

**MINUTES**  
**Tompkins County Board of Health**  
**October 11, 2011**  
**12:00 Noon**  
**Rice Conference Room**

**Present:** Mr. Brooke Greenhouse; 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; Dr. William Klepack, Medical Director; Mr. Frank Kruppa, Public Health Director; Mr. Jonathan Wood, County Attorney; Ms. Shelley Comisi, Keyboard Specialist; and Ms. Patty Stamm, Administrative Assistant

**Excused:** Mr. Will Burbank and Ms. Brenda Grinnell Crosby, Public Health Administrator

**Guests:** Ana-Sana Pancharoen, Taste of Thai; Pakala Nakornthab, Taste of Thai; Terry Terry, General Manager, Best Western University Inn; Dwayne Spitzer, Best Western University Inn; Carol Chase, Sr. Public Health Sanitarian; Steven Kern, Sr. Public Health Sanitarian; Clayton Maybee, Public Health Sanitarian

**Privilege of the Floor:** Pakala Nakornthab for Ana-Sana Pancharoen, Taste of Thai and Dwayne Spitzer, Best Western University Inn

Dr. Macmillan called the regular meeting of the Board of Health to order at 12:05 P.M.

**Privilege of the Floor:** Pakala Nakornthab from the Taste of Thai Restaurant introduced Ana-Sana Pancharoen, owner of the Taste of Thai Restaurant. He read a statement prepared by Bruce Anderson, former Business Manager of Taste of Thai, regarding the sewage problem the restaurant experienced in August 2011. He stated the problem existed for several days, but any resultant backup was regularly cleaned up in order to maintain sanitary conditions. On August 9<sup>th</sup>, Ithaca Renting determined the problem and hired professional help to do the repair work on the morning of August 10<sup>th</sup>. During the construction, the sewage line backed up even more and created a large mess in the basement. While the repair was under way, it was impossible to clean things up. During this time the health inspector arrived, observing the mess, and stated that Taste of Thai would need to be closed until things were cleared up. Once the pipe was repaired, they were able to clean up the mess and then reopen the following day, August 11<sup>th</sup>, after a re-inspection. Mr. Nakornthab added this is the first offense for Taste of Thai which has been in operation for 11 years. He asked for the Board's consideration in a reduction of the fine.

Dwayne Spitzer of the Best Western University Inn addressed the Board regarding the violation for the lateness in submitting their renewal application to obtain a Permit to Operate a Temporary Residence at least 60 days before expiration of the existing permit during each year of operation. He stated that from the time they received

their renewal application on August 8<sup>th</sup> until the time it was due at the end of August was short timing for them due to their internal procedure for paying bills, although he acknowledged that was Best Western's problem. He discussed their plans for payment of next year's renewal application so that it would be received in a timely basis. Mr. Spitzer asked: (1) that the Board considers waiving the \$1000 penalty (other than the \$35 late filing fee which they already paid) or (2) at least a reduction of the \$1000. He added they had no idea the penalty would be this high and that it was a total surprise. He also stated they thought the renewal application was due on September 30<sup>th</sup> and that they were well within their guidelines since the existing permit did not expire until October 31<sup>st</sup>.

Mr. Kern added that Resolution #10-13-45 adopted at the BOH meeting on February 8, 2011 noted that a requirement was to submit a renewal application to obtain a Permit to Operate a Temporary Residence at least 60 days before expiration of the existing permit during each year of operation. This resolution was for the November 1, 2010 violation of operating without a permit.

**Approval of August 9, 2011 Minutes:** Mr. McKee moved to accept the minutes of the August 9, 2011 meeting as written, seconded by Mr. McLaughlin. Minutes carried with Ms. Morgan asking for an abstention.

**Approval of September 13, 2011 Minutes:** Mr. McLaughlin moved to accept the minutes of the September 13, 2011 meeting as written, seconded by Mr. Greenhouse, and carried unanimously.

