

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

July 21, 2009

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

Roll Call:

Present	John Foreman Council Member	Ward 2	Present	Robert Carnahan Vice President	Ward 1
Present	Patricia Wisniewski Council Member	Ward 3	Present	Dennis Wilkening President	Ward 5
Present	Jerry Smith Council Member	Ward 4	Absent	Amy J. Sund Clerk-Treasurer	
Absent	William Landske Council Member	Ward 6	Present	Ian Nicolini Town Administrator	
Present	Greg Parker Council Member	Ward 7	Present	David Austgen Town Attorney	

Jill Murr was the recording secretary

DEPARTMENT REPORTS

Police: Chief Roger Patz stated that August 4th is National Night Out. This will be a joint effort between the police, park, public works and fire departments. He invited everyone to join them for the event which will begin at 6:00 pm. Chief Patz stated that we are now part of the Nixle public alert system. This system can notify residents via text message or web mail about construction work, gas leaks, missing persons. Residents are urged to register at NIXLE.COM to receive the alerts when sent out. Normal rates will apply for the text messaging. This link is available on the Police Departments website. Bob Carnahan inquired of Chief Patz regarding the claim to Kleine Heating and Cooling; Chief Patz responded that this was for the replacement of the roof top heating and cooling unit. Estimates were obtained to repair the old unit; vendors suggested replacing the unit as some of the parts are no longer available. This unit is for the Police Department and one office in the Town Hall.

Public Works: Ian Nicolini reported for Ed Robinson. Restoration work on 136th Place is done. This was the rear yard drainage project. A presentation of the mapping done of the storm and sanitary sewers utilizing the GPS Equipment will take place soon. The mapping of Utopia is complete and they are working on the area by the Little League fields.

Parks & Recreation: A written report was submitted to Council by Mary Joan Dickson. Mary Joan Dickson reported on the activities taking place in the Park Department; preschool cooking, archery, and the Keenagers picnic in the park. Mary Joan Dickson reported on the geese problem and the mess they are leaving. The Park Board will be meeting on July 25th at 7:00 pm at Bartlett Park.

Clerk-Treasurer: Amy Sund was absent. There was no report.

Fire Department: Todd Wilkening had no report. Bob Carnahan inquired of Todd Wilkening on the claim on the payment to NIPSCO; if it was for the ambulance or the entire Fire Department. Todd Wilkening stated that it is for the entire Fire Department. Bob Carnahan thanked Todd Wilkening for his assistance in obtaining a copy of Obadiah Taylor's tombstone nameplate.

Planning and Zoning: Ian Nicolini has no report.

Town Administrator: Ian Nicolini requested NIES Engineering to review any engineering submittals regarding The Moorings. Motion by Jerry Smith and seconded by Pat Wisniewski. Bob Carnahan questioned they type of development; Ian Nicolini responded that it is next to the Lighthouse Restaurant which was formerly known as Paradise Cove. Bob Carnahan inquired if this is because they are currently using our engineer, Christopher B. Burke, on this; Ian Nicolini responded that they are working on a related project.

Roll Call Vote: 6 to 0

Foreman	Wisniewski	Smith	Landske	Parker	Carnahan	Wilkening
YES	YES	YES	ABSENT	YES	YES	YES

Ian Nicolini stated that at a previous Council meeting Steve Tokar requested that Council reverse the resolution to disallow extra jurisdictional sewer connections outside of the corporate limits. Ian Nicolini recommended that we forego making any decisions on allocating extra jurisdictional sewer taps unless a development presents itself. Motion by Jerry Smith and seconded by Pat Wisniewski. David Austgen asked for clarity; that in the event that a viable end user presents a viable and verifiable use or the period of one year. Jerry Smith and Pat Wisniewski agreed.

Roll Call Vote: 6 to 0

Foreman	Wisniewski	Smith	Landske	Parker	Carnahan	Wilkening
YES	YES	YES	ABSENT	YES	YES	YES

Ian Nicolini stated that the preconstruction meeting for the West Lake Shore Drive, East Lake Shore Drive and Huseman Street projects will be tomorrow; Wednesday, July 22nd at 1:00 pm.

Town Attorney: David Austgen had no report; items were discussed in executive session. David Austgen stated with National Night Out and the next Town Council meeting being on August 4th; we might want to start the meeting at 6:00 pm for participation in the event. Motion by John Foreman and seconded by Pat Wisniewski to begin the August 4, 2009 Town Council meeting at 6:00 p.m.

