

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

September 15, 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/2020/09/09.15.20-Town-Council-Agenda-Packet.pdf>*

**Roll Call:**

|          |                                      |        |         |   |        |
|----------|--------------------------------------|--------|---------|---|--------|
| Present* | Robert H. Carnahan<br>Council Member | Ward 1 | Present | Colleen Schieben<br>Council Member              | Ward 6 |
| Present  | John Foreman<br>Council Member       | Ward 2 | Present | Richard Sharpe<br>Council Member                | Ward 7 |
| Present  | Julie Rivera<br>Council Member       | Ward 3 | Present | Jennifer N. Sandberg, IAMC<br>Clerk-Treasurer   |        |
| Present  | Ralph Miller<br>Council Member       | Ward 4 | Present | Jill Murr, CPM, IAMC, MMC<br>Town Administrator |        |
| Present  | Randell Niemeyer<br>Council Member   | Ward 5 | Present | David Austgen<br>Town Attorney                  |        |

*\*Council member Carnahan participated remotely.*

**PUBLIC HEARING - Additional Appropriation 2020-01 Community Crossing Grant**

- Review of Legals - Clerk-Treasurer Sandberg stated the legal notices were published timely in both the Times on September 3<sup>rd</sup> and the Post-Tribune on September 2<sup>nd</sup>.
- Opening Remarks - Mrs. Murr explained this is for use of the Community Crossing Funds. This is for the hot in place asphalt project. The Town is in receipt of the funds totaling \$599,300.22. This resolution gives the authority to utilize the funds.
- Reading of Resolution No. 1258 - Council Member Rivera read by title only.
- Remonstrators - None
- Town Council Discussion - Mr. Niemeyer asked when the project will start. Mrs. Murr stated equipment should mobilize tomorrow. Thursday work should begin on 153<sup>rd</sup> headed north. Mr. Niemeyer asked if all businesses have been notified. Mrs. Murr stated businesses will be notified after tonight.
- Town Council Decision on Resolution No. 1258

A motion to approve Resolution No. 1258 was made by Richard Sharpe with second by Colleen Schieben. Roll call vote: Carnahan – Yes, Foreman – Yes, Miller – Yes, Schieben – Yes, Sharpe – Yes, Rivera – Yes, Niemeyer – Yes. Vote: 7 – 0.

**PUBLIC HEARING - Public Way Vacation - Rago**

- Review of Legals - Mr. Austgen stated the legals are in order and were published timely. The adjacent owners were notified.
- Opening Remarks - This is a public way vacation application. Attorney Wieser is here on behalf of the applicants.
- Reading of Ordinance No. 1363 - Council Member Rivera read by title only.
- Remonstrators - Mr. Wieser spoke on behalf of the applicants. He discussed the area in question. They are building a new home and construction was well underway when it was determined that the deck in the front of the home was planned to be constructed over a dedicated public walkway. At that point the application was made by the homeowners earlier this year. Additional information was requested and Mr. Wieser was brought on to assist the homeowners. This is similar to a previously approved vacation request for property on the south side. Mr. Wieser discussed the property and the walkway in question as well as an adjacent abandoned railroad right of way. Surrounding neighbors would still have the ability to access the lake. A lengthy discussion continued on the vacation application. Ron Paraday spoke on behalf of the Rago’s in support of the Rago’s building and vacation application. Mrs. Murr stated a written letter of support was received from Mr. and Mrs. Dolder. She read the letter into the record. A copy can be found at the end of the minutes. Jerry Wilkening asked if anyone was present the last time the walkway was

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vacated. Mr. Foreman stated he was. Mr. Wilkening discussed a concrete wall being in the roadway. He stated it wasn't the best plan. He asked that the Council be thorough with this vacation. A brief discussion continued on lake access.

- e. Town Council Discussion - Mr. Carnahan commented that he always votes against these applications if the Town doesn't receive anything in return.
- f. Town Council Decision on Ordinance No. 1363

A motion to approve Ordinance No. 1363 was made by John Foreman with second by Colleen Schieben. Roll call vote: Carnahan – No, Foreman – Yes, Miller – Yes, Schieben – Yes, Sharpe – Yes, Rivera – Yes, Niemeyer – No. Vote: 5 – 2.

