

January 14, 2019

The Common Council met with Mayor William McKean for a regular meeting on Monday, January 14, 2019 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 City Attorney Dave Baumgartner and Clerk-Treasurer Gwen Maller.

Councilman Gregg Sprunger opened the meeting with the pledge of allegiance and Mayor McKean gave the invocation.

### **Election of Council President**

Mayor McKean opened the floor for nominations for Council President. Curtis Wurster made a motion to nominate Gregg Sprunger for Council President for 2019. Ron Dull made a motion to close the nominations. Mark Wynn seconded both Curtis Wurster's motion and Ron Dull's motion. Gregg Sprunger was unanimously elected Council President.

### **Minutes**

On a motion by Ron Dull and a second by Gregg Sprunger, the minutes of the December 10, 2018 meeting were unanimously approved.

### **Claims**

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

### **FCC Tax Abatement Request**

Mr. Trevor Hobbs, Executive Director of Adams County Economic Development came before Council to inform them of an expansion project that is about to begin at FCC-Adams at 936 East Parr Road, Berne. FCC-Adams is requesting council consideration of Declaratory Resolution 2019-1-1 and Declaratory Resolution 2019-1-2 establishing a tax revitalization area. This project is for a 78,000 sq. ft. and 5,712 sq. ft expansion to the existing building for industrial production and an employee area at an estimated cost of \$8,000,000 and new production equipment at an estimated cost of \$42,000,000. Mr. Hobbs estimated that this project will create 51 new jobs bringing the total workforce to 667.

Attorney Baumgartner submitted Declaratory Resolution 2019-1-1 for Council's consideration. This resolution establishes an economic revitalization area for Tax Parcel 01-08-33-400-017.000-010 and waives noncompliance and grants tax abatement for redevelopment property. Ron Dull made a motion to approve the Declaratory Resolution 2019-1-1. Curtis Wurster made the second and the motion was unanimously passed. The Resolution is as follows:

#### **RESOLUTION 2019-1-1**

- A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF BERNE**
- (1) ESTABLISHING AN ECONOMIC REVITALIZATION AREA FOR TAX PARCEL 01-08-33-400-017.000-010,**
  - (2) WAIVING NONCOMPLIANCE, AND**
  - (3) GRANTING TAX ABATEMENT FOR REDEVELOPMENT PROPERTY**

WHEREAS, the Applicant, FCC (Adams), LLC 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, whether a deduction provided by I.C. 6-1.1-12.1-3 for property, meaning a building or structure should be approved and whether an alternative abatement schedule as provided by I.C. 6-1.1-12.1-17 should be approved and has submitted with its application a Statement of Benefits Form SB-1/RE;

AND WHEREAS, the area's location is annexed in the City of Berne, Adams County, Indiana and which mailing address 936 E. Parr Road, 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 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 3 of I.C. 6-1.1-12.1.

AND WHEREAS, whether an alternative abatement schedule as provided by I.C. 6-1.1-12.1-17 should be approved;

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.

5. The failure to file a timely or complete deduction application under I.C.6-1.1-12.1-5 or I.C. 6-1.1-12.1-5.4.

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/RE as submitted by the applicant:

(a) The estimate of the cost of the redevelopment is reasonable for projects of that nature.

(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 proposed described redevelopment.

(c) The estimate of the annual salaries of those individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed described development.

(d) Other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed described development.

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

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 property as defined in I.C. 6-1.1-12.1-1(4) pursuant to I.C. 6-1.1-12.1-3.

3. Hereby determines that the deduction provided in I.C. 6-1.1-12.1-3 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. The deduction provided in I.C. 6-1.1-12.1-3 may be modified at the confirming resolution public hearing by the grant of an alternative abatement schedule pursuant to I.C. 6-1.1-12.1-17 in the event applicant qualifies for such alternative abatement schedule pursuant to City of Berne Tax Phase-In Policies.

4. That the Applicant, to obtain the deduction provided by I.C. 6-1.1-12.1-3, shall file certified deduction applications 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.

