

MINUTES

Tompkins County Board of Health

March 27, 2018

12:00 Noon

Rice Conference Room

- Present:** Edward Koppel, MD; James Macmillan, MD, President; Michael McLaughlin, Jr.; Susan Merkel; Janet Morgan, PhD; 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; Deb Thomas, Director of Children with Special Care Needs; and Shelley Comisi, Administrative Assistant II
- Excused:** Shawna Black, Board of Health Member; David Evelyn, MD, MPH, Board of Health Member; and Jonathan Wood, County Attorney
- Guests:** Andrew Barnes, Health Promotion Program Intern; Sheila McEnery, Community Mental Health Services Board; Scott Morgan, Representative of SDM Rentals; 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 12:01 p.m.

Privilege of the Floor: Scott Morgan from SDM Rentals addressed the Board to request a refund of \$2,710 for application and plan review fees he had paid in February 2015. At that time, he had submitted the necessary engineer's plans for septic and water system permits to develop a parcel for eight duplexes. He believes that when a neighbor became upset over the project the Town of Dryden put pressure on Tompkins County Health Department (TCHD) to conduct a State Environmental Quality Review (SEQR). Mr. Morgan consulted with a municipal lawyer who indicated there was a problem with the SEQR being used. The lawyer also mentioned the Town of Dryden was probably going to change the zoning. Time passed and Mr. Morgan did not receive word about the SEQR results. Since there was an issue with the location of a neighbor's well, the permits were never issued. When the Town of Dryden changed the zoning, he decided to withdraw the plans for the original project and set a new course by changing the project. He

felt the roadblock was caused by the politics of those who were not interested in the project moving forward.

Comments/questions from the Board:

- Mr. McLaughlin referenced the County's policy stating there is a timeframe of six months to request a refund but this refund request is outside that period of time. Mr. Morgan argued he never heard the legal decision on the SEQR and was in limbo waiting to hear from the Town of Dryden about their plans. That took months.
- Dr. Moylan asked whether Mr. Morgan was in contact with TCHD to ask for a decision on the SEQR. Mr. Morgan replied he was in contact with Steve Maybee. He believes TCHD did not notify him about the SEQR to avoid a dispute. Although he does not need the cash, he feels he paid for something that was never reviewed or decided upon. After changing the project's plans, he applied and received other septic system permits for the property; however, it required him to pay again. As he departed, Mr. Morgan thanked everyone for their time.

Approval of February 27, 2018 Minutes: Dr. Morgan moved to approve the minutes of the February 27, 2018 meeting as written; seconded by Ms. Merkel. The vote to approve the minutes as written: Ayes – 4; Abstention – 1 (Mr. McLaughlin).

Financial Summary: Ms. Grinnell Crosby had nothing to add to the written report. The Health Department has filed all claims for December 2017. The County's Finance Department continues to post transfers, adjustments and corrections as needed.

Ms. Merkel referred to the *Local Share* box for the 13th period for 2017. She was interested in knowing why the year to date amount was lower than the budgeted amount. Ms. Grinnell Crosby explained expenditures were less than budgeted and revenues were more than expected so the cost to the County was less than projected. Mr. Kruppa added local share is the County's contribution to the deficit. It pays the remainder of the bills after revenues are apportioned.

Administration Report: Mr. Kruppa had nothing to add to his written report. He recognized Sheila McEnery who is attending the meeting as the representative from the Community Mental Health Services Board (CSB).

Health Promotion Program Report: Ms. Hillson had nothing to add to the written report. She introduced Andrew Barnes who is working on his nursing degree at SUNY-Plattsburgh. As part of his clinical rotation, he is interning in the program through April.

Medical Director's Report: Dr. Klepack had nothing significant to add to his report. He mentioned influenza is starting to trend downward.

Supervised Injection Facilities (SIFs): Mr. McLaughlin acknowledged the research Dr. Klepack has done on the subject of SIFs. With the gamut of information available, he would like

information pertaining specifically to our community. The Medical Examiner (ME) could provide demographics on where the deaths are occurring in order to evaluate whether or not there is a need for a SIF in the community. Since TCHD is responsible for the ME program, Mr. Kruppa spoke on behalf of the program. It is not possible to draw conclusions about the opioid problem from the 21 or 22 deaths that occurred last year. The demographics of the deaths are spread across location, age, gender and socioeconomic status. Releasing any additional information would put the privacy of those individuals at risk. For overdoses that do not result in death, the number becomes exponentially larger. To compile some data, the County is in the process of launching an ODMAP to track overdoses when EMS responds to the call. Information captured by the 911 Center would provide data around geographical information. In order to find out if the SIF could have played a role in preventing those 21 or 22 deaths, Mr. McLaughlin believes it is important to analyze the deaths that are happening.

Among his other concerns, Mr. McLaughlin mentioned there would be insurance issues for the healthcare workers who would be supervising an illegal activity since it is against federal and state laws. Dr. Klepack advised exemptions to existing public health law can be made in a pilot research project so as not to be in violation of the law. A licensed healthcare worker cannot be put in a situation where their license could be in jeopardy. Those concerns are on the list of issues to be addressed. In the last few months Dr. Howard Zucker, Commissioner of the New York State Department of Health (NYSDOH), has expressed his department's interest in SIFs.

