AGENDA
VILLAGE OF GLENCOE
BOARD OF TRUSTEES
COMMITTEE OF THE WHOLE

Village Hall Conference Room
675 Village Court
Thursday, May 16, 2019 – 5:30 PM

I. CALL TO ORDER
Honorable Lawrence Levin, Village President
Gail Lissner, Trustee
Barbara Miller, Trustee
Peter Mulvaney, Trustee
Greg Turner, Trustee
Jonathan Vree, Trustee

II. PUBLIC COMMENT
Individuals interested in addressing the Village Board on non-agenda items may do so during this time.

III. DISCUSSION AND REVIEW OF THE VILLAGE OF GLENCOE GOVERNANCE STRUCTURE

IV. OTHER BUSINESS

V. ADJOURN

The Village of Glencoe is subject to the requirements of the Americans with Disabilities Act of 1990. Individuals with disabilities who plan to attend this meeting and who require certain accommodations in order to allow them to observe and/or participate in this meeting, or who have questions regarding the accessibility of the meeting or the facilities, are requested to contact the Village of Glencoe at least 72 hours in advance of the meeting at (847) 835-4114, or the Illinois Relay Center at (800) 526-0844, to allow the Village of Glencoe to make reasonable accommodations for those persons.
Date: May 16, 2019

Staff Contact: Philip Kiraly, Village Manager, Village Manager's Office

Agenda Item: 3.1. - Discussion and Review of the Village of Glencoe Governance Structure

The Village's Strategic Plan includes a goal and set of initiatives related to a study and review of the Village of Glencoe’s governance structure. As such, the Village Board directed staff to evaluate the Village’s regulatory, economic development and financial authority as a special charter, non-home rule municipality to inform future discussions about whether the Village’s current form of government adequately equips the Village to respond to the community’s needs in the continually-changing legislative environment of the State of Illinois.

A staff memorandum summarizing the first component of this research is attached. This initial research is intended to provide the Village Board with educational information about governance authority more generally, with a focus on both home rule and non-home rule authority. This will be presented by staff and Village Attorney Steve Elrod at the May 16, 2019 Committee of the Whole meeting.

Given the complexity of this topic, the second component of staff’s research focusing specifically on the impacts of governance authority on the Village of Glencoe will be presented at the July 18 Committee of the Whole.

ATTACHMENTS:

1. Home Rule and Non-Home Rule Overview Memo
DATE: May 10, 2019

TO: Philip A. Kiraly, Village Manager

FROM: Nikki Larson, Finance Director
Sharon Tanner, Assistant Village Manager

SUBJECT: Review of the Village of Glencoe’s Governance Structure

Introduction

During development of the Village’s Strategic Plan and strategic vision statement, the Village Board discussed the State of Illinois’ significant impact on Village operations. As an outcome of this discussion, the Board determined that it is necessary and appropriate to evaluate the Village’s current governance structure, including its regulatory, financial and economic development authority. To that end, the Board directed staff to evaluate the Village’s authority as a special charter, non-home rule municipality to inform future discussions regarding whether Glencoe’s current form of government provides optimal regulatory authority and adequately equips the Village to respond to the community’s needs within a continually-changing State legislative environment. Following this direction, a committee of staff members from each of the Village’s departments has been researching this topic over the past several months.

Given the complexity of this topic, this discussion will be presented in two parts during the May and July Committee of the Whole meetings. On May 16, the focus of the discussion will be on the primary differences between home rule and non-home rule forms of government, including a legal overview by Village Attorney Steve Elrod. The July Committee of the Whole discussion will focus more specifically on Glencoe and its current governing structure along with possible alternative scenarios that the Board might consider, and staff expects to provide additional detail on Glencoe-specific impacts in advance of that meeting through a supplement to this report.

