

## MINUTES

### Tompkins County Board of Health

December 4, 2018

12:00 Noon

Rice Conference Room

- Present:** Shawna Black; Edward Koppel, MD; James Macmillan, MD, President; Michael McLaughlin, Jr.; Susan Merkel; and Christina Moylan, PhD
- Staff:** Karen Bishop, Director of Community Health; Liz Cameron, Director of Environmental Health; Brenda Grinnell Crosby, Public Health Administrator; Samantha Hillson, Director of Health Promotion Program; William Klepack, MD, Medical Director; Frank Kruppa, Public Health Director; and Shelley Comisi, Administrative Assistant
- Excused:** David Evelyn, MD, MPH, Board of Health Member; Janet Morgan, PhD, Board of Health Member; Deb Thomas, Director of Children with Special Care Needs; and Jonathan Wood, County Attorney
- Guests:** Stu Bergman, Community Mental Health Services Board Member; and Skip Parr, Senior Public Health Sanitarian

**Call to Order:** Dr. Macmillan called the regular meeting of the Board of Health (BOH) to order at 12:04 p.m.

**Privilege of the Floor:** No one was present for Privilege of the Floor.

**Introductions:** Mr. Kruppa introduced Stu Bergman, member of the Community Services Board (CSB) and Chair of the Substance Abuse Subcommittee for the CSB. BOH members and TCHD staff, in turn, introduced themselves.

**Approval of October 23, 2018 Minutes:** Ms. Merkel moved to approve the minutes of the October 23, 2018 meeting as written; seconded by Dr. Koppel. The minutes carried with Dr. Macmillan abstaining.

**Financial Summary:** Ms. Grinnell Crosby provided an update to the October summary report contained in the packet.

- Most of the claims for revenue are filed but have not been posted.

- White collar and management salary increases that were approved by the Legislature are expected to be posted in the December report.
- Several expenditure lines are running close to budgeted amounts. As a result, the department may delay purchasing some requested items until the first of the year.
- With the County moving to a P-card system (essentially a credit card) to purchase items, staff has found it difficult to reconcile the numbers because expenses are not posted. The situation is improving as staff learns where to pull reports.

Mr. Kruppa commented on the P-card system:

- There are benefits to this paperless purchasing system. By using a P-card, the process of shuffling papers to various offices is eliminated and purchase approvals happen within the system.
- The County has a singular account but each department has a P-card. That means 28 different departments are purchasing a wide variety of items. The system was recently implemented so it will improve.

**Recognition of Dr. Macmillan:** Mr. Kruppa presented a certificate to Dr. Macmillan in appreciation for his many years of service both as a member and as President of the BOH. He thanked Dr. Macmillan for accepting the responsibility of running a public meeting and for his phenomenal work in guiding the group through numerous discussions of complex subjects. It has been a privilege to serve under his leadership.

In response, Dr. Macmillan shared some parting thoughts. His years of service have been great years of learning. When he joined the Board around 1988, the Health Department was a much different place: staff was significantly involved in clinical care home visits and venereal disease contact tracing was local. The last 30 years have brought changes in the world and changes at the health department. Problems and issues demand multidisciplinary input and call for agencies to work together. This is an exciting time as mental health and public health are beginning to network. The key is to be open minded to doing things in a new way. Although he has mixed emotions about leaving the BOH and has great affection for everyone, he knows the Board is in wonderful hands.

**Holiday Luncheon:** A break occurred in the meeting from 12:15 to 12:32 p.m. for the annual luncheon.

**Administration Report:** Mr. Kruppa announced 2019 is the year to evaluate the dual Public Health/Mental Health department head role that was initiated three years ago. This month, he has a meeting with County Administration to plan the review process. Since the BOH and the CSB will be asked for input, he will be making a report/presentation to both boards. From his perspective, the arrangement has been successful and should continue but he also will put forward the idea of combining the two departments. During the January BOH meeting and February CSB meeting, he intends to present a plan and tentative timeline. At that point, the two boards and the Legislature will participate in discussions with a goal of reaching some consensus before the budget process rolls out in the summer. It will be a major project for the first half of the year.

Ms. Merkel wondered how merging the departments would affect the BOH and CSB. Mr. Kruppa replied there would need to be a discussion with County Administration and the two boards. Initially, the boards would remain independent. The next step would be to consider the consequences of having a singular board. Public Health Law and Mental Hygiene Law each require a board so County Attorney Jonathan Wood would be consulted on the legal ramifications.

