

ALLEGAN COUNTY BOARD OF COMMISSIONERS

INDEX

SEPTEMBER 9, 2021 SESSION

JOURNAL 69

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MORNING SESSION**SEPTEMBER 9, 2021 SESSION - PLEDGE OF ALLEGIANCE, ROLL CALL**

1/ The Board of Commissioners of the County of Allegan, State of Michigan, met in the Board Room of the County Services Building in the Township of Allegan on September 9, 2021 at 9:00 A.M. in accordance with the motion for adjournment of August 26, 2021, and rules of this board; Chairman Storey presiding.

The Deputy Clerk led the Board in the Pledge of Allegiance to the flag.

Upon roll call the following members answered as Commissioners for the respective Districts:

DIST #1	DEAN KAPENGA	DIST #5	TOM JESSUP
DIST #2	JIM STOREY	DIST #6	GALE DUGAN
DIST #3	MAX THIELE	DIST #7	RICK CAIN - left at 10:55 AM
DIST #4	MARK DeYOUNG		

PUBLIC PARTICIPATION - COMMENTS

2/ Chairman Storey opened the meeting to public participation and the following individuals offered comments:

1. Steve McNeal of Holland read a statement opposing the mask mandates
2. Jeff Koon of Dorr Township - opposes mask mandate
3. Ken Beyer of Hamilton - opposes mask mandate
4. Matt Williamson of Shelbyville - opposes mask mandate
5. Amanda Pierson of Gun Plain Township - supports the efforts of the Health Department
6. Terri Beilby of Martin Township - look at the science from both sides

AGENDA ADDITIONS

3/ Chairman Storey asked if there were any additions or changes to the agenda. Commissioner Kapenga asked to add discussion item #3 relative to the duties of the Health Board and move the Administrative Update as discussion item #4.

Moved by Commissioner Kapenga, seconded by Commissioner Cain to adopt the changes to the meeting agenda as requested. Motion carried by voice vote. Yeas: Kapenga, Storey, DeYoung, Jessup, Dugan and Cain. Nays: Thiele.

AGENDA - ADOPTED AS AMENDED

4/ Moved by Commissioner Kapenga, seconded by Commissioner Cain to adopt the meeting agenda as amended. Motion carried by voice vote. Yeas: Kapenga, Storey, DeYoung, Jessup, Dugan and Cain. Nays: Thiele.

ALLEGAN COUNTY MENTAL HEALTH UPDATE

5/ Executive Director of Allegan County Mental Health Mark Witte addressed the board relative to the mental health aspect of the COVID-19 pandemic regarding children.

AMEND MEETING AGENDA

6/ Moved by Commissioner Thiele, seconded by Commissioner Dugan to amend the meeting agenda to have the Legal/Risk Health Impact and Data regarding Emergency Epidemic Order as discussion item #1 and have the 2022 Budget as discussion item #2. Motion carried by voice vote. Yeas: 7 votes. Nays: 0 votes.

LEGAL/RISK, HEALTH IMPACT AND DATA REGARDING EMERGENCY EPIDEMIC ORDER

7/ Administrator Sarro provided information to the board on Michigan Municipal Risk Management Authority's (MMRA) opinion regarding the Emergency Epidemic Order. Discussion followed.

BREAK - 10:12 P.M.

8/ Upon reconvening at 10:22 A.M., the following Commissioners were present: Commissioner Kapenga, Storey, Thiele, DeYoung, Jessup, Dugan and Cain. Absent: None.

CLOSED SESSION: POTENTIAL LAWSUITS

9/ Moved by Commissioner Kapenga, seconded by Commissioner Cain to recess to closed session to discuss legal potential lawsuits that are being presented to the Board due to the health mask mandate.

Legal Counsel Pete Peterson joined the meeting via telephone regarding the Open Meetings Act to discuss the options the board can use to recess to closed session. Section 8 of the Open Meetings Act is specific in nature and the reason provided in the motion for going into closed session is not an option - only option for closed session relating to litigation requires specific pending litigation.

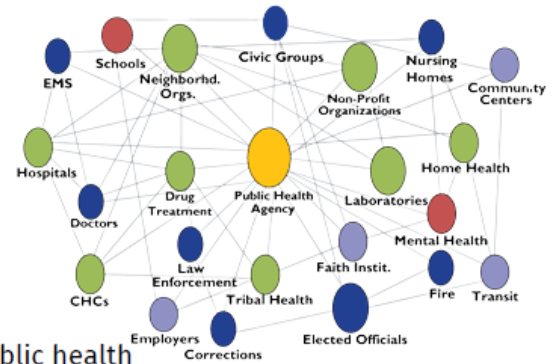
Commissioner Storey deemed the motion as invalid based on legal opinion.

LEGAL/RISK, HEALTH IMPACT AND DATA RE: EMERGENCY EPIDEMIC ORDER - CONTINUED

10/ Health Officer Angelique Joynes gave a presentation on information/comments from the last two Board of Commissioner meetings.



What is Public Health?



"Public Health": the health of the population as a whole

- Pursuant to MCL 333.2433
 - A local health department shall continually and diligently endeavor to prevent disease, prolong life, and promote the public health through organized programs, including prevention and control of environmental health hazards; prevention and control of diseases; prevention and control of health problems of particularly vulnerable population groups; development of health care facilities and health services delivery systems; and regulation of health care facilities and health services delivery systems to the extent provided by law.

"Health": the state of being free from illness or injury.

- While a doctor treats people who are sick, public health professionals try to prevent people from getting sick or injured in the first place. They also promote wellness by encouraging healthy behaviors. (APHA)

<https://www.apha.org/what-is-public-health>

We were asked to review the information/comments from the last two BOC meetings

Choices



- Going to a football game
- Going to a restaurant
- Participating in extra curricular activities
- Attending Allegan County Fair

Not a Choice

- Children getting an education in public schools (for most people)
- 5-11 year olds do not have access to an authorized COVID-19 vaccine



My child, my choice?

Individual health behaviors impacting other individuals health



Example:

Public Health recommends for children to wear a helmet while riding a bike to minimize traumatic brain injuries. If the parent doesn't have their child wear a helmet, only that child's health is impacted from this event.



