

City Council Work Session
November 26, 2018

Present were: Mayor Grenier, Councilors Theberge, Remillard, Higbee, Gentili, Morgan Allain, Berthiaume and Rozek; Councilor Otis was absent

Others present: City Manager Jim Wheeler, City Clerk Shelli Fortin, Police Chief Peter Morency, Deputy Chief Dan Buteau, Public Works Director Eric Grenier, Claire Stiles, School Superintendent Corinne Cascadden, Sheriff's Department ATV Liaison Wayne Saunders, Deputy Sheriff Keith Roberge, Barbara Tetreault, *Berlin Daily Sun*

Mayor Grenier opened the meeting at 6:35 p.m.

Mayor Grenier asked to add item #3 to the agenda saying that the City was served in a law suit today and he wanted to inform the Council. Councilor Rozek moved with a second from Councilor Theberge to add the item. So moved, the motion carried.

Coos County Sheriff's Department re: ATV Use

Mayor Grenier introduced Wayne Saunders to the Council stating that he worked for many years with NH Fish and Game and when he retired, he took a position with the Sheriff's Office as the officer in charge of ATV law enforcement and education. Officer Saunders indicated that there are different rules, and ordinances throughout the County. This meeting is to gather information for discussion that will possibly lead to rule changes. He asked how the riders can keep the different rules in perspective when law enforcement can barely keep it straight. The goal is to have consistent rules throughout the County.

Officer Saunders reported that the Sheriff's Department and Fish & Game can enforce State and County rules and laws; however they cannot enforce local ordinances. There are eight questions up for discussion that are being asked of all communities in Coos County; he distributed a list.

The first question has to do with the opening date of the Friday before Memorial Day instead of May 23. Officer Saunders stated that there are landowners who will not agree to May 23rd as the opening day and he questioned whether delaying opening day to the Friday before Memorial Day would be acceptable to other communities to provide consistency. Mayor Grenier confirmed that the City would lose a week of riding.

Hours of operation also differ among communities. Most towns follow the rule of no riding one half hour after sunset; for Berlin it is 10:00 p.m. Officer Saunders suggested for consistency, to have a 9:00 p.m. curfew. Mayor Grenier asked if there could be exceptions when there are festivals. Officer Saunders stated that the DOT would have to extend their permits beyond 9:00 p.m. He suggested that the City and towns ask in unison. Councilor Remillard asked about the statement on the handout regarding mandating directional lights on ATVs. Officer Saunders noted that directional lights would add safety and would make it more likely that the DOT would agree to extend a permit beyond 9:00 p.m. There are kits available that are not too expensive. Mayor Grenier commented that this is give and take and this may be a place where it's a price to pay for riding.

Posted speed limits on the town roads and state highways also differ throughout the County. ATVs are going too slow by riding at the posted speed limit in some situations. Berlin has ATVs ride with traffic and that seems to work best. There are several communities that cannot be convinced that a speed limit consistent with traffic is the way to go.

All auxiliary lights on an ATV must be extinguished when meeting oncoming traffic. There are ATVs that have high intensity light bars that are blinding to traffic. Councilor Nelson stated that she agrees with limits on the light bars but would not agree to extinguish the lighted “whips”. Deputy Sheriff Roberge stated that the red and blue whips may need to be limited because they cause problems when they are mistaken for emergency lights. The rule may need to be “no display of red or blue” during festivals.

Current law allows open containers of alcohol while the ATV is in motion. It is proposed that there would be no open containers while the vehicle is in motion.

The age of operations on city roads is also different in communities in Coos County. Chief Morency stated that changing the City’s ordinance to increase the age to supervise a minor to 21 has reduced problems by 25% and makes a big difference. Officer Saunders noted that several towns have adopted the same ordinance as the City and he expects that Pittsburg will adopt it next year. The opposition says it will hurt tourism. Mayor Grenier stated that tourists and recreational users love the fact that they can use the roads; they are not typically the ones creating the problems. Those who are creating the problems have to be dealt with. He asked if there is a way to keep track of multiple offenders. Officer Saunders indicated that there is a fish and game data base; however it is not available 24 hours per day. Councilor Morgan Allain asked if offences affect a driver’s motor vehicle license and Officer Saunders replied that they do not affect a driver’s license or motor vehicle or insurance. Councilor Remillard confirmed that an officer has the option to write a ticket under OHRV rules or motor vehicle laws.

Deputy Chief Roberge noted that 65% of a fine goes back to the community. Councilor Nelson asked if other agencies are writing tickets, would the proceeds go to another agency and if so are we missing something. Chief Morency stated that when city ordinances are involved, it is only local law enforcement that has the authority. The Sheriff and Fish & Game are in the trails and law enforcement works best when all the resources come to the events and work together.

Another consideration is to increase fines. The major offences are no registration and no landowner permission. If the fines are too high or if the offence affects an operator’s license we would likely see more trials that law enforcement is not prepared to handle. There has to be a balance.

