

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

March 24, 2009

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

Roll Call:

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

DEPARTMENT REPORTS

Police: Chief Roger Patz stated that in the hallway to the police department he has posted all officers killed nationwide in the line of duty this year. This is in preparation for national police week in May. Bob Carnahan stated that he has the proclamation written for this. The stimulus package dated February 17, 2009, has funding for law enforcement; Cedar Lake has been allocated \$36,786 for equipment and supplies; this is the second highest amount in the county for a town. Participation in the federal crime reporting system was a requirement; we have been participating for four years. If this funding is given, it will not be before September, an award letter should be received prior to the funds being received. There is no match required for this grant. The government has declared Lake County to be a disparate county since there are so many law enforcement agencies; they mandated that all agencies receiving money pick one financial agent; they asked the sheriff's office to do it since they have a full time grant staff. This would reduce the grant amount by \$5,000 which would be paid to the sheriff's office for services. The sheriff's office will put the funds received from agencies into the Spillman System which is the county computer system. Roger Patz presented Dennis Wilkening with a memorandum of understanding between the Town of Cedar Lake and the Lake County Council from the Department of Justice for signature. The dollars from this grant will go directly to Lake County; it will by-pass our clerk-treasurer's office. David Austgen inquired if there is a deadline for this. Roger Patz responded that the deadline for the MOU is thirty days prior to the grant due date of May 18, 2009. Roger Patz stated that he received the MOU on Friday. David Austgen stated that there is Indiana code provisions in the wording and if signed tonight, it would be without legal review. Motion by John Foreman and seconded by Pat Wisniewski to authorize President Dennis Wilkening to sign the document pending legal review.

Roll Call Vote: 6 to 1

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

Chief Roger Patz stated that there is a community oriented policeman grant (COPS) that he is hoping to apply for. This would fund officers for two years at 100%, however, per the grant; you must agree to continue the officer on payroll for one year after the grant ends. This final year would be paid for by the town. He asked council if he should apply for it and how many to apply for. This is a fast process. We can not sublet any of our current funds. The payment for the officers from this grant must be paid for from new and additional funds. Jerry Smith stated that we need to be realistic and recommended applying for three officers. Bob Carnahan suggested Ian Nicolini meet with staff and Amy Sund to discuss how we can afford to pay for the additional officers. Ian Nicolini stated that they could look at trends and anticipated revenue. Greg Parker asked Roger Patz if we ask for five do we have to take all; Roger Patz responded that we need to take what we get; if grant funds are returned, it could have a negative impact on receiving future grants. Dave Austgen suggested to Dennis Wilkening to meet with your clerk-treasurer to discuss additional funding, currently without any increase to pay and revenue and complete a balancing analysis. Motion by Bob Carnahan and seconded by Pat Wisniewski to let this go to staff and the town administrator to report back to council.

Roll Call Vote: 7 to 0

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

Roger Patz reported that on June 22, 2009, Sgt. Moake will be going to basic training and then will be deployed to Afghanistan; his position will be vacant for one to one and a half years. He will receive payments for vacation and PERF. Roger Patz stated that he needs to fill this position. Motion by Jerry Smith and seconded by Greg Parker to have the police commission start the hiring process and if possible have it filled at least thirty days prior to position being vacated.

Roll Call Vote: 7 to 0

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

Roger Patz stated that there is a minimum of thirty days for pre-employment testing. Beginning Friday, April 3rd and continuing to June 19th the tornado siren testing will sound at 10 am. The first will be a steady tone with the high to low tone following which is the all clear sound. Roger Patz stated that there is a check scam in the mail. This Thursday, VIPS and the Lowell Community Center will be holding their Muscular Dystrophy fundraiser. Bob Carnahan asked what the \$36,000 would be used for; Roger Patz responded that it would be for equipment and technology. Roger Patz distributed information to council on the grant. It could be used for radar equipment or to replace and upgrade equipment where needed. Dennis Wilkening asked what the new numbers on the cars were for; Roger Patz responded that most police departments issue a number to an officer until he retires from service and then the number is retired. He has renumbered the police department in order of hire

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date and this number is on their car and their badges. Roger Patz will give Council a listing of officers and their respective numbers.

Public Works: Ed Robinson was sick. Ian Nicolini reported that they have been working with Neil Simstad on the proposal for the info infiltration system. They are looking for storm water that is going into the sewer system; this is an ongoing process.

Parks & Recreation: Mary Joan Dickson submitted a written report to Council. She stated that the fee for the soccer programs has been reduced to \$20 from \$25. They will be having breakfast with the bunny and the Easter egg hunt to follow. The seven mile roadside cleanup will be on April 18th from 10 am to noon and will end at the town grounds for lunch; seven miles for seven council members. The parks department annual report has been approved by the park board. Thursday's park board meeting has been canceled due to lack of a quorum. Mary Joan Dickson stated that she will be arrested as part of the muscular dystrophy fundraiser on Thursday; she will need to raise \$800.

