

Burns Harbor Town Council
Regular Meeting
May 12, 2021

The Town Council of the Town of Burns Harbor, Porter County, Indiana met in its regularly scheduled session on Wednesday, May 12, 2021 in the Town Hall and 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
Roseann Bozak ----- Present
Eric Hull ----- Present via Zoom
Nicholas Loving ----- Present
Angie Scott ----- Present

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

Additional Officials Present: Attorney Michael Brazil, Town Engineer Jeff Oltmanns, Fire Chief/Sanitation Superintendent William Arney, GM/Street Superintendent Robert Wesley, Building Commissioner Jack McGraw, Town Marshal Mike Heckman. Park Director Kim Burton attended via Zoom.

Approval of Minutes:

Councilwoman Bozak made a motion to approve the meeting minutes of April 14, 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 \$380,000 American Recovery Plan grant money has use restrictions and would need to be spent by December 31, 2024 or refunded. One way the Town can spend the money would be on water and sewer infrastructure improvements. Since water and sewer lines will be installed as part of the Westport PUD project, maybe the Council would want to use the ARP money to pay for that project rather than find themselves having to refund money. Also, photos or video of safety awareness messages displayed on the digital sign are needed for our grant file.

Building Commissioner McGraw said he would like to give a written accommodation to Building Clerk Lori McCormick for outstanding help and being his go to in getting him through these trying weeks and for the work that she has been putting in the department.

GM/Street Superintendent Wesley informed the Council that the department has been busy. They had several trees removed, and picked up leaves and brush throughout town. Oak Leaf Lane is in bad condition; is there any way we can pave Oak Leaf Lane? Councilman Loving stated I asked Clay's (Attorney Patton) office today, to look into historically what has been going on over there. It is still very unclear as to whether that road is ours to maintain. Clay is looking into it, basically we need him to look into the historical record of ownership transfers on that. Who maintains that road? When I hear back from him, I will forward that to you.

Town Marshal Heckman informed the Council that it was an extremely busy month. A traffic speed sign was placed on South Babcock to try to control the speeding. The State Police have been helping out. The Town of Porter Police stopped sixty cars over the weekend. The traffic volume is due to the road construction detour on State Road 149.

Fire Chief Arney informed the Council that the department has had a busy month. The exhaust removal system installation will begin Monday. Councilman Hull thanked the City of Portage for loaning the Town an ambulance while ours was out of service last week.

Sanitation Superintendent Arney informed the Council the department has been busy and are continuing to work on upgrades to the lift stations.

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Councilwoman Bozak informed the Council that the Park is getting ready to open for the season. Due to little snowfall this past winter, the water in the lake is really low and murky in the swimming area so, someone will be coming out to take a look. The Park is renting out the shelters but, not the Arts and Crafts Building. The rentals will be staggered so people can socially distance.

Redevelopment Commissioner Hull informed the Council that the west side of the Marquette Greenway Trail is almost complete. There will be a final walk through next week. The Westport PUD is coming back through Planning Commission to address the changes that we had to make because of BP Pipeline.

In absents of the Shared Ethic Advisory Commission Representative, Clerk-Treasurer Jordan informed the Council that the Commission is working on a virtual Summit for September, holding a Board and Commissions training this fall in person or virtual is still to be decided, and they are looking at the possibility of updating their training videos.

The following purchase orders were presented for discussion: #2704, 2818, 2820, 2821, 2833, 2834, 2844, 2851, 2852, 2853, 2854, 2855 & 2865.