**Financial Summary:** Mr. Kruppa distributed the September 2011 Financial Summary and reported that Ms. Grinnell Crosby is currently out on an extended absence. He added she would explain the financial summary in more detail next month when she returns. Mr. Kruppa stated due to the way the financial process works, there is no way these reports can be distributed to Board members ahead of the meetings. He asked Board members to consider what information they wanted from the financial standpoint and discussed options for obtaining this.

- Mr. Greenhouse stated that when the report was presented, it was very helpful when Ms. Grinnell Crosby highlighted notable items.
- Dr. Tyler stated that written comments of items she planned to go over at the meeting would be very helpful.

Mr. Kruppa added that Ms. Grinnell Crosby only sees these reports a day or so prior to the meeting so it's very challenging time-wise to put anything written together. He stated he would discuss the possibility of putting some sort of narrative together so that it could be in writing as well as verbally explained. The suggestion was made that the commentary, perhaps with bullets, could be incorporated into the minutes.

Mr. Kruppa stated he had reviewed the financial summary and the only notable item is the Net to County minus figure for the WIC Program and this is due to the fact that large sums of money will be posted in October that will get that figure in the area where it needs to be. Mrs. Connors added the WIC fiscal year ends September 30<sup>th</sup>, so prior to this time; they look at their budget to see if any funds are available for items they were not able to afford during the year. She stated that this year it took a long time to get state approval for any transfer of funds so that is why this is later than usual.

**Administration Report:** Mr. Kruppa reported:

- **CHHA Update:** Last week the RFP Committee met and interviewed the two applicants. Following the interviews, the Committee deliberated further and made a unanimous recommendation to support HCR's application. This will now move on to Health and Human Services for their consideration on October 12<sup>th</sup>. If they take action to approve a resolution supporting HCR, it will then move forward to the Budget & Capital meeting on October 24<sup>th</sup>. If and when it makes it through that Committee, it will be on the floor of the full Legislature on November 1<sup>st</sup>. HCR is a Rochester based for-profit company that has been expanding throughout the state as counties have been selling their CHHAs; to date they have purchased a total of eight county CHHAs. Mr. Kruppa added they plan to put together a summary document for the Health and Human Services Committee which he will make available to Board Members. Mr. Kruppa stated that once the Legislature makes the final decision, they anticipate entering into contract negotiations with HCR (assuming this is who they chose) and hopefully within a two month period there will be a management contract in place and HCR will begin doing whatever portion of the operation that was negotiated in the contract.

**Medical Director's Report:** Dr. Klepack reported:

- As far as flu season, there have been no surprises to date. He added that the supplies of flu vaccine are not an issue at this point.
- Most of his time has been spent looking over information regarding Marcellus Shale drilling and considering a statement the Board might want to make. Dr. Klepack added he has also been working on a draft statement for the New York State Academy of Family Physicians since he is Chair of their Public Health Commission. He stated he is interested in having the statement that the Academy drafts be compatible and reinforcing whatever statement the County drafts. Dr. Klepack also stated he spoke with Linda Wagner from NYSACHO regarding their draft statement and expressed his desire to have the statement from the NYS Academy of Family Physicians and the statement from NYSACHO be compatible. He added he felt it was very important the public health system have a well-focused and forceful message coming from as many directions as possible as the DEC goes forward into making their regulations. Dr. Klepack stated he has been looking for data on workers/communities where fracking has been done across the country, but has been unable to find any at this time. He felt that without pre and post impact analyses of people's health, what is and isn't in the ground water, intra and post drilling studies, you won't have studies to help establish cause and effect. Dr. Klepack discussed the importance of having the studies, the designs, the regulations, the monitoring, and the resources (monetary and staff-wise) to carry out these activities.
- A lively discussion ensued regarding:
  - Time limitations on licensure/permits?
  - Well pads
  - Are permits needed for each well pad at a site or just by each site?
  - Efficiency of having more wells on a pad rather than a lot of pads
  - Fracking
  - The need for data and ongoing monitoring
  - Non-disclosure
  - Drilling law – basically regulated by DEC

Mr. Kruppa stated the stance the Health Department has taken through this entire process is that it is neither for nor against well drilling. However, the Health Department is expecting that there will be appropriate regulations in place to maintain safe operations that will protect both the environment and humans and that the funding mechanisms will be in place to allow this to happen. He stated this has been the focus of all the responses that have been drafted by the Health Department.

