

City Council Minutes
August 11, 2015

Regular Meeting
City Hall Council Chambers

Tuesday, August 11, 2015
6:00 p.m.

The regular meeting was called to order by Chairman Matthew Vachon
The city clerk called the roll:

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

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

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

Chairman Vachon 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 Tuesday, August 11, 2015 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/Matthew Vachon

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	T. Tardiff	Cpl.	08/07/15	1630
Matthew Vachon	R. Hogan	ACC	08/07/15	4:15 pm
Beverly Uhlenhake	T. Tardiff	Cpl.	08/07/15	1650
Jerry Goss	T. Tardiff	Cpl.	08/07/15	1600
Kevin O'Connell	R. Hogan	ACC	08/07/15	3:40 pm

CITY COUNCIL REGULAR MEETING
Tuesday, August 11, 2015 6:00 P.M.
Brewer City Hall Council Chambers

- I. Call to Order.** (Mayor Matthew Vachon)
- II. Roll Call.** (City Clerk)
- III. Pledge of Allegiance to the Flag of the United States of America.** (Mayor Vachon)
- A. Minutes of July 14, 2015 Regular Meeting.** (Councilor Ferris)
- B. Awards, Petitions and Public Comments.**
 - 1. (2015-B044) RESOLVE, Recognize Yvonne Martin, Office Manager, for 35 Years of Dedicated Service to the City of Brewer. (Councilor O'Connell)
 - 2. (2015-B045) RESOLVE, Recognize Allen Campbell for his Many Years of Dedicated Service to the City of Brewer as a Member of the Brewer Planning Board and As a Commissioner on the Board of the Housing Authority of the City of Brewer. (Councilor Goss and Councilor Uhlenhake)
 - 3. Swearing In: Brewer Police Patrol Officer.
 - 4. Public Comments.
- IV. Recess for Public Hearings.**
 - 1. Repeal Article III, Section 8 (Superintendent of Schools Residency Requirement) of the City of Brewer Charter.
 - 2. Amend Article IX, Recall, Section 1 (Procedure for Initiating Recall Procedure), Section 2 (Form of Ballot in Recall Election), Section 3 (Vote Required) and Section 4 (Election After Recall) of the City of Brewer Charter.
 - 3. Notice of Hearing: Abatement Request by Emera Maine.
- V. Adjourn Public Hearings and Continue with Regular Meeting.**
- C. Consent Calendar.**
 - 1. (2015-A145) ORDER, Accept Donations to the Brewer Public Library. (Councilor Uhlenhake)
 - 2. (2015-A146) ORDER, Accept Donations to the Brewer Parks and Recreation Department for the Annual Brewer Days Celebration. (Councilor Goss)
 - 3. (2015-A147) ORDER, Accept Funds in Forfeitures Resulting from Recent Court Cases that the Brewer Police Made Substantial Contributions in the Successful Prosecution of. (Councilor O'Connell)
 - 4. (2015-A148) ORDER, Extend Contracts for Curbside Solid Waste and Curbside Recycling Services. (Councilor Ferris)

City Council Minutes
August 11, 2015

5. (2015-A149) ORDER, Authorize Payment to the Town of Dexter for Reimbursement Costs for BLETP Training for Officer Scott Jones. (Councilor Uhlenhake)
6. (2015-A150) ORDER, Submit to the Voters the Proposed Charter Amendments to Article IX, Recall, Sections 1, 2, 3 and 4 of the City of Brewer Charter. (Councilor Goss)
7. (2015-A151) ORDER, Submit to the Voters the Proposed Charter Amendment to Repeal the Requirement that Superintendents of Schools be Residents of the City of Brewer. (Councilor O'Connell)
8. (2015-A152) ORDER, Determine Effective Date of Charter Amendments if Approved at the November 3, 2015 City of Brewer Annual Municipal Election and State of Maine Referendum Election. (Councilor Ferris)
9. (2015-A153) ORDER, Award Contract for the Dirigo Drive Lighting Upgrade Project. (Councilor Uhlenhake)
10. (2015-A154) ORDER, Accept Donations to the Brewer Parks and Recreation Department for the Fall Program/Leagues. (Councilor Goss)
11. (2015-A155) ORDER, Authorize Purchase of Rock Salt. (Councilor O'Connell)
12. (2015-A156) ORDER, Award Cleaning Services Contract. (Councilor Ferris)
13. (2015-A157) ORDER, Repeal Order 2015-A014 "Impose a Moratorium on any New Night Clubs, Bars, Taverns and Lounges in the Convenience Business Zone, as Defined by Article 24 of the City of Brewer's Land Use Code, With an Emergency Preamble, Which was Passed by the City Council at the February 10, 2015 Regular Meeting. (Councilor Uhlenhake)
14. (2015-A158) ORDER, Authorize Amended Repayment Agreement with Brent and Suzanne Trueworthy Relative to the Property Situated at 112 South Main Street. (Councilor Goss)

D. Monthly Reports. (Councilor O'Connell)

E. Nominations, Appointments, Elections. (no items)

F. Unfinished Business.

1. (2015-C010) Amend Chapter 21, Article 5 "Naming of Streets, Roads and Ways Under the E-911 System" of the Charter, Codes and Ordinances of the City of Brewer Entitled "Street Use". (Councilor O'Connell) (posted 7/15/15)

G. New Business.

1. (2015-A159) ORDER, Decision on Emera Maine Application for Abatement for FY2013 Taxes. (Councilor Ferris)

H. New Items with Leave of Council.

I. ADJOURN.

A. Minutes of July 14, 2015 Regular Meeting.

ACTION: Councilor Ferris 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.

2015-B044

August 11, 2015

TITLE: RESOLVE, RECOGNIZE YVONNE MARTIN, OFFICE MANAGER, FOR 35 YEARS OF DEDICATED SERVICE TO THE CITY OF BREWER.

filed August 5, 2015
by Kevin O'Connell

WHEREAS, on July 28, 2015, Yvonne Martin, Office Manager for the Brewer Water Department, completed a combined thirty-five (35) years of dedicated service as an employee of the Brewer Water District and Brewer Water Department; and

WHEREAS, Yvonne has been a valuable member of the Brewer Water office team assuring customers' needs are handled with professionalism, accuracy and in a timely manner making her a face and voice customers have come to depend on for 35 years; and

WHEREAS, Yvonne continues to look for new and improved ways to complete her job as well new ways to help others be more efficient. Yvonne's work ethic and commitment to training and/or helping others within the city makes her a key member of the Water Department; and

WHEREAS, Yvonne's years of service, historical knowledge and expertise in her field are significant reasons for the success of and quality of water provided to Brewer Water's valued customers; and

WHEREAS, on the occasion of her completing thirty-five (35) years of service to the City of Brewer, the Brewer City Council wishes to publicly recognize Yvonne Martin for her outstanding dedication and her commitment to excellence in providing this vital service to our city;

NOW, THEREFORE, BE IT RESOLVED, that the Brewer City Council, on behalf of the Citizens of the City of Brewer, herewith congratulate Yvonne Martin for her long standing service and gratefully thank her for her exacting professionalism and passionate dedication that has provided our great city with the highest quality drinking water and customer service.

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

Councilor O'Connell read the resolve into the record.

Water Department Superintendent Rodney Butler said that Yvonne was unable to attend tonight's meeting so he would accept the resolve for her and give it to her.

Councilor O'Connell said you have to have a lot of dedication and commitment for the work you do to stay at the same job for over thirty-five years.

Water Department Superintendent Rodney Butler said Yvonne was a very dedicated employee and he appreciated all that she does.

The resolve was adopted by unanimous vote.

2015-B045

August 11, 2015

TITLE: RESOLVE, RECOGNIZE ALLEN CAMPBELL FOR HIS MANY YEARS OF DEDICATED SERVICE TO THE CITY OF BREWER AS A MEMBER OF THE BREWER PLANNING BOARD AND AS A COMMISSIONER ON THE BOARD OF THE HOUSING AUTHORITY OF THE CITY OF BREWER.

filed August 5, 2015
by Jerry Goss and
Beverly Uhlenhake

WHEREAS, Brewer citizen Allen Campbell will be moving out of the City of Brewer and the State of Maine and will be resigning as a member of the Brewer Planning Board and as a Commissioner on the board of the Housing Authority of the City of Brewer around the end of September, 2015 ; and

WHEREAS, Allen was appointed an associate Planning Board member effective February 28, 2000 and was appointed as a regular member on January 26, 2001; and

WHEREAS, Allen has voluntarily served over fifteen years on the Board reviewing projects, evaluating proposed ordinance amendments, and attending regular monthly meetings, site visits, workshops, and special meetings; and

WHEREAS, the Planning Department and the Planning Board will miss Allen's vast knowledge and dedication to this board; and

WHEREAS, Allen also serves as a Commissioner on the Board of the Housing Authority of the City of Brewer; and

WHEREAS, Allen was appointed as a Commissioner May 11, 2008 and his commitment to the City of Brewer, has spurred his desire to make it a better place to live; and

WHEREAS, Allen was a member of the team, appointed by City Council on November 19, 2012, which was comprised of City staff and Brewer residents which made up the Brewer Comprehensive Plan Committee. This committee met its goal of establishing a new Comprehensive Plan for the City of Brewer which was adopted by the City Council on March 31, 2015;

NOW, THEREFORE, BE IT RESOLVED, that the Brewer City Council, on behalf of the Citizens of Brewer, herewith recognizes and commends Allen Campbell for outstanding and dedicated service to the Citizens of Brewer.

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

Councilor Goss read the resolve into the record and presented Allen with a copy of the resolve and a plaque thanking him for his dedication and service to the City of Brewer.

Councilor Goss also presented Allen with a Challenge Coin and said his challenge to him was to enjoy his time in Florida. Councilor Goss said that as the liaison to the Housing Authority for the Council he said Allen always showed professionalism and common sense in all matters of the commission.

City Planner Linda Johns said that she has worked with Allen for over 14 years. There were good times and there were rough times and she will miss him as a board member.

Albert Gibson, Planning Board Member, said he has worked with Allen for a long time on the planning board as well as the Housing Authority Commission. He wished him to have a great time in Florida.

Councilor Uhlenhake said that Allen was a mentor to her and served on many other boards such as the Red Cross, Rotary and Eastern Maine Community College.

Councilors Ferris, O'Connell and Mayor Vachon also thanked Allen for his service to the City of Brewer and will miss him.

Allen Campbell said that he was glad to have had the opportunity to serve on both boards and to see the City grow. He said he was lucky to have top notch staff to work with on these boards who were always prepared and made sure the board members had all the information needed to prepare them also.

The resolve was adopted by unanimous vote.

SWEARING IN CEREMONY

City Clerk Pamela Ryan swore in Brewer Police Patrol Officer Scott Jones.

Mayor Vachon gave him a challenge coin and welcomed him as a new police officer for the City of Brewer.

Public Safety Director Perry Antone said the City is very fortunate to have Officer Jones. He has a military background. He graduated from the academy at the top of his class and was highly recommended by the head of the academy to the City of Brewer.

PUBLIC COMMENTS

There were no public comments.

Recess for Public Hearings.

Chairman Vachon said the City Council would recess for public hearings and after the public hearings 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 Vachon.

The city clerk called the roll:

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

Chairman Vachon declared all members were present.

Chairman Vachon read the notice for the public hearing.

**CITY OF BREWER
PUBLIC NOTICE**

Notice is hereby given that the City Council of Brewer will hold a public hearing on Tuesday, August 11, 2015 at 6:00 p.m. in the Council Chambers at Brewer City Hall, 80 No. Main Street, Brewer, Maine on the following proposed amendment to the Brewer City Charter:

Repeal Article III, Section 8 of the City of Brewer City Charter follows:

~~**SECTION 8.** With any Superintendent of Schools contract beginning July 1, 2013, and thereafter, the School Committee require, as a condition of the Superintendent of Schools employment, that the Superintendent of Schools become a resident of the City of Brewer within three (3) years after his or her employment begins. Successive contracts with the same person shall be considered one contract for the purpose of this Section. The beginning date of the earliest contract shall cause the three (3) year period within which the Superintendent of Schools must establish residency within the City of Brewer to begin to run.~~

SUMMARY

The purpose of this proposed Amendment to the City of Brewer Charter is to repeal the requirement that the Superintendent of Schools become a resident of the City of Brewer within three years after being hired.

Any person may attend this public hearing and speak on this proposed amendment. 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 addressed to Brewer City Council, c/o City Clerk, 80 No. Main Street, Brewer, Maine 04412.

Pamela J. Ryan
City Clerk

published August 3, 2015
in the Bangor Daily News
posted on bulletin board
at Brewer City Hall July 31, 2015

Chairman Vachon asked if anyone from the public had any comments or questions.

There were none.

Chairman Vachon asked the City Clerk if there had been any written comments submitted by the public.

The City Clerk said there had been no written or oral comments submitted concerning the public hearing.

The public hearing adjourned at 6:21 p.m.

Chairman Vachon called the second public hearing to order noting that all members of the council were present.

Chairman Vachon read the notice for the public hearing.

CITY OF BREWER PUBLIC NOTICE

Notice is hereby given that the City Council of Brewer will hold a public hearing on Tuesday, August 11, 2015 at 6:00 p.m. in the Council Chambers at Brewer City Hall, 80 No. Main Street, Brewer, Maine on the following proposed amendment to the Brewer City Charter:

Amend Article IX, Recall, of the City of Brewer City Charter as follows:

ARTICLE IX. RECALL

Any member of the City Council or the School Committee may be recalled and removed therefrom by the electors of the City as herein provided.

SECTION 1. PROCEDURE FOR INITIATING RECALL PETITION.

Any 50 registered voters of the City of Brewer may originate a petition putting into operation the recall process by signing such petition ~~at the office of the City Clerk~~. Whenever requested by 50 such voters, the City Clerk shall prepare the proper recall petition and upon its being signed by said 50 voters, the City Clerk shall file the petition and shall, during office hours for 30 days thereafter, keep the same open for signatures by registered voters of the City, ~~and no such petition shall be signed or presented for signatures at any place other than the Clerk's office~~. At the expiration of said 30 days, the City Clerk shall declare the petition closed and shall, at the first regular meeting of the City council thereafter present to that body, the petition with verification of the number of valid signatures there attached. If the number of valid signatures attached to said petition shall amount to at least 500 signatures of qualified electors registered to vote at the latest regular city election, the City Council shall immediately take the necessary steps to submit to the voters of the city and the recall petition.

SECTION 2. FORM OF BALLOT IN RECALL ELECTION.

The form of the ballot at the recall election shall be as follows:

"Shall City Council member (name of person proposed for recall) be recalled?"

"Shall School Committee member (name of person proposed for recall) be recalled?"

Immediately below such question shall appear in the following order the words "Yes" and "No" and to the right of each word ~~a square~~ an oval within which the voter may cast his or her vote.

SECTION 3. VOTE REQUIRED.

In order for a Council member or School Committee member to be recalled, at least 30% of the total number of qualified electors registered to vote after the close of polls on the date the recall election is held must have voted and a simple majority of said 30% must have voted "Yes". In the event less than 30% of said electors vote or a simple majority of said majority do not vote "Yes", the recall fails.

SECTION 4. ELECTION AFTER RECALL.

A Council member or School Committee member recalled shall serve until his or her successor is duly elected and sworn. If one or more Council members or School Committee members are recalled, the City Council shall declare a vacancy and shall set a time for the holding of a special election not less than 30 days nor more than 60 days after the recall election.

SUMMARY

The purpose of the proposed Amendments to the City of Brewer Charter is to provide the same recall provisions for School Committee members as are outlined in the City Charter for City Council members.

Any person may attend this public hearing and speak on this proposed amendment. 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 addressed to Brewer City Council, c/o City Clerk, 80 No. Main Street, Brewer, Maine 04412.

Pamela J. Ryan
City Clerk

published August 3, 2015
in the Bangor Daily News
posted on bulletin board
at Brewer City Hall July 31, 2015

Chairman Vachon asked if anyone from the public had any comments or questions.

There were none.

Chairman Vachon asked the City Clerk if there had been any written comments submitted by the public.

City Council Minutes
August 11, 2015

The City Clerk said there had been no written or oral comments submitted concerning the public hearing.

The public hearing adjourned at 6:25 p.m.

NOTICE OF HEARING: ABATEMENT REQUEST BY EMERA MAINE.

Chairman Vachon opened the hearing noting that all members of the council were present.

Chairman Vachon invited David Silk, Counsel for Emera Maine, to deliver his statements concerning this abatement appeal.

Mr. Silk introduced the following: (see attachments)

Councilor Goss moved that the material presented be accepted and placed on file. The motion was seconded and passed by a 3 to 0 vote, Councilors Ferris and O'Connell abstained.

City Council Minutes
August 11, 2015

Brewer City Assessor Steve Weed said the Emera had made the error when they filed their annual asset list.

The City Assessor said that the municipal officers may not grant an abatement to correct an error in the valuation of property; only may grant an abatement to correct any illegality, error or irregularity in assessment.
(see attachments)

Councilor Goss moved that the material presented be accepted and placed on file. The motion was seconded and passed by a 3 to 0 vote, Councilors Ferris and O'Connell abstained.

The public hearing adjourned at 6:38 p.m. and Mayor Vachon called the regular meeting back to order noting that all members of the Council were present.

C. Consent Calendar.

ACTION: Councilor Ferris removed orders 2015-A148 and A156 from the consent calendar.

Councilor Uhlenhake removed order 2015-A157.

Councilor Uhlenhake moved that the remaining orders on the consent calendar have passage.

The motion was seconded and passed by unanimous vote.

2015-A145

August 11, 2015

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

filed August 5, 2015
by Beverly Uhlenhake

WHEREAS, the Brewer Public Library has received contributions of \$50.00 from W. Maxine Graves and \$100.00 from John and Linda Weinmann; and

WHEREAS, the Library has also received a contribution of \$60.00 from Beatrice L. Park and M. Marjorie Plaisted, in memory of William Park; and

WHEREAS, it is the recommendation and request of the Library Director that these contributions be used to supplement and support the purchase of new books for the City of Brewer Library;

NOW, THEREFORE, BE IT ORDERED, that the City Council accepts these generous contributions totaling \$210.00 and authorizes their deposit into account 0107204-300420 (Library Contributions/Donations) and expenditure from account 0117201-502750 (Library Books); and

BE IT FURTHER ORDERED, that the City Council authorizes the acceptance of any additional contributions received in Mr. Park's memory beyond the contribution mentioned above, and authorizes their appropriation and expenditure to supplement the Library's book 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.

2015-A146

August 11, 2015

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

filed August 5, 2015
by Jerry Goss

WHEREAS, the City of Brewer has received donations of \$1100.00 from Machias Savings Bank, Marden's Inc., Bangor Savings Bank and Camden National Bank 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 these generous donations, 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.

2015-A147

August 11, 2015

TITLE: ORDER, ACCEPT FUNDS IN FORFEITURES RESULTING FROM RECENT COURT CASES THAT THE BREWER POLICE MADE SUBSTANTIAL CONTRIBUTIONS IN THE SUCCESSFUL PROSECUTION OF.

filed August 5, 2015
by Kevin O'Connell

WHEREAS, the Brewer Police Department has conducted an investigation where a sum of money and assets were seized and forfeited by defendants involved in the investigation; and

WHEREAS, the sum of money and assets were offered to the City of Brewer in recognition of the Brewer Police Department's valuable assistance in the successful completion of the investigations; and

WHEREAS, under Maine Law, Title 15 MRSA., § 5824 (3) the City Council must take a public vote before any forfeited assets or money can be transferred to the City;

NOW, THEREFORE, BE IT ORDERED, that the City of Brewer, Maine, by vote of its City Council, does herewith approve the transfer of the following sum of money and assets forfeited as a result of the recent criminal investigations cited:

Docket Number	Sum
CR-14-2016	\$2,983 in US Currency (1) AK-47 Rifle and (1) White 2007 Saturn Car

AND, FURTHER ORDERED, that the City Manager, or his designee, is herewith authorized to sign a memorandum to accept these forfeited funds and assets on the behalf of the City of Brewer; and

FURTHER ORDERED, that the funds be deposited into the State Asset Forfeiture Receipt Account 0200101-320000 and that expenditures be hereby authorized from the appropriate State Asset Forfeiture Expense Account within this Org (0200101).

2015-A148

August 11, 2015

TITLE: ORDER, EXTEND CONTRACTS FOR CURBSIDE SOLID
WASTE AND CURBSIDE RECYCLING SERVICES.

filed August 5, 2015
by Joseph Ferris

WHEREAS, the City's current 5 year contracts with Pine Tree Waste Services, Inc. for weekly curbside refuse collection and monthly curbside sorted recycling collection expired on June 30, 2015; and

WHEREAS, the City's contract with PERC for waste disposal expires in March 2018 and this creates uncertainty about where the City's waste will go after that date; and

WHEREAS, given these circumstances, the Finance Director recommends a negotiated extension of the current contract since the costs and risks of engaging in a full bid process for long term collection contracts outweigh the potential benefits; and

WHEREAS, a worldwide, multiyear drop in recyclable commodities markets has changed the economics of recycling and is requiring companies to apply processing fees and transportation costs to recyclables that before "paid their own way" by the revenue they generated; and

WHEREAS, in acknowledgement of Brewer's role as the first Zero Sort community in this part of the state and our continued flagship position, Pine Tree has made an offer for sharing the increased recycling costs that is phased in and fair;

NOW, THEREFORE, BE IT ORDERED, that the City Council hereby authorizes the City Manager, or his designee, to negotiate and execute three year contract extensions (in substantive form as the attached drafts) with Pine Tree Waste, Inc. of Hermon, Maine, to provide curbside refuse and recycling services as may be in the best interests of the residents and taxpayers of the City of Brewer; 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 this purchase of contractor services.

AGREEMENT TO EXTEND REFUSE COLLECTION CONTRACT

July 1, 2015 – June 30, 2018

THIS AGREEMENT, made and concluded this ___ day of August, 2015, by and between the City of Brewer, a municipal corporation located in the County of Penobscot and State of Maine, acting herein by its duly elected City Council, (hereinafter referred to as the "City"), and Pine Tree Waste, Inc. (hereinafter referred to as the "Contractor") with an address at 31 Freedom Parkway, Hermon, ME.

WITNESSETH

The City and Contractor mutually agree and desire to extend the curbside refuse collection services contract, under the terms and conditions previously set forth in the REFUSE COLLECTION CONTRACT executed on July 2, 2010.

In consideration of the mutual promises and agreements hereinto contained, the City and Contractor covenant and agree to extend the provisions of the REFUSE COLLECTION CONTRACT executed on July 2, 2010 through June 30, 2018 at the following annual rates:

Curbside Solid Waste Collection

IN WITNESS WHEREOF, the parties hereto have set their hands and seals this ___ day of August, 2015.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

CITY OF BREWER

Witness

Karen Fussell, Finance Director

PINE TREE WASTE, INC.

Witness

Brian Oliver, Regional Vice President

AGREEMENT TO EXTEND RECYCLE CONTRACT

July 1, 2015 – June 30, 2018

THIS AGREEMENT, made and concluded this ____ day of August, 2015, by and between the City of Brewer, a municipal corporation located in the County of Penobscot and State of Maine, acting herein by its duly elected City Council, (hereinafter referred to as the "City"), and Pine Tree Waste, Inc. (hereinafter referred to as the "Contractor") with an address at 31 Freedom Parkway, Hermon, ME.

WITNESSETH

The City and Contractor mutually agree and desire to extend the curbside recycle collection services contract, under the terms and conditions previously set forth in the RECYCLE CONTRACT executed on July 2, 2010.

In consideration of the mutual promises and agreements hereinto contained, the City and Contractor covenant and agree to extend the provisions of the RECYCLE CONTRACT executed on July 2, 2010 through June 30, 2018 at the following annual rates:

IN WITNESS WHEREOF, the parties hereto have set their hands and seals this ____ day of August, 2015.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

CITY OF BREWER

Witness

Karen Fussell, Finance Director

PINE TREE WASTE, INC.

Witness

Brian Oliver, Regional Vice President

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

Councilor Ferris said he removed this order from the consent calendar because he would abstain from voting on it.

The order was passed by 4 to 0 vote, Councilor Ferris abstaining.

2015-A149

August 11, 2015

TITLE: ORDER, AUTHORIZE PAYMENT TO THE TOWN OF DEXTER
FOR REIMBURSEMENT COSTS FOR BLETP
TRAINING FOR OFFICER SCOTT JONES.

filed August 5, 2015
by Beverly Uhlenhake

WHEREAS, the City of Brewer, hired Scott Jones as a full time Brewer Police Officer on July 27, 2015 to replace a vacancy created by Officer Mike Wilson's resignation from full time employment with the Brewer Police Department; and

WHEREAS, Officer Jones worked for the Dexter Police Department as a full time police officer up until being hired by the City of Brewer; and

WHEREAS, Officer Jones graduated from the Maine Criminal Justice Academy's Basic Law Enforcement Training Program (BLETP) in December 2014; and

WHEREAS, the Maine Criminal Justice Academy Board of Trustees have established mandatory reimbursement rates for the BLETP Academy Training to be paid to the employing agency who put the officer through the BLETP, and said reimbursement rate for Officer Jones is \$30,000 (thirty thousand dollars); and

WHEREAS, this unanticipated, one-time expense can be paid for with unanticipated state revenue sharing funds;

NOW, THEREFORE, BE IT ORDERED, that the City Manager, or his designee, is herewith authorized and directed to pay the town of Dexter the Maine Criminal Justice Academy's set mandatory BLETP Academy Training reimbursement rate for Officer Jones; and

AND FURTHER ORDERED, that the City Council herewith authorizes the appropriation and expenditure of \$30,000 (thirty thousand dollars) from 0115811-500861 (Police Training Costs Reimbursement) to the town of Dexter to be funded from \$30,000 in unanticipated state revenue sharing account 0106902-300200.

2015-A150

August 11, 2015

TITLE: ORDER, SUBMIT TO THE VOTERS THE PROPOSED CHARTER
AMENDMENTS TO ARTICLE IX, RECALL, SECTIONS 1,
2, 3 AND 4 OF THE CITY OF BREWER CHARTER.

filed August 5, 2015
by Jerry Goss

WHEREAS, following notice and public hearing held on Tuesday, August 11, 2015, the Brewer City Council orders that the following proposed amendments to the Brewer City Charter be placed on the ballot at the City of Brewer Annual Municipal Election and State of Maine Referendum Election to be held on November 3, 2015:

Amend Article IX, Recall, of the City of Brewer City Charter as follows:

**ARTICLE IX.
RECALL**

Any member of the City Council or the School Committee may be recalled and removed therefrom by the electors of the City as herein provided.

SECTION 1. PROCEDURE FOR INITIATING RECALL PETITION.

Any 50 registered voters of the City of Brewer may originate a petition putting into operation the recall process by signing such petition ~~at the office of the City Clerk~~. Whenever requested by 50 such voters, the City Clerk shall prepare the proper recall petition and upon its being signed by said 50 voters, the City Clerk shall file the petition and shall, during office hours for 30 days thereafter, keep the same open for signatures by registered voters of the City, ~~and no such petition shall be signed or presented for signatures at any place other than the Clerk's office~~. At the expiration of said 30 days, the City Clerk shall declare the petition closed and shall, at the first regular meeting of the City council thereafter present to that body, the petition with verification of the number of valid signatures there attached. If the number of valid signatures attached to said petition shall amount to at least 500 signatures of qualified electors registered to vote at the latest regular city election, the City Council shall immediately take the necessary steps to submit to the voters of the city and the recall petition.

SECTION 2. FORM OF BALLOT IN RECALL ELECTION.

The form of the ballot at the recall election shall be as follows:

"Shall City Council member (name of person proposed for recall) be recalled?" and/or

"Shall School Committee member (name of person proposed for recall) be recalled?"

Immediately below such question shall appear in the following order the words "Yes" and "No" and to the right of each word ~~a square~~ an oval within which the voter may cast his or her vote.

SECTION 3. VOTE REQUIRED.

In order for a Council member or School Committee member to be recalled, at least 30% of the total number of qualified electors registered to vote after the close of polls on the date the recall election is held must have voted and a simple majority of said 30% must have voted "Yes". In the event less than 30% of said electors vote or a simple majority of said majority do not vote "Yes", the recall fails.

SECTION 4. ELECTION AFTER RECALL.

A Council member or School Committee member recalled shall serve until his or her successor is duly elected and sworn. If one or more Council members or School Committee members are recalled, the City Council shall declare a vacancy and shall set a time for the holding of a special election not less than 30 days nor more than 60 days after the recall election.

SUMMARY

The purpose of the proposed Amendments to the City of Brewer Charter is to provide the same recall provisions for School Committee members as are outlined in the City Charter for City Council members.

FURTHER ORDERED, that pursuant to Title 30-A M.R.S.A. § 2104 (6), the municipal officers herewith determine that it is not practical to print the proposed amendments on the ballot and that a summary would not misrepresent the subject matter of the proposed amendments; and

FURTHER ORDERED, that the City Clerk is instructed to include the following summary on the ballot instead of the text of the proposed amendments:

“Shall the municipality approve the charter amendments summarized below?”

Add to Article IX, Recall, of the Brewer City Charter Section 1 (Procedure for Initiating Recall Petition), Section 2 (Form of Ballot in Recall Election), Section 3 (Vote Required) and Section 4 (Election after Recall) to provide the same recall provisions for School Committee members as are outlined in the City Charter for City Council members.

2015-A151

August 11, 2015

TITLE: ORDER, SUBMIT TO THE VOTERS THE PROPOSED CHARTER AMENDMENT TO REPEAL THE REQUIREMENT THAT SUPERINTENDENTS OF SCHOOLS BE RESIDENTS OF THE CITY OF BREWER.

filed August 5, 2015
by Kevin O’Connell

WHEREAS, following notice and public hearing held on Tuesday, August 11, 2015, the Brewer City Council orders that the following proposed amendment to the Brewer City Charter be placed on the ballot at the City of Brewer Annual Municipal Election and State of Maine Referendum Election to be held on November 3, 2015:

Repeal Article III, Section 8 of the City of Brewer City Charter as follows:

~~**SECTION 8.** With any Superintendent of Schools contract beginning July 1, 2013, and thereafter, the School Committee require, as a condition of the Superintendent of Schools employment, that the Superintendent of Schools become a resident of the City of Brewer within three (3) years after his or her employment begins. Successive contracts with the same person shall be considered one contract for the purpose of this Section. The beginning date of the earliest contract shall cause the three (3) year period within which the Superintendent of Schools must establish residency within the City of Brewer to begin to run.~~

FURTHER ORDERED, that pursuant to Title 30-A M.R.S.A. § 2104 (6), the municipal officers herewith determine that it is not practical to print the proposed amendment on the ballot and that summary would not misrepresent the subject matter of the proposed amendment; and

FURTHER ORDERED, that the City Clerk is instructed to include the following summary on the ballot instead of the text of the proposed amendment:

“Shall the municipality approve the charter amendment summarized below?”

Repeal Section 8 to Article III of the Brewer City Charter that the City Council shall require, as a condition of employment, that the Superintendent of Schools become a resident of the City of Brewer within three (3) years after he or she begins employment as the Superintendent of Schools and the beginning date of the earliest contract shall cause the three (3) year period within which the Superintendent of Schools must establish residency in the City of Brewer to begin to run.

2015-A152

August 11, 2015

TITLE: ORDER, DETERMINE EFFECTIVE DATE OF CHARTER AMENDMENTS IF APPROVED AT THE NOVEMBER 3, 2015 CITY OF BREWER ANNUAL MUNICIPAL ELECTION AND STATE OF MAINE REFERENDUM ELECTION.

filed August 5, 2015
by Joseph Ferris

WHEREAS, the voters of the City of Brewer will go to the polls on Tuesday, November 3, 2015 to vote to amend the City of Brewer Charter ; and

WHEREAS, Title 30-A M.R.S.A. § 2105(4)(B) provides that amendments to municipal charter become effective on the date determined by the municipal officers;

NOW, THEREFORE, BE IT ORDERED, that the City Council, as the municipal officers of the City of Brewer, determine that the proposed charter amendments on the November 3, 2015 City of Brewer Annual Municipal Election and State of Maine Referendum Election shall become effective December 1, 2015, if approved by the voters.

2015-A153

August 11, 2015

TITLE: ORDER, AWARD CONTRACT FOR THE DIRIGO DRIVE
LIGHTING UPGRADE PROJECT.

filed August 5, 2015
by Beverly Uhlenhake

WHEREAS, the City Council approved a project in the FY 2016 CIP for the replacement of street lighting fixtures and poles on Dirigo Drive; and

WHEREAS, the Engineering Department designed and competitively bid this project (see attached bid tabulation);

WHEREAS, the lowest bid came in slightly above the amount approved in the FY16 CIP but there are surplus funds from recently completed CIP projects that could be reallocated to the Dirigo Lighting Upgrade;

NOW, THEREFORE, BE IT ORDERED, that the City Manager, or his designee, is authorized to execute a purchase order to Elco Electric of Bangor Maine (the low bidder) in the amount of \$82,447 for the Dirigo Drive Lighting Upgrade Project; and

BE IT FURTHER ORDERED, that the cost of this project shall be charged to CIP account 0510113-551307 (Dirigo Drive Lighting Upgrade; and

FURTHER ORDERED, that the City Council hereby authorizes the reallocation of \$8,190.00 from 0510133-551605 (Plow #434 Replacement) and \$1,810.00 from 0510104-551418 (Oak Hill Erosion Control) to 0510113-551307 to help fund the project.

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

Councilor Uhlenhake moved that the order be amended as shown above. The motion was seconded and passed.

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

2015-A154

August 11, 2015

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

filed August 5, 2015
by Jerry Goss

WHEREAS, the Brewer Parks and Recreation Department has received a donation of \$100.00 from Glidden Auto Body for the Parks and Recreation Department's Fall Program/Leagues;

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

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

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

2015-A155

August 11, 2015

TITLE: ORDER, AUTHORIZE PURCHASE OF ROCK SALT.

filed August 5, 2015
by Kevin O'Connell

WHEREAS, a joint bid was solicited, received and evaluated for the purchase and delivery of rock salt to the Cities of Brewer, Bangor and the Town of Hampden, for the upcoming winter season; and

WHEREAS, New England Salt Company of Bangor, Maine has provided the lowest price per ton on acceptable material to the City of Brewer of the five bids received;

NOW, THEREFORE, BE IT ORDERED, that the City Manager, or his designee, is authorized to sign a purchase order to New England Salt Company in the amount of \$112,380.00 for supplying and delivering 2000 tons of rock salt at \$56.19 per ton; and

BE IT FURTHER ORDERED, that funds for this purchase shall be charged to the Public Works account 0116671-502530 (Rock Salt).

2015-A156

August 11, 2015

TITLE: ORDER, AWARD CLEANING SERVICES CONTRACT.

filed August 5, 2015
by Joseph Ferris

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 become effective without delay to protect the public health, safety and welfare of the citizens of the City of Brewer; and

WHEREAS, these facts create an emergency within the meaning of the Charter, Code and Ordinances of the City of Brewer and require this Order become effective immediately; and

WHEREAS, the City of Brewer recently advertised a Request for Proposals (RFP) for cleaning services in the Bangor Daily News and the City's website; and

WHEREAS, the City of Brewer conducted a mandatory pre-bid meeting to review the scope of services and conducted a site visit for all potential facilities; and

WHEREAS, the City of Brewer received four bids from qualified service providers; and

WHEREAS, the bid from Maine Real Estate Management in the annual amount of \$57,756.00 was both the lowest bid received, and the bid that scored the highest of all other competitive bids, based upon the declared scoring criteria of the RFP;

NOW, THEREFORE, BE IT ORDERED, that the City Council hereby authorizes the City Manager, or his designee, to enter into a contract with Maine Real Estate Management for professional cleaning services, as outlined in the 2015 Cleaning Services RFP released for services at City Hall, Public Library, Public Safety, Public Works, and Water Department facilities.

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

Councilor Ferris said he removed this order from the consent calendar because he would abstain from voting on it.

The order was passed by 4 to 0 vote, Councilor Ferris abstaining.

2015-A157

August 11, 2015

TITLE: ORDER, REPEAL ORDER 2015-A014 "IMPOSE A MORATORIUM ON ANY NEW NIGHT CLUBS, BARS, TAVERNS AND LOUNGES IN THE CONVENIENCE BUSINESS ZONE, AS DEFINED BY ARTICLE 24 OF THE CITY OF BREWER'S LAND USE CODE, WITH AN EMERGENCY PREAMBLE, WHICH AS PASSED BY THE CITY COUNCIL AT THE FEBRUARY 10, 2015 REGULAR MEETING.

filed August 5, 2015
by Beverly Uhlenhake

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 become effective immediately upon passage so that the imposed moratorium on new night clubs, bars, taverns and lounges in the convenience business zone be repealed; 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 the moratorium on any new night clubs, bars, taverns and lounges in the Convenience Business Zone, as defined by Article 24 of the City of Brewer's Land Use Code at the time of Order 2015-A014's passage, be repealed.

2015-A158

August 11, 2015

TITLE: ORDER, AUTHORIZE AMENDED REPAYMENT AGREEMENT WITH BRENT AND SUZANNE TRUEWORTHY RELATIVE TO THE PROPERTY SITUATED AT 112 SOUTH MAIN STREET.

filed August 5, 2015
by Jerry Goss

EMERGENCY PREAMBLE

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

WHEREAS, It is imperative that this order become immediately upon its passage to allow terms of the agreement to commence without delay; and

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

WHEREAS, Brent and Suzanne Trueworthy are Tenants in Possession of Property situated at 112 South Main Street in Brewer, (generally shown on the City of Brewer's Tax Assessor's Map 28, Lot 44), and is hereinafter referred to as the "Property"; and

WHEREAS, the on January 21, 2014, the Trueworthy's entered into a repayment agreement with the City and now all parties wish to amend that agreement;

NOW, THEREFORE, BE IT ORDERED that the City Council authorizes the attached Agreement between the City of Brewer and Brent and Suzanne Trueworthy; and

FURTHER, ORDERED, that the City Manager, or his designee, is herewith authorized to sign the Agreement on behalf of the City of Brewer.

D. Monthly Reports.

ACTION: Councilor O'Connell 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.

There were no items.

F. Unfinished Business.

2015-C010

July 14, 2015

TITLE: AMEND CHAPTER 21, ARTICLE 5 "NAMING OF STREETS, ROADS AND WAYS UNDER THE E-911 SYSTEM" OF THE CHARTER, CODES AND ORDINANCES OF THE CITY OF BREWER ENTITLED "STREET USE". (Councilor O'Connell)(posted 7/15/15)

ACTION: Councilor O'Connell moved that the proposed ordinance amendment be enacted.

The motion was seconded and passed by unanimous vote.

G. New Business.

Councilors Ferris and O'Connell have recused themselves from any discussion or voting on Order 2015-A159

2015-A159

August 11, 2015

TITLE: ORDER, DECISION ON EMERA MAINE APPLICATION FOR ABATEMENT FOR FY2013 TAXES.

filed August 5, 2015
by Joseph Ferris

WHEREAS, Emera Maine has filed an application for a property tax abatement with the Brewer City Council; and

WHEREAS, the application for the abatement is based upon the taxpayer providing the assessor with erroneous information that was relied upon for the 2012-2013 (FY13) tax assessment; and

WHEREAS, Title 36 M.R.S.A § 841 allows the taxpayer to apply to the municipal officers for an abatement based upon an error after one (1) year but within three (3) years from the date of the assessment; and

WHEREAS, the City Council, as the municipal officers, are required to hold a hearing and make a decision, including reasons, within sixty (60) days after the application for the abatement was mailed; and

WHEREAS, a hearing was held on August 11, 2015, at which time the applicant presented testimony, as well as the City of Brewer's Assessor;

NOW, THEREFORE, based upon the evidence presented, it is hereby ordered that the appeal submitted by Emera Maine is (~~granted~~) (denied) for the following reasons:

The application for abatement fails to meet the burden of proof that the assessment for FY13 was manifestly wrong for one or more of the following reasons:

1. The judgment of the Assessor was irrational or so unreasonable in light of the circumstances that the property is substantially overvalued and an injustice results:
2. There was unjust discrimination, or
3. The assessment was fraudulent, dishonest or illegal

Page 2

4. The application for abatement fails to meet the criteria of Title 36 MSRA section 841 which requires that an illegality, error, or irregularity in assessment occurred. The assessment was correct based on the information available to the assessor at the time commitment. A reporting error was discovered after commitment was finalized, however this does not mean the assessor erred in creating the assessment and therefore is not grounds for abatement under section 841.
5. This determination is supported in part by the Maine supreme court decision Golstein v Town of Georgetown which states in part:

“... mistakes will be made, particularly in situations where the mistake in valuation would not be obvious from observation. For that reason, section 841 provides a mechanism for correction of errors in valuation. This process recognizes that, in such "error in valuation" circumstances, the taxpayer may be in a better position to have the essential information to point out the error. Accordingly, the burden is placed upon the taxpayer to justify the abatement. However, in "error in valuation" circumstances, the time for objection is limited to 185 days so that the Town's financial commitments, beyond individual fiscal years, are not unduly disrupted by stale claims for abatement.”

AND FURTHER, BE IT ORDERED, that Emera Maine is entitled to an abatement of _____, if the application has been granted; and

FURTHER, BE IT ORDERED, that if the abatement is denied, Emera Maine has the right to appeal to the appropriate forum within sixty (60) days of the decision pursuant to Title 36 M.R.S.A. § 843 and 844.

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

Councilor Uhlenhake asked Mr. Silk about State Statute 553 since he had referred to it during the public hearing discussion and it was not contained in the packet of information that he had provided for council.

Mr. Silk said the statute says it means that real estate has to be taxed in the place where it is to the owner or person in possession. The same real estate cannot be taxed twice in the same municipality.

Councilor Uhlenhake asked if the council members could go into executive session with the City's solicitor to get some legal clarification.

Councilor Uhlenhake moved that the three council members, who would be voting on this order and the City solicitor go into executive session.

City Council Minutes
August 11, 2015

The motion was passed by a 3 to 0 vote, Councilors Ferris and O'Connell abstaining.

Mayor Vachon said the executive session include City Council members Goss, Uhlenhake and Mayor Vachon.

Mayor Vachon said the regular meeting would resume after the executive session and take up the rest of the items on the agenda.

The meeting was called back to order at 7:08. The City Clerk called the roll and all members of the council were present.

Councilor Uhlenhake moved that the order be amended by striking out the word "granted" in the sixth paragraph of the order. The motion was seconded and passed. The motion to amend was passed by a 3 to 0 vote, Councilors Ferris and O'Connell abstaining.

Councilor Uhlenhake moved that the order be further amended by inserting the reasons for denial in the last paragraph of the order as shown above. The motion was seconded and passed. The motion to further amend the order was passed by a 3 to 0 vote, Councilors Ferris and O'Connell abstaining.

Councilor Uhlenhake moved that the order, as twice amended, have passage. The motion was seconded and the order, as twice amended, was passed by a 3 to 0 vote, Councilors Ferris and O'Connell abstaining.

Mayor Vachon 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 7:15 p.m.

ADJOURNED, ATTEST: _____ Pamela J. Ryan
City Clerk
A TRUE COPY, ATTEST: _____ Brewer, Maine