

June 2023



# EVALUATING THE POTENTIAL IMPACTS ON PENTWATER TOWNSHIP IF PENTWATER VILLAGE IS INCORPORATED AS A CITY

## **A Report to the Ad Hoc Committee on City Incorporation**

This is Version 3. It was republished on June 5, 2023, to reflect revenue and appropriation comparisons to Fiscal Year 2022-23 (pp. 10-11) to remove unnecessary confusion about the township building its budget with one-time balance carried forward funds. Language was added to page 6 to make clear that 17 townships were used as comparisons to Pentwater Township (18 in total). Page 13 was amended to reflect the library operating independent of the township. Page 15 was amended to clarify that the township does not own any of the recreational facilities but it still has an interest in their maintenance and upkeep as assets of the community.

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April 19, 2023

Pentwater Township Ad Hoc City Committee

Community Leaders:

Pursuant to your request there is transmitted herewith the Citizens Research Council of Michigan report on the potential impacts on Pentwater Township if Pentwater Village follows through and incorporates as a city.

The enclosed report looks at several measures of the community and compares Pentwater Township outside of the village to several peer townships. It describes a budget exercise that identified how revenues would be impacted by the change to cityhood and attempted to make sufficient expenditure reductions to maintain quality services and a balanced budget. It describes how several services would be affected and offers policy paths to maintaining those services through intergovernmental agreements with the new city. It looks at the annexation processes for villages and cities to assess how future aspirations to expand the village/city footprint could be helped or hindered by the proposed change. Finally, it describes the opportunity to dissolve the village to concentrate governance of Pentwater under a single unit of government.

Pentwater Township is to be applauded for seeking the facts to assist the leaders and residents to make informed decisions. We are sure local government leaders throughout Michigan will watch with great interest as your community deals with the matters before it.

We hope this report helps Pentwater to make informed decisions relative to this important issue.

Respectfully Submitted

Eric Lupher  
President



# EVALUATING THE POTENTIAL IMPACTS ON PENTWATER TOWNSHIP IF PENTWATER VILLAGE IS INCORPORATED AS A CITY

## Contents

<b>Introduction.....</b>	<b>1</b>
<b>Michigan’s Local Government Service Delivery Model .....</b>	<b>1</b>
<b>Township/Village Comparisons .....</b>	<b>3</b>
Population .....	3
Age.....	3
Household Income .....	4
Pentwater Township Tax Base .....	4
Key Township/Village Takeaways .....	5
<b>Peer Township Comparisons .....</b>	<b>6</b>
Tax Base .....	6
Tax Rates .....	7
Oceana County Townships .....	8
Key Comparison Takeaways.....	8
<b>Township Budget.....</b>	<b>9</b>
Taxes.....	9
Revenues.....	9
Expenditures .....	10
Key Budget Takeaways.....	11
<b>Township Facilities and Services .....</b>	<b>12</b>
Township Hall.....	12
Elections .....	12
Roads.....	12
Fire Department.....	13
Library .....	13
Cemetary .....	14
Refuse Transfers.....	14
Recreation.....	15
<b>Annexation Process .....</b>	<b>16</b>
Village Process .....	16
City Process.....	16
Key Annexation Takeaways .....	17
<b>An Altnerative Governance Model .....</b>	<b>18</b>
Dissolve Village to Rely on the Township .....	18
Immediate Referendum .....	18
Disincorporation Commission and Referendum .....	19
Advantages and Disadvantages of City Incorporation or Village Dissolution .....	19
Organization.....	19
Police .....	20
Roads.....	20
Taxes.....	20

## Tables

Table 1	2022-23 Pentwater Township Revenues: Final vs Scenario Without the Village .....	10
Table 2	2022-23 Pentwater Township Appropriations: Final vs Scenario Without the Village.....	11

## Charts

Chart 1	Population of Pentwater Township, Inside and Outside of Pentwater Village, 1980 to 2020 .....	3
Chart 2	Median Age of Residents in Pentwater Village and Township, 2020 .....	3
Chart 3	Median Household Income of Residents in Pentwater Village and Township, 2020 .....	4
Chart 4	Composition of Pentwater Township Property Tax Base, 2022.....	4
Chart 5	State Equalized Value of Peer Townships.....	6
Chart 6	Tax Rates Levied by Pentwater Township's Peer Townships.....	7
Chart 7	Tax Rates Levied by Townships in Oceana County .....	8

## ***About the Citizens Research Council of Michigan***

The Citizens Research Council of Michigan is a privately funded, not-for-profit public affairs research organization that was founded in 1916.

Since then, the objective of the Research Council has been to provide factual, unbiased, independent information on significant issues concerning state and local government organization and finance. The Research Council believes that the use of this information by policymakers will lead to sound, rational public policy formation in Michigan.

The Citizens Research Council of Michigan is noted for the accuracy and objectivity of its research. Over the years, the Research Council has made significant contributions to the ongoing debate over the appropriate role of government and has gained vast experience in virtually every facet of state and local government.

The Citizens Research Council does not lobby, support or oppose candidates for public office, or take positions on ballot issues. Instead, the Research Council relies on the presentation of its research findings to bring about sound public policy on state and local issues. The hallmark of the Citizens Research Council is timely, reliable information researched in an independent, nonpartisan manner. As a result of the credibility earned by the Research Council, it is often the only organization that can address controversial issues in an objective fashion.

The Citizens Research Council of Michigan is supported primarily by charitable contributions from businesses, foundations, and individuals. It is a tax-exempt organization and contributions are tax deductible under Section 501(c)(3) of the Internal Revenue Code.

# EVALUATING THE POTENTIAL IMPACTS ON PENTWATER TOWNSHIP IF PENTWATER VILLAGE IS INCORPORATED AS A CITY

## Introduction

Residents in Pentwater Village are exploring the possibility of incorporating it as a city. The question rests with residents of the village, but what they decide will have consequences for Pentwater Township. Villages are parts of townships, so decisions to incorporate and become independent units of government af-

fect the finances and service delivery models of the townships from which they separate.

The analysis that follows suggests that Pentwater Township would be affected by the village incorporating as a city.

## Michigan's Local Government Service Delivery Model

The services provided by local governments in Michigan can be divided into two broad classes. The first grouping of services includes those required by state law to be provided by primary local units of government. These legally required duties are:

1. Assessing property as a basis of state, county, and school taxes
2. Collecting taxes for the state, counties, and schools
3. Conducting county, state, and national elections

The second broad category consists of all other local services that cities, villages, and townships elect to provide, such as fire protection, police protection, water supply, sewage disposal, zoning, public health, etc.

Cities and townships are the primary local units of government. They furnish residents and businesses with both categories of services. Accordingly, the entire state is divided into non-overlapping cities and townships, to which the legally required duties are assigned. Whenever a new city is incorporated, the geographic footprint is withdrawn from the township for all governmental purposes.

In cities and townships, all local government activities – both state-imposed duties and elective local services – are unified in one government. Only in villages are the governmental activities divided between township and village governments. Village

residents, therefore, are the only persons in Michigan living under and supporting two local units of government, a village and a township.

Michigan's townships were organized without resident input. They were created by a congressional survey under the Northwest Ordinance of 1787. Only a few states have local governments called townships. Unlike Michigan, which has empowered townships to provide a broad range of services, most of these states rely on their townships to serve very few services. Michigan currently has 1,240 townships.

Townships operate under a general state law, a set of provisions that dictate their governance structure, operating methods, and authority. About 11 percent of the townships have opted to operate under the Charter Township Act, which provides some additional powers and some additional protection from annexation from cities.

A village is not a primary local unit. It is an incomplete government furnishing only elective local services. The area of the village remains part of a township, village citizens are also township citizens, and the township government provides for residents of the village the legally required duties imposed by the state as outlined above. While the township government may perform certain elective local services for village residents, historically this was the exception rather than the rule. The purpose in organizing a village was to furnish local services to residents of a built-up

## REPORT TO PENTWATER TOWNSHIP AD HOC CITY COMMITTEE

area in the township that the township government, due to its limitations, could not provide. However, village taxpayers have to pay for such elective local services and, in addition, have to help support all the activities of the township government.

