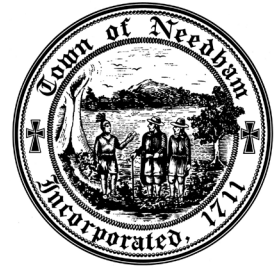


SELECT BOARD AGENDA

Regular Meeting

6:00 p.m. October 24, 2023



Needham Town Hall

Select Board Chambers & Zoom

Pursuant to Chapter 2 of the Acts of 2023, meetings of public bodies may be conducted virtually provided that adequate access is provided to the public.

To listen and view this virtual meeting on a phone, computer, laptop, or tablet, download the “Zoom Cloud Meeting” app in any app store or at www.zoom.us. At the above date and time, click on “Join a Meeting” and enter the meeting or click the link below to join the webinar:

Link:

<https://us02web.zoom.us/j/83513916152?pwd=RnRubzhEelFVQkFSbGJKVm5La3VJdZ09>

Webinar ID: 835 1391 6152

Passcode: 389812

	6:00	Public Comment Period Citizens are encouraged to inform the Office of the Town Manager in advance via email (OTM@needhamma.gov), telephone (781) 455-7500 extension 204, or in person by the end of the business day prior to the meeting of their intent to participate in the public comment period. The Chair will first recognize those who have communicated in advance their desire to speak for up to three minutes. If time allows, others wishing to speak will be recognized in an order determined by the Chair for up to three minutes. The Board’s policy on public participation in meetings can be found here .
1.	6:00	Proclamation: Veterans Day
2.	6:05	Introduce Cecilia Simchak, Assistant Director of Finance David Davison, Deputy Town Manager/Director of Finance
3.	6:10	Set EV Charging Station Rates - David Davison, Deputy Town Manager/Director of Finance - Carys Lustig, Director of Public Works - Cecilia Simchak, Assistant Director of Finance
4.	6:30	Update from Single Parcel Local Historic District Study Committee - Alison Borrelli, Committee Chair - Myles Tucker, Support Services Manager
5.	6:50	Town Manager Positions on Warrant Articles

		Town Manager Report
6.	7:00	Board Discussion - Open Meeting Law Complaint - Committee Reports

APPOINTMENT CALENDAR

1.	David Ecsedy	Solid Waste Disposal and Recycling Advisory Committee Term Exp: 6/30/2026
2.	Bhuren Patel	Council of Economic Advisors Term Exp: 6/30/2024
3.	Kate Urquhart	Council of Economic Advisors Term Exp: 6/30/2026
4.	Valentina Elzon	Zoning Board of Appeals Term Exp: 6/30/2026
5.	David Linde	Needham Branding and Town Seal Committee Term Exp: 6/30/2024

CONSENT AGENDA *Supporting Documents Attached

1.	Approve a Common Victualler License for Shallots Needham Inc d/b/a Sweet Boba.					
2.	Approve a Common Victualler License for Lyco Investment LLC d/b/a Dragon Chef.					
3.	Authorize the Town Manager to approve Block Party Permits on behalf of the Select Board.					
4.*	Approve revised open session minutes for September 11, 2023; approve executive session minutes for September 11, 2023.					
5.*	Approve a revised Needham Branding & Town Seal Committee Charge & Composition.					
6.	Accept the following donations to the Needham Free Public Library: • From Lois and Bill Bacon, \$50 in honor of Jan and Paul Bowen; • <i>Funky Monkey</i>, by Evan Haller (estimated value \$10), donated by the author; and • <i>Or So They Thought</i>, by Marina Ganetsky (estimated value \$10), donated by the author.					
7.	Grant permission for the following residents to hold block parties:					
	Name	Address	Party Location	Date	Time	Rain Date
	Lisa Rhoades	19 Washburn Avenue	Glendoon Street	10/28/23	2:30pm-7:30pm	10/29/23
	Lois Bacon	29 Harding Road	Harding Road	10/29/23	3pm-8pm	N/A
	Michael Droney	10 Great Plain Terrace	10 Great Plain Terrace	10/31/23	4pm-10pm	N/A

NOTICE OF APPROVED ONE-DAY SPECIAL ALCOHOL LICENSES

Hosting Organization	Event Title	Location	Event Date
Charles River YMCA	TWM Race-to-kick-cancer	863 Great Plain Avenue	11/12/23

**TOWN OF NEEDHAM
2023 VETERANS DAY
PROCLAMATION**

WHEREAS: On Veterans Day our Nation comes together to honor our veterans and commemorate their legacy of service and sacrifice; and

WHEREAS: Needham residents have answered the call of duty in every war and expedition in our nation's history to ensure the security of our Country and its ideals; and

WHEREAS: Returning veterans contribute in important ways to the civic life of our Town; and

WHEREAS: Their service, performed with a sense of duty and honor, reflects great credit upon themselves and upon our community;

NOW THEREFORE, The Select Board of the Town of Needham does hereby recognize Saturday, November 11, 2023, as Veterans Day and asks the citizens of the Town to join in appropriate observance of those who have served, preserving the principles of justice, freedom and democracy.

Signed this twenty fourth day of October 2023

SELECT BOARD



**Select Board
TOWN OF NEEDHAM
AGENDA FACT SHEET**

MEETING DATE: 10/24/2023

Agenda Item	Introduce Cecilia Simchak, Assistant Director of Finance
Presenter(s)	Dave Davison, Deputy Town Manager/Director of Finance

1.	BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED
The Deputy Town Manager/Director of Finance will introduce Cecilia Simchak, the Town's new Assistant Director of Finance.	
2.	VOTE REQUIRED BY SELECT BOARD
N/A – Discussion Only	
3.	BACK UP INFORMATION ATTACHED
a. Resume for Cecilia Simchak	

CECILIA SIMCHAK

EDUCATION:

NORTHEASTERN UNIVERSITY

BOSTON, MA

Masters of Science Degree in Law and Public Policy

UNIVERSITY OF ROCHESTER

ROCHESTER, NY

Bachelor of Arts Degree in Political Science and English Literature

EMPLOYMENT:

TOWN OF NEEDHAM: DEPARTMENT OF PUBLIC WORKS

NEEDHAM, MA

Director of Finance/Administration for Public Services

October 2020 - Current

- Oversee, analyze, and prepare annual capital and operating budgets for the Department of Public Works, Municipal Parking, and Community Preservation Committee
- Manage, analyze, and oversee all finances for the Department of Public Works, Municipal Parking, and Community Preservation Committee, including operating budgets, enterprise funds, capital budgets, warrant articles, revolving accounts, and grants
- Oversee public procurement for the Department of Public Works, ensuring compliance with procurement law, including Ch. 149, Ch. 30, 39M, Ch. 30B, Ch. 7C, and Ch. 25A and provide assistance to other departments with procurement
- Oversee invoicing, accounts payable, and payroll processes and staff for Department of Public Works
- Manage personnel matters, including hiring, recruitment, worker's compensation, reviews, collective bargaining compliance and negotiations, disciplinary actions, and diversity, equity, and inclusion initiatives
- Coordinate project management programs within the Department of Public Works
- Oversee billing processes, including water and sewer billing for commercial and residential accounts, recycling and transfer station billing, used fleet sales, and over the counter transactions
- Oversee permitting of school buildings
- Manage grant applications, budgets, and execution of grants for the Department
- Supervise the administrative staff in Public Works, including overseeing customer service operations and office administrative functions
- Supervise processing of property damage, motor vehicle accident, and personal injury claims
- Serve on the Climate Action Plan Committee, working with residents and community members to develop a Climate Action Plan
- Serve as Town liaison for Community Preservation Committee

Administrative Analyst

November 2015 – October 2020

- Analyze, prepare, and track annual capital and operating budget for the Department of Public Works
- Compile public bid documents, draft specifications, track public bidding, receive bids, ensure compliance with procurement law, award contracts, and track contract progress including change orders and close out
- Provide contract management oversight, working with contractors on obtaining quotes, scheduling projects, and coordination throughout the project
- Provide project management and coordination on major projects including restroom renovations, gym floor replacements, flooring replacements, and boiler replacements
- Manage scheduling, change orders, contract documents, prevailing wage collection, invoicing, and project close out on major capital improvement projects
- Provide project tracking for the entire division and the many projects of various scope and size throughout the Town
- Track and analyze energy usage, reporting for energy efficiency renovations and improvements
- Track, analyze, and interpret work orders, used to determine work necessary in each building
- Code, invoice, and track invoices received for all parts ordered and work outsourced ensuring work is complete or received
- Track spending throughout the year to ensure Building Maintenance division remains within budget
- Ensure compliance with multiple union contracts for employees within the department
- Responsible for checking and approving payroll weekly, as well as ensuring salary spending remains within budget
- Work collaboratively with other Town employees on Standard Operating Procedures and policies for the Town
- Communicate with Town Manager and Finance Director regarding budget
- Manage SchoolDude software, which tracks permitting of spaces throughout the town, work order requests and completions, upcoming capital projects, and reporting of all data
- Provide review of real time data in the Building Management System
- Supervise other administrative staff in the office with regards to payroll, invoices, customer service, and permitting

NEEDHAM HOUSING AUTHORITY

Minute Taker

- Attend monthly board meetings and take minutes
- Edit and revise as necessary prior to final submission
- Attend and take minutes for any other special board minutes

NEEDHAM, MA
July 2018 - June 2019

QUINCY YOUTHBUILD

Case Manager/Counselor

QUINCY, MA
September 2014 – November 2015

- Provide case management and counseling services to youth aged 16-24 enrolled in our YouthBuild program, focusing on keeping them enrolled in classes to obtain their high school equivalency degree and learn vital construction apprenticeship skills
- Connect with local schools, businesses, community programs, and correctional programs to recruit youth who have dropped out of high school
- Prepare lessons and teach youth life skills, including but not limited to budgeting, civic engagement, and job readiness skills
- Track and monitor students' accomplishments in the online state monitored system (MIS)
- Evaluate the needs and goals of each individual student and plan individual service plans to assist them in accomplishing their goals
- Responsible for all outside referrals necessary to help keep them on track

HILLSIDE CHILDREN'S CENTER

ALTERNATIVES FOR INDEPENDENT YOUTH & EMERGENCY SERVICES

ROCHESTER, NY

Employment Navigator

August 2012 – May 2014

- Provide case management with a focus on educational and employment opportunities for youth aged 17-21
- Connect with local jails and correctional facilities to provide counseling on educational and employment opportunities and run groups to connect and counsel with youth who are preparing to re-enter the community
- Collect local resources, including GED programs, work experience programs, occupational training, secondary education, work readiness workshops, and upcoming employment opportunities in order to make appropriate recommendations to youth
- Provide one on one assistance and training with job applications, resumes, interview skills, and work readiness skills
- Determine eligibility for Workforce Investment Act (WIA) enrollment, fill out appropriate paperwork, and make timely updates in One Stop Operating System (OSOS)
- Responsible for recruitment, eligibility, tracking, follow up, program planning, community connections, resources, and anything else necessary for the employment navigator program
- On call rotations – provide after hours and weekend emergency assistance and house checks for youth living independently in our transitional living program
- Run the drop-in center weekly, cooking meals for the youth, supervising youth, handing out hygiene products, and providing a safe place, after school.

AmeriCorps Member

September 2011 – August 2012

- Case management, transitional living program house management, drop-in center and jail outreach
- Counsel for runaway and homeless adolescents, provide advocacy for education, employment, public assistance, parenting, and mental health
- Assist in planning and completing goals focused on independent living skills, housing, furthering education, obtaining mental health treatment, and obtaining employment
- Proficient at working with youth in crisis situations and providing them support to find safe and stable housing
- Efficient knowledge of community resources and navigating them
- One on one communication and group discussions with incarcerated youth
- Management of a transitional living program for youth – responsible for running group meetings, providing support for youth in transition towards independence, partnering intensively with youth to succeed at goals, and other daily interactions

Programs and Certifications:

MCPPO Certification

High Performing Leadership Academy (ICMA)

Essential Management Skills Certificate (ICMA)

Presentations:

Succession Planning in DPW at the ICMA Northeast Regional Conference April 2022



**Select Board
TOWN OF NEEDHAM
AGENDA FACT SHEET**

MEETING DATE: 10/24/2023

Agenda Item	Set EV Charging Station Rates
Presenter(s)	David Davison, Deputy Town Manager/Director of Finance Carys Lustig, Director of Public Works Cecilia Simchak, Assistant Director of Finance
1.	BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED The Board held a Public Hearing regarding the adoption of time-of-use rates for the public to access and charge electric vehicles at Town owned/operated charging stations at its September 26, 2023 meeting. The recommendation is to set the vehicle charging rate at \$0.25/kWh and the fee for occupying the parking space, while not charging the vehicle at \$3.00 per hour. There would be no fee for occupying the space if the vehicle is moved from the space within 30 minutes after charging the vehicle has ended. Also based on the policy before the Board, the charging fee would not be incurred by Town/School employees charging their personal electric vehicles while on duty, but the limits on the length of time a vehicle may occupy the space and the fees chargeable for occupying the space do apply. The proposed policy has been revised based on feedback received during the public hearing process.
2.	VOTE REQUIRED BY SELECT BOARD Suggested Motion: Move that the Board approve the vehicle charging rate at \$0.25/kWh, a fee of \$3.00 per hour, or portion thereof for occupying the charging space when not charging. Move that the hourly rate will be waived if the vehicle is moved from the space within 30 minutes after the vehicle is no longer charging. Move that the maximum amount of time a vehicle may occupy a charging space is four hours. Move that the vehicle charging rate of \$0.25/kWh is waived for Town and School departments employees who charge their personal vehicle while on duty, but that the hourly rate and time limit on occupying the space are in effect. Move that the Electric Vehicle Charging Policy dated October 24, 2023 is adopted.
3.	BACK UP INFORMATION ATTACHED 1) SB-ADMIN-009 Electric Vehicle Charging Policy 2) Schedule of Electric Vehicle Charging Rates

Town of Needham Select Board

Policy Number:	SB-ADMIN-009
Policy:	Electric Vehicle Charging Policy
Date Approved:	10/24/2023
Date Revised:	
Approved:	

Section 1. Purpose

The purpose of this policy is to establish Town rules to charge electric vehicles at charging stations owned by or operated on behalf of the Town of Needham.

Section 2. Applicability

This policy applies to any electric vehicle (EV) charging station owned by or operated on behalf of the Town of Needham. This does not apply to privately owned EV charging stations.

Section 3. Policy

Only electric vehicles may park at EV charging station spots.

The Town has three designations for EV charging stations: Town Use Only, Public Parking, and Parking at Town Buildings. Each designation has different rules.

Town owned vehicles will not pay a fee to charge at any of these locations.

While charging, there will be a per kWh fee. There will be a fee charged for occupying a charging station parking space while not charging and for occupying the space beyond the limit for the use of the space. The rates and fees will be reviewed at least annually by the Town. The rates and fees may be amended by the Select Board after a public hearing has been held regarding proposed changes to the rates and fees.

At all locations, Town and School staff do not need to pay the kWh charge while on duty. Employees are not exempt from the hourly fee for not charging.

Town Use Only

Definition: An EV charging station located near a Town building, clearly labeled “Town Use Only”.

Restrictions: Only Town owned vehicles can use these stations.

Fee: There will be no fee for Town owned vehicles to charge at these locations.

