

Bellbrook-Sugarcreek Merger Commission Meeting Minutes
February 4, 2009

1. Mike Shank called the meeting to order at 7:02 P.M.
2. Mr. Shank called the roll with Commission Members Tom Frantz, Christine Tieman, Bill Berry, Linda Hummel, Mike Shank, Joan Gallagher, Donna Hellmann, Charles Schwegman and Ron Folkerth were present. Howard Ackerman was absent.
3. Others present were Harold Rogers, Jim Tharpe, Mark Schlaghech, Denny Bennett, Bill Schieman, Dick King, Donald Kiley, Karen Schroyer, Brittany Boedeker and Bill Wiseman.
4. A motion to accept the December 11th Minutes was made by Christine Tieman and seconded by Joan Gallagher. Bill Berry moved to amend the Minutes for the meeting starting time from 7:00 PM to 7:30 PM. The motion was seconded by Joan Gallagher. The Minutes were unanimously approved as amended.
5. A motion to postpone the January 7th minutes by Christine Tieman was seconded by Bill Berry. The motion was unanimously approved.
6. From the Mercer Group, Jim Mercer gave a presentation about his plans for the merger study. Mr. Mercer described his different types of experiences for several studies he has done. His experience includes a study for consolidation of Miami Township, Miamisburg and West Carrollton. Jim also enumerated specific issues that are looked for in a study, such as feasibility, benefits, and reasons for merger consolidation. Mr. Mercer answered several questions from the Board such as how they assess "political will", whether "encroachment by neighbors" meant annexation, typical time frame for their final report, interim report frequency, sequence of investigation and if consolidation of services would be specifically addressed. They do not assess "political will", encroachment means annexation, investigation takes a minimum of six months and is flexible as to sequence. A study of consolidation of services such as Fire and Police will fall out of the investigation.
7. Doug Harnish from GEM Public Services of Dayton and Dr. Robert Premus from Wright State University gave a short presentation on their background and experience. Dr. Premus spoke about several studies he had done here in the local area including mergers of Randolph Township and Clayton along with Butler Township and Vandalia. Again there were similar questions from the Commission members concerning time frame for completion, if long term projections are included, who is the prime contractor and if public opinion surveys are conducted. They also said six

months is typical for completion of the contract, long term projections are usually included, Mr. Harnish is their prime contact and public opinion polls are conducted if deemed necessary. Dr. Premus asked if legal council was available and Linda Hummel responded that each entity had its own.

8. At 7:25 a motion to take a 5 minute recess was made by Christine Tieman, and it was seconded by Linda Hummel. At 7:30 the meeting was called back to order by Mike Shank.
9. Linda Hummel reported that she and Donna Hellman had met twice with Barry Tiffany and Mark Schlagheck since the January 7th meeting to formulate a "Request for Proposal" including a statement of work. Two key points discussed were the possible revenue of the merged entity and the possible affect of annexation. They eventually removed the annexation issue from the final draft. Mr. Schwegman asked that the annexation issue be put back in as an option to determine what percentage of the Township is vulnerable. Mr. Shank stated that he believes the job of the Commission is to study what would happen if there were a merger and not to study conditions of a non-merger. Mr. Frantz felt that a comparison of finances of a merged versus a non-merged situation is important. Mrs. Hummel agreed with Mr. Frantz's opinion. Mrs. Hellman suggested a three column comparison of projected finances for the City, the Township and for the merged entity. Mr. Folkerth said the Commission should ask for it all at this point and possibly cut back after bids are received. Mrs. Gallagher suggested that any possible income tax be eliminated from the study. Others disagreed and wanted to include it as information gathering.
10. There was an extensive discussion concerning whether the RFP should include a comparison of the possible cost of not merging versus that of merging. Mrs. Gallagher suggested that Bill Schieman be allowed to explain his understanding of the duties of a Merger Commissions. Mr. Schieman stated that the study had to be broad with comparative analysis. Jim Martin said that this is not a study. The Commission was charged only with determining conditions for a merger, then sending it to the voters. He stated that this is being done backwards. Centerville and Washington Township had it right. They performed a study first, then put it to a vote. He said that according to the ballot language, you are charged with one thing only, to determine conditions for a merger. You are to determine the cost of things like maintaining roads and combining Fire and Police Departments. You do not project out whether there is going to be an encroachment or what it is going to cost ten years down the road. His lawyers and the Prosecuting Attorney agree with him. He sees nothing in the language that says you can quit any time you want.

