

MEETING MINUTES

Town of Heath
SELECT BOARD
18 Jacob Road
August 16, 2022

Called to Order at 6:02 p.m. With Robyn Provost Carlson, Susan Lively, Brian De Vriese and Hilma Sumner, Town Coordinator, in attendance.

Others in Attendance: See attendance sheet.

Public Comment: Hilma Sumner commended the many town's people who had been volunteering this summer. Various people have been working at the different town buildings and parks to clean gardens, the center basketball court, wash windows, dispose of unused and broken items. Hilma also stated that the Hilltown Youth Performing Arts summer camp had ended and the cooperation of the group had been excellent. Any concerns on the part of the Town were quickly addressed and resolved.

Review Minutes: *On a motion by Susan Lively and a second by Brian De Vriese, the Select Board unanimously voted to approve the minutes of August 2, 2022, as amended.*

On a motion by Susan Lively and a second by Brian De Vriese, the Select Board unanimously voted to approve the minutes of the August 2, 2022, Dog Hearing, as presented.

Senior Program Coordinator Job Description: The job description is finalized. Hilma will send the pay range to the Council on Aging (COA) and the Select Board. She will also write a job posting and send to the COA for review.

Community Hall 150th Anniversary Celebration: Robyn showed a copy of the poster that had been designed to publicize the event which will take place on October 8, 1:00 p.m. to 4:00 p.m. The Board also reviewed an email from the Celebration chairperson, Elissa Viarengo, who wrote that an anonymous donor has offered to pay all expenses incurred for the celebration.

Green Communities Update: Brian responded to an email from Jane Pfister providing an update of the status of projects. He will contact Allison Gage at FRCOG to draft a request for an extension to the grant-spending deadline.

Building Use Committee (BUC) Kitchen Manager Agreement: Chairperson Pam Porter explained to the Board that a qualified person had been found who will serve as a kitchen manager in exchange for use time. She stated that Alice Lee has reviewed the terms and is willing to serve in this capacity. *On a motion by Susan Lively and a second by Brian De Vriese, the Select Board unanimously voted to approve the Kitchen Manager Agreement with an amendment.*

On a motion by Susan Lively and a second by Brian De Vriese, the Select Board unanimously voted to appoint Alice Lee as the kitchen manager as per the terms of the agreement.

Pam also asked if the kitchen inspection could be done in the near future since she had begun to publicize the kitchen's availability. Hilma will speak with the Building Maintenance Coordinator about obtaining the cost for the inspector to come to Heath for the one kitchen inspection since the Community Hall kitchen still needs some electrical work.

Accountant/Bill Submission Policy: Robyn, Hilma, Alice Wozniak and Dave Fierro, Accountant, met to discuss the lack of consistency in submitting invoices for payment and the difficulties created by some submissions that lack the correct information. Out of the meeting a new bill submission policy was developed and two existing policies were updated. *On a motion by Susan Lively and a second by Brian De Vriese, the Select Board unanimously voted to approve the Policy for Submission of Invoices for Payment, Electronic Invoice Policy for Town-Related Expenses and Reimbursement Policy for Town-Related Expenses.* Hilma will email the three policies to all the departments who submit invoices for payment.

Town Buildings and Offices: There will be an email letter sent to the various officials who have office space and, historically, held posted office hours. The letter will explain that, now that buildings are open, officials will need to post and hold weekly office hours. The Board discussed the possibility of having a signboard at the front of the office building with the offices and hours posted. *On a motion by Susan Lively and a second by Brian De Vriese, the Select Board unanimously voted to approve the letter to town officials with offices with final amendments made by Robyn.*

Intervenors in AT&T v. Town of Heath: Kate Peppard, Bobby Honeycutt, the Jesse Weigand family, Kevin Mahoney, Tara Mason, Ed Whitaker and Cory Mason joined the meeting to discuss the status of the lawsuit.

Kate Peppard read an opening statement in which she said that the group of intervenors were not there to ask “why” but to discuss the possibility of the Board working with them. They prefer to work in a collaborative manner. If the Board is not willing to work with them, they will proceed in the lawsuit. (See attachment for entire statement.)

Robyn stated that she was uncertain how much she was comfortable saying without legal counsel. She also told the intervenors that they can reach out to AT&T at any time for discussion. If there is to be negotiations, all three parties have to agree with whatever possibility is proposed.

Kevin Maloney commented that he thought it would benefit all three parties to not go through the legal process and would prefer informal mediation. The intervenors prefer to hold talks without legal counsel to save money.

Response from Robyn included reiteration of the question of whether AT&T is willing to come to the table without counsel. She also affirmed that the agreement reached by the Board was what was considered in the best interest of the town as a whole and that AT&T had rejected any height lower than a maximum allowable 140 feet and rejected re-siting to a different location. Robyn also commented that the motion by the intervenors had halted the progress of the agreement; everything that the Board had fought for the town is gone. The Board does not know if AT&T would still consider any of the terms in the original agreement.

Kevin M. remarked that it sounded to him like the Board was willing to consider a mediation that would be done prior to the legal process.

Robyn commented that the Board worked to get what they did and the best deal for the town. The Board had a plan that they believed the town could live with although it would not make everyone happy.

Cory Mason said that the intervenors were meeting with the Board to get a read on the Town and what was important.

Sue stated that AT&T is the key around the situation. If they are willing to have conversation, it could move forward. However, if AT&T does not want to meet, there would be no point in continuing to discuss the matter. Sue also said she believed the intervenors needed to approach AT&T since they are initiating the idea of extra-legal negotiations.

Jesse Weigand asked that each Board member meet separately, outside of a meeting, to discuss the matter. The Board responded that they would not meet individually since no decisions could be made nor opinion given without a duly called meeting and a quorum.

