

Town of Needham
Select Board
Minutes for Tuesday, October 13, 2020
By Zoom Video Conference
<https://us02web.zoom.us/j/830124974485>

5:45 p.m. Informal Meeting with Citizens: No activity.

6:00 p.m. Call to Order:
A meeting of the Select Board was convened by Chair Maurice P. Handel. Those participating were Matthew D. Borrelli, Marianne B. Cooley, Daniel P. Matthews, John A. Bulian, Town Manager Kate Fitzpatrick, Dave Davison, ATM/Finance, Katie King, ATM/Operations, and Sandy Cincotta, Support Services Manager. Recording Secretary Mary Hunt recorded the meeting remotely.

Mr. Handel announced this open meeting is being conducted remotely consistent with Governor Baker's Executive Order of March 12, 2020 due to the current state of emergency from the outbreak of the COVID-19 virus. He noted all public gatherings have been suspended as advised and directed by the Commonwealth. And, as such, suspending the requirement of the open meeting law to have all meetings in a public, accessible, physical location while encouraging and allowing members of all public bodies to participate remotely. Mr. Handel stated the meeting will include public comment and the Needham Select Board and all attendees are convening by Zoom, as posted on the Town's website identifying how the public may join. He said all supporting documents used at this meeting are available on the Town's website www.needhamma.gov.

6:01 p.m. Introduce Emergency Management Administrator:
Dennis Condon, Fire Chief introduced Michael Lethin, recently appointed Emergency Management Administrator. Chief Condon gave a brief overview of Mr. Lethin's work experience saying he is a current member of the Massachusetts Air National Guard and that he is a tremendous addition to Needham.

Mr. Lethin thanked Chief Condon for his kind words.

The Board welcomed Mr. Lethin to Needham and wished him well in his new position.

6:07 p.m. Public Hearings: Eversource Energy Grant of Locations
Maureen Carroll, Eversource Energy representative spoke with the Board regarding 2 requests for a grant of location.

1. Country Way

Ms. Fitzpatrick indicated all paperwork is in order.

Mr. Handel invited public comment. No comments were heard.

Motion by Mr. Bulian that the Select Board approve and sign a petition from Eversource Energy to install approximately 9 feet of conduit in Country Way. This work is necessary to provide underground electric service to 7 Country Way, Needham.

Second: Mr. Borrelli. Unanimously approved 5-0 by roll call vote.

2. Stockdale Road

Ms. Fitzpatrick indicated all paperwork is in order.

Mr. Handel invited public comment. No comments were heard.

Motion by Mr. Bulian that the Select Board approve and sign a petition from Eversource Energy to install approximately 12 feet of conduit in Stockdale Road. This work is necessary to provide underground electric service to 31 Stockdale Road, Needham.

Second: Mr. Borrelli. Unanimously approved 5-0 by roll call vote.

6:09 p.m. Appointments and Consent Agenda:

Motion by Mr. Bulian that the Select Board vote to approve the Appointments and Consent Agenda as presented.

CONSENT AGENDA

1. **Accept a \$2,500 donation made to the Needham Heath Division's SPAN program from Beth Israel Deaconess Hospital – Needham Campus.**
2. **Sign the State Election Warrant scheduled for November 3, 2020.**
3. **Approve open session meeting minutes of September 8, 2020, September 22, 2020, September 29, 2020, and October 4, 2020.**
4. **Accept a donation of 100 Eclipse Injection Needles made to the Needham Health Department's Flu Clinic program from the Newton-Wellesley Hospital.**

Second: Mr. Matthews. Unanimously approved 5-0 by roll call vote.

6:11 p.m. Public Hearing: Needham Cable Television Public Joint Ascertainment Hearing - RCN, VERIZON AND COMCAST

Mr. Handel read a statement saying that in calendar year 2022, cable licenses for the three cable providers to the Town will expire: RCN - 7/9/2022; VERIZON - 8/14/2022; and COMCAST - 12/17/2022. He stated this public hearing is mandated by the renewal provisions of the Federal Cable Act. The Town is currently involved in the federally required ascertainment process. Mr. Handel noted the purpose of the hearing is to (i) identify future cable related community needs and interests, and (ii) review the performance of the three cable providers under their current respective licenses.

