

BALDWIN VILLAGE FEASIBILITY STUDY FOR INCORPORATION AS A CITY

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FEASIBILITY STUDY FOR INCORPORATION AS A CITY

REPORT AND RECOMMENDATIONS OF THE VILLAGE OF BALDWIN CITY INCORPORATION STUDY COMMITTEE

PREAMBLE

The transition of Baldwin from a General Law Village to a Home Rule City would be an opportunity for Baldwin to adopt the most autonomous and locally controlled form of municipal government permitted under the Constitution and Statutes of the State of Michigan.

By resolution, dated January 13, 2003 the Baldwin Village Council established the Baldwin City Study Committee, a committee of the whole. The purpose of the Committee was to investigate and determine which form of government would best serve the Village of Baldwin. The Committee studied the advantages and disadvantages of incorporating the Village as a Home Rule City, including the future needs and requirements of the municipality and the costs and effects of such a transition. The committee examined applicable state statutes, charters of newly formed cities, ordinances of the Village of Baldwin, the organizational structure of the Village government and administrative staff, tax records, assessments and election procedures of the Village and the affected townships.

The committee addressed the concerns of Pleasant Plains and Webber Townships pertaining to the possible incorporation of Baldwin as a home rule city, and described the clear-cut operational advantages and broad controls afforded a home rule city compared to that of a village. Additionally, the Committee consulted with and received pertinent written information from the Michigan Municipal League.

It is the recommendation of the committee that Baldwin pursue incorporation as a Home Rule City pursuant to Act 279 of 1909. Submitted herewith are the findings and recommendations of the Committee.

BASIC STRUCTURE OF HOME RULE CITIES

The Michigan Constitution of 1908 established the concept of home rule cities by the enactment of the HOME RULE CITIES ACT, being Public Act 279 of 1909. The Act provides broad rights and powers to cities and allows each one the flexibility and latitude to accommodate its own local needs limited only by certain enumerated restrictions.

Introduction

Since 1931, there has been a steady conversion of villages to cities in Michigan. This trend would indicate that there are certain advantages to be gained by changing to the city

form of government. There are currently 272 home rule cities and 1 special status city (Mackinac Island). There are currently 261 villages in Michigan, 213 of them General Law, and 48 Home Rule. It is important to recognize that city status is not limited to large communities. Based on the 1990 census, there are eight Michigan cities with a population less than 750, four between 750 and 999, 19 between 1,000 and 1,499 (this is where Baldwin would fall) and 57 between 1,500 and 2,999. Indeed, fully one-third of all cities in Michigan have fewer than 3,000 inhabitants.

This study will attempt to present an objective analysis of the disadvantages as well as the advantages that may flow from incorporation as a city. Investigation into this subject has shown that, in general, incorporation as a city will result in little or no increase in the cost of government. However, disadvantages that may arise because of local conditions may be important and careful consideration should be given to the change from village to city.

Potential Advantages

The advantages that can be gained by changing from a village to a city include, but are not limited to the following:

1. Establishes a uniform method for property assessments because there will be an assessor appointed by and answerable to the city performing all assessing services, instead of assessors from two different townships.
2. A Board of Review appointed by and answerable to the city.
3. A streamlined form of government allowing residents to deal with only one government instead of three.
4. The adoption of a modern home rule charter customized to meet the needs of the community.
5. Assures that state collected locally shared taxes are returned to and used in the area of most dense population and highest municipal service demand.
6. Eliminates existing confusion over zoning authority and the authority of the townships to enforce ordinances and other local regulatory authority.
7. Eliminates duplicative services.
8. Permits financial flexibility and latitude to accommodate local needs.
9. Joint contractual relations, such as fire protection and disaster control need not be severed with the townships, but are consolidated by a single city authority.
10. The State and County must seek approval of a home rule city, in many instances,

where they would not be required to do so when dealing with a general law village. There may be less state interference with home rule cities and home rule cities have greater influence with state government than general law villages.

11. State law allows home rule cities and townships to enter into negotiated annexations (P. A. 425 of 1984, the INTERGOVERNMENTAL CONDITIONAL TRANSFER OF PROPERTY BY CONTRACT Act), and share in tax revenues generated by such properties.
12. Eliminates arguments with the townships over collection of tax increment revenues for the Downtown Development Authority. There have been many delays and disagreements with both townships over the amount and legality of tax increment collections. Most recently, Webber Township has gone on record indicating that they will not convey tax increments to the village after 2007.
13. Eliminates dual taxation and results in a savings thereof.
14. Establishes a true city as the seat of county government.

The question might well be raised as to why there are so many villages in Michigan if there are so many obvious advantages to city incorporation. The chief reason is that more than 50 percent of incorporated villages in the state do not meet the minimum population prerequisite of 750 and therefore are not eligible for city status. Another important reason is the lack of knowledge and information. There are other reasons such as human inertia and opposition to change, as well as political considerations, particularly when township officials live within the village limits and may accordingly lose some influence because of the change.

In those cities that have made the change, there has been apparent overwhelming satisfaction with the city form of government.

Potential Disadvantages

The disadvantages that could be incurred by changing from a village to a city include, but are not limited to the following:

1. An assessor appointed by and answerable to the city performing all assessing services must be compensated from City coffers.
2. A Board of Review appointed by and answerable to the city requires that city residents must be available and willing to serve.
3. Collecting taxes for the county and schools (Intermediate, State and Public) will require additional time and expense.

