

March 23, 2020

Pursuant to Indiana Governor Eric Holcomb's Executive Order 20-09 in response to the COVID-19 pandemic, the March 23, 2020 council meeting was held by way of a conference call using GoToMeeting. Mayor Gregg Sprunger and Council President Curtis Wurster were present in city hall and Council members Ron Dull, Rod Mason, Kelly Amstutz, John Wanner and City Attorney Dave Baumgartner logged into the meeting remotely. Also attending by remote, Ashley Bailey, Decatur Democrat; Rob Weaver, WPGW Radio station and Clint Anderson of the Berne Witness. An agenda was posted at the door and there was a link for the agenda on the City of Berne webpage.

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

Mayor Sprunger verified a quorum.

### **Minutes**

Mayor Sprunger asked the members if they had any questions or comments on the minutes-None

On a motion by Curtis Wurster and a second by Kelly Amstutz, the minutes of the March 9, 2020 meeting were unanimously approved by the following answering verbally:

Kelly Amstutz-yes; Ron Dull-yes; John Wanner-yes; Rod Mason-yes and Curtis Wurster-yes. 5-0

### **Claims**

Mayor Sprunger asked the members if they had any questions or comments on the claims-None

Rod Mason made a motion to approve the claims as submitted. John Wanner made the second. The claims were unanimously approved for payment as presented by the following Roll Call vote of the Council:

Curtis Wurster-Aye, Ron Dull-Aye; Rod Mason-Aye; Kelly Amstutz-Aye; John Wanner-Aye. 5-0

Mayor Sprunger asked the City Attorney about the council signing the claims. Dave advised that the council could sign the claims electronically or by circulating the claims for their signature, but it does not have to be done immediately and he advised that the same will apply to any resolutions or ordinances that need their signature during this time.

### **6:40 PM Public Hearing:**

Mayor Sprunger suspended the council meeting and opened up the public hearing for MAFCO/Poseidon. Attorney Baumgartner reviewed the actions taken at the March 9, 2020 council meeting where the council approved Declaratory Resolutions 2020-3-1 and 2020-3-2 for Real and Personal Property, finding that ground at MAFCO/Poseidon is an Economic Revitalization Area. On March 18, 2020, the Board of Public Works and Safety Scoring Committee met in a public meeting and scored Poseidon's application for a Super/ Ten Year Phase In Tax Abatement. MAFCO/Poseidon scored 99 out of 100 potential points for both Real and Personal Property which qualified them for the Super Tax Abatement where they pay no taxes for the first five years on the improvements, then a phase in of taxes over the next five years.

Mayor Sprunger opened the hearing for public comment by those members of the press who accessed the meeting by remote- None

Mayor Sprunger closed the public hearing and reconvened the regular meeting.

### **Confirming Resolutions for MAFCO Leasing, LLC (Poseidon)**

Ron Dull made a motion to approve Confirming Resolution 2020-3-3 for Real Property for MAFCO/Poseidon and Rod Mason made the second. Approval was unanimous with a Roll Call vote of the Council as follows:

Curtis Wurster-Aye, Ron Dull-Aye; Rod Mason-Aye; Kelly Amstutz-Aye; John Wanner-Aye. 5-0. Resolution as follows:

**RESOLUTION 2020-3-3**

**A RESOLUTION CONFIRMING RESOLUTION 2020-3-1  
MAFCO LEASING LLC  
ECONOMIC REVITALIZATION AREA**

WHEREAS, the Common Council adopted Resolution 2020-3-1 on March 9, 2020, preliminarily establishing the area described in Exhibit "A", attached hereto, as an Economic Revitalization Area pursuant to I.C. 6-1.1-12.1-2, and

WHEREAS, the Clerk-Treasurer published a Notice of the adoption and substance of said Resolution and a public hearing on the waivers of the requirements of I.C. 6-1.1-12.1-3 pursuant to I.C. 6-1.1-12.1-11.3 in accordance with I.C. 5-3-1 and setting March 23, 2020, at 6:40 o'clock P.M. at City Hall, 158 Franklin Street, Berne, IN 46711, for a hearing on remonstrances and objections of said Resolution, and

WHEREAS, the City of Berne Board of Public Works and Safety, along with the Clerk-Treasurer of the City of Berne has reviewed and scored the Applications of the applicant pursuant to the City of Berne Tax Phase In Policies and Indiana statutory factors and has determined that the applicant qualifies for the alternate abatement schedules for Redevelopment Property, all as set out in the City of Berne Tax Phase In Policy and Indiana law; and

WHEREAS, a public hearing on remonstrances and objections was held at 6:40 o'clock P.M., on March 23, 2020 in accordance with such published notice.

