



## **Town of Cedar Lake Board of Safety Public Meeting Minutes Tuesday, November 22, 2022 at 6:00 PM**

**CALL TO ORDER:** Kaper called the meeting to order at 6:02 pm.

### **PLEDGE OF ALLEGIANCE**

### **ROLL CALL:**

Present	Joshua Govert, Member	Present	William Fisher, Police Chief
Present	James Olthoff, Member	Present	Todd Wilkening, Fire Chief
Present	David Villalobos, Member	Absent	Carl Brittingham, Deputy Chief Police
Present	Norman Stick, Vice Chairman	Absent	Nick Mager, Deputy Chief Fire
Present	Lester Kaper, Chairman	Present	Ralph Miller, Town Council Liaison
		Present	David Austgen, Town Attorney

Chairman Kaper requested a motion to amend the agenda to allow for promotions for the Fire Department. A motion was made by Norm Stick, seconded by Jim Olthoff, to amend the agenda. Roll call vote: Govert – Yes, Olthoff – Yes, Villalobos – Yes, Stick – Yes, Kaper – Yes. Vote: 5-0.

Chief Wilkening requested a motion to approve the Job Description for the Division Chief of the Marine Unit. A motion was made by Norm Stick, seconded by Jim Olthoff, to approve the Job Description of the Division Chief of the Marine Unit. Roll call vote: Govert – Yes, Olthoff – Yes, Villalobos – Yes, Stick – Yes, Kaper – Yes. Vote: 5-0.

Chief Wilkening introduced, took photos and presented certificates to four members of the Cedar Lake Fire Department that were promoted: Anthony DeAdam to Division Chief of Marine Unit, Chad Wilson to Captain, Amy Early to Captain and Chris Craft to Battalion Chief.

Chief Wilkening requested a motion to approve ratifying the four staff being promoted. A motion was made by Jim Olthoff, seconded by Josh Govert to approve the promotions. Roll call vote: Govert – Yes, Olthoff – Yes, Villalobos – Yes, Stick – Yes, Kaper – Yes. Vote: 5-0. Kaper stated his appreciation for the dedication of these individuals serving our community. Olthoff added he was grateful the applicants were all for different positions as they would have had a difficult decision.

### **PUBLIC COMMENT:** Kaper called for Public Comment.

1. Charles Karl (7016 W 127<sup>th</sup> Pl, Cedar Lake): Karl stated he is appearing tonight, along with neighbors, to express issues they are having with the Fabiszak family living at 12732 Bell St. Karl, who stated he lived at the address since 2018, has had problems with the 15-year-old son Billy Fabiszak since then. He expressed issues with recklessly driving dirt bikes in the roadway and noise – revving engine and loud exhaust, noting he tried speaking with the parents, but results have been unsuccessful with a reasonable resolution. He stated he has addressed these issues with the police, noting citations and warnings were issued, but in four

