

May 26, 2020

Pursuant to Executive Orders 20-04 and 20-08 by Governor Eric Holcomb in response to the COVID-19 pandemic, the May 26, 2020 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 confirming verbally as follows: Curtis Wurster, Ron Dull, Rod Mason, Kelly Amstutz and John Wanner. Also present by using GoToMeeting was Clerk-Treasurer Gwen Maller and City Attorney Dave Baumgartner.

Others present using GoToMeeting, Rob Weaver, WPGW; Clint Anderson of the Berne Witness, Council on Aging representative Michelle Lengerich, Berne Recreational Facilities President Jeff Sprunger, City of Berne Work Force Manager Kurt Dailey and other guests. An agenda was posted at the front door.

Council President Curtis Wurster opened the meeting with the pledge of allegiance and Mayor Gregg Sprunger gave the invocation. Mayor Sprunger verified a quorum.

### **Approval of Minutes**

On a motion by Ron Dull and a second by Rod Mason, the minutes of May 11, 2020 council meeting were unanimously approved by a Roll Call vote as follows:

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

### **Claims**

Rod Mason made a motion to approve the claims and Kelly Amstutz made the second. The motion was unanimously approved with the following Roll Call vote:

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

### **Council on Aging Funding Request**

Michelle Lengerich, Council on Aging representative came before council seeking approval for funding from the City in the amount of \$4,000 for 2021, which is the same amount requested and received last year. Michelle stated that she realizes this is a difficult time for types of funding and appreciates the council considering her request. In 2019 Adams County Council on Aging provided the following:

<b><u>Trip Category</u></b>	<b><u>Total # of Trips</u></b>
Grocery	333
Medical	4981
Social Service	30
Volunteering	0
Well Being	<u>599</u>
<b>Total</b>	<b>5943</b>

Michelle stated that funding for the Council on Aging relies on Grants, Local Governments, Older Americans Act and they also ask that those who can, donate \$5.00 for a round trip if inside the city limits and \$ 11.00 round trip if out of town, but no one is denied transportation.

Rod Mason thanked Michelle and the Council on Aging for their service to Berne and the surrounding communities.

Rod Mason made a motion to approve Council on Aging’s request of funding for 2021 in the amount of \$ 4,000. Curtis Wurster made the second and the motion was unanimously approved by Roll Call Vote:

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

**Annual Township Fire Contracts**

Clerk-Treasurer Gwen Maller presented the council with the annual Township Fire Contracts for 2021 explaining that the City of Berne provides fire protection to the six area townships. Gwen advised the council that at the May 20<sup>th</sup> Board of Public Works and Safety meeting, that board gave their unanimous approval. The contracts represent an increase to each township of 3% and when Gwen contacted the three largest townships of the increase, they did not have a problem with it.

On a motion by Ron Dull and a second by Kelly Amstutz, the council unanimously approved the 2021 Township Fire Contracts by the following Roll Call Vote:

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

<b><u>Township</u></b>	<b><u>2020 Contract</u></b>	<b><u>2021 Contract</u></b>
Bluecreek	\$8,770.49	\$ 9,033.60
French	\$9,220.98	\$ 9,497.61
Hartford	\$7,769.04	\$ 8,002.11
Jefferson	\$7,667.15	\$ 7,897.16
Monroe	\$17,398.43	\$ 17,920.38
<u>Wabash</u>	<u>\$12,001.29</u>	<u>\$ 12,361.33</u>
<b>Total</b>	<b>\$62,827.38</b>	<b>\$64,712.20</b>

**City Facilities Status Update Due to COVID-19**

**Lehman Park Pavilion**

Mayor Sprunger recapped the actions by the Board of Public Works and Safety meeting held prior to the council meeting. The board voted to recommend to council to open the pavilion for rentals effective May 31<sup>st</sup>, with gatherings not to exceed Governor Holcomb's Executive Orders of the number of people that can gather, that proper signage be posted in the pavilion pertaining to COVID-19 and that CDC guidelines must be followed.

