

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

Present: Mr. Brooke Greenhouse; Dr. James Macmillan, President; Mr. Patrick McKee; Mr. Michael McLaughlin, Jr.; and Ms. Janet Morgan

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. Shelley Comisi, Keyboard Specialist; and Ms. Patty Stamm, Administrative Assistant

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

Excused: Dr. William Tyler

Absent: Mr. Will Burbank and Dr. Erin Hall-Rhoades

Privilege of the Floor: Lula Tucker, Tucker's Catering and Lynda Plain, Homewood Suites/Waterford Hotel Group

Dr. Macmillan called the regular meeting of the Board of Health to order at 12:02 P.M.

Privilege of the Floor:

Lynda Plain, General Manager of the Homewood Suites, addressed Board members stating they had taken extreme measures to make sure the problem of the milk temperature being too high will never happen again; one was the purchase of new equipment; another is that one of the daily duties of management will be to check the temperature of the milk.

Lulu Tucker, owner of Tucker's Catering, spoke to Board members about measures she has and is taking to avoid further violations of food being out of temperature, such as putting boiling water in the settling pans where the food is held. She also stated she is looking into purchasing electric warmers which would keep the heat even at all times. She added they have tried and will continue to try their best to comply with Health Department regulations.

Approval of June 14, 2011 Minutes: Mr. McLaughlin moved to approve the minutes of the June 14, 2011 Board of Health meeting as written; seconded by Mr. Greenhouse.

Ms. Morgan asked for an edit to the minutes on Pg. 4, 5th paragraph as follows:
Dr. Hall-Rhoades stated ... rather than Ms. Morgan stated...

Minutes as amended carried unanimously.

Financial Summary: Ms. Grinnell Crosby reported that the June financial summary was not ready due to the holiday. They are still working on reconciling with the County. She added there was nothing out of the ordinary at the six month point of the year.

As a follow-up, Mr. Kruppa stated he had been asked why this report was not part of the BOH packet that was mailed out prior to the meeting. He stated a lot has to do with timing. He also stated he understood Board members would like time to review this report in order to ask questions, but currently this is not possible due to the timing of the reports. He suggested Board members think about what might be the best way to meet their needs related to receiving the report in order to be able to discuss the report and make sure everyone is comfortable with it.

Administration Report: Mr. Kruppa gave an update on the home health care process:

- In the process of drafting a RFP – Ms. Connors is currently working on this.
- Health and Human Services (HHS) Committee would like to review the names of people on the RFP Committee – Mr. Kruppa asked Dr. Macmillan if he would be willing to be the Board of Health representative on this committee, Dr. Macmillan was agreeable.
- Once the names are agreed upon, a draft RFP will be available for the committee so that discussions can begin on fine-tuning it as quickly as possible.
- The RFP will be out and advertised for 30 days (hopefully by early to mid-August).
- RFP's will then be reviewed by the RFP Committee; a recommendation will be made to the HHS Committee; and from there to the full Legislature for selection or denial of all or any one of the proposals.
- They will then move into the process of getting the management contract signed and work out when the new agency would be able to take over a large part of the services currently being provided in anticipation of the transfer of the Certificate of Need.

Mr. Kruppa stated they are putting a lot of effort into this in order to get this completed as quickly as possible due to the impact to staff and the agency, as well as clients. He assured Board members that they will be kept “in the loop” and understand where they are going in the process.

Medical Director's Report: Dr. Klepack spoke briefly about the chemical issues resulting from the Toxic Substances Control Act (TSCA) of 1976. This is a federal act which Congress enacted in 1976 and hasn't been revised since then. This act grandfathered tens of thousands of chemicals into the process and set forward guidelines about new chemicals coming into the marketplace. He stated this act tends to be very restrictive in terms of what actions draw a chemical into scrutiny, as well as what factors need to be met before a chemical could be taken out of the marketplace. Several initiatives have been brought forward to revise this act and bring it up-to-date with regard to current knowledge of health effects, as well as regard to protecting public health. Dr. Klepack stated the TSCA does not allow for information to be discovered or shared in an effective process. He added a movement is under way to urge Congress to reform, which hopefully will see some action this year.

Division for Community Health: In a follow-up to Mr. Kruppa's previous statement regarding the home health care situation, Ms. Connors added they are also looking at the application process to become a Licensed Home Care Service Agency, as well as looking at what direct service they will provide during the contract management period. She added they likely will choose a therapy service as opposed to nursing since their nursing staff is decreasing.

Children with Special Care Needs: Ms. Allinger stated she had nothing to add to her written report, other than the therapy evaluation room in the CSCN wing is now being regularly used by their therapists.

County Attorney's Report: Mr. Wood stated the State has issued the revised SGEIS report. It still leaves the local health departments the monitoring of local drilled wells, etc. He stated he felt the Health Department should seriously analyze what it means to them in terms of work/personnel and what the cost would be. He added the 60-day comment has not begun yet, but he felt that sort of comment would be useful.