Mr. Handel encouraged the public to provide specific cable related testimony. He noted that while this is an ascertainment hearing on cable television matters, there are two related subjects in which the Select Board has no authority to regulate: rates charged by each provider for its services or commercial programming the providers choose to show on their respective cable systems.

Mr. Matthews commented on the 3 cable licensees, asking the Town Manager to outline the process going forward for the general public and how it will be guided by the Town.

Ms. Fitzpatrick said the ascertainment hearing is the beginning of the process in which to hear from the public and the providers, followed by input from legal counsel and the Needham Community Development Television Corporation. She said she is hopeful a successor license can be brought to the Board before the expiration dates in 2022.

Ms. Cincotta said a second ascertainment public hearing will be held in the spring 2021.

Discussion ensued on the process and how the Town can help better serve low income families with cable tv and internet service.

Mr. Handel invited public comment. No comments were heard.

Mr. Handel asked for comment from RCN, Verizon, and Comcast. No comments were heard.

Mr. Handel closed the public hearing, saying the hearing will be held open for 14 days to receive additional testimony. He encouraged interested parties to submit written testimony on any renewal or cable related issue to the Select Board by October 27, 2020 by mail or email at www.needhamma.gov. He said questions can be directed to the Select Board's office at 781-455-7500.

6:30 p.m. Public Hearing: Small Cell Wireless Facility Policy

Mr. Handel gave a brief background saying that at its meeting on August 18, 2020, the Board discussed the draft policy for small cell wireless attachments in the Town's public ways. The draft policy, he said, was uploaded to the Town's website and public notice of this hearing was provided via Newsflash and by advertisement in the Needham Times. Mr. Handel said the Board will hear from the public, discuss any written comments received, and consider the adoption of this policy.

Mr. Handel invited public comment.

Michael Ruddy, 69 Melrose Avenue asked if there is a time limit, surmising FCC rulings are apt to change under a more sympathetic or environmentally friendly administration. He suggested it may be prudent to wait until a new administration

takes power, potentially in 2021. He asked about the Select Board's process in researching health issues and coordinating with the Board of Health, noting Dr. Epstein, Chair, Board of Health indicated at the last hearing that he was uncomfortable and that there needed to be greater insight into health issues. He asked how the Board's research factors into the placement of attachments at driveways, buildings, and schools.

Ms. Fitzpatrick said with respect to timing and the November national election, it is recommended something be "on the books." She said if there is another filing the Town wants to be prepared and that the policy of the Board can be amended at any time. Ms. Fitzpatrick said when presented in the past, the town has not had the authority of the rules supporting them, and that it is important to set the rules, so providers have an understanding. Ms. Fitzpatrick noted the coordination with the Board of Health, however pointed out the Town is not allowed to consider health impacts under current regulations. She said the Town is allowed to require applicants show emission standards are being met on a cumulative basis.

Discussion ensued on proposed attachment installation 180 feet from another if "technically feasible and not unduly burdensome." Ms. Fitzpatrick said her understanding from written testimony is that the words "technically feasible and not unduly burdensome" were recommended for deletion, noting it would be the Select Board's decision. Ms. Fitzpatrick said the words apply to all regulations, so the Town could be challenged if 180 feet is not possible. Also discussed was the restriction of cell attachments within 20 feet of a driveway. Ms. Fitzpatrick said there is concern for "presumptive denial" as Needham simply does not have the distance available on many densely populated streets to allow for a spacing of more than 20 feet, which would tend to discriminate towards certain neighborhoods versus other neighborhoods.

Mr. Borrelli said the goal of the regulations is to be as restricted as possible, but also stay within the confines of the law, so as not be challenged.

Mr. Matthews suggested holding the record open for two weeks to gather additional written comment from the public and Town Counsel feedback.

Mr. Handel invited public comment.

Sandor Vajda, 228 Brookline Street, professor of biomedical engineering said he has strong reservations about the close placement of wireless attachments to schools. Mr. Vajda said current regulations which regulate the intensity of radio frequency are extremely old (introduced in 1969). He said too much weakening of the regulations could lead to potential issues. Mr. Vajda said he considers close placement of the attachments to schools very important and will lead to tremendous opposition. He asked the Select Board to study whether 180 feet from a school is admissible or not.

