

Resolution No: 31-16
Resolution to Authorize Settlement of Lakeland Communications Litigation

TO THE HONORABLE SUPERVISORS OF THE COUNTY BOARD OF THE COUNTY OF POLK:

Gentlemen:

WHEREAS, in January 2016, Lakeland Communications brought two legal actions, Polk County Case Nos. 2015 SC 913 and 2015 SC 914, seeking money judgments against Polk County in the combined sum of \$1,791.21 for costs of repairs to two telephone communications pedestals that were allegedly damaged by Polk County Highway Department employees when conducting mowing operations on separate days of September 11, 2013 and July 14, 2016, and

WHEREAS, prior to bringing the legal actions, Lakeland Communications served Polk County on August 12, 2015 with two separate claims in the combined sum of \$1,586.21, which the Polk County Board of Supervisors disallowed pursuant to Resolution No. 49-15, adopted on December 15, 2015; and

WHEREAS, it is in the financial and public relations interest of Polk County to settle the on- going litigation, despite the presence of meritorious legal defenses supporting dismissal in the favor of the County.

NOW, THEREFORE, BE IT RESOLVED that the Polk County Board of Supervisors authorizes and directs the Corporation Counsel to settle on behalf of Polk County the legal actions of Polk County Case Nos. 2015 SC 913 and 2015 SC 914 in an amount not to exceed \$1,586.21.

BE IT FURTHER RESOLVED that the Polk County Board of Supervisors authorizes payment of such sums from the Polk County Highway Department Funds as the County Finance Director may determine as appropriate.

Funding Source/ Funding Amount:	\$1,586.21
Date Reviewed as to Appropriations:	August 11, 2016
Committee Recommendation as To Appropriation:	Not Applicable
Effective Date:	Upon passage
Dated Submitted To County Board	August 16, 2016
Submitted By: <u>Doug Route</u>	<u>Doug Route</u> Doug Route, Supervisor District #2
Review By County Administrator: <input type="checkbox"/> Recommended <input checked="" type="checkbox"/> Not Recommended <input type="checkbox"/> Reviewed Only <u>Dana Frey</u> Dana Frey, County Administrator	Review By Corporation Counsel: <input checked="" type="checkbox"/> Approved as to Form <input type="checkbox"/> Recommended <input type="checkbox"/> Not Recommended <input checked="" type="checkbox"/> Reviewed Only <u>Jeffrey B. Fuge</u> Jeffrey B. Fuge, Corporation Counsel

Acknowledgement of County Board Action

Mark As Appropriate:

At its regular business meeting on the 16th of August, the Polk County Board of Supervisors considered and acted on the above resolution, Resolution No. 31-16: Resolut to Resolution to Authorize Settlement of Lakeland Communications Litigation, as follows:

Adopted by simple majority of the board of supervisors by a vote of _____ in favor and _____ against.

Adopted by unanimous vote.

Defeated by a vote of 6 in favor and 9 against.

Defeated by voice vote.

Action Deferred by Procedural Action, as follows: _____

SIGNED BY:

Dean Johansen
Dean Johansen, County Board Chairperson

Attest: Carole T. Wondra
Carole T. Wondra, County Clerk

POLK COUNTY BOARD OF SUPERVISORS
Minutes from Tuesday, August 16, 2016
Polk County Government Center – County Board Room
Balsam Lake, WI 54810

Chairman Johansen called the regular August 16, 2016 meeting of the Polk County Board of Supervisors to order at 6:00 p.m.

Chairman Johansen recognized the County Clerk for purposes of receiving evidence of proper notice. The County Clerk stated that the notice of meeting was properly posted in three public buildings, published in a legal newspaper in accordance with Wisconsin Statute Section 985.02 and posted on the county website the week of August 8, 2016. In addition, the Office of the County Clerk distributed on August 4, 2016 copies of such notice of meeting and proposed resolutions to supervisors in accordance with Article 3, Section 2 of the county Board Rules of Order. The County Board received the verbal opinion of Corporation Counsel that the initial advance written meeting notice, posted and published, as described by the Clerk satisfied the applicable provisions of Wisconsin Open Meetings Law and the applicable procedural provisions of the Polk County Board Rules of Order.

Chairman Johansen recognized the County Clerk for purposes of taking roll call. All 15 members were present. Also present were Assistant Corporation Counsel, Malia Malone, Administrator Frey and County Clerk, Wondra.

Chairman Johansen led the Pledge of Allegiance.
Chairman Johansen asked for volunteers to offer a Time of Reflection. None offered.

Chairman Johansen called for a motion to approve the consent agenda as noticed. **Motion (Jepsen/Bonneprise) to approve the consent agenda consisting of: a. Action to approve the agenda of the meeting notice issued for the August 16, 2016 meeting; b. Action to approve the minutes from July 19, 2016 meeting.** Chairman Johansen noted a need to correct the minutes from the July 19th meeting to reflect an excused absence for Supervisor Demulling. **Motion to approve consent agenda as noticed, carried** unanimously by voice vote.
Time was given for public comment.

Chairman Johansen recognized Lynn Nelson and Beth Waldhart for a presentation and update from West Central Wisconsin Regional Planning.

Chairman Johansen recognized Steve Healy, Executive Director of Economic Development Corporation for a presentation and update.

Chairman Johansen presented his monthly report.

Chairman Johansen called for a 10 minute break.

Chairman Johansen called on Administrator Frey for receipt of his monthly report and receipt of the 2017 Master Fee Schedule Budget Proposal.

