

# Memo

**To:** Mayor and Council  
**cc:** Department Heads  
**From:** Pat MacQueen  
**Date:** December 7, 2009  
**Re:** Manager's Report

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## **Master Plan Completion**

The final community participation meeting regarding the development of the new City Master Plan was completed last Wednesday evening. Now the final document will be pulled together and presented to the Planning Board (which must approve it by State law) and the City Council which must approve it in order for it to mean anything. This will likely be presented to the Council some time in January.

## **Assessing RFP**

Last week we issued a 'Request for Proposals' for providing the City with professional assessing services for the next five years. The Agreement the City currently has with Avitar for assessing services will be up June 30, 2010 although because they are doing a revaluation update, it may extend until September. Basically, the agreement asks for professional assessing services for a period of five years breaking it down into the three major areas of General Assessing Services, Data Verification and Revaluation Updates. Proposals are due back the first week in January. Proposals will be reviewed by staff and the Board of Assessors and then a recommendation will be made to the City Council regarding which firm an agreement should be entered into with for the next five years for assessing services.

## **H1N1 Clinics**

Attached hereto is the flier for some three upcoming H1N1 Clinics where vaccinations for the virus will be provided to certain categories of the population. These are slated for December

9<sup>th</sup> and 16<sup>th</sup> at the Berlin Health Department, Dec. 7<sup>th</sup> and 17<sup>th</sup> at Coos County Family Health Services on Pleasant Street and Dec 16<sup>th</sup> at WMCC.

### **OEP Meeting**

Staff met with representatives from the Beacon Community Project Committee last Wednesday. This is a subcommittee of the Energy Efficiency and Sustainable Energy (EESE) Board which was created by the legislature last year which allows New Hampshire to participate in the Regional Greenhouse Gas Initiative ("RGGI"), a 10-state effort to cap and reduce greenhouse gas emissions from electric generating plants. During the past year the EESE Board has developed a list of priorities to advise the Public Utilities Commission on the distribution of RGGI funds which are under the PUC's jurisdiction. One of the priorities is the concept of Beacon Communities. The EESE Board wants to create replicable models of diverse communities' capacity to tackle energy issues and to share these successes through a mentorship process. Berlin was selected to be one of the first Beacon communities along with Nashua and Plymouth.

One of the first activities for the Beacon Communities is application to the Retrofit Ramp-up Program, part of the Energy Efficiency Community Block Grant program. This application will be submitted by the State next week on behalf of the three Beacon Communities. Staff has spent the last few days preparing Berlin's submission and will be working with a grant writer to bring the information together along with the other two communities.

I have attached some material on the Beacon Communities Program for your information. I also have materials on the EESE Board and how it operates if anyone would like to see this.

### **Budget Inn Sign Hearing**

Last Thursday I attended an appeal hearing of the NH Transportation Advisory Board (TAB) which was convened to hear the appeal of the Budget Inn on their sign which is located on City Park land at the corner of Glen Ave. and Diana Street. A State DOT hearing was held in February of 2008. The Budget Inn did not appear for that hearing and submitted no application as required to renew its expiring permit from the State DOT. Four months later in May, the State Hearing Officer wrote the decision from that hearing denying the Budget Inn's permit for the sign and ordering it removed. The Budget Inn appealed that decision and it has taken the State from then to last week, some 19 months after the original hearing to convene this appeals board.

The Manager of the Budget Inn did appear for this hearing last Thursday arguing that the sign was important to them and they couldn't understand why the City didn't want it there. The State Bureau of Traffic testified that the Budget Inn had not met the requirements of the State DOT for the sign to be there and that they had been informed by the City repeatedly that the City wanted the sign removed. I testified as well that this property was a City Park and a gateway for all people coming up Glen Avenue into Berlin. I said that even if the sign

was properly maintained which it has not been, it is not an appropriate location for a commercial sign. The TAB wanted to know the history of the sign and whether the Inn had an agreement or lease with the City for the sign and was receiving revenue for it. I replied that there was no agreement that we were aware of and that the City was receiving no revenue for it.

