

**Town of Needham
Board of Selectmen
Minutes for November 9, 2016
Needham Town Hall**

6:00 p.m. Executive Session:
A meeting of the Board of Selectmen was convened by Chairman Matthew D. Borrelli. Those present were Maurice P. Handel, Marianne B. Cooley, Daniel P. Matthews, John A. Bulian, Town Manager Kate Fitzpatrick. Recording Secretary Mary Hunt joined the meeting at 6:45 p.m.

Motion by Mr. Bulian that the Board of Selectmen vote to enter into Executive Session.

Exception 6 - To consider the purchase, exchange, lease or value of real estate, if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body.

Second: Mr. Cooley. Mr. Borrelli polled the Board. Unanimously approved 5-0.

6:45 p.m. The Board returned to Open Session.

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

7:00 p.m. Veterans Day Proclamation:
Ms. Cooley read a proclamation recognizing Friday, November 11, 2016 as Veterans Day in the Town of Needham.

**Motion by Ms. Cooley that the Board of Selectmen of the Town of Needham, do hereby recognize Friday, November 11, 2016 as Veterans Day and ask all citizens of the Town to join in appropriate observance of those who have served to preserve the principles of justice, freedom, and democracy.
Second: Mr. Handel. Unanimously approved 5-0.**

7:03 p.m. Public Hearing: Comcast Corporation - 1040 Great Plain Avenue
Manuel Furtado, Comcast Corporation representative appeared before the Board requesting permission to install approximately 128 feet of conduit in roadway from existing Vault in Sidewalk in front of 53 Chestnut Street to property line at Keith's Way (paper road) as described in plans.

Ms. Fitzpatrick confirmed all paperwork is in order.

Mr. Borrelli invited public comment. No comments were made.

Motion by Mr. Handel that the Board of Selectmen approve and sign a petition from Comcast Corporation to install approximately 128 feet of conduit in roadway from existing Vault in Sidewalk in front of 53 Chestnut Street to PL @ Keith's Way (paper road) as described in the attached plan. This work is necessary to provide service at 1040 Great Plain Avenue, Needham.
Second: Mr. Bulian. Unanimously approved 5-0.

7:03 p.m. Appointments and Consent Agenda:
Motion by Mr. Bulian that the Board of Selectmen vote to approve the Appointments and Consent Agenda as presented.

APPOINTMENTS - No Appointments were made at this meeting.

CONSENT AGENDA

- 1. Accept donations made to the Needham Cultural Council's NeedArts fund from the following people for its Winter Arts Festival: \$45 from Lauren Giardina, \$45 from Deniz Ozaslan Sikora, \$45 from Barbara Reynolds, \$45 from Stephanie Lederman, \$45 from James Cook, \$45 from Geraldine M. Daigler, \$45 from Sophie Schaffer, \$45 from Sylvia Y. Quiroga, \$45 from Chia L. Chan, \$45 from Adi Sky, \$45 from Needham Art Association, \$45 from Inga Puzikov, \$45 from Judith S. Ogilvie, \$45 from Jordan M Fuller, \$45 from Candace L. Sidner, \$45 from Nancy G. Van Broekhoven, \$45 from Edward M. Bruckner, \$45 from Barbara D Brownell, \$45 from Elise M. Miller, \$45 from Mary Murphy Hensley, \$45 from Judith Lynn Silverstein, \$45 from Susan C. Goldman, \$45 from Anne E.G. Nydam, \$45 from Gail Fischer, \$45 from Donna DeMaria, \$45 from Joanne Ellman, \$45 from Robert Y. Larsen, \$45 from Berline L. Chao, and \$45 from Samuel M. Behar.**
- 2. Ratify a Special One Day Wines & Malt Beverages Only license for Amy Sinclair of Trip Advisor, who hosted a UMass Alumni event on November 3, 2016 from 4:00 p.m. to 9:00 p.m. The event was held at Trip Advisor, 400 1st Avenue, Needham.**
- 3. Accept the following donations made to the Needham Community Revitalization Trust fund: \$1200 from Eaton Funeral Home for the Eaton Traffic Control Box Wrap and \$100 from Needham Lights for Banner Showcase Program.**
- 4. Water and Sewer Abatement Order #1225.**
- 5. Accept a \$250 donation made to the Needham Health Department's Substance Abuse Prevention & Education Program from Steve Scherneck, a Needham resident.**

