

City Council Special Meeting

Pursuant to Executive Order 2020-04, Section 8 and Emergency Order #12, Section 3

November 9, 2020

At 6:00 p.m. Mayor Grenier opened the meeting. Due to the State of Emergency declared by the Governor as a result of COVID-19 pandemic and in accordance with Governor Sununu's Emergency Order #12 pursuant to Executive Order 2020-04 this public body is authorized to meet electronically.

Please note that there is no physical location to observe and listen contemporaneously to the meeting, which was authorized pursuant to the Governor's Emergency Order. However, in accordance with the Emergency Order, this is to confirm that we are:

- a) *Providing public access to the meeting by telephone, with additional access possibilities by video or other electronic means;*

We are utilizing the Zoom platform for this electronic meeting. All members of the Council have the ability to communicate contemporaneously during this meeting through the Zoom platform, and the public has access to contemporaneously listen and, if necessary, participate in this meeting through dialing the following phone # 1-646-558-8656, meeting ID 880 8066 6429; Passcode 250369, or by clicking on the City Council agenda on the City's website, [www.berlinnh.gov](http://www.berlinnh.gov).

- b) *Providing public notice of the necessary information for accessing the meeting:*

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- d) *Adjourning the meeting if the public is unable to access the meeting*

In the event the public is unable to access the meeting, we will adjourn the meeting and have it rescheduled at that time.

Please note that all votes that are taken during this meeting shall be done by Roll Call vote. By roll call, each member is to state their presence, and whether there is anyone in the room during this meeting, which is required under the Right to Know law.

Present at roll call were: Mayor Grenier at City Hall and in the room with City Manager James Wheeler; via Zoom, Councilors Higbee, Berthiaume, Morgan, Theberge and Eastman who noted they were alone in their respective rooms; Councilor Rozek was present at approximately 6:20 p.m.

Others present: City Manager James Wheeler, Community Development Director Pamela Laflamme, City Clerk Shelli Fortin, Fire Chief Jay Watkins, Superintendent of Schools Julie King, Barbara Tetreault, Berlin Daily Sun and public.

### **6:00 P.M. PUBLIC HEARING**

Mayor Grenier opened the Public Hearing at 6:00 p.m. He stated that there will be no debate from the City Council. There are a lot of people who want input on the ordinance and comments will be limited to 3 minutes or less to be sure everyone has the opportunity to give their view.

Ted Bosen spoke in favor of the ordinance as he is a person at high risk. There are rising numbers in the City and it will get worse. If we don't do something, we are destined to have excess cases and unnecessary deaths. He added that, as a lawyer, he knows of case law allowing such an ordinance, *Jacobson vs MA*, a 1905 case. In every well-ordered society, we may at times, be subjected to restraints for the safety of the general public. Liberty would not exist if we were not allowed to protect. The Council has every authority to issue the ordinance.

Jessica Patrick said that she is not in favor of the ordinance. She read what would be required. We have a hard time with the economy and with things shut down, this is not the best decision. People come here for rest and refreshment and even in a state of chaos, we remain "live free or die". It should be a choice and it will cause tension, socially and politically. She feels for humanity that choice is the best way to go about it and does not feel it needs to be enforced. It will cause tension and will affect the economy.

Debbie Thornblad remarked that she wishes we didn't have to be here. This is "all hands on deck". This disease has a ripple effect and we may be affected in heartbreaking ways. Children are not able to say goodbye to their dying parents. We are experiencing the ripples as parents scramble to find child care and people are losing jobs. It will not be safe for the holidays and will family still be here next year? First responders will still come to your house, health care will still be there and all they ask is a mask; it's a small thing. Those who think it's their right to not be uncomfortable or inconvenienced think they are better than others. She is in favor of the mask ordinance.

Sarah Roy came on to the meeting to listen and observe. She appreciates the public hearing and feels the decision will cause a ripple effect. She hopes voices are heavily weighed before a final decision is made. She is not for mask wearing. Most people have made a stand and this does not seem like the next best step. The ordinance comes across as having to wear it inside or outside. That's stronger than what we have always been. She is against mask wearing.

