

Burns Harbor Redevelopment Commission Minutes of January 13, 2021

The Redevelopment Commission of the Town of Burns Harbor, Porter County, Indiana met in a regular session on Wednesday, January 13, 2021 in a Microsoft Teams Virtual Meeting. The meeting was called to order by Redevelopment Commission President, Eric Hull at 6:00 p.m.

The Pledge of Allegiance to the American Flag was recited.

Roll Call:

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

Additional Officials Present

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

Commissioner Hull says I would like to welcome Mr. Tom Schnabel, the representative from the Duneland School Board. Commissioner Schnabel says, thank you, I look forward to being part of the Board. I taught in Duneland schools for 32 years and have been in the community for that long. I filled in in an interim capacity on the Board last year, then ran for election and won a four-year term. I have always appreciated the work Burns Harbor folks have done in your community. Commissioner Hull says we're glad you're here and welcome another point of view when we're looking at some of these projects that we're working on.

Reorganization

Commissioner Loving makes a motion that Eric Hull serve as President of the RDC for 2021. Commissioner Bozak seconded the motion. Commissioner Bozak-Aye, Commissioner Enslin-Aye, Commissioner Loving-Aye, Commissioner Hull-Aye. Motion passed.

Commissioner Loving makes a motion that Brad Enslin serve as Vice President of the RDC for 2021. Commissioner Bozak seconded the motion. Commissioner Enslin-Aye, Commissioner Loving-Aye, Commissioner Bozak-Aye, Commissioner Hull-Aye. Motion passed.

Commissioner Bozak makes a motion that Toni Biancardi serve as Secretary of the RDC for 2021. Commissioner Enslin seconded the motion. Commissioner Loving-Aye, Commissioner Bozak-Aye, Commissioner Enslin-Aye, Commissioner Hull-Aye. Motion passed.

Approval of Minutes

Commissioner Bozak makes a motion to approve the December 9, 2020 meeting minutes. Commissioner Loving seconded the motion. Commissioner Enslin-Aye, Commissioner Loving-Aye, Commissioner Bozak-Aye, Commissioner Hull-Aye. Motion passed.

Reports

Commissioners

None

Clerk-Treasurer

Commissioner Hull says I don't see Clerk-Treasurer Jordan logged on. I did get a chance to meet with her. She did send a copy of the reports over. So, if you've had a chance to look at them and have questions, you can take them to her. We did receive the December TIF funds that came in. I believe everything looks good on the Treasurer's report. This is nothing urgent that we need to deal with.

RDC Attorney

None

RDC Engineers

Commissioner Hull says we did get an email from Global Engineering and they had nothing to report.

RDC Consultant-Karnerblue

Rongers says I have provided a written monthly report, so you have that available. Just to highlight a few items tonight. We have project engineers for the Westport PUD as well as Marquette Greenway so they will speak shortly, so I won't not cover details there, but I'll focus on the grant highlights. The new grant opportunity that came forth just last week is the Indiana Department of Natural Resources Lake and River Enhancement grant. This is a grant that we've applied to in the past. You might recall it being called LARE. We were contacted by Dan Plath with the Indiana Dunes National Park Service. There was another stakeholder group that had applied to a regional grant to cover log jam removal in the east branch of the little Calumet River. They were not successful in that attempt, so we reconvened to see if this grant opportunity through the State would be appropriate. In our discussion, basically, we would build off the Burns Harbor application for log jam removal that we had sought in the past, but we're able now to expand the partnership to include Save the Dunes which would serve as the project applicant and administer the project should it be awarded. We would just be a project partner along with Porter County Storm Water Management, the city of Portage, the National Park Service, the Northwest Indiana Peddlers Association and Shirley Heinze. This project would cover a log Jam removal from State Road 49 to Lake Michigan. There are total of 63 log jams in the little Cal within this project area. Fifty-one of them being within the river that's in the Town boundary of Burns Harbor. The estimated total cost of the project is roughly about \$111,600. This is an 80/20 program. We are fortunate that our cash match requests being made to the Town is \$3,400. There is a combination of the city of Portage and Porter County putting cash match in along with in-kind donations through the nonprofit partners and some cash aspects by the National Park Service. So, tonight what I would need to do is just ask for authorization from the Redevelopment Commission to apply as a partner to this project and to provide a cash match of \$3,400 towards that end. And again, this is a grant application due this Friday.

Commissioner Loving makes a motion to approve the \$3,400 cash match. Commissioner Bozak seconded the motion. Commissioner Loving–Aye, Commissioner Bozak–Aye, Commissioner Enslin–Aye, Commissioner Hull–Aye. Motion passed.

