

MINUTES OF THE REGULAR MEETING OF THE
NEW LENOX BOARD OF TRUSTEES
New Lenox Village Hall, 1 Veterans Parkway
Monday, December 14, 2009

#09-32

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 Village Clerk, the following members of the corporate authorities answered "Here" or "Present":

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

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

CITIZENS REQUESTS & SPECIAL REQUEST

Presentation of Plaque of Appreciation – Walter Yurkanin

Mayor Baldermann reported that Walter Yurkanin, Chairman of the Fire & Police Board, was resigning from his position due to his busy schedule. He thanked Mr. Yurkanin for the years of service he provided for the Village and the community.

Trustee Smith, Public Safety Committee, read and presented Mr. Yurkanin with the plaque from the Board.

Mr. Yurkanin thanked the Board for the award noting he appreciated the opportunity to serve as Fire & Police Commissioner. He stated he could not have done the job without Patricia Hansen who assisted him adding he would miss working with her. He noted that the remaining commissioners would continue to do a good job as would his replacement.

PUBLIC HEARING – Annexation Agreement – New Century Bank – Tom Burney

Mayor Baldermann opened the public hearing at 7:12 p.m. Ms. Englert provided proof of notice and swore in all speakers.

Ms. Ellis reported the public hearing tonight was for the proposed annexation agreement. She stated the Plan Commission held a public hearing on the annexation, rezoning to C-2 District, preliminary subdivision plat to create 5 lots, and a special use to allow a financial institution. Plan Commission recommended approval of all the requests subject to staff conditions, resolution of planning/engineering comments on the preliminary plat and the negotiation of the annexation agreement.

Ms. Ellis reported the property included a few parcels on the north side of Route 30 with frontage on the private drive of Vancina Lane and the public road of Garfield Avenue. She stated the proposal for annexation was a logical extension of the Village limits. Staff recommended approval of the annexation.

Ms. Ellis reported the agreement called for rezoning to the C-2 District noting the comprehensive plan recommended regional commercial uses. Staff recommended approval of this request.

Ms. Ellis reported the concept site layout presented was not proposed as an attachment to the annexation agreement and was not necessarily the development that would be approved. She noted that the Board would be approving the zoning and then the creation of the five lots; four for commercial development and one for storm water detention facility.

Ms. Ellis reported that the detailed staff report covered the annexation comments. Staff requested that the annexation agreement for the rezoning of Lot 4 which abutted residential areas prohibit some of the more intense C-2 uses such as gas stations, drive in or drive thru restaurants, oil change facilities or any bar/tavern. She reported the annexation agreement would need to be revised to prohibit the uses on the one rear lot.

Ms. Ellis reported on the special use for the financial institution planned for the southwest corner of the site plan. She stated it complied with all requirements for granting a special use including the two additional criteria for financial institutions. She reported the annexation agreement provided three years for the bank to move forward. She stated typically a special use required the building permit to be pulled within 6 months. Staff asked for Board comment on allowance of a longer timeframe which was being requested due to the uncertain economy and when this project would go forward.

Ms. Ellis reported on staff recommendations for special conditions to the special use relating to the limitation of the size of the bank, future site plan review and approval of all of the appropriate details, mandated roadway improvements, etc.

Ms. Ellis reported on a proposed provision in the annexation agreement which stated any Village amendment to the C-2 District or any aspect making more stringent restrictions to the Village code would not be applicable to this development. Staff recommended elimination of this language since it was not usually agreed to in other agreements.

Ms. Ellis reported on waiver of fee requests for the Subdivision Code and Land Donation requirement of 10% of area in preliminary plat. She stated no other fees were being waived in conjunction with that. Staff would continue discussion with Village Attorney on this item.

Ms. Ellis reported the petitioner requested that tap on fees be kept at the same rate for a period of 5 years. She stated the petitioner had been notified that the Village did not freeze the tap on fee rates recommending this be changed in the agreement.

Ms. Ellis reported the Engineering Department recommended that the storm water management facility be constructed before the certificate of occupancy for the first building due to the size of the parcel and the fact that it would have one centralized detention area. She noted the agreement stated they could build this in phases but due to the size it did not make sense to do that.

Ms. Ellis stated the development had frontage on Route 30 as well as Garfield Avenue. She noted that when Burns Photography was annexed some widening improvements to Garfield Avenue were made. She reported this development proposed to extend those improvements a little north of their entrance into the commercial development tapering back to the existing pavement. She stated that improvement should be done before any occupancy permit was issued for the commercial development.