4. Conducting county, state and national elections will require additional manpower and expense.
5. Reduces the revenue to the DDA by eliminating the township millages.

This study is an attempt to present an objective analysis of the factors that may influence a decision to remain a village or to seek city status. In this situation, experience has shown that it is important to have comparative data before incorporating. As officials and citizens become aware of the differences between villages and cities, they realize that incorporating as a city is possible and may better meet the needs of their community. All new city incorporations, with or without a change in boundaries, must go before the State Boundary Commission.

The Differences Between A Village And A City

Primary local units of government in Michigan are cities and townships. These two units perform the duties required by the state and, in varying degrees, furnish local services. The entire state is divided into non-overlapping cities and townships, to which the legally required duties are assigned.

A village is not a primary local unit of government because it does not assess or collect taxes (except its own village tax) or conduct a Michigan election (except its own election). Village territory remains part of a township area; village citizens are also township voters and taxpayers; and the township government provides for residents of the village the legally required duties imposed by the state as outlined above. Local governmental activities in Michigan can be divided into two broad categories based upon the type of activity performed.

1. The first broad category consists of certain duties required by the State of Michigan of primary local units of government. These legally required duties are:
 - A. Assessing property as a basis of county and school taxes
 - B. Collecting taxes for the counties and schools
 - C. Conducting county, state and national elections

Although the township government may perform certain local services for village residents, this is perhaps the exception rather than the rule. The purpose in organizing a village is to furnish local services to residents of a built-up area in the township that the township government, due to its limitations, cannot provide. However, village taxpayers pay for such local services and, in addition, help support the township government. The extent of this double burden varies considerably from one township to another.

In cities, both state-imposed responsibilities and local services are unified in one government. Similarly, within the unincorporated areas of townships, the full combination of legally required duties, and any local services provided, is the sole responsibility of the township government. Only in villages are the governmental activities divided between two governments. Village residents, therefore, live under and support two local units of government.

2. The second broad category of local services consists of such things as fire protection, police protection, water supply, sewage disposal, planning, zoning, public health, etc. Reduced to its simplest terms, changing from a village to a city means withdrawing from the township and providing local services formerly provided by the village and the township through the new city government. The effects of these changes must be considered.
 - A. The new city takes over all of the previous village and township activities, although the village is already providing most local services. The new functions, therefore, consist of the three state-imposed duties mentioned above and any township local services being rendered within the village.
 - B. As a necessary part of incorporating as a city, the new municipality modernizes its organization through the adoption of an up-to-date home rule city charter.
 - C. The new city is entitled to a division of township assets, the same as if it had not previously existed as a village.

Modernizing The Form Of Government

In addition to the advantages of city incorporation that arises from separation from the township, city status also represents an opportunity to improve the organization of local government. Most villages considering the change to city government are operating under the General Law Village Act. The General Law Village Act has been frequently amended in the years since the law was passed in an effort to provide better systems for local government, and it currently provides much of the same the flexibility or self-determination provided for in the Home Rule City Act. However, becoming a home rule city affords the citizenry an opportunity to establish a modern governmental organization through the adoption of a Home Rule City Charter.

The Home Rule City Act permits the drafting and adoption of a "tailor-made" charter designed to suit the needs and requirements of a city operating under its own charter. In other words, while every general law village must operate as a "child of the state", under the same state laws (the General Law Village Act) every home rule city has the opportunity to operate under its own particular locally written and locally adopted home rule charter. The Home Rule Cities Act outlines certain broad limitations and requirements, and requires certain mandatory charter provisions, but the details of organization are decided

by the elected local charter commission and approved by the local electorate. The adoption of home rule city government, therefore, provides:

1. Broader and more flexible powers, and
2. A wide range of flexibility for governmental organization.

The predominant advantage of Home Rule is that the local citizenry can formulate a governmental organization that best establishes economic efficiency and promotes specific needs.

Before a change from village to city government can be accomplished, the local citizens must vote favorably on the adoption of a city charter. The procedure in becoming a city requires that a charter commission of local citizens be elected to create a charter for presentation to the electorate of the new city. This compulsory preparation of the charter automatically provides consideration of improvements and changes in the existing form of government. The new charter may include a modern organizational pattern having modern administrative procedures. There are various organizational models being used in Michigan.

The type of charter is important because it determines, in large measure, how well a city can operate with the greatest efficiency, benefits and convenience to its citizens. Based upon the experience of a large number of Michigan cities during the past 40 years or so, it is evident that the most satisfactory form of local government is home rule government.

City Organizational Forms

The charter commission will want to study the principal organizational forms used in Michigan including the weak mayor form, the strong mayor form and the council-manager form. The members of the charter commission will want to examine the strengths and weaknesses of these forms, and some of the variations that have been used.

The principal organizational forms of government used in Michigan are:

1. Weak-Mayor,
2. Strong-Mayor,
3. Council-Manager

In a Weak-Mayor form of government, the voters do not elect the Mayor directly. Instead, the City Council elects the Mayor from among its own ranks. In the Weak-Mayor form of government, the Mayor does not have the right of veto and administrative positions are either elected or appointed by the council as a whole.

In a Strong-Mayor form of government, the Mayor is elected at large by the voters and is given authority to appoint administrative positions. The Strong-Mayor is given veto power

over council decisions.

In a Council-Manager form of government, the voters elect the council and the Mayor at large. The council then appoints a Manager to administer the affairs of the city. The council makes policy decisions often based on the advice of the Manager. In the Council-Manager form of government, personnel in administrative positions report to the Manager.