Judy McIntyre, 83 Pickering Street asked if discussion took place about the safety of 5G and cell towers near homes and schools? Ms. McIntyre said she understands towns do not have jurisdiction over what is placed where in town. She said telecommunications companies are using outdated standards about EMFs.

Mr. Handel said there has been significant discussion about safety with residents and members of the Board of Health. Mr. Handel said without well thought out regulations, the town has much more limited authority to regulate towers/antennas, noting even with regulations there are significant constraints in regulating installations due to federal regulations that apply to the technology. Mr. Handel said the purpose of the regulations, from Needham's standpoint, is to protect the interests of the citizen's with respect to applications by providers and where antennas are placed. He said without regulations, Needham will have significantly less control of the process.

Ms. Cooley pointed out Needham is prohibited from objecting based on health due to federal regulations.

Discussion ensued on holding the record open, potential applications, and the standard of 180 feet from a school.

Michael Ruddy, 69 Melrose Avenue said he views the policy as "toothless" and does not see how it protects the interests of citizens. He said there is likely to be an administration in the coming months that is going to be less sympathetic to corporations like Verizon. He surmised the federal regulatory environment will change, and in the meantime, Needham will have a "fairly toothless policy" that does not address issues brought up over the last 18 months i.e., issues of safety, zoning, or appearance. He asked the Select Board what they think the policy brings to the table that is any better than the status quo? He said he fears it is unlikely that Town policy will ever be revisited in any reasonable amount of time if adopted now, despite the possibility of a change in the federal policy. Mr. Ruddy concluded the policy does not make him happy, and he can't imagine it makes anyone happy who attended the hearings 18 months ago. He suggested a "wait and see" approach.

Ms. Fitzpatrick explained the policy making available to the Board, citing examples of things the Town could not insist upon if the policy were not adopted, many of which were raised at the multiple public hearings and that are not within the health realm and could still affect residents. She said it is important to have those impacts on the record.

Mr. Handel assured Mr. Ruddy that if any meaningful change occurs at the federal level, the Town will look at ways to maximize its ability to regulate.

Emily Zaden, 50 Brookline Street asked where the 50-foot measurement came from, saying it seems too small a distance.

Ms. Fitzpatrick indicated 50 feet is the best practice to date and is in line with what other communities have done.

Mr. Handel closed the public hearing.

Motion by Mr. Matthews that the Select Board vote to close Public Hearing: Small Cell Wireless Facility Policy, subject to the record being held open for 7 days for additional written public input, comment, or recommendation from Town Counsel or the Town Manager.

Second: Ms. Cooley. Unanimously approved 5-0 by roll call vote.

7:06 p.m. KENO Hearings:

1. KENO Hearing: 7-Eleven 36044 - 173 Chestnut Street

Mr. Handel read a statement saying the Select Board received notice from the Massachusetts State Lottery Commission (MSLC) that the 7-Eleven located at 173 Chestnut Street has applied for a KENO license. Pursuant to M.G.L. c.10, §27A, the Lottery Commission must notify the Select Board of any KENO license applications it receives. Then the Select Board has an opportunity to submit any objection to those applications. According to the statute, any objection must be “in writing as a result of an official action” of the Board. In addition, the notice from the Lottery Commission indicates the Select Board should provide the applicant with an opportunity to appear and discuss their application. Mr. Handel indicated notice was provided to the owner of the 7-Eleven at 175 Chestnut Street, saying the applicant was not in attendance on the Zoom call. Mr. Handel said the Select Board, in the past, has objected to the issuance of KENO licenses based on several criteria:

- The location of a KENO license encourages an environment in which individuals will be congregating in convenience stores for gambling. This is particularly important during the COVID pandemic.
- There is a likelihood that any increase in parking demand will flow into adjacent residential areas.
- Many convenience stores are located on or near school walking routes, and many students use the stores for various purchases.

Mr. Handel suggested a motion to object the issuance of a KENO license to 7-Eleven 36044 located at 173 Chestnut Street and to authorize the Town Manager to submit the objection to the Massachusetts State Lottery Commission.