Roll Call Vote: 6 to 0

Foreman	Wisniewski	Smith	Landske	Parker	Carnahan	Wilkening
YES	YES	YES	ABSENT	YES	YES	YES

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Town Council: Bob Carnahan stated that the next Lake County Solid Waste household hazardous waste collection will be on August 14th at Lake Central High School located at 8260 Wicker Avenue. On Saturday, August 1st, the Cedar Lake Chamber of Commerce will be having their town wide garage sale. The Lion's Club has requested a donation of \$25 from each Council member for their golf outing. A picture of Kohler's Bakery which currently is Wahlberg's warehouse was distributed. He received a call from Ron Cooke regarding his 10+ acre property; he encouraged Council members to visit the property. Bob Carnahan stated that Ron Cooke was instructed by the BZA to attend the August 4th Town Council meeting; he went to the BZA for a special use variance. Ian Nicolini stated that Lynnsway has made an attempt to cut the grass, but they have had some equipment failure. Greg Parker agreed that they have been making an attempt this year. Krystal Oaks residents are complaining about the weeds, cans and boxes in the vacant lots. Bob Carnahan stated that he has shown the area to Greg Parker. Ian Nicolini and Greg Parker have had discussions about this and our ordinance. Denny Wilkening stated that he has spoken with the code enforcement officer about the amount of time he is spending to get people to cut their grass. Bob Carnahan stated that with the high weeds that are around the area and the park being there; he would hate to see anything happen to a child. All agreed with him that no one wants to see anything happen. Ian Nicolini spoke on the staff issue. We have one guy doing the whole town. With the current economic conditions, we have a lot of vacant lots. Our policy manages the provisions of the State code for weeds and vegetation; David Austgen stated that our Town code mirrors that of the State. Denny Wilkening stated that there currently is a conflict with what the police officer does and what the code officer does. Ian Nicolini stated that this will be addressed administratively. Greg Parker recommended that the code looks at unfinished developments monthly; Ian Nicolini stated that he is looking at them weekly. Ian Nicolini stated that we have cited them. John Foreman stated that if we have mowers, why we don't just mow it and charge them. David Austgen stated that there is a due process; Ian Nicolini agreed. Denny Wilkening stated that some of the lots have such a rough grade they would tear up our equipment. Chief Roger Patz inquired of Ian Nicolini if he gave Krystal Oaks until Monday to comply with the ordinance. Ian Nicolini stated to give Krystal Oaks until Monday; discussions between Krystal Oaks and Doug Wynkoop occurred today. John Foreman stated that Greg Parker and Jerry Smith and he have met with the Fire Chief Todd Wilkening and Clerk-Treasurer Amy Sund. They recently submitted a package to David Austgen for review for the purchase of an ambulance. Motion by John Foreman and seconded by Jerry Smith for the attorney to prepare a notice of bid for an ambulance package.

Roll Call Vote: 6 to 0

Foreman	Wisniewski	Smith	Landske	Parker	Carnahan	Wilkening
YES	YES	YES	ABSENT	YES	YES	YES

David Austgen inquired if Council wanted to appoint someone to be a liaison to the Chamber of Commerce. Motion by Pat Wisniewski and seconded by John Foreman to nominate Bob Carnahan to be the liaison of the Town to the Chamber of Commerce.

Roll Call Vote: 6 to 0

Foreman	Wisniewski	Smith	Landske	Parker	Carnahan	Wilkening
YES	YES	YES	ABSENT	YES	YES	YES

