

April 9, 2012

The Common Council met with Mayor William McKean for a regular meeting on April 9, 2012 at 7:30 p.m. in the Council Chambers at City Hall according to the posted notice. Councilmen Gregg Sprunger, Curtis Wurster, Ron Dull, Mark Wynn and Philip Provost were present along with Clerk-Treasurer Gwen Maller and Attorney Dave Baumgartner filling in for Attorney James Beitler, Jr.

Councilman Phil Provost opened the meeting with the pledge of allegiance and Mayor McKean gave the invocation.

Citizen Comments

Bill Calhoun of 365 Parkway Street requested that the park usage ordinance be expedited as he has noticed several incidents of vandalism at Lehman Park. He stated that someone has broken small trees and branches off as well as damaging the play ground equipment. He stated that he hopes the park usage ordinance will address this problem and provide for ways to prosecute the vandals. Bill stated that with so many different organizations trying to raise money for new park equipment, it would be a shame to have it ruined as soon as it is installed.

Business Meeting

On a motion by Gregg Sprunger and a second by Ron Dull, the minutes of the March 26, 2012 meeting were unanimously approved.

On a motion by Mark Wynn and a second by Phil Provost, the claims were unanimously approved for payment.

Smith Brothers of Berne submitted annual their CF-1 forms for their tax abatements. The forms include personal property and real estate at the 918 Liechty Road plant as well as Phase I and Phase II at the 356 Monroe Street plant. Gwen Maller stated that they are in compliance with the original estimates that were submitted on Form SB-1. Phil Provost made a motion to approve Smith Brothers of Berne CF-1 forms showing that they are in substantial compliance. Curt Wurster made the second and the motion was unanimously passed.

Key Fasteners submitted their annual CF-1 forms for their tax abatements. The forms include real estate and personal property that include a 22,500 sq. foot addition as well as new manufacturing equipment. Vice-President John Johnson reported that the expansion happened at the beginning of the recession and was not completed as fast as anticipated. The earthquake and tsunami that hit Japan also slowed things down. However, by next year they should exceed the employment numbers that they had estimated on the original SB-1 form. Ron Dull made a motion to approve Key Fasteners CF-1 form showing that they are in substantial compliance. Gregg Sprunger made the second and the motion was unanimously passed.

Mr. Larry Macklin, Adams County Economic Director, and Mr. Tyler Kitt, EP Graphics CEO, were present to request support for Declaratory Resolution #2012-4-1 establishing an economic revitalization area and granting a tax abatement for new manufacturing equipment. Mr. Kitt stated that they are purchasing new printing equipment and replacing obsolete equipment to help expand their printing offerings and be more competitive in a very tight

market. By purchasing this equipment, they hope to retain seventy jobs as well as add ten new ones. Mark Wynn made a motion to approve Declaratory Resolution 2012-4-1. Gregg Sprunger made the second and the motion was unanimously passed. The resolution is as follows:

RESOLUTION 2012-4-1

**SHORT TITLE: A RESOLUTION OF THE COMMON COUNCIL OF
THE CITY OF BERNE ESTABLISHING AN ECONOMIC
REVITALIZATION AREA, WAIVING NON-COMPLIANCE, AND
GRANTING TAX ABATEMENT FOR NEW MANUFACTURING
EQUIPMENT**

WHEREAS, the Applicant, EP Graphics, Inc., has prepared and filed a Designation and Deduction Application with the Common Council of City of Berne, the fiscal body of Berne, Indiana for a designation about whether the particular area, as more particularly described in Exhibit A, should be designated as an economic revitalization area and whether a deduction provided by I.C. 6-1.1-12.1-4.5 for new manufacturing equipment pursuant to the definition provided therefore by I.C.6-1.1-12.1-1(3) should be approved and has submitted with its application a Statement of Benefits Form SB-1/PP;

AND WHEREAS, the area's location is annexed in the City of Berne, Adams County, Indiana and which mailing address is 169 S. Jefferson Street, Berne, IN 46711;

AND WHEREAS, the Common Council of the City of Berne has considered the area described in Exhibit "A" attached hereto and made a part hereof as an area which has become undesirable for, or impossible of, normal development and occupancy because of a lack of development, cessation of growth, deterioration of improvements or character of occupancy, age, obsolescence, substandard buildings, or other factors which have impaired or prevent a normal development of property or use of property, or an area where a facility or a group of facilities are technologically, economically, or energy obsolete are located and where the obsolescence may lead to a decline in employment and tax revenues, and

AND WHEREAS, the area described in Exhibit "A" attached hereto is within the City of Berne, Adams County, Indiana.

AND WHEREAS, the applicant desires to obtain a deduction under Section 4.5 of I.C. 6-1.1-12.1.