**PUBLIC COMMENT** (*on agenda items*): None

**CONSENT AGENDA**

- 1. **Minutes:** August 18, 2020
- 2. **Claims:** All Town Funds: \$115,035.79; Wastewater Operating: \$24,483.52; Water Utility: \$39,369.45; Storm Water: \$13,472.99; and Payroll: September 3, 2020 - \$256,847.41
- 3. **Manual Journal Entries:** August 1-31, 2020
- 4. **Town Grounds Use & Fee Waiver Request:**
  - a. Anderson (September 26, 2020)
  - b. Grit Fitness (Sept 24 & Oct 1)
- 5. **Clubhouse Use & Fee Waiver Request:**
  - a. Rick Larsen Youth Wrestling Club (11.3.20-1.29.21)
  - b. Hanover Jr. Wildcats (September-October)
- 6. **Mulch Request:** Knights of Columbus

A motion to accept and waive the reading of the minutes and approve the consent agenda as listed with the removal of the Anderson Fee Waiver Request was made by Ralph Miller. Mr. Anderson spoke on the request. He's put together an Artist's Guild and will be having a concert. He lives in the area and all of the people participating live in the surrounding communities. This would provide an opportunity to perform their art in the community. Mr. Niemeyer asked about fees for grounds use. Mr. Anderson stated the fees are reasonable. It was suggested to him to ask for the waiver as a way to possibly lead to a partnership with the Town. Mr. Foreman asked about the charges to enter the event. Mr. Anderson stated it was a free event. They are asking for donations. A lengthy discussion continued on the event, attendance size, and plans for future events. No second was made to Mr. Miller's motion. A motion to waive the reading of the minutes and accept the consent agenda as listed was made by John Foreman with second by Colleen Schieben. Roll call vote: Carnahan – Yes, Foreman – Yes, Miller – Yes, Schieben – Yes, Sharpe – Yes, Rivera – Yes, Niemeyer – Yes. Vote: 7 – 0.

An audience member asked about the size of the community and if the Town would ever become a city. Mr. Niemeyer briefly discussed types of government and classifications.

**ORDINANCES & RESOLUTIONS**

**1. Resolution No. 1267 – Levy Appeal**

Council Member Rivera read Resolution No. 1267 by title only. Corby Thompson with O.W. Krohn and Associates explained that he's assisting the Town with the 2021 Budget. Part of the process requires looking at a certain level of excess levy appeals. One of them would be the three-year growth appeal. The Town does qualify. If the assessed value of the Town increases by a rate that exceeds the states average rate by 2%, you qualify for the levy increase. The levy is only allowed to increase on an annual basis on what is called the assessed value growth quotient. The Town has exceeded that year after year. The services provided may not be sufficient for the growth. Public Safety and other areas are lagging a bit behind due to the growth. The levy appeal will help with some of those issues. Mr. Niemeyer asked for an estimate. Mr. Thompson stated they are requesting \$50,000 in the appeal. His calculations have it coming out a little less than that but they are requesting higher on the chance the DLGF calculates different. This will be an increase to the property taxes that will be levied. He pointed out that any increase in the tax rates is being offset by the increase in assessed value.

A motion to approve Resolution No. 1267 was made by Richard Sharpe with second by Julie Rivera. Roll call vote: Carnahan – Yes, Foreman – Yes, Miller – Yes, Schieben – Yes, Sharpe – Yes, Rivera – Yes, Niemeyer – Yes. Vote: 7 – 0.

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**BZA**

**1. Owner: Richard & Carolee Yancey; Petitioner: Cedar Lake Early Learning Academy – 13410 Wicker Ave –Use Variance**

The Board of Zoning Appeals certifies a Favorable Recommendation to the Town Council for the requested Use Variance to allow the Petitioner: Cedar Lake Early Learning Academy, to operate a child care facility contingent upon site plan approval, by a vote of 5 in favor and 0 against. Mr. Austgen added the public hearing was conducted and the favorable recommendation was made. The site is deemed suitable and appropriate for the proposed use.

