

BOARD OF SELECTMEN

April 5, 2011

Needham Public Services Administration Building

Agenda

	6:45	Informal Meeting with Citizens
1.	7:00	Public Health Week Proclamation
2.	7:00	Bertucci's Restaurant Corp.- Change of Director
3.	7:00	Public Hearing/Laying Out Great Plain Avenue Public Hearing/Laying Out Farley Pond Lane Public Hearing/Laying Out Booth Street
4.	7:15	Babson Scholarships ▪ Melissa Shaak, Babson College
5.	7:25	Town Manager ▪ Accept and Refer Zoning Proposal ▪ Accept Access Easement/Avita Needham LLC ▪ Close May 2011 STM Warrant ▪ MBTA Commuter Parking in Needham Center ▪ Town Hall Project Update Video ▪ Town Manager Report
6.	7:50	Board Discussion ▪ Town Manager Evaluation
7.	8:00	Executive Session Exception 3

APPOINTMENTS

CONSENT AGENDA *=Backup attached

1.*	In accordance with Section 20B(5) of the Town Charter, and upon the recommendation of the Town Manager and the Personnel Board, adopt a classification and compensation plan for fiscal year 2013 including an increase of 2% in base wages; authorize a one-time payment of \$250 for non-represented employees in FY2011; and endorse a \$500 increase in the Town's contribution to the 401A plan in accordance with Personnel Policy #515, as amended.
2.	Approve the integrated collective bargaining agreement between the Town and the Needham Police Union for the period July 1, 2010 through June 30, 2011.
3.	Accept a donation made to The Needham Health Department's Gift of Warmth fund: \$1000 from Needham Women's Club.
4.*	Approve minutes: Executive Session 3/8/2011
5.	Accept the following donation made to The Park and Recreation Commission for Arts in the Park: \$100 from Tom Nutile Music
6.*	Approve a request for a Public Entertainment on Sunday license for Blue on Highland, 882 Highland Avenue, Needham.

- 7.* Approve request from the Needham Cultural Council to hold the Spring Arts Festival at Avery Square from 9:00am – 3:30pm on June 11, 2011 with a rain date of June 12, 2011. The MBTA has approved blocking off part of Avery Street for them to use and the Council will contact the police to hire a detail for the event.
- 8.* Approve a request from the Needham Track Club to hold “The Great Bear Run” road race on Sunday, May 15, 2011 from 10:00AM to 2:45 PM on the grounds of the Pollard Middle School.
- 9.* Approve and sign the 2011 Arbor Day Proclamation, which proclaims the last Friday in April as Arbor Day in the Town of Needham and encourages residents to support all efforts to protect our trees and woodlands for future generations to come.

10. Grant Permission for the following resident to hold a block party:

Name	Address	Party Location	Party Date	Party Rain Date	Party Time
Celia Carboni	42 Greenwood Avenue	Greenwood Avenue	July 16	July 17	12-11pm 12- 9pm

Proclamation
National Public Health Week April 4 through 10, 2011

WHEREAS: The week of April 4 through 10, is National Public Health Week, with a theme of "Safety is No Accident: Live Injury- Free;" and

WHEREAS: Since 1995, the American Public Health Association, through its sponsorship of National Public Health Week, has educated the public, policy-makers, and public health professionals about issues important to improving the public's health; and

WHEREAS: Each year, nearly 150,000 people die from injuries, and almost 30 million people are injured seriously enough to require an emergency room visit; and

WHEREAS: Unintentional injuries, such as motor vehicle crashes, poisonings, and burns, rank among the top 10 causes of death for people ages 1 to 44; and

WHEREAS: The financial costs of injuries are significant, accounting for 12 percent of annual medical care spending and totaling as much as \$69 billion per year; and

WHEREAS: Injuries, unexpected events, and violence affect people at home, at work, in their communities, on the move, and even at play; and

WHEREAS: Many injuries and associated costs can be prevented when people take actions such as wearing seatbelts, properly installing smoke alarms, correctly installing and using child safety seats, wearing helmets, storing cleaning supplies in locked cabinets, and when steps are taken to educate the community about violence and maltreatment towards children, seniors, and other vulnerable populations;

NOW, THEREFORE, the Board of Selectmen hereby proclaims the week of April 4 through 10, 2011, as National Public Health Week in Needham, Massachusetts, and call upon the people of Needham to observe the month of April by helping families, friends, neighbors, co-workers, and leaders better understand the importance of public health and injury prevention.

Signed this 5th day of April, 2011

John A. Bulian, Chairman

Denise C. Garlick, Vice Chairman

Gerald A. Wasserman, Clerk

Maurice P. Handel

Daniel P. Matthews

Board of Selectmen

AGENDA FACT SHEET for April 5, 2011

Agenda Item: Change of Officer/Director, Bertucci's Restaurant

Presenter(s): Representative from Demakis Law Offices

1. BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED:

Bertucci's Restaurant, 1257 Highland Avenue, has requested approval for a change of officer and director with regard to an alcoholic beverage restaurant license. This request affects 34 municipalities across the state where Bertucci's Restaurants hold liquor licenses. The Alcoholic Beverage Control Commission has reviewed and accepted copied of the following documents and instruments: 1) Petition for Transfer of Ownership; 2) Personal Information Form; 3) 5-Page Application; 4) Vote of the Board of Directors; and 5) Documents outlying the finances of the transaction.

2. VOTE REQUIRED BY BOARD OF SELECTMEN: [YES] NO (circle one)

Suggested Motion: **Moved that the Board of Selectmen approve and sign Form 43 For a New Officer/Director at Bertucci's Restaurant, 1257 Highland Avenue and to forward this application to the ABCC for approval.**

3. BACK UP INFORMATION ATTACHED:

1. Form 43
2. Petition for Transfer of Ownership
3. Application for Retail Alcoholic Beverage License
4. Applicant's Statement
5. Personal Information Form
6. Letter dated 3/15/2011 from Demakus Law Offices
7. Letter dated 3/2/2011 from Alcoholic Beverages Control Commission

4. SIGN OFF/APPROVAL REQUIRED:

a.	Town Manager	yes	no	NA	_____
b.	Town Counsel	yes	no	NA	_____
c.	Finance Director	yes	no	NA	_____
d.	<u>ABCC</u>	[yes]	no	NA	_____

Disposition by BOS

Action taken: _____ Present on future Agenda: _____

Refer to/Inform: _____ Report back to BOS on: _____

The Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
239 Causeway Street
Boston, MA 02114
www.mass.gov/abcc

☐ For Reconsideration

FORM 43
MUST BE SIGNED BY LOCAL LICENSING AUTHORITY

077000015

ABCC License Number

Needham

City/Town

04/05/2011

Local Approval Date

TRANSACTION TYPE (Please check all relevant transactions):

- | | | | |
|---|--|---|---|
| ☐ New License | ☒ New Officer/Director | ☐ Pledge of License | ☐ Change Corporate Name |
| ☐ Transfer of License | ☐ Change of Location | ☐ Pledge of Stock | ☐ Seasonal to Annual |
| ☐ Change of Manager | ☐ Alteration of Licensed Premises | ☐ Transfer of Stock | ☐ Change of License Type |
| ☐ Cordials/Liqueurs Permit | ☐ Issuance of Stock | ☐ New Stockholder | ☐ Other <input type="text"/> |
| ☐ 6-Day to 7-Day License | ☐ Management/Operating Agreement | ☐ Wine & Malt to All Alcohol | |

Name of Licensee

Bertucci's Restaurant Corporation

EIN of Licensee

04-2844750

D/B/A

Manager

Shawn M. deRonde

ADDRESS:

1257 Highland Avenue

CITY/TOWN:

Needham

STATE

MA

ZIP CODE

02492

Annual

Annual or Seasonal

All Alcohol

Category: (All Alcohol- Wine & Malt Wine,
Malt & Cordials)

Restaurant

Type: (Restaurant, Club, Package
Store, General On Premises, Etc.)

Complete Description of Licensed Premises:

5,968 sf single story building with one front egress and one rear exit

Application Filed:

3/17/2011

Advertised:

n/a

Abutters Notified:

Yes ☐ No ☒

Date & Time

Date & Attach Publication

Contact Person for Transaction

Joseph H. Devlin, Esq.

Phone:

(781) 595-3311

ADDRESS:

Demakis Law Offices, PC, 56 Central Avenue

CITY/TOWN:

Lynn

STATE

MA

ZIP CODE

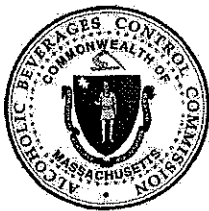
01901

Remarks:

The Local Licensing Authorities By:

Alcoholic Beverages Control Commission
Ralph Sacramone
Executive Director

ABCC Remarks:



The Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
239 Causeway Street
Boston, MA 02114
www.mass.gov/abcc

PETITION FOR TRANSFER OF OWNERSHIP

077000015

ABCC License Number

Needham

City/Town

The licensee Bertucci's Restaurant Corp. and the proposed transferee respectfully petition the Licensing Authorities to approve the following transfer of ownership.

Is the PRESENT licensee a Corporation/LLC duly registered under the laws of the Commonwealth of Massachusetts?

☒ Yes ☐ No If YES, please list the officers, directors and stockholders, their residences, and shares owned by each.

Name	Title	Address	Stock or % Owned
Stephen V. Clark	CEO, President, Director	4857 Orchard Park, Frisco, TX 75034	0
David G. Lloyd	CFO, Treasurer, Secretary	21 Garden Rd., Wellesley, MA 02481	0
Carl E. Axelrod	Assistant Secretary	75 Shaw Rd., Chestnut Hill, MA 02467	0

Is the PROPOSED transferee a Corporation/LLC, duly registered under the laws of the Commonwealth of Massachusetts?

☒ Yes ☐ No If YES, please list the officers, directors and stockholders, their residences, and shares owned by each.

TO: (Place an * before the name of each DIRECTOR/LLC Manager.)

Name	Title	Address	Stock or % Owned
David G. Lloyd	CEO, President, Director	21 Garden Rd., Wellesley, MA 02481	0
Brian P. Connell	CFO, Treasurer, Secretary	3 Patriot Lane, Whitman, MA 02382-2379	0
Bryan K. Schwanke	Assistant Secretary	930 Union Street, Duxbury, MA 02332-3016	0

The above named proposed transferee hereby joins in this petition for transfer of said license.

SIGNATURE OF LAST-APPROVED LICENSEE:

(If a Corporation/LLC, by its authorized representative)

Date Signed 11/17/2010

SIGNATURE OF PROPOSED TRANSFEREE:

Application for Retail Alcoholic Beverage License

City/Town

Needham

1. Transaction:

- ☐ New License ☒ New Officer/Director ☐ Transfer of Stock ☐ Issuance of Stock
☐ Transfer of License ☐ New Stockholder ☐ Management/Operating Agreement

The following transactions must be processed as new licenses:

- ☐ Seasonal to Annual ☐ 6-Day to 7-Day License ☐ Wine & Malt to All Alcohol

IMPORTANT ATTACHMENTS: The applicant must attach a vote of the entity authorizing all requested transactions, including the appointment of a Manager of Record or principal representative.

2. Type of License:

- ☒ §12 Restaurant ☐ §12 Hotel ☐ §12 Club ☐ §12 Veterans Club
☐ §12 General On-Premise ☐ §12 Tavern (No Sundays) ☐ §15 Package Store

3. License Category:

- ☒ All Alcoholic Beverages ☐ Wine & Malt Beverages Only ☐ Wine or Malt Only
☐ Wine & Malt Beverages with Cordials/Liqueurs Permit

4. License Class:

- ☒ Annual ☐ Seasonal

5. Contact Person concerning this application (attorney if applicable)

NAME:
ADDRESS:
CITY/TOWN: STATE ZIP CODE
CONTACT PHONE NUMBER: FAX NUMBER:
EMAIL:

6. Licensee Information:

Legal Name/Entity of Applicant:(e.g Corporation, LLC, Individual) Bertucci's Restaurant Corp.

Business Name (if different): Bertucci's Brick Oven Ristorante

Manager of Record: Shawn M. deRonde

ABBC License Number (for existing licensees only): 077000015

Address of Licensed Premises: 1257 Highland Rd.

CITY/TOWN: Needham

STATE MA

ZIP 02492

Business Phone: (781) 449-3777

Cell Phone:

Email: bert104@bertuccis.com

Website: www.bertuccis.com

7. Description of Premises:

Please provide a complete description of the premises to be licensed. The description should include the location of all entrances and exits.

5968 sq. ft. single story building with one front egress and one rear exit.

IMPORTANT ATTACHMENTS: The applicant must attach a floor plan with dimensions and square footage for each floor & room.

Occupancy Number:

Seating Capacity:

130

8. Occupancy of Premises:

By what right does the applicant have possession and/or legal occupancy of the premises?

Final Lease

IMPORTANT ATTACHMENTS: The applicant must submit a copy of the final lease or documents evidencing a legal right to occupy the premises.

Other:

Landlord is a(n): LLC

Other

Name Maloomian Properties

Phone: 78144448798

Address: 1329 Highland Ave.

City/Town: Needham

State MA

Zip 02192

Initial Lease Term: Beginning Date 07/01/2002

Ending Date 06/30/2017

Renewal Term:

Options/Extensions at

Years Each

Rent: \$185,688.00 per year

Rent: \$15,474.00 per month

Do the terms of the lease or other arrangement require payments to the Landlord based on a percentage of the alcohol sales?

Yes ☐ No ☒

IMPORTANT ATTACHMENTS: If yes, the Landlord is deemed a person or entity with a financial or beneficial interest in this license. Each individual with an ownership interest in the Landlord must be disclosed in §10 and must submit a completed Personal Information Form attached to this application. Entity formation documents for the Landlord entity must accompany the application to confirm the individuals disclosed.

9. Licensee Structure:

The Applicant is a(n):

Corporation

Other :

If the applicant is a Corporation or LLC, complete the following:

State of Incorporation/Organization: Massachusetts

Date of Incorporation/Organization: 11/02/1984

Is the Corporation publicly traded? Yes ☐ No ☒**10. Interests in this License:**

List all individuals involved in the entity (e.g. corporate stockholders, directors, officers and LLC members and managers) and any person or entity with a direct or indirect, beneficial or financial interest in this license (e.g. landlord with a percentage rent based on alcohol sales).

IMPORTANT ATTACHMENTS: All individuals or entities listed below are required to complete a Personal Information Form.