Presumably the TAB will render its decision in about 30 days and the appeal from it is to the State Supreme Court.

### **155B Orders and FAQ's**

The work for the demolition of the Kandel property is ongoing by AD Drouin and his subcontractor for the carpentry work Brian Lang. The work on the wall has been slow and involved because the wall is a joint wall with the property to the north of it. It was decided last week to take the brick wall down to a level of about two feet above the ground. We had originally thought in terms of taking it down only to the roof line of the northern building. This change is both for appearance sake and in order to better to deal with problems and potential problems in the north joint wall.

The demolition of the 'Boulay' block on Third Avenue is complete and the site is fully cleaned up.

In September of 2007, in response to questions and concerns similar to those we are receiving today, we issued a piece on "Frequently Asked Questions" which were regularly being asked with respect to Burnt Out and Dilapidated Properties in Berlin at that time. A copy of it is attached. The piece, although a little bit out of date now, still provides a good background into why and how the City handles the many dilapidated and burnt out properties it has been dealing with and why it takes time to deal with them.

### **AVRRDD Audit and Budget**

We have copies in the office of the Waste District's most recent audit and its proposed annual budget for anyone who would like to see them. The Public Hearing for the AVRRDD budget was held last Thursday.

### **Public Works Monthly Report**

Attached

### **Manager's Time-Keeping**

Attached.

# H1N1 VACCINE CLINICS

*New Hampshire has moved into the next phase of H1N1 vaccination strategy*

## Berlin Public Health Clinic

168 Main Street, Berlin, NH,

Wed. Dec. 9<sup>th</sup> 8:30-12:00, 1:00-3:30

Wed. Dec. 16<sup>th</sup> 8:30-12:00, 1:00-3:30

*Clinic for: Healthy Adults 18 to 24, Adults ages 25-64 with Underlying Medical Conditions; People caring for or living with infants less than 6 months old; Childcare provider caring for infants less than 6 months old; Spouses and partners of pregnant women; Healthcare workers and EMS with direct patient contact.*

**PARKING:** Tondreau Parking Lot, Mason Street and Municipal Parking Lot, Pleasant Street **WALKIN**

**CLINICS. FREE IMMUNIZATION**

## Coos County Family Health Services

133 Pleasant St., Berlin, NH

Mon. Dec. 7<sup>th</sup> 2:00 – 6:00

Thurs. Dec. 17<sup>th</sup> 2:00 – 6:00

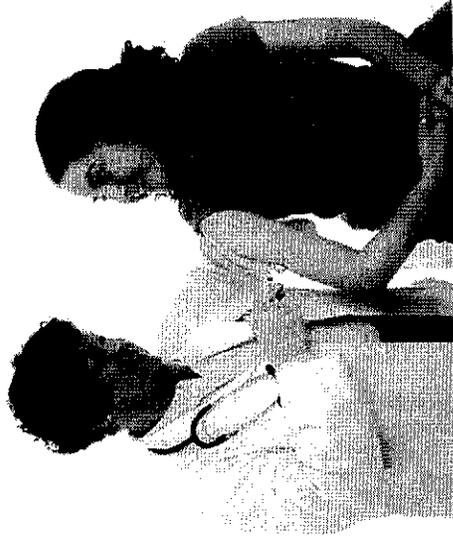
Page Hill Road, Berlin

Wed. Dec. 16<sup>th</sup> 2:00 – 6:00

Clinic for children 6 months - 17 years old  
Parent or Legal Guardian must be present

**By Appointment Only 752-2040**

**FREE IMMUNIZATION**



## White Mountain Community College

Wed. Dec 16 10:00-1:00

*Clinic for: Healthy Adults 18 to 24, Adults ages 25-64 with Underlying Medical Conditions; People caring for or living with infants less than 6 months old; Childcare provider caring for infants less than 6 months old; Spouses and partners of pregnant women; Healthcare workers and EMS with direct patient contact. WALK IN CLINIC*

**FREE IMMUNIZATION**

**CALL 752-1272 LOCALLY**

CALL NH's H1N1 Public Inquiry Line by dialing 211 or visit [www.nh.gov](http://www.nh.gov).

