

Burns Harbor Town Council  
**Rescheduled** Regular Meeting  
June 5, 2019

The Town Council of the Town of Burns Harbor, Porter County, Indiana met in its rescheduled session on Wednesday, June 5, 2019 in the Town Hall. The meeting was called to order by Council Vice President Eric Hull at 7:00 p.m.

The Pledge of Allegiance to the American Flag was recited.

**Roll Call:** Toni Biancardi ----- Present  
Eric Hull ----- Present  
Nicholas Loving ----- Absent  
Raymond Poparad ---- Present  
Kevin Tracy ----- Present

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

**Additional Officials Present:** Attorney Clay Patton, Town Marshal Mike Heckman, Street Superintendent Pat Melton, and Fire Chief/Sanitation Superintendent William Arney, Building Commissioner Robert Wesley and Park Board Member Kylane Tumblin.

**Also Present:** Lily Rex of the Chesterton Tribune

**Firefighter rank recognition:**

Fire Chief Arney announced and promoted Burns Harbor volunteer firefighter Matthew Wesley to Engineer.

**Approval of Minutes:**

Councilwoman Biancardi made a motion to approve May 8, 2019 meeting minutes. Councilman Tracy seconded the motion. Councilwoman Biancardi – Aye, Councilman Hull – Aye, Councilman Loving – Absent, Councilman Poparad – Aye, Councilman Tracy – Aye. **Motion passed.**

**Reports:**

Clerk-Treasurer Jordan reminded the Council she would be attending State Board of Accounts School in Fort Wayne next week. The June Property taxes have been approved by the State. The distribution of those taxes will arrive Friday, June 7<sup>th</sup>.

Building Commissioner Wesley reported the office has been busy and went over his report.

Street Superintendent Melton reported there is a new yard waste site on U.S. 12 where County residents can drop off brush and leaves but, grass clippings will not be accepted. Residents can get free mulch and compost there.

Town Marshall Heckman, arriving later in the meeting, indicated he will need to upgrade the radio tower at an estimated cost of \$2,000 to \$3,000 which he has in his budget.

Fire Chief Arney informed the Council the Fire Department is having a Public Safety Open House for the residents on June 9<sup>th</sup> from 1:00 p.m. to 5:00 p.m.

Sanitation Superintendent Arney informed the department has begun the re-lining of lift station number two.

Park Board Member Kylane Tumblin informed the Council the Annual Fishing Derby will be Saturday, June 9<sup>th</sup>, Movie Night is June 14<sup>th</sup> and the 5K Footloose is on June 22<sup>nd</sup>. The Park Board requested the streets be swept before the run and reminded everyone of the street closers during the race.

Redevelopment Commission President Hull reminded everyone the next Food Truck Square evening is Wednesday, June 12<sup>th</sup>.

Shared Ethics Advisory Commission Representative Sarah Oudman informed the Council that the Ethics annual report has been distributed. The employee survey has closed and results will be available later this year. The candidates' pledge will be mailed out again this fall and ask that candidates sign it even if they signed it in the spring. Department head training will be provided this fall.

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The following purchase orders were presented for discussion: purchase orders #2670, 2671, 2688, 2689, 2690 & 2691.

**Correspondence:**

IDEM – Approval MSOP Administrative Amendment for Sun Cosmetics LLC, Valparaiso  
IDEM – Notice of public comment Part 70 Operating Permit for MonoSol, LLC in Porter County  
IDEM – Approval FESOP Renewal/Sig NSR for Walsh & Kelly Inc. Valparaiso  
IDEM – Approval MSOP Renewal for Leggett & Platt, Inc. Kouts  
Redevelopment Commission – No excess assessed value in its Tax Allocation Areas for 2019 pay 2020  
Family 4<sup>th</sup> Fest Planning Committee – Donation request  
Duneland Chamber of Commerce – Donation request

Councilwoman Biancardi made a motion that the Town donates \$300.00 to the Family 4<sup>th</sup> Fest. Councilman Poparad seconded the motion. Councilwoman Biancardi – Aye, Councilman Hull – Aye, Councilman Loving – Absent, Councilman Poparad – Aye, Councilman Tracy – Aye. **Motion passed.**

Councilman Poparad made a motion that the Town donates \$2,500.00 plus a Police and Fire Department in kind donation to the Duneland Chamber of Commerce for the lakeshore fireworks display. Councilman Tracy seconded the motion. Councilwoman Biancardi – Aye, Councilman Hull – Aye, Councilman Loving – Absent, Councilman Poparad – Aye, Councilman Tracy – Aye. **Motion passed.**

**Presentations, Resolutions, Ordinances and Remonstrance:**

**Ordinance 289-2019 Amending Vendor Fees for Food Truck, Farmers and Other Merchant Booths:**

Councilwoman Biancardi made a motion that the Town adopts **Ordinance 289-2019 An Ordinance of the Burns Harbor Town Council Amending Vendor Fees for Food Trucks, Farmers and Other Merchant Booths**

**WHEREAS**, the Burns Harbor Redevelopment Commission has established a Food Truck Square to create a gathering location, offer a source of income, draw residents and visitors to the Town of Burns Harbor and otherwise help lay the foundation for a community area for the Town of Burns Harbor, Indiana;

**WHEREAS**, local food trucks, farmers and other local merchants sell food, beverages, fruits, vegetables and other merchandise at the Food Truck Square.