Ms. Ellis reported the annexation agreement did not address the recapture provisions of Burns Photography which needed to be referenced. She added there was a proposal for recapture for some water and sewer main improvements. Staff would continue to analyze these to insure the recapture scenarios were consistent with other agreements.

Ms. Ellis reported there were other minor language issues that needed to be resolved. She stated the agreement read that the Village would allow development to occur even if access was never provided from Vancina Lane. She noted there would full access from Garfield Avenue and right in right out from Route 30. She stated that if Vancina was acquired and a dedicated right-of-way then IDOT would require a right in only from Route 30. She added this would be subject to final IDOT approval. She reported the petitioner proposed that if the off-site improvement to Vancina Lane exceeded \$300,000 that there be a provision for a sales tax rebate. She noted the Board would have to comment on this item. She stated this was not an off-site improvement because it was a road abutting the subject property.

The petitioner had no comments at this time.

Ms. Lisa Avelis, 264 Garfield Avenue, read a letter from her neighbors Jan & Chris Kolyvas of 301 Garfield Avenue. The Kolyvas letter opposed the development proposed for the corner of Garfield Avenue and Route 30 stating that this once residential property was sold and the home/trees razed in a few days. The letter noted that the development proposed a financial institution, plaza and fast food restaurant with the main entrance off of Garfield. The letter added that Garfield was a small, dead-end residential street with houses across the street and immediately behind the development and requested the Board consider the impact this development would have on the residents of the street citing safety issues from increased traffic on a narrow street where school buses stopped as well as the increased noise pollution. The Kolyvas Family opposed the development and the C-2 rezoning suggesting a limited C-1 such as Burns Photography. The Kolyvas letter asked the Board to not allow an entrance off of Garfield Avenue which would negatively impact the residents and severely reduce safety at the corner as well as devaluing the existing homes and properties based upon real estate estimates. The letter stated that the property should be landscaped in a manner to eliminate noise and lights at night. Problems with the Bluestone Plaza and adjacent residents were referenced noting that the Garfield residents were much closer to this proposed development.

Ms. Avelis commented that when Burns Photography annexed into the Village the residents on Garfield Avenue were told that the Board would look out for them. She stated the residents were not happy with the C-2 zoning request. She noted she moved to unincorporated New Lenox because she did not want to be incorporated and she was concerned with being incorporated at every corner. She asked the Board to consider all of the residents that lived on this street for a very long time.

Trustee Smith asked Ms. Avelis to identify the house numbers on each lot shown on the PowerPoint.

Ms. Linda Chalupa, 257 Garfield, commented on the line of sight problems at the corner of Route 30 and Garfield Avenue specifically with traffic coming from the east. She noted that the problems would increase if Garfield was the only way in and out of this proposed development. She added that there were two people in wheelchairs that lived on Garfield that used the street and expressed concern with the increase of traffic limiting their use of the roadway. She noted that the sign at Berry's limited the line of sight to the east. She reported on the clay and the run off her property was now receiving from the cleared and graded development property. She added that the owners of the property had not attended to the parcel at all and silt fencing had not been maintained. She stated the clay ran all down Garfield Avenue. Mayor Baldermann reported the Board had not caused these issues adding that the property was not incorporated. She reported she had an issue with the location of the detention pond adding she would like it located further east and not stuck back in the northwest corner. She requested a berm be added to protect her privacy as well as restriction on the height, direction and color of any lighting. She expressed her concern with the traffic and noise.

Ms. Linda Wardinski-Homgo, 254 Garfield, provided a PowerPoint presentation for the Board addressing her concerns explaining her property would face the development. She showed pictures of the intersection of Route 30 and Garfield and stated she had concerns with the increase in danger from traffic. She stated the main entrance was 28' wide and past

her property it declined to 14'. She showed traffic flow pictures and explained how cars would have a problem on Garfield. She stated Ms. Chalupa currently looked at a wall of clay noting on the map where the property was located. She showed an overview of Route 30 and explained the problem with the line of sight. She added that the median provided for turning only serviced one car noting the problems that occurred with this. She explained how cars parked along the entrance waiting for the school bus adding this would cause more problems when there was more traffic from the development. She stated that the property until 2007 the area was covered with trees, a house and a barn. She added that Burns Photography was zoned C-1 and the neighbors were happy with him. She reported it would make more sense to locate the detention pond in a different area. She stated the drive-thru restaurant would cause problems for the traffic parked on Garfield. She noted the street was small and quiet now and the development would make the area unsafe for the children in the area. She showed a slide of how she thought the development could be moved around. She showed what the area looked like at different times of the day on their country road. She expressed concern with garbage trucks coming early in the morning through the neighborhood.

