Town of Needham
Select Board
Minutes for Tuesday, February 14, 2023
Select Board's Chamber
and
Via ZOOM
https://us02web.zoom.us/j/82637253545

6:00 p.m. Call to Order:
A meeting of the Select Board was convened by Chair Marianne Cooley. Those present were Kevin Keane, Heidi Frail, and Matthew Borrelli. Mr. Nelson was not in attendance. Kate Fitzpatrick, Town Manager, Dave Davison, ATM/Finance, Myles Tucker, Support Services Manager, Kristin Scoble, Administrative Specialist, and Mary Hunt, Recording Secretary were also in attendance.

6:00 p.m. Ms. Cooley read a statement saying a settlement agreement between the Town and Mr. Marvin Henry was reached today. She acknowledged Mr. Henry, as part of the settlement agreement, received monetary compensation. She noted the details of the settlement are confidential.

6:03 p.m. Public Comment Period:
Michael Miller, 12 High Street, Needham, explained he moved to a rental property in Needham in October 2021. He commented on the tenant/landlord situation he is facing, noting his disappointment with the Town when he has reached out for help. He said he is a taxpayer of Needham, and it is negligent of the town that he has not received attention to his request for help with the heat and hot water situation at the rental property. Ms. Cooley said the Board will look into the matter.

6:12 p.m. Introduce Veronica Harvey:
Dave Davison, Director of Finance/ATM introduced Veronica Harvey, the new Treasurer/Collector for the Town. He gave a brief overview of Ms. Harvey's knowledge and education in the field of accounting, local government, taxation, and business information systems.

Ms. Harvey stated it has been a busy time since starting with the Town while getting to know her colleagues, processes, and procedures. She commented it has been a challenging, fulfilling time, and looks forward to continuing her work for the residents of Needham.

The Board welcomed Ms. Harvey to Needham and wished her well in her new position.

6:15 p.m. Recognition of Edward Olsen Recipient of 2023 Sports Turf Manager of the Year for the New England Sports Turf Management Association:
Cary's Lustig, Director of Public Works and Edward Olsen, Parks and Forestry Superintendent spoke with the Board regarding the Sports Turf Manager of the

Year awarded to Mr. Olsen. This award recognizes a Sports Turf Manager currently working in New England who has made a significant contribution (local, regional and/or national) to the sports turf industry. Criteria for contribution is multi-faceted and might include successful management or maintenance practices, creative staffing or budgeting strategies, successful partnerships, technical improvements, improvements in safety and/or environmental stewardship.

Ms. Lustig commented Mr. Olsen is responsible for the quality playing fields and beautification of Needham. She said Mr. Olsen also received an award from the American Public Works Association in 2020, noting both awards show Mr. Olsen's commitment and dedication to his profession and to the Town.

The Board said both awards are well deserved and thanked Mr. Olsen for his work in beautifying Needham.

Mr. Olsen thanked the Board, stating he is surrounded by good people from the top down, who all work well together.

6:22 p.m Human Resources Recruitment Video Presentation:
Cyndi Roy Gonzalez, Public Information Officer spoke with the Board, stating as part of the Town's efforts to find new ways to recruit and retain employees, a video was created that can be used to attract new talent to Needham. The video can be shared on multiple platforms and venues and will be posted to the Town's website, LinkedIn and YouTube pages. She thanked the employees who took part in the video, as well as Marc Mandel, Executive Director of the Needham Channel.

The Board viewed the recruitment video presentation.

Ms. Cooley thanked Ms. Roy Gonzalez for her work, noting Ms. Roy Gonzalez will be leaving her position to work with "Girls on the Run," a personal passion. Ms. Cooley said Ms. Roy Gonzalez has been a critical part of the team in getting information to residents.

Ms. Fitzpatrick thanked Ms. Roy Gonzalez for her work to create the Needham newsletter and in overhauling the website. She said she has laid the foundation for her replacement.

Mr. Borrelli said Ms. Roy Gonzalez has been a tremendous asset to the Town, especially during the pandemic. He thanked her for her work.

Mr. Keane thanked Ms. Roy Gonzalez for her work, saying she will be missed.

Ms. Frail said Ms. Roy Gonzalez is a cheerleader of others and wished her the best in her new role.

