

City Council Minutes  
Tuesday, July 11, 2023

Regular Meeting  
City Hall Council Chambers

Tuesday, July 11, 2023  
6:00 p.m.

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

Councilor Goss-present  
Councilor Morin-present

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

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

Mayor Phanthay 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, July 11, 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			07/07/2023	
Jerry Goss			07/07/2023	
Michele Daniels			07/07/2023	
Jenn Morin			07/07/2023	
Soubanh Phanthay			07/07/2023	

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**CITY COUNCIL REGULAR MEETING**  
**Tuesday, July 11, 2023 6:00 P.M.**  
**Brewer City Hall Council Chambers**

- I. Call to Order** (Mayor Phanthay)
- II. Roll Call** (City Clerk)
- III. Pledge of Allegiance to the Flag of the United States of America** (Mayor Phanthay)
- A. Minutes of the June 13, 2023 Regular Meeting** (Councilor Morin)
- B. Awards, Petitions and Public Comments**
  - 1. (2023-B024) RESOLVE Resolution of Respect for Dr. Betsy M. Webb.  
(Councilor Ferris)
  - 2. Public Comments
- IV. Recess for Public Hearing**
  - 1. Review water rates of the Brewer Water Department.
- V. Adjourn Public Hearing and Continue Regular Meeting**
- C. Consent Calendar**
  - 1. (2023-A089) ORDER Accept grant from the Stephen and Tabitha King Foundation to the Brewer Public Library.  
(Councilor Daniels)
  - 2. (2023-A090) ORDER Authorize amendments to the BACTS/Municipal/State agreements for the resurfacing of a portion of South Main Street. (Councilor Morin)
  - 3. (2023-A091) ORDER Award Contract for Phase V of Storm Drain System Evaluation. (Councilor Ferris)
  - 4. (2023-A092) ORDER Award contract for Eastern Avenue shim and overlay.  
(Councilor Goss)
  - 5. (2023-A093) ORDER Authorize installation of a standby generator at the North Main Street pump station. (Councilor Daniels)
  - 6. (2023-A094) ORDER Authorize issuance of the City of Brewer’s General Obligation Bonds to finance the City’s Fiscal Year 2024 Capital Improvement Plan and a Tax Levy Therefor.  
(Councilor Morin)
  - 7. (2023-A095) ORDER Accept donations of books and materials and authorize sale of surplus of books and materials. (Councilor Ferris)
  - 8. (2023-A096) ORDER Accept Fiscal Year 2024 donations to the Brewer Public Library. (Councilor Goss)
  - 9. (2023-A097) ORDER Authorize appropriation of funds for the water enterprise account wellness program. (Councilor Daniels)
  - 10. (2023-A098) ORDER Authorize appropriation of funds for the sewer enterprise account wellness program. (Councilor Morin)
  - 11. (2023-A099) ORDER Accept proceeds from sale of scrap metal and appropriate for use. (Councilor Ferris)
  - 12. (2023-A100) ORDER Reallocate budgeted debt service to support Fiscal Year 2024 capital improvement projects in accordance with approved Fiscal Year 2024 Capital Improvement Program.  
(Councilor Goss)

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**D. Monthly Reports** (Councilor Morin)

**E. Nominations, Appointments, Elections** (None)

**F. Unfinished Business**

1. (2023-C010) ORDER Amend Chapter 24 of the Charter, Codes and Ordinances of the City of Brewer, entitled "Land Use Code", Article 4, "Performance Standards", Sections 426 and 436, Article 6, "Site Plan Review", Sections 605.1, 606 and 610, and Article 14, "Definitions". (Councilor Ferris)

**G. New Business**

**Consent Calendar**

1. (2023-C011) 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-C012) ORDER Amend Chapter 34 of the Charter, Codes and Ordinances of the City of Brewer, entitled "Board of Appeals of the City of Brewer". (Councilor Daniels)
3. (2023-C013) ORDER Amend Chapter 8 of the Charter, Codes and Ordinances of the City of Brewer, entitled "Elections", Article 3, "Municipal Elections", by adding Section 303, "Incompatibility of Offices". (Councilor Morin)
4. (2023-C014) ORDER Amend Chapter 24 of the Charter, Codes and Ordinances of the City of Brewer, entitled "Land Use Code", Article 8, "Floodplain Management", Section 802, "Development Standards". (Councilor Ferris)
5. (2023-C015) ORDER Amend Chapter 31 of the Charter, Codes and Ordinances of the City of Brewer, entitled "Sewer and Pre-Treatment Ordinance", Article 12, "Schedule of Sewer Rates", Section 1200. (Councilor Goss)

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

**I. ADJOURN**

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**A. Minutes of the June 13, 2023 Regular Meeting**

**ACTION:** Councilor Morin moved that the minutes to the June 13, 2023 regular meeting be accepted and placed on file. Councilor Goss seconded the motion. The motion passed with a unanimous vote.

