



FOR THE RECORD

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VILLAGE DISSOLUTION: UNDERSTANDING THE COSTS AND BENEFITS

Local Government Consolidation. Few words are bandied about more these days in the halls of New York's capital. Lawmakers, newspaper editorial boards, and state commissions are all preaching about how New York has too many local government entities. New York's high property taxes and the perceived inefficiencies and redundancies in providing local government services are generally the impetus for these calls for local government consolidation, discussion of which invariably turns to village dissolution.

Many people question, "Why do we need villages when we have towns?" Unfortunately, this question is often the result of a lack of understanding of the differences between villages and towns, particularly in how they function and the services that they provide. Generally, even the smallest of villages is characterized by a more densely populated area than the surrounding towns. In addition, the village provides services such as water, sewer, police, fire, lighting, and sidewalk maintenance which the towns generally do not. Thus, village dissolutions usually require multiple special improvement districts to be formed to provide the same services that one village previously provided. And while there may be some villages in New York for which dissolution may marginally increase efficiency, for most villages, dissolution will not necessarily result in a significant increase in efficiency or lower costs. Even in those instances in which village costs may be lowered, the question has to be answered: how much do village residents value their autonomy, self-governance, and their ability to control their own local laws, particularly zoning and other land use regulations?

Unfortunately, many villages and taxpayers are being put through the expensive, time-consuming dissolution process as a result of a few residents circulating dissolution petitions, with relatively few villages choosing to dissolve. In 2006, the Village of Wellsville went through the dissolution process, ultimately voting down a proposition to dissolve the village. In January 2007, the Village of Windsor voluntarily formed a committee to study dissolving the village.¹ Although Windsor's study committee found that dissolving the village would result in

nominal savings for village taxpayers, it nonetheless recommended that the village not dissolve because the cost-savings were insufficient to justify the village residents' loss of local control. And in March 2008 alone, three villages actually had dissolution propositions on their ballots. After spending months of staff time and thousands of taxpayer dollars developing dissolution plans and reports, the residents of the Villages of Macedon and Speculator rejected village dissolution, while the residents of the Village of Pike voted to dissolve the village effective December 31, 2009.

In most instances, propositions for village dissolution are voted down because the dissolution plan reveals that village dissolution will not achieve the significant cost savings that the dissolution proponents assumed. However, this lack of cost savings is frequently not realized until after the village dissolution study is completed. In addition, the relatively minor cost-savings are deemed not worth the diminution of village residents' voting power regarding "village" issues.

In contrast to village dissolution efforts, the desire among New Yorkers to exercise local control is evidenced by the creation of three villages in New York in the last three years alone: the Villages of Sagaponack (2005), South Blooming Grove (2006), and Woodbury (2006).

Despite the desire of New Yorkers to control the formation and abolition of their own villages, the State's Commission on Local Government Efficiency and Competitiveness recently recommended that State law be amended (a) to require villages with populations under 500 residents to conduct affirmative votes of the village residents in order for the village to remain in existence and (b) to lower the minimum number of signatures that are required to initiate the dissolution process.² These recommendations would be extremely costly for New York's already overburdened property taxpayers, and while they may result in the dissolution of some villages, if recent trends are any indication, the only result would be to waste the time and money of many of New York's villages and taxpayers, without increasing either efficiencies or cost-savings.

The push for village dissolution is not found in Albany alone. Local activists across the State have increased their efforts to dissolve villages. In many villages, petitions for village dissolution are currently being circulated or have already been filed. This article will describe the village dissolution process and identify issues that village officials need to be aware of in order to avoid costly dissolution studies that waste the time and effort of village officials and cost the taxpayers money.

UNDERSTANDING THE VILLAGE DISSOLUTION PROCESS: *Initiation of the Village Dissolution Process*

Villages are the most democratic of all New York's local government institutions. Unlike any other government entity in New York, village incorporation and dissolution may be initiated by petition of the village's qualified voters. In fact, there are relatively few voter-initiated propositions in New York, village incorporation and village dissolution being among the short list.³ While villages are the most inherently democratic of all of New York's government institutions, it is the ability of the electorate to initiate the dissolution process that requires local government officials to be able to quickly and clearly articulate the pros and cons and the costs and benefits of village dissolution.