**WHEREAS**, the Town Council seeks to amend the fees and charges to be used to replenish the Redevelopment Commission Operating Fund to assist in paying for the necessary utilities and expenses associated with operating said activities at the Food Truck Square;

**WHEREAS**, Indiana Code § 36-1-3-8 allows for the establishment of user fees that do not exceed reasonable and just rates and charges;

**WHEREAS**, Indiana Code § 36-1-4-16 provides authority for the Town of Burns Harbor to ratify any action allows of the unit or its officers or employees if that action could have been approved in advance;

**WHEREAS**, Chapter 7 of the Burns Harbor Town Code establishes regulations for Vendors, Hawkers, Peddlers and Solicitors; and

**NOW THEREFORE**, be it and it is hereby ordained by the Burns Harbor Town Council that Chapter 7 of the Town Code of the Town of Burns Harbor shall be amended as follows:

**Section 7-9**

The Town of Burns Harbor establishes the following vendor fee for each Food Truck Square vendor for the 2019 Food Truck Square season and future seasons;

- A. Merchant Booth (includes Farmer and Food Truck) \$15.00 per day
- B. Tent rental \$10.00 per day
- C. Electricity usage \$5.00 per day

This Ordinance shall be in full force and effect from and after its passage, approval, recording and publication as provided by law.

Councilman Tracy seconded the motion. Councilwoman Biancardi – Aye, Councilman Hull – Aye, Councilman Loving – Absent, Councilman Poparad – Aye, Councilman Tracy – Aye. **Ordinance 289-2019 passed on its first reading.**

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Councilman Tracy made a motion that the Town declares an emergency and suspends the rules of adopting an ordinance in two separate meetings. Councilwoman Biancardi seconded the motion. Councilwoman Biancardi – Aye, Councilman Hull – Aye, Councilman Loving – Absent, Councilman Poparad – Aye, Councilman Tracy – Aye.  
**Motion passed.**

Councilwoman Biancardi made a motion that the Town adopts **Ordinance 289-2019 An Ordinance of the Burns Harbor Town Council Amending Vendor Fees for Food Trucks, Farmers and Other Merchant Booths** on its second reading. Councilman Tracy seconded the motion. Councilwoman Biancardi – Aye, Councilman Hull – Aye, Councilman Loving – Absent, Councilman Poparad – Aye, Councilman Tracy – Aye. **Ordinance 289-2019 passed and was adopted.**

**Resolution 2019-09 Authorizing Credit Card Use:**

Councilman Poparad made a motion that the Town adopts **Resolution 2019-09 A Resolution of the Town Council of the Town of Burns Harbor, Indiana Authorizing Credit Card Use**

**WHEREAS**, the Town of Burns Harbor, Porter County, Indiana, Town Council deems it useful and expedient for the Town to obtain a Town credit card to be used for municipal travel expenses and other Town related expenses; and

**NOW, THEREFORE, BE IT RESOLVED** by the Burns Harbor Town Council as follows:

The Clerk-Treasurer is authorized to obtain Town credit cards to be used for Town related expenses.

Credit card use is authorized for Town business only. No personal expenses are authorized nor are any uses not specifically relating to Town business.

The credit card user must take measures to assure that sales tax is not added to any purchase or charged to the Town's credit card other than those allowable by the State Board of Accounts. If sales taxes are billed to the Town on the credit card statement, the user will be required to pay for those taxes.

The credit card user is responsible for turning in the itemized receipts of all credit card purchases to the Clerk-Treasurer within the billing cycle. Any charges that appear on the credit card statement that do not have a corresponding itemized receipt will be paid by the credit card user. Any late fees that might be assessed to the Town card due to untimely payment for lack of an itemized receipt will be the responsibility of the credit card user.

The Clerk-Treasurer's office shall maintain possession of all Town credit cards. Each Town employee will be required to sign the card in and out on the credit card log. All credit cards issued shall be returned to the Clerk-Treasurer's office when the purpose of the use of the credit card has been accomplished.

Credit card purchases that exceed \$500.00 will require a purchase order as stated in the Town's purchase order resolution.

