



Date: June 25, 2024

Honorable Mayor and Council Members:

Author and title: Andy Morris, Town Attorney

Title: Consideration of New Opioid Settlement with Kroger

Jen Callaway, Town Manager

Recommended Action: That Council approve the Town's participation in an opioid settlement agreement with Kroger, and authorize the Town Manager to execute agreements confirming the Town's participation and directing that the Town's share of settlement funds be disbursed to Nevada County.

Discussion: Over the last several years, a number of nationwide class action lawsuits have been filed against manufacturers, distributors, and retailers of opioids. The allegations in the class actions have generally been that the defendants were complicit in the increasing problem of opioid addiction in the United States, and that they knew or should have known that the products they made or sold were being misused.

In 2022, the Town joined two settlement agreements with a collection of opioid distributors and with Johnson & Johnson and its parent company. The settlements used complex formulas to determine how much money each participating jurisdiction would receive, which took into account population as well as the known incidence of opioid addiction in a jurisdiction. Those formulas yielded very small allocations of settlement funds to the Town – just under \$1,600 in the distributor case and around \$1,400 in the Johnson & Johnson case. There were strict and complex limitations on how the funds could be used, with extensive record-keeping requirements. The Town opted to have its share sent to the County, which was an allowable option and which the County welcomed.

In 2023 the Town entered into an additional five opioid settlement agreements: with opioid manufacturers Allergan and Teva, and opioid retailers CVS, Walgreens and Walmart. The allocation formulas for these five appear identical to the formulas used in the previous two settlements. The Town's share of the settlements was small enough that it was most efficient to have the Town's share distributed to Nevada County again.

There is now yet another settlement, involving the Kroger grocery and drugstore chain. The California Attorney General has approved the settlement on behalf of the State of California, and Kroger has agreed to the settlement. Participating in the settlement will require the Town to release all actual or potential claims it might have against Kroger. However, it would be impractical for the Town to pursue its own litigation against Kroger, so the Town is releasing claims it is unlikely to pursue otherwise.

Priority:

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Enhanced Communication

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Climate and Greenhouse Gas Reduction

Emergency and Wildfire Preparedness

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Housing

Core Service

Fiscal Impact: The precise amount that the Town will receive from this settlement is currently unknown, and will depend on how many jurisdictions ultimately participate in the settlement. I estimate that the value to the Town of the settlement is likely to be less than \$5,000.

Public Communication: Publication of the agenda and this staff report.

Attachments: Package of settlement agreement documents.