

CITY COUNCIL MEETING – Monday, November 16, 2020

Public Hearing

Mayor Grenier opened the Public Hearing at 7:35 pm for Ordinance 2020-05 Zoning Changes Affecting Commercial Solar. There were no public comments. Mayor Grenier closed the Public Hearing at 7:36 pm.

Regular Meeting

Mayor Grenier called the Regular City Council Meeting to order at approximately 7:33 p.m. via Zoom, pursuant to Executive Order 2020-04, Section 8 and Emergency Order #12, Section 3.

a. Pledge of Allegiance

b. Roll Call

Present: Mayor Grenier, Councilors Remillard, Otis, Morgan, Eastman, Higbee, Rozek, and Berthiaume

Absent: Councilor Theberge

Also present: James Wheeler, Pamela Laflamme, Susan Tremblay, Chief James Watkins, Chief Peter Morency, Shelli Fortin, Doug Roy, Theodore Bosen, William Dow, Adam Labonte, Kristin Labonte, Michele Morin, Sheri Goyette, Barbara Tetreault, Berlin Daily Sun, WMUR, and other members of the public.

c. Councilor Remillard moved, with a second by Councilor Otis, to accept the minutes of the November 2, 2020 Regular Meeting and Work Session and November 9, 2020 Public Hearing and Work Session. So moved, the motion carried by roll call vote. Higbee- yes, Rozek – yes, Berthiaume – yes, Remillard – yes, Otis – yes, Morgan – yes, Eastman – yes, Grenier - yes

Disbursements:

Disbursement Summary Draft #1875 start date 11/02/2020 end date 11/16/2020 for a total cash disbursement of \$1,237,806.70. Councilor Berthiaume moved with a second by Councilor Higbee to accept the disbursement summary and pay all bills as recommended by the Committee on Accounts/Claims. So moved, the motion carried by roll call vote. Higbee- yes, Rozek – yes, Berthiaume – yes, Remillard – yes, Otis – yes, Morgan – yes, Eastman – yes, Grenier - yes

PUBLIC COMMENTS

Kristin Labonte read a letter that she had sent to the Council this afternoon:

I am writing in response to the ordinance mandating face masks. There was a comment made from the mayor that people refusing masks weren't really a part of our community to begin with (roughly 2 hours 30 minutes into the meeting). I would like to say my family is against the mask mandate and it is extremely disheartening to not be considered a part of this community.

My husband would be a 60% disabled veteran. No one knows the wounds that are unseen but they live with daily. He missed the birth of our son, and the first 9 months of his life for this country. He is still serving his country to this day with over 15 years of service. We have been members of this community since we got married minus the times we have been away for active military service.

He is also a current member of our police department. He has put his health at further risk to help out members of our community. This year, he has been to the ER twice for blood exposure. A member of our community might have died however he jumped in and performed lifesaving treatment waiting on EMTs to arrive on scene. The benefit to help this person outweighed the risk to his own health. He was covered in blood. We are still waiting months later to know what his follow up blood work will show.

We are also a foster family in this community. We take in children, normally with an hour or two notice. While some homes weren't taking in new children during the beginning of the pandemic, we have kept our home open and accepted taking the risks to help children in need out.

I am not a believer in masks. No can explain how virus particles do not travel out from your mask but can easily travel in to infect you. The virus spreads like wildfire in nursing homes where masks and PPE are mandatory and it is trained professionals using them. If it spreads between professionals trained how to properly use PPE, how is the general public going to prevent it? People are reusing dirty masks, improperly handling them, and then they are thrown on the ground for others to clean up.

One of the main things that spread this virus is small group get togethers and parties. Nothing is being done to stop those things. How many people are going to travel and get together with families outside their home? This is where the spread will come from, not from me walking past you in a grocery store, or on a sidewalk. That is not the 10 minutes of close contact, which is what the CDC states it takes to pass this virus and be considered a close contact that would have to quarantine if I tested positive.

