

**MINUTES OF THE REGULAR MEETING OF THE
NEW LENOX BOARD OF TRUSTEES**

**New Lenox Village Hall, 1 Veterans Parkway
Monday, January 25, 2010**

#10-03

CALL TO ORDER

The Regular Meeting of the New Lenox Village Board of Trustees was called to order at 7:08 p.m. by Mayor Timothy Baldermann in the Council Chambers of the New Lenox Village Hall.

ROLL CALL

Upon Roll Call by the Deputy Clerk, the following members of the corporate authorities answered "Here" or "Present":

Trustees Madsen, Bowden, Smith, Butterfield, Dye, Tuminello, and Mayor Baldermann

Absent: None

QUORUM

There being a sufficient number of members of the corporate authorities in attendance to constitute a quorum, the meeting was declared in order.

OTHER OFFICIALS IN ATTENDANCE

Also in attendance were Village Administrator Russ Loebe, Finance Director Kim Auchstetter, Planning & Development Administrator Robin Ellis, Village Engineer Scott Killinger, Police Chief Bob Sterba, Building Administrator Warren Rendleman, Public Works Superintendent Ron Sly, Economic Development Director Randall Lowman, Assistant to the Administrator Carol Hennessy, Village Attorney Chris Spesia, Civil Engineer Will Nash, Deputy Clerk Laura Ruhl, and Deputy Clerk Bonnie Motyka.

CITIZENS REQUESTS & SPECIAL REQUEST - None

CONSENT AGENDA

Motion to approve the Consent Agenda #10-03 consisting of 3 items as presented in packet made by Trustee Bowden and seconded by Trustee Smith.

Item up for approval at this time is as follows:

- A - Minutes of Regular Meeting of December 21, 2009
- B - Minutes of Regular Meeting of January 11, 2010

C - Minutes of Town Hall Meeting of January 16, 2010

Upon roll call, the vote was:

AYES:	<u>7</u>	Trustees Dye, Bowden, Smith, Butterfield, Madsen, Tuminello, and Mayor Baldermann
NAYS:	<u>0</u>	
ABSTAIN:	<u>2</u>	Trustee Madsen on Item C Trustee Tuminello on Item A
ABSENT:	<u>0</u>	

The motion carried.

ORDINANCES & RESOLUTIONS

Ordinance Granting Special Use for a PUD – Falcon Ridge – 1st Read

Ms. Ellis reported Falcon Ridge was a 78 acre parcel on the north side of Illinois Highway immediately west and adjacent to the future Nelson Road extension. She stated a portion of Nelson Road was found within Falcon Ridge but it would be in a later phase. She reported the Board approved the final plat a year ago for the western 33 lots (Phase 1). She added the developer requested an extension shortly thereafter for payment of fees and final plat execution. She noted he had until April 2010 to complete that.

Ms. Ellis reported the request tonight was to overlay a PUD over the entire 142 single-family lots of Falcon Ridge. She stated the Plan Commission held the public hearing on this request and concurred with staff recommendation that some of the deviations proposed through the PUD were acceptable but others could not be supported.

Ms. Ellis reported the petitioner requested that all lots have a minimum side yard setback of 10' per side. She stated the Zoning Ordinance required a minimum of 10' per side with a subtotal of both sides equal to 25'. She added in the past the Board granted 10' and 10' through the PUD for Jacob's Field, Heather Glen Single Family, and the annexation agreement for Kammerer Estates immediately south of the development. She explained that the preliminary plat which dated back to 1996 had been delayed due to the sanitary sewer routing. Staff felt that due to the changes in the market and type of houses built in recent years versus what was built 14 years ago that the 10' and-10' would be an acceptable deviation.

Ms. Ellis reported the developer proposed a reduced front yard setback of 25' to the garage and 30' to the living area on all lots. She stated similar setbacks were granted to this developer for the Crystal Springs Subdivision adding that staff supported that request due to the compressed area between two established subdivisions with a fixed location of Joliet Highway as well as the wetlands to the south. She noted the average lot size in Crystal

Springs was permitted to be 10,000 square feet as opposed to 10,500 square feet required in the R-2A District and the reduced front yard setback for Crystal Springs enabled flexibility with the type of homes to be built. Staff did not feel that the reduced front yard setback was justified with Falcon Ridge because all of the lots met or exceeded the R-2A 10,500 square foot minimum and there were R-2A subdivisions throughout the Village that complied with the 30' setback. Staff and Plan Commission recommended this deviation not be approved.