A motion to approve the use variance was made by Colleen Schieben with second by Julie Rivera. Roll call vote: Carnahan – Yes, Foreman – Yes, Miller – Yes, Schieben – Yes, Sharpe – Yes, Rivera – Yes, Niemeyer – Yes. Vote: 7 – 0.

**NEW BUSINESS**

**1. Chamber of Commerce Request**

Mrs. Murr explained the Chamber of Commerce has submitted a request for support for their annual Tree Project and use of the electric as well as the support of the Public Works Department to help with disposal of the trees. Trees will be disposed of the first week of January. The Jean Eberle Parade of Lights is scheduled for November 21<sup>st</sup> at 7PM. It is anticipated the parade will end at Town Hall and they would like to utilize Town Hall for a meet and greet with Santa.

A motion to approve the request as presented was made by John Foreman with second by Colleen Schieben. Mrs. Rivera asked if Public Works usually helps with disposal. Mrs. Murr stated yes. Roll call vote: Carnahan – Yes, Foreman – Yes, Miller – Yes, Schieben – Yes, Sharpe – Yes, Rivera – Yes, Niemeyer – Yes. Vote: 7 – 0.

**2. Peterson Consulting Agreement – Capital Asset Report**

Mrs. Murr reported the Clerk-Treasurer presented a proposal last year for Peterson Consulting to prepare a Capital Asset Report. This proposal is to update the Capital Asset Report. This is an annual item to keep the report updated and meet State Board of Accounts requirements.

A motion to approve the agreement in the amount of \$3,500 was made by Julie Rivera with second by Ralph Miller. Mr. Foreman asked about storm being redlined. Clerk-Treasurer Sandberg stated she asked Mr. Peterson to move the Storm Utility from General Infrastructure to under the Utilities. Roll call vote: Carnahan – Yes, Foreman – Yes, Miller – Yes, Schieben – Yes, Sharpe – Yes, Rivera – Yes, Niemeyer – Yes. Vote: 7 – 0.

**3. Town Club Ditch Outlet Improvement Bid Award Ratification**

Mrs. Murr explained the project is a storm water project at Lake Shore Drive and Town Club Ditch. It was put out for quotes and two quotes came back. Mrs. Murr noted the quotes were transposed on the Christopher B. Burke Engineering Report. Dyer Construction came in at \$149,990.45 and Metro Excavating came in at \$71,138.68. The engineer's estimate was \$105,805. They were able to get the project into the schedule and needed the ratification on the quotes. Mr. Niemeyer asked if there was documentation to back up the actual quotes. Mrs. Murr stated there is in the summary page of the documents. Mr. Foreman confirmed the recommendation is to award Metro Excavating be awarded the contract. Mr. Niemeyer stated he wants it clear on the record the correct quotes reported. He confirmed the totals on the summary page. A brief discussion continued on the price difference between the bids. Mr. Austgen suggested any action be contingent upon verification with Metro that the bid is an accurate number.

A motion to approve the recommendation and approve the bid from Metro Excavating in the amount of \$71,138.68 with the contingency it be reviewed for accuracy was made by Ralph Miller with second by Colleen Schieben. Mr. Foreman asked if it all was coming out of storm. Mrs. Murr stated yes. Roll call vote: Carnahan – Yes, Foreman – Yes, Miller – Yes, Schieben – Yes, Sharpe – Yes, Rivera – Yes, Niemeyer – Yes. Vote: 7 – 0.

**4. Lake Shore Drive/Cline Change Orders 5, 7, 8, & 9**

Mrs. Murr explained Change Order #5 is in the amount of \$3,677. It is the box structure conflict with NIPSCO underground by the Chamber building. Change Order #7 is in the amount of \$8,120. That is due to the additional mobilization of transportation signage. Change Order #8 is in the amount of \$1,419. That is for the delineators. Change Order #9 is the under run amount on the current contract. They are currently under on the entire contract by \$131,067.01. A brief discussion continued on the project.