Most villages are incorporated under the General Law Village Act that establishes specific governance and operating structures. On the other hand, the Home Rule Village Act, enacted at the same time as the Home Rule City Act, allows villages to adopt a charter that dictates the governance structure and basic operating structure. Since 1980, state law requires that all newly created villages incorporate under the Home Rule Village Act. Pentwater Village is organized under the General Law Village Act.

Cities enjoy broader powers than do villages and townships. The powers of townships and general law villages are confined to those specifically enumerated in the state laws pertaining to these types of governments: these delegated powers are strictly construed. The purpose of the home rule powers conferred by the 1963 Michigan Constitution and the implementing statutes was to provide broader powers in the conduct of their own affairs. Home rule municipalities have the power to manage their own affairs in their own way within constitutional and statutory restrictions.

The Home Rule Cities Act is more generous and less cumbersome with respect to the levying of taxes than laws pertaining to villages and townships. The village and townships acts, for all practical purposes,

permit the levy of a limited amount of property taxes, but this limitation is broken into several small rates for different governmental services. The Home Rule Cities Act provides for the establishment of a tax rate limitation in the charter up to a maximum of 20 mills for all purposes to be allocated at the discretion of local officials.

The differences between the powers of cities and villages or townships have lessened in recent decades. Since enactment of the Charter Township Act in 1947, townships have increased their authority to provide services and meet the needs of their residents and businesses. Charter township status was adopted by many townships, especially in the state's urban areas, and the authority granted to general law townships was expanded. It was once necessary to incorporate as a city, or village, or attach to a city, or village, through annexation to benefit from the broad range of services they provide, but that is not necessary any longer.

The expanded powers of townships – both those organized under general law and those operating as charter townships – have reduced or eliminated the need for communities to consider incorporation as a village. Only four villages have been incorporated in the last 40 years. Many more communities have gone directly from a township to a city. Michigan does not have any cities that could be characterized as rural in nature with low population densities, but it does have a number of townships and villages that are very urban in nature and that have populations rivaling the neighboring cities.

## Township/Village Comparisons

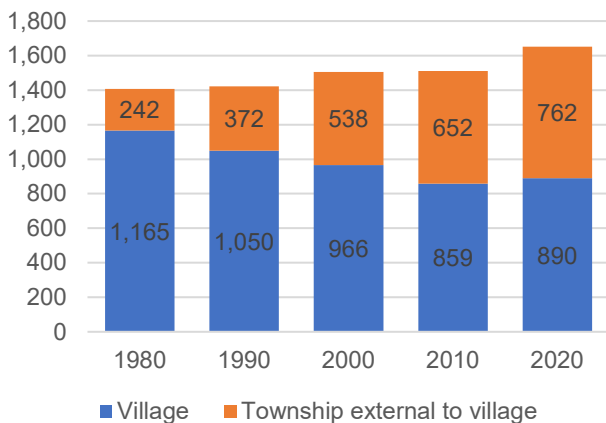
### Population

The Pentwater community has grown in recent years. That growth has occurred with families moving into the township area outside of the village and building second homes.

- Pentwater Township has enjoyed modest population growth over the past 40 years, growing from 1,407 residents in 1980 to 1,652 in 2020 (see **Chart 1**).
- Most of the growth over these 50 years has occurred in the township outside the village.
  - The overall township population increased 17.4 percent (0.4 percent annual rate of growth).
  - The village population decreased 23.6 percent (losing 0.6 percent annually).
  - The township population outside the village has increased 214.9 percent (5.4 percent growth annually).
- While more than 80 percent of the township residents lived in the village in 1980, only 54 percent lived in the village in 2020.

**Chart 1**

Population of Pentwater Township, Inside and Outside of Pentwater Village, 1980 to 2020



Source: U.S. Census

Some in the village desire independence from the township, but long-term sustainability must be considered. The village has lost a quarter of its population (275 people) over these decades, but new people and some level of growth are key ingredients to success in Michigan's system of local government.

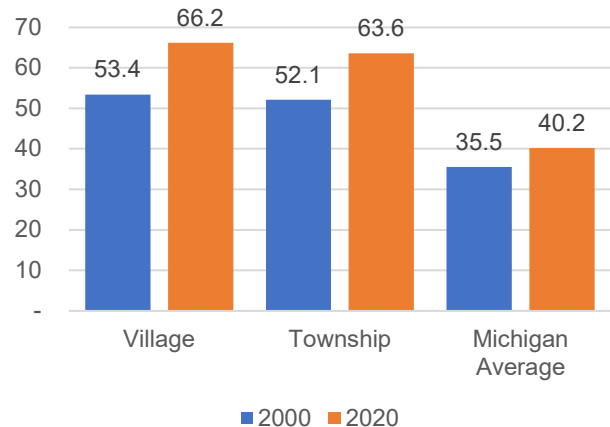
### Age

The Pentwater Township population, both within the village and outside of it, is relatively old (see **Chart 2**).

- The median age of the village residents is more than 66 years old.
- The township median age is more than 63 years old.
- The village, the township, and the state are getting older.
- The village and township are and have been far older than the median age of Michigan as a whole, 40 years old.
- The median ages of both the village and township have had sharper increases than the state.

**Chart 2**

Median Age of Residents in Pentwater Village and Township, 2020



Source: U.S. Census

This is significant because growth in the area is going to have to come, for the most part, from people moving into the area. Large parts of the Pentwater community are beyond their childbearing years. Maintaining the quality of life that the Pentwater community is accustomed to will involve keeping tax rates from escalating and maintaining service quality to keep the area safe and attractive.

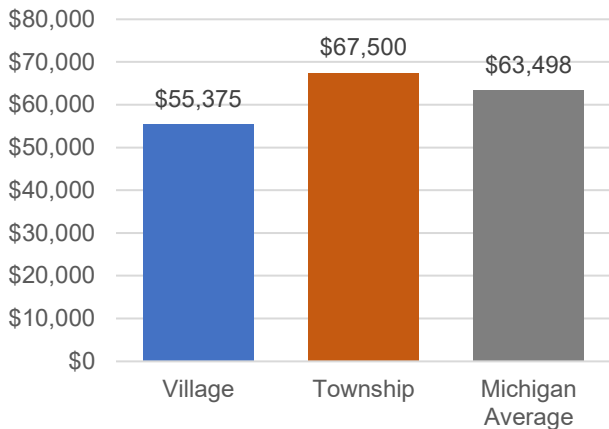
**Household Income**

Pentwater Township residents are fairly prosperous relative to the state average (See **Chart 3**).

- In 2020, the township had a median household income of \$67,500.
  - This was 6.3 percent greater than the state average.
- The village median household income was \$55,375.
  - This was 12.8 percent lower than the state average.
- The U.S. Census does not report this statistic exclusively for the township outside of the village, but it is clear from the numbers that the village pulls down the township average.

The village/city will be taking on new responsibilities, which may necessitate the need for additional resources. The wealth of the community is an indication of its ability to afford the additional tax burden.

**Chart 3**  
Median Household Income of Residents in Pentwater Village and Township, 2020



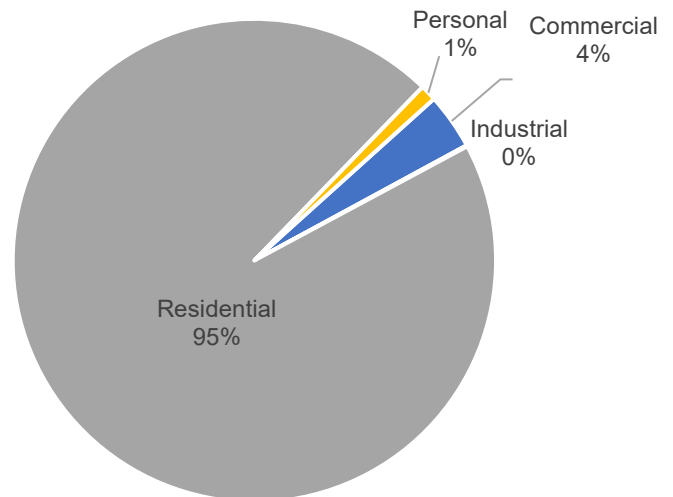
Source: U.S. Census

**Pentwater Township Tax Base**

The composition of the tax base in the township and village/city is important because residential properties generally struggle to fund the services they receive. As is discussed below, Pentwater Township performs the functions mandated of townships, including elections, property assessing, and property tax collections. The village provides a number of elective services, but if it becomes a city it too will take on the mandated services.