Ms. Ellis reported the developer asked that some front yards on each of the designated corner lots be allowed a 15' setback. She stated Crystal Springs was granted this deviation for 8-10 lots that fronted on Joliet Highway with the setback remaining consistent along Joliet Highway. She added this changed between the preliminary PUD plat for Crystal Springs was proposed and the final plat approval due to Joliet Highway being shifted to accommodate the detention required for the Target-Lowe's. She reported the lots that the developer requested a deviation for the front yard in Falcon Ridge were disbursed throughout the subdivision. Staff was concerned with the impacts to the aesthetics of the subdivision as well as the setting of precedent for other R-2A subdivisions. She stated that corner lots throughout the Village were required to have a 30' setback from both street frontages.

Ms. Ellis reported another deviation involved several of the larger lots. She stated that Subdivision Code required lots over 15,000 square feet and over 20,000 square feet have wider lot width at the building setback line. She explained when this was requested in the past developers had chosen to plat a 35' to 40' setback line to accommodate the width. Staff had no objection to having the lots be 80' wide at the 30' setback line regardless of the lot to keep a consistent setback through the development.

Ms. Ellis reported there were a few Subdivision Code waivers regarding center line street radius along Tennessee Lane. She stated the Fire Department, School District, and Village Public Works Department reviewed this request and did not object to the reduced street line radius. She reported the PUD Ordinance required submission of architectural plans for all dwelling units noting the Board consistently waived this for other single-family developments.

Ms. Ellis reported the developer requested that the sewer and water tap-on fees be paid at time of issuance of the building permit as opposed to at the time of final plat approval as required by Village code. She stated in the past when the Board supported a deferral of tap-on fees it was due to extraordinary offsite improvements that the developer had to fund with recapture at a later date. She explained that at the time the Falcon Ridge final plat was approved and the developer came back to request a deferral of tap on fees the Village required him to pay his portion of the Gougar Road lift station. She noted he was up-to-date with his payments on this request. She reported there were additional offsite improvements for sanitary sewer and storm sewer in the amount of \$500,000 which the developer hoped to show as a necessity for deferral of tap-on fees until time of building permit. She added this was not a code deviation that the Plan Commission discussed.

Mr. Paul Cantafio, Tech 3, stated this subdivision was different than most subdivisions. He stated the preliminary plat and the final engineering were approved in 1996 and they were ready for construction of 171 lots in 1997. He explained that by the time the lift station and

the sanitary sewer were ready for them to connect the Will County Stormwater Ordinance had been adopted which changed the requirements for all storm water conveyed to the site requiring them to leave a lot of open space. He stated to comply with the ordinance they were now at 142 lots.

Trustee Dye asked about the road improvements including Illinois Highway noting a discussion by the Plan Commissioner about Haven Avenue. Ms. Ellis reported the 1996 annexation agreement for Falcon Ridge allowed for the construction of Illinois Highway in phases. She explained that Unit 1 consisted of the western portion of the development and the developer would only have to build Illinois Highway adjacent to that portion. She added that due to profile changes there had been discussions during final engineering that it might not be possible to build a half road. She stated it might be more economical to design/build the road all in one phase. She noted a recapture agreement might be used or some participation from Kammerer Estates. She stated the Plan Commission comment regarded the concern that Nelson Road needed to be extended from Illinois Highway to Haven Avenue. She stated the commissioner questioned whether a traffic study was warranted. She added that other commissioners suggested the developer had reduced the lots from initial approval and if it a traffic study was not requested then it seemed unfair to require one now due to the delay of utilities.

Trustee Smith stated that since 1996 the developer could have put in the entire sewer to the lift station and the Board would not have minded but the developer decided not to spend the money. He asked Mr. Killinger if the developer would have been refused if they had requested in 1996 to put sewer in all the way to Gougar Road. Mr. Killinger stated in 1996 the entire master plan for the Village was different. Mr. John Voss stated he would have had to go through the Warren property to which Trustee Smith stated that condemnation procedures could have been done. Mr. Voss stated he was ready to build then. Trustee Smith added he had an issue with the fact that the developer waited because it was economically better for him.

