



A Municipal Journey...from Village to City

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October 4, 2019
MML Capital Office



Workshop Outline



I. Setting the Stage

II. A Community Undertaking; plus the SBC and Procedural Steps*

III. *Practical* Experience

* The SBC is in the process of updating procedures and materials.





About the MML

The Michigan Municipal League is dedicated to making Michigan's communities better by thoughtfully innovating programs, energetically connecting ideas and people, actively serving members with resources and services, and passionately inspiring positive change for Michigan's greatest centers of potential: its communities.





League Resources Include

Inquiry Service —

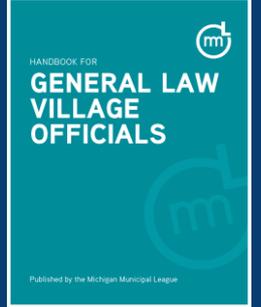
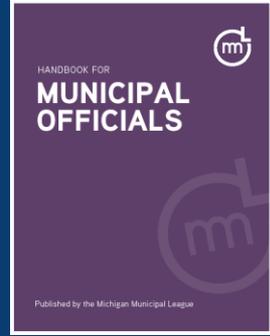
Please contact us (734-662-3246, info@mml.org) with questions on local government operations—we provide customized research and have a wealth of resources

One Pager Plus Fact Sheets -- 70 + and counting!

Local Government Primers

Handbook for Municipal Officials

Handbook for General Law Village Officials



Sample documents in the Resource Library

Ordinances (abandoned property to zoning)

Policies (personnel policies, council rules, evaluations, purchasing policies, ethics policies, etc.)

www.mml.org

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I. Setting the Stage:

Local Government Structure, Roles and Responsibilities



Competing Views on Local Control: Dillon and Cooley



A municipal corporation possesses only powers *expressly* granted, *necessarily* implied, or *essential* to the accomplishment of the declared objects.” - Dillon’s Rule”

“Local government is a matter of absolute right; and the State cannot take it away.”

- *People v Hurlbut*,
24 Mich 44 (1871)



Thomas H. Cooley
Thomas H. Cooley Papers, Box 8, BHL



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Putting Local Government in Context



Counties -Delegated powers only (83)

Cities – Home Rule, 4th Class, 5th Class, SC (280)

Villages – General Law (207) and Home Rule (46)

Townships – General Law and “Charter” (1240, inc. 138 charter twps)

Special Purpose Units – e.g. school districts, ISDs, authorities



City Government



As primary units, cities conduct state-imposed duties

1. Assessing property
2. Collecting taxes
3. Conducting local (including school), county, state, national elections



Charter = Constitution



Charter of a home rule city or home rule village - written by a charter commission and voted on by the electorate of the city or village



Charters



“In the process of charter drafting and in the local referendum, **civic energies are released.**”

Charter commissioners, elected by their fellow citizens, show themselves to be progressive yet careful when carrying out their trust.”





Governing Structure

Many charter options for cities

Non-partisan/partisan elections

At large, ward or district council elections or combination

Mayor chosen at large, by highest vote total among those running for council, or elected from among council members

Term limits

Clerk and treasurer appointed or elected



Governing Structures



- **Council/manager**

Approximately 195 cities in Michigan use council/manager form; 82 villages have managers; policy and legislative role is for the council; the council hires the manager to be the administrative head of the city or village

- **Strong mayor/council**

Mayor is directly elected; full time and salaried; appoints top administrators (hire and fire); may have veto power over council actions.

- **“Weak” mayor/council**

Mayor is a member of the council, chairs meetings; chief policy and ceremonial official; chief administrative official, but department heads often operate independently. The mayor is not the central administrator.

- **Townships**

A key difference is that the officials who are responsible for both policy and administrative functions are elected, although some also have appointed managers



Council – Manager Form



- Council-manager form developed in the early 20th century as part of a government reform movement, and the advent of the private sector corporate structure
- **Manager appointed by and responsible to council; the manager is generally responsible for day-to-day operations**
- Responsible for implementing policy to achieve council goals and responsible to report status to **council**





Council – Manager Form

- What does the org chart look like – who reports to whom?
- Most small cities have the council-manager form...and it could be adopted in any village
- Compared to the corporate structure, the manager is the CEO, the council is the Board of Directors, and the mayor the Board Chair



Attributes of the Council – Manager Form



It's a system of local government that **combines** the **strong *political leadership*** of elected officials (the governing body)

with the **strong *managerial experience*** of an appointed ...manager.