Sponsored by the Berlin Health Department, Coos County Family Health Services and All Health Hazard Region 1

**New Hampshire's Beacon Community Project  
Retrofit Ramp-Up Program Grant Opportunity  
(Berlin, Nashua, Plymouth)**

Congratulations on being one of the three New Hampshire communities chosen to work with the State in its application for the Retrofit Ramp-Up Program offer through the Department of Energy!

**Retrofit Ramp-Up Background:**

The program is funded at \$390 million nationally. There will be between 6-20 awards, ranging between \$5 - \$75 million each in federal funds. The program will be competitive, but New Hampshire is well positioned to be successful. Key aspects of a successful application will include:

- High leverage of public/private funding sources
- Strong collaboration of partners
- Sustainable programs that will continue beyond grant funding
- Develop stable revenue stream
- Innovative financing solutions for energy efficiency

**Beacon Community Project Background:**

The New Hampshire Beacon Community Project will implement comprehensive, deep energy conservation, energy efficiency and clean distributed energy improvements across multiple building sectors within the three selected communities. The goal of the Beacon Community Project is to create replicable models of diverse communities' capacity to tackle energy issues and to share these successes through a mentorship process. Statewide governance and operations management will be provided by a partnership of the New Hampshire Office of Energy and Planning, Electric Utilities, New Hampshire Charitable Foundation, Jordan Institute, Community Loan Fund and Community Development Finance Authority. The partnership grows out of strategic discussions undertaken over the past year by the New Hampshire Energy Efficiency and Sustainable Energy Board.

The program will create a new financing mechanism that will address the two major market barriers facing energy efficiency improvements: 1) Perceived high upfront capital costs. 2) Markets devaluation of energy efficiency improvements. A team of experts in building science, financing, inventorying/monitoring, and outreach/education will partner with community representatives to promote the program and customize it to each of the selected communities. Finally, a mentorship program will be developed, allowing the three selected communities to communicate with each other and ultimately to the second tier of selected communities for the Beacon Community Project.

### **Community Actions:**

To begin moving the program forward, there are three actions necessary for each community to undertake.

- 1) Schedule a meeting time between community leaders and State Advisory Team (OEP, Jordan Institute, Electric Utilities, Jeff Taylor Associates). **This meeting should be held the week of Nov. 30<sup>th</sup>.**
- 2) Reach out to community leaders. Inform them that your community was selected and invite them to the meeting.
- 3) Review agenda and start thinking of how the topics apply to your community.

### **Agenda:**

- 1) Background on program
- 2) Community's thoughts
- 3) Needs of the community
- 4) Assets of the community
- 5) Geographic region participating (neighborhoods, schools, businesses, municipal buildings)

### **Timeline:**

The application is due **December 14<sup>th</sup>**, leaving us approximately two weeks to finalize the proposal.

### **Questions:**

Questions about the program should be directed to **Eric Steltzer** at Office of Energy and Planning. [eric.steltzer@nh.gov](mailto:eric.steltzer@nh.gov) or 603-271-1759.

**CITY OF BERLIN**  
New Hampshire

**FREQUENTLY ASKED QUESTIONS**

**ABOUT BURNT OUT AND DILAPIDATED PROPERTIES**

**Why doesn't the City clean up burnt out properties right away?**

In most cases, the burnt out properties are not owned by the City. Therefore, the City has no right to do anything with the building which is in private hands, except by following very specific state laws which are complex and linear in nature and which accord the property owner every protection. This process usually ends up before a judge who also accords the land owner due process protections and sometimes additional time to comply.