Public Parking

Definition: Public Parking includes EV charging stations that are located in public parking lots not located at a Town building.

Restrictions: There will be a time limit to park at an EV charging station, charging or not, that mirrors the existing time limit in the public parking lot for non-EV cars.

Fee: The current per kWh fee applies. After the time limit allowed for the parking space, four hours, or the vehicle is fully charged, whichever comes first, there will be an hourly fee for not charging. There will be a 30 minute grace period immediately after the vehicle has finished charging, during which the hourly fee will not be assessed.

Parking at Town Buildings

Definition: Parking at Town Buildings is an EV charging station that is located in the parking lot of a Town building (i.e., Public Services Administration Building) and is not labeled Town Use Only.

Restrictions: There is a four-hour limit, or 30 minutes after the vehicle has stopped charging, whichever comes first.

Fee: The current per kWh fee applies. After the four-hour limit or the vehicle has stopped charging, whichever comes first, there will be an hourly fee for not charging. There will be a 30 minute grace period immediately after the vehicle has finished charging, during which the hourly fee will not be assessed.

Electric Vehicle (EV) Charging Rates		
Description	Rate	Rules
Vehicle Charging	\$0.25/kWh	Parking space time limit, 4 hours, or until EV is fully charged, whichever comes first.
Employee EV Charging	None	Only while employee is on duty; employee's EV is not exempt from space occupying charges.
Town Vehicle Charging	None	No limits
Occupying Charging Station Parking Spot	\$3.00/hr.	Assessed when an EV is parked but not charging. An EV moved within 30 minutes after the vehicle has charged will not be charged.

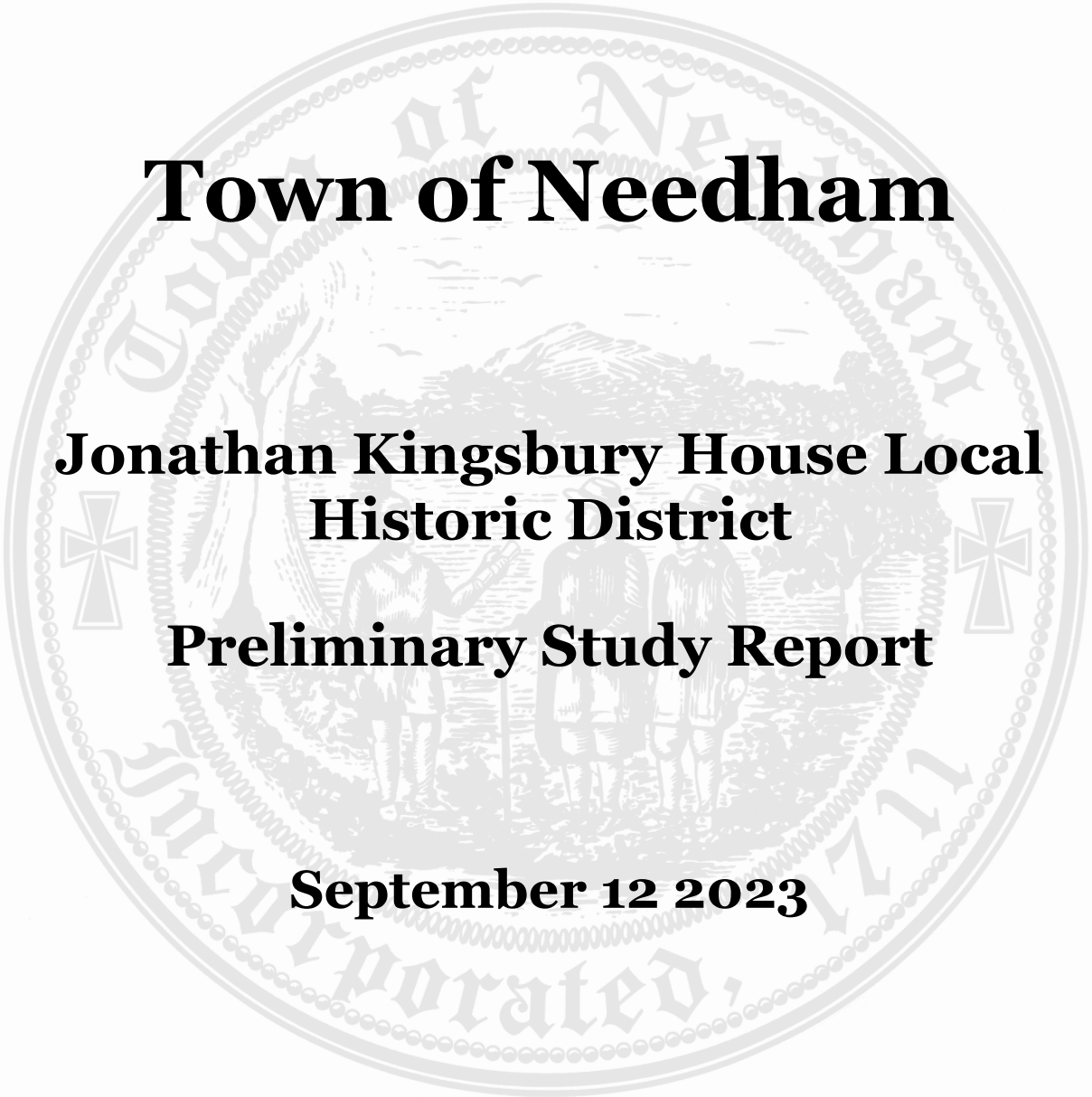


**Select Board
TOWN OF NEEDHAM
AGENDA FACT SHEET**

MEETING DATE: 10/24/2023

Agenda Item	Update from Single Parcel Local Historic District Study Committee
Presenter(s)	Alison Borrelli, Single Parcel Historic District Study Committee Chair Myles Tucker, Support Services Manager

1.	BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED
	Alison Borrelli, Chair of the Single Parcel Historic District Study Committee, and staff will provide an update to the Select Board on the committee's work and status of the committee's Preliminary Study Report.
2.	VOTE REQUIRED BY SELECT BOARD
	N/A – Discussion Only
3.	BACK UP INFORMATION ATTACHED
	a. Needham Single Parcel Historic District Study Committee Preliminary Study Report

The background of the page features a large, faint, circular seal of the Town of Needham. The seal contains a central illustration of a landscape with a house, trees, and a body of water. The words "Town of Needham" are arched across the top, and "Incorporated, 1794" is arched across the bottom. Two crosses are positioned on the left and right sides of the seal.

Town of Needham

Jonathan Kingsbury House Local Historic District

Preliminary Study Report

September 12 2023

Table of Contents

Table of Contents

Summary Sheet.....	4
Contact Information	4
Single Parcel Local Historic District Study Committee	4
Expected Date of Public Hearing	4
Expected Date of Town Meeting Vote	4
Total Number of Properties included in the Proposed Local Historic District	4
Conclusion of Preliminary Study Report	4
Introduction	5
Methodology	7
Significance	8
Justification of the Boundaries	10
Map of the Proposed District.....	11
Property Street Address Index	12
Options and Recommendations for the By-Law.....	13
Draft Local Historic District By-Law.....	14
Preamble.....	14
1. Purpose	14
2. Definitions.....	14
3. District	15
4. Commission	15
5. Commission Powers and Duties	16
6. Alterations and Construction Prohibited Without a Certificate	17
7. Procedures for Review of Applications	17
8. Criteria for Determinations.....	19
9. Exclusions	20
10. Categorical Approval	21
11. Enforcement and Penalties	21
12. Validity and Separability	22
13. Appendices	22
Appendix 1: Jonathan Kingsbury House Local Historic District	22

Local Historic District Map of the Town of Needham, Sheet 1-2024:.....	22
Digital Images	23

Summary Sheet

Contact Information

- Chair: Alison Borrelli
- Clerk: Kimberly McCollum
- Staff Liaison: Myles Tucker
- Email:
SingleParcelLocalHistoricalDistrictStudyCommittee@needham1711.onmicrosoft.com
- Phone Number: 781-455-7500 x204

Single Parcel Local Historic District Study Committee

- Alison Borrelli, Chair (Greater Boston Association of Realtors)
- Kimberly McCollum, Clerk (At-Large)
- Adam Block (Planning Board)
- Robert Dermody (American Institute of Architects)
- Gloria Greis (Needham History Center and Museum)
- Maurice Handel (District Resident)
- Don Lankiewicz (Historical Commission)

Expected Date of Public Hearing

- November 16, 2023

Expected Date of Town Meeting Vote

- May 6, 2024

Total Number of Properties included in the Proposed Local Historic District

- One – 3 Rosemary Street, Needham, MA 02494

Conclusion of Preliminary Study Report

- Adoption of proposed by-law and establishment of the Jonathan Kingsbury House Local Historic District

Introduction

For more than 60 years, towns in the Commonwealth of Massachusetts have been creating local historic districts as a means to protect their historic houses and neighborhoods from demolition and insensitive change. During that time, local historic districts have proved to be one of the strongest forms of historic preservation, helping save thousands of significant properties across Massachusetts.

The historic district movement began in the United States in 1931, when the city of Charleston, South Carolina, enacted a local ordinance designating an “Old and Historic District” administered by an architectural review board. Following a 1936 amendment to the Louisiana Constitution, the Vieux Carré Commission was created in 1937 to protect and preserve the historic French Quarter in New Orleans. The regulations of these districts provided that no changes could be made to the exterior architectural features of buildings, structures, and sites visible from a public street without the review and approval of a historic district commission. These first districts served as models for similar efforts to protect local historic properties across the country.

Massachusetts first made use of this tool for historic preservation in 1955. Special Acts of the legislature created the first local historic districts on Beacon Hill and on Nantucket. Special Act Districts in Lexington and Concord were established between 1956 and 1960. In 1960, a statewide enabling statute, known as the Historic Districts Act, Massachusetts General Law, Chapter 40C, was enacted to empower municipalities to establish their own local historic districts. Under MGL Chapter 40C, a two-thirds majority city council or town meeting vote can establish the means for creating a local historic district and establishing a local historic district commission to administer it.

Over 100 communities in Massachusetts now have local historic districts, which vary greatly in size and in the number of historic properties each contains. Some are very large, such as the Provincetown Historic District, which contains more than 1,000 properties, and the local historic district for Nantucket, which includes the entire island. Yet a local historic district in Massachusetts under MGL Chapter 40C can contain “one or more parcels of land, or one or more buildings or structures on one or more parcels or lots of land.” More than any other community, Somerville has taken advantage of this part of MGL Chapter 40C to create more than 260 local historic districts consisting of only one parcel. Fewer single-parcel local historic districts have been established in Brookline, Huntington, Lincoln, Sharon, Springfield, West Springfield, and Wellesley. Wellesley created its first two single-parcel historic districts in 2011.

Currently, Needham has no local historic districts of any size, but the town does have two National Historic Register Districts—the Needham Town Hall Historic District and the McIntosh Corner Historic District. Needham also has a number of structures individually listed on the National Register of Historic Places, including Echo Bridge, the Emery Grover Building, Needham Street Bridge, the Amos Fuller House (220 Nehoiden Street), the Robert Fuller House (3 Burrill Lane), the Davis Mills House (945 Central Avenue), the Israel Whitney House (963 Central Avenue), the Townsend House

(980 Central Avenue), the Tolman-Gay House (1196 Central Avenue), the James Smith House (706 Great Plain Avenue), the Joshua Lewis House (178 South Street), and the Kingsbury-Whitaker House (53 Glendoon Road).

This federal designation is essentially honorary and provides no practical protection from demolition. Additionally, work on such properties would only be reviewed if it involved Federal permitting, licensing, or funding.

Beyond this, the current town Demolition Delay By-law (2.11.5) permits the Needham Historical Commission to delay demolition for six months for structures listed on the town Inventory of Historic Houses, though there is no way to prevent the eventual demolition of those structures of historical significance to the town. Thus, there is a need to create a stronger form of protection for historic properties by way of a new by-law to establish local historic districts. Such districts would provide additional protections to covered homes relative to the existing by-law, specifically the ability for a historical district commission to deny demolition of a home within the bounds of a historic district.

Local historic districts provide for review of changes to historic properties. Instead, they allow for a process of public review and the thoughtful consideration of proposed changes, to make certain the changes are in keeping with the history and integrity of the protected properties. Just as important, local historic districts benefit the whole town by preserving the town's unique cultural heritage and fostering community pride. They help maintain the town's architectural integrity and promote environmental sustainability. By encouraging the adaptive reuse and rehabilitation of existing structures, local historic districts reduce the need for new construction and the associated consumption of resources. These advantages contribute to the overall livability, economic vitality, and cultural richness of the town.

This Preliminary Study Report presents a rationale for establishing a single-parcel local historic district at 3 Rosemary Street, the Jonathan Kingsbury House built in 1779. The house, which is on the town Inventory of Historic Houses, is the oldest and historically most important house standing in Needham Heights. It represents the Heights' largest landowner and one of its most significant families. Establishing this single property as a local historic district recognizes and preserves it as an integral part of the town's legacy and a treasured asset deserving of protection from demolition and inappropriate alteration.

Methodology

The Single Parcel Local Historic District Study Committee was formed by the Select Board on January 10, 2023 to consider designating the property located at 3 Rosemary Street as a single parcel historic district. The Select Board appointed all seven members of the Committee.

The formation of this Committee was the result of an effort begun two years ago, in 2021, by the Needham Historical Commission who has a longstanding interest in preserving houses on the Town and State historical inventory lists. The volunteering property owners also desire to preserve the unique characteristics of the subject property dating back to its construction 244 years ago in 1779, as one of the oldest remaining original homes of Needham. The current property owners, who have lived in the house for 36 years, desire such a designation which is not believed to negatively impact any neighboring property.

Research on the subject property has been conducted by the Needham History Center and Museum, the Needham Historical Commission in addition to previous and current property owners. Authors also researched the house for *Old Homes of Needham*, published in 1953 and *Images of America – Needham*, published in 1997.

The Committee intends to conduct a public hearing to engage the community for any feedback on the proposal to create a single parcel local historical district for the subject property. The notice of hearing will be published in the local newspaper, local digital news sites, shared on town social media sites and emailed to town meeting members.

The Committee intends to hold a public hearing in November 2023 and place the proposed district by-law before Town Meeting in May 2024.

Significance

The proposed district is comprised of the house and grounds at 3 Rosemary Street in Needham, known as the Jonathan Kingsbury House and built in 1779.

The Kingsburys were one of the first families settled in Needham. The earliest attested land grants within the land area that would become Needham are to John Kingsbury of Dedham, dated to 1636 and 1637. There were four Kingsburys among the 40 men who signed the Petition to the General Court that separated Needham from Dedham in 1711.

Jonathan Kingsbury, Jr (1744-1816) was a great-grandson of the John mentioned above. He built the house in 1779 to accommodate his large and growing family. Jonathan Jr. owned a sawmill in the nearby Rosemary Meadows. He was a Colonel in the Needham Militia East Company, mustered to Lexington and Menotomy in April 1775, and serving over the next several years at Dorchester Heights and Boston, and was discharged in May 1778. He also served the Town as its Representative in General Court for five years, Justice of the Peace, Selectman (12 years), Town Clerk (three years), Town Treasurer (13 years), and Assessor (15 years); some of these offices were served concurrently.

