

CITY COUNCIL MEETING – Monday, August 19, 2019

Mayor Grenier called the Regular City Council Meeting to order at approximately 7:30 p.m. in the Council Chambers.

Public Hearing

Mayor Grenier opened the Public Hearing at 7:31 pm for Resolution 2019-26 Appropriating \$153,496.09 of Deferred Grant Revenue. There were no public comments. Mayor Grenier closed the public hearing at 7:31 pm.

Regular Meeting

a. Pledge of Allegiance

b. Roll Call

Present: Mayor Grenier, Councilors Remillard, Otis, Morgan, Gentili, Higbee, Rozek, and Theberge

Absent: Councilor Berthiaume

Also present: James Wheeler, Susan Tremblay, Shelli Fortin, Pam Laflamme, Gina Welch, Jamie Welch, Stephen Dion, Richard Laflamme, Tony Dube, Lionel Turgeon, and Barbara Tetreault, Berlin Daily Sun.

c. Councilor Remillard moved, with a second by Councilor Otis, to accept the minutes of the August 5, 2019 Regular Meeting and Work Session. So moved, the motion carried.

Disbursements:

Disbursement Summary Draft #1845 start date 08/06/2019 end date 08/19/2019 for a total cash disbursement of \$672,680.66. Councilor Theberge moved with a second by Councilor Morgan to accept the disbursement summary and pay all bills as recommended by the Committee on Accounts/Claims. So moved, the motion carried.

PUBLIC COMMENTS – Tony Dube of 34 Cascade Flats, Gorham, and Lionel Turgeon of 195 West Milan Road, Milan, presented pictures of the sign they are proposing to replace at “11 Memorial Place”, also known as Dead River Park. Together, with other veterans, they have taken the time to clean and maintain the park. They have also purchased a new sign to put up, which now has 12 names of veterans who were killed while serving in Vietnam, the old sign had not listed a serviceman who was from Brattleboro but living in Berlin at the time. They suggested the park should now be known as “12 Memorial Place” for the 12 soldiers who lost their lives. Mayor Grenier expressed his pride that Mr. Dube and Mr. Turgeon have taken this upon themselves to do for the community. Mayor Grenier advised them that if they need anything from the City, they should contact City Manager Wheeler for assistance. Mr. Dube and Mr. Turgeon advised the sign itself will be 2 feet by 4 feet and when installed, will stand 9 feet tall. Mr. Turgeon advised that Mr. Hall has offered to have the public works crew dig the holes for the posts. Councilor Theberge asked about the possibility of vandalism and additional lighting and security cameras were suggested.

Stephen Dion of 100 Jasper Street commented on the granite block by the PSNH park which welcomes people to Berlin. Mr. Dion stated that is hard to read. Councilor Remillard and Pam Laflamme both assured Mr. Dion that it was being looked at and will be fixed.

Richard Laflamme of 28 Jasper Street asked about the new roadway to the High School and when it will be completed. City Manager Wheeler advised that they are hoping to be done very soon. The portion from the parking lot to Jasper Street will be paved, but the remainder will remain gravel.

Stephen Dion of 100 Jasper Street commented on the new traffic pattern and shared concerns about whether it will help. Mayor Grenier advised that it will be monitored by the Traffic Safety Committee.

UNFINISHED BUSINESS

1. Resolution 2019-26 Appropriating \$153,496.09 of Deferred Grant Revenue (tabled 08/05/2019)

In the Year of Our Lord Two Thousand Nineteen

A RESOLUTION carrying over One Hundred Fifty-Three Thousand, Four Hundred Ninety-Six Dollars and

Nine Cents (\$153,496.09) of Grant Funds from the year ended June 30, 2019 which are not yet expended to Fiscal Year 2020.

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

That the following grant funds for the year ended June 30, 2019 be carried over to FY20 as described below:

Rev Acct #	Description	Grant Amount Received	2019 Expense	Grant Funds Re-Appropriated	Totals By Fund
FUND 10					
10-305-239-0000	School Grants/Donations	17,274.62	12,277.71	4,996.91	
10-305-240-0000	AV Roy Grant	1,258.05	-	1,258.05	
10-309-201-0000	Berlin City Dealership	15,006.94	6,773.56	8,233.38	
10-347-301-0035	Title I	749,817.85	749,698.85	119.00	
10-382-301-0000	NHCF Grant	2,500.00	2,497.15	2.85	
10-383-301-0000	NC Health Consortium	38,717.74	25,782.56	12,935.18	
10-385-301-0000	United Way Lead Grant	8,000.00	1,751.94	6,248.06	
10-387-301-0000	Nellie Mae Tans.Ed	100,839.05	66,962.50	33,876.55	
Total Revenue Deferrals FD 10 - School Grants					67,669.98
10-209-202-0000					
Health Dept.					
30-361-604-0017	Hazard Mitigation Grant	154.83	-	154.83	
30-361-604-0019	Public Health Community Initiative	2,661.64	-	2,661.64	
30-361-604-0020	NC Health Consortium Pandemic Planning	831.44	-	831.44	
30-361-604-0021	Pandemic Acute Care Center Supplies	9,850.00	-	9,850.00	
30-361-604-0022	Heal NH Grant	2,225.54	-	2,225.54	
30-361-604-0024	Home Care Association	205.95	-	205.95	
30-361-604-0026	Harvard Pilgrim Healthy Food Grant	2,646.40	-	2,646.40	
					18,575.80
Other City Departments					
30-365-602-5014	FD Jericho Power Grant	5,000.00	2,314.50	2,685.50	
30-366-603-0001	Better Buildings-EECBG			-	
30-366-603-6012	NH Charitable FND Leadership Program	3,615.80		3,615.80	
30-366-603-6017	NH Charitable FND Mt. Forist Parking Lot	14,000.00		14,000.00	
30-366-603-6018	NH Charitable FND Skate Park	75,000.00	41,370.29	33,629.71	
30-366-603-6022	CDBH Heated Streets	12,000.00	11,400.00	600.00	
30-366-603-6024	CDFA Feasibility Study for City Hall Elevator	8,219.02	7,719.02	500.00	
30-366-603-6029	Health Trust Wellness Grant	500.00	150.00	350.00	
30-368-601-0001	Rec Dept - Attitash Donation	12,306.58	2,407.69	9,898.89	
30-368-601-0002	Rec Dept - Babe Ruth Grant from CCB	1,272.30	-	1,272.30	
30-368-601-0004	Recreation Donations	2,491.47	1,793.36	698.11	
					-
					67,250.31
30-209-202-0000 Total Revenue Deferrals Fund 30 - Grant Fund					85,826.11
Total Grant Funds Deferred					153,496.09

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

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

Councilor Remillard moved, with a second by Councilor Otis, to read Resolution 2019-26 by short title for a second time. So moved, the motion carried.

Councilor Remillard moved, with a second by Councilor Otis, to read Resolution 2019-26 by short title for a third time. So moved, the motion carried.

Councilor Remillard moved, with a second by Councilor Otis, that Resolution 2019-26 be passed. So moved, the motion passed.

2. Council Committee Reports – There were no committee reports.

NEW BUSINESS

3. Ordinance 2019-04 Amending Chapter 5, Section 6 Requirements for Notice of Candidacy (1st read)

Councilor Higbee moved, with a second by Councilor Morgan to table the Ordinance and schedule a public hearing for September 3, 2019. So moved, the motion carried.

4. Letter from Berlin Board of Assessors

Re: The Matter of Marc Lauze Letter of Complaint

Dear Honorable Mayor Grenier and Distinguished Members of Council:

The Berlin Board of Assessors, herein referred to as the BOA held a meeting on August 2, 2019 at which time we discussed the aforementioned to include its historical and current time line of issues and or events.

Summarizing said events and or issues leading up to this juncture.

