

Public Hearing – February 17, 2014

Mayor Grenier called the duly advertised public hearing to order at approximately 7:30 to hear public comments on the following subject matters:

Ordinance 2014-02 Allowing OHRV Use of City Streets.

Mike Young, Prospect Street wanted to know how ATV's riding in the streets benefits anyone in town. He is not in favor of ATV's riding through neighborhoods and prefers that the police deal with other matters. He asked if anyone has done a transportation study, are maps available, have they done any studies regarding who owns ATV's in town and how does anyone know how to get from their house to the trail? They have not gotten any information.

Police Chief Pete Morency replied Police response time for ATV matters is slow because they are responding to other calls. Permitting, trail access and opening streets have been studied and discussed for years. They are taking slow steps to make everything as safe as possible. A fine schedule was developed to penalize those who do not follow rules but 95% of riders do the right thing. A sunset clause will be added to the ordinance to study how everything is working the first year and to see what is happening. They are trying to work with the businesses and community.

Emile Croteau, 2229 Riverside Drive, longtime Berlin resident is the Trail Master for the ATV Club. He appreciates what the North Country is doing. He said at least 75% of our residents have a four-wheeler and they know how to get to the trail from their home. It is a big help since they don't have to trailer their ATV. Mr. Croteau feels that if we allow kids to legally get to trailheads from their homes, they will not need to drive up and down the streets all day. It will be good for the city and it works well in Gorham. On another matter, Mr. Croteau asked Council to consider closing the Dead River Park to four-wheelers in the summer and open the park in the winter for snowmobiles only.

Rene Boutin, Gorham, added it would make more room in parking lots for tourists if locals rode to the trails from their homes.

Henry Sanschagrin, President of the OHRV Club, said last year Gorham opened their streets from the T&C to the US RT 2 parking lot. Businesses are extremely happy and have very few complaints. People obey the laws and there have been no major problems. This will bring lots of people to businesses that don't normally have the opportunity to go to places like the Dairy Bar. He applauds the Police and Council for what they are doing.

Carol Walker, 128 Prospect Street, chose to move here for the quiet, the nature and wildlife. She does not want the wild-west appeal of opening streets to ATV's. She doesn't know why they must ride up and down the street since there are no restaurants or hotels. There is absolutely no reason for an ATV to be riding on her street. She would rather see the Police use resources to catch drug dealers and not ATV riders misbehaving. It seems this convenience is more for locals than tourists. It is a big inconvenience for those who chose to live here.

Mike Young doesn't know how anyone can say that 75% of people living here own ATV's without a study being done. He personally does not have anything against ATV's. Our city departments can't plow Main Street for businesses here in winter so it is not a matter of helping businesses out. ATV's won't park downtown. Tourists don't come here to stay, they stay in Gorham so where will businesses up here benefit with ATV's riding on streets to access trails.

There were no other comments. Mayor Grenier closed this portion of the public hearing.

Mayor Grenier opened the next public hearing:

Resolution 2014-02 Brownfield Funding. No comments.

There being no one else wishing to speak for or against the subject matters at this time, Mayor Grenier closed the public hearing portion of the meeting.

CITY COUNCIL MEETING – Monday, February 17, 2014

Mayor Grenier called the Regular City Council Meeting to order at approximately 7:43 p.m. in the City Hall Council Chambers. The pledge of allegiance to the flag preceded roll call. Present: Councilors Remillard, Otis, Benski, Rozek, Nelson and Theberge. Councilors Morgan Allain and Higbee were absent. Also present: James Wheeler, ATV Club members, citizens and the press.

Minutes, Previous Meeting

Councilor Remillard moved with a second by Councilor Otis to accept the minutes of the February 3 Work Session and Regular Meeting and February 10 Work Session. So moved, the motion carried.

