

Burns Harbor Town Council
Regular Meeting
February 10, 2021

The Town Council of the Town of Burns Harbor, Porter County, Indiana met in its regularly scheduled session on Wednesday, February 10, 2021 virtually with Zoom. The meeting was called to order by Council President Nicholas Loving at 7:00 p.m.

This meeting was made available to the public in accordance with Governor Holcomb's Executive Order 20-09. It was streamed using Zoom and on Facebook Live.

The Pledge of Allegiance to the American Flag was recited.

Roll Call: Toni Biancardi ----- Present via Zoom
Roseann Bozak ----- Present via Zoom
Eric Hull ----- Present via Zoom
Nicholas Loving ----- Present via Zoom
Angie Scott ----- Present via Zoom

Clerk-Treasurer Jane Jordan was Present via Zoom. A quorum was attained.

Additional Officials Present via Zoom: Attorney Clay Patton, Town Engineer Martin Bobcek, Fire Chief/Sanitation Superintendent William Arney, Building Commissioner Robert Wesley, Town Marshal Mike Heckman, and Park Director Kim Burton.

Approval of Minutes:

Councilwoman Scott made a motion to approve the meeting minutes of January 13, 2021. Councilman Hull seconded the motion. Councilwoman Biancardi – Aye, Councilwoman Bozak – Aye, Councilman Hull – Aye, Councilman Loving – Aye, Councilwoman Scott – Aye. **Motion passed.**

Councilwoman Bozak made a motion to approve the meeting minutes of January 22, 2021. Councilwoman Scott seconded the motion. Councilwoman Biancardi – Aye, Councilwoman Bozak – Aye, Councilman Hull – Aye, Councilman Loving – Aye, Councilwoman Scott – Aye. **Motion passed.**

Reports:

Clerk-Treasurer Jordan informed the Council that the Town's annual financial report as well as all other annual reports have been completed and submitted to the State and Federal government as required by law. The AFR can be viewed on that State's Gateway portal and that link can be found on the town website.

Building Commissioner Wesley informed that there was nothing more to report that was not already in the monthly department report.

Acting GM/Street Superintendent Wesley informed the department has been very busy with the snowfall. Councilman Loving commended the department for their work in keeping the roads clear and safe.

Town Marshal Heckman informed the Council the department received a \$7,500 grant they will use to purchase updated vehicle and body cameras. The Town's matching share of \$2,000 is in the department's budget. Councilman Loving explained that with these new body cameras the officers can still manually activate them but, the cameras will automatically turn on when the lights to the car are activated. At the end of shifts, the video footage will be saved to the Cloud with time stamps.

Fire Chief Arney informed the Council a purchase order was submitted for repairs to the ladder truck and the department received two donations that will be forwarded to the Clerk-Treasurer's office.

Sanitation Superintendent Arney informed the Council the department has been busy working on communication and pump operation upgrades.

Park Director Burton informed the Council the walking path has been kept plowed and is available for use, the Park is not yet accepting rentals but, is working on their events calendar in hopes they will be able to provide some programs soon. Councilman Loving asked that the Park be mindful of the Governor's orders.

The following purchase orders were presented for discussion: #2797, 2812 & 2835.

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Correspondence:

IDEM – Approval Title V Renewal for Fritz Enterprises Inc. Burns Harbor, IN
IDEM – Approval Title V Operating Permit Renewal for Metal Services LLC Burns Harbor, IN
IDEM – Approval MSOP Administrative Amendment for PVS Technologies Burns Harbor, IN
IDEM – Approval MSOP Renewal for Linde Inc. Burns Harbor, IN
IDEM – Approval Title V Operating Permit Renewal for Oil technology, Inc. Burns Harbor, IN
IDEM – Notice of Public Comment Part 70 Operating Permit for Tanco Terminals Porter County Village in Burns Harbor residents – thank you for changing street light bulbs in subdivision
Duneland School Corporation Superintendent Pettit – School Board appointment to RDC Board

Presentations, Resolutions, Ordinances and Remonstrance:

Ordinance 302-2021 Authorizing the Town to Issue Its Taxable Economic Development Revenue Bonds (Community Center Project), and Approving Other Actions in Respect Thereto second reading:

Councilman Hull made a motion that the Town adopts **Ordinance 302-2021 An Ordinance of the Town Council of the Town of Burns Harbor, Indiana, Authorizing the Town to Issue Its Taxable Economic Development Revenue Bonds (Community Center Project), and Approving Other Actions in Respect Thereto** on its second reading.

