

MINUTES

Pentwater Township Board

Special Meeting of February 6, 2013

Members Present: Smith, Flynn, Ruggles, Siska, Holub

Members Absent: None

Others Present: Juanita Pierman, George Modena, Dr. Dave Roseman, Dan Kelly, Denny Powers, Jim Ege, Norm Shotwell, Bob Kornelisen, Joe Primozich, Bruce Koorndyk, and Peter Wills from Senator Geoff Hansen's office via conference call

Call to Order: Supervisor Smith called the meeting to order at 2:00 p.m. and led the Pledge of Allegiance.

Discussion with Township Attorney Regarding Township Financing Options for Dredging of the Pentwater Channel

Mr. Smith introduced Mark Nettleton, Township Attorney from Mika Meyers, Beckett, et. al. and his associate Scott Hughes. Mr. Smith stated that the primary purpose of the special meeting was to discuss potential financing options for the Township regarding the dredging of the Pentwater Channel and immediate area outside of the channel within Lake Michigan.

Mr. Nettleton stated that the Township is guided in what it can and cannot do via "express" and "implied" powers. He said that express powers are clearly outlined in statutory authority through legislation. Mr. Nettleton said that townships are creatures of the State and that they can only perform functions that are identified/permitted in State legislation. He said that general law townships, like Pentwater Township, have limited abilities in contrast to home rule cities and villages.

Mr. Nettleton referred members to a handout outlining several township financing options for dredging. He then proceeded to describe the following public acts, process for implementation, and advantages and disadvantages of each:

P.A. 188 of 1954 – Township Special Assessment District

Part 309 of P.A. 451 of 1994, as amended – Lake Improvement Board

P.A. 94 of 2008 – Water Resource Improvement Tax Increment Finance Authority

Mr. Nettleton stated that only P.A. 188 permits township governments to implement “dredging” projects as the word is specifically identified in the legislation. He further said that dredging of Lake Michigan is not addressed in any of the aforementioned statutes however, so there is still a question as to the legality of using public funds for such a purpose.

Mr. Nettleton stated that the Township already has a Lake Improvement Board under Part 309, while the advantages and disadvantages of this legislation are almost identical to P.A. 188 of 1954. He said that the most promising option for the Township might be P.A. 94 of 2008, although the subject legislation sunsetted at the end of 2011. Mr. Nettleton stated that it was his understanding that an amendment to P.A. 94 was going to be introduced in the very near future and that the language of the legislation would specifically permit dredging of a Great Lake, while the current language only addresses “access” to inland lakes.

He said that P.A. 94 permits the establishment of an authority which in turn creates a tax increment financing authority district. The authority captures the annual increase in tax revenues to pay for certain improvements, like dredging. Mr. Nettleton stated that the district can capture millage levied by several different taxing jurisdictions, if they do not “opt” out.

Mr. Nettleton then discussed “implied” powers such as contracting for certain services and uses. He said that funding for such a service must be for a public purpose and not a private one and that further, contracting for a service must be identified in legislation to be implied. He said that a township could enter into a contract for any purpose, however, if it is not expressly permitted, the township could be sued for misuse of public funds.

Public Comment

Dr. Dave Roseman, 4629 N. Ridge Road, Mears Michigan stated that all of discussion seemed to be about long-term solutions to the dredging issue, however the problem is imminent and the mouth of the channel and the channel itself will likely have to be dredged this year and agreements for dredging with private contractors need to be scheduled as soon as possible.

Mr. Denny Powers offered his assistance in setting up a Tax Increment Financing Authority if the Township pursues that option as he has some experience working with a TIFA in the City of Hart.

Mr. Dan Kelley, 5430 Tonto, questioned whether an assessment levied under P.A. 188 by the Township could be proportional to the benefit received specifically if an assessment could be higher for a lakefront property versus a lower assessment for a property that did not have frontage on the lake.

Mr. Bob Kornelisen, 9367 Lorraine, commented that he thought that the approach identified through P.A. 94 of 2008 was more politically acceptable; however it was a more long range approach of financing dredging.

Mr. George Modena, 586 6th St. stated that his family owns property on Pentwater Lake and property some distance away and that the taxes on the lakefront property exceed the inland property even though the lakefront parcel is vacant and only has 33' of frontage.

Mr. Jim Ege, 5969 Wayne Road, questioned that it could be likely that a property owner who is assessed for dredging and who also moored a boat at one of the local marinas, could be faced with paying for two assessments – one for his own property and one passed on via an increase in dockage fees from the marina.

Other Items from Board Members - None

Adjournment

A motion was made by Siska, duly seconded by Flynn to adjourn the meeting at 3:25 p.m. The motion passed unanimously.

Respectfully submitted,

Dean Holub, Clerk
Pentwater Township

Date