

# The Decision to Incorporate Urban Clusters: Michigan Provides Examples

by Jim Reardon and Robert Ward

In Michigan, 1,241 township governments administer all unincorporated territory within their boundaries, which includes locally recognized hamlets. Before a hamlet or an urban cluster incorporates for services and improvements, residents must rely on the township. A township, however, may not be able to respond to resident's requests because of fiscal or personnel limitations or conflicting priorities of the township.

If neglect of the hamlet continues, people living there may choose to begin a discussion about incorporating as a governmental entity. Changing its political status is a major decision. This article presents the issues surrounding incorporation to a village and advantages and disadvantages associated with this transition in governmental structure. Although this article cites enabling legislation in the state of Michigan and exact wording of provisions may vary from state to state, this analysis should be applicable to most communities considering this greater self rule.

## VILLAGE FACTS

In Michigan, a village is a formal governmental unit responsible for providing certain necessary functions to its population. When a hamlet incorporates and becomes a village, it takes on these responsibilities to provide for its residents. Villages have a degree of local autonomy, yet they continue to participate as part of township government; in other words, a village remains part of a township. Residents of villages participate in township activities and continue to pay a small amount in township taxes in addition to their larger village taxes.

In Michigan, before 1968, a hamlet could choose to adopt one of two types of governments: it could become a general law village or a home rule village. The general law village had fewer mandated provisions than the home rule village. Since the passage in Michigan of the State Boundary Commission Act (PA-191) in 1968, a hamlet has no choice; now it can become only a home rule village.<sup>1</sup> Approximately half of Michigan's 262 villages are general law villages and are governed by an earlier law passed in 1895.

## HOME RULE VILLAGE FACTS

The Home Rule Village Act of 1909 enables an urban cluster with a population of at least 150 inhabitants and a minimum of 100 inhabitants per square mile to incorporate as a home rule village.<sup>2</sup> The state constitution authorizes citizens of a hamlet to gather information and draft and adopt a charter to formulate a government. The charter details mandated responsibilities and permissible authority in the enabling legislation. This authority is provided by the state to the hamlet, which empowers local officials to be more responsive to local residents.

The purpose of hamlet incorporation is to focus on and fund the level of service beyond that provided by the township. According to enabling legislation passed by the Michigan legislature, a village is mandated to

provide certain basic services; hold elections for officers and appoint other administrators; levy and collect village taxes; appropriate money for expenditures; and maintain public peace, health, safety, and welfare of residents and their property.<sup>3</sup>

In addition, the legislation grants permissive powers to provide such other services for village residents as creating a parks and recreation program, enforcing building and code regulations, planning and zoning, maintaining roads and private property for public use and others. The act does not specify, however, that the village must provide these services directly with village personnel. Often the newly formed village contracts with the nearby township government or private enterprise to perform the mandated and permissive responsibilities.

Although hamlets that choose to incorporate can encounter disadvantages, few villages have ever chosen to dissolve their charters and revert to being solely part of township government.

## ROLE OF STATE BOUNDARY COMMISSION

The State Boundary Commission Act of 1968 mandates that the State Boundary Commission must approve all petitions for village incorporation. The commission is composed of appointed members who evaluate specific criteria for the incorporation of a hamlet, including minimum

population standards; land area uses; valuation of property; topography and drainage basins; urban growth factors; and business, commercial, and industrial development.<sup>4</sup> Other criteria that the commission examines include the availability and level of quality of services and how the services will be financed by the proposed village. A study is conducted to determine the feasibility of incorporation and its outlook for long-term financial success to provide for its residents.

## INCORPORATION PROCESS

It usually takes several years for a hamlet to complete the process of incorporation. After the initial contact with the State Boundary Commission, a petition that includes a map of the proposed area, names and addresses of those to be contacted to represent the proposed village at meetings, a description of the proposed village, and reasons for incorporating must be completed and sent to the state commission for approval. If the commission finds any violation of PA-191, which includes procedural and statutory criteria, it will reject the petition.

If the commission approves the petition, the hamlet conducts further meetings with the public and surrounding local governments, and the hamlet's representatives begin to draft a charter. The effort and time it takes to create an acceptable document should not be underestimated. A detailed outline, "Procedure for the Incorporation of Home Rule Villages," is offered by the State Boundary Commission to serve as a guide.