The village dissolution process may be initiated in one of two ways:

1. By a petition signed by the village's qualified voters or
2. By a majority vote of the village board of trustees.

To initiate the village dissolution process via petition, it must be signed by currently qualified village electors⁴, in a number equal to at least one-third of the qualified voters at the last general village or special village election immediately preceding the submission of the petition.⁵ For a signature to be valid, it must be signed not earlier than 120 days prior to petition's filing with the village clerk.⁶

Study Committee And Dissolution Report

Before a proposed village dissolution may be put to a vote of the village residents, the village board of trustees must appoint a study committee to develop both a plan for village dissolution and a dissolution report. The study committee must include at least two representatives of each town or towns in which the village is situated. The committee must issue its plan and report to the village board of trustees within the time period established by the board. Once completed, a copy of the report must be sent to the supervisor of the town or towns in which the village is situated. The report must address all of the topics included in a plan for dissolution as well as *alternatives to dissolution*.⁷

Prior to submitting the report to the village board of trustees, the study committee must hold a public hearing on the report, notice of which must be published in the official newspapers of the village and town(s) at least 20 days prior to the date of the hearing. The village dissolution plan must address:

- How village-owned property will be disposed;
- How outstanding village obligations will be paid, including

- how taxes and assessments will be levied and collected;
- The transferring or terminating of village employees;
- How the town or towns agree to carry out the dissolution plan;
- Whether any village local laws, ordinances, rules or regulations in effect on the date of the village dissolution will remain in effect for a period of time other than as provided by the Village Law;
- If and how village functions or services will be continued by the town;
- The fiscal impact of village dissolution; and
- Any other matters desirable or necessary to carry out the dissolution.⁸

After the public hearing, the study committee must present the plan and report to the board of trustees.

The Public Hearing On The Proposed Dissolution

Prior to the proposition being voted on by the village residents, the board of trustees must conduct a public hearing on the proposed dissolution. Notice of the public hearing must be published in the village's official newspaper between 10 and 20 days before the hearing. Upon adoption by the board of trustees of the resolution, the proposition and plan must be mailed by certified or registered mail to the supervisor of the town or towns in which the village is situated and published in full in the village's official newspaper.⁹

The Public Vote On Dissolution

Propositions for village dissolution are put to a vote of the village residents at the next general or special village election¹⁰ following the board of trustees' hearing on the dissolution report. The board of trustees determines when to schedule the public hearing on the dissolution report which is also dependent upon when the study committee presents the report and plan to the board. The board should not unreasonably delay scheduling the hearing.¹¹

If a proposition for village dissolution is approved by a majority of a village's qualified electors, then a certificate of the election must be filed with the secretary of state and with the clerks of each town and county in which any part of the village is situated. The village is then dissolved as of December 31st in the year following the year in which the proposition is voted on.

ISSUES TO ADDRESS WHEN CONSIDERING VILLAGE DISSOLUTION

Service Continuity

The plan for dissolution must address several issues including service continuity. The plan must identify those services that the village is currently providing, which services will be provided after the dissolution, and how those services will be provided. Services provided by a village can be

1. Continued as a town-wide function;
2. Continued but limited to and financed by an area less than the entire town (either the former village boundaries or to an area smaller or larger than the former village) using some form of town district; or
3. Terminated as a governmental activity.

In order to make an informed decision about the dissolution, the village must answer several questions, including:

- Is there private sector capacity to provide those services that are discontinued?
- Will the quality of the services be affected?
- Will village employees be terminated or will they be transferred to the town?

Additionally, villages must consider how the major service areas will be affected by dissolution.

Road Maintenance - Highway maintenance, construction and snow removal will be conducted on a town-wide basis by enlarging the responsibilities of the town highway department.

Sidewalk Maintenance - Sidewalk maintenance may not be automatically assumed by the town highway department. Depending on local circumstances, sidewalk maintenance may be discontinued, or it may be performed as a general town function or as a district function.

Fire Protection - Fire protection is not a direct town government function. Consequently, fire protection is generally continued by forming a fire district or a fire protection district.

Utility Services - Utilities include water, sewer, lighting, electricity and garbage collection. Villages often provide utility services to their inhabitants as a general village function. Towns generally provide these services through the creation of special improvement districts, although several towns do provide these services as general town functions.

Police Protection - A town government may absorb the village's police department into its department or, if no department exists, reconstitute the village department as a town police department serving the entire town area. The town may also discontinue the service, in which case protection becomes the responsibility of the county sheriff and/or the New York State Police.

