

CITY COUNCIL MEETING – Monday, May 15, 2017

Mayor Grenier called the Regular City Council Meeting to order at approximately 7:45 p.m. in the City Hall Council Chambers. The pledge of allegiance to the flag preceded roll call. Present: Councilors Remillard, Otis, Gentili, Higbee, Rozek, Nelson and Theberge. Councilor Morgan Allain was absent. Also present: James Wheeler, Pamela Laflamme, Daniel Buteau, and Barbara Tetreault

Minutes, Previous Meeting

Councilor Remillard moved with a second by Councilor Otis to accept the minutes of the May 1st Regular Meeting/Work Session and the May 8th Work Session. So moved, the motion carried.

Disbursements:

Disbursement Summary Draft #1789 start date 5/2/2017, end date 5/15/2017 for a total cash disbursement of \$619,302.34. Councilor Theberge moved with a second by Councilor Nelson to accept the disbursement summary and pay all bills as recommended by the Committee on Accounts/Claims. So moved, the motion carried.

Councilor Rozek moved with a second from Councilor Otis to recess the order of business to hold the public hearings that were inadvertently left off the agenda. So moved, the motion carried.

PUBLIC HEARING

Mayor Grenier opened the duly scheduled and advertised Public Hearing at approximately 7:48 p.m. to hear comments on the following subject matters:

Ordinance 2017-02 adding a Stop Sign at Memorial Lane as it Intersects with Madison Avenue. There being no comments from the public, the public hearing was closed at 7:48 p.m.

At 7:49 p.m. Mayor Grenier opened a public hearing on Ordinance 2017-03 OHRV Amendment. There being no comments from the public, the public hearing was closed at 7:49 p.m.

At 7:50 p.m. Mayor Grenier opened a public hearing on Ordinance 2017-04 Zoning – Accessory Dwellings. There being no comments from the public, the public hearing was closed at 7:50 p.m.

At 7:50 p.m. Mayor Grenier opened a public hearing on Ordinance 2017-05 Zoning – Map Change. There being no comments from the public, the public hearing was closed at 7:51 p.m.

Councilor Rozek moved with a second from Councilor Otis to resume the regular order of business.

PUBLIC COMMENTS – there were no comments.

UNFINISHED BUSINESS

1. **Council Committee Reports** – There were no reports.

OLD BUSINESS

2. **Ordinance 2017-02 - amending the CODE OF ORDINANCES, Chapter 15 , TRAFFIC AND VEHICLES, ARTICLE III. STOPPING, STANDING AND PARKING, Sec. 15-33. Stop Intersections by adding a Stop sign on Memorial Lane as it intersects with Madison Avenue.**

Be it ordained by the City Council of the City of Berlin, as follows: That Sec. 15-33. is hereby amended by adding the designation depicted below.

Sec. 15-33. Stop Intersections. Any person operating a vehicle on a street upon which a stop sign has been placed by authority of the mayor and city council shall bring such vehicle to a complete stop before crossing the line of pedestrian traffic on such street. The following streets and squares are designated as stop streets: Memorial Lane, as it intersects with Madison Avenue. This ordinance shall be in full force and effect from and after passage.

Councilor Nelson moved with a second from Councilor Higbee to remove Ordinance 2017-02 from the table and the motion carried. Councilor Nelson moved with a second from Councilor Higbee to read Ordinance 2017-02 a second time by title only and the motion carried. Councilor Nelson moved with a second from Councilor Higbee to read Ordinance 2017-02 for a third time by title only and the motion carried. Councilor Nelson moved with a second from Councilor Higbee to pass the ordinance and Mayor Grenier declared Ordinance 2017-02 now passed.

3. Ordinance 2017-03 amending the CODE OF ORDINANCES, Chapter 13, STREETS, DIVISION 2 Operation of Off Highway Recreational Vehicles, Sec. 13-112. Operation of OHRV's

Be it ordained by the City Council of the City of Berlin, as follows: That Sec. 13-112. is hereby amended as depicted below.

