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**ADAMS BOARD OF HEALTH  
MEETING MINUTES  
WEDNESDAY, SEPTEMBER 16, 2020**

**MEMBERS PRESENT:** Chairman David Rhoads, Vice-Chairman Peter Hoyt and Member Laura Grandchamp

**OTHERS PRESENT:** Attorney Edmund St. John III; Code Enforcer, Mark Blaisdell; Catherine Foster; Charles Meek; Cathy Marin and iBerkshires Jack Guerino

Attorney St. John stated that the members should ensure that all participants are able to have access to the meeting.

Chairman Rhoads stated that he hoped all participants are able to communicate with the board members.

Vice-Chairman Hoyt stated that there were eight participants waiting to join the meeting discussion.

**CALL TO ORDER:** Chairman Rhoads called the meeting to order at 4:00 P.M.

Chairman Rhoads began the meeting by stating that according to Governor Baker's March 12 and March 15, 2020 order suspending Open Meeting Laws and proposing strict limitations of attendees that are allowed to gather in one place, the Board of Health meeting would be conducted remotely with their participants.

Join Zoom meeting by video

URL: <https://zoom.us/j/94895355295?pwd=dGtOdUFmazRod2xQMC82d044TDZLdz09>

Meeting ID: 948 9535 5295

Passcode: BOH0916

Join Zoom meeting by phone, dial by your location

1-929-436-2866 (New York)

Meeting ID: 948 9535 5295

Passcode: 5208419

**NOTICES ON RECORDING & PANDEMIC WAIVER TO CONDUCT PUBLIC MEETING VIRTUALLY:**

Chairman Rhoads requested a moment of silence in memory of James Bush, Adams Selectboard and liaison to the Board of Health who passed away on September 9, 2020 stating that he would be missed by the Town of Adams.

Chairman Rhoads addressed Ms. Foster and thanked her for attending the meeting. He stated to her that the Board of Health would take her complaint seriously. The board members will acknowledge the receipt of the complaint and to answer the complaint under appropriate rules and procedures. Chairman Rhoads explained to her that she would have a brief opportunity to address the board members during their public comment.

## **APPROVAL OF MINUTES: August 5 & 19**

A motion made by Vice-Chairman Hoyt, seconded by Member Grandchamp to approve the minutes of August 5, 2020. A roll call vote was taken 3-0.

### **ADMINISTRATIVE ISSUES:**

- Status of recently-adopted tobacco sales regulations (further actions on hold)

Chairman Rhoads stated that the tobacco sales regulations that the board members revised on August 19, 2020 were on hold at the present moment. He stated that in time, they would be signed and submitted to the Town Clerk's Office. Chairman Rhoads explained to them that Attorney St. John recommended that the board suspend further action advising him that an individual could come forward claiming that the board violated Open Meeting Law at the August 19th meeting. Attorney St. John had requested that Chairman Rhoads repeat the public hearing at this evening's meeting. Chairman Rhoads stated that he could not make a decision based on speculation and the possibility that one person might come forward to challenge validity of the 8/19 meeting under OML. He stated that he did not move forward with the tobacco regulations but wanted to bring this topic to their current meeting.

Chairman Rhoads asked if there were any questions.

Member Grandchamp showed concern that the meeting was not heard by all participants which could cause future enforceability issues with the tobacco regulations if they adopt them during a meeting that could have contained an Open Meeting Law violation.

Chairman Rhoads stated that he agreed with Member Grandchamp and would like to clarify the matter with further discussion.

- Repeating the public hearing & vote on the revised tobacco sales regulations

Chairman Rhoads stated that Attorney St. John had advised that the board's meeting would have to take place on a different date within 30 days of the filed complaint. He stated that he understood that after the complaint was valid it would be signed and forwarded to the board members to address. Chairman Rhoads further noted that the board would have 20 days to make their redress or rebut and perhaps correct any administrative errors or decide that the complaint holds no merit and at that time they would file their formal decision with the Attorney General's Office for a determination. He explained to the members that they had various options to choose; first to repeat the public hearing and change the effective date of the tobacco regulations, secondly they could move forward with the regulations and if an open meeting law complaint was filed, they could address it on its merits and if it was meritorious repeat the public hearing and vote at a later time or thirdly wait until after the 30 day window to proceed and if an open meeting law complaint was lodged they could deal with it based on its merits.

