

Ancel Glink PLANNING DESIGN ENGINEERING & SURVEYING

General Township Board Procedures – An Overview

Keri-Lyn J. Krafthefer
Ancel Glink, P.C.

Township Officials of Illinois
Monday, November 12, 2018 – 2:30 p.m.

Ancel Glink PLANNING DESIGN ENGINEERING & SURVEYING

Get to Know your Township

- To effectively work within your township, you must know:
 - What your township does
 - What your township can and cannot do
 - The proper role of township officials
 - What else your township can do
 - What you can do better or differently

Ancel Glink PLANNING DESIGN ENGINEERING & SURVEYING

Know your Township's powers

- Dillon's Rule: To exercise a power, there must be some law permitting you to do so.
- Know who exercises what powers
 - Individual officers
 - Township Board
 - Electors

Ance! Glink STRATEGIC PLANNING
CONSULTANTS
& EVALUATORS

Know what your Township does

- Assessments
- Road Services
- General Assistance
- Social Services
 - Youth
 - Senior
 - Health
 - Mental Health
 - Recycling
 - Transportation

Ance! Glink STRATEGIC PLANNING
CONSULTANTS
& EVALUATORS

Understand the clamor for consolidation

- Clamor for consolidation
- Townships are under the spotlight
- Need to examine opportunities for collaboration and intergovernmental cooperation
- Find opportunities to improve efficiencies
- Educate the public!

Ance! Glink STRATEGIC PLANNING
CONSULTANTS
& EVALUATORS

Additional services?

- What are other townships offering?
- What needs does your community have?
- Know what makes your township special.

Ancel Glink PLANNING DESIGN
CONSULTING
& REALTY SERVICES

The role of township officials

- Understand your role in the context of the whole township.
- You don't have as much power as you think.
- Understand your relationship with staff.

Ancel Glink PLANNING DESIGN
CONSULTING
& REALTY SERVICES

Know Your Powers and Limits

Township Supervisor = CEO

- CEO does not mean "dictator"

Trustees = "auditors"

- Audit does not mean micromanage

Supervisor + Trustees = Town Board

Clerk
Assessor
Highway Commissioner
Staff
Electors

Ancel Glink PLANNING DESIGN
CONSULTING
& REALTY SERVICES

Effective board operations

- Understand Township finances
- Know your parliamentary procedures
- Know meeting procedures and laws
- Know your transparency laws
- Know your ethical obligations

Ancel Glink STRATEGIC PLAN
2018-2020
A CLEAR FUTURE

Budgeting and Purchasing

- Every expenditure must have a prior appropriation
- Just because the board **budgeted** for something does not mean it can be **purchased without additional authority**
- The act of approving a budget is not an act approving an expenditure
- All township contracts must be approved by the Board

Ancel Glink STRATEGIC PLAN
2018-2020
A CLEAR FUTURE

Purchasing, Bidding and Procurement

Article VIII, Section 1 of the Illinois constitution Specifies that public funds shall only be used for public purposes. Townships may only may payments from public funds as authorized by law

Ancel Glink STRATEGIC PLAN
2018-2020
A CLEAR FUTURE

Purchasing “Things”

- Townships have great discretion in purchasing things that cost under \$20,000, provided:
 - Public purpose
 - Funds are budgeted for the purchase
 - Purchase is approved by township board
 - Internal township processes are followed

Ancel Glink PLANNING DESIGN ENGINEERING & CONSTRUCTION

Bidding Statutes: Purchases in Excess of \$20,000

- Purchase of Services, Materials, Equipment and Supplies for Townships in Excess of \$20,000 (other than professional services)
- Road District Maintenance Contracts in Excess of \$20,000
- Township Waterworks Construction Projects in Excess of \$20,000

Ancel Glink PLANNING DESIGN ENGINEERING & CONSTRUCTION

Services, materials, equipment or supplies in excess of \$20,000

(60 ILCS 1/85-30)

Sec. 85-30. Purchases; bids. Any purchase by a township for services, materials, equipment, or supplies in excess of \$20,000 (other than professional services) shall be contracted for in one of the following ways:

- (1) By a contract let to the lowest responsible bidder after advertising for bids at least once
- (2) By a contract let without advertising for bids in the case of an emergency if authorized by the township board.

