

City Council Minutes  
Wednesday, March 22, 2023

Regular Meeting  
City Hall Council Chambers

Wednesday, March 22, 2023  
6:00 p.m.

*Note: This meeting was originally scheduled for Tuesday, March 14, 2023, but was postponed due to inclement weather.*

Councilor Ferris-present  
Councilor Daniels-present  
Mayor Phanthay-absent

Councilor Goss-present  
Deputy-Mayor Morin-present

Deputy-Mayor Morin declared that a quorum was present. City Manager Stephen Bost and City Solicitor Johnathan Pottle were also present.

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

Deputy-Mayor Morin read the notice for the regular meeting.

TO: Joseph Ferris, Jerry Goss, Michele Daniels, Jenn Morin, and Soubanh Phanthay; MEMBERS OF THE BREWER CITY COUNCIL. You are hereby notified that a regular meeting of the City Council of the City of Brewer will be held on Tuesday, March 14, 2023 at 6:00 p.m., at 80 North Main Street, to consider and act on the items on the attached agenda.

s/ Soubanh Phanthay  
Mayor and Chairman of the City Council  
Or \_\_\_\_\_  
Majority of the City Council

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

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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  |
|---------------------|------------------------|-------|------------|-------|
| Joseph L. Ferris    | Lutz                   | Off.  | 03/10/2023 | 18:28 |
| Jerry Goss          | Migliore               | CC.   | 03/10/2023 | 16:02 |
| Michele Daniels     | Lutz                   | Off.  | 03/10/2023 | 18:42 |
| Jenn Morin          | Migliore               | CC.   | 03/10/2023 | 16:20 |
| Soubanh Phanthay    | Lutz                   | Off.  | 03/10/2023 | 18:50 |

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**CITY COUNCIL REGULAR MEETING**  
**Wednesday, March 22, 2023 6:00 P.M.**  
**Brewer City Hall Council Chambers**

- I. Call to Order** (Deputy Mayor Morin)
- II. Roll Call** (City Clerk)
- III. Pledge of Allegiance to the Flag of the United States of America** (Deputy Mayor Morin)
- A. Minutes of the February 14, 2023 Regular Meeting** (Councilor Ferris)
- B. Awards, Petitions and Public Comments**
  - 1. (2023-B006) RESOLVE Resolution of Respect for Helen M. Cowan.  
(Councilor Daniels)
  - 2. Presentation: Maine Affordable Energy,  
Andre Cushing.
  - 3. (2023-B007) RESOLVE Resolution to oppose efforts to decriminalize illicit drugs in  
the State of Maine. (Councilor Goss)
  - 4. Public Comments
- C. Consent Calendar**
  - 1. (2023-A013) ORDER Authorize issuance of general obligation bonds to finance  
Oak Grove Sewer Subsystem Remediation Project and a  
tax levy therefor. (Councilor Daniels)
  - 2. (2023-A014) ORDER Authorize amendments to the BACTS/Municipal/State  
Agreements for the Resurfacing of a portion of South Main  
Street. (Councilor Ferris)
  - 3. (2023-A015) ORDER Commit Water Assessment to Treasurer for Collection.  
(Councilor Goss)
  - 4. (2023-A016) ORDER Commit Sewer Assessment to Treasurer for Collection.  
(Councilor Daniels)
  - 5. (2023-A017) ORDER Declare walk-behind mower surplus property and  
authorize disposal of surplus property. (Councilor Ferris)
  - 6. (2023-B008) RESOLVE Approve settlement with Walmart regarding valuation.  
(Councilor Goss)
- D. Monthly Reports** (Councilor Ferris)
- E. Nominations, Appointments, Elections**
  - Consent Calendar**
    - 1. (2023-A018) ORDER Appoint Animal Control Officer.  
(Councilor Daniels)
    - 2. (2023-A019) ORDER Reappoint Inspector of Buildings.  
(Councilor Ferris)
    - 3. (2023-A020) ORDER Reappoint Inspector of Plumbing.  
(Councilor Goss)
    - 4. (2023-A021) ORDER Reappoint members to the Brewer Board of Assessment  
Review. (Councilor Daniels)
    - 5. (2023-A022) ORDER Reappoint member to the Cemetery Board of the  
City of Brewer. (Councilor Ferris)
    - 6. (2023-A023) ORDER Reappoint members to the Conservation Commission of the  
City of Brewer. (Councilor Goss)

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7. (2023-A024) ORDER Appoint and reappoint members to the Library Board of Trustees of the City of Brewer. (Councilor Daniels and Councilor Morin)
8. (2023-A025) ORDER Appoint and reappoint members to the Parks & Recreational Advisory Commission of the City of Brewer. (Councilor Ferris)
9. (2023-A026) ORDER Appoint members to the Brewer Planning Board. (Councilor Goss)
10. (2023-B009) RESOLVE Confirm City Manager’s appointments of Constables. (Councilor Daniels)

**F. Unfinished Business  
Consent Calendar**

1. (2023-C001) ORDER Amend Chapter 5 of the Charter, Codes and Ordinances of the City of Brewer, entitled “Assessor”, Article 2 “The Board of Assessment Review”, Section 202, “Composition of the Board”. (Councilor Goss)
2. (2023-C002) ORDER Amend Chapter 33 of the Charter, Codes and Ordinances of the City of Brewer, entitled “Library Department”, Article 3 “Board of Trustees”, Section 301, “Establishment”. (Councilor Daniels)
3. (2023-C003) ORDER Amend Chapter 20 of the Charter, Codes and Ordinances of the City of Brewer, entitled “Licenses and Permits”, Article 1, Section 101, “Application Required”. (Councilor Morin)
4. (2023-C004) ORDER Amend Chapter 34 of the Charter, Codes and Ordinances of the City of Brewer, entitled “Board of Appeals of the City of Brewer”, Article 1. (Councilor Ferris)

**G. New Business (None)**

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

**I. ADJOURN**

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**A. Minutes of the February 14, 2023 Regular Meeting**

**ACTION:** Councilor Ferris moved that the minutes to the February 14, 2023 regular meeting be accepted and placed on file. Councilor Goss seconded the motion. The motion passed with a vote of 4-0.

