Town of Needham
Select Board
Minutes for Wednesday, April 12, 2023
Select Board's Chamber
and
Via ZOOM
https://us02web.zoom.us/j/83866600545

6:00 p.m. Call to Order:
A meeting of the Select Board was convened by Chair Marianne Cooley. Those present were Marcus Nelson, Kevin Keane, Heidi Frail, and Kate Fitzpatrick, Town Manager. Dave Davison, ATM/Finance (via Zoom), Katie King, ATM/Operations, Myles Tucker, Support Services Manager, and Mary Hunt, Recording Secretary were also in attendance.

6:00 p.m. Public Comment Period:
Steven Frail, 29 Powers Street spoke with the Board about a warrant article for the May 2023 Town Meeting regarding SUV fleet replacement. He asked whether the Town has considered electric vehicles, knowing that climate change is an issue. He said an opportunity exists to replace five fossil fuel burning vehicles with green vehicles. He suggested the Town look at federal rebates when replacing vehicles and consider making changes before Town Meeting.

6:05 p.m. Theodora Eaton, Town Clerk swore in returning member Marianne Cooley and newly elected member Catherine Dowd to three years positions on the Select Board.

Ms. Cooley noted the momentous occasion, as it is the first time in Needham's 313-year history that the Town is governed by a board with a female majority.

6:07 p.m. Board Reorganization:
The Select Board accepted nominations for reorganization of the Select Board:

Motion by Mr. Keane that the Select Board vote to nominate Marcus Nelson to serve as Chair of the Town of Needham Select Board.
Second: Ms. Frail. No vote was taken.

Mr. Nelson said that previously he had every intention of accepting the position as Chair of the Select Board. However, he said that over the prior year he had unforeseen personal and professional changes and said that it would not be in the best interest of the Town to accept the position. Mr. Nelson respectfully declined the nomination as Chair of the Town of Needham Select Board.

Motion by Mr. Keane that the Select Board vote to nominate Marianne Cooley to serve as Chair of the Town of Needham Select Board.
Second: Ms. Frail. Unanimously approved 5-0.

Mr. Nelson said Ms. Cooley's leadership and service to Needham is valued and it is right to have Ms. Cooley continue as Chair of the Select Board.

Ms. Frail concurred, saying she appreciates Ms. Cooley's service and counts on her expertise as Chair.

Mr. Keane concurred.

Motion by Mr. Nelson that the Select Board vote to nominate Kevin Keane to serve as Vice Chair of the Town of Needham Select Board.
Second: Ms. Frail. Unanimously approved 5-0.

Motion by Mr. Nelson that the Select Board vote to nominate Heidi Frail to serve as Clerk of the Town of Needham Select Board.
Second: Mr. Keane. Unanimously approved 5-0.

The Board repositioned itself and members took their designated places at the table. A gift of thanks was presented to Ms. Cooley acknowledging her service as Chair during the prior term.

6:15 p.m. Public Hearing: Eversource Energy Grant of Location - 37 Forest Street
Joanne Callender, Eversource Energy representative spoke with the Board via Zoom, requesting permission to install approximately 15 feet of conduit in Forest Street. This work is necessary to provide underground service to a traffic signal at 37 Forest Street, Needham.

Ms. Fitzpatrick stated all paperwork is in order.

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

Motion by Mr. Nelson that the Select Board approved and sign a petition from Eversource Energy to install approximately 15 feet of conduit in Forest Street, Needham.
Second: Ms. Frail. Unanimously approved 5-0.

6:16 p.m. Public Hearing: Eversource Energy Grant of Location - 212 Forest Street
Joanne Callender, Eversource Energy representative spoke with the Board via Zoom, requesting permission to install approximately 15 feet of conduit in Forest Street. This work is necessary to provide underground service to a traffic signal at 212 Forest Street, Needham.

Ms. Fitzpatrick stated all paperwork is in order.

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

Motion by Ms. Frail that the Select Board approved and sign a petition from Eversource Energy to install approximately 15 feet of conduit in Forest Street, Needham.
Second: Mr. Nelson. Unanimously approved 5-0.

6:17 p.m. Public Hearing: Outdoor Dining License – French Press, LLC, d/b/a French press. Raja Spencer, Manager spoke with the Board regarding an application to establish an outdoor dining space in a parklet on three spaces located on Chapel Street adjacent to the restaurant.

The applicant has used the parklet area since 2020 in an arrangement similar to the proposed, set up in accordance with state emergency orders and local rules. In the context of the COVID-19 pandemic. The applicant is requesting seasonal use of the space during the designated outdoor dining season of April 1 through November 30, the applicant has also applied to the select board for an alteration of premises for their liquor license.

Ms. Cooley invited public comment.

Paul Good, 30 Walnut Street commented the outdoor seating is terrific and he is fully supportive of Mr. Spencer's request.