Mayor Baldermann stated the Board appreciated all of the residents' concerns adding he and the Board was familiar with the area. He added that all comments would be taken considered seriously whether the speakers were residents or non-residents. He noted the Board also had questions that needed to be answered. He stated issues of engineering would have to be taken into consideration when changes to the layout were discussed.

Trustee Dye stated that there were several steps to the process with tonight being one preliminary step. She noted that there could be 3-4 more steps in the approval process for the Village Board. She reported that the Board received a 16-page single spaced report from the Planning Department noting she listened to all public comments but had some questions of her own. She explained that the placement of a pond was not just aesthetics but was based on how the water flowed for the maximum benefit of the water runoff in mind.

Trustee Dye pointed out that the two houses directly behind Burns Photography would not avoid any of this development noting she emphasized with resident comments noting the importance of the design of the lighting.

Trustee Dye discussed the site plan and final subdivision plat approval regarding the owner now having to pay building permit fees, reinspection fees, and engineering/construction fees as outlined in staff report. She stated everyone needed to be treated the same.

Trustee Dye questioned the left turn lane on Garfield. Mayor Baldermann stated IDOT would be involved in final plans. Trustee Dye stated she could see the justification of a right turn due to the s-curve. Mayor Baldermann stated there would be additional lanes if the development proceeded and Garfield would not remain the same as it was now at Route 30.

Trustee Dye discussed the petitioner's request that the Village reimburse the developer for any costs in excess of \$300,000 plus 7% interest through rebate of 50% of the sales tax. She stated this had not been done in the past adding the Village was a municipal government and was non-for-profit.

Trustee Dye reported the section of the agreement that did not require the developer to deposit funds with the Village for condemnation proceeding recapture agreement was being reviewed by Village Attorney.

Trustee Dye discussed the legal fee option referenced in staff report regarding the owner being entitled to payment of its attorney fees. She reiterated that the Village was a non-for-profit organization.

Trustee Tuminello stated there would not be much sales tax generated from a bank. He reported he would be 100% against the sales tax rebate as well as the tap on freeze.

Trustee Tuminello asked how many feet Burns Photography gave for the right-of-way on the west side. Ms. Ellis stated 13' of easement was dedicated to allow for future extension of utilities, etc. Trustee Tuminello asked how many foot cross sections would typically be needed to provide a right and left turn lane as well as an entrance lane. Ms. Ellis stated at least 36' to 40' of pavement would be needed plus another 15' on either side for additional right-of-way. Trustee Tuminello stated this would be necessary to have in order to move forward.

Trustee Tuminello asked Ms. Ellis to discuss the restrictions to be placed on the C-2 District. Ms. Ellis reported in the past with C-2 zoning adjacent to residential areas the suggestion was to prohibit drive in and drive thru restaurants, drive thru bank, gas stations, oil change facilities, automobile repair, bar, tavern, billiards and pool hall. She added these restrictions would be imposed on Lot 4 which would be the big box.

Trustee Tuminello asked if there had been any discussion regarding this development doing road improvements noting IDOT would have final say. Ms. Ellis stated IDOT would review their plan and would have to sign their plat. Mr. Killinger stated a traffic study would be required by the Village as well by IDOT. He noted evaluations would be done and IDOT would mandate the improvements. Trustee Tuminello asked how likely the right in right out would be at this development. Mr. Killinger stated he was not sure. Mr. Loebe stated final engineering and easements were still needed along Route 30 for IDOT. He noted that all of the cross access streets may be required to provide additional right-of-way and the Village was waiting for the final design to move forward. He stated traffic studies would be needed for IDOT for anything that would connect and IDOT would also be in the process of designing the expansion of Route 30.

Trustee Tuminello discussed the elimination of the road behind Lot 4 which might protect the residents north of the development. He noted it may be hard to regulate this if there was not a plan attached to the agreement.

Trustee Butterfield stated that a lot of the Morningstar parking lot was going to be used when the Route 30 improvements were done. He noted the easement for the s-curve would be improved by IDOT and it would be four-lane road. He stated the line of sight would change. He noted he appreciated the residents coming and giving their presentation. He added that the State takes forever to move a project ahead. He reported he did not think the plans being

seen now would be the end result because the Board did not like the option of sales tax rebates.

Trustee Tuminello reported that the actual dedication of Route 30 east of Garfield to the State of Illinois was 50' more than the west side. He added if this was required then this development would lose up to ½ of the lots and the project could go to the wayside.

