

City Council Minutes  
August 14, 2012

Regular Meeting  
City Hall Council Chambers

Tuesday, August 14, 2012  
6:00 p.m.

The regular meeting was called to order by Chairman Jerry Goss.  
The city clerk called the roll:

|                     |   |         |                   |   |         |
|---------------------|---|---------|-------------------|---|---------|
| Councilor Ferris    | - | present | Councilor Doughty | - | present |
| Councilor Verow     | - | present | Chairman Goss     | - | present |
| Councilor O'Connell | - | present |                   |   |         |

Chairman Goss declared a quorum present. City Manager Bost and City Solicitor Dearborn were also present.

Chairman Goss led members of the council and others present in reciting the pledge of allegiance to the flag of the United States of America.

Chairman Goss read the notice for the regular meeting.

TO: Joseph Ferris, Larry Doughty, Arthur Verow, Jerry Goss and Kevin O'Connell  
MEMBERS OF THE BREWER CITY COUNCIL You are hereby notified a regular meeting of the City Council will be held on Tuesday, August 14, 2012 at 6:00 p.m. in the Council Chambers at Brewer City Hall to consider and act on the items on the attached agenda.

s/Jerry Goss  
Mayor and Chairman of the City Council

or \_\_\_\_\_  
Majority of the City Council

a true copy, attest: s/Howard F. Kroll  
City Clerk

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OFFICER'S RETURN

I have on the date(s) and time(s) indicated given notice of this meeting by giving in hand or by leaving at the usual dwelling place of the within named an attested copy of this notice of meeting:

| Given/Delivered to: | by (person delivering) | Title | Date     | Time |
|---------------------|------------------------|-------|----------|------|
| Joseph Ferris       | H. Kroll               | CC    | 08/10/12 | 1600 |
| Larry T. Doughty    | R. Hersey              |       | 08/10/12 | 1645 |
| Arthur Verow        | H. Kroll               | CC    | 08/11/12 | 1700 |
| Jerry Goss          | R. Hersey              |       | 08/10/12 | 1648 |
| Kevin O'Connell     | H. Kroll               |       | 08/10/12 | 1600 |

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**CITY COUNCIL REGULAR MEETING**  
**Tuesday, August 14, 2012 6:00 P.M.**  
**Brewer City Hall Council Chambers**

- I. Call to Order.** (Mayor Jerry Goss)
- II. Roll Call.** (City Clerk)
- III. Pledge of Allegiance to the Flag of the United States of America.**  
(Mayor Goss)
- A. Minutes of July 24, 2012 Regular Meeting.** (Councilor Verow)
- B. Awards, Petitions and Public Comments.**
  - 1. (2012-B040) RESOLVE, Recognize the Parks and Recreation Department for Service to the Citizens of the City of Brewer. (Councilor O'Connell)
  - 2. Public Comments.
- C. Consent Calendar.**
  - 1. (2012-A162) ORDER, Accept Donations to the Brewer Parks and Recreation Department for the Annual Brewer Days Celebration. ( Councilor Ferris)
  - 2. (2012-A163) ORDER, Accept Donation to the Brewer Parks and Recreation Department for the Fall Program/Leagues. (Councilor Doughty)
  - 3. (2012-A164) ORDER, Issue Municipal Release Deed to Stillwater Avenue LLC Successor of Walter C. Schultz and Carolyn M. Schultz, 765 No. Main Street. (Councilor Verow)
  - 4. (2012-A165) ORDER, Authorize Bond Counsel for FY2013. (Councilor O'Connell)
  - 5. (2012-A166) ORDER, Authorize the Conveyance of the Former Capri Street School Property to Brewer Redevelopment, LLC. (Councilor Ferris)
  - 6. (2012-A167) ORDER, Amend City Council Order 2012-A156, Passed at the City Council's July 24, 2012 Meeting. (Councilor Doughty)
  - 7. (2012-A168) ORDER, Award Annual Street Resurfacing Contract. (Councilor Verow)
  - 8. (2012-A169) ORDER, Authorize Funds for the Upgrade of the Brewer Munis Server. (Councilor O'Connell)
  - 9. (2012-A170) ORDER, Dedication and Acceptance of an Extension of Center Street Pursuant to Title 23, M.R.S.A. § 3025. (Councilor Ferris)
  - 10. (2012-A171) ORDER, Award Contract to Update the City of Brewer Comprehensive Plan and to Complete an Ordinance Review. (Councilor Doughty)

11. (2012-B041) RESOLVE, Ratify the Collective Bargaining Contract Between the City and the Employees of the Water Pollution Control Facility. (Councilor Verow)
12. (2012-B042) RESOLVE, Ratify the Collective Bargaining Contract Between the City and the Employees of the Public Works Department. (Councilor O'Connell)

**D. Monthly Reports.** (Councilor Verow)

**E. Nominations, Appointments, Elections.**

1. (2012-A172) ORDER, Issue Warrant for September 18, 2012 City of Brewer Special Referendum Election. (Councilor Ferris)
2. (2012-A173) ORDER, Reappoint Animal Control Officer. (Councilor O'Connell)
3. (2012-B043) RESOLVE, Prescribe Registrar of Voters Hourly Schedule for the September 18, 2012 Special City of Brewer Special Referendum Election. (Councilor Verow)

**F. Unfinished Business.**

1. (2012-C012) Amend Chapter 31, Entitled Sewer and Pre-Treatment Ordinance, Article 12 "Schedule of Sewer Rates", Section 1200 of the Charter Codes and Ordinances of the City of Brewer. (Councilor Ferris)(posted 07/25/12)

