

City Council Minutes
September 12, 2017

CITY COUNCIL REGULAR MEETING
Tuesday, September 12, 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 August 8, 2017 Regular Meeting** (Councilor Vachon)
- B. Awards, Petitions and Public Comments.**
 - 1. (2017-B014) RESOLUTION of respect for William Power Hayes (Councilor Ferris)
 - 2. Proclamation: Recovery Month in the City of Brewer (Councilor Goss)
 - 3. Swearing in Ceremony: Brewer Police Officer Joseph Everette
- C. Consent Calendar.**
 - 1. (2017-A136) ORDER, Accept Donations to the Brewer Public Library for Books. (Councilor Uhlenhake)
 - 2. (2017-A137) ORDER, Accept Donations to the Brewer Public Library for Special Events. (Councilor Vachon)
 - 3. (2017-A138) ORDER, Accept Donations to the Brewer Parks & Recreation Department for Brewer Days. (Councilor Ferris)
 - 4. (2017-A139) ORDER, Accept Donations to the Brewer Parks & Recreation Department for Fall/Program League (Councilor Goss)
 - 5. (2017-A140) ORDER, Authorize Purchase of a Replacement Pick-up Truck for Public Works. (Councilor Uhlenhake)
 - 6. (2017-A141) ORDER, Authorize Purchase of a Replacement Pick-up Truck for the Brewer Fire Department (Councilor Vachon)
 - 7. (2017-A142) ORDER, Authorize Purchase of a Replacement Pick-up Truck for the Brewer Parks & Recreation Department (Councilor Ferris)
 - 8. (2017-A143) ORDER, Extend the Time to Consider the Acceptance of Streets in Recorded Subdivision Plans Pursuant to Title 23 M.R.S.A., Section 3032 (Councilor Goss)
 - 9. (2017-A144) ORDER Commit Sewer Assesment to Treasurer for Collection (Councilor Uhlenhake)
 - 10. (2017-A145) ORDER Authorize Purchase and Installation of Replacement Munis Server and Related Work (Councilor Vachon)
 - 11. (2017-A146) ORDER Award Contract for PAYT Trash Bags Services (Councilor Ferris)
 - 12. (2017-B015) RESOLVE Authorize City of Brewer to Exercise the Put Option Set Forth in the Sixth Amended and Restated Agreement of Limited Partnership of

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13. (2017-A147) ORDER Penobscot Energy Recovery Company, Limited Partnership (Councilor Goss)
Tax Release Deed, Map 00600, Lot 011, 449 Elm Street (Councilor Vachon)
14. (2017-A148) ORDER Commit Water Assessment to Treasurer for Collection (Councilor Ferris)

D. Monthly Reports. (Councilor Uhlenhake)

E. Nominations, Appointments, Elections.

F. Unfinished Business.

1. (2017-C013) Amend the Zoning District to Change a Portion of General Business (GB) to Office Residential (OR) at 219 State Street, Tax Map 50, Lot 16. (Councilor Uhlenhake)
2. (2017-C014) Amend Chapter 24 (Land Use Code) Article 4, Performance Standards, Section 411, Day Care and Section 415 Home Occupations (Councilor Ferris)
3. (2017-C015) Amend Chapter 24, Land Use Code, Article 3, Section 306.3, Uses Substantially Similar to Permitted Uses, Item 3 Prohibited Uses, of the City of Brewer Charter, Codes and Ordinances (Councilor Goss)

G. New Business.

1. (2017-C016) Amend Chapter 19 of the City of Brewer Ordinance, Article 5, Section 506, Schedule 3. (Councilor Vachon)
2. (2017-A149) ORDER, Convene in Executive Session Pursuant to Title 36, M.R.S.A. §841(2)(A) on a hardship/poverty matter. (Councilor Ferris)

H. New Items with Leave of Council.

I. ADJOURN.

A. Minutes of July 25, 2017 Regular Meeting

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

B. Awards, Petitions, Public Comments

2017-B014

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TITLE: RESOLUTION OF RESPECT FOR WILLIAM POWER HAYES

Filed August 10, 2017
By Joseph Ferris

WHEREAS, on the 22nd day of July, 2017, death brought to a close the full and active life William Power Hayes of Brewer; and

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WHEREAS, Bill was a graduate of Brewer primary schools, Brewer High School and continued his education at the University of Maine, graduating with a degree in Civil Engineering; and

WHEREAS, Bill served his Brewer community selflessly as a trustee and Chairman of the Brewer Water District, a trustee and deacon for the First Congregational Church of Brewer, director of the Brewer Economic Development Corporation and treasurer for the Brewer Historical Society; and

WHEREAS, Bill was a devoted husband, brother, father, grandfather, great-grandfather and dedicated friend who also coordinated monthly lunch gatherings for his high school classmates;

NOW THEREFORE BE IT RESOLVED, that the Brewer City Council does by this resolution and public pronouncement, recognize the positive influence of William Power Hayes to the well-being and development of the community in which he lived and earned the deep respect of all who knew him; and

FURTHER, RESOLVED, that this resolution be spread upon the permanent records of the City of Brewer and that copies thereof be distributed to members of his family in testimony to the high esteem held for William Power Hayes by the citizens and officials of the City of Brewer, Maine.

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

Councilor Ferris read the resolve into the record and presented the resolution to Mrs. Hayes and family.

Councilor Ferris stated that Bill Hayes was a wonderful man, everything you would want a husband, father, grandfather and great-grandfather to be.

