

MEETING MINUTES

Town of Heath
SELECT BOARD
Sawyer Hall
February 5, 2019

Call to Order at 6:04 p.m. by Brian DeVriese with Robyn Provost-Carlson, Gloria Cronin Fisher, and Kara Leistyna present. See attendance sheet for others present.

Review Agenda: Will discuss conditions on South Road.

Minutes: *On a motion by Gloria Cronin Fisher, and seconded by Robyn Provost-Carlson, the Board voted unanimously to accept the 1/15/19 minutes as amended.*

Mail/ Email: See separate attachment.

Other Business:

- **South Road:** Selectboard members have received some calls from residents living on South Road. There is an area that is very muddy making travel difficult. Board discussed possible immediate remedies. Crew was short today due to illness. Mike Shattuck was reached at home and Robyn worked with him on a short-term solution. Crew set out tonight to establish one lane for travel and place cones to mark troubled areas to alert drivers. Then they will set out in the morning to attend to area further. This area of South Road requires a full assessment and to be added to Chap. 90 project list.
- **Host Community Agreement (HCA)/ Derek Ross/ BCWC LLC:** Draft HCA was forwarded to Town Counsel. The Selectboard reviewed the changes and accepted them. A couple of questions remain. One is regarding the late payment penalty. Board would like clarification on how it's assessed and due. On #6, Security, The Board wanted it written as: *To the extent requested by the Town's Police Department, under supervision of the Board of Selectmen.* They would like the authority to be the Selectboard. Another question for counsel is whether a provision may be added to the HCA requiring the entity to provide reports/updates to the Town e.g. an annual report with the payment? Kara will get clarification on excise tax. After clarification from town counsel, the revised draft may be sent back to BCWC for final approval.
- **STM Info. Sheet:** Reviewed and approved.
- **Request for Use of Heath School:** *On a motion by Gloria Cronin Fisher, and seconded by Robyn Provost-Carlson, the Board voted unanimously to approve the request for use by the Heath Firefighters Assoc. for annual pancake breakfast.* Fee waived.
- **RFP/ 5 Ledges Road Demolition:** *On a motion by Gloria Cronin Fisher, and seconded by Robyn Provost-Carlson, the Board voted unanimously to accept low bid for demolition by Associated Building Wreckers, \$34,280.* Andrea Woods from FRCOG will prepare contract and forward to Board for review.
- **FY20 Budget Planning:** Kara will input data on overall spreadsheet and forward to Finance Committee and ask that they review and bring to the Board any feedback.
- **Library Donation:** On a motion by Gloria Fisher, and seconded by Robyn Provost-Carlson, the Board voted unanimously to accept \$599.99 donation from Friends of the Heath Free Public Library for the purchase of a laptop computer for library patrons and staff.
- **FECE Meeting:** The Regional Emergency Communication System needs upgrading as it's failing. Gloria and John McDonough attended. There is concern about cost. Discussions will continue. Gloria spoke with legislators in attendance.

- **MLP Board and Advisors:** *On a motion by Gloria Cronin Fisher, and seconded by Robyn Provost-Carlson, the Board voted unanimously to group the current advisors to MLP into a “Committee” whose purpose it is to advise the MLP Board on broadband matters.*
- **Culvert Replacement Municipal Assistance Grant Program:** Discussed opportunity. Brian DeVriese will attend the upcoming briefing to be held in Springfield on 2/14/19. One question is regarding ‘goals of the Massachusetts Stream Crossing Standards.’ Kara will forward documents to Bill Lattrell for input.

Planning Board/ Building Commissioner – Permitting on Private vs. Public Ways: Jim Hawkins began by saying that this meeting was initiated through a complaint by a resident of Mohawk Estates (ME). Town Counsel has provided an opinion on the matter specifically whether lots in ME qualify for grandfathered status under Section 2.1.3 of the Town’s Zoning Bylaw. He offered that “if a lot is not considered grandfathered then the lots are not buildable under the Town’s current Zoning Bylaw but may be used for travel trailers, camp trailers and applicable accessory uses.” This adherence to the town’s bylaws is also referenced in the current Mohawk Estates Property Owner’s Association, Inc. Bylaws. A lot in Sect. 9 of the Zoning Bylaw is defined as a plot or parcel of land with frontage on a public way or on an approved subdivision road. There was differing opinion on whether or not ME is an approved subdivision. Calvin Carr provided an excerpt from the Heath Herald dated 1983 that the subdivision was not approved and that all lots must conform to the zoning bylaws. Jenny Hamilton, representing ME, believes that ME is an approved subdivision. Jim believes that those lots on private ways are not considered building lots and therefore he cannot issue building permits. Planning Board is concerned how this will get interpreted. If permits cannot be issued on private ways, land owners may think they can do whatever they want however, as town counsel opined, the lots are restricted to travel trailers, camp trailers and applicable uses. Anyone on a private way in Heath would have to show that they are grandfathered meaning, “they would have to show that the lots were not held in common ownership with adjoining land at the time the applicable restrictions of the Zoning Bylaws were adopted, (intensity restrictions and the definition of lot). Without grandfathered status, the lots are not buildable...” ME asserts that in 1968, World Waterfronts, Inc. (a corporation established in the state of Florida) created a subdivision where each unit had its own deed for building one dwelling and a garage. According to Jenny Hamilton, the properties are still under this master deed. She referenced 6.5.2 of the Heath Zoning Bylaws, “Mohawk Estates Building Lot – a building lot as indicated on *the original subdivision plan creating Mohawk Estates...*” However, Calvin Carr noted that the ME subdivision was created prior to Heath’s Zoning Bylaws and the Town never approved it as a subdivision - it may be a subdivision *plan* but it was never approved under the current Zoning Bylaws. There were only three parcels sold in ME prior to the passage of subdivision regulations in Heath (1969). All other lots therefore would have to comply with regulations, according to the article written in 1983.

