

**Town of Needham
Select Board
Minutes for Tuesday, May 24, 2022
Needham Town Hall
Select Board's Chamber
and
Via ZOOM
<https://us02web.zoom.us/j/85709594208>**

- 6:00 p.m. Call to Order:
A meeting of the Select Board was convened by Chair Marianne B. Cooley. Those present were Marcus Nelson, Kevin Keane, Heidi Frail, Matthew Borrelli, and Town Manager Kate Fitzpatrick. Christopher Heep, Town Counsel, Dave Davison, ATM/Finance, 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: No comments were heard.
- 6:00 p.m. A moment of silence was observed for the victims of the recent shootings in Buffalo, New York and in Uvalde, Texas. Ms. Cooley read a poem by Lucille Clifton, titled "The Meeting After the Savior Gone," written after the death of Dr. Martin Luther King in 1968. Ms. Cooley said she is deeply sad, angry, and frustrated at all the work by many people that has resulted in nothing but more death and murder. She said she hopes and prays America can figure out what it can do differently.
- 6:03 p.m. Pride Month Proclamation:
Mr. Nelson read a Proclamation declaring June 2022 as Pride Month in the Town of Needham.
- Motion by Mr. Keane that the Select Board declare June 2022 Pride Month in the Town of Needham and that all residents be encouraged to recognize and acknowledge the contributions of the LGBTQIA+ members of our community as we continue to advance the principles of liberty, equality, and inclusivity for all.**
- Second: Ms. Frail. Unanimously approved 5-0.**
- 6:06 p.m. Public Hearing: Grant of Location - 463 South Street
Joanne Callender, Eversource Representative spoke with the Board by Zoom requesting permission to install approximately 17 feet of conduit in South Street. This work is necessary to provide electric service to 463 South Street, Needham, MA.
- Ms. Cooley invited public comment. No comments were heard.
- Kate Fitzpatrick, Town Manager indicated all paperwork is in order.

Motion by Mr. Borrelli that the Select Board approve and sign a petition from Eversource Energy to install approximately 17 feet of conduit in South Street. Second: Mr. Nelson. Unanimously approved 5-0.

6:08 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

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| 1. Edward Olsen PPBC | PPBC User Representative/Ridge Hill Demolition Project, Term Exp: 6/30/2025 |
| 2. Timothy McDonald | PPBC User Representative/Center at the Heights Space Utilization Study, Term Exp: 6/30/2025 |
| 3. Barry Dulong PPBC | PPBC User Representative/Center at the Heights Space Utilization Study, Term Exp: 6/30/2025 |
| 4. Thomas Ryder | PPBC User Representative/Public Works Facilities Improvements, Term Exp: 6/30/2025 |
| 5. Carys Lustig | PPBC User Representative/Public Works Facilities Improvements, Term Exp: 6/30/2025 |

CONSENT AGENDA *=Backup attached

- 1.* Accept the following donation made to the Needham Health Division, Domestic Violence Action Committee (DVAC): \$30 from Claire Blum**
- 2. Accept the following donations received by the Needham Public Library: The Needham Garden Club donated \$25 in memory of Fran Phillips, past president of the Club, and Jan Drake donated a copy of her book, Remember Me to All the Friends (estimated value of \$60).**
- 3. Accept the following donations made to Needham Aging Services: \$50 from Kana Mitra and \$16,023.95 from The Friends of the Center at the Heights.**
- 4. Accept the following donations made to the Needham Community Revitalization Trust Fund: \$100 from the Rotary Club of Needham, Inc., and \$1,500 from The Exchange Club of Needham.**
- 5. Approve the Race Amity Day Celebration by the Needham Human Rights Committee to be held on Sunday, June 12, 3:00-6:00 p.m. at Amity Path.**
- 6. Approve the AAPI Spring Arts and Craft Event by the Chinese Friends of Needham to be held on Saturday, June 4, 10:00 a.m. – 12:00 p.m. on the Town Common, pending review by the following departments: Police, Fire, and Public Works.**
- 7. Ratify approval for the British Invasion by the Plugged-In Band Program held on Saturday, May 21 from 7:00-10:00 p.m. on the Town Common.**
- 8. Grant permission for the following residents to hold block parties:**

Name	Address	Party	Party	Party	Party
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	Location	Date	Rain Date	Time
Ratify -				
Angela Ledbury	58 Beaufort Ave. Between Bond & Nicolas on Beaufort Ave.	5/20/22	5/22/22	5pm-8pm
Jennifer Bannon	61 Jarvis Circle Jarvis Circle	6/17/22	N/A	5pm-10:30pm
Live Music				

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

6:09 p.m. Public Hearing: Alteration of Premises for an All-Alcohol License in a Restaurant – Latin-A Group, LLC d/b/a Latina Kitchen located at 30 Dedham Avenue Antonio De Trizio, Manager spoke with the Board regarding an application to expand the licensed premises to include a 700 square foot outdoor seating area located in the alley next to the restaurant.

