

May 23, 2011

The Common Council met with Mayor John Minch for a regular meeting on Monday, May 23, 2011 at 7:30 p.m. in the Council Chambers at City Hall. All councilmen, except Mark Wynn, were present along with Attorney Bob Biberstein and Clerk-Treasurer Gwen Maller.

Councilman Ron Dull opened the meeting with the pledge of allegiance and Councilman Curt Wurster gave the invocation.

On a motion by Ron Dull and a second by Mike Poulson, the minutes of the May 9, 2011 meeting were unanimously passed.

On a motion by Gregg Sprunger and a second by Curt Wurster, the claims were unanimously approved for payment.

Mr. Jim Beitler, Attorney and Mr. Chris Frauhiger, Smith Brothers came before the Council requesting a tax abatement for a new 26,400 square foot two story addition to the west of the current new construction and an abatement for new manufacturing and computer equipment. The new addition will cost approximately \$1,150,000 and add about 10 more jobs. The cost of the new equipment is approximately \$150,000.00. Smith Brothers originally began in Linn Grove, Indiana in 1926 and then moved to Berne. They currently employ 275 people with an annual payroll of over \$10 million making them one of the larger employers in the City. A notice will be published for a public hearing to be held on June 13, 2011 at 8:00 p.m. Attorney Bob Biberstein read Resolution 2011-5-23 by short title which is as follows:

**RESOLUTION 2011-5-23
SHORT TITLE: A RESOLUTION OF THE
COMMON COUNCIL OF THE CITY OF BERNE
ESTABLISHING AN ECONOMIC
REVITALIZATION AREA, WAIVING NON-
COMPLIANCE,
AND GRANTING TAX ABATEMENTS FOR
REDEVELOPMENT PROPERTY AND FOR NEW
MANUFACTURING EQUIPMENT**

WHEREAS, the Applicant, Smith Brothers of Berne, Inc. has prepared and filed a Designation and Deduction Application with the Common Council of City of Berne, the fiscal body of Berne, Indiana for a designation about whether the particular area, as more particularly described in Exhibit A, should be designated as an economic revitalization area, whether a deduction provided by I.C. 6-1.1-12.1-3 for property, meaning a building or structure, and whether a deduction provided by I.C. 6-1.1-12.1-4.5 for new manufacturing equipment pursuant to the definition provided therefore by I.C.6-1.1-12.1-1(3) should be approved and has submitted with its application a Statement of Benefits Form SB-1/Real Property and Statement of Benefits Form SB-1/PP;

AND WHEREAS, the area's location is annexed in the City of Berne, Adams County, Indiana and which mailing address is 356 Monroe Street, Berne, IN 46711;

AND WHEREAS, the Common Council of the City of Berne has considered the area described in Exhibit "A" attached hereto and made a part hereof as an area which has become undesirable for, or impossible of, normal development and occupancy because of a lack of development, cessation of growth, deterioration of improvements or character of occupancy, age, obsolescence, substandard buildings, or other factors which have impaired or prevent a normal development of property or use of property, or an area where a facility or a group of facilities are technologically, economically, or energy obsolete are located and where the obsolescence may lead to a decline in employment and tax revenues, and

AND WHEREAS, the area described in Exhibit "A" attached hereto is within the City of Berne, Adams County, Indiana.

AND WHEREAS, the applicant desires to obtain a deduction under Section 3 of I.C. 6-1.1-12.1.

AND WHEREAS, the applicant desires to obtain a deduction under Section 4.5 of I.C. 6-1.1-12.1.

AND WHEREAS, the Common Council may consider adopting a waiver pursuant to I.C. 6-1.1-12.1-11.3 waiving by resolution noncompliance with the following:

1. The failure to provide the completed statement of benefits form to the designating body before the hearing required by I.C. 6-1.1-12.1-2.5;
2. The failure to submit the completed statement of benefits form to the designating body before the installation of the new manufacturing equipment for which the person desires to claim a deduction;
3. The failure to designate an area as an Economic Revitalization Area before the installation of the new manufacturing equipment;
4. The failure to make the required findings of fact before designating an area as an economic revitalization area.

