

MINUTES

Tompkins County Board of Health

October 27, 2015

12:00 Noon

Rice Conference Room

Present: David Evelyn, MD, MPH; Brooke Greenhouse; Edward Koppel, MD; James Macmillan, MD, President; and Susan Merkel

Staff: Karen Bishop, Director of Community Health; Liz Cameron, Director of Environmental Health; Brenda Grinnell Crosby, Public Health Administrator; William Klepack, MD, Medical Director; Frank Kruppa, Public Health Director; Jonathan Wood, County Attorney; and Shelley Comisi, Keyboard Specialist

Excused: Sylvia Allinger, Director of Children with Special Care Needs; Will Burbank, Board of Health Member; Michael McLaughlin, Jr., Board of Health Member; and Janet Morgan, PhD, Board of Health Member

Guests: Arron Bound, General Manager, Dryden Community Center Café; Theresa Lyczko, Director, Health Promotion Program; Skip Parr, Senior Public Health Sanitarian; Suzanne Scheuring, Secretary, Board of Directors of the Dryden Community Center Café; and Deb Thomas, Senior Community Health Nurse

Call to Order: Dr. Macmillan called the regular meeting of the Board of Health (BOH) to order at 12:05 p.m.

Privilege of the Floor: Suzanne Scheuring and Arron Bound appeared on behalf of the Dryden Community Center Café. Ms. Scheuring introduced herself as the Secretary of the Board of Directors and Mr. Bound as the General Manager of the café. She described the café as a community center first and foremost. It is a nonprofit organization run mainly by volunteers. There are four paid staff members but only one is on duty at a time. The café does its best to train the large number of volunteers on food safety. The recent violation for leaving thermoses of milk and cream on the counter too long has been addressed according to the suggestions from Tompkins County Health Department (TCHD) staff. The thermoses have been removed and replaced with individual ultra pasteurized creamers. In addition, the training programs for volunteers are increasing the emphasis on health and safety during food preparation. The café had a good record with TCHD until recently so staff is fully aware of the gravity of the violation. The organization is a nonprofit that operates on a tight budget. Since the café has readily complied with TCHD suggestions, the organization requests that the BOH consider granting

leniency regarding the amount of the penalty for this violation. She concluded by thanking Board members for their time.

Approval of September 22, 2015 Minutes: Dr. Evelyn moved to approve the minutes of the September 22, 2015 meeting as written; seconded by Mr. Greenhouse; and carried unanimously.

Financial Summary: Ms. Grinnell Crosby directed attention to the *Environmental Health (4090) Cumulative Revenues thru September 2015* graph in her report. The graph shows revenues were high in August but dropped substantially in September. This change was due to a posting error by the Finance Department. To correct that error, the \$300,000 posted to Environmental Health in August was removed in September.

Ms. Merkel commented expenses seem higher than predicted and wondered about any concerns. According to Ms. Grinnell Crosby, expenses may actually be higher because the white collar and management salary increases approved by the County and paid out in September were retroactive to January of this year. The budget adjustment to reflect those increased amounts has not been made yet. Mr. Kruppa added there are concerns about expenses in two mandated programs: (1) Medical Examiner, and (2) Children with Special Care Needs (CSCN). The number is significant for the CSCN program which is expected to be \$350,000 more than the budgeted amount. That was part of the reason why the County implemented a soft hiring freeze which ended last Friday.

Administration Report: In lieu of a written report, Mr. Kruppa briefed the Board on the latest developments. There is good news to report regarding budget matters. Sales tax collection is trending in the right direction and the County Administrator has lifted the soft hiring freeze. For 2016, the Legislature has set a new Tentative Budget which replaces the County Administrator's recommended budget. TCHD's budget as recommended is currently in the proposed budget. It includes the Over Target Requests for the Health and Safety program and a new Community Health Nurse in CSCN. The Legislature's final vote on the budget is expected on November 17th. There still may be changes to the budget, but staff is cautiously optimistic.