Correspondence:

IDEM – Notice of Public Comment Part 70 Operating Permit AM Stabilizers Corp., Porter County
IDEM – Notice of Approval Deerfield Storage Facility Restricted Waste Site Type I, Burns Harbor
IDEM – Notice of Approval Title V Administrative Permit Indiana Flame Service, Burns Harbor
IDEM – Notice of Approval Title V Operating Permit Renewal NLMK Indiana, Portage
INDOT – Community Crossing Matching Fund 2021-1 preliminarily award \$30,000

Councilman Hull made a motion that the Town enters into the INDOT/LPA Local Roads and Bridges Matching Grant Agreement and authorizes Council President Nicholas Loving to sign the Grant Agreement on behalf of the Town. Councilwoman Bozak seconded the motion. Councilwoman Biancardi – Aye, Councilwoman Bozak – Aye, Councilman Hull – Aye, Councilman Loving – Aye, Councilwoman Scott - Aye. **Motion passed.**

Presentations, Resolutions, Ordinances and Remonstrance:

Ordinance 306-2021 Amending Text of Chapter 15 Zoning in regards to Shipping/Cargo Containers:

Councilman Hull made a motion that the Town adopts **Ordinance 306-2021 An Ordinance of the Burns Harbor Town Council Amending the Text of Chapter 15 Zoning Concerning Storage and the Use of Shipping/Cargo Containers Within the Town of Burns Harbor, Indiana** on second reading.

Councilwoman Scott second the motion. Councilwoman Biancardi – Aye, Councilwoman Bozak – Aye, Councilman Hull – Aye, Councilman Loving – Aye, Councilwoman Scott - Aye. **Ordinance 306-2021 passed and was adopted.**

New Business:

Staff anniversary recognition:

There are no anniversaries to recognize in the month of May.

Ambulance service abatements:

Clerk-Treasurer Jordan presented a hardship abatement request to the Council that was a holdover from last month. The petitioner submitted supporting documentation upon request but, this indicates that they do not qualify for a hardship in accordance with the adopted policy.

After discussion, Council consensus was the petitioner should make payments of \$93.83 per month for twelve (12) months and that Clerk-Treasurer Jordan inform the customer of the Council's decision.

Councilwoman Biancardi informed the Council that the Sanitary Board developed a procedure and policy for payment plans that maybe we could model for this situation as well.

CivicPlus annual renewal:

Councilwoman Biancardi made a motion that the Town renews its website annual license with CivicPlus. Councilwoman Scott seconded the motion. Councilwoman Biancardi –

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Aye, Councilwoman Bozak – Aye, Councilman Hull – Aye, Councilman Loving – Aye, Councilwoman Scott - Aye. **Motion passed.**

Handbook revision:

1. Holiday pay: currently, if a holiday falls on a weekend it is observed on a weekday. Should parttime employees be paid holiday pay on the observed holiday and/or official holiday?

Council consensus is that the parttime employees should receive holiday pay in the same manner as the fulltime employees on the official calendar holiday or the town observed holiday but, not both days.

Department Heads should not have non-essential employees working on holidays.

Shifts that span holiday and non-holiday days, employees are paid holiday pay for only hours of that shift that are on the holiday day.

2. If employees work both the observed holiday and the calendar holiday which, day should they be paid the double time holiday pay?

Council consensus is that the employee should receive holiday pay on the official calendar holiday.

3. The Handbook says employees injured at work should seek treatment at Porter Hospital which is now Northwest Health.

Council consensus was to change this to say closest medical facility.

4. While working secondary job clarify that employee will receive the secondary job rate of pay for those hours worked.

Council consensus is that the employees should receive the rate of pay for the job while working that secondary job not their regular pay rate.

5. If fulltime employees are being paid eight hours to have the holiday off, are they eligible to get eight hours paid off and holiday rate (double time) to work a secondary job for the town?

Council consensus is that the employees cannot receive eight hours' paid time off for the holiday in addition to holiday pay for a secondary job worked on the holiday.

6. Length of time an employee does not appear on the schedule before that employee is considered terminated from the town and purged from HR and payroll files?

Council consensus is that employees that are not on the schedule for 13 months must complete/revise prescribed forms and that the Town requests language from New Focus HR addressing the possible need for drug screen and/or driving record review to return.