Louise Valliere established that she did not plan on speaking; however she appreciates the opportunity and she is 100% in favor. Keep kids in school, and athletes playing sports.

Peter Laflamme commented that he is not for the ordinance. If walking out in the open, how can you get Covid? The virus is spread person to person. Out in public, walking, we do not need to have a mask. He is against it. If this were airborne, 90% of the city would be hospitalized. In a business, he is all for it.

Mike Peterson, CEO of AVH indicated that he sent a letter as well. There is a lot of misinformation and misinterpretation of information. My mask helps you and your mask helps me. Elimination of the spread is masks. There is an outbreak in the area and the correlation is the absence of masks. They are

a critical tool in combating the disease. DUI laws are also inconvenient and uncomfortable. Masks are a tool to returning to normal and getting kids to school.

Peter Gallinis is not in favor of a mask ordinance. He said it's an unconstitutional act. A mask is considered a garment. You get to wear what you want when you want. Virus microns will go through the mask. The virus is airborne for 8 to 9 hours and the virus can enter into the membranes of the eyes. There is a health risk to wearing masks. He will sue anyone who tries to order face masks.

Bruce Cooper said he is completely against wearing a mask. The virus was developed in 2003 and has a political agenda. The movement is based on fear. People tested positive, then negative. The same people who own the patent for the virus also own the test kits. It is a real thing. He said he will not bow his knee to fear.

Chuck Lloyd voiced that he is observing and in support of the ordinance.

Kristen Labonte expressed that she is not in favor of the ordinance. The Police force is spread thin already. Having the "mask police" will not be productive and will not be helpful. People who wear masks touch their face and spread germs. We should respect each other. She is against masks and pleads that everyone's comments are weighed, not just preconceived notions.

Guy Stever as Coos County Family Health Board of Directors Chair, he wrote a letter to the Council and submits that his Board is in favor of wearing a mask. Wear it to protect each other. The science is out there. We want to protect the people who work for the agency, and to protect health care people from being exposed by people who don't wear masks. The Board supports.

Andy Labonte, said that he agrees with Peter Gallinis. How do you plan on enforcing? What if people resist arrest; what's the plan? He disagrees 100%

Laura MacPherson, commented that the CDC recommends mask wearing in public settings and anywhere there are people around. Masks will reduce the spread when widely used. Not a political issue but a patriotic issue. In WWII there were rations on staples and Americans followed because it was the right thing to do. Some are saying that cloth is impeding freedom of speech; wearing a mask is not inhibiting someone's ability to talk. We should follow the science and be patriotic citizens and wear a mask

Ken Gordon, CEO Coos County Health Services reasoned that wearing a mask is based on good science and good evidence. The medical community is in support. The governing body has in its authority to act and it seems clear that other municipalities have adopted. The ordinance is a judicious use of authority and the measure is targeted, focused and time limited. This is Governance and it is the morally right thing to do. The Ordinance notion is about protecting the most vulnerable, protecting businesses and, supporting kids returning to school. Medical professionals are in support.

William Gessner is Chief of the Medical staff at Coos County Family Health. He said that the medical staff voted unanimously to support and the same is felt by practitioners. Dr. Fauci has expressed the value of the mask, social distancing, and hand washing. The consequences of not wearing a mask could be detrimental. The best option is to avoid getting it. Lethality is knocking at our door. Wear inside, walking through a crowd. He supports, acknowledging that it is troublesome for some. NH is the only

New England State that does not have statewide mandate though it is being considered in many communities.

Dr. Van Buren, Cardiologist at AVT spoke, not as an official member of community but he has spent ten years caring for the community. As health care providers, powers are limited and the Community needs to do its part. There is a need for patients to be in this together. It is disheartening to hear the disinformation here; mask wearing is settled science. The medical community needs help so that they can do the jobs necessary to care for all. This will not be forever and if we work together, we will get on the other side sooner. It's all we've got to protect each other and protect ourselves.

Liam Cooney, Glen Avenue stated that he recently moved here from the Seacoast partly because the virus was not so prevalent here and people's response was more moderated. Now the virus has spread here; however we can adjust our reaction to it. He is not opposed to people wearing masks; however he wants to keep his right to not wear a mask. The people in support have been medical; however we've not heard from citizens. He is not supporting reelection of anyone in support. There are cited facts that virus molecules are 1.3 microns and an N95 mask allows up to 3.5 microns to pass through.

