

CITY COUNCIL MEETING – Monday, December 5, 2022

Public Hearing

Mayor Grenier opened the Public Hearing at 7:20 pm for Resolution 2022-35 Carryover Capital Appropriations. There were no public comments. Mayor Grenier closed the Public Hearing at 7:21 pm.

Regular Meeting

Mayor Grenier called the Regular City Council Meeting to order at approximately 7:21 pm.

a. Pledge of Allegiance

b. Roll Call

Present: Mayor Grenier, Councilors Higbee, Berthiaume, Morgan, Eastman, Robert Theberge, Remillard, Roland Theberge, and Morency

Absent: None

Also present: City Manager Phillip Warren, Jr, Director of Strategic Initiatives Pamela Laflamme, Finance Director Holly Larsen, City Clerk Shelli Fortin, Lori Korzen, Maureen Nolin, Micha Bachner, Amber Bachner, and Lisa Connell, Berlin Daily Sun.

c. Councilor Remillard moved, with a second by Councilor Morgan, to accept the minutes of the November 21, 2022 Regular Meeting and Work Session. So moved, the motion passed.

Disbursements:

Disbursement Summary Draft #1926 start date 11/22/2022 end date 12/05/2022 for a total cash disbursement of \$4,046,955.83. Councilor Roland Theberge moved with a second by Councilor Berthiaume to accept the disbursement summary and pay all bills as recommended by the Committee on Accounts/Claims. So moved, the motion passed.

PUBLIC COMMENTS

Maureen Nolin of 18 Corbin Street spoke concerning the recent evictions for tax deeded properties. Ms. Nolin asked if the City could have waited for warmer weather or if it was something that had to be done. City Manager Warren advised that the City has to issue a tax collectors deed for any property that is three years in arrears on taxes. Mr. Warren advised that it had to be done before the end of the year, and that the City is not set up to be a landlord, which is why eviction notices were served to those who were in occupied properties. Ms. Nolin advised that she has heard the Mayor and Council referred to as having no heart or no soul, and knows that they are caring people. Ms. Nolin advised that she knows a tenant that has been dealing with a landlord in a building with horrible conditions, in which the tenant is afraid to report it because it is hard to move. Mr. Warren explained that the City started with 51 tax deeded properties, of which 20 were occupied. To date, nine have been repurchased. Out of the others, there have been various outreach attempts to provide assistance. Mr. Warren advised that Angela Martin-Giroux, in the Welfare Department, has been able to assist with security deposits, as some tenants have no ability to recover their deposit from the landlord. Mr. Warren advised that there are some tenants that are hard to place due to family needs or pets, and they try to steer them to the resources available. However they are not able to provide an answer to every situation but are doing their best. Mr. Warren stated that the responsibility rests on the landlord that these people were paying rent to. Ms. Nolin stated that it must be hard to be called names, and that she does not always agree with what the City does, but wanted to say this.

Nicole Plourde of 111 Washington Street echoed the sentiments shared by Ms. Nolin. Ms. Plourde stated that as a community member, it is disheartening to see the constant onslaught of malicious character assassination, which does nothing to heal and creates a greater divide. Ms. Plourde noted that she has had a wonderful experience working with Angela Martin-Giroux, who helps clients work through the process to get what they need. Ms. Plourde thanked the Mayor and Council for their selfless work, noting how little they are paid for their service, and that people do not understand the nitty-gritty of what they do, and do not bother to ask and learn. Ms. Plourde noted that it breaks her heart to see people losing their homes in the middle of winter each time a property is taken for not paying taxes. Ms. Plourde noted that if she was to not pay her cable, it would be shut off, and if she was to not pay her

water, it would be turned off. Ms. Plourde stated that the landlords are not feeling the brunt of this. Ms. Plourde noted that it is heartwarming to see those trying to help, and stated that is the Berlin we know and want to foster.

Maureen Nolin spoke again, noting that the Mayor and his wife have worked hard all their lives and it is a good thing.

UNFINISHED BUSINESS

1. Council Committee Reports

There were no Council committee reports.

