

**MINUTES OF THE REGULAR MEETING OF THE  
NEW LENOX BOARD OF TRUSTEES**  
New Lenox Village Hall, 1 Veterans Parkway  
Monday, April 12, 2010

#10-09

**CALL TO ORDER**

The Regular Meeting of the New Lenox Village Board of Trustees was called to order at 7:10 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, Dye, Tuminello, and Mayor Baldermann

The following were absent: Trustee Bowden (arrived at 7:45 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 Village Administrator Russ Loebe, 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**

**PUBLIC HEARING – 2010-2011 Annual Comprehensive Budget**

Mayor Baldermann opened the public hearing at 7:12 p.m. Ms. Ruhl provided proof of notice. There were no petitioners or members of the public to swear in.

Ms. Auchstetter reported the executive summary for the budget to begin May 1, 2010 had total expenses of \$58,772,049 and total revenues of \$60,586,835 for a balanced budget. She stated the ending fund balance as of April 30, 2011 would be just under \$18,700,000. She reported the net operating budget which did not include fund-to-fund transfers, loan/grant

funds, and capital projects had revenues of \$25,700,000 and expenses of \$24,100,000 providing a balanced net operating budget. She stated the General Fund was projected to have an April 30, 2011 budget of just under \$2 million which was two months operating reserve. She added the goal was to have 2-3 months operating reserve balance.

Ms. Auchstetter reported the budget was conservative due to the impact of the nationwide economic downturn. She stated only the essential expenditures and obligations necessary to maintain current service levels to residents was included in the budget.

Ms. Auchstetter reported the total operating expenditures were down 10% from 2007-2008. She stated the hiring freeze and voluntary separation plan resulted in 13% employee reduction noting there were 12 vacant positions which netted about \$1.1 million in savings for the upcoming budget year. She added \$752,000 for property tax rebate was included in the budget. She noted the Engineering Department was outsourcing their services for the Route 30 project. She reported healthcare plans were being modified which would result in \$60,000 of savings. She stated the debt would be restructured early in May for one debt issue to save \$250,000 annually. She noted water and sewer debt had already been restructured at a savings. She reported the water main extension for Cedar Road to Route 6 was included in the budget as well as the contracted road maintained program and the Cedar Road/Haven Avenue road analysis.

Trustee Dye reported that a comment at the budget work session that was not televised was that the property tax rebate was included in this budget. She added the Board would like to do this every year but it would have to be looked at one year at a time.

Mayor Baldermann stated the Board was happy with the position the Village was in. He thanked Ms. Auchstetter, Mr. Loebe and his staff for pitching in to continue to provide great services with fewer employees. He noted the success of the Village was due to many years of hard work by staff and a conservative philosophy. He reported the Village was in good shape with no layoffs and continued services but money was tight. He noted that if things did not turn around the Board could find themselves in upcoming years in the same position as surrounding communities. He added the Board needed to continue to be conservative. He noted he and Board were pleased with staff. He acknowledged that many residents were out of work and appreciated the conservatism of the Board and their actions.

With no further Board comments, Mayor Baldermann closed the public hearing at 7:20 p.m.

### **Request for Waiver of First Floor Brick – Lot 303 Cherry Hill Meadows Unit 1A – Tom Cachey**

Mr. Rendleman reported on a request to waive the brick ordinance for Lot 303 Cherry Hill Meadows re-subdivision. He stated this parcel was a portion of a 5 lot re-subdivision of the original Cherry Hill Meadows Unit 1 which was subdivided prior to the brick ordinance and most of the homes in the subdivision were built without 100% first floor brick. He stated the re-subdivision date was after the date of the brick ordinance so it technically required 100% first floor brick. He reported the builder and the homeowner were requesting a waiver to allow the home to be built to the conditions that the original subdivision was built to with the

front elevation being brick. Staff had no objections to the request and recommended approval of the request. Mr. Cachey had no comments.

Trustee Smith stated he did not have a problem with this particular request because of the area it was in. He reported there were other subdivisions in town that were started before the brick ordinance and he wanted it noted that if this were approved it was due to the surrounding area homes and how they were built adding that the request could not be against the covenants/restrictions of the subdivision and it fit the area.

