



Notice of Saugatuck City Council April 9, 2020 Public Meeting via Video Conference

In accordance with Executive Order 2020-15, which declared that public bodies subject to the Open Meetings Act can use telephone and/or video conferencing technology to meet and conduct business during the ongoing public health situation, the City of Saugatuck will conduct its workshop meeting scheduled on **Thursday, April 9, 2020 at 4:00 p.m.** via Zoom Conference. The City of Saugatuck is using video conferencing technology for the purpose of conducting normal and necessary business while complying with Gov. Gretchen Whitmer and the Michigan Department of Health and Human Services' recommendations designed to help prevent the spread of Coronavirus Disease 2019 (COVID-19). For up-to-date information regarding the ongoing public health crisis, please visit: <http://www.Michigan.gov/Coronavirus> or <http://www.CDC.gov/Coronavirus>.

Video Conferencing Instructions for Access

The public may participate in the meeting via the following methods:

1. Join Zoom Meeting (online video conference) <https://zoom.us/j/919707741>
Meeting ID: 919 707 741
2. Dial via telephone (312) 626-6799 or (646) 518-9805 and enter Meeting ID: 919 707 741

Video Conferencing Public Participation

The public will be able to listen to all discussions by the Saugatuck City Council and all official materials for meetings prepared will be included in the meeting packet and available to the public on the City's website (www.saugatuckcity.com). Individuals will be permitted to speak for up to 3 minutes during the public comment sections of the agenda, which will be at the beginning of a meeting and the end of a meeting. The Mayor, with assistance from the City Manager, will facilitate the public comment periods.

Upon request for public comment by the Mayor, use the "raise hand" button in the participants screen in Zoom or enter *9 if you are calling in by phone to raise hand. You will be recognized and unmuted to speak in the order received.

If you would like to contact the Saugatuck City Council about any matter, on a meeting agenda or otherwise, prior to a meeting, please do so via the email addresses provided below:

Mayor, Ken Trester, ktrester@comcast.net

Mayor Pro-Tem, Chris Peterson, cpeterson@saugatuckcity.com

Council Member, Mark Bekken, markb@shinsurance.com

Council Member, Barry Johnson, bjohnson@saugatuckcity.com

Council Member, Hello Leo, hleo@saugatuckcity.com

Council Member, Garnet Lewis, glewis@saugatuckcity.com

Council Member, Jane Verplank, jverplank@saugatuckcity.com

Video Conferencing Conduct

For the purpose of creating an orderly environment for the City Council to work, please be respectful of the following:

1. A member of the Saugatuck City Council's remote attendance via a video conference shall be considered attendance for the purpose of establishing a quorum.
2. Any vote by a member of the Saugatuck City Council participating via a video conference meeting remotely shall be counted in the total number of votes for any matter and shall not be held invalid for the reason that it was cast remotely.
3. All votes on any matter via a video conference meeting will be taken by roll call vote.
4. Adjournment of a meeting held via video conference shall occur only on a roll call vote of the Saugatuck City Council.
5. Emails, texting, or other forms of electronic communications by or between members of the Saugatuck City Council that are not part of the public meeting shall not be allowed during any video conference meeting.
6. Interrupting, interjecting, and/or disrupting members of the Saugatuck City Council or City Staff while they are speaking is prohibited.

Video Conferencing Accommodations for those with Disabilities

The City of Saugatuck will provide reasonable accommodations to those with disabilities. Persons with disabilities who require assistance in order to participate in the electronic public meeting should contact Saugatuck City Clerk Monica Nagel as soon as practically possible prior to the meeting by emailing monica@saugatuckcity.com or by calling Saugatuck City Hall (269) 857-2603 as some accommodations may require 48-hours or more to provide.

Additionally, Hamilton Relay provides telecommunications relay services for the State of Michigan including TTY, Voice Carry Over (VCO), Hearing Carry Over (HCO), Speech-to-Speech (STS), and more. This free service can be accessed by dialing 7-1-1.



This meeting is being held
via video conference.

REMOTE ACCESS INSTRUCTIONS

CITY COUNCIL WORKSHOP AGENDA THURSDAY, APRIL 9, 2020 – 4:00 PM

1. **CALL TO ORDER/MEETING INTRODUCTION BY MAYOR**
2. **ATTENDANCE**
3. **PUBLIC COMMENT** (Agenda Items Only Limit 3 minutes) *Use the “raise hand” button in the participants screen in Zoom or enter *9 if you are calling in by phone to raise hand. You will be recognized and unmuted to speak in the order received.*
4. **DISCUSSION ITEMS**
 - A. Downtown Riverfront High Water Report Project Update: Greg Weykamp and Daryl Veldman (Edgewater Resources)
 - B. Park Street North Repaving Project Update: Jon Moxey (Fleis & Vandenbrink)
 - C. Saugatuck Department of Public Works Spring Operations Update: Scott Herbert (DPW Superintendent)
 - D. City Parks Status re: COVID-19
 - E. Saugatuck Township Fire District re: request to construct floating dock
 - F. Saugatuck Township Fire District re: request to purchase gangway from City
 - G. Emergency No Wake Zones re: Enrolled House Bill 5401
 - H. 4-13-2020 City Council Agenda Item Review
5. **OTHER ITEMS OF DISCUSSION**
6. **PUBLIC COMMENT** (Limit 3 minutes) *Use the “raise hand” button in the participants screen in Zoom or enter *9 if you are calling in by phone to raise hand. You will be recognized and unmuted to speak in the order received.*
7. **COUNCIL COMMENT**
8. **ADJOURN**

To attend and participate
in this video conference
meeting of the City of
Saugatuck, you may join
online or by phone.

Join online by visiting:

**[https://zoom.us/j/
919707741](https://zoom.us/j/919707741)**

Join by phone by dialing:

+1 (312) 626-6799

-or-

+1 (646) 518-9805

Then enter
“Meeting ID”:

919 707 741

This meeting will be
broadcast live on the City’s
YouTube Channel [CLICK HERE](#)

Those who are hearing
impaired may contact
(269) 857-2603 or
monica@saugatuckcity.com
and reasonable
accommodations will be
made.



City Council Workshop Discussion Item

To: Saugatuck City Council
From: Kirk Harrier—City Manager
Meeting Date: April 9, 2020
Re: Downtown Riverfront High Water Report Project

Greg Weykamp and Daryl Veldman from Edgewater Resources will give a verbal update on the Downtown Riverfront High Water Project.



City Council Workshop Discussion Item

To: Saugatuck City Council
From: Kirk Harrier—City Manager
Meeting Date: April 9, 2020
Re: Park Street North Repaving Project Update

Jon Moxey from Fleis & Vandenbrink will give a verbal update on the Park Street North Repaving Project.



City Council Workshop Discussion Item

To: Saugatuck City Council
From: Kirk Harrier—City Manager
Meeting Date: April 9, 2020
Re: Saugatuck Department of Public Works Spring Operations Update

Scott Herbert Superintendent of the Saugatuck Department of Public Works will give a verbal update on spring operations.



City Council Workshop Discussion Item

To: Saugatuck City Council
From: Kirk Harrier—City Manager
Meeting Date: April 9, 2020
Re: City Parks Status COVID-19

Currently all City parks are open with the exception of the Mt. Baldhead stairs. The Mt. Baldhead stairs were closed as the physical construction of the stairs made it difficult for the public to maintain the recommend 6' social distancing requirements. All of the City's seasonal restrooms remain closed and the main public restroom at the Village Square Park is closed. The City has installed a portable restroom that is now serviced two times a week and has been functioning well accommodating the public's need for a restroom facility while the main public restroom building is closed.

Other park locations such as Oval Beach for example, are being monitored by City Staff and the Allegan County Sheriff's Department. If there are any instances of large groups congregating, the Sheriff Deputies' are requiring people to disperse. However at the time this memo was written, there have not been reports of major violations. This may change as the weather continues to get nicer.

It would be worthwhile to discuss the status moving forward of the sections of Village Square Park that have the playground equipment and basketball courts, i.e. close or keep open to the public. These areas seem to be vulnerable to people congregating and not adhering to the 6' social distancing recommendations.



