

**OFFICIAL PROCEEDINGS
OF THE
ALPENA COUNTY ROAD COMMISSION**

June 16, 2015

The Board of County Road Commissioners of the County of Alpena met in regular session on the above date. The meeting was called to order by the Chairman, Darrel A. Spragg, at 3:00 p.m.

ROLL CALL

Present: Commissioners Tom Heise, Darrel Spragg and Fred Sterns.
Absent: None.

Staff present: Larry Orcutt, Managing Director; Curt Gonyea, Superintendent; Julia Patterson, Finance Director; Jim Mazrum, Road Commission Attorney; and Susan Crowell, Board Secretary.

Others present: Gerald Leschinger, Ossineke Township; Marie Twite, Alpena Township.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

AGENDA

Moved by Sterns, seconded by Heise, to adopt the agenda as presented. Motion carried unanimously.

MINUTES

Moved by Sterns, seconded by Heise, to approve the minutes of the regular meeting of June 2, 2015. Motion carried unanimously.

COMMUNICATIONS

- A. Gayle A. Pratt, MCRCSIP Administrator, and James L. deSpelder, CRASIF Administrator, letter dated June 4, 2015, regarding the County Road Association Self-Insurance Fund and Michigan County Road Commission Self-Insurance Pool annual membership meetings on July 22 and 23 in Mt. Pleasant.
- B. Alex Nikoloff, Grant Coordinator, MDOT Office of Economic Development, e-mail dated May 29, 2015, sending notice of MDOT's Conditional Commitment to the Transportation Alternatives Program Project to the Bagley Street Bridge Rehabilitation. The grant will provide approximately \$850,000 toward the non-motorized portion of the bridge improvements.

Moved by Sterns, seconded by Heise, that the above communications become part of the minutes. Motion carried unanimously.

CITIZENS APPEARING BEFORE THE BOARD

Marie Twite, Supervisor, Alpena Township, came before the Board to request a permit to clear the trees in the road right-of-way of the east 0.8 miles of Monaghan Point Road. The township has contacted a private contractor who provided an estimate to perform the work for approximately \$12,000 with the condition that the contractor can dispose of the tree stumps in the nearby Road Commission-owned pit. The township is requesting a 50 percent match from the Road Commission for the work. The segment of Monaghan Point Road to be worked on is narrow and difficult for emergency vehicles to pass through without being damaged. The township is requesting tree and stump removal with no gravel placement.

Commissioner Tom Heise asked whether a civil engineer had reviewed the plans for the proposed road improvements and expressed concern with potential liability issues. Mrs. Twite responded that the township's plans had not been reviewed but they are hiring a contractor who builds roads for private industry.

Attorney Jim Mazrum remarked that the Road Commission will be responsible for any liability as they are charged with keeping the roads reasonably safe for public travel.

Chairman Darrel Spragg asked whether the Road Commission has to award a contract to the contractor or if the township can contract with the contractor for the work. He also asked if the project would need to be advertised for bids. The matter was referred to Road Commission Attorney Jim Mazrum for further research and review.

MANAGING DIRECTOR REPORT

Managing Director Larry Orcutt presented a brief update on the following:

- The contractor is placing the top course of asphalt on Nicholson Hill Road, from Bushey Road to Spruce Road. Anticipate completion of the project next week.
- Slope restoration work remains to be completed on Wayne Road.
- Project design is near completion for resurfacing of Scott Road from Lytle Road west 1.5 miles. Intent is to bid the project for completion this fall.
- The Alpena County Road Commission has been selected by MDOT for a Bridge Safety Inspection Quality Assurance/Quality Control Review of our bridge inspection records which will take place July 1.

COUNTY ROAD REPORT

The Superintendent presented the County Road Report for the period May 26, 2015, through June 14, 2015.

MAY FINANCIAL REPORT

The Finance Director presented the Cash/Cash Equivalents Financial Report for the month ended May 31, 2015.

BUDGET STATUS REPORT

The Finance Director presented the Budget Status Report through May 31, 2015.

Moved by Sterns, seconded by Heise, that all reports become a part of the minutes. Motion carried unanimously.

COMMISSIONERS' COMMENTS

Commissioner Heise inquired as to who performs the follow-up to inspect the work and signs off when a road project is completed.

Managing Director Larry Orcutt responded that, depending upon the scope of the project, either an engineering consultant or the Road Commission Engineering Technician performs inspection during construction.

Commissioner Heise inquired about the standard depth of pavement.

Managing Director Larry Orcutt noted that there are guidelines for the HMA application rate and it is part of the project design. The typical HMA application rate for Local road projects is 250 pounds per square yard. Based on subsoil conditions and anticipated traffic, the asphalt application for most rural Primary roads is 3 inches in depth.