Sec. 13-112. Operation of OHRV's

No person shall operate an OHRV, as defined by NH RSA 215-A:1, in or on any street, lane, bridge, alley, sidewalk or other public place in the city except as provided below:

1. In addition to the public trails at Jericho Mountain State Park, the following is an authorized municipal public OHRV trail within the City of Berlin:
 - a) The City of Berlin's roadways, within the urban compact, will be open to OHRV riders for the purposes of accessing the designated Connector OHRV Trail, (via the shortest possible route) as well as accessing local businesses and services. Riding on municipal streets for any other purpose is prohibited with the exception of Sec. 13-112 (4).
 - b) On City streets, OHRV signage and markings, as well as traffic signs and signals which must be obeyed by the OHRV operator. (Ord 5/15/2017)
 - c) The Berlin OHRV Connector Trail and the City of Berlin's roadways will be closed to OHRV riders when the Bureau of Trails declares that the snow machine trails are no longer useable. The connector trail will re-open on May 23, or a reopen date set by the State Trails Bureau. Berlin's roadways will reopen accordingly. (Ord. 4/02/2012)(Ord. 5/04/2015)
 - d) OHRV Connector Trail - This authorized municipal trail runs where marked from the Jericho Mountain State Park to Route 110 and follows Route 110 southeasterly as it changes from Jericho Road to Wight Street. The trail continues to follow Wight St. to Hillside Avenue, for a short distance to York Street (determined by how the trail is actually marked and signed) where it continues easterly to Granite Street. The trail then turns onto Mason Street where it follows Mason Street southeasterly to East Mason Street where it continues southeasterly to Hutchins Street where it follows Hutchins Street northeasterly to Success Pond Road where it follows Success Pond Road to the Berlin/Success line. This authorized municipal trail includes the section of East Mason

Street from the RR tracks east of Hutchins Street to Hutchins Street. (Ord. 9/20/2010)
(Ord. 4/02/2012) (Ord 5/15/2017)

- e) Any person who violates the provisions of this article shall be guilty of a violation, punishable by a fine as follows: All violations are subject to a loss of OHRV operating privileges on City streets, NOT including the OHRV Connector trail. (Ordinance 2/17/2014)
 - First offense, \$100.00 fine.
 - Second offense, \$250.00 fine.
 - Third offense, \$500.00 fine.
- 2. OHRV users in the city must abide by all State and City laws when on designated trails on City streets and must abide by all motor vehicle traffic laws. However, all unlicensed operators shall be accompanied by a responsible adult who is 25 years of age or older and is a licensed driver (Pursuant to RSA Chapter 263). The person accompanying the unlicensed driver shall be liable for the violation of any provision of this section or rules adopted rules hereunder committed by such unlicensed driver. (Ord. 5/15/2017)
 - a) OHRV's must yield to pedestrians at all times. (Ord. 9-20-2010)
 - b) OHRV operators, when operating on the designated trail on City streets, shall ride single file in traffic in the paved travel lane (not gravel or paved shoulders).
 - c) There will be no OHRV riders on City streets between the hours of 10:00 p.m. through 6:00 a.m. unless authorized by the City Council during special events. (Ordinance 2/17/2014)
 - e) All OHRV's operating on designated trails on City streets must have working head and tail lights.
- 3. Complaints regarding OHRV use of these trails shall be received by the Traffic Safety Committee, who may recommend changes to the Council. The Council shall have the power to change the times of such OHRV use by vote without amendment to this ordinance. (Ord. 4-2-2012)
- 4. Anything above to the contrary notwithstanding, the City Council may, at any time by City Council motion, open up some or all streets in the City to OHRV use for named special events not to exceed two consecutive days in length; or in the event of temporary OHRV trail obstructions or other matters determined by the Council to require temporary OHRV street use for a length of time determined appropriate by the Council. If and when such City Council approval is given, City street use by OHRV's shall still be subject to all of the requirements listed above for OHRV use of the authorized connector trail. (Ord. 5-21-2012) (Ord. July 16, 2012)

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

Councilor Remillard moved with a second from Councilor Otis to remove Ordinance 2017-03 from the table and the motion carried. Councilor Remillard moved with a second from Councilor Otis to read Ordinance 2017-03 a second time by title only and the motion carried. Councilor Remillard moved with a second from Councilor Otis to read Ordinance 2017-03 for a third time by title only and the motion carried. Councilor Remillard moved with a second from Councilor Otis to pass the ordinance and Mayor Grenier declared Ordinance 2017-03 now passed.