- Property in the township is almost entirely for residential purposes (see **Chart 4**).
  - The only industrial properties in the township are physically located in the village.
  - Most of the commercial property, which contributes only four percent to the tax base, is located within the village, but several properties are outside of the village.
  - The township yields 95 percent of its property tax revenue from residential properties.

**Chart 4**  
Composition of Pentwater Township Property Tax Base, 2022



Source: Michigan State Tax Commission



Both the township and village residential property tax base is comprised of a mix of owner-occupied and second homes. The census data show that in 2020:

- The village had 399 housing units.
- The township had 405 housing units outside of the village.
- For both the village and the township as a whole:
  - Roughly 45 percent are owner-occupied housing units.
  - The other 55 percent are second homes for families that reside elsewhere.

### Key Township/Village Takeaways

Growth in Pentwater has been concentrated in the township area outside of the village over the past four decades with the village losing about a quarter of its population. The median ages of both the village and the township are higher than in Michigan. This suggests that future growth is going to have to come from migration from other parts of the state or elsewhere. The wealth of the township residents, as measured by median household income, suggests a capacity to fund government services at whatever level the collective community decides upon. Finally, the township property tax base is highly concentrated in residential properties. The commercial properties are in the village, so a decision to incorporate as a city would leave the township property tax base composed almost solely of residential property.

## Peer Townships Comparisons

Michigan relies heavily on property taxes to fund local governments. State shared taxes are the second largest source of resources for most local governments. Unlike most other states, Michigan does not authorize local governments to levy other types of taxes except for the income taxes authorized to cities and minor taxes counties can levy. (Detroit is authorized to levy others.)

Therefore, the ability of Pentwater Township to sustain itself without the village depends on the wealth of properties – the tax base – and the capacity to levy taxes on those properties – the tax rate.

### Tax Base

A peer group of Michigan townships was identified

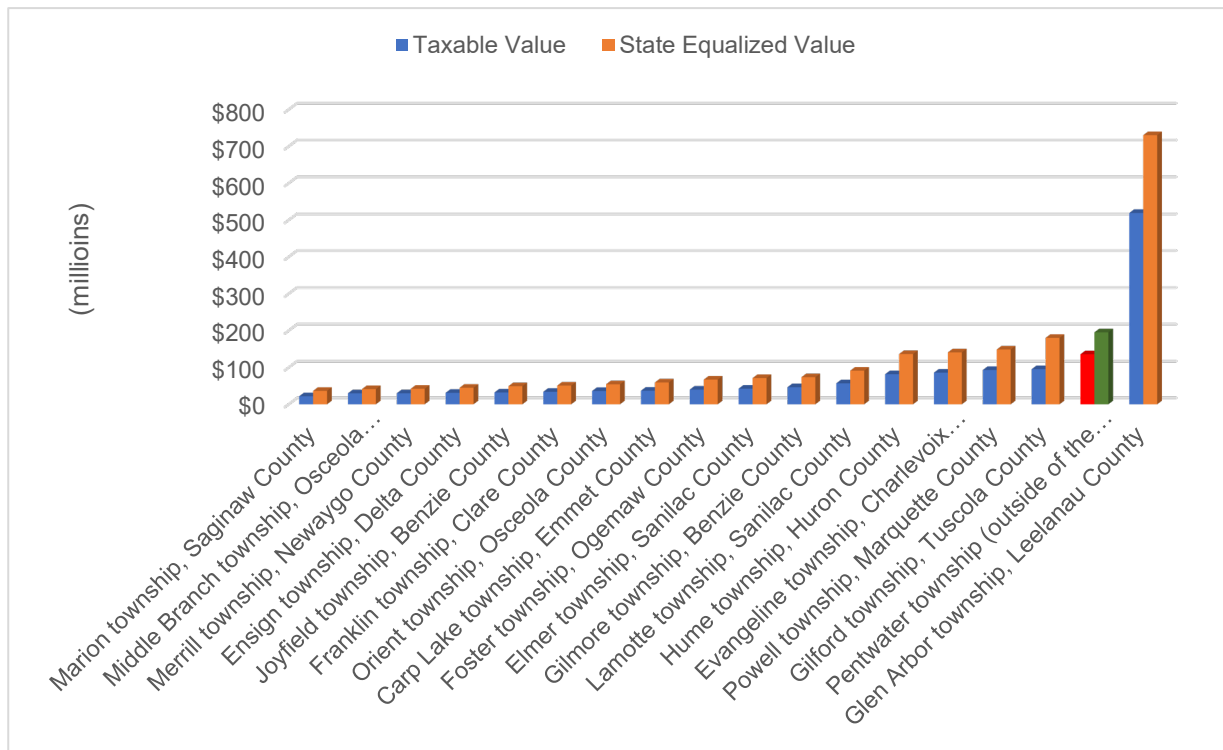
to compare with Pentwater Township.<sup>a</sup> These peers help to quantify the size of the township’s property tax base outside the village. Each of the 17 comparison townships is rural in nature. Like Pentwater Township, their tax bases are primarily comprised of residential properties. Agricultural properties are part of the tax bases in many of these townships.

**Chart 5** shows the state equalized value and taxable value of these townships. State equalized value re-

<sup>a</sup> To evaluate Pentwater Township’s tax base without the village, 25 other townships with populations within five percent of Pentwater’s were identified. Since the purpose was to look at the township without the village, eight of those 25 townships were eliminated because they contained all or part of a village.

### Chart 5

State Equalized Value and Taxable Value of Peer Townships (exclusive of townships with villages), 2022



Source: State Tax Commission

flects roughly half of the market value of property in each jurisdiction. Local governments do not benefit from the full value of properties within their jurisdiction boundaries. Since 1994, property taxes have been levied on taxable value. Unlike state equalized value, which is linked to market value, taxable value increases for each parcel of property are constitutionally limited to five percent or the rate of inflation in the previous year, whichever is less, excluding the value of new construction.

The chart shows that among Pentwater’s peers:

- Glen Arbor Township stands out with its relatively rich tax base.
- Aside from Glen Arbor Township, Pentwater Township (exclusive of Pentwater Village) has the richest tax base among these comparison townships.
- Residential property makes up more of Pentwater Township’s tax base than any of these peers.

- Agricultural property, which tends to have slower growth in taxable values because it changes ownership infrequently, is a significant part of the tax base for a third of these townships.
- Commercial property contributes at least a small portion of the tax base for each of the peer townships. All of the commercial property in Pentwater Township is in the village.