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 January 28, 2019, 7:40 P.M. as the date, and 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, if any, to provide the completed Statement of Benefits Form SB-1/RE to the designating body before the hearing required by I.C. 6-1.1-12.1-2.5; the failure, if any, to submit the completed Statement of Benefits Form SB-1/RE to the designating body before

the initiation of the redevelopment for which the person desires to claim a deduction; the failure, if any, to designate an area as an Economic Revitalization Area before the initiation of the redevelopment; the failure, if any, to make the required findings of fact before designating an area as an economic revitalization area or authorizing a deduction under I.C. 6-1.1-12.1-3 or alternatively, under I.C. 6-1-1-12-1-17; the failure, if any, to make the required findings of fact before designating an area as an economic revitalization area; the failure, if any, to file a timely or complete deduction applications under I.C. 6-1.1-12.1-5 or I.C. 6-1.1-12.1-5.4.

ADOPTED by the Common Council of the City of Berne, State of Indiana, on January 14, 2019.  
City of Berne Common Council

Gregg Sprunger  
Curtis Wurster  
Ron Dull  
Mark Wynn  
Phil Provost

Attest:

William F. McKean, Mayor

Gwendolyn J. Maller, Clerk-Treasurer

Attorney Baumgartner submitted Declaratory Resolution 2019-1-2 for Council's consideration. This resolution establishes and economic revitalization area for the Tax Parcel 01-08-33-400-017.000-010 and waives noncompliance and grants tax abatement for new manufacturing equipment. Gregg Sprunger made a motion to approve the Declaratory Resolution 2019-1-2. Mark Wynn made the second and the motion was unanimously passed. The Resolution is as follows:

### **RESOLUTION 2019-1-2**

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF BERNE  
(1) ESTABLISHING AN ECONOMIC REVITALIZATION AREA FOR  
TAX PARCEL 01-08-33-400-017.000-010,  
(2) WAIVING NONCOMPLIANCE, AND  
(3) GRANTING TAX ABATEMENT FOR NEW MANUFACTURING EQUIPMENT**

WHEREAS, the Applicant, FCC (ADAMS) MFG, LLC 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, whether a

deduction provided by I.C. 6-1.1-12.1-4.5 for new manufacturing, information technology, and logistical distribution equipment pursuant to the definition provided therefore by I.C.6-1.1-12.1-1(3) should be approved and whether an alternative abatement schedule as provided by I.C. 6-1.1-12.1-17 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 936 E. Parr Road, 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 new manufacturing equipment investment at the Property and location of production operations of the Applicant at this location will result in an addition to the area's overall assessed value within an accelerated time period; the Project represents a superior use for the site; the Project is consistent with similar land uses on adjacent properties.

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, whether an alternative abatement schedule as provided by I.C. 6-1.1-12.1-17 should be approved;

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.

5. The failure to file a timely or complete deduction application under I.C.6-1.1-12.1-5 or I.C. 6-1.1-12.1-5.4.

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, information technology, and logistical distribution 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, information technology, and logistical distribution 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, information technology, and logistical distribution 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, information technology, and logistical distribution 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. To the extent the Applicant may have acquired equipment prior to the final designation of the ERA, said activities will not result in any reduction to the benefits otherwise approved herein.

4. 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). The deduction provided in I.C. 6-1.1-12.1-4.5 may be modified at the confirming resolution public hearing by the grant of an alternative abatement schedule pursuant to I.C. 6-1.1-12.1-17 in the event applicant qualifies for such alternative abatement schedule pursuant to City of Berne Tax Phase-In Policies.

5. That the Applicant, to obtain the deductions provided by I.C. 6-1.1-12.1-4.5 shall file certified deduction applications 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 January 28, 2019, 7:40 P.M. as the date, and 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, if any, to provide the Statement of Benefits Form SB-1/PP to the designating body before the hearing required by I.C. 6-1.1-12.1-2.5; the failure, if any, to submit the completed Statement of Benefits Form SB-1/PP to the designating body before the installation of new manufacturing equipment for which the person desires to claim a deduction; the failure, if any, to designate an area as an Economic Revitalization Area before the installation of new manufacturing equipment; the failure, if any, to make the required findings of fact before designating an area as an economic revitalization area or authorizing a deduction under I.C. 6-1.1-12.1-4.5 or alternatively, under I.C. 6-1-1-12-1-17;; the failure, if any, to make the required findings of fact before designating an area as an economic revitalization area; the failure, if any, to file a timely or complete deduction applications under I.C. 6-1.1-12.1-5 or I.C. 6-1.1-12.1-5.4.

