

TOWN OF CEDAR LAKE, LAKE COUNTY, INDIANA
MINUTES OF THE TOWN COUNCIL



April 17, 2018

Public Meeting Advertised for 7:00 PM
Conducted at the Cedar Lake Town Hall
Pledge of Allegiance & Moment of Silence

Roll Call:

Present	Robert H. Carnahan Council Member	Ward 1	Present	Greg Parker Council Member	Ward 6
Absent	John Foreman Council Member	Ward 2	Present	Richard Sharpe Council Member	Ward 7
Absent	Julie Rivera Council Member	Ward 3	Absent*	Amy J. Gross, IAMC, MMC, CPM Clerk-Treasurer	
Present	Ralph Miller Council Member	Ward 4	Present	Jill Murr, CPM, IAMC, MMC Town Administrator	
Present	Randell Niemeyer Council Member	Ward 5	Present	David Austgen Town Attorney	

*Chief Deputy Clerk Margo Nagy was in attendance.

PUBLIC HEARING

1. Birchwood Farms Voluntary Annexation

- a. **Attorney Review of Legals** – Town Attorney Austgen stated the legals were in order and the public hearing could be conducted.
- b. **Reading of Ordinance No. 1288 – Birchwood Farms Voluntary Annexation** - Council Member Parker read by title only.
- c. **Resolution No. 1219 Fiscal Plan and Policy for Annexation – Birchwood Farms** – Council Member Parker read by title only. Town Attorney Austgen explained this is the fiscal plan component of the voluntary annexation application. It follows the requirements of law for understanding what fiscal plan and policy there will be upon the annexation of this parcel into the Town. It is a 68.4 acre parcel that is proposed for residential development. The zoning district classification will be residential. The requirements of the Town's ordinances and policies will be required of the developer when the development occurs upon annexation. This is a necessary step under statute. Council Member Carnahan noted his middle initial was listed as "C" when it should be "H".
- d. **Remonstrators** - None
- e. **Town Council Discussion** – Council Member Carnahan asked if they were voting on both the ordinance and resolution this evening. Mr. Austgen stated just the resolution. The ordinance will be considered for adoption at the May meeting. Council Member Carnahan asked if Section 3 of the ordinance would have the zoning district and indicate which ward it will be. Mr. Austgen stated it would.
- f. **Town Council Decision on Resolution No. 1219**
A motion to approve Resolution No. 1219 was made by Robert Carnahan with second by Richard Sharpe. Roll Call: Carnahan – Yes, Miller – Yes, Sharpe – Yes, Parker – Yes, Niemeyer – Yes Vote: 5-0

2. Ordinance No. 1291 – Prough Platted Easement Vacation – 15004 Carey Street

- a. **Attorney Review of Legals** - Town Attorney Austgen stated the legals were in order and the public hearing could be conducted.
- b. **Opening Remarks** – Town Administrator Murr stated this is the continuation of the other platted easement vacations as previously reported at the March meeting. This item and the next item continue the process so everything is equal in that area. Council Member Carnahan added it was originally 30 ft. and they are taking off 8 ft. so it will be 22 ft. The next two are the same. It was asked if there would be additional ones in the future but they took care of all of this with just these. He doesn't believe there will be any others coming.
- c. **Reading of Ordinance No. 1291 – Platted Easement Vacation** - Council Member Parker read by title only.
- d. **Remonstrators** - None
- e. **Town Council Discussion** – President Niemeyer stated this is in the Lynnsway subdivision. The utility companies have checked off on this and will still have access to the needed easements for utilities. It will not obstruct any work that may need to happen.
- f. **Town Council Decision**
A motion to approve the first reading of Ordinance No. 1291 was made by Greg Parker with second by Ralph Miller. Roll Call: Carnahan – Yes, Miller – Yes, Sharpe – Yes, Parker – Yes, Niemeyer – Yes Vote: 5-0

A motion to suspend the rules and allow for a second reading was made by Ralph Miller with second by Greg Parker. Roll Call: Carnahan – Yes, Miller – Yes, Sharpe – Yes, Parker – Yes, Niemeyer – Yes Vote: 5-0

Council Member Parker read Ordinance No. 1291 by title only.

