

December 7<sup>th</sup>, 2021

The Des Moines County Board of Supervisors met in regular session at the Court House in Burlington at 9 AM on Tuesday, December 7<sup>th</sup>, 2021 with Chairman Tom Broeker and Vice-Chair Jim Cary present. Member Shane McCampbell was present through Webex. This meeting was also held electronically via Webex and YouTube live streaming. Public input was available through board email or call in.

Unless otherwise noted, all motions passed unanimously. The Pledge of Allegiance was conducted.

Meet with Department Heads: County Payroll Deputy Sara Doty stated that she continues to stay busy. Des Moines County Attorney Lisa Schaefer reported they have hired a new attorney to start on January 1<sup>st</sup>. That will put her office to full staff. Her office is participating with "Shop with a Cop" this coming weekend. IT Director Colin Gerst stated his office is busy. Sheriff Kevin Glendening stated everything is going well in his office. His office will be participating in the "Shop with a Cop" event this coming Saturday as well. They also participated in Toys for Tots this past Saturday and it was a success. County Auditor Terri Johnson stated her office remains busy working on redistricting that needs to be completed by January 15<sup>th</sup>. Assistant Land Use Administrator Zach James reported there are several subdivisions out for review with two on the agenda for today. They are also working on Flood Plain Development Permits as well. The office remains busy. County Engineer Brian Carter reported things are moving along in his office. His guys are out working on a culvert project and continuing to do some ditching. He does have an employee that has turned in his notice. They will be working on getting advertisement out for hiring a Motor Grader Operator over the next month or so. County Recorder Natalie Steffener stated she attended her first 5<sup>th</sup> District Meeting in Ottumwa. She stated her office continues to stay busy. Conservation Director Chris Lee reported his office has continued to research on the Human Trafficking Certifications that will now be required. He also wants to remind everyone that shotgun deer season is open and for everyone to stay safe. County Maintenance Supervisor Rodney Bliesener reported his staff is busy. Safety Director Angela Vaughan was present. County Treasurer Janelle Nalley-Londquist reported her office is busy. Public Health Administrator Christa Poggemiller reported the current 7-day COVID positivity rate is 8% with 41 positive cases. Boosters are now open to anyone over the age of 18. This is available 6 months after your second shot of Pfizer or Moderna and 2 months after the single shot of Johnson & Johnson. Walk in clinics are still being offered Monday and Wednesday for adults and Thursdays for pediatric at the Public Health Department from 8:30 a.m. to 4:00 p.m.

Correspondence. Chairman Broeker read a letter from Southeast Iowa Regional Planning requesting their Annual SEIRPC Board Appointment. Our current representative is Vice-Chair Jim Cary. Member Shane McCampbell had a request to have recycling picked up more often or to add more bins to County residents.

Accounts Payable Claims were presented in the amount of \$1,342,529.86. McCampbell made a motion to approve and seconded by Cary.

Resolution #2021-049 Amended 28E Agreement for Southeast Iowa Narcotics Task Force was presented. McCampbell made a motion to approve and seconded by Cary.

#### **RESOLUTION #2021-049**

**WHEREAS;** Des Moines County, Iowa previously joined the Southeast Iowa Narcotics Task Force pursuant to the provisions of Iowa Code Chapter 28E on October 1, 1989; and

**WHEREAS;** it is in the mutual and best interests of the member entities to amend certain provisions of the 28E agreement to reflect the current practices of the Southeast Iowa Narcotics Task Force pursuant to said agreement;

**WHEREAS;** the parties to the 28E Agreement for the Southeast Iowa Narcotics Task Force have passed an Amended 28E Agreement for the Southeast Iowa Narcotics Task Force to reflect current practices and to allow for the inclusion of Henry County as a participating member; and

**WHEREAS;** the Task Force will continue to be called the, "Southeast Iowa Narcotics Task Force"; and

**NOW THEREFORE BE IT RESOLVED;** that in the best interests of Des Moines County, the Des Moines County Board of Supervisors approves the Amended 28E Agreement for the Southeast Iowa Narcotics Task Force.

Passed, Approved this 7th day of December, 2021.

Thomas Broeker  
Chairman, Board of Supervisors

James Cary  
Vice-Chair, Board of Supervisors

Shane McCampbell  
Member, Board of Supervisors

ATTEST:  
Terri Johnson  
Des Moines County Auditor

Resolution #2021-050 Approving the Opioid Litigation Settlement was presented by County Attorney Lisa Schaefer. Cary made a motion to approve and seconded by McCampbell.

#### **RESOLUTION NO. 2021-050**

*Authorizing Des Moines 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**, in 2018, the County Board of Supervisors authorized Des Moines 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 Des Moines County Attorney, Lisa Schaefer 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 Des Moines County Board of Supervisors this 7th day of December, 2021.

