

Meeting Minutes
HEATH PLANNING BOARD Executive Session
December 7, 2021

7:30 p.m. Call Meeting to Order Open Meeting

Motion and Roll Call Vote to enter into Executive Session concurrently with the Heath Select Board.

Attendance: Robyn Provost, Douglas Mason, Hilma Sumner, Bill Gran, Bob Viarengo, Mark Reich, Sue Lively, Peter Charow, Brian Devriese, Robin Stein.

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 and the chair so declares.

For deliberation and strategy in New Cingular Wireless PCS, LLC d/b/a AT&T Mobility v. Town of Heath, Town of Heath Planning Board

Motion and Roll Call Vote to adjourn Executive Session and not to reconvene in Open Session

The Select Board informed us that they would be using Town Council to negotiate with ATT.

The Planning Board unanimously asserted that it would be better to use Andrew Campanelli, a leading litigator for cell tower cases and The Heath Planning Boards consultant over the past several months. It was our unanimous understanding that Campanelli is far more familiar with the facts, the procedures and the caselaw in this case.

Peter Charow questioned Mark Reich on his previous cases pertaining to cell towers that he had litigated. Mark Reich did not offer up any specific cases.

We discussed the abutters motion to intervene in the case.

The Select Board stated that they thought we should settle with ATT because they did not want to litigate.

The Planning Board pointed out that the Citizens of Knott Road were willing to pay for the case themselves and that they were the only ones who would ever see the difference between a 140 or 180 foot tower as it would be in their back yard.

The Select Board and Town Counsel said it would be "Simpler" and "Easier" to negotiate before the Citizens group got involved. They voted to settle the case if the Planning Board agreed.

The Planning Board stated that it stood behind its original and final decision to deny the permit.

The Planning Board stated that we had to have one more executive session meeting on our own, to draw up an opinion.

Town Counsel advised the Planning Board on how to properly amend their agenda to include an executive session for the following day, when a publicly posted meeting was on the calendar.

The Select Board voted to allow Town Counsel to settle the next day if the Planning Board agreed.

Adjourn 8:15