

April 6, 2020 Special meeting.

Pursuant to Executive Orders 20-04 and 20-08 by Governor Eric Holcomb in response to the COVID-19 pandemic, the April 6, 2020 special council meeting was held by way of a conference call using GoToMeeting. Mayor Gregg Sprunger was present at city hall. Council members were noted as present by Roll Call as follows: Curtis Wurster, Ron Dull, Rod Mason, Kelly Amstutz, John Wanner. Also present by using GoToMeeting was Clerk-Treasurer Gwen Maller and City Attorney Dave Baumgartner. Others attending by remote, Ashley Bailey, Decatur Democrat; Rob Weaver, WPGW and Clint Anderson of the Berne Witness as well City of Berne Work Force Manager Kurt Dailey. An agenda was posted at the front door and a link to the agenda was available on the City of Berne website homepage.

Council President Curtis Wurster opened the meeting with the pledge of allegiance and Mayor Gregg Sprunger gave the invocation. A quorum was verified by the Roll call of members.

**Consideration of Resolution 2020-4-1** A Resolution of The Common Council of Berne, Indiana Establishing Emergency Policies Regarding Approval of Claims, City Operations and Services, and Employee Pay and Benefits during the Covid-19 Public Health Disaster Emergency Declared by The Governor of The State of Indiana.

Mayor Sprunger opened the meeting by recapping the purpose of the Resolution 2020-4-1 as it pertains to operations at the City Building and the work force due to the ongoing COVID-19 National Emergency and Indiana Governor Eric Holcomb's executive orders. Mayor Sprunger asked City Attorney Dave Baumgartner to explain what the resolution contains and what the council will be considering at this meeting.

In reviewing Resolution 2020-4-1, Dave recapped the four separate sections to be considered.

**Section 1 Approval of Claims** during the Public Health Disaster Emergency, which follows Governor Holcomb's Executive Order allowing claims to be approved for payment by a designated member of the Council, a Board or a Commission, and to be ratified at the first meeting after the pandemic, or if a meeting is before restrictions are lifted. Dave advised the council that he sees this section more for the Storm Water Board as the Council still plans to meet remotely and approve claims during this time. However, if for any reason the council cannot meet using remote access, procedures would be in place for payment of claims because of the ongoing COVID-19 pandemic.

**Section 2 : Execution of Documents,** this allows documents that are approved or adopted in a meeting during the pandemic to be signed by Electronic Signature or by Facsimile. This means that the document needing signed would be sent via email to each member, each would sign and email a scanned copy to the City to attach to the document. There will be a page for each signature, so no member has to physically come to the city building while the restrictions are in place.

**Section 3 A. City Operations and Services** Dave advised the council that Mayor Sprunger has already implemented the procedures as outlined in this section.

**Section 3 B. Services** outlines the procedures for the workforce to practice social distancing, safe practices in their workspace and guidelines for keeping the public informed if changes are needed. Alternate work schedules, if there is more than one person working in the same department and sharing the same space, a Stay at Home order for alternate work schedules will be implemented. The Stay at Home order cannot be considered by the employee as a free day, but a paid day to stay home and be available to report to work in case of an emergency (water leak etc.) or to replace a worker who is absent that day.

**Section 4 Public Health Leave** This applies to sub sections A-E which covers compensation if an employee is directly impacted by COVID-19. This section includes documentation requirements and a provision that a COVID-19 employee receive compensation based on the application of sections A-E, which could be 10 paid Public Health Days and or an employee receiving 75% of their regular rate of pay according the provisions in the resolution.

Mayor Sprunger stated that this resolution is to protect our workforce, and to as much as is possible, protect those vital operations that keep the city in compliance with testing as well as everyday essential city operations. Per Mayor Sprunger, the most affected departments would be the Water Department with 3 employees, Street, 2 employees and Sewage Department with 2 employees. An essential service like the sanitation route has no choice but to run at least people on the truck.

When Mayor Sprunger opened the meeting for questions from the Council, Rod Mason had 3 areas that he would like clarification.