6:34 p.m. Public Hearing: Grant of Location - 311 Charles River Street

Joanne Callendar, Eversource Energy representative, spoke with the Board via Zoom regarding its requests for permission to install approximately 13 feet of conduit in Charles River Street. This work is necessary to provide underground service to 311 Charles River Street, Needham.

Ms. Fitzpatrick indicated all paperwork is in order.

Ms. Cooley invited public comment. No comments were heard.

Motion by Mr. Borrelli that the Select Board approve and sign a petition from Eversource Energy to install approximately 13 feet of conduit in Charles River Street. This work is necessary to provide underground service to 311 Charles River Street, Needham.
Second: Ms. Frail. Unanimously approved 4-0.

6:35 p.m. Public Hearing: Grant of Location - 94 Brookside Road
Joanne Callendar, Eversource Energy representative, spoke with the Board via Zoom regarding its requests for permission to install approximately 15 feet of conduit in Charles River Street. This work is necessary to provide underground service to 94 Brookside Road, Needham.

Ms. Fitzpatrick indicated all paperwork is in order.

Ms. Cooley invited public comment. No comments were heard.

Motion by Mr. Borrelli that the Select Board approve and sign a petition from Eversource Energy to install approximately 15 feet of conduit in Brookside Road. This work is necessary to provide underground service to 94 Brookside Road, Needham.
Second: Mr. Keane. Unanimously approved 4-0.

6:36 p.m. Public Hearing: Grant of Location - 78 Brookside Road
Joanne Callendar, Eversource Energy representative and Mark Harding, Hoffer Construction, spoke with the Board via Zoom regarding its request for permission to install approximately 11 feet of conduit in Brookside Road. This work is necessary to provide underground service to 78 Brookside Road, Needham.

Ms. Fitzpatrick told the Select Board work had been done prior to the public hearing Grant of Location.

Ms. Cooley invited public comment. No comments were heard.

Ms. Cooley explained to Mr. Harding it is important a public hearing be held prior to the start of any digging on a project. She stated there are cases where a neighbor or trees are impacted, and that it is important people have the ability to weigh in on a project before work commences.

Motion by Mr. Borrelli that the Select Board approve and sign a petition from Eversource Energy to install approximately 11 feet of conduit in Brookside Road. This work is necessary to provide underground service to 78 Brookside Road, Needham.
Second: Mr. Keane. Unanimously approved 4-0.

6:38 p.m. Appointments and Consent Agenda:
Motion by Mr. Borrelli that the Select Board vote to approve the Appointments and Consent Agenda as presented.

APPOINTMENTS:

1.	**Matthew Zollner**	**Water and Sewer Rate Structure Committee**	**Term Exp: 6/30/2024**
2.	**Moe Handel**	**Single Parcel Historic District Study Committee**	**Term Exp: 6/30/2026**
3.	**Gloria Greis**	**Single Parcel Historic District Study Committee**	**Term Exp: 6/30/2026**
4.	**Don Lankiewicz**	**Single Parcel Historic District Study Committee**	**Term Exp: 6/30/2026**

CONSENT AGENDA

1. **Approve minutes of January 10, 2023 (open session), January 24, 2023 (open session).**
2. **Approve a Mobile Food Vendor License for Cousins Maine Lobster to vend year- round, once weekly on Tuesdays during permitted hours in permitted Mobile Food Vendor spaces on First Street between A and B Streets.**
3. **Accept the Needham Commission on Disabilities approved grant request of $480 for the Needham Community Council to purchase (3) three lightweight wheelchairs.**
4. **Approve a request from Jill Barber, Membership Director from the Charles River YMCA to hold the annual Independence Day 5K race in Needham. The event is scheduled for Tuesday, July 4, 2023. The event and route have been approved by the following departments: Fire, Police, DPW, Park & Recreation.**
5. **Approve the proposed schedule of penalties for alcohol compliance check failures for the following license holders: Bertucci's Restaurants, LLC d/b/a Bertucci's, Ceed Corp d/b/a Cook Needham, Capella LLC d/b/a Cappella, Pancho's Taqueria Needham, LLC d/b/a Pancho's Taqueria, French Press LLC d/b/a French Press Bakery Café, PM Story Corp d/b/a Little Spoon, Needham Lending Company, LLC d/b/a Sheraton Needham Hotel, Lianos Liquors LLC, d/b/a Needham Center Fine Wines and Spirits, and Reveler Beverage Company LLC, d/b/a Reveler Beverage.**
6. **Accept the following donation made to the Needham Public Health Division - Domestic Violence Action Committee; $200 from Jonathan and Jane Migdol.**
7. **Accept the following donation made to the Needham Community Revitalization Trust Fund: $50 from Kate Carter.**
8. **Approve a request from the Exchange Club of Needham to sponsor 4th of July fireworks and festivities on Monday, July 3, 2023, and a road race, flag raising, and parade on Tuesday, July 4, 2023. Coordination of all activities will be made with appropriate Town Departments.**

