

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

August 20, 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	

RECOGNITION

Lieutenant Robert Forsell, Police Officer Eric Godoy, Police Officer Douglas Machalk, Firefighter/Medic Bradley Biegel, and Firefighter/Medic Amy Early were presented lifesaving awards for their actions on June 12, 2019. All were credited for saving the life of a choking victim.

PUBLIC COMMENT

Deborah Howe, 13800 W. 138th Avenue, commented on BZA item number two on the agenda. Drainage issues of that property due to blocked culverts cause saturation on her property. Ms. Howe was told by the State that property owners are responsible for maintaining culverts. Ms. Howe added the petitioner did not present a site plan at the BZA meeting. She has not attended Storm Board meetings but has discussed the issue with the Town and Town Administrator. Discussion followed on solutions.

Robert Gross, 8505 W. 140th Avenue, asked for Council's support on the ecosystem project. Mr. Gross offered his continued support and stated he will do his best to continue to raise money to get the project done.

CONSENT AGENDA:

1. **Minutes:** August 6, 2019
2. **Claims:** All Town Funds: \$144,655.55; Wastewater Operating: \$145,221.71; Water Utility: \$33,768.00; Storm Water: \$10,557.60; 2017 RDA A Construction: \$50.50; Payroll: August 8, 2019 - \$243,879.37
3. **Manual Journal Entries:** July 1-30, 2019
4. **Clubhouse:**
 - a. Cub Scouts – August 22, 2019 through May 14, 2020
 - b. Girl Scout Troop 30471 – September 10, 2019 through May 12, 2020
5. **Use Request:** St. John Evangelist Oktoberfest
6. **Lake County Board of Elections** – Election Day request on November 5, 2019

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

BZA:

1. **David Carey, Owner & Debra Campbell, Petitioner – 13530 Morse St. Use Variance**
The Board of Zoning Appeals certified a favorable recommendation for requested use variance. No paraphernalia or tobacco like products will be sold. Ms. Campbell explained the products are hemp based, THC free, and come from a FDA approved supplier. She continued to speak of the medical quality and uses. Mr. Parker asked if there was a site plan. Mr. Austgen stated a site plan should be considered but unfortunately the BZA made this decision without one. Mr. Kubiak felt a site plan was not needed because the former owner presented one and there will be no physical changes to the property. Mr. Austgen disagreed. Discussion followed on businesses potentially not being treated the same. Consistency was also discussed. Mr. Forman explained the petitioner went to the BZA for a zoning change from B-1 to B-2. They could have opened the business without appearing before the board if the zoning did not have to be changed.

A motion to approve the use variance based on the BZA recommendation was made by Julie Rivera with second by Robert Carnahan.

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Roll call vote: Carnahan – Yes, Parker – Yes, Miller –Yes, Niemeyer –Yes, Sharpe –Yes, Rivera –Yes, Foreman –Yes. Vote: 7 - 0.

2. Midway LLC, Owner & Robert Schrum, Petitioner – 13106 Wicker Ave. Use Variance

The Board of Zoning Appeals certified a favorable recommendation for requested use variance with set conditions. Mr. Carnahan asked petitioner how they will address the drainage issue. Petitioner will do everything they can to alleviate the problem.

Mr. Parker again raised the question of a site plan submission. Mr. Kubiak explained this item is for a use variance, permitting will dictate what conditions are to be met and if a site plan is necessary. Mr. Parker asked if Mr. Austgen concurred. Mr. Austgen replied he had an entirely different concept of planning and use variances. Discussion followed on possible lack of communication with petitioners, confusion, and interpretations of processes. Mr. Austgen discussed requirements, code and laws for variances.