Councilor Uhlenhake thanked the family for loaning us Bill, she stated as much as he was a valued member of his family, he was an amazing citizen of his community as well.

Councilor Goss stated that Bill was a perfect role model on how you give to your family and give back to your community. He stated that if more people would follow his path the world would be a far better place.

Councilor Vachon allowed as how he had only met Bill within the last 5 years but considered himself very lucky to have met him and had the 5 years with him, he allowed as how Mr. Hayes will definitely be missed.

Mayor O'Connell said that in his opinion Bill Hayes was the epitome of a gentlemen and what a gentlemen should be. He compared Bill Hayes to E.F. Hutton because when he spoke, he was going to listen because they were going to

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be words of wisdom. He stated that William Hayes will be dearly missed by his community.

Mike Lagassey, a family friend of William Hayes thanked the Council for their recognition of William Hayes. He stated that Bill was like a father to him and it meant a lot that the Council was recognizing him and entering it into the permanent record of the community.

The resolve was adopted by unanimous vote.

**CITY OF BREWER, MAINE PROCLAMATION
PROCLAIMING SEPTEMBER, 2017 RECOVERY MONTH**

WHEREAS, the 2016 U.S. Surgeon General’s Report: Facing Addiction in America illustrates that substance use problems remains a major social and economic problem in the United States, punctuated during the past five years with dramatic increases in deaths related to opioid overdose; and

WHEREAS, President Donald Trump has declared the opiate crisis in the U. S. a national emergency; and

WHEREAS, substance use disorders affect 20.8 million Americans; and

WHEREAS, the annual economic impact of substance abuse is estimated at \$442 billion; and

WHEREAS, stigma is the biggest barrier to effective policy, service delivery, and community support for those afflicted; and

WHEREAS, substance use prevention, intervention, treatment and recovery services are proven to be effective, as well as the importance of peer support within the recovery community; and

WHEREAS, the Bangor Area Recovery Network (BARN) is known as a leading voice for the recovery community at a local, regional and state level; and

WHEREAS, the City of Brewer has supported BARN since its inception and has collaborated to establish recovery support services for the citizens of Brewer/Bangor area; and

WHEREAS, BARN has established a community recovery center at 142 Center Street, serving individuals from the surrounding communities with outreach to inmates of the Penobscot County Jail; and

WHEREAS, the City of Brewer has been an strong partner with BARN in establishing Holyoke Haven, a “sober housing” facility for women at 10 Holyoke Street; and

WHEREAS, BARN and other recovery advocates and their allies supports Wellspring, a local treatment and recovery agency, in the 5K Race for Recovery September 17 at the Bangor Waterfront;

NOW, THEREFORE, I, KEVIN J.M. O’CONNELL, Mayor of the City of Brewer, do hereby proclaim the month of September, two thousand seventeen as

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RECOVERY MONTH

IN WHITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Brewer to be imprinted this twelfth day of September Two Thousand and Seventeen.

Signed this twelfth day of September, 2017

Kevin J.M. O'Connell, Mayor

ACTION: Councilor Goss and Chairman O'Connell read the proclamation and said that it would be placed in the minutes of the meeting.

Councilor Goss presented the proclamation to the Chair of the Board of Directors of the BARN, Jen Morin and thanked her for her dedication.

Swearing in Ceremony: Brewer Police Patrol Officer Joseph Everette.

The City Clerk swore in Patrol Officer Joseph Everette as a new member of the Brewer Police Department.

PUBLIC COMMENTS

Jen Morin, Chair of the BARN, thanked Councilor Goss and the City for years of dedication to the BARN.

Chris Martin, representative from the BARN, thanked Councilor Goss for all of his dedication to the BARN over the years.

Mayor O'Connell thanked Frank Higgins, City Engineer for the great job they are doing on the bridge down on Elm Street.

Mayor O'Connell thanked all that were a part of Brewer Days the previous weekend. He stated that it was a huge success and everyone had a wonderful time.

C. Consent Calendar

ACTION: Councilor Ferris removed Order 2017-A143 from the consent calendar.
Councilor Uhlenhake removed Order 2017-A146 from the consent calendar.

Councilor Vachon moved that the remaining orders on the consent calendar have passage and the one resolve be adopted.

The motion was seconded and passed by unanimous vote.

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

Filed September 7, 2017
By Beverly Uhlenhake

WHEREAS, the Brewer Public Library has received a contribution of \$200.00 from Green Thumb Lawn Service, in memory of William "Bill" Hayes; and

WHEREAS, Mr. Hayes and his wife Ellen were faithful patrons and supporters of the Brewer Public Library; and

WHEREAS, it is the recommendation and request of the Library Director and donor that these contributions be used to supplement and support children's programming for the City of Brewer Public Library;

NOW, THEREFORE, BE IT ORDERED, that the City Council accepts this contribution totaling \$200.00 and authorizes its deposit into account 0107204-300420 (Library Contributions/Donations) and expenditure from account 0117201-506150 (Library Special Events); and

BE IT FURTHER ORDERED, that the Council authorizes the acceptance of any additional contributions received in memory of Mr. Hayes beyond the contribution mentioned above, and authorizes their appropriation and expenditure to supplement the Library's special events budget in accordance with above.

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 contribution to the City of Brewer Public Library in memory of William "Bill" Hayes, and authorizes the expenditure of this and any future contributions to support children's programming at the Library.