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

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2023-B024

July 11, 2023

TITLE: RESOLVE, RESOLUTION OF RESPECT FOR DR. BETSY M. WEBB.

Filed February 13, 2023

By Joseph L. Ferris

WHEREAS, on the 24th day of November 2022 death brought to a close the full and active life of Dr. Betsy MacGregor Webb; and

WHEREAS, Betsy was born in Bridgeport, Connecticut; and

WHEREAS, Betsy married the love of her life and best friend Calvin (Chip) Webb, and they shared thirty-nine years of marriage and raised two boys together; and

WHEREAS, Betsy graduated from Husson University with a degree in Education, having done student teaching in Brewer during the 1982-1983 school year; and

WHEREAS, Betsy earned her Master's in Education from University of Southern Maine, her CAS and Doctorate of Education; and

WHEREAS, Betsy was hired as the Brewer State Street School's Principal/Technology Director in 1997, and then went on to serve as Brewer Superintendent of Schools from 2001 to 2005; and

WHEREAS, Betsy was recognized in 2012 as Maine School Superintendents' Association Outstanding Leader, and in 2013 was named Maine Superintendent of the Year; and

WHEREAS, Betsy was a passionate, committed educational leader who believed all students are capable of learning at high levels and the key to their success is acceleration; and

WHEREAS, Betsy enjoyed spending time outdoors with her family, sitting by the fire, surrounded by loved ones, sharing stories and laughs.

NOW, THEREFORE BE IT RESOLVED, that the Brewer City Council does by this resolution and public pronouncement, recognize the positive influence of Dr. Betsy M. Webb to the well-being and development of the community 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 Dr. Betsy M. Webb by the citizens and officials of the City of Brewer, Maine.

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Mayor Phanthay announced that the family of Betsy Webb had experienced a family emergency and that the resolution of respect would be tabled.

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**Public Comments**

There were no public comments.

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**IV. Recess for Public Hearing**

Mayor Phanthay said the City Council would recess for a public hearing and after the hearing the City Council would return to the regular meeting and take up the rest of the items on the agenda.

The public hearing was called to order by Mayor Phanthay.

The city clerk called the roll:

Councilor Ferris-present

Councilor Goss-present

Councilor Daniels-present

Councilor Morin-present

Mayor Phanthay-present

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

Mayor Phanthay read the notice for the public hearing:

**BREWER WATER DEPARTMENT**  
**NOTICE OF PROCEEDING**

June 23, 2023

The Brewer Water Department hereby notifies its customers that a proposed increase in rates has been filed with the Maine Public Utilities Commission (MPUC). The proposed rate adjustment is being filed pursuant to section 6104 of Title 35-A of the Maine Revised Statutes.

The purpose of the rate increase is to dedicate funding to infrastructure renewal projects as allowed under MPUC Chapter 675. The Brewer Water Department is proposing an increase in current water rates to become effective September 1, 2023. The last time Brewer Water rates increased was in 2021. The proposed rates provide an increase in annual revenue of approximately \$342,522. We are proposing a rate change of 15% for metered services. A rate increase of 11.4% is being proposed for public fire protection and 6.9% for private hydrants and sprinkler services.

The minimum residential water bill will increase \$3.97 per month, for a quarterly charge of \$91.34. The average residential water bill will increase \$4.97 per month, for a quarterly charge of \$114.44.

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A public hearing, pursuant to 35-A MRSA § 6104, will be held on Tuesday, July 11, 2023 starting at 6 p.m. in the City Council Chambers at City Hall, 80 North Main Street in Brewer. The hearing will give customers the opportunity to testify, pose questions, and make comments regarding the proposed water rate increase. Customers have the right to an open and fair hearing, and to further hearings before the MPUC. Customers may petition the MPUC to investigate the proposed water rate change. Signatures on customer petitions filed pursuant to 35-A MRSA § 6104 (7) are invalid unless accompanied by the printed names and addresses of the signers. Pursuant to 35-A MRSA § 6104(7), the petition must include the signatures of at least 537 customers of the Brewer Water Department and be submitted within 30 days of the public hearing. Brewer Water Department will, upon request, provide customers with petition forms that include spaces for signatures and the printed names and addresses of the signers. Customers may also request assistance from the Public Advocate, State House Station 112, Augusta, ME 04333, or telephone (207) 624-3687, or [www.maine.gov/meopa](http://www.maine.gov/meopa).