WHEREAS, the Common Council has considered whether the applicant is entitled to an alternative abatement schedule as set out in I.C. 6-1.1-12.1-17 based on the City of Berne Tax Phase In Policy and the following statutory factors: (1) The total amount of the taxpayer's investment in real property; (2) The number of new full-time equivalent jobs created; (3) The average wage of

the new employees compared to the state minimum wage; and (4) The infrastructure requirements for the taxpayer's investment.

BE IT RESOLVED: The Resolution 2020-3-1 adopted by the Common Council on March 9, 2020, establishing the area described as Exhibit "A", attached hereto, as an Economic Revitalization Area and granting tax deductions for Redevelopment Property pursuant to I.C. 6-1.1-12.1-3 is hereby modified for the reason that the Applicant qualifies for an alternative abatement schedule pursuant to the City of Berne Tax Phase In Policy.

BE IT FURTHER RESOLVED: The deduction granted for Redevelopment Property pursuant to I.C. 6-1.1-12.1-3 is hereby modified by this confirming resolution by the grant of an alternative abatement schedule pursuant to I.C. 6-1.1-12.1-17 as follows:

10 Year Abatement

- Year 1 100%
- Year 2 100%
- Year 3 100%
- Year 4 100%
- Year 5 100%
- Year 6 90%
- Year 7 80%
- Year 8 65%
- Year 9 50%
- Year 10 40%

BE IT FURTHER RESOLVED, that the Common Council hereby waives the following requirements of I.C. 6-1.1-12.1-3 pursuant to I.C. 6-1.1-12.1-11.3:

1. 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;
2. The failure, if any to designate an area as an Economic Revitalization Area before the installation of the new manufacturing equipment;

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

Duly passed, adopted and resolved by the by the Common Council of the City of Berne, State of Indiana, on March 23, 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

Ron Dull made a motion to approve Confirming Resolution 2020-3-4 for Personal Property for MAFCO/Poseidon and Kelly Amstutz made the second. Approval was unanimous with a Roll Call vote of the Council as follows:

Curtis Wurster-Aye, Ron Dull-Aye; Rod Mason-Aye; Kelly Amstutz-Aye; John Wanner-Aye. 5-0. Resolution as follows:

**RESOLUTION 2020-3-4**

**A RESOLUTION CONFIRMING RESOLUTION 2020-3-2  
POSEIDON BARGE LTD  
ECONOMIC REVITALIZATION AREA**

WHEREAS, the Common Council adopted Resolution 2020-3-2 on March 9, 2020, preliminarily establishing the area described in Exhibit "A", attached hereto, as an Economic Revitalization Area pursuant to I.C. 6-1.1-12.1-2, and

WHEREAS, the Clerk-Treasurer published a Notice of the adoption and substance of said Resolution and a public hearing on the waivers of the requirements of I.C. 6-1.1-12.1-3 pursuant to I.C. 6-1.1-12.1-11.3 in accordance with I.C. 5-3-1 and setting March 23, 2020, at 6:40 o'clock P.M. at City Hall,

158 Franklin Street, Berne, IN 46711, for a hearing on remonstrances and objections of said Resolution, and

WHEREAS, the City of Berne Board of Public Works and Safety, along with the Clerk-Treasurer of the City of Berne has reviewed and scored the Applications of the applicant pursuant to the City of Berne Tax Phase In Policies and Indiana statutory factors and has determined that the applicant qualifies for the alternate abatement schedules for New Manufacturing Equipment, all as set out in the City of Berne Tax Phase In Policy and Indiana law; and

WHEREAS, a public hearing on remonstrances and objections was held at 6:40 o'clock P.M., on March 23, 2020 in accordance with such published notice.

WHEREAS, the Common Council has considered whether the applicant is entitled to an alternative abatement schedule as set out in I.C. 6-1.1-12.1-17 based on the City of Berne Tax Phase In Policy and the following statutory factors: (1) The total amount of the taxpayer's investment in personal property; (2) The number of new full-time equivalent jobs created; (3) The average wage of the new employees compared to the state minimum wage; and (4) The infrastructure requirements for the taxpayer's investment.

