

**Town of Needham
Board of Selectmen
Minutes for May 11, 2010
Public Services Administration Building**

6:45 p.m. Informal Meeting with Citizens: No Activity

7:00 p.m. Call to Order:
A meeting of the Board of Selectmen was convened by Chairman John A. Bulian at 7:00 p.m. Those present were Gerald A. Wasserman, Daniel P. Matthews, Denise C. Garlick, Maurice P. Handel, Town Manager Kate Fitzpatrick, and Recording Secretary Mary Hunt.

7:00 p.m. Proclamation – “Needham Bikes Week”:
The Board of Directors of Needham Bikes, including Tad Staley, Kurt Mullin, and Gary Levine appeared before the Board of Selectmen. Mr. Bulian read a proclamation declaring May 17, 2010 to May 23, 2010 to be Bike Week in Needham, Massachusetts.

Motion by Mr. Matthews that the Board of Selectmen vote to sign a proclamation declaring May 17, 2010 to May 23, 2010 to be Bike Week in Needham, Massachusetts.

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

Tad Staley thanked the public for its support of the bike plan and invited the public to several events including a sign unveiling ceremony, bike tune-up workshop, used bicycle exchange, and tour de Needham, all at Broadmeadow School on Saturday, May 22, 2010 from 1 p.m. - 4 p.m.

7:00 p.m. HST Lessee Needham LLC d/b/a Sheraton Needham Hotel:
Bill Young, proposed General Manager appeared before the Board for a hearing as required in response to a request for a change in manager for HST Lessee Needham LLC d/b/a Sheraton Needham Hotel, 100 Cabot Street.

Mr. Matthews welcomed Mr. Young to Needham and noted his strong hotel managerial background in hospitality. Mr. Matthews reiterated Needham’s status as a historically dry town, and stated he wants Mr. Young to succeed, but that there are rules and regulations that must be followed to ensure the safety of residents and visitors. Mr. Young commented he understands and takes all the rules and regulations very seriously, and that he is happy to be working in Needham.

Motion by Mr. Wasserman that the Board of Selectmen approve and sign an application, for a change in manager, submitted by Bill Young

for Sheraton Needham Hotel and to forward this application to the ABCC for approval.

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

7:05 p.m. Public Hearing – Cable Television Final License Transfer Hearing:

Jonathan Tamkin, Chairman of the Needham Cable Advisory Committee, Richard Wadman, Senior Vice President and General Manager RCN-BecoCom, Inc., Tom Steele, Vice President and Regulatory Counsel RCN, and Todd Wells, legal counsel representing ABRY Partners appeared before the Board to discuss the transfer of the cable television license from RCN to ABRY Partners.

Mr. Bulian read a prepared opening statement and asked those before him to introduce themselves, followed by a question and answer session.

Tom Steele, Vice President at RCN, stated RCN service came to Needham a little over 10 years ago, and since then RCN has been continually upgrading the system and now offer full digital cable to the Town. He stated there is over 320 miles of fiber which has proven to be a good resource for the Town. In addition Mr. Steele is pleased the INET service kept functioning for the Town Hall move to its current temporary location, and that he worked closely with Dave Davison and Roger McDonald on the project.

Todd Wells, legal counsel for ABRY Partners, stated he has been legal counsel for many years and has participated and been involved in multiple transfers. Since inception in 1989, Mr. Wells commented there has been \$121 billion in transactions, and that ABRY is very excited about this transaction because it continues their business plan with great managerial and financial expertise to take RCN to the next level as a world class player.

Mr. Matthews asked for a brief overview of the FCC Form 394 transfer request, and when will ABRY, as Transferee, actually assume control of the Needham Cable System? Mr. Wells stated Form 394 is a very specific form relating to the technical, financial, legal, and management abilities to operate RCN system. Mr. Wells stated it is the key to the end, in that when ABRY acquires RCN, RCN will go from RCN-BecoCom, Inc. to RCN-BecoCom LLC. Mr. Wells commented that the people at the table and at RCN will be those the Town continues to deal with on a daily basis. Mr. Wells stated the anticipated closing date is mid-August 2010.

Ms. Garlick asked why ABRY believes that it has the management experience and staff to assume control of the Needham Cable System? Mr. Wells commented it starts with the people at the table and the intent is

to use the very skillful management team at RCN. He stated the people at the table will continue operating the system.

Ms. Garlick asked which personnel at ABRY will be responsible for cable television regulatory affairs and interacting with the Town of Needham? Mr. Wells stated that Mr. Steele will be responsible for the regulatory affairs and interacting with the town.

