

CITY OF BELLBROOK & SUGARCREEK
TOWNSHIP MERGER STUDY COMMISSION

Approved July 28, 2010

A STATEMENT OF THE TERMS AND
CONDITIONS OF MERGER BETWEEN THE
CITY OF BELLBROOK AND
SUGARCREEK TOWNSHIP

ADOPTED: July 28, 2010

Bellbrook-Sugarcreek Township Merger Study Commission FINAL REPORT

In November 2008, the voters of Bellbrook and Sugarcreek Township overwhelmingly voted to establish a Merger Study Commission. This Commission was to fully study the merger situation so that appropriate conditions were drafted. The "Conditions of Merger" which were adopted by the Commission allow for the orderly transition of the current City of Bellbrook and Sugarcreek Township into one new city which combines the strengths of both, and allows the citizens to control the future of their community.

The Conditions of Merger, to be effective, must be adopted by a majority vote in both the City and in Sugarcreek Township. In addition a conditional 6.0 mill property tax levy must be adopted in Bellbrook to become effective in tax year 2012 if the merger is approved. If the merger fails to pass in either Bellbrook or Sugarcreek Township, the merger is not approved. If the tax levy fails to pass in Bellbrook, the merger is not approved. If both of these issues are approved, the operation of the newly merged city will start on July 1, 2012.

The Merger Study Commission's report is the final step in a process which started in 2008 when a group of citizens in both Sugarcreek Township and the City of Bellbrook joined together to submit signed petitions to the Greene County Board of Elections in support of a study to merge the two communities: It has been determined that the citizens of the Bellbrook-Sugarcreek community must answer the following questions: What do I want my community to look like in the future? Do I want it to be a new City of Bellbrook? In an effort to maintain the present Bellbrook-Sugarcreek community in the new City of Bellbrook the concepts in this report are methods to preserve our community, and to assure that you, the resident of Bellbrook and Sugarcreek Township have direct control over the future of our community.

In presenting these Conditions of Merger to the voters of Bellbrook and Sugarcreek Township, the Merger Study Commission adopted a statement which stated their vision for our Community. "Upon merger all residents of the new City of Bellbrook will receive equal treatment with respect to land use, municipal services and governmental action. It is the expectation of the Merger Study Commission that the new City of Bellbrook will, provide a general quality of life comparable to or better than that which the residents of the Township and City currently enjoy. It is also the belief of the Merger Study Commission that the new City of Bellbrook will allow us to control our own destiny and build a community of greater strength than could be done independently by either the current City of Bellbrook or Sugarcreek Township."

The members of the Merger Study Commission have assembled what they believe to be the best possible Conditions of Merger. You, the voters of the City and Township, must evaluate these conditions and determine whether it is in the best interest of our community. On behalf of the Bellbrook-Sugarcreek Merger Study Commission, PLEASE VOTE NOVEMBER 2, 2010.

(cover letter signed by both Co-Chairs)

CITY OF BELLBROOK & SUGARCREEK TOWNSHIP
MERGER STUDY COMMISSION

RESOLUTION NO.1

Formulating and establishing a statement of conditions for
the Merger of the City of Bellbrook and Sugarcreek
Township in Greene County, Ohio

Whereas, Sections 709.43 through 709.48 of the Revised Code of Ohio provide for a method for the study of conditions for a merger of certain political subdivisions; and

Whereas, under terms of said statutes certain electors from the City of Bellbrook and from Sugarcreek Township were duly elected to serve on the City of Bellbrook & Sugarcreek Township' Merger Study Commission; and

Whereas, said Merger Study Commission has met on numerous occasions, received information and advice and duly deliberated proposed conditions; and

Whereas, the City of Bellbrook and Sugarcreek Township Merger Study Commission adopted certain goals for the Bellbrook-Sugarcreek community, as follows:

"The, merger of the City of Bellbrook and Sugarcreek Township is based upon a common identity among residents of the community, a common set of community values, and a shared community history and purpose. Citizens enjoy a shared quality of life and level of services within their community. In order to protect and preserve the unique characteristics of Bellbrook and Sugarcreek Township, citizens wish to maintain local control to promote the quality of life in their community."