Clerk-Treasurer: The Census Bureau has requested use of this facility for training beginning March 30 through April 3 from 9:30 am – 4:30 pm. Motion by Bob Carnahan and seconded by Bill Landske to allow the use of the town hall for the census training.

Roll Call Vote: 7 to 0

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

Fire Department: Todd Wilkening thanked all for attending and their support at the rescue truck ceremony. He stated that this is brush fire season and encouraged no open burning. The fire department fundraiser is about to go out in the mail. Todd Wilkening asked the council for consideration for a new ambulance; they are in need of a second new ambulance. He suggested looking at a lease or at demo's. They are doing maintenance in house on the current vehicles. Todd Wilkening stated that the town will have to pay the overtime expense to have a staffed ambulance on site during the Summerfest as this is not in his budget. Bob Carnahan and Mary Joan Dickson stated that there has not been an ambulance down here for over three years. Todd Wilkening asked council for direction as he will need extra staff for this. He will try to get volunteers down here. The ambulance cost would be approximately \$1,000 for this. Dennis Wilkening inquired of Roger Patz as to the police department cost; he responded approximately \$4,000. Dennis Wilkening requested that Amy Sund put together costs for all of Summerfest. Motion by Greg Parker and seconded by John Foreman for the committee to get back together that worked on the fire department agreement including Amy Sund.

Roll Call Vote: 7 to 0

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

Planning, Zoning & Building: Ian Nicolini will have an update at the next meeting. Ian Nicolini reported that Doug Wynkoop has received paperwork from homeowners regarding AJP and is in the process of reviewing the information. Doug Wynkoop stated that the second week in April the Sheriff's work release workers will be cleaning up the streets. Doug Wynkoop suggested buying them lunch. Motion by Greg Parker and seconded by Pat Wisniewski to buy the workers lunch.

Roll Call Vote: 7 to 0

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

Town Administrator: Ian Nicolini stated that the census would like the town to create a town committee of business owners, community people and such. Bob Carnahan was the chair of the committee in 2000. Bob Carnahan stated that for every person not counted the town loses \$4,000 over a ten year period. Ian Nicolini stated that they need a contact person; he would be the daily contact. Ian Nicolini suggested that Bob Carnahan be appointed for the committee. Bob Carnahan stated that previously they used placemats with population based items to promote the census. Motion by John Forman and seconded by Bill Landske to appoint Bob Carnahan as the liaison for the committee.

Roll Call Vote: 7 to 0

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

Ian Nicolini stated that Pat Wisniewski and he attended a NIRPC stakeholders meeting. There was \$18 million available for Lake and Porter County. We submitted for the 133rd & Parrish detention; this includes the east side to route water away from the viaduct. We have been awarded \$525,000 and they are cautiously optimistic about this money. It is currently under thirty day public comment at INDOT. Motion by Jerry Smith and seconded by Greg Parker to authorize the final design engineering and finalize the proposal with Christopher Burke Engineering.

Roll Call Vote: 7 to 0

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

Dennis Wilkening thanked Ian Nicolini and Pat Wisniewski for their hard work on this. Ian Nicolini thanked our NIRPC liaison Pat Wisniewski; without her relationships and rapport with NIRPC this would not have been possible.

Town Attorney: No report, executive session only.

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Town Council: Bob Carnahan stated that the historic society met on Sunday. Beginning next month, there will be monthly historic presentations. Pat Wisniewski stated the Rebuild Together with South Lake County will be holding their fundraiser at the Gary RailCats on Friday, June 12th at 7 pm. Tickets will be \$10 each with \$4 going to the fundraiser. This organization will be holding Christmas in September in Cedar Lake in 2010. Bob Carnahan stated that April 25th will be the Chamber Gala at the Lighthouse Restaurant; tickets are \$70 each and will include steak, open bar, dinner, dancing and entertainment. The Lake Michigan Hazardous Waste Collection will be on Saturday, March 28th from 9 am – 2 pm at the town grounds.

Correspondence: Pat Schute, Pizza Palace: Ian Nicolini stated that a letter from Pat Schute regarding their arrow board sign is included in the meeting packet. Their sign is permanently affixed and is no longer flashing.

PUBLIC COMMENT:

Bill Missal of Missal Environmental thanked all involved with the January 18th spill at Sleepy Hollow Creek and their quick action to divert the stuff from going into the lake. He presented IDEM's final report for the state to Ian Nicolini. This just shows what the town can do when everyone works together. The report includes all information from the date of the spill thru March 17th. Ian Nicolini thanked Missal Environmental for their work as well. Larry Skellion of 140th Avenue thanked all for the storm drainage work. As this work was done down the middle of the street, are there plans to repave the road. Ian Nicolini responded that Ed Robinson and he have met on site; a budgetary review will need to be done for the restoration and asphalt work. As the purchase of salt this year has eaten into the asphalt budget his answer is at this time maybe. Larry Skellion asked about stoning the portion of the road at the end of street, people are using his private drive to cut through. Ian Nicolini stated that Ed and he will have to go and look at it. Bob Carnahan stated that 128th Place, Lane and Avenue had similar work done in 2007 and are not done yet.

