

January 23, 2012

The Common Council met with Mayor William McKean for a regular meeting on Monday, January 23, 2012 at 7:30 p.m. in the Council Chambers at City Hall according to the posted notice. Councilmen Gregg Sprunger, Curtis Wurster, Ron Dull, Mark Wynn and Philip Provost were present along with Attorney James Beitler, Jr. and Clerk-Treasurer Gwen Maller.

Simon Sprunger and Chase Mosser, South Adams students, opened the meeting with the pledge of allegiance and Mayor McKean gave the invocation.

On a motion by Ron Dull and a second by Gregg Sprunger, the minutes of the January 9, 2012 meeting were unanimously approved.

On a motion by Curtis Wurster and a second by Phil Provost, the claims were unanimously approved for payment.

Ron Dull reported that the Board of Public Works recommends that the City change workman's comp insurance carriers from the Accident Fund (which is a traditional insurance company) to Indiana Public Employers' Plan (IPEP, which is an insurance pool). At the present time, the City has the state required coverage with Accident Fund, which provides full benefits (medical and loss time) to all full-time civil employees and medical benefits to full-time police and volunteer firemen. The full-time police officers are covered under PERF for any loss time. Since IPEP is not an insurance company, they are not governed under the same laws and they can offer coverages that are above and beyond the state requirements. IPEP is actually the only one in the state that offers loss time benefits to police officers, and among their 900 clients, less than 200 have the police loss time benefit coverage. This coverage is usually not included in a bid, but has to be specifically requested. The additional cost of switching to IPEP with the loss time benefit coverage is \$387. Another issue is that there is no coverage under either plan for the police reserves. By switching to IPEP, the City could get a plan through VFIS to cover the police reserves. This would include a death and disability benefit as well as a loss time benefit. The cost of this coverage is \$130 per reserve officer for a total of \$650.00. Ron Dull made a motion to approve the IPEP plan for workman's comp coverage that includes loss time benefits for full-time police officers, and approve the VFIS plan for coverage for police reserve officers and to adopt the resolution that allows the Mayor to sign documents for membership in the IPEP plan and the Clerk-Treasurer to pay all bills associated with the plan. Curt Wurster made the second and the motion was unanimously passed. The resolution is as follows:

RESOLUTION  
OF  
CITY OF BERNE

WHEREAS, pursuant to IC 36-1-7 and IC 23-7-1.1, the City of Berne desires to combine with other governmental entities of the State of Indiana in a group self-funded program to be known as the "Indiana Public Employers' Plan, Inc.", an Indiana not-for-profit corporation, (hereinafter referred to as "IPEP", or the "Plan") for the purpose of paying and administrating their respective obligations to their employees and dependents under the Indiana Worker's Compensation Act (IC 22-3-2 through IC 22-3-7), the Indiana Employers Liability Act (IC 22-03-9), hereinafter referred to as the "Acts", and;

WHEREAS, as the governing body of the aforesaid governmental entity of the State of Indiana, as defined by IC 34-4-16.5-2 ( c ), we desire to give and grant authority the below-named person to execute for and on behalf of this body a Membership Agreement with the Plan and to provide and execute such other documents as are necessary to affect membership in and the purposes of the Plan.

THEREFORE, BE IT RESOLVED THAT:

1. William F. McKean is hereby authorized to execute for and on behalf of this body a Membership Agreement in the Indiana Public Employer's Plan, Inc. ("Plan") and provide and execute such other documents as may be necessary to affect membership in and the purposes of the Plan.
2. The fiscal officer of the City of Berne is hereby authorized to pay or cause to be paid any and all amounts required of the Plan in order to affect membership in and the purposes of the Plan, subject to the prior appropriation of such amounts by the body.

SO RESOLVED, this 23<sup>rd</sup> day of January, 2012 at Berne, Indiana.

Common Council	Ronald N. Dull Curtis Wurster Gregg Sprunger	Phillip Provost Mark Wynn
Mayor	William F. McKean	
Attest:	Gwen Maller	

Curt Wurster reported that the other item discussed at the Board of Works meeting is upgrading the phone system at City Hall. This was tabled until the next meeting in order to get more information.

