

**Town of Needham
Select Board
Minutes for Tuesday, September 28, 2021
Needham Town Hall
Powers Hall
and
Via ZOOM
<https://us02web.zoom.us/j/82014186576>**

6:00 p.m. Call to Order:
A meeting of the Select Board was convened by Chair Matthew D. Borrelli. Those present were Marianne Cooley, Daniel P. Matthews, Marcus Nelson, and Town Manager Kate Fitzpatrick. Dave Davison, ATM/Finance, Katie King, ATM/Operations, Myles Tucker, Support Services Manager, Kristin Scoble, Administrative Specialist, and Mary Hunt, Recording Secretary were also in attendance.

Mr. Borrelli announced Ms. Lakshmi Balachandra has resigned from the Select Board effective immediately due to a conflict of interest. He asked for nominations for clerk of the Select Board to fill the vacancy left by Ms. Balachandra.

Motion by Mr. Matthews that the Select Board appoint Marcus Nelson as clerk of the Select Board.

Second: Ms. Cooley. Unanimously approved 4-0.

Mr. Matthews explained the role of Clerk of the Select Board.

Mr. Borrelli thanked Ms. Balachandra and wished her well, and thanked Mr. Nelson for stepping into the role as Clerk of the Select Board.

Mr. Nelson thanked the Board for the opportunity and Ms. Balachandra for her service to Needham.

Ms. Cooley wished Ms. Balachandra well. She said she is saddened that the first woman of color on the Select Board is unable to serve the full term and looks forward to another woman of color serving the Town.

6:05 p.m. Public Hearing: Aboveground Fuel Storage 350 Cedar Street
Dennis Condon, Fire Chief and Dan Klasnick, Attorney spoke with the Board via Zoom regarding an application from ATC Watertown LLC to install a 300kw backup power generator with associated 1,592-gallon diesel-gallon tank on the property of 350 Cedar Street, Needham.

Ms. Fitzpatrick said all paperwork is in order.

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

Mr. Nelson expressed environmental concerns with aboveground storage and asked about the use of the tank.

Mr. Klasnick said the tank is fully licensed by the Environmental Protection Agency and meets all standards, noting the tank is double walled, self-contained, and will be registered with the state of Massachusetts. He said the unit meets all federal, state, and local requirements.

Ms. Cooley pointed out the unit is for backup power only and fossil fuel is usually used when an alternate power source is needed.

Motion by Mr. Matthews that the Select Board vote to approve and authorize the Chair to sign a license for ATC Watertown LLC to install a 300Kw backup power generator with associated 1,592-gallon diesel-gallon tank on the property of 350 Cedar Street, Needham.

Second: Ms. Cooley. Unanimously approved 4-0.

6:12 p.m. Appointments and Consent Agenda:
Motion by Ms. Cooley that the Select Board vote to approve the Appointments and Consent Agenda as presented.

APPOINTMENTS

- 1. No appointments were made at this meeting.**

CONSENT AGENDA *=Backup attached

- 1.* Approve minutes of September 14, 2021 (Open session)**
- 2. Accept the following donation made to the Needham Community Revitalization Trust Fund: \$5000 from the Heffernan Family.**
- 3.* Ratify a One Day Special License for Paula Jacobson of the Charles River YMCA who hosted the YMCA Gratitude Gala on Saturday, September 25, 2021. The event was held at Green's Field, 6-10PM. Needham Police approved this event.**
- 4.* Approve a request from Ryan Marshall Race Coordinator for The Jog for Joy 5K to hold the road race in Needham. The event is scheduled for December 5, 2021. The route of the race has been approved by the following departments: DPW, Police, Fire and Park and Recreation.**
- 5. Approve the Drug Take Back Day by the Needham Police Department and Needham Public Health to be held on Saturday, October 23, 2021, 10am-2pm on Garrity Way.**
- 6.* Approve a 20B Exemption for Barbara Singer who is an employee of the Needham Public Schools to engage in work with the Needham Public Health Department as an on-call Public Health Nurse.**
- 7.* Approve and sign Water & Sewer Abatement #1310**
- 8. Grant permission for the following residents to hold block parties:**