Descendants of Jonathan Kingsbury, Jr, also served the town in many important capacities over the years. There were members of the Kingsbury family living in Needham well into the 20th century.

Old maps and deed records show that the property originally extended for 132 acres, across Webster Street and down Rosemary Street; it was subdivided by inheritance and sale over the years to its present size. The Kingsbury family owned extensive property in the area now known as Needham Heights, roughly covering the land bounded by Nehoiden Street, Great Plain Avenue, Highland Avenue, and Manning Street. Within these boundaries are there are four historic Kingsbury houses still standing, and several more that have been demolished over the years. The Jonathan Kingsbury House is the oldest of these extant houses, and the oldest standing house in Needham Heights.

The house is a standard five-bay center-entry colonial, typical of Needham residential building in this time. The main house block and original ell are still intact, and sit on their original foundation. There has been an extension to the ell to form the garage (mid-20th century), a back porch (1940s), and modern additions to widen the ell toward the back of the property. Of these, only the garage extension is visible from the street. The house originally faced Webster Street, but the addition of a fireplace and chimney in the 1950s shifted the main entrance to the Rosemary Street side, and altered the appearance of the house. This chimney was removed a few years ago, and the Webster Street façade was restored to its original appearance, although it no longer functions as an entrance.

The chimneys, clapboards, windows, and shape of the current house are consistent with its historic appearance. The interior has been extensively altered, though there are preserved historic materials (especially on the second floor). Overall, the house is well-

maintained and in good shape. Its physical systems have been modernized, and solar panels were added to the roof, after consultation with the Needham Historical Commission.

The house is not included in the National Register of Historic Places (NRHP), and there is no record of whether an application to the NRHP was made for this house.

Although this home is not listed in the National Historic Register, this home is one of a shrinking number of historic homes in Needham. Since 1976, 24 18th century homes on the Town's historic inventory have been demolished. Only 96 remain today.

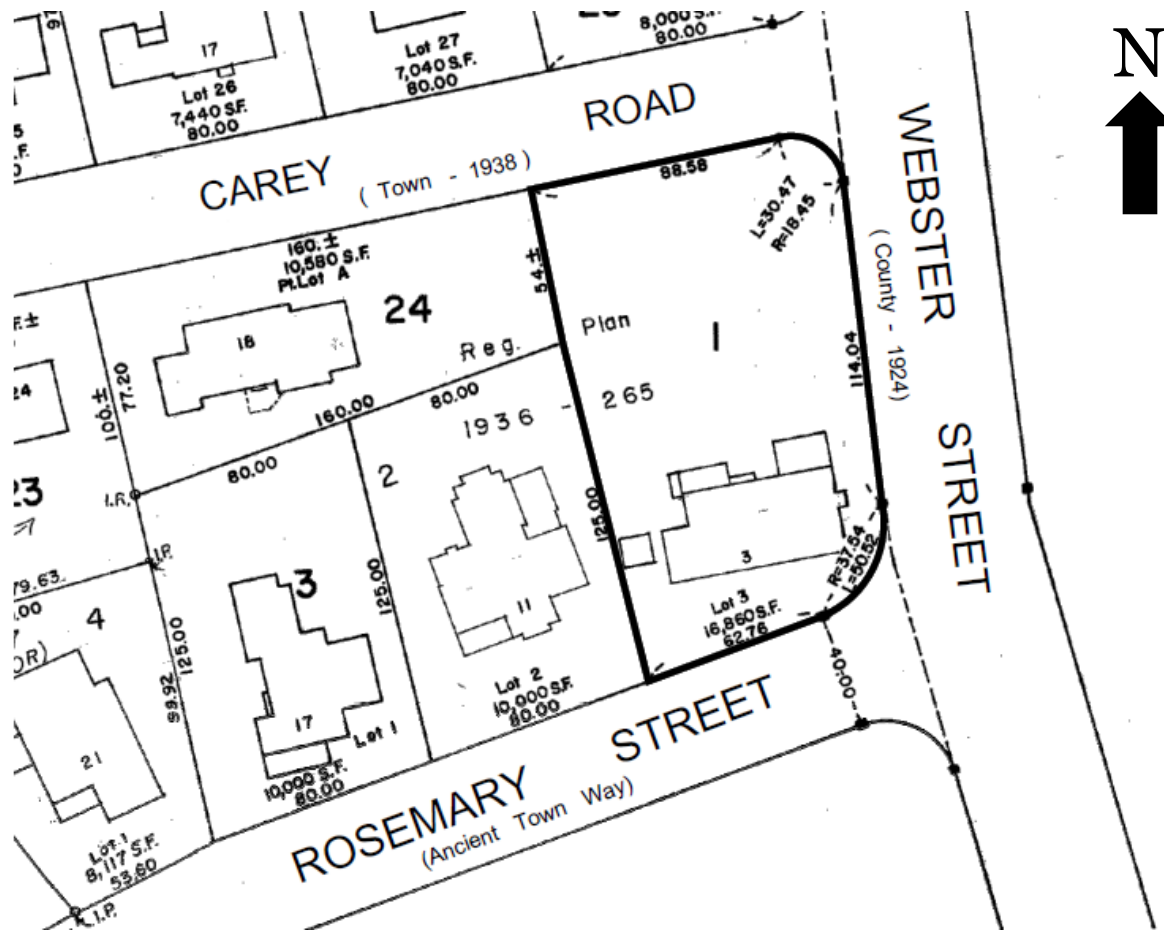
Justification of the Boundaries

The proposed district boundaries are comprised of the current lot lines, as surveyed, of 3 Rosemary Street.

The reason these boundaries are being proposed is that they do not affect rights or options available to the immediate abutters of the proposed district. That means that only the current owners of the only property in the proposed district, and the included structures on that property, are affected by the change in status and will be subject to the restrictions that will be in place when the district is approved. That also means that any potential reduction in value and a potential delay in any future sale of 3 Rosemary Street will not apply to any other properties.

This property was suggested for a Single Parcel Local Historic District given the relatively contemporary homes situated around the proposed property.

Map of the Proposed District



Property Street Address Index

1. 3 Rosemary Steet, Needham, MA 02494

Street Address	Parcel ID	Historic Name	Date of Construction	Architectural Style	MHC ID
3 Rosemary St	1990620000100000	Jonathan Kingsbury House	1779	Colonial	NEE.7

Options and Recommendations for the By-Law

The Needham Single Parcel Local Historic District Study Committee recommends that Town Meeting adopt this draft by-law, establishing a Local Historic District Committee and the Jonathan Kingsbury House Local Historic District, as presented in this report. This report notes the single-parcel nature of the proposed district, strong support of the property owners, and broader desire among residents to take steps to preserve historic homes.

The draft by-law, in line with Massachusetts Historical Commission best practice, is derived from a proven template used successfully in other municipalities to create their historic district committees and historic districts.

The draft by-law:

- Draws heavily from relevant Massachusetts General Law and peer community by-laws incorporating local historic districts and historic district committees
- Would create a proposed single parcel historic district which is strictly voluntary and has the consent of the homeowners
- Must be adopted by Town Meeting
- Can only be amended by Town Meeting
- Will establish a Historical District Commission responsible for approving or disapproving proposed demolition or structural alteration of homes within established historic districts
- Will not permit the Commission to consider interior arrangements or architectural features not subject to public view from a public way

The Committee recommends moving forward with a public hearing on the proposed by-law and historic district in November 2023, following submission of the Preliminary Study Report to the Massachusetts Historical Commission.

Draft Local Historic District By-Law

Preamble

The Town of Needham hereby establishes a Local Historic District, to be administered by an Historic District Commission as provided for under Massachusetts General Laws Chapter 40C, as amended.

1. Purpose

The purpose of this By-law is to aid in the preservation and protection of the distinctive characteristics and architecture of buildings and places significant in the history of the Town of Needham, the maintenance and improvement of their settings and the encouragement of new building designs compatible with the existing architecture.

2. Definitions

The terms defined in this section shall be capitalized throughout this By-law. Where a defined term has not been capitalized, it is intended that the meaning of the term be the same as the meaning ascribed to it in this section unless another meaning is clearly intended by its context. As used in this By-law the following terms shall have the following meaning:

ALTERATION, TO ALTER

The act or the fact of rebuilding, reconstruction, restoration, replication, removal, demolition, and other similar activities.

BUILDING

A combination of materials forming a shelter for persons, animals or property.

CERTIFICATE

A Certificate of Appropriateness, a Certificate of Non-Applicability, or a Certificate of Hardship as set forth in this By-law.

COMMISSION

The Historic District Commission as established in this By-law.

CONSTRUCTION, TO CONSTRUCT

The act or the fact of building, erecting, installing, enlarging, moving and other similar activities.

DISPLAY AREA

The total surface area of a SIGN, including all lettering, wording, designs, symbols, background and frame, but not including any support structure or bracing incidental to the SIGN. The DISPLAY AREA of an individual letter SIGN or irregular shaped SIGN shall be the area of the smallest rectangle into which the letters or shape will fit. Where SIGN faces are placed back to back and face in opposite directions, the DISPLAY AREA shall be defined as the area of one face of the SIGN.

DISTRICT

The Local Historic District as established in this By-law consisting of one or more DISTRICT areas.

EXTERIOR ARCHITECTURAL FEATURE

Such portion of the exterior of a BUILDING or STRUCTURE as is open to view from a public way or ways, including but not limited to architectural style and general arrangement and setting thereof, the kind and texture of exterior building materials, and the type and style of windows, doors, lights, signs and other appurtenant exterior fixtures.

PERSON AGGRIEVED

The applicant; an owner of adjoining property; an owner of property within the same DISTRICT area; an owner of property within 100 feet of said DISTRICT area; and any charitable corporation in which one of its purposes is the preservation of historic places, structures, BUILDINGS or districts.

SIGNS

Any symbol, design or device used to identify or advertise any place of business, product, activity or person.

STRUCTURE

A combination of materials other than a BUILDING, including but not limited to a SIGN, fence, wall, terrace, walk or driveway.

TEMPORARY STRUCTURE or BUILDING

A BUILDING not to be in existence for a period of more than two years. A STRUCTURE not to be in existence for a period of more than one year. The COMMISSION may further limit the time periods set forth herein as it deems appropriate.

3. District

The DISTRICT shall consist of one or more DISTRICT areas as listed in Section 13 (Appendices) of this By-law.

4. Commission

4.1 The DISTRICT shall be overseen by a COMMISSION consisting of between five to seven members to be appointed by the Select Board. one member initially to be appointed for one year, two for two years, and two for three years, and each successive appointment to be made for three years.

4.2 The COMMISSION shall include, if possible, one member from two nominees solicited from the Needham History Center and Museum, one member from two nominees

solicited from the chapter of the American Institute of Architects covering Needham; one member from two nominees of the Greater Boston Association of Realtors covering Needham; and one property owner from within at least one of the DISTRICT areas.

If within thirty days after submission of a written request for nominees to any of the organizations herein named insufficient nominations have been made, the Select Board may proceed to make appointments as it desires.

4. 3 The Select Board may appoint up to four alternate members to the COMMISSION. Each alternate member shall have the right to act and vote in the place of one regular member should such regular member be absent from a meeting or be unwilling or unable to act or vote. Said alternate members shall initially be appointed for terms of two or three years, and for three year terms thereafter.

4.4 Each member and alternate member shall continue to serve in office after the expiration date of his or her term until a successor is duly appointed.

4.5 Meetings of the COMMISSION shall be held at the call of the Chair, at the request of two members and in such other manner as the COMMISSION shall determine in its Rules and Regulations.

4.6 A majority of the appointed membership of the COMMISSION shall constitute a quorum.

5. Commission Powers and Duties

5.1 The COMMISSION shall exercise its powers in administering and regulating the CONSTRUCTION and ALTERATION of any STRUCTURES or BUILDINGS within the DISTRICT as set forth under the procedures and criteria established in this By-law. In exercising its powers and duties hereunder, the COMMISSION shall pay due regard to the distinctive characteristics of each BUILDING, STRUCTURE and DISTRICT area.

5. 2 The COMMISSION may adopt, and from time to time amend, reasonable Rules and Regulations not inconsistent with the provisions of this By-law or M.G.L. Chapter 40C, setting forth such forms and procedures as it deems desirable and necessary for the regulation of its affairs and the conduct of its business, including requirements for the contents and form of applications for CERTIFICATES, fees, hearing procedures and other matters. The COMMISSION shall file a copy of any such Rules and Regulations with the office of the Town Clerk.

5.3 The COMMISSION, after a public hearing duly posted and advertised at least 14 days in advance, may adopt and from time to time amend guidelines which set forth the designs for certain EXTERIOR ARCHITECTURAL FEATURES which are, in general, suitable for the issuance of a CERTIFICATE. No such design guidelines shall limit the right of an applicant for a CERTIFICATE to present other designs to the COMMISSION for approval.

5.4 The COMMISSION shall at the beginning of each fiscal year hold an organizational meeting and elect a Chair, a Vice Chair, and Clerk, and file notice of such election with the office of the Town Clerk.

5.5 The COMMISSION shall keep a permanent record of its resolutions, transactions, decisions and determinations and of the vote of each member participating therein.

5.6 The COMMISSION shall undertake educational efforts to explain to the public and property owners the merits and functions of a DISTRICT.

6. Alterations and Construction Prohibited Without a Certificate

6.1 Except as this By-law provides, no BUILDING or STRUCTURE or part thereof within a DISTRICT shall be CONSTRUCTED or ALTERED in any way that affects the EXTERIOR ARCHITECTURAL FEATURES as visible from a public way, unless the COMMISSION shall first have issued a CERTIFICATE with respect to such CONSTRUCTION or ALTERATION.

6.2 No building permit for CONSTRUCTION of a BUILDING or STRUCTURE or for ALTERATION of an EXTERIOR ARCHITECTURAL FEATURE within a DISTRICT and no demolition permit for demolition or removal of a BUILDING or STRUCTURE within a DISTRICT shall be issued by the Town or any department thereof until a CERTIFICATE as required under this By-law has been issued by the COMMISSION.

7. Procedures for Review of Applications

7.1 Any person who desires to obtain a CERTIFICATE from the COMMISSION shall file with the COMMISSION an application for a CERTIFICATE of Appropriateness, of Non-Applicability or of Hardship, as the case may be. The application shall be accompanied by such plans, elevations, specifications, material and other information, including in the case of demolition or removal a statement of the proposed condition and appearance of the property thereafter, as may be reasonably deemed necessary by the COMMISSION to enable it to make a determination on the application.

7.2 The COMMISSION shall determine within fourteen (14) days of the filing of an application for a CERTIFICATE whether said application involves any EXTERIOR ARCHITECTURAL FEATURES which are within the jurisdiction of the COMMISSION.

7.3 If the COMMISSION determines that an application for a CERTIFICATE does not involve any EXTERIOR ARCHITECTURAL FEATURES, or involves an EXTERIOR ARCHITECTURAL FEATURE which is not subject to review by the COMMISSION under the provisions of this By-law, the COMMISSION shall forthwith issue a CERTIFICATE of Non-Applicability.