Motion by Ms. Frail that the Select Board vote to approve an Outdoor Dining License for French Press, LLC., d/b/a French Press.
Second: Mr. Nelson. Unanimously approved 5-0.

6:22 p.m. Public Hearing: Alteration of Premises for a Wine and Malts License in a Restaurant- French Press LLC, d/b/a French Press

Raja Spencer, Manager spoke with the Board regarding an amendment to expand the licensed premises to include: adding 22 outdoor seats under a pergola to be used year-round and 18 outdoor seats in a parklet to be used seasonally.

It was noted the applicant has used the parklet area since 2020 in an arrangement similar to the proposed set-up in accordance with state emergency orders and local rules in the context of the COVID-19 pandemic. The applicant has also received a special permit from the Planning Board to allow for construction and use of the pergola as proposed. The applicant has also applied to the Select Board for an Outdoor Dining License since the parklet portion of the proposed premises is located on street parking spaces.

Ms. Fitzpatrick stated all paperwork is in order.

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

Motion by Ms. Frail that the Board vote to approve the Amendment for Alteration of Premises Application received from French Press, LLC, d/b/a French Press and vote to forward the Amendment application to the ABCC for review and final approval.
Second: Mr. Nelson. Unanimously approved 5-0.

6:23 p.m. Citizens Petition: Single Use Plastic Bags
Robert Fernandez, Lead Petitioner and Kathy Riaz, Petitioner discussed the citizens petition filed to prohibit single use plastic check out bags in Needham.

Mr. Fernandez stated the point of the petition is to ask Town Meeting to ban all thick and thin plastic bags currently being distributed at retail and restaurants in Needham. He encouraged people to use reusable bags when shopping in stores.

Ms. Riaz commented on a survey sent to approximately 75 businesses. She said, in general, the businesses are supportive of the initiative.

Mr. Fernandez read a letter from Evan Raskin, EARTHDAY.ORG, National Campaign Manager & Global Climate Correspondent and former Needham resident, who has given an official endorsement of the proposed plastic bag ban by-law. Mr. Fernandez noted a letter from the Sierra Club, MA who also supports the initiative.

Fourth grade students from Sunita Williams Elementary School shared with the Board their service-learning project which seeks to understand plastic, pollution, and how to reduce it. George Goneconto, 4th grade teacher said the project is supported by Green Needham.

The Board thanked the children and the presenters for the information.

Ms. Cooley invited public comment.

Wells Blanchard, 580 High Rock Street and member of the Solid Waste Advisory Board said the thick plastic bags get caught in the machines at the Recycling and Transfer Station. He said he supports the petition.

David Rudolf, 143 Highgate Street said he volunteers for the Sierra Club and supports the ban. He said Needham is virtually one of the only towns in Metrowest which has not banned single use bags. Mr. Rudolf encouraged people to use reusable bags.

Ms. Frail thanked the presenters for spearheading the initiative. She said there are many ways for people to take action, saying she is inspired by the presenters for taking action and bringing forth their citizens' petition.

Ms. Cooley echoed the sentiment that people use reusable bags for shopping. She said merchants in Town have told her 30%-40% of customers request double bagging, which only increases the cost for everyone.

The Board thanked Mr. Fernandez and Ms. Rias for the presentation.

6:40 p.m. Discussion of Zoning Articles on the Annual Town Meeting Warrant:
Lee Newman, Director of Planning & Community Development (via Zoom), and Planning Board members Adam Block, Jeanne McKnight, Artie Crocker, Natasha Espada, and Paul Alpert provided the Board with the Planning Board's position on the zoning articles contained in the Annual Town Meeting warrant.

Mr. Block identified four zoning articles to be discussed including amending Accessory Dwelling Unit by-law, corrections and renumbering to be made to zoning by-laws, amending the side setback by-law, and an amendment to the by-law related to three car garages.

Ms. Frail expressed concern over the article to "Amend Zoning By-law - Accessory 3-Car Garage Use in Single Residence B, General Residence, Business, and Industrial Districts" stating a three car garage in a single residence neighborhood is "a lot of garage" suggesting changing the by-law removes any last barrier to destruction of older homes and encourages larger and larger homes. Ms. Frail said neighbors must be able to weigh in on building projects in their neighborhoods.

Mr. Keane commented on three car garages, economic disparity, and young families who are unable to move to Needham. He said it is important for homeowners to control the look of their neighborhoods.

Discussion ensued on ADUs, attached three car garages, and impacts on building large homes.

The Board thanked the presenters for the information.

7:24 p.m. Appointments and Consent Agenda:
Motion by Mr. Nelson that the Select Board vote to approve the Appointments and Consent Agenda as presented.

APPOINTMENTS: No Appointments were made at this meeting.

