

**Town of Needham
Board of Selectmen
Minutes for April 11, 2012
Needham Town Hall**

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 Maurice P. Handel. Those present were Gerald A. Wasserman, Daniel P. Matthews, John A. Bulian, Matthew D. Borrelli, Town Manager Kate Fitzpatrick, and Recording Secretary Mary Hunt.

Reorganization of the Board:

Tedi Eaton, Town Clerk, swore in the newly elected Officials- Mr. Handel, Mr. Bulian, and Mr. Borrelli.

The Board accepted nominations for re-organization of the Board of Selectmen:

Motion by Mr. Bulian that the Board of Selectmen vote to nominate Gerald A. Wasserman to serve as Chairman of the Town of Needham Board of Selectmen.

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

Motion by Mr. Bulian that the Board of Selectmen vote to nominate Daniel P. Matthews to serve as Vice-Chairman of the Town of Needham Board of Selectmen.

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

Motion by Mr. Matthews that the Board of Selectmen vote to nominate John A. Bulian to serve as Clerk of the Town of Needham Board of Selectmen.

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

The Board repositioned itself and Mr. Wasserman took his place as Chairman.

Motion by Mr. Matthews that the Board of Selectmen vote to approve the Schedule of Meetings for the year.

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

Motion by Mr. Bulian that the Board of Selectmen vote to appoint Sandy Cincotta to serve as Committee Secretary for the Town of Needham Board of Selectmen.

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

Motion by Mr. Bulian that the Board of Selectmen vote to appoint Mary Hunt to serve as Recording Secretary for the Town of Needham Board of Selectmen.

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

Mr. Wasserman presented a plaque to Mr. Handel expressing the Town's appreciation for his dedicated service while serving as Chairman of the Board of Selectmen.

7:10 p.m. Appointments and Consent Agenda:

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

APPOINTMENTS

1. Council of Economic Advisors Michael Wilcox (Major Tenant NEBC)
(term expires: 6/30/2013)

CONSENT AGENDA

1. Approve Special One Day All Alcoholic Beverages license for Alice Christenson of the John Eliot PTC to hold its PTC Spring Auction Fundraiser on Saturday, May 5, 2012 from 7:00 p.m. to 12:00 a.m. in Powers Hall at Needham Town Hall, 1471 Highland Avenue, Needham.
2. Approve Special One Day All Alcoholic Beverages license for Andrew Bartlett of St. Sebastian's School to hold its 25th and 50th Reunion Dinner from 6:00pm to 10:00pm on Friday, May 18, 2012 in Ward Hall at St. Sebastian's School, 1191 Greendale Avenue, Needham.
3. Approve Special One Day All Alcoholic Beverages license for Ed Davis of St. Sebastian's School to hold its 2012 Reunion Weekend events from 12:00 p.m. to 10:00 p.m. on Saturday, May 19, 2012 in Ward Hall at St. Sebastian's School, 119 Greendale Avenue, Needham.
4. Accept donation made to the Needham Community Revitalization Trust Fund from the following resident: Daniel P. Matthews - \$ 100.
5. Accept a grant in the amount of \$7,015 from the Fireman's Fund Insurance Company to the Needham Fire Department to be used for extrication equipment. The funds will be used to purchase a new power supply for the "Jaws of Life".
6. Accept the following grants given by the Commission on Disabilities on March 20, 2012: \$775 to the Needham Community Council to purchase a Classic Perkins Braille and a ream of Braille paper; \$650 to the High Rock and Pollard PTC's Inclusion and Awareness Community Week to pay partial fee to Travis Roy; and \$115 to the High Rock and Pollard PTC's Inclusion and Awareness Community Week to purchase the film "Including Samuel."
7. Approve Special One Day Wines & Malt Beverages license for Mike Riley of Needham Knights of Columbus to hold a 100th Anniversary event from 5:00 p.m. to 9:00 p.m. on Saturday, April 21, 2012 at the Needham Knights of Columbus, 1211 Highland Avenue, Needham.