When looking at priorities and goals for department(s), Dr. Moylan commented it would be beneficial to have defined targets and expectations for listed outcomes. Mr. Kruppa assured members that staff will be working to provide data for the two boards to review. Hopefully, board members and Legislators will be involved in setting specific, measurable goals.

**Health Promotion Program Report:** Ms. Hillson reported HPP staff is working to renew two grants. The application for the Healthy Neighborhoods Program has been submitted to the New York State Department of Health (NYSDOH). Staff also is working with Cortland County staff to complete the application for the Advancing Tobacco-Free Communities program.

**Medical Director's Report:** Dr. Klepack noted two corrections to his written report:

- Emergency Medical Services (EMS) – Automatic Electric Defibrillator (AED) boxes are not hardwired to 911. In Tompkins County, AED boxes sound an alarm when opened; however, someone must call EMS to request assistance.
- Opioids – “The Opioid Epidemic in Tompkins County: Impacts and Responses” meeting scheduled for November 28th did not occur but is being rescheduled.

Board member remarks pertaining to marijuana legalization:

- Dr. Koppel thanked Dr. Klepack for the extensive work he has done looking into the subject of marijuana legalization in New York State.
- Dr. Macmillan recommended looking at THC content in marijuana and educating the public about the substance.

**Division for Community Health Report:** Ms. Bishop stated there is a small amount of flu vaccine available at the department. Staff will continue to vaccinate until the last dose is administered. As part of the activities for National Influenza Immunization Week (December 2-8), TCHD put out a press release and there was a Public Service Announcement on the radio promoting vaccination.

**Children with Special Care Needs Report:** Ms. Thomas was not present for the meeting.

**County Attorney's Report:** Mr. Wood was not present for the meeting.

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

- Referred to a letter (Attachment 1) that was distributed prior to the meeting. When Public Health Engineer Scott Freyburger completed an inspection of the Dryden Public Water System, he had significant concerns with their chlorine gas storage rooms. Public Health Director Orders were issued requiring the Village of Dryden to make immediate changes. Dryden has been responsive. Not all violations were corrected by the November 29th deadline, however, Dryden has sent notification that the parts have arrived and will be installed. EH staff will be submitting a revised resolution at a future BOH meeting.
- Announced EH has received approval to fill the Public Health Technician vacancy.

**Report on the Community Services Board (CSB) Meeting:** The BOH did not have a representative at the December 3rd meeting so Mr. Kruppa provided a brief report. With two vacancies to be filled on the CSB, there has been discussion about its membership. The CSB is responsible for contracting state dollars for agencies in the community. In the past, there have been executive members of those agencies who have served on the CSB. The conversation has been focused on whether that connection should be allowed. The CSB has directed him to speak to Mr. Wood about language to clarify and/or prohibit it.

Mr. Bergman, Chair of the Nominating Committee, shared information about filling CSB vacancies with quality candidates. He explained the committee looks at the needs of the CSB and its three subcommittee groups. An effort is placed on trying to keep an eclectic group of people with an eye on diversity. As for the time commitment, CSB members who do not participate on subcommittees are required to attend eleven meetings a year. Subcommittee members attend two meetings a month (subcommittee and CSB meeting). Anyone interested in serving on the CSB is invited to attend a meeting to learn about the proceedings.

**BOH Meeting Dates:** The list of meeting dates for 2019 was distributed prior to the meeting (Attachment 2).

**BOH Vacancy:** As the search continues for a physician to fill Dr. Macmillan's seat, Mr. Kruppa requested Board members to submit names of potential candidates to fill the vacancy. Regarding other BOH positions, the Nominating Committee comprised of Ms. Merkel, Dr. Moylan, and Ms. Black will address Dr. Evelyn's reappointment and the 2019 slate of officers.

**Board of Health Nominating Committee Recommendation – Reappointment of Dr. David Evelyn:** Ms. Merkel announced the Nominating Committee recommends Dr. Evelyn be reappointed to the BOH.

Dr. Macmillan moved to reappoint Dr. Evelyn to the physician position on the BOH; seconded by Mr. McLaughlin; and carried unanimously.

**Board of Health Selection of Officers for 2019:** Speaking on behalf of the Nominating Committee, Ms. Merkel nominated Dr. Moylan for President and Dr. Evelyn for Vice President. There were no other nominations.

Dr. Koppel moved to elect Dr. Moylan as President and Dr. Evelyn as Vice President; seconded by Ms. Black. The vote in favor of the motion: Ayes – 5.

**Resolution #EH-ENF-18-0011 – Scooby Steve's Ice Cream, T-Danby, Violation of Subpart 5-1 of the New York State Sanitary Code (Water):** Ms. Black moved to accept the resolution as written; seconded by Dr. Koppel.