The Clerk-Treasurer shall be notified immediately if a credit card is lost or stolen. If a credit card is lost due to negligence on the part of the town employee, the employee shall be responsible for any and all fraudulent expenses incurred on the lost credit card.

Any misuse of the Town credit card is subject to loss of credit card privileges and possible disciplinary action by the Town Council.

Councilwoman Biancardi seconded the motion. Councilwoman Biancardi – Aye, Councilman Hull – Aye, Councilman Loving – Absent, Councilman Poparad – Aye, Councilman Tracy – Aye. **Resolution 2019-09 passed and was adopted.**

**Resolution 2019-10 Sale of Fire Truck and Equipment to Railroad Township (Starke County):**

Councilwoman Biancardi made a motion that the Town adopts **Resolution 2019-10 A Resolution of the Town Council of the Town of Burns Harbor Authorizing the Sale of a Fire Truck and Equipment to Railroad Township (Starke County) Pursuant to Indiana Code 36-1-11-8**

**WHEREAS**, the Town of Burns Harbor is the owner of a Red 1996 International Chassis 5 man cab fire truck with a Vehicle Identification Number of 1HTSDADR7TH335938, a Darley apparatus with Serial Number TH335938 and a Darley pump with a 1,500 gallon per minute capacity (hereinafter collectively referred to as "Property"); and

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**WHEREAS**, Indiana Code 36-1-11-8 authorizes a political subdivision to transfer property to a governmental entity upon such terms and conditions agreed upon by the governmental entities; and

**WHEREAS**, the Town of Burns Harbor is interested in selling the Property and Railroad Township (Starke County) is interested in purchasing the Property for the amount of \$1.00; and

**WHEREAS**, the Burns Harbor Town Council has considered the matter and has determined that it is in the best interests of the Town of Burns Harbor to accept the terms and conditions set forth herein;

**NOW, THEREFORE, BE IT RESOLVED** by the Burns Harbor Town Council as follows:

1. The Burns Harbor Town Council hereby finds that the sale of the Property is in the best interests of the Town of Burns Harbor and shall be accepted, subject to the passage of a Resolution by the Railroad Township (Starke County) accepting the same.

2. The Burns Harbor Town Council hereby authorizes and appoints the President of the Town Council to take such steps as may be necessary to close the transaction, including the signing of any and all documents as may be necessary.

3. That Railroad Township (Starke County) will accept the Property “as is” and will take delivery of the Property in Burns Harbor, Indiana. The “as is” acceptance by Railroad Township (Starke County) also means that there are no warranties, express or implied, regarding the Property. Further, that Railroad Township (Starke County) will hold harmless and indemnify the Town of Burns Harbor from any and all liabilities, damages, losses, or destruction, and against all losses, liabilities, damages, injuries, claims, demands, costs and expenses of every kind and nature, including, but not limited to, third-party injuries and all other claims, arising from Railroad Township’s (Starke County) ownership, use, or operation of the Property.

Councilman Tracy seconded the motion. Councilwoman Biancardi – Aye, Councilman Hull – Aye, Councilman Loving – Absent, Councilman Poparad – Aye, Councilman Tracy – Aye. **Resolution 2019-10 passed and was adopted.**

Councilman Poparad made a motion to decommission the 1996 International Chassis 5 man cab fire truck with a Vehicle Identification Number of 1HTSDADR7TH335938, a Darley apparatus with Serial Number TH335938 and a Darley pump with a 1,500 gallon per minute capacity (hereinafter collectively referred to as “Property”) once the Resolution is returned from Railroad Township, the paperwork is in order and the Property is removed from the Town premises. Councilman Tracy seconded the motion. Councilwoman Biancardi – Aye, Councilman Hull – Aye, Councilman Loving – Absent, Councilman Poparad – Aye, Councilman Tracy – Aye. **Motion passed.**

**Resolution 2019-11 2019 Salary and Wage Amendment:**

Councilman Poparad made a motion that the Town adopts **Resolution 2019-11 2019 Salary and Wage Amendment** as submitted. Councilwoman Biancardi seconded the motion. Councilman Hull stated amending the salary ordinance doesn’t mean you are doing anything with it. You just have room inside it to. Councilwoman Biancardi – Nay, Councilman Hull – Nay, Councilman Loving – Absent, Councilman Poparad – Aye, Councilman Tracy – Nay. **Resolution 2019-11 failed.**

**Resolution 2019-12 Fire Department Appropriations Transfer:**

Councilwoman Biancardi made a motion that the Town adopts **Resolution 2019-12 Town of Burns Harbor Appropriations Transfer**

**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 2019 budget:

- \$ 3,500.00 from Travel Expense, 4-131
- \$ 4,000.00 from Instruction, 4-311
- \$ 7,175.00 from Insurance, 4-342
- \$ 2,500.00 from Equipment Repairs, 4-362
- \$ 6,000.00 from Miscellaneous Services, Physicals, 4-392.1
  - \$ 2,500.00 into Building Materials, 4-231
  - \$ 175.00 into Freight, 4-321
  - \$ 1,000.00 into Uniforms, 4-244
  - \$ 11,000.00 into Furniture & Fixtures, 4-441
  - \$ 8,500.00 into Other Equipment, 4-444.