Judicial, Legislative and Executive Functions - Village dissolution eliminates the elective positions of mayor, trustee and village justice. The town supervisor, board and justices assume the responsibility and authority formerly held by the village officials. The functions of the administrative staff in the village is transferred to appropriate town officials.

Village Legislation - Unless the plan provides otherwise, all village local laws, ordinances, rules or regulations in effect on the date of dissolution remain in effect for two years following dissolution. However, the town board is authorized to amend or repeal carried-over village legislation at any time. If a village has a zoning board of appeals (ZBA) and/or a planning board and the town does not, then once the village is dissolved the town board must act in place of the board(s) until the town board appoints such board(s).

Fiscal Issues

Because village dissolution is a complicated process and the fiscal implications are not always readily apparent, it is imperative that the fiscal implications of a village dissolution be carefully calculated. Many factors must be considered when calculating the fiscal ramifications of village dissolution, including but by no means limited to:

- How will the village's outstanding debt service be paid?
- How will the remaining services be financed?
- What will the cost-savings be, if any, from the discontinued services and reduction in duplication in services?
- Will there be any reduction in revenues as a result of the dissolution?
- What will be the net fiscal result?
- What will be the impact of the dissolution on the taxes of both village and town residents?

The major fiscal issue in a proposed dissolution is the effect that the proposed dissolution will have on the taxpayers. Although the question of dissolution is resolved only by residents of the village, the effects of the action may be felt by residents of the town outside of the village as well. Accordingly, the study committee should assess the potential impact on both groups. Unless the village dissolution plan provides otherwise, the outstanding debts and obligations of the village are assumed by the town. **However, these costs will be charged against the real property of the residents of the dissolved village.**

Non-Fiscal Issues

In addition to the fiscal considerations, the plan for dissolution must address a broad array of non-fiscal issues, including:

- How will village laws and regulations, such as zoning laws and tax exemptions, be handled?
- Will the town officials be as accessible or responsive to the village residents?
- What will be the identity of the community after the dissolution?

The non-fiscal issues surrounding a consideration of dissolution are difficult to assess. For example, it is difficult to quantify the accessibility of village officials, service quality, the responsiveness of the municipal organization, and/or the value of a service which may be changed or eliminated as the result of dissolution.

CONCLUSION

Proponents of village dissolution frequently assume that there are great efficiencies and cost-savings to be achieved through dissolving New York's villages. The reality is, however, that most of New York's village residents would not necessarily see significant reductions in their property taxes. Ironically, many individuals seeking a reduction in local property taxes actually contribute to higher property taxes by forcing villages to undertake costly and time-consuming dissolution studies, which are paid for by the village's property owners. Thus, before the village dissolution process is started, village officials may wish to look at alternative methods of improving service and cutting

costs, such as through intermunicipal cooperation. For additional information on the village dissolution process, contact Wade Beltramo, NYCOM General Counsel at 518-463-1185 or by email at wade@nycom.org.

Endnotes

1. *Once a village dissolution petition is filed, the village dissolution must be put to a vote of the village residents. The Village of Windsor Board of Trustees initiated its dissolution study in late 2006 after a petition for dissolution was circulated and signed by residents. The petition was ruled invalid, but the Board decided to proceed with a citizen study to examine various issues and potential opportunities.*
2. *The Commission's report is available online at www.nyslocalgov.org.*
3. *Propositions are resident-initiated votes, while referenda are votes of the electorate on resolutions, ordinances, or local laws previous enacted by a local legislative body.*
4. *A qualified village elector is a village resident, who is a citizen of the United States, 18 years of age, and registered to vote. See Election Law §§ 5-100, 5-102, & 5-104.*
5. *Note that this number is the number of individuals who were qualified to vote at the previous election and not the number of votes actually cast. See 1993 N.Y. Op. Atty. Gen. (Inf.) 1029, 93-18.*
6. *Village Law § 19-1900(1).*
7. *Village Law § 19-1901.*
8. *Village Law § 19-1903.*
9. *Village Law § 19-1902.*
10. *See Election Law §§ 15-104 & 15-106. Special village elections are held on the third Tuesday of the month preceding the end of a village's current official year in which no general village election is regularly scheduled.*
11. *Village Law § 19-1900(1).*

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