**Division for Community Health:** Ms. Connors reported:

- They are really hoping the Legislature will move as quickly as possible on the recommendation to sell the CHHA to HCR since the Program is tenuously trying to continue home care services. As of October 18<sup>th</sup>, they will be down to two nurses out of the previous eight positions. They have also received another resignation from the per diem staff, leaving them with three per diem nurses. The Home Care Program is limited in their ability to accept new referrals at this time since they are short staffed.

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

- Even Start Programs across New York State lost their federal funding and closed on August 31<sup>st</sup>. Ms. Allinger stated her Children with Special Health Care Needs Program was the benefactor of a large donation of therapeutic toys from the Newfield Program, adding they will now have enough therapeutic toys to open up their lending closet for the therapists.
- The Therapy Room is being actively used most days of the week.
- She also concurs with Ms. Connors' statement regarding the sale of the CHHA Program, adding "the sooner the better." She stated her staff is at the breaking point of covering the one resignation they have had since they are not in a position to turn anyone away.

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

**Environmental Health Report:** Ms. Cameron:

Gave a brief update on hydrilla, the invasive plant which was detected in the Cayuga Lake Inlet in early August. The plant could clog everything very quickly, and have recreational and tourism impacts, as well as impacting other species that are present in the lake. Because of the location of the lake, it could spread to other locations in the Finger Lakes or Great Lakes area. She added that numerous agencies have come together to take responsibility for this issue since there is no mechanism or authority at the State level for addressing this. It was determined the best initial approach for controlling this is an herbicide application. A permit was obtained from NYSDEC and the application should be starting today. The Inlet was closed as of October 5<sup>th</sup> and will remain closed during this application time and beyond, hopefully to reopen this weekend. The Health Department is involved since Cayuga Lake is a source of drinking water and 1,000 pounds of herbicide will be applied to the inlet. It is not expected that the herbicide will reach the Bolton Point water supply intake. She added that her Division has developed a water quality monitoring plan to be implemented after application of the herbicide. Ms. Cameron also passed around a map showing the application area for the herbicide. Mrs. Cameron noted that there was one area of the inlet parallel to Floral Avenue that was not part of the permit application area where dense beds of hydrilla were detected. There will be continuing meetings to address how best to address that area. She also stated that this

is not a one-time event; they are anticipating that this will be a five-year process to address this invasive plant.

**Monthly Financial Report Presentation:** Due to Ms. Grinnell Crosby's absence from today's meeting, this presentation has been moved to the November BOH meeting.

**Resolution #11.19.22 – Ms. Marie VanDeMark, T-Newfield, Violation of Tompkins County Sanitary Code, Article VI (Sewage):** Ms. Cameron briefly summarized the sewage violation. She stated this is a situation which involves a rental unit and there is an issue between the owner and the tenant. The landlord is working to vacate the unit, leave the unit vacant, and not replace the sewage system. She stated that there is no penalty involved in this resolution; either the sewage system needs to be replaced or the property needs to be vacated by November 4, 2011.

Mr. Greenhouse moved to accept the resolution as written, seconded by Mr. McLaughlin. Mr. Greenhouse suggested an amendment to item 2. (b) in the draft resolution so that it reads as follows: "Vacate the property on or before November 4, 2011 *until the system is repaired or replaced with the approval of the Health Department.*" Resolution, as amended, carried unanimously.