When children don't wear masks, and are carrying COVID-19, they are impacting other children's and their family's health directly. The more people that wear masks decreases the risk of transmission at school



K-6 Mask Requirement: *Who is excluded?*

01 Persons in the act of eating or drinking.



02 Persons outside if not engaged in activities involving direct physical contact.



03 Persons under the age of five years; however, supervised masking is strongly recommended.



04 Students with developmental conditions of any age attending school, although supervised masking is encouraged.



05 Teachers who are working with children who are hard of hearing or students with developmental conditions who benefit from facial cues. These teachers or staff must be vaccinated or comply with masking directive.

06 A person with a disability who cannot wear a mask, or cannot safely wear a mask, because of the disability as defined by the Americans with Disabilities Act (ADA, 42 U.S.C. 12101 et seq.) and Michigan Persons with Disabilities Act.



For concerns, schedule an appointment with your primary provider to determine whether your child's disability prevents them from safely wearing a mask.

Resources

Mental Health and Adverse Childhood Experiences (ACEs)

Mental Health impacts health and well being of our children. ACHD recognizes that this pandemic can be an adverse childhood experience or traumatic experience for many children in our community. ACEs are linked to chronic health problems, mental illness, substance use problems in adulthood. We recognize mental health support is needed for children to reach their full potential. ACHD is willing to provide recommendations to policy and decision makers on funding to ensure all families have access to mental health support.

If you or your child are feeling emotional distress, get free, confidential support from a Michigan Stay Well counselor.

- Dial 1-888-535-6136 and press "8"
- The Stay Well counseling line is available 24/7.

The Allegan County Community Mental Health Service Agency is also a resource. Please call (269) 673-6617

Masks and Research

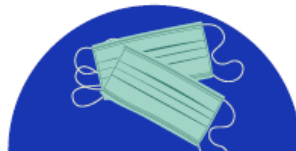
For mask suggestions for kids, or to read our literature review, visit www.allegancounty.org/covid

Face Masks



Find a well-fitting, comfortable mask.

- Every child's face is different, and because of that, there is no one right mask for all children.
- Make sure the mask is properly covering the nose and under the chin with no gaps on the sides



Pack extra masks for your child, in case the one they leave with gets wet or dirty

- Replace your mask with a new one as soon as it is wet or dirty
- Pack clean, dry masks in a paper bag.
- Let the teacher know they have extras.
- Talk to your school or the health department if you need extra masks
- Talk to your child on storing masks when they go out for recess (put in baggie, have a mask lanyard)



Pack a "mask baggie" for wet, dirty masks

- Store your wet or dirty mask in a plastic bag until it can be washed

Setting up for Success

- We recognize that children want to do the right thing
- Identifying tools, tips and tricks to help teachers and students be successful
- Health education for schools and parents

Information we were asked to look at

There is a lot of different perspectives among individuals in similar professions, but public health looks to professional organizations to provide guidance or standard of care for that profession as a whole



Literal Mask Expert Opens a Can on School Board

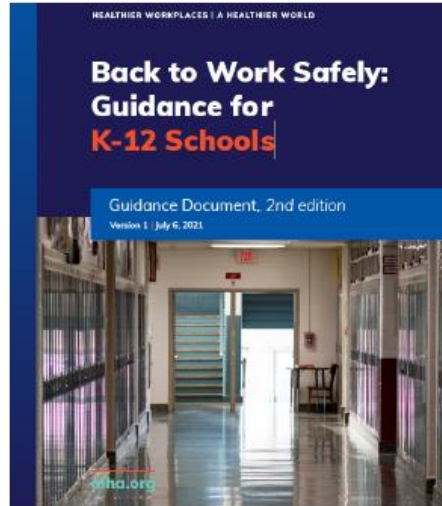
ericmoutsos · Published August 20, 2021 · 531,085 Views



1579 rumbles

EMBED ↗

Rumble — This woman spoke at the Grandville board meeting yesterday and has over 19 years experience in mitigation training and is a Senior Industrial Hygienist that works in Occupational and Environmental Toxicology. She teaches the "experts" on how to effectively use a mask.



Read their full guidance [here](#).

- Face coverings can help limit transmission. Schools should follow all local, state, or federal face covering requirements.
- Provide disposable or washable cloth face coverings to students, teachers, and school staff, if possible.
- Students, teachers, and staff should be frequently reminded not to touch their cloth or disposable face coverings and to wash their hands often.
- Train school employees and students on the proper way to maintain, wear (covering both their noses and mouths), handle, and clean or dispose of face coverings, as discussed by CDC.
- Refer to CDC's guidance on [how to wear masks](#).



8/30/2021 [f](#) [t](#) [in](#) [e](#)

Literal Mask Expert Opens a Can on School Board

ericmoutsos · Published August 20, 2021 · 531,085 Views



Infectious Diseases Experts Call for Layered Strategy to Protect Students and School Employees

"The Infectious Diseases Society of America (IDSA) is urging school systems nationwide to use all available public health tools and strategies to prevent COVID-19 transmission in schools as teachers and students return to in-person learning. This is critical with children under the age of 12 still ineligible to receive the COVID-19 vaccine, the highly contagious delta variant circulating throughout the U.S. and vaccination rates lagging in some areas of the country.

Protecting students requires that they and the adults around them follow science-based public health guidance, which includes:

- vaccination for all eligible individuals;
- universal mask wearing in schools and on school buses;
- maintaining physical distance;
- conducting activities, especially lunch, outdoors when possible;
- ventilation, including opening windows in classrooms and on school buses when weather permits;
- staying home when sick;
- transparent procedures for reporting, contact tracing and quarantining in the event of an exposure.

Reports of outbreaks in schools and among children have risen since the school year began. IDSA experts say putting multiple COVID-19 prevention strategies in place is the best way to keep students, teachers and school employees safe."

Barbara D. Alexander, MD, MHS, FIDSA—President, Infectious Diseases Society of America

Information we were asked to look at



International Journal of
Environmental Research
and Public Health



meta analysis/ review done

Review

Is a Mask That Covers the Mouth and Nose Free from Undesirable Side Effects in Everyday Use and Free of Potential Hazards?