Chairman Rhoads was curious to know if there were any further options they would like to consider at this time.

Attorney St. John addressed the board members suggesting that they move forward on re-publicizing another hearing on the tobacco regulations and following all Open Meeting Laws accordingly. He further noted that he shared the same concerns of those of Member Grandchamp stating that the violations of the Open Meeting Law during the public hearing could potentially effect the future validity of the tobacco regulations if challenged. Attorney St. John stated that he had concluded with his input on the protocol the board should follow to rectify the issues they are faced with.

Chairman Rhoads stated that he was reluctant to make certain decisions without proper information.

In response to this, Attorney St. John addressed Chairman Rhoads to ask him if he agreed that when an individual has been denied access to a meeting or that the previous meeting in question was advertised as being held in Town Hall which could not be assessed to the public the night of that meeting would be valid Open Meeting Law violations. Attorney St. John stated that he would suggest that they follow this process to secure the validity of their tobacco regulations in the future.

A motion made by Member Grandchamp, seconded by Vice-Chairman Hoyt to re-hold the public hearing from the beginning. A roll call vote was taken 3-0.

Vice-Chairman Hoyt expressed concern for the lack of staffing and assistance to board members pertaining to the details in conducting their meetings. He stated that perhaps the board should consider not holding any future meetings until these matters are addressed.

Mr. Blaisdell addressed the board members to ask what Ms. Foster's complaint was in reference to. Attorney St. John stated that this complaint was being referred to him to address and it would be filed in Berkshire Superior Court. The discussion regarding the complaint can be discussed at the board's next meeting held on September 30, 2020. He further emphasized that the complaint had been filed and would be referred to him to address. Attorney St. John stated to Mr. Blaisdell that he would be happy to communicate with him by phone at another time to discuss this matter.

- Discussion of board procedures & communications among other town entities

Chairman Rhoads continued on to discuss communication issues with town employees and other town agencies which have been a difficult process. He further showed concern that Code Enforcer Mark Blaisdell had not appeared at the last few meetings causing some difficulty with the board's ability to make certain decisions.

Chairman Rhoads asked if the members had any further comments in regards to this matter.

Vice-Chairman Hoyt asked for further clarification as to the matter of the communication breakdown.

Chairman Rhoads stated that he had a discussion with Building Commissioner Garner regarding the Board of Health budget and he was told by Mr. Garner that he was in charge of their budget. Chairman Rhoads stated that the budget should be in the control of the board of health members.

Vice-Chairman Hoyt stated that he assumed various changes have occurred within Town Hall with a new town administrator and new staffing and the board would have to adjust to the changes occurring at the present time.

Mr. Blaisdell suggested that they should hold this conversation when Mr. Garner could be present.

**PUBLIC COMMENT:** Chairman Rhoads asked if there were any public comments for the board members.

Catherine Foster addressed the board to ask clarification of who would be participating in the public comment. She was curious to know why Code Enforcer Blaisdell was engaging in the public comment section of the meeting.

Chairman Rhoads addressed her by stating that Mr. Blaisdell was a part of the health department

and had the right to speak at the board's meetings which his job description required.

Ms. Foster addressed Attorney St. John asking him if he could offer input regarding her concern.

Attorney St. John responded by stating that he was not a member of the board but he was available to offer advice to the members which he continued to note was a typical practice of any board meetings in the commonwealth.

**PUBLIC HEARING:** None

**CODE ENFORCEMENT OFFICER REPORT:**

- Status of reopening (restaurants, public spaces, etc.)

Chairman Rhoads addressed Code Enforcer Mark Blaisdell to ask him to explain to the board members the status of the reopenings in town.