PUBLIC COMMENT: Anthony Bender of Euclid Street in Lynnsway Subdivision stated that he owns a corner lot. He was informed by the Town that since he has a corner lot, he has two front yards because there are two public streets attached to his lot and that he could not install a fence between the side of his house and the street. He was given the fencing ordinance by the building department, but he could not understand by the ordinance how he has a lot with two front yards. He went back to the Town with questions and was given definitions describing what a front yard is and what yard frontage is. Once again he found nothing stating their claim that he has two front yards. He decided to file for a permit and was denied due to an ordinance that was unrelated to fences. He was given a copy of this ordinance and was told that they were done talking to him; that his two choices are to file for a variance or file for an appeal to the Town Administrator's decision. He filed for an appeal on the decision and stated that while trying to plead his case he was asked why he didn't follow normal procedure and file for a variance. He stated that when he explained why he shouldn't need a variance and asked where it specifically states it in the ordinance; he was told to purchase the whole ordinance book. He stated that they proceeded to deny him and sent him on his way. He stated that he has spoken to zoning administrators and councils from other towns and sought legal advice looking for answers. He does not understand why the ordinance reads differently than other towns. He submitted copies of letters on his appeal, ordinances he was given and his denial to Council. Greg Parker inquired if there was a diagram as this could be a vision issue. Anthony Bender stated that it is in the information he submitted for review. He submitted pictures for review to show the vision area. John Foreman inquired on the type of fence being installed; Anthony Bender responded a privacy fence. Anthony Bender explained the pictures submitted to Denny Wilkening the Council. Council reviewed the pictures. Anthony Bender submitted pictures of houses in Havenwood and on Parrish that have fences similar to what he is asking for. John Foreman stated that previous Council's allowed these; Ian Nicolini stated that the fences referred to in Havenwood were approved administratively. John Foreman stated that permits were just given without proper checking; Ian Nicolini stated that this is correct. John Foreman stated that the confusion is in the way the fence regulations does not say anything about the two front yards, but it is stated in the two front yards section; they are contradictive. David Austgen stated that the book needs to be read in its entirety. Ian Nicolini stated that there is a variance procedure. Anthony Bender submitted case laws from his attorney to Denny Wilkening for review. He will be submitting his application to be improved without a variance. Ian Nicolini stated that he informed Mr. Bender that his application has been denied. Anthony Bender submitted a letter from his attorney. Anthony Bender stated that if \$1,000 is put down as a yard bond which requires two trees in the front yard and sod and once installed the builder gets their money back. Since trees were not put on both sides, when did it become a front yard? Anthony Bender stated that he inquired of Council members on the houses on Ivy which back up to Parrish, if they have two front yards and was told that they do not. Greg Parker and John Foreman have spoken to him. Ian Nicolini stated that Council is the policy making board and that he enforces the policies; some of the policies are pre-existing

