



**CEDAR LAKE UNSAFE BUILDING DEPARTMENT MEETING MINUTES  
CEDAR LAKE TOWN HALL, 7408 CONSTITUTION AVENUE, CEDAR LAKE, INDIANA  
January 19, 2022 at 6:00 PM**

**CALL TO ORDER:**

Mr. Sharpe called the Unsafe Building Department meeting to order at 6:00 PM on Wednesday, January 19, 2022, with its members attending on-site. The Pledge of Allegiance was recited by all.

**ROLL CALL:**

**Members Present:** Colleen Schieben; Dennis Wilkening, Vice Chairman; and Richard Sharpe, Chairman

**Also Present:** Ryan Deutmeyer, Town Attorney; Jill Murr, Planning Director; Todd Wilkening, Fire Chief; and Ashley Abernathy, Recording Secretary.

**Absent:** None.

**Nomination and Appointment of Officers:**

**Chairperson**

Mr. Sharpe stated the first order of business was for the nomination and appointment of Chairperson for the Unsafe Building Department. A motion was made by Ms. Schieben and seconded by Mr. Wilkening to nominate Mr. Sharpe as Chairperson. The nomination passed unanimously by roll-call vote:

Ms. Schieben    Aye

Mr. Wilkening    Aye

Mr. Sharpe        Aye

**Vice Chairperson**

Mr. Sharpe stated the next order of business was for the nomination and appointment of Vice Chairperson. A nomination was made by Ms. Schieben and seconded by Mr. Sharpe to nominate Mr. Wilkening as Vice Chairperson. The nomination passed unanimously by roll-call vote:

Ms. Schieben    Aye

Mr. Wilkening    Aye

Mr. Sharpe        Aye

**MINUTES:**

Mr. Sharpe entertained a motion to approve the Minutes of November 17, 2021 Meeting. A motion was made by Ms. Schieben and seconded by Mr. Wilkening to approve the Minutes of the November 17, 2021, Public Meeting. The motion passed unanimously by roll call vote:

January 19, 2022

Ms. Schieben – Aye

Mr. Wilkening – Aye

Mr. Sharpe – Aye

**Update Items:**

**1. 7220 West 139<sup>th</sup> Place – Crum**

Mr. Sharpe stated the first item for Update Items was for the property located at 7220 West 139<sup>th</sup> Place and asked Ms. Murr if she had any information.

Ms. Murr stated the information she had received some information from the Tax Purchaser. She was advised the order for issuance of tax deed was filed in the Court and issued on October 7, 2021. Ms. Murr advised the Board the Tax Purchaser has 150 days to the date on which the tax petition was granted to file with the Auditor's office, otherwise it becomes null and void.

Ms. Murr stated the Tax Purchaser advised her that he is looking at the property and they are going through the process. She had not been able to reach anyone in the Auditor's office to see if the tax deed has been paid or filed. It is recommended to have this on the March Agenda for an update.

Mr. Deutmeyer advised if there is not an order for demolition, to prepare one, and to call the Auditor's office in advance of the meeting to see tax deed has been filed.

**2. 7220 West 138<sup>th</sup> Place**

Mr. Sharpe stated the next order of business was for the property located at 7220 West 138<sup>th</sup> Place. Mr. Timothy Leonhardt stated he was present for the item, and his wife Ms. Rudy Leonhardt was also present. He and his wife bought the house that was located right up the road and he is working on taking it apart.

Mr. Sharpe asked when Mr. Leonhardt purchased the property. Mr. Leonhardt stated they purchased the house October 1, 2021.

Mr. Leonhardt stated he and his wife have been working on taking it apart and getting rid of the garbage. Mrs. Leonhardt stated they were getting ready to apply for a permit. Mr. Leonhardt commented on the same and asked if the permit he had was what he needed to turn in. Ms. Murr responded in the affirmative.

Mr. Leonhardt asked Ms. Murr what all he needed to fill out on the permit. Ms. Murr advised him to put together a list of what improvements he is wanting to do to the property to attach with the permit.

