

**VILLAGE OF DOWNERS GROVE  
REPORT FOR THE VILLAGE COUNCIL WORKSHOP  
APRIL 13, 2010 AGENDA**

| SUBJECT:  | TYPE:  | SUBMITTED BY:                    |
|---|--|----------------------------------|
| Referendum Advisory Question – Government Consolidation | ✓ Resolution<br>Ordinance<br>Motion<br>Discussion Only | Dave Fieldman<br>Village Manager |

**SYNOPSIS**

A resolution has been prepared to place the following non-binding advisory question on the November 2, 2010 local election ballot:

- Shall the Illinois General Assembly and the Governor take immediate steps to review the services being provided by townships and special districts and consider consolidation of these services with other units of local government in an effort to reduce or eliminate unnecessary levels of local government?

**STRATEGIC PLAN ALIGNMENT**

The Five Year Plan and Goals include *Exceptional Services and Communication*.

**FISCAL IMPACT**

N/A.

**UPDATE & RECOMMENDATION**

This item was discussed at the April 6, 2010 meeting. During the meeting, Commissioner Waldack requested that staff provide additional information regarding the rules and regulations for referendum advisory questions. Staff has attached information pertaining to referendum advisory questions as provided by the Illinois Board of Elections.

Additionally, Commissioner Waldack requested the language of the advisory question be changed to the following:

“Shall the Illinois General Assembly and the Governor take immediate steps to review the services being provided by townships and special districts and consider consolidation of these services with other units of government?”

The attached resolution contains the original language without any changes from the April 6, 2010 meeting. Staff has no recommendation for this item.

**BACKGROUND**

Mayor Sandack has requested that three non-binding advisory questions be placed on the November 2, 2010 local election ballot. Resolutions have been prepared for each of the three advisory questions and Village Council approval of each resolution is required prior to placing the items on the 2010 local election ballot. The following non-binding advisory question is proposed for Village Council consideration:

- Shall the Illinois General Assembly and the Governor take immediate steps to review the services being provided by townships and special districts and consider consolidation of these services with

other units of local government in an effort to reduce or eliminate unnecessary levels of local government?

**ATTACHMENTS**

Illinois Board of Elections: Referendum Advisory Questions Information  
Resolution

## **PUBLIC QUESTIONS (Referenda)**

[10 ILCS 5/28-1]

Article 28 of the Election Code shall govern the procedures for the initiation and submission of public questions at all regular elections and emergency referendum. These include: questions initiated by ordinance or resolution of a political subdivision's governing body, questions initiated by petition, advisory and legally binding questions

### **QUESTIONS HAVING LEGAL EFFECT**

[10 ILCS 5/28-1]

Legally binding public questions are those authorized by a political subdivision statute (e.g., School Code, etc.) or another statute (e.g., Revenue Act, etc.). The following petition requirements specified in such statute shall govern in addition to the general petition requirements (e.g., uniform sized sheets consecutively numbered and securely bound, circulator's affidavit, etc.) of the Illinois Compiled Statutes:

- a. NUMBER OF PETITION SIGNATURES REQUIRED
- b. QUALIFICATIONS (other than voter registration) OF PERSONS ENTITLED TO SIGN PETITION
- c. PLACE OF FILING THE PETITION
- d. FORM OF THE QUESTION TO BE SUBMITTED
- e. CONTENTS OF THE PETITION (e.g., description of boundaries or affected territorial area in the case of annexations or liquor issues).

Where a political subdivision or other statute so provides, public questions of a legally binding effect may be initiated by ordinance or resolution adopted by the political subdivision's governing body. Furthermore, there may be restrictions set forth in the statute governing the referenda that limit the public question to submission at a particular election. No public question shall be submitted to the voters of a political subdivision at any regularly scheduled election at which such voters are not scheduled to vote for candidates for nomination or for election to public office.

### **ADVISORY QUESTIONS**

[10 ILCS 5/28-1, 28-6]

In the case of advisory public questions, the general petition requirements of the Election Code shall govern. Beginning with elections in 2009 and thereafter, upon a written petition signed by at least 11% of the total ballots cast by the registered voters of the municipality, township, county, or school district in the last regular election conducted in the municipality,

township, county, or school district, it shall be the duty of the proper election officers to submit any question of public policy so petitioned for, to the electors of such political subdivision at any regular election named in the petition at which an election is scheduled to be held throughout such political subdivision under Article 2A of the Election Code.

