

December 6, 2021

The Mahaska County Board of Supervisors met in regular session on the above date at 9:00 a.m. in the third-floor conference room of the Mahaska County courthouse. Present were the following board members: Chairman – Mark Groenendyk; Vice chairman – Steve Wanders; and Member – Chuck Webb. Also present were Joe Lancello, KBOE; Troy Bemis, Maintenance; Blake Lough, Pathfinders RC&D; Andrew McGuire, Engineer; Lindsey Thomas, Assessor; Darin Hite, IT; Tom Flaherty, Economic Development; Andrew Ritland, Attorney and Jody Van Patten, Mahaska County Deputy Auditor. This meeting was live streamed by Communications Research Institute of William Penn University. Meeting was opened with a moment of silence.

It was moved by Wanders seconded by Webb to approve the agenda for today's meeting. All present voted aye. Motion carried.

Public comments: None

Blake Lough with Pathfinders RC&D shared with the board a national award for land reclamation for the DeRonde project. Mr. Lough thanked the Board of Supervisors and Soil & Water for partnering with them.

It was moved by Webb seconded by Wanders to approve minutes of the November 9th, 15th, and 22nd meeting. All present voted aye. Motion carried.

It was moved by Wanders seconded by Webb to approve the bills for the month of November in total \$787,310.03. All present voted aye. Motion carried.

It was moved by Wanders seconded by Webb to approve the following payroll changes as additions to Secondary Road department: Tyler De Rooi full time as Job Classification II, Maintenance & Equipment Operator at 80% of base rate (\$24.02) for the first 6 months employment starting November 30, 2021, and Jacob Grootveld full time as Job Classification III, Mechanic-Level 1 at \$25.23 employment starting November 30, 2021. All present voted aye. Motion carried.

Discussion for a request of rebate of taxes for Reagan Outdoor was held. After much discussion it was moved by Webb seconded by Groenendyk to abate any unpaid taxes for parcel number 10-12-201-019 from 2014, forward and to abate any unpaid taxes for parcel number 15-03-200-014 for assessment years 2020 and 2021. All present voted aye. Motion carried.

It was moved by Groenendyk seconded by Wanders to reappoint Jaci Nunnikhoven to the City of Pella Board of Adjustment for a 5-year term ending January 1, 2027. All present voted aye. Motion carried.

It was moved by Wanders seconded by Webb to authorize signature on plans for HMA overlay on G71 and T39, project FM-CO62(100)—55-62. All present voted aye. Motion carried.

County Engineer brought final plans for concrete overlay for County Route V5G from New Sharon to County Route T33.

It was moved by Webb seconded by Wanders to approve the final plans for concrete overlay for County Route V5G from New Sharon to County Route T33. All present voted aye. Motion carried.

County Engineer brought the modification of the 2022 County 5-year program resolution version 0.1.

It was moved by Wanders seconded by Webb to approve the modification of the 2022 5-year program resolution version 0.1. All present voted aye. Motion carried.

County Engineer brought the Carbon Trail and 240th St Intersection Study including recommendations.

It was moved by Wanders seconded by Webb to approve the Carbon Trail and 240th St Intersection Study and recommendations. All present voted aye. Motion carried.

The approval of an employee leave of absence was tabled until a waiver could be signed.

Discussion was held regarding contracting with local attorneys to handle court-appointed attorney fees for respondents in substance abuse cases. Decision was tabled until such time it becomes relevant.

It was moved by Wanders seconded by Webb to approve as recommended by Assessor 5,105 homestead tax credit claims (including 44 disabled veterans homestead claims) and 741 military claims for tax credit along with 5,227 family farm applications and 11,392 agricultural land credit applications for fiscal year taxes payable 2022-2023. All present voted aye. Motion carried.

Discussion was held regarding fund for security door quarterly hosting payments. Decision was tabled. This item will be discussed during budget meetings.

