

# Kalamazoo Lake Harbor Authority

*Douglas & Saugatuck, Michigan*

**Point Pleasant Marina**

**201 Washington Street**

**Douglas, MI**

**AGENDA**

**Tuesday, October 19, 2021 – 7:00 p.m.**

- 1. Call to Order:** By Chair
- 2. Roll Call:**
- 3. Approval of Agenda:**
  - A. October 19, 2021, meeting agendaMotion to approve the October 19, 2021, meeting agenda as (presented/amended) – Roll call vote
- 4. Approval of Minutes:**
  - A. September 21, 2021, meeting minutesMotion to approve the September 21, 2021, meeting minutes as (presented/amended) – Roll call vote
- 5. Approval of Invoices:**
- 6. Public Communications:**
  - A. Written
  - B. Verbal (Limit of three (3) minutes)
- 7. Unfinished Business:**
  - A. Roles, Responsibilities, Logistics...Discussion
    - Agenda/Recording Duties
    - Meeting Schedule
    - Location of Meetings
  - B. Introduction of New Saugatuck Township Members
  - C. Sergeant Wagner's Q&A...Discussion
- 8. New Business:**
- 9. Reports:**
  - A. Committee Reports
  - B. Staff Reports
- 10. Authority Member Comments:**
- 11. Adjournment:** Motion to adjourn

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MINUTES - **DRAFT**

Tuesday, September 21, 2021 – 7:00 p.m.

1. **Call to Order:** By Chair (7:00 p.m.)
2. **Roll Call:** Present – Klungle, Naumann, North, Waskin, VanLoon  
Absent – Engle, Trester, Township Manager Frey  
Also Present – City Manager LaBombard, City Manager Heise, Deputy Clerk Howell
3. **Approval of Agenda:**
  - A. September 21, 2021, meeting agenda  
Motion by Klungle, with support from Naumann, to approve the September 21, 2021, meeting agenda as presented. Motion carried by unanimous voice vote.
4. **Approval of Minutes:**
  - A. August 17, 2021, meeting minutes  
Motion by North, with support from Waskin, to approve the August 17, 2021, meeting minutes as presented. Motion carried by unanimous voice vote.
5. **Approval of Invoices:** None.
6. **Public Communications:**
  - A. Written - None.
  - B. Verbal (Limit of three (3) minutes) – None.
7. **Unfinished Business:**
  - A. Roles, Responsibilities, Logistics – Because of the absence of Township Manager Frey, it was decided to discuss this at the next meeting. The managers of the three municipalities were asked to have a recommendation ready regarding recording duties, meeting schedule, i.e., reducing the number of meetings or meeting quarterly for the 2022 calendar. Also, it was noted that the Douglas Harbor Authority was agreeable to changing meeting times.
8. **New Business:**
  - A. Introduction of New Saugatuck Township Members – This was tabled until the next meeting, as Engle was not present.
  - B. Sergeant Wagner's Q&A – Because of the significant amount of information, it was decided that the Authority members read it over and be prepared to talk about it at the next meeting.
9. **Reports:**
  - A. Committee Reports – None.
  - B. Staff Reports – LaBombard reported that the DHA discussed, at their meeting, Point Pleasant Marina management, the proposed lottery system to fill 13 slips and reserve one slip for the City for two years. Also, the DHA made a recommendation to increase fees for launch sites, work with Jerry Donovan, the current harbor master, to develop a job description and advertise for it, and Sgt. Wagner's Q & A. LaBombard also mentioned there would be a Visioning Session the next night at Point Pleasant with Edgewater Resources to get the community's input on the property.

Heise reported that the City of Saugatuck is in litigation with Dune Ridge over the floating homes, the milfoil treatment went pretty good. There were some complaints, so the contractor was asked to come back and address the complaints, which they did, and said there would be less of the milfoil next year.

Waskin reported that the Township is enthusiastic about their membership and economic participation.

10. **Authority Member Comments:** North inquired about scheduling for milfoil treatment earlier next year.
11. **Adjournment:** Motion by Klungle, with support from North, to adjourn the meeting. (7:30 p.m.)