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Councilman Tracy seconded the motion. Councilwoman Biancardi – Aye, Councilman Hull – Aye, Councilman Loving – Absent, Councilman Poparad – Aye, Councilman Tracy – Aye. **Resolution 2019-12 passed and was adopted.**

**Resolution 2019-13 Building Department Appropriations Transfer:**

Councilwoman Biancardi made a motion that the Town adopts **Resolution 2019-13** 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 Building Department's 2019 budget:

\$ 1,500.00 from Building Commissioner Wages, 5-111  
into Miscellaneous Services, 5-392.

Councilman Tracy seconded the motion. Councilwoman Biancardi – Aye, Councilman Hull – Aye, Councilman Loving – Absent, Councilman Poparad – Aye, Councilman Tracy – Aye. **Resolution 2019-13 passed and was adopted.**

**New Business:**

**Staff anniversary recognition:**

Council recognized the following employees' years of service that have June anniversary dates: Michael Heckman 12 years and William Arney 11 years.

**Park cash change drawer for Footloose 5K:**

Councilwoman Biancardi made a motion to approve a three hundred dollar (\$300.00) cash change draw for the Park Department's 5K Footloose Race which, will be returned following the event. Councilman Tracy seconded the motion. Councilwoman Biancardi – Aye, Councilman Hull – Aye, Councilman Loving – Absent, Councilman Poparad – Aye. Councilman Tracy – Aye. **Motion passed.**

**BP Permitted Facilities Agreement:**

Councilwoman Biancardi explained this is an agreement with BP which would allow the Town to develop the Westport property over the pipeline. At the January Redevelopment Commission Attorney Patton and Engineer Jeff Oltmanns agreed that everything was in order. The documents need to be signed and returned to BP.

Councilwoman Biancardi made a motion that the Town accepts the BP Facilities Agreement and authorizes Council President Loving to sign said agreement. Councilman Poparad seconded the motion. Councilwoman Biancardi – Aye, Councilman Hull – Aye, Councilman Loving – Absent, Councilman Poparad – Aye. Councilman Tracy – Aye. **Motion passed.**

**Trail Creek PUD:**

Councilman Hull informed the Council that this ordinance comes to the Council with a favorable recommendation from the Planning Commission for the next phase of Trail Creek subdivision, which is made up of four (4) lots.

Councilwoman Biancardi informed the Council that this plat is unique because there is a lot of wetland on the property. The Town's PUD process lends itself well to this particular development; allowing some relief from different requirements considering those difficulties they might have on the property. The Subdivision went through the same process as other subdivisions, it was reviewed by all of the departments and a public hearing was held.

Attorney Patton stated I would note that within this document that the petitioner is signing a written private road and drainage commitment as referenced in Section 14 d of the Ordinance. There is a separate document that will be signed, notarized and recorded.

Councilwoman Biancardi made a motion that the Town adopts **Ordinance 290-2019 An Ordinance of the Town of Burns Harbor, Porter County, Indiana Establishing the Trail Creek Phase II Planned Unit Development District**

**WHEREAS**, a public hearing has been held as required by law and the Plan Commission has recommended the adoption of a PUD District Ordinance for certain land located within the corporate boundaries of the Town of Burns Harbor and

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**WHEREAS**, the Town of Burns Harbor Plan Commission has paid reasonable regard to the factors set forth in Indiana Code and Town Code for the adoption of planned unit development districts and has recommended the adoption of the Trail Creek Phase II Planned Unit Development Ordinance for certain land located within the corporate boundaries of the Town of Burns Harbor; and

**WHEREAS**, the Burns Harbor Town Council concurs in the recommendation of the Plan Commission.

**NOW THEREFORE, BE IT AND IT IS HEREBY ORDAINED** by the Burns Harbor Town Council as follows:

**SECTION 1.** That a PUD District is approved for the following described real estate, to-wit:

**See attached Exhibit A**

which real estate is generally located south of Trail Creek Phase 1 and west of Babcock Road.

**SECTION 2.** That the name and address of the petitioner for this PUD District Ordinance is:

Trail Creek, LLC  
61 Indiana Avenue  
Valparaiso, IN 46383

**SECTION 3.** That the attached **Exhibit “B”** is the recorded document showing the petitioner’s ownership interest in this parcel, which document is in the form of a secondary plat reserving ownership of Outlot A in Trail Creek, LLC.