8. Accept the following donations made to the Needham Police Department for the Car Safety Seat Installation Program in memory of David W. Jones: \$50 from Sandra Bourdages, 267 Bearsden Road, Athol, MA 01331; \$25 from Viola E. Miller, 21 Wellesley Avenue, Needham, MA 02494
9. Approve application for a 2012 Common Victualler license from Swizzles of Needham, LLC d/b/a Swizzles Frozen Yogurt located at 1450 Highland Avenue, Needham.
10. Approve \$285 in donations received for the Student Awareness of Fire Education program made in memory of David W. Jones from: Robert and Viola Miller, Louis and Lena Sostilio, Linda Hayes Webb & John McClare Shugert, Ronald and Susan Stering, Barbara Coveney Harkins, Anthony Cefalo, Elizabeth and David Demirjian, and Michael and Jacqueline Ferrara.
11. Approve minutes from March 13, 2012 meeting.
12. Water & Sewer Abatement Order #1140
13. Approve application for Sunday Entertainment license from Jeffrey Friedman on behalf of the Needham Farmers Market, Inc. to allow for music at its location on the front lawn of the Unitarian Universalist Church.
14. Approve Special One Day All Alcoholic Beverages license for Charles Wright of the Needham Village Club Scholarship Committee to hold its annual Village Club Scholarship fundraiser from 7:00 p.m. to 11:45 p.m. on Saturday, April 21, 2012 at the Village Club, 83 Morton Street, Needham.

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

Mr. Wasserman said the Board has signed and will present a certificate to the Needham Knights of Columbus on the occasion of the organization's 100th anniversary.

7:10 p.m. Proposed Zoning Amendments:
 Lee Newman, Director of Planning and Community Development and Bruce Eisenhut, Chairman, Planning Board appeared before the Board providing background information on the proposed zoning amendments contained in the Annual and Special Town Meeting warrants. Ms. Newman said Article 16 in the Annual Town Meeting warrant is a Citizens' Petition seeking to amend the definition of the term "structure" by defining the deck area around a pool as structure. She said the Planning Board will continue its public hearing on the Article until April 23, 2012. Ms. Newman said Article 17 in the Annual Town Meeting warrant establishes a definition of a studio and attempts to address the discrepancy between the classes of professionals so that an artist can see clients within the house. Ms. Newman said the Planning Board has voted to support Article 17. Ms. Newman said Article 18 in the Annual Town Meeting warrant is a provision clarifying that if a lot that is conforming relative to its frontage or size is reduced and made non-conforming because of a public taking then it is given "grandfathered" protection. Additionally, Ms. Newman said a lot which has an existing structure that is made non-conforming through an action by a third party that affects the setback of the structure is also given "grandfathered" protection.

Ms. Newman said Article 19 of the Annual Town Meeting warrant is a “housekeeping” issue and an effort to clarify the by-law to match the historical practice of the Board. Ms. Newman said Article 5 of the Special Town Meeting warrant is to ensure the Town retains eligibility to provide citizens with insurance under the FEMA Flood Plain Program. She said the Article recognizes FEMA’s new Flood Plain maps and incorporates them through a direct reference into the Town’s by-law.

Mr. Wasserman thanked Ms. Newman for the presentation.

7:30 p.m. Presentation by Citizens’ Petitioners

1. Citizens’ Petition – Pesticide Free Zone:

Susan Abbott appeared before the Board to discuss Article 22 of the Annual Town Meeting Warrant – a citizens’ petition concerning the establishment of a pesticide-free zone on land owned or managed by the Town of Needham. Ms. Abbott said using organic products used to be considered too troublesome and expensive is now considered a very healthy thing to do. She said the trustees of Beth Israel Hospital have agreed to maintain the lawns and gardens using organic products. She said the Town could be a model for what residents could and should be doing to maintain their property.

The Board suggested Ms. Abbott provide the final version of the wording of the Article before the Selectmen take it under consideration. Mr. Wasserman asked Ms. Abbott for more information concerning the cost of using organic products prior to the next Board of Selectmen meeting on April 24, 2012.

