



LESSONS FROM THE PROPOSED MERGER OF ONEKAMA VILLAGE WITH ONEKAMA TOWNSHIP

This paper summarizes CRC Report #381, *Lessons from the Proposed Merger of Onekama Village with Onekama Township* (37 pages). The full report is available at www.crcmich.org/PUBLICAT/2010s/2013/rpt381.html.

In 2012, the Onekama community in Manistee County became the first village and township to use the provisions for a disincorporation commission provided in the General Law Village Act. While the efforts of the commission did not lead to voter approval in August, the state can learn from Onekama's experience to improve the process for future efforts to consolidate local governments.

In 1998, the General Law Village Act was amended to provide for an orderly process for villages contemplating disincorporation. As an alternative to taking the question of disincorporation directly to the electorate, a village board of trustees could elect to create a disincorporation commission. That entity would be comprised of equal representation from the village and the township(s) in which the village is located. The law establishes 14 subjects that the commission must address to plan for changes in operations in the event the village is disincorporated. These subjects include: the repayment of indebtedness; the disposition of the village's real and personal property; the transfer or termination of village employees; and the fiscal impact that disincorporation would have on the township and the village residents. The commission may opt to address additional subjects.

In August 2011, petitions were submitted calling for a vote on the disincorporation of the Village of Onekama, a village of 411 people in 2010 that resides on the northern shore of Portage Lake. The Village Board of Trustees opted to convene a disincorporation commission, which met from January to March of 2012. The

following are some of the highlights from the commission's plan:

- The commission plan expected that the five mills currently levied by the village would be eliminated without the immediate need for replacement revenues.
- Village streets would transfer into the jurisdiction of the Manistee County Road Commission with special provisions for snow removal in the village.
- Stewardship of the sewer system would transfer to Onekama Township without expansion to new properties. The existing indebtedness related to the sewer system would continue to be paid only by those connected to the sewer system.
- Other Village real and personal assets would be transferred to the Township, either for the continued provision of services or to be sold with the revenues funding future service provision.
- The plan provided that the fund balances transferred from the Village to the Township and revenues from assets sales should be used only for the maintenance of assets and the provision of services in the geographic area that constituted the Village.
- Finally, the Village worked with the commission to identify ordinances that pertained directly to protecting the welfare of village residents and provided that the township should adopt those ordinances if the village was disincorporated.



Recommendations to Improve Process of Local Government Consolidation

As the first village and township to consider the costs and benefits of village disincorporation under the 1998 provisions added to the General Law Village Act, the lessons of Onekama's experience provide for a number of recommendations that would improve the process for the next community to travel down this path. Based on the experience working with the Onekama disincorporation commission, CRC makes the following recommendations to state law:

Require Commission for All Mergers. Michigan's laws should be amended to create stand alone provisions that require any proposed mergers, consolidations, disincorporations, or blending of whole units of government to go through a commission process. This should apply not only for the disincorporation of villages, but also for the merger of townships, when a city and township consider consolidation, when two cities consider merging into a new city, and in any other circumstance of this nature.

Expand Membership of Commissions. It is recommended that the membership of the commission be expanded from three to four members (or from 9 to 12 members if the village resides in two townships), requiring that at least one of the four representatives is an elected official of the village or each township that the village overlaps.

State Technical and Financial Support. It is recommended that the state maintains a policy of providing financial support for local governments willing to consider the difficult political questions of consolidation.

Time Allotted. It is recommended that the time GLVA be amended to allow a vote to be scheduled up to two years after the certification of the petitions to allow sufficient time for a thorough and well produced plan to be prepared.

Provide Contingents for Role of Village Clerk. The law should specifically provide for a deputy clerk

or other proxy to serve this role to remove future contention over whether this is proper.

The Petition Process

The issues raised about the petition process focused on the requisite percent of the number of eligible voters in the village required to sign petitions to get the question on the ballot and who is permitted to circulate those petitions.

Percentage Threshold. CRC recommends returning to the 25 percent threshold only in conjunction with the above recommendation that the commission process be a requirement.

Circulators. Some opponents to the disincorporation of Onekama Village objected that some of those circulating petitions calling for a vote were not village residents. CRC does not recommend residency restrictions for petition circulators at this time, but recommends that the issue be considered within the larger context of ballot reform that reportedly is on the agenda of many state policymakers.

Subjects to be covered in Commission's Plan

The General Law Village Act lists several issues that a disincorporation commission must address to assess the benefits (or lack thereof) for disincorporation moving forward. CRC recommends the following changes to that list:

Ordinances. CRC recommends that the village zoning ordinance becomes an amendment to the township zoning ordinance and that all village ordinances continue for six months at which time they expire unless formally continued by the township.

Assets and Liabilities. The item related to assets and liabilities of the village could be simplified by amending it to state that all assets and liabilities go to the township or townships that the village overlaps unless otherwise provided for by the commission.

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Effective Date of Disincorporation. The Onekama disincorporation commission had no direction on setting an effective date if disincorporation was approved by the voters. CRC recommends that law provide for a disincorporation date as well as for various activities to be discontinued but allow the commission to set another date if needed to meet individual circumstances.

Ministerial Duties after Disincorporation. CRC recommends that there be provision for either a village elected official at the time of disincorporation or a township elected official to perform ministerial functions following disincorporation of the village. This might relate to closing of accounts receivable and payable, final termination of contracts, and other matters that are not cleanly concluded before the actual date of disincorporation.