**SECTION 4.** That Chapter 14 and 15 of the Town of Burns Harbor Town Code, along with the Burns Harbor Town Standards, latest edition, shall apply to the development of this property, except for the following variances to same:

a. Development standard variances: There are no development standard variances being requested.

b. Use variances: There are no use variances from the uses available in the R Residential zoning district being requested.

c. Variances from the Town of Burns Harbor Subdivision Control Ordinance:

(1) A variance from Section 14-4-1(c.1) to permit lots that do not abut a public street, as the lots will abut a private street to be maintained by the property owners’ association. Lots 1 and 2 shall have 25 feet of frontage on the private road. Lot 3 shall have 50 feet of frontage on the private road. Lot 4 will not have frontage on the private road but will be provided an ingress/egress easement.

(2) A variance from Section 14-4-1(c.5) to exceed the maximum depth to width ratio for Lots 1 and 2. Where the ordinance requires a maximum of 3 to 1 depth to width ratio, Lots 1 and 2 shall be 4.4 to 1 and 4.3 to 1, respectively.

(3) In lieu of the dedication of land for public open space or park land use, the petitioner will make a cash contribution to the Town’s Park Department.

d. Variances to Burns Harbor Town Standards: The only variance to the Burns Harbor Town Standards will be to eliminate the requirement of sidewalks along the private road. As shown on the PUD drawing, the existing sidewalk from Trail Creek Phase I will terminate where the private road begins.

**SECTION 5.** That all uses and the area in acres of each use in this PUD District are as follows:

Residential: 9.4 acres. All property located within the planned unit development shall be used for single-family dwelling units and related uses.

**SECTION 6.** That the total number of residential units in this District is **four (4)** and the percent of each type of each residential use is: 100% for residential use.

**SECTION 7.** That the delineation of each business and/or industrial use and total are in acres of each business and/or industrial use is as follows: There will be no business and/or industrial uses.

**SECTION 8.** The development will occur in not more than two phases.

**SECTION 9.** That the detailed description of location and proposed use for all proposed open and/or recreation space is as follows: The open space set aside by the development will be located adjacent to Gustafson Ditch and identified on the plat as “Outlot A”. The open space shall be owned and maintained by the Trail Creek Property Owners Association, as detailed in Section 11 of this Ordinance.

**SECTION 10.** That the general description of community services available to this PUD District’s residents, including schools, fire protection, parks, and all public/private utilities, is as follows:

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- a. The development shall be served by the Burns Harbor sanitary sewer system.
- b. The development shall utilize Indiana American Water Company for potable water.
- c. Fire and police protection shall be provided by the Town of Burns Harbor Fire Department and the Burns Harbor Police Department.
- d. The development shall be a part of the Duneland School Corporation, and families residing in the development shall specifically attend Yost Elementary School, Westchester Intermediate School, Chesterton Middle School and Chesterton High School.

**SECTION 11.** The common open space located with the planned unit development shall be owned and maintained by the Trail Creek Property Owners Association.

**SECTION 12.** This PUD District shall be constructed upon approval of this Ordinance and is anticipated to be completed not more than one (1) year after approval.

**SECTION 13.** That the objectives of PUD Districts as set forth in Section 14-3.5-2 of the Burns Harbor Town Code including a specific written submission addressing plans in Section 14-3.5-2 of the Burns Harbor Town Code having to do with the preservation of natural topographical and geological features and the land, is as follows. The proposed development meets a need for housing development in the Town of Burns Harbor by creating lots in excess of one and a half acres in size, placed within a wooded setting, all the while maintaining preserved wetland areas. The dwelling units contained within this PUD District will all be single-family dwellings, subject to the architectural control of the Trail Creek Property Owners' Association, and will be not less than the minimum square footage required by the covenants. Based on the size and location of the lots, the petitioner anticipates that the houses constructed within the PUD District shall be of comparable and even larger size than those constructed within the Trail Creek Phase I subdivision. The development will be served by a private road, constructed and maintained at no cost to the Town. The petitioner shall enter into a private road agreement with the Town, providing enforcement rights, but not obligations, in the Town to enforce standards of construction and maintenance of the private road.

**SECTION 14.** That the reasonable conditions or written commitments concerning the use and development of the land contained in this PUD District are as follows:

- a. There will be shared utility and access easements identified on the plat of development which will be binding upon all property owners within the Planned Unit Development District.
- b. The petitioner shall be required to obtain all appropriate permits from applicable authorities before any wetlands identified within the development are disturbed.
- c. The petitioner shall be responsible for the installation of all public improvements located within the planned unit development, including all sanitary and storm sewers, any public sidewalks and/or roads, and all utilities.
- d. There shall be a private road located within the planned unit development which shall be the responsibility of the petitioner to install and which shall be subject to a Written Private Road Commitment entered by and between the petitioner and the Town.
- e. All open spaces located within the development, except as set forth in Section 14.f shall be owned and maintained by the Trail Creek Property Owners Association and subject to covenants and restrictions adopted and recorded for said association.
- f. Outlot B shown on the plan of development shall be sold and deeded to an adjacent property owner in the Trail Creek Phase I subdivision not later than six months after the recording of the secondary plat. If this is not accomplished, Outlot B shall be deeded to the owner of Lot 20 in Phase I.