WHEREAS, prior to the final adoption of this Ordinance, the Town of Burns Harbor Economic Development Commission (the "Commission") will have rendered its Report (the "Report") regarding the financing of a portion of certain proposed economic development facilities for a certain project to be undertaken thereon by Holladay Properties Service Midwest, Inc. (or an affiliate thereof), and said Report has or will have been submitted to the Town of Burns Harbor Plan Commission; and

WHEREAS, prior to the final adoption of this Ordinance, the Commission will have (i) conducted a public hearing in accordance with Indiana Code 36-7-12-24; and (ii) adopted a resolution subsequent to such public hearing and approved the Report of even date of such resolution, the same having been transmitted hereto, finding that the financing of a portion of certain economic development facilities of Holladay Properties Service Midwest, Inc. (or an affiliate thereof) (the "Company") complies with the purposes and provisions of Indiana Code 36-7-11.9 and Indiana Code 36-7-12, each as amended (collectively, the "Act"), and that such financing will be of benefit to the health, prosperity, economic stability and general welfare of the Town of Burns Harbor, Indiana (the "Town") and its citizens; and

WHEREAS, prior to the final adoption of this Ordinance, the Commission will have approved and recommended the adoption of this form of Ordinance by the Town Council of the Town (the "Town Council"), will have considered the issue of adverse competitive effect and will have approved and transmitted for approval by the Town Council the forms of a certain Financing Agreement and Trust Indenture;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BURNS HARBOR, INDIANA, AS FOLLOWS:

It is hereby found that the financing of a portion of the economic development facilities referred to in the Financing Agreement approved by the Commission and presented to the Town Council, the issuance and sale of the Town of Burns Harbor, Indiana, Taxable Economic Development Revenue Bonds (Community Center Project) (the "Bonds"), in one or more series (with a series designation to reflect the calendar year of issuance, together with a letter designation in the event multiple series of Bonds are issued), the provision of the proceeds of the Bonds to the Company for the financing of all or a portion of the costs of the Project (as hereinafter defined), the payment of the Bonds from TIF Revenues (as defined in the Financing Agreement), and the securing of said Bonds under the Trust Indenture complies with the purposes and provisions of the Act and will be of benefit to the health, prosperity, economic stability and general welfare of the Town and its citizens.

A portion of the proceeds of the Bonds will be provided to the Company and used for the financing of all or a portion of certain land and public improvements consisting of the construction, installation and equipping of a new community center within the Town (the "Project"). The Project shall be initially leased to the Town or to a department thereof pursuant to a Lease, in a form to be approved by the President of the Town Council (the "Lease"). The Project is to be located in the area within the Town designated as the "Burns Harbor Economic Development Area." Notwithstanding anything in this Ordinance to the contrary, the proceeds of the Bonds provided to the Company shall be used to finance

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"economic development facilities" as defined in the Act.

At the public hearing held before the Commission, the Commission considered whether the Project would have an adverse competitive effect on any similar facilities located in the Town, and subsequently found, based on the findings of fact approved in connection with the Report of the Commission, that the Project would not have an adverse competitive effect because there are no other similar businesses located in the proximity of the Area. The Town Council hereby confirms the findings set forth in the Commission's resolution and Report, and concludes that the Project will not have an adverse competitive effect on any other similar facilities located in the Area, and the facilities will be of benefit to the health, prosperity, economic stability and general welfare of the citizens of the Town.

The substantially final forms of the Financing Agreement and the Trust Indenture approved by the Commission are hereby approved (herein collectively referred to as the "Financing Documents"), and the Financing Documents shall be incorporated herein by reference and shall be inserted in the minutes of the Town Council and kept on file by the Clerk-Treasurer of the Town (the "Clerk-Treasurer"). In accordance with the provisions of Indiana Code 36-1-5-4, two (2) copies of the Financing Documents are on file in the office of the Clerk-Treasurer for public inspection. Notwithstanding anything herein to the contrary, the President of the Town Council may, in lieu of entering into the Trust Indenture, approve and execute on behalf of the Town a bond purchase agreement or other instrument securing and setting forth the terms of the Bonds, in which case the references herein to the Trust Indenture shall refer to such bond purchase agreement or other instrument.

The Town shall issue its Bonds, in one or more series, in an aggregate principal amount not to exceed Five Million Nine Hundred Thousand Dollars (\$5,900,000). Each series of the Bonds shall finally mature not later than February 1, 2032. Said Bonds are to be issued for the purpose of procuring funds to the costs of all or a portion of the acquisition, construction, installation and equipping of the Project, as more particularly set out in the Financing Agreement and the Trust Indenture, incorporated herein by reference, which Bonds will be payable as to principal and interest from TIF Revenues or as otherwise provided in the above-described Trust Indenture. The Bonds shall be issued in fully registered form in denominations of One Hundred Thousand Dollars (\$100,000) and integral multiples of One Dollar (\$1.00) in excess thereof or as otherwise provided in the Trust Indenture, and shall be subject to redemption or prepayment as provided in the Trust Indenture. Payments of principal and interest are payable in lawful money of the United States of America by check mailed or delivered to the registered owners as provided in the Trust Indenture. The Bonds shall never constitute a general obligation of, an indebtedness of, or a charge against the general credit of the Town nor are the Bonds payable in any manner from revenues raised by taxation (except to the extent of the pledge of TIF Revenues). At the option of the Clerk-Treasurer, any series of the Bonds may be issued as "draw down" bonds such that the principal of such series of Bonds shall not be payable and the interest thereon shall not accrue until such principal amount has been advanced pursuant to disbursements made pursuant to the Trust Indenture.

Notwithstanding the foregoing, the Trust Indenture may contain a provision providing that certain lease rentals paid under the Lease shall be treated as a credit towards principal and interest payments to be made on the Bonds.

The President of the Town Council and the Clerk-Treasurer are authorized and directed to sell the Bonds to the original purchasers thereof at a price of not less than one hundred percent (100%) of the principal amount thereof. The Bonds shall bear interest at a taxable rate or rates not exceeding four and five-tenths percent (4.5%) per annum.

