

July 27, 2020

Pursuant to Executive Orders 20-04 and 20-08 by Governor Eric Holcomb in response to the COVID-19 pandemic, the July 27, 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 using GoToMeeting: 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: Work Force Manager Kurt Dailey; Clint Anderson of the Berne Witness and Rob Weaver, WPGW/WZBD radio stations.

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**

Ron Dull asked that the minutes from July 13, 2020 be corrected as follows: in the 7<sup>th</sup> paragraph under Review of Berne Pool Protocol, change SAY to SAYL, and under Council Comments in the second paragraph, the last sentence be changed to include “especially because our system does not allow for deposit installments as a payment option”.

Ron Dull made a motion to approve the minutes of July 13, 2020 with the corrections as noted. With a second by Kelly Amstutz, the corrected minutes of July 13, 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**

Curtis Wurster made a motion to approve the claims as presented. Ron Dull 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		

### **Introduction of Ordinance No. 727**

An Ordinance of the Common Council of the City of Berne, Indiana Amending and Restating a Portion of Chapter 53 of the Berne City Code Including Provisions Regarding the Deposit Made by Customers of the Water Waterworks System of the City of Berne was presented for Council consideration.

Mayor Sprunger reported to the council that after passage of Ordinance 726 establishing a utility deposit for new purchases and rentals, the city was approached by one landlord asking if they could agree to pay any unpaid utility bills left by their renters in lieu of the city requiring a deposit. Mayor Sprunger said that tonight, the council will consider the indemnification language of Ordinance 727, which is an agreement between a landlord and the City of Berne. After the ordinance is introduced and action taken, the council can re-visit the amount required for a deposit.

City Attorney Dave Baumgartner advised the council that in considering Ord. 727, which amends Ord. 726, landlords can voluntarily enter into an agreement with the City, whereby the landlord/owner will, by their choice, be held responsible for any unpaid utility bills left by their tenant. This agreement would exclude their tenants having to pay a deposit. Dave further advised the council that if they choose to introduce Ord. 727, it will be with the \$250 dollar deposit amount as approved at the last meeting. Discussion can then take place on changing the amount required for a deposit if the council so chooses. Final approval to adopt Ordinance 727 can take place at the August 10, 2020 council meeting.

Rod Mason made a motion to Introduce Ordinance 727 as presented, with John Wanner making the second. The motion was unanimously approved on the following roll call vote:

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

Mayor Sprunger opened the floor up for discussion on the \$250.00 utility deposit.

Rod Mason stated that he would like to have a rolling value amount for the deposit that is reviewed every year during the budget process and would be based on the previous two years average loss of revenue from delinquent surrenders.

After additional discussion, Rod made a motion that the amount required for a utility deposit be based on a rolling previous 2 year average amount of delinquent utility bills, and that the amount is to be determined annually during the budget process by the clerk's office. The motion died on the floor for a lack of a second.

Mayor Sprunger opened the floor back up for further discussion. Kelly Amstutz shared her calculations on the amount the city could receive based on occupancy, move in/move out rates and again stating that a deposit of \$250 will be a hardship on the underserved citizens of our community.

Kelly made a motion to change the deposit from \$ 250.00 to \$150.00. Before there was further discussion or a call for the question, Clerk Treasurer Gwen Maller advised the council that the money received for deposits will be held in a separate fund and will remain in that fund until a person moves out and the amount is refunded to them, or used in the event that a person leaves an unpaid utility bill.

After further discussion, Mayor Sprunger asked if there was a second to Kelly's motion to change the utility deposit from \$250.00 to \$150.00. The motion died on the floor for a lack of a second.

City Attorney Baumgartner further explained that the city will be holding the deposits in a trust, and if an account is delinquent, the city can only use the deposit from that same account and no other deposits can be used to offset a larger loss. Dave added that even with the deposit requirement, the city could still incur a financial loss.

Mayor Sprunger opened the floor to further discussion.

Kelly Amstutz asked what happens to the deposit if residents move, but not out of the community. John Wanner stated that the deposit is not the city's money, it still belongs to the individual and the city is just holding the money in lieu of those individuals not paying their bill or for those individuals that have passed away and have an unpaid bill. In that case, any amount then left after the bill is paid from the deposit, will go to the person's estate.

Rod Mason stated that he believes the council should not legislate based on the highest income people, nor legislate based on the lowest based income people, but find some middle ground.

While not having a vote, Mayor Sprunger stated that with the motion setting the deposit at \$150 not getting a second, and that there are still concerns about the approved \$250 amount, would the council consider a deposit of \$200. The \$200 would stay in the ordinance and there would not be a rolling change by the clerk's office.

Rod Mason made a motion to change the utility deposit from \$250 to \$200. Ron Dull made the second. Before the vote was taken there were additional comments.

John stated that he is opposed to amending the \$250 deposit that was passed at the July 13, 2020 council meeting. John further stated that while he is not sure what the amount should be, the \$250 deposit had been thoroughly discussed and approved and should not now be amended. John said instead of lowering the rate, it might be better to have churches, organizations and individuals involved in helping those who are at a financial disadvantage pay the \$250 deposit.

Curtis Wurster asked Gwen what would happen to a deposit if an individual who is current on their utility bill were to move from one residence to another within the community. Gwen stated that if the user is current; the deposit could transfer to their new utility account.

After additional discussion, Curtis Wurster said that if there was no further discussion, he would like to call for the question.