Name	Title	Stock or % Owned	Other Beneficial Interest
David G. Lloyd	CEO, President, Director	None	
Brian P. Connell	CFO, Treasurer, Secretary	None	
Bryan K. Schwanke	Assistant Secretary	None	
Bertucci's Corporation	Stockholder	81,605	
See Ex A - Corp. Structure			

*If additional space is needed, please use last page.

11. Existing Interests in Other Licenses:

Does any individual listed in §10 have any direct or indirect, beneficial or financial interest in any other license to sell alcoholic beverages? Yes ☒ No ☐ If yes, list said interest below:

Name	License Type	Licensee Name & Address
Bryan K. Schwanke	§12 Restaurant	Schwanke Bros. Inc., 789 Quincy Shore Dr., Wollaston, MA 02170
	Please Select	
	Please Select	
	Please Select	
	Please Select	
	Please Select	
	Please Select	

*If additional space is needed, please use last page.

12. Previously Held Interests in Other Licenses:

Has any individual listed in §10 who has a direct or indirect beneficial interest in this license ever held a direct or indirect, beneficial or financial interest in a license to sell alcoholic beverages, which is not presently held? Yes ☐ No ☐ If yes, list said interest below:

Name	Licensee Name & Address	Date	Reason Terminated
			Please Select
			Please Select
			Please Select

13. Disclosure of License Disciplinary Action:

Have any of the disclosed licenses to sell alcoholic beverages listed in §11 and/or §12 ever been suspended, revoked or cancelled? Yes ☐ No ☐ If yes, list said interest below:

Date	License	Reason of Suspension, Revocation or Cancellation

14. Criminal Record:

Has any individual listed in §10 or who has a direct or indirect beneficial interest in this license ever been convicted of a municipal, state, federal or military crime? Yes ☐ No ☒

If yes, the individual must provide an affidavit as to any and all charges as well as the disposition.

15. Citizenship and Residency Requirements for a (§15) Package Store License ONLY:

1. Are all Directors/LLC Managers U.S. Citizens? Yes ☐ No ☐
2. Are a majority of Directors/LLC Managers Massachusetts Residents? Yes ☐ No ☐
3. Is the License Manager or Principal Representative a U.S. Citizen? Yes ☐ No ☐
4. Are all members and partners involved at least twenty-one years old? Yes ☐ No ☐

16. Citizenship and Residency Requirements for (§12) Restaurant, Hotel, Club, General On Premise, Tavern, Veterans Club License ONLY:

1. Are all Directors/LLC Managers U.S. Citizens? Yes ☒ No ☐
2. Are a majority of Directors/LLC Managers Massachusetts Residents? Yes ☒ No ☐
3. Is the License Manager or Principal Representative a U.S. Citizen? Yes ☒ No ☐

17. Costs Associated with License Transaction:

A. Purchase Price for Real Property:

B. Purchase Price for Business Assets:

C. Costs of Renovations/Construction:

D. Initial Start-Up Costs:

E. Purchase Price for Inventory:

F. Other: (Specify)

G: TOTAL COST**H. TOTAL CASH****I. TOTAL AMOUNT FINANCED**

IMPORTANT ATTACHMENTS: Submit any and all records, documents and affidavits including loan agreements that explain the source(s) of money for this transaction. Sources of cash should include a minimum of three (3) months of bank statements.

The amounts listed in subsections (H) and (I) must total the amount reflected in (G).

18. Provide a detailed explanation of the form(s) and source(s) of funding for the costs identified in §17 (include loans, mortgages, lines of credit, notes, personal funds, gifts):

*If additional space is needed, please use last page.

19. List each lender and loan amount(s) from which "total amount financed" noted in subsections 17(I) will derive:

Name	Dollar Amount	Type of Financing

*If additional space is needed, please use last page.

Does any individual or entity listed in §19 as a source of financing have a direct or indirect, beneficial or financial interest in this license or any other license(s) granted under Chapter 138? Yes ☐ No ☐

If yes, please describe:

20. Pledge: (i.e. collateral for a loan)

Is the applicant seeking approval to pledge the license? ☐ Yes ☐ No

If yes, describe terms and conditions and to whom:

If a corporation, is the applicant seeking approval to pledge any of the corporate stock? ☐ Yes ☐ No

If yes, to whom:

Number of Shares

Is the applicant pledging the inventory? ☐ Yes ☐ No

If yes, to whom:

IMPORTANT ATTACHMENTS: If you are applying for a pledge, submit the pledge agreement, the promissory note and a vote of the Corporation/LLC approving the pledge.

21. Construction of Premise

Are the premises being remodeled, redecorated or constructed in any way? If YES, please provide a description of the work being performed on the premises: ☐ Yes ☐ No

**If all the information is not completed the
application may be returned**

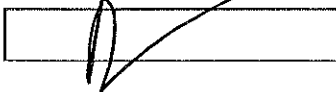
APPLICANT'S STATEMENT

I, Brian P. Connell the: ☐ sole proprietor; ☐ partner; ☒ corporate principal; ☐ LLC/LLP member of Bertucci's Restaurant Corp, hereby submit this application for Change of Officers/Director (hereinafter the "Application"), to the local licensing authority (the "LLA") and the Alcoholic Beverages Control Commission (the "ABCC" and together with the LLA collectively the "Licensing Authorities") for approval.

I do hereby declare under the pains and penalties of perjury that I have personal knowledge of the information submitted in the Application, and as such affirm that all statement and representations therein are true to the best of my knowledge and belief. I further submit the following to be true and accurate:

- (1) I understand that each representation in this Application is material to the Licensing Authorities' decision on the Application and that the Licensing Authorities will rely on each and every answer in the Application and accompanying documents in reaching its decision;
- (2) I state that the location and description of the proposed licensed premises does not violate any requirement of the ABCC or other state law or local ordinances;
- (3) I understand that while the Application is pending, I must notify the Licensing Authorities of any change in the information submitted therein. I understand that failure to give such notice to the Licensing Authorities may result in disapproval of the Application;
- (4) I understand that upon approval of the Application, I must notify the Licensing Authorities of any change in the Application information as approved by the Licensing Authorities. I understand that failure to give such notice to the Licensing Authorities may result in sanctions including revocation of any license for which this Application is submitted;
- (5) I understand that the licensee will be bound by the statements and representations made in the Application, including, but not limited to the identity of persons with an ownership or financial interest in the license;
- (6) I understand that all statements and representations made become conditions of the license;
- (7) I understand that any physical alterations to or changes to the size of, the area used for the sale, delivery, storage, or consumption of alcoholic beverages, must be reported to the Licensing Authorities and may require the prior approval of the Licensing Authorities;
- (8) I understand that the licensee's failure to operate the licensed premises in accordance with the statements and representations made in the Application may result in sanctions, including the revocation of any license for which the Application was submitted; and
- (9) I understand that any false statement or misrepresentation will constitute cause for disapproval of the Application or sanctions including revocation of any license for which this Application is submitted.

Signature:

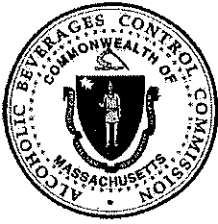


Date

9/29/10

Title

CFO, Treasurer, Secretary



The Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
239 Causeway Street
Boston, MA 02114
www.mass.gov/abcc

Personal Information Form

Each individual listed in §10 of this application must complete this form.

1. Licensee Information:

Legal Name of Licensee:	Bertucci's Restaurant Corp.	Business Name (d/b/a)	Bertucci's Brick Oven Ristorante		
Address:	1257 Highland Ave	ABCC License Number: (If existing licensee)	077000015		
City/Town	Needham	State	MA	Zip Code	02492
Phone Number of Premise	(781) 449-3777	EIN of License:	04-2844750		

2. Personal Information:

Individual Name	David G. Lloyd	Home Phone Number:	(781) 237-1749		
Address:	[REDACTED]				
City/Town	Wellesley	State	MA	Zip Code	02481
Social Security Number	[REDACTED]	Date of Birth	[REDACTED]		
Place of Employment	Bertucci's Restaurant Corp.				

Have you ever been convicted of a state, federal or military crime? Yes ☐ No ☒
If yes, attach an affidavit as to all charges and disposition.

3. Financial Interest:

Provide a detailed description of your direct or indirect, beneficial or financial interest in this license.

None. Bertucci's Restaurant Corp. is wholly owned subsidiary of Bertucci's Corporation

IMPORTANT ATTACHMENTS: For all cash contributions, attach last 3 months of bank statements for the source(s) of this cash.
If additional space is needed, please use the last page

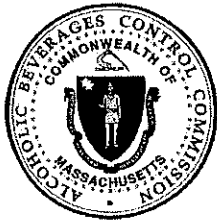
I hereby swear under the pains and penalties of perjury that the information I have provided in this application is true and accurate:

Signature

Date 9/22/10

Title CEO, President, Director

(If Corporation/LLC Representative)



The Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
239 Causeway Street
Boston, MA 02114
www.mass.gov/abcc

Personal Information Form

Each individual listed in §10 of this application must complete this form.

1. Licensee Information:

Legal Name of Licensee: Bertucci's Restaurant Corp. Business Name (d/b/a) Bertucci's Brick Oven Ristorante
Address: 1257 Highland Ave. ABCC License Number: 077000015
(If existing licensee)
City/Town Needham State MA Zip Code 02492
Phone Number of Premise (781) 449-3777 EIN of License: 04-2844750

2. Personal Information:

Individual Name Brian P. Connell Home Phone Number: (781) 447-8353
Address: [REDACTED]
City/Town Whitman State MA Zip Code 02382
Social Security Number [REDACTED] Date of Birth [REDACTED]
Place of Employment Bertucci's Restaurant Corp.

Have you ever been convicted of a state, federal or military crime? Yes ☐ No ☒
If yes, attach an affidavit as to all charges and disposition.

3. Financial Interest:

Provide a detailed description of your direct or indirect, beneficial or financial interest in this license.

None. Bertucci's Restaurant Corp. is wholly owned subsidiary of Bertucci's Corporation

IMPORTANT ATTACHMENTS: For all cash contributions, attach last 3 months of bank statements for the source(s) of this cash.

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I hereby swear under the pains and penalties of perjury that the information I have provided in this application is true and accurate:

Signature

[Signature]

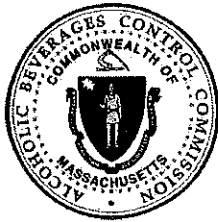
Date

9/22/10

Title

CFO, Treasurer, Secretary

(If Corporation/LLC Representative)



The Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
239 Causeway Street
Boston, MA 02114
www.mass.gov/abcc

Personal Information Form

Each individual listed in §10 of this application must complete this form.

1. Licensee Information:

Legal Name of Licensee:	Bertucci's Restaurant Corp	Business Name (d/b/a)	Bertucci's Brick Oven Ristorante		
Address:	1257 Highland Ave	ABCC License Number: (If existing licensee)	077000015		
City/Town	Needham	State	MA	Zip Code	02492
Phone Number of Premise	781-449-3777	EIN of License:	04-2844750		

2. Personal Information:

Individual Name	Bryan Schwanke	Home Phone Number:	781-837-7727		
Address:	[REDACTED]				
City/Town	Duxbury	State	MA	Zip Code	02332
Social Security Number	[REDACTED]	Date of Birth	[REDACTED]		
Place of Employment	Bertucci's Restaurant Corp.				

Have you ever been convicted of a state, federal or military crime? Yes ☐ No ☒
If yes, attach an affidavit as to all charges and disposition.

3. Financial Interest:

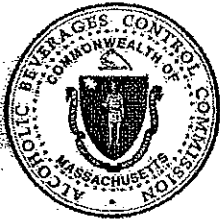
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None. Bertucci's Restaurant Corp. is wholly owned subsidiary of Bertucci's Corporation.

IMPORTANT ATTACHMENTS: For all cash contributions, attach last 3 months of bank statements for the source(s) of this cash.
If additional space is needed, please use the last page

I hereby swear under the pains and penalties of perjury that the information I have provided in this application is true and accurate:

Signature	[Signature]	Date	9/16/10
Title	Assistant Secretary	(If Corporation/LLC Representative)	



The Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
239 Causeway Street
Boston, MA 02114
www.mass.gov/abcc

Personal Information Form

Each individual listed in §10 of this application must complete this form.

1. Licensee Information:

Legal Name of Licensee: Bertucci's Restaurant Corp. Business Name (d/b/a) Bertucci's Brick Oven Ristorante
Address: 1257 Highland Ave ABCC License Number: 077000015
(If existing licensee)
City/Town Needham State MA Zip Code 02492
Phone Number of Premise (781) 449-3777 EIN of License: 04-2844750

2. Personal Information:

Individual Name Shawn M. deRonde Home Phone Number: (508) 266-0286
Address: [REDACTED]
City/Town Whitinsville State MA Zip Code 01588
Social Security Number [REDACTED] Date of Birth [REDACTED]
Place of Employment Bertucci's Restaurant Corp.

Have you ever been convicted of a state, federal or military crime? Yes ☐ No ☒
If yes, attach an affidavit as to all charges and disposition.

3. Financial Interest:

Provide a detailed description of your direct or indirect, beneficial or financial interest in this license.

None

IMPORTANT ATTACHMENTS: For all cash contributions, attach last 3 months of bank statements for the source(s) of this cash.
If additional space is needed, please use the last page

I hereby swear under the pains and penalties of perjury that the information I have provided in this application is true and accurate:

Signature

Date 10/12/10

Title General Manager (If Corporation/LLC Representative)

Bertucci's Restaurant Corp.
Exhibit A

TITLE	FULL NAME	ADDRESS	DOB	SSN	# of Shares
CEO, President, Director	David G. Lloyd	[REDACTED] Wellesley, MA 02481	[REDACTED]	[REDACTED]	0
CFO, Treasurer, Secretary	Brian P. Connell	[REDACTED] Whitman, MA 02382-2379	[REDACTED]	[REDACTED]	0
Assistant Secretary	Bryan K. Schwanke	[REDACTED] Duxbury, MA 02332-3016	[REDACTED]	[REDACTED]	0
* Sole Shareholder	Bertucci's Corporation	[REDACTED] Northborough, MA 01532	N/A	FID# 06-1311266	81,605 (100%)

* Please note the following:

- Bertucci's Restaurant Corp. has 200,000 authorized shares of common stock.
- Of the 200,000 authorized shares, 81,605 are issued.
- All 81,605 authorized shares of Bertucci's Restaurant Corp. stock are owned by Bertucci's Corporation.

