

MINUTES
Tompkins County Board of Health
December 13, 2011
12:00 Noon
Rice Conference Room

Present: Mr. Will Burbank; Dr. Erin Hall-Rhoades; Dr. James Macmillan, President; Mr. Patrick McKee; Mr. Michael McLaughlin, Jr.; Ms. Janet Morgan; and Dr. William Tyler

Staff: Ms. Sylvia Allinger, Director of CSCN; Ms. Liz Cameron, Director of Environmental Health; Ms. Sigrid Connors, Director of Patient Services; Ms. Brenda Grinnell Crosby, Public Health Administrator; Dr. William Klepack, Medical Director; Mr. Frank Kruppa, Public Health Director; Mr. Jonathan Wood, County Attorney; Ms. Patty Stamm, Administrative Assistant; and Ms. Shelley Comisi, Keyboard Specialist

Excused: Mr. Brooke Greenhouse

Guests: Carol Chase, Sr. Public Health Sanitarian; and Steven Kern, Sr. Public Health Sanitarian

Privilege of the Floor: Karina Murphy, Blue Frog Café; Robert Busch, Wendy's; Jaesik Jung, Dasan-J Restaurant

Dr. Macmillan called the regular meeting of the Board of Health to order at 12:04 P.M.

Privilege of the Floor:

Ms. Karina Murphy, owner of the Blue Frog Café, addressed the Board regarding two citations received for skim milk and creamers stored at improper temperatures. After operating a business with a very good track record in Cortland for ten years, she recently opened a café in the local mall. During the first inspection, the skim milk on the counter was found at a higher temperature. Immediately, a timer was utilized and set for 45 minutes to monitor the milk. Unfortunately, on the second visit the refrigerator was not working properly so milk was found at a higher temperature. The restaurant: (1) uses a different refrigeration unit, (2) times and rotates milk and creamers on the counter for 35 minutes, and (3) maintains temperature logs 3 times a day for all refrigeration units. Her staff works hard to ensure everything is fresh and strives to provide healthy service. Ms. Murphy stated it will not happen again.

Mr. Robert Busch, District Manager for Wendy's, discussed the inspections and the issue with tomatoes. After the first inspection, the cooling unit was checked every morning because it was thought to be the problem. The restaurant also petitioned Wendy's to include tomatoes and shredded cheese in the temperature log. At the second inspection there was still an issue with the tomatoes. When the location of the tomatoes in the cooler was identified as the problem; they were moved in the refrigeration unit, checked every 2 hours, and discarded when above temperature. Since the second inspection, staff has been using a tracking sheet and logging temperatures online every 2 hours. Anything above 41 degrees is discarded. This system will be used until Wendy's comes out with a new temperature log. Mr. Busch asked the Board to reconsider the

maximum fine. Responding to the Board's concern that this problem has been going on for several years, Mr. Busch noted there were different issues. The restaurant has: (1) replaced the malfunctioning compressor, (2) changed procedures and layout of the coolers, and (3) retrained staff to correct issues.

Mr. Jaesik Jung, owner of the Dasan-J Restaurant, stated he opened his restaurant several years ago. Before hiring a new chef last year, the restaurant had not been cited for improper temperature of eggs. He noted his chef has difficulty understanding English so there are communication problems. Three times his chef left eggs outside the refrigerator. Two of those times he forgot to put the eggs away. The third time, he did not understand the problem the inspector cited. Mr. Jung (1) explained the problem to his chef and has been working with him to follow proper food storage procedures, and (2) showed the Board the temperature logs the staff maintains. He stated it will not happen again.

Approval of November 8, 2011 Minutes: Mr. McLaughlin moved to accept the minutes of the November 8, 2011 meeting as written, seconded by Ms. Morgan. Minutes carried unanimously.

Financial Summary: Ms. Grinnell Crosby distributed and reviewed the November 2011 financial summary, which is about 92% of the fiscal year.

Ms. Grinnell Crosby reported the 3rd Quarter State Aid has been posted. On page 3, the PHW State Aid Revenue looks particularly good since many grant payments were not received in the quarter. There are a number of grant claims yet to be paid. She also reported the State has paid the final claim for 2010, in addition to the first and second quarters for this year.