Materials supporting the water rate change are available at the Brewer Water Department's office, 223 Green Point Road, Brewer, Monday-Friday (excluding holidays) between 8:30 a.m. and 4:30 p.m. Customers have the right and are encouraged to review these materials and to request information relating to present and proposed rates.

published June 23  
in the BDN

Mayor Phanthay recognized City of Brewer Water Department Superintendent Rodney Butler. The Superintendent said that the Water Department proposed and submitted a rate case to the Public Utilities Commission. The Superintendent said that that Water Department had proposed a 15% increase: the minimum bill would increase by \$11.91 per quarter; the average bill would increase by \$14.91 per quarter. The Superintendent said that the rate increase would pay for infrastructure improvements, upgrades, finishing work on the ozone plant, piping projects, and addressing unfunded mandates such as the lead service line inventory.

Mayor Phanthay asked if there had been any written comments received from the public. The city clerk said there were none.

There were no comments from the public.

Mayor Phanthay closed the public hearing.

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**V. Adjourn Public Hearing and Continue Regular Meeting**

The regular meeting was called back to order by Mayor Phanthay. The city clerk called the roll:

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

Councilor Goss-present  
Councilor Morin-present

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

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**C. Consent Calendar**

2023-A089

July 11, 2023

TITLE: ORDER, ACCEPT GRANT FROM THE STEPHEN AND TABITHA  
KING FOUNDATION TO THE BREWER PUBLIC LIBRARY.

Filed June 22, 2023  
By Michele Daniels

WHEREAS, the Brewer Public Library received a grant of \$5,000 from the Stephen and Tabitha King Foundation; and

WHEREAS, it is the wish of the donor and the recommendation of the Library Director that the funds be used for the Library's new Early Childhood Literacy Program; and

WHEREAS, the Early Childhood Literacy Program will increase the number of early readers in the Brewer area and their level of literacy; and

WHEREAS, the Stephen and Tabitha King Foundation has been a faithful supporter of the Brewer Public Library.

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Council accepts this grant of \$5,000 from the Stephen and Tabitha King Foundation and authorizes its deposit in account 0600072-360000-72037, and further authorizes its appropriation and expenditure from account 0600072-560000-72037.

**Statement of Fact:** This order accepts a grant from the Stephen and Tabitha King Foundation to support the City of Brewer Public Library's Early Childhood Literacy Program.

*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.*

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2023-A090

July 11, 2023

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

Filed June 27, 2023  
By Jenn Morin

WHEREAS, on March 14, 2023 the Brewer City Council approved Order 2023-A014 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 \$165,000; and

WHEREAS, bids opened on May 24, 2023 by MDOT and came in above the planned budget; and

WHEREAS, the estimated cost share of the project increased by \$50,000 with an additional \$10,000 for contingency, and requires a commitment by the City of Brewer; and

WHEREAS, all parties involved believe that delaying construction for another year could be detrimental to the roadway due to South Main Street being a critical component of infrastructure for the entire region; and

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

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Manager, or his designee, is authorized to sign the amended BACT/Municipal/State Agreements for MDOT WIN 257377.00, as necessary, authorizing a City share of up to a maximum of \$225,000 with all other conditions of the previous Council Order and Municipal/State Agreement to remain as originally authorized and agreed; and

BE IT FURTHER ORDERED, that the Brewer City Council hereby authorizes the appropriation and transfer of \$60,000 from unassigned fund balance (0109800-300901) to Capital Improvement Program (CIP) account 0510113-551392-66507 (S Main Resurfacing-Wilson to Abbott) to support this additional expense.

**Statement of Fact:** This order authorizes an additional \$60,000 in funding for the South Main Street Resurfacing project (WIN 25377.00). The additional funding is required for MDOT award the construction contract to Northeast Paving, the only bidder on this project. The current schedule has the project being constructed summer/fall of 2023.



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2023-A091

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TITLE: ORDER, AWARD CONTRACT FOR PHASE V OF STORM DRAIN SYSTEM EVALUATION.

Filed June 30, 2023  
By Joseph L. Ferris

WHEREAS, in 2020 the City of Brewer began the process of evaluating its aging storm drain system to proactively create a phased plan for future maintenance prior to the repaving of streets; and

WHEREAS, the City of Brewer is reviewing potential infrastructure projects in the Maple Street and Spring Street areas during the coming years; and

WHEREAS, the Fiscal Year 2024 (FY24) Capital Improvement Program (CIP) budget includes a line item for Phase V Storm Drain Evaluation; and

WHEREAS, Olver Associates of Winterport, Maine successfully completed Phases I-III of the evaluation and is currently completing Phase IV and they have an intricate knowledge of the City's storm drain system.

