

July 13, 2020

Pursuant to Executive Orders 20-04 and 20-08 by Governor Eric Holcomb in response to the COVID-19 pandemic, the July 13, 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, John Wanner and Kelly Amstutz. Also present by using GoToMeeting was Clerk-Treasurer Gwen Maller and City Attorney Dave Baumgartner. An agenda was posted at the front door and a link to the agenda was available on the City of Berne website homepage.

Others present using GoToMeeting: Berne Recreational President Jeff Sprunger, Clint Anderson of the Berne Witness and Work Force Manager Kurt Dailey.

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

### **Approval of Minutes**

On a motion by Rod Mason and a second by Ron Dull, the minutes of June 22, 2020 council meeting were unanimously approved by the following roll call vote:

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

### **Claims**

John Wanner made a motion to approve the manual claims of June, 2020 and the regular claims as presented. Kelly Amstutz made the second and 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		

### **Review of Berne Pool Protocol:**

Berne Recreational Board President Jeff Sprunger thanked city officials, city employees and the pool staff for getting the pool open. Jeff added that the opening has gone well.

Jeff advised the council that he is coming before them tonight to request that the guidelines for operating the pool given the COVID-19 pandemic be amended to eliminate the mandatory temperature checks before patrons enter the pool facility.

Jeff reported that all of the other guidelines and procedures are working well, but temperature checks, which were requested by the council, are posing a problem. Jeff said that to his knowledge, we are the only community in our area requiring temperature checks. Jeff stated that especially during the really hot days, youngsters

will register a high temperature at the point of entering the facility because of the weather and biking or walking to the pool. Jeff reported that in the first 10 days, there were 86 patrons that had to sit in the shade upon arrival before they could get a normal temperature reading. There have been no readings above average temperatures since the pool has opened to the public. Jeff reported that the pool board met and voted to bring temperature checks back to the council and ask that that requirement be removed from the guidelines.

Before discussion began on Jeff's request, Kelly asked why the pool was not offering \$1.00 Wednesday's for general admission. Kelly stated that by eliminating the \$1.00 entry fee, those less fortunate in our community will not have the opportunity to go to the pool once a week. Jeff responded that one reason the \$1.00 Wednesday has been eliminated is to ensure the pool does not exceed bather load capacity limits. It was also noted that the council discussed the need to raise more revenue because of the shortened season in light of COVID-19. Kelly reiterated her concern that by eliminating Wednesday \$1.00 admissions, the underprivileged will be unable to enjoy the pool and Kelly is asking that it be reinstated, whether by council action or action by the pool board.

City Attorney Dave Baumgartner advised that the pool board can meet and then decide whether to reinstate the \$1.00 Wednesday pool admissions, but this would be a pool board decision and does not need to come back to the city, although the council could make a recommendation to the pool board asking them to consider re-establishing \$1.00 Wednesday.

Ron Dull made a motion to amend the approved Berne Recreational Pool guidelines to eliminate the need for temperature checks, John Wanner made the second.

Further discussion was held with Rod Mason expressing his concern with backtracking from the council approved guidelines and this is not the time to relax the agreed upon requirements. Kelly Amstutz expressed her concern that backtracking on the temperature check guidelines by the council is sending the wrong message to the South Adams Youth League, who were told by the council they had to have temperature checks. The ~~SAY~~ SAYL did not feel they could meet the COVID-19 guidelines including temperature checks and chose to cancel their season.

With no further discussion, Mayor Sprunger called for a vote of the motion and second on the floor to eliminate the requirement for temper checks. On a vote of 3-2 the motion passed on the following roll call vote:

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

#### **Approval of SRO Contract with South Adams School Corporation**

Mayor Sprunger presented the board with the contract between the school and the city for a City of Berne police officer to serve as the School Resource officer for the coming school year. Gwen reviewed the cost analysis sheet that she had prepared and that was in council packets. Gwen stated that the amount the school pays per

diem and the amount the city will have to pay is a based on budget estimates, but she feels the worksheet is fairly accurate.

Mayor Sprunger stated that the contract is basically the same narrative as was approved last year. If the council approves the contract at this meeting, it will then be forwarded to the South Adams School Board, who will meet Tuesday night, July 14<sup>th</sup>. The Berne Police Chief, Tim Taylor, will name the resource officer if the contract is approved by both the school board and Berne City Council.

Attorney Baumgartner updated the council, especially for those who were not on the council last year, that when first approached by the school for 2020, the city did an in depth look at the contract, made changes as they felt needed and that he feels it is a good document. The contract being considered tonight is basically the same as the 2020 contract.

After further discussion, a motion was made by Ron Dull to approve the SRO contract between South Adams Schools and the City of Berne. Curtis Wurster made the second and the motion was unanimously approved by the following roll call vote

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

Mayor Sprunger advised that he will be delivering the contract approved tonight to the SA School superintendent for the School Board consideration tomorrow night.

**Attorney Comments** None

**Clerk Comments:**

Gwen asked the council to consider the second quarter utility adjustments that were in with the claims but not acted on at that time. In explaining the adjustments, Gwen stated that a number of the adjustments were not write offs, but correcting clerical errors where payment was credited to the wrong account, issues with software as it pertains to liens and which neither adjustments were a loss of revenue. The adjustments also include onetime leak adjustments. Kelly made a motion to approve the second quarter utility adjustments as presented and Ron Dull made the second. The motion was unanimously approved by the following roll call vote:

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

**Mayor Comments**

Work on Village Way is basically complete, it looks great, all of the seeding has been done and if we get some much needed rain, it should look very nice.

