

City Council Minutes
Tuesday, February 9, 2021

Regular Meeting
Via zoom

Tuesday, February 9, 2021
6:00 p.m.

The regular meeting was called to order by Mayor Michele Daniels. The city clerk called the roll:

Councilor Goss-present
Councilor Morin-present
Mayor Daniels-present

Councilor Ferris-present
Councilor Phanthay-present

Mayor Daniels declared a quorum present. City Manager Stephen Bost and City Solicitor Jonathan Pottle were also present.

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

Mayor Daniels read the notice for the regular meeting.

TO: Joseph Ferris, Jerry Goss, Michele Daniels, Soubanh Phanthay and Jenn Morin MEMBERS OF THE BREWER CITY COUNCIL you are hereby notified a regular meeting of the City Council will be held on Tuesday, February 9, 2021 at 6:00 p.m. virtually, via zoom to consider and act on the items on the attached agenda.

s/Michele Daniels
Mayor and Chairman of the City Council
Or _____
Majority of the City Council

a true copy, attest: s/Vincent P. Migliore
City Clerk

OFFICER'S RETURN

I have on the date(s) and time(s) indicated given notice of this meeting by giving in hand of 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
Michele Daniels	V. Migliore	CC.	02/05/21	14:30
Soubanh Phanthay	Chubbuck	Off.	02/05/21	
Jerry Goss	Chubbuck	Off.	02/05/21	
Joseph L. Ferris	Chubbuck	Off.	02/05/21	
Jenn Morin	Chubbuck	Off.	02/05/21	

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With the shift to remote meetings, we have modified how we receive public comments. At this time, the Brewer City Council is accepting written public comments in place of in-person participation. Written public comments must be e-mailed to City Clerk Vincent Migliore at vmigliore@brewermaine.gov or mailed to Public Comments, City Hall, 80 North Main Street, Brewer ME 04412. Public Comments must be received in writing by 4:00 PM on the date of the Council meeting in order to be provided to the City Council in advance of the meeting. Any public comments received will become part of the permanent record of the meeting. If e-mailing, please note "Public Comment" and the meeting date in the subject field.

CITY COUNCIL REGULAR MEETING
Tuesday, February 9, 2021 6:00 P.M.

Virtual Meeting via Zoom due to the ongoing COVID-19 pandemic
Physical attendance by the public at City Hall is not permitted
General Public Link:

https://us02web.zoom.us/webinar/register/WN_udNIOLN6RgiRP96PyTvLzg

- I. Call to Order** (Mayor Daniels)
- II. Roll Call** (City Clerk)
- III. Pledge of Allegiance to the Flag of the United States of America** (Mayor Daniels)
- A. Minutes of January 12, 2021 Regular Meeting** (Councilor Phanthay)
- B. Awards, Petitions and Public Comments**
 - 1. (2021-B001) RESOLVE Resolve in support of a legislative feasibility study for extending passenger rail service from Brunswick to Waterville and Bangor. (Councilor Goss)
 - 2. Presentation: Fiscal Year 2020 Audit, Casey Leonard
 - 3. Presentation: Regional Bus Stop Policy and Design Guidelines, Sara Devlin
- C. Consent Calendar**
 - 1. (2021-A005) ORDER Declare city property surplus and authorize disposal of said property. (Councilor Ferris)
 - 2. (2021-A006) ORDER Declare city property surplus and authorize sale of surplus materials. (Councilor Morin)
 - 3. (2021-A007) ORDER Accept grant funds from Bates College Diverse Bookfinder, in partnership with the Brooks Foundation and the Maine Humanities Council to the Brewer Public Library. (Councilor Phanthay)
- D. Monthly Reports** (Councilor Goss)
- E. Nominations, Appointments, Elections**
- F. Unfinished Business**
 - 1. (2020-C010) ORDER Amend Chapter 19, entitled "Traffic Code" of the City of Brewer Charter, Codes and Ordinances, Article 3, Stopping, Standing and Parking, to amend Section 315, Schedule A and Schedule C, and Section 320, Line Item #5. (Councilor Goss)
- G. New Business**
 - 1. (2021-C001) ORDER Amend Chapter 9, entitled "Fire Prevention" of the City of

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Brewer Charter Codes and Ordinances. (Councilor Ferris)

H. New Items with Leave of Council

I. ADJOURN

A. Minutes of January 12, 2021 Regular Meeting

ACTION: Councilor Phanthay moved that the minutes be accepted and placed on file. Councilor Ferris seconded. The motion passed with a unanimous vote.