This Section does not apply to contracts by a township with the federal government.

Ancel Glink PLANNING DESIGN ENGINEERING & CONSTRUCTION

Exceptions To Bidding:

- Individuals with a high degree of professional skill where the ability of the individual plays an important part (architects, lawyers, etc.).

If you have this issue, see the procedures in the Local Government Professional Services Selection Act, 50 ILCS 510/6.



Ance! Glink PLANNING DESIGN
ENGINEERING
& CONSTRUCTION



Exceptions to Bidding: THE GUIDING LIGHT

- You can waive competitive bidding for contracts which, by their nature, are not adapted to competitive bidding:
 - The Township Board can make a legislative finding about a specific procurement (computers, etc.) and record that in the minutes
 - Can be about program priorities, not just products and costs (inventory control; system compatibility).

Ance! Glink PLANNING DESIGN
ENGINEERING
& CONSTRUCTION

Public Purpose

- There is no express authority in the Township Code to use tax dollars to pay for:
 - charitable fundraisers
 - grants
 - charitable donations
 - scholarships
 - gifts

Ance! Glink PLANNING DESIGN
ENGINEERING
& CONSTRUCTION

Charities

- Raises potential discrimination claims (giving to Boy Scouts and not Girl Scouts, giving to one church and not another)
- Public endorsement of the mission of a charitable organization, and public may not agree
- Puts township in the position of evaluating a charity

Ance! Glink STRATEGIC PLANNING
POLICIES
& BUDGETS

Scholarships and Gifts

- While there is no express authority for townships to award scholarships and to provide customary gifts (retirement gift to a long-term employee, funeral flowers, etc.), we believe townships have the implied authority to award nominal scholarships (not based on unlawful discrimination) and to expend nominal amounts for gifts to employees in normal gift-giving situations (wedding, retirement, awards, bereavement, etc.)

Ance! Glink STRATEGIC PLANNING
POLICIES
& BUDGETS

Grants and Funding Requests

- Townships often receive requests for grants
- Townships receive funding requests from other local organizations
- How can township's legally give tax dollars for public purposes to these groups if there is no express authority?

Ance! Glink STRATEGIC PLANNING
POLICIES
& BUDGETS

Social Service Contracts 60 ILCS 1/85-13

- Townships may contract with other governments, not-for-profit corporations, to provide the following services to residents of the township:
 - Ordinary and necessary maintenance and operating expenses for the following:
 - Public safety (including law enforcement, fire protection, and building code enforcement)
 - Environmental protection
 - Public transportation
 - Health
 - Recreation
 - Libraries
 - Social services for the poor and aged

Ance! Glink STRATEGIC PLANNING
POLITICS
& GOVERNANCE

Avoiding Unwanted Expenses

- Fines and Penalties
 - Make sure your bids require compliance with the Prevailing Wage Act
 - Make sure you require surety bonds
- Pay all of your bills in compliance with the Local Government Prompt Payment Act

Ance! Glink STRATEGIC PLANNING
POLITICS
& GOVERNANCE

Parliamentary procedures

- Robert's Rules of Order
- Motions
- Voting

Ance! Glink STRATEGIC PLANNING
POLITICS
& GOVERNANCE

Voting

- Supervisor and trustees vote; clerk only votes to break tie when filling a vacancy in office
- You are required to have three affirmative votes to pass any measure.
- Abstentions count with the majority, but are not an affirmative vote.
- 2 – 1 vote fails.
- No veto power

Ancel Glink PLANNING DESIGN
ENGINEERING
& CONSTRUCTION

Meeting procedures

- A “quorum” is a majority of your town board (3)
- You need to know this because a quorum is required to conduct business and because of implications under the Open Meetings Act.

