

APPROVED

**ADAMS BOARD OF HEALTH
MEETING MINUTES
WEDNESDAY, JANUARY 13, 2021
4:00 P.M.**

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

OTHERS PRESENT: DPW Director, Robert Tober; Code Enforcer, Mark Blaisdell; Jacob Schutz; David Krol; Terry Kondel; Syed Bokhari; iBerkshires, Jack Guerino and Administrative Assistant Pam Gerry

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

Join Zoom meeting by video

URL: <https://zoom.us/j/94663962907?pwd=OGxYQ2FaNHVDTFpQS94L3F3bElyUT09>

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Note: If you are having trouble joining, please call David B. Rhoads, Ph.D., Chair, at 781-507-1627.

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

APPROVAL OF MINUTES: December 9

A motion made by Member Grandchamp, seconded by Vice-Chairman Hoyt to approve the minutes of December 9, 2020 as submitted, passed unanimously. A roll call vote was taken 3-0.

PUBLIC COMMENT:

Chairman Rhoads opened the meeting for public comment.

David Krol, resident of 7 Summer Street addressed board members stating that Code Enforcer, Mark Blaisdell had visited the property to observe the potentially dangerous trees in his neighbors yard. He expressed concern that one tree was collapsing a stone wall and the other tree had been losing limbs and leaning toward his home. He stated to the board members that he discussed the options of removing the trees with Mr. Blaisdell. Mr. Krol explained that Mr. Blaisdell stated to him that in December 2020, he would discuss the possible removal of the trees with an arborist who unfortunately could not deal with civil cases. Mr. Krol stated that Mr. Blaisdell issued his neighbor, Mr. John Sherman a notification to remove the trees. He explained to the board members that Mr. Sherman appealed the notice and obtained an arborist of his own who informed him that the trees were not ready to be removed. Mr. Krol stated that Mr. Blaisdell suggested to him that he should contact one as well, further noting that if he determined

that the trees were to be taken down then the board could address this matter in the near future.

PUBLIC HEARING: 5 Summer St -Nuisance Order withdrawn.

Chairman Rhoads addressed Mr. Blaisdell to ask him if the trees mentioned were the ones included in his original order. He answered by stating that they were the trees that were included in Mr. Sherman's order to appeal the property located at 5 Summer Street. He further noted that Mr. Sherman received a professional opinion which stated that the trees were not a danger. Mr. Blaisdell explained to members that when he became aware of this information, he withdrew his nuisance order and requested that this item be removed from the Board of Health's agenda for this evening. Mr. Blaisdell stated that Mr. Krol had the right to obtain his own arborist. He suggested that Mr. Krol submit his assessment to his office and he would make the determination as to how the situation would be handled.

Chairman Rhoads assumed that Mr. Sherman had official documentation from an arborist stating that the trees were not dangerous noting that Mr. Krol had disagreed with this assessment. Mr. Krol commented that this was correct and requested that Mr. Blaisdell submit this documentation from Mr. Sherman's arborist to him for his review. Mr. Blaisdell stated that he would submit a copy to Mr. Krol as he requested. Chairman Rhoads asked Mr. Blaisdell to submit a copy of this assesment to the board members, as well. Chairman Rhoads encouraged Mr. Krol to receive his own professional assessment and thanked him for appearing before the board members.

Chairman Rhoads asked for further public comment. There were no additional comments.

CODE ENFORCEMENT OFFICER:

- Any pertinent issues?

Chairman Rhoads addressed Code Enforcer Blaisdell to ask him if he had any questions or concerns to discuss with the board members. He stated that at this time, he had none.

OLD BUSINESS:

- COVID-19 update

Chairman Rhoads reviewed some recent statistics regarding COVID-19. He stated that Berkshire County was over 1 per thousand for deaths and that the state of MA was over 2 deaths per thousand. Chairman Rhoads stated that he was pleased that the COVID vaccine was being administered and encouraged everyone to become vaccinated. He further noted that Governor Baker had extended the restrictions regarding meeting size criteria. Chairman Rhoads advised everyone to continue wearing their masks, washing their hands and to remain socially distant as much as possible.

Chairman Rhoads stated that the board members in the past were providing addresses of positive Covid cases to Chief of Police Richard Tarsa so they could prepare first responders with PPE (Personal Protective Equipment) gear. He told members that the state transmits these addresses through the Berkshire County Sheriff's Office also.

Chairman Rhoads further noted that the number of Covid cases had become overwhelming to the record keeping system and contact tracing. He stated that all addressess that are submitted to responders needed to be considered a potential Covid positive situation while adding that there was a high level of community spread taking place.