Mayor Sprunger also reported that there are several rentals that are back to back on the same day and the custodians indicated that with a backpack system, they feel they can sanitize the area, but it might mean shortening the rental time at the end of the first rental and delaying the start of the second rental on the same day.

Rod Mason expressed his concerns about keeping renters off of playground equipment, picnic tables and grills since the Board of Public Works and Safety approved keeping these areas off limits. Rod also strongly recommended that the custodians be outfitted in full PPE protective equipment including faceguards, gloves, and suits.

John Wanner stated that he does not see these measures for PPE's as an issue given Adams County's overall numbers of people testing positive and he is not in favor of taking those steps.

Rod Mason disagreed and reaffirmed the need for PPE's for the protection of those cleaning the pavilion and for all employees, not only because of the potential exposure to COVID-19, but also because the custodians will be spraying and breathing in toxic chemicals used in the cleaning process.

Kelly Amstutz, who is also President of the Park Board, stated that the Park Board did not address PPE's when sanitizing the pavilion so her questions are, how many PPE's as discussed does the city have, cost to purchase those PPE's the city does not have and will getting and using the PPE's lessen potential liability issues for the city.

Ron Dull asked the council that if the only obstacle to approving the pavilion opening on May 31<sup>st</sup> is the use of PPE's when using high capacity sprayers and not the recommendation of the Board of Public Works and Safety.

Mayor Sprunger reported on information he read today from CDC guidelines for sanitizing, including wearing disposable gloves and gowns and taking additional measures where there is a risk if the chemicals were to splash.

Curtis Wurster understands the need for this discussion, but no one can follow 100% of every rule or recommendation and it is fine line between shutting everything down and opening back up.

Rod Mason stated that he feels the council needs to look at every guideline and employ or deploy them with the goal of doing so with doing no additional harm to the community.

Dave Baumgartner advised the council that as they look through the lens of public health as to whether to reopen the pool, or park facilities or allow Little League, is it worth allowing a reunion, or swimming at the pool, or having little league if it has the potential to shut down a Smith Brothers, or exposing a Swiss Village to a COVID-19 outbreak, and these are the issues facing the council.

Mayor Sprunger concurred with Dave’s statement and added that early on, he read a quote that he would like to read “ it will be impossible to know if we have over reacted or did to much, but it will be very obvious if we under reacted and did to little”.

Rod Mason agreed with the quote and stated that his approach to this pandemic has been that it is better to always be overprotective not knowing if it is enough than be under protective and fail. Kelly Amstutz expressed her agreement.

John Wanner said this discussion has helped him understand more, but he is still opposed to what he feels are extreme measures given the COVID-19 cases reported in Adams County to date.

Curtis Wurster asked if the motion is approved to open the pavilion, who is responsible for implementation of the any guidelines. Dave advised that it would be up to the custodians, and their contract is up for renewal and that language can be included in the new contract that addressed these issues.

Curtis Wurster made a motion to approve opening the pavilion at Lehman Park for rentals starting May 31<sup>st</sup> and following the CDC guidelines, provided that the proper equipment for cleaning can be obtained and have the use of the equipment for sanitizing be written into the custodians’ contract. Ron Dull made the second:

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

**Playground Equipment, Picnic Tables, Benches and Grills in Lehman Park**

Mayor Sprunger reported that at tonight’s Board of Public Works and Safety meeting, the board unanimously approved keeping the playground equipment, picnic tables and grills closed until June 14<sup>th</sup>, but to bring this up for review at the June 8th council meeting. Ron Dull added that since the Governor Holcomb’s executive order prohibits the use playground equipment in parks until June 14<sup>th</sup>, it made sense for the city to make the other areas off limits also.

Rod Mason made the motion to approve the recommendation of the Board of Public Works and Safety and to continue to make the playground equipment, picnic tables, benches and grills closed to public until June 14<sup>th</sup>. Kelly Amstutz made the second. The motion was unanimously approved by a roll call vote

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

Rod Mason                      Aye

**SAYL And Allowing League Play on City Ball Diamonds**

Mayor Sprunger advised the council that in discussing this in the Board of Public Works meeting, the board approved recommending to council that they allow SAYL to open their season if they could adhere to the Park Board's recommendations and the guidelines of the National Little League. These guidelines include taking temperatures and cleaning the restrooms.

