

Scott County Board of Supervisors
July 7, 2020 8:00 a.m.

The Board of Supervisors met as a committee of the whole and pursuant to adjournment with Maxwell, Beck, Knobbe, Croken and Kinzer present. Due to social distancing concerns relating to COVID19, Supervisors and staff were spaced apart during the meeting with some staff participating via telephone.

Dr. Louis Katz, Scott County Medical Director, addressed the motion to require wearing masks in all public spaces throughout Scott County. He displayed three slides describing the state of the COVID-19 epidemic in Scott County. Regarding the first slide he said positive tests started to increase in mid-June, two weeks after reopening Iowa businesses with crowded venues. Regarding the second slide he said the curve of clinical cases by date of onset, representing people with a positive test who are sick, is precipitously increasing. He said the increase was not due to increased testing. He said this was a fivefold increase from pre-surge. Regarding the third slide he said the age at onset by month of clinical case showed a drop of 20 years between April and now.

He noted that as of July 6th seven people were hospitalized at Unity Point in Illinois with three being in the ICU and 17 were hospitalized at the Genesis Campus in Iowa with eight being in the ICU. He said these indicators are extremely troubling.

He said wearing masks reduces harm, but does not eliminate it, and under no circumstances should mask wearing be considered a panacea. He said if done properly social distancing may be a panacea, and a vaccine would be a panacea. He said in healthcare settings surgical masks and N95 masks can be very effective, but that is not the setting in public areas. He said mask wearing is about source control, the recognition that the spread of COVID-19 is frequently by people who do not have the typical symptoms of respiratory infection, and that the data shows that things like singing, shouting and talking expel droplets containing the virus.

He said the data shows masks have an impact as a barrier to the projection of droplets into the environment. He said for that reason he supported mandatory mask wearing in public and also supports mandatory mask wearing on County property.

Supervisor Croken asked if the dramatic drop in age of onset is reflective in the age of hospitalizations as well.

Katz said that the sick people are more clustered towards the forty or fifty year age group but there are some younger people as well.

Supervisor Beck asked about tracing back to where the recent spike came from.

Katz said that pointing to the one place where someone was infected is impossible, but the increase in cases and the decrease in the age of onset logically pointed to the congregating of young people at bars and restaurants.

Beck said requiring a mask in public will not address these particular scenarios.

Dr. Katz said keeping the six foot social distance is absolutely critical, but masks are an important piece in dealing with the uncertainties of interactions in public. He said it is absolutely justified to recommend wearing masks as this is a public health emergency.

Supervisor Maxwell said that movement of the curves show the number of deaths went up and then down, and asked if it was Dr. Katz explanation that the youth are now getting COVID-19 and are surviving.

Dr. Katz said that deaths are the most lagging indicator, measured 25 to 30 days or longer after clinical onset. He said the spike has not matured yet and the curve will go up. He added that knowledge of what to do and not do in the care of critically ill COVID patients has improved significantly since March and April. He said as secondary transmission by younger people to older and high risk people increases the consequence will be an increase in deaths, but this too is a lagging indicator.

Supervisor Kinzer asked about the ability of the local healthcare system to handle the increasing numbers of COVID-19.

Dr. Katz said personal protection equipment and supplies inventory are okay at this time but clinician burnout will happen faster than it did in March and April. He said effective contact tracing will become more difficult. He said in the next two weeks health providers may need to restrict other admissions to the hospital to keep them out of the ICU or opening intensive care beds in other areas of the hospitals.

Croken said in Scott County for the first 120 days of 2020 there was an 18.9 percent increase in deaths compared to the same time period in 2019. He asked about the consequences of the COVID-19 surge on access to healthcare in general in regards to the death rates this year versus last year at this time.

Dr. Katz said COVID deaths are clearly underreported, and people are reluctant to go to healthcare venues when they are sick because they are afraid of transmission in those venues.

Beck asked about the number of COVID-19 patients in the hospitals compared to the maximum numbers of beds available.

Katz said while there is plenty of bed space available in the hospitals in general, the numbers he is concerned with are intensive care beds and ventilators.

David Haase, 1514 W Lombard Street, Davenport, said neither the Governor nor the State Board of Health has mandated face coverings and the County does not have the authority to mandate a face covering according to the Iowa Attorney General.

Dr. Rebecca Wiese, 2512 Fulton Avenue, Davenport, said she is a retired family medicine physician. She asked the Board to make some of the same difficult choices that she made as a physician, to look at the facts and data, and to try to get all of us to wear face masks.