Discussed density/setbacks and requirements for septic/wells. The regs were created with density in mind. Again, Jenny referred to the original deeds for single home/garage for each lot. Discussed trailer density per lot and the difference between the town (1 per lot) and the ME (2 per lot). Infractions are to be addressed by the Association and Jenny says the new Board of Directors wants to straighten out and remedy issues and iron out solutions and get clarification on rules for everyone.

Jenny stressed that ME is a private organization. She said that no one should be on the private roadways without permission of the ME Board or as a guest of a resident. The highway crews, fire crews, police, etc. cannot access the private ways without express permission unless in an emergency situation or good cause. Jenny said that an Emergency Action Plan was being created and that the ME would like to bring back working together as a community.

Discussed Special Permitting. Jim understands that he cannot issue a building permit without a variance. He will take the information provided by Jenny to town counsel to get further opinion. Bill Gran pointed out that a variance may only be issued upon certain circumstances – if property is unique in zoning district; hardship is proven; and situation is detrimental to community. Again, Jenny stated that property

owners are still purchasing lots with the assumption that they are buying a buildable lot. Not all lots qualify as buildable according to current regulations. One needs four lots for septic and well must be 100 ft. away. Most won't qualify. Jenny thinks setbacks need to change. Jenny was asked, and agreed, to put in writing what the Association wants. Then it will have to be decided if it's in the best interest of the town. Again, Jim will provide the information Jenny has offered and ask counsel for a further opinion. Thank you to everyone.

Discussion ended at 7:45 p.m. and all parties left meeting.

Finance Committee Discussion: Vehicle Use Policy: Finance Committee would like to address in conjunction with Article 6 of the STM warrant, the vehicle use policy. Concerned about possible use of new truck for commuting home to garage and back. Would like to disallow. Board assured Finance Committee members that the issue has been discussed and it's been made clear that vehicles must be parked at the highway garage overnight. Robyn has already sent an email to crew letting them know that articles were recommended and placed on warrant and to let them know that Finance Committee was concerned about use of vehicles. Current policy is clear that vehicles are only to be used for municipal purposes. Will leave as written.

Ned shared that he will prepare an analysis showing maintenance costs and repairs of Heath school building and impact on tax rate to present at STM.

Regionalization/ Bob Gruen & Budge Litchfield: Budge and Bob attended tonight to offer an update on regionalization discussions. Again, revisited the voting composition. Each Town will have the same number of reps. and each rep will have one vote. This is important for the two smaller Towns (Hawley and Heath). This has been the custom since 1952 but in conflict with state law. May require special legislation to resolve – a solid yes or no clarifies the path forward. According to Budge, Heath could create a nice partnership and the inclusion of Heath can reduce each town's assessments. After confirmation, a meeting with Selectboards will be scheduled to discuss. Goal is a vote in May at ATM. The capital debt payoff will be presented to voters at the upcoming Heath STM. OPEB issue is still unclear at this time. Need to figure out a way to include in decision making – some way that Heath can contribute.

Assessment: Fluctuates year to year. Tech school assessment has changed and the operating assessment for Heath was lowered as a result. This reduction can offset the increase for Mohawk. The increase for Mohawk is due to having more students in attendance. Transportation costs fluctuate, too. There will be a public hearing on Wednesday at 7 pm at the Mohawk school. It is a popular myth that a closed elementary school creates a windfall. Students are still attending school and the costs are still incurred. Ken Roche will speak at an In-Service Day on the budget.

School Committee: An article was submitted to the last Heath Herald encouraging someone to step forward to serve as school committee representative. Bob Gruen will not seek another term.

Kudos were offered for the recent Massachusetts Coalition of Rural Schools video that has been created. Legislators have been very supportive. Thank you.

Bob and Budge left meeting at 8:36 p.m.

Signed documents.

There being no further business to come before the Board: *On a motion by Gloria Fisher, and seconded by Robyn Provost-Carlson, the Board voted unanimously to adjourn at 10:05 p.m.*

Respectfully presented,

Kara M. Leistyna
Town Coordinator