Governance Structures in Illinois

Home rule was established in the 1970 Illinois Constitution. Prior to the 1970 Constitution, all municipalities were subject to Dillon’s Rule, which required municipalities to strictly abide by State law when making decisions regarding municipal affairs and provided that municipalities derived all regulatory and taxation authority from State law. Under Dillon’s Rule, municipalities were prohibited from regulating or taxing in a manner that was not expressly provided by State law. The 1970 Constitution only granted home rule authority to those municipalities that served populations larger than 25,000. Municipalities that do not reach this population threshold must seek home rule authority through referendum.
Home rule authority essentially reverses Dillon’s Rule and provides that home rule municipalities have broad authority to self-govern and are only limited by State laws that specifically *pre-empt* home rule authority. The 1970 Constitution provides that home rule municipalities “may exercise any power and perform any function pertaining to its government and affairs including but not limited to, the power to regulate for the protection of the public health, safety, morals and welfare; to tax; and to incur debt.” In practice, this means that home rule municipalities maintain local legislative authority to enact local laws that differ from existing State laws, or to enact local laws in areas where no State laws exist, except as specifically prohibited by State law.

Non-home rule municipalities operate under the principles of Dillon’s Rule and must derive all legislative authority from State law (or, in the Village’s case, authority granted by State law or the Village’s special charter). In practice, this means that unless State law specifically *allows* non-home rule municipalities to enact local legislation for a specific purpose, a non-home rule municipality cannot enact its own local legislation that differs from State law.

As a special charter, non-home rule municipality, the Village derives all of its legal and regulatory authority from the State, as well as the Village’s special charter, which was enacted prior to the 1870 Illinois Constitution. The Illinois Municipal Code provides that in the event that a municipality’s special charter conflicts with State statute, the municipality’s special charter will govern except in cases of conflict with State election law, or unless State law specifies otherwise. In practice, this means that the Village enjoys some additional legislative authority than other non-home rule municipalities that do not have special charters.

When the State enacts legislation related to municipal affairs, it may create mandates that require that home rule and/or non-home rule municipalities comply with such legislation. While State law generally requires the State provide funding for the cost implementing certain types of mandates, the State may exempt itself from this requirement, forcing the municipality to incur the cost of implementing the new law. These instances are generally referred to as unfunded mandates.

Since non-home rule municipalities must have express legislative authority given to them by the State to implement local laws, the elected bodies of non-home rule municipalities do not have full ability or authority to enact local legislation that is responsive to the community’s needs and desires, particularly in areas that are not already addressed by State law, either due to a lag in the State passing legislation related to current and emerging issues (such as licensing and regulating the sharing economy) or because of local policy concerns that may not be experienced on a State-wide level. As a result, non-home rule municipalities often engage their legal counsel in efforts to find alternative solutions within their non-home rule authority, which can result in costly legal expenses and may not provide the optimal authority desired by the municipality.

Additionally, non-home rule municipalities do not have as much legal authority as home rule municipalities to implement new sources of revenue and in some cases, are limited in their ability to determine how certain revenues can be used to fund municipal operations. Non-home rule municipalities are also subject to the Property Tax Extension Limitation Law (“PTELL”), which caps the amount the municipality’s property tax levy can be increased without a referendum (PTELL limits non-home rule municipalities to increase property levies by the lesser of 5% or the change in the Consumer Price Index, plus the amount of any new equalized assessed value in the community). While tax caps limit the rate of growth of municipal property tax levies, the tax cap coupled with limited legal authority to create new, non-property tax revenues can further complicate a non-home rule municipality’s ability to raise sufficient revenues needed to deliver municipal services that meet the community’s needs.
State Legislative Environment

The legislative environment in the State of Illinois continues to be impacted by significant internal and external forces, such as the State’s budget and constrained financial resources, shifts in dynamics between the Illinois General Assembly and the Governor, as well as the emergence of new public policy issues that impact municipal operations.

Non-home rule municipalities can be significantly impacted by the changing dynamics of the State’s legislative environment and are generally more susceptible to these changes than home rule municipalities, since State law must expressly allow non-home rule municipalities to implement local laws that differ from State laws. In practice, this may mean that a non-home rule municipality may have limited (or a complete lack of) legislative authority to address an emerging local policy issue in either the absence of State law or in contrast to State law. For example, some public policy topics which the Village Board has previously discussed, and determined had limited or no authority to enact local legislation, include (but are not limited to) the ban of coal tar-based asphalt products, vicious dog regulation and licensing of short-term home rentals. Home rule municipalities are afforded more legal authority to raise revenue, whether in the form of the municipality’s property tax or other revenue sources separate from property taxes. Non-home rule municipalities have less legal authority to implement new revenue sources and are subject to tax caps under PTELL – these factors can lead to the cost of implementing unfunded mandates competing with core municipal services for limited funding.