Of the mathematically evaluable, groundbreaking 44 papers with significant negative mask effects ($p < 0.05$ or $n > 50\%$), 22 were published in 2020 (50%), and 22 were published before the COVID-19 pandemic. Of these 44 publications, 31 (70%) were of experimental nature, and the remainder were observational studies (30%).

- Most of the publications in question were English (98%).
- Thirty papers referred to surgical masks (68%), 30 publications related to N95 masks (68%), and only 10 studies pertained to fabric masks (23%).

- No control groups
- Some small sample sizes
- Many studies around health care workers

68% (30 publications) were around N95 use, which are not recommended for school age children

Time bound requirement until access to vaccine for age group available or we are in low transmission for a consecutive 7 days

Addressing Dr. Stock's presentation to Indiana School Board

ACHD presented the debunks to his presentation at our August 11, 2021 ACHD COVID-19 Update [here](#).

He describes himself as a "functional family medicine physician" which, according to him "means [he] is specially trained in immunology and inflammation regulation."

- That is not what a functional family medicine physician does and misrepresents his training and expertise. The Cleveland Clinic Center for Functional Medicine defines functional medicine as a personalized, systems-oriented model that empowers patients and practitioners to achieve the highest expression of health by working in collaboration to address the underlying causes of disease. Also functional medicine is not a specialty recognized by the American Board of Medical Specialties nor the American Medical Association.

He argues that masks don't work because viruses are small enough to pass through them.

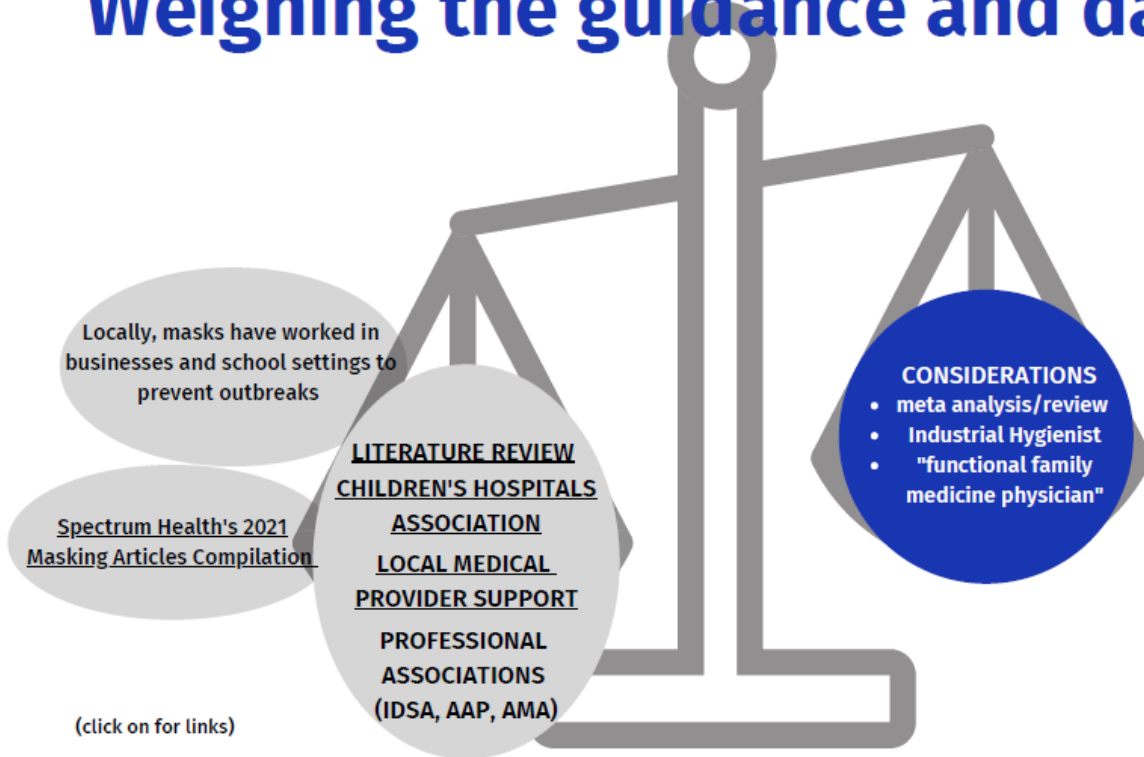
- The problem with this reasoning is viruses do not travel as individual viral particles- they are inside the aerosols and droplets. That's what the masks block. The Infectious Diseases Society of America (IDSA) has compiled the multitudinous, surfeit evidence demonstrating the effectiveness of masking [here](#)

Stock raises the matter of antibody-dependent enhancement, except he calls it "antibody-mediated viral enhancement."

- This is disinformation. Firstly, he defines ADE incorrectly by suggesting it is exclusive to vaccines. ADE does not have to be caused by a vaccine to be ADE- in Dengue which is the major infection for which it's relevant it is almost always because of infection. There is data on hundreds of thousands of people at this point who got convalescent plasma and it didn't make them worse. On top of that animal studies of the vaccines demonstrated protectiveness.



Weighing the guidance and data



School Data Transparency

- We recognize that school data needs to be more transparent/available for the community
- We are working on developing a forward facing way to present data by school building to include:
 - cases
 - total quarantines
 - modified quarantines
- We are looking to implement this in early October



AMEND MEETING AGENDA

11/ Moved by Commissioner Dugan, seconded by Commissioner Thiele to amend the meeting agenda to have the remainder of the discussion items moved to the afternoon session. Motion carried by voice vote. Yeas: 5 votes. Nays: 0 votes. Absent: Jessup and Cain.

PUBLIC PARTICIPATION - COMMENTS

12/ Chairman Storey opened the meeting to public participation and the following individuals offered comments:

1. Marla Webber of Heath Township - suicide rate/attempts; lawsuit against Health Dept.
2. Nevin Cooper-Keel of Monterey Township - discussed the Constitution and issues with the Health Dept.
3. Karmel Berens of Overisel Township - opposes mask mandate
4. Kevin Miedema of Fillmore Township - opposes mask mandate
5. Jill Dunham of Gun Plain Township - supports the efforts of the Health Department

ADJOURNMENT UNTIL SEPTEMBER 23, 2021 AT 9:00 A.M.