Trustee Bowden echoed all of the Board members concerns regarding the negotiations for sales tax. She stated that when Burns Photography came before the Board the residents were told that the corner property was not going to just happen. She noted the Board told the residents they would be sensitive to the zoning. She noted a lot of what happened was dictated by IDOT. She stated that the best scenario would be to make this as less intrusive as it could be adding the zoning should prohibit the high volume of cars and usage in that area. She asked about the difference between C-1 and C-2 and the restrictions of drive thru services. Ms. Ellis reported C-1 allowed a drive thru bank as a special use but not a drive thru restaurant even as a special use. She added that the other difference were the setbacks that increased from 20' to 30' noting that C-1 setbacks were wider. Trustee Bowden stated that would give the residents more protection. She stated that C-1 was imperative for this location.

Trustee Bowden stated that the school bus stop might have to be changed as the improvements were done. She noted that the Board and School District would not jeopardize the safety of the children.

Trustee Madsen stated he agreed with the residents on the safety issues and had concerns with the traffic issues in that area. He noted that discussion was difficult without knowing what IDOT had planned for the area and without a solid site plan. He added that the annexation agreement to annex this property into the corporate limits was the discussion topic. He noted he thought it was a logical extension of the corporate limits. He added that as the project moved forward the Board would take all public comments into consideration. He reported he was in favor of the C-2 with restrictions regarding the drive thru restaurant, pool hall, liquor stores, etc.

Trustee Smith agreed with previous Board comments. He asked what Berry's property was zoned. Ms. Ellis stated they did not come back with a revised agreement so the zoning had not been done adding they were proposing C-3 which they need for the resale shop and the size of the building. Trustee Smith stated Berry's property would be closer to the residents if the building was extended to the back. He asked for the zoning on the Dan's property to which Ms. Ellis stated that property was C-2. He noted across the street was C-3.

Trustee Smith reported this project was very early in the process. He stated that moving the detention pond could be done looking at the topography but moving it from one side to another neighbor's side would create the same problem. He noted that some readjustment to the development proper needed to be done.

Trustee Smith requested that the Village Engineer look at the line of sight issues that were brought up. He stated if there was an existing issue it could be solved. He noted if the signage was in the way something needed to be done.

Trustee Smith stated he was shocked that school buses picked up children on a roadway that had over 30,000 cars everyday. He suggested the residents discuss this with the appropriate board.

Trustee Madsen stated that the run off of the clay and water needed to be addressed now. He asked that the developer look into this issue.

Mayor Baldermann stated there were many issues including resident comments regarding this development. He recommended closure of the public hearing and the petitioner continuing to work on these issues with staff.

Mr. Charles Smith, Arete 3, stated the issues with the taxes and recapture could be discussed further with staff. He noted IDOT sent the bank a letter requiring additional right-of-way adding that the subdivision plat responded to that. He explained the improvements to Route 30 would eliminate the sight line problem noting they would be taking a lot of the east parking lot of the Berry's property. He stated the best place to accommodate the drainage for the entire site was where the detention was proposed noting that Will County had one of the most restrictive storm management systems which New Lenox followed. He added that he was confident that a lot of the run off issues experienced by the neighbors would be eliminated by this development noting they had to retain their site. He stated the developer did not have a problem with the restrictions of the C-2 uses placed on Lot 4. He added the site shown was a concept. He stated the property was not currently annexed or zoned and could not be brought to the market. He noted this had a better potential in the market with the smaller lots. He stated the site plan might not end up looking like this and the bank may never come.

Mayor Baldermann stated the Board never entertained any sales tax rebate for a parcel this small. He noted this type of request usually did not get past staff level. He reported this idea was difficult for the Board to even discuss because the type of sales tax revenue was not known. He added that more details needed to be done at staff level regarding this.

Mr. Smith stated they would return with numbers and hoped that this development could move forward.

Trustee Smith commented on Mr. Smith's comment that the best way to solve the problem with the drainage was to develop the property. He noted the development caused the problem with the drainage. Mr. Smith stated it was done by the previous owner. Trustee Smith stated once the property was purchased it became that owner's responsibility. Mr. Smith stated the bank owned the property through a purchase from a failed development and they were trying to be responsible and move this forward. Trustee Smith stated this needed to be fixed. Mayor Baldermann agreed that regardless of how this became the bank's problem it was their problem.

Trustee Tuminello stated previously when the Board approved C-3 on the south side of the road there was adequate traffic flow into the property. He noted he did not have a problem with the C-2 but agreed with Trustee Bowden that if the right in right out or improvements were not done the Board could not be asked to vote on this because it did not sustain the adequate traffic flow. He noted that if he saw in writing something from IDOT ahead of time then it would be easier to agree to C-2 with restrictions.

Mr. Smith stated the developer had discussed the pork chop with IDOT and they agreed to the right in. He added that if and when Vancina became available then the right out would be closed.