Mr. Sharpe asked if they plan on restoring the house. Mr. Leonhardt responded in the affirmative.

Mr. Sharpe asked if they planned on working on the property constantly. Mr. Leonhardt responded in the affirmative and stated he wants to be done before the summer.

Ms. Murr asked when they anticipated on turning in the Building Permit, and if it would be within the next 30 days. Mr. Leonhardt responded in the affirmative and stated they would create a list of all improvements since they currently have the property gutted and have good idea of what needs to be done.

January 19, 2022

Fire Chief Wilkening advised Mr. Leonhardt there is a timeline for working on the property and if it sits in a dilapidated or bad shape for a long period of time, it would need to be placed back onto the Unsafe list. Mr. Leonhardt stated he was not going to do that.

Ms. Schieben stated Mr. Leonhardt should have a permit by the next Unsafe meeting. Ms. Murr stated she will have this be an update item for their next meeting. Mr. Leonhardt stated they will be back at the next meeting with a list of what they plan to do. Mr. Sharpe asked for them to have an estimated completion date. Mr. Leonhardt agreed to have an estimated completion date.

Mr. Deutmeyer stated when the permit is issued, do they want a length of time established for how long the permit could last. Mrs. Leonhardt asked if a permit lasted a year. Mr. Deutmeyer stated under normal circumstances it does.

Mr. Sharpe asked the Board if they would like to put a 9-month limit on the permit. Ms. Schieben stated if the work is not done in six months having the Leonhardts come back in front of the Board and show them improvements they have done.

A motion was made by Mr. Wilkening and seconded by Ms. Schieben to have the permit be good for nine months with a six-month re-evaluation. The motion passed unanimously by roll-call vote:

Ms. Schieben   Aye

Mr. Wilkening   Aye

Mr. Sharpe       Aye

Fire Chief Wilkening asked Mr. Leonhardt what his intentions were for the house. Mr. Leonhardt stated he is not sure currently, but he has children and grandchildren really close in the area.

### **12740 Hilltop/South Shore**

Ms. Murr advised the Board that the house located at 12740 Hilltop was demolished in the past couple of days. The house in South Shore is on the schedule to be demolished in the next couple of weeks, weather pending.

### **Bird**

Mr. Sharpe asked Mr. Deutmeyer if he had an update on the Bird property. Mr. Deutmeyer discussed what has previously occurred with the Birds at court, including the house being deemed unsafe by the judge; attempts to find alternate housing from various sources as ordered by Judge Parent; and Mr. Eberly, Fire Chief Wilkening, Mr. Kubiak, and himself going out to the property on claims improvements have been made but not being able to inspect the property.

Mr. Sharpe asked Mr. Deutmeyer if they did not go inside because they could not go inside. Fire Chief Wilkening stated they could not go inside, but they could see inside the house. Mr. Deutmeyer commented on the same and stated the condition was visible from the outside and Mr. Kubiak almost went through the deck. All of this was reported to the judge.

Mr. Deutmeyer stated the judge wanted to do a final check through the VA and the report back from the VA was that Mr. Bird was not eligible for housing through them. This was due to Mr. Bird only serving a short amount of time, as such he was not eligible for any benefits. Adult Protective Services did not have anywhere to place him due to him being fully competent. Judge Parent enlisted the help of the VASIA

January 19, 2022

Program, and they could only get involved if there was a finding of incompetency. It was deemed Mr. Bird is competent and the VASIA program could not assist in placing him.

Mr. Deutmeyer stated with no place being able to place Mr. Bird the judge had the option of declaring the house unsafe and moving forward or make another finding. The judge elected to make another finding and declared the house to no longer be unsafe.