Just today I read an interview with Julie King. She stated she has been meeting with a large group of local leaders in the area at least daily virtually. That the current outbreak in Berlin was from someone who traveled and then attended multiple small gatherings and spread it from there. That it was not wide spread community transmission.

It is the State of NH's policy that anyone traveling outside of New England needs to Self-Quarantine for 14 days. However the City of Berlin has chosen not to follow the NH Bureau of Infectious Disease Control as city employees can test immediately following travel outside of New England or even the United States and be back to work in about 48 hours once results have come back negative. However, that isn't even enough time to test positive with the incubation period according to the CDC.

While I do not support mandatory mask usage, it does not mean I do not care about my community. I do social distancing. When I have been sick, I quarantined with my family and one of my children who hadn't been exposed to me yet stayed elsewhere for almost 2 weeks until I was better and received negative results. We have changed our vacation plans to not travel outside NE.

So I ask that you respect everyone's choice to do what is best. Berlin has done a great job without mandatory mandates and I hope that can continue!

UNFINISHED BUSINESS

1. Council Committee Reports

There were no Council Committee Reports.

2. Ordinance 2020-05 Zoning Changes Affecting Commercial Solar (tabled 11/02/2020)

In the year of our Lord Two Thousand Twenty

AN ORDINANCE amending the Code of Ordinances of the City of Berlin, Chapter 17, ZONING, ARTICLE V. Rural Residential Zone, Sec.17-58 Requirements for Special Exceptions for Commercial Scale Photovoltaic Systems and Overlay Area; ARTICLE Va. Jericho Gateway Zone, Sec. 17-52 Uses; and ARTICLE XI. Industrial/Business Zone, Sec. 17-118 Requirements for Special Exceptions for Commercial Scale Photovoltaic Systems and Overlay Area

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

ARTICLE V. Rural Residential Zone Sec. 17-58 Requirements for Special Exceptions for Commercial Scale Photovoltaic Systems and Overlay Area is hereby removed in its entirety;

ARTICLE Va. Jericho Gateway Zone, Sec. 17-52 Uses is hereby amended by both removing and adding "Uses Permitted by Special Use Permit" as follows:

Uses Permitted by Special Exception:

5. Tower Structures including but not limited to, towers for transmission (other than telecommunications), communication, cellular telephones, and wind energy.

And by adding:

Uses Permitted By Special Use Permit

1. Telecommunications Structures or Towers
2. Bulk Power Supply Facility, Energy Facility, or Renewable Energy Facilities for facilities under 30 megawatts as defined by NH RSA 162-H:2

ARTICLE XI. Industrial/Business Zone, Sec. 17-112. Requirements for Special Exceptions for Commercial Scale Photovoltaic Systems and Overlay Area is hereby removed in its entirety;

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

Councilor Higbee moved, with a second by Councilor Otis, to remove this item from the table. So moved, the motion carried by roll call vote. Higbee- yes, Rozek – yes, Berthiaume – yes, Remillard – yes, Otis – yes, Morgan – yes, Eastman – yes, Grenier – yes

Councilor Higbee moved, with a second by Councilor Otis, to read Ordinance 2020-05 by short title for a second time. So moved, the motion carried by roll call vote. Higbee- yes, Rozek – yes, Berthiaume – yes, Remillard – yes, Otis – yes, Morgan – yes, Eastman – yes, Grenier - yes

Councilor Higbee moved, with a second by Councilor Otis, to read Ordinance 2020-05 by short title for a third time. So moved, the motion carried by roll call vote. Higbee- yes, Rozek – yes, Berthiaume – yes, Remillard – yes, Otis – yes, Morgan – yes, Eastman – yes, Grenier - yes

Councilor Higbee moved, with a second by Councilor Morgan that Ordinance 2020-05 be passed. So moved, the motion passed by roll call vote. Higbee- yes, Rozek – yes, Berthiaume – yes, Remillard – yes, Otis – yes, Morgan – yes, Eastman – yes, Grenier – yes

3. Ordinance 2020-06 Emergency Ordinance fro Face Coverings (tabled 11/02/2020)

In the year of our Lord Two Thousand Twenty

AN ORDINANCE amending the CODE OF ORDINANCES, Chapter 7. Health, by creating ARTICLE V, Face Coverings Required.