Mayor McKean read Ordinance #623 by short title. This ordinance adopts the provisions of the Indiana Code IC 36-7-9, entitled Unsafe Building Law. Ron Dull made a motion to approve the first reading of Ordinance #623. Mark Wynn made the second and the motion was unanimously passed. Gregg Sprunger made a motion to waive the rules and regulations to pass the second reading of an ordinance. Curtis Wurster made the second and the motion was passed unanimously. Ordinance #623 was read for the final time by short title. Gregg Sprunger made a motion to adopt Ordinance #623 on its final reading. Ron Dull made the second and the motion was unanimously passed. The ordinance will go into effect after it is published in the newspaper according to IC 5-3-1-2.

Attorney Beitler presented Resolution 2012-1-1 for Council consideration. He stated that two appraisals were obtained for the tract of land on Berne Street at Monroe and Jackson streets where the old water tower sat. The average of the two appraisals was \$1,750.00 and since the appraisals were less than \$15,000, the land can be offered for sale under I.C. 36-1-11-5 instead of I.C. 36-1-11-4. The "offering price" can include the appraisal fees, title insurance, recording fees and advertising costs. Ron Dull made a motion to pass Resolution 2012-1-1 to dispose of real estate pursuant to I.C. 36-1-11-5. Gregg Sprunger made the second and the motion was unanimously passed. Mark Wynn made a motion to set the offering price at \$3,400.00 and advertise it for sale. Phil Provost made the second and the motion was unanimously passed. Resolution 2012-1-1 is as follows:

**RESOLUTION 2012-1-1**

**RESOLUTION OF CITY OF BERNE  
TO DISPOSE OF REAL ESTATE PURSUANT TO I.C. 36-1-11-5**

Whereas, the City of Berne is a municipal corporation and is authorized pursuant to I.C. 36-1-4-6 to sell property, including real estate; and

Whereas, the City of Berne is the owner of the following described real property (hereafter referred to as "Tract"), to wit:

Part of the Southwest Quarter of Section 33, T 26 N, R 14 E, Monroe Township, Adams County, Indiana more particularly described as follows:

Commencing at the southeast corner of the intersection of Monroe Street and Berne Street in the City of Berne, Adams County, Indiana; Thence south on and upon the east line of Monroe Street 31.72 feet to a 5/8 inch iron rebar with a "WEMHOFF" identification cap, the point of beginning; Thence continuing south on and upon said east line 118.28 feet to a 3/4 inch iron pipe; Thence easterly on and upon the south line of Deed Record 121 page 596 deflecting 91 degrees 47 minutes 47 seconds left, 120.00 feet to a 5/8 inch iron rebar with a "WEMHOFF" identification cap; Thence northwesterly deflecting 112 degrees 29 minutes 10 seconds left, 133.42 feet to a 5/8 inch iron rebar with a "WEMHOFF" identification cap; Thence westerly deflecting 71 degrees 57 minutes 58 seconds left 65.53 feet to the point of beginning, containing 0.26 acres more or less.

Subject to: All legal easements and Right-of-Ways of record.

Tax Parcel #: 01-08-33-300-010.000-010

Street Address: Berne Street at Monroe & Jackson Streets, Berne, IN  
Whereas, the Common Council of the City of Berne finds the following:

1. That the assessed value of the Tract to be sold is less than fifteen thousand dollars (\$15,000.00) based on the most recent assessment of the tract; and
2. The highest and best use of the tract is sale to an abutting landowner, meaning an owner of property that touches, borders on, or is contiguous to the tract that is the subject of sale and does not constitute a public easement or public right-of-way; and
3. The cost to the public of maintaining the tract equals or exceeds the estimated fair market value of the tract; and
4. It is economically unjustifiable to sell the tract under I.C. 36-1-11-4; and
5. Two written, independent fair market value appraisals have been received from appraisers professionally engaged in making appraisals or licensed under I.C. 25-34.1 and the average appraisal value of the tract to be sold is \$1,750.00;
6. The tract is no longer needed for municipal purposes and it is in the best interests of the City of Berne to offer the tract for sale pursuant to the provisions of I.C. 36-1-11-5