CONSENT AGENDA

1. **Update SB-PERS-003 Policy Contributory Insurance Rules and Regulations (extend Opt-out Program to 2025).**
2. **Approve minutes for February 15, 2023 (open session) and March 14, 2023 (open and executive session).**
3. **Approve two One Day Special Licenses from Leslie Laputz of PanMass Challenge for Friday, August 4, 2023, 2:00-8:00 PM and Sunday, August 6,**

2023, 10:00am – 4:00pm for PanMass Challenge. The event will be held at the Trim Parking Lot, Babson College. All documents are in order.

4. **Approve a One Day Special License from Leslie Nelken of the League of Women Voters of Needham for Thursday, May 18, 2023, 6:00-8:30 PM for their Annual Meeting. The event will be held at the Center at the Heights multipurpose room. All documents are in order.**
5. **Approve a One Day Special License from Gloria Greis of the Needham History Center & Museum for Saturday, April 29, 2023, 6:30-11:00PM for the Spring into Springtime Gala. The event will be held at the History Center. All documents are in order.**
6. **Declare April 26, 2023 Doris Kearns Goodwin Day in Needham.**
7. **Approve a one-day suspension as penalty for the failure of an alcohol compliance check on December 7, 2022 for Vinodivino3 LLC, d/b/a Vinodivino.**
8. **Approve 20B Exemption for the following individual to engage in work with the Needham Planning and Community Development Department: Kristan Patenaude.**

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

7:25 p.m. Public Hearing: Relative to Suspended Alcohol License – Poet King, LLC d/b/a Hungry Coyote (Continued)

Michael Magerer, Applicant Counsel and Nezahualcoyotl Leon, LLC Manager spoke with the Board regarding Poet King, LLC d/b/a Hungry Coyote, 1185 Highland Ave, proposed action seeking 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. This hearing is a continuation from February 14th, 2023.

Ms. Cooley noted since the last hearing, the applicant informed staff that they intend to submit a Change of Manager application to appoint a new Manager of Record to replace Leona Leon in the near future.

Mr. Magerer said after careful consideration a new application will be submitted naming Nezahualcoyotl Leon as Manager.

Ms. Cooley closed the public hearing and asked for a new application to come before the Board within the next three months.

Motion by Ms. Frail that the Select Board vote to close Public Hearing: Relative to Suspended Alcohol License – Poet King, LLC d/b/a Hungry Coyote and take no action because the licensee no longer intends for Leona Leon to serve as a Manager of Record and, further, to authorize the Town Manager to notify the Licensee in writing that the Board will hold a hearing to cancel the license for non-use unless the following occurs within the next three (3) months:

1. The Select Board votes to approve a Change of License Manager application appointing someone other than Leona Leon to the position of a Licensed Manager.

2. The Select Board finds the new proposed License Manager of sufficient character to serve as the License Manager and votes to lift the suspension order dated January 14, 2022; or

3. The Select Board approves an application transferring the license to a new corporate entity.

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

7:29 p.m. Public Hearing: ABCC Amendment Application for Change of Officers and Change of Stock Interest – Poet King, LLC d/b/a Hungry Coyote (Continued from February 14, 2023)
Michael Magerer, Applicant Counsel and Nezahualcoyotl Leon, LLC Manager discussed an application for a Change of Officers and Change of Stock Interest.

Ms. Cooley said since the last application no other information has been received relating to the amendment for the Change of Officers and Change of Stock Interest. Mr. Magerer confirmed Ms. Cooley is correct. However, he stated he made changes, at the Select Board's request, to the Unit Purchase and Sale Agreement to remove the confidentiality provision and correct a typographical error. Mr. Magerer said the information was sent to Mr. Tucker in the Office of the Town Manager today, which he said has been signed and resubmitted.

Ms. Cooley suggested the Board vote to deny the application as Mr. Leon will be the only individual with a direct or indirect beneficial or financial interest in the license, and he will have significant control over the operation of the establishment. She said the Board, at this point, does not find him to be of sufficient character to hold an interest in the license. She said there is concern due to the history of ignoring the orders of the Town (local municipal bodies) including the disregard for the Summary Suspension Order of the Needham Board of Health, as well as other delays in obtaining documents.

Discussion ensued on the Board's request for a new manager and their role.

Motion by Ms. Frail the Select Board vote to deny the application submitted by Poet King Restaurant Group, LLC d/b/a Hungry Coyote on December 21, 2022, for a change of officers, change of ownership interest, and transfer of stock as approval of this application does not support the common good for the following reasons:

- **While Mr. Leon will not be the license manager, Mr. Leon will be the only individual with a direct or indirect, beneficial or financial interest in the license and has shared that he will exhibit significant control over the operation of the establishment and the Board does not find him to be of sufficient character to hold an interest in this license;**
- **Mr. Leon has a history of ignoring orders of local municipal bodies, including blatant disregard for a Summary Suspension Order of the Needham Board of Health.**
- **Mr. Leon has delayed in providing documents requested by the Select Board relevant to this hearing, further demonstrating his refusal to work with municipal enforcement bodies,**

And to authorize Town Counsel to draft a decision capturing the Board's discussion and vote, and authorize the Town Manager to sign said decision and send notice of the decision to the ABCC and the Licensee, as required under Chapter 138 of the General Laws.