**Why doesn't the City just take the property by eminent domain?**

Eminent domain or the governmental taking of private property for a public purpose is also an involved legal process which requires that the property being taken must be taken for a public purpose. An eminent domain process would at minimum likely one year before the City would in fact own the land. Even if the process could be used, it would also require that the City pay the property owner the appraised value for the land at the time of the taking. That means that in addition to the cost of having to clean up the site, the City would have to come up with the market value for the land to pay the non-compliant owner who does not clean up his own property. This of course assumes that the City has the money budgeted to pay for such a piece of land, which it normally would not have. Under the state statute (RSA 155-B) that the City typically uses for cleaning up properties, the City at least does not have to compensate the irresponsible property owner for the value of his/her remaining property.

**Doesn't the property owner have insurance and why don't they use that insurance to clean up the mess?**

Many of the property owners don't have insurance, and there is no state law which requires them to have that. However, even those who do have insurance have often taken the insurance proceeds and simply walked away from the property instead of spending any of their insurance proceeds on cleaning up the site. They do this more so in Berlin because property values in Berlin have been so low that pocketing the insurance proceeds

and walking away is more profitable to the owner than spending \$30,000 on the clean up of a property which may only be worth \$5-10,000 after the clean up.

### **Why doesn't the City get the State to change its laws?**

The City has lobbied hard in the last couple of years to get a number of state laws which relate to these matters changed. This past year we finally had a minor success in getting the tax deeding law improved slightly. However, in spite of our attempts to change the current RSA 155-B state law to require that insurance proceeds be spent first on property cleanup, opposition by the various realtor organizations has successfully forestalled any progress in this area. We of course will be trying again in the next legislative session.

### **Why doesn't the City simply pass its own laws to take care of these matters?**

Ironically, unlike many other states in the nation, New Hampshire is not a "Home Rule" state. Although New Hampshire is a small state and claims to cherish local control, the New Hampshire State Legislature has never seen fit to allow the municipalities any significant degree of "Home Rule". What this means is that as a general rule, municipalities in the State have the authority to do only what they are specifically authorized to do by a specific state law. If there is no state law authorizing it, then a municipality can't do it. In a true Home Rule state, a municipality is free to pass any laws that it wants as long as such laws do not conflict with the state constitution or existing state laws.

### **Well, what does the City do then?**

The City of Berlin is unique in the entire State of New Hampshire in dealing with the numbers of dilapidated and some times burnt out structures. The City is still actively working its way through a number of state inspection and enforcement laws which are complex and tedious and not often used because most municipalities don't have these problems to the extent we do. Berlin is unique in terms of the numbers of these types of dilapidated structures and in terms of the extremely low underlying value of the properties. Where the rest of the State is trying to encourage and promote "affordable" housing. Berlin has far more than its share of affordable housing which unfortunately, is in some cases, substandard housing.

In the case of burnt out properties, the City generally does not own any of these properties and therefore must proceed cautiously and under some specific state law, usually RSA 155-B or RSA 147. In almost all cases, the City must first give the property owner the opportunity to clean up the property on their own. If they don't, the procedure usually has the City, through a stringent and linear process, asking a judge to require the property owner to clean up the property. The judge will also give the property owner

another chance to clean up the property on their own. If that doesn't occur, then the judge will usually grant to the City the ability to clean up the property at the City's cost. However, under RSA 155B, the City will at least have the opportunity to lien the property for all of the City's costs in the cleanup. It must be remembered however, that because property values of these properties are so low in Berlin, this is likely to leave the City with a cost that may run \$20-\$30,000 including legal costs on a property that may end up being worth only \$5,000. In other words, every one of these properties ends up costing the City (and obviously the City's tax paying residents) significant time effort and money. Fortunately, the Mayor and Council have been very supportive financially of what has become a new and very monumental effort on behalf of the City.