9. **Accept the following donation made to the Youth & Family Services Department; $250 from the Forde Family.**
10. **Grant permission for the following residents to hold block parties:**

Name	**Address**	**Party Location**	**Party Date**	**Party Rain Date**	**Party Time**
Celia Carboni	**42 Greenwood Avenue**	**Greenwood Avenue**	**7/15/23**	**7/16/23**	**4pm-11pm**

Second: Mr. Keane. Unanimously approved 4-0.

6:38 p.m. Public Hearing: Alteration of Premises for an All-Alcohol License in a Restaurant - Henry Hospitality Inc. d/b/a The James and Public Hearing: Outdoor Dining License - Henry Hospitality, Inc., d/b/a The James

Ms. Cooley said Stuart Henry, Manager for the restaurant is unable to attend tonight's hearings. She asked for a continuance of both public hearings to February 28, 2023.

Motion by Mr. Borrelli that the Select Board vote to continue Public Hearing: Alteration of Premises for an All-Alcohol License in a Restaurant - Henry Hospitality Inc. d/b/a The James to Tuesday, February 28, 2023.
Second: Mr. Keane. Unanimously approved 4-0.

Motion by Mr. Borrelli that the Select Board vote to continue Public Hearing: Outdoor Dining License – Henry Hospitality Inc d/b/a The James to Tuesday, February 28, 2023.
Second: Mr. Keane. Unanimously approved 4-0.

6:40 p.m. Public Hearing Relative to the Suspended Alcohol License - Poet King, LLC d/b/a The Hungry Coyote, 1185 Highland Avenue, Needham:
Nezahualcoyotl Leon, LLC Manager, Leona Leon, Manager of Record, and Michael Magerer, Applicant Counsel met to discuss with the Select Board proposed action to seek relief from the indefinite suspension of its Section 12 All Alcohol liquor license, as order by the Board in its Suspension Decision dated January 14, 2022. Specifically, the licensee wishes for the Board to consider whether it has submitted sufficient documentation supporting Leona Leon's ability to hold the position of Manager of Record for the aforementioned license, in accordance with Board's suspension order, and for the Board to consider lifting the suspension.

Mr. Leon stated the intention is for Ms. Leon to hold the position of Manager of Record for the Hungry Coyote once the alcohol license is reinstated. He said he and Ms. Leon are both TIPS certified.

Discussion ensued on the current employment status of Ms. Leon at the restaurant, the accuracy of signed documentation submitted to the town, and Ms. Leon's desire and willingness at this time to be the Manager of Record.

Ms. Frail expressed concern that in order to consider whether or not the Select Board return the license to Mr. Leon, he would have a Manager of Record. She said it seems the request is for the Select Board to return the license so that a Manager of Record can be hired, noting that is not the correct order according to the paperwork submitted. She reiterated the documentation must match.

Mr. Borrelli said things have turned around at the restaurant. He noted however, the restaurant stayed open after the suspension, which is a violation. He asked Mr. Leon, "what is different now?" noting trust is everything and it is a tremendous responsibility to hold a license. He said the situation was very difficult and many people were put in bad positions.

Mr. Leon commented on the actions of the Health Department, noting he has been in business 25 years in Massachusetts, and no one has ever become sick from eating his food. He said the Health Department is supposed to help restaurants become better, not put them in a position to have to defend oneself.

Ms. Leon commented she will be at the restaurant, is TIPS certified, and will make sure everything goes well. Mr. Leon said he hired a food safety program, and he has been working with the Health Department every month, to meet required standards. He said the relationship with the Health Department is good now. He said the restaurant will be divided by a curtain with the bar area (21+ or with a parent) and dining area.

Mr. Leon acknowledged his mistakes made a year ago, noting he was the reason the restaurant stayed open after the suspension order.

