Town of Needham
Board of Selectmen
Minutes for September 10, 2013
Needham Town Hall

6:45 p.m. Informal Meeting with Citizens:
Anna Yu and Richard Fleck, 34 Hazel Lane spoke with the Board concerning water run-off from Greendale Avenue onto Hazel Lane during heavy rain events. They said the Hazel Lane cul-de-sac and their property flooded during the storm over Labor Day weekend, and asked if the Town could remedy the situation. They suggested installation of an outflow pipe for water run-off.

7:00 p.m. Call to Order:
A meeting of the Board of Selectmen was convened by Chairman Daniel P. Matthews. Those present were John A. Bulian, Maurice P. Handel, Matthew D. Borrelli, Marianne Cooley, Town Manager Kate Fitzpatrick, and Recording Secretary Mary Hunt.

A moment of silence was observed to remember Donna Vigliano, Public Health Nurse, who passed away on September 9, 2013.

7:03 p.m. Introduction of Police Officers:
Phil Droney, Chief of Police appeared before the Board to introduce newly appointed police officers Jason Hasenfus, Matthew Biellik, and Ryan O'Leary. Chief Droney gave a brief background of each officer and said they are all lifelong residents of the Town, having attended Needham Public Schools. The Board congratulated Officer Hasenfus, Officer Biellik, and Officer O'Leary on their appointments and welcomed them to the service of the Town.

7:10 p.m. Appointments and Consent Agenda:
Motion by Mr. Bulian that the Board of Selectmen vote to accept the Appointments and Consent Agenda as presented.

APPOINTMENTS

1. **New Year's Needham Committee** — **Christopher Cox (term expires 6/30/2014)**
2. **User Agency Representative to the PPBC for the Garage Bays** — **Anthony DelGaizo**

CONSENT AGENDA

1. **Accept the following donations made to the Needham Off-Leash Dog Area gift account: $50 from Michelle Herlihy; $100 from Susan Glickman; $100 from Donald Fucs.**
2. **Accept the following donations made to New Year's Needham: $500 from Sheraton Needham Hotel; $3,000 from Roche Brothers; $100 from Chestnut Street Animal Hospital.**

3. **Accept the following donation made to the Needham Community Revitalization Trust Fund from the following resident: Michael A. Heffernan, $200.**
4. **Approve and sign Ambulance Abatement due to hardship for account #115981 for**
   $545 which has been submitted by the Fire Department.
5. **Accept a $10,000 donation made to the Needham Park and Recreation Commission from the Needham Soccer Club for Field Improvements.**
6. **Accept the following donations made to the Needham Park and Recreation Commission:**
   - **$950 from Parent Talk for Children's Theatre;**
   - **$500 from the Norfolk Lodge for the Nashoba Valley Ski/Snowboard Program;**
   - **$238 in donations collected at Arts in the Parks.**
7. **Accept a $25 donation made to Needham Youth Services from Mr. Brendan Counihan, a Needham resident for its Single Parent Support Group Program.**
8. **Approve applications for a 2013 Weekday Entertainment license and a 2013 Sunday Entertainment license from Aaron M. Krug of 3 Squares, located at 669 Highland Avenue, Needham.**
9. **Approve a request from Darren Bean, President of Warrior Thunder Foundation, to have a portion of its motorcycle ride go through Needham on Saturday, September 14, 2013 at 12:00 p.m. The route of the motorcycle ride has been approved by the following departments: DPW, Police, Fire, and Park and Recreation.**
10. **Water & Sewer Abatement Order #1167**
11. **Approve request from Park and Recreation Commission to host their annual "Spooky Walk" on Saturday, October 19th, 2013 which commences on Town Common at 10:45am, with a rain date for Saturday, October 26th, 2013.**
12. **Grant permission for the following residents to hold a Block Party:**

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

7:12 p.m. Regulation of Mobile Food Trucks:

Ms. Fitzpatrick gave a brief statement saying food trucks are becoming increasingly popular in urban environments and the Town has decided it would be helpful to vendors and patrons to develop regulations for this type of business. She reviewed the draft regulations and asked the Board to consider the proposed limitation of the location of food trucks in underserved districts such as Business Center/Needham Crossing area, Mixed Use Route 128/Wexford Street area, and Industrial 1/Muzi Ford area. Ms. Fitzpatrick said vendor parking, signage, health regulations, and fees should be considered. Ms. Fitzpatrick said public comment has been received indicating comment that food trucks may provide a benefit for athletic teams who may not want to staff vending areas, rendering the 1,000 foot regulation as problematic. She noted correspondence from Patty Carey, Director of Park and Recreation indicating a desire to maintain the 1,000 ft. regulation. Ms. Fitzpatrick also noted communication about "grandfathering" food truck operations not currently in the underserved districts.

Mr. Matthews opened the public hearing.

Karen Waller, Center Cafe asked if the Town will receive the 3/4 of 1% sales tax or will it go to the Town of incorporation. She asked for the Board's definition of underserved.