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and precede current Council members. John Foreman inquired if David Austgen is familiar with the area along Parrish going towards Lynnsway. Ian Nicolini stated that there is a forty yard set back required off of any Federal access route; John Foreman inquired if it is just a back yard then. David Austgen stated that all subdivisions are different and there a number of things to check. Ian Nicolini stated that is best to leave this matter for the Board of Zoning Appeals as Mr. Bender has not yet applied for a variance; John Foreman asked if it was for the fence; Ian Nicolini responded yes. Greg Parker stated that the interpretation is confusing by the way the ordinance is worded. Ian Nicolini stated that he consulted with the Town Attorney and goes with the legal interpretation. Bob Carnahan stated that this needed to be addressed and be clarified when the new zoning ordinance comes out. Ian Nicolini stated that the draft zoning ordinance addresses and clarifies this issue. Greg Parker inquired if the only recourse Mr. Bender has is to apply for a variance. Ian Nicolini responded yes. Mr. Bender stated that he was told by Ian Nicolini that he will not get the variance. John Foreman stated that Mr. Bender should come and apply for the variance so that we can move forward with this. Mr. Bender referred to the letter and case law reference he submitted and asked Council to review them. Ian Nicolini questioned if the case that was referred to was in Indiana; Anthony Bender responded no. Mr. Bender inquired if the law is interpreted differently; David Austgen stated that yes they do. Ian Nicolini stated to Denny Wilkening that this is a complicated situation and Mr. Bender has been given his next steps. Ian Nicolini stated to Anthony Bender that he does not appreciate his comment on him not getting a variance and asked him to retract it; Anthony Bender retracted his statement. Mr. Bender stated that at his appeal meeting Mr. Nicolini stated that he has to drive down Parrish and doesn't want to see fences. **Bill Port** of W. 143rd Avenue stated that this is lake front property with an unimproved right of way along the side of his property. He stated that over the weekend neighbors in the area cut down trees stated. He stated that a neighbor informed him that they said that they were doing it for the Town. He stated that they left the branches in the accessible part of the roadway that is accessible. He stated that he has maintained this as part of his yard. Denny Wilkening questioned if this is Townsend. Ian Nicolini stated that trees were taken down from the right of way which was authorized by prior Town Council to the property owner's on 143rd Avenue; the Town would dispose of them if brought up to the public right of way. Mr. Port stated that there is not deeded access here; it is a public right of way. Bob Carnahan stated that Bill Landske spear headed this project in the past. David Austgen stated that this is a right of way; it is not to be blocked or obstructed. Bob Carnahan stated that we did give them permission to go in and clean it up; the street department would come and grind up the branches. Ian Nicolini stated that they were supposed to start on that today and apologized if they did not get out there yet. Greg Parker inquired if this is more of a maintenance issue; Ian Nicolini stated that there was some clearing. This is a right of way as verified on the Sid well maps. David Austgen stated that it matters who has public access and who has deeded access; if it is public access, every citizen can go onto a right of way and if it is a deeded right of way there is a group of people or a lesser inclusion. Bill Port inquired on who is responsible for the maintenance; Bill Port stated that this was done two years ago as well. He stated that he was not home when the trees were cut down. Denny Wilkening inquired if they are bringing the branches to the top of the hill; Mr. Port stated that the branches were left laying the steep part of the hill. Ian Nicolini stated that they need to be brought to the street for us to dispose of them. Mr. Port stated his effort to maintain this area. Bill Port stated that he has heard that there is supposed to be an excavator coming in to do work here. He expressed his concern with water run-off and erosion. He stated that he was told that Big Jim's is going to be doing excavation work in this area. Ian Nicolini stated that in the areas where bank stabilization is needed for storm water management. Ian Nicolini stated that we are just removing the brush. Ian Nicolini stated that a plan has been presented and he has met on site; there is stabilizing work and a volunteer plan which is adjacent to Bill Port's property. Bill Port stated that they are unsupervised and inquired if there is a plan. The final product will look like turf grass; it will be seeded and stabilized. The trees and underbrush are being cleaned up. Discussions occurred on the volunteer program. Ian Nicolini stated that he had operations out there. Ian Nicolini stated that we have a contractor for the work and he will be receiving a proposal. Bill Port inquired if he could review the proposal for the work being done; Ian Nicolini responded sure. David Austgen stated that several years ago there were discussions on this. David Austgen stated that we should report on this in two weeks when Bill Landske is present and get a clearer picture on this. Motion by Bob Carnahan to continue this discussion to August 18th. Bill Port inquired if work will continue; Bob Carnahan stated that this is to continue discussions. Bill Port expressed his concerns again as his property is next door. Greg Parker inquired on the number of right of ways there are to the lake; Ian Nicolini responded that he is not sure, at least a dozen. John Foreman stated that this is a fair question and complaint. Denny Wilkening stated that the brush needs to be carried up so we don't have to have our employees carry it up; Ian Nicolini stated that we are not going to be the one's dragging it up. **Mike De Francesco** of Farm Court in Havenwood Subdivision; he is the homeowner's association president. Mike De Francesco complimented the Town and their response when there was a heavy rain and piles of dirt filled the sewers. Doug Wynkoop came right out and took care of it; Ed Robinson sent the sweeper out. He stated that Utilities Inc. had damage in the subdivision; the sidewalks and dirt were not taken care of. He stated concerns with the Town taking over the utility. He stated that Ian Nicolini and Public Works facilitated the repairs to the sidewalks and area around the pump house. Mike De Francesco stated that it was a smooth transition. Mike De Francesco stated that they have started a neighborhood watch program. He stated that Chief Patz has supplied officers and assistance to their program. Mike De Francesco thanked Fire Chief Wilkening and his department for the fire truck and Santa. He stated that they truly appreciated it. **James Bradon** of the RDC Board resigned effective today for health reasons. He stated that he is owed for one month because of an error and he did attend the meeting in July; he was told that he would be paid for these in December. He thanked all for the opportunity and hopes that if his health improves he will be able to serve again in the future. All thanked him for his dedication. Motion by John Foreman and seconded by Pat Wisniewski to accept James Brandon's resignation from the Redevelopment Commission and note the monies owed.

Roll Call Vote: 5 to 0

Foreman	Wisniewski	Smith	Landske	Parker	Carnahan	Wilkening
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YES	YES	YES	ABSENT	ABSENT	YES	YES
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Motion by Bob Carnahan and seconded by Jerry Smith to advertise for the vacancy on the Redevelopment Commission.

Roll Call Vote: 5 to 0

Foreman	Wisniewski	Smith	Landske	Parker	Carnahan	Wilkening
YES	YES	YES	ABSENT	ABSENT	YES	YES

David Bollinger of Wicker Meadows inquired if there is an update on the drainage issue in the subdivision. Ian Nicolini stated that an update on Wicker Meadows is on the agenda. Mr. Bollinger reported for his neighbor Becky; she has two holes in the back of her property. They can not get a camera through the black corrugated pipe to see where it leads to. David Bollinger stated that he has submitted pictures to Greg Parker; he is digging post holes and bringing up broken drain tile. He stated that his subdivision does not use drain tile as it was farm land. Discussions occurred on the pictures. Ian Nicolini suggested amending the agenda. Motion by Jerry Smith and seconded by Pat Wisniewski to amend the agenda and discuss the update on Wicker Meadows.

