

**Town of Needham
Board of Selectmen
Minutes for October 18, 2016
Selectmen's Chamber
Needham Town Hall**

6:00 p.m. Executive Session:
A meeting of the Board of Selectmen was convened by Chairman Matthew D. Borrelli. Those present were Maurice P. Handel, Marianne B. Cooley, Daniel P. Matthews, John A. Bulian, Town Manager Kate Fitzpatrick. Recording Secretary Mary Hunt joined the meeting at 6:45 p.m.

Motion by Mr. Handel that the Board of Selectmen vote to enter into Executive Session.

Exception 6 - To consider the purchase, exchange, lease or value of real estate, if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body.

Second: Mr. Bulian. Mr. Borrelli polled the Board. Unanimously approved 5-0.

6:45 p.m. The Board returned to open session.

6:45 p.m. Informal Meeting with Citizens: No activity.

7:00 p.m. Public Hearing - Lightower Fiber Networks at 100 2nd Avenue:
Robert Walls, Lightower Fiber Networks representative and Mark Pavone, Phoenix Communications representative appeared before the Board requesting permission to lay and maintain underground conduit, with cables placed therein under the surface of the following public way or private ways: from pole 14 2nd Avenue to place approximately 150' of (1) 4" sch40 pvc conduit to #100 2nd Avenue. Mr. Walls said this work is necessary to provide fiber optic service to 100 2nd Avenue.

Ms. Fitzpatrick confirmed all paperwork is in order and reiterated the work is necessary to provide fiber optic service to Atrius Health, 100 Second Avenue, Needham.

Mr. Borrelli invited public comment. No comments were made.

Mr. Borrelli asked for Board comment. No comments were made.

Motion by Mr. Handel that the Board of Selectmen approve and sign a petition from Lightower Fiber Networks for permission to lay and maintain underground conduit, with cables placed therein under the surface of the

following public way or private ways: from pole 14 2nd Avenue to place approximately 150' of (1) 4" sch40 pvc conduit to #100 2nd Avenue. This work is necessary to provide fiber optic service to Atrius Health, 100 2nd Avenue, Needham.

Second: Bulian. Unanimously approved 5-0.

7:02 p.m.

Public Hearing - Eversource Energy:

Karen Johnson, Eversource Energy representative appeared before the Board requesting permission to install conduit at 4 locations in the Town of Needham.

1. 43 Gage Street

Ms. Fitzpatrick indicated all paperwork is in order.

Mr. Borrelli invited public comment. No comments were made.

Mr. Borrelli asked for Board comment. No comments were made.

Motion by Mr. Bulian that the Board of Selectmen approve and sign a petition from Eversource Energy to install about 8 feet of conduit in Gage Street. This work is necessary to provide underground electric service to 43 Gage Street, Needham.

Second: Ms. Cooley. Unanimously approved 5-0.

2. 80 Maple Street

Ms. Fitzpatrick indicated all paperwork is in order.

Mr. Borrelli invited public comment. No comments were made.

Mr. Borrelli asked for Board comment. No comments were made.

Motion by Mr. Bulian that the Board of Selectmen approve and sign a petition from Eversource Energy to install about 8 feet of conduit in Maple Street. This work is necessary to provide underground electric service to 80 Maple Street, Needham.

Second: Mr. Handel. Unanimously approved 5-0.

3. 50 Winfield Street

Ms. Fitzpatrick indicated all paperwork is in order.

Mr. Borrelli invited public comment. No comments were made.

Mr. Borrelli asked for Board comment. No comments were made.

Motion by Mr. Handel that the Board of Selectmen approve and sign a petition from Eversource Energy to install about 9 feet of conduit in Winfield Street.

This work is necessary to provide underground electric service to 50 Winfield Street, Needham.

Second: Mr. Bulian. Unanimously approved 5-0.

4. 147 Tower Avenue

Ms. Fitzpatrick indicated all paperwork is in order.

Mr. Borrelli invited public comment. No comments were made.

Mr. Borrelli asked for Board comment. No comments were made.

Motion by Mr. Handel that the Board of Selectmen approve and sign a petition from Eversource Energy to install about 6 feet of conduit in Tower Avenue.

This work is necessary to provide underground electric service to 147 Tower Avenue, Needham.

Second: Mr. Bulian. Unanimously approved 5-0.

7:06 p.m.

Construction Related Traffic and Project Update:

Rick Merson, Director of Public Works and John Schlittler, Chief of Police appeared before the Board with an update on construction-related traffic concerns, upcoming deadlines and projects, and steps the Town of Needham is taking to improve traffic flow.