PURCHASES

Moved by Sterns, seconded by Heise, to approve the following purchases:

<u>Item</u>	<u>PO/Inv.</u>	<u>Date</u>	<u>Description</u>	<u>Amount</u>
1	46783	06/01/15	Alpena Diesel Service, rebrake rear tandems on Truck No. 87.	\$ 1,183.14
2	PO21748	06/03/15	Alpena Oil Company, 2,702 gals. no-lead gas @ \$2.159/gal.	\$ 5,833.62
3	1740	06/11/15	Northern Energy, 225 gals. 15W40 @ \$6.25/gal.	\$ 1,406.25
4	495962	06/01/15	Oscar W. Larson Co., new fuel control card system and new dispensers.	\$87,689.00
5	D8813	06/02/15	Truck & Trailer Specialties, (2) low oil shutdown blocks for Truck No. 91 and inventory.	\$ 711.94
Total Purchases:				<u>\$96,823.95</u>

Motion carried unanimously.

CONTRACT PAYMENTS

Moved by Sterns, seconded by Heise, to approve the following contract payments:

<u>Item</u>	<u>PO/Inv.</u>	<u>Date</u>	<u>Description</u>	<u>Amount</u>
1	964	06/02/15	Huron Engineering & Surveying, Inc., construction engineering services for Wayne Road resurfacing project.	\$ 6,935.00
2	965	06/02/15	Huron Engineering & Surveying, Inc., Construction engineering services for Nicholson Hill Road resurfacing project.	\$ 5,360.00
3	Est. 3	06/16/15	MacArthur Construction, Construction Pay Estimate for Wayne Road resurfacing.	\$174,122.06
Total Contract Payments:				<u>\$186,417.06</u>

Motion carried unanimously.

**ALPENA RESOURCE RECOVERY FACILITY
DUST CONTROL**

Moved by Sterns, seconded by Heise, to enter into an agreement with Northeast Michigan Council of Governments (NEMCOG) to apply dust control to the Alpena Resource Recovery Facility access road at 4395 M-32 West at a cost of \$200.00 to be paid by NEMCOG. Motion carried unanimously.

**CROWN CASTLE
TOWER SITE LEASE**

Managing Director Larry Orcutt presented a revised tower site lease proposed by Crown Castle, the current tower owner at the Road Commission's Bagley Street location. The current tower lease expires in year 2025. The revised lease proposed by Crown Castle includes extending the lease to 2049, allowing Crown Castle to sublease to additional tenants without Road Commission approval, additional revenue sharing to the Road Commission from additional tenants, and reduces the size of the leased property.

Moved by Sterns, seconded by Heise, to approve the revised lease with Crown Castle for the tower site with the following modifications:

1. The lease will be extended by adding two (2) five-year renewal terms.
2. The right to sublease or license use of all or any portion of the property with consent and approval of Lessor.
3. Lessee agrees to pay to lessor \$500.00 per month, plus fifteen percent (15%) of the rental, license or similar payments actually received by Lessee from such Future Subtenant (excluding any reimbursement of taxes, construction costs, installation costs, revenue share reimbursement or other expenses incurred by Lessee) (the "Additional Rent") within thirty (30) days after receipt of said payments by Lessee.

Motion carried unanimously.

ROAD AGREEMENT

Moved by Sterns, seconded by Heise, to approve the following Road Agreement with Wellington Township for dust control:

	Township <u>Match</u>	ACRC <u>Match</u>	Total <u>Estimate</u>
<u>WELLINGTON TOWNSHIP:</u>			
2015 Local Road Dust Control Program:	\$3,300	- 0 -	\$ 3,300
Brine			
TOTAL WELLINGTON TOWNSHIP:	<u>\$3,300</u>	<u>- 0 -</u>	<u>\$ 3,300</u>

Motion carried unanimously.

MDOT ENGINEERING REIMBURSEMENT

Moved by Sterns, seconded by Heise, to request reimbursement from the Michigan Department of Transportation in the amount of \$10,000.00 for payments made during the period of July 1, 2014 through June 30, 2015 to licensed professional engineers employed or retained by this Commission, in accordance with Sec. 12(2) of Act 51, as amended. Motion carried unanimously.

FREEDOM OF INFORMATION ACT POLICY

Moved by Sterns, seconded by Heise, to adopt the following Freedom of Information Act Policy:

ALPENA COUNTY ROAD COMMISSION
FREEDOM OF INFORMATION ACT POLICY

Alpena County Road Commission (ACRC) documents and records are available to the public for inspection and/or copying in accordance with the Freedom of Information Act (FOIA) upon receipt of a written request, which specifically describes the exact public record(s) desired, unless exempted from disclosure by Section 13 of the Act or other law. Compliance with FOIA does not require that ACRC create new public records, nor make a compilation, summary, or other reports of information in order to satisfy a request.

