

PUBLIC HEARING – JANUARY 19, 2015

Mayor Grenier opened the duly advertised public hearing at approximately 7:56 p.m. to discuss the following subject matters:

-Resolution 2015-05 Accept NH DOE \$2.2 Million Grant for School Safety/Mental Health Support – No Comments

-Resolution 2015-06 Funding State Education – No Comments

-Resolution 2015-07 Supporting Restored Funding to the State Aid Grant Programs – 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 7:58 p.m.

CITY COUNCIL MEETING – Monday, January 19, 2015

Mayor Grenier called the Regular City Council Meeting to order at approximately 7:59 p.m. in the City Hall Council Chambers. The pledge of allegiance to the flag preceded roll call. Present: Councilors Remillard, Otis, Morgan Allain, Gentili, Higbee, Rozek, Nelson and Theberge. Also present: City Manager James Wheeler, Susan Tremblay, Barbara Tetreault and citizens.

Minutes, Previous Meeting

Councilor Remillard moved with a second by Councilor Otis to accept the minutes of the January 5 Regular Meeting/WS and January 12 WS. So moved, the motion carried.

Disbursements: Disbursement Summary Draft #1732 start date 1/6/2015 end date 1/16/2015 for a total cash disbursement of \$973,169.88. Councilor Nelson moved with a second by Councilor Morgan Allain to accept the disbursement summary and pay all bills as recommended by the Committee on Accounts/Claims. So moved, the motion carried.

PUBLIC COMMENTS

Carl Gagnon, 24 Petrograd Street, regarding the BearCat, commended Mayor Grenier for sticking to his guns on what he said January 5 about the demilitarization of the BearCat. He asked why the BearCat resolution was not on a ballot because there is no way to find out how many residents were against it. As a resident he would like an answer. He also asked why a City Councilor that has a brother on the Police Force did not recuse from voting due to a conflict of interest. Mr. Gagnon said Council has a myopic view because they don't see the big picture. The mayor was the only one to demilitarize the vehicle. The lack of recusing has forever tainted the City government according to Mr. Gagnon. He was a former Berlin Police Officer and proudly served the citizens of Berlin but if he was still on active duty, no matter what rank and the chief tried to get this weapon of war, he would have resigned. He wants no part in the militarization of Berlin. Council should be working to extend 93 and try to get on the Ten Year Master Plan but they do not have a contingency plan. Council may say he has an ax to grind but he does not, he loves the Police Department. Council has handcuffed the Oversight Committee with a standardized vehicle. Mr. Gagnon wanted Berlin to be a role model because we were the only municipality that got something out of public comments coming in. The demilitarization was a first in the US and Berlin could have been a template for the rest of the US on how to deal with citizens on civil liability. We could have really done something but because Council has handcuffed the Oversight Committee, he resigned. They can take a vote without him on it. They have defanged the committee and Mr. Gagnon publicly retracted his commitment and apologized to the Mayor but until he has more confidence in City Government, he does not trust Council. He concluded that as a native son of Berlin the mayor should be more concerned.

Eric Catman, 1655 Main Street, agreed with Mr. Gagnon's statements. It seems it is a done deal to get a BearCat in the City of Berlin and it is sad it was decided that for whatever reason we need a militarized vehicle. Ten years ago, he moved to Berlin to have nice home in a good environment. He could have lived in Concord or Manchester where the crime rate is higher but chose to live here. He wonders if the Police Department had come to Council to ask for something else for \$275,000, would Council have floated a bond? Because this was free, it got ramrodded through the community. It may be free to citizens but it still comes out of taxpayers' pockets. The money to

maintain the machine will cost taxpayers something, somewhere. Mr. Catman asked Council if they have gone to other communities to see if they will pay for it. He understands the Police Department has concerns about safety. It is a hard issue since he has friends on both sides. He feels because it is free, the community had a right to vote on something over \$270,000 and doesn't think it would have gone through. We should work to get grant money for roads, bridges and schools to make the community thriving. He moved here to help make it better.

UNFINISHED BUSINESS

1. Council Committee Reports – No Reports
2. Resolution 2015-05 authorizing the Berlin School Department to apply for and accept Two Million, Two Hundred Six Thousand Four Hundred Ninety-Five Dollars (\$2,206,495) over five years in grant funds from the NH Department of Education to target federal funds to support the President's national initiative "Now is the Time", Project AWARE (Advancing Wellness and Resilience in Education) and appropriating said funds to the School Department for the purpose of the grant. (tabled 1/5/2015) Resolved by the City Council of the City of Berlin As Follows:
 - Whereas, Berlin is one of three school districts selected by the New Hampshire Department of Education to target federal funds to support the President's National Initiative "Now is the Time", Project AWARE; and
 - Whereas, funding for Project AWARE (Advancing Wellness and Resilience in Education) will focus on school safety, professional development, and mental health supports for students. Now therefore, be it resolved by the City Council of the City of Berlin, NH, that the Berlin School Department is authorized to apply for and accept Two Million, Two Hundred Six Thousand, Four Hundred Ninety-Five Dollars (\$2,206,495) of funding over five years from the NH Department of Education for the implementation of Project AWARE. Be it further resolved that said funding is appropriated to the School Department for the purpose of effectuating said grant. 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 Remillard moved with a second by Councilor Otis to have the resolution read a third time by title only. So moved, the motion carried.