**G. New Business.**

1. (2012-C013) Amend Chapter 10, Entitled "The Police Department", Article 1, The Police Department, of the Charter, Codes and Ordinances of the City of Brewer by Amending by Substitution Section 101 and Adding Sections 101.1 and 101.2. (Councilor Verow)
2. (2012-C014) Amend Chapter 9, Entitled "Fire Prevention", Article 1, The Fire Department, of the Charter, Codes and Ordinances of the City of Brewer by Amending by Substitution Section 101 and Adding Sections 101.1 and 101.2. (Councilor Ferris)
3. (2012-C015) Amend Land Use Code, Chapter 24, Article 3 Zoning Districts, Section 306.5, Schedule of Uses to Allow Churches in the Convenience Business Zoning District. (Councilor O'Connell)
4. (2012-C016) Amend Chapter 1, Entitled "The City Council", Article 3, Rules of Order, Section 350.1 of the Charter, Codes and Ordinances of the City of Brewer. (Councilor Doughty)
5. (2012-A175) ORDER, Convene in Executive Session Pursuant To Title 1, M.R.S.A. § 405(6)(E) on a Legal Matter. (Councilor Ferris)

**H. New Items with Leave of Council.**

**I. ADJOURN.**

**A. Minutes of July 24, 2012 Regular Meeting.**

**ACTION:** Councilor Verow moved that the minutes be accepted and placed on file. The motion was seconded and passed by unanimous vote.

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**B. Awards, Petitions and Public Comments.**

2012-B040

August 14, 2012

**TITLE: RESOLVE, RECOGNIZE THE PARKS & RECREATION DEPARTMENT FOR SERVICE TO THE CITIZENS OF THE CITY OF BREWER.**

filed August 8, 2012  
by Kevin O'Connell

WHEREAS, the Parks & Recreation Department, a full time department of the City of Brewer, since 1968; and

WHEREAS, the staff of the department has diligently served the citizens of Brewer by seeking to provide quality recreational programs, parks, facilities and a variety of enrichment opportunities with a professional standard of excellence that enhances the quality of life for all citizens and visitors to our community; and

WHEREAS, the department has grown over the years from a summer playground program to over 90 programs offered year round in the auditorium, school buildings, parks, and numerous outdoor facilities; and

WHEREAS, the department staff looks forward to continuing the tradition of excellence in offering the best programming possible; maintaining and developing parks and facilities to meet growing demands; and to be a regional leader in the parks & recreation profession;

NOW, THEREFORE, BE IT RESOLVED, that the Brewer City Council, on behalf of the Citizens of Brewer herewith recognizes and commends the Brewer Parks & Recreation Department and its staff for outstanding and dedicated service to the Citizens of the City of Brewer.

**ACTION:** Councilor O'Connell moved that the resolve be adopted. The motion was seconded and passed.

Chairman Goss read the resolve into the record.

Chairman Goss presented Ken Hanscom, Director of Parks and Recreation with a plaque containing a framed attested copy of the resolve.

The resolve was adopted by unanimous vote.

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**PUBLIC COMMENTS.**

Councilor Verow mentioned that Ray Goody passed away. He was a former Councilor and was an outstanding Mayor.

Rich McCarthy, Assistant Fire Marshal of the State of Maine, was present to answer questions about fireworks.

Councilor Ferris asked about consumer items that could be used.

Mr. McCarthy- when this was brought up- it was following NH rules, most of the items (missile types with a guidance system were not allowed) but cakes that contain 200 gm of gun powder is allowed.

Councilor O'Connell- can the two public safety chiefs update us on any incidences since the July meeting?

Fire Chief- no incidences.

Police Chief- no incidences since July meeting.

Councilor Verow made a motion that the letter from Sandra Haley be accepted and placed on file. The motion seconded and passed by unanimous vote to accept the letter from Sandra Haley.

14 August 2012

Brewer City Council

Chairman

Subject: Open letter Re: Use of Fireworks

Honorable Brewer Councilors:

As a tiny business proprietor in the City of Brewer I respectfully request the Council readdress the regulations for private use of fireworks.

The use of fireworks once was reserved for special observances at community events. For example, annual Fourth of July celebrations are anticipated with eagerness to view the spectacular fireworks.

Recently guests at the Fiddlehead Vegetarian Bed & Breakfast captured the message I want to express to the Councilors.

On August 8, 2012, Kathlyn and Joan from Portland, Maine said, "Thank you for the great rest, good food and gracious hospitality."

Please note, their first priority is a great rest. I believe guests will choose to lodge in Brewer when offered a peaceful and restful experience.

Thank you for your time and consideration of my request.

Sincerely yours,

Saundra Haley  
Innkeeper

Councilor O'Connell said he wants to keep the Fireworks Ordinance the way it is.

Councilor Doughty agrees, maybe the times could be amended.

Chairman Goss said Jody will be bringing something in September for Council to consider.  
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**C. Consent Calendar.**

**ACTION:** Councilor Doughty removed order 2012-A166.  
Councilor Verow removed order 2012-A171.

Councilor Verow moved that the remaining orders on the consent calendar have passage and the resolves be adopted. The motion was seconded and passed by unanimous vote.

2012-A162

August 14, 2012

TITLE: ORDER, ACCEPT DONATIONS TO THE BREWER PARKS AND RECREATION DEPARTMENT FOR THE ANNUAL BREWER DAYS CELEBRATION.

filed August 8, 2012  
by Joseph Ferris

WHEREAS, the City of Brewer has received donations totaling \$3500.00 from Marden's Inc., Trans-Tech Industries, Joel and Jacquelyn Dearborn, Machias Savings Bank and the Brewer Federal Credit Union for support of this year's Brewer Days Celebration;

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NOW, THEREFORE, BE IT ORDERED, that the City of Brewer, by vote of its City Council, herewith accepts this generous donation, and directs that the donated funds be receipted to account 0200000 320000 71002 (Brewer Days Contributions); and

FURTHER ORDERED, that the City Council herewith authorizes the appropriation and expenditure of these funds from account 0200000 520000 71002 (Brewer Days Expense).

