

## **Public Hearing – May 21, 2012**

Mayor Grenier opened the duly scheduled and advertised public hearing at approximately 7:44 p.m. to receive public comments on the following subject matters:

- Ordinance 2012-02: OHRV – No comments
- Resolution 2012-12: Authorizing an Application, Accepting and Appropriating Funds from the NH the Beautiful Campaign for Recycling Containers – No comments
- Resolution 2012-13: accepting and appropriating \$255,300 of NSP 1 Funds – No comments.

There being no one wishing to speak for or against the subject matters at this time, Mayor Grenier declared the public hearing closed at approximately 7:45 p.m.

## **CITY COUNCIL MEETING – Monday, May 21, 2012**

Mayor Grenier called the City Council Meeting to order at approximately 7:45 p.m. in the City Hall Council Chambers. The pledge of allegiance to the flag preceded roll call. Present: Councilors Otis, Morgan Allain, Higbee, Rozek and Th  berge. Councilors Remillard, Ducharme and Nelson were absent. Also present: Pat MacQueen, Pam Laflamme, Corinne Casadden, Bryan Lamirande, BESS Members citizens and the press.

### **Minutes, Previous Meeting**

Councilor Rozek moved with a second by Councilor Otis to accept the minutes of the May 7 Regular Meeting/Work Session; May 14 Work Session. So moved, the motion carried.

**Disbursements:** It was recommended by the Committee on Accounts/Claims to pay all bills start date 5/10/2012; end date 5/23/2012 for a total cash disbursement of \$677,699.61 Draft #1665 Councilor Theberge moved with a second by Councilor Otis to accept the disbursement summary and pay all bills as recommended by the Committee on Accounts/Claims. So moved, the motion carried.

**PUBLIC COMMENTS:** Corinne Cascadden, School Superintendent, informed Council that the Berlin High School Graduation is Friday June 8 at 3:00 pm and the last day of school is June 15.

## **UNFINISHED BUSINESS**

1. Council Committee Reports. No Reports.
2. Ordinance 2012-02 Amending the Code of Ordinances Chapter 13 Streets, Article IV Parks and Recreation, Div. 2 Operation of Off Highway Recreational Vehicles, Section 13-112 to allow for OHRV's on City Streets in certain approved situations. (table d 5/07/12)

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

The Code of Ordinances Chapter 13 Streets, Article IV Parks and Recreation, Div. 2. Operation of Off Highway Recreational Vehicles, Section 13 – 112. Operation of OHRV's is hereby amended by adding new language at the very end of Section 13-112:

“Sec. 13-112. Operation of OHRV's

No person shall operate an OHRV, as defined by NH RSA 215-A:1, in or on any street, lane, bridge, alley, sidewalk or other public place in the city except as provided below:

In addition to the public trails at Jericho Mountain State Park, the following is an authorized municipal public OHRV trail within the City of Berlin:

OHRV Connector Trail - This authorized municipal trail runs where marked from the Jericho Mountain State Park to Route 110 and follows Route 110 southeasterly as it changes from Jericho Road to Wight Street and finally to Third Avenue. The trail continues to follow Third Avenue to Mannering Street and follows Mannering Street to Second Avenue to Hillside Avenue. The trail follows Hillside Avenue, for a short distance to just southwest of 4 Hillside Avenue (Valley Creek Eatery, Map 119, Parcel 261) where the trail crosses into the Dead River Park Dead River Park or alternatively, to York Street (determined by how the trail is actually marked and signed) where it continues easterly to Cole Street. In the park the trail follows southeasterly to the southeast end of the Dead River Park. The trail then turns left onto Cole Street and follows a northeasterly direction to Mason Street where it follows Mason Street southeasterly to East Mason Street where it continues

southeasterly to Hutchins Street where it follows Hutchins Street northeasterly to Success Pond Road where it follows Success Pond Road to the Berlin/Success line. This authorized municipal trail includes the section of East Mason Street from the RR tracks east of Hutchins Street to Hutchins Street. (Ord. 9-20-2010) (Ord. 4-02-2012)

In places where the Connector Trail authorized above follows City streets, the trail is so designated with, OHRV signage and markings, which must be obeyed by the OHRV operator.

The OHRV Connector Trail shall not be open and usable until it is properly marked and signed as determined by the Police Chief.

OHRV users in the City must abide by all State and City laws when on designated trails on City streets and must abide by all motor vehicle traffic laws. However, underage State certified OHRV operators may ride the trail on City streets if and only if accompanied closely by a properly motor vehicle licensed adult. (Ord. 9-20-2010)

The speed limit for OHRV operators when operating on the designated trail on City streets is 25 mph.