Roll Call Vote: 6 to 0

Foreman	Wisniewski	Smith	Landske	Parker	Carnahan	Wilkening
YES	YES	YES	ABSENT	YES	YES	YES

Ian Nicolini stated that Hubinger has hydro seeded the area and residents are helping by watering it. The Park has not been hydro seeded as we will be excavating the outlet end of the pond to a larger size for additional flow; after that we will restore the park. The holes near the rear yards are from Henn & Sons trying to locate the connection to the farm tile which is the source of the sink hole on the farm parcel to the south. We have not found the connection yet. We have gone in there with the camera truck, but we could not get very far into the tile. We may need to have farmer replace some of the tile; this is still ongoing. A trash rack was installed and some fences have replaced. On the drain tile, when met two weeks ago, it angled through back yard north and south. It was a dead tile. In the course of excavating for the house, the connection was probably cut. There are no as-builds for this subdivision; they were lost when there was a fire at Henn & Sons. David Austgen suggested that the engineer may have a copy; Ian Nicolini stated that he has checked and they did not have a copy, but he will check again. Denny Wilkening stated the hole in the middle of the field needs to be fixed. Cones have been on the holes in the yard for a week; there are concerns that a child could fall in these. Two Town workers dug two holes by hand which were about waist deep, but did not find the tiles or tees. The holes were back filled. Disconnect the farm tile to the rear yard drainage. We want to make the tie-ins to finish this. David Bollinger stated that the fence that was installed to keep the manure out is on his property. David Bollinger stated that he has spoken with the farmer and he is willing to cooperate to put the fence on his property to keep the manure on his property. Ian Nicolini stated that the work was done within our easement. Denny Wilkening questioned if this is manure in the fence; Ian Nicolini responded yes. Ian Nicolini stated that the sink hole is about thirty-five to forty feet wide; Ian Nicolini stated that it is big enough for a Volkswagen to fit in it. Ian Nicolini referred to the storm water ordinance. Ian Nicolini stated that when met – have something in place. We need to take one step at a time. This is a comprehensive item which should be addressed altogether instead of in pieces every few weeks. David Bollinger stated that he is tired of dealing with this. Denny Wilkening stated that we are trying to work with him to get this done.

CONSENT AGENDA

1. Minutes of the Regular Public Meeting of July 7, 2009.
2. Docket: Town Claims 65142 – 65229 for \$633,776.29; Wastewater Claims 25108 - 25142 for \$242,154.58; Storm Water Claims 65144, 65154 – 65155, 65164 – 65165, and 65179 - 65186, for \$145,258.95; and Water Utility Claims 80019 - 80023, for \$17,136.23. Motion by Jerry Smith and seconded by John Foreman to accept and waive the reading of the minutes and to accept the consent agenda.

Roll Call Vote: 6 to 0

Foreman	Wisniewski	Smith	Landske	Parker	Carnahan	Wilkening
YES	YES	YES	ABSENT	YES	YES	YES

PUBLIC HEARING

1. Public Way Vacation

- a. **Town Attorney Comments** – Attorney David Austgen reviewed the proofs of publication from the Times and the Post-Tribune. They were each published once in each paper. The originals are in file with the Clerk-Treasurer. Notices were sent to the appropriate home owners via certified mail; receipts were given to Ian Nicolini and green cards were received by the Town.
- b. **First Reading of Ordinance No. 1056** – Ian Nicolini explained the ordinance. Ian Nicolini stated that this is 127th off of Wicker Avenue. It is a thirty foot wide right of way running east and west which connects to Wicker Avenue and dead ends at the Town limits on Magoun Drive. About half of the right of way is taken up by the fence and rear parking lot area of Emerald Towing. Recently some work to be performed on the site which will require Plan Commission approval and review of the site plan. In order to do so, the right of way encroachment needs to be addressed. It is a thirty foot right of way which does not meet the right of way standards for a residential street; you need sixty feet of right of way back to back. It would require relocating a substantial part of the business. He believes that the fence was installed about ten years ago. John Foreman inquired if this blocks the rest of the road; Ian Nicolini stated that there are north and south right of ways deeded as First and Second Street which are right of 126th. A map was reviewed by Council. To the south of the road is Martel's Dental, storage units and the residential properties in the subdivision; you do not have the opportunity to pursue the right of way in this area. This does not land lock any properties. This would only vacate the east-west length of the south property line. Ian Nicolini stated that the other option is 126th Avenue which is currently