Trustee Butterfield stated the brick ordinance was still in effect and the waiver would be for just this one unit.

Mayor Baldermann added that Trustee Smith's point was that this was a unique circumstance.

Motion to approve request for waiver of first floor brick for Lot 303 in Cherry Hill Meadows Unit 1A made by Trustee Madsen and seconded by Trustee Tuminello. Upon voice vote, the motion carried with Trustee Bowden recorded as ABSENT.

#### **Request for Renewal of Temporary Use for Sign – Village Station – Sophie Skirucha**

Ms. Ellis reported the existing sign at the northeast corner of Cedar Road and Laraway Road had used all of the allowable renewals to be approved by the Building Department over the last 2.5 years. Zoning Board of Appeals heard this request and recommended approval. She noted the request would allow the temporary use for one year. Staff recommendation was that the one year begin when the last temporary use expired which was in February for an expiration date of February 20, 2011.

Trustee Smith stated that the current sign was in poor condition and requested it be replaced. He added he would vote to approve the sign if a new sign was installed. Trustee Dye asked if there would be a time limit imposed on the installation of a new sign. Trustee Smith stated this sign could not remain for the renewal and if a new sign was not installed then there would be no sign. Trustee Butterfield asked if the current sign could be improved. Trustee Smith explained the condition of the sign stating it needed to be replaced. He noted this request could be coming in for other signs.

Motion to approve the request for renewal of temporary use for sign for one year for Village Station subject to removal of existing sign and placement of new sign with the exact measurements of the existing sign made by Trustee Smith and seconded by Trustee Dye. Upon voice vote, the motion carried with Trustee Bowden recorded as ABSENT.

#### **Request for Site Plan Amendment – Old Second Bank – Walter Wysocki**

Mr. Rendleman reported that Old Second Bank currently occupied the building noting the original site plan was for Heritage Bank. He stated the request was to remove the monument sign at their entrance on Marley Road and install a taller, larger monument sign on the corner of Route 30 and Marley for increased visibility. He reported this required site modification

approval from the Board. He stated the proposal was a hybrid of a monument and pylon-style sign and was not the typical sign recommended by staff for other businesses along Route 30 over the last few years. He reported there was a request for site plan modification which would allow the additional sign that was not on the 2005 plan as well as the approval of this sign. Staff recommended the site plan modification but would like to see a monument sign more in character to the rest of the current signs.

Trustee Tuminello reported that Pat McShane from Heritage Bank attended a Land Use Committee meeting a few years ago to request a sign in the front and issues with Route 30 improvements in the right of way were discussed. He asked if this was still the case. Ms. Ellis stated the request at that time was to be in the right of way and this request was solely on the bank's property.

Trustee Smith asked if they would have three monument signs. Mr. Rendleman stated the existing monument sign by the driveway on Marley Road would be removed and this sign would take its place on Route 30.

Trustee Dye asked if staff recommended that there not be the open space between the brick columns as proposed for this sign. Mr. Rendleman stated this sign did not meet the criteria for a true monument sign which was more ground mounted with more architectural character. Trustee Dye asked if this was the type of signage the bank used in other communities. Mr. Walter Wysocki stated that it was adding they wanted this particular style sign for more visibility.

Trustee Tuminello stated he did not object to the sign because it was off of Route 30 and did not impede visibility along the roadway.

Motion to approve site plan amendment for Old Second Bank made by Trustee Tuminello and seconded by Trustee Dye. Upon voice vote, the motion carried with Trustee Bowden recorded as ABSENT.

### **CONSENT AGENDA**

Motion to approve 7 items on Consent Agenda #10-09 as presented in packet made by Trustee Dye and seconded by Trustee Tuminello.

Items up for approval:

- A - Letter of Credit Substitution – Rachel Ridge Subdivision
- B - Minutes of Regular Meeting of March 15, 2010
- C - Ordinance #2096 Renaming Chapter 86, and Adding Chapter 86 Article III, Cable and Video Service Provider Fee and Peg Access Support Fee – 2<sup>nd</sup> Read
- D - Ordinance #2097 Adding Chapter 86 Article IV, Cable and Video Customer Protection Law – 2<sup>nd</sup> Read
- E - Ratification of Temporary Sign Request – Antique Show – New Lenox Park District
- F - Minutes of Regular Meeting of March 22, 2010
- G - Minutes of Special Meeting of March 29, 2010

- H - Surety Release – Heather Glen Commercial  
 I - Surety Release – The Shoppes at Heather Glen

Upon roll call, the vote was:

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

The motion carried.