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

7:04 p.m. Cable Television RCN Renewal License Transfer Hearing:
Peter Epstein, Esquire, Epstein & August, LLP, Cable Television Legal Counsel for the Town of Needham and Michael Greis, Chair, Cable Advisory Committee appeared before the Board to discuss the Renewal License Transfer.

Mr. Epstein said he is conducting the required public hearing on behalf of the Board of Selectmen in its role as statutory issuing authority. He said the hearing is being conducted pursuant to requirements of regulations of the Massachusetts Division of Telecommunications and Cable (“DTC”) at 207 CMR. He commented the Town of Needham published notice of the hearing in the Boston Globe and the Needham Times, and confirmed a video and audio recording is being made of the hearing.

Mr. Epstein said the hearing is an opportunity for the Town to question representatives of Yankee Cable Partners, LLC, a subsidiary of ABRY Partners. RCN currently holds the Renewal License, dated July 10, 2012, to offer cable services in the Town. TPG Capital will operate the RCN Renewal License under the ownership and indirect control of its affiliate Radiate Holdings, L.P. He said after the Board of Selectmen concludes the public hearing phase, it will have until January 11, 2017 to render a decision on Yankee and Radiant’s transfer request.

Jeff Carlson, General Manager and Vice President, RCN and Ari Moskowitz, Attorney, Mintz Levin representing Radiant Holdings, L.P. appeared before the Board to answer questions. Mr. Epstein said 4 criteria that the State requires the Board of Selectmen consider when rendering its decision include the financial capability, management experience, technical expertise, and the legal ability of Radiate Holdings, L.P. to operate the Needham system under the cable TV renewal license.

Mr. Moskowitz explained the history TPG Capital, the parent company of Radiate Holdings, L.P., a private equity investor with approximately \$73 billion in assets under management. Mr. Epstein said additional information is available in Form 394. Mr. Moskowitz said the aggregate purchase price for Yankee Cable Partners is \$1.6 billion. He confirmed TPG Capital and Radiate Holdings L.P. have no plans to increase rates on subscribers as a result of the transaction, and that TPG Capital plans to maintain current management and operation. Mr. Epstein asked for a statement in writing that the Town can continue to expect to deal with Mr. Tom Steel, Vice President and Regulatory Counsel, RCN Telecom Services, LLC. Mr. Moskowitz also confirmed Radiate Holdings has the management experience to assume control of the Needham cable system. He reiterated a full commitment maintaining the current management structure at RCN. Discussion ensued on the infrastructure of wireless service. Mr. Moskowitz explained Radiate Holdings, L.P. has the legal ability to operate the cable system under the current RCN license, reiterating the same company currently legally allowed to operate in Massachusetts will continue to do so. Mr. Moskowitz explained the closing conditions are primarily regulatory approvals and said the effective date of assigning closing ownership is anticipated to be during the first quarter of 2017. Discussion ensued regarding the current terms and conditions of the renewal license. Mr. Epstein noted much of the merger agreement between Yankee Cable Partners, LLC and Radiate Holdings L.P. is heavily redacted and asked Mr. Carlson and Mr. Moskowitz to certify for the record that such omitted information is not germane to

the Board of Selectmen's consideration of Form 394. Mr. Moskowitz confirmed the redacted information is not germane and all of the information removed falls under one of the FCC's allowable provisions for redaction. Discussion continued regarding several Department of Revenue liens as referenced in Schedule 1.1 of the merger agreement. Mr. Epstein asked Mr. Moskowitz to certify no other possible problematic liens remain. Mr. Moskowitz said he will confirm there are no other liens as part of the follow-up from the hearing.

Michael Greis asked for further details of the transaction. Mr. Moskowitz said additional details will be provided as part of the follow-up.