Ms. Cameron explained this seasonal food service establishment has not met the requirements for operating a water system. The owner/operator has not submitted samples and operating reports as required. In July, TCHD issued a boil water order because there was no free chlorine residual in the water supply. The draft resolution proposes a penalty of \$400 and requires the owner to submit the necessary laboratory reports before an operating permit will be issued for next season.

Ms. Cameron provided information in response to questions from Board members:

- Scooby Steve’s Ice Cream is not on a municipal water supply. It utilizes a well which is regulated as a public water system so the requirements include disinfection and submitting samples and operating reports. TCHD wants to make sure the water is safe before the establishment can reopen and serve food.
- Although the operation is closed, any missing operating reports should be submitted if available. According to Mr. Parr, the owner has taken the required annual nitrate sample; TCHD is waiting for the report.
- TCHD staff collects surveillance samples and conducts inspections as part of our oversight. These are small systems so they do not need a certified operator.

The vote to accept the resolution as written carried unanimously.

**Resolution #EH-ENF-18-0035 – Barnes & Noble Booksellers #2122, C-Ithaca, Violation of Subpart 14-1 of the New York State Sanitary Code (Food):** Ms. Cameron stated the half and half creamer was observed to be out of temperature on two occasions. The proposed penalty is \$400.

Ms. Merkel moved to accept the resolution as written; seconded by Ms. Black; and carried unanimously.

**Resolution #EH-ENF-18-0037 – Finger Lakes GrassRoots Festival, T-Ulysses, Violation of Article VI of the Tompkins County Sanitary Code (Sewage):** Ms. Black moved to accept the resolution as written; seconded by Ms. Merkel.

Ms. Cameron commented there are three enforcement actions for GrassRoots Festival. This first resolution concerns the operation of greywater (sewage) holding tanks at the main festival grounds and at their new site, Across the Way. Although the organizers submitted permit applications, they failed to obtain the permits before opening their Culture Camp. TCHD staff views this as an administrative and organizational issue. The proposed fine is \$200 along with requirements to submit the application and provide information needed to obtain a permit prior to operation of Culture Camp next year.

Responding to Ms. Merkel’s comment about the number of issues this year, Ms. Cameron said festival organizers did address several concerns from the previous year. As a result, the festival operated better than in 2017. This year’s problems involved an administrative staffing change and the addition of a new site. It was a scramble to make sure the festival was able to open with the necessary permits. On a positive note, TCHD staff has been working with the new office manager who has a strong commitment to addressing the problems.

The vote to accept the resolution as written carried unanimously.

**Resolution #EH-ENF-18-0038 – Finger Lakes GrassRoots Festival, T-Ulysses, Violation of Subpart 7-4 of the New York State Sanitary Code (Mass Gathering):** Dr. Koppel moved to accept the resolution as written; seconded by Dr. Macmillan.

Ms. Cameron noted this resolution addresses campground permits and mass gathering permits for the Culture Camp and the festival event itself. With organizers continually changing their plans, it was difficult for TCHD staff to obtain needed information. In addition, a new campsite was being prepared at the last minute and it was not ready for inspection when TCHD staff arrived. After identifying several deficiencies at the site, multiple members of our staff returned the next day for

another all-day inspection. Based on this experience, festival organizers have indicated they are motivated to improve their application process.

The vote to accept the resolution as written carried unanimously.

**Resolution #EH-ENF-18-0039 – Finger Lakes GrassRoots Festival, T-Ulysses, Violation of Subpart 5-1 of the New York State Sanitary Code (Water):** Ms. Black moved to accept the resolution as written; seconded by Ms. Merkel.

Ms. Cameron explained GrassRoots organizers had to develop an entirely new water system for the new campsite and modify the existing water system for the fairgrounds. Plans should have been submitted and approved by our office before construction began; however, that did not happen. TCHD ended up approving as-built plans for one-time use. The organizers also failed to properly disinfect a part of the water system prior to operation so TCHD issued a “Do Not Use” order for that part of the water system.

Highlights from the Board discussion:

- The Onsite campground permit was approved for 40 campsites due to the “Do Not Use” order; however, 92 campsites were in use. The part of the water system that concerned TCHD was not turned on so there was no exposure to contaminated faucets.
- TCHD staff spent hours helping GrassRoots open with permits in place. This is a large event in the community so it is important to ensure the health and safety of the people in attendance. Ultimately, the event went well.
- A meeting with GrassRoots has been scheduled for January 18, 2019 to look ahead at next summer’s event. There are deadline requirements. Their application must be completed by June 3, 2019 (a month and a half earlier than this year).