- years, nothing has changed. He stated he has called the police dozens of times and he estimated 1 out of every 5 times, a ticket is given. Karl stated his intent is not to bash the police department and noted he realizes this is not a high-priority case. He stated he had been told by an officer if they do not observe the incident, they are unable to issue an ordinance citation. He stated he has provided video footage to officers of incidents. He read three ordinances that he felt might be applicable: 93.50 regarding noise and sound, specifically noting subsection F, in relation to operating a vehicle creating excessive noise due to a defective or modified exhaust system as a result of unnecessary acceleration/deceleration, tire squealing...within 24 feet of the audio device; 76.07 restrictions of motor vehicle, specifically subsection F, regarding muffler noise; and 93.03 general noise specifically noting subsection G, regarding noxious noises interfering with ordinary comforts of existence. Karl stated he called twice today and was told by dispatch today they had a bad car accident. He told dispatch it was not urgent, noted an officer drove through, but he did not hear anything. He stated a half hour after the officer drove through, Billy brought the dirt bike back out and began revving the engine for no apparent reason. He called CLPD back, noting he wanted to file a complaint and speak with an officer. He stated an officer came out, parked at the end of the block for 15 minutes to observe, but no one called him or came to the house to speak to him.
2. Tully Lunsford (7026 W 127<sup>th</sup> Pl, Cedar Lake): Lunsford stated he had multiple videos of Fabiszak on the bike and speculated it was without a license or insurance. He said he has lived at the address for 20 years and Fabiszaks have lived there 10. He reiterated that his appearance tonight is not an attack on the Cedar Lake Police Department, but stated that whenever a call occurs and police leave the area, he felt the Fabiszaks target who they felt called in the complaint and it "becomes a war zone." He stated they start cars up, jam music, blow horns, scream and cuss at you, and noted he has tried speaking with them on multiple occasions, but nothing has been successful and felt trying to speak to them was difficult because they are "sue happy people." He spoke of neighbors who moved because of the torment they received and felt at times he should move. Lunsford stated Erika Fabiszak told him that an officer told her that as long as they were on private property and it was not quiet time (hours outside of the noise ordinance), they could not do anything about it. Lunsford stated he was pleading for help because of Billy being a minor and the parents being unreasonable and felt they endorsed the behavior. Lunsford stated it was not only the dirt bikes, referencing speaking to Billy about not shooting off fireworks around his dog, yet he goes behind the fence throwing firecrackers over it when he knows his dog is out. He expressed his wife experiencing Billy pulling the bike out while she was unloading groceries revving the engine. Lunsford stated he has tried to be a good neighbor, even lending them money, tools and furniture. Recently, he addressed Erika Fabiszak regarding Billy and she noted he was on house arrest. Lunsford expressed his frustration, apologized for cursing, stated he was feeling harassed and felt collectively they are looking for more pressure being applied. Lunsford stated Billy has cursed at him and made inappropriate gestures.
  3. Darlene Cadore (12105 W 94<sup>th</sup> Pl, St John): Cadore stated that prior to 2018, she lived at 7106 W 127<sup>th</sup> Pl for eight years, noting the Fabiszaks had been harassing the community for fifteen years. She stated when she moved to the W 127<sup>th</sup> Pl, noting she had an infant child, the Fabiszaks ran their dirt bikes on the street and she requested Erika have her kids stop. Instead of stopping the behavior, she had the kids take the mufflers off. When she called the police, the harassment became worse, including Erika screaming from her property at Cadore, using profanity, calling her names and saying horrible things about her infant child through the windows during the summer as well. Cadore stated Billy shot out their windows with a BB

gun. When the police were called, Cadore stated the police said it could not be proved that it was Billy, despite her seeing it. After that incident, she stated they installed video cameras. After the installation, Erika called Cadore's HR Department at her place of employment, told them that Cadore was a pedophile and that she liked to tape little boys. She stated that if the harassment was not enough, Billy exposed himself to her 5-year-old child, noting the kids were outside, Billy had his pants down and was shaking his genitalia at his daughter. When Cadore brought it to Erika's attention, Erika was screaming at Cadore that she was the pedophile because she saw her son. Cadore stated her employer opened a 3-month investigation based off of her claims, noting the allegations were not found to be substantiated. She emotionally expressed how the Fabiszaks have "created hell" for her family. She stated her parents own a small family-owned bounce house business that services Cedar Lake. Erika "trashed them" on social media, stating she was a former customer, despite not being a customer. Cadore stated the neighborhood had good, hard-working people who maintain their properties that are being driven out of the neighborhood because of that family. She indicated when she sold her home, she sold it for under market value to a police officer hoping that he could help take care of some of the issues.

4. Rick Young (7020 W 128<sup>th</sup> Pl): Young stated he has called the police numerous times for harassment. He said he did not want the police to get mad at them for calling. He felt the family encouraged the kid's behavior regarding buying them the bikes, racing them around the neighborhood and burning out the tire trucks. He stated he has seen police presence in the area, but when the police leave, Fabiszaks turn the stereo up loud at night or rev engines as late as 1:00 in the morning. He is looking for something to curb the behavior.
5. Tully Lunsford (7026 W 127<sup>th</sup> Pl, Cedar Lake): Lunsford stated he has been told "no face, no case." He said everyone in the neighborhood has surveillance cameras. He asked if he could upload the videos to help the police help them. Chief Fisher stated yes and explained the complaint lodged from the call today is being investigated since they were informed he was on house arrest. They will be pulling the GPS footage from his ankle bracelet and notifying the probation officer immediately.
6. Laurel Hardin (7030 W 128<sup>th</sup> Ave, Cedar Lake): Hardin stated she has two videos of Billy riding around from today, noting smoking the tires in the driveway. She said if it was not the bike, then a chainsaw or whatever they can find to make it noisy. She feels that she cannot let her dogs out or have family over to visit due to the noise and the disgusting things yelled across the street.