Mr. Borrelli gave a brief background saying several calls and emails have been received from citizens regarding traffic related issues in the vicinity of the Needham/Newton town line and Kendrick Street.

Mr. Merson explained several anticipated changes occurred in the traffic pattern due to construction and the opening of the south ramp at Kendrick Street. He commented Needham and Newton are communicating to help facilitate traffic in the area during construction. He said proposed changes will address lane assignments, congestion over the bridge across the Charles River, and traffic signal controls. Mr. Merson reviewed an aerial picture of the pavement marking plan at Kendrick Street/Nahanton Street. He commented the timeframe of the changes depend on the procurement process, weather, and that the City of Newton is ready to make the changes.

Discussion ensued on details of striping and lane assignments.

Chief Schlitter said police detail is in the area to monitor the situation until the changes occur.

Ms. Cooley asked where can residents report a concern? Mr. Merson said See-Click-Fix and Facebook are monitored, and phone calls are routed to the person attending bi-monthly meetings with the MassDOT. Ms. Fitzpatrick said concerns

received by the Board of Selectmen and Town Manager are also forwarded to MassDOT.

Mr. Bulian clarified it appears changes will take place before the winter. He said the bridge striping is wrong and better signage is needed.

Mr. Merson commented improvements are also anticipated at the 3rd Avenue/Kendrick Street traffic signal.

Mr. Merson also provided a brief update on the Eliot Street bridge project and construction at the Highland Avenue/Route 128 interchange. He said information is available on the Town website as to road closures and detours, particularly occurring on the first weekend in November. He commented work on the Eliot Street bridge is on schedule and that he is pleased with the progress.

Ms. Cooley asked when the bridge over Route 128 will come down? She commented many people seem interested in watching the demolition suggesting, perhaps, through the Needham Channel.

Mr. Bulian asked for clarification on the closure of Highland Avenue/Route 128 on Friday, November 4th. Mr. Merson said closures will occur after rush hour. Mr. Bulian said MBTA service on the Needham line will be suspended from Thursday, November 10 through Sunday, November 13. He suggested bus service should be provided by the MBTA.

Ms. Fitzpatrick asked Mr. Merson to comment on the Streetscape project currently underway in downtown Needham.

Mr. Merson said work on the project continues at night, and curbing will be installed very soon. He said installation of new sidewalks will most likely be done during daytime hours.

7:35 p.m.

Public Hearing - Noise By-law:

Mr. Borrelli commented the intent of the meeting is for the Board to discuss the possibility of expanding the hours of the existing Noise By-law, General By-law 3.8.1, which states: "Except in an emergency, construction activity conducted pursuant to a building permit, which causes noise that extends beyond the property line, shall be limited to the hours of 7 a.m. to 8 p.m. unless authorized by rules or regulations adopted by the Board of Selectmen. The penalty for violation of this regulation shall be a \$50 fine." He clarified the intent of the public hearing is expand the restriction, not to expand the hours of noise activity in the Town.

Mr. Borrelli said the issue is tougher than it appears, and asked for Board comment.

Ms. Cooley asked Ms. Fitzpatrick to clarify the number of fines issued and the perception that there have been very few complaints to the Town.

Ms. Fitzpatrick said there are many complaints, with many issues resolved by the Building Commissioner. In instances when the Building Commissioner is not working (i.e. weekends), Ms. Fitzpatrick said the police will attempt to resolve the issue if there are not other pressing matters. Ms. Fitzpatrick said not many fines have been issued.

Mr. Borrelli commented many emails were received describing different situations, some very troubling, and he said it is important to hear from the public. Mr. Borrelli reiterated approval is required by Town Meeting to make changes.

Mr. Borrelli opened the public hearing.

Elizabeth Kaponya, 27 Highland Terrace said homes in her neighborhood about the industrial zone and are affected by noise. She said a \$50 fine is not a constraint, but a cost of doing business. She suggested higher fines. Ms. Kaponya suggested instituting a requirement that builders who repeatedly break the time rules must provide police detail in front of the construction site to make sure workers do not enter the site before 7 a.m. She told the Board of the constant noise from the construction site at 100 Second Avenue, including at 4:30 a.m. when debris was being thrown into dumpsters. She explained dumpsters have been arriving at 5:30 a.m. for over 2 months creating a lot of noise. Ms. Kaponya gave the Board copies of her emails to the Town.