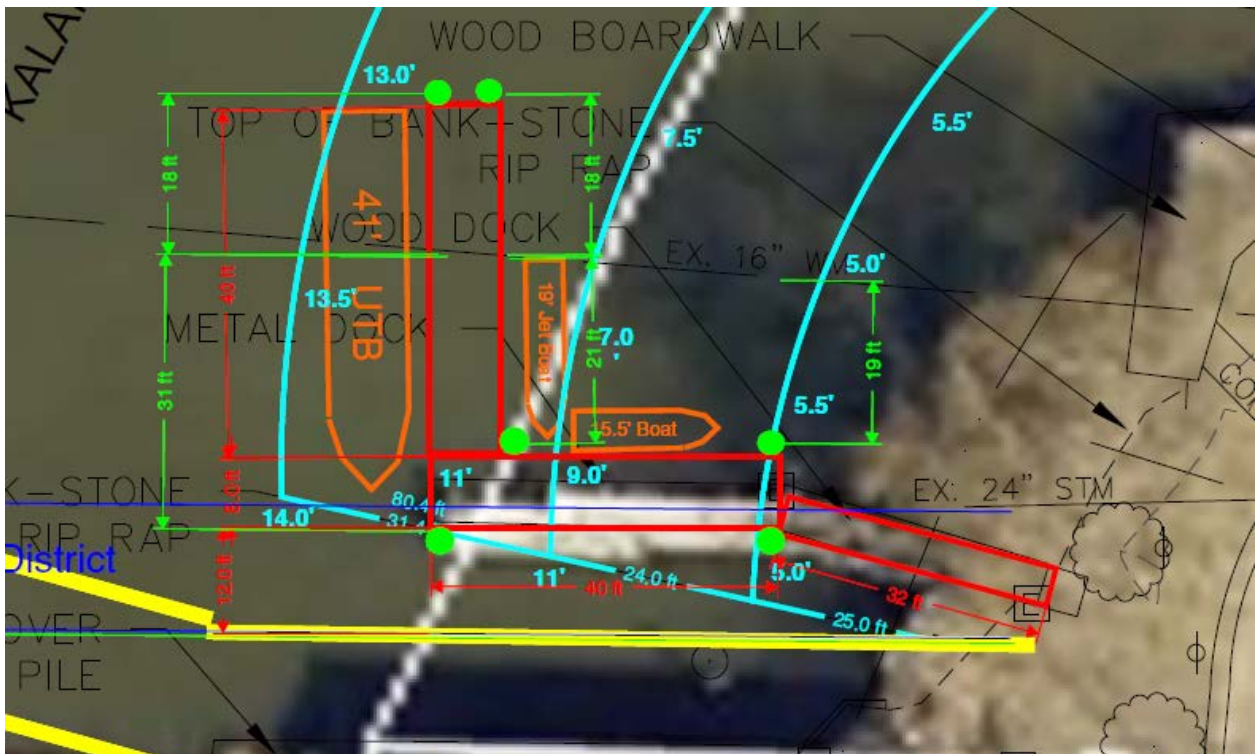
City Council Workshop Discussion Item

To: Saugatuck City Council
From: Kirk Harrier—City Manager
Meeting Date: April 9, 2020
Re: Saugatuck Township Fire District Request to Construct Floating Dock

The City of Saugatuck and the Saugatuck Township Fire District (STFD) recently entered into an intergovernmental agreement with respect to land and bottomlands referenced and depicted in the agreement. Attached to this memo is a copy of the map included in the intergovernmental agreement.

Section 6 of the agreement provides that before the STFD may undertake any new construction, alteration, or major repair work within the premises or in the waters of the Kalamazoo River or Kalamazoo Lake within the premises, it must seek and obtain the written approval of the City. The City's attorney has prepared a first draft of a resolution that could be used by Council to grant permission as required by the intergovernmental agreement.

The STFD has also submitted to the City specific plans. The plans for the proposed project are attached to this memo for Council review along with the extracted image below.





Corey J. Hughes PS
"Riparian Bottomlands and Boundary Consulting"

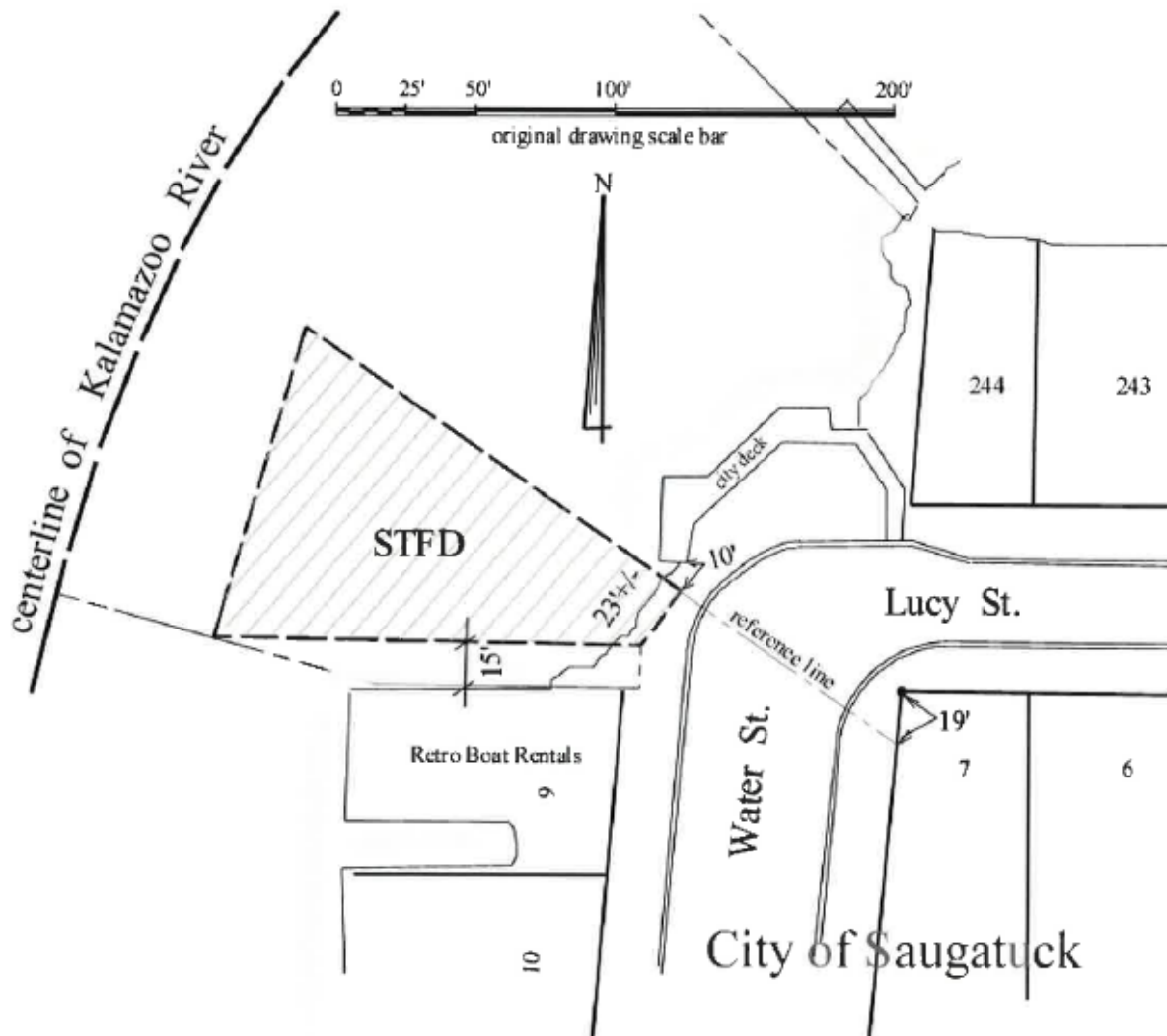
11 February 2020

CJH File No. 21January2020.1
Frontage at Water and Lucy St
Original Plat of Village of
Kalamazoo (Saugatuck)
Allegan County, Michigan

Client Representative:
Clifford Bloom
Bloom Sluggert, P.C.
15 Ionia Avenue, S.W.
Suite 640
Grand Rapids, MI 49503

Client:
City of Saugatuck
102 Butler Street
P.O. Box 86
Saugatuck, Michigan 49453

STFD
EXHIBIT 'A'



Corey J. Hughes PS (Michigan No. 20706)
"Riparian Bottomlands and Boundary Consulting"
9165 Stillwater Drive, West Olive, Michigan 49460
Phone : 231.649.4222, e-mail: ripariansurveyor@gmail.com / www.coreyhughes.com

**CITY COUNCIL
CITY OF SAUGATUCK
ALLEGAN COUNTY, MICHIGAN**

RESOLUTION NO. _____

**A RESOLUTION TO CONDITIONALLY APPROVE THE
SAUGATUCK TOWNSHIP FIRE DISTRICT'S REQUEST
TO CONSTRUCT DOCKS FOR EMERGENCY SERVICES**

Council Member _____, offered the following resolution and moved for its adoption, seconded by Council Member _____:

A. The City of Saugatuck (City) and the Saugatuck Township Fire District (STFD) have entered into an Intergovernmental Dockage Agreement, dated _____, 2020 (Agreement), with respect to land and bottomlands referenced and depicted in the Agreement. A copy of the executed Agreement is attached as Exhibit A to this Resolution.

B. Section 6 of the Agreement provides in relevant part that before the STFD may undertake any new construction, alteration, or major repair work within the Premises or in the waters of the Kalamazoo River or Kalamazoo Lake within the Premises, it must seek and obtain the written approval of the City.

C. The STFD has submitted to the City plans and specifications for the installation of new docks and appurtenances for the STFD's emergency rescue/patrol boats and related equipment (Project). The plans and specifications for the Project were prepared by Fleis & VandenBrink, dated _____ (F&V Project 3187), and are on file in the offices of the City Clerk (Plans).

D. The City Council has reviewed the Plans for the Project and wishes to approve the construction of the same, subject to the terms and conditions set forth in this Resolution.

NOW, THEREFORE, IT IS RESOLVED THAT:

1. The provisions set forth above are acknowledged to be accurate and are incorporated herein as if fully restated.

2. The Plans are hereby approved and the STFD is authorized to proceed to apply for and obtain all necessary permits required to construct the Project and the City Manager is authorized and directed to work with and coordinate efforts with the STFD to effectuate the construction of the Project.

3. The City's approval is contingent on the STFD, before initiating construction of the Project, obtaining and submitting to the City the following:

a. Written approval of the Plans by the City Engineer with particular attention paid to the presence of a public watermain within the Premises. All conditions recommended by the City Engineer with respect to the Project's construction shall be complied with and any costs associated with the City Engineer's review shall be paid by the STFD.

b. A certificate or other evidence of liability insurance in an amount of not less than \$1,000,000 which includes coverage for bodily injury and property damage and which names the City as an additional insured with respect to the Project. Such insurance shall minimally apply to the STFD as well as any and all contractors, subcontractors or agents involved in the design and construction of the Project.

c. A written indemnification agreement from the STFD protecting the City, in a form reasonably satisfactory to the City, indemnifying the City from any claims, demands, fines, damages, etc. of any nature, arising from any and all activities associated with the construction, operation, or maintenance of the Project.

d. Written acknowledgment by the STFD that in the event that the watermain on the Premises needs to be relocated, repaired, or maintained, that the STFD will remove, uninstall and otherwise modify the Project as reasonably necessary for such purposes and that the STFD will bear all costs associated with the same.