- A) On or about June 18th 2019 BOA Chair is informed by City Manager of letter of complaint
- B) On or about June 19, 2019 BOA Chair meets with City Manager and Mayor to discuss Letter of Complaint
- B.I City Manager lays out his plan for a third party review of the BOA employing a four to six abatement application sampling to be chosen for said review/investigation. Said sampling is BOA members/taxpayers.
- B.II BOA Chair advised and recommends informing complainant of his rights to file with NH BTLA, a NH judicial branch of state government. Further BOAS Chair vehemently disagrees with being judged on such a small sampling. This is viewed as being unjust and unfair to the accused.
- B.III It is generally agreed by the Parties present, that City Manager will recommend to Council at the then upcoming July 15th Mayor/Council and BOA Joint Meeting that the complainant Mr. Lauze be informed of his right under NH Statute(s) to file with the BTLA.
- C) On or about July 15, 2019 Mayor/Council meeting City Manager returns to his initial proposal by recommending his "Third Party Review and or Investigation" at an estimated cost to tax payers of \$5,000.00 to \$6,000.00. During vote and in further discussion, the BOA Chair requested to be heard, was granted same and once again stated and referred Council Members to NH Statute 71-B Sections 5 and 16 which clearly states that in NH the NH BTLA is typically the enforcing judicial branch which is empowered to carry out all actions of such matters.
- D) On or about July 26, 2019 the Chair of BOA was requested to attend a meeting scheduled for July 30, 2019 with attendee's being, City Manager Wheeler, Berlin's Mayor Grenier, Berlin's Councilor Remillard and Berlin's City Attorney Boldt.
- D.I Prompted by the invitation BOA Chair questioned the City Manager as to the scope, agenda and intent of said proposed meeting. City Manager answered in part, "purpose is to discuss taxpayer letter issue, discuss RSA 71:b16 as well as DRA's relationship and to come together on this process and why and were we go.
- D.II At the same time, BOA Chair also reached out to City Attorney Boldt questioning him on who in this matter does he represent, what his intended function and capacity was in regards to same. City Attorney Boldt responded to my questions in party by stating "I serve at City Attorney advising the City Manager and the Council". Further, he went on "I can provide advice to Department Heads, such as the City Clerk, the Police Chief, etc. In this instance I only represent the City Manager and Council. I am not your attorney or that of the BOA." He went on to state he would listen and possibly ask a few questions.
- E) On July 30, 2019 said 3:30 PM (1530 Hours) scheduled meeting did in fact take place. The BOA Chair did submit at time of meeting, a letter (via email/Assessing Clerk distribution) addressed to City Manager Wheeler, Berlin Mayor Grenier, and Berlin's Councilor Remillard, which cc to Assessing Clerk Bryan Chevie requesting he also distribute same to BOA members. The content and context of said letter stated the BOA Chair would not be attending said meeting. The reasoning, The BOA and its Members are not placed in a position of defense, being reviewed, investigated, and advocated against by any or all of the following, the NH DRA, City of Berlin, taxpayers of Berlin with potential other agencies and or entities such as MRI as proposed by City Manager Wheeler. Further, the BOA finds itself and its Members in a legal forum to include legal counsel for the State of NH and the City of Berlin without legal representation. The BOA find itself and its Members being judged on as yet unfounded complaints b public forum questioning and judging the BOA and BOA Members integrity, competence and objectivity.
- E.I On July 23, 2019 the BOA convened and at that time was informed, NH DRA's Mr. Philip Bodwell had telephoned, stating he accompanied by recently appointed Director of NH DRA, James P. Gerry as well as Legal Counsel would be making a special journey to Berlin to review, investigate and other certain tax abatement applications and other claims related to Berlin BOA, its members.
- F) Throughout the life of this matter a/k/a the course of events, a common theme or themes have becomes more and more apparent, these themes are:
- F.I) That it is the intent of the City, by and through efforts of the City Manager to carry out a Third Party Review, Investigation, and or other as it relates to Berlin BOA workings, its Members and or other also relating to 4 (Four) Taxpayers or Taxpayer Entities, more specifically, Goddard, Rozek, Eastman and Rozek.

F.II) The Berlin Board of Assessors have become the focus of and have entered, unrepresented by legal counsel, a legal arena. **Berlin's Board of Assessors are without equal and adequate legal representation** as we enter into a legal realm or legal contest without any working knowledge and protection from and of the legal process.

BY WAY OF THIS NOTICE The Berlin Board of Assessors (BOA) is a city board being part of Berlin city government, hereby serves NOTICE that said Board will not and should not be expected to navigate such a legal forum or for that matter, any legal forum or arena without adequate and proper legal advice and representation. Said legal representation provided financially by the City of Berlin, specifically for the City of Berlin's BOA's representation as required by the Board, legal advisements to benefit as well as to protect the BOA to include its members.

In order for the **BOA to keep abreast of, respond to the various, rapidly approaching events, interviews, reviews, investigations and other applicable/pertinent questions, meetings, it is imperative that we the BOA have independent legal counsel representation as currently we are without same.** We request immediate financial authority to contact, interview NH law firms to determine and select the law firm, more specifically which duly authorized, accepted by the NH Bar staff attorney has a focused practice of municipal law that would best serve the BOA's interests.

Should the current contracted City Attorney, Christopher Boldt elect to reconsider and somehow include the BOA in his city range of representation, making his legal services available to the Berlin Board of Assessors, we would respectfully decline said offer.

THANK YOU for your valuable consideration in this very important legal matter.