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Council herewith exercises its authority under Chapter 36 Section 404 of the Purchasing Ordinance for the provision of these specialty services; and

BE IT FURTHER ORDERED, that the cost of the project shall be charged to the Storm Drain Evaluation – Phase V (0510113-551346-66515) account.

**Statement of Fact:** This order authorizes a contract with Olver Associates of Winterport, Maine to complete phase V of the City-wide storm drain evaluation project. This phase will focus on the Maple Street/Spring Street area of the City where completed infrastructure work is expected in the next few years.

2023-A093

July 11, 2023

TITLE: ORDER, AUTHORIZE INSTALLATION OF A STANDBY GENERATOR AT THE NORTH MAIN STREET PUMP STATION.

Filed June 30, 2023  
By Michele Daniels

WHEREAS, the City of Brewer owns and maintains a sewer pump station on North Main Street which does not currently have an emergency generator on site; and

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WHEREAS, weather events in the past have caused power failures at this station resulting in sewer back-ups and Department of Environmental Protection (DEP) involvement; and

WHEREAS, as part of the Water Pollution Control Facility (WPCF) Fiscal Year 2024 (FY24) Capital Improvement Program (CIP), the Brewer City Council approved the use of \$48,639 in American Rescue Plan Act (ARPA) funding to support the purchase and installation of a generator at this location; and

WHEREAS, WPCF solicited quotes and Seeley Electric of Otis, Maine provided the lowest price.

NOW, THEREFORE, BE IT ORDERED, that the City of Brewer, by vote of its City Council, authorizes the City Manager, or his designee, to sign a purchase order with Seeley Electric in an amount not to exceed \$48,639 to purchase and install an emergency generator for the North Main Street sewer pump station; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the appropriation and expenditure of these ARPA funds from account 0200001-520000-20610 (WPCF N Main Generator) as part of the Department's Capital Improvement Plan for Fiscal Year 2024; and

BE IT FURTHER ORDERED, that the City Council of the City of Brewer herewith exercises its authority under Chapter 36 Section 404 of the City's Purchasing Ordinance, the purchase of equipment and contractor services for this project.

**Statement of Fact:** This order authorizes the use of up to \$48,639 in ARPA funds to install a generator at the North Main Street pump station, to provide back-up power to that station during power loss, and to mitigate future back-ups at this pump station.

2023-A094

July 11, 2023

TITLE: ORDER, AUTHORIZE ISSUANCE OF THE CITY OF BREWER'S GENERAL OBLIGATION BONDS TO FINANCE THE CITY'S FISCAL YEAR 2024 CAPITAL IMPROVEMENT PLAN AND A TAX LEVY THEREFOR.

Filed July 5, 2023

By Jenn Morin

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

THAT the City Treasurer / Finance Director be and hereby is authorized, in the name of and on behalf of the City, to borrow at one time or from time-to-time, an amount not to exceed One Million Four Hundred Fifty Thousand Dollars (\$1,450,000) to finance costs related to the City's Fiscal Year 2024

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(FY24) Capital Improvement Plan (CIP) as more specifically listed on Attachment A hereto (the “Projects”).

THAT pursuant to 30-A M.R.S.A. §5772 and all other authority thereto enabling, to evidence such borrowing, the City Treasurer/ Finance Director be and hereby is authorized, in the name of and on behalf of the City, to issue and sell the City’s general obligation bonds, at one time and from time to time, in an amount not to exceed \$1,450,000 aggregate principal amount, the proceeds of which, including premium, if any, and investment earnings thereon, may be used and are hereby appropriated to pay the costs of the Projects.

THAT pursuant to 30-A M.R.S.A. §5772, Article VI, Section 7 of the City Charter and any other authority thereto enabling, the City Treasurer / Finance Director is hereby authorized to issue temporary notes of the City in anticipation of the forgoing bond issue.

THAT said bonds and notes (including any bonds or notes required to provide for exchanges or transfers of bonds or notes authorized hereby and previously issued), 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, 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, which may be through a public offering or a private placement, or a combination thereof, on a competitive or negotiated basis, or a combination thereof, her determination and approval thereof to be conclusively evidenced by the execution thereof.

THAT in each of the years 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 that 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 the City Treasurer / Finance Director be and hereby is authorized and directed, in the name of and on behalf of the City, to covenant and certify that no part of the proceeds of the bonds or notes, nor the Projects financed with such bonds or notes, shall be used in any manner directly or indirectly to acquire anything that 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”).

THAT the City Treasurer / Finance Director be and hereby is authorized, in the name of and on behalf of the City, to covenant and agree for the benefit of the holders of the 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 such 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.

