

Committee Responses to Questions and Comments

Submitted on or after the 10/27/11 Public Presentation

Background

The Village of Painted Post and Town of Erwin Study Committee presented its Draft Report to a public forum attended by approximately 75 community residents on October 27, 2011. During the meeting, residents asked a number of questions about the study. Subsequent to that meeting, additional questions have been submitted to the Committee through the project web site, or by written comment forms, or by e-mail to the Committee.

What follows is a summary of the questions submitted, and the Committee's response. This addresses questions received as of November 17. The questions listed below are intended to summarize key ideas, so where several similar questions have been raised, they are grouped together into one or two questions that the Committee hopes adequately represent the questions and/or issues raised. Questions are grouped below into categories of related questions.

General Questions:

Q. Will the name Painted Post continue if the Village dissolves?

A. Undoubtedly YES. Painted Post is an address with a distinct zip code that will continue, which covers a much larger area than just the Village (although the Post Office could change this in the future, which is beyond the control of local Village or Town government). The Village would simply cease to exist as a separate legal government entity. Local geographic identifiers would still remain as long as desired. The Village area would be a hamlet, exactly like Gang Mills and Coopers Plain. Signs into the former Village could still say "Welcome to Painted Post."

Q. If the Village dissolves, what happens with its zoning codes, special ordinances and comprehensive planning objectives?

A. As other communities have found, it is generally easy to align zoning codes and special ordinances that have been put in place within the Village to address quality of life issues. During the process of developing a Dissolution Plan, the Plan Committee reviews all current Village and Town laws, ordinances and planning documents. In cases where it is deemed important to keep special requirements in the former Village, the Town codes and ordinances, including town zoning laws, can be amended to reflect special requirements in the former Village. Regarding long term comprehensive planning, the Town and Village could move forward at this time to create integrated joint Planning and Zoning boards at this time. Other towns and villages across the state have done this and found that it helps create a more unified community-wide approach to planning, zoning and economic development issues.

Q. If the Village dissolves, who will pay for the fire department?

A. The Committee recommends that the Village Fire Department be re-incorporated and set up as the Painted Post Fire District. The boundaries of the Painted Post Fire District would be exactly the same as the former Village boundaries. Thus, all Painted Post Fire District costs would be paid by property owners in the former Village only. No properties outside the current Village would pay for the Painted Post Fire District costs.

Q. If the Village Police Department were to expand past the boundaries of the current Village into a portion of Gang Mills, will people who are affected by this in Gang Mills get a chance to vote?

A. YES. One of the alternative models for police that is described in the report would be to create an expanded Police Protection District into a portion of Gang Mills. However, as noted in the report, this would require all properties in the Police Protection District to pay a separate district fee. Therefore, a majority of voters in the area within Gang Mills that would be covered by the district would need to approve the new district in their area. Former Village voters would not simply be able to force expansion of the Police Protection District into Gang Mills without approval of a majority of the affected properties in Gang Mills.

It is also important to understand that in order to create a Police Protection District, either in the former Village or in a district that is expanded into the Gang Mills area, the New York State legislature and the Governor would have to approve special legislation permitting creation of the district. The special legislation would include language about who would vote to approve the district, whether it be registered voters (as is the case in a Village dissolution vote) or property owners within the proposed district boundaries (as is the case in creating Town water and sewer districts).

Who Gets to Vote and When:

Q. Who gets to vote to determine whether or not the Village of Painted Post will dissolve?

A. The Village Board has to vote to put a dissolution petition up for a public vote in a referendum. If the Village Board approves holding the referendum, the Board will determine the date of the election. At the election, only voters officially registered to vote in that village elections are eligible to vote. Non-village voters are not eligible to vote in the dissolution vote.

Information about registering to vote, and who is eligible, can be obtained from the Steuben County Board of Elections. See www.steubencony.org/boe/boevoterinfo.html#registration. The web site explains that where a voter is eligible to vote depends on the address of their approved voter registration form. Therefore, registered voters who have a valid address in the Village of Painted Post are the only ones eligible to vote in the dissolution vote.

Q. When is a Village dissolution vote going to happen?

A. As of right now, all the Village Board is doing is studying options for the future. There has been no discussion about whether or not to put dissolution up to a vote at a public referendum. If the Village Board were to consider pursuing a dissolution vote, the Committee expects that there will be much more public discussion, including multiple public meetings, and a detailed Dissolution Plan would be developed by the Board to present to the voters if the Board initiates the dissolution process. If, however, the Village Board were to receive a valid petition to hold a dissolution vote, as permitted in General Municipal Law Article 17-A, then a dissolution vote must be held within 60 to 90 days after the Board approves holding the referendum. This would occur in either a special Village election or regularly scheduled general election if the general election falls within the 60 to 90 day time period specified.

