

Capitola City Council

Agenda Report



Meeting: February 24, 2022
From: City Manager Department
Subject: Allocation of Opioid Settlement Funding

Recommended Action: Authorize the allocation of the City of Capitola's portion of opioid settlement funding to the County of Santa Cruz for FY 2022/23, and authorize the City Manager to enter into an Agreement with the County of Santa Cruz to establish a process for City participation in defining priorities for the use of settlement funds in the region.

Background: States and cities across the United States brought litigation against the three largest pharmaceutical distributors of opioid painkillers, Amerisource Bergen, Cardinal Health, and McKesson (the "Distributors"), and the opioid painkiller manufacturer, Janssen (owned by Johnson & Johnson) ("Janssen"), which has resulted in two proposed settlements totaling approximately \$26 billion dollars.

Capitola has opted into the settlements, thereby releasing its claims against the Distributors and Janssen, in order to receive up to approximately \$18,000 per year for eighteen years.

Funds must be spent on activities to abate the impacts of the opioid crisis, such as providing matching funds for operating costs for substance use disorder (SUD) facilities, creating new or expanded SUD treatment infrastructure, addressing the needs of communities of color and vulnerable populations that are disproportionately impacted by SUD, preventing addiction in vulnerable youth, and dispensing Narcan.

The City can either allow the funds to be used by the County of Santa Cruz or elect to use the funds itself subject to reporting requirements to the state.

Discussion: The proposed settlement totaling approximately \$26 billion dollars is broken into two separate settlement agreements: (1) the Distributors Deal (Attachment 1); and (2) the Janssen Deal (Attachment 2.) The Distributors will pay approximately \$21 billion over 18 years and Janssen will pay approximately \$5 billion over 7 years.

California will receive up to approximately \$2.263 billion. The definite recoverable amount is still unknown but will be based how many of the 431 eligible entities in the State participate in the settlement.

California will distribute these funds pursuant to allocation agreements included in both the settlements. The funds to individual counties are allocated based on opioid deaths per capita, incidence of opioid use disorder, and opioid dosage. The funds to cities within a particular county are allocated based on historical spending of cities on various services, such as police protection, fire protection, health services, correction services, housing and community development, judicial services, and legal services.

California counties and cities have been allocated approximately \$1,924,335,062, which is 85% of the total amount allocated to California. The City of Capitola has been allocated up to \$323,656. This total amount will be disbursed over 18 years, an average of approximately \$18,000 per year.

The default distribution of funds in the settlement agreements provides that the funds will go directly to the county in which a city is located, however a city can elect to have its funds delivered directly to the city.

To better understand options for the use of the settlement funding, staff met with representatives from Santa Cruz County Behavioral Health. Given the structure of the settlement agreements, the majority of the funding in the agreements will be allocated to the County, and Behavioral Health staff emphasized the value of pooling the funding to best address substance abuse issues regionally.

The County also proposed that cities that allocate their portion of the settlement funding to the County could enter an Agreement that called for stakeholder input about funding priorities. Under the agreement the City would participate in the stakeholder process to establish priorities and allocation of settlement funds. Under the proposed Agreement, City may elect to directly receive settlement funding in future years, provided City staff first meets with the County to discuss any concerns about the process or use of the Settlement Funds.

Further, County staff discussed how utilizing their structure could allow more of the funding to be matched with Federal Medicare dollars.

Given the amount of money the City of Capitola is eligible to receive, the proposed Agreement with the County, Behavioral Health staff expertise in substance-use disorder services, and the onerous reporting requirements associated with directly receiving the funding, staff recommends the City's portion of the settlement funding be directed to the County to provide enhanced services regionally, including within the City of Capitola.

Fiscal Impact: The Settlements allocate up to \$323,656 to the City, disbursed over 18 years resulting in an average of approximately \$18,000 per year. This level of funding is unlikely to offset costs associated with establishing Capitola-specific programs to address impacts of the opioid crisis. The recommended action will have no direct fiscal impact other than a limited amount of staff time to participate in the Countywide Stakeholder group described in the Agreement.

Attachments:

1. Agreement Among the County of Santa Cruz and the Cities of Santa Cruz, Scotts Valley, Capitola and Watsonville for the Use of Opioid Settlement Funds

Report Prepared/Approved By: Jamie Goldstein, City Manager

Report Reviewed By: Samantha Zutler, City Attorney