Motion by Mr. Bulian that the Select Board vote to object to the issuance of a KENO license to 7-Eleven 36044 located at 173 Chestnut Street and to authorize the Town Manager to submit the objection to the Massachusetts State Lottery Commission.

Second: Mr. Borrelli. Unanimously approved 5-0 by roll call vote.

2. KENO Hearing: 7-Eleven 32485 - 845 Highland Avenue

Mr. Handel read a statement saying the Select Board received notice from the Massachusetts State Lottery Commission (MSLC) that the 7-Eleven located at 845 Highland Avenue has applied for a KENO license. Pursuant to M.G.L. c.10, §27A, the Lottery Commission must notify the Select Board of any KENO license applications it receives. Then the Select Board has an opportunity to submit any objection to those applications. According to the statute, any objection must be “in writing as a result of an official action” of the Board. In addition, the notice from the Lottery Commission indicates the Select Board should provide the applicant with an opportunity to appear and discuss their application. Mr. Handel indicated notice of this meeting was provided to the owner of the 7-Eleven at 845 Highland Avenue. Mr. Handel recognized Mr. Hiram Patel and asked him for comment.

Mr. Patel prefaced the discussion stating the application was actually submitted by the Massachusetts State Lottery Commission, noting the MSLC has an initiative to include KENO monitors at all retail lottery locations. He also highlighted a KENO monitor is not any more extravagant than what is already occurring at retail stores. He said the only difference if this KENO application is approved is that the MSLC would be allowed to install a lottery monitor in the store for patrons to check numbers in real time. Mr. Patel said patrons are already able to purchase tickets in the store and check numbers on their phones. He said he does not believe allowing a KENO monitor in the store would change traffic flow.

Mr. Matthews thanked Mr. Patel for the information, however at this time he is not willing to vote in support of allowing a monitor in the retail store.

Mr. Borrelli concurred.

Motion by Mr. Bulian that the Select Board vote to object to the issuance of a KENO license for the 7-Eleven 32485 located at 845 Highland Avenue and to authorize the Town Manager to submit a letter stating the Select Board’s objection to the Massachusetts State Lottery Commission.
Second: Mr. Borrelli. Unanimously approved 5-0 by roll call vote.

7:19 p.m.

Traffic Markings - Complete Streets Update:

Carys Lustig, Director of Public Works and Rhain Hoyland, Superintendent of Highways provided the Board with an update on the Town’s Complete Street process.

Ms. Lustig said this years’ construction season provided an opportunity to implement Needham’s Complete Streets policy on 4 fairly visible and well-travelled roads. She said new markings have been developed, but physical changes to roads have not yet been made. Ms. Lustig said all roads slated for construction will be evaluated under the Complete Streets policy, with this year focusing on Hunting Road, Greendale Avenue, West Street, and Great Plain Avenue. As a standard policy, travel lanes will be reduced to 10 feet to provide for five-foot bike lanes, effectively slowing down traffic as there will be less room to drive. Ms.

Lustig said continental crosswalks have also been adopted. Ms. Lustig commented on the prioritization plan submitted in the spring 2020, noting a grant application will be submitted to the state's Complete Streets Program, which could provide up to \$400,000 to implement various projects.

Discussion ensued on the markings, bike lanes, and notifying abutters of changes.

Ms. Cooley commented on cars parking on Harris Avenue, suggesting a dedicated bike lane could run adjacent to the median. She also commented on Great Plain Avenue at Greene's Field and the possibility of a dedicated bike lane close to the sidewalk with street parking between the bike lane and road, that keeps the road a single lane until reaching the downtown. Ms. Cooley said she is concerned about pedestrian safety on Dedham Avenue from South Street toward Pollard Middle School, recognizing it is a state road with a higher speed. She pleaded with residents to use crosswalks and activate flashing lights when crossing streets, noting the town installed flashing lights for safety reasons.

Mr. Borrelli suggested further discussion on dedicated bike lanes before the consultant gets too far into its design.

Mr. Bulian said he supports the work being done to make all modes of transportation safer in Needham, but it will take time.

The Board thanked Ms. Lustig and Mr. Hoyland for the update.