2. Citizens’ Petition – Citizens United:

Stacie Shapiro and Bob Smart appeared before the Board to discuss Article 23 of the Annual Town Meeting Warrant – a citizens’ petition concerning the Supreme Court’s decision in the Citizens United case. Mr. Smart said the Article has been rewritten since appearing on the Warrant. He stated the resolutions that are requested have stayed the same, but the “Whereas” clauses have changed. He said the resolution being proposed calls on State and Federal representatives to seek an amendment to the Constitution to overturn the Citizens United decision. Mr. Smart explained the Citizens United decision. He said the decision by the Supreme Court took away Congress’ power to treat corporations and unions differently from individuals in terms of campaign financing. The Supreme Court decision says Congress cannot regulate in this area. Mr. Smart said experience and common sense would suggest the expenditure of corporate and union treasury money has undue power to influence and corrupt the legislative process at all levels of government.

Mr. Wasserman asked Mr. Smart to comment on how the proposal affects Town Meeting and Needham. Mr. Smart said matters like this can come before Town Meeting for consideration, and that constitutional amendments do not come along very often.

Mr. Borrelli said he is troubled by the precedent it would set, but agrees it is up to Town Meeting to decide the issue. He said he is concerned about the Board of Selectmen weighing in on the issue and doesn't see the Needham connection at this time.

Mr. Handel noted it is not a partisan political issue and that there is a wide spectrum of political belief that supports addressing the issue.

Mr. Matthews said this is a case where the warrant is being rewritten and the Board will likely make a decision on how to proceed on April 24, 2012. He asked Mr. Smart finalize the Article and submit it to the Town Manager not later than April 20, 2012.

Mr. Wasserman commented this is something that has broad support, and is a local issue that will affect every level of government. He said the Board of Selectmen must decide whether they want to speak out about it or not. Mr. Wasserman thanked Mr. Smart and Ms. Shapiro for the presentation.

8:00

Town Manager:

Kate Fitzpatrick, Town Manager appeared before the Board with 4 items to discuss:

1. Utility Bill Rate Credits

David Davison, ATM/Finance Director and Evelyn Pones, Town Treasurer/Collector discussed the current outlook for utility rates for next year, the status of sewer rate relief from the State, and utility credits for the 4th quarter. Mr. Davison asked the Board for approval of a rate credit for residential accounts.

Motion by Mr. Bulian that the Board authorize a one-time \$65.00 flat rate credit for residential accounts billed during the fourth quarter of FY2012 to reflect local rate relief, and further move that the Board approve a one-time flat sewer rate credit rate relief money received from the Commonwealth, and further move that following credits as rate relief set forth below:

Regular commercial and residential water accounts billed between April 1, 2012 and June 30, 2012:

Step one: a credit of \$0.50 per hundred cubic feet of usage

Step two: a credit of \$0.75 per hundred cubic feet of usage

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

2. Initiate and Refer Zoning Amendment

Kate Fitzpatrick asked the Board to initiate a zoning amendment on behalf of Normandy GAP-V Needham, LLC and Normandy GAP-37A Needham, LLC to the zoning By-law to allow the construction of an outdoor pool associated with an

indoor athletic or exercise facility in the New England Business Center zoning district. She said referral to the Planning Board at this time would allow for the inclusion of an article in the Special Town Meeting warrant.

Motion by Mr. Handel that the Board vote to initiate an amendment to the Zoning By-law to add to Section 3.2.4.2, Uses Permitted by Special Permit in the New England Business Center Zoning District, after the words “(e) Indoor Athletic or Exercise Facilities” the words “and/or Outdoor Pool(s) Associated with such facilities” and to refer the matter to the Planning Board for review, public hearing, and report.

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

3. Close Special Town Meeting Warrant

Motion by Mr. Bulian that the Board approve and close the May 14, 2012 Special Town Meeting Warrant as presented by the Town Manager, subject to minor technical corrections to be made by the Town Manager, Town Counsel, and Bond Counsel.

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

4. Annual and Special Town Meeting Articles

The Board took positions on Annual and Special Town Meeting Warrant Articles.

2012 Annual Town Meeting Warrant Articles:

Motion by Mr. Bulian that the Board vote to support Article 3 – Establish Officials’ Salaries in the Annual Town Meeting Warrant.

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

Article 4 – Defer Action

Article 5 – Defer Action

Motion by Mr. Handel that the Board vote to support Article 6 –Transfer of Budgetary Fund Balance in the Annual Town Meeting Warrant.

