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Wee Wah Beach Discussion: I think on the Wee Beach issue, addressing a lot of legal issues before the Board has really decided what it wants to do with this property may be putting the cart before the horse. There are state regulations for bathing beaches and I am not aware that the Village has a health department permit for the bathing beach (which would have been required even when the beach was operated by WWBC). The NYS regulations do allow for waivers and variances, but if a waiver or variance is not obtained, the regulations require a sign indicating no swimming when no lifeguard is present in the case of a bathing beach. However, those regulations are specific to bathing beaches (not lakes in general). So if the Village wishes to maintain and continue the beach use, we would recommend that the Village confirm that it has a permit from the County or, if not, to obtain one. If, on the other hand, the Village wishes to maintain the area as a more passive lake and eliminate the bathing beach component, the NYS bathing beach regulations at issue would not apply. In that case (no beach), the issues of "Swim at Your Own Risk" signs and other issues would need to be reviewed. If the Village continues the bathing beach use and obtains/confirms a permit with the County, then a "Swim at Your Own Risk" sign could not be posted unless the Village obtains a waiver/variance from that requirement. I will reach out to the County to determine if that is feasible. As far as establishing other rules, the Village is free to do so on its property and we can assist/recommend on drafting rules on what the Board wishes to permit/prohibit, but I think it makes more sense to determine what activities the Board wishes to permit or prohibit and then we can provide the legal guidance (rather than exploring various legal issues regarding an activity when ultimately, the Board may not wish to allow regardless of liability, etc).

The reality is that all activities come with risk and the Village can (and usually will) be sued, regardless of whether the claim ultimately has merit. Personal injury attorneys will always seek to name the government entity, if possible, to add a deeper pocket. So to permit any activity on Village land and have rules comes with some risk of liability. Sometimes those issues are addressed with waivers, permits, etc to help protect the Village.

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