

Non-Financial Implications of Home Rule

Administration and Finance

- § Legal & Local Control. There is generally less legal work and therefore lower legal costs, particularly with litigation, associated with being a Home Rule community due to the flexibility Home Rule gives. The Community is able to operate from the premise that they can do as they choose unless the statues specifically prohibits the activity. A recent example of where this would have been beneficial to Northfield was with the abandoned BP gas station site. The Village, in accordance with our code, began the legal process to require BP demolish the abandon building and restore the site to grass. In the most recent ruling, the court found that Northfield did not have this authority as our definition of “abandoned building” was more stringent than that of the state and therefore we had exceeded our Non-Home Rule authority. Although the use of Home Rule powers has been challenged in the courts they have frequently been upheld with generally a liberal interpretation of the use of these powers. The courts have upheld more restrictive limitations on such things as hand gun sales, bond sales, and environmental controls.
- § Fee Recovery. If the Village proceeds in any court to enforce and/or defend any provision of its municipal code and is successful, the Home Rule community can adopt a codes which allows the Village to recovery all reasonable attorney fees and costs incurred in the course of these proceedings from the person or entity who has been found violating or unsuccessfully challenging the Village Code. In addition, some Home rule communities adopt, through referendum, a real estate transfer tax. In addition to the revenues generated through the tax, the process of receiving the tax stamp for closing provides the Village with leverage to collect any unpaid balances owed the Village. Communities who have adopted a real estate transfer tax comment that unpaid water/sewer bills are rare when residents sell their homes and move.
- § Business Licenses. Under Home Rule, Northfield could require that all contractors and developers working in town be licensed. This would give the Village more control if problems arise. We would be able to revoke a license if a contractor did not comply with our local ordinances; we could monitor and control things that depend on coordinated activities – such as snow plowing; and we could reduce contractor related crimes where disreputable contractor’s cheat unsuspecting homeowners out of large deposits and work.
- § Protection from State Actions & Political Weight. Home Rule allows communities in Illinois to take actions not specially prohibited by the General Assembly. Conversely, a Non-Home Rule community can only under take those actions specifically allowed for in the Statues. Home Rule authority, gives municipalities the right to govern themselves. Specifically, 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 public health, safety, morals, and welfare; to license; to tax; and to incur debt”.¹ In addition, the State Legislature can adopt legislation that impacts Non-Home Rule communities with a simple majority while the Illinois Constitution specifically requires, in most instances that a super-majority (60% vote) to impose a mandate on a Home Rule community. In recent years, Springfield has increasingly shifted financial burdens to local government. With over 70% of Illinois residents living in Home Rule communities, they definitely have more political weight in Springfield. A good example is the 2004 adoption of the Affordable Housing Planning and Appeal Act (PA – 0595). This

¹ Article VII, Section 6(a) of the Illinois Constitution

required all Non-Home Rule communities to adopt and file affordable housing plans with the state. The plan had to ensure that at least 10% of all of our housing stock was affordable by 2010. As part of this, the state has created an Affordable Housing Board and if Northfield is not in compliance with the plan, developers can appeal local zoning decisions to this body. Until tested in the courts it is unclear if this board will have the legal authority to over turn local zoning. In the meantime, Northfield was subjected to the unfunded mandate to research, draft, and file a plan and then the ongoing costs associated with monitoring the program and our annual reporting requirements. Unfortunately, Non-Home Rule communities can not utilize the few tools which are available that would actually achieve an increase in affordable housing. Examples of these are the establishment of housing trust fund/community land trust (which is funded through impact fees associated with any new development) and inclusionary zoning ordinances (which mandate that certain percentages of all new housing developed is affordable).

- § Protection from County Home Rule Actions: If a municipality is Home Rule and the County adopts a code which conflicts with the local code then the local code would prevail. Conversely under Non-Home Rule, the County regulation would govern. An example of this was the recently passed Cook County Smoking Ban. The County Ordinance banned smoking in unincorporated areas and towns without their own smoking ordinance. Because the state had a smoking ordinance in place and Northfield was a Non-Home Rule community, Northfield did not have the option to adopt a local ordinance that was contrary to these. This left some Northfield businesses in problem market position as establishment in Glenview, for instance, did not have to comply with the smoking ban.
- § Reduced Borrowing & Bond Issuance Costs. Home Rule Communities in general have a higher bond rating which in turn usually results in lower interest rates when bonds are issued.
- § Intergovernmental Agreements. With Home Rule Northfield would have much greater flexibility relative to entering into intergovernmental agreements. Communities have used this successfully in land use planning agreements, waste water treatment agreements, co-sponsoring of programs, street and road maintenance, mass transit, and police or fire service agreements.
- § Impact Fees. A Home Rule community has some greater ability to impose impact fees. Examples of this include park impacts; school impacts; transportation impacts; library impacts; fire district impacts; municipal services; police services, and most recently several north shore communities, such as Highland Park, are using impact fees to fund/develop affordable housing. Impact fees are a charged assessed by the municipality to cover the extra costs and or services necessary to support the proposed development. Therefore, if a town can show that the a proposed development is going to impact a certain area then a home rule community can assess a fee to cover the cost of providing that service.

