

POALH BOARD OF GOVERNORS
Emergency Meeting Minutes
April 18, 2020

The meeting was called to order at 7:02 pm by Bonnie Sudell via a Go-To Online Meeting.

Board members in attendance: Cindy Biancamano, Jeff Conway, Janet DePratti, Hema DeSilva, Jason Griffing, Gary Petersen, Kathy Sabo, & Bonnie Sudell, Bill Taylor

Association members in attendance: Lee Griffin -Treasurer, Ed Bader - Tax Collector

Covid 19

Bonnie Sudell stated that after the April 15, 2020 board meeting we were asked to get additional information regarding closing association properties. Both the association attorney and insurance agent were contacted with new information received. Bonnie proceeded to make the following motion: *Move to close all POALH properties including but not limited to the beaches, parking lots, pavilion, tennis courts, basketball court, playscape, volleyball court and athletic field. Further that we leave the port-o-potties locked and not put out the swim lines. Jan DePratti seconded the motion.*

Kathy Sabo commented that before we got into discussion on this topic she wanted to make sure this was a legal meeting because the by-laws indicate that we have to have seven days in advance on the website for the board of governors to hold a meeting. Ed Bader indicated that legal counsel said that given the urgency of the meeting that the board would be ok to have an emergency meeting.

Jason Griffing asked if we could amend a motion or does that fall under something else. Bonnie Sudell replied that you could ask for an amendment of the motion. Jeff Conway asked if a second motion was seconded you could have two motions at once. Bonnie Sudell said we would have to vote on the original motion or she would have to rescind her original motion to take up another motion.

Cindy Biancamano stated that our insurance policy clearly states that we do not have any coverage if it is related to a virus so is this a moot point. Jeff Conway, an insurance adjuster, who has had some interactions with Covid claims, recently said that the common opinion has been that Covid would be denied because you cannot see Covid and you cannot prove that it is causally related. We would not be able to be sued. You do not need a policy or a waiver for Covid because it is not causally related. Ed Bader did not think our insurance broker was relating to the basic general liability policy, as we do not have health insurance on all of our members. He was relating to the directors and officers liability insurance where it would be alleged a cause of action for gross negligence on the part of a board members for not taking due care and following the directions of federal, state and towns by closing large common areas within the association. We would not be sued by getting the virus on association property it is the action of the board of governors by not taking due care that they should have recognized that there was an issue and following in the footsteps of the town and of the state in taking appropriate care and closing the beaches as the town did. That is what he related it to. The personal liability that goes with D&O gross negligent claims are not covered by our policy. That is why he recommended to all of his association entities that they insure that they close all common areas to avoid any attempted claims. If someone files a claim it maybe eventually denied but it still has to be litigated and defended. They will not defend the association or board members for gross negligent claims. Jeff Conway disagrees on the gross negligence part. Gross negligence pertains to something like a slip and fall because of gross negligence on our part of a deteriorating building or something like that. They could file a claim but Covid is not causally related.

Discussion

Jeff Conway disagrees with Bonnie's motion as strict as it is. It could be amended. Perhaps adding a sign with specific limitations. Jeff does not think we need to be closing everything as his researched showed that was not the case everywhere. Jeff also questioned how we would enforce it. We could only lock the tennis courts and port-o-potties. It is not gross negligence if we logically close some part of the association. Gross negligence would be doing nothing. If the motion was amended it could protect us in a better way and still let the people use the property they pay taxes on. Jeff feels that the insurance broker Ed spoke with is just going by a worst-case scenario and there are many different cases under insurance. There are many different interpretations of the law and the statutes. Ed Bader wanted to make

it clear that neither he nor Jeff are lawyers. Ed did ask the broker for guidance who got information from the carrier that if a claim were made it is gross negligence. Our insurance experts believe that we should close the common areas and so has our attorneys. The Town of East Haddam has closed their common areas. Ed stated that we could talk about gross negligence all day but what he would like to do is put the association and the board members in the safest possible place so that the board can demonstrate that the association has done what its experts and advisors have recommended using that as a basis for a defense. Once you start tinkering and say we are just going to put a sign up then you have to live with it. If there is a problem or an outcry you are going to have to deal with it. The risk is that if a gross negligence claim were made the D&O carrier would not cover us.