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

2023-B006

March 22, 2023

TITLE: RESOLVE, RESOLUTION OF RESPECT FOR HELEN M. COWAN.

Filed March 8, 2023  
By Michele Daniels

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WHEREAS, on the 24th day of January 2023 death brought to a close the full and active life of Helen M. (Graham) Cowan; and

WHEREAS, Helen was born in Houlton in 1930 and graduated from Houlton High School in 1948; and

WHEREAS, Helen married the love of her life James E. Cowan in 1950, and they shared sixty-two years of marriage and raised six children together; and

WHEREAS, after years of being a full-time mother, Helen went to work in the family business after Cowan's Service Station opened the first fully automated self-service gas station in the State of Maine in 1970; and

WHEREAS, Helen completed training as a medical unit secretary later in life and worked in the Emergency Room at Eastern Maine Medical Center until her retirement; and

WHEREAS, Helen and Jimmy enjoyed spending time traveling, vacationing in Florida, and at their camp on Green Lake.

NOW, THEREFORE BE IT RESOLVED, that the Brewer City Council does by this resolution and public pronouncement, recognize the positive influence of Helen M. Cowan to the well-being and development of the community in which she lived and earned the respect of all who knew her; and

BE IT FURTHER RESOLVED, that this resolution be spread upon the permanent records of the City of Brewer and that copies thereof be distributed to members of her family in testimony to the high esteem held for Helen M. Cowan by the citizens and officials of the City of Brewer, Maine.

**ACTION:** Councilor Daniels moved that the resolve be adopted. Councilor Goss seconded the motion. Councilor Daniels read the resolve into the record and presented the family of Helen Cowan with Brewer Challenge Coins. Councilor Daniels praised Helen's positive attitude. Councilor Ferris said that Helen was a wonderful lady with a wonderful family and offered his condolences. The City Manager said that Helen was memorable, sharp, attentive, and very involved in the community. Councilor Goss noted the rich history of the Cowan family in Brewer. Deputy-Mayor Morin complimented the Cowan family and offered her condolences. The motion passed with a vote of 4-0.

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2. Presentation: Maine Affordable Energy,  
Andre Cushing.

Andre Cushing a representative of the Political Action Committee (PAC) Maine Affordable Energy Coalition, made a presentation regarding a State Referendum question which would be forthcoming at the November 7, 2023 State Referendum Election which Mr. Cushing described as whether the assets of electricity transmission companies will be taken by eminent domain and those assets managed by an elected board and operated by a third-party hired to operate the entity (the entity to be called Pine Tree

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Power). Mr. Cushing noted that this move would affect electricity transmission only and would not affect the means of electricity production. Mr. Cushing said that if the referendum passes, the cost of purchasing the assets and fighting legal challenges would be significant. Mr. Cushing said that the electricity industry is complicated, and said that it could be difficult for a politically elected board to make decisions in the best interests of rate-payers. Mr. Cushing asked the Council to consider passing a resolution opposing the referendum.

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2023-B007

March 22, 2023

TITLE: RESOLVE, RESOLUTION TO OPPOSE EFFORTS TO DECRIMINALIZE ILLICIT DRUGS IN THE STATE OF MAINE.

Filed March 8, 2023  
By Jerry Goss

WHEREAS, the Brewer City Council recognizes that there is a serious societal impact from the illicit drug economy with international and domestic criminal organizations as the profiteers, fueled by violence, littered with misery, despair, destruction, and death; and

WHEREAS, the Brewer City Council recognizes that if left untreated, substance use disorders ultimately lead to untimely deaths; those addicted to illicit drugs, such as fentanyl or methamphetamine, commit crimes to facilitate the addiction; these crimes victimize our citizens and businesses and impact the safety and prosperity of a community; it tears apart the fabric that binds families together, places children at risk, and interferes with the right to peaceful enjoyment of public spaces for all; and

WHEREAS, there is a greater demand in our area for illicit drugs fueled by persons associated with organized crime because of economic opportunity; we also recognize that drug overdoses are at an all-time high despite significant and needed investments in treatment and recovery resources; and

WHEREAS, there has been a concerted effort in the past several Maine legislative sessions to marginalize law enforcement's role in criminal interdiction including but not limited to: the decriminalization of possession of illicit drugs; establishing safe injection sites; increasing presumptive amounts for trafficking and furnishing of drugs such as fentanyl and methamphetamine; bail "reform"; banning pre-textual stops; restricting participation with federal law enforcement agencies in asset forfeitures; profiling bills; cutting funding for the Maine Drug Enforcement Agency; homelessness bill to reduce interactions with law enforcement for public disorder; and elimination of qualified immunity; and

WHEREAS, the Brewer City Council believes in a pragmatic approach to an all-encompassing drug control strategy that invests in the areas of prevention education, access to treatment, support of recovery resources, and enforcement; it is through a balanced approach to reduce demand and disrupt supply that we can attain a sustainable and functioning drug control strategy; and

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WHEREAS, policies that create permissiveness and a lack of accountability are detrimental to the health and wellbeing of our community, effectively removing any impetus to seek positive change, creating a sense of apathy and angst for those victimized by crimes: an all carrot and no stick approach is not viable.

NOW, THEREFORE, BE IT RESOLVED, that the Brewer City Council opposes efforts to decriminalize the possession of illicit drugs, measures that would impede law enforcement's ability to interdict crimes, and measures that embolden criminal behavior at the expense of other citizens; and

BE IT FURTHER RESOLVED, that the City Clerk shall provide copies of this resolution to the City of Brewer's delegation to the Maine Legislature.

