

Burns Harbor Town Council
Regular Meeting
September 14, 2016

The Town Council of the Town of Burns Harbor, Porter County, Indiana met in its regular session on Wednesday, September 14, 2016 in the Town Hall. The meeting was called to order by Council President, Raymond Poparad at 7:00 p.m.

The Pledge of Allegiance to the American Flag was recited.

Roll Call: Toni Biancardi ----- Present
Andrew Bozak ----- Present
Eric Hull ----- Present
Raymond Poparad ---- Present
Marcus Rogala ----- Absent

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

Additional Officials Present: Attorney Clay Patton, Town Marshal Michael Heckman, Street Superintendent Pat Melton and Building Commissioner/Fire Chief/Sanitation Superintendent William Arney.

Also Present: Jeff Schultz of the Chesterton Tribune

Approval of Minutes:

Councilwoman Biancardi made a motion to approve August 10, 2016 meeting minutes. Councilman Bozak seconded the motion. Councilwoman Biancardi – Aye, Councilman Bozak – Aye, Councilman Hull – Aye, Councilman Poparad – Aye, Councilman Rogala – Absent.

Motion passed.

Councilman Bozak made a motion to approve August 16, 2016 meeting minutes. Councilman Hull seconded the motion. Councilwoman Biancardi – Aye, Councilman Bozak – Aye, Councilman Hull – Aye, Councilman Poparad – Aye, Councilman Rogala – Absent. **Motion passed.**

Councilwoman Biancardi made a motion to approve August 17, 2016 meeting minutes. Councilman Bozak seconded the motion. Councilwoman Biancardi – Aye, Councilman Bozak – Aye, Councilman Hull – Aye, Councilman Poparad – Aye, Councilman Rogala – Absent.

Motion passed.

Public Hearing 2017 Budget:

Councilman Poparad opened the public hearing at 7:03 p.m.

Clerk-Treasurer Jordan stated that the budget was advertised on August 26 through the State's Gateway which is now the only advertisement requirement which meets our ten (10) days before our public hearing requirement.

Councilwoman Biancardi asked what was the State allowable increase for 2017.

Clerk-Treasurer Jordan stated the allowable increase was 3.8 percent.

Councilwoman Biancardi asked and we stayed within that increase 2017?

Clerk-Treasurer Jordan stated yes we did.

Clerk-Treasurer Jordan stated the County Council is by law required to have a hearing at their August meeting to review and make recommendations of taxing units' maximum levies and assessed values. They met and sent the Town a letter indicating that all taxing units should stay below or within the state increase and would encourage us to keep our tax rates low as they have.

No public comments.

Councilman Poparad closed the public hearing at 7:05 p.m.

Additional Appropriation Rainy Day Fund Resolution 2016-17:

Councilman Poparad opened the public hearing at 7:05 p.m.

Clerk-Treasurer Jordan stated that this additional appropriation was advertised on August 26 which meets the ten (10) days before a public hearing requirement.

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Burns Harbor Resident Paulene Poparad of State Road 149 asked how the additional appropriation will be used.

Councilman Poparad stated it will be used to purchase and install new playground equipment.

Councilwoman Biancardi stated for the much needed playground equipment at Lakeland Park. It is adding many ADA compliant pieces so children in wheelchairs and other disabilities can play.

Park Director Burton stated there are many ADA compliant pieces. We will have a sidewalk leading from the parking area to the playground. The swing set will also be replaced. Where the current playground structure and the swing set are now will be squared off. The new equipment will not be any closer to the shelter or the basketball court.

Burns Harbor resident Nick Loving of Skylark Drive stated a father of three (3) here. This is a great idea. Thank you guys, so much.

Park Director Burton stated it will be aimed for ages from infancy up to fourteen years old.

Councilman Hull stated I know that a lot of the stuff is in pretty bad shape; is any of that able to be repaired to possibly be used at another park in another part of town?

Park Director Burton stated no, not really.

Councilwoman Biancardi stated Kim you mentioned moving the pea gravel to another park.

Park Director Burton stated because pea gravel is not ADA compliant, it will be moved to Bolinger and Shadyside parks.

Councilman Bozak stated Marcus asked me to bring up one thing. Does the park have a long term plan to make sure that is where you want to put the playground set?

Park Director Burton stated at previous meetings it was discussed that there is a shelter right there and the basketball court, so that would not be the area that we would be looking at for a building in the future. They don't have a master plan at this point but, that was not the area that they were considering for a building.

Councilwoman Biancardi made a motion that the Town adopts **Additional Appropriation Resolution 2016-17**

WHEREAS, it has been determined that it is necessary to appropriate more money than was originally appropriated in the annual budget;

NOW, THEREFORE;

Sec. 1. **BE IT ORDAINED** (resolved) by the Town Council of Burns Harbor, Porter County, that for the expenses of the taxing unit the following additional sums of money are hereby appropriated out of the funds named and for the purposes specified, subject to the laws governing the same:

Fund Name: Rainy Day Fund	AMOUNT REQUESTED	AMOUNT APPROVED BY FISCAL BODY
Major Budget Classification:		
Capital Layouts	\$ 100,000.00	\$ 100,000.00
TOTAL for Rainy Day Fund:	\$ 100,000.00	\$ 100,000.00

Councilman Bozak seconded the motion. Councilwoman Biancardi – Aye, Councilman Bozak – Aye, Councilman Hull – Aye, Councilman Poparad – Aye, Councilman Rogala – Absent.
Resolution 2016-17 passed and was adopted.