4. All resolutions and parts of resolutions in conflict herewith are, to the extent of such conflict, repealed.

YEAS: Council Members: _____

NAYS: Council Members: _____

ABSTAIN: Council Members: _____

ABSENT: Council Members: _____

RESOLUTION NO. _____ DECLARED ADOPTED.

Dated: _____, 2020

Signed: _____

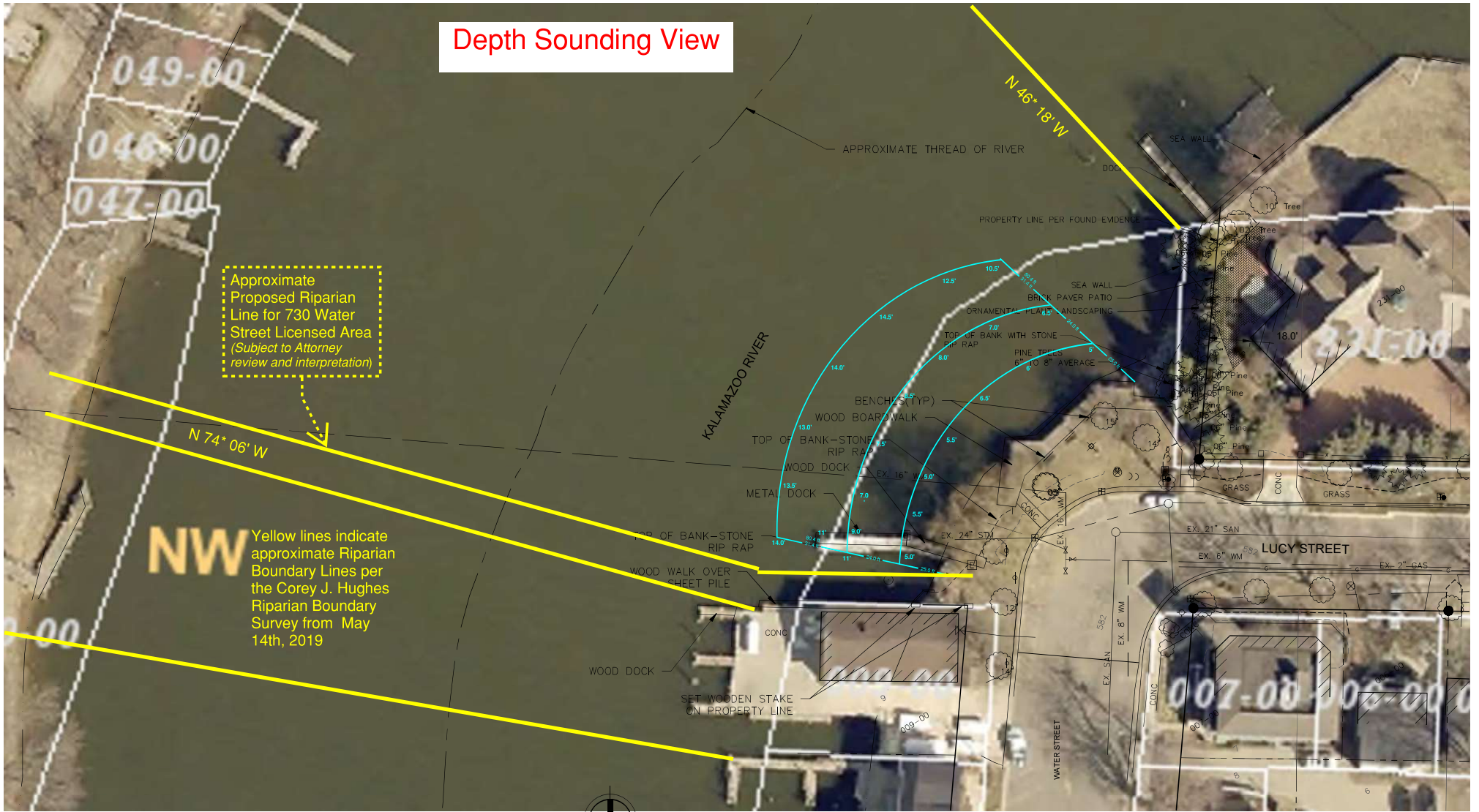
Ken Trester, Mayor

Monica Nagel, City Clerk

CERTIFICATION

I, _____, the acting clerk (for the purpose of signatures) of the City of Saugatuck do hereby certify the foregoing is a true and complete copy of a resolution adopted by the Saugatuck City Council at a regular meeting held _____, 2020, in compliance with the Open Meetings Act, Act No. 267 of the Public Acts of Michigan, 1976, as amended, the minutes of the meeting were kept and will be or have been made available as required by said Act.

Attest:



Depth Sounding View

Approximate Proposed Riparian Line for 730 Water Street Licensed Area (Subject to Attorney review and interpretation)

NW Yellow lines indicate approximate Riparian Boundary Lines per the Corey J. Hughes Riparian Boundary Survey from May 14th, 2019

Colored Additions are to scale, and were added by Saugatuck Twp. Fire District Staff for visualization purposes on 6/5/2019

FLEIS & VANDENBRINK
DESIGN, BUILD, OPERATE.

4798 Campus Drive
Kalamazoo, MI 49008
P: 269.385.0011
F: 269.382.6972



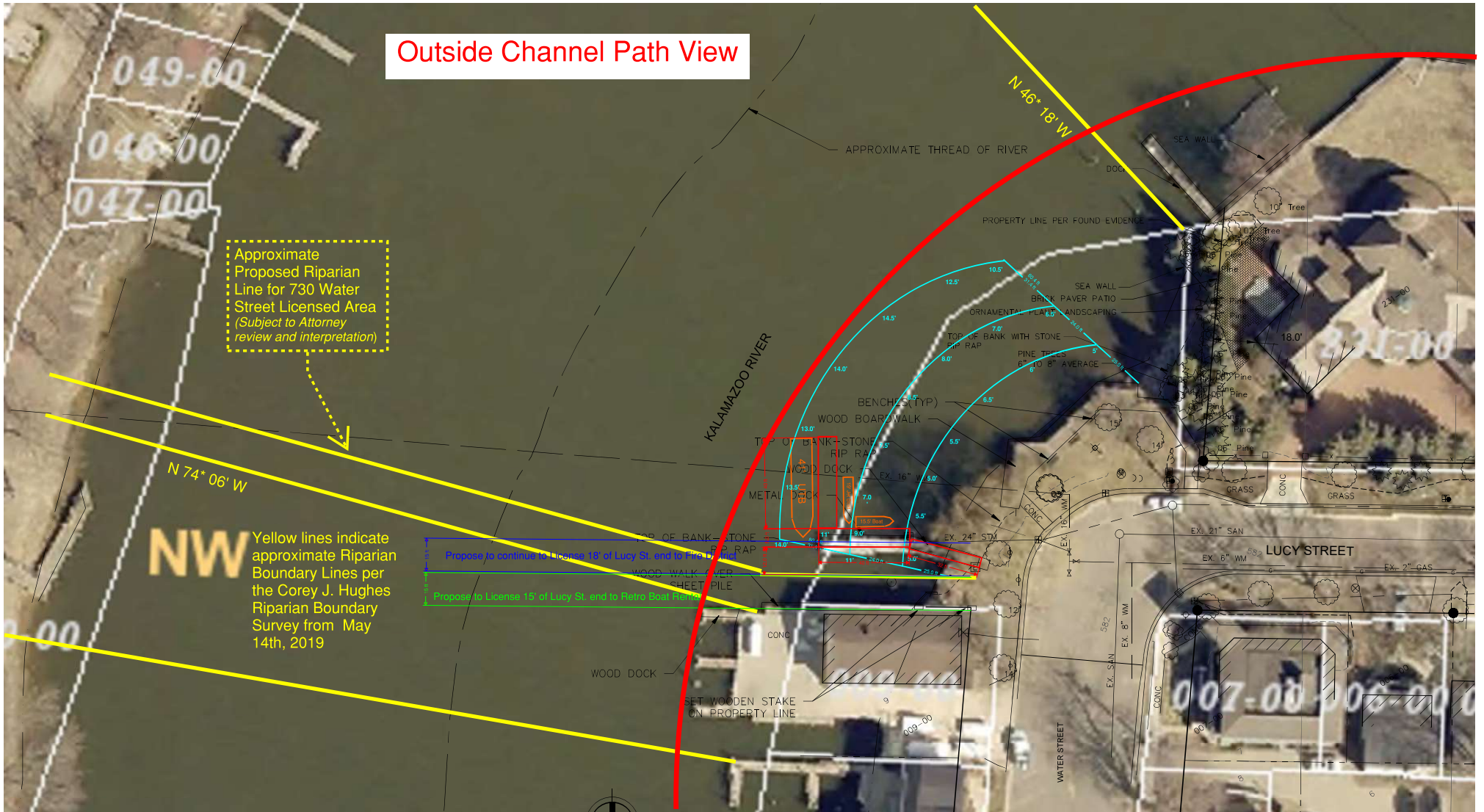
- LEGEND**
- FOUND IRON STAKE
 - SET IRON STAKE