**ACTION:** Councilor Goss moved that the resolve be adopted. Councilor Daniels seconded the motion. The motion passed with a vote of 3-1: Councilor Goss, Councilor Daniels, and Deputy-Mayor Morin in favor; Councilor Ferris opposed.

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**Public Comments**

The City Manager introduced to the Council the City's new Director of the Technology Department Greg Gagne.

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**C. Consent Calendar**

2023-A013

March 22, 2023

TITLE: ORDER, AUTHORIZE ISSUANCE OF GENERAL OBLIGATION BONDS TO FINANCE OAK GROVE SEWER SUBSYSTEM REMEDIATION PROJECT AND A TAX LEVY THEREFOR.

Filed February 16, 2023

By Michele Daniels

BY THE CITY COUNCIL OF THE CITY OF BREWER, BE IT HEREBY ORDERED:

THAT the City Treasurer/ Finance Director be and hereby is authorized and empowered, in the name of and on behalf of the City of Brewer, to borrow up to One Million Dollars (\$1,000,000) to finance the City's Oak Grove Sewer Subsystem Remediation Project (the "Project").

THAT pursuant to Title 30-A, §5772 of the Maine Revised Statutes, and all other authority thereto enabling, to evidence such borrowing, the City Treasurer/ Finance Director be and hereby is authorized and empowered, in the name of and on behalf of the City, to issue the City's general obligation bonds in an amount not to exceed \$1,000,000, the proceeds of which, including premium, if any, and investment earnings thereon, may be used and are hereby appropriated to pay costs of the

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Project.

THAT pursuant to Title 30-A, §5772 of the Maine Revised Statutes, Article VI, Section 7 of the City Charter and all other authority thereto enabling, the City Treasurer/ Finance Director be and hereby is authorized and empowered, in the name of and on behalf of the City, to issue the temporary notes in anticipation of the bonds.

THAT said bonds and notes shall be signed by the City Treasurer/ Finance Director, countersigned by the Chair of the City Council, sealed with the seal of the City, attested by its Clerk.

THAT the City Treasurer/ Finance Director be and hereby is authorized and empowered, in the name of and on behalf of the City, to determine the form, dates, maturities (not to exceed the maximum term permitted by law), denominations, interest rates, place of payment, provisions for redemption prior to the stated maturity date(s), with or without a premium, as provided in Title 30-A, §5772(6) of the Maine Revised Statutes, as amended, and all other details of said bonds and notes, including the timing and provision for their sale and award, her approval to be conclusively evidenced by the execution thereof.

THAT said bonds and notes may be issued at one time or from time to time, through a public offering or a private placement, or a combination thereof, on a competitive or negotiated basis, or a combination thereof, through the Maine Municipal Bond Bank (the “Bond Bank”) Clean Water State Revolving Loan Fund programs or its general resolution borrowing program or with and to another qualified purchaser, or a combination thereof, all as the City Treasurer/ Finance Director shall determine to be appropriate in her sole discretion.

THAT in lieu of physical certificates of the bonds and notes hereinbefore authorized, the City Treasurer/ Finance Director be and hereby is authorized to undertake all acts necessary to provide for the issuance and transfer of such bonds and notes in book-entry form pursuant to the Depository Trust Company Book-Entry Only System, as an alternative to the provisions of the foregoing paragraphs regarding physical transfer of bonds, and the City Treasurer/ Finance Director be and hereby is authorized and empowered to enter into a Letter of Representation or any other contract, agreement or understanding necessary or, in her opinion, appropriate in order to qualify the bonds or notes for and participate in the Depository Trust Company Book-Entry Only System.

THAT in each year during which any of the bonds are outstanding, there shall be levied a tax in an amount that, with other revenues, if any, available for such purpose, shall be sufficient to pay the interest on said bonds payable in such year, and the principal of such bonds maturing in such year.

THAT if the bonds or notes (or any portion thereof) are issued on a tax-exempt basis, the City Treasurer/ Finance Director be and hereby is authorized and empowered, in the name of and on behalf of the City of Brewer, to covenant and certify that no part of the proceeds of the issue and sale of the bonds or notes shall be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause such bonds or notes to be "private activity bonds" or “arbitrage bonds” within the meaning of Sections 141 and 148 of the Internal Revenue Code of 1986, as amended (the “Code”).

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THAT if the bonds or notes (or any portion thereof) are issued on a tax-exempt basis, the City Treasurer/ Finance Director be and hereby is authorized and empowered, in the name of and on behalf of the City of Brewer, to covenant and agree for the benefit of the holders of such bonds or notes, that the City will file any required reports and take any other action that may be necessary to ensure that interest on the bonds or notes will remain exempt from federal income taxation and that the City will refrain from any action that would cause interest on the bonds or notes to be subject to federal income taxation.

THAT if the bonds or notes (or any portion thereof) are issued on a tax-exempt basis, the City Treasurer/ Finance Director be and hereby is authorized and empowered to take all such action as may be necessary to designate the bonds or notes as qualified tax-exempt obligations for purposes of Section 265(b) of the Code; it being the City Council's intention that, to the extent permitted under the Code, the bonds or notes be Section 265(b) designated and that the City Treasurer/ Finance Director with advice of bond counsel, make the required Section 265(b) election with respect to such bonds to the extent that the election may be available and advisable as determined by the City Treasurer/ Finance Director.

THAT the City Treasurer/ Finance Director be and hereby is authorized and empowered, in the name of and on behalf of the City of Brewer, to covenant, certify, and agree for the benefit of the holders of such bonds or notes, that the City will file any required reports, make any annual financial or material event disclosure, and take any other action that may be necessary to ensure that the disclosure requirements imposed by Rule 15c2 12 of the Securities and Exchange Commission, if applicable, are met.

