City of Berlin

Memo

To: Berlin City Council
From: Jim Wheeler, City Manager
Date: 04-16-2018
Re: City Manager's Report

1. The property transaction between the BAA and Mr. Bob Chapman closed on April 6, 2018.

2. The workshop on "Effective Public Meetings and the Right to Know" was well attended by Board members and staff. I have attached a "Guide to NHMA Legal Services" that provides a good overview of the services available.

3. Elaine Riendeau registered 86 dogs in three hours at the Saturday April 7, RABIES CLINIC at the Recreation Center. We thank Elaine and Helen Poirier who gave up their afternoon for this service to dog owners.

4. Memolo General Contracting completed a repair of the Mason St. City Hall steps. There is cleaning work that remains to be done of these steps as well as repair and cleaning work on the Main St. steps.

5. If there is a law affecting municipal government that you think needs to be changed, or if you have an idea for how the functions of local government might be improved through legislation, there is an opportunity to make a change through NHMA's legislative policy process. The deadline to submit is April 20th.

6. Attached is an invitation from Corinne Cascadden to hear a presentation of the Grade Reorganization Study by the NH School Administrators Association to be held at the BHS Library on Thursday, April 19th, at 6:15 p.m.

7. The AVRRDD is applying to the NHDES for a modification that would add landfill capacity at the Mt. Carberry Landfill. We were notified of a public hearing Tuesday, May 8th, 2018 at 6:00 p.m. at City Hall. The notice is attached.

8. The Public Works Department Report is attached.

168 Main Street
Berlin, NH 03570
603-752-7532
www.berlinnh.gov

Legal Q AND A

By Stephen C. Buckley, Legal Services Counsel with the New Hampshire Municipal Association

Guide to NHMA Legal Services – An FAQ

The New Hampshire Municipal Association's Legal Services Department employs two (2) lawyers: Legal Services Counsel Stephen C. Buckley and Staff Attorney II Margaret M. L. Byrnes. The main job of the Legal Services Department is giving general legal assistance to NHMA's member towns, cities, and village districts. We prepare articles, handbooks, seminars, and other educational programs and publications. We will also answer your specific legal inquiries. ***But there are limits.*** After **all,** we aren't your regular lawyers, and our services are always more in demand than supply (same as municipal services are!). The purpose of this "Guide" is to make clear what we ***can*** do for you, versus what we ***can't.***

Q: When can I call and speak to an NHMA lawyer and get legal advice?

A: Our goal is to have a lawyer on telephone duty at 1-800-852-3358 each business day between 8:30 and 4:30. But there are unavoidable exceptions, such as when we are both presenting workshops or other speaking engagements. And often you won't be put through immediately to a lawyer, because s/he is already on the phone, or researching earlier inquiries. We will make every effort to return calls the same or following day, ***but you must*** leave a return telephone number. ***We recommend that you do not call just before a deadline, such as a meeting or hearing.***

Q: Will I always be able to immediately speak to someone about my legal question?

A: If we aren't immediately available, our receptionist (a real, live, caring human being) will give you the option of leaving a voice mail message for us, briefly describing your inquiry. Hearing your question directly helps us give a better answer when we return the call. Be sure to tell us your municipality and what position you hold there, ***and be sure to leave your telephone number.***

Q: Can I submit my legal inquiry via email or regular mail?

A: We are also glad to answer your ***written*** inquiries in writing, whether by regular mail or by email, and we try to do so in a timely fashion. Email inquiries should be sent to legalinquiries@nhmunicipal.org. Written inquiries can be mailed to NHMA-Legal Services at 25 Triangle Park Drive, Concord, NH, 03301. ***We answer these in the order received, and response time depends on our volume of work.*** However, with 232 communities to work for, and with publication deadlines to meet, we can't promise any firm response time. We do our best, but if you have a quick deadline for a written response, it's probably better to contact your municipality's regular legal counsel.

Q: Are there any limitations on the subject matters we make ask about?

