

Public Hearing – May 20, 2013

Mayor Grenier opened the duly advertised public hearing portion of the meeting at approximately 7:34 p.m. to hear public comments on the following subject matters:

- Resolution 2013-07 PD Highway Safety Grants – No comments
- Resolution 2013-08 Refinancing Approximately \$3.5M in Existing Bonds & \$1M in New Bonds through NHMBB – No comments.
- Resolution 2013-09 Accept \$2,611 from Attitash for Rec's Ski/Snowboard Program –No comments

There being no one wishing to speak for or against the subject matters, Mayor Grenier closed the public hearing portion of the meeting at approximately 7:36 p.m.

Non-Public Meeting per RSA 91-A3:II (d) Consideration of the acquisition, sale or lease of real or personal property which if discussed in public would likely benefit a party or parties whose interests are adverse to those of the general community. Councilor Higbee moved with a second by Councilor Rozek to enter into Non-Public session. Roll call resulted in unanimous affirmative votes of Council and they entered into non-public session at this time.

CITY COUNCIL MEETING – Monday, May 20, 2013

Mayor Grenier called the Regular City Council Meeting to order at approximately 8:28 p.m. in the City Hall Council Chambers. The pledge of allegiance to the flag preceded roll call. Present: Councilors Otis, Benski, Higbee, Rozek, Nelson and Theberge. Councilors Remillard and Morgan Allain were absent. Also present: Pat MacQueen, Pam Laflamme, citizens and the press.

Minutes, Previous Meeting

Councilor Nelson moved with a second by Councilor Higbee to accept the minutes of the May 6 and 13 Regular Meeting/Work Session. So moved, the motion carried.

Disbursements: Disbursement Summary Draft #1690 start date 5/09/2013; end date 5/22/2013 has a total cash disbursement of \$1,226,553.29. Councilor Theberge 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

Lynn Lipari, 107 Church Street, requested Council permission to allow Berlin residents keep up to five chickens in their backyard for the satisfaction of having fresh eggs from healthy hens. Concord has passed a law where citizens are allowed to keep up to five chickens (hens), no roosters are allowed and it is for personal use only, no selling of eggs or chickens and it is allowed on single family residences only. There are also special specifications such as manure removal and the size of the hen houses.

Crystal Carpenter, 374 Cates Hill Road, supports Lynn. She added that the hens eat up to their weight in bugs so they are good to keep the bug population down. They plan to do more research on the matter and will be more prepared to present a case to City Council in the near future.

Jason Carpenter, 374 Cates Hill Road, also supports Lynn. He told the Council that there was an informal petition garnering signatures with lots of people interested. There is potential for a conversation here and he thanked the Council for listening.

Mayor Grenier asked them to leave their names and phone numbers with the City Clerk. After Council is done with the Budget Process they can look at the issue with more depth. He would be interested to know more about what other cities in the state do with this. Mayor Grenier thanked them for coming tonight.

UNFINISHED BUSINESS

1. Council Committee Reports.

Councilor Theberge gave a brief update on the OHRV meeting held on May 17. Police personnel and club members met to discuss the July 26 & 27 OHRV Festival. There are two motions on the agenda tonight that will be a big help with the festival.

2. Resolution 2013-07 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 2014. (tabled 5/6/2013) Resolved by the City Council of the City of Berlin as follows:

- Whereas, voluntary compliance of bicycle, scooter, and skateboard laws is a problem in Berlin, particularly in the downtown area; and
- Whereas, possession of alcohol and DWI offenses are problems in Berlin; and
- Whereas, traffic light avoidance is a problem which creates unnecessary risk for pedestrian traffic, and designated patrols are needed for enforcement; and
- Whereas, the New Hampshire primary child passenger safety law requires that all children up to the age of four be restrained and properly secured in an approved child passenger safety seat, and everyone up to the age of 18 use a seat belt; and
- Whereas, operation of OHRVs on public ways is a concern; and
- Whereas, distracted driving during morning and evening commutes is a statewide problem requiring increased public awareness that distracted driving will not be tolerated; and
- Whereas, information is available to teach young, inexperienced drivers specific educational experiences that focus on the behavior of vehicles, their limits of operation, and the effectiveness of seat belt use in the operation and occupancy of a motor vehicle, as they do not realize the limitations of vehicles or the harmful impact that alcohol may have on their ability to safely operate a vehicle; 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 Berlin Police Commission is hereby authorized to apply for and receive funds for Highway Safety Project Grants. Said funds granted to the City of Berlin will be used for the purpose of meeting the expenses directly included in the purposes of the grants during Fiscal Year 2014. The City Manager is authorized to do all things necessary to effectuate the grant. This Resolution shall be in full force and effect from and after passage.