Councilman Poparad closed the public hearing at 7:12 p.m.

ArcelorMittal petition for an assessed valuation deduction:

Councilman Poparad moved representatives from ArcelorMittal ahead in the meeting. Ken Walker and Doug Bilski of ArcelorMittal USA presented to the Council the Mill's Power House Project Phase B which, consists of the rehabilitation of two boilers, a generator turbine and three generators, two turbo blowers and various infrastructure improvements which, they are requesting tax abatement.

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After discussion, Councilman Bozak made a motion that the Town accepts the abatement request and move forward with approving the abatement on the Power House Rebuild Phase B. Councilman Hull seconded the motion. Councilwoman Biancardi – Aye, Councilman Bozak – Aye, Councilman Hull – Aye, Councilman Poparad – Aye, Councilman Rogala – Absent.
Motion passed.

Masterlink Concrete Pumping, LLC for an assessed valuation deduction:

Councilman Poparad moved representative from MasterLink Concrete Pumping ahead in the meeting. Steve Slater owner of MasterLink presented to the Council a request for tax abatement on renovation and expansion of the building at 347 Melton Road.

After discussion, Councilman Poparad asked Attorney Patton if the Town could grant abatement with a resolution to follow once he has his paperwork in place.

Attorney Patton stated I don't think that's procedure to follow. That is setting precedent I don't think we want to set. It is his obligation to fill out the form not us.

Councilwoman Biancardi asked Steve (Slater) what is your timeline. Mr. Slater stated I was anticipating a decision.

Councilman Hull made a motion that the Town approves abatement based upon the completion of the paperwork and submitted in a timely matter for the Town Council President to sign.

After further discussion, Councilman Poparad stated he is looking for permission so he can proceed to purchase the property and invest money in it.

Attorney Patton stated that is an issue too. He is not the owner of record currently. He would need to have the owner of record to apply for tax abatement or have the record owner approve his application for it.

Councilman Hull stated I withdraw my motion.

Burns Harbor resident Bard Enslin of Sherman Avenue stated no offence to this gentleman, how can you ask for abatement on property you don't own. How can you approve abatement on property you haven't even seen how many employees he actually writes down on forms that he's going to bring here.

Councilman Poparad stated I understand your concerns Brad but, he put it in a letter. It is not on the proper forms but he's got it spelled out right here.

Attorney Patton stated there are a lot of requirements. It's just like a zoning or rezoning, people might want to buy property but want to have it rezoned beforehand. They make a contingency offer that they will purchase it on contingent of it being rezoned or a variance and they come before the Plan Commission or Board of Zoning Appeals to request that with the approval of the seller. If he doesn't want to buy it if it's not going to be approved, I think the correct course of action for him would be to get the current owners' authorization to come before this body to seek tax abatement.

Council consensus was that Mr. Slater returns next month with the proper forms completed.

Ozinga Ready Mix Concrete for an assessed valuation deduction:

Councilman Poparad moved representative from Ozinga ahead in the meeting. Tony Shivley of Ozinga presented to the Council a request for tax abatement on renovation and expansion of the building at 301 Melton Road to be used as a corporate office.

Council consensus was that Mr. Shivley returns next month with the proper forms completed.

Reports:

Clerk-Treasure Jordan informed the Council of the training at INDOT office in LaPorte. The grant is not a reimbursable grant. The Town will need to submit paperwork once the paving projects are complete and INDOT is required to inspect the project site to sign off. The State would like us to move forward as quickly as possible but, understand that a lot of money was awarded throughout the state and the paving companies will be busy. If the Town moved

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forward with bidding and selecting a vendor in anticipation of paving next year, INDOT would be okay with that. Once the State opens year two of the grant, we will receive notice to submit an application. Councilman Poparad stated I propose in our November meeting we direct the engineering firm to draw up the specks for the projects that were awarded in the grant. Go out for bids, award it first of January so, we will be first on the list in the spring.

Councilwoman Biancardi informed the Council that the Town received the check from the Forum for the geocaching project. We will work on getting that rolled out for the spring.

Park Board President Amanda Sucku informed the Council the Town Picnic and fishing derby were very successful. The Pumpkin Dash and Fall Festival are October 22nd and requested volunteers and sponsorships.

Clerk-Treasurer Jordan reminded residents that tomorrow is fall large item trash pickup day.

Councilman Hull asked the status of the property at 1135 Harbor Way. Building Commissioner Arney stated the Town has done what we can. I have it secured off. The rest is between the property owner and their insurance company, unless the Town wants to move forward with an unsafe building procedure.