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

Ms. Cooley said she looks forward to seeing Mr. Leon again with a corporate structure that can work for the Town and support the operation of a license.

7:50 p.m. Town Manager:

Kate Fitzpatrick, Town Manager spoke with the Board regarding 5 items:

1. Outdoor Space Use Permit Policy

   Myles Tucker presented the Board a proposal for Select Board Policy SB-LIC-0002: Outdoor Space Use Permits. Mr. Tucker said this proposal incorporates input from the Board on a draft proposal of this policy discussed at its meeting on March 28, 2023.

   Motion by Mr. Nelson that the Select Board vote to adopt Select Board Policy SB-LIC-002: Outdoor Space Use Permits.
   Second: Mr. Keane. Unanimously approved 5-0.

2. Town Alcohol Regulations - Proposed Revisions

   Mr. Tucker discussed with the Board proposed revisions to the Town Alcohol Regulations, following Board input at its March 28, 2023 meeting and a proposed change relative to farm stands.

   Discussion ensued on the revisions including an updated list of suspensions and violations, compliance check offenses and required training.

   The Board thanked Mr. Tucker for the discussion.

3. Establish the Community Stormwater Mitigation Assessment Schedule of Rates

Dave Davison, ATM/Finance reminded the Board of a presentation made at its March 10, 2023 meeting regarding the recommendations to adopt a fee schedule for the purpose of funding future capital improvements to manage stormwater runoff. He noted the Board held a Public Hearing regarding the proposal and the rate structure at its March 28, 2023 meeting. The proposed schedule has been modified based on public input so that a property which has 200 square feet or less of impervious cover will not be subject to the fee.

Ms. Frail reminded folks stormwater treatment is federally mandated and the fee is intended to cover new capital expenses, not maintenance or existing services.

Motion by Mr. Nelson that the Board adopt the revised schedule for community stormwater mitigation assessments identified on schedule below and that they be effective January 1, 2024; further that the Town Manager is authorized to abate and/or adjust the fee upon the recommendation of the Director of Public Works, with supporting documents, if 1) there was an error in the billing amount; 2) there was an error in calculating the impervious area; 3) the identification of the property owner was invoiced in error; or 4) other similar circumstances.

Community Stormwater Mitigation Assessment
Impervious Surface Square Footage

Tier	Sq Ft Low	Sq Ft High	Annual Fee	Quarterly	Monthly
1	0	200	$0.00	$0.00	$0.00
2	201	4,000	$38.20	$9.55	$3.18
3	4,001	8,000	$80.00	$20.00	$6.67
4	8,001	20,000	$200.00	$50.00	$16.67
5	20,001	45,000	$400.00	$100.00	$33.33
6	45,001	90,000	$600.00	$150.00	$50.00
7	90,001	175,000	$800.00	$200.00	$66.67
8	175,001	345,000	$1,000.00	$250.00	$83.33
9	345,001	685,000	$1,200.00	$300.00	$100.00
10	685,001	and above	$1,500.00	$375.00	$125.00

Annual assessment is billed on a quarterly or monthly schedule based on the utility account type.

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

4. Positions on Warrant Articles
The Board reviewed and took positions on articles in the Annual Town Meeting Warrant and the Special Town Meeting Warrant. Ms. Fitzpatrick said newly elected Select Board member Catherine Dowd will recuse herself from any article having to do with the Needham Public Schools.

ANNUAL TOWN MEETING WARRANT ARTICLES

Article 1 - ANNUAL TOWN ELECTION - No vote required.

Article 2 - COMMITTEE AND OFFICERS REPORTS - No vote required.

Article 3 - ESTABLISH ELECTED OFFICIALS' SALARIES
Motion by Mr. Nelson that the Board vote to support Article 3 - ESTABLISH ELECTED OFFICIALS' SALARIES in the Annual Town Meeting Warrant.
Second: Mr. Keane. Unanimously approved 5-0.

Article 4 - APPROPRIATE FOR NEEDHAM PROPERTY TAX ASSISTANCE PROGRAM
Motion by Ms. Frail that the Select Board vote to support Article 4 - APPROPRIATE FOR NEEDHAM PROPERTY TAX ASSISTANCE PROGRAM in the Annual town Meeting Warrant.
Second: Mr. Nelson. Unanimously approved 5-0.

Article 5 - APPROPRIATE FOR PUBLIC FACILITIES MAINTENANCE PROGRAM
Motion by Mr. Nelson that the Select Board vote to support Article 5 - APPROPRIATE FOR PUBLIC FACILITIES MAINTENANCE PROGRAM in the Annual Town Meeting Warrant.
Second: Ms. Frail. Approved 4-0-1. Ms. Dowd abstained.