Mr. Walter Rebenson stated this was the first time he had heard there was a problem with clay from the site noting this would be looked at immediately. He added the issue regarding this site and sites west of this parcel had been going on since 2005. He reported a lot of the items existed before 2005 and could not be solved in hot economic times. He stated some of the items requested in the annexation agreement would not go away even if the economy improved in 2011. He stated the total cost of this 6-acre, 30,000 square foot site was estimated at \$800,000 to \$1 million noting it could not bear the burden of all of the extra costs including drainage, sewer and water, access points, etc. He stated they agreed with staff to be a good developer/owner and try to solve as much of the problems as they could. He added that one of the trustees stated that given the size of the center it would not generate a large amount of sales tax. He stated they were requesting reimbursement which would cover a small part of the extra costs. He noted that offsite and onsite cost estimates might render development unfeasible. He stated they had worked on this project for 8 months and they would return to try and reach an agreement with staff to return to the Board.

Mayor Baldermann stated the Board was not going to discuss the sales tax rebate this evening and asked that the developer continue to work on this with staff. He stated the base would never be touched. With no further Board or public comments, Mayor Baldermann closed the public hearing at 8:23 p.m.

Request for Preliminary Plat Extension – Deer Point South – Bill Stefek

Ms. Ellis reported on a request to extend the preliminary plat for Deer Point South for an additional year. She stated the residential portion consisted of 69 single family lots. She added the original preliminary plat was approved in 2006 and was continued a few times. She reported the engineering review fees were paid today. Staff had no objection to granting the one-year extension.

Motion to approve the request for a one year preliminary plat extension for Deer Point South made by Trustee Smith and seconded by Trustee Dye. Upon voice vote, the motion carried unanimously.

Request for Preliminary Plat Extension – Kammerer Estates – David Faganel

Ms. Ellis reported the request for preliminary plat extension was the same as the above item. She noted they were up to date on their fees.

Motion to approve the request for a one year preliminary plat extension for Kammerer Estates made by Trustee Smith and seconded by Trustee Tuminello. Upon voice vote, the motion carried unanimously.

PUBLIC HEARING – FY 2009-2010 Tax Levy

Mayor Baldermann opened the public hearing at 8:25 p.m. Ms. Englert provided proof of notice.

Ms. Auchstetter reported the 2009 tax levy was \$2,215,509. She stated this was \$35,000 more than last year's levy but the rate itself should be the same or less than last year. She reported the levy rate was the lowest in 18 years. She reported the \$2,215,509 levy total included \$1.9 million of pension related items, garbage of \$155,000, and audit of \$40,000 with the \$122,000 balance for general corporate covering police, streets and services. She stated the actual levy rate was 26¢ noting the Village portion of the tax bill was a small percentage of the total tax bill. She stated levy should produce a \$261 amount on the tax bill for a \$300,000 home.

With no public or Board comments, Mayor Baldermann closed the public hearing at 8:27 p.m. He added that the adopting ordinance would come before the Board next week.

Request for Light Pole Banners – St. Jude Church – Marianne Holzhauser

Mr. Rendleman reported on a request from St. Jude Church to install two small vinyl banners on a few light poles in their parking lot. He stated the banners were 10 square feet in size and similar to the banners that the Chamber installed along Route 30. He noted the content of the sign was an advertisement for the Church and any special event being held. He added they would like to have these as a permanent installation so seasonal signs could be done throughout the year.

Trustee Smith stated the banners would be on light poles and not on the building. Ms. Holzhauser stated the signs were for the school and would be located on the light pole immediately in front of the circular driveway. He asked how many light poles to which Ms. Holzhauser stated one light pole with a sign on each side. She stated the banner was 20" by 6'. He stated he did not have problem with the banners as long as they were on private property and were not on the building and stayed on designated light poles.

Trustee Smith suggested this item return to committee so that there would be structure provided for this and future requests. Mayor Baldermann stated they were looking to use these banners for this Christmas season.

Trustee Smith reminded the Board that a banner was just removed from another building. Trustee Bowden added that the other banner was 20' x 60'. Trustee Smith was concerned that other churches would make the same request and wanted something in place. Trustee Bowden stated the Board could give temporary approval until this was resolved.

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

Trustee Bowden suggested a temporary banner be approved and the process reviewed before permanent approval was given.

Ms. Holzhauser stated they were trying to tie the school and church together. She noted they were not located on Route 30 and it was a recessed area on private property. She reported it was similar to what was approved for Silver Cross on Route 30.

Trustee Smith stated there were other churches that had the same criteria as this request. He noted he was not against the idea but wanted an ordinance ready when a temporary approval request expired.