Cory M. asked if possible different locations had been offered and would AT&T consider relocation.

Brian replied that the intervenors are the aggrieved party and needed to have a starting proposal for any changes to what AT&T was requesting in its lawsuit.

Tara Mason asked if the Board proposed alternate sites for construction.

Robyn stated that she would not say for certain about sites proposed without review of records but that would be researched and the list of sites considered could be sent to the intervenors.

Kevin M. stated that their proposal for this meeting was only to see if the Board was willing to talk, not to bring a suggested plan to the meeting.

Tara M. remarked that other cell towers are built now that were not in place one year ago and more areas already have coverage.

Kate P. and Kevin M. both made remarks saying that the Select Board was not supporting the Planning Board and its decision by reaching an agreement to settle the lawsuit.

Resident Pam Porter stated that agreement by the Select Board in attempting to settle the lawsuit was not about not supporting the Planning Board but the situation came to the Select Board because the situation had turned into a lawsuit.

Robyn supplemented Pam's remarks by adding that the Select Board have the fiduciary responsibility of the Town.

Resident and Firefighter Steve Bigelow remarked that, if the Town had a cell tower, it would also benefit the Fire Department and the Police Department. Some volunteer members are unable to receive emergency calls on their pagers at this time and are not able to respond.

Robyn stated that she will ask Town Counsel if he has a non-attorney contact for AT&T. If he does, Hilma will pass the information on to Kevin. The intervenors were thanked for meeting with the Board.

Salt Shed: The Board reviewed the proposal from Greystone Construction for a new building. The Board agreed that the Bray Road property needs to be evaluated as to what work needs to happen, i.e., land clearing, a driveway, etc., in preparation for any construction. Robyn will look at the property deed to determine if there are any restrictions to driveway location. A landscape architect

would need to be engaged to develop the site design. Andrea Woods, FRCOG, will be consulted about writing an RFP that will request a review and design of both the present site and the Bray Road property. Brian stated that the current site would not handle the drainage and runoff for a larger structure as well as needing a size that would be the width for double-bay usage. The Board also agreed that research needs to be done to identify possible sources for financing this project.

MTRSD FY22 Assessment Error: The Board reviewed the Engagement Letter from the independent legal counsel who will be reading documentation and the regional agreement in respect to responsibility for this error. Brian and Hilma will meet with the attorney on Thursday morning.

On a motion by Susan Lively and a second by Brian De Vriese, the Select Board unanimously voted to approve the Engagement Letter and authorize the chairman to sign on behalf of the Select Board. An email will be sent to the MTRSD informing them that the Town is consulting legal counsel for an independent reading and when there is further information, the Board will get in touch with the District.

Town Coordinator Report:

- Landfill Mowing: Showed landfill to a representative from one company and answered questions. Two bids were received.
- Financial Meeting: Met with the Accountant, Director of Assessing and Robyn to discuss items needing correction and the need for a more uniform invoice-submission process. Reviewed proposed policies with the Accountant.
- Police Meeting: Attended an online meeting for police chiefs and town administrators of the towns that will be sharing the CSO case worker for this fiscal year. The worker will be available from 8-4, Monday-Friday and will be headquartered in the Ashfield police office. There will be a police officer on duty during all her work hours to escort her to calls.

Mail:

- P. Porter re: Kitchen Manager proposal
- J. Pfister/B. DeVriese re: GC grant update
- KP Law re: SJC upholding general bylaw
- Greystone Construction re: Salt Shed proposal
- Posting for mowing of Tri-town Landfill
- Pantermehl Land Clearing re: proposal for mowing
- Gleason Johndrow Landscaping re: proposal for mowing
- E. Viarengo re: 150th CH Celebration donor
- G & B Rode re: complaint letter about Sadoga Rd/Bellor Rd

Future Meeting Schedule: September 13, 27; October 11, 25; November 8, 22.

Next Meeting: August 30: MLB appointment, Town Buildings & Offices

8:26 p.m. *On a motion by Susan Lively and a second by Brian De Vriese, the Select Board unanimously voted to adjourn the meeting.*

Respectfully submitted,

Hilma A. Sumner
Town Coordinator

BOS

From: kate peppard <[REDACTED]>
Sent: Tuesday, August 16, 2022 6:53 PM
To: BOS
Subject: Request for Collaboration on Tower Location

Thank you for providing time on the agenda for a discussion of the proposed cellular tower at 0 Rowe Road.

We are not here today to tell you why we disagree with the placement of a tower at this location, we know you are well aware of our stance given the documentation of it through the Planning Board hearings and subsequently through our statements at Select Board meetings. Rather, we are here today to ask of the Select Board (SB) to work with us, **the intervenors, to potentially find a solution that serves all parties - the intervenors, the town as a whole, and AT&T.**

We have been informed that the Federal Judge overseeing the US District Court Case of AT&T [New Cingular Wireless] against the Town of Heath has made an order denying the consent decree that the Town and AT&T requested. The judge has been supportive of our right as intervenors to resist this proposed settlement, and has consistently ruled as such. The judge is, in fact, requiring that AT&T provide proof of their claims in their suit related to the decision made by our Planning Board to reject AT&T's application.

Rather than continuing down this legal avenue, we would prefer to work with our elected officials in a collaborative manner. We believe that as a community we can come to consensus if we work together. However, if you are unwilling to find a way towards mediation outside of the court, we intend to continue to resist the settlement attempts. We feel strongly that the Planning Board made the right decision, and we also believe that the burden of proof is on AT&T.

So at this time, we are asking you, our Select Board, our community leaders, to work with us to find a just and equitable solution and location for a tower that will maximize the benefit to Heath residents and minimize the number of towers that will need to go up in town for full network coverage. We believe this is possible, we hope that you see this as a viable option as well. Will you work with us?