Dave added that when SAYL meets, they not only need to decide if they can enforce the guidelines, but also how they are going to be able to carryout the plan given to them. Dave added that it has already been said by some on the SAYL board that they will not do temperature checks nor will they clean the restrooms.

Rod Mason said that the council needs to know that there is a willingness of the SAYL to follow the guidelines set forth, and it appears SAYL does not want to do that. Given this, Rod said he would be in favor of making a final decision tonight.

Ron Dull stated that he is in favor of waiting until to SAYL meets and can consider the new guidelines approved at the Board of Public Works and Safety meeting, adding that they should be given the chance to agree to the guidelines or cancel their season.

Dave advised council that they can chose to have the SAYL meet and then come back to council with their plan to meet the guidelines, unless SAYL decides to cancel the season. If they wish to proceed and bring a plan back to council, a special meeting could be called so SAYL could proceed in a timely manner.

John Wanner asked that if the council approves the guidelines for SAYL, could a motion be made tonight that, subject to SAYL agreeing to the guidelines, their season could start. Rod Mason indicated no. Kelly Amstutz said she wants the SAYL to come back to council with their plan of action and she would also like SAYL's plan of action to be approved by a super majority vote by the SAYL.

Rod Mason made a motion that the SAYL follow the guidelines presented to them by the city in developing their plan, and that the plan is approved by the SAYL by an ultra-majority vote of at least 6 of 9 in favor on how that plan will be followed and implemented, with the recommendation from council that they follow leagues as happened in other parts of our county and cancel their season.

Ron Dull asked the City Attorney what happens if you agree with half of the motion but not all of it. Dave advised that if there is not a second to the motion, it will die for lack of action, or if there is a second, a member can then ask that the motion be amended, after which the council would move to amend, then vote as to whether to pass the amended motion.

After the clarification, Mayor Sprunger asked if there was a second to the motion made by Rod Mason. Kelly Amstutz made the second.

John Wanner made a motion to amend the motion made by Rod Mason that is on the floor by striking the need for a super majority vote by the SAYL and to strike from

the motion the recommendation by the council to the SAYL that they consider doing what leagues in the county have done and suspend their season.

Before there was a second to John’s motion to amend, Kelly Amstutz asked for clarification of the exactly what is in the motion they are about to vote on.

Dave Baumgartner asked John to correct him if his understanding is not what John wanted in his motion which Dave said is to eliminate from Rod’s motion the requirement of a super majority vote by the SAYL and to eliminate from the same motion the recommendation by the council that the SAYL consider the action of other area Little Leagues and cancel their season. John confirmed that that was his motion.

Before a motion could be made, Ron Dull asked what the procedure is moving forward and if there could be more discussion after there is a second.

Dave Baumgartner advised council that if there is a second, there could be more discussion on the amendment, then a vote by the council on the amendment and if it passes it amends the original motion and if does not pass the original motion will stand for council consideration.

Ron Dull made the second on the amended motion and asked discussion follow.

Ron stated that the super majority requirement was also talked about in Board of Public Works and Safety meeting, and the need to have SAYL approval of more than a simple majority for the planning and implementation of the city and CDC guidelines for having SAYL leagues this season.