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

The CODE OF ORDINANCES, Chapter 7. Health, ARTICLE V, Face Coverings Required is hereby adopted as presented in response to the current rise in transmission of the COVID-19 virus.

WHEREAS, there is active spread and transmission of the Coronavirus Disease 2019 (COVID-19) within the City of Berlin; and

WHEREAS, in order to:

- Protect the City's most vulnerable citizens, and
- Promote an environment in which students are able to attend in-person classes, and
- Promote an environment in which businesses are able conduct and sustain their day to day operations, and

WHEREAS, Public Health Officials have determined that it is well established that an individual infected with COVID-19 can transmit the disease whether or not they are exhibiting any symptoms (an asymptomatic carrier); and

WHEREAS, it is clinically established that the best means of slowing the spread of a virus is through minimizing close personal contact with individuals in a public environment, social/physical distancing, covering one's mouth and nose by wearing a face covering, and frequent and proper hand washing; and

WHEREAS, social/physical distancing by keeping a distance of at least six feet between yourself and others also greatly protects against the spread of our respiratory droplets and aerosols, whether an individual is indoors or outdoors; and

WHEREAS, face coverings are most likely to reduce the spread of COVID-19 when they are widely used by people in public settings as they reduce the spray of respiratory droplets and aerosols, particularly when combined with social/physical distancing and other sanitary measures such as washing hands or utilizing hand sanitizer; and

WHEREAS, it has been determined that the virus which causes COVID-19 spreads very easily and sustainably between people, particularly within indoor environments with limited fresh air exchange but also amongst persons in close physical proximity, indoors or outdoors, who cannot adequately social distance; and

WHEREAS, as previously noted, COVID-19 can be spread by people who do not have symptoms (asymptomatic carriers) and therefore are unaware they are infected. It is therefore important that everyone wear face coverings in public settings whether or not they are feeling ill; and

WHEREAS, the City of Berlin has an interest in protecting all persons within the community from unnecessary exposure to COVID-19 with its risk of contracting a devastating illness that may prove fatal for our most vulnerable citizens, it follows that the wearing of a face covering under certain circumstances is crucial; and

WHEREAS, the more closely a person interacts with others and the longer that interaction occurs, the higher the risk of COVID-19 spread; and

WHEREAS, the City's Emergency Management COVID Task Force and Health Officer have discussed this matter in detail while keeping current with the latest guidelines put forward by the Centers for Disease Control and Prevention (CDC) and other trustworthy organizations and recommend the following emergency ordinance measures to the City Council for adoption; and

WHEREAS, the Berlin Police Department has limited resources and numerous responsibilities critical to public safety; and

WHEREAS, the City Council understands that the Berlin Police Department may handle complaints regarding non-compliance with this Ordinance as lower priority calls for service with a delayed response or follow-up, or may use the complaint solely as information to identify future directed patrol areas and times; and

WHEREAS, because COVID-19 presents a clear and present danger to the general Berlin population it behooves the community for the City Council to take this emergency measure requiring the wearing of face coverings in certain situations to protect the public health.

NOW, THEREFORE BE IT RESOLVED that the City of Berlin, through the City Council resolves that Article V - Face Coverings Required be appended to Chapter 7 Health of the City of Berlin's Ordinances and that the chief of police, shall take action to ensure that persons wear facial coverings under the conditions listed below within the City of Berlin.