**SECTION 15.** That the drawing portion of the PUD District Ordinance showing the plan of development for this parcel, as required by Section 14-3.5-11(B) of Burns Harbor Town Code, is attached hereto, incorporated herein, and marked as **Exhibit "C"**.

**SECTION 16.** That any violation of this PUD District Ordinance shall constitute a violation of the Town Code punishable by a fine from \$1.00 to \$2,500 per violation for each day said violation exists in accordance with the general penalty provisions found in Section 1-9 of the Burns Harbor Town Code.

**SECTION 17.** That this Ordinance shall be in full force and effect from and after its adoption and publication as required by law.

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Councilman Tracy seconded the motion. Councilwoman Biancardi – Aye, Councilman Hull – Aye, Councilman Loving – Absent, Councilman Poparad – Aye, Councilman Tracy – Aye. **Ordinance 290-2019 passed on its first reading.**

Councilman Tracy made a motion that the Town declares an emergency and suspends the rules of adopting an ordinance in two separate meetings. Councilwoman Biancardi seconded the motion. Councilwoman Biancardi – Aye, Councilman Hull – Aye, Councilman Loving – Absent, Councilman Poparad – Aye, Councilman Tracy – Aye.  
**Motion passed.**

Councilman Poparad made a motion that the Town adopts **Ordinance 290-2019 An Ordinance of the Town of Burns Harbor, Porter County, Indiana Establishing the Trail Creek Phase II Planned Unit Development District** on its second reading. Councilman Tracy seconded the motion. Councilman Hull stated I did want to note that we received the Phase 1 engineering reimbursement. Councilwoman Biancardi – Aye, Councilman Hull – Aye, Councilman Loving – Absent, Councilman Poparad – Aye, Councilman Tracy – Aye. **Ordinance 290-2019 passed and was adopted.**

**Approval to Pay Vouchers:**

Councilwoman Biancardi moved to approve all vouchers with three or more signatures. Councilman Tracy seconded the motion. Councilwoman Biancardi stated I like the new vendors at the front (of the claims vouchers). We did not have the W9 for Nowak Supply Company yet. Clerk-Treasurer Jordan stated I have requested that but sometimes it takes a few days for them to respond. Councilwoman Biancardi – Aye, Councilman Hull – Aye, Councilman Loving – Absent, Councilman Poparad – Aye, Councilman Tracy – Aye.  
**Motion passed.**

**Approval of Financial Report:**

Councilman Poparad made a motion to approve the May 2019 financial report. Councilwoman Biancardi seconded the motion. Councilwoman Biancardi – Aye, Councilman Hull – Aye, Councilman Loving – Absent, Councilman Poparad – Aye, Councilman Tracy – Aye. **Motion passed.**

**Old Business:**

**ADA Plan review:**

Councilwoman Biancardi informed the Council that the policy may not have been officially adopted by the Town. The first step would be a self-assessment. She will be working on the assessment and will let the Clerk-Treasurer know when it is ready to be placed back on the agenda.

**Title VI Plan and public involvement survey:**

Councilwoman Biancardi informed the Council that at every meeting a volunteer public involvement survey, that anyone can complete, be made available as part of the Title VI Plan. As the Coordinator, she is looking into INDOT Title VI training. There are other deadlines that the Town needs to meet and Corinne Peffers is graciously helping with those.

**State grant paving project status:**

Street Superintendent Melton informed the Council that Walsh & Kelly is schedule to begin Friday, June 7<sup>th</sup> at Rainbow Drive, weather permitting.

Attorney Patton stated that on state highways, the Indiana Department of Transportation shall maintain the roadways of the street, including the curbs and gutters, catch basins, and inlets within the limits of the street or highway that form integral parts of the street or highway. The city or town shall maintain the sidewalks, grass plats, and the connecting drainage facilities, Indiana Code 8-23-6-3(d). Councilman Poparad asked does that tell us that the homeowners are responsible or not. Attorney Patton said the State is responsible for the curbs, gutters, catch basins, and inlets within the street or highway. If they are not taking care of it, then. Councilman Hull asked what is the limit of the street. Is that their right-of-way, ten feet off the edge of the road? Attorney Patton stated I would suggest that we reach out to local sub-district of INDOT. Street Superintendent Melton said they are the ones that sent us that code you just read. They said the culverts under the driveways are the home owners' responsibility. Typically the State does the roads that are



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connecting, such as Salt Creek. After further discussion, Councilman Poparad stated let's wait until they (INDOT) get the ditches dug and we will go from there.