1. Any consideration to operating with a swing shift to reach social distancing as opposed to rotating the shifts and paying a person to stay at home.

Work Force Manager Kurt Dailey responded that Berne is not large enough to run two or three shifts, but every field employee is on call 24/7. Tests need to be run once daily and every employee in those departments is certified to run the tests. By rotating the workforce, it is a way to cover the essential services while still trying to practice proper distancing.

2. Question on the 75% regular pay for section 4 A-E and why we are exceeding the Federal Mandate of two thirds or 66.67% the regular pay.

Dave advised that we followed other communities including what Decatur has done during this time. Should the council so decide, the rate of pay can be reduced to the 66.67% when approving the resolution.

3. Question on signing off on claims and why the Council could not keep meeting to approve claims until the COVID-19 restrictions are lifted.

Dave advised that this provision for paying claims is more for the Storm Water Board, as the council will probably continue meeting as scheduled by remote. However, should for some reason this could not happen, a person as designated by

the council, can approve claims and meet city financial obligations in a timely manner.

On the matter of alternate staffing of field employees, council member Kelly Amstutz just wanted to confirm that this would not apply to emergency services, like a fire or a water leak where you cannot keep those needing to respond six feet apart. Mayor Sprunger said emergency services will still be staffed as needed to protect our citizens.

Both Dave and Gwen confirmed that any paid leave that is directly connected to the provisions of Section 4 A-E will have to be documented by the property entities to meet State Board of Accounts recommendations during COVID-19.

Mayor Sprunger asked if there were any more questions on Resolution 2020-4-1. Council member Rod Mason stated that the concerns he raised were by no means a recommendation, but just questions on why the city is exceeding the 66.67% regular pay as directed by federal guidelines by paying employees 75% of their regular pay.

Council member Kelly Amstutz asked for a clarification of the City sick pay time off policy. In answering the question, Gwen stated that we don't have sick days but 10 leave days per year with the ability for an employee to accrue 30 days by rolling over no more than 20 days per calendar year.

Council member Ron Dull asked if Resolution 2020-4-1 is in line with surrounding communities. Dave advised that this resolution is similar to Decatur's and that the Adams County Solid Waste just passed a resolution or ordinance addressing working during the pandemic and the County Commissioners are considering restrictions and guidelines for county employees at their meeting tomorrow (Tuesday).

Council member Curtis Wurster asked if this resolution would have to be rescinded after restrictions are lifted. Dave stated that this resolution will only be in place until such time as the emergency measures are lifted.

Mayor Sprunger asked that if there were no more questions or changes to Resolution 2020-4-1, he would entertain a motion to approve. Curtis Wurster made a motion to approve Resolution 2020-4-1 as presented, Kelly Amstutz made the second. The motion was unanimously approved by the following Roll Call vote:

Ron Dull	Aye
Rod Mason	Aye
Kelly Amstutz	Aye
John Wanner	Aye
Curtis Wurster	Aye

The resolution is as follows:

#### **RESOLUTION NO. 20-4-1**

**A RESOLUTION OF THE COMMON COUNCIL OF BERNE, INDIANA  
ESTABLISHING EMERGENCY POLICIES REGARDING APPROVAL OF  
CLAIMS, CITY OPERATIONS AND SERVICES, AND EMPLOYEE PAY  
AND BENEFITS DURING THE COVID-19 PUBLIC HEALTH DISASTER**

**EMERGENCY DECLARED BY THE GOVERNOR OF THE STATE OF  
INDIANA**

**WHEREAS**, the Coronavirus Disease 2019 (COVID-19) is rapidly spreading worldwide and is a potentially deadly virus which is transmitted from human to human, and can be transmitted directly or indirectly by those who are infected and display symptoms such as fever, cough, acute respiratory distress, pneumonia or various combinations of such symptoms, and is a virus which can also be transmitted directly or indirectly by those who are infected, but asymptomatic; and

**WHEREAS**, on January 30, 2020, in response to the COVID-19 outbreak, the World Health Organization declared a Public Health Emergency of International Concern; and