Councilwoman Biancardi asked the status of Scotts Way. The Town has a judgement that we have not collected. He has requested a variance at the Board of Zoning Appeals and was denied. They have said he was operating illegally and continues to do so even more. Can we lien the property for the judgement he owes us? When and how would we collect that? Attorney Patton stated we can try to collect by taking him back to court, freeze bank accounts, garnish wages, and cease assets. Councilwoman Biancardi state the other problem is he is continuing to operate his business illegally. Building Commissioner Arney stated I have notified him by certified letter of the BZA's decision and that he is to cease operations except for his truck repairs and vehicles waiting to be repaired. He is not responded. After further discussion, Councilman Hull made a motion to have the attorney research the Town's options and report back to the Council. Councilman Bozak seconded the motion. Councilwoman Biancardi – Aye, Councilman Bozak – Aye, Councilman Hull – Aye, Councilman Poparad – Aye, Councilman Rogala – Absent.

Motion passed.

Fire Chief Arney informed the Council that the Annual Fire Department Spaghetti Dinner will be October 15th from 4:00 p.m. to 7:00p.m. tickets are \$6.00 before October 15th, \$8.00 at the door and one dollar more for takeout.

Councilman Hull informed the Council that the fire department had training on the procedures for landing the lifeline.

The following purchase orders were presented for discussion: purchase order #2390, 2403, 2423 and 2424.

Correspondence:

IDEM – Approval of Worthington Steel, Town of Porter FESOP renewal
IDEM – Notice of Air Permit Application – Worthington Steel, Town of Porter
IDEM – Notice of Air Permit Application – JEM Industries LLC, Portage
IDEM – Approval of American Iron Oxide Company, Portage Title V Renewal
IDEM – Approval of NLMK Indiana, Portage Title V Administrative Amendment
IDEM – Approval of NIPSCO Bailly Generating Station Title V Significant Permit Modification
Porter County Council review of estimated 2017 levy limits and tax caps

Presentations, Resolutions, Ordinances and Remonstrance:

ArcelorMittal petition for an assessed valuation deduction:

Matter moved up in agenda.

MasterLink Concrete Pumping, LLC for an assessed valuation deduction:

Matter moved up in agenda.

Ozinga Ready Mix Concrete for an assessed valuation deduction:

Matter moved up in agenda.

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Resolution 2016-14 ArcelorMittal Petition for an Assessed Valuation Deduction:

Councilman Hull made a motion that the Town adopts **Resolution 2016-14 A Resolution of the Town Council of the Town of Burns Harbor, Porter County, Indiana Granting ArcelorMittal Burns Harbor LLC an Assessed Valuation Deduction (Tax Abatement) For Tangible Personal Property Pursuant to Indiana Code 6-1.1-12.1**

WHEREAS, on November 12, 2014, the Town Council of the Town of Burns Harbor, Porter County, Indiana (the "Town Council") adopted Resolution No. 2014-015 (the "Declaratory Resolution") designating an area of approximately 1,800 acres currently zoned for industrial for integrated steel and ancillary support and used generally located north of U.S. Route 12 as an "economic revitalization area" (an "ERA"), within the meaning of an ERA as defined under Indiana Code § 6-1.1-12.1-1(I), more specifically to be known as the Lakeshore Industrial ERA, for a period of ten (10) years set to expire on sunset on December 10, 2024 consistent with the ERA Resolution; and

WHEREAS, on December 10, 2014, the Town Council adopted Resolution No. 2014-16 (the "Confirmatory Resolution") confirming the Declaratory Resolution that designated the Lakeshore Industrial ERA; and

WHEREAS, the ERA remains in full force and effect pursuant to the Declaratory Resolution as approved in accordance with Indiana Code 6-1.1-12.1 (the "Act"); and

WHEREAS, ArcelorMittal Burns Harbor LLC (the "Company") on June 9, 2016 filed with the town Council a **Statements of Benefits Personal Property (FORM SB-1/PP)** dated **June 9, 2016** (as attached hereto as **EXHIBIT A**) proposing personal property investments, more specifically related to the installation of depreciable personal property and manufacturing equipment over a three-year period from June 1, 2015 through October 1, 2018 (the "Power House Phase A Rebuild Project" or the "Project") to be located at the Company's manufacturing facilities within the Lakeshore Industrial ERA (the Company's "Burns Harbor, IN facility") to be a total cost of investment of \$80,000,000; and

WHEREAS, as it relates to the Power House Phase A Rebuild Project, "installed" shall be defined as consistent with 50 IAC 10-1-2 pursuant to Indiana Administration Code Article 10 titled Economic Revitalization Area Deduction, more specifically under Sections (a) through (d) which state:

- (a) Personal property that: (1) has been completely assembled; (2) is completely functional for the purpose for which it was acquired; and (3) is placed in service.
- (b) When different pieces of personal property are linked together as part of an integrated production process, personal property will not be considered installed until the integrated production process is completely functional and is placed in service.
- (c) Personal property that is subjected to a preliminary test period for testing process shall not be considered installed until the conclusion of the test period or testing process. However, a test period or testing process may not be longer than is reasonably necessary to complete the needed testing, and therefore personal property that has been placed in service and is in operation for a substantial period of time shall not be considered to be within a test period or testing process.
- (d) For purposes of substantiating the date of completion of the installation of property, the owner may use production records or other records that reflect when the property was completely assembled, completely functional for the purpose for which it was acquired, fully operation, and placed in service.