**Resolution #11-9-24 – Taste of Thai, Violation of Part 14-1 of the New York State Sanitary Code (Food Service):** Ms. Chase reported the Taste of Thai has had repeated problems with sewer backup, adding apparently when the concrete foundation was installed in the building it crushed a pipe that was the main sewer drainage line which has been a tenant/landlord situation. She stated the day they did the food inspection, the sewer issue was being addressed. Ms. Chase stated while the food inspector was there, staff from Taste of Thai continued to prepare lunch in the food prep and storage area where the sewage line was broken. She added that during this food prep time, people were walking in liquid sewage while trying to clean up and also while repairs were being made. A closure notice was issued for the facility that day, August 10<sup>th</sup>. The facility reopened on August 11<sup>th</sup> after repairs were completed and the food storage area had been cleaned.

Mr. Greenhouse moved to approve the resolution as written, seconded by Dr. Tyler, and carried by a unanimous voice vote.

**Resolution #11-13-26 – Best Western University Inn, I-Ithaca, Violation of Part 7-1 of the New York State Sanitary Code (Temporary Residence) and BOH Orders:** Ms. Cameron reviewed the Best Western draft resolution, stating that, per the discussion during Privilege of the Floor, new regulations require temporary residence permits to be submitted 60 days in advance, which they did not do. She also stated that the Best Western University Inn was brought before the Board last year as well for the violation of not getting their permit in on time. Mr. Maybee added that Best Western signed a stipulation agreement last year, after they were operating without a permit and that this year they would submit their permit application in a timely manner.

Mr. McLaughlin moved to accept the resolution as written, seconded by Dr. Tyler, and carried by a unanimous voice vote.

**Resolution #11-14-20 – Fingerlakes Grassroots Festival (Onsite) – Violation of Part 7-3 of the New York State Sanitary Code (Campgrounds):** Mr. Greenhouse moved to accept the resolution as written, seconded by Ms. Morgan.

**Resolution #11-14-19 – Fingerlakes Grassroots Festival (Offsite) – Violation of Part 7-3 of the New York State Sanitary Code (Campgrounds):** Mr. Greenhouse moved to accept the resolution as written, seconded by Ms. Morgan.

Ms. Cameron reviewed both draft resolutions, stating that both campgrounds were in violation of a waiver prohibiting the use of gas grills, open flames, and fires at campsites on two different days during the Fingerlakes Grassroots Festival. Ms. Cameron stated the owner/operator is cooperating with the Health Department regarding what waiver conditions to apply and how to address the problems. Ms. Cameron stated the State approval of the waiver conditions is required. Options being discussed include a designated fire or cooking area or expanding the size of the campsites so that no waiver is required.

Following a discussion regarding the campgrounds and the enforcement of the conditions of the waiver and the draft resolution, a vote was taken. Motion was carried with one opposing vote from Dr. Tyler on both resolutions.

**For Discussion: Gas Drilling Update:** Ms. Cameron reported on the timing of the SGEIS for hydrofracking gas drilling activities:

- DEC did release their full draft SGEIS with comments due December 12<sup>th</sup>.
- DEC recently released regulations for implementing the conditions in the SGEIS. Currently, no public hearings are scheduled for Tompkins County, although the Tompkins County Council of Government plan to organize a hearing here.
- Ms. Cameron has been working with the Tompkins County Water Resources Council on developing their comments to the SGEIS. A draft should be ready soon. She will then start working with Dr. Klepack on Health Department comments and hopefully they will have something ready for the Board at the November meeting. Ms. Cameron added she shares Dr. Klepack's concerns regarding the public health aspect, but expressed her concerns on the immediate impact on her Division and how the program for monitoring water quality will be set up.

Ms. Cameron noted that the DEC prefers comments to be submitted online. Some have indicated that comments submitted by the DEC's online structure may be more fully considered than those not submitted online.

**Adjournment:** At 1:43 P.M. Mr. McLaughlin moved to adjourn the meeting, and carried unanimously.