September 16, 2021

To: Jennifer Pearson  
City of Douglas

Re: Questions & Answers regarding the Saugatuck / Douglas Harbor  
Kalamazoo Lake and Kalamazoo River

Ms. Pearson,

Thanks for providing me with the questions that the harbor authority is looking to have answered. Unfortunately I have prior commitments on the meeting date you specified and will be unable to attend. What I have done is provided answers to your (the harbor authorities) questions with answers below which also includes attachments and / or web links to resources which should help everyone come to a logical conclusion. I have also included a contact to the Michigan Dept. of Natural Resources in the Law Enforcement Division which could also be beneficial.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd Wagner", with a stylized flourish at the end.

Todd Wagner, Marine Administrator  
Allegan County Sheriff's Office  
Marine Enforcement Unit

# QUESTIONS AND ANSWERS

**Q: What about lighting on the Blue Star Highway Bridge with red and green lights?**

**A: Depending on what specifically the municipalities are looking for regarding lighting and navigation, the State of Michigan does not really address this in a specific statute that I have been able to find as they (the state) refers to the regulations as set forth by the United States Coast Guard regarding navigable waters. Under 33 CFR Part 118 Section 65, it does address bridge lighting and I have included this section in "Appendix A" of this document along with the entire Federal document in PDF form and the available website. I encourage the governing official read and proof these carefully regarding lighting.**

**Under MCL 254.22 of Public Act 354 (Bridges & Culverts) construction and maintenance is addressed in this section of state law however lighting for bridges over navigable waters is not addressed here. I have included this section of the law in a PDF document attached to an email to Jennifer Pearson. This is what this section of the law says:**

***MCL 254.22 Bridge over navigable stream; construction and maintenance.***

Sec. 22. Bridges over any navigable streams shall be so constructed as not to prevent or hinder the navigation of such streams by the usual crafts plying thereon. All such bridges shall be so constructed and maintained as not to interfere with the ordinary uses of said streams for driving logs or floating other materials or boats therein, and shall be constructed and maintained so as to offer and afford reasonable, adequate and proper means for the passage of boats, vessels, sawlogs, floating timber and rafts through the same.

History: 1925, Act 354, Imd. Eff. May 27, 1925;¾CL 1929, 4543;¾CL 1948, 254.22.

Former law: See section 11 of Ch. 16 of Act 283 of 1909, being CL 1915, § 4528.

**In our professional opinion, the Blue Star Bridge is significantly well lit from the street lighting affixed above topside the bridge. These lights clearly indicate (even in adverse weather) that there is a bridge structure over the Kalamazoo River. In over 25 years we have had no collision with this bridge or structure. The most recent collision was in the early 1990's and the operator of that vessel was intoxicated and over three times the legal limits (then .10% blood alcohol level). It was due to his significant impairment that led to this collision.**

**Recently, I have provided both the U.S. Coast Guard Waterways navigation System as well as the State Waterways Marking system. These PDF documents are also attached in an email sent to Jennifer Pearson at the City of Douglas.**

**Q: What about water level clearance markers on BSH Bridge to indicate depth of water?**

**A: Water levels on the Kalamazoo River fluctuate frequently from year to year and also throughout a season. In addition, the silt deposit levels can fluctuate which can and will affect the water level measurement.**

**The question here is this - Is the purpose of the water level markers you refer to here to measure and determine the clearance from the surface of the water to the bottom portion of the Blue Star Hwy bridge?**

**OR**

**Is the water level markers to determine the depth of the water from the surface to the bottom?**

**In either case, the municipalities need to consider the cost benefit factors of installing each or both. Considerations will range from costs of the markers, placement, permitting by the Dept. of Natural Resources, maintenance of the markers and the costs, who will be monitoring them and making the appropriate adjustments.**

**The bottom line here is that the operator of each vessel navigating the Kalamazoo River in the area of any object is solely responsible for their watercraft, draft of the vessel and ability to maneuver in, around, under and through any obstacle.**

**Q: What about adding additional no wake buoys west of the BSH bridge to extend to where the condos docks start?**

**A: Slow No-Wake zones and markers are only established through a process with the State of Michigan Dept. of Natural Resources (MCL 324.80159). In order for this to be accomplished, the municipality(s) would be the first to initiate such a process through a city council board resolution and ordinance.**

**From there, an application would be made to the Dept. of Natural Resources requesting an investigation to approve a Slow No-Wake Zone. Public hearings will need to occur and upon approval of an application, the DNR would write the ordinance which would then be referred back to the local municipality.**

**Once the local municipality received back the approved written ordinance, they would hold a council board meeting to adopt said ordinance.**

Once adopted, the State of Michigan would then be notified and the Dept. of Natural Resources would officially make this ordinance a state law, publishing it to the public.