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A motion to adopt Ordinance No. 1291 was made by Richard Sharpe with second by Greg Parker. Roll Call: Carnahan – Yes, Miller – Yes, Sharpe – Yes, Parker – Yes, Niemeyer – Yes Vote: 5-0

3. Ordinance No. 1292 – Diamond Peak Platted Easement Vacation – 15010 & 15016 Carey Street

- a. **Attorney Review of Legals** - Town Attorney Austgen stated the legals were in order and the public hearing could be conducted.
- b. **Opening Remarks** – Town Administrator Murr stated this is the continuation of the easements as discussed in the previous item.
- c. **Reading of Ordinance No. 1292 – Platted Easement Vacation** - Council Member Parker read by title only.
- d. **Remonstrators** - None
- e. **Town Council Discussion** – Council Member Carnahan stated this is the same as he said before but this is for lots 34 and 35.
- f. **Town Council Decision**

A motion to approve the first reading of Ordinance No. 1292 was made by Greg Parker with second by Richard Sharpe. Roll Call: Carnahan – Yes, Miller – Yes, Sharpe – Yes, Parker – Yes, Niemeyer – Yes Vote: 5-0

A motion to suspend the rules and allow for a second reading was made by Greg Parker with second by Robert Carnahan. Roll Call: Carnahan – Yes, Miller – Yes, Sharpe – Yes, Parker – Yes, Niemeyer – Yes Vote: 5-0

Council Member Parker read Ordinance No. 1292 by title only.

A motion to adopt Ordinance No. 1292 was made by Greg Parker with second by Ralph Miller. Roll Call: Carnahan – Yes, Miller – Yes, Sharpe – Yes, Parker – Yes, Niemeyer – Yes Vote: 5-0

4. Ordinance No. 1290 – Community Crossing Grant Fund

Town Administrator Murr stated for the flow of the next public hearing item this ordinance must be done to establish the fund. Council Member Parker read Ordinance No. 1290 by title only.

A motion to approve the first reading of Ordinance No. 1290 was made by Richard Sharpe with second by Greg Parker. Council Member Carnahan asked about the resolution coming up and the amount listed of \$529,550. He stated the Town was awarded \$690,000. He asked if this was only a portion of it. Town Administrator Murr stated they were awarded \$690,000 but since the project costs came in less than the engineer's estimate and the way the funds are distributed; it takes the total construction cost that was actually bid and takes out the contingencies. The project had a 20% contingency. It divides that cost in half. The Town was allotted the \$529,550. Council Member Carnahan asked if they were applying for the Community Crossing Grant Fund for next year. Mrs. Murr stated it was anticipated once they open. Mr. Carnahan asked if they had a list of those items. Mrs. Murr stated they are currently being identified. Roll Call: Carnahan – Yes, Miller – Yes, Sharpe – Yes, Parker – Yes, Niemeyer – Yes Vote: 5-0.

A motion to suspend the rules and allow for a second reading was made by Ralph Miller with second by Richard Sharpe. Roll Call: Carnahan – Yes, Miller – Yes, Sharpe – Yes, Parker – Yes, Niemeyer – Yes Vote: 5-0

Council Member Parker read Ordinance No. 1290 by title only.

A motion to adopt Ordinance No. 1290 was made by Ralph Miller with second by Richard Sharpe. Roll Call: Carnahan – Yes, Miller – Yes, Sharpe – Yes, Parker – Yes, Niemeyer – Yes Vote: 5-0

5. Resolution No. 1218 – Additional Appropriation – Community Crossing Grant Fund

- a. **Review of Legals** – Chief Deputy Clerk Margo Nagy stated legals were published by The Times on April 5th and The Post-Tribune on April 6th. Publisher's affidavits have been received.
- b. **Opening Remarks** – Town Administrator Murr stated this resolution is for the additional appropriation because the funds were received after last year's budget cycle. The \$529,550 received is to be used on the Parrish Avenue Project.
- c. **Reading of Resolution No. 1218 – Community Crossing Grant Fund** – Council Member Parker read by title only.
- d. **Remonstrators** - None
- e. **Town Council Discussion**
- f. **Town Council Decision**

A motion to approve Resolution No. 1218 was made by Ralph Miller with second by Richard Sharpe. Roll Call: Carnahan – Yes, Miller – Yes, Sharpe – Yes, Parker – Yes, Niemeyer – Yes Vote: 5-0

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PUBLIC COMMENT

None

CONSENT AGENDA

Minutes: April 3, 2018 Public Meeting

Docket: April 17, 2018 – All Town Funds \$153,745.33, Wastewater \$123,257.65, Water \$42,179.17, Storm Water \$5,933.23, Payroll 04/05/18 \$238,971.42

Donations: DARE - \$4,504.00, VIPS - \$1,505.00

Fireworks Special Permit: June 9, 2018

Nonfunctional Equipment for Disposal

Ralph Miller moved to accept and waive the reading of the Minutes, and to accept the Consent Agenda. Second was made by Richard Sharpe. Roll call vote: Carnahan – No, Miller – Yes, Sharpe – Yes, Parker – Yes, Niemeyer – Yes. Vote: 4 to 1.

