

<p style="text-align: center;"> PENTWATER TOWNSHIP BOARD PENTWATER COMMUNITY HALL 500 N. HANCOCK STREET, PENTWATER, MI 49449 <i>Approved</i> 11 May 2022 ZOOM Available for Audience </p>	
<p>Supervisor Cavazos called the meeting to order at 6:00 PM</p> <p>Members Present: Douglas, Holub, Cavazos, Murphy, Flynn</p> <p>Members Absent: None</p> <p>Staff Present: Glenn Beavis - Recording Secretary, Keith Edwards – Zoning Administrator</p> <p>Others Present: 27 individuals signed in, not all of whose names were legible. Sign-ins as follows: Amy LaBarge, Sean Coughlin, Chuck Smith, Jean Russell, Mike Bass, Ron Beeber, Kendra Flynn, David Roseman, Linda Flusitz, Jack Witt, Jon Witt, Dean Jessup, Mike Haack, Diane, Bullard, Anna Mae Bush, Claude Peyrot, David & Kris Bluhm, Chris Brown, Brian Schaenzer, Aaron & Vanessa Boyko, Rob Young, Al Borosky, Pay Hooyman, Mitchell Angell, Chris & Larry Conroy</p> <p>Present via Zoom: Cathy Crumb, David Spitler, Ron Christians- Oceana County Commissioner, Kyle Jansen, Paula DeGregorio, Mary Marshall, Mary Jo (Last name not specified)</p>	<p>CALL TO ORDER</p> <p>ROLL CALL</p>
<p>Moved by Douglas and seconded by Murphy to accept the Consent Agenda as follows:</p> <ul style="list-style-type: none"> • Prior Meeting Minutes of April 13, 2022 • Fiscal YTD Financial Reports 4/1/22 thru 4/30/22 • Claims/Bills for the period April 14th thru May 11th as follows: <ul style="list-style-type: none"> ○ Township - \$52,061.15 ○ Cemetery - \$54,775.77 ○ Fire - \$124,727.04 ○ Road - \$0 <p>Roll call vote: Ayes: All Nays: None Motion carried</p>	<p>CONSENT AGENDA</p> <p>Review & Action</p>
<p>Moved by Holub, and seconded by Flynn to accept the agenda with revision as noted</p> <p>Voice Vote: Motion carried</p>	<p>MEETING AGENDA</p> <p>Agenda amended to move item f) regarding channel dredging to item c)</p>

<p>Seventeen meeting attendees, either in person or via Zoom, spoke regarding amended Agenda item c) Pentwater Village proposal that the Township match funds of \$30,000 to help support much needed channel dredging. With one exception, all were passionate in their support of this proposal. The dissenting comments came from past Township Supervisor Chuck Smith, who has been involved in past requests for dredging funding during his tenure in office. His comments as follows:</p> <p>Chuck Smith, the first public commentator, indicated that this was a recurring issue, and it was his opinion that the current Board had exercised due diligence in researching this matter as to whether the request would be a lawful or unlawful appropriation of township tax money. Mr. Smith further indicated that at the March 14, 2012 Township Board meeting, the township attorney attended & advised the board that:</p> <p style="padding-left: 40px;">“A township does not have inherent powers, and thus can exercise <u>only</u> such powers as have been expressly granted to it by the Michigan constitution or State Statute.” The attorney went on to state “In this circumstance, there is NO expressed statutory authority for a general law township to contribute public funds for the dredging of inland lakes or a channel.”</p> <p>Mr. Smith further indicated that the Michigan Township Association recommends the township place the burden on the requestor (Pentwater Village Manager) to site the state statute for public acts that would authorize the township to appropriate public funds for this purpose. Alternative options might be that this issue be put to a referendum vote of the Pentwater community, or that the requestor contact Senator Bumstead and ask that he research the possibility of new legislation to authorize townships to spend township tax money on dredging projects.</p> <p>In closing, Mr. Smith requested the Township Board to deny the Village request for matching funds.</p> <p>Mr. Brown, Village Manager and next to speak indicated the following:</p> <p>The Village is asking for an Intergovernmental Agreement between the two parties. “Intergovernmental agreements allow for broad discretion between government agencies to work together in collaboration of spending taxpayer funds. We believe this would be a lawful expenditure under that purview.” He gave examples of similar agreements that allow the village to spend monies outside the village on the sewer system. He stated this was no different than when the township spent taxpayer monies on the fishing pier. He said the constitution allows broad discretion to spending taxpayer money on health safety and welfare of its constituents and the business of Pentwater ties to the welfare of the</p>	<p>PUBLIC COMMENTS</p>

community and so dredging is a valid township expenditure.