Name	Address	Party Location	Party Date	Party Rain Date	Party Time
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Ratify – Kathryn Malpocher	115 Grant St.	Grant St. between Kimball & Junction	9/17/21	N/A	5:30 pm-7:30 pm
Ratify - Caitrin Lynch	40 Melrose Ave	57 Upland Road	9/26/21	N/A	4pm-6pm
Jaimie Scranton Pomerantz	53 Glendoon Rd	Glendoon Road	10/2/21	10/3/21	2pm-9pm
Previous approved – Julie O'Connor	89 Stockdale Road	42-89 Stockdale	10/2/21	10/3/21	Time change from 12-5pm to 3-7 pm
Nancy Wilson	25 Helen Road	Helen Road	10/3/21	10/2/21	4pm-6:30pm
Susan Pouliot	54 Eaton Road	54 Eaton Road	10/23/21	10/24/21	4pm-10pm
Kate Martin	82 Gayland Rd	Gayland Road	10/23/21	10/24/21	2pm-7pm

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

6:13 p.m.

Public Hearing: Dangerous Dog Continuation

On September 14, 2021 the Select Board held a dangerous dog hearing in accordance with MGL c. 140 Section 157 and Town By-Law 3.7.5 on a complaint about a dog by the name of “Duke” residing at 83 Old Farm Road in Needham.

Mr. Borrelli noted the public hearing was continued until September 28, 2021 with conditions on the owner of the dog during the interim period including an attempt to rehome, muzzle, and contain “Duke.” He said Ms. Santamaria informed the Select Board by letter that the dog has left Needham and is not to return. He noted the public comment period remains open, additional comments have been received, and asked for further public comment.

Roberta Redpath, 75 Old Farm Road thanked the Town Manager, Select Board, and the Needham Police Department for their help in securing the neighborhood from this dangerous dog. She said she is grateful the dog is no longer in the community and understands no one expects the dog to return. However, she commented the plan has some uncertainty in terms of what happens if Duke cannot be successfully retrained or not accepted by the person Ms. Santamaria has lined up to give the dog a new home. Ms. Redpath noted the resistance demonstrated by Ms. Santamaria to take any immediate action to remove the dog, saying she hopes the Board can understand the difficulty she has in accepting a plan that is anything less than definitive. She asked for clarification as to what would happen should the dog unexpectedly return to Needham.

Mr. Borrelli clarified the next steps include determining whether the dog is dangerous, remedies including euthanization, and an immediate hearing should the dog return to Needham.

Lynne Braley, 68 Old Farm Road said it is obvious the dog is dangerous, noting Ms. Redpath is terrified in her own home, and the neighborhood must have closure. She asked the Select Board to make a clear-cut decision.

Discussion ensued on determining Duke to be a dangerous dog.

Mr. Borrelli closed the public hearing and asked for Board comment.

Discussion ensued and the Board declared Duke a dog dangerous, concurring Duke is not to return to Needham under any circumstance and that the order is permanent.

Motion by Mr. Matthews that the Select Board vote to close the hearing and to declare the dog “Duke” a dangerous dog; and further that the Board take no further action at this time based on information that the dog “Duke” has been removed from the community; and that the owner is directed to notify the Town Manager immediately if the dog is expected to return to Needham; and further that if the dog returns to Needham for any reason the Select Board will hold an immediate hearing to take appropriate action.
Second: Ms. Cooley. Unanimously approved 4-0.

Mr. Borrelli thanked the neighbors for their testimony.

6:28 p.m.

Public Hearing: Outdoor Dining

Katie King, ATM/Director of Operations and Amy Haelsen, Economic Development Manager discussed with the Board feedback the Town has received from residents and the business community regarding the Select Board’s draft Outdoor Dining Policy.

Ms. King gave a recap saying the Planning Board finalized language for the warrant article. She said 15 emails were received from residents supporting the outdoor dining policy.

