

Minutes of the Joint Virtual Executive Session of Heath Planning Board and Board of Selectmen

November 22, 2021

Planning Board members present: Doug Mason, Jo Travis, Bob Viarengo, Peter Charow

Board of Selectmen members present: Brian Devriese, Sue Lively, Robin Provost-Carlson

Town Counsel present: Mark Reich

Town Coordinator: Hilma Sumner

Open Virtual meeting of the Board of Selectmen and Planning Board called to order by their respective chairpersons at 4:03 p.m.

Motion for entrance into executive session(BOS) and roll call vote made by Sue Lively, seconded by Brian DeVriese. Members of Board voted yes unanimously.

Doug proposed entrance into executive session pursuant to G.L.c.30A, Sec. 21 (a)(3), to discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body, as the chair so declares. For deliberation and strategy in New Cingular Wireless PCS, LLC d/b/a/AT&T Mobility v. Town of Heath Planning Board.

Motion for entrance into executive session (Planning Board) and roll call vote made by Bob Viarengo, seconded by Jo Travis. Members of Board voted yes unanimously.

Executive session begins at 4:10 p.m.

Items discussed:

1. Counsel filed response to complaint on November 12, 2021. Next step is to set budget, discuss alternative dispute mechanisms and possible pretrial conference.
2. Town counsel has been in touch with attorney for AT&T (Ed Pare). AT&T is willing to decrease tower height to 140 feet. They may be willing to place public safety equipment on the pole , and may pay \$2500 in consultant legal fees. Question now becomes whether or not we can settle outside of litigation. Town counsel feels that it is unlikely that we will be able to stop construction if AT&T persists. AT&T is prepared to prove gap in coverage, and that tower will cover this gap. AT&T attorney has stated that they looked at other sites.
3. If we do continue to negotiate, town counsel will communicate with one chosen person from each board to facilitate the process. Selectboard wishes to continue negotiations.

4. The Planning Board states that decreasing tower height to 140 feet does not represent compromise, since tower can be increased to 160 feet without further approval.
5. We discussed the possibly siting a tower on municipal land to benefit the town more with tax income on property and rental income from the tower owner and co-locators.
6. The Select Board agreed that town counsel inquire with ATT about the following: height limit, placement on municipal land, drive-test data, placement of radio equipment, legal fees and decommissioning costs. The Planning Board recommended consideration of alternative sites.
7. The Planning Board still believes that our unanimous decision to deny the application was the correct course of action.

Motion made to adjourn executive session of Planning Board and not to reconvene open session with roll call vote by Peter Charow. Motion seconded by Bob Viarengo. Board voted yes unanimously. Meeting adjourned at 5:31 p.m.

Respectfully submitted,

Jo Travis