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being reconstructed and allows the most access to US 41. Pat Wisniewski inquired if we are closing any roads; Ian Nicolini stated just the length of lots nine and ten. Some of the lots have already been vacated. Attorney David Austgen read Ordinance No. 1056 in its entirety.

c. Remonstrations – Wes Jenkins of Magoun stated that the petition to vacate this section would deny access of those to the west to US 41. He stated that the thirty foot easement is better than none at all. In the future there will be over three hundred residents to the West of US 41; if this is vacated only 126th Avenue will be available for access to US 41 from the west. Wes Jenkins stated his opposition to the vacation. He submitted a letter to Denny Wilkening and Council. John Foreman inquired if we are only vacating two properties and who owns the lots. Ian Nicolini responded that these parcels have alley access and some have already been vacated. Ian Nicolini recommended that the way the streets were platted and how the development was planned to provide right of way access in the form of an alley access. Ian Nicolini stated that this will not land lock any parcels. INDOT has access management of US 41; the existing access to US 41 will be the way to go. These two lots in question have been using the right of way for over ten years and not been taxed for the property. John Foreman stated that INDOT will not allow a thirty foot wide road to access US 41; David Austgen stated agreement. Ian Nicolini described possible land locks as some alleys have been vacated. David Austgen stated that the collector streets off of US 41 are being improved and considering if 126th Avenue is improved and reconfigured, there could possibly be a traffic light installed there. **Matt Shannon** of W. 127th Place stated that the terminology used and what was in the letter; they would like to see a map. Ian Nicolini reviewed the map with Matt Shannon; Matt Shannon reviewed the map with the public. Ian Nicolini stated that this was a dedicated but unimproved road. David Austgen stated the history of this area. Matt Shannon stated that he just doesn't want the Town giving up its right to the property. Half of this Martell's and half of this is Bourrell's. Ian Nicolini stated that this does not meet the standards for an alley. The floor was closed by Denny Wilkening.

d. Council Discussion – There was no additional discussion.

e. Council Decision – Motion by Jerry Smith and seconded by Greg Parker to approve the vacation of right of way on Ordinance No. 1056.

Roll Call Vote: 3 to 3

Foreman	Wisniewski	Smith	Landske	Parker	Carnahan	Wilkening
YES	NO	YES	ABSENT	YES	NO	NO

John Foreman stated that since the state will not allow access to US 41 and although Mr. Jenkins has a valid point, he is voting to approve this. There is no action on this item unless your Clerk breaks the vote and your Clerk is not here tonight. Denny Wilkening moved the item to the next agenda.

2. Amendatory Garbage Rate Fee Ordinance

a. Town Attorney Comments – Attorney David Austgen reviewed the proofs of publication from the Times and the Post-Tribune. They were each published once in each paper.

b. First Reading of Ordinance No. 1057 – Motion by Pat Wisniewski and seconded by John Foreman to read Ordinance No. 1057 by title only and Section One.

Roll Call Vote: 5 to 1

Foreman	Wisniewski	Smith	Landske	Parker	Carnahan	Wilkening
YES	YES	YES	ABSENT	YES	NO	YES

David Austgen read Ordinance No. 1057 by title only. David Austgen read the following:
ORDINANCE NO. 1057 IS AN ORDINANCE AMENDING TOWN ORDINANCE NO. 1008, BEING: "AN ORDINANCE AMENDING TOWN ORDINANCE NO. 954, BEING: 'AN ORDINANCE AMENDING THE FEES TO BE CHARGED FOR REFUSE AND RECYCLABLES IN THE TOWN OF CEDAR LAKE, AND REPEALING ALL ORDINANCES AND TOWN CODE SECTIONS, OR PARTS THEREOF, IN CONFLICT HEREWITH', REPEALING ALL ORDINANCES AND TOWN CODE SECTIONS, OR PARTS THEREOF, IN CONFLICT HEREWITH, ALL MATTERS RELATED HERETO", REPEALING ALL ORDINANCES AND TOWN CODE SECTIONS, OR PARTS THEREOF, IN CONFLICT HEREWITH, AND ALL MATTERS RELATED HERETO.