Article 6 - APPROPRIATE FOR SMALL REPAIR GRANT PROGRAM
Motion by Mr. Nelson that the Select Board vote to support Article 6 - APPROPRIATE FOR SMALL REPAIR GRANT PROGRAM in the Annual Town Meeting Warrant.
Second: Mr. Keane. Unanimously approved 5-0.

Article 7 - APPROPRIATE FOR COMPENSATED ABSENCES FUND
Motion by Mr. Nelson that the Select Board vote to support Article 7 - APPROPRIATE FOR COMPENSATED ABSENCES FUND in the Annual Town Meeting Warrant.
Second: Ms. Frail. Unanimously approved 5-0.

Article 8 - APPROPRIATE FOR OUTSIDE RECRUITMENT SERVICES
Motion by Ms. Frail that the Select Board vote to support Article 8 - APPROPRIATE FOR OUTSIDE RECRUITMENT SERVICES in the Annual Town Meeting Warrant.
Second: Mr. Nelson. Unanimously approved 5-0.

Article 9 - APPROPRIATE FOR TEMPORARY STAFFING SERVICES
Motion by Ms. Frail that the Select Board vote to support Article 9 - APPROPRIATE FOR TEMPORARY STAFFING SERVICES in the Annual Town Meeting Warrant.

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

Article 10 - APPROPRIATE FOR TOWN-OWNED LAND SURVEYS

Motion by Ms. Frail that the Select Board vote to support Article 10 - APPROPRIATE FOR TOWN-OWNED LAND SURVEYS in the Annual Town Meeting Warrant.

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

Article 11 - APPROPRIATE FOR FLEET REFURBISHMENT

Motion by Mr. Nelson that the Select Board vote to support Article 11 - APPROPRIATE FOR FLEET REFURBISHMENT in the Annual Town Meeting Warrant.

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

Article 12 - APPROPRIATE THE FY2024 OPERATING BUDGET

Motion by Mr. Keane that the Select Board vote to support Article 12 - APPROPRIATE THE FY2024 OPERATING BUDGET in the Annual Town Meeting Warrant.

Second: Ms. Frail. Approved 4-0-1. Ms. Dowd recused herself.

Article 13 - APPROPRIATE THE FY2024 SEWER ENTERPRISE FUND BUDGET

Motion by Mr. Nelson that the Select Board vote to support Article 13 - APPROPRIATE THE FY2024 SEWER ENTERPRISE FUND BUDGET in the Annual Town Meeting Warrant.

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

Article 14 - APPROPRIATE THE FY2024 WATER ENTERPRISE FUND BUDGET

Motion by Ms. Frail that the Select Board vote to support Article 14 - APPROPRIATE THE FY2024 WATER ENTERPRISE FUND BUDGET in the Annual Town Meeting Warrant.

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

Article 15 - AUTHORIZATION TO EXPEND STATE FUNDS FOR PUBLIC WAYS

Motion by Ms. Frail that the Select Board vote to support Article 15 - AUTHORIZATION TO EXPEND STATE FUNDS FOR PUBLIC WAYS in the Annual Town Meeting Warrant.

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

Article 16 - SET THE ANNUAL DEPARTMENT REVOLVING FUND SPENDING LIMITS

Motion by Ms. Frail that the Select Board vote to support Article 16 - SET THE ANNUAL DEPARTMENT REVOLVING FUND SPENDING LIMITS in the Annual Town Meeting Warrant.

Second: Mr. Nelson. Approved 4-0-1. Ms. Dowd abstained.

Article 17 - AMEND ZONING BY-LAW - ACCESSORY 3 - CAR GARAGE USE IN SINGLE RESIDENCE B, GENERAL RESIDENCE, BUSINESS, AND INDUSTRIAL DISTRICTS

Motion by Mr. Keane that the Select Board vote not to support Article 17 - AMEND ZONING BY-LAW - ACCESSORY 3 - CAR GARAGE USE IN SINGLE RESIDENCE B, GENERAL RESIDENCE, BUSINESS, AND INDUSTRIAL DISTRICTS in the Annual Town Meeting Warrant.

Second: Mr. Nelson. Approved 4-1. Ms. Cooley voted nay.

Article 18 - AMEND ZONING BY-LAW - ACCESSORY DWELLING UNITS (ADU'S)

Motion by Mr. Keane that the Select Board vote to support Article 18 - AMEND ZONING BY-LAW - ACCESSORY DWELLING UNITS (ADU'S) in the Annual Town Meeting Warrant.

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

Article 19 - AMEND ZONING BY-LAW CORRECTIVE ZONING AMENDMENTS

Motion by Mr. Keane that the Select Board vote to support Article 19 - AMEND ZONING BY-LAW CORRECTIVE ZONING AMENDMENTS in the Annual Town Meeting Warrant.