Bill Taylor supports Bonnie Sudell's motion only with the amendment that the POALH will follow town and state guidelines in reopening all the common areas. Jason Griffing indicated that while the Town of East Haddam has closed beaches the State has not closed any beaches and parks. He wonders if gross negligence is still indicated whether we put up a sign that just warns about social distancing or says that the beaches are closed unless we put up temporary fencing around all beaches and entrance points someone could simply say they didn't see the sign. Are we negligent unless we put a sign at every ten feet? We should amend the motion to say we will put up warning signs asking for social distancing, close the port-a-potties, possible close the basketball court leaving the tennis courts and basketball courts open. Gary Petersen indicated you can't really close the basketball courts but you can take down the hoops but he thinks the courts should be closed because that is a contact sport. He indicated that perhaps you could just not put up the net on the volleyball court. The tennis courts should be ok. He thinks the beaches should be open with a warning sign, keep the port-o-potties closed and not rent the pavilion. We can always change it.

Hema DeSilva spoke with the department of public health and they have clearly stated that all parks should be warning the folks about maintaining social distancing. Walking along the beach is fine but you should not gather. We could just follow the state's requirements. As far as using the water they plan to look at some of those issues towards the middle of May. As of right now they are recommending honoring the governor's guidelines.

Kathy Sabo agrees with a lot of what is being said. She thinks Bonnie's motion should be rescinded and the board should go through each property that we have and determine what we are going to do with each one. She thinks baseball field should remain open. Tennis courts are ok with one net. Basketball courts are ok. Pavilion maybe take away the tables to discourage sitting. The beach maybe don't put out the rafts and the swim lines because we are not sure on that yet but don't close the beaches. Encourage social distancing. The volleyball should be ok too. Close the port-o-potties and playscape.

Cindy Biancamano indicated about a notice from East Lyme beaches that they sent to all their members about practicing social distancing or the beaches will be closed. We should also do something along those lines. We could monitor the beaches and if people are abusing it then we have justification to close them.

Jeff Conway supports Kathy's idea of taking each piece one by one. He also supports Jason, Gary & Hema's ideas. He also does not know how we would enforce closing the beaches. He suggests that the motion be amended.

Bonnie Sudell would not like to and is not willing to amend her motion. Kathy Sabo would like to make a motion to amend the motion. Jan DePratti commented that we would need to vote on this motion. Ed Bader stated that it would be simpler if Bonnie's motion was voted upon and if it was defeated then go through the properties one by one.

Bonnie reread the motion before the vote. Kathy Sabo inquired if Bonnie meant all POALH properties, every single property we own. Bonnie Sudell answered that is the motion as stated. Kathy Sabo further indicated that that would mean shutting down Glimmer Glen and the other road we own. Ed Bader commented that we do not own Glimmer Glen. The physical land that the road is on we do not own. It has not been accepted as a town road. That would not be included in Bonnie's motion. We cannot control access back and forth on that road. The Town of East Haddam for all practical purposes does everything to it. Cindy Biancamano asked about Pilgrim Way. Ed Bader stated that Pilgrim Way is a right of way owned by the common property owners that abut Pilgrim Way. Jason Griffing asked if the right of ways would be opened or closed. Kathy Sabo said closed. Ed Bader replied unless you open them up. Jeff Conway disagrees

about Glimmer Glenn as we have always been told that we own it. If we close everything then we will close Glimmer Glen, all the right of ways and all the little properties the association owns along the shore. This would cause a big fiasco. Jeff Conway asked to have a vote on the motion now and then we could deal with the next part. Hema DeSilva wanted to say that he has an email from the Town of East Haddam stating that Glimmer Glenn is not their road and that it is part of the association. We need to have a broad approach with signs in the beach areas mandating state social distancing and that we plan to open the beaches at this time. Things will pick up around Memorial Day so we can keep an eye on it. The playscape should be closed. We need to be careful. Jason Griffing would like to have a vote for expediency on this motion and then entertain other motions if needed. Jan DePratti wondered if Bonnie would amend her motion to include that we follow guidelines for reopening. Jan believes we need to follow town guidelines or state guidelines because right now they are a little different. Bonnie has called for a vote.