SECTION ONE: That **SECTION ONE** of Town Ordinance No. 1008, which amended Town Ordinance No. 954, which amended Town Ordinance No. 823, be, and the same is hereby amended to read and provide as follows:

"SECTION ONE: For the use of and the garbage, refuse and recyclable sanitary collection and disposal service to be rendered, rates and charges shall be collected from the owners of each and every lot, parcel of real estate or dwelling unit that is, or will be, provided such service. An owner is identified as the holder of fee simple title interest in and to a lot or a parcel of real property upon which dwelling or dwelling units are situated. The owner of each such lot or parcel of real estate upon which is situated a dwelling or dwelling unit shall pay a fee of Seventeen Dollars (\$17.00) per month for each dwelling or dwelling unit to which sanitary garbage, refuse, and recyclable collection and disposal service is provided. Owners are liable for payment as required herein. The individual garbage collection fee shall be billed with the wastewater utility billing of the Town on a monthly basis. Said billing shall be issued by the Town on or about the first day of each month. All rates and charges billed by the Waste Water Utility Billing Department of the Town, including for garbage collection fees imposed hereby, shall be paid by no later than the 20th day of each month. In the event such billing is not paid on or before the 20th day of each month, then a Ten percent (10%) penalty shall be imposed. For the purposes of computing time, and particularly for assessment of the Ten Percent (10%) penalty, the 20th day of each month is

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the last day in which payment of billing without imposition of the Ten Percent (10%) penalty may be made. After the 20th day of each month, the Ten Percent (10%) penalty on each such billing shall be assessed and collected. In the event that the 20th day of the month is a Saturday, Sunday or legal holiday as defined in the Town Code, or a day in which the business office of the Cedar Lake Sewer Utility is closed, the next day shall be the last day in which payment of the monthly billing may be made, and the day after such time is the time when imposition of the Ten Percent (10%) penalty shall be imposed. In the further event of necessity of pursuit of delinquent or late fees in a civil action, reasonable attorney's fee may be imposed and required pursuant to the provisions of Indiana Code 36-9-30-21, as amended from time to time."

It was noted that the previous rate charged was \$15.00 per month.

- c. **Remonstrations** – No one commented. The floor was closed by Denny Wilkening.
- d. **Council Discussion** – Bob Carnahan inquired of Jill Murr as to the amount the Town was subsidizing monthly in 2008, is it about \$3,000 per month; Jill Murr responded yes. Bob Carnahan stated that we were subsidizing over \$3,000 per month because we were not taking in enough money. Bob Carnahan inquired on the current monthly subsidy; Jill Murr responded that the average monthly subsidy from July 2008 to June 2009 is \$3,114.44. David Austgen stated that the increase is also due to the extension term of the contract with Allied Waste. Ian Nicolini stated that the rate in 2008 was \$15.05 and it increased in 2009 to \$15.85 per household. Ian Nicolini stated that in order to recoup some of the previous subsidy as well as to accommodate the current rate. Bob Carnahan indicated that in the past we have enough money for road salt we had to borrow money that is used to patch the roads. We could use this subsidy for other things. Ian Nicolini stated that utilities are supposed to be self-supportive. Bob Carnahan stated that he has read in the newspapers that other communities have to lay people off and that he believes that we have done a good job holding our belt strap tight as Amy Sund has requested we do. Jerry Smith stated that this was to keep recycling at weekly pick-up; Ian Nicolini confirmed this. Ian Nicolini stated that the rate change is the cost to maintain the service as it is. We tried to keep rates the same, but there was an overwhelming response from the Council and public to pay the additional amount to keep weekly curbside recycling.
- e. **Council Decision** – Motion by Bob Carnahan and seconded by Pat Wisniewski to approve the first reading of Ordinance No. 1057.

Roll Call Vote: 6 to 0

Foreman	Wisniewski	Smith	Landske	Parker	Carnahan	Wilkening
YES	YES	YES	ABSENT	YES	YES	YES

David Austgen inquired of Jill Murr if this ordinance was adopted tonight would the billing changes be able to be made for the August billing. David Austgen stated that we are already running in a deficit in terms of the general fund levies subsidization of the contract. Jill Murr stated that she did not see why the billing could not be ready for the August billing. Motion by Jerry Smith and seconded by Pat Wisniewski to suspend the rules and have the second reading of Ordinance No. 1057 by title only.