NOTE: Advisory questions of public policy can be initiated by resolution in municipalities, townships, counties and park districts.  
[65 ILCS 5/3.1-40-60; 60 ILCS 1/80-80; 55 ILCS 5/5-1005.5; 70 ILCS 1205/8-30]

#### **TIME OF PETITION FILING**

[10 ILCS 5/28-2]

A petition for a public question shall be filed with the appropriate officer or board not less than 78 days prior to a regular election to be eligible for submission on the ballot at such election. Attached to such petition shall be a certificate showing the name and address of one proponent of the public question or the attorney for the proponents. (EXCEPTION: petition for formation of new unit of government)

A resolution or ordinance initiating a public question must be adopted by the appropriate governing body not less than 65 days before a regular election.

Unless a particular statute authorizing a public question specifies the regular election at which such question shall be submitted, the petition, resolution, or ordinance initiating such question may specify the regular election for its submission, and the question shall be limited to that election. However, no petition, resolution, or ordinance initiating a public question of a political subdivision may specify an election more than one year after the date on which it was filed or adopted. If the petition, resolution, or ordinance does not specify a regular election for submission, such question shall be certified for and submitted at the forthcoming election occurring not less than 78 days (for petitions) after its filing or 65 days (for resolution or ordinance) after its adoption. We advise the local election official to provide a Notice of Obligation (Form D-5) as provided under the Campaign Financing Act to the proponent whose name is indicated on the certificate attached to the petition or to the attorney for the proponents if no name is listed.

#### **"BACK - DOOR" REFERENDA**

[10 ILCS 5/28-1, 28-2]

When a "back-door" referendum (i.e., question of acceptance or rejection of prior official action of a governing body submitted to the voters of a political subdivision) is permitted by a political subdivision statute, any time restrictions in another statute on the filing of the "back-door" petition shall be in addition to the 78 day filing deadline for public question petitions. A back door referendum must appear on the ballot at an election no more than 15 months after the petition initiating the question is filed. Section 28-2 provides that the Secretary or Clerk of the political subdivision shall provide petition forms, signature requirements and filing deadlines for "back-door" referenda. The legal sufficiency of that form, if provided by the secretary or clerk of the political subdivision, cannot be the basis of

a challenge to placing the back door referendum on the ballot.

EXAMPLE: If the statute provides that a "back-door" petition may be filed within 30 days after the publication of a local ordinance, such petition must still be filed not less than 78 days before the next regular election to be eligible for submission at that election.

### **CERTIFICATION OF PUBLIC QUESTIONS**

[10 ILCS 5/28-5]

Not less than 61 days before a regular election, each local election official shall certify the public question initiated by petition, resolution or ordinance of the local governing body to the proper election authorities for submission to the voters of the political subdivision at that election. The certification shall include the form of question for placement on the ballot and the date on which the question was initiated, either by petition, resolution, ordinance or court order. Additionally, the certification for annexation to, disconnection from, or formation of political subdivisions shall include a description of the affected territory whenever such territory is not coterminous with an existing political subdivision.

Notwithstanding the method of initiation, not more than 3 public questions per political subdivision (other than (a) back-door referenda; (b) referenda to determine whether a disconnection may take place where a city is coterminous with a township is proposing to annex territory from an adjacent township; or (c) referenda held under the provisions of the Property Tax Extension Limitation Act -5/28-1) may be on the ballot in a political subdivision at the same election. If more than 3 questions are validly initiated by petition, resolution, or ordinance (or combination thereof), or more than 3 questions are certified by a local election official to the proper election authorities, the first three questions filed shall be certified and submitted to the voters for the upcoming election. Whenever the 3-question limitation prevents the certification and submission of a question at an election, the local election official in receipt of the initiating petition, resolution or ordinance or the election authority in receipt of the certification shall give notice of such limitation by registered mail as follows:

1. In the case of a petition, to the person designated on the attached certificate as the proponent or attorney for the proponents;
2. In the case of a certification from a local election official, the election authority shall give notice to the election official who shall notify the proponent or the local governing body, as the case may be;
3. In the case of a certification from a circuit court clerk pursuant to court order, the election authority shall notify the court, which shall give notice to the individuals cited in #1.

**IMPORTANT: When certifying a public question, the local election official must make certain that the question reads exactly as shown on the petition, resolution, ordinance, or court-order. Proofreading for spelling/wording errors is VERY IMPORTANT. (See SBE Form G-1B)**

## **OBJECTIONS TO PUBLIC QUESTION PETITIONS** [10 ILCS 5/28-4]

### 1. For objections to petitions filed with local election officials:

Objections to a public question petition may be filed with the local election official with whom the petition was filed within 5 business days of the last day for petition filing. The provisions of 10 ILCS 5/10-8 through 10-10.1 relating to objections to nominating petitions, electoral board hearings on objections and judicial review shall be applicable to petitions for public questions of a political subdivision.