7. New hires cannot appear on the schedule to work until all personnel paperwork is complete, drug screen results are received and driving background check has been completed.

Councilman Hull stated we have been pretty clear about it. Everything has to be in. Jane (Clerk-Treasurer Jordan) has to check all the boxes, they have done this, they have done, this and then they are clear to start working. If you get a guy in a truck and drives it and Mike (Town Marshal Heckman) hasn't run their background check and they get in an accident and we are technically according to our rules that we made, we can find ourselves in a bind.

Further discussion took place about communicating with Clerk-Treasurer's office and Department Heads pertaining to status of new hire paperwork and drug screening.

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Town Code formatting recommendation from the Planning Commission:

Councilman Hull informed the Council that there was a recommendation to make some formatting changes to the layout of the Town Code. These changes might also include spelling corrections and uniformity to definitions among the chapters. These changes would not change the context or language of the Code.

Council consensus was that those changes could be made in the Clerk-Treasurer's office and once complete, the Boards will be notified and a revised copy will be posted to the town website.

Councilwoman Biancardi volunteered to assist in the process.

Approval to Pay Vouchers:

Councilman Hull 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 – Aye, Councilwoman Scott – Aye. **Motion passed.**

Councilman Hull made a motion to pay the RV Sutton invoice for asphalt removal from County Economic Development Funds (CEDIT). Councilwoman Scott seconded the motion. Councilwoman Biancardi – Aye, Councilwoman Bozak- Aye, Councilman Hull – Aye, Councilman Loving – Aye, Councilwoman Scott – Aye. **Motion passed.**

Councilman Hull made a motion to pay the Barco Products invoice for fire hydrant barriers from County Economic Development Funds (CEDIT). Councilwoman Scott seconded the motion. Councilwoman Biancardi – Aye, Councilwoman Bozak- Aye, Councilman Hull – Aye, Councilman Loving – Aye, Councilwoman Scott – Aye. **Motion passed.**

Councilman Hull made a motion to pay the Justin Tree Services invoice for tree removals from County Economic Development Funds (CEDIT). Councilwoman Scott seconded the motion. Councilwoman Biancardi – Aye, Councilwoman Bozak- Aye, Councilman Hull – Aye, Councilman Loving – Aye, Councilwoman Scott – Aye. **Motion passed.**

Approval of April 2021 financial report:

Councilwoman Scott made a motion to approve the April 2021 financial report. Councilman Hull 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:

Councilman Hull made a motion to extend the Town's COVID emergency safety protocols though Friday, June 11, 2021. Councilwoman Biancardi seconded the motion. Councilwoman Biancardi – Aye, Councilwoman Bozak – Aye, Councilman Hull – Aye, Councilman Loving – Aye, Councilwoman Scott – Aye. **Motion passed.**

Advisory Plan Commission open seat:

Councilwoman Scott informed the Council that Daniel Marsh pulled his application.

Councilwoman Scott made a motion that Nicole Migliorini (R) be appointed to the Planning Commission. (Nicole would be completing Andy Bozak's term which will expire December 31, 2022.) Councilwoman Bozak seconded the motion. Councilwoman Biancardi – Aye, Councilwoman Bozak – Aye, Councilman Hull – Aye, Councilman Loving – Aye, Councilwoman Scott – Aye. **Motion passed.**

Waiving waste water late fees due to State Health Emergency:

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

Large Item trash pickup May 13th:

Councilman Loving informed that large item trash pickup will be tomorrow, May 13th.

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Burns Harbor Scholarship applications due May 31st:

Councilman Loving reminded everyone scholarship applications are due by May 31st and can be found on the town website and Chesterton High School guidance office.

CF-1 statement reviews for 2022 abatement:

Clerk-Treasurer Jordan informed the Council that MasterLink's CF-1 has delivered to the County Assessor's and County Auditor's offices.