### **ORDINANCES & RESOLUTIONS**

#### **Resolution #10-06 Approving Modifications of Building & Performing Arts Pavilion Use Policy**

Mayor Baldermann reported this resolution involved the use of the Village Hall and the Commons regarding sound equipment, etc. He thanked Ms. Hennessy for her work on this issue. There were no Board comments.

Motion to adopt Resolution #10-06 approving modifications of Building & Performing Arts Pavilion Use Policy made by Trustee Tuminello and seconded by Trustee Smith.

Upon roll call, the vote was:

<b>AYES:</b>	<b><u>6</u></b>	Trustees Madsen, Tuminello, Dye, Butterfield, Smith, 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 Bowden

The motion carried.

#### **Resolution #10-07 Authorizing Work on State Maintained Rights of Way**

Mayor Baldermann reported this resolution authorized the Village to perform work and maintain their utilities in the State's right of way. He stated the State required the Village to pass this resolution every few years.

Motion to adopt Resolution #10-07 authorizing work on State Maintained Rights of Way made by Trustee Dye and seconded by Trustee Tuminello.

Upon roll call, the vote was:

<b>AYES:</b>	<b><u>6</u></b>	Trustees Dye, Smith, Butterfield, Madsen, 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 Bowden

The motion carried.

### **Resolution Setting Policy for New Lenox Cable Television**

Mayor Baldermann thanked Ms. Hennessy as well as Trustees Butterfield and Smith for their work on this item. He noted that on the dais was an updated policy and procedure directing the Board to look at Page 3 item #4.

Trustee Smith stated he had a problem with the item that was added. He noted that the language stating *taping of the governmental board would be limited to regularly scheduled meetings* did not include special meetings that he thought the public needed to see. He stated the language stating *that governmental meetings shall be approved by a majority vote of the respective governmental body* also caused concern. He explained that years ago many governmental bodies would have voted not to have cable at all. He stated that cable for governmental agencies opened up the meetings for residents to view and he did not think this should be up to the board being taped. He noted that he thought anyone could tape meetings.

Mr. Spesia stated it was State law that a record of the meeting needed to be kept. He stated this was done through audio recording and there was nothing in the State law that required a meeting be done on cable. Mayor Baldermann asked if the Village could dictate that a meeting be taped and aired. Mr. Spesia stated that this would be up to the board that was holding the meeting and it would be their policy.

Trustee Smith stated he did not think the Village should have this in their policy to determine when cable television would tape a meeting if a board did not want them to. Mayor Baldermann agreed that public meetings should be taped. He stated he wished more people would attend meetings. He added he did not want the cable access to be used for the wrong reason. He noted a governmental body could not stop the public from attending their meeting. Trustee Smith stated this language censored the taping of the meetings. Mayor Baldermann stated the language allowed the boards to dictate their own policy. Trustee Smith stated most boards would not want to be on television. Mayor Baldermann thought the policy was the correct thing to do because the Board had the responsibility to answer for their actions. He noted the Board did not need to dictate to other boards in the community how

they should and should not proceed. Trustee Smith stated this language was dictating. Mayor Baldermann disagreed.

Mayor Baldermann asked Mr. Spesia if the Village had the right to go to another governing body and say the meeting would be taped and aired regardless of how they felt. Mr. Spesia stated there was nothing in the statute that gave cable access that right. Trustee Smith asked if being Home Rule changed that. Mr. Spesia stated he did not think the Village could dictate what other governmental bodies did. He noted all they had to do was follow the Open Meetings Act. Trustee Smith asked why the Village had to give them an out adding the governmental body needed to state they did not want to be taped. Mayor Baldermann added he thought that all governmental meetings needed to be taped because sometimes it was hard for the public to attend but if the majority of the Board did not want to be on camera then they should have the right. He noted that the public could voice their opinion on Board actions during the election.