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

Councilor Nelson moved with a second by Councilor Higbee to have the resolution 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 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.

Councilor Benski wants to go on record as opposed to this resolution since she believes it is a violation of the civil rights of the Citizens of Berlin. Mayor Grenier called for a roll call vote. All votes in the affirmative with the exception of Councilors Benski and Otis who voted no. Mayor Grenier declared the resolution passed.

3. Resolution 2013-08 Authorizing: (i) the Issuance of Bonds to Refinance the Approximate Remaining \$3.5 M Principal Balance of the \$5M Bond Issue Originally Authorized in Resolution 2009-43 and Sold to the Bank of NH (the Bank of NH Bond); (ii) The Issuance of General Obligation Bonds in an Amount of up to One Million Dollars (1,000,000.) for Street Improvements; and (iii) the Sale of Such Bonds to the NH Municipal Bond Bank. (tabled 5/6/2013)
Resolved by the City Council of the City of Berlin as follows:

- Whereas, the Mayor and Council have determined that there is need to increase the amortization period of the balance of the Bank of New Hampshire Bond to come closer to matching the expected life of the remaining street improvements funded from the bond; and
- Whereas, there is need for additional street improvement funding to cover the expected remaining costs of current street improvement projects. Now therefore, be it resolved that the Mayor and Council hereby authorize and approve: (i) the issuance of refunding bonds (the "Refunding Bonds") in such amount as is necessary to refinance the approximate Three Million, Five Hundred Thousand Dollars (\$3,500,000) outstanding principal balance of the Bank of New Hampshire Bond for a maturity period of up to twelve (12) years; and (ii) the issuance of up to One Million Dollars (\$1,000,000) in additional general obligation bonds of the City (the "New Money Bonds" and, together with the Refunding Bonds, the "Bonds")for a maturity period of up to twelve (12) years all pursuant to the provisions of the Municipal Finance Act, RSA 33; Be it further resolved that the Bonds shall be sold to the Bond Bank at the par value thereof (plus any applicable premium) subject to and upon the terms and conditions set forth in a Loan Agreement (the "Loan Agreement") by and between the City and the Bond Bank, including those terms pertaining to the interest rate, payment terms and maturity of the Bonds; Be it further resolved that the City Manager and Treasurer are hereby authorized to execute and deliver the Loan Agreement and any and all documents or to take any other actions necessary to effectuate this motion; Finally, be it further resolved that the proceeds from the re-financing and sale of these bonds are hereby appropriated for the completion of said Street Improvements. This Resolution shall be in full force and effect from and after passage.

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

Councilor Nelson moved with a second by Councilor Theberge to have the resolution 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 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. Roll call resulted in unanimous affirmative votes of Council including Mayor Grenier who declared the resolution now passed.

The City Manager stated that the Bond Bank wants a separate motion to authorize the City Manager, City Treasurer and City Clerk to sign. Councilor Nelson moved with a second by Councilor Higbee that the City Manager, City Treasurer and City Clerk are hereby authorized to sign the proposed New Hampshire Municipal Bond Bank Loan Agreement and to sign and do all things necessary to carry out the intent of Resolution 2013-08. So moved, the motion carried.

4. Resolution 2013-09 Accepting a Donation of \$2,611.00 from LBO Holdings, Inc. DBA Attitash to be used as Scholarship Money for the Berlin Recreation Department's Ski and Snowboard Program (tabled 5/6/2013) Resolved by the City Council of the City of Berlin as follows:

- Whereas, LBO Holdings, aka Wildcat and Attitash Ski Areas recognizes the efforts of the City of Berlin to provide the youth of the area with an opportunity to experience the wonderful sports of skiing and snowboarding; and
- Whereas, there are life-long benefits to providing Berlin students with the opportunity to keep active and learn a fun and enriching sport; and
- Whereas, the Ski and Snowboard Program is offered to students in good standing academically as well as behaviorally as an incentive for them to strive to succeed; and
- Whereas, LBO Holdings understand the financial constraints of the City's limited resources as well as individual taxpayers to fully support the cost of skiing and snowboarding; and
- Whereas, this donation will offset the cost of participation in the Ski and Snowboard Program for students who otherwise would not be able to afford such a program. Now therefore, be it resolved that the City Council of the City of Berlin accepts Two Thousand, Six Hundred Eleven Dollars (\$2,611.00) from LBO Holdings, DBA Attitash donated to the Berlin Recreation Department and that the funds are hereby appropriated to the 3rd - 6th Grade Ski & Snowboard

Program and the City Manager is authorized to do all things necessary to effectuate the donation. This Resolution shall be in full force and effect from and after passage

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

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

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

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

NEW BUSINESS

5. Resolution 2013-10 authorizing the Berlin Police Commission to accept a \$2,500.00 donation from Walmart and appropriating said amount to the Berlin Police Department. (1st read)

Councilor Higbee moved with a second by Councilor Otis to table the resolution and schedule a public hearing on June 3. So moved, the motion carried.

6. Communication from ATV Group Request to Change Street Use

Mayor Grenier asked where the Urban Compact actually was. He was informed it is up to the White Mountain Distributors since they go into park before that there is no need for Route 110 traffic. It will allow folks to drive within the City Limits between Berlin and Gorham but not allowed outside those two boundaries. The City Manager added that the current language does not state Urban Compact.

Councilor Otis asked if Cates Hill Loop would be affected because he wants people in that area to be able to ride from their homes to the festival. It was confirmed that this was permitted.

Councilor Nelson moved with a second by Councilor Higbee to accept the communication and place it on file. So moved, the motion carried.

Councilor Higbee moved with a second by Councilor Otis that the motion regarding OHRV use of streets for the upcoming OHRV Festival which passed on April 29, 2013 is hereby rescinded in its entirety and in its place, the Mayor and Council pursuant to Section 13-112 of the City Code hereby approve the opening of the City Streets to OHRV's within the Urban Compact only of the City for the two days of the OHRV Festival July 26 and 27. So moved, the motion carried.

7. Communication from ATV Group Request for Signalization on Route 110

The OHRV Committee met on 5-17-2013 and one of the issues raised by the Police Department was the issue of needing some type of cautionary signal on Route 110 where OHRV's are properly crossing the highway. It was suggested that the matter be sent to the Traffic Safety Committee for review and consideration.

Councilor Nelson moved with a second by Councilor Theberge to accept the communication and refer the matter to the Traffic Safety Committee for review and consideration. So moved, the motion carried.

8. City Manager's Report
Pleasant Street Fire

On Sunday May 19, 2013 at 4:09 am the Berlin Fire Department responded to 148 Pleasant for a working structure fire. This is a property the City owns by tax deed. The first crew on scene made an interior attack trying to keep the fire contained in the structure. Because of the heavy smoke condition, the initial crew of four could not maintain this stance and the fire spread through the building quickly consuming the building.

The Department was able to summon enough firefighters later in the fire to conduct a defensive fire attack keeping the fire from spreading to adjacent structures. The Chief called Linda White as this is a City building obtained by tax deed to get an excavator to remove the collapse hazard that remained after the fire. Chief Trull pointed out that this was a great team effort from the Berlin Fire Department, Red Cross, Police Department, Public Works, Berlin EMS and Linda White, and the support from local citizens bringing water to drink was exceptional.

Route 110 funding update

Attached hereto is the latest estimate by the state of the Rt. 110 project. The total estimated price for the project last October was \$10,917,171. This latest estimate puts it at \$11,863,671 or an increase of \$946,500 of which \$616,500 is an increase in the construction estimate from \$4M to \$4.6M. The City's share is 20% of the total project or an estimated \$2,372,734. To date the City has paid \$1,383,434 toward this match leaving an estimate of \$989,300 left to be paid. This will come from the \$280,566 which remains in the original bond issue and \$708,734 of the new bond money.

