

**BOARD OF HEALTH
PUBLIC HEARING MINUTES
DECEMBER 11, 2019**

TOWN CLERK'S OFFICE, ADAMS, MASS.
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CALL TO ORDER: Chairman Hoyt called the meeting to order at 4:00 PM.

MEMBERS PRESENT: Chairman Peter Hoyt, Vice-Chairman David Rhoads, Member Laura Grandchamp, Pam Gerry (Administrative Assistant), Mark Blaisdell, Code Enforcement

MEMBERS ABSENT: None

OTHERS PRESENT: Town Administrator Jay Green, Selectman James Bush, Senior Planner Kevin Towle, Jack Guerino (iBerkshires), William Martischnig, John & Tracy Sheerin (Original Seed), Rory Sheerin, Philip Symonds, Heather Main

REVIEW OF MINUTES: Hoyt requested changes to the November 6 Minutes. Rhoads will submit revised Minutes for approval next meeting. The November 14 Minutes were unanimously approved as submitted.

PUBLIC COMMENT: None

PUBLIC HEARING: None

CIGAR LOUNGE PERMIT APPLICATION (ORIGINAL SEED): Hoyt opened the discussion by noting that Blaisdell & Building Commissioner Garner had met with Mr. Sheerin regarding omissions from their application to the Adams BOH. Blaisdell added that 3 items were missing: state-mandated operations plan, a food service permit & a state license to operate a smoking lounge. He had distributed a draft operations plan that also included information regarding the food service permit & a portion of the town's tobacco license application. Rhoads requested time to read through the draft, having just received it at the beginning of the meeting. Blaisdell assured him that it would be revised; Rhoads asked that the finalized version be provided to the board at least 2 days before its review; Blaisdell said it would. Apparently, the Dept of Revenue cigar & cigarette excise licenses had been obtained (the latter necessary because cigarillos, which will be sold, are classified as cigarettes). The bottom line was that the conditional approval originally signed by previous Code Enforcement Officer Romaniak would expire on December 31st, an insufficient time for the Sheerins to obtain all the necessary approvals. Salient aspects of further discussion & action included:

(a) Grandchamp asked about the approval process. Blaisdell replied that the Zoning Board of Appeals had granted the Sheerins a variance to open the smoking lounge in this residential zone.

(b) Hoyt asked for a motion to approve the permit conditionally, which was made & seconded. In discussion, Rhoads said that he was reluctant to vote for such a motion, noting that he would rather vote on a motion that the board would not stand in the way of the smoking lounge should the Sheerins obtain all the requisite approvals. Blaisdell stepped in to remind us that Romaniak had already signed a conditional approval, but that would expire the end of the month, so the simplest option would be to extend this approval until March 31. The Sheerins felt that that would provide them with enough time. The board also expressed a willingness to grant a further extension should circumstances prevent timely attainment of prerequisites. The motion so amended was unanimously approved.

(c) Other information provided along the way included: (i) The Sheerins are now intending to purchase the building (32 North Summer St.) vs. their earlier plan to lease. As such, they would need to have the Adams BOH approval in order to obtain the necessary FBA loan. All appreciated this need & assured them of our intention to expedite a decision. (ii) TA Green noted that the premises were inspected by Garner to assess building suitability & advise on necessary upgrades/installations, pursuant to state & local requirements. (iii) We discussed the issue of "bring your own cigar." Mr. Sheerin answered that they would have a "members option," whereby patrons could rent humidor lockers along with obtaining this benefit. Rhoads asked whether such patrons could bring flavored cigars. Mr. Sheerin described the distinction between flavors & infusions (e.g. juniper berries or Chinese spices). (iv) Selectman Bush regretted that the Sheerins were not adequately apprised of requirements when they proposed their project. Rhoads noted that when the Sheerins first approached the board, he encouraged them to contact Selectman Nowak, who volunteered to serve a "business hospitality" resource, & Mr. Towle, who was familiar with town regulatory processes. Rhoads did not know whether his advice was taken.

CODE ENFORCEMENT OFFICER REPORT: Blaisdell distributed a report detailing his activities for November (attached). He noted that the food code inspections were coordinated with annual fire & building inspections to lessen the impact on business operations. In answer to Hoyt regarding scheduling challenges, Blaisdell replied that he has not found any difficulties. Rhoads followed up by asking Blaisdell for his assistance in

compiling a year-end list of permits for our 2019 annual report. Rhoads provided Blaisdell with last year's list, noting that some categories differed. Blaisdell readily agreed to prepare the updated list.