ADOPTED by the Common Council of the City of Berne, State of Indiana, on January 14, 2019  
City of Berne Common Council

Gregg Sprunger  
Curtis Wurster  
Ron Dull  
Mark Wynn  
Phil Provost

Attest:

Gwendolyn J. Maller, Clerk-Treasurer

William F. McKean, Mayor

### **Consideration of Employee Handbook**

The revised City of Berne Employee handbook prepared by New Focus HR was presented for Council approval. After review, it was determined that in the list of holidays, Presidents Day should be listed before Good Friday. Also, on Item 110 in the third paragraph, it needs to add that "Employees may not

utilize the City's equipment and/or supplies in the performance of any outside jobs." Phil Provost made a motion to adopt the revised employee handbook with the two changes that were stated. Gregg Sprunger made the second and the motion was unanimously passed.

### **Plan Commission Update**

Gregg Sprunger reported that the Plan Commission approved Development Plan PC2019-1 filed by Brett R. Miller, MLS Engineering on behalf of FCC-Adams, 936 E. Parr Road, Berne for two additions of a 78,000 sq. ft. and 5712 sq. foot commercial building to the current facility. FCC- Adams will also be adding two parking lots, one on the south side of the building and one to the North east side of the existing parking lot. They will also be increasing the size of the holding pond by expanding its width to the North. The project has an estimated completion date of October 2019.

### **Attorney Comments**

Attorney Baumgartner submitted the Adams County Solid Waste Contract for 2019. The contract allows for an increase in the tipping fees from \$44.82 per ton to \$43.86. Ron Dull made a motion to accept the Adams County Solid Waste contract for 2019. Curtis Wurster made the second and the motion was unanimously passed.

### **Clerk-Treasurer Comments**

Gwen Maller stated that "pursuant to I.C. 5-11-10.5 all checks outstanding and unpaid for a period of two years as of December 31 of each year shall be declared void. There is one check that should be cancelled and written off. It is as follows:

11/30/2016      Check # 21767              Grimm's Auto      \$32.50

Mark Wynn made a motion to instruct the Clerk-Treasurer to write off the outstanding check. Phil Provost made the second and the motion was unanimously passed.

Gwen Maller submitted Resolution 2019-1-3 to transfer funds into the Rainy-Day Fund. Ron Dull made a motion to approve Resolution 2019-1-3 transferring \$100,000.00 into the rainy-day fund. Gregg Sprunger made the second and the motion was unanimously passed. The Resolution is as follows:

#### *RESOLUTION 2019-1-3*

#### **A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF BERNE, INDIANA TRANSFERRING FUNDS TO THE RAINY-DAY FUND**

WHEREAS, the City of Berne Common Council established a Rainy-Day Fund to receive transfers of unused and unencumbered funds raised by general or special tax levies as provided by IC36-1-8-5; and

WHEREAS, the amount transferred cannot exceed 10% of the budget; and

WHEREAS, the 2018 budget has unused and unencumbered funds remaining in the General Fund.

NOW THEREFORE, BE IT RESOLVED BY THE COMMON COUNCL OF THE CITY OF BERNE:

That \$ 100,000.00 be transferred from the General Fund to the Rainy-Day Fund.

The City of Berne Common Council hereby directs the City Clerk-Treasurer to cause the books and records of the City of Berne Indiana to reflect the effects of this resolution.

Passed and adopted by the Common Council of the City of Berne, Adams County, Indiana, on this 14<sup>th</sup> day of January 2019.

City of Berne Common Council

Gregg Sprunger  
Curtis Wurster  
Ron Dull

Mark Wynn

Phil Provost

Attest:

William F. McKean, Mayor

Gwendolyn J. Maller, Clerk-Treasurer

**Mayor Comments**

Mayor McKean stated that he hopes that things will go well for the City in 2019. Good things are happening with the FCC expansion and the grant that was received for the street work.