7.4 If the COMMISSION determines that such application involves any EXTERIOR

ARCHITECTURAL FEATURE subject to review under this By-law, it shall hold a public hearing on the application, except as may otherwise be provided in this By-law. The COMMISSION shall hold such a public hearing within forty-five (45) days from the date of the filing of the application. At least fourteen (14) days before said public hearing, public notice shall be given. Such notice shall identify the time, place and purpose of the public hearing. Concurrently, a copy of said public notice shall be mailed to the applicant, to the owners of all adjoining properties and of other properties deemed by the COMMISSION to be materially affected thereby, all as they appear on the most recent applicable tax list, to the Planning Board, to any person filing a written request for notice of hearings, such request to be renewed yearly in December, and to such other persons as the COMMISSION shall deem entitled to notice.

7.4.1 A public hearing on an application for a CERTIFICATE need not be held if such hearing is waived in writing by all persons entitled to notice thereof. In addition, a public hearing on an application for a CERTIFICATE may be waived by the COMMISSION if the COMMISSION determines that the EXTERIOR ARCHITECTURAL FEATURE involved, or its category, is so insubstantial in its effect on the DISTRICT that it may be reviewed by the COMMISSION without a public hearing. If the COMMISSION dispenses with a public hearing on an application for a CERTIFICATE, notice of such application shall be given to the owners of all adjoining property and of other property deemed by the COMMISSION to be materially affected thereby as above provided, and ten (10) days shall elapse after the mailing of such notice before the COMMISSION may act upon such application.

7.5 Within sixty (60) days after the filing of an application for a CERTIFICATE, or within such further time as the applicant may allow in writing, the COMMISSION shall issue a CERTIFICATE or a disapproval. In the case of a disapproval of an application for a CERTIFICATE, the COMMISSION shall set forth in its disapproval the reasons for such disapproval. The COMMISSION may include in its disapproval specific recommendations for changes in the applicant's proposal with respect to the appropriateness of design, arrangement, texture, material and similar features which, if made and filed with the COMMISSION in a subsequent application, would make the application acceptable to the COMMISSION.

7.6 The concurring vote of a majority of the members shall be required to issue a CERTIFICATE.

7.7 In issuing CERTIFICATES, the COMMISSION may, as it deems appropriate, impose certain conditions and limitations, and may require architectural or plan modifications consistent with the intent and purpose of this By-law.

7.8 If the COMMISSION determines that the CONSTRUCTION or ALTERATION for which an application for a CERTIFICATE of Appropriateness has been filed will be appropriate for or compatible with the preservation or protection of the DISTRICT, the COMMISSION shall issue a CERTIFICATE of Appropriateness.

7.9 If the CONSTRUCTION or ALTERATION for which an application for a

CERTIFICATE of Appropriateness has been filed shall be determined to be inappropriate and therefore disapproved, or in the event of an application for a CERTIFICATE of Hardship, the COMMISSION shall determine whether, owing to conditions especially affecting the BUILDING or STRUCTURE involved, but not affecting the DISTRICT generally, failure to approve an application will involve a substantial hardship, financial or otherwise, to the applicant and whether such application may be approved without substantial detriment to the public welfare and without substantial derogation from the intent and purposes of this By-law. If the COMMISSION determines that owing to such conditions failure to approve an application will involve substantial hardship to the applicant and approval thereof may be made without such substantial detriment or derogation, the COMMISSION shall issue a CERTIFICATE of Hardship.

7.10 The COMMISSION shall send a copy of its CERTIFICATES and disapprovals to the applicant and shall file a copy of its CERTIFICATES and disapprovals with the office of the Town Clerk and the Building Commissioner. The date of issuance of a CERTIFICATE or disapproval shall be the date of the filing of a copy of such CERTIFICATE or disapproval with the office of the Town Clerk.

7.11 If the COMMISSION should fail to issue a CERTIFICATE or a disapproval within sixty (60) days of the filing of the application for a CERTIFICATE, or within such further time as the applicant may allow in writing, the COMMISSION shall thereupon issue a CERTIFICATE of Hardship Due to Failure to Act.

7.12 Each CERTIFICATE issued by the COMMISSION shall be dated and signed by its chairman or such other person designated by the COMMISSION to sign such CERTIFICATES on its behalf.

7.13 A PERSON AGGRIEVED by a determination of the COMMISSION may, within twenty (20) days of the issuance of a CERTIFICATE or disapproval, file a written request with the COMMISSION for a review by a person or persons of competence and experience in such matters, acting as arbitrator and designated by the Metropolitan Area Planning Council. The finding of the person or persons making such review shall be filed with the Town Clerk within forty-five (45) days after the request, and shall be binding on the applicant and the COMMISSION, unless a further appeal is sought in the Superior Court as provided in Chapter 4OC, Section 12A. The filing of such further appeal shall occur within twenty (20) days after the finding of the arbitrator has been filed with the office of the Town Clerk.

8. Criteria for Determinations

8.1 In deliberating on applications for CERTIFICATES, the COMMISSION shall consider, among other things, the historic and architectural value and significance of the site, BUILDING or STRUCTURE; the general design, proportions, detailing, mass, arrangement, texture, and material of the EXTERIOR ARCHITECTURAL FEATURES involved; and the relation of such EXTERIOR ARCHITECTURAL FEATURES to similar features of BUILDINGS and STRUCTURES in the surrounding area.

8.2 In the case of new CONSTRUCTION or additions to existing BUILDINGS or STRUCTURES, the COMMISSION shall consider the appropriateness of the scale, shape and proportions of the BUILDING or STRUCTURE both in relation to the land area upon which the BUILDING or STRUCTURE is situated and in relation to BUILDINGS and STRUCTURES in the vicinity. The COMMISSION may in appropriate cases impose dimensional and setback requirements in addition to those required by applicable statute or by-law.

8.3 When ruling on applications for CERTIFICATES on solar energy systems as defined in Section 1A of Chapter 40A, the COMMISSION shall consider the policy of the Commonwealth of Massachusetts to encourage the use of solar energy systems and to protect solar access.

8.4 The COMMISSION shall not consider interior arrangements or architectural features not subject to public view from a public way.

9. Exclusions

9.1 The COMMISSION shall exclude from its purview the following:

9.1.1 Temporary BUILDINGS, STRUCTURES or SIGNS subject, however, to conditions pertaining to the duration of existence and use, location, lighting, removal and similar matters as the COMMISSION may reasonably specify.

9.1.2 Terraces, walks, driveways, sidewalks and similar STRUCTURES, provided that any such STRUCTURE is substantially at grade level.

9.1.3 Storm windows and doors, screen windows and doors, and window air conditioners.

9.1.4 The color of paint.

9.1.5 The color of materials used on roofs.

9.1.6 Signs of not more than two (2) square feet in DISPLAY AREA in-connection with use of a residence for a customary home occupation or for professional purposes, provided only one such sign is displayed in connection with each residence and if illuminated is illuminated only indirectly; and one sign in connection with the nonresidential use of each BUILDING or STRUCTURE which is not more than six (6) square feet in DISPLAY AREA, consists of letters painted on wood without symbol or trademark and if illuminated is illuminated indirectly.

9.1.7 The reconstruction, substantially similar in exterior design, of a BUILDING, STRUCTURE or EXTERIOR ARCHITECTURAL FEATURE damaged or destroyed by fire, storm or other disaster, provided such reconstruction is begun within one year thereafter and carried forward with due diligence.

9.2 Upon request the COMMISSION shall issue a CERTIFICATE of Non-Applicability with respect to CONSTRUCTION or ALTERATION in any category not subject to review by the COMMISSION in accordance with the above provisions.

9.3 Nothing in this By-law shall be construed to prevent the ordinary maintenance, repair or replacement of any EXTERIOR ARCHITECTURAL FEATURE within a DISTRICT which does not involve a change in design, material or the outward appearance thereof, nor to prevent landscaping with plants, trees or shrubs, nor construed to prevent the meeting of requirements certified by a duly authorized public officer to be necessary for public safety because of an unsafe or dangerous condition, nor construed to prevent any CONSTRUCTION or ALTERATION under a permit duly issued prior to the effective date of this By-law.

10. Categorical Approval

The COMMISSION may determine from time to time after a public hearing, duly advertised and posted at least fourteen (14) days in advance in a conspicuous place in Town Hall and in a newspaper of general circulation in Needham, that certain categories of EXTERIOR ARCHITECTURAL FEATURES, STRUCTURES or BUILDINGS under certain conditions may be CONSTRUCTED or ALTERED without review by the COMMISSION without causing substantial derogation from the intent and purpose of this By-law.

11. Enforcement and Penalties

11.1 The COMMISSION shall determine whether a particular activity is in violation of this By-law or not, and the COMMISSION shall be charged with the enforcement of this By-law.

11.2 The COMMISSION, upon a written complaint of any resident of Needham, or owner of property within Needham, or upon its own initiative, may seek to institute any appropriate action or proceedings in the name of the Town of Needham to prevent, correct, restrain or abate violation of this By-law. In the case where the COMMISSION is requested in writing to enforce this By-law against any person allegedly in violation of same and the COMMISSION declines to act, the COMMISSION shall notify, in writing, the party requesting such enforcement of any action or refusal to act and the reasons therefore, within twenty one (21) days of receipt of such request.

11.3 Whoever violates any of the provisions of this By-law shall be punishable by a fine of up to \$300.00 for each offense. Each day during any portion of which such violation continues to exist shall constitute a separate offense.

11.4 The COMMISSION may designate the Building Commissioner of the Town of Needham to act on its behalf and to enforce this By-law under the direction of the COMMISSION.

12. Validity and Separability

The provisions of this By-law shall be deemed to be separable. If any of its provisions, sections, subsections, sentences or clauses shall be held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of this By-law shall continue to be in full force and effect.

13. Appendices

Appendix 1: Jonathan Kingsbury House Local Historic District

The Jonathan Kingsbury House Local Historic District shall be a DISTRICT area under this By-law. The location and boundaries of the Jonathan Kingsbury House Local Historic District are defined and shown on the Local Historic District Map of the Town of Needham, Sheet 1-2024 which is a part of this By-law. Sheet 1 is based on the 2023 Assessor's Map. The delineation of the DISTRICT area boundaries is based on the parcel boundaries then in existence and shown therein, except as otherwise apparent on Sheet 1.

Local Historic District Map of the Town of Needham, Sheet 1-2024:

Recorded in the office of the Needham Town Clerk.

Digital Images

Historic photographs courtesy of Maurice and Elizabeth Handel

Circa 1880



Circa 1911



Circa 1940



Circa 1987



Circa 1990



Contemporary photographs courtesy of Alison Borrelli, dated September 4th 2023.









**Select Board
TOWN OF NEEDHAM
AGENDA FACT SHEET**

MEETING DATE: 10/24/2023

Agenda Item	Positions on Warrant Articles
Presenter(s)	Kate Fitzpatrick, Town Manager

1.	BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED
The Board will review articles on the October 30, 2023 Special Town Meeting Warrant.	
2.	VOTE REQUIRED BY SELECT BOARD
Suggested Motion: That the Board vote to support (not to support) article _____ in the Special Town Meeting Warrant.	
3.	BACK UP INFORMATION ATTACHED
a. October 30, 2023 Special Town Meeting Warrant b. Status of Articles as of 10/10/2023	

TOWN OF NEEDHAM



SPECIAL TOWN MEETING WARRANT

MONDAY, OCTOBER 30, 2023

7:30 P.M.

JAMES HUGH POWERS HALL

NEEDHAM TOWN HALL

1471 HIGHLAND AVENUE

Additional information on Warrant articles will be made available at www.needhamma.gov/townmeeting during the weeks leading up to the Special Town Meeting.

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss.

To either of the Constables in the Town of Needham in said County, Greetings:

In the name of the Commonwealth of Massachusetts, you are hereby required to notify the qualified Town Meeting Members of the Town of Needham to meet in the Needham Town Hall on:

MONDAY, THE THIRTIETH DAY OF OCTOBER 2023

At 7:30 in the afternoon, then and there to act upon the following articles:

FINANCE ARTICLES

ARTICLE 1: APPROPRIATE FOR ROADWAY IMPROVEMENTS
(EVERSOURCE)

To see if the Town will vote to raise and/or transfer and appropriate \$205,000 for roadway improvements, to be spent under the direction of the Town Manager, and to meet this appropriation that said sum be raised from the Tax Levy; or take any other action relative thereto.

INSERTED BY: Select Board

FINANCE COMMITTEE RECOMMENDS THAT: Article be Adopted

Article Information: The Town entered into an agreement with Eversource that resulted in Eversource making natural gas main repairs and capacity improvements on Webster Street between West Street and Parkinson Street. Eversource completed the work outside the Town's normal street opening permit period of April to November, and in return, Eversource provided funding to the Town to repave the road. This agreement enabled Eversource to accomplish their goal of repairing the natural gas main and increasing capacity for service improvements while completing the work in a shorter period to limit disruption to the Town. Eversource and the Town mutually agreed that it would be advantageous for the Town to oversee the repaving work using its contractors and staff. These funds are considered general fund receipts – as a result, Town Meeting action is required to ensure that they will be used for their intended purpose. The amount of \$205,000 was calculated by Eversource based on a full gutter to gutter road pavement, and DPW staff has validated that these funds will be sufficient to cover the Town's costs.

**ARTICLE 2: APPROPRIATE FOR YOUTH HEALTH INITIATIVES
(CHILDREN’S HOSPITAL COMMUNITY BENEFIT PAYMENT)**

To see if the Town will vote to raise and/or transfer and appropriate \$400,000 for youth health initiatives, to be spent under the direction of the Town Manager, and to meet this appropriation that \$200,000 be raised from the Tax Levy and \$200,000 be transferred from Overlay Surplus; or take any other action relative thereto.

INSERTED BY: Select Board

FINANCE COMMITTEE RECOMMENDS THAT: Article be Adopted

Article Information: Under the terms of a Host Community Agreement, the Town will receive payments from Children’s Hospital in lieu of personal property tax payments for their outpatient surgical center, which is slated to open in December 2025. These funds must be spent on youth health initiatives. The payment schedule includes (i) \$200,000 following the issuance of a building permit, (ii) \$200,000 when construction is 50% complete, and (iii) \$200,000 annually starting the fiscal year after the facility receives an occupancy permit.

The COVID-19 pandemic led to a significant increase in the community’s mental health needs, including depression, anxiety, and suicidal ideation. Despite the lifting of pandemic restrictions, the need for mental health services and the severity of that need, particularly among youth, has continued to grow. This article requests appropriation of \$400,000 (revenue from payment (i) and payment (ii) above that will be received this fiscal year) to support two new full-time staff positions within the Town’s Youth & Family Services Division to better meet this need. An Outreach Clinician would split time between the Needham Free Public Library, Needham Park & Recreation, and other community locations to identify and address mental health challenges in the community and provide case management, referrals, and crisis intervention. A Community Training Coordinator will expand the offering of mental health programs - such as Youth Mental Health First Aid - to the community and to Town and Needham Public Schools staff. It is anticipated that this appropriation will be expended over two years.

**ARTICLE 3: APPROPRIATE FOR INTERSECTION IMPROVEMENTS
(CHILDREN’S HOSPITAL)**

To see if the Town will vote to raise and/or transfer and appropriate \$30,000 for improvements to the intersection of Kendrick Street at Third Avenue, to be spent under the direction of the Town Manager, and to meet this appropriation that said sum be raised from the Tax Levy; or take any other action relative thereto.