Respectfully Submitted this day and date, Friday, August 2nd year 2019

Berlin Board of Assessors Chair Robert Goddard

Berlin Board of Assessors Member Mark Eastman

Berlin Board of Assessors Member Kem Rozek

Councilor Remillard moved, with a second by Councilor Otis, to place the letter on file, send a letter to the BOA Chair to acknowledge the letter, and advise the BOA Chair that a vote had been taken to allow the Berlin Board of Assessors to engage legal services. So moved, the motion passed.

5. City Manager's Report

1. Berlin EMS will be purchasing a new ambulance shortly. They will be able to purchase a stock van that will fit into their current building. This is expected to help minimize the delivery time. Following this vehicle, other, anticipated large cost items include: replacement defibrillators; power lift cots; vehicle radios and eventual purchase of a 2 wheel drive box style ambulance (the kind they need to build custom).

The BEMS Call Log Summary is attached.

2. We received notice that the City will receive \$245,634.65 in Highway Block Grant Aid from the State in quarterly payments. This is approximately \$10,000 more than what was budgeted. A letter detailing the payment schedule is attached.
3. The airport project was awarded to Axtell Pavement Solutions. Construction started last week and is expected to last into September. The airport is closed during the project.
4. A cyanobacteria bloom has been observed along the beach on Jericho Lake in Berlin, NH. The bloom appeared as bright, blue-green clouds accumulating along the shoreline on 8/14. Cyanobacteria are natural components of water bodies worldwide. They can produce toxins that can cause both acute and chronic health effects that range in severity. A cyanobacteria advisory went into effect on August 15, 2019 and will remain in effect until NHDES confirms that cell concentrations of the bloom have subsided.
5. The Androscoggin Valley Hospital invited the Council to a Business After Hours at the new AVH Business Center, 1752 Hutchins Street on Thursday, August 29 from 5:30-7:00 p.m.
6. Property Transfers for the month of July are attached.

7. We welcomed Ben Hall as the new Public Works Director; he started Monday, August 12. Ben has been getting oriented with all aspects of the job.

Councilor Rozek moved with a second from Councilor Higbee to accept the City Manager's Report and place it on file.

Councilor Rozek mentioned that emergency vehicles have to be serviced by someone authorized to do so and questioned whether BEMS is certified to do this type of work. City Manager Wheeler will check with Chris Dubey and get back to the Council.

Councilor Rozek asked if Public Works Director Hall is working on the salt purchase for this year to get the best deal. City Manager Wheeler advised that he has not had a chance yet, having been there only one week, but it is on the list to look into.

So moved, the motion carried.

10. Mayor's Report

a. BIDPA Appointment

Dear Mayor Grenier and City Council:

I am interested in serving on the Berlin Industrial Development & Park Authority. The board has asked that I consider joining them and as there is a vacant position, I would like to fill that vacancy. I have spent many years working in the area, currently I am employed with Milan Lumber. I think my experience in a business that operates locally but has a large footprint throughout the region, the state and beyond would be an asset to the board.

I am told the term would run until July 2021. I appreciate the opportunity to serve the City of Berlin in this capacity.

Sincerely,

Steve Halle
16 Grandview Dr.
Berlin, NH 03570

Mayor Grenier advised the Council that Mr. Halle also serves on the Board of Directors at the Notre Dame Arena.

Councilor Rozek moved, with a second by Councilor Higbee, to accept the Mayor's nomination of Steve Halle to the BIDPA Board with a term to expire July 31, 2021.

Councilor Higbee mentioned that Mr. Halle attended the BIDPA meeting last week as a guest.

So moved, the motion passed.

Mayor Grenier asked City Manager Wheeler if the submission date for the MS5 could be delayed from September 15 until October 1, 2019, as there has still not been any action from the legislature on utilities. City Manager Wheeler will speak with the Finance Director and the Auditors concerning this.

Mayor Grenier asked the motorists and residents of Berlin to be careful with the children going back to school next week. They will be in new buildings with new surroundings.

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

8. PUBLIC COMMENTS – There were no public comments.

9. Council Comments – Councilor Remillard asked that the street sweepers be mindful of pedestrians when out working, as she witnessed them passing someone walking today and the cloud of dust they were in. City Manager Wheeler will pass this along to the Public Works Department.

10. Adjournment

At approximately 8:10 p.m. Councilor Rozek moved with a second by Councilor Higbee to adjourn the regular meeting. So moved, the motion carried.

A True Record, Attest:

Shelli Fortin
City Clerk

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