

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

**New Lenox Village Hall, 1 Veterans Parkway  
Monday, September 28, 2009**

**#09-25**

**CALL TO ORDER**

The Regular Meeting of the New Lenox Village Board of Trustees was called to order at 7:07 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, Dye, Tuminello, and Mayor Baldermann

Absent: Trustee Butterfield

**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, Village Clerk Marcia Englert, 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 Jack Ardaugh, and Deputy Clerk Laura Ruhl.

**CITIZENS REQUESTS & SPECIAL REQUEST**

**Request for Temporary Tent and Fee Waiver – Cancer Benefit – Tom Kelly’s – Pat Lavery**

Mayor Baldermann reported the request for a tent for a benefit at Tom Kelly’s was discussed at the last meeting with the Board concurring that since the liquor license was held by the restaurant that they should come to the Board.

Kelly from Tom Kelly’s stated the benefit would be October 11<sup>th</sup> for Mike Cashen for assistance with a bone marrow transplant. She noted the tent was requested so they would

have room for 200 people. Mayor Baldermann added that the hours were 1-6 p.m. Kelly stated the layout for the tent would be the same as it was for the September event. The fee waiver was requested due to the nature of the event.

There were no Board questions or comments.

Motion to approve the request for temporary tent and fee waiver for cancer benefit at Tom Kelly's made by Trustee Smith and seconded by Trustee Madsen.

Upon roll call, the vote was:

<b>AYES:</b>	<b><u>6</u></b>	Trustees Madsen, Smith, Bowden, Dye, Tuminello, and Mayor Baldermann
<b>NAYS:</b>	<b><u>0</u></b>	
<b>ABSTAIN:</b>	<b><u>0</u></b>	
<b>ABSENT:</b>	<b><u>1</u></b>	Trustee Butterfield

The motion carried.

**Request for Preliminary Plat Extension – Sky Harbor Single Family – Hartz Construction**

Ms. Ellis reported the Board granted a one-year extension in October for the single-family portion of Sky Harbor. She stated that due to the economy the developer was requesting an additional extension. Staff supported a one-year extension.

Trustee Smith asked if there were any fees due. Ms. Ellis stated this development was up to date.

Motion to approve the request for preliminary plat extension for Sky Harbor Single Family made by Trustee Dye and seconded by Trustee Smith. Upon voice vote, the motion carried with Trustee Butterfield recorded as ABSENT.

**Request for Waiver of Construction Hours – Walmart – G. A. Johnson & Son**

Mr. Killinger reported the contractor was on a compressed time schedule due to Walmart desiring the pad work completion by November to get the building weather tight and closed for work through the winter months. He stated the request was to work outside the normal allowed construction hours to allow work 24 hours a day 7 days a week through November or December.

Mr. Jack Galbraith stated he was in attendance to answer any questions adding that the store was due to open on September 12, 2010.

Trustee Smith stated he had no problem with the extension as long as the ordinance included the reasoning for the approval such as the location of the building.

Trustee Bowden stated she would like the developer to be cognizant of the neighbors and do the noisiest construction during daytime hours.

Mayor Baldermann asked how long they estimated work to be done under this waiver. Mr. Galbraith stated they had to move 650,000 cubic yards of material so they estimated some time in mid-December.

Trustee Smith inquired if they were discussing mass excavation for the entire lot and Mr. Galbraith stated this was correct. Trustee Smith asked if they would be doing the outlots. Mr. Galbraith stated they would make McVickers and Menards pad-ready. Trustee Smith agreed with Trustee Bowden regarding the noise during the daytime hours.

Trustee Dye asked if the lighting would be an issue. Mayor Baldermann stated the lighting would be directed to the north. He stated another benefit was the work would be done during the winter months when most residents had their windows closed.

Mayor Baldermann stated the Board appreciated Walmart and McVickers commitment during these economic times. He asked Mr. Killinger to make the developer aware of any issues that arise with the residents. Mr. Killinger reported there was a pre-con meeting tomorrow morning.

