

City Council Minutes  
March 8, 2017

Regular Meeting  
City Hall Council Chambers

Wednesday, March 8, 2017  
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 Goss	-	present
Councilor Vachon	-	present	Chairman O’Connell	-	present
Councilor Uhlenhake	-	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, Jerry Goss, Kevin O’Connell, Matthew Vachon and Beverly Uhlenhake  
MEMBERS OF THE BREWER CITY COUNCIL You are hereby notified a regular meeting of the City Council will be held on Wednesday, March 8, 2017 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

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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	D. Martin	Ptl.	03/03/17	2300
Matthew Vachon	B. Winter	Ptl.	03/03/17	1500
Beverly Uhlenhake	D. Martin	Ptl.	03/03/17	2051
Jerry Goss	D. Martin	Ptl.	03/03/17	2042
Kevin O’Connell	R. Hogan	DCC	03/03/17	3:45 pm

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**CITY COUNCIL REGULAR MEETING**  
**Wednesday, March 8, 2017 6:00 P.M.**  
**Brewer City Hall Council Chambers**

- I. Call to Order.** (Mayor 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 February 14, 2017 Regular Meeting.** (Councilor Uhlenhake)
- B. Awards, Petitions, Public Comments.**
  - 1. (2017-B002) RESOLVE, Recognizing the City of Brewer as a Community of Caring. (Councilor Goss)
  - 2. Public Comments.
- IV. Recess for Public Hearing.**
  - 1. Extend the Moratorium on the City of Brewer Moratorium Ordinance on Retail Marijuana Establishments and Retail Marijuana Social Clubs.
- V. Adjourn Public Hearing and Continue with Regular Meeting.**
- C. Consent Calendar.**
  - 1. (2017-A018) ORDER, Accept Donation to the Brewer Public Library. (Councilor Vachon)
  - 2. (2017-A019) ORDER, Commit Water Assessment to Treasurer for Collection. (Councilor Ferris)
  - 3. (2017-A020) ORDER, Commit Sewer Assessment to Treasurer for Collection. (Councilor Uhlenhake)
  - 4. (2017-A021) ORDER, Award Contract for Wireless Radio Design and Installation for the Wilson Street Traffic Signal Coordination Project-Phase II. (Councilor Goss)
  - 5. (2017-A022) ORDER, Authorize City Clerk to Post an Amendment to the Emergency Moratorium Ordinance, Chapter 47 “The City of Brewer Moratorium Ordinance on Retail Marijuana Establishments and Retail Marijuana Social Clubs of the Charter, Codes and Ordinances of the City of Brewer Extending the Time Period for the Moratorium. (Councilor Vachon)
  - 6. (2017-A023) ORDER, Authorize Funding for Legal Expenses. (Councilor Ferris)

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7. (2017-A024) ORDER, Authorize a Lease with the Maple Street Community Garden Group on the Asphalt Pad in the Generally Westerly Corner of Maple Street Park on Maple Street in Brewer, Maine for the Purposes of a Non-Profit Community Garden. (Councilor Uhlenhake)
8. (2017-A025) ORDER, Authorize the City of Brewer to Enter into an Agreement with Rand Enterprises, LLC for the Use of Five (5) Parking Spaces in his Parking Lot at 5 South Main Street. (Councilor Goss)
9. (2017-A026) ORDER, Authorize Funding to Construct a Sidewalk on Hardy Street. (Councilor Vachon)

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

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

**F. Unfinished Business.**

1. (2017-C002) Amend Chapter 1, "The City Council", Article 1, The City Seal, to add "City Logo" and Section 102 of the City of Brewer Charter, Codes and Ordinances to Require Advice and Consent of the City Council. (Councilor Uhlenhake) (posted 2/15/17)

**G. New Business.**

1. (2017-C003) Amend Chapter 20, "Licenses and Permits", Article 2, Licenses, Section 219, Liquor Licenses, Subsection 219.1, New Licenses of the City of Brewer Charter, Codes and Ordinances so that Mailing Requirements to Abutting Landowners is the Same as What is Required in the Land Use Code. (Councilor Uhlenhake)

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

**I. ADJOURN.**

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**A. Minutes of February 14, 2017 Regular Meeting.**

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

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

2017-B002

March 8, 2017

TITLE: RESOLVE, RECOGNIZING THE CITY OF BREWER AS A  
COMMUNITY OF CARING.

filed March 1, 2017  
by Jerry Goss

WHEREAS, in 1994 the City of Brewer received the designation of a Community of Caring; and

WHEREAS, research shows that:

- Community of Caring is effective in promoting positive school culture and positive attitudes of teachers
- Community of Caring fosters improved student attendance, higher grade point averages and character
- Students respect and care for each other, even when they are not friends
- Teachers respect, care for and have interest in students
- Stronger norms develop against vandalism, fighting, cheating, bullying and verbal abuse in school; decrease the number of discipline referrals
- Community of Caring is an effective teen pregnancy prevention and alcohol prevention program; and

WHEREAS, the Core of Caring values are:

- Valuing the opportunity to learn and making the most of education
- Making the effort to produce quality work in the classroom
- Taking time to develop and work toward both short and long term goals
- Taking care physically, mentally, socially and intellectually
- Doing a job well whatever that job may be
- Being a good listener and being sensitive to the feelings, thoughts and experiences of others and responding positively to them
- Standing up for what is right
- Having pride in our schools
- Helping create a safe and caring learning environment by being friendly, accepting and respectful to fellow students and school staff;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Brewer reiterates its support for Community of Caring.

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

Councilor Goss asked that the representatives from the schools and the City Manager join him at the front while he read resolve. Councilor Goss then presented William Leithiser (Brewer Community School Principal), Cheri Towle (Superintendent and Interim Principal for Brewer High School), Samantha Pangburn (Brewer High School Assistant Principal) and Brewer City Manager Steve Bost with plaques containing the resolve to be hung up in the schools and city hall.

Councilor Goss said Community of Caring means family, responsibility, trust, respect and making a commitment to the residents of the community. He thanked them and said to keep on doing what they were doing and you have the city's support.

William Leithiser said that he appreciated how the City Council and City Departments are always there to support them.

Cheri Towle said that the core values of community of caring are incorporated into the school system.

Chairman O'Connell thanked Katie Conner, Brewer Library Director, for putting together a CD on the history of Community of Caring.

The resolve was adopted by unanimous vote.

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#### **PUBLIC COMMENTS.**

Councilor Uhlenhake wanted to comment City Planner Linda Johns for the excellent job she did speaking at the Penobscot Conservation Association. Councilor Uhlenhake said she received many comments from people attending as to the great job Linda did.

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#### **Recess for Public Hearing.**

Chairman O'Connell said the City Council would recess for a public hearing and after the public hearing would return to the regular meeting and take up the rest of the items on the agenda.

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

The city clerk called the roll:

Councilor Ferris	-	present	Chairman O'Connell	-	present
Councilor Uhlenhake	-	present	Councilor Goss	-	present
Councilor Vachon	-	present			

Chairman O'Connell declared all members were present.

Chairman O'Connell read the notice for the public hearing.

## **CITY OF BREWER PUBLIC HEARING**

Notice is hereby given that the City Council of the City of Brewer will hold a public hearing on Wednesday, March 8, 2017 at 6:00 P.M. in the Council Chambers at Brewer City Hall to determine if the City Council should extend the City of Brewer Moratorium Ordinance on Retail Marijuana Establishments and Retail Marijuana Social Clubs as there is a need to for the moratorium to continue to exist for an extended 180 days. Reasonable progress is being made to alleviate the problem giving rise to the need for the moratorium.

Any person may attend this public hearing and speak on this matter. Written comments may also be submitted. The deadline for submission of written comments is 4:00 P.M. on the date of the public hearing. Written comments should be addressed to the Brewer City Council, c/o City Clerk, 80 No. Main Street, Brewer, Maine 04412.

Pamela J. Ryan  
City Clerk

Published in Bangor Daily News February 28, 2017  
Posted City Hall Bulletin Board February 24, 2017

Chairman O'Connell asked the City Clerk if any written comments had been received for the public hearing. The City Clerk did not receive any written comments pertaining to the public hearing.

Councilor Ferris moved that the three page memo from City Solicitor Joel Dearborn explaining the need for the extension of the moratorium be accepted and placed on file. The motion was seconded and passed by unanimous vote.

Chairman O'Connell closed the public hearing.

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.

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**C. Consent Calendar.**

**ACTION:** Councilor Vachon moved that the orders on the consent calendar have passage.

The motion was seconded and passed by unanimous vote.

2017-A018

March 8, 2017

**TITLE:** ORDER, ACCEPT DONATION TO THE BREWER PUBLIC LIBRARY.

filed March 1, 2017  
by Matthew Vachon

WHEREAS, the Brewer Public Library has received a contribution of \$12,699.00 from the Brewer Library Association to cover, in full, costs of the recent roof project at the Library; and

WHEREAS, the Brewer City Council voted at its September 1, 2016 meeting to award the contract for the roof repair to G.R. Roofing Company of Brewer and charge the expense to CIP account 0510120-551017 (LIBRARY BUILDING IMPROVEMENTS); and

WHEREAS, the roof repair was completed by G.R. Roofing in December 2016 for a total cost of \$12,699.00; and

WHEREAS, the Brewer Library Association was incorporated in 1907 to establish the first free public library in Brewer and now continues to support the mission and operations of the City of Brewer Public Library; and

WHEREAS, the Brewer Library Association is entirely made up of volunteers, who selflessly donate hours of their time and energy to serve the Library and its patrons; and

WHEREAS, at the November 3, 2016 Annual Meeting of the Brewer Library Association, members voted unanimously to cover the costs of the Library roof project;

NOW, THEREFORE, BE IT ORDERED, that the City Council hereby accepts this generous contribution totaling \$12,699.00 and orders it deposited into CIP account 0500100-300490 (Miscellaneous Revenues) to be used solely to cover costs associated with the Library roof project.

BE IT FURTHER ORDERED, that the City Council recognizes and deeply appreciates the significant contributions, both social and financial, of the Brewer Library Association to the City of Brewer and the City of Brewer Public Library.

*NOTE: The Brewer Public Library sends a letter of acknowledgement and appreciation on behalf of the City Council and the Library to all who contribute to the Library.*

**STATEMENT OF FACT**

This order accepts a significant financial contribution from the Brewer Library Association to cover, in full, recent roof work completed at the City of Brewer Public Library.

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2017-A019

March 8, 2017

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

filed March 1, 2017  
by Joseph Ferris

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

NOW, THEREFORE WE, the Brewer City Council, does hereby commit to the Treasurer or Deputy Treasurer of Brewer for collection, the sum of **\$586,757.02** 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
March 2017	\$584,393.17	
December 2016	\$ 1,040.92	
January 2017	\$ 902.92	
February 2017	\$ 420.01	
Total	<b>\$586,757.02</b>	

FURTHER, IT IS ORDERED, that a detailed commitment of the **\$586,757.02** 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.

**STATEMENT OF FACT**

This is a quarterly housekeeping order that is approved and the commitment signed by Council.

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2017-A020

March 8, 2017

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

filed March 1, 2017  
by Beverly Uhlenhake

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 **\$540,103.39** 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
March 2017	\$537,405.79	
December 2016	\$505.80	
January 2017	\$1,272.93	
November 2016	\$918.87	
<b>Total</b>	<b>\$540,103.39</b>	

FURTHER, IT IS ORDERED, that a detailed commitment of the **\$540,103.39** 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.

#### STATEMENT OF FACT

This is a quarterly housekeeping order that is approved and the commitment signed by Council.

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2017-A021

March 8, 2017

TITLE: ORDER, AWARD CONTRACT FOR WIRELESS RADIO DESIGN  
AND INSTALLATION FOR THE WILSON STREET  
TRAFFIC SIGNAL COORDINATION PROJECT-PHASE II.

filed March 1, 2017  
by Jerry Goss

WHEREAS, the City of Brewer has been collecting impact fees for the planned coordination of traffic signals on Wilson Street; and

WHEREAS, this project was originally intended to be one phase for all eight intersections but was broken into two phases during design to evaluate the new equipment on a smaller scale before making the total investment for the entire project; and

WHEREAS, Phase I of the interconnect project has been up and running well since September 2016 and Phase II will be a continuation of this project; and

WHEREAS, the City was awarded a Municipal Partnership Initiative grant by MDOT in 2016 for construction of phase 2 in 2017 and MDOT will be reimbursing the City for half of the cost of the project, up to \$45,000.00; and

WHEREAS, due to the intricacies of this project and the limited number of qualified firms capable of designing and constructing this type of work, the Engineering Department would like to reassemble the same team of consultant and contractors that completed Phase 1 for the sake of continuity and consistency;

NOW, THEREFORE, BE IT ORDERED, that that City Council herewith authorizes the City Manager, or his designee, to execute a contract with HCP Computers, Inc. of Carmel, Maine in an amount of \$17, 525.00 for the design and installation of the wireless radios associated with Phase Two of the Wilson Street Traffic Signal Interconnect Project; and

BE IT FURTHER ORDERED, that the Brewer City Council herewith exercises its authority under Chapter 36, Section 404 of the City's Purchasing Ordinance for the provision of these Design Services, and

BE IT FURTHER ORDERED, that all cost associated with this contract shall be charged to CIP account 0510133-551316-00478 (Signal Coordination).

#### **STATEMENT OF FACT**

This order awards the contract for design and installation of the wireless radios for Phase II of the Wilson Street Interconnect project, which will add 5 more intersections to the existing three interconnected intersections.

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2017-A022

March 8, 2017

TITLE: ORDER, AUTHORIZE CITY CLERK TO POST AN AMENDMENT TO THE EMERGENCY MORATORIUM ORDINANCE, CHAPTER 47, "THE CITY OF BREWER MORATORIUM ORDINANCE ON RETAIL MARIJUANA ESTABLISHMENTS AND RETAIL MARIJUANA SOCIAL CLUBS OF THE CHARTER CODES AND ORDINANCES OF THE CITY OF BREWER EXTENDING THE TIME PERIOD FOR THE MORITORIUM.

filed March 1, 2017  
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, the amendment to the ordinance needs to become effective immediately as the time period for the moratorium expires on March 18, 2017; 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;

WHEREAS, the Brewer City Council enacted Chapter 47, Moratorium on Retail Marijuana Establishments and Retail Marijuana Social Clubs on September 19, 2016 and the time period was for 180 days; and

WHEREAS, the need for the Moratorium still exists and the City Council wishes to extend it for 180 more days effective immediately; and

WHEREAS, after the public hearing the City Council finds that the problem giving rise to the need for the moratorium still exists and reasonable progress is being made to alleviate the problem giving rise to the need for the moratorium; and

WHEREAS, an extension of the Moratorium is warranted in accordance with Title 30-A M.R.S.A. § 4356;

NOW, THEREFORE, based upon the foregoing findings, be it hereby ordered by the Brewer City Council that the Ordinance is amended to extend the Moratorium as hereinafter provided:

**CHAPTER 47**  
**CITY OF BREWER MORATORIUM**  
**ORDINANCE ON RETAIL MARIJUANA ESTABLISHMENTS**  
**AND RETAIL MARIJUANA SOCIAL CLUBS**

WHEREAS, a ballot initiative to legalize, regulate and tax marijuana for non-medicinal purposes known as the “Marijuana Legalization Act” proposed to be codified in the Maine Revised Statutes in Title 7, chapter 417, will be voted on by a Statewide referendum election on November 8, 2016; and

WHEREAS, the proposed Act authorizes municipalities to regulate the number of retail marijuana stores and the location and operation of retail marijuana social clubs and retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, as those terms are defined in the proposed Act, as well as the option to prohibit the operation of retail marijuana social clubs and retail marijuana establishments, including stores, cultivation facilities, manufacturing facilities and testing facilities within its jurisdiction; and

WHEREAS, the proposed Act will not limit the privileges or rights afforded by the Maine Medical Use of Marijuana Act (22 M.R.S.A. §§ 2421 – 2430-B) to qualifying patients, primary caregivers, or registered dispensaries, including cultivation facilities; and

WHEREAS, the outcome of the Statewide referendum vote is yet to be determined and the City’s current Land Use Code and other applicable Codes and Ordinances provides for regulations of medical marijuana cultivation facilities and dispensaries pursuant to the Maine Medical Use of Marijuana Act cited above, but does not include any regulations related to retail marijuana establishments or retail marijuana social clubs under the proposed new Act; and

WHEREAS, the unregulated location and operation of retail marijuana establishments and retail marijuana social clubs within the City of Brewer raises legitimate and substantial questions about the impact of such establishments and social clubs on the City, including questions of the compatibility of retail marijuana establishments and social clubs with existing uses and development in all zoning districts; the potential adverse health and safety effects of retail marijuana establishments and social clubs on the community if not properly regulated; the possibility of illicit sale and use of marijuana and marijuana products to minors and misuse of marijuana and marijuana products by those who would abuse the uses authorized under the new law; potential criminal activity associated with the cultivation, manufacturing, sale and use of marijuana and marijuana products for non-medicinal purposes and the potential increased burden on the public safety agencies serving the City in responding to the same; and the adequacy of the City’s streets and infrastructure to accommodate the additional traffic and/or population that may result from the presence of retail marijuana establishments or social clubs; and

WHEREAS, the possible effect of the location and operation of retail marijuana establishments and/or retail marijuana social clubs within the City has serious implications for the health, safety and welfare of the City and its residents; and

WHEREAS, the City needs time to review the proposed Act in anticipation of the election and to review its Land Use Code and other applicable Codes and Ordinances to determine the implications of future proposed retail marijuana establishments and/or social clubs to develop reasonable codes and ordinances governing the location and operations of such establishments and social clubs to address the concerns cited above; and

WHEREAS, the City, under its home rule authority, its police power generally, and under 30-A M.R.S.A., Chapter 187, Subchapter 3 (“land use regulation”), as provided by the proposed new Act, or as otherwise provided by current law, has the authority to impose reasonable restrictions, conditions, and limitations on such retail marijuana establishments and social clubs; and

WHEREAS, the City Council, with the professional advice and assistance of the Brewer Police Department, Penobscot County Sheriff’s Office and the Maine State Police, the Planning Board and the Planning Department shall study the City’s current Land Use Code and other applicable Code and Ordinances to determine the land use and other regulatory implications of retail marijuana establishments and social clubs and consider what locations, if any, and conditions of approval, if any, might be appropriate for such uses; and

WHEREAS, the City’s current Land Use Code and other Codes and Ordinances are not adequate to prevent serious public harm that could be caused by the development of retail marijuana establishments and social clubs and other uses authorized by the proposed changes in law to be voted on in the November 8, 2016, referendum election, thereby necessitating a moratorium; and

WHEREAS, a moratorium is necessary to prevent an overburdening of public facilities that is reasonably foreseeable as the result of retail marijuana establishments and social clubs and other uses authorized by the proposed changes in law, if passed, to be voted on in the November 8, 2016 referendum election, being located in the City; and

WHEREAS, it is anticipated that such a study, review, and development of recommended Ordinance changes will take at least one hundred and eighty (180) days from the date the City enacts this Moratorium Ordinance on Retail Marijuana Establishments and Retail Marijuana Social Clubs; and

WHEREAS, this Moratorium Ordinance does not become effect until five (5) days after approval, unless it contains an emergency preamble; and

WHEREAS, the facts set forth above create an emergency within the Charter, Codes and Ordinances of the City of Brewer and require that the following resolves become effective immediately upon its approval to protect the public health, common welfare and safety of the citizens of Brewer.

NOW, THEREFORE, BE IT ENACTED, based upon public hearing and the City Council's findings, a: the problem giving rise to the need for the moratorium still exists and b: reasonable progress is being made to alleviate the problem giving rise to the need for the moratorium, by the City Council of the City of Brewer that the following Chapter 47 entitled, "Moratorium Ordinance on Retail Marijuana Establishments and Retail Marijuana Social Clubs" be, and hereby is, enacted, and, in furtherance thereof, the City Council does hereby declare a moratorium on the location, operation or licensing of any retail marijuana social clubs and any retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, within the City.

This Moratorium Ordinance shall take effect, once enacted by the City Council, in accordance with the provisions of the City Charter, but shall be applicable as of September 19, 2016, as expressly provided below. The moratorium shall remain in effect for an additional one hundred and eighty (180) days from the date of applicability, March 18, 2017, of this Ordinance, unless extended, repealed, or modified by the City Council, for the express purpose of drafting an amendment or amendments to the City's current Land Use Code and other applicable Code and Ordinances to protect the public from health and safety risks including, but not limited to, compatibility of retail marijuana establishments and social clubs with existing and permitted uses in residential, commercial, industrial zoning districts and other zoning districts; the correlation of retail marijuana establishments and social clubs with medical marijuana cultivation facilities and dispensaries; the potential adverse health and safety effects of retail marijuana establishments and social clubs on the community if not properly regulated; the possibility of illicit sale and use of marijuana and marijuana products to minors and misuse of marijuana and marijuana products by those who would abuse the uses authorized under the new law; criminal activity associated with the cultivation, manufacturing, sale and use of marijuana and marijuana products for non-medicinal purposes and the potential increased burden on the public safety agencies serving the City in responding to the same; and the adequacy of the City's streets and infrastructure to accommodate the additional traffic and/or population that may result from the presence of retail marijuana establishments or social clubs

BE IT FURTHER ENACTED, that this Ordinance shall apply to retail marijuana social clubs and retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, as those terms are defined by the proposed "Marijuana Legalization Act" to be codified, if passed, at 7 M.R.S.A. §§ 2442 (36), (39), (40), that may be proposed to be located within the City on or after the September 19, 2016 applicability date of this Ordinance; and

BE IT FURTHER ENACTED, that notwithstanding the provisions of 1 M.R.S.A. § 302 or any other law to the contrary, this Ordinance, when enacted, shall govern any proposed retail marijuana establishments or social clubs for which an application for a building permit, Certificate of Occupancy, site plan or any other required approval has not been submitted to and granted final approval by the Code Enforcement Officer, Planning Board or other City officials or boards prior to September 19, 2016, the applicability date of this Ordinance; and

BE IT FURTHER ENACTED, that no person or organization shall develop or operate a retail marijuana establishment or social club within the City on or after the September 20, 2016 applicability date of this Ordinance without complying with whatever Ordinance amendment or amendments the City Council may enact as a result of this Moratorium Ordinance; and

BE IT FURTHER ENACTED, that during the time this Moratorium Ordinance is in effect, no officer, official, employee, office, administrative board or agency of the City shall accept, process, approve, deny, or in any other way act upon any application for a license, building permit, certificate of occupancy, special exception review, site plan review and/or any other permits or licenses related to a retail marijuana establishment, or retail marijuana social club; and

BE IT FURTHER ENACTED, that those provisions of the City's current Land Use Code and other applicable Codes and Ordinances that are inconsistent or conflicting with the provisions of this Ordinance, are hereby repealed to the extent that they are applicable for the duration of the moratorium hereby ordained, and as it may be extended as permitted by law, but not otherwise; and

BE IT FURTHER ENACTED, that if retail marijuana establishments, retail marijuana social clubs, new medical marijuana cultivation facilities or this Ordinance, each day of any continuing violation shall constitute a separate violation of this Ordinance, and the City shall be entitled to all rights available to it in law and equity, including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney's fees and costs in prosecuting any such violations; and

BE IT FURTHER ENACTED that this Moratorium Ordinance shall not apply to existing medical marijuana dispensaries or medical marijuana cultivation facilities as defined under the Maine Medical Use of Marijuana Act ( 22 M.R.S.A. 2421-2430-B ) in the City of Brewer or the expansion thereof; and

BE IT FURTHER ENACTED, that should any section or provision of this Ordinance be declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

Applicability Date: ~~September 19, 2016~~ March 18, 2017, pursuant to its emergency preamble.

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2017-A023

March 8, 2017

TITLE: ORDER, AUTHORIZE FUNDING FOR LEGAL EXPENSES.

filed March 1, 2017  
by Joseph Ferris

WHEREAS, over the course of FY2017, the City has been party to an atypical number of legal cases, including a dispute over the City Hall parking lot, the Penobscot Indian Reservation waterway court case, and a series of complaints against property owners with Code violations; and

WHEREAS, this level of legal activity and spending was not anticipated when the City prepared its FY17 budget; and

WHEREAS, spending on unanticipated legal issues has largely abated; and

WHEREAS, the City has received some funds this year that it did not anticipate that could be appropriated to cover the unexpected legal spending, including proceeds from the sale of tax acquired property at 927 North Main Street, property insurance dividends received for favorable 2016 claims experience, and surplus excise tax revenues;

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Council hereby authorizes the appropriation and expenditure of \$25,000 from 0115400-501000 (Legal Services).

BE IT FURTHER ORDERED, that funding for this appropriation shall come from the following sources and accounts:

\$ 7,730	0106904-300410 Sale of Assets (929 N. Main St property)
\$ 8,870	0106904-300490 Miscellaneous Revenue (Insurance dividend)
<u>\$ 8,400</u>	0105500-300010 Excise Tax Revenues
\$25,000	

#### STATEMENT OF FACT

This order appropriates an additional \$25,000 to the City's legal budget to cover unanticipated attorney's fees related to several legal issues confronting the City this year.

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2017-A024

March 8, 2017

TITLE: ORDER, AUTHORIZE A LEASE WITH THE MAPLE STREET COMMUNITY GARDEN GROUP ON THE ASPHALT PAD IN THE GENERALLY WESTERLY CORNER OF MAPLE STREET PARK ON MAPLE STREET IN BREWER, MAINE FOR THE PURPOSES OF A NON-PROFIT COMMUNITY GARDEN.

filed March 1, 2017  
by Beverly Uhlenhake

WHEREAS, the City has a park on Maple Street in said Brewer, hereinafter referred to as the "Park" or "Maple Street Park"; and



WHEREAS, there is an Asphalt Pad located in the generally westerly corner of the Park, hereinafter referred to as the “Asphalt Pad”; and

WHEREAS, the Director of the City of Brewer’s Parks and Recreation Department and his staff have been approached by a group of Brewer residents, known as and is hereinafter referred to as the “Maple Street Community Garden Group”, to lease the area of the Asphalt Pad in the generally westerly corner of the Park for a non-profit community garden; and

WHEREAS, the City has a very strict Agreement with the Maine Department of Environmental Protection, hereinafter referred to as “MDEP”, for the use of the Park; and

WHEREAS, the Maple Street Community Garden Group is aware of all of the strict terms and conditions of the Agreement the City has with MDEP for the use of the Park and the Asphalt Pad contained therein; and

WHEREAS, the MDEP has consented to the granting of the Lease to the Maple Street Community Garden Group of the Asphalt Pad for a non-profit community garden; and

WHEREAS, the City staff has recommended the additions of strict terms and conditions to lease the Asphalt Pad to the Maple Street Community Garden Group which has been incorporated in a lease; and

WHEREAS, the Maple Street Community Garden Group has agreed to all of the terms and conditions set forth in the lease, a copy of which is attached hereto and made a part hereof (hereinafter referred to as the “Lease”);

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Council, upon the recommendations of City staff, hereby authorize the Lease of the Asphalt Pad located in the Maple Street Park to the Maple Street Community Garden Group by a Lease substantially in the form attached to this Order, subject to any minor revisions the City Solicitor and the revisions the City Manager, or his designee, deem to be in the best interest of the citizens of the City of Brewer; and

FURTHER BE IT ORDERED, that the City Manager, or his designee, is authorized to Lease the Asphalt Pad under such terms and conditions as he, or his designee, determines to be in the interest of the citizens of the City of Brewer consistent with the attached Lease and approved as to form by the City Solicitor; and

FURTHER BE IT ORDERED, that the City Manager, or his designee, is authorized to take any and all further action that he, or his designee, deem appropriate and to sign any and all documents and to take any and all actions to effectuate the granting of the Lease on behalf of the City Council.

**STATEMENT OF FACT**

This order authorizes the lease of the asphalt pad in the westerly corner of Maple Street Park to Maple Street Community Garden Group for a non-profit community Garden on a yearly basis.

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2017-A025

March 8, 2017

TITLE: ORDER, AUTHORIZE THE CITY OF BREWER TO ENTER INTO AN AGREEMENT WITH RAND ENTERPRISES, LLC FOR THE USE OF FIVE (5) PARKING SPACES IN HIS PARKING LOT AT 5 SOUTH MAIN STREET.

filed March 1, 2017  
by Jerry Goss

WHEREAS, the City of Brewer has developed a Riverwalk Trail along the banks of the Penobscot River between the property owned by Rand Enterprises, LLC; and

WHEREAS, the City is encouraging its residents, businesses and visitors to utilize the Riverwalk Trail, but the amount of available parking for use of the trail is limited; and

WHEREAS, Dr. C. Bradford Rand wishes to continue his history of strong civic engagement by further demonstrating his commitment to this community; and

WHEREAS, Dr. Rand and Rand Enterprises, LLC has offered to license the City five (5) parking spaces in its parking lot located at 5 South Main Street for use by persons wishing to park there to utilize the Riverwalk Trail at no cost; and

WHEREAS, the City will prepare and install the signage for the licensed spaces at its expense; and

WHEREAS, the City Council wishes to recognize and thank Dr. Bradford Rand for his generosity, support and commitment to the continued development of the City of Brewer; and

WHEREAS, the City of Brewer is proud and fortunate to have this first class operation as a long standing member of its business community;

NOW, THEREFORE, BE IT ORDERED, that the City Manager, or his designee, are authorized to execute a license agreement with Rand Enterprises, LLC, for the use of five (5) parking spaces located at 5 South Main Street for use at the Riverwalk Trail;

FURTHER, BE IT ORDERED, that the costs of the signage shall be charged to the Waterfront Trail CIP account 0510121-551102.

#### **STATEMENT OF FACT**

This order authorizes the City to enter in to a license agreement with Rand Enterprises, LLC for the use of five (5) parking spaces at his location at 5 South Main Street for the Riverwalk Trail.

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2017-A026

March 8, 2017

**TITLE: ORDER, AUTHORIZE FUNDING TO CONSTRUCT A  
SIDEWALK ON HARDY STREET.**

filed March 1, 2017  
by Matthew Vachon

WHEREAS, there is no pedestrian connection from the sidewalk on South Main Street to the Riverwalk Trail and it is our understanding that people have been walking in Hardy Street, which is already a narrow road for vehicle traffic, to access the Trail; and

WHEREAS, a survey of the area was completed in the fall of 2016 and design was done this winter by the Engineering Department and the Public Works Department has agreed to construct the sidewalk in conjunction with the Hardy Street repaving project that is scheduled to happen this summer; and

WHEREAS; the City has reached agreements with all of the abutting landowners and purchased a 6' wide strip of land from each to construct the sidewalk on; and

WHEREAS, the City has tax increment financing (TIF) funds available to cover the cost of this work and as an important access and safety feature of the City's Riverwalk Trail, this project is TIF eligible;

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Council hereby authorizes the appropriation and expenditure of up to \$25,000 in TIF Special Project funds from CIP account 0510121-551102-57018 (Waterfront Trail – Hardy St Sidewalk); 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 goods and services for this project.

### **STATEMENT OF FACTS**

This order appropriates up to \$25,000 in TIF funding to the Waterfront Trail – Hardy Street Sidewalk account to fund construction of a sidewalk from South Main Street to the Brewer Riverwalk Trail.

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#### **D. Monthly Reports.**

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

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

There were no items.

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**F. Unfinished Business.**

2017-C002

February 14, 2017

TITLE: AMEND CHAPTER 1, "THE CITY COUNCIL", ARTICLE 1, THE  
"CITY SEAL" TO ADD "CITY LOGO" AND SECTION 102 OF THE CITY OF  
BREWER CHARTER, CODES AND ORDINANCES TO REQUIRE ADVICE  
AND CONSENT OF THE CITY COUNCIL.

filed February 8, 2017  
by Beverly Uhlenhake

Be it ordained by the City Council of Brewer in City Council assembled that Chapter 1, Article 1, The City Seal, be amended to add City Logo and Section 102 of the Charter, Codes and Ordinances of the City of Brewer entitled "The City Council" be amended to read as follows:

ARTICLE 1. THE CITY SEAL AND CITY LOGO.

SECTION 102. A person may not use or display an imitation, likeness, imprint, representation, facsimile or copy of the \*City Seal and \*\*City Logo except by written permission of the City from the City Clerk, upon advice and consent of the City Council.

(\*the City Seal officially went into use in 1888)

(\*\*the City Logo officially went into use December 1, 2001)

**STATEMENT OF FACT**

This amendment to Chapter 1, "The City Council", Article 1, "The City Seal", Section 102, would allow the City Clerk to give written permission to use the City Seal and City Logo only upon the advice and consent of the City Council.

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

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**G. New Business.**

2017-C003

March 8, 2017

TITLE: AMEND CHAPTER 20, "LICENSES AND PERMITS", ARTICLE 2, LICENSES, SECTION 219, LIQUOR LICENSES, SUBSECTION 219.1, NEW LICENSES OF THE CITY OF BREWER CHARTER, CODES AND ORDINANCES SO THAT MAILING REQUIREMENTS TO ABUTTING LANDOWNERS IS THE SAME AS WHAT IS REQUIRED IN THE LAND USE CODE.

filed March 1, 2017  
by Beverly Uhlenhake

Be it ordained by the City Council of Brewer in City Council assembled that Chapter 20, Article 2, Licenses, Section 219, Liquor Licenses, Subsection 219.1 of the Charter, Codes and Ordinances of the City of Brewer entitled "Licenses and Permits" be amended to read as follows:

ARTICLE 2 – LICENSES

SECTION 219. LIQUOR LICENSES.

SECTION 219.1 NEW LICENSES.

Applications to the Maine Bureau of Liquor Enforcement and Licensing for licenses for the sale of spirits, wine or malt liquor to be consumed on the premises require the approval of the City Council. The City Council may, at its discretion hold a public hearing on any new or amended license. Applications for such state liquor licenses will require a public hearing before the City Council if the Police Chief, the Fire Chief, the Code Enforcement Officer or the Health Officer refuses to approve the license because of a violation or violations of any City Code or Ordinance. Upon notification of any such disapproval, a public hearing will be called and held on the license renewal application. The City Clerk shall publish notice of any public hearing in a newspaper as required by the Maine Liquor Laws. The City Clerk shall send, by first class mail, a notice that the City Clerk's office has received an application for a new or renewed license application and that the City Council will consider the application at a specified upcoming public hearing or meeting of the City Council. Notice shall be mailed to abutting landowners, including those directly across the street of the establishment by the City Clerk's office at least seven days prior to the public hearing or meeting. ~~The notice shall be sent to all property owners of record within a five hundred (500) foot radius of the premise for which the license is sought. If one (1) or more of the properties within the five hundred (500) foot radius is an apartment complex or a business complex, the City Clerk shall send, by first class mail, to the owner of the complex a letter suggesting that he or she or it, if a corporation, notify the tenants of the complex of the fact of the public hearing or public meeting.~~

**STATEMENT OF FACTS**

This ordinance amendment makes the mailing requirements to abutting landowners the same as what is required in the Land Use Code.

**ACTION:** Councilor Uhlenhake moved that one copy of the proposed ordinance amendment be certified and filed with the city clerk for posting.

The motion was seconded and passed by unanimous vote.

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

There were no items.

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

**ACTION:** Councilor Uhlenhake moved that the meeting be adjourned. The motion was seconded and passed by unanimous vote. The meeting adjourned at 6:14 p.m.

**ADJOURNED, ATTEST:** \_\_\_\_\_ Pamela J. Ryan  
City Clerk  
**A TRUE COPY, ATTEST:** \_\_\_\_\_ Brewer, Maine