John House, 5112 N Fairmount Street, Davenport, said he presented the Supervisors with an article showing that COVID is a fraud. He said the Corona Virus is so small that masks cannot trap it and do not do any good, and wearing them will probably hurt us.

Meg Reed, 722 W 16th Street, Davenport, said she is a Biology major, health coach and mother of three and that the science is not unfamiliar to her. She said she believes masks are biologically impractical and chooses not to wear one.

Dr. Robert Wiedemann, 625 Main Street, New Liberty, said he is a retired Chiropractor and that wearing a mask is based on insupportable conjecture and the Board is engaging in mass human experimentation.

Roger Mall, 5123 Woodland Avenue, Davenport, said he opposed the proposed mandated mask wearing in public venues. He said COVID-19 is in the same range as a seasonal influenza in regards to mortalities.

Joni Abbott, 3434 Towne Point Drive, Bettendorf, said she opposes mandated mask wearing in Scott County and said studies prove wearing masks is harmful.

Scott Webster, 5444 Emily Court, Bettendorf, said he is a Bettendorf elected official and does not have much to say about masks. He said his concern is how this stuff keeps coming forward and that it is embarrassing to Scott County. He said this is not constitutional and is just grandstanding.

Judah Richardson, 2303 E 28th Place, Davenport, said he strongly supported the mask mandate and it is the only thing that will make him feel safe when going out to restaurants and social gatherings.

David Melchert, 24059 181st Street, Pleasant Valley, said if this mandate is passed, he will not comply, will resist along with others and asked what the Board is going to do about them.

Aaron Miers of the Brooks Law Firm, representing Mt Sinai Church, addressed the tax abatement request from the church and some new developments. He said Mt Sinai has been a congregation in Davenport for nearly 30 years, and during this entire time the church has been registered as a tax-exempt, religious charitable organization with the State of Iowa. He said Mt Sinai acquired its current property on Northwest Blvd in July 2015 from another tax-exempt church. He said beginning in 2016, and then in 2017 and 2018, the property accumulated nearly \$100,000 in property taxes. He said an exemption form and tax statements erroneously were sent to the church's old address. He said in August 2019 the Church requested that the Board of Supervisors abate and

refund those taxes. He said the Board determined a refund was out of the question because the tax certificates were held by a third party from a tax sale, and abatement of taxes still owing was not possible because County policy prevented it.

He said the following new developments occurred since that meeting: the Church's taxes have been redeemed and are now held by its mortgage company through a tax advance; the first installment of the 2018 taxes have recently been paid through a tax advance; the Church now risks foreclosure and stands to lose \$600,000 in equity that the congregation built up over the past 30 years.

He said Iowa Code Section 445.60 provides an avenue of relief that the Board can use to refund these taxes. He said the section allows the Board of Supervisors to issue a refund on taxes erroneously or illegally paid. He said the section only requires the Board to determine the collections of these taxes had an error in the process or was otherwise illegal, and does not require the Board to make a finding of fault. He said fixing the error does not create precedence. He said in February 2007 the Board ordered a refund due to a clerical error in the Assessor's Office. He said Johnson County had a similar issue in 2016 and was able to refund the taxes, as did Lee County and Blackhawk County in 2015, and Clinton County in 2012. He said a clear error exists in this situation and Section 445.60 gives the Board the solution to correct this error.

Rob Cusack, Senior Assistant County Attorney, disagreed with Miers' interpretation of Section 445.60. He said the taxes were not erroneously assessed against the property as the church failed to apply for the exemption in a timely manner. He said the fact that the taxes have been redeemed does not change anything. He said the County has already received the money, the mortgage holder is now the one that paid the taxes and he does not see a way to refund that money even if there were a legal way to do it. He said if the County were to proceed with this request the Board would have to ignore the law that requires entities to apply for the exemption in the first place, and compared it to applying for a homestead exemption.

Beck asked Cusack if the Board had discussed this code section at length last August.

Cusack said he was not sure if it was discussed at length, but it is his opinion that the tax itself had to be erroneous, meaning that if the County taxed the church after it applied for the exemption, then that tax would be erroneous.

Beck said the word "erroneous" in the statute indicates the County made an error not that the property owner made an error. He asked if the 2007 Scott County case cited by Miers was a proper use of the statute.

Cusack said that he did not remember the case.

Croken asked if the language in the code says whose error it is that would permit a refund of the taxes.

