

DRAFT

**VILLAGE OF ONEKAMA and ONEKAMA TOWNSHIP
DISINCORPORATION COMMISSION
MINUTES OF THE REGULAR SCHEDULED MEEETING
January 30, 2012 3:00 PM Farr Center, Village of Onekama**

The meeting was called to order at 3:02 PM by Chair Suzanne Schwing followed by the Pledge of Allegiance.

Schwing introduced Commission Members present. Representing the Village: Roger Berger and Mary Reed (alternate Paula Fortin absent). Representing the Township: Dan Behring, Rosalind Jaffe, Al Taylor, (alternate Steve Szilvagy) absent).

Peter Doren of Sondee Racine & Doren and Eric Lupher, Director of Local Affairs for the Citizens Research Council of Michigan comprise the legal and facilitation support for the Commission.

Also present: Robert Blackmore, Village President and David Meister, Township Supervisor; Jerry Peterson, Director of the County Road Commission; members of the Village Council, Township Board and general public.

Chairperson Schwing stated the minutes would be taken by Dana Schindler in the fashion prescribed for Administrative (appointed) bodies which provide legal protection and increased comprehension and communication with the public. Attorney Doren stated the method used is an internal policy and Commissioners can determine which format they prefer at the next meeting.

APPROVAL OF THE AGENDA

Items added to the Agenda prior to approval include discussion of Public Comment, summer meetings and website up-date.

Doren and Lupher suggested postponing discussion of *Public Records and Fiscal Impact* as the *Plans* were not yet prepared to address, and adding to the agenda *Facilities and Sewers*.

It was requested that discussion and approval of the By-Laws be addressed early in the Agenda in order that the entire meeting would follow the adopted protocol.

APPROVAL OF MINUTES – January 23, 2012

Moved by Behring, second by Reed to approve the minutes as written. With no objection or discussion the Chair placed the Minutes of January 23, 2012 on file.

ACTION ON RESTATED AND REVISED BY-LAWS

Doren stated the By-Laws reflect statutory requirements for Disincorporation Commissions.

Moved by Behring to accept the By-Laws as written. They were approved as written by consensus.

It was suggested the By-Laws, minutes and other Commission documents be placed in a dedicated area on public bulletin boards for easy purview. Village and Township representatives assured the bulletin boards were available in the government centers and documents would be

posted. Blackmore agreed to post the documents at the school, Franz's Market and the Post Office.

REVIEW OF THE *DISINCORPORATION STATUS REPORT* FOR INCLUSION IN FEBRUARY ASSESSMENT NOTICES

Lupher suggested the *Status Report* include a general summary of the disincorporation process; the status of statutorily required issues already addressed and yet to be addressed; dates of two public meetings called by the village and township (June 21 and July 9, Farr Center 7:00-9:00 PM); a space for written comment; and dates of regularly scheduled Commission Meetings including conference phone ability.

Meister stated the *Status Report* must be limited to a two-sided single page for inclusion in the Assessment Notice. Discussion determined the Flow Chart delineating the disincorporation process might take up too much room.

The *Report* will be available for Commission review during the February 13 meeting and proceed to the printer February 15.

Point of Clarification: The Flow Chart delineating the disincorporation process had not been e-mailed to Commissioners in effort to abide by the Open Meetings Act. Attorney Doren clarified the flow chart could be e-mailed to all Commissioners and not be in violation of OMA, but if an e-mail discussion between Commissioners would then ensue, it would be an OMA violation.

CONTINUED CONSIDERATION OF *JURISDICTION OVER STREETS*

Doren summarized that if disincorporation is approved the current Village jurisdiction over 6.1 miles of roads and alleys will transfer to the township with maintenance and snow-plowing services provided by the Manistee County Road Commission (MCRC). Jurisdiction of M-22 would remain as it is, under the jurisdiction of the Michigan Department of Transportation (MDOT) and the MCRC.

Jerry Peterson, MCRC Director stated that snow plowing of secondary and local roads under County jurisdiction do not receive priority treatment without supplemental funding, as a Special Assessment District (SAD).