WHEREAS, the Company has identified in a description of the Power House Phase A Rebuild Project that it intends to install and place into service by October 1, 2018 for first assessment on January 1, 2019 with taxes due and payable in 2020; and

WHEREAS, the Company on June 9, 2016 submitted and filed with the Town Council a letter requesting a tax abatement pursuant to Indiana Code 6-1.1-12.1-4.5 (the "Petition") (as attached hereto as **EXHIBIT B**) for which said FORM SB-1/PP dated June 9, 2016 was attached; and

WHEREAS, the Power House Phase A Rebuild Project will consist of the installation of new manufacturing equipment to be acquired by the Company for use in the manufacturing process of the Company consistent with Section 1, subsections (3) of the Act, for which said new manufacturing equipment has never before been used by the Company for any purpose in the State of Indiana, consistent with Sections 1, sub-sections (3)(D) of the Act; and

WHEREAS, the benefits of the Project and tax savings to the Company as a result of an assessed valuation deduction, if approved for a period of ten years at an abatement percentage schedule to be applied to qualified property beginning the first year(s) of the installation of personal property equipment: Year 1: 100%; Year 2: 100%; Year 3: 100%; Year 4: 75%; Year 5: 75%; Year 6: 50%; Year 7: 50%; Year 8: 50%; Year 9: 50%; Year 10: 50%, pursuant to Section 17(b) of the Act; and

WHEREAS, upon review and consideration of the economic impact to the Town and its overlapping taxing units and based upon the evidence as to whether the Company shall be allowed an assessed valuation deduction for personal property manufacturing equipment

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installed as part of the Power House Phase A Rebuild Project placed into service as detailed above herein, the Town Council desires to make a determination pursuant to Section 4.5 of the Act.

NOW, THEREFORE, BE IT RESOLVED, that the actions of the Town Council of the Town of Burns Harbor, Porter County, Indiana are based upon the evidence as presented by the Company after review of the Statement of Benefits (FORM SB-1/PP) as well as other pertinent information provided by the Town’s attorney and upon the following findings pursuant to Section 4.5(b) of the Act, such that:

- (1) Project and the estimates of cost of equipment and its expectations are reasonable for project(s) of its nature;
- (2) The estimated number of individuals who will be employed or whose employment will be retained can reasonably be expected to result from the Project;
- (3) The estimate annual salaries of those individuals who will be employed or whose employment will be retained can reasonably be expected to result from the Project;
- (4) Other ancillary benefits about which information was requested by the Town Council are benefits that can be reasonably expected to result from Project
- (5) The totality of the benefits is sufficient to justify and assessed valuation deduction on the Project.

BE IT FURTHER RESOLVED that the Town Council acknowledges that the area for which the Power House Phase A Rebuild Project is to be installed and placed into service is not located within a designated allocation area of the Burns Harbor Redevelopment District.

BE IT FURTHER RESOLVED that the Town Council hereby grants an assessed valuation deduction (Tax Abatement) of depreciable personal property – new machinery equipment limited to a total cost of \$80,000,000 as installed and placed into service as part of the Power House Phase A Rebuild Project for installation and to be placed into service consistent with 50 IAC 10-1-2 by or on October 1, 2018 for the January 1, 2019 assessment dates as detailed above herein, in accordance with the Act.

BE IT ALSO RESOLVED that the abatement period for assessed valuation deductions (Tax Abatement) granted and approved pursuant to Section 4.5 of the Act of depreciable personal property - new machinery equipment as installed and placed into service consistent with 50 IAC 10-1-2 as part of the Power House Phase A Rebuild Project shall be **Ten (10) years**, such that the abatement percentages applied pursuant to Section 17(b) of the Act as identified below shall apply (or be “layered”) to annual investments placed into service by or on **October 1, 2018**.

