

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

**New Lenox Village Hall  
1 Veterans Parkway, New Lenox, Illinois  
Monday, May 29, 2012 7:00 P.M.**

**#12-10**

**CALL TO ORDER**

The Regular Meeting of the New Lenox Village Board of Trustees was called to order at 7:03p.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, Dye, Smith, Bowden, Butterfield and Mayor Baldermann

Absent: Trustee Tuminello (Trustee Tuminello present at 7:13 p.m.)

**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 Finance Director Kim Auchstetter, Deputy Clerk Cindy Srygler, Planning & Development Senior Planner Jeff Smith, Building & Zoning Administrator Warren Rendleman, Police Chief Bob Sterba, Village Engineer Will Nash, Director of Operations Ron Sly, Village Administrator Kurt Carroll, Assistant to the Administrator Carol Hennessy and Attorney Chris Spesia

**CONSENT AGENDA**

Motion to approve the one item on Consent Agenda #12-10 as presented in packet was made by Trustee Butterfield and seconded by Trustee Smith

Item up for approval:

A –Printer Purchase - Engineering Department – ARC Imaging

Upon roll call, the vote was:

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

**ABSTAIN:**                0

NAYS: 0

ABSENT: 1 Trustee Tuminello

The motion carried.

### **ORDER OF BUSINESS**

#### **Consideration of an Ordinance Rezoning Property – 17725 South Gougar Road – 1<sup>st</sup> Read & An Ordinance Granting a Variance – 17725 South Gougar Road – 1<sup>st</sup> Read**

Mr. Smith reported that the Plan Commission held a public hearing on May 1<sup>st</sup> to rezone the property from AG District to the E Single Family Zoning District. He explained that one of the homes is up for refinance and the bank wouldn't refinance unless the property was dissolved as a condominium and amend property lines for the two modified parcels. Mr. Smith stated the Plan Commission recommended approval of the rezoning.

Mr. Smith reported the petitioner is also requesting approval of a variance to reduce the required lot width from 150 feet to 30 feet for one of the amended lots that would contain a single-family residence, swimming pool and storage building.

Mr. Kavanagh gave a brief history of this property.

Mayor Baldermann stated there are no issues with the requests so these items will come back for second read in June.

#### **Consideration of an Ordinance Rezoning Property – Gougar Road & Ferro Drive/Providence – 1<sup>st</sup> Read**

Mr. Jeff Smith reported that Providence Catholic High School owns a 26.12-acre site at the northwest corner of Gougar Road and Ferro Drive and are looking to add a cross-country path along the northern portion of the property and athletic fields in the future. He explained the property is currently zoned I-1 and needs to be rezoned to R-1 in order to have the athletic fields and the current proposed cross-country path. The Plan Commission recommended approval to rezone to the R-1 District.

Ms. Maureen Harton, In-House Council for the school, said she thought there may be some concerns regarding the drainage and that she would be happy to answer any questions.

Mayor Baldermann noted that there were some drainage issues.

Mr. Nash stated that essentially the issue is the drainage swale that backs up to Doxbury Lane. Providence High School will be cleaning the swale and the Village will help with the disposal. He said at this point they don't require any drainage improvements but as the site develops they will have to address the situation.

Trustee Dye asked what the requirement is as far as the lighting near the houses.

Mr. Smith explained this property does abut to single-family homes so the foot-candle level requirement can't exceed a half candle at the property line. He also explained the light fixtures have to be full cut-off. He said through the site plan review the height of the lights can also be restricted as well as when they are on which will be covered in the next site plan review.

Trustee Dye asked how is it determined how many parking spaces needed.

Mr. Smith explained the zoning ordinance has requirements for athletic fields and they will have to comply with them.

Mayor Baldermann announced how proud the Board and the community are of all the accomplishments of the high school.

**Consideration for Approval of an Ordinance Opting In/Out – Video Gaming – 1<sup>st</sup> Read**

Mayor Baldermann clarified that the State of Illinois has changed the law for video gaming in liquor establishments that have a pour license, not package licenses. He said if a community opts-out an establishment may no longer have the video poker machines for amusement only. He said clearly there's legal revenue that was gained from "amusement only" video gaming that will be lost to these businesses. He noted that New Lenox is considered an opt-out community because the Village has ordinances in place, most recently the new amended liquor ordinance that prohibit any type of gambling. Mayor Baldermann stated these ordinances are before the Board for discussion. Mayor Baldermann noted that if

Attorney Spesia cautioned the Board that if they approved or authorize video gambling they should not rely on repealing it at some point in the future. He said there's no precedent, this is completely new ground in Illinois Law, but a licensed establishment may have an argument in the future that they have a vested right to continue their video gaming license and we have to look to other areas of law. If you look at the zoning context, the general rule is that you don't have any right to the continuation of a zoning classification, however, once you've made a substantial change of position and incurred expenditures and obligations in reliance on that zoning classification, there's vested rights meaning government can't come in at that point and take away your zoning classification. He said that's one area that can be looked at and draw an analogy. He cautioned not to move forward saying this can be repealed in a year or two because the establishment could argue that they are relying on the revenue that's coming in from the games.

Trustee Butterfield noted that we don't issue a gambling license.