INSERTED BY: Select Board

FINANCE COMMITTEE RECOMMENDS THAT: Article be Adopted

Article Information: The Planning Board issued a Major Site Plan Special Permit to Boston Children’s Hospital for its development of 380 First Avenue. A condition contained in the permit requires a payment of \$30,000 for the purposes of traffic mitigation at Kendrick Street and Third

Avenue. The Department of Public Works identified a traffic issue between this intersection and the 128/I95 ramp that will be remedied using these funds. The two dedicated left turn only lanes onto the I95 southbound ramp will be converted to one dedicated left turn and one straight or left turn. This plan is intended to ease back-ups for through traffic and mitigate increased traffic volume related to the construction of the new medical center. DPW staff will coordinate with the Massachusetts Department of Transportation and plan to restripe the roadway and intersection in the Spring of 2024.

ARTICLE 4: **APPROPRIATE FOR COMMUNITY OPIOID SETTLEMENT FUND PLANNING**

To see if the Town will vote to raise and/or transfer and appropriate \$145,000 for the development of a Community Opioid Settlement Fund Plan, to be spent under the direction of the Town Manager, and to meet this appropriation that said sum be transferred from the Opioid Settlement Stabilization Fund; or take any other action relative thereto.

INSERTED BY: Select Board

FINANCE COMMITTEE RECOMMENDS THAT: Article be Adopted

Article Information: This funding request will allow for the use of \$145,000 from the Opioid Settlement Stabilization Fund to be utilized for its legally required purpose of preventing substance misuse, implementing harm reduction programs, and supporting the treatment and recovery of persons who misuse substances, particularly opioids. The Town's efforts will be led by the Health & Human Services Department, and will reflect close collaboration with other Town departments, Needham Public Schools, and community partners. Funding will be allocated to: 1) conduct a detailed and inclusive public engagement process for the use of opioid funds, which will afford significant input from the community and from impacted groups (persons in recovery, family of substance addicted persons, etc.) and which will result in a roadmap to guide the use of these funds over the next 15 years, 2) turn that roadmap into a coherent five-year strategic plan, 3) conduct thoughtful and deliberate program evaluation and to measure the effectiveness of the Town's efforts with these funds, and 4) address certain priority items for opioid fund use including the co-location of opioid overdose reversal kits with AEDs in Town buildings and hiring a Peer Recovery Coach to directly support individuals in their recovery from substance use disorders. The balance in the fund prior to appropriation is \$217,288.

ARTICLE 5: **AMEND THE FY2024 OPERATING BUDGET**

To see if the Town will vote to amend and supersede certain parts of the fiscal year 2024 Operating Budget adopted under Article 12 of the 2023 Annual Town Meeting by deleting the amounts of money appropriated under some of the line items and appropriating the new amounts as follows:

<u>Line Item</u>	<u>Appropriation</u>	<u>Changing From</u>	<u>Changing To</u>
14A	Finance Department Salary & Wages	\$2,398,879	\$2,101,164
14B	Finance Department Expenses	\$1,355,040	\$1,594,151
23A	Public Works Salary & Wages	\$10,915,518	\$10,974,122

or take any other action relative thereto.

INSERTED BY: Finance Committee

FINANCE COMMITTEE RECOMMENDS THAT: Article be Adopted

Article Information: There are two transfers requested under this article. The first is to transfer \$58,604 of salary & wages from the Finance Department to the Public Works Department. The purpose of this transfer is to reflect the transfer of the Town's Geographic Information Systems (GIS) operations from the Finance Department Information Technology Center (ITC) to the Public Works Engineering Division. The Town has found that there is greater collaboration and efficiency by having the GIS staff person co-located with engineering staff. The amount of the transfer reflects the wages to be paid for the balance of the current fiscal year. The GIS operational costs (personnel and expenses) will be budgeted in the Public Works Department going forward. The second is to transfer \$239,111 of salary & wages to expenses within the Finance Department. There are two vacancies in the Finance Department ITC division which require the assistance of outside contractors. The cost of those services exceeds the amount that was originally budgeted for technology support and consulting services. The Town is collaborating with the Needham School Department to determine whether the delivery of technology services can or should be changed, to review the mix of internal/external support services, and to determine what synergies could be realized by shared Town and School operations. Any recommended changes to the operation will be reflected in the fiscal year 2025 budget requests.

ARTICLE 6: AMEND THE FY2024 SEWER ENTERPRISE FUND BUDGET

To see if the Town will vote to amend and supersede certain parts of the fiscal year 2024 Sewer Enterprise Fund Budget adopted under Article 13 of the 2023 Annual Town Meeting by deleting the amounts of money appropriated under some of the line items and appropriating the new amounts as follows:

<u>Line Item</u>	<u>Appropriation</u>	<u>Changing From</u>	<u>Changing To</u>
201D	MWRA Assessment	\$7,197,220	\$7,084,841

or take any other action relative thereto.

INSERTED BY: Select Board & Finance Committee
FINANCE COMMITTEE RECOMMENDS THAT: Article be Adopted

Article Information: The Town received its final MWRA sewer assessment after the adoption of the Sewer Enterprise Fund budget. The final assessment is \$112,379 lower than the estimate, and the appropriation has been adjusted accordingly.

ARTICLE 7: AMEND THE FY2024 WATER ENTERPRISE FUND BUDGET

To see if the Town will vote to amend and supersede certain parts of the fiscal year 2024 Water Enterprise Fund Budget adopted under Article 14 of the 2023 Annual Town Meeting by deleting the amounts of money appropriated under some of the line items and appropriating the new amounts as follows:

<u>Line Item</u>	<u>Appropriation</u>	<u>Changing From</u>	<u>Changing To</u>
301D	MWRA Assessment	\$1,886,141	\$1,887,130

or take any other action relative thereto.

INSERTED BY: Select Board & Finance Committee
FINANCE COMMITTEE RECOMMENDS THAT: Article be Adopted

Article Information: The Town received its final MWRA water assessment after the adoption of the Water Enterprise Fund budget. The final assessment is \$989 higher than the estimate, and the appropriation has been adjusted accordingly.

ARTICLE 8: UNPAID BILLS OF A PRIOR YEAR

To see if the Town will vote to raise and/or transfer and appropriate, or otherwise provide \$3,820.01 for the payment of unpaid bills of previous years, incurred by the departments, boards and officers of the Town of Needham, and to meet this appropriation that said sum be raised from the Tax Levy; or take any other action relative thereto.

Department:	Finance Department (ITC)
Vendor:	KonicaMinolta Business Solutions U.S.A., Inc.
Description:	Copier and Printer Maintenance Services
Fiscal Year:	2021
Amount:	\$413.74; \$427.51; \$427.50; \$413.69; \$399.96; \$427.51; \$427.51; \$413.69; \$41.35; \$427.55
Total:	\$3,820.01

INSERTED BY: Select Board

FINANCE COMMITTEE RECOMMENDS THAT: Article be Adopted

Article Information: State law requires Town Meeting action for the Town to make payment for bills received after the close of the fiscal year or bills in excess of appropriation. The bills were for services rendered during the time that COVID-19 restrictions were in place. The company was long delayed in billing the Town and conversely the Town needed to investigate the validity of the bills.

CAPITAL ARTICLES

ARTICLE 9: **APPROPRIATE FOR GENERAL FUND CASH CAPITAL**

To see if the Town will vote to raise and/or transfer and appropriate \$96,200 for the purchase of vehicles, to be spent under the direction of the Town Manager, and to meet this appropriation, that \$59,980 be transferred from Article 32 of the May 2018 Annual Town Meeting, \$21,225 be transferred from Article 37 of the May 2019 Annual Town Meeting, and \$14,995 be transferred from Article 21 of the June 8, 2020 Annual Town Meeting; or take any other action relative thereto.

INSERTED BY: Select Board

FINANCE COMMITTEE RECOMMENDS THAT: Article be Adopted

Article Information: The Town seeks the transfer of \$96,200 from available funds from prior appropriations for supplemental funding for General Fund fleet replacement. Due to many factors (availability, equipment changes, and price structure), the cost to purchase several vehicles has increased and is higher than what was originally budgeted. This additional funding is necessary to purchase the planned vehicles. The increased cost of vehicles has affected not only the General Fund, but also the Sewer and Water Enterprise Funds. Funding requests for the two enterprise funds are requested in separate warrant articles. The funding under this article will allow for the purchase of a Utility Van (Unit 712) for the Building Maintenance Division (\$7,399), the Swap Loader Packer Truck replacement (Unit 5) for the Solid Waste Division (\$69,117), and the balance (\$19,684) would be available to cover increased costs for vehicles approved at the 2023 Annual Town Meeting.

ARTICLE 10: **APPROPRIATE FOR SEWER ENTERPRISE FUND CASH CAPITAL**

To see if the Town will vote to raise and/or transfer and appropriate \$55,000 for the purchase of vehicles, to be spent under the direction of the Town Manager, and to meet this appropriation that said sum be raised from Sewer Enterprise Fund receipts; or take any other action relative thereto.

INSERTED BY: Select Board

FINANCE COMMITTEE RECOMMENDS THAT: Article be Adopted

Article Information: Just as with General Fund Cash Capital, the Town requires additional funding (\$55,000) to complete the purchase of two Sewer Enterprise Fund vehicles. The funding source for this article is sewer enterprise fund receipts. Due to many factors (availability, equipment changes, and price structure) the cost to purchase two vehicles has increased and is higher than what was originally budgeted. The appropriation under this article will provide the funds for the Town to purchase the Unit 11 Sewer Division Pickup Truck replacement (\$4,883) and Unit 19 Sewer Division Heavy-duty Class 8 Dump Truck replacement (\$50,117).

ARTICLE 11: APPROPRIATE FOR WATER ENTERPRISE FUND CASH CAPITAL

To see if the Town will vote to raise and/or transfer and appropriate \$41,100 for the purchase of vehicles, to be spent under the direction of the Town Manager, and to meet this appropriation that \$41,100 be transferred from Article 39 of the May 2018 Annual Town Meeting; or take any other action relative thereto.

INSERTED BY: Select Board

FINANCE COMMITTEE RECOMMENDS THAT: Article be Adopted

Article Information: The Town seeks the transfer of \$41,100 from available funds from a prior appropriation for supplemental funding to purchase Water Enterprise Fund vehicles. The reasons are the same as for the requests for the General Fund and Sewer Enterprise Fund cash capital supplemental funding. The cost to purchase equipment has increased and is higher than what was originally budgeted. The appropriation under this article will provide funds for the Town to complete the purchase of Unit 40 Water Division Utility Truck replacement (\$30,081) and the purchase of Unit 21 Water Division Pickup Truck replacement (\$11,019).

ARTICLE 12: TRANSFER OF SURPLUS BOND PROCEEDS

To see if the Town will vote to authorize the transfer of \$286,000 of surplus proceeds from previously issued bonds, which are no longer needed to complete the Central Avenue Elementary School (Sunita Williams School) for which they were initially borrowed, to pay costs of the Emery Grover project as authorized by G.L. c. 44, §20; or take any other action relative thereto.

INSERTED BY: Select Board

FINANCE COMMITTEE RECOMMENDS THAT: Article be Adopted

Article Information: The Sunita Williams School project is complete, the project was audited, final bonds were previously issued, and the Massachusetts School Building Authority's share of the project cost has been received. This has resulted in a surplus balance which per State Law may only be used to fund another project for which the Town may borrow for a similar term. This requires Town Meeting action. The Sunita Williams School project was funded by a debt exclusion. Therefore, upon the approval of Town Meeting to transfer the monies from the Sunita

Williams School project to the Emery Grover project, a credit will be applied to the outstanding debt, reducing the amount that will be paid by debt exclusion and therefore reducing the amount of additional taxes that would have otherwise been raised on the tax rate. The following article is a companion article to rescind \$286,000 from an earlier debt authorization for the Emery Grover project.

ARTICLE 13: RESCIND DEBT AUTHORIZATION

To see if the Town will vote to rescind \$286,000 of the borrowing authorization under M.G.L., Chapter 44, Section 7, approved at the 2022 Annual Town Meeting under Article 21 (Emery Grover Renovation), for which the same amount will be appropriated from proceeds of previously issued bonds, or take any other action relative thereto.

INSERTED BY: Select Board

FINANCE COMMITTEE RECOMMENDS THAT: Article be Adopted

Article Information: When a project is financed by borrowing, the project has been completed, and the bills have been paid, the balance of the authorization that was not borrowed and not reserved for other project obligations may be rescinded. A Town Meeting vote to rescind prevents the Town from borrowing the amount rescinded and frees up borrowing capacity. However, in this instance the project is currently in progress and construction work is underway. The purpose of this reduction is to offset the \$286,000 which is proposed to be appropriated to the Emery Grover project under an earlier article. Town Meeting by appropriating the funds in the previous article and rescinding a portion of the debt authorization under this article keeps the total project budget the same.

GENERAL ARTICLES & CITIZENS PETITIONS

ARTICLE 14: AMEND GENERAL BY-LAWS – NON-CRIMINAL DISPOSITIONS

To see if the Town will vote to amend the General By-laws by:

1. Deleting the following language from Section 2.2.5.1.1:

Whoever violates the provisions of this subsection 2.2.5.2.1 shall be subject to a fine of not exceeding twenty dollars (\$20.00) for each offense under the non-criminal process authorized by MGL Chapter 40, Section 21D. Each day on which the violation continues shall be considered a separate offense.

2. Deleting the following language from Section 2.2.5.1.4:

Whoever violates the provisions of Sub-section 2.2.5.1.4 shall be subject to a fine not exceeding one hundred dollars (\$100.00) each day being a separate offense.

3. Deleting the following language from Section 2.5.2:

Any person who violates any provision of Sub-section 2.5.2 in the presence of a police officer may be arrested by such officer without a warrant, if such person refuses to give his true name and address or to remove any substance unlawfully discarded by such person after having been requested by such officer. Any person who violates any provision of Sub-section 2.5.2 shall be punished by a fine not exceeding two hundred dollars (\$200.00) for each offense.

4. Deleting Section 2.5.3 (Sale of Cigarettes by Machine) in its entirety.

5. Deleting Section 2.11.5.9 in its entirety, and inserting in its place the following:

In the event of a demolition of an historically significant building in violation of this by-law, the person or persons responsible for the demolition including, but not limited to, the owners, tenants, developers, or contractors, shall each be subject to daily fines as provided for in Section 8. Each day that the building is not restored to its condition immediately prior to the said demolition, and the demolition permit is not issued, shall be a separate offense, up to a maximum of 183 days.

6. Deleting Section 3.1.1 (Grazing of Animals) in its entirety.

7. Deleting existing Section 3.1.3 (Coasting in Streets) in its entirety.

8. Deleting existing Section 3.1.4 (Use of Sidewalks) in its entirety and inserting in its place the following:

3.1.4 Use of Sidewalks. The Select Board may prohibit the use of motorized recreational vehicles or devices over or upon any public footpath or sidewalk.

9. Deleting existing Section 3.1.5 (Bicycles on Sidewalks) and inserting in its place the following:

3.1.5 Bicycles on Sidewalks. The Select Board may prohibit the riding of bicycles on any sidewalk within the Needham Square and Needham Heights Square business districts, and may from time to time direct the Police Chief to place appropriate markings or signs to this effect.