F&V PROJECT NO. 3187

WATER & LUCY ST WATERFRONT
SECTION 9, T3N, R13W
ALLEGAN CO, MICHIGAN

CITY OF SAUGATUCK
PARCEL NO./PARCEL ADDRESS

Outside Channel Path View



Colored Additions are to scale, and were added by Saugatuck Twp. Fire District Staff for visualization purposes on 6/5/2019

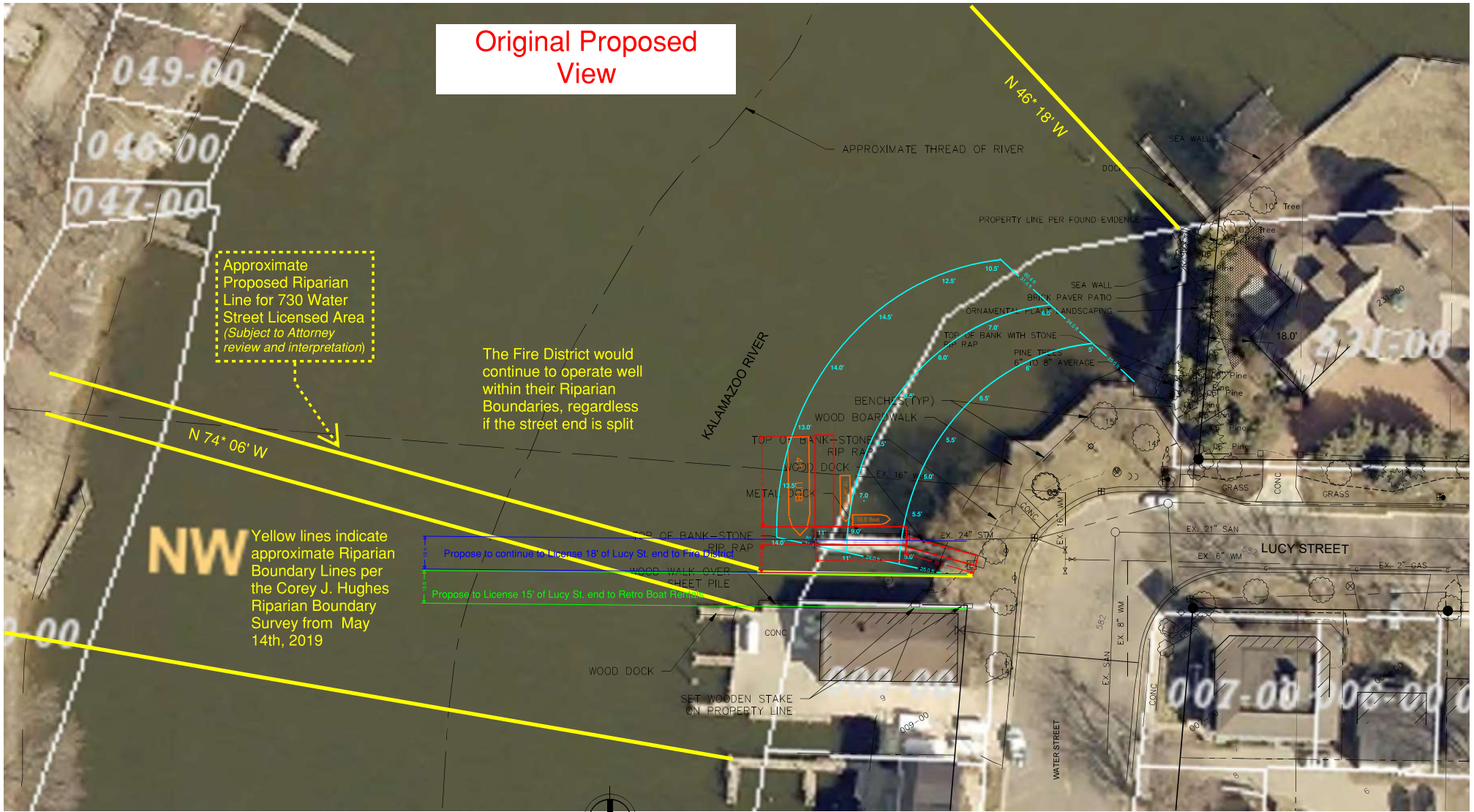


4798 Campus Drive
Kalamazoo, MI 49008
P: 269.385.0011
F: 269.382.6972



- LEGEND**
- FOUND IRON STAKE
 - SET IRON STAKE

F&V PROJECT NO. 3187
WATER & LUCY ST WATERFRONT
SECTION 9, T3N, R13W
ALLEGAN CO, MICHIGAN
CITY OF SAUGATUCK
PARCEL NO./PARCEL ADDRESS



Colored Additions are to scale, and were added by Saugatuck Twp. Fire District Staff for visualization purposes on 6/5/2019



4798 Campus Drive
Kalamazoo, MI 49008
P: 269.385.0011
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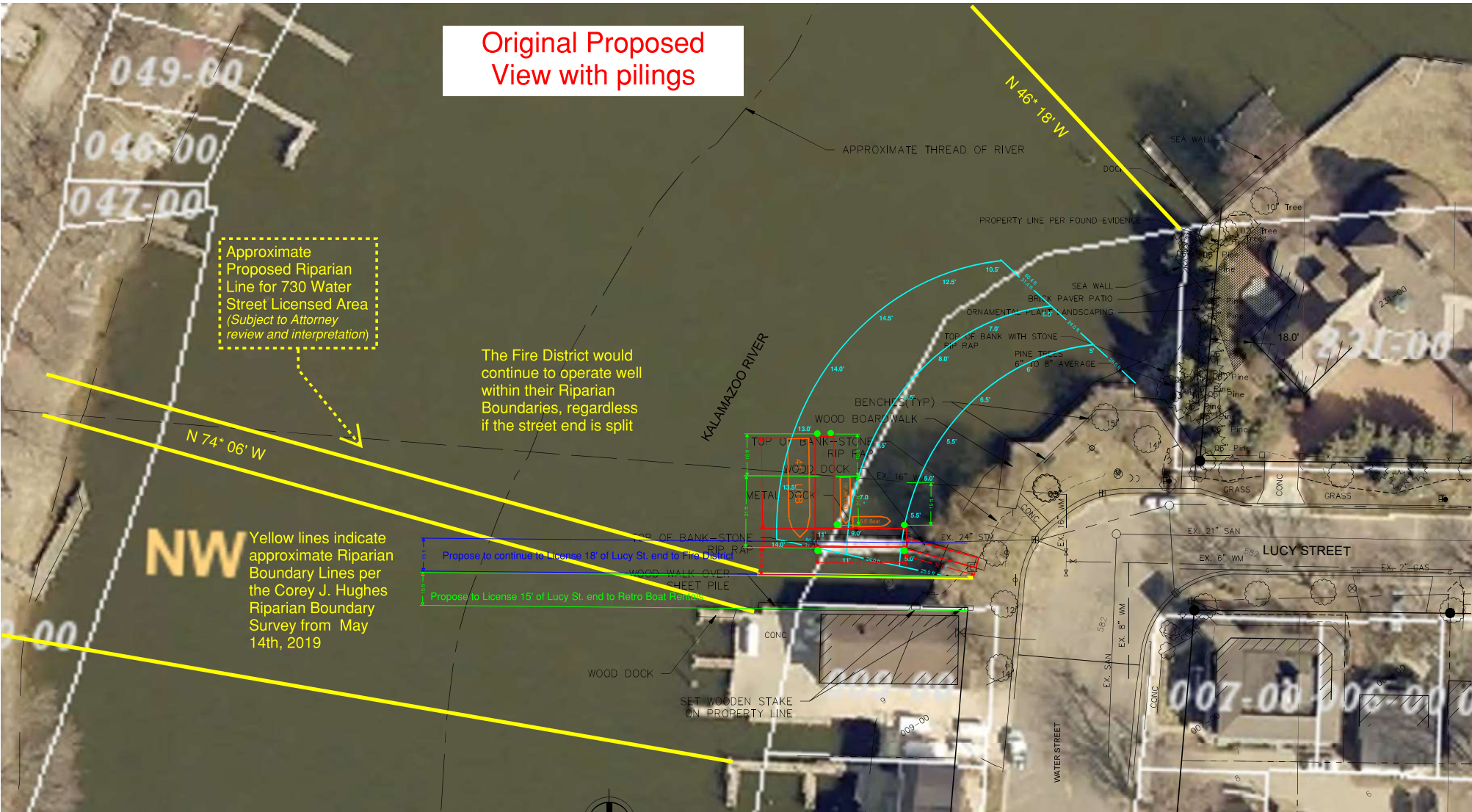
- LEGEND**
- FOUND IRON STAKE
 - SET IRON STAKE

F&V PROJECT NO. 3187

WATER & LUCY ST WATERFRONT
SECTION 9, T3N, R13W
ALLEGAN CO, MICHIGAN

CITY OF SAUGATUCK
PARCEL NO./PARCEL ADDRESS

Original Proposed View with pilings



Approximate Proposed Riparian Line for 730 Water Street Licensed Area
(Subject to Attorney review and interpretation)

The Fire District would continue to operate well within their Riparian Boundaries, regardless if the street end is split

Yellow lines indicate approximate Riparian Boundary Lines per the Corey J. Hughes Riparian Boundary Survey from May 14th, 2019

Colored Additions are to scale, and were added by Saugatuck Twp. Fire District Staff for visualization purposes on 6/5/2019





City Council Workshop Discussion Item

To: Saugatuck City Council
From: Kirk Harrier—City Manager
Meeting Date: April 9, 2020
Re: Saugatuck Township Fire District Request to Purchase Gangway

The Saugatuck Township Fire District (STFD) has made a request to purchase an aluminum gangway from the City of Saugatuck that was previously installed for the use on the dinghy dock in Coghlin Park. The City installed a new “shoppers dock” in 2019 and that dock required a different size gangway. At this time the City Council has not identified a use for the gangway and it is being stored at the Public Works Department. The gangway was purchased by the City in 2015 for a total cost of \$5,867.48 (invoice attached). The gangway is in perfect condition and still usable. I reached out to the manufacture (Bristol Industries) to get an appraisal if the City were to sell the gangway and they stated \$3,000 would be the value for the gangway used. They also stated to order the same gangway new and have it shipped would be in the \$6K+ range.