Kathryn Van Auken, Mobil representative, 1111 Great Plain Avenue supports the regulations and asked the Board to consider downtown businesses that are currently paying rent. She said there is a food truck currently selling the same products as the Mobil store, parked in front of the Mobil station. She said the food truck sits within an intersection right-of--way and its patrons are often on Mobil property. She asked the Board to consider where it allows food trucks.

Diane Wang, Gari Japanese Restaurant, 1019 Great Plain Avenue said her first--hand experience at her restaurant in Brookline indicates a 10% reduction in sales when food trucks are in the area. She said she knows allowing food trucks will affect brick and mortar businesses. She asked the Board to consider a traffic study.

Michael Andelman, 12 Edwardel Road said Needham Crossing is a great location for food trucks as it serves an area, without competing with restaurants. He said it would be extremely unfair to put food trucks anywhere in Needham and restaurants would be hurt. He asked the Board to consider restaurants, meals tax, and employees in brick and mortar establishments. He encourages the Board to consider non-traditional locations where there aren't any restaurants.

Eric Wagner, owner Dog Gone Ron's, located in front of the Mobil Gas station, 1111 Great Plain Avenue asked if there is any room for his business due to the regulations. He said he has been at the location for ten years.

Laurie Janowski, said she can't buy a hot dog anywhere else and feels the "Hot Dog Man" doesn't bother anyone or any restaurants at his location.

Ron Stoloff, 48 Linden Street, owner Blue Ribbon BBQ, located in Newton and Arlington, and a food truck on Second Avenue, Needham said he understands the concerns of brick and mortar restaurants. He said the Board should consider the uniqueness of the product and other restaurants. He asked about the five day restriction and feels business owners should be allowed to operate on weekends. He feels food trucks should be allowed to operate on private property. He asked who determines what is an underserved location.

Terri Beal, Captain Marden's appreciated the comments made by Devra Bailin, Director of Economic Development concerning catering trucks. She asked the Board to consider changing the by-law to allow food trucks on private property.

Greg Reibman, President, Newton-Needham Chamber of Commerce thanked the Board for their thoughtful process in considering the issue of food trucks. He noted the City of Newton has not yet made a decision regarding food trucks, and is currently discussing the issue. He cautioned the Board to avoid considering the type of food served as a criteria for authorizing food trucks.

Karen Waller, Center Cafe suggested "grandfathering" food trucks like the hot dog vendor or find a way to move the business to an area that will not offend anyone.

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

Mr. Borrelli concurred extending the hours of operation to include weekends, especially considering the permit fee of $1,000. He also suggested extending the time limit placed on canteen and coffee trucks that move from place to place and are stationary to 1 hour from 30 minutes. He said he hopes the Town will consider options for the hot dog vendor and feels it would be a shame to lose the business.

Mr. Handel concurred with Mr. Borrelli. He commented it is important businesses have the ability to cater events. He noted it is important to recognize the scale of the activity and history in a given area. He noted there are certain ways to "grandfather" a previously existing activity, like the hot dog vendor.

Mrs. Cooley commented it may make sense to explore the possibility of food trucks partnering with groups selling concessions at DeFazio Park.

Mr. Bulian said he is comfortable with the draft regulations, but that he must support the brick and mortar establishments. He said brick and mortar establishments put in hundreds of thousands of dollars to fix up their restaurants, pay rent, pay real estate taxes, and employ many workers. He said they are the "backbone" of the Town and the business community. He said he believes there is a way the Town can have a food truck policy in underserved areas, but that he is mindful of future development of the business center. He said the Town depends on commercial real estate tax revenues to offset residential property taxes. He agreed to move forward with the regulation of food trucks policy at this time, but cautioned the business community is a huge part of the Town.

Mr. Matthews said the record will remain open for one week to receive additional written comment. He said there are issues that require review and said the question of fairly treating existing business is hard when adopting new policies. He thanked everyone for attending the meeting and giving their opinion.

The Board recessed for two minutes.

8:00 p.m. DPW/Park & Recreation Project Update:

Richard Merson, DPW Director appeared before the Board to discuss the major construction projects underway in the Town. He commented on the new Reservoir B Sewer Pump Station, the Salt Shed currently under construction at the RTS, St. Mary's Water Pump Station in the final design process, DPW Garage Building, and the Lincoln Street/School Street Parking Lots which he said will be under construction by the end of this calendar year. He noted it has been a very active year and he is pleased with the progress.

Ms. Fitzpatrick added that the excavation of Greene's Field is underway.

Mr. Handel commented on the Labor Day rainstorm and asked if there was anything the Town can do about the extreme situations in some neighborhoods. Mr. Merson said the Town is developing a database of addresses reporting problems during the storm and investigating maintenance issues that may have caused some flooding. He reported, to date, the drainage system did not experience any problems and worked at maximum capacity. He said site visits will be scheduled with homeowners and neighbors to further investigate and identify opportunities for improvement that may be warranted in the future. Ms. Fitzpatrick said results of the evaluation and suggested remedies will be reported to the Board.