The Village derives the majority of its revenue raising authority from State law. Over the last decade, as pressure on the State’s resources increased, the General Assembly considered bills that would reduce the amount of revenue disbursed to municipalities, including the Local Government Distributive Fund (“LDGF”), which disburses municipalities’ share of the State income tax. Ultimately, in 2017, the General Assembly reduced distributions from the LGDF to municipalities by 10% from the previous year’s level. The State’s most recent budget restored a portion of these distributions, resulting in distributions equivalent to a 5% reduction in lieu of the 10% reduction in 2017. The Village’s Fiscal Year 2020 Budget projects $827,555 in annual income tax revenue (which is approximately 4.56% of the Village’s Fiscal Year 2020 General Fund budgeted revenues), which is disbursed by the State via the LGDF. Several years ago, the Village began developing contingency scenarios as part of the annual budget development process to forecast the impact of future LGDF revenue reductions in order to assess how such reductions will impact the Village’s ability to fund community services.

It is noteworthy that the Illinois Municipal League (“IML”) is advocating a series of legislative changes related to non-home rule authority which would, if enacted, broaden non-home rule legislative authority. The IML proposes expansion of non-home rule municipalities’ flexibility to implement non-home rule sales tax and determine how to expend revenues on municipal operations, allowing implementation of non-home rule motor fuel tax, non-home rule natural gas use tax and the imposition of storm water utility fees to fund maintenance of a municipal storm water utility. If enacted, these bills would afford non-home rule municipalities with authority that is more comparable to home rule municipalities in these areas. While the IML is advocating for these bills in the current session of the General Assembly, the bills do not appear to be advancing before the session ends in May.

Home Rule vs. Non-Home Rule Authority

As noted above, home rule municipalities have broader authority than non-home rule municipalities to enact local legislation to self-govern. Because home rule authority provides municipalities with the broad ability to locally regulate unless specifically pre-empted by the State, home rule municipalities maintain more flexibility to respond more easily to emerging issues. Additionally, State legislation has sometimes followed the example of local legislation enacted by home rule communities – for example, before the passage of State laws, many home rule municipalities implemented local laws regulating smoking in public places and use of hand-held cellular telephones while driving. Therefore, while some
examples of the use of home rule authority may be moot today due to subsequent enactment of State legislation, it is noteworthy that in the past, there have been several instances of State legislation lagging behind local municipal legislation, sometimes by several years.