OHRV's must yield to pedestrians at all times. (Ord. 9-20-2010)

OHRV operators, when operating on the designated trail on City streets, shall ride single file in traffic in the paved travel lane (not gravel or paved shoulders).

OHRV operators shall not leave the designated trail within the City except as may be specifically otherwise provided herein. A specific exception shall be that an OHRV operator may leave and return in the shortest possible route to the designated trail at the intersection of East Mason and Hutchins Streets to travel no more than two blocks to the fueling or other service facilities across that intersection, and further that an OHRV operator may leave and return in the shortest possible route to the designated trail at the intersection of Cole and York or Cole and the Dead River Park to travel no more than a block and a half to the fueling and other service facilities at the intersection of Green and Pleasant Streets. (Ord. 9-20-2010)

The Berlin OHRV Connector Trail will be closed when the Bureau of Trails declares that the snow machine trails are no longer useable. The connector trail will re-open on May 23, or a re-open date set by the State Trails Bureau. (Ord. 4-02-2012)

All OHRV's operating on designated trails on City streets must have working head and tail lights.

Complaints regarding OHRV use of these trails shall be received by the Traffic Safety Committee, who may recommend changes to the Council. The Council shall have the power to change the times of such OHRV use by vote without amendment to this ordinance. (Ord. 4-2-2012)

Anything above to the contrary notwithstanding, the City Council may, at any time by City Council motion, open up some or all streets in the City to OHRV use for named special events not to exceed two consecutive days in length. If and when such City Council approval is given, City street use by OHRV's shall still be subject to all of the requirements listed above for OHRV use of the authorized connector trail." This Ordinance shall be in full force and effect from and after passage.

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

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

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

Councilor Theberge 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 2012-11 Authorizing an application for a Community Development Block Grant in an amount up to Five Hundred Thousand Dollars (\$500,000) to be Sub-Granted to Tri County Community Action Program (TCCAP) to do an energy efficiency project on various buildings they own in Berlin. (tabled 5/07/12)

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

Councilor Otis moved with a second by Councilor Morgan Allain to retable this resolution and to schedule a public hearing and final reading on June 4. So moved, the motion carried.

4. Resolution 2012-12 Authorizing the application, acceptance and appropriation of a grant for up to Fifteen Thousand Dollars (\$15,000) to purchase recycling bins for use by the citizens of Berlin. (tabled 5/07/12) Resolved by the City Council of the City of Berlin as Follows:

-Whereas, the Berlin City Council is committed to the success of its Recycling Program; and  
-Whereas, citizens and businesses are being asked to recycle to keep recyclable material out of the Mt. Carberry Landfill, where the City is charged by the ton to deposit its solid waste; and  
-Whereas, the NH the Beautiful Inc. recognizes the importance of the expansion of recycling in New Hampshire and offers matching grants on a reimbursement basis, for items such as recycling containers; and  
-Whereas, the City will match the grant funds from its FY 12 solid waste budget. Now therefore be it resolved that the City Council of the City of Berlin authorizes the City Manager to apply for, to accept if awarded, a grant or grants for up to Fifteen Thousand Dollars (\$15,000) from the New Hampshire the Beautiful, Inc for the purchase of recycling bins with matching funds to come from the FY12 solid waste budget. Be it further resolved that the City Manager is authorized to do all things necessary to effectuate the grant. Finally, be it further resolved that up to \$15,000 of such grant funds are hereby appropriated for the intended use. This Resolution shall be in full force and effect from and after passage

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

Councilor Otis moved with a second by Councilor Morgan Allain to have the resolution read a second time by title only. So moved, the motion carried.

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

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

5. Resolution 2012-13 Authorizing an application to the New Hampshire Community Finance Development Authority (NHCDFA) to receive additional Neighborhood Stabilization Program 1 (NSP1) funds in the amount of Two Hundred Fifty-Five Thousand, Three Hundred Dollars to stabilize neighborhoods affected by high foreclosure rates and sub-prime mortgage-related problems. (tabled 5/07/12) Resolved by the City Council of the City of Berlin as Follows:

Whereas, the City of Berlin is considered by the CDFA as a Tier 1 community having some of the highest concentrations and volume of foreclosures and sub-prime mortgages and the highest risk factors for future foreclosures; and

Whereas, the City of Berlin has achieved great success with the Neighborhood Stabilization Program 1 (NSP 1) and NSP 3 funds; and

Whereas, the NHCDFA has extended an invitation to the City of Berlin to apply for \$255,300 of additional NSP 1 funds; and

Whereas, the City of Berlin will partner with New England Family Housing, LLC of New Hampton, NH to manage portions of the grant to complete renovations on designated properties and the City will complete demolition of blighted properties, de-densify neighborhoods and create green space; and

Whereas, all grant proceeds shall be deposited with the City Treasurer and that any additional use of the funds beyond the scope of work as listed in the application shall require prior approval of the City Council.