Ms. Haelsen said she met with businesses over the last several months to see how they are doing during the COVID pandemic and talk to them about outdoor dining. She said businesses overwhelmingly support outdoor dining as it adds vibrancy to Needham and foot traffic to nonfood businesses. She mentioned some concerns including allowing public parking spaces to be used by restaurants for free and how it will affect other businesses. Ms. Haelsen commented colleagues in other communities have told her Needham is far ahead of other towns in planning for outdoor dining. She thanked Ms. King, and everyone involved in making it a priority and setting up a proper framework to allow for outdoor dining with no gap in service next spring.

Discussion ensued on the outdoor dining season (April 1-October 31) and the discretion by the Select Board and Planning Board to allow for an earlier or later timeframe, accessibility standards, setback requirements, and fees associated with using a public asset (parking space and sidewalk space)

Ms. Cooley suggested the Select Board discuss very soon the possibility of extending the outdoor dining season for this year.

Mr. Matthews noted any changes now or in the future must be fair to people and businesses, noting the Town must also reserve its right to revisit things in the future. He said annual licensing is the way to go.

Mr. Borrelli invited public comment.

Aaron Pressman, 1012 South Street said he strongly supports the policy and thanked everyone for their work.

Greg Reibman, President, Charles River Chamber thanked the Board and the Town for their support of restaurants over the last year. He suggested keeping outdoor dining available as long as possible in the colder months.

Jay Spencer, owner French Press and Chair of the Charles River Dining Collaborative thanked the Select Board and Ms. Haelsen for their leadership, noting Needham is one of the very few towns making sure outdoor dining “lives beyond the pandemic.” He said a clear distinction is necessary between outdoor dining in public spaces vs. private spaces. He commented pricing for parking spaces should not be cost prohibitive for businesses, noting fees should not be for generating revenues, but rather for public benefit.

Mr. Borrelli closed the public hearing.

Mr. Borrelli suggested further discussion by the Select Board is necessary regarding fees.

Ms. Cooley commented further discussion is needed to discuss input from Mr. Spencer. She noted the Town’s investment in jersey barriers, accessible platforms.

Mr. Nelson concurred with Ms. Cooley, saying more thought needs to be given so things are fair across the board.

Mr. Borrelli concurred, noting fees, the public and private benefit, and that there are other businesses which cannot use the parking spaces.

6:25 p.m. COVID-19 Update & Schools Reopening:
Timothy McDonald, Director of Health & Human Services Dan Gutekanst, Superintendent, Needham Public Schools provided an update to the Board regarding COVID-19 and the reopening plans being implemented for the 2020-2021 school year.

Mr. McDonald briefly reviewed the current COVID situation in Town and showed a PowerPoint presentation with the latest data from the state of Massachusetts which included daily cases confirmed, incidence and positivity rates, cases by age, rate of breakthrough cases, and hospitalizations among other statistics. Mr. McDonald commented 81% of the community is fully vaccinated among eligible

Needham residents, which he said is fantastic. In particular, he noted a vaccination rate of 92% for 12–15-year-olds and 93% for 16–19-year-old populations. He said vaccination rates are incredibly high and should give confidence when thinking about the risk level for the community, as a whole. Mr. McDonald concluded with CDC recommendations and the use of masks. He said Needham has not mandated the use of masks due, in part, to the incredibly high vaccination rates.

Dr. Gutekanst discussed Needham schools and how they are managing to keep learning safe during the pandemic. A PowerPoint presentation was viewed titled “Needham Public Schools, Opening of School, UPDATE” dated September 28, 2021. He commented on logistics of transportation, nutrition services, and installation of tents at some schools. Dr. Gutekanst said health and safety is the priority, noting he is continually being advised by the Joint Committee on Health & Safety on appropriate safety measures. He noted the COVID-19 Dashboard on the school district website, saying folks can view updated information on a daily basis. Discussion ensued on COVID testing, the state program known as “Test and Stay,” Symptomatic Testing, and COVID Safety Checks. Dr. Gutekanst stated the school district is currently only implementing the “Test and Stay” component in which asymptomatic unvaccinated close contacts in school are tested with BinaxNOW Antigen test and, if negative, can return to class. He noted the “Test and Stay” program is just for school sponsored activities, not for activities outside of school. Discussion ensued on data since the “Test and Stay” program was launched on September 14, 2021. Dr. Gutekanst said, unlike last year when students were sent home, this year children who are healthy are in school.

