

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



June 16, 2020

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

In an effort to maintain transparency and accessibility while keeping accordance with the Governor's Executive Orders relating to COVID-19, the Town Council meeting limited in person attendance but the live broadcast was streamed and can be viewed at <https://cedarlakein.org/view-town-meetings/>. Questions and comments were accepted electronically and instructions can be found on the Public Meeting Agenda, a copy of which can be found at <https://cedarlakein.org/wp-content/uploads/2020/06/06.16.20-Town-Council-Agenda-Supplement-Packet.pdf>

Roll Call:

Present*	Robert H. Carnahan Council Member	Ward 1	Present	Colleen Schieben Council Member	Ward 6
Absent	John Foreman Council Member	Ward 2	Present	Richard Sharpe Council Member	Ward 7
Present	Julie Rivera Council Member	Ward 3	Present	Jennifer N. Sandberg, IAMC 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	

* Council member Carnahan participated remotely.

PUBLIC COMMENT – None

CONSENT AGENDA

1. **Minutes:** May 19, 2020
2. **Claims:** All Town Funds: \$254,601.32; Wastewater Operating: \$91,149.00; Water Utility: \$112,608.70; Storm Water: \$25,978.51; and Payroll: May 28, 2020; June 1, 2020; June 11, 2020 - \$458,062.87
3. **Manual Journal Entries:** May 1-31, 2020
4. **Tag Day Requests:** Cache Creek Rescue – June 27 (new request) & CL Lions Club – August 8 (change from June 13)

A motion to accept the consent agenda was made by Richard Sharpe with second by Julie Rivera. Mr. Carnahan asked if the remaining funds in the 50th Anniversary line could be transferred to another fund. Clerk-Treasurer Sandberg explained generally a transfer of remaining funds could be made to the General Fund. She will confirm with State Board of Accounts. Roll call vote: Robert Carnahan – Yes, Ralph Miller – Yes, Colleen Schieben – Yes, Richard Sharpe – Yes, Julie Rivera – Yes, Randy Niemeyer – Yes. Vote: 6 - 0

ORDINANCES

1. Ordinance No. 1353 – Public Safety Board Establishment

Council Member Rivera read by title only. Mr. Austgen explained this is a basic establishing ordinance converting the oversight function of Public Safety to a Board of Safety for police, fire and ambulance. President Niemeyer stated the advertisement for board members will start immediately and is to be closed on June 30th for Council's consideration at the July 7th meeting for the two vacant seats. Police Commission members will roll over onto the new board. There will be two additional citizen appointments.

A motion to adopt Ordinance No. 1353 was made by Julie Rivera with second by Colleen Schieben. Roll call vote: Robert Carnahan – Yes, Ralph Miller – Yes, Colleen Schieben – Yes, Richard Sharpe – Yes, Julie Rivera – Yes, Randy Niemeyer – Yes. Vote: 6-0

2. Ordinance No. 1354: Weeds, Noxious Growth, Rank Vegetation and Other Environmental Nuisance Regulations Amendment

Mrs. Rivera read by title only.

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A motion to adopt was made by Colleen Schieben with second by Ralph Miller. President Niemeyer noted past inconsistencies with enforcement and going forward everyone is to be treated fairly and equally under the law. Roll call vote: Robert Carnahan – No, Ralph Miller – Yes, Colleen Schieben – Yes, Richard Sharpe – Yes, Julie Rivera – Yes, Randy Niemeyer – No. Vote: 4-2.

BZA

1. Owner: Cedar Lake Commercial/Petitioner: Richard Daley (dba Auto Exchange) – 12841 Wicker Ave – Special Use Variance

The Board of Zoning Appeals certifies an unfavorable recommendation to the Town Council for the requested special use variance to allow the petitioner, Richard Daley, to operate Auto Exchange, a used auto dealer, a B-3 use in a B-2 Zoning District based on the findings of fact: petitioner did not attend meeting; no correspondence; unapproved use of the property. Mr. Carnahan was at the BZA meeting and stated the unfavorable recommendation was due to no response from the petitioner.

