

PUBLIC HEARING

December 5, 2011

Mayor Grenier opened the duly advertised public hearing at approximately 8:13 p.m. to receive public opinion regarding the following subject matters:

- Ordinance 2011-11 Deleting No Parking Emery St – No Comments
- Ordinance 2011-12 Chapter 19, Commercial/Industrial Tax Incentive – No Comments
- Resolution 2011-40 Adopting the “Old” City Seal – No Comments

There being no one wishing to speak for or against the subject matters at this time, Mayor Grenier declared the Public Hearing portion of the meeting closed at approximately 8:14 p.m.

REGULAR CITY COUNCIL MEETING – MONDAY, DECEMBER 5, 2011

Mayor Grenier called the regular City Council Meeting to order at approximately 8:14 p.m. in the Council Chambers of City Hall. The pledge of allegiance to the flag preceded roll call. Present: Councilors Remillard, Otis, McCue, Ducharme, Evans, Rozek, Nelson and Th  berge. Also present: Pat MacQueen, press and public.

Minutes, Previous Meeting

Councilor Remillard moved with a second by Councilor Otis to accept the minutes of the November 21 Work Session/Meeting and the November 28 Work Session. So moved, the motion carried.

Disbursements: It was recommended by the Committee on Accounts/Claims to pay all bills start date 11/23/2011; end date 12/07/2011 for a total cash disbursement of \$2,585,728.43 Draft #1654 Councilor Nelson moved with a second by Councilor Theberge 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 2011-11 amending the CODE OF ORDINANCES, Chapter 15, TRAFFIC AND VEHICLES, ARTICLE III. STOPPING, STANDING AND PARKING by deleting Sec. 15-68. Parking adjacent to schools in its entirety. (tabled 11/21/2011)

Be it ordained by the City Council of the City of Berlin, as follows: The CODE OF ORDINANCES, Chapter 15, TRAFFIC AND VEHICLES. ARTICLE III. STOPPING, STANDING and PARKING, is hereby amended by deleting in its entirety Sec. 15-68. Parking adjacent to schools
~~Sec. 15-68 Parking adjacent to schools. When signs are erected indicating no parking upon that side of the street adjacent to school property, no person shall park a vehicle in any such designated place. Emery Street adjacent to the Berlin Regional Catholic School from 7:30 a.m. until 3:30 p.m. while school is in session only on Emery Street, from a point where it intersects Blanchard Street, heading southerly on both sides to the intersection of Willow Street. This no parking zone is to also extend to the southerly side of Blanchard Street where it intersects Emery, for a distance of approximately twenty (20) feet in a westerly direction from this corner. This area shall be blocked off by school personnel during the above stated time to permit the described portion of Emery Street to be used as a play street. (Code 1977,    7:403; Ord. of 1-9-95)~~
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. Ordinance 2011-12 Amending the Code of Ordinances, Chapter 19, Development relating to partial tax exemptions for new construction for industrial and commercial uses. (tabled 11/21/2011)

Be it ordained by the City Council of the City of Berlin, as follows:

WHEREAS, RSA 72:75-78 known as Commercial and Industrial Exemption authorizes municipalities in Coos County to offer property tax exemptions to foster commercial and industrial construction, and

WHEREAS, the City of Berlin is in need of additional commercial and industrial activity, diversification and employment,

NOW THEREFORE BE IT ORDAINED by the Mayor and Council of the City of Berlin that the Code of Ordinances of the City of Berlin is hereby amended as follows: Amend Chapter 19, Development, by adding a new "Article III, Partial Tax Exemption for New Industrial and Commercial Construction" to read as follows: (double underline = new language)

ARTICLE III

PARTIAL TAX EXEMPTION FOR NEW INDUSTRIAL AND COMMERCIAL CONSTRUCTION

Sec. 19-46. Declaration of Public Benefit

(a) It is declared to be a public benefit to encourage commercial and industrial construction as a means add to and diversify the City's economic base. New or additional industrial business not only adds to the tax base of the City but also provides new employment and economic activity in the City.