THOMAS BROEKER  
Des Moines County Board of Supervisors

ATTEST: Terri Johnson  
Des Moines County Auditor

Resolution #2021-051 and Final Plat – 1891 Minor Subdivision was presented. This is a one-lot subdivision containing 11.02 acres located in Northeast  $\frac{1}{4}$  Southwest  $\frac{1}{4}$  of Section 17, Flint River Twp. Owner/Subdividers are Edgar and Joyce Blow of 12268 158<sup>th</sup> Ave., West Burlington. Cary motioned to approve with a second from McCampbell.

**DES MOINES COUNTY  
BOARD OF SUPERVISORS  
RESOLUTION #2021-051**

**WHEREAS** Section 354.8 of the Code of Iowa states that a governing body shall certify by resolution the approval of a subdivision plat, and,

**WHEREAS** the Final Plat for 1891 Subdivision has been reviewed for conformance to applicable County standards by the Des Moines County Health Department, Secondary Roads Department, County Auditor, Zoning Commission Chair and Land Use Department and has been duly recommended by the aforementioned entities for approval,

**NOW THEREFORE, BE IT RESOLVED:** That the Board of Supervisors hereby approves the Final Plat of 1891 Subdivision, with the following condition:

A portion of Lot 1 is currently enrolled in the Conservation Reserve Program (CRP) through the USDA Farm Service Agency. If the ground in this area is disturbed prior to the expiration of the CRP easement, Des Moines County shall not be held responsible for any penalties associated with violating the CRP agreement.

Approved and adopted this 7th day of December, 2021.

DES MOINES COUNTY BOARD OF SUPERVISORS

Tom L. Broeker, Chair  
Jim Cary, Vice Chair  
Shane McCampbell, Member

ATTEST: Terri Johnson, County Auditor

Resolution #2021-052 and Final Plat – Duffy Hollow Minor Subdivision was presented. This is a one lot subdivision containing 7.60 acres located in the East  $\frac{1}{2}$  of the Northwest  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of Section 19,

Franklin Twp. Owner is Wayne & Winona Corman of 18437 Irish Ridge Road, Sperry. Subdivider is Caleb Duffy of 21207 Pegtown Road, Mediapolis. McCampbell made a motion to approve and seconded by Cary.

**DES MOINES COUNTY  
BOARD OF SUPERVISORS  
RESOLUTION #2021-052**

**WHEREAS** Section 354.8 of the Code of Iowa states that a governing body shall certify by resolution the approval of a subdivision plat, and,

**WHEREAS** the Final Plat for Duffy Hollow Subdivision has been reviewed for conformance to applicable County standards by the Des Moines County Health Department, Secondary Roads Department, County Auditor, Zoning Commission Chair and Land Use Department and has been duly recommended by the aforementioned entities for approval,

**NOW THEREFORE, BE IT RESOLVED:** That the Board of Supervisors hereby approves the Final Plat of Duffy Hollow Subdivision, with the following conditions:

The driveway entrance for Lot 1 from Dodgeville Road shall be located in accordance with the requirements specified by the Des Moines County Secondary Roads Department, to the east of the originally planned location, due to sight distance limitations.

A permit for an Onsite Waste Water Treatment System shall be obtained from the Des Moines County Health Department prior to construction of a new residence, and a code compliant system shall be installed prior to its habitation.

Approved and adopted this 7th day of December, 2021.

DES MOINES COUNTY BOARD OF SUPERVISORS

Tom L. Broeker, Chair  
Jim Cary, Vice Chair  
Shane McCampbell, Member

ATTEST: Terri Johnson, County Auditor

A request to cancel outstanding Treasurer's Checks in the amount of \$296.50 was presented. Cary motioned to approve and seconded by McCampbell.

Approval of the RFQ for the Public Health Building was presented. Cary made a motion to approve and seconded by McCampbell.

An RFP for the front steps of the courthouse was presented. McCampbell made a motion to approve and seconded by Cary.

Personnel Actions. Correctional Center – Angela Schertz, Correctional Officer. One day unpaid suspension effective 11/24. Cary motioned to approve and seconded by McCampbell. Conservation -Avery Jacobs, promotion to permanent part time effective 12/13 with a new rate of \$15.00 hourly. McCampbell made a motion to approve and seconded by Cary.

Report received and filed in the Auditor's Office: Recorder's Report of Fees Collected, November 2021.

Cary motioned to approve the November 30<sup>th</sup>. 2021 meeting minutes and seconded by McCampbell.

Future Agenda Items: New Records Management Systems using ARPA Funds with Sheriff Glendening on

next week's agenda. Work Session with Southeast Iowa Regional Planning to discuss Subdivisions. Conservation Board would like a work session with the Board of Supervisors on 12/15 at 5:30 p.m.

Committee Reports: Jim Cary attended a conservation meeting and the 5<sup>th</sup> District County officer's meeting this past week. Tom Broeker attended a Regional meeting Wednesday and an Auditor's meeting to discuss the County Medical Examiner.

Meeting was adjourned at 10:12 a.m.

This Board meeting is recorded. The meeting minutes and audio are posted on the county's website [www.dmcounty.com](http://www.dmcounty.com)

Approved December 14<sup>th</sup>, 2021  
Tom Broeker, Chairman  
Attest: Sara Doty, Deputy Auditor