OLD BUSINESS:

- Hauler regulations follow up: Blaisdell had not met with Rhoads regarding the inclusion of annual reporting requirements for private haulers' renewal in the Full Circle online permitting utility. Blaisdell claimed that modifying our permitting process would affect other Full Circle county subscribers (Rhoads replied that this was not his understanding from Jayne Smith, our technical support person). Blaisdell also objected to the "non-compliance" letter that Rhoads had prepared for haulers to leave with clients who did not separate recyclable items, noting that Pittsfield uses stickers (Rhoads replied that he generated a letter because that is what is specified in our waste hauler regulations). Finally, Blaisdell was concerned that leaving trash on curbs itself is a health hazard, potentially attracting vermin. We discussed several possibilities for rationalizing the regulations & their implementation. TA Green ultimately provided a path by suggesting that we could rescind the June 12 revision & cherry-pick provisions of the original regulations to suspend enforcement, pending further study. A motion to rescind the revision & suspend reporting requirements was made & passed unanimously. Rhoads was charged with drafting a letter so stating for P Gerry to send to our haulers. He will also meet with Blaisdell to craft a modification process.
- BOH website – Vaping/Tobacco: Grandchamp reported that she had amassed a large collection of posters & fact sheets provided by DPH & the CDC. Rhoads & Hoyt both acknowledged the value of her materials after a quick review. Hoyt recommended that she sit down with Clerk Meczywor, who will help her with formatting the titles & flow for website presentation.
- Capping tobacco permits:
 - (a) Rhoads clarified for Blaisdell that Pittsfield Health Agent Gina Armstrong, whom he had invited, would instead come to a subsequent meeting. Rhoads offered 3 rationales for postponing her appearance: we hadn't yet committed to capping, Ms. Armstrong's input would be more meaningful when we're further along in the process & Pittsfield was in the process of further revising their current tobacco regulations. We also discussed the role of Jim Wilusz, director of the county's Tobacco Awareness Program, of which Adams is a member. Blaisdell said that he was able to enforce our tobacco regulations & questioned Mr. Wilusz's role, given that he is the Director of Tri-Town Health [i.e. Lee, Lenox, Stockbridge]. Rhoads replied that TAP is county-wide & is designated as the compliance monitor in our tobacco regulations. Rhoads added that TAP serves as a training resource & extra eyes but no ability levy fines. To Blaisdell's question regarding reports to Adams & DPH, Rhoads replied that Mr. Wilusz notifies our Code Enforcement & BOH of violations. Rhoads recounted a recent Express Mart violation in which a clerk had not taken TAP's Tobacco-21 training. When so informed, then Code Enforcement Officer Romaniak fined the owner, who paid the fine on the spot & had the clerk complete the requisite training soon thereafter. Blaisdell said that he saw no record of this nor of its reporting to the state. Rhoads replied that he was unaware of these lapses, having assumed that the violation was properly processed. Hoyt will contact Mr. Wilusz regarding communication of violations & follow-up protocols.
 - (b) Upon agreeing that we seriously wanted to consider capping, we entered into formal discussion. Our stated goal was to minimize youth access to tobacco products & exposure to advertising. Rhoads started by saying that he'd ask several questions, the answers with which Mr. Wilusz would produce a draft regulation for our further review. Blaisdell said that he could readily generate a draft himself from the DPH template. All agreed, noting that our answers were projections merely to generate the draft, with more information needed before we could knowledgeably negotiate final parameters (Grandchamp specifically pointed to the attrition goal). Parameters suggested were: Current cap 12-13; Setbacks 500 ft from schools, sports fields, playgrounds, other tobacco retailers; Attrition goal 1/1000 population; Adult-only – separate A/O cap, include A/O in the overall retail cap, or have an overlapping cap (i.e. total vendor # less than the total general retail + A/O caps). Rhoads will provide this information to Blaisdell.
 - (c) Additional discussion touched on the potential negative impact capping may have on attracting businesses to Adams, a point raised by Selectman Bush. Rhoads pointed out that public health priorities may conflict with those of the BOS, in this case economic development. He noted that it's important to balance competing priorities such as these. Hoyt agreed that we need to achieve such a balance.

NEW BUSINESS:

- Vaping issues - An Act Modernizing Tobacco Control: We noted that information had yet to be provided by DPH. Blaisdell & Rhoads both intend to tune into Thursday's DPH web conference. Rhoads will disseminate information from DPH, Mr. Wilusz & the conference to the other members of the board.
- BOH FY2019 & FY2020 budgets: Rhoads reported that he met with Town Accountant Mary Beverly earlier in the day to clarify the FY2019 budget for the town's annual report (a by-law requirement). He

will update his accounting accordingly. In addition, Ms. Beverly provided Rhoads with a 4-year health budget comparison to assist the board in developing their recommendation for the upcoming fiscal year (data currently being gathered with BOS & FinCom to develop the town budget by next March). Rhoads conveyed Ms. Beverly's encouragement to provide any input as soon as possible, with mid-January after our next meeting being completely acceptable. Projecting our FY2020 budget will be added to the January agenda. The board sense was that no changes were needed but that we would review the budget & make recommendations, as appropriate.