**Tax Rates**

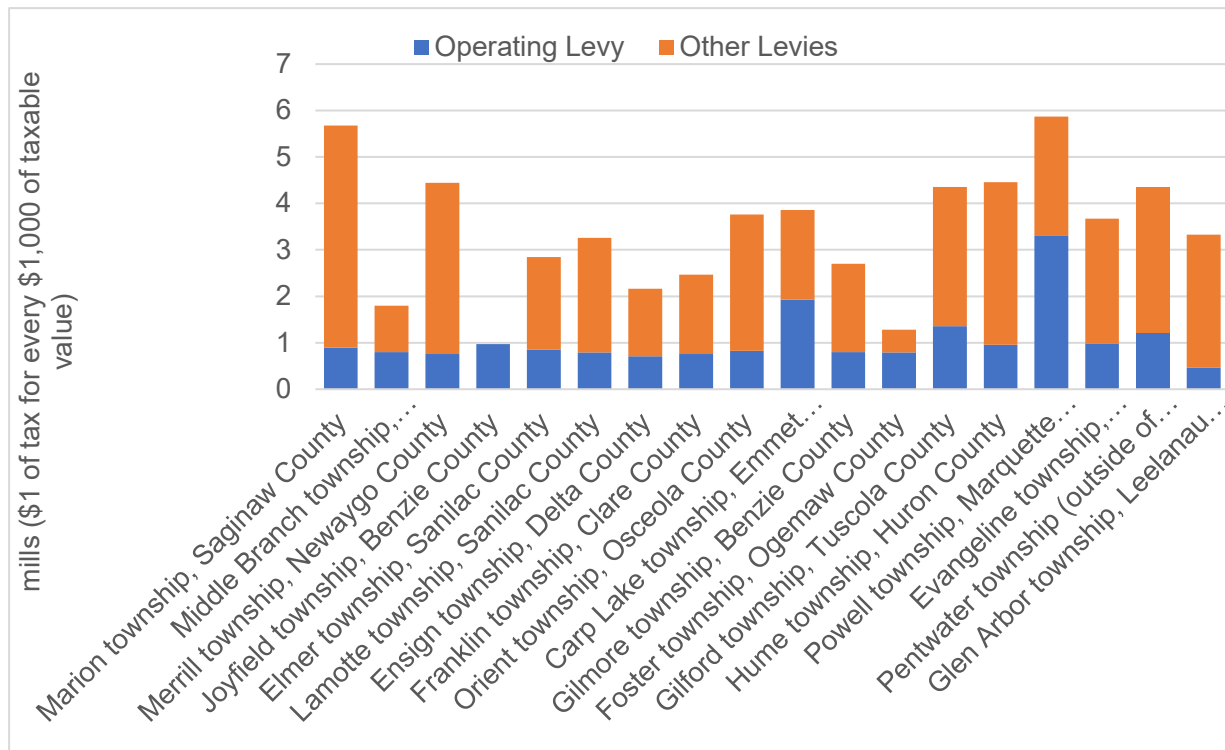
We examined tax rates among Pentwater Township’s peer townships (see **Chart 6** (in the same order as Chart 5)) and among other townships in Oceana County. Among the peer townships:

- At 4.3430 mills<sup>b</sup>, Pentwater Township ranks

<sup>b</sup> In property tax parlance, the tax rate is referred to as a mill. A mill is equal to \$1 of tax for every \$1,000 of taxable value.

**Chart 6**

Tax Rates Levied by Pentwater Township’s Peer Townships



Source: State Tax Commission

fifth highest among the 18 peer townships.

- Pentwater Township’s levy for general operations, 1.2153 mills, is third highest among the townships.
- The extra-voted mills levied, totaling 3.1277 mills, also ranks third highest.

**Oceana County Townships**

Pentwater Township also levies fairly high tax rates relative to the other townships in Oceana County(see **Chart 7**).

- Oceana County townships are levying an average of 3.8500 mills.
  - The townships levy a fairly uniform millage for general operations, 1.2115 mills on average.
  - Pentwater Township’s extra-voted millage levy is higher than the 2.6386 mill average for these townships.
  - Only Shelby, Crystal, and Elbridge townships levy higher property tax rates.

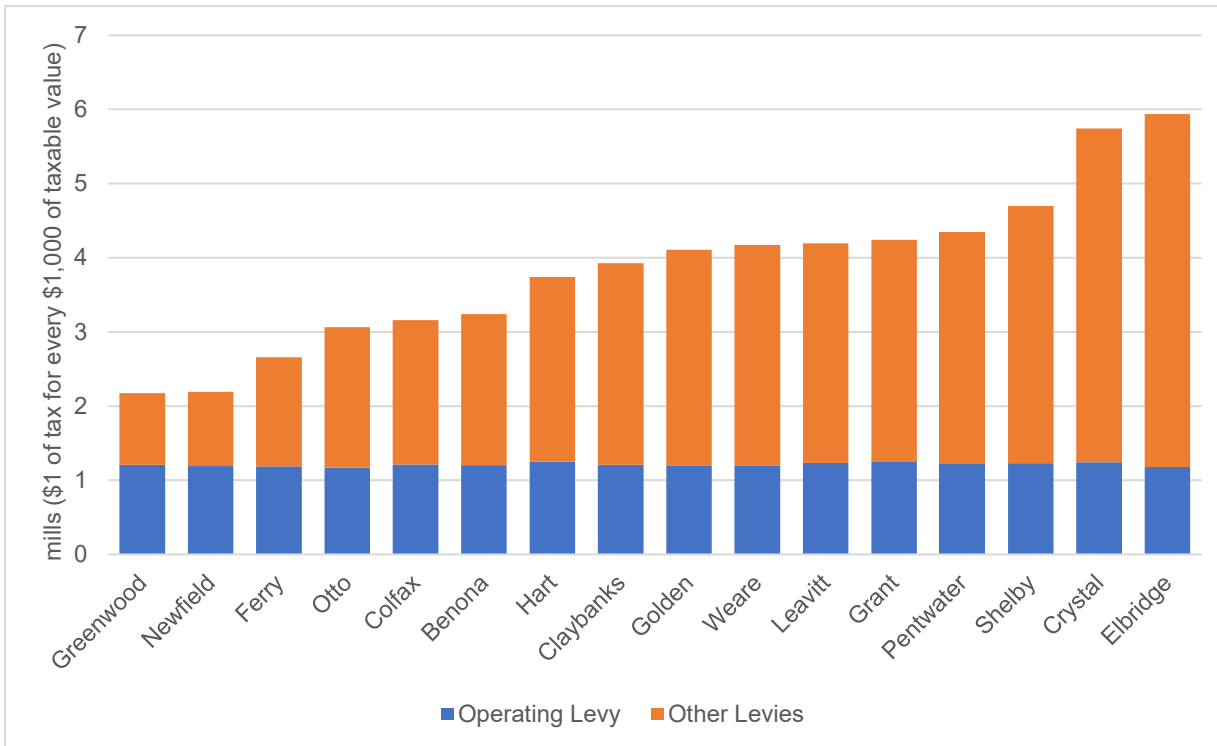
**Key Comparison Takeaways**

For its size, Pentwater Township outside of the village has a lot of advantages relative to its peers and neighbors. Its relatively rich tax base is driven largely by the lakeside location and its attractiveness for the second homes that make up a large segment of the residential property tax base.

Pentwater Township’s operating millage is levied at a rate similar to its peers, but it levies it on a relatively rich tax base. Pentwater Township residents have been willing to tax themselves to pay for township services, especially the dedicated millages for fire protection, the library, roads, and the cemetery.

**Chart 7**

Tax Rates Levied by Townships in Oceana County



Source: State Tax Commission

## Township Budget

To estimate the impact on the Pentwater Township budget that the village incorporating as a city would have, expenditures made in the recently completed township 2022-23 fiscal year were adjusted to reflect a smaller tax base, as well as to estimate a level of township expenditures to maintain a semblance of current township operations given the available resources.

This non-binding exercise was performed to assess the potential fiscal impact of the village becoming a city. For this exercise, it was assumed that the village could flip a switch and become a city immediately. In fact, it will take a few years if village leadership and residents opt to pursue this path. If the actions lead to cityhood, the township board will repeat this exercise to adjust the budget with binding actions.

### Taxes

Pentwater Township collects more than \$4 million in property tax revenue from township property owners annually. However, only 13.7 percent, \$520,035, of that revenue is used for township services. The remaining \$3.8 million is collected on behalf of, and remitted to, the county, the school district, the intermediate school district, and the state.

The township levies a total of 4.4340 mills on eligible property. (Again, the tax rate is referred to as a mill. A mill is equal to \$1 of tax for every \$1,000 of taxable value.):

Township Operations	1.2153 mills
Fire Operations	0.9837 mills
Fire Equipment	0.4953 mills
Roads	0.4953 mills
Cemetery	0.3401 mills
Library	<u>0.8133</u> mills
Total	4.4340 mills

(On top of the township's 4.4340 mills, Pentwater Village levies 11.8958 mills on a tax base equal to only 45 percent of the township's tax base to yield \$1,314,718 in property tax revenue.)

### Revenues

The township general fund budget received \$558,449 in revenues during the 2022-23 fiscal year. Of the total revenue, 57 percent came from property taxes, 15 percent from administrative fees, and 17 percent from state revenue sharing. The other 11 percent was derived from minor taxes, charges, and other sources.