Mayor Sprunger asked for a vote on the motion by John to amend the original motion with the second being made by Ron. The motion to amend did not carry on the following Roll Call vote of 1 voting yea and 4 voting nay as follows

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

Because the motion to amend the original motion made by Rod Mason with a second by Kelly Amstutz did not pass, Mayor Sprunger now asked for a vote on the original motion by a Roll Call vote which failed to pass on a vote of 2 ayes and 3 Nay votes as follows:

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

Ron moved to make a motion that the council ask the SAYL to look at the guidelines and requirements that have been provided to them, to meet and vote on those guidelines and requirements and that they approve those guidelines and requirements by a super majority vote and then bring their plan of following and implementing the guidelines back the council. Curtis Wurster made the second and the motion passed by a Roll Call vote of 4 yea’s and 1 abstention as follows;

Kelly Amstutz	Aye	John Wanner	Aye
---------------	-----	-------------	-----

Ron Dull	Aye	Curtis Wurster	Aye
Rod Mason	Abstain		

### **Status of the Berne Swimming Pool Season**

Mayor Sprunger began by advising the council that this discussion or decision tonight is only about the guidelines and implementation of the guidelines in order to open the pool and not about the Berne Swim Club status, which is discussion that will be had at another time.

Mayor Sprunger informed the council that per the council's instruction at the May 11<sup>th</sup> meeting, he met with two members of the pool board, Kurt Dailey, Gwen Maller and Dave Baumgartner about the requirements that would need to be met to open the pool and this list was provided to the members of council.

Pool Board President Jeff Sprunger stated that the Pool Board would like to open the pool this season, but the board also understands that the city owns the pool. The Pool Board has indicated that they feel they can follow the procedures and guidelines set forth and can open the pool this summer.

Curtis Wurster asked if we could see an increase in patrons because of other community pools closing, Jeff said that with Portland on the fence, and Decatur planning a later opening, the Berne Pool will probably see an increase, but no way of knowing to what extent.

When asked for the timeline for the pool to open if approval is given soon, Work Force Manager Kurt Dailey said that the earliest the pool could open would be June 20<sup>th</sup>-21<sup>st</sup>, but if the weather does not cooperate, possible around June 27<sup>th</sup>. Kurt stated that this includes, cleaning the pool itself, filling the it and getting a good test sample result. The deck chairs, bleachers, concession stand is for the pool employees to do.

Mayor Sprunger stated that if the Lehman Park Custodians have to wear PPE's is it feasible for the employees of the Berne Rec to do the same and should not the same rules apply to them.

Rod stated that from what he has read from the information provided by the pool board, the lifeguards and pool employees did not address sanitizing the ladders into the pool, ladders and the diving board, and that they expected city employees to be involved. It is a big responsibility for the pool employees and can they police social distancing.

Jeff Sprunger explained that the requirement of taking temperatures was a late addition to what the city expects and will have to be discussed if or how to implement.

When asked by Ron Dull, Mayor Sprunger stated that in asking the SAYL to follow National Little League Guidelines that included temperature checks, it was only prudent to ask the same of the Berne Rec.

Kelly stated that she has to have temperature checks to enter her work area, a digital thermometer is used, it only takes a few seconds to get a read. Rod Mason concurred that that is the same procedure used for all Swiss Village employees before they can enter their workplace and is part of the CDC guidelines.

Jeff Sprunger would like the council to reconsider the requirement that no concessions be sold and at least allow the selling of water for safety reasons.

Ron Dull would like the Pool Board to come up with a plan if approved to open that would allow the selling of some concessions.

Jeff stated that in talking with Decatur and they are planning on selling concessions and when Decatur spoke with Adams County Health Department, they are not taking temperatures. Their concessions will include popcorn and non pre-packaged foods.

### **South Adams Summer Swim Team**

When asked by Ron Dull about how the swim team fits in to this discussion, Dave stated that those that met believe that the Swim Team should be treated in a separate matter depending what the Council decided as to opening the pool.

### **Thermometers**

Kelly asked that if they are required, the Pool Board has asked that the city purchase the thermometers, and since the council asked the SAYL to purchase, are we going to require the same of the Pool Board. In answering this, it was noted that the SAYL does have enough funds to cover this expense, Berne Rec barely covers the cost of their operations and has little extra to spend.

### **City Costs for operating the pool**

Gwen reported to the council that in 2018 Berne Rec was \$1,500 in the red and in 2019 were \$ 2,500 in the red because gate receipts and concessions did not cover the cost of paying the lifeguards.