Roll Call Vote: 6 to 0

Foreman	Wisniewski	Smith	Landske	Parker	Carnahan	Wilkening
YES	YES	YES	ABSENT	YES	YES	YES

David Austgen read Ordinance No. 1057 by title only. Motion by Pat Wisniewski and seconded by Jerry Smith to accept the second reading of Ordinance No. 1057. Bob Carnahan stated that the Census forms are supposed to be sent in April 1, 2010. Lake County Solid Waste money that we receive which currently supports three employees; we will get an increase in that provided our Census numbers go up. Bob Carnahan stated that he believes that instead of us being at 9,279 we are probably about 15,000; we should be able to get some money down the road.

Roll Call Vote: 6 to 0

Foreman	Wisniewski	Smith	Landske	Parker	Carnahan	Wilkening
YES	YES	YES	ABSENT	YES	YES	YES

UTILITY BUSINESS

1. Request for Reduction of Sanitary Sewer Billing

Jill Murr stated that there is a request for the reduction of sewer utility billing for 7813 W. 127th Avenue. Jill Murr read the letter submitted to the Town of Cedar Lake Utility Department from Doug Wynkoop regarding this property. Ian Nicolini stated that this is the first he has heard of this and suggested deferring this to the next meeting. This item was deferred to the next meeting.

TOWN BUSINESS

1. Old Business

a. Wicker Meadows Update

This item was discussed during public comment.

2. New Business

a. Town Hall Building Corporation Appointment

Motion by Jerry Smith and seconded by Pat Wisniewski to appoint Steven Shroka to the Town Hall Building Corporation.

Roll Call Vote: 6 to 0

Foreman	Wisniewski	Smith	Landske	Parker	Carnahan	Wilkening
YES	YES	YES	ABSENT	YES	YES	YES

b. RDA Appointment

Motion by Jerry Smith and seconded by Bob Carnahan to appoint Rebecca Davis to the Cedar Lake Redevelopment Authority.

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

Roll Call Vote: 6 to 0

Foreman	Wisniewski	Smith	Landske	Parker	Carnahan	Wilkening
YES	YES	YES	ABSENT	YES	YES	YES

c. Defibrillator Extended Warranty

Ian Nicolini stated that information is in the meeting packet from Zoll regarding extended warranties for two defibrillators. Ian Nicolini stated that for one year the price is \$2,612.50, three years \$7,039.50 and five-years \$11,077.00. Denny Wilkening spoke on the importance of defibrillators. John Foreman stated that it is about \$20,000 for a new one. Council inquired if there was a recommendation from Amy Sund; Jill Murr responded that Amy Sund's recommendation would be for one year which also includes preventative maintenance. Motion by Jerry Smith and seconded by Greg Parker to accept the one-year warranty based upon the Clerk- Treasurer's recommendation and the funding from the collections. David Austgen stated that over \$15,000 has been collected in delinquent ambulance accounts.

Roll Call Vote: 6 to 0

Foreman	Wisniewski	Smith	Landske	Parker	Carnahan	Wilkening
YES	YES	YES	ABSENT	YES	YES	YES

PUBLIC COMMENT: There were no comments.

FINAL COMMENTS:

1. **Town Council:** Bob Carnahan stated that the Historical Society had a presentation from Fred and Norman Holloway on the history of Tobe's; it used to be the Tea Pot Dome. Denny Wilkening stated that he spoke with Sue Landske regarding fireworks; she suggested submitting a letter of support to change fireworks laws. Dennis Wilkening stated that he is working with fire departments in Lake County and others to change the law. Pictures were reviewed from the alleged fireworks in Cedar Point.
2. **Town Administrator:** Ian Nicolini had no comment.
3. **Town Attorney:** David Austgen stated that the letter submitted by Mr. Bender from his attorney Steve Kennedy has no citation to Indiana Law and the case on point is from Michigan which is not applicable to Indiana.

ADJOURNMENT: At approximately 9:35 pm President Wilkening called for adjournment.

An Executive Session was advertised and conducted pursuant to IC 5-14-1.5-6.1(b) for 6:00 PM before the meeting with discussion consisting of discussion of a job performance evaluation of individual employees, land development and litigation issues and concerns. Those in attendance were Robert Carnahan, John Foreman, Greg Parker, Jerry Smith, Dennis Wilkening, Pat Wisniewski, Town Administrator Ian Nicolini, Town Attorney David Austgen and Clerk Jill Murr.

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

Dennis Wilkening, President, Ward 5

Patricia Wisniewski, Ward 3

Robert H. Carnahan, Vice President, Ward 1

John Foreman, Ward 2

Jerry Smith, Ward 4

William Landske, Ward 6

ATTEST:

Greg Parker, Ward 7

Amy J. Sund, IAMC, CMC, 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.