Trustee Smith agreed with staff comments about no deviations from the front yard and corner lot setbacks. He reported that the tap-on fees had been limited to phasing and he did not have a problem with this request due to the economic downturn. He suggested that this be handled the same as other requests in the past where the phases were based upon a time limit.

Trustee Smith expressed his concern with the road improvements noting that both Illinois Highway and Nelson Road were necessary even if only one house was built. He cited the addition of the high school at the end of Illinois Highway and the need for more access as reasons why it was essential. He added that Nelson was an important north-south addition especially with the CN traffic.

Trustee Bowden asked what staff's logic was in regard to support of the side yard setback deviation. Ms. Ellis stated staff support was due to the type of houses constructed in 1996 versus the houses constructed now. She noted that the 10' and 25' setbacks were easier to meet in 1996 than they were now with the request for three-car garages. She added that in this case where the developer complied with the stormwater ordinance which resulted in the

loss of 30 lots staff felt that suggesting he make the lots wider than the 80' minimum in order to provide the extra 5' was a reasonable request.

Trustee Bowden expressed concern with the construction of the extra large homes that were remaining empty in many communities. She stated she would not dictate what was built but hoped that something economically feasible could be done. She stated that reasonable size homes with the quality the Board requested could allow changes to setbacks. She noted that 4,000 square foot homes on the small lots looked like there were sitting on nothing because of the allowances requested and granted. She reported she would like to see something started and completed while being economical for the community to live in.

Trustee Tuminello reported there was a section in the report showing the size of the houses which were more inline with Trustee Bowden's suggestion. He asked when Mr. Voss anticipated starting construction if given approval. Mr. Voss stated he did not know adding that he had not sold a house in 1.5 years. Trustee Tuminello expressed concern with going through this whole process and coming back in six months to discuss an extension. Mr. Voss stated he would probably be in again requesting an extension.

Trustee Tuminello stated he did not have a problem with deferring the tap-on fees. He pointed out that the fees would be at the current rate and not at the rate when this request was signed. He stated the facades were described in the report as being brick and siding and wanted the developer to know that it would be brick on the first floor. Ms. Ellis stated they were not proposing any deviations from the building code.

Trustee Tuminello stated Kammerer Estates was approved to do Illinois Highway in one phase. Ms. Ellis added their annexation agreement required Illinois Highway to be done whenever they had the first street connection to Illinois Highway and Nelson Road to be done with the first street connection to Nelson Road. Trustee Tuminello reported he did not have a problem with the side yard setbacks but did have a problem with the completion of the roads. He was concerned with development of the western portion of Illinois Highway adding that his half of the road needed to be done in one phase which would help with the transition of traffic on Illinois Highway.

Trustee Dye reported the request for change to the setbacks had come from the development community. She stated it was not for the majority or all of the subdivision. She added that the request was considered for someone wanting to put a house with a third-garage on a lot here and there in the subdivision. She stated that the request was so massive in this development that it seemed that the Board's good faith measure to help out the current type of housing was expected all the way through.

Trustee Dye agreed with the Board's comments regarding road improvements.

Trustee Dye expressed a concern regarding the absence of a park site. She stated the report stated that this area did not need a park because Eagle Ridge Estates or Kammerer Estates would develop one. She added that written commentary stated that Eagle Ridge Estates was a project that might not move forward soon. She reported that Falcon Ridge could have children waiting for a park that might not materialize.

Trustee Bowden asked if the Park District requested cash in lieu of land. Trustee Butterfield stated all donations were done with cash. Ms. Ellis stated this was the agreement in 1996. Trustee Dye stated the homebuyers should know that these improvements were potentially a long way off.

Mayor Baldermann agreed that the homeowners would be asking where the park was if the other developments were not done. Trustee Smith agreed that the homeowners would come to the Board to find out why there was not a park.

Trustee Bowden stated asked if any donations had been done to the Park District yet and discussions could be held with the Park District regarding Board concerns with the lack of a park in this subdivision. Ms. Ellis stated she would have to talk to the Village Attorney because there was an annexation agreement in place that set forth the contributions.

