

PUBLIC HEARING – MAY 2, 2011

Mayor Grenier opened the duly advertised public hearing at approximately 7:30 p.m. to receive public input regarding the following subject matters:

- Ordinance 2011-02 High Volume Low Strength Sewer Rate - no comments
- Resolution 2011-15 Road Toll Guidelines – no comments
- Resolution 2011-16 Police Department DWI Hunter Patrols – no comments
- Resolution 2011-17 Police Department Safe Commute Patrols – no comments

There being no one wishing to speak for or against the subject matters, the Mayor closed the public hearing portion on the meeting at approximately 7:31 p.m.

REGULAR CITY COUNCIL MEETING – MONDAY, MAY 2, 2011

Mayor Grenier called the regular City Council Meeting to order at approximately 7:31 p.m. in the Council Chambers of City Hall. The pledge of allegiance to the flag preceded roll call. Present: Councilors Remillard, Otis, McCue, Evans, Rozek, Nelson and Theberge. Also present: Pat MacQueen, Deputy Police Chief Valerino, Bobby Haggart and the press.

Minutes, Previous Meetings

Councilor Remillard moved with a second by Councilor Otis to accept the minutes of the April 18 Work Session/Regular Meeting and April 25 Work Session. So moved, the motion carried.

Disbursements: It was recommended by the Committee on Accounts/Claims to pay all bills dated 4/21/11–5/04/2011 for a total cash disbursement of \$1,946,331.62 Draft #1639. Councilor Remillard moved with a second by Councilor Nelson to accept the disbursement summary and pay all bills as recommended by the Committee on Accounts/Claims. So moved, the motion carried.

PUBLIC COMMENTS: No Comments.

UNFINISHED BUSINESS

1. Council Committee Reports – No Reports
2. Ordinance 2011-02 which provides for a special rate for large commercial/industrial users with high volume low strength wastewater. (tabled 4/18/2011)

WHEREAS, the City of Berlin provides municipal sanitary sewer collection and treatment services and operates under a Sewer User Ordinance which covers residential, commercial and commercial/industrial users; and

WHEREAS, one of the purposes of the Ordinance is to "provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement" of the City sanitary system; and

WHEREAS, the City sees the need for the development of an equitable rate for large commercial/industrial users which contribute a high volume low strength wastewater; and

WHEREAS, the City's Engineer Wright-Pierce has developed such a special rate based on various factors relating to the actual cost of collecting and treating such wastewater. Now therefore be it ordained by the Mayor and Council that the Code of Ordinances of the City of Berlin be and hereby is further amended pursuant to RSA 47:17 and RSA 149-I:6 as follows: Add the following new Section 125b to Division 4. Rates and Charges of Article III Sanitary Sewer System of Chapter 16, UTILITIES:

Sec. 125b Special rate for high volume low strength industrial users

A large commercial or industrial sewer user which meets the following criteria may qualify for a special sewer rate:

- Flow > 150,000 gpd
- BOD < 50 mg/l
- TSS < 50 mg/l
- User is not a Categorical Industrial User (CIU) as defined by U.S. EPA and does not discharge a prohibited waste
- No other factor(s) in the wastewater of User which is likely, as determined by the City's Engineer, to create a significant conveyance, treatment or odor issue for the City's collection system and/or WWTF.

In the event such a factor(s) is/are determined to exist in User's wastewater, but it can be otherwise mitigated either by pretreatment by the User or by WWTF improvements paid for by the User, the User may still qualify for this special rate. Any User which qualifies for the above special rate agrees that it will cooperate with the City in modifying the chemicals added to their effluent or adjust other factors as necessary to avoid creating problems for the City's WWTF. Refusal on the part of the User to maintain such cooperation shall be grounds for the City to discontinue the special rate. Further, any User which qualifies for such special rate shall enter into a User Agreement with the City which establishes various requirements pertinent to the proper monitoring of the User's wastewater to include metering, flow and loading limits, rates, and sampling and analytical requirements. User shall also be required to comply with any and all State and Federal requirements that apply to such waste discharge (e.g., priority pollutant scan, permit applications, etc.) Such special sewer rate will be calculated based on the following formula:

User annual charge = CC+PC+DC+SC, where

CC = QU * Sewer Rate (4 quarter basis) * % of OMR budget related to collection system

PC = QU/QT * % of OMR budget related to flow + BODU/BODT * % of OMR budget related to BOD + TSSU/TSST * % of OMR related to TSS

DC = costs that are 100% associated with User such as laboratory costs, agreement compliance costs, odor control related to User, etc.