Beth Vandelinder, 40 Edgewater Lane asked the Board of Selectmen consider expanding the scope beyond construction. She commented on the many pool parties in her neighborhood and the number of complaints she has made to the Police Department. She gave the Board copies of regulations in surrounding towns, as well as examples of expanded noise regulations used in Boston. Ms. Vandelinder agreed the fines are not a deterrent, and explained other towns have higher fines and that the Town of Lexington treats noise violations as a misdemeanor, as well as assessing a fine. Ms. Vandelinder said it is reasonable to treat noise from a party differently than construction noise. Chief Schlittler commented on noise from music, saying “disturbing the peace” also would cover noise outside the by-law, noting ‘disturbing the peace’ really talks about time, place, and manner. He said “disturbing the peace” is a criminal offense. He commented the police department receives many ‘disturbing the peace’ complaints, which are addressed. He commented most ‘disturbing the peace’ offenses are thrown out of court.

Jill Kahn-Boesel, 44 Brookline Street commented the 7 a.m. start time is broken all the time in her neighborhood. She said the noise, while not egregious, is bothersome to retirees in the neighborhood. Ms. Kahn-Boesel suggested a start time of 8 a.m. and fines starting at \$250 with incremental increases. She noted most crews leave a job site by 4 p.m.

Mr. Matthews asked whether the current by-law has a civil “disturbing the peace” category? Chief Schlittler said “No, it does not.” Mr. Matthews said criminalizing ordinary misbehavior may make it harder to get the result that people want, whereas if the police could issue a ticket, it would be another tool to use. Mr. Matthews said he is not in favor of issuing fines, but rather making sure people know and comply with the rules. He said there is a sense some businesses simply violate the law because it is just a \$50 fine. He commented if that is happening, the Town must deal with those businesses in another way. Mr. Matthews said there are two types of noise: construction noise and landscaping noise, and suggested defining each type of noise.

Mr. Borrelli suggested the possibility of shutting down a job site after 3 violations.

Valerie Kistler, 28 Fairview Road commented on the many new homes in her neighborhood. She said she has not had a problem with people working outside the current hours, but agrees 8 a.m. is a more reasonable start time. She noted the use of pile drivers to breakup stone ledge. She said she prefers no work be done on the weekends, acknowledging prolonged projects. Ms. Kistler said the stop time has not been a problem, but said she would not want to go past 8 p.m.

Maria Ronzinski, resident said jackhammering cracked her foundation. She said 8 a.m. is a better start time and is against anything later than 6 p.m. and no weekends, as she feels it is an infringement on her right to enjoy the suburbs and her property.

Priscilla Murray, 58 Curve Street said she agrees with 8 a.m. to 6 p.m., and no construction weekends or holidays is reasonable. She commented there is a problem with enforcement of current regulations. Ms. Murray said vibration from breaking of ledge is tormenting. She said fines should be increased to \$500 and that she feels helpless.

Mary MacMahon, 89 Warren Street supports an 8 a.m. construction start time and lawn care component described by Mr. Matthews. She agreed fines must be increased.

Jill Kahn-Boesel, 44 Brookline Street suggested residents need to know what to do when there is an issue, and asked the Board to post procedures in the paper or on the Town website.

Mr. Borrelli suggested using the See-Click-Fix app as a way for residents to report issues.

Mr. Borrelli closed the public hearing.

Ms. Cooley said she likes the idea of using See-Click-Fix, also builders must be accountable suggesting they alert abutters as part of a notification process.

Mr. Bulian said the issue is on-going, and the Board of Selectmen and Police should do a better job enforcing current rules. He commented he likes the idea of working through the Building Department encouraging builders to work within specific hours. He commented landscape noise is seasonable but people also must be able to work. He said it is a balance.

Mr. Handel commented it is important the Town aggressively enforce the rules. He said the issue of ledge must be addressed.

Mr. Borrelli said the landscaping issue is a slippery slope. He commented a review of fines and weekend hours is necessary and certain types of site work (ledge) should not commence until a certain time.

Mr. Matthews encouraged neighborly discussion. He suggested a civil “disturbing the peace” by-law. He commented on ledge, saying 7 a.m. is too early a start time during the week and is willing to consider a later start time on weekends. He said he would consider 8 a.m start time, suggesting more staff for early morning compliance enforcement through the Building Department. He said he wants to know how other communities deal with the issue.

Ms. Cooley commented the See-Click-Fix option provides a time stamp, address, and tracking of the issue.

Ms. Fitzpatrick said the Town has had staff in early to deal with repeat complaints. She acknowledged some residents suffer in silence and it would be nice to find a remedy.

Mr. Handel asked how many complaints are received in a week or month? He said the Curve Street situation is one example of where many residents are affected.

