

MINUTES
Tompkins County Board of Health
June 14, 2011
12:00 Noon
Rice Conference Room

Present: Mr. Will Burbank; 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: Mrs. Liz Cameron, Director of Environmental Health; Mrs. Sigrid Connors, Director of Patient Services; Mrs. Brenda Grinnell Crosby, Public Health Administrator; Dr. William Klepack, Medical Director; Mr. Frank Kruppa, Public Health Director; and Mrs. Patty Stamm, Administrative Assistant

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

Excused: Mrs. Sylvia Allinger, Director of CSCN

Absent: Mr. Jonathan Wood, County Attorney

Dr. Macmillan called the regular meeting of the Board of Health to order at 12:08 P.M.

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

Approval of May 10, 2011 Minutes: Mr. Greenhouse moved to approve the minutes of the May 10, 2011 Board of Health meeting as written; seconded by Ms. Morgan; and carried unanimously.

Approval of May 17, 2011 Minutes: Ms. Morgan moved to approve the minutes of the May 17, 2011 Board of Health meeting as written; seconded by Mr. Greenhouse; and carried unanimously.

Financial Summary: Mrs. Grinnell Crosby distributed the May 2011 Financial Summary, stating it was at about 42% of the fiscal year.

Mrs. Grinnell Crosby stated staff continues to work at filing quarterly and monthly claims for state and federal grants, including Article VI State Aid. She added items that were paid in 2010 in the 13th period have to be rolled to 2011 in order to claim since it is on a cash basis, making the first quarter work quite tedious. As soon as this is completed, Mrs. Grinnell Crosby will have a better idea of where they stand as far as State Aid.

Mrs. Grinnell Crosby pointed out that on Page 2 of the Financial Summary, under Division for Community Health, salaries look a little high due to the budget action that was taken during the 2011 budget where they took half of the estimated cost of the CHHA out. The resolution to add those funds back into the budget goes to the Legislature on Tuesday, June 21st. This has already passed through the Health and Human Services Committee, as well as the Budget Committee, without problem.

Administration Report: Mr. Kruppa:

- Introduced Shelley Comisi who is the newest member of the Administration staff. She is currently in training on recording and transcribing BOH minutes since she will fill in for Patty when she is not available.
- Reminded Board members that today at 3:30 PM there will be a special meeting of the Health and Human Services Committee relating to the future of the CHHA.
- Reported that currently the County is going through the creation of policies to deal with waste, fraud, and abuse related to Medicaid and Medicare (corporate compliance). He added that the broader concept is to eliminate all waste, fraud, and abuse. The main policy for the County is currently going through committee and should go to the full Legislature soon. There are two parts to the policy; some that will apply to Board members. One is a whistleblower policy that would allow a process for anyone who wanted to report waste, fraud, or abuse; the second is an exclusion policy which will affect Board members more directly. Under "exclusion" if anyone has been found in violation of fraud, or misuse or abuse of Medicaid, they would be excluded from working with the County as someone who receives those dollars from the government. Mr. Kruppa stated they have contracted with a company that runs an automated system that allows them to submit names of employees, vendors, and Board members to have them checked against these lists established by the government which would exclude folks from participating. As the second largest County user of Medicaid dollars, Mr. Kruppa added they want to make sure they have some Health Department-specific policies that will keep them in line with the requirements. He added they have brought in the Bonadio Group who previously worked with the Mental Health Department, helping them get their compliance policy in place. The consultants are here today meeting with staff to talk about policies we already have in place, as well as reviewing charts to see if what we say we are doing compares to the paperwork. They will also give recommendations as to how we might be able to improve on this. Mr. Kruppa stated that at the July Board of Health meeting there will likely be a short training presentation for Board members on corporate compliance, explaining the concept of the policies created by the Health Department.

Medical Director's Report: Dr. Klepack stated he had nothing to report. He added that to date he had not received any responses to the letter he had sent to the physician community regarding the CHHA.