Disbursements: Disbursement Summary Draft #1709 start date 2/04/2014 end date 2/14/2014 for a total cash disbursement of \$1,052,164.75. 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 – No Comments

UNFINISHED BUSINESS

1. Council Committee Reports – No Reports

2. Ordinance 2014-02 Amending the Code of Ordinances, Chapter 13, Streets, Article IV Parks & Recreation, Division 2, Operation of Off Highway Recreational Vehicles, Sec.13-112. Operation of OHRV's. (tabled 2/3/14)

Whereas, the Berlin City Council is open to considering the economic development potential of allowing OHRV users on City streets to access local businesses; and

Whereas, local homeowners will have trail access from their homes; and

Whereas, the use of city streets for OHRV access will be allowed on a trial basis for one year; it will then be reconsidered by the City Council. **Be it ordained by the City Council of the City of Berlin, as follows:**

That Sec. 13-112 Operation of OHRV's is amended as indicated below:

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:

1. 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:
 - a) 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)
 - b) 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.
 - c) 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 reopen date set by the State Trails Bureau. (Ord. 4-02-2012)

- d) The City of Berlin's roadways will be open to OHRV riders for purposes of accessing the Connector Trail, (via the shortest possible route) as well as local businesses and services. Riding on municipal streets for any other purpose is prohibited.*
*A sunset clause will be in place for one year upon passage of said ordinance so that data can be collected and reviewed by police and Council, to see if Sec.13-112 1.d) of said ordinance is viable for the City of Berlin and its residents.
- e) Any person who violates the provisions of this article shall be guilty of a violation, punishable by a fine as follows: All violations are subject to a loss of OHRV operating privileges on City streets, NOT including the OHRV Connector trail.
First offense, \$100.00 fine.
Second offense, \$250.00 fine.
Third offense, \$500.00 fine.

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

2. 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)
 - a) The speed limit for OHRV operators when operating on the designated trail on City streets is 25 mph or 30 mph where posted.
 - b) OHRV's must yield to pedestrians at all times. (Ord. 9-20-2010)
 - c) 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).
 - d) There will be no OHRV riders on City streets between the hours of 10:00 p.m. through 6:00 a.m. unless authorized by the City Council during special events.
 - ~~e) 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)~~
 - e) All OHRV's operating on designated trails on City streets must have working head and tail lights.
3. 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)
4. 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; or in the event of temporary OHRV trail obstructions or other matters determined by the Council to require temporary OHRV street use for a length of time determined appropriate by the Council. 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. (Ord. 5-21-2012) (Ord. July 16, 2012) 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 read the ordinance a second time by title only. So moved, the motion carried.

Councilor Remillard moved with a second by Councilor Otis to read the ordinance 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 by unanimous affirmative votes.

Councilor Theberge requested the City Clerk read items D & E out loud so they were clear for the public.

3. Resolution 2014-02 Authorizing an application to the US Environmental Protection Agency for a Brownfields Community-wide assessment grant for the sum of Four Hundred Thousand Dollars

(\$200,000 hazardous substances & \$200,000 petroleum) to provide for Phase I and Phase II assessments of potentially contaminated properties. (tabled 2/3/14)

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

Whereas, contaminated properties are known to exist within the City of Berlin; and

Whereas, the City can use these funds to assist in the economic development of contaminated properties by funding Phase I and Phase II studies; and

Whereas, the City or other entities needing Cleanup Grant Assistance under United States Environmental Protection Agency Brownfields Program must have Phase I and Phase II studies completed in order to be able to begin any remediation process; and

Whereas, the City of Berlin has now established a good track record of using these funds to reclaim properties which were in effect abandoned or undevelopable. Now therefore, be it resolved by the City Council of the City of Berlin as Follows: That the City Manager is authorized to sign and submit an application to the United States Environmental Protection Agency for a Brownfields Community-wide Assessment Grant for the sum of Four Hundred Thousand Dollars (\$400,000.00). Further, that the City Manager is authorized to accept said grant, if awarded, and do all things necessary to effectuate it, and the grant proceeds, if awarded, are hereby appropriated for the purpose of the grant. 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 read the resolution a second time by title only. So moved, the motion carried.

Councilor Theberge moved with a second by Councilor Nelson to read the resolution 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

4. Ordinance 2014-03 amending the Code of Ordinances, Chapter 9, License and Regulation of Occupations & Businesses, Article VI. Restaurants by adding a new Division 3. Alcoholic Beverages (1st read)

Councilor Remillard moved with a second by Councilor Otis to table the ordinance and schedule a public hearing for March 3. So moved, the motion carried.