B. Awards, Petitions and Public Comments

2021-B001

February 9, 2021

TITLE: ORDER, RESOLVE IN SUPPORT OF A LEGISLATIVE FEASIBILITY STUDY FOR EXTENDING PASSENGER RAIL SERVICE FROM BRUNSWICK TO WATERVILLE AND BANGOR.

Filed February 3, 2021

By Jerry Goss

WHEREAS, the State of Maine owns over three hundred miles of railroad infrastructure; and

WHEREAS, Maine has established by law certain acts that preserve and advocate for restoration of state-owned railways; and

WHEREAS, business and the public have a common interest in preserving restoration rail assets; and

WHEREAS, there is a growing need for alternative mobility services for residents and regional travelers that will help with access to neighboring communities; and

WHEREAS, the City of Brewer wishes to evaluate the feasibility of developing high-quality passenger train transit service between Boston, Portland, and Bangor; and

WHEREAS, The Maine Legislature is considering legislation to study the implementation of passenger rail service including but not limited to the Amtrak Downeaster service, from its present terminus at Brunswick along existing rail corridors, active and inactive between Brunswick, Augusta, Waterville, and Bangor,

THEREFORE, BE IT RESOLVED, that the City of Brewer recognizes the rail corridor as a public asset and is interested in its preservation and reuse as the hub of a new transportation corridor that links the cities of Bangor, Waterville and Augusta to the Brunswick terminus of the current Maine Amtrak passenger train service; and

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BE IT FURTHER RESOLVED; that the Brewer City Council directs the City Manager to convey its support for a legislative study for extending passenger rail service to Bangor to members of its legislative delegation.

ACTION: Councilor Goss moved that the resolve be adopted. Councilor Phanthay seconded the motion. The motion passed with a unanimous vote.

2. Presentation: Fiscal Year 2020 Audit, Casey Leonard

Casey Leonard of Runyon Kersteen Ouellette made a presentation regarding the Fiscal Year 2020 Financial Audit for the City of Brewer. Mr. Leonard said that the City of Brewer’s financial health was in-line with similar communities in the state.

3. Presentation: Regional Bus Stop Policy and Design Guidelines, Sara Devlin

Sara Devlin of the Bangor Area Comprehensive Transportation System (BACTS) made a presentation on regional bus stop policy and design guidelines. Ms. Devlin described the BACTS project to convert the Bus line, from the current “flag-stop” system, to a “fixed-route/bus stop” system. Councilor Phanthay asked to clarify that the project changes how the bus is being used by the public, instead of flagging there will be bus stations. Ms. Devlin confirmed that there will be bus stops, and that the project will seek public input at a later time to determine the final location of those stops. Mayor Daniels asked what the final date of this project will be, Ms. Devlin said they hope to have the policy and guidelines done by April, and then to designate the stops in the next 18 months.

Public Comments

Mayor Daniels asked if any communications had been received from the public, there were none.

Mayor Daniels offered congratulations to the City of Brewer for being selected in the “Top Ten Hottest Towns for Home Sales” in MaineBiz Magazine. Mayor Daniels said that this was a testament to the hard work of the city departments, and to how much people love to live in Brewer. Councilor Phanthay added that this was great to see.

C. Consent Calendar

2021-A005

February 9, 2021

TITLE: ORDER, DECLARE CITY PROPERTY SURPLUS AND AUTHORIZE DISPOSAL OF SAID PROPERTY.

Filed January 26, 2021
By Joseph L. Ferris

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WHEREAS, the Brewer Fire Department has surplus property that is no longer serviceable and/or no longer fits the needs of the Department; and

WHEREAS, the property consists of an aluminum boat, two workbenches, and a hose cart;

NOW, THEREFORE, BE IT ORDERED, that aluminum boat, two workbenches, and hose cart be deemed surplus property; and

BE IT FURTHER ORDERED, that the City Manager, or his designee, is authorized to dispose of said surplus property by means that would be in the best interest of the City of Brewer; and

BE IT FURTHER ORDERED, that any funds received from the sale of the above-mentioned property be receipted to the City's CIP Sale of Assets Revenue Account (0500100-300410) and be used to support current or future capital equipment purchases.

Statement of Fact: The Brewer Fire Department has possession of an aluminum boat, two workbenches, and a hose cart that are no longer serviceable and/or no longer meet the needs of the department. This order declares these items surplus and allows the City Manager or his designee to dispose of the items.

2021-A006

February 9, 2021

TITLE: ORDER, DECLARE CITY PROPERTY SURPLUS AND AUTHORIZE SALE OF SURPLUS MATERIALS.