Now Therefore Be it Resolved by the City Council of the City of Berlin as Follows: That the City Manager is authorized to sign an addendum to the Neighborhood Stabilization Program 1 Grant for Two Hundred Fifty Five Thousand, Three Hundred Dollars (\$255,300.00) to stabilize neighborhoods being affected by high concentrations and volume of foreclosures and sub-prime mortgages and having the highest risk factors for future foreclosures; the City Manager is authorized to sign all documents and do all things necessary to effectuate the grant; and further that the City Manager is further authorized to receive said grant and the grant proceeds are hereby appropriated, in addition to all other funds, for the purpose of the grant. This Resolution shall be in full force and effect from and after passage.

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

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

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

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

6. BESS Contract Consideration.

**BESS 2013 AND 2014 WAGE INCREASE**

**90 EMPLOYEES TOTAL BESS BARGAINING UNIT**

<b>OMS FULL TIME</b>					
<u>4 EMPLOYEES</u>	<b>Salary</b>	<b>Health Ins.</b>	<b>Waiver</b>	<b>Total</b>	<b>Increase</b>
<b>2012 OMS Full Time</b>	\$ 170,691	\$ 39,919	\$ 10,604	\$ 221,214	
<b>2013 OMS Full Time</b>	\$ 170,691	\$ 39,651	\$ 4,000	\$ 214,342	\$ (6,872)
<b>2014 OMS Full Time</b>	\$ 175,811	\$ 39,651	\$ 4,000	\$ 219,463	\$ 5,121
<b>OMS SCHOOL YEAR</b>					
<u>5 EMPLOYEES</u>	<b>Salary</b>	<b>Health Ins.</b>	<b>Waiver</b>	<b>Total</b>	<b>Increase</b>
<b>2012 OMS SCHOOL YEAR</b>	\$ 143,052	\$ -	\$ -	\$ 143,052	
<b>2013 OMS SCHOOL YEAR</b>	\$ 143,732	\$ -	\$ -	\$ 143,732	\$ 680
<b>2014 OMS SCHOOL YEAR</b>	\$ 149,579	\$ -	\$ -	\$ 149,579	\$ 5,848
<b>EDUCATION ASSISTANTS</b>					
<u>81 EMPLOYEES</u>	<b>Salary</b>	<b>Health Ins.</b>	<b>Waiver</b>	<b>Total</b>	<b>Increase</b>
<b>2012 Ed Assistants</b>	\$ 1,452,697	\$ -	\$ -	\$ 1,452,697	
<b>2013 Ed Assistants</b>	\$ 1,460,524	\$ -	\$ -	\$ 1,460,524	\$ 7,828
<b>2014 Ed Assistants</b>	\$ 1,528,573	\$ -	\$ -	\$ 1,528,573	\$ 68,048
<b>2013 BESS Total Increase</b>					<b>\$ 1,636</b>
<b>2014 BESS Total Increase</b>					<b>\$ 79,016</b>

Mayor Grenier asked Bryan Lamirande to provide the Council with a brief overview of this contract.

Bryan Lamirande, School Business Manager, explained the 2013/14 BESS Wage Increase matrix as follows:

OMS FULL TIME - 4 Employees with health insurance. In 2012, no wage increases, no advancements of any kind. 2013, they agreed to reduce the waiver for not taking health insurance by \$2,000 and that reduction amounts to a savings of \$6,872 in the first year of the contract. 2014, they would receive a 3% wage increase by adding an additional step to their wage scale. The whole step scale does not increase by 3% it is just one step for those at the top. That 3% adds up to a \$5,121 increase for year two.

OMS SCHOOL YEAR: - 5 Employees no health insurance. In 2012, no wage increases, no advancements of any kind. 2013 an additional paid holiday for a \$680 increase in year one; 2014 3% in the form of one additional step applied in the same way like the OMS full time is a \$5,848 increase in year two.

EDUCATION ASSISTANTS: - 81 Employees no health insurance. In 2012, no wage increases, no advancements of any kind. 2013 an additional paid holiday is a \$7,828 increase in year one; 2014 3% in the form of one additional step for a \$68,048 increase in year two.