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THAT the City Treasurer / Finance Director be and hereby is authorized, in the name of and on behalf of the City, to designate the bonds or notes as qualified tax-exempt obligations for purposes of Section 265(b) of the Code, to the extent that such designation may be available and advisable as determined by the City Treasurer / Finance Director in her sole discretion.

THAT the City Treasurer / Finance Director be and hereby is authorized, in the name of and on behalf of the City, to covenant, certify, and agree for the benefit of the holders of the 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 Projects, or any portion thereof, includes, but is not limited to: (1) the cost to design, construct, renovate, refurbish, improve, acquire, replace, furnish and equip the Projects; (2) 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 Projects; (3) the cost of feasibility studies, surveys, environmental studies and assessments, engineering, plans and specifications, legal and other professional services associated with the Projects; (4) issuance costs, including premiums for insurance, capitalized interest and other financing charges, fees and expenses relating to the financing transaction.

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

1. To the costs of any Project listed on Attachment A;
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 or similar certificate delivered in connection with the issuance of the bonds or notes including, to the extent permitted thereunder, to the City’s General Fund;
3. To pay debt service on the bonds or notes.

THAT in addition to the allocation of proceeds in the forgoing vote, if the actual cost of any Project differs from the estimated cost listed on Attachment A, whether due to completion, delay or abandonment of the Project, or for any other reason, the City Treasurer / Finance Director is authorized, in her sole discretion, to reallocate proceeds of the bonds or notes to any other listed Project or to any other project

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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, 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 (including but not limited to one or more loan agreements between the City and the Maine Municipal Bond Bank (the "Bond Bank"), with such usual and customary terms and provisions, not contrary to the general tenor hereof, as the Bond Bank may require), investment agreements, bond purchase agreements, official statements, certificates, tax certificates, instruments, a Letter of Representation or other agreement required to qualify the bonds or notes for and participate in the Depository Trust Company Book-Entry Only System and such other documents (the "Bond Documents"), as may be necessary or advisable in order to accomplish the issuance of the bonds and notes, and the investment of the proceeds thereof, 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 financing documents, the person or persons then acting in any such capacity, whether 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 such 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, 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 Projects, then the City Treasurer / Finance Director may so 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 bonds and notes may be consolidated with and issued at the same time as any other authorized issue of bonds or notes, and the bonds and notes may be divided into multiple series and issued in separate plans of financing.

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THAT during the term any of the bonds are outstanding, 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 hereinbefore authorized be made callable, with or without premium, prior to their stated date(s) of maturity, and each refunding bond issued hereunder 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 if any bonds or notes are issued through the State of Maine Clean Water Revolving Loan Fund (CWSRF), the following resolutions required by Section C(4)(e) of the CWSRF Rules, Chapter 595 (the "SRF Regulations"), administered by the Department of Environmental Protection and the Maine Municipal Bond Bank (the "Bond Bank"), be and hereby are adopted:

- a. That a Project Account shall be created for the Projects 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;
- b. 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;
- c. That a final accounting shall be made to the Bond Bank of the total cost of each 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;
- d. 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;
- e. That the City shall maintain insurance coverage on the Projects 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;
- f. That the City will comply with any special conditions specified by the Department of Environmental Protection's environmental determination until all financial obligations to the State have been discharged;
- g. 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;

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- h. 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;
- i. That the City must demonstrate the ability to pay reasonably anticipated costs of operating and maintaining the financed Project; and
- j. That the City abide by the SRF Regulations, as revised and amended and relevant State statutes of the State of Maine.

THAT the City may pay certain costs of the Projects 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.

Attachment A

**FY2024 Capital Improvement Program**

#406 F250 Truck w/ plow (old #427)	\$ 20,000
#414 CAT 140G GRADER (rebuilt Aug 09)	310,000
GREENPT RD FACILITY PAVING	160,000
PAVING	230,000
Eastern Ave (Oak Grove to Pierce) Shim and Overlay w spot repairs	175,000
SOUTH MAIN RESURFACE (Wilson to Abbott St MDOT WIN 25377.00 City 10% Share)	165,000
Parker Street (Upper) Reconstruction	200,000
Storm Drain Replacement-Wilson St (near Taco Bell)	100,000
Sewer Improvements / Upgrades	90,000
<b>Total</b>	<b>\$1,450,000</b>

**Statement of Fact**

This order authorizes the issuance of up to \$1,450,000 in general obligation bonds to support the financing of the Fiscal Year 2024 Capital Improvement Program approved by the City Council in June 2023.

2023-A095

July 11, 2023

TITLE:       ORDER,       ACCEPT DONATIONS OF BOOKS AND MATERIALS AND  
 AUTHORIZE SALE OF SURPLUS BOOKS AND MATERIALS.