Whereas, the said Merger Study Commission has developed certain conditions of merger using said goals as guidelines; and

Whereas, it is the intention that upon merger all residents of the new City of Bellbrook will receive equal treatment with respect to land use, municipal services and governmental action. It is the expectation of the Merger Study Commission that the new City of Bellbrook will provide a general quality of life comparable to or better than that which residents of the Township and City currently enjoy, and it is also the belief of the Merger Study Commission that the new City of Bellbrook will allow the residents to control their own destiny and build a community of greater strength than could be done independently by either the current City of Bellbrook or Sugarcreek Township.

NOW, THEREFORE, BE IT RESOLVED by the City of Bellbrook & Sugarcreek Township Merger Study Commission, that:

Section 1. The Board of Elections of Greene County, Ohio be and it hereby is, respectfully requested to submit to the electors of the City of Bellbrook and Sugarcreek Township, according to law, at the general election of November 2, 2010, the following question, to wit:

"Shall the conditions of merger proposed by the City of Bellbrook & Sugarcreek Township Merger Study Commission be approved and pursuant to those conditions, the City of Bellbrook and Sugarcreek Township merge into one community?"

_____.For the Merger

_____Against the Merger"

Section 2. The following be, and they hereby are, submitted and proposed as "Conditions of Merger" of the City of Bellbrook and Sugarcreek Township, to wit:

CONDITIONS OF MERGER

ARTICLE 1 - DEFINITIONS AND GENERAL CONDITIONS

1. DEFINITIONS

As used in these Conditions of Merger:

- A. The term "New City of Bellbrook" or "New City shall mean the newly merged municipality formed by the merger of Sugarcreek Township and the City of Bellbrook.
- B. The term "Sugarcreek Township" shall mean the unincorporated portion of Sugarcreek Township.

2. GENERAL CONDITIONS

- A. **NAME OF NEW CITY:** The name of the newly merged City formed by the merger of Sugarcreek Township and the City of Bellbrook shall be the City of Bellbrook.
- B. **EFFECTIVE DATE:** The effective date of the merger shall be July 1, 2012.
- C. **SCHOOL DISTRICT:** The Merger is for municipal purposes only. The boundaries of the Bellbrook-Sugarcreek City School District will remain the same.
- D. **SUGARCREEK-BELLBROOK PARK DISTRICT:** The Merger is for municipal purposes only. The boundaries of the Bellbrook-Sugarcreek Park District will remain the same.

ARTICLE 2 - GOVERNMENT AND REPRESENTATION

- 1. **FORM OF GOVERNMENT:** The New City of Bellbrook will continue to operate as a Charter City with the Council Manager form of government.
- 2. **CITY CHARTER:** The Charter of the current City of Bellbrook will be the Charter of the New City of Bellbrook. Certain Charter provisions may be altered by application of these conditions, which shall apply as necessary for the implementation of the merger. Within ninety (90) days after the effective date of the merger, the City Council shall appoint a Charter Review Commission to review and recommend additional changes, if any are needed, in the City Charter.

3. TRANSITION COMMISSION:

- A. Upon approval of the Conditions for Merger by popular vote, Sugarcreek Township Trustees and Bellbrook City Council will establish a Merger Transition Commission within 30 days.

- B. The Merger Transition Commission will consist of
 - a. The Mayor of the City of Bellbrook
 - b. The President of the Sugarcreek Township Trustees or other representative chosen by the Township trustees.
 - c. The Chair of the Finance Committee of the Bellbrook City Council
 - d. Fiscal Officer of the Township
 - e. The City Manager of the City of Bellbrook;
 - f. The Sugarcreek Township Administrator

- C. The Merger Transition Commission may consider any additional issues considered essential to a smooth transition to a Merged Government.