Trustee Smith asked why this language was added. Mayor Baldermann stated the language would help cable access from being in the predicament where one Board member decided to film the meeting and the majority did not want it filmed. Trustee Smith stated if the majority did not want the meeting taped there probably was a problem. Mayor Baldermann stated it was not up to the Village Board to determine what other boards did.

Mayor Baldermann asked how the Board felt about the attorney determining that cable access had a right to film and air any public meeting. Trustee Smith disagreed with the phrasing of the question adding that New Lenox was now Home Rule adding that before Home Rule the Village had to do exactly what the statute said and now being Home Rule unless the state said we could not do something then we could.

Trustee Bowden arrived at 7:45 p.m. and joined the Board on the dais.

Mr. Spesia stated the question should be whether the Village could require another governmental agency to be on cable if it was against what the majority of what that board wanted to do. He noted he believed that the answer was no that you could not. He added that cable had no authority to trump other board procedures. He stated it would be an internal board procedure that they had a right to establish as long as they were meeting the Open Meeting Act which did not require the meeting to be video taped or produced on cable television.

Trustee Smith stated that the Board had complained about closed doors in the past and had discussions about having things in the open. He thought this language would shut that down.

Trustee Dye stated Trustee Smith was assuming that boards would want to opt out. She stated the School Board did not tape meetings until she was on the board because she suggested having the meetings taped. She noted this provision was just a guideline but understood Trustee Smith's interpretation. She stated Mayor Baldermann was clarifying that the majority of the Board would make the decision.

Mayor Baldermann stated he was not suggesting that the Board meetings should not be shown on television. He noted the question was how the Village Board would determine where cable access was allowed. Trustee Smith stated it would be determined by state law. Mayor Baldermann stated that state law said they could not be forced. Trustee Smith did not think the language should be included to provide a crutch. Mayor Baldermann stated the language could be removed as long as cable access had an unwritten policy.

Trustee Tuminello asked about a scenario where a majority of the Village Board voted to not air board meetings. Mr. Spesia stated if the majority of the Board voted then that could happen. Trustee Smith asked for a copy of the case law. Trustee Tuminello asked if the Board could force another governmental body to allow tape/air of meetings if the board majority did not want to be on cable television. Mr. Spesia stated the public could attend the meeting but the Village did not have a right to force them to air the meeting. Trustee Tuminello stated that the language was exactly what was being done now.

Mr. Loebe stated there were some boards that were not taped because they did not request it. Trustee Smith stated some of them have never been asked noting that cable was volunteer based.

Trustee Tuminello stated he wanted everything out in the open. He asked how this language would make things different. He stated this was putting everything that was happening now into writing.

Mr. Loebe stated this was the Village of New Lenox's cable access group. He noted that other news organizations may have different rights. He noted the Village was running this cable group out of courtesy for the respective boards because there was nothing stating it was mandatory that this had to be filmed. He reported that the intent was to provide the cable services if they were wanted. He stated this language attempted to be a courtesy from one taxing body to another to provide the taping if requested. He thought there might be potential political repercussions to force people to say they did not want to be taped.

Trustee Butterfield stated boards could say they did not want cable to tape their meeting and the Village Board would have to respect that decision.

Trustee Smith, Mr. Spesia and Mayor Baldermann discussed the differences between news organizations taping things and the cable access tapings. Trustee Smith stated this needed to have more discussion.

Mayor Baldermann stated if a board did not want to be taped then it would be their decision and the Village Board could not dictate that. He added that this policy was being done so that cable access had direction on what to do when other taxing bodies did not want a meeting recorded. He stated if the attorney determined that the Village cable access group could tape and air a meeting regardless of how another governmental body felt then that would be the answer to the questions. Mr. Spesia stated he did not think that would be the case. He noted at times there were issues where citizens tape record a meeting that it could not be prevented. He stated the official record was the tape recording.

Mayor Baldermann stated the only reason the policy was made was to give our cable access director some direction and the Board needed to do what the law provided for. He added that the Village Board was for open government. He suggested the attorney look at this issue further to determine what the law said about cable access taping and airing a public meeting.