Exhibit A

The current ownership structure of the Licensee, Bertucci's Restaurant Corp., was approved by the ABCC and the local licensing authorities through a state-wide transfer application in 2009. Corporate and other entity documentation was provided in an exhibit package filed therewith.

Bertucci's Restaurant Corp., a Massachusetts corporation, is the Licensee. Bertucci's Inc., a Massachusetts corporation, is the 100% stockholder of the Licensee. Bertucci's Corporation, a Delaware Corporation, is the 100% stockholder of Bertucci's Inc. 14.8% of the stock in Bertucci's Corporation is owned by Sankaty Credit Opportunities II, L.P. Sankaty Credit Opportunities II, L.P. is a limited partnership duly organized under the laws of the State of Delaware. 55.6% of the stock in Bertucci's Corporation is owned by Sankaty Credit Opportunities III, L.P. Sankaty Credit Opportunities III, L.P. is a limited partnership duly organized under the laws of the State of Delaware. 0.7% of the stock in Bertucci's Corporation is owned by RGIP, LLC. RGIP, LLC is a limited liability company duly organized under the laws of the State of Delaware. Approximately 8.1% of the stock in Bertucci's Corporation is owned by GOLUB Capital Partners Coinvestment, Ltd. GOLUB Capital Partners Coinvestment, Ltd. is a corporation duly organized under the laws of the Cayman Islands. 8.6% of the stock in Bertucci's Corporation is owned by CAMOFI Master LDC. CAMOFI Master LDC is a Limited Duration Corporation duly organized under the laws of the Cayman Islands. 1.5% of the stock in Bertucci's Corporation is owned by CAMHZN Master LDC. CAMHZN Master LDC is a Limited Duration Corporation duly organized under the laws of the Cayman Islands. The balance of the shares of stock in Bertucci's Corporation (10.7%), is owned by approximately ninety individual shareholders or other entities. None of these individual shareholders or entities own more than 2.2% of the stock in Bertucci's Corporation.

EXHIBIT B

LICENSES FORMERLY HELD BY THE ENTITIES NAMED IN QUESTION 10

<u>Restaurant</u>	<u>Name Liquor License Held</u>	<u>Reason</u>
Bertucci's Copley Square	Bertucci's Restaurant Corp.	Restaurant Closed
Bertucci's Mansfield	Bertucci's Restaurant Corp.	Restaurant Closed
Bertucci's Peabody	Bertucci's Restaurant Corp.	Restaurant Closed
Bertucci's Brookline	Bertucci's Restaurant Corp.	Restaurant Closed
Bertucci's Mansfield	Bertucci's Restaurant Corp.	Restaurant Closed
Vinny T's Back Bay	Vinny T's Restaurant Corp.	Restaurant Sold
Vinny T's Dedham	Dedham K&L	Restaurant Sold
Vinny T's Danvers	Vinny T's Restaurant Corp.	Restaurant Sold
Vinny T's Lexington	Vinny T's Restaurant Corp.	Restaurant Sold
Vinny T's Natick	Vinny T's Restaurant Corp.	Restaurant Closed
Vinny T's Seekonk	Vinny T's Restaurant Corp.	Restaurant Sold
Vinny T's Shrewsbury	Vinny T's Restaurant Corp.	Restaurant Sold

EXHIBIT C

LIST OF VIOLATIONS RESULTING IN SUSPENSION OF LICENSE

1. The license for the restaurant located at 150 Worcester Road, Framingham, Massachusetts, was suspended for two days on September 26, 2005 for failure to change the manager on the liquor license and failure of the manager to have an identification card issued by the Framingham Police Department.

2. The license for the restaurant located at 275 Centre Street, Newton, Massachusetts, was suspended for three days on April 16, 2002 for sale to a minor. A fine was paid in lieu of suspension.

EXHIBIT D

LIST OF OTHER LICENSES IN WHICH THE LICENSEE OR OTHER ENTITIES
LISTED IN QUESTION 14 HAVE ANY DIRECT OR INDIRECT FINANCIAL
INTEREST

1. Bertucci's Brick Oven Ristorante
51 East Pleasant Street
Amherst, MA 01002
2. Bertucci's Brick Oven Ristorante
90 Main Street
Andover, MA 01810
3. Bertucci's Brick Oven Ristorante
27 Enon Street
Beverly, MA 01915
4. Bertucci's Brick Oven Ristorante
One Blackfan Circle
Children's Hospital
Boston, MA 02115
5. Bertucci's Brick Oven Ristorante
22 Merchants Row
Faneuil Hall
Boston, MA 02109
6. Bertucci's Brick Oven Ristorante
533 Commonwealth Avenue
Kenmore Square
Boston, MA 02215
7. Bertucci's Brick Oven Ristorante
412 Franklin Street
Braintree, MA 02184
8. Bertucci's Brick Oven Ristorante
Unit 1, Rainbow Square
1285 Belmont Street
Brockton, MA 02301
9. Bertucci's Brick Oven Ristorante
5 Cambridge Park Drive
Cambridge, MA 02140

- 10 Bertucci's Brick Oven Ristorante
21 Brattle Street
Harvard Square
Cambridge, MA 02138
11. Bertucci's Brick Oven Ristorante
799 Main Street
Kendall Square
Cambridge, MA 02138
12. Bertucci's Brick Oven Ristorante
95 Washington Street
Village Mall
Canton, MA 02021
13. Bertucci's Brick Oven Ristorante
14 E. Littleton Road
Chelmsford, MA 01824
14. Bertucci's Brick Oven Ristorante
150 Worcester Road
Framingham, MA 01702
15. Bertucci's Brick Oven Ristorante
90 Derby Street
Hingham, MA 02043
16. Bertucci's Brick Oven Ristorante
414 Washington Street
Holliston, MA 01746
17. Bertucci's Brick Oven Ristorante
1777 Massachusetts Avenue
Lexington, MA 02420
18. Bertucci's Brick Oven Ristorante
Longmeadow Shop
674 Bliss Road
Longmeadow, MA 01106
19. Bertucci's Brick Oven Ristorante
280 School Street
Mansfield, MA 02048

20. Bertucci's Brick Oven Ristorante
374 Boston Post Road
Marlborough, MA 01752
21. Bertucci's Brick Oven Ristorante
Solomon Pond Mall
601 Donald Lynch Blvd
Marlborough, MA 01752
22. Bertucci's Brick Oven Ristorante
4054 Mystic Valley Parkway
Medford, MA 02155
23. Bertucci's Brick Oven Ristorante
1257 Highland Avenue
Needham, MA 02492
24. Bertucci's Brick Oven Ristorante
275 Centre Street
Newton, MA 02458
25. Bertucci's Brick Oven Ristorante
300 Boylston Street
Atrium Mall
Chestnut Hill, MA 02467
26. Bertucci's Brick Oven Ristorante
435 Andover Street
North Andover, MA 01845
27. Bertucci's Brick Oven Ristorante
999 S. Washington Street
North Attleboro, MA 02760
28. Bertucci's Brick Oven Ristorante
1405 Providence Highway
Sterling Plaza
Norwood, MA 02062
29. Bertucci's Brick Oven Ristorante
15 Newbury Street
West Peabody, MA 01960
30. Bertucci's Brick Oven Ristorante
6 Plaza Way
Plymouth, MA 02360

31. Bertucci's Brick Oven Ristorante
55 Mazzeo Drive
Randolph, MA 02368
32. Bertucci's Brick Oven Ristorante
45 Walkers Brook Dr.
Reading, MA 01867
33. Bertucci's Brick Oven Ristorante
450 Paradise Road
Swampscott, MA 01907
34. Bertucci's Brick Oven Ristorante
2 Silver City Galleria
Galleria Mall Drive
Taunton, MA 02780
35. Bertucci's Brick Oven Ristorante
475 Winter Street
Waltham, MA 02451
36. Bertucci's Brick Oven Ristorante
380 Washington Street
Wellesley, MA 02481
37. Bertucci's Brick Oven Ristorante
160 Turnpike Road (Rte 9)
Westborough, MA 01581
38. Bertucci's Brick Oven Ristorante
683 VFW Parkway
West Roxbury, MA 02132
39. Bertucci's Brick Oven Ristorante
847 Riverdale Street
West Springfield, MA 01089
40. Bertucci's Brick Oven Ristorante
17 Commerce Way
Woburn, MA 01801

DEMAKIS LAW OFFICES, P. C.

GREGORY C. DEMAKIS
THOMAS C. DEMAKIS

SANDOR RABKIN
JOSEPH H. DEVLIN*

*Also Admitted in N.H.

RECEIVED
TOWN OF NEEDHAM
BOARD OF SELECTMEN
2011 MAR 17 A 9:06

56 CENTRAL AVENUE
LYNN, MASSACHUSETTS 01901
TEL. (781) 595-3311
FAX (781) 592-4990

March 15, 2011

Attn: Ms. Sandy Cincotta
Selectman's Office
Needham Town Hall
1471 Highland Avenue
Needham, MA 02492

Re: Application of Bertucci's Restaurant Corp. (the "Licensee") for approval of a change of officer and director with regard to an alcoholic beverage restaurant license

Dear Ms. Cincotta:

Enclosed please find the following documents with regard to the application for approval of a change of officer and director with regard to the alcoholic beverage restaurant license held by the Licensee in your municipality.

1. Letter from Ralph Sacramone, Executive Director of the Alcohol Beverage Control Commission (the "ABCC"), relative to the ABCC's preliminary approval and instructions.
2. Monetary Transmittal Form and copy of filing fee.
3. Petition for Transfer of Ownership.
4. Retail alcoholic beverages application.
5. Personal Information Forms.
6. Exhibit Package.

A public hearing and advertisement are not required for a change of officer and director, and we were therefore unsure whether there were any local fees. Please let us know at your earliest convenience if you need any additional documentation, information or fees. This transaction involves all 40 Bertucci's restaurants in Massachusetts. The transaction will not result in any change to the manager, operation or physical structure of the individual Bertucci's restaurant in your municipality.

The Alcoholic Beverage Control Commission (the "Commission") has investigated and approved the application and exhibits listed in its letter, determining that the transaction is in compliance with the provisions of M.G.L. Chapter 138. The procedure for processing the application is set forth in the letter from Mr. Sacramone. The Commission only requires the Form 43 be returned to the Commission after the hearing. The Commission requires no other forms, documents or information in connection with the application. The \$200 application fee has already been paid directly to the Commission.

We will be calling shortly to follow-up, and we look forward to speaking with you. If you should have any questions with regard to this application, please feel free to call Patricia Gallant at extension 104.

Thank you very much for your time and cooperation.

Very truly yours,

Joseph H. Devlin

JHD/kad
Enclosures



The Commonwealth of Massachusetts

Department of the State Treasurer

Alcoholic Beverages Control Commission

Boston, Massachusetts 02114

2011 MAR -7 A 10:35

Steven Grossman
Treasurer and Receiver General

Kim J. Gainsboro, Esq.
Chairman

March 2, 2011

LOCAL BOARDS

Amherst, Andover, Beverly, Boston, Braintree, Brockton, Cambridge, Canton, Chelmsford, Framingham, Hingham, Holliston, Lexington, Longmeadow, Mansfield, Marlboro, Medford, Needham, Newton, North Andover, North Attleboro, Norwood, Peabody, Plymouth, Randolph, Reading, Swampscott, Taunton, Waltham, Wellesley, Westboro, West Roxbury, West Springfield, and Woburn

The Commission has received a request from Bertucci's Restaurant Corp. for a New Officer / Director Transfer of Stock in the above-noted cities and towns.

Due to the magnitude of these transactions, the Commission has received the information and documents provided by the licensee. The review was to determine whether the contemplated transaction is consistent with the provisions of M.G.L. c. 138. Based upon our review, we are satisfied that the transaction is consistent with the purposes of the law and would not result in the individual corporate licenses being deemed to be out of compliance with the applicable statute. Accordingly, this letter sets forth our recommended procedure for the processing of these applications.

Arrangements have been made for the Corporation to pay all of the \$200 application fees directly to the Commission. Therefore, no fee needs to be collected.

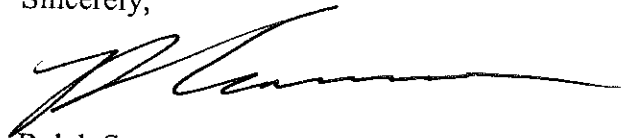
The Commission has reviewed and accepted copies of the following documents and instruments:

1. Petition for Transfer of Ownership
2. Personal Information Form
3. 5 Page Application
4. Vote of the Board of Directors
5. Documents outlying the finances of the transaction

Where there will be no change of existing managers, the Commission will not require that a Form A be completed, nor will the Commission require background information on the managers as such information should already be on file.

The applicant will contact you directly for processing the application. Please forward to the Commission the Form 43. The Commission will require no other forms, documents or information in connection with these applications. Should you or your town/city solicitor have any questions or require information or assistance, please contact Investigator Jack Carey at (617) 727-3040, extension 36.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Sacramone', with a long horizontal flourish extending to the right.

Ralph Sacramone
Executive Director

Cc: Ted Mahony, Chief Investigator
Pat Krueger, Licensing Coordinator
Gregory C. Demakis, Esq.
Joseph H. Devlin, Esq.

Board of Selectmen

AGENDA FACT SHEET for 4/5/11

7pm Public Hearing

Alteration and widening a portion of Great Plain Avenue

- West side of Great Plain Avenue from Harris Avenue to the MBTA R.O.W

Presenter(s): Richard P. Merson, DPW Director

1. BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED:

This step in the Street Acceptance process is where the Selectmen conduct a public hearing for laying out the Right of Way. The portion of Right of Way for alteration and widening on Great Plain Avenue is at the intersection of the MBTA Right of Way to the Harris Street intersection. This section of Great Plain Avenue is on the west side of the road and abuts only property owned by the Town of Needham and the MBTA.

2. VOTE REQUIRED BY BOARD OF SELECTMEN: YES NO (circle one)

Suggested Motion:

"That the Board vote to approve and to sign the plan to alter and widen a portion of Great Plain Avenue Right of Way between the MBTA Right of Way and Harris Street as shown on the plan entitled, Plan Showing the Alteration & Widening of a Portion of Great Plain Avenue in Needham, MA."

3. BACK UP INFORMATION ATTACHED:

1. Original Plan for Selectmen signature entitled, "Plan Showing the Alteration & Widening of a Portion of Great Plain Avenue in Needham, MA" Dated April 1, 2011 and showing the Right of Way and easements. (To be provided at the meeting)
2. Form 2a signed by the Selectmen on March 22, 2011.