Approved Abatement Schedule:	
Year One (1)	100%
Year Two (2)	100%
Year Three (3)	100%
Year Four (4)	75%
Year Five (5)	75%
Year Six (6)	50%
Year Seven (7)	50%
Year Eight (8)	50%
Year Nine (9)	50%
Year Ten (10)	50%

BE IT FURTHER RESOLVED that having received the consent of the Company and in accordance with Section 14(b) of the Act, a copy of which is attached hereto as **EXHIBIT C** and is made a part hereof as incorporated herein, and pursuant to Section 14 of the Act for each year the Company’s personal property tax liability is reduced by an assessed valuation deduction (Tax Abatement) related specifically to the Power House Phase A Rebuild Project, the Company shall pay to the Porter County Treasurer a fee in the amount computed and determined by the Porter County Auditor pursuant to the provisions of Section 14(c) of the Act (the “Imposed Fee”) such that:

- (1) The Town Council hereby determines that **fifteen percent (15%)** shall be the percentage to be applied by the Porter County Auditor for purposes of STEP TWO of subsection (c) of Section 14 of the Act;
- (2) Accordingly, for each year the Imposed Fee is payable by the Company, the Imposed Fee shall be equal to the lesser of One Hundred Thousand Dollars (\$100,000) or fifteen percent (15%) of the additional amount of personal property taxes that would have been paid by the Company during that year of the deductions approved in this Resolution has not been in effect (i.e. 15% of the Company’s personal property tax savings attributable to a deduction from the assessed valuation from the Power House Phase A Rebuild Project; and

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- (3) The Imposed Fee as collected shall be distributed to the **Town of Burns Harbor Redevelopment Commission** as a public entity established to promote economic development within the corporate limits of the Town as determined by the Town Council as the designated body.

BE IT FURTHER RESOLVED that the Company has agreed to the following imposed reasonable condition for approval of an assessed valuation deduction for personal property as herein specified and authorized pursuant to Section 2(i)(6) of the Act and as included under Item G (page 2) of the approved FORM SB-1/PP (Statement of Benefits Personal Property):

Condition: The Company by May 10 of each calendar year during the period for which an assessed valuation deduction is applicable shall submit to the Town as it applies to the Power House Phase A Rebuild Project, the FORM 103-P5/ERA to supplement the FORM CF-1/PP (Compliance with Statement of Benefits) that is annually filed with the Town for each personal property assessed valuation deduction so that the Town may verify and confirm the assessed valuation deductions reported by the Company to the Porter County Assessor to calculate said annual assessed valuation deduction for submission to the Office of the Porter County Auditor.

BE IT FURTHER RESOLVED that the Town agrees to comply with the privacy notice of said FORM 103-P5/ERA as a confidential filings in accordance with I.C. 6-1.1-35-9 and that said document: (i) is statutorily required filing for the Town to review a personal property assessed valuation deduction of the company but as reasonable condition as herein specified and included under Item G (page 2) of an approved FORM SB-1/PP (Statement of Benefits Personal Property) and (ii) is submitted by the Company to supplement its annual filed FORM CF-1/PP (Compliance with Statement of Benefits) such that Town may only utilize said form to verify and confirm the assessed valuation deductions reported by the Company and/or approved by the Office of the Porter County Assessor; and, therefore said document is deemed not to be public record(s) and shall not be made available to the public.

BE IT FURTHER RESOLVED that the final determination of the amount of assessed valuation deduction of the Power House Phase A Rebuild Project for tangible depreciable personal property based upon annually required filings shall be made by the appropriate Porter County assessing agency, review board or State of Indiana agency.

BE IT FURTHER RESOLVED that if the Company upon submission of a FORM CF-1/PP (Compliance with Statement of Benefits Personal Property): (i) is found to be *NOT* in substantial compliance with the Statement of Benefits – as executed and filed by the Company as dated June 9, 2016 - for which a notice must be sent to the Company stating the reasons for said determination and that the Town Council has scheduled to hearing for the Company to appeal said determination of the Town Council and (ii) the Town Council upon said hearing determines that the Company has *NOT* made reasonable effort(s) to comply with the Statement of Benefits may by resolution terminate said assessed valuation deduction (tax abatement) and implement the Claw Back Provision as attached hereto as **EXHIBIT D** in order to reimburse tax units for tax saving realized by the Company.

BE IT FURTHER RESOLVED that the Clerk-Treasurer of the Town is hereby directed to file with the Office of the Porter County Assessor the following information as it applies to this Resolution and the approval of the Company's assessed valuation deduction:

- (1) The FORM SB-1/PP, as approved, properly completed and executed consistent with this Resolution and as signed and attested by the appropriate Town officials;
- (2) A certified copy of this Resolution; and
- (3) A copy of the meeting minutes which approved this Resolution and the FORM SB-1/PP.

BE IT FURTHER RESOLVED that the Clerk-Treasurer of the Town is hereby directed to file with the Office of the Porter County Auditor the following information as it applies to this Resolution and the approval of the Company's assessed valuation deduction:

- (1) The FORM SB-1/PP, as approved, properly completed and executed consistent with this Resolution and as signed and attested by the appropriate Town officials;
- (2) A certified copy of this Resolution; and
- (3) A copy of the meeting minutes which approved this Resolution and the FORM SB-1/PP.

BE IT FURTHER RESOLVED that if any part, clause, or portion of this Resolution shall be adjudged invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of this Resolution as a whole or any other part, clause, or portion of this Resolution.

BE IF FURTHER RESOLVED that this Resolution shall be in full force and effect from and after its passage and adoption by the Town Council and its execution by the appropriate signatories hereto.