The President of the Town Council and the Clerk-Treasurer are, and each of them is, authorized and directed to execute, attest and affix or imprint by any means the seal of the Town to the documents constituting the Financing Documents approved herein on behalf of the Town and any other document, including the Lease, which may be necessary or desirable prior to, on or after the date hereof to consummate or facilitate the transaction, including the Bonds authorized herein. The President of the Town Council and the Clerk-Treasurer are, and each of them is, hereby expressly authorized to approve any modifications or additions to the documents constituting the Financing Documents and the Lease which take place after the date of this Ordinance with the review and advice of counsel to the Town, it being the express understanding of the Town Council that said Financing Documents are in substantially final form as of the date of this Ordinance. The

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approval of said modifications or additions shall be conclusively evidenced by the execution and attestation thereof and the affixing of the seal thereto or the imprinting of the seal thereon; provided, however, that no such modification or addition shall change the maximum principal amount of, maximum interest rate on, or terms of the Bonds described in Indiana Code 36-7-12-27 as approved by the Town Council by this Ordinance without further consideration by the Town Council. The signatures of the President of the Town Council and the Clerk-Treasurer on the Bonds may be either manual or facsimile signatures. The Clerk-Treasurer is authorized to arrange for delivery of such Bonds to the purchaser or purchasers of the Bonds as set forth in the Trust Indenture after receipt of payment for the Bonds made to the Clerk-Treasurer. The Bonds shall be originally dated the date of issuance and delivery thereof.

The provisions of this Ordinance and the Trust Indenture securing the Bonds shall constitute a contract binding between the Town and the holders of the Bonds, and after the issuance of said Bonds, this Ordinance shall not be repealed or amended in any respect which would adversely affect the rights of such holders so long as said Bonds or the interest thereon remains unpaid.

This Ordinance shall be effective upon its passage by the Town Council, in accordance with procedures as required by law.

Councilwoman Bozak seconded the motion. Councilwoman Biancardi – Aye, Councilwoman Bozak – Aye, Councilman Hull – Aye, Councilman Loving – Aye, Councilwoman Scott - Aye. **Ordinance 302-2021 passed and was adopted.**

Ordinance 303-2021 Amending the Text of Chapter 15 Zoning concerning Outdoor Business Property Storage:

Councilman Hull made a motion that the Town adopts **Ordinance 303-2021 An Ordinance of the Burns Harbor Town Council Amending the Text of Chapter 15 Zoning Concerning Outdoor Business Property Storage Within the Town of Burns Harbor, Indiana.**

WHEREAS, the Burns Harbor Town Council has adopted a Zoning Ordinance codified as Chapter 15 of the Town Code of Burns Harbor, Indiana; and

WHEREAS, the Burns Harbor Advisory Plan Commission has initiated certain amendments to the text of the Zoning Ordinance in order to better regulate Outdoor Business Property Storage in the Town by adding definitions to distinguish between different types of Outdoor Storage and amending the Zoning Form & Function Table to include Outdoor Storage; and

WHEREAS, notice has been given in accordance with Indiana Code of all proceedings concerning these text amendments; and

WHEREAS, a public hearing has been held before the Burns Harbor Advisory Plan Commission and said Commission has paid reasonable regard, in preparing and considering the proposal, to the factors set forth in Indiana Code § 36-7-4-603, including the Comprehensive Plan; and

WHEREAS, the Commission now certifies its proposal to amend the text portions of the Zoning Ordinance to the Burns Harbor Town Council; and

WHEREAS, the Burns Harbor Town Council concurs with its Advisory Plan Commission and accepts this proposal;

NOW THEREFORE, be it and it is hereby ordained by the Burns Harbor Town Council as follows:

Section 1. That section 15.2 of Chapter 15 of the Town Code of the Town of Burns Harbor Zoning Ordinance shall be amended to include the following definition:

15-2-2 Definitions.

2. ACCESSORY BUILDING OR USE

- A Business/Commercial building used for outdoor storage.

196. STORAGE

- Outdoor: The keeping, in an unenclosed and/or enclosed area, of any goods, junk, material or junk vehicles in the same place for more than thirty (30) days.
- Outdoor Business Property Storage: The storage of merchandise, goods, inventory, materials or equipment or other items normally carried in stock on the same lot with any retail, service or commercial use; or storage of merchandise, goods, inventory, materials or equipment or other items used in or produced by manufacturing activities, on the same

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lot with such activities.

- **Outdoor Business Property Display:** The open display of merchandise, goods, inventory, materials or equipment or other items used or maintained for the purpose of advertising that the merchandise, goods, inventory, materials or equipment or other items are for sale or rent.

Section 2. That Section 15.3 of Chapter 15 of the Town Code of the Town of Burns Harbor shall be amended as follows:

15-13-19 (C). Fences Other Than Front Yard: Fences less than six (6) feet high may be erected within the third tier. On corner lots, no fence more than three feet (3) high and fifty percent (50%) solid and no shrubbery, hedge or other view-obstructing object more than two- and one-half feet (2.5) high may be located within twenty feet (20) of a street right-of-way line. Fences up to eight (8) feet high may be erected for the purpose of outdoor business property storage.