BE IT RESOLVED: The Resolution 2020-3-2 adopted by the Common Council on March 9, 2020, establishing the area described as Exhibit "A", attached hereto, as an Economic Revitalization Area and granting tax deduction for new manufacturing, information technology, and logistical distribution equipment pursuant to I.C. 6-1.1-12.1-4.5 is hereby modified for the reason that the Applicant qualifies for an alternative abatement schedule pursuant to the City of Berne Tax Phase In Policy.

BE IT FURTHER RESOLVED: The deduction granted for new manufacturing, information technology, and logistical distribution equipment pursuant to I.C. 6-1.1-12.1-4.5 is hereby modified by this confirming resolution by the grant of an alternative abatement schedule pursuant to IC. 6-1.1-12.1-17 as follows:

10 Year Abatement  
Year 1 100%  
Year 2 100%  
Year 3 100%  
Year 4 100%  
Year 5 100%  
Year 6 90%  
Year 7 80%  
Year 8 65%  
Year 9 50%  
Year 10 40%

BE IT FURTHER RESOLVED, that the Common Council hereby waives the following requirements of I.C. 6-1.1-12.1-3 pursuant to I.C. 6-1.1-12.1-11.3:

1. The failure, if any to submit the completed and the Statement of Benefits Form SB-1/PP to the designating body before the installation of the new manufacturing equipment for which the person desires to claim a deduction;
2. The failure, if any to designate an area as an Economic Revitalization Area before the installation of the new manufacturing equipment;
3. The failure, if any to make the required findings of fact before designating an area as an economic revitalization area.
4. The failure, if any 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.

Duly passed, adopted and resolved by the by the Common Council of the City of Berne, State of Indiana, on March 23, 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

Attorney Baumgartner advised the council that he will have three sets of each resolution in the clerk's office for the council to sign.

Council Member Rod Mason asked a procedural question as to who is taking the minutes at this meeting, Mayor Sprunger advised that the meeting is being tape recorded.

### **Annual CF-1 Filings**

Mayor Sprunger reviewed the application filed by Key Fasteners for their annual CF-1 applications. Executive Vice President John Johnston had indicated to Mayor Sprunger that he would not be joining the meeting via remote. Mayor Sprunger reported that on the application for Real Property application marked Doc 1, Key Fasteners estimated 87 employees, they employ 90; Doc 2 for Personal Property, Key Fasteners estimated 81 employees, they employ 90, Doc. 3 also for Personal Property, they estimated 87 employees and employ 90. Attorney Baumgartner also noted that all three applications show Key Fasteners made more investment in the company than was estimated.

Ron Dull made a motion to find Key Fasteners in substantial compliance on all three of their CF-1 filings. Curtis Wurster made the second. Approval was unanimous with a Roll Call vote of the Council as follows:

Curtis Wurster-Aye, Ron Dull-Aye; Rod Mason-Aye; Kelly Amstutz-Aye; John Wanner-Aye. 5-0.

Mayor Sprunger informed the council that Mr. Johnston wanted the council to know how much Key Fastener appreciates the cooperation by the city indicating that 2019 was a great year and hoping the same can be said of 2020 amid concerns over the current pandemic. Mayor Sprunger stated that he will reach out to Mr. Johnston tomorrow about the Council approval of the CF-1 applications and will thank him and Key Fasteners on behalf of Berne's elected officials.

### **Annexation**

Mayor Sprunger asked City Attorney Baumgartner to review the process of annexation filed by Joshua Oswald. Attorney Baumgartner advised the council that at the March 9, 2020 council meeting, the council approved the introduction of Ordinance 723: AN ORDINANCE ANNEXING A TRACT IN MONROE TOWNSHIP TO THE CITY OF BERNE, INDIANA.

Attorney Baumgartner reported that the petition for annexation is for 18 acres of land owned by Joshua Oswald and is in between Heritage Trail and County Road 500 South. Mr. Oswald is the sole owner and petitioner for annexation. Should the council approve the annexation, Attorney Baumgartner reported that there will be a 30 day remonstrance period.

Attorney Baumgartner asked the council to review the Fiscal Plan as submitted. At this time, Attorney Baumgartner said there is no additional expense to the city as it pertains to police protection, sanitary, water or sewer etc. Should the owner wish to develop the property in the future, his plans would go before the Plan Commission and those issues would be addressed there.