In a number of cases each year for the past several years, the City has come into ownership of a number of dilapidated structures because the property owners have not paid the taxes on the property and the property is taken by the City by tax deed. This particular state law is also quite complex and detailed and confusing in terms of what the City can or cannot do once it acquires a property by tax deed. It also lays out a convoluted schedule for when the City can or cannot do various things with the property it has acquired by tax deed. In some cases, if the property owner cannot be found to be served notice or in the case of intestate properties, the City is then barred by this same state law from doing anything with the property for another three years unless a Court grants permission to do so. The State law, as one might expect, gives great weight to individual property rights and therefore gives the former owner every opportunity to repurchase the property if they so choose.

In spite of its economic challenges, the Mayor and Council of the City have seen fit to embark on an ambitious program to require that housing in Berlin be brought up to a reasonable standard and that excess dilapidated housing gets either renovated or removed. A Housing Coordinator was hired three years ago who has overseen the acquisition and removal of a significant number of dilapidated properties. A full-time Code Enforcement Office and a full-time Housing Inspector have also been hired to carry out a comprehensive housing inspection program. For the past several years the Fire Department has been citing and pursuing owners of burnt out and dilapidated properties.

The cost of demolition and removal of dilapidated housing structures today is very high. Once the City gets to the point where it can actually demolish a property it has taken by tax deed, it must carry out environmental studies to test mostly for asbestos and lead, which if found must be abated. Once that is done, the City, if it can find money somewhere, will bid a contract for the demolition. The typical structure the City demolishes weighs 100-200 tons. Just the disposal cost of this tonnage at the regional landfill is \$67/ton for an average disposal cost of \$7,000-15,000 per demolished structure. If there is asbestos contamination, the cost is \$107/ton and the precautions surrounding the handling of contaminated debris drives the demolition cost up significantly. To this must be added the cost of the demolition contractor and the trucking to the landfill which would typically be in the range of \$5,000-20,000 per structure depending on the complexity.

### **Why do these processes have to be so slow?**

With respect to the clean up of burnt out properties, in terms of time, if everything fell into place perfectly in a particular case, which it never does, the very quickest that the City would be able to effectuate a property cleanup under RSA 155-B or RSA 147 would be around 8 to 9 months after the fire. Both RSA's are linear in nature and not many of the steps required can be completed concurrently. However, given the way the process works in reality, it is typically going to be more like 12 to 18 months especially if the owner appeals the order in the court.

Further, often there is more than one building and therefore more than one property owner involved. If the two buildings burned together, the fire debris is now generally all in one pile which means that the debris can only be cleaned up all at once and not separately. Yet, two separate property owners means that each property owner is afforded separate legal processes under the law. This means that the overall cleanup process can go no faster than the slower process which develops for either owner. Obviously, this can slow the process much more than if there is just one owner involved.

With the number of fires the City has suffered recently, there is no question that the City has become more than a bit overwhelmed. In February and March, the State Fire Marshall's office assisted the City with an inspection blitz of about 100 properties or roughly 300 units in the period of a few days. This was a great help to the City from the State in the sense that it got the attention of a lot of landlords that business as usual was changing. It also got the attention of a lot of tenants who, seeing the fires, began to realize that they had an interest in finding a place to stay that was safe. This inspection blitz led to well in excess of 1000 violations which have to be followed up on. Clearly, this can only be dealt with a little bit at a time. This is in addition to the comprehensive housing inspection program the City has started and dealing with the fire properties themselves.

It is going to take several years for the City to see the rewards of this effort which will reverse the downward property spiral the City has been in and will result in housing in Berlin which is decent, safe and attractive.

