

**PROCEEDINGS OF THE WASHINGTON COUNTY BOARD OF SUPERVISORS MEETING
TUESDAY, MARCH 28, 2023**

At 9:00 a.m. Chairperson Bob Yoder called to order in regular session a meeting of the Washington County Board of Supervisors which took place in the Washington County Courthouse. Items on the agenda included approval of agenda; public comment related to agenda items; Broadband Opportunities for Washington County and Intent to Qualify; personnel change requests – Sheriff; Quarterly Report – Outreach; National Opioid Settlement documents; personnel change request – Secondary Roads; Closed Session pursuant to Iowa Code 21.5(1)(j) to discuss the purchase or sale of particular real estate only where premature disclosure could be reasonably expected to increase the price the governmental body would have to pay for that property; possible action with regard to matters discussed in closed session; approval of Addendum #1 to Right of Way Services Agreement with JCG Land Services, Inc.; department head comment; adjourn. Supervisors Marcus Fedler, Jack Seward, Jr. and Richard Young were also in attendance. Supervisor Stan Stoops was absent.

Other individuals present at the meeting included Jennifer Wilkerson with KCII Radio, Kalen McCain with the SE Iowa Union, Interim County Attorney Anthony Janney, County Engineer Jacob Thorius, Outreach Director Brandon Hamilton, Washington Economic Development Group (WEDG) Executive Director Mary Audia, Jeremy Gugel and Casey Peck with Kalona Cooperative Technology Company, Washington Chamber of Commerce Executive Director Michelle Redlinger, Liberty Communications Director of Network Operations Andy Meader, and Board of Supervisors Administrative Assistant Amber Williams. Various other individuals participated by way of remote means.

All motions were passed unanimously by those Supervisors in attendance unless noted otherwise.

There was no public comment.

On motion by Seward, seconded by Fedler, the Board voted to approve the agenda after it was amended to include the following: Resolution 23-13 related to Settlement Agreements with Teva Pharmaceutical Industries Ltd., Allergan Finance, LLC, Walgreen Co., Walmart, Inc., CVS Health Corporation and CVS Pharmacy, Inc.

Washington Economic Development Group (WEDG) Executive Director Mary Audia and Kalona Cooperative Technology Company (KCTC) Chief Executive Casey Peck addressed the Board regarding what they described as under-served communities in Washington County in terms of broadband service.

Peck shared that she was representing an entity named Cloudburst 9 which serves wireless customers as well as fiber broadband customers in the Keota area. She also explained that a list of underserved areas in Washington County, as determined by the State of Iowa, includes the western portion of Washington County and specifically an area located within a 5-mile radius of West Chester. Peck estimated a total build-out cost of \$2 million, or \$11,800.00 per customer, to provide fiber service to the 177 customers that currently live in the 5-mile radius of West Chester. Peck in turn offered that Cloudburst 9 would invest \$1 million to cover one half of the total project costs and requested that Washington County contribute the other \$1 million that is needed to defray total projects and suggested that the County use a portion of its American Rescue Plan Act (ARPA) funds to do so. Peck added that in the absence of County funding assistance the proposed project would not become a reality. Auditor Dan Widmer confirmed with Peck her earlier statement that if the project came to fruition the monthly subscriber fees paid by customers would go entirely to Cloudburst 9. Iowa Communications Alliance Vice-President Brittany Morales, who participated remotely, voiced that grant-based broadband development is growing in Iowa to the point where only the most difficult and expensive areas remain unserved and stressed the importance of partnerships between the government and broadband service suppliers to strategically serve rural customers. Seward expressed his concern with committing \$1 million of the county's ARPA funds as requested and explained that doing so would greatly decrease the available funding for the remodeling of county facilities which is presently being considered as well as other possible uses for the ARPA funds. Also of concern regarding the funding request was the fact that a decision was called for on or before March 31, 2023. Audia stressed the importance of broad band service and its positive impact on rural communities. Audia suggested that the Board take action to approve an "intent to qualify" letter which would still leave the County the opportunity to pursue grant funding at some point in the future. The Board took no formal action.