If the village incorporates as a city, Pentwater Township revenues would be expected to decrease by 35 percent as a result of the loss of the tax base and other assumed changes (see Table 1). Reductions in property tax revenue, administrative fees, and delinquent taxes would comprise most of the decrease. The village's tax base currently contributes 45 percent of the township's tax base.

State revenue sharing is distributed to lightly populated townships, villages, and cities on a per capita basis. Village population counts already are excluded from the total township population counts in the calculation of these payments. Otherwise, both the township and village would be compensated for the same people. State revenue sharing payments would not be affected by the village becoming a city.

On the high end, the township would have to increase its property tax rate by 1.4 mills to make up for the lost tax base in order to maintain current service levels. Alternatively, the township board will need to balance the budget by reducing services levels and other means.

**Table 1**

2022-23 Pentwater Township Revenues: Final vs Scenario Without the Village

	<b>Actual</b>	<b>Without the Village</b>	<b>Difference</b>
Current Real Property Tax	\$316,330	\$174,540	44.8%
Tax Administration Fee	85,230	47,027	44.8%
Delinquent Real Property Tax	13,000	7,173	44.8%
Commercial Forest Tax	20	20	0.0%
State Payment In Lieu Of Tax (PILT)	4,200	4,200	0.0%
Trailer Park Tax	220	0	100.0%
Penalty & Interest Taxes	100	100	0.0%
Franchise Fees (Charter Comm)	7,000	3,925	43.9%
Zoning Permit Fees	2,250	2,250	0.0%
Planning Commission Review Fees	300	300	0.0%
Metro Act	4,100	4,100	0.0%
Reimbursement for Village Election	5,130	0	100.0%
State Shared Revenue	97,662	97,662	0.0%
ZBA Fees	1,640	1,640	0.0%
Transfer Site Fees	9,791	9,791	0.0%
Interest Income	6,786	6,786	0.0%
Other Revenue	190	190	0.0%
Miscellaneous	4,500	4,500	0.0%
<b>Total Revenue</b>	<b>\$558,449</b>	<b>\$364,204</b>	<b>34.8%</b>

Source: Non-audited ledger from Pentwater Township.

**Expenditures**

While understanding the potential impact on revenues is fairly straightforward, estimating how expenditures would change required a more surgical approach. It is not as simple as saying that all expenditures across the board should be decreased by 35 percent. For some services that have to be provided, the opportunities for savings are minimal.<sup>c</sup>

To estimate Pentwater Township’s ability to maintain a service package similar to what residents currently receive, appropriations were reduced in a number of the budget items to reflect lesser revenue, fewer parcels being served, and/or a smaller population served (see Table 2).

Appropriations for the township board, supervisor, clerk, and treasurer could be reduced to reflect the diminished revenues. In addition to serving in legislative roles on the township board, these three officials fulfill executive roles in managing the

<sup>c</sup> To adjust expenditures, the 2022-23 fiscal year financial statement (unaudited) was reviewed item by item. Appropriations were reduced whenever costs could be reduced by assuming a lesser amount of services, such as assuming fewer days worked, or when costs could be pushed to the consumer, such as charging for use of Park Place.

operations and finances of the township. Funding for the deputies for each of these officers was similarly reduced. These reductions likely would result in less accessibility to these officials for township residents.

Appropriations for the assessor could be cut 40 percent. Because the responsibilities of this office relate to the number of parcels, it was assumed that funding needs would be reduced commensurate with the smaller township size. The village contains 44 percent of the parcels in the township and the other 56 percent are outside of the village.

Appropriations for elections could be decreased 11 percent. Salaries and supplies for conducting elections would not change because the township has fewer people. The tasks and staffing needs would remain largely unchanged. But, mailing costs would be decreased. In other years, this budget item might have reflected more cost savings because the township would not be conducting village elections.

It is beyond the scope of this project, but election costs are more than likely to increase whether the village becomes a city or not. Secretary of State Benson estimates the statewide cost to local governments of implementing Proposal 2 in 2022 at \$38 million.



**Table 2**

2022-23 Pentwater Township Appropriations: Final vs Scenario Without the Village

	<b>Actual</b>	<b>Without the Village</b>	<b>Difference</b>
Township Board	\$3,686	\$2,404	-34.8%
Supervisor	38,204	24,916	-34.8%
Clerk	69,996	47,212	-32.6%
Board of Review	2,002	2,002	0.0%
Treasurer	58,954	37,938	-35.6%
Assessor	58,761	35,570	-39.5%
Election	19,813	17,547	-11.4%
Township	173,133	158,798	-8.3%
Transfer Station	33,825	20,241	-40.2%
Sewer Utilities	24,866	6,000	-75.8%
Doc/Recreation/PLIB	18,630	11,130	-40.3%
Planning Commission	8,853	7,951	-10.2%
Zoning Administration	44,647	26,899	-39.8%
Zoning Board of Appeals	<u>3,079</u>	<u>3,079</u>	0.0%
Total Appropriations	\$558,449	\$401,705	-28.1%
Surplus/Deficit	\$0	-\$37,501	

Source: Non-audited ledger from Pentwater Township.

It is assumed that appropriations for operations of the township – legal and auditing fees, utilities and maintenance of the township hall, etc. – could be decreased 8 percent.

The transfer station is used by both township and village residents. If the city chooses to no longer use the transfer station, appropriations are assumed to be reduced by nearly 40 percent as salaries and rentals would be reduced in accordance with the number of parcels using the station. This would reduce operating hours at the transfer station.

It is assumed that appropriations to maintain the dock and for recreation could be reduced by 40 percent. Everything is held constant except appropriations for Park Place are zeroed out with the assumption that instead of underwriting its expenses township residents would have to pay membership fees.

Appropriations for the planning commission are assumed to decrease by 10 percent with the assumption that operations will change from six meetings a year to four.

Appropriations for zoning administration are assumed to be cut 40 percent with less manpower fulfilling the zoning tasks.

Appropriations for the Board of Review and Zoning Board of Appeals was left unchanged because these bodies will have to perform their assigned tasks regardless of the size of the township.

This exercise in assuming appropriations changes sums to a 28 percent decrease in total appropriations: less than the 35 percent reduction in revenues that would occur.

However, the goal is to create a sustainable budget. A property tax rate increase of 0.3 mills could be submitted to the voters to make up the difference or deeper cuts would have to be made, or a combination of these actions.

**Key Budget Takeaways**

Pentwater Township revenues can be expected to decrease by about 35 percent if the village incorporates as a city with losses concentrated in property tax revenues, administrative fees, and franchise fees. A good faith effort to decrease expenditures by a commensurate amount to maintain the accessibility and quality of township services failed to yield sufficient savings. To achieve a sustainable township budget, either deeper cuts would need to be made or the general operating property tax rate would have to be increased incrementally to yield more revenues.

## Township Facilities and Services

Incorporation of the village as a city could affect the location of facilities and adjustments to the delivery of several services. Under the township/village arrangement, it has always made sense for the township to be the primary governing body and funder of services serving the whole community. Village residents remain township residents, so all taxpayers are contributing to the services. Incorporation as a city would sever that relationship. Under a city/township arrangement, it would make very little sense for the city and township to each provide those services the township currently provides to village residents. Several of these are capital- or labor-intensive services meaning the high cost for buildings, vehicles, or professional services is capable of serving wide populations. In a community as small as Pentwater, it would make the most sense economically to maintain current service delivery models as best as possible. Village/city residents and businesses could still benefit from the services, many of which are located in the village/city, so equity and necessity suggests that a path to maintaining the services should be identified.

### Township Hall

The Pentwater Township Hall currently is physically located within the village limits. This makes sense under the current arrangement as the village serves as the center of the community. It would make less sense if the village were incorporated as a city as the township's primary government center would no longer be physically located within the township. A decision to relocate the hall would come at a significant expense and would require time to fully transition all government operations to a new location.

While it may make sense for the township to house its main government building inside the township, Michigan law does not require it.

State law allows township board to designate a time and place for board meetings,<sup>d</sup> but it does not specify that the place has to be in the township. Section

41.16, which provides for actual meetings of the township electors, says that the township board may designate a place.<sup>e</sup> It too does not specify that that place has to be in the township.