2. Resolution 2022-35 Carryover Capital Appropriations (tabled 11/21/2022)

In the Year of Our Lord Two Thousand Twenty-Two

A RESOLUTION carrying over Three Million, One Hundred Sixteen, Seven Hundred Sixty-Nine Dollars and One Cent (\$3,116,769.01) of Capital Appropriations from the Fiscal Year ending June 30, 2022 which are not yet expended to Fiscal Year 2023.

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

That the following capital appropriation funds be carried over as described below:

From Account #	FY22 Carry Over Request to FY23	Request
	Purpose	
	Carryover Requests from FY22 Capital Improvement Funds to Current Year FY23 Segregated Funds	
01-461-400-0037	CI-BMHS Elevator Jack Replacement	\$ 216,000.00
01-461-400-0038	CI-Elevator Modernization Safety Code	\$ 78,000.00
01-480-910-0008	CI - VOTING MACHINE	\$ 6,250.00
01-480-913-0021	CI - PW EM LANDFILL GAS MIGRATION PROF ENG SVCS	\$ 64,507.19
01-480-913-0026	CI - RIVERWALK MATCH	\$ 15,000.00
01-480-932-0002	CI - PD UNINTERRUPTIVE POWER SUPPLIES (UPS)	\$ 11,700.00
01-480-932-0006	CI - PD AUDIO VISUAL SYSTEM	\$ 7,510.00
01-480-932-0008	CI - PD RADAR UNITS	\$ 2,356.50
01-480-932-0009	CI - POLICE CRUISERS	\$ 71,462.70
01-480-932-0014	CI - PD COMMUNICATIONS EQUIPMENT	\$ 11,319.13
01-480-932-0020	CI - PD CATES HILL COMMUNICATION TOWER	\$ 25,000.00
01-480-932-0031	CI - PD WINTER JACKETS	\$ 6,664.75
01-480-932-0035	CI - PD INTERVIEW ROOM	\$ 2,444.15
01-480-932-0037	CI - PD BODY WORN CAMERAS AND TASERS	\$ 1,969.00
01-480-933-0000	CI - POLICE BUILDING MAINTENANCE	\$ 13,140.72
01-480-961-0013	CI - FD REPLACEMENT OF PAGERS	\$ 12,233.00
01-480-962-0004	CI - PW EQUIPMENT REPLACEMENT	\$ 130,235.00
01-480-962-0007	CI - PW RETAINING WALL REPAIR/REPLACEMENT	\$ 18,986.13
01-480-962-0015	CI - PW HUTCHINS ST LIGHTING	\$ 16,000.00
01-480-962-0016	CI - PW DRAIN LINE REPLACEMENT	\$ 8,758.75
01-480-962-0022	CI - PW HERITAGE PARK ROOF	\$ 25,000.00
01-480-962-0024	CI - PW PAVEMENT RESURFACING PROGRAM	\$ 27,798.00
01-480-963-0031	CI - PARKS / REC EQUIPMENT	\$ 60,000.00
01-480-965-0002	CI - IT INITIATIVE	\$ 46,284.38
	Total FY22 Capital Improvement Funds to Carryover	\$ 878,619.40