Source: adapted from Michigan Municipal Executives (MME) web site.



Attributes of the Council – Manager Form



- **Merit-Based Decision Making (as opposed to)**
Under council-manager government, **qualifications and performance** – and not skillful navigation of the political election process – are the criteria the elected body uses to select a professional manager. The **professional manager**, in turn, **uses his or her education, experience, and training** to select department heads and other key managers to oversee the efficient delivery of services. In this way, council-manager government maintains critical checks and balances to ensure accountability at city/village hall.

(Source: adapted from MME web site)



Attributes of the Council – Manager Form



- **Ethical Conduct**

Managers who are members of the International City/County Management Association (ICMA) agree to abide by a **strict Code of Ethics**. The code specifies 12 ethical principles of personal and professional conduct, including **dedication to the cause of good government**.

Members believe in the effectiveness of representative democracy and the value of government services provided equitably to residents within a community. They are also committed to standards of honesty and integrity more vigorous than those required by the law.

Source: MME website,





II. A Community Undertaking; plus the SBC and Procedural Steps



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A Community Undertaking

- Who will champion this effort?
- What are the differences?
- Why do you want to Become a City?
- Political Alternatives to City Status



Community Reaction?



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A Community Undertaking



❖ Citizen Based:

Advantages – Grassroots; Community Ownership

Disadvantages – Unfamiliar with Internal Operation of Government

❖ Council Based:

Advantages -Familiar with Issues Causing Separation

Disadvantages – Public Perception of Politically Motivated Council



A Community Undertaking



➤ Establish a Timeline

- work backward from a possible date for an election
- what do you need to do and by when

➤ Manage Expectations

- becoming a city can't resolve *all* the concerns of your citizens
- and manage *your* expectations of their understanding of the concepts
- this is especially true of the drafting of the city charter

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City - Village Differences

- ✓ Voted Charter vs. GLV Act (for GLVs)
- ✓ One Set of Elected Officials
- ✓ One Taxing Assessing Entity
- ✓ Citizens are Residents of Only One Gov't
- ✓ City is a “Primary” Form of Government
- ✓ City has all Operational Responsibilities – (i.e. Assessing, Elections, etc.)



Why Become a City



1. Resolution of Issues – (e.g. Sharing of twp road millage)
2. Political Control of Disputes – (i.e. Who is in the Decision-Making Position)
3. Resolves Issues re Priority of Township Resources for “Village” Needs – (e.g. Infrastructure Improvements)
4. City Controls Local Millage Levies (i.e. No Township Taxes to City Residents)



Why Become a City



5. Allows residents to deal with only one local government instead of two.
6. Re General Law Villages, permits you to modernize and customize your form of government by writing your own charter.
7. May provide for General Law Villages greater ordinance authority



Why Become a City



8. Establishes certain control over assessment because there will be one assessor, appointed by you, and a Board of Review appointed by you. Lack of agriculture property increases bottom line.

9. Assures that state collected, locally shared taxes are returned to the City, and used by the City as *you* determine.

10. Eliminates dual taxation. City residents do not pay township taxes.



Why Become a City



11. Eliminates confusion over authority of township and county to enforce their ordinances over residents of city, i.e. planning and zoning.
12. Eliminates potential duplication of services.
13. Permits financial flexibility and latitude to accommodate needs of city residents.



Why Become a City



14. State and county cannot override a home rule city as they might a general law village, e.g. on election dates, and the home rule city designation may generally bear greater authority in Lansing.
15. Simplifies voter registration.
16. A city maintains its own voter registration records.



Why Become a City



17. Provides confidence in the collection of own taxes and the school, county and state taxes (the city can retain the 1% administration fee if charged)

18. City can spend all its tax revenues on its own projects.

19. Sharing of township assets, if any in the new city.



Why Become a City



20. Joint contractual relationships (e.g. fire authority) can stay in place.
21. You get to choose the form of government you want: council/manager; strong mayor; etc.
22. City can adopt a city income tax (currently 23 have) which includes a non-resident levy.
23. Can set limit on property taxes in city charter, up to 20 mills.



