

Fourth Special Meeting
August 19, 2021

The Fourth Special Meeting of 2021 was held on August 19, 2021 and was called to order by the Deputy Chair at 10:00 A.M. with Legislators Roberts, Sauerbrey, and Sullivan being absent.

Deputy Chair Hollenbeck asked Legislator Monell to have a moment of prayer. "Lord, we thank you for everything you do for us. We pray that you would be with us at this time, as we do things pertaining to the business of the County. Bless us, as we conduct this business and keep us knowledgeable about what you would have us do."

Legislator Monell led all Legislators and those in attendance in the Pledge of Allegiance.

There were seven people in attendance.

Legislator Mullen motioned to bring the following resolution forward, seconded by Legislator Weston.

County Attorney DeWind spoke. "We talked about this briefly at our last meeting and there was some additional questions, which I tried to get some clarification. I emailed documents to all of you, however, our email is currently not working today and was not working for most of yesterday, so it is unclear whether these were received. There are really two things requiring authorization for signature and I tried to poll around the State to determine who is participating, who is not participating, and right now it looks good, but I cannot say we have universal buy-in with all the entities needed to obtain 100%.

"Essentially, Letitia James, Attorney General's Office, is looking to settle with the two main Plaintiffs with Johnson & Johnson and three of their affiliated companies. This would release their claims and we would be signing on or joining a settlement with the Attorney General's Office. One point is that this could be superseded by a global settlement that could come out of the Federal litigation in Ohio, which is the bigger nationwide case in multiple courts. The State agreement does have a clause that this could not move forward if a separate, larger agreement is signed nationwide and is contingent on the number of entities in New York State that sign on. There are three pots of money; the original agreement that we sign on to, the Attorney General's Office case with different plaintiffs, and the Johnson & Johnson companies. Then, there is separately an agreement about how that money is divided within New York State. That agreement is with New York and is 5.4% unrestricted and 5.4% restricted. There is also another pot of money that is cycled through the New York State Office of Substance Abuse Services. That office

is then going to distribute grants regionally, outside of the New York City area, so personally I am not holding my breath on how much we are going to receive from this. If we see some of this money come regionally, there is a good chance it is going to bypass us and go to larger areas and facilities in Broome, Chemung, or possibly Syracuse. We tend to sub off of the Broome services. The maximum potential value of \$315,403.91 is partly grants that will be cycled through a State agency, therefore, requiring us to apply for them and possibly not be awarded.

“If everyone signs on the State agreement, New York State would receive \$229,800,000 of which \$60,000,000 is unrestricted, \$60,000,000 restricted, and \$109,800,000 restricted through grants. The State agreement identifies how the restricted funds can be spent and requires annual certification that the funds were used appropriately. Going forward, funds have to be applied to future programs and cannot be used for back funding. This includes treatment of opioid disorders, legal system assistance for people who are addicted, strategies and trainings for first responders, etc. Ultimately, I think if we move forward with this and it comes to fruition in the State, the Legislature will want to meet with our Human Services Committees to determine how to set up programs to apply for the funds. My plan, if you want to proceed with this today, is to sign the agreements and delay sending for a couple of weeks. The attorneys are requesting submission to them by September 10, 2021 because there is a 75 and 90-day trigger period based on when this was first signed by New York State and some of the plaintiffs and we are still waiting for some of the plaintiffs to get resolutions authorized such as Nassau and Suffolk Counties. Otherwise, the Legislature could potentially work on this at a different level and bring it back at a subsequent meeting such as another special meeting at the September 9, 2021 worksession. This resolution is really just authorization for the Chair of the Legislature to sign a settlement agreement between Johnson & Johnson and New York State, as well as an agreement with all the municipalities who enter into this agreement in New York State as to how the funds will be divided.

“It is anticipated that there is going to be another settlement with three other entities that is expected in the next couple of weeks, so we are going to possibly repeat this process for these three distributors.

“Ultimately, if we do not get any of the money from New York State directly in pass through restricted funds, we will at least be looking at a total of \$120,000 of which half will be restricted and half will be unrestricted.

“If enough people sign on in a timely fashion, they are going to pay the first three years lump sum. If we do not meet that metric, then we will get an annual check over the ten-year time period. If we do meet the metric, then everyone will get their check in Year 1 and then we will not get additional funds until Year 4.”

Legislator Monell moved for the adoption of the following resolution, seconded by Legislator Mullen.

REFERRED TO: LEGAL/FINANCE
LEGISLATIVE WORKSESSION

RESOLUTION NO. 188-21 *AUTHORIZING AND APPROVING A SETTLEMENT AGREEMENT WITH JOHNSON AND JOHNSON, JANSSEN PHARMACEUTICALS, INC., ORTHO-MCNEIL-JANSSEN PHARMACEUTICALS, INC. AND JANSSEN PHARMACEUTICA, INC. CONCERNING CLAIMS RELATED TO THE OPIOID CRISIS*

WHEREAS: Tioga County has joined in a legal action seeking compensation from those who are responsible for causing and perpetuating the opioid addiction crisis (the "Action"); and

WHEREAS: The Action is against several defendants, including manufacturers of opioids, distributors of opioids and chain pharmacies; and

WHEREAS: The Action alleges several causes of action against defendants Johnson & Johnson, Janssen Pharmaceuticals, Inc., Ortho-McNeil-Janssen Pharmaceuticals, Inc. and Janssen Pharmaceutica, Inc. ("J & J") based on claims that J & J contributed to the opioid epidemic by falsely promoting prescription opioids it manufactured and sold and by falsely promoting the increased use of opioids directly and generally through various "front groups" and failing to implement measures to prevent diversion of prescription opioids in connection with distribution of its products, all of which contributed to a public health crisis in New York; and

WHEREAS: J & J has offered to settle the claims against it by paying a sum to be used for restitution and abatement and agreeing to not manufacture, sell or promote opioids; and

WHEREAS: The final amount to be received by Tioga County will have a potential maximum value of \$315,403.91; and

WHEREAS: It is in the best interest of Tioga County to resolve this matter with respect to J & J without further litigation and enter into an agreement to settle all allegations against J & J and avoid protracted litigation; therefore be it

RESOLVED: That Tioga County is authorized to settle its claim with J & J and Tioga County Chair of the Legislature Martha Sauerbrey is authorized to execute such forms and agreements, as approved by the County Attorney, to compromise the claim of the Defendants J & J and distribute the proceeds between the participating Plaintiffs.

ROLL CALL VOTE

Yes – Legislators Monell, Mullen, Standinger, Weston, Balliet, and Hollenbeck.

No – None.

Absent – Legislators Roberts, Sauerbrey, and Sullivan.

RESOLUTION ADOPTED.

The meeting was adjourned at 10:12 A.M.