WEARING OF FACIAL COVERINGS IN THE CITY OF BERLIN:

1. Employees of all businesses shall wear a face covering over their mouth and nose when interacting with the public and whenever they are within six feet of a co-worker or a customer.
2. Members of the public entering or queued to enter, remaining in, or exiting from any business, including without limitation any outdoor area where business of any sort is conducted, work site, or City of Berlin government.
3. Members of the public entering or queued to enter a restaurant or establishment serving alcoholic beverages for the purpose of picking up food for takeout or any other purpose must wear a face covering. Members of the public dining indoors or outdoors at a restaurant may remove face covering while seated at their table. Members of the public must wear a face covering when entering, using, or leaving the restroom of a restaurant.

7. As used herein “face covering” means a covering made of cloth, fabric, or other soft or permeable material, including surgical masks, without holes, that covers only the nose, mouth, and surrounding areas of the lower face. A face covering may be factory made or homemade and improvised from ordinary household material.
8. Notwithstanding the above this order does not require children under 10 years of age to wear face covering (parents should make their own judgment). Face covering is not recommended for children less than 2 years of age.
9. A face covering is also not required to be worn by any person if said person can show a medical professional has advised that wearing a face covering may pose a risk to said person for health-related reasons.
10. A person may temporarily remove a face covering when in a business if obtaining a service or product that requires verification of the person's identity or age.

This Ordinance shall be in full force and effect from and after passage. This Ordinance, unless readopted shall sunset 90 days after passage.

Councilor Remillard moved, with a second by Councilor Higbee, to remove this item from the table. So moved, the motion carried by roll call vote. Higbee- yes, Rozek – no, Berthiaume – yes, Remillard – yes, Otis – no, Morgan – yes, Eastman – no, Grenier – yes

Councilor Remillard moved, with a second by Councilor Higbee to amend Ordinance 2020-06 by adding on page 1, “Ensure that limited healthcare resources are not exceeded”, “minimize the significant expense of public funds associated with quarantining and isolation of public sector employees”, and “Ensure that critical services can continue to operate”. Also adding that the Ordinance will be reviewed on December 14, at which time the Council can rescind or decide to impose penalties for repeat offenders. Also by adding dining “indoors or” outdoors for number 3, changing the age in number 6 to children “5” years of age or younger, and reducing the sunset to “60” days after passage. So moved, the motion carried by roll call vote. Higbee- yes, Rozek – no, Berthiaume – yes, Remillard – yes, Otis – no, Morgan – yes, Eastman – no, Grenier – yes

Councilor Remillard moved, with a second by Councilor Higbee, to read Ordinance 2020-06 as amended by short title for a second time. So moved, the motion carried by roll call vote. Higbee- yes, Rozek – no, Berthiaume – yes, Remillard – yes, Otis – no, Morgan – yes, Eastman – no, Grenier - yes

Councilor Remillard moved, with a second by Councilor Higbee, to read Ordinance 2020-06 as amended by short title for a third time. So moved, the motion carried by roll call vote. Higbee- yes, Rozek – no, Berthiaume – yes, Remillard – yes, Otis –no, Morgan – yes, Eastman – no, Grenier - yes

Councilor Remillard moved, with a second by Councilor Higbee that Ordinance 2020-06 as amended be passed. So moved, the motion passed by roll call vote. Higbee- yes, Rozek – no, Berthiaume – yes, Remillard – yes, Otis – no, Morgan – yes, Eastman – no, Grenier – yes

NEW BUSINESS

4. Resolution 2020-26 Self Contained Breathing Apparatus Manufacturer Standardization (1st read)

Councilor Berthiaume moved, with a second by Councilor Morgan, to table the Resolution and schedule a public hearing for December 7, 2020. So moved, the motion carried by roll call vote. Higbee- yes, Rozek – yes, Berthiaume – yes, Remillard – yes, Otis – yes, Morgan – yes, Eastman – yes, Grenier – yes