One option for local government organization, which the charter commission might wish to consider, is the adoption of the "short ballot" principle for the election of policy-making officials. With this approach, the authority for policy formulation is centered in a small governing body of elected officials. This body of officials, designated as either council members or commissioners and usually composed of five, seven, or nine members, who may include the mayor, is directly responsible to the will of the electorate. In this way, the citizens can have no doubt as to where the responsibility lies for the determination of municipal policies.

Responsibility for day-to-day administrative matters would be placed either in an elected chief executive, such as a mayor, or in an appointed chief administrator or city manager. Other administrative officers would be appointed based on their qualifications for the job (the "merit" principle). Consequently, the selection of personnel for technical and managerial positions would be through the evaluation of an applicant's qualifications and experience by proficient and responsible public administrators rather than through the outcome of popular elections. In addition, the number of administrative officials employed could be based upon the specific needs of the city, and not the relatively inflexible requirements of a general statute. In general law villages; the Clerk and Treasurer have traditionally been elected. In home rule cities, these officers are generally appointed. Largely, the determination of duties and functions between such officers is within the discretion of the charter commission.

Currently there are five (5) Council Members with the Clerk and Treasurer being elected but not having voting authority. There are also five (5) Zoning Board of Appeals members, Seven (7) Planning Commissioners, three (3) Board of Review members, and nine (9) DDA members (plus a resident and the village president).

CITY CHARTER PROVISIONS

1. Election of a legislative body.
 - A. The Mayor may be elected at large or selected by the legislative body.
2. The legislative body may in turn choose to elect or appoint the following:
 - A. Clerk
 - B. Treasurer

- C. Assessor
 - D. Board of Review
 - E. Other necessary officers
3. The charter may provide for partisan or nonpartisan elections.
 4. Election procedures.
 5. Taxation powers and procedures will be the same as for state, county and schools.
 6. The keeping of public records.
 7. Annual appropriation of money for municipal purposes.
 8. Levy collection and return of state, county and school taxes.
 9. Provide for public peace, health and safety.
 10. The adoption, amendment, repeal and publication of ordinances.
 11. Uniform system of accounts as required by law.
 12. Permissible Charter Provisions include, but are not limited to the following:
 - A. Borrowing power
 - B. Limitations on borrowing power (10% of assessed valuation with an additional 5% if used for hospital facilities)
 - C. Zoning and condemnation
 - D. Sewers
 - E. Lighting
 - F. Transportation
 - G. Street plans
 - H. Water courses
 - I. The acquisition, lease and sale of property

J. Bonds

K. Voter referendums

Greater Powers Of A Home Rule City

Under existing court decisions, it is clear that the powers of general law villages are confined to those specifically enumerated and strictly construed. The purpose of the home rule powers conferred by the Constitution and the implementing statute was to confer upon local units broad powers in the conduct of their own affairs, not directly dependent upon decisions from the state legislature.

Each home rule city, for example, may provide in its charter for the exercise of all municipal powers in the management and control of its property and in the administration of the municipal government, whether expressly enumerated or not. A city may also provide in its charter for any act to advance the interests of the city, good government and the prosperity of the municipality and its inhabitants, and to pass all laws and ordinances relating to its municipal concerns subject to the constitution and law.

There are no comparable provisions in the General Law Village Act. In the absence of constitutional and statutory restrictions, home rule municipalities have the power to manage their own affairs in their own way. Examples of the restrictive powers of general law villages compared with the more liberal and flexible powers permitted under the home rule charter are readily apparent.

The Effect Of Separation From The Township

Upon incorporation, the new city must assume the legally required duties previously imposed by the state on the township. The new legal responsibilities formerly carried on by the township include:

1. Property Assessment - hire or contract for city assessing services
2. Collect County, school and special authorities tax
3. Conduct county, state and national elections (Maintain voter registration lists and provide voting facilities and equipment)

There is, in most cases, a corresponding cost to the city for assuming these functions.

Requirement For Property Assessments

The assessing function is the prime means for effective local control of taxation. If the village changes to a city, a City Assessor would assess all property and a Board of Review would be appointed. There are several important advantages in having property

assessment under municipal control.

1. An assessor would be responsible to the citizens of the city only.
2. The board of review would also be responsible to the citizens of the city.
3. The separation from the township for assessing purposes eliminates the possibility of a township assessing residential and commercial property at a higher ratio to value than agricultural property, thus tending to cause the village residents to pay a disproportionately higher share of school, county and township taxes.
4. Because Baldwin is divided between two townships, assessments would be more uniform because one city assessor instead of two township assessors would do the work.

Creating a city integrates the former village and township into one distinct assessment district, and provides the legal means for equalization of assessments at the same level to insure a fair sharing of the costs of county and school government. The requirement for property assessments could increase the cost of a city government compared with a village government.

The Effect on Collection of County and School Taxes

Currently, the two townships perform the billing and collection of county and school property taxes within the village. A new city would assume this activity. There would be substantially no effect upon the taxpayer as a result of this change, with the exception that the payment of property taxes would be simplified by being paid to just the city treasurer. The city's portion of the tax, like the village tax, would still be collected in the summer, while generally, the county and school taxes would continue to be due in December, in accordance with State Law.