10. Deleting existing Section 3.1.8.1 in its entirety and inserting in its place the following:

3.1.8.1 No person shall place any snow or ice on a sidewalk or street.

11. Deleting existing Section 3.1.8.2 in its entirety and inserting in its place the following:

3.1.8.2 No owner, tenant, occupant, proprietor, manager, agent, board, trust, or other entity having charge of property used wholly or in part for (a) a commercial purpose (including without limitation as a store, restaurant, bank, gym, theater, childcare facility or office); (b) a hospital or medical establishment; (c) a place of worship; (d) multi-family housing containing three (3) or more dwelling units on a lot; or (e) any other use open to the public, or to a particular membership

or clientele, shall allow snow or ice to remain on a sidewalk abutting, on, or within its property for more than five hours between sunrise and sunset. If, by reason of weather conditions the snow and ice is evenly spread over a sidewalk and frozen and therefore difficult to remove, it may remain until it can more easily be removed; provided that while the snow and ice remain, the entity in charge shall keep the sidewalk in safe condition by sanding or otherwise.

12. Deleting existing Section 3.1.14 (Bow and Arrow) and inserting in its place the following:

3.1.14 Bow and Arrows. No person shall hunt with or shoot an arrow from a bow within the limits of any park, playground, public way, public building or other public property except with the consent of the Select Board, or hunt by bow and arrow on any private property except with the written consent of the property's owner or legal representative.

13. Deleting existing Section 3.1.15 (Fines) in its entirety.

14. Renumbering the sections within Section 3.1 in appropriate numerical order to account for the deletion of Section 3.1.1 (Grazing of Animals) and Section 3.1.3 (Coasting in Streets)

15. Deleting Section 3.2.4 (Fines) in its entirety and renumbering the remaining section in Section 3.2 in appropriate numerical order to account for said deletion.

16. Deleting Section 3.3.4 in its entirety and inserting in its place the following:

3.3.4 Penalties

(a) Non-criminal disposition as provided in Section 8.

(b) The owner of a system which causes six (6) or more false alarms within a calendar year, or who fails to pay the non-criminal disposition provided in Section 8, may be ordered by the Select Board after a public hearing, to disconnect and otherwise discontinue the use of such system.

17. Deleting Section 3.4.4 in its entirety.

18. Deleting Section 3.5.7 in its entirety and inserting in its place the following:

3.5.7 Penalties. Any person violating any of the provisions of Section 3.5 shall be deemed to have committed a misdemeanor and upon conviction thereof shall be fined in accordance with Section 8.

19. Amending the last sentence in Section 3.6.1.1 to read as follows:

Any person who refuses to post such signs or mark the pavement as ordered by the Fire Chief or violates any of the provisions of sub-section 3.6.1 shall be punishable by a fine as provided for in Section 8.

20. Deleting Section 3.6.2.4 in its entirety and inserting in its place the following:

3.6.2.4 Penalties

- (a) Non-criminal disposition as provided in Section 8.
- (b) The owner of a system which causes six (6) or more false alarms within a calendar year, or who fails to the non-criminal disposition provided in Section 8, may be ordered by the Select Board, after a public hearing, to disconnect and otherwise discontinue the use of the system.

21. Deleting Section 3.7.3 in its entirety and inserting in its place the following:

3.7.3 Complaints. The animal control officer is hereby authorized to seek a complaint against the owner or keeper of a dog who is found to have violated the provisions of Section 3.7 and may impose penalties as provided for in Section 8.

22. Deleting Section 3.7.9.3 in its entirety.

23. Deleting the following language from Section 3.8.1;

The penalty for a violation of this regulation shall be a \$50 fine.

24. Deleting Section 3.9.5 in its entirety, and inserting in its place the following:

Any Town employee(s) so designated for this work (“enforcement officer”) by the Town Manager shall enforce this By-law. The first notice of violation issued by the enforcement officer shall be a written warning. The owner/occupant shall then have thirty (30) days within which to remedy and cure the violation. If within a reasonable amount of time after these thirty (30) days have elapsed, the violation has yet to be remedied, subsequent notices of violation may be accompanied by fines as provided in Section 8.

25. Amending the last sentence of Section 3.9.6 to read as follows:

From the date that such hearing request is received by the Town Manager until the date that a decision is issued, all of the deadlines stated in Section 3.9 shall be temporarily stayed.

26. Deleting Section 4.1.4 in its entirety and inserting in its place the following;

In addition to the requirement that a dog shall be duly licensed as required by law, the owner of a dog not licensed on or before April 30th in any year shall be subject to fines as stated in Section 8.

27. Deleting the following language from Section 4.2.2:

Any person violating Section 4.2 shall be subject to a penalty not exceeding twenty dollars (\$20) for each offense.

28. Deleting Section 4.2.4 (Taxi Stands) in its entirety.

29. Deleting Section 5.6.1 in its entirety and renumbering the remaining sections within Section 5.6 in appropriate numerical order to account for said deletion.

30. Deleting Section 8.2.2 in its entirety, and inserting in its place the following:

8.2.2 Non-criminal Disposition. Any person violating any provision of these General By-Laws may be penalized by a non-criminal disposition as provided in M.G.L. Chapter 40, Section 21D. The non-criminal method of disposition may also be used for violations of any rule or regulation of any municipal officer, board or department which is subject to a specific penalty.

Without intending to limit the generality of the foregoing, it is the intention of this provision that the following specific penalties are to be included within the scope of this sub-section, that the specific penalties as listed herein shall apply in such cases, and that in addition to the municipal personnel listed for each section, if any, police officers shall in all cases be considered enforcing persons for the purpose of this provision; and each day on which any violation exists shall be deemed to be a separate offense unless otherwise specifically provided for herein. Notwithstanding the schedule of fines set forth below, the appropriate enforcing entity may issue a verbal or written warning in lieu of an initial penalty.

Section	Description	Penalty	Frequency	Enforcement Entity
2.2.5.1.1	Assignment of Street Numbers	\$100	Per Day	Fire Chief or designee / Building Commissioner or Designee
2.2.5.1.4	Street Occupancy Permit	\$100	Per Day	DPW Director or Designee
2.2.5.1.6	Street Intersections	\$100	Per Day	Town Engineer or Building Inspector for initial penalty, Town Engineer for Appeals
2.2.5.4	Trench Safety	\$300	Per Offense	DPW Director or Designee
2.2.5.5	Municipal Water Supply	\$100	Per Offense	DPW Director or Designee
2.2.5.6	Private Ways	\$100	Per Offense	Fire Chief or Designee
2.5.1	Transportation of Refuse and Garbage	\$100	Per Offense	Director of Health of Health and Human Services or Designee
2.5.2	Disposal of Refuse and Garbage	\$100	Per Offense	Director of Health of Health and Human Services or Designee
2.11.5	Demolition of Historical Buildings	\$300	Per Day	Building Commissioner or Designee
3.1.2* (to be renumbered as 3.1.1)___	Obstruction of Sidewalks	\$100	Per Offense	Any Sworn Police Officer / DPW Director or Designee
3.1.4* (to be renumbered as 3.1.2)___	Use of Sidewalks	\$100	Per Offense	Any Sworn Police Officer
3.1.5* (to be renumbered as 3.1.3)	Bicycles on Sidewalks	\$100	Per Offense	Any Sworn Police Officer
3.1.6* (to be renumbered as 3.1.4)___	Discharge of Firearms	\$300	Per Offense	Any Sworn Police Officer
3.1.7*	Dealing in Second-Hand Merchandise	\$100	Per Day	Any Sworn Police Officer

<i>(to be renumbered as 3.1.5)</i>				
3.1.8* <i>(to be renumbered as 3.1.6)</i>	Snow and Ice on Sidewalks	\$200	Per Day	Any Sworn Police Officer / DPW Director or Designee
3.1.9* <i>(to be renumbered as 3.1.7)</i>	Consumption of Alcoholic Beverages	\$100	Per Offense	Any Sworn Police Officer
3.1.10* <i>(to be renumbered as 3.1.8)</i>	Use of Marijuana	\$100	Per Offense	Any Sworn Police Officer
3.1.11* <i>(to be renumbered 3.1.9)</i>	Licensed Hawkers and Peddlers	\$100	Per Offense	Any Sworn Police Officer
3.1.12* <i>(to be renumbered 3.1.10)</i>	Household Refuse	\$100	Per Offense	Any Sworn Police Officer
3.1.13* <i>(to be renumbered as 3.1.11)</i>	Discharge of Water	\$200	Per Offense	Any Sworn Police Officer / DPW Director or Designee
3.1.14* <i>(to be renumbered as 3.1.12)</i>	Bow and Arrows	\$300	Per Offense	Any Sworn Police Officer
3.2	Sale of Food	\$100	Per Day and Per Sale	Any Sworn Police Officer
3.3	Improper Use of Burglar Alarms	\$100	Per Offense	Any Sworn Police Officer
3.4.	Handicapped Parking	\$200	Per Offense	Any Sworn Police Officer
3.5	Abandoned, Wrecked, Dismantled or Discarded Vehicles	\$100	Upon misdemeanor or conviction	Any Sworn Police Officer
3.6.1	Fire Lanes, and Vehicles Obstructing the Passage of Fire Apparatus	\$100	Per Offense	Any Sworn Police Officer
3.6.2	Improper Use of Fire Alarms	\$100	Per Offense (in excess of 3 per year)	Any Sworn Police Officer

3.7.1	Use of Leashes	\$100	Per Offense	Any Sworn Police Officer
3.7.2	Disturbing the Peace	\$100	Per Offense	Any Sworn Police Officer
3.7.4	Restraint of Dogs	\$300	Per Offense	Any Sworn Police Officer
3.7.5	Uncontrollable Dogs	\$300	Per Offense	Any Sworn Police Officer
3.7.6.	Restricted Areas	\$100	Per Offense	Any Sworn Police Officer
3.7.7	Removal of Pet Waste	\$100	Per Offense	Any Sworn Police Officer
3.7.8	Off-Leash Areas	\$100	Per Offense	Any Sworn Police Officer
3.7.9	Vaccination Requirement	\$100	Per Offense	Any Sworn Police Officer
3.8	Noise Regulation	\$100	Per Offense	Building Commissioner or Designee
3.9	Public Nuisance Regulation	\$100	Every 30 days up to 60 days, then every 15 days	Director of Health of Health and Human Services or Designee
4.1.4	Failure to License	\$100	Per Offense	Any Sworn Police Officer
4.2	Public Carriages and Taxis	\$100	Per Offense	Any Sworn Police Officer
4.3	Fees, Registration Applicable to Flammables	\$300	Per Offense	Fire Chief or Designee
5	Sign By-Law	\$100	Per Offense	Building Commissioner or Designee
6	General Wetlands Protection	\$300	Per Offense	Conservation Agent
7	Stormwater	\$300	Per Day, after 15 days	DPW Director or Designee
	Violation of the Board of Health Regulations	\$300	Per Offense	Director of Health of Health and Human Services or Designee

	Violation of Zoning By-Laws	\$100 – 1 st Offense \$300 – each subsequent	Per Day	Building Commissioner
	Violation of Regulations for For-Profit Transient Vendors/Businesses; Hawkers & Peddlers; Door-to-Door Solicitations	\$100	Per Offense	Any Sworn Police Officer
NOTE: Enforcement entity may choose to issue a verbal or written warning to a violator before assessing a penalty.				

or take any other action relative thereto.

INSERTED BY: Select Board

FINANCE COMMITTEE RECOMMENDS THAT: Article be Adopted

Article Information: This article seeks to address administrative issues resulting from the serial nature of Town General By-Law (GBL) updates, specifically related to non-criminal dispositions, their penalties, and intended enforcement entities. As currently adopted, the GBL contains several inconsistencies, primarily: mismatches between individual by-law text and the penalty summary section of the GBL; by-laws with no clearly defined penalties; by-laws with conflicting enforcement entities; by-laws with no stated enforcement entities; outdated language; and combinations of the above. To address these inconsistencies, and to prevent the likelihood of similar issues occurring following any future amendment, this article seeks to amend the GBL by removing references to penalties and enforcement entities from the text of individual by-laws. All penalties and enforcement entities are proposed to be placed in a revised summary section, that will take the form of a table. The wide array of fines has been consolidated into three tiers: \$100 fine for violations that are general inconveniences (predominantly used as a deterrent), \$200 for violations that carry some risk of harm, and \$300 for violations that may cause lasting or irreparable harm. The maximum non-criminal fine allowed under State law is \$300.

ARTICLE 15: AMEND GENERAL BY-LAWS/SPECIALIZED ENERGY CODE

To see if the Town will vote to adopt the Municipal Opt-in Specialized Stretch Energy Code (the “Specialized Energy Code”) for the purpose of regulating the design and construction of buildings for the effective use of energy and reduction of greenhouse gas emissions, pursuant to the entirety of 225 CMR 22 and 23 including Appendices RC and CC, including future editions, amendments or modifications thereto, and to amend its General By-Laws by deleting Section 3.11 (Stretch Energy Code) in its entirety, and inserting in its place the text set forth below, provided that said adoption of the Specialized Energy Code and this amendment of the General By-Laws shall be effective as of July 1, 2024.

Section 3.11 SPECIALIZED ENERGY CODE

3.11.1 Definitions

International Energy Conservation Code (IECC) – The International Energy Conservation Code (IECC) is a building energy code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy efficiency, and is updated on a three-year cycle. The baseline energy conservation requirements of the MA State Building Code are the IECC with Massachusetts amendments, as approved by the Board of Building Regulations and Standards and published in state regulations as part of 780 CMR.

Specialized Energy Code – Codified by the entirety of 225 CMR 22 and 23 including Appendices RC and CC, the Specialized Energy Code adds residential and commercial appendices to the Massachusetts Stretch Energy Code, based on amendments to the respective net-zero appendices of the International Energy Conservation Code (IECC) to incorporate the energy efficiency of the Stretch energy code and further reduce the climate impacts of buildings built to this code, with the goal of achieving net-zero greenhouse gas emissions from the buildings sector no later than 2050.

Stretch Energy Code - Codified by the combination of 225 CMR 22 and 23, not including Appendices RC and CC, the Stretch Energy Code is a comprehensive set of amendments to the International Energy Conservation Code (IECC) seeking to achieve all lifecycle cost-effective energy efficiency in accordance with the Green Communities Act of 2008, as well as to reduce the climate impacts of buildings built to this code.

3.11.2 Purpose The purpose of 225 CMR 22.00 and 23.00 including Appendices RC and CC, also referred to as the Specialized Energy Code is to provide a more energy efficient and low greenhouse gas emissions alternative to the Stretch Energy Code or the baseline Massachusetts Energy Code, applicable to the relevant sections of the building code for both new construction and existing buildings.

3.11.3 Applicability The Specialized Energy Code applies to residential and commercial buildings.

3.11.4 Specialized Energy Code The Specialized Energy Code, as codified by the entirety of 225 CMR 22 and 23 including Appendices RC and CC, including any future editions, amendments, or modifications, is herein incorporated by reference into this section.

3.11.5 Enforcement The Specialized Energy Code is enforceable by the Building Commissioner.

3.11.6 Effective Date This Section 3.11 shall be effective as of July 1, 2024.

or take any other action relative thereto.