Clerk-Treasurer Jordan reminded the Council that the next round of Community Crossing Grant applications is due in August. Corinne Peffers and she are attending an INDOT meeting later this month and she will confirm the call dates once they attend the meeting. Councilman Poparad asked if the match is still seventy-five/twenty-five. Clerk-Treasurer Jordan informed she had not heard any change to the law but will let the Council know what she finds out at the meeting.

**Other Business:**

Councilman Hull informed the Council that he received an email requesting mosquito fogging. Councilman Poparad commented that it was discussed at a previous meeting and decided it was ineffective and the Town would not be fogging this year.

Councilman Poparad informed Street Superintendent Melton that the Redevelopment Commission, at their meeting, has assigned Brad Enslin to work with the Superintendent to take a way-finding sign inventory so the Board can develop a replacement plan.

Councilman Poparad asked the payment status of Lawn Builder's invoice. After discussion, Councilman Poparad made a motion that the invoice be paid. Councilman Tracy seconded the motion. Councilwoman Biancardi said I would be looking for legal counsel's advice. Attorney Patton stated I am still curious, did this individual work for the Town on Friday, December 7<sup>th</sup> and was he paid? Street Superintendent Melton stated I am sure he was but what does that have to do with it? It was for his tractor. Councilman Hull stated I look at this a both ways. I understand what Kevin (Councilman Tracy) is saying, I went and got the sod and used the tractor here is the invoice for it. It doesn't read right. Oh, let me fix that and get it so it reads right. Here is your corrected one. I see how mistakes happen. I see how stuff goes on. If it would have been submitted this way to start with, we wouldn't be on this discussion, correct? Attorney Patton stated so based on the second invoice, what I'm understanding is that we could have a town employee do work with their own equipment and we pay that town employee extra to rent their equipment? Councilman Poparad stated we pay the hourly rent, yes. Attorney Patton stated hourly rent of the equipment, not the individual's labor? Councilman Poparad stated right. Councilman Hull stated this one says for rental of tractor and sod and for work done. So, it's for materials and equipment. Street Superintendent Melton stated he probably used his tractor for two weeks out here. I had it a week down here on Boo Road. Attorney Patton stated Pat, don't get me wrong, I am not disputing he did the work. Was that his expense for the sod? Councilman Poparad stated it went through his company, yes. Attorney Patton stated why didn't the town buy the sod? Councilman Poparad stated probably because we don't have an account with the sod company. Street Superintendent Melton stated it came from a company in Illinois. Attorney Patton stated if you want to pay the second invoice, Jane (Clerk-Treasurer Jordan) I don't know if you have issues or may have issues through State Board of Accounts. That is my big concern and Jane's too, is State Board of Accounts. Clerk-Treasurer Jordan stated we have officers who work grant hours, to compare a similar concept, and they work for us. At our last audit when the auditor was looking at pay claims for these officers, it appeared as if they were being paid to work the grant hours potentially at the same time they were working for the town and getting a second wage. It was not the case, it's just that there wasn't clarity with what time they were working grant various working regularly scheduled hours. State Board has asked us going forward to be very clear on the time they work for grants and the time they work their scheduled shift for the town. They cannot be paid to do the same thing at the same time. I feel this is a similar situation and does not look up to snuff for State Board of Accounts. Attorney Patton stated we are talking about six hundred and sixty five dollars. I acknowledge it is not a great deal of money. Clerk-Treasurer Jordan stated neither were the grant hours. Attorney Patton stated the process of how this went through, however it happened, is very poor. Councilman Tracy stated I think we all acknowledge that. Now, the question is what do we do moving forward to resolve this issue because, he did lend us equipment that we rented with the idea that we would pay for it. Our hands are kind of tied because we are damned if we do and we are damned if we don't. Attorney Patton stated do we have any communications from him withdrawing the first invoice? All I see are two invoices but, it doesn't say on the second invoice disregard the first one and they are both dated the same day. So, if the newspaper makes a public records request, saying show me all the invoices you received, and just looking at it on its face, it looks like you got

