

**Burns Harbor Redevelopment Commission
Minutes of September 9, 2020**

The Redevelopment Commission of the Town of Burns Harbor, Porter County, Indiana met in a regular session on Wednesday, September 9, 2020 in the Town Hall. The meeting was called to order by Redevelopment Commission President, Eric Hull at 6:00 p.m.

The Pledge of Allegiance to the American Flag was recited.

Roll Call:

Commissioner Biancardi (Toni).....	Present
Commissioner Bozak (Roseann).....	Present
Commissioner Enslin (Brad)	Present
Commissioner Hull (Eric)	Present
Commissioner Loving (Nick)	Present
Commissioner Stone (Ronald) (non-voting member)....	Absent

Additional Officials Present

Attorney-Clay Patton
Burns Harbor Clerk-Treasurer-Jane Jordan
Karnerblue Era-Consultant-Tina Rongers
SEH of Indiana-Glenn Peterson
Recording Secretary-Marge Falbo

Approval of Minutes

Commissioner Bozak makes a motion to the approve the August 12, 2020 meeting minutes. Commissioner Loving seconded the motion. Commissioner Biancardi-Aye, Commissioner Enslin-Aye, Commissioner Loving-Aye, Commissioner Bozak-Aye, Commissioner Hull-Aye.
Motion passed.

Reports

Commissioners

None

Clerk-Treasurer

Clerk-Treasurer Jordan says I gave the RDC their funds that they will be budgeted for next year. There are TIF revenues which is the General Fund, tax abatement revenue which is the Operations Fund and two grants that are supposed to come in so you can start doing your work on the East end of the Trail. The two grants have been appropriated for. These budgets were submitted to the State through Gateway within the required amount of time for the Public Hearing that will happen this evening at the Town Council. I just wanted the RDC to be aware that the budget was submitted and the revenues that you should have available from distributions later this December and again next year in June and December.

RDC Attorney

None

RDC Engineers

None

RDC Consultant-Karnerblue

Rongers says I am pleased to report tonight updates on our major projects some of which are on the agenda tonight. Glenn Peterson of SEH is with us and he will be giving us an update on the Marquette Greenway Trail. We will be specifically talking about the Next Level Trails which is under construction. In addition to the project engineering side, we are continuing to actively coordinate on the grant side with Next Level Trails.

The RTP grant is currently in a holding pattern as we bring the Trail development and design up to speed with the Westport development. There is a lot of reporting and changes in the reporting so we are working to answer their questions and get the accurate reports and financial documents out so that we can bring those grant revenues in.

Westport is on the agenda tonight. I continue to support that behind the scenes in terms of the meetings and some of the correspondence that happens.

The Chi-Cal Rivers Fund grant was submitted, and we should have an answer in about a month or so.

The Indiana Arts Commission grant that we were gifted for on-line arts classes will not take place because of all of the changes that the pandemic has presented. We're just too strained to execute that. Commissioner Biancardi directed me to seek to refund those grant dollars which are just under \$4,000 approximately. We are looking gift it back to the State and are waiting to hear what that process is.

In terms of financing reporting, I was asked to look at some our project commitments and how those relate to our current finances and some of what is on the agenda tonight. We will need to look at the next two years of project commitments that we have. Our most significant financial commitment right now is the Marquette Greenway Trail. The cost that we have associated with that are the local match that we are required and committed to as well as the construction management funds associated with the oversight of the actual building of the Trail. We do have some committed expenses between now and the year 2022 that we need to make sure that we are budgeting in relationship to some of these commitments to implement Westport and the community center.

There are some decisions that need to be made. The RDC has been underwriting ambulance service for the last two years, so that is a cost we need to be considering of how the impact over the next two years would be. We also have our ongoing Duneland School Corporation commitment that we have that this year is under some review. That would be another program area that we've committed to in the past that could be affected as you go forward with implementing Westport and the community center.