Ms. Fitzpatrick indicated all paperwork is in order.

Motion by Mr. Borrelli that the Board vote to approve the Amendment for Alteration of Premises application received from Latin-A Group, LLC dba Latina Kitchen, contingent upon final approval of special permit from the Planning Board and (if so approved), vote to forward the Amendment application to the ABCC for review and final approval.
Second: Mr. Keane. Unanimously approved 5-0.

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

Mr. Borrelli said Latina Kitchen is an asset to Needham and he is pleased the restaurant is doing well.

6:15 p.m. Public Hearing: Modification, Suspension or Revocation of Alcohol License – Zucchini Gold, LLC d/b/a The Rice Barn Chalernpol Intha, Manager spoke with the Board regarding the possible modification, suspension, or revocation of the alcoholic beverage license issued to Zucchini Gold, LLC d/b/a The Rice Barn.

Discussion ensued on the Rice Barn's hearings with the Board of Health (a separate matter) and the alcohol beverage license under consideration by the Select Board, as well as the status of the Rice Barn restaurant. Mr. Intha acknowledged the Board of Health order to suspend food operations for the time being, until a number of items are addressed. It was noted food and alcohol was sold after the order to suspend operations on April 20, 2022.

Christopher Heep, Town Counsel clarified the timeline of the Board of Health's Summary Suspension Order dated April 20, 2022 to cease and desist operations due to violations of the state sanitary code, the public hearing held on April 25, 2022,

and a follow up inspection by the Board of Health on April 30, 2022. He noted a complaint was filed in Superior Court seeking a preliminary injunction to enforce the Summary Suspension Order, which was issued by the court on May 11, 2022 and remains in effect. Attorney Heep commented the underlying violation of failing to comply with the Summary Suspension Order from the Town of Needham is the reason for the modification, suspension, or revocation of the alcohol license.

Discussion ensued by the Select Board to find out the facts and decide whether or not a violation of the Summary Suspension Order occurred.

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

Motion by Mr. Borrelli that:

Motion 1:

That the Select Board find sufficient evidence that Zucchini Gold, LLC, d/b/a The Rice Barn, located at 1037 Great Plain Avenue in Needham and its licensed manager Chalernpol Intha violated:

- **204 CMR 2.05(2) permitting an illegality to occur on premises, to wit, failure to comply with the Summary Suspension Order of the Town of Needham Public Health Division dated April 20, 2022; and**
- 204 CMR 2.05(8) maintaining the premises in an unsanitary manner as detailed in the Summary Suspension Order of the Town of Needham Public Health Division dated April 20, 2022.**

Motion 2:

That the Select Board, pursuant to M.G.L. c.138 sections 23 and 64, suspend forthwith the license of Zucchini Gold, LLC d/b/a The Rice Barn, located at 1037 Great Plain Avenue in Needham, with the term of the suspension to run for 30 days commencing when the Needham Public Health Division or Board of Health reinstates the licensee's food establishment permit, for violating 204 CMR 2.05(2) permitting an illegality to occur on the premises, to wit, failure to comply with a Summary Suspension Order of the Town of Needham Public Health Division dated April 20, 2022 and 204 CMR 2.05(8) maintaining the premises in an unsanitary manner as detailed in said Summary Suspension Order.

Motion 3:

That the Select Board vote to authorize the Town Manager to draft and send notice of the Select Board's decision to the licensee with a copy to the Alcoholic Beverages Control Commission.

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

6:45 p.m. Public Hearing: Dangerous Dog Hearing (continued from April 13, 2022)
Jeremy Cohen, Attorney for Diana Rasoul-Agha, dog owner, spoke with the Board on the complaint about a dog by the name of “Axel” residing at 233 West Street in Needham.

Discussion ensued on open questions regarding the conditions set by the Select Board including insurance, veterinary behaviorist, neutering, and fencing around the entire premises. Ms. Cooley noted the Select Board has received regular updates since the last public hearing on May 10, 2022.

Motion by Mr. Borrelli that the Select Board vote to continue Public Hearing - Dangerous Dog Hearing to Tuesday, June 14, 2022 at Needham Town Hall at a time to be determined.