Director of Patient Services Report: Mrs. Connors reported:

- They are in the process of planning for the 2011/2012 flu vaccination season. The price this year will be \$25 for the immunization, which they feel will be much more competitive with the regional market. Blue Cross/Blue Shield, which serves many of the County employees, provides full coverage for the flu vaccine, as well as many other preventive vaccines.
- Thanked Board of Health members for their review and recognition of the work done by the Home Care Program. She added she was aware that the vote last month was a difficult one and reflected many difficult decisions.

- Passed out two handouts that have been distributed to the Health and Human Services Committee and the Legislature since the last Board of Health meeting – one has to do with the quality measures used in Home Care and the most recent one looks at the public health value of the CHHA.

Children with Special Care Needs Report: Mrs. Allinger was not present for today's meeting since she and her staff were meeting with consultants from the Bonadio Group regarding corporate compliance.

County Attorney's Report: Mr. Wood was absent from today's Board of Health meeting.

Environmental Health Report: Mrs. Cameron reported:

- Regarding the hydrofracking/gas drilling issue, Governor Cuomo wants the Supplemental Generic Environmental Impact Statement released early in July. She stated if it is released that soon, one of the concerns is that there will only be a 30-day comment period. She added the Tompkins County Water Resources Council has submitted a letter requesting a 90-day comment period. Mrs. Cameron asked if the Board would be willing to send something similar if this report is released early in July with a 30-day or less than 90-day comment period. Mrs. Cameron stated she would prepare a letter in advance and submit it to Mr. Kruppa, as well as Board of Health members, for their review.

Resolution #11.1.15 – Ferguson Apartments and Mobile Homes, T-Lansing, Violation of BOH Orders #10.1.48 (Water Supply):

Resolution #11.1.16 – Wittko Apartments, T-Dryden, Violation of BOH Orders #10.1.46 (Water Supply):

Mrs. Cameron asked permission to address both of the above resolutions at the same time, stating that both facilities/operations had enforcement action taken against them a while ago. They both went to hearing and there continues to be no response from either of these facilities. They are both being fined again, as well as a reiteration of orders.

Mrs. Morgan moved to accept the above resolutions as written, seconded by Mr. Greenhouse.

Mrs. Morgan suggested that on both Draft Resolutions, Item #1, Pg 1, under Therefore be it Resolved..., it be amended to read "Pay ***an additional*** penalty of \$1500... Mr. Greenhouse was agreeable to this amendment.

It was pointed out that both facilities have approved disinfectant systems; neither is being maintained or properly run. Both facilities are too small to require a Grade C Water Treatment Operator, but are showing a lack of competency. Mr. Wittko took his system out to have it repaired and has never reinstalled it. Mr. Wittko has not responded to any Health Department communication. Mr. Ferguson has stated that he does not plan to do anything in regards to his water system and is hoping that the bank will take his facility over. Also discussed was the difficulty selling either property until the fines are paid.

Following a lengthy discussion regarding both properties, Mr. Greenhouse suggested a letter be distributed to the tenants at the next Health Department monthly visit advising them of the current status of the property they are renting from, as well as measures the Board of Health has taken. It was also suggested that Jonathan Wood be consulted to see if there is any further action that can be taken by the Health Department since there are unresolved health risks at both facilities.

Dr. Macmillan suggested some strategies: 1) do nothing; 2) increase the fine; or 3) if violations are corrected – a break on the fines.

Mr. Greenhouse offered the following amendment to the resolutions: 1) make the additional penalty twice the amount of the prior penalty (\$2,000); 2) this resolution be distributed to the tenants at the next time a “Boil Water Notice” is distributed; 3) a letter to the Code Enforcement Official advising him of the ongoing problem(s) and a threat to public health, asking them to take the appropriate action and condemn the facility(ies). Mrs. Morgan pointed out that items #2 and #3 do not need to be part of the resolution; however she did accept the increase in the fine to \$2,000 for both resolutions. Both resolutions, as amended, were carried unanimously.