The table below summarizes key types of legislative authority that home rule and non-home rule municipalities have, with respect to regulatory, economic development, and financial authority, and whether municipalities have full or partial (i.e., restricted) authority. Generally, there are significant differences between the local legislative authority of home rule and non-home rule municipalities in regulatory and financial matters; however, home rule and non-home rule municipalities have comparable legislative authority related to economic development.
<table>
<thead>
<tr>
<th>Legislative Authority</th>
<th>Home Rule</th>
<th>Non-Home Rule</th>
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</thead>
<tbody>
<tr>
<td>Zoning – Authority to create local zoning regulations</td>
<td>Full</td>
<td>Partial (very broad authority)</td>
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<tr>
<td>Zoning Authority over Libraries, Park Districts and School Districts in the Municipality – Authority to impose municipal zoning regulations on property in the community owned by libraries, park districts and school districts within the corporate limits of the municipality</td>
<td>Full</td>
<td>Partial (consistent with State law)</td>
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<tr>
<td>Affordable Housing Plan – Authority to determine whether the municipality will create and file local affordable housing plan (municipal attorneys have taken the position that home rule municipalities are not required to file affordable housing plans with the State)</td>
<td>Full</td>
<td>None</td>
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<tr>
<td>Local Adjudication for Building Code Violations – Authority to create local adjudication program for building code violations (in lieu of circuit court); local adjudicators have binding authority (similar to a judge)</td>
<td>Full</td>
<td>None</td>
</tr>
<tr>
<td>Local Adjudication for Non-Moving Violations - Authority to create local adjudication program for non-moving violations (in lieu of traffic court); local adjudicators make binding decisions (similar to a judge)</td>
<td>Full</td>
<td>Partial (non-binding decisions)</td>
</tr>
<tr>
<td>Rental Housing Regulations – Authority to impose local rental housing ordinances and regulations, including rental housing licensing process, crime-free housing regulations and nuisance regulation</td>
<td>Full</td>
<td>Partial (nuisance regulation only)</td>
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<tr>
<td>Regulation and Licensing of Short-Term Rentals – Authority to impose regulations on short-term rentals (such as those commonly marketed on websites such as AirBNB and VRBO); ability to create local business license category and accompanying fee</td>
<td>Full</td>
<td>Partial (zoning regulations only)</td>
</tr>
<tr>
<td>Lateral Hiring of Police Officers – Authority to create shortened police officer hiring process for individuals who are already certified law enforcement officers</td>
<td>Full</td>
<td>None</td>
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| Authority to Implement Local Laws Differing From or in the Absence of State Laws – Authority to implement local laws, such as:  
  • Ban of coal tar-based asphalt products  
  • Regulation of possession of operable handguns  
  • Prohibition of keeping/raising certain types of animals  
  • Local vicious dog regulations  
  • Permit requirements for fiber optic trenching  
  • Local curfews  
  • Procedure for local recapture agreements  
  • Prosecution of “public indecency” defined in different terms than those in the Illinois Criminal Code  
  • Limitation of severance pay that can be negotiated between a municipality and separating employee  
  • Authority to enter into a contract longer than the term of the Village President  
  • Authority to opt out of Cook County paid sick leave ordinance (applicable to private businesses)  
  • Authority to opt out of Cook County minimum wage ordinance (applicable to private businesses)*  
  • Prohibition of use of hand-held cellular phones while driving*  
  • Prohibition of smoking in public places* | Full      | None                              |

*State laws now address these regulations. Prior to the State laws, many home rule municipalities implemented local laws.
| Economic Development | Expenditure of Funds for Economic Development and Use of Financing Programs — Authority to fund programs such as façade improvement grants, small business loans, signage replacement or green infrastructure incentives; authority to utilize financing programs authorized by State law to support economic development | Full | Full |
| Sale of Real Estate to Any Purchaser — Authority for municipality to sell real estate to any purchaser | Full (may establish procedures for sale) | Partial (must either sell using public bidding process, or obtain appraisal and sell via real estate agent or auction) |
| Economic Incentive Agreements (Sales Tax Rebates) — Authority for municipality to enter into an agreement to rebate any portion of sales tax generated by a commercial development project over a specified period of time, subject to the municipality making findings regarding the project/development | Full (municipality may create its own criteria that demonstrate public purpose) | Partial (findings must be consistent with State law) |
| Financial | Property Tax Extension — Home rule municipalities determine annual levy (not subject to cap), non-home rule municipalities subject to Property Tax Extension Limitation Law (tax cap) | Full | Partial (subject to PTELL) |
| Local Sales Tax — Tax on tangible personal property sold at retail in the municipality (excluding certain vehicles, food/beverage, medicine and medical products), implemented in 0.25% increments | Partial (per State law) | Partial (up to 1%, limited use after 2020) |
| Local Motor Fuel Tax — Tax on fuel sold in the municipality ($0.01/gallon increments) | Full | None |
| Natural Gas Use Tax — Tax on consumption of natural gas used by consumers that is purchased from outside of Illinois | Full | None |
| Utility Tax (Natural Gas and Electricity) — Tax on natural gas and electricity consumed by customers in the municipality (up to 5% per therm or kilowatt hour) | Full | Full |
| Food and Beverage Tax — Tax on the service of food and beverages (e.g. restaurants) | Full | Partial (places of eating tax up to 1%) |
| Package Liquor Tax — Tax on package liquor sales | Full | None |
| Amusement/Entertainment Tax — Tax on admission fees and/or ticket sales | Full | None |
| Hotel/Motel Tax — Tax on overnight stays in hotels, motels and short-term rentals | Full | Partial (up to 5%, limited use) |
| Real Estate Transfer Tax — Authority to implement tax on the sale of real estate with referendum | Partial (referendum required) | None |
| Demolition Tax — Tax on demolition of structures (in addition to permit fees) | Full | None |
| Impact Fees — Fee paid by developers to municipality for infrastructure improvement costs specifically attributed to the development (e.g., roads, sewers, water distribution, etc.) | Full | None |
| Storm Water Utility Fees – User fee charged to sewer customers to support installation and maintenance of storm water infrastructure | Full | Unclear (statute and case law are not clear on authority) |
| Exemption from Unfunded Mandates – Home rule municipalities are exempt from unfunded State mandates unless home rule authority is specifically pre-empted; non-home rule municipalities are subject to unfunded mandates unless specifically exempted | Full (unless specifically pre-empted) | Partial (only if specifically exempted) |
| General Obligation Debt Issuance – Authority to issue general obligation debt without referendum | Full | Partial (up to 8.625% of equalized assessed value) |