Trustee Dye suggested this be treated similar to the approval given to the coffee trailer. She noted a temporary use could be given until the process was worked out.

Mayor Baldermann stated he did not have an issue with the request. He noted Trustee Smith had a good point because the Board rejected a banner request recently. He added the criteria needed to be set for future requests.

Trustee Bowden stated the other banner was given 30 days to comply noting they did not make an application or a request in advance like this request.

Trustee Smith suggested the temporary request should be for 6 months to allow time to get an ordinance in order.

Trustee Madsen stated he did not have a problem with this request. He agreed this needed to have rules in place for future requests.

Mayor Baldermann asked Mr. Rendleman to put this item on his next agenda.

Trustee Bowden stated there was a big difference between a banner and a large permanent sign. She noted this request tonight was before the board in advance of placement of the banners adding the last request was different than this one because the sign was already up. She stated putting an ordinance together should not take more than 6 months.

Ms. Holzhauser questioned the use of banners on the light poles on Route 30 by the Silver Cross Medical Building. Trustee Smith explained that an ordinance was done to use those banners on Village light poles.

Motion to approve the request for light pole banners for St. Jude Church as a temporary use for 6 months with 2 two-sided banners on one pole with review after ordinance for permanent banners in place made by Trustee Bowden and seconded by Trustee Butterfield. Upon voice vote, the motion carried unanimously.

CONSENT AGENDA

Motion to approve 5 items on Consent Agenda #9-32 as presented in packet made by Trustee Madsen and seconded by Trustee Smith.

Items up for approval:

- A - Ordinance #2075 Amending Recapture Agreement – Heather Glen Sewer – 2nd Read
- B - Minutes of the Regular Meeting of November 16, 2009
- C - Minutes of Regular Meeting of November 23, 2009
- D - Request for Temporary Signs – Antique Show – New Lenox Community Park District
- E - Surety Reduction – Cachey’s Re-Subdivision Lot 9

Upon roll call, the vote was:

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

NAYS: 0

ABSTAIN: 1 Trustee Tuminello on Item B

ABSENT: 0

The motion carried.

ORDINANCES & RESOLUTIONS**Ordinance #2076 Granting Special Use for Columbarium – United Methodist Church – 1st Read**

Ms. Ellis reported the church requested installation of two columbariums in the main parking lot island in front of the church. She stated the first one was anticipated for construction early next year and the second when needed. She reported the ordinance in packet included recommended items from staff, including; location as shown on site plan, each obtain building permit before installation, handicap accessibility be provided, and landscaping around them be approved by staff.

Ms. Ellis reported the church sent a letter requesting waiver of second read so that action could be taken this evening.

Motion to waive second read provisions made by Trustee Smith and seconded by Trustee Dye. Upon voice vote, the motion carried unanimously.

Motion to adopt Ordinance #2076 granting special use for columbarium for United Methodist Church made by Trustee Dye 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.

Ordinance # 2077 Rezoning Certain Territory – Spring Creek – 2nd Read

Mayor Baldermann asked Ms. Ellis to report on both items involving Spring Creek.

Ms. Ellis reported the first read of the rezoning ordinance was a year ago. She stated they were coming back with a preliminary PUD so second read was postponed. She noted the rezoning tonight would rezone the property to C-7 which was in compliance with the comprehensive plan. Staff recommended approval.

Ms. Ellis reported the memo in packet listed the changes to the plan on the preliminary PUD plat since last before the Board in August. She stated all of staff's comments had been addressed. She noted the ordinance in packet listed the number of conditions on the PUD related to best management practices, setbacks, 50' monument sign for shopping center located along I-355 as well as the request for an off premise Silver Cross sign.

Ms. Ellis reported that use restrictions were made on Lot 31 which may be needed for additional parking for retail/medical office uses. She stated at the preliminary PUD plat stage staff felt all of the issues had been addressed. She added preliminary engineering had been granted.

Ms. Ellis stated the first phase final engineering plans had been submitted in anticipation of moving forward with phase one next year.

Trustee Smith asked about the location of the Silver Cross sign. Ms. Ellis stated the exact location had not been determined so the ordinance provided for the height and area restrictions with the location to be approved with the final PUD plat. He stated this was the only issue he had with this request noting Silver Cross was visible from I-355 and there were already a lot of identifying signs.

Trustee Tuminello stated in the case of an emergency the signs might be necessary.

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

Trustee Bowden asked what the quantity of signs was. Ms. Ellis stated there would be two of the taller signs oriented to I-355 frontage. Trustee Bowden stated that as the development of the area built out it would be easier to grasp this request because now there was nothing in the area to block the location.