All FOIA requests must be made in writing. Requests made by facsimile copy or electronic mail are acceptable. A FOIA request received by facsimile copy, electronic mail, or by other electronic means, is deemed received the first business day following its transmission. Written requests will be forwarded to the FOIA Coordinator for response.

The Administrative Assistant is the designated FOIA Coordinator. In his/her absence, the Managing Director, or his/her designee, shall act as the FOIA Coordinator. The FOIA Coordinator has the authority to issue notices extending response time, or to deny requests, in whole or part, on behalf of ACRC.

Legal Counsel should review all denials and non-routine requests prior to response. The FOIA Coordinator will keep a copy of all written requests for public records and all responses on file for not less than one year from the date of the response.

The FOIA Coordinator will respond in writing to a FOIA request within five (5) business days of receipt, utilizing the Notice of Freedom of Information Act Request Form, with one of the following actions:

1. Grant the request;
2. Deny the request;
3. Grant the request in part and deny the request in part;
4. Issue a notice extending for not more than ten (10) business days the period during which ACRC will respond to the request. The notice will include the date by which ACRC will respond to the request.

In the event of a denial of a FOIA request, in whole or in part, the Notice of FOIA Response Form will contain: an explanation of the basis under the Act or other statute that the public record, or portion of public record, is exempt from disclosure, if that is the reason for denying the request; certification that the record does not exist under the name provided by the requester or under another name reasonably known to ACRC, if that is the reason for denying the request; a description of a public record or information in a public record that is separated or deleted pursuant to Section 14 of the Act, if a separation or deletion is made; and a full explanation of the requesting party's right to appeal or request judicial review of the denial and to receive attorney's fees and damages in appropriate cases.

In the event of an appeal, the Alpena County Board of Road Commissioners will serve as the governing body responsible for hearing the appeal. Appeals should be submitted in writing addressed to the Chairperson of the Board of County Road Commissioners in care of the FOIA Coordinator. The Board will address the appeal at the next regularly scheduled meeting after the appeal is received and will respond to the appeal within ten (10) days after the Board meeting.

Upon receipt of a written request to review a public record, ACRC will make the record(s) reasonably available for supervised inspection unless the request is denied in whole or in part as provided in this policy. A mutually convenient time will be determined during ACRC's normal business hours. The records will be made available within five (5) business days of receipt of the request, unless the time period for response has been extended as provided in this policy.

An ACRC employee, to ensure the integrity of the records, will supervise their inspection. Upon completion of the inspection, the employee will provide copies of inspected documents as requested according to the guidelines outlined in this policy.

Records must remain in the office where they are being inspected, and no unauthorized alteration, defacement, mutilation, destruction or removal is permitted.

Fees will be assessed as allowed by law for the services performed by ACRC employees relating to the processing of FOIA requests as follows:

1. Labor costs directly associated with the necessary searching for, locating, and examining of ACRC records in conjunction with receiving and fulfilling a granted written request. Labor costs for this purpose shall be estimated and charged in increments of 15 minutes or more, with all partial time increments rounded down;
2. Labor costs, including necessary review, if any, directly associated with separating and deleting exempt information from nonexempt information. Labor costs for this purpose shall be estimated and charged in increments of 15 minutes or more, with all partial time increments rounded down;
3. The actual total incremental cost of necessary duplication, not including labor, calculated at the cost of 10 cents per sheet of paper;
4. The cost of labor directly associated with duplication. Labor costs for this purpose shall be estimated and charged in time increments of ACRC's choosing, with all partial time increments rounded down;
5. Actual mailing costs; and,
6. Any other fees or costs allowed by law.

In calculating the labor costs authorized by this policy, ACRC will not charge more than the hourly wage of the lowest paid ACRC employee capable of retrieving the information necessary to comply with the request. ACRC will also add the actual cost of fringe benefits, up to 50% of the applicable labor charge amount, to cover or partially cover fringe benefit costs, and will note the percentage multiplier used to account for benefits in a detailed itemization provided to the requesting party.

Should estimated fees exceed fifty (\$50) dollars, a good faith deposit of one-half (1/2) of the total estimated fee will be required prior to the processing of the FOIA request. The FOIA Coordinator may grant waivers of the deposit and/or portion of the processing fees. A public record search and a copy of the public record will be without charge for the first twenty (\$20) dollars of the fee for each request by an eligible individual who submits an affidavit that they are then receiving public assistance or showing inability to pay because of indigence.