**Governance Structures in the North Shore Region**

Home rule authority is common in the North Shore region, and throughout the Chicagoland region (particularly in the region represented by the Northwest Municipal Conference – less than 25% of the Northwest Municipal Conference’s 43 municipal members are non-home rule units). The map below indicates the home rule status of neighboring communities and how each home rule community obtained home rule status (and year of referendum, if applicable). For the purpose of this evaluation, municipalities east of I-294, from the northern border of the City of Chicago to Lake Bluff, are shown on the map. Throughout the State, there are more than 200 home rule municipalities.

The concept of home rule authority has been previously discussed in Glencoe. In 1988, 2005 and 2015. A more detailed overview of these discussions will be provided in the July Committee of the Whole briefing.
Home Rule on the North Shore

- Bannockburn: Home Rule (Referendum, 2006)
- Deerfield: Home Rule (Referendum, 1975)
- Evanston: Home Rule (Population)
- Glencoe: Non-Home Rule
- Glenview: Home Rule (Population)
- Golf: Home Rule (Referendum, 1976)
- Highland Park: Home Rule (Population)
- Highwood: Home Rule (Referendum, 2006)
- Kenilworth: Non-Home Rule
- Lake Bluff: Home Rule (Referendum, 2005)
- Lake Forest: Home Rule (Referendum, 1975)
- Lincolnwood: Home Rule (Referendum, 1997)
- Morton Grove: Home Rule (Population)
- Niles: Home Rule (Population)
- Northbrook: Home Rule (Population)
- Northfield: Home Rule (Referendum, 2010)
- Skokie: Home Rule (Population)
- Wilmette: Home Rule (Population)
- Winnetka: Home Rule (Referendum, 2005)
Conclusion

Under the Illinois Constitution, home rule and non-home rule municipalities are granted different local authority to self-govern. As non-home rule municipalities are more restricted in their ability to self-govern than home rule municipalities, non-home rule municipalities can be much more acutely impacted by State legislation. As the Village Board developed the Village’s strategic vision statement and a set of goals and initiatives intended to work toward that vision, the Village Board discussed the State’s great impact on non-home rule municipalities and directed staff to evaluate the Village’s regulatory authority as a non-home rule, special charter municipality to inform future discussions regarding whether the Village’s current form of government provides sufficient local authority for the Village to be responsive to the community’s needs now and into the future, despite a continually-changing State legislative environment.

Recognizing the complexity and importance of the Village’s form of government, the Village Board’s discussion regarding the information gathered will begin at the May 16 Committee of the Whole meeting and continue at the July Committee of the Whole meeting. On May 16, Village Attorney Steve Elrod will provide a presentation on the legal framework of home rule and non-home rule authority. In July, it is anticipated that the Board’s discussion will focus on Glencoe’s governing structure and possible alternative scenarios that the Board might consider in the future. Staff expects to provide additional detail on non-home rule authority in Glencoe and potential Glencoe-specific impacts at that meeting through a supplement to this report.