A new city probably would incur some additional expense, as compared to the present village, for the collection of school and county taxes. However, the village treasurer's office is already in operation and part of the cost of collecting school and county taxes can be offset from the property tax administration fee (as an option by ordinance) that the city may add to these taxes pursuant to the General Property Tax Act. The administrative fee can be up to 1.5 percent. This would not be a change for village residents since both townships are already collecting this fee.

While a definitive study has not been conducted, it is believed that many of Michigan's communities are collecting this administrative fee.

Additional funds may be derived by collection of the so-called "excess of roll". Excess of roll is an amount, not to exceed one half of one percent, which may be added to the taxes collected for avoiding fractions in computations.

The Effect on The Downtown Development Authority

Eliminating the taxation of both Pleasant Plains and Webber townships will have a negative effect on DDA revenues. Currently, the DDA obtains about 18% of its total revenues from the millage levy of the two townships. In 2002, this amounted to \$20,000. Eliminating this millage will result in a reduction of tax increment revenue of about 18%. However, growth within the DDA is estimated at 6% per year, so that the potential loss of 18% could be made up in approximately three years.

The Effect on Maintaining Voting Records And Conducting County, State, And National Elections

Under village organization in Michigan, a village maintains voter registration records and conducts elections for village purposes only. A township maintains a separate voter registration record of village voters for township, county, state and national elections. As a result, the voter must register in both the township and the village in order to vote in all elections. In a city, however, the registration records for all election purposes are combined. A person needs only register once with the city clerk.

While registering to vote with two different clerks and voting in two different places are not major problems, such matters are confusing and annoying to citizens. The effect of changing from a village to a city in this particular instance, therefore, is to save a great deal of confusion for the voter. Many voters do not realize that there are two separate sets of election officers and two separate sets of registration books, and mistakenly believe that one registration is sufficient for all elections. This sometimes results in the voter being ineligible to vote in elections conducted either by the township or by the village. This is a typical example of the unnecessary confusion of being governed simultaneously by two local governmental units instead of one.

The responsibility for voter registration for county, state and national elections would not increase the cost of municipal government under the city form, because the existing village registration record would serve for all elections. Present township registration records for this purpose merely duplicate the registration records already kept by the village. This is another example of a savings for the taxpayer through the elimination of duplicate functions.

The Effect on Providing Voting Facilities for County, State And National Elections

The citizens of the new city would vote in the same place for all elections, and this single voting place would be within the city limits. A village resident, however, may have to vote in one place for village elections and in another place for national, state and county elections, which may be outside the village limits.

All newly incorporated home rule cities fall under the provisions of 1970 PA 239, requiring general municipal elections in November of odd-numbered years. The cost of conducting

county, state and national elections would be an additional expense for the city as compared to the present village. However, the cost is likely to be small. If paper ballots are used, the county clerk supplies them. If voting machines are used, there is no cost for ballots. The only additional cost to the new city would be the publication of the election notices and compensation of election officials on Election Day.

The Effect on Providing Public Water and Sanitary Sewer

Providing water and sanitary sewer services would remain unchanged as a city asset. The policy of providing water is not to extend water and sanitary sewer services outside the current village limits.

Assuming Township Local Services

In addition to assuming the legally required duties imposed by the state, the new city would also have the responsibility for any desirable local municipal service currently being performed by the two townships. In fact, the townships provide few services to village residents.

Upon incorporation as a city, joint contractual relations with the township need not be severed. Joint police, fire protection or disaster control plans or any other service currently provided jointly by the village and township may continue in operation as before. This will not entail any additional expense or change existing contractual arrangements. While there will not be a savings to the taxpayer in the city because a comparable millage will have to replace the Township millage and/or assessments for these services, residents will no longer be subject to the special assessments that are being levied. This is significant since these special assessments can amount to the equivalent of a substantial millage levy. However, as a city, this expense could be paid via the general fund instead of by special assessments.

Both Webber and Pleasant Plains Townships levy millages and/or assessments on Village residents to support certain services and public facilities, such as fire protection, libraries and cemeteries. Pleasant Plains Township levies approximately 2.0000 mills for fire protection and 1.0000 mills for library services. Pleasant Plains Township has an agreement with the Village of Baldwin Fire Department to provide fire protection services to all township residents including those within the village. Ironically, the village itself does not levy an assessment or millage on village residents for fire protection and the fire department is sustained entirely on the payments from Pleasant Plains and Peacock Township, which levies 2.0000 mills on its residents.

However, Webber Township currently levies approximately 2.0000 mills on village residents to provide fire protection services, but their contract for services is not with the Village of Baldwin Fire Department. Instead, they have their own fire department, which in turn contracts with other adjacent townships to provide fire protection services. There is an inter-service (mutual aid) agreement between the two fire departments to assist with fires

on both sides of the village. Since fire protection will need to be continued, this cost may be added to the new city residents. However, since the village's fire department is basically subsidized by Pleasant Plains and Peacock townships, the cost as a city may be equal to or less than the cost of the Township's millage.

Police protection that is available to village residents depends upon which side of the village one lives in. For those village residents living on the Pleasant Plains side of the line, police protection is financed by an assessment, which is \$15.00 per parcel. Webber Township does not levy an assessment for police protection. With 514 parcels in the village on the Pleasant Plains side of the line, the \$15.00 assessment is \$7,710.00 or the approximate equivalent of 0.5829 mills. Pleasant Plains Township has an agreement with the County Sheriff's Department to provide police protection. The township operates two vehicles manned by off-duty Sheriff's Deputies. Webber Township does not provide any additional police protection to any of their residents, including village residents, other than that normally provided by the County Sheriff's Department.

