

THE GENEVA CITY COUNCIL

JOURNAL OF PROCEEDINGS

SPECIAL COUNCIL MEETING

NOVEMBER 15, 2021 – 6:00 PM

This meeting took place via videoconference, and was shown

and on the City of Geneva's YouTube Channel:
[YouTube.com/cityofgenevany](https://www.youtube.com/cityofgenevany)

Presiding – William Pealer, Deputy Mayor

1. ROLL CALL

Present: Clr. Regan, Clr. Camera, Clr. Gaglianese, Clr. Noone, Clr. Burrall, Clr. Pruett, and
Clr. Salamendra

Excused: Mayor Valentino

2. RESOLUTION APPROVING AN OPIOID SETTLEMENT AGAINST JANSSEN PHARMACEUTICAL (JOHNSON AND JOHNSON), CARDINAL HEALTH, INC., AMERISOURCE BERGAIN DRUG CORPORATION, AND MCKESSON CORPORATION AS PRESENTED BY LITIGATION COUNCIL

WHEREAS, the City of Geneva has participated as a litigating subdivision municipality in the opioid litigation currently pending against the named defendants in the In Re National Opioid Litigation, and

WHEREAS, the Cherundolo Law Firm, PLLC, and Brindisi, Murad, Brindisi & Pearlman, LLP, together referred to herein as "Litigation Counsel", represent the City in connection with actions pending against the opioid manufacturers, distributors, sellers, and retailers of opioids, and

WHEREAS, an agreement of settlement has been proposed on behalf of the defendants, Jansen Pharmaceutical (Johnson and Johnson), referred to herein as "J & J", and Distributor Defendants, Cardinal Health, Inc., Amerisource Bergen Drug Corporation, and McKesson Corporation, in accord with the terms and circumstances as laid out by Litigation Counsel, and

WHEREAS, City Manager Sage Gerling and John C. Cherundolo, Esq., of the Cherundolo Law Firm, PLLC, having presented the complete settlement proposal submitted by settling Defendants to the City Council on or about the 15th day of November, 2021, and

WHEREAS, as part of the resolution of the actions against the settling Defendants, Litigation Counsel has agreed to waive any claim of legal fees as set forth in the retainer agreement entered into by and between Counsel and the City of Geneva upon the agreement with the State of New York that Litigation Counsel will receive 15% of the settlement amount from the State of New York,

WHEREAS, the settlement against J & J and the Distributor Defendants calls for payments to be made to the City of Geneva, as set forth in the schedule below, with the Distributor Defendants share being paid over the course of 18 years, and the J & J Settlement being paid over the course of 10 years, upon application of the City to the Opioid Settlement Fund For Regional Spending on Approved Uses, an amount totaling \$116,445.10, at Full Bonus Payment as defined by the National MDL Settlement Agreement:

Proposed Minimum Regional Spend City of Geneva

		Payment 1	Payment 2	Payment 3	Payment 4	Payment 5	Payment 6	Payment 7
Distributors Schedule (Payments over 18 years)		\$4,044.81	\$4,250.89	\$4,250.89	\$5,320.60	\$5,320.60	\$5,320.60	\$5,320.60
Payment 8	Payment 9	Payment 10	Payment 11	Payment 12	Payment 13	Payment 14	Payment 15	Payment 16
\$6,257.66	\$6,257.66	\$6,257.66	\$5,260.20	\$5,260.20	\$5,260.20	\$5,260.20	\$5,260.20	\$5,260.20
Payment 17	Payment 18	Total:						
\$5,260.20	\$5,260.20	\$94,683.55						

		Payment 1	Payment 2	Payment 3	Payment 4	Payment 5	Payment 6	Payment 7
J&J Schedule (Payments over 10 years)		\$4,514.99	\$2,835.28	\$4,202.99	\$4,673.03	\$799.85	\$812.73	\$812.73
Payment 8	Payment 9	Payment 10	Total:					
\$1,036.58	\$1,036.58	\$1,036.58	\$21,761.35					

Summary Calculations	National Class Allocation	Adjust to Schedule B Cities (%)
	0.000449896	0.057753928
J&J - full bonus	Dist - full bonus	Total Max Bonus
\$21,761.35	\$94,683.55	\$116,445.10

WHEREAS, Litigation Counsel has negotiated with, and has reached a tentative resolution with the State of New York for a New York State Opioid Sharing Agreement concerning the settlement of claims against J & J and the Distributor Defendants, and

WHEREAS, releases and other documents are required to be executed and delivered to The State of New York Attorney General's Office and the settling Defendants on or before November 17, 2021 to effectuate the aforesaid settlement,

NOW, THEREFORE, this matter being fully discussed and agreed upon by the City of Geneva Council, it is hereby

RESOLVED that the City of Geneva agrees to resolve and otherwise accept the settlement proposal presented by Litigation Counsel with regard to the opioid settlement with the defendants named above and the same be and hereby is, approved, and it is further

RESOLVED that Sage Gerling, City Manager for the City of Geneva; Midey, Mirras & Ricci, LLP, City Attorney for the City of Geneva; and John C. Cherundolo, Esq. litigation co-counsel for the City of Geneva in the Opioid Litigation, be, and the same hereby are, duly authorized and empowered to enter into any settlement agreements to effectuate the aforesaid settlements, and to enter into the New York State Opioid Sharing

Agreement, and to otherwise execute and deliver such releases, waivers, agreements, or other documents to effectuate the aforesaid settlement as presented, and deliver such agreements and other documents as may be necessary to have the settlement effectuated with full bonus on or before November 16, 2021.

City Manager Gerling told council that this resolution is in regards to the opioid litigation with Johnson and Johnson and a group of distributors who have a settlement to pay the city over 10 and 18 years a total of \$116,000. This resolution says that council agrees to the settlement and authorizes the city manager to sign.

When Clr. Burrall asked about the bonus amounts, Attorney John Cherundolo told everyone that the amounts shown include the bonus. Mr. Cherundolo went on to say that this is the product of litigation with these companies agreeing to a settlement. He said that everyone in the state will have agreed to this settlement by tomorrow. He said that last year the legislature passed a law saying that anyone who had not filed cannot have rights under a state settlement. His firm brought suit for the City of Geneva and these amounts are guaranteed to be paid. He said that the settlement can be used for abatement purposes, training, Narcan, police cars, ambulances, and whatever else is needed. He said that their attorney fees of 15% are being paid by the state. Mr. Cherundolo said that there is another lawsuit in Federal Court, and Geneva is a party to that.

When Clr. Camera asked about additional settlements, Mr. Cherundolo said that there are seven other cases pending, and he noted the city can also make an application to the state to get extra money that we may need, and his firm would help the city apply for this money. He stated again that this resolution includes guaranteed money. When Clr. Pealer asked about a lump sum payment, Mr. Cherundolo said that can't be done. He said that the state has instructions on how to make an application to the state to receive the money.

Clr. Pruett thanked Mr. Cherundolo and Ms. Mendoza for their kind representation.

ACTION TAKEN by Clr. Pruett; seconded by Clr. Camera
MOVED THAT this resolution be approved
MOTION CARRIED UNANIMOUSLY (8-1absent)

3. ADJOURNMENT

ACTION TAKEN by Clr. Gaglianese; seconded by Clr. Pruett
MOVED THAT the meeting be adjourned at 6:26pm
MOTION CARRIED UNANIMOUSLY

Lori Guinan

City Clerk