Trustee Butterfield asked about Eagle Ridge and Falcon Ridge being tied together at one time. Ms. Ellis reported the remainder of the property (Eagle Ridge) was not part of the proposal in 1996. She added that if this had been developed in 1996-97 there would have been a fully completed subdivision with no park site noting the Park District agreed to take cash. Mr. Voss was not sure when Eagle Ridge would develop. Trustee Tuminello stated there was discussion at one point of putting Eagle Ridge in with Falcon Ridge regarding the numbers for density. Ms. Ellis agreed.

Mayor Baldermann stated that through the annexation agreement the Board had the authority to grant or deny the extension. Ms. Ellis stated if the extension were denied the developer would have to redo the preliminary plat but it would not change the annexation agreement which was valid for 20 years.

Mayor Baldermann stated the Board suggested smaller lot sizes with smaller homes. He noted Mr. Voss may return with an extension request. Mr. Voss stated he would probably be back for extensions. Mayor Baldermann asked if the Board wanted to agree on all of the changes now when extensions would probably happen.

Trustee Butterfield stated he did not have a problem with the setback requests.

Trustee Smith reported that setbacks were determined years ago to break up the subdivision. He stated that Crystal Springs had R-2 and R-1 lots that gave an open feeling and not a cookie cutter appearance. He noted that the front of the house should remain all in a row with the variance on the side and agreed with disbursing the size throughout the subdivision. He agreed with Trustee Bowden about the size of the homes.

Mayor Baldermann stated everyone realized it would be awhile before this developed. He noted that granting the changes now might not fit what would sell in the future.

Trustee Dye stated the preliminary plat was scheduled to expire in April. Ms. Ellis stated Unit 1 satisfied the 20% of platting for that year and the code required another 20% the next year. She added if he did not come in with Phase 2 then the preliminary plat would have to be extended.

Trustee Bowden asked what options the Board had. Ms. Ellis stated it was up to the developer on whether he wanted to follow through with the application as it stood and have this come back for second read. She added she could discuss with the developer the removal of the deviations that the Board was not comfortable with. She reported it was a guess when the market would turn around and by granting some flexibility with the fact that Unit 1 was final platted could be in the developer's best interest to have something to go forward with. She noted it could be standard R-2A or a hybrid with deviations.

Trustee Tuminello stated the last time the developer was before the Board he was told that this was the last extension granted to the property and maybe that was why he was coming in with this request.

Ms. Ellis stated a lot of the Board concern was the extension of a non-conforming preliminary plat. She noted that once the final engineering and final landscaping reviews were done the developer would not get any other benefits that the Board had not granted to other developers who requested extensions.

Mayor Baldermann stated the Board had major concerns with some of the requests and asked if it were worthwhile to make a few changes that the Board liked rather than wait. Ms. Ellis stated that would be up to Mr. Voss because it was his application.

Trustee Smith stated if the developer decided to continue he would like this to return for first read due to the amount of changes.

Mayor Baldermann outlined the changes the Board requested including the setbacks for front and side as well as the road improvements.

Trustee Dye suggested further discussion with the Park District. Trustee Smith suggested a temporary park.

Mayor Baldermann stated the Board recognized that construction in the future would not be the same as construction done in the past but Board still expected quality even if the size of the homes changed.

Ordinance Amending Title 94 – Bill Payment – 1st Read

Mayor Baldermann reported this amendment included responsibility for utility billing and was discussed at the work session. There were no Board comments.

Reconciling Resolution #10-03 – Motor Fuel Tax 2006

Mr. Killinger reported IDOT was in the process of closing out the 2006 MFT Program and needed a resolution from the Village in the amount of \$45,224.45. He stated this did not obligate the Village to spend any money but documented money spent in 2006.

Motion to adopt the Reconciling Resolution #10-03 for Motor Fuel Tax 2006 made by Trustee Tuminello and seconded by Trustee Bowden.

Upon roll call, the vote was:

AYES: 7 Trustees Bowden, Madsen, Tuminello, Butterfield,
Smith, Dye, and Mayor Baldermann

NAYS: 0

ABSTAIN: 0

ABSENT: 0

The motion carried.

Ordinance #2087 Proposing Special Service Area 2010-01 – Laraway Cedar Water Main

Mayor Baldermann reported this had been discussed at previous meetings. He stated there was a revised version of the ordinance on the dais. There were no Board comments.