Mayor Baldermann stated that the state will not issue a business a gambling license unless they have a valid liquor license from their municipality, therefore, if a liquor license is suspended or revoked then their state gambling license is revoked by the state.

Trustee Smith asked if an establishment gets closed down for a liquor violation that means they can not open up to gamble? And how do we make sure they don't?

Mayor Baldermann answered this would be enforced by our Police and the state would also be notified and would be the enforcing authority. The Village would notify them.

Trustee Smith asked what the age for gaming is, and can the Police go into an establishment and check the ages.

Mayor Baldermann said the Police can enforce the age restriction but what we are not enforcing is the technical aspects of the video gaming. He noted this is like the smoking ban.

Trustee Bowden asked about the temporary liquor licenses issued.

Trustee Butterfield answered that there is an application process that takes time.

Attorney Spesia noted that there needs to be an area designated for the equipment.

Trustee Dye asked if Will County had taken a position on this issue.

Mayor Baldermann answered he has not seen their position. He said in the surrounding area, Frankfort, Orland Park, Tinley Park and Homer Glen have opted-out.

Trustee Tuminello gave examples of businesses that have a pour liquor license. He said personally he doesn't have a good feeling about opting-in. He said he's not looking forward to any negative phone calls or complaints. Trustee Tuminello feels this is just another scam that will take money from residents so he's leaning towards opting out.

Mayor Baldermann stated the he and the Board care about the financial well-being of local businesses. He believes that the businesses, especially the smaller ones, would rely heavily on the revenue. Not only could they lose the revenue from the machine but they could lose the potential revenue from the state. He believes that the state has come up with another scheme to try and find revenue and this is their way of trying to do it. Mayor Baldermann said the he personally doesn't object to gambling but he doesn't trust the State.

Mayor Baldermann opened the floor to public comments.

Bill Walter – 1022 Grandview Drive

Mr. Walter, on behalf of the VFW, spoke in favor of video gaming.

Mary Goings – Illinois License Beverage Association

Ms. Goings, on behalf of liquor pouring establishments, spoke in favor of video gaming.

Wayne Matulis – 1521 Delmar Drive

Mr. Matulis spoke against video gaming.

Aija Bjorklund – 205 Sheridan Court



Motion to approve the Resolution was made by Trustee Bowden and seconded by Trustee Dye

Upon roll call, the vote was:

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

**ABSTAIN:**            0

**NAYS:**                 0

**ABSENT:**             0

The motion carried.

**REPORTS AND COMMUNICATIONS FROM VILLAGE OFFICIALS**

**MAYOR**

**Consideration for approval of a Lease of Council Chamber to Illinois Workers  
Comp Services**

Mayor Baldermann reported that The Illinois Workers Comp Services is going to lease the Council Chambers for the next 12 months for \$600.00 a month.

Motion to approve the Lease of Council Chamber to Illinois Workers Comp Services was made by Trustee Bowden and seconded by Trustee Dye

Upon roll call, the vote was:

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

**ABSTAIN:**            1                 Trustee Smith

**NAYS:**                 0

**ABSENT:**             0

The motion carried.

**MAYOR**

Mayor Baldermann reported on the first concert of the Triple Play Series.

Mayor Baldermann commented on the Memorial Day Ceremonies that he attended at the American Legion.

**VILLAGE ATTORNEY**

None

**VILLAGE ADMINISTRATOR**

None

**PAYROLL & DISBURSEMENTS**

Trustee Butterfield made the motion to approve bi-monthly disbursements in the amount of \$1,016,328.83. In addition to this disbursement, approval is needed for bi-weekly payroll in the amount of \$306,335.01, as well as a monthly payroll with the total amount of \$6,440.00 both paid on May 18, 2012.

Motion was seconded by Trustee Madsen.

Upon roll call, the vote was:

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

The motion carried.

**QUESTIONS AND/OR COMMENTS FROM THE FLOOR**

None

**TRUSTEE COMMENTS**

**Trustee Tuminello**

Trustee Tuminello commented on Memorial Day Events.

Trustee Tuminello commented that he's not against gambling, however, it shouldn't be in our restaurants.

**Trustee Madsen**

None

**Trustee Butterfield**

Trustee Butterfield commented on the Memorial Day dedication at the American Legion.

**Trustee Dye**

Trustee Dye thanked all the Veterans.

**Trustee Bowden**

Trustee Bowden reported on the recent ICSC Convention she had attended.

Trustee Bowden reported on the French Market.

**Trustee Smith**

Trustee Smith reminded that school is out and to be watchful of kids.

**EXECUTIVE SESSION**

Motion to adjourn to Executive Session for matters of Personnel and Land Acquisition was made by Trustee Smith and Seconded by Trustee Dye at 8:13p.m.

Upon roll call, the motion carried.

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

**NAYS:**                    0

**ABSENT:**                0

The motion carried.

**RECONVENE**

**ADJOURNMENT**

Motion to adjourn the meeting made by Trustee Smith and seconded by Trustee Bowden. Upon voice vote, the motion carried. The Regular Meeting of the Village of New Lenox Board of Trustees held on May 29, 2012 Adjourned at 8:13p.m.

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Laura Ruhl, Village Clerk