THAT the term "cost" or "costs" as used herein and applied to the Project, or any portion thereof, includes, but is not limited to: (1) cost of feasibility studies, surveys, environmental studies and assessments, engineering, plans and specifications, legal and other professional services associated with the Project; (2) the cost to design, construct, renovate, refurbish, improve, acquire, replace, furnish and equip the Project; (3) the cost of land, easements and other real property interests, landscaping and site preparation, utility extensions, all appurtenances and other fixtures, facilities, buildings and structures either on, above, or under the ground which are used or usable in connection with the Project; (4) issuance costs, including premiums for insurance, capitalized interest and other financing charges, fees and expenses relating to the financing transaction.

THAT the investment earnings on the proceeds of the bonds and notes, if any, and the excess proceeds of the bonds and notes (including premium), if any, be and hereby are appropriated for the following purposes, to be selected by the City Treasurer/ Finance Director:

1. To the cost of the Project;
2. If the bonds or notes are issued on a tax-exempt basis, in accordance with applicable terms and provisions of the Arbitrage and Use of Proceeds Certificate delivered in connection with the sale of the bonds or notes including, to the extent permitted thereunder, to the City's General Fund;



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3. To pay debt service on the bonds or notes.

THAT if the actual cost of the Project differs from the estimated cost, whether due to completion, delay or abandonment of the Project, or for any other reason, the City Treasurer/ Finance Director is authorized, in her discretion, to reallocate proceeds of the bonds or notes to any other project or improvement that the City Council has approved or may in the future approve as part of the City's annual capital improvement plan.

THAT the City Treasurer/ Finance Director be and hereby is authorized and empowered, in in the name of and on behalf of the City, to do or cause to be done all such acts and things, including to approve, execute and deliver such contracts, agreements, loan agreements, investment agreements, bond purchase agreements, official statements, certificates, tax certificates, instruments and other documents (the "Bond Documents"), as may be necessary or advisable in order to accomplish the issuance of the bonds, which Bond Documents may be in such form and contain such terms and provisions including, without limitation, the waiving of the City's sovereign or governmental immunity with respect to the enforceability of any of the forgoing, and such other details as she shall approve, her approval to be conclusively evidenced by her execution thereof.

THAT if the City Treasurer/ Finance Director, Chair of the City Council, or Clerk are for any reason unavailable to approve and execute the bonds or notes or any related Bond Document, the person or persons then acting in any such capacity, whether on an interim or acting basis, as an assistant, a deputy, or otherwise, is authorized to act for such official with the same force and effect as if such official had himself or herself performed such act.

THAT if any of the officers or officials of the City who have signed or sealed the bonds or notes shall cease to be such officers or officials before the bonds or notes so signed and sealed shall have been actually authenticated or delivered by the City, such bonds or notes nevertheless may be authenticated, issued, and delivered with the same force and effect as though the person or persons who signed or sealed such bonds notes had not ceased to be such officer or official; and also any such bonds or notes may be signed and sealed in the name of and on behalf of the City by those persons who, at the actual date of the execution of such bonds or notes, shall be the proper officers and officials of the City, although at the nominal date of such bonds or notes any such person shall not have been such officer or official.

THAT if the bonds or notes, or any portion of them, are issued through the Clean Water Revolving Loan Fund Program, the following resolutions required by Section C(4)(e) of the State of Maine Revolving Loan Fund Rules, Chapter 595, Department of Environmental Protection (the "DEP") and the Bond Bank (the "SRF Regulations"), and governing any loan to be made to the City under the State Revolving Loan Fund Program be and hereby are adopted with respect to the said Bonds or notes issued through the Clean Water Revolving Loan Fund Program:

- (1) that a Project Account shall be created for the Project which shall be separate from all other accounts of the City. If operating revenues are to be used to retire the debt, a sub-account will be established.

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(2) that the Project Account shall be maintained in accordance with standards set forth by the Bond Bank and in accordance with generally accepted government account standards.

(3) that a final accounting shall be made to the Bond Bank of the total cost of the Project upon completion of the Project performance certification as set out in Section G(3) of the SRF Regulations and the City acknowledges that the Bond Bank reserves the right at its sole discretion to be provided with a cost certification of the Project as built.

(4) that an annual audit of the City, prepared by a certified public accountant or licensed public accountant be provided to the Bond Bank for the term of the loan.

(5) that the City shall maintain insurance coverage on the Project in an amount adequate to protect the Bond Bank's interest for the term of the loan with the Bond Bank named as loss payee.

(6) that the City will comply with any special conditions specified by the DEP's environmental determination until all financial obligations to the State have been discharged.

(7) that the City certify to the Bond Bank that it has secured all permits, licenses and approvals necessary and that it has a dedicated source of revenue for repayment.

(8) that the City establish a rate, charge or assessment schedule in order to pay principal and interest. Such rate change or schedule shall provide total operations and debt service coverage at a level at which the coverage for the Bond Bank is sufficient.

(9) that the City must demonstrate the ability to pay reasonably anticipated costs of operating and maintaining the financed Project.

(10) that the City abide by the SRF Regulations, as revised and amended and relevant State statutes of the State of Maine.

THAT during the term any of the bonds are outstanding, in order to obtain debt service savings, the City Treasurer/ Finance Director is hereby authorized, in the name and in the name of and on behalf of the City, to issue and deliver refunding bonds on either a current or advance refunding basis, to refund some or all of the bonds then outstanding, and to determine the date, form, interest rate, maturities (not to exceed 30 years from the date of issuance of the original bonds) and all other details of such refunding bonds, including the form and manner of their sale and award. The City Treasurer/ Finance Director is hereby further authorized to provide that any of such refunding bonds authorized hereby be made callable, with or without premium, prior to their stated date(s) of maturity, and each such refunding bond shall be signed by the City Treasurer/ Finance Director, countersigned by the Chair of the City Council, sealed with the seal of the City, attested by its Clerk.