Q. Who gets to vote to determine whether or not the Village and Town will share services or consolidate functions?

A. Elected Village and Town Board members are the people who vote to share or consolidate services between the Village and Town. No public referendum is needed to consolidate Village and Town operations. The public vote is needed to dissolve the Village because that would involve eliminating the Village Board and government.

General Finance and Tax Modeling:

Q. What happens if the state incentive funding for consolidation is stopped because of the state fiscal crisis?

A. The state incentive funding for consolidation (identified in the report as the Citizens Empowerment Tax Credit – CETC), is subject to annual appropriation in the state budget just like every other source of funding from the state that is given to municipalities. It has been a clear policy of Governors Spitzer, Patterson and Cuomo to provide additional state incentive funding to municipalities who consolidate, and the state legislature has consistently appropriated funds for the CETC program (and its predecessors). In the current state budget (2011-12), \$35 million was appropriated for the CETC. Actual payments for villages that dissolved and qualified for the CETC payments amounted to approximately \$63,000 in 2011. Additional payments for approximately \$600,000/year will start in 2012 for other villages that have dissolved. Thus, appropriated funds substantially exceed actual CETC payments for villages that have already dissolved, which suggests that the state could fund the CETC for years to come.

However, fiscal impact and tax rate projections are provided in the report so that citizens can determine the impact on their tax bills if CETC funding is not received from the state as well as if it is received.

Q. What if the taxable assessed (i.e. property) value (TAV) in the Village grows in the future – would that solve the problem of high Village property taxes?

A. Assuming the Village tax levy (i.e. amount needed to be raised by property taxes) is held constant at the FY 2010/2011 amount (\$1,282,741), a \$1 million increase in taxable property values (TAV) would amount to a reduction of approximately \$.24/\$1,000. Using this multiplier, a \$5 million increase in taxable property values would reduce the Village property tax rate by about \$1.20/\$1,000. (It would actually be a little less, because the tax savings/\$1,000 declines as the TAV increases, but these figures are reasonable round numbers for discussion purposes.)

To put this in perspective, the Village property tax is projected to be reduced by \$7.17/\$1,000 if the Village were to dissolve under the model shown in the report, and this does not even include additional tax reductions that might be a result of additional cost reductions made to produce no TOV tax increase and does not include the CETC incentive funding. To achieve a \$7.17/\$1,000 reduction in Village property taxes by relying only on increases in Village property values, the Village TAV would have to increase from the 2010-11 property tax TAV¹ of \$72.3 million to a TAV of \$ \$121.3 million, a \$49 million increase, or the equivalent of a 67% growth in taxable property value.

Q. What happens to Villages taxes if we get revenues from the sale of water for hydro-fracking?

A. This is covered in detail in the next section.

Water System and Water Sales Questions:

Q. What is the cost of improvements needed by the Village water system?

A. The Village has not done an engineering study to obtain a good estimate of the costs. Based on rough estimates on a cost per foot basis and the estimate that approximately 12,000 feet of water mains are currently 4", which need to be replaced with 8" pipes to meet current health standards and mandates, the cost to replace all the 4" lines is projected to be \$3 - \$4 million. This would obviously be a multi-year project, and will include massive amounts of street reconstruction work where water mains are buried in existing streets.

Q. Who will pay for this work?

¹ The 2010-11 Village property tax TAV as used in the report is the 2009 TAV as reported by Steuben County, which was used for calculating the Village 2010/11 tax rate.

A. It is possible that the Village will be able to get state and/or federal grants to assist paying for this work. However, Village water users can be expected to pay for most if not all of the water costs themselves. Any cost to pay for this work that are not covered by federal or state grants or loans will be paid by Village water system users as part of their water bill.

Q. How will the cost of the water system improvements show up on my bill?

A. Water bills have two components to them: usage charges and capital/improvement charges. Water usage charges based on a fee schedule set by the Village based upon how much water is used per the water meter for your account. Capital improvement charges are a separate line item on the water bill if the water user also owns the property, otherwise the capital improvement charge is added to the property tax bill. The costs of capital improvements are spread across all properties served by the water system, regardless of whether or not there is actually any water usage, because the water system improves the value of each property. Capital costs can be apportioned to all properties by several different methods, such as: 1. taking the total capital costs and dividing the total to properties based upon assessed value, or 2. developing a formula to apportion the costs fairly based upon the economic value of the improvements to each property. As an example, both methods have been used in various Town of Erwin water districts. In the various Town water districts, the capital charge shows up as a separate line item on the water bills.