Motion to adopt Ordinance #2087 proposing Special Service Area 2010-01 for Laraway Cedar Water Main made by Trustee Butterfield and seconded by Trustee Tuminello.

Upon roll call, the vote was:

AYES: 7 Trustees Butterfield, Madsen, Smith, Bowden, Dye,
Tuminello, and Mayor Baldermann

NAYS: 0

ABSTAIN: 0

ABSENT: 0

The motion carried.

REPORTS AND COMMUNICATIONS FROM VILLAGE OFFICIALS

MAYOR

Mayor Baldermann reported he had hoped to announce the bands for the Triple Play Concert Series this month but was still working out the details. He stated he hoped to announce the bands in February.

Mayor Baldermann reported on receipt of an email from New Lenox resident Al Kandziorski regarding the 2010 No Texting While Driving law adding that he spoke to Chief Sterba about this email earlier. He stated Mr. Kandziorski suggested that local businesses provide the Police Department with gift cards or coupons for their establishments that would be handed

out to acknowledge drivers, especially young drivers, who were pulling over to use their cell phones. He reported that Mr. Kandziorski suggested this would provide a positive interaction between the Police Department and the community as well as a way for local merchants to promote their business. Mayor Baldermann suggested the Police Department work with Lincoln Way and Providence on this project.

VILLAGE ATTORNEY – None

VILLAGE CLERK - None

POLICE CHIEF - None

FINANCE DIRECTOR – None

PLANNING & DEVELOPMENT ADMINISTRATOR

Annual Zoning Map Update

Ms. Ellis reported the Zoning Map update was required to be adopted by the Board every year. She stated the annexations and zoning changes as well as special uses and two final plats approved in 2009 were listed in packet. There were no Board comments.

Motion to adopt annual Zoning Map update made by Trustee Madsen and seconded by Trustee Dye. Upon voice vote, the motion carried unanimously.

BUILDING & ZONING ADMINISTRATOR - None

ECONOMIC DEVELOPMENT DIRECTOR - None

VILLAGE ENGINEER

Mr. Killinger reported the contractor for Williams Street had stated work would begin in January noting the work was still scheduled to begin in January but the weather had been less than cooperative. He noted their intention was to get the digging and sewer work done in the winter before residents wanted to use their yards.

Mayor Baldermann reported on his attendance at the IDOT Open House held at Lincoln Way High School on January 21st. He stated the Open House related to Route 30 and the Capital Projects. He added he appreciated all of IDOT's efforts noting they were working diligently to acquire the 200+ right-of-way parcels adding that there had been contact with Village residents regarding this process. He reported that the New Lenox section of Route 30 presented at the Open House listed the dates for improvements as 2001-2015. He stated everything was based upon the funding from the State of Illinois. He noted the right-of-way was previously stated to be acquired by 2010 and the completion of Route 30 by 2011.

Mr. Killinger stated the advance contract which included the temporary signal at Marley Road and Route 30 had moved forward to the April letting from the June letting.

Mayor Baldermann reported that this was good news regarding a signal that was desperately needed. He stated the remainder of the project would be delayed. He noted that the residents of the community may get stuck with the ineptness of Springfield and their inability to make projects work. He hoped that the right-of-way acquisition would move smoothly. He added he hoped the funding that was there would be for New Lenox as one of the first projects. He reported none of this was a reflection on IDOT because they had been working closely with the Village to try and acquire the right-of-ways to get the project started. He noted it was a lack of funding that was holding things up.

Trustee Butterfield stated that at the recent Town Hall Meeting residents had concerns regarding the proposed berm and chain link fence addition when the right-of-way was acquired. He asked if this issue had been discussed.

Mr. Killinger stated he did talk to IDOT regarding this issue and the IDOT representative should send a letter of explanation to the Village including some options for the area. He stated they were willing to meet with New Lenox residents as well as residents from Mokena about their concerns. He noted that IDOT indicated there might be room to work with the residents on this issue.

Trustee Bowden stated the Village was mediating and did not have control over this. Mr. Killinger stated the Village was facilitating the discussion.