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

Article 20 - AMEND ZONING BY-LAW - SINGLE RESIDENCE B AND GENERAL RESIDENCE SIDE SETBACK

Motion by Ms. Frail that the Select Board vote to support Article 20 - AMEND ZONING BY-LAW - SINGLE RESIDENCE B AND GENERAL RESIDENCE SIDE SETBACK in the Annual Town Meeting Warrant.

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

Article 21 - APPROPRIATE TO COMMUNITY PRESERVATION FUND

Motion by Ms. Frail that the Select Board vote to support Article 21 - APPROPRIATE TO COMMUNITY PRESERVATION FUND in the Annual Town Meeting Warrant.

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

Article 22 - APPROPRIATE TO COMMUNITY PRESERVATION FUND SUPPLEMENT

Motion by Mr. Nelson that the Select Board vote to support Article 22 - APPROPRIATE TO COMMUNITY PRESERVATION FUND SUPPLEMENT in the Annual Town Meeting Warrant.

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

Article 23 - APPROPRIATE FOR NEEDHAM HOUSING AUTHORITY SEABEDS COOK PRESERVATION
Motion by Ms. Frail that the Select Board vote to support Article 23 - APPROPRIATE FOR NEEDHAM HOUSING AUTHORITY SEABEDS COOK PRESERVATION in the Annual Town Meeting Warrant.
Second: Mr. Nelson. Unanimously approved 5-0.

Article 24 - APPROPRIATE FOR DEFAZIO PLAYGROUND DESIGN
Motion by Mr. Nelson that the Select Board vote to support Article 24 - APPROPRIATE FOR DEFAZIO PLAYGROUND DESIGN in the Annual Town Meeting Warrant.
Second: Ms. Frail. Unanimously approved 5-0.

Article 25 - APPROPRIATE FOR GENERAL FUND CASH CAPITAL
Motion by Ms. Frail that the Select Board vote to support Article 25 - APPROPRIATE FOR GENERAL FUND CASH CAPITAL in the Annual Town Meeting Warrant.
Second: Mr. Nelson. Approved 4-0-1. Ms. Dowd recused herself.

Article 26 - APPROPRIATE FOR FIRE LADDER TRUCK
Motion by Ms. Dowd that the Select Board vote to support Article 26 - APPROPRIATE FOR FIRE LADDER TRUCK in the Annual Town Meeting Warrant.
Second: Mr. Keane. Unanimously approved 5-0.

Article 27 - APPROPRIATE FOR ROOFTOP UNIT REPLACEMENT
Motion by Mr. Nelson that the Select Board vote to support Article 27 - APPROPRIATE FOR ROOFTOP UNIT REPLACEMENT in the Annual Town Meeting Warrant.
Second: Mr. Keane. Approved 4-0-1. Ms. Dowd recused herself.

Article 28 - APPROPRIATE FOR QUIET ZONE
Motion by Mr. Nelson that the Select Board vote to support Article 28 - APPROPRIATE FOR QUIET ZONE in the Annual Town Meeting Warrant.
Second: Ms. Frail. Unanimously approved 5-0.

Article 29 - APPROPRIATE FOR PUBLIC WORKS INFRASTRUCTURE
Motion by Ms. Frail that the Select Board vote to support Article 29 - APPROPRIATE FOR PUBLIC WORKS INFRASTRUCTURE in the Annual Town Meeting Warrant.
Second: Mr. Nelson. Unanimously approved 5-0.

Article 30 - APPROPRIATE FOR SEWER ENTERPRISE FUND CASH CAPITAL

Motion by Mr. Keane that the Select Board vote to support Article 30 - APPROPRIATE FOR SEWER ENTERPRISE FUND CASH CAPITAL in the Annual Town Meeting Warrant.
Second: Ms. Frail. Unanimously approved 5-0.

Article 31 - APPROPRIATE FOR WATER ENTERPRISE FUND CASH CAPITAL
Motion by Ms. Frail that the Select Board vote to support Article 31 - APPROPRIATE FOR WATER ENTERPRISE FUND CASH CAPITAL in the Annual Town Meeting Warrant.
Second: Mr. Keane. Unanimously approved 5-0.

Article 32 - APPROPRIATE FOR WATER SYSTEM DISTRIBUTION IMPROVEMENTS - SOUTH STREET
Motion by Ms. Frail that the Select Board vote to support Article 32 - APPROPRIATE FOR WATER SYSTEM DISTRIBUTION IMPROVEMENTS - SOUTH STREET in the Annual Town Meeting Warrant.
Second: Mr. Nelson. Unanimously approved 5-0.

Article 33 - RESCIND DEBT AUTHORIZATION
Motion by Ms. Frail that the Select Board vote to support Article 33 - RESCIND DEBT AUTHORIZATION in the Annual Town Meeting Warrant.
Second: Mr. Nelson. Approved 4-0-1. Ms. Dowd abstained.

