

LIVINGSTON COUNTY BOARD
MINUTES OF May 26, 2020 SPECIAL MEETING OF THE COUNTY BOARD

OPENING

County Board Chair Kathy Arbogast called the meeting to order at 5:00 p.m. Pursuant to the Governor's Executive Order 2020-07, this meeting was held remotely with most individuals participating through Zoom or Teleconference.

The clerk called roll with the following **present**: James A. Carley, Linda Ambrose, William Mays, Steven Lovell, John Vitzthum, James Blackard, Gerald Earing, Mark Runyon, Patrick D. Killian (arrived at 5:05 p.m.), Michael L. Kirkton, John L. Vietti, Jason Bunting, John Slagel, Gina Manker, Joseph D. Steichen (arrived at 5:45 p.m.), Tim Shafer, Marty Fannin, Ronald L. Kestner, Paul A. Ritter, Kathy Arbogast, Joel J. Barickman and Vicki Allen **Absent**: Robert F. Weller and Bill Wilkey

Also Present: County Clerk-Kristy Masching, Executive Director-Alina Hartley, State's Attorney-Randy Yedinak, Public Health Administrator-Jackie Dever, IT Director-Jon Sear and Supervisor of Assessments-Shelly Renken

AGENDA

Chair Arbogast called for approval of the agenda as presented. *Motion by Earing, second by Ritter to approve the agenda.* **MOTION CARRIED ON UNANIMOUS VOICE VOTE.**

BUSINESS TO COME BEFORE THE COMMITTEE

Livingston County COVID 19 Response - County Board Chair Kathy Arbogast read the following statement with regards to Livingston County's COVID-19 response.

"Welcome fellow board members and members of the public listening at home. We are here tonight due to a desire amongst certain board members to take action on the county level to ease restrictions on local businesses and residents. I understand firsthand the pressures that businesses have been facing, as my personal business has been shut down since March. However, as a Board we must take a hard look at what the end goal is as well as what authority we have under the law. **Unfortunately, as much as we may want to, there is no statutory authority for the Livingston County Board to reopen businesses.** We have presented three options tonight for your consideration which I will review for those at home.

Option 1 – Is simply a letter to the Governor recommending that he shorten the review period under the Restore Illinois Plan. The current review period is 28 days to move between phases, and this would be a recommendation to shorten the period to 14 days as recommended by the CDC. If the end goal is to re-open businesses sooner, this is the best option, in my opinion.

Option 2 – Is a letter to the Governor recommending he support the Heart of Illinois Plan. The Heart of Illinois Plan was presented to the Governor by the City of Peoria, Peoria County and the Peoria County Department of Public Health. The letter would recommend its adoption and indicate our preparedness to implement the plan upon approval. However, I will note that based on a conference call that I had earlier today, this plan has not been voted on by the Peoria County Board, the Peoria City council or the Board of Health. It was also noted during the zoom meeting that Peoria is not recommending that businesses that hold state licenses reopen. The plan is less restrictive in some regards including the time period for review, but even more restrictive in others. Further on Monday the 18th, the Governor answered a question from a Peoria reporter about the HOI plan and the Governor indicated that he has read all of the plans including this one and he is not considering any of them at this time.

Option 3 – Is a resolution to re-open Livingston County, which is modeled after Madison County. Once again, I will caution the Board on the adoption of this resolution. We recently provided board members with an opinion from an Illinois counties association indicating the lack of authority to take such action as well as the liability risk that will be assumed should the board choose to ignore that lack of authority. If the Board

approved this resolution, the Board of Health would be asked to approve the resolution as well, however, they are unlikely to do so. The fact is, if the end goal is to open businesses sooner, this resolution will NOT accomplish that goal and is misleading to the public.” Chairman Arbogast stated that her recommendation was to move forward with Option #1, sending a letter to the Governor recommending that he shorten the review period under the Restore Illinois Plan.

Motion by Killian, second by Allen to move forward with Option #1. A lengthy discussion followed with the Board members voicing their opinions on the three options presented.