4. SIGN OFF/APPROVAL REQUIRED: (circle one)

a. Town Manager	Yes	☒ No	NA	_____
b. Town Counsel	Yes	☒ No	NA	_____
c. Finance Director	Yes	☒ No	NA	_____
d. Town Accountant	Yes	☒ No	NA	_____

Staff use: Disposition by BOS:

Action taken: _____

Present on future Agenda: _____

Refer to/Inform: _____

Report back to BOS by: _____



Town of Needham

IN BOARD OF SELECTMEN

FORM 2A

RECEIVED TOWN CLERK
NEEDHAM, MA 02492

2011 MAR 25 AM 11:09

WHEREAS, in the opinion of the Selectmen of the Town of Needham the public convenience and necessity require that the west side of Great Plain Ave should be laid out, graded and accepted under the provisions of law authorizing the assessment of betterments from Harris Avenue to the MBTA R.O.W.

WHEREAS, said Selectmen intend to layout said street as a public way, it is therefore ORDERED that a hearing be held thereon and that the 5th day of April, 2011 at 7:00 o'clock, P.M. in the Selectmen's office at the Town Hall in said Needham, be and the same is hereby assigned as the time and place for hearing all parties interested therein. It is further

ORDERED that seven (7) days at least prior to the laying out of said way a written notice of the intention of the Board of Selectmen shall be left by them at the usual place of abode of owners of land rights, and interests which will be taken for such purpose or deliver to said owners in person, or to their tenants or authorized agents.

A copy of this notice shall be posted in a public place in the Town seven (7) days at least before the laying out of said way.

Said owners and their residences respectively, so far as known to the Board of Selectmen are as follows:—

OWNERS

Town of Needham

Massachusetts Bay Transit Authority

RESIDENCES

1471 Highland Ave
Needham, MA 02492

10 Park Plaza
Suite 3910
Boston, MA 02116

BOARD
OF
SELECTMEN

[Handwritten signatures of Board of Selectmen members]

Board of Selectmen

AGENDA FACT SHEET for 4/5/11

7pm Public Hearing

Street Acceptance for Farley Pond Lane
From South Street to the end of road

Presenter(s):

Richard P. Merson, DPW Director

1. BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED:

This is the third step in the Street Acceptance process where the Selectmen conduct a public hearing for laying out the Right of Way. The Right of Way on Farley Pond Lane to be taken is at the intersection of South Street to the end of the Road approximately 890 feet.

2. VOTE REQUIRED BY BOARD OF SELECTMEN: ☒ YES ☐ NO (circle one)

Suggested Motion:

"That the Board vote to approve and sign plan to lay out Farley Pond Lane Right of Way as shown on the plan entitled, Acceptance Plan of Farley Pond Lane South St. to end – a distance of 890 feet +/-"

3. BACK UP INFORMATION ATTACHED:

1. Original Plan for Selectmen signature entitled, "Acceptance Plan of Farley Pond Lane South St. to end – a distance of 890 feet +/- in Needham, Mass" Dated March 8, 2011 and showing the Right of Way and easements. (Plans to be provided at meeting).
2. Form 2a signed by the Selectmen on March 22, 2011.

4. SIGN OFF/APPROVAL REQUIRED: (circle one)

a. Town Manager	Yes	☒ No	NA	_____
b. Town Counsel	Yes	☒ No	NA	_____
c. Finance Director	Yes	☒ No	NA	_____
d. Town Accountant	Yes	☒ No	NA	_____

Staff use: Disposition by BOS:

Action taken: _____

Present on future Agenda: _____

Refer to/Inform: _____

Report back to BOS by: _____



Town of Needham

IN BOARD OF SELECTMEN

RECEIVED TOWN CLERK
NEEDHAM, MA 02492

2011 MAR 25 AM 11:09

WHEREAS, in the opinion of the Selectmen of the Town of Needham the public convenience and necessity require that Farley Pond Lane should be laid out, graded and accepted under the provisions of law authorizing the assessment of betterments from South Street

to 890 feet northerly

WHEREAS, said Selectmen intend to layout said street as a public way, it is therefore

ORDERED that a hearing be held thereon and that the 5th day of April, 2011 at 7:00 o'clock, P.M. in the Selectmen's office at the Town Hall in said Needham, be and the same is hereby assigned as the time and place for hearing all parties interested therein. It is further

ORDERED that seven (7) days at least prior to the laying out of said way a written notice of the intention of the Board of Selectmen shall be left by them at the usual place of abode of owners of land rights, and interests which will be taken for such purpose or deliver to said owners in person, or to their tenants or authorized agents.

A copy of this notice shall be posted in a public place in the Town seven (7) days at least before the laying out of said way.

Said owners and their residences respectively, so far as known to the Board of Selectmen are as follows:—

Town of Needham OWNERS

Alden and Karin Hartman Ludlow

Ammon Shoham

Steven D. and Kerstin B. Flashner

Jill Nectow

Myron and Catherine M. Zimmerman

Gregory D. and Lisa Renee Phelps

RESIDENCES
1471 Highland Ave
Needham, MA 02492
6 Farley Pond Lane
Needham, MA 02492
25 Farley Pond Lane
Needham, MA 02492
43 Farley Pond Lane
Needham, MA 02492
55 Farley Pond Lane
Needham, MA 02492
65 Farley Pond Lane
Needham, MA 02492
75 Farley Pond Lane
Needham, MA 02492

BOARD
OF
SELECTMEN

[Handwritten signatures of Board of Selectmen members]

Board of Selectmen

AGENDA FACT SHEET for 4/5/11

7pm Public Hearing

Street Acceptance for a portion of Booth Street
From Central Ave to the 1964 Booth St. Acceptance

Presenter(s):

Richard P. Merson, DPW Director

1. BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED:

This is the third step in the Street Acceptance process where the Selectmen conduct a public hearing for laying out the Right of Way. The portion of Right of Way on Booth Street to be taken is at the intersection of Central Avenue and to the 1964 acceptance location (50 Booth Street). This Right of Way acceptance will connect to the existing accepted town right of way on Booth Street.

2. VOTE REQUIRED BY BOARD OF SELECTMEN: YES NO (circle one)

Suggested Motion:

"That the Board vote to approve and sign the plan to lay out Booth Street Right of Way as shown on the plan entitled, Acceptance Plan of Booth Street From 1964 Booth St. Acceptance to Central Ave.-a distance of 619 ft.+/- in Needham, Mass".

3. BACK UP INFORMATION ATTACHED:

1. Original Plan for Selectmen signature entitled, "Acceptance Plan of Booth Street From 1964 Booth St. Acceptance to Central Ave.-a distance of 619 ft.+/- in Needham, Mass" Dated March 29, 2011 and showing the Right of Way and easements. (Plan to be provided at meeting).
2. Form 2a signed by the Selectmen on March 22, 2011.

4. SIGN OFF/APPROVAL REQUIRED: (circle one)

a. Town Manager	Yes	(No)	NA	_____
b. Town Counsel	Yes	(No)	NA	_____
c. Finance Director	Yes	(No)	NA	_____
d. Town Accountant	Yes	(No)	NA	_____

Staff use: Disposition by BOS:

Action taken: _____

Present on future Agenda: _____

Refer to/Inform: _____

Report back to BOS by: _____



Town of Needham

IN BOARD OF SELECTMEN

FORM 2A
RECEIVED TOWN CLERK
NEEDHAM, MA 02492

2011 MAR 25 AM 11:09

WHEREAS, in the opinion of the Selectmen of the Town of Needham the public convenience and necessity require that A portion of Booth Street should be laid out, graded and accepted under the provisions of law authorizing the assessment of betterments

from At the intersection of Central Avenue and Booth Street
to The 1964 town accepted portion of Booth Street.

WHEREAS, said Selectmen intend to layout said street as a public way, it is therefore

ORDERED that a hearing be held thereon and that the 5th day of April, 2011
at 7 o'clock, PM, in the Selectmen's office at the Town Hall in said Needham, be and
the same is hereby assigned as the time and place for hearing all parties interested therein.
It is further

ORDERED that seven (7) days at least prior to the laying out of said way a written notice of the intention of the Board of Selectmen shall be left by them at the usual place of abode of owners of land rights, and interests which will be taken for such purpose or deliver to said owners in person, or to their tenants or authorized agents.

A copy of this notice shall be posted in a public place in the Town seven (7) days at least before the laying out of said way.

Said owners and their residences respectively, so far as known to the Board of Selectmen are as follows:—

OWNERS

Joseph J. and Patricia M. Foley
Vera and Fernando Senatore
Jeffery McMann
Sheldon and JoAnn M. Itzkowitz
Matthew and Jennifer Packard
Brian A. and Thresa B. Murch
Sandra L. Mack
Liu-er Chen and Dawn Xiao-Hong Ding
Scott R. and Danielle L. Sammut
James Alan and Ann L. Shuman
Michael R. and Patricia F. Paulete
Christopher J. and Susan M. Fisichella

RESIDENCES

530 Central Avenue, Needham, MA 02494
546 Central Avenue, Needham, MA 02494
15 Booth Street, Needham, MA 02494
18 Booth Street, Needham, MA 02494
20 Booth Street, Needham, MA 02494
21 Booth Street, Needham, MA 02494
29 Booth Street, Needham, MA 02494
37 Booth Street, Needham, MA 02494
44 Booth Street, Needham, MA 02494
45 Booth Street, Needham, MA 02494
50 Booth Street, Needham, MA 02494
37 Hill Street, Needham, MA 02494

BOARD
OF
SELECTMEN

March 22, 2011

A copy of the above notice shall be sent to each such owner and posted as required by law.

Board of Selectmen

AGENDA FACT SHEET for 4/5/2011

Agenda Item: Babson College Scholarships

Presenter(s): Melissa Shaak, Director of Financial Aid, Babson College

1. BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED:

The Board of Selectmen awards scholarships to local residents from a fund made available to the Town from Babson College. The number of scholarships and their size is determined by the Board of Selectmen and the Financial Aid Office of Babson College. Melissa Shaak and Moe Handel met recently and reviewed all the applications.

2. VOTE REQUIRED BY BOARD OF SELECTMEN: [YES] NO (circle one)

Suggested Motion: That the Board of Selectmen votes to award the Town of Needham Babson Scholarships to the following applicants:

Kelsey Bronski	Current first-year student
Anthony Elian	Current first-year student
Travis Jonasson	Current junior
Susanna Kroll	Current first-year student
Flynn Lincoln	Current sophomore
Lauren Confort	Transfer applicant
Julia Salamone	Enrolling Fall 2011
Nicholas Wong	Enrolling Fall 2011

3. BACK UP INFORMATION ATTACHED:

a. Listing of Awards (confidential)

4. SIGN OFF/APPROVAL REQUIRED:

a.	Town Manager	yes	no	NA	_____
b.	Town Counsel	yes	no	NA	_____
c.	Finance Director	yes	no	NA	_____
d.	_____	yes	no	NA	_____

Disposition by BOS

Action taken: _____ **Present on future Agenda:** _____

Refer to/Inform: _____ **Report back to BOS on:** _____

Board of Selectmen

AGENDA FACT SHEET for 4/5/2011

Agenda Item: Accept and Refer Zoning Amendment

Presenter(s): Kate Fitzpatrick, Town Manager

1. BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED:

The Planning Board has voted to place the following article on the May 9, 2011 Special Town Meeting Warrant: Amend Zoning By-law: Personal Fitness Services. At its meeting at 6:00 on Tuesday, April 5th, the Planning Board may vote to place the following article on the May 9, 2011 Special Town Meeting Warrant: Amend Zoning By-law: New England Business District. Under State law, the Board of Selectmen must vote to accept proposed changes to the Zoning By-law and refer them to the Planning Board for review, public hearing, and report.

2. VOTE REQUIRED BY BOARD OF SELECTMEN: [YES] NO (circle one)

Suggested Motion: That the Board vote to accept and refer Article 1. Amend Zoning By-law: Personal Fitness Services, and Article 2. Amend Zoning By-law: New England Business District, to the Planning Board for review, public hearing, and report.

3. BACK UP INFORMATION ATTACHED:

- a. Two Letters from Lee Newman, Director of Planning and Community Development, dated April 1, 2011 and April 5, 2011.
- b. Text of Zoning Articles
- c. M.G.L. c. 40A Section 5

4. SIGN OFF/APPROVAL REQUIRED:

a.	Town Manager	yes	[no]	NA	_____
b.	Town Counsel	yes	[no]	NA	_____
c.	Finance Director	yes	[no]	NA	_____
d.	DPW _____	yes	[no]	NA	_____

Disposition by BOS

Action taken: _____ **Present on future Agenda:** _____

Refer to/Inform: _____ **Report back to BOS on:** _____



TOWN OF NEEDHAM, MA

PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT

500 Dedham Ave
Needham, MA 02492
781-455-7500

PLANNING

April 1, 2011

Ms. Kate Fitzpatrick
Town Manager
Town Hall
Needham, MA 02492

Re: Zoning Articles for 2011 Special Town Meeting

Dear Kate:

The Planning Board at its meeting of March 23, 2011 voted to place the following article on the warrant for the May 2011 Special Town Meeting: (1) Amend Zoning Bylaw: Personal Fitness Service Use in an Industrial District. Accordingly, please find the above-named article as approved by the Board for inclusion in the warrant of the 2011 Special Town Meeting.

As you know, the Board of Selectmen will need to accept the articles and to then forward them to the Planning Board for review, public hearing and report. Please have the Selectmen act on the enclosed articles at their next meeting of Tuesday, April 5, 2011, so that the Planning Board can meet its statutory obligations. The Planning Board plans to schedule the public hearing on the article for Thursday, April 21, 2011.

Should you have any questions regarding this matter, please feel free to contact me directly.