NOW THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BERNE, INDIANA:

RESOLVED, that the Common Council of the City of Berne, offer the above-described tract for sale pursuant to the provisions of I.C. 36-1-11-5;

RESOLVED FURTHER, that the Common Council of the City of Berne now authorizes the publication of a notice in accordance with I.C. 5-3-1 identifying the tract intended for sale by legal description, key number and street address, including the offering price and a statement that the property may not be sold to a person who is ineligible under IC 30-4-1-16 and that an offer to purchase the property submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each beneficiary of the trust and settlor empowered to revoke or modify the trust.

RESOLVED FURTHER, that at the time of publication of notice, notice by certified mail shall be sent to all abutting landowners as described in I.C. 36-1-11-5(a), which notice shall contain the same information as the published notice.

RESOLVED FURTHER, that the City of Berne has heretofore obtained two independent appraisals from persons licensed under I.C. 25-34.1;

RESOLVED FURTHER the Common Council of the City of Berne determines that the "Offering Price" as defined in I.C. 36-1-11-5(b), which includes appraisal fees, title insurance, recording fee and advertising costs is now set at Three Thousand Four Hundred Dollars (\$3,400.00).

RESOLVED FURTHER, that the provisions of I.C. 36-1-11-5(g) and I.C. 36-1-11-5(h) shall apply to the sale.  
Passed and adopted by the Common Council of the City of Berne on January 23, 2012.

**COMMON COUNCIL OF THE CITY OF BERNE**

Gregg A. Sprunger  
Ronald N. Dull  
Philip Provost  
Curtis L. Wurster  
Mark D. Wynn

**MAYOR and PRESIDING OFFICER**  
William F. McKean

**ATTEST:**  
Gwen Maller, Clerk-Treasurer

I, affirm under the penalties for perjury that I have taken reasonable care to redact each Social Security Number in this document, unless required by law (James E. Beitler, Jr.).

This instrument prepared by James E. Beitler, Jr., City Attorney  
Attorney at Law, 110 S. Jefferson Street, Berne, Indiana 46711

Upon the South Adams Senior Center board's recommendation, Curt Wurster made a motion to appoint Van Wulliman to the board. Ron Dull made the second and the motion was unanimously passed. Van will be replacing Blaine Fulton who has served for many years.

**Mayor Comments**

Mayor McKean thanked everyone for their help as he is still in the learning process.

**Clerk Treasurer Comments**

Gwen Maller stated that "pursuant to I.C. 5-11-10.5 all checks outstanding and unpaid for a period of two years as of December 31 of each year shall be declared cancelled." She presented three outstanding checks as follows:

<u>DATE</u>	<u>CHECK NO.</u>	<u>NAME</u>	<u>AMOUNT</u>
3/31/2008	11341	Nancy Lindsey	\$ 24.72
7/15/2008	11774	Nancy Lindsey	6.58
12/15/2009	13510	IMPAC	132.50

Phil Provost made a motion to cancel the three outstanding checks that were presented. Ron made the second and the motion was unanimously passed.

Gwen Maller requested permission to release the second payment of a matching grant to the Berne Community Development Corp. It was approved on August 23, 2010 to provide \$5,000 match for the Downtown Enhancement grant for wayfinding signage. The City paid the first half on March 30, 2011. Gregg Sprunger made a motion to approve the second payment of \$2,500.00 to the Berne Community Development Corp for wayfinding signage. Curt Wurster made the second and the motion was unanimously passed.

**Councilman Comments**

Ron Dull asked how long before the unsafe building Ordinance # 623 goes into effect. Jim stated that it needs to be published first, so around February 4, 2012 it will be enforceable.

There being no other business to come before the Council and upon a motion duly made to adjourn by Mark Wynn and seconded by Phil Provost, adjournment followed.

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William F. McKean, Mayor

ATTEST:

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Gwen Maller, Clerk-Treasurer