Property Taxes Due. The issue of whether the Village of Onekama's property taxes should be paid in the summer became an issue of discussion. CRC recommends that the law provide that all taxes properly levied before the effective date of merger/disincorporation be fully levied. There should be no opportunity to prorate the tax burden according to the effective date of disincorporation. It should further provide that taxes remain obligations to be paid to the township even after disincorporation. There should be no opportunity to wait out the effective date of disincorporation and elude the tax burden.

Contracts. The law could be simplified by affirmatively stating that the township must continue all of the village's contracts and special assessments, but otherwise has no obligation to continue village services. It is the duty of the commission (hopefully with input from the township) to determine which services will be continued.

Component Units of Government. The law could be simplified by providing that all special authorities (e.g., DDAs) are continued and made a township authority, unless the village is being divided into more than one township in which case it becomes a joint township authority. It should also provide that the township succeeds the village on all intergovernmental contracts.

Roads. CRC recommends that the issue of funding be addressed. It is CRC's recommendation that the funding stay with the roads in the event of disincorporation. County road agencies should receive the same level of state funding as is paid to the villages after

the roads are transferred.

The law should state that the procedure in Act 269 should be used when villages disincorporate and roads are transferred to the county road agencies. Whereas other road transfers under PA 269 are usually voluntary, these transfers would be required. It might be advisable to amend PA 269 to provide for a neutral panel of road officials to judge the quality of the village streets relative to similar roads in close geographic proximity to protect against biased assessment of road conditions.

Alleys and Sidewalks. CRC recommends that the legislature provide greater clarity to whether townships are authorized to maintain alleys assumed from villages.

Fix Vote Requirements

Reform of the vote requirements could happen in several ways. The following are several paths that could be taken to alter the thresholds for approving disincorporation. It may be possible to piece together these recommendations, but each should be judged independently to assess whether it would improve the process.

Is 2/3 Vote Necessary? It is not clear why a super-majority vote should be required to disincorporate a village, when one considers that a simple majority vote of the electorate is required in a statewide vote to amend the state constitution; in each government considering merger by incorporating as a new city; and in most other instances where the structure of government would be changed. One recommendation would be to just do away with the super-majority vote requirement.

A counter argument is that the super-majority vote requirement and allowing a separate path to the ballot through the commission process is a projection against frivolous petitions that garner 15 percent of the village electorate on petitions, but are not supported by the elected leaders nor do they have the general support of the residents.

Require Commission Process. The commission process succeeded in laying out a plan for merging the two governments together in Onekama and educating the electorate about the ramifications of their votes. CRC recommends above that all proposed mergers should be required to go through a commission process such as is provided for in the GLVA. This re-

quirement would eliminate the need for supermajority votes on questions of mergers. After a plan is created, approval would require only a simple majority.

Remove Chance for Second Swipe at 2/3 Vote.

If it is decided to maintain two paths to get to a question of village disincorporation to the ballot, then the GLVA should be amended to eliminate any possibilities of a second swipe at the super-majority requirement for voter approval.

It is recommended that, at a minimum, the second possibility of a super-majority requirement should be removed. Once members are appointed to a commission, that body is convened, and time and resources are committed to producing a quality plan, the village and township governments should not have a formal role to play in submitting the plan and the question of disincorporation to the electors. It is recommended that the plan produced by the

disincorporation commission should be submitted directly to the voters for a simple majority vote. The village and township governments can and should provide council to the commission (see recommendations above regarding a formal role), but the plan produced by the commission should be final. If provisions of the disincorporation plan are adverse to either governmental entity, that body can communicate this to residents/voters in the form of a resolution or other political action.

Clarify Vote Requirement. The language in the GLVA related to the two-thirds vote requirement does not make it clear what bodies of electorate are to vote; whether the vote should occur as a single township, or the village and balance of the township should vote concurrently but the votes counted separately. If a 2/3 vote requirement continues to be a necessity (see recommendation above/below), the language in Section 18a should be made clearer.

Conclusion

Onkama Township and the Village of Onkama were not successful in merging the two governments by disincorporating the village, but their efforts provide valuable lessons for those that follow and a first go at using the process provided for in the General Law Village Act.

Without formal exit polling to know exactly why Onkama residents voted the way they did, the community conversation would seem to suggest that their decisions rested on a few key facets of the disincorporation plan. It was important that the Manistee County Road Commission would be able to take care of the village streets at least as well as the village had been able to do so. The speed of snow removal was of utmost importance, something that village residents could be willing to pay extra to continue.

The transfer of stewardship of the Village assets to the Township was seen as a selling point for disincorporation by some. Because residents from throughout the community use the Village assets, and the Township has a larger tax base to put in to care of those assets, these people saw merger as a move toward equally distributing the burden across the community. However, many saw this transfer as an uncompensated loss of equity for Village residents. When the Village assets were viewed using a private property perspective, these people felt compensation was in order.

The finances of the proposed merger of the two governments was such that the five mills levied by the Village could be eliminated without replacement, at least for the near term (how long would depend on how economic conditions meet or beat assumptions). The plan continued the same level of services for Village residents. Despite this financial windfall, the majority of Village residents still voted against disincorporation of the Village.

Most of the lessons related to the disincorporation provisions in the General Law Village Act called for clarity in the language. Clarity is needed in petition circulation, the vote requirements, the disposition of roads, the collection of village property taxes, and the effective date of disincorporation. The question of voting when 2-3 approval is needed to affect disincorporation is primary issue in need of clarification. It seems odd that the residents of a governmental entity would not be asked specifically about their desire for its continued existence.

CRC also recommends a number of changes that would improve the merger process. It is recommended that all local government mergers use the same commission process that is provided for in the General Law Village Act. Representatives of the local governments should serve on the commission and the formal role for the village and township(s) should end when the representatives are appointed to the commission.