(b) Short-term property tax exemption is a means to encourage this type of added economic activity and employment growth in the City.

Sec. 19-47. Tax Exemption Authority.

The City of Berlin hereby adopts the provisions of RSA 72:76 in the manner specified under RSA 72:77 and in accordance with the procedures set forth in RSA 72:27-a and in the City's normal procedures.

Sec. 19-48. Definitions.

In the interpretation and enforcement of this article, all words other than those defined specifically below shall have the ordinarily accepted meanings. For the purpose of this Article, the following definitions from RSA 72:75 shall apply:

- a. "Commercial Uses" shall include all retail, wholesale, service, and similar uses.
- b. "Industrial Uses" shall include all manufacturing, production, assembling, warehousing, developing or processing of goods or materials for sale or distribution, research and development activities and processing of waste materials.
- c. "New Construction" shall mean construction of new structures and additions, renovations or improvements to existing structures.

Sec. 19-49. Tax Exemption.

Any owner of property who either is or will be engaged in new construction on his/her property which will be utilized for a commercial use and/or industrial use as defined herein may apply to the Board of Assessors for an exemption from municipal and local school property taxes (no exemption from county or state education property taxes for the increase in assessed value attributable to the new construction) in accordance with the following table:

% Tax Exemption of Increased Assessed Value from New Construction

	<u>Tax Year 1</u>	<u>Tax Year 2</u>	<u>Tax Year 3</u>	<u>Tax Year 4</u>	<u>Tax Year 5</u>
<u>Commercial</u>					
<u>Uses</u>	<u>25%</u>	<u>20%</u>	<u>15%</u>	<u>10%</u>	<u>5%</u>
<u>Industrial</u>					
<u>Uses</u>	<u>50%</u>	<u>40%</u>	<u>30%</u>	<u>20%</u>	<u>10%</u>

Sec. 19-50. Application for Exemption.

1. An owner must apply for the exemption prior to construction, but not after December 31st before the beginning of the tax year for which the exemption is sought. The owner shall make such application on an application form provided by the BOA, signed by the applicant under penalty of perjury, which contains adequate information to demonstrate that the applicant is qualified for the exemption. The BOA may anticipatorily grant the exemption, subject to adjustment when the actual increase in assessed value becomes known. If construction is partially complete on April 1 of any year, the exemption for that year shall be based on the increased assessed value attributable to the partial construction, but the duration of the exemption shall be adjusted such that the cumulative amount of exemptions received, based on the construction as completed, is proportional to that received by other eligible properties.

2. The BOA shall notify the applicant of their decision on or before February 28th before the beginning of the tax year for which the exemption is sought. The decision shall specify the amount of the exemption that it is effective beginning with the new tax year and the number of years, not to exceed ten years, for which the exemption applies to qualified construction. The exemption for all years shall cumulatively not exceed 500% of the increased assessed value. The decision of the BOA may be appealed in the manner set forth in RSA 72:34-a.

3. The BOA may request such additional or updated information as is necessary to determine eligibility. If the BOA is satisfied that the applicant has willfully made any false statement, or has refused to provide information after such a request, the BOA may refuse to grant the exemption.

4. If the City completes a revaluation during the period for which an exemption has been granted, the amount of the exemption shall be adjusted by the difference in equalization ratios applicable in the City before and after the revaluation.

Sec. 19-51. Resumption of Full Tax Liability.

Upon expiration of the tax exemption period, the property shall be taxed at its full market value in accordance with RSA 75:1.

Sec. 19-52. Sunset Provision.

In accordance with RSA 72:77-II, this Article will expire and become void after 5 tax years from the date of its adoption. However, any application for exemption which has already been granted prior to the expiration of such 5 tax year period will continue to apply at the rate and for the duration in effect at the time it was granted. This Ordinance shall be in full force and effect from and after passage.

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

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

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

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

4. Resolution 2011-40 Authorizing the Mayor and City Council to adopt the "old" City Seal. (tabled 11/28/2011) Resolved by the City Council of the City of Berlin as Follows:

Whereas, The history of Berlin variously was called "The Paper City" "The Metropolis of the North Country" and "The City that Trees Built;" and

Whereas, On March 29, 1897 in his Inaugural Address, Berlin's First City Mayor Henry F. Marston made the following statement: "It is proper in entering upon our duties of this, the first city government of Berlin, that we should look back and see what our past has been, that we may be able to better lay our plans for the coming year and in doing so, may we exercise such candor and good judgment in the information of our city government as will prove beneficial to all concerned."

Whereas, At the April 21, 1897 City Council Meeting, the Mayor and Council voted to establish a City Seal and that the Seal of the City should be in round form; and

Whereas, to quote local historian E John B. Allen "The preservation of a heritage is the only firm foundation upon which a future may be built." Now therefore, be it resolved that the Mayor and City Council of the City of Berlin do hereby establish the City Seal to reflect our rich history by selecting the "old" seal to preserve our heritage and the ideals it represents. Be it further resolved that the Mayor and Council believe that any future changes to this seal should be presented to the voters of the City of Berlin on a ballot during a Municipal Election and toward that end the Mayor and Council will propose a Charter Revision which will establish that provision. 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 Remillard moved with a second by Councilor Otis to have the resolution read a second time by title only. So moved, the motion carried.

Councilor McCue, for the record, wanted it known that the other reason the city seal was changed by the prior administration after lots of discussion was to improve the image of Berlin. The irony is that for the past four years Councilor Evans was the minority of one and he is the one who brought this back to council. Councilor McCue also appreciates the language in the resolution which specifies that any future changes to the seal will be presented to the voters of Berlin. Out of respect for the prior decision to change the seal, he will vote against this matter tonight.

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

Councilor Evans moved with a second by Councilor Remillard to pass the resolution. All votes were in the affirmative with the exception of Councilor McCue who voted no. Mayor Grenier declared the resolution now passed.

NEW BUSINESS

5. Resolution 2011-41 Transferring \$128,317.22 of funds from a number of capital and segregated fund accounts in the current year FY 2012 General Fund budget to the Salt/Sand Storage Shed Account. (1st read)

Mayor Grenier reminded Council that the Charter specifies they will need a 2/3 vote to allocate money to that account.

Councilor Nelson moved with a second by Councilor McCue to table the resolution at this time and to schedule a public hearing on December 19. So moved, the motion carried.

6. Resolution 2011-42 Amending the 2011-2012 budget by revising Fund 10, School Department Federal Programs and appropriating Six Hundred One Thousand, Two Hundred Twenty-Two Dollars and Two Cents (\$601,222.02) of additional grant funds to reflect the changes in the following table. (1st read)

Councilor Nelson moved with a second by Councilor McCue to table the resolution and schedule a public hearing on December 19, 2011. So moved, the motion carried.

7. January 10, 2012 Presidential Primary Election Polling Hours.

City Clerk Debra Patrick asked that the Mayor and Council, for the record, set the polling hours for the upcoming January 10, 2012 Presidential Primary Election.

Councilor McCue moved with a second by Councilor Otis to set the times for the January 10, 2012 Presidential Primary Election to have the polls open at 8:00 a.m. and close at 7:00 p.m. So moved, the motion carried.

8. City Manager's Report
BOP Conference Call

We have continued our conference call sessions with BOP representatives in Washington and locally about every other month. Now that the funding for the opening of the prison has been authorized, the pace will pick up. However, they made clear that it will be another 3-4 months before they begin to bring in inmates to the prison and then it is likely to take another 9-months or more to get the prison up to it operating strength.