Meister believed an SAD would not be required to maintain the same level of service the village is currently receiving based on a Statement of Accounts provided by Blackmore reflecting village fund balance; monies that would transfer to the township. Meister stated the township could cover the costs for the next 3 to 5 years and provide the same level of service. This would eliminate the full 5 mills village residents now pay.

Discussion:

Commissioners stated it was critical to understand the math: how the township would have the ability to provide services at the current level.

Noting the dominate concern of villagers is road services, there was a request for a projected budget that would confirm actuality of a 3-5 year coverage that would wipe out the 1¼ SAD mill proposed last week.

It was stated that Village residents should be assured of the 3-5 year coverage supplemented by a written commitment from the township and that *Jurisdiction Over Streets* plan be formally accepted by the Road Commission.

It was suggested that after Village road funds were exhausted in the anticipated 3-5 years, a SAD or some additional funding may be required.

Peterson stated Act 51 funds currently received by the village will not be received by the township. County road work is a 50/50 cost share with townships so additional funding would be required for maintenance and rebuilding projects.

Blackmore noted that storm sewer standards must also be met when streets are rebuilt and should be considered.

It was stated that “We need to understand the fiscal impact of each element before we can make decisions.”

It was summarized that the proposed street budget for Commission review should take into account funding deficiencies (loss of Act 51 monies) and a formula projection for services, maintenance and repair of village roads.

“To move forward for consensus approval” we need a financial impact statement “reflecting transparency in where the numbers are coming from; how big the pot needs to be” to address 5.53 miles of village roads and confirmation from the township that it will provide street services as currently received by villagers.

In opposition to the idea of a financial impact statement, it was stated “the gathered data presented to the Commission is sufficient. The township has stated it can pick up the services” and eliminate the 1¼ SAD mill proposed and therefore eliminate the complete 5 mills villagers are currently assessed. “As there is no way to predict 8–10 years down the road and it is not the Commission’s responsibility to do so, the Commission should move forward.” “There are a number of roads over the whole of the township, and the new governing body [subsequent to the November 2012 election], will develop priorities and services that reflect the greatest benefit to all of Onekama.”

The Chair instructed Doren and Lupher to present a revised *Jurisdiction Over Streets Plan* and noted that as the Commission discusses the draft *Plans* it is logical that additional research and information would be required and requested. Doren added, “As we discuss each item we determine if it has fiscal impact and regroup.”

Schwing asked Peterson to address a constituent concern regarding damage to Village roads from heavy Road Commission snow plows and vehicles. Peterson stated damage does not occur in the frozen winter months which is why weight restrictions are implemented by some communities in the spring.

CONTINUED CONSIDERATION OF *REAL AND PERSONAL PROPERTY AND OTHER ASSETS*

Attorney Doren stated if consolidation occurs the *Real and Personal Property and Other Assets Plan* gives all village assets to the township except roads, which go to the Manistee County Road Village of Onekama & Onekama Township Disincorporation Commission Minutes

Commission. Responding to a question he stated the township would then have control over all the assets; how they are distributed and used.

Discussion:

A request was made for a statement of asset value which would include the parks as there is no guarantee they could not be sold. Even though the current township board has not sold park lands; and taken every opportunity to purchase land for public access, boards change hands.

Meister responded that lands the township has sold, often to adjacent land owners, are small non-conforming lots that may have been donated to the township.

Doren suggested a deed restriction stating the township cannot sell the parks and agreed that the deed restriction could be worded more tightly than preservation of land for a “public purpose.” He also noted a restriction would not apply to portions of cemeteries that are not occupied.

Consensus deemed park land conveyed will have deed restrictions.

NEW CONSIDERATION OF *EMPLOYEES AND CONTRACTS OF EMPLOYMENT*

Doren stated elected officials are not considered employees and disincorporation of the Village would terminate the Village Council positions. In the event of disincorporation, the full-time Village Maintenance Technician/Water Superintendent will be hired by the Township with his contract unaltered.