Section 3. That Section 15.5 of Chapter 15 of the Town Code of the Town of Burns Harbor shall be amended as follows:

15.5 Districts. Table 5-2 Zoning Form & Function Table – k. ACCESSORY USES, Storage, Outdoor to be permitted in Residential/Commercial 1, Residential/Commercial 2, Downtown, Business Park, and Special Use districts.

Section 4. That section 15.13 of Chapter 15 of the Town Code of the Town of Burns Harbor Zoning Ordinance shall be amended to include the following:

15-13-29 OUTDOOR BUSINESS PROPERTY STORAGE

15-13-29-1 Purpose. The purpose of this article is to proactively encourage controlled business development in Burns Harbor while respecting current use, and to put our best foot forward to Burns Harbor residents, businesses, and the public traveling in and through Burns Harbor.

15-13-29-2 Applicability. This Outdoor Business Property Storage Ordinance shall apply to the following zones/districts: Residential/Commercial 1, Residential/Commercial 2, Business Park, and Special Use. This Outdoor Business Property Storage Ordinance shall NOT apply to the following: Residential Open Space District, Residential District, or any property used primarily for residential purposes regardless of the zone without a variance.

15-13-29-3 Outdoor Business Property Storage.

- A. Business property storage shall be permitted only in zoning districts that support business or commercial use.
- B. Business property storage must be a secondary use to the main business.
- C. The primary use must be established before any business property storage may commence.
- D. All business property storage shall be wholly within a building or shall be screened from view from the surrounding properties.
- E. Business property storage shall be limited to inventory, stock, supplies, equipment, and similar material not displayed for sale, rental, or lease.
- F. Automobiles, recreational vehicles, and other vehicles or machinery normally displayed for sales purposes on an open lot may be so displayed.
- G. Storage of junk, inoperable vehicles, scrap materials or the like is not considered business property storage by this zoning code.
- H. The **maximum percentage of a lot** that may be used for business property storage is set forth in each zoning district and shall contribute to the maximum lot coverage in each zoning district.
- I. A site plan approval shall be required prior to the establishment of any business outdoor property storage or sales display area. All screening, fencing, and landscaping are subject to review and approval by the Building Commissioner.
- J. No outdoor business property storage shall be located in a circulation aisle/lane, fire access, easement, building setbacks, or public right-of-way, including streets, alleys, sidewalks, park strips, and/or otherwise impede traffic or pedestrians.
- K. No outdoor business property storage areas shall be in a required landscape area.
- L. Outdoor business property storage areas shall be enclosed by a solid style fencing material commonly used for constructing fences and shall not be less than six (6) feet in height.
- M. All enclosures and fences shall be permanently maintained in good condition and repaired or replaced when necessary to ensure continued compliance with the requirements of this section.

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- N. Permanent chain link, woven wire, and similar fence material may only be permitted in areas not visible from streets, public right of ways, or residential use districts.
- O. When an existing chain link, woven wire, or similar fence material is already in use, it may remain until any alteration of the fence occurs. Owners of these properties will be encouraged to improve the appearance with landscaping.
- P. The maximum height of the enclosure, wall, or fence shall be **established in each zoning district**.
- Q. Stored materials shall not exceed the height of the enclosure or fence, except in zoning district SD1.
- R. Outdoor business property storage shall be limited to those areas designated for employees only and made inaccessible to the public by means of a fence, wall or other permanent, secured enclosure.
- S. Outdoor business property storage areas shall be surfaced with concrete, asphalt, decomposed granite, or other approved dust free surface.
- T. All outdoor business property storage areas, both outside and inside of the enclosure, shall be maintained in a neat and orderly fashion as determined by the building commissioner and shall conform with State Public Safety and Fire Codes.
- U. Sufficient access to the area within an outdoor business property storage area shall be maintained to allow access for Public Safety and Fire Equipment to the perimeter of the Principal Building, Accessory Building, Shipping Containers, and any and all items stored within the outdoor storage area as determined by the Building Commissioner and/or Fire Chief.
- V. Unless otherwise required by the Fire Marshal, access aisles to outdoor business property storage areas shall be surfaced with a minimum of a 4-inch-thick road base on compacted soil with dust palliative to support emergency apparatus and to reduce particulate matter.
- W. All driveways accessing outdoor storage areas shall be paved with asphalt or concrete within 50 feet of a street or alley.
- X. The use of shipping containers qualifies as outdoor business property storage and shall only be permitted in zoning districts in which outdoor business property storage is a permitted or conditional use. The shipping containers are subject to all of the standards and regulations for outdoor storage as found in this section.

15-13-29-4 Outdoor Business Property Sales and Display.