Mr. Blaisdell stated that with the state of emergency in place, the town had to adhere to certain protocols for various restaurants who wished to operate with outdoor seating. He continued by stating that approval by himself, the fire department, police department and building inspector had opened without any problems, as well as organized sports events. He told them that any complaints which had been submitted to their office were all addressed at this time. Mr. Blaisdell stated that the Town Hall maintained full service operations during the pandemic which enabled them to address any concerns by the general public.

Chairman Rhoads thanked Mr. Blaisdell for his efforts in the reopening phase.

- Adding "Catering" to Full Circle permit menu

Chairman Rhoads asked Mr. Blaisdell to advise them as to the procedure required to add catering back to their permit menu.

Mr. Blaisdell stated that in the past catering was included on the Full Circle online permitting menu but was removed when the fee schedule needed to be updated and this was not included. Mr. Blaisdell requested that the board members amend the fee schedule of March, 2019 to include this to the online permitting fee schedule of \$100.00. Mr. Blaisdell stated that it was returned to the online site but this would require an amendment by the board members.

Board members discuss the online food permits listed on the permitting site for further clarification of the fee schedule.

A motion made by Member Grandchamp, seconded by Vice-Chairman Hoyt to resume the catering permit with a \$100.00 annual fee. A roll call vote was taken 3-0.

Chairman Rhoads stated that he would attempt to review past fee schedules at a future date with Mr. Blaisdell and Administrative Assistant, Pam Gerry.

- Updates to the Tobacco Regulation definitions for Blunt Wraps and Cigars

Chairman Rhoads asked Mr. Blaisdell if he could suggest how the board members could address the Blunt Wraps and Cigars.

Mr. Blaisdell stated to the members that he submitted an email to them on July 21, 2020 forwarded from MMOHA with recommendations for boards of health to update their definitions of Blunt Wraps and Cigars. He told them that he would like to see the board members update their definitions prior to the public hearing so they are consistent with other municipalities.

A motion made by Vice-Chairman Hoyt, seconded by Member Grandchamp to update the definitions of Blunt Wrap and Cigars to conform with the recommendations of MA Health Officers Association. A roll call vote was taken 3-0.

- Dollar General plastic bags / definition of recyclable bags

Chairman Rhoads began by stating that Mr. Blaisdell explained to them that Dollar General was using plastic bags at their retail store. He stated that they may conform to current regulations but continued stating that they did not conform to stricter plastic bag regulations. Chairman Rhoads stated that he reviewed the regulation enacted several years ago as well as the Town Code adding that the Town Code was vague. He informed members that it stated that the ban was associated with thin film plastic bags that had 2.5 mls. or less thick. He addressed Mr. Blaisdell for further input. He told them that there were two other jurisdictions in Berkshire County that the town should review which he suggested could merge the definitions to prevent the future use of plastic bags which potentially end up in area landfills and bodies of water. Chairman Rhoads stated that they could further discuss the definitions at a future meeting to come to a conclusion on a new definition.

**OLD BUSINESS:**

- Hauler regulations: To be discussed at a later time.
- COVID-19 update

Chairman Rhoads stated that Adams has had a few new cases of COVID-19 which had not surfaced for three months until this time. He stated that the public should continue to wash hands regularly, wear masks and practice social distancing especially in large gatherings. Chairman Rhoads stated that he had heard that there were three new cases in Berkshire County which could be traced to the Sturgis Bike Rally in South Dakota. Chairman Rhoads emphasized that it was very important to follow the regulations set by the CDC and the Department of Public Health.

Vice-Chairman Hoyt stated that after reviewing the data from Berkshire Medical Center he noticed that the statistics were showing similarities of cases arising during the May and July holidays.

Chairman Rhoads stated that the local schools are doing well which was great news to hear.

**NEW BUSINESS:**

- School reopening plans

Chairman Rhoads addressed Mr. Blaisdell to offer his input on the opening of the town's schools.

