records constitute public record. As well, the document itself determines whether it is a public record, not the equipment by which it was generated. Regarding conducting public hearings, he stated the Town Council will most often be involved with alcohol licensing. They are a formal proceeding. He reviewed the importance of being an impartial fact finder as opposed to an advocate. The Town Council members need to refrain from irrelevant or inappropriate comments. He discussed Ethics Law and noted that it is a criminal statute; penalty for violation includes imprisonment and/or fine. He noted the Ethics Commission is available for guidance, in advance. He reviewed that Town Council members are deemed to be municipal employees as opposed to "special municipal employees" and are therefore subject to all statutory prohibitions. He recommended the Town Council members take the mandatory ethics online training. He reviewed specific statutory prohibitions which include self-dealing, interest in contract, and solicitation/receipt, appearance of conflict.

► **Stormwater Presentation & Discussion: Town Administrator Introduction Memo, Public Works PowerPoint Presentation, Stormwater Management Plan (393 Page document; 8MB PDF), Stormwater Brochures History.** ► Mr. Hellen reviewed his memorandum to the Town Council members dated November 7, 2019 regarding Stormwater Utility. He stated this is a very complex topic and noted the 393-page Stormwater Management Plan document. He reviewed the focus of tonight's discussion to continue to educate the Town Council and residents about stormwater, what it is, and the importance of what the

Town is doing. He noted that after more than two decades of policy debate, the EPA's federal MS4 Stormwater permit is upon towns to implement. Over the next twenty-plus years, the Town will be required to implement a series of infrastructure and policy improvements that will cost in the neighborhood of an estimated \$40 million. He stated Mr. Cantoreggi will provide information on what the Town has been doing for the past 10 years on this issue and how we will comply with the federal permit. He will propose to the Town Council the establishment of a utility like water, sewer, and trash and have it established soon so staff can begin to create the back work in the financial software relative to this. He hopes the Town Council establishes an Ad Hoc Town Council study committee which will guide the staff through a series of public education initiatives, as well as work with the Administration on deciding a fee and implementation structure. ► Mr. Brutus Cantoreggi, Director of Public Works; Kate Sjoberg, GIS Coordinator; and Jean Haggerty, Wood Environmental Engineering consultant, addressed the Town Council. Mr. Cantoreggi stated this is a tough subject as it is very complicated and very expensive. He narrated a PowerPoint presentation. He began with general statistics about Franklin. He explained that in Franklin stormwater, wastewater, and drinking water are very connected. He noted that water originating from precipitation events picks up contaminants once it hits the ground; then it needs to be cleaned up. He reviewed groundwater recharge and protection of the Charles River Basin. He discussed that the Charles River is part of Franklin. He reviewed the Municipal Separate Stormwater Sewer System "MS4" permit and noted it is an approximately 400-page document. He discussed the phosphorus fertilizer ban in Massachusetts as well as other solutions and alternatives to this issue. He reviewed the stormwater bylaw and stated all new development and redevelopment must treat stormwater on site. He explained that the Public Works Department has received \$1,206,650 in stormwater grants since 2007; he reviewed the results and benefits including rain gardens in public areas. He stated they have done public outreach such as town-wide mailers and public forums and stormwater presentations. As well, there is information on the stormwater website to help educate the public. He reviewed the problems with Franklin's stormwater include aging stormwater infrastructure, system maintenance needs, permit requirements, water quality impacts, increasing cost, and a backlog of capital improvements. He explained the existing major expenditures and stated the estimated FY19 stormwater cost of services is approximately \$1.2 million. The biggest drivers to increased costs will be enhanced MS4 and TMDL (phosphorus reduction) requirements. He reviewed a list of projected future costs with an estimated invested of approximately \$40 million over the next 20 years. This does not include any land acquisition costs to build the required forebays. He stated the EPA wanted this done in 20 years; he does not see how that is possible. In addition to the MS4 and TMDL compliance costs, there are other stormwater priorities to address including the backlog of drainage system inspection and repairs, engineering support for design and best practices, and capital investment in new or expanded system components to address localized flooding and growth impacts. In order for him to meet the needs of the permit, it will require \$800,000 above his normal budget. He explained the current stormwater funding sources and some funding options. He explained a stormwater utility fee is a fee proportional to the estimated stormwater generated from the property, as measured by impervious area: all properties, including tax-exempt pay their share of the fee. He discussed a recommended rate structure that determines who pays and how much each property will pay based on the square footage of impervious area on their parcel. He discussed a preliminary rate per billing unit of \$28.15, and he reviewed some examples using that rate to calculate the annual cost. He explained credits that could be applied for by any residential or commercial property if recharge systems are installed. He discussed that a major source of phosphorus pollution is leaves and noted implementation of a curbside leaf pick-up program would help prevent pollution. As he concluded his presentation, he discussed the implementation process and the next steps. ► Town Council members asked questions, discussed stormwater, and reviewed the proposed fee. ► Ms. Haggerty stated the EPA can audit towns and if the town is not doing what it is supposed to be doing, the EPA will issue a fine. She noted the permit is only in its second year. She stated that communities over 100,000 residents have different permitting requirements. ► Mr. Hellen reviewed the proposal for the stormwater enterprise fund and listed other communities that have recently begun to implement the permit in a similar fashion. He discussed the process to set up the