A: We play our best role as NHMA lawyers when we're answering questions of general municipal law—issues of interest to more than just a few communities—especially questions which can be answered by reference to state statutes or court opinions. If an answer hinges on complex local facts, documents, or the peculiarities of local ordinances or charters, we may well recommend that you contact your regular legal counsel. NHMA's legal services do not include such matters as comprehensive legal review of contracts or other documents, drafting individualized ordinances or charters, or complete review of specific applications before local boards. We can, of course, answer specific generic questions you may have about any of these matters. But we do not directly represent municipalities in court, or negotiate on your behalf with third parties.

Q: Will NHMA provide its opinion about the meaning of language in our local ordinances?

A: We are often asked: "What does word X mean, as it appears in our ordinance?" Although we can offer suggestions, we can't give definitive interpretations of terms in an ordinance because that meaning often hinges on the context and his-

tory of the ordinance as a whole. Also, courts give some deference to local administrative interpretations. A lawyer's interpretation gets no such deference.

Q: Can NHMA provide technical assistance with zoning and planning questions?

A: For technical assistance with developing zoning ordinances, subdivision, site plan, and other land use regulations, the first place to go is your regional planning commission or the State Office of Energy and Planning. But there's no hard line between "technical" and "legal" assistance. A substantial number of our inquiries come from the land use field, so don't hesitate to call.

Q: Does NHMA assist with appeals to the NH Supreme Court?

A: Although we don't file lawsuits, we do assist members with appeals to the New Hampshire Supreme Court by submitting an *amicus curiae* ("friend of the court") brief on a municipality's behalf. If you have a case involving an issue of municipal law which has statewide significance, and you think the Court ought to have our input, please let us know.

Q: Are there ethical limitations and rules that govern the legal advice provided by NHMA?

A: This is a question addressed constantly by us and our colleagues in other states, other New Hampshire municipal lawyers, and local officials themselves. In 1995, we asked the Ethics Committee of the New Hampshire Bar Association for a formal opinion. The rest of this Guide is grounded in that opinion, most of which reaffirmed our prior practice.

Q: When NHMA provides legal advice, who is the client?

A: First and foremost, when one of us in the Legal Services Department is answering an inquiry from a local official, our client is ***the municipality as a corporate entity.*** The client isn't you personally, or even you in your official capacity. Nor is it NHMA itself, as an organization. This fact has some crucial ethical consequences, explained further below.

Q: Who from our municipality can utilize NHMAs' Legal Services?

A: It would be a clearly unethical conflict of interest for us to give opinions on municipal law to private citizens (including newspaper reporters). Likewise, even if you are a public official, we can only advise you on matters ***on which you represent your town or city,*** and not on your own private concerns, or on the duties of other officials. Unless otherwise instructed by the local governing body, we will answer inquiries from all local officials, including board or committee members, who call about ***issues within their own official responsibilities.*** For instance, we would decline to answer an inquiry from a Budget Committee member who was asking about a subdivision approval granted by the Planning Board. Please don't give our toll-free number to private citizens, since we must refuse to answer them. It's awkward, and ties up time otherwise available to municipal officials.

Q: Is the advice I am provided confidential?

A: Since our lawyer/client relationship is with your municipality, not the caller personally, the right to keep legal advice confidential also belongs to the town or city, and not the caller. This means that, while we don't share that advice with the public, we ***will*** share it with other affected officials. In fact, since telephone advice is, by its very nature, subject to misunderstanding, we are always glad to explain to one member of a board or body the advice we gave another member. We will also provide copies of any written opinions to the governing body, manager, administrator, or legal counsel, if requested.

Q: I am embroiled in a dispute with other local officials, will NHMA assist me?

A: If it comes out in the course of a call that we're being asked to resolve a "local dispute" between differing officials, we cannot ethically take sides, and we may ask that the inquiry be put in writing so that we're responding to all sides jointly. Lastly, we can't advise one NHMA member community on a matter involving a dispute with another community, since that would also be a clear conflict of interest.

Q: What is municipal legal advice?