Mr. Blaisdell began by stating that he had received information from the three schools but numerous changes have occurred at the state level. He stated that on September 14, 2020 he obtained the most current report. Mr. Blaisdell told the board that he expected another revision in the days ahead and noted that all schools were attempting to maintain continuity and the reporting of covid cases with the local public health nurse. He stated that Nancy Slattery, Berkshire VNA was in communication with the school nurses in the area for their updates and that they follow their protocols in their community.

- Flu clinics

Chairman Rhoads stated that pharmacies offer flu vaccines. He told them that the schools were experiencing delays in receiving them for the students. He stated that the Berkshire VNA does not

offer flu vaccines for children in school and would have to come from another source. Chairman Rhoads addressed Mr. Blaisdell to ask him if he knew of further assistance for obtaining these flu vaccinations. Mr. Blaisdell stated that if all 3 nurses are inviting students, parents and staff to a flu clinic, and use the public service from these nurses or the Berkshire County boards of health association or use public health funds that it could not be restricted to the public. Mr. Blaisdell stated that there would be more information forthcoming. He stated that our local pharmacy holds flu clinics in the community at this time. Mr. Blaisdell explained that the school nurses would need assistance in giving the flu vaccines from BCC or McCann's nursing program. Mr. Blaisdell wanted the board to be aware that there was a shortage of flu vaccines as well needles.

Chairman Rhoads thanked Code Enforcer Blaisdell for the update on the future of the flu vaccinations and to inform the board of any way they could assist in this matter.

- Adding mental health information to our website

Vice-Chairman Hoyt stated that he would like to circulate a mental health link to the members for their review and wanted input on placing it on the town's website to assist individuals experiencing problems during the Pandemic crisis. Chairman Rhoads stated that it would benefit the public with gaining assistance with mental health issues and he agreed that it should be sent to the Town Clerk to be placed on the town's website.

#### Receipt of a complaint for judicial review

- Chairman Rhoads stated that the board received a complaint for judicial review, adding that by law that they were required to offer a response to the complaint within 20 days. Chairman Rhoads suggested that they hold a public hearing on September 30, 2020 to offer their response. He further noted that the meeting would involve the complainant, their representative and Code Enforcer, Mark Blaisdell, Town Administrator and Attorney St. John and or other experts who could assist with the complaint.

Attorney St. John addressed the board members to explain that the meeting held this evening was solely to inform the board that there was a complaint for judicial review of their decision in June 2020 in respect to Ms. Foster's appeal of the code enforcement orders. He continued to explain that the meeting being scheduled for September 30, 2020 would be to discuss the complaint and decide what needed to be done. Attorney St. John explained that the board of health's involvement in this matter was over and the only responsibility they held would be perhaps testifying in the court matter if necessary. He concluded by stating that the superior court judge would be conducting a review to determine whether the decision of the board made in June 2020 met the legal requirements of a decision of that nature. Attorney St. John stated that he would submit the legal paperwork for this proceeding. He suggested they continue this subject at the board's next meeting for further direction and updates.

Chairman Rhoads stated that the link he provided on Open Meeting Law would be a benefit for members to participate in.

#### LOCAL / COUNTY UPDATES:

- Note on weekly calls with DPH/BCBOHA

#### FOR THE GOOD OF THE ORDER:

- Vice-Chairman Hoyt thanked Code Enforcer, Mark Blaisdell for all his hard work during the COVID-19 Pandemic.
- **UPCOMING EVENTS:**
- Any?

**REVIEW MAIL:**

- Any?

**SCHEDULE NEXT MEETINGS:** Board members will meet on September 30, 2020 at 4:30 P.M. with a tentative meeting date of October 7, 2020.

**ADJOURNMENT:** A motion made by Vice-Chairman Hoyt, seconded by Member Grandchamp to adjourn the meeting the meeting at 5:29 P.M. A roll call vote was taken 3-0.

Respectfully Submitted,

Pamela Berry

Date

10-18-20