**WHEREAS**, on January 31, 2020, in response to the COVID-19 outbreak, the United States Health and Human Services Secretary (HHS Secretary) declared a Public Health Emergency covering all 50 States and U.S. Territories; and

**WHEREAS**, on March 6, 2020, in response to the spread of COVID-19 to the State of Indiana, the Governor of the State of Indiana, pursuant to LC. 10-14-3-1 et.seq. declared a Public Health Disaster Emergency covering the entire State under Executive Order 20-02, which declaration expires thirty (30) days from March 6, 2020, unless extended; and

**WHEREAS**, the Governor of the State of Indiana, in Executive Order 20-02, designated the Indiana State Department of Health (ISDH) as the lead state agency to coordinate emergency response activities among the various state agencies and local governments and further directed the ISDH to follow U.S. Center for Disease Control (CDC) guidelines and protocols; and

**WHEREAS**, on March 11, 2020, the World Health Organization declared the COVID-19 outbreak to be a Pandemic; and

**WHEREAS**, on March 13, 2020, the President of the United States declared the COVID-19 to be a National Emergency; and

**WHEREAS**, since the HHS Secretary declaration of a Public Health Emergency in the United States on January 31, 2020, the CDC has established and modified guidelines and protocols regarding physical or social distancing, personal hygiene and sanitization methods, and has established procedures recommended for those infected with or exposed to the virus and for those who are considered high risk, in an effort to reduce and slow the spread of COVID-19; and

**WHEREAS**, on March 12 and 13, 2020, the Governor of the State of Indiana issued further directives restricting large gatherings, recommending social distancing in small gatherings and suspending non-essential activities and services; and

**WHEREAS**, on March 16, 2020, the Governor of the State of Indiana issued Executive Order 20-04 which authorized further actions to protect the health, safety and welfare of all Indiana residents, including activating the Indiana Emergency

Operations Center to its highest status, activating the Indiana National Guard, and encouraging all residents of Indiana to adhere to the advice of the CDC, ISDH, Indiana Department of Homeland Security (IDHS) and other health care and emergency officials, restricting governmental meetings as well as business operations, both public and private; and

**WHEREAS**, the United States Congress passed two bills, signed into law by the President of the United States on March 18, 2020, namely, the Federal Emergency Family and Medical Leave Expansion Act of 2020 and the Federal Emergency Paid Sick Leave Act of 2020, which supplement existing benefits and which are required to be implemented on or before April 2, 2020; and

**WHEREAS**, on March 23, 2020, the Governor of the State of Indiana issued Executive Orders 20-08 and 20-09 which further supplements Executive Order 20-02 by directing Hoosiers to stay at home except for Essential Activities, Essential Governmental Functions or to participate in Essential Businesses and Operations and which issues directives related to the continuity of operations of government; and

**WHEREAS**, as a result of the foregoing declarations, executive orders, regulatory guidelines, protocols, mitigation strategies, and federal legislation which affect the City, its employees and its operations and services, it is necessary for the Common Council of the City of Berne, Indiana (City) to enact emergency local policies regarding approval of Claims, continuation of City operations and services, as well as employee compensation and benefits during the ongoing public health emergency.

**NOW, THEREFORE, BE IT RESOLVED:**

**Purpose.** The purpose of this Resolution is to adopt certain emergency local policies to address City operations and services and to address employee compensation and benefits during the ongoing public health emergency.

**Emergency Policies.** The following emergency policies are hereby adopted by the Common Council of the City of Berne, Indiana:

**1. Approval of Claims:** During the existing Public Health Disaster Emergency and any extensions thereof; the Common Council, or other Commission or Board, with authority to pay claims, may designate one (1) of its members to approve claims for payment submitted to the Common Council, such Commission or Board in advance of such body's allowance of claims. Provided, however, such body must approve and allow such claims at its next meeting held during the Emergency, or if none are held during the existing Public Health Disaster Emergency or any extensions thereof, at the body's first meeting after the Public Health Emergency has ended. The Common Council, Commission or Board may also appoint a second member of its body as an alternate designee with authority to approve claims in advance of the full body's allowance. The alternate designee may exercise such authority if the primary designee is unable to review and approve claims on behalf of the body.