Mr. Deutmeyer stated he asked the judge about what his decision was being based upon and was invited to file a motion of correct error. Mr. Deutmeyer stated he asked the judge to be more specific in his findings on why he was ruling that way and per the trial rules, it would have to be submitted in writing. They did not have this in writing because it was not anticipated to have the house declared safe. The judge did give the Birds strong recommendations that they find alternative housing. However, due to the current ruling of the judge, the house is no longer unsafe and they are permitted to come and go as they please.

Mr. Deutmeyer stated the Indiana laws allow for relief through the Court of Appeals. Mr. Austgen has cleared going through the Court of Appeals with the Town Council and they have filed their Notice of Appeal. The appeal is currently down at the Indiana Court of Appeals and they are waiting on transcripts to be prepared from all four court hearings by the court reporter. Once the transcripts are prepared and the clerk's record is assembled, they will have 30 days to file their brief. Thus far, no attorney has appeared on behalf of the Birds. If an attorney on behalf of the Birds or the Birds, do not file a brief then the Court of Appeals will issue an opinion based upon the briefing available and the record of the case.

Mr. Deutmeyer stated he does not know what the Court of Appeals will do. They are going to brief the case with all the facts and point to the record where the findings of the court were made.

Mr. Sharpe asked if they cannot do anything while the appeal is going on. Mr. Deutmeyer responded in the negative and stated it restricts them for a period of time because the house has now been deemed unsafe.

Fire Chief Wilkening stated he was surprised to hear the ruling because the judge had been concerned for Mr. Bird's safety in the house. Mr. Deutmeyer stated it then became a humanitarian condition to find him a place to go, and when all the options were exhausted, it became the question of will he force Mr. Bird out or let him stay in the house.

Mr. Wilkening asked what would happen for emergency services if they have to go to the property and remove him from the house. Mr. Deutmeyer stated it is everything that they've talked about and asked Fire Chief Wilkening if they have had any calls there recently. Fire Chief Wilkening responded in the negative.

Mr. Deutmeyer discussed the timeline for the Court of Appeals proceedings, including the time for the transcripts to be completed, the time period to prepare their brief, the amount of time for the Birds to file a brief, and the response time of the attorney's office to the Bird's brief, if one is filed.

Ms. Murr asked Mr. Deutmeyer if the days he was discussing calendar days or business days. Mr. Deutmeyer stated they would be calendar days.

Mr. Sharpe asked Mr. Deutmeyer if he would keep the Board updated. Mr. Deutmeyer responded that he would keep the Unsafe Board updated, but would likely not have any substantial update until after the Court of Appeals process has concluded.

**Possible Unsafe:**

**1. 6911 West 131<sup>st</sup> Place**

Mr. Sharpe stated the next order of business was for a Possible Unsafe structure located at 6911 West 131<sup>st</sup> Place and asked if there was any current information on this item. Ms. Murr stated this property address is in the vicinity of the structure, and it is located on the property behind this address. Mr. Gatto and Fire Chief Wilkening are coordinating going out there and looking at that property. They will have an update report for them at their next meeting.

Fire Chief Wilkening stated this was going to be the first report Mr. Gatto will do by himself. Ms. Murr commented on the same. Fire Chief Wilkening stated he and Mr. Gatto have been working for the past year on transitioning the Unsafe inspections to Mr. Gatto.

**PUBLIC COMMENT:** Mr. Sharpe opened the floor for public comment. None was had.

**ADJOURNMENT:** Mr. Sharpe adjourned the meeting at 6:22 PM.

## TOWN OF CEDAR LAKE UNSAFE BUILDING DEPARTMENT

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Richard Sharpe, Chairman

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Dennis Wilkening, Vice Chairman

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Colleen Schieben, Member

ATTEST:

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Ashley Abernathy, Recording Secretary

*The Minutes of the Unsafe Building Department are transcribed pursuant to IC 5-14-15-4(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 section 3.5 or 3.6 of this chapter or any other statute that authorizes a governing body to conduct a meeting using an electronic means of communication.*

*Cedar Lake Unsafe Building Department: Minutes of the January 19, 2022 Public Meeting*