	Carryover Requests from Prior Year Segregated Capital Improvement Funds to Current Year FY23 Segregated Funds	
01-495-403-0008	SF - VOTING MACHINE	\$ 6,250.00
01-495-404-0001	SF -DOWNTOWN IMPROVEMENTS	\$ 1,065.05
01-495-416-0001	SF -IT INITIATIVE	\$ 623.63
01-495-416-0006	SF CISCO SAN PAYMENT	\$ 7,741.38
01-495-416-0007	SF - IT CABLING PROJECT	\$ 25,000.00
01-495-420-0031	SF - PD WINTER JACKETS	\$ 5,000.00
01-495-421-0001	SF -FD REPLACEMENT ROOF	\$ 23,455.00
01-495-421-0002	SF -FD REPLACEMENT OF SCBA'S	\$ 7,395.00
01-495-421-0003	SF-RD REPLACEMENT OF HURST	\$ 1,760.00
01-495-430-0000	SF -PW RETAINING WALL REPAIR	\$ 15,500.00
01-495-430-0002	SF-PW STREET & SIDEWALK RIVERWALK	\$ 152,628.02
01-495-430-0003	SF-PW DRAIN LINE REPLACEMENT	\$ 165,000.00
01-495-430-0004	SF-PW HERITAGE PARK ROOF	\$ 25,000.00
01-495-430-0027	SF-PW GARAGE WINDOWS	\$ 14,736.53
01-495-430-0029	SF - PW LOADER MOUNTED SNOW BLOWER	\$ 9,738.00
01-495-449-0001	SF- SKATE PARK	\$ 2,394.83
01-495-462-0003	SF SCHOOL ROOF REPLACEMENT	\$ 12,238.44
01-495-462-0023	SF- BHS RUNNING TRACK RESURFACING	\$ 2,000.00
01-495-462-0028	SF-SCHOOL FIRE ALARM UPGRADE	\$ 209,555.04
01-495-462-0032	SF - MARSTON SCHOOL NEW RETAINING WALL	\$ 15,000.00
01-495-462-0033	SF-BES/MARSTON FENCING	\$ 32,596.00
01-495-913-0025	SF-PW SIDEWALK TRACTOR LEASE	\$ 16,972.09
01-495-995-0102	SF - HERITAGE PARK	\$ 6,137.51
01-495-995-0105	SF - MOVING DOWNTOWN FORWARD(DOWNTOWN IMPROV)	\$ 3,829.78
01-495-995-0403	SF - P W GARAGE	\$ 10,299.38
01-495-995-0708	SF - PARKS/REC EQUIPMENT PURCHASE	\$ 8,467.00
01-495-995-0910	SF- PD BALLISTIC VESTS	\$ 8,701.54
01-495-995-0917	SF - PD/REC BUILDING BOILER	\$ 1,722.45
01-495-995-1001	SF - CITY HALL REPAIRS	\$ 7,062.07
01-495-995-1107	SF - FIRE DEPT ENGINE REPLACEMENT	\$ 80,000.00
01-495-995-1206	SF - PW INFRARED EQUIPMENT	\$ 21,000.00
01-495-995-1207	SF - COOS STREET AND JOHNSON BROOK REPAIR	\$ 71,250.00
01-495-995-1317	SF - FD PORTABLE/HANDHELD RADIOS	\$ 4,642.20
01-495-995-2503	SF - RETAINING WALL REPAIR/REPLACEMENT	\$ 12,443.93
01-495-995-3502	SF - LIBRARY BUILDING IMPROVEMENTS	\$ 35,502.74
	Total Prior Year Segregated Capital Funds to Carryover	\$ 1,022,707.61
	Total FY22 Capital Improvement Funds and Prior Year Segregated Funds	\$ 1,901,327.01
	Sewer Fund	
60-480-438-0026	Replacement Cost Reserve	\$ 459,554.28
Justification		
60-495-995-0101	Sanitary Line Replacement	\$ -
Justification		
60-495-995-0103	Replacement Cost Reserve	\$ 755,887.72
Justification		
60-495-995-0106	Long Term CSO Plan	\$ -
	Total FY22 Sewer Capital Improvement Funds to Carryover	\$ 459,554.28
	Total Prior Year Segregated Sewer Capital Funds to Carryover	\$ 755,887.72
	Total FY22 Capital Improvement Sewer Funds and Prior Year Segregated Funds	\$ 1,215,442.00
	Total Carryover Capital Improvement Sewer Funds Requested from FY 2022 (All Funds)	\$ 3,116,769.01

This Resolution shall be in full force and effect from and after passage.

Councilor Berthiaume moved, with a second by Councilor Higbee, to remove this item from the table. So moved, the motion carried.

Councilor Berthiaume moved, with a second by Councilor Higbee, to read Resolution 2022-35 by short title for a second time. So moved, the motion carried.

Councilor Berthiaume moved, with a second by Councilor Higbee, to read Resolution 2022-35 by short title for a third time. So moved, the motion carried.

Councilor Berthiaume moved, with a second by Councilor Higbee, that Resolution 2022-35 be passed. So moved, the motion passed.

NEW BUSINESS

1. City Manager's Report

1. Attached is the 2022 DRA Sales Monitoring Report. Monica Hurley from Corcoran Consulting advises that this report is just a test of our assessing efforts and it is a test we passed. There were some minor items noted that will be investigated and corrected, if necessary. No action is required on the Council's part.
2. As of Friday morning, 8 deeded properties have been repurchased. Many city departments have been fielding inquiries and providing information. While it is very unfortunate that tenants are or were unaware that their landlord did not pay taxes, it is ultimately the responsibility of the landlord to ensure that their rent paying tenants have safe housing.
3. CIP submissions are being reviewed, next step will be to prepare and present the plan to the Council and Planning Board.
4. This office hopes to offer an update on the tax rate setting process at the meeting.