And Some Disadvantages



1. A city assessor has to be compensated solely by the city.
2. A Board of Review appointed by the city presupposes city residents want to volunteer and serve.
3. Collection of taxes includes taxes for county and schools (intermediate and public). This may entail more time and expense, although may be partially off-set.



And Some Disadvantages



4. Holding city, school, county, state and national elections will require additional manpower and expense.
5. May require withdrawal from joint authorities with township for police, fire, water, sewage disposal, planning or zoning. Depends upon negotiations with township.





And Some Disadvantages

6. May end up with a cemetery

7. Division of Assets (the State Boundary Commission does not do this; see 313 Mich App 305, 2015)

8. The process is *not* easy:

Lengthy, legally detailed

Can be costly

Can be politically painful



What are the Elephants in the Room?



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Are There Political Alternatives?



- Intergovernmental Agreements (e.g. P.A. 425)
- Sharing of Resources (e.g. Group Purchasing)
- Forming of “Special” Authorities (e.g. Recreation)



Are There Political Alternatives?



- Resolve Political Differences with Governing Bodies
- Economies Will Force Future Cooperation Between Governments Regardless of Status



Are There Other Alternatives?



- For General Law Villages, becoming a *Home Rule Village* may help

- “Village-Township Consolidation” ?

*Note, to disincorporate, must change a HRV charter to provide for it; the process for GLVs is in GLV Act – takes petition of 15% of registered voters plus a 2/3 vote, or establish a disincorporation commission plus the majority vote in both the village and township for its proposal; the *actual* statutory consolidation process is arduous (MCL 74.18a)





The SBC and Procedural Steps

** Note that the SBC, through the Office of Land Survey and Remonumentation (OLSR), is currently revising its materials and procedures.**

- Michael C. Barger, PS, is the Director of OLSR. His email address is bargerm@michigan.gov; his phone number is 517-241-6322.



The SBC and Procedural Steps



- The State Boundary Commission (SBC) controls the incorporation process and can be very helpful.
- It estimates it will take 6-12 months to get through its process.





The SBC and Procedural Steps

- MCL 117.7 requires “not less than 2,000 inhabitants and not less than 500 inhabitants per square mile.”
- Villages incorporating as a fifth class city only need 750 inhabitants.



The SBC and Procedural Steps



The following are typical steps to take; they are not necessarily required.

Step 1:

- ✓ Establish a committee or task force of residents to conduct a survey, hold public forums, attend service clubs and other community groups to discuss the possibility of incorporating into a city.
- ✓ The committee will file a report with their recommendations and findings with the Village and can file the petition before the SBC.





The SBC and Procedural Steps

Step 1.5:

- ✓ Hire a consulting firm(s) and/or acquire the necessary expertise to develop a study on the pros and cons of incorporating as a city.
- ✓ The financial and tax implications including fiscal viability of the proposed city should be included.
- ✓ Samples in MML Reference Packet



The SBC and Procedural Steps



Step 2:

- ✓ Have a surveyor or engineer create a certified boundary survey (legal description) of the proposed city boundary and a map to attach to the petition.
- ✓ Request the OLSR do an informal review of the map, and modify it based on any suggestions.
- ✓ Review the needed SBC materials, inc. re cover letter, questionnaire, and legal sufficiency hearing.



The SBC and Procedural Steps



Step 3:

- ✓ Prepare a draft petition.
- ✓ The boundary map or survey of the area to be incorporated **has to be attached** to the petition when circulated. [If the city will be larger than the village, the area must be clearly marked.]
- ✓ Include a legal description of the boundaries of the proposed new city.
- ✓ Consider including reasons for incorporation and/or distribute separately to residents.





The SBC and Procedural Steps

Step 4:

- ✓ Have someone experienced in incorporations of cities review the petitions before:
 - (1) The petition is circulated;
 - (2) before the application is submitted to the State Boundary Commission.



The SBC and Procedural Steps



Step 5:

- ✓ CIRCULATE the petition for signatures, of the greater of 100 or 5% * of the population of the city to be incorporated. The signatures are of registered voters.

*Note, the SBC information, based on MCL 123.1007, states 5%; while the HRC Act, at MCL 117.6, states 1%. However, MCL 117.9 states that if there is a conflict, MCL 123, et seq controls.