Commissioner Loving says I just want it noted for the record that the overall cost of this compared to what we have to put into and just point out again the value that Rongers brings to this entire process. So, thank you Rongers very much. I appreciate it.

Clerk-Treasurer Jordan says can I get clarification on when the matching shares would be due or is it too early since we haven't been approved yet. Rongers says it's a little early but we are anticipating the grant award to be probably around June. The project starts around September. We are probably six to nine months out before that \$3,400 would need to be cut and issued to Save the Dunes. We will enter an agreement with Save the Dune just to cover that aspect of the financial transaction.

Rongers says just two quick items. If you remember in December, we had Arcelor Mittal, prior to the sale, allocating \$100,000 towards conservation work at the 60-acres. For that to happen they worked with their funding partner, the National Fish and Wildlife Foundation through Sustain the Great Lakes program to facilitate that reallocation of that \$100,000 that was unexpended in that program to be applied to the 60-acres. To do that it required amending a Shirley Heinze Land Trust agreement, a project already in process, and they did submit a proposal back to the Sustain Our Great Lakes program and they're waiting for approval on that. There will be no dollars required by Burns Harbor. We will not receive the \$100,000 directly because it will be channeled through an existing grant with Shirley Heinze and will benefit the Town with the \$100,000 conservation investment to help remove invasive species at that site.

Lastly, I just want to make a verbal correction to my monthly report. I had in the report that our Lake Michigan Coastal Program for the Marquette Greenway Corridor Plan budgeted at \$100,000 and want to correct that. It's a \$40,000 budget that's 50/50. That was a \$20,000 commitment. I will make that change in writing, but I just want to verbally note that tonight.

One thing that I have pending through legal review with Attorney Patton is the Shirley Heinze Land Trust License and Management agreement relative to the Arcelor Mittal donation for conservation. Attorney Patton says I do see that additional language in Section 3 regarding waiver of liability. Rongers says the action we can take tonight would be to approve the Shirley Heinze License and Management Agreement so that Commissioner Hull can execute that, and we can return it to Shirley Heinze. Commissioner Hull says this is a good deal. By working with Shirley Heinze it's going to alleviate quite a bit of leg work on our end.

Commissioner Bozak makes a motion to approve the Shirley Heinze License and Management Agreement. Commissioner Loving seconded the motion. Commissioner Bozak–Aye, Commissioner Enselin-Aye, Commissioner Loving–Aye, Commissioner Hull–Aye. Motion passed.

Duneland School Board Representative

None

Correspondence

Commissioner Hull says I did get a letter that came to the Town from ASC regarding some work they did for SEH when they were doing some of the background work on the Trail. They came up with about 37 pieces of archaeological items. They want to put it in a museum to keep track of it. I am going to ask them for more information on what some of these items are. Do we want to give them to the State or keep it all of us? Commissioner Loving says I would be more interested in keeping it local so people can come in a take a look at them. Glenn Peterson of SEH says we do have that in our archaeological report for the area. There are catalogued images and I can make sure to provide that to you.

Public Hearing

None

Old Business

Marquette Greenway Trail Update

Glenn Peterson of SEH says just a quick update, the Trail is all open. I sent right before the meeting a few exhibits to Commissioner Hull and Rongers from some things that we had previously talked about with the safety concerns at the Public Works driveway and at the Fire Station. We have a couple different options at those locations. We'll take a look at some of those safety measures and see what we can do. The overarching theme on this is that at the Public Works driveway we need to make sure that the vehicles are aware of the pedestrians.



And, at the Fire Station crossing we want to make sure the pedestrians are aware that there could be vehicles coming out of the Fire Station.



The other exhibit would be the interaction just to the west of the parking lot where the NIPSCO high tension lines go. There is also the Praxair pipeline as well. The thought would be to add some pedestrian fencing alongside the Trail. It would give you a gateway into the woods and also give us an opportunity to put in a collapsible bollard that would prevent vehicles from accessing the Trail. The thought is sixty feet on each side of the Trail would be sufficient.