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EXHIBIT D

Assessed Valuation Deductions: Claw Back Provision

Section I. If an assessed valuation deduction applicant does not obtain ninety (90%) of the level of wages and/or number of employees it has set forth in its approved Statement of Benefits within the time frame set forth in the same Statement of Benefits, the Town Council of the Town of Burns Harbor, Porter County, Indiana (the "Town Council"), as the designating body following the procedures of IC 6-1.1-12.1-5.9, *may* impose this claw back provision requiring the applicant to pay back all tax savings realized as a result of an assessed valuation deduction proportional to the extent of the deficiency in levels of wages and/or number of employees. A determination by resolution to impose the claw back provision is the sole discretion of the Town Council as the designated body and may be dependent upon various factors and variables uniquely applicable to each approved Statement of Benefits.

Section II. This claw back provision may be imposed by the Town Council as the designated body for a period of one year and subsequent to the final assessment date applicable to the approved abatement period of an assessed valuation deduction applicant as documented in the resolution approving the Statement of Benefits.

Section III. Upon determination by resolution to impose the claw back provision, the Town Council shall have a professional municipal financial advisor: (i) calculate the tax savings realized as a result of an assessed valuation deduction proportional to the extent of the deficiency in levels of wages and/or number of employees as determined by the **FORM SB-1** as approved by the Town Council and (ii) calculate the distribution of the claw back payment to the Town of Burns Harbor, Porter County, Indiana (the "Town") proportional to each overlapping taxing unit for which the tax payable year the claw back provision is applied, as based upon the percentage of the overlapping taxing unit's tax rate to the gross tax rate for the appropriate tax unit, being Tax Unit 024 (Burns Harbor – Westchester Township).

Section IV. Prior to notification to the approved applicant of an assessed valuation deduction for which this claw back provision is imposed, the Town Council shall notify the Office of the Porter County Auditor and/or the Office of the Porter County Assessor as to the imposition of the claw back provision. The Town Council shall also submit the calculation of the claw back payment and its distribution to the overlapping taxing units pursuant to Section III for confirmation and verification prior to final imposition and notification of this claw back provision to the approved applicant of an assessed valuation deduction.

Section V. The Office of the Porter County Auditor shall provide written confirmation and verification as to the amount of the claw back payment and the proportional distribution of the claw back payments to the overlapping taxing units as calculated for the Town Council pursuant to Section III.

Section VI. Upon notice from the Office of the Porter County Auditor that the claw back payment and the distribution of the claw back payment to the overlapping taxing units is confirmed and verified, the Town Council shall notify approved applicant of an assessed valuation deduction via USPS certified mail-return receipt that this claw back provision is imposed. Said notice shall include the calculation of the claw back payment, its distribution to the overlapping taxing units and a statement that the calculations have been confirmed and verified by the Office of the Porter County Auditor prior to notification.

Section VII. Prior to the distribution to the overlapping taxing units of claw back payment made to the Town, the Town Council shall notify the Office of the Porter County Auditor and/or the Office of the Porter County Assessor as to the receipt of a claw back payment for its files pertaining to the assessed valuation deduction.

Section VIII. The Town shall distribute claw back payments to all overlapping taxing units via USPS certified mail-return receipt no later than 30 days from the date of the receipt for the claw back payment.

Section IX. Upon return of all USPS certified mail-return receipts from the overlapping taxing units, the Town Council shall provide copies of the return receipts to the Office of the Porter County Auditor, and if applicable to the Office of the Porter County Assessor, as documentation that the imposed claw back payment was distributed to overlapping taxing units.

Councilwoman Biancardi seconded the motion. Councilwoman Biancardi – Aye, Councilman Bozak – Aye, Councilman Hull – Aye, Councilman Poparad – Aye, Councilman Rogala – Absent. **Resolution 2016-14 passed and was adopted.**

Resolution 2016-15 Fire Department funds transfer:

Councilman Hull made a motion that the Town adopts **Resolution 2016-15**

BE IT HEREBY RESOLVED BY THE TOWN COUNCIL of the TOWN OF BURNS HARBOR, PORTER COUNTY, INDIANA that the following transfer of funds be made within the Fire Department's 2016 budget:

\$ 2,000.00 from Instruction, 4-311
into Uniforms, 3-244.

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Councilwoman Biancardi seconded the motion. Councilwoman Biancardi – Aye, Councilman Bozak – Aye, Councilman Hull – Aye, Councilman Poparad – Aye, Councilman Rogala – Absent. **Resolution 2016-15 passed and was adopted.**

Resolution 2016-18 TPP and Harmful Trade Agreements:

Councilman Bozak made a motion that the Town adopts **Resolution 2016-18 A Resolution of the Town Council of the Town of Burn Harbor, Porter County, Indiana Articulating the "Sense of the Town Council" Regarding Its Opposition to the Enactment of Harmful Federal Trade Agreements Generally and the Trans Pacific Partnership Agreement in Particular**