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

6:56 p.m. Town Manager:
Kate Fitzpatrick, Town Manager spoke with the Board regarding 3 items:

1. Remote Participation by Members of Public Bodies Policy Discussion

Katie King, Assistant Town Manager/Operations commented that since the start of the pandemic, the State has provided certain flexibilities to the Open Meeting Law (M.G.L. c.30A, §§18-25). Those flexibilities are set to expire on July 15, 2022. As of this date, all public bodies will be required to provide in-person access for the public and all members of public bodies would be required to attend meetings in person. The Town can adopt a policy under 940 CMR 29.10 to allow members of public bodies to participate remotely in limited circumstances. Ms. King reviewed information contained in her memo to the Select Board dated May 20, 2022 and the draft policy (SB-ADMIN-0008).

Mr. Borrelli noted he favors in person participation at meetings by board and committee members, as well as by the general public.

Mr. Keane said the policy is a good blend, noting remote access to meetings via Zoom will be with us forever.

Ms. King noted the IT department and the Needham Channel have made many rooms at Town Hall, Library, Rosemary Complex, and PSAB hybrid ready.

Ms. Fitzpatrick said additional comments by Select Board members are welcome, noting the Board is scheduled to vote on the new policy at its next meeting on June 14, 2022.

Ms. Cooley suggested sharing the draft policy with other Town boards and committees.

2. Home Rule Petition: Off-Premises Alcohol Licenses

Ms. Fitzpatrick reminded the Board of its priority to seek to have the Town's off premises licenses increased to equal to the state quota. She commented on H4283, the Needham liquor license bill currently before the House Committee on Bills in the Third Reading, noting the Committee has proposed an amendment to the bill. She said because this amendment would make substantive changes, the Town must submit a letter from the Town Clerk stating that the Select Board voted to approve the amendment before it can be approved in the House. Ms. Fitzpatrick said she has reviewed the floor amendment with Town Counsel and reviewed the findings.

Motion by Mr. Borrelli that the Select Board vote to approve the language of the amendment relative to H4283 as follows:

“SECTION 1. Chapter 207 of the Acts of 2012 is hereby amended by striking out section 2 and inserting in place thereof the following section:-

Section 2. Section 17 of chapter 138 of the General Laws shall govern the number of licenses that may be granted pursuant to this act. The licensing authority may establish the days and hours during which the license may operate. Except as otherwise provided in this act, such licenses shall be subject to the provisions of said chapter 138.

SECTION 2. Notwithstanding any general or special law to the contrary, this act shall be submitted for acceptance by the voters of the town of Needham at an annual or special election in the form of the following question: “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 alcoholic beverages not to be drunk on the premises’ be accepted?” Below the question shall appear a fair and concise summary of the act prepared by town counsel and approved by the Select Board. If the majority of votes in answer to the question is in the affirmative, section 1 shall take effect, but not otherwise.

SECTION 3. Section 2 shall take effect upon its passage.”;

**and by striking out the title and inserting in place thereof the following title:-
An Act authorizing the Town of Needham to grant additional licenses for the sale of alcoholic beverages not to be drunk on the premises.”**

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

3. Town Manager Report

Ms. Fitzpatrick said many events occurred this past weekend, including “Touch the Trucks,” the Fishing Derby, and “Needham Unplugged.” She noted the Town is preparing for Memorial Day remembrances and the annual Needham Soccer Tournament. She thanked all Town staff for their work in making the Needham shine this time of year.

7:15 p.m.

Board Discussion:

557 Highland Avenue Project (Muzy site) Comments for Planning Board Hearing Committee Reports

The Board discussed comments that it may wish to submit to the Planning Board as part of the permitting process for the 557 Highland Avenue project. Items that have been raised with the Board to date include the amount of parking that is proposed, recreational improvements, access to the proposed community use path from Needham Heights to Newton, sustainable development, and others.

Ms. Frail commented the parking requirements far exceed the anticipated use of the development, suggesting possibly reducing the requirements for parking and lowering the height of the parking garage.

Ms. Cooley said Ms. Frail has a valid concern which should be discussed. She noted the possibility that the developer could put solar panels on the top floor of the parking garage if parking spaces are not required.

Mr. Borrelli said mitigation funds for shuttle or multi-modal service to the Heights and Newton should be negotiated as part of the development, which is a “gateway” to Needham. He commented on recreational amenities suggesting consultation from the Park and Recreation Department is necessary. He concurred with Ms. Frail and her comments regarding parking.

Ms. Fitzpatrick said she would prepare a draft letter to the Planning Board with comments from the Select Board.

7:30 p.m.

Executive Session - Exception 6 (Interest in Real Property):

Motion by Mr. Borrelli that the Select Board vote to enter into Executive Session.

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

Not to return to Open Session prior to adjournment.

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

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 Select Board has scheduled a special meeting to be held on Tuesday, May 31, 2022 at 6:00 p.m. at Town Hall.