

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



December 15, 2020

**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 | Colleen Schieben 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, IAMC Clerk-Treasurer | |
| Present | Ralph Miller Council Member | Ward 4 | Present | Rick Eberly Town Manager | |
| Present | Randell Niemeyer Council Member | Ward 5 | Present | David Austgen Town Attorney | |

PUBLIC COMMENT

None

CONSENT AGENDA

Minutes: December 1, 2020

Claims: All Town Funds \$195,264.24, Wastewater Operating \$138,451.47, Water Utility \$46,632.05, Storm Water \$31,685.38, Payroll December 10, 2020 \$291,896.85

Manual Journal Entries: November 1-30, 2020

Donations: DARE from Hanover Community School Corporation: \$2,000.00

2021 Conflict of Interest: Foreman, Kubiak, Machalk, Nagy, Wroe

A motion to accept and waive the reading of the minutes and accept the consent agenda as listed was made by Richard Sharpe with second by Colleen Schieben. Mr. Carnahan commented on the Façade Program and reimbursements to be paid out. Roll call: Carnahan – Yes, Foreman – Abstain, Miller – Yes, Schieben – Yes, Sharpe – Yes, Rivera – Yes, Niemeyer – Yes. Vote: 6 – 1.

RESOLUTION

1. Resolution No. 1273 – Transfer Resolution

Council Member Rivera read Resolution No. 1273 by title only. Clerk-Treasurer Sandberg stated the total transfer to be made is \$15,835 within the General Fund. This is for necessary operating expenditures.

A motion to adopt Resolution No. 1273 was made by Julie Rivera with second by Ralph Miller. Roll call: Carnahan – Yes, Foreman – Yes, Miller – Yes, Schieben – Yes, Sharpe – Yes, Rivera – Yes, Niemeyer – Yes. Vote: 7 – 0.

BZA

1. Owner: Porter Bros., LLC/Petitioner: Tim Porter - 9010 W. 133rd Ave Special Use Variance

The Board of Zoning Appeals certifies a **Favorable Recommendation** to the Town Council for the requested **Special Use Variance** to allow the Petitioner to operate an indoor/outdoor storage facility for boats, RVs, cars and trucks no larger than ¾ ton pickups, hours of operations 7:00am to 7:00pm and one hundred-nineteen (119) parking spaces, contingent upon Plan Commission of approval of 1-Lot Subdivision, by a vote of **5 in favor and 0 against** held December 10, 2020.

Mr. Austgen stated there have been four sessions dedicated to this matter. Last Thursday it was discussed at length. Additional information came after the meeting including pictures. A lengthy discussion occurred regarding the matter and certification. It was noted by Mr. Austgen the minutes from the meeting had not yet been completed. Mr. Eberly discussed the pictures shared. He stated it looks as though the pictures reflect a demolition that occurred. Mr. Kubiak concurred a demolition permit was granted for that property and that was done as part of clean-up. He also added that he was under the impression the BZA's motion included an engineered site plan. Mr. Eberly agreed with Mr. Austgen and they should have a copy of the BZA minutes for review before making a determination. He asked them to defer action. Mr. Foreman discussed the master plan. He thinks the area is mostly residential. He asked if it was intelligent not to follow the master plan. A very lengthy discussion continued on the matter.

A motion to send the request back to the BZA was made by Ralph Miller with second by Colleen Schieben. Roll call: Carnahan – No, Foreman – No, Miller – Yes, Schieben – Yes, Sharpe – Yes, Rivera – No, Niemeyer – Yes. Vote: 4 – 3.

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PLAN

1. Performance Letter of Credit – Birchwood Phase 2 (Hanover Development LLC)

Mr. Eberly stated this is a 25 lot subdivision. The letter of credit has been reviewed by the engineer and attorney. It is ready for their action.

A motion to approve the letter of credit in an amount of \$140,908.50 was made by Robert Carnahan with second by Richard Sharpe. Roll call: Carnahan – Yes, Foreman – Yes, Miller – Yes, Schieben – Yes, Sharpe – Yes, Rivera – Yes, Niemeyer – Yes. Vote: 7 – 0.

2. Maintenance Letter of Credit – Lynnsway Development LLC

Mr. Eberly stated this is transferring from a performance letter of credit to a maintenance letter of credit. It has been reviewed. Mr. Eberly noted this is for Ledgestone subdivision not Lynnsway.

