

City Council Minutes
September 17, 2013

Joint Special Meeting
City Hall Council Chambers

Tuesday, September 17, 2013
5:00 p.m.

The joint special meeting was called to order by Chairman Kevin O’Connell.
The city clerk called the roll:

| | | | | | |
|------------------|---|---------|--------------------|---|---------|
| Councilor Ferris | - | present | Councilor Vachon | - | present |
| Councilor Verow | - | present | Chairman O’Connell | - | present |
| Councilor Goss | - | present | | | |

Chairman O’Connell declared a quorum present. City Manager Bost and City Finance Director Karen Fussell were also present.

Also present were:

High School District Trustee Members present: Albert Gibson, Daniel O’Connell, Mark Chambers and Ruth-Marie Spellman.

Superintending School Committee Members present: David Austin, Janet McIntosh, Michael Hutchins and Kevin Forrest.

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

Chairman O’Connell read the notice for the joint special meeting.

TO: Joseph Ferris, Arthur Verow, Jerry Goss, Kevin O’Connell and Matthew Vachon
MEMBERS OF THE BREWER CITY COUNCIL You are hereby notified a joint special meeting of the City Council will be held on Tuesday, September 17, 2013 at 5:00 p.m. in the Council Chambers at Brewer City Hall to consider and act on the items on the attached agenda.

s/Kevin O’Connell
Mayor and Chairman of the City Council

or _____
Majority of the City Council

a true copy, attest: _____
s/Pamela J. Ryan
City Clerk

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 | P. Gauvin | Cpl. | 09/13/13 | 1350 |
| Matthew Vachon | C. Landes | DCC | 09/13/13 | 4:00p.m. |
| Arthur Verow | P. Gauvin | Cpl. | 09/13/13 | 1458 |
| Jerry Goss | P. Gauvin | Cpl. | 09/13/13 | 1454 |
| Kevin O'Connell | P. Gauvin | Cpl. | 09/13/13 | 1440 |

**JOINT SPECIAL MEETING
WITH MEMBERS OF THE BREWER CITY COUNCIL,
BREWER SCHOOL COMMITTEE MEMBERS AND
BREWER HIGH SCHOOL DISTRICT TRUSTEES
Tuesday, September 17, 2013 5:00 P.M.
Brewer City Hall Council Chambers**

- I. Call to Order.** (Mayor Kevin O'Connell)
- II. Roll Call.** (City Clerk)
- III. Pledge of Allegiance to the Flag of the United States of America.** (Mayor O'Connell)

- B. Awards, Petitions and Public Comments.**
 - 1. General Discussion on Upcoming School Bond Issue.
 - 2. Public Comments.
- C. Consent Calendar.** (no items)
- D. Monthly Reports.** (none)
- E. Nominations, Appointments, Elections.** (no items)
- F. Unfinished Business.** (no items)
- G. New Business.** (no items)
- H. New Items with Leave of Council.**
- I. ADJOURN**

- B. Awards, Petitions and Public Comments.**
 - 1. General Discussion on Upcoming School Bond Issue.

Daniel O'Connell, High School District Trustee Member, said bonds were voted on last fall for Phase I of the renovations to Brewer High School. He said the bond package they are hoping to have ready for the November 5, 2013 election would be Phase II.

Steve Fenderson of WBRC and the project director showed sketches of Phase II which would include improvements to security, upgrade the phys ed and arts, ADA compliance for bathrooms and infrastructure improvements.

David Eisenthol went over a School Bond Issues Review which he passed out the people present at this discussion. (attached for inclusion of minutes)

Discussion turned to the deadline of December 31, 2013 and that the Superintendent's office found out just a couple of hours before the meeting that state officials are saying they probably will not be granting an extension if the bond package is not ready.

It was suggested and agreed upon by those participating in the discussion that the order issuing the warrants for the annual municipal election and school bond referendum election would be pulled from the consent calendar and amended. A special meeting will be called for some day next week to issue the warrant for the school bond referendum election after the city council, city finance director and city manager have had time to review a statement to come from the school's bond counsel concerning this matter.

2. PUBLIC COMMENTS.

None.

Since there were no more items to be taken up at this joint special meeting Chairman O'Connell said he would call for a motion to adjourn.

ACTION: Councilor Ferris moved that the meeting be adjourned. The motion was seconded and passed by unanimous vote. The meeting adjourned at 5:50 pm.

ADJOURNED, ATTEST: _____ Pamela J. Ryan
City Clerk

A TRUE COPY, ATTEST: _____ Brewer, Maine

City Council Minutes
September 17, 2013

Regular Meeting
City Hall Council Chambers

Tuesday, September 17, 2013
6:00 p.m.

The regular meeting was called to order by Chairman Kevin O’Connell.
The city clerk called the roll:

| | | | | | |
|------------------|---|---------|--------------------|---|---------|
| Councilor Ferris | - | present | Councilor Vachon | - | present |
| Councilor Verow | - | present | Chairman O’Connell | - | present |
| Councilor Goss | - | present | | | |

Chairman O’Connell declared a quorum present. City Manager Bost and City Solicitor Dearborn were also present.

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

Chairman O’Connell read the notice for the regular meeting.

TO: Joseph Ferris, Arthur Verow, Jerry Goss, Kevin O’Connell and Matthew Vachon
MEMBERS OF THE BREWER CITY COUNCIL You are hereby notified a regular meeting of the City Council will be held on Tuesday, September 17, 2013 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/Kevin O’Connell
Mayor and Chairman of the City Council

or _____
Majority of the City Council

a true copy, attest: s/Pamela J. Ryan
City Clerk

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 | P. Gauvin | Cpl. | 09/13/13 | 1350 |
| Matthew Vachon | C. Landes | DCC | 09/13/13 | 4:00p.m. |
| Arthur Verow | P. Gauvin | Cpl. | 09/13/13 | 1458 |
| Jerry Goss | P. Gauvin | Cpl. | 09/13/13 | 1454 |
| Kevin O’Connell | P. Gauvin | Cpl. | 09/13/13 | 1440 |

CITY COUNCIL REGULAR MEETING
Tuesday, September 17, 2013 6:00 P.M.
Brewer City Hall Council Chambers

- I. Call to Order.** (Mayor Kevin O'Connell)
- II. Roll Call.** (City Clerk)
- III. Pledge of Allegiance to the Flag of the United States of America.** (Mayor O'Connell)
- A. Minutes of August 13, 2013 Regular Meeting.** (Councilor Verow)
- B. Awards, Petitions and Public Comments.**
 - 1. (2013-B055) RESOLVE, Recognize Matthew Gross for His Efforts to Raise Funds to Benefit Homeless Pets. (Councilor Goss)
 - 2. (2013-B056) RESOLVE, Recognize the Success of the Joshua L. Chamberlain Golf Classic. (Councilor Goss)
 - 3. (2013-B057) RESOLVE, Recognize William Hayes for His Many Contributions to the City of Brewer. (Mayor O'Connell, Councilors Ferris, Goss, Verow and Vachon)
 - 4. Public Comments.
- IV. Recess for Public Hearing.**
 - 1. Proposal to Discontinue a Portion of Center Street and Somerset Street.
 - 2. Bangor Area Recovery Network Application for a City of Brewer Amusement License.
- V. Adjourn Public Hearing and Continue with Regular Meeting.**
- C. Consent Calendar.**
 - 1. (2013-A135) ORDER, Accept Donations to the Brewer Parks and Recreation Department for the Fall Program/Leagues. (Councilor Ferris)
 - 2. (2013-A136) ORDER, Accept Donation to the Brewer General Assistance Department for Fuel Assistance. (Councilor Goss)
 - 3. (2013-A137) ORDER, Commit Water Assessment to Treasurer for Collection. (Councilor Vachon)
 - 4. (2013-A138) ORDER, Commit Sewer Assessment to Treasurer for Collection. (Councilor Verow)
 - 5. (2013-A139) ORDER, Issue Amusement License to Bangor Area, Recovery Network, 142 Center Street. (Councilor Ferris)
 - 6. (2013-A140) ORDER, Issue Release Deed to Russell D. Twaddle, Jr. and Brenda Twaddle for Property Located at 36 Greenwood Drive (Tax Map 47, Lot 139). (Councilor Goss)

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7. (2013-A141) ORDER, Accept Funds From Golf Classic and Authorize their Expenditure. (Councilor Vachon)
8. (2013-A142) ORDER, Authorize the Installation of Kayak/Canoe Launching Facility on the Newly Constructed Penobscot Landing Trail. (Councilor Verow)
9. (2013-A143) ORDER, Discontinuance Portions of Center Street and Somerset Street, Pursuant to Title 23 M.R.S.A. Section 3026, Et Seq. (Councilor Ferris)
10. (2013-A144) ORDER, Accept Donation to the Brewer Parks and Recreation Department for the Annual Brewer Days Celebration. (Councilor Goss)
11. (2013-A145) ORDER, Authorizing Brewer Redevelopment, LLC and the City of Brewer to Enter into an Option and Development Agreement with Community Housing of Maine, Inc. (Councilor Vachon)
12. (2013-A146) ORDER, Authorizing an Agreement with Community Housing of Maine, Inc. and/or Village Centre Housing Partners, L.P. on the Property Located at 131 State Street in Brewer for Payment in Lieu of Taxes (Pilot) and Tax Increment Financing. (Councilor Verow)
13. (2013-A147) ORDER, Accept Grant From Edward Byrne Memorial Justice Assistance (JAG) Grant Program to Purchase Flashlights and Firearms Training Safety Equipment for the Brewer Police Department. (Councilor Ferris)
14. (2013-A148) ORDER, Authorize Funding for Founding Partner Startup Expenses. (Councilor Goss)
15. (2013-A149) ORDER, Approve the Carry Forward Encumbrance of Appropriated, but not Expended, Funds for Approved Projects. (Councilor Vachon)
16. (2013-A150) ORDER, Authorize the Extension of the Option and Development Agreement by and Between the City Brewer, Brewer Redevelopment, LLC and the Housing Authority of the City of Brewer. (Councilor Verow)
17. (2013-A151) ORDER, Reappropriate Unexpended Funds to Water General Capital Reserve Account. (Councilor Ferris)
18. (2013-A152) ORDER, Authorize the Writeoff of Uncollectible Personal Property Taxes. (Councilor Goss)
19. (2013-A153) ORDER, Authorize Part Time Clerical Assistance for the Planning Department. (Councilor Vachon)
20. 2013-A154) ORDER, Accept Insurance Dividend from Maine Municipal Association. (Councilor Verow)

21. (2013-A155) ORDER, Establish City of Brewer's Policy on Acceptance and Assignment of Tax Payments, Personal Property Tax Payments, Water Payments and Sewer Payments. (Councilor Ferris)
22. (2013-A156) ORDER, Authorize Use of Reserve Funds to Offset Deductible Expense. (Councilor Goss)
23. (2013-A157) ORDER, Authorize Purchase of a Replacement 1 Ton Truck/Plow for Public Works. (Councilor Vachon)
24. (2013-A158) ORDER, Set Public Hearing to Determine if Building, or any Part Thereof, at 4 Somerset Street, Brewer, Maine is Dangerous. (Councilor Verow)
25. (2013-A159) ORDER, Authorize the Trenchless Rehabilitation of 100 Feet of 18 Inch Concrete Sanitary Sewer with Ultraliner PVC Alloy Fold-Form Pipeliner by Eastern Pipe Service, LLC. (Councilor Ferris)
26. (2013-A160) ORDER, Authorize Purchase of Fire Turnout Gear and Turnout Coat. (Councilor Goss)