Community Development

- § Affordable Housing. As referenced above, Northfield is subject to the recent state mandate on affordable housing. If we were home rule we, like the other north shore communities, could develop and adopt a plan that would address the more localized issues instead of meeting the state wide standards which simply do not work here. In addition, you could establish an affordable housing impact fee (like Wilmette and

Highland Park) which could then give us a source of funds that we could use to create affordable housing units and programs.

- § Community Residences. Home rule communities are allowed to file their own individually created community residence plans for approval by the state instead of following the state regulations on this. It gives these communities greater flexibility to develop codes more individually tailored to the town.

- § Zoning, Property Value, and Character of the Community Protection. Local zoning codes are the primary way local property values and the character of the community are protected. Home Rule legally solidifies the authority of local zoning laws and protects against any attempt by Springfield to supersede Northfield's regulations. Sometimes the State law merely implies a community has the authority to act. Home Rule gives a municipality solid legal authority to act even if there is no clear statutory authority. While State law specifically grants zoning authority to all municipalities, it does not address whether this authority can be extended over schools, park districts, mosquito abatement districts, and other local governments. Home Rule provides another basis for that authority. In court cases, such as those dealing with home day care centers, it has been determined that Non-home Rule Communities cannot regulate certain uses more strictly than the state. Finally, some communities have used their Home Rule authority to combine their Planning Commissions and Zoning Board of Appeals to reduce costs and improve the efficiency of the approval processes.

- § Downtown Development. Home Rule would give the community vital options relative to financing improvements and the ability to explore public-private partnerships which would foster downtown redevelopment. Examples of how some communities have done this can be found in the research work of James Banovetz², an expert on Home Rule. He states "The 2002 survey of home rule use documented, not only heavy development use, but increasingly creative use of home rule powers for development purposes. Chief among these is the expansion underway in the use of impact fees. Impact fees are now being used to finance more of the costs of development than traditional school and park impact fees. Impact fees are now being used to support: Libraries (Arlington Heights, Bartlett, Channahon, Carol Stream, Manhattan, and Wheeling); General Municipal service expansion (Carol Stream, Channahon, and Manhattan); and Police services (Bartlett). Skokie uses its home rule powers to create Economic Development Districts". "Other notable new uses of Home Rule in conjunction with development include Joliet's neighborhood improvement program in which the city shares infrastructure costs with residents; Wilmette's transfer of park property to use for the development of senior housing; and Elk Grove Village's use of Home Rule to support its efforts to purchase and redevelop property in blighted commercial areas". "Lincolnshire and Schiller Park both have used Home Rule to combine their planning commissions with their board of zoning appeals. Addison has raised its home rule sales tax to underwrite bonds issued to raise money to spur redevelopment of buildings, including public buildings."

Public Safety

- § Officer Hiring. We would have greater flexibility to hire existing officers from other departments. Non-home rule communities can only consider people who have been a police officer for at least 2 years and they are not allowed lateral transfers at all for full time fire fighters.

² James M. Banovetz, City Council Management in Illinois, Vol.83, No. 10, June 2003

- § Police Fees. A home rule community is allowed to implement certain types of fees such as an administrative charge on towing vehicles for D.U.I.'s. Currently, we have no way to recover these costs.
- § Adjudication. Home Rule Communities are permitted to provide adjudication for a larger number of issues including juvenile issues and over weight trucks. In addition, the notice and fee provisions are different. These issues make local ticket adjudication cost effective for home rule communities while it is not cost effective for most non home rule communities.

Public Works

- § Storm Water Utility. Home Rule Communities have the ability to establish a Storm Water Utility (much like water and sewer for the purpose of installing and maintaining storm water infrastructure. Without this, Northfield has been unable to move ahead with the infrastructure necessary to mitigate the flooding problems which impact part of the community.