Multiple discussions ensued that were not from the podium. Chief Wilkening stated the town had 9 bad calls today and the police were tied up with each of those calls today. Hardin stated she would be happy to share her videos to help with matters. Chief Fisher stated the videos would have to be utilized for a specific purpose and in the past, some videos the person could not be identified specifically. Fisher stated burden of proof has to be shown which falls on the officer and the infractionable offense has to be witnessed. He stated that when the calls come in, by the time the officer gets to the location, the bike is put up. Young asked Fisher what he recommended. Fisher stated keep calling the police department every time, noting even if it was fifteen times a day. A resident indicated they felt Fabiszaks were listening to the PD channel and Fisher responded with it was not illegal for them to listen to the scanner. Fisher told the residents if they called and did not want them to have it put over the scanner, to indicate to the dispatcher not to have it put over the air. Hardin asked what was the quickest way to call. Fisher stated to call 911 always, noting there is no other line. Multiple discussions ensued. Fisher expressed they should continue to call and never feel like they are

bothering the officers. Karl asked for infraction offenses or ordinance violations what the statute of limitations was. Attorney Austgen responded with two years. Fisher explained to the group that in Lake County, citations are taking ten months to a year to go to court. Lunsford expressed that the reason for all of them coming was so it shows that these issues were effecting the entire neighborhood, not just one or two neighbors. Fisher told Lunsford that his officers are looking into if he was driving the motorcycle without a license, which is a misdemeanor in Indiana. Karl asked if the issues ever presented in the past that resulted in a bike being impounded. Two neighbors indicated they knew of occasions where it has occurred. Jack Hardin (7030 W 128<sup>th</sup> Ave, Cedar Lake) stated rumor had it that the Fabiszaks were related to Attorney Austgen. Attorney Austgen stated that it should be recorded to reflect that he is not related to her. Multiple residents, including Tina Waters (12804 Bell St) indicated Erika has told them that Austgen was related to her. Attorney Austgen recommended that everyone present provide their name and address for the record for public record. Recording Secretary Moore provided the group with pen and paper. Chairman Kaper thanked them for coming and expressing their issues, noting his empathy for the situation.

Kaper called for Public Comment three times; none received.

**APPROVAL OF MINUTES for Wednesday, October 26, 2022 Public Meeting and Wednesday, November 9, 2022 Special Public Meeting:** A motion was made by Norm Stick, seconded by David Villalobos, to approve the meeting minutes. Roll call vote: Govert – Yes, Olthoff – Yes, Villalobos – Yes, Stick – Yes, Kaper – Yes. Vote: 5-0.

**VIPS REPORT:** Chief Fisher stated Layer was not present tonight. Kaper stated 93 hours for the year with 7 emergency call outs for the month. Fisher reviewed the report noting events attended and callouts. Fisher stated Layer received a resignation letter from Mike Czerwinski stating he obtained a new job and is unable to perform the duties. A motion was made by David Villalobos, seconded by Josh Govert, to accept the letter of resignation of Mike Czerwinski. Roll call vote: Govert – Yes, Olthoff – Yes, Villalobos – Yes, Stick – Yes, Kaper – Yes. Vote: 5-0.

### **POLICE DEPARTMENT: OLD & NEW BUSINESS**

**Communications:** Chief Fisher announced the Northwest Indiana Regional SWAT team was holding their annual fundraiser event and raffle December 2. SWAT members will be selling tickets. Fisher updated the board, stating the department was continuing with their fundraising efforts in November through the Northwest Indiana Cancer Kids Foundation where officers can grow beards through February for a donation. To date, the department has collected \$1020.00.

**Finances – Purchase Orders, Expenditure Reports & Grants:** Chief Fisher reviewed the purchase order and expenditure reports with the Board, noting car cameras are in the process of being installed at the fire station, but the process is going slower than anticipated. He noted they cannot be used until the server is installed the beginning of January. Fisher stated he received a fax for review from Attorney Austgen regarding the Fee Schedule Ordinance update that would include pricing for obtaining the video footage once they go live. Attorney Austgen stated he was working on the Local Background Check Fee Establishment Ordinance with Chief Fisher. He stated he spoke with the Board last month about the establishment of a Policy and Ordinance Committee, noting it would be a perfect time to start one as they start to send over a series of

things. Kaper questioned if it should include police. Austgen stated he recommended one or two of the Board members meet with the Chiefs. Stick stated he has followed through with that. Austgen suggested including the Chief for discussions involving content and adequacy for the intended purpose. Fisher asked Austgen if he wanted the Board to have the Ordinance. Austgen stated absolutely, noting he wanted them to make recommendation to the Town Council as a recital to the ordinance. He stated the Board are the policy makers.