In 2019 the City of Berne paid \$ 72,000 to operate the pool, \$25,000 of that included starting blocks. Gwen said she would anticipate a cost of \$ 50,000 for this year, but that does not include the cost of paying our employees to prepare the pool itself and when they need to backwash the pool.

Ron Dull asked Gwen about the city costs of operating the pool, since this comes from taxpayer dollars, there is a line item budget for the pool. In Gwen's response, she said that she had an email from the Adams County Auditor's office, and to date, the spring tax payments are only at 51%, which will mean the city will not be getting as much in the June payment from the county as was expected. This is money that goes to the General fund and will impact the Council budget, Police Department, Fire Department and operations at the park and the pool. Without knowing if the cost of the pool will exceed the anticipated cost of \$50,000, and with an abbreviated season, is it a wise way to spend taxpayer's money. Rod concurred adding that it might be best to close the pool for this season as other communities have done to avoid the cost of operation.

### **What is being asked of council tonight**

Mayor Sprunger in recapping what is before council made the following points:

- Council can decide whether to open the pool this season



- If they decide to open, then the council needs to ask the Pool Board to come back to council with and resubmit an updated document of operations and how they will implement their plan and bring that back to the council to consider.

**Motion**

Ron made a motion to vote tonight to give the Pool Board a chance to meet and then come back to council with their revised plan that will include how they will implement the use of PPE’s, that the operation of the Swim Team be removed from the plan for implementation, assure social distancing, taking temperature checks, proper sanitizing and that the city employees will not prepare the pool for opening until the revised plan is considered by council at a special meeting. Curtis Wurster made the second.

Rod Mason said that he is concerned that we are trying to re-start the city pool, youth leagues, and not consider the financial complications and the potential adverse effects on our community and will consider voting no.

With a motion on the floor by Ron and a second by Curtis, the motion was approved on a 4 yea and 1 nay vote as follows:

Kelly Amstutz	Aye	John Wanner	Aye
Ron Dull	Aye	Curtis Wurster	Aye
Rod Mason	No		

**Date of Special Meeting**

Jeff asked when the council wants the information back in their hands. John and Ron asked for a meeting by Friday of this week if the Pool Board will have the revised plan in hands before.

Discussion was held about a meeting date, requirements to give due notice to the media.

**Motion**

Rod Mason made a motion to have both the SAYL and the Berne Pool Board submit their plans of implementation as discussed tonight and that the council meet on Monday, June 1<sup>st</sup> in a special meeting to consider the plans of both. Kelly Amstutz made the second and the motion passed 3yeas-2 nays by the following roll call vote:

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

Mayor Sprunger advised the council that a decision will be made if the meeting will via a GoToMeeting or in person, or a hybrid of both depending on the Governor’s Executive Order concerning Indiana’s Open Door Law.

**Attorney Comments** None

**Mayor Comments**

- City Hall will open the lobby to the public starting June 1<sup>st</sup> for walk-up window
- Encourage those who have not completed the 2020 Census to do so. The city response is about 70% to date.
- The use of Swiss Bucks for graduation gifts to help the local business
- Progress continues on the Water Street Project and the Village Way project. Water Street, Brackney is starting to install laterals in the east end.
- Fleming is making good progress on Village Way
- Mayor thanked the everyone tonight for their discernment and for the civil discussion tonight, or the difficult decisions that the council has to make.

**Clerk's Comments:** None

**Council Comments**

Curtis asked about the status of the Swim Club. Mayor Sprunger advised that if the pool is opening, depending on their plan and council approval, the Swim Team will need to come to council, possible in the June 8<sup>th</sup> meeting.

John Wanner stated that he appreciates the process and his fellow council members and the respect shown even though there are differing opinions.

Ron Dull agreed, adding that these discussions and decisions are among the most difficult he has faced during his time on the council. Ron stated that he appreciates everyone on the council and for our community.

With nothing further to discuss, Kelly Amstutz made a motion to adjourn, Ron Dull made the second, and adjournment followed.

---

Gregg A. Sprunger, Mayor

ATTEST:

---

Gwen Maller, Clerk-Treasurer