Duneland School Board Representative

None

Correspondence

None

Old Business

*Marquette Greenway Trail Update
Glenn Peterson
SEH of Indiana
Phase 3*

Peterson says I will start with Phase 3. The construction is progressing. We now have the wetlands permit for the entire segment of the Marquette Greenway. They have been hauling wood chips out the last two weeks from all the trees that we knocked down. They will be doing some of the piling for some of the boardwalks at the end of this week weather permitting. The plan is next week they will start grading the Trail corridor. We will start seeing some actual progress out there. There was one change order on Phase 3 that we are presenting. There was a former house site and the foundation is still here. We thought we were far enough away that it wasn't going to be a problem but as we started looking at things there are a couple of cavities underneath some the slabs out there and we believe it's better if we just go ahead and remove it. I have some safety concerns, especially under the slabs. We are investing

SECTION 03110 CHANGE ORDER	
NUMBER: 1	
PROJECT: Marquette Greenway Trail - Phase 3	
DATE OF ISSUANCE: September 5, 2020	EFFECTIVE DATE: When Approved
OWNER: Burns Harbor Redevelopment Commission	
OWNER'S Contract No.:	
CONTRACTOR: Garbar Construction Co., Inc.	ENGINEER: SEH of Indiana
You are allowed to make the following changes to the Contract Documents:	
Description: Removal of former house foundation adjacent to the trail.	
Reason for Change Order: The foundation was believed to be outside of the trail corridor and that only minor work would be needed to build the trail. After further review in the field, a cavity was found under a concrete slab that was believed to be on grade. It is believed the best course of action is to remove the foundation entirely to ensure no issues in the area in the future.	
Attachment: Change Order	
CHANGE IN CONTRACT PRICE: Original Contract Price \$ 1,720,000.00	CHANGE IN CONTRACT TIMES: Original Contract Time Substantial Completion: December 1, 2020 Ready for final payment: May 15, 2021
Net change from previous Change Order No. _____ of \$ _____	Net change from previous Change Order No. _____ of \$ _____
Contract Price plus or minus Change Order \$ 1,720,000.00	Contract Time plus or minus Change Order
Reason for issuance of this Change Order \$ 1,720,000.00	Net increase or decrease of this Change Order \$ 0.00
Contract Price plus or minus approved Change Order	Contract Time plus or minus approved Change Order
\$ 1,720,000.00	Substantial Completion: December 1, 2020 Ready for final payment: May 15, 2021
Marquette Greenway Trail - Phase 3 08/03/20 11 CHANGE ORDER MHCOC 041429	

money in this Trail and I think it would be in the Town's best benefit to have that foundation removed. We did the historical analysis of that as part of the environmental document. It's a 1900s house and nothing of historical significance was found there. The cost to remove that foundation is \$10,884.00. That is removing the foundation all the way out and also filling back in, so we don't have a hole in the ground. I should also note we are requesting this cost to be reimbursed through the grant program. We still have some funding there. I don't think there are any issues that the Town be reimbursed for this. Rongers says with the change order we have to go through their formal process for it to be approved to be paid for under the grant. Commissioner Hull says so we approve this and then we give it to them, and they approve it and we're good to go. Rongers says yes.

Biancardi makes a motion to approve the change order for \$10,884.00 to remove the foundation adjacent to the trail and fill it. Bozak seconded the motion. Motion carried by unanimous vote.

Peterson says this was an unforeseen condition and I don't think there will be an issue with the State approving this change order.