Mr. Borrelli commented on general noise and wonders how other towns handle the situation. He agreed with Mr. Matthews suggestions.

Mr. Handel suggested handling each noise issue separately, as each requires clarity at Town Meeting.

Mr. Borrelli said the Board will continue to accept additional emails and phone calls to the Town Manager’s office. He thanked residents for their input.

8:25 p.m.

Sewer Rate Relief:

Dave Davison, Assistant Town Manager/Director of Finance told the Board the Commonwealth has monies available for sewer rate relief for FY2017 which the Town can apply. He said each year that the program has been offered, the Town has filed an application. He said the application requires the Town Manager and Board of Selectmen signatures in order to submit.

Motion by Mr. Handel that the Board support and sign the sewer rate relief application to be filed with the Commonwealth and that that Board approves applying the proceeds of the grant, if any, as a credit against the sewer bill. Second: Ms. Cooley. Unanimously approved 5-0.

8:27 p.m.

Appointments and Consent Agenda:

Motion by Mr. Handel that the Board of Selectmen vote to approve the Appointments and Consent Agenda as presented.

APPOINTMENTS: No Appointments were made at this meeting.

CONSENT AGENDA

- 1. Approve Sewer System Impact Program Regulations dated October 18, 2016. Notice of the proposed regulation was advertised in the Needham Times on September 1, September 8, and September 15, 2016.**
- 2. Sign the State Election Warrant scheduled for November 8, 2016.**
- 3. Accept the following donations made to Needham Youth Services for its “A Conversation” program: \$500 from The Needham Women’s Club, and \$50 from Molly Kerrigan, a Needham resident.**
- 4. Approve a Special One Day Wines & Malt Beverages Only License for Amy Sinclair of Trip Advisor to host an event for Needham Steps Up on Wednesday, November 2, 2016 from 4:00 p.m. to 9:00 p.m. The event will be held at Trip Advisor, 400 1st Avenue, Needham.**
- 5. Approve a Special One Day Wines & Malt Beverages Only License for Amy Sinclair of Trip Advisor to host an event for World Education on Friday, October 28, 2016 from 4:00 p.m. to 9:00 p.m. The event will be held at Trip Advisor, 400 1st Avenue, Needham.**
- 6. Accept the \$344.18 donation for the Needham Off-Leash Dog Area gift account from various online donors made on the Needham Dog Park website.**
- 7. Approve a Common Victualler license for BoonyBunz Inc. d/b/a BoonyBunz Bakery & Café, located at 1056 Great Plain Avenue, Needham.**
- 8. Approve a Special One Day Wines & Malt Beverages Only License for Robert Timmerman of Needham Knights of Columbus to hold a Trivia Night Benefit for Fisher House-Boston on Thursday, November 10, 2016 from 6:30 p.m. to 11:00 p.m. The event will be held at the Needham Knights of Columbus, 1211 Highland Avenue, Needham.**
- 9. Water and Sewer Abatement Order #1224**
- 10. Approve request from the Needham Business Association to hold Annual Blue Tree Ceremony on Saturday, December 3, 2016 at 4:30 p.m. in Avery Square and Blue Tree festivities at the Town Common at 5:00 p.m. Approval also includes use of Garrity Way from 1:00 p.m. to 5:00 p.m.**
- 11. Approve request from the Needham Business Association to have “meter-free” parking in Needham Center and Needham Heights from November 26, 2016 through January 2, 2017.**