Filed July 5, 2023  
 By Joseph L. Ferris

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WHEREAS, from time to time the Brewer Public Library receives donations of books and materials; and

WHEREAS, some books and materials received by donation, the Library already has in its collection or does not need; and

WHEREAS, from time to time the Library reviews its collection and retires books that are no longer in use; and

WHEREAS, the library would like to offer such unneeded books and materials to the public in exchange for a donation to the Library.

NOW, THEREFORE, BE IT ORDERED, that the City of Brewer, by vote of its City Council, herewith accepts the donations of books and materials it may receive throughout the year to the Brewer Public Library; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the Library Director to identify throughout the year books and materials that are unneeded and the City Council declares such items to be surplus and further authorizes the Library to offer these items to the public in exchange for a donation to the Library; and

BE IT FURTHER ORDERED, that the City Council hereby directs that these proceeds be deposited in revenue account 0107204-300410 (Library Sale of Assets) and that these proceeds be appropriated for expenditure from expense account 0117201-502750 (Books) for the purpose of replenishing Library inventory with the more current and requested items.

**Statement of Fact:** This annual order anticipates the sale of surplus books and materials throughout the year and authorizes the use of the sale proceeds to fund the purchase of new books.

2023-A096

July 11, 2023

TITLE: ORDER, ACCEPT FISCAL YEAR 2024 DONATIONS TO THE BREWER PUBLIC LIBRARY.

Filed July 5, 2023  
By Jerry Goss

WHEREAS, the Brewer Public Library receives unrestricted monetary contributions from donors throughout the year; and

WHEREAS, most donors wish their contributions to supplement and support either the programming budget or book budget at the Library; and



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WHEREAS, it is the recommendation and request of the Library Director that the upcoming Fiscal Year 2024 (FY24) donations be appropriated and expended as requested by donors.

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Council accepts all unrestricted Fiscal Year 2024 contributions and memorial donations to the City of Brewer Public Library and authorizes their deposit into account 0107204-300420 (Library Contributions/Donations); and

BE IT FURTHER ORDERED, that the City Council authorizes the appropriation and expenditure of these accepted donations from account 0117201-502750 (Library Books) or account 0117201-506150 (Library Special Events) as specified by the donor.

**Statement of Fact:** This order is a blanket acceptance of unrestricted Fiscal Year 2024 contributions to the City of Brewer Public Library, and authorizes the expenditure of these contributions to support the Library programming budget and the purchase of new books.

2023-A097

July 11, 2023

TITLE: ORDER, AUTHORIZE APPROPRIATION OF FUNDS FOR THE WATER ENTERPRISE ACCOUNT WELLNESS PROGRAM.

Filed July 5, 2023  
By Michele Daniels

WHEREAS, the Brewer Water Department anticipates small quantities of scrap metal from various construction projects in Fiscal Year 2024 (FY24) that will result in new revenues; and

WHEREAS, the Water Department would like to dedicate all proceeds from the sale of such scrap metal to fund and support water wellness program initiatives.

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Council herewith declares such scrap metal surplus, authorizes the sale of the surplus property and the receipt of the proceeds in account 0670001-300410 (Water Wellness Sale of Assets) and authorizes the appropriation and expenditure of funds received from recycling scrap metal in FY24 from account 0670001-500844 (Water Wellness Expense) to support the water wellness program which shall be funded by the proceeds from the sale of such surplus City property.

**Statement of Fact:** This annual order anticipates collection of small amounts of scrap metal from various water construction projects throughout the year and authorizes their sale. The proceeds are deposited into the Water Wellness account and used to support employee wellness purchases.

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2023-A098

July 11, 2023

TITLE: ORDER, AUTHORIZE APPROPRIATION OF FUNDS FOR THE SEWER ENTERPRISE ACCOUNT WELLNESS PROGRAM.

Filed July 5, 2023  
By Jenn Morin

WHEREAS, the Brewer Sewer Department anticipates small quantities of scrap metal from various construction projects in Fiscal Year 2024 (FY24) that will result in new revenues; and

WHEREAS, the Sewer Department would like to dedicate all proceeds from the sale of such scrap metal to fund and support sewer wellness program initiatives.

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Council herewith declares such scrap metal surplus, authorizes the sale of the surplus property and the receipt of the proceeds in 0680001-300410 (Sewer Wellness Sale of Assets) and authorizes the appropriation and expenditure of funds received from recycling scrap metal in FY24 from account 0680001-500844 (Sewer Wellness Expense) to support the sewer wellness program which shall be funded by the proceeds from the sale of such surplus City property.