Fifteen additional public commentators spoke in favor of the Village request for matching funds. Names of those speakers and a summary of their collective comments follow:

Brian Schaenzer, Michael Haack, Mike Bass, Pat Hooyman, David Roseman, Jack Witt, Claude Peyrot, Ron Beeber, David Bluhm, Chris Conroy, Steve Hamilton, Dean Jessop, Ron Christians, Mary Marshall, Linda Flusitz

- Live on the lake/have sailboat/active user of the channel
- Main reason for moving to Pentwater – it's why we live here
- Township board needs to stop looking for ways to avoid spending funds
- Pentwater is designated safe water harbor, raising importance for maintaining adequate channel depth
- Important to local business.
- Need to find a way to work together
- Important to fishing community as well as boating community
- Pentwater is a harbor community and important to our image as a sailing community
- Ensign Nationals planned next year here in Pentwater
- Pentwater Lake Association wants this to happen
- Lack of a long-term plan will adversely impact property values, and resulting tax base once the channel becomes non-viable
- Should be a way to resolve this – Find it!
- Urge the Township to get a second legal opinion
- Have placed entire life working to make Pentwater Marina a place to be proud of. Maintains sixteen-plus full-time employees. A loss of a viable harbor would result in substantial lost employment and resulting hardships
- Keeping the channel open is paramount to the success of Pentwater.
- Can't be disinterested in this issue. If don't want [State/Federal] taxes to be high, we need to find a way to fix the problem ourselves and pay for it over the broadest base we possibly can – Village & Township
- "You can't put your head under the sand", "stop hiding behind attorney/client privilege." Share legal opinion document with taxpayers

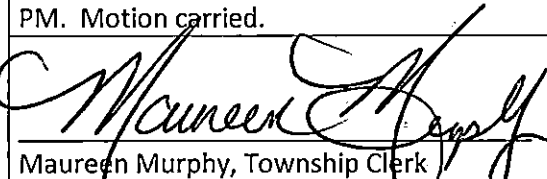
<ul style="list-style-type: none"> • MTA says can contract for specific services. Must be attached to state law (parks, recreation, historical, etc.) • How much does Township have in required reserves? • This isn't a divisive issue. All in the room agree with the need. • Ask your attorneys how it <u>can</u> be done. • Support Village proposal for intergovernmental agreement, or alternatively fund the request through the Pentwater Lake Improvement Board (PLIB). Michelle Martin in favor of modifying work plan. • Tourism is key to the success of our community. Must do all possible to promote this • Boat traffic on Lake Pentwater will be adversely affected if boats can no longer get out to Lake Michigan • Pentwater Sport Fishing Association concerned about negative impact on the association and community businesses if word gets out that the channel is impassible or partially so. DNR estimates \$2M - \$3M incoming revenues due to fishing alone • Economic development, tourism, fishing, all important. Find a way to get this done! Upcoming County Board Commission meeting to discuss possibility of some funds possibly being available for dredging – will advise • Use undesignated fund balance to pay for channel dredging 	
<p>Ms. Cavazos related the following:</p> <ul style="list-style-type: none"> • Cemetery: <ul style="list-style-type: none"> ○ New cemetery signs in process and should be ready by Memorial day. ○ All walls contracted to Ruggle's for repair have been completed. ○ Planning to get bids for trees to replace twelve that have recently died. ○ Lynne & Mike be working with National Honor Society students on May 20 to place Veteran flags • Transfer Station: <ul style="list-style-type: none"> ○ Front loader received • Attended MTA annual conference & found very helpful 	<p>SUPERVISOR'S REPORT</p>