D. Monthly Reports. (Councilor Verow)

E. Nominations, Appointments, Elections.

1. (2013-A161) ORDER, Issue Warrants for November 5, 2013 Annual Municipal Election and City of Brewer School Bond Referendum Election. (Councilor Vachon)
2. (2013-B058) RESOLVE, Prescribe Registrar of Voters Hourly Schedule for the November 5, 2013 Annual Municipal Election, City of Brewer School Bond Referendum Election and November 5, 2013 State of Maine Referendum Election. (Councilor Verow)

F. Unfinished Business.

1. (2013-C008) Amend the General Assistance Ordinance to Incorporate Changes In Maximum Benefits. (Councilor Goss) (posted 8/15/13)
2. (2013-C009) Amend Chapter 24 (Land Use Code) Article 9 (Streets and Roads), Section 906.3.5 (Street Design Standards – Residential Streets), Number 5 (Residential Standards), Items 1 and 3 of the Charter, Codes and Ordinances of the City of Brewer. (Councilor Verow) (posted 8/15/13)
3. (2013-A162) ORDER, Reconsider Order 2013-A132 Passed by City Council on August 13, 2013 to Make Necessary Amendments. (Councilor Vachon)

G. New Business.

1. (2013-C010) Amend Chapter 40 (Water Department), Article 2 (Superintendent of the Water Department), Article 3 (Transition Advisory Team), Article 4 (Advisory Board) and Article 5 (Terms and Conditions). (Councilor Ferris)

H. New Items with Leave of Council.

I. ADJOURN

A. Minutes of August 13, 2013 Regular Meeting.

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

B. Awards, Petitions and Public Comments.

2013-B055

September 17, 2013

TITLE: RESOLVE, RECOGNIZE MATTHEW GROSS FOR HIS EFFORTS TO RAISE FUNDS TO BENEFIT HOMELESS PETS.

filed September 11, 2013
by Jerry Goss

WHEREAS, Matthew Gross who adopted a homeless dog, who he named “Buddy”, from the Bangor Humane Society decided he needed to create a way to give back to the animal shelter that brought them together; and

WHEREAS, Matthew created what he calls “The Ride for the Wet Nose”; and

WHEREAS, Matthew raised money last year by getting sponsors for a 17 mile bike ride and this year he collected donations again for a 22.5 mile ride around the Brewer area; and

WHEREAS, Matthew, who recently turned 11, and his dad, Brewer Firefighter-EMT Jason Gross did the 22.5 mile ride on August 15, 2013 and raised more than one thousand dollars to donate to the Bangor Humane Society; and

WHEREAS, this amazing young man has already started planning his ride for next year to raise money for the Bangor Humane Society;

NOW, THEREFORE, BE IT RESOLVED, that the Brewer City Council, on behalf of the Citizens of the City of Brewer, herewith commends Matthew Gross on his creativity (“The Ride for the Wet Nose”), generosity of donations to the Humane Society and especially for his compassion and love of animals.

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

Councilor Goss read the resolve into the record while presenting it to Matthew Gross.

The resolve was adopted by unanimous vote.

2013-B056

September 17, 2013

TITLE: RESOLVE, RECOGNIZE THE SUCCESS OF THE JOSHUA L. CHAMBERLAIN GOLF CLASSIC.

filed September 11, 2013
by Jerry Goss

WHEREAS, on July 12th, 2013, the 2nd Annual Joshua Chamberlain Golf Classic was held at the Rocky Knoll Country Club; and

WHEREAS, due to the hard work and dedication of the JCGC Planning Committee, the golfing event was a resounding success raising over \$4,000.00 for the Maine Infantry Foundation; and

WHEREAS, these funds were raised through generous contributions by many local and regional businesses and organizations who support the Maine Infantry Foundation's efforts to recognize those military members that are the boots on the ground and the first to fight for and defend our great nation; and

WHEREAS, Brewer resident, Nicole Gogan, chaired the JCGC committee with a steadfast commitment to ensuring that all in attendance had a fantastic time and she has been the driving force behind the events success the last two years;

NOW, THEREFORE, BE IT RESOLVED, that the Brewer City Council, on behalf of the Citizens of the City of Brewer congratulate, and thank, Nicole Gogan and the Joshua Chamberlain Golf Classic Committee for their dedication and support for our nations veterans, active duty members and their families.

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

Councilor Goss read the resolve into the record while presenting it to Nicole Gogan.

The resolve was adopted by unanimous vote.

2013-B057

September 17, 2013

TITLE: RESOLVE, RECOGNIZE WILLIAM HAYES FOR HIS MANY CONTRIBUTIONS TO THE CITY OF BREWER.

filed September 11, 2013
by Kevin O'Connell,
Joseph Ferris, Jerry Goss
Arthur Verow and
Matthew Vachon

WHEREAS, William Hayes, a native of Brewer, graduate of Brewer High School 1943 with a degree in civil engineering from the University of Maine; and

WHEREAS, Bill was in charge of construction of the Brewer Water District office building, pump house and standpipe, while an engineer at TW Cunningham and later Bill became for many years a local businessman and part owner of Thompson & Lyford Company; and

WHEREAS, Bill has made many contributions to the City of Brewer serving as a trustee for the Brewer Water District (appointed in 1956), a director of BEDC since the early 1970's and was instrumental in the development of a Brewer City Council Resolution that established a working partnership between the City and the Brewer Historical Society; and

WHEREAS, as Treasurer of the Brewer Historical Society, Bill developed solid business practices that have allowed the organization to become more successful and to partner with the business community in the funding of historical society activities; and

WHEREAS, Bill has been recognized for his vision and efforts in developing a historical society resource center that will make material available to the community and beyond;

NOW, THEREFORE, BE IT RESOLVED, that the Brewer City Council, on behalf of the Citizens of the City of Brewer, herewith commends and recognizes William Hayes on his many beneficial contributions to the City of Brewer.

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

Councilor Ferris said that he would be reading and presenting this recognition to Bill Hayes at an event on 'Thursday evening honoring his contributions to the City of Brewer.

The resolve was adopted by unanimous vote.

PUBLIC COMMENTS.

There were no public comments.

Recess for Public Hearing.

1. Proposal to Discontinue a Portion of Center Street and Somerset Street.

The public hearing was called to order by Chairman Kevin O’Connell.

The city clerk called the roll:

| | | | | | |
|------------------|---|---------|--------------------|---|---------|
| Councilor Ferris | - | present | Councilor Vachon | - | present |
| Councilor Goss | - | present | Chairman O’Connell | - | present |
| Councilor Verow | - | present | | | |

Chairman O’Connell declared all members were present.

Chairman O’Connell read the public notice:

**CITY OF BREWER
PUBLIC NOTICE**

Notice is hereby given that the Brewer City Council will hold a public hearing pursuant to Title 23 M.R.S.A. §3026 on a proposal to discontinue a portion of Center Street and Somerset Street as described in Exhibit A and shown on Exhibit B, both of which are attached hereto and made a part hereof. The City will reserve a public easement in the discontinued portions of Center Street and Somerset Street.

| <u>Abutting Property Owners of Record</u> | <u>Damages</u> |
|---|----------------|
| Brewer Redevelopment, LLC | 0.00 |
| City of Brewer High School District | 0.00 |
| Ellen M. Woodworth | 0.00 |

The public hearing will be held on Tuesday, September 17, 2013 at 6:00 p.m. in the Council Chambers at Brewer City Hall.

Any person may attend this public hearing and speak on this proposal. Written comments may also be submitted. The deadline for submission of written comments is 4:00 p.m. on the date of the hearing. Written comments should be address to Brewer City Council, c/o City Clerk, 80 North Main Street, Brewer, Maine 04412.

Pamela J. Ryan
City Clerk

Published in Bangor Daily News
September 9, 2013

There were no comments from the public present either for or in opposition of the proposal.

2. Bangor Area Recovery Network Application for a City of Brewer Amusement License.

The public hearing was called to order by Chairman Kevin O'Connell.

The city clerk called the roll:

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

Chairman O'Connell declared all members were present.

Chairman O'Connell read the public notice:

CITY OF BREWER PUBLIC NOTICE

Notice is hereby given that the Brewer City Council will hold a public hearing on Tuesday, the 17th day of September, 2013 at 6:00 p.m. in the Council Chambers at Brewer City Hall to consider an application for a City of Brewer Amusement License for:

1. Bangor Area Recovery Network, 142 Center Street, Brewer, Maine

This application is available for public inspection at the office of the **Brewer City Clerk (989-7050)** and this notice is posted on the bulletin board at Brewer City Hall.

Any person may attend this public hearing and speak on this application. Written comments may also be submitted. The deadline for submission of written comments is 12:00 p.m. on the date of the hearing. Written comments should be addressed to Brewer City Council, c/o City Clerk, 80 No. Main Street, Brewer, Maine 04412.

Pamela J. Ryan
City Clerk

published September 9, 2013
in the Bangor Daily News

There were no comments from the public present either for or in opposition of the issuance of an amusement license.

Public Hearings adjourned at 6:20 p.m.

The city clerk called the roll and all members of the council was present.

Chairman O'Connell said the regular meeting would resume at this time.

C. Consent Calendar.

ACTION: Councilor Verow removed orders 2013-A139 and A142. Councilor Ferris removed orders 2013-A146, A148, and A153. Councilor Vachon removed order 2013-A141. Councilor Goss removed order A160.

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

2013-A135

September 17, 2013

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

filed September 11, 2013
by Joseph Ferris

WHEREAS, the Brewer Parks and Recreation Department has received donations of \$200.00 from Glidden Auto Body and Jeff's Catering 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 these donations and directs that the donated funds be received 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.

2013-A136

September 17, 2013

TITLE: ORDER, ACCEPT DONATION TO THE BREWER GENERAL ASSISTANCE DEPARTMENT FOR FUEL ASSISTANCE.

filed September 11, 2013
by Jerry Goss

WHEREAS, the Brewer General Assistance Department has received a donation of \$210.00 from the North Brewer-Eddington United Methodist Church for fuel assistance;

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 received to the Home Heating Revenue account 0300004-330000; and

AND FURTHER ORDERED, that the City Council herewith authorizes the appropriation and expenditure of these funds from account 0300004-530000 (Fuel Assistance Expense).

NOTE: The Brewer General Assistance Administrator will send a letter of acknowledgement and appreciation on behalf of the City Council to the church for their generous donation.

2013-A137

September 17, 2013

TITLE: ORDER, COMMIT WATER ASSESSMENT TO TREASURER FOR COLLECTION.

filed September 11, 2013
by Matthew Vachon

WHEREAS, under Chapter 40 of the Water Department Ordinance of the City of Brewer, a water charge is assessed to water users;

City Council Minutes
September 17, 2013

NOW, THEREFORE WE, the Brewer City Council, does hereby commit to the Treasurer or Deputy Treasurer of Brewer for collection, the sum of **\$620,505.19** at the established rate, as provided by Maine Law and as such sections may be amended from time to time; and

FURTHER, IT IS ORDERED, that said charges are due and payable on the date of this commitment; and

| EVENT | COMMITMENT | COMMENTS |
|----------------|---------------------|----------|
| September 2013 | \$610,960.51 | |
| June 2013 | \$ 3,077.96 | |
| July 2013 | \$ 4,459.97 | |
| August 2013 | \$ 2,006.75 | |
| Total | \$620,505.19 | |

FURTHER, IT IS ORDERED, that a detailed commitment of the **\$620,505.19** is on file in the City Clerk's office and incorporated into this order; and

FURTHER, IT IS ORDERED, that a majority of the City Council shall sign the detailed commitment on file in the City Clerk's office; and

FURTHER, IT IS ORDERED, that the City Clerk shall deliver the signed commitment to the City Treasurer, as agent for the City Council.

2013-A0138

September 17, 2013

TITLE: ORDER, COMMIT SEWER ASSESSMENT TO TREASURER
FOR COLLECTION.

filed September 11, 2013
by Arthur Verow

WHEREAS, under Chapter 31 of the Sewer and Pre-treatment Ordinance of the City of Brewer, a sewer charge is assessed to sewer users;

NOW, THEREFORE WE, the Brewer City Council, does hereby commit to the Treasurer or Deputy Treasurer of Brewer for collection, the sum of **\$550,550.50** at the established rate, as provided by Title 30A M.R.S.A. § 3406 and Title 38 M.R.S.A. § 1208 and as such sections may be amended from time to time; and

FURTHER, IT IS ORDERED, that said charges are due and payable on the date of this commitment; and

| EVENT | COMMITMENT | COMMENTS |
|----------------|---------------------|----------|
| September 2013 | \$538,139.40 | |
| June 2013 | \$521.95 | |
| July 2013 | \$9,985.84 | |
| August 2013 | \$1,903.31 | |
| Total | \$550,550.50 | |

FURTHER, IT IS ORDERED, that a detailed commitment of the **\$550,550.50** is on file in the City Clerk's office and incorporated into this order; and

FURTHER, IT IS ORDERED, that a majority of the City Council shall sign the detailed commitment on filed in the City Clerk's office; and

FURTHER, IT IS ORDERED, that the City Clerk shall deliver the signed commitment to the City Treasurer, as agent for the City Council.

2013-A139

September 17, 2013

TITLE: ORDER, ISSUE AMUSEMENT LICENSE TO BANGOR AREA,
RECOVERY NETWORK, 142 CENTER STREET.

filed September 11, 2013
by Joseph Ferris

WHEREAS, Jean Baker's application for a City of Brewer Amusement License for Bangor Area Recovery Network, 142 Center Street, has been received by the City Clerk; and

WHEREAS, the City Council held a public hearing on this application on September 17, 2013 in accordance with Chapter 20, Article 2, Section 218, et seq. of the Charter, Codes and Ordinances of the City of Brewer; and

WHEREAS, in issuing or denying a new or renewed license, the City Council shall give consideration to:

- a. The character of any applicant;
- b. The location of the place of business;
- c. The manner in which it has been operated; and
- d. Whether the operation has endangered the health or safety of persons in or on areas surrounding the place of business; and

WHEREAS, a license may be denied on one (1) or more of the following grounds:

- A. Conviction of the applicant of any Class A, Class B or Class C crime;
- B. Noncompliance of the licensed premises or its use with the Land Use Code or other land use Code or Ordinance not directly related to liquor control;
- C. Conditions of record such as waste disposal violations, health or safety violations or repeated parking or traffic violations on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner;
- D. Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises;
- E. A violation of any provision of the Maine Liquor Laws;
- F. A determination by the City Council that the purpose of the application is to circumvent the provisions of Title 28-A M.R.S.A. § 601, et. seq.

WHEREAS, after reviewing the application and hearing testimony at the public hearing the City Council finds no grounds to deny this license request;

NOW, THEREFORE , BE IT ORDERED, that the City Clerk, as agent to the Licensing Authority, to wit, the City Council, is herewith authorized and directed to issue a City of Brewer Amusement License to Bangor Area Recovery Network, 142 Center Street, for the City's licensing year commencing May 6, 2013 and expiring May 5, 2014; and

ACTION: Councilor Goss moved that the order have passage. The motion was Seconded.

Councilor Verow moved that the order be amended by adding the following paragraph:

FURTHER ORDERED, that the fee of \$150.00 charged for the amusement license be refunded to the Bangor Area Recovery Network.

Councilor Verow moved that the order, as amended, have passage. The motion was seconded. The vote was 4 to 1, Councilor Ferris opposed.

The order was passed, as amended, by a 4 to 1 vote, Councilor Ferris opposed.

2013-A140

September 17, 2013

TITLE: ORDER, ISSUE RELEASE DEED TO RUSSELL D. TWADDLE, JR.
AND BRENDA TWADDLE FOR PROPERTY LOCATED AT
36 GREENWOOD DRIVE (TAX MAP 47, LOT 139).

filed September 11, 2013
by Jerry Goss

ORDERED, that a municipal release deed be issued to Russell D. Twaddle, Jr. and Brenda Twaddle, property located at 36 Greenwood Drive releasing to them all rights, title and interest the City of Brewer may have acquired in the property located on 36 Greenwood Drive (City Tax Map 47, Lot 139) 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 |
|--------|------|
| 13228 | 119 |
| 12584 | 288 |
| 12747 | 180 |
| 12932 | 167 |
| 13119 | 283 |

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.

NOTE: A total of \$5,146.55 in principal was collected, along with \$389.00 in interest and \$154.00 in costs.

2013-A141

September 17, 2013

TITLE: ORDER, ACCEPT FUNDS FROM GOLF CLASSIC AND
AUTHORIZE THEIR EXPENDITURE.

filed September 11, 2013
by Matthew Vachon

WHEREAS, the second annual Joshua Chamberlain Golf Classic took place on July 12, 2013, and the event has brought in more revenue than expenses it had to pay; and

WHEREAS, the Joshua Chamberlain Golf Classic Planning Committee decided to once again support the Maine Infantry Foundation, and the committee desires to use these surplus funds to support this organization; and

WHEREAS, thank you letters acknowledging support from many different sponsors have already been sent out;

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Council herewith accepts the \$7,118.00 in proceeds from this event and authorizes its use to cover expenses associated with the event; and

BE IT FURTHER ORDERED, that the Brewer City Council herewith authorizes the appropriation and grant \$4,037.12 of surplus proceeds from the Joshua Chamberlain Golf Classic to the Maine Infantry Foundation. This expense shall be charged to account 0200000-520000-57014.

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

Councilor Vachon presented a check to representatives of the Maine Infantry Foundation who were present.

The order was passed by unanimous vote.

2013-A142

September 17, 2013

TITLE: ORDER, AUTHORIZE THE INSTALLATION OF KAYAK/CANOE LAUNCHING FACILITY ON THE NEWLY CONSTRUCTED PENOBSCOT LANDING TRAIL.

filed September 11, 2013
by Arthur Verow

WHEREAS, the City has an easement with Gerald Doane to access the riverfront behind the former B&L Auto Parts building located at 87 South Main Street for Public Safety Department watercraft; and

WHEREAS, the City of Brewer Public Safety Department no longer requires access to the riverfront via this property, but access is still being used by recreational kayakers and canoers; and

WHEREAS, current construction of the riverfront walking trail has eliminated easy access to the river, and the Engineering Department has designed a set of stone steps to provide easy access for hand launched boats; and

WHEREAS, all necessary amendments to existing permits, and new permits, have been acquired for the installation of the new access steps; and

WHEREAS, as part of the waterfront trail project, this set of steps is eligible to be paid for with TIF funds; and

WHEREAS, the Public Works Department will be responsible for the installation of the new steps;

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Council herewith authorizes the appropriation and expenditure, in an amount not to exceed \$7000.00, from account 0510121-551102 (Waterfront Trail) to pay for this project and that the funding for this expense shall come from the City's TIF Special Revenue Fund.

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

Councilor Verow said that he removed this order as he was going to abstain from voting on this order.

The order was passed by a 4 to 0 vote, Councilor Verow abstained.

2013-A143

September 17, 2013

TITLE: ORDER, AUTHORIZE DISCONTINUANCE PORTIONS OF CENTER STREET AND SOMERSET STREET, PURSUANT TO TITLE 23 M.R.S.A., SECTION 3026, ET SEQ.

filed September 11, 2013
by Joseph Ferris

WHEREAS, the City of Brewer has conveyed the former Middle School Property to Brewer Redevelopment, LLC, which is a wholly owned entity of the City of Brewer; and

WHEREAS, Brewer Redevelopment, LLC has notified the City Council that it needs portions of Center Street and Somerset Street for parking in order to redevelop the former Middle School Property; and

WHEREAS, the City and others have utilities that lie within those portions of Center Street and Somerset Street that are to be discontinued and wish to reserve a public easement pursuant to Title 23 M.R.S.A § 3026, et seq.; and

WHEREAS, notice has been given to all abutters of those portions of Center Street and Somerset Street to be discontinued, to the property owners on the other side of the said streets that are not being discontinued and also to the members of the City of Brewer Planning Board; and

WHEREAS, the City Council has had the City Tax Assessor prepare and submit evidence on the issue of damages to the abutters due to the discontinuance; and

WHEREAS, the City Council held a public hearing and provided the public with an opportunity to be heard;

NOW THEREFORE, based upon all the foregoing, it is ORDERED as follows:

The City Council finds the abutters to those portions of Center Street and Somerset Street being discontinued are;

- Brewer Redevelopment, LLC. – 80 North Main Street, Brewer, Maine 04412
- City of Brewer High School District – 261 Center Street, Brewer, Maine 04412
- Ellen M. Woodworth – P.O. Box 16, Lubec, Maine 04652.

After receiving public comments and reviewing the evidence presented, the City Council finds the damages to the abutters to be as follows:

| <u>Abutter</u> | <u>Amount of Damages</u> |
|---------------------------------------|--------------------------|
| • Brewer Redevelopment, LLC | \$0 |
| • City of Brewer High School District | \$0 |
| • Ellen M. Woodworth | \$0 |

The portions of Center Street and Somerset Street that are hereby discontinued are more fully described on Exhibit A and shown on Exhibit B, both of which are attached hereto and made a part herein.

The City of Brewer reserves a public easement in relation to those portions of Center Street and Somerset Street above described that are being discontinued pursuant to Title 23 M.R.S.A § 3026, et seq.

The City Clerk shall cause an attested copy of this Order to be sent to the abutters and to be recorded in the Penobscot County Registry of Deeds.

2013-A144

September 17, 2013

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

filed September 11, 2013
by Jerry Goss

WHEREAS, the City of Brewer has received a donation of \$500.00 from Eastern Maine Healthcare Systems for support of this year's Brewer Days Celebration;

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.

2013-A145

September 17, 2013

TITLE: ORDER, AUTHORIZING BREWER DEVELOPMENT, LLC AND THE CITY OF BREWER TO ENTER INTO AN OPTION AND DEVELOPMENT AGREEMENT WITH COMMUNITY HOUSING OF MAINE, INC.

filed September 11, 2013
by Matthew Vachon

EMERGENCY PREAMBLE

WHEREAS, Orders passed by the Brewer City Council do not become effective until five (5) days after approval, unless such Orders contain an emergency preamble; and

WHEREAS, it is imperative that this Order pass immediately to endorse a grant application for funding that is time sensitive; 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; and

WHEREAS, a separate entity wholly owned by the City of Brewer was created and is known as Brewer Redevelopment, LLC, hereinafter sometimes known as “Brewer Redevelopment”; and

WHEREAS, the City Council conveyed the former Middle School and former State Street School properties to Brewer Redevelopment; and

WHEREAS, Brewer Redevelopment’s purpose in being conveyed said former school properties is to market, develop and otherwise make use of said properties for the betterment of the City and its citizens; and

WHEREAS, the City of Brewer and Brewer Redevelopment have identified Community Housing of Maine, Inc., hereinafter sometimes referred to as “CHOM”, as a developer who will redevelop the former State Street School property into forty-eight (48) units of family affordable housing, hereinafter referred to as the “Project”; and

WHEREAS, CHOM wants to apply for funding for the Project as soon as possible; and

WHEREAS, Brewer Redevelopment and the City of Brewer have agreed with CHOM upon all of the terms and conditions of an Option and Development Agreement, a copy of which is attached hereto and made a part hereof.

NOW, THEREFORE, BE IT ORDERED that the City Council hereby authorizes Brewer Redevelopment, LLC and the City of Brewer to enter into the attached Option and Development Agreement with Community Housing of Maine, Inc.; and

FURTHER, BE IT ORDERED the City Manager, or his designee, is to take any and all actions and sign any and all documents to carry out the terms and conditions of the attached Option and Development Agreement.

2013-A146

September 17, 2013

TITLE: ORDER, AUTHORIZING AN AGREEMENT WITH COMMUNITY HOUSING OF MAINE, INC. AND/OR VILLAGE CENTRE HOUSING PARTNERS, L.P. ON THE PROPERTY LOCATED AT 131 STATE STREET IN BREWER FOR PAYMENT IN LIEU OF TAXES (PILOT) AND TAX INCREMENT FINANCING.

filed September 11, 2013
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 this Order go into effect immediately so that Community Housing of Maine, Inc. can pursue funding; 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; and

WHEREAS, the Payment in Lieu of Taxes Agreement will allow Community Housing of Maine, Inc. and/or Village Centre Housing Partners, L.P. to pay only 49% of taxes and will begin upon their taking ownership of 131 State Street in Brewer and will run for a period of fifteen (15) years, from completion of construction; and

WHEREAS, upon completion of a TIF agreement providing for 51% of the taxes to be returned to Community Housing of Maine, Inc. and/or Village Centre Housing Partners, L.P. for a period of fifteen (15) years, from the completion of construction, the PILOT agreement will terminate;

NOW, THEREFORE, BE IT ORDERED, that the City Council does hereby authorize the agreement between Brewer Redevelopment, LLC and Community Housing of Maine, Inc. and/or Village Centre Housing Partners, L.P. under such terms and conditions as the Brewer City Manager and the Brewer Finance Director determine to be in the best interest of the City of Brewer, to provide for a payment in lieu of taxes arrangement concerning the property located at 131 State Street, Brewer, Maine; and

FURTHER ORDERED, that the Brewer City Manager, or his designee, is authorized to sign the agreement on behalf of the City of Brewer, Maine subject to the approval of Brewer Redevelopment, LLC's attorney and the attorney representing the City of Brewer as to legal form.

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

Councilor Ferris just wanted to it clarified that there would be a TIF at the end of the construction. D'arcy Main-Boyington verified this fact.

The order was passed by unanimous vote.

2013-A147

September 17, 2013

TITLE: ORDER, ACCEPT GRANT FROM EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE (JAG) GRANT PROGRAM TO PURCHASE FLASHLIGHTS AND FIREARMS TRAINING SAFETY EQUIPMENT FOR THE BREWER POLICE DEPARTMENT.

filed September 11, 2013
by Joseph Ferris

WHEREAS, the City of Brewer has received a grant from the Edward Byrne Memorial Justice Assistance (JAG) Grant Program in the amount of \$2562.00. This grant program allows state and local governments to support a broad range of activities to prevent and control crime and improve the criminal justice system; and

WHEREAS, the Brewer Police Department will use these funds to purchase flashlights and firearms training safety equipment; and

WHEREAS, the costs for the flashlights and firearms training safety equipment is \$3137.40; and

WHEREAS, the Brewer Police Department has equipment funds to fund the remaining \$574.40; and

WHEREAS, the grant application was filed jointly with the other police agencies in Penobscot County and the Old Town Police Department has agreed to administer the grant;

NOW, THEREFORE, BE IT ORDERED, that the City of Brewer, by vote of its City Council, herewith accepts these grant funds and directs that these funds be deposited to 06000-58360000-58025 (Byrne JAG Supply Grant Rev) and expended from 0600058-560000-58025 (Byrne JAG Supply Grant Expense) for the purchase flashlights and firearms training equipment for the Brewer Police Department.

2013-A148

September 17, 2013

TITLE: ORDER, AUTHORIZE FUNDING FOR FOUNDING PARTNER
STARTUP EXPENSES.

filed September 11, 2013
by Jerry Goss

WHEREAS, the City Council has previously authorized a contract in December 2012 to become a Founding Partner in the new Cross Insurance Center; and

WHEREAS, to maximize the 7 year Founding Partners sponsorship to the fullest extent and to implement the marketing and communication plan developed for Brewer by Nancy Marshall Communications, it is necessary to make initial investments in signage, suite appointments, and marketing and communication services, among other things;

NOW, THEREFORE, BE IT ORDERED, that the City Council hereby authorizes the appropriation and expenditure of up to \$40,000.00 in TIF revenue to pay for this TIF-eligible economic development related expense and that the costs for this shall be charged to account 0115701-501090 (Arena Founding Partner Expense) to support expenses associated with the City's Founding Partner status.

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

Councilor Ferris wanted to know if this \$40,000.00 was in addition to the \$25,000.00 already paid.

Development Director D’arcy Main-Boyington confirmed that it was.

The order was passed by unanimous vote.

2013-A149

September 17, 2013

TITLE: ORDER, APPROVE THE CARRY FORWARD ENCUMBRANCE OF APPROPRIATED, BUT NOT EXPENDED, FUNDS FOR APPROVED PROJECTS.

filed September 11, 2013
by Matthew Vachon

ORDERED, that the City Council herewith authorizes and approves the carry forward of funds in the following accounts from the end of Fiscal Year 2013 to Fiscal Year 2014 as follows:

| Account # | Description | Carry Forward |
|---------------------------|---|----------------------|
| 0115601-500860 | Technology – Training, Conferences & Meetings | \$1,094.69 |
| 0115701-501070 | Economic Devel. – Misc Professional Svcs | \$40,898.54 |
| 0115701-501090 | Economic Devel. – Arena Founding Partner | \$11,411.86 |
| 0115911-501073 | Fire – Medical | \$800.00 |
| 0116100-504100 | General Protections – Equip Maint & Repair | \$2,933.00 |
| 0116500-501110 | Transit Operating Expense- The Bus | \$52,721.50 |
| 0116601-502810 | Public Works – Uniforms and Protective Equip | \$598.31 |
| 0116631-501040-66003 | Storm Sewer Maintenance – Contracted Services | \$2,932.94 |
| 0116701-501425 | Public Works – PAYT Bags | \$7,746.30 |
| 0116900-509800 | Misc Programs – Contingent | \$199.95 |
| 0117101-504000 | Parks and Rec – Auditorium Bldg Maint & Repr | \$1,000.00 |
| 0117121-506120 | Parks and Rec – Summer Prog/League | \$570.00 |
| General Fund Total | | \$122,907.09 |

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| | | |
|----------------|---|--------------------|
| 0717703-504000 | Water Plant Operations – Bldg Maint & Repair | \$10,820.00 |
| 0717703-504100 | Water Plant Operations – Equip Maint & Repair | \$380.00 |
| | Water Fund Total | \$11,200.00 |
| 0817900-504400 | Sewer Pump Stations – Maint & Repair | \$1,377.75 |
| | Sewer Fund Total | \$1,377.75 |

2013-A150

September 17, 2013

TITLE: ORDER, AUTHORIZE THE EXTENSION OF THE OPTION AND DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF BREWER, BREWER REDEVELOPMENT, LLC AND THE HOUSING AUTHORITY OF THE CITY OF BREWER.

filed September 11, 2013
by Arthur Verow

WHEREAS, the City Council authorized Brewer Redevelopment LLC, and the City to enter into an Option and Development Agreement with the Housing Authority of the City of Brewer for the potential redevelopment of the former Middle School property pursuant to City Council Order 2012-A227, as amended; and

WHEREAS, the Option and Development Agreement dated October 23, 2012, as executed authorizes an extension of the August 30, 2013 term upon notice and the deposit of a Four Thousand Five Hundred Dollars, non-refundable option payment; and

WHEREAS, the Housing Authority of the City of Brewer has given notice of its intent to extend the Option and Development Agreement and will pay the non-refundable option payment upon this Order becoming effective under the Charter, Codes and Ordinances of the City of Brewer; and

WHEREAS, Brewer Redevelopment, LLC and the City is willing to allow the Housing Authority of the City of Brewer to extend the term of the Option and Development Agreement, dated October 23, 2012;

NOW THEREFORE, BE IT ORDERED, that the Brewer City Council hereby authorized Brewer Redevelopment, LLC and the City of Brewer to accept the written notice of extension of the Housing Authority of the City of Brewer pursuant to Section 3 of the said Option and Development Agreement extending the term thereof from August 30, 2013, to August 30, 2014, upon the payment of the non-refundable option payment of Four Thousand Five Hundred Dollars (\$4,500.00); and

FURTHER, BE IT ORDERED, THAT, Brewer Redevelopment, LLC, acting through its Managers, and the City Manager, or his designee, is authorized to take any and all actions and sign any and all documents necessary to carry out the terms and conditions of this City Council Order authorizing the extension; and

FURTHER, BE IT ORDERED, THAT, this City Council Order shall be retroactive to August 30, 2013, upon its becoming effect.

2013-A151

September 17, 2013

TITLE: ORDER, REAPPROPRIATE UNEXPENDED FUNDS TO WATER
GENERAL CAPITAL RESERVE ACCOUNT.

filed September 11, 2013
by Joseph Ferris

WHEREAS, after all year end entries, it has been determined that the FY2013 Water Department budget included \$55,000.00 in anticipated debt expense that was not needed due to the June 2012 refinancing of a significant portion of water debt; and

WHEREAS, the FY13 budget also included \$9,700.00 in anticipated deferred debits that did not occur due to a delay in the timing of the project; and

WHEREAS, the Water Department would like to use these unspent debt service and deferred debit funds to support future capital improvement projects;

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Council hereby authorizes the reallocation of \$55,000.00 in unneeded debt service from account 0718700-509030 (USDA Debt Service Sinking Fund) and \$9,700.00 from account 0719100-579110 (Amortized Deferred Debits) to account 0700000-110805 (Water General Capital Reserve) to fund future Water capital projects.

2013-A152

September 17, 2013

TITLE: ORDER, AUTHORIZE THE WRITEOFF OF UNCOLLECTIBLE
PERSONAL PROPERTY TAXES.

filed September 11, 2013
by Jerry Goss

WHEREAS, the Tax Collector has made extensive effort to collect upon past due personal property taxes, including in house efforts to locate individuals and secure payment and the use of a collection agency for unresponsive and non-locatable accounts; and

WHEREAS, the accounts listed below reflect those which have been deemed uncollectible;

NOW THEREFORE BE IT ORDERED, that the City Council hereby authorizes the balances in the accounts listed below be written off as uncollectible.

| <u>Name</u> | <u>Acct</u> | <u>Amount</u> | |
|----------------------------|-------------|------------------------|--------------------------------|
| POND MITCHELL POND INC | 90878 | 812.25 | out of business |
| MAGNAT DENNIS DBA GEEKILIA | 90949 | 119.13 | building gone |
| JDB INC | 91029 | 174.12 | business closed |
| THORNE THOMAS | 91301 | 429.59 | out of business |
| SUPERIOR SET UP INC | 91325 | 190.79 | business closed |
| VORAVATPIBOL JON | 91491 | 355.42 | closed business |
| A J SCOTT SYSTEMS INC | 91884 | 111.29 | collection agency unsuccessful |
| PERFORMANCE AUTO | 91737 | 4273.76 | out of business |
| TOTAL | | <u>6,466.35</u> | |

BE IT FURTHER ORDERED, that the City Council hereby authorizes the appropriation and expenditure of \$6,466 from Overlay (0119901-509810) to the Adjustments/Writeoffs account (0116900-509890) to fund this expense.

2013-A153

September 17, 2013

TITLE: ORDER, AUTHORIZE PART TIME CLERICAL ASSISTANCE FOR THE PLANNING DEPARTMENT.

filed September 11, 2013
by Matthew Vachon

WHEREAS, the City's Planning Department is in need of part time clerical support and assistance in order to allow the Department to perform efficiently, effectively and in compliance with state and local laws; and

WHEREAS, the City will be receiving more Local Road Assistance Program funds than it anticipated in the FY14 budget;

NOW THEREFORE BE IT ORDERED, that the Brewer City Council hereby authorizes the establishment of a half time (0.5 full time equivalent) clerical position in the Planning Department and authorizes the appropriation and expenditure of \$12,500.00 from the Planning Department salary and benefit accounts to support this position; and

FURTHER ORDERED, that this new expense shall be funded by \$12,500.00 in unanticipated revenue in the Local Road Assistance account (0106602-300201).

NOTE: This order does not result in local road funds being spent on planning functions. Rather, it recognizes more of the road funds we will be receiving for use on road expenses, thus freeing up tax dollars for this unanticipated use. Annually, the City expends 4 to 5 times the amount on local road maintenance and construction than it receives in state support.

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

Councilor Ferris asked who was going to be the part time clerk. He was told that Ronda from the Water Department will work with Linda in the afternoons.

The order was passed by unanimous vote.

2013-A154

September 17, 2013

TITLE: ORDER, ACCEPT INSURANCE DIVIDEND FROM MAINE
MUNICIPAL ASSOCIATION.

filed September 11, 2013
by Arthur Verow

WHEREAS, the City has received a dividend of \$8,845.00 from the Maine Municipal Association's Property & Casualty Pool in recognition of the City's positive performance in FY2012; and

WHEREAS, the City wishes to utilize a portion of the funds to capitalize the insurance deductible reserve, which the City holds to help offset unanticipated insurance deductible payments that may be required from time to time; and

WHEREAS, the City wishes to place the remainder of the dividend into the Safety Committee Reserve, which helps fund the City's safety and wellness programs that are an important component to minimizing the City's insurance costs;

NOW THEREFORE BE IT ORDERED, that the Brewer City Council hereby accepts the \$8,845.00 in property and casualty dividends and directs that \$5,845.00 of it be deposited into the City's Insurance Deductible Reserve account (02000000-320000-62001) and the remaining \$3,000 be deposited into the Safety and Wellness Committee Reserve Revenue account (0200700-320000).

2013-A155

September 17, 2013

TITLE: ORDER, ESTABLISH CITY OF BREWER'S POLICY ON ACCEPTANCE AND ASSIGNMENT OF TAX PAYMENTS, PERSONAL PROPERTY TAX PAYMENTS, WATER PAYMENTS AND SEWER PAYMENTS.

filed September 11, 2013
by Joseph Ferris

ORDERED, that as allowed under 36 M.R.S.A. § 906, the Brewer City Council hereby requires that the payments for taxes, which are assessed on real estate and personal property in the City of Brewer, along with the payments on water and sewer bills generated be applied as follows:

- Except as noted herein, payments will be applied to the oldest item (bill) in the category that is being paid. The money received will be applied on the oldest bill in the following order: interest, fees, other costs (if applicable), and lastly principal.
 - If the City has entered into a written repayment arrangement with the customer that is still in effect, the provisions of the repayment agreement shall govern.
 - Tax payments may not be applied to a period for which an abatement request or appeal has not been resolved unless approved in writing by the taxpayer.
 - If a customer specifies an application of payment that does not match the provisions of this section, the Clerk shall inform the customer in person, via a phone call or in writing that the payment must be applied to the oldest outstanding amount. If the customer refuses to accept this, the Clerk shall forward the matter to the Tax Collector or Finance Director for action. As a last resort, the payment shall be returned to the customer.
- If a customer provides a payment but does not specify a category or account number, the City shall apply the payment first to any personal property amounts outstanding, then to sewer, then to water and lastly to real estate taxes. One exception to this rule is when a customer pays an amount that equals the exact amount billed/due for a specific year or period. In such a case, the collector should treat the amount of such a payment as an indication of the customer's intent to pay that specific bill and shall apply it in accordance with the terms specified in Section 1 above.

- The City shall present to customers wishing to make a partial payment on one or more liens a waiver form to sign stating that their payment does not waive the City's lien rights. If the customer refuses to sign the waiver or the payment is made by mail, the customer shall be provided with a written statement from the Treasurer that acceptance of partial payment does not constitute a waiver of any lien rights.
- When payment is made by check for a tax lien which is about to be filed or which is about to foreclose, the Tax Collector should record the lien and the Treasurer should not discharge the lien until the check "clears." If and when the check clears, the account is deemed paid as of the date the check was received or postmarked, if mailed. The taxpayer shall be informed of this procedure in the 30 day notice the City sends.
- If the City has begun the legal process of perfecting title on a foreclosed lien, no payments related to the primary lien the City is pursuing shall be accepted. Any payments accepted shall be for current bills only. For example, if the City is working to perfect title on a property with foreclosed tax and sewer liens, but the tax lien is what the City is using in court to claim title, the City shall not accept tax payments on the property but shall be allowed to accept payment on current water and sewer bills related to the property.

FURTHER ORDERED, that the City shall pursue collection of amounts due using methods including, but not limited to, the following:

- The Tax Collector and /or City Treasurer shall enforce liens on real estate in accordance with Title 36 M. R. S. A. Chapter 105, "Enforcement of Lien on Real Estate" . However, the City reserves the right to not perfect title on properties if the circumstance warrants it.
- The Tax Collector and/or City Treasurer will send delinquent personal property accounts to a collection agency before the end of each fiscal year that they were assessed. A notice will be sent by certified mail at least 30 days prior to sending the account to a collection agency.
- The Tax Collector and/or City Treasurer shall enforce liens on properties with delinquent sewer in accordance with title 38 M. R. S. A. chapter 1208.
- The Tax Collector and/or City Treasurer shall enforce liens on properties with delinquent water in accordance with title 35-A M. R. S. A.

- The City reserves the right to participate in any of the following to collect amounts due:
 - Turn accounts over to the city's attorney
 - Turn accounts over to a collection agency
 - File in small claims court
 - Enter into payment arrangements
 - Turn the accounts over to a city employee for any further action that may be deemed appropriate.

2013-A156

September 17, 2013

TITLE: ORDER, AUTHORIZE USE OF RESERVE FUNDS TO OFFSET
DEDUCTIBLE EXPENSE.

filed September 11, 2013
by Jerry Goss

WHEREAS, when the City increased its insurance deductibles in FY11 it established an Insurance Deductible Reserve to fund large deductible expenses, which by their nature are unpredictable and infrequent; and

WHEREAS, in FY13 the City experienced such a deductible expense associated with the Rock Church lawsuit;

NOW THEREFORE BE IT ORDERED, that the Brewer City Council hereby authorizes the authorization and expenditure of \$6,000.00 from the Deductible Reserve account (0116200-501290) to be funded by a transfer of \$6,000.00 from the Insurance Deductible Reserve account (0200000-520000-62001).

2013-A157

September 17, 2013

TITLE: ORDER, AUTHORIZE PURCHASE OF A REPLACEMENT 1 TON
DUMP TRUCK/PLOW FOR PUBLIC WORKS.

filed September 11, 2013
by Matthew Vachon

WHEREAS, bids were solicited, received and evaluated for the purchase of a 1 ton dump truck/snowplow to replace Public Works unit #426 a 2006 1 ton Chevrolet plow truck; and

WHEREAS, Stoneham Motor Company, of Stoneham, MA provided the City with the lowest of the five bids received in the amount of \$55,564.00;

NOW, THEREFORE, BE IT ORDERED, that the City Manager, or his designee, is authorized to sign a purchase order to Stoneham Motor Company in the amount of \$55,564.00 plus \$5,006.00 for add-ons, for a total of \$60,570.00 for the purchase of a 2014, F450 Ford dump truck with plow and wing; and

BE IT FURTHER ORDERED, that the current Public Works unit numbered 426, the 2006 Chevrolet 1 ton dump truck, with a plow and wing, be release and transferred ownership to Stoneham Motor Company once the replacement truck has been delivered to the City of Brewer; and

BE IT FURTHER ORDERED, that funds for this purchase shall be charged to the CIP account 0510133-551397, titled "Mid Size Dump Truck – FY14"; 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.

2013-A158

September 17, 2013

TITLE: ORDER, SET PUBLIC HEARING TO DETERMINE IF BUILDING, OR ANY PART THEREOF, AT 4 SOMERSET STREET, BREWER, MAINE IS DANGEROUS.

filed September 11, 2013
by Arthur Verow

WHEREAS, a building, or portion thereof, located at 4 Somerset Street (Assessor's Map 30, Lot 48) may be structurally unsafe, unstable, unsanitary, constitute a fire hazard, is unsuitable or improper for the use or occupancy to which it is put; constitutes a hazard to health or safety because of inadequate maintenance, dilapidation, obsolescence or abandonment or is otherwise dangerous to life or property;

NOW, THEREFORE, BE IT ORDERED, that the City Council of the City of Brewer shall hold a public hearing pursuant to Title 17 M.R.S.A. § 2851, *et seq.*, and said date of hearing is hereby set for 6:00 P.M., October 8, 2013, in the Council Chambers of the City of Brewer; and

FURTHER BE IT ORDERED that the City Manager, or his designated agents, proceed to gather information on the building to be presented at the public hearing to the City Council and the general public; and

FURTHER BE IT ORDERED, the City Solicitor shall give the owner(s) and all parties in interest notice of the hearing in accordance with Title 17 M.R.S.A. § 2851, *et seq.*

2013-A159

September 17, 2013

TITLE: ORDER, AUTHORIZE THE TRENCHLESS REHABILITATION OF 100 FEET OF 18 INCH CONCRETE SANITARY SEWER WITH ULTRALINER PVC ALLOY FOLD-FORM PIPELINER BY EASTERN PIPE SERVICE, LLC.

filed September 11, 2013
by Joseph Ferris

WHEREAS, Hardy Street pump station and the Brewer Water Pollution Control Facility has been receiving a significant increase in flow during high tide in the Penobscot River; and

WHEREAS, video investigation of the interceptor sewer along the Penobscot River, between Betton Street and Hardy Street pump station revealed the joints in a 100 foot section of pipe leaking profusely during high tide in the Penobscot River; and

WHEREAS, open trench repair of this sewer would be very difficult because it is located only a few feet from the new river walk trail currently being installed from the Joshua Chamberlain Bridge to the old Public Works site on Hardy Street; and

WHEREAS, trenchless rehabilitation using the Ultraliner PBC Alloy Form-Fold process would allow the City to eliminate the large volume of river water from entering the sewer during high tide without disturbing the new trail; and

WHEREAS, Eastern Pipe Services, LLC is a highly respected sewer rehabilitation company who has over 20 years of experience installing the Ultraliner in sewers for dozens of municipalities throughout Maine; and

WHEREAS, the sewer fund has capital reserve money available to pay for such an expense;

NOW, THEREFORE, BE IT ORDERED, that the City Council herewith authorize the City Manager, or his designee, to issue a purchase order for \$16,500.00 to Eastern Pipe Services LLC of Bow, New Hampshire for trenchless rehabilitation of the leaky sewer near the Penobscot River and charge the expenses to account number 0581001-581004 (Trenchless Rehab); and

FURTHER ORDERED, that \$16,500.00 be transferred from the Sewer Capital Reserve (0800000-110805) to the Sewer CIP to fund this project; 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.

2013-A160

September 17, 2013

TITLE: ORDER, AUTHORIZE PURCHASE OF FIRE TURNOUT GEAR
AND TURNOUT COAT.

filed September 11, 2013
by Jerry Goss

WHEREAS, firefighting is a dangerous profession which requires specific protective clothing to protect and insure personnel safety; and

WHEREAS, the shelf life of protective clothing is 10 years and much of the department's protective clothing has reached or exceeded that 10 year limit; and

WHEREAS, Industrial Protection Services, LLC of Yarmouth, Maine has submitted an acceptable price quote for 5 new sets of protective clothing and 1 turnout coat; and

WHEREAS, said protective clothing will cost a total of \$9,120.00; and

WHEREAS, funding for the replacement of turnout gear was included in the FY14 CIP recently approved by the City Council;

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Council hereby authorizes the purchase of 4– 5 sets of turnout gear and 1 turnout coat from Industrial Protection Services; 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

BE IT FURTHER ORDERED, that the purchase be charged to CIP account 0510132-551214 (Fire Turnout Gear Replacement).

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

Councilor moved that the order be amended by striking out the number 4 in the sixth paragraph of the order and inserting the number 5. The motion was seconded and passed by unanimous vote.

The order, as amended, was passed by unanimous vote.

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.

E. Nominations, Appointments, Elections.

2013-A161

September 17, 2013

TITLE: ORDER, ISSUE WARRANTS FOR NOVEMBER 5, 2013 ANNUAL MUNICIPAL ELECTION AND CITY OF BREWER SCHOOL BOND REFERENDUM ELECTION.

filed September 11, 2013
by Matthew Vachon

WHEREAS, the City of Brewer annual municipal election and City of Brewer school bond referendum election will be held on Tuesday, November 5, 2013; 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 November 5, 2013 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 November 5, 2013 annual municipal election and school bond referendum election; and

FURTHER ORDERED, that the municipal officers issue a warrant for the regular municipal election and the school bond referendum election to be held on November 5, 2013 with the polls to open at 7:00 a.m. and close at 8:00 p.m.

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

Councilor Vachon moved that the order be amended by complete substitution with the following order:

2013-A161

September 17, 2013

TITLE: ORDER, ISSUE WARRANT FOR NOVEMBER 5, 2013 ANNUAL MUNICIPAL ELECTION.

filed September 11, 2013
by Matthew Vachon

WHEREAS, the City of Brewer annual municipal election will be held on Tuesday, November 5, 2013; 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 November 5, 2013 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 November 5, 2013 annual municipal election; and

FURTHER ORDERED, that the municipal officers issue a warrant for the regular municipal election to be held on November 5, 2013 with the polls to open at 7:00 a.m. and close at 8:00 p.m.

The motion was passed by unanimous vote.

The order, as amended, was passed by unanimous vote.

**CITY OF BREWER
ANNUAL MUNICIPAL ELECTION**

Penobscot ss.

State of Maine

To: _____, a Constable in 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 election described in this warrant.

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

You are hereby notified that the annual municipal election in the municipality will be held at the Brewer Auditorium on Tuesday, the fifth day of November, 2013 for the purpose of affecting the election of:

- TWO MEMBERS OF THE CITY COUNCIL FOR THREE YEAR TERMS
 - ONE MEMBER OF THE SUPERINTENDING SCHOOL COMMITTEE FOR THREE YEAR TERM
 - ONE TRUSTEE OF THE BREWER HIGH SCHOOL DISTRICT FOR A FIVE YEAR TERM
- The polls shall be opened at 7:00 A.M. and close 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 new registrations.

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

Dated at Brewer, Maine this 17th day of September in the year of Our Lord, Two Thousand Thirteen.

Majority of the Municipal Officers of Brewer

2013-B058

September 17, 2012

TITLE: RESOLVE, PRESCRIBE REGISTRAR OF VOTERS HOURLY SCHEDULE FOR THE NOVEMBER 5, 2013 ANNUAL MUNICIPAL ELECTION, ~~SCHOOL BOND REFEREDNUM~~ ELECTION AND THE NOVEMBER 5, 2013 STATE OF MAINE GENERAL ELECTION.

filed September 11, 2013
by Arthur Verow

WHEREAS, the City of Brewer annual municipal election, ~~City of Brewer school bond referendum election~~ and the State of Maine referendum election will be held on Tuesday, November 5, 2013; 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 RESOLVED, 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 state-wide and city elections to be held on November 5, 2013.

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

Councilor Verow moved that the resolve be amended by removing reference to the school bond referendum election from the resolve. The motion was seconded and passed by unanimous vote.

The resolve, as amended, was adopted by unanimous vote.

F. Unfinished Business.

1. (2013-C008) Amend the General Assistance Ordinance to Incorporate Changes In Maximum Benefits. (Councilor Goss) (posted 8/15/13)

ACTION: Councilor Goss moved that proposed ordinance amendment be enacted. The motion was seconded and passed by unanimous vote.

2. (2013-C009) Amend Chapter 24 (Land Use Code) Article 9 (Streets and Roads), Section 906.3.5 (Street Design Standards – Residential Streets), Number 5 (Residential Standards), Items 1 and 3 of the Charter, Codes and Ordinances of the City of Brewer. (Councilor Verow) (posted 8/15/13)

ACTION: Councilor Verow moved that proposed ordinance amendment be enacted. The motion was seconded and passed by unanimous vote.

2013-A162

September 17, 2013

TITLE: ORDER, RECONSIDER ORDER 2013-A132 PASSED BY CITY COUNCIL ON AUGUST 13, 2013 TO MAKE NECESSARY AMENDMENTS.

filed September 11, 2013
by Matthew Vachon

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 this order pass immediately to amend the order passed by City Council August 13, 2013 as the filing date 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;

NOW, THEREFORE, BE IT ORDERED, that amendments be made to the following order as indicated:

2013-A132

August 13, 2013

TITLE: ORDER, AUTHORIZING AN AGREEMENT WITH THE HOUSING AUTHORITY OF THE CITY OF BREWER AND/OR SOMERSET PLACE HOUSING ASSOCIATES, LP, ON THE PROPERTY LOCATED AT 5 SOMERSET STREET, FOR PAYMENT IN LIEU OF TAXES (PILOT).

filed August 12, 2013
(after the deadline)
by Jerry Goss and
Matthew Vachon

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 this order pass immediately to update an order passed by City Council October 15, 2012; 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; and

WHEREAS, the Payment in Lieu of Taxes Agreement will allow for the Housing Authority of the City of Brewer and/or Somerset Place Housing Associates, LP, to pay only ~~51%~~ 49% of taxes and will begin upon ~~their taking ownership~~ completion of construction of 5 Somerset Street and will run for a period of fifteen (15) years; and

WHEREAS, upon completion of a TIF agreement providing for 51% of the taxes to be returned to the Housing Authority of the City of Brewer and/or Somerset Place Housing Associates, LP, for a period of fifteen (15) years beginning upon completion of construction, the PILOT agreement will terminate;

NOW, THEREFORE, BE IT ORDERED, that the City Council does hereby authorize the agreement between Brewer Redevelopment, LLC and the Housing Authority of the City of Brewer and/or Somerset Place Housing Associates, LP, under such terms and conditions as the Brewer City Manager and the Brewer Finance Director determine to be in the best interest of the City of Brewer, to provide for a payment in lieu of taxes arrangement concerning the property located at 5 Somerset Street, Brewer, Maine; and

FURTHER ORDERED, that the Brewer City Manager, or his designee, is authorized to sign this agreement on behalf of the City of Brewer, Maine subject to the approval of Brewer Redevelopment, LLC 's attorney and the attorney representing the City of Brewer of the same as to legal form.

ACTION: Councilor Vachon moved that the order be removed from the table for reconsideration. The motion was seconded and passed by unanimous vote.

Councilor Vachon moved that the order be amended by striking out the words "their taking ownership" in the third paragraph of page 2 of the order and inserting the words "completion of construction". Then add the words "beginning upon completion of construction" to the fourth paragraph of page 2 of the order.

The motion was seconded and passed by unanimous vote.

The order, as amended, was passed by unanimous vote.

G. New Business.

2013-C010

September 17, 2013

TITLE: AMEND CHAPTER 40 (WATER DEPARTMENT), ARTICLE 2 (SUPERINTENDENT OF THE WATER DEPARTMENT), ARTICLE 3 (TRANSITION ADVISORY TEAM) AND ARTICLE 5, (TERMS AND CONDITIONS).

filed September 11, 2013
by Joseph Ferris

Be it ordained by the City Council of the City of Brewer in City Council assembled that Chapter 40 (Brewer Sign Ordinance), Article 2 (Superintendent of the Water Department), Article 3 (Transition Advisory Team), Article 4 (Advisory Board) and Article 5 (Terms and Conditions) of the Charter, Codes and Ordinances of the City of Brewer be amended as follows:

(THIS IS CURRENT ORDINANCE)

CHAPTER 40. WATER DEPARTMENT

ARTICLE 1. THE WATER DEPARTMENT

SECTION 101. ESTABLISHMENT. This Chapter is adopted pursuant to the Home Rule Powers as provided in Article VIII, Part 2, of the Maine Constitution and the Home Rule provisions of Title 30-A M.R.S.A. § 3001, the Brewer City Charter, and other applicable laws.

ARTICLE 2. SUPERINTENDENT OF THE WATER DEPARTMENT

SECTION 201. SUPERINTENDENT OF THE WATER DEPARTMENT. There is hereby authorized and established the position of the Superintendent of the Water Department, who shall be appointed by the City Manager.

SECTION 202. DUTIES AND RESPONSIBILITIES. The Superintendent of the Water Department shall have the general oversight authority of the operation and dissemination of water within the area served pursuant to Chapter 66 of the Private and Special Laws (2001) of the Second Regular Session of the One Hundred and Twentieth Legislature.

SECTION 203. OTHER DUTIES.

Section 203.1. The Superintendent shall supervise all Water Department employees.

Section 203.2. He or she shall annually prepare a budget for the Water Department and submit it to the City Manager at least annually.

Section 203.3. ~~The Superintendent will prepare and present to the City Manager a plan of action for the Department at least annually. Discretionary decisions listed in the approved Terms and Conditions shall be the duty of the Superintendent.~~

Section 203.4. The Superintendent shall carry out all lawful directives of the City Manager or the Assistant City Manager.

SECTION 204. ANNUAL EVALUATION. At least once annually the City Manager shall evaluate the Superintendent of the Water Department.

ARTICLE 3. TRANSITION ADVISORY TEAM

SECTION 301. TRANSITION ADVISORY TEAM. ~~There is hereby established a Transition Advisory Team consisting of the City Manager, City Finance Director, and four representatives appointed by the City Council.~~

~~Section 301.1. The Transition Team shall advise on the acquisition of the assets of the Brewer Water District.~~

~~Section 301.2. The Transition Team shall have such duties and responsibilities as may be given to it by the Brewer City Council.~~

ARTICLE 4. ADVISORY BOARD

SECTION 401. ADVISORY BOARD. ~~There is hereby established a Water Department Advisory Board to advise the Superintendent of the Water Department.~~

~~Section 401.1. There shall be seven (7) members on the Advisory Board, who shall be appointed as follows:~~

- ~~(a) One member from the Town of Holden appointed by the Town Council;~~
- ~~(b) One member from the Town of Eddington appointed by the Board of Selectmen;~~
- ~~(c) One member from the Town of Orrington appointed by the Board of Selectmen;~~
- ~~(d) Four members from the City of Brewer appointed by the City Council.~~

~~Section 401.2. The Advisory Board shall meet from time to time as needed or requested and advise the Superintendent of the Water Department on all matters the Superintendent seeks their advice on.~~

~~Section 401.3. The Advisory Board shall also have such duties as may be delegated to it by an order or resolve adopted by the City Council.~~

ARTICLE 5. 3. TERMS AND CONDITIONS

SECTION 501. 301. CONTRACT BETWEEN THE CUSTOMER AND THE UTILITY.

Terms and conditions made by the City of Brewer Water Department and filed with the Maine Public Utilities Commission constitute a contract between the customer and the utility. The customer agrees to adhere to these terms and conditions and to take water only for purposes stated in the application and at the established rates. The word “customer” means any person, firm, corporation or governmental division who has applied for and is granted service or who is responsible for payment of the service.

SECTION 502. 302. ADOPTION OF TERMS AND CONDITONS BY REFERENCE.

~~Pursuant to the authority granted to the City under Title 30-A, M.R.S.A., Section 2156, as amended, the City Council herewith adopts, by reference, t~~ The terms and conditions made by City of Brewer Water Department, approved by the Brewer City Council, and filed with and approved by filed with the Maine Public Utilities Commission that shall constitute a contract between the customer and the Brewer Water Department. At least three (3) copies of these terms and conditions are on file in the office of the Brewer City Clerk and the Brewer Water Department.

TERMS AND CONDITIONS

CITY OF BREWER WATER DEPARTMENT

~~The following Terms and Conditions made by the City of Brewer Water Department and filed with the Maine Utilities Commission constitutes a contract between the Customer and the Utility. The Customer agrees to adhere to these Terms and Conditions and to take water only for purposes stated in the application and at the established rates.~~

DEFINITIONS

~~The word "Commission" refers to the Maine Public Utilities Commission.~~

~~The word "Customer" means any person, firm, corporation or governmental division who has applied for and is granted service or who is responsible for payment of the service.~~

~~The word "Main" means a water pipe, owned, operated and maintained by the Utility, which is used to transmit or distribute water but is not a water service pipe.~~

~~The words "Service Pipe" mean the pipe running from the main to the premises of the Customer.~~

~~The word "Utility" refers to the City of Brewer Water Department.~~

~~1. APPLICATION OF SERVICE. The owner or the owner's agent, or the occupant of the establishment to be served may apply for service on forms provided by the Utility. If seasonal rental property only the property owner may be an applicant for service. Any tenant may become a Customer if the tenant assumes responsibility for future service under the conditions set forth in 35 A M.R.S.A. Sec. 706(2), Chapter 810, Sec. 9(1)(2) of the Commission's Rules, and Section 4 below. If a new service connection or other work on the establishment is required, the must authorize the Utility to enter the premises to do the necessary work.~~

~~2. SEASONAL CUSTOMER. A seasonal Customer regularly takes service for only a portion of the year from either a summer or year round main. A seasonal Customer will be subject to the rules and charges of seasonal rates in effect. A Customer regularly vacating the premises for three months or less may elect in writing to be classified as an annual Customer subject to annual charges.~~

~~3. BILLING PROCEDURES. Annual metered rate charges are normally billed quarterly. The Utility does reserve the right to render bills monthly if it so desires.~~

~~Minimum meter charges for annual metered service shall be billed quarterly and water used in excess of the minimum will be billed at the end of the billing quarter. (#2)~~

~~Seasonal minimum meter charges will be billed and due immediately after the meter is set for the season. Bills for water used in excess of the minimum amount will be billed immediately after the final reading for the season. The Utility reserves the right to render bills quarterly for excess water used by seasonal Customers.~~

~~Public and private fire protection charges shall be due and payable in advance, each year, on a quarterly basis.~~

~~All bills shall be payable at the Brewer City Hall or at any designated collection station. Failure of the Customer to receive his/her bill does not relieve him/her of the obligation of its payment nor for the consequences of non payment.~~

4. ~~CREDIT AND COLLECTION PROCEDURES.~~ All credit and collection procedures for residential Customers will be based upon Chapters 810 and 870 of the Commission's Rules and Regulations. The Utility may demand a deposit from any residential Customer if it has proof (as defined in the regulations) that the Customer is likely to be a credit risk or will damage the Utility's property. The amount of a deposit shall not exceed a reasonably estimated bill for two (2) average billing periods. The interest rate on Customer deposits shall be the rate set from time to time by the Commission.

5. ~~DISCONNECTION OF LEASED OR RENTED PROPERTY.~~ Before disconnecting a leased or rented single meter, multi-unit residential property, the Utility shall:

A. Comply with the notice requirements in Chapter 810 of the Commission's Rules and Regulations; and

B. Assess, against the landlord, a collection fee of \$50.00 in addition to any applicable reconnection fee set forth in Section (6) of these Terms and Conditions; and

C. At the Utility's option, the Utility may separately meter or cause to be separately metered each dwelling unit within the property at the landlord's expense; and

D. Apply any existing deposit to the current account balance; and

E. File a lien authorized by Title 35 A.M.R.S.A., Sec. 6111; and

F. Notify the Commission of the actions taken pursuant to these Terms and Conditions and their results.

6. ~~RESTORATION OF SERVICE.~~ The Utility will charge a Customer a reconnection fee to restore services at the Customer's premises if service was disconnected for non-payment of bills, violation of these Terms and Conditions, fraudulent use of water, dangerous conditions on the Customer's premises, violation of Commission rules or at the Customer's request.

The reconnection charge is \$20.00 for each resumption of service made during the normal business hours of 8:00 a.m. to 4:00 p.m., Monday through Friday. The charge during other than normal business hours is \$40.00 per hour with a minimum charge of \$40.00.

7. ~~CHARGE FOR ESTABLISHMENT OF SERVICE.~~ The Utility will charge \$15.00 to establish water service if it is not necessary to visit the premises to connect the service. If it is necessary to visit the premises to connect the service the Utility will charge \$20.00 during the normal business hours of 8:00 a.m. to 4:00 p.m., Monday through Friday.

8. ~~COLLECTION TRIP FEE.~~ If Utility personnel visit the Customer's premises to disconnect service for non-payment and in lieu of actual disconnection the Customer pays or makes a payment arrangement for the entire past due balance, the Utility will charge a collection fee of \$10.00 or the Utility's reconnection charge, whichever is less.

9. ~~TERMS OF PAYMENT.~~ All bills are due and payable upon presentation. Payments may be made at the Brewer City Hall or at any designated collection station. Failure of the Customer to receive his/her bill does not relieve him/her of the obligation of its payment nor from the consequences of non-payment.

10. — ~~CHARGE FOR RETURNED CHECKS.~~ The Utility will charge the Customer's account for any check returned by the bank for reason of non payment. The charge is the greater of \$5.00 per check or the amount the bank charges the Utility, not to exceed \$15.00. The Utility will furnish the Customer with proof of any bank charges in excess of %5.00.

11. — ~~UNAUTHORIZED USE OF WATER.~~ No Customer shall supply water to another, nor use it for any purposes not mentioned in his/her application without prior Utility approval. No person shall obtain water from any hydrant or other fixture of the Utility without prior approval.

12. — ~~MAINTENANCE OF PLUMBING.~~ A Customer must maintain the plumbing and fixtures within his/her own premises in good repair and protect them from freezing or from heat damage. If damage does occur, the Customer is liable for any expenses incurred.

13. — ~~NO TAMPERING WITH UTILITY PROPERTY.~~ No person may tamper with Utility property. No valve, shutoff, hydrant or standpipe, which is the property of the Utility, will be opened or closed or otherwise operated by other than persons authorized by the Utility.

14. — ~~ACCESS TO PREMISES.~~ Employees of the Utility having proper identification have free access to all premises supplied with water, at all reasonable hours to permit the inspection of plumbing and fixtures, to set, remove or read meters, to ascertain the amount of water used and manner of use, and to enforce these Terms and Conditions.

15. — ~~LIABILITY.~~ The Utility will only be liable for any damages arising from claims to the extent liability is provided in the Maine Tort Claims Act, as set forth in Title 14, Chapter 741 of the Maine Revised Statute Annotated. The Utility makes no representations or warranties about the suitability of the water for any particular purpose.

16. — ~~SERVICE INTERRUPTION.~~ The Utility will provide notice of any planned shut-off to affected Customers at least twenty four hours in advance of the interruption of service. The Utility will give notice of any unplanned shut-off when practicable. If a Customer requests, the Utility will make a pro-rata reduction in the Customer's minimum bill if service is interrupted for longer than forty eight hours and the interruption is not the Customer's fault.

17. — ~~METERING.~~ Except as provided in Chapter 810 of the Commission's Rules where there is more than one occupant of a building supplied with water, the Utility may require the owner to arrange the plumbing to permit separate connections with shutoffs and meters in locations acceptable to the Utility, for each place of business or abode.

18. — ~~CHARGES FOR REPAIR OR REPLACEMENT OF DAMAGED WATER METERS.~~ The charges to customers for costs incurred for the repair or replacement of meter(s) damaged due to improper care by customers are as follows: — (#2)

The Customer will not be charged for a service call during normal business hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, and \$40.00 per hour for other than normal business hours and holidays for the cost of removing or replacing a damaged meter, plus a repair fee based upon the size of the meter as follows:

Repair Fees

| | |
|---------------|-----------------|
| <u>5/8"</u> | <u>\$ 15.00</u> |
| <u>3/4"</u> | <u>\$ 25.00</u> |
| <u>1"</u> | <u>\$ 50.00</u> |
| <u>1 1/2"</u> | <u>\$ 75.00</u> |
| <u>2"</u> | <u>\$100.00</u> |
| <u>3"</u> | <u>\$150.00</u> |
| <u>6"</u> | <u>\$200.00</u> |

~~If a meter needs to be replaced, the customer will be charged for the cost of the meter.~~

19. ~~METER TESTING. The Utility will test its water meters according to the schedule and standards in Chapter 620 of the Commission's Rules. Upon Customer request, the Utility will test the Customer's water meter in the presence of the Customer or representative, at no charge unless the Customer requests more than one test in an 18-month period. If the Customer requests a test more frequently, the Utility may require the Customer to pay a deposit to cover the cost of the test. If a meter tested at the Customer's request does not conform to standards, the Customer's deposit will be refunded and the Utility will adjust the Customer's bill according to the provisions of Chapter 620. If the meter conforms to standards, the Utility may keep the Customer's deposit and continue to use the meter at the Customer's premises. Meter testing to be done during normal business hours of 8:00 a.m. to 4:00 p.m.~~

20. ~~SUBMETERING. Additional or auxiliary meters for showing subdivision of water use must be furnished, installed, read and maintained at the Customer's own expense.~~

21. ~~STOP VALVE. Every service must be provided with an operable stop valve located inside the building near the service entrance, easily accessible, and protected from freezing. All the plumbing must be installed to prevent back-syphonage and to permit draining whenever necessary.~~

22. ~~CROSS CONNECTIONS. No cross connection between the public water supply system and any other supply will be allowed unless properly protected in accordance with the directives and rules of the State Bureau of Health, and no new cross connection may be installed without the approval of the Bureau and the Utility. In addition, no connection capable of causing back flow between the public water supply system and any plumbing fixture, device or appliance, or between any waste outlet or pipe having direct connection to waste drains will be permitted. If the owner of such a connection fails or refuses to break or properly protect the connection within a time limit specified by the Utility, the Utility may disconnect the service according to Chapter 810 or Chapter 860 of the Commission's Rules. The Utility's cross connection rules are on file at the Utility office.~~

23. ~~FLUCTUATION OF PRESSURES BY CUSTOMER'S APPARATUS. A Customer may not install or use any device which will affect the Utility's pressure or water quality without prior Utility permission.~~

24. — ~~SAFEGUARDING DIRECT PRESSURE WATER DEVICES AND SYSTEMS SUPPLIED BY AUTOMATIC FEED VALVES.~~ Customers must install vacuum, temperature and pressure relief valves or cutouts to prevent damage to a direct pressure water device or secondary system supplied by an automatic feed valve.

25. — ~~UTILITY JOBBING.~~ “Utility Jobbing” means unregulated utility services, including but not limited to construction and laboratory services. A Customer must complete a written application before a Utility will provide unregulated Utility service. Applicants are required to provide, in advance, sufficient funds as provided in a written estimate by the Utility to cover the anticipated expense. The Utility will return excess funding within 30 days of project completion; costs in excess of the estimate will be billed to the Customer and must be paid within 30 days. Work performed in support of unregulated utility service outside of regular business hours will be charged at overtime rates.

~~New Service Installation:~~ The Utility is responsible for performing the tap into its water main. The Customer is responsible for providing the corporation to complete the tap, and for installation of the service line from the tap into the premises to be served, including the curb stop. Installations must meet Utility specifications.

~~Utility Ownership:~~ The Utility shall own and maintain the service pipe including the curb stop within the limits of the public way. Applicants for new services will be required to pay the cost of installing this section of pipe.

~~Customer Ownership:~~ The Customer shall, at his/her own expense, install, own and maintain the portion of the service pipe between the edge of the public way and the water meter. To avoid potential problems regarding the location of the service pipe, the Customer is requested to consult with the Utility prior to the installation or renewal of their service pipe.

26. — ~~WINTER CONSTRUCTION.~~ No new service or extension of mains will be installed for the convenience of a Customer during winter conditions which increase the cost of the work for the Utility unless the Customer assumes all extra expense over ordinary construction costs.

27. — ~~JOINT USE OF SERVICE PIPE TRENCH.~~ Normally, water service pipes will not be placed in the same trench with other Utility facilities. Where possible, a horizontal separation of ten feet will be provided.

~~Where extenuating, unusual or special circumstances are encountered, a lesser separation of joint use of trench may be allowed if all parties agree provided that the installation complies with all applicable laws, rules and regulations.~~

28. — ~~USE OF HOSE AND LAWN SPRINKLER.~~ When necessary to conserve the water supply, the Utility may restrict or prohibit the use of hoses and sprinklers for metered rate Customers.

29. — ~~FIRE HYDRANTS.~~ Fire hydrants may not be used for any purpose other than to extinguish fires unless prior permission is given by the Utility. Fire hydrants must not be opened

by any person other than an agent of the Utility or a duly authorized representative of the municipality or the owner.

30. — ~~PRIVATE FIRE PROTECTION.~~ Customers requiring private fire protection must contact the Utility to determine the availability of fire service at their location. Fire service, if available, will be installed at the Customer's expense within the bounds of the public way or right of way. The fire service line, after installation, will be owned and maintained in the public way or right of way by the Utility. Ready-to-serve charges for fire services are billed quarterly. The Utility does not guarantee any quantity of water or pressure available through a fire protection service. The owner of the service shall determine, from time to time, the adequacy of supply through the fire service by conducting tests of his private system. Timely notice must be given to the Utility so a representative of the Utility can be present to observe the test.

NEW CHAPTER 40

CHAPTER 40. WATER DEPARTMENT

ARTICLE 1. THE WATER DEPARTMENT

SECTION 101. ESTABLISHMENT. This Chapter is adopted pursuant to the Home Rule Powers as provided in Article VIII, Part 2, of the Maine Constitution and the Home Rule provisions of Title 30-A M.R.S.A. § 3001, the Brewer City Charter, and other applicable laws.

ARTICLE 2. SUPERINTENDENT OF THE WATER DEPARTMENT

SECTION 201. SUPERINTENDENT OF THE WATER DEPARTMENT. There is hereby authorized and established the position of the Superintendent of the Water Department, who shall be appointed by the City Manager.

SECTION 202. DUTIES AND RESPONSIBILITIES. The Superintendent of the Water Department shall have the general oversight authority of the operation and dissemination of water within the area served pursuant to Chapter 66 of the Private and Special Laws (2001) of the Second Regular Session of the One Hundred and Twentieth Legislature.

SECTION 203. OTHER DUTIES.

Section 203.1. The Superintendent shall supervise all Water Department employees.

Section 203.2. He or she shall annually prepare a budget for the Water Department and submit it to the City Manager at least annually.

Section 203.3. Discretionary decisions listed in the approved Terms and Conditions shall be the duty of the Superintendent.

Section 203.4. The Superintendent shall carry out all lawful directives of the City Manager or the Assistant City Manager.

SECTION 204. ANNUAL EVALUATION. At least once annually the City Manager shall evaluate the Superintendent of the Water Department.

ARTICLE 3. TERMS AND CONDITIONS

SECTION 301. CONTRACT BETWEEN THE CUSTOMER AND THE UTILITY.

Terms and conditions made by the City of Brewer Water Department and filed with the Maine Public Utilities Commission constitute a contract between the customer and the utility. The customer agrees to adhere to these terms and conditions and to take water only for purposes stated in the application and at the established rates. The word “customer” means any person, firm, corporation or governmental division who has applied for and is granted service or who is responsible for payment of the service.

SECTION 302. TERMS AND CONDITONS.

The terms and conditions made by City of Brewer Water Department, approved by the Brewer City Council, and filed with and approved by the Maine Public Utilities Commission ~~that shall~~ constitute a contract between the customer and the Brewer Water Department. At least three (3) copies of these terms and conditions are on file in the office of the Brewer City Clerk and the Brewer Water Department.

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.

H. Items with Leave of Council.

The following order 2013-A163 and resolve 2013-B059 were introduced under suspension of the rules. The City Clerk polled the council and unanimous consent was obtained to take up these items.

2013-A163

September 17, 2013

TITLE: ORDER, AUTHORIZE ADDITIONAL HEALTH INSURANCE PLAN.

filed September 16, 2013
(under suspension of the rules)
by Matthew Vachon and
Joseph Ferris

WHEREAS, the Patient Protection and Affordable Care Act (ACA) was signed into law in 2010 and has and will continue to require changes to the City’s health insurance plan; and

WHEREAS, in order to ensure that the City's health insurance meets all of the requirements of the ACA and to avoid potential penalties, the City would like to add a Preferred Provider Organization (PPO) insurance option for non-union employees to choose if they so wish; and

WHEREAS, there is no cost to the City to offer this plan, which would have lower premiums than the City's existing Point of Service (POS) plan;

NOW, THEREFORE, BE IT ORDERED, that the City Council hereby authorizes the City Manager, or his designee, to execute the necessary documents to add a PPO health insurance plan to the health insurance options available to eligible City of Brewer non-union employees.

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

The order was passed by unanimous vote.

2013-B059

September 17, 2013

TITLE: RESOLVE, TO WITHDRAW SUPPORT FROM THE I-395 AND ROUTE 9 CONNECTOR PROJECT AND TO SUPPORT THE NO BUILD OPTION.

filed September 16, 2013
(under suspension of the rules)
by Arthur Verow and
Jerry Goss

WHEREAS, the Maine Department of Transportation (MDOT) is currently reviewing possible routes for a transportation connection between the current end of I-395 in Brewer to Route 9 in either Eddington or Clifton; and

WHEREAS, the City of Brewer has been a major supporter of efforts to improve east-west transportation connections in Maine, including the need to extend I-395 in Brewer to meet Route 9 in Eddington/Clifton; and

WHEREAS, the City has gone on record on numerous occasions about the need to take into account local, regional, and statewide transportation considerations in selecting a final route for this important transportation connector; and

WHEREAS, the proposed 2B-2 route will have a significantly negative impact on many residential properties; and

WHEREAS, the proposed 2B-2 route impacts a significant amount of wetlands; and

WHEREAS, the City of Brewer and other stakeholders have been excluded from the public process as well as the decision-making process used by MDOT;

NOW, THEREFORE, BE IT RESOLVED, that the City Council does hereby withdraw its support for the proposed construction of the I-395 extension to Route 9; and

BE IT FURTHER RESOLVED, that the City of Brewer now supports the “no build” option for this project; and

BE IT FURTHER RESOLVED, that City of Brewer requests and urges MDOT to use a more open and transparent process when making decisions that impact multiple municipalities, their governing bodies, and their citizens.

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

The resolve was adopted by unanimous vote.

Chairman O’Connell polled the council to set a date next week for a special meeting to take up the warrant for the school bond referendum. It was agreed that it would be Thursday, September 26, 2013 at 4:00 p.m.

Chairman O’Connell said he would accept a motion for adjournment.

ACTION: Councilor Ferris moved that the meeting be adjourned. The motion was seconded and passed by unanimous vote. The meeting adjourned at 7:05 pm.

ADJOURNED, ATTEST: _____ Pamela J. Ryan
City Clerk

A TRUE COPY, ATTEST: _____ Brewer, Maine