Veronica Young, reasoned that she is not opposed to people wearing a mask. She does not think wearing a mask is effective. She doesn't believe anyone should be forced to wear it. My body, and if that be the case, why are we being forced to put something on our bodies. She moved from New York for the Live Free or Die. Use common sense and if people are concerned, then wear the mask. Should not be forced, very opposed.

Scott Fortier, Church Street, said that no one should be forced; they over-fear stuff. The virus is survivable by most people; there is no reason to force on everyone. Have no right to tell everyone how to protect themselves. This is all political; the virus was here.

Henry Noel, listening.

Spencer Fortier, commented that the City has no right telling people how to protect themselves. Masks do not protect you. Why are they doing this now, during a contested election; it seems a little late. It's unconstitutional. He believes there will be many law suits. Make a decision with logic and insight. He went on to say that something should be done for the elderly in nursing homes. How much money is the hospital getting? He said this is a power move by the Mayor and City Council. There is a 95 % survival rate.

Kelsey Ambre indicated that she's lived here for 4 years. She voiced strong support, adding that it is unfortunate that it has to be addressed because citizens are not wearing masks. It's not hard to wear a mask. We don't have a right not to wear; this is protecting public health. Widespread refusal is what has led to this. As cases rise, this is the logical route the city can take. If the Council doesn't act, there won't be an economy left to protect.

Chris Graham, Prospect Street said that he is in support of mask wearing. States and counties have exploded and seen numbers rise. He cares too much for people in the community, too much to not support. It is our duty to protect people.

Craig Melanson, Madison Avenue stated that he was born and raised in Berlin and knows the vibe of the community. He also works in the schools where the kids have been on an emotional roller coaster.

Our athletes have been in the finals and had state championships cancelled. He's seeing kids devastated, who want to play sports, and have stories to tell their kids. They are being robbed of it. The virus has taken longer to migrate up north. This is not about me, but about all of us, about all the kids and the need to do right by them. The ordinance is for 90 days. Kids need it and their parents need it. We need to pull together as a community. Moving everything inside, we need to protect each other. Do it for the children so kids can play in the State finals. Wear a mask.

Jim Jones determined that he is not for the mask wearing. This virus was paid for by Bill and Melinda Gates and sold to China for the lab. There have been a lot of financial gains. Don't try to make someone else wear it. We can't be forced; he would support a class action law suit where we all get together and we'll sue. Fauchi said that mask wearing is not necessary. This escaped from a level 4 bio lab and a homemade mask can't stop this thing.

Gina Welch spoke in support of the ordinance. Aside from the asinine comments in the meeting, she wants children in school and to get back, is to wear mask. This is not about infringement, we follow rules, some for you and some for others. This council has the support from local health officials. For City Councilors who choose to vote against, it is a blatant disregard for public health. She teaches in another district and 4 and 5 year olds wear masks. If children can wear masks to protect those around them, so can we. She is strongly in support. Follow science and medical professionals.

Mandy Bernd, works at the Millyard and knows many people. She pleaded to think about the impact this is having on others. She's hearing contention when we are just trying to look out for one another. As a human being, we should be showing care for another human being; doing something good for our common man. If it needs to be a mandate, then so be it. She is in full support to protect community.

Sean Marquis stated that he's sorry to see the community have to work through this issue. There is a fear of getting sick and fear of losing constitutional rights. There is a lack of social connection going into the holidays. People are dying of this. He told of a 15 year old with Covid encephalitis who had side effects to the brain causing mental health issues. Masks are not a silver bullet, but they are the best that we have. He expressed full support of the ordinance and appreciates work of first responders.

Sherri Goyette came out in favor of masks for all businesses. It's hard to lose customers and putting people at risk to keep a business afloat. It's a united thing for the entire community. The same businesses on the same playing field.

Justin Hale Collins Street, spoke in opposition adding that Covid is just going to happen. Hospitals have not been overwhelmed. The numbers are speaking about cases, not hospitalization. There is a false negative rate and there are alternatives available to us such as herd immunity. We don't have to wear seat belts and we have the lowest vehicular deaths. We are allowed to carry guns and we have low homicides. People take more risk for perceived less risk.