Doren continued, village zoning services will no longer be necessary and the part-time Zoning Administrator may be eligible for workers compensation. Arrangements would need to be secured to provide negligible distributions utilized for unemployment.

It was asked who would be responsible for the sewer billing, functions that are independent of statutory treasurer obligation and is covered by a separate line item.

Regarding assurance of employee security, Doren responded that village and township employees are “at-will and restrictions regarding any employee should not bind the ability of newly elected officials.”

Doren clarified there would be a lag time between disincorporation and termination of officials and employees; a “winding down period” in order to achieve smooth transition. Luper noted transfer of the USDA Rural Development Loans would take at least 45-60 days playing a role in the length of transition.

There was tentative consensus of the *Employees and Contracts of Employment Plan*.

FUTURE CONSIDERATIONS OF *FACILITIES and SEWERS*

Doren stated he was in receipt of a letter from Pat McGough and by next week the *Utility Plan* will be submitted including elements of litigation, indebtedness and the report from Attorney Richard Wilson.

Discussion:

It was suggested provision be made for a back-up sewer technician. Blackmore stated if the local technician is temporarily unavailable, Rural Water supplies a fill-in operator on call 24-7.

The cost of a licensed technical was questioned.

FUTURE CONSIDERATIONS OF *FISCAL IMPACT*

Lupher suggested taking time during the February 6 meeting to address fiscal issues and hear current budget elements from the leadership.

Discussion

It was stated the village and township have been requested to provide budgets covering the past three years which have not yet been received. These would enable the Commission to calculate a projected budget at least three years out if disincorporation does take place (and three years out if disincorporation does not take place). "It will give us knowledge that the township has the ability to do what they say they are going to."

Calculations will "depend on current needs and anticipated needs." As expenses vary from year to year projections can only be tentative. For example, village parks consumed \$25,000 in 2010 and \$12,000 in 2011.

Even so, a projected budget will give some sense of "if we can do it. A budget analysis will prevent going in the hole before there is trouble." The County allows a levy of 1½ mills; the township can go above that with a referendum.

Looking at the township's 1½ mill will enable us to better determine if services received by the village without its 5 mills can be continued by the township

Meister stated budget calculations "depend on the rate of inflation, rate of construction, and cost of fuel" and would be very difficult to project.

Blackmore stated he calculated 5 sets of budgets and they "amount to a bunch of figures. They don't mean a thing."

Schwing suggested digesting the information we have heard and continuing discussion next week or in two weeks when the consulting report will be available.

COMMISSIONERS' COMMENTS

It was asked how the Web could be utilized in a more timely fashion with agendas, minutes and draft plans available before the Monday meeting. Doren noted it was possible to have the agenda and minutes available by Thursday but it was very ambitious to expect the Plans by then.

"Several residents have commented, that the news reporting is skewed, giving the impression that the disincorporation is a 'done deal' ". It was suggested that "we make certain information [published] is balanced.

PUBLIC COMMENT

Schwing stated she would like to have Public Comment both at the beginning and end of the agenda. There was no objection.

It was noted the public is at a handicap, unable to follow the goings-on during the meeting because they do not have the reports. "Unless the reports are put on the web or available at the hall prior to the meeting then the public is at a loss."

Attending via the telephone a participant wondered if the township could run the community for two to three years on a temporary basis – a probationary period, and then make a decision. Attorney Doren responded he ...”would have to research that. [He was] not aware of any prohibition against re-establish two entities.”

Village Trustee stated the revised *Street Plan* should “...take into consideration the safety as well as convenience factor.” She also noted the 2012 Village Budget made drastic cuts and “...is bare bones. It contains nothing for improvement for Parks or the Farr Center.”

It was asked if there would be a referendum if the committee or either legislative board voted down the disincorporation recommendation. Doren stated the referendum would proceed regardless, as it was petitioned by the people. The vote is slated for August 7, 2012.

The meeting adjourned 5:28 PM.

Submitted by Dana Schindler,
Recording for Mary Lou Millard

Suzanne Schwing, Chairperson

Date