

**A reason to run by Tom E. Graham**

# How Oshtemo Legally Denied Residents Due Process

I am for the Oshtemo sewer expansion project, I live in Oshtemo and I want clean groundwater, however I am against the way it was implemented. I do not believe the township had ill intentions but poor decisions and mistakes have, in my opinion, deprived residents of due process and created a monster.

In October of 2019 Oshtemo township sent letters to residents about the sewer expansion project stating that each is required by law to connect and it will cost them on average \$14,000 to \$20,000. This came as a shock to a large number of residents, but why?

## Convince the residents it's out of the township's hands

You might say that residents should have known this was coming or should have fought it years ago. But the fact is that the township has a frequently asked question section on their website that had stated from 2017 to 2020 that the State of Michigan required residents to connect. In fact the State does not require the connection, the State gives the township the authority to require the connection. Engaged citizens reasonably trust our elected officials would not publish false information, had residents known mandatory connections were a township decision they may have been more involved years ago. In 2020 the township changed the answer to that question to say Oshtemo has an ordinance requiring you to connect.

## Select a method of funding the project that doesn't require direct notification or a vote

Townships have multiple options to fund water and sewer expansion projects. Previously, Oshtemo used special assessment districts which required the township to notify all the property owners by mail, giving them a chance to protest before the assessment was finalized. This time Oshtemo used "Limited Tax General Obligation" (LTGO) bonds, a.k.a. "non voting bonds". The only notice requirement is that a quarter page ad be placed in the local newspaper notifying the public that the township intends to issue \$30 million of bonds for the project and that the public has a right to protest.

## Place the Bond Issue Notice on a day no one will see it

The ad was placed in the Kalamazoo Gazette on 10/15/2018, a Monday, when the paper is not delivered to subscribers. Residents then had 45 days to gather signatures from 10% of the township electorate to call for a special election. Either the residents didn't see the ad, didn't understand its impact on them or both. All Oshtemo township residents who are Gazette subscribers, who reasonably expect to be informed of such notices, were simply not informed. When the township found out about their error they should have republished the notice, but instead they are saying that it still satisfied the statute.

## Use a type of bond that erodes the voting power of the residents

The Michigan State Headlee Commission has stated the use of LTGO bonds is a subversion of the restrictions imposed on units of local government by the Michigan Constitution Headlee Amendment because they tie the hands of successor governments and erode the voting power of the people, yet Oshtemo chose to use them.

## Don't directly communicate the cost to the residents until it is too late

Without allowing the residents to vote, the township is now requiring residents to pay huge "Connection privilege Fees" (\$9K - \$14K, on average \$11K to \$12K) and then the resident has to hire a private contractor to connect the house to the pipe, which costs an additional \$3K to \$8K. This is harming our most vulnerable. Many of our senior citizens, who literally built Oshtemo and have worked and supported themselves their entire lives simply cannot afford this and are now in a position where they could lose their homes and the township refuses to exempt them from connecting.

The township also didn't directly communicate the costs of the project to those affected by Phase I before deciding to go forward with it. 23% (\$10 million) from the general fund, \$250,000/yr for 40 years 37% (\$15 million) from connection fees 31% (\$13 million) from a surcharge on existing sewer users 8% (\$3 million) from a surcharge on new sewer users Total cost of the sewer over 40 years (including interest) is more than \$42 million with no chance to vote

## Blame the Realtors

In a neighborhood meeting, the Township Supervisor has said that Oshtemo Township communicated that the project was coming to the "realtor association", presumably GKAR, in the hopes they would disseminate that information to area realtors. She went further to say that she has heard reports that area realtors are purposefully withholding that information because the realtors believe the project is not a done deal. But realtors only have access to public assessment records and no assessment has been made, remember they used LTGO bonds that do not raise taxes so no official assessment exists. Unless the realtor you are using lives in the neighborhood of the house you're purchasing they may have no idea of the political landscape or future projects in the area. I searched the "bearings" section of the GKAR site and found no reference to any notice the township wanted published to realtors who might transact a home purchase or sale in Oshtemo.

## Get Residents to Connect Quicker using Unlawful Methods

The State of Michigan says that if the township does require you to connect, you have 18 months to connect after the sewer line is available and the township has given you notice that the sewer is available. On January 31, 2020, the township published a "notice of availability of public sewer" that requires all homes and buildings in Phase 1 to connect by October of 2021, regardless of when the sewer line is available. The sewer line will not be available in many areas until October of 2020, effectively reducing the time to connect from the Michigan mandated 18 months to 12 months. Did COVID delay this even further?

## Use Disguised Taxes to Pay for it all Without Allowing the Residents to Vote on the Tax Increase

Under Michigan State Law, these connection fees must;

- 1) serve a regulatory purpose and not be imposed solely for a revenue-raising purpose (Oshtemo has stated several times these fees are to pay for the construction of the sewer expansion);
- 2) be reasonable and proportionate to the cost of the service provided (The service is the disposal of septage and is charged quarterly on the water/sewer bill); and
- 3) be voluntary - a user must have a way to limit the amount of the service used and the fee incurred.

After consulting with many law firms the connection fee does not meet these requirements and I believe is in fact a disguised tax levied without a vote of the residents.

## The Oshtemo Residents Association - Holding Our Government Accountable

I helped start the Oshtemo Residents Association and together with a group of like minded residents we are holding our township accountable. The group started a Facebook page, we researched our legal options, once we found actionable legal arguments, we started a GoFundMe page to raise enough money to hire an attorney. We had our first town hall meeting where the legal firm we hired presented our case to the public and asked people to join. Less than 2 weeks later we had over 100 members and today we have over 250. We want the bond notice to be reissued so subscribers are properly notified, the ordinance to comply with Michigan law and a connection fee that isn't a disguised tax.

## Why Vote for Tom Graham?

I am committed to stopping this type of abuse. It's destroying property values, decreasing your ability to sell your property and surprising new home owners with tens of thousands of dollars of unexpected cost. This is not good for Michigan and our economy. I believe that any time a capital improvement plan requires only a portion of the municipality to pay for it, then;

- 1) those residents and businesses that are paying for it must be directly informed by mail of the cost to them
- 2) those residents and businesses affected should have a 45 day right to protest the plan
- 3) if a petition of more than 50% of those residents and businesses affected is submitted within 45 days then the municipality shall put the issue on the ballot of the next general regular or special election.

I don't want to stop capital improvements, I don't want to remove the government's ability to provide needed infrastructure. I want accountability built into the system so no other community has to take legal action against their own local government.

**I hope you find me worthy of your vote.**



**T**echnology - transparency in government and empowered citizens

**E**ducation - the foundation of economic development

**G**rowth - the greatest force for change is a job

**Tom E. Graham**

Return2InTEGritty.com

**While other candidates are asking for your vote, I'm trying to earn it.**

Paid for by Tom Graham - Return2Integrity, 3330 S 4th St, Kalamazoo, MI 49009