Councilor Otis moved with a second by Councilor Higbee to accept the BESS Contract as presented. Roll Call resulted in unanimous affirmative votes of Councilors Otis, Morgan Allain, Higbee, Rozek, Theberge and Mayor Grenier who declared the contract was accepted.

## NEW BUSINESS

7. Ordinance 2012-03 Amending the Code of Ordinances, Chapter 19, Development, Article III. Partial Tax Exemption for New Industrial and Commercial Construction, Sec. 19-49, Tax Exemption, by providing additional tax exemption for downtown zone new construction. (1<sup>st</sup> read)  
Councilor Otis moved with a second by Councilor Higbee to table the ordinance and schedule a public hearing on June 4, 2012. So moved, the motion carried.
8. Resolution 2012-14 Appropriating an additional \$2,000 to each of the following Highway Safety Grants administered by the Berlin Police Department; DWI Enforcement Patrol (30-420-908-2000), Bicycle Enforcement Patrol (30-420-908-4000) Red Light Running (30-420-908-7000), and Speed Enforcement Patrol Grant (30-420-908-9600) for a total of \$8,000. (1<sup>st</sup> read)  
Councilor Theberge moved with a second by Councilor Otis to table the resolution and schedule a public hearing on June 4, 2012. So moved, the motion carried.
9. Resolution 2012-15 Authorizing the Berlin Police Commission to apply for and accept \$35,554.64 (Thirty-Five Thousand, Five Hundred Fifty-Five Dollars and Sixty-Four Cents) in grant funds from the NH Department of Safety for a one-time purchase of portable radio equipment and appropriating said funds to the Berlin Police Department for the purpose of the grant. (1<sup>st</sup> read)  
Councilor Otis moved with a second by Councilor Morgan Allain to table the resolution and schedule a public hearing on June 4, 2012. So moved, the motion carried.
10. Resolution 2012-16 Authorizing the Berlin Police Commission to apply for and receive funds for any and all purposes from the NH Highway Safety Agency for Highway Safety Project Grants for Fiscal Year 2013. (1<sup>st</sup> read)  
Councilor Theberge moved with a second by Councilor Otis to table the resolution and schedule a public hearing on June 4, 2012. So moved, the motion carried.
11. Resolution 2012-17 Changing in name and purpose \$4,144.36 remaining in the Downtown Master Plan Segregated Funds from Resolution 2011-14 for Downtown Master Plan to Downtown City Property Rehabilitation. (1<sup>st</sup> read)  
Councilor Theberge moved with a second by Councilor Otis to table the resolution and schedule a public hearing on June 4, 2012. So moved, the motion carried.

12. City Manager's Report.

**Moving Downtown Forward – Day of Caring**

Several volunteers representing various downtown and local businesses turned out Friday to help with the First Annual Downtown Day of Caring. Spearheaded by Sylvia Poulin of the Berlin Main Street Program, this event was created as a result of discussions related to the Moving Downtown Forward Initiative. Several parks including Bickford Park, Gill Park, and the Laura Lee Viger Botanical Gardens were among those areas that were weeded, raked, mulched, and cleaned up. Volunteers spent nearly eight hours getting downtown green spaces ready for planting as well as painting benches, picnic tables and flower boxes. At the end of the day, the volunteers were treated to a barbeque dinner catered and donated by Lloyd Murray of the White Mountain Chalet. IGA, Coca-Cola, and PSNH also donated food and drinks to the event. The weather was perfect and the event was well organized. Berlin is very fortunate to have citizens and businesses that are willing to work and help out in its public spaces. Public Works and Recreation and Parks staff were extremely helpful in pulling this day together. Organizers consider the day a success and are already talking about plans for next year. Attached is an article on the event from today's Union Leader.

**Notre Dame Cleanup**

After about seven years and seven hundred thousand dollars, we can say that the Notre Dame property owned by the City has been cleaned up of its contamination issues. There are Activity Use Restrictions (AUR's – can't drill into the concrete) on the stairwells and landings that must be honored, but the building is ready for reuse and hopefully TCC will be able to accomplish that reuse. We have put in to NHDES for final reimbursement of the funds needed for all of this cleanup work which included lead, asbestos and PCB's.

### **Tax Deeded Properties**

Of the 36 Tax Deeded properties, about 15 of them will require evictions. All of these were visited last week to meet the tenants and become familiar with the properties. Notices to Quit will likely be sent out this week. As a side note, 483 School Street will be coming down this week.

### **WWTP Phase II Improvement Bids**

The pre-construction meeting with Apex was held at the WWTF and blasting surveys have already been done. Materials are being ordered. We expect actual construction may begin as early as next week.