13/ Moved by Commissioner Thiele, seconded by Commissioner Jessup to adjourn until September 23, 2021 at 9:00 A.M. The motion carried by roll call vote and the meeting was adjourned at 11:56 A.M. Yeas: 6 votes. Nays: 0 votes. Absent: 1 vote.

AFTERNOON SESSION

SEPTEMBER 9, 2021 SESSION - INVOCATION, PLEDGE OF ALLEGIANCE, ROLL CALL

14/ The Board of Commissioners of the County of Allegan, State of Michigan, met in the Board Room of the County Services Building in the Township of Allegan on September 9, 2021 at 1:06 P.M. in accordance with the motion for adjournment of August 26, 2021, and rules of this Board; Chairman Storey presiding.

The invocation was offered by District #6 Commissioner Dugan.

The Deputy County Clerk led the Board in the Pledge of Allegiance to the flag.

Upon roll call the following members answered as Commissioners for the respective Districts:

DIST #1	DEAN KAPENGA	DIST #5	TOM JESSUP - left at 4:07 PM
DIST #2	JIM STOREY	DIST #6	GALE DUGAN
DIST #3	MAX THIELE	DIST #7	RICK CAIN
DIST #4	MARK DeYOUNG		

COMMUNICATIONS

15/ Deputy Clerk Tien noted to the board that they received the following resolution:

1. Grand Traverse resolution in support of vaccine awareness and medical autonomy

AUGUST 20, 2021 AND AUGUST 26, 2021 SESSION MINUTES - ADOPTED

16/ Moved by Commissioner Kapenga, seconded by Commissioner Cain to approve the minutes for the August 20, 2021 and August 26, 2021 session as distributed. Motion carried by roll call vote. Yeas: 7 votes. Nays: 0 votes.

PUBLIC PARTICIPATION - COMMENTS

17/ Chairman Storey opened the meeting to public participation and the following individuals offered comments:

1. Bill Sage of Allegan - discussed statistics of COVID deaths
2. Eric Kooienga of Wayland Township - opposes mask mandate
3. Dr. Steven - supports the efforts of the Health Department
4. Abby Arias of Gun Plain Township - supports the efforts of the Health Department
5. Dr. Roger Phillips of Laketown Township - supports the efforts of the Health Department
6. Andrew Wolf of Trowbridge Township - disappointed with the Health Departments presentation during the morning session
7. Dr. Russell Dykstra of Holland - supports the efforts of the Health Department
8. Ken Beyer of Hamilton - opposes mask mandate
9. Jeff Koon of Dorr - opposes mask mandate
10. Ashley of Salem Township - opposes mask mandate
11. Mindy Knapp of Fillmore Township - opposes mask mandate
12. Amy Nyboer of Heath Township - opposes mask mandate
13. Payton Schmitt a student at Martin - opposes mask mandate
14. Jamie Schmitt of Watson Township - opposes mask mandate

AGENDA - ADDITIONS

18/ Chairman Storey asked if there were any additions or changes to the agenda. Commissioner Kapenga asked to add a discussion item to appropriate \$200,000 for the relief of children that are needing medical assistance caused by fear, anxiety and depression from the mask mandate.

Moved by Commissioner Kapenga, seconded by Commissioner Cain to adopt the changes to the meeting agenda as requested. Motion carried by roll call vote. Yeas: Kapenga, Storey, DeYoung, Jessup and Cain. Nays: Thiele and Dugan.

During the morning session there was a motion to add the unfinished topics to the afternoon agenda - discussion on the legal risks; Health Board; and the draft of the 2022 Budget.

AGENDA - ADOPTED AS AMENDED

19/ Moved by Commissioner Storey, seconded by Commissioner Kapenga to adopt the meeting agenda as amended. Motion carried by voice vote. Yeas: 7 votes. Nays: 0 votes.

INFORMATIONAL SESSION - TREASURER

20/ Attached is the 2020 Annual Report for the Treasurer's Office.



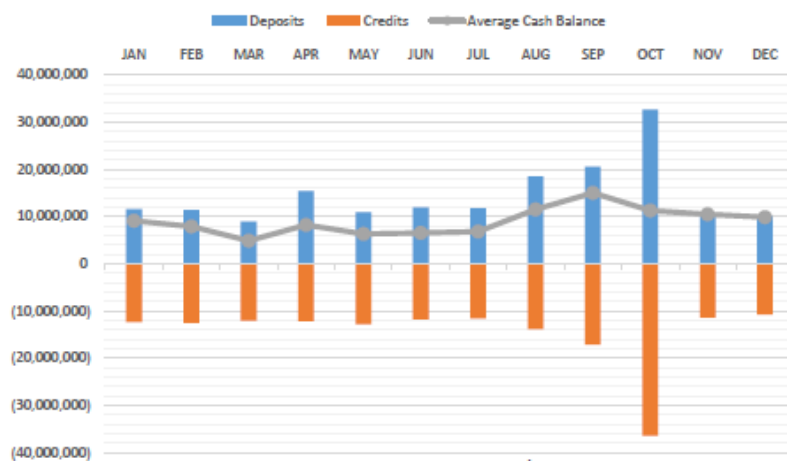
Allegan County Treasurer Annual Report 2020

Prepared by: Sally Brooks Allegan County Treasurer

Custodian of County Funds:

- The County Treasurer's Office is the depository for all county funds by Board resolution and in accordance with Act No. 40, Public Acts of Michigan 1932. Fund management activities include receipt for revenues, coordinate cash drawers, maintain bank accounts, reconcile receivables, coordinate disbursement of funds held in trust, and coordinate signature on and transfer of funds to cover county disbursements.