Ancel Glink PLANNING DESIGN
ENGINEERING
& CONSTRUCTION

Agendas

- Annual notice of all regular meetings must be provided and posted on your website (if applicable)
- Agendas must be posted not later than 48 hours before a meeting
- Agendas must be provided to news media (if requested) and posted on website

Ancel Glink PLANNING DESIGN
ENGINEERING
& CONSTRUCTION

Contents of Agenda

- Must provide a reasonable description of the items to be considered
- Must be posted in advance of meeting
- Must set forth the general subject matter of any resolution or ordinance that will be subject to final action

Ance! Glink STRATEGIC PLANNING
EVALUATION
& IMPROVEMENT

Special and Emergency Meetings

- You must list specific notice of each topic to be discussed at a special meeting on the agenda
- Less than 48 hours notice is okay for a real emergency

Ance! Glink STRATEGIC PLANNING
EVALUATION
& IMPROVEMENT

Minutes

- The clerk prepares and keeps minutes, subject to board approval
- Minutes must be approved within 30 days or at the second subsequent meeting
- Minutes must be made available to the public within 10 days after approval

Ance! Glink STRATEGIC PLANNING
EVALUATION
& IMPROVEMENT

Other Things to Consider

- Access to Information/Dissemination of Confidential Information
- Sanctity of Closed Sessions
- Personnel Files

Ancel Glink PLANNING DESIGN
ENGINEERING
& CONSTRUCTION

Transparency Laws

- Open Meetings Act
- Freedom of Information Act

Ancel Glink PLANNING DESIGN
ENGINEERING
& CONSTRUCTION

Open Meetings Act

- Why do we need to care about this?
- Also known as the OMA.

Ancel Glink PLANNING DESIGN
ENGINEERING
& CONSTRUCTION

Who Must Comply?

- All public bodies, including advisory bodies, and subsidiary bodies, including your township committees

Ance! Glink PLANNING DESIGN
POLICIES
& REGULATIONS

What is a “meeting”?

- Any gathering (in person, electronic, etc.)
- Of a quorum (for other gov'ts a majority)
- Held for the purpose of discussing public business

Ance! Glink PLANNING DESIGN
POLICIES
& REGULATIONS

E-Mail and Text Messages: Friends or Foes?

- If the e-mail exchanges are contemporaneous they may constitute an improper meeting
- Avoid the repeated use of “reply to all”

Ance! Glink PLANNING DESIGN
POLICIES
& REGULATIONS

Discussion of “Public Business”

- OMA does not apply to:
 - Staff meetings
 - Political meetings or rallies
 - Social events (provided a majority of a quorum is not at a social event discussing public business)

Ance! Glink THOMAS BROS. INCORPORATED & EMPLOYERS

Recording of meetings

- A township is not required to record open meetings
- The public may record open meetings
- Townships can adopt reasonable rules regarding public recordings
- All closed sessions must be recorded

Ance! Glink THOMAS BROS. INCORPORATED & EMPLOYERS

What topics must we discuss in closed session?

- None. The OMA exceptions authorize, but do not require, discussion of 25 permitted subjects in closed session.

Ance! Glink THOMAS BROS. INCORPORATED & EMPLOYERS

Categories of permitted exceptions for closed session

Statutory exceptions fall into these general categories:

- Employment/appointment matters
- Legal matters
- Business matters
- Security/criminal matters
- School matters
- Miscellaneous exceptions

Ance! Glink DISAPPOINTED PERSONS
DISCLAIMER
& EXEMPTIONS

Personnel

- There is no exception to go into closed session to discuss "personnel." The exception is "appointment, employment, compensation, discipline, performance, or dismissal of specific employees."
- The motion to go into closed session must cite the statutory exemption

Ance! Glink DISAPPOINTED PERSONS
DISCLAIMER
& EXEMPTIONS

Right to Public Comment



- "Any person shall be permitted an opportunity to address public officials under the rules established and recorded by the public body." 5 ILCS 120/2.06(g).
- Public comment can be limited, but only by previously adopted written policies

Ance! Glink DISAPPOINTED PERSONS
DISCLAIMER
& EXEMPTIONS

The PAC Says...