Administration Report: Mr. Kruppa stated the group will be discussing appointments to the Board of Health. He also requested an executive session regarding the Certified Home Health Agency (CHHA) negotiations be held at the end of the meeting.

Medical Director's Report: Dr. Klepack:

- Reported on the EPA's study in Wyoming. The good news is the study may affect regulations being proposed by NYSDEC that would mitigate or prevent those problems. The bad news is a connection was found between hydrofracking and the contamination of aquifers. In Wyoming, the well casings are different from the ones to be used in New York; the depth of the drilling was shallower and crossed over aquifers. Those factors make the Wyoming situation difficult to directly transfer to New York. However, if appropriate regulations are not put in place, the same kind of problems could be expected here.
- Attended the Dansville Public Hearing on hydrofracking to make suggestions to NYSDEC regarding the importance of health impact studies. Received positive feedback from DEC public relations official that the idea seemed constructive.

Division for Community Health: Ms. Connors reported:

- The Home Care program has the equivalent of 3 full-time nurses providing visits to approximately 30 patients. This is about 1/3 of the usual number. Only patients who can safely be cared for with our lower staffing are accepted. With less staff, Home Care is unable to accept high tech cases because it requires more frequent longer visits. The hospital is caring for these high tech patients on outpatient

basis. This is not the best situation because these patients should be seen in the home.

- For the first time in several years, all of the purchased flu vaccine has been administered before year's end. Several hundred doses of free flu vaccine received from the State are also being distributed. It is hoped we will be out of the flu vaccine service by the end of the month.

Children with Special Care Needs Report: Ms. Allinger reported:

- The department hired a temporary support staff employee for the month of December to help with data entry and billing within the New York Early Intervention System (NYEIS). Staff has been cross trained and is making progress. Our largest agency and some of our private contractors are billing directly through the system rather than submitting their billing on paper. Our staff does the checks and balances, but it is a process taking an extraordinary amount of time to learn.
- NYEIS is a web-based database system the State implemented over the Health Information Network by the Health Commerce System. Mandated by the state, the site houses Early Intervention therapies, services, and eventually all the billing.
- The division continues to work with one less nurse, but hoping to hire soon. This is challenging because clients cannot be turned away in Early Intervention. It is definitely impacting the way services are provided.

County Attorney's Report: Mr. Wood stated he had nothing to report.

Environmental Health Report: Ms. Cameron reported:

- Local health departments will be presenting their resource needs to the New York State Department of Environmental Conservation (NYSDEC) Hydraulic Fracturing Advisory Panel in mid-January. Mr. Kruppa and Ms. Cameron will be attending.
- The comment period on the draft Supplemental Generic Environmental Impact Statement (dSGEIS) was extended to January 11, 2012.

Board of Health Appointments: Mr. Kruppa:

Recognized two individuals who will be leaving the Board:

- Dr. Tyler, Board member, has submitted his resignation. Mr. Kruppa thanked him for many years of service to the Board. While sad to see him go, his efforts and time were appreciated by everyone. Dr. Tyler responded he "enjoyed it."
- Ms. Stamm, staff member, is leaving at the end of the year due to organizational change. She has served as Administrative Assistant to the Board for many years. She will certainly be missed and the Board has appreciated her efforts and years of service. Dr. Macmillan added his appreciation for her emails and thanked her for all of her work and service.

Discussed appointments to the Board:

- **Physician Member:** Two candidates have applied for the position. Written questions have been sent to each physician with interviews to be arranged. Hopefully, the nominating committee of Ms. Morgan and Mr. McLaughlin will return with a name for Board approval at the January meeting.

- **Consumer Member:** Mr. Greenhouse has served 2 full terms plus a partial term since 1996. According to the bylaws, reappointing him would require a waiver by a majority vote of the Board of Health with concurrence from the County Legislature. Mr. Greenhouse is interested in continuing and has submitted an application.

Report from Nominating Committee: Mr. McLaughlin and Ms. Morgan believe Mr. Greenhouse's expertise is important to the structure of the Board. Mr. McLaughlin moved to nominate Mr. Greenhouse for a six year term, seconded by Ms. Morgan.

Ms. Morgan added there were other candidates, but felt strongly Mr. Greenhouse brings diverse expertise to the Board. Mr. McLaughlin requested the other candidates be recognized for their interest and their applications kept on file for future reference. Mr. Kruppa assured the Board those actions will be taken after the final decision.