2020 Allegan County Checking Account Cash Flow



GROSS TOTAL CASH ACTIVITY: \$349,566,257.23

Delinquent Property Tax Administration

- It is the responsibility of the County Treasurer to collect delinquent real property taxes. Functions associated with delinquent taxes include writing receipts, processing tax roll adjustments to prior year tax rolls (for up to 20 years), processing bankruptcy claims, and managing the annual forfeiture and foreclosure process, and being the Foreclosing Unit of Government.

Annual March settlement with local units mostly done on line and no longer in person



Year 2018 2019 2020

March Delinquent Pay Out

	2018	2019	2020
No. of properties	6,079	5,790	5,782
Dollars in Millions	6,432,142	7,134,415	7,206,678

Forfeited and Foreclosed

	2018	2019	2020
Certified Mail Count	2191	2224	2257
Property Forfeited	837	811	837
Property Foreclosed	30	48	25
Financial Hardship given	47	34	39

Tax Collection

	2018	2019	2020
Receipts Written	7692	8377	8134
Dollar in Millions	7,234,756	8,318,112	8,433,132
Interest & Fees	851,225	1,019,943	1,197,116

Tax Roll Adjustments

	2018	2019	2020
No. Processed	442	308	155 summer



Michigan Homeowner Assistance Fund(MIHAF)

Established under section 3206 of the American Rescue Plan of 2021

Provides funds to eligible homeowners for foreclosure prevention defaults, displacement, loss of utilities

Award of \$242,812,277

Homeowners must have a coronavirus pandemic related hardship on or after 1/21/2020

Program launch December 2021

Eligibility Requirements:

- Owner occupied homeowners
 - Covid financial hardship after 1/21/20
 - Owned the property on or before January 21, 2020
 - Household income limits of no more than 150% AMI /\$112,950
 - 60% assisted have incomes no more than 100% AMI/ \$75,300
- Homeowner applies online @ www.Michigan.gov/mihaf, 211 phone application, or with help of third party authorized agent such as counselor, legal-aide, or provider/program partner
 - Staff triages application & determines preliminary eligibility
 - Program provider/partner confirms delinquency
 - Homeowner executes Grant Agreement
 - Staff sends ACH funds to provider/partner
 - Provider/partner confirms receipt of funds
 - Staff completes close-out status

MSHDA

FOR HELP Please Contact:

Agencies for our Area

Name	Address	City	Phone
Community Action House	426 Century Lane 400	Holland	616-392-2368
Home Repair Services	1100 South Division	Grand Rapids	616-241-2601
Kalamazoo Neighborhood Housing Services, Inc. - Kalamazoo Office	1219 S. Park	Kalamazoo	269-385-2916
MSU Extension - Kent	775 Ball Ave. N.E.	Grand Rapids	616-632-7865

ADMINISTRATIVE REPORTS

21/ Administrator Rob Sarro noted his written report was submitted to Commissioners. Highlights included: removal of trees at the County Services Building that are overhanging in the parking area and the building (Administration will look at alternatives prior to the tree removal); request for letter of support of a bike trail located in State Game Area; and courthouse signage.

Moved by Commissioner Storey, seconded by Commissioner Dugan to have the bike trail proposal referred to the Parks Advisory Board for review and recommendation. Motion carried by voice vote. Yeas: 7 votes. Nays: 0 votes.

FINANCE COMMITTEE - CLAIMS & INTERFUND TRANSFERS

22/ WHEREAS, Administration has compiled the following claims for September 3, 2021 and September 10, 2021; and

WHEREAS, the following claims, which are chargeable against the County, were audited in accordance with Section 46.61 to 46.63, inclusive, M.C.L. 1970 as amended and resolutions of the Board; and

WHEREAS, said claims are listed in the 2021 Claims folder of the Commissioners' Record of Claims.

September 3, 2021

	TOTAL AMOUNT CLAIMED	AMOUNT ALLOWED	AMOUNT DISALLOWED
General Fund – 1010	66,310.07	66,310.07	
Park/Recreation Fund - 2080	416.39	416.39	
Central Dispatch/E911 Fund - 2110	633.49	633.49	
Friend Of The Court Office - 2151	612.24	612.24	
Health Department Fund – 2210	10,250.83	10,250.83	
Solid Waste – 2211	6,971.65	6,971.65	

Transportation Grant – 2300	1,242.35	1,242.35	
Capital Improvement Fund - 2450	12,946.51	12,946.51	
Indigent Defense – 2600	1,044.00	1,044.00	
Local Corrections Officers Training Fund - 2640	254.00	254.00	
Law Library Fund - 2690	3,654.15	3,654.15	
Grants - 2790	4,675.00	4,675.00	
Victims Rights Grant - 2791	103.61	103.61	
Child Care – Circuit/Family - 2921	6,412.40	6,412.40	
Soldiers Relief Fund - 2930	2,659.27	2,659.27	
Senior Millage - 2950	2,384.12	2,384.12	
Drain Equip Revolving - 6390	-37.62	-37.62	
Self-Insurance Fund - 6770	334,101.21	334,101.21	
Drain Fund – 8010	26,619.10	26,619.10	
TOTAL AMOUNT OF CLAIMS	\$481,252.77	\$481,252.77	

September 10, 2021

		AMOUNT ALLOWED	AMOUNT DISALLOWED
General Fund – 1010	239,306.96	239,306.96	
Friend of the Court Fund - 2150	219.00	219.00	
Friend Of The Court Office - 2151	630.00	630.00	
Health Department Fund – 2210	6,329.55	6,329.55	
Solid Waste – 2211	12,549.54	12,549.54	
Transportation Grant – 2300	14,634.75	14,634.75	
Brownfield Redevelopment Auth – 2430	11,350.00	11,350.00	
Capital Improvement Fund - 2450	46,382.70	46,382.70	
Register of Deeds Automation Fund - 2560	929.59	929.59	
Grants – 2790	22,485.72	22,485.72	
Wayland Township – 2806	7,950.00	7,950.00	
Sheriff Contracts – 2807	70.72	70.72	
Child Care – Circuit/Family - 2921	10,346.58	10,346.58	
Soldiers Relief Fund - 2930	1,990.43	1,990.43	
Senior Millage - 2950	3,697.68	3,697.68	
Delinquent Tax Revolving Fund – 6160	14,815.39	14,815.39	
Drain Equip Revolving - 6390	170.24	170.24	
Self-Insurance Fund - 6770	34,335.20	34,335.20	
Drain Fund – 8010	121,417.40	121,417.40	
TOTAL AMOUNT OF CLAIMS	\$549,611.45	\$549,611.45	

THEREFORE BE IT RESOLVED that the Board of Commissioners adopts the report of claims for September 3, 2021 and September 10, 2021.