stormwater enterprise fund and the importance of getting the public engaged and educated on this topic.

► Chair Mercer asked what the options are to capture a larger audience of constituents to get the information to them about this topic. He thanked Mr. Cantoreggi for his informative presentation.

SUBCOMMITTEE REPORTS:

- a. **Capital Budget Subcommittee.** ► None.
- b. **Budget Subcommittee.** ► None.
- c. **Economic Development Subcommittee.** ► None.

LEGISLATION FOR ACTION:

Note: Two-Thirds Vote requires six votes; Majority Vote requires majority of members present and voting.

- a. ***Resolution 19-75: Gift Acceptance - Franklin Police Department, \$300 (Motion to Approve Resolution 19-75 - Majority Vote (5)).*** ► Mr. Jones read the resolution. ► **MOTION to Approve Resolution 19-75: Gift Acceptance - Franklin Police Department, \$300 by Dellorco. SECOND by Hamblen. Discussion:** ► Mr. Hellen thanked the Vickery family for their donation. ► **VOTE: Yes-9, No-0, Absent-0.**
- b. ***Resolution 19-76: Gift Acceptance - Franklin Police Department, \$15 (Motion to Approve Resolution 19-76 - Majority Vote (5)).*** ► Mr. Jones read the resolution. ► **MOTION to Approve Resolution 19-76: Gift Acceptance - Franklin Police Department, \$15 by Dellorco. SECOND by Hamblen. Discussion:** ► Mr. Hellen thanked the Brunelli family for their donation. ► **VOTE: Yes-9, No-0, Absent-0.**
- c. ***Resolution 19-77: Adopt the Town Council Procedures Manual (Motion to Adopt Resolution 19-77 - Majority Vote (5)).*** ► Mr. Jones read the resolution. ► **MOTION to Approve Resolution 19-77: Adopt the Town Council Procedures Manual dated May 9, 2018 by Dellorco. SECOND by Hamblen. Discussion:** ► Mr. Hellen stated that in the previous legislative session, an Ad Hoc subcommittee of the Town Council discussed and vetted the entire manual for the first time in a decade. By rule, the manual must be adopted by the Town Council at the start of each new legislative session. ► Ms. Pellegrini asked if the changes in posting public meetings is reflected in the manual. She asked if it could be put in the rules that during the budget process each line item can be voted on separately. ► Mr. Cerel stated that was done separately; the manual is more for governing the actual meetings. He stated it is a budgetary procedure that can be addressed as to if each line item can be voted separately. ► Chair Mercer stated he did not think this is the particular place to put this request, but he understands the concern and will address it as they move forward. ► **VOTE: Yes-9, No-0, Absent-0.**
- d. ***Resolution 19-78: Establish Town Council Standing Subcommittees (Motion to Approve Resolution 19-78- Majority Vote (5)).*** ► Mr. Jones read the resolution. ► **MOTION to Approve Resolution 19-78: Establish Town Council Standing Subcommittees of Capital Subcommittee, Budget Subcommittee, and Economic Development Subcommittee by Dellorco. SECOND by Hamblen. Discussion:** ► Mr. Hellen stated that per Section 25 of the Rules of Procedure Manual, the Town Council must vote to establish the standing subcommittees for the current council term. ► **VOTE: Yes-9, No-0, Absent-0.**

EXECUTIVE SESSION: ► Collective Bargaining.

► Chair Mercer stated that the Franklin Town Council go into Executive Session for the purpose to discuss strategy with respect to Collective Bargaining. He stated the Town Council will return to Open Session at the conclusion of the Executive Session.