ORDINANCES & RESOLUTIONS

1. Confirming Resolution No. 1220 – Appropriation Transfers

Council Member Parker read by title only. Chief Deputy Clerk Nagy explained this resolution is to confirm transfers made in the following funds:

General Fund #101

Recreation Dept 007

\$ 13.00 From: 122 – FICA/MED To: 397 – IPRA Dues

Economic Development #111

\$ 9,150.00 From: 445 – Road Improvement To: 311 – Attorney

Local Road & Street #202

\$ 10,011.50 From: 396 – Misc Services To: 236 – Road Salt

Mr. Carnahan questioned the fund transfer from road improvement to attorney. He asked what that road improvement funds would be used for. Mrs. Nagy stated there is a surplus that will not be used. Mr. Carnahan asked if they could use it anywhere else. Mrs. Nagy stated he would need to discuss that with Clerk-Treasurer Gross. Mr. Carnahan voiced concerns with roads that need improvement and stated he would hate to take money out of road improvement. He asked if Mr. Kubiak had any idea because the street department has needs. Mr. Kubiak stated he was unsure of this line. President Niemeyer asked if it was a fund in Mr. Kubiak's auspices. Mr. Kubiak stated he did not believe so. Mr. Parker asked if they needed action on this tonight. Mrs. Murr stated in the Clerk-Treasurer's notes it shows the transfers were already approved and have been acted on. The manual journal entries were already approved by the Council as part of the consent agenda in the months of February and March. Mrs. Nagy stated the transfers have already been completed. Mr. Carnahan stated they stick out more than they did in the journals.

A motion to approve Confirming Resolution No. 1220 was made by Richard Sharpe with second by Ralph Miller. Roll call vote: Carnahan – No, Miller – Yes, Sharpe – Yes, Parker – Yes, Niemeyer – Yes. Vote: 4 to 1.

2. Resolution No. 1221 – Authorizing a Second Amendment to the Joint Interlocal Cooperation Agreement Regarding the Operation of Single Public Safety Answering Point (PSAP)

Council Member Parker read by title only. Town Attorney Austgen explained this is the amendment to the joint local agreement that was entered into with Schererville related to the clarification and definition of administrative processes. It discusses the handling of payments, assignment of the Schererville Clerk-Treasurer as the fiscal agent, and the creation of the executive and operations board. It is the modernization of a document originally adopted by the Town in 2014.

A motion to approve Resolution No. 1221 was made by Ralph Miller with second by Richard Sharpe. Roll call vote: Carnahan – No, Miller – Yes, Sharpe – Yes, Parker – Yes, Niemeyer – Yes. Vote: 4 to 1.

3. Ordinance No. 1293 – Traffic Code Amendment

Council Member Parker read by title only. Town Administrator Murr stated at the last meeting a speed limit change was recommended by Chief Coulson on Lake Shore Drive from 133rd Avenue to Hilltop. After discussions it was narrowed down to both directions of Lake Shore Drive from west 129th Place to 133rd Avenue. Additionally, it was originally proposed to change the speed limit to 20 mph. It is recommended to change it to 25 mph. They noticed in Town Code subsection 71.12 during review there is a speed limit provision on Parrish Avenue from 137th Avenue to the 14900 block of Parrish Avenue. This was prior to Lynnsway being annexed into Town. It is recommended that they amend and add in Parrish Avenue as part of the amendment for the second reading to allow for that speed limit to be 30 mph as is posted from 137th Avenue to 151st Avenue.

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Mr. Carnahan asked why they changed it from 20 to 25 mph. Mrs. Murr stated part of it was the discussion the Council had with the golf carts. President Niemeyer stated as soon as it is 20 or below it allows the golf carts to be on the main thoroughfare. Mr. Carnahan thought it is still a little fast for that area. Chief Coulson stated after they researched based on the new ordinance for the golf carts it would be a conflict in that area if they changed it to 20 mph.

A motion to approve Ordinance No. 1293 with the suggested amendments was made by Richard Sharpe with second by Greg Parker. Roll call vote: Carnahan – Yes, Miller – Yes, Sharpe – Yes, Parker – Yes, Niemeyer – Yes. Vote: 5 to 0.