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

Motion by Mr. Borrelli that the Board vote to support Article 7 – Accept Chapter 73, Section 4 of the Acts of 1986 in the Annual Town Meeting Warrant.

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

Motion by Mr. Handel that the Board vote to support Article 8 – Appropriate for Senior Corps in the Annual Town Meeting Warrant.

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

Motion by Mr. Bulian that the Board vote to support Article 9 – Appropriate for Needham Property Tax Assistance Program in the Annual Town Meeting Warrant.

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

**Motion by Mr. Bulian that the Board vote to support Article 10 –Appropriate the FY 2013 Operating Budget in the Annual Town Meeting Warrant.
Second: Mr. Handel. Unanimously approved 5-0.**

**Motion by Mr. Bulian that the Board vote to support Article 11 – Appropriate the FY 2013 RTS Enterprise Budget in the Annual Town Meeting Warrant.
Second: Mr. Handel. Unanimously approved 5-0.**

**Motion by Mr. Bulian that the Board vote to support Article 12 –Appropriate for FY 2013 Sewer Enterprise Budget in the Annual Town Meeting Warrant.
Second: Mr. Handel. Unanimously approved 5-0.**

**Motion by Mr. Bulian that the Board vote to support Article 13 – Appropriate for FY 2013 Water Enterprise Budget in the Annual Town Meeting Warrant.
Second: Mr. Handel. Unanimously approved 5-0.**

**Motion by Mr. Bulian that the Board vote to support Article 14 – Continue Departmental Revolving Funds in the Annual Town Meeting Warrant.
Second: Mr. Handel. Unanimously approved 5-0.**

**Motion by Mr. Bulian that the Board vote to support Article 15 – Authorization to Expend State funds for Public Ways in the Annual Town Meeting Warrant.
Second: Mr. Handel. Unanimously approved 5-0.**

Article 16 – Defer

Article 17- Defer

**Motion by Mr. Handel that the Board vote to support Article 18 – Amend Zoning By-Law: Dimensional Regulations in the Annual Town Meeting Warrant.
Second: Mr. Bulian. Unanimously approved 5-0.**

**Motion by Mr. Handel that the Board vote to support Article 19 – Amend Zoning By-Law: Off-Street Parking Requirements in the Annual Town Meeting Warrant.
Second: Mr. Bulian. Unanimously approved 5-0.**

**Motion by Mr. Bulian that the Board vote to support Article 20 – Amend General By-Law(fines) in the Annual Town Meeting Warrant.
Second: Mr. Handel. Unanimously approved 5-0.**

Article 21 – Defer Action

Ms. Fitzpatrick suggested the Board may want to consider an emergency preamble and Mr. Wasserman asked for wording of the emergency preamble for the next Board meeting.

Article 22 – Defer Action

Article 23 – Defer Action

Motion by Mr. Handel that the Board vote to support Article 24 – Artifact Storage Upgrade/Needham Historical Society in the Annual Town Meeting Warrant.

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

Article 25 – To be withdrawn

Motion by Mr. Bulian that the Board vote to support Article 26 – Heritage Project/Historical Inventory in the Annual Town Meeting Warrant.

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

Motion by Mr. Handel that the Board vote to support Article 27 – Appropriate for Town of Needham Historical Vital Records Preservation in the Annual Town Meeting Warrant.

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

Motion by Mr. Handel that the Board vote to support Article 28 – Appropriate to Community Preservation Fund in the Annual Town Meeting Warrant.

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

Motion by Mr. Matthews that the Board vote to support Article 29 – Rescind Debt Authorization in the Annual Town Meeting Warrant.

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

Article 30 – Defer

Motion by Mr. Borrelli that the Board vote to support Article 31 – Appropriate for Property Acquisition (37-39 Lincoln Street) in the Annual Town Meeting Warrant.

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

Motion by Mr. Handel that the Board vote to support Article 32 – Appropriate for Fire Ladder Truck in the Annual Town Meeting Warrant.

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

Motion by Mr. Bulian that the Board vote to support Article 33 – Appropriate for Public Works Infrastructure Program in the Annual Town Meeting Warrant.