Mr. Wasserman asked why ABRY believes that it has the legal ability to operate a cable system under the existing license? Mr. Wells stated that all entities are Delaware corporations or LLC's, and that all are licensed to do business in the Commonwealth of Massachusetts. This, he said, completes the legal requirements of Form 394.

Mr. Wasserman also asked why should the Town of Needham complete Form 394? Mr. Wells said completing Form 394 would be an excellent result for subscribers of RCN in Needham. He stated bringing the technical and financial people together has the makings for a world class offering.

Mr. Handel asked why ABRY believes that it has the financial capability to assume control of the Needham Cable System? Mr. Wells stated ABRY has completed \$21 billion of this transaction. \$531 million acquiring RCN and assumed \$669 million in debt for a total of \$1.2 billion. The debt financing is already secured. He commented equity is funded by ABRY. RCN would go from a public company to a private corporation, allowing more ability to focus on customers.

Mr. Handel asked why ABRY believe it has the technical expertise to assume control of the Needham Cable System? Mr. Wells stated there is a whole group of people who have operated the system for the last 10 years who will continue with the organization, as certified in Form 394.

Mr. Bulian invited Jonathan Tamkin, Chairman of the Needham Cable Advisory Committee, to offer his comments on the negotiations that have taken place thus far. Mr. Tamkin stated the Cable Television Advisory Committee met on April 26 to review the application and discussed the last 10 years. Mr. Tamkin offered a historical perspective stating that when RCN filed for bankruptcy, Mr. Tom Steele and RCN came to the Advisory Committee for relief, which the town accommodated. Mr. Tamkin commented that working with Tom Steele and the management team has been a pleasure. For the record, Mr. Tamkin referred to a letter from Mr. Mark Mandel, Director of the Needham Channel, who is concerned about the band width and quality of the high definition picture. Mr. Tamkin stated that while this is an issue, it does not necessarily need to be addressed in the context of the transfer. Mr. Bulian asked Mr.

Tamkin if he is comfortable with the relationship with ABRY. Mr. Tamkin stated he would like to understand from the ABRY perspective the INET and how to protect against another calamity like the RCN bankruptcy, as it is important to the town and asked Mr. Wells for clarification.

Mr. Wells stated that Rob MacInnis has certified that ABRY will comply with all conditions, terms, and ordinances of the town. He commented that while it is an important question, it is just as important to note that by bringing a sophisticated financial partner like ABRY to the table it should be less of a concern and bring comfort. Mr. Wells concluded the transfer is positive for the city, town, state, and residents.

Mr. Tamkin informed the Board they should be aware the first ABRY hearing was held in Natick last night. So far, he stated there has been no approval or rejection. Mr. Wells commented Form 394 has been filed and talks are being scheduled with several town hearings coming up. He stated that Natick was the first and in his opinion it went very smoothly and he expects a positive outcome when Natick takes action sometime within the next 2 weeks.

Mr. Bulian asked if there was any member of the public who wished to speak on this topic. There was no comment.

Mr. Bulian asked if Town Manager, Kate Fitzpatrick had any questions or comments. She did not.

Mr. Tamkin stated he officially recommends the Board of Selectmen to approve the transfer to ABRY once it has had a chance to deliberate.

Mr. Handel questioned whether the transfer will be seamless for subscribers? Mr. Wells replied yes, it would be a seamless transition with no program changes initially, but perhaps some program enhancements at a later date.

Ms. Garlick thanked Mr. Tamkin for all of his work and his recommendation to the Board, and asked if there have been discussions on improving quality. Mr. Tamkin stated the town has the benefit over the next 7 or 8 months to decide whether to grant a renewal license. He commented that Needham is a town which devotes a lot of time to local television programming and the quality of the picture and volume must be improved. He stated that while quality is important, he is not sure it is critical to delay a transfer, but for a license agreement it is an important issue.

Mr. Wasserman asked whether ABRY anticipates leaving the current management in place? Mr. Wells said yes, and this information was certified in Form 394 and it is the intention of the management team to keep the core group together.

Mr. Tamkin stated from a historical perspective, the same team has been in place and it has been consistent in management, government relations, and technological people. Mr. Tamkin commented it is important the Board of Selectmen see consistency.

Mr. Bulian asked if there were any further comments or questions.

Mr. Handel mentioned he has worked with Mr. Steele and that is has his confidence. Mr. Bulian concurred.