## ADVANTAGES OF INCORPORATION

The primary advantage of incorporation is to gain greater control over the operations of the urbanized community. This is offset by the need to raise revenues, which often mean increased taxation. Residents of the hamlet can choose whether local autonomy is worth the added financial responsibility.

To make this determination, each eligible voting citizen, after numerous mandated public meetings, must weigh the advantages and disadvantages associated with incorporation. Voters will become aware of several advantages:

- Sense of community and provision for its health, safety, and welfare.
- Higher levels of services for residents of the village.
- Planning commissions and authorities to guide the growth of the village.
- Village plan and zoning ordinance to implement the plan.
- Tax levies and collection.
- Sale of bonds and eligibility to apply for grants and loans to enhance sources of operating revenue.
- Special assessment districts to finance the costs of specified improvements.
- Economic growth through (in Michigan) the creation of downtown development authorities, local development finance authorities, brownfield redevelopment authorities, economic and industrial corporations, and others.
- Future annexation of township land surrounding the village. More accountability at the local government level.

### DISADVANTAGES OF INCORPORATION

Although hamlets that choose to incorporate can encounter hardships, few villages have ever chosen to dissolve their charters and revert to being solely part of township government. Disadvantages are few, but they can be significant:

- Various forms of increasing taxation, especially property tax.
- Government subject to lawsuits.
- Community satisfaction anticipated by taxpayers might not be attained.
- Responsibility for resolving government employee labor disputes, including disputes over salaries,

fringe benefits, and level of employee performance.

- Responsibility for confronting crises such as tornados, floods, and fires.

Even though the human element has the most profound impact on a community, most of the above liabilities of incorporation can be resolved with additional financial resources. Taxpayers, however, usually agree to incur only a certain level of taxation, beyond which they may feel that local control and improvements are not worth higher taxes; nevertheless, improved quality of life may offset the financial issues.

Even though special assessments create an additional level of taxation, they provide instant revenue for local needs.

### FINANCING VILLAGE SERVICES

When the charter is adopted and the village is established, local residents often expect an immediate improvement in services because this was an important reason to incorporate. The largest problem facing a newly incorporated village is insufficient financial resources to provide for the level of expected services.

Because village taxes have just been established, the village treasury usually contains very little money. Therefore, the village must search for financial capital to satisfy the expectations of its citizens. One or more years may pass before the village's tax revenue can accrue to the point of attaining necessary operating capital. This waiting period can cause animosity between the village government and residents.

### METHODS OF FINANCING

When it incorporates, a home rule village has alternatives for financing the services and improvements for the village until tax revenues build up in the treasury. A village can sell bonds, take out loans, and apply for grant funds. Such federal and state departments as housing and urban development, agriculture, transportation, commerce, and environmental protection provide grant opportunities to local governments for many public needs.

Another option for these entities to explore is to contract with surrounding local governments to provide for the services that they already have established and are providing to their community. These include both hard and soft services. The most common of these are police and fire protection, water services, refuse and snow removal, as well as code enforcement, animal control, and tax collection to name a few.

Often there is a public necessity for sewer and water, road and sidewalk improvements, housing, and economic development—all large categories in local budgets. Among its several programs, the State of Michigan has established a municipal bonding authority to provide loan opportunities for local governments and public entities to create and upgrade various capital improvement projects that might include infrastructure needs and other forms of local support.

### LAKE ISABELLA

A recently incorporated urban cluster, Lake Isabella, Michigan (1998), found that one of its most successful programs was the creation of a special assessment district to upgrade the quality of a deteriorated road. A special assessment district provides villages with the ability to levy and collect special assessment taxes necessary to pay for the cost of an improvement or service and issue bonds in anticipation of these taxes.<sup>5</sup>

Even though the special assessment in Lake Isabella created an additional level of taxation, it provided quick revenue for a local need deemed

necessary by village officials because the township containing the hamlet had never responded to requests to improve the deteriorated road. Special assessment districts may also be created to construct or improve sewer and water lines, water treatment facilities, sidewalks, lighting, and also to acquire property.