Mayor Grenier confirmed that if someone is operating an OHRV or snowmobile illegally on someone’s land and the operator is injured, the landowner is indemnified. Councilor Rozek commented that statistically with thousands of ATVs and OHRVs here, there have been very few accidents. Officer Saunders noted that when there are large groups, people tend to drive more defensively and accidents are generally reduced. The time leading to or following a festival usually sees more accidents due to alcohol, and speed. Councilor Nelson added that driver inexperience in rentals is also a problem.

Councilor Theberge asked if noise will be addressed. Officer Saunders reported that snowmobiles have to have a stamp on the muffler that verifies the decibels of noise are acceptable. ATVs do not have that rule. After market exhausts and knobby tires are noisy. Mayor Grenier thanked the Sheriff's office for their efforts in the field. Deputy Chief Roberge stated that every community in Coos County is being contacted and there are similar comments from all. Deputy Chief Roberge and Officer Saunders left the meeting at this time.

Snow Policy

Public Works Director Eric Grenier reasoned that his goal is to solicit feedback and review generic modifications to the snow policy moving forward. He has clarified the level of service in the policy and how we do things to remove snow. PWD responds with 3 to 5 inches of accumulation and it takes 4 hours to complete a plow route. If it is snowing an inch an hour, there will be several inches of snow on the pavement before the plow comes around again. During work hours, the foremen make the call to go out and plow. During non-work hours, the Police Department will call the on call foreman. Some authority has also been given to the on call foreman to dispatch off hours as they are periodically checking the conditions. Schools and downtown are the top priorities, then steeper grades, flat and moderate grade streets are last.

Mr. Grenier said that he would like to do an audit of sand and salt barrels. He will continue to update the policy and will issue the final policy at a future meeting.

Councilor Theberge asked about salt and sand before plowing. Mr. Grenier explained that salt is laid on the road before plowing to create a sluice so that snow does not stick to the roadway. If snow sticks to pavement, we then have to go out and salt. If the Council wants to have a policy where PWD react quicker, we would have to budget accordingly. Councilor Theberge stated that Main and Pleasant Streets were done very well during the last storm.

Councilor Higbee voiced that he prefers a policy that allows for flexibility depending on the forecast. Mr. Grenier noted that the on call foreman has the ability to adapt. He added that he's reached out to the winter maintenance specialist at NHDOT to see how they approach a snow event. There are ways to augment salt; we can spray salt so that it activates faster.

Councilor Morgan Allain asked about residents plowing snow where they are not supposed to. Mr. Wheeler stated that they are supposed to windrow the snow or store on their own property. Chief Morency said that ultimately the homeowners are responsible for the placement of their snow and they would be fined if it's not done properly. Mr. Wheeler added they would have to take care of their snow themselves by paying someone to remove it or removing it themselves.

Mayor Grenier asked about a plow truck and sander that could plow and sand at the same time. Mr. Grenier stated that there are seven loaders for snow removal. There are some operational inefficiencies when a loader has to come off the streets to load salt trucks. Councilor Rozek mentioned emission control systems and refurbishing our equipment so that we don't have to deal with Tier 4 systems.

Councilor Higbee asked about having an ordinance that would require people to shovel sidewalks in front of their buildings. Mayor Grenier informed that he received a valid complaint about removing snow at Brown School. These are the youngest children and the snow banks need to be cleaned around the school.

Mayor Grenier reported that on December 10 there will be a presentation of proposed snow melt system for downtown. He stated that snow removal on Main Street costs \$110,000 which could be spent on something else if such a system were to work. It would be an opportunity to have new streets and sidewalks as well as subsurface utilities in the downtown

Other

Mayor Grenier informed the Council that the City was served in a law suit today. The suit is in regard to the execution of a search warrant in 2015 on a building on Main Street that belongs to Dick Poulin. Chief Morency explained that there were a lot of issues with the address. The PD applied for a search warrant for a dangerous situation and went by a threat assessment. Mayor Grenier called for a vote of confidence for the PD from the Council. This was a problem building and it took time to build a case to arrest the individuals inside. There were drugs and there was a solid case where the perpetrators were found guilty.

Mayor Grenier added that the Council supports the police department and encourages Primex and the City Attorney not to settle out of court so that it sends a clear message. Councilor Rozek so moved; Councilor Morgan Allain seconded. Councilor Higbee confirmed that Primex will cover the cost of defense. Councilor Morgan Allain affirmed that the City will not likely get compensation when we win this case.

In the vote that followed, all voted in favor with the exception of Councilor Gentili who abstained because he participated in the event.

Adjournment

Councilor Rozek moved with a second from Councilor Morgan Allain to adjourn. So moved, the motion carried. The meeting ended at 8:10 p.m.

Respectfully Submitted,
Susan Tremblay
Administrative Assistant

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