Mr. Kruppa distributed a proposed resolution regarding the reappointment of Mr. Greenhouse. If the Board approves, the resolution will be forwarded to the Health and Human Services Committee before moving to the full Legislature for concurrence.

Discussion ensued regarding the outreach process to fill the position.

Before the vote and for the benefit of the Board, Mr. Kruppa clarified the motion to accept the resolution waiving the term limit requirement and reappointing Mr. Greenhouse for one term. Mr. McLaughlin accepted the resolution as written. Carried unanimously.

Resolution #11.9.28 – Blue Frog Cafe, C-Ithaca, Violation of Part 14-1 of the New York State Sanitary Code (Food Service): Ms. Morgan moved to accept the resolution as written, seconded by Mr. McLaughlin.

Mr. McLaughlin was concerned that the corrections to a problem which could potentially cause illness were not made after the first inspection. Mr. Burbank saw the circumstances differently. This was a new business, perhaps struggling, dealing with a mechanical failure. He offered a friendly amendment to reduce the fine to \$200. Mr. McLaughlin added the owner had reported she was waiting for new equipment, but that should not be considered an excuse. Ms. Morgan did not accept the friendly amendment because she found it hard to believe the equipment failed on the day of the re-inspection. Also, the staff had not been keeping careful records during the two weeks since the first inspection. Ms. Chase reported she spent an hour during the re-inspection demonstrating, educating, and offering multiple suggestions to correct the problem.

The amendment was not accepted as friendly and died for lack of a second. The original motion was carried with Mr. Burbank as the only opposing vote.

Resolution #11.9.27 – Dasan-J Restaurant, C-Ithaca, Violation of Part 14-1 of the New York State Sanitary Code (Food Service): Ms. Morgan moved to accept the resolution as written, seconded by Mr. McLaughlin.

Mr. McLaughlin raised the question about the extent of the communication barrier that the owner suggested. Ms. Chase responded that whether the staff understood is difficult to determine. Ms. Cameron noted the 1st inspection was in March when the eggs were identified as the problem. No violations were found at the re-inspection. At the second inspection that year the chef was forgetting to put the eggs away. Ms. Morgan asked how often the owner is present at the inspections. Ms. Chase said about 50% of the time. This is a problem if the owner is not present and the personnel that are there can't understand what the inspector is saying when the inspector comes. Ms. Chase said they

do leave a copy of the inspection report explaining the violation. Dr. Macmillan thought the busyness factor was not a satisfactory extenuating circumstance. Dr. Tyler observed the restaurant has a history of problems with food temperatures since 2007 on a regular basis.

The resolution as written carried by unanimous vote.

Resolution #11.15.26 – Ithaca Ramada Inn Spa Pool, C-Ithaca, Violation of Subpart 6-1 of the New York State Sanitary Code (Swimming Pools): Ms. Cameron summarized the facility had problems with the amount of bromine residual in the spa pool. Options to correct the problem were provided, but the operator decided to close the spa pool.

Mr. McLaughlin moved to accept the resolution as written, seconded by Dr. Hall-Rhoades, and carried by unanimous vote.

Resolution #11.9.30 – Wendy’s #1-005, C-Ithaca, Violation of Part 14-1 of the New York State Sanitary Code (Food Service): Ms. Morgan moved to accept the resolution as written, seconded by Mr. McLaughlin.

Mr. McLaughlin commented on his experience with chain restaurants. Normally the restaurant is under strict control as to procedures and layout. In this case, it sounded like the local restaurant could make adjustments. Ms. Chase reported the layout of the facility is very poor with a cold holding unit situated next to a griddle. With the galley type set up, heat generates so it is hot in the area. Ms. Morgan noted that the restaurant made changes after the second inspection that should have been done after the first.

The resolution as written carried by unanimous vote.

Executive Session: At 1:10 P.M. Dr. Tyler moved to adjourn to Executive Session for the purpose of discussing the CHHA negotiations, seconded by Dr. Hall-Rhoades. Carried.

Out of Executive Session: At 1:44 P.M. Mr. McLaughlin moved to adjourn from Executive Session, seconded by Ms. Morgan. Carried.

Adjournment: At 1:44 P.M. Mr. McLaughlin moved to adjourn the meeting, seconded by Ms. Morgan, and carried unanimously.