

Chautauqua County Board of Health Special Meeting
MINUTES

Meeting Date/Time: Monday, October 28, 2019 @ 3:30 p.m.
Location: HRC Bldg., 4th floor conference room, Mayville
Scribe: Sherri Rater

ATTENDANCE:

BOH Members	P/A	BOH Members	P/A	Others Present	Title
Tom Erlandson	P	Dr. Tallett	P	Christine Schuyler	Secretary, Public Health Director
Dr. Hewes	A	Natasha Souter	A	Lynn Schaffer	County Health Dept. Attorney
Dr. Khan	A	Mark Tarbrake	P	Mark Stow	Director of Environmental Health
Dr. Ney	P	Elisabeth Rankin	P	Bree Agett	Epidemiology Manager
Andrew O'Brien	P	Dr. Kidder	A	Austin Wellman	Public Health Sanitarian
				Sherri Rater	Scribe
				Colleen Meeder	Citizen- Village of Sherman Mayor
				Greg Gormley	Citizen – Village of Sherman Code Enforcer
				B Petriv	WKBW-TV
				Jordan Patterson	Jamestown Post Journal

Call to order	<p>The meeting was called to order by President Tom Erlandson at 3:43 p.m.</p> <p>Schuyler states the Health and Human Services Department Environmental Health Division received a nuisance complaint for the Farmer's Mill, LLC located at 118 Kendrick Street in Sherman. Pursuant to obligations under Public Health Law Article 13, State Sanitary Code Article 8 and County Sanitary Code Article 8: An examination and investigation was completed by one of our sanitarians. An effort to secure voluntary abatement was made. Our Public Health Sanitarian Officer, Austin Wellman, completed a written report which was forwarded to the Board of Health. The written report was also furnished to the owners and agents. Today's special meeting was called by the Board of Health to determine whether the condition amounts to a public nuisance, because our sanitary code does not specify this as a nuisance, and also to provide an opportunity to allow the Board of Health to order summary abatement to protect the public. Respondents were noticed to appear and show cause today as to why the Board of Health should not declare a public nuisance under an expedited process under Public Health Law Section 12A. Respondent's representatives and their two attorneys received personal service of the notice and the written report. Affidavits were submitted for the Board's records. Respondents are not present here today, so we can move forward with hearing from our witnesses.</p> <p>Stow states in his 22 years it is unprecedented for this county to have a rodent situation of this significance.</p>
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Both Austin Wellman, County's Health and Human Services Environmental Health Division (EH) Public Health Sanitarian and Greg Gormley, Village of Sherman (VOS) Zoning Officer were sworn in. The following testimony was given by Mr. Wellman and Mr. Gormley:

Farmer's Mill LLC closed for business on May 31, 2019. VOS received the first complaint about rats on July 15, 2019 by a neighbor who thought they heard a rat in the house. Later that day Gormley spoke with as many neighbors as he could and was told they have not seen any rats on their properties but have seen them across the street at the Mill. Quite some time passed with no complaints of rats, but complaints of skunks. On September 16, 2019 Gormley noticed an open door at the Mill and contacted the owner so they could meet up and secure the premises. On same day he noticed a couple rats entering and exiting the building. On September 30, 2019 Gormley filed the initial complaint with EH.

On October 1, 2019 Wellman and Gormley conducted an exterior inspection of the property. An interior inspection was not done because they did not have access. During the exterior inspection vegetation of large weeds and grass throughout the site were observed as well as large dump truck sized piles of feed sitting outside. Several access points for rodents to enter and exit the buildings as well as many empty black rat bait boxes were observed. Dead rats were observed on the exterior of the premises as well as live rats entering and exiting the buildings. At that time a joint inspection was done with both the VOS and the EH and concluded that the property was not maintained and the buildings were not secure.

Approximately one week later VOS and EH met on site with the secretary of the Mill, who gave them access to the inside. The interior inspection was done with flash lights as there was no power to the building. They observed a molasses pile and lots of rat feces, dead rats and a dead cat which appeared to have been partially eaten by the rats. They were taken to the old mill area which is four stories high. When they opened doors rats scurried. You could see rats gnawing at the walls and they didn't seem to care that humans were there. Wellman felt nervous and uncomfortable. They proceeded to the stairwell by the basement and observed that the basement was full of sludge due in part to the sub pumps not working. Rats were coming down from the stairwell. Rats were everywhere, even traveling right in front of Wellman's boots. There were open windows which is a VOS code enforcement violation. Plenty of feed was observed on all floors of the building, in some areas up to their ankles, making a perfect habitat for the rats to continue to live and breed.

Secretary of the Mill claimed he purchased a 5 gallon bucket of rat poison from tractor supply and it was gone. This is the only effort that has been made to rectify the infestation. On October 9, 2019 the Mill were asked to take care of the rat problem voluntarily and have failed to do so. The nuisance has not been abated. Nine days ago the Mill filed for bankruptcy and since then has been uninterested in rectifying the rat issue. Their attorney is Burgett and Robbins. Wellman indicates it is his opinion that this nuisance could adversely affect public health. It is hard to determine the quantity of rats due to the way they scurry about and that rats have been known to eat dead rats. Additionally, most of the time rats hide from human presence but it didn't seem to affect them.

There are lots of residential homes across the street, and a school and three restaurants within the VOS. Rats have 4-6 litters a year; each female rat can produce about 90 rats in one year.

The only building on the premises that has been condemned is the equipment building. There is no feed in this building and rats do not appear to be living there.

Several photos were presented as evidence.

Erie County Environmental Health has a rat expert who is willing to work with us and offer recommendations for treatment.

Tallett made a motion to declare this a public health nuisance. Ney 2nd. All in favor, motion carried.

Schaffer spoke about the Mill's bankruptcy proceeding and that an order is proposed that will be legally valid, requiring respondents to either take care of this or agree to allow this body to direct the County to take care of it without any concern for the need to wait. Schaffer has worked with the bankruptcy estate trustee who has been cooperative and is confident that this order will meet his needs as well. In terms of expenses, the Board takes their own risk and so we may be paying for it but the Board has an obligation to protect the public. The provisions for this allow us to take a front of the line space in the bankruptcy proceeding and so we will try to recuperate the County's expenses.

Schuyler – we really need to rely on the experts of pest control. We are unsure how long it will take to eliminate the nuisance.

The proposed order orders that the nuisance be abated, and that the conditions at 118 Kendrick Street dangerous to health be suppressed through the removal of the rodent population at that location;

and that the Respondent or their agent shall *either*, by the close of business on the date following service of this order, begin voluntary abatement at 118 Kendrick Street and submit a plan for complete abatement by November 11, 2019, *or* agree in writing to allow the County to begin immediate abatement or state that they do not oppose the County beginning immediate abatement, with the understanding that, subject to 11 U.S.C. Sec. 362, the County may elect to bring an action to recover such expense pursuant to New York State Public Health Law sections 1306 and 1307;

and that if the County does not receive confirmation of above being completed by the close of business on the date following service of this order, the County will begin immediate abatement.

Schaffer indicates if the Mill does not agree the County will still have jurisdiction.

Further discussion was had regarding the specifics of the order.

Tarbrake made a motion that the Board moves forward with proposed order, second by Ney. All in favor. Motion carried.

Adjournment

Motion to adjourn by Rankin. Meeting adjourned at 4:30pm