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A motion to approve Change Orders 5, 7, 8, & 9 and authorize the Town Council President's signature on the documents was made by John Foreman with second by Richard Sharpe. Mrs. Murr added there will be one more change order. That is for the extension of time. There is no cost. Roll call vote: Carnahan – Yes, Foreman – Yes, Miller – Yes, Schieben – Yes, Sharpe – Yes, Rivera – Yes, Niemeyer – No. Vote: 6 – 1. Mr. Niemeyer stated he'd give his reason for voting no with the next item on the agenda.

**5. Lake Shore Drive/Cline – Final Inspection and Recommendation for Acceptance**

Mrs. Murr stated this is the contract report for final inspection and recommendation for acceptance. This is the final contract close-out that all work has been completed to date. Pavement markings have been placed correctly. The right of way is clear. The last date of work was September 8, 2020.

A motion to approve was made by Julie Rivera with second by John Foreman. Mr. Carnahan asked Mr. Niemeyer for his reasoning. Mr. Niemeyer stated he was contacted by Mr. Parker who owns the building at the corner of Lake Shore Drive and Cline. His son was mowing the lawn and came across two metal posts that weren't there prior to construction. The poles damaged the lawn mower. The delineators on Cline Avenue weren't originally part of the design for the project. If you are headed north, residents of the apartment can't make a left hand turn to get to their residence. Mr. Niemeyer thinks these items should be addressed before anything is closed out. A lengthy discussion continued on traffic concerns with the delineators and the project.

A brief discussion occurred on the proper motion to occur. Mr. Foreman removed his second. Mrs. Rivera rescinded her motion. A motion to defer was made by John Foreman with second by Julie Rivera. Roll call vote: Carnahan – Yes, Foreman – Yes, Miller – Yes, Schieben – Yes, Sharpe – Yes, Rivera – Yes, Niemeyer – Yes. Vote: 7 – 0.

**REPORTS**

1. Town Council - Mr. Carnahan stated they are at 76% and have until September 30<sup>th</sup>. They are sharing census information online. Mrs. Rivera stated trunk or treat donations are coming in for the event. Mr. Carnahan stated the Chamber has been reaching out to businesses to participate.
  - a. Council Affairs Committee - Mr. Niemeyer stated they've discussed employee raises with a special focus on public safety. There will be a budget workshop on September 23<sup>rd</sup>. Clerk-Treasurer Sandberg stated she will have Form 1 estimates to share on the 23<sup>rd</sup>. Mr. Foreman asked about the closing of the property of 133<sup>rd</sup> and if that money could be used for personnel. Mr. Niemeyer asked where the funds were receipted. Ms. Sandberg stated the General Fund. Mr. Austgen asked if they were TIF Funds. Mr. Niemeyer stated no. The property was never turned over to the Redevelopment Commission. Mr. Foreman again stated they should review and he'd like to see it be used towards personnel. Mr. Niemeyer discussed review being necessary. Fire has seen increased overtime expenses due to COVID. There may be a shortfall. A brief discussion continued.

Mr. Foreman asked for an update on using park impact fees for a fence. Mrs. Murr stated she has received a legal opinion that park impact fees could be utilized for a fence. They will be working on a quote. Mr. Foreman asked for an update on Mr. Lamaka's claim. Mrs. Murr stated she received the quote he provided for three property owners. She will reach out to him about the tort claim. All three property owners would need to submit a claim. Mr. Niemeyer asked Mrs. Rivera if they would need traffic control for trunk or treat. Mrs. Rivera stated yes. She asked Chief Fisher for at least two people. Chief Fisher said okay.

2. Town Attorney - Mr. Austgen discussed the public way vacation item. He discussed the overhead lines and them being an important piece of consideration. They don't know if there is an easement or if NIPSCO is responsible. The responsibility for that wire is of importance. There may be issues in some fashion from a safety and liability standpoint. He discussed the building being on the property line. The power line would now sit in private property versus a public way. He asked the Council to drive by and assess the area before the meeting October 6<sup>th</sup>. A brief discussion continued.