The ordinance will specifically instruct the municipality where to place any markers, signs or buoys to properly mark said zone. It will be the responsibility of the municipality to install, remove and maintain all buoys. See Appendix “B” of this document below.

**Q: How is the location of the no wake buoys determined?**

**A:** Slow No-Wake Buoys are determined by the ordinance adopted by the municipality that requested the Slow No-Wake Zone. This is done in conjunction with an investigation by the Dept. of Natural Resources who will assist in determining where buoys are to be placed.

Refer to the Slow No-Wake legislation details in the appendix for further information regarding the placement of these buoys and determining Slow No-Wake Zones.

**Q: We received a letter from a boater who had a hard time getting her boat back on the trailer at Schultz park due to large boats going by – can we make this area no wake or at the very least add no wake signs to the launch docks?**

**A:** Yes and No. Yes, the municipality which this section of the Kalamazoo River rests would need to initiate a Slow No-Wake Zone request with the Dept. of Natural Resources. Refer to the previous question which addresses this process.

No – you cannot place signs or markers indicating Slow No-Wake without an authorized Slow No-Wake ordinance / law in place.

**Q: One of your deputies mentioned no wake signs with yardage indicators on the BSH bridge (example: “No wake for 440 yards” on the BSH Bridge when boaters are heading east and “No wake for 150 yards” for boaters heading west).**

**A:** I spoke to my staff and there may be just a little confusion here with this question as you worded it. I was given the explanation they (the deputies) said they provided and here is the answer.

The Blue Star Bridge is clearly marked with large reflective signs permanently affixed to both sides of the bridge. For a vessel operator not to see these they would pretty much have to be legally blind.

Any vessel operator should (and is required to) know that once you enter a body of water that is marked with signage or buoys that indicates Slow No-Wake they are entering “the gate” to that zone. When they see the next signs / buoys they would leaving that area and exiting “the gate”.

The Slow No-Wake zone established on the Kalamazoo River within the City of Douglas is widely published online and in local areas. This zone extends to ¼ mile upstream from the Blue Star Bridge and is clearly marked by signs and buoys. To add a distance sign, in our profession opinion would only prove futile and could confuse some boaters. Again, they are absolutely responsible for knowing the rules and observing signs and markers when operating watercraft.

Now, to address the second part of the question. There is currently no Slow No-Wake zone stabled west of the bridge and indicating that there are requirements for 150 yards would be inaccurate and should not be addressed. Per the deputy referenced in the original question, the explanation they were attempting to provide is that under current state law, any vessel may not exceed a slow no wake speed within 100 feet of any dock, pier, warf, raft, anchored vessel, swim area or swimmer. MCL 324.80149 OR MCL.324.80146 (within 100 feet of shore and water less than 3 feet in depth). Again, this is a requirement for the vessel operator to know and again, in our professional opinion to add any signage to the west with this wording would only prove futile and could confuse some boaters.

Now, one thing that was not asked is something that I will address here, which may help boaters using both the Schultz Park boating access as well as the Union Street boat launch access site.

It is recommended the local unit of government post signs at any public launches, marinas and beaches educating boaters of the LWC or ordinance. Additionally, it is recommended the local unit of government post information on their website and social media platforms educating boaters of the LWC or ordinance.

These recommendations are indicated in the DNR Local Watercraft Controls section (Appendix B).



# Appendix “A” Document

Federal Register 33 CFR Part 118 Section 65

<https://www.govinfo.gov/content/pkg/CFR-2010-title33-vol1/pdf/CFR-2010-title33-vol1.pdf>

## **Title 33 - Navigation and Navigable Waters**

### **§ 118.65 Lights on fixed bridges.**

(a) Each fixed bridge span over a navigable channel shall be lighted so that the center of the navigable channel under each span will be marked by a range of two green lights, and each margin of each navigable channel will be marked by a red light: Provided, That when a margin of a channel is limited by a pier, only those lights prescribed in paragraph (b) of this section shall be required to mark such channel margin. The green lights shall each show through a horizontal arc of 360°; they shall be securely mounted just below the outermost edge of the bridge span structure so as to be visible from an approaching vessel. Each red light shall show through a horizontal arc of 180°, and shall be securely mounted just below the outermost edge of the bridge span structure to show 90° on either side of a line parallel to the axis of the channel so as to be visible from an approaching vessel.