There may be some additional expense to the new city government if such services are to be continued. One mill, or its equivalent, village-wide generates approximately \$13,228.00 in revenue.

However, the amount of township property tax currently being levied on village residents is an important factor. Because both Pleasant Plains and Weber townships have a relatively large millage levy, the potential savings to village taxpayers by incorporation as a city is measurable.

Table 1 demonstrates the probable changes in tax burden on Village and Township residents, given the new expenses and other consideration described herein. For example, Village residents currently pay a combined tax levy of 18.8413 mills to the Village and Pleasant Plains Township. Village residents pay a combined levy of 20.6724 mills to the Village and Webber Township. As residents of the future City, these same taxpayers would pay a levy of about 18.5 mills. The effect would be a reduction in annual tax burden to a typical homeowner from \$565 or \$620 depending on the township of residence, down to \$555 following City incorporation.

Residents of Pleasant Plains Township within the village currently pay the Township levy of 4.0474 mills (plus a Police service assessment). Residents of Pleasant Plains Township outside the village limits, currently pay the Township levy of 4.5380 mills (plus a Police service assessment). Pleasant Plains would regain \$8,779 taxes from the DDA following City incorporation, but would levy its current road millage only on Township properties. The effect would be no change in annual tax burden to a typical homeowner who pays annual taxes of some \$136 currently and would pay the same following City incorporation.

In Webber Township, residents both within and outside the village, pay the Township levy of 5.8785 mills. That would remain the same. Webber would regain \$12,757 taxes from the DDA following City incorporation.

TABLE 1
Probable Changes in Tax Burden on Village and Township Residents

	<u>Baldwin Village</u>	<u>Pleasant Plains Twp.</u>	<u>Webber Twp.</u>
Population, 2000 Census	1107	1535	1875
Households, 2000 Census	389	664	649
<u>Tax levies, 2003</u>			
Taxable Value, Townships, 2003		44,865,492	46,864,258
Village portion, taxable value	13,227,954	9,525,094	3,702,860
Operating, or Allocated levy, mills	14.7939	0.9812	0.9797
Fire services	0.0000	1.9624	1.9595
Police services (Sheriff's Dept.)	0.0000	\$15 assessment*	0.0000
Library	0.0000	0.9812	0.0000
Transportation	0.0000	0.1226	0.0000
Township Improvement	0.0000	0.0000	2.9393
Total levy, each separately	<u>14.7939</u>	<u>4.0474</u>	<u>5.8785</u>
Tax revenue, In village only	\$195,693	\$38,552	\$21,767
Tax revenue, Outside village	N/A	\$160,375	\$253,724
Tax revenue, total each separately	\$195,693	\$198,927	\$275,492
Tax levy on typical Twp. home**		\$136 ***	\$176
Combined levy, Twp. in Village		<u>18.8413</u>	<u>20.6724</u>
Combined taxes in Village		\$249,232	\$273,454
Tax levy on typical Village home**		\$565	\$620
<u>Tax Levies, After Incorporation</u>			
New Taxable Value (not incl. new growth)	13,227,954	35,340,398	43,161,398
New City Budget estimated incl. Assessor, Elections	292,750		
Estimated City, Township Levies	18.5	4.538 ***	5.8785
Tax revenue, each separately	\$244,717	\$160,375	\$253,724
DDA TIF Revenue credit to Twp		<u>8,779</u>	<u>12,757</u>
Total tax burden, incl. TIF credit		\$169,154	\$266,481
Net Change in Property Tax Revenue	\$49,024	-\$29,773	-\$9,010
Tax levy on typical Twp. home**		\$136	\$176
Tax levy on typical Village home**	\$555		

* = approx. 0.5829 equivalent mils

** taxable value = \$30,000

*** includes 0.4906 added millage for roads

Pleasant Plains levies another special assessment of
\$35 per parcel for trash collection

Nevertheless, the effect would be no change to the typical homeowner, who pays annual taxes of some \$176 currently and would pay the same following City incorporation.

Because of Baldwin becoming a city, **Table 1** shows a reduction in Pleasant Plains tax revenues by \$29,773 or about 12% following City incorporation. In Webber Township, the loss of tax revenue would be \$9,010 or about 3.3 %.

City incorporation would mean a savings in taxes to Village residents and township taxes will be permanently discontinued within the municipal boundaries.

Tax Rate Limits

The Home Rule City Act is somewhat generous and less cumbersome with respect to the levying of taxes than the General Law Village Act. The General Law Village Act permits 12 1/2 mills for the general fund, five mills for the street fund and 1 mill for cemetery purposes. This is a statutory limit of 18 1/2 mills. The Home Rule Act provides for the establishment of a tax rate limitation in the charter up to a maximum of 20 mills for all purposes to be allocated at the discretion of local officials. However, Michigan villages and cities may levy three additional mills for garbage collection and disposal services.

Modern Financial And Personnel Provisions

One of the serious flaws in the General Law Village Act is the fact that little provision is made for adequate budget and fiscal controls. While most villages today have already adopted similar financial provisions, a home rule charter for a city will normally provide for the installation of adequate procedures and controls to enable the local unit to operate in an efficient, businesslike manner.

