

## **CITY COUNCIL MEETING – Monday, October 4, 2021**

### **Public Hearing**

Mayor Grenier opened the Public Hearing at 6:50 pm for Ordinance 2021-01 Conflict of Interest and Incompatibility of Office. There were no public comments. Mayor Grenier closed the Public Hearing at 6:50 pm.

### **Regular Meeting**

Mayor Grenier called the Regular City Council Meeting to order at approximately 6:50 p.m.

#### **a. Pledge of Allegiance**

#### **b. Roll Call**

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

Absent: Councilors Rozek and Theberge

Also present: City Manager James Wheeler, Community Development Director Pamela Laflamme, Finance Director Holly Larsen, City Clerk Shelli Fortin, Karen Collins, and William Carroll, Berlin Daily Sun.

**c.** Councilor Remillard moved, with a second by Councilor Otis, to accept the minutes of the September 20, 2021 Regular Meeting and Work Session, the Work Session of 09/27/2021, and the Public Hearing of 09/29/2021. So moved, the motion passed.

### **Disbursements:**

Disbursement Summary Draft #1897 start date 09/21/2021 end date 10/04/2021 for a total cash disbursement of \$964,713.18. 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 passed.

### **PUBLIC COMMENTS**

There were no public comments.

### **UNFINISHED BUSINESS**

#### **1. Council Committee Reports**

There were no Council committee reports.

#### **2. Ordinance 2021-01 Conflict of Interest and Incompatibility of Office (tabled 9/20/2021)**

In the year of our Lord Two Thousand Twenty-One

**AN ORDINANCE** amending Chapter 2 of the City Ordinances for the City of Berlin, New Hampshire as follows:

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

The CODE OF ORDINANCES, Chapter 2, Article I, Sec. 2-3, Conflict of interest, is hereby amended by deleting Sec. 2-3 in its entirety and replacing it with the following:

Sec. 2-3. Conflict of Interest and Incompatibility of Office.

##### **(a) Definitions.**

(i) A “conflict of interest” exists when a person takes an action or makes a decision that would affect his or her financial interest, the financial interests of the person’s immediate family member, or the interests of any entity or organization in which the person is a member.

(ii) An “immediate family member” is a person who is related to a City Official or Employee in one of the following ways: spouse, mother, father, stepmother, stepfather, foster mother, foster father, father-in-law,

mother-in-law, grandmother, grandfather, grandchild, sister, brother, child, stepchild, foster child, or any other person living in the same household as the City Official or Employee.

(iii) "Board" shall mean the Board of Assessors, City Council, Planning Board, Zoning Board of Adjustment or any other board or commission of the City of Berlin.

(iv) "Official" shall mean any elected or appointed member of a Board.

(v) "Employee" shall mean any employee of a Department of the City of Berlin at the level of Assistant (reporting directly to a Director/Department Head or Assistant Director) or higher.

(b) Conflict. No Official of a Board shall vote, participate in deciding, or sit upon the hearing of any question which the Board is to decide if that Official has a direct personal and pecuniary interest in the outcome which differs from the interest of other citizens.

(c) Process for Uncertainty of Conflict. When uncertainty arises as to the application of subsection (a) of this section to an Official in particular circumstances, the Board shall, upon request of that Official or another member of the Board, vote on the question of whether that Official should be disqualified. Doubt concerning the existence of a conflict of interest shall be resolved in a determination that a conflict exists. Such a vote the Board shall be binding upon the Official, who shall recuse themselves in the event of a vote finding that a conflict exists.

(d) Duty to Disclose and Recusal. No Official or Employee shall participate in the decision-making process of any matter in which the Official or Employee or a member of the Official or Employee's immediate family has a direct personal or financial interest, aside from his/her salary or benefits as such Official or Employee. Any Official or Employee who believes such an interest exists shall disclose such interest and shall not participate in the matter further, meaning they should immediately remove themselves from discussion and voting, physically vacate his/her seat, and physically leave the room until consideration of the matter is completed. Whenever a matter comes before any Board, no Official or Employee shall introduce, ask questions, speak on or vote on any motion, ordinance, resolution or issue in which he/she has a conflict of interest; and the Official or Employee shall disclose the reason for the conflict of interest prior to the Board's discussion on the matter, or if discussion has occurred, then as soon as the conflict becomes known to the Official or Employee. Notwithstanding anything to the contrary stated herein, an Official or Employee who is the Applicant before a Board may present such Application to the Board as any other citizen.

(e) Conflict of Interest: Board of Assessors. In the event any Official of the Board of Assessors is the applicant for a tax abatement, the Abatement Application of that Official shall be decided by the City Council as a whole at a duly called and noticed public hearing; and the City Council, in making its determination on that Abatement Application shall rely upon the advice and analysis of the City's Contract Assessor.

(f) Incompatibility of Offices. In addition to the provisions of RSA 669:7 and 669:8, which are hereby incorporated herein, no Official shall at the same time hold any two of the following offices: Board of Assessors, City Council, Planning Board, Zoning Board of Adjustment, Police Commission, School Board, Library Trustees, Cemetery Trustees, Trustees of Trust Funds and Housing Authority. Also, no immediate family member of a standing Official shall hold any of the following offices: Board of Assessors, City Council, Planning Board, Zoning Board of Adjustment, Police Commission and School Board. However, a City Council member may serve on the City's Planning Board, Zoning Board of Adjustment, Berlin Airport Authority, BIDPA and/or Berlin Water Commission as an Ex Officio member, and a City Councilor may serve on BIDPA as a Regular Member and a BIDPA member may serve on the Berlin Water Commission as a Regular Member; and it is not a violation of this Ordinance for the City Council as a whole to act as the Board of Assessors. Furthermore, and notwithstanding the prior provisions of this paragraph, two immediate family members can be elected by the Voters of the City to serve on the City Council and/or the School Board and/or Library Trustees without violating this provision.