SC = metered sanitary water usage * Sewer Rate (4 quarter basis)

CC = User's portion of collection system costs

PC = User's portion of plant costs

DC = Direct costs 100% associated with User

SC = Sanitary Charge

QU = User's metered process water flow

QT = Total billable flow including User's

BODU = User's BOD load, lbs.

BODT = Total BOD load to WWTF including User's

TSSU = User's TSS load, lbs.

TSST = Total TSS load to WWTF including User's

This Ordinance shall be in full force and effect from and after passage.

Councilor Remillard moved with a second by Councilor Otis to remove the ordinance from the table at this time. So moved, the motion carried.

Councilor Remillard moved with a second by Councilor Otis to have the ordinance read a second time by title only. So moved, the motion carried.

Councilor Remillard moved with a second by Councilor Otis to have the ordinance read a third time by title only. So moved, the motion carried.

Councilor Remillard moved with a second by Councilor Otis to pass the ordinance. So moved, the motion carried and Mayor Grenier declared the Ordinance now passed.

3. Resolution 2011-15 adopting the City of Berlin Guidelines for Road Tolls. (tabled 4/18/2011)

Resolved by the City Council of the City of Berlin as Follows:

Whereas, since 1980, the City of Berlin has been granting permission to conduct voluntary road tolls on Glen Avenue across the street from the Berlin IGA Market; and

Whereas, in 1980 the Mayor and Council authorized the City Clerk to issue road toll permits for the City of Berlin; and

Whereas, requests for road tolls have tripled since 1999 making the need for guidelines necessary. Now therefore, be it resolved that the following guidelines for the approval of road toll requests are stipulated as follows:

1. All requests must be in writing;
2. Only non-profit agencies will be considered;
3. Only local agencies or organizations with direct connections to Berlin will be considered;
4. One road toll is allowed per organization per calendar year;
5. No more than one road toll is allowed per week within city limits;
6. All road toll participants must remain behind barricades while collecting funds (it is the responsibility of the participants to contact the PWD to make arrangements to borrow barricades);
7. Road Toll requests will not be accepted until January 1 of the current calendar year;
8. Two weeks per year, chosen by the City Clerk, will be allotted to out-of-town agencies that have direct connections to Berlin on a first come, first serve basis;
9. Road Tolls shall henceforth be on Glen Avenue only;
10. All activities of minors shall be supervised by adults.

Be it further resolved that the Mayor and Council may amend these guidelines as they deem necessary. This Resolution shall be in full force and effect from and after passage.

Councilor Remillard moved with a second by Councilor Otis to remove the resolution from the table at this time. So moved, the motion carried.

Councilor Rozek moved with a second by Councilor Evans to amend the resolution by adding number 9: Road tolls shall henceforth be on Glen Avenue only; number 10: All activities of minors shall be supervised by adults. So moved, the motion carried.

Councilor Remillard moved with a second by Councilor Otis to have the resolution read for a second time, as amended, by title only. So moved, the motion carried.

Councilor Remillard moved with a second by Councilor Otis to have the resolution read a third time, as amended, by title only. So moved, the motion carried.

Councilor Remillard moved with a second by Councilor Otis to pass the resolution, as amended. So moved, the motion carried and Mayor Grenier declared the resolution, as amended now passed.

4. Resolution 2011-16 appropriating the sum of Two Thousand, Twenty-Five Dollars (\$2,025.00) to the Berlin Police Department FY'2011 budget for the purpose of effectuating the DWI Hunter Patrols Grant. (tabled 4/18/2011) Resolved by the City Council of the City of Berlin as Follows:

Whereas the Berlin City Council passed a resolution on May 5, 2010, authorizing the Berlin Police Commission to apply for and accept funds from the New Hampshire Highway Safety Agency for any and all Highway Safety Project Grants for Fiscal Year 2011; and

Whereas alcohol and drug impairment continue to be a factor in personal injury and fatal crashes; and

Whereas sobriety checkpoints and overtime enforcement patrols conducted by law enforcement agencies throughout the state are effective in increasing the safety of motorists using the roadways; and

Whereas the NH Highway Safety Agency funds local projects to promote such enforcement and recently approved the Berlin Police Department's application for such DWI Hunter Patrols grant funds.