In recent years, many of the techniques of private business have been adapted to governmental use. For instance, a modern system of budgeting and budget control is usually required, providing that city governments operate within the limits of an annual budget. Most modern city home rule charters in Michigan provide for centralized purchasing, which gives the city the advantage of low-cost buying by pooling the needs of all of the various city departments and purchasing in lots. Controls on purchasing and contracting and the requirement of an annual independent audit of all municipal accounts is among the financial provisions that are generally recognized in protecting the citizens and taxpayers against misuse of public funds and public property.

Provision for the adoption of a merit system or a system of civil service is often included in new city charters. Such a provision means that appointments, promotions and removal of city employees must be based on performance of duties without reference to matters that have nothing to do with the ability of the employee or the character of the work.

Avoiding Duplication Of Services

Changing from a village to a city would result in a simplification of government. As village residents, citizens are part of two local governments. As a result, they must elect not only a village council, but also the township officers making up the township board. Thus, they have two governing bodies; one for village purposes and one for township purposes, and the township government is only partly responsible to the citizens of the village because generally it serves a much larger area.

The word "city" is often thought of as meaning a complex governmental unit providing more services at a greater expense to the taxpayer than a village. This is not the case. The city council has the discretion to maintain the same level of local services as was formerly provided by the village. In this case, the only increase in cost to the citizens would be the slight additional cost of carrying out the duties required by the state. As pointed out above, this is not necessarily significant.

Village residents have the inconvenience of dealing with the village clerk on some matters and the township clerk on others. They pay village taxes to the village treasurer, but township, county and school district taxes are paid to the township treasurer. They have a village council taxing them for certain governmental services and a township board taxing them for others. They must also hold a township primary election in addition to the village election. It may not be a major problem to be under two local governments, but it is an unnecessary inconvenience, expense, and waste of time. Village residents sense a lack of control in township affairs. The net effect can result in a lack of interest in township government. As a city, all local affairs will be managed by a government consisting only of citizens of the municipality and responsible only to them. Incorporation as a Home Rule City and the requisite adoption of a Home Rule Charter guarantees the citizenry a high degree of self-determination and control of their own destiny.

Further, city incorporation would eliminate the existing confusion about the authority of the township to enforce its ordinances within the village. In recent years, the State Legislature has conferred more substantial ordinance-making powers on townships. As one result, confusion has arisen as to whether such ordinances are in effect within the village. Some townships have sought to enforce their ordinances within the village even though they may be in conflict with village ordinances. There is still no clear-cut legislative answer to this problem except for Home Rule City incorporation.

Division Of Assets And Liabilities

City incorporation will also mean sharing in the township's assets and liabilities. When a new city is incorporated, the assets and liabilities are divided with the city in the proportion that the assessed valuation in the area incorporated as a city bears to the total township assessed valuation before the city incorporation. The assets mentioned refer to personal property such as cash on hand or invested furniture and fixtures, equipment and so forth.

In addition, any real property owned by the township and located in the area incorporated as a city would be held jointly by the city and township and is subject to division in the same ratio as personal property. Liabilities refer to outstanding bonds or other indebtedness of the township.

The boundary commission will determine and order an equitable division of assets and liabilities, based upon its discussions with the parties and upon practical considerations.

School districts in Michigan are separate and distinct from local governmental units. There would be no change in the size, composition or organization of the school districts in the community because of incorporation as a city. The new city, however, would replace the township as the agency for the collection of school district taxes.

THE NAME AND CHARACTER OF BALDWIN

Baldwin is a general law village pursuant to Act 3 of the Public Acts of 1895. The identity, character and heritage of the Village of Baldwin would be enhanced by incorporation as a home rule city. The transition of Baldwin from a general law village to a home rule city would identify and establish Baldwin as an independent political entity, governed by its own charter according to the dictates of its own citizenry. The legal name of the Village would become the "City of Baldwin". Many people already refer to Baldwin as a City.

POPULATION AND POPULATION DENSITY

The population of Baldwin is 1,107 as determined by the 2000 decennial census. This satisfies the 750 minimum population requirements of the Home Rule Cities Act. The population density of 500 people per square mile also satisfies the density requirements of the Home Rule Cities Act. Even if this were not the case, the fact that Baldwin is the county seat makes it eligible for incorporation as a city, regardless of population.

ASSESSMENTS AND TAX RAMIFICATIONS

The Headlee Amendment would not impact a new Home Rule City any differently than a General Law Village. Upon adoption of a Home Rule City Charter, the rate of taxation would be controlled by the tax limitation provision of that Charter instead of the tax limitations on a General Law Village. The Headlee Amendment provides that whenever the tax base increases beyond a Consumer Price Index promulgated by the State Tax Commission, there must be a roll back to the former tax rate. Exceptions to this rule consist of tax base increases caused by new construction and improvements. The Charter may provide for tax limitation of less than the 20 mills maximum.

ELECTIONS

Additional responsibilities imposed on a newly incorporated city would be to conduct county, state and national elections. It would be the obligation of the city to maintain voter

registration lists and provide voting facilities and equipment. The following is a projection of election costs based on approximately 400 registered voters (changes regularly):

Average cost of Village elections

1 Village election annually	\$ 4,000.00
1 Township election every two years	\$ 2,000.00
1 Primary election every two years	\$ 2,000.00
1 Presidential election every four years	\$ 1,000.00
Total four-year election costs	\$ 9,000.00

Yearly Budget for elections	\$2,500.00
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4 Voting machines cost \$397-\$457 per machine	\$1,588.00 - \$1,828.00
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By law, there must be one voting machine per 400 voters, and at least 1 extra machine. This does not include the cost of paper and materials for machines.