A motion to approve the letter of credit in an amount of \$211,943.33 was made by Robert Carnahan with second by Julie Rivera. Roll call: Carnahan – Yes, Foreman – Yes, Miller – Yes, Schieben – Yes, Sharpe – Yes, Rivera – Yes, Niemeyer – Yes. Vote: 7 – 0.

NEW BUSINESS

1. Change Orders and Pay Applications:

- a. HIP Scarification Asphalt Improvements - \$50,276.06**
- b. Town Hall Parking Lot Improvements - \$44,778.50**
- c. Fairbanks Street Improvements - \$17,688.66**
- d. Monastery Woods South Improvements - \$3,035.00**

Mr. Eberly stated there is a brief description on each of these change orders in their packets. A summary is on the second page. These come with a recommendation from Don Oliphant. He recommends each of the pay applications as well as the change orders.

Robert Carnahan made a motion to approve the change orders in the amounts as listed above. Mr. Niemeyer asked Mr. Carnahan if he would consider amending his motion to include the pay applications. Mr. Carnahan concurred. A second was made by Julie Rivera. Roll call: Carnahan – Yes, Foreman – Yes, Miller – Yes, Schieben – Yes, Sharpe – Yes, Rivera – Yes, Niemeyer – Yes. Vote: 7 – 0.

2. Y2021 Meeting Calendar

Mr. Niemeyer stated the meeting calendar for 2021 was previously circulated.

A motion to approve was made by Julie Rivera with second by Colleen Schieben. Mr. Sharpe stated they have an Unsafe meeting tomorrow evening. They are moving to a quarterly format in 2021. He wondered if they would consider moving the quarterly meetings to March, June, September, and December. Mr. Eberly stated rather than meet back right away or maybe they could cancel tomorrow evenings meeting. He's told there is no new business. Mr. Carnahan stated he's concerned about moving to a quarterly format. Mr. Sharpe stated some of that is due to lack of information. Mr. Kubiak stated he thought they had the property of Vermillion to discuss tomorrow evening. He voiced concerns with cancelling tomorrow evenings meeting. A brief discussion continued. Roll call: Carnahan – No, Foreman – Yes, Miller – Yes, Schieben – Yes, Sharpe – Yes, Rivera – Yes, Niemeyer – Yes. Vote: 6 – 1.

3. Y2021 Town Council Appointments to Plan Commission

Mr. Niemeyer stated Heather Dessauer was the expiring member this year. Council appointments were Robert Carnahan, John Foreman, and Richard Sharpe. Those are up for consideration. Randy asked if Heather applied again. John stated yes. Statute requires a democrat or independent must be appointed.

A motion to approve the re-appointment of Heather Dessauer, Robert Carnahan, John Foreman, and Richard Sharpe was made by Colleen Schieben with second by Julie Rivera. Roll call: Carnahan – Yes, Foreman – Yes, Miller – Yes, Schieben – Yes, Sharpe – Yes, Rivera – Yes, Niemeyer – Yes. Vote: 7 – 0.

4. Y2021 Austgen, Kuiper, Jasaitis Legal Services Agreement

Mr. Niemeyer stated this is the annual services agreement for legal. He asked if there were any changes. Mr. Austgen stated only the dates changed.

A motion to approve the legal services agreement was made by Richard Sharpe with second by Colleen Schieben. Roll call: Carnahan – Yes, Foreman – Yes, Miller – Yes, Schieben – Yes, Sharpe – Yes, Rivera – Yes, Niemeyer – Yes. Vote: 7 – 0.

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5. Y2021 EMS & Fire Protection Services Agreement

Mr. Niemeyer asked Mr. Austgen if he had time to review and draft. Mr. Austgen stated he has and he sent the reviewed draft with markings to Randy. It was not distributed to the entire Council. Mr. Niemeyer stated it met all terms as discussed in prior meetings. He asked if it was recommended to approve. Mr. Austgen agreed.

A motion to approve the Y2021 services agreement was made by John Foreman with second by Richard Sharpe. Mr. Carnahan asked if it was the same as the 2020 contract. It was stated yes. A brief discussion continued. Roll call: Carnahan – Yes, Foreman – Yes, Miller – Yes, Schieben – Yes, Sharpe – Yes, Rivera – Yes, Niemeyer – Yes. Vote: 7 – 0.