City Ordinance (Section 32.20 SALE OF PERSONAL PROPERTY) states that any property of this city no longer required for public purposes may be sold without competitive bidding by resolution of the City Council.

Attached is a draft resolution the City Council could use if interested in selling the gangway to the STDF. This item would need to be acted on at a regular meeting of the Council.



Bristol Industries of Pennsylvania Inc.

131 Old Oxford Valley Road
Langhorne, PA 19047

215-493-7230 info@bristolramp.com

Invoice

| | |
|----------|-----------|
| Date | Invoice # |
| 7/6/2015 | 1636 |

| |
|--|
| Bill To |
| Saugatuck City Hall 102 Butler Street PO Box 86 Saugatuck, MI 49453 |

| |
|--|
| Ship To |
| Saugatuck City Hall 102 Butler Street PO Box 86 Saugatuck, MI 49453 |

| | | | | |
|-------------|-----------------|----------|-----|----------|
| P.O. Number | Terms | Due Date | Rep | Ship |
| 1768 | 50% Down 50%... | 7/6/2015 | MRB | 7/6/2015 |

| Item Code | Description | Quantity | Price Each | Amount |
|--------------|---|----------|------------|----------|
| 4x24 GANG... | 4x24 GANGWAY - 2" HANDRAIL, 42" UPRIGHTS, UHMW ROLLER, PIANO HINGE, TOEKICK, RUB RAIL, GRAB RAIL | 1 | 3,972.48 | 3,972.48 |
| TR4 | 4' TRANSITION PLATE | 1 | 395.00 | 395.00 |
| DELIVERY | DELIVERY OF PRODUCT VIA BRISTOL Shipping to be determined at time of delivery SER #: BI 51592 Deliver to: Public Works Building 3338 Blue Star Highway, Saugatuck, MI 49453 | | 1,500.00 | 1,500.00 |

All Prices are in USD. The above prices are subject to sales tax as applicable. F.o.b. origin. Terms are 50% deposit with order (custom order deposits will be 50% non-refundable) with [Payment on delivery / Quotation is firm / accepted](#) within 15 days. Changes made to this order after processing has begun will result in a 25% charge. Bristol industry of Pa, Inc. offers a limited warranty on all man-made materials and wood products (per warranties covered by those manufacturers). Exclusion's Taxes Duties & Customs Fees if applicable, Unloading/Installation to be performed by others, Crane Operations if applicable to be performed by others. Permitting to be performed by others. Independent Weld Inspection if applicable passed on price. Signed & Stamped Engineered Drawings if applicable passed on price.

| | |
|-------------------------|------------|
| Total | \$5,867.48 |
| Payments/Credits | \$0.00 |
| Balance Due | \$5,867.48 |

**CITY OF SAUGATUCK
COUNTY OF ALLEGAN
STATE OF MICHIGAN**

RESOLUTION NO. 200413-B

**A RESOLUTION AUTHORIZING THE SALE OF CITY
PERSONAL PROPERTY WITHOUT COMPETITIVE BIDDING**

At a regular meeting of the City Council for the City of Saugatuck, Michigan, held at the City Hall, Saugatuck, Michigan, on the 13th day of April 2020, at 7 p.m.

PRESENT: _____

ABSENT: _____

The following Resolution was offered by Councilmember _____ and seconded by Councilmember _____:

RECITALS

- A. Chapter 32 of the City Code of the City of Saugatuck governs the sale and disposition of City property.
- B. The City owns a Bristol 4x24 aluminum gangway that was purchased in 2015 for \$5,867.48 used at Coghlin Park as part of the original public dinghy dock that has since been replaced with a new public shoppers dock facility.
- C. The Saugatuck Township Fire District has expressed interest in purchasing the Bristol 4x24 aluminum gangway from the City.
- D. The City has contacted Bristol Industries and received an appraisal for resale purposes for the Bristol 4x24 aluminum gangway in the amount of \$3,000.
- E. Section 32.20 of the City Code authorizes the City to dispose of personal property without competitive bidding by resolution of the City Council.

NOW, THEREFORE, IT IS RESOLVED:

1. The Recitals set forth above are affirmed as correct and incorporated herein in their entirety.
2. Consistent with Section 32.20 of the City Code, the City Council hereby authorizes and directs the City Manager to take all actions necessary and advisable to effectuate the sale and disposition of the Bristol 4x24 aluminum gangway to the Saugatuck Township Fire District in the amount of \$3,000.
4. All resolutions and parts of resolutions in conflict herewith are, to the extent of such conflict, repealed.

YEAS: Council Members: _____

NAYS: Council Members: _____

ABSTAIN: Council Members: _____

ABSENT: Council Members: _____

ADOPTED this 13th day of September, 2020

Ken Trester, Mayor

Monica Nagel, City Clerk

CERTIFICATION

I, Monica Nagel, the duly appointed clerk of the City of Saugatuck, certify the foregoing is a true and complete copy of a resolution adopted by the Saugatuck City Council at a regular meeting held April 13, 2020, in compliance with the Open Meetings Act, Act No. 267 of the Public Acts of Michigan, 1976, as amended.

Monica Nagel, City Clerk



City Council Workshop Discussion Item

To: Saugatuck City Council
From: Kirk Harrier—City Manager
Meeting Date: April 9, 2020
Re: Emergency No Wake Zones

On April 2, 2020, Michigan’s Governor signed House Bill 5401, 5402 and 5463 into law. The bills are designed to work together to combat lakeshore erosion, flooding and degradation across the state by creating a process for establishing “no wake zones” in various Michigan lakes.

House Bill 5401 and 5402 allow the Department of Natural Resources (DNR), county emergency management coordinator, or county sheriff to set temporary watercraft speed limits during the high-water season and fine violators. HB 5401 and 5402 were sponsored by Representative Gary Eisen, R-Saint Clair Township.

House Bill 5463 provides that an application for a temporary ordinance would require the resolution and copy of public notice; circumstances that justify the temporary ordinance rather than a special rule; a plan by the political subdivision on how the temporary ordinance will be funded and enforced; and a complete list of all local ordinances, regulations, and rules regulating that body of water. The bill was sponsored by Representative Jim Lilly, R-Park Township.

Attached is a copy of the legislative analysis of the bill’s from the states web site. Also I have attached full copies of the individual bills.

Legislative Analysis



TEMPORARY WATER REGULATIONS DURING HIGH WATER CONDITIONS

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5401 (H-3) as reported from committee
House Bill 5402 (H-2) as reported from committee
Sponsor: Rep. Gary R. Eisen

Analysis available at
<http://www.legislature.mi.gov>

House Bill 5463 (H-3) as reported from committee
Sponsor: Rep. Jim Lilly

1st Committee: Natural Resources and Outdoor Recreation
2nd Committee: Ways and Means
Complete to 2-26-20

BRIEF SUMMARY: House Bills 5401 and 5402 would allow the Department of Natural Resources (DNR), county emergency management coordinator, or county sheriff to set temporary vessel speed limits during high water conditions and establish fines for violations. House Bill 5463 would allow a local political subdivision to request a special rule or temporary ordinance for the use of vessels and other devices on a water body subject to its jurisdiction.

FISCAL IMPACT: The bills may increase costs for the DNR or local units of government. (See **Fiscal Information**, below, for a detailed discussion.)

THE APPARENT PROBLEM:

Michigan is currently experiencing near-record water levels statewide, and projections are that these water levels will continue to rise in 2020. In the 1980s, the state experienced similar high water levels, which devastated waterfront properties. Local communities with homes, roads, and businesses on the water are currently experiencing the destructive effects of the high water levels as waves erode shorelines and crash over breakwalls and revetments. While nothing can stop waves caused by wind or storms, speed restrictions can keep vessels from creating wakes that, in high water conditions, can also damage public and private waterfront property. Unfortunately, local communities are currently unable to impose temporary speed restrictions to ensure that boats and other watercraft do not create potentially damaging wakes. Legislation has been offered to give local communities the option of establishing temporary regulations for boats and other vessels and devices during emergency high water conditions.

THE CONTENT OF THE BILLS:

Currently under the Natural Resources and Environmental Protection Act (NREPA), the DNR may establish boating speed limits for Michigan waters. Any area of water that does not have a speed limit established by the DNR has a default speed limit of 55 miles per hour. However, a local unit of government that has jurisdiction over waters in Michigan can request that the DNR reduce the boating speed limits on those waters to 40 miles per hour or less.

House Bill 5401 would amend Part 801 (Marine Safety) of NREPA to change “motorboat” to “vessel” for purposes of these provisions. (As defined in the act, “vessel” means every

watercraft used or capable of being used for transportation on water). The bill would allow a county or municipality, to protect life and property during emergency high water conditions, to request the DNR or applicable county emergency management coordinator or sheriff to establish by order a temporary maximum vessel speed limit for Michigan waters located in or adjacent to the county or municipality. The bill would also specify that the request or order could not prohibit use of any type of vessel. The order would be in effect for up to 14 days, could be reissued once per calendar year, and would have to specify a maximum fine for its violation. The maximum fine could be up to \$100 for a first violation and up to \$500 for a second or subsequent violation. A speed limit under these provisions could only be in effect during the period from September 1 to June 20.