Mr. Greenhouse offered a second resolution which would apply to both facilities: Whereas, there has been a long-term violation of the Sanitary Code and the Orders of the Tompkins County Health Department, the Board is directing the Division to: 1) provide a copy of the most recent resolution(s) to the tenants the next time staff goes out to distribute a “Boil Water Notice;” 2) to notify the Code Enforcement Officer that this is an ongoing problem that we do not foresee any resolution to and we ask that they take the appropriate action to protect the tenants from what is an ongoing health risk. Mrs. Cameron stated she would work with Jonathan Wood on the letter to the Code Enforcement Officer. Seconded by Mr. McLaughlin.

Dr. Hall-Rhoades stated that she would like an opinion from Mr. Wood regarding the letter to the Code Enforcement Officer. Dr. Macmillan suggested tabling the letters pending Mr. Wood’s opinion. Mr. McLaughlin expressed a concern that in trying to protect the tenants, we might be displacing them if the Code Enforcement Officer condemned the properties and told the tenants they needed to move. He also agreed that he would like Mr. Wood’s opinion on this last component. Resolution #2 was tabled pending guidance from Mr. Wood regarding these issues.

Review and Approval of Environmental Health Fees proposed for 2012:

Mr. Greenhouse moved to accept the proposed Environmental Health Fees for 2012 as written, seconded by Dr. Tyler.

Mr. McLaughlin suggested implementing an “administrative fee” for situations that require the division’s extra attention, such as a critical violation, to cover the cost of an additional visit(s). Mrs. Cameron stated she needed to check with Mr. Wood, but thought the Board could authorize her division to charge for a critical violation, etc.

Mr. Kruppa addressed the Board stating that since this year’s time frame does not allow for it, next year when the fee schedule is brought to the Board, the Department would like to have some sort of general guidance as to the goal with the fee structure; where would Board members like more weight towards charging fees vs. areas where additional fees are not necessary. At this point, Mrs. Cameron and her staff have worked very hard looking for ways to increase revenues to support the program based on their expertise and understanding. He felt this was not a discussion that could happen in preparation for today’s vote, but would need to be done over time.

Dr. Macmillan stated he sensed that Board members would encourage ways to increase cash flow if possible in ways that seemed reasonable and that wouldn't be too much of an abrupt change. Mrs. Cameron stated since the target budget is not established when preparing fees, it's hard to assess the impact the fees will have on the budget. She stated that it's a complicated process which is further complicated this year by the impacts due to changes the State is making.

Mr. McLaughlin stated that with less money for staff to perform their duties, he felt the public should be charged where the costs are generated. Mrs. Cameron acknowledged that in some cases a very small percentage of costs are recovered; however, a previous court ruling limits the ability to recover costs without imposing an undue burden on some users. Dr. Macmillan stated there might be legal constraints in terms of how much extra billing can be done in terms of investigation and follow-up and likely needs clarification from Mr. Wood.

Dr. Tyler moved to table this discussion until next month when Mr. Wood is at the meeting. It was pointed out that the whole budget will be voted on at next month's meeting. Mr. McLaughlin stated he did not feel the concerns he raised could be addressed in this resolution, but added he hoped that at a future time they could address a modification to the way income is generated based on fees.

Dr. Tyler offered a friendly amendment to eliminate the sliding fee scale under "Temporary Residence/Campground Operating Permit" (Pg. 1 of 2 on Table 1). This was acceptable to Mr. Greenhouse, mover of the resolution. Mrs. Cameron and Mr. Kern tried to explain the reasoning behind the sliding fee schedule. Mr. Greenhouse stated that although he agreed with Dr. Tyler, he thought it might be wise to remove this amendment for now and over the next few months, engage in a conversation regarding the philosophy behind these fees. The friendly amendment was withdrawn by Dr. Tyler.

Following further questions/discussion regarding the proposed fee schedule, Mr. Greenhouse recommended the removal of the word "new" under Community Water Systems and Non-Community Public Water System (Pg. 2 of 2 on Table 1 under Water System Construction Permit and Plan Review), which was agreeable to Dr. Tyler. Vote on the resolution as amended was unanimous.

Adjournment: At 1:26 P.M. the meeting was unanimously adjourned.