Ms. Cooley questioned Mr. Leon, noting at the time of the suspension he chose to stay open and serve alcohol, which was in violation of the order. She noted there are benefits to having a liquor license and requirements in order to preserve and maintain those benefits. Ms. Cooley said she is still uncomfortable with the request and recommended the Select Board find that Poet King, LLC d/b/a/ Hungry Coyote has not submitted sufficient documentation to support Leona Leon's ability to hold the position of licensed manager.

Discussion ensued that the burden is on the applicant to provide supporting documentation that Ms. Leon has the ability to hold the position as licensed manager or to provide a substitute manager that the Board could approve.

Attorney Magerer said he understands what documentation is needed, and that he will help Mr. Leon with paperwork to satisfy the Select Board in order to give a favorable review and give the Leon's a second chance to responsibly operate the bar portion of the business.

Mr. Borrelli said he is not looking to punish the restaurant. He said if the TIPS certification, floor plan of the restaurant, and documentation describing Ms. Leon's responsibilities at the restaurant are in order, then he would be open to considering returning the liquor license to Mr. Leon.

Attorney Magerer asked the Board to continue the public hearing to allow time to gather information and amend the application.

Ms. Cooley suggested the entire application, including ABCC Amendment Application for Change of Officers and Change of Stock Interest - Poet King, LLC d/b/a Hungry Coyote, must consider whether the applicant is being clear and transparent with the Select Board about the structure and operation of the restaurant.

Motion by Mr. Borrelli that the Select Board vote to continue Public Hearing Relative to the Suspended Alcohol License - Poet King, LLC d/b/a The Hungry Coyote, 1185 Highland Avenue, Needham to Tuesday, March 14, 2023 at 6 p.m.
Second: Ms. Frail. Unanimously approved 4-0.

Motion by Mr. Borrelli that the Select Board vote to continue Public Hearing: ABCC Amendment Application for Change of Officers and Change of Stock Interest - Poet King, LLC d/b/a The Hungry Coyote to Tuesday, March 14, 2023 at 6 p.m.
Second: Ms. Frail. Unanimously approved 4-0.

7:15 p.m. Town Manager:
Kate Fitzpatrick, Town Manager spoke with the Board regarding three items:

1. <u>Accept and Refer Zoning</u>
Ms. Fitzpatrick told the Select Board that the Planning Board, at its meeting of February 7, 2023, voted to place the following articles on the warrant for the 2023 Annual Town Meeting Warrant: (1) Amend Zoning By-Law – Accessory 3-Car Garage Use in Single Residence B, General Residence, Business and Industrial Districts; (2) Amend Zoning By-Law – Accessory Dwelling Units (ADUs); (3) Amend Zoning By-Law – Corrective Zoning Amendments; and (4) Amend Zoning By-Law – Single Residence B and General Residence Side Setback.

Under State law, the Select Board has 14 days to accept the proposed amendments and refer them to the Planning Board for its review, hearing, and report. The Board's action in this matter is not discretionary. The Planning Board plans to schedule the public hearing on the article for Tuesday, March 7, 2023.

Motion by Mr. Borrelli that the Select Board vote to accept the proposed zoning articles: 1) Amend Zoning By-Law – Accessory 3-Car Garage Use in Single Residence B, General Residence, Business and Industrial Districts; (2) Amend Zoning By-Law – Accessory Dwelling Units (ADUs); (3) Amend Zoning By-Law – Corrective Zoning Amendments; and (4) Amend Zoning By-Law – Single Residence B and General Residence Side Setback for referral to the Planning Board for its review, hearing, and report.
Second: Mr. Keane. Unanimously approved 4-0.

Ms. Cooley noted this is a ministerial act of the Select Board, and passage does not indicate any approval. It allows the Planning Board the opportunity to hold public hearings on each amendment and gather public input on proposed zoning changes.

2. Close Annual Town Meeting
Ms. Fitzpatrick recommended the Select Board vote to close the warrant for the 2023 Annual Town Meeting. She reviewed several items in the warrant including Human Resources Fellowship Program, Outside Recruitment Services, Temporary Staffing Services, Town-Owned Land Surveys, Opioid Recovery & Mitigation Funds, and Fleet Refurbishment, among other items.

Motion by Mr. Keane that the Select Board vote to close the warrant for the 2023 Annual Town Meeting subject to minor technical corrections to be made by the Town Manager, Town Counsel and Bond Counsel.
Second: Mr. Borrelli. Unanimously approved 4-0.