A motion to approve the use variance based on the BZA recommended conditions, subtracting hours of operation, including repairs or replacement of compromised culverts was made by Randy Niemeyer with second by Julie Rivera. 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 (*deferred from August 6, 2019*)

Mr. Foreman spoke on the history of the project. The agreement is not necessarily the Locally Preferred Plan, but we may opt out of the agreement at any time. He also discussed involving a marketing company, seeking grants and other sources of funding. Town Administrator Murr stated the United States Army Corp Civil Works approved the feasibility report in April. The design agreement should include a memorandum agreement between the Town and Chicago District for transparency. Items to include are how the district would request a cash contribution, how they would spend their 65% of the design cost; the Town will obtain a design consultant and direct the attorney to prepare a reimbursement resolution for the Eco-System design cost to recapture finances. Mr. Parker asked Mr. Austgen if we can opt-out if we have a signed agreement. Mr. Austgen replied no, that both parties would have to agree. Mr. Niemeyer read part of Article IV of the agreement pertaining to termination liabilities. Discussion followed on federal, state and local law. Mr. Carnahan suggested involving the State for a possible cheaper plan. Mr. Niemeyer stated we have no identifiable revenue fund other than Wastewater Utility and those funds are needed for infrastructure. A very lengthy discussion followed on the \$1.6 million funding sources and revenue streams. Mr. Foreman discussed many of the actions and improvements to date that have helped get the project this far along. The lake is State owned; we are not allowed to touch the bottom without the Army Corps permission. Ms. Murr mentioned other funding sources to analyze; among them are LARE grants for up to \$100,000.00 annually, CEDIT funds, and the non-reverting fund established for the Eco-System Restoration Project. Ms. Murr spoke of her discussion history with London Witte Group on the project. Mr. Foreman feels the next logical step is to go forward with the agreement and hire a professional grant writer. Mr. Niemeyer asked for numbers. He and Mr. Foreman discussed annual costs, funding, payment amounts and due dates. Ms. Murr explained Article III - Method of Payment from the agreement. Potentially the first payment may not be due until 2020. Mr. Niemeyer asked about an amortization schedule or a projection of the Utility revenue stream. Mr. Niemeyer and Mr. Foreman had a heated discussion on business plans/models. Ms. Murr spoke of the projected annual costs after Mr. Foreman called for a motion. Mr. Niemeyer asked for Sue Haase from London Witte to give clarification. Ms. Haase stated the Town has no current agreement with the Army Corp to pay for the \$1.6 million feasibility study. The Town would owe nothing if they walked away today. The Town would owe \$800,000.00 for the feasibility study by entering into the design agreement. On top of that they would owe 35% of the NER plan amounting to \$430,000.00. They would require \$141,000 up front. If the LPP (Locally Preferred Plan) is chosen, Cedar Lake is responsible for 100% of the \$475,000.00 for the design cost of that plan. The Town would owe \$1.6 million. The billing cycle is unknown but they can expect \$200,000.00 every six months. Ms. Haase anticipates they will ask for the first \$200,000.00 payment and the \$141,000.00 upfront for a total of \$341,000.00. The Town will be billed for the continuing design along with semi-annual billing. There is no amortization schedule because there is no fixed cost for the project. Discussion ensued on projecting revenue stream, increasing fees, and cutting costs to fund the project. Ms. Haase pointed out operating costs, debt obligations, upgrades to the Lowell Plant, and dedicated projects are coming out of that fund. She estimates it will take two to five years to recapture the cost of the design project based on the 2017 analysis. Mr. Niemeyer

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wants a financial analysis before voting on the agreement. Mr. Foreman deferred the USACE Design Agreement to September 17, 2019 and added an Engagement Agreement with London Witte as the next item.

1.5 London Witte Engagement Agreement

Mr. Niemeyer made a motion to engage London Witte Group to analyze the source of revenue cited for the USACE agreement, balance that against capital needs, and authorize the Town Council President to authorize the agreement with second by Julie Rivera.

Roll call vote: Carnahan – Yes, Parker – Yes, Miller –Yes, Niemeyer –Yes, Sharpe –Yes, Rivera –Yes, Foreman –Yes. Vote: 7 - 0.

2. Property Transfer

Ms. Murr explained the transfer of Town owned property located at 13424 Morse Street to Yvonne Taves in exchange for her property located at 13336 Morse Street. The parcels are approximately the same size and same values. Mr. Austgen added this is a simple process.