<p>May 3rd Election: The Township conducted a Village-Only Special Election regarding a vote to repeal Vote to repeal Chapter 115 of the Code of Ordinances titled Medical Marijuana and Marijuana Establishments on May 3rd. The proposal passed with 333 votes for to 138 against repealing (2.4 to 1.0 ratio). There were 471 total votes, representing roughly half of registered village voters. Of those, 216 absentee ballots were issued, with 208 ballots returned & accounted for. Maureen thanked the Election Inspectors for their time, knowledge, and hard work on election day.</p> <p>Maureen also thanked Deputy Clerk Glenn Beavis and the Township at large for volunteering time and equipment to the Village to conduct a trial public broadcast of their May Council Meeting. She stated that she'd received positive feedback from in-person as well as remote Zoom participants.</p> <p>Cemetery Activity - April:</p> <ul style="list-style-type: none"> • There were 3 Cemetery burials in April (1 traditional & 2 cremains), and we sold 3 gravesite and 1 columbarium niche. • One May traditional burial to date with three additional scheduled for later in the month <p>Transfer Station Activity - April:</p> <ul style="list-style-type: none"> • We had 183 visitors & took in \$1,136 in usage fees <p>Upcoming July Audit:</p> <ul style="list-style-type: none"> • Clerk's office submitted requested preliminary information to Gabridge & Co. for an annual audit scheduled for July 19 thru 21 	<p>CLERK'S REPORT</p>
<p>Ms. Douglas related the following:</p> <ul style="list-style-type: none"> • Have started investing in Michigan CLASS with goal of having 25% of our current \$610,000 General Fund budget invested. Current investments slightly exceed that target. • Attended first of three Michigan Municipal Treasurer's Association training session. 	<p>TREASURER'S REPORT</p>
<p>The following reports were received and placed on file:</p> <ul style="list-style-type: none"> • Library, Fire Department, Recreation • Library Board Trustee Kendra Flynn reported that library is ramped up for summer with art programs, summer reading programs, and "Go-Bags" available for kids. The library has started a "Seed Library" which allows patrons to check out seeds. A speaker from Michigan Seed Library Network will be at library on May 16 at 5:30PM to discuss seeds. The Library will re-institute Beach Buggy book loan program this summer. The 	<p>OTHER DEPARTMENTAL REPORTS Library, Recreation and Fire Department</p>

<p>Library has also engaged with the Mental Health Hub which helps to provide related information to library patrons.</p> <ul style="list-style-type: none"> • Reminder that Fire Department is planning an Open House is scheduled for Saturday, May 21 at noon. • Recreation Department is still happy to receive can donations. 	
<p>The following reports were received and placed on file:</p> <ul style="list-style-type: none"> • Zoning, Assessor, Cemetery & Transfer Station <p>Reports not provided this period:</p> <ul style="list-style-type: none"> • None 	<p>STAFF REPORTS – Zoning, Assessing, Cemetery, Transfer Station</p>
<p>None</p>	<p>UNFINISHED BUSINESS</p>
<p>The following motion was made without further discussion:</p> <p>Motion by Douglas, and seconded by Murphy to reappoint Tony Monton & Peter Zangara to the Pentwater Township Planning Commission</p> <p>Roll call vote: YES: Douglas, Murphy, Holub, Flynn, Cavazos NO: None</p> <p>Motion carries</p>	<p>NEW BUSINESS a) Reappointment of Pentwater Township Planning Commission Appointees</p>
<p>The following motion was made without further discussion:</p> <p>Motion by Holub, and seconded by Flynn to approve appointment of Jeff Wrisley to serve as an Alternate on the Zoning Board of Appeals</p> <p>Roll call vote: YES: Holub, Flynn, Douglas, Murphy, Cavazos NO: None</p> <p>Motion carries</p>	<p>NEW BUSINESS b) Appointment of an Alternate to serve on the Zoning Board of Appeals</p>
<p>Due to the expansiveness of this discussion, particularly as pertains to Supervisor Cavazos' summary of legal constraints as well as potential avenues for future consideration, a separate document has been prepared which captures her comments. While separate, it is appended to the back of these meeting minutes for ease of access.</p> <p>Motion by Holub, and seconded by Flynn to <i>decline</i> Pentwater Village request that the Township contribute \$30,000 in matching funds for purposes of dredging Pentwater Channel</p> <p>Roll call vote: YES: Holub, Flynn, Murphy, Cavazos NO: Douglas</p> <p>Motion carries</p>	<p>NEW BUSINESS c) Pentwater Village request that Township provide \$30,000 in matching funds for Channel Dredging</p>
<p>Because township residents make use of Village owned Park Place Community Center, and because the Township does not have its own community center, it is legally able to enter into an access agreement with the Village for usage of their facility. Pentwater Village presented a</p>	<p>NEW BUSINESS d) Access Agreement for Park Place Community Building</p>