Councilman Loving informed the Council that the Town is still waiting for Praxair to submit their CF-1. Cleveland-Cliffs submitted their CF-1s. Attorney Patton is reviewing them and we have some questions into Cleveland-Cliffs for clarification. We will leave that on the agenda and have some resolution hopefully next month.

Clerk-Treasurer Jordan informed the Council there was a voicemail this evening from Praxair wanting clarification on how to submit their CF-1 to the Town.

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

Building Commissioner McGraw said I toured the property. It has not changed a bit. Rob (Robert Wesley, previous Building Commissioner) showed me the old pictures. I have new pictures; they are identical. I also spoke to Jane (Clerk-Treasurer Jordan) and asked if any more funds have come in. She said the last that was paid was back in 2005. There has not been a dime that has come in for any past fines. I talked to the attorney (Attorney Patton) and the attorney said that is where it was at and that was back in 2019 and nothing else has been addressed. Toni (Councilwoman Biancardi) did kind of bring me up to speed with what has been going on. There was a group that was going to go in there and do some of the cleanup but they were hesitant as far as where it was going to go. Nothing has changed over there. There are some dangerous buildings over there. There are some serious potholes in the drive. At this point, I don't know what else we want to do or how much more we can push. There are a lot of people living on very low income and they are afraid that when we start pushing things against this guy that they would get kicked out and would not have a place to live. That is where the Town said where do we go from here. Toni tried to get a group to come in there to at least get it cleaned up. I don't know if that is what we want to pursue. Maybe if we start getting things accomplished over there, if we can get someone to volunteer to do some of that, if that's okay. How would the Board like us to proceed?

Councilwoman Bozak asked what kind of liability is that to the Town to have volunteers over there?

Councilman Hull stated set a precedence that they don't have to do anything and we will come and clean it up if you don't.

Clerk-Treasurer Jordan stated without property owner's permission can we be on their property at all.

Attorney Brazil stated you would have to have them be on board with it.

Fire Chief Arney stated he said nothing has changed. He's right, nothing has been fixed. The one thing that has changed is it has gotten more dilapidated. The roads are horrendous. I actually recorded the police department and myself going through there on the last call we had. The cop cars are bottoming out. My ambulance, literally, drug the tailboard through one of the potholes trying to get a patient. We had nowhere to park. It was raining that day. The potholes were like swimming pools. Something has to be done with that condition. It is to the point where we can't get in there to get a person out. The other stuff is bad still. It's not fixed. We did try to work with the County to try to get some help in there. The problem is, Jacob (Pasternac) will not allow anybody. He pulls the private property act. He will not allow anybody in there to do anything. He kicks them out of there. He wouldn't even let the EMA Director on the grounds. This is a bigger problem than we think and it is a really bad situation because, there are some really good residents in there that, unfortunately, that is what they can afford. However, I will tell you that, it's not a healthy life for them as well. I don't know how they are getting in there. I know because I have watched them, they are going in the grass and over a little bit of the

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sidewalk. He has done nothing. He has not cleaned up the debris piles. He hasn't done the roads, the skirting on the trailers. There is abandon trailers still there.

GM/Street Superintendent Wesley stated tarps over the roofs.

Council continued to discuss the human health conditions, lack of business license with the State and Town, how the owner continues to operate without a license, if tickets are still be written, what happens if violations are not paid, and legal actions the Town can take.

GM/Street Superintendent Wesley informed the Council that he spoke to Doug Williamson from the State Health Department last week. Mr. Williamson indicated that Mr. Pasternac did not show up to court for his hearing on the state violations. Mr. Williamson is scheduled to perform another inspection of the mobile home park sometime this week. If state violations have not been addressed, he will be filling charges with Porter County.

Councilwoman Biancardi requested that Fire Chief Arney and Town Marshal Heckman accompany Mr. Williamson and he understands how severe that road is for emergency services to get through. I believe that road was one of the reasons he was not licensed.

