

BOARD PROCEEDINGS
December 14, 2021
REGULAR December SESSION

The Board of Supervisors met pursuant to adjournment. Present were Roger Tjarks, Chairman, Jack Plathe, Galen Casey, and Donnie Loss. Absent: Kyle Stecker

Chairman, Roger Tjarks called the meeting to order at 8:00 a.m. followed by the Pledge of Allegiance.

Public discussion was held.

Motion by Plathe and 2nd by Loss to approve the agenda and the minutes of the previous meeting dated, December 7, 2021. Motion carried unanimously.

Kossuth Regional Health Center gave their monthly update.

Monthly update was given by the Secondary Road Foreman.

Motion by Plathe and 2nd by Casey to approve the Liquor License for the Pit Stop Pub & Grub. Motion carried unanimously.

Motion by Loss and 2nd by Casey to appoint members to the Civil Service Commission: Bob Christian for a four year term, Conrad Meis for a two year term and Jennifer Harrington for a six year term. Motion carried unanimously.

Motion by Loss and 2nd by Casey to approve using ARPA funds for twelve handheld single band radios for EMS in the amount of \$25,639.56. Motion carried unanimously.

Motion by Loss and 2nd by Plathe to approve using ARPA funds for One Base Radio System for EMS in the amount of \$3,000.00. Motion carried unanimously.

Motion by Tjarks and 2nd by Plathe to approve using ARPA funds for the hiring of new staff and pay for existing staff for EMS over the next three years in the amount of \$150,000 total for all three years. Motion carried unanimously.

Motion by Tjarks and 2nd by Plathe for the City of Algona and Roger Fisher to do more planning regarding using ARPA funds for a Mental Health/Community Outreach position and bring it back to the board at a later date. Motion carried unanimously.

Motion by Plathe and 2nd by Loss to approve using ARPA funds to replace jail supplies that are worn out from Covid sanitizing and to purchase a Live Scan System for the Sheriff's Office. Motion carried unanimously.

Motion by Loss and 2nd by Tjarks to approve payment to Braun Intertec for the Building Inspection in the amount of \$6,600. Motion carried unanimously.

Motion by Tjarks and 2nd by Plathe to approve payment to HomePro Inspections for the Building Inspection in the amount of \$3,200. Motion carried unanimously.

No action was taken in regards to the purchase of a building with ARPA funds. Discussion is postponed until a later date.

Motion by Plathe and 2nd by Loss to approve Resolution #12-14-21-01 which is a resolution to authorize Kossuth 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 the Memorandum of Understanding. Chairman Tjarks called for a roll call vote: Casey: yes, Loss: yes, Plathe: yes, Tjarks: yes. Motion carried.

RESOLUTION NO. 12-14-21-01

Authorizing Kossuth County, Iowa, 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, 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 §§331.402(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, 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, 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, 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 Kosuth County Board of Supervisors hereby approves and authorizes Roger Tjarks, Chairperson, 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 Kossuth 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 Kossuth County Board of Supervisors this 14th day of December, 2021.

Roger Tjarks, Chairperson

ATTEST:

Tammy Eden, Kossuth County Auditor

Supervisor Stecker joined the meeting.

Motion by Plathe and 2nd by Stecker to approve the purchase of two tandem axle belly dump trailers for \$94,260.00, \$47,130 each, by the Secondary Road Department from Crossroads Trailer, Albert Lea, Minnesota. Chairman Tjarks called for a roll call vote: Stecker: yes, Casey: yes, Loss: yes, Plathe: yes, Tjarks: yes. Motion carried.

Held discussion regarding Construction ROW.

Discussion was held with Kossuth County Engineer/Zoning Administrator.

Motion by Stecker and 2nd by Casey to open the public hearing for the Bid Letting for the Kossuth County Courthouse – Roof Replacement. Chairman Tjarks called for a roll call vote: Stecker: yes, Casey: yes, Loss: yes, Plathe: yes, Tjarks: yes. Motion carried.

Bids were opened. There were no comments from the public.

Motion by Loss and 2nd by Plathe to close the public hearing for the Bid Letting for the Kossuth County Courthouse – Roof Replacement. Chairman Tjarks called for a roll call vote: Stecker: yes, Casey: yes, Loss: yes, Plathe: yes, Tjarks: yes. Motion carried.

Motion by Plathe and 2nd by Stecker to accept the low bid, Northern Cedar Services, Mason City in the amount of \$186,659.00 and \$1.00 sq/ft. Chairman Tjarks called for a roll call vote: Stecker: yes, Casey: yes, Loss: yes, Plathe: yes, Tjarks: yes. Motion carried.

Motion by Casey and 2nd by Stecker to open the public hearing for the Bid Letting for the Kossuth LEC-HVAC Replacement. Chairman Tjarks called for a roll call vote: Stecker: yes, Casey: yes, Loss: yes, Plathe: yes, Tjarks: yes. Motion carried.

Bids were opened. There were no comments from the public.

Motion by Plathe and 2nd by Loss to close the public hearing for the Bid Letting for the Kossuth LEC-HVAC Replacement. Chairman Tjarks called for a roll call vote: Stecker: yes, Casey: yes, Loss: yes, Plathe: yes, Tjarks: yes. Motion carried.

Motion by Plathe and 2nd by Tjarks to accept the low bid, Mechanical Air Systems, Mason City in the amount of \$595,655.00. Chairman Tjarks called for a roll call vote: Stecker: yes, Casey: yes, Loss: yes, Plathe: yes, Tjarks: yes. Motion carried.

Discussion was held with Kossuth County Auditor and Kossuth County Board of Supervisors.

Information was given to the board regarding Senator Guth's proposed SF 500. No action was taken.

Motion by Casey and 2nd by Stecker to approve appointing Tim Struecker and Rodney Jensen as Commissioners for Drainage District 75. Motion carried unanimously.

Motion by Tjarks and 2nd by Stecker to acknowledge report of DD 4 Lateral 11 Open Ditch Repairs by McClure Engineering and set date and time for hearing for February 8, 2022 at 10:00 A.M in the Kossuth County Board Room. Motion carried unanimously.

Motion by Casey and 2nd by Loss to approve the drainage repair requests as follows: Supervisor Stecker: Request #2021-064 DD 72. Motion carried unanimously.

Motion by Stecker and 2nd by Tjarks to approve sending a letter to all Drainage Trustees stating Code of Iowa Drainage Code 468.524 requires all Drainage Trustees to post a bond in the amount of at least \$1,000 and provide proof to the board. Motion carried unanimously.

Adjournment was taken at 11:13 A.M. until Tuesday, December 21, 2021.

Attest:

Tammy Eden
Kossuth County Auditor

Roger Tjarks, Chairman
Kossuth County Board of Supervisors