8:10 p.m. Town Manager:
Kate Fitzpatrick, Town Manager appeared before the Board with 6 items to discuss:

1. Declaration of Restrictive Covenants & Grant of Restriction/1135 Webster Street
Roy Cramer, Attorney discussed the Planning Board's request that the Board of Selectman accept and execute a Declaration of Restrictive Covenants and Grant of Restriction with Southfield Associates for a new subdivision at 1135 Webster Street. He said the documents were required by the Planning Board as a condition of the Board's approval of the subdivision. Mr. Cramer also noted that the Grant of Restriction provides for a 15 foot landscaping buffer around the subdivision and the Declaration of Restrictive Covenants sets forth the responsibilities of the homeowners association after occupancy.

Motion by Mr. Handel that the Board of Selectmen vote to accept and authorize the Chairman to sign on its behalf a Declaration of Restrictive Covenants by Southfield Associates to the Town of Needham; and that the Board of Selectmen vote to accept and authorize the Chairman to sign on its behalf a Grant of Restriction by Southfield Associates to the Town of Needham.
Second: Mr. Bulian. Unanimously approved 5-0.

2. Accept and Refer Zoning Amendment
Ms. Fitzpatrick told the Board the Planning Board voted to place two zoning articles on the Special Town Meeting Warrant to facilitate the solar photovoltaic installation at the RTS. She said in accordance with State law, the Board has 14

days to accept the proposed amendment and refer the amendment back to the Planning Board for its review, hearing, and report.

Mr. Borrelli said it would be helpful if the Solar Committee gave an update on its progress. Ms. Fitzpatrick said the Committee is scheduled to give an update in October.

Motion by Mr. Borrelli that the Board vote to accept and refer the following proposed zoning articles: Amend Zoning By-law: Large-Scale Ground-Mounted Solar Photovoltaic Installation Overlay District; and Map Change to Large-Scale Ground-Mounted Solar Photovoltaic Installation Overlay District to the Planning Board for review, public hearing, and report.
Second: Mr. Bulian. Unanimously approved 5-0.

3. Community Preservation Project
   Ms. Fitzpatrick recommended the Board approve a CPA project application for the November 4, 2013 Special Town Meeting. She said as part of the proposed lease agreement between the Town and the MBTA, the Town must purchase a one-time environmental insurance policy that covers a 5 year period. Ms. Fitzpatrick noted the Commonwealth of Massachusetts has a grant program that may reimburse the Town for 50% of the purchase price, all of which would be returned to the CPA Fund, along with any unspent funds. She said the expected total cost of the insurance (prior to any reimbursement) is approximately $45,000.

   Motion by Mr. Bulian that the Board vote to endorse an application to be filed for Community Preservation funding for the purchase of environmental insurance.
   Second: Mr. Handel. Unanimously approved 5-0.

4. Open Special Town Meeting Warrant
   Ms. Fitzpatrick asked the Board to open the warrant for the November 4, 2013 Special Town Meeting. She noted the warrant is scheduled to be closed on September 17, 2013.

   Motion by Mr. Bulian that the Board vote to open the warrant for the meeting to be held on November 4, 2013 at the Needham Town Hall.
   Second: Mr. Handel. Unanimously approved 5-0.

5. Fiscal Year 2015-2019 Pro Forma Budget
   David Davison, Assistant Town Manager/Finance provided the Board with an overview of the five year, pro forma budget analysis for fiscal years 2015-2019. Mr. Davison presented the Selectmen with the "Town of Needham General Fund Revenue and Expense FY2015-FY2019 Pro Forma" and reviewed Revenues, Property Taxes and Local Receipts, and State Aid, as well as other items. He noted stronger property tax growth in FY2015 and FY2016 than in other years, due to expected development in Needham Crossing.

The Board noted the amount of work put into the presentation and thanked Mr. Davison for his effort.

6. Town Manager Report
   Ms. Fitzpatrick reported the Attorney General has approved the medical marijuana moratorium approved by Town Meeting. She said the Massachusetts Department of Health completed phase 1 of the process in which it identified the county, but not the specific community for a Registered Marijuana Dispensary. She said the Department of Health will release the names of the applicants moving on to phase 2 as early as September 15th

8:35 p.m. Board Discussion:

1. Committee Reports
   No Reports were made.

8:40 p.m. Executive Session - Exception 3 (potential litigation):

Motion by Mr. Handel 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. Not to return to open session prior to adjournment.
Second: Mr. Bulian. Mr. Matthews polled the Board. Unanimously approved 5-0.

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

http://www.needhamma.gov/Archive.aspx?AMID=99&Type=&ADID=

Note: The meeting was adjourned at 9:40 p.m.