We do have bid items for that and Gariup can get started on it if that's ok with the Town. That is something we can take under advisement tonight on the Town's end. We will need to meet with Fire Chief Arney about this because it was one of his concerns too. We have a little bit of time because not a whole lot of work is going to be done until the springtime. Right now, there is some caution tape at the boardwalk where it crosses the low area on the west end of the project. There is some ice on the bridge from the ice storm we had so I don't mind that caution tape still being up there because it's slippery. I did an inspection of the bridge and it all looks satisfactory. I think at this point Gariup is wrapped up with a majority of the construction. They will be back in the Spring to do some topsoil and seeding along the Trail. There is some work being done at 149 installing the flashing beacons for the crossing at State Road 149 and I think that's about it on Phase III, the Next Level Trails portion. We are in a holding pattern for the Recreational Trails portion until we get some things solidified. We're pretty much wrapped up with our work on Phase II. We are waiting on some timelines so we can organize the bidding to go in conjunction with the Westport development. There is nothing to report on the CMAC phase. We are still working with

INDOT to solidify the environmental document and get that project out. We did anticipate today having an award recommendation for the Wetland Mitigation work on the National Park's property. They have not finalized things on their end as far as environmental compliance. They signed off on the plan but they're just waiting on the compliance approval before we get started working. I do anticipate that happening sometime soon. We'll keep working on that with them to get things taken care of.

Commissioner Hull says going back to the signs, what you provided us would be fine. Peterson says that is a simple way to do things and safety is a priority here. I personally didn't realize until we started construction how many people go back to that area. It's not just Fire and Public Works using that driveway. A little bit of additional signage there would go a long way and making sure that everyone is aware that there are people on bikes and walking through there. I really think that fencing along the Trail would be a good idea. A pedestrian railing. It would give it a good look. If you put a bollard there, there is no real way for us to limit access there. The ditches are more graded there. We can channelize that and make sure that no one can drive around it. That sixty feet gives us enough—it's not going to be all the way up to the woods. I think that would be a good use of funds to prevent vehicles driving down there. Commissioner Hull says how much is that going to cost. Peterson says the pedestrian railing is \$100 per foot and we're looking at 120 feet or so. We might be able to reduce it to 100 feet so that would be \$10,000 at 70 percent being picked up by the State. We can include this as one change order for Trail safety enhancements which would go a long way with the State for approval on that change order. Commissioner Loving says to clarify there will be no bollards. Peterson says there will be one single collapsible bollard in the Trail so that the Fire Department or anyone else would need access to that site would have that key at all times. That would be in the middle of the Trail. We found that bollards work better than a gate type system.

Commissioner Enslin makes a motion to authorize a change order for the Trail to include safety enhancements that SEH provided along with a couple additional signs to be installed by Gariup not to exceed \$28,000. Commissioner Loving seconded the motion. Commissioner Loving–Aye, Commissioner Bozak–Aye, Commissioner Enslin–Aye, Commissioner Hull–Aye. **Motion passed.**

Commissioner Loving says just to confirm the \$28,000 is the total project value and not our portion. Peterson says correct.

Rongers says there is one item on Marquette Greenway I want to mention. With respect to Soil Solutions in December they submitted a proposal for the Mnoke Prairie mitigation oversight monitoring proposal. Commissioner Hull says that was for:

- Initial Coordination and Oversight
- Woody Shrub Removal
- Keyway Installation
- Monitoring and Reporting for 2 Years
- Seed Installation
- Coordination with National Park Service, USACE, and IDEM

All of that is not to exceed \$51,000 and that is to be payable using the Next Level Trails grant funds. Is that wholly payable by Next Level Trails or is there a portion that we pay? Rongers says a portion of that would be paid for under Next Level Trails. Commissioner Hull says this not new. Rongers says correct, we needed the permitting that we received in December from the Army Corps. That is my understanding. Commissioner Hull says Attorney Patton reviewed it. Attorney Patton says my only comment was the timing of their invoices – the 30-days was the only issue and I believe Rongers was going to relay that to them. Rongers says I did communicate that to them, and it was not an issue.

Westport Update

Commissioner Hull says we got a pretty good update. A couple of things transpired over the last few months. In October we received notice from BP that there were some issues on road crossings. We had a conference call with them, and they said the issue was related to construction traffic over the pipeline and they had concerns about it after a test they had done. They assured us that there is no issue with the pipe, but they don't want to let anything over it. We told them we've been working on this for over a year, this is not new, and all of a sudden there is a problem. They were supposed to get back to us around Thanksgiving and they did not. Then they said just before Christmas and we didn't hear anything. Finally, just after New Year we reached out to them again – Kaiser of Abonmarche did. They finally responded to us the first of last week and said it is going to cost the Town \$750,000 to redo the piping over those three areas where we want to do road crossings. The team met and discussed a few of our options and it basically boils down to three things:

1. We could pay the \$750,000.
2. We could get BP to work with us to reduce the cost.
3. Plan B – redesign some of the lot to stay off the crossings.