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

3. Resolution 2015-06 requesting that all State elective officials support legislation that will reform State Education Funding to rely on a comprehensive funding mechanism that results in a significant reduction of local property taxes. (tabled 1/5/2015)
Resolved by the City Council of the City of Berlin as Follows:
 - Whereas, the majority of State education funding is derived from local property taxes; and
 - Whereas, the reliance on local property taxes places a significant burden on the property tax payers of the State; and
 - Whereas, the reliance on local property taxes places a significant burden on the residents and property tax payers of the City of Berlin; and
 - Whereas, the City of Berlin's total taxable property valuation is approximately 48% of its total property valuation from which the City generates its tax revenue to fund all other municipal services which come under the City's General Fund, including but not limited to; Police, Fire, Public Works, Public Health, Public Welfare, Public Recreation, Housing, Code Enforcement, Infrastructure and other Capital Improvements and other necessary municipal administrative functions; and
 - Whereas, without a comprehensive and meaningful reformation of the system of funding for State Education the City will continue to struggle to provide all necessary services in manner which the public expects and deserves; and

- Whereas, without a comprehensive and meaningful reformation of the system of funding for State Education our School System will continue to struggle to provide all the necessary services in a manner which our youth deserve. Now therefore, be it resolved that the City of Berlin hereby respectfully requests that the State of New Hampshire, through its Governor and all State elective officials, reform State Education Funding to rely on a comprehensive funding mechanism that results in a significant reduction of property taxes. 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 Remillard moved with a second by Councilor Otis to have the resolution read a third time by title only. So moved, the motion carried.

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

4. Resolution 2015-07 requesting that all State elective officials support legislation that will authorize fully restored funding to the State Aid Grant Program's eligible deferred projects. (tabled 1/5/2015)
Resolved by the City Council of the City of Berlin as Follows:

- Whereas, the state legislature has historically supported municipal wastewater, public drinking water and landfill closure projects through the state aid grant program administered by the New Hampshire department of environmental services; and
- Whereas, the public derives significant benefits from municipal infrastructure systems, including improved public health, public safety, environmental protection and also monetary benefits to our state and local economies from recreation and tourism strongly linked to our environment and water quality; and
- Whereas, pursuant to RSA 486 and RSA 486-A, the state legislature has expressly authorized a grant program for municipalities to receive from 20% to 30% of assistance toward principal and interest payments on eligible environmental infrastructure projects; and
- Whereas, local government officials and citizens have faithfully relied on the state's commitment to this funding partnership that was created by the legislature to make these environmental infrastructure investments at the local level more affordable and provided much needed incentive for local investment; and
- Whereas, without a significant increase in infrastructure investment, New Hampshire will be at risk of reversing decades of progress in public health, environmental protection, economic development, recreation, tourism and quality of life; and
- Whereas, substantial investment in the order of about \$40 million per year (as determined by the SB 60 Water Commission) is needed to maintain or make the necessary improvements to municipal wastewater and storm water systems, public drinking water systems, and municipal-owned dams; and
- Whereas, the New Hampshire Municipal Association, a non-profit, non-partisan membership organization of municipalities, has adopted a legislative policy position to support legislation that provides full funding of environmental infrastructure projects. Now therefore, be it resolved that the City of Berlin hereby respectfully requests the City's representatives, state senator, and Governor to support legislation that will be filed in the 2015 legislative session which seeks to fully restore funding to the state aid grant program. This Resolution shall be in full force and effect from and after passage.

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

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

NEW BUSINESS

5. Resolution 2015-08 authorizing the City Manager to accept Seven Hundred Seventy-Nine Thousand, Two Hundred (\$779,200.00) from the Federal Highway Administration and appropriating these funds to the Hutchins Street Reconstruction project. (1st read)

Councilor Remillard moved with a second by Councilor Otis to table the resolution and schedule a public hearing on February 2, 2015. So moved, the motion carried.