4. POLITICAL REPRESENTATION: The terms of all currently elected City and Township officials shall expire on June 30, 2012 at 11:59:59 p.m. The elected officials of the New City shall be the Mayor and six (6) Members of Council elected at-large. The first election of said officials shall be at the election held in May, 2012 with terms of office to be effective July 1, 2012 at 12:00:01 a.m.

At the May 2012 election, the three (3) members elected who receive the largest number of votes shall each serve as members of Council for a term of three years and six months through December 31, 2015. The remaining three (3) members elected shall serve for term of one year and six months through December 31, 2013. Thereafter, all members of Council shall serve for terms of four (4) years or until their successors are elected and qualified. The newly elected Mayor shall serve for a term of one year and six months through December 31, 2013. Thereafter, the Mayor shall serve for terms of two (2) years or until a successor is elected and qualified.

To the extent necessary to implement the provisions of this Article 2, Section 4 relating to the election of officials of the New City, the City of Bellbrook shall amend its Charter at Articles IV and XI during 2011 to provide for the 2012 election of officials of the New City by all eligible voters in both the City of Bellbrook and Sugarcreek Township consistent with the provisions herein, and the merger shall not become effective until such time as the Charter includes such required provisions.

ARTICLE 3 - ORDINANCES

The Codified Ordinances of the City of Bellbrook, except as specifically changed by these conditions, shall apply throughout the New City.

Use of firearms shall be permitted in those areas of the New City where such use legally existed prior to the effective date of the merger. Keeping of livestock shall be permitted in those areas of the New City where such use legally existed prior to the effective date of the merger: The Council of the New City shall have the authority to modify that use as is necessary for the protection of the public.

ARTICLE 4 - PERSONNEL

1. EMPLOYMENT

A. All Sugarcreek Township employees and all City of Bellbrook employees who are employed by the Township or the City on the effective date of the merger, shall become employees of the New City of Bellbrook.

B. All Township employees and all City employees covered by collective bargaining agreements shall continue to have the terms and conditions of their employment governed by the applicable collective bargaining agreement in effect on the effective date of the merger.

2. EMPLOYEES

Employees of the New City of Bellbrook shall receive pay and benefits in accordance with the salary and benefit ordinances of the City of Bellbrook. Former employees of Sugarcreek Township whose job categories and pay rates are not provided for in the Bellbrook ordinance shall receive such pay and benefits as were previously provided to them by the Township until such time as an ordinance is passed that applies to them. All employees shall be accorded equal treatment regardless of whether they were previously employed by the City of Bellbrook or Sugarcreek Township. All employees shall be entitled to retain their seniority and will be given appropriate credit for the purpose of establishing benefit levels which are time dependent.

3. SEASONAL EMPLOYEES

The need for seasonal employees shall be determined by the New City of Bellbrook on a year by year basis. Seasonal employees with previous experience with either the City of Bellbrook or Sugarcreek Township shall be given preference for seasonal positions.

4. COLLECTIVE BARGAINING AGREEMENTS

Any and all collective bargaining agreements between Sugarcreek Township and/or the City of Bellbrook and any employee bargaining representative as of the effective date of the merger shall remain in effect and be

recognized by the New City of Bellbrook.

ARTICLE 5 - PLANNING, ZONING AND LAND USE

1. **PLANNING AND ZONING:** The terms of the existing members of the Planning Board and the Board of Zoning Appeals of the City of Bellbrook shall continue until their replacements are named. The terms of the existing members of the Zoning Commission and Board of Zoning Appeals of Sugarcreek Township shall terminate on the effective date of the merger. Within thirty (30) days after the effective date of the merger, the newly elected City Council shall appoint (or reappoint) members of the Planning Board and the Board of Zoning Appeals of the New City of Bellbrook consistent with the City Charter.

