

**Town of Heath - Board of Health/Zoning Board Meeting
Meeting Minutes
February 4, 2019**

PRESENT: Betsy Kovacs, Susan Gruen, John Palmer

ALSO PRESENT: Andrea Crete FRCOG Health Director

For Zoning Board: Calvin Carr, Bill Gran, Doug Mason, Bob Viarengo

For Mohawk Estates: Jennifer Hamilton, Cliff Long, Jen XXXXX, and XXXX XXXX

Presiding: Betsy Kovacs, Chairman

Meeting was **called to order** at 6:32 pm.

Information Sharing with Representatives of Mohawk Estates

1. Jennifer Hamilton was chief spokesperson for ME. Owing to questions that have arisen in ME because of wording of Temporary Occupancy Permits (TOP), representatives of ME have sought counsel of their attorney.

Jennifer Hamilton described the establishment of ME in 1968 by World Waterfronts, Inc.. ME was created as a “subdivision” within the Town of Heath, an “association” with its own set of bylaws. Certain differences between ME bylaws and those of the town—particularly those regarding the number of trailers permitted on individual lots and the regulations for building permanent structures—precipitated the meeting.

Betsy reported Jenny requested at the January, 2019 BoH meeting that statements about inspections of trailers from the temporary occupancy permit applications be removed. She reported that all such references on the application are now removed. This does not alter the right of the BoH to request an inspection as it may deem necessary, and for the owner to give permission or refuse.

Jennifer stated that, because ME was incorporated before Heath zoning bylaws were put in place, ME has been “grandfathered,” allowing it, as a private entity, to issue and enforce its own bylaws without reference to those of the town. Of central importance is the number of trailers permitted on individual lots: ME permits 2-4 trailers on 1/4-acre lot; Heath permits 1. ME objects, too, that removal of any old trailers means that no new trailer can replace the former if it is more than the number permitted by Town bylaws.

Cal questioned whether ME could regard itself as being independent of Heath bylaws. Questions arose about the legal meanings and differences between “subdivision” and “association.” Jennifer said that because ME is still technically World Waterfronts, still follows its own bylaws, and has been grandfathered, it may regard itself as (according to their attorney) “a gated community without gates.”

Questions were raised about ME's relationship to Heath police, fire, and emergency forces and what rights/obligations each has. Jennifer said that these forces are only permitted in ME if they have been invited. Discussion ensued as to what constituted such an "invitation" as well as rights of ME residents and responsibilities of Heath town officials to give notification to residents of potential, impending changes to town bylaws at annual town meetings. Cal and Bob Viarengo noted that a public announcement was sufficient in any such case.

ME representatives asserted their desire to work cooperatively with the Town but insisted on their right to regulate and clean up abandoned vehicles, which they, too, agreed were undesirable.

Cal proposed that ME lay out parameters of discussion by listing relevant differences between ME and Heath bylaws and that the attorneys of each side or the Heath attorney and representatives of ME should continue the conversation.

2. Before departing, Jennifer raised the question of the ME "season," pointing out apparent discrepancy between wording in TOP (150 days between Memorial Day and Columbus Day) and ME understanding (they have "no season").

Representatives of ME departed at 7:30.

Request from Board of Health

Betsy requested on behalf of BoH that, unless a situation falls clearly under the aegis of BoH rules, that all mentions of the BoH as a permitting, regulating, or enforcing agent be struck from Zoning Bylaws, since enforcement of Zoning Bylaws is not a responsibility of boards of health under MA General law. For the same reason, the BoH members are requesting of the BoS to remove the authority for enforcing infractions involving unregistered or abandoned vehicles.

Gran said that he would review the Zoning Bylaws and propose to the Planning Board all changes/amendments required to remove the BoH from responsibility for enforcing Zoning regulations.

Cal questioned if unregistered vehicles were chiefly a BoH concern, owing to dangers of oil leakage or personal injury. In addition to difficulty involved in observing what may, in fact, be DEP concerns, Betsy and Andrea said that such vehicles were in prior violation of Zoning rules. Contamination issues can arise with any vehicles, registered or not, and do fall under the Board of Health's responsibility to investigate and enforce compliance.

Bob Viarengo and Bill Gran agreed with and said they would support the BoH request regarding unregistered vehicles and agreed that the Police or Select Board should be the enforcing authorities.

At a previous meeting, the BoH members voted in favor of requesting that the Select Board consider such an amendment (re unregistered cars) for inclusion of a relevant warrant at ATM.

Betsy mentioned that the BoS asked for the BoH members' opinions about the possibility of discontinuing Temporary Occupancy permitting by the BoH. She reported that the BoH responded to the BoS that they would agree if the BoS established an alternative process for reminding Town residents of the rules and finding a means for enforcement.

Next BoH Meeting: Set for Wednesday, February 13, at 4:00 p.m.

Meeting Adjourned at 8:15 pm

Submitted by John Palmer, BoH member