Still, it would be desirous to have the township hall easily accessible to the residents to attend board and committee meetings, register to vote, pay taxes, iron out zoning issues and zoning permits, and conduct other business, so it would make sense that the township business would be conducted in the township.

### Elections

Proposal 2 in the 2022 election amended the Michigan Constitution to, among other things, require nine days of in-person early voting. In doing so, the amendment permits municipalities within the same county to share early voting sites. For example, the township and city would be allowed to coordinate and combine their efforts to offer in-person early voting for residents of the two municipalities. To the extent that Pentwater city and township voters are interested in early voting, this provision would allow the jurisdictions to recoup some of the efficiencies that would be lost if the current single voting precinct was made into two.

### Roads

The Oceana Road Commission is responsible for construction and maintenance of township roads outside of the village. Pentwater Village maintains its own roads. Pentwater Township levies a 0.4953 mill property tax for road funding to support the road commission's efforts. If the village were to become a city in the current fiscal year, 45 percent of the tax base for this tax would be removed and funding available for road maintenance would decrease in a commensurate amount. The township would simply reduce the amount of road improvements that could be undertaken each year.

<sup>d</sup> MCL 41.72, <http://legislature.mi.gov/doc.aspx?mcl-41-72a>

<sup>e</sup> MCL 41.16, <http://legislature.mi.gov/doc.aspx?mcl-41-16>



## Fire Department

Pentwater Township operates a fire department to protect the properties in the township, including those in the village. The township levies a 0.4953 mill tax to fund the needed firefighting apparatus and a 0.9837 mill tax to fund operations of the department. The fire station is physically located within the village.

If the village were to become a city, those property owners would no longer pay these millages. As a result, the fire department would lose 42 percent of the township's contribution to funding for the Pentwater Fire Department. Without policy changes, it would be left to protect only the properties outside of the city and the city would be without protection unless it funded its own department.

Fortunately, state law is accommodating for local governments to collaborate in the provision of fire protection services. A number of state laws could be used to create a fire authority between the city and township.

The Emergency Services to Municipalities Act provides authority for the joint provision of emergency services, including police and fire protection, and ambulance service.<sup>f</sup>

An emergency service authority can be established by resolution of the governing bodies of the city and township. The city and township would have to draft an intergovernmental agreement for governance and finance of the authority. It is left to the governments to establish an authority to develop a method of selecting the authority's governing body. The authority may levy a property tax at a rate not to exceed 20 mills upon voter approval and assess fees to cover the costs of providing emergency services. It may apply for and accept grants, loans, or contributions from the federal government or any of its agencies, the state, or other public or private agencies.

Although the act provides for much broader taxing authority, it would be possible for the emergency services authority board to submit the question of levying a tax, presumably at the current 1.4790 mill combined rate, to the electors of the city and township.

<sup>f</sup> Public Act 57 of 1988, MCL 124.601 et seq. <http://legislature.mi.gov/doc.aspx?mcl-Act-57-of-1988>

## Library

Pentwater Township levies a 0.8133 mill tax for support of the Pentwater Township Library building and operations, yielding \$89,886. If the village were to become a city in the current fiscal year, 45 percent of the township's contribution to funding for the library would be eliminated.

While operations of the library could continue without the village, the loss of funding could be severe. Continued support from the city would sustain operations.

As is the case for fire protection, state law is accommodating for local governments to collaborate in the provision of library services. Five different provisions of state law are relevant to discussions around continuation of library services.

Public Act 164 of 1877, the City, Village and Township Libraries Act provides several options for continued operations with financial support similar to what the library currently enjoys. The township could contract with the new city to offer library services and form a Joint Board Library with the city. This would enable the library to continue to operate as it has been and permit the city to have board representation. The library would be governed by a board of five directors (the board may be expanded to seven or nine directors by ordinance after appointment of first five-member board). The term of office for each member of the appointed board of directors may not be less than two years nor more than five years. The library millage, at a rate not to exceed two mills, may be introduced in participating villages and townships by petition and is subject to approval by the qualified electors in that unit.

Alternatively, two different sections of Act 164 could be used to establish the township library as a city library and the city could then contract with the township to continue library services. Or, the township library can remain a township library or be re-established as a city library and then contract with the other via a simple service contract.<sup>9</sup>

Additionally, the District Library Establishment Act provides authority for counties, cities, villages,

<sup>9</sup> Public Act 164 of 1877, MCL 397.201 et seq. <http://legislature.mi.gov/doc.aspx?mcl-Act-164-of-1877>

townships, and school districts to establish a district library. The legislative body of the city and township would have to adopt a resolution providing for the establishment of a district library and approving a district library agreement. A district library board would be created consisting of between five and eight members as decided in the agreement creating the district. The district library would be authorized to levy a tax of up to four mills. Portions of the library budget not funded through the tax millage may be shared by the participating units.<sup>h</sup>

The District Library Establishment Act is best suited to meeting the needs of Pentwater if the village is incorporated as a city. If the first method is selected, the city council and township board would each adopt a resolution establishing the library. The municipalities would file with the state librarian both a copy of the agreement that identifies the proposed library district and a copy of a map that clearly shows the territory proposed to be included in the district library district. The state librarian will then review the agreement and the map and approve or disapprove of the proposed district library district.

The members of the district library board would be appointed by the city and township at the time the agreement is established, but future board members may be elected if so desired. The library assets of the township would be transferred to the district library. The district library board would then submit the question of levying a tax, presumably at the same 0.8 mill rate, to the electors of the city and township. The canvass of the election results on this tax proposal would be counted throughout the whole district – city and township together.

Assuming there is not a desire to use this opportunity to adjust the 0.8 mill tax rate to provide better library services, a tax could be submitted to the electors in the city and township for approval at the exact same rate.

The Pentwater Township Library Board of Trustees is the legal body authorized to determine the best option going forward.

<sup>h</sup> Public Act 24 of 1989, [MCL 397.171 e. seq. http://legislature.mi.gov/doc.aspx?mcl-act-24-of-1989](http://legislature.mi.gov/doc.aspx?mcl-act-24-of-1989)

### Cemetery

Pentwater Township operates a cemetery that village residents also have benefited from historically as members of the township. The issue if the village incorporates as a city is whether changes should be made to the governance and financing of the cemetery to reflect its benefit. Burial spaces are available to everyone, but the fees are different for township (including the Village) property taxpayers and non-township property taxpayers. Without change, the township would continue to bear the majority of the cost of operations, and city residents would be charged higher fees for internment in the cemetery.

The township levies a 0.3401 mill tax to support care of the cemetery grounds and operations that is projected to yield \$83,400 in the 2023-24 fiscal year. If the village were to become a city in the current fiscal year, one third of the Pentwater Cemetery funding would be eliminated.

Michigan law does not provide explicit authority for intergovernmental collaboration in the provision of a cemetery, but there is a catchall law for collaboration that can be used. The Urban Cooperation Act provides for the joint exercise of any power, privilege, or authority that each public agency has the power to exercise separately. Both townships and cities have the authority to provide a cemetery individually, so they could do it jointly.

A contract in the form of an interlocal agreement would be agreed to by the legislative bodies of each participating unit. No additional taxing power is obtained by cooperating through the provisions of this act, but the agreement may provide for contributions from each participating entity. The township and the city could contribute funding toward operation of the cemetery, or they each could levy property taxes to raise sums to support the operations.

### Refuse Transfer

Pentwater Township currently offers a full service transfer station for township and village residents. The transfer station is funded in the township's general operating budget.

If the township board is satisfied that it should serve only township properties, the revenue loss would affect hours of operation. If the goal is to serve both jurisdictions, the Natural Resources and Environmental Protection Act provides authority for transfer sites to be operated jointly through an interlocal agreement with one or more local unit(s) of government. An agreement would have to be drafted and approved by the city council and township board providing for joint ownership and operation of the site. The agreement may create a separate board to oversee operations of the site or may designate certain officials of the city and township to have the supervision and control. The city and township do not gain any additional taxing power by cooperating through the provisions of this act, but they may issue full faith and credit bonds or mortgage bonds if capital improvements are needed in the future.<sup>i</sup>

If the newly created city does not wish to share the cost of operating the transfer station, the township could explore collaborative arrangements with any or all of the surrounding townships – Golden, Hart, Weare, Summit, or Riverton.