Voting – Bonnie Sudell & Bill Taylor voted yes. Cindy Biancamano, Jeff Conway, Jan DePratti, Hema DeSilva, Jason Griffing, Gary Petersen & Kathy Sabo voted no. The motion did not carry with a count of 2 yes's and 7 no's.

Jeff Conway would like to go through the properties one by one to determine what we should leave open and what we should close. Glimmer Glenn should stay open. Bonnie Sudell asked for someone to make another motion in its entirety.

Kathy Sabo started to compile the motion with help from all board members. Kathy made the following motion: *Move to leave the ball field open, put one net up on the tennis court, leave the basketball court open, block off tables at the pavilion, do not put out any rafts or swim lines but do not close the beaches, do not put the net on the volleyball court, do not open the port-o-potties, block off the playscape, leave the right of ways open, leave Glimmer Glenn open.* Jan DePratti requested part of the motion to include putting up signs. Jan also wanted to include some guidance in the motion about reopening. Kathy Sabo felt that we did not need wording about reopening as that could be addressed at a later board meeting. Ed Bader felt that we should follow the Town of East Haddam's reopening. Hema DeSilva felt the reason the state and town have different guidelines because they are finding differences in social distancing in some places. Ed Bader wanted to let us know that the state is now starting to close some state parks and encouraging solitary enjoyment only. Jeff Conway commented that none of our properties are parks. Gary Petersen seconded Kathy's motion so we could discuss it legally. He agrees with everything in the motion but he disagrees with leaving the basketball court open as there are too many kids congregating there now. Most board members agree with Gary. *Kathy made an amendment to close the basketball courts.*

Jeff Conway questioned how to limit kids on the playscape. Gary Petersen will put a sign up and put up yellow caution tape. Janet DePratti asked about the parking lots. She and Kathy both think they should be left open. Jeff Conway would like to have the motion reread so we can all vote on it.

Kathy Sabo reads the final motion as amended. *Move to put up warning signs at all beaches and to close the playscape, the volleyball court and the basketball court. Close the port-o-potties. Do not put out rafts or swim lines but the beaches will remain opened. The baseball field remains open. Only put up one net on the tennis court.*

Janet DePratti commented that there should be social distancing on the beaches. Kathy Sabo commented that those guides are already in place by the government, even wearing masks. Jeff Conway does not think you have to put social distancing on the signs because that is all common throughout the entire country. He also agrees that we do not need any wording about going by the town or state. He thinks the motion is sufficient as it sits to protect our members, protect the properties and to protect the board. The state and town guidelines may change every week and he does not think we need that wording to make this motion effective. Janet DePratti would like to discuss the wording on the signs after we vote. Bonnie Sudell moves to vote.

Voting – Bonnie Sudell and Bill Taylor voted no. Cindy Biancamano, Jeff Conway, Jan DePratti, Hema DeSilva, Jason Griffing, Gary Petersen & Kathy Sabo voted yes. The motion carried with a count of 7 yes's and 2 no's.

Kathy Sabo inquired on the next steps with duties falling mostly on Gary Petersen. Gary Petersen reported that he would put signs on everything that is closed, take down the basketball hoops and wrap up the playscape with caution tape and put a sign on there. Someone will have to have official signs made up. Jason Griffing volunteered to be responsible for coming up with the verbiage for the signs and emailing it for approval to all board members. Once he gets the wording approved by all board members he will have the signs made up. Ed Bader would like the motion circulated very soon with an email blast to the members and something on the website as soon as possible. Jason Griffing will send out an email blast. Kathy Sabo will work on loading up the recording of the meeting to the website on Monday. Jason Griffing advised that Lee Griffin would also post it in the kiosks on Monday.

Bonnie Sudell made a motion to adjourn the meeting at 7:54 pm. Cindy Biancamano seconded it. The meeting was adjourned at 7:54 p.m.

This meeting was also recorded and an audio recording has been posted on the POALH website.