11. Linda Hummel and Donna Hellmann will rewrite the draft of the RFP based on the points of the discussion. Mr. Schwegman suggested that the revised draft include a request for a proposed schedule and a background explaining the unique features of this merger study. Mrs. Gallagher suggested that the section after the first four items listed on the RFP be entitled the "Scope of Work". Mr. Schwegman requested that items 1 and 2 on the "Scope of Work" include a five year projection and a ten year estimate of finances for the City, for the Township and for the merged government. He also requested that a ninth point on the "Scope of Work" should be to evaluate the areas where the Township is most vulnerable to annexation if a merger does not take place. Mrs. Hummel suggested a 6 to 8 month time frame for completion of the contract and Mrs. Hellmann said that should be item 5 in the RFP. The date of March first is to be inserted in the RFP, Scope of Work statement as the due date for proposals, including qualifications. Mrs. Hummel said that a statement submitted by Howard Ackerman in his absence concerning the "Scope of Work" should be given to the successful bidder after the contract is let.
12. At this point there was a discussion of how the rewrite could be handled under the "Sunshine Law". Mr. Schlagheck offered the opinion that a second draft could be written, Commissioners could return comments, a third draft could then be written and sent out. At that point, any further comment prior to another open meeting would be considered a "Round Robin" and would not be allowed under the law.
13. Mrs. Gallagher was able to contact Dr. Mark Denham at the University of Toledo to ask if they might have an interest in quoting the project. Dr. Denham said that they are unable to participate in the study due to the untimely death of Dr. Henton. Joan also contacted Carol Hooker at Wright State but she has not responded so that section of Wright state is probably not interested. Mrs. Gallagher also contacted Bob Schroeder who had previously been involved in Greene County Regional Planning. Mr. Schroeder said that the study is beyond his scope of work but he would be willing to do some consulting work if that came up in the future. The University of Miami had previously told Bill Schieman that they could not perform the work but he called again and they will get back to him.
14. Mrs. Gallagher moved and Mrs. Tieman seconded a motion to hold a special meeting February 11th @ 7:00 to review the revised RFP, Statement of Work and any other work to come before the Commission. The motion passed unanimously.
15. The next 3 regular meetings are scheduled for April first, May sixth and June third.
16. Web Page reminder - www.mergerstudy.com

17. Jim Martin commented that Mrs. Gallagher said the City Charter contains a provision that prohibits an income tax. He stated that a merged entity would have to have a new charter and that the new charter could allow for an income tax. He stated that under the merged government, people might be more accepting of such a tax and that the new government could not operate very well without such a tax. Mr. Martin further suggested that the City operate as a Statutory City rather than a Charter City because under a charter form, officials can easily change laws without public participation. He further said that the use of emails by the Commission could lead to credibility problems and that any perception that the Commission is dealing behind our back, you are going to have a problem.
18. Donald Kiley of Sugarcreek Twp. stated that he looked at the Board of Elections web site and that it states the Commission is only charged with coming up with conditions for a merger. He said that if the Commission cannot come up with conditions for agreeing to a merger, then you walk away and you are done. As an architect, Mr. Kiley is familiar with zoning laws and Township governments all over the United States, and he does not think students such as those at Wright State could grasp the complexity of what is involved in a merger. He is worried that the State controls some of the zoning laws in a City versus a Township. He is concerned with the lack of legal involvement and believes an independent zoning attorney must be involved. He is more concerned about the lifestyle issues than the financial issues.
19. Mr. Shank pointed out that on the income tax issue, one of the studies they have for reference had both the merger and income tax on the ballot as separate issues. If the income tax issue failed, the merger automatically failed. He pointed this out to show that issues of concern can be addressed within the framework of the law. He said that lifestyle issues are a concern of everyone on the Commission.
20. Jim Martin stated that not all lifestyle issues can be addressed by the Commission. For instance, you cannot fire a gun or have an open fire within city limits. He says Troy is having a battle in the Appeals Court right now because people have three chickens in their back yard. That is what you are going to have in a city.
21. Bill Schieman said that the previous comments reminded him of those made when the first merger study initiative came out on the ballot in 2005. Such statements are not productive and only confuse the issue so let's let the information come out in the course of the study. He also said reading from the Ohio Revised Code 709461 that "the Commission shall seek the advice of both public and private sources to help the Commission fully study the merger situation so that appropriate conditions are drafted".

There are no limitations on your scope. You determine those. Mr. Schieman wanted to emphasize the words “fully study”. He went on to read out of 709462 which states that if conditions for a merger cannot be reached, no further action needs to be taken. Tom Frantz had highlighted portions of the Ohio Revised Code and stated that the Commission’s responsibility was exactly as Mr. Schieman had said. If the Commission cannot come up with a set of conditions under which a merger can take place, the commission can walk away. Mr. Schieman then said that Mark Schlegheck’s explanation of the “Sunshine Law” was very clear and correct. Further, he agreed that official government people should be involved in that kind of assistance and not in such things as helping to draft a “Scope of Work”.

22. Mike Shank thanked Linda Hummel and Donna Hellmann for their work on formulating a RFP and scope of work and for arranging to bring in the two groups for their presentations. He also thanked Joan Gallagher for contacting prospective contractors to assess their interest.

23. A motion to adjourn was made by Ron Folkerth and seconded by Tom Frantz. The motion passed unanimously and the meeting was adjourned at 10:01 P.M.