Mr. Kruppa referred to the New York State Association of County Health Officials (NYSACHO) informational handout that was distributed before the meeting (Attachment 1). In support of local health departments, NYSACHO hired a lobbying firm to contact State Legislators and promote a message focusing on the need to shore up public health infrastructure by increasing State Aid funding. NYSACHO is requesting: (1) increasing the base grant that provides 100% State reimbursement of eligible expenses to \$750,000, (2) raising the reimbursement rate for eligible expenses beyond that base grant amount to 38%, and (3) curtailing administrative cuts and disallowances. Due to the reductions in expenses that can be claimed, local health departments have significantly under spent the amount of State Aid allocated by the Legislature. The Governor and both chambers of the Legislature need to ensure the allocations are going to the counties by increasing the reimbursements and stopping the administrative cuts that have been occurring. The plan is to make sure these requests are directed to the government officials involved in the early planning for the budget.

Highlights from Mr. Kruppa's responses to questions from Board members:

- With administrative changes to allowable claims, local health departments have not been able to claim all of the public health dollars that were allocated by the Legislature. These administrative changes are a result of the Governor's Division of the Budget which has influence on how programs are administered and paid.
- Any unspent State Aid is returned to the State's General Fund. Local health departments want to be able to claim those dollars allocated to public health to ensure the infrastructure is secure.
- NYSACHO is a 501(c)(3). As a nonprofit organization engaging in educational activities, it is allowed to present issues of concern to government officials. It has invested a small amount of money with a firm that has a track record of helping counties obtain funding for particular issues. The informational sheet was put together with the help of that support.
- This is the beginning phase of the plan to advocate for local health department funding requests. Information is being directed to staff members in the State's Executive Office who are working on next year's budget. When the budgeting process becomes public, it will be known whether the funding requests are included in the Executive Budget. If not, that will be the time for the Board to consider writing letters of support.

Mr. Kruppa continued with his report:

- The next BOH meeting will be the joint November/December meeting on December 1st. It will also be the annual holiday luncheon.
- An administrative change to one of the BOH Orders was made after the last Board meeting. When the August meeting was canceled, staff did not change the due date on a fine making it impossible for the individual to comply. An extra 30 days was added and the fine has been paid.

Medical Director's Report: Dr. Klepack had nothing to add to his written report.

Division for Community Health Report: Ms. Bishop announced:

- Two new staff members have joined our programs for Women, Infants and Children (WIC) and Community Health Services (CHS). Both individuals are pleasant additions to the teams.
- NYSDOH conducted a review of the communicable disease team's ability to timely report certain diseases, specifically sexually transmitted diseases. Kudos to the team members for scoring 100. Their hard work resulted in a one-time monetary grant of \$20,900 to support our communicable disease activities.

Acknowledgement: Ms. Merkel publicly thanked Barbara Butcher and Nanette Scogin, nurses in CHS, for coming to her class to talk about sexually transmitted infections and how to control them. It was helpful for her students to hear the nurses speak about the challenges they face. They did a great job.

Children with Special Care Needs Report: Ms. Allinger was not present for the meeting; however, Deb Thomas, Senior Community Health Nurse, was in attendance to answer questions from Board members.

Mr. Kruppa gave an update on the subject of Early Intervention (EI) service providers. The State has reached out to Ms. Allinger and offered positive remarks about her program's efforts to assist the State in the search for new providers. Although the State is in the process of looking for additional providers, he does not know how successful that will be. The providers are not out there since the State took over the contracting role. Our approach is to see what happens with providers as the school year progresses. If there is a significant wait list, then the issue will be brought back to the Board for a discussion about the next steps. EI work groups from NYSACHO and New York City have joined together in discussions with the State about EI in general. Those ongoing discussions include how to correct the problems of the shortage of providers and the reduction in revenue that has resulted from this new process.

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

Environmental Health Report: Ms. Cameron had nothing to add to her written report.

Reference to the Community Health Services Clinical Statistics Report: Dr. Koppel pointed out what he believes to be a typographical error in the number reported for the YTD 2015 statistic for *Women, Infants, Children Clinic Participants w/Active Checks*. Ms. Bishop will check the data and correct the report.