**Alpena County Road Commission
Notice of Freedom of Information Act Response**

1. Name & address of requester: _____

2. Manner in which request was submitted:

U.S. mail personal delivery ____

facsimile e-mail ____

other electronic means _____

3. Date written request received by ACRC (if received by facsimile, e-mail, or other electronic means, request will be deemed received on next business day): _____

4. Public records requested:

5. Written request:

_____**Granted**

_____**Denied** because (include section/subsection if exemption is claimed)

(See Section 9 for appeal rights.)

_____**Granted** in part and **Denied** in part because (include section/subsection if exemption is claimed)

(See Section 9 for appeal rights.)

_____**Response period extended** up to an additional 10 business days to _____.

6. Fee incurred in responding to request:

Labor costs for search, location, and examination:

_____ x \$_____ hourly wage = \$_____ Multiplier
for fringe benefits _____%

Labor costs for separation and deletion of exempt information from nonexempt information:

_____ x \$_____ hourly wage = \$_____ Multiplier for
fringe benefits _____%

Labor costs for duplication:

_____ x \$_____ hourly wage = \$_____ Multiplier for
fringe benefits _____%

No. of Pages x \$0.10 per page \$_____
Actual costs for postage \$_____
Other \$_____
Total Costs \$_____

_____ First \$20 of fee waived (Affidavit of Public Assistance
or Indigency submitted or accepted). Please submit
\$_____.

_____ Because estimated fee exceeds \$50, deposit of one-half
the total amount due must be received by the ACRC prior to the
ACRC's response. The deposit of \$_____ shall be payable by
check or money order to the "Alpena County Road Commission."
Remit to Alpena County Road Commission, FOIA Coordinator, 1400
North Bagley Street, Alpena, Michigan 49707, with a copy of
this notice.

**7. Upon receipt of fees where applicable, requested information
will be:**

_____ Mailed to (if different than Line 1):

_____ Emailed at requester's direction to

_____ Faxed at requester's direction to

_____ To be paid for and picked up in person at ACRC office.

_____ Estimated time frame in which ACRC will be able to
provide the requested documents:

8. Date of Response:

Mailed _____, 201__
Emailed _____, 201__
Faxed _____, 201__
Personal delivery _____, 201__

**9. Description of appeal rights due to denial of requested
records.**

a. Per Section 5(4)(d)(i) of FOIA, you may submit to the
Chairperson of the Alpena County Board of Road Commissioners a
written appeal that specifically states the word "appeal" and
that identifies the reason(s) for the requested reversal of the
denial. The appeal should be mailed to the Board Chairperson,
care of the FOIA Coordinator, at the Alpena County Road
Commission's address, Attention: FOIA Board Appeal. The Board
will address the appeal at the next regularly scheduled meeting
after the appeal is received and will respond to the appeal
within ten (10) days after the Board meeting.

b. Alternately, you may seek judicial review of the denial under Section 10 of FOIA. Such review will be in the circuit court for Alpena County. If you prevail in your court action, FOIA Section 10(6) provides: "The court shall award reasonable attorneys' fees, costs, and disbursements." If you or the County prevail in part, "...the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements." Section 10 also provides for payment of damages in certain cases.

By: Susan D. Crowell, Administrative Assistant
Designated FOIA Coordinator
Alpena County Road Commission
1400 North Bagley Street
Alpena, MI 49707
Phone: (989) 354-3252

Motion carried unanimously.

MONAGHAN POINT ROAD

After further discussion, including the need to clarify the scope of the project on 0.80 miles of Monaghan Point Road proposed by Alpena Township, the Board agreed to provide an answer to the township regarding the Road Commission's financial participation in the project following their next regular meeting on July 7, 2015.

NEXT MEETING DATE

The next regularly scheduled meeting of the Board will be 3:00 p.m., Tuesday, July 7, 2015.

BOARD RECESS

The Chairman adjourned the meeting at 4:15 p.m. for recess to address the media.

BOARD RECONVENED

The Chairman reconvened the meeting at 4:30 p.m.

ROLL CALL

Present: Commissioners Heise, Spragg and Sterns
Absent: None

Staff present: Larry Orcutt, Managing Director; Susan Crowell, Secretary; and James Mazrum, Attorney.

CLOSED SESSION

Moved by Sterns, seconded by Heise, to go into closed session at 4:30 p.m. for the purpose of discussing the Managing Director's Personnel Evaluation. Motion carried unanimously.

OPEN SESSION

Moved by Sterns, seconded by Heise, to return to open session at 5:45 p.m. Motion carried unanimously.

ROLL CALL

Present: Commissioners Heise, Spragg and Sterns
Absent: None

Staff present: Larry Orcutt, Managing Director; Susan Crowell, Secretary; and James Mazrum, Attorney.

ADJOURNMENT

There being no further business to come before the Board, the Chairman declared the meeting adjourned at 5:45 p.m.

Darrel A. Spragg
Chairman

Susan D. Crowell,
Board Secretary