2017-A137

September 12, 2017

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

Filed September 7, 2017
By Matthew Vachon

WHEREAS, the Brewer Public Library has received a contribution of \$150.00 from Sharon J. Kobritz; and

WHEREAS, it is the recommendation and request of the Library Director and the donor

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2017-A139

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

Filed September 7, 2017
By Jerry Goss

WHEREAS, the Brewer Parks & Recreation Department has received donations of \$500.00 from Jeff's Catering, Twin City Tire, Mann Hill Glass, Superior Fence for support of the Fall/Program League; and

WHEREAS, it is the recommendation and request of the Parks & Recreation Director and the donors that these donations be appropriated and expended to supplement the Fall/Program League;

NOW, THEREFORE, BE IT ORDERED, that the City of Brewer, by vote of its City Council herewith accepts these generous donations and directs that the donated funds be received to account 0107123-300328; and

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

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.

STATEMENT OF FACT

This order accepts a contribution to the City of Brewer Parks & Recreation Department, and authorizes the expenditure of this contribution to support the Fall/Program League.

2017-A140

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TITLE: ORDER, AUTHORIZE PURCHASE OF A REPLACEMENT
PICKUP TRUCK FOR PUBLIC WORKS

Filed September 5, 2017
By Beverly Uhlenhake

WHEREAS, Bids were solicited, received and evaluated for the purchase of a pickup truck to replace Public Works unit #405 a 2009 Ford F150 extra cab; and

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WHEREAS, O'Connor Auto, of Augusta, Maine provided the City with the lowest of the five (5) bids received in the amount of \$26,117.00;

NOW, THEREFORE, BE IT ORDERED, that the City Manager, or his designee, is authorized to sign a purchase order to O'Connor Auto in the amount of \$26,117.00 for the purchase of a 2018, 1500 Chevrolet pickup truck, \$24,568.00 for the truck and \$1,549.00 for the extended warranty; and

WHEREAS, property belonging to the City of Brewer has been identified as being no longer useful to the City,

BE IF FURTHER ORDERED, that the current Public Works unit #410, a 2002 Chevrolet crew cab pickup be released as surplus property and transferred ownership to O'Connor Auto, as the trade-in once the replacement truck has be delivered to the City of Brewer; and

BE IF FURTHER ORDERED, that the funds for this purchase be charged to the FY18 CIP account #0510133-551367 titled "F-150 #405", approved in the FY18 CIP budget.

Statement of Fact

The replacement of truck #405 was approved in the FY18 CIP budget, however our current spare truck, #410 will be used as the trade-in as it is in worse shape and truck #405 will now be used as the spare.

2017-A141

September 12, 2017

TITLE: ORDER, AUTHORIZE PURCHASE OF A REPLACEMENT
PICKUP TRUCK FOR BREWER FIRE DEPARTMENT

Filed September 5, 2017
By Matthew Vachon

WHEREAS, Bids were solicited, received and evaluated for the purchase of a pickup truck to replace Fire Department unit #307 a 2004 GMC 4 door crew cab pickup truck with plow; and

WHEREAS, O'Connor Auto, of Augusta, Maine provided the City with the lowest of the five (5) bids received in the amount of \$33,212.00;

NOW, THEREFORE, BE IT ORDERED, that the City Manager, or his designee, is authorized to sign a purchase order to O'Connor Auto in the amount of \$33,212.00 for the purchase of a 2018, 2500HD Chevrolet king cab pickup truck with a V plow and lift gate, \$31,497.00 for the truck and \$1,715.00 for the extended warranty; and

WHEREAS, property belonging to the City of Brewer has been identified as being no longer useful to the City,

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BE IF FURTHER ORDERED, that the current Fire Department unit #307, a 2004 GMC crew cab pickup be released as surplus and transferred ownership to O'Connor Auto, as the trade-in once the replacement truck has been delivered to the City of Brewer; and

BE IF FURTHER ORDERED that the funds for this purchase be charged to the FY18 CIP account #0510132-551232 titled "#307", approved in the FY18 CIP budget.

Statement of Fact

The replacement of truck #307 was approved in the FY18 CIP budget.

2017-A142

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TITLE: ORDER, AUTHORIZE PURCHASE OF A REPLACEMENT
¾ TON 4X4 PICKUP WITH PLOW FOR PARKS &
RECREATION.

Filed September 6, 2017
By Joseph Ferris

WHEREAS, bids were solicited, received and evaluated for the purchase of a pickup truck and plow to replace Parks & Recreation unit # 642, a 2009 Ford F250; and

WHEREAS, Stoneham Ford of Stoneham, Massachusetts provided the City with the lowest of the four bids received in the amount of \$28,908.00;

NOW, THEREFORE, BE IT ORDERED, that the City Manager, or his designee, is authorized to sign a purchase order to Stoneham Ford in the amount of \$28,908.00 for the purchase of a 2018, F250 Ford pickup truck, \$26,013.00 for the truck and \$2,895.00 for the extended warranty; and

WHEREAS, property belonging to the City of Brewer has been identified as being no longer useful to the City,

BE IF FURTHER ORDERED, that the current Parks & Recreation Department pickup unit # 642, a 2009 Ford F250 be released as surplus property and transferred ownership to Stoneham Ford, as the trade-in once the replacement truck has be delivered to the City of Brewer; and

BE IT FURTHER ORDERED, that the funds for this purchase be charged to the FY 18 CIP account # 0510134 – 551428; approved in the FY 18 CIP budget.