Motion to approve the waiver of construction hours for Walmart based upon the unusual circumstances and the far proximity of residents to the site as well as the Village reserving the right to rescind approval if a major problem arose made by Trustee Dye and Trustee Smith. Upon voice vote, the motion carried with Trustee Butterfield recorded as ABSENT.

#### **Request for Class A Liquor License – Country Lanes – Jerry Davern**

Mayor Baldermann reported the liquor license holder would be Jerry Davern noting the background check had been completed with no problems found. He stated it was exciting to see Country Lanes open again for the community.

#### **Request for Temporary Signs – Silver Cross Medical Office Building (MOB)**

Mr. Rendleman reported the request from Silver Cross Hospital was to install two additional temporary signs for the MOB which recently opened. He stated it was difficult to find Silver Cross Boulevard leading to the MOB and the request was for a directional sign at the northeast corner of the property near the I-355 exit ramp to direct traffic to Silver Cross Boulevard. He stated they also were requesting a banner to be installed on the construction fence to advertise a few of the tenants within the MOB. He added that banners were normally not allowed except for special events. He asked that a time line be set for the signs and the banner if approved.

Trustee Smith stated he would not be in favor of a banner on the fence noting he would rather have another temporary directional sign. He stated Construction Traffic Only signs could be erected on the fence.

Mayor Baldermann stated he did not want to see any issues with traffic in that area.

Trustee Dye reported home builders had been denied banners.

Trustee Tuminello asked if the banner would be on the fence that would be removed when the construction was complete. Mr. Rendleman stated it would on the construction fence close to the corner behind the temporary monument sign. Trustee Tuminello stated this would not be a prolonged use noting the confusion with the roadway in that area.

Trustee Smith noted the banner would be up for a long time.

Trustee Bowden stated she the sign would work for safety reasons but the banner had been denied to others.

Trustee Madsen stated there had been other issues with banners in town and thought the actual signage would work better. He asked how long the signs could be up.

Mayor Baldermann stated they wanted the signs until the other access was open to the public. Mr. Rendleman stated they wanted the temporary signs as long as possible to get people to the site as well as advertise the tenants.

Motion to approve temporary signs for Silver Cross Medical Office Building with the elimination of the banner request in lieu of a sign until such time as certificate of occupancy was given to Silver Cross Hospital made by Trustee Bowden and seconded by Trustee Tuminello. Upon voice vote, the motion carried with Trustee Butterfield recorded as ABSENT.

### **CONSENT AGENDA**

Motion to approve the Consent Agenda #09-25 consisting of 2 items as presented in packet made by Trustee Dye and seconded by Trustee Tuminello.

Item up for approval at this time is as follows:

- A - Minutes of Regular Meeting of September 14, 2009
- B - Request for Temporary Signs – Barnes Foundation’s Walk for Life

Upon roll call, the vote was:

**AYES:**                    6                    Trustees Dye, Bowden, Smith, Madsen, Tuminello,  
and Mayor Baldermann

**NAYS:**                    0

**ABSTAIN:**            0

**ABSENT:**            1                    Trustee Butterfield

The motion carried.

### **ORDINANCES & RESOLUTIONS**

#### **Ordinance #2070 Creating Class A Liquor License – Country Lanes**

Mayor Baldermann this ordinance would create a Class A Liquor License with Jerry Davern as the liquor license holder.

Motion to adopt Ordinance #2070 creating Class A Liquor License for Country Lanes made by Trustee Madsen and seconded by Trustee Dye.

Upon roll call, the vote was:

**AYES:**                6                    Trustees Dye, Bowden, Smith, Madsen, Tuminello,  
and Mayor Baldermann

**NAYS:**                0

**ABSTAIN:**           0

**ABSENT:**            1                    Trustee Butterfield

The motion carried.