Q. How much will my taxes go up as a result of the needed water system capital improvements?

A. It depends on a several variables.

1. Will the Village be receiving some other revenues (state or federal grants, water sales, etc.) that can be used to offset the cost? This will be discussed in more detail in the next question.

2. Will the Village be able to pay for the costs using current out-of-pocket funds, or will it have to take out debt? Given the current and projected state of Village finances (as described in the report), the Village most likely will have to take out debt to finance this work.

3. What are the terms of the debt? Debt repayment projections can be estimated for various parameters. The Committee has developed loan payment tables to develop projections on the low end – using an interest rate of 2%, and a high end – using an interest rate of 3.5% (this is the projected range the Village is likely to see over the next 1-3 years based upon actual rates over the last five years), and assuming a 15 year loan and a 30 year loan (generally the maximum allowed).

Table 1 summarizes the tax impact of these projections. Table 1 is based on a hypothetical \$1 million loan. If in fact, the actual loan is \$3 million, Table 1 values can be multiplied by 3 to derive the actual tax impact.

Table 1 shows that the tax impact goes down over time, based upon using a declining balance method, where the interest payments reduce as the principal is paid off. Other financing strategies can be used to spread the costs evenly over the life of the loan.

For comparison purposes, if the Village took out a \$1 million loan for 15 years at 2% interest, an additional \$86,167 would have to be paid by water users in the first year. This would equate to a capital improvement charge of \$1.13/\$1,000 in the first year if the total costs are assessed against each property based upon the taxable assessed value method. The tax rate would decline from that rate to \$.89/\$1,000 in the final payment year. If the Village took out a 30 year loan at 2% interest, Table 1 shows that the additional costs would go up by \$53,083, or \$.70/\$1,000 in the first year, and decline thereafter. Note also, the total cost to taxpayers will vary depending on the type of loan. Taxpayers would pay \$152,500 in interest for the 2% 15 year loan, compared to \$302,500 in interest for the 2% 30 year loan.

Table 1 is meant to illustrate different scenarios. However, the actual cost to Village taxpayers cannot be determined until the variables noted above are determined. We note, for example, that the Coopers Plains water district was able to obtain a 0% loan from a special state/federal program for a capital improvement project, and the Town opted charge different classes of properties different annual flat rates to pay for the improvements. Still, the property owners in that water district are having to pay off a \$4.3 million loan over 30 years.

TABLE 1

Village of Painted Post - Projected Debt Schedule and Tax Impact				
Projections for \$1,000,000 of Debt - 2% and 3.5% Interest Rates - 15 and 30 Year Terms				
	2%/15	3.5%/15	2%/30	3.5%/30
Year 1				
Tax Levy	\$86,167	\$100,792	\$53,083	\$67,896
Tax Rate per \$1000	\$1.13	\$1.32	\$0.70	\$0.89
Year 15				
Tax Levy	\$67,500	\$68,125	\$43,750	\$51,562
Tax Rate per \$1000	\$0.89	\$0.89	\$0.57	\$0.68
Year 30				
Tax Levy	-	-	\$33,750	\$34,062
Tax Rate per \$1000	-	-	\$0.44	\$0.45
Totals				
Total Principal Paid Over Life of Loan	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000
Total Interest Paid Over Life of Loan	\$152,500	\$266,875	\$302,500	\$529,375
TOTAL Paid Over Life of Loan	\$1,152,500	\$1,266,875	\$1,302,500	\$1,529,375

Note: Projections based on fixed, equal quarterly principal payments and interest compounded quarterly.

Q. If the Village gets extra revenue from the sale of water for fracking, won't that offset the need for debt?

A. Potentially yes. But there are two unknowns:

1. How much revenue will the Village get from fracking water?
2. How long will companies be willing to buy fracking water from the Village?

The Committee has heard a tremendous range of estimates for both unknowns. Given these unknowns, the Committee is not able to make believable projections about the impact of fracking water sales.

However, it is possible to use the figures presented in Table 1 to estimate the tax impact of fracking water sales, depending on what projection for water sales one chooses to use.