4. Ordinance 2017-04 amending the Code of Ordinances of the City of Berlin, Chapter 17, ZONING, ARTICLE II. General Provisions, Section 17-29, Accessory Dwelling Units

BE IT ORDAINED by the Mayor and Council that the Code of Ordinances of the City of Berlin Chapter 17, ZONING, ARTICLE II. General Provisions, Section 17-29, Accessory Dwelling Units is hereby amended by to read as follows:

To increase housing alternatives while maintaining neighborhood aesthetics and quality, attached accessory dwelling units (ADU) are permitted by the Planning Board through a Conditional Use Permit process on any property containing an owner-occupied single-family dwelling, provided that the applicant meets the criteria set forth below:

1. A maximum of one (1) ADU per property is permitted. An ADU shall not be permitted on property where more than one primary dwelling unit (PDU) currently exists;
2. The ADU is contained within or will be an addition to an existing or proposed single family dwelling;
3. The ADU shall contain fully self-sufficient living quarters, consisting of adequate sleeping, bathing, and eating accommodations.
4. Exterior alterations, enlargements, or extensions of the PDU are permitted in order to accommodate the ADU. However, no such change is permitted which would alter the appearance of the PDU to look like a duplex or any other multifamily structure (i.e., the house should not look like it was designed to house more than one family). The construction of any exterior access ways which are required for access to the ADU shall be located to the side or rear of the building whenever possible. The ADU shall also be designed to remain functionally dependent on the PDU and shall not have provisions for separate utilities, garages, driveways, and other similar amenities; The ADU shall contain no more than two bedrooms;
5. The ADU shall not exceed 1,000 square feet in area and shall not exceed 40% of the living area of the principal dwelling;
6. The ADU shall be connected internally to the PDU;
7. The property owner must occupy one of the two dwelling units;
8. One parking space for the ADU shall be provided in addition to any parking for the PDU if parking is available on the property;
9. The PDU, ADU, and lot shall not be converted to a condominium or any other form of legal ownership distinct from the ownership of the single family dwelling. In order to assure compliance with this requirement, the property owners at the time the ADU is established shall be required to execute a restrictive covenant running in favor of the City, which shall be recorded in the Coos County Registry of Deeds and a copy provided to the Community Development Department and the Assessor prior to the issuance of a Certificate of Occupancy; and
10. Where municipal sewer service is not provided, the septic system shall meet NH Water Supply and Pollution Control Division requirements for the combined system demand for total occupancy of the premises.

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

Councilor Nelson moved with a second from Councilor Higbee to remove Ordinance 2017-04 from the table and the motion carried. Councilor Nelson moved with a second from Councilor Higbee to read Ordinance 2017-04 a second time by title only and the motion carried. Councilor Nelson moved with a second from Councilor Higbee to read Ordinance 2017-04 for a third time by title only and the motion carried. Councilor Nelson moved with a second from Councilor Higbee to pass the ordinance and Mayor Grenier declared Ordinance 2017-04 now passed.

5. Ordinance 2017-05 amending the Code of Ordinances of the City of Berlin, Chapter 17, ZONING, ARTICLE IV, Establishment of Zoning Districts, Section 17-41, Zoning Districts

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

Now therefore be it ordained by the Mayor and Council that the Code of Ordinances of the City of Berlin Chapter 17, ZONING, ARTICLE IV, Establishment of Zoning Districts, Section 17-41, Zoning Districts is hereby amended as follows

OFFICIAL ZONING MAP

The City of Berlin Zoning Map shall be changed to reflect the following:

1. A map is attached to this ordinance to clearly reflect the change being made off of Route 110 to change a portion of the Industrial Business Zone to the Jericho Gateway Zone.

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

Councilor Remillard moved with a second from Councilor Otis to remove Ordinance 2017-05 from the table and the motion carried. Councilor Remillard moved with a second from Councilor Otis to read Ordinance 2017-05 a second time by title only and the motion carried. Councilor Remillard moved with a second from Councilor Otis to read Ordinance 2017-05 for a third time by title only and the motion carried. Councilor Remillard moved with a second from Councilor Otis to pass the ordinance and Mayor Grenier declared Ordinance 2017-05 now passed.

NEW BUSINESS

6. Resolution 2017-08 authorizing the Berlin Police Commission to apply for and receive funds for any and all purposes from the New Hampshire Highway Safety Agency for Highway Safety Project Grants for Fiscal Year 2018. (1st Read)

Councilor Nelson moved with a second from Councilor Higbee to table the resolution for a June 5th public hearing. So moved, the motion carried.