NOTE: The Brewer Parks and Recreation Director sends a letter of acknowledgement and appreciation on behalf of the City Council to these businesses for their generous donations.

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2012-A163

August 14, 2012

TITLE: ORDER , ACCEPT DONATION TO THE BREWER PARKS AND RECREATION DEPARTMENT FOR THE FALL PROGRAM/LEAGUES.

filed August 8, 2012  
by Larry T. Doughty

WHEREAS, the Brewer Parks and Recreation Department has received donations totaling \$700.00 from Bruce's Donuts, Brewer Federal Credit Union, Jeff's Catering, B & L Auto Parts, Glidden Auto and Pat's Pizza for the Parks and Recreation Department's Fall Program/Leagues;

NOW, THEREFORE, BE IT ORDERED, that the City of Brewer, by vote of its City Council, herewith accepts this donation and directs that the donated funds be receipted to the Fall Program/Leagues account (0107123 300328); and

AND FURTHER ORDERED, that the City Council herewith authorizes the appropriation and expenditure of these funds from account 0117121 506130 (Fall Program/Leagues).

NOTE: The Brewer Parks and Recreation Director sends a letter of acknowledgement and appreciation on behalf of the City Council to these businesses for their generous donations.

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2012-A164

August 14, 2012

TITLE: ORDER, ISSUE RELEASE DEED STILLWATER AVENUE, LLC SUCCESSORS OF WALTER C. SCHULTZ AND CAROLYN M. SCHULTZ, 765 NORTH MAIN STREET.

filed August 8, 2012  
by Arthur Verow

EMERGENCY PREAMBLE

WHEREAS, orders passed by the Brewer City Council do not become effective until five days after approval unless such orders contain emergency preambles; and

WHEREAS, it is imperative that release deed is recorded immediately as closing date on property falls within the five day period; and

WHEREAS, these facts create an emergency within the meaning of the Charter, Code and Ordinances of the City of Brewer and require that the following order become effective immediately upon its approval to protect the public health, common welfare and safety of the citizens of Brewer;

ORDERED, that a municipal release deed be issued to Stillwater Avenue LLC successor of Walter C. Schultz and Carolyn M. Schultz releasing to them all rights, title and interest the City of Brewer may have acquired in the property on 765 North Main Street (City Tax Map 17, Lots 48 and 49) by virtue of City of Brewer tax or sewer lines recorded in the Penobscot County Registry of Deeds in the following volumes and pages:

| Volume | Page |
|--------|------|
| 3056   | 171  |
| 3100   | 46   |

AND FURTHER ORDERED, that the City Manager, or his designee, is herewith authorized to execute the said municipal release deed on behalf of the City of Brewer, Maine.  
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2012-A165

August 14, 2012

TITLE: ORDER, AUTHORIZE BOND COUNSEL FOR FY2013.

filed August 8, 2012  
by Kevin O'Connell

WHEREAS, the City anticipates the need for use of Bond Counsel on various occasions during FY2013, including for two loan closings on USDA sewer financings (Septage Receiving Relocation and Jefferson/Tibbetts Street CSO) and two bond issues (FY13 CIP and Water UV Upgrade); and

WHEREAS, the City has received a proposal from Jim Saffian of Pierce Atwood LLC, of Portland, Maine to provide such services for a reasonable fee that we expect will be approximately \$5,000 per issue; and

WHEREAS, the City was extremely pleased and impressed with the services Mr. Saffian provided it as Bond Counsel to the City in its recent \$21 million refinancing;

NOW, THEREFORE, BE IT ORDERED, that the City Council hereby authorizes the City Manager, or his designee, to enter into an agreement with Mr. Saffian of Pierce Atwood to provide the City Bond Counsel services through June 30, 2013.

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2012-A166

August 14, 2012

TITLE: ORDER, AUTHORIZE THE CONVEYANCE OF THE FORMER  
CAPRI STREET SCHOOL PROPERTY TO BREWER  
REDEVELOPMENT, LLC.

filed August 8, 2012  
by Joseph Ferris

WHEREAS, the redevelopment of the former Capri Street School property is a high priority for the Brewer City Council and City Staff; and

WHEREAS, it has become clear the City needs to convey the property to Brewer Redevelopment, LLC, an entity wholly owned by the City of Brewer, to expedite the redevelopment of the said former Capri Street School property; and

WHEREAS, the City Council finds the property to be conveyed is surplus property upon the recommendation of the City Manager, and within the meaning of the Brewer City Charter;

NOW, THEREFORE, BE IT ORDERED, that the former Capri Street School property is declared surplus property, upon the recommendation of the City Manager and within the meaning of the Brewer City Charter; and

BE IT FURTHER ORDERED, that the former Capri Street School property shall be conveyed by Municipal Quitclaim Deed to Brewer Redevelopment, LLC; and

BE IT FURTHER ORDERED, that the City Manager, or his designee, is authorized to sign any and all documents to effectuate said transfers.

**ACTION:** Councilor Ferris moved that the order have passage. The motion was seconded.

Councilor Doughty asked what we are doing and the next step is.

City Solicitor Dearborn said the property will be given to the LLC which can apply for grant funding etc.

The order was passed by unanimous vote.

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It was noted that Washington Street School is still waiting for remediation and will be demolished in late September 2012. Councilor O'Connell noted that the tiles are not coming up easy, Future use of Capri Street will require an order to the facility as you want. There is a restrictive covenant for educational/recreational use. Ken Hanscom has no drawings on file for the recreational facilities just concepts of potential uses. No contract yet to do anything with the property.