INSERTED BY: Select Board

FINANCE COMMITTEE RECOMMENDS THAT: Article not be Adopted

Article Information: This article would adopt the Massachusetts Specialized Energy Code as a Town by-law. Needham adopted the Stretch Energy Code in 2019, which established more efficient energy standards for buildings. This proposed by-law adds a new opt-in Specialized Energy Code that was created to ensure new construction meets State greenhouse gas limits and climate goals for 2025 – 2050.

The Specialized Energy Code applies only to new construction. Adopting the Specialized Code would increase energy efficiency, reduce heating loads, and advance electrification of new buildings compared to the Stretch Code. Use of fossil fuels, such as gas, propane and biomass, is permitted under the Specialized Code but comes with requirements for on-site solar generation and pre-wiring for future electrification of any equipment that uses fossil fuels. The Stretch Energy Code will continue to apply to existing buildings and those currently under construction.

New requirements under the Specialized Energy Code include: (1) new low-rise residential buildings (up to 3 stories) that use fossil fuels must be pre-wired to transition to all electric in the future and install solar panels (at least 4kW for a home <4,000 square feet and enough kW to achieve net zero for homes >4,000 square feet), (2) new multi-family buildings with 4+ stories and over 12,000 square feet must achieve Passivehouse certification (this is a design approach that focuses on the building envelope and mechanical systems to reduce energy demand), and (3) new commercial buildings that use fossil fuels must be pre-wired to transition to all electric in the future and install solar panels based on the size of the building. Under the Specialized Code, the solar requirement does not apply to any building that is all electric or achieves Passivehouse certification. For new low-rise residential and commercial buildings that are all electric, the requirements under the Stretch Code and the Specialized Code are the same.

Buildings account for about 64% of Needham's greenhouse gas emissions, with residential buildings contributing 37% and commercial buildings contributing 27% of total emissions. Achieving Net Zero emissions by 2050 will require efficiency upgrades and electrification of heating in buildings. Adoption of the Specialized Energy Code will ensure that new construction will reduce overall emissions and will contribute to the Town's efforts to address climate change locally. Across Massachusetts, 280 municipalities have adopted the Stretch Energy Code and 20 municipalities have adopted the Specialized Energy Code including Concord, Acton, Aquinnah, Arlington, Boston, Brookline, Cambridge, Concord, Lexington, Lincoln, Maynard, Newton, Northampton, Sherborn, Somerville, Stow, Truro, Watertown, Wellesley, Wellfleet, and Worcester.

The Specialized Code, if adopted, will apply to new municipal buildings. This is consistent with the preference of the Massachusetts School Building Authority, which provides additional reimbursement for projects complying with the Specialized Code. For other municipal buildings, complying with the Specialized Code for new construction is consistent with the vote of Town Meeting in October 2021, declaring a climate emergency and directing the Town to reduce its greenhouse gas emissions.

This article must be adopted as-is, without applying amendments or conditions. Passage of this article would approve all future editions and modifications of the Specialized Energy Code automatically, as updated by the Massachusetts Department of Energy Resources. If adopted, the Specialized Code would go into effect July 1, 2024.

**ARTICLE 16: FOSTER PROPERTY OPEN SPACE ZONING NON-BINDING
RESOLUTION**

To see if the Town will vote to support the concept of amending the Zoning By-Laws to allow for clustered development of a portion of the parcel located at 484 Charles River Street, containing 58.28 acres +/- as shown on Assessors Map 304, Block 0002, as approximately 70 townhome housing units, of which at least 5% would be affordable, provided that such zoning shall be consistent with the proposal to preserve (i) approximately half of 484 Charles River Street, (ii) 0 Charles River Street (as shown on Assessors Map 304, Block 0004), and (iii) 0 Charles River Street (Assessors Map 304, Block 005) collectively containing 34 acres +/- in Town ownership, and for which Town Meeting appropriated \$2.5 million at the October 2022 Special Town Meeting; or take any other action relative thereto.

INSERTED BY: Select Board

FINANCE COMMITTEE RECOMMENDS THAT: Article not be Adopted

Article Information: The Select Board is asking for the opinion of Town Meeting to determine whether to work with the Planning Board to propose a zoning amendment at a future Town Meeting that would allow for the implementation of the proposed development at Castle Farm (Foster Property) on Charles River Street.

The October 24, 2022, Special Town Meeting authorized the purchase of approximately 34 acres of this land to increase community access to the Charles River for \$2.5 million, and to provide walking trails and recreational opportunities for generations to come. The Town continues to work in collaboration with Northland Residential, who proposes to build a 70-unit cluster of townhouses on approximately 14 acres of the site. Four units (5%) were proposed to be affordable. A key component of this land use plan is to cluster all residential development of Castle Farm within this limited footprint, to maintain an additional 14 acres of buffer around the residential construction for the benefit of neighbors and views from the scenic road, and to preserve the remaining 34 acres untouched by development or construction.

Before presenting the project to Town Meeting in October 2022, both the Town and Northland received confirmation from the Department of Housing and Community Development (now the Executive Office of Housing and Livable Communities, HLC) that a Local Initiative Program (LIP, or “friendly 40B”) application with 5% of the units being affordable would be eligible for approval. HLC also indicated that there is no law or regulation that specifically requires a LIP project to contain 25% affordability; that threshold is HLC practice only. Therefore, the expectation at the time was that this project could proceed by way of a comprehensive permit, without local zoning in place to authorize the type of cluster/open space development under discussion. This past spring, however, HLC informed the Town that it will not issue a project eligibility letter for a LIP comprehensive permit project containing fewer than 25% of the units as affordable.

The negotiated purchase price for the Foster Property, and the parties’ respective contributions toward that purchase price, were premised on Northland’s ability to permit a 70-unit residential

development, with 5% of those units being sold as affordable. Northland has stated that a project containing 25% affordability, which increases the number of affordable units from 4 to 18, without a corresponding reduction in the purchase price or a significant increase in the number of market rate units, renders the project economically infeasible.

The Select Board is committed to this project at Town Meeting's direction and recognizes that the Town is at a crossroads with respect to the future use and development of Castle Farm. One option to achieve the goal of implementing the proposed use of Castle Farm is to adopt new zoning that allows for cluster development with open space, rather than pursue the project through a LIP. The Select Board has included this article on the Special Town Meeting warrant to get direction on this question directly from Town Meeting. This article will also provide the sellers with a measure of the Town's continued interest in the project, given that Town Meeting would not consider an actual zoning amendment until May 2024, and the sellers will otherwise lack any indication as to whether this proposed future use of the property is a possibility before then.

A yes vote on this article means that the Select Board will ask the Planning Board to take up zoning to allow for clustered residential development and open space preservation of this parcel using the typical zoning process. A no vote means that the Select Board will not continue to pursue a zoning option to allow for the use described above, and development options will remain limited to the underlying single family zoning permitting the construction of approximately 25 single family homes.

And you are hereby directed to serve this Warrant by posting copies thereof in not less than twenty public places in said Town at least fourteen (14) days before said meeting.

Hereof fail not and make due return of this warrant with your doings thereon unto our Town Clerk on or after said day and hour.

Given into our hands at Needham aforesaid this 26th day of September 2023.

Marianne B. Cooley, Chair
Kevin Keane, Vice Chair
Heidi Frail, Clerk
Marcus A. Nelson, Member
Catherine Dowd, Member

Select Board of Needham

A TRUE COPY

Attest:

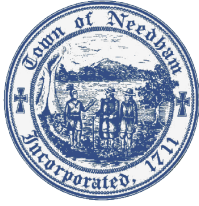
Constable:

Status of Articles 10/11/2023
October 30, 2023 Special Town Meeting

#	Article	Status	SB Position	FC Position	SB	FC	CPC	Planning
1	Appropriate for Roadway Improvements (Eversource)		Adopt	Adopt	Heidi	Barry		
2	Appropriate for Youth Health Initiatives (Children's Hospital Community Benefit Payment)		Adopt	Adopt	Kevin	Carol		
3	Appropriate for Intersection Improvements (Children's Hospital)		Adopt	Adopt	Kevin	Barry		
4	Appropriate for Opioid Settlement Fund Planning		Adopt	Adopt	Kevin	Carol		
5	Amend the FY2024 Operating Budget		Adopt	Adopt	Marianne	Louise		
6	Amend the FY2024 Sewer Enterprise Fund Budget		Adopt	Adopt	Marcus	Carli		
7	Amend the FY2024 Water Enterprise Fund Budget		Adopt	Adopt	Marcus	Carli		
8	Appropriate for Unpaid Bills of a Prior Year		Adopt	Adopt	Marcus	Carli		
9	Appropriate for General Fund Cash Capital		Adopt	Adopt	Cathy	Karen		
10	Appropriate for Sewer Enterprise Fund Cash Capital		Adopt	Adopt	Cathy	Karen		
11	Appropriate for Water Enterprise Fund Cash Capital		Adopt	Adopt	Cathy	Karen		
12	Transfer of Surplus Bond Proceeds		Adopt	Adopt	Heidi	Josh		
13	Rescind Debt Authorization		Adopt	Adopt	Heidi	Josh		
14	Amend General By-laws – Non-Criminal Disposition		Adopt	Adopt	Cathy	Josh		

Status of Articles 10/11/2023
October 30, 2023 Special Town Meeting

15	Amend General By-laws – Specialized Energy Code			Article Not Be Adopted	Marianne	Louise		
16	Foster Property Open Space Zoning Non-Binding Resolution		Adopt	Article Not Be Adopted	Marianne	John		

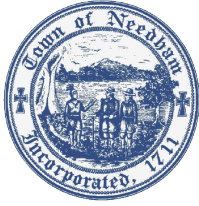


**Select Board
TOWN OF NEEDHAM
AGENDA FACT SHEET**

10/24/2023

Agenda Item	Town Manager's Report
Presenter(s)	Kate Fitzpatrick, Town Manager

1.	BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED
	The Town Manager will update the Board on issues not covered on the agenda.
2.	VOTE REQUIRED BY SELECT BOARD
	N/A – Discussion Only
3.	BACK UP INFORMATION ATTACHED
	None



**Select Board
TOWN OF NEEDHAM
AGENDA FACT SHEET**

MEETING DATE: 10/24/2023

Agenda Item	Open Meeting Law Complaint
Presenter(s)	Board Discussion

1.	BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED
The Board received a complaint filed with the Office of the Attorney General by Greg Darish alleging that the Board violated the Open Meeting Law by meeting in executive session on September 11, 2023, improperly noticing this executive session, failing to maintain adequate minutes, and deliberating outside of a public meeting. In accordance with M.G.L. c. 30A, the Board is required to issue a response to the complaint within 14 business days.	
2.	VOTE REQUIRED BY SELECT BOARD
Suggested Motion: That the Board authorize Town Counsel to prepare and submit a response to the Open Meeting Law complaint.	
3.	BACK UP INFORMATION ATTACHED
a. Open Meeting Law Complaint filed by Greg Darish	



The Commonwealth of Massachusetts
Office of the Attorney General
One Ashburton Place
Boston, Massachusetts 02108

OPEN MEETING LAW COMPLAINT FORM

Instructions for completing the Open Meeting Law Complaint Form

The Attorney General's Division of Open Government interprets and enforces the Open Meeting Law, Chapter 30A of the Massachusetts General Laws, Sections 18-25. Below is the procedure for filing and responding to an Open Meeting Law complaint.

Instructions for filing a complaint:

- o Fill out the attached two-page form completely and sign it. File the complaint with the public body within 30 days of the alleged violation. If the violation was not reasonably discoverable at the time it occurred, you must file the complaint within 30 days of the date the violation was reasonably discoverable. A violation that occurs during an open session of a meeting is reasonably discoverable on the date of the meeting.
- o To file the complaint:
 - o For a local or municipal public body, you must submit a copy of the complaint to the chair of the public body **AND** to the municipal clerk.
 - o For all other public bodies, you must submit a copy of the complaint to the chair of the public body.
 - o Complaints may be filed by mail, email, or by hand. Please retain a copy for your records.
- o If the public body does not respond within 14 business days and does not request an extension to respond, contact the Division for further assistance.

Instructions for a public body that receives a complaint:

- o The chair must disseminate the complaint to the members of the public body.
- o The public body must meet to review the complaint within 14 business days (usually 20-22 calendar days).
- o After review, but within 14 business days, the public body must respond to the complaint in writing and must send the complainant a response and a description of any action the public body has taken to address it. At the same time, the body must send the Attorney General a copy of the response. The public body may delegate this responsibility to its counsel or a staff member, but only after it has met to review the complaint.
- o If a public body requires more time to review the complaint and respond, it may request an extension of time for good cause by contacting the Division of Open Government.

Once the public body has responded to the complaint:

- o If you are not satisfied with that the public body's response to your complaint, you may file a copy of the complaint with the Division by mail, e-mail, or by hand, but only once you have waited for 30 days after filing the complaint with the public body.
- o When you file your complaint with the Division, please include the complaint form and all documentation relevant to the alleged violation. You may wish to attach a cover letter explaining why the public body's response does not adequately address your complaint.
- o The Division will not review complaints filed with us more than 90 days after the violation, unless we granted an extension to the public body or you can demonstrate good cause for the delay.

If you have questions concerning the Open Meeting Law complaint process, we encourage you to contact the Division of Open Government by phone at (617) 963-2540 or by e-mail at openmeeting@state.ma.us.



OPEN MEETING LAW COMPLAINT FORM

Office of the Attorney General
One Ashburton Place
Boston, MA 02108

Please note that all fields are required unless otherwise noted.

Your Contact Information:

First Name: Gregg Last Name: Darish

Address: [REDACTED]

City: [REDACTED] State: MA Zip Code: [REDACTED]

Phone Number: [REDACTED] Ext. [REDACTED]

Email: [REDACTED]

Organization or Media Affiliation (if any): [REDACTED]

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?

(For statistical purposes only)

☒ Individual ☐ Organization ☐ Media

Public Body that is the subject of this complaint:

☒ City/Town ☐ County ☐ Regional/District ☐ State

Name of Public Body (including city/town, county or region, if applicable): [REDACTED]

Specific person(s), if any, you allege committed the violation: [REDACTED]

Date of alleged violation: 09/11/2023

Description of alleged violation:

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

See Attached.

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

Release and publish the minutes of this E.S. as well as a statement identifying every person present in any manner for the E.S.
Also, Produce any video or audio recording of the E.S., or if none exist, reconstruct of a full record of the Executive Session including fully identifying who spoke and disclosing what each person said.
Produce notes taken by anyone present in any manner at the E.S.
Produce a record of motions made and votes taken during E.S.

Review, sign, and submit your complaint

I. Disclosure of Your Complaint.

Public Record. Under most circumstances, your complaint, and any documents submitted with your complaint, is considered a public record and will be available to any member of the public upon request.

Publication to Website. As part of the Open Data Initiative, the AGO will publish to its website certain information regarding your complaint, including your name and the name of the public body. The AGO will not publish your contact information.

II. Consulting With a Private Attorney.

The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

III. Submit Your Complaint to the Public Body.

The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to openmeeting@state.ma.us.

By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed: _____

Date: 10/11/23

For Use By Public Body

Date Received by Public Body:

For Use By AGO

Date Received by AGO:

At 5:00 p.m. on September 11, 2023, the Select Board held an executive session citing exception 3 of OML. The notice for this meeting stated: "Executive Session, Exception 3: To Discuss Potential Litigation Relative to 1688 Central Avenue." The Board violated the OML by holding this session, improperly noticing the session and failing to maintain adequate minutes. Further, the Board deliberated outside of its public meetings.