**Statement of Fact:** This annual order anticipates collection of small amounts of scrap metal from various sewer construction projects throughout the year and authorizes their sale. The proceeds are deposited into the Sewer Wellness account and used to support employee wellness purchases.

2023-A099

July 11, 2023

TITLE: ORDER, ACCEPT PROCEEDS FROM SALE OF SCRAP METAL AND APPROPRIATE FOR USE.

Filed July 5, 2023  
By Joseph L. Ferris

WHEREAS, the Brewer Public Works Department anticipates small quantities of scrap metal from various vehicle repair projects and, occasionally, construction projects in Fiscal Year 2024 (FY24) that will result in new revenues; and

WHEREAS, the Public Works Department would like to dedicate all proceeds from the sale of such scrap metal to supplement the Public Works vehicle maintenance budget.

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Council herewith declares such scrap metal surplus, authorizes the sale of the surplus property and the receipt of the proceeds to 0106604-300490 (Public Works Miscellaneous Revenue) and authorizes the appropriation and expenditure of funds received from recycling this scrap metal in FY24 from account 0116641-504200 (PW Vehicle Maintenance and Repair).

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**Statement of Fact:** Scrap metal is generated at the Public Works facility from discarded parts, including: brake pads, disk and drums; exhaust parts; damaged wheels; plow cutting edges and shoes; and other miscellaneous items. Because such items are replaced out of the vehicle maintenance budget, Public Works requests these funds be rolled back into the vehicle maintenance budget. This is an annual order.

2023-A100

July 11, 2023

TITLE: ORDER, REALLOCATE BUDGETED DEBT SERVICE TO SUPPORT FISCAL YEAR 2024 CAPITAL IMPROVEMENT PROJECTS IN ACCORDANCE WITH APPROVED FISCAL YEAR 2024 CAPITAL IMPROVEMENT PROGRAM.

Filed July 5, 2023  
By Jerry Goss

WHEREAS, the Fiscal Year 2024 (FY24) Capital Improvement Program (CIP) approved by the Brewer City Council in June 2023 called for the allocation of \$198,300 from the City general fund to support capital projects; and

WHEREAS, these budgeted funds represent debt service cost associated with the bond issued to support the Fiscal Year 2023 CIP but for which payments will not begin until Fiscal Year 2025.

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Council hereby authorizes the reallocation of \$198,300 not needed to support debt service payments in FY24 from account 0118701-509000 (Debt Principal – City GF) to 0119903-509130 (CIP Funding – City GF) and from there to Fund 5000 (City Capital Improvement Program) account 0500100-300893 (Transfers In) to help pay for capital projects approved as part of the City’s FY24 CIP.

**Statement of Fact:** This order authorizes the transfer of \$198,300 from the general fund to the Capital Improvement Program fund as planned for in the FY24 CIP approved by Council in June 2023.

**ACTION:** Councilor Goss asked that Order 2023-A092 be removed from the consent calendar. Councilor Daniels moved that the remaining orders on the consent calendar have passage. Councilor Morin seconded the motion. The motion passed with a unanimous vote.

\*\*\*

2023-A092

July 11, 2023

TITLE: ORDER, AWARD CONTRACT FOR EASTERN AVENUE SHIM AND OVERLAY

Filed June 30, 2023  
By Jerry Goss

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WHEREAS, the section of Eastern Avenue from beyond Oak Grove Drive to Pierce Road is in need of a pavement treatment to extend the life cycle of this section of road; and

WHEREAS, funding for this project was approved in the Fiscal Year 2024 (FY24) Capital Improvement Program (CIP); and

WHEREAS, bids were publicly solicited, received, and reviewed for the shim and overlay of Eastern Avenue from just beyond Oak Grove Drive to Pierce Road; and

WHEREAS, three bids were received and reviewed (see the attached bid summary).

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Manager, or his designee, is authorized to execute a contract with B&B Paving, the lowest acceptable bidder, in an amount not to exceed \$175,000 \$83,050 (\$75,500 quoted price plus 10% contingency) for the Eastern Avenue Shim and Overlay Project; and

BE IT FURTHER ORDERED, that that charges to this contract shall be to the approved CIP account (0510113-551328-66518) Eastern Avenue Shim and Overlay.