Very truly yours,

NEEDHAM PLANNING BOARD

Lee Newman
Planning Director

cc: Planning Board

Enclosure

ARTICLE 1: AMEND ZONING BY-LAW – PERSONAL FITNESS SERVICE IN AN INDUSTRIAL DISTRICT

To see if the Town will vote to amend the Zoning By-Law as follows:

In Section 3.2, Schedule of Use Regulations, Subsection 3.2.1, Uses in the Rural Residence-Conservation, Single Residence A, Single Residence B, General Residence, Apartment A-1, Apartment A-2, Apartment A-3, Institutional, Industrial, Industrial-1 and Industrial Park Districts, by inserting immediately below the row that reads “theatres, indoor moving picture shows, bowling alleys, skating rings, billiard rooms, and similar commercial amusement or entertainment places” a new entry, which shall read as follows:

<u>“Use</u>	<u>RRC</u>	<u>SRB</u>	<u>GR</u>	<u>A-1,2</u>	<u>I</u>	<u>IND</u>	<u>IND-</u>	<u>IND</u>
	<u>SRA</u>			<u>&3</u>			<u>1</u>	<u>P*</u>

Personal fitness service establishment; provided, all required off-street parking is provided on-site for all land uses located on the subject site and in adherence with the requirements of Section 5.1.2, Required Parking, absent any waivers from the provisions of Subsections 5.1.1.5 and 5.1.1.6.....	N	N	N	N	N	Y	N	N
---	---	---	---	---	---	---	---	---

Personal fitness service establishment; where there is insufficient off-street parking on-site to serve all land uses located thereon in adherence with the requirements of Section 5.1.2 but where it can be demonstrated that the hours, or days, of peak parking for the uses are sufficiently different that a lower total will provide adequately for all uses or activities served by the parking lot.....	N	N	N	N	N	SP	N	N”
--	---	---	---	---	---	----	---	----

Or take any other action relative thereto.



TOWN OF NEEDHAM, MA

PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT

500 Dedham Ave
Needham, MA 02492
781-455-7500

PLANNING

April 5, 2011

Ms. Kate Fitzpatrick
Town Manager
Town Hall
Needham, MA 02492

Re: Zoning Articles for 2011 Special Town Meeting

Dear Kate:

The Planning Board at its meeting of April 5, 2011 voted to place the following article on the warrant for the May 2011 Special Town Meeting: (1) Amend Zoning Bylaw: New England Business District. Accordingly, please find the above-named article as approved by the Board for inclusion in the warrant of the 2011 Special Town Meeting.

As you know, the Board of Selectmen will need to accept the articles and to then forward them to the Planning Board for review, public hearing and report. Please have the Selectmen act on the enclosed articles at their next meeting of Tuesday, April 5, 2011, so that the Planning Board can meet its statutory obligations. The Planning Board plans to schedule the public hearing on the article for Thursday, April 21, 2011.

Should you have any questions regarding this matter, please feel free to contact me directly.

Very truly yours,

NEEDHAM PLANNING BOARD

Lee Newman
Planning Director

cc: Planning Board

Enclosure

ARTICLE 2: AMEND ZONING BY-LAW –NEW ENGLAND BUSINESS CENTER

To see if the Town will vote to amend the Needham Zoning By-Law as follows:

1. In Section 3.2.4 Uses in the New England Business Center District

Amend Section 3.2.4.1 (Permitted Uses)

By adding to (c) after the words “medical clinic”: “; Medical Services Building; Ambulatory Health Services (defined and used hereinafter as “Medical and dental uses not encompassed within the definitions for professional; Medical Clinic; medical, surgical, psychiatric, dental, orthodontic, or psychologist group practices comprised of three or more such professionals (hereinafter “Group Practices”); and/or Medical Services Building uses, including but not limited to, services, treatments and/or procedures associated with oncology, radiology, infusion therapy, overnight sleep laboratory, endoscopy, physical therapy, alternative medicine, wellness treatments such as acupuncture, yoga, chiropractic and/or nutrition services, and other out-patient services, in all cases whether or not owned by or affiliated with a hospital or other health care facility.”); and/or Group Practices.”

By amending (j) to read: On the ground floor only of a multi-story building, consumer and commercial service establishments dealing directly with the general public; business service centers; retail establishments; pharmacies not affiliated with Medical Clinic, Medical Services Building use, Ambulatory Health Services or Group Practices; day care uses (other than adult day care establishments requiring a special permit under Section 3.2.4.2 (b) hereof); indoor athletic and exercise facilities; and laundry and dry-cleaning pick up stations where processing is done elsewhere.

2. In Section 3.2.4.2 (Special Permit Uses)

By amending current section (f) to read: Eat in or take-out restaurants or other eating establishments, including coffee shops, provided they are located on the ground floor of a multi-story building. Further provided that drive-thru restaurants or other eating establishments are prohibited.

By adding a new section (i): Medical Clinic; Group Practices; Medical Services Building uses; and/or Ambulatory Health Services. Such uses may have customary and proper accessory uses incidental to the lawful principal uses, including but not limited to, pharmacies. If the principal use is located on the ground floor, then the affiliated pharmacy may be located there also.

3. In Section 3.2.5 Uses in the Highland Commercial-128 District Use

Amend Section 3.2.5.1 (Permitted Uses)

By deleting from Section 3.2.5.1(e) the word “professional”.

By adding to (f) after the words “medical clinic”: “; Medical Services Building; Ambulatory Health Services; and/or Group Practices, all as defined in Section 3.2.4.1.”

4. In Section 3.2.6 Uses in the Mixed Use-128 District

Amend Section 3.2.6.1 (Permitted Uses)

By deleting from Section 3.2.6.1(e) the word “professional”.

By adding to (g) after the words “medical clinic”: “; Medical Services Building; Ambulatory Health Services; and/or Group Practices, all as defined in Section 3.2.4.1.”

5. In Section 4.8 Dimensional Regulations for NEBC

Amend 4.8 Table

By changing Maximum Lot Coverage from 50% to [range of 65% -80%] or remove requirement altogether.

By changing Floor Area Ratio from 0.40 to 0.50

Amend Footnote (2)

By changing first sentence to read: “Maximum lot cover shall be [range of 65% to 80%] for all projects or remove requirement altogether.”

By changing second sentence to read: “However, if a project is designed such that at least 65% of the required landscaped area immediately abuts at least 65% of the required landscaped area of an adjoining project for a distance of at least 50 feet the maximum lot coverage may be increased to [range of 75% to 90%] or remove requirement altogether.”

Amend Footnote (4)

By changing the sentence to read: “A 25-foot front yard setback must be maintained for structured parking.” (25-foot replaces 30-foot.)

Amend Footnote (6)

By changing first sentence to read: “A floor area ratio of up to 1.75 may be allowed by a special permit from the Planning Board.” (1.75 replaces 1.1)

By changing third sentence to read: “Further, the Planning Board may allow a floor area ratio of up to 2.0, by special permit, where the applicant demonstrates, the

Board's satisfaction, that the proposed use will not generate peak hour trips in excess of 0.6 trips per 1,000 square feet of total development area." (2.0 replaces 1.5)

6. In Section 4.8.1 Supplemental Dimensional Regulations for NEBC

Amend subsection (4)

By changing the first sentence to read: "A minimum of [range of 10%-20%] of the total lot area must be open space." (range of 10%-20% replaces 25%)

7. In Section 4.8.2 Floor Area Ratio, Incentives

Amend Section 4.8.2

By changing the first sentence to read: In the New England Business Center District the maximum floor to area ration (FAR) permitted by right shall be 0.5." (0.5 replaces 0.4.)

8. Add New Section 4.8.3

The Planning Board may, by special permit, waive any and/or all dimensional requirements set forth above in this Section 4.8 (including sections 4.8.1 and 4.8.2) up to a maximum percentage of 25% if it finds that, given the particular location and/or configuration of a project in relation to the surrounding neighborhood, such waivers are consistent with the public good, that to grant such waiver(s) does not substantially derogate from the intent and purposes of the By-Law or the Goals of the District Plan, and that such waivers are consistent with the requirements of Section 6.8.

Or take any other action relative thereto.



Print

PART I ADMINISTRATION OF THE GOVERNMENT
(Chapters 1 through 182)

TITLE VII CITIES, TOWNS AND DISTRICTS

CHAPTER 40A ZONING

Section 5 Adoption or change of zoning ordinances or by-laws; procedure

Section 5. Zoning ordinances or by-laws may be adopted and from time to time changed by amendment, addition or repeal, but only in the manner hereinafter provided. Adoption or change of zoning ordinances or by-laws may be initiated by the submission to the city council or board of selectmen of a proposed zoning ordinance or by-law by a city council, a board of selectmen, a board of appeals, by an individual owning land to be affected by change or adoption, by request of registered voters of a town pursuant to section ten of chapter thirty-nine, by ten registered voters in a city, by a planning board, by a regional planning agency or by other methods provided by municipal charter. The board of selectmen or city council shall within fourteen days of receipt of such zoning ordinance or by-law submit it to the planning board for review.

[Second paragraph effective until June 30, 2009. For text effective June 30, 2009, see below.]

No zoning ordinance or by-law or amendment thereto shall be adopted until after the planning board in a city or town, and the city council or a committee designated or appointed for the purpose by said council has each held a public hearing thereon, together or separately, at which interested persons shall be given an opportunity to be heard. Said public hearing shall be held within sixty-five days after the proposed zoning ordinance or by-law is submitted to the planning board by the city council or selectmen or if there is none, within sixty-five days after the proposed zoning ordinance or by-law is submitted to the city council or selectmen. Notice of the time and place of such public hearing, of the subject matter, sufficient for identification, and of the place where texts and maps thereof may be inspected shall be published in a newspaper of general circulation in the city or town once in each of two successive weeks, the first publication to be not less than fourteen days before the day of said hearing, and by posting such notice in a conspicuous place in the city or town hall for a period of not less than fourteen days before the day of said hearing. Notice of said hearing shall also be sent by mail, postage prepaid to the department of housing and community development, the regional planning agency, if any, and to the planning board of each abutting cities and towns. The department of housing and community development, the regional planning agency, the planning boards of all abutting cities and towns and nonresident property owners who may not have received notice by mail as specified in this section may grant a waiver of notice or submit an affidavit of actual notice to the city or town clerk prior to town meeting or city council action on a proposed zoning ordinance, by-law or change thereto. Zoning ordinances or by-laws may provide that a separate, conspicuous statement shall be included with property tax bills sent to nonresident property owners, stating that notice of such hearings under this chapter shall be sent by mail, postage prepaid, to any such owner who files an annual request for such notice with the city or town clerk no later than January first, and pays a reasonable fee established by such ordinance or by-law. In cases involving boundary, density or use changes within a district, notice shall be sent to any such nonresident property owner who has filed such a request with the city or town clerk and whose property lies in the district where the change is sought. No defect in the form of any notice under this chapter shall invalidate any zoning ordinances or by-laws unless such defect is found to be misleading.

[Second paragraph as amended by 2008, 451, Sec. 45 effective June 30, 2009. See 2008, 451, Sec. 187. For text effective until June 30, 2009, see above.]

No zoning ordinance or by-law or amendment thereto shall be adopted until after the planning board in a city or town, and the city council or a committee designated or appointed for the purpose by said council has each held a public hearing thereon, together or separately, at which interested persons shall be given an opportunity to be heard. Said public hearing shall be held within sixty-five days after the proposed zoning ordinance or by-law is submitted to the planning board by the city council or selectmen or if there is none, within sixty-five days after the proposed zoning

ordinance or by-law is submitted to the city council or selectmen. Notice of the time and place of such public hearing, of the subject matter, sufficient for identification, and of the place where texts and maps thereof may be inspected shall be published in a newspaper of general circulation in the city or town once in each of two successive weeks, the first publication to be not less than fourteen days before the day of said hearing, and by posting such notice in a conspicuous place in the city or town hall for a period of not less than fourteen days before the day of said hearing. Notice of said hearing shall also be sent by mail, postage prepaid to the department of housing and community development, the regional planning agency, if any, and to the planning board of each abutting city and town. The department of housing and community development, the regional planning agency, the planning boards of all abutting cities and towns and nonresident property owners who may not have received notice by mail as specified in this section may grant a waiver of notice or submit an affidavit of actual notice to the city or town clerk prior to town meeting or city council action on a proposed zoning ordinance, by-law or change thereto. Zoning ordinances or by-laws may provide that a separate, conspicuous statement shall be included with property tax bills sent to nonresident property owners, stating that notice of such hearings under this chapter shall be sent by mail, postage prepaid, to any such owner who files an annual request for such notice with the city or town clerk no later than January first, and pays a reasonable fee established by such ordinance or by-law. In cases involving boundary, density or use changes within a district, notice shall be sent to any such nonresident property owner who has filed such a request with the city or town clerk and whose property lies in the district where the change is sought. No defect in the form of any notice under this chapter shall invalidate any zoning ordinances or by-laws unless such defect is found to be misleading.

Prior to the adoption of any zoning ordinance or by-law or amendment thereto which seeks to further regulate matters established by section forty of chapter one hundred and thirty-one or regulations authorized thereunder relative to agricultural and aquacultural practices, the city or town clerk shall, no later than seven days prior to the city council's or town meeting's public hearing relative to the adoption of said new or amended zoning ordinances or by-laws, give notice of the said proposed zoning ordinances or by-laws to the farmland advisory board established pursuant to section forty of chapter one hundred and thirty-one.

No vote to adopt any such proposed ordinance or by-law or amendment thereto shall be taken until a report with recommendations by a planning board has been submitted to the town meeting or city council, or twenty-one days after said hearing has elapsed without submission of such report. After such notice, hearing and report, or after twenty-one days shall have elapsed after such hearing without submission of such report, a city council or town meeting may adopt, reject, or amend and adopt any such proposed ordinance or by-law. If a city council fails to vote to adopt any proposed ordinance within ninety days after the city council hearing or if a town meeting fails to vote to adopt any proposed by-law within six months after the planning board hearing, no action shall be taken thereon until after a subsequent public hearing is held with notice and report as provided.

No zoning ordinance or by-law or amendment thereto shall be adopted or changed except by a two-thirds vote of all the members of the town council, or of the city council where there is a commission form of government or a single branch, or of each branch where there are two branches, or by a two-thirds vote of a town meeting; provided, however, that if in a city or town with a council of fewer than twenty-five members there is filed with the clerk prior to final action by the council a written protest against such change, stating the reasons duly signed by owners of twenty per cent or more of the area of the land proposed to be included in such change or of the area of the land immediately adjacent extending three hundred feet therefrom, no such change of any such ordinance shall be adopted except by a three-fourths vote of all members.

No proposed zoning ordinance or by-law which has been unfavorably acted upon by a city council or town meeting shall be considered by the city council or town meeting within two years after the date of such unfavorable action unless the adoption of such proposed ordinance or by-law is recommended in the final report of the planning board.

When zoning by-laws or amendments thereto are submitted to the attorney general for approval as required by section thirty-two of chapter forty, he shall also be furnished with a statement which may be prepared by the planning board explaining the by-laws or amendments proposed, which statement may be accompanied by explanatory maps or plans.