Mayor Baldermann reported the Village was talking to other communities within the Lincoln Way area regarding the lack of funding from Springfield for the school districts and the result that had on both the grade school and high school districts. He stated the hope was that collectively local government could speak with one voice to Springfield. He noted more information would be forthcoming to the Board. He stated that more local government needed to stand up and voice their opinion that this would not be tolerated any more. He added he had heard a lot of questions about video poker and what would happen to restaurants that did not take them out of their establishments. He added that the rules for this new law had not been established yet.

Trustee Dye stated the schools in Illinois were like a house of cards and would fall if they continued to run in a deficit. Mayor Baldermann agreed adding that it was the Village's responsibility to stand up for this because as the schools went so did the community. He reported that local government needed to remain vocal on this subject. He added that unfunded mandates and lack of responsibility in Springfield cost each resident more than dollars and cents.

Trustee Smith stated that this began two mayoral administrations ago and anytime one side of government controlled everything nothing got accomplished. Trustee Dye stated it was not all about political parties but was about good leadership. Trustee Smith stated that he heard that only the leadership was allowed to speak on the floor in Springfield. Mayor Baldermann stated that local government needed to make their voice heard loud and clear.

PUBLIC WORKS SUPERINTENDENT - None

VILLAGE ADMINISTRATOR – None**PAYMENT OF BILLS**

Motion to approve disbursements in the total of \$1,330,955.24 which included bi-weekly payroll in the amount of \$368,853.13 payable on January 15, 2010 and monthly payroll in the amount of \$6,329.00 and disbursements in the amount of \$416,202.51 which included bi-weekly payroll in the amount of \$413,551.82 payable on December 31, 2009 made by Trustee Butterfield and seconded by Trustee Madsen.

Upon roll call, the vote was:

AYES:	<u>7</u>	Trustees Dye, Bowden, Smith, Butterfield, Madsen, Tuminello, and Mayor Baldermann
NAYS:	<u>0</u>	
ABSTAIN:	<u>0</u>	
ABSENT:	<u>0</u>	

The motion carried.

QUESTIONS AND/OR COMMENTS FROM THE FLOOR - None**TRUSTEE COMMENTS****Trustee Smith**

Trustee Smith reported the Public Safety Committee discussed the Cabin Fever event which would be held on February 20th. He stated the event was sponsored by the New Lenox Police Department, New Lenox Park District and Suburban Bank. He added the event would be held on Country Creek Drive across from the Public Works garage. He noted more details would be forthcoming.

Trustee Madsen

Trustee Madsen reported that given the situation in Springfield it was very important that everyone vote. He stated the Primary Election was February 2nd and early voting continued until January 28th. Ms. Ruhl added that Absentee Voting would be on January 29th.

Trustee Bowden - None**Trustee Butterfield** - None**Trustee Tuminello** - None

Trustee Dye

Trustee Dye reported that Marilyn and Karl Kurtz would be honored as Citizens of the Year on January 26th. She stated it was amazing how much the Kurtz Family gave back to New Lenox in so many different ways and she was pleased to see that they were being honored. Mayor Baldermann agreed.

EXECUTIVE SESSION**RECESS**

Motion to adjourn to Executive Session for Section 2(c)(11) litigation, when an action against, affecting or on behalf of the particular public body has been filed and is pending before a court or administrative tribunal, or when the public body finds that an action is probably or imminent AND Section 2(c)(1) the appointment, employment, compensation, discipline, performance, or dismissal of specific employees of the public body, including hearing testimony on a complaint lodged against an employee to determine its validity by Trustee Smith and seconded by Trustee Bowden.

Upon roll call, the vote was:

AYE:	<u>7</u>	Trustees Madsen, Tuminello, Dye, Butterfield, Smith, Bowden, and Mayor Baldermann
NAY:	<u>0</u>	
ABSTAIN:	<u>0</u>	
ABSENT:	<u>0</u>	

Motion carried. The meeting recessed at 7:59 p.m.

RECONVENE

All members of the corporate authorities previously in attendance before Executive Session were in attendance when the Board reconvened at 8:25 p.m. Mr. Loebe and Ms. Ruhl were also in attendance.

ADJOURNMENT

Motion to adjourn the meeting made by Trustee Smith and seconded by Trustee Bowden. Upon voice vote, the motion carried unanimously. The Regular Meeting of the Village of New Lenox Board of Trustees held on January 25, 2010 adjourned at 8:25 p.m.