This executive session was improper because there was no litigation clearly or imminently threatened or otherwise demonstrably likely involving the Select Board regarding 1688 Central Avenue such that a deliberation by the Select Board would fall within Exception 3. There **was** ongoing litigation against the Planning Board regarding the Planning Board approval of a development project at 1688 Central Avenue and the executive session in fact was meant to consider strategy with respect to that litigation (specifically how to respond and whether to appeal the adverse judgment of the Land Court). The Planning Board is an independent, elected board who was represented by separate counsel. Nothing in State Law or the Town Bylaws gives the Select Board any authority with regard to deciding strategy in the defense of litigation against the Planning Board.

This meeting was held outside of the normal schedule of Select Board meetings and did not include the usual citizen comment period. While the September 11 meeting was noticed by the Select Board as a joint session of the Select Board and the Planning Board, this is not a case where the board who is properly holding an executive session invites another board into that executive session. The facts make clear that this was a Select Board meeting to which the Planning Board was invited. The Select Board (and not the Planning Board) noticed the meeting, the Select Board chair (and not the Planning Board chair) ran the meeting, and the Select Board Chair announced that the meeting was entering into the executive session agenda item and directed the Planning Board chair to poll his board. The Select Board made its own motion and held its own vote to enter into executive session and the Select Board (and not the Planning Board) published minutes of the open session portion of the meeting. Statements made during open meeting make clear the Board was entering its own executive session in order to discuss the litigation against the Planning Board. When a member of the public asked about the need for executive session, Town Counsel (who was not the attorney representing the Planning Board members in the litigation) stated "we will be discussing the trial court decision and whether or not to appeal that decision." The Select Board Chair then stated, "We have declared it is taking place under exception 3. The advice we have is that it is an appropriate mechanism." The Select Board Chair subsequently made a motion to convene the Select Board into executive session to discuss the pending litigation with the Planning Board. (See <https://youtu.be/iDWOmD-n1aI?si=Hx7o6xNywgjKmV3P&t=1590> at 26:30 and 27:36)

Further, the notice of executive session was defective. The Select Board meeting notice cited "potential litigation involving 1688 Central Avenue," as the basis for Executive Session, suggesting the possibility of new litigation. There was in fact no **potential** litigation being considered by any board. There only was pending litigation against the Planning Board. Had the Planning Board intended to invite the Select Board to *the Planning Board's* executive session, the notice needed to clearly state so.

Also, the Select Board's minutes inaccurately and insufficiently record the meeting's events and the Board's actions. The minutes do not record the comments by the Chair regarding the purpose of the meeting outlined above, nor the Select Board Chair's motion to enter executive session, nor the Select Board's vote on that motion. Anyone reading the minutes would not have an accurate and complete understanding of the events which took place at the meeting.

Finally, the decision to address the pending litigation, to enter into the executive session and its purpose was never discussed or voted upon at a public meeting. The Board must have deliberated outside of its public meetings in order to decide to hold this joint session.

These violations of Open Meeting Law exist in the context of the fact that the Select Board had previously declared that the Select Board had no role in the Planning Board matter on 1688 Central Avenue. It made this declaration as a way of addressing concerns raised about the fact that *it was the Chair of the Select Board's own LLC* (1) seeking a permit from the Planning Board for his client and then (2) suing the Planning Board in Land Court to appeal the Planning Board's use of conditions to protect Needham's own municipal interests. That the Select Board would proceed to insert itself into the decision which ultimately resulted in the Planning Board giving up a legitimate appeal of the judgment against the Planning Board in favor of the (now former) Chair of the Select Board, and that it did so in violation of Open Meeting Law, is deeply concerning.

SELECT BOARD AGENDA

Special Joint Meeting With Planning Board

5:00 p.m. September 11, 2023



Needham Town Hall Great Plain Room & Zoom

Pursuant to Chapter 2 of the Acts of 2023, meetings of public bodies may be conducted virtually provided that adequate access is provided to the public.

To listen and view this virtual meeting on a phone, computer, laptop, or tablet, download the "Zoom Cloud Meeting" app in any app store or at www.zoom.us. At the above date and time, click on "Join a Meeting" and enter the meeting or click the link below to join the webinar:

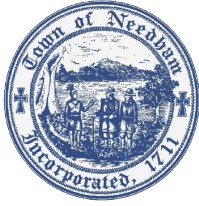
Link:

<https://us02web.zoom.us/j/81845936322?pwd=ZHNkeERYTlprTE45eWlpd3lsNkdTZz09>

Webinar ID: 818 4593 6322

Passcode: 052151

1.	5:00	Discuss Special Town Meeting Draft Warrant Article: "Foster Property Open Space Zoning Non-Binding Resolution"
2.	5:10	Executive Session, Exception 3: To Discuss Potential Litigation Relative to 1688 Central Avenue



**Select Board
TOWN OF NEEDHAM
AGENDA FACT SHEET**

MEETING DATE: 10/24/2023

Agenda Item	Committee Reports
Presenter(s)	Board Discussion

1.	BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED
Board members may report on the progress and/or activities of their Committee assignments.	
2.	VOTE REQUIRED BY SELECT BOARD
N/A – Discussion Only	
3.	BACK UP INFORMATION ATTACHED
None	

**Town of Needham
Joint Meeting
Select Board and Planning Board
Minutes for Monday, September 11, 2023
Needham Town Hall
and
Via YouTube**

5:00 p.m. Call to Order:
A joint meeting of the Select Board and Planning Board was convened by Chair Marianne Cooley. Those present were Kevin Keane, Heidi Frail, Marcus Nelson (via Zoom), Catherine Dowd, Adam Block, Jeanne McKnight, Artie Crocker, Paul Alpert (via Zoom at 5:15), and Town Manager, Kate Fitzpatrick.

5:01 p.m. Special Town Meeting Draft Warrant Article - Foster Property Open Space Zoning Non-Binding Resolution:

Ms. Cooley explained the Select Board placed the item into the draft Special Town Meeting Warrant, noting the Foster property continues to be challenging to bring to a close. She commented that Town Meeting a year ago expressed their strong support, voting to provide funding for the acquisition of 34 acres of open space at a price of \$2.5 million. She said the transaction has not occurred and a draft development agreement was never filed. Ms. Cooley commented on the number of affordable units changing to 25% from 5% under a LIP, per state requirements. She said all possible options continue to be pursued including a rezoning of the parcel (484 Charles River Street). She said zoning is different from what was presented to Town Meeting a year ago, noting Town Meeting should have the opportunity to weigh in again. She noted additional funding is not being sought by the Town, just the opinion of Town Meeting as to whether the Town should continue making the investment of time in acquiring the open space.

Mr. Block said the Planning Board has not had the opportunity to review or discuss the draft resolution until now.

Mr. Crocker said questions remain including the percentage of affordable housing and who will fund infrastructure upgrades along Charles Rivers Street related to the project.

Ms. Cooley said it would be expected that zoning changes would go through a regular zoning process, should the Select Board ask the Planning Board to take up the zoning, including holding public hearings.

Mr. Block pointed out that as with any other developer, they would be responsible for the costs of mitigation.

Mr. Crocker claimed that this was not what was stated last year, perhaps because the developer thought the project would go through a LIP. He stated the developer said they would not pay for infrastructure costs. Mr. Crocker said bringing any housing to Needham is necessary and great, yet questioned the percentage of affordable housing and to make sure there is enough buffer between the residents on Whitman Road and the project.

Ms. Cooley and Mr. Block concurred zoning would be specific on the amount of buffer and setback requirements (100 ft.) that might be required for the project, which was committed to previously.

Mr. Crocker said 100 ft is not enough setback between the neighbors and the project.

Ms. McKnight said she is not sure there is a plan approved by the Planning Board expressly stating access should be provided to the Charles River and that protecting the areas around the river is an important goal. She commented on a conservation easement and public access on a separate subdivision project the Planning Board worked on. She said she has followed the Charles River Street project closely and was very surprised that the state would approve a local initiative project with only 5% affordability. She commented that to hear the state will not approve the project unless there is 25% affordability does not surprise her. Ms. McKnight expressed concern over the town goal of uniformly applying a 12.5% affordability requirement throughout town, and is torn about getting away from that percentage on this project because the town wants to acquire the land. She wondered if any discussions were had with the proposed developer or land sellers asking if 12.5% would work?

Ms. Cooley stated 12.5% would be a less economically viable project and would require additional funding from the town, or the seller would have to cut the price. She said economics comes from a variety of factors, which would have to change in order to make 25% affordability possible.

Ms. McKnight concurred rezoning would likely be the kind the town typically does prior to the Planning Board recommending adoption. She said she assumes the zoning would require a special permit by use.

Discussion ensued on the Finance Committee, preliminary discussion, and the resolution.

Mr. Block stated Mr. Crocker and Ms. McKnight are speaking about a specific mechanics of the construction of the zoning bylaw, which is not currently contemplated. He said the current discussion is whether the Town Meeting will approve the non-binding resolution that the Planning Board take up zoning in an ordinary zoning planning process in time for the Annual Town Meeting.

Discussion ensued on time necessary to prepare a draft resolution of the zoning by-law, resolve the framework for the dimensional regulations, proposed language, and to hold a public hearing to bring zoning to May Town Meeting.

Mr. Block reiterated Town Meeting approved the authorization, for the global purpose for the benefit of the whole of the town, of acquiring 34 acres of open land to be made available as public land for use by residents including access to the Charles River. He said having that municipal benefit removes a question that some may have had about spot zoning, noting Town Meeting is a legislative, representative body of the Town, and if this is resolved in October by resolution, it behooves the Board to take it up.

Mr. Crocker said he is unsure how having public land as part of the deal takes away from the fact that it's spot zoning. He stated a traffic study of the area would be necessary, and that many other things need to be done for the May Town Meeting. Mr. Crocker said he is unsure whether there is enough time to do things correctly. He commented on a lower section of the property, wondering how much of the property is actually developable. He noted the developer could contemplate giving the Conservation Commission any undevelopable land, noting the town would, therefore, not have to pay taxes on that land. Mr. Crocker concluded he does not believe that question has been finalized.

Mr. Block said to Ms. Newman, Director of Planning that it might be helpful to find alternative resources, if necessary, in order to help with the preparation of the zoning bylaws to make May Town Meeting work.

Discussion ensued on the question of developable land.

Ms. Cooley offered to attend a Planning Board meeting, noting the purpose of meeting tonight was to provide a brief update.

Mr. Block suggested Town Counsel could have a conversation about the legal standard for spot zoning. He asked Mr. Crocker and Ms. McKnight "if the Town Meeting desires and approves the non-binding resolution to advance zoning at the following Town Meeting, will the Zoning Board take it up?" Ms. McKnight said she would agree, however she said she is hesitant if the resolution specifically states 5% affordability, saying more discussion is needed.

Mr. Crocker said it makes sense to take it up, noting the vote is a mandate, per se, as the Town Meeting already voted they wanted to do something. He said it also makes sense to take it up to see what the town can do to preserve space and for the affordable housing component.

Ms. Cooley said it is also important to take up the question for the seller to understand whether the Town remains interested in this process as well, or that they could decide to put the property back on the market for single family homes to clear

cut the site, noting there would not be the setbacks of the type Mr. Crocker is referencing.

Mr. Crocker stated he does not fear what might happen, but understands it is possible.

Discussion ensued on access to the Charles River, as brought up by Ms. McKnight and the Conservation Commissions' desire for the Town to acquire the parcel of land.

Ms. McKnight said the land is beautiful and wants the town to acquire it, but she is torn.

5:23 p.m. Executive Session: Exception 3 (Potential Litigation) relative to 1688 Central Avenue, Needham

Motion by Mr. Crocker that the Planning Board convene an Executive Session for the purpose of discussing strategy with respect to litigation, namely Needham Enterprises Inc. vs. Needham Planning Board, Land Court Miscellaneous Case #22 MISC 000158, where the Chair declares that doing so in Open Session will have a detrimental impact on the Planning Board's litigating position, with said Executive Session to include the Select Board, and to adjourn at the conclusion of the Executive Session without returning to Open Session.

Second: Ms. McKnight.

Christopher Heep, Town Counsel was asked, with consent of and through the Chairs, by resident Peter O'Neill "what the detrimental effect would be on the litigating position of the public body?"

Attorney Heep stated that discussion is expected to involve the decision of the trial court in this case, and whether or not to pursue or not an appeal of that decision. He said an open session would disclose to the public, among other things, counsel's analysis of the decision and the underlying law, and that such a discussion is properly conducted in Executive Session.

Motion approved 3-0-1 by roll call vote. Mr. Alpert abstained.

Motion by Mr. Keane that the Select Board convene an Executive Session for the purpose of discussing strategy with respect to litigation, namely Needham Enterprise's Inc. vs. Needham Planning Board, Land Court Miscellaneous Case #22 MISC 000158, where the Chair declares that doing so in Open Session will have a detrimental impact on the Planning Board's litigating position, with said Executive Session to include the Planning Board, and to adjourn at the conclusion of the Executive Session without returning to Open Session.

Second: Ms. Dowd.

Motion 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>

Town of Needham

Needham Branding & Town Seal Committee

Charge & Composition

Type:	Ad hoc
Legal Reference:	Select Board Vote
Appointing Authority:	Select Board
Number of Voting Members:	Ten (10) Nine (9)
Term of Appointment	FY2024
Special Municipal Employee	Yes
Staff Support	Office of the Town Manager

Members	Year Appointed	Term Expiration
Kevin Keane	2023	6/30/2024
Reade Everett	2023	6/30/2024
Gloria Greis	2023	6/30/2024
Topher Cox	2023	6/30/2024
Cynthia Ganung	2023	6/30/2024
Amber Autumn Sun Orlando	2023	6/30/2024
Kate Fitzpatrick	2023	6/30/2024

Composition:

- Town Moderator/Designee
- One Current Member of the Select Board*
- One Current Member of the Historic Commission

- One Representative of the Needham History Center & Museum
- One representative of the Needham Council for Arts and Culture
- One Representative of the Human Rights Committee
- One Citizens at Large with experience in visual communication
- One representative of the Massachusetts Natick Praying Indians
- The Town Manager (ex officio)*
- **The Town Clerk (ex officio)***

* Regular municipal employees serving on the Committee remain regular municipal employees, even though the committee members are designated as special municipal employees

Purpose:

The Select Board has determined that the Town seal is used in ways that are not appropriate. The Needham Branding & Town Seal Committee will provide input to the Select Board and the Town in the development of a Town logo and will make recommendations relative to the quality and appropriateness of the existing Town Seal.

Charge:

- The Committee will develop a recommended Town logo.
- The Committee will review existing uses of the Town Seal and recommend strategies and a timeline for converting non-mandatory uses of the Town Seal to a Town logo.
- The Committee will review official Town communication and make recommendations for standardization.
- The Committee will review the quality and accuracy of the existing Town Seal artwork and make recommendations for improvement.
- The Committee will review the appropriateness of the existing Town Seal and will make recommendations for changes, if appropriate.

Charge Adopted: 8/15/2023 Charge Revised: 10/24/2023

SME Status Voted: 8/15/2023