We have both emphasized the need for good communications both ways during this period to ensure that we can handle the growth in the sewer use and at the same time carry out the improvements that have to be made to the WWTF over the next two years in order to both serve the prison, upgrade certain aspects of the facility both for normal growth and to overcome equipment which is out of date.

Bartlett School Purchase and Sale Agreement

The purchase and sale agreement for the sale of the Bartlett School expired on November 15th. Notice has been given by the City to the prospective purchasers (White Mountains Suites) of the expiration and the fact that the \$5,000 security deposit will be kept by the City. No response has been received to date from the White Mountain Suites.

Auditors

The auditors after two delays have arrived this week to review our books. They should be here for approximately two weeks.

Pam's Downtown Meeting

The Berlin Main Street Program, White Mountains Community College, and the Planning Department have been working together for several months trying to determine the need for retail incubator space in downtown. They have visited the Hannah Grimes facility in Keene to see how they blend retail sales space with incubator space in their downtown and will be visiting the WREN facility in Bethlehem next week. Funders have been approached to determine the ability to fund such a project in downtown Berlin and there seems to be strong support for such a project but funding is dependent on the actual need. Last week a focus group was held here at City Hall with individuals who have been working on small business plans or who have been selling their product at the Farmer's Market to see what is needed to get them into space in downtown. WREN will also be sharing a feasibility study they conducted earlier this year with the group to help get a better picture of the incubator market in Berlin and the surrounding area.

GLHA Tax Meeting in Gorham

On Friday a session was held in Gorham with the City's attorney Chris Boldt and utility appraiser Skip Sansoucy with 'Great Lakes Hydro America's (Brookfield Renewable Power, LLC) Attorney Matt Upton, their Manager, Tom Mapletoft and their appraiser Steve Traub. The abatement case is for the tax year 2010 and is before the Board of Land and Tax Appeals which required that this sort of exploratory settlement hearing be held prior to the Board's first hearing of the case which is not yet scheduled.

There was a certain amount of exchange of information which went on during this session, but frankly because GLHA has not yet provided basic financial income information to the City's appraiser, the whole thing becomes a sort of cat and mouse game of GLHA asking why our appraiser appraised the property the way he did with our appraiser responding that he had no choice but to make certain assumptions because GLHA hasn't provided basic financial information which is critical to a proper valuing of the property. This somewhat frustrating process is required to be gone through in BTLA rules and it does allow for the possibility of opening up doors for settlement, but ultimately it allows for discovery to be produced which forces the other party to provide all the information necessary to produce a proper appraisal. Suffice it to say that if GLHA holds to their current position on values, the City should proceed with the acquisition of the three hydros at the earliest opportunity.

McGee Street and Kent Street I&I Bid Opening

Bids for the McGee Street and Kent Street project were opened last Thursday. Four bids were received with apparent low being in the amount of \$893,120 to a high of \$1,148,825. The Engineer's estimate on this job was \$902,000. Most of the sewer and I&I projects we have been doing lately have been well below the engineer's estimate. Unfortunately, this one was almost right on the money which is better than being higher than the engineer's estimate.

Wright-Pierce has done the due diligence review of the apparent low bidder and finds no reason not to recommend them. However, NH DES has to review everything and provide authorization to award the contract before we can award it.

Notre Dame Mold Remediation

Due to the fact that Notre Dame HS has been boarded for the past several years in order to contain lead and PCB based paint, a substantial amount of mold has built up in the building over these years which now has to be removed. NH DES has agreed under a previously appropriated ARRA grant to fund the removal of mold containing and generating materials such as mostly corkboard and sheetrock like materials. The cost of this project is estimated at \$62,300. The work will begin on December 12th and will last ten days.