6. City Manager's Report

1. Both the City and the Airport received certificates of insurance from the State of NH Bureau of Risk Management. Insurance is provide for all landowners who permit their land to be used for OHRV and snowmobile trails. The limits of the policy are \$2,000,000 per occurrence/\$2,000,000 aggregate.
 2. A court appearance has been scheduled for Edrest Properties v. Linda White and the City of Berlin for Monday, February 23, 2015 in Lancaster. The hearing is in regard to a motion for periodic payments. Attached is the Oder of Notice.
 3. A meeting between The Board of Assessors, the DRA and KRT Associates has been scheduled for January 27, 2014 at 4:00 PM at City Hall. This meeting is a "kick-off" meeting for the up-coming revaluation process.
 4. A meeting of the Hazard Mitigation Plan Committee has been scheduled for January 28, 2015 at 10:00 AM at the Berlin Fire Station. The meeting has been scheduled for the purpose of selecting a consultant to assist with the update of the City's Hazard Mitigation Plan.
 5. The Berlin Airport received notice on January 14, 2015 that its FY-2013 Part 26/DBE uniform report was approved by the FAA.
 6. At approximately mid-night on January 5, 2014 the main transformer feeding the waste water treatment plant failed. The plant went on auxiliary power and did not experience any operational problems. The City is working with Primex and PSNH to determine the cause of the failure. A replacement transformer has been installed.
 7. On January 15, 2015 Pamela Laflamme attended her first meeting as a new Director on the Board of Directors of NCIC. Please congratulate Pam on her new appointment as the Coos County Representative on the Board.
 8. Attached is an article that was published online in the Bangor Daily News about Millinocket Maine. When you read the article you can draw parallels from where Berlin was some years ago and where Millinocket is now. Many of the efforts underway in Berlin are what is being proposed in Millinocket. These include downtown improvements and tourism based on access to our natural resources.
- Legislative Issues (taken from NHMA Legislative Bulletin):
1. HB 258-FN-LOCAL increases the fee that the town clerk receives for preparing motor vehicle registration forms from 1\$ to \$2.
 2. SB 30-FN-LOCAL extends the use of tax increment financing (TIF) districts to certain regional water districts and clarifies the ability to establish a regional TIF district through an agreement between governmental units. This bill is sponsored by Sen. Woodburn and is expected to facilitate the redevelopment of the Balsams.

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.

Mayor Grenier asked if in #2 Edrest Properties is Jon Edwards. The City Manager replied it is and he was ordered to repay the City \$4,000 for legal costs in his lawsuit but he resisted paying.

Councilor Remillard asked if the City's contract with Avitar is over. The City Manager replied they are under contract until July 1 and they are still doing regular updates. KRT was hired for the upcoming reval but we need someone to do the pick-up work. Mayor Grenier asked if KRT was capable to do the pick-up work and the City Manager replied they were but we need to put out an RFP. Councilor Remillard asked the City Manager to email her when the Avitar contract is up.

7. Mayor's Report

Appointments: AVRDD Councilor District Representatives. Primary Representative: Councilor Rozek; First Alternate: Councilor Theberge; Second Alternate: Tom McCue.

Councilor Remillard moved with a second by Councilor Rozek to accept the Mayor's AVRDD District Representative nominations as stated. So moved, the motion carried.

Mayor Grenier informed Council that in the last three years since Councilor Rozek was on that board he only missed one meeting and just recently was voted in as treasurer. That means he has to meet every week. It was widely noted that Councilor Rozek is a valuable, important member.

Other: Mayor Grenier defined conflict of interest since Mr. Gagnon mentioned it in his statements. According to NH State Statute, folks who should not vote are those that would get personal fiduciary gain on a vote. When he votes as a County Commissioner he recuses himself when they vote on the Labor Agreements because his wife works for the County. Councilor Remillard's vote does not meet that conflict. We are a small community and many have family members who work there so we need to keep that in mind. We are a City Manager form of Government by Charter so we don't bring things to voters for approval. Council previously passed a \$12,000,000 water bond to reconstruct the Water Works and there was never a call for votes from the audience to pass those bonds. That is the way the City Government does business. If you want a Town form of government, change the rules and regulations. The people of Berlin are happy with the City form of government. He will fight to the death to keep away a town form of government. Once you go to a Town form of government, our costs would rise significantly. If you think there is a conflict of interest, sit in a room at a town meeting for schools and you see teachers, relatives of teachers and teacher spouses. The guy who goes to fight his tax bill does not have a prayer. Citizens probably don't like the way Council votes on some issues but they have the opportunity in November to vote on who is on the Council. You will find that 65% vote as long as taxes remain in control and Council spends their money wisely. The Mayor heard repeatedly about a \$275,000 grant which makes it sound like Council picks and chooses grant funds. Tonight the City got over \$3,000,000 in grants from the Federal Government without any comments. We got \$2.2 million for schools and \$780,000 for roads. It is ok to come here to make show for the Council and the press for your benefit but Council is working for the public and working for jobs. The power plant is here because of people in this room. We get \$750,000 in taxes from them and in 5 years will get \$3,000,000 in taxes to our community. Presby Steel began by renting a City building, now they are in their own building and July 1 they will have close to thirty employees and are expanding that facility. Jericho Wind has a five tower wind project bringing significant tax revenues to the city. Within five weeks we will have another new major employer in the Industrial Park. BIDPA knows about it and is working through land title issues with State of NH. So no, Council is not sitting on its hands, they chase every grant that they can and work for the benefit of the public. The Mayor has elderly relatives that live in their homes and can't afford high taxes so he is their voice. Berlin is not the Berlin of the 1960's and 70's. We have members of the community that don't live with our conservative ways of life. The local view is that we have a good Police Department with good strong leadership. At this point forward, if the public wants to vote on every little item, they will need to change the City Charter and go to Town Meetings. The vast majority of the public resisted changing the form of government in Berlin.