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two invoices, one for the labor and one for the rental of the equipment and the sod. I take that back, the first invoice was for the grade work and the sod. The second invoice was for the rental of the equipment and the sod. Councilwoman Biancardi stated so are you saying that if he were to write on the first one disregard. Attorney Patton stated or some sort of written communication to disregard, so I guess we are calling the first invoice that included labor. Councilman Hull stated just pulling up online real quick, for a Kubota 3301D tractor from Effingham, Illinois, is four hundred and fifty dollars a week. The price for using that is not out of line if we would have gone down to Hertz and rented one. Nothing there is out of line. I don't know what sod costs. Councilwoman Biancardi stated so, if you are comfortable with the second invoice if he withdraws the first. Attorney Patton stated I am not comfortable with you paying the first invoice because you are paying for labor to an individual when he was already paid as a town employee. Councilwoman Biancardi stated so, if he withdraws the first invoice that would need to happen before we move to pay at a public meeting. Attorney Patton stated not necessarily. You can move to pay the second invoice subject to the first invoice for labor being withdrawn. Councilman Tracy stated do you want to amend your motion. Councilman Poparad stated yes, I'll replace that. Councilman Tracy stated I will second the amended motion. Councilwoman Biancardi stated I think going forward, if we rent something or do something in that manner that at the very least the liaison knows in advance. I feel that could have been a mistake on that invoice and we probably know now. I think for anyone going forward. Attorney Patton stated the first invoice would not, I don't think, had been an issue but for the fact it's a town employee. Maybe there needs to be some higher scrutiny paid. Councilman Poparad stated well from here on out then we will just pay the higher rate for equipment rental. Attorney Patton stated I am not saying that Ray. I am saying, when it comes to doing a side agreement with a town employee, I think some stricter scrutiny needs to be paid. Councilwoman Biancardi stated and the liaison needs to know in advance. Councilman Poparad stated I was aware of it. Councilman Hull stated if anyone, an employee, a business, whoever, if the Town does business with them, they need to be compensated for whatever service they provide. That first and foremost has to happen. I am not opposed to, this is a small town, and we've grown up in those roots. You help each other out and you work with each other. If I've got something that is going to help out and be a better deal for the Town, then I want to be able to provide that as long as it's all, like she said, notify the liaison or whatever, and brought forward upfront. I think part of this is just a learning experience for everyone involved, when they are going to submit something that they know about it upfront. That it is put together and presented properly the first time. Cause if we had got this one, we wouldn't have had any of this conversation. Councilman Tracy stated just out of curiosity, should we have an invoice template, I guess, for employees who want to do this with their own LLCs to avoid this happening again in the future. Councilwoman Biancardi stated if they own a business, they should have an invoice template. The difference in this particular situation is that it is a town employee. Councilman Hull stated at the end of the day, I don't think anyone is trying to do anything wrong. Because this is a government agency, we're subject to further scrutiny than you or I would be held. Councilman Tracy stated we've learned our lesson here. Moving forward this is not going to happen again as long as anybody on this Council is still on the Council. But, at some point down the road, whether that is ten years down the road or fifty years, this lesson is going to be forgotten and it is not going to be documented anywhere but in minutes that nobody is going to read in twenty years. Attorney Patton stated if you want to consider an ordinance. Councilman Hull stated or a policy that goes in a handbook. It can be that simple. Councilwoman Biancardi – Aye, Councilman Hull – Aye, Councilman Loving – Absent, Councilman Poparad – Aye, Councilman Tracy – Aye. **Motion passed.**

Councilwoman Biancardi informed the Council that an issue pertaining to a street name change in the Village of Burns Harbor was properly executed. The road Bolinger Lane is identified as Lillian Lane on documents and in some County offices. Planning Commission has made a motion to approve the name change from Lillian Lane to Bolinger Lane. Attorney Patton informed the Council that once a street is renamed, the Council that makes the name change shall notify the Circuit Court Clerk or Board of Registration, State Wide 911 Board and the administer of the enhanced emergency telephone system established under Indiana Code, the United States Postal Service, and any person or body, the Commission or Executive deems appropriate to receive notice. The Council would need to do that not later than the last day of the month following the month in which the action was taken. Councilwoman Biancardi made a motion that the Town renames Lillian Lane to Bolinger Lane in the Village in Burns Harbor subdivision. Councilman Tracy seconded the motion. Councilwoman Biancardi – Aye, Councilman Hull – Aye,

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Councilman Loving – Absent, Councilman Poparad – Aye, Councilman Tracy – Aye.  
**Motion passed.**

**Good of the Order of the Community:**

Burns Harbor resident Ann McCauley of Riverside Drive expressed concerns pertaining to where the new pavement would end once Riverside is resurfaced. The Council directed Street Superintendent Melton to clear the foliage covering the road so the boundaries of the road are visible.

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

There being no further business to discuss, the meeting concluded at 8:20 p.m.

Approved at July 10, 2019 meeting.

TOWN COUNCIL OF THE  
TOWN OF BURNS HARBOR  
Nicholas Loving, President  
Eric Hull, Vice-President  
Toni Biancardi  
Raymond Poparad  
Kevin Tracy

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