Discussion was held regarding a consulting services agreement with Shive-Hattery for the Courthouse HVAC project.

It was moved by Wanders seconded by Webb to accept the service agreement with Shive Hattery for the Courthouse HVAC project. All present voted aye. Motion carried.

Discussion was held regarding a change order with Cellsite Solutions LLC for work at all three communication tower sites.

It was moved by Webb seconded by Groenendyk to approve the change order with Cellsite Solutions LLC for the three communication tower sites. All present voted aye. Motion carried.

Discussion was held regarding a contract with Central Iowa Tourism Region for allocation in FY22. Any decision was tabled until the December 20, 2020, board meeting.

It was moved by Wanders seconded by Webb to set public hearing on December 20, 2021, at 9:00 a.m. for Ordinance #61 an ordinance establishing voting precincts of Mahaska County to accommodate redistricting following 2020 census. All present voted aye. Motion carried.

It was moved by Wanders seconded by Webb to certify the Central Service Cost Allocation Plan for use in FY23. All present voted aye. Motion carried.

It was moved by Webb seconded by Groenendyk to approve Resolution #2021-24. All present voted aye. Motion carried.

RESOLUTION NO. 2021-25

Authorizing Mahaska County to Enter into Settlement Agreements with McKesson Corporation, Cardinal Health, Inc., AmerisourceBergen Corporation, Johnson & Johnson, Janssen Pharmaceuticals, Inc., Ortho-McNeil-Janssen Pharmaceuticals, Inc., and Janssen Pharmaceutica, Inc., Agree to the Terms of the Iowa Opioid Allocation Memorandum of Understanding and Authorize Entry Into that Memorandum of Understanding

WHEREAS, in 2018, the County Board of Supervisors authorized Mahaska County (the "County") to enter into an engagement agreement with Crueger Dickinson LLC, Simmons Hanly Conroy LLC and von Briesen & Roper, s.c. (the "Law Firms") to pursue litigation against certain manufacturers, distributors, and retailers of opioid pharmaceuticals (the "Opioid Defendants") in an effort to hold the Opioid Defendants financially responsible for the impact on of the Opioid Epidemic on the County and resources necessary to combat the opioid epidemic;

WHEREAS, on behalf of the County, the Law Firms filed a lawsuit against the Opioid Defendants in 2018 and have been litigating against the Opioid Defendants since that time;

WHEREAS, negotiations to settle claims against several of the Opioid Defendants, specifically McKesson Corporation, Cardinal Health, Inc., AmerisourceBergen Corporation, Johnson & Johnson, Janssen Pharmaceuticals, Inc., Ortho-McNeil-Janssen Pharmaceuticals, Inc., and Janssen Pharmaceutica, Inc. (the "Settling Defendants") have been ongoing for several years;

WHEREAS, negotiations with the Settling Defendants have resulted in proposed

nationwide settlements of state and local government claims involved in the Litigation;

WHEREAS, copies of the proposed terms of those proposed nationwide settlements have been set forth in the Distributors Master Settlement Agreement and the J&J Master Settlement Agreement (collectively "Settlement Agreements");

WHEREAS, copies of the Settlement Agreements as well as summary of the main terms of the Settlement Agreements, the deadlines for submitting the Participation Agreements to the Settlement Agreements and the MDL Court's Order setting deadlines for any Plaintiff who declines to enter into the Settlement Agreements have been provided to the County prior to the execution of this Resolution;

WHEREAS, the Settlement Agreements provide, among other things, for the payment of a certain sum to settling government entities in Iowa including to the State of Iowa and Participating Subdivisions, as that term is defined in the Settlement Agreements, upon occurrence of certain events as defined in the Settlement Agreements ("Iowa Opioid Funds");

WHEREAS, the Law Firms have engaged in extensive discussions with the State Attorney General's Office ("AGO") as to how the Iowa Opioid Funds will be allocated, which has resulted in the proposed Iowa Opioid Allocation Memorandum of Understanding ("Allocation MOU"), which is an agreement between all of the entities who are signatories to the Allocation MOU;