- A. Outdoor business property sales and display shall be permitted only in zoning districts with business or commercial use.
- B. Outdoor storage must be a secondary use to the main business.
- C. The primary use must be established before outdoor storage may commence.
- D. Outdoor sales and display shall only be permitted within an area located at least twenty-five (25) feet from any residentially used or zoned property. A property shall not be considered residentially used if the first floor is occupied by a nonresidential use or uses.
- E. When outdoor sales and display occurs within twenty-five (25) feet of a public right-of-way, item(s) shall not exceed five (5) feet in height.
- F. Stacked items located less than 50 feet from a public right-of-way shall not exceed 5 feet in height.
- G. Any material within 3 feet of any building entry shall not exceed 3.5 feet in height. (see Figure 1 below).
- H. Vending and ice machines shall be permitted outside of the building when located against and parallel to the building facade. These items shall count towards the total outdoor sales and display area permitted by this Section. Vending machines shall include newspaper, beverage, food, or snack dispensers. Public telephones and mailboxes are excluded from these Regulations.
- I. Outdoor sales and display of items shall be located on a hard and durable surface.
- J. Any area proposed to be used for outdoor sales and display in accordance with this Section shall be accurately delineated on applicable site or development plans.
- K. No outdoor sales and display shall be located in a circulation aisle/lane, fire access, public utility easement or public right-of-way, including streets, alleys,

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sidewalks, park strips, driveways, off-street parking, unloading/loading zone and/or otherwise impede traffic or pedestrians.

- L. Items for outdoor sale and display shall be completely screened from view from any abutting residentially zoned or used property. A property shall not be considered residentially used if the first floor is occupied by a nonresidential use or uses.
- M. No outdoor sales, storage or display areas shall be located in any manner that would restrict or limit adequate sight distances for vehicular traffic movement.
- N. Outdoor sales and display shall only be accessory to a principal nonresidential use that conducts most of its activities within a completely enclosed building or group of buildings, shall be conducted by employees of the principal use, and shall be owned by the owner of the principal use and not a consignment operation or arrangement.

15-13-29-5 Exemptions. The following uses are exempt from the requirements set forth in Part 1 and 2 above:

- A. Areas designated for the outdoor sale, display or storage of plant material including live plants, fruits and vegetables and seasonal holiday related plant materials such as Christmas trees and pumpkins.
- B. This exemption does not include rock, mulch, pavers, building and landscape materials, and lumberyards.
- C. Sale, display, or storage areas for automobile, boat and similar passenger and recreational vehicles, farm equipment, or truck/trailer rentals which have met applicable requirements as set forth in these Regulations and all other applicable laws, rules, and regulations.
- D. Retail operations that occur under a permanent canopy structure attached to the principal structure on the lot.

Section 5. This Ordinance shall be effective upon its adoption and publication.

Councilwoman Biancardi seconded the motion. Councilman Hull stated a quick recap of what that is, it is the outdoor business property. The Plan Commission broke into a small working committee and recommended the changes. This is probably five or six months' worth of work to try to correct some things in the (town) code and straighten a few things out. A lot of hard work went into it and believe it is a good deal. Councilman Loving stated this has been going on for quite some time. I am very happy that you guys came to a successful wording of the ordinance update. Thank you very much for your work on that. Councilwoman Biancardi – Aye, Councilwoman Bozak – Aye, Councilman Hull – Aye, Councilman Loving – Aye, Councilwoman Scott - Aye. **Ordinance 303-2021 passed on its first reading.**

Resolution 2021-01 Amending Resolution 2020-16 2021 Salary & Wages:

Councilman Hull made a motion that the Town adopts Resolution 2021-01 Amending Resolution 2020-16 2021 Salary and Wages. Councilwoman Bozak seconded the motion. Councilwoman Biancardi stated I believe the resolution does not include three or four of our full-time employees, three of which could be included at this time. I would like to make sure they are included. I would recommend, without having prior discussion, it is a minimum of a three percent (3%) cost of living increase to those three full-time job positions. Councilman Loving stated just to clarify, this is the Deputy Clerk Treasurer, the Building Department Secretary and the only employee of the Street Department (GM/Street Laborer). Councilman Hull stated I agree with you, Toni. I think we need to go back and look at the full-time employees but, I am definitely for moving forward with what we've got now and then continue on to get the rest of them. Councilwoman Biancardi stated I think we should make sure we get everyone tonight. That is why I suggested at minimum of three percent cost of living increase. Councilman Hull stated I misunderstood you, I thought you said come back and do it next month. I could support that, absolutely. Councilman Loving stated there is a motion on the table to accept this version. Councilman Hull stated yeah, I would withdraw my motion. Councilman Loving stated Toni do you want to make a motion. Councilwoman Biancardi stated I would make a motion to adopted the salary ordinance with the addition of a three percent cost of living raise for the three full-time positions of Deputy Clerk, Building Clerk and full-time Street Department Laborer to be included. Councilman Hull stated question for you Toni, two things, did you research? Are you happy with that three or is that just a minimum that you're rolling with? And, did that get everybody or did we leave somebody out? Councilwoman Biancardi stated in my short time of being able to review the ordinance, I recognized that there were some left out. I believe that the three percent is fairly in line