The SBC and Procedural Steps



Step 6:

- ✓ Once you have sufficient valid signatures, prepare materials for the SBC submission. Attach an affidavit (oath) by one or more petitioners, plus signature sheets, description, maps, cover letter.



The SBC and Procedural Steps



Step 7:

- ✓ Once the petition is received, the village, township and county clerks will be notified of the date/location of the SBC meeting.
- ✓ The affected parties will have 10 business days to respond to the questionnaire questions. Correspondence is by email; 10 days from the date SBC sends the questionnaire by email.
- ✓ A public hearing will be scheduled within 60-220 days of petition filing.



The SBC and Procedural Steps



Step 8:

- ✓ Review Materials that are the subject of the Legal Sufficiency Meeting, including:
 - Petition that was circulated
 - Map
 - Legal Description
 - Questionnaire responses
 - Criteria contained in the statute – see MCL 123.1009

- ✓ The Chair may or may not allow statements by the affected parties at the Hearing.

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The SBC and Procedural Steps

Step 9:

- ✓ SBC returns it if deficient, or
- ✓ SBC declares the petition legally sufficient and sets date for public hearing in the community
- ✓ Probate Court appoints two additional members and alternates from the county to the State Boundary Commission (SBC) for this purpose
- ✓ Public comment period begins to run, concludes at the end of the public hearing





The SBC and Procedural Steps

Step 10:

- ✓ The SBC holds the public hearing, between 60 and 220 days after the petition's filing
- ✓ Petitioners explain the rationale for incorporation
- ✓ Village and township each are allotted time to address the petition
- ✓ SBC Commissioners may ask questions



The SBC and Procedural Steps



Step 11:

- ✓ SBC receives additional/supplemental information from village or township within 15 days after public hearing

- ✓ SBC holds a public meeting and then recommends to the Director of Licensing and Regulatory Affairs (LARA):
 - Deny the petition for incorporation
 - **Approve the petition**
 - Approve with revised boundaries

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The SBC and Procedural Steps



Step 12:

- ✓ The LARA Director issues a final order
- ✓ Assuming he/she approves the incorporation, a **45 day referendum petition period** begins to run, where a petition may be filed to force an election on the proposed incorporation
- ✓ (If there is a referendum, the Charter Commissioners should be elected at the same election, in case the vote is to continue with incorporation.)



The SBC and Procedural Steps



Step 13:

- ✓ Assuming a petition for a referendum vote is not received within 45 days or if there is but the voters approve the petition for incorporation.
- ✓ The charter commissioners can be voted for at the same time.
- ✓ Or, the SBC orders the calling of an election of the Charter Commissioners; candidates must reside in the area proposed to be incorporated.
- ✓ Village officials can be Commissioners – should they?



The SBC and Procedural Steps



Step 14:

- ✓ Once the election is certified, the Charter Commission begins its work. (Charter development can be covered in a separate presentation.)
- ✓ The Commission drafts a proposed city charter.
- ✓ Submits it to the Governor for suggestions/approval (the Office of the Attorney General actually does the review).

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The SBC and Procedural Steps



- ✓ The approved proposed charter is published, and an election on the charter is scheduled within boundaries of proposed city.
- ✓ Candidates for city offices chosen in the same election (per the SBC).
- ✓ If not approved, the Commission may take the charter (revised or the same) to the electorate again (total of 3 times within 3 years).





The SBC and Procedural Steps

Step 15:

- ❖ Once the electorate approves it, file the new charter with the State!
- ❖ Congratulations!





III. Practical Experience



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Resources



- ✓ Michigan Municipal League Charter Revision Handbook and Incorporation Reference Packet - www.mml.org (click on “resources”)
- ✓ Mary Charles, Research Coordinator, MML, 734-669-6322
- ✓ MML Charter Data Base – contact the MML with specific questions
- ✓ Model City Charter, 8th Edition, National Civic League www.ncl.org
- ✓ Michael C. Barger, PS, Director of OLSR (SBC). bargerm@michigan.gov; 517-241-6322



Resources



- ✓ Special attribution to materials of William Beach for MML programs on city incorporation
- ✓ George M. Elworth, Assistant Attorney General
- ✓ Citizens Research Council of Michigan
- ✓ Wayne State University, University of Michigan, Michigan State University
- ✓ Local Government Law and Practice in Michigan, Chapter 17



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And they are there to help!

www.mml.org

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