A motion to uphold BZA's unfavorable recommendation was made by Robert Carnahan with second by Richard Sharpe. The petitioner asked the Council to postpone their vote as they have not finished with the BZA requirements. President Niemeyer asked Mr. Daley why he did not attend the BZA meeting. Mr. Daley replied he did not know he was supposed to be at the meeting. Mrs. Murr reported there was no correspondence from the petitioner since the first meeting. Mr. Kubiak added the item was deferred from the first meeting due to unfinished items. The petitioner was supposed to contact the Building Department to schedule a meeting with him. The unapproved use of the property was due to approximately twenty cars parked in back of the building. The petitioner asked what happens timewise if the motion passes. It was stated the petitioner must wait one year to apply for another special use variance. Roll call vote: Robert Carnahan - Yes, Ralph Miller - Yes, Colleen Schieben - Yes, Richard Sharpe - Yes, Julie Rivera - No, Randy Niemeyer – Yes. Vote: 5-1

2. Owner: Howard Skorka/Petitioners: David & Amy Larson (dba Vito's) – 9720 W 133rd Ave – Use Variance

The Board of Zoning Appeals certifies a favorable recommendation to the Town Council for the requested use variance to allow the Petitioners, David & Amy Larson, six (6) picnic tables for outdoor seating at Vito's LLC.

A motion to approve was made by Robert Carnahan with second Colleen Schieben. Roll call vote: Robert Carnahan – Yes, Ralph Miller – Yes, Colleen Schieben – Yes, Richard Sharpe – Yes, Julie Rivera – Yes, Randy Niemeyer – Yes. Vote: 6-0

PLAN

1. Letter of Credit: Summer Winds Commercial

Mr. Austgen reviewed People's Bank Letter of Credit. The item requires public meeting approval. President Niemeyer stated this is the commercial development between Elmwood and Lincoln Plaza. Mr. Carnahan added the letter of credit was for \$283,278.60.

A motion to accept was made by Robert Carnahan with second Colleen Schieben. President Niemeyer asked if Mr. Lambert had reached out to anyone concerning the incentive package offered by the Redevelopment Commission. Discussion followed on details of the incentive package. Roll call vote: Robert Carnahan – Yes, Ralph Miller – Yes, Colleen Schieben – Yes, Richard Sharpe – Yes, Julie Rivera – Yes, Randy Niemeyer – Yes. Vote: 6-0

NEW BUSINESS

1. Fireworks Usage & Special Permit Application – July 18, 2020

Ms. Murr explained this is for a fireworks usage permit for the Veterans of Valor event at the American Legion on July 18, 2020. Fireworks would be from 9:00 – 10:00 p.m. Chief Wilkening stated he is not in favor of the fireworks, amateurs would be setting them off, and it will be a ground display. There is an unfavorable layout and it is next to a residential area. There are state guidelines for public events but it is up to Council to allow private events. There would have to be a firetruck, an ambulance and a police officer at the event. A right to cancel due to weather should be in place. This would set precedence for others. Mrs. Schieben asked if Council would give them more time to find a professional service. Chief Fisher discussed the residential area, traffic and parking issues. It will be very difficult to control that area. There would be an influx of people

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from other communities because of cancellations of community displays. Chief Wilkening added it is advertised as a public display.

A motion to defer was made by Colleen Schieben with second by Julie Rivera. Roll call vote: Robert Carnahan – Yes, Ralph Miller – Yes, Colleen Schieben – Yes, Richard Sharpe – No, Julie Rivera – Yes, Randy Niemeyer – Yes. Vote: 5-1

2. Memorandum of Understanding: Fire Protection Territory

Mr. Niemeyer explained the MOU as a partnership between City of Crown Point, Town of Winfield, Town of St. John, Town of Cedar Lake, Township of Center, Township of Winfield and Township of Hanover for the exploration and investigation of establishing a Fire Protection Territory; with an initial first order of business to put together a scope of work a financial advisor, a RPF. The seven entities will equally share costs and expenses. Mr. Austgen discussed clarifying funding by the units; suggested funding should be based on population. Another recommendation is to change the phrase from exploration and investigation to investigate and study. Mr. Niemeyer asked if Mr. Lambert had reached out to anyone concerning the incentive package offered by the RDC. Discussion followed on the contents of the benefit package.