**2. Execution of Documents:** Documents which are approved or adopted and which require the signature of the Mayor, Clerk-Treasurer, Department Head, City Attorney or a member of the Common Council, City Board or Commission

may be executed in counterparts and may be originally signed or the signature of an individual may be an electronic transmission of the individual's signature. Signatures by counterparts, whether originally signed, signed by electronic transmission, or a combination thereof; shall be delivered to the Clerk-Treasurer's office who shall affix the counterparts to the document to be signed. Once signed by all parties who are required to sign a document on behalf of the City or who are required to sign an Ordinance or Resolution approving the Ordinance or Resolution, and once all appropriate signatures are affixed to such document, such document shall be deemed duly and legally executed. In the case a signature is required to be notarized, the individual's signature must be originally signed in the presence of a notary public, unless the Indiana Secretary of State permits otherwise, in which case a signature may be notarized consistent with the manner permitted.

**3. City Operations and Services:** The primary goal regarding City operations and services is to operate as normal as possible for as long as possible. However, modifications to department operations and services are required due to the COVID-19 emergency. City Department Heads should immediately enact social distancing practices and sanitization practices as recommended by the CDC. At a minimum, the following social distancing and sanitizing practices shall be implemented:

**A. Office Operations:**

- 1). Notices shall be posted on City Hall, Lehman Park Pavilion, Berne Senior Center, the City Water Treatment Plant, the City Wastewater Treatment Plant, City Garage, and other locations where City Department Offices are located for the purpose of informing the public that all Non-Essential person-to-person contact is SUSPENDED. Such Notice shall include a telephone number and email address which the public may use to contact a particular Department.
- 2). A Notice shall be posted on the City's website encouraging the public to contact City offices by telephone, email or fax for the purpose of conducting business with the City. Contact information for City offices shall be included. Person-to-person appointments will be by appointment only, may be subject to health screening, and will only be allowed for essential purposes as deemed necessary by the Department Head.
- 3). Payment of fees to the Building & Planning Department shall be permitted only online, over the phone or by mail. Payment of utility bills shall be permitted by mail, online, over the phone, or through use of the utility bill drop box.
- 4). Following personal contact with a member of the public in a City office, staff within the Department shall use appropriate cleaning supplies to wipe down any surface where such personal contact occurred.

**B. Services:**

- 1). Department Heads and employees are asked to continue to provide service to the public as best as possible while minimizing in person contact. Department Heads are authorized to use their best judgment in conducting business within their respective offices. Department Heads shall have discretion to determine which services provided within a

Department are essential and shall give such services priority over non-essential services. Essential services are those which are immediate and necessary to protect the public's health and safety.

2). If recommended social distancing measures are insufficient, Department Heads may need to consider further reductions in physical proximity to the public, up to and including closing offices to the general public to reduce the spread of COVID-19. Closing of an office shall be at the recommendation of a Department Head to the Mayor. The decision to close a City office shall be made by the Mayor, unless such closing is ordered by an authorized County, State or Federal officer exercising emergency authority.

3). If a City office is closed, the affected Department Head should ensure that the public is informed of alternate methods of conducting business with the Department. If no alternate methods exist, the Department Head may need to consider temporary modifications of processes, procedures, rules, and deadlines. Department Heads may also need to consider alternate methods of conducting business due to a lack of available employees. To increase employee availability, Department Heads may need to permit flex work hours or permit remote work where feasible and manageable.