### Recreation

The township incurs costs for maintenance of Park Place, Northend Park, and several other recreational

<sup>i</sup> Public Act 451 of 1994, Part 43, MCL 324.4301 et seq. <http://legislature.mi.gov/doc.aspx?mcl-451-1994-II-1-SEWAGE-DISPOSAL-AND-WATERWORKS-SYS-TEMS-43>

amenities. These facilities and services are funded out of the township's general fund.

The Northend Park, Park Place, and several other recreation facilities are physically located in the village, so responsibility could be left to the city. On the other hand, they are community amenities utilized by village and township residents, so cost allocation among the two units of government has merit.

Of all the facilities funded through the township budget, Park Place is the only one for which exclusion is possible. Parks and playgrounds by their nature are open to the public, so even through cost could fall exclusively to the city, it would not be able to restrict usage to city residents. The budget exercise above assumed that fees would be charged for use of Park Place unless constitution sharing with the city can be agreed upon.

The Recreation and Playgrounds Act authorizes cities, villages, townships, counties, and school districts to act independently or in cooperation for the provision of recreational services. The city and township could create a recreation board funded with money appropriated from each government.<sup>j</sup>

<sup>j</sup> Public Act 156 of 1917, <http://legislature.mi.gov/doc.aspx?mcl-Act-156-of-1917>

## Annexation Processes

The process and prospects of land annexation is an issue for village and township residents to consider as the village investigates the merits of incorporating as a city. Annexation is a simpler process for a village, but the decision making ultimately rests with the county board of commissioners and not the village and/or township.

### Village Process

Villages may seek to alter their boundaries, either by expanding or contracting their boundaries, by petitioning the county board of commissioners to approve the changes. The legal petition for changes is submitted to the county commission and must contain a description of the lands and premises to be added or subtracted from the village territory and provide the reasons for the proposed change. Notice of the proposed change must be published in a newspaper serving the community or posted in three of the most public places within the village and three of the most public places in the territory proposed for change – annexation or detachment. The county commissioners must have a hearing to provide an opportunity for all parties interested to be heard. It is then up to the county commissioners to determine whether the petition should be granted.<sup>k</sup>

The intent of this process was to put the question of border changes to the elected officials in the township and surrounding townships and cities. However, the system of governance for county governments changed and the village border change process was not addressed.

The process for changing village borders was established in the original enactment of the General Law Village Act in 1895. It has been amended slightly a few times, most recently in 1948. It still provides for the decision to be made by the County Board of Supervisors. This body was comprised of one supervisor per township regardless of population, and one or more representatives from each city depending on the population of each.

<sup>k</sup> General Law Village Act, Public Act 3 of 1895, MCL 74.6 <http://legislature.mi.gov/doc.aspx?mcl-74-6>

County boards of supervisors were ruled is violative of federal constitutional provisions as interpreted by the United States Supreme Court in *Reynolds v Sims* and other cases. The idea that representation of the county residents could vary depending on the population of each township was found contrary to the one-man, one-vote principles of the federal constitution. Although the state constitutional provision has never been amended, PA 261 of 1966, as amended, provides for the election of county commissioners from single member districts.<sup>l</sup>

The county boards no longer represent local governments, and therefore their relationship to the wellbeing of the township or village has been diminished. Village annexations are not common and how a county commission might react to a petition for territorial change varies by county.

Nonetheless, this is the process. The current Oceana County Board of Commissioners is comprised of five members representing roughly equal populations within the county. District 1 represents Pentwater, as well as Claybanks, Benona, and Golden Townships.

### City Process

Cities may annex territory in several ways. If the property has been purchased by the city and is vacant, the city council may adopt a simple resolution stating their intent to annex the property. If the township agrees, annexation takes place by the adoption of a joint resolution of the city council and township board.

Most annexations are through petition to the State Boundary Commission. The petitions can be filed by the city, by 75 percent of the landowners, by 25 percent of the registered voters in the area to be annexed, or by one percent of the entire population of the city and township.

Before acting on a petition, the State Boundary

<sup>l</sup> Apportionment of County Boards of Commissioners, <http://legislature.mi.gov/doc.aspx?mcl-Act-261-of-1966>.



Commission must hold a public hearing. If the three-member Commission approves the petition and the director of the state Department of Licensing and Regulatory Affairs approves, the annexation is placed on a path to take effect 45 days later. Unlike the process for villages where the decision of the county board of commissioners is final, the Home Rule Cities Act provides the opportunity for a referendum on the decision of the State Boundary Commission. If five percent of the registered voters in the area to be affected file a petition to hold an election on the question of annexation, an election is held. A majority of the electors in both the annexed area and the majority of the city or township electors voting separately must approve the annexation for the decision of the Commission to stand. If either group fails to register a majority vote, the Commission's decision

is overturned.<sup>m</sup>

### Key Annexation Takeaways

Whether it is a village or a city aspiring to annex territory, ultimately the decision of whether annexation should occur rests with an entity outside of Pentwater. Depending on where one sits – annexations often have proponents and opponents – the city process affords those affected the ability to petition for a referendum on the question.

<sup>m</sup> Michigan Municipal League, *Handbook for Municipal Officials, 2015 Update*, [https://mml.org/pdf/resources/publications/ebooks/HMO\\_by\\_chapter/CH%204%20Boundaries%20and%20Annexation.pdf](https://mml.org/pdf/resources/publications/ebooks/HMO_by_chapter/CH%204%20Boundaries%20and%20Annexation.pdf)

## An Alternative Governance Model

The citizens advisory committee has been meeting and will soon submit its recommendations for Pentwater city feasibility to the village council. Nonetheless, it is worth considering that the village incorporating as a city is not the only path to accomplishing many of the goals that led to this discussion.

Michigan has built structural inefficiencies in the fabric of its local government system by maintaining governance options for entities that are small in population and geographic area. With only 890 people spread across 1.3 square miles, Pentwater Village is extremely small, even relative to other Michigan villages. Some townships, villages, and small cities in Michigan have had trouble finding people to serve in public office or with the skill sets to be treasurer or clerk. Because these small jurisdictions have relatively small tax bases, they sometimes levy taxes with high tax rates to yield the revenues needed to fund the services desired. It also has built in a system of duplicative services and functions, both between villages and townships and among the network of small jurisdictions in each county.

Growth will be a factor in the future. The Citizens Research Council of Michigan has documented how Michigan's property tax system creates pressure for local governments to continue adding to their

tax bases or raise tax rates.<sup>n</sup> Pentwater Village has developable land, but the infrastructure to serve new development – roads, sewer, etc. – would have to be extended to the new developments. This comes with its own costs.

There is also the issue of creating a governance and finance system that reflects the population being served. Village residents have limited ability to live, shop, work, and find leisure opportunities solely within the village. Even township residents feel these limitations. Village and township residents must leave the boundaries of their local governments and are therefore beholden to others to tax themselves to pay for public safety, smooth roads, and other public services.

It could be argued that instead of further dividing the communities via city incorporation, reducing the

<sup>n</sup> See Citizens Research Council of Michigan, *Local Governments Respond to Property Tax Base Limitations by Raising Tax Rates*, Memorandum 1169, July 2022, <https://crcmich.org/publications/raising-property-tax-rates> and Michigan's Overlapping *Property Tax Limitations Create an Unsustainable Municipal Finance System*, Report 411, August 2021, <https://crcmich.org/publications/michigans-overlapping-property-tax-limitations>.

number of governments would better reflect Pentwater's 21<sup>st</sup> century corner of Michigan. This would involve dissolving the village entirely and have the township provide public services and levy taxes to pay for them.

### Dissolve Village to Rely on the Township

By eliminating the village, all taxpayers in the township would share the cost of services. The more densely populated areas of the township – what now constitutes the village – could receive services disproportionate to the other areas. The need and demand for public services tend to correlate to population density. So, it would be expected that what is now the village would receive more police and fire services, refuse collection, and recreation spending.