A: Please don't think we're being evasive if we can't give you "a simple yes-or-no answer." Legal advice demands give-and-take on the facts. Our job is only to try to predict what a court might say in a specific case. Judges are ***never*** 100% predictable, and the law's often unclear. But even beyond that, governmental actions have moral and political dimensions that transcend any legal fallout, and those are issues ***you*** must weigh. We'll help evaluate legal risks. But it's you, not we, who were chosen by your community to make the final decision.

This Guide isn't meant to discourage you. On the contrary, we hope understanding the scope of our legal services will help you make better use of them. When in doubt, don't hesitate to call. You are also welcome to come see us at our offices at 25 Triangle Park Drive in Concord. Please call in advance and make an appointment so that a lawyer will be prepared to meet with you. We are also happy to come to your city or town to speak with boards on general legal matters, if we have enough advanced notice, and can pick a good time.

Stephen C. Buckley is Legal Services Counsel with the New Hampshire Municipal Association. He may be reached at 800.852.3358 ext. 3408 or at legalinquiries@nhmunicipal.org.

Berlin Public Schools
183 Hillside Avenue, Berlin, NH 03570
Telephone: 603/752-6500; FAX: 603/752-2528

Climbing to achieve academic excellence for college and career readiness for all students.

MEMO

To: Mayor and City Council
From: Corinne Cascadden
Date: April 13, 2018
Re: NHSAA Grade Reorganization Study

You are all invited to hear the presentation of the Grade Reorganization Study by NH School Administrators Association. Consultants Carl Ladd, Keith Burke, and Dick Ayers will summarize their findings of the feasibility and space needs for our K-12 school programs.

The report will be presented at a regular School Board Meeting.

Thursday, April 19, 2018
6:15 p.m.
Berlin High School Library

Androscoggin Valley
Regional Refuse Disposal District

March 29, 2018

City Manager
City Hall, 168 Main St.
Berlin, NH 03570

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

RE: **Androscoggin Valley Regional Refuse Disposal District,**
Mt. Carberry Secure Landfill (DES-SW-88-029)
NHDES Waste Management Division, Permitting & Design Review Section
Type I-A Permit Modification Application Stage 12 Landfill Expansion
Notice to Abutters for Public Hearing – Rescheduled Public Hearing Date

Dear City Manager,

The Androscoggin Valley Regional Refuse Disposal District (AVRRDD or the District) is in the application process for a New Hampshire Department of Environmental Services (NHDES) Solid Waste Type I-A permit modification that would provide for additional landfill capacity in a vertical expansion of the Mt. Carberry Secure Landfill. The permit application, titled the Stage 12 Landfill Expansion, was originally dated and submitted to NHDES on October 24, 2016, and determined complete by NHDES on December 6, 2017. Pursuant to Env-SW 304.08, a public hearing is required as part of the application process and the applicant is required to provide a copy of the public hearing notice to all abutters by certified mail. Due to inclement weather, the previous Stage 12 public hearing scheduled for March 14, 2018, was postponed.

Our records indicate you own land abutting the landfill site. This letter serves as notice of a public hearing to abutters. The enclosed NHDES Notice of Public Hearing includes the rescheduled date, time, and location of the Stage 12 Landfill Expansion public hearing. For additional information, please contact Paul Gildersleeve, P.E., Waste Management Division, NHDES, at (603) 271-2935 or myself at (603) 752-3342. Additionally, any individuals needing assistance or auxiliary communication equipment due to sensory impairment or other disability should contact Paul Gildersleeve, P.E., at the phone number above.

Also enclosed is a flow chart for a NHDES Solid Waste Standard Permit application, which is substantially the same as the process for a Type I-A permit modification.