3. Town Manager Report
Ms. Fitzpatrick reported the Select Board will meet with many stakeholder boards tomorrow, February 15, 2023 to talk about the Claxton Field project and its status.

7:45 p.m. Board Discussion:

1. Removal of the Police Department from Civil Service Ballot Question
Ms. Cooley said the Town and the Police Unions reached agreement on a plan to remove the Town from the Civil Service hiring system. The 2023 Annual Town Meeting approved a home rule petition to seek legislative approval to exit the system. The Legislature has not acted on this petition. Because the Town of Needham elected to participate in the Civil Service program by way of the vote of the residents at the ballot, the Town may exit the Civil Service system in that manner. Given the urgent need to recruit qualified applicants for the role of police officer the Town Manager and the Chief of Police recommend that the Board proceed to seeking approval of this initiative by voters.

Motion by Mr. Borrelli that the Board vote to place the following question on the ballot for the 2023 Annual Town Election. Shall the acceptance by the Town of Needham of Chapter 39 of the Acts of 1924, entitled "An Act placing the chief of police and members of the police department of the Town of Needham under civil service," be revoked? YES ____ NO ____

Second: Mr. Keane. Unanimously approved 4-0.

Ms. Fitzpatrick noted the Chief of Police will be at the next Select Board meeting on Tuesday, February 28, 2023 to discuss the Annual Report, and it may be an opportunity for the Chief to provide more information regarding the ballot question.

2. Sale of Alcohol Ballot Question
Ms. Cooley reminded the Select Board that the October 25, 2021 Special Town Meeting under Article 10 approved a Home Rule Petition seeking to increase the total number of allowed package alcohol licenses in Needham, from the reduced quota set under the Town's current special legislation (Chapter 207 of the Acts of 2012) to the number allowed by G.L. Ch. 138 section 17. This change would require approval by the Town's voters. The petition was approved by Chapter 203 of the Acts of 2022 (August 30, 2022). She said approval by the voters of the Town is required for the measure to take effect.

Motion by Mr. Borrelli that the Select Board vote to place the following question on the ballot for the 2023 Annual Town Election. "Shall an act passed by the General Court in the year 2022, entitled 'An Act authorizing the Town of Needham to grant additional licenses for the sale of all alcoholic beverages not to be drunk on the premises' be accepted?" YES____ NO____
Second: Mr. Keane. Unanimously approved 4-0.

3. Committee Reports
Mr. Keane reported the Climate Action Committee met and that it looks forward to hiring a Sustainability Coordinator in the future. He said other items discussed were greenhouse gasses and Muni Aggregation. Ms. Cooley said bids have been received from consultants and that interviews will take place next week. Mr. Keane said the committee is also trying to promote other events including test driving an electric vehicle and how to read your electric bill.

Ms. Frail reported the Active Recreation Asset Working Group held a public hearing to gather feedback on proposed recreational activities and infrastructure. She said the meeting was well attended and there were many good ideas and comments: i.e. dog parks, skate parks, pickleball courts, and more. She said additional comments can be sent to otm@needhamma.gov. She commented on an inventory of potential sites where amenities could be located that will be discussed at the next Active Recreation Asset Working Group meeting.

Ms. Frail also reported a meeting regarding the Select Board Code of Conduct had active public participation, noting staff put together a terrific document. She said the next meeting is scheduled for, February 15, 2023. Ms. Cooley stated the Select Board will discuss the Code of Conduct at an upcoming Select Board meeting.

8:15 p.m Executive Session: Exception 3 – to discuss potential litigation to be filed on behalf of multiple Massachusetts cities and towns concerning changes to Massachusetts Water Resources Management Program regulations.

Motion by Mr. Borrelli that the Select Board vote to enter Executive Session under Exception 3 - Potential Litigation to discuss potential litigation to be filed on behalf of multiple Massachusetts cities and towns concerning changes to Massachusetts Water Resources Management Program regulations.

Not to return to open session prior to adjournment.

Second: Mr. Keane. Unanimously approved 4-0.

Note: The executive session portion of the meeting ended at 8:30 p.m.

A list of all documents used at this Select Board meeting is available at:

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

The next Select Board meeting is scheduled for Tuesday, February 28, 2023.