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with what we have given in the past. Normally, we have picked a dollar amount and I believe it would be in line with that. Councilman Loving stated three percent is the industry standard to keep up with inflation. Councilwoman Biancardi stated more than anything, I do not want someone to be left out of this. Councilman Hull state who are the ones you are adding on there, Toni? Councilwoman stated the ones that were left out which are the Building Clerk, Deputy Clerk and our full-time Street Laborer. Councilman Hull stated I am sorry I do not know Shayna's rank. Councilwoman Biancardi stated the Police Department has already been taken care of, I believe, previously. Town Marshal Heckman stated three of ours, the top three Jeremy, Tim and myself did get raises. The other three did not get raises. Two of the officers were raised to Corporal and then Shayna hasn't got the raise as of this year. We have three people on the PD side that did not get a raise. Councilwoman Biancardi stated Shayna was promoted this last summer during budget. Are the other two that you are speaking about, are those the other two that you are suggesting are promoted as well tonight? Town Marshal Heckman stated they got promoted, yeah, I promoted them. They had their time in to move up to the Corporal's position. Councilwoman Biancardi stated and with that a raise would come, correct? Town Marshal Heckman stated yes. Councilman Hull stated when you are all done, that leaves you one left that was not addressed correct? Town Marshal Heckman stated yes, I guess so. Councilwoman Biancardi stated what is the one left? Councilman Hull stated that would be Shayna, she would be the last one, if I am following right. Okay, I am good with your motion, Toni. I will make a second. Councilwoman Biancardi asked Clerk-Treasurer Jordan to restate the motion. Clerk-Treasurer Jordan stated the motion was to adopt the (salary) ordinance proposed this evening with changes to Deputy Clerk wage of three percent cost of living, Building Clerk wage to increase three percent cost of living, and Street Labor fulltime wage to increase three percent cost of living. That was my understanding of the motion. Councilman Hull stated and that is what I seconded. Councilwoman Biancardi stated I guess my follow up discussion is it still thought that someone is being missed? Councilman Hull stated I do not believe that at this time. Councilwoman Biancardi stated because if that is the case or that's a possibility then I would withdraw my motion because I don't think we should move forward until everything is clear. That is where I am at. Councilman Loving stated I don't think we have missed anyone. Councilwoman Biancardi – Aye, Councilwoman Bozak – Aye, Councilman Hull – Aye, Councilman Loving – Aye, Councilwoman Scott - Aye. **Motion passed and was adopted.**

Clerk-Treasurer Jordan requested clarification on when the Council would like the pay increases to begin.

Council consensus was that it would begin the start of the current pay period.

Clerk-Treasurer Jordan stated that would be February 3rd.

Councilman Loving indicated that there is a question on Facebook and asked Town Marshal Heckman, is it your opinion going back to the salary ordinance question, the Corporal and Patrolman (Deputy Marshal) positions, those were addressed in budget time.

Town Marshal Heckman stated no.

After further discussion, Councilwoman Biancardi made a motion to amend the salary ordinance to any position that was not increased that it should have a three percent (3%) cost of living increase. Councilman Hull seconded the motion. Councilwoman Biancardi stated I do not want anyone to be left out so, I appreciate that we can talk through this so someone is not left out. Councilman Hull stated I am with Toni. I would love to give everyone a twenty percent raise but, we can't. We're stuck. Everyone is worth more than what they are getting. No question about that. We have a limited amount. We don't want anyone left behind on this. Clerk-Treasurer Jordan stated the salary ordinance before the one that was presented to you this evening had the Corporal, that Mike just had two gentlemen move up to, at a salary rate for less than what he asked they be paid. I believe that was the case because no one was a Corporal when we did last year's pay increase so, that title remained the same rate. Mike asked for it to be increased to \$25.25 per hour. That is what is on this salary ordinance. I just need clarification, do you want me to add the three percent to that \$25.25 because, I think if I add it to what was there before, it would put them about what Mike submitted anyway? Assistant Town Marshal McHargue requested that Corporals receive three percent in addition to \$25.25 wage increase.

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Councilwoman Biancardi confirmed that would be her intent with her motion. Councilman Hull agreed with his second. Councilwoman Biancardi – Aye, Councilwoman Bozak – Aye, Councilman Hull – Aye, Councilman Loving – Aye, Councilwoman Scott - Aye. **Motion passed.**

New Business:

Staff anniversary recognition:

Council recognized Timothy Lucas for his 7 years of service.

Trail Creek Subdivision Phase I park land warranty deed:

Attorney Patton informed the Council that this property within the subdivision and on the plat was recorded that the property was to be dedicated to the Town for a park. We really needed a warranty deed for this specific parcel not as a piece of the overall neighborhood plat. Mr. Kleihege has signed the warranty deed and delivered the original to the Clerk-Treasurer's office. Attorney Parkinson, Mr. Kleihege's attorney has requested that the Town record the deed at the County Recorder's Office. It has technically been the Town's according to the County for a while now. This just further verifies that fact.

Councilman Hull made a motion that the Town accepts the warranty deed for the park land in Trail Creek Subdivision Phase 1 and record the document with the Porter County Recorder. Councilwoman Biancardi seconded the motion. Councilwoman Biancardi stated I would just ask please make sure that Kim (Park Director Burton) gets a copy of that so she can keep that in her files at the park. Attorney Patton stated just keep in mind that the parcel is actually owned by the Town for park purposes. Councilwoman Biancardi stated yeah, she keeps good records on everything down there so, having it is just going to be helpful. Councilwoman Biancardi – Aye, Councilwoman Bozak – Aye, Councilman Hull – Aye, Councilman Loving – Aye, Councilwoman Scott - Aye. **Motion passed.**

GM/MVH Superintendent vacancy:

Councilman Hull made a motion that the Town appoints Robert Wesley to GM/MVH Superintendent. Councilwoman Scott seconded the motion. Councilwoman Bozak stated that is removing him from all his other duties. He is strictly going to be maintenance, now? Councilman Loving stated it is essentially transferring him fulltime to GM/MVH and he will be the acting Building Commissioner until we can find his replacement. Councilwoman Biancardi asked what are we doing for Sanitation parttime laborer? Do we have someone Bill (Sanitation Superintendent Arney)? Sanitation Superintendent Arney stated I am continuing to use Adam (Friday) right now as a parttime basis. As you know that was a shared salary job so, I am filling in with Adam because Rob's been real busy. He has helped here and there but, I am getting direction from you guys and the Sanitary Board where you want me to go with that. Adam does have a fulltime job so, there are times when we have call outs that he may not be available. In the past, we have used the Street Department to help fill that, if you guys are okay with that. Just let me know. Councilman Hull stated I am. I would like to see that you have a go-to person that is kind of an up and comer. That is kind of how, look at Rob, you have all pitched in parttime little places and filled in to learn the ropes through it and each of you has moved up through the process. I think you continue to develop that, that is just going to help. Sanitary Superintendent Arney stated I defiantly need to get, again, direction on which way you want to do it because as you know, there is a lot of stuff sanitation one man can't do when dealing with the pumps and going in confined space and stuff like that and pulling pumps with the truck, that's a two man job. If that is the way we're going to go without a fulltime employee then I am going to have to get a few more part-timers to cover that because, I am not going to be able to do it by myself. Councilman Hull stated I would have to defer to Toni (Councilwoman Biancardi) with her knowledge with Sanitation Department and how that works, what role we play in that employee, if any. Councilwoman Biancardi stated well, depending on the way the vote goes, of course, the Sanitary Board is going to need to add this to our agenda Wednesday. I just want to make sure in the meantime that Bill has someone available. It sounds like he does but, maybe not as readily available. I guess what he said the Street Department is going to need to step up and support Sanitary until we can figure out what we are going to do. Councilman Hull stated my understanding is that those guys, all of them, the whole team, is that they're all willing to work, help each other out. And, while we are trying to go through this transition, I know there were some comments about snowplows and how many people were out and different things and it's a little bit of a transition while Rob gets his feet under him and Bill figures the other side out. I think they are doing alright and I think they are just going to grow from here. Sanitary

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Superintendent Arney stated we are defiantly a team and we work together. There's no doubt about it, Rob will be there if I need him until this is all settled down. Councilman Hull stated we went through a pretty good snow storm and an upheaval in the leadership there and still worked our way through it and the roads are clean. We didn't have any problems. Sanitation had an issue at the same time I believe. Had something go down and we made it through it. I think we will be alright. Take our time and find the right people for the right jobs and go forward. I think we will be alright. Councilwoman Biancardi – Aye, Councilwoman Bozak- Aye, Councilman Hull – Aye, Councilman Loving – Aye, Councilwoman Scott – Aye. **Motion passed.**

Advertise for open employee positions:

Councilman Loving stated we need to immediately advertise for the open positions. Clerk-Treasurer Jordan was directed to solicit applicants for the positions of GM/MVH laborer and Building Commissioner on the town website, social media and *INDEED.COM*.

Time Clocks:

Councilwoman Scott suggested that the town install time clocks, whether that be biometric or other, for use by its employees.

Council discussed employee trust, equipment needs at each building, management, implementation, the need to draft a plan for use and that the police officers currently clock in and out through their computers.

Councilwoman Scott and Councilwoman Bozak will research this matter and report back.

Digital copies of mylars subdivision plats quote for work:

Clerk-Treasurer Jordan informed the Council that the Town does not have the equipment to copy or scan large documents such as the mylars submitted by engineers and developers. A quote of one dollar per page was obtained from Data Graphics in Chesterton. After sorting through the mylars and plans for the 6 newest subdivisions in town, the cost to scan the documents would be less than one hundred dollars.

After further discussion, Clerk-Treasurer's office will take documents to Data Graphics to have them scanned and make them available on the town website.

Councilman Loving passed the gavel to Councilman Hull at 7:59 p.m.

Approval to Pay Vouchers:

Councilwoman Scott moved to approve vouchers with three or more signatures. Councilwoman Bozak seconded the motion. Councilwoman Biancardi – Aye, Councilwoman Bozak- Aye, Councilman Hull – Aye, Councilman Loving – Absent, Councilwoman Scott – Aye. **Motion passed.**

Councilman Hull returned the gavel to Councilman Loving at 8:01 p.m.

Approval of January 2021 financial report:

Councilwoman Scott made a motion to approve the January 2021 financial report. Councilwoman Biancardi seconded the motion. Councilwoman Biancardi – Aye, Councilwoman Bozak- Aye, Councilman Hull – Aye, Councilman Loving – Aye, Councilwoman Scott – Aye. **Motion passed.**

Old Business:

COVID-19 Safety and Action Plan:

Attorney Patton informed the Council that the Governor's Order extends through March 1st and that it is very possible that the Governor will extend it again as March draws closer. The Governor's order authorizes the Town to meet remotely, all the other town protocols in place, are at the Council's discretion.

After discussion of meeting in person, virtually or a hybrid, Councilman Hull made a motion to extend the Town's COVID emergency safety protocols though Friday, March 12, 2021. Councilwoman Biancardi seconded the motion. Councilwoman Biancardi – Aye, Councilwoman Bozak – Aye, Councilman Hull – Aye, Councilman Loving – Aye, Councilwoman Scott – Aye. **Motion passed.**

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Appointment to Town Boards:

Councilman Loving informed the Council that the presidential appointment to the Advisory Planning Commission and Board of Zoning Appeals would be Michael Travis Dunlap (D term would expire December 31, 2024).