AND WHEREAS, the Common Council may consider adopting a waiver pursuant to I.C. 6-1.1-12.1-11.3 waiving by resolution noncompliance with the following:

1. The failure to provide the completed statement of benefits form to the designating body before the hearing required by I.C. 6-1.1-12.1-2.5;
2. The failure to submit the completed statement of benefits form to the designating body before the installation of the new

manufacturing equipment for which the person desires to claim a deduction;

3. The failure to designate an area as an Economic Revitalization Area before the installation of the new manufacturing equipment;

4. The failure to make the required findings of fact before designating an area as an economic revitalization area.

NOW, THEREFORE, BE IT RESOLVED, that the Common Council of the City of Berne hereby:

1. Declares and makes the following findings after review of the Statement of Benefits Form SB-1 /PP as submitted by the applicant:

(a) The estimate of the cost of the new manufacturing equipment is reasonable for equipment of that type.

(b) The estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the installation of the new manufacturing equipment.

(c) The estimate of the annual salaries of those individuals who will be employed can be reasonably expected to result from the proposed installation of the new manufacturing equipment.

(d) Other benefits about which information was requested are benefits that can be reasonably expected to result from the installation of the new manufacturing equipment.

(e) The totality of benefits is sufficient to justify the deduction.

2. Finds and declares the area legally described in Exhibit "A" attached hereto and made a part hereof is an Economic Revitalization Area as defined in I.C. 6-1.1-12.1-1(1) for the purpose of a deduction from the assessed value of new manufacturing equipment placed and located within the area pursuant to I.C. 6-1.1-12.1-4.5.

3. Hereby determines that the deduction provided in I.C. 6-1.1-12.1-4.5 for said area as an Economic Revitalization Area shall be for a period of Ten (10) years pursuant to I.C. 6-1.1-12.1-4.5(h).

4. That the Applicant, to obtain the deductions provided I.C. 6-1.1-12.1-4.5, shall file a certified deduction application on forms prescribed by the State Board of Tax Commissioners with the Adams County Auditor in accordance with I.C. 6-1.1-12.1-5.4.

BE IT FURTHER RESOLVED, that the County Auditor is hereby authorized and directed to file a copy of this Resolution with the Adams County Assessor.

BE IT FURTHER RESOLVED, that the Common Council of the City of Berne hereby sets the 23rd day of April, 2012 as the date and, at the hour of 8:00

P.M. (local time) as the time, and Common Council Chambers, Berne City Hall, 158 Franklin St., Berne, IN 46711, as the place where the Common Council will receive and hear all remonstrances and objections from interested persons on the adoption of said Resolution.

BE IT FURTHER RESOLVED, that the Clerk-Treasurer of the City of Berne is hereby authorized and directed to publish a notice of the adoption and substance of this Resolution adopted here in accordance with I.C. 5-3-1. Said notice shall state that a description of the affected area is available and can be inspected in the County Assessor's office and the date of the hearing on remonstrances and objections.

BE IT FURTHER RESOLVED that the notice shall further state that the City of Berne shall conduct a public hearing on the waivers of the following requirements pursuant to I.C. 6-1.1-12.1-11.3, to wit: the failure to provide the completed statement of benefits form to the designating body before the hearing required by I.C. 6-1.1-12.1-2.5; the failure to submit the completed statement of benefits form to the designating body before the initiation of the redevelopment for which the person desires to claim a deduction; the failure to designate an area as an Economic Revitalization Area before the initiation of the redevelopment; and the failure to make the required findings of fact before designating an area as an economic revitalization area.

ADOPTED BY THE COMMON COUNCIL OF THE CITY OF BERNE, STATE OF INDIANA, THIS 9TH DAY OF APRIL, 2012.

**COMMON COUNCIL OF THE CITY OF
BERNE**

Gregg A. Sprunger, Councilman
Curtis L. Wurster Councilman
Ronald N. Dull, Councilman
Mark D. Wynn, Councilman
Philip E. Provost, Councilman

William F. McKean, Mayor and Presiding
Officer

ATTEST:

Gwen Maller, Clerk-Treasurer

EXHIBIT "A"

169 S. Jefferson Street, Berne, Indiana

Property in Berne, Indiana, owned by Economy Printing Concern, Inc., EP Graphics, Inc., Muselman Realty Corp., and Gloria E. and Marilyn C. Muselman, or other affiliates or subsidiaries or their successors and assigns.

Said Property to be covered by the abatement, located in the City of Berne, including all vacated streets and alleys rights-of-way, including, but not limited to, the following:

Address	Property Tax Parcel #	Tax Statement Legal Description
169 S. Jefferson St., Berne, IN	01-11-04-100-013.000-018	.110 acre NW E of Lot 26
169 S. Jefferson St., Berne, IN	01-11-04-100-014.000-018	.673 acre RRR/W Section 4
169 S. Jefferson St., Berne, IN	01-11-04-100-032.000-018	Lot 27 and 28 2nd Addition
169 S. Jefferson St., Berne, IN	01-11-04-100-033.000-018	S Lot 363