CONSENT AGENDA

1. Minutes of the Special Public Meeting of February 24, 2009.
2. Minutes of the Regular Public Meeting of March 3, 2009.
3. Docket: Town Claims 64473-64599 for \$544,246.19; Wastewater Claims 24833-24888 for \$263,361.85; Storm Water Claims 64485, 64492, 64506-64507, 64517-64523 for \$41,436.59. Motion by John Foreman and seconded by Greg Parker to accept and waive the reading of the minutes and to accept the consent agenda.

Roll Call Vote: 7 to 0

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

Bob Carnahan questioned page nine of the town fund claims regarding LSL Planning and if the work is complete; Ian Nicolini responded that the percentage paid is where we are with the proposal to date.

PLANNING/ZONING & BZA BUSINESS

1. Subdivision Business

a. Streetlight Reimbursement

Ian Nicolini referred to a request from Hawk Development requesting a reimbursement in the amount of \$740.36 for the sixth street light that was requested, but not installed. Ian Nicolini stated that this light was meant to be included in a later phase of Lynnsway and NIPSCO only installed five lights. Dave Austgen stated that this is the same subdivision that couldn't plow their streets and that this is an unusual request. Motion by Greg Parker and seconded by Bill Landske to have them present this at the next meeting.

Roll Call Vote: 7 to 0

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

Dave Austgen stated to take this under advisement.

b. AJP Lynnsway Townhomes Update

Ian Nicolini stated that from the last meeting he would bring a report back regarding the homeowners and AJP builder. Ian Nicolini stated that they received documents from about five homeowners. Most of the complaints were tax related and most homeowners are on track with the assessors offices. Other issues were non-responsiveness and there is a summary report in the packets. Ian Nicolini stated that Doug Wynkoop will talk about his meeting with Andy Moore, AJP. Doug Wynkoop stated that he spoke to homeowners and quality is not the issue, the issue seems to be warranty and getting the builder back out. Issues include concrete, broken or noisy pipes and paint work. Doug Wynkoop suggested meeting with homeowners in his office so that the meeting can continue. Doug Wynkoop stated that the contractor has been in contact with the owners. David Austgen stated that this is a slippery slope. Assisting is important based upon the report, but this seems to be the contract between the builder and property owners; we need to watch where government stops and private picks up. Facilitating talks is good; such as Doug Wynkoop mediating with homeowners, but we need to be careful how it is addressed; civil matter versus government intervention. Greg Parker suggested giving thirty days for the builder to meet with the homeowners. Doug Wynkoop stated that as David Austgen said this is a private/civil matter. Bob Carnahan inquired on future permits. David Austgen stated that the town can revoke their contractor registration. Ian Nicolini stated that all of these homes passed inspections. Jerry Smith stated that we should be cautious of civil liability. Doug Wynkoop met with homeowners and will report back. Bob Carnahan suggested hearing from the homeowners; Denny Wilkening stated to Bob Carnahan that they can comment during public comment at the end of the meeting.

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UTILITY BUSINESS

1. Garbage Contract Business

Ian Nicolini stated that this item is not ready for consideration tonight.

TOWN BUSINESS

1. Resolutions and Ordinances

a. Resolution No. 975: Water Utility Acquisition Resolution

David Austgen read Resolution No. 975 in its entirety. He stated that attached is exhibit A which consists of thirty-seven pages with attached schedules for the acquisition of Utilities Inc.; this is an asset purchase agreement for the amount of \$2,692,500 which includes the assumption of the SRF loan agreement in the amount of \$994,000. David Austgen stated that the commercially required terms and conditions have been negotiated. Utilities Inc has approved entry into this transaction. This agreement is consistent with the actions since 2007 when negotiations began. A joint petition by the Town and Utilities Inc is pending with the IURC and if agreed upon will have a tentative closing date of April 13th. If this is not contested by the IURC closing should be shortly thereafter which will be noted in the next agenda item regarding rates. Ian Nicolini stated that Sue Haase of London Witte is available for questions. Motion by Pat Wisniewski and seconded by Bill Landske to accept the first reading of Resolution No. 975.

Roll Call Vote: 6 to 1

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

b. Ordinance No. 1050: Water Utility Rate Ordinance

David Austgen read Ordinance No. 1050 in its entirety. John Foreman inquired if the Utilities Inc rates are the same as the Town's rates; Sue Haase responded that we are trying to get approval from the IURC for the Town's rates. Motion by Pat Wisniewski and seconded by Bill Landske to accept the first reading of Ordinance No. 1050.