BZA

1. Thomas Philpot – 13019 Wicker Avenue – Special Use Variance

The Board of Zoning Appeals sends a Favorable Recommendation to the Town Council for the Special Use Variance to allow the Petitioner to build a concrete patio for outdoor dining and alcohol with the following stipulations; concrete bollards six ft. (6') apart in front of building and ten ft. (10') apart on south side of the building and install no parking signs on the south side of parking lot and to include the findings of fact. By a vote 5 in favor and 0 against, upon motion duly made and seconded, at the Public Meeting held on April 12, 2018. Mr. Philpot was present. He briefly described the plan for outdoor seating. President Niemeyer congratulated Mr. Philpot for his success with the restaurant.

A motion to approve the special use variance was made by Ralph Miller with second by Richard Sharpe. Roll Call: Carnahan – Yes, Miller – Yes, Sharpe – Yes, Parker – Yes, Niemeyer – Yes Vote: 5-0.

2. Yoder Buildings of NWI – 12615 Wicker Avenue – Special Use Variance

The Board of Zoning Appeals sends an Unfavorable Recommendation to the Town Council for the Special Use Variance to allow the Petitioner: Yoder Buildings of NWI to run a sales office and use the parking lot for storage shed building displays and to have multiple businesses on a lot in a Community Business (B-2) Zoning District, due to lack of presentation and not being present at the meeting and to include the findings of fact. By a vote 5 in favor and 0 against, upon motion duly made and seconded, at the Public Meeting held on April 12, 2018.

A motion to deny the special use variance based on the unfavorable recommendation was made by Greg Parker with second by Richard Sharpe. Council Member Carnahan stated he had heard the guy was going to pull out anyways. Roll Call: Carnahan – Yes, Miller – Yes, Sharpe – Yes, Parker – Yes, Niemeyer – Yes Vote: 5-0.

OLD BUSINESS

1. 2018 Ambulance/EMS and Fire Protection Services Agreement

President Niemeyer explained this item has been previously deferred. He clarified that at the last meeting he gave a presentation based on information obtained from the financial advisors that was incomplete. He talked about the cumulative capital fire funds. The cumulative capital fire funds Hanover Township has under its control is derived solely from the unincorporated residents of Hanover Township. Mr. Lopez stated he wanted to clarify something as well. At that meeting it was stated that he had the sole decision making on the contract. After further review, he has the executive power to negotiate the contract but it has to be approved by the Township board. Mr. Lopez highlighted the contract that the board approved. They are proposing \$115,000 for Fire and EMS. They have a cumulative fund they get approximately \$40,000 a year. Currently, they have \$120,000 put away. That fund is for capital improvements and assets. Mr. Parker voiced concerns with Cedar Lake residents subsidizing the Township. He stated it still has not been addressed. Richard Niemeyer stated that is not the way it is according to statute. Mr. Parker stated that's the way it is per call. Mr. Parker voiced concerns with comments made at the Fire Territory Meeting in regards to more money not being asked for. Mr. Parker stated they are asking for more money now because they need it to run the fire department. Richard Niemeyer stated the proposed contract is what they can pay and will pay. Mr. Parker continued to voice concerns with comments previously made. Richard Niemeyer stated he's not here to argue. He's here to see the Council put the proposal to a vote one way or the other. He stated it's a fair proposal. Mr. Lopez stated the Township normally gets a levy of \$40,000 which they are committing to spend on equipment. They get about \$20,000 from LOIT and they are committing that as well. The total value of the contract is \$180,000. He stated they would never deny equipment that is needed for the fire department. Mr. Parker stated nothing has changed with the proposal. He continued to voice concerns with resources spent on the fire territory. Mr. Lopez stated it is a fair contract. Mr. Parker stated it is not. A lengthy discussion occurred on previous and future equipment purchases and administrative processes in regards to equipment purchases. President Niemeyer asked if the Township Board discussed the professional fees associated with the work done on the Fire Territory and how they would pay for their portion. Mr. Lopez stated there was not. The Township was not asked to take on those fees. They had a discussion where he wanted to possibly go with Umbaugh and offered to pay part of that. The Town decided to go with London Witte Group. There was no

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discussion on compensation. Mr. Lopez stated the Township will not compensate for those services. Especially in light of the information and duties they performed. In talking with his board, he believes if they had used another advisor the fire territory could have possibly gone through. President Niemeyer stated he's dismayed with what happened throughout the process. He thinks it's unfair for the Township to say they won't pay the bill. The bills obtained were part of a joint process. President Niemeyer stated they did this on a 4:1 ratio. He asked Town Administrator Murr to communicate with the Clerk-Treasurer and have her itemize the bills related to the fire territory at the ratio of 4:1 and send it to the Hanover Township Trustee's office. Mr. Parker stated he wants to leave an opportunity to negotiate the contract. Mr. Lopez asked what the Council needs to make the contract happen. A very lengthy discussion continued on the proposed contract, Township funds, and equipment purchases.