WHEREAS, a copy of the Allocation MOU and the Exhibits to that MOU has been provided with this Resolution;

WHEREAS, the Allocation MOU divides Iowa Opioid Funds as follows: (i) 50% to the State ("the Iowa Abatement Share") and (ii) 50% to Participating Local Governments ("LG Share"), less fees and costs allocated to the Iowa Backstop Fund as set forth in Section D of the Allocation MOU and in this Resolution ("LG Abatement Share").

WHEREAS, the LG Abatement Share shall be distributed in direct payments to the Counties that are Participating Local Governments according to the allocation model developed in connection with the proposed negotiating class in the National Prescription Opiate Litigation (MDL No. 2804) in the amounts set forth on Exhibit 2 to the Allocation MOU ("Direct Distribution Percentage"). The Direct Distribution Percentage will be multiplied by the total LG Abatement Share to arrive at the total allocation to the Participating Local Government (the "Direct Distribution Amount").

WHEREAS, 100% of the Iowa Abatement Share and the LG Abatement Share, regardless

of allocation, shall be utilized only for Opioid Related Expenditures incurred after the Effective Date of this MOU. The list of approved Opioid Related Expenditures are set forth in Exhibit 1 to this MOU.

WHEREAS at least 75% of the Iowa Abatement Share and 75% of the LG Abatement Share shall be utilized for only the "Core Strategies" listed in Schedule A of Exhibit 1 to this MOU.

WHEREAS, every Participating Local Government that receives a Direct Distribution Amount shall create a separate fund on its financial books and records that is designated for the receipt and expenditure of the entity's Direct Distribution Amount, called the "LG Abatement Fund." Funds in an LG Abatement Fund shall not be commingled with any other money or funds of the Participating Local Government. A Participating Local Government may invest LG Abatement Fund funds consistent with the investment of other funds of a Participating Local Government.

WHEREAS, Funds in a LG Abatement Fund may be expended by a Participating Local Government only for Opioid Related Expenditures. For avoidance of doubt, funds in a LG Abatement Fund may not be expended for costs, disbursements or payments made or incurred prior to the Settlement.

WHEREAS, each LG Abatement Fund shall be subject to audit in a manner consistent with Code of Iowa §§33 I.402(2)(i) and 11.6. Any such audit shall be a financial and performance audit to ensure that the LG Abatement Fund disbursements are consistent with the terms of this MOU. If any such audit reveals an expenditure inconsistent with the terms of this MOU, the Participating Local Government shall immediately redirect the funds associated with the inconsistent expenditure to an Opioid Related Expenditure.

WHEREAS, County has contracted with the Law Finns for representation in the Litigation and the Law Firms have been representing those entities since 2018 and in consideration for the Law Firms' representation, the County entered into a contract with the Law Firms for a 25% contingency fee applied to County's total recovery from any settlement.

WHEREAS, the Settlement Agreements provide for the payment of attorney's fees and legal expenses owed by States and Participating Local Governments to outside counsel retained for Opioid Litigation. To effectuate this, the Court in the MDL Litigation has established a fund to compensate attorneys representing plaintiffs in the Litigation (the "National Attorney Fee Fund").

