

## **PUBLIC HEARING – FEBRUARY 16, 2015**

Mayor Grenier opened the duly advertised public hearing at approximately 7:58 p.m. to discuss the following subject matters:

- Ordinance 2015-03 Amend Ch.13, Sec.13-112 OHRV Operation on Municipal Streets. No Comments
- Ordinance 2015-04 Amend Ch.9, Sec.9-236 On-premise Sell Alcohol License until 2:00 a.m. – No Comments
- Ordinance 2015-05 Amend Ch.8 Art. III Disorderly Actions/Non-Owner Occupied Bldg – 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 7:59 p.m.

## **CITY COUNCIL MEETING – Monday, February 16, 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, Gentili, Rozek, Nelson and Theberge. Councilors Morgan Allain and Higbee were absent. Also present: City Manager James Wheeler and Susan Tremblay.

### **Minutes, Previous Meeting**

Councilor Remillard moved with a second by Councilor Otis to accept the minutes of the February 2 Regular Meeting/WS and February 9 WS. So moved, the motion carried.

**Disbursements:** Disbursement Summary Draft #1734 start date 1/31/2015 end date 2/14/2015 for a total cash disbursement of \$853,067.50. 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 2015-03 Amending the Code of Ordinances, Chapter 13, Streets, Article IV. Parks and Recreation, Division 2, Operation of Off Highway Recreational Vehicles, Sec. 13-112. Operation of OHRV's. (tabled 2/2/2015) **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:

1.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. \*Sunset clause is extended to 2/15/2016. This Ordinance shall be in full force and effect from and after passage.

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

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

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

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

3. Ordinance 2015-04 Amending the Code of Ordinances, Chapter 9, License and Regulation of Occupations and Businesses, Article VI. Restaurants by amending Division 3. Alcoholic Beverages, Sec. 9-236 Hours of Sales. (tabled 2/2/2015)

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

**Sec. 9-223 – 9-235 Reserved. Division 3. Alcoholic Beverages**

Sec. 9-236 Hours of Sales. Pursuant to RSA 179:17 II(b) On-premises licensees may sell alcohol until 2:00 a.m. according to State law, until such time that the licensee violates State law and/or Liquor Enforcement rules or regulations. Once in violation, the licensee's infraction(s) shall be reviewed by the Berlin Police Commission, and said licensee's ability to sell alcohol for the extended hour shall be subject to revocation. ~~The hour extension shall sunset after one year.~~ The hour extension shall sunset March 7, 2016 This Ordinance shall be in full force and effect from and after passage.

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

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

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

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

4. Ordinance 2015-05 Amending the Code of Ordinances, Chapter 8, Article III, Disorderly Actions in Non-Owner Occupied Dwellings by Amending Division 1. In General Sec. 8-176 Statement of Purpose and Sec. 8-177 Definitions. (tabled 2/2/2015)

Whereas, it is the intent of the City Council to amend the Ordinance to specifically exempt those incidents where the resident is a victim of domestic violence.

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

That language depicted below by double underline is added to Secs. 8-176 and 8-177 below:  
Division 1. In General. **Sec. 8-176. Statement of Purpose:**

The purpose of this ordinance under the authority of RSA 48-A of the New Hampshire Revised Statutes Annotated (NH RSA), is to reduce the number and frequency of Disorderly Actions which occur in dwelling units in the community, likelihood of fire, accidents and other calamities. Disorderly Action as defined herein is found to constitute unhealthy and/or hazardous conditions likely to result in fire, accidents and other calamities. Further, under NHRSA 31:39 1n "Regulating noise", and under NHRSA 47:17 II & III "to prevent any riot, noise, disturbance or disorderly assemblages" and to "suppress and restrain disorderly houses..." the purpose is to insure that all tenants of multi-unit buildings and their neighbors within and around any property be able to enjoy their property in a peaceful and safe manner absent of disorderly conduct or actions. (Ord. 12-20-10)

This Ordinance is not intended to be used against victims of reported incidents of domestic violence

**Sec. 8-177. Definitions:**

Disorderly Action – As defined in Berlin City Ordinance 10.5 Offenses and Miscellaneous Provisions - Section 16 Disorderly Actions;

"Disorderly Action" shall not include the directly related actions of a victim of a reported incident of domestic violence. This Ordinance shall be in full force and effect from and after passage.