City Manager Warren advised that the USPAP has been completed by Corcoran Consulting. Mayor Grenier asked if this will close our case with the DRA, and Mr. Warren advised he is hoping for closure for what we have done to date and will check on a formal discharge letter.

City Manager Warren advised that they are on track to have the information needed to set the tax rate by the close of business next week. Mr. Warren suggested holding a Work Session on Monday, December 12, 2022, with the one agenda item being the setting of the tax rate. This will allow the Finance Department to get the tax bills out, with a due date of 30 days after being mailed. Mr. Warren advised this is very important, as it is a significant amount of money for the City and the taxpayer, and he is hopeful to get it done.

Councilor Remillard moved, with a second by Councilor Morgan, to accept the City Manager's Report and place it on file.

Councilor Morency asked about the CIP procedure, and if that will be changing this year. Mr. Warren advised that there will be minor adjustments this year, but will not change until next year. Mr. Warren noted that although the budgets next year will appear to have a significant increase due to the change in the CIP process, the bottom line would not. Mr. Warren noted that he is looking at \$100,000 as the threshold for any one item or improvement.

Councilor Remillard asked about the repurchase of tax deeded properties and Mr. Warren advised they have up to three years, however the interest will continue to accrue while the City owns it. The interest rate is 12%. The penalty is not assessed on owner occupied homes, only non-owner occupied.

Councilor Morgan asked what would happen if someone was interested in purchasing a property before the end of the three years. Mr. Warren noted, that due to noticing requirement for prior owners, the City would not put the properties out to bid before that time. Mr. Warren also noted that the properties are unlikely to sell for what is due.

Councilor Eastman noted that with the City hanging on to the properties for three years, some may deteriorate during that time. Mr. Warren advised that some are already in bad shape, and steps are being taken to help to preserve some. Mr. Warren noted that some of the properties may need to be torn down at the end of the three years, and that Pamela Laflamme is working on grant funds to do that.

So moved, the motion passed.

2. Mayor's Report

Mayor Grenier thanked the Chamber of Commerce, and Councilor Berthiaume, for a job well done on the Christmas Parade. Mayor Grenier noted that it was well attended and people were happy to have it back. Mayor Grenier commended the Chamber of Commerce for their work to better our community.

a. Letter from AHEAD re: David Delefontaine Property

Dear Holly Larsen,

David Delefontaine of 528 Western Ave. in Berlin, NH has reached out to our organization for assistance with his recent property tax sale. Upon our review, we have determined that it is very likely that David will qualify for the Homeowner's Assistance Fund.

The Homeowner's Assistance Fund (HAF) provides financial assistance for New Hampshire homeowners who cannot pay their home mortgage, utilities, home insurance, association fees, and/or property taxes during the pandemic. The program is expected to be available through at least 2022.

HAF is a federally funded homeowner assistance program through the American Rescue Plan Act of 2021 and the Governor's Office for Emergency Relief and Recovery (GOFERR). It is administered by New Hampshire Housing, who will be accepting and processing applications.

Eligible homeowners must:

Have experienced a COVID related reduction in income or increase in household expense after January 21, 2020.
Own and occupy the property as their primary residence.
Have incomes of less than 125% of Area Median income.

HAF covers:

Mortgage Loan Reimbursement – maximum benefit \$20,000*
Property Charges Default Resolution – maximum benefit \$20,000*
Utility/Internet Payment Assistance – maximum benefit \$3,000*

David has contacted our office today to start the process of applying for this assistance. There is an expected 8 week turn around time for expected payments. We are in hopes that you will agree to waive any fees and interest above and beyond the \$20,000 our program can offer, and give him time to work with us to try to re-purchase his home for at least 60 days.

Thank you,

Megan Nile
AHEAD, Home Ownership Center

City Manager Warren advised that Mr. Delefontaine owes an additional \$5,600 in excess of the \$20,000 AHEAD can provide. Holly Larsen has suggested other social service agencies who may assist with the additional amount needed, but has not heard back. Mr. Warren advised the Council that the City should remain consistent with requests to waive fees, and advised that for a homeowner to repurchase the property, payment needs to be made in full.