Chairman Rhoads asked if there were any further questions from board members.

Vice-Chairman Hoyt stated that the update provided was helpful to clarify the procedures that residents and first responder personnel were receiving and in a timely manner.

- Other?

NEW BUSINESS:

- Lead levels in schools

Chairman Rhoads stated that the lead levels in the schools were undergoing a voluntary testing program with the Adams Fire District. He told them that St. Stanislaus Kostka School had a “tweek above” the non-detectable level in August 2020 which became a concern to Superintendent John Barrett. He explained to the board members that when the water was flushed out, the presence of lead and contaminants could be attributed to the fact that water had not been running while the school was closed. Chairman Rhoads stated that unless faucets were totally flushed out, this situation could evolve adding that this was not an unusual occurrence. Chairman Rhoads stated that he would follow up with Mr. Barrett on this issue. He explained that sampling protocols could also cause contamination by on-site staff who may not have totally flushed the system which could cause these levels to occur.

Vice-Chairman Hoyt was curious to know if an additional lead test would be performed at St. Stanislaus Kostka School. Chairman Rhoads stated that he would communicate with Mr. Barrett and follow up with his findings at the board’s next scheduled meeting.

- Discussion and determination about the Parks Commission’s aired comments alleging that mask-wearing by the Little League was not enforced.

Chairman Rhoads turned the discussion over to Code Enforcer, Mark Blaisdell.

Code Enforcement Officer Mark Blaisdell presented his Report of Investigation, findings and recommendations pertaining to the park commission’s premature December 14th allegations that the Adams Little League was not enforcing mask-wearing during the Fall 2020 season when the little league shared the Valley Street Athletic Field with the soccer league (see the Report attached to these minutes). Though the parks commission membership were notified of this meeting and the intended discussion, only parks commissioner Jacob Schutz attended and he offered comments. Though the soccer league coordinator, Celia Norcross, and little league coordinator, Terry Kondel, were also notified of this meeting and the intended discussion, only Terry Kondel attended (but he did not offer any comments).

Officer Blaisdell clarified that there were no jurisdictional “statute of limitations” and that he implemented an investigation accordingly (as he would have done if complaints were made to the police outside of regular business hours). Blaisdell also clarified that Covid-19 orders, standards, guidelines and/or protocols (including his August 5, 2020, Public Health Order pertaining to usage of the town’s Athletic Fields) allowed for conditional and situational exemptions of masks or face-coverings based on circumstances that were obviously not taken into consideration by the parks commission and other laypersons. His investigation did not uncover any direct pandemic-related violations other than, possibly, the “bottle-necking” that might have occurred when players, participants and spectators entered or exited the Valley Street athletic field (thus, compromising social-distancing).

A motion made by Vice-Chairman Hoyt, seconded by Member Grandchamp to endorse Code Enforcer Blaisdell’s report of investigation with the amendment that “the accusations be considered actions with good intentions.”

Further discussion continued by Member Grandchamp who stated that she would like to see a plan in place to assure that Code Enforcer Blaisdell was informed of future violations and that he was present at the Parks Commission meetings for these discussions.

The Board voted unanimously to endorse Officer Blaisdell's report of investigation with the amendment that "the accusations be considered actions with good intentions." A roll call vote was taken 3-0.

A motion made by Member Grandchamp, seconded by Vice-Chairman Hoyt to issue an apology to the Little League.

Further discussion by Vice-Chairman Hoyt stated that he did not feel an apology should come from the Board of Health. He stated that this was an unfortunate situation.

Chairman Rhoads and Member Grandchamp voted in favor. Vice-Chairman Hoyt abstained. A roll call vote was taken 2-0-1.

- **Possible Suspension/Revocation of Mount Royal Inn's Lodging Permit**

Chairman Rhoads turned the meeting over to Code Enforcer Mark Blaisdell.

Mr. Blaisdell addressed the board members to let them know that on Tuesday, January 5, 2021 he was informed by Building Commissioner Gerald Garner that Mt. Royal Inn had not obtained their Certificate of Inspection nor their lodging liscence that was to be issued by the Board of Selectmen's Office. Mr. Blaisdell explained to the members that in order for his office to issue the lodging permit to Mt. Royal Inn these conditions have to be met. He stated that he contacted Mr. Bokhari to inform him that he would be setting a timeline for him to obtain the necessary paperwork. Mr. Blaidell stated that he allowed Mr. Bokhari until January 13, 2021 at 3:00 P.M. to have these items addressed. Mr. Blaisdell stated that he had spoken with Mr. Garner and he informed him that Mr. Bokhari had not obtained his Certificate of Inspection at this time. He continued to note that the Board of Selectmen's Office reported to him that the lodging liscence had not been issued at this time either. Mr. Blaisdell requested that the Board of Health suspend or revoke Mr. Bokhari's lodging permit.