Trustee Bowden asked if a specific individual should be giving direction versus the whole board. Trustee Tuminello stated it would be the majority who made the direction. Trustee Bowden stated there would be one person taking the vote for the majority and the Village should not have to be involved. Trustee Butterfield stated the head of the board would have to take a public vote.

Trustee Smith stated everyone talked about open government and sometimes things changed at a higher level. Mayor Baldermann stated if others chose to make this a political issue he did not want the Village or their employees in the middle. Trustee Dye stated she liked the policy but these questions needed to be answered. Mayor Baldermann stated this item would be tabled until further information was available from the attorney.

**Resolution #10-08 Opposing Reduction of the Local Government Distributive Fund**

Mayor Baldermann reported Governor Quinn proposed in his budget a \$300 million cut in monies to local government. He stated the Village of New Lenox would lose \$550,000+ from its budget. He noted that the Village provided the services and could not afford to take a cut like this. He stated that the resolution opposed the Governor’s plan to cut the Village’s share.

Trustee Tuminello asked if this was solely on communities outside of Chicago or if it was everyone in the state. Mayor Baldermann stated everyone was included noting that the City of Chicago was losing \$68 million. He noted all communities were passing this resolution.

Motion to adopt Resolution #10-09 opposing reduction of the Local Government Distributive Fund made by Trustee Madsen and seconded by Trustee Dye.

Upon roll call, the vote was:

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

The motion carried.

**REPORTS AND COMMUNICATIONS FROM VILLAGE OFFICIALS****MAYOR**

Mayor Baldermann reported on his participation as well as Trustee Smith's in the St. Baldrick's event. He stated the Police Department raised around \$35,000 for the event and the Fire Department raised about \$15,000.

Mayor Baldermann reported the Farmers Market would be back in 2010 and was planned to open on May 22<sup>nd</sup>. He noted more food vendors would be brought in and a list of the vendors should be available for the board shortly.

Mayor Baldermann reported there would be a Town Hall Meeting on April 17<sup>th</sup> at 10:30 a.m. in the Community Room for the area west of Cedar Road and north of Haven Avenue. He noted all of the community was welcome and this was a non-filmed event.

Mayor Baldermann reported concert ticket sales were going well. He reminded residents that May 1<sup>st</sup> the ticket sales would open to the public and all ticket prices would be \$60.

Mayor Baldermann reported on calls regarding the County's plans for deer hunting in the forest preserves. He stated that there would be a public meeting on April 14<sup>th</sup> at Lincoln-Way Central High School from 5-8 p.m. He added comments could be made at that meeting or online at [www.reconnectwithnature.org](http://www.reconnectwithnature.org).

**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** – None

**VILLAGE ADMINISTRATOR** - None

**TRUSTEE COMMENTS**

**Trustee Smith**

Trustee Smith reported on his attendance at a water polo game between Lincoln-Way West and Lincoln-Way Central. He stated that Trustee Butterfield's son was on the Varsity team and did very well. He stated next Sunday there was a meeting for a new organization called the New Lenox Aquatics Association and he encouraged interested participants to join.

**Trustee Madsen** – None

**Trustee Bowden** - None

**Trustee Butterfield**

Trustee Butterfield reported that it was not too late to turn your Census forms in. He stated that New Lenox was at 81% for mailed in responses.

**Trustee Tuminello** - None

**Trustee Dye** – None

**PAYMENT OF BILLS** – None

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

**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 AND Section (c)(2) collective negotiating matters between the public body and its employees or their representatives, or deliberations concerning salary schedules for one or more classes of employees AND 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 by Trustee Smith and seconded by Trustee Bowden.

Upon roll call, the vote was:

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

**NAY:**                    0

**ABSTAIN:**            0

**ABSENT:**                **0**

Motion carried. The meeting recessed at 8:10 p.m.

**RECONVENE**

Motion to reconvene to regular session made by Trustee Bowden and seconded by Trustee Smith. Upon a voice vote, the Board reconvened at 9:30 p.m. with all members of the corporate authorities previously in attendance before Executive Session still in attendance including Mr. Loebe and Ms. Ruhl.

**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 April 12, 2010 was adjourned at 9:30 p.m.

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**Bonnie Motyka, Deputy Village Clerk**