Ralph Miller made a motion to accept the transfer with second by Richard Sharpe.

Discussion followed on the proposed use. 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 wants support to petition the USPS to get a mailbox in front of Town Hall and asked permission to move forward. Mr. Niemeyer made a motion to support the effort with second by Mr. Sharpe. Motion carried by a 7-0 voice vote. Mr. Parker talked with Becky Govert. She received an offer and for real estate disclosure purposes had requested documentation that her flooding issue had been repaired. She asked Mr. Parker if the Town would be responsible for damages if the property floods again. Mr. Austgen replied all we are saying is we've corrected conditions that caused flooding. It is not an insurance policy, no guarantee. Mr. Austgen is working on a draft letter that states conditions that caused damage to her property have been corrected and will not draft a letter guaranteeing anything.
- 2. Town Attorney** – None
- 3. Clerk-Treasurer** – Budget talks with department heads are continuing.
- 4. Town Administrator/Staff** – Ms. Murr is working on dates for a budget work session. An email will go out shortly. A request letter from an adjacent property owner in Wicker Meadows was received and will be forwarded to Council and the attorney. A meeting is scheduled for September 13, 2019 with Don Oliphant, Commissioner Tippy, Mr. Emerson, and interested parties concerning the Wicker Meadows parcel. Ms. Murr asked the Council to take action on the LED road closure signs that were rented for one month. She asked if they want to continue renting the signs at a cost of \$1,300.00 per sign. A motion to keep the signs was made by Mr. Carnahan with second by Mrs. Rivera. Motion carried by a 7-0 voice vote. Ms. Murr reported on the LSD/Cline Avenue project; underground work is continuing. A construction meeting with INDOT will be held tomorrow morning.

WRITTEN COMMUNICATION

- 1. Christopher B. Burke Engineering Report** – Ms. Murr reported on the Highland project. NIPSCO wants to replace all gas mains and relocate utility poles pushing the project to spring of 2020.

Mr. Foreman commended Chief Wilkening and the volunteers on the Firemen's' Ball. Mr. Carnahan commended Chief Wilkening on the Wetting-Down Ceremony for the new firetruck. Mr. Parker asked about waiving fees for the Boys and Girls Club flooring project. Mr. Foreman amended the agenda to include this item. A motion to waive permitting fees for M&M Contracting and R&R Floors for this project only was made by Julie Rivera with second by Ralph Miller. Roll call vote: Carnahan – Yes, Parker – Yes, Miller –Yes, Niemeyer –No, Sharpe –Yes, Rivera –Yes, Foreman –Yes. Vote: 6 - 1.

PUBLIC COMMENT

Jennifer Wilson, 8337 W 128th Pl, asked Council to keep in mind infrastructure is just as important as improvements. She discussed mentoring new board members and reminding them that they are there to do something. Drainage improvements in her area two years ago were not done properly and the issue has not been resolved. Her multiple requests to fix the issue have been ignored. Ms. Wilson adamantly discussed issues by Zip Foods, Hilltop area, potholes, dangers of the road closure, and attention to infrastructure.

Chuck Becker, 6100 W 136th Place, commented on two items. He requested better notification for water advisories. Discussion followed on the CodeRed system and other ways to communicate with the public. Flooding at 7513 W 136th Avenue is still an issue. He asked if the

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Town would finish 136th Avenue to alleviate some of the flooding. Discussion followed on current plans for that area.

Charlie Kaper, 8602 Lake Shore Drive, commented on the roundabout road closure. People are constantly calling to say they can't find their building. Their walk-ins have decreased significantly. Anything the Town could do for signage would be appreciated. A brief discussion continued on signage in the closure areas.

ADJOURNMENT Council President Foreman called the meeting to adjournment at approximately 9:30 PM

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

John Foreman, President

Julie Rivera, Vice President

Robert H. Carnahan

Ralph Miller

Randell Niemeyer

Greg Parker

ATTEST:

Richard Sharpe

Jennifer N. Sandberg
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.