Mr. Bulian thanked everyone for attending the public hearing and closed the hearing until Tuesday, May 25, 2010 for receipt of follow-up written testimony and follow-up responses from RCN and/or ABRY. Interested parties may submit such written testimony to the Board of Selectmen no later than May 18, 2010.

7:40 p.m.

Consent Agenda:

Motion by Mr. Wasserman that the Board of Selectmen vote to accept the Consent Agenda as presented.

CONSENT AGENDA

1. Approve the calendar year 2010 Spring Licenses as follows. This approval is predicated on the receipt of all completed required paperwork before May 6, 2010.

Establishment / License Type

Needham Bowl-A-Way, Inc. / Bowling Alley

Veteran's Taxi of Newton, LLC / Taxi/Livery

Lt. Manson H. Carter Post 2498 VFW / Pool Table

Building Association, Inc.

Second Time Around / Sale of Second Hand Articles

Closet Exchange – Best of the Mall / Sale of Second Hand Articles

Closet Exchange – Designer & Boutique/ Sale of Second Hand Articles

Closet Exchange – Consignment Drop Off /

Sale of Second Hand Articles

Closet Exchange – Last Chance Store / Sale of Second Hand Articles

Crosby Jewelers, Inc. / Sale of Second Hand Articles

Janet Cotter Design / Sale of Second Hand Articles

2. Approve Ratify a One Day Special Wine & Malt Beverage license request from John Comando of Neponset Winery to host a wine tasting on Thursday, May 6, 2010 at Perennial Designs, 117 Chestnut Street, Needham from 5:30 pm to 8:00 pm.

3. **Accept the following donations made to the Needham Health Department's Domestic Violence Action Committee Fund from: Louise Condon- \$50.00, Louise Condon Realty- \$50.00, Patricia B. Leonard- \$25.00, Ann C. MacFate- \$50.00, Lynn & Stephen Baum- \$100.00, Karen L. Goldsmith- \$10.00, Paula Collins Mazzion- \$25.00, Richard P. Gotthardt- \$10.00, Lawrence & Valerie Kistler- \$25.00, Carole Aronson- \$25.00, Lynne Weinstein- \$30.00, Mariele Forte- \$50.00, Jeffrey & Joanne Adams- \$50.00, Marilyn G. Brooks- \$50.00, Magda Butnaru- \$60.00, Monica Graham- \$75.00, Dr. Alan Stern- \$100.00.**
4. **Approve the following updated Board of Selectmen's policies: BOS-DIS-001 Displays on Town Property; BOS-DIS-002 Proper Half-Staff Display of the Flag of the United States; and BOS-DIS-003 Naming of Facilities and Placement of Materials.**
5. **Approve minutes from April 6, 2010 (Open & Executive), April 20, 2010 (Executive Only), April 27, 2010 (Open & Executive), May 3, 2010 and May 5, 2010.**
6. **Water & Sewer Abatement Order No. 1105**
7. **Grant permission for the following residents to hold block parties:**

Name	Address	Party Location	Party Date	Party Rain Date	Party Time
Michael Fuchs	92 Grant St.	Grant St.	June 11	June 12	4-8 p.m.
Eileen Smith	21 LaSalle Rd.	LaSalle Rd.	May 29	May 30	3-9 p.m.
Melissa Crowe	43 Mayflower Rd.	Mayflower	Sept 11		4-10 pm

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

7:40 p.m.

MWRA Bond and Financial Assistance:

David Davison, ATM/Finance Director, Evelyn Poness, Treasurer, and Rick Merson, Director of Public Works appeared before the Board to review the award of a grant/loan by the MWRA to the Town for \$515,100. Mr. Davison stated the funds will be used to finance a portion of the sewer rehabilitation work funded under article 45 of the 2007 Annual Town Meeting. He stated \$231,795 is a direct grant that does not have to be repaid by the Town and the balance of \$283,305 is a five-year zero interest loan with the MWRA.

Mr. Bulian asked Mr. Merson to explain the difference between "inflow" and "infiltration". Mr. Merson explained inflow is water from sump pumps that enters the system, while infiltration is ground water that enters the system.

Mr. Handel asked if the Town regulates the use of sump pumps. Mr. Merson stated the Town does not regulate the use of sump pumps at this time, but is developing a plan. He commented the Town has little ability to oversee the use of sump pumps as it is difficult to get into residences.