LOCAL & COUNTY UPDATES:

- 11/20: BCBOHA Exec. Comm. – Rhoads had nothing relevant to report.

FOR THE GOOD OF THE ORDER:

- Rhoads reported that he met with Town Counsel St. John III regarding open meeting law protocols. He expressed that the meeting was useful in apprising him of OML details as well as in learning more about transparency in general in town governance. Hoyt noted that he had also met with Mr. St. John; Grandchamp allowed that she had consulted her partner, an attorney, who informed her of OML nuances.
- Rhoads raised the issue of offering an internship to a high schooler, perhaps an opportunity to fulfill a community services requirement. Hoyt countered coincidentally that the director of the MCLA Community Health Education program had approached him earlier regarding an internship for college credit. We discussed the different levels of involvement & how to proceed with initiating either internship, if these appear desirable & feasible. Grandchamp suggested that the HS intern might be better aimed toward town governance in general, e.g. multiple boards & commissions, rather than focused on the BOH. As such, Rhoads was asked to explore the suitability with TA Green & Admin Ass't Dunlap. Rhoads asked Hoyt to obtain an opinion from Select Chair Hoyt (he predicted that the response would be positive). Concerns were raised regarding the college internship, particularly privacy & confidentiality, if the intern would be shadowing our code enforcement officer. Hoyt assured the board that safeguards were standard in setting up an internship with a legal agreement specifying the necessary guidelines. Hoyt will explore this request further. Hoyt also suggested that developing a project would be a valuable endeavor for both the board & the student. Mr. Bush noted that the involvement of Williams College students in assessing options for the North Adams transfer station was a rousing success all around.

REVIEW MAIL: The following mail was received; further information may be obtained in the Health Office.

- Specialty Mineral 3rd party quarterly inspection report, December 2019 (Environmental Partners)
- National Grid through its consultant GEI informed us (dated 11/22/19) that they had reached a Permanent Solutions with Conditions agreement with DEP regarding their disposal site at 33 Columbia Ave.
- Design Group, Inc., Release Abatement Measure for V's Car Wash submitted to DEP, dated 11/27/19

UPCOMING EVENTS: (Check with Rhoads if you need more information.)

- 12/13: DPH Web Conference on newly enacted tobacco regulations (Rhoads & Blaisdell)
- 12/17: Town cybersecurity workshop (Rhoads)
- 12/18: BCBOHA Executive Committee (Rhoads)
- 3/29/20: Berkshire Public Health Alliance (Rhoads)

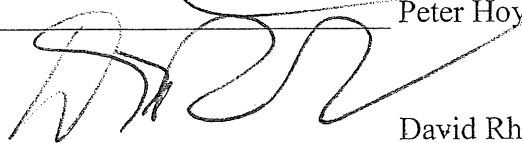
NEXT MEETINGS: January 8 & February 5 (4:00 PM, monthly Public Hearings)

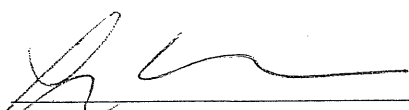
ADJOURN: A motion to adjourn was passed unanimously at 6:22 PM.

Respectfully Submitted, D Rhoads

Date 1/8/2020

 Peter Hoyt, PhD

 David Rhoads, PhD

 Laura Grandchamp, DVM

Code Enforcement Report to the Adams Board of Health for November 2019

Open Previous Cases:	25	Closed:	0
New Cases (November):	9	Closed:	1

Housing Code Cases	5		
Nuisance Cases	3		
Vacant Buildings Cases	2		
Condemnations	2	Rescinded	1
Food Code Complaints	0		
Tobacco Violations Cases	0		
Vehicles	0		
Non-Compliance Fines Issued		\$250.00	
Court	0		

Pre-rental Inspections:	6	
Pre-open Consultations/Inspections	2	
Food Code Consultations/Inspections	28	(mostly w/ Bldg. Comm. & Fire Chief)
Septic / Well Inspections	1	
Tobacco & N/D Insp. (of 10 Establishments)	4	[N/D = nicotine delivery (e.g. vaping)]
Lodging Insp. (of 3 Establishments)	2	
Schools/Daycare Inspections:	4	
Caterer Inspections	2	

Worth Noting: