

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



August 6, 2019

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
Present	John Foreman Council Member	Ward 2	Present	Richard Sharpe Council Member	Ward 7
Present	Julie Rivera Council Member	Ward 3	Present	Jennifer N. Sandberg 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	

PUBLIC COMMENT (*on agenda items*): None

Robert Carnahan stated on July 22, 2019 there was a motion with a vote of 4-2 to go along with the original plan. The minutes are in order but there were no minutes in the packet saying Cline and Lake Shore Drive was to be shut down. He stated he doesn't know who's making those decisions but he doesn't think it's the Council. He wanted to know if those decisions were made by the Town Administrator, the staff, the Town Attorney, American Structurepoint, or Walsh & Kelly. A plan was put in place and that plan was not managed properly. He stated he was disappointed. Mr. Austgen went on the record stating he had no idea what Mr. Carnahan was talking about. If he had any questions on the involvement of the attorney he has his number and could have called. Mr. Foreman added he would address those comments when they get to that item.

CONSENT AGENDA:

- 1. Minutes:** July 16, 2019 and July 22, 2019
- 2. Claims:** All Town Funds: \$313,598.35; Wastewater Operating: \$97,729.61; Water Utility: \$31,401.76; Storm Water: \$17,599.94; 2017 RDA A, B, & C Construction \$858.47 and Payroll – July 25, 2019 and August 1, 2019 \$179,710.82
- 3. Donations:** Cedar Lake Summerfest: In kind donation for summer camp supplies; Lighthouse Restaurant: \$1110.00 for parking lot fund raiser

A motion to accept and waive the reading of the minutes and accept the consent agenda as listed was made by Greg Parker with second by Ralph Miller. Roll call vote: Carnahan – Yes, Parker – Yes, Miller – Yes, Niemeyer – Yes, Sharpe – Yes, Rivera – Yes, Foreman – Yes. Vote: 7 - 0.

NEW BUSINESS:

- 1. USACE Design Agreement** – Town Administrator Murr stated the United States Army Corps Civil Works approved the feasibility report. The design agreement went through the same channels and was approved in their format. Mr. Austgen has reviewed the documents. Communications have been had with staff, consultants, and the US Army Corps. This is the next step to move the project into the next phase which is design. Mr. Foreman added we may have a bit more control over the project if we enlist a consultant for the design portion. Mr. Austgen commented on conversations with the Army Corps attorney. The item before them to consider as it pertains to method of payment and the responsibility of damages. The request is for the attorney to execute a certificate of authority. There is a provision that he is asking for their consideration on before he considers executing the instrument. Specifically, the second sentence discusses payment of damages. He can't execute a document that says they are able to pay damages if necessary in the event of failure to perform. Page five of the agreement lists what damage costs might be. The non-federal sponsor share is projected to be \$422,800 and the costs of betterments are projected to be \$459,000. Mr. Foreman asked if they should scratch that section of the agreement. Mr. Austgen suggested that sentence be struck. Mr. Austgen asked to keep in mind the collateral of 114 acres valued at \$2 million.

Julie Rivera made a motion to approve the execution of the USACE Design Agreement contingent upon the MOA with the Corps that the Town will retain a consultant for the design and direct the Town Attorney to prepare the reimbursement agreement for restoration feasibility design and costs and to strike the second sentence of the certificate

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of authority requiring them to pay damages, with second by Richard Sharpe. Mr. Niemeyer commented that currently the design agreement is roughly \$100,000 and the feasibility report will require an additional \$800,000. Approximately \$1.6 million will be required. He asked the Clerk-Treasurer if that kind of money was available. Ms. Sandberg stated no. Mr. Niemeyer commented that he doesn't know how he can support something that we have no feasible way of paying for. Mr. Foreman stated the purpose of trying to move this into this stage is to get the project on the President's desk so the money can be appropriated. It is currently authorized but not appropriated. Mrs. Murr stated former councils agreed to utilize some of the wastewater funds for this project. Mr. Niemeyer further commented on funding and other upcoming Town projects. Mr. Foreman stated without a design agreement they can't go out to other organizations to ask for funds. Mr. Parker requested the motion be removed and the item be deferred for further discussion. Mr. Carnahan stated he doesn't think the Town should have to pay a penny to restore the lake. It should be a state project. A very lengthy discussion continued on funding and partnerships. Richard Sharpe withdrew his second. Julie Rivera withdrew her motion. Randy Niemeyer made a motion to defer with second by Greg Parker. Roll call vote: Carnahan – Yes, Parker – Yes, Miller – Yes, Niemeyer – Yes, Sharpe – Yes, Rivera – Yes, Foreman –No. Vote: 6 - 1.

2. **Lake Shore Drive at Cline Ave Intersection Project** – Mr. Foreman commented on the Special Meeting held July 22, 2019. An agenda item was added to discuss the Cline Avenue project as bid. The project was not supposed to kick off until 2022. During the last meeting the representatives from American Structurepoint gave an update on the project and presented options on scheduling for moving forward with the project. Town Council, Town personnel, and citizens commented during the meeting. A motion was made to keep the plan as originally intended. Within that meeting, Mrs. Murr was directed to set up a meeting with INDOT, American Structurepoint, and key personnel to find out what happened with the project. Mr. Foreman stated he was able to sit in on that meeting. This was not a project like any of the others bonded for. It is an INDOT project. INDOT confirmed the additional cost due to utility relocation delays was the problem. Points of discussion during the meeting included cost and time savings with complete road closures. Safety issues were also discussed. A lane will be available for emergency response vehicles. Mr. Carnahan asked who made the decision. Mr. Foreman replied it was he, Mrs. Murr and the project group's decision to close the roads and ratify at tonight's meeting. Mr. Carnahan asked the attorney if it was legal. Mr. Austgen replied that talking with individual council members is not illegal. Mr. Foreman reiterated the decision had to be made that day. He added the road is still open and official action isn't until right now. The police and fire chiefs sent word that using the detour instead of signal lights would be quicker. Mr. Carnahan discussed the cost to the Town on the whole project. Mr. Niemeyer asked to add an item for the record. He read an email that was sent to all council members from Mary Joan Dickson. She asked why was it voted to leave one lane open and it is not being done. She asked about provisions in the contract on the timeline, traffic flow, safety and transparency. Mr. Niemeyer read his response to Mrs. Dickson addressing her questions and concerns. Mr. Carnahan asked for Mr. Kaper to speak on his business. Mr. Kaper discussed shipments for his business and asked about signage for the businesses in the construction area. Mr. Kubiak stated signage was going to be put up tomorrow for the businesses. Discussion briefly continued.

Randy Niemeyer made a motion to approve the closure of Lake Shore Drive and Cline intersection with the addition of an emergency lane. Second was by Richard Sharpe. Discussion on the emergency lane, detour routes, and time savings followed. Mrs. Murr added ongoing conversations are occurring with Public Safety Officials. Roll call vote: Carnahan – No, Parker – Yes, Miller – Yes, Niemeyer – Yes, Sharpe – Yes, Rivera – Yes, Foreman – Yes. Vote: 6 - 1.

3. **Change Order No. 1 – Lake Shore Drive/Cline**

Mrs. Murr stated this is a change order as a spec has changed for quality control and a quantity amount of HMA for 2019. It is required by INDOT. There is no cost to this. It is recommended to approve the Change Order.

A motion to approve Change Order No. 1 was made by Ralph Miller with second by Richard Sharpe. Mr. Niemeyer asked who will be overseeing the quality of the asphalt. Mrs. Murr stated it will be checked and samples will be taken. American Structurepoint will be overseeing as well as INDOT Representatives. Mr. Niemeyer added for the record he has very little faith in American Structurepoint. Mr. Parker stated he can second that. Mr. Austgen asked who is paying American Structurepoint. Mr. Niemeyer stated he believes the local sponsor is responsible for the construction inspection. A brief discussion continued.

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Mrs. Murr stated construction inspection is paid at a split of 80/20. Roll call vote: Carnahan – No, Parker – Yes, Miller – Yes, Niemeyer – Yes, Sharpe – Yes, Rivera – Yes, Foreman – Yes. Vote: 6 - 1.

Mrs. Murr added she had researched Mr. Carnahan's question on the cost of the project. Preliminary engineering was \$370,000. That cost was borne solely by the Town. Most NIRPC/INDOT projects are that way. You have to pay to have them preliminarily engineered. The project itself from land acquisition through construction and construction inspection is \$2.5 million dollars. Of that federal cost is just over \$2 million and the local share of approximately \$507,000.

4. Asset Management Plan

Mrs. Murr explained the Asset Management Plan has been reviewed and analyzed. This was the contract with VS Engineering. Staff is using this to look at roadways and plan for future budgets and future projects. Roads are rated on a scale of 0 to 10. Our average rating is just below 6. 10% of the roads are rated at a 10. 3% of the roads are rated at a 1. They are looking at various projects within Public Works to do some milling and resurfacing on this year. She stated Lake Shore Drive in Surprise Park is one of those being looked into. Mrs. Murr continued to discuss the document before Council. Mr. Niemeyer asked that this plan be put on the Town's website. He would like to see a legend to discuss the different items on the report and their meaning. He believes it's important this is posted for the public. Mr. Parker asked for an update on the Highland area and Noble Oaks. Mrs. Murr stated Mr. Oliphant is working on that. One of the parts was reaching out to NIPSCO. NIPSCO has requested a meeting because they would like to do some gas main relocation and consolidation on utility poles. They will be meeting on August 12th. Noble Oaks, in the area of Butternut, they are looking at what they can do as a smaller project until they can get to a full reconstruction project in that area. She will have an update at the next meeting.

A motion to approve the Asset Management Plan with the addition of posting the plan on the website was made by Randy Niemeyer. Second was made by Greg Parker. Roll call vote: Carnahan – Yes, Parker – Yes, Miller – Yes, Niemeyer – Yes, Sharpe – Yes, Rivera – Yes, Foreman – Yes. Vote: 7 - 0.

REPORTS

- 1. Town Council** – Mr. Carnahan thanked NIPSCO for replacing the utility pole in front of the Fire Department. Mr. Parker discussed his role at the Boys and Girls Club. He has a gym floor project coming up at the Cedar Lake Facility. His problem is his contractor is not licensed with the Town of Cedar Lake. He is asking for M&M General Contracting and R&R Floors to be given a temporary license with the Town and grant them the ability to get a permit to do the project. Mr. Foreman asked if they have done work for other Boys & Girls Club Facilities. Mr. Parker stated yes. A brief discussion continued on the ability to waive fees. A motion to amend the agenda and introduce the item for consideration of a temporary license for M&M General Contracting and R&R Floors for the project at the Cedar Lake Boys & Girls Club only was made by Randy Niemeyer with second by Richard Sharpe. Roll call vote: Carnahan – Yes, Parker – Yes, Miller – Yes, Niemeyer – Yes, Sharpe – Yes, Rivera – Yes, Foreman – Yes. Vote: 7 - 0.

Mr. Carnahan asked Mr. Kubiak if the weeds could be cleaned up on 129th Avenue, off of Hilltop towards MacArthur. He asked also if next to Rosati's Pizza by the fence could be done. Mr. Parker asked Mr. Babcock, 14330 Lake Shore Drive, to discuss his road. Mr. Parker stated he has spoken at length with Mr. Babcock about his road. Mr. Babcock shared photos with the Council. He voiced his concerns with the state of his road. A discussion continued on the state of the road in the photos. Mr. Parker asked Mr. Govert to step forward. Josh Govert, 12550 Tall Oaks Drive, requested an explanation on two items. He asked for an update on Wicker Meadows. Mrs. Rivera stated Jill has had communication with County officials because the property needed is located in Lake County. Mrs. Murr stated as of this afternoon Lake County Surveyor, Bill Emerson, was supposed to reach out to that property owner. She has not yet received any further information. She has been contacted by a realtor that inquired about sewer availability and annexation of that parcel. Lake County has agreed to reach out and help with the project. Mrs. Rivera added that Mr. Emerson and County Commissioner Tippy are very interested in helping. Mrs. Murr stated they acquired one of the parcels needed. To move the project forward they need this next piece. Mr. Niemeyer added that at this point if they can't get movement on this project, they've done a bit of work on that area to address the issue, and they need to put into writing for his mother that the issue has been addressed. A lengthy discussion continued on the next steps for drafting a letter and the future of the project. Mr. Govert asked about the park area in August Oaks. That parcel slipped through the cracks. A home couldn't be built on it but now there is a structure and lighting on the parcel. He stated he didn't understand how that happened. Mr. Kubiak

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stated they looked up the file. The property was never to have a home built on it. There were no other restrictions on the property. A lengthy discussion continued on the property and properly tagging future parcels and their uses. Mr. Foreman discussed the tragedy on the lake last Friday. It was a dangerous situation. Chief Wilkening had contacted volunteers to keep people from the search area. All Public Safety personnel did an excellent job. Mr. Foreman stated that Mr. Kuhn had a great idea for putting together a safety patrol for when there is an emergency on the lake. Mr. Niemeyer discussed Bartlett/Wahlberg Park and Krystal Oaks Park to be on the next agenda. A few years ago they discussed updates to those parks. He would like to make sure those two items get on agendas and they begin to talk designs. Mr. Foreman asked Mrs. Murr to look into this. Mr. Carnahan stated the residents of Krystal Oaks were asking for trees to block the water tower. Mr. Miller discussed the partnership with the Boys and Girls Club and the Town. He asked to add a motion to waive the building permit fee for the new gym floor. Multiple conversations overlapped. It was stated the item would be added to the next agenda. Chief Wilkening added that the project was donated 100% by an anonymous donor. Mrs. Murr stated that the Town applied for the Community Crossing Grant 2019 Phase II for a \$1.3 million dollar project for the Hot in Place Asphalt Placement going from Lauerman to 145th, Morse Street to the corporate limits, and back around Lake Shore Drive going up to the Fire Department. They anticipate hearing about the awards in October. Applying for grants is one of the things her department with the help of Sarah as well as public safety is working on. The Police Department applied for the Opioid Awareness Grant and was granted one for \$500. The Fire Department has applied for a \$2,000 NIPSCO Training/Equipment Grant. They are applying for an 811 safety grant. Mr. Carnahan asked about Fairbanks and Vermillion. Mrs. Murr stated they are looking at the cost of milling and resurfacing and doing it as a local project afterwards. Or it could be a potential project for a future Community Crossing Grant. Further discussion continued on the timeline requirements for Community Crossing Grants.

2. **Town Attorney** – Mr. Austgen stated the first item is a parcel exchange with Yvonne Taves. Ms. Taves has proposed a parcel exchange. The parcels are identical. It would be mutually beneficial. Because it is a public private exchange it does require statutory procedure. He asked for their permission to consummate this and put together the deal and exchange the parcels. Mr. Carnahan asked about the parcel exchange. Mrs. Murr stated it's a parcel to the west of her property. Mr. Foreman asked for it to be on the next agenda. Mr. Austgen stated in the next day or two a replacement weed regulation ordinance will be sent to Jill. They will see it in the next few weeks for review. He asked before the next meeting they consider having the financial advisor in attendance to discuss all things utility inclusive of the annual reimbursement calculation report for Lowell, begins of review of financing options for capital projects occurring, and the ecosystem restoration project. Mr. Foreman asked Jill to see if she could coordinate that.
3. **Clerk-Treasurer** – Ms. Sandberg stated she's had a successful start to department budget meetings. She met with the Police Department to discuss their needs and goals for the future. She met with the DLGF Representative for a budget workshop earlier and preliminary reports for Gateway are looking good so far. She reported that the General Fund currently has a cash balance of approximately \$1.4 million. She doesn't see any temporary borrowing being necessary. Mr. Niemeyer asked if any work is being done on zero based budgeting and if there would be any budget workshop activity for the Council. Ms. Sandberg responded that discussions have occurred on zero based budgeting but at this time she doesn't see it as being feasible for the Town to begin for 2020. It is a work in progress to see if it is right for the Town. Mr. Foreman asked if other Town's do it. Mr. Niemeyer stated a lot of people do it. He spoke with Wes Bennett at length about it. He stated he requested it last year. While the Clerk-Treasurer holds the checkbook and signs the checks, the Council is still the fiscal body and if they have a will of enacting zero based budgeting, it needs to be done. It seems like they get ignored as part of the budget process. The people elect them to watch over and invest their taxpayer funds. He wants a more transparent and open process. Ms. Sandberg suggested the Council discuss a date and put together a work session to discuss the budget only. Mr. Foreman asked Mrs. Murr to work with Jen on a date.
4. **Town Administrator/Staff** – No further updates.

WRITTEN COMMUNICATION

1. **Cedar Lake Chamber of Commerce** – Thank you letter received. Mrs. Jostes thanked the Council for their support of a lovely evening.
2. **Christopher B. Burke Engineering Report** – Previously reported.

PUBLIC COMMENT

Kevin Toth, 9725 B W. 129th Place, he voiced concerns on a problem with kids riding their bikes on the road on Parrish. It's a large group of kids riding their bikes. Without sidewalks it poses a dangerous situation. He discussed extending the sidewalk. Mr. Niemeyer stated a couple years ago they proposed cutting a sidewalk through the Town's water tower property and running it along the back of the school property and into Town. They proposed partnering with the school and the Town would build it. The school turned them down. Without that they would have to fill in ditches along Parrish in order to put in a sidewalk which isn't a feasible plan. Mr. Toth asked who they need to talk to because someone is going to get killed. Mr. Niemeyer suggested he speak with the school. Further discussion continued on the concern.

Diane Jostes asked about the road closure and the parking lot at the Chamber. She asked if they would have access for boats to the Chamber. Mr. Kubiak stated the east entrance will remain open the whole time. Mrs. Jostes asked if signage would be available indicating the ramp is open. Mr. Kubiak stated they would do whatever needs to be done to help the businesses over there.

Mr. Kubiak commented on a lot of studies being done on the roads. With the Paser ratings, he doesn't want everyone rated a 1 thinking their roads will be the closest to being rehabilitated. With technology and ways to preserve roadways it makes evaluation different. Mr. Kubiak briefly discussed LTAP standards. Mr. Niemeyer stated having the document with an explanation is important for the public to have. A brief discussion continued.

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

Julie Rivera, Vice President

Ralph Miller

Greg Parker

Richard Sharpe

- (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.