7:40 p.m. Town Manager:

1. COVID Update

Katie King, ATM/Operations updated the Board saying the number of COVID-19 cases have been slowly increasing since September. She said Needham has spent two consecutive weeks in the "yellow," with approximately five daily cases/100,000 population. She said the town's positive testing rate remains fairly low at 0.63%, increasing slightly since mid-September. Ms. King commented on cases over the last two weeks, saying cases have been spread across the age spectrum, noting there is no one source, but rather social interaction. Ms. King said staff of the public health department doing contact tracing indicate that in some cases, people are no longer limiting their social activities. She said every social interaction outside the immediate family or living arrangement carries some risk of spreading the infection. On behalf of Tim McDonald, Director of the Board of Health, Ms. King reminded residents of their priorities and to recognize that every interaction comes with increased risk. Ms. King highlighted the town has provided information to the public on how to have a safe and healthy Halloween. Ms. King reminded residents to continue to wear masks and social distance.

Mr. Matthews reminded folks to spread out their interactions to keep numbers down, and to remain vigilant and use good judgement.

Ms. Cooley noted guidance on Halloween is on the town's website but reiterated the State of Massachusetts is not encouraging Halloween parties and gatherings, even though "trick or treating" is being encouraged.

2. Town Manager's Report

Ms. Fitzpatrick reported the "Dine Around Needham" will be held tomorrow October 14, 2020, with a potential to have one last event in November.

Ms. Fitzpatrick reported Needham Unites Against Racism Initiative (NUARI) is scheduled to have its inaugural meeting on October 20, 2020 by Zoom.

7:45 p.m. Board Discussion:

1. Special Town Meeting Recap

Mr. Handel thanked Ms. Fitzpatrick and Ms. Cincotta for their role in organizing a second successful Town Meeting held outside on October 4, 2020.

Ms. Cooley asked whether Town Meeting Members will be surveyed, saying several members indicated if Town Meeting were held outside again, they would not attend. She commented she is not sure if all Town Meeting Members are comfortable in an outside environment during a pandemic, noting the town may be faced with the same situation for the spring 2021 Town Meeting.

Mr. Bulian concurred that it is important to get Town Meeting Member feedback. He asked whether exploring a virtual Town Meeting would be wise or continue with an outdoor setting.

Discussion ensued on the obstacles with having a virtual Town Meeting, Town Meeting Member survey, and previously recorded presentations.

Mr. Borrelli said he would be reluctant to change to a virtual meeting, as the outside set up has worked very well.

Mr. Handel noted not many Town Meeting Members viewed the pre-recorded presentations on YouTube and members must be incentivized to watch and prepare for the meeting.

Mr. Matthews concurred on getting feedback from Town Meeting Members. He said it is important to include the moderator in discussions, and that it will be great to meet together all under one roof.

Mr. Bulian said the lack of views is not problematic. He suggested allowing Needham Cable Channel to broadcast the presentations a week prior to Town Meeting as a way to increase viewership of pre-recorded presentations.

Mr. Matthews commented Town Meeting Members need more lead time to have their questions answered. He also commented on future work on race equity and the Citizen's Petition presented to Town Meeting. He said he felt the discussion, as a Town Meeting Member and Select Board member, was very productive and helpful even though the initial recommendation by the Select Board was not adopted by Town Meeting. He thanked Ms. Cooley for her work on the issue. Mr. Matthews commented on the voluminous amount of documentation on the issue that is now posted on the Town's website. He concluded race equity will be a critical part of the Select Board's work this year and each year to come for the foreseeable future.

Mr. Handel said the Town is totally committed to tackling racism and that everyone has a role in solving the problem.

2. Committee Reports

Mr. Matthews reported he and Ms. Fitzpatrick have been working with the Diversity Initiative group in response to some incidents that happened, including an attempted arson, and how best to get information out to the community. He said a steering committee has been planning and inviting people to commit to three webinar dates of November 17, November 24, and December 1, 2020 in which an outside leadership team will discuss how to work on diversity in the community, build resilience, and develop a response network to address problems when they happen, and get statements out to community leaders.

8:10 p.m.

Adjourn:

Motion by Mr. Borrelli that the Select Board vote to adjourn the Select Board meeting of Tuesday, October 13, 2020.

Second: Mr. Bulian. Unanimously approved 5-0 by roll call vote.

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

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