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

8. Public Comments

Carl Gagnon responding to the Mayor's definition of conflict of interest said it might not be defined by the legal definition but he's pretty sure if he walks down a sidewalk and sees something soft and brown he knows what it is. This is a representational body that did not listen to its constituents regarding the BearCat and that is why he was here. Mr. Gagnon thinks he would have been the only prior military member on the Oversight Committee and stressed there is such a definition as a warrior mentality. As citizens we do have a civil liability aspect to it and wanted to address the warrior mentality that goes along with the BearCat and other training that might negate those. Council did what they wanted to do in the guise of public safety. How is Council ever going to find

out what constituents and the people that voted them into office think because we are a City Charter and we can't have a resolution, how do citizens have a voice? This was just shut up and pay your taxes. Pete Morency is a fine Police Chief but is just looking out for his department and we get that. The mayor's motives were perfect for public safety because you are getting the BearCat. Mr. Gagnon maintains that there was a majority of people that had reservations about it. When he said conflict of interest, he did not mean it in the fiduciary way he meant it is what it looks like and smells like.

Mayor Grenier, for the record, stated he was disappointed and really didn't want Carl to resign because he thinks Carl has something to add to the Committee. Councilor Rozek agreed.

Mr. Gagnon told Councilor Rozek that he defanged the committee. Mr. Gagnon's mission was to bring his military experience, riot control and Special Forces training to the table. He wanted to involve the ACLU and wanted Berlin to become a template as the City that fought the Bearcat and won. A defanged sunset committee that does quarterly reports made a mockery of it and he wants no part of it. He asked what is next for the citizenry of Berlin. Is it a drone or federal monies for cameras on every corner? Mr. Gagnon said that this was his last fight and he is never running for council because he got shot down three times. He loves it here but has no more causes and he is not coming back before Council again. He is done. He said that Councilor Rozek defanged the Oversight Committee so Mr. Gagnon wants no part of it.

9. Council Comments

Councilor Rozek said he served in the US army and was in the Military Police and loaded heavy caliber machinery which in no shape or form this City will ever see. He wants to share his comments with the two guests here tonight because they are involved in City politics by letting them know how hard Council works and gives back to the City of Berlin. The 2015 Budget Schedule has thirteen meetings listed. He personally invited both of them to attend these budget meetings if they are seriously interested in City Government and the City of Berlin. He begged them to come to these meetings because once they attend they will get a better understanding of Berlin and how it works. He also was born and raised in this City and loves this City too. Working with this body has been an honor. You can come in here in a loud voice demanding your way and pounding a desk and get no respect. Working with these members comes down to compromise. You can't come in here and dictate policy and say this is what I want and if I don't get my way then I'm going to walk right out of this meeting. They'll just look at you and say go, we don't want you. You can't dictate policy, you have to compromise. Life is about concessions and compromising to work out a plan. We are not fighting a battle here. We are trying to work through different items that come before this body and are trying to do the best we can. If you want to be an arm chair quarterback you may ask how Council makes these decisions and on the outside might think that. Councilor Rozek asked them to come on in and again implored them to come to these meetings. It's all about protecting the population that is here and the BearCat issue is about that protection. The Police Department currently has an unarmored Humvee that he has never seen so it shows that the Police Department does not abuse its power. He personally does not think that they understand how City Government works. Mayor Grenier's statements were well said and well placed so Councilor Rozek will not repeat them.

Councilor Morgan Allain echoes what Councilor Rozek said and thanked him for saying it so well.

10. Adjournment: There being no further business before the Mayor and Council, 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 8:53 p.m.

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