Public Health Administrator Jackie Dever stated that at this time Livingston County had 32 positive cases with 7 of those being asymptomatic. The Livingston County Health Department (LCPHD) had issued guidance for Phase 3 on the website, Facebook and had it sent to the Chambers of Commerce. Ms. Dever noted that Donnie Simmons had been working with food establishments.

State’s Attorney Randy Yedinak stated that the problem with the mindset that we needed to do something, implied that there was something you could do or you would have the authority to do something. He stated that to date no counties had sued the state, only temporary restraining orders had been requested. Yedinak stated that Options 1 and 2 would have the least negative impact to the county from his standpoint. Option 3 had many liability issues, including promising people something you couldn’t follow through on. It would also put the County Board at odds with department heads and managers.

Yedinak stated that the Executive Order was not affecting the day to day business in his office. The only thing he was doing that he normally would not be doing was being involved in meetings such as this. Ms. Dever said that LCPHD was following the Public Health Administrative Code which is what they do every day anyway. Now they had to deal with parts of the code they don’t normally deal with, such as isolation and quarantine.

Yedinak stated that if a complaint was made because a business was in violation of the Executive Order, he would sit down with the Public Health Department to determine if this complaint significantly impacted the welfare and safety of Livingston County residents. He would have to prove that to the Court in order to get a closure order. The Livingston County State’s Attorney has not sought any closure orders to date even though he has received many complaints. He continues to educate people and businesses on what the very real risks are of the actions they may take in opening.

Jackie Dever noted that the state was trending at its lowest point since April and was trending down due to social distancing and wearing masks. The numbers have shown that we have made a huge difference with trending down and being able to move into the next phase of the Governor’s plan. She noted that when you do everything right it looks like it didn’t need to be done in the first place.

With regard to insurance liabilities to the County, Yedinak’s opinion, which is in agreement with the opinion issued by UCCI, was that most insurance policies contain a provision which says that any action taken contrary to state law or state regulations by the County which resulted in a lawsuit, would result in coverage being denied. The County does not have the authority to take actions contrary to the Governor’s Orders. Yedinak also commented that as of now, the Executive Order and everything that goes with it, according to the Attorney General and the Governor is the law of the land and is what the County is to follow.

There was discussion about the state threatening to revoke licenses if a business opened up, going against the Governor’s Executive Order.

Yedinak stated that if all 3 options were voted down at tonight’s meeting, there would be nothing to prevent the Board from presenting a new option at a later date.

MOTION CARRIED ON ROLL CALL VOTE. Ayes: Carley, Lovell, Vitzthum, Earing, Killian, Kirkton, Vietti, Bunting, Manker, Shafer, Kestner, Ritter, Arbogast and Allen **Nays:** Ambrose, Mays, Blackard, Runyon, Slagel, Steichen, Fannin and Barickman **Absent:** Weller and Wilkey

PUBLIC COMMENT

Jennifer Cranford, owner of The Cup & Scone voiced her concerns regarding the COVID 19 pandemic business closures. She feels that everyone is living in fear of something that is not as real of a threat as everyone's making it out to be. She feels the County should be fighting harder and take a risk on behalf of the businesses and citizens of our County since we are not seeing the number of cases in our county as in other areas.

Rebecca Fehr thanked Jennifer for her comments noting that there were a lot of people and businesses in the County feeling the same way. She also commented on the plight of those who were sheltering in place at home. She thanked the members who voted no on Option 1.

Herbert Steffen also stated that he agreed with much of what Jennifer had to say as well. He commented that we also have to look out for those who are at home and those who are depleting their savings or broke and are turning to drugs and alcohol. He gave a thumbs up to all the members who voted no on Option 1 as well.

ADJOURNMENT

The meeting adjourned at 6:05 p.m., on motion by Vietti, second by Kestner. **MOTION CARRIED WITH ALL AYES ON VOICE VOTE.**

Kathy Arbogast, Chair

Attest:

Kristy A. Masching

County Clerk

July 23, 2020

Approved

Minutes Bd 052620.A