Filed January 28, 2021

By Jenn M. Morin

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

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Council declares the following items as surplus materials, a 1990 Weber forward/reversing plate compactor, a 1990 Stow curbing machine, a Rockwell table saw, and a DeWalt 740 miter saw; and

BE IT FURTHER ORDERED, that the City Manager, or his designee, is authorized to sell and finalize all sales, or dispose of said surplus property by means that would be in the best interest of the City of Brewer; and

BE IT FURTHER ORDERED, any funds received from the sale of the above-mentioned items be receipted to the City's Sale of Asset account (0106904-300410).

Statement of Fact: The items listed for surplus have been in storage and not used for numerous years

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now. All of the item has been replaced with newer versions and are no longer useful to the City.

2021-A007

February 9, 2021

TITLE: ORDER, ACCEPT GRANT FROM BATES COLLEGE DIVERSE BOOKFINDER, IN PARTNERSHIP WITH THE BROOKS FOUNDATION AND THE MAINE HUMANITIES COUNCIL TO THE BREWER PUBLIC LIBRARY.

Filed January 28, 2021

By Soubanh Phanthay

WHEREAS, the City of Brewer Public Library has received a Bates College Diverse Bookfinder grant of \$300.00; and

WHEREAS, it is the wish of the donor and the recommendation of the Library Director that these funds be used to purchase picture books related to and celebrating human diversity;

NOW, THEREFORE, BE IT ORDERED, that the City Council accepts this grant of \$300.00 from Bates College Diverse Bookfinder, in partnership with the Brooks Foundation and the Maine Humanities Council, and authorizes its deposit in account 0600072-360000-72029 and expenditure from account 0600072-560000-72029.

Statement of Fact: This order accepts a Bates College Diverse Bookfinder grant to purchase picture books related to and celebrating human diversity at the City of Brewer Public Library.

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

ACTION: Councilor Ferris moved that the orders on the consent calendar have passage. Councilor Goss seconded the motion. The motion passed by a unanimous vote.

D. Monthly Reports

ACTION: Councilor Goss moved that the monthly reports from department heads be accepted and placed on file. Councilor Phanthay seconded the motion. The motion passed with a unanimous vote.

E. Nominations, Appointments, Elections

There were none.

F. Unfinished Business

2020-C010

December 08, 2020

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TITLE: ORDER AMEND CHAPTER 19, ENTITLED "TRAFFIC CODE" OF THE CITY OF BREWER CHARTER, CODES AND ORDINANCES, ARTICLE 3, STOPPING, STANDING AND PARKING, TO AMEND SECTION 315, SCHEDULE A AND SCHEDULE C, AND SECTION 320, LINE ITEM #5.

Filed November 23, 2020
By Jerry Goss

BE IT ORDAINED, by the City of Brewer in City Council assembled that Chapter 19, of the Charter, Codes and Ordinances of the City of Brewer, entitled "Traffic Code" shall be amended by revising the following:

Section 315. Parking Limited and Prohibited

Schedule A

~~PARKER STREET~~

~~(1) On the easterly side of Parker Street between Howard Street and North Main Street.~~

Schedule C

~~PARKER STREET~~

~~(4) On the southwesterly side of Parker Street from the intersection of the northerly side of East Summer Street with the southwesterly side of Parker Street for a distance of fifty seven (57') feet in a northwesterly direction.~~

And replace with new item (4)

(4) On both sides of Parker Street from East Summer Street to North Main Street.

And Section 320 Line Item #5. Add the following text that is in red

5. On a crosswalk, **or within 20' on either side of a crosswalk.**

Statement of Fact: These changes to the Traffic Code are necessary because of work Public Works has completed and other work they plan to do in that section of Parker Street. They have added curb on both sides of the road. This section of roadway has a significant amount of through traffic and with the addition of raised curb it will not be safe to park in this area moving forward. The surrounding properties are believed to have sufficient parking for their current uses. This addition in section 320 will prohibit parking within 20' of a crosswalk. This change to the Traffic Code brings the City in compliance with current FHWA and Maine DOT standards.

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ACTION: Councilor Goss moved that the amendment be enacted. Councilor Ferris seconded the motion. The motion passed by a unanimous vote.

G. New Business

2021-C001

February 9, 2021

TITLE: ORDER AMEND CHAPTER 9, ENTITLED “FIRE PREVENTION” OF THE CITY OF BREWER CHARTER, CODES AND ORDINANCES.

Filed February 4, 2021

By Joseph L. Ferris

BE IT ORDAINED, by the City of Brewer in City Council assembled that Chapter 9, of the Charter, Codes and Ordinances of the City of Brewer, entitled “Fire Prevention” shall be amended by adding a new Article as follows:

CHAPTER 9 – FIRE PREVENTION

Article 13. COST RECOVERY FOR SERVICES

Section 1301. Purpose. The City is engaged in providing fire suppression, fire and public safety, and other emergency response services, and in consideration of services rendered, desires to establish the restitution policy for fire and public safety services as set forth in this Article.