Sincerely,

Androscoggin Valley Regional Refuse Disposal District

Sharon Gauthier

Sharon Gauthier
Executive Director

Enclosure: NHDES Notice of Pubic Hearing
NHDES Application Flow Chart

cc w/o enc: Paul Gildersleeve, P.E., NHDES
Paul Schmidt, P.E. CMA Engineers

PO Box 336, 3 Twelfth Street
Berlin, NH 03570
Tel. (603) 752-3342

PRINTED ON RECYCLED PAPER

NEW HAMPSHIRE DEPARTMENT OF Environmental Services

NOTICE OF PUBLIC HEARING
ON
PERMIT APPLICATION FOR A SOLID WASTE LANDFILL

MT. CARBERRY SECURE LANDFILL
PERMIT #DES-SW-88-029
BEAN BROOK ROAD, SUCCESS, NH

The New Hampshire Department of Environmental Services, Waste Management Division (NHDES) has received a Type I-A Permit Modification Application, pursuant to RSA 149-M:9, from Androscoggin Valley Regional Refuse Disposal District (AVRRDD), 3 Twelfth Street, PO Box 336, Berlin, NH 03570, to vertically expand the Mt. Carberry Secure Landfill by adding Stage 12 on top of the existing Phases 1 and 2. Proposed Stage 12 would add about 710,000 cubic yards of capacity on top of the existing landfill to extend the facility's life expectancy by about 2.3 years to 2025. An expansion of the landfill footprint is not proposed.

Pursuant to RSA 149-M:9 and Solid Waste Administrative Rule Env-Sw 304.08, a public hearing to receive testimony on this permit application will be held at the Berlin City Hall Auditorium, 168 Main Street, Berlin, NH on Tuesday, May 8, 2018 at 6 PM. In the event of bad weather, please call (603) 271-2925 for further information.

The permit application is available for public review during regular business hours at the AVRRDD Office, 3 Twelfth Street, Berlin, NH and at the NHDES' office at 29 Hazen Drive, Concord, NH. The application is also available electronically on NHDES' OneStop website at https://www.des.nh.gov/onestop.

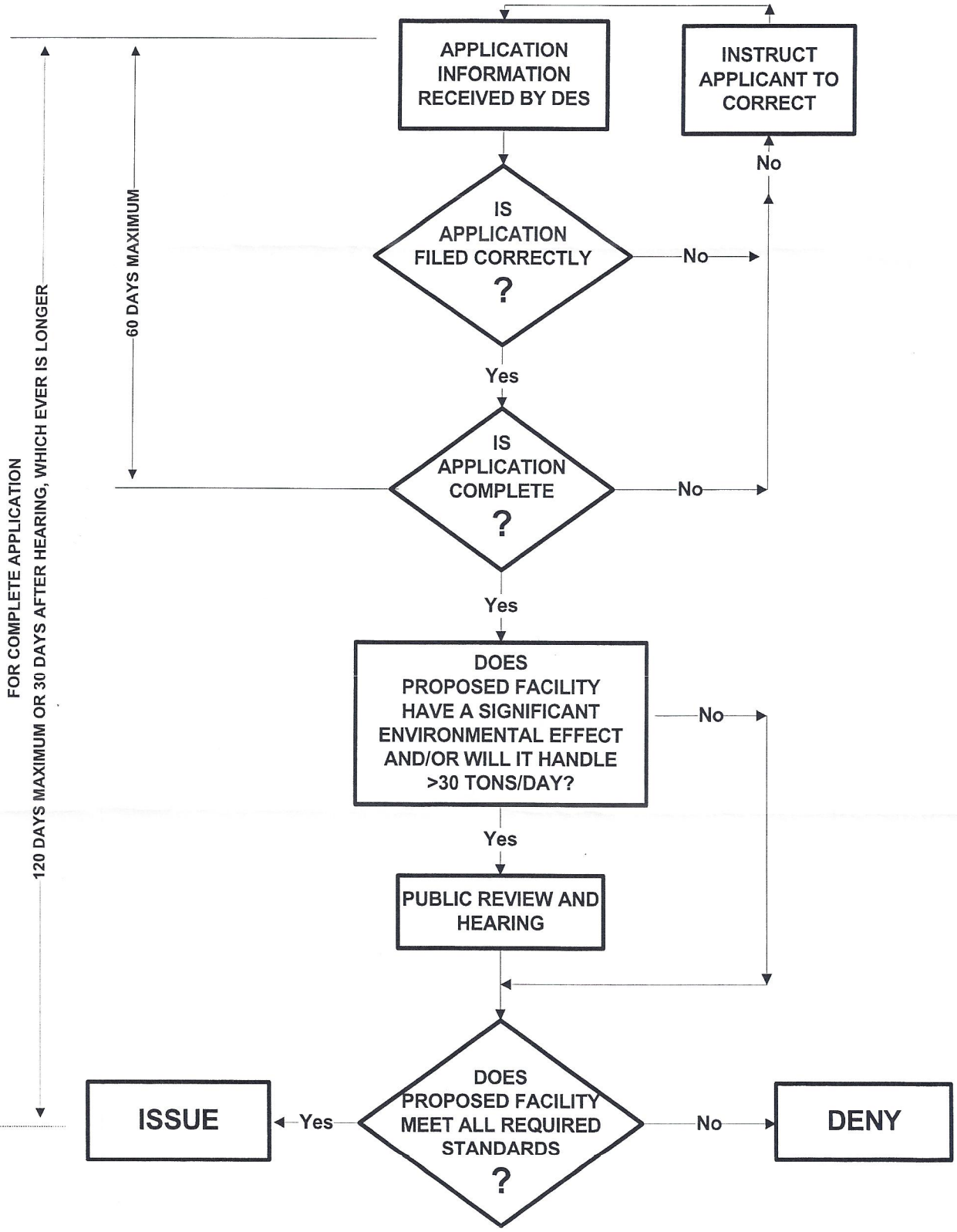
Testimony may be submitted in writing to NHDES at any time before close of the public hearing period, which is May 15, 2018 at 4:00 pm, in lieu of attending and/or providing oral testimony at the public hearing. This testimony must be submitted using either the NHDES' mail address below or by email at solidwasteinfo@des.nh.gov to be officially included as public record. Comments sent to other addresses will not be included in the public record.

For additional information, please contact Paul Gildersleeve, P.E. at (603) 271-2935, or mail to the NH Department of Environmental Services, Waste Management Division, Solid Waste Management Bureau, 29 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095.

Any individuals needing assistance or auxiliary communication equipment due to sensory impairment or other disability should contact Paul Gildersleeve, P.E., Waste Management Division, NHDES, 29 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095. TDD Access: relay NH1-800-735-2964; FAX (603) 271-2456. Notification for assistance must be made no later than 4:00 PM, April 24, 2018.

NEW HAMPSHIRE DEPARTMENT OF Environmental Services

STANDARD PERMIT APPLICATION PROCESSING PROVISIONS AS PROVIDED IN PARTS Env-Sw 303 - 305 OF THE *NEW HAMPSHIRE SOLID WASTE RULES*



City of Berlin Public Works Deparment
2018 Activity Report

	Year 2016	Year 2017	Year to Date 2018	Jan 2018	Feb 2018	Mar 2018	Apr 2018	May 2018	Jun 2018	July 2018	Aug 2018	Sept 2018	Oct 2018	Nov 2018	Dec 2018
Total Service Requests/Work Orders	*895*	937	**315**	170	71	74									
Administrative	*82*	60	**12**	6	3	3									
Cemetary burials	*15*	17	**5**	3	2	0									
Maintenance:Bldg/Furniture repair, Fences/Railings/Walls, Lawns/Trees, Signs	*221*	129	**35**	11	8	16									
Parks and Grounds	*79*	101	**14**	4	6	4									
Refuse/Recycle/Yard Waste	*62*	53	**15**	3	2	10									
Sanitary Sewer	*108*	86	**17**	5	6	6									
Storm Drainage System	*91*	80	**38**	23	13	2									
Streets and Highways: Repairs of curbs/sidewalks/streets, line painting, sweeping, sanding, sand barrels, paving and potholes	*237*	411	**179**	115	31	33									
City Owned Property Service Requests															
City Hall	*64*	53	**12**	3	4	5									
Recreation Dept.	*18*	20	**9**	2	5	2									
Library	*9*	9	**3**	1	2	0									
Fire Dept.	*7*	9	**1**	1	0	0									
Schools	*7*	8	**1**	1	0	0									
Parks/Fields/Other City owned	*68*	76	**6**	4	0	2									