With that said, it is also the case that everyone benefits from a thriving, attractive downtown area. Families are attracted to the area because of the quaint downtown area defined by the village. The downtown area serves as a gathering place for the whole Pentwater community. Even though not all properties will be located in the same density as the village, they can all be expected to support a downtown as part of the community.

Some may argue that larger geographic areas create more opportunities to slate elect officials without representation of the village, or corners of the township. Township officials are elected at large, so there is no guarantee that candidates from any geographic area of the township would be elected. That is true for every type of government with at-large elections – state officials, county sheriffs, clerks, and registers of deeds, city officials, and school boards.

Duplicative services could be eliminated by eliminating the village. How much savings that creates would have to be explored in a different study. Even without knowing those economies of scale, it is the case that village residents would receive tax savings and non-village township residents would pay a higher level of taxes.

For example, the village currently levies 11.8958 mills on a tax base of \$110 million to yield \$1.3 million.

If the township endeavored to raise that same \$1.3 million, it would need levy a tax of only 5.34 mills.

Under the General Law Village Act, disincorporation of a village may be initiated by circulating a petition requesting a vote on the question of whether the village shall disincorporate. Petition circulators must get a number of signatures equal to at least 15 percent of the registered electors of the village. The petitions are filed with the township clerk, who then has 14 days to determine the legal sufficiency of the petition.

The General Law Village Act provides two avenues to proceed with disincorporation:

- a. an immediate referendum, or
- b. creation of a disincorporation commission followed by a referendum.

Path A, an immediate referendum, provides expediency, but leaves many issues unsettled for residents asked to decide the path forward. Path B, creating a commission, prolongs the process but addresses many of the issues that, if left unanswered, might cause push back on the idea of dissolution. In recent years, general law villages have attempted dissolution using both paths with the common result that voters have rejected the idea of dissolution and opted to keep their villages.

### Immediate Referendum

Should the elected village board take no action, the question of disincorporation would appear on the ballot at the next general or special election to be held in the village. Separate elections are held in the village and the portions of the township outside the boundaries of the village, respectively. Michigan election law provides four dates in a calendar year for the conduct of elections – the fourth Tuesday in February; the first Tuesday after the first Monday in May; the first Tuesday after the first Monday in August; and the first Tuesday after the first Monday in November. Disincorporation of the village becomes effective using this avenue only if two-thirds (2/3) of the electors voting on the question in each jurisdiction vote “yes”.

## Disincorporation Commission and Referendum

The General Law Village Act also allows for the insertion of an intermediary step between the collection of petition signatures calling for disincorporation and the actual vote.

Once the clerk determines the sufficiency of the petitions, the village council may, by resolution, elect to adopt procedures set forth in the General Law Village Act to create a disincorporation commission. The commission would be composed of six members with equal representation from the village and township. The village president with approval of the village council, is responsible for appointing the members representing the village. The township supervisor, with approval of the township board, is responsible for appointing the members representing the township. The commission would be charged with addressing the following issues:

- methods for dealing with land use planning and zoning within the village
- payment of indebtedness of the village
- disposition of the village's real and personal property and other assets
- disposition of all public records of the village
- the transfer or termination of village employees
- jurisdiction over the village's roads, sidewalks, and any public easements, including street-lights and snow removal
- jurisdiction over traffic control
- provision for any special assessments within the village
- the transfer or termination of public utilities and public services of the village (including water, sewer, drainage, cable television, street lighting, electric service, and garbage and refuse service)
- the regulation or orderly transfer of responsibility for any special districts (such as historic districts, downtown development districts, tax increment financing districts, and land subject to any land transfer agreements)
- provision for any authorities that the village has established or in which the village is a member
- findings as to the fiscal impact of dissolution upon the township and the residents of the village

- a process for resolution of any disputes that may arise in the process of disincorporating
- the effect disincorporation may have on property values, public service levels and costs, and local property tax rates.

Upon completion of the disincorporation commission's work, the plan would be submitted to the village council and township board for their approval. Pending such approval, the question of disincorporation would appear on the ballot at the next general or special election to be held in the village. Unlike the provision for taking the question of disincorporation directly to the ballot that requires a supermajority two-thirds (2/3) vote, the question posed after the work of a disincorporation commission requires only a majority of the votes cast by (a) electors of the village and (b) the portions of the township outside the boundaries of the village.

Should the question fail at the ballot under either scenario, a new petition for disincorporation could not be filed until two years have passed.

## Advantages and Disadvantages of City Incorporation or Village Dissolution

The original design of local government – with townships serving unincorporated, minimally populated areas, villages serving areas where people and businesses have aggregated but not in great numbers, and cities serving heavily populated areas – would suggest many differences in powers of townships and cities. However, the expansion of the powers of townships and the transfer of some responsibilities from cities to counties and the state over the years has blurred the lines of distinction between the types of governments.

When reduced to its simplest terms, incorporation as a city merely means providing through the new city government the local services formerly provided by the township government, plus whatever necessary and non-duplicating functions were provided by the village government.

**Organization.** An important advantage to be gained by incorporating as a city is the opportunity to draft a new charter under the provisions of the Home Rule

City Act.<sup>o</sup> The new charter may include a modern organizational pattern and modern administration procedures. The additional benefits to be derived from city incorporation may provide the necessary stimulus for choosing to become a city.

Townships and cities also differ in their organizational structures and the authorities afforded them. Governance of townships is provided for in state law and all townships operate with a supervisor, treasurer, clerk, and either two or four trustees all elected in township-wide elections. Cities decide through their city charters how many city council/commission members to elect; whether to elect those officials in city-wide or district elections; whether to operate in a strong mayor system or a council/manager system; whether to independently elect certain executive branch officials – such as the treasurer, clerk, assessor, etc.; and what authority the city should have for enacting ordinances to reflect the values of the community.

**Police.** It is common for townships, especially those rural in nature, to rely on their county sheriffs for police protection. Language in the Home Rule Cities Act suggests that cities bear the additional responsibility of providing police (and perhaps fire) protection. The responsibility to provide public safety services should not be confused with a requirement to self-provide the services. Michigan has many examples of cities that provide for fire protection by participating in a fire protection authority and increasing numbers of cities are providing police protection by contracting with the county sheriffs.

**Roads.** Another significant difference between cities and townships is the responsibility for construction and maintenance of the roads and bridges in their jurisdiction. The Michigan Constitution expressly provides townships jurisdiction over the use of roads, streets, and highways within their borders, but state

law<sup>p</sup> provides that township roads are under the jurisdiction of county road commissions. The Constitution provides villages and cities with jurisdiction over the use of roads, streets, and highways within their borders, but in this case, Public Act 51 of 1951 authorizes villages and cities to care for highways and distributes funding from motor fuel taxes and motor vehicle registration fees to support those efforts.

**Taxes.** Finally, townships and cities differ in the ability to levy taxes. Townships fund operations from millage allocated to them by the counties and have limited authority to levy additional millage with voter approval. By opting to operate under the Charter Township Act,<sup>q</sup> townships may gain authorization to levy a maximum of 10 mills for operations. The Home Rule Cities Act authorizes cities to levy a maximum of 20 mills for operations. Many cities, through limitations set in their city charters, have millage limits well below this 20-mill maximum. Cities are also authorized to levy a local-option income tax to fund municipal operations. Only 22 of Michigan's 279 cities currently take advantage of this option.

## Conclusion

Pentwater Township would be affected by the village incorporating as a city, but tools exist for it to adapt. Because Pentwater Township has a relatively rich property tax base and levies taxes at relatively high rates, it will have more resources than surrounding townships or similarly sized townships throughout Michigan. While some services and operations may need to be scaled back, those changes would do little to lessen the quality of life in the township. Additionally, several Michigan laws could be utilized to provide services such as elections, fire protection, the library, the cemetery, refuse transfer site, and recreation facilities in collaboration with the city or surrounding townships.

<sup>o</sup> Public Act 279 of 1909, <http://legislature.mi.gov/doc.aspx?mcl-chap117>.

<sup>p</sup> Public Act 51 of 1951, <http://legislature.mi.gov/doc.aspx?mcl-Act-51-of-1951>.

<sup>q</sup> Public Act 359 of 1947, <http://legislature.mi.gov/doc.aspx?mcl-Act-359-of-1947>.