A motion to approve contingent upon correct allocation of cost based on population of the entities was made by Richard Sharpe with second by Colleen Schieben. Roll call vote: Robert Carnahan – Yes, Ralph Miller – Yes, Colleen Schieben – Yes, Richard Sharpe – Yes, Julie Rivera – Yes, Randy Niemeyer – Yes. Vote: 6 - 0

Kevin Toth, Hanover Township Trustee discussed cost and cost allocation, the broad language in the MOU, and ability to opt out without fulfilling their financial obligation. Mr. Niemeyer stated a MOU is at will and any entity may opt out at any time.

3. Rose Garden Estates Signage Request

Rose Garden Estates is requesting permission to place temporary weekend directional signs for the new Lennar community. The signs would go out Friday evening/early Saturday morning and would be picked up Sunday evening/early Monday morning.

A motion to approve was made by Julie Rivera with second Richard Sharpe. Roll call vote: Robert Carnahan – No, Ralph Miller – Yes, Colleen Schieben – Yes, Richard Sharpe – Yes, Julie Rivera – Yes, Randy Niemeyer – Yes. Vote: 5-1

4. Temporary Request – 13111 Lake Shore Drive

Kandy Pigg, Town Club Tavern, requested approval for a temporary fence for a grassy area to encourage social distancing through the summer/fall season. The fenced area would include picnic tables. Mr. Austgen suggested putting this under the Town's special permit rule to be documented by staff, set parameters, and allow for enforcement.

A motion to approve was made by Julie Rivera with second by Colleen Schieben. Roll call vote: Robert Carnahan – Yes, Ralph Miller – Yes, Colleen Schieben – Yes, Richard Sharpe – Yes, Julie Rivera – Yes, Randy Niemeyer – Yes. Vote: 6 - 0

5. Community Crossing 2020-01 Agreements

a. AES, Inc. Proposal

Mrs. Murr explained testing will be needed for the Hot in Place/Community Crossings Grant project. AES, Inc. submitted a roadway core testing proposal for ten core samples in the amount of \$4,350.00.

b. Chicago Testing Laboratories, Inc.

The samples will be sent to Chicago Testing Laboratories, Inc. for analysis at a cost of \$2,800.00.

A motion to approve both agreements was made by Ralph Miller with second by Richard Sharpe. Roll call vote: Robert Carnahan – Yes, Ralph Miller – Yes, Colleen Schieben – Yes, Richard Sharpe – Yes, Julie Rivera – Yes, Randy Niemeyer – Yes. Vote: 6 - 0

6. Kozlowski Light Pole Relocation Request – 10915-21 W. 133rd Ave.

Mrs. Murr explained Mr. Kozlowski received a facade grant for the building and requests the light pole, in front of the building, be moved to either side so as not to detract from the new facade. He is offering to split the cost with the Town. Mr. Kozlowski had asked the pole not be located in front of the building when the street project was in progress. Mr. Carnahan asked about the cost. Mr. Kozlowski replied, via Zoom, that he did not know the cost at this time but would be willing to pay for the full cost, if modest, to move the light pole. Mrs. Murr added moving the pole would have changes in the underground

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electric. Mr. Austgen suggested deferring to find out participants' responsibilities and cost.

A motion to defer was made by Julie Rivera with second by Colleen Schieben. Roll call vote: Robert Carnahan – Yes, Ralph Miller – Yes, Colleen Schieben – Yes, Richard Sharpe – Yes, Julie Rivera – Yes, Randy Niemeyer – Yes. Vote: 6 - 0

7. Attorney Engagement Ratification

Mr. Austgen explained this was engagement ratification for Wieser and Wyllie, LLP. President Niemeyer added this was for a personnel matter and could not be discussed in public.

A motion to approve was made by Ralph Miller with second by Richard Sharpe. Roll call vote: Robert Carnahan – Yes, Ralph Miller – Yes, Colleen Schieben – Yes, Richard Sharpe – Yes, Julie Rivera – Yes, Randy Niemeyer – Yes. Vote: 6 - 0

REPORTS

President Niemeyer went back to the MOU item, noting the signature page lists Town Council President as the signatory. Richard Sharpe and Collen Schieben were asked if they concurred. Both answered in the affirmative.