Moved by Commissioner Thiele, seconded by Commissioner Cain to adopt the report of claims for September 3, 2021 and September 10, 2021. Motion carried by roll call vote. Yeas: 7 votes. Nays: 0 votes.

September 9, 2021 Session

DISCUSSION ITEMS:

CHILD CARE FUND - APPROVE BUDGET PLAN FOR FY2022

23/ BE IT RESOLVED that the Allegan County Board of Commissioners hereby approves the County Child Care Budget in the amount of \$4,911,743 for the period October 1, 2021 through September 30, 2022; and

BE IT FINALLY RESOLVED that the Board Chairperson and/or the County Administrator are authorized to sign the necessary documents on behalf of the County and that the Executive Director of Finance is authorized to make the necessary budget adjustments to complete this action.

Moved by Commissioner Thiele, seconded by Commissioner Dugan to approve the resolution as presented. Motion carried by roll call vote. Yeas: 7 votes. Nays: 0 votes.

LEGAL/RISK, HEALTH IMPACT AND DATA RE: EMERGENCY EPIDEMIC ORDER - CONTINUED

ORDERS REGARDING CONTROL AND PREVENTION OF COVID-19 TRANSMISSION IN EDUCATIONAL SETTINGS WITHIN ALLEGAN COUNTY, MICHIGAN

24/ Moved by Commissioner Dugan, seconded by Commissioner Thiele to approve the resolution presented to the board on "ORDERS REGARDING CONTROL AND PREVENTION OF COVID-19 TRANSMISSION IN EDUCATIONAL SETTINGS WITHIN ALLEGAN COUNTY, MICHIGAN". Discussion followed on amending the resolution.

X ORIGINAL DRAFT

S T A T E O F M I C H I G A N

B O A R D O F C O M M I S S I O N E R S O F A L L E G A N C O U N T Y

ORDERS REGARDING CONTROL AND PREVENTION OF COVID-19 TRANSMISSION IN EDUCATIONAL SETTINGS WITHIN ALLEGAN COUNTY, MICHIGAN

WHEREAS, the Board of Commissioners received input from the public in-person, virtually and through written communication in opposition to, and in support of, the recent emergency order issued by the Health Officer under the authority and requirements of the Public Health Code; and

WHEREAS, subsequently, the Health Officer has provided information relative to the input above upon request from the Board; and

WHEREAS, legal counsel has reviewed the emergency order and any legal concerns submitted and has confirmed the Health Officer's establishment of the emergency order was in compliance with applicable law and consistent with the duties and requirements of a local health officer prescribed by the Public Health Code; and

WHEREAS, the Health Officer reviewed the order and the Board's request to rescind the order, considered all legal options and the input from educational institutions.

THEREFORE BE IT RESOLVED that Board of Commissioners recognizes the determination of the Health Officer that the emergency order will stand with the following amendment, "THIS ORDER is effective immediately and remains in effect until six weeks past the date COVID-19 vaccine is authorized and available to persons aged five years through age eleven, until the CDC level of community transmission is in low for 7 continuous days or until further notice from the Health Officer."

BE IT FURTHER RESOLVED, that the Board of Commissioners recognizes the Health Officer's statutory authority and duties under the Public Health Code, as it currently exists, and the limitations of the Board or Administrator to intervene with the emergency order; and

BE IT FURTHER RESOLVED, that the Board of Commissioners may pursue the legislature to consider changes in the law and advises any parties to pursue the same venue to express concerns over the current law; and

BE IT FINALLY RESOLVED, that Administration is authorized to release the attached statement.

eliminated

Moved by Commissioner Jessup, seconded by Commissioner Thiele to remove the 1st *THEREFORE BE IT RESOLVED* and the last *BE IT FINALLY RESOLVED* from the resolution.

Commissioner DeYoung requested division on the question.

Motion carried by roll call vote to remove the 1st *THEREFORE BE IT RESOLVED* from the resolution. Yeas: 7 votes. Nays: 0 votes.

Motion failed by roll call vote to remove the final *BE IT FINALLY RESOLVED* from the resolution. Yeas: Kapenga, Storey and Jessup. Nays: Thiele, DeYoung, Dugan and Cain.

Moved by Commissioner Thiele, seconded by Commissioner Dugan to incorporate the changes discussed on the draft resolution amending the *THEREFORE BE IT RESOLVED* and the *BE IT FURTHER RESOLVED* clauses. Motion carried by roll call vote. Yeas: 7 votes. Nays: 0 votes.

Moved by Commissioner Storey, seconded by Commissioner Thiele to add an additional *BE IT FURTHER RESOLVED* to have copies of the resolution submitted to Allegan County's State Senator, State Representatives and all County-Wide Elected Officials. Motion carried by roll call vote. Yeas: 7 votes. Nays: 0 votes.

WHEREAS, the Board of Commissioners received input from the public in-person, virtually and through written communication in opposition to, and in support of, the recent emergency order issued by the Health Officer under the authority and requirements of the Public Health Code; and

WHEREAS, subsequently, the Health Officer has provided information relative to the input above upon request from the Board; and

WHEREAS, legal counsel has reviewed the emergency order and any legal concerns submitted and has confirmed the Health Officer's establishment of the emergency order was in compliance with applicable law and consistent with the duties and requirements of a local health officer prescribed by the Public Health Code; and

WHEREAS, the Health Officer reviewed the order and the Board's request to rescind the order, considered all legal options and the input from educational institutions.