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THAT if, following issuance of some but less than all of the bonds authorized hereby, the City Treasurer/ Finance Director determines, in her sole discretion, that the remaining authorized but unissued bonds will not be issued in furtherance of the Project, then the City Treasurer/ Finance Director is authorized and empowered, in the name of and on behalf of the City of Brewer, to note on the financial books and records of the City, in the form and manner as she shall determine to be appropriate, that such authorized but unissued bonds will not be issued, following which notation the remaining unissued bonds shall not thereafter be issued and the authority established pursuant to this Order to issue such remaining unissued bonds shall be extinguished and of no further force and effect.

THAT the City may pay certain costs of the Project prior to the issuance of the bonds and notes authorized hereby (referred to as “original expenditures”); to that end, the City hereby declares its official intent to reimburse itself for such original expenditures from the proceeds of such bonds and notes, and this Order shall constitute the City’s declaration of official intent pursuant to Treasury Regulation §1.150-2.

**Statement of Fact:** This order authorizes the City to borrow up to \$1,000,000 to support the City’s share of costs associated with the Oak Grove Sewer Remediation Project, which is also being funded in part by a \$1,103,000 congressional earmark grant from the U.S. EPA. This project is listed on the City’s CSO Master Plan as a Priority 1 project.

2023-A014

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TITLE:       ORDER,       AUTHORIZE AMENDMENTS TO THE BACTS/MUNICIPAL/STATE AGREEMENTS FOR THE RESURFACING OF A PORTION OF SOUTH MAIN STREET.

Filed March 1, 2023  
By Joseph L. Ferris

WHEREAS, on May 10, 2022 the Brewer City Council approved order 2022-A087 authorizing the City Manager to execute an agreement with the Maine Department of Transportation (MDOT) for the resurfacing of a portion of South Main Street (MDOT WIN 25377.00); and

WHEREAS, this order authorized a City cost share of 10% up to a maximum of \$135,000 to be funded as part of a subsequent Capital Improvement Program; and

WHEREAS, MDOT revised their cost estimate before going out to bid with cost information from recently opened bids around the State; and

WHEREAS, the estimated cost of the project increased and requires a commitment for the increased cost share by the City of Brewer before going out to bid on the project; and

WHEREAS, the Bangor Area Comprehensive Transportation System (BACTS) Policy Committee has voted and agreed to increase their financial commitment to the completion of the project.

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NOW, THEREFORE, BE IT ORDERED, that the Brewer City Manager, or his designee, is authorized to sign amended BACT/Municipal/State Agreements for MDOT WIN 257377.00, as necessary, authorizing a City share of up to a maximum of \$165,000 with all other conditions of the original Council Order and Municipal/State Agreement to remain as originally authorized and agreed.

**Statement of Fact:** This order authorizes an additional \$30,000 in funding for the South Main Street Resurfacing project (WIN 25377.00). The additional funding is required for MDOT to put the project out to bid. The current schedule has the project being bid at the end of March for construction this summer/fall. The funding for the City’s share of this project will be included in the Fiscal Year 2024 Capital Improvement Program.

2023-A015

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

Filed March 2, 2023  
By Jerry Goss

WHEREAS, under Chapter 40 of the Charter, Codes and Ordinances of the City of Brewer, entitled “Water Department”, a water charge is assessed to water users.

NOW, THEREFORE WE, the Brewer City Council does hereby commit to the Treasurer or Deputy Treasurer of Brewer for collection, the sum of **\$443,312.88** at the established rate, as provided by Title 30-A M.R.S.A., §3406 (supp [1991] and Title 38 M.R.S.A., §1208 [1989]) and as such sections may be amended from time to time; and

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

| EVENT    | COMMITMENT   | COMMENTS |
|----------|--------------|----------|
| March    | \$436,922.29 |          |
| December | \$1,285.48   |          |
| January  | \$3,091.56   |          |
| February | \$2,013.55   |          |

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|       |                     |  |
|-------|---------------------|--|
|       |                     |  |
| TOTAL | <b>\$443,312.88</b> |  |

**Statement of Fact:** This is a quarterly order.

2023-A016

March 22, 2023

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

Filed March 2, 2023  
By Michele Daniels

WHEREAS, under Chapter 31 of the Charter, Codes and Ordinances of the City of Brewer, entitled "Sewer and Pre-treatment", a sewer charge is assessed to users.

NOW, THEREFORE WE, the Brewer City Council does hereby commit to the Treasurer or Deputy Treasurer of Brewer for collection, the sum of **\$658,779.31** at the established rate, as provided by Title 30-A M.R.S.A., §3406 and Title 38 M.R.S.A., §1208 [1989] and as such sections may be amended from time to time; and

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

| EVENT    | COMMITMENT          | COMMENTS |
|----------|---------------------|----------|
| March    | \$659,177.12        |          |
| December | \$-28.09            |          |
| January  | \$297.83            |          |
| February | \$-667.55           |          |
|          |                     |          |
| TOTAL    | <b>\$658,779.31</b> |          |

**Statement of Fact:** This is a quarterly order.

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2023-A017

March 22, 2023

TITLE: ORDER, DECLARE WALK-BEHIND MOWER SURPLUS PROPERTY AND  
AUTHORIZE DISPOSAL OF SURPLUS PROPERTY.

Filed March 7, 2023  
By Joseph L. Ferris

WHEREAS, the Brewer Parks & Recreation Department owns a 1993 Ferris walk-behind mower that is in need of repair and is no longer functional; and

WHEREAS, the Ferris walk-behind mower is over thirty years old and the estimated cost of repairs to the mower will be more expensive than the value of the mower; and

WHEREAS, the Parks & Recreation Department has no further use for the Ferris walk-behind mower.

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Council declares the 1993 Ferris walk-behind mower as surplus property; and

BE IT FURTHER ORDERED, that the City Manager, or his designee, is authorized to dispose of the 1993 Ferris walk-behind mower by means that would be in the best interest of the City of Brewer.

**Statement of Fact:** The Brewer Parks & Recreation Department owns a Ferris walk-behind mower that is no longer serviceable or no longer meets the needs of the Department. This order declares the mower as surplus and allows its disposal.