In his discussions with people from a variety of backgrounds, Mr. McLaughlin has heard about other programs that address the drug issue. He suggested the possibility of redoubling efforts in those programs before recommending a SIF in the community.

Dr. Koppel emphasized an important point to make is these facilities are not causing harm but are saving lives.

Dr. Klepack described the Health Department's mission, as a whole, is to identify gaps in healthcare in the community and find ways to close them. He believes the BOH and TCHD are seriously participating in that mission as each one of us tries to understand and consider the possibilities.

After listening to the discussion, Dr. Macmillan concluded the BOH is not ready to make a statement on the subject of a SIF in Tompkins County. There will be opportunities to discuss the matter at another time.

Division for Community Health Report: Ms. Bishop was pleased to report:

- There have not been any new lead poisoning cases in children.
- The incubation period of two probable cases of mumps has passed. Technically, those cases did not meet the confirmed case definition because they lacked laboratory confirmation. Clinically the cases looked like mumps.

Children with Special Care Needs Report: Ms. Thomas had nothing to add to the written report.

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

Environmental Health Report: Ms. Cameron had nothing to add to the written report. Prior to the meeting, she distributed a copy of an email from Kevin Jacobs (Attachment 1) regarding an enforcement action to be discussed later in the meeting.

Report on the Community Services Board (CSB) Meeting: Dr. Morgan attended the March 5th meeting. Although the CSB meeting lacked a quorum, several topics were discussed. In their conversation about the SIF, members of the CSB posed several questions seeking additional information. Their discussion will continue.

Resolution #EH-ENF-18-0006 – Subway East Hill, T-Ithaca, Violation of Subpart 14-1 of the New York State Sanitary Code (Food): Ms. Cameron called attention to the letter from Deep Patel, the owner of Subway East Hill. Mr. Patel is requesting a reduction in the penalty amount.

Although the owner mentions his prior inspection records, Mr. McLaughlin pointed out there were two violations at the restaurant in less than two weeks. It is the Board's responsibility to ensure the owner makes the appropriate corrections in his food operation to be successful in the future.

Mr. McLaughlin moved to accept the resolution as written; seconded by Dr. Macmillan; and carried unanimously.

Resolution #EH-ENF-18-0007 – Sicilian Delight Pizzeria, V-Lansing, Violation of Subpart 14-1 of the New York State Sanitary Code (Food): Ms. Cameron reported the restaurant had violations for not maintaining food at the proper temperatures.

Dr. Morgan moved to accept the resolution as written; seconded by Dr. Koppel; and carried unanimously.

Resolution #EH-ENF-18-0008 – Kevin Jacobs, 111 Patchen Court, T-Danby, Violation of Article VI of the Tompkins County Sanitary Code (Sewage): As Ms. Cameron noted earlier, Kevin Jacobs sent his comments via email (Attachment 1) since he was unable to attend the BOH meeting. Normally any communication to TCHD is included in the BOH packet with the case summary. In this case, the email was received a few hours before today's meeting so it was too late for inclusion in the packet.

Ms. Cameron explained Mr. Jacobs' plans to develop five parcels as part of a subdivision were submitted and approved several years ago. (Those plans had expired.) He needed to apply for an onsite wastewater treatment system (OWTS) permit before developing a parcel. However, Mr. Jacobs proceeded to build a house on the property at 111 Patchen Court before the OWTS permit was issued. TCHD staff referred him to an engineer since the original plans were not useable and the site was altered. Staff supports lowering the fine to \$400 since Mr. Jacobs may have been confused regarding the status of his plans.

Questions from Board Members:

- Referring to Mr. Jacobs' email, Dr. Moylan asked about his statement that a TCHD staff member visited the site and did not tell him he was in violation. According to Ms. Cameron, the staff member was unaware Mr. Jacobs did not have a building permit. Upon her return to the office, the staff member spoke to her supervisor and the Health Department's engineer to discuss her observations. Mr. Parr also mentioned the staff member conducted percolation tests that failed which prompted the need for a referral to a licensed engineer who could design the sewage system for the site.
- Dr. Moylan was interested in hearing about the typical response time when staff is working with the public. Ms. Cameron reported staff tries to provide a timely response and generally does. Mr. Parr indicated sewage contractors normally receive notification of the results of the percolation tests on the same day the tests are conducted.
- To Mr. McLaughlin's question about the reason for reducing the fine by \$100, Ms. Cameron explained there is a chance Mr. Jacobs was confused by having the old subdivision plans with a well and sewage system design. The standard fine is \$400 but is raised to \$500 when the violation is viewed as intentional. In this case, there is a chance Mr. Jacobs was confused by having those plans.

In the resolution, the first order states Kevin Jacobs is to pay a penalty of \$500 for the violation. Following the discussion, Dr. Macmillan asked the Board to vote on an amended resolution ordering Kevin Jacobs to pay a penalty of \$400 as supported by TCHD.

Dr. Koppel moved to accept the resolution as amended; seconded by Dr. Macmillan; and carried unanimously.