1. Public comment must be provided at all meetings
2. The public comment requirement applies to subsidiary bodies
3. Each public body (subsidiary bodies) must establish rules
4. A public body can establish time limits for public comment
5. A public body can limit comments to topics germane to the agenda
6. A public body can establish and enforce rules on decorum
7. Public comment can be provided at any point in the meeting
8. Public officials are not obligated to respond to comments
9. Section 2.06(g) does not address members of a public body
10. There is no violation if there is no request to speak

Ance! Glink Lawrence Stein
DICKMAN
& BARTISCH

Can I attend board meetings remotely on my boat from the Cayman Islands?

- Yes, but only if your board has adopted a policy permitting electronic participation at meetings, and only if you are there for specific reasons.

Ance! Glink Lawrence Stein
DICKMAN
& BARTISCH

Electronic Participation

- Must adopt a written procedure
- Absence may only relate to illness, business or emergency; not vacation
- Approval required to authorize remote attendance
- Quorum must be *physically* present



Ance! Glink Lawrence Stein
DICKMAN
& BARTISCH

OMA Training

- All elected or appointed township officials must complete electronic training on the Open Meetings Act
- Must complete training and file certificate with township clerk within 90 days of taking your oath of office

Ance Glink THOMAS BROWN
SULLIVAN
& KRAFT P.C.

Freedom of Information Act

- Why do we need to care about this?
- You may be the FOIA officer
- You may create public records or have them in your possession

Ance Glink THOMAS BROWN
SULLIVAN
& KRAFT P.C.

Public Records

- All records, reports, forms, writings, letters, memoranda, electronic communications, recorded info, etc. prepared by or in the possession of the township

Ance Glink THOMAS BROWN
SULLIVAN
& KRAFT P.C.

Are My E-Mails and Text Messages Public Records?

- What if the e-mail is on a government computer or account?
 - If it is about public business, it is a public record.
 - If it is not about public business, it is not a public record.

Ance! Glink STRATEGIC PLAN
2018-2021
& BUDGET 2018-2021

Use of Private Devices

- What if I text from my personal cell phone?
- If it is about public business, it could be a public record if it (1) is forwarded to/from a government account; (b) sent to a majority of the board; or (3) sent during a board meeting.
- If it is not about public business (i.e., "Honey, bring milk home!") it is not a public record.

Ance! Glink STRATEGIC PLAN
2018-2021
& BUDGET 2018-2021

Ethical obligations

- Gift Ban Act
- Public Officers Prohibited Activities Act
- Confidentiality

Ance! Glink STRATEGIC PLAN
2018-2021
& BUDGET 2018-2021

Gift Ban Act

You, your spouse or immediate family member may not accept a gift from a "prohibited source."

- Any person/entity seeking official action or doing business

Ance! Glink STRATEGIC REVENUE DEVELOPMENT & MARKETING

Gifts

- Any gratuity, discount, entertainment, loan, or other tangible or intangible item having monetary value.

Ance! Glink STRATEGIC REVENUE DEVELOPMENT & MARKETING

Exceptions – gifts that are permitted

- Same as general public
- Anything bought at market value
- Political contributions
- Educational missions
- Gifts from relatives or personal friends
- Inheritances
- Food or refreshments not exceeding \$75 on a single calendar day that are consumed on site or purchased ready to eat and delivered
- Interoffice gifts
- Items from a prohibited source during any calendar year having a cumulative total of less than \$100

Ance! Glink STRATEGIC REVENUE DEVELOPMENT & MARKETING

Prohibited Political Activities Act

- Regulates political activities of governmental employees
- Employees cannot be required to perform political or campaign activities as a condition of employment
- Employees cannot participate in such activities on compensated time



Tools for Success

- Township Officials of Illinois
- TOI Laws and Duties Handbook
- Trustees' Operations Manual
- Clerk's Handbook
- Supervisor's Guide
- Newly-Elected Officials Guide
- Municipal Minute Blog – www.ancelglink.com
- Workplace Report – www.ancelglink.com