Chairman Rhoads addressed Mr. Bokhari to ask him what his intentions were in addressing these issues. Mr. Bokhari stated that upon the expiration of his liscence, he had not received any notification. He had informed Mr. Blaisdell that he was experiencing problems logging into the online computer system necessary to move forward. He stated that Building Commissioner Garner assisted him with this matter stating that he appreciated his assistance and he had obtained the software specialists phone number from Mr. Garner. Mr. Bokhari informed them that he and Mr. Garner had continually called the specialists until finally Mr. Garner was able to reach them letting him know that their system was still down. Mr. Garner requested that Mr. Bokhari give him his log in information and he would attempt to try to access the system for him. He continued to state that Mr. Garner emailed him to let him know that he had luck logging in and that he would be able to apply for the inspections at this time. Mr. Bokhari let board members know that several items on his application were incomplete stating that he would need a fire extinguisher report receipt and a copy of the drawings of the layout of the building before he could move forward. Mr. Bokhari wanted the members to know that his taxes were paid in full and that the health inspector had issued the lodging permit. Mr. Bokhari stated that he would pay an additional \$100.00 fee to get his final inspection to obtain his Certificate of Inspection. In closing, Mr. Bokhari stated that he was at a point where he was in full compliance of what was requested of

him.

Chairman Rhoads asked if they could extend the closure order until Tuesday, January 19, 2021. Mr. Bokhari requested a seven to ten day extension adding that he was waiting on the fire extinguisher report along with the security and alarm company to satisfy all requirements necessary to move his permit forward.

Mr. Blaisdell addressed the board members stating that a lodging licence issued by the Board of Selectmen's Office was separate from the Board of Health's lodging permit. He suggested that the board members table or continue the case to their next scheduled meeting taking place on February 10, 2021 at 4:00 P.M. giving Mr. Bokhari the deadline of 3:00 P.M. on that day to be in total compliance.

Chairman Rhoads stated that the safety issues were their main concern to be addressed. In response, Mr. Bokhari stated that he would be taking care of all items quickly.

Mr. Blaisdell stated that Mr. Bokhari would have to satisfy all requirements from Building Commissioner Garner to obtain his Certificate of Occupancy. He further noted that he would need to contact Deb Dunlap, Administrative Assistant in the Board of Selectmen's Office to fulfill requirements for his lodging licence. Mr. Bokhari agreed to move forward on these items.

Chairman Rhoads concluded this discussion and wished Mr. Bokhari a Happy New Year, and expressed that he hoped that fulfilling his obligations to the town went well.

- Annual report recommendations

Chairman Rhoads asked members for their health recommendations to be included in the Board of Health's Town Report.

Vice-Chairman Hoyt stated that individuals should continue to take precautionary measures to avoid contacting COVID-19 or the spread of the virus. He stated that it was encouraging to know that there was a vaccine available at the present time. Vice-Chairman Hoyt stated that physical activity was important also.

Member Grandchamp stated that the mental health situation for many individuals has been difficult during this period of time and further noted that attempts should be made in caring for one another.

Chairman Rhoads stated that we should try to remain positive. He told members that he would draft a town report for their review in the weeks ahead.

LOCAL & COUNTY UPDATES:

- BRPC tabletop exercise, 1/7/21, cancelled

UPCOMING EVENTS:

REVIEW MAIL:

- There was no mail for the board members review.

FOR THE GOOD OF THE ORDER:

- Any?

SCHEDULE NEXT MEETINGS: February 10 set; March 10 next?

Board members set their next scheduled meetings for February 10 and March 10, 2021 at 4:00 P.M.

ADJOURNMENT:

A motion made by Vice-Chairman Hoyt, seconded by Member Grandchamp to adjourn the meeting at 5:22 P.M., passed unanimously. A roll call vote was taken 3-0.

Respectfully Submitted,

Pamela Leroy

Date

2-18-21



Town of Adams • Massachusetts 01220

Inspectional Services

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8 PARK STREET
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~ REPORT OF INVESTIGATION ~

1. On the morning of Thursday, December 17, 2020, iBerkshires published an article about the Parks Commission meeting held on Monday, December 14, 2020, which conveyed allegations made by commission chairperson Cynthia Bird that officials of the Adams Little League had not enforced violations of Covid-19 orders, standards, guidelines and/or protocols [applying to mask-wearing] that allegedly occurred during the part of the Fall 2020 season when the little league shared use of the Valley St. Field with the soccer league.