1. Town Council

Mr. Carnahan reported Cedar Lake's census response is at 73% with October 31st as the deadline. Redistricting of the wards will start after the numbers are in. President Niemeyer received a call from James Hicks, a resident from the area from behind Midway Gardens, complaining about noise and young people congregating in the area around Dairy Belle and the Sandbar. Mr. Niemeyer advised the police have been patrolling the area. Mr. Hicks also complained of fireworks and loud music in that area as well as speeding along Lake Shore Drive. Chief Fisher reported an undercover police officer, in an unmarked car, was running traffic with laser radar there today, resulting in only one violation. The 25 MPH speed limit is watched closely. People gather in the area to enjoy themselves. Anyone playing loud music is asked to turn it down. The traffic speed sign will be placed in that area. President Niemeyer discussed an RDC report from last night that ties into the work planned for the heat scarification of Morse Street. The addition of a pedestrian/bike path in that area has been talked about for years. On advice of the attorney, Park Impact Fees could possibly be invested for the addition of a path since it is recreation based. The RDC is in favor of a recommendation to do that. Council would have to approve allocation of those funds. Don Oliphant was directed by the RDC to put together some preliminary engineering costs. The item would be on an upcoming agenda to allocate funds for the path from 144th to 133rd on Morse Street. Mr. Carnahan added it was also recommended the path be on the East side of the road.

a. Council Affairs

President Niemeyer reported on the June 4th meeting, discussing the unpredictable nature of the current budget situation based on uncertainties of tax collections and the COVID situation. It seems we can hold fast this year based on current analyses from our financial advisors, next year is unpredictable at this time. Clerk-Treasurer Sandberg reported a slight drop in utility billing collections. The MVH and LRS distributions for 2020 show a 10 percent drop from 2019.

b. Ecosystem Restoration Committee

Mrs. Murr reported the committee is working with Christopher Burke on other options.

c. Public Safety Committee

Mrs. Rivera reported the committee met with Chief Wilkening on how to meet some of the Fire Department's needs in the future. President Niemeyer added ways to close the wage gap are being explored. Mr. Carnahan asked Police Chief Fisher about police vehicles. Chief Fisher reported there are four vehicles approaching 100,000 miles. He discussed purchasing four vehicles that are on the docket this year with Mrs. Murr and Mrs. Sandberg. A new Dodge Ram can be purchased for \$26,000. Benefits of tow packages and four-wheel drive were discussed. Mr. Niemeyer asked for maintenance numbers for the last several years. Chief Fisher commented this was the second Public Safety meeting that he was not invited to attend, asking when both chiefs could attend to discuss Fire and Police needs. Mr. Niemeyer explained these are ad-hoc meetings and Chief Fisher should reach out if he would like to schedule a meeting to discuss Police Department matters.

d. Street Committee

Mrs. Murr reported a meeting is to be scheduled to discuss current and upcoming projects. Mr. Sharpe commented it would be beneficial for affected citizens to attend.

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e. Stormwater

Mr. Carnahan discussed a conversation with Mr. Niemeyer on the lack of information from other meetings. As a result, Council will receive copies of minutes from all board and commission meetings. Mr. Kubiak reported a few projects in Havenwood from last year are being finished. Recent weather has prohibited work on many of the Stormwater projects. Water has been diverted from coming up through Mr. Lameka's driveway. Mr. Lameka wants the Town to mud jack his driveway even though the driveway is not sinking. Water no longer fills the three residents' window wells on Marsh Landing Parkway. The DeFrancisco project just needs grass planted. A crew worker was promoted to Stormwater Crew Leader last week. Two crew workers are now dedicated to address issues with basins and maintenance. Discussion followed on the use of Stormwater vendors for some projects. Mr. Niemeyer asked about the Dust property. Mrs. Murr reported permission was given at the May 26th meeting to get the drainage plan together and get it out to contractors. Mr. Oliphant is working on getting the easement permission. Other discussions included Sherman Street with the low lying area in Shades Subdivision; Monastery Woods North; 137th and Lauerman tying into Noble Oaks project; Birch Street short term fix. Mr. Niemeyer asked about the Viehman issue. Mr. Kubiak reported Mr. Oliphant looked at the area and feels recent new construction had no impact on Mr. Viehman's property drainage issue. Mr. Kubiak added the water would drain if Mr. Viehman could get it from his back yard to the front. Mr. Oliphant is looking into the King Subdivision issue. Mr. Niemeyer asked for reports to share with residents showing a path for resolutions for these areas. Mrs. Murr reported drainage is assured to go under the road for the Community Crossings Grant project.