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2012-A167

August 14, 2012

TITLE: ORDER, AMEND CITY COUNCIL ORDER 2012-A156, PASSED AT THE CITY COUNCIL'S JULY 24, 2012 MEETING.

filed August 8, 2012  
by Larry T. Doughty

WHEREAS, the City Council passed City Council Order 2012-A156 authorizing the conveyance of the former State Street and Middle Street School properties and a strip of land in front of the former Middle School property to Brewer Redevelopment, LLC; and

WHEREAS, it has come to the City Council's attention that it may be more advantageous to retain the strip of land in front of the former Middle School property for public purposes and to provide for more options in developing the former Middle School property;

NOW, THEREFORE, BE IT ORDERED, that City Council Order 2012-A156 is amended by removing the authorization for the strip of land in front of the former Middle School property to be conveyed to Brewer Redevelopment, LLC and declaring it surplus property;

BE IT FURTHER ORDERED, that the remainder of City Council Order 2012-A156 shall remain in full force and effect.

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2012-A168

August 14, 2012

TITLE: ORDER, AWARD ANNUAL STREET RESURFACING CONTRACT.

filed August 8, 2012  
by Arthur Verow

WHEREAS, public bids were solicited, received and reviewed for the City of Brewer FY 2013 Annual Street Resurfacing Contract;

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Council herewith authorizes the City Manager, or his designee, to execute a contract with Lane Construction of Corporation of Cheshire, CT in an amount not to exceed \$445,783 for FY 2013 Annual Street Resurfacing Services; and

BE IT FURTHER ORDERED, that the costs associated with this contract shall be charged, as applicable, to the following accounts:

0510113-551311      General Paving - \$170,000  
0510113-551389      Dirigo Drive Micro Surfacing - \$150,000  
0510113-551390      Elm Street Overlay - \$110,000

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2012-A169

August 14, 2012

TITLE:            ORDER,            AUTHORIZE FUNDS FOR THE UPGRADE OF THE  
   BREWER MUNIS SERVER.

filed August 8, 2012  
by Kevin O'Connell

WHEREAS, the City of Brewer uses Munis accounting software and it is maintained on a server dedicated primarily for that purpose; and

WHEREAS, newer versions of the software require more capacity and faster operating speeds and because the current server which is 3 years old now needs to be upgraded to meet the needs of the City; and

WHEREAS, funds have been approved in FY 2013 CIP budget for this purpose;

NOW, THEREFORE, BE IT ORDERED, that the City Council hereby authorizes the City Manager, or his designee, to retain HCP Computers to replace the City's Munis server and upgrade the operating software and authorizes the expenditure of up to \$15,000.00 from CIP account 0510130-551009 (Finance Computer ) to do so; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the City Manager, or his designee, to retain Tyler Technologies to install the SQL database software and to transfer the Munis data from the old server to the new server and authorizes the expenditure of up to \$5,000.00 from CIP account 0510130-551009 (Finance Computer) to do so; and

FURTHER ORDERED, that the City Council of the City of Brewer herewith exercises its authority under Section 404 of the City's Purchasing Ordinance, Chapter 36 of the Charter, Codes and Ordinances of the City of Brewer in the purchase of contractor services for this project.

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2012-A170

August 14, 2012

TITLE: ORDER, DEDICATION AND ACCEPTANCE OF AN EXTENSION  
OF CENTER STREET PURSUANT TO TITLE 23,  
M.R.S.A. § 3025.

filed August 8, 2012  
by Joseph Ferris

WHEREAS, the City Council wants to extend Center Street; and

WHEREAS, the City of Brewer High School District Trustees have conveyed to the City the property to be dedicated and accepted as an extension of Center Street; and

WHEREAS, a copy of said description to be dedicated and accepted as a City street marked Exhibit A is attached hereto and made a part hereof; and

WHEREAS, all of the prerequisites of the Title 23 M.R.S.A. § 3025 have been met;

NOW THEREFORE, the City Council on behalf of the Citizens hereby accepts the Exhibit A attached hereto and made a part hereof and dedicates it for highway purposes pursuant to Title 23 M.R.S.A. § 3025; and

FURTHER BE IT ORDERED, that the City Clerk shall record a copy of this Order in the Penobscot County Registry of Deeds.

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2012-A171

August 14, 2012

**TITLE:** ORDER, AWARD CONTRACT TO UPDATE THE CITY OF BREWER COMPREHENSIVE PLAN AND TO COMPLETE AN ORDINANCE REVIEW.

filed August 8, 2012  
by Larry T. Doughty

WHEREAS, the City of Brewer Comprehensive Plan needs to be updated in order to maintain eligibility for state and federal grants; and

WHEREAS, in addition to the Comprehensive Plan update, a complete review of existing ordinances will be conducted to ensure that current ordinances are in alignment with the updated Comprehensive Plan; and

WHEREAS, as an economic development related expense, the project is eligible to be paid for with tax increment financing (TIF) funds;

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Council herewith authorizes the City Manager, or his designee, to execute a contract not to exceed \$60,000 with Rich Rothe of Rothe Associates to perform the services described above; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the appropriation and expenditure of up to \$60,000 in TIF funds from account 0115701-501070 (Economic Development Misc Professional Services) to pay for this economic development related expense; and

BE IT FURTHER ORDERED, that the City Council of the City of Brewer herewith exercises its authority under Section 404 of the City's Purchasing Ordinance, Chapter 36 of the Charter, Codes and Ordinances of the City of Brewer in the purchase of contractor services for this project; and

**ACTION:** Councilor Doughty moved that the order have passage. The motion was seconded and passed.

Councilor Verow wanted to know if Rich Rothe had done work with the City in the past. Councilor Verow was told yes he has done work with the City in the past and he does good work. The ordinances that will be reviewed are those ordinances that are related to the comprehensive plan.

The order was passed by unanimous vote.

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2012-B041

August 14, 2012

TITLE: RESOLVE, RATIFY THE COLLECTIVE BARGAINING CONTRACT BETWEEN THE CITY AND THE EMPLOYEES OF THE WATER POLLUTION CONTROL FACILITY.

filed August 8, 2012  
by Arthur Verow

WHEREAS, negotiations between the City of Brewer and Council 93 of the American Federation of State, County and Municipal Employees, Local Union No. 926-04, representing employees of the Brewer Water Pollution Control Facility, have recently been completed; and

WHEREAS, the two parties have reached agreement on the terms and conditions of a contract;

NOW, THEREFORE, BE IT RESOLVED, that the City Council, on behalf of the City of Brewer, herewith ratifies this collective bargaining agreement and authorizes the City Manager, or his designee, to sign said agreement on behalf of the City of Brewer. This agreement shall be effective as of July 1, 2012 and shall expire June 30, 2013.

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2012-B042

August 14, 2012

TITLE: RESOLVE, RATIFY THE COLLECTIVE BARGAINING CONTRACT BETWEEN THE CITY AND THE EMPLOYEES OF THE PUBLIC WORKS DEPARTMENT.

filed August 8, 2012  
by Kevin O'Connell

WHEREAS, negotiations between the City of Brewer and Council 93 of the American Federation of State, County and Municipal Employees, representing employees of the Brewer Public Works Department, have recently been completed; and

WHEREAS, the two parties have reached agreement on the terms and conditions of a contract;

NOW, THEREFORE, BE IT RESOLVED, that the City Council, on behalf of the City of Brewer, herewith ratifies this collective bargaining agreement and authorizes the City Manager, or his designee, to sign said agreement on behalf of the City of Brewer. This agreement shall be effective as of July 1, 2012 and shall expire June 30, 2013.

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**D. Monthly Reports.**

**ACTION:** Councilor Verow moved that the monthly reports from the city departments be accepted and placed on file. The motion was seconded and passed by unanimous vote.

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**E. Nominations, Appointments, Elections.**

2012-A172

August 14, 2012

**TITLE: ORDER, ISSUE WARRANT FOR SEPTEMBER 18, 2012 CITY OF BREWER SPECIAL REFERENDUM ELECTION.**

WHEREAS, the City of Brewer Special Referendum Election will be held on Tuesday, September 18, 2012; and

WHEREAS, Title 21-A, M.R.S.A., Section 626(1) provides that the polls must be opened no earlier than 6:00 a.m. and no later than 9:00 a.m. on election day; and

WHEREAS, Title 21-A, M.R.S.A., Section 626(1) further provides that the municipal officers shall determine the time of opening the polls within the time limits of 6:00 a.m. to 9:00 a.m.; and

WHEREAS, a poll opening time of 7:00 a.m. will, in the judgment of the municipal officers, meet the needs of the municipality for the September 18, 2012 Referendum Election;

NOW, THEREFORE, BE IT ORDERED, that the municipal officers herewith set the time of 7:00 a.m. for opening the polls for the September 18, 2012 City of Brewer Special Referendum Election and set 8:00 p.m. for closing the polls for such Referendum Election; and

FURTHER ORDERED, that the warrant and notice of election presented to the meeting be and is hereby approved and that a special referendum election be and is hereby called for September 18, 2012 for the consideration of the following question by the voters as provided herein:

Question 1: Shall the Board of Trustees of the City of Brewer High School District be authorized to issue bonds or notes in the name of the District for school construction and/or minor capital project purposes in an amount not to exceed \$5,446,390, which bonds may be made callable, for the purpose of renovating, upgrading and constructing an addition to the Brewer High School, including: (i) replacement of the existing kitchen, (ii) remodeling and enlarging of the cafeteria, (iii) relocation and improvement of the main entrance, lobby and administrative offices, (iv) improvement and renovation of the front façade of the building, (v) parking and vehicle circulation improvements and (vi) other renovations and improvements (the “Project”), provided that the Board of Trustees may modify or reduce the scope of the Project to ensure that the Project remains within budget?

City of Brewer High School District  
Financial Statement  
Regarding Borrowing for an Elementary School Construction Project

As of the referendum date, the total amount of bonds of the City of Brewer High School District outstanding and unpaid is \$44,245,721.00 of which \$33,454,876.00 is principal and \$10,790,845.00 is interest. The District has \$0 in bonds that are authorized but unissued. The total general obligation to be assumed if the article authorizing this borrowing is ratified by the voters is \$5,446,390.00. The total debt service costs of the Project will vary depending on the prevailing interest rates at the time the bonds are issued. The total estimated debt service is \$7,875,871.46 of which \$5,446,390.00 is principal. Estimated interest of 4.07% on the bonds over 20 years is \$2,429,481.46.

The validity of the bonds and of the voters’ ratification of the bonds may not be affected by any errors in the estimate made pursuant to the above statement. If the actual amount of the total debt service for the bond issue varies from the estimate, the ratification by the electors is nevertheless conclusive and the validity of the bond issue is not affected by reason of the variance.

s/Albert Gibson  
Albert Gibson, Treasurer,  
City of Brewer High School District

FURTHER ORDERED, that the City Clerk publish the complete text of this order in at least one newspaper published in the City of Bangor, such publication to be made not less than 10 days and no more than 15 days prior to the election.

Filed with the City Clerk on August 8, 2012 for the August 14, 2012 City Council meeting by Joseph Ferris.

Dated: August 14, 2012

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

A majority of the City Council of the City of Brewer

A true copy

Attest: \_\_\_\_\_  
Howard Kroll, City Clerk

**CITY OF BREWER  
WARRANT AND NOTICE OF ELECTION  
SPECIAL REFERENDUM ELECTION  
SEPTEMBER 18, 2012**

Penobscot, ss.

State of Maine

To: \_\_\_\_\_, Constable of the City of Brewer

You are hereby required in the name of the State of Maine to notify the voters of the City of Brewer of the Special Referendum Election described herein:

**TO THE VOTERS OF THE CITY OF BREWER, WARD 1, PRECINCTS 1 AND 2:**

You are hereby notified that a Special Referendum Election in this municipality will be held at the Brewer Auditorium, 203 State Street in the City of Brewer at 7:00 a.m. on Tuesday, September 18, 2012, for the purpose of determining the following question:

Question 1: Shall the Board of Trustees of the City of Brewer High School District be authorized to issue bonds or notes in the name of the District for school construction and/or minor capital project purposes in an amount not to exceed \$5,446,390, which bonds may be made callable, for the purpose of renovating, upgrading and constructing an addition to the Brewer High School, including: (i) replacement of the existing kitchen, (ii) remodeling and enlarging of the cafeteria, (iii) relocation and improvement of the main entrance, lobby and administrative offices, (iv) improvement and renovation of the front façade of the building, (v) parking and vehicle circulation improvements and (vi) other renovations and improvements (the "Project"), provided that the Board of Trustees may modify or reduce the scope of the Project to ensure that the Project remains within budget?

City of Brewer High School District  
Financial Statement  
Regarding Borrowing for an Elementary School Construction Project

As of the referendum date, the total amount of bonds of the City of Brewer High School District outstanding and unpaid is \$44,245,721.00 of which \$33,454,876.00 is principal and \$10,790,845.00 is interest. The District has \$0 in bonds that are authorized but unissued. The total general obligation to be assumed if the article authorizing this borrowing is ratified by the voters is \$5,446,390.00. The total debt service costs of the Project will vary depending on the prevailing interest rates at the time the bonds are issued. The total estimated debt service is \$7,875,871.46 of which \$5,446,390.00 is principal. Estimated interest of 4.07% on the bonds over 20 years is \$2,429,481.46.

The validity of the bonds and of the voters' ratification of the bonds may not be affected by any errors in the estimate made pursuant to the above statement. If the actual amount of the total debt service for the bond issue varies from the estimate, the ratification by the electors is nevertheless conclusive and the validity of the bond issue is not affected by reason of the variance.

s/Albert Gibson  
Albert Gibson, Treasurer,  
City of Brewer High School District

The polls shall be opened at 7:00 a.m. and closed at 8:00 p.m.

The Registrar of Voters shall hold office hours while the polls are open to correct any error in or change a name or address on the voting list, to accept the registration of any person eligible to vote and to accept any new registrations.

A person who is not registered as a voter may not vote in any election.

Dated: August 14, 2012

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

A majority of the City Council of the City of Brewer

A true copy  
Attest: \_\_\_\_\_  
Howard Kroll, City Clerk

**ACTION:** Councilor Ferris moved that the order have passage. The motion was seconded and passed.

The order was passed by unanimous vote.

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2012-A173

August 14, 2012

**TITLE:** ORDER, REAPPOINT ANIMAL CONTROL OFFICER.

filed August 8, 2012  
by Kevin O'Connell

EMERGENCY PREAMBLE

WHEREAS, orders passed by the Brewer City Council do not become effective until five days after approval unless such orders contain emergency preambles; and

WHEREAS, the term for the Animal Control Officer expired July 31, 2012 and the City of Brewer wishes to continue with his services; and

WHEREAS, these facts create an emergency within the meaning of the Charter, Code and Ordinances of the City of Brewer and require that the following order become effective immediately upon its approval to protect the public health, common welfare and safety of the citizens of Brewer;

ORDERED, that Daniel Joy of Bucksport, Maine is herewith reappointed as the City of Brewer's primary Animal Control Officer for a term commencing August 1, 2012 and expiring July 31, 2013.

**ACTION:** Councilor O'Connell moved that the order have passage. The motion was seconded and passed.

The order was passed by unanimous vote.

\*\*\*

2012-B043

August 14, 2012

**TITLE:** RESOLVE, PRESCRIBE REGISTRAR OF VOTERS HOURLY SCHEDULE FOR THE SEPTEMBER 18, 2012 CITY OF BREWER SCHOOL BONDS SPECIAL ELECTION.

filed August 8, 2012  
by Arthur Verow

WHEREAS, the City of Brewer School Bonds Special Election will be held on Tuesday, September 18, 2012; and

WHEREAS, Title 21-A M.R.S.A., Section 122 (6)(A)(2) provides in part, that in a municipality with a population of more than 2,500, the Registrar of Voters shall accept registrations on the last 5 business days before election day, during the hours that the city clerk's office is open (8:00 a.m. – 5:00 p.m.) and for 2 hours in the evening between 5:00 p.m. and 9:00 p.m. on at least 3 of these days; and

WHEREAS, the City of Brewer has a population greater than 2,500 according to the 2010 federal census; and

WHEREAS, Title 21-A M.R.S.A., Section 122 (8) provides that the hourly schedule may be changed by the municipal officers according to the needs of the municipality; and

WHEREAS, the Registrar of Voters suggests that the needs of the municipality are sufficiently met with the 8:00 a.m. to 5:00 p.m. daily schedule and with election day voter registration so that it is not necessary for the Registrar of Voters to hold office hours and accept registrations during evening hours between 5:00 p.m. and 9:00 p.m. on at least 3 of the days during the last 5 business day period prior to the election; and

WHEREAS, the municipal officers concur with this assessment by the Registrar of Voters;

NOW, THEREFORE, BE IT ORDERED, that the municipal officers herewith prescribe the hours of registration as 8:00 a.m. to 5:00 p.m. on the five business days next prior to the city election to be held on September 18, 2012.

**ACTION:** Councilor Verow moved that the resolve be adopted. The motion was seconded and passed.

The resolve was adopted by unanimous vote.

\*\*\*

**F. Unfinished Business.**

2012-C012

July 24, 2012

TITLE: AMEND CHAPTER 31, ENTITLED SEWER AND PRE-TREATMENT ORDINANCE, ARTICLE 12 "SCHEDULE OF SEWER RATES", SECTION 1200 OF THE CHARTER, CODES AND ORDINANCES OF THE CITY OF BREWER.

filed July 18, 2012  
by Joseph Ferris

Be it ordained by the City Council of the City of Brewer in City Council assembled that Chapter 31 of the Charter, Codes and Ordinances of the City of Brewer entitled "City of Brewer Sewer and Pre-Treatment Ordinance" be amended by changing Article 12, Section 1200 to read as follows:

#### ARTICLE 12 - SCHEDULE OF SEWER RATES

##### SECTION 1200. METER RATES

Rates based on water meter readings for the use of and for the services furnished, or to be furnished by the municipal sewer facility on property having water metered service, not including meters used exclusively for water not draining into sewers:

##### QUARTERLY

Effective beginning with and retroactive, the period covered by the September, ~~2011~~ 2012 billing, the following rates shall apply:

For the first 1,000 cu. ft. per quarter: ~~\$78.30~~ \$80.30 minimum charge for Residential customers classified in the billing system as User Type 9.

For the first 1200 cu. ft. per quarter: ~~\$93.96~~ 96.36 minimum charge for all other users not otherwise classified as a Residential customer.

Effective beginning with the period covered by the September, ~~2011~~ 2012 billing, the following rates shall apply:

For all in excess of 1,000 cu. ft. per quarter: ~~\$7.83~~ \$8.03 per 100 cu. ft.

**ACTION:** Councilor Ferris moved that the proposed ordinance amendment be enacted. The motion was seconded and passed.

The proposed ordinance amendment was enacted by 4 to 1 vote, Councilor Verow opposed.

\*\*\*

**G. New Business.**

2012-C013

August 14, 2012

**TITLE:** AMEND CHAPTER 10, ENTITLED "THE POLICE DEPARTMENT", ARTICLE 1 THE POLICE DEPARTMENT, OF THE CHARTER, CODES AND ORDINANCES OF THE CITY OF BREWER BY AMENDING BY SUBSTITUTION SECTION 101 AND ADDING SECTIONS 101.1 AND 101.2.

filed August 8, 2012  
by Arthur Verow

Be it ordained by the City Council of the City of Brewer in City Council assembled that Chapter 10 of the Charter, Codes and Ordinances of the City of Brewer entitled "The Police Department" be amended by substitution of Section 101 and by adding Sections 101.1 and 101.2 as follows:

~~**SECTION 101. POLICE CHIEF, APPOINTMENT.** The City Manager shall appoint a Chief of the Police Department subject to the confirmation of the City Council. The number of police officers shall be determined by, and each police officer shall be appointed by the City Manager.~~

**SECTION 101. PUBLIC SAFETY DIRECTOR AND POLICE CHIEF APPOINTMENTS.**

The City Manager shall appoint a Public Safety Director, who shall also be appointed the Chief of the Police Department, subject to the confirmation of the City Council.

**SECTION 101.1. DUTIES OF THE PUBLIC SAFETY DIRECTOR.**

The Public Safety Director shall have all of the duties as the Police Chief set forth in this Ordinance and the laws of the State of Maine, along with such other Police Department duties as may be assigned to the Public Safety Director by the City Manager.

**SECTION 101.2. DEPUTY POLICE CHIEF.**

The City Manager shall appoint a Deputy Police Chief, subject to the confirmation of the City Council, who shall have the same duties as the Police Chief in the death, disability or absence of the Police Chief and such other duties as may be assigned to the Deputy Police Chief by the Director of Public Safety, subject to the approval of the City Manager.

**ACTION:** Councilor Verow moved that one copy of the proposed ordinance amendment be certified and filed with the City Clerk for posting. The motion was seconded and passed by unanimous vote.

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2012-C014

August 14, 2012

**TITLE:** AMEND CHAPTER 9, ENTITLED "FIRE PREVENTION",  
ARTICLE 1 THE FIRE DEPARTMENT, OF THE CHARTER, CODES  
AND ORDINANCES OF THE CITY OF BREWER BY AMENDING BY  
SUBSTITUTION SECTION 101 AND ADDING SECTIONS 101.1 AND  
101.2.

filed August 8, 2012  
by Joseph Ferris

Be it ordained by the City Council of the City of Brewer in City Council assembled that Chapter 9 of the Charter, Codes and Ordinances of the City of Brewer entitled "The Fire Department" be amended by substitution of Section 101 and by adding Sections 101.1 and 101.2 as follows:

~~**SECTION 101. FIRE CHIEF APPOINTMENT.** The City Manager shall appoint a Chief of the Fire Department subject to the confirmation of the City Council. The number of firemen shall be determined by, and each fireman shall be appointed by, the City Manager except as he may delegate the power of appointment to the Fire Chief.~~

**SECTION 101. PUBLIC SAFETY DIRECTOR AND FIRE CHIEF APPOINTMENTS.**

The City Manager shall appoint a Public Safety Director, who shall also be appointed the Chief of the Fire Department, subject to the confirmation of the City Council. The number of firemen shall be determined by, and each fireman shall be appointed by the City Manager, except as the City Manager may delegate to the Fire Chief.

**SECTION 101.1. DUTIES OF THE PUBLIC SAFETY DIRECTOR.**

The Public Safety Director shall have all of the duties of the Fire Chief set forth in this Ordinance and the laws of the State of Maine, along with such other Police Department duties as may be assigned to the Public Safety Director by the City Manager.

**SECTION 101.2. DEPUTY FIRE CHIEF.**

The City Manager shall appoint a Deputy Fire Chief, subject to the confirmation of the City Council, who shall have the same duties as the Fire Chief in the death, disability or absence of the Fire Chief and such other duties as may be assigned to the Deputy Fire Chief by the Director of Public Safety, subject to the approval of the City Manager.

**ACTION:** Councilor Ferris moved that one copy of the proposed ordinance amendment be certified and filed with the City Clerk for posting. The motion was seconded and passed by unanimous vote.

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2012-C015

August 14, 2012

**TITLE:** AMEND LAND USE CODE, CHAPTER 24, ARTICLE 3 ZONING DISTRICTS, SECTION 306.5, SCHEDULE OF USES TO ALLOW CHURCHES IN THE CONVENIENCE BUSINESS ZONING DISTRICT.

filed August 8, 2012  
by Kevin O'Connell

Be it ordained by the City Council of the City of Brewer in City Council assembled that Chapter 24, Article 3 Zoning District, Section 306.5, Schedule of Uses of the Charter, Codes and Ordinances of the City of Brewer entitled "Land Use Code" be amended by allowing churches in the Convenience Business Zoning District.  
(See attached Matrix)

**ACTION:** Councilor O'Connell moved that one copy of the proposed ordinance amendment be certified and filed with the City Clerk for posting. The motion was seconded and passed by unanimous vote.

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2012-C016

August 14, 2012

**TITLE:** AMEND CHAPTER 1, ENTITLED "THE CITY COUNCIL", ARTICLE 3, RULES OF ORDER, SECTION 350.1 OF THE CHARTER, CODES AND ORDINANCES OF THE CITY OF BREWER.

filed August 8, 2012  
by Larry T. Doughty

Be it ordained by the City Council of the City of Brewer in City Council assembled that Chapter 1 Entitled "The City Council", Article 3, Rules of Order, Section 350.1 of the Charter, Codes and Ordinances of the City of Brewer be amended as follows:

**ARTICLE 3. RULES OF ORDER**

**SECTION 350. OTHER.**

**SECTION 350.1.** In all cases where the parliamentary proceedings are not determined herein or the City Charter "~~Roberts Rules of Order~~" "The Modern Rules of Order" by Donald A. Tortorice, shall control and decide the course of the proceeding.

**ACTION:** Councilor Doughty moved that one copy of the proposed ordinance amendment be certified and filed with the City Clerk for posting. The motion was seconded and passed by unanimous vote.

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2012-A175

August 14, 2012

**TITLE:** ORDER, CONVENE IN EXECUTIVE SESSION PURSUANT TO TITLE 1, M.R.S.A. §405(6)(E) ON A LEGAL MATTER.

filed August 8, 2012  
by Joseph Ferris

ORDERED, that the City Council convene in executive session pursuant to Title 1, M.R.S.A. §405(6)(E) on a legal matter.

**ACTION:** Councilor Ferris moved that the order have passage. The motion was seconded and passed. The order was passed by unanimous consent.

Chairman Goss said the executive session would include City Council Members, the City Solicitor, the City Manager, City Finance Director and the Interim Assessor, Ben Birch. He said the regular meeting would resume after the executive session.

The regular meeting was called back to order by Chairman Jerry Goss.  
The city clerk called the roll:

|                  |   |         |                     |   |         |
|------------------|---|---------|---------------------|---|---------|
| Chairman Goss    | - | present | Councilor Doughty   | - | present |
| Councilor Ferris | - | present | Councilor O'Connell | - | present |
| Councilor Verow  | - | present |                     |   |         |

**H. New Items with Leave of Council.**

The following order was introduced under suspension of the rules. The City Clerk polled the council and unanimous consent was obtained to take up this item.

2012-A176

August 14, 2012

TITLE: ORDER, AWARD CONTRACT FOR QUALIFIED ENGINEERING  
PROFESSIONAL SERVICES RELATED TO THE CITY  
OF BREWER'S EPA REVOLVING LOAN FUND.

filed August 13, 2012  
(after the deadline)  
by Arthur Verow and  
Larry T. Doughty

WHEREAS, the City of Brewer was previously awarded a Revolving Loan Fund (RLF) through the United States Environmental Protection Agency (EPA) Brownfield Program in the amount of \$1 million and, upon expenditure of these funds, was subsequently recapitalized with an additional \$300,000; and

WHEREAS, the City is required to retain the services of a Qualified Environmental Professional (QEP) to advise and support the City in the distribution of funds from the RLF related to the selection, characterization and remediation of qualifying sites and projects; and

WHEREAS, our previous agreement with Credere Associates, LLC for these services has expired; and

WHEREAS, the City assembled a QEP selection committee consisting of the Economic Development Director, Economic Development Specialist, Assistant City Manager, Finance Director and City Engineer; and

WHEREAS, the QEP Selection Committee publicly solicited, received and evaluated Requests for Qualifications and recommends Credere Associates, LLC as the preferred candidate for this contract based on their proven experience, unique project approach and extensive list of successfully completed projects of comparable scope;

City Council Minutes  
August 14, 2012

NOW, THEREFORE, BE IT ORDERED, that the City Council herewith authorizes the City Manager, or his designee, to execute a contract with Crede Associates, LLC in an amount not to exceed \$30,000 for the provision of Qualified Engineering Professional Services related to the City's EPA Revolving Loan Fund for a period of two years; and

BE IT FURTHER ORDERED, that all costs associated with the contract shall be paid for with EPA revolving loan funds and be charged to account 0601200-560010.

FURTHER ORDERED that the City Council of the City of Brewer herewith exercises its authority under Section 404 of the City's Purchasing Ordinance, Chapter 36 of the Charter, Codes and Ordinances of the City of Brewer in the purchase of contractor services for this project.

**ACTION:** Councilor Verow moved that the order have passage. The motion was seconded and passed.

The order was passed by unanimous vote.

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Chairman Goss said he would accept a motion for adjournment.

**ACTION:** Councilor Doughty moved that the meeting be adjourned. The motion was seconded and passed by unanimous vote. The meeting adjourned at 8:16 pm.

**ADJOURNED, ATTEST:** \_\_\_\_\_ Howard F. Kroll  
City Clerk  
**A TRUE COPY, ATTEST:** \_\_\_\_\_ Brewer, Maine