Article 34 - APPROPRIATE TO ATHLETIC FACILITY IMPROVEMENT FUND
Motion by Mr. Nelson that the Select Board vote to support Article 34 - APPROPRIATE TO ATHLETIC FACILITY IMPROVEMENT FUND in the Annual Town Meeting Warrant.
Second: Ms. Frail. Unanimously approved 5-0.

Article 35 - STORMWATER STABILIZATION FUND
Motion by Ms. Frail that the Select Board vote to support Article 35 - STORMWATER STABILIZATION FUND in the Annual Town Meeting Warrant.
Second: Mr. Nelson. Unanimously approved 5-0.

Article 36 - Town Hall Saturday Hours - Defer.

Article 37 - AMEND GENERAL BY-LAWS - NON-CRIMINAL DISPOSITIONS
Motion by Ms. Frail that the Select Board vote to support Article 37 - AMEND GENERAL BY-LAWS - NON-CRIMINAL DISPOSITIONS in the Annual Town Meeting Warrant.
Second: Mr. Nelson. Unanimously approved 5-0.

Article 38 - AMEND GENERAL BY-LAWS - TRANSPORTATION COMMITTEE
Motion by Mr. Keane that the Select Board vote to support Article 38 - AMEND GENERAL BY-LAWS - TRANSPORTATION COMMITTEE in the Annual Town Meeting Warrant.
Second: Ms. Frail. Unanimously approved 5-0.

Article 39 - CITIZENS PETITION
Motion by Mr. Keane that the Select Board vote to support Article 39 - CITIZENS PETITION in the Annual Town Meeting Warrant.
Second: Mr. Nelson. Unanimously approved 5-0.

Article 40 - Omnibus

<u>SPECIAL TOWN MEETING WARRANT</u>

Article 1 - FUND COLLECTIVE BARGAINING AGREEMENT - NEEDHAM FIRE UNION
Motion by Mr. Keane that the Select Board vote to support Article 1 - FUND COLLECTIVE BARGAINING AGREEMENT - NEEDHAM FIRE UNION in the Special Town Meeting Warrant.
Second: Mr. Nelson. Unanimously approved 5-0.

Article 2 - HOME RULE PETITION TO EXEMPT FIRE DEPARTMENT FROM CIVIL SERVICE
Motion by Ms. Frail that the Select Board vote to support Article 2 - HOME RULE PETITION TO EXEMPT FIRE DEPARTMENT FROM CIVIL SERVICE in the Special Town Meeting Warrant.
Second: Mr. Nelson. Unanimously approved 5-0.

Article 3 - AMEND THE FY2023 OPERATING BUDGET - Defer.

Article 4 - APPROPRIATE TO CAPITAL IMPROVEMENT FUND - Defer.

Article 5 - APPROPRIATE TO CAPITAL FACILITY FUND - Defer.

Article 6 - APPROPRIATE TO ATHLETIC FACILITY IMPROVEMENT FUND - Defer.

Article 7 - APPROPRIATE TO DEBT SERVICE STABILIZATION FUND - Defer.

Article 8 - AMEND TOWN CHARTER - PERSONNEL BOARD
Motion by Mr. Keane that the Select Board vote to support Article 8 - AMEND TOWN CHARTER - PERSONNEL BOARD in the Special Town Meeting Warrant.

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

Article 9 - AMEND GENERAL BY-LAW - PERSONNEL BOARD
Motion by Mr. Nelson that the Select Board vote to support Article 9 - AMEND GENERAL BY-LAW - PERSONNEL BOARD in the Special Town Meeting Warrant.
Second: Ms. Frail. Unanimously approved 5-0.

Article 10 - PUBLIC, EDUCATIONAL, AND GOVERNMENT (PEG) ACCESS AND CABLE RELATED FUND ACCEPTANCE
Motion by Ms. Frail that the Select Board vote to support Article 10 - PUBLIC, EDUCATIONAL, AND GOVERNMENT (PEG) ACCESS AND CABLE RELATED FUND ACCEPTANCE in the Special Town Meeting Warrant.
Second: Mr. Nelson. Unanimously approved 5-0.

Article 11 - APPROPRIATE FOR PUBLIC, EDUCATIONAL, AND GOVERNMENT (PEG) PROGRAMMING
Motion by Ms. Frail that the Select Board vote to support Article 11 - APPROPRIATE FOR PUBLIC, EDUCATIONAL, AND GOVERNMENT (PEG) PROGRAMMING in the Special Town Meeting Warrant.
Second: Mr. Nelson. Unanimously approved 5-0.