2023-B008

March 22, 2023

TITLE: RESOLVE, APPROVE SETTLEMENT WITH WALMART REGARDING  
VALUATION.

Filed March 7, 2023  
By Jerry Goss

WHEREAS, the City of Brewer has defended its denial of abatement claims from Wal-Mart for years Fiscal Year 2019 (FY19) to Fiscal Year 2024 (FY24) and has been successful in FY19, FY20 and FY21; and

WHEREAS, the defense of these actions required significant staff time and legal fees; and

WHEREAS, to continue to litigate the abatement claims for FY22 and FY23 and potential future years with Wal-Mart would require significant staff time and result in potentially substantial costs to Brewer taxpayers for appraisals and professional fees; and

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WHEREAS, to bring these matters to a resolution, it is the recommendation of the City Assessor and the Finance Director to settle with Wal-Mart for the proposed settlement values as noted below:

| <u>FY</u> | <u>Assessed Value</u> | <u>Proposed Settlement Value</u> | <u>Mil rate</u> | <u>Forgone Taxes</u> |
|-----------|-----------------------|----------------------------------|-----------------|----------------------|
| 2022      | \$ 15,254,800         | \$ 15,250,000                    | \$ 22.30        | \$ 107               |
| 2023      | \$ 15,595,000         | \$ 15,375,000                    | \$ 21.90        | \$ 4,818             |
| 2024*     | \$ 16,257,844         | \$ 15,500,000                    | \$ 21.90        | \$ 16,597            |
| 2025*     | \$ 16,257,844         | \$ 15,500,000                    | \$ 21.90        | \$ 16,597            |
|           |                       |                                  |                 | \$ 38,119            |

\* estimate

Note: Values would be adjusted for any significant new improvements or losses using standard language in a settlement agreement

NOW, THEREFORE, BE IT RESOLVED, that the Brewer City Manager, or his designee, and the Brewer City Assessor, or her designee, be authorized to enter into the settlement agreement and take any further appropriate or necessary steps to implement the agreement.

**Statement of Fact:** This resolve authorizes a settlement agreement with Wal-Mart for FY22-FY25 tax values in an effort to avoid the significant staff time and cost that would be involved in litigating the current outstanding and anticipated future abatement claims.

**ACTION:** Councilor Daniels moved that the orders on the consent calendar have passage and that the resolve be adopted. Councilor Ferris seconded the motion. The motion passed with a vote of 4-0.

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**D. Monthly Reports**

**ACTION:** Councilor Ferris moved that the monthly reports from department heads be accepted and placed on file. Councilor Goss seconded the motion. The motion passed with a vote of 4-0.

\*\*\*

**E. Nominations, Appointments, Elections  
Consent Calendar**

2023-A018

March 22, 2023

TITLE: ORDER, APPOINT ANIMAL CONTROL OFFICER.

Filed February 13, 2023  
By Michele Daniels

WHEREAS, Title 7, M.R.S.A. §3947 states, “Each municipality shall appoint one or more animal control officers...”; and

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WHEREAS, the previous Brewer Animal Control Officer resigned his position in February of 2023; and

WHEREAS, the Animal Control Officer is a position of great importance to the ongoing health and safety of our community.

NOW, THEREFORE, BE IT ORDERED, that Officer Savannah Lutz is herewith appointed as Animal Control Officer for the City of Brewer for a term that shall commence on March 19, 2023 and expires June 30, 2024.

**Statement of Fact:** Previous Animal Control Officer Michael Parady resigned his position in February 2023.

2023-A019

March 22, 2023

TITLE: ORDER, REAPPOINT INSPECTOR OF BUILDINGS.

Filed February 13, 2023  
By Joseph L. Ferris

WHEREAS, Title 25 M.R.S.A. §2351-A provides that the municipal officers shall annually, by the month of April, appoint an Inspector of Buildings; and

WHEREAS, Kristie Rines is the Brewer Code Enforcement Officer for the City of Brewer; and,

WHEREAS, it is the sense of the Brewer City Council that the Code Enforcement Officer performs, as part of their duties, inspection of buildings.

NOW, THEREFORE, BE IT ORDERED that Kristie Rines is herewith reappointed to the position of Inspector of Buildings for the City of Brewer for a one-year term commencing April 1, 2023 and expiring March 31, 2024.

**Statement of Fact:** This is an annual appointment.

2023-A020

March 22, 2023

TITLE: ORDER, REAPPOINT INSPECTOR OF PLUMBING.

Filed February 13, 2023  
By Jerry Goss

WHEREAS, Title 30-A M.R.S.A. §4221 states, “In every municipality, the municipal officers shall appoint one or more inspectors of plumbing...”.



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NOW, THEREFORE, BE IT ORDERED, that Kristie Rines is herewith reappointed Inspector of Plumbing for the City of Brewer for a term of one-year commencing on April 1, 2023 and expiring on March 31, 2024.

BE IT FURTHER ORDERED, that the City Clerk notify the Maine Department of Human Services of this appointment.

**Statement of Fact:** This is an annual appointment.

2023-A021

March 22, 2023

TITLE: ORDER, REAPPOINT MEMBERS TO THE BREWER BOARD OF ASSESSMENT REVIEW.

Filed February 13, 2023  
By Michele Daniels

BE IT ORDERED, that Manley DeBeck of 25 Goupee Street and Erica Veazey of 9 Little Roundtop Drive are herewith reappointed to the Brewer Board of Assessment Review for three-year terms; and

BE IT FURTHER ORDERED, that Mr. DeBeck's and Ms. Veazey's terms will commence April 1, 2023 and expire March 31, 2026.

**Statement of Fact:** This is a yearly order for appointment or reappointment of persons to City boards and commissions with approval by the City Council.

2023-A022

March 22, 2023

TITLE: ORDER, REAPPOINT MEMBER TO THE CEMETERY BOARD OF THE CITY OF BREWER.