Mitchell Riedstra, Jasper Street commented that being overweight is a risk factor. Why are we not regulating; doesn't make sense. "Live free or die"; what gives the city the right? He opposes the ordinance.

Father Kyle said that he is not in favor of the ordinance. It will cause division in the community. We follow the guidelines from the governor, and CDC. He sees healthy people wearing dirty masks that need to be changed and washed. People who wear a mask tend to social distance less where those not

wearing one social distance. We need to be respectful of others. A mandate turns us against each other. We need to work to better educate and the ordinance will not educate very well. Promoting hand washing and social distance with a focus on education.

Christie Galloway commented on a very interesting meeting and she expressed strong support. It's a simple, basic thing to do to control the spread. She worried that the virus could seriously increase. This is a public health decision, where the information by medical professionals and medical science should be valued more than individual voices. She trusts the Council to look out for each other and to act in the best interest of the community.

Evan Arsenault First Avenue indicated that he gets the concept and he's all for respect and free choice. Don't know if this is the right thing because it's unclear if it will cause unity or division. It is putting a target on certain people. This is a similar concept to a seat belt law. With a survival rate of 99%, it's tough to discern if it will cause death in the community. It will bring division and not unity. Don't know if it's the best choice.

Kayla Lavoie, wanted to state support for mask wearing.

Lindsay Desanore, Spruce Street who said she is not against mask wearing. She works as a first responder and has seen situations. Covid is real, but it is being blown out of proportion. If masks are so effective, why can't kids go back to school. She praised the school district saying that the kids are on an emotional roller coaster. Kids should be able to go to school. With Covid spread, why are we allowing RI, NY, CT to ride in the ATV trails; are they going to have their masks? Wear a mask in public places. Kids will have stories of being stuck at home.

Matt Bowman As a business owner, with kids in Berlin middle high school, I'm in support for a local mask mandate. A mask is a minor inconvenience. A mask mandate can slow community spread, and help to keep businesses open. Our business requires masks for anyone entering the building: employees, vendors, and customers. Our employees have families to support. Many have children or extended family with weakened immune systems. If anyone within our "bubble" tests positive or has close contact incident, we will have to close our doors, which is very disruptive and costly for everyone. We're doing everything we can to protect our employees and their families, but need the support of our community

Megan Theberge, Gorham, said that we don't need an ordinance, just need to use common sense to get kids back to school. It's very difficult for them with sports and friends.

Alaina Huot, Wood Street, commented that Berlin has rebranded itself from the "City That Trees Built" to a recreational capital. We are welcoming skiers and snowmobilers, we want to recognize that the virus could have an effect. We want people to enjoy what we have to offer, and we want to be safe. Want to thrive in a safe way. She is 100% for the ordinance and concluded with "Be Safe".

Amanda Huginkiss (alias) Church Street noted that this is the common cold virus. It's overrated. Council should vote in conscience with the people tonight.

Kelsey Legendre, Cheshire Street spoke in favor of the mask ordinance. It is unfortunate that Facebook conspiracy theories took over the meeting but there is medical evidence and science. People are not

working together and it seems people need to be told what to do. We still want visitors but we want to be as safe as possible and we want kids back in school.

#### Trinity Gendron listening

Lauren Letourneau, Hemlock Lane is in favor of a mask ordinance. She spoke of a compromised immune system, heart and lung issues adding that if she catches this, it's a death sentence. We are required to wear pants and a shirt, or in some jobs, they have to wear steel toed shoes; how hard is it to wear a mask? Those who feel infringed and oppressed, she encouraged them to be a community and support each other. We are all in this together and the only way out is to take care and to do it together.

Jen Lamontagne, Jolbert Street questioned whether a mandate would cause division or bring people together. In #3 restaurants, if a mask needs to be worn when out for a walk, there is a need to address taking the mask off when seated at a table. The ordinance also speaks to children under 10 not needing a mask. All 6 of her kids would not wear a mask which does not make much sense. There is lots of division. A face covering is a soft permeable material; putting it across your face and doesn't work because it allows gases to come out. What are the consequences of not wearing a mask? She does not support.