On motion by Young, seconded by Seward, the Board voted to acknowledge, and authorize the Chairperson to sign, a personnel change request from the Sheriff for Jailer Colton Schneider whose final date of employment will occur March 30, 2023.

On motion by Fedler, seconded by Seward, the Board voted to acknowledge, and authorize the Chairperson to sign, a personnel change request from the Sheriff for Jailer Aaron McPherson whose final date of employment occurred March 24, 2023.

In delivering his quarterly report for Washington County Outreach Director Brandon Hamilton stated at the present time there are 173 active probation cases along with a graph showing various charge types of which a majority were related to operating a motor vehicle while intoxicated. Supervision fees for FY22 totaled \$6,290.00 while such fees paid to date in FY23 total \$3,615.00. On motion by Young, seconded by Seward, the Board voted to acknowledge the Outreach report presented by Outreach Director Brandon Hamilton. The complete report is available in the Auditor's office.

The Board held a brief discussion regarding the completion and submittal of required forms that will enable Washington County to participate in a new round of national opioid settlements. The monetary amount that the County will receive is unknown at this time as it is dependent upon the overall level of participation by other entities.

On motion by Young, seconded by Fedler, the Board voted to approve the settlement documents related to Teva Pharmaceutical Industries Ltd., and to authorize the Auditor to sign pertinent documents on behalf of the Board.

On motion by Seward, seconded by Fedler, the Board voted to approve the settlement documents related to Allergan Finance, LLC and to authorize the Auditor to sign pertinent documents on behalf of the Board.

On motion by Fedler, seconded by Seward, the Board voted to approve the settlement documents related to CVS Health Corporation and CVS Pharmacy, Inc., and to authorize the Auditor to sign pertinent documents on behalf of the Board.

On motion by Young, seconded by Seward, the Board voted to approve the settlement documents related to Walgreen Company and to authorize the Auditor to sign pertinent documents on behalf of the Board.

On motion by Seward, seconded by Fedler, the Board voted to approve the settlement documents related to Walmart Inc. and to authorize the Auditor to sign pertinent documents on behalf of the Board.

On motion by Seward, seconded by Young, the Board voted by way of roll call vote to approve Resolution 23-13 as follows and to authorize the Chairperson to sign Resolution 23-13 on behalf of the Board.

RESOLUTION 23-13

Authorizing Washington 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 2018, the County Board of Supervisors authorized Washington 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; and

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; and

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; and

WHEREAS, negotiations with the Settling Defendants have resulted in proposed nationwide settlements of state and local government claims involved in the Litigation; and

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"); and

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; and

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; and

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; and

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"); and

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"); and

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); and

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; and

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;" and

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; and

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; and

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; and

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

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; and

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 the Washington County Auditor 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.

On motion by Fedler, seconded by Young, the Board voted to acknowledge, and authorize the Chairperson to sign, a personnel change request from Secondary Roads for Equipment Operator Cody Mellinger whose final date of employment occurred March 31, 2023.

At 9:56 a.m. on motion by Young, seconded by Fedler, the Board voted to enter into closed session pursuant to Iowa Code 21.5(1)(j) to discuss the purchase or sale of particular real estate only where premature disclosure could be reasonably expected to increase the price the governmental body would have to pay for that property.

At 10:55 a.m. the Board returned to open session and on motion by Seward, seconded by Fedler, the Board voted to authorize the County to engage the law firm of Ahlers & Cooney, Des Moines, IA., to work with Washington County staff on land acquisition matters regarding the Dogwood Avenue construction project.

The Board took no action with regard to the approval of Addendum #1 to a proposed Right of Way Services Agreement with JCG Land Services, Inc.

There was no department head comment.

At 11:05 a.m. on motion by Young, seconded by Fedler, the Board voted to adjourn.

ATTEST:
March 28, 2023

ROBERT C. YODER
Chairperson, Board of Supervisors

DANIEL L. WIDMER
County Auditor