Rod Mason made a motion to approve the Fiscal Plan as submitted. Kelly Amstutz made the second. Approval was unanimous with a Roll Call vote of the Council as follows:

Curtis Wurster-Aye, Ron Dull-Aye; Rod Mason-Aye; Kelly Amstutz-Aye; John Wanner-Aye. 5-0.

### **Consideration of Adopting Ordinance 723: An Ordinance Annexing a Tract in Monroe Township to The City of Berne, Indiana**

Ron Dull made a motion to adopt Ordinance 723 by short title as presented. Rod Mason made the second. Approval was unanimous with a Roll Call vote of the Council as follows:

Curtis Wurster-Aye, Ron Dull-Aye; Rod Mason-Aye; Kelly Amstutz-Aye; John Wanner-Aye. 5-0

### **Attorney Comments:**

Attorney Baumgartner reported that he has been working closely with Mayor Sprunger as events quickly unfolded over the COVID-19 pandemic. He thanked Mayor Sprunger for providing himself and the council information and links as he received them from the Governor's office and other agencies.

### **Clerk-Treasurer Comments**

Mayor Sprunger noted that Clerk-Treasurer Gwen Maller had a link to tonight's meeting, but was in an area with poor cell phone reception and did not check in. In asking Deputy Clerk Katie Armenta, Mayor Sprunger said she did not have anything to report to the council at this meeting.

### **Mayor Comments**

Mayor Sprunger reported that he made the decision that starting tomorrow, all city buildings, including the walk-up pay window will be closed to the public. Payment options include the drop box on the west end of the parking lot, U.S. Mail, PayGov and payment using the City of Berne website.

The Mayor reported that at this time, Brackney is still making good progress on the Water Street Sewer Separation project and are exempt from the Governor's Executive Order to shut down all non-essential services. Mayor Sprunger reported that our engineering firm, Commonwealth Engineers is planning to shut down their offices and will work remotely, but the onsite inspector for Commonwealth will remain on the project as long as there is work being done.

### **Council Comments**

Rod Mason noted that with the Governor's Executive Order issued today that all nonessential services shut down, he is hoping that the City, Mayor and Council are proactive in any way possible to assure implementation. He added that as the Director of a large retirement/nursing home facility in Berne, the last thing any facility like his needs is for the virus to get in their complex or any such complex in the county.

When asked by Council Member Dull about the Police Department and how the Executive Order effects local law enforcement, City Attorney Baumgartner explained that at this time, the Executive Order is rather broad and he expects further explanation from the state on how to proceed, but local law enforcement is supposed to enforce the executive orders. He added that much of the Governor's Executive Order will be self governed. As to local businesses, Dave said that neither a mayor nor a council can shut down any business, that can only be done by the Governor.

Council Member Amstutz said that she is encouraged by the number of local business that closed or altered the way they do business even before the Governor's Executive Order. Mayor Sprunger added he had talked to several local businesses that took the pre-emptive actions to close last week.

Mayor Sprunger said at this time, all essential services, including trash pick-up, response to water leaks, and our Police Department are continuing. Council member Mason asked what universal precautions are our employees taking at this time? Mayor Sprunger responded that posters and procedures have been posted at all of our workplace locations. Council member Mason said that he is equally concerned about our trash haulers because the virus can live on different surfaces any where from 24 to 48 to 72 hours depending on the material. In response to Council member Mason's question on the use of gloves and masks, Mayor Sprunger confirmed that gloves were purchased last week, and he has asked the sanitation department in particular to use them, but we do not have masks at this time. Mayor Sprunger said he will follow up tomorrow and make sure the sanitation department is wearing the gloves and he will also try to get masks.



Mayor Sprunger asked if any of the media had any questions about the meeting, neither Clint Anderson of the Berne Witness nor Ashley Bailey of the Decatur Democrat had any questions, Rob Weaver of WPGW did not respond.

There being no other business to come before the Council and upon a motion duly made to adjourn by John Wanner and seconded by Ron Dull, adjournment by a roll call vote Mayor Sprunger called the roll as follows: Curtis Wurster-Aye, Ron Dull-Aye; Rod Mason-Aye; Kelly Amstutz-Aye; John Wanner-Aye. 5-0.

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Gregg A. Sprunger, Mayor

ATTEST:

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Gwen Maller, Clerk-Treasurer