Now Therefore Be It Resolved by the City Council of the City of Berlin, NH, that the sum of Two Thousand, Twenty-Five Dollars (\$2,025.00) is hereby appropriated to the Police Department Fiscal Year 2011 budget for the purpose of effectuating said DWI Hunter Patrols grant. This Resolution shall be in full force and effect from and after passage.

Councilor Nelson moved with a second by Councilor Remillard to remove the resolution from the table at this time. So moved, the motion carried.

Councilor Nelson moved with a second by Councilor Remillard to have the resolution read a second time by title only. So moved, the motion carried.

Councilor Nelson moved with a second by Councilor Remillard to have the resolution read a third time by title only. So moved, the motion carried.

Councilor Nelson moved with a second by Councilor Remillard to pass the resolution. So moved, the motion carried.

5. Resolution 2011-17 appropriating the sum of One Thousand, Six Hundred Eighty-Seven Dollars and Fifty Cents (\$1,687.50) to the Berlin Police Department FY'11 budget for the purpose of effectuating the NH Highway Safety Project Grant, "Operation Safe Commute." (tabled 4/18/2011)

Resolved by the City Council of the City of Berlin as Follows:

Whereas the Berlin City Council passed a resolution on May 5, 2010, authorizing the Berlin Police Commission to apply for and accept funds from the New Hampshire Highway Safety Agency for any and all Highway Safety Project Grants for Fiscal Year 2011; and

Whereas statistical analysis of motor vehicle crashes occurring on New Hampshire roadways reveals that driver intention/distraction was the primary contributing factor in approximately 16.2% of crashes resulting in incapacitating injuries and 22.5% of crashes resulting in non-incapacitating injuries during 2006-2009; and

Whereas the NH Department of Motor Vehicles reports that 28% of non-fatal crashes are caused by some form of distracted driving; and

Whereas motor vehicle crashes are most prevalent during the morning and afternoon/evening commute hours when traffic is heaviest; and

Whereas an aggressive statewide campaign (Operation Safe Commute) is needed during the morning and afternoon commute hours in order to reduce the number of crashes caused by distracted driving and to increase public awareness that distracted driving will not be tolerated; and

Whereas, the NH Highway Safety Agency funds local projects to promote such enforcement and education. Now Therefore Be It Resolved by the City Council of the City of Berlin, NH, that the sum of One Thousand, Six Hundred Eighty-Seven Dollars and Fifty Cents (\$1,687.50) is hereby appropriated to the Berlin Police Department FY'2011 budget for the purpose of effectuating said Operation Safe Commute grant. This Resolution shall be in full force and effect from and after passage.

Councilor Nelson moved with a second by Councilor McCue to remove the resolution from the table at this time. So moved, the motion carried.

Councilor McCue moved with a second by Councilor Otis to amend the resolution to now read in its current form. So moved, the motion carried.

Councilor Nelson moved with a second by Councilor Theberge to have the resolution, as amended, read a second time by title only. So moved, the motion carried.

Councilor Nelson moved with a second by Councilor Theberge to have the resolution, as amended, read a third time by title only. So moved, the motion carried.

Councilor Nelson moved with a second by Councilor Theberge to pass the resolution as amended. So moved, the motion carried and Mayor Grenier declared the resolution, as amended, now passed.

NEW BUSINESS

6. City Manager's Report
Primex getting out of Health Business

At a meeting here with representative of Primex recently, we learned that Primex will be getting out of the health insurance business with the new fiscal year. As you know most of our groups presently receive health insurance through Primex with Harvard Pilgrim as the carrier. Primex was started by municipalities in 1979 as a means to provide Workers Compensation and Property Liability insurance to municipalities. It has grown over the years and added health insurance to its lines about ten years ago.

Primex has assured us that we should see no significant change in pricing or the plans other than we will be dealing directly with Harvard Pilgrim now rather than Primex. They have also assured us that should we wish to leave the program we can do so without penalty.

Bickford Place

It is pretty hard to miss, but if you haven't driven down Main or Pleasant lately, you should so that you can see the final construction of Bickford Place. As of today the steel is all up and the new canopy and most of the lighting is in place. It is quite a striking visual new focus for Main Street both during the day and also at night. It will undoubtedly help to anchor Main Street and provide a central place for people to gather and socialize and for events to occur. The Berlin Industrial Development and Park Authority (BIDPA) is the developer of this new downtown attraction and it deserves great credit for planning and following through with this great addition to Berlin's Downtown.

DES Brownfields Public Information Meeting

I have attached some information from the very enlightening presentation which was made last Tuesday evening in the City Hall auditorium by Nobis Engineering, City Housing Coordinator Andre Caron, Tri-County CAP, NH DES and USEPA. The presentation basically reviewed the Brownfields efforts completed and ongoing regarding the property (formerly Fraser property) the City owns along the river behind the new Court House as well as the Notre Dame Building on School Street. The presentation also reviewed or summarized all the various "Brownfields" efforts which the City, NHDES and USEPA have undertaken in a strong partnership.

In stark contrast to almost every other funding program provided by the State and Federal governments, and as can be seen from the sheets I have attached, the North Country has received approximately \$2,331,098 in "Brownfields" funds and the City of Berlin has received \$2,009,143 of that. This is over half of all of this type of funding that has been spent in the whole State of New Hampshire. In Berlin's case it has taken or is taking at least nine critical properties which would have remained blighted and undevelopable for many years and is making them developable or re-developable. The effect is about the same as removing cancers from a living thing.

Snow Plow Damage

It was an abnormally tough winter for snow plow damage because freezing of the ground didn't occur until later than normal and then we had several snows after the weather warmed up this spring. There are quite a few structures such as manholes and the like which have been hit or otherwise damaged as well as quite a bit of ground that has to be torn up and repaired.

12th Street Bridge

Last week we had the Engineer, HE Bergeron (HEB) and the contractor Winterset out to look at the surface of the newly repaired bridge deck. There has been either some surface spalling or some mechanical damage or both to the new surface of the bridge which shouldn't have occurred at this early stage of the new bridge deck. Winterset and HEB are both doing some quick research on the matter and will be coming back with information and a recommendation about how to correct the problem.

Hutchins Street EPA Data

Last year we were told by USEPA that we would have the data necessary to determine if there was any great problem with proceeding with the Hutchins Street re-alignment project. We had hoped that if we got that information early enough that we would be in a position to complete the design and bid that project for construction this year. Unfortunately, we are still waiting for the information from USEPA and it is likely that because of the delay that the project will have to be built next year rather than this year.

Legislative Matters

Retirement Reform: It appears that the retirement reform bills HB 580 and SB 3 have now been coalesced into a house version of SB 3 and a Senate version of SB 3. A committee of conference will have to resolve the differences between the two bills. Some of the differences are that the House version repeals the special account and removes all benefits (health, dental, retirement, etc.) from the status quo doctrine in collective bargaining. It limits re-employment of retirees to 1,300 hours per calendar year (currently 1,768 hours). The Senate version requires a 6-month separation period before re-employing a retiree, and then prohibits employment into a full-time position. The Senate version of SB 3 also repeals the so-called spiking assessment altogether by disallowing overtime, special detail and end of career payments to be figured in the final average compensation as occurs now.

HB 590: This bill would set up a study committee to look at the issue of whether or not the offering and acceptance of federal grants-in-aid relating to matters not included among the defined powers of the federal government is constitutional. NHMA urges opposition to this bill.

HB 457 Revival: An attempt this past week to revive this bill fell short in the House by a vote of 134-213. This is the bill which would halved interest rates for municipalities on unpaid property taxes.

SB156: This is the vehicle registration bill which the Mayor and Council opposed, which would allow auto dealers to register vehicles at the time of purchase through an electronic vehicle registration system. The bill passed the House last week on a vote of 176-166. It still has to be approved by the Senate but that it apparently likely.

Public Works Monthly Report/Manager's Time Keeping. Available for review in City Manager's Office.

Mayor Grenier asked the City Manager to contact Harold Parker of Congressman Bass' Office to remind him about Hutchins Street. This was put off from the fall and now it is spring and it is too late to get this going.

The City Manager replied that he too was hoping to get an early start but will try to contact the Congressman's Office.

Mayor Grenier also said that BIDPA was seeking additional funds for tables for the Bickford Place area but did not want to put tables that would not match.