STATEMENT OF FACT

Bid results:

Stoneham Ford

\$28,908

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Darling's Commercial Sales	\$29,437
O'Connor Auto Park	\$30,548
Quirk Chevrolet	\$34,712

2017-A143

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TITLE: ORDER, EXTEND THE TIME TO CONSIDER THE
ACCEPTANCE OF STREETS IN RECORDED
SUBDIVISION PLANS PURSUANT TO TITLE 23
M.R.S.A., SECTION 3032, AS THE SAME MAY HAVE
BEEN AMENDED FROM TIME TO TIME

Filed September 5, 2017
By Jerry Goss

EMERGENCY PREAMBLE

WHEREAS, orders passed by the Brewer City Council do not become effective until five days after approval under Chapter 1, Article 2, Section 201, of the City's Charter, Code and Ordinances unless such orders contain emergency preamble; and

WHEREAS, under Maine Law, Title 23, M.R.S.A., Section 3032, subsection 1 & 2, this Order must be recorded in the Penobscot County Registry of Deeds by September 22, 2017; and

WHEREAS, the date of September 22, 2017 comes within the ten (10) day period following this meeting of September 12, 2017; and

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

WHEREAS, the City of Brewer excepted from the operation of the time limitation of Title 23, M.R.S.A., Section 3032, subsection 1 & 2 for a period of twenty (20) years a list of unaccepted ways laid out on subdivision plans recorded in the Penobscot County Registry of Deeds as identified in Brewer City Council Order A0997-14 which was passed by the City Council on September 23, 1997 and recorded in said Registry of Deeds in book 6497, page 351;

WHEREAS, under Maine Law, Title 23, M.R.S.A., Section 3032, subsection 1 & 2, the City of Brewer may extend from the operation of the time limitation for a subsequent 20-year period by the filing of a new notice within the preceding 20-year extension period;

NOW, THEREFORE, BE IT ORDERED, that the following list of proposed, unaccepted ways laid out on subdivision plans recorded in the Penobscot County Registry of Deeds shall be excepted from the operation of the time limitation of Title 23, M.R.S.A., Section 3032,

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subsection 1 & 2, for a subsequent period of twenty (20) years from the filing of this Council Order with the exclusion of those previously removed by the Brewer City Council prior to the passage of this City Council Order;

TAX MAP NUMBER	LOCATION ON TAX MAP	REFERENCE to the subdivision plan recorded in Penobscot County Registry of Deeds
2	Between lots 27 & 28	Frank Harris Development; Plan File C81-79
3	Between lots 12 & 17	George Campbell subdivision; Plan File D654-76 & Map File 70
4	Between lots 26 & 36	Map File 201
	Between lots 25 & 26A	Map File 201
	Between lots 42 & 43	Ohmart & Knowles; Plan book 27 page 20
7	Sparks Avenue	Plan book D130-88
12	Between lots 18 & 19, lot 3, 20	Sherwood Ridge Development; D203-89
13	Lot 16A B3664 P45 Tax Acquired	Greenpoint Development; Plan book 12 page 16
17	Between lots 77 & 78 and 79 & 80	Riverview Heights; D116-89
21	All Brewer Heights	Vol 11 page 40
22	116A & all of Roosevelt Avenue	Book 7 page 34
24	All Brewer Heights	Vol 11 page 40
26	Penobscot Avenue	Penobscot Park; p/o Plan book 8 page 15 and p/o Plan 17 page 121
34	End of Gilmore Street	Plan book 12 page 15
	Unaccepted end of Chapman Street	Book 10 page 12
37	Lot 34	Tax Acquired Book 3664 page 84
40	Lot 120A	Plan book 20 page 177
	Between lots 195 & 5	D102-89
40A	To the left of lot 37	Plan book 17 page 167 & Map file 220
42	Park Avenue East	Vol 17 page 121
	Penobscot Avenue	Penobscot Park; p/o Plan book 8 page 15, p/o Plan 17 page 121
	Between lots 142 & 141	Plan book 20 page 34
43	Lot 14A	Plan book 20 page 45
	Between lots 68 & 70	Map file 220
	To the right of lot 98	Map file 220 & Plan book 27 page 4
	Washington Street Ext	Plan book 17 page 167
46	Lot 46 ROW	Plan book 20 page 51 & Map file 46

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	Between 89 & 90	p/o Plan book 20 page 51 & p/o File 69 & Map file 46
	Between 36,35,& 34	Vol 21 page 122
47	Lot 148A	Book 27 page 39
	Lot 89A	Book 27 page 47
	Friar Tuck Lane	Book 27 page 47 & Plan book 20 page 179
	Proposed street	p/o Book 27 page 39 & File 256
48	Between lots 10 & 11	D687-76
	Between lots 67 & 68	D687-76
	Between lots 115 & 116	C56-87
	Between lots 108 & 109	Map file 256
	Lot 28A	Map file 256
	Proposed drive	Map file 256
	Lot 56A	B55-87
49	Lot 35	Robertson St. Ext.; Map file 326

FURTHER, ORDERED, that the City Clerk, on behalf of the City of Brewer, is herewith authorized and directed to file, in the Penobscot County Registry of Deeds, a notice stating that the ways or portions of the ways are excepted from the operation of Title 23, M.R.S.A., Section 3032, subsection 1 & 2 for a subsequent period of twenty (20) years from the filing of the notice.