Mr. Epstein asked Mr. Carlson and Mr. Moskowitz to explain why the Board of Selectmen should approve the Form 394 for request for transfer of control of the system in Needham from Yankee Cable Partners LLC to Radiate Holding, L.P.? Mr. Moskowitz said TPG Capital is well financed, with no changes to the current management and customer service operation that RCN is known for. He commented enhancements to the current system and the extra resources of TPG Capital will provide will help ensure that RCN remains competitive with larger providers in the area.

Mr. Epstein asked the Board if it had any questions. No questions were asked.

Mr. Borrelli invited public comment. No comments were made.

Mr. Epstein said the public hearing will be continued for 13 days for receipt of follow-up written testimony and response. He asked anyone with questions to please submit them to the Board of Selectmen no later than November 22, 2016.

Motion by Mr. Handel that the Board vote to hold the record open for additional public comments until November 22, 2016.

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

7:51 p.m. Richard P. Merson, DPW Director appeared before the Board with two items to discuss:

1. Sign Notice of Traffic Regulation - Great Plain Avenue

Mr. Merson told the Board the Traffic Management Advisory Committee (TMAC) received a request from residents on Great Plain Avenue near Marked Tree Road asking that a 2 hour parking zone be established to prevent all-day parking on the south side of Great Plain Avenue from Marked Tree Road to a point opposite Marshall Street. The TMAC recommended that a two hour parking zone be established on the south side of Great Plain Avenue between Marked Tree Road and a point opposite Marshall Street.

Motion by Mr. Handel that the Board vote to approve and sign the Notice of Traffic Regulation Permit #P16-11-09 for Great Plain Avenue, Time Limited

**in Designated Places, South side from Marked Tree Road to a point opposite Marshall Street - 2 Hour Parking, 9:00 a.m. to 3:00 p.m., Monday - Friday.
Second: Mr. Bulian. Unanimously approved 5-0.**

2. Sign Notice of Tow-Away Zone Regulation

Mr. Merson, at the request of the Town Manager, asked that Section 5 “General Prohibition Towing Zones” located in the Tow-Away Zone Regulations section of the Town’s Traffic Rules and Regulations be amended by adding the following:

“i. Upon any way in such a manner as to impede road construction operations where properly posted”.

Motion by Mr. Handel that the Board vote to approve and sign the Notice of Tow-Away Zone Regulation Permit #TZ16-11-09 for Section 5, General Prohibition Zones, amended by adding “i. Upon any way in such a manner as to impede road construction operations where properly posted”.

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

7:52 p.m.

Town Manager:

Kate Fitzpatrick appeared before the Board with two items to discuss:

1. Traffic Control Box Wrap - Oak and Chestnut Streets

Ms. Fitzpatrick presented and asked the Board’s approval for a traffic control box wrap project, located at the corner of Oak and Chestnut Streets. She said the artistic cover theme for this wrap created by Needham artist Mary Hensley.

Motion by Mr. Bulian that the Board approve the traffic control wrap project for the corner of Oak and Chestnut Streets with the presented design.

Second: Ms. Cooley. Unanimously approved 5-0.

8:00 p.m.

Public Hearing: Regulation of Food Trucks and Food Carts

Mr. Borrelli gave a brief background regarding the subject of Food Trucks/Carts in the Town of Needham. He said the Board of Selectmen wish to gather input from interested parties on the subject of Food Trucks/Carts in the Town of Needham. He outlined a list of topics for discussion.

Mr. Borrelli invited public comment.

Dave DiCicco, 24 Mellen Street, on behalf of the Park and Recreation Commission, said the Commission is not opposed to having food trucks at parks if appropriate safety guidelines are put in place. He said trash, lighting, and permitting is of concern. He noted some parks and fields in Town have limited parking and access, and are therefore not appropriate for food trucks/carts. Mr. DiCicco said food trucks/carts cannot compete with concession stand sales that support various groups. Mr. DiCicco indicated the Park and Rec Commission is interested in hearing from the public and from sport groups who use the fields.