Article 12 - ESTABLISH OPIOID SETTLEMENT STABILIZATION FUND
Motion by Ms. Frail that the Select Board vote to support Article 12 - ESTABLISH OPIOID SETTLEMENT STABILIZATION FUND in the Special Town Meeting Warrant.
Second: Mr. Nelson. Unanimously approved 5-0.

Article 13 - APPROPRIATE TO OPIOID SETTLEMENT STABILIZATION FUND
Motion by Ms. Frail that the Select Board vote to support Article 13 - APPROPRIATE TO OPIOID SETTLEMENT STABILIZATION FUND in the Special Town Meeting Warrant.
Second: Mr. Nelson. Unanimously approved 5-0.

5. Town Manager Report
   Ms. Fitzpatrick identified Tuesday, May 9, 2023 for the Select Board to hold a hearing for applicants interested in the new all alcohol license (ballot question #2 on the town election held April 11, 2023).

8:45 p.m. Board Discussion:

1. Open Meeting Law Complaint
   Ms. Cooley said the Select Board received an Open Meeting Law complaint on April 23, 2023 from Mr. Joseph Abruzese, 30 Bridle Trail Road alleging the Select Board improperly discussed the Development Agreement for the Foster property outside of an open meeting. It was also alleged the Select Board failed to

adequately discuss the Agreement, including a letter dated February 20, 2023 from Dan Hill, attorney, as well as failure to post attorney Hill's letter on the Town's website.

Ms. Cooley said the Select Board denies the Open Meeting Law complaint, noting that when the Select Board met on February 28, 2023 it had received the Agreement the day before the meeting. She stated the Select Board knew, generally, what was going to be in the Agreement noting a sample Development Agreement was given at Town Meeting and that the Board continually stated the shape of the deal did not change while going through the process from fall 2022 to February 2023. Ms. Cooley also said attorney Hill's letter arrived on the day of the Select Board meeting and the Board agreed to defer a vote so everyone on the Board would have time to review all documentation. Ms. Cooley said when the Select Board met again, some discussion was had before voting to approve the Development Agreement. She said the Development Agreement currently remains unsigned. Ms. Cooley stated the Select Board acknowledged on February 28, 2023 and on March 6, 2023 that it had received and considered attorney Hill's letter. She said the letter included some suggestions which were inactionable based on negotiations. She reiterated a vote was taken and the issue moved forward.

Ms. Cooley said the complaint requests the release of the Executive Session minutes held on a series of dates under Exception 6 to discuss the Town's acquisition of some or all of the Castle Farm property along Charles River Street. She noted the resulting Development Agreement and Purchase and Sale Agreement with Northland Residential saying a binding P&S and signed Development Agreement is lacking, so release of the minutes would be detrimental to the negotiating position and defeat the purpose of the Executive Session.

Ms. Cooley said the Select Board remains hopeful negotiations will continue and that a Purchase and Sale Agreement will be agreed to between parties. She reiterated there is currently no reason to release minutes. Ms. Cooley clarified attorney Hill's letter was not published on the Town's website, noting there is no requirement under the Open Meeting Law for the Select Board to publish documents that it chooses not to publish. She said there is also an allegation the Select Board violated the Open Meeting Law by not publishing the Development Agreement "soon enough" for people to review. She stated there is no requirement under the Open Meeting Law that packets be published on Town websites. Ms. Cooley said the fact that the Town publishes packets at all is a service given to Town members, but not an obligation under the Open Meeting Law. Ms. Cooley said, at this point, the Select Board would like Christopher Heep, Town Counsel to respond to the complaint on its behalf, documenting the request and that the Select Board does not see a violation of the Open Meeting Law based on its understanding of the facts.

Motion by Ms. Frail that the Select Board authorize Town Counsel to prepare and submit a response to the Open Meeting Law complaint.

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

2. Ballot Questions

   Ms. Cooley thanked Needham voters for passage of both ballot questions at the April 11, 2023 Town election. She thanked Dan Matthews, former Select Board member and current Town Meeting Member for his efforts in getting voters to pass question #1 "Shall the Town of Needham Remove the Chief of Police and Police Department from Civil Service?"

   Ms. Cooley commented on the passage of ballot question #2 "Shall the Town of Needham grant additional licenses for the Sale of all alcoholic beverages?" She noted comments from the Board of Health are appreciated and will be considered as the Town moves forward.

3. Committee Reports

   Ms. Frail reported the Active Recreation Assets Working Group met last week and held a public hearing on draft regulations. She noted the draft recommendations changed prior to the hearing, and the location of a new skate park moved to the quarry area at Claxton Field from Cricket Field. She noted other amenities previously recommended for Claxton Field include pickleball courts. She said a meeting will be held to finalize the regulations so the Town can move forward with these projects.

8:56 p.m. Adjourn:

Motion by Ms. Frail that the Select Board vote to adjourn the Select Board meeting of Wednesday, April 12, 2023.
Second: Mr. Nelson. Unanimously approved 5-0.

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, April 25, 2023.