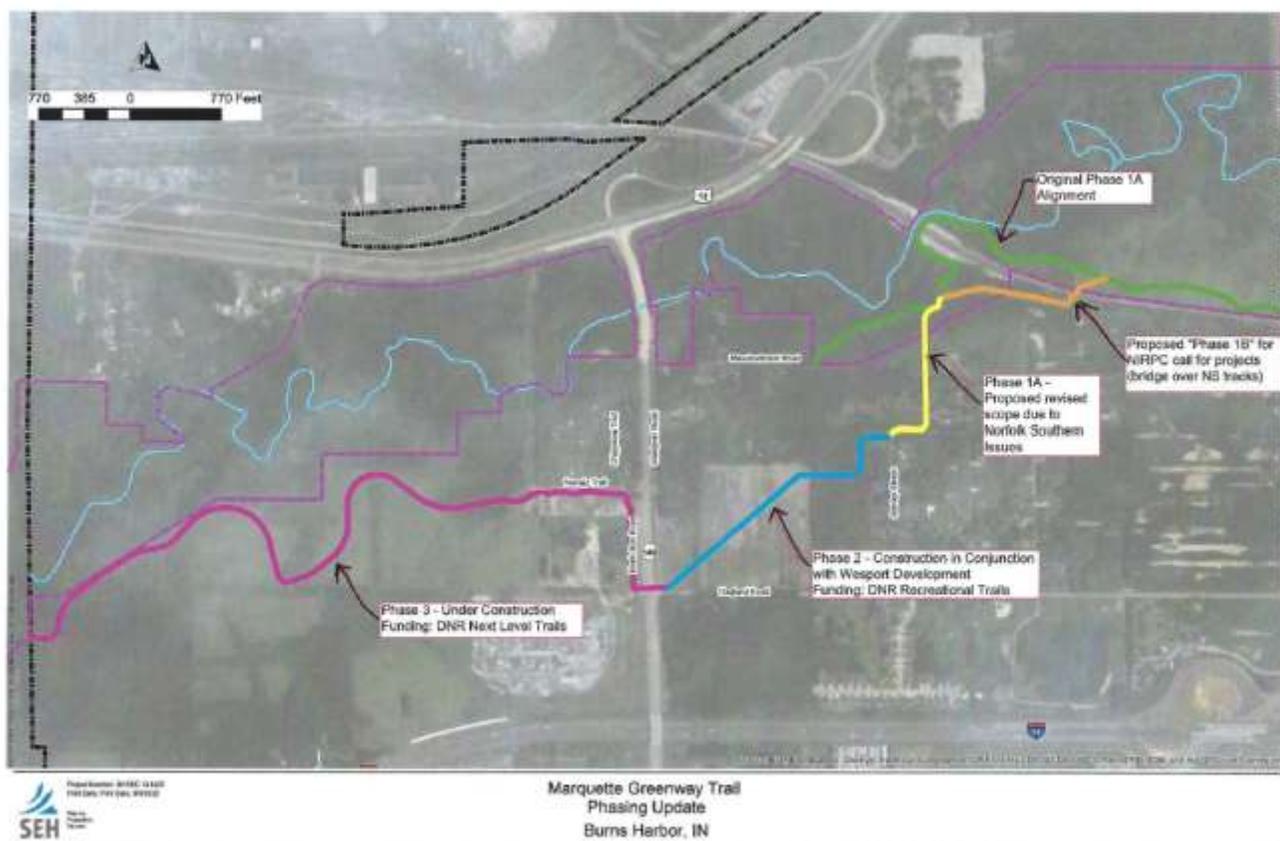
Peterson says we have reporting to do with the grant. For example, the portion that's running through Westport is being constructed with Westport. So, as a whole, Phase 2 is designed, ready, it's sitting on the table. We're waiting to go to construction with the RTP portion of the Trail construction until Westport gets underway. We anticipate having final construction documents for bidding sometime in January/February in line whenever Westport gets going. Commissioner Hull says basically Phase 3 is good to go. The RTP which is the middle section over Westport -- we're good to go -- which takes us to Phase 1.