Environmental Health Report: Ms. Cameron stated in the previous SGEIS draft, the permit applicant was responsible for collecting water samples; however, the results went to the health department. If potential contamination is found that isn't related to gas drilling, it is an increase in the health department workload even though the well was likely contaminated before gas drilling. She added this is something all of the health departments in the affected area are very concerned with. Ms. Cameron stated she is a member of a gas drilling committee of the Conference of Environmental Health Directors, as well as an expanded working group who discuss these ongoing issues. These issues will be addressed during the review of the document, both within her Division and the broader groups she works with. Ms. Cameron stated the draft that was released is preliminary since some of the impacts are not contained in it. The draft will be re-released when all of the information is available and then the official public comment period will start. She stated they are comfortable with the review period since they will have 60 days after the draft is re-released possibly early in August.

Ms. Cameron stated one of the concerns she has is that in addition to releasing the document, DEC has set up a Hydraulic Fracturing Advisory Panel to address some of the issues, but there is no local government, environmental health, or NYS Department of Health representation on this panel. There are primarily political, environmental, and industry representatives. The Water Resources Council is considering writing a letter expressing their concern at the lack of appropriate representation. She added it might be appropriate for the Board to write a letter of concern as well.

Resolution #11.10.14 – Homewood Suites, V-Lansing, Violation of Part 14-1 of the NYS Sanitary Code (Food Service): Ms. Morgan moved to accept the resolution as written, seconded by Mr. Greenhouse, and carried unanimously.

Resolution #11.9.18 – Tucker's Catering Food Service, C-Ithaca, Violation of part 14-1 of the NYS Sanitary Code (Food Service): Mr. Greenhouse moved to accept the resolution as written, seconded by Mr. McLaughlin, and carried unanimously.

Discussion on the legal options for the Wittko and Ferguson Apartments: Mr. Wood reviewed some of the options for the Wittko and Ferguson Apartments:

- Keep getting orders and issuing penalties – unlikely to be successful at accomplishing compliance of orders;
- If non-compliant, the option is to shut the facilities down – would have to go to court for enforcement of orders which would ultimately result in shutting them down;
- Are you willing to shut facilities down which would result in displacement of innocent people?

Mr. Wood stated that it is more a question of what Board members wanted to do. He stated the fines become judgments and eventually when a property is sold the Health Department collects their money. He added if the situation is a significant threat to the health and safety of the tenants, then it might be advisable to shut the facilities down; however, if the facilities were to be shut down, the effect on the tenants might be worse than letting things go on as they are. Mr. Wood suggested that it might be wise to have staff to do an evaluation of the seriousness of the risks, as well as how many people would be displaced, so that a decision is based on real data.

A lengthy conversation ensued where Board members expressed their thoughts, as well as asking questions, re:

- the drinking water and the risks associated if people are boiling the water,
- the Board's responsibility to the Department as far as public health,
- tenants' compliance with Boil Water Notices,
- displacement of tenants,
- accrument of fines,
- some sort of penalty for not responding to BOH orders,
- court order to hire someone to fix/comply with orders and then charge the owners for the costs,
- operating permits for apartments/mobile home parks to be issued by Health Department,
- concerns of Health Department and lack of response from facilities to be copied to the local municipality (Town Supervisor) which might later help them to make appropriate decisions,
- equity – at what point in time do these rules become meaningless?
- start developing some policy to follow after receiving feed-back evaluation from staff,
- continued fines or push to close these operations?
- assessment of true risk; (Ms. Cameron stated they cannot do a quantitative risk assessment since, if residents follow the Boil Water Notice, that removes the risk and the information received would be subjective.)
- how can you have any authority without any power, i.e. assessing fines?
- the possibility of listing enforcements on TCHD website.

Mr. Kruppa stated as far as protecting public health, Boil Water Notices have been issued to protect the immediate issue of someone getting sick due to the negligence of the property owner. Compliance with rule and statute is another issue. He added it is very frustrating when rules are not followed, but the core of the Health Department's responsibility is to protect people's health. He stated if the fines are not sufficient for the Board in this particular case, then staff need to go back and look at what information they can bring back to Board members as far as a recommendation for the next step(s).

The decision was made to continue the fine process for the time being. Mr. Wood stated it is important not to drive the fines up too high since it makes it difficult to sell the property and the owner might decide not to sell.

Environmental Health Fees – formation of Policy Working Group: Ms. Cameron stated they would like to form a working group for the purpose of developing a policy for Environmental Health fees. She stated she would like this committee to be comprised of her, another Environmental Health staff member, Frank Kruppa, and one or two Board members who might be interested in helping to develop a more specific policy. Mr. Greenhouse and Mr. McLaughlin accepted the challenge.

Adjourn to Executive Session: At 1:18 P.M. Mr. Greenhouse moved to adjourn to Executive Session for the purpose of discussing the 2012 draft budget and personnel, seconded by Mr. McLaughlin, and carried unanimously.

Out of Executive Session: At 2:19 P.M. Mr. Greenhouse moved to adjourn from Executive Session, seconded by Ms. Morgan, and carried unanimously.

Mr. Greenhouse moved to authorize the department to continue along the lines as proposed for final budget submission, seconded by Ms. Morgan, and carried unanimously.

Adjournment: At 2:20 P.M. Mr. Greenhouse moved to adjourn the meeting, seconded by Ms. Morgan, and carried unanimously.