Morgan Request for refund of Onsite Wastewater Treatment System (OWTS) Application Fees, 532 Asbury Road, T-Dryden: Ms. Cameron noted Scott Morgan presented his case earlier in the meeting. Environmental Health (EH) staff does not support his refund request because (1) the request was received 34 months after the fees were paid and (2) our staff spent a substantial amount of time on the plans. She clarified some of Mr. Morgan's statements. The SEQR is not an arbitrary process. Mr. Morgan's proposal was to place eight duplexes and four sewage systems on one parcel. The sewage system flow for that level of development required a SEQR. Normally the town or municipality conducts the review but in this case our agency led the review. On June 4, 2015, TCHD sent a letter to Mr. Morgan informing him the current plan could not be approved because a well on the neighbor's property was too close to the replacement sewage system area. In addition, there were questions on his SEQR documentation. At that time, he did not respond and he did not submit redesigned plans. Eventually, Mr. Morgan changed the plans and subdivided the parcels. There has been some development on those parcels.

Ms. Cameron answered questions from Board Members:

- The letter dated June 4, 2015 clearly advised Mr. Morgan that the plans could not be approved and he would have to submit a new design. In September 2016, Mr. Morgan submitted four new sewage system construction permit applications for his subdivided parcels. Two of the four permits were issued.

- EH staff completed a significant amount of technical work on the first project and a significant amount of administrative work on all of Mr. Morgan's projects. According to Mr. Parr, staff put 52 hours into the initial project. Much of the work was completed by the EH Division Director and Engineer on the SEQR.

Ms. Merkel stated the bottom line is Mr. Morgan received a letter on June 4, 2015 informing him the plans were not approved but he waited until December 2017 to request a refund. That is a significant passage of time.

Dr. Morgan moved to deny Scott Morgan's request for refund of the onsite wastewater treatment system application and plan review fees for 532 Asbury Road in the Town of Dryden; seconded by Dr. Moylan; and carried unanimously.

Approval of Selected Electronic Health Record Vendor: Mr. Kruppa briefed the Board on the efforts to implement a new electronic health record (EHR) for Community Health Services. Unfortunately, the vendor selected through the first RFP process was unsuccessful in completing the project after two years of working on it. As a result, a second RFP was written. This is a joint project with the Mental Health Department so both departments are involved in the process. After listening to demonstrations by five vendors, three were invited back for full day demonstrations. Ultimately, TenEleven was selected for the project. The Buffalo based company has been growing substantially in New York. It has experience with behavioral health billing and some knowledge about public health needs. The selling point for TenEleven was their staff's willingness to learn about our organization in order to develop and implement public health functions into the system.

In support of the EHR project, Mr. Kruppa reported Care Compass, the regional Delivery System Reform Incentive Payment (DSRIP) program, is supplying a consultant to be the project manager throughout the process and providing \$250,000 for the project once the EHR is fully implemented. That amount is more than the total implementation process will cost so it is likely the money lost in the first process will be recouped. It will be a five year project estimated to cost between \$400,000 and \$500,000 in total. There will be funding in the budget each year to operate the EHRs.

As part of the selection team, Ms. Bishop expressed her appreciation for the input from both departments. It was a good demonstration of the two units working together as a team.

Discussion regarding the EHR vendor:

- Ms. Merkel was interested in hearing about the public health functions to be developed by TenEleven. Mr. Kruppa described two major pieces. The largest piece is for the Medicaid Obstetrical and Maternal Services (MOMS) program. Each time our nurses visit their clients at home to provide services, there needs to be a process to track all activities involved with those home care visits. Another piece to be developed is an inventory management process that will integrate with the New York State Immunization Information System (NYSIIS).
- Dr. Morgan inquired about the background of the vendors. Mr. Kruppa explained one of the vendors was strong in public health but had never billed for mental health in New

York. Since the billing at TCHD is miniscule compared to the billing at the Mental Health Department, it would have been a risky choice. Another vendor had modules for both public health and behavioral health but has not been able to bill successfully in New York. On the other hand, TenEleven has a good reputation in New York with a track record for being able to manage the significant billing for mental health and has shown the capacity to learn about public health functions.

- Noting it is tedious, hard work to build a system, Dr. Koppel asked whether TenEleven has worked with other public health departments. Mr. Kruppa replied they have done work with other public health departments but not on this type of work. Several years ago, TenEleven built a substance use component for a network of providers in Rochester. The providers gave a positive reference for TenEleven.
- Mr. Kruppa outlined the next steps. The selected vendor needs to be approved by the BOH, the CSB, the Health and Human Services Committee and finally by the Legislature for the authorization to enter into a contract. Our hope is to have TenEleven onsite for the kickoff by late April or early May. There is a six month implementation plan for mental health with more time to be invested for public health. By the end of the calendar year, the plan is to have the system operational at both departments.

Dr. Koppel moved to approve TenEleven as the selected vendor for the Electronic Health Record (EHR) project; seconded by Dr. Macmillan; and carried unanimously.

Adjournment: At 1:18 p.m. Dr. Macmillan adjourned the meeting.