Note: Until such time that major repairs to or replacements of existing fixed span navigation lights colored green are made, it is permitted that only one of these lights marking the centerline of the same channel under a span shall be visible to an approaching vessel. When major repairs to or replacement of such existing green lights are made they shall conform with this paragraph.

(b) Pier lights. When the navigable channel extends from pier to pier or when piers are located within the navigable channel, each end of such piers shall be lighted with a red light. Each such light shall show through a horizontal arc of 180°, and shall be securely fastened at the end of the pier as low as practicable but not lower than 2 feet above navigable high water to show 90° on either side of a line parallel to the axis of the channel so as to be visible from an approaching vessel.

(c) Main channel. When necessary, the District Commander may prescribe that fixed bridges having two or more spans over a navigable channel shall have the main channel span marked with a set of three white lights arranged in a vertical line directly above each green light on the main channel span. Each white light shall show through a horizontal arc of 180°, and shall be mounted so that 1/2 of the horizontal arc will show on either side of a line parallel to the axis of the channel. These three white lights shall be securely mounted on the bridge structure and spaced as nearly 15 feet apart as the structure of the bridge will permit, with a minimum spacing of 7 feet. The lowest white light in the line of three lights shall be placed not less than 10 nor more than 15 feet above each green light on the main channel span.

Note: Until such time that major repairs to or replacements of existing main channel lights showing white are made, it is permitted that these lights show through a horizontal arc of not less than 60° nor more than 180° with 1/2 of such arc showing either side of a line parallel to the axis of the main channel. When major repairs or replacement of such existing white lights are made, they shall conform with this paragraph.

[40 FR 24898, June 11, 1975, as amended by CGD 75-046a, 42 FR 56954, Oct. 31, 1977]

# Appendix “B” Document

## Local Watercraft Controls

[https://www.michigan.gov/documents/dnr/Permanent\\_LWC\\_Procedures\\_687047\\_7.pdf](https://www.michigan.gov/documents/dnr/Permanent_LWC_Procedures_687047_7.pdf)

### Procedures for Permanent Local Watercraft Control

***Local units of government that believe that a special local watercraft control (LWC) is needed on waters subject to their jurisdiction shall follow the procedures established in MCL***

***324.80110 through 324.80112.*** Those procedures are detailed below. Local Watercraft Control is state terminology. When a local unit of government adopts a LWC they may use the term ordinance. The local unit of government initiates the process by submitting a resolution to the Department of Natural Resources (DNR).

The DNR shall investigate the need for special regulations for the use of vessel and other contrivances on the waters of the state to assure compatibility of uses and to protect public safety. Submitting a resolution does not guarantee approval of a LWC.

1) When a local unit of government believes a regulation is needed for the use of vessels on waters within their jurisdiction, they may submit a resolution for a LWC to the DNR Law Enforcement Division (LED).

a) The resolution shall be approved by a majority of the governing body of the local unit of government following a public hearing on the resolution. i) The hearing must be specific on the resolution and not part of their regular meetings.

b) The resolution and hearing minutes shall be submitted to the DNR LED.

2) Once the request and resolution are received, the DNR will initiate an investigation and inquiry as directed in MCL 324.80110.

3) Upon completion of the investigation and inquiry, the DNR will prepare a preliminary report that includes the findings of the investigation and a preliminary recommendation as to whether special rules are needed for the body of water, and submit a copy of the preliminary report to the local unit of government.

4) The DNR will work with the local unit of government to schedule a public hearing in the vicinity of the body of water to gather public input. a) The public hearing will be scheduled and advertised at least 10 days (typically 30 days) prior to the hearing.

b) The DNR shall provide notice of the public hearing made in a newspaper of general circulation in the area where the water body is located.

c) It is recommended the local unit of government provide notice of the public hearing through any and all media and advertising platforms they have available.