#### **Resolution #09-28 Authorizing Agreement to Reduce Surety – Bristol Park Subdivision**

Mr. Killinger reported that Bristol Park was located on Laraway Road and the platting process was done in 2007 when the Board set a surety around \$4.2 million. He noted that grading was started in the subdivision and the letter of credit was given to the Village. He noted the developer did not pay fees and they never got to the point of platting the subdivision. He reported that the letter of credit form had a paragraph stating that the letter of credit was only valid if the property were platted. He noted the letter of credit therefore never took effect.

Mr. Killinger reported he and the Village Attorney contacted the bank who wanted to get the letter of credit back. He stated the Village wanted certain work done on the site so that it would comply with the erosion control and soil erosion regulations. He added the compromise with the bank was a reduced letter of credit in the amount of \$49,355 in exchange for return of the original letter of credit. He stated that the work on the site would be done to get it into compliance.

Mr. Killinger stated the complexity of this request was the reason this was not on the Consent Agenda. He added that having a resolution would provide good documentation as to why and what was done on this issue.

Trustee Dye stated it was a significant reduction and asked if Mr. Killinger was confident that the lower amount would complete work needed to be done. Mr. Killinger stated they met onsite with the contractor and the bank where it was agreed that this money would guarantee what needed to be done.

Trustee Tuminello stated the money for engineering fee reimbursement was not included in this amount. Mr. Killinger stated the Village was owed engineering fees in the amount of \$31,483.63 and the resolution included the reimbursement of these fees.

Trustee Tuminello asked about the Laraway Trunk Relief Fund. Mr. Killinger reported these were recapture payments on both the Laraway Trunk Sewer and the Laraway Road Relief Sewer. He noted that neither amount was paid by the developer but due to the subdivision never being platted and the preliminary plat expiring there was only an annexation agreement with a concept plan attached. He stated the site was zoned R-2A. Trustee Tuminello asked if the extra \$200,000 should be kept to make sure the Relief Fund was repaid. Mr. Ardaugh stated the issue with this letter of credit was that the property was never final platted and the Village did not require surety unless they were final platted. He added that an issue precedent to that letter of credit being viable was being final platting which never occurred. He stated the property would be “buttoned up” and ready for the next developer. Mr. Killinger stated the recapture payments were triggered by the act of final platting. Trustee Tuminello stated this was a unique circumstance because the bank took back the property. Mr. Killinger stated the bank had not taken back the property as yet. Trustee Tuminello wanted a mechanism in place to fund that money. Mr. Killinger stated staff would not execute the plat without the funding. Mr. Ardaugh stated the bank representatives did not own the property at this time and the developer still owned the property.

Trustee Smith stated he wanted to be sure that when this property moved forward that they did not think the letter of credit had been taken care of. Mr. Ardaugh stated one of the conditions of the final plat process was the letter of credit. He noted there was not a viable final plat out there now and the property had only been zoned and annexed. Trustee Bowden asked if this issue could be added to the letter of credit. Trustee Smith stated there was a line in the resolution but he wanted assurance.

Trustee Tuminello stated the final plat was approved but it was not executed. Mr. Ardaugh stated the Board approved final plats that sometimes do not move forward. Mr. Killinger stated they never met the conditions.

Motion to adopt Resolution #09-28 reducing the surety for Bristol Park made by Trustee Bowden and seconded by Trustee Dye.

Upon roll call, the vote was:

**AYES:**                    6                    Trustees Bowden, Madsen, Tuminello, Smith, Dye,  
and Mayor Baldermann

**NAYS:**                0

**ABSTAIN:**        0

**ABSENT:**         1                Trustee Butterfield

The motion carried.

**Ordinance Establishing Special Service Area – Laraway Road Water Main – 1<sup>st</sup> Read**

Mayor Baldermann reported this issue involved Mr. William Bolker. He stated the proposing ordinance had been approved on March 9<sup>th</sup> with the public hearing in June where there was one objection which was not greater than 51% of the property so a special service area could be established.

With no Board comment, Mayor Baldermann stated this item would return for second read.