The effective date of the adoption or amendment of any zoning ordinance or by-law shall be the date on which such

adoption or amendment was voted upon by a city council or town meeting; if in towns, publication in a town bulletin or pamphlet and posting is subsequently made or publication in a newspaper pursuant to section thirty-two of chapter forty. If, in a town, said by-law is subsequently disapproved, in whole or in part, by the attorney general, the previous zoning by-law, to the extent that such previous zoning by-law was changed by the disapproved by-law or portion thereof, shall be deemed to have been in effect from the date of such vote. In a municipality which is not required to submit zoning ordinances to the attorney general for approval pursuant to section thirty-two of chapter forty, the effective date of such ordinance or amendment shall be the date passed by the city council and signed by the mayor or, as otherwise provided by ordinance or charter; provided, however, that such ordinance or amendment shall subsequently be forwarded by the city clerk to the office of the attorney general.

A true copy of the zoning ordinance or by-law with any amendments thereto shall be kept on file available for inspection in the office of the clerk of such city or town.

No claim of invalidity of any zoning ordinance or by-law arising out of any possible defect in the procedure of adoption or amendment shall be made in any legal proceedings and no state, regional, county or municipal officer shall refuse, deny or revoke any permit, approval or certificate because of any such claim of invalidity unless legal action is commenced within the time period specified in sections thirty-two and thirty-two A of chapter forty and notice specifying the court, parties, invalidity claimed, and date of filing is filed together with a copy of the petition with the town or city clerk within seven days after commencement of the action.

Board of Selectmen

AGENDA FACT SHEET for 4/5/2011

Agenda Item: Accept Access Easement/Avita Needham LLC

Presenter(s): Kate Fitzpatrick, Town Manager

1. BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED:

In 2009, the Planning Board approved the construction and operation of a 70 bed memory care center at 880 Old Greendale Avenue upon application by Avita Needham LLC. The project is almost complete. One of the conditions of the Planning Board approval was the granting of an Access Easement to the Town of Needham over a portion of the property owned by Avita. The easement will enable Town vehicles to drive through a portion of the property so that they can access a Town sewer and drain easement located on Town property to the east and north of the Avita property. The easement and easement plan have been approved by the Planning Board and Town Counsel. The next step in the process is to ask that the Board of Selectmen accept the easement on behalf of the Town, after which it will be record at the Registry of Deeds.

2. VOTE REQUIRED BY BOARD OF SELECTMEN: [YES] NO (circle one)

Suggested Motion: That the Board vote to approve and authorize the Chair to sign the Grant of Access Easement by Avita Needham LLC to the Town of Needham date April 5, 2011.

3. BACK UP INFORMATION ATTACHED:

- a. Memo from Roy Cramer, Esq. dated March 30, 2011
- b. Grant of Access Easement by Avita Needham, LLC to the Town of Needham
- c. Access Easement Plan
- d. Topographic Site Plan – As Built

4. SIGN OFF/APPROVAL REQUIRED:

a.	Town Manager	yes	no	NA	_____
b.	Town Counsel	[yes]	no	NA	_____
c.	Finance Director	yes	no	NA	_____
d.	_____	yes	no	NA	_____

Disposition by BOS

Action taken: _____ **Present on future Agenda:** _____

Refer to/Inform: _____ **Report back to BOS on:** _____

FRIEZE CRAMER ROSEN & HUBER LLP

C O U N S E L L O R S A T L A W

60 WALNUT STREET, WELLESLEY, MASSACHUSETTS 02481

781-943-4000 • FAX 781-943-4040

ROY A. CRAMER

781-943-4030

RAC@128LAW.COM

March 30, 2011

Ms. Kate Fitzpatrick
Town Manager-Town of Needham
Needham Town Hall
500 Dedham Avenue
Needham, MA 02492

Re: Access Easement to the Town of Needham
880 Old Greendale Avenue

Dear Kate:

As a follow up to my March 30, 2011, e-mail to you and your e-mail response to me, enclosed please find one original and one copy of the Grant of Access Easement by Avita Needham LLC to Town of Needham. The document has been signed by Avita Needham LLC and assented to by Needham Bank, who holds the mortgage on the property.

Enclosed also is the original mylar easement plan that will be recorded together with the easement, and a copy of said plan for your records.

Request is made that the Board of Selectmen, on behalf of the Town of Needham, accept the Grant of Access Easement. Page 3 of the document provides for the signature of the Chairperson of the Board of Selectmen, a notarization section, and a line for Town Counsel to approve the document as to form.

The Decision, and my agreement with the Planning Board, provides that I will be responsible for recording the Access Easement and plan at the Norfolk Registry of Deeds and providing the Planning Board with evidence of recordation and a certification as to the following:

1. A title examination has been conducted from the date of the purchase of the property by Avita Needham LLC to the date of recording of the Access Easement.
2. The grantor of the Access Easement is the same entity as the owner of the property.

Ms. Kate Fitzpatrick
March 30, 2011
Page 2

3. All required assents from the lenders have been obtained and recorded together with the Access Easement.

4. The Access Easement is effective in favor of the Town of Needham in accordance with its terms.

For illustration purposes only, I have also enclosed a copy of a plan entitled "Topographic Site Plan Needham, Massachusetts, Showing As-Built Conditions at Greendale Avenue". The plan shows the location of the easement in relation to the building, parking areas and other site improvements that have just been constructed. The plan will be filed with the Planning Board and Building Department as part of the process of obtaining a certificate of occupancy, and will be reviewed carefully by them.

Your cooperation in this matter is greatly appreciated.

Very truly yours,



Roy A. Cramer

Enclosures

copy: Lee Newman
Anthony DelGaizo
David Tobin

COPY

GRANT OF ACCESS EASEMENT

By

AVITA NEEDHAM LLC

To

TOWN OF NEEDHAM, MASSACHUSETTS

April 5, 2011

WHEREAS, Avita Needham LLC of 15 Third Avenue, Burlington, MA 01803 (the "Owner"), is the owner of certain land described on a plan entitled "Plan of Land Needham, Massachusetts showing conditions at Old Greendale Avenue", prepared by VTP Associates, Inc., 132 Adams Street, 2nd Floor, Suite 3, Newton, Massachusetts 02458, dated September 30, 2009 ("Site Plan"), said Site Plan recorded at Norfolk Registry of Deeds at Plan Book 597, Page 27; and

WHEREAS, pursuant to Paragraph 3.13 of Major Site Plan Special Permit No. SPMP 09-02, dated June 30, 2009 and recorded with Norfolk Registry of Deeds at Book 26936, Page 159, the Planning Board of the Town of Needham required that the Owner shall deliver to the Planning Board for its approval, a duly executed access easement ("Access Easement") over a portion of the land; and

WHEREAS, the grant of easement herein by the Owner is intended to benefit the Town of Needham (the "Grantee") in compliance with the aforesaid requirement of the Planning Board of the Town of Needham, Massachusetts;

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged:

The Owner does hereby grant to the Grantee the non-exclusive right and perpetual easement and right of way over and across the area designated as "Access Easement" (the "Easement Area") as shown on a plan entitled "Access Easement Plan Needham, Massachusetts" prepared by VTP Associates, Inc., 132 Adams Street, 2nd Floor, Suite 3, Newton, Massachusetts 02458, dated October 2, 2009 ("Access Easement Plan"), said Access Easement Plan to be recorded herewith, for the purpose of providing access to the Town of Needham to enable Town vehicles to service and maintain the sewer easement and utilities therein located east of the property.

In exercise of its rights hereunder, Grantee shall provide Owner, its successors and assigns, reasonable notice of the exercise of the rights herein granted at the address shown above, or such other address as Owner shall designate to Grantee in writing to the Director of Public

Works, 470 Dedham Avenue, Needham, MA 02492. Grantee shall use its best efforts to cause the minimal amount of interference with the Owner's use of its property during the exercise of its rights hereunder. The Owner and Grantee each agree to hold each other harmless and indemnified from all claims, losses or damage for property damage or personal injury or liability, or either, resulting in any way by reason of its own activities in the Easement Area. The indemnification by the Grantee to the Owner shall be limited to One Hundred Thousand Dollars (\$100,000.00) per claim, or such amount as may be allowed by M.G.L. Chapter 258, whichever is greater.

The Owner hereby reserves the right for itself, and its successors and assigns, to use and enjoy the Easement Area for all legal purposes not specifically inconsistent with the rights and easements granted hereby. The Owner, and its successors or assigns shall not construct any structures, nor plant any trees or bushes, which will interfere with the use or maintenance of the aforesaid easement without the prior approval of the Grantee.

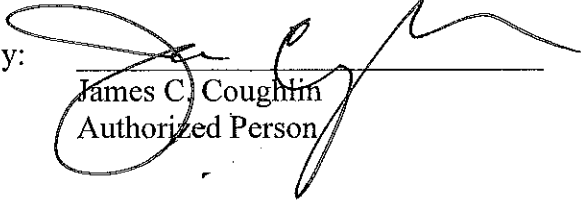
The within Grant of Easement shall be binding on the Owner and its successors and assigns and shall inure to the benefit of the Grantee, and the benefits and burdens thereof shall run with the land described in and subject to the Site Plan.

For Owner's title, see Norfolk Registry of Deeds Book 27512, Page 556.

EXECUTED as a sealed instrument this 30th day of ^{March}~~April~~, 2011. ^{JCC}

AVITA NEEDHAM LLC

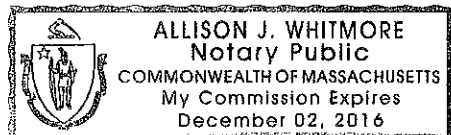
By:

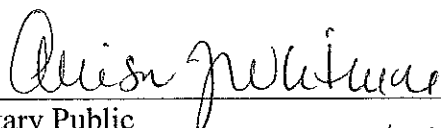

James C. Coughlin
Authorized Person

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss

^{AW}
On this 30th day of ^{MARCH}~~April~~, 2011, before me, the undersigned notary public, personally appeared James C. Coughlin, as Authorized Person of Avita Needham LLC, a Delaware limited liability company, proved to me through satisfactory evidence of identification, which was in the form of a state issued drivers license, to be the person whose name is signed on the preceding or attached document, and acknowledged the foregoing to be the free act and deed of said Avita Needham LLC before me.




Notary Public
My Commission Expires: 12/2/2016

ACCEPTED BY THE TOWN OF NEEDHAM

By: _____

Name: _____

Title: Chairperson of Board of Selectmen

COMMONWEALTH OF MASSACHUSETTS

_____, ss

On this ____ day of April, 2011, before me, the undersigned notary public, personally appeared _____, as Chairperson of the Board of Selectmen, proved to me through satisfactory evidence of identification, which was in the form of a state issued drivers license, to be the person whose name is signed on the preceding or attached document, and acknowledged the foregoing to be the free act and deed of said Town of Needham, before me.

Notary Public

My Commission Expires: _____

APPROVED AS TO FORM

By: _____

Town Counsel

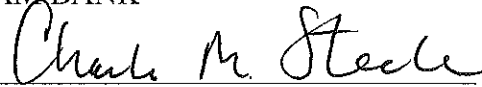
ACKNOWLEDGEMENT AND ASSENT OF MORTGAGEE

The present holder of a mortgage and security agreement (the "Mortgage") and a collateral assignment of leases and rents and security agreement (the "Collateral Assignment") upon the property is the Needham Bank (the "Mortgagee") of 1063 Great Plain Avenue, Needham, Massachusetts 02492. The Mortgage is dated March 8, 2010, and is recorded at the Norfolk Registry of Deeds in Book 27512, Page 558. The Collateral Assignment is dated March 8, 2010, and is recorded at the Norfolk Registry of Deeds in Book 27512, Page 570. The Mortgagee agrees that the Access Easement shall have the same status, force and effect as though executed and recorded before the Mortgage and Collateral Assignment, and further agrees that the Mortgage and the Collateral Assignment shall be subordinate to said Access Easement.

IN WITNESS WHEREOF, the said Needham Bank has caused its corporate seal to be affixed and these presents to be signed and acknowledged and delivered in its name and on its behalf by Charles M. Steele, hereby duly authorized, this 30th day of March, 2011.

NEEDHAM BANK

By:



Name: Charles M. Steele

Title: Senior Vice President

COMMONWEALTH OF MASSACHUSETTS

Norfolk County, ss

On this 30th day of March, 2011, before me, the undersigned notary public, personally appeared Charles M. Steele, as Senior Vice President of Needham Bank, proved to me through satisfactory evidence of identification, which was personally known to me to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.


Notary Public *Norma Jean Coelen*
My Commission Expires: *9/22/2011*

Board of Selectmen

AGENDA FACT SHEET for 4/5/2011

Agenda Item: Close Special Town Meeting Warrant

Presenter(s): Kate Fitzpatrick, Town Manager

1. BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED:

The Board will vote to close the Special Town Meeting Warrant for May 9, 2011.

2. VOTE REQUIRED BY BOARD OF SELECTMEN: [YES] NO (circle one)

Suggested Motion: That the Board approve and close the May 9, 2011 Special Town Meeting Warrant as presented by the Town Manager, subject to minor technical corrections to be made by the Town Manager and Town Counsel.

3. BACK UP INFORMATION ATTACHED:

- a. Draft Special Town Meeting Warrant

4. SIGN OFF/APPROVAL REQUIRED:

a.	Town Manager	[yes]	no	NA	_____
b.	Town Counsel	[yes]	no	NA	_____
c.	Finance Director	yes	no	NA	_____
d.	_____	yes	no	NA	_____

Disposition by BOS

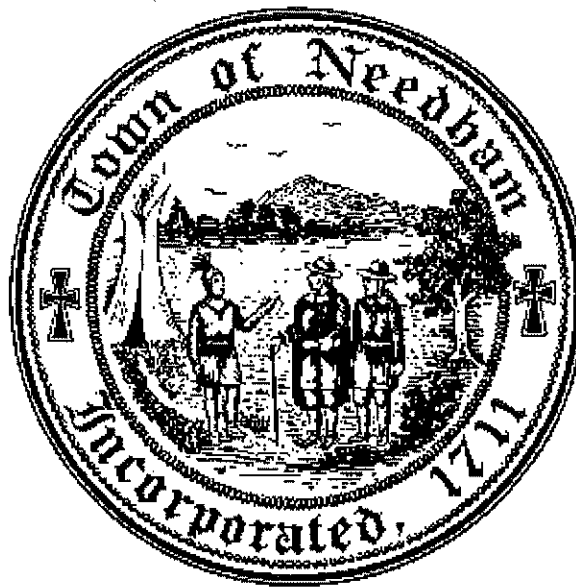
Action taken: _____ **Present on future Agenda:** _____

Refer to/Inform: _____ **Report back to BOS on:** _____

DRAFT 4.1.2011

SPECIAL TOWN MEETING

WARRANT



TOWN OF NEEDHAM

MONDAY, MAY 9, 2011

7:30 P. M.