STATEMENT OF FACT:

This order would extend, by an additional twenty years, the rights of the City of Brewer to the paper streets listed herein.

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

City Solicitor, Joseph Dearborn, explained why the order was extending the City's rights to paper streets listed for the 20 years.

The order was passed by unanimous vote.

2017-A144

September 12, 2017

TITLE: ORDER, COMMIT SEWER ASSESSMENT TO TREASURER FOR COLLECTION

Filed September 7, 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 users;

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\$12,000, various required software will cost about \$7,000 and server setup will cost approximately \$6,000;

NOW THEREFORE BE IT ORDERED, that the Brewer City Council herewith authorizes the City Manager or his designee to enter into a contract not to exceed \$25,000 with HCP Computers, Inc. to purchase a replacement MUNIS server and related software, set up the server, and relocate the current MUNIS server to become the City's primary server.

BE IT FURTHER ORDERED, that the costs of this project shall be charged to CIP account 0510130-551008 (Accounting System Server).

FURTHER ORDERED, that the City Council 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 supplies and contractor services for this project.

Statement of Fact

This order authorizes the City to enter into a contract not to exceed \$25,000 with HCP Computers to purchase and install a replacement server for the MUNIS accounting system as approved as part of the FY2018 CIP.

ACTION: Councilor Uhlenhake made a motion to reconsider order 2017-A145.

The motion was seconded and passed by unanimous vote.

Councilor Uhlenhake made a motion to amend by complete substitution order 2017-A145.

The motion was seconded and passes by unanimous vote.

2017-A146

September 12, 2017

TITLE: ORDER, AWARD CONTRACT FOR PAYT TRASH BAGS
SERVICES

Filed September 7, 2017
By Joseph Ferris

WHEREAS, bids were formally solicited to provide the City Pay As You Throw (PAYT) trash bag services including the manufacture, storage, distribution, and accounting for the bags; and

WHEREAS, the initial contract term would be for three years with the opportunity for up to two, one-year extensions; and

WHEREAS, the City received two bids and evaluated the proposals on price, bag quality, and customer satisfaction;

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NOW, THEREFORE, BE IT ORDERED, that the Brewer City Council hereby authorizes the City Manager and/or his designee to enter into a contract with Waste Zero of Raleigh, North Carolina to provide PAYT trash bag services to the City as described above and in the RFP documents.

Statement of Fact

This order authorizes the City to enter into a three year contract with Waste Zero to provide PAYT trash bag services, expected to cost the City approximately \$40,000 per year.

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

Councilor Ferris amended this order by complete substitution of the original order.

The order passed by unanimous vote.

2017-B015

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TITLE: RESOLVE, AUTHORIZE CITY OF BREWER TO EXERCISE THE PUT OPTION SET FORTH IN THE SIXTH AMENDED AND RESTATED AGREEMENT OF LIMITED PARTNERSHIP OF PENOBSCOT ENERGY RECOVERY COMPANY, LIMITED PARTNERSHIP
filed September 12, 2017
by Jerry Goss

WHEREAS, given that the City of Brewer's contract to dispose of waste at the Penobscot Energy Recovery Company (PERC) facility in Orrington, Maine, expires on March 31, 2018 and the City has contracted with the Municipal Review Committee (MRC) to dispose of waste after that date at the Fiberright facility being constructed in Hampden, Maine, it is the sense of the City Council that the City should divest of its equity interest in the PERC facility; and

WHEREAS, Pursuant to Section 9.3 the Sixth Amended and Restated Agreement of Limited Partnership of Penobscot Energy Recovery Company, Limited Partnership" (the "PERC Partnership Agreement"), as an Equity Charter Municipality the City of Brewer hereby elects to exercise the Put Option described therein whereby the City of Brewer is electing to require that the Penobscot Energy Recover Company, Limited Partnership ("PERC") repurchase the City of Brewer's limited partnership interest in PERC in exchange for a cash payment equal to the City of Brewer's proportionate share of One Million Five Hundred Thousand Dollars (\$1,500,000), which represents the agreed upon aggregate value of all limited partnership interests held by the City of Brewer and other similarly situated municipal members of the Municipal Review Committee; and

WHEREAS, Brewer's proportionate share of the \$1,500,000 is estimated to be approximately \$75,000, which would be paid out if and when certain other conditions in the PERC Partnership Agreement are met on or around March 31, 2018;

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NOW THEREFORE BE IT RESOLVED, that the City Manager or his designee is authorized to execute and deliver on behalf of the City of Brewer such documents and to take such further actions as they may deem necessary or appropriate in order to exercise the above-described Put Option and to assign the City of Brewer's limited partnership interests to PERC as contemplated thereby.

Dated this 12th day of September, 2017, in Brewer, Maine.

BREWER CITY COUNCIL

CERTIFICATE

I certify that I am the duly qualified Clerk of Brewer, Maine, and that the foregoing votes were adopted by the Brewer City Council at a meeting of said Council duly called and legally held in accordance with the laws of Maine on September 12, 2017, that the meeting was open to the public and that adequate and proper notice thereof was given in accordance with the laws of Maine, and that such votes have been entered into and become a part of the permanent records of the City of Brewer and remain in full force and effect and have not been rescinded or amended.

City of Brewer

Clerk

Dated at Brewer, Maine
September 12, 2017

Statement of Fact

This resolve authorizes the City to sell its limited partnership equity stake in PERC back to the PERC Partnership for an agreed upon sum estimated to be approximately \$75,000. These funds will be released after other, higher priority Partnership payment obligations are met.

2017-A147

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TITLE: ORDER, TAX RELEASE DEED, MAP 00600, LOT 011 449 ELM STREET.

Filed September 8, 2017
By Matthew Vachon

WHEREAS, a municipal Release Deed be issued to **PAMELA R. BATCHELDER**

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successor of Virginia A. Bates, releasing to her all interest that the City of Brewer may have acquired by virtue of tax liens on their property; and

FURTHER ORDERED that the City Manager be herewith authorized to execute this Release Deed on behalf of the City of Brewer.

STATEMENT OF FACT

A total of \$10,130.44 in principal was collected, along with \$378.41 in interest and \$235.32 in costs.

2017-A148

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TITLE: ORDER, COMMIT WATER ASSESSMENT TO
TREASURER FOR COLLECTION

Filed September 7, 2017
By Joseph Ferris

WHEREAS, under Chapter 40 of the Water Department 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 **\$618,701.96** at the established rate, as provided by Title 30A MRSA § 3406 (supp [1991] and Title 38 MRSA § 1208 [1989]) and as such sections may be amended from time to time; and

FURTHER ORDERED, That said charges are due and payable on the date of this commitment.

EVENT	COMMITMENT	COMMENTS
September 2017	\$612,719.97	
June 2017	\$2,769.07	
July 2017	\$1,520.37	
August 2017	\$1,692.55	

D. Monthly Reports

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Action: Councilor Uhlenhake 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

No items

F. Unfinished Business

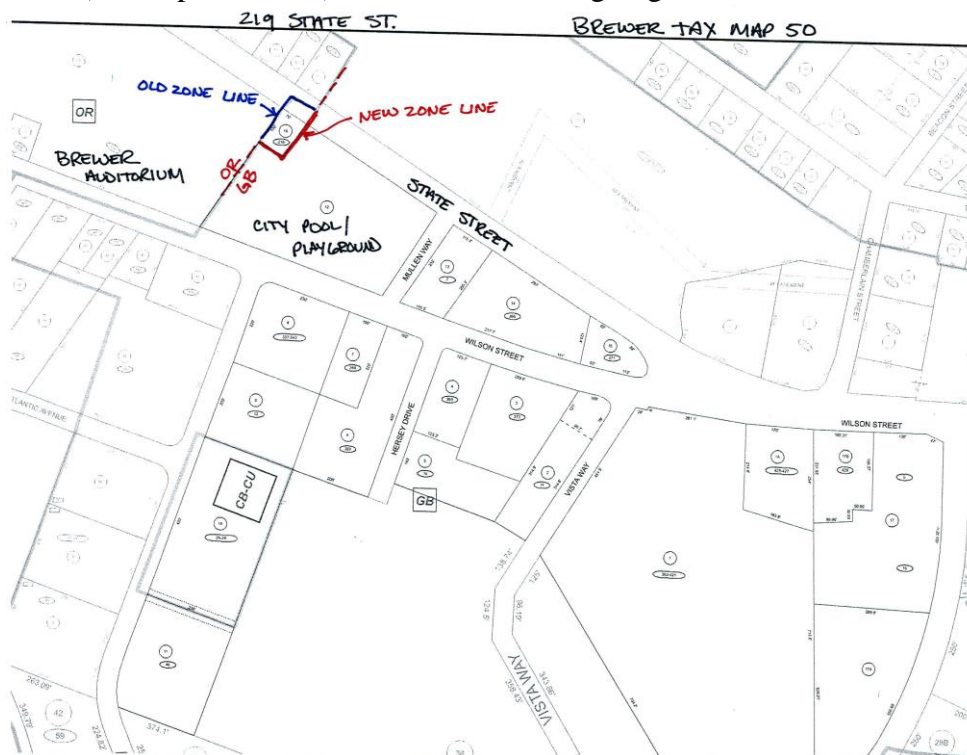
2017-C013

September 12, 2017

TITLE: AMEND CHAPTER 24, ENTITLED "LAND USE CODE" OF THE CITY OF BREWER CHARTER, CODES AND ORDINANCES TO CHANGE A PORTION OF GENERAL BUSINESS (GB) ZONING DISTRICT TO OFFICE RESIDENTIAL (OR) ZONING DISTRICT AT 219 STATE STREET (TAX MAP 50, LOT 16).

Filed August 3, 2017
By Beverly Uhlenhake

Be it ordained by the City of Brewer in City Council assembled that Chapter 24, entitled "Land Use Code" of the City of Brewer Charter, Codes and Ordinances, be amended to change a portion of General Business (GB) zoning district to Office Residential (OR) zoning district at 219 State Street (tax map 50, lot 16) with said zone line going to the centerline of State Street.



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STATEMENT OF FACT

The existing house located at 219 State Street is currently considered legal non-conforming as single-family residential is not allowed in the GB district. The current GB/OR zone line follows the westerly side of this parcel where single-family residential is allowed in the OR zone. Moving the zone line to the easterly side of this parcel would make this house conforming and match the OR zoning across the street.

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

2017-C014

September 12, 2017

TITLE: AMEND CHAPTER 24, ENTITLED “LAND USE CODE” OF THE CITY OF BREWER CHARTER, CODES AND ORDINANCES, ARTICLE 3, ZONING DISTRICTS, SECTION 306.5 SCHEDULE OF USES; ARTICLE 4, PERFORMANCE STANDARDS, SECTION 411, DAY CARE AND SECTION 415 HOME OCCUPATIONS; AND ARTICLE 14, DEFINITIONS.

Filed August 3, 2017

By Joseph Ferris

Be it ordained by the City of Brewer in City Council assembled that Chapter 24, of the Charter, Codes and Ordinances of the City of Brewer, entitled “Land Use Code” to be amended as follows.

ARTICLE 3 ZONING DISTRICTS

306.5 SCHEDULE OF USES (#31)

USE	RURAL	LDR	MDR-1	MDR-2	HDR	HDR-2	CB	GB	IND	IND-2	OR	PB	DD
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RESIDENTIAL USES													
Accessory Use	P	P	P	P	P	P	P				P		P
Single-family Dwelling	P	P	P	P	P	P	P	P-61			P		
Home Occupations	P	P	P	P	P	P	P				P		
<u>Home Day Care</u>	<u>D-62</u>	<u>D-62</u>	<u>D-62</u>	<u>D-62</u>	<u>D-62</u>	<u>D-62</u>	<u>D-62</u>				<u>D-62</u>		

COMMERCIAL (continued)													
<u>Day Care Facility, Children</u>	<u>P-62</u>	<u>P-62</u>	<u>P-62</u>	<u>P-62</u>	<u>P-62</u>	<u>P-62</u>	<u>P-62</u>					<u>S-62</u>	

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Day Care Facility, Adult	P-62	P-62	P-62	P-62	P-62	P-62	P-62					S-62
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Footnotes to Schedule of Land Uses

62. To be reviewed ~~by Planning Board~~ referencing ~~only~~ the requirements of Article 4, Section 411.

ARTICLE 4 PERFORMANCE STANDARDS

411 DAY CARE

411.1 All Day Care types shall be: (#2)

1. Licensed by the Maine Department of Human Services, Bureau of Social Services, Day Care Division. Approved by the State Fire Marshal's Office and/or any other required State or Federal approval.
2. Subject to annual City of Brewer permit.
3. Home Day Care Facilities shall meet the criteria of Article 4, Section 411, of this Land Use Code. Child Care Centers shall meet the criteria of Article 4, Section 411 of this Land Use Code, and meet the criteria of Article 6, Site Plan Review of this Land Use Code. and All Day Care shall follow the procedures outlined in Article 3, Section 306.5 Article 6, Site Plan Review of this Land Use Code.
4. Fees for a home day care facility shall be a non-refundable application fee set forth in the then current City Council adopted fee schedule, payable to the City of Brewer, ~~plus legal notice fees for the required public hearing as set forth in the City Council adopted fee schedule.~~ Fees for a child care center shall follow Article 6, Site Plan Review of the Land Use Code. (#37)

411.2 OUTDOOR PLAY AREA FOR CHILD DAY CARE

All daycare types shall provide a safe, hazard-free outside play area with a minimum of seventy-five square feet per child. The play area shall be provided with fencing to provide security and screening. There must be an exit from the play area other than through a building. All parts of the play area must be under constant adult supervision. Play equipment shall meet the "Standard Consumer Safety Specifications for Playground Equipment for Public Use - Designation F 1487-95," and be maintained in good repair.

411.3 HOURS OF OPERATION (#2)

"Home Day Care Facilities" shall not operate between the hours of 6:00 p.m. and 6:00 a.m. unless specifically approved by the City's appropriate authority as defined by Article 3, Section 306.5 Planning Board.

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411.4 PARKING

"Home Day Care Facilities" shall provide one off-street parking space per four (4) children plus one (1) space per employee who does not reside on the premises. Parking shall be provided in the side or rear yard only.

Such parking requirements shall be in addition to parking required for the initial use. (For example: a single-family dwelling requires two parking spaces, plus three for day care for 12 children plus two for two outside employees = 7 off-street parking spaces required). All parking shall comply with the parking standards of this Article.

411.5 SIGNS

"Home Day Care Facilities" may have an unlighted sign not to exceed two (2) square feet. Sign permit is required for all signs.

411.6 EMPLOYEES

"Home Day Care Facilities" may employ up to two (2) persons who do not reside on the premises.

415 HOME OCCUPATIONS

415.13 Home day cares shall be reviewed under Section 411 of the Brewer Land Use Code.

ARTICLE 14 DEFINITIONS

Child Care Center: A building or buildings in which a person or persons maintain or otherwise carries out a program, for any part of the day, providing care and protection for three or more more than twelve children. Child Care Centers, with or without consideration for the services rendered, may be operated as a service business ~~or~~ within a church or community building in any zoning district. This does not include home day cares per the definition contained in this article.

Home Day Care Facility, Children: A dwelling in which a person or persons residing on the premises provides or maintains a regular program for consideration, for any part of the day, providing care and protection for three or more to twelve children.

Home Day Care Facility, Adult: A dwelling in which a person or persons residing on the premises provides or maintains a regular program for consideration, for any part of the day, providing care and protection for three or more to twelve adults over the age of 16.

STATEMENT OF FACT

The definitions and requirements for day cares, especially home day cares, are not clear in the current Land Use Code. The difference between home day care and commercial day care facilities has several different criteria which has been confusing to both staff and the public. The proposed changes would specifically draw a distinction between those day cares located in a

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home where the operator lives versus a standalone business. The proposed changes would also better match State regulations. This proposed amendment would also allow home day cares to be located in the OR district (they are allowed in all other districts where single-family residential is allowed) and change the review/approval process from the Planning Board to the mid-level Departmental Review.

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

2017-C015

September 12, 2017

TITLE: ORDER, Amend Chapter 24, Land Use Code, Article 3, Section 306.3, Uses Substantially Similar to Permitted Uses, Item 3 Prohibited Uses, of the City of Brewer Charter, Codes and Ordinances Retail marijuana cultivation facilities; Retail marijuana products manufacturing facilities; Retail marijuana testing facilities; Retail marijuana stores; and Social clubs where product can be sold and used.

Filed: August 8, 2017

By: Joseph L. Ferris

Jerry Goss

EMERGENCY PREAMBLE

WHEREAS, by unanimous consent of the Members of the City Council present and voting; and

WHEREAS, the Members of the City Council present and voting unanimously approved this Order and the posted of this proposed amendment because of the limitation of the statutory moratorium, as extended, which terminates in September of 2017, after the regular City Council meeting in September of 2017; and

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 the order become effective immediately to allow the City Council to act at its September 12, 2017, regular Council meeting and prior to the end of the statutory moratorium; 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, Chapter 24, Article 3, Section 306.3, Uses Substantially Similar to Permitted Uses, Item 3, Prohibited Uses, of the City of Brewer Charter, Codes and Ordinances needs to be

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amended to reflect the prohibition of recreational marijuana uses as defined by Maine State Statute , until the Maine Legislature enacts legislation controlling the rights of municipalities; and

WHEREAS, the City Council wants to amend Chapter 24, Land Use Code, Article 3, Section 306.3, Uses Substantially Similar to Permitted Uses, Item 3, Prohibited Uses; and

WHEREAS, the City Council has received a positive recommendation from the Planning Board on the proposed amendment;

NOW, THEREFORE, BE IT ORDERED that the proposed amendment to Chapter 24, Land Use Code, Article 3, Section 306.3, Uses Substantially Similar to Permitted Uses, Item 3, Prohibited Uses, of the City of Brewer Charter, Codes and Ordinances that would read as follows be enacted by the Brewer City Council:

ARTICLE 3 ZONING DISTRICTS

306.3 USES SUBSTANTIALLY SIMILAR TO PERMITTED USES (#41)

1. USES ALLOWED WITH OR WITHOUT A PERMIT

Uses substantially similar to those allowed with or without a permit, but which are not listed in the Schedule of Uses, may be permitted upon a ruling of the Code Enforcement Officer that such unlisted use is substantially similar to such allowed uses.

2. USES REQUIRING SITE PLAN APPROVAL

Uses substantially similar to those requiring Site Plan approval under this Ordinance, as determined by the Code Enforcement Officer, but which are not listed in the Schedule of Uses may be permitted by the Planning Board.

3. PROHIBITED USES

Uses substantially similar to a prohibited use in the Schedule of Uses, as determined by the Code Enforcement Officer, are prohibited.

The following recreational marijuana uses, as defined by State Statute, are prohibited (this does not prohibit the cultivation and sale of medical marijuana as currently permitted by this Land Use Code);

- Retail marijuana cultivation facilities;
- Retail marijuana products manufacturing facilities;
- Retail marijuana testing facilities;
- Retail marijuana stores; and
- Social clubs where product can be sold and used.

STATEMENT OF FACT

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Post the proposed amendments to the Land Use Code for the statutory thirty (30) day posting period.

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

G. New Business

2017-C016

September 12, 2017

Title: AMEND CHAPTER 19 OF THE CITY OF BREWER ORDINANCE, ARTICLE 5, SECTION 506, SCHEDULE 3.

Filed August 24, 2017
By Matthew Vachon

Be it ordained by the Brewer City Council that the Brewer City Traffic Code shall be amended by changing Chapter 19, Article 5, Section 506, Schedule 3, by adding:

(58) The intersection of Silk Street and Crescent Street, with the vehicular traffic stopping on Crescent Street.

Statement of Fact

This ordinance amendment adds a stop sign to the end of Crescent Street at Silk Street per the request of a resident in the area, due to safety concerns that have developed over the years.

ACTION: Councilor Vachon moved that the proposed ordinance amendment be certified and filed with the city clerk for posting.

The motion was seconded and passed by unanimous vote.

2017-A150

September 12, 2017

TITLE: ORDER, Convene in Executive Session Pursuant to Title 36, M.R.S.A. §841(2)(A) on a hardship/poverty matter.

Filed August 14, 2017
By Joseph Ferris &
Jerry Goss

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

Chairman O'Connell said the executive session on a hardship/poverty matter would include City Council members, the City Manager and the City Solicitor.

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Chairman O'Connell said the regular meeting would resume after the executive session and take up no more items except to adjourn.

The regular meeting adjourned at 6:32 p.m. for City Council members to go into executive session.

The regular meeting was called back to order by Chairman O'Connell.

The City Clerk called the roll:

Councilor Vachon – present

Councilor Uhlenhake – present

Councilor Goss – present

Councilor Ferris – present

Chairman O'Connell – present

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 6:55 p.m.

ADJOURNED, ATTEST: _____ Ronda J. Hogan
City Clerk

A TRUE COPY, ATTEST: _____ Brewer, Maine