

**ALPENA TOWNSHIP**

**RESOLUTION IMPLEMENTING AND APPEALING JUDGMENT, IN PART**

At a duly-scheduled meeting of the Township Board of Alpena Township, Alpena County, Michigan, held in the Alpena Township Hall on September 24, 2018, at 6 p.m.

PRESENT: Supervisor Skibbe, Treasurer Ellery-Somers, Clerk Palevich, Trustee Poli, Trustee Kroll, Trustee Dunkel

ABSENT: None

The following resolution was offered by Dunkel and seconded by Poli.

WHEREAS, in 2014, the City of Alpena, provider of water and sewer services to the Township, set new water and sewer rates for the Township that were unlawful and in violation of the City-Township 1977 Agreement for water and sewer service; and

WHEREAS, the City's unlawful rates resulted in provisional rate increases that Township water and sewer customers were required to pay and litigation regarding the City's rates in the Circuit Court of Alpena County before Honorable Michael Mack (Case No. 14-006077); and

WHEREAS, on March 1, 2018, the City and Township reached a settlement agreement in the litigation, which provided a rate methodology for the years back to 2014, as well as into the future; and

WHEREAS, after agreeing to the settlement, the City almost immediately began to repudiate its terms; and

WHEREAS, on September 19, 2018, the Circuit Court entered a Final Judgment that enforced the settlement agreement for fiscal years 2014-2018, reducing the City's rates to the Township for those years by \$2.2 million as agreed by the parties, but failed to enforce the settlement agreement going forward after June 30, 2018 and failed to enforce the settlement agreement in certain other respects; and

WHEREAS, the Court's Final Judgment released an escrow account holding the provisional rate revenues paid by Township water and sewer customers since 2014; and

WHEREAS, the Township Board desires to: (1) refund the excess amount of provisional rates in the escrow account to the Township water and sewer customers, (2) rescind the provisional rates and establish new rates based on the Township's current costs to serve the Township water and sewer customers, and (3) appeal the Circuit Court's Final Judgment to the Michigan Court of Appeals, in order to enforce the balance of the settlement agreement.

**NOW, THEREFORE, BE IT RESOLVED:**

1. The Township Board directs the Township Clerk and Treasurer to pay the amounts due under the Court's Final Judgment, in consultation with the Township attorneys, and close the joint escrow account in cooperation with City officials.

2. The Township Board directs the Township Clerk and Treasurer to work in consultation with the Township's rate experts to establish appropriate refund processes and policies to disburse the excess escrow funds to Township water and sewer customers, which processes and policies will be approved by the Township Board before any refunds are implemented.


3. Pursuant to Alpena Township Ordinance No. 111, the Township Board will, in consultation with its rate experts, adopt new water and sewer rates for Township customers that reflect the Township's costs to serve its customers, and upon the adoption of those new rates will rescind the provisional water and sewer rates caused by the City's 2014 rates.

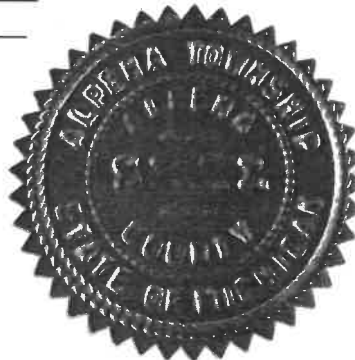
4. The Township Board directs Township legal counsel to pursue an appeal of the Circuit Court's Final Judgment, to enforce those portions of the settlement agreement that the Circuit Court failed to enforce.

5. All prior resolutions and parts of prior resolutions insofar as they conflict with the provisions of this resolution are hereby rescinded.

YEAS: Skibbe, Ellery-Somers, Palevich, Poli, Dunckel, Kroll  
NAYS: None  
ABSENT: None

RESOLUTION DECLARED ADOPTED.

  
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Nathan Skibbe, Township Supervisor



**CERTIFICATION**

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the Township Board of the Alpena Township, Alpena County, at a meeting duly held on September 24, 2018, and conducted pursuant to and in full compliance with the Open Meeting Act, 1976 PA 267.

Dated: 09/24/18

  
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Michele Palevich, Township Clerk