**REPORTS AND COMMUNICATIONS FROM VILLAGE OFFICIALS**

**MAYOR**

Mayor Baldermann reported the last Farmers Market would be October 10<sup>th</sup>. He noted the year had been successful.

Mayor Baldermann reported the Illinois Municipal League Conference (IML) was this past weekend and many trustees attended. He stated he heard through discussion with other mayors and staff members from all over Illinois that they were envious of New Lenox's position with Walmart and Menards. He noted the Village was fortunate to have Silver Cross and Walmart/Menards.

Mayor Baldermann reported the ribbon cutting for the Medical Office Building at Silver Cross was held on September 26<sup>th</sup>.

Mayor Baldermann reported the Fire Department memorial was dedicated on September 26<sup>th</sup> and he encouraged residents to look for the statute in the Commons.

Mayor Baldermann reported he attended two block parties as well as the Senior Breakfast at Fire Station 1 over the weekend. He stated the senior community wanted to pass along their thanks for the Board's work on the gas prices in town.

**VILLAGE ATTORNEY** – None

**VILLAGE CLERK** – None

**POLICE CHIEF** - None

**FINANCE DIRECTOR** – None

**PLANNING & DEVELOPMENT ADMINISTRATOR** - None

**BUILDING & ZONING ADMINISTRATOR** - None

**ECONOMIC DEVELOPMENT DIRECTOR** - None

**VILLAGE ENGINEER**

**Supplement to Engineering Contract- Route 30 Construction – Smith Engineering**

Mr. Killinger reported the Village did designs on the interim improvements for Route 30 from Marley Road east to Schoolhouse Road. He stated an intergovernmental agreement had been entered into with IDOT in 2007 in order to undertake the designs. He noted that the Village then contracted with Smith Engineering to get the work done. He reported that over the past few years Smith Engineering worked on this project and IDOT requested changes requiring an extra report and splitting of plans into sections.

Mr. Killinger reported that with the passing of the Capital Bill IDOT had now withdrawn the project. He stated that ultimately IDOT was responsible for the cost of the work. He stated the Village needed to approve any amendments and then pass them to IDOT. He reported Smith Engineering requested an amendment to the contract in the amount of \$149,144. He stated IDOT agreed to this amount and that they caused the extra work to be done. He added that the Board needed to pass the supplement and then pass it on to IDOT. He reported Smith Engineering understood that they would not invoice the Village for the work if IDOT did not agree with this. He noted the Village would pay Smith Engineering but would not do that unless the Village was guaranteed repayment by IDOT.

Mayor Baldermann stated this was very frustrating for the Village due to the amount of work that was done and ready to go before the Capital Bill passed. He stated that it was the Village residents that paid for the delay from Springfield. He added that the Board felt good about getting these improvements done for the community and was disappointed with the State dropping the ball. He reported that another trip to IDOT may be made in the future to request IDOT put the plan back in place so that something could be done next year either through the Capital Bill or by the initial project. He stated the Village did not have control because this was a state road. He noted that Route 30 should have been done years ago especially with the location of the high school and the growth of the community. He added that the Village and IDOT were frustrated with this project. He thanked Diane O’Keefe and her staff at IDOT for working closely with Village staff.

Trustee Smith explained that he would be voting no on this item because it was an extra that he had not seen prior and did not review.

Motion to approve the supplement to the engineering contract for Route 30 Construction with Smith Engineering made by Trustee Madsen and seconded by Trustee Tuminello.

Upon roll call, the vote was:

<b>AYES:</b>	<b><u>5</u></b>	Trustees Madsen, Bowden, Dye, Tuminello, and Mayor Baldermann
<b>NAYS:</b>	<b><u>1</u></b>	Trustee Smith
<b>ABSTAIN:</b>	<b><u>0</u></b>	
<b>ABSENT:</b>	<b><u>1</u></b>	Trustee Butterfield

The motion carried.