Mr. Carnahan stated he wanted to defer the item. He asked Mr. Austgen if they could have an executive session and negotiate with the Township. Mr. Austgen stated possibly. He'll render an opinion in writing. Mr. Lopez stated they've had the same contract before. He would like the contract to be voted on either yes or no. Mr. Austgen corrected Mr. Lopez. He stated the Township has never given a contract. He has drafted every contract. He's received memos but they have never presented one to the Town. He doesn't want to guess about drafting anymore on this until there are certain terms that are agreed on. President Niemeyer stated he's trying to get some certainty. He discussed having a not to exceed number with an addendum that would include if there is a purchase that can be made with the cumulative funds being collected this year for appropriation next year. Mr. Lopez stated the Township board has approved the proposed contract and is asking for a vote on it. Discussion continued on the original proposal and a counter proposal for a top number. Mr. Parker made a motion to defer.

A motion to defer was made by Greg Parker with second by Richard Sharpe. Roll call vote: Carnahan – Yes, Miller – Yes, Sharpe – Yes, Parker – Yes, Niemeyer – No. Vote: 4 to 1.

TOWN COUNCIL REPORTS

1. **Town Council** – None
2. **Town Attorney** – None
3. **Clerk-Treasurer** – None
4. **Town Administrator/Staff** – None

WRITTEN COMMUNICATIONS

1. **Christopher B. Burke Engineering Report** – There will be an Ecosystem Restoration update meeting on Monday. High Grove and South Shore projects are currently underway.
2. **Building Department Report** – There were 23 new home permits as of the end of March with a residential value of \$3,326,604 and 55 alteration permits year to date with a value of \$1,158,999.
3. **Tom Strikes Out Cancer – Donation Request**

PUBLIC COMMENT

Becky Govert, 11521 W 127th Lane, asked for an update on Wicker Meadows. Town Administrator Murr stated there have been some improvements to the area. As previously directed, negotiations are being discussed with property owners.

Mark Stenger, 13925 Wicker Avenue, stated they are having an issue with someone tearing up the parking lot at the softball fields. He asked the Police Department to patrol the area more often. He continued by voicing his opinion on the fire territory. He stated they see what is going on and how the fire territory would have worked. He discussed needing to treat people with respect. He voiced concerns with the leadership of the fire department. He stated it's time for new leadership. He continued to voice concerns with the proposed fire territory. A lengthy conversation continued on the proposed fire territory and costs of services.

Pat Scoleri, 15742 101st Place, stated they are still recovering from the failed fire territory. He voiced concerns with the increased population and growing needs of the fire department. He stated the territory would've helped with personnel. He voiced concerns about previous comments made about the leadership of the fire department. He stated that was ridiculous. A brief conversation continued on the lack of volunteers being a statewide issue and the leadership of the department.

Brian Kuiper, 6904 w 145th Avenue, stated he wanted to go on record and state the comments made about the leadership of the department were uncalled for. The leadership strives for the betterment of the community.

ADJOURNMENT President Niemeyer called the meeting to adjournment at 8:42 PM.

An Executive Session was advertised and conducted before the meeting, pursuant to IC 5-14-1.5-6.1(b). Refer to Memorandum of Meeting for topics discussed and those in attendance.

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COUNCIL OF THE CIVIL TOWN OF CEDAR LAKE, LAKE COUNTY, INDIANA

Randell Niemeyer, President, Ward 5

Greg Parker, Vice President, Ward 6

Robert H. Carnahan, Ward 1

John Foreman, Ward 2

Julie Rivera, Ward 3

Ralph Miller, Ward 4

ATTEST:

Richard Sharpe, Ward 7

Amy J. Gross, IAMC, MMC, CPM
Clerk-Treasurer

The Minutes of the Cedar Lake Town Council are transcribed pursuant to IC 5-14-1.5-4(b), which states:

- (b) As the meeting progresses, the following *memoranda* shall be kept:
- (1) The date, time and place of the meeting.
 - (2) The members of the governing body recorded as either present or absent.
 - (3) The general substance of all matters proposed, discussed, or decided.
 - (4) A record of all votes taken, by individual members if there is a roll call.
 - (5) Any additional information required under IC 5-1.5-2-2.5.