Section 1302. Authority. This Article is adopted pursuant to and consistent with the Municipal Home Rule Powers as provided for in Article VIII, Part 2, Section 1, of the Constitution of the State of Maine, and Title 30-A M.R.S.A. § 3001.

Section 1303. Applicability

Section 1303.1. The provisions of this Article shall govern all emergency and non-emergency incident scenes to which the Brewer Fire and/or Police Departments are dispatched or requested by the Penobscot County Communication Center, written mutual aid agreement, or any State or local agency including, but not limited to: control or confine hazardous materials; extinguish fire; respond to motor vehicle/traffic incident; remove or mitigate safety hazards; or provide overall scene safety.

Section 1303.2. This Article shall be applicable to all individuals or entities who receive emergency or non-emergency services provided by the Brewer Fire and/or Police Departments, as specified in this Article.

Section 1304. Responsibility. Parties to any incident to which this Article is applicable (i.e., “Responsible Party”) shall provide the Brewer Public Safety Director and/or Incident Commander with sufficient personal and insurance information, including, but not limited to policy numbers and contact information for their underwriters and agents, to enable the City of Brewer to file claims with the Responsible Party’s insurance carrier(s) or a third-party agency to recover the costs incurred during the

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incident.

Section 1305. Establishment of Fees. The Brewer Public Safety Director shall establish and update as needed a schedule of fees for the delivery of emergency and non-emergency services by the Brewer Fire and Police Departments for personnel, supplies, and equipment to the scene of emergency and non-emergency incidents. The schedule of fees shall be based on actual costs of the services and that which is usual, customary, and reasonable, which may include any services, personnel, supplies, and equipment and may also include costs incurred by other City departments participating in the incident response.

Section 1306. Restitution and Billing Procedure.

Section 1306.1. The City may seek restitution for costs of City services by filing claims with the Responsible Party's insurance company. The City is authorized to enter into a cost recovery agreement with a third-party billing company for the billing and collection of fees for Fire Department services through the filing of insurance claims. All such claims shall be submitted in the name of the City. The City shall only seek restitution for services from insured individuals or companies.

Section 1306.2. The Finance Director is authorized to institute legal action to collect insurance claims that remain outstanding for more than 60 days. Any legal and late fees associated with the attempt to collect outstanding payments incurred by the City shall be added to and in addition to the original claim. The Finance Director is authorized to write off claims, when a claim is not paid with a valid reason (e.g., insured but not at fault, not covered) or if all attempts to contact the insurance company fail by any common method available.

Section 1307. Administration and Enforcement. It shall be the duty of any third-party billing company with a valid cost recovery agreement with the City to effectively pursue the requirements of this Article for payment of services rendered by the City as specifically outlined herein.

Section 1309. Insurance Requirements. The third-party billing company shall at all times have valid General Liability insurance policy, a Cyber Liability policy, an Errors and Omissions Policy, and the City shall be named as an additional insured on such policies.

Section 1310. Severability. Sections of this Article shall be deemed severable. In the event any section, clause, or provision of this Article is declared invalid, the same shall not affect the validity of this Article as a whole or any part thereof other than the part so declared to be invalid.

Section 1311. Conflict with Other Sections. This Article shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law.

Statement of Fact

This ordinance amendment will allow the City to seek reimbursement from insurance companies for costs incurred responding to emergency incidents. The City intends to use a third-party provider to pursue these claims.

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ACTION: Councilor Ferris moved that the amendment be certified and filed with the clerk for posting. Councilor Phanthay seconded the motion. Councilor Ferris asked for thoughts on what the funds raised by this amendment are expected to be. The City Finance Director Karen Fussell said that the potential financial impact could be minimal, but some communities have recouped a significant amount by partnering with this third-party provider. The City Finance Director also clarified that the aim is not for the City to file insurance claims directly, but that when a claim is filed by another party, our third-party provider will request reimbursement from the insurance company for our incurred costs. The motion passed by a unanimous vote.

H. New Items with Leave of Council

There were none.

I. ADJOURN

ACTION: Councilor Ferris moved that the meeting be adjourned. Councilor Phanthay seconded the motion. The meeting was adjourned at 6:44pm.

ADJOURNED, ATTEST: _____ Vincent P. Migliore
City Clerk

A TRUE COPY, ATTEST: _____ Brewer, Maine