2. Town Attorney

Mr. Austgen presented a first draft of the emergency response billing ordinance. Fine tuning is continuing. Mr. Austgen asked for Council's comments on the draft. Mr. Niemeyer requested Council's questions, comments or offers of guidance be directed to the attorney.

Mr. Niemeyer discussed conversation with Mr. Austgen on Josh Palmer's food truck plight. There have been numerous conversations since the last meeting. Mr. Palmer approached the owner of the Town Club Tavern about parking the truck on that property until proper procedures were completed that would allow placement on property located near the NIPSCO substation. The request for the Town Club property was denied. Mr. Niemeyer and Plan Commission Chairman Jerry Wilkening conversed over many aspects related to food trucks; approved locations, establishing regulations, protecting public safety and protecting brick and motor establishments. Ordinances from other communities were reviewed. Amending Ordinance No. 680 to provide for provision of food trucks that would include a fee structure was discussed. Mr. Niemeyer suggested the possibility of renting Town owned property on 133rd Avenue across from Holy Name to Mr. Palmer as an interim location. A very lengthy discussion followed on rental fees, insurance requirements, days and hours of operation and setting precedence for this type of property rental. Mr. Austgen discussed necessary amendments to Ordinance No. 680 to add provisions for food trucks.

A motion to rent the property at \$25.00 per diem from 11:00 a.m. to 8:00 p.m., four days a week, with proof of insurance was made by Colleen Schieben with second by Julie Rivera. Roll call vote: Robert Carnahan – No, Ralph Miller – No, Colleen Schieben – Yes, Richard Sharpe – Yes, Julie Rivera – Yes, Randy Niemeyer – Yes. Vote: 4 – 2. Discussion followed on established businesses ability to allow food trucks on their property under current provisions in Ordinance No. 680.

3. Clerk-Treasurer

Mrs. Sandberg reported on continued work with financial advisors. She and Mrs. Murr will coordinate meetings with Council Affairs Committee to discuss the 2021 budget.

4. Town Administrator/Staff

Mrs. Murr has made contact with NIPSCO on the request for a light post at 136th and Cedar.

5. Police Department

Chief Fisher reported 769 incidents and calls for May with 3,410 year to date. 60% of the incidents related to ordinances were for warnings. Citizens are offered the opportunity to comply before a ticket is issued. Mr. Niemeyer discussed inconsistencies in the recent past where private citizens were issued warnings but vacant land owned by developers has four feet weeds on it. Chief Fisher asked for the locations and will address the issue immediately. He has personally issued citations. Chief Fisher asked to talk to Mr.

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Niemeyer one on one to discuss further. Mr. Kubiak spoke of developers paying \$300-\$500 in weed ordinance violations.

6. Fire Department – No report.

Mr. Austgen asked permission to proceed with acquisition of Industrial Drive based on the Plan Commission's action last night. The purchase price will be \$95,000-\$100,000. A motion to direct Mr. Austgen to make an offer for the purchase of Industrial Drive was made by Richard Sharpe with second by Colleen Schieben. Roll call vote: Robert Carnahan – Yes, Ralph Miller – Yes, Colleen Schieben – Yes, Richard Sharpe – Yes, Julie Rivera – Yes, Randy Niemeyer – Yes. Vote: 6 - 0

WRITTEN COMMUNICATION

- ## 1. Building Department Report

There were 27 new construction permits issued with a value of just over \$5.5 million and 62 alteration permits with a value of almost \$720,000 for the month of May.

PUBLIC COMMENT

An email was received from Kathy Broomhead asking if the Town would consider a laundry building in Cedar Lake. Mr. Niemeyer replied the Town would consider since laundromats have been here in the past.

ADJOURNMENT Council President Niemeyer called the meeting to adjournment at approximately 9:00 PM.

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

Randell Niemeyer, President

Julie Rivera, Vice President

Robert H. Carnahan

John Foreman

Ralph Miller

Colleen Schieben

ATTEST:

Richard Sharpe

Jennifer N. Sandberg, IAMC
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