Mr. Handel asked whether any zoning issues needed to be resolved prior to approving food trucks/carts in Needham?

Kate Fitzpatrick, Town Manager said both zoning and general by-laws could be impacted. She said the general by-laws currently restrict hawkers and peddlers from schools and fields in active use, which would need to be addressed and may cause a ripple effect on other Town events.

Mr. Matthews commented reviewing regulations requires looking at many items. He said it may be best to break out and prioritize items, beginning with existing rules that keep private food vendors away from playing fields and recreational areas. He said he senses the public is interested in having food vendors at fields, particularly at larger events. He said the issue needs to be vetted to find out what the public and different stakeholders really want, which may be different at various parks and fields. He said the patchwork of rules and regulations must be reconciled so the public and vendors know exactly what the rules apply. He said it is important to first address the question of food service at larger events at or adjacent to public parks.

Mr. Borrelli invited public comments.

Joshua Levy, 42 Village Lane favors food trucks at parks, fields, and in the downtown business districts. He said he believes food trucks are a sub-set of the types of foods offered by traditional restaurants. He said there should be some “give and take.”

Doug Fox, 43 Marked Tree Road said citizen’s are underserved and urged the Board of Selectmen to find the “perfect option” for food trucks in the downtown. He said food trucks would be a big hit for children. He commented Needham Junior Football is very interested in having food trucks/carts at the field after practices.

Mr. Borrelli asked for Board comment.

Mr. Bulian said while he is not opposed to food trucks/carts in the downtown, he is concerned about using metered parking spaces. He commented places exist in the downtown that do not have parking meters and could be explored as an option. He said the logical place for food trucks will be in Needham Crossing.

Mr. Handel said the issues include how to deal with parks and sporting events, as well as proximity to businesses and the consumption of available parking. He concurred with Mr. Bulian in not consuming high value parking spaces in the heart of the downtown, noting there may be a way to accomplish the goal of getting variety that does not affect other businesses in the downtown. He commented on the difference between food trucks and food carts.

Mr. Borrelli said it is important to protect businesses in the downtown who pay higher taxes and overhead. He said it is problematic for traditional restaurants to compete with food trucks, but acknowledged there may be a way to have a limited service option that would not compete. Mr. Borrelli said there is an openness for food trucks at parks, Rosemary Pool, and/or Claxton Field.

Mr. Matthews commented he has reservations about food trucks in the downtown. He said policies in the business district that control the fixed location restaurants are based on things like the prohibition on drive through establishments, different service requirements, and sometimes high cost conveniences for the public, but which do not make money for the business. He said he feels that by having food trucks in public ways in the downtown does not protect the fixed location businesses. Mr. Matthews said one approach is to start by trying to work through rules for food trucks at playing fields or events, then revisit the issue after gaining some experience. Mr. Matthews reiterated the Town has more than 50 food vendors with a lot of variety, who provide food service to the public. He said food offered by food trucks is no different than food options already available.

Paul Good, 30 Walnut Street, on behalf of the Needham Business Association, said the NBA is concerned especially when an attempt is being made to revitalize the downtown and to support merchants. He said the NBA is not against food trucks, but does not believe downtown Needham is an appropriate location. He said allowing food trucks in the downtown would add another level of hardship for restaurants owners.

Joshua Levy, 42 Village Lane said consumers should decide what variety they want, not regulations prescribing how much variety is necessary.

Mr. Matthews reiterated fixed location restaurants can serve anything that can be sold from a food truck, but food trucks have the advantage of being able to park in a highly visible part of the public way and offer something that looks a lot like a drive through service, which is prohibited. The Town intentionally highly restricts, regulates, and taxes fixed location restaurants in order to pay for other services (i.e. roads and schools), where food trucks have lower overhead because of compliance costs.

Marty Jacobs, 36 Mayo Avenue commented if the Board is of the mind to make substantive changes, he would like to have input into the way regulations are drafted.

