

The Marion County Board of Supervisors met in regular session at 3014 E Main St Knoxville, IA 50138 on Tuesday, December 14, 2021 with Mark Raymie, Kisha Jahner and Steve McCombs present. Public access to the meeting was available in-person and electronically. Chairman Raymie opened the regular session at 9:00 A.M.

Unless otherwise indicated, all the motions offered at this meeting were carried with the following vote:

Ayes: Raymie, Jahner, McCombs Nays: None Abstentions: None Absent: None

Agenda:

Jahner moved and Mc Combs seconded to approve agenda as posted.

Communications: None

Public Comments: None

Consent Agenda:

Mc Combs moved and Jahner seconded to approve the consent agenda:

1. Approval of Marion County Warrants 243423-243642 through 12/14/2021.
2. Approval of Marion County Board of Supervisor Regular Session Minutes: 11/23/2021.
3. Approval of Marion County employee salary adjustments. Complete list available in the Human Resource Office.

Business:

1. Mc Combs moved and Jahner seconded to approve Opioid Litigation Settlement documents as follows:

- a. Approval of Distributor's Participation Agreement
- b. Approval of Janseen Participation Agreement

c. Approval Of Marion County Resolution 2021-89, Authorization to Enter Authorizing Marion 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 As Follows:

Whereas, in 2018, the County Board of Supervisors authorized Marion 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 §§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, County has contracted with the Law Firms 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 Mark Raymie 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.

d. Approval of Iowa Allocation Memorandum of Understanding

2. Jahner moved and Mc Combs seconded to approve Memorandum of Agreement with Des Moines Area Metropolitan Planning Organization (MPO) for professional oversight of proposed changes to the Marion County Zoning Ordinance.

3. Jahner moved and Mc Combs seconded to approve Resolution 2021-85 approving Barb Van Wyk, Marion County, Iowa Representation in the Boone, Jasper, Marion, and Warren Counties Regional Housing Trust Fund as follows:

Whereas, Marion County, Iowa, has authorized membership in the creation of the Boone, Jasper, Marion, and Warren Counties Regional Housing Trust Fund; and

Whereas, the creation of the Housing Trust Fund requires initial appointment of persons to represent Marion County on the Housing Trust Fund.

Now, Therefore, Be It Resolved, that Marion County, Iowa, hereby appoints the following person to serve as its ongoing Representatives on the Boone, Jasper, Marion, and Warren Counties Regional Housing Trust Fund as determined in the Housing Trust Fund By-laws.

Housing Trust Fund – Private

Barb Van Wyk – Property Owner (term ending 12/31/2023)

4. Jahner moved and Mc Combs seconded to approve the following appointment:

Marion County Board of Adjustment

Danielle Huffine – term ending 12/31/2026

5. Jahner moved and Mc Combs seconded to approve the following appointment:

Marion County Zoning Commission

Alan Terpstra – term ending 12/31/2026

6. Jahner moved and Mc Combs seconded to approve the following Special Event Application:

New Journey Church – Christmas Caroling – 12/24/2021

7. Chairman Raymie opened a Public Hearing at 9:20 a.m. regarding proposed Marion County Ordinance 2021-6 rezoning from A-1 Agricultural to A-R Ag Residential for parcel 06616-010-00 described as the W1/2 of the NE1/4 of Section 22, Township 76 North, Range 20 West of the 5<sup>th</sup> P.M. except Parcel C according to Plat of Survey recorded in Book 263 Page 147. No oral or written comments were received. Jahner moved and Mc Combs seconded to close the Public Hearing at 9:22 a.m.

8. Mc Combs moved and Jahner seconded to Approve 1st reading of proposed Marion County Ordinance 2021-6 amending Zoning Map from A-1 Agricultural to A-R Ag Residential.

9. Jahner moved and Mc Combs seconded to waive 2<sup>nd</sup> and 3<sup>rd</sup> reading of proposed Marion County Ordinance 2021-6 and final approval amending zoning map and authorization of final publication.

10. Jahner moved and Mc Combs seconded to approve Resolution 2021-83 approving Final Plat Ellis Subdivision in Marion County, Iowa as follows:

Whereas, owners, James and Diane Ellis filed with Marion County, Iowa, a final plat known as "Ellis Subdivision", located in Marion County, Iowa, and more particularly described as follows, to-wit:

That part of the West One Half of the Northeast Quarter of the Northeast Quarter of Section 22, Township 75 North, Range 20 West of the Fifth Principal Meridian, Marion County, Iowa, described as follows:

Beginning at the northwest corner of the Northeast Quarter of the Northeast Quarter of said Section 22;  
thence North 89 degrees 04 minutes 41 seconds East 648.89 feet along the north line of said Northeast Quarter of the Northeast Quarter to the northeast corner of the West One Half of said Northeast Quarter of the Northeast Quarter and to the northwest corner of Parcel B, recorded in Book 233, Page 316, at the Marion County, Iowa, Recorder's Office;  
thence South 00 degrees 41 minutes 09 Seconds East 956.98 feet along the west line of said Parcel B and the east line of said West One Half of the Northeast Quarter of the Northeast Quarter to the northeast corner of Parcel "C", as recorded in Book 263, Page 147, at said Recorder's Office;  
thence South 89 degrees 09 minutes 12 seconds West 361.50 feet along the north line of said Parcel "C";  
thence South 00 degrees 40 minutes 55 seconds East 361.50 feet along the west line of said Parcel "C" to the southwest corner of said Parcel "C";

thence South 89 degrees 30 minutes 03 seconds West 286.74 feet to the southwest corner of the Northeast Quarter of the Northeast Quarter of said Section 22;  
thence North 00 degrees 42 minutes 48 seconds West 1315.89 feet along the west line of said Northeast Quarter of the Northeast Quarter to the northwest corner of said Northeast Quarter of the Northeast Quarter and the point of beginning.

Said tract contains 16.62 acres and is subject to Marion County, Iowa, Highway Easements over the north and westerly 1.39 acres thereof and is subject to easements and encumbrances of record.  
and

Whereas, the subdivision has been reviewed and approved by the Marion County Engineer; and

Whereas, the subdivision has been reviewed and approved by the Marion County Environmental Health Officer; and

Whereas, the subdivision has been reviewed by officers of Marion County, Iowa, and are approved by Melissa Poffenbarger, Zoning Administrator, and has been approved by various utilities; and

Whereas, the supervisors of Marion County, Iowa, have inspected said final plat and find that it should be accepted and approved as recommended by the Marion County Zoning Commission.

Now, Therefore, Be It Resolved by the Board of Supervisors of Marion County, Iowa, that the Final Plat of Ellis Subdivision, be formally accepted and approved at this time.

11. Jahner moved and Mc Combs seconded to receive and file Marion County Compensation Board FY23 recommendations.

12. Jahner moved and Mc Combs seconded to approve Resolution 2021-90 to approve disbursement of funds for the American Rescue Plan Act as follows:

Whereas, on March 11, 2021, President Biden signed the 109 trillion-dollar American Rescue Plan Act and,

Whereas, Marion County applied for and has been received the first tranche of funds for the American Rescue Plan Act totaling \$3,229,502.50.

Whereas, the Marion County Board of Supervisors has reviewed some requests and determined some that will qualify for the American Rescue Plan Act and

Whereas, based on the distribution guidelines from the US Department of Treasury, the following Facilities Project Estimates are being approved for the use of said funds:

- LEC – HVAC and Security Upgrade \$850,000
- Courthouse – HVAC and Security Upgrade \$500,000
- Public Health – HVAC, Roof and Parking Lot Upgrade \$500,000

Therefore Be It Resolved the Marion County Board of Supervisors endorses the disbursement of American Rescue Plan Act Funds for the items listed and authorizes the payments as they are presented.

Passed and Adopted this 14<sup>th</sup> day of December, 2021

13. Jahner moved and Raymie seconded to approve Resolution 2021-91 a request to refund Taxpayer per Iowa Code 445.60 as follows:

Resolution to refund taxes that have been erroneously paid.

Whereas, Dale & Julie Storm own a mobile home located on real property in Marion County, Iowa; and

Whereas, Dale and Julie Storm erroneously paid mobile home tax on parcel 2422700000 where the mobile home is located and;

Whereas, the State of Iowa has set a procedure for refunding erroneous tax in the Code of Iowa section 445.60; and

Whereas, Dale & Julie Storm have requested a claim for refund to the Marion County Board of Supervisors.

Now Therefore Be It Resolved By

The Marion County, Iowa, Board of Supervisors has determined that Dale & Julie Storm have erroneously paid tax on the mobile home located on parcel 2422700000 in the amount of \$648.00 for the tax collection periods of 2020/2021 and 2021/2022; and

Be It Further Resolved That

The Marion County, Iowa, Board of Supervisors directs the Marion County Treasurer to refund the amount of \$648.00 to the Pella Cooperative Electric Association.

14. Chairman Raymie opened a Public Hearing at 9:46 a.m. for Proposed Marion County Ordinance 2021-7 Amending Marion County Ordinance Book Chapter 5 Establishing a Local Sales and Services Tax (LOSST) Applicable to Transactions with Marion County in accordance with Iowa Code Chapter 423 and 423B. No oral or written comments were received. Jahner moved and Mc Combs seconded to close the Public Hearing.

15. Mc Combs moved and Jahner seconded to approve 1st reading of proposed Marion County Ordinance 2021-7 amending Chapter 5, Local Option Sales and Services Tax.

16. Jahner moved and Mc Combs seconded to waive 2nd and 3rd reading of proposed Marion County Ordinance 2021-7 and final approval amending the Ordinance and authorization of final publication.