WHEREAS, The Burns Harbor was incorporated to provide certain public services to the residents of this community, all of whom are also residents of this state, and Nation, for whom their elected public servants commit their judgment and industry to promote the general welfare and common public good;

WHEREAS, The Burns Harbor Town Council, as the fiscal and legislative body of the Town of Burns Harbor, from time to time, encounters issues of public import and moment which invite an expression from the elected representatives as part of the public discourse on the matter;

WHEREAS, Article 1, Section 31 of the Indiana Constitution provides that no law shall restrain any of the inhabitants of the State from assembling together in a peaceable manner, to consult for their common good, nor from instructing their representatives, nor from applying to the General Assembly for redress of grievances;

WHEREAS, On June 29, 2015, the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 ("TPA") was signed into law, providing the federal government "fast-track" powers to conduct and conclude federal trade legislation; and

WHEREAS, The federal government is currently considering the approval of several proposed trade agreements, to wit: the Trans-Pacific Partnership Agreement ("TPP"), the Transatlantic Trade and Investment Agreement (TTIP) and the Trade in Services Agreement (TiSA); and

WHEREAS, TPP negotiations have been completed, and the final agreement is awaiting Congressional approval; and

WHEREAS, The American Federation of Labor - Congress of Industrial Organizations (AFL- CIO) and United Steelworkers (USW) are encouraging communities nationwide to pass resolutions opposing these proposed trade policies, in particular the Trans Pacific Partnership (TPP), with an exacting focus on the negative impact on labor rights and rules; and

WHEREAS, The TPP concerns matters of public policy and fails to meet its stated goals "to promote economic growth, support the creation and retention of jobs, enhance innovation, productivity and competitiveness, raise living standards, reduce poverty in countries, and promote transparency, good governance, and enhanced labor and environmental protections"; and

WHEREAS, The TPP critically fails to address currency misalignment, contains feeble auto rules of origin and inadequate state- owned enterprise provisions, provides extraordinary rights to foreign investors and pharmaceutical companies, undermines Buy American Act, weakens labor, environmental, health, food safety and financial laws, allows challenges to our laws in international tribunals rather than our own court system, and includes a labor framework that has proved itself ineffective, resulting in the certain risks of TPP outweighing its speculative and limited benefits; and

WHEREAS, The proud history of The Town of Burns Harbor and the Region in which it is located is the history of workers whose jobs are threatened by unfair trade practices; and

WHEREAS, As of July 2016, Porter County's unemployment rate measures 5.0 percent, which is higher than the State of Indiana rate of 4.3% and the National rate of 4.7%; and

WHEREAS, The economics of significant Porter County and the Northwest Indiana Region industries are closely linked to trade policy, and unfair policies within the TPP and other proposed agreements will only increase job losses; and

WHEREAS, Given the enactment of the TPA, citizens have little opportunity to correct shortcomings of these proposed trade policies and Congress cannot follow normal Congressional procedure that permits full hearings and amendments;

WHEREAS The Town of Burns Harbor by and through its elected officers wishes to offer a distinct, public expression on the public import of this matter,

NOW, THEREFORE BE IT RESOLVED by the Town Council of the Town of Burns Harbor, Porter County, Indiana that it is the sense of the Town Council of Burns Harbor and is as follows:

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Section 1. That the it is the sense of the Burns Harbor Town Council, offering its sense of the subject, to oppose all harmful federal trade agreements and desires to call upon our Congressional delegation to oppose the same;

Section 2. The Town of Burns Harbor by and through its Town Council, offering its sense of the subject, respectfully calls upon Senator Dan Coats, Senator Joe Donnelly, and Representative Pete Visclosky to oppose the TPP as currently negotiated, and any similar proposed trade deals, such as the TTIP and TiSA, if they fail to restructure the misguided and failed trade policies of the past;

Section 3. The Town of Burns Harbor by and through its Town Council, offering its sense of the subject, respectfully calls upon our Congressional delegation to support a new, imaginative trade policy:

- (A) That truly promotes economic growth;
- (B) That avoids favoring foreign companies over domestic ones;
- (C) That promotes high standards of protection for workplaces, products, and natural resources;
- (D) That supports the creation and retention of jobs;
- (E) That enhances innovation, productivity and competitiveness;
- (F) That raises living standards;
- (G) That reduces poverty in our country; and
- (H) That promotes transparency, good governance, and enhanced labor and environmental protections;

Section 4. That the Clerk-Treasurer be hereby further instructed to transmit and forward this resolution to Indiana's United States Senators and the Representative in the United States House of Representative from Indiana's First Congressional District, and such persons as may be deemed to have an interest in this matter and to encourage those persons to evidence their strong desire to see the objects and purposes of this "*Sense of the Council Resolution*" achieved.