### LOCAL TAX REVENUE

According to the U.S. Census Bureau, property tax continues to be the prime source of locally raised taxes. John Petersen, who specializes in local government taxes, stated in 1999 that property taxes account for 75 percent of local government tax revenue.<sup>6</sup> Therefore, during the time of incorporation, it may benefit the village to include as much property in the surrounding township as possible within its boundaries.

In Michigan, property taxes are calculated as 50 percent of the true market value (state equalized value) multiplied by the local millage rate per thousand dollars of taxable value. One of the major abilities a hamlet acquires when it adopts a home rule charter is the ability to levy local property taxes to support and finance the mandated and permissive powers granted to the home rule village.

The state authorizes home rule villages to levy property taxes up to 20 mills.<sup>7</sup> This leverage is not restrictive, that is, there is not a limited number of mills that must be used for any specific purpose. The village government, for example, may use 15 mills for general operations, 2.5 mills for streets, and 2.5 mills for libraries; or it may use 10 mills for operations, 2 mills for sidewalks, and 8 mills for parks. The village may split the 20 mills however it feels is most beneficial to provide for services. In some instances the government may not ask the voters for the 20 mills allowable since it may cause significant political opposition.

Other sources of local revenue in Michigan include a general sales tax accounting for 15 percent of local revenue, 4.6 percent of revenue from selective sales tax, 4.6 percent from

## PM Look to ICMA

ICMA's *IQ Report* "Cluster-Based Economic Development" explains how to identify a region's urban clusters, the steps in analyzing clusters, how to come up with development strategies, and how to be inclusive in implementing strategies. As the authors of this report say, "The trick is to find out enough about companies' specific needs to determine what might motivate them to work together for mutual advantage." (2006. Hard copy, Item number 43360, \$16.95; downloadable e-document Item number is E-43360, \$14.95.)

More information can be viewed at ICMA's Bookstore&More Web site, at [bookstore.icma.org](http://bookstore.icma.org). No shipping and handling charges for downloadable e-documents. Secure ordering is available online, or call ICMA's distribution center at 800/745-8780.

personal income tax and one percent from various other local taxes.<sup>8</sup> Furthermore, an incorporated community is a recipient of government revenue sharing and about 32 percent of the state's revenue sharing is contributed to villages.<sup>9</sup> Less tangible forms of revenue are grants, fines, fees, and other miscellaneous items.

### SUMMARY

In states with township governments, residents of local urban clusters should consider the impact of incorporating their community versus remaining a part of township government. This necessitates a review of state-level enabling legislation to determine minimal standards and procedures. Local meetings must then be conducted to discuss the benefits and obligations of forming an independent government.

During local meetings, the advantages of community identity and the need for local control should be weighed against the financial responsibilities that come with incorporation. The unique situation in each community will determine what the people decide. **PM**

<sup>1</sup>State Boundary Commission Act of 1968, PA-191, sec. 7.1.

<sup>2</sup>*Organization of City and Village Government in Michigan*, Report no. 94-3 (Ann Arbor: Michigan Municipal League, March 1994).

<sup>3</sup>Home Rule Village Act of 1909, PA-278, sec. 23.

<sup>4</sup>*Organization of City and Village Government in Michigan*, Report no. 94-3 (Ann Arbor: Michigan Municipal League, March 1994).

<sup>5</sup>Township and Village Public Improvement and Public Service Act of 1923, PA-116, sec. 1.1.b.

<sup>6</sup>John Petersen, "Financing Local Government Services" (paper prepared for Michigan Municipal League symposium, The Future of Local Government in Michigan, June 23-25, 1999), [www.mml.org/foundation/financing\\_local\\_govt.htm](http://www.mml.org/foundation/financing_local_govt.htm).

<sup>7</sup>*A Bird's Eye View of Michigan Local Government at the End of the Twentieth Century*, Report no. 326 (Livonia: Citizens Research Council of Michigan, 1999).

<sup>8</sup>John Petersen, "Financing Local Government Services" (paper prepared for Michigan Municipal League symposium, The Future of Local Government in Michigan, June 23-25, 1999), [www.mml.org/foundation/financing\\_local\\_govt.htm](http://www.mml.org/foundation/financing_local_govt.htm).

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