Mr. Charles Smith agreed with Trustee Tuminello that identification of the hospital in an emergency was necessary.

Motion to adopt Ordinance #2077 rezoning certain territory for Spring Creek made by Trustee Madsen and seconded by Trustee Tuminello.

Upon roll call, the vote was:

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

NAYS: 0

ABSTAIN: 0

ABSENT: 0

The motion carried.

Ordinance #2078 Granting Special Use for Preliminary PUD Plat – Spring Creek – 2nd Read

Motion to adopt Ordinance #2078 granting special use for preliminary PUD plat as presented in packet for Spring Creek made by Trustee Tuminello and seconded by Trustee Butterfield.

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 #2079 Establishing Special Service Area Number 2009-1, Cedar and Laraway Water Main – 2nd Read

Mr. Loebe reported this was a continuation of work done on the SSA for Laraway Road.

Motion to adopt Ordinance #2079 establishing Special Service Area Number 2009-1, Cedar and Laraway Water Main made by Trustee Bowden and seconded by Trustee Dye.

Upon roll call, the vote was:

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

The motion carried.

REPORTS AND COMMUNICATIONS FROM VILLAGE OFFICIALS

MAYOR

Appointments to Boards and Commissions

Mayor Baldermann requested Board concurrence on the appointment of Leonard Caria, Sr. to the Fire & Police Commission. He requested concurrence for reappointment of Garry Kraemer to the Fire & Police Board assuming the role as Chairman in lieu of Mr. Yurkanin's departure. He also asked for reappointment of Robert Lash to the Plan Commission as well as Martin Nowak and Tony Denovellis to the Police Pension Board. Board concurrence was given. Mr. Caria addressed the Board and thanked the mayor and Board for the chance to serve the community.

Mayor Baldermann reported on the Christmas tree lighting in the Commons on December 6th. He encouraged everyone to come by and see the trees which were decorated by many youth groups from New Lenox. He thanked Trustee Bowden, Carol Hennessy and Village staff for putting this together as well as Santa and Mrs. Claus for visiting during the event.

Mayor Baldermann reported on the progress of choosing the entertainment for the summer concert series. He added that the Village would continue to sell the passes at a low price to allow a great time for residents at an inexpensive cost. He noted the concerts tickets paid for the cost of the Performing Arts events as well as the winter events. He discussed the reasons why no refunds were given in the event of bad weather cancellations citing a concert that was cancelled in Joliet due to the weather. He added the Village had three great weather days last year and hoped for the same. He noted these events were rain or shine. Trustee Butterfield stated that the event in Joliet that was rained out was a one night only whereas the Village events were one price for three concerts. Mayor Baldermann stated he probably would be requesting Board approval for prices to be \$40 for New Lenox residents for the first month of sales and \$50 after that.

Mayor Baldermann reported on his attendance earlier in the day at the Mayors Caucus in Chicago along with Mayor Daley and Governor Quinn. He stated there were a lot of debates over legislative issues that impacted local government. He noted there was a discussion of the Capital Bill and New Lenox's frustration with much needed improvements along Route 30. He stated the Governor said that they were trying to procure 230 parcels along Route 30. He added they spoke about the Capital projects and how they would be funded noting he was told it would be funded with 25-30% video poker. He noted that towns were starting to opt out of the video poker issue. He added that he and Mayor Daley were on opposite sides of this issue. He explained that Mayor Daley stated that anyone opting out of video poker should not receive any capital money. Mayor Baldermann stated he said this was not part of the agreement and Governor Quinn agreed. He noted Governor Quinn told the group that whether you were in or out of the video poker it would not affect your capital project.

Mayor Baldermann stated capital projects might be delayed due to the lesser percentage of funds. He reported that the Board and staff worked very hard to have temporary improvements on Route 30 and were frustrated that this was being delayed. He noted the Board would continue to fight for the community and these improvements which should have been done 15 years ago.

Mayor Baldermann discussed the Board taking a formal stand regarding video poker noting he was personally in opposition to allowing video gaming in the community. He reported there were representatives in Springfield proposing serious fines against any establishments that had video gaming even for entertainment purposes. He expressed concern that Mayor Daley would continue to push the issue as he did today which could change what would happen with the Capital Bill. He did not want the Board to formally opt out of video gaming and then find out they were not entitled to capital projects. He noted he did not think that these issues were for sale and did not want to make this a moral issue. He stated that video gaming would burden law enforcement and would have a determination on how tax dollars were spent. He stated if this were a matter solely of principle he would say the Village should opt out but there was an obligation for the Board to weigh the issue before making a decision. He suggested that the establishments in the community that would be affected by this needed to be talked to as well.