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

Article 34 – Defer Action

Ms. Fitzpatrick told the Board that an amendment will be presented at the next Board of Selectmen meeting on April 24, 2012.

Motion by Mr. Bulian that the Board vote to support Article 35 – Appropriate for RTS Enterprise Fund Cash Capital in the Annual Town Meeting Warrant.

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

**Motion by Mr. Bulian that the Board vote to support Article 36 – Appropriate for Sewer Enterprise Fund Cash Capital in the Annual Town Meeting Warrant.
Second: Mr. Handel. Unanimously approved 5-0.**

**Motion by Mr. Handel that the Board vote to support Article 37 – Appropriate for Water Enterprise Fund Cash Capital in the Annual Town Meeting Warrant.
Second: Mr. Bulian. Unanimously approved 5-0.**

**Motion by Mr. Bulian that the Board vote to support Article 38 – Appropriate for Workers Compensation Reserve Fund in the Annual Town Meeting Warrant.
Second: Mr. Handel. Unanimously approved 5-0.**

**Motion by Mr. Bulian that the Board vote to support Article 39 –Establish and Appropriate to Athletic Facility Improvement Fund in the Annual Town Meeting Warrant.
Second: Mr. Handel. Unanimously approved 5-0.**

Article 40 – Defer Action

Article 41 – Defer Action

Article 42 – No Action Required

2012 Special Town Meeting Warrant Articles

Article 1 – Defer Action

Article 2 – Defer Action

Article 3 – Defer Action

Motion by Mr. Handel that the Board vote to support Article 4 – Appropriate for Payment of Unpaid Bills for Prior Years in the Special Town Meeting Warrant.

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

Motion by Mr. Handel that the Board vote to support Article 5 – Amend Zoning By-Law – Description of Flood Plain Districts and Flood Plain Regulations in the Special Town Meeting Warrant.

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

Article 6 – Defer Action

Motion by Mr. Handel that the Board vote to support Article 7 – Change in Use and Conveyance of Real Property in the Special Town Meeting Warrant.

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

Motion by Mr. Handel that the Board vote to support Article 8 – Appropriate for Property Acquisition in the Special Town Meeting Warrant.

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

Mr. Bulian commented that while he is not opposed to acquiring the parcels of land included in the Article, he is concerned with the way acquisitions are being financed. He said the Town continues to add long term debt to the 3% levy, and feels the Board of Selectmen needs to adopt a policy for financing similar acquisitions. Mr. Wasserman said he agrees there must be a policy, but the two properties in question cannot be ignored for long term strategic planning.

Motion by Mr. Handel that the Board vote to support Article 9 – Extinguish Sewer Easement – Nehoiden Street in the Special Town Meeting Warrant.

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

Article 10 – Defer

Article 11 – Defer

Article 12 – Defer

9:00 p.m.

Board Discussion:

1. MBTA/Commuter Rail Service Delivery Reduction

The Board discussed the recent action taken by the MassDOT Board of Directors on a service delivery plan that included the discontinuance of commuter rail service on the Needham line on Saturdays. Ms. Fitzpatrick acknowledged the hard work done by the Board, the Transportation Committee and legislators in keeping Bus 59 as it plays a vital role in the lives of many residents. Mr. Creem, Transportation Committee Chairman said the MBTA Finance Committee voted to recommend to the full Advisory Board that service cuts are unacceptable and the MassDOT must come up with a better solution. Mr. Creem said it would not hurt for the Town of Needham to go on record and express its concern about Saturday service cuts. Mr. Matthews suggests the Town Manager draft a letter to the MBTA to address the situation to move it to a better solution.

2. Committee Reports

Mr. Bulian reported the PTC's of High Rock and Pollard Middle Schools are holding "Middle School Community Week" the week of April 23, 2012.

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

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

9:10 p.m.

Executive Session (Exceptions 3)

Motion by Mr. Matthews that the Board of Selectmen vote to enter into Executive Session. Exception 3 – To discuss strategy with respect to collective bargaining or litigation, if an open meeting may have a detrimental effect on the bargaining or litigation position of the public body and the chair so declares; and

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

(Note: The meeting adjourned at 9:25 p.m.)