2. The Parks Commission is NOT an authorized statutory or approved investigative or enforcement entity pertaining to violations of COVID-19 orders, standards, guidelines, protocols, or the town's August 5th Public Health Order pertaining to the Use of the Town's Athletic Fields. Locally, this authorized statutory or approved investigative or enforcement authority rests primarily with the code enforcement officer, or the police [if occurring outside of regular business hours, which would be referred to the code enforcement officer on the following business day] and/or, ultimately, the Board of Health.

a. Nearly ALL matters investigated are past events and appropriate/lawful investigative tools used include statements, photographs, video and social media. Therefore, absent any "statute-of-limitations", the parks commission was procedurally and jurisdictionally incorrect by stating that nothing could be done presently about any alleged pandemic non-compliances that occurred this past Fall by the soccer league and little league.

b. Additionally, the article was inaccurate in stating that Ms. Bird discussed this subject matter with the town's code enforcement officer [during the weeks leading up to the December 14th meeting]. A review of the meeting recording reflects that Ms. Bird intended to discuss the allegations and her thorough investigation results at a public meeting (under "New Business") and, and in my opinion, she was wrong to do so at that time.

(1) This subject matter was NOT on the posted meeting agenda for Monday, December 14, 2020, and, in the code enforcement officer's opinion, Ms. Bird should not have brought it up at that meeting without giving proper notice/s to the code enforcement officer and little league officials beforehand.

(2) The iBerkshires article would have been quite different and proper context of the applicable COVID-19 orders, standards, guidelines, protocols [and the town's August 5th Public Health Order pertaining to use of the town's athletic fields] would have been conveyed and reported within the article.

3. On Monday, December 21, 2020, the code enforcement officer began an investigation pertaining to the allegations made against the Adams Little League and he asked the responsible parties to submit to him all ALL information (i.e., "sources" and the names and contact info. of persons who made complaints about the subject matter, any written statements or relative emails obtained, copies of social media, any and all photos/videos, the soccer league officials spoken with and when, the little league officials spoken with and when, etc.). These investigation materials were to be provided no later than 8:30 a.m. on Wednesday, December 23, 2020.

a. The organizers of the soccer league, Celia Norcross, and little league, Terry Kondel, were included within the notice of investigation. Celia Norcross did not respond to the code enforcement officer; however, Terry Kondel did... Any reasonable person would have expected that Ms. Norcross would have promptly supplied the code enforcement officer with volumes of corroborating information if the allegations presented in the iBerkshires article were, in fact, revealing that the soccer league truly did everything correctly and that the little league behaved recklessly and irresponsibly (as the parks commission portrayed).

b. Though commissioner Fassell was not included on the notice of investigation, the remaining parks commissioners, also, did not provide the code enforcement officer with the requested information by the established 8:30 a.m. deadline on Wednesday, December 23, 2020, or as of this date (nearly 4-weeks after the investigation was launched). This strongly suggests that their "investigation" and their conclusions were seriously flawed and that dissemination of their findings/determinations at a public meeting was markedly premature and NOT consistent with mask or face-covering exemptions allowed within the related COVID-19 orders, standards, guidelines, protocols [and the town's August 5th Public Health Order pertaining to use of the town's athletic fields] that were in effect at the time of alleged occurrence/s.

c. As an experienced investigator, the Adams code enforcement officer realizes that unedited photos and videos tend to show unintended stories or activities... Any full, objective and impartial investigation (especially involving photos, videos and/or social media) COULD reasonably or foreseeably result in identifying that the soccer league ALSO may have had potential or perceived violators of COVID-19 orders, standards, guidelines, protocols despite Ms. Bird's insistence within the iBerkshires article [and within the meeting recording] that "the soccer league made sure they were doing everything the right way."