2. **ZONING:** The zoning districts and regulations, as established by the Sugarcreek Township Zoning Resolution, as they exist on the effective date of the merger, shall be an amendment to the Planning and Zoning Code of the City of Bellbrook and shall be applicable to the land in the former Township until such time as the Planning Board of the City of Bellbrook creates a unified code which is adopted by the new City Council. Administration of the districts, including processing and standards for a variance, shall be in accordance with the Planning and Zoning Code of the City of Bellbrook.

Until such time as a unified zoning code is adopted, applications for rezoning shall be to a zoning district consistent with codes in effect prior to the merger. Also, any person or persons legally utilizing land or structures as authorized by a Sugarcreek Township Zoning Resolution or as approved or authorized under a Conditional Use Certificate variance as granted by the Sugarcreek Township Board of Zoning Appeals shall be legally entitled to continue such use subject to any conditions imposed thereon, however, no such use shall be expanded, altered, or changed to a different use.

3. AGRICULTURAL AND LAND USES:

- A. It is the intent of the Merger Commission to maintain and protect all privileges and uses for agricultural land currently permitted under zoning and land use regulations in place in Sugarcreek Township within the New City of Bellbrook.
- B. Use of firearms shall be permitted in those areas of the New City where such use legally existed prior to the effective date of the merger.
- C. Keeping of livestock shall be permitted in those areas of the New City where such use legally existed prior to the effective date of the merger.
- D. The Council of the New City shall have the authority to modify that use as is necessary for the protection of the public.

- E. The Comprehensive Development Plan of Sugarcreek Township shall remain in effect on all lands that were formally in the Township until the Planning Board of the New City of Bellbrook creates a unified land use plan which is adopted by the new City Council.

ARTICLE 6 - CITY SERVICES

1. **UNIFORMITY OF SERVICES:** Upon merger, general services currently provided by the City of Bellbrook shall be provided throughout the New City of Bellbrook, except as provided herein. Additional services requested of the New City of Bellbrook, shall be either uniformly provided or the cost shall be paid by the petitioners for the services.
2. **STREET LIGHTING:** There shall be no change to the existing services for a minimum of three years, unless petitioned and paid for by end users. After that date, a uniform method of financing and providing street lighting would be applied to the New City of Bellbrook.
3. **GARBAGE COLLECTION AND DISPOSAL:** Garbage collection in Bellbrook shall be extended into the New City. The citizens will be responsible for all costs.
4. **STREETS AND ROADS:** The New City of Bellbrook, will be responsible for all roads, bridges and streets, etc., within the City, including all roads and bridges in the Township currently maintained by Greene County, unless otherwise provided for under applicable law. Negotiations for the handover of the roads and bridges maintained by the County shall be in accordance with Ohio Revised Code, Sec. 709.47.
5. **CEMETERIES:** Cemeteries currently operated by the City of Bellbrook and Sugarcreek Township will be the responsibility of the New City of Bellbrook.
6. **FRANCHISE AGREEMENTS:** The current franchise agreements in place in the City of Bellbrook and Sugarcreek Township will not change. Future franchise agreements will be the responsibility of the New City of Bellbrook.
7. **WATER AND SEWER:** All areas currently served by water or sanitary sewer services from the City of Bellbrook, Greene County or other authorities shall continue to be served by those agencies. New service or service expansions will be provided by these agencies and shall be uniformly provided or the cost shall be paid by the petitioners for the service.

ARTICLE 7 - FINANCE

1. **TOWNSHIP PROPERTY TAXES:** All Sugarcreek Township tax levies shall terminate on the effective date of the merger.

2. SPECIAL ASSESSMENTS: All special assessments currently collected within the existing Township and/or City shall continue to be collected by the City of Bellbrook.

