

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

June 7, 2011
Public Meeting 7:00 PM at the Cedar Lake Town Hall
Pledge of Allegiance & Moment of Silence

Roll Call:

Present	John Foreman	Ward 2	Absent	Greg Parker	Ward 7
	Council Member			Vice-President	
Absent	Dale Poston	Ward 3	Present	Robert H. Carnahan	Ward 1
	Council Member			President	
Present	Jerry Smith	Ward 4	Absent*	Amy J. Sund	
	Council Member			Clerk-Treasurer	
Present	Randell Niemeyer	Ward 5	Present	Ian Nicolini	
	Council Member			Town Administrator	
Present	William Landske	Ward 6	Present	David Austgen	
	Council Member			Town Attorney	

*Jill Murr, Chief Deputy Clerk, was in attendance

DEPARTMENT REPORTS

Police: Chief Roger Patz had no report.

Public Works: Jim Cornett reported that mosquito spraying is beginning tonight. The patch work on the roof is completed. Council commended all departments' especially public works for the work during the storm. Ian Nicolini commended public works for their continuous improvements which were noted during the recent risk management site assessment; only minor adjustments are needed. Jim Cornett reported that the fuel system has been installed and training is next week. John Foreman inquired on a guard rail; Jim Cornett responded that it is private property but would check on brush clean up. The street sweeper is out.

Parks & Recreation: A written report was distributed to Council. Ian Nicolini reported on the donated park equipment; the major components are in place and we are awaiting information on the hardware components from the supplier. Quotes are being obtained on the concrete pad needed; in the early stages it looks favorable. Robert Carnahan inquired of Ian Nicolini on how this information was obtained; Ian Nicolini responded that the information was supplied by the supplier of the equipment. Public works has assessed the equipment and taken inventory; at this point it is nuts and bolts, concrete work and padding. Randy Niemeyer inquired if successful where it would be installed, Robin's Nest? Ian Nicolini responded that it is a policy call on where it would be located. Bill Landske questioned the wait on quotes; Ian Nicolini stated to provide an accurate understanding of the costs. Current estimates are cheaper than throwing the equipment away. John Foreman requested that the park report have bullet points and to provide a map of the parks that are being reported on.

Clerk-Treasurer: Clerk-Treasurer Amy Sund was attending the Indiana League of Municipal Clerk Treasurer's Conference this week and was not in attendance.

Fire Department: No report.

Town Administrator: Ian Nicolini requested staff direction to negotiate with Strack & Van Til regarding economic development utilizing tax increment financing. Over one hundred (100) jobs could come out of this. The plan is to demolish the site and begin construction. Motion by Jerry Smith and seconded by Bill Landske to allow the Town Administrator to get this rolling.

Roll Call Vote: 5 to 0

Foreman	Poston	Smith	Niemeyer	Landske	Parker	Carnahan
YES	ABSENT	YES	YES	YES	ABSENT	YES

This is an important component to speed up the process. Ian Nicolini will report at the next meeting where they are at with the project. The road bid opening will be tomorrow at 11:00 am at Town Hall. The necessary easements for the storm drainage improvements are being worked on. There will be a special public meeting on Monday, June 13th at 7:30 pm to award the bids for the road projects. Ian Nicolini reported that at the last meeting the public works dump trucks bid was awarded with a bid consideration price of approximately \$346,000.00. The actual bid is \$365,130.00 which is an \$18,000.00 increase. Ian Nicolini explained the 5% bid allowance allowed for specs of Indiana companies. Truck City of Gary is still the lowest responsive bidder. David Austgen agreed with Ian Nicolini on this. Ratification is needed based upon the clarified information. Motion by Jerry Smith and seconded by Randy Niemeyer to approve the ratification and adopt the Truck City of Gary purchase price of \$365,130.00 with a bid consideration price of \$346,000.00 who is the lowest responsive bidder and met all specifications.

Roll Call Vote: 5 to 0

Foreman	Poston	Smith	Niemeyer	Landske	Parker	Carnahan
YES	ABSENT	YES	YES	YES	ABSENT	YES

The adjustor has stated that the check is in the mail for the water damage; repairs have already been made.

Town Attorney: Attorney David Austgen had no report.

Town Council: John Foreman noted that two baseball teams in Town have made it to the finals. Motion by John Foreman and seconded by Randy Niemeyer to have Christopher B. Burke Engineering to look at the water problem on Morse and identify the problem (by the old cabinet place). Jerry Smith questioned if this could just be cleaned up; Jim Cornett responded that they would need to shoot elevations, put an open cut into the road and install ductile.

Roll Call Vote: 5 to 0

Foreman	Poston	Smith	Niemeyer	Landske	Parker	Carnahan
YES	ABSENT	YES	YES	YES	ABSENT	YES

Robert Carnahan noted Summerfest had minor concerns with Resolution No. 1044 which included extending the dates to five (5) days before and five (5) days after the event and Section 2: removing the last sentence regarding all other matters. Randy Niemeyer, Jerry Reiling and David Austgen are to discuss this and bring it back. Robert Carnahan called upon Mary Joan Dickson, Summerfest Secretary, to explain. Council has approved the Resolution, but there are a few details to work out so that there is no

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

misunderstanding. Randy Niemeyer will work on this; this will get us through this year, but will need some more work for next year. Robert Carnahan questioned a three-year resolution; David Austgen stated that there was never a three-year resolution. Randy Niemeyer stated that the ordinance regarding fencing on corner lots needs to be discussed. Property owners on corner lots are limited; this needs to be thought about and debated. David Austgen noted that this is a zoning issue and an amendment would need to be adopted; the plan commission would send a certification following a public hearing. This would need to be taken to the plan commission to review and study this; propose an amendment and hold a public hearing; this can be done by following statutory process. John Foreman explained the methodology behind this and the line of site and vision triangle. Randy Niemeyer noted that that the ordinance protects the provisions; but what about the property owners.

PUBLIC COMMENT: None

CONSENT AGENDA

- 1. Minutes of the Regular Public Meeting – Minutes of the May 17, 2011.
- 2. Docket: Town Claims 68629 - 68721 for \$318,082.96; Wastewater Claims 26652 - 26692 for \$416,757.29; Storm Water Claims 68635 – 68636, and 68659 - 68661 for \$8,048.39; and Water Utility Claims 80672 - 80697 for \$28,339.82. Motion by Jerry Smith and seconded by Bill Landske to accept and waive the reading of the Minutes, and to accept the Consent Agenda.

Roll Call Vote: 5 to 0

Foreman	Poston	Smith	Niemeyer	Landske	Parker	Carnahan
YES	ABSENT	YES	YES	YES	ABSENT	YES

PLANNING/ZONING & BZA:

1. Agreement for Transfer of Real Property

Ian Nicolini explained that this will provide additional public access to Cedar Lake. DJ Cedar Lake, LLC, purchased the home next to the Lighthouse Restaurant. Landscape improvements and proposed re-subdividing were discussed. The Town and DJ Cedar Lake, LLC would transfer areas which would square off the Town Complex. This will consolidate the Town's lake frontage which includes a proposed beach area. Pier use was discussed; the enhancement association has discussed expanding the pier and adding more sections. The lot dimensions were discussed. Jerry Smith requested that the rules and regulations include prohibiting boat trailer parking in the parking lot; posting a sign or by ordinance. There will be forty (40) improved parking spaces and ten (10) additional spaces added. Signage noting police and public parking was suggested. Randy Niemeyer stated that this will provide the greatest public access to our citizens. There will be no construction or minimal disruption, during Town events, such as Summerfest and the symphony, if this is approved. No taxpayer dollars will fund this project. David Austgen noted that this is a great opportunity; there should be a significant difference in the next six (6) weeks. Motion by Jerry Smith and seconded by Landske to approve the agreement and authorize the Town Attorney and Town Administrator to finalize the documents and the Town Council President to sign. It was noted that the home should be leveled by the end of the week.

Roll Call Vote: 5 to 0

Foreman	Poston	Smith	Niemeyer	Landske	Parker	Carnahan
YES	ABSENT	YES	YES	YES	ABSENT	YES

2. Special Use – 10501 9 & 10 W. 133rd Avenue – To allow a recycling center in the Industrial Park (Favorable Recommendation from the Board of Zoning Appeals with contingencies)

Ian Nicolini stated that the Board of Zoning Appeals sent a favorable recommendation to the Town Council for the Special Use exception to allow the outdoor storage, sorting, collection or baling of rags, paper, metal or junk, contingent upon compliance with Plan Commission's site plan approval and associated engineering items, not more than five (5) roll-off dumpsters on the site at any given time, and to follow the "Outdoor storage item list" submitted and to include the same, to include the Findings of Fact by a vote of 4 in favor and 0 against. This is the new lot to the south in Industrial Park. They have received an award from Lieutenant Governor Skillman. Motion by Jerry Smith and seconded by Bill Landske to approve based on the recommendation from the Board of Zoning Appeals with contingencies and findings of fact.

Roll Call Vote: 5 to 0

Foreman	Poston	Smith	Niemeyer	Landske	Parker	Carnahan
YES	ABSENT	YES	YES	YES	ABSENT	YES

3. Variance of Use – 10800 W. 133rd Avenue – To allow outdoor cooking and dining in a Neighborhood Business (B-1) Zoning District (Favorable recommendation from the Board of Zoning Appeals with contingencies)

Ian Nicolini stated that the Board of Zoning Appeals sent a favorable recommendation to the Town Council for the requested Variance of Use to allow outdoor dining and outdoor cooking for a grocery store in a Neighborhood Business (B-1) Zoning District contingent upon no more than three (3) picnic tables and a portable grill be placed in the grassy areas as discussed to include the Findings of Fact. This will be the grassy area to the north. Randy Niemeyer noted that all food safety and serving requirements be followed. This will be for seven days a week. Motion by Randy Niemeyer and seconded by John Foreman to approve based upon the favorable recommendation from the Board of Zoning Appeals with contingencies and findings of fact.

Roll Call Vote: 5 to 0

Foreman	Poston	Smith	Niemeyer	Landske	Parker	Carnahan
YES	ABSENT	YES	YES	YES	ABSENT	YES

**TOWN OF CEDAR LAKE, LAKE COUNTY, INDIANA
MEMORANDA & MINUTES OF THE CEDAR LAKE TOWN COUNCIL**

4. Variance of Use – 13134 Lake Shore Drive – To allow outdoor dining, live entertainment and alcohol sales and alcohol consumption in a Community Business (B-2) Zoning District (Favorable Recommendation from the Board of Zoning Appeals with contingencies)

Ian Nicolini stated that the Board of Zoning Appeals sent a favorable recommendation for the requested Variance of Use to allow outdoor alcohol sales and consumption upon receipt of the amended liquor license, outdoor dining and live entertainment, to conform to current noise ordinances for the Town as discussed, to include the Findings of Fact. This is Boondocks Restaurant. Currently they do not have approval for outdoor alcohol from the commission; this is a contingency. This will be from June through August from 8 pm to 11 pm. Alcohol was discussed; there are many staff members one would have to pass by. Motion by John Foreman and seconded by Jerry Smith to approve the Variance of Use with contingencies, compliance with Alcohol & Tobacco and Findings of Fact.

Roll Call Vote: 5 to 0

Foreman	Poston	Smith	Niemeyer	Landske	Parker	Carnahan
YES	ABSENT	YES	YES	YES	ABSENT	YES

ORDINANCES AND RESOLUTIONS:

1. Ordinance No. 1131 – Public Way Vacation – Vicinity of 8505 W. 141st Lane (First Reading on May 17, 2011)

Ian Nicolini read Ordinance No. 1131 by title only. Motion by Randy Niemeyer and seconded by John Foreman to approve the second reading of Ordinance No. 1132.

Roll Call Vote: 4 to 1

Foreman	Poston	Smith	Niemeyer	Landske	Parker	Carnahan
YES	ABSENT	YES	YES	YES	ABSENT	NO

TOWN BUSINESS:

New Business

1. Temporary Sales Approval – Homescapes Garden Center & Landscaping Supply – 10711 W. 133rd Avenue – 30 day approval granted May 5, 2011

Ian Nicolini stated that the 30 day approval has passed. Dawn Wornhoff stated that the tents they were using blew away and requested permission to sell flowers out of the bus barn. Ian Nicolini stated that he has met the engineer and reviewed the topographical survey, engineering and design site plans should be ready for July. The use and developmental variances have been applied for. Dawn Wornhoff noted that the property is zoned for business. She voiced her opinion about the variance requirements noting that fifty (50) foot setbacks are being used for a road that doesn't exist yet, even though they are sixty (60) feet off the existing road. Dawn Wornhoff expressed her opinions on the variances required. Ian Nicolini tried to explain the set back requirements. She spoke on the engineer and the drainage. Greg Wornhoff, 10708 W. 133rd Lane, vocally addressed Council on the front setback and variance requirements. Greg Wornhoff spoke on his plans. John Foreman tried to explain requirements. Ian Nicolini explained the setbacks and requirements based upon what they have to review based upon what was submitted. Greg Wornhoff spoke out of order while Mr. Nicolini was addressing him; Robert Carnahan stuck the gavel noting that Mr. Wornhoff was out of order. Greg Wornhoff left the meeting room. Ian Nicolini explained to Dawn Wornhoff that based upon the submittal in information from their engineer that is what the variance requirements are based upon. John Foreman stated that everyone has to go through the same process. David Austgen stated that if you have a law, you have to follow it. Ian Nicolini stated that an engineer's drawings are needed. Dawn Wornhoff expressed her opinions. The request is to extend the 30-day approval and request the use of the bus barn. Currently the zoning is B-1 on the bus barn; B-2 would include the greenhouses. David Austgen stated that Council can grant special permission. Randy Niemeyer noted his concerns with promoting small businesses; modern uses and policies need to be developed. Motion by Bill Landske and seconded by John Foreman to allow the use of the bus building and five and extension until they are able to build.

Roll Call Vote: 4 to 1

Foreman	Poston	Smith	Niemeyer	Landske	Parker	Carnahan
YES	ABSENT	YES	YES	YES	ABSENT	NO

Randy Niemeyer noted that the applicable law needs to be followed. Jerry Smith addressed Dawn Wornhoff and noted that the Town Administrator represents the Town Council. Their project has been supported since the beginning. When dealing with Ian Nicolini you are also dealing with me (Jerry Smith) and I am offended by the way he was addressed. He (Ian Nicolini) is our representative and he is doing his job.

2. Impact Fee Committee – Appointments

Ian Nicolini stated that a Recreation Impact Fee Advisory Committee must be established to process the Recreation Impact Fee Amendment. The following expressed interest in serving on the committee: Sandra Dalkilic, Real Estate Broker; Sharon Plassman, Realtor; Jim Laud, Park Department Staff Representative; Jerry Reiling, Resident and Employed in Construction Related Field; and Robert Carnahan, Town Council Representative. In addition to the appointed committee members, the Town Administrator, Park Director and Interim Director of Operations will advise the committee. There is a tentative meeting scheduled on June 22, 2011 at 6:00 pm at Town Hall to review the proposed revisions to the Impact Fee Ordinance. Ian Nicolini spoke on the tentative timeline. Motion by John Foreman and seconded by Randy Niemeyer to appoint the members as recommended.

Roll Call Vote: 5 to 0

Foreman	Poston	Smith	Niemeyer	Landske	Parker	Carnahan
YES	ABSENT	YES	YES	YES	ABSENT	YES

3. Safe Routes to School – Right-of-Way Proposals – Firm Selection

Ian Nicolini stated that a packet was distributed indicating the coring summaries for the Right-of-Way services for the areas near Hanover and Jane Ball. First Group Engineering out of Indianapolis with

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

an office in Hammond had the best scoring. The recommendation was to adopt the committee’s recommendation and begin negotiating the contract. Motion by John Foreman and seconded by Randy Niemeyer to begin contract negotiations with First Group Engineering.

Roll Call Vote: 5 to 0

Foreman	Poston	Smith	Niemeyer	Landske	Parker	Carnahan
YES	ABSENT	YES	YES	YES	ABSENT	YES

4. Job Descriptions: Parks & Recreation Director, Parks & Open Space Laborer and Water Operator

Ian Nicolini stated that this item needs a companion salary ordinance amendment. These will clearly define responsibilities; park maintenance is transferring to public works. Robert Carnahan directed that this be on the next agenda.

Roll Call Vote: 5 to 0

Foreman	Poston	Smith	Niemeyer	Landske	Parker	Carnahan
YES	ABSENT	YES	YES	YES	ABSENT	YES

WRITTEN COMMUNICATION: None

PUBLIC COMMENT:

Sharon Zunica of 135th Place questioned Council’s approval of a special use permit without a time limit; an open time line and expressed her dissatisfaction. Yvonne Taves of Dewey questioned since when do we allow someone to yell and scream; he threw a tantrum and got what he wanted. She stated that there was no date at all with the special use permit; what if it takes ten years. Bullying should not be allowed. Sharon Zunica stated that they waited thirty years for their roads and never did she show as much disrespect as was shown tonight. John Foreman noted the Board of Zoning Appeals process. Randy Niemeyer stated that the Town needs a small business plan, improvements are needed. Yvonne Taves of Dewey spoke on new businesses and special uses. Something needs to change or we are just going to invite more of the same.

FINAL COMMENTS:

- 1. Town Council Comment: Bill Landske commented on the road in front of his house. He stated that Cline Avenue south of Vermillion is really bad with the two hills. Ian Nicolini noted that the road improvements will raise the elevation. Sunnyside Place is scheduled to be fully reconstructed and this will be addressed. Ian Nicolini followed up on the time table for the ecosystem; some action steps are needed. The sign damage that was addressed at a previous meeting will be on the next agenda. Tuesday, June 14th is Flag Day; the pledge being recited at 6:00 pm. There will be a parade from Dairy Queen on the Lake to the Cedar Lake Chamber.
- 2. Town Administrator Comment: Ian Nicolini had no comments.
- 3. Town Attorney Comment: David Austgen had no comments; executive session

Adjournment: Motion by Randy Niemeyer and seconded by John Foreman to adjourn the meeting at approximately 8:50 pm.

Roll Call Vote: 6 to 0

Foreman	Poston	Smith	Niemeyer	Landske	Parker	Carnahan
ABSENT	YES	YES	YES	YES	YES	YES

An Executive Session was advertised and conducted pursuant to IC 5-14-1.5-6.1(b) before and after the meeting with discussion consisting of litigation, acquisition and personnel issues. Those in attendance were Robert Carnahan, John Foreman, William Landske, Randy Niemeyer, Jerry Smith, Chief Deputy Clerk Jill Murr, Town Administrator Ian Nicolini, Town Attorney David Austgen and Mary Joan Dickson.

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

Robert H. Carnahan, President, Ward 1

Greg Parker, Vice-President, Ward 7

John Foreman, Ward 2

Dale Poston, Ward 3

Jerry Smith, Ward 4

Randell Niemeyer, Ward 5

ATTEST:

William Landske, Ward 6

Amy J. Sund, IAMC, CMC, 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.