6. Personnel Policy

Chief Fisher stated Jessica Levenberg with Lexipol was on with them. When he attended Chief's school he reached out to other departments to get information on their department policies. His goal was to see how they maintained them as well as keep them up to date. Many went to the company Lexipol. Lexipol constantly reviews and updates policies. He reached out to Jessica to get a quote from Lexipol for the Police Department and the Fire Department. He gave examples as to how Lexipol would benefit them. They must certify their policy within three months or the department will no longer be eligible for Department of Justice Grants. The start-up cost for the Police policy is \$19,000 and \$11,000 for the Fire Department. A quote was also received for the Town at approximately \$11,000 but Rick is looking into others. The annual fee for the Police Department is \$8,000 and the Fire Department is a little over \$7,000. They give daily training bulletins. He's looking for help to get this started. Mr. Carnahan asked if there was money available for this. Clerk-Treasurer Sandberg stated no. The 2021 Budget has already been submitted. Looking through the different funds and obligations, there is no room in the 2021 budget. Mr. Eberly asked if that was true for both departments. Ms. Sandberg stated she needed to review a few things but it was possible the Fire Department would have funds available. Mr. Niemeyer discussed the \$1,000 contribution made by Lennar Homes. He asked if that was budgeted into the miscellaneous revenues. Ms. Sandberg stated that was set-up as a non-reverting fund. There is no set budget. Mr. Niemeyer stated that money wasn't specified for a use. There should be money in that fund for the start-up. Mrs. Murr stated they would have to review the ordinance to see what was specified. Mr. Niemeyer stated he didn't believe it was specific. Mr. Foreman stated this is good but he also feels like they as an organization need policies but they should defer and make sure the new Town Manager has time to go through all policies and see what else is out there. The bigger picture should be discussed and vetted. A motion to defer was made by John Foreman with second by Ralph Miller. Chief Fisher stated he respects their opinion but the prices will not change whether or not the civilian policy is with Lexipol as well. They are under a time crunch to get this updated and approved. Mr. Foreman asked who else in the area uses Lexipol. Ms. Levenberg stated the Lake County Sheriff's Office, South Bend, Goshen, and many others. Lexipol has approximately 140 departments in Indiana using them. They'll be able to look at their policies and make sure the department is supported on an ongoing basis. A lengthy discussion continued on Lexipol. Mrs. Murr was able to find the ordinance and it does say the Lennar money was to be used towards public infrastructure. Mr. Eberly stated any motion to approve should be contingent upon review of the ordinance. Roll call: Carnahan – No, Foreman – Yes, Miller – Yes, Schieben – No, Sharpe – Yes, Rivera – No, Niemeyer – No. Vote: 3 – 4. Motion fails.

A motion to approve the Police and Fire policy agreements with Lexipol contingent upon review and use of the funds from the Lennar non-reverting fund was made by Julie Rivera with second by Colleen Schieben. Roll call: Carnahan – Yes, Foreman – Yes, Miller – Yes, Schieben – Yes, Sharpe – Yes, Rivera – Yes, Niemeyer – Yes. Vote: 7 – 0. Chief Fisher stated he is still working on securing donations or grants to help with the costs. The price will stay the same no matter how large the department grows.

7. Comprehensive Plan Amendment Proposal

Mr. Eberly presented a proposal from Veridus Group to update the Comprehensive Plan. This is what is being called the western annexation area. This will include a future land use map update and transportation access map. He had spoken with Jen about funding this proposal. Clerk-Treasurer Sandberg stated there is a consulting line item and it is her opinion due to the nature of the comprehensive plan this could be split between multiple funds. Mr. Eberly stated this proposal was for \$22,000. Mr. Foreman asked if they had word documents for all of this to add to so they are not re-drafting. It was answered yes. This is just an amendment. Mr. Niemeyer stated the last large amendment was 2012. Mr. Eberly recommended they move forward.

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A motion to approve the recommendation of the Town Manager was made by Julie Rivera with second by Colleen Schieben. Mr. Foreman asked Mr. Eberly to make sure that Veridus pays special attention to the zoning. A brief discussion continued on zoning. Roll call: Carnahan – No, Foreman – Yes, Miller – Yes, Schieben – Yes, Sharpe – Yes, Rivera – Yes, Niemeyer – Yes. Vote: 6 – 1.