Trustee Smith asked if the amount, size, and placement of the games could be regulated.

Mayor Baldermann stated the Village did have those types of controls and that was what the Board needed to discuss. He did not know what Springfield's response would be. He added that the debate earlier today was contentious regarding this subject. He added that New Lenox was in the minority because a lot of communities just wanted to move on because it was happening anyway.

Trustee Bowden stated she did not know all of the particulars of the operation side of this issue such as who collected the money, etc.

Mayor Baldermann agreed and stated the Illinois Gaming Board had not established the rules and regulations for how this worked yet. He noted he asked why this was being passed

without the rules and was told that was how things were done. He stated this was the same thing that was done with the No Smoking restrictions passed earlier in the year.

Trustee Smith stated everything now was legislation by litigation. He added the burden fell on local government and its residents.

Mayor Baldermann stated the Capital Bill was something the Village wanted for many years. He stated in his opinion it was politically more about passing “a” bill without thought about how it would be funded.

Mayor Baldermann stated he also spoke with other mayors about other issues including school funding. He stated Lincoln Way was owed \$5 million from the State adding this was not a school board problem but a Village problem. He added Lincoln Way as one of the top school districts in the state who had always been fiscally conservative having one of the lowest spending per pupil in the State of Illinois was looking at cutting 25 teachers and classes. He noted Governor Quinn stated Illinois was a deadbeat state that was not paying its bills.

Trustee Butterfield stated that the policing of the video poker was to be all electronically structured like the lottery.

Mayor Baldermann stated there were to be regulations on how much people could spend and that would fall to local law enforcement.

Trustee Tuminello stated he would rather find places for people to work rather than places for them to lose money. He added that the law written in Springfield now stated that these machines could be placed in any location including restaurants. He was opposed to this issue.

Trustee Dye stated there were residents against video poker when this topic first surfaced. She hoped to hear comments between now and January.

Mayor Baldermann added that municipalities were expected to determine whether they wanted video poker or not before rules and regulations were set in place. Trustee Tuminello asked when this was to start. Mayor Baldermann stated the Illinois Gaming Board was to give a decision in September but that was not a deadline they agreed to.

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 - None

PUBLIC WORKS SUPERINTENDENT

Intergovernmental Agreement – New Lenox Township

Mr. Sly reported that this intergovernmental agreement between the Village and the New Lenox Township Highway Department was a housekeeping issue. He commented on the good relationship between the two government bodies with sharing manpower and supplies whenever possible.

Motion to approve the intergovernmental agreement between Village of New Lenox and the New Lenox Township made by Trustee Dye and seconded by Trustee Tuminello.

Upon roll call, the vote was:

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

NAYS: 0

ABSTAIN: 0

ABSENT: 0

The motion carried.

Trustee Butterfield asked for an explanation of the product being put on the streets this winter. Mr. Sly explained that last season an anti-icing brine solution application to the pavement was started. He noted that this product applied underneath the snow and ice stopped the snow/ice from bonding to the pavement but washed away easily with rain. He reported this year beet juice extract had been added which was a little tackier and remained on the pavement for several snow falls. He stated this new product was environmentally friendly and gave a lower freezing point which made it more effective.

VILLAGE ADMINISTRATOR - None

PAYMENT OF BILLS – None

QUESTIONS AND/OR COMMENTS FROM THE FLOOR - None

TRUSTEE COMMENTS

Trustee Smith - None

Trustee Madsen

Trustee Madsen stated he enjoyed attending the Christmas tree lighting ceremony.

Trustee Bowden

Trustee Bowden stated Ms. Hennessy did a great job with the Christmas event. She added she received a lot of feedback from the community telling her that they were pleased that things are done for families even in the winter months. She thanked all staff involved in community events.

Trustee Butterfield

Trustee Butterfield thanked Frank Palmisano for the article he wrote in the newspaper. He stated all comments regarding the Board were appreciated. Mayor Baldermann agreed.

Trustee Tuminello - None

Trustee Dye

Trustee Dye reported on her attendance at the Chamber of Commerce Holiday Party. She stated 6 large cardboard boxes full of toys were collected for children in New Lenox.

Trustee Dye reported New Lenox Toastmasters became a chartered club.

EXECUTIVE SESSION - None

ADJOURNMENT

Motion to adjourn the meeting made by Trustee Smith and seconded by Trustee Dye. Upon voice vote, the motion carried. The Regular Meeting of the Village of New Lenox Board of Trustees held on December 14, 2009 was adjourned at 9:21 p.m.

Bonnie Motyka, Deputy Village Clerk