

March 27, 2023

The Benton County Board of Supervisors met in regular session with Supervisors Seeman, Primmer and Bierschenk present. The meeting was called to order at 9:00 a.m. at the conference room at the Benton County Service Center. Members of the public were provided the zoom access capability to join in during open session and livestream at <https://www.youtube.com/bentoncountyiowa>. *Unless otherwise noted, all actions were approved unanimously. Summarized Resolutions will be available in the Auditor's office and at: www.bentoncountyiowa.gov (<https://www.youtube.com/bentoncountyiowa>)*

Bierschenk moved/Primmer seconded: To approve the minutes of March 21, 2023. Motion carried.

Primmer moved/Bierschenk seconded: To approve and authorize Auditor Rippel to certify the Local Assistance and Tribal Consistency Fund (LATCF) annual report. Motion carried.

Primmer moved/Bierschenk seconded: To approve Resolution #23-18, Authorizing Benton County to enter into settlement agreements with Teva Pharmaceutical Industries Ltd., Allergan Finance, LLC, Walgreen Co., Walmart, Inc., and CVS Health Corporation. Motion carried.

RESOLUTION NO. 23-18

Authorizing Benton County to Enter Into the Settlement Agreements with Teva Pharmaceutical Industries Ltd., Allergan Finance, LLC, Walgreen Co., Walmart, Inc., CVS Health Corporation and CVS Pharmacy, Inc.,

WHEREAS, in 2017, the County Board of Supervisors authorized Benton 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 Teva Pharmaceutical Industries Ltd., Allergan Finance, LLC, Walgreen Co., Walmart, Inc., CVS Health Corporation and CVS Pharmacy, 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, the proposed terms of those proposed nationwide settlements are set forth in the Teva and Allergan Settlement Agreement and the Walmart, Walgreens, and CVS Settlement Agreement (collectively "Settlement Agreements");

WHEREAS, the Settlement Agreements as well as a 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 ("Iowa Opioid Funds"), upon occurrence of certain events as defined in the Settlement Agreements;

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 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, 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"), net of 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 is set forth in Exhibit 1 of the MOU (Iowa State – Local Allocation 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 Allocation 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;"

WHEREAS, Funds in an LG Abatement Fund shall not be commingled with any other money or funds of the Participating Local Government, but 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, shall be dedicated to funding opioid abatement measures as provided in the Settlement Agreements and the Allocation MOU and, 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, if any audit required by the Allocation MOU reveals an expenditure inconsistent with the terms of the Allocation MOU, the Participating Local Government shall immediately redirect the funds associated with the inconsistent expenditure to an Opioid Related Expenditure;

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;

WHEREAS, the intent of this Resolution is to authorize the County to enter into the Settlement Agreements by executing the Participation Agreements.

NOW, THEREFORE, BE IT RESOLVED: the County Board of Supervisors hereby approves and authorizes Ray Lough, County Attorney to settle and release the County's claims against the Settling Defendants in exchange for the consideration set forth in the Settlement Agreements by taking the following measures:

1. The execution and delivery of the Participation Agreement to the Settlement Agreements and any and all documents ancillary thereto.
3. The execution and delivery of any and all further and other documents necessary to effectuate the foregoing and the terms of this Resolution.

BE IT FURTHER RESOLVED: the County shall deposit the LG Share in its account 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 Benton County Board of Supervisors this 27th day of March, 2023

Tracy Seeman, Chairman

Rick Primmer

Gary Bierschenk

ATTEST:

Hayley Rippel, Benton County Auditor

Primmer moved/Seeman seconded: To approve and sign letter of support to the Office of Chief Information Officer (OCIO) to qualify for broadband intervention zone. Motion carried.

Bierschenk moved/Primmer seconded: To approve Class C Liquor Licenses for Traveling Tapster LLC for April 20, 2023 through May 3, 2023. Motion carried.

Primmer moved/Bierschenk seconded: To approve and authorize Chairman's signature on the annual Historic Preservation Report pending areas for review. Motion carried.

Primmer moved/Bierschenk seconded: To approve the bid from Graham Tree Service in the amount of \$1100 to remove an Ash tree on the Service Center Property. Motion carried.

The time of 9:15 a.m. having arrived, and this being the time and date for a land use hearing for Austin and Jenna Schulte in part of the NW ¼ NW ¼ of 32-82-9. The Schulte's were present. Matt Even presented the technical information with the Benton County Agricultural Land Use Preservation Ordinance. Schulte's would like to change .25 Acres of their 6.98 Acre parcel to build a new building that would be used to process milk and cheese. A portion of the building would extend to adjoining property which is owned by Austin's parents. There is an existing driveway that meets the requirements. This location has access to rural water, but would need its own private sewage disposal. The Schulte's are also working with the DNR for additional waste processing. The required notifications were sent to the five adjacent landowner's and published in the official newspapers. No comments were heard prior to today's meeting. Hearing no other further comments, the public hearing was closed.

Primmer moved/Bierschenk seconded: To approve the land use change for Austin and Jenna Schulte in part of the NW ¼ NW ¼ of 32-82-9. Motion carried.

Primmer moved/Bierschenk seconded: To approve farm exemption application for Timothy Scheurs in part of the NW ¼ of the SE ¼ of Section 31-82-11. Motion carried.

There was discussion on the sanitarian/land use coordinator position that was held by Marc Greenlee for the past 40 plus years. Marc recently passed away unexpectedly and will be greatly missed by all that knew him. Greenlee was very knowledgeable and truly dedicated to his position at the county. Barb Greenlee said she assumes she will fill that role until somebody could get hired to fill this position. The county will advertise for the position after further discussion and a job description of what all the position would entail.

Dr. Maggie Mangold met with the board regarding the board of health and upcoming changes and keeping transparency moving forward. Benton County is currently providing public health under contract with Virginia Gay Hospital. VGH recently provided notice to terminate the contract with Benton County effective June 30, 2023. Mangold explained the Board of Health's role and how they have started a few sub-committees to do some research on different options whether that be fully sub-contracting with another county, or providing those services fully county based and the county would employ and house their own individuals to do the work. Included in the discussion was historical funding, home health versus public health services, wages compared to other counties in our district, environmental health, subcontracts, nurses and staffing. The Board of Health has another meeting on April 14th and would come back to the supervisors with their official recommendation at the Supervisor's April 18th meeting. No action was taken today, although the supervisors felt strongly about pursuing all county-based services but would also be interested in hearing all other options as well.

Primmer moved/ Bierschenk seconded: To adjourn. Motion carried.

Tracy Seeman, Chairman

ATTEST: _____

Hayley Rippel, Benton County Auditor