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

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

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

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

## **NEW BUSINESS**

5. Resolution 2015-09 Authorizing the transfer of capital funds, \$75,236.83 from Cost Replacement and \$74,127.17 from Sanitary Line Replacement, in accordance with Sec. 21a of the City Charter, and in addition to \$140,000 appropriated for the purchase of a Vac Sewer Jet for a total budget amount of \$289,364.00 (1<sup>st</sup> read)

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

6. City Manager's Report

1. HealthTrust was learned of a sophisticated external cyber-attack affecting Anthem's information systems. This attack had put some personal member information at risk. Once the attack was discovered, Anthem immediately made every effort to close the security vulnerability, contacted the FBI and began fully cooperating with their investigation. Anthem has also retained Mandiant, one of the world's leading cybersecurity firms, to evaluate the systems and identify solutions based on the evolving landscape.

Anthem has established a website ([www.AnthemFacts.com](http://www.AnthemFacts.com)) that includes up-to-date information about the issue and support for employer groups and individuals. They have also instituted a dedicated toll-free number that current and former employers or enrollees can call if they have questions. That number is 877.263.7995. An FAQ information sheet is attached.

2. At approximately 7:21 PM last evening I was notified by Mike Perreault, Public Works Director that the Berlin water system had experienced what appeared to be a large leak that was stressing the system and causing some water users to lose pressure. The location of the leak was not known. As the Council knows, the actual leak location was not found until approximately 6:30 to 7:00 AM. Mr. Perreault and other PWD personnel assisted BWW with whatever resources could be provided. BWW and PWD personnel worked throughout the night in what was likely the worst winter weather we will see this year.

Throughout this event, Fire Chief Trull kept up to date on the status of the repair effort being mindful of the potential need to open the Emergency Operations Center should it turn into a protracted event. He provided me updates as needed.

Pamela Laflamme also kept up to date on the status of the event and worked diligently to post accurate information on the City website as well as on social networking sites. The battle she waged to eliminate misinformation was remarkable.

We plan to conduct a debriefing meeting in the coming weeks in order to critique our response and identify what went well as well as identify areas to be improved. As of 5:00 PM this evening, repair work is on-going on the section of broken pipe on Jericho Road.

3. Legislative Issues:

- A. HB 143, HB 234 and HB 543 are all relative to either the renewable energy portfolio standards or the electric renewable energy classes as both relate to the Renewable Energy Credit program. Depending on their final form, these bills have the potential to change the current Renewable Energy Credit system. These changes could negatively affect the value of the City's PILT agreement with Burgess Biopower by affecting the Renewable Energy Credit market. Berlin negotiated for a portion of REC revenue to be paid to the City. It should be noted that these payments are not part of the fixed PILT payments the City receives regardless. I am working to fully understand the implications of these bills and have scheduled a call with our utility appraiser in order to determine a course of action.

- B. We learned today that the Municipal and County Government Committee voted 11 to 1 regarding HB 192 as "ought to pass". This is the bill which would definitively prohibit the use of the DRA 83F utility values during utility value dispute proceedings.
- C. Attached are copies of letters sent to the House Ways and Means Committee opposing HB547 and to the Senate Public and Municipal Affairs Committee supporting SB175 as authorized by the Council at the last meeting.

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.

7. Mayor's Report

Mayor Grenier wanted to go on record giving thanks to the public employees and all who have been working in these trying conditions to get the water main leak fixed. The emergency operations group worked together through the no water high alert. Gorham was alerted and valley people were aware of a possible emergency situation.

Mayor Grenier then read a letter sent to Steve Binette from Larry Gomes Assistant Trail Master on behalf of the White Mtn. Ridge Runners Club. This letter thanked Steve and his son Dalton for the installation work they did this fall for the steel truss bridge project behind the Notre Dame Arena. Without Steve's generous contribution, the club could not have purchased this bridge which makes a major improvement to the trail. The club was able to preserve a historic bridge that was built using Carnegie steel from the late 1800's. This trail is the only route from the west that gives riders access to services in downtown Berlin. Keeping this trail open in all weather conditions is a top priority for the club and Steve's financial contributions, voluntary labor and equipment are the main reasons they have been able to meet that goal.

The Mayor concurred that the Binettes put lots of time and money in this bridge. It is well done and adds a lot to our community and helps with recreation in our area.

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

8. Public Comments – No Comments

9. Council Comments - No Comments

10. Adjournment: There being no further business before the Mayor and Council, Councilor Rozek moved with a second by Councilor Otis to adjourn the regular meeting. So moved, the motion carried and Mayor Grenier declared the regular meeting closed at approximately 8:22 p.m.

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