### **I&I Work**

Flow meters have been moved again from the main trunks off Main Street from the Avenues and also the trunk at Bridge Street. We have also visited about 30 homes of which several will have to have separation. The Phase I contract work is still slower than we would like but the Contractor claims he is still on schedule.

### **State Prison Inspection Report**

Attached is a notice from NH DES to the Plant Maintenance Engineer at the State Prison chiding them for having installed spray booths without the proper permits and for failing to timely submit Annual Emissions Reports as required for the last five years and other relate issues.

### **Invasive Insect Traps to be Set**

Attached is a flier we received from NHDES regarding traps they are putting out in Ash Trees to test for the invasive emerald ash borer beetle from Asia. This beetle has not yet been detected in NH but if they catch it early, there is presumably more they can do to fight it than if they catch it late. I have already seen these traps on Rt 3 between I-93 and Rt 302. They do look like purple box kites in the trees.

### **Legislative Matters**

It is very difficult to ferret out all the issues of the current pension debates going on in Concord. SB 228 as originally passed by the Senate would repeal a flawed pension spiking provision enacted several years ago. The House Special Committee on Public Employee Pension Reform has taken the opposite approach by amending SB 228 by requiring an assessment on every NHRS employer that provides any end-of –career payments on retirement including accrued sick leave, longevity pay, early retirement incentive pay etc. Under current law there is a 125% threshold before the penalty assessment kicks in which is eliminated in this amendment which means any payment beyond wages will incur a penalty. The example given in the Legislative Bulletin #21 is and end of career payment of \$15,000 would increase the pension amount by \$2,500per year on a 30 yr career employee retiring at age 60 with an average final compensation of \$50,000. Under this amendment of the House, the spiking assessment to the employer would be \$25,000. NHMA is urging that municipal officials let their legislators know that they should reject the committee amendment and any floor amendments to SB228 and simply pass it as it was originally presented to the House repealing the spiking provisions.

Combined with this pension concern are possible amendments to SB229. SB229 would establish a defined contribution pension plan for new employees in the state as opposed to the defined benefit plan which the state currently has in place. The amendments being considered would create a study committee to issue recommendations for the defined contribution plan, but if the study committee doesn't make its report by the due date of 11/1/12, a default defined contribution plan would kick in. NHMA opposes these amendments because many of the over huge unfunded liabilities of the current defined benefit plan come stem from imprudent and inadequate knowledge about the financial impact of making changes to the existing plan.

Councilor Rozek moved with a second by Councilor Otis to accept the City Manager's report and place it on file. So moved, the motion carried.

Mayor Grenier added he spoke to Senator Gallus and told him about his displeasure regarding this legislation. Senator Gallus said this bill will die in the Senate and needs to go into study because this piece needs lots of work. The more dangerous thought is that the committee or legislators could administer new legislation in the fall. The Senate will not go along with this.

Councilor Higbee appreciated help they received from the Public Works and Recreation Departments who were a tremendous help with Berlin's Day of Caring.

13. Mayor's Report

Mayor Grenier read, for the record, a letter he received from Jackie Reardon, 444 Madison Avenue. In her letter, Ms. Reardon recounted the deplorable condition of Page Hill Road that goes to the Androscoggin Valley Hospital. She asked the Mayor to look into this serious safety matter and to take the necessary steps to make sure that road is repaired soon.

Lucien Langlois, BWW Commissioner, gave Terry Block's letter of resignation to the Mayor who read the letter into the record.

Councilor Rozek moved with a second by Councilor Otis to accept the Mayor's report and Terry Block's letter of resignation and place it on file. So moved, the motion carried.

Mayor Grenier asked the City Clerk to advertise the BWW Commission vacancy in the local paper.

14. Public Comments: No comments.

15. Council Comments:

Councilor Rozek spoke about the slow construction progress on McGee Street two weeks ago. Since then, they have progressed only thirty feet. He asked the Mayor to have the City Manager get a matrix with a timeline of exactly what they are doing. They have dug out lawns and did not reseed. He feels Council needs to see a scope and timeline of their path.

Councilor Theberge said the City Manager in his report wrote that the DES reported the prison was in non-compliance for spray booths and wondered what that was all about.

The City Manager said the spray booths are most likely to train prisoners how to paint, refinish and stain furniture.

Mayor Grenier reminded all to attend the Wednesday, May 23 Budget Public Hearing at 6:30 p.m.

16. Adjournment:

There being no further business before the Mayor and Council at this time, Councilor Rozek moved with a second by Councilor Higbee to adjourn the regular meeting. So moved, the motion carried and Mayor Grenier declared the regular meeting closed at approximately 8:33 p.m.

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