Delay of Closing on CPD WWTF Land

You will recall that the closing for the re-acquisition of the Clean Power Development 11.5 acres of land which surrounds the City WWTF was delayed, having originally been scheduled for November 22nd. It occurred this past Wednesday morning. The City is now again the owner of that land around the WWTF

AVH NH's #7 Best Large Company to Work For

Attached is a very nice article on AVH as a great large company to work for. This article is from NH Business Magazine and speaks very highly of Berlin's own regional hospital facility.

PWD Monthly Report and City Manager's Time-keeping available for review in City Manager's Office

Mayor Grenier wanted clarification about the I&I bids and was it because the amounts were small enough that they don't require Value Engineering. The City Manager confirmed that anything under Ten Million Dollars does not require it.

Councilor McCue asked about incubator space and if they had a particular site in mind. The City Manager explained he is not aware of anything. Councilor McCue then asked if we could possibly recoup legal fees regarding Brookfield Great Lakes Hydro if we prevail in the case. It is frustrating to pay both Skip Sansoucy and our City Attorney. According to the City Manager, if we go to the Supreme Court we could try to recoup some money. Councilor McCue then asked about Notre Dame High School where Max Makaitis said they were chasing some funding. Mr. MacQueen said they were still chasing funding. Councilor McCue heard blasting since last Thursday at the old mill site and inquired if the City received notices about that. The City Manager was not aware of that.

Sue Tremblay informed Council that PWD Director Mike Perreault recently received a request to close the street near the former mill.

Councilor Nelson asked about the PWD highlights reference about where greater lakes installed shelving on the pedestrian bridge and was that left from RiverFire. The City Manager said that it was.

Councilor Rozek inquired if the Bartlett School building was winterized? The City Manager confirmed that it was. Councilor Rozek then said that there was nothing in the City Manager's Report in reference to a new finance director which is a critical component in the City's infrastructure. The City Manager said an offer is outstanding and the position hopefully will be filled shortly.

Councilor Remillard asked about the resolution submitted tonight about the Public Works garage. She said the money was allocated for one purpose and she wonders why it was not there to begin with and why we don't need it now. Council has not even seen a diagram about this new garage. She had asked Mike about it and all he said was that what they had was not adequate. Councilor Remillard wants more of an explanation before it gets off the table and asked to have the matter placed on the next Work Session. Regarding Bartlett School, Councilor Remillard spoke to Steve Binette who said he would not move forward since he would not be able to compete with the projects on the East Side who were forced to lower rents. Councilor Remillard would like to get an update on them and their rentals for future discussion.

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.

9. Mayor's Report

Berlin Housing Authority Appointment: David Graham for a five year term set to expire December 2016. Councilor Nelson moved with a second by Councilor Otis to accept the Mayor's nomination of David Graham. So moved, the motion carried.

Councilor Rozek asked if Mr. Graham lives in Berlin. The reply was no he does not live in Berlin.

Councilor McCue explained Housing Authority Executive Director Mary Jo Landry previously asked if they would grant a residency exception since Mr. Graham lives on one side of the street that is in Gorham and the other side of his street is Berlin. That exception was approved by Council.

Since we are entering the Christmas Season, Mayor Grenier encouraged all to please shop locally. Our shops have lots to offer with reasonable prices and you can save gas money by shopping here.

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

10. PUBLIC COMMENTS - No comments

11. Council Comments

Councilor Theberge received a complaint from a constituent who lives on Blais Street regarding a sand barrel since there was previously a sand barrel at that location but it is now gone. Councilor Theberge went to that area and agrees there definitely is an ice problem there already. He requested to have this item placed on the next work session to discuss the snow policy.

Mayor Grenier added that all requests for snow barrels should all be reviewed at the same time and he would add that for discussion at the next work session.

12. Adjournment

There being no further business before the Mayor and Council, Councilor Remillard moved with a second by Councilor Otis to recess the regular meeting to enter into a Non-Meeting per RSA 91-A: 2, I. (b) Collective Bargaining. Roll call resulted in unanimous affirmative votes and Mayor Grenier declared the regular meeting recessed at approximately 8:50 p.m.

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