**Staffing:** Chairman Kaper stated interviews were complete for those 4 interviewed wanting to pursue their career as a Sergeant. Kaper stated the Board would like to promote two of them effective January 1, 2023, selecting Ryan Miller and Eric Godoy. Kaper request a motion and confirmed to Stick the other Sergeant to be filled will be discussed at a later time. A motion was made by Norm Stick, seconded by Jim Olthoff, to promote Ryan Miller and Eric Godoy from Corporal to Sergeant effective January 1, 2023. Roll call vote: Govert - Yes, Olthoff - Yes, Villalobos - Yes, Stick - Yes, Kaper - Yes. Vote: 5-0. Kaper stated Fisher would reach out to notify those two; Kaper congratulated them and all of those who applied.

Chief Fisher stated testing for new applicants took place on November 12; 7 tested; 2 did not pass; and 5 moved on to the interviews scheduled December 8. Kaper asked Board members if one of them would be available to sit in. Someone will reach out to Chief Fisher to let him know who is available. Fisher read the letter of recognition from Training Coordinator Meyer regarding Corporal Pennington, Officer Machalk, Officer Sulski and Officer Corbin, noting they worked diligently to FTO with Officer Holzhauer for the past few months. Meyer acknowledged them being responsible, hardworking and intelligent. Meyer provided further recognition to Corporal Pennington for the extra steps he took for training due to the lack of FTOs available, noting working several days in a row to help shadow Holzhauer.

**Training Report:** Chief Fisher reviewed the October Training Report including legal updates, firearms qualifications for the entire department, FTO course, intoximeter recertifications, and Sniper training.

**Equipment:** Chief Fisher indicated several vehicles have been getting repaired before the end of the year.

**Monthly Activity Report – CLPD Monthly Report & Code Enforcement:** Chief Fisher reviewed the monthly activity and code enforcement reports, noting 1013 calls for service for the month, 87 citations issued, 402 state violations, total of 40 arrests, 65 charges filed for a total of 296 arrests for the year and 533 charges filed. Fisher clarified for Villalobos that the 1013 calls for service is an increase, averaging 34.4 calls per day.

**Lexipol Recommended Policy Update:** Fisher reported a few policies being reviewed that will be brought before the Board in the coming months. He reported reviewing the recommendations received from Attorney Austgen on #1110. Stick stated policy #803, specifically section 803.11, needed amending.

**Other:** Chief Fisher confirmed for Kaper that he had no update on new cars, as the budget has not been approved yet.

## **FIRE DEPARTMENT: OLD & NEW BUSINESS**

**Communications:** Chief Wilkening reported the Fire Department had a great turn out for the Veterans Program held last week sponsored by the Association and funded/hosted by the Eagles.

**Finances – Purchase Orders, Expenditure Reports & Grants:** Chief Wilkening reviewed the purchase orders and expenditure reports noting \$2,700 in ladder testing/recertification, \$6,200 for injectors on the ladder truck and replacement of tires.

**Staffing:** Kaper stated promotions were effective January 1, 2023. Chief Wilkening requested permission to advertise for an eligibility list for Firefighter/EMT or Firefighter/Paramedic for full time and part time. Wilkening confirmed to Stick that the other list is outdated. A motion was made by Norm Stick, seconded by Josh Govert, to allow advertising for an eligibility list. Roll call vote: Govert - Yes, Olthoff - Yes, Villalobos - Yes, Stick - Yes, Kaper - Yes. Vote: 5-0.

Wilkening discussed with the Board the full-time hire to replace Division Chief Scoleri upon his retirement March 1, 2023. He stated, after the first of the year, the individual would be put through the PERF process and replace Scoleri when he leaves. Wilkening confirmed to Stick that she would fill the vacancy in the department when Scoleri and he would request then that the Board promote her to Division Chief of EMS. He stated the full-time person approved for hire at the last meeting would then replace her vacancy. Wilkening confirmed to Kaper that the letter of retirement would be available for the next meeting. Wilkening stated the staff person out on FMLA is being scheduled for work-return testing. He noted if he does not pass the testing, then he will be requesting an emergency hire for replacement.