Mr. Borrelli thanked Mr. McDonald and Dr. Gutekanst for their thoughtful work, commenting that this school year is as close to a normal as possible.

Mr. Nelson commented on the possibility of surveillance testing in pre-school-6th grade, asking what is the hesitancy and what would it take to begin surveillance testing?

Mr. McDonald said there is a concern for limited staff and supplies from the state, and expectations not being met. He said the Town believes it is using the best available state and school resources in a way that keeps the most children in school. He commented on Needham's high vaccination rate, positive testing rate, and false positive tests. Mr. McDonald said surveillance testing would be considered if the emergency authorization is extended for youth and if positive testing rates increase.

Dr. Gutekanst reminded folks to fill out the “Test and Stay” consent form, as families must consent in order to participate in the program. He acknowledged surveillance testing is only as successful in the number of people who participate. He concluded saying that focusing on daily Attestation and “Test and Stay” should do more to keep students safe and in school. He discussed the timeline of getting the state program up and running when announced on July 30, 2021 up until September 14, 2021 when it was launched. He said he is pleased the state offered

the program and that Needham is doing everything it can to keep healthy children in school.

Discussion ensued on “Test and Stay” and notices to families regarding participation in out of school activities, vaccines for younger children, and national trends in the number of cases.

The Board thanked Mr. McDonald and Dr. Gutekanst for the update.

7:33 p.m. Town Manager:
Kate Fitzpatrick, Town Manager spoke with the Select Board regarding seven items:

1. ARPA Update

Ms. Fitzpatrick reminded the Select Board it adopted several goals related to use of ARPA funding. She asked the Board for input on categories of spending including:

1. Economic Development including grants for small businesses, Project Pop-up extension, support for public art, support for public music and arts festivals, Needham business promotional and marketing support program, etc. **(\$500,000)**
2. Public Health, including Epidemiologist, contact tracers and a Public Health Nurse **(\$210,000)** appropriated at the August 17, 2021 Select Board meeting),
3. Mental and behavioral health services for youth, families and seniors, including a clinician, contracts for mental health experts, community education, and part-time staff for outreach, program and service delivery **(\$200,000)**.
4. Other COVID-related expenses **(\$100,000)**
5. Technology to support hybrid meetings and other accommodations associated with the pandemic **(\$175,000)**
6. Local Infrastructure (Water, Sewer and other as appropriate) **(\$8,000,000, approximately)**

Mr. Nelson commented on local infrastructure funds, asking whether funds could be allocated to “different buckets.” He suggested additional funding for behavior and mental health staff.

Ms. Fitzpatrick said specifics on the infrastructure plan is coming, but there could be further allocation to behavioral and mental health staffing.

Ms. Cooley commented on local infrastructure, suggesting money could be spent on headcount to support managing known projects the Town is contemplating.

Mr. Borrelli said monies on infrastructure would be well spent, noting a tight timeframe. He concurred with Ms. Cooley's suggestion on additional help. He said the allocations look reasonable and he looks forward to further discussion.

2. Climate Action Plan Committee

Ms. Fitzpatrick reminded the Select Board adopted a goal to "Create a Climate Action Plan." The Town Manager will recommend that the Board approve the committee charge and composition for the Climate Action Plan Committee. She noted the new form contemplates adopting special municipal employee status when creating new committees. She said, if adopted, an update would happen in October.

Motion by Ms. Cooley that the Board approve the committee charge and composition for the Climate Action Plan Committee.

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

3. Transportation Planning and Review Committee

Ms. Fitzpatrick reminded the Select Board it adopted a goal to "Evaluate the role and composition of the TMAC, Transportation Committee, Rail Trail Advisory Committee and Complete Streets Committee." Ms. Fitzpatrick presented a draft committee charge and composition for a Transportation Planning & Review Committee for the Board to review and discuss.

Mr. Nelson asked about forming the committee, clarifying how citizens would apply for an appointment.

Ms. Fitzpatrick said people interested in transportation should attend the committee meeting. She noted public hearings would be held to seek input and make recommendations. She said if a new committee structure is recommended, a robust committee charge and composition would be rewritten and advertised.