Motion A

Motion by Mr. Matthews that the sale of the \$283,305 Sewer Bond of the Town dated May 17, 2010, to the Massachusetts Water Resources Authority, is hereby approved and the Treasurer or other appropriate Town official is authorized to execute on behalf of the Town a Loan Agreement and a Financial Assistance Agreement with the Authority with respect to the bond. The bond shall be payable without interest on May 15 of the years and in principal amounts as follows:

Year	Installment
2011	\$56,661
2012	56,661
2013	56,661
2014	56,661
2015	56,661

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

Motion B

Motion by Mr. Matthews that each member of the Board of Selectmen, the Town Clerk and the Town Treasurer be and hereby are, authorized to take any and all such actions, and execute and deliver such certificates, receipts or other documents as may be determined by them, or any of them, to be necessary or convenient to carry into effect the provisions of the foregoing vote.

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

Mr. Davison noted that Town Meeting approved the operating budget for FY2011 with a lower assessment for MWRA, and the reason is that the Town is doing a better job in the I and I area. Ms. Poness is hopeful the town can continue to take advantage of the program.

Mr. Wasserman said he received a call from a resident on Norwich Road regarding scheduled paving of the street and some neighbors who are interested in having a gas lines installed by NSTAR. The resident inquired about delaying the paving and wondered if anything could be done to coordinate with NSTAR for a gas hookup. Mr. Merson commented the town does try to coordinate with NSTAR, but could be penalized if it pushed back the paving date, and that it may not be possible.

7:50 p.m. Sign National Public Works Week Proclamation:
Mr. Richard Merson, Director of Public Works appeared before the Board.
Mr. Bulian read a proclamation proclaiming the week of May 16-May 22,
2010 as National Public Works Week.

Motion by Mr. Wasserman that the Board vote to approve and sign the proclamation to declare the week of May 16th through May 22nd as National Public Works Week in Needham.

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

7:55 p.m. Town Manager:
Town Manager, Kate Fitzpatrick appeared before the Board with 2 items to discuss:

1. Update Capital Improvement Policies

Ms. Fitzpatrick stated the Capital Improvement Policies have been updated to reflect the creation of the Capital Facility Fund and changes to the Capital Improvement budget process. She said that Capital Improvement Policies were originally formalized in 1991.

Motion by Mr. Handel that the Board of Selectmen votes to adopt the Town of Needham Capital Improvement Policies dated May 11, 2010.

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

2. Rosemary Pool Summer 2010 Update

Ms. Fitzpatrick and Patty Carey, Director of Park and Recreation updated the Board regarding the Town's attempt to clean Rosemary Pool and ready it for the coming summer season. Ms. Fitzpatrick stated that since the Conservations Commission's Order of Conditions allowing the Town to drain Rosemary Lake is under appeal, the Lake will not be drained this year, and new procedures have been put in place. She stated the Town will attempt to clean the pool using a pumping system to remove debris that gathered over the winter. Ms. Fitzpatrick also told the Board that since the pool can not be drained, it will not be painted this year which will make the pool seem less pristine than usual. Ms. Carey stated that while the pool may not look to be in pristine condition, it will be clean and safe. Ms. Carey commented there are many Town departments working on this effort who are committed to ensuring the public has access to using Rosemary Pool this summer, which is scheduled to open on June 21st.

8:05 p.m. Municipal Elections to the Boston Region Metropolitan Planning Organization:

Ms. Fitzpatrick discussed with the Board the election for town and city representatives on the Boston Region Metropolitan Planning Organization. She stated each community may vote for both a city and a town. She commented that MPO is responsible for conducting the federally required

metropolitan transportation-planning process for the Boston metropolitan area. The MPO develops a vision for the region and then decides how to allocate federal and some state transportation funds to programs and projects—roadway, transit, bicycle, and pedestrian—that support that vision.

Motion by Mr. Wasserman that the Board vote to support Ginger Esty of Framingham to represent a Town and Joseph Curtatone of Somerville to represent a city for the 2010 MPO election; and authorize the Chairman to sign the ballot on behalf of the Town.

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

8:10 p.m.

Executive Session:

Motion by Mr. Matthews that the Board of Selectmen vote to enter into Executive Session under Exception 6 – to consider the purchase, exchange, taking, lease, or value of real property if such discussion may have a detrimental effect on the negotiating position of the governmental body, not to return to open session prior to adjournment.

Second: Mr. Handel. Mr. Bulian polled the Board. Unanimously approved 5-0.

(The meeting was adjourned at 8:45 pm.)