3. CITY PROPERTY TAXES: All City of Bellbrook tax levies that are in effect on the effective date of the merger shall continue in the newly merged City of Bellbrook at the following effective millage rates:

Levies	Authorized (Gross) Millage	Effective Millage
• Non-Voted General Fund (Inside)	2.700	2.700
• Voted General Fund	1.300	1.165
• Voted Police Fund	9.300	7.721
• Non-Voted Police Pension Fund (Inside)	0.300	0.300
• Voted Fire Fund	<u>5.900</u>	<u>4.814</u>
 Total	 19.500	 16.700

4. ADDITIONAL TAX IS NEEDED AND MUST BE APPROVED FOR THIS MERGER TO BE EFFECTIVE:

Current property taxes in Sugarcreek Township have an effective millage of 13.7 mills. Current property taxes in the City of Bellbrook have an effective millage of 16.700 mills. In addition to the current property taxes which will continue to be collected in the New City of Bellbrook, a new tax levy of 6.0 mills will be needed for operation of the New City.

Accordingly, a 6.0 mill tax levy must be placed on the ballot in 2011 for approval by the electors of the City of Bellbrook that states substantially as follows:

"To permit the merger of Sugar Creek Township and the City of Bellbrook to become effective, should an additional tax for the current expenses of the new City of Bellbrook at a rate not exceeding 6.0 mills for each one dollar of valuation, which amounts to \$0.60 for each one hundred dollars of valuation, for a period of five years, commencing in tax year 2012 for collection commencing in 2013 be approved?"

_____ For the Tax Levy
 _____ Against the Tax Levy

If the merger and this levy in 2011 are approved by the voters, the total property tax for the New City of Bellbrook [after an expected reduction of 1.1 mills of inside (non-voted) millage to keep the New City of Bellbrook within the statutory 10 mill limitation] will be at an authorized (gross) millage of 24.40 mills and an effective millage of approximately 21.60 mills.

E. NO INCOME TAX: There shall be no municipal income tax required as a term or condition of this merger.

ARTICLE 8 - INTERESTS AND OBLIGATIONS

1. INTERESTS AND OBLIGATIONS: Upon the effective date of the merger, the New City of Bellbrook shall succeed to the interests of Sugarcreek Township in:

- a. All moneys, taxes and special assessments whether such moneys, taxes or special assessments are in the treasury or in the process of collection;
- b. All property and interest in property, whether real or personal;
- c. All rights and interests in contracts and in securities, bonds, notes or other instruments;
- d. All accounts receivable and rights of actions; and
- e. All other matters not included above.

Upon the effective date of merger, the City of Bellbrook shall become liable for all outstanding franchises, contracts, debts and other legal claims, actions and obligations of Sugarcreek Township.

ARTICLE 9 - GENERAL

1. CONDITIONS DEEMED SEVERABLE: Each and every article of these Conditions of Merger and each and every section and provision herein shall be deemed to be severable. In the event that any article, section or provision is held to be illegal or unconstitutional by any court of competent jurisdiction, the decision of the court shall not affect or impair any of the remaining articles, sections, or provisions, nor shall such decision affect or impair the merger of the City of Bellbrook and Sugarcreek Township.

2. OHIO'S SUNSHINE LAW: It is hereby found and determined that all formal actions of this Commission, and that all deliberations of this Commission and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

The Co-Chairmen be, and they hereby are, authorized and instructed to forward a certified copy of this Resolution to the Board of Elections of Greene County, Ohio and copies thereof to the City of Bellbrook and Sugarcreek Township, and to any other party as may be required or requested.

Approved this 28th day of July 2010:

Members of the Bellbrook-Sugarcreek Study Merger Commission:

William Berry

Howard Ackerman

Thomas Frantz

Ronald Folkerth

Linda Hummel

Joan Gallagher

Michael Shank

Donna Hellmann

Samuel Staley

Charles Schwegman

This is to attest and certify that the aforesaid Resolution No.1 of the City of Bellbrook – Sugarcreek Merger Study Commission was on this 28th day of July, 2010 approved by a majority of the City of Bellbrook and by a majority of the Sugarcreek Township members as set forth above.

Joan Gallagher
Secretary