The DNR, emergency management coordinator, or county sheriff, as applicable, would have to do both of the following:

- Post the speed limit, maximum fine, and a description of the affected waters on its website.
- Place buoys sufficient to advise vessel operators of the speed limit. An emergency management coordinator or sheriff would have to consult with the DNR before placing buoys. The requirement for a permit to place a buoy under section 80159 of NREPA would not apply to buoys placed during emergency high water conditions, and the DNR could not order removal of such buoys because a permit had not been issued.

A person who *violated a speed limit established by the DNR* under the above provisions would be responsible for a state civil infraction and subject to a civil fine as specified above. A person who *violated a temporary vessel speed limit established by an emergency management coordinator or sheriff* would be responsible for a municipal civil infraction and subject to a civil fine as specified above.

MCL 324.80146

House Bill 5402 would amend the Revised Judicature Act to update its definitions of “civil infraction” and “municipal civil infraction” to include a violation of an *ordinance*, which would itself be defined to include a temporary vessel speed limit established by a county emergency management coordinator or sheriff under NREPA, as described above.

Additionally, the Revised Judicature Act states that the plaintiff in a municipal civil infraction action is the political subdivision whose ordinance has been violated. The bill would add that, if the ordinance was a temporary vessel speed limit established by the county emergency management coordinator or sheriff under NREPA, the county or municipality that requested the speed limit would be considered the political subdivision whose ordinance was violated.

MCL 600.113, 600.8701, and 600.8703

House Bill 5463 would amend Part 801 of NREPA to allow a local political subdivision to request a special rule or temporary ordinance for the use of vessels and other devices on a water body subject to its jurisdiction.

Currently under NREPA, the DNR can allow a *political subdivision* to issue special local rules for the use of vessels, water skis, water sleds, aquaplanes, surfboards, or other similar devices. These rules apply to the local bodies of water year-round. The DNR conducts investigations

and inquiries into whether these special rules are needed, which includes considering several conditions and pieces of information.

Political subdivision means a Michigan county, metropolitan authority, municipality, or combination of those entities.

A denial of a special rule can currently be appealed to the Michigan Waterways Commission, which then makes the final decision as to whether a rule is needed. Under the bill, appeals would instead be made to the director of the DNR, who would also have the final determination as to whether a rule is needed.

The bill would further allow a political subdivision to request a temporary ordinance for the use of vessels on a water body subject to its jurisdiction. A temporary ordinance would include a local watercraft control or administrative rule. A temporary ordinance would expire after six months and could not be extended or renewed in consecutive years.

A political subdivision could submit an application and a resolution for a temporary ordinance to the DNR. The application would have to contain all of the following information:

- The resolution and a copy of the public notice listing the adoption of the resolution on the agenda.
- The information required for the DNR to conduct investigations and inquiries into whether special rules are needed.
- The circumstances that justify a temporary ordinance rather than a special rule.
- A complete list of all local ordinances, regulations, and rules concerning the water body and how they are enforced.
- How the political subdivision plans to provide for and fund the public notice of the temporary ordinance, including buoy placement and signage, and how it will be enforced.
- Any other information the political subdivision believes is relevant or necessary.

The DNR would have to review the application within 10 days after receiving it. For a complete application, the DNR would have to conduct an investigation and inquiry within 10 days into the need for a temporary ordinance. For an application requiring additional information, the DNR would have to request that information and conduct the investigation and inquiry within 10 days after receiving that information.

Within 10 days after completing its investigation and inquiry, if the DNR determines that there is a need for a temporary ordinance, the DNR would have to propose a temporary ordinance affecting all boats or boat types on the water body. The DNR would have to submit the proposed temporary ordinance to the political subdivision. Notwithstanding any charter provision or other provision of law, the proposed temporary ordinance would take effect when both of the following requirements were met, which would have to occur within 20 days after the DNR submitted the proposed temporary ordinance to the political subdivision:

- The governing body of the political subdivision adopts the ordinance at a public meeting.
- The political subdivision notifies the DNR of the adoption.

If the political subdivision failed to notify the DNR of its adoption of the proposed temporary ordinance, then the proposed temporary ordinance would be considered disapproved and no further action could be taken.

If the DNR determines that there is not a need for a temporary ordinance, the DNR would have to notify the political subdivision and provide the specific reasons for this determination. A denial of a temporary ordinance could be appealed by the political subdivision to the director of the DNR, who would make the final agency decision on the need for a temporary ordinance.

MCL 324.80104 and 324.80110 and proposed MCL 324.80112a

Tie-bars: All three bills are tie-barred to one another, which means that none of them could take effect unless all of them were enacted.

FISCAL INFORMATION:

House Bill 5401 may increase law enforcement costs for the DNR by providing for the implementation and enforcement of temporary motorboat speed limits during high water conditions; however, these limits would not be mandatory under the bill. The bill allows for temporary speed limit enforcement “on water of this state;” the department’s conservation officers are responsible for enforcing laws and regulations related to outdoor recreation activities in Michigan. The extent of this potential cost increase is unclear; departmental law enforcement is already monitoring state waters and enforcing watercraft regulations. There are 235 conservation officers funded by a gross appropriation of \$44.8 million in FY 2019-20. The department may also incur additional costs related to notification of speed limits in the form of signs or buoys publicizing temporary speed limits. The bill is unlikely to generate revenue for the department.

Local governments may realize additional costs similar to the aforementioned for DNR. Local law enforcement agencies vary in the extent to which they patrol waters adjacent to their respective jurisdictions and the bill allows these local agencies to be assisted by the department.

House Bill 5402 would have no fiscal impact on state or local government.

House Bill 5463 is likely to increase administrative costs for the DNR and local units of government if a temporary ordinance is formally considered as provided under the bill. Both state and local government officials may incur these additional costs in the course of following the application and notification procedures outlined in HB 5463. The extent of a potential cost increase is unclear and likely to vary by application. The bill is unlikely to affect revenues and does not provide additional funding to state or local governments to support additional costs. The department’s FY 2019-20 funding is \$438.7 Gross (\$47.0 million GF/GP) and 2,340.1 FTE positions.

ARGUMENTS:

For:

Supporters of the bills argue that temporary speed restrictions on vessels are needed to protect local property interests. During high water conditions, such as Michigan’s current near-record levels, wakes created from vessels in the water can damage docks, piers, homes, yards, parks, roads, businesses, and anything else near the waterfront. Restoration and rebuilding efforts can be costly, especially when added to preventative measures that already take place. Supporters argue that temporary speed restrictions are themselves a worthwhile preventative measure. Temporary speed restrictions are also better suited to Michigan’s current high water

predicament, as the water levels could recede next year or the year after. Water levels can and do fluctuate, both over time and from one community to the next, so a temporary speed restriction that local communities can enforce would be a most fitting response to fluctuating water levels.

Against:

Critics of the bills argue that a temporary speed restriction is not needed, even with the current near-record high water levels, since current law allows for graduated speed restrictions that can take effect during high water conditions. Even though the speed restrictions are permanent, the graduated levels would only be enforced when the water levels reached a critical level, a solution that would take into account Michigan's ever-fluctuating water levels.

POSITIONS:

Representatives of the following entities testified in support of HBs 5401 and 5402 (1-28-20):

- Clay Township
- Hamburg Township

Representatives of the Department of Natural Resources testified in support of HB 5463 (2-11-20), and the department indicated support for the bills (2-25-20).

The following entities indicated support for the bills:

- Michigan Lakes and Streams Association (2-10-20)
- Michigan Municipal League (2-11-20 and 2-18-20)

The following entities indicated support for HBs 5401 and 5402 (1-28-20):

- Michigan Sheriffs Association
- Michigan Waterfront Alliance

The Michigan Townships Association indicated support for HBs 5401 and 5463. (2-25-20)

The Michigan Boating Industries Association indicated a neutral position on the bills as substituted. (2-25-20)

The Michigan Association of Planning indicated opposition to HB 5463. (2-17-20)

Legislative Analyst: Emily S. Smith
Fiscal Analysts: Austin Scott
Robin Risko

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

**STATE OF MICHIGAN
100TH LEGISLATURE
REGULAR SESSION OF 2020**

Introduced by Reps. Eisen, Lower, Wozniak, Marino, Hertel, Tate and Hornberger

ENROLLED HOUSE BILL No. 5401

AN ACT to amend 1994 PA 451, entitled “An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to protect the people’s right to hunt and fish; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts,” by amending section 80146 (MCL 324.80146), as amended by 2007 PA 8.

The People of the State of Michigan enact:

Sec. 80146. (1) The department may promulgate rules to establish maximum vessel speed limits or to allow unlimited vessel speed on the waters of this state.

(2) On waters of this state for which a vessel speed limit is not established under subsection (1), for which the department has not established an unlimited vessel speed limit, and for which stricter speed restrictions are not established pursuant to another act, the maximum speed limit is 55 miles per hour, except as follows:

- (a) In an emergency as determined by local government authority.
- (b) For conservation officers and other peace officers when engaged in official duties.

(c) In the Great Lakes and Lake St. Clair, except for an area within 1 mile of the shoreline measured at a right angle from the shoreline.

(3) Upon receipt of a resolution by the governing body of a local unit of government having jurisdiction over waters of this state requesting a reduction in the maximum speed limit on those waters, the department, pursuant to sections 80108 and 80109 to 80113, may establish a maximum speed limit not to exceed 40 miles per hour on those waters.