Miers said the code section does not specify whose error it has to be. He said the opposite of error is intentionality, and it is absurd to insinuate that these taxes were intentionally paid because Mt Sinai never received the exemption application or tax statements from the County.

Croken said he believes the error in this case is that an organization that should not pay taxes ended up doing so for some reasons that were the fault of the organization. He said it seemed the error was in the end result not in the process.

Cusack said the error was in the process and the taxes were properly assessed, no exemption was requested, the taxes became due and were sold at a tax sale, and the taxes were redeemed by the mortgage holder. He said the error was in not filing for the exemption.

Croken said that he interpreted the word "error" in the code section as meaning an unintended consequence.

Cusack said the code section requires an erroneous or illegal payment of the taxes and there was no error in paying the taxes.

Robert Snipes, a member of the Kankakee County, Illinois Board of Supervisors, spoke in support of Mt Sinai Church. He said that there was no fair play or sense of justice in this case. He said this is a white controlled county board that chooses to spit in the face of justice. He said that the State of Iowa and the IRS recognizes the church as tax exempt but questioned why the County does not. He said there was no due process and this case is the epitome of bad faith government and racism in its truest form, acting arbitrarily and capriciously with pretextual motives. He asked how many white churches had been subjected to this process. He said the Supervisors were a group of political bullies and should be helping the people and not hurting the people. He cited the Iowa cases of Burlington Northern v. Board of Supervisors and Transform, Ltd. v. Polk County as supporting the refund of taxes paid in this case.

Angela Kersten, County Engineer, reviewed a public hearing for a proposed road vacation of a portion of a platted alley located in the Southeast Quarter of Section 7, Township 78 North, Range 5 East. She said Monty Shumate, who owns adjacent property, contacted the Secondary Roads Department with the request to vacate the road right-of-way. She said the County does not maintain the right of way.

Croken asked if anyone else uses this road or would anyone be unhappy with the vacation.

Kersten said notice was published in the Quad City Times and certified letters have been sent to the adjoining property owners. She said she has not been contacted by any neighbors or members of the public regarding the vacation.

Knobbe asked if there were any limitations to what the property could be used for.

Kersten said the owner would have to adhere to County building codes and would have to work with Planning and Development for the necessary permits. She said the land would revert to Shumate's property as the County does not have title to the property.

Kersten reviewed the construction contract for a Hot Mix Asphalt (HMA) Resurfacing Project on 290th Street from Pioneer Village east approximately two miles to Utica Ridge Road. She said the department received four bids and the low bid was from Tri-City Blacktop for \$571,735.80. She recommended entering into a contract with Tri-City Blacktop contingent on the unit prices listed in the contract. She said the total budget for asphalt construction is \$900,000.

Barb Pardie, Fleet Manager, reviewed the purchase of an electric forklift for Facility and Support Services (FSS). She noted that in FY19 the County bought an Octane forklift, but it did not arrive until FY20, and it took Octane nine months to get the unit into service after delivery.

She said the current quotes are for replacement of a 1983 Caterpillar 4000 lbs. propane forklift, which will be sold on Public Surplus once COVID-19 restrictions are lifted. She said six bids came back, but the low bid came from Big River Equipment for a Doosan for which major component problems are documented. She said the price difference between the low bid and the next lowest bid, less than \$300, will equal out in repair costs and downtime, and therefore she recommended awarding the bid to Hupp Toyota Lift for \$26,734.00 including delivery.

Tammy Speidel, FSS Director, said she and Pardie are acutely aware of the County's financial situation due to COVID-19, and they do not take requesting equipment replacement lightly. She said the forklift is located at the 503 Scott Street warehouse, used daily throughout the year, serves the entire downtown campus, and is very critical to FSS operations. She said repair parts are getting very hard to find for the old forklift.

Knobbe asked about the decision to go from an LP gas model to an electric model including the total 10 year cost difference.

Speidel said the remodeling of the warehouse for Auditor's Office election equipment required use of an electric model or the County would have incurred a huge expense to handle exhaust. She said it is easier to have the same type of equipment at both sites.

Pardie said both types require significant maintenance after 10,000 hours of use, with the battery model requiring battery replacement costing \$5,000 or less if using a reconditioned battery. She said it is more expensive to maintain an electric model if the battery is problematic, but there is a good three year warranty on this model which is sufficient time to reveal if the battery is faulty.

Maxwell asked if the County can go with a bid that is not the lowest bid.