Councilor Nelson said there has been some discussion about \$9,000 being put aside but was cut. There were also questions about whether or not to chain down and whether or not to buy high end furniture.

Mayor Grenier stressed that the next City event is on the first Thursday June. If they place an order now would they get it in time for that event?

Councilor Nelson said discussion has been about buying direct from Caron's Building Center rather than go with the original plan but no decisions have been made.

Mayor Grenier asked how much are they short on funds and Councilor Nelson said they need around \$9,000. They are looking for other funds to fill gap and they asked the Main Street Program to help.

Councilor McCue understands that a local merchant will donate a third of the cost and the Main Street Program would only need to pitch in the other third. For the Drive in the 50's it is not an issue if the actual furniture is not in place since there will be a stage set up.

The reason the Mayor is asking is because Council has a contingent account with money left over. He would hate to cheap out on patio furniture. If BIDPA would come to Council to give a formal presentation on the cost of that furniture and list the source of other funds, he would be willing to spend \$3,000 to help and get it done right.

Councilor McCue reminded the Mayor that they also need landscaping there too.

Councilor McCue moved with a second by Councilor Remillard to accept the City Manager's Report and place it on file. So moved, the motion carried

7. Mayor's Report

Mayor Grenier reported that he and Councilor Danderson attended the annual Fish & Game Banquet with 300+ in attendance. The crowd gave Bob a standing ovation for his work on the Jericho Mountain Park. It was a nice sendoff for Councilor Robert Danderson. Councilor Remillard moved with a second by Councilor Otis to accept, with regret, the resignation of Robert Danderson and to advertise for a Ward 2 replacement until May 13 with interviews on May 16. So moved, the motion carried.

ZBA Resignation Gregg Marrer. Councilor Remillard moved with a second by Councilor Otis to accept the ZBA resignation. So moved, the motion carried.

Appointment: ZBA Greg Estrella to regular member for a term to expire April 2013. Councilor McCue moved with a second by Councilor Remillard to approve the Mayor's nomination of Greg Estrella. So moved, the motion carried. Councilor McCue mentioned that Mr. Estrella is also a member of the Planning Board which is allowed but wanted to clarify that he will not be the ZBA chair.

BIDPA Appointment. Gerald Dumoulin for a three year term set to expire May 2014. Councilor Nelson moved with a second by Councilor Theberge to accept the Mayor's nomination of Gerald Dumoulin to BIDPA. So moved, the motion carried.

Proclamation: National Train Day

The Mayor had one other item and began by saying that he doesn't usually mention national issues in this chamber. On behalf of the citizens of Berlin and the American citizens, he gave thanks to the US Military for eliminating Osama Bin Laden public enemy #1 who committed horrible acts. It is with great pride that the American Military successfully removed this individual. For the record, the Mayor stated it is not end of terrorism but it does show the world that this Country's resolve is to keep our citizens properly protected.

Councilor McCue moved with a second by Councilor Nelson to accept the Mayor's report and place it on file. So moved, the motion carried.

8. Public Comments - No public comments

9. COUNCIL COMMENTS

Councilor McCue was happy to see that there were no lost time incidents at both the Public Works and Wastewater Treatment Departments. He wanted to remind people, as the AVRDD Council Representative, that according to reports, last year we were able to avoid over \$100,000 in landfill costs because we recycle. He would like to encourage people to participate in recycling since it is a great way to save money and this is such an easy community for recycling. The annual District Household Recycling Day is the first Saturday in June. On another matter, Councilors McCue and Otis attended the Presentation on the Brownfields. Councilor McCue thanked Andre Caron, Pam Laflamme and Pat MacQueen who were successful to get grants which gave lots of bang for our buck. Both Washington DC and Concord are well aware of Berlin and they want to continue to work with us.

Councilor Rozek thanked the mayor for his statement about Osama Bin Laden. The evil that that man planned killed 3,000 Americans ten years ago. By eliminating him does not even come close but it is a start in the right direction.

10. Adjournment:

There being no further business before the Mayor and Council at this time, Councilor Rozek moved with a second by Councilor Remillard to adjourn the meeting. So moved, Mayor Grenier declared the Regular Meeting adjourned at approximately 8:12 p.m.

A True Record, Attest:
Debra A. Patrick, CMC
City Clerk