With a motion and a second on the floor to change the utility deposit from \$250 to \$200, Mayor Sprunger called for a roll call vote. The motion passed on a vote of 4 ayes and 1 nay as follows:

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

Dave Baumgartner advised the council that tonight, Ordinance 727 was introduced with the indemnification provision and now modified to change the deposit to \$200. The ordinance will now be on the agenda for the August 10<sup>th</sup> council meeting for final adoption.

### **Attorney Comments**

Dave reported that the Indemnification Agreement that was introduced tonight as part of Ordinance 727 has been approved by the landlord who requested that provision. Once the Ordinance is in place, the city and the landlord can move forward with the indemnification contract.

Ron Dull asked for and received clarification that the voluntary agreement will hold the landlord contractually responsible should any of their tenants leave an unpaid utility bill.

Gwen assured the council that the utility office will continue to stay on top of delinquent bills and potential user shut off's for lack of payment and will continue to provide that information to the landlords on a monthly basis as a courtesy.

### **Clerk Comments:**

Gwen reported that the 2<sup>nd</sup> quarter financial statements were in council packets for the July 13<sup>th</sup> meeting. The council did not have any comments at this meeting, but Gwen said she would welcome any comments or questions at the next meeting should the council have any.

### **Mayor Comments**

The sewer separation project continues ahead of schedule. There are still three big items to complete, with two big digs, one being a new structure at the Main Street lift station, the other in the alley between Oregon and Short streets and one smaller project for pipe lining on existing pipes.

The South Adams school superintendent needs the SRO documents signed and returned to her. The council all agreed to come to the city building in the next day or two to sign those after which Mayor Sprunger will deliver to the superintendent.

Mayor Sprunger reported to the council that he and Gwen have been working on the Salary Ordinances for full time employees and elected officials for 2021. Mayor Sprunger advised the council that it is his intention to propose a 1.95% salary increase plus \$ 500.00 flat amount for full time employees. Tonight, the Mayor asked the council to make a motion instructing City Attorney Baumgartner to prepare the 2021 salary ordinances for the next council meeting. Mayor Sprunger advised the council that there will then be an opportunity for discussion at that time. Mayor stated that in working with Gwen, she advised that there is a 4% increase in the maximum levy, and she has factored that into the salary proposal.

Before a motion was made, Gwen advised the council that they can lower the amount of the salaries in the ordinance, but by state statute, they cannot raise the salaries.

Curtis Wurster made a motion instructing City Attorney Baumgartner to prepare the salary ordinance with the 1.95% salary increase plus the \$500 flat amount for full time employees as proposed by Mayor Sprunger. Kelly Amstutz made the second. Mayor Sprunger called for vote on the motion. The motion passed on a 4 aye, 1 abstention by the following roll call vote:

Kelly Amstutz	Aye	John Wanner	Aye
Ron Dull	Aye	Curtis Wurster	Aye
Rod Mason	Abstain because there was no discussion following the motion.		

### **Council Comments**

Rod Mason asked that items like the salary proposal and preparation be placed on the agenda in the future to allow the council to be better prepared to act.

John Wanner asked if it would be possible to start having meetings in person, adding that it would be very helpful to be in the same room as his fellow council members. John also stated that with a city of our size, with a vibrant community, the top elected official in Berne, which is the mayor, should be paid as a full time position. John said while he has not been able to do research on what the amount should be, he would encourage that at some point, the mayor's pay reflect the mayor's full time responsibilities and that it would be an investment in the city's highest elected official.

Mayor Sprunger said he is leaning toward an in person meeting with the council at the next meeting to better explain the budget, which will be on the agenda, especially with 3 new members who have not participated in the budget process. Whether the meeting is at the city building, or a larger building to accommodate social distancing with the ongoing COVID-19 pandemic can be determined as soon as possible.

Rod Mason requested that if the next meeting is in person, that there be consideration given to having a blended meeting. At this time, Rod stated that he probably would be unable to attend in person because of concerns with the pandemic and his role as Executive Director at Swiss Village. Rod did state that when he feels it is safe for him to join the meetings in person, he looks forward to doing so as it will be beneficial in ongoing discussions.

Mayor Sprunger stated that he will take Rod's concerns into consideration going forward. Gwen also asked that if there are blended meetings, can they be by videoed. Options including GoToMeeting and ZOOM were discussed for a blended meeting.

Gwen did state that she will provide the council with the budget proposal ahead of the August 10 council packets.

Ron Dull asked about the outcome of the BZA Hearing prior to tonight's council meeting for the electronic sign request by First Missionary Church. Dave reviewed the reasoning of the signage ordinance concerning electronic signage, which was primarily to eliminate portable electronic signs, and flashing or highly animated electronic signs in our community. Dave stated that the BZA approved First Missionary Church's variance request for an electronic sign, which still allows flexibility to the church, but with the following restrictions:

The First Missionary Church will submit a written operational policy based on this hearing to the City of Berne Planning Director by August 31, 2020. The policy is to be kept on file at the church and at the City of Berne; message, pictures, or intensity of the lights does not change more frequently than every 5 minutes; no animation, scrolling, flashing or any presentation depicting movement and no use of emergency vehicle colors of red or blue.

With nothing further to discuss and on a motion by Ron and a second by Rod adjournment followed.

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Gregg A. Sprunger, Mayor

ATTEST:

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Gwen Maller, Clerk-Treasurer