5. Resolution 2020-28 CDBG Planning Grant for North Woods Learning Center (1st read)

Councilor Remillard moved, with a second by Councilor Higbee, to table the Resolution and schedule a public hearing for December 7, 2020. So moved, the motion carried by roll call vote. Higbee- yes, Rozek – yes, Berthiaume – yes, Remillard – yes, Otis – yes, Morgan – yes, Eastman – yes, Grenier – yes

6. City Manager's Report

1. Pre-bid meetings were held on November 10th for the 4&8 Main St. and Fire Dept. building demolition projects. Based on attendance, we are expecting multiple bidders. Bids will be opened on Thursday November 19th at 2:00 PM.
2. We plan to re-advertise the Mason St. Bridge project on Thursday the 19th for September 2021 construction. At this point, I anticipate that this project will be funded in the FY22 Budget. The project is expected to cost approximately \$550,000.
3. Central Rivers Power will be conducting training on the deployment of a portable dam system on the Mason St. Bridge on Tuesday the 17th. Berlin Fire, Police and PWD will be participating in the training exercise. The dam system will remain at a CRP facility in Berlin and will be available should there ever be an expectation that the Androscoggin will overtop the bridge. The dam is intended to prevent flooding on Main St.
4. Ms. Holly Larsen started as our new Finance Director today.
5. The NHMA Annual Conference will be in a virtual format this year over a three day period from Nov. 18th through Nov. 20th. You can view the conference content at:

<https://www.nhmunicipal.org/nhmas-79th-annual-conference-and-exhibition>

If you have availability and interest in any of the sessions, please contact Sue Tremblay to get registered.

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

Councilor Remillard asked about the demolition of the Princess Theater and City Manager Wheeler advised that it is 4 and 8 Main Street, which was referred to in the report.

So moved, the motion carried by roll call vote. Higbee- yes, Rozek – yes, Berthiaume – yes, Remillard – yes, Otis – yes, Morgan- yes, Eastman – yes, Grenier – yes

7. Mayor's Report

The Mayor thanked local City and Town Clerks for their help in providing much needed PPE for the West Stewartstown nursing home from what was left from the election. The Sheriff's department delivered the PPE that was needed.

Councilor Rozek moved, with a second from Councilor Remillard, to accept the Mayor's Report and place it on file. So moved, the motion carried by roll call vote. Higbee- yes, Rozek – yes, Berthiaume – yes, Remillard – yes, Otis – yes, Morgan- yes, Eastman – yes, Grenier – yes

8. PUBLIC COMMENTS

Police Chief Morency made a plea to the public to follow the new mask ordinance. Morency stated that using tax dollars to keep employees home is not the best use of our money. Morency stated that if citizens are on the fence about the use of masks, to please use them to help keep first responders and healthcare workers safe. Morency also asked the Council to consult with him before enacting any penalties.

9. Council Comments

There were no Council comments.

10. Adjournment

On a motion by Councilor Higbee, seconded by Councilor Morgan, the Council voted to enter non-public session per RSA 91-A:3 II (e) and (l) at 8:11 pm. So moved, the motion carried unanimously by roll call vote. Higbee- yes, Rozek – yes, Berthiaume – yes, Remillard – yes, Otis– yes, Morgan – yes, Eastman – yes, Grenier – yes

On a motion by Councilor Higbee, seconded by Councilor Berthiaume, the Council voted to leave non-public session at 8:14 pm. So moved, the motion carried unanimously by roll call vote. Higbee- yes, Rozek – yes, Berthiaume – yes, Remillard – yes, Otis– yes, Morgan – yes, Eastman – yes, Grenier – yes

On a motion by Councilor Rozek, seconded by Councilor Higbee, the Council voted to adjourn the meeting at 8:15 pm. So moved, the motion carried unanimously by roll call vote. Higbee- yes, Rozek – yes, Berthiaume – yes, Remillard – yes, Otis– yes, Morgan – yes, Eastman – yes, Grenier – yes

A True Record, Attest:

Shelli Fortin
City Clerk

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