### 2. For objections to petitions filed with Circuit Court:

Objections shall be presented to the court prior to the date established for the hearing. Unless otherwise provided in the statute authorizing the public questions, the court shall:

- a. set a hearing on the objection petition;
- b. cause publication of notice of the hearing as soon as possible after the filing of the petition, but not more than 14 days after the filing of the petition for referendum and not less than 5 days before the date set for hearings, in a local newspaper published in the political subdivision, or if none, in a general circulation newspaper published in the county;
- c. insofar as practicable, conduct such hearing in the manner provided by Article 10 for electoral board objection hearings; and
- d. enter a final order not less than 7 days after the initial hearing.

## **CONTESTING REFERENDA ELECTIONS**

10 ILCS 5/23-24 shall govern the procedures for contesting a referendum election.

**VILLAGE OF DOWNERS GROVE**  
**COUNCIL ACTION SUMMARY**

**INITIATED:** Village Attorney **DATE:** April 13, 2010  
(Name)

**RECOMMENDATION FROM:** \_\_\_\_\_ **FILE REF:** \_\_\_\_\_  
(Board or Department)

**NATURE OF ACTION:**

- Ordinance
- Resolution
- Motion
- Other

**STEPS NEEDED TO IMPLEMENT ACTION:**

Motion to Adopt "A RESOLUTION INITIATING THE SUBMISSION OF A PUBLIC QUESTION URGING THE GENERAL ASSEMBLY TO MOVE TOWARD CONSOLIDATION OF LOCAL SERVICES AND ELIMINATION OF UNNECESSARY LAYERS OF LOCAL GOVERNMENT", as presented.

**SUMMARY OF ITEM:**

Adoption of the attached resolution shall place the following non-binding advisory question on the November 2, 2010 local election ballot:

- o Shall the Illinois General Assembly and the Governor take immediate steps to review the services being provided by townships and special districts and consider consolidation of these services with other units of local government in an effort to reduce or eliminate unnecessary levels of local government?

**RECORD OF ACTION TAKEN:**

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**RESOLUTION \_\_\_\_\_**

**A RESOLUTION INITIATING THE SUBMISSION OF A PUBLIC QUESTION URGING THE GENERAL ASSEMBLY TO MOVE TOWARD CONSOLIDATION OF LOCAL SERVICES AND ELIMINATION OF UNNECESSARY LAYERS OF LOCAL GOVERNMENT**

WHEREAS, Illinois has more units of local government than any other state in the nation; and

WHEREAS, the framers of the 1970 Illinois Constitution recognized that reform was needed and increased the roles of counties and municipalities while decreasing the roles of other units of government in an effort to reduce the tax burdens upon residents; and

WHEREAS, although the adoption of the 1970 Illinois Constitution clarified and codified the roles of many units of local government, it has not eliminated the problem of overlapping services; and

WHEREAS, many units of local government such as townships and special districts perform limited, specific and even duplicative services; and

WHEREAS taxpayer dollars should be used in the most efficacious manner with an effort to provide the best service at the lowest possible cost; and

WHEREAS, whether the provision of services currently being performed by a special district or township could be consolidated and performed by another unit of local government is an idea that is worthy of exploration; and

NOW, THEREFORE BE IT RESOLVED by the Village Council of the Village of Downers Grove as follows:

Section 1. The provisions set forth in the preamble are hereby incorporated into this resolution.

Section 2. A public question shall be submitted to the voters of the Village of Downers Grove, County of DuPage, State of Illinois, at the November 2, 2010 General Election (or the next available election permitted by the general election law) as follows:

|  |            |           |
|--|------------|-----------|
| Shall the Illinois General Assembly and the Governor take immediate steps to review the services being provided by townships and special districts and consider consolidation of these services with other units of local government in an effort to reduce or eliminate unnecessary levels of local government? | <u>YES</u> | <u>NO</u> |
|--|------------|-----------|

Section 3. The Village Clerk is hereby authorized and directed to publish this authorizing resolution within ten (10) days after passage in a newspaper of general circulation within the Village and to file this authorizing resolution and/or other related matters with the appropriate election officials in accordance with applicable law.

Section 4. This resolution shall be in full force and effect from and after its passage and approval in a manner provided by law.

\_\_\_\_\_  
Mayor

Passed:

Published:

Attest: \_\_\_\_\_

Village Clerk