<p>document entitled "Access Agreement for Park Place Community Building" with language approved by legal council from both parties. The agreement authorizes certain use by township residents in exchange for a \$7,500 fee to be paid by the Township to the Village. Additional details follow below. This is an annual agreement that may be renewed by mutual agreement of the Township Board and Village Council.</p> <p style="padding-left: 40px;">"Use of the Community Building by Township residents shall be on the same basis as use by residents of the Village and shall be subject to all applicable Village rules and regulations. To the extent that an organization or group holds an event at the Community Building and charges a fee for attendance or participation at the event (if permitted by the Village and in accordance with the Village's rules and regulations), Township residents shall be required to pay such fee to that organization to attend or participate in that organization's event at the Community Building. Township residents shall pay the non-resident fee to reserve for private use events."</p> <p>Motion by Douglas, and seconded by Holub to approve RESOLUTION 2022-11, which approves a <i>REVISED</i> document received from Pentwater Village on May 10 at 11:23 AM entitled "<u>Access Agreement for Park Place Community Building</u>" and further directs the Township Supervisor and Clerk to execute and deliver said Agreement to the Village on behalf of the Township.</p> <p>Roll call vote: YES: Douglas, Holub, Murphy, Flynn, Cavazos NO: None</p> <p>Motion carries</p>	
<p>This has been a standing intergovernmental agreement between the Township and the Village since 2008 for the operation, funding, and maintenance of the Pentwater Fire Department. It was originally structured to expire or be renewed in five year increments. The most recent renewal date was inadvertently missed by both parties when it was due for renewal in 2013. The revised agreement is structured to survive in perpetuity until amended.</p> <p>Motion by Flynn and seconded by Douglas to approve Resolution 2022-12 entitled "RESOLUTION TO APPROVE EXTENSION OF INTERGOVERNMENTAL AGREEMENT FOR PENTWATER FIRE DEPARTMENT"</p> <p>Roll call vote: YES: Flynn, Douglas, Murphy, Holub, Cavazos NO: None</p> <p>Motion carries</p>	<p>NEW BUSINESS e) Renewal of Inter-governmental Agreement regarding the Pentwater Fire Department</p>
<p>Motion by Cavazos and seconded by Douglas to table this revised purchase offer from Five Star Realty representing Lorri & John Sherston pending</p>	<p>NEW BUSINESS f) Revised Purchase Offer for 327 S. Hancock Building</p>

<p>decision to accept or decline offer by Pentwater Village Council, joint owner with the Township of the property.</p> <p>Roll call vote: YES: Cavazos, Douglas, Murphy, Holub, Flynn NO: None</p> <p>Motion carries</p>	
<p>Amy LaBarge indicates disappointment in decision regarding channel dredging but recognizes the time and research efforts put in by the Township Board on this matter. She also appreciates the Board's willingness to research further. She sees positive change in the Board's position as compared to her past experiences on the same issue ten years ago.</p> <p>Jean Russell thanks the Board for taking the time to review all the state statutes with everyone and recognizes the complexity of the issue. Everyone in this room should be heralded for their civil demeanor during the meeting. She urges the Township to continue looking for a way to address this overarching matter.</p> <p>Linda Flusitz asks if any discussion was had regarding parking if the 327 S. Hancock property turns into a hotel/condo/retail outlet. The board acknowledges the concern and indicates that those details are to be worked out by the Village.</p> <p>Rob Young asked for further clarification regarding the Pentwater Lake Approval Board (PLIB) as a possible avenue to address channel dredging in the future. Rob was advised that dredging is currently out of PLIB scope, with their primary focus on lake health and management of invasive species. He expressed doubt in a successful outcome if the approach of making it a millage proposal. Rob asked why the Township's Attorney opinion couldn't be made public directly. Trustee Holub indicated Attorney-Client privileged communication. That said, he and Supervisor Cavazos provided assurances that what was presented at today's meeting was comprehensive, and that it will be written up and made available on the website.</p> <p>David Spitler spoke about a major crack at the Longbridge bridge abutment. This will be addressed at no cost to the Township. To address safety concerns, a sign will be put up at the intersection of Longbridge and Monroe to warn Longbridge drivers that through traffic does not stop.</p> <p>Mary Marshall thanks the Board and public for this evening's conversation regarding the channel. She also thanks Lynne for her overview of the legal limitations and options available to the Township. She encourages prompt action and encourages working collaboratively with the PLIB as the means to resolution.</p>	<p>PUBLIC COMMENTS</p>