BE IT RESOLVED, that the Common Council of the City of Berne hereby:

1. Declares and makes the following findings after review of the Statement of Benefits Form SB-1/Real Property as submitted by the applicant:

- (a) The estimate of the cost of the redevelopment is reasonable for projects of that nature.
- (b) The estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed described redevelopment.
- (c) The estimate of the annual salaries of those individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed described development.
- (d) Other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed described development.
- (e) The totality of benefits is sufficient to justify the deduction.

2. Declares and makes the following findings after review of the Statement of Benefits Form SB-1/PP as submitted by the applicant:

- (a) The estimate of the cost of the new manufacturing equipment is reasonable for equipment of that type.
- (b) The estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the installation of the new manufacturing equipment.
- (c) The estimate of the annual salaries of those individuals who will be employed can be reasonably expected to result from the proposed installation of the new manufacturing equipment.
- (d) Other benefits about which information was requested are benefits that can be reasonably expected to result from the installation of the new manufacturing equipment.
- (e) The totality of benefits is sufficient to justify the deduction.

3. Finds and declares the area legally described in Exhibit "A" attached hereto and made a part hereof is an Economic Revitalization Area as defined in I.C. 6-1.1-12.1-1(1) for the purpose of a deduction from the assessed value of property as defined in I.C. 6-1.1-12.1-1(4) pursuant to I.C. 6-1.1-12.1-3 and for the purpose of a deduction from the assessed value of new manufacturing equipment placed and located within the area pursuant to I.C. 6-1.1-12.1-4.5.

4. Hereby determines that the deduction provided in I.C. 6-1.1-12.1-3 for said area as an Economic Revitalization Area shall be for a period of Ten (10) years pursuant to I.C. 6-1.1-12.1-4.

5. Hereby determines that the deduction provided in I.C. 6-1.1-12.1-4.5 for said area as an Economic Revitalization Area shall be for a period of Ten (10) years pursuant to I.C. 6-1.1-12.1-4.5(h).

6. That the Applicant, to obtain the deductions provided by I.C. 6-1.1-12.1-3 and I.C. 6-1.1-12.1-4.5, shall file a certified deduction application on forms prescribed by the State Board of Tax Commissioners with the Adams County Auditor in accordance with I.C. 6-1.1-12.1-5.

BE IT FURTHER RESOLVED, that the County Auditor is hereby authorized and directed to file a copy of this Resolution with the Adams County Assessor.

BE IT FURTHER RESOLVED, that the Common Council of the City of Berne hereby sets the 13th day of June, 2011 as the date and, at the hour of 8:00 P.M. (local time) as the time, and Common Council Chambers, Berne City Hall, 158 Franklin St., Berne, IN 46711, as the place where the Common Council will receive and hear all remonstrances and objections from interested persons on the adoption of said Resolution.

BE IT FURTHER RESOLVED, that the Clerk-Treasurer of the City of Berne is hereby authorized and directed to publish a notice of the adoption and substance of this Resolution adopted here in accordance with I.C. 5-3-1. Said notice shall state that a description of the affected area is available and can be inspected in the County Assessor's office and the date of the hearing on remonstrances and objections.

BE IT FURTHER RESOLVED that the notice shall further state that the City of Berne shall conduct a public hearing on the waivers of the following requirements pursuant to I.C. 6-1.1-12.1-11.3, to wit: the failure to provide the completed statement of benefits form to the designating body before the hearing required by I.C. 6-1.1-12.1-2.5; the failure to submit the completed statement of benefits form to the designating body before the initiation of the redevelopment for which the person desires to claim a deduction; the failure to designate an area as an Economic Revitalization Area before the initiation of the redevelopment; and the failure to make the required findings of fact before designating an area as an economic revitalization area.

ADOPTED BY THE COMMON COUNCIL OF THE CITY OF BERNE, STATE OF INDIANA, THIS 23rd DAY OF MAY, 2011.

COMMON COUNCIL OF THE CITY OF BERNE

Ronald N. Dull
D. Michael Poulson
Gregg A. Sprunger
Curtis L. Wurster
Mark D. Wynn

John F. Minch Mayor and Presiding Officer

ATTEST:

Gwen Maller, Clerk-Treasurer

EXHIBIT "A"
LEGAL DESCRIPTION

#01-08-33-300-006.000-010

Part of Ninth Addition to the Town (now City) of Berne, Adams County, Indiana, more particularly described as follows:

Inlots Numbered 81, 87 and 86 in the Ninth Addition to the Town (now City) of Berne, Indiana, as the same was laid out by John A. Sprunger.