17. Jahner moved and Mc Combs seconded to approve Resolution 2021-84, to approve voluntary withdrawal from Iowa Precinct Atlas Consortium as follows:

Whereas, Marion County is a member of the Iowa Precinct Atlas Consortium as organized under Iowa Code Chapter 28E; and

Whereas, Marion County participated in the Iowa Precinct Atlas Consortium and used the computer software program known as Precinct Atlas; and

Whereas, Marion County was initially approved by motion and vote of the Marion County Board of Supervisors on June 25, 2013 to be incorporated as a member of the Iowa Precinct Atlas Consortium and;

Whereas, The Iowa Precinct Atlas Consortium Agreement requires written notice of voluntary member withdrawal by January 31 of any fiscal year;

Now Therefore Be It Resolved; the Marion County Board of Supervisors hereby approves Resolution 2021-84 voluntarily withdrawal from the Iowa Precinct Atlas Consortium as organized under Iowa Code Chapter 28E.

18. Jahner moved and Mc Combs seconded to approve Resolution 2021-93 to authorize Execution of an Agreement Between Marion County and the City of Pella to Establish Pella Precinct 1, a Precinct of Incorporated and Unincorporated Territory as follows:

Whereas, following the decennial census, and after the redistricting of congressional and legislative districts, county boards of supervisors and city councils are required to complete any changes in precinct and supervisor districts (for counties) or precinct and ward boundaries (for cities); and

Whereas, precincts which are composed partially of incorporated and unincorporated territory may be established for the purpose of avoiding the splitting of census blocks, if an agreement which is mutually satisfactory to the board of supervisors of the county and to the city council of the city is adopted and submitted to the Secretary of State as part of the certification of precinct boundaries; and

Whereas, the City of Pella and Marion County, Iowa desire to create one combined precinct, identified as Pella Precinct 1, for the purpose of avoiding the splitting of census blocks; and

Whereas, Pella Precinct 1 is composed of an incorporated population of 2,603 persons who are residents of the City of Pella and an unincorporated population of 39 persons who are residents of Lake Prairie Township in Marion County, pursuant to 2020 Census figures.

Now, Therefore, Be It Resolved by the Board of Supervisors of Marion County, Iowa that the Agreement with the City of Pella, Iowa to establish Pella Precinct 1 is hereby approved.

Be It Further Resolved that the County Board of Supervisor Chair and County Auditor are hereby authorized to execute the Agreement on behalf of Marion County, Iowa.

Passed and approved this 14th day of December, 2021.

19. Mc Combs moved and Jahner seconded to approve Resolution 2021-94 to authorize Execution of an Agreement Between Marion County and the City of Pella to Establish Pella Precinct 3, a Precinct of Incorporated and Unincorporated Territory as follows:

Whereas, following the decennial census, and after the redistricting of congressional and legislative districts, county boards of supervisors and city councils are required to complete any changes in precinct and supervisor districts (for counties) or precinct and ward boundaries (for cities); and

Whereas, precincts which are composed partially of incorporated and unincorporated territory may be established for the purpose of avoiding the splitting of census blocks, if an agreement which is mutually satisfactory to the board of supervisors of the county and to the city council of the city is adopted and submitted to the Secretary of State as part of the certification of precinct boundaries; and

Whereas, the City of Pella and Marion County, Iowa desire to create one combined precinct, identified as Pella Precinct 3, for the purpose of avoiding the splitting of census blocks; and

Whereas, Pella Precinct 3 is composed of an incorporated population of 2,622 persons who are residents of the City of Pella and an unincorporated population of 107 persons who are residents of Lake Prairie Township in Marion County, pursuant to 2020 Census figures.

Now, Therefore, Be It Resolved by the Board of Supervisors of Marion County, Iowa that the Agreement with the City of Pella to establish Pella Precinct 3 is hereby approved.

Be It Further Resolved that the County Board of Supervisor Chair and County Auditor are hereby authorized to execute the Agreement on behalf of Marion County, Iowa.

Passed and approved this 14th day of December, 2021.

20. Chris Nesteby, Marion County Facilities Director updated the Board regarding the VA Demolition project. It was discussed that the boiler building was not included in the contract of buildings to be removed. A vote by City of Knoxville would be needed if it is decided to remove. Nesteby recommended to the Board to remove the laundry facility due to its location and size.

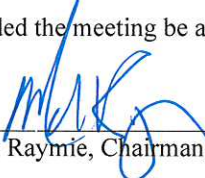
21. Board of Supervisor Updates:

- McCombs – SCISWA calendar contest/CIRTPA
  - Jahner – Iowa Workforce/Pella P&Z/Premium pay
  - Raymie – Mental Health-Knoxville Area Community Hospital meeting Sen. Edler regarding establishment of MH 5013c.
- Upcoming County Budget

Adjournment:

There being no other business, Mc Combs moved and Jahner seconded the meeting be adjourned at 10:15 A.M.

  
\_\_\_\_\_  
Jake Grandia, County Auditor

  
\_\_\_\_\_  
Mark Raymie, Chairman, Board of Supervisors