

ALPENA TOWNSHIP – BOARD OF TRUSTEES  
SPECIAL SESSION – February 28, 2018 – 8:00 a.m.  
MINUTES

The Alpena Township Board of Trustees met in Special Session on Wednesday, February 28, 2018 at 8:00 a.m. at the 26<sup>th</sup> Judicial Circuit Court, 720 West Chisholm, Suite 1, Alpena, Michigan.

Present: Supervisor Nathan Skibbe  
Clerk Karie K. Bleau  
Treasurer Laura L. Ellery-Somers  
Trustee Cash Kroll  
Trustee Norm Poli

Absent: Trustee Matt Dunckel  
Trustee Nate Thomson

Others present: Attorneys William Fahey, James Florip, John Brennan, Chris Patterson, and Andrew Burnham, Stantec Rate Expert

Purpose of the meeting: To discuss confidential attorney client privileged information as it pertains to the ongoing water litigation between the City of Alpena and the Township of Alpena.

**PUBLIC COMMENT:** None

**CLOSED SESSION:**

A motion was made by Trustee Kroll and supported by Treasurer Ellery-Somers to move into closed session to discuss trial and/or settlement strategy and attorney client privileged information. Roll call vote was taken. Ayes: Clerk Bleau, Treasurer Ellery-Somers, Trustee Kroll, Trustee Poli, Supervisor Skibbe. Nays: none. Absent: Trustee Dunckel, Trustee Thomson. Motion carried.

**OPEN SESSION:**

A motion was made by Trustee Kroll and supported by Trustee Poli to move into open session to allow the Board to attend and observe the ongoing City of Alpena vs. Alpena Township trial. Roll call vote was taken. Ayes: Trustee Poli, Clerk Bleau, Treasurer Ellery-Somers, Trustee Kroll, Supervisor Skibbe. Nays: none. Absent: Trustee Dunckel, Trustee Thomson.

Reconvened at 11:37 a.m.

**CLOSED SESSION:**

A motion was made by Trustee Poli and supported by Trustee Ellery-Somers to move into closed session to discuss trial and/or settlement strategy and attorney client privileged information. Roll call vote was taken. Ayes: Clerk Bleau, Treasurer Ellery-Somers, Trustee Kroll, Trustee Poli, Supervisor Skibbe. Nays: none. Absent: Trustee Dunckel, Trustee Thomson. Motion carried.

**OPEN SESSION:**

A motion was made by Trustee Kroll and supported by Trustee Poli to move into open session to allow the Board to attend and observe the ongoing City of Alpena vs. Alpena Township trial. Roll call vote was taken. Ayes: Treasurer Ellery-Somers, Trustee Kroll, Trustee Poli, Clerk Bleau, Supervisor Skibbe. Nays: none. Absent: Trustee Dunckel, Trustee Thomson.

Recessed at 12:20 p.m.

Reconvened at 8:00 a.m. on March 1, 2018.

**PUBLIC COMMENT:** None

**CLOSED SESSION:**

A motion was made by Trustee Poli and supported by Trustee Kroll to move into closed session to discuss trial and/or settlement strategy and attorney client privileged information. Roll call vote was taken. Ayes: Trustee Kroll, Trustee Poli, Clerk Bleau, Treasurer Ellery-Somers, Supervisor Skibbe. Nays: none. Absent: Trustee Dunckel, Trustee Thomson. Motion carried.

**OPEN SESSION:**

A motion was made by Trustee Kroll and supported by Trustee Poli to move into open session to allow the Board to attend and observe the ongoing City of Alpena vs. Alpena Township trial. Roll call vote was taken. Ayes: Treasurer Ellery-Somers, Trustee Kroll, Trustee Poli, Clerk Bleau, Supervisor Skibbe. Nays: none. Absent: Trustee Dunckel, Trustee Thomson.

A motion was made by Trustee Kroll and supported by Trustee Poli that based upon the joint recommendation of the City's rate expert and the Townships rate expert, the Township Board agrees to settle the pending lawsuit based upon the following general terms:

1. The rates for the Township would be established based upon the utility basis of rate making.
2. The rates would be subject to annual reconciliations of actual and audited financial results and volumes.
3. The rates would be established using an 8% rate of return.
4. Water treatment expenses will be allocated based upon current billed volumes, inclusive of and/or adjusted to account for water losses.
5. Shared water distribution expenses will be allocated based upon volumes inclusive of water losses, with the shared system being defined as 61% of the City's system with that percentage remaining fixed for a term of 10 years. After 10 years the parties will use a specific process to be determined as part of the settlement for allocating the percentage of the City's system that is common.
6. Shared sewer collection expenses will be allocated based upon billed (for O&M expenses) or total volumes (for Capital expenses), excluding measured volumes through the Township's State Street forced main, with the shared system being defined as 23% of the City's system with that percentage remaining fixed for a term of 10 years. Subject to review as per above.
7. Sewer treatment expenses will be allocated based upon billed volume (for O&M expenses and approximately 25% of Capital expenses) and total volumes (for approximately 75% Capital expenses), per information provided by William Stannard, Rate Expert for the City of Alpena and Andrew Burnham, Rate Expert for the Township of Alpena.

8. The escrow account will be distributed by applying the agreed settlement formula to the period beginning with May 2014, any funds due and owing to the City of Alpena following this application will be paid and will include judgement interest pursuant to statute.
9. A formal written agreement will be prepared by counsel for the City and Township and presented to the Board for final approval consistent with above.

Recessed at 9:02 a.m.

Reconvened at 10:52 a.m.

**CLOSED SESSION - Joint with City of Alpena Council:**

A motion was made by Trustee Kroll and supported by Trustee Poli to move into closed session to discuss trial and/or settlement strategy and attorney client privileged information. Roll call vote was taken. Ayes: Trustee Poli, Clerk Bleau, Trustee Kroll, Treasurer Ellery-Somers, Supervisor Skibbe. Nays: none. Absent: Trustee Dunckel, Trustee Thomson. Motion carried.

**OPEN SESSION:**

A motion was made by Treasurer Laura Ellery-Somers and supported by Trustee Kroll to move into open session to allow the Board to attend and observe the ongoing City of Alpena vs. Alpena Township trial. Roll call vote was taken. Ayes: Treasurer Ellery-Somers, Trustee Kroll, Trustee Poli, Clerk Bleau, Supervisor Skibbe. Nays: none. Absent: Trustee Dunckel, Trustee Thomson.

Recessed at 2:50 p.m.

Reconvened at 3:00 p.m. on March 2, 2018.

**CLOSED SESSION:**

A motion was made by Trustee Poli and supported by Trustee Kroll to move into closed session to discuss trial and/or settlement strategy and attorney client privileged information. Roll call vote was taken. Ayes: Trustee Poli, Clerk Bleau, Trustee Kroll, Treasurer Ellery-Somers, Supervisor Skibbe. Nays: none. Absent: Trustee Dunckel, Trustee Thomson. Motion carried

\*\*Trustee Thomson arrived at 3:11 p.m.

\*\*Trustee Kroll departed at 3:37 p.m.

**OPEN SESSION:**

A motion was made by Treasurer Ellery-Somers and supported by Trustee Poli to move into open session. Roll call vote was taken. Ayes: Trustee Thomson, Clerk Bleau, Treasurer Ellery-Somers, Trustee Poli, Supervisor Skibbe. Nays: none. Absent: Trustee Dunckel, Trustee Kroll.

A motion was made by Trustee Poli and supported by Trustee Thomson to adjourn the meeting. Meeting adjourned at 4:24 p.m.

Respectfully submitted:

Karie K. Bleau  
Alpena Township Clerk