Phase 1

Peterson says Phase 1 -- we got some news from Norfolk Southern. It wasn't necessarily good news. They informed us on June 10, 2020 that they would not be approving the crossing using their underpass on the railway. There was some back and forth in the last month or so. We tried to push some legal terms as far as shared use right-of-way in connecting the National Parks back and forth and they continue to push back. I finally got a call Friday (September 4, 2020) at 3:30 in the afternoon to talk through this and they gave me the reasons for it. We had designed for that location because there was a memo and there was an agreement made with National Parks when they reconstructed that railroad bridge. They put a center pier in the river and National Parks said "NO", absolutely not, because of log jams. They wanted the river open for recreation purposes. So, they redesigned it. In the memo it said that for recreational purposes in the river and also for a future pedestrian trail. No one but the railroad and the National Parks has that formal documentation that says, "you can use this area specifically for a pedestrian trail in the future." Commissioner Loving says do they have documentation that says we can't. They don't have the documentation that says we can. Peterson says they own the property, and this is where the discussion is that with this being a federally funded project, you have to have an agreement signed in place in order to touch railroad property filed with the State. There was no way that we were getting that signed agreement with the State. If it was a 100% locally-funded project we probably could have gotten away with it but the way that it worked out there is no way we were getting that signed agreement that we need for the State to let the project go to construction. Attorney Patton says you said that there was some documentation for recreational purposes in the creek and a walkway. Where did that come from? Peterson says that came from the National Park Service. They had two memos. One was their response to Norfolk Southern's initial bridge plans which included that pier in the waterway. That just said "this is part of our plan—we want this river open for recreation—we own this property—it's recreational property. Actual meeting minutes between National Parks and the bridge designer for Norfolk Southern is what we based our design off of. These minutes are from I believe it was 2010 on the project. We've been in contact with Norfolk Southern since Day 1 on this project because we knew railroads are always an issue on these projects. We've been working with railroads—I have documentation, emails, etc. back to early 2017 on the project. The initial were phone calls. We actually sent a formal memo with a whole outline of information talking about why this is important to the Town and everyone else back in March of 2019. Some emails just went unanswered. I have emails from September 2019 that say, "we're discussing this project, but it sounds like it's ok." Then in June of 2020 it says, "we can't do this." Attorney Patton says so the meeting minutes from 2010—is there anything from Norfolk Southern saying "OK" or somehow acquiescing to the recreational purposes. Peterson says there is not. It was from the designer of the bridge who was the consultant for Norfolk Southern.

Commissioner Hull says the way I understand it is the architect of the bridge on behalf of the Norfolk Southern worked with the National Parks to build the bridge. They said you have to change it because we want it to be able to go underneath it. So, the designer of the bridge did allow that. Then Norfolk Southern says, ok maybe, we're going figure it out, and now as of June 2020 they said no. Peterson says there is another layer to this. Right after that bridge was finished construction, they had a geotechnical failure adjacent to that bridge. This bridge is under very close monitoring anyways. Even if there was that formalized agreement in place, because of the changed conditions out there, we still have a very uphill battle in order to get this project...Commissioner Hull says a lot of this took place last month and the month before and during that time we knew this was an issue. We worked with NIRPC to change some of the funding. We talked about not being able to cross it but taking the Trail down to the overlook above the river. That brings us to where we are now.

Peterson says everyone should have an exhibit in front of them about the overlay of the Trail.



Phase 1

Right now, there is a yellow segment which would be the proposed revised scope for Phase 1 of the project. Phase 1 which is the CMAC funded portion. It's a significant down scope going from Stanley Street over to Beam Street. Now it would be Stanley Street over to an overlook before we would go down to the ravine. We did have some discussions about maybe taking it all the way down to the river--stop short of the railroad—in hopes that the railroad let us cross there in the future. My recommendation was from the point where I'm showing the yellow line to where the railroad is--to construct that portion is probably around \$600,000—just because of retaining wall, boardwalk, etc., it's in a difficult area to construct. I didn't feel it was in the best interest of the Town to construct that portion at this point in time down to the railroad and spend that \$600,000 when there is no guarantee in the future that it was going to be able to connect into anything.

I am showing here, as well, an orange line which is what I'm calling proposed Phase 1B. This is just for your reference. There is a NIRPC call for projects that is coming out here. It will be open at the end of the month and this would be an option to position ourselves to apply for that next round of funding which is fiscal year 2025. July 2024 would be the start of the opening of the funding there through 2028. The thought is that we can get this one portion constructed under the current project and then push for potential for funding in that next round of projects for the federal. This would include a bridge over the railway which is a safer option anyway and my discussion with Norfolk Southern was that is their preferred method of crossing. They would issue us a letter of support for the project for funding saying, "if you guys want to build this bridge we'll issue a letter of support to help you get this project." Commissioner Enslin says what about an at grade crossing (a place where a railway track crosses a road at the same level.) Peterson says that's never