***Public Works Dept. & Pollution Control***  
***November Monthly Report***

**Safety:**

1. We are missing an employee on Worker's Compensation starting 11/17/08 for shoulder surgery.
2. November 5<sup>th</sup> I participated in a building Inspection of the Public Works Garage with Primex.
3. November 21<sup>st</sup> had a safety and informational meeting with the Public Works Crew.
  - a. Reviewed some opportunities from the Building inspection.
  - b. Use of High Visibility Clothing.
  - c. Area awareness.
  - d. United Way Drive
  - e. Projects Status
  - f. Upcoming Projects

**People Development:**

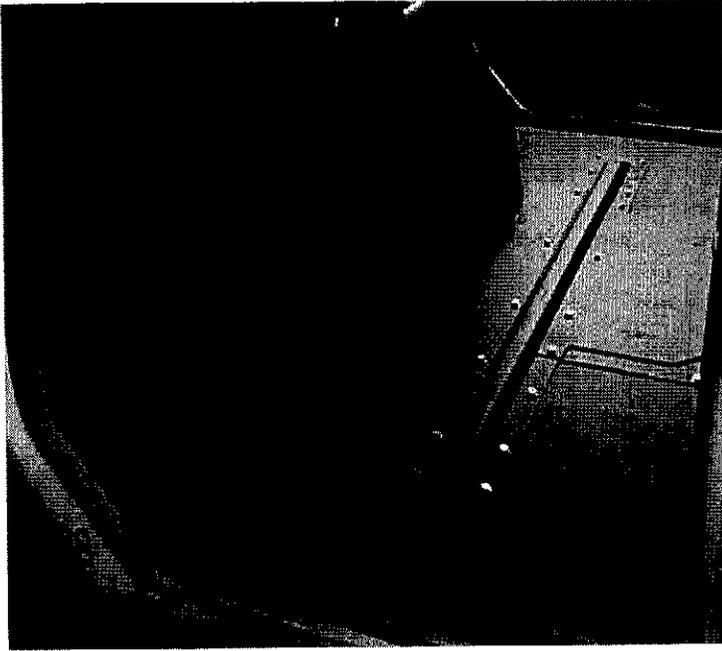
- a) 11/21/08 had Public Works Crews do some practice snow plow runs on Green & Mt. Forist Streets to adjust to the new modifications.

**Public Works Highlights and Projects:**

- Elections Set-up and break-down.
- Completed Punch-list Items on Willard St.
- Snow Removal Preparation
  - Equipment
  - Sand Barrel set up
- Winterization of the Public Works Garage.
- Rebuilt the Cab on the spare Packer that would not pass the state Vehicle Inspection. We borrowed the Town Gorham's spare packer while ours was off line. The metal brake we purchased in September aided tremendously in this effort. The last time we replaced a cab like this it cost over \$17,000 just for the cab without the labor included to remove and install the cab components.



**Before**



#### **After**

- 11/25/08 First substantial snow storm, which turned to rain. Had several flooding and drainage issues
  - 11/26/08 conducted post storm audit on what went well and areas for improvements.
- 11/30/08 Second Snow event, just a couple of inches. Deployed crews to treat roads with salt / sand during the night.

#### **Pollution Control and Sewer Crew Highlights and Issues:**

##### **People Development:**

- 10/30 Ted Miller did some training on B.O.D. metabolism.
- 11/5 Don Hartman attended training on Packing and Seals to get C.E.U.'s to maintain his operators license.

##### **Highlights and Issues:**

- Cleaned and marked the culverts on Cates Hill Rd.
- Clean Culverts on Highland Park.
- 11/14 ENERNOC did there acceptance test for Main Plant and Watson Street generators.
- Picked up 11 Tons of soft coal for the portable boiler 11/24/08. This boiler is utilized to thaw out sewer lines and culverts during the winter season. This coal was difficult to get this season, our usual supplier Sprague Energy has not been able to come up with price and delivery since early summer. We tried other suppliers without success. We did find an alternate source with the Cog Railway which had 600 tons available. Prices have more than doubled since the last time we purchased coal in 2004.
- 11/25-11/26 We got 3.62" of rain and the flows were at 6.85mgd no CSO event!!
- Had some pump issues November 26 with No. 2 Pump at Watson Street Pump Station. Troubleshooting indicated some valves were left in the improper position after some maintenance activities. This caused leveled control problems with high flows from the snow storm. We will review this problem with the crew to prevent re-occurrence.