Roll Call Vote: 6 to 1

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

David Austgen stated that a special meeting will be needed for the second reading. Tuesday, March 31, 2009 at 6:00 pm will be a special meeting for the second readings on the water utility ordinance and resolution.

c. Ordinance No. 1051: Amendatory Town Zoning Ordinance – Development Standards Manual

Motion by John Forman and seconded by Pat Wisniewski to read Ordinance No. 1051 by title only.

Roll Call Vote: 6 to 1

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

Ian Nicolini stated that these ordinances are regarding rear yard drainage and design standards. David Austgen read Ordinance No. 1051 by title only. Motion by Pat Wisniewski and seconded by Bill Landske to accept Ordinance No. 1051.

Roll Call Vote: 7 to 0

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

David Austgen stated that these ordinances need only one reading. Bob Carnahan questioned if a house burns down if they have to follow these standards; Ian Nicolini responded that this covers new developments and new subdivisions.

d. Ordinance No. 1052: Amendatory Town Subdivision Control Ordinance – RE: Development Standards

Motion by Greg Parker and seconded by John Foreman to read Ordinance No. 1052 by title only.

Roll Call Vote: 6 to 1

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

David Austgen read Ordinance No. 1052 by title only. Motion by John Foreman and seconded by Pat Wisniewski to accept Ordinance No. 1052.

Roll Call Vote: 7 to 0

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

2. New Business

a. Change Order: 133rd Avenue

i. -\$7,758.30

Ian Nicolini stated that this is a negative change order. Bob Carnahan inquired if this is the 133rd Avenue widening; Ian Nicolini responded that it is. This change order is from the end sections. Motion by Jerry Smith and seconded by Pat Wisniewski to accept the change order.

Roll Call Vote: 7 to 0

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

b. Tag Day Requests

i. VIPS – August 22, 2009

ii. Pomcats – August 8, 2009

Motion by Pat Wisniewski and seconded by Bob Carnahan at accept the tag day requests.

Roll Call Vote: 7 to 0

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

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c. Police Department Retiree Vacation Pay

Ian Nicolini stated that there is a policy change suggested by the police commission establishing a one-time vacation retirement benefit with a fifteen day maximum vacation pay with twenty years or more of service. There is a specific request relating to a former employee for this. Greg Parker asked the attorneys advice on this. David Austgen stated that based upon the SOP's that existed and as reviewed his opinion stands. This letter tells him that the police commission took separate action at a public meeting to amend its policies and procedures. That is what is before you. They have created a supplement or amendment to their policy. Greg Parker asked if it is common to go back. David Austgen responded that it is not common to go back, but it is valid if the policy making bodies agree as it pertains to compensation and benefits. Greg Parker stated that he does not have a problem with the policy change; he has a problem with going back. Motion by Pat Wisniewski and seconded by John Foreman to accept the police department retiree vacation pay. Amy Sund stated that it would be nice if civilian employees have the same benefits. David Austgen stated that there are distinctions in statutes and that the police SOP's are different from the rest of the town. Amy Sund stated that she wanted it noted for the record. Greg Parker asked if this motion includes the back pay issue; David Austgen responded yes it does. Bill Landske stated that the amount is \$2,847.60. John Foreman stated that the old policy was as clear as mud. The policies that existed were used to determine retirement and payouts and benefits; there was past ambiguity in policies and amendments.

Roll Call Vote: 5 to 2

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

d. Community Development Block Grant Project

Ian Nicolini stated that he is awaiting more information from county for this.

PUBLIC COMMENT: Doug Wynkoop reported back regarding homeowners in Lynnsway regarding AJP their builder. David Austgen stated to Dennis Wilkening not to report individual names. Doug Wynkoop stated that quality is not the issue; the issue is mostly taxes and the increase in their house payments. Doug Wynkoop will be discussing a concrete issue tomorrow. Doug Wynkoop showed homeowners a copy of the warranty manual. The group of homeowners asked him to thank the newspaper lady Kitty for her help.

FINAL COMMENTS:

1. **Town Council:** No comment
2. **Town Administrator:** No comment
3. **Town Attorney:** No comment

ADJOURNMENT: At approximately 8:55 pm President Wilkening called for adjournment.

An Executive Session was advertised and conducted pursuant to IC 5-14-1.5-6.1(b) for 5:30 PM with discussion consisting of personnel matters, litigation issues and land acquisition concerns. Those in attendance were Robert Carnahan, John Foreman, William Landske, Greg Parker, Jerry Smith, Dennis Wilkening, Pat Wisniewski, Town Administrator Ian Nicolini, Clerk-Treasurer Amy Sund and Town Attorney David Austgen.

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, 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.