Mayor Grenier asked if the homeowner would have to leave if they cannot come up with the funds. Mr. Warren advised that today was the day that the Notice to Quit expires. The City will apply for a formal writ with the court next week for any tenants who have not moved. Tenants are free to explain their situation to the judge, and the City would not object to an extension of time for verifiable reasons.

Councilor Remillard asked if Mr. Delefontaine would lose the \$20,000 in assistance if the City does not waive the fees. Mr. Warren advised he would not, as if he meets the requirements, he would get the funds.

Councilor Remillard moved, with a second by Councilor Morgan, to deny the request from AHEAD to waive fees and interest above \$20,000 for Mr. Delefontaine of 528 Western Avenue. It was noted that this will not stop the process for him to move forward to repurchase the property. So moved, the motion passed.

b. Letter from Anne Swanson Requesting Reconsideration of Hardship Request

To the members of the Berlin City Council

I would like to address the council on last meeting's motion to deny my hardship request to waive the penalty fee and interest in order to repurchase my property at 185 Park Street. The motion to deny was made by Ms. Lucie Remillard. Ms. Remillard is the "less than honest" property manager I was referring to in my letter from November 21, 2022.

Knowing her dealings with myself, and with my father, Theodore Falardeau, she should have recused herself from partaking in a vote, let alone making the motion to deny, my hardship request. Ms. Remillard was employed as my property manager from March 1995 to July 1998 during which time she engaged in dishonest behavior towards myself and my tenants, including overcharging for routine business, (tenant lockouts) and the stealing of personal property (2 moosehead brand maple chairs.) I terminated my employment of her property management service, Home Sweet Apartments, after numerous unethical and unprofessional occurrences. Obviously, she could not have been an impartial vote on my hardship request and should have recused herself.

Moreover, I find her quick motion without any discussion of an acceptable agreement to not be in the best interest of the city, and particularly hurts the 5 occupants of 185 Park Street, who now face homelessness.

I would also like to address the fact that for the past two years our rural mail service has been less than acceptable. Our regular carrier who you could set your watch by, ended up fighting a courageous battle with cancer and her replacements have many and delivery has been sporadic. We went three or four days with no mail and then it's a dump of flyers, catalogs and misc mail. The only thing I can think of is maybe notices got stuck in between a flyer or between catalogs and the catalogs were tossed. I'm not certain that happened but we've also had many issues with missing mail and I've addressed this with the acting postmaster(they had issues with this position as well). Had I received the September notice, this would have been taken care of then without incurring the 10% penalty fee. There's no way I ever received 17 notices over this three year period as has been stated by city officials, nor have I ever refused any notice as envelope from 3/29/22 indicates. About the same time the September notice went out, we had numerous tropical storms and major flooding from hurricane Ian. The devastation from hurricane Irma in 2017 is still present today.

Currently, I'm looking at major repairs to make the third floor habitable once again. It is wrong that a tenant can do major damages, more than what a security deposit covers, and the only course of action is civil. Even with a judgement in your favor, the likelihood of collecting is next to nil.

On or about the same time the city seized my property, I had just replaced the heating system a former tenant and her squatter friends destroyed. This expense is unlikely to be recovered as the whereabouts to serve court documents are unknown. Destruction of landlord property should be a felony with consequences.

I am asking, once again, for the council to re-examine my hardship request and to come to some sort of compromise. Please let me know what I can do to make this right.

Thank you for your time and consideration

Anne Swanson
1210 Crane Blvd
Sugarloaf Key, FL 33042

City Manager Warren advised that he would request the Council do two things: one, act on the request, and two, consider a motion to direct the City Manager to address any other requests for reconsideration. Mr. Warren advised it would be less problematic for staff and the requestor if there was a policy to not reconsider any of these matters.

Mayor Grenier allowed Councilor Remillard to respond to the accusations made in the letter. Councilor Remillard advised that she did do property management for Ms. Swanson about 23 years ago, and that no accusations of

anything by Ms. Swanson were made during that time, and she is not sure where this came from. Councilor Remillard noted that the Council has voted on this issue, it was unanimous, and that it should not be reconsidered.