WHEREAS, the Law Firms intend to make application to the National Attorney Fee Fund. However, because there is still uncertainty regarding what counsel for litigating local governments will recover as compensation for the large volume of work done and the large

out of pocket expense of the Litigation, and whereas the Parties to the Allocation MOU desire to fairly compensate outside counsel for the work done on behalf of the Participating Local Governments in Iowa, the Allocation MOU provides that a fund be created from 15 % of the LG Share attributable to the Litigating Local Governments, less any amounts a Litigating Local Government ("Iowa Backstop Fund")

WHEREAS, the Iowa Backstop Fund is meant to compensate outside counsel for participating local governments only for amounts not recovered at the National Fee Fund attributable to their Iowa clients;

WHEREAS, to be eligible for the Iowa Backstop Fund, the Law Firms must first seek payment from the National Attorneys' Fees Fund and may not recover amounts attributable to Counsel's representation of the County received at the National Attorneys' Fees Fund from the Iowa Backstop Fund;

WHEREAS, the County, by this Resolution, agrees to the creation of the Iowa Backstop Fund in the amount of 15% of the LG Share attributable to the Litigating Local Governments in order to fund a state-level "backstop" for payment of the fees, costs, and disbursements of the Law Firms;

WHEREAS, in no event shall the total of the amounts received by the Law Firms at the National Attorney's Fees Fund related to the County and the amount received at the Iowa Backstop Fund exceed the amount the Law Firms would have been entitled to pursuant their fee contract with the County;

WHEREAS, the County, by this Resolution, shall establish an account for the receipt of the LG Abatement Share consistent with the terms of this Resolution ("the LG Abatement Fund");

WHEREAS, the County's LG Abatement Fund shall be separate from the County's general fund, shall not be commingled with any other County funds, and shall be dedicated to funding opioid abatement measures as provided in the Settlement Agreements and the Allocation MOU;

WHEREAS, the County must comply annually with the reporting requirements in the Allocation MOU;

WHEREAS, the if the County elects to become a Participating Subdivision in the Settlement Agreements it will receive the benefits associated with the Settlement Agreement and the Allocation MOU, provided the County (a) approves the Settlement Agreements; (b) executes the Participation Agreements stating the County's intention to be bound by the Settlement Agreements; (3) approves the Allocation MOU; (4) executes the

Acknowledgement and Agreement to be Bound to Memorandum of Understanding necessary to execute the Allocation MOU;

WHEREAS, the intent of this Resolution is to authorize the County to enter into the Settlement Agreements by executing the Participation Agreements and to enter into the Allocation MOU by executing the Acknowledgement and Agreement to be Bound to Memorandum of Understanding necessary to execute the Allocation MOU;

NOW, THEREFORE, BE IT RESOLVED: the County Board of Supervisors hereby approves and authorizes Mahaska County to settle and release the County's claims against the Settling Defendants in exchange for the consideration set forth in the Settlement Agreements, Allocation MOU and all exhibits thereto, including taking the following measures:

1. The execution of the Participation Agreement to the Distributors Settlement Agreement and any and all documents ancillary thereto.
2. The execution of the Participation Agreement to the Janssen Settlement Agreement and any and all documents ancillary thereto.
3. The execution of the Allocation MOU by executing the Acknowledgement and Agreement to be Bound to Memorandum of Understanding.

BE IT FURTHER RESOLVED: the County hereby establishes an account separate and distinct from the County's general fund which shall be titled "LG Abatement Fund" to receive the LG Abatement Share from the Settlement Agreements.

BE IT FURTHER RESOLVED that all actions heretofore taken by the Board of Supervisors and other appropriate public officers and agents of the County with respect to the matters contemplated under this Resolution are hereby ratified, confirmed and approved. Adopted by the Mahaska County Board of Supervisors this 6th day of December 2021.

Mark Groenendyk
Board Chair

ATTEST:

Jody Van Patten
County Clerk

It was moved by Wanders seconded by Webb to authorize signature on Opioid Litigation documents. All present voted aye. Motion carried.

Public comments: Mark Groenendyk offered condolences to the family of Dave Landon upon his passing. Dave served on the Pella Planning and Zoning Commission for 14 years.

It was moved by Wanders seconded by Webb to adjourn. All present voted aye. Motion carried.

Attest: _____
Jody Van Patten
Mahaska Co. Deputy Auditor

Mark Groenendyk
Mahaska Co. Board of Supervisors