THEREFORE BE IT RESOLVED, that the Board of Commissioners recognizes the Health Officer's statutory authority and duties under the Public Health Code, as it currently exists, and the limitations of the Board or Administrator to intervene with the emergency order as outlined by County's legal counsel and supported by the findings of both Kent in-house and outside legal counsel; and

BE IT FURTHER RESOLVED, that in light of concerns expressed by Allegan County's State Representatives regarding the Health Department's issuance of the K-6 mask order, the Board of Commissioners urges those representatives pursue changes in the Public Health Code and advises any parties that have addressed the Board with concerns over the issuance of the order to pursue changes in the law through state representatives; and

BE IT FURTHER RESOLVED, that a copy of this resolution be furnished to Allegan County's State Senator, State Representatives and all County-Wide Elected Officials; and

BE IT FINALLY RESOLVED, that Administration is authorized to release the attached statement.

Moved by Commissioner Dugan, seconded by Commissioner Thiele to approve the resolution as amended during discussions on "ORDERS REGARDING CONTROL AND PREVENTION OF COVID-19 TRANSMISSION IN EDUCATIONAL SETTINGS WITHIN ALLEGAN COUNTY, MICHIGAN". Motion carried by roll call vote. Yeas: 7 votes. Nays: 0 votes.

PRESS RELEASE AUTHORIZATION: ALLEGAN COUNTY STATEMENT ON K-6 SCHOOL MASK PUBLIC HEALTH ORDER

25/ Moved by Commissioner Dugan, seconded by Commissioner Kapenga to approve the press release titled "Allegan County Statement on K-6 School Mask Public Health Order" as presented.

Moved by Commissioner Dugan, seconded by Commissioner Kapenga to amend the press release by: (1) removing the 1st sentence on page 2; (2) removing Angelique Joynes name from the document and replacing with Health Officer/Health Department; (3) removing "second guess" from page 3; and (4) strike the last sentence on page 3. Motion carried by roll call vote. Yeas: 7 votes. Nays: 0 votes.

Moved by Commissioner Dugan, seconded by Commissioner Kapenga to approve the press release as amended. Motion carried by roll call vote. Yeas: 7 votes. Nays: 0 votes.

FOR IMMEDIATE RELEASE

September 9, 2021

Allegan County Statement on K-6 School Mask Public Health Order

On Aug. 18, 2021, the Allegan County Health Department issued a [public health order](#) requiring masks be worn by students inside kindergarten through sixth grade schools. We have subsequently heard from concerned residents, both pro and con, regarding the topic of masks in schools. At a Board of Commissioners' special meeting on August 20, 2021, community members provided comment on COVID-19, the value and concerns of facial coverings, the rights of parents, and the role of government.

On August 20, 2021, the Allegan County Board of Commissioners passed a resolution requesting the Health Officer reconsider and rescind the emergency order. On August 27, 2021, the Health Officer provided the following response to the Board:

"After careful consideration and in the best interest of protecting the public health of children K-6 grade; ACHD is not rescinding the order at this time. ACHD bases this decision on the recommendations from public health agencies including the CDC and MDHHS, and Corporation Counsel. Not unlike other neighboring county health departments that have maintained their similar orders, data was carefully reviewed and relied upon to form the basis of issuing and maintaining this order. ACHD is amending the order to include a more distinct data related timeline which will result in the order to be in effect until Allegan County remains in the low transmission level for 7 consecutive days, or until six weeks past the date the COVID-19 vaccine is authorized and available to persons age five years through age eleven."

The Allegan County Board of Commissioners has been working to further understand the authority of the Allegan County Health Officer. Our Corporation Counsel, Miller Johnson, provided an opinion **concluding that neither the Allegan County Board of Commissioners nor the County Administrator have the authority to intervene in the Health Officer's performance of statutory duties under Michigan's Public Health Code.**

The Michigan Public Health Code was established by the Michigan State Legislature in 1978 for the protection and promotion of the public health. Specifically, the law states that health officers "may take actions and make determinations necessary or appropriate to carry out the local health department's functions under this part or functions delegated under this part and to protect the public health and prevent disease." [MCL 333.2428(2)].

Under the statutory *duties and authority* established by this law, the Health Department, issued a local public health order requiring masks be worn in kindergarten through sixth grade educational settings. When the public health order was issued on August 18, all epidemiologic measures of COVID-19 in our community were trending in the wrong direction and our CDC level of community transmission continues to be high. Additionally, regional COVID-19 hospitalizations were trending and continue to trend in the wrong direction.

—MORE—

Therefore, Health Department determined a school mask order was necessary to protect access to in-person learning for those students who do not yet have access to the vaccine, to slow the rate of transmission, and to keep students and teachers healthy.

Some members of the community have called on the Allegan County Board of Commissioners to rescind the public health order, remove our local health officer, or defund the health department. **However, the Board of Commissioners is prohibited by State law from taking any of these actions.** Legal review further concluded that:

- The Board *does not* have authority over local public health orders
- The Board *may not* remove a health officer for adopting a mask mandate
- The County Administration and Commissioners *may* face legal action if the Commissioners interfere in the public health order or remove the health director for issuing the public health order
- The Board of Commissioners *may not* defund the health department to change or negate a public health order
- If the Board defunds the health department, the State may take over the health department
- If a local health department fails to meet state requirements, the Michigan Department of Health and Human Services has the power to resume those functions itself, removing them from the local health department. Those requirements include:
 - Prevention and control of diseases
 - Prevention and control of health problems of particularly vulnerable population groups

Further, public health orders issued by local public health officers are not personal orders of the individual. Rather, the orders are issued in the Health Officer's official capacity and remain in effect even after the individual leaves the office.

A frequently-asked-questions document is attached. It provides additional information on these findings.

In conclusion, the local public health order requiring masks be worn in K – 6th grade schools has the full force of law and the Allegan County Board of Commissioners has no legal authority to intervene in this action. Residents are encouraged to voice their concerns over the authorities granted to local public health officers under the Michigan Public Health Code to state lawmakers.

We appreciate all the comments we have received on this topic, and we trust this statement clarifies the role of the Allegan County Board of Commissioners and County Administration. We encourage everyone to remain steadfast in helping to keep our community healthy and in supporting the dedicated Allegan County Health Department team that has worked diligently over the past 20 months to do the same.