Resolutions and Ordinances:

Chairman Johansen called to the floor Resolution No. 31-16. **Chairman Johansen called for a motion to approve Resolution No. 31-16, Resolution to Authorize Settlement of Lakeland Communications Litigation. Motion (Masters/Olson) to approve Resolution 31-16.**

Chairman Johansen called for a motion to go into closed session. **Motion (Bonneprise/Masters) to go into closed session for the purpose of receiving a verbal legal opinion from Corporation Counsel and discussion of litigation strategy in the pending cases involving Lakeland Communication pursuant to Wisconsin Section 19.85(1) (g), and further identified in the agenda. Motion to go into closed session, carried by unanimous voice vote.**

Chairman Johansen announced that before convening in closed session that the record reflects that staff members, Assistant Corporation Counsel, Malia Malone, Administrator Frey and County Clerk, Carole Wondra will be present during the closed session.

CLOSED SESSION

OPEN SESSION

Upon reconvening in open session, Chairman Johansen announced that the County Board would debate Resolution No. 31-16.

Motion (Masters/Olson) to amend Resolution No. 31-16 by changing the wording in the first NOW, THEREFORE, BE IT RESOLVED clause: as follows:

NOW, THEREFORE, BE IT RESOLVED that the Polk County Board of Supervisors directs Corporation Counsel to enter into negotiations with Lakeland Communications, on behalf of Polk County, in an amount up to \$500.00.

Chairman Johansen called for a roll call vote on the amendment. **Amendment failed** in a roll call vote of 5 yes/10 no. Voting in favor of the amendment: Supervisors Olson, Route, C. Nelson, Masters and Edgell. Voting against the amendment: Supervisors Johansen, Moriak, Prichard, O'Connell, Jepsen, Luke, W. Nelson, Arcand, Bonneprise and Demulling.

Chairman Johansen called for a roll call vote on the original motion to approve Resolution No. 31-16. Motion to approve **Resolution No. 31-16, failed** in a roll call vote of 6 yes/9 no. Voting to approve: Supervisors Olson, Route, C Nelson, Masters, Prichard and Edgell. Voting against approval: Supervisors Johansen, Moriak, O'Connell, Jepsen, Luke, W Nelson, Arcand, Bonneprise and Demulling.

Chairman Johansen called to the floor, Ordinance No. 32-16 **Chairman Johansen called for a motion to approve Ordinance No. 32-16, Ordinance to Enact Amended Polk County Comprehensive Land Use Ordinance. Motion (O'Connell/Edgell) to approve Ordinance No. 32-16.** Zoning Administrator, Jason Kjeseth addressed the ordinance. **Chairman Johansen called for a vote to approve Ordinance No. 32-16. Motion to approve Ordinance No. 32-16 carried, by unanimous voice vote. Ordinance Adopted.**

Chairman Johansen called to the floor, Ordinance No. 33-16 **Chairman Johansen called for a motion to approve Ordinance No. 33-16, Ordinance to Enact Amended Polk County Shoreland Protection Zoning Ordinance. Motion (Edgell/W. Nelson) to approve Ordinance No. 33-16.** Zoning Administrator, Jason Kjeseth addressed the ordinance. **Chairman Johansen called for a vote to approve Ordinance No. 33-16. Motion to approve Ordinance No. 33-16 carried,** by unanimous voice vote. Ordinance Adopted.

Chairman Johansen called to the floor, Resolution No. 34-16. **Chairman Johansen called for a motion to approve Resolution No. 34-16, Resolution to Adopt Draft Master Fee Schedule for 2017 Budget Proposal. Motion (Bonneprise/Masters) to approve Resolution No. 34-16.** Chairman Johansen called for a motion to amend Resolution No. 34-16 to incorporate the 2017 Fee Schedule as presented by Administrator Frey prior to the meeting. **Motion (Bonneprise/Masters) to amend Resolution No. 34-16 to incorporate the 2017 Fee Schedule as presented. Motion to amend Resolution No. 34-16, carried,** by unanimous voice vote. Administrator Frey addressed the resolution. **Motion (Olson/C. Nelson) to amend the fee schedule as follows:**

Highway - Utility Permit

Bore Pre & Post-Inspections (per boring)	\$100.00	\$0	One per road segment
Bore Pre & Post-Inspections (per boring)	\$30.00	\$0	Multiple borings per road segment
Trenching in excess of 1320 ft. (per 1000 LF)	\$10.00	\$0	
Construction Improvement at Hwy Intersections	\$200.00	\$0	
Plowing in excess of 1320 ft. (per 1000 LF)	\$10.00	\$0	

Chairman Johansen called for a roll call vote on the amendment to Resolution No. 34-16. **Motion to amend Resolution No. 34-16 carried** by a roll call vote of 11 yes/4 no. Voting yes: Supervisors Olson, Route, Johansen, C. Nelson, Moriak, Masters, Prichard, Edgell, O’Connell, Jepsen, and Luke. Voting no: Supervisors W. Nelson, Arcand, Bonneprise and Demulling.

Chairman Johansen called for a voice vote on the motion to approve Resolution No. 34-16 as amended. **Motion to approve Resolution No. 34-16 as amended, carried** by unanimous voice vote. Resolution Adopted.

Time was given for Supervisors Reports.

Motion (Luke/Demulling) to adjourn. Motion carried by unanimous voice vote. Chairman Johansen declared meeting adjourned 8:30 p.m.

Respectfully submitted,

Carole T. Wondra, Polk County Clerk