Holladay Properties said that they ran into a similar situation and their best course of action has been for the landowner or developer to work directly with the pipeline and come up with some other cost-effective solutions. They ran into this before and ended up putting a casing over the pipe for about \$30,000. We don't really know where we're at this point. Kaiser says pretty much everything Commissioner Hull says is what has been happening over past few months dealing with the BP pipeline. We did submit a request to them asking for all their engineering data and their pipeline analysis that led them to stumble across this decision that the pipeline is fine, but no vehicles can drive across it or it will blow up apparently. So, we're trying to get that engineering data to find out the particulars about what are the issues they saw in their last diagnostic. Commissioner Loving says not to be rude but why is that our problem. Kaiser says the reason it is our problem is the easement that's across the property. It is an easement that allows them the ability to have approval rights of any improvements that occur in their easement and the safe operations of their pipeline. Attorney Patton says I would agree with that. Essentially that is why we are not building any improvements upon this pipeline. It's just going to be grassy areas and streets. The problem we have is (we just learned) they are taking issue with the fact of the roadways that would cross the pipeline. My understanding is it's not so much once it's developed. It's the traffic -- cars, SUVs and heavy equipment that would be crossing the pipeline on a regular basis as the site is being developed and before the regular road is put in. Kaiser says that is correct. A statement in their email was the construction equipment driving across this pipeline which is one of the reasons that we went through an exercise to show that we can actually build almost all the infrastructure for the project from the existing roadway. Everything South of the pipeline from Haglund and everything to the West of the pipeline from Westport. The only time we would need to cross it is if we were actually building a road across the pipeline. Attorney Patton says this is a question for Kaiser and Peterson—is there anything that we can do to appease BP in that regard—put up fencing or visual barricade so a heavy equipment operator would take the shortest path to the other side of the parcel and cross the pipeline. Kaiser says absolutely, we can restrict them from going over it. Attorney Patton says would that be enough for BP to say you've taken these steps in writing with us and physically on the site to make sure that people that are driving the equipment are doing something that Burns Harbor said wouldn't happen. Kaiser says this is more of a legal question. BP has absolutely no jurisdiction on anything on the property outside of their easement which is 50 feet wide, 25 feet from either side of the pipeline. It is not the Town, it's the owner's responsibility, to maintain the safe operations of that pipeline for BP. It's BP's responsibility to maintain it. It's Town's responsibility as the property owner to not do anything that would make it unsafe. They told us driving heavy equipment over it would not be approvable right now. So, in regard to that, my verbal suggestion is we could put up a fence with signage that says, "do not go past this point." However, if the contractor decided he was going to, then our stance would be they're the ones that violated BP's rule and not the Town. We want to make sure that nothing happens to that pipeline as well. Commissioner Loving says I want to see specifically the contract language in the easement. We're not looking to make improvements over the pipeline.

Commissioner Hull says two things we need to make happen tonight. One is we're working against the timeline which is the TIF expiring in 10 years. The second thing is bonding that goes along with it and the Community Center that pushes along with it. What I'm looking for tonight is authorizing Faegre Drinker and Baker Tilley to get things going again and have everything put together for next month. I am looking for a motion to authorize Faegre Drinker and Baker Tilley to get paperwork prepared so if we are ready to go it can happen.

Commissioner Loving makes a motion to a authorize Faegre Drinker and Baker Tilley to prepare bonding paperwork for next month. Commissioner Enslin Commissioner Bozak-Aye, Commissioner Enslin-Aye, Commissioner Loving-Aye, Commissioner Hull-Aye. Motion passed.

New Business

2021 Letter of Engagement, Consultant Tina Rongers -- Karnerblue Era, LLC

Commission Hull asks Attorney Patton if he has had a chance to review the letter of engagement. Attorney Patton says yes and there are no issues.

Commissioner Bozak makes a motion to approve Consultant Tina Rongers -- Karnerblue Era, LLC's. 2021 Letter of Engagement. Commissioner Loving seconded the motion. Commissioner Loving-Aye, Commissioner Bozak-Aye, Commissioner Enslin-Aye, Commissioner Hull-Aye. Motion passed.

Approval of Claims Register

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

Approval of Financial Report for the Month of December 2020

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

Good of the Order

None

Adjournment

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

The meeting concluded at 7:03 p.m.

Approved on February 10, 2021

REDEVELOPMENT COMMISSION
FOR THE TOWN OF BURNS HARBOR

Eric Hull, President

Brad Enslin, Vice President

Toni Biancardi, Secretary

Roseann Bozak

Nick Loving

ATTEST:

Marge Falbo, Recording Secretary