► **The Executive Session of the Town Council Meeting commenced at 9:30 PM.**

► **The Return to the Open Session of the Town Council Meeting commenced at 9:45 PM.**

- e. Resolution 19-79: Ratification of Public Library Staff Association Contract (Motion to Approve Resolution 19-79 - Majority Vote (5)).* ► Mr. Jones read the resolution. ► **MOTION to Approve Resolution 19-79: Ratification of Public Library Staff Association Contract by Dellorco. SECOND by Hamblen. Discussion:** ► Mr. Hellen thanked the library staff as well as their bargaining representative for a productive collective bargaining session. He hopes the Town Council will ratify this contract this evening. ► **VOTE: Yes-9, No-0, Absent-0.**

TOWN ADMINISTRATOR’S REPORT: ► Mr. Hellen discussed the new blue water bottles that were provided to each Town Council member. He stated the Town is saving money by using the blue bottles rather than buying the disposable plastic water bottles and reducing their plastic footprint. ► He stated that in the first week of the clothing recycling program with the pink bags 3,200 lbs. of clothing was recycled.

FUTURE AGENDA ITEMS: ► Mr. Bissanti stated he would like to explore some zoning issues and address concerns that residents have about water quality and supply. ► Mr. Kelly stated he would like to discuss a possible fourth subcommittee for residential housing that will look not only at residential zoning in town but future building and needs of the citizens. ► Ms. Pellegri stated she would like to have a Community Preservation Act (CPA) discussion. ► Mr. Dellorco stated he would like a Charter review.

COUNCIL COMMENTS: ► Mr. Bissanti thanked the voters of Franklin for restoring him to the Town Council. He noted he is all for the Town slowing growth, smaller homes, and inclusionary affordability. He would like to form a Residential Housing Subcommittee. He gave condolences to the Chilson family. ► Mr. Earls expressed gratitude to all those who came to the polls for the election. ► Mr. Kelly gave condolences to the Chilson family. He stated the Veterans Day celebration was fantastic and he thanked Dale Kurtz and everyone at the Veterans’ Office. He congratulated the School Committee on their elections and is happy Judy Pfeffer is back in the political realm. He requested Mr. Hellen provide an update on the roads that need to be done and asked if residents can get an update on the website. He noted there are a lot of raised castings around Town. He thanked everyone who came out to vote. ► Mr. Chandler thanked his family, friends, residents, and all others who came out to vote and gave him support. He gave condolences to the firefighter community for the loss of Worcester Fire Lt. Jason Menard. ► Ms. Hamblen thanked the community for showing up to vote. She is glad to be getting back to work. She noted Fairmont Fruit Farm is going to be 100 years old in 2020. They are going to have a Winter Farmers Market once a month beginning on November 23, 2019 from 10:00 to 2:00 PM at the farm. ► Ms. Pellegri thanked the voters for participating. She would like to get more voters to participate in the future. She stated the Veterans luncheon was wonderful; it was a great event. She thanked the Rod and Gun Club for their monthly breakfast; the food was excellent. She noted the Distinguished Young Women of Franklin meeting on Monday at 7:30 at the YMCA. She explained there is scholarship money involved. ► Mr. Jones thanked all the voters who participated in the recent election. He thanked the elections workers and staff and everyone for their support. He stated he hopes the Town Council will create a subcommittee on communication as he believes there are many big items that need to be tackled. He gave condolences to the Worcester firefighter. ► Mr. Dellorco thanked the voters who participated and stated he appreciates it. He thanked the Town Council members for electing him to be their vice chair. He stated that on the Mass Pike today every town on every bridge had a fire truck or police vehicle with firefighters and flags flying to salute the Worcester firefighter as the procession drove by. It was very impressive. He gave condolences to the family of Fire Lt. Jason Menard. ► Chair Mercer thanked the voters for participating. He thanked his fellow councilors for showing support and electing him again as their chair. He thanked Mr. Kelly for his time as both former chair and vice chair. He noted there is a lot of work to do by the Town Council. He thanked the Veterans group and the Franklin Lodge of Elks for their support of the Veterans brunch. He offered condolences to the Chilson family and the Worcester firefighter’s family.

ADJOURN: ► MOTION to Adjourn by Dellorco. SECOND by Jones. No Discussion. ► VOTE: Yes-9, No-0, Absent-0. Meeting adjourned at 10:10 PM.

Respectfully submitted,

Judith Lizardi
Recording Secretary