4). In the event that neither recommended social distancing measures nor any additional enhanced measures taken by Departments are sufficient to reduce the possibility of spread of COVID-19, the Mayor and Workforce Manager may determine to separate workers in the various departments into shifts on alternate days so that if any one shift is exposed and is required to be quarantined, the other shift will be able to work. If, in the discretion of the Mayor and Workforce Manager, such alternate shifts are required, such department workers shall be paid for a forty (40) hour week (if a full time employee), or for regular part time work week (if a part time employee), whether or not the employee is working the full paid hours. If such department shifts are implemented, an employee is deemed to be providing a service to the City in the employee's capacity of being separated from other department workers in order to reduce the risk of multiple or all workers of a department being exposed to COVID-19. During a worker's "off" shift, the worker shall STAY AT HOME and be fully available in case the worker is required to replace a worker of another shift. At the end of a shift, the workers of such shift shall fully sanitize all equipment, tools, areas and surfaces that a worker touched during the worker's shift in preparation for the workers of the next shift.

5). In the event that neither recommended social distancing measures nor any additional enhanced measures taken by Departments are sufficient to reduce the spread of COVID-19, the Mayor may be forced to close City facilities to the public and employees or take other extreme measures. In the event closure of City facilities occurs by order of the Mayor or by order of an authorized County, State or Federal officer exercising emergency authority, all non-Essential personnel shall not report to work. All Essential personnel who are able and healthy to work shall continue to report to work. Essential personnel within a Department shall be determined by the Mayor after consultation with a Department Head.

6). Online communication with the public regarding changes to office hours or closings, reductions in services, contact information, remote business and payment methods, and on-line notices of meetings shall be utilized to keep the public informed of City operations and services.

**4. Public Health Leave:** During the existing Public Health Disaster Emergency, and any extensions thereof; the City's workplace policies are being enhanced for employees covered under the City Employee Handbook. The following enhancements may be modified or updated by the Mayor as necessary in order to comply with State and Federal laws, evolving rules and regulations and executive orders. Any such modifications or updates by the Mayor shall be ratified and approved by the Common Council at the first meeting following such modifications or updates. In the spirit of the Federal Emergency Family and Medical Leave Expansion Act of 2020 and the Federal Emergency Paid Sick Leave Act of 2020, the following enhanced policies will be modified so that enhanced benefits herein provided by the City to its employees are consistent with such federal legislation. The following enhancements do not apply to volunteer fire fighters. Such employees should consult with their Department Head for further instructions. City employees play a critical role in the community. The public's health and safety are dependent upon City services being provided, even during times of emergency. Therefore, employees who are able and healthy are expected to report to work as scheduled, with the following exceptions:

A. Employees who have a current diagnosis of COVID-19 or who have been in close contact with a person with symptomatic laboratory-confirmed COVID-19. Close contact can occur by being within approximately 6 feet of a COVID-19 case for a prolonged period of time, can occur while caring for, living with, visiting, or sharing a healthcare waiting area or room with a COVID-19 case, or can occur by having direct contact with infectious secretions of a COVID-19 case (e.g., being coughed on);

B. Employees who are under quarantine (including self-imposed quarantine), at the instruction of a healthcare provider or a County, State or Federal official, in order to prevent the spread of COVID-19;

C. Employees who do not have a current diagnosis of COVID-19, but who develop signs or symptoms compatible with COVID-19 until such time as a diagnosis is confirmed or 4-5 days after compatible symptoms have ended unless directed otherwise by a healthcare provider or a County, State or Federal official, in order to prevent the spread of COVID-19;

D. Employees who are living in the same household as, an intimate partner of; or caring for a person in a nonhealthcare setting who meet Exceptions A, B or C;

E. Employees who are at increased risk for complications from COVID-19 due to a diagnosed health condition and who are presently under the care of a physician for the diagnosed health condition whose job duties require close contact (see descriptions of close contact in Exception A above) but for whom temporary job modification is not possible;

Employees who meet Exceptions A, B or C above will be granted ten (10) paid Public Health Leave days paid at 100% of their regular rate of pay. If after the Public Health Leave days are exhausted the employee still meets Exception A, B



or C the employee will receive supplemental wages at the rate of 75% of their regular rate of pay until such time as they no longer meet the Exception or this policy is altered, whichever comes first. Employees who meet Exceptions D, E or F will receive 75% of their regular rate of pay until such time as they no longer meet the Exception or this policy is altered, whichever comes first.