The vote to accept the resolution as written carried unanimously.

**Resolution #EH-ENF-18-0040 – Mitsuba Hibachi Sushi Restaurant, V-Lansing, Violation of Subpart 14-1 of the New York State Sanitary Code (Food):** Dr. Koppel moved to accept the resolution as written; seconded by Ms. Black.

Ms. Cameron summarized the violations at the restaurant. In addition to repeat violations for storing toxic materials too close to food products, there was a refrigeration equipment issue, and food items were observed to be out of temperature.

The vote to accept the resolution as written carried unanimously.

**Resolution #EH-ENF-18-0041 – Apollo Restaurant, C-Ithaca, Violations of BOH Orders #EH-ENF-18-0003 and Subpart 14-1 of the New York State Sanitary Code (Food):** Dr. Macmillan moved to accept the resolution as written; seconded by Dr. Moylan.

Ms. Cameron noted the Apollo Restaurant has been under BOH Orders so it must have clean inspections. The facility had one clean inspection but had violations at another inspection. TCHD staff was encouraged there had been some improvements in the operation. The operators have been informed that TCHD may not issue a subsequent food permit if violations continue.

The vote to accept the resolution as written carried unanimously.

**Resolution #EH-ENF-18-0042 – Lao Village, C-Ithaca, Violations of BOH Orders #EH-ENF-18-0020 and Subpart 14-2 of the New York State Sanitary Code (Temporary Food):** Dr. Koppel moved to accept the resolution as written; seconded by Dr. Macmillan.

Ms. Cameron pointed out Lao Village is a temporary food service establishment that operates at festivals. The recent violation occurred at the Ithaca Apple Harvest Festival while under BOH Orders. In this case, the temperature logs showed the food was in temperature. When the inspection occurred a short time later, the food was observed to be out of temperature. Lao Village is following BOH Orders by keeping a trained food service worker onsite and maintaining temperature logs. TCHD is open to a reduction in the fine.

Since Lao Village has been cited several times in the past, Dr. Moylan was interested in hearing the rationale for TCHD staff's openness to reducing the fine. According to Ms. Cameron, staff looked at the intent and actions of the owner/operator. She has been complying with BOH Orders and did adjust the operation to correct problems before reinspection the next day.

Ms. Black made a motion to amend the resolution by reducing the fine from \$1,000 to \$500. She feels the \$1,000 fine is a lot of money for a small establishment. For purposes of discussion, Mr. McLaughlin seconded Ms. Black's motion to modify the fine.

As Board members considered the amount of the fine, Mr. Parr explained TCHD staff looked at Lao Village's history in seeking the maximum amount of \$500 per violation. In this case, the violation of the food code and the violation of BOH Orders is a penalty of \$1,000.

A lengthy discussion about the fine structure ensued. It was noted TCHD is trying to write a policy that assists staff and Board members with the decision-making process for assessing fines. Since the BOH is granted the authority in Public Health Law to levy fines, it would be helpful to have input from Board members. Some initial comments included the importance of being consistent with fines, defining any exceptions, and recognizing the need for some flexibility on complex cases.

Returning to the case of Lao Village, Ms. Black felt it was appropriate to reduce the fine because \$1,000 is a significant amount of money for a small business to pay. Some members did not believe there were any extenuating circumstances to support the reduction.

The vote on the motion to reduce the fine to \$500: Ayes – 1; Nays – 5.

Dr. Macmillan directed attention to the original motion with the fine of \$1,000. There was no further discussion. The vote to accept the resolution as written: Ayes – 5; Nays – 1; motion carried.

**Resolution #EH-ENF-18-0043 – Taste of Thai, C-Ithaca, Violations of BOH Orders #EH-ENF-18-0005 and Subpart 14-1 of the New York State Sanitary Code (Food):** Dr. Koppel moved to accept the resolution as written; seconded by Ms. Black.

Ms. Cameron reviewed the situation with Taste of Thai. Since the restaurant's owner passed away in 2018, the operator of the Tamarind restaurant has been managing both facilities. The operator has good intentions but it is challenging. Funding is an issue because the estate has not been settled. If the resolution is passed by the BOH, the operator is requesting a payment plan of \$300 per month for a period of five months to pay the \$1,500 penalty.

The vote to accept the resolution as written carried unanimously.

**Adjournment:** At 2:01 p.m. Dr. Macmillan adjourned the meeting.