It is not anticipated that the additional election costs, as a city would be appreciable.

FINANCIAL IMPLICATIONS OF INCORPORATION

The long-term financial implications of incorporating as a home rule city may not be appreciable.

Anticipated areas where additional costs would be incurred include the following:

1. Transaction and Transition Costs:

- A. Petition process
- B. State Boundary Commission Approval
- C. Public hearings
- D. Election costs
- E. Printing of Charter

These transaction and transition costs total a probable one-time cost of approximately \$10,000 to \$15,000.

2. Position of City Assessor: The estimated salary of a part-time assessor for the village is \$12,000, probably without benefits. This could be a shared position with another community or as a contracted outside service.

3. **Position of Building Inspector:** The establishment of the position of Building Inspector, or a combined Mechanical, Electrical and Building inspector position is discretionary. If this were included as a city function the salary would probably be commensurate with that of the assessor, or perhaps somewhat closer to \$10,000.
4. **Winter Taxes:** After the first year, the cost of collection of school and county taxes (winter taxes) would probably be equivalent to that of summer taxes.
5. **Cost of Elections:** approximately \$2,500.00 per year.
6. **Assessment Records:** There could be possible payment to the townships to obtain the Village property assessment records.
7. **Police and Fire Protection:** Police and fire protection is currently costing village residents approximately 2.0 mills per year. This is equivalent to approximately \$27,000.

THE RELATIONSHIP OF INCORPORATION TO THE AFFECTED TOWNSHIPS

It may be anticipated that the affected townships might express the following concerns should Baldwin incorporate as a home rule city:

1. The loss of revenue would cause a considerable reduction in the amount of roadwork that could be done in Pleasant Plains and Webber Townships.

ANSWER: The committee recognizes that a reduction of tax revenues to the township from property in the village will occur because of incorporation. The committee also recognizes that some township taxes in the form of general fund monies collected from village residents may be used for the improvement of township roads and not on the improvement of roads within the village. However, the county road commission is the governmental unit primarily responsible for the improvement of township roads. The committee feels that Baldwin, as a home rule city, would be in a stronger position to lobby in their behalf with the county road commission for the improvement of roads in the surrounding townships.

2. The Pleasant Plains Township Hall is located in the Village of Baldwin. Pleasant Plains may need to relocate the township hall.

ANSWER: State law provides for the continued use of a township hall for all township governmental business, including elections and township meetings, even though that property is incorporated within the boundaries of a home rule city. The Township and Village Public Improvement and Public Service Acts allow a township to continue to use a township building for township purposes. However, the townships would be required to compensate the city for the proportional value of real and personal property within the village. Committee research indicates that

numerous home rule city incorporations have continued the location and use of a township hall within the corporate limits of a newly incorporated home rule city.

3. Fear of annexation.

ANSWER: Annexation procedures are under the jurisdiction of the Boundary Commission. As a village, before any annexation may be approved, the township from which the property is being annexed must be given the opportunity to file written objections and present testimony and exhibits at a public hearing before the County Board of Commissioners. With regard to a city, township residents have a right of referendum in annexations. However, the trend in recent years has been toward the use of Act 425 of the Public Acts of 1984. This is the statutory authority for the conditional transfer of property and the sharing of tax revenue by contract between two local governmental units. The contract for the transfer of property may be for a period not to exceed fifty (50) years, and may be renewed for another fifty (50) years. Mandatory contract provisions include the following:

- A. Length of the contract
- B. Specific authorization for the sharing of taxes and other revenues
- C. Methods of enforcement of the contract, including return of the transferred area
- D. Which local unit has Jurisdiction over the transferred area upon expiration, termination or non-renewal of the contract?

The contract may provide for transfer of employees of the local unit and protection of workers' compensation, pensions, seniority, wages, sick leave, vacation, health and welfare insurance, or any other benefits. While such a contract is in effect, no other method of annexation or transfer will take place.

It is believed that this statute affords the voluntary means by which transfer of lands could be accomplished in a mutually beneficial manner agreed to by both units of government.

POSSIBLE INCREASE IN TAXES

Incorporation as a home rule city would not require or create the need for any increase in property taxes to Village residents. In fact, property taxes may actually be reduced to individual property tax payers.

DISTRIBUTION OF STATE FUNDS

Incorporation of new territory in the new city would result in additional state revenue.

Future distributions of gasoline and motor vehicle weight tax revenues, or any other state funds; moneys or grants that, by law, are required to be distributed among cities will be distributed based on the newly established city census. The formula for the distribution of Public Act 51 Street Funds is weighted to favor cities.

FINANCIAL ABILITY TO MAINTAIN INFRASTRUCTURE

Incorporation as a home rule city would enhance Baldwin's ability to maintain community services and would not result in a significant increase in the costs of government and its service. The sanitary sewer and water systems are accounted for as enterprises that are not dependent on general tax revenues. The cost of police and fire protection currently assessed by the townships may have to be transferred to the city. In this way, the current level of service can be maintained.

PARTISAN OR NONPARTISAN ELECTIONS

The charter commission will also want to consider election methods. Partisan elections are generally required in general law villages unless the village amends the charter required by Act 3 of 1895. The Home Rule City Act permits greater flexibility. In Michigan, the trend in modern charters has been toward nonpartisan elections. Of Michigan's 273 cities, only a few currently use partisan local elections.