Brackney Construction is completing large sections of work, as well as hooking up laterals on Water Street and working in the Franklin Street area. Mayor Sprunger said that in talking with the foreman at Brackney, the foreman told him that Berne has

been one of the nicest community's they have worked in and by and large, the citizen interaction has been very positive. Mayor Sprunger thanked the citizens of Berne for being so patient and understanding during this large project, adding that Brackney has been great to work with.

The Downtown Merchants and the Berne Chamber of Commerce are sponsoring a Shop Local, Buy Local event from July 20<sup>th</sup> through the 25<sup>th</sup> since Swiss Days has been cancelled. Mayor Sprunger urges everyone in the community to support their efforts and to shop locally to help our retail businesses start the slow process of rebounding from the COVID-19 restrictions.

### **Council Comments**

Kelly asked that the council consider reducing the cost of the utility deposit in Ord. 726 from \$250 as approved at the last council meeting to \$150. Kelly expressed her concern over those underserved in our community that would find the \$250 deposit a hardship. Kelly noted that in the June 23rd meeting, Ron did ask for discussion on lowering the deposit prior to passage of the \$250.00 deposit. In further explaining her reasoning, Kelly cited that there are 56 lots in the trailer court, which does not include the empty lots on Berne Street. It is her belief that the trailer court occupants are in a lower income based area. Kelly stated that would mean that the city will be able to receive a deposit from 56 tenants.

Ron stated that he did bring up the deposit amount for discussion prior to approval at the last meeting asking for a reduction in the deposit. Ron stated that while he thinks Kelly's recommendation of \$150.00 is perhaps too low, he would be willing to have that discussion of lowering the deposit from \$250 to something more reasonable between the \$175 and \$200 range, especially because our system does not allow for deposit installments as a payment option.

In responding to Kelly's concerns, particularly as it pertains to the trailer court, Clerk-Treasurer Maller stated that she cannot agree with lowering the deposit to \$150.00. As for the 56 units in the trailer park, Gwen stated that yes, it would bring in more deposit revenue since the new owners are installing individual meters to each unit, but it also brings more risk to the city as there will be 56 more users with no way to go back to the landlord if a tenant defaults on their water bill. Gwen also added that the city has one landlord of a large complex who has asked if they, as the complex owners, could voluntarily assume any unpaid utility bill in lieu of the city charging their tenants a deposit.

Kelly stated that she has also had city residents who were dumbfounded that if they chose to sell their home and buy another home within the community, they would be required to pay a \$250.00 deposit even though they have been responsible utility payers.

In citing different figures of what the city would capture in a \$250.00 deposit, Kelly made a motion to reduce the deposit in Ord. 726 from \$250.00 to \$150.00.

As discussion continued, City Attorney Dave Baumgartner advised that it would be more in order that a motion be made tonight to bring Ordinance 726 back to the council for further discussion at the next meeting as opposed to having a motion

tonight on an actual reduction to a certain amount. Dave also suggested that by bringing back the issue of the dollar amount, Ordinance 726 could include the Utility Indemnification Agreement, which is an agreement that if the landlord voluntarily asks that they be held financially responsible for any unpaid utility bills incurred by their renters and chooses to enter into the agreement. If the council directs him, Dave said he would bring the ordinance back to council with the agreement included, but the \$250.00 deposit would remain in the ordinance until or if the council would change the amount of the deposit, which could be done at the next meeting.

Curtis Wurster said that he is not in favor of lowering the deposit to \$150.00, stating that he feels that is too low, but he would not be opposed to lowering the amount to less than \$250.00

John Wanner expressed his concerns, that although he was unable to attend the last council meeting when the \$250 deposit was approved, he was in attendance when the Ordinance was introduced, and the deposit amount was discussed. John stated that he is not sure the council should be backtracking on an earlier decision.

Rod Mason stated that he is in support of the \$ 250.00 deposit as passed and that he respects Gwen's recommendation. Rod also added that Berne is not doing this for Berne but is reacting to legislation passed at the state level that protects landlords and exposes cities to loss of revenue due to lack of payment by renters.

Gwen advised the Council that many of the communities she contacted or researched already had a deposit in place prior to the legislation Rod spoke of, and that she feels that \$250.00 protects the utility.

Kelly stated that she would be in favor of re-phrasing her motion to reflect the discussions tonight. Ron Dull stated said he has no problem with Kelly re-stating the motion.

Kelly made an amended motion to have City Attorney Baumgartner bring back Ordinance 726 at the next meeting and to include the Utility Indemnification Agreement in the ordinance with the understanding that the \$250.00 deposit amount will remain, but will be up for further discussion and council action if they so approve. Ron Dull made the second and the motion was approved 4 yeas-0 nays and 1 abstention on the following roll call vote:

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

With nothing further to discuss and on a motion by Kelly and a second by Curtis adjournment followed.

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Gregg A. Sprunger, Mayor

ATTEST:

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Gwen Maller, Clerk-Treasurer