**Training Report:** Chief Wilkening reviewed the training report noting 132 total training sessions in October for a total of 1175 hours. He reported applying to become a Car Seat Distribution Center. If approved by the State of Indiana, they would not only have certified staff to install the car seats, but they would also have free car seats available to be installed.

**Equipment:** Chief Wilkening reported Engine 13 transfer PTO pump repairs, noting the truck was older and they do not have a total cost of repair yet. 1212 Township vehicle having an oil leak costing \$4,000, which the Trustee assisted with the cost. He stated the ladder truck needed injectors costing \$11,000. Wilkening confirmed to Kaper that the new fire truck is being built, however no estimated completion date.

**Monthly Activity Report:** Chief Wilkening reviewed the Monthly Activity Report noting 137 calls for October for a total of 1570 calls for the year. He reported a structure fire in Lemon Lake Estates, in which a Lake Dale firefighter was injured and multiple co-occurring calls. He reported a bad accident on 133<sup>rd</sup> & Parrish today, in which the reconstruction team was still working on. Chief Fisher confirmed to Kaper a Press Release was done.

**Lexipol Recommended Policy Update:** Chief Wilkening stated he is working on setting up a system and is working with the Town Manager on a few of them for proposal to the Board.

## **OTHER**

**Legal Report from Town Attorney:** Town Attorney Austgen reported #1110 Personnel Complaints Lexipol Policy was provided to the Police Chief for updates. Stick stated he has discussed this policy with Chief Fisher. Austgen stated he is working on the Reconstruction Team MOU and will have it complete by the end of the year. He indicated the pension packet review had been delivered to the Town Manager, when complete, will be directed to Town Council not return to the Board of Safety.

Austgen reported the firefighter's Training Reimbursement Agreement has been paid in full and all circumstances between the Town, employer and employee have been concluded. Wilkening stated Van Auken resigned today. Kaper asked if a letter of resignation was obtained to approved. Wilkening stated he had requested one and will forward to the Board. He indicated he signed the payroll form to remove him from payroll. Austgen confirmed to Kaper, in regards to inquiring on an update of Sterk and Stickle, he will be filing a lawsuit tomorrow on one of the former officers and the other is making payment arrangements, in which an agreement will be made soon. Chief Fisher proposed removing the update to the current contract, noting his amount in the Reimbursement Agreement contract is still fairly adequate, however he was not certain on Chief Wilkening's contract. Austgen agreed with Wilkening that updating the fire department contract would need to be considered for updating and reminded the Board the amounts are related to direct costs. Wilkening stated he understands the legal aspect of the agreement, but felt that special circumstances took place in regards to the most recent case with Van Auken, reporting Van Auken did not obtain the job he applied for and decided to stay in the area, continued to work part-time and POC for CLFD. He felt that Van Auken being required to pay back the agreement was wrong, as he returned to the same department, wearing his same gear that he was just charged for and remained a resident of the town just blocks from the fire station, in which he could still volunteer to respond for calls. He indicated he would like to see, in future circumstances, considerations be made for special situations. Kaper stated Town Council oversees that agreement and the Board only sends the recommendation. Wilkening confirmed to Olthoff that Van Auken was working part-time and using the gear. Wilkening confirmed to Stick that if another person is hired and is the same size, the gear would be used by the next person, if it fits and stated that if part-time, the department may not necessarily purchase their gear. Wilkening stated if the person worked elsewhere, they would bring their gear. Multiple discussions ensued with Wilkening clarifying he wanted to avoid something like this again, especially considering the person was local, a good firefighter/paramedic and willing to work for the department part time. Wilkening confirmed to Kaper that when the staff person leaves, they do not take the gear with them. Stick agreed with Wilkening that the situation was unique.

**New Building Update:** Chief Fisher reported they are awaiting response from DLGF.

**Emergency Operations Plan:** Chief Fisher reported the plan was still being worked on.

**PUBLIC COMMENT:** Kaper called for Public Comment three times; none received.

**ADJOURNMENT:** Kaper called the meeting adjourned at 7:40 pm. He announced the next meeting will be December 14 at 6:00 pm.

TOWN OF CEDAR LAKE BOARD OF SAFETY

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Lester Kaper, Chairman

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Norman Stick, Vice-Chairman

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Joshua Govert, Member

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James Olthoff, Member

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David Villalobos, Member

ATTEST:

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Sarah Moore, Recording Secretary