(g) Gifts and Favors. No Official, Employee, or Agent of the City shall solicit or accept any gratuity, favor, or anything of monetary value from any contractor or potential contractor with the City relative to the procurement of any supplies, equipment, construction, and/or other services with municipal, state and/or federal grant funds; and the offering and/or giving of any such matter of monetary value by such a contractor or their agents to any Official, Employee, or Agent of the City is hereby prohibited. In addition to any penalties which may be provided by law, any municipal Official, Employee, or agent who violates any provision of this section shall be subject to appropriate disciplinary action; including, in the case of an Official, removal from office; in the case of an Employee, suspension or discharge from employment; and, in the case of an Agent, termination of such agency.

All other terms and conditions of Berlin, New Hampshire's City Ordinance shall remain the same.

This Ordinance 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 amend Ordinance 2021-01 by adding Library Trustees, Cemetery Trustees, Trustees of Trust Funds, and Housing Authority to the list of incompatible offices, and Library Trustees to the list of elected positions, in paragraph f. So moved, the motion carried.

Councilor Remillard moved, with a second by Councilor Otis, to read Ordinance 2021-01R1 as amended by short title for a second time. So moved, the motion carried.

Councilor Remillard moved, with a second by Councilor Otis, to read Ordinance 2021-01R1 as amended by short title for a third time. So moved, the motion carried.

Councilor Remillard moved, with a second by Councilor Otis, that Ordinance 2021-01R1 be passed. So moved, the motion passed.

## **NEW BUSINESS**

### **3. City Manager's Report**

1. Christin Bernier, Asst. Vice President at North East Credit Union has accepted the position of City Treasurer. Gerry Dumoulin has been the City Treasurer for 16 years. Gerry has been gracious in staying on in the position until we could find the right candidate. Congratulations to Gerry in achieving a full retirement and to Christin for fulfilling this critical role for her community.
2. [Attached is a Notice of Public Hearing – Permit Application for a Solid Waste Landfill Expansion \(Mt. Carberry Secure Landfill – Bean Brook Road, Success, NH\)](#)
3. [Attached is the 9/22/21 field report from HEB for the Mason St. Bridge project. The amount of concrete work required under the bridge as well as at the bridge joints on the top of the bridge has turned out to be what was expected during the design phase. The project is on schedule.](#)
4. Contracts for the Fire Dept. boiler replacement and Fire Dept. roof replacement have been executed. Contractors are currently working on material submittals and acquisition.
5. Tomorrow morning, I am meeting with Courtney Jordan, Field Representative from the NH Homeland Security and Emergency Management along with the Public Works Administrative Clerk. We will be reviewing past and current applications with the NHSEM.
6. On Thursday of this week I will be in Concord for a meeting of the Assessing Standards Board.
7. The next meeting of the Berlin Hazard Mitigation Teams is scheduled for October 21<sup>st</sup> at 10:00 AM.
8. The last Master Plan Committee meeting was held at City Hall on September 28, 2021 at 6:00PM. The Master Planning work is progressing on schedule.

City Manager Wheeler also advised that he received information from CCFHS that the area is at its highest rate of community transmission and hospitalizations since the Covid19 pandemic began.

Councilor Remillard moved, with a second from Councilor Otis, to accept the City Manager's Report and place it on file. So moved, the motion carried.

### **4. Mayor's Report**

#### **a. CCFHS 5K Race/Walk Request**

Dear Mayor Grenier and City Council Members:

Coos County Family Health Services (CCFHS) respectfully requests the City of Berlin's approval and support to conduct a 5K Race-Walk to be held in conjunction with this year's RiverFire celebration.

In this ninth year of the event which benefits our RESPONSE to Sexual and Domestic Violence program, we anticipate somewhere between 300 and 400 individuals will participate. The event is intended to be fun, welcoming to runners and walkers, family-friendly, and is part of our organization's larger effort to promote a culture of health and well-being in the Berlin-Gorham region.

As in past years, we anticipate holding the event during the afternoon of the day that the RiverFire Celebration will occur (Saturday, October 16<sup>th</sup>, 2021). Registration would begin at 12:30 pm, the race would start at 2 pm and, based upon past experience, the last participant would finish at about 3 pm. A map of the proposed race route is enclosed.

If approved, CCFHS will provide a certificate of insurance for the event. We are open to any suggestions that you may have about how to best offer the event, and are willing to entertain any questions that you may have.

Thank you for your consideration,

Sincerely,

Ken Gordon  
Chief Executive Officer

Councilor Remillard moved, with a second from Councilor Otis, to approve the request of CCFHS for the 5K Race/Walk during RiverFire on Saturday, October 16, 2021. So moved, the motion carried.

## **5. PUBLIC COMMENTS**

There were no public comments.

## **6. Council Comments**

Councilor Berthiaume asked about the use of an empty lot across from the Heritage Park for parking for RiverFire. Mayor Grenier asked that a letter be submitted in writing to be considered at the meeting on October 11, 2021.

Councilor Eastman asked for a list of the candidates who have filed for office. Ms. Fortin shared the list and will email to the Councilors on Tuesday.

City Manager Wheeler asked about the date for the next meeting, which is scheduled for Columbus Day. The meeting will be held on Monday, October 11.

## **7. Adjournment**

On a motion by Councilor Higbee, seconded by Councilor Otis, the Council voted to adjourn the meeting at 7:08 pm. 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.