7. City Manager's Report

1. The two 15,000 gallon tanks (1-gasoline, 1-diesel) were removed from the PWD site last week. There was no contamination found as a result of leaking. There was contamination from the years of filling vehicles tanks and the associated dripping of fuel on the ground. The contaminated soil has been stockpiled and we are awaiting final confirmation that the disposal of it will be covered by the State grant used to remove the tanks. The excavation will be patched with asphalt when the local asphalt plant opens for the season.
2. The Berlin School Board has agreed to loan a Kohler & Campbell Baby Grand Piano to the Medallion Opera House in Gorham. The piano was not in use at Berlin High School. Gorham will pay to professionally move the piano; they will make minor repairs and they will add the piano to their property liability insurance. In addition, a small donation of \$50 will be made yearly to the Berlin High School Music Program for the duration of the agreement. The piano will remain the property of the School Dept. and when it is ultimately returned, it will be done so at Gorham's cost and will be tuned. What a great way to see that such a valuable instrument is used to its potential.
3. The City Auditors, Vachon, Clukay will at next week's meeting to give the Council a presentation on the FY 2016 City Audit.
4. There are two yearly contract s that are out for bid: the City's Electrical Services and the Maintenance Contract for the City's boilers. The contract are due May 25th and June 6th, respectively.
5. Contractor quotations are due this Friday for the removal and replacement of the highly degraded ridge poles on the 5 Heritage Park buildings. The capital fund reserve for the Park will be used for this expense.
6. Supervised Playground Activities at local playgrounds start Wednesday July 5th. There are crafts, games, sports and much more for children ages 6–13. (Children 5 and

younger need to be accompanied by a parent or older sibling).

7. Cold cereal breakfast will also start July 5th at 10:00 a.m. at all playground sites thanks to a generous donation from the Salvation Army. Lunch will be served at 12:00 noon and a snack at 2:30 p.m. Meals provided by the USDA Summer Child Nutrition Program and they are an equal opportunity provider and employer.
8. Playground Locations and Times are:
 - Berlin Recreation Center – 672 First Avenue
 - Community/Central Playground – Hutchins Street
 - Brookside Park – Maynesboro Street
 - Friendship Park – 115 Mason Street
9. BELIEVE IN BOOKS! The Summer Bookmobile will be held every Thursday, June 29th – August 24th. Locations & Times are:
 - Brookside Park – 11:00 – 11:45 am
 - Community/Central Park – 1:00 – 1:30 pm
 - Grand Trunk Park – 2:00 – 2:30 pm.
10. The Berlin Public Library will be doing a “Summer Reading Program” for students Grades 2-6 on Wednesdays from 3:00 to 4:00 pm and for grades pre-K through 1st Grade on Thursdays from 10:00 to 11:00 am. The Kickoff Party for everyone is scheduled for Thursday, June 22nd at the Recreation Center, 672 First Avenue where there will be games, a fishpond and prizes with entertainment provided by Dave Duchesne. The theme for this year’s program is “Build a Better World”.
11. On the legislative front, the bills associated with increasing block grant funding, SB38 and restoring SAG funding, SB57 are still alive and may provide some additional funding to the City in FY18.

Councilor Rozek moved with a second from Councilor Higbee to accept the Manager’s Report. Councilor Rozek suggested that a plaque be added to the piano mentioned in item #2 labeling it as belonging to the Berlin School Department so it finds its way back to Berlin one day. All voted in favor of the motion.

8. Mayor’s Report

Mayor Grenier reported that he went to a luncheon ceremony for Mr. Gideon Vallee last Saturday. Mr. Vallee is 97 years old and he served in WWII and was recently flown to Washington DC to visit the WWII memorial.

Mayor Grenier thanked Mr. Bob Chapman who worked to get Deflex Corporation to come to Berlin. They are a Canadian company and there is a provision to purchase the building they will be in. “The community is built on job at a time.”

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

9. PUBLIC COMENTS – There were no comments.

10. Councilor Comments – There were no comments.

11. Adjournment

There being no further business before the Mayor and Council, Councilor Rozek moved with a second by Councilor Higbee to adjourn the regular meeting. So moved, the motion carried and Mayor Grenier declared the regular meeting adjourned at approximately 8:15 P.M.

A True Record, Attest:

Elaine Riendeau
City Clerk