WWTF de-watering trials

The Council will recall that our engineer, Wright-Pierce, was commissioned to look at alternatives to our centrifuge system of de-watering. We have two centrifuges which require a good deal of power, operate at high speed and have been giving us problems even after significant rebuilds. Two other systems have had on-site trials at the plant recently. The first is what is called a Fournier system which operates a system of two slowly revolving disks which squeeze the water out of the sewer sludge. The second one is essentially a tapered Archimedes screw which also operates very slowly to squeeze out the water. Both of these systems would on their face be far less likely to have serious maintenance problems because they operate so slowly. They also would both require far less energy to accomplish their work. Wright-Pierce will now finalize their report and recommendations, but based on what we have seen, it would seem that the WWTF will have to opportunity to make a substantial improvement to its overall operations with a change in this system.

Housing Matters

124.5 Norway is coming down today. That house has been there since 2006. The delay in being able to do anything with this property is that we could never find any next of kin to the gentleman that passed away in the property. However, recently, Linda White was approached by the biological niece of the deceased who had started looking for her biological family and it has moved from there.

Cable TV PEG Access Group Meeting

Gorham Town Manager Robin Frost and I attended a meeting on Thursday May 9th of a group which met with Time Warner Cable officials at North Country Educational Services in Gorham to discuss the possibility of developing more Public Educational Governmental (PEG) access via cable TV. This is pretty much the same group (Kathy McKenna, Jim Michalik) that discussed this topic with the Mayor and Council back in 2011 expanded to include Carol Miller (now with DRED) and Matt Treacher of NCES. Shelley Winchenbach, Director of Governmental Relations and Rodney King, Technical Operations Manager at TWC. While much of the discussion revolved around a Cable Franchise Agreement which neither Berlin nor Gorham have had since about 1999, the main issue seems to be how to fund such an effort which requires a studio, basic equipment and someone to run it. Certainly if the expense can be divided over several municipalities, the base cost should be less to each.

Berlin Regional Career and Technical Center Open House

Attached is a notice of an Open House being held by the Berlin Regional Career and Technical Center of the Berlin High School on 31st, from 4-6pm. This will be to show to the public the results of their two year building project for homeowners Jeff and Janet Mercier at 575 Hillside Avenue. CTE Director Roland Pinette is available at 752-4122 x4 to answer any questions.

Legislative Matters

HB 617 the bill to increase the gas tax by 12 cents over three years is now scheduled for a full Senate vote on Thursday May 23rd, after being referred by the Senate Ways and Means Committee on a vote of 3-2 to recommend that it be re-referred back to the Ways and Means Committee. If the Senate adopts this recommendation, the bill will go back to the Senate Ways & Means Committee in the 2014 Legislative Session for recommendation back to the full Senate. While this would keep the bill alive, no alternative but the property tax exists to provide transportation infrastructure funding.

SB 152 the Casino gambling bill has been recommended by the 45-member Joint Committee on a vote of 23-22 as Inexpedient to Legislate (ITL) in spite of large number of proposed amendments. This will be further debated in the full House on Wednesday.

SB 146 is a bill that would require municipalities to expand their welfare obligation under state law to include on old age assistance OAA or aid to permanently and totally disable (APTD). Because the bill was an obvious unconstitutional unfunded mandate, the bill was amended in the Senate to eliminate the requirement and leave it up to each municipality as to whether it wanted to provide such additional assistance. Nevertheless, the House Municipal and County Government Committee this past week voted as Inexpedient to Legislate (ITL). It will next be debated on the House floor next week.

Mayor Grenier mentioned that HB617 legislation is being used as leverage by the Senate for the casino bill.

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

9. Mayor's Report

Proclamation – Connor Wagner Eagle Scout Achievement

Resignation: Max Makaitis, BIDPA Board effective June 1. Councilor Rozek moved with a second by Councilor Higbee to accept Max Makaitis' resignation from BIDPA. So moved, the motion carried. Mayor Grenier asked the City Clerk to draft a letter of thanks to Mr. Makaitis for his service.

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

Mayor Grenier mentioned how important it is that BIDPA have a representative from Berlin at the meetings.

10. Public Comments: No comments

11. Council Comments: No Comments

12. Adjournment:

There being no further business before the Mayor and Council at this time, Councilor Rozek moved with a second by Councilor Nelson to adjourn the regular meeting. So moved, the motion carried and Mayor Grenier declared the regular meeting closed at approximately 9:09 p.m.

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