There being no other business to come before the Council and upon a motion duly made to adjourn by Phil Provost and seconded by Curtis Wurster, adjournment followed.

\_\_\_\_\_  
William F. McKean, Mayor

ATTEST:

\_\_\_\_\_  
Gwen Maller, Clerk-Treasurer

### **Consideration of Employee Handbook**

The revised City of Berne Employee handbook was presented for Council approval. After review, it was determined that in the list of holidays, Presidents Day should be listed before Good Friday. Also, on Item 110 in the third paragraph, it needs to add that "Employees may not utilize the City's equipment and/or supplies in the performance of any outside jobs." Phil Provost made a motion to adopt the revised employee handbook with the two changes that were stated. Gregg Sprunger made the second and the motion was unanimously passed.

### **Plan Commission Update**

Gregg Sprunger reported that the Plan Commission approved PC2019-1 Development plan filed by Brett R. Miller, MLS Engineering on behalf of FCC-Adams, 936 E. Parr Road, Berne for two additions of a 78,000 sq. ft. and 5712 sq. foot commercial building to the current facility. They also are adding two parking lots, one on the south side of the building and one to the North east side of the existing parking lot. They have increased the sized of the holding pond by expanding its width to the North. The project has an estimated completion date of October 2019.

### **Attorney Comments**

Attorney Baumgartner submitted the Adams County Solid Waste Contract for 2019. The contract allows for an increase in the tipping fees from \$44.82 per ton to \$43.86. Ron Dull made a motion to accept the Adams County Solid Waste contract for 2019. Curtis Wurster made the second and the motion was unanimously passed.

### **Clerk-Treasurer Comments**

Gwen Maller stated that "pursuant to I.C. 5-11-10.5 all checks outstanding and unpaid for a period of two years as of December 31 of each year shall be declared void. There is one check that should be cancelled and written off. It is as follows:

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Mark Wynn made a motion to instruct the Clerk-Treasurer to write off the outstanding check. Phil Provost made the second and the motion was unanimously passed.

Gwen Maller submitted Resolution 2019-1-3 to transfer funds into the Rainy-Day Fund. Ron Dull made a motion to approve Resolution 2019-1-3 transferring \$100,000.00 into the rainy-day fund. Gregg Sprunger made the second and the motion was unanimously passed. The Resolution is as follows:

*RESOLUTION 2019-1-2*  
A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF  
BERNE, INDIANA  
TRANSFERRING FUNDS TO THE RAINY-DAY FUND

WHEREAS, the City of Berne Common Council established a Rainy-Day Fund to receive transfers of unused and unencumbered funds raised by general or special tax levies as provided by IC36-1-8-5; and

WHEREAS, the amount transferred cannot exceed 10% of the budget; and

WHEREAS, the 2018 budget has unused and unencumbered funds remaining in the General Fund.

NOW THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BERNE:

That \$ 100,000.00 be transferred from the General Fund to the Rainy-Day Fund.

The City of Berne Common Council hereby directs the City Clerk-Treasurer to cause the books and records of the City of Berne Indiana to reflect the effects of this resolution.

Passed and adopted by the Common Council of the City of Berne, Adams County, Indiana, on this 14<sup>th</sup> day of January 2019.

City of Berne Common Council

Gregg Sprunger

Curtis Wurster  
Ron Dull  
Mark Wynn  
Phil Provost

Attest:

Gwendolyn J. Maller, Clerk-Treasurer

William F. McKean, Mayor

**Mayor Comments**

Mayor McKean stated that he hopes that things will go well for the City in 2019. Good things are happening with the FCC expansion and the grant that was received for the street work.

There being no other business to come before the Council and upon a motion duly made to adjourn by Phil Provost and seconded by Curtis Wurster, adjournment followed.

\_\_\_\_\_  
William F. McKean, Mayor

ATTEST:

\_\_\_\_\_  
Gwen Maller, Clerk-Treasurer