5) The DNR will facilitate the public hearing.

a) At the public hearing, interested persons shall be afforded an opportunity to present their views on the preliminary report and the need for special rules, either orally or in writing.

b) The DNR will accept written comments for 30 days after the date of the public hearing.

6) Within 90 days after the public hearing, if the DNR determines there is a need for a LWC, the DNR will propose a LWC to the local unit of government.

a) The proposed LWC becomes valid only after the following conditions are met. i) The local unit of government adopts the LWC in its entirety at a public meeting.

A. The wording used in the local unit of government's ordinance shall be identical to the proposed LWC recommended by the DNR.

ii) The local unit of government notifies the DNR of the adoption.

A. Notification to the DNR shall include all the following: 1) A copy of minutes from the public meeting showing the adoption.

2) Proof of publication in a locally circulated newspaper. The proof of publication must show the date and the name of the newspaper.

A. The page directly from the newspaper, or

B. A photocopy of the page from the newspaper

b) The conditions in 6) a) must be completed within 60 days from the date the DNR submits the proposed LWC to the local unit of government.

i) If the local unit of government fails to notify the DNR within 60 days, the proposed LWC is considered disapproved.

7) If the DNR determines there is not a need for a LWC, the DNR shall notify the local unit of government and provide the specific reasons for the denial.

a) The local unit of government may appeal to the Director of the DNR. A. The Director shall make the final decision.

8) Other responsibilities of the local unit of government.

a) The boundaries of the area described in the LWC shall be marked with signs and/or with buoys and maintained by the local unit of government.

i) The local unit of government is responsible for the purchase, placement, maintenance and removal of all signs and buoys.

ii) All buoys must be placed as provided in a permit (Application for Permit to Place Buoys/Beacons in Michigan Water {PR9203}) issued by the DNR and be in conformance with the State Uniform Waterway Marking System.

iii) Buoys shall not be placed in a commercial shipping channel.

b) Any state, county or local law enforcement officer having jurisdiction over the controlled area can enforce the LWC or ordinance.

i) A LWC or ordinance is only enforceable when clearly and properly marked.

c) It is recommended the local unit of government post signs at any public launches, marinas and beaches educating boaters of the LWC or ordinance.

d) It is recommended the local unit of government post information on their website and social media platforms educating boaters of the LWC or ordinance.

9) A LWC or ordinance can only be requested for waters within the jurisdictional boundaries of a local unit of government.

10) If a body of water is within multiple jurisdictions, each local unit of government shall follow this process to request a restriction within their jurisdiction.

11) Local units of government can email their requests to [DNR-LED-RecSafety@michigan.gov](mailto:DNR-LED-RecSafety@michigan.gov) or mail them to:

DNR-LED

P.O. Box 30031

Lansing, MI 48909

Attn: Boating Law Administrator

Submitting an application and resolution does not guarantee the approval of a LWC.

# Appendix C – Local Watercraft Controls

## **NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)** **Act 451 of 1994**

**324.80110 Special rules for vessels, water skis, water sleds, aquaplanes, surfboards, or other similar contrivances; investigations and inquiries; preliminary report; notice of public hearing; presentation of views by interested persons; determination by department; proposal for local ordinance; appeal; "water body" defined.**

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.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. [2006, Act 237](#), Imd. Eff. June 26, 2006 ;-- Am. [2020, Act 72](#), Imd. Eff. Apr. 2, 2020

**Popular Name:** Act 451

**Popular Name:** Marine Safety Act

**Popular Name:** NREPA



# Appendix D – Special Ordinances

## **324.80112 Special local ordinances; request for assistance; form; receipt of resolution by department.**

Sec. 80112.

Local political subdivisions that believe that special local ordinances of the type authorized by this part are needed on waters subject to their jurisdiction shall inform the department and request assistance. All such requests shall be in the form of an official resolution approved by a majority of the governing body of the concerned political subdivision following a public hearing on the resolution. Upon receipt of a resolution under this section, the department shall proceed as required by sections 80110 and 80111.

**History:** Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. [2006, Act 237](#), Imd. Eff. June 26, 2006

**Popular Name:** Act 451

**Popular Name:** Marine Safety Act

**Popular Name:** NREPA