Chris Conroy hopes that Longbridge one day be replaced with one that boats can travel under. It should be noted that no such plans for bridge replacement currently exist.	
None	OTHER ITEMS from BOARD MEMBERS
Moved by Holub and seconded by Douglas to adjourn the meeting at 7:35 PM. Motion carried.	ADJOURNMENT
 Maureen Murphy, Township Clerk	<u>6-10-22</u> Date



A General Law Township

Phone: (231) 869-6231
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Website: www.pentwatertwp.org

500 N. Hancock Street
P.O. Box 512
Pentwater, Michigan 49449

To: Pentwater Township & Village Residents (for posting on the Township website)

Date: May 17, 2022

From: Lynne Cavazos, Pentwater Township Supervisor

Subject: Overview of Comments Pertaining to Channel Dredging at Township Board Meeting – 5/11/22

Due to the length of this document, it is broken out separately from the May 2022 Pentwater Township Board Meeting Minutes. Both will be/are posted to the township website (see website link above), and both together comprise the meeting minutes for this month.

Glenn Beavis, Deputy Clerk

Remarks from Supervisor Lynne Cavazos:

Introduction:

We as the Township Board do recognize the importance of the Pentwater Channel and Harbor to the economy of the Village Pentwater, Pentwater Township, and the surrounding areas.

The Harbor supports the sportfishing community, local and visiting residents who use Pentwater Lake and Lake Michigan for recreational activities.

We have received numerous emails and call from residents expressing their concerns about the need for dredging the channel, the mouth of the channel, and into Lake Michigan. The Township is exploring all legal and appropriate avenues that are authorized by Michigan Law for the Township to participate in the dredging project.

I would like to explain more clearly what legal avenues are available to use as a General law Township and some of the roadblocks.

Explanation of General Township's Allocation of Funds

A general law township must always first ensure that there is a statute authorizing an expenditure activity to support its decision in an allocation of funds.

There are also 2 additional general rules a township must consider:

- (1) Is it a valid public purpose?
- (2) Is the operation being controlled and managed by the township?

Summary:

The general rule regarding expenditures of public funds by a township is that such expenditures must serve a public purpose and be specifically authorized by the State of Michigan Constitution or by a statute.

There is no express statutory authority of a general law township to contribute public funds for the dredging of an inland lake or channel. The Legislature clearly does confer authority for dredging – by expressly granting such authority to other entities such as lake improvement boards and water resource improvement authorities. The Legislature did not confer such express authority directly to township in the Township Ordinance Act or any other statute.

Statutes Authorizing Dredging:

Act 451 – Natural Environmental Resources Protection Act of Public Acts of MI

Act 57 – Water Resource Improvement Authority (Tax Increment Financing)

Act 188 – Township Improvement Act

Link to Michigan Constitution and Legislature: <http://www.legislature.mi.gov/>

ACT 451: (Under section 30902)

A local government can provide improvement of any public inland lake within its jurisdiction by establishing a Lake Improvement Board. Once established, a local governing body (The Township) can by resolution, direct the Lake Improvement Board to institute proceedings to improve a lake, including dredging.

Pentwater Township is the local unit of government that has jurisdiction over the Pentwater Lake Improvement Board (PLIB). As the local governing body, Pentwater Township can authorize the PLIB to undertake a dredging project by adopting a resolution to that effect.

Steps To Be Taken:

- (1) Upon the adoption of a resolution by the Township the PLIB then would determine the scope of the project and proceed to establish a special assessment district for the proposed dredging project.
- (2) The PLIB would obtain cost estimates, conduct a public hearing on the project, establish assessment district boundaries, and confirm a special assessment roll for the project.