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PUBLIC HEALTH ORDERS FREQUENTLY ASKED QUESTIONS

(updated: 9/8/21)

Q: Who has the authority to issue a local public health order?

A: The Local Health Officer has the authority to issue local public health orders under Michigan's Public Health Code. By law, the local Health Officer has the responsibility to safeguard public health.

Q: What is the legal standard that must be met to issue a local public health order?

A: There are two kinds of local public health orders that can be issued during a public health emergency.

- When the local health officer **determines that control of an epidemic is necessary to protect the public health**, the local health officer may issue an emergency order to prohibit the gathering of people for any purpose and **may establish procedures to be followed by persons, including a local governmental entity, during the epidemic to insure continuation of essential public health services and enforcement of health laws.** (This describes the current order)
- When the local Health Officer determines that an **imminent danger to health or life** exists in the community, he or she is required by law to issue an order to avoid, correct or remove the imminent danger. An "Imminent danger" means a condition or practice which could reasonably be expected to cause death, disease, or serious physical harm immediately or before the imminence of the danger can be eliminated through enforcement procedures otherwise provided.

Q: Can the Allegan County Board of Commissioners (or its County Administrator) intervene in a local public health order?

A: No. The Board of Commissioners may not intervene in the local Health Officer's performance of his duties. The Board of Commissioners has no authority to, override, veto, rescind, amend, or modify a local public health order.

Q: Can the Allegan County Board of Commissioners remove its health officer for adopting a mask mandate?

A: No. The Michigan Supreme Court has expressly ruled that a Board of Commissioners may not use its powers to negate a Public Health Officer's decision. The local Health Officer acted within statutory authority in issuing the limited school mask mandate and the public health order meets all statutory, constitutional, and legal requirements.

—MORE—

Q: Can the Allegan Board of Commissioners defund the health department because of the school mask mandate?

A: No. The Michigan Supreme Court has expressly held that a Board of Commissioners may not use budgetary considerations or refusal to fund to overrule a public health officer.

Q: If a health officer leaves office, will local health orders remain in place or rescinded?

A: The orders remain in place. Local health orders are issued in the local Health Officer's official capacity and remain in effect even after the individual leaves the office. If a Local Health Officer leaves office, all Local Health Orders in place remain effective unless and until rescinded by the successor Local Health Officer.

Q: Are masks a restraint prohibited by the school code?

A: No. A face mask worn during a pandemic is not a "restraint" under the Code. In the Michigan School Code, "restraint" is physically holding or restraining students from moving their bodies. "Restraint" is an action that prevents or significantly restricts a student's physical movement. It does not include safety or medical equipment. "Restraint that negatively impacts breathing" means physically holding a student in a way that inhibits breathing or makes it difficult for the student to breathe. The statute states that its intent is to "encourage ...best practices to reduce the occurrence of challenging behaviors, eliminate the use of seclusion and restraint, and increase meaningful instructional time for all pupils." MCL 380.1307h. It addresses how schools may handle students who are extremely disruptive or a danger to themselves or others. The School Code's "restraint" regulation has no applicability to a use of a face mask used to help prevent a disease from spreading.

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BOARD OF PUBLIC HEALTH

26/ Commissioner Kapenga requested information on what is required as a Commissioner on the Health Board. The Board of Commissioners is the local governing entity in Allegan County. Administrator Sarro will forward a copy of the Local Governing Entity Guidebook to Commissioners.

APPROPRIATE \$200,000 FOR THE RELIEF OF CHILDREN THAT ARE NEEDING MEDICAL ASSISTANCE CAUSED BY FEAR, ANXIETY AND DEPRESSION FROM THE MASK MANDATE

27/ Commissioner Kapenga requested \$200,000 be appropriated for the relief of children that are needing medical assistance caused by fear, anxiety and depression from the mask mandate. Discussion followed on where the funds would come from and if Mental Health can supply the services requested.

Moved by Commissioner Dugan, seconded by Commissioner Cain to table discussion and refer to the Health Department, Community Mental Health and Administration for research, review and recommendation. Motion carried by voice vote. Yeas: 6 votes. Nays: 0 votes. Absent: 1 vote.

MICHIGAN RECYCLING COALITION HOUSE BILLS 4454-4461 - REQUEST LETTER OF SUPPORT

28/ Moved by Commissioner Thiele, seconded by Commissioner Dugan to table discussion on Michigan Recycling Coalition House Bills 4454-4461. Motion carried by voice vote. Yeas: 6 votes. Nays: 0 votes. Absent: 1 vote.

2022 BUDGET

29/ Administrator Sarro noted the draft of the 2022 Budget has been sent to Commissioners for review. Discussion followed. A special meetings will be held at a future date.

PUBLIC PARTICIPATION - NO COMMENTS

30/ Chairman Storey opened the meeting to public participation and as there were no comments from the public, he closed the meeting to public participation.

FUTURE AGENDA ITEMS

31/ Administrator Sarro requested that a special meeting be held at 9:00 A.M. on September 30, 2021 to discuss the 2022 Budget.

PER DIEM/MILEAGE REQUEST

32/ Commissioner Cain requested mileage reimbursement for Commissioner Storey for attending the 9/9/2021 Board meeting for driving from Drummond Island.

Moved by Commissioner DeYoung, seconded by Commissioner Cain to approve the mileage reimbursement. Motion carried by roll call vote. Yeas: Kapenga, DeYoung, Dugan and Cain. Nays: Thiele. Abstain: Storey. Absent: Jessup.

ADJOURNMENT UNTIL SEPTEMBER 23, 2021 AT 1:00 P.M.

33/ Moved by Commissioner Cain, seconded by Commissioner Dugan to adjourn until September 23, 2021 at 1:00 P.M. The motion carried by roll call vote and the meeting was adjourned at 4:57 P.M. Yeas: 6 votes. Nays: 0 votes. Absent: 1 vote.

Jennifer Dien

Deputy Clerk

James M. Storey

Board Chairperson

Minutes approved during the 09/23/2021 Session

September 9, 2021 Session