8. 2020-2 CCMG Agreement

Mr. Eberly reported the Town was successful in securing another Community Crossing Grant. This is for the 129th Avenue Project. It will be from Parrish Avenue to US 41. It will include some curb and gutter improvements as well as storm water culverts. It is approximately \$393,000 with a total project cost just over \$786,000. It was recommended they approve.

A motion to approve the 2020-2 CCMG Agreement was made by Robert Carnahan with second by Ralph Miller. Mr. Carnahan asked if the project would begin in the spring. Mr. Eberly stated per the contract they must begin the bid process within four months. Roll call: Carnahan – Yes, Foreman – Yes, Miller – Yes, Schieben – Yes, Sharpe – Yes, Rivera – Yes, Niemeyer – Yes. Vote: 7 – 0.

REPORT

1. Town Council - Mr. Foreman stated they had another Ecosystem Restoration meeting. Work continues and they are trying to reduce the scope. They had not yet met with some others. They should have a more thorough update soon. Mr. Carnahan stated the Chris Burke reported on a meeting with the Army Corps and Lake County Parks. Mr. Foreman stated they did not as a committee but part of the working group did. Mr. Carnahan asked why they met with the Lake County Parks Department. Mr. Foreman stated because some land they own may be involved in the final project. They don't have anything definitive yet. Mr. Niemeyer reported the Public Works and Safety Committee met with the Hanover Township Trustee and Board as well as Charlie Kaper and Dave Villalobos to discuss future capital needs of the Fire Department. It was a productive discussion. The Township and the Town will be working together to develop a plan. He anticipates further reports and updates as more strategy details become available. Looking into purchasing a tanker or possibly an engine.
2. Town Attorney - No report.
3. Clerk-Treasurer - Clerk-Treasurer Sandberg reported they have received the final insurance renewal rates from Anthem. The 2021 renewal will come in at 4.86% overall. IPEP completed the Workers Compensation Audit and the Town is due a return premium of \$9,783.
4. Town Manager - Mr. Eberly reported on previously discussed storm water drainage issues. Two of the three issues have been resolved. The project on Osborne Street has been completed. Mr. Kubiak and Mr. Eberly met with Mrs. Prough on Carey Street and looked into her situation. Mr. Kubiak was able to identify the water leak she is experiencing and gave her possible solutions. He met with Mr. Lameeka in Havenwood. They are looking into possibly putting in a second drain under the sidewalk to relieve some of the ground water pressure. He has a call into the mud jacking company to see what they intended project there was. He's awaiting a return call.
5. Director of Operations - Mr. Kubiak discussed the storm project on Parrish, over by the Wornhoff property. It's estimated at approximately \$50,000. He asked what they wanted to do. It was discussed to get a solid quote and if it is under \$50,000 they should use one of the contractors they already have and get the project going. A brief discussion continued
6. Police Department - Chief Fisher briefly went through the monthly calls report. Last month they had some complaints about speeding in the area of 147th Avenue. The speed sign went up in the area. The sign reported over 8,000 cars over a period of nine days. The average speed is 27 mph. The sign actually reports on the time of the occurrence. He believes it is a homeowner leaving for work at the same time each morning. His department will head over there during the reported times and track the particular vehicle down. A brief discussion continued on the speed sign and the data gathered.
7. Fire Department - No Report.

WRITTEN COMMUNICATION

1. Building Department Report – Mr. Carnahan gave a synopsis of the Building Department Report. They are at approximately 241 new home permits. Mrs. Murr reported in 2018 they had 209 new home permits with a residential value of approximately \$170,000. Today the approximate residential value is \$222,000. A brief discussion continued.
2. Christopher B. Burke Engineering Report – Previously reported.

PUBLIC COMMENT

None

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ADJOURNMENT President Niemeyer called the meeting to adjournment at 7:38 PM

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

Randell Niemeyer, Ward 5

Julie Rivera, Ward 3

Robert H. Carnahan, Ward 1

John Foreman, Ward 2

Ralph Miller, Ward 4

Colleen Schieben, Ward 6

ATTEST:

Richard Sharpe, Ward 7

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 5-1.5-2-2.5.