(4) Upon receipt of a resolution of the governing body of a county or municipality requesting a reduction in the maximum vessel speed limit to protect life and property during emergency conditions, the department, the county emergency management coordinator, or the county sheriff may establish a temporary reduced maximum vessel speed limit on waters of this state located in the county or municipality. In that case, the department, emergency management coordinator, or sheriff, respectively, shall do all of the following:

(a) Specify a maximum fine for violating the temporary speed limit. The maximum fine shall not be greater than \$100.00 for a first violation of a temporary speed limit established by that authority or \$500.00 for a second or subsequent violation.

(b) Notify the other authorities authorized to issue temporary speed limits under this subsection of the temporary speed limit.

(c) Post the temporary speed limit, the maximum fine, and a description of the affected waters on its website.

(d) Subject to section 80159, place buoys sufficient to advise vessel operators of the temporary speed limit.

(5) A person who violates a temporary speed limit established by the department under subsection (4) is responsible for a state civil infraction and subject to a civil fine as specified pursuant to subsection (4). A person who violates a temporary speed limit established by an emergency management coordinator or sheriff is responsible for a municipal civil infraction and subject to a civil fine as specified pursuant to subsection (4).

(6) A temporary speed limit under subsection (4) shall remain in effect for not more than 14 days. A temporary speed limit may be reissued once per calendar year. However, a temporary speed limit may be reissued twice per calendar year if, before adopting the resolution requesting the second reissuance, the county or municipality submitted to the department an application and resolution for a temporary ordinance under section 80112a in lieu of the temporary speed limit under subsection (4). Temporary speed limits under subsection (4) shall only be in effect during the period from September 1 to June 20. However, a temporary speed limit may be in effect during the period from June 21 to June 30 if it is the first or second reissuance of a temporary speed limit and if, before adopting the resolution requesting that reissuance, the county or municipality submitted to the department an application and resolution for a temporary ordinance under section 80112a in lieu of the temporary speed limit under subsection (4).

(7) A temporary speed limit under subsection (4) shall not prohibit the use of any type of vessel.

(8) During a state of emergency or disaster declared by the governor pursuant to law, the governor may establish restricted wake zones if necessary and appropriate to address emergency or disaster conditions.

(9) A person shall not operate a vessel on the waters of this state at a speed greater than slow—no wake speed or the minimum speed necessary for the vessel to maintain forward movement when within 100 feet of the shoreline where the water depth is less than 3 feet, as determined by vertical measurement, except in navigable channels not otherwise posted.

(10) A person who violates subsection (2) or (3) is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$500.00, unless 1 of the following conditions exists:

(a) The requirements of this section have been waived as described under subsection (11).

(b) The person violates this section in a manner that constitutes reckless operation of a vessel as described in section 80147.

(11) The department may waive the requirements of this section and section 80156 for marine events authorized by the department under section 80164.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 100th Legislature are enacted into law:

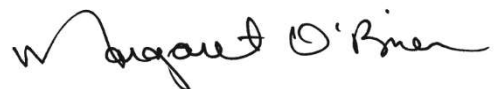
(a) House Bill No. 5402.

(b) House Bill No. 5463.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor

**STATE OF MICHIGAN
100TH LEGISLATURE
REGULAR SESSION OF 2020**

Introduced by Rep. Eisen

ENROLLED HOUSE BILL No. 5402

AN ACT to amend 1961 PA 236, entitled “An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of the courts, and of the judges and other officers of the courts; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in the courts; pleading, evidence, practice, and procedure in civil and criminal actions and proceedings in the courts; to provide for the powers and duties of certain state governmental officers and entities; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts,” by amending sections 113, 8701, and 8703 (MCL 600.113, 600.8701, and 600.8703), section 113 as amended by 1996 PA 79, section 8701 as added by 1994 PA 12, and section 8703 as amended by 1996 PA 388.

The People of the State of Michigan enact:

Sec. 113. (1) As used in this act:

(a) “Civil infraction” means an act or omission that is prohibited by a law and is not a crime under that law or that is prohibited by an ordinance, as defined in section 8701, and is not a crime under that ordinance, and for which civil sanctions may be ordered. Civil infraction includes, but is not limited to, the following:

(i) A violation of the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, designated as a civil infraction.

(ii) A violation of a city, township, or village ordinance substantially corresponding to a provision of the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, if the ordinance designates the violation as a civil infraction.

(iii) A violation of an ordinance adopted under 1969 PA 235, MCL 257.941 to 257.943.

(iv) A violation of a city, township, or village ordinance adopting the uniform traffic code promulgated under 1956 PA 62, MCL 257.951 to 257.955, if the uniform traffic code designates the violation as a civil infraction.

(v) A violation of an ordinance adopted by the governing board of a state university or college under 1967 PA 291, MCL 390.891 to 390.893, if the ordinance designates the violation as a civil infraction.

(vi) A violation of regulations adopted by a county board of commissioners under 1945 PA 58, MCL 46.201.

(vii) A municipal civil infraction.

(viii) A state civil infraction.

(ix) A violation of the pupil transportation act, 1990 PA 187, MCL 257.1801 to 257.1877, designated as a civil infraction.

(b) “Civil infraction action” means a civil action in which the defendant is alleged to be responsible for a civil infraction.

(c) “Municipal civil infraction” means a civil infraction involving a violation of an ordinance, as defined in section 8701. Municipal civil infraction includes, but is not limited to, a trailway municipal civil infraction. Municipal civil infraction does not include a violation described in subdivision (a)(i) to (vi) or (ix) or any act or omission that constitutes a crime under any of the following:

(i) Article 7 of the public health code, 1978 PA 368, MCL 333.7101 to 333.7545.

(ii) The Michigan penal code, 1931 PA 328, MCL 750.1 to 750.568.

(iii) The Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(iv) The Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303.

(v) Part 801 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80101 to 324.80199.

(vi) The aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.1 to 259.208.

(vii) Part 821 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.82101 to 324.82161.

(viii) Part 811 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81101 to 324.81151.

(ix) The railroad code of 1993, 1993 PA 354, MCL 462.101 to 462.451.

(x) Any law of this state under which the act or omission is punishable by imprisonment for more than 90 days.

(d) “Municipal civil infraction action” means a civil action in which the defendant is alleged to be responsible for a municipal civil infraction. Municipal civil infraction action includes, but is not limited to, a trailway municipal civil infraction action.

(e) “State civil infraction” means a civil infraction involving either of the following:

(i) A violation of state law that is designated by statute as a state civil infraction.

(ii) A violation of a city, township, village, or county ordinance that is designated by statute as a state civil infraction.

(f) “State civil infraction action” means a civil action in which the defendant is alleged to be responsible for a state civil infraction.

(g) “Trailway municipal civil infraction” means a municipal civil infraction involving the operation of a vehicle on a recreational trailway at a time, in a place, or in a manner prohibited by ordinance.

(h) “Trailway municipal civil infraction action” means a civil infraction action in which the defendant is alleged to be responsible for a trailway municipal civil infraction.

(2) Except as otherwise provided in this act:

(a) A civil infraction action involving a traffic or parking violation is governed by the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(b) A municipal civil infraction action is governed by chapter 87.

(c) A state civil infraction action is governed by chapter 88.

(3) A determination that a defendant is responsible for a civil infraction and thus subject to civil sanctions shall be by a preponderance of the evidence.

Sec. 8701. As used in this chapter:

(a) “Authorized local official” means a police officer or other personnel of a county, city, village, township, or regional parks and recreation commission created under section 2 of 1965 PA 261, MCL 46.352, legally authorized to issue municipal civil infraction citations.

(b) “Citation” means a written complaint or notice to appear in court upon which an authorized local official records the occurrence or existence of 1 or more municipal civil infractions by the person cited.

(c) “Municipal civil infraction determination” means a determination that a defendant is responsible for a municipal civil infraction by 1 of the following:

(i) An admission of responsibility for the municipal civil infraction.

(ii) An admission of responsibility for the municipal civil infraction, “with explanation”.

(iii) A preponderance of the evidence at an informal hearing or formal hearing on the question under section 8719 or 8721, respectively.

(iv) A default judgment for failing to appear as directed by a citation or other notice at a scheduled appearance under section 8715(3)(b) or (4), at an informal hearing under section 8719, or at a formal hearing under section 8721.

(d) “Ordinance” includes a temporary vessel speed limit established by a county emergency management coordinator or sheriff under section 80146 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80146.

Sec. 8703. (1) A municipal civil infraction action is commenced upon the issuance of a citation as provided in section 8707. The plaintiff in a municipal civil infraction action is the political subdivision whose ordinance has been violated. If the ordinance is a temporary vessel speed limit established by the county emergency management coordinator or sheriff under section 80146 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80146, the county or municipality that requested the speed limit is considered to be the political subdivision whose ordinance has been violated.

(2) The district court and any municipal court have jurisdiction over municipal civil infraction actions.

(3) The time specified in a citation for appearance shall be within a reasonable time after the citation is issued.

(4) The place specified in the citation for appearance shall be the court referred to in subsection (2) that has territorial jurisdiction of the place where the municipal civil infraction occurred. Venue in the district court is governed by section 8312.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 100th Legislature are enacted into law:

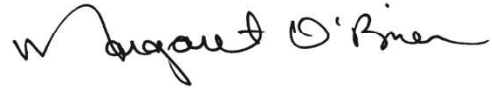
(a) House Bill No. 5401.

(b) House Bill No. 5463.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor

**STATE OF MICHIGAN
100TH LEGISLATURE
REGULAR SESSION OF 2020**

Introduced by Reps. Lilly and O'Malley

ENROLLED HOUSE BILL No. 5463

AN ACT to amend 1994 PA 451, entitled “An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to protect the people’s right to hunt and fish; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts,” by amending sections 80104 and 80110 (MCL 324.80104 and 324.80110), section 80104 as amended by 2014 PA 402 and section 80110 as amended by 2006 PA 237, and by adding section 80112a.