Mary Thee, Assistant County Administrator, said the Code states the lowest responsible bid, and the argument Pardie is making is that the lowest bid will cost more at the end.

Croken asked if there is any environmental consideration that the Board should be aware of when making the decision to buy electric versus LP gas.

Pardie said electric forklifts are more standardized and EPA rated, the LP model has a cleaner exhaust as opposed to a diesel model, but the electric model has no exhaust.

Kinzer said the Board has gone with bids that are not the lowest bids in the past. He said battery operated forklifts are common for indoor facilities. He asked if staff using the forklift go through training.

Speidel answered yes.

Ed Rivers, Health Department Director, reviewed the increase to a full-time equivalent (FTE) of Health Department grant funded position and modifications of the Child Health Consultant job description. He said beginning October 1, 2020, the Iowa Department of Public Health requires that Tier 2 Maternal Health programs include a minimum of 1.0 FTE Registered Nurse and a minimum of 0.25 FTE social worker. He requested to increase the Maternal, Child, and Adolescent Health Nurse position in the department's table of organization from 0.8 FTE to 1.0 FTE.

He said the social worker requirement is not an issue because the department has a staff member with a social work degree who can take on those responsibilities. He noted this position is grant and Medicaid funded, and revenue neutral to the County.

Rivers reviewed appointment of a County Medical Examiner-Investigator. He said it can be difficult to train individuals in this field, and the candidate has law enforcement experience, which is suited for this job as it requires field investigations. He said the job is revenue neutral as it is paid for by the case.

Croken asked what training goes into being a medical examiner-investigator.

Rivers said there is a training course from the University of St Louis that each appointee must complete within a year in accord with the Iowa State Medical Examiner's Office.

Rivers reviewed a FY21 Agreement with the Center for Alcohol & Drug Services, Inc. (CADS). He said the contract is for Detoxification, Evaluation and Treatment Services, the Inmate Substance Abuse Treatment and Criminal Justice Client Case Management Program and the Jail Based Assessment and Treatment Program and is largely unchanged from prior years. He noted a change in the contract was to include the provisions of the Community Services program which CADS also operates.

Rivers reviewed the request from the Scott County Waste Commission to repeal Chapter 32 "Solid Waste Haulers". He said since there are a handful of waste hauling

companies, repealing this section would decrease expense for the Waste Commission and decrease staff time for the Health Department. He said there are no environmental protections lost by repealing the ordinance.

Thee reviewed recognition of members who have served on the Zoning Board of Adjustment and Planning and Zoning Commission.

Croken addressed the motion to require wearing masks by all employees and visitors in Scott County facilities and said it should be changed to "all visitors" as employees are already required to wear masks.

Maxwell asked for clarity on requiring employees to wear masks.

Thee said that on July 6th County employees were required to wear masks in common areas and when they cannot be socially distanced, and over 500 masks were distributed to employees last week.

Maxwell asked if it was not for the Board to decide if employees must wear masks, how the decision was made and what consultation was made with employees.

Thee said Administration made the decision with the guidance of Dr. Katz. She said Administration got feedback during recent department head meetings.

Maxwell asked if this motion is to decide on requiring visitors to wear mask at all County facilities or certain facilities.

Thee said that issue was up for debate, but Administration decided that the greeters at the Administrative Center and the County General Store will encourage the public to wear masks, but it has not been mandated.

Maxwell asked how the Supervisors were taken out of the decision to require staff to wear masks.

Thee said the decision was made after a phone call with Dr. Katz, Ed Rivers, Mahesh Sharma and her during which Dr. Katz reviewed the statistics and expressed that the County should be a role model. She said the decision was reviewed during the following department head meeting and was agreed to by the collective group.

Beck said that if a mask ordinance passes it would apply to County facilities.

Thee said these were not ordinances but resolutions and therefore not enforceable by law enforcement. She said the Board can require mask wearing in County buildings, but which areas it would apply to need to be decided.

Beck said that if the motion for wearing masks in all public areas passed then that motion would apply to the County facilities. He suggested adopting a County policy on masks if it did not pass.

Croken said based on Becks observation the order of the motions should be reversed for Board consideration so the county-wide requirement would come first.

Kinzer said that he thought keeping the current order made better sense but he would not oppose reversing the order.

Moved by Maxwell, seconded by Beck at 10:18 a.m. a motion to adjourn. All Ayes.

Tony Knobbe, Chair of the Board
Scott County Board of Supervisors

ATTEST: Roxanna Moritz
Scott County Auditor