NOTE: A Lake Improvement Board only has Statutory Authority to undertake dredging of a public or private lake.

ACT 57:

A Township can establish a separate legal authority which can undertake projects “to promote water resource improvement or access to inland lakes.”

Once an authority is established, the authority can finance water resource improvement utilizing tax increment financing. Tax increment financing captures the millage that is levied by taxing jurisdiction or increased property values.

Using tax increment revenue requires growth in taxable values within the water resource improvement district. It will take time for the district to generate funds.

NOTE: ACT 57 cannot assess municipalities at large so this does not authorize the township to contribute.

ACT 188: Township Improvement Act

A township, by motion or after sufficient petitions, may establish a special assessment district to assess the costs of an inland lake dredging project to properties included in the district.

ACT 188 is not a general authorizing statute that allows a township to pay expenditures for a dredging project outside of the assessment process.

If Pentwater Township owned property on Pentwater Lake and the property was included in the Special Assessment District, the township could pay money to the dredging project as an assessed property owner.

This statute does not apply to the mouth of the channel or within Lake Michigan. The Army Corp of Engineers is the Governing Authority over the Pentwater Channel and Lake Michigan.

NO Authority to Levy a Millage:

General Law Townships do not have the expressed authority to levy a millage to undertake a dredging project in the mouth of the channel or into Lake Michigan because it is not authorized in the Michigan Constitution or in State Law. Podew0-pdcfvx

UPDATE from Army Corp of Engineers

We have been in contact with two representatives from the Army Corp of Engineers in Michigan.

- Cindy Jarema – Chief, Operation and Maintenance Branch Detroit Office
- Liz Wilkinson – Field Officer and Resident Engineer – oversight of the West side of Michigan (located in Grand Haven)

Information Shared:

There was a depth sounding done on Pentwater Channel and the mouth of the Channel on April 28th. The Army Corp of Engineers does their own "soundings" to assess water levels.

The Army Corp of Engineers funding cycle is from October 1st – September 30th. The President's Budget (federal funding) has been allocated for 2022 and Pentwater was not allocated funds for dredging in the 2022 COE plan.

Pentwater is recognized as a recreational shallow draft harbor. Many small harbors, like ours, along Lake Michigan were not funded because we are not commercial.

We did find out that in addition to the President's Budget there is another opportunity for funding called the "Work Plan" pot of money. According to Cindy and Liz, Pentwater is included in the list of harbors that has requested dredging. They were not specific about Pentwater's chances but we are on the Request List. They are expecting a response for the "Work Plan" money around May 15th.

Maureen Murphy, Pentwater Township Clerk, remarked that Glenn Beavis and she are looking into other options for future dredging funding. Maureen's comments:

In our talks with the Army Corp of Engineers, they had proposed we work with our fellow Shallow Draft Harbors to form a coalition to collectively work together to create a larger voice to secure funding for future dredging.

The other Shallow Draft Harbors are New Buffalo, Saugatuck, South Haven, White Lake, Arcadia and Frankfort.

I will begin this effort early next week.

We also spoke with Marie Mihelich, Chief of Staff, for Senator Bumstead. She informed us that Senator Bumstead's Senate Bill 565 was signed into law on March 31, 2022. It assigns 4.1 billion dollars in Federal Funding plus 571 million in State Funding for water infrastructure improvement. Marie encouraged us to try and obtain dollars from the above Funds when they become available for dredging.

We will maintain contact with Senator Bumstead's office.

I also reached out to the Supervisor of South Haven Township, Ross Stein. The Army Corp of Engineer mentioned that South Haven was able to secure Federal Funds to dredge their harbor this year.


They said Senator Stabenow was a major part of securing the funds. So, I'm hoping to hear back from Ross Stein to get as much information as possible on how the funds were secured and how we might be able to do the same with Gary Peters.

Response to Intergovernmental Agreement Request

The Pentwater Township Board continues to be willing to consider legal and appropriate avenues authorized by Michigan Law for the Township to participate in a dredging project.

Due to the differences between a Village and a General Law Township under State Law, which the Village can directly participate in and undertake a dredging project because of the operation of the Village Municipal Marina and the Lake Street Boat Launch, the Township does not have the same authority.

Respectfully Submitted,


Lynne Cavazos, Township Supervisor

Date 6/10/22