Jarrod Woodard, Jasper St. said that just because the Government can, doesn't mean that it should. He has compassion, but politely asks that government not be a busy body. The public is smart enough to judge for themselves. Implementing would ask the police to be in the worse place. He added that he is more likely to go to businesses that do not ask for a mask.

#### Sarah Wedge listening

Holly Wilson, commented that it is concerning that many are not caring about people. They are philosophizing everything. Scientists don't know; the infection rate is rising due to more testing. If masks work, why are schools shut down now? How can you force when some cannot wear a mask due to health conditions? How could it be enforced?

Matt Buteau, High Street said that he could would defer to the medical community. He supports 100%. There will be long term emotional impacts on children. We need to rely on medical experts and on those who have expertise to offer guidance. There is not one thing that will stop the virus. Masks are one layer of protection. No matter how many layers, a lot of people are at risk. At risk of what? This is a new virus, whose long term impacts are not known; it may lay dormant in the body and we don't know how viruses will act in the body. We need to put protective layers in place so that 40 years down the road we won't be feeling the effects. He is definitely in support adding this is a good layer to put in place.

Fay Harris Mt Forist Street stated that she has two high risk children who have been wearing masks since the start. Her children love wearing their masks. She is fully in support of the ordinance.

Donald Jenkins, expressed that he is against the ordinance. There is too much information of masks being ineffective. Problems and diseases build infection in the lungs. There is 0 science; the virus gets through the mask.

There being no further public comments, Mayor Grenier closed the public hearing at 8:04 p.m.

### **Ordinance 2020-06 Mandatory Face Covering**

Mayor Grenier opened the discussion for the Council to discuss the comments for and against. Councilor Rozek indicated that he did not support from the beginning. He appreciates the passion and feelings from the people saying that it is very personal for everyone. He said that 90 days is too long, he proposed revisiting every two weeks. He wanted the City Manager to establish a matrix to follow to see if cases are rising or decreasing. He also proposed a resolution rather than an ordinance.

Councilor Remillard said she was pleased that people took part in the Public Hearing and she listened to everyone's comments. The Council has received emails and she's had calls from constituents with the majority saying that they want the ordinance. She is still convinced we need the ordinance and she does not want to revisit every 2 weeks.

Councilor Higbee agreed that two weeks is too short a time. He said that he kept track of the comments and came up with 24 in favor and 19 against; he discounted those who called two and three times. It is Governments' role to help protect the public. We don't have to listen to the most vocal and he's come to the conclusion that masks work to reduce the spread. The science is that the virus attaches to water droplets coming from the nose and mouth. He added that we need to pass and he is willing to talk about penalties. We need a unified approach to help each other.

Councilor Otis informed that he will not support. He believes this will create tension and anger. He is in the public every day and has extreme exposure. He's seen businesses be proactive and doing everything to prevent the spread.

Councilor Eastman said that he took notes and is impressed at how passionate both sides are. The school community, and health officials are in favor. He asked, where exposures are happening. He needs clarification on dining inside. Are you allowed to take the mask off if seated; it's not addressed in the ordinance. If outside, he doesn't see where you have to have a mask. If you're driving with your family, do you need mask? He cannot support, adding that 90 days is too much; 30 days is too much.

Councilor Berthiaume stated that having a mask outside is not clear enough. We could shorten to 60 days or the end of 2020 as a sunset. She will support with a clarification about wearing a mask outside.

Councilor Morgan reported that she has had several calls. Two were negative and several more advised to follow the guidelines. She agreed that 90 days is too long. She believes in the health professionals and that we have to wear a mask to save those that are vulnerable.

Councilor Theberge commented that we need to use common sense. We need to educate and furnish masks if we are going to move the ordinance forward.

Mayor Grenier said that has testified against motorcycle helmet laws and he is far from being a bleeding heart liberal. He has seen the unified basketball team, girls and boys hockey, field hockey, and cross country lose the opportunity to play in their championships due to this virus. Multiple businesses are closing permanently, because they can't get help. Our economy is getting crushed. He said that he is not a fan of government breathing down people's neck. It would be a disservice to pass the ordinance tonight.

