MEMORANDUM – OFFICE OF THE VILLAGE MANAGER

TO: Northport Village Council

FROM: Jered Ottenwess, Village Manager/Zoning Administrator

DATE: May 1, 2026

RE: Legal Authority for Voted Millage – Mill Pond Dam Replacement; Suggested Ballot Language

Introduction
I have undertaken a legal review of the Village's authority to submit to the electors a voted millage for the purpose of replacing the Mill Pond Dam. The analysis below summarizes the relevant constitutional and statutory authority and outlines the procedural requirements for placing such a proposal on the ballot. While this memorandum is intended to provide a clear legal framework for Council consideration, the Council may wish to present any proposed ballot language to Village legal counsel for final review and approval as to form and content prior to adoption.

I. Issue Presented
Whether the Village of Northport, as a general law village under Michigan law, may submit to the electors a ballot proposal authorizing the levy of a property tax millage for the purpose of replacing the Mill Pond Dam.

II. Summary of Conclusion
The Village possesses clear authority under the General Law Village Act (Act 3 of 1895), in conjunction with the Michigan Constitution of 1963, to submit a voted millage proposal to its electors for a public purpose, including capital infrastructure such as dam replacement. If approved by a majority of electors voting on the question, the Village may levy the millage in accordance with the ballot terms, subject to constitutional and statutory limitations.

III. Applicable Law
A. General Law Village Act – Authority to Levy Taxes
The General Law Village Act provides the Village with general authority to levy taxes for municipal purposes:
"The council shall have power to levy and collect taxes in each year for the purpose of defraying the general expenses and liabilities of the village, and for such other purposes as are authorized by law." MCL 69.1

This provision establishes the Village's authority to impose taxes for lawful public purposes, including infrastructure improvements.

B. General Law Village Act – Voter Approval of Taxes
The Act further provides authority for voter-approved taxation:
"If authorized by a majority of the electors voting thereon at an election at which the question is submitted, the council may levy a tax for the purpose or purposes specified in the proposition so submitted." MCL 69.22

This section is the principal statutory authority for a voted millage. It permits the Village Council to submit a tax proposal to the electorate and, upon approval, to levy the tax for the stated purpose.

C. Michigan Constitution – Authorization of Voted Millage
The Village's authority is further supported by the Michigan Constitution:
"The foregoing limitations shall not apply to taxes imposed for the payment of principal and interest on bonds… or to taxes imposed for any other purpose authorized by law and approved by a majority of the qualified electors of the assessing district voting thereon…" Const 1963, art 9, § 6

This provision allows local units of government to levy additional millage beyond otherwise applicable limits, provided that the tax is authorized by law and approved by the voters.

D. Headlee Amendment – Millage Rollback
Any approved millage is subject to the Headlee Amendment:
"If the assessed value of property as finally equalized… increases… the maximum authorized tax rate… shall be reduced…" MCL 211.34d(1)

This requires that millage rates be reduced ("rolled back") when taxable values increase, absent voter-approved adjustments.

E. Ballot Language Requirements – General Property Tax Act
Ballot proposals for voted millage must comply with statutory disclosure requirements:
"A local unit of government shall not levy a tax… unless the question of the tax is submitted to the electors… The ballot shall state the purpose of the millage, the rate of the millage, and the number of years the millage will be levied." MCL 211.24f(1)

This statute governs the required content of ballot language and ensures that voters are informed of the key elements of the proposal.

IV. Application to Mill Pond Dam Replacement
A. Public Purpose
Replacement of the Mill Pond Dam constitutes a valid public purpose under Michigan law. The project involves:

- Maintenance and improvement of public infrastructure
- Protection of public health and safety
- Compliance with state regulatory requirements
- Preservation of public assets and property

As such, it falls within the Village's taxing authority under MCL 69.1.

B. Authority to Submit Proposal to Electors
Pursuant to MCL 69.22, the Village Council may adopt a resolution submitting a millage proposal to the electors. If approved by a majority of voters, the Village is authorized to levy the tax for the specified purpose and duration.

C. Duration and Structure of Millage
The Council has discretion to determine:

- The millage rate
- The duration of the levy

These elements must be clearly stated in the ballot language pursuant to **MCL 211.24f(1)**.

V. Suggested Ballot Language
The following draft ballot language is provided for Council consideration:

Village of Northport
Mill Pond Dam Replacement Millage Proposal
Shall the Village of Northport be authorized to levy a new additional tax not to exceed [X.X] mills ($[X.XX] per $1,000 of taxable value) for a period of [__] years, from 2028 through 20[__], inclusive, for the purpose of replacing and reconstructing the Mill Pond Dam, including associated infrastructure improvements and related engineering, design, and construction costs?

It is estimated that the levy of [X.X] mills would raise approximately $[____] in the first year.

☐ YES
☐ NO

VI. Procedural Considerations
To proceed with a millage proposal, the Village must:
1. Adopt a resolution approving ballot language and calling for the election
2. Submit the proposal to the County Clerk by the applicable election deadline
3. Conduct the election in accordance with Michigan Election Law
4. If approved, levy the millage annually in accordance with the ballot terms

VII. Conclusion
The Village of Northport has clear legal authority under MCL 69.1, MCL 69.22, and Const 1963, art 9, § 6 to submit a voted millage proposal for the purpose of replacing the Mill Pond Dam. Such a proposal, if approved by the electorate, would provide a legally sound mechanism for funding the project. Given the significance of the matter, the Council may wish to seek formal review by Village legal counsel prior to finalizing ballot language or taking action to place the proposal before the voters.