Councilwoman Biancardi seconded the motion. Councilwoman Biancardi – Aye, Councilman Bozak – Aye, Councilman Hull – Aye, Councilman Poparad – Aye, Councilman Rogala – Absent. **Resolution 2016-18 passed and was adopted.**

Resolution 2016-19 General Maintenance Department funds transfer:

Councilman Bozak made a motion that the Town adopts **Resolution 2016-19**

BE IT HEREBY RESOLVED BY THE TOWN COUNCIL of the TOWN OF BURNS HARBOR, PORTER COUNTY, INDIANA that the following transfer of funds be made within the General Maintenance Department's 2016 budget:

\$ 1,000.00 from Oil, 3-222
into Other Equipment, 3-444.

Councilwoman Biancardi seconded the motion. Councilwoman Biancardi – Aye, Councilman Bozak – Aye, Councilman Hull – Aye, Councilman Poparad – Aye, Councilman Rogala – Absent. **Resolution 2016-19 passed and was adopted.**

New Business:

Redevelopment Commission extension of public gathering permit:

Councilwoman Biancardi informed those present there was no need for an extension. Saturday will be the last date of the season.

Burns Harbor license plates at town picnic:

Councilwoman Biancardi made a motion that the Town donates three (3) town license plates as prizes at the town picnic. Councilman Bozak seconded the motion. Councilwoman Biancardi – Aye, Councilman Bozak – Aye, Councilman Hull – Aye, Councilman Poparad – Aye, Councilman Rogala – Absent. **Motion passed.**

Appointment to NIRPC and DEDC:

Councilwoman Biancardi made a motion that Eric Hull be the Town's appointment to Northwestern Indiana Regional Planning Commission (NIRPC). Councilman Bozak seconded the motion. Councilwoman Biancardi – Aye, Councilman Bozak – Aye, Councilman Hull – Aye, Councilman Poparad – Aye, Councilman Rogala – Absent. **Motion passed.**

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Councilman Bozak made a motion that Raymond Poparad be the Town's appointment to Duneland Economic Development Company (DEDC). Councilman Hull seconded the motion. Councilwoman Biancardi – Aye, Councilman Bozak – Aye, Councilman Hull – Aye, Councilman Poparad – Aye, Councilman Rogala – Absent. **Motion passed.**

Department Head appointment:

Councilwoman Biancardi made a motion that the Town appoints Pat Melton as Street Department Superintendent for the remainder of 2016. Councilman Hull seconded the motion. Councilwoman Biancardi – Aye, Councilman Bozak – Aye, Councilman Hull – Aye, Councilman Poparad – Aye, Councilman Rogala – Absent. **Motion passed.**

Hire building, street and police department employees:

After discussion, Council consensus was to advertise for full-time police officer, full-time street department laborer and thirty (30) hour a week building commissioner/code enforcement officer; applications to be accepted through October 3rd. Executive meeting for interviews will be held on October 20th at 7:00 p.m.

Approval to Pay Vouchers:

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

Approval of Financial Report:

Councilman Bozak moved to approve the August 2016 financial report. Councilwoman Biancardi seconded the motion. Councilwoman Biancardi – Aye, Councilman Bozak – Aye, Councilman Hull – Aye, Councilman Poparad – Aye, Councilman Rogala – Absent. **Motion passed.**

Old Business:

Rotary Membership:

After discussion, Councilwoman Biancardi will follow up on the Town's membership status.

Good of the Order of the Community:

Building Commissioner Arney informed the Council that property owners on Tech Drive would like the town to accept ownership of their road. Burns Harbor resident Brad Enslin of Sherman Way stated even if the road is brought up to town standards, which evidently is a Band-Aid, I think you are going to put a lot of money into that one half mile stretch of road forever. After discussion, the Council consensus was to ask the property owners to come before the Council to discuss the matter.

Burns Harbor resident Chuck Tuter of Chippewa Trail thanked the Council for supporting the park's new playground equipment. Councilman Poparad requested that old equipment be removed and scrapped as soon as possible.

Burns Harbor resident of Paulene Poparad of State Road 149 stated that the Town sets a terrible precedent to approve on contingency of paperwork being completed at a later date.

Building Commission Arney informed the Council that BP is servicing and inspecting their pipeline on Westport and Haglund roads which they hope to be complete soon.

Town Marshal Heckmen informed the Council he will be out of the office Thursday and Friday.

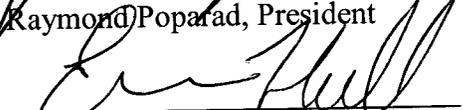
Councilman Hull made a motion that we adjourn. Councilwoman Biancardi seconded the motion. Councilwoman Biancardi – Aye, Councilman Bozak – Aye, Councilman Hull – Aye, Councilman Poparad – Aye, Councilman Rogala – Absent. **Motion passed.**

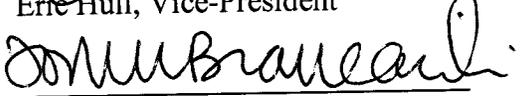
There being no further business to discuss, the meeting concluded at 8:15 p.m.

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TOWN COUNCIL OF THE
TOWN OF BURNS HARBOR


Raymond Poparad, President


Eric Hull, Vice-President


Toni Biancardi


Andrew Bozak


Marcus Rogala

ATTEST:


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