NEWMAN ELEMENTARY SCHOOL

CENTRAL AVENUE

NEEDHAM

**May 9, 2011 Special Town Meeting Warrant
Table of Contents**

	PAGE
Article 1 Amend Zoning By-Law	
Article 2 Amend Zoning By-Law	
Article 3 Amend General By-Law/Outdoor Seating	
Article 4 Accept M.G.L. Chapter 59, Section 5, Clause 56	
Article 5 Amend the 2011 Operating Budget	
Article 6 Appropriate for General Fund Cash Capital	
Article 7 Appropriate for Engineering Study for Energy Upgrades	
Article 8 Appropriate for Payment of Unpaid Bills of Prior Years	
Article 9 Appropriate for Restoration of Charles River Treatment Facility Well	

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 and warn the inhabitants of the Town of Needham qualified to vote in elections and in Town affairs to meet at the Newman Elementary School:

MONDAY, THE NINTH DAY OF MAY, 2011

at seven-thirty in the afternoon, then and there to act upon the following articles, viz:

ARTICLE 1: AMEND ZONING BY-LAW – PERSONAL FITNESS SERVICE IN AN INDUSTRIAL DISTRICT

To see if the Town will vote to amend the Zoning By-Law as follows:

2. In Section 3.2, Schedule of Use Regulations, Subsection 3.2.1, Uses in the Rural Residence Conservation, Single Residence A, Single Residence B, General Residence, Apartment A-1, A-2, Apartment A-3, Institutional, Industrial-1 and Industrial Park Districts, by inserting immediately above the row that “offices and banks” a new entry, which shall read as follows:

“Use

IND

Personal fitness service establishment;
provided, all required off-street parking
is provided on-site for all land uses located
on the subject site and in adherence with the
requirements of Section 5.1.2, Required Parking,
absent any waivers from the provisions of
Subsections 5.1.1.5 and 5.1.1.6.....

Y

Personal fitness service establishment;
where there is insufficient off-street parking
on-site to serve all land uses located
thereon in adherence with the requirements
of Section 5.1.2 but where it can be
demonstrated that the hours, or days, of peak
parking for the uses are sufficiently different that
a lower total will provide adequately for all uses
or activities served by the parking lot.....

SP”

Or take any other action relative thereto.

INSERTED BY: Planning Board
FINANCE COMMITTEE RECOMMENDS THAT:

Article Information:

ARTICLE 2: AMEND ZONING BY-LAW –NEW ENGLAND BUSINESS CENTER

To see if the Town will vote to amend the Needham Zoning By-Law as follows:

1. In Section 3.2.4 Uses in the New England Business Center District

Amend Section 3.2.4.1 (Permitted Uses)

By adding to (c) after the words “medical clinic”: “; Medical Services Building; Ambulatory Health Services (defined and used hereinafter as “Medical and dental uses not encompassed within the definitions for professional; Medical Clinic; medical, surgical, psychiatric, dental, orthodontic, or psychologist group practices comprised of three or more such professionals (hereinafter “Group Practices”); and/or Medical Services Building uses, including but not limited to, services, treatments and/or procedures associated with oncology, radiology, infusion therapy, overnight sleep laboratory, endoscopy, physical therapy, alternative medicine, wellness treatments such as acupuncture, yoga, chiropractic and/or nutrition services, and other out-patient services, in all cases whether or not owned by or affiliated with a hospital or other health care facility.”); and/or Group Practices.”

By amending (j) to read: On the ground floor only of a multi-story building, consumer and commercial service establishments dealing directly with the general public; business service centers; retail establishments; pharmacies not affiliated with Medical Clinic, Medical Services Building use, Ambulatory Health Services or Group Practices; day care uses (other than adult day care establishments requiring a special permit under Section 3.2.4.2 (b) hereof); indoor athletic and exercise facilities; and laundry and dry-cleaning pick up stations where processing is done elsewhere.

2. In Section 3.2.4.2 (Special Permit Uses)

By amending current section (f) to read: Eat in or take-out restaurants or other eating establishments, including coffee shops, provided they are located on the ground floor of a multi-story building. Further provided that drive-thru restaurants or other eating establishments are prohibited.

By adding a new section (i): Medical Clinic; Group Practices; Medical Services Building uses; and/or Ambulatory Health Services. Such uses may have customary and proper accessory uses incidental to the lawful principal uses, including but not limited to, pharmacies. If the principal use is located on the ground floor, then the affiliated pharmacy may be located there also.

3. In Section 3.2.5 Uses in the Highland Commercial-128 District Use

Amend Section 3.2.5.1 (Permitted Uses)

By deleting from Section 3.2.5.1(e) the word “professional”.

By adding to (f) after the words “medical clinic”: “; Medical Services Building; Ambulatory Health Services; and/or Group Practices, all as defined in Section 3.2.4.1.”

4. In Section 3.2.6 Uses in the Mixed Use-128 District

Amend Section 3.2.6.1 (Permitted Uses)

By deleting from Section 3.2.6.1(e) the word “professional”.

By adding to (g) after the words “medical clinic”: “; Medical Services Building; Ambulatory Health Services; and/or Group Practices, all as defined in Section 3.2.4.1.”

5. In Section 4.8 Dimensional Regulations for NEBC

Amend 4.8 Table

By changing Maximum Lot Coverage from 50% to [range of 65% -80%] or remove requirement altogether.

By changing Floor Area Ratio from 0.40 to 0.50

Amend Footnote (2)

By changing first sentence to read: “Maximum lot cover shall be [range of 65% to 80%] for all projects or remove requirement altogether.”

By changing second sentence to read: “However, if a project is designed such that at least 65% of the required landscaped area immediately abuts at least 65% of the required landscaped area of an adjoining project for a distance of at least 50 feet the maximum lot coverage may be increased to [range of 75% to 90%] or remove requirement altogether.”

Amend Footnote (4)

By changing the sentence to read: “A 25-foot front yard setback must be maintained for structured parking.” (25-foot replaces 30-foot.)

Amend Footnote (6)

By changing first sentence to read: “A floor area ratio of up to 1.75 may be allowed by a special permit from the Planning Board.” (1.75 replaces 1.1)

By changing third sentence to read: “Further, the Planning Board may allow a floor area ratio

of up to 2.0, by special permit, where the applicant demonstrates, the Board's satisfaction, that the proposed use will not generate peak hour trips in excess of 0.6 trips per 1,000 square feet of total development area." (2.0 replaces 1.5)

6. In Section 4.8.1 Supplemental Dimensional Regulations for NEBC

Amend subsection (4)

By changing the first sentence to read: "A minimum of [range of 10%-20%] of the total lot area must be open space." (range of 10%-20% replaces 25%)

7. In Section 4.8.2 Floor Area Ratio, Incentives

Amend Section 4.8.2

By changing the first sentence to read: In the New England Business Center District the maximum floor to area ration (FAR) permitted by right shall be 0.5." (0.5 replaces 0.4.)

8. Add New Section 4.8.3

The Planning Board may, by special permit, waive any and/or all dimensional requirements set forth above in this Section 4.8 (including sections 4.8.1 and 4.8.2) up to a maximum percentage of 25% if it finds that, given the particular location and/or configuration of a project in relation to the surrounding neighborhood, such waivers are consistent with the public good, that to grant such waiver(s) does not substantially derogate from the intent and purposes of the By-Law or the Goals of the District Plan, and that such waivers are consistent with the requirements of Section 6.8.

Or take any other action relative thereto.

INSERTED BY: Planning Board

FINANCE COMMITTEE RECOMMENDS THAT:

Article Information:

ARTICLE 3: AMEND GENERAL BY-LAW/OBSTRUCTION OF SIDEWALKS

To see if the Town will vote to amend Article 3 Section 3.1.2 of the General By-Laws by deleting the first sentence and inserting in place thereof the following:

"3.1.2 Obstruction of Sidewalks Except as permitted by the Board of Selectmen, no person shall place, or cause to be placed, upon any public way or sidewalk, and lumber, wood, box, crate, barrel, can, package or other thing, or allow the same to remain for more than one hour, or more than ten minutes after being notified to remove the same by a constable or police officer," or take any other action relative thereto.

INSERTED BY: Planning Board/Board of Selectmen

FINANCE COMMITTEE RECOMMENDS THAT:

Article Information:

ARTICLE 4: ACCEPT M.G.L. CHAPTER 59, SECTION 5, CLAUSE 56

To see if the Town will vote to accept Massachusetts General Laws Chapter 59, Section 5, Clause 56 which would allow members of the Massachusetts national guard or military reservists who are on active duty to obtain a reduction of all or part of their real and personal property taxes for any fiscal year they are serving in a foreign country to be effective beginning in fiscal year 2012; or take any other action relative thereto.

INSERTED BY: Board of Selectmen

FINANCE COMMITTEE RECOMMENDS THAT:

Article Information:

ARTICLE 5: AMEND THE 2011 OPERATING BUDGET

To see if the Town will vote to amend and supersede certain parts of the fiscal year 2011 Operating Budget adopted under Article 21 of the May 2010 Annual Town Meeting, and as amended under Article 13 of the November, 2010 Special Town Meeting, by deleting the amounts of money appropriated under some of the line items and appropriating new amounts as follows:

Line Item	Appropriation	Changing From:	Changing To:
22A	Building Inspector Salaries	\$445,919	\$433,919
22B	Building Inspector Expenses	\$15,682	\$27,682

or take any other action relative thereto.

INSERTED BY: Finance Committee

FINANCE COMMITTEE RECOMMENDS THAT:

Article Information:

ARTICLE 6: APPROPRIATE FOR GENERAL FUND CASH CAPITAL

To see if the Town will vote to raise and/or transfer and appropriate \$178,700 for General Fund Cash Capital, to be spent under the direction of the Town Manager, and to meet this appropriation that \$178,700 be transferred from line 10 of t Article 21 of the 2010 Annual Town Meeting, as amended under Article 13 of the November, 2010 Special Town Meeting; or take any other action relative thereto:

Department	Description	Recommended	Amendment
Public Works	Construction Equipment	\$39,700	
Public Works	Large Speciality Equipment	\$139,000	
	Total Appropriation	\$178,700	

INSERTED BY: Board of Selectmen
FINANCE COMMITTEE RECOMMENDS THAT:

Article Information:

ARTICLE 7: APPROPRIATE FOR ENGINEERING STUDY FOR ENERGY UPGRADES

To see if the Town will vote to raise and/or transfer and appropriate \$50,000 for an engineering study for energy upgrades, said sum to be spent under the direction of the Town Manager, and to meet this appropriation that \$40,000 be transferred from Article 37 of the 3004 Annual Town Meeting and \$10,000 be transferred from line 10 of Article 21 of the 2010 Annual Town Meeting, as amended under Article 13 of the November, 2010 Special Town Meeting; or take any other action relative thereto.

INSERTED BY: Board of Selectmen
FINANCE COMMITTEE RECOMMENDS THAT:

Article Information:

ARTICLE 8: APPROPRIATE FOR PAYMENT OF UNPAID BILLS OF PRIOR YEARS

To see if the Town will vote to raise and/or transfer and appropriate \$248.00 for the payment of unpaid bills of previous years, incurred by the departments, boards and officers of the Town of Needham, as follows, and that \$248.00 be transferred from Overlay Surplus; or take any other action relative thereto.

Department	Vendor	Description	Fiscal Year	Amount
Human Resources	Health Resources	Testing	FY2009	\$ 53.00
Human Resources	Health Resources	Testing	FY2009	\$106.00
Human Resources	Health Resources	Testing	FY2009	\$ 89.00
			Total	\$248.00

INSERTED BY: Board of Selectmen
FINANCE COMMITTEE RECOMMENDS THAT:

Article Information:

ARTICLE 9: RESTORATION OF CHARLES RIVER TREATMENT FACILITY WELL

To see if the Town will vote to raise and/or transfer and appropriate \$600,000 for design, engineering, restoration and improvements at the Town's Charles River Water Treatment Facility Well, to be spent under the direction of the Town Manager, and to meet this appropriation that said sum be transferred from Water Retained Earnings; or take any other action relative thereto.

INSERTED BY: Board of Selectmen

FINANCE COMMITTEE RECOMMENDS THAT: Recommendation to be made at Town Meeting

INSERTED BY: Board of Selectmen

FINANCE COMMITTEE RECOMMENDS THAT:

Article Information:

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 under our hands at Needham aforesaid this 5th day of April 2011.

John A. Bulian, Chairman
Denise C. Garlick, Vice Chairman
Gerald A. Wasserman, Clerk
Maurice P. Handel
Daniel P. Matthews

Selectmen of Needham

A TRUE COPY

Attest:

Constable:

**Town Clerk's Office
Needham, MA 02492**

**First Class Mail
U.S. Postage Paid
Needham, MA
Permit No. 58224**

ATTN: SPECIAL TOWN MEETING WARRANT

[illegible]

Board of Selectmen

AGENDA FACT SHEET for 4/5/2011

Agenda Item: Town Hall Project Update Video

Presenter(s): Kate Fitzpatrick, Town Manager

1. BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED:

Brian Smith, official photographer of the Town Hall project, and Tiffany Shaw, Project Manager, have developed a video of the progress of the project in the existing building. The video is 9 minutes in duration.

2. VOTE REQUIRED BY BOARD OF SELECTMEN: YES [NO] (circle one)

3. BACK UP INFORMATION ATTACHED:

4. SIGN OFF/APPROVAL REQUIRED:

a.	Town Manager	yes	no	NA	_____
b.	Town Counsel	yes	no	NA	_____
c.	Finance Director	yes	no	NA	_____
d.	_____	yes	no	NA	_____

Disposition by BOS

Action taken: _____ **Present on future Agenda:** _____

Refer to/Inform: _____ **Report back to BOS on:** _____

Board of Selectmen

AGENDA FACT SHEET for 04/05/2011

Agenda Item: Town Manager Report

Presenter(s): Kate Fitzpatrick, Town Manager

1. BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED:

At this time, the Town Manager will update the Board on issues not covered on agenda, as needed.