Mr. Foreman asked about the ambulance and equipment purchases and where they stand. Mrs. Murr stated the ambulance is out to bid. Bids are due September 30<sup>th</sup>. Mrs. Murr stated the equipment order is in process.

3. Clerk-Treasurer - Clerk-Treasurer Sandberg stated work continues on the 2021 Budget. She reported she has finished the first Coronavirus Reimbursement Request. It is in an amount \$4,996.53. She will be compiling a request for payroll expenses next. She is working on a couple of safety grants for some needed public safety equipment.

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4. Town Administrator - Mrs. Murr reported the hot in place project will begin at 153<sup>rd</sup> and Morse and working north. It will be a moving construction project. The street committee will be working on the second call for the Community Crossing Grant. They anticipate submitting it for the 129<sup>th</sup> Avenue Project. The Town can receive up to \$1 million in a year. The Town Club Ditch Project will begin soon. Noble Oaks will begin in about a week or two. Mr. Oliphant and Tim worked with Walsh & Kelly on quotes for the Town Hall parking lot and a quote for the gravel lot at the Fire Department. They are looking at getting Fairbanks milled and resurfaced as well. She asked that those items be added to the agenda for a public meeting next Tuesday before the budget workshop. Woods of Cedar Creek had a meeting today. Town Club Ditch does take priority over that project. Plans for improvements to Bartlett/Wahlberg Park are continuing. A Park Impact fee consulting agreement will be coming.
5. Director of Operations - No report.
6. Police Department - Chief Fisher stated at the August meeting the Board of Safety asked him to do a self-assessment. Chief Fisher shared that report with the Council. A brief discussion continued on the tough year and department morale.
7. Fire Department - Chief Wilkening echoed Chief Fisher's sentiments. It has been a tough year for the department with COVID and everything. He appreciates everyone's help with the budget and making it from one year to the next. Call volume went down for three months but the last month it has gone up. They're on track to set a record. He stated he works well with Chief Fisher. They work on projects together. Chief Fisher stated Ms. Sandberg and Mrs. Murr work really hard to help the departments regularly. He stated these ladies constantly answer questions to help him out and figure out ways to utilize grants and maximize the budget. They did put in for a grant for a hybrid vehicle. They think it will be completely funded except for probably some equipment. Chief Wilkening concurred with Chief Fisher. He stated Jill and Jen and the teamwork has been good.

**WRITTEN COMMUNICATION**

1. Building Department – At the end of August there were 157 new home permits with one commercial permit. Residential value is approximately \$36 million and \$1.9 million for commercial. Distributed earlier were some reports from the Building Department. 96% of the 175 new home permits that have been issued as of September 10<sup>th</sup> are on the water system. Mr. Niemeyer stated they met with Mr. Rosenbaum from Republic Services. Mr. Rosenbaum stated in 2014 they serviced 4100 address in Cedar Lake. They are over 5000 now. The preliminary numbers from Republic are much better than previously reported. The recommendation is to go to every other week recycling. This will help lower costs. More information will be coming. Mr. Carnahan stated there is another company that wants to bid on the contract.

**PUBLIC COMMENT**

Jerry Wilkening, 10826 W. 131<sup>st</sup> Avenue, discussed safety concerns at the property discussed earlier this evening subject of the public way vacation. He stated the lines above the home are a concern. There is no easement. He asked the Council to go look at the area. A lengthy discussion continued on the power line over the area and safety concerns.

Nick Tieri, Lynns way, voiced concerns about exiting from 147<sup>th</sup> on to Parrish. There are big trees that block the view. You have to pull onto the road to get a clear view. Chief Fisher stated the Police Department would talk a look and they'll let public works know if something can be cut back.

**ADJOURNMENT** Council President Niemeyer called the meeting to adjournment at approximately 8:50PM.

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

Randell Niemeyer, President

Julie Rivera, Vice President

Robert H. Carnahan

John Foreman

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Ralph Miller

Colleen Schieben

ATTEST:

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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