Filed February 28, 2023  
By Joseph L. Ferris

BE IT ORDERED, that Daniel O'Connell of 7 Sites Lane is herewith reappointed to the Brewer Cemetery Board for a two-year term; and

BE IT FURTHER ORDERED, that Mr. O'Connell's term will commence April 1, 2023 and expire March 31, 2025.

**Statement of Fact:** This is a yearly order for appointment or reappointment of persons to City boards and commissions with approval by the City Council. This appointment is for two years to stagger future term expirations.

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2023-A023

March 22, 2023

TITLE: ORDER, REAPPOINT MEMBERS TO THE CONSERVATION COMMISSION  
OF THE CITY OF BREWER.

Filed February 28, 2023  
By Jerry Goss

BE IT ORDERED, that Bruce Fernald of 29 School Street is herewith reappointed to the Brewer Conservation Commission for a three-year term; and

BE IT FURTHER ORDERED, that Constance Holden of 108 Chamberlain Street is herewith reappointed to the Brewer Conservation Commission for a one-year term; and

BE IT FURTHER ORDERED, that Mr. Fernald's term will commence April 1, 2023 and expire March 31, 2026, and that Ms. Holden's term will commence April 1, 2023 and expire March 31, 2024.

**Statement of Fact:** This is a yearly order for appointment or reappointment of persons to City boards and commissions with approval by the City Council. Ms. Holden's appointment is for one year to stagger future term expirations.

2023-A024

March 22, 2023

TITLE: ORDER, APPOINT AND REAPPOINT MEMBERS TO THE LIBRARY BOARD  
OF TRUSTEES OF THE CITY OF BREWER.

Filed March 9, 2023  
By Michele Daniels and  
Jenn Morin

BE IT ORDERED, Sari Ohmart of 73 Sunset Strip is herewith appointed to the Library Board of Trustees of the City of Brewer for a three-year term; and

BE IT FURTHER ORDERED, Edmund Beaulieu of 32 School Street is herewith reappointed to the Library Board of Trustees of the City of Brewer for a three-year term; and

BE IT FURTHER ORDERED, that Mr. Beaulieu's and Ms. Ohmart's terms will commence April 1, 2023 and expire March 31, 2026.

**Statement of Fact:** This is a yearly order for appointment or reappointment of persons to City boards and commissions with approval by the City Council.

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2023-A025

March 22, 2023

TITLE: ORDER, APPOINT AND REAPPOINT MEMBERS TO THE PARKS AND RECREATIONAL ADVISORY COMMISSION OF THE CITY OF BREWER.

Filed March 2, 2023  
By Joseph L. Ferris

BE IT ORDERED, that Betsy Migliore of 7 Highland Street is herewith appointed to the Parks and Recreational Advisory Commission of the City of Brewer for a three-year term; and

BE IT FURTHER ORDERED, that Tracy Willette of 96 Grove Street is herewith reappointed to the Parks and Recreational Advisory Commission of the City of Brewer for a three-year term; and

BE IT FURTHER ORDERED, that Ms. Migliore's and Mr. Willette's terms will commence April 1, 2023 and expire March 31, 2026.

**Statement of Fact:** This is a yearly order for appointment or reappointment of persons to City boards and commissions with approval by the City Council. Ms. Migliore's appointment will fill the seat of Carolyn Wallace-Zani whose term will expire on March 31.

2023-A026

March 22, 2023

TITLE: ORDER, APPOINT MEMBERS TO THE BREWER PLANNING BOARD.

Filed March 3, 2023  
By Jerry Goss

BE IT ORDERED, that Donald Corey of 32 Willow Way and Loriann Hall of 45 Day Road are herewith appointed to the Planning Board of the City of Brewer as full-time members for three-year terms; and

BE IT FURTHER ORDERED, that Mr. Corey's, and Ms. Hall's terms will commence April 1, 2023 and expire March 31, 2026.

**Statement of Fact:** This is a yearly order for appointment or reappointment of persons to City boards and commissions with approval by the City Council. This order promotes Ms. Hall from Associate Member to Full-Time Member. These appointments will fill the seats of Larry Adams and Jane Hinckley whose terms will expire on March 31.

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2023-B009

March 22, 2023

TITLE: RESOLVE, CONFIRM CITY MANAGER'S APPOINTMENTS OF CONSTABLES.

Filed February 15, 2023

By Michele Daniels

BE IT RESOLVED, that the Brewer City Council herewith confirms the City Manager's appointments of the following constables for the City of Brewer for terms of one year each commencing April 1, 2023 and expiring March 31, 2024:

- Cpl. Levi Sewall
- Sgt. Amy Nickerson
- Sgt. Thomas Tardiff
- Sgt. Scott Jones
- Sgt. Zach Caron
- Sgt. Nelson Feero
- Sgt. Paul Gauvin
- Arden Jones, Court Officer
- Kristie Rines, Code Enforcement Officer
- Savannah Lutz, Animal Control Officer

**Statement of Fact:** This is a yearly order to confirm the City Manager's appointment of constables for the City of Brewer.

**ACTION:** Councilor Daniels moved that the orders on the consent calendar have passage and that the resolve be adopted. Councilor Goss seconded the motion. The motion passed with a vote of 4-0.

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**F. Unfinished Business  
Consent Calendar**

2023-C001

February 14, 2023

TITLE: ORDER, AMEND CHAPTER 5 OF THE CHARTER, CODES AND ORDINANCES OF THE CITY OF BREWER, ENTITLED "ASSESSOR", ARTICLE 2 "THE BOARD OF ASSESMENT REVIEW", SECTION 202 "COMPOSITION OF THE BOARD".

Filed January 19, 2023

By Jerry Goss

BE IT ORDAINED, by the Brewer City Council that Chapter 5 of the Charter, Codes and Ordinances of the City of Brewer entitled "Assessor", Article 2 "The Board of Assessment Review", Section 202 "Composition of the Board", shall be amended as follows:

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**SECTION 202 COMPOSITION OF THE BOARD**

The Board shall consist of five (5) members who are appointed by the City Council and shall serve for a three (3) year term ending on ~~December 31<sup>st</sup>~~ March 31. The members appointed to the Board must be residents and voters in the City of Brewer.