Doug Fox, 43 Marked Tree Road commented the reason Needham needs revitalization is because of a lack of foot traffic which has led to many empty store fronts. He pointed out food trucks are proven to be a great revitalization tool for downtown areas, and there is data showing food trucks actually help fill vacant storefronts leading to more vibrant restaurant communities.

Mr. Handel said the point is competition for prime parking spaces adversely affects all businesses if foot traffic is there for a food truck/cart that is consuming two prime parking spaces. He said looking for a solution for the food truck industry is concerning. Mr. Handel noted his conversation with a food truck vendor in Boston who told him the preference is to be located in the city rather than suburban areas where there is not enough foot traffic to support food trucks.

Ms. Cooley commented food trucks may be a possibility for children on early release days from school.

Mr. Borrelli closed the public hearing.

Mr. Borrelli reiterated he believes there is a desire to have food trucks/carts at certain locations. He suggested making a plan and to invite vendor participation. He also suggested the possibility of a food cart on Pickering Street, on a pilot basis, that is not a direct competitor with local business. He noted a public hearing would be held to gather input from business owners.

Mr. Matthews agreed with Mr. Borrelli's comments, but details need to be worked out with Park and Rec, Memorial Park Trustees, and the general question of having food service available at parks during events, and under what terms, conditions, and/or restrictions. Mr. Borrelli agreed, adding he would like to see a "food truck day" at one of the fields.

Mr. Bulian said he likes the plan, and suggested food trucks at Needham Crossing.

Mr. Handel said the Town has had good experience with a food cart in the downtown. He said he is not adverse to experimenting on another similar site where there isn't a private/public conflict.

Mr. Bulian and Ms. Cooley concurred with comments made by Mr. Handel.

Discussion ensued on rules and regulations, and reaching the goal of having food trucks at either DeFazio or Memorial Park.

- 8:48 p.m. Proposed Revision - Regulation for the Sale of Alcoholic Beverages:
Kate Fitzpatrick, Town Manager recommended that the Board consider revising the Town of Needham Regulations for the Sale of Alcoholic Beverages by:
1. Requiring the same training requirements for on premise sale of alcohol as off premise sales;
 2. Consolidate training requirements together under Section IV - General Rules and Regulations Applicable to Holders of Licenses to Sell Alcoholic Beverages within the Towns; and
 3. Amend initial license pro-ration provisions to be based on time of occupancy.

Motion by Mr. Handel that the Board of Selectmen vote to approve amendments to the Town of Needham Regulation for the Sale of Alcoholic Beverages under Sections IV and IX effective November 9, 2016.
Second: Ms. Cooley. Unanimously approved 5-0.

8:52 p.m. Board Discussion:

1. Minuteman School District Status

Mr. Matthews updated the Board on the status of the Minuteman project. He mentioned the setback from the Town of Belmont which voted against the project, and petitioned to withdraw from the district in three years. He said the question was asked whether other member towns should exercise their right to block Belmont from exiting the district. He said the consensus view was the remaining towns should take no action and allow Belmont to complete the withdrawal. He suggested the Board of Selectmen vote to recommend no action on the proposed withdrawal of the Town of Belmont from the district.

Motion by Mr. Matthews that the Board of Selectmen vote to recommend no action by the Town of Needham on the application of the Town of Belmont to withdraw from the Minuteman School District based on its recent Town Meeting action.
Second: Mr. Bulian.

Ms. Fitzpatrick said all the Town Clerks in the district received a letter from the Minuteman School District and the Town of Belmont certifying the actions of the Town Meeting.

Ms. Cooley asked whether it makes sense to wait to vote the motion until after the Board of Selectmen's meeting on Monday, November 14, 2016 with other constituents in town.

Mr. Matthews said there is no reason not to wait to vote the motion at another meeting. He agreed, and said Ms. Cooley is making a good point.

Mr. Matthews asked that his motion be tabled and voted at the next Board of Selectmen meeting on November 22, 2016.

9:05 p.m. Adjourn:

Motion by Mr. Bulian that the Board of Selectmen vote to adjourn the Board of Selectmen meeting of November 9, 2016.
Second: Mr. Handel. Unanimously approved 5-0.

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

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