For example, let's assume that the amount needed to replace the water lines is \$3 million. Also assume a 2% 15 year loan. The additional cost to Village taxpayers shown in Table 1 for a 2% 15 year loan, in Year 1, is \$86,167. That needs to be multiplied by 3, since Table 1 is based on a \$1 million loan, and we're assuming a \$3 million loan. Thus, the Year 1 additional cost to taxpayers is projected to be \$258,501. Given these assumptions, if water fracking revenue came in at \$258,501 in Year 1, there would be 0 additional costs to Village taxpayers. Similar projections can be derived for whatever variables one wishes to use.

The Village might, of course, not have to issue any debt at all if fracking sales revenues amount to \$3 - \$4 million. Whether this is likely to happen is a complete guess at this time.

Q. If the Village remains as a Village rather than dissolves into the Town, can't fracking revenues be used to offset general Village costs?

A. Yes. There is a fundamental difference in how water revenues can be allocated in the Village and the Town.

Under Town law, all costs and revenues must be retained within separate water districts. Towns can assign a reasonable portion of a town's costs to a water district, to help pay for general town overhead, use of town employees, etc. to conduct business for the district. Current law requires that if a town water district has excess revenues in any given year, the district must retain those revenues for use in the district, although the State legislature is considering whether or not to change this restriction.

Under Village law, where the water district boundaries are the same as the Village boundaries (which is the case in Painted Post), if there are excess water revenues, those can be transferred by the Village Board into the general fund, to pay for general fund Village expenses. The reverse is also true – Village general fund revenues can (and often are in other villages) be transferred to the water fund to offset insufficient water fund revenues.

It is important to recognize, however, that the general operating principle is the same for both towns and villages – the water funds are expected to be self-supporting on an ongoing basis. Revenues are expected to equal expenses. Expenses are supposed to include realistic funding for ongoing capital needs. Painted Post is similar to many villages across the state, in that the Village has not properly funded its water infrastructure replacement program, and therefore now has a very large water line replacement expense that has accumulated over time. Village property owners will have to shoulder the burden of those costs.

To return to the original question, if the Village receives additional fracking revenues that exceed current water department expenses, the additional revenue could be used by the Village Board to offset the costs of other Village expenses. As shown in Table 6B of the report, total Village Water expenses were budgeted at \$276,566 in 2011, and Table 9A shows Water revenues budgeted at \$287,000 – essentially break-even. This is based on the fact that there is currently no Water debt. If debt expenses increase, as described above, water revenues will have to be increased accordingly, either through an increase in property taxes, or by use of the fracking sales revenue.

Q. What could the extra fracking sales revenue be used for by the Village?

A. The Village Board could use the extra fracking revenue to fund the water system improvements, or to pay for other ongoing Village costs, or to fund other Village expenses. For example, as indicated on Page 47 of the report, the Committee believes that the Village needs to budget an additional \$80,000 for fire equipment over the next ten year. Without any other new sources of revenues, this will add \$1.05/\$1,000 to the Village tax rate.

Depending on how much additional fracking revenue comes into the Village, Table 2 can be used to project the effect on current Village taxes additional revenue would have. For example, if \$100,000 additional revenue were received from fracking water and that revenue was used to offset general Village property taxes, the current Village property tax rate would be reduced by \$1.30/\$1,000.

TABLE 2

Impact on Village of Painted Post	
Property Tax Rate	
Additional Revenue	\$10,000
Reduction in Tax Rate per \$1,000	\$ 0.13

Q. If the Village were to dissolve and consolidate with the Town, who would benefit from the sale of fracking water.

A. There are three variables that come into play in answering this question:

1. If the Village dissolves, the former Village would become its own water district. The costs and revenues that were part of the Village before the dissolution would remain within the former Village boundaries. Future capital improvements would be paid by the former Village water district users as an ad valorem (property) tax or as some other charge, depending on the method used by the Town to allocate the capital costs to each property (see previous discussion about the options). The costs of water delivered to those customers would be used to calculate the water rates to customers in that district. No one outside the district would be responsible for either the capital costs or ongoing operating costs. There would be no transference of costs to or from the TOV.
2. If the Village sets up its own operation to pump and deliver fracking water, and starts to receive a revenue stream prior to a Village dissolution, then the precedent would have been set to keep those fracking revenues as a revenue stream that should be kept in the former Village water district, to help defray system costs such as the pipe replacement program. Note – as described above, under the current law governing town water districts, the Town would not have the authority to pre-empt the fracking revenues for use outside the former Village district.
3. If the Village and Town take steps to set up a single integrated water system through an IMA, as recommended by the Committee, part of the IMA negotiations would include an agreement about how to apportion fracking revenues between existing Town water districts and the former Village water district. The agreed upon apportionment would set the revenue allocation for the future if the Village were to dissolve, as described in #2 above.