going to happen unless there is an existing roadway crossing. That is what I was told. They will never approve an at grade crossing especially in a situation like this where there is no roadway crossing. Norfolk Southern is the busiest railway in Northwest Indiana. Commissioner Enslin says Norfolk Southern built a “bum” bridge and now they really don’t know what to do with it. Peterson says it’s useable. They have had to make corrections to that bridge, and they wouldn’t want us to impact that. Again, if we had that formal agreement in writing... Commissioner Loving says it sounds like we’re stuck. Commissioner Enslin says it sounds like we’re building a Trail to nowhere. Commissioner Hull says basically the red part and the blue part are covered, paid for and good to go. Everything is fine. Peterson says yes. Commissioner Hull says the option now becomes, basically, the yellow section. If we want to do that. We have paid for everything except for the construction. Now, this changes the scope of the project and we will be working exclusively with INDOT and in the next 30 days if we’re going to meet with INDOT to find out if we can even build the yellow section. Commissioner Loving says we’re still connecting the new development and the rest of the Town all the way to the West. The question is how do we get to the Trail section that’s going to the East. Commissioner Hull says I’m at the point with that yellow section and from there on out. If INDOT is going to pay for it and the grant money is going to cover what we got, then we keep going forward. If not, then we need to seriously re-evaluate what we’ve got going. Commissioner Biancardi says how long have we been planning Phase 1A. Peterson says 2016. Commissioner Biancardi says and we’ve been under the assumption that the railroad was ok with what we wanted to do with no formal approval. We’ve been planning, engineering and spending money to do that. Peterson says yes. Commissioner Loving says in June we were still working under the assumption that they were working toward the approval. Commissioner Biancardi says how much of the expense for that are we losing and now we’re talking about a new plan and yes there is funding available, but I’m stuck for how we have spent money on something that big without ever really knowing it was ok. Commissioner Hull says I’m flabbergasted about it and it’s where I’ve been for the past two days. Commissioner Biancardi says now we have to come up with a patch to finish that which will involve additional request for monies. How much more of that are we going to have to contribute. Commissioner Hull says a couple of things will happen and correct me if I’m wrong—this yellow section—that’s paid for. But because of the project change now we have to go before someone else (instead of Federal we go before the State) in the next 30 days. We’re going to complete that and find out if they are going to just fund this and we can put it up for bid even this year and get that started. That’s going to be the end of it right there. If you want to do the orange, we don’t have money to get over the tracks. So, it’s going to be up to the meeting with the State. Are we going to do the yellow section and is the grant going to pay for it? It’s either we can do the yellow section, or we’re done. Commissioner Enslin says we need to have that meeting because then we’ll know. If the State says, yes, we’ll fund it-- that’s fine, but if the State says, no, we’ll know exactly where we stand. Commissioner Biancardi says how does this yellow line differ from what was originally there. Peterson says it’s the same thing but because we never had that final concrete answer from the railroad--they’ve been leading us along until June 2020 when I received an email saying this is going to be denied. Because of that the section from the top of the yellow line all the way down through the rest of it hasn’t been finalized--the last 50% and this was the most expensive part of the Trail. We stopped work because of this. Commissioner Hull says we’re going to spend less money because we’re not doing the green line anymore. Peterson has been working under the assumption that everything was fine. I’ve seen the emails. Rongers says this segment has been important to the Region as well as Local and I think that NIRPC and the National Park thought that they did a great job in securing what they understood to be this ability to develop the Trails. Conversations from 2014 onward have always been “you can do this” we knew it would be a complicated level of coordination. Norfolk Southern never said “no” two years ago or before that. It was always we’re looking into it and then there would be dead space time when there was no response. We’re not the only community that’s up against negotiating right-of-way issues with Norfolk Southern. There are other Trail projects impacted. It’s a lesson, always have something in writing. Our hope is to get Stanley Street to an overlook at the river and then meanwhile we’ll talk to INDOT and come back with some strategies, recommendations and the types of things we can look at in terms of funding, partnerships and so forth. Attorney Patton says did Norfolk Southern ever give a response to the Parks with regard to the recreational purposes in the creek in the waterway. Peterson says they did modify their bridge because of that, yes. There is no pier in the waterway. Attorney Patton says are they ok with the recreational purposes in the waterway. Peterson says yes. Attorney Patton says the orange line--did the Parks own that property. Peterson says there’s a portion that’s owned by the Parks. The purple boundary is the Park boundary. There would be two additional properties that it would

cross. One is Worthington and the other is a private owner. Attorney Patton says before we go too far down this road, what do we...Peterson says If you're using federal dollars you have to have an approved environmental document for that project before you can even make an offer to the property owner. Attorney Patton says looking at the private owner—looking up the assessment that's a \$600,000 house on 15 acres, very open at the end of a secluded private drive with a swimming pool in the back. If I'm that person, why would I want to ok a Trail for a bunch of people being able to walk by to do whatever. I'm giving up my privacy. Peterson says right now the Trail is proposed to go right next to their swimming pool. Commissioner Hull says I'm not going to worry a whole lot about messing with the orange section. We'll see you back next month Peterson.