**Statement of Fact:** This amendment reflects a term-cycle of April 1 to March 31 for members appointed to the Board of Assessment Review as has been the practice of the City Council in their appointments for many years.

2023-C002

February 14, 2023

TITLE: ORDER, AMEND CHAPTER 33 OF THE CHARTER, CODES AND ORDINANCES OF THE CITY OF BREWER, ENTITLED "LIBRARY DEPARTMENT", ARTICLE 3 "BOARD OF TRUSTEES", SECTION 301 "ESTABLISHMENT".

Filed January 19, 2023  
By Michele Daniels

BE IT ORDAINED, by the Brewer City Council that Chapter 33 of the Charter, Codes and Ordinances of the City of Brewer entitled "Library Department", Article 3 "Board of Trustees", Section 301 "Establishment", shall be amended as follows:

**ARTICLE III. BOARD OF TRUSTEES.**

**SECTION 301. ESTABLISHMENT.** There shall be a Board of Trustees of the Library Department who shall be five (5) in number. The Trustees shall be appointed by the City Council and each trustee shall serve for a term of ~~five (5) three (3) years, ending on December 31<sup>st</sup>.~~ ~~effective January 31, 2004, the terms of duly appointed Trustees whose terms expired on November 30, 2003 and who are continuing to serve, shall be extended to March 31, 2004, the terms of Trustees scheduled to expire November 30, 2004 shall be extended to March 31, 2005, and the terms of Trustees scheduled to expire November 30, 2005 shall be extended to expire March 31, 2006. Thereafter, the~~ The terms of all members of the Board of Trustees appointed by the City Council for full terms shall expire on March 31<sup>st</sup> of the third year following their ~~appoints~~ appointment. No member of the City Council shall be a member of the Board of Trustees. Vacancies on the Board of Trustees shall be filled by appointment made by the City Council for the un-expired term. (#1)

**Statement of Fact:** This amendment reflects a three-year term for members appointed to the Library Board of Trustees as has been the practice of the City Council in their appointments for many years.

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2023-C003

February 14, 2023

TITLE: ORDER, AMEND CHAPTER 20 OF THE CHARTER, CODES AND ORDINANCES OF THE CITY OF BREWER, ENTITLED "LICENSES AND PERMITS", ARTICLE 1, SECTION 101 "APPLICATION REQUIRED".

Filed January 19, 2023  
By Jenn M. Morin

BE IT ORDAINED, by the Brewer City Council that Chapter 20 of the Charter, Codes and Ordinances of the City of Brewer entitled "Licenses and Permits", Article 1, Section 101 "Application Required", shall be amended as follows:

**SECTION 101. APPLICATION REQUIRED.** (#15) Any person required by the provisions of this Chapter to obtain from the City, (1) a license to engage in the operation, conduct or carrying on of any trade, profession, business or privilege, or (2) a permit to commence, proceed or continue to perform any act, shall make a written application therefore over his or her signature to the City Clerk upon form provided by the City Clerk and shall be accompanied by the required fee, ~~which will be returned if the license or permit applied for is not issued.~~

**Statement of Fact:** The return of license and permit fees does not account for staff time and costs for the review and processing of applications in which the application is ultimately denied.

2023-C004

February 14, 2023

TITLE: ORDER, AMEND CHAPTER 34 OF THE CHARTER, CODES AND ORDINANCES OF THE CITY OF BREWER, ENTITLED "BOARD OF APPEALS OF THE CITY OF BREWER", ARTICLE 1.

Filed February 2, 2023  
By Joseph L. Ferris

BE IT ORDAINED, by the Brewer City Council that Chapter 34 of the Charter, Codes and Ordinances of the City of Brewer entitled "Board of Appeals of the City of Brewer", Article 1, shall be amended as follows:

**SECTION 100. BOARD OF APPEALS ESTABLISHED.** A Board of Appeals is hereby established. The Board of Appeals shall consist of ~~seven (7)~~ five (5) members ~~and up to three (3) alternate members~~, appointed by the City Council for the City of Brewer, and each member and

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alternate member shall serve for a term of three (3) years. ~~All terms shall end on December 31<sup>st</sup>. Effective December 31, 2002, the terms of the present duly appointed and existing Board of Appeals members whose terms are scheduled to expire December 31, 2002 shall be extended to March 31, 2003, the terms of members and alternate members scheduled to expire December 31, 2003 shall be extended to March 31, 2004, and the terms of members and alternate members scheduled to expire December 31, 2004 shall be extended to March 31, 2005. Thereafter the~~ The terms of each member ~~and alternate member~~ shall expire on March 31<sup>st</sup>. (#1)

~~SECTION 106. In the event any member of the Board of Appeals is not present at a meeting of the Board, the Chairman, or in his or her absence the Vice Chairman, may appoint an alternate member to serve in the place of the absent member.~~

**Statement of Fact:** This amendment reduces the number of members for the Board of Appeals from seven to five, and reduces the number of alternates from three to zero. This reduction in seats brings the number of members on the Board of Appeals more in line with boards of neighboring municipalities, and helps to address long-standing vacancies on the Board.

**ACTION:** Councilor Goss moved that the amendments on the consent calendar be enacted. Councilor Daniels seconded the motion. The motion passed with a vote of 4-0.

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**G. New Business**

There was no new business.

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

There were no new items with leave of council.

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**I. ADJOURN**

**ACTION:** Deputy-Mayor Morin declared the meeting adjourned, unless doubted, at 6:51 P.M.

ADJOURNED, ATTEST: \_\_\_\_\_ Vincent P. Migliore  
City Clerk

A TRUE COPY, ATTEST: \_\_\_\_\_ Brewer, Maine