169 S. Jefferson St., Berne, IN	01-11-04-100-034.000-018	.050 acre S RR Grounds Section 4
169 S. Jefferson St., Berne, IN	01-11-04-100-035.000-018	Lot 13
169 S. Jefferson St., Berne, IN Section 4	01-11-04-100-036.000-018	Lots 25 and 26 and W RR Grounds
169 S. Jefferson St., Berne, IN Section 4 and Lot 364 63rd Add	01-11-04-100-038.000-018	1.24 E RR Grounds and RR and
169 S. Jefferson St., Berne, IN Section 4	01-11-04-100-042.000-018	Lot 33 and SW cor RR Grounds

Mayor McKean informed the Council that the water rates need to be addressed. The utility has been losing approximately \$8,000 per month and IC 8-1.5-3-8 6(d) states "It is the intent of this section that the rates and charges produce an income sufficient to maintain the utility property in a sound physical and financial condition to render adequate and efficient service. Rates and charges too low to meet these requirements are unlawful." The first step is to have a rate study done. While a study was done 18 months ago, it needs to be updated to reflect present revenue and expenses and the fact that a bond issue was not needed for the water tower since half of it was paid for with a grant. The cost to update the rate study is approximately \$7,000. Gregg Sprunger made a motion to approve Umbaugh & Associates to update the water rate study. Mark Wynn made the second and the motion was passed unanimously.

Ordinance #625 was presented to Council for approval. This ordinance adopts a contract for custodial services to the Lehman Park pavilion. Ron Dull made a motion to approve the first reading of Ordinance #625 by short title. Phil Provost made the second and the motion was unanimously passed. Curt Wurster made a motion to waive the rules and regulations to pass the second reading of an ordinance. Mark Wynn made the second and the motion was passed unanimously. Gregg Sprunger made a motion to adopt Ordinance #625 on its final reading. Ron Dull made the second and that motion was also unanimously passed.

Ron Dull made a motion to approve the custodial contract for Lehman Park Pavilion for April 1, 2012 to March 31, 2013. This contract sets the responsibilities and pay for the custodians. Chad and Kristina Biberstein have signed the contract to fulfill the custodian position. Phil Provost made the second and the motion was unanimously passed.

Ron Dull stated that the Arts in the Parks program from Portland would like to use the Lehman Park pavilion to hold several sessions for elementary children during the summer. They have chosen about 10 days between June 8th and June 29th at 10:30 to noon or 2:00 - 3:30 p.m. These are times when the pavilion is not in use. The Park Board recommends that the Council allow Arts in the Park to use the Pavilion at no charge, but asked that a small stipend to be paid to the custodians. Phil Provost made a motion to allow the Arts in the Park to use the pavilion for free for the 10 sessions and to pay the custodians a stipend. Mark Wynn made the second and the motion was unanimously passed.

Mayor McKean reported that the BZA held a public hearing tonight at 6:00 p.m. They heard a request for a variance from the Mennonite Church for an animated digital sign to be placed in their parking lot along U.S. 27 where the old sign had been located. They were granted the request with the following restrictions pertaining to the animated portion of the sign: no red lettering, no rolling signs, can't be distracting and can only change once an hour.

Gregg Sprunger reported that the Plan Commission met and gave unanimous approval for a development plan filed by Gregg Milholland to replace a building previously destroyed in a fire at 6704 S. U.S. Highway 27, Berne. The new building will be adding approximately 5,852 square feet to the original building. They have received permission from South Adams School Corporation to have a small portion of the North side of the building's run off drain into their storm water holding pond. The building should be completed by September 2012.

Mayor Comments

Mayor McKean reported that he met with Mr. Randy Sprunger, architect with Fanning Howey. Randy will be drawing up the specs for the roof repair at the senior center. He will be providing three different options which include new slats venting system with new shingles, new shingles with no new venting, and putting on a metal roof. He stated that he will draw up the specs with no charge to the City.

Mayor McKean reported that he met with a developer who has an offer on the table with South Adams Schools for their property at the intersection of U.S. 27 and Highway 218. The plans look nice, but are in the very beginning stages.

Clerk-Treasurer Comments

None

Attorney Comments

Dave Baumgartner reported that the petition to vacate a portion of Hilty Street and Wabash Street has been signed by the property owners. A notice will be published in the newspaper for a public hearing for the April 23, 2012 meeting.

Councilman Comments

Ron Dull thanked Becky Sprunger for all the hard work she did on the information bulletin that was sent out with the water bills.

He also reported that the Park Board met on April 4, 2012. They met with the Berne Garden Club who will be planting the flower beds again this year. They are working on a park usage ordinance. They have selected April 28, 2012 as the spring clean up day at the park.

Mark Wynn reported that the Pool Board met and appointed Mr. Ryan Beagle as the new pool manager replacing Jeannine Wurster who resigned last fall. The single and family pool passes have stayed the same as last year. They hope to be open the Saturday before Memorial Day or maybe even a week earlier if the weather permits.

There being no other business to come before the Council and upon a motion duly made to adjourn by Mark Wynn and seconded by Gregg Sprunger, adjournment followed.

William F. McKean, Mayor

ATTEST:

Gwen Maller, Clerk-Treasurer