Mr. Killinger reported on the timing of the intersection signal at Gougar Road and Route 30. He stated the County reported that in the spring IDOT changed the timing on the light without County knowledge/approval. He noted that the County had asked for an explanation and the State answer was that they prefer the timing as is. Mayor Baldermann stated that Country representatives had assisted the Village in moving the intersection improvements up on the calendar. He noted that there was going to be an accident at this intersection due to the timing change. He added he understood the public's frustration with government. Trustee Bowden suggested a sign be posted as to whom the public could contact about problems with the light.

Mr. Killinger stated the schedule was being adhered to on the Cedar Road Project. He noted work continued this week and hoped completion would be mid-October. Trustee Dye asked if the striping included the left turn lanes to which Mr. Killinger stated it did.

**PUBLIC WORKS SUPERINTENDENT** - None

**VILLAGE ADMINISTRATOR** - None

### **PAYMENT OF BILLS**

Motion to approve disbursements in the total of \$2,065,767.98 which included monthly payroll in the amount of \$6,320 and bi-weekly payroll in the amount of \$330,538.59 both payable on September 11, 2009 and a bi-weekly payroll in the amount of \$307,223.53 payable on September 25, 2009 and disbursements in the amount of \$369,925.52 which included bi-weekly payroll in the amount of \$317,279.70 payable on August 28, 2009 made by Trustee Madsen and seconded by Trustee Dye.

Trustee Tuminello questioned a charge on the American Express bill regarding a room which he cancelled but payment was being authorized for. He stated he returned a check to the Village Clerk for IML but that was being authorized on here as well. Ms. Auchstetter stated the Village was obligated to pay American Express who would credit the Village account. She added the returned IML check would show on a subsequent disbursement.

Upon roll call, the vote was:

<b>AYES:</b>	<b><u>6</u></b>	Trustees Madsen, Tuminello, Dye, Smith, Bowden, and Mayor Baldermann
<b>NAYS:</b>	<b><u>0</u></b>	
<b>ABSTAIN:</b>	<b><u>0</u></b>	
<b>ABSENT:</b>	<b><u>1</u></b>	Trustee Butterfield

The motion carried.

**QUESTIONS AND/OR COMMENTS FROM THE FLOOR** - None

**TRUSTEE COMMENTS**

**Trustee Smith**

Trustee Smith reported that Homecoming would be Friday, October 2<sup>nd</sup> at Lincoln Way Central.

**Trustee Madsen** - None

**Trustee Bowden** - None

**Trustee Butterfield** - None

**Trustee Tuminello** - None

**Trustee Dye**

Trustee Dye reported on her attendance at the IML Conference noting she attended three seminars. She stated two were round table discussions where she discussed the Village's involvement in Zumbox and the balanced budget as well as broadcasting the meetings on cable television. She reported the third session was Retail: The Next Frontier and the lecturers felt that retail would come back in 2011 noting the number of stores which would be opening. She reported on the in-depth process that went into determining which businesses opened where. She stated the method was called cycle-graphics.

**EXECUTIVE SESSION**

**RECESS**

Motion to adjourn to Executive Session for 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 made by Trustee Smith and seconded by Trustee Dye.

Upon roll call, the vote was:

**AYE:**                    6                    Trustees Dye, Bowden, Smith, Madsen, Tuminello,  
and Mayor Baldermann

**NAY:**                    0

**ABSTAIN:**            0

**ABSENT:**             1                    Trustee Butterfield

Motion carried. The meeting recessed at 7:54 p.m.

### **RECONVENE**

All members of the corporate authorities previously in attendance before Executive Session were in attendance when the Board reconvened at 8:42 p.m. Ms. Ruhl was also in attendance.

### **ADJOURNMENT**

Motion to adjourn the meeting made by Trustee Smith and seconded by Trustee Bowden. Upon voice vote, the motion carried with Trustee Butterfield recorded as ABSENT. The Regular Meeting of the Village of New Lenox Board of Trustees held on September 28, 2009 adjourned at 8:42 p.m.