Discussion ensued on Ms. Cooley's question regarding the appointment and role of citizen-at-large by the Planning Board, suggesting an appointee who has worked on the Complete Streets project.

Mr. Borrelli stated a vote will be taken at the next Select Board meeting on October 12, 2021.

4. Registered Marijuana Dispensary Community Benefit Agreement Amendment

Ms. Fitzpatrick recommended that the Board approve an amendment to the Community Benefit Agreement originally signed with Sage Cannabis, Inc. in 2016. The document, she said, outlines the agreement between the Town and Sira Naturals d/b/a Ayr related to the Registered Marijuana Dispensary on Franklin Street. The amendments include: a change in the legal name of the entity; a change in the individual to whom notices are to be provided for the entity; and a change in the audit methodology and associated payment and reconciliation dates.

Motion by Mr. Nelson that the Board vote to approve and sign the Amendment to Community Benefit Agreement Between the Town of Needham and Sira Naturals, Inc. D/B/A Ayr. (F/K/A Sage Cannabis, Inc.).
Second: Ms. Cooley. Unanimously approved 4-0.

5. Public Participation in Meetings Policy

Ms. Fitzpatrick reminded the Board it adopted a goal to “create a public comment component at Select Board meetings as part of the formal agenda.” Ms. Fitzpatrick presented a draft policy prepared in consultation with Town Counsel for consideration by the Board, to be adopted at a future meeting after receiving feedback.

Mr. Borrelli said the policy makes sense and it is good to codify.

Ms. Cooley encouraged folks to continue giving feedback to selectboard@needhamma.gov.

6. Positions on Warrant Articles

Ms. Fitzpatrick reviewed and the Board took positions on warrant articles contained in the draft Special Town Meeting Warrant dated September 24, 2021. It was noted that the Special Town Meeting is scheduled for Monday, October 25, 2021.

ARTICLE 1: AMEND THE FY2022 SEWER ENTERPRISE FUND BUDGET

Motion by Ms. Cooley that the Select Board vote to support Article 1 - Amend the FY2022 Sewer Enterprise Fund Budget in the Special Town Meeting Warrant.

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

Article 2: Amend the FY2022 Water Enterprise Fund Budget

Motion by Ms. Cooley that the Select Board vote to support Article 2 - Amend the FY2022 Water Enterprise Fund Budget in the Special Town Meeting Warrant.

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

Article 3: Appropriate Transportation Improvement Fees

Motion by Ms. Cooley that the Select Board vote to support Article 3 - Appropriate Transportation Improvement Fees in the Special Town Meeting Warrant.

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

Article 4: Amend the Zoning By-Law – Outdoor Seating - Defer.

Article 5: Amend Zoning By-Law – Chestnut Street Business District Front Setback - Defer.

Article 6: Appropriate for Ridge Hill Buildings Demolition

Motion by Ms. Cooley that the Select Board vote to support Article 6 - Appropriate for Ridge Hill Buildings Demolition in the Special Town Meeting Warrant.

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

Article 7: Appropriate for Emery Grover Building Design

Motion by Mr. Matthews that the Select Board vote to support Article 7 - Appropriate for Emery Grover Building Design in the Special Town Meeting Warrant.

Second: Ms. Cooley. Approved 3-1. Mr. Nelson voted nay.

Article 8: Appropriate for Solar Installation At Jack Cogswell Building

Motion by Mr. Matthews that the Select Board vote to support Article 8 - Appropriate for Solar Installation at Jack Cogswell Storage Building in the Special Town Meeting Warrant.

Second: Ms. Cooley. Unanimously approved 4-0.

Article 9: Appropriate to Athletic Facility Improvement Fund

Motion by Ms. Cooley that the Select Board vote to support Article 9 - Appropriate to Athletic Improvement Fund in the Special Town Meeting Warrant.

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

Article 10: Home Rule Petition to Adjust The Number of Off Premises Alcohol Licenses

Motion by Mr. Nelson that the Select Board vote to support Article 10 - Home Rule Petition - Off Premises Alcohol Licenses in the Special Town Meeting Warrant.