2. VOTE REQUIRED BY BOARD OF SELECTMEN: YES [NO] (circle one)

3. BACK UP INFORMATION ATTACHED:

None

4. SIGN OFF/APPROVAL REQUIRED:

a.	Town Manager	yes	no	NA	_____
b.	Town Counsel	yes	no	NA	_____
c.	Finance Director	yes	no	NA	_____
d.	_____	yes	no	NA	_____

Disposition by BOS

Action taken: _____ **Present on future Agenda:** _____

Refer to/Inform: _____ **Report back to BOS on:** _____

Board of Selectmen

AGENDA FACT SHEET for 4/5/2011

Agenda Item: **Town Manager Performance Evaluation**

Presenter(s): **Board Discussion**

1. BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED:

In accordance with its policies, the Board of Selectmen prepares an annual performance evaluation of the Town manager. Each member of the Board completes his or her own evaluation. The individual evaluations are then compiled into a consensus evaluation overview document which contains the numerical average for each point of evaluation and a summary of overall evaluation comments. Board policy calls for the overview to be released at a meeting of the Board of Selectmen.

2. VOTE REQUIRED BY BOARD OF SELECTMEN: [YES] NO (circle one)

Suggested Motion: That the Board vote to approve the Town Manager Consensus Evaluation Overview Document dated April 5, 2011.

3. BACK UP INFORMATION ATTACHED:

- a. Town Manager Consensus Evaluation Overview Document
- b. Board of Selectmen Town Manager Evaluation Policy (BOS-PERS-004)

4. SIGN OFF/APPROVAL REQUIRED:

a.	Town Manager	yes	[no]	NA	_____
b.	Town Counsel	yes	[no]	NA	_____
c.	Finance Director	yes	[no]	NA	_____
d.	DPW _____	yes	[no]	NA	_____

Disposition by BOS

Action taken: _____ **Present on future Agenda:** _____

Refer to/Inform: _____ **Report back to BOS on:** _____



TOWN OF NEEDHAM

TOWN HALL
1471 Highland Avenue
Needham, MA 02492-2669

Office of the
TOWN MANAGER

TEL: (781) 455-7512
FAX: (781) 449-4569
TDD: (781) 455-7558

TO: Personnel Board
FROM: Kate Fitzpatrick, Town Manager
CC: David Davison, Assistant Town Manager/Finance
Christopher Coleman, Assistant Town Manager/Operations
Elizabeth Dennis, Director of Human Resources
DATE: March 21, 2011
RE: Non-Represented Compensation Proposal

In accordance with Section 20B(5) of the Town Charter, I hereby transmit to the Personnel Board for its consideration, review and comment a compensation plan for non-represented employees for the period FY2011 through FY2013. Although the Town has not implemented a multi-year compensation plan for non-represented employees in the past, we are presenting such a plan to the Board of Selectmen this year. Given the fiscal situation, we are recommending no adjustment to the salary and wage tables for fiscal year 2012. Considering alternative forms of compensation and future year salary and wage adjustments will allow our non-represented employees to plan accordingly. The plan has five components, as outlined below:

1. **A \$250 one-time payment in FY2011 for each benefit-eligible non-represented employee on the payroll on 3/1/2011 who did not receive the benefit as a member of ITWA**

The Agreement reached with the Independent Town Workers Association (ITWA) provided for a one-time payment of \$500 in return for the transition of new hires to rate saver plans, and no wage increase in FY2011. Non-represented employees received one additional personal day and no cash payment. This proposal provides equity between non-represented and ITWA employees who are fairly similarly situated in terms of work responsibilities.

2. **No adjustment to the salary and wage scale for FY2012**
3. **An Increase the Town's contribution to the 401A retirement savings plan by \$500 per year effective January 1, 2012**

Under the current plan, the Town will match on a "one for two" basis the retirement savings of employees up to a maximum of \$500 per year. In other words, if an employee contributes \$1,000 per year, he or she will receive a \$500 match. This proposal would increase the Town's potential contribution to \$1,000 per year. In order to qualify for the maximum amount, the employee must contribute \$2,000 per year. This flat dollar proposal provides the same benefit for all benefit-eligible employees, regardless of salary level.

4. **Adjust the salary and wage scale by 2% in FY2013**
5. **In the event that any additional compensation is provided to General Government bargaining unit members in return for immediate participation (of the entire unit) in the so-called Rate Saver health insurance plans, such program will be considered for non-represented employees.**



For Calendar Year: 2011

RECEIVED
TOWN OF NEEDHAM
BOARD OF SELECTMEN
2011 MAR 31 PM 4:53
TOWN OF NEEDHAM
APPLICATION FOR LICENSE FOR
PUBLIC ENTERTAINMENT ON SUNDAY

The undersigned hereby applies for a License for Public Entertainment on Sunday in accordance with the provisions of the statutes relating thereto:

Name of Establishment: Blue on Highland

Applicant (must be an individual): Matthew Sullivan

If Business is a Corporation / Corporate Name and Officers: _____

Mount Blue Two LLC

If Business is not a Corporation, Name of Owner: _____

Address of Establishment: 882 Highland Ave Needham MA 02494

Mailing Address: Same Telephone Number: 781-444-7001

Email Address: matth@blueonhighland.com Fax Number: 781-444-7010

Describe the type of entertainment at your Establishment: _____

Sunday Jazz Trios

The entertainment above mentioned is to be in keeping with the character of the Lord's Day and not inconsistent with its due observance.

No change to be made in the program without permission of the authorities granting and approving the license.

Signature of Applicant: Matthew Sullivan Date: 3/29/11

A certificate of insurance showing evidence that the applicant has workers' compensation insurance must be included with this completed application.

Pursuant to M.G.L. Ch. 62C, Sec. 49A:

I certify under the penalties of perjury that I, to my best knowledge and belief, have filed all state tax returns and paid all state taxes required under law.

Matthew Sullivan
Signature of Applicant (Mandatory)

By Corporate Officer
(If applicable)

54-2185292

3/29/11

Either a Social Security Number
Or Federal Identification Number
Must Be Supplied

Date (required)

This License will not be issued unless this certification clause is signed by the applicant.

MEMORANDUM

To: Needham Board of Selectmen

From: Needham Cultural Council

Date: March 17, 2011

The Needham Cultural Council requests the use of Avery Square in Needham Heights from 9:00 a.m. until 3:30 p.m. on June 11, 2011, for its Spring Arts Festival. These times include set-up and take-down. (Rain date is planned for June 12, 11:15-4:30). We would also like to be able to use some or all of Avery Road, the small, one-way street connecting Highland Ave. to West St. and are contacting the Needham Police Department about blocking off part or all of that small street. We are also contacting Avery Crossings/Manor about the possibility of using some of their property.

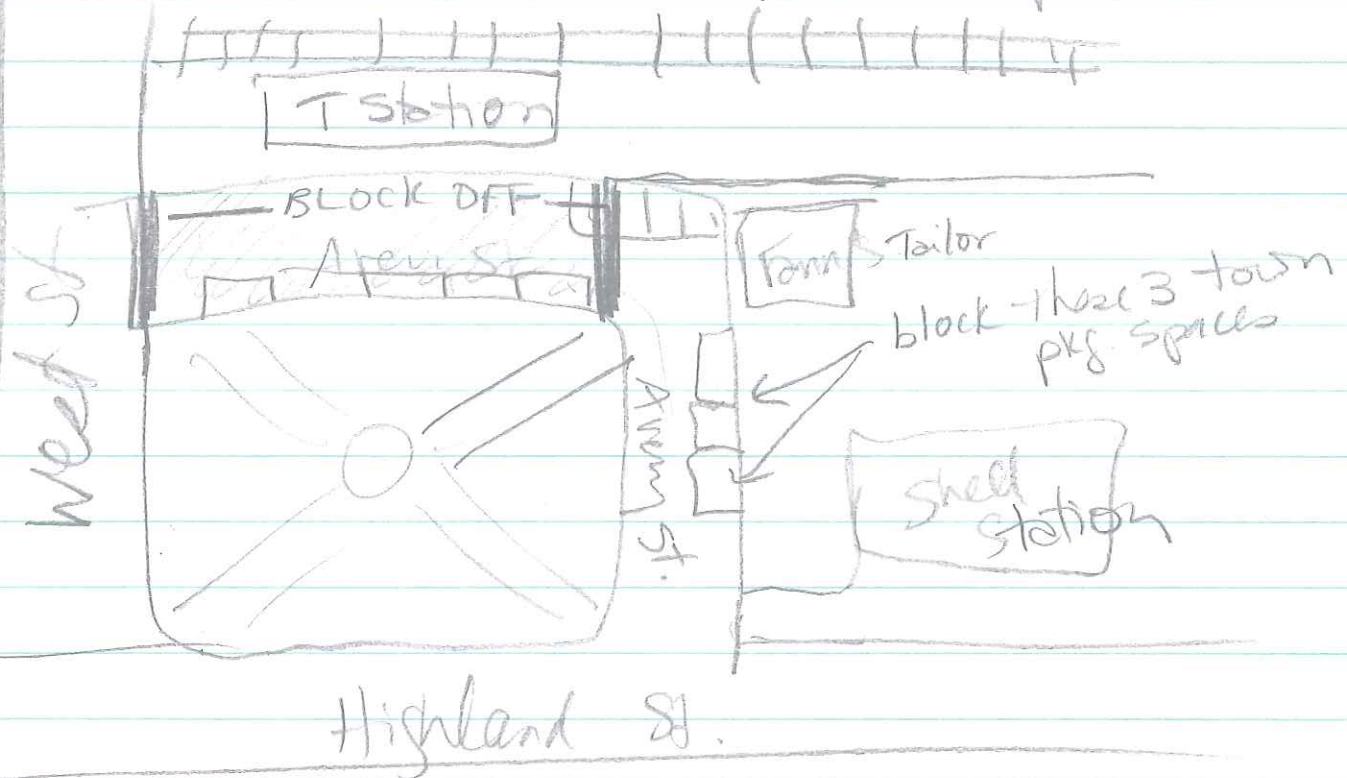
In the past we have held the Spring Arts Festival on the Town Common or at Memorial Park. Neither is available to us this year. Avery Square is a smaller site than we have used in the past, but we think the space will be adequate, especially if we can expand into the roadway and onto Avery Crossings. The hard surface of the roadway is useful for some of the performing groups, particularly dancers. We also will have art exhibits, crafts for kids, and music groups.

Thank you for considering this request.

Claire Messing for the Needham Cultural Council

Needham Cultural Council

We would like to close off the area from the corner of Avery St to West St. and leave open other portion





53 Coulton Park. Needham, MA 02492

RECEIVED
TOWN OF NEEDHAM
BOARD OF SELECTMEN
2011 MAR 24 A 8:50

March 22, 2011

Board of Selectmen, Town of Needham

Dear Selectmen,

I am writing to solicit your consent for the use of public roads in connection with the 21st running of the **Great Bear Run** on Sunday, May 15, 2011. It is once again to be hosted on the grounds of the Pollard Middle School, for which the school department has issued us a permit.

We will have a need to close down parts of Harris Avenue between 10:30 AM and 2:45 pm. The span of Harris Ave in which we must close runs for varying lengths depending on the specific event in progress (between Bradford and Eaton for the children's events and between Bradford and Fair Oaks for the 1 Mile Run / Walk). Other roads used for the extended race course (5K) include Great Plain Ave to South Street to Dedham Ave and Bradford Street. We deploy road marshals along these parts of the course, with a lead police escort.

MORE ON THE GREAT BEAR RUN OF NEEDHAM....

Last year, the race involved roughly 600 participants.

The race will include a Prostate Cancer Walk – and all proceeds from the Great Bear Run will benefit the Prostate Cancer cause.

For the past ten years, this race has been recognized in the "They're the Best" (top 50) road races in the New England / New York area by New England Runner magazine in company with many prestigious races. The unique quality of The Great Bear Run is that its emphasis is on entire families participating.

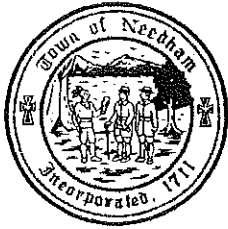
The Needham Track Club appreciates the support we've received from the school system, and public works department in past races. *As always, we invite any and all town officials to come to the race as special guests.* There are plenty of races that can use a distinguished VIP at the starting line, or hand to distribute awards !

I await your response to my request for use of public roads on May 15th, 2011.

Sincerely,

John Hrones, Race Director

cc. Chief of Police, Needham



**TOWN OF NEEDHAM, MASSACHUSETTS
PUBLIC WORKS DEPARTMENT**

470 Dedham Ave., Needham, MA 02492
Telephone: (781) 455-7534 Fax: (781) 449-9023

April 5, 2011

Board of Selectmen
1471 Highland Avenue
Needham, MA 02492

Dear Members of the Board:

Nationally each year, Arbor Day is celebrated in April. This year, the Parks and Forestry Division will be celebrating Arbor Day with the second grade students of the Hillside School. We will be handing out informational packets and common lilac seedlings for the children to bring home. To formalize the event, please vote to approve and sign the 2011 Arbor Day Proclamation.

Sincerely

Edward Olsen
Tree Warden / Supt. Parks and Forestry Div.



RECYCLE TODAY-SAVE TOMORROW



2011

ARBOR DAY PROCLAMATION

WHEREAS, In the year 1646 in the then Town of Boston of the Massachusetts Bay Colony the first recorded Public Tree planting in the New World took place as a Community effort involving men, women and children and

WHEREAS, The planting was not accomplished for private gain or individual benefit but rather it was public in nature for the relief of travelers because trees had long been recognized as providing tremendous benefits to the well being of mankind and

WHEREAS, When Needham became the 88th incorporated community in the Commonwealth of Massachusetts in 1711, its inhabitants were mostly land hungry settlers from Boston who had come to the wilderness to farm on the open land of the Great Plain and

WHEREAS, The Lessons of the Settlers had been learned. The practice of tree planting had continued on the Plain to reduce the erosion of the precious topsoil by wind and water and

WHEREAS, Trees are one of our greatest resources. They provide food and shelter, moderate temperatures, reduce noise pollution, provide wind breaks, establish a habitat for wildlife and

WHEREAS, Trees in our Town of Needham help beautify the area by providing Summer and Fall colors, interesting sizes and shapes, beautiful flowers and fruit and increased property value and

WHEREAS, The Town of Needham wishes to be recognized as a Tree City U.S.A. by the National Arbor Day Foundation and desires to continue its tree planting ways.

NOW, THEREFORE, We the Board of Selectmen of the Town of Needham do hereby proclaim the last Friday in April as Arbor Day in the Town of Needham and we encourage our residents to support all efforts to protect our trees and woodlands for future generations to come.

Our Children, our Trees, our Future.

BOARD OF SELECTMEN