Resolution #ENF-15-0020-Dryden Community Center Café, V-Dryden, Violations of Part 14-1 of the New York State Sanitary Code (Food): Ms. Cameron reported the Dryden Community Center Café is a nonprofit organization that endeavors to comply with regulations. During two inspections, milk was out of temperature so they have made efforts to change their process to prevent it from happening again. EH staff supports their request to reduce the amount of the fine.

Mr. Greenhouse moved to accept the resolution as written; seconded by Dr. Koppel.

Replying to Ms. Merkel's question regarding the length of time that passed before the café responded to the first violation in July, Mr. Parr described the café staff as concerned. When training the volunteer staff, it was unclear whether the communication reached everyone. Their plan had been to leave the creamer on the counter for customers to use with staff rotating the creamer every two hours. With the subsequent violation in August, it was decided they could not continue with that practice so they switched to the ultra pasteurized creamers that do not require refrigeration. Those smaller creamers are more expensive.

Mr. Greenhouse offered an amendment to the resolution to waive \$200 of the \$400 fine as long as the café switches to single use, ultra pasteurized creamers.

There was a lengthy discussion among Board members regarding the amount of the fine to be waived and the wording of the resolution. Dr. Evelyn commented the café is more of a community center than a food center. He would be willing to waive \$350 as he felt the minimal

amount of a \$50 fine makes an impact but does not bankrupt them. Mr. Greenhouse accepted the friendly amendment but thought the Board should be careful trying to evaluate every compelling story. Ms. Cameron reminded members that TCHD supports the waiver request in this case. After further discussion among Board members regarding the amount to be waived, Ms. Merkel suggested a \$300 waiver; \$100 fine. Mr. Greenhouse said he would accept the amount agreed upon by the other Board members.

Requesting members to confirm the language to be used in the resolution, Ms. Cameron read the following: “Pay a penalty of \$400 for these violations, due December 15, 2015. [A certain amount] is waived contingent on no future violations with dairy products for coffee service.” The Board agreed with the wording but needed to decide on the amount to be waived. Earlier Mr. Greenhouse had accepted Dr. Evelyn’s friendly amendment of a \$350 waiver. After more discussion, Dr. Evelyn accepted Ms. Merkel’s friendly amendment for a \$300 waiver.

The vote on the resolution, amended to waive \$300 of the penalty, carried unanimously.

Resolution #ENF-15-0021-Mama Teresa Pizzeria, C-Ithaca, Violations of Part 14-1 of the New York State Sanitary Code (Food): Ms. Cameron summarized EH staff observed critical violations regarding refrigeration storage units. The owner of the pizzeria was unable to attend the Board meeting so he requested that a copy of his letter and repair receipt be distributed to members (Attachment 2). In the letter, the owner offers his explanation for the food being out of temperature in the refrigeration unit. He maintains the cooler is working properly. The receipt is for a repair before the initial violation.

Mr. Parr expanded on his knowledge of the situation. The owner had the cooler serviced two weeks prior to the initial violation. When the service person came back to check the cooler, he said it was functioning properly. During the second inspection, food was out of temperature again. The owner explained he was busy working by himself so he kept the hood of the cooler open which caused the food to be out of temperature. According to EH food program staff, the hood can be open and the temperature of the food will be maintained if the cooler is working properly. The owner maintains it was his poor practice in prepping the food that caused the violation. Ms. Cameron noted there will be a re-inspection that will determine whether the unit is functioning.

Dr. Koppel moved to accept the resolution as written; seconded by Dr. Evelyn.

Mr. Greenhouse referred to Draft Resolution #ENF-15-0021, third “*Whereas*,” last sentence that states “...staff observed the operator removing approximately 4 pounds of shredded mozzarella cheese observed at temperatures between 54-57°F from the cooler...” and wondered about the significance of that comment. Mr. Parr responded that there was another nonworking cooler in the pizzeria. The 4 pounds of mozzarella cheese was stored in that cooler. When the inspector came in, he observed the operator moving the cheese from the nonworking cooler to a walk-in cooler. The inspector tested the temperature of that cheese and discovered it had been in a nonworking cooler.