The People of the State of Michigan enact:

Sec. 80104. As used in this part:

(a) “Highly restricted personal information” means an individual’s photograph or image, Social Security number, digitized signature, and medical and disability information.

(b) “Passenger” means an individual carried on board, attached to, or towed by a vessel, other than the operator.

(c) “Peace officer” means any of the following:

(i) A sheriff.

(ii) A sheriff’s deputy.

(iii) A deputy who is authorized by a sheriff to enforce this part and who has satisfactorily completed at least 40 hours of law enforcement training, including training specific to this part.

(iv) A village or township marshal.

(v) An officer of the police department of a municipality.

(vi) An officer of the department of state police.

(vii) The director and conservation officers employed by the department.

(d) “Personal information” means information that identifies an individual, including an individual’s driver license number, name, address not including zip code, and telephone number, but does not include information on watercraft operation and equipment-related violations or civil infractions, operator or vehicle registration status, accidents, or other behaviorally related information.

(e) "Personal watercraft" means that term as defined in 40 CFR 1045.801.

(f) "Political subdivision" means a county, metropolitan authority, municipality, or combination of those entities in this state. If a body of water is located in more than 1 political subdivision, all of the subdivisions shall act individually in order to comply with this part, except that if the problem is confined to a specific area of the body of water, only the political subdivision in which the problem waters lie shall act.

(g) "Port" means left, and reference is to the port side of a vessel or to the left side of the vessel.

(h) "Prior conviction" means a conviction for any of the following, whether under a law of this state, a local ordinance substantially corresponding to a law of this state, a law of the United States substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state:

(i) A violation or an attempted violation of section 80176(1), (3), (4), (5), (6), or (7), except that only 1 violation or attempted violation of section 80176(6), a local ordinance substantially corresponding to section 80176(6), or a law of another state substantially corresponding to section 80176(6), or a law of the United States substantially corresponding to section 80176(6) may be used as a prior conviction other than for enhancement purposes as provided in section 80178a(1)(b).

(ii) Negligent homicide, manslaughter, or murder resulting from the operation of a vessel or an attempt to commit any of those crimes.

(iii) Former section 73, 73b, or 171(1) of the marine safety act.

(i) "Probate court or family division disposition" means the entry of a probate court order of disposition or family division order of disposition for a child found to be within the provisions of chapter XIA of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32.

(j) "Prosecuting attorney", except as the context requires otherwise, means the attorney general, prosecuting attorney of a county, or attorney representing a political subdivision of government.

(k) "Regatta", "boat race", "marine parade", "tournament", or "exhibition" means an organized water event of limited duration that is conducted according to a prearranged schedule.

(l) "Slow—no wake speed" means a very slow speed whereby the wake or wash created by the vessel would be minimal.

(m) "Starboard" means right, and reference is to the starboard side of a vessel or to the right side of the vessel.

(n) "State aid" means payment made by this state to a county for the conduct of a marine safety program.

(o) "Temporary ordinance" means a type of local ordinance adopted by a political subdivision of this state under section 80112a that includes, but is not limited to, a local watercraft control or administrative rule.

(p) "Undocumented vessel" means a vessel that does not have, and is not required to have, a valid marine document issued by the United States Coast Guard or federal agency successor to the United States Coast Guard.

(q) "Uniform inspection decal" means an adhesive-backed sticker created by the department that is color-coded to indicate the year that it expires and is attached to a vessel in the manner prescribed for decals in section 80122 when a peace officer inspects and determines that the vessel complies with this part.

(r) "Use" means operate, navigate, or employ.

(s) "Vessel" means every description of watercraft used or capable of being used as a means of transportation on water.

(t) "Waters of this state" means any waters within the territorial limits of this state, and includes those waters of the Great Lakes that are under the jurisdiction of this state.

(u) "Waterways account" means the waterways account established in section 2035.

Sec. 80110. (1) Except as provided under section 80112a, the department may initiate an investigation and inquiry into the need for a special rule for the use of vessels, water skis, water sleds, aquaplanes, surfboards, or other similar contrivances on any of the waters of this state to assure compatibility of uses and to protect public safety. If the department receives a resolution under section 80112, the department shall initiate an investigation and inquiry under this subsection.

(2) The department's investigation and inquiry under subsection (1) into whether a special rule is needed on a water body must include consideration of all of the following:

(a) Whether the activities subject to the proposed rule pose any issues of safety to life or property.

(b) The profile of the water body, including the name of the political subdivision with jurisdiction, size, geographic location, and amount of vessel traffic.

(c) The current and historical depth of the water body, including whether there is an established lake level.

(d) Whether any special problems or conditions exist on the water body for the activities subject to the proposed rule, such as rocks, pier heads, swimming areas, public access sites, shallow waters, and submerged obstacles.

- (e) Whether the proposed rule would unreasonably interfere with normal navigational traffic.
- (f) Whether user conflicts exist on the water body.
- (g) Complaints received by local law enforcement agencies regarding activities on the water body.
- (h) The status of any accidents that have occurred on the water body.
- (i) Historical uses of the water body and potential future uses of the water body.
- (j) Whether the water body is public or private.
- (k) Whether existing law adequately regulates the activities subject to the proposed rule.

(3) Following completion of the department's investigation and inquiry under subsection (1), the department shall prepare a preliminary report that includes the department's evaluation of the items listed in subsection (2) and a preliminary recommendation as to whether a special rule is needed for the water body.

(4) On preparation of the preliminary report under subsection (3), the department shall provide a copy of the preliminary report to the political subdivision and schedule a public hearing in the vicinity of the water body to gather public input on the preliminary report and the need for a special rule. The department shall provide notice of the public hearing in a newspaper of general circulation in the area where the water body is located not less than 10 days before the hearing. At the public hearing, any interested person may comment on the preliminary report and the need for a special rule, either orally or in writing.

(5) Within 90 days after the public hearing under subsection (4), if the department determines that a special rule is needed for the water body, the department shall propose a local ordinance or appropriate changes to a local ordinance. If the department determines that a special rule is not needed, the department shall notify the political subdivision and provide the specific reasons for the determination.

(6) A determination by the department under this section that a special rule is not needed for the water body may be appealed to the director by the political subdivision. The director shall make the final agency decision on whether a special rule is needed for the water body.

(7) As used in this section, "water body" includes all or a portion of a water body.

Sec. 80112a. (1) If a political subdivision believes a temporary ordinance is needed for the use of vessels on a water body subject to its jurisdiction, the political subdivision may submit an application and a resolution for a temporary ordinance to the department.

(2) An application for a temporary ordinance under this section must contain all of the following information:

- (a) The resolution and a copy of the public notice that lists the adoption of the resolution on the agenda.
- (b) The information required under section 80110(2).
- (c) The circumstances that justify a temporary ordinance rather than a special rule under section 80110.

(d) A complete list of all local ordinances, regulations, and rules concerning the water body and how the ordinances, regulations, and rules are enforced.

(e) If the temporary ordinance is approved, how the political subdivision will provide for and fund the public notice of the temporary ordinance, including, but not limited to, buoy placement and signage.

(f) If the temporary ordinance is approved, how the political subdivision will enforce the temporary ordinance.

(g) Any other information the political subdivision believes is relevant or necessary.

(3) Within 10 days after receiving an application under subsection (2), the department shall review the application. If the application is complete, the department shall conduct an investigation and inquiry within 10 days into the need for a temporary ordinance. If additional information is needed, the department shall request the additional information. Within 10 days after receiving the additional information, the department shall conduct an investigation and inquiry into the need for a temporary ordinance.

(4) Within 10 days after completing the investigation and inquiry under subsection (3), if the department determines that there is a need for a temporary ordinance, the department shall propose a temporary ordinance that affects all boats or boat types on the water body. If the department determines that there is not a need for a temporary ordinance, the department shall notify the political subdivision and provide the specific reasons for the determination.

(5) A determination by the department under this section that there is not a need for a temporary ordinance may be appealed by the political subdivision to the director. The director shall make the final agency decision on the need for a temporary ordinance.

(6) If the department determines there is a need for a temporary ordinance, the department shall submit to the political subdivision a proposed temporary ordinance. Notwithstanding any charter provision or other provision of law, the proposed temporary ordinance takes effect when both of the following requirements are met,

which must occur within 30 days after the department submits the proposed temporary ordinance to the political subdivision:

- (a) The governing body of the political subdivision adopts the ordinance at a public meeting.
- (b) The political subdivision notifies the department of the adoption.

(7) If the political subdivision fails to notify the department of the adoption of the proposed temporary ordinance, the proposed temporary ordinance is considered disapproved and no further action shall be taken.

(8) A temporary ordinance expires 6 months after the department is notified of the adoption of the temporary ordinance under subsection (6). The temporary ordinance may be extended or renewed in consecutive years only if the political subdivision is going through the process of adopting a proposed special rule under sections 80110 and 80111, and the public hearing required under section 80110(4) has occurred.

(9) If the department determines that a special rule is not needed under section 80110(5), and the director denies the appeal under section 80110(6), the political subdivision may not extend or renew a temporary ordinance in consecutive years under subsection (8).

- (10) As used in this section, "water body" includes all or a portion of a water body.

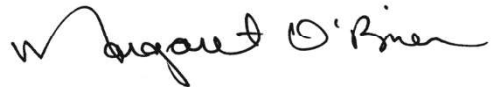
Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 100th Legislature are enacted into law:

- (a) House Bill No. 5401.
- (b) House Bill No. 5402.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor