

City Council Minutes
February 10, 2015

Regular Meeting
City Hall Council Chambers

Tuesday, February 10, 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 Goss 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, February 10, 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	Ptl.	02/06/15	1500
Matthew Vachon	P. Ryan	CC	02/06/15	4:00pm
Beverly Uhlenhake	T. Tardiff	Ptl.	02/06/15	1510
Jerry Goss	Luce		02/06/15	1806
Kevin O'Connell	P. Ryan	CC	02/06/15	4:00pm

CITY COUNCIL REGULAR MEETING
Tuesday, February 10, 2015 6:00 P.M.
Brewer City Hall Council Chambers

- I. Call to Order.** (Mayor Vachon)
- II. Roll Call.** (City Clerk)
- III. Pledge of Allegiance to the Flag of the United States of America.**
(Mayor Vachon)
- A. Minutes of January 13, 2015 Regular Meeting.** (Councilor Ferris)
- B. Awards, Petitions, Public Comments**
 - 1. Public Comments.
- IV. Recess for Public Hearings.**
 - 1. 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.
 - 2. Receive Public Comments on the Designation of an Affordable Tax Increment Financing District (TIF) for the Highland Community Affordable Housing Development at the Sites of the Former State Street School.
- V. Adjourn Public Hearings and Continue with Regular Meeting.**
- C. Consent Calendar.**
 - 1. (2015-A009) ORDER, Accept Donation to the Brewer Public Library.
(Councilor Goss)
 - 2. (2015-A010) ORDER, Accept Proceeds from Sale of Scrapped Aluminum and Appropriate for Use.
(Councilor Uhlenhake)
 - 3. (2015-A011) 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 O’Connell)
 - 4. (2015-A012) ORDER, Determine Effective Date of Charter Amendments if Approved at the June 9, 2015 School Budget Approval Election and City of Brewer Referendum Election. (Councilor Ferris)
 - 5. (2015-A013) ORDER, Authorize the City Manager, or His Designee, to Sign a MDOT Municipal/State Agreement for the Resurfacing of Wilson Street. (Councilor Goss)

6. (2015-A014) ORDER, 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. (Councilor Uhlenhake)
7. (2015-A015) ORDER, Refer to the Planning Board for a Hearing and Recommendation on the Terms for Night Club, Bar, Tavern and Lounges in the City's Convenience Business District Along the Penobscot River. (Councilor O'Connell)
8. (2015-A016) ORDER, Designation of Highland Community Affordable Housing Development District and Authorization to Finalize and Sign Credit Enhancement Agreements with Village Centre Housing Partners, L.P. and Somerset Place Housing Associates, L.P. (Councilor Ferris)

D. Monthly Reports. (Councilor Goss)

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

F. Unfinished Business.

1. (2015-C001) Amend Chapter 24, Article 4, Performance Standards, Section 420, Multiple Uses on a Single Lot, Items 420.1 and 420.2. (Councilor O'Connell)(posted 01/14/15)

G. New Business.

1. (2015-C002) Amend Chapter 24, Article 11, Telecommunication Facilities, Sections 1107 (Setbacks) and 1121 (Exceptions). (Councilor Uhlenhake)

H. New Items with Leave of Council.

I. ADJOURN.

A. Minutes of January 13, 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.

PUBLIC COMMENTS.

Superintendent of the Water Department Rodney Butler introduced his two new employees, Allison Doucette (who will work part-time for the Water Department and for the City Planning Office) and Bart Curry who is the new foreman.

Councilor O'Connell said cudos to the Public Works Department for all their hard work and effort to keep the roads and sidewalks clear after so much snow.

Councilor Goss wanted to make a comment on the I-395 issue. Just wanted to let the people of Holden know that everyone realizes that there are difficulties on their roads but need to fix things up with the right route.

Recess for Public Hearings.

Chairman Vachon said the City Council would recess to take up two public hearings and after the public hearings would return to the regular meeting and take up the rest of the items on the agenda.

1. 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.

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 public notice:

**CITY OF BREWER
PUBLIC NOTICE**

Notice is hereby given that the City Council of Brewer will hold a public hearing on Tuesday, February 10, 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?" 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 this proposed Amendment to the City of Brewer Charter is to provide the same recall provisions for School Committee members as are outlined in 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 February 2, 2015
in the Bangor Daily News
posted on bulletin board
at Brewer City Hall January 30, 2015

Chairman Vachon asked if there were any public comments from the audience.
Jay McIntire made the following comments:

I share my opinion with you tonight as a citizen, father and professional educator, not as a representative of the Brewer School Department. The school committee has taken no position on this matter.

I favor the creation of a recall process.

Brewer has had hundreds of school committee members in its history and the state has had thousands. While it may not have happened here, there have been many instances in Maine when it became obvious to well-intentioned voters that a school committee member they elected was not serving the public interest.

Voters should be very cautious about second-guessing themselves, but the important public trust that the school committee holds requires that when a mistake has been made, there is a way to correct it. A recall process should be created to allow the voters of Brewer to protect the interests of its children, its families and of the city itself.

Larry Doughty, Goupee Street, said that he was in favor of the recall provision and commended the City Council for starting the process to have it included in the City Charter.

Councilor Jerry Goss said he was the one who put this on the agenda to start the process after a question from a citizen about the recall process . He found that there was no procedure in the charter for school committee members, just city council members. This charter amendment is to clean up loose ends in the charter and is not directed at any one person.

The public hearing was adjourned at 6:05 p.m.

Chairman Vachon said the second public hearing would take place now.

2. Receive Public Comments on the Designation of an Affordable Tax Increment Financing District (TIF) for the Highland Community Affordable Housing Development at the Sites of the Former State Street School.

Public Hearing Notice The City of Brewer

The **City of Brewer** will hold a Public Hearing on Tuesday, February 10th, 2015 at 6:00pm at Brewer City Hall Council Chambers, 80 North Main Street, Brewer, Maine, to receive public comments on the designation of an Affordable Housing Tax Increment Financing District (TIF) for the Highland Community Affordable Housing Development at the sites of the former State Street School (131 State Street), the former Brewer Middle School (5 Somerset Street, Lot 2 of the Center Street Subdivision, Tax Map 31, Lot 38-1 (adjacent to 131 State Street) and 318 Wilson Street. The Public Hearing is also for the purpose of receiving public comment on the adoption of the Highland Community Affordable Housing Development Program (the Development Program). The TIF and the Development Program are proposed to be designated and adopted pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended. All persons wishing to make comments or ask questions about the TIF or the Development Program are invited to attend this Public Hearing and will be heard at that time. Comments may be submitted in writing to: D'arcy Main-Boyington, Director of Economic Development, 80 North Main Street, Brewer, ME 04412 at any time prior to the Public Hearing. TDD/TTY users may call 1-800-457-1220 or 711. If you are physically unable to access any of the City's/City's programs or services, please call James Smith, Assistant City Manager at 989-7500, so that accommodations can be made.



City of Brewer
80 North Main Street
Brewer ME 04412
989-7500

Chairman Vachon asked Development Director D'arcy Main-Boyington and Finance Director Karen Fussell to come to the microphone to explain the TIF and answer any questions.

Development Director D'arcy Main-Boyington's comments:

Mr. Chairman and Members of the Council:

As you are already aware, Community Housing of Maine and Somerset Place Associates have from our very first dealings with them, requested Tax Increment Financing assistance for their housing projects.

The negotiated TIF plan that you have before you is one that I trust you will find to be beneficial to the taxpayers of Brewer. It provides assistance to the housing projects for the first 15 years of operation, as we agreed in our Option Agreement with each of them.

For the benefit of those in the audience who may be unfamiliar with how TIF's work I will first provide a very brief overview of how the TIF program works, and then I will provide specifics as to how this particular TIF is structured.

Tax Increment Financing, or "TIF" for short is, quite simply, a mechanism for municipalities to shield a small percentage of their growth from state and county taxes, and a way to provide incentive to businesses or housing projects by providing reimbursement of a portion of the new taxes back to the business over a specified period of time, when desired. TIF's only apply to new investment, and therefore cannot be given to businesses unless they are investing a significant amount of money in a project in our community, and are one of the few truly 100% performance-based incentive programs. What this means is that the business gets the incentive only after they have completed the promised investment. This is because the TIF revenues are not given up front, they are provided back to the business only after the investment has been made, the new value has been assessed, and the new taxes have been paid. For this reason, it is completely risk-free for the municipality.

The way TIF works is this:

First the municipality designates a specific geographic area as a Municipal Development Tax Increment Financing District. This act "freezes" the value of taxable property within the district for purposes of state and county taxes and state education subsidy. The taxes are assessed and paid, as usual, within the district, but rather than going into the General Fund (as most property taxes do) these taxes go into a TIF fund. So, as the value in the district increases this new value generated in the district does not get added into the City's overall valuation for purposes of calculating county taxes, State revenue sharing and education subsidy. These "sheltered" funds in the TIF account can then be used to pay for things that we are currently paying for out of the General Fund. Things like certain infrastructure projects, environmental projects and all economic development activities. So by sheltering these funds from state and county taxes we can keep more money in our community, even after providing some assistance back to the business.

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Finance Director Karen Fussell said the TIF was beneficial to taxpayers and it is an important project for the community – senior housing is needed. The TIF is a good and solid arrangement for the City and the project.

Development Director D’arcy Main-Boyington also provided a Housing TIF Analysis to the City Council members (see attached)

There were no comments from the public in the audience and the City Clerk said that there were no written or oral comments received by her office on this public hearing.

Chairman Vachon adjourned the public hearing at 6:15 p.m.

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

Chairman Vachon said the regular meeting would resume at this time.

C. Consent Calendar.

ACTION: Councilor Uhlenhake removed order 2015-A014 from the consent calendar.

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

The motion was seconded and passed by unanimous vote.

2015-A009

February 10, 2015

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

filed February 4, 2015
by Jerry Goss

WHEREAS, the Brewer Public Library has received a contribution of \$35.00 from Joel A. Dearborn, Sr. in memory of Thurza J. Knaide; and

WHEREAS, it is the recommendation and request of the Library Director that this contribution 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 this generous contribution totaling \$35.00 and authorizes its deposit into account 0107204-300420 (Library Contributions/Donations) and expenditure from account 0117201-502750 (Library Books).

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-A010

February 10, 2015

TITLE: ORDER, ACCEPT PROCEEDS FROM SALE OF SCRAPPED
ALUMINUM AND APPROPRIATE FOR USE.

filed February 4, 2015
by Beverly Uhlenhake

WHEREAS, Public Works has received checks in the amount of \$239.00 from the sale of scrap materials from its sign shop; and

WHEREAS, Public Works desires to use these unanticipated proceeds to supplement its street sign budget;

NOW THEREFORE BE IT ORDERED, that the Brewer City Council herewith orders the \$239.00 proceeds from the sale of this scrap aluminum be deposited into 0106604-300490 (Public Works – Misc Revenue) and appropriated for expenditure from 0116611-502525 (PW street signs).

2015-A011

February 10, 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 February 4, 2015
by Kevin O'Connell

WHEREAS, following notice and public hearing held on Tuesday, February 10, 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 School Budget Approval Election to be held on June 9, 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-A012

February 10, 2015

TITLE: ORDER, DETERMINE EFFECTIVE DATE OF CHARTER AMENDMENTS IF APPROVED AT THE JUNE 9, 2015 CITY OF BREWER SCHOOL BUDGET APPROVAL ELECTION AND CITY OF BREWER REFERENDUM ELECTION.

filed February 4, 2015
by Joseph Ferris

WHEREAS, the voters of the City of Brewer will go to the polls on Tuesday, June 9, 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 June 9, 2015 City of Brewer School Budget Approval Election and City of Brewer Referendum Election shall become effective July 1, 2015, if approved by the voters.

2015-A013

February 10, 2015

TITLE: ORDER, AUTHORIZE THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN A MDOT MUNICIPAL/STATE AGREEMENT FOR THE RESURFACING OF WILSON STREET.

filed February 4, 2015
by Jerry Goss

WHEREAS, BACTS authorized funding of a project to resurface Wilson Street during the summer of 2015 from the Chamberlain Bridge to Parkway South; and

WHEREAS, the City's 10% cost share for this project is estimated to be \$85,442.00; and

WHEREAS, the Finance Director has previously anticipated this expenditure in the FY2015 CIP and intends to include this item in the FY2016 CIP; and

WHEREAS, the City Engineer has reviewed the proposed Agreement and recommends approval thereof;

NOW, THEREFORE, BE IT ORDERED, that the City Manager, or his designee, is authorized to sign a Municipal/State Agreement with the Maine Department of Transportation for MDOT project WIN#20389.00 obligating the City to a 10% cost share for the project estimated at \$85,442.00; and

BE IT FURTHER ORDERED, that the Finance Director shall include a line item in the FY2016 CIP in the amount of \$90,000.00 to cover the City's 10% cost share for this project, including contingencies.

2015-A014

February 10, 2015

TITLE: ORDER, 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.

filed February 4, 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 be effective immediately upon passage so that the moratorium starts on the above date of February 10, 2015 to give the City adequate time to adopt definitions of the above named businesses; and

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

WHEREAS, the City of Brewer is in the process of adopting a new Comprehensive Plan pursuant to Title 30-A M.R.S.A. §4301, et seq.; and

WHEREAS, the proposed Comprehensive Plan has identified the areas next to the Penobscot River as an area for significant growth and development; and

WHEREAS, the current Land Use Code (zoning ordinance) will be revised to reflect the proposed Comprehensive Plan once adopted in accordance with Title 30-A M.R.S.A. § 4532; and

WHEREAS, until the proposed Comprehensive Plan is adopted and the Land Use Code (zoning ordinance) revisited, the provisions of Chapter 24 of the current Land Use Code Ordinance will continue to apply; and

WHEREAS, a significant area along the Penobscot River is in the Convenience Business Zone (CB) as currently defined by the City's existing Land Use Code; and

WHEREAS, the terms night clubs, bars, taverns and lounges are not defined other than a reference to the terms as promulgated in Webster's New World College Dictionary, Third Edition, copyright 1997 under Article 14 of the City's Land Use Code; and

WHEREAS, the definitions are inadequate in light of pressure for proposed developments in the City's Convenience Business Zone; and

WHEREAS, there is a need to prevent a shortage or overburdening of public facilities that would otherwise occur during the effective date of this proposed moratorium that is reasonably foreseeable as a result of the proposed development of new night clubs, bars, taverns and lounges in the City's current Convenience Business Zone until adequate definitions of said uses are adequately defined; and

WHEREAS, the current Comprehensive Plan, Land Use Ordinance and regulation or other applicable laws, if any, are inadequate to prevent serious public harm from commercial development in the City's current Convenience Business Zone on the Penobscot River;

NOW, THEREFORE, BE IT ORDERED, based upon the foregoing, that a moratorium upon any new night clubs, bars, taverns and lounges in the City's current Convenience Business Zone shall be in effect for One Hundred Eighty (180) days from the effective date of this Order to provide the City's Planning Board and City Council adequate time to adopt a new Comprehensive Plan and Land Use Code (zoning ordinance) that adequately define said terms with the City's Convenience Business Zone along the Penobscot River.

ACTION: Councilor Uhlenhake moved that the order have passage. The motion was Seconded and passed.

Councilor Uhlenhake said the reason she removed this order was that She would need to recuse herself from voting on this order as she is working on a project related to night clubs.

The order was passed by a 4 to 0 vote, Councilor Uhlenhake recusing herself from voting.

2015-A015

February 10, 2015

TITLE: ORDER, REFER TO THE PLANNING BOARD FOR A HEARING AND RECOMMENDATION ON THE TERMS NIGHT CLUB, BAR, TAVERN AND LOUNGES IN THE CITY'S CONVENIENCE BUSINESS DISTRICT ALONG THE PENOBSCOT RIVER.

filed February 4, 2015
by Kevin O'Connell

WHEREAS, the City Council has enacted a moratorium on night clubs, bars, taverns and lounges in the City's Convenience Business District along the Penobscot River, with an emergency preamble; and

WHEREAS, the City Council has the authority under the City's Land Use Code to refer proposed amendments to the City's Planning Board pursuant to Chapter 24, Article 1, Section 108.1, et seq.; and

WHEREAS, the City Council wants to have the Planning Board hold a public hearing and make recommendations on definitions for a night club, bars, taverns and lounge for the City's Convenience Business District along the Penobscot River; and

WHEREAS, the City Council needs the Planning Boards' recommendation no later than its regular City Council meeting on June 2, 2015;

NOW, THEREFORE, BE IT ORDERED, that the City Planning Board holds a public hearing and make its recommendation to the City Council on or before June 2, 2015 on definitions for any new night club, bars, taverns and lounges, and such others the Planning Board believes need to be defined for the City's Convenience Business District along the Penobscot River

2015-A016

February 10, 2015

TITLE: ORDER, DESIGNATION OF HIGHLAND COMMUNITY AFFORDABLE HOUSING DEVELOPMENT DISTRICT AND AUTHORIZATION TO FINALIZE AND SIGN CREDIT ENHANCEMENT AGREEMENTS WITH VILLAGE CENTRE HOUSING PARTNERS, L.P. AND SOMERSET PLACE HOUSING ASSOCIATES, L.P.

filed February 4, 2015
by Joseph Ferris

WHEREAS, the City of Brewer (the "City") is authorized pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, to designate the Highland Community Affordable Housing Development District (the "District"); and

WHEREAS, in designating the District, the City must also adopt a development program such as the Highland Community Affordable Housing Development Program (the "Program"); and

WHEREAS, there is a need for affordable family and affordable senior housing development in the City, in the surrounding region, and in the State of Maine; and

WHEREAS, the proposed District will contribute to the expansion of affordable housing opportunities within the municipality or to the betterment of the health, welfare, or safety of the inhabitants of the municipality; and

WHEREAS, having heard and considered any testimony from interested parties at a public hearing, including any claims that the District or Program will result in a substantial detriment to a party's existing property interests in the City if the party has produced substantial evidence to that effect; and

WHEREAS, in considering such evidence, having also considered whether any adverse economic effect of the District or Program on the party's interest is outweighed by the benefit to the City in the form of the availability of affordable housing or the betterment of the health, safety, or welfare of the inhabitants of the City; and

WHEREAS, the Program meets the applicable requirements under State law, including those relating to the District's financial plan; and

WHEREAS, the City desires to designate the District; and

WHEREAS, it is expected that the Director of the Maine State Housing Authority will approve the designation of the District;

NOW THEREFORE BE IT ORDERED as follows:

Section 1. The City of Brewer hereby designates the Highland Community Affordable Housing Development District. Such designation is to be pursuant to the following findings, terms, and provisions.

Section 2. The City Council hereby finds and determines that:

- a. At least 25%, by area, of the real property within the District is suitable for residential use, is a blighted area or is in need of rehabilitation or redevelopment.
- b. The total area of the District is less than 2% of the total acreage of the City. The total area of all development districts in the City is less than 5% of the total acreage of the City.
- c. The original assessed value of the proposed affordable housing development district plus the original assessed value of all existing affordable housing development districts within the municipality did not exceed 5% of the total value of taxable property within the municipality as of April 1, 2015.
- d. The aggregate value of municipal general obligation indebtedness financed by the proceeds from affordable housing development districts within Penobscot County does not exceed \$50,000,000 adjusted by a factor equal to the percentage change in the United States Bureau of Labor Statistics Consumer Price Index, United States City Average from January 2, 2002 to the date of calculation.
- e. The Highland Community Affordable Housing Development Program shows that this development meets an identified community housing need. The Program provides a mechanism to ensure the ongoing affordability for a period of at least 10 years for single-family, owner-occupied units and 30 years for rental units.
- f. There could be up to \$2,500,000 in municipal general obligation bond indebtedness associated with the District.
- g. The District is primarily a residential development on which at least 33% of the dwelling units will be affordable housing.

Section 3. Having considered the aforementioned factors, the City Council also hereby adopts the Highland Community Affordable Housing Development Program, attached hereto. The percentage of increased assessed value to be retained as captured assessed value shall be a portion of the captured assessed value computed as stated in the Affordable Housing Development Program which may be up to 100%. There shall be established an affordable housing development program fund as stated in the Program.

Section 4. The City Manager, or his duly appointed representative, is hereby authorized, empowered, and directed to submit the proposed designation of the District to the Director of the Maine State Housing Authority for review and approval pursuant to the requirements of 30-A M.R.S.A. § 5250.

Section 5. The foregoing designation of the District shall automatically become final and shall take full force and effect upon receipt by the City of approval and designation of the District by the Director of the Maine State Housing Authority, without requirements of further action by the City, the City Council, or any other party.

Section 6. The City Manager, or his duly appointed representative, is hereby authorized and empowered to finalize the Credit Enhancement Agreements “CEA”s, drafts of which are included as attachments A and B) as envisioned within the Highland Community Affordable Housing Development Program.

Section 7. The City Manager is hereby authorized to execute ace between the City, Village Centre Housing Partners, L.P. (the Owner), and Community Housing of Maine, Inc. (the Developer), and an agreement between the City, Somerset Place Housing Associates, L.P. (the Owner), and The Housing Authority of the City of Brewer (the Developer), and other documentation regarding the Affordable Housing Development Program and financing for the Project, all in a form approved by the City Solicitor, setting forth or implementing the terms and conditions of the Highland Community Affordable Housing Development Program, substantially in accordance with the terms hereby approved.

Attachment A – Draft Credit Enhancement Agreement – Village Centre Housing Partners, L.P.

Attachment B – Draft Credit Enhancement Agreement – Somerset Place Housing Associates, L.P.

D. Monthly Reports.

ACTION: Councilor Goss 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-C001

January 13, 2015

TITLE: AMEND CHAPTER 24, ARTICLE 4, PERFORMANCE STANDARDS, SECTION 420, MULTIPLE USES ON A SINGLE LOT, ITEMS 420.1 AND 420.2 OF THE CITY OF BREWER CHARTER, CODES AND ORDINANCES, ENTITLED "LAND USE CODE".

filed January 7, 2015
by Kevin O'Connell

Be it ordained by the City Council of the City of Brewer in City Council assembled that Chapter 24, Article 4, Performance Standards, Section 420, Multiple Uses on a Single Lot, Items 420.1 and 420.2 of the Charter, Codes and Ordinances of the City of Brewer entitled "Land Use Code" be amended as follows:

ARTICLE 4 – PERFORMANCE STANDARDS

420 MULTIPLE USES ON A SINGLE LOT

No structure shall hereinafter be erected, altered, or utilized if the effect of such erection, alterations, or utilization is to create more than one (1) use on the lot unless the following conditions are met:

420.1 The lot improvements meet minimum parking requirements, setbacks, screening, buffering and all performance standards as applicable in the Brewer Land Use Code. ~~has the minimum amount required for the zoning district of continuous frontage on a public way for the first use and fifty additional feet (50') of continuous frontage on a public way for the second use and twenty five additional feet (25') of continuous frontage for each additional use. (#12)~~

420.2 All ~~of the other~~ requirements of the District in which the uses are located are met, with the exception that uses may be in the same building.

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

G. New Business.

2015-C002

February 10, 2015

TITLE: AMEND CHAPTER 24, ARTICLE 11, TELECOMMUNICATION FACILITIES, SECTIONS 1107 (SETBACKS) AND 1121 (EXCEPTIONS) OF THE CITY OF BREWER CHARTER, CODES AND ORDINANCES, ENTITLED “LAND USE CODE”.

filed February 4, 2015
by Beverly Uhlenhake

Be it ordained by the City Council of the City of Brewer in City Council assembled that Chapter 24, Article 11, Telecommunication Facilities, Section 1107 (Setbacks), Section 1107.2 needs to be amended and Sections 1107.3 and 1107.4 need to be added to the Land Use Code and Section 1121.3 under Section 1121 (Exceptions) of Article 11, Telecommunication Facilities of the Charter, Codes and Ordinances of the City of Brewer entitled “Land Use Code” needs to be deleted as follows:

A. 1107 SETBACKS

1107.1 All setbacks shall be measured from the base of the tower or structure closest to the applicable property line or structure.

1107.2 The ~~facility~~ center line of the tower base shall be set back not less than one hundred ten (110) percent of the total height, including any attached transmitting or receiving devices. Guy wire anchors and facility equipment rooms or vaults shall meet the minimum setback of the zoning districts.

1107.3 Notwithstanding the above, for cantilevered towers not dependent on guy wires for structural support, the center line of the tower base shall be set back not less than fifty (50) percent of the total height, including any attached transmitting or receiving devices if the site is located within the Industrial (IND) zoning district and the applicant submits evidence, prepared by a Maine Licensed Professional Engineer, certifying that the design characteristics of the tower provide a likelihood of catastrophic lateral collapse of essentially nil.

1107.4 Setbacks are not applicable for new facilities proposed to be co-located onto an existing, legally-established telecommunication tower.

B. 1121 EXCEPTIONS

1121.1 Exceptions to the requirements specified within this Article may be granted through issuance of a Waiver by the Planning Board. Such a permit may only be approved if the Planning Board finds, after receipt of sufficient evidence, that failure to adhere to the standard under consideration in the specific instance will not increase the visibility of the facility or decrease public safety.

1121.2 An exception to the requirements for Fire Safety may only be granted upon written concurrence by the Fire Chief.

~~**1121.3** Tower setback requirements may be waived under any of the following circumstances:~~

- ~~1. The facility is proposed to be co-located onto an existing, legally established telecommunication tower; and~~
- ~~2. Overall, the reduced setback enables further mitigation of adverse visual and other environmental impacts than would otherwise be possible.~~

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

H. New Items with Leave of Council.

There were none.

Chairman 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 6:24 p.m.

ADJOURNED, ATTEST: _____ Pamela J. Ryan
City Clerk

A TRUE COPY, ATTEST: _____ Brewer, Maine