Mr. Warren noted that at least 17 notices were sent, some certified and some regular mail, including semi-annual tax bills, notices of delinquency, notices of impending liens, notices of liens, notices of impending tax deed, and notices of tax deed, along with a letter about repurchasing. Mr. Warren stated that an additional letter with information on the AHEAD program was also sent. Mr. Warren stated that even more were sent to Ms. Swanson, as hers was over a 5-year period. Mr. Warren also spoke to the claim that Ms. Swanson had tried to pay and the City refused payment. Mr. Warren advised that there was a program during the pandemic, which provided amnesty on the interest owed if 100% of the taxes were paid. Since Ms. Swanson could not pay the full amount, she did not qualify for the program. However, Ms. Swanson could have paid the amount she did have toward the taxes, which would have reduced what was owed and avoided the situation today. Councilor Higbee clarified that she was told that even though she was not eligible for the program, that payment could still be made. Mr. Warren advised that is his understanding.

Councilor Morency moved, with a second by Councilor Berthiaume, to deny the request for reconsideration by Ms. Swanson. So moved, the motion carried.

Councilor Berthiaume moved, with a second by Councilor Remillard, to forward any request for reconsideration to the City Manager, as the Council's position will be to not reconsider, and to copy any correspondence to the Council for their information.

Councilor Morency asked if this would apply to any requests with a material change. City Manager Warren advised that if there was a material change it would be a fresh request. This motion would only apply to a reconsideration of the same facts.

So moved, the motion carried.

c. Moffett House Road Closure Request

Dear Honorable Mayor and Council,

On December 10, 2022, the Berlin & Coos Historical Society is having a grand opening at the Moffett House Museum and the Berlin Falls House (formerly Fleury's Funeral Home), 72 High St., from 10 AM to 6 PM. There will be a short ribbon cutting ceremony at 10 AM.

The main entrance will be on School Street, and we are expecting a lot of people that day. Out of concern for the visitors, we are requesting permission to close the section of School Street from High Street to Church Street to traffic. Thanks for your consideration in this matter.

Feel free to contact me at any time at 603-723-0559.

Thank you,

Walter Nadeau
V-President

Councilor Berthiaume moved, with a second by Councilor Morency, to approve the request from the Berlin & Coos Historical Society to close School Street from High Street to Church Street on Saturday, December 10, 2022 from 10 am until 6 pm. So moved, the motion carried.

Councilor Remillard moved, with a second by Councilor Morgan, to accept the Mayor's Report and place it on file. So moved, the motion passed.

3. Public Comments

Micah Bachner of 59 High Street updated the Council on the disc golf project. Mr. Bachner advised that he does have the golf baskets and did hear back from Dig Safe, however it is too cold now to install them, and he is hoping for Spring.

Lori Korzen of 788 Kent Street asked about the tax deeded properties, and if they were from as far back as 2017, why the City had to tax deed this year. Ms. Korzen noted that she understands that if the owner does not pay taxes they do not deserve the property, but wondered why it was done in November and December. City Manager Warren noted that it had to be done before the year ended. Mr. Warren explained that tax deeding was prohibited during Covid, so that 2022 was the first opportunity the City had to tax deed since 2020. Ms. Korzen asked if there was still a moratorium on tax deeding or evictions, and Mr. Warren advised that there is not for tax deeding and that many of the eviction restrictions have been lifted as well, and we are back to business as usual for municipal and landlord-tenant law. Ms. Korzen asked if the law could be changed to allow tenants to know that the landlords are not paying taxes. Mr. Warren advised that taxes are a public record, and tenants can call and ask or go online to see if the landlord is paying. Ms. Korzen suggested that the City could notify tenants, the same as the landlords, with notices, however Mr. Warren pointed out that the City has records for ownership, but not for the tenants of properties. Councilor Eastman suggested that social service agencies could do this as a service, since it is public record.

5. Council Comments

There were no Council comments.

6. Adjournment

On a motion by Councilor Higbee, seconded by Councilor Berthiaume, the Council voted to adjourn the meeting at 8:29 pm. So moved, the motion carried.

A True Record, Attest:

Shellie Fortin
City Clerk

Note: Minutes are unofficial until they have been accepted by the Council by motion.