CHARTER COMMISSION

These and many other decisions will have to be made by the charter commission. The formation and work of the Charter Commission is an important ingredient in becoming a city. Opportunity is given for the selection of charter provisions that are best suited to the particular community.

At the election on the question to incorporate as a new city, each elector within the village will be entitled to vote for nine Charter Commissioners, residing within the new city as members of a Charter Commission. Other than residency, there are no known prohibitions as to who can serve on the Charter Commission. The public notices shall include the fact that Charter Commissioners will be elected along with the ballot issue to incorporate. The County Clerk will prepare the ballot. The village will reimburse the county all costs for ballot preparation at the time the Charter is filed. The ballot shall state as follows:

For city incorporation Yes ☐

For city incorporation No ☐

On the same ballot, under the heading "Candidates for members of the Charter Commission", the names of the electors for Charter Commission membership shall be listed. Each prospective Charter Commission member must have a petition signed by 20 qualified electors, asking that their names be placed on the ballot.

The village council will determine the place where the Charter Commission can hold its meetings, and provide for their compensation, a budget for expenses and preparation of the ballots. The Charter Commission shall convene on the second Tuesday after the election to begin work on a Charter for the new city. The village clerk presides at the first meeting, administers the oath of office and acts as the clerk of the Commission. The Charter Commissioners choose their own officers, establish their own rules and procedures, keep a journal, and fill their own vacancies. A majority of Commission members constitutes a quorum.

It is generally recommended that the Charter Commission seek legal advice when working on a charter. In fact, the County Prosecutor is required by statute to advise village Charter Commissions.

The charter must be completed within 90 days*. The commission shall fix the date of the first city election, provide for the nominations and the holding of the election. The proposed Charter must be published at least once not less than two weeks and not more than four weeks preceding the election. A public notice of the election including the date the charter will be considered and the elected officers to be elected at the same time must be included on the notice. Notice must also be posted in at least 10 public places not less than 10 days before the election.

Should the proposed Charter be rejected the election of officers is also void, except that the elector who receives the most votes shall be the de facto mayor until a new charter and officers are approved by the voters. The commission amends and resubmits the charter for approval until it is accepted.

Procedures For Filing Petition For Incorporation As A New City

Once the determination has been made to move forward with the incorporation as a new city, a petition must be prepared and circulated for signatures of property owners who are qualified voters. A map clearly showing the territory to be incorporated must accompany the petition. The procedure is much different for a village incorporating as a city under the current village limits as opposed to including new territory. This mostly has to do with the areas of the village/new city from which the signatures must come. In all cases, the number of signatures is 100.

The petition must accurately describe the proposed boundaries of the city and state that

* Overall, as a practical matter, the process before the Boundary Commission, with ample time for review by the affected parties, the work of the Charter Commission and examination by the Boundary Commission, can require as long as 3 years from a first petition to final approval by the Governor of a Home Rule Charter.

the village is the county seat of Lake County, and contains a population of greater than 750 persons having an average density of greater than 500 persons per square mile.

If the petition is for a village incorporating as a city under the current village limits, the petition is filed with the village clerk and Boundary Commission. Once approved by the Boundary Commission, an election is held at the next general election in the village. If no general election is scheduled to occur within 90 days, the village council must set a date for a special election.

If the petition is for a village incorporating as a city includes new territory beyond the current village limits, the petition must be addressed also to the Boundary Commission. Once approved by the Boundary Commission, the electors within the proposed territory will vote at the next general election. If no election is to occur within 90 days, the board must set the date for a special election.

Notice of the date and purpose of the election must be published in one or more newspapers within the village at least once in each week for four weeks preceding the election and by posting the notice in at least 10 public places not less than 10 days before the election.

STATE BOUNDARY COMMISSION REQUIREMENTS (LAND AREA AND USES)

The incorporation petition must include the existing boundaries and any proposed new boundaries. The land area to be incorporated should be described and reference should be made to the amount of undeveloped lands and the zoning of such lands. A map of the area must be prepared and included with the petition.

The State Boundary Commission must approve a petition for incorporation as a home rule city. The State Boundary Commission Act establishes the criteria to be considered by the commission in arriving at a determination as follows:

- Population
- Population density
- Land area
- Land uses
- Assessed valuation
- Topography
- Natural boundaries and drainage basins
- The past and probable future urban growth, including population increases and business, commercial and Industrial development in the area
- Comparative data for the incorporating municipality, and the remaining portion of the unit from which the area will be detached will be considered
- Need for organized community services
- The present cost and adequacy of governmental services in the area to be incorporated

- The probable future needs for services
- The practicability of supplying such services in the area to be incorporated
- The probable effect of the proposed incorporation and of alternative courses of action on the cost and adequacy of services in the area to be incorporated and on the remaining portion of the unit from which the area will be detached
- The probable increase in taxes in the area to be incorporated in relation to the benefits expected to accrue from incorporation
- The financial ability of the incorporating municipality to maintain urban type services in the area
- The general effect upon the entire community of the proposed action, and
- The relationship of the proposed action to any established city, village, township, county or regional land use plan.

Once a proposed City Charter is drafted, the new Charter is then submitted to the governor for final approval. The Attorney General reviews it and advises the governor regarding its legality. The governor signs the Charter if approved or it is returned to the municipality for recommended corrections. Once the governor approves the new charter, it must be published in full in a newspaper of local distribution.