12. Approve a Special One Day Wines & Malt Beverages License from Robin Peters Schell, of the Needham High School Class of 1980 to hold its Wine & Beer Tasting Reunion event on Saturday, November 26, 2016 from 5:00 p.m. to 11:00 p.m. The event will be held at the Needham Historical Society, 1147 Central Avenue, Needham.
13. Approve Open Session minutes of September 12, 2016, September 29, 2016, October 4, 2016, October 5, 2016 and Executive Session minutes of August 16, 2016, September 20, 2016, and October 4, 2016.
14. Accept the following donations made to the Needham Public Library from April 29, 2016 – October 14, 2016: Sharon Howell gave the library a copy of her latest book, Dylan: A Love Story (\$15.99); Marina Palmiero gave the library an original Giovanni Castano oil painting that was owned by her late mother, Elvira Castano Palmiero; Late trustee Mary H. Dickert left the library \$1,000.00; The Needham Lions Club donated \$500.00 that will be used to purchase large print books; Ann MacFate donated \$250.00 in memory of Irene MacFate for large print books; Kenneth Lundell gave the library two books on wedding speeches: Wedding Speeches by Sam Siv (\$9.00) and Father of the Bride: Speech and Duties by John Bowden (\$14.99); John and Sharon Howell gave the library a copy of The Bible: New Living Translation (\$69.99); Ford Peckham donated the following books to the library: In memory of Jane A. Howard: Your Country, My Country: A Unified History of the United States and Canada by Robert Bothwell (\$34.95) and In memory of Major R.N. Peckham, USAF (Ret.): Syria: The Fall of the House of Assad by David W. Lesch (\$28.00); Lisa Vergara gave the library a copy of Birds of Prey by Paul Frost (\$100.00); Barbara Kochaniak donated \$100.00 for the purchase of children’s books, in honor of the library’s 100th anniversary at Highland and Rosemary; Richard Marshall donated 93 DVD cases (\$93.00); Kate Savage gave the library three DVDs of the Great Courses’ How Great Science Fiction Works (\$199.00); Narinder K. Mehta gave the library a copy of his latest book, Ace Your Job Search in 5 Steps (\$11.95); Claire Blum gave the library a copy of Isaac Bashevis Singer’s story The Last Demon in honor of Kayla Blum’s 24th birthday (\$5.00); Bud Burnham donated \$279.00, commission from the sale of his paintings that were displayed in the Friends’ Gallery; Sharon Slaton Howell sent the library an updated copy of her book, When We’re Up Against It (\$8.00); Needham Author Susanna Hayes gave the library a copy of her new book, Bury the Victims (\$17.00); The Friends of the Library donated a copy of Past President Catherine Marengi’ book, Glad Farm (\$20.99); John James Laracy donated \$20.00 to purchase a nonfiction book-on-CD; Leonore Burke donated the funds to purchase Black & Decker’s Complete Photo Guide to Home Repair, 4th edition, in memory of Albert Lazuk (\$15.00); and Shirley Pratt gave the library copy of Maria Costantino’s book, The Life and Works of Frank Lloyd Wright (\$25.00).

15. Grant permission for the following residents to hold block parties:

Name	Address	Party Location	Party Date	Party Rain Date	Time
Ratify - Michael McHugh	25 Blacksmith	25 Blacksmith	10/15/16	N/A	3pm-8pm

Drive

Drive

Second: Ms. Cooley. Unanimously approved 5-0.

8:27 p.m.

Town Manager:

Kate Fitzpatrick, Town Manager appeared before the Board with two items to discuss:

1. Liquor License Regulation Update

Mr. Borrelli commented on the possibility of amending the Town of Needham Regulations for the sale of Alcoholic Beverage, Section 4.4.3.2 to allow the Board greater flexibility in pro-rating license fees. He said he supports the idea, however the language of the regulation needs additional study and suggested the Board defer discussion. The Board agreed to defer discussion.

2. Intervener Status

Ms. Fitzpatrick updated the Board on the filing as an Intervener by the October 11, 2016 deadline with regard to the Eversource Reliability Project. She stated that while the Article was withdrawn from the October 5, 2016 Special Town Meeting warrant for an easement at the gravel pit, the Town filed as an Intervener by the October 11, 2016 deadline. She said the Town is waiting to hear whether intervener status has been granted. She reiterated no deadline extension was required for additional comments from the public and that the Energy Facility Siting Board will take comments at any time. She said she expects a public hearing will be held to consider the Community Host Agreement, should the project move forward. She commented the Needham Health Department and Board of Health are available to answer questions. She said the Town will work with Eversource Energy regarding mitigation, along with a public hearing prior to any Special Town Meeting on the granting of the easement. Ms. Fitzpatrick said she expects a draft Community Host Agreement in early 2017.

8:30 p.m.

Board Discussion:

1. MPO Election

Motion by Mr. Bulian that the Board vote to authorize Moe Handel to cast ballots for Cheryl Tully Stoll, Chair, Framingham Board of Selectmen, Michael Rosenberg, Chair, Bedford Board of Selectmen, Joseph A. Curtatone, Mayor of Somerville, and Joseph C. Sullivan, Mayor of Braintree at the MPO election on October 26, 2016.

Second: Ms. Cooley. Unanimously approved 5-0.

2. Committee Reports

No Committee Reports were made.

8:32 p.m.

Adjourn:

Motion by Mr. Bulian that the Board of Selectmen vote to adjourn the Board of Selectmen meeting of October 18, 2016.

Second: Mr. Handel. Unanimously approved 5-0.

A list of all documents used at this Board of Selectmen meeting are available at:

<http://www.needhamma.gov/Archive.aspx?AMID=99&Type=&ADID=>