For purposes of clarity, Mr. Greenhouse recommended the last sentence of the third “*Whereas*” in the Draft Resolution be amended to say “***nonworking***” cooler so that it explains the cheese had been in a cooler that was not functioning.

The vote on the resolution, as amended, carried unanimously.

Consider recommendations for Board of Health members with terms expiring December 31, 2015: Mr. Kruppa reported there will be two vacancies on the Board at the end of the year. Dr. Koppel and Ms. Merkel are completing terms of former members who had resigned. Both are eligible for reappointment and have expressed interest in continuing to serve.

Dr. Macmillan moved to recommend Dr. Koppel and Ms. Merkel for reappointment to the Tompkins County Board of Health; seconded by Mr. Greenhouse.

The vote: Aye – 3; Abstention – 2 (Dr. Koppel and Ms. Merkel); motion carried.

Consider a position on the joint Public Health and Mental Health Department Head: Mr. Kruppa stated this item is on the agenda in response to Mr. Greenhouse’s request for an Executive Session to discuss the matter. At this point the County Administrator is trying to move forward with his proposal. There will be a discussion at the next Health and Human Services (HHS) Committee meeting in November. Then there will be a joint meeting of HHS Committee and the Budget, Capital, and Personnel Committee to move it to the full Legislature. The expectation is the Legislature will consider the proposal at its meeting on November 17th. The only change since the last BOH discussion relates to the evaluation process occurring after three years. The proposal now has a sunset provision meaning in three years it would take an affirmative vote of the Legislature to continue it rather than an affirmative vote to discontinue it.

Mr. Kruppa answered questions from Board members:

- The positions with new responsibilities would have salary increases; however, if the arrangement sunsets in three years, those salaries would decrease.
- Although he would not always be physically present at TCHD or as available as he was prior to the arrangement, he believes the benefits of having a single person with a view of both departments far outweigh those negative impacts. There are mechanisms to mitigate those impacts over time. The experience of the past seven months has shown there needs to be supports in place to have a level of connection with each department.
- TCHD staff has concerns: concern about lack of connectivity to the Department Head; concern that initiatives may not move forward because the Department Head is not solely focused on TCHD; concern about how this new structure will work; and concern about the impact on TCHD. There have been some negatives these past few months; however, with the proper supports in place, he does not believe that will be the future.
- The reasoning for a review at the end of a year is to look at the situation and change it immediately if it has “gone off the rails.” The evaluation after three years is a more specific, in-depth review process to determine whether or not it has been successful. He is unsure at this time how the evaluation process will be undertaken.
- The Legislature has the authority to make the decision on the proposal regardless of Board recommendations but reaching a consensus on the proposal is important. The CSB has submitted a letter to the Legislature outlining the concerns of its members.
- New York State Office of Mental Health (OMH) has not given its final word on whether he needs a waiver to take this position. It looks like OMH will not qualify him to be the Director of Community Services (DCS). The Deputy Commissioner position which is

currently being advertised could serve in that role. That person would need to meet those requirements.

During the discussion, Dr. Macmillan asked Ms. Grinnell Crosby if she had any concerns about the proposal. She responded that expectations need to be clearly defined for the deputy position at TCHD. The added responsibilities of the position require judgment about whether to handle or refer decisions to the Public Health Director.

Adjourn to Executive Session: At 1:15 p.m. Mr. Greenhouse moved to adjourn to Executive Session for a personnel related discussion; seconded by Dr. Evelyn; and carried unanimously.

Out of Executive Session: At 1:53 p.m. Dr. Macmillan moved to adjourn from Executive Session; seconded by Dr. Koppel; and carried unanimously.

Resolution: Dr. Evelyn moved that Dr. Macmillan as President of the Board of Health send a letter in support of the County Administrator's proposal for the temporary appointment of a joint Public Health and Mental Health Services Executive Director; seconded by Ms. Merkel; and carried unanimously (5 member quorum).

Adjournment: At 1:56 p.m. Dr. Macmillan adjourned the meeting.