Gregg Sprunger made a motion to approve Resolution 2011-5-23. Mike Poulson made the second and the motion was unanimously passed.

Mr. Scott Prueter, Community Fiber Solutions, and Mr. Mark Miller, Benton Ridge Telephone Company, came before Council to request permission to use existing utility easements to run a fiber optic line underground. They are

in the process of connecting Portland, Geneva, Berne and Monroe for a client with future plans to go north to Fort Wayne. They have used overhead I & M poles, but there are a few areas where they need to go underground. They have already met with Shannon Smitley, Kurt Dailey and John Crider as to where to place the line within the easement to stay out of the way of the water/sewer lines. They will hopefully expand the fiber optic option to citizens when completed with this first phase. The line will be in a 1 ½ inch orange conduit so that it will be highly visible if there is repair work done in the easement. Ron Dull made a motion to approve Community Fiber Solutions use of the City of Berne utility easements to run a fiber optic line according to the plans submitted. Mike Poulson made the second and the motion was unanimously passed.

Wastewater Superintendent Terry Kongar and Branden Alberson came before council to request permission to purchase a 2011 Kawasaki Mule for \$7,295.00. They stated that they would need the mule for pond maintenance so that they can keep their big trucks off the dike walls. They would be able to patch the riprap around ponds and other department would be able to use it as needed. Curt Wurster made a motion to give the Wastewater Department approval to purchase a Kawasaki Mule for \$7,295.00 on the open market. Ron Dull made the second and the motion was unanimously passed.

Street Superintendent Gary Nussbaum submitted the 2011 street paving list for Council approval. The streets to be milled and paved are as follows:

Name	From	To	
Buckeye Street	Baltimore	New Pavement	\$ 6,280.
Oberli Street	U.S. 27	Hendricks	34,260.
Fulton Street	Dearborn	Popular	12,380.
Cleveland Street	Sprunger	Jefferson Street	13,570.
Cleveland Street	Jefferson	Behring Street	4,862.

Modified Asphalt Emulsion Microsurface Type II			
Swiss Way	Parr Road	McIntosh Road	\$20,872.

Ron Dull asked why there wasn't a uniform cost per square yard. Kurt Dailey replied that it depended on how many potholes there were that needed repaired on each street. Cost is also determined on the depth of the asphalt as a result of the potholes. Ron Dull made a motion to approve the 2011 Street maintenance list. Gregg Sprunger made the second and the motion was unanimously passed.

Mike Poulson made a motion to have a "Children at Play" sign installed on the west side of Behring Street north of the new Boys and Girls club. This would be for cars heading south on Behring. Curt Wurster made the second and the motion was passed unanimously.

Administrative Assistant Becky Sprunger updated the Council on the new website. She stated that the design phase is almost complete with only a small amount of content to be added. She and Gwen will be doing a training session on Wednesday for site maintenance and to learn the "Expressions" software. The website will be going live after Wednesday.

Ron Dull asked if a thank-you note could be sent from the Mayor, Council and Clerk-Treasurer to Ms. Stephanie Shane who is the South Adams Student government representative. She is stepping down at the end of the school year.

Gwen Maller reported that the refunding of the 1997 bonds will be completed on Wednesday, May 25, 2011.

Attorney Biberstein submitted Ordinance 615 with the change of deposits being turned in weekly to the Clerk-Treasurer instead of monthly. No official action was taken.

Attorney Biberstein also submitted an unsafe building ordinance for the Council to review.

Councilmen Comments:

Ron Dull asked if the Chamber was going to replace the lids that blew off the downtown trash cans the other week. Becky will contact the Chamber.

There being no other business to come before the Council, and upon a motion duly made to adjourn by Curt Wurster, and seconded by Ron Dull, adjournment followed.

John F. Minch, Mayor

ATTEST:

Gwendolyn J. Maller, Clerk-Treasurer