4. The parks commission's "investigation" or their subsequent discussion on Dec. 14th did NOT take into consideration that COVID-19 orders, standards, guidelines and/or protocols [that were in effect at the time of alleged violation/s (to include the town's August 5th Public Health Order pertaining to use of the town's athletic fields), have allowances for when masks and face-coverings would not be required and these orders, standards,

guidelines and/or protocols ARE respectfully cognizant of lawful exemptions. Public health officials are also cognizant of the specific/conditional “requirements” of mask usage, any sector inconsistencies with standards/guidelines and further noting that these different sporting events carry their own variations.

a. At the time of the Fall 2020 sporting season, masks or face-covering were NOT necessarily the mandate for everyone and every situation -- it is all “conditional” and/or “situational”, which is why specifically trained persons are tasked with the enforcement and not lay-persons... Outdoors v. indoors, and inability to maintain 6-ft. distance v. ability to maintain satisfactory distances (additionally noting that the entrance/exit at the Valley St. Field is a logistical “bottle-neck” and not specific to any one particular league). In this situation, we have lay-persons formulating inaccurate opinions/conclusions WITHOUT providing ANY credible evidence and without taking into further exemptions/allowances.

b. At the time of the Fall 2020 sporting season, family/household cohorts were specifically EXEMPT (golf carts example being the leading precedent, and [enter here] the singular prior complaint made by a soccer mom about turf war and the code enforcement officer’s request for photos/video and social media screenshots). These cohorts were allowed to be within 6-ft. without masks or face-coverings; and, there was no authority that the cohorts “prove” they were of the same family/household.

c. Persons with medical, disabling, or other conditions are specifically EXEMPT; i.e., other circumstances based on the public health official’s discretion/judgment (i.e., hearing/speech impairment, etc.).

d. Certain physical exertion by the athletes, participants, or players (i.e., athletes, participants, or players were NOT required to be wearing masks or face-coverings during every moment while on the field).

e. Plainly spoken, public health officials (which includes police officers in this instance) have NEVER been authorized to ask for or demand “proof” of any exemption and the average person certainly does not have authority or entitlement to ask for, demand, or insist “proof” of any exemption. Plainly spoken, if any person feels uncomfortable and/or unprotected in any venue or forum based on the language contained within COVID-19 orders, standards, guidelines and/or protocols, or by public health officials’ legal constraints, those persons are free not to attend or use those enterprises (whether public or private).

5. **Conclusion:** There has been NO CREDIBLE INFORMATION presented, produced, or provided that substantiates or corroborates that the Adams Little League, nor the soccer league, had actually or conclusively violated any of the COVID-19 orders, standards, guidelines and/or protocols that were in place at the time of alleged violation/s discussed publicly during the December 14th Parks Commission meeting (to include the town’s August 5th Public Health Order pertaining to use of the town’s athletic fields). **Each complaint/case needs or needed to be investigated, assessed and evaluated on its own merits and circumstances.**

a. The Adams Little League was “accused, tried and convicted” based on mere “HEARSAY”, or conjecture/speculation, and individual/collective layman interpretation. All parties were accorded opportunities to report alleged violations as they occurred (even to report alleged violations outside of regular business hours to the police) and to subsequently accompany or provide presumptive convincing evidence to support allegations made (i.e., photos, videos and copies of social media posts, though these portrayals do not necessarily take into consideration justifiable statutory allowances and/or exemptions).


b. As the Board of Health knows, as with any permit granted for town facility usage, food service, tobacco sales, etc., or any promise to abide by COVID-19 orders, standards, guidelines and/or protocols, and/or any public health orders issued by the municipality, there is an **IMPLIED PROMISE** to cooperate with related investigations performed by authorized officials (which includes the code enforcement officer). The parties apparently do not understand that, during this pandemic and while the related State of Emergency exists, under the authority of Ch. 111 of the Mass. General Laws, the code enforcement officer (and ultimately the Board of Health) has final and singular decisive approval authority of athletic facility use (not the parks commission).

c. There IS credible evidence that the Adams Parks Commission AND the soccer league organizer, Celia Norcross, did NOT cooperate with the Adams code enforcement officer’s investigation once learning that an investigation was implemented. So, if any organization was to be called out singularly [next season, as conveyed by Commissioner Schutz], it should be the soccer league (not the little league) because the soccer league did not cooperate with this investigation; and, Ms. Bird should be required to abstain from any future input or facility approvals pertaining to facility use by the soccer league and little league due to her obvious prejudices and/or bias.

d. The soccer league did not like sharing the Valley St. Field to begin with, AND (as admitted by Ms. Bird) participants and spectators entering/exiting the field found it challenging to maintain safe social distancing while entering/exiting the field (“bottle-necking”). Therefore, going forward, this particular athletic field should NOT be used for any organized sporting events while this pandemic and its related State of Emergency exist.

6. I, therefore, pray that the Adams Board of Health endorses this Report of Investigation and that they issue an apology to the Adams Little League for the little league being wrongly and unjustly “accused, tried and convicted” by the Adams Parks Commission for allegedly not following COVID-19 orders, standards, guidelines and/or protocols without required Due Process and without satisfactory evidence.

Respectfully Submitted this 12th Day of January, 2021,


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