Employees who receive 75% of their regular rate of pay may supplement with available benefit time but will not be required to use available benefit time while on Public Health Leave. Employees who are eligible for Public Health Leave due to Exceptions D or E are not required to take leave and are free to work as scheduled, assuming they are able and healthy and otherwise free of COVID-19 symptoms or COVID-19 compatible symptoms. Intermittent leave is permissible. Additionally, if alternate work arrangements are approved by their Department Head ( e.g. flex time or remote work), employees who meet Exceptions D or E are eligible for their regular rate of pay for documented hours worked. Employees still in their first year of employment or whose benefit date is on or before April 30 who meet Exceptions D or E will be granted five (5) Public Health Leave days to use as benefit days to supplement the 75% of their regular rate of pay they receive under this policy if they so choose. Any unused Public Health Leave days will expire at the employee's anniversary or discontinuance of this policy, whichever comes first.

Employees must have a Public Health Leave Waiver signed by their Department Head or Elected Official who is their supervisor on file with the City Clerk-Treasurer to receive any benefit under this policy. Employees who knowingly falsify eligibility may be subject to disciplinary action up to and including termination. The City is committed to continuation of pay for a defined period of time (e.g., 30 days), with review and possible modification as conditions change or as otherwise required by law. Should the employee on Public Health Leave have a change in status and no longer meet the eligibility of an exception, the employee should return to work as scheduled.

Any employee currently receiving full or partial wage replacement due to a) a specifically defined qualifying event of the Family and Medical Leave Act of 1993 is not eligible for Public Health Leave until the qualifying event is no longer applicable or a set period of benefits is exhausted, b) receiving Short-Term Disability as defined in the City's Employee Handbook, or c) receiving unemployment compensation from the City is not eligible for Public Health Leave.

**Right to Amend or Repeal Emergency Policies.** Due to the rapidly changing circumstances and conditions occurring during the ongoing COVID-19 emergency, and due to the possibility of further Executive Orders and Federal legislation, the foregoing emergency policies may be amended or repealed as necessary to comply with changing State and Federal guidelines and requirements.

**Effective Date.** The foregoing emergency policies shall be effective immediately upon adoption of this Resolution and approval by the Mayor, and shall remain in effect until such time as the COVID-19 Public Health Disaster Emergency as declared by the Governor of the State of Indiana has ended, or until such time as such policies are hereinafter amended or repealed, whichever first occurs.

So adopted and resolved by the Common Council of the City of Berne, State of Indiana, on April 6, 2020.

**COMMON COUNCIL OF THE  
CITY OF BERNE**

Curtis L. Wurster, President  
Ronald N. Dull  
Kelly A. Amstutz  
Rodney E. Mason  
John M. Wanner

APPROVED:

Gregg A. Sprunger, Mayor

ATTEST:

Gwen Maller, Clerk-Treasurer

Mayor Sprunger advised the council that city wide heavy trash pickup has been moved from the end of April to the first week of June and he asked that the media make note of this change.

Ron Dull asked if the May 9<sup>th</sup> shred day will be cancelled or changed. Mayor Sprunger said he will look into either rescheduling if possible or cancel if needed.

Dave advised the council that they should consider nominating a member of council to sign claims only if the council cannot meet remotely as scheduled during the restrictions.

Rod Mason made a motion to nominate Council President Curtis Wurster to sign claims on behalf of council with the stipulation that it is only if the council cannot meet by remote because of the ongoing COVID-19 national emergency. Ron Dull made the second. The motion was approved with 4 ayes 0 nays and one abstention by the following Roll Call Vote:

Kelly Amstutz Aye  
Rod Mason Aye  
Ron Dull Aye  
John Wanner Aye  
Curtis Wurster Abstain.

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

APPROVED:

Gregg A. Sprunger, Mayor

ATTEST:

Gwen Maller, Clerk-Treasurer