5. City Manager's Report
Jet-A Tank Replacement Project at Berlin Airport

Attached is Project Status Report #007 for the Jet-A Replacement. As you know, the project site has been prepared for the new tank equipment. The work over the last period mostly consisted of equipment submittal review and the development of a change order to include a new breaker panel. Equipment delivery is expected in March.

Bureau of Prisons Update

Presently FCI Berlin has approximately 260 staff and 680 inmates. Total staff are projected to be 330. Total inmate population is projected to be 1,500.

Restructuring of Joint Loss Management Committee

Historically, the School Department has participated on the City wide JLMC. With due consideration and support from PRIMEX, we are moving to create a specific School JLMC. This decision follows the recommendations of both PRIMEX and the NH Department of Labor. It is believed that the formation of the resulting committees will provide the ability for each group to better focus on the safety issues that are prevalent in their respective areas and improve loss prevention. The targeted official start date for the new committees is March 1, 2014 although the steps to see this through have been well underway for several weeks.

Time Warner Communications

Attached are the most recent communications from Time Warner. These include a Programming Notice and Customer Rate Notification.

NHMA Legislative Bulletin Excerpts and Updates

SB 367 – Increase in Road Toll for Transportation Funding

“The hearing on **SB 367**, the bill that would increase the road toll by four cents on July 1 and tie future increases to the Consumer Price Index, has been scheduled for a hearing next **Tuesday, February 18, at 9:00 a.m., in State House Room 103**, before the Senate Ways & Means Committee. This bill carries out NHMA policy, and **we need local officials to attend and speak about the need for better transportation funding.**”

SB 364 – Increase in Pension Benefits

“On Wednesday the Senate Executive Departments and Administration Committee heard testimony on **SB 364**, which proposes to increase pension benefits for New Hampshire Retirement System (NHRS) members hired after January 1, 2012, the date the retirement reform measures enacted in 2011 took effect. This bill

- creates a new employer-funded (at 4 percent of pay) defined contribution plan for NHRS group I members (employees and teachers), in addition to the current defined benefit plan, and
- raises pension benefits for group II (police and fire) members by increasing the pension formula multiplier from 2 percent to 2.5 percent.”

Various Bills Related to PILOTS

“Also on Tuesday in Room 301, the same committee (Municipal and County Government) will hear four bills dealing with payments in lieu of taxes (PILOTS) for renewable energy facilities and how those payments are handled for equalization, cooperative school district assessment, and county tax apportionment purpose. The bills are scheduled as follows:

11:00 a.m.–HB 1471, proration of payments for renewable generation facilities among school districts

11:30a.m.–HB 1472, equalized property valuation used to apportion expenses in cooperative school districts

1:15 p.m. – HB 1590, PILOT facilities in unincorporated places

2:00 p.m. – HB 1549, assessment of renewable energy generation facilities subject to a PILOT”

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

6. Mayor’s Report

Mayor Grenier received a letter from Tom McCue requesting to continue representing the City of Berlin on the NHMA Legislative Policy Committee with a term to expire 11/30/2016. The Mayor made that nomination.

Councilor Rozek moved with a second by Councilor Theberge to accept the Mayor’s nomination of Tom McCue to the NHMA Legislative Policy Committee. So moved, the motion carried.

7. Public Comments

Emile Croteau, remarked that the amount of money spent in the North Country the last ten years is over a million dollars. The “flatlanders” have all kinds of money and many of them are former Berlin people who had to leave due to lack of jobs. We need their money and we also need their respect. We have something special here and people enjoy it. Also, the State of NH has come a long way to provide grants and equipment. It is good that the City of Berlin is moving forward to produce a better economy for the North Country.

8. Council Comments – No comments.

9. Adjournment:

There being no further business before the Mayor and Council at this time, Councilor Rozek moved with a second by Councilor Benski to adjourn the regular meeting. So moved, the motion carried and Mayor Grenier declared the regular meeting closed at approximately 8:04 p.m.

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