Second: Ms. Cooley. Unanimously approved 4-0.

Article 11: A Resolution Concerning Declaration of Climate and Ecological Emergency - Defer.

Article 12: A Non-Binding Resolution Concerning The Amendment of the Current Accessory Dwelling Units (ADUs) By-Law - Defer.

7. Town Manager Report

Ms. Fitzpatrick reported on the Park and Recreation and other departments successful town-wide cleanup last weekend. She said she is grateful and thanked the volunteers for the help.

She reported Healthy Eating Week in Needham is scheduled for next week when restaurants will highlight healthy options on their menus from October 3-9.

Ms. Fitzpatrick reported the Needham Harvest Fair will be held on Sunday, October 3, 2021 from 12 pm to 4 pm.

Ms. Fitzpatrick stated a new precinct map will be discussed by the Town Clerk at the next Select Board meeting on October 12, 2021.

8:27 p.m.

Board Discussion:

1. Train Horn Noise and Quiet Zone Planning

Mr. Borrelli reminded the Board of its goal to consider the possibility of a Quiet Zone in Needham. He said the process must go through many steps and informed residents that the Select Board is continuing to look into the issue. He stated the Select Board chair and vice chair will meet with the MBTA in the next couple of months to discuss how to move forward. He said the steps to make the Great Plain Avenue crossing ready for a Quiet Zone, updating costs, and the possibility of hiring a consultant would first be considered in the process.

Ms. Cooley said discussion about minimizing noise vibration from trains, particularly in Needham Heights, will also be addressed with the MBTA.

Ms. Fitzpatrick commented on the capital planning process and the possibility of hiring a consultant to assist in the licensing aspect of the project.

Mr. Borrelli said an update will occur after meeting with the MBTA.

2. Code of Conduct

Mr. Borrelli reiterated the Select Board voted to adopt a goal to “Develop a Select Board/Committee Code of Conduct – Policy Manual.”

The Board discussed items to be included in the Code of Conduct/Policy Manual document, such as: preparation for meetings, conduct at meetings/decorum, speaking individually or on behalf of the Board, role of the Board and Board members and officers, use of technology, confidentiality, role of the Board in relation to Town Administration/staff, use of Town Counsel, compliance with Town Policy and State law, and attendance at Events.

3. Select Board Composition

The Select Board discussed the next steps related to the composition of the Board due to the resignation of Lakshmi Balachandra.

Mr. Borrelli commented on provisions in place for a Special Election. He said it is wise for the Select Board to call for a Special Election, and asked the Board for their thoughts on a possible date? He noted the work and money it takes to hold a Special Election.

Ms. Cooley clarified the Select Board does not have the ability to appoint a new member to the Board. She said state law requires a vacancy to be filled by a regular or special election.

Ms. Fitzpatrick said December 7, 2021 is the earliest date the Town Clerk could hold an election.

Mr. Nelson reviewed the timeline of important dates leading up to a special election, stating nomination papers to fill the vacancy will be available in the Town Clerk's office on Friday, October 1, 2021.

Motion by Mr. Matthews that the Select Board vote to set a date for a Special Election to fill a vacancy on the Select Board for Tuesday, December 7, 2021. Second: Mr. Nelson. Unanimously approved 4-0.

Ms. Cooley clarified the term expires in April 2024.

Mr. Matthews commented on costs, noting people expect the vacancy to be filled, if possible. He said if the Select Board does not act to fill the vacancy, any 200 voters have a right to insist a Special Election be held. He reiterated the cost is simply a cost of having a good democracy in town and the timeline is reasonable. He acknowledged the Town Clerk's office is short staffed, it is a census year, and a year of redistricting. He offered the Select Board and Town Manager's office as support to the Town Clerk for the election.

Mr. Borrelli thanked Tedi Eaton, Town Clerk and her staff, in advance, for the work during this unexpected election.

4. Committee Report

No Committee Reports were made.

8:55 p.m. Adjourn:

Motion by Mr. Nelson that the Select Board vote to adjourn the Select Board meeting of Tuesday, September 28, 2021.

Second: Ms. Cooley. Unanimously approved 4-0.

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, October 12, 2021.