We could do a Resolution supporting the items in the proposed ordinance with a sunset December 10. A Resolution is not binding but it will give us 30 days to see if the public is willing to work with us. There are people who will test our ability to enforce. He asked that we beg the public for voluntary participation. Whether it is a resolution or ordinance, we should be stressing compliance and we need the help of the community.

Councilor Rozek reiterated that this will be rolled into a resolution until December. He would support that it is common sense to wear a mask.

Councilor Remillard voiced that we need the ordinance now. Restaurants are happy that people are wearing masks; tables have to be 6 feet apart. Stores have put out signs but they have no enforcement. People have had the choice, and they're choosing not to. There is nothing in the ordinance that says you have to wear a mask when walking outside, or walking the dog. You're expected to have a mask in public with other people. We need enforcement and we need to do it now to get kids to school. We can't back out; it's time to take a stand.

Councilor Eastman asked for clarification saying that so many people are under the impression that you can't walk the dog or be in the car without a mask.

Councilor Berthiaume said that she would be in favor of taking another week to consider. Mayor Grenier summarized that we need clarification on when to wear a mask outdoors; the age limit should be 4 years instead of 10 years old to wear a mask. He added that we are not letting this go. If the Council ops for an ordinance, he will support for less than 90 days.

Councilor Higbee commented that he is willing to leave on the table and he feels the ordinance needs to have some teeth. We would be protecting businesses and working to get schools open.

Mr. Wheeler said that the mask would be required only if within 6 feet of other people. Councilor Rozek asked for recommendations from the Police Department on the resolution or ordinance. Councilor Eastman asked if this ordinance covers face shields and Mr. Wheeler confirmed that they are not covered. Councilor Higbee added that face shields are meant to protect the eyes and are supplemental to a face mask.

Councilor Remillard moved to adjourn; Councilor Higbee seconded and the motion carried unanimously by roll call. Adjournment was at 8:50 p.m.

Respectfully Submitted,  
Susan Tremblay  
Administrative Assistant

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City Council Work Session

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## **Route 110**

Mayor Grenier reported that he, City Manager Jim Wheeler, Community Development Director Pam Laflamme, and BIDPA Chair Mike Caron met with two developers on Rout 110 to discuss some of the issues. It was a good meeting and each came away with a better understanding of where we want to go. There are possibilities of using tax increment financing for utility installation to pay for water and sewer. There is also a potential for EDA funding, Northern Borders grant funding, tax credit programs funding, and we will look at all possibilities.

Once the developers have something specific in place, knowing how many will be employed, the City can apply to EDA and CDFA to help fund water and sewer lines. The developers were under the impression that the road would have to be within the urban compact to run the water and sewer infrastructure which would likely cost over \$1 million. The City would be in a much better position to help finance such a project once there is an identified development in place.

The group talked about other accesses on Route 110 that will be reviewed. They are keeping details vague for the sake of having a well thought out plan. He added that we don't want the developers to feel we are not doing enough. It is expected that there will be an announcement within 2 to 10 weeks.

Mayor Grenier stated that he will ask Beano Lamontagne to come to a meeting to explain how a TIF district works and how it benefits all parties. Councilor Rozek thanked the Mayor for getting involved.

Councilor Higbee moved with a second from Councilor Morgan to go into non-public session per RSA 91-A:3 II (d) Consideration of the acquisition, sale, or lease of real or personal property which, if discussed in public, would likely benefit a party or parties whose interests are adverse to those of the general community. So moved, the motion carried unanimously by roll call vote

Councilor Higbee moved to come out of non-public session; Councilor Morgan seconded and the motion carried unanimously by roll call.

## **Other**

Mr. Wheeler reported that the City received an e-mail from a representative of LL Bean's marketing group. They want to come to Berlin with the Bean Boot mobile unit and they have assured the City that they will follow all COVID guidelines. Their plan would contribute \$2500 to the city. There were no objections.

Councilor Rozek moved to adjourn; Councilor Higbee seconded and the motion carried unanimously by roll call. The meeting ended at 9:40 p.m.

Respectfully Submitted,  
Susan Tremblay  
Administrative Assistant

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