Councilman Hull made a motion that the Town begins condemnation proceedings on Rainbow Community (210 Rainbow Drive) to bring the property into compliance or until we find something better for those residents. Councilwoman Scott seconded the motion. Councilwoman Biancardi – Aye, Councilwoman Bozak – Aye, Councilman Hull – Aye, Councilman Loving – Aye, Councilwoman Scott – Aye. **Motion passed.**

Instate trash service fee:

Councilman Loving informed the Council that he will be meeting with Mr. Metros of Republic Services next week and report back to the Council next month.

INDOT Town road inventory update status report:

Councilman Loving informed the Council he emailed Attorney Patton requesting he look into the matter. We need full clarification on who's responsible for that road.

Councilman Hull stated I understand Mr. Perrine came in with historical stuff. No doubt, his memory is good but, at the end of the day we have to have it recorded from the County.

Clerk-Treasurer Jordon reminded the Council that the town INDOT road inventory shows McCool Road and Frist Street. We believe First Street to be Oak Leaf Lane. Once INDOT added roads into their GIS system, it showed the Town owning Hickory, one road east of Oak Leaf Lane. Hickory, Maple and Forest are private roads owned by the Mobile Home Park. Mike Perrine said McCool and Oak Leaf were county roads before the Mill existed. When the Town incorporated, we would have taken ownership of those roads. The town engineer or title company cannot locate anything on file at the County that refers to easements being granting in that area. INDOT will not let us fix the road discrepancy with their office without documentation but, they have always showed us owning two roads over there. We have paved Oak Leaf Lane in the past. We plow always, we have maintained it as our road. We wanted to pave the road with Community Crossing Grant funds and the State said we cannot use grant money to pave a road that is not Town owned.

Councilwoman Bozak asked if there is a process to adopt a road.

Clerk-Treasurer Jordan answered that was what Global Engineering was working on by reaching out to the Mill, who now owns the parcels where the easements would then be granted, but we have had close to no response back to get it rectified. Global thought the quickest way to do it would be to get the easement approval from the Mill now and move forward with it being correct and the Mill is not being very responsive.

Councilman Hull stated I do not think it is because they do not care. I think, they just don't know what they are doing yet. They are getting their feet under them.

Councilman Loving stated I think maybe they don't have an answer to give us. I don't think they have any documentation either.

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Verplank Road offloading area:

Councilwoman Scott informed the Council she had an opportunity to speak to Mr. Bosak who indicated he was not aware that his trucks were going down Old Porter Road. He was unsure if the Nissan Dealership could unload at the Ford Dealership due to their rules. He would talk to the drivers so they go in and out at the Pilot and Ford Dealership going forward.

Good of the Order of the Community:

Burns Harbor resident, Scott Schuster, of 1162 Chesterfield Avenue expressed concerns of the noise coming from the direction of Linde, Inc. Councilman Hull directed them to complete the noise complaint on the town website when they hear it. This helps Linde diagnose the problem and get it corrected.

Burns Harbor resident, Wilbur Oudman, of 321 Clifford Way asked if the Town would be having Fourth of July fireworks this year. The Village in Burns Harbor POA Board would be interested in contributing to the event. Council directed them to the Park Board.

Town Engineer Jeff Oltmanns asked the Council in regards to their \$30,000 Community Crossing Grant award for crack sealing, if they would approve Global putting together specks and obtaining three quotes for their next meeting in order to do the crack sealing this spring. Council consensus was for Global to do those items.

Town Engineer Jeff Oltmanns asked the Council if they would want Global to resubmit the same streets and apply for the next round of Community Crossing Grant funding later this year. Councilman Hull stated yes, but hopefully you can add Oak Leaf Lane. Council consensus was to resubmit the roads including Oak Leaf Lane.

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

There being no further business to discuss, the meeting concluded at 8:40 p.m.

Approved at June 9, 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