Councilman Loving declared that Mr. Dunlap is his brother-in-law and that he would complete the state form necessary to disclose the conflict, record it with the County Clerk's Office and upload it to State Board of Accounts Gateway portal as required by law.

Councilwoman Biancardi made a motion to reappoint James Constantine to the Sanitary Board (term would expire December 31, 2023). Councilwoman Scott seconded the motion. Councilwoman Biancardi – Aye, Councilwoman Bozak – Aye, Councilman Hull – Aye, Councilman Loving – Aye, Councilwoman Scott – Aye. **Motion passed.**

ADA transition plan review and status update:

ADA Coordinator Councilwoman Biancardi reminded the Council that the Town created an action plan with multiple steps last year. There are some minor indoor improvements that could be directed to the maintenance department. The Town does have a budget for ADA compliance projects that can be used for these improvements. This summer, parking spots can be painted. I will rearrange the meeting room chairs, once the health emergency ends, for improving movement and flow in the space.

Capital and Economic Development Projects 2021 & 2022:

Councilman Loving informed the Council he has compiled a draft plan and asked Clerk-Treasurer Jordan to review, format it properly and send it to the Council for discussion at next month's meeting.

Clerk-Treasurer Jordan reminded the Council this document is required by state law and needs to be submitted to the County Auditor as soon as possible so, the Town can continue to collect its CEDIT distributions.

Waiving waste water late fees due to State Health Emergency:

Councilwoman Biancardi made a motion to affirm the waiving of sanitary late fees for the month of February due to Indiana's state of emergency. Councilwoman Bozak seconded the motion. Councilwoman Biancardi – Aye, Councilwoman Bozak – Aye, Councilman Hull – Aye, Councilman Loving – Aye, Councilwoman Scott – Aye. **Motion passed.**

Duneland School property farm land lease renewal:

Council consensus was to direct Attorney Patton to inform Mr. Rhoda that the Town will not offer a lease to farm the land for 2021 due to impending development of the property scheduled to begin this year.

Rainbow Community Mobile Home Park condemned under Indiana's unsafe building statute:

Building Commissioner Wesley informed the Council that he has not noticed any changes or improvements taking place at Rainbow Community Mobile Home Park since their October 14th meeting.

Council consensus was to have the Building Commission issue Mr. Pasternac tickets, take new pictures of the violations tomorrow and have the Town Marshal escort him while he is on the property.

Instate trash service fee:

Councilman Loving informed the Council that Jim Metros with Republic Services is preparing a quote for a 2022 and 2023 extension, a competitive case study if we go out for bids, and explained how the company will be charging recycling fees now that recycling costs have increased.

Speed Humps on town roads:

Councilman Loving informed the Council quotes have been obtained, he and Councilwoman Scott will have conversations with the GM/MVH Superintendent Wesley and Attorney Patton on what will need to be done to legally install speed humps and possible locations of installations.

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Community Crossing Grant 2021 paving proposal:

Town Engineer Bobcek informed the Council three applications were submitted; one for crack sealing, one for patching and one for reconstruction and repaving. All the applications were submitted to INDOT totaling an amount not to exceed one million dollars in construction costs as directed by the Council in their January meeting.

Council discussed Verplank Road's condition, that it is one of the roads submitted as part of this grant, and the parking of trucks as they offload vehicles to the car dealers.

Councilman Hull asked if the Town should discuss with the dealer possibly designating an area for trucks to unload, because all the car dealers are owned by the same dealership now. Council consensus was to have Town Engineer review the Verplank right-of-way and report back to the Board.

Council discussed with Town Engineer Bobcek the possibility of reopening the old entrance exit for Verplank Road, the fact that the State closed it permanently, and the hazards of the Verplank Road's current entrance and exit location on US 20. Town Engineer Bobcek indicated he would take a quick look and give the Council any ideas he may have of cleaning up that intersection and making it more user friendly.

INDOT Town road inventory update status report:

Town Engineer Bobcek informed the Council he still has not heard anything back from John Schill with Cleveland-Cliffs. He sent him another email and will try to call him this week.

Good of the Order of the Community:

Councilman Loving directed everyone to review HB1114, a bill that would restrict local municipalities the ability to regulate many building materials and structure sizes; Representative Moseley is against the bill.

Fire Chief Arney thanked the Council for the employees' raises.

Councilwoman Scott made a motion that we adjourn. Councilman Hull seconded the motion. Councilwoman Biancardi – Aye, Councilwoman Bozak – Aye, Councilman Hull – Aye, Councilman Loving – Nay, Councilwoman Scott – Aye. **Motion passed.**

There being no further business to discuss, the meeting concluded at 8:31 p.m.

Approved at March 10, 2021 meeting.

TOWN COUNCIL OF THE
TOWN OF BURNS HARBOR
Nicholas Loving, President
Eric Hull, Vice-President
Toni Biancardi
Roseann Bozak
Angie Scott

ATTEST:

Jane M. Jordan, IAMC, MMC, CPFA, CPFIM
Clerk-Treasurer