

**Minutes of Heath Planning Board
December 8, 2021**

Doug called meeting to order at 7:07

Members Present: Doug Mason, Bob Viarengo, Jo Travis, Peter Charow, Bill Gran

Discussion of date for Public Hearing on Special Permit application for Marijuana Establishment at 11 Bellor Road, Heath.

Agreed upon date is January 6, 2022.

There will be four separate businesses leasing property at the 11 Bellor Road site. Therefore, the Planning Board may need to hold four separate Public Hearings on January 6th.

ANR Plan

Due to absence of applicant for a property subdivision this agenda item was passed over.

Executive Session:

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 - New Cingular Wireless PCS, LLC d/b/a AT&T Mobility v. Town of Heath, Town of Heath Planning Board.

Doug asked for a motion to move into an Executive Session at 7:32

Motion moved by Bill and seconded by Bob.

The motion was voted unanimously by rollcall vote.

**Minutes of Heath Planning Board Executive Session
December 8, 2021**

The Executive Session was opened at 7:32 pm

1. The abutters deserve their day in court. We should not be looking to sideline them by virtue of a quick settlement with ATT. This would not be fair to them and we would not be exercising our fiduciary responsibility to serve and protect the interests of the residents of Heath.
2. Who benefits from the offer currently on the table? Certainly not the abutters and probably not the town. We asked for a tower in compliance with our bylaws (110 feet) and a location on town land. What they offered was:
 - a. A tower 140 feet in height: I suspect to the abutters there is no difference between 140 feet and 180 feet. Both would be very visible to them and hence unacceptable.
 - b. An insistence on the current proposed location: they dismissed the offer of Jacobs Road without offering data or evidence to demonstrate why it would be impractical to them. They also indicated that municipal land was too complicated due to RFP and town meeting requirements. But if this is all that is on offer, they might have to compromise.

- c. Decommissioning bond: I don't know, but I imagine this is standard to all such infrastructure projects and a judge would support the request.
 - d. Town emergency communications devices on the tower: If they are getting money for the tower from FirstNet I would imagine this would be part of the deal in any event.
3. ATT seem to be very anxious to move forward quickly on this. Pare is working on the draft settlement agreement now and Town Counsel wants an answer from the two boards quickly. Why are they in such a hurry? It is our obligation as elected officials to allow the voters and particularly those with much at stake to have an opportunity to make their case in this process. We should not take actions that will prevent them from doing this. On the contrary we should facilitate it. We should not be in a hurry to accept the offer on the table if it does not serve the interests of those whom we represent.
 4. Town Counsel informs us that the ATT lawyers do not like Campanelli. Perhaps this is because he has had some success against them in court? In any event, this should not be a factor in our decision.
 5. Town Counsel suggests that if we do not accept the offer on the table we will then be presented with a 180 foot tower. I imagine in cases like this it is not a binary decision: our tower or no tower. I would imagine that the judge has some flexibility to accept some arguments made by the parties and reject others. He may very well not grant everything that the plaintiff is asking for.
 6. Can we explore other forms of mediation? This was addressed towards to end of the call last night but the audio was poor quality, it was the end of a very long meeting and it was difficult to understand.

The Planning Board drafted a statement to submit to the Heath Select Board.

"After months of public meetings and hundreds of hours of study and consultations, the Heath Planning Board voted unanimously that this application does not comply with the Town of Heath Protective Zoning Bylaws. We unanimously stand by that decision."

"Further, we do not believe that it is consistent with the responsibility of the Planning Board and the trust that the Heath voters have invested in us to preemptively deny the abutters their right to be heard."

It was moved by Bill to submit the statement to the Select Board. Seconded by Bob. It was voted unanimously.

Peter moved to adjourn the Executive Session, and Jo seconded. It was voted unanimously, and the Executive Session adjourned at 8:30.

Submitted by Bill Gran