Commissioner Loving says I want to make a point that there are a lot of people sitting here right now that are on different Boards. I want everyone to remember what happened tonight and if somebody comes for a stormwater permit from Norfolk Southern the answer should be "no." If somebody comes to the Town Council from Norfolk Southern my answer is going to be "no." I just want to make that publicly clear.

Westport PUD Update

Commissioner Hull says we've done all the legwork up to the part where now it's up to the lawyers and the banks. What do we need to do next at this Board? Attorney Patton says looking at the timetable that Attorney Peck prepared I do not believe there is anything at this Board tonight. The Redevelopment Commission needs to have a Public Hearing on October 14, 2020 on the Declaratory Resolution, adopt a resolution confirming the Declaratory Resolution and adopt a resolution pledging TIF Revenues for the Allocation Area bonds.

Commissioner Biancardi makes a motion to the hold a Public Hearing on October 14, 2020 for the Declaratory Resolution. Commissioner Enslin seconded the motion. Commissioner Biancardi–Aye, Commissioner Enslin–Aye, Commissioner Loving–Aye, Commissioner Bozak–Aye, Commissioner Hull–Aye. Motion passed.

Proposed Community Center Project Financing Options

Commissioner Loving says-
 Scenario 1 is the Lease Rental Bonds
 Scenario 2 Developer Lease Financing

BURNS HARBOR REDEVELOPMENT COMMISSION								
Proposed Community Center Project								
SUMMARY OF FINANCING PROPOSALS								
Scenario	Financing Structure	Assumed Security	Assumed Financing Term	Assumed Interest Rate	Illustrative Financing Par Amount	Illustrative Net Project Proceeds	Illustrative Total Interest Expense	Illustrative Average Annual Payment
1	Lease Rental Bonds	Tax increment revenues with an ad valorem property tax back-up	11 years	0.60%-1.90%	\$5,870,000	\$5,000,000	\$536,298	\$583,000
2	Developer Lease Financing	Tax increment revenues	10 years	(1) 3.65%	5,300,000	\$5,175,000	1,132,902	643,000

(1) Assumes the Town will make a one-time \$500,000 payment to the developer to acquire the facility at the conclusion of the lease term.

What we did at the EDC meeting tonight was make a favorable recommendation for Scenario 2 Developer Lease Financing and that keeps everything within the RDC and takes care of it in 10 years with a one-time payment.

Duneland School Corporation Agreement

Commissioner Hull says we will table this for next month.

New Business

None

Approval of Claims Register

Commissioner Bozak makes a motion to approve the Claims Register. Commissioner Loving seconded the motion. Commissioner Bozak–Aye, Commissioner Biancardi–Aye, Commissioner Enslin–Aye, Commissioner Loving–Aye, Commissioner Hull–Aye. Motion passed.

Approval of Financial Report for the Month of September 2020

Commissioner Loving makes a motion to approve the Financial Report for the Month of September 2020. Commissioner Biancardi seconded the motion. Commissioner Biancardi–Aye, Commissioner Enslin–Aye, Commissioner Loving–Aye, Commissioner Bozak–Aye, Commissioner Hull–Aye. Motion passed.

Good of the Order

None

Adjournment

Commissioner Biancardi makes a motion to adjourn. Commissioner Enslin seconded the motion. Commissioner Loving–Aye, Commissioner Bozak–Aye, Commissioner Biancardi–Aye, Commissioner Enslin–Aye, Commissioner Hull–Aye. Motion passed.

The meeting concluded at 6:52 p.m.

REDEVELOPMENT COMMISSION
FOR THE TOWN OF BURNS HARBOR

Eric Hull, President

Brad Enslin, Vice President

Toni Biancardi, Secretary

Roseann Bozak

Nick Loving

ATTEST:

Marge Falbo, Recording Secretary