<b><u>Eastern Avenue Shim and Overlay Project Bid Tabulation (Bids opened 07/10/2023)</u></b>								
<u>Bidder</u>			<u>Northeast Paving</u>		<u>Hopkins Paving</u>		<u>B&amp;B Paving</u>	
<u>Bid Items</u>	<u>Quantity</u>	<u>Unit</u>	<u>Bid Price</u>	<u>Total</u>	<u>Bid Price</u>	<u>Total</u>	<u>Bid Price</u>	<u>Total</u>
<u>Bit. Conc Pavement 9.5 mm (Shim)</u>	<u>180</u>	<u>Tons</u>	<u>\$147</u>	<u>\$26,460</u>	<u>\$175</u>	<u>\$31,500</u>	<u>\$100</u>	<u>\$18,000</u>
<u>Bit. Conc. Pavement 9.5 (Overlay)</u>	<u>520</u>	<u>Tons</u>	<u>\$147</u>	<u>\$76,440</u>	<u>\$135</u>	<u>\$70,200</u>	<u>\$100</u>	<u>\$52,000</u>
<u>Gravel (2" Minus)</u>	<u>50</u>	<u>CY</u>	<u>\$146</u>	<u>\$7,300</u>	<u>\$90</u>	<u>\$4,500</u>	<u>\$50</u>	<u>\$2,500</u>
<u>Striping</u>	<u>1</u>	<u>LS</u>	<u>\$3,000</u>	<u>\$3,000</u>	<u>\$4,000</u>	<u>\$4,000</u>	<u>\$2,000</u>	<u>\$2,000</u>
<u>Traffic Control</u>	<u>1</u>	<u>LS</u>	<u>\$13,000</u>	<u>\$13,000</u>	<u>\$10,000</u>	<u>\$10,000</u>	<u>\$1,000</u>	<u>\$1,000</u>
			<u>Total</u>	<u>\$126,200</u>	<u>Total</u>	<u>\$120,200</u>	<u>Total</u>	<u>\$75,500</u>

**Statement of Fact:** This order awards the contract for the Eastern Avenue Shim and Overlay Project. This project will pave from just beyond Oak Grove Drive to Pierce Road. The paving is expected to be completed summer/fall of 2023.

*Note: ~~Bids for the Eastern Avenue Shim and Overlay Project will be due on July 10. Once the bidding has closed, the recommended contractor will be identified and the bid tabulation will be forwarded to the City Council for consideration.~~*

**ACTION:** Councilor Goss moved that the order have passage and that the order be amended to reflect the recommended contractor and bid. The motion was seconded and passed by a unanimous vote.

\*\*\*

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**D. Monthly Reports**

**ACTION:** Councilor Morin moved that the monthly reports from department heads be accepted and placed on file. Councilor Daniels seconded the motion. The motion passed with a unanimous vote.  
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**E. Nominations, Appointments, Elections**

There were no nominations, appointments, or elections.  
\*\*\*

**F. Unfinished Business**

2023-C010

June 13, 2023

TITLE: ORDER, AMEND CHAPTER 24 OF THE CHARTER, CODES AND ORDINANCES OF THE CITY OF BREWER, ENTITLED "LAND USE CODE", ARTICLE 4, "PERFORMANCE STANDARDS", SECTIONS 426 AND 436, ARTICLE 6, "SITE PLAN REVIEW", SECTIONS 605.1, 606, AND 610, AND ARTICLE 14, "DEFINITIONS".

Filed June 1, 2023  
By Joseph L. Ferris

BE IT ORDAINED, by the Brewer City Council that Chapter 24, of the Charter, Codes and Ordinances of the City of Brewer, entitled "Land Use Code", shall be amended by revising the following subsections to, Article 4, Article 6, and Article 14:

**ARTICLE 4 PERFORMANCE STANDARDS**

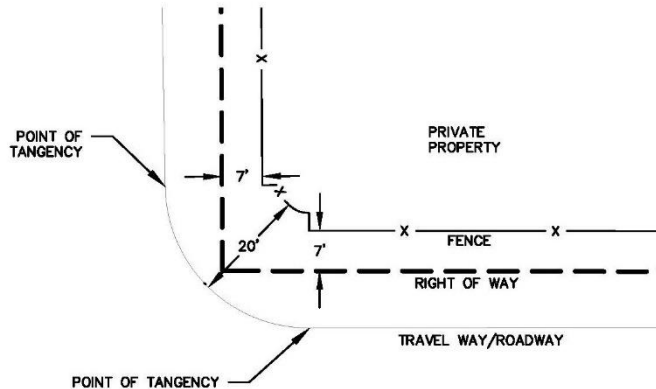
**426 PLANTING**

Planting set-back for all trees and shrubs with a potential height of over three (3) feet shall be governed by the following:

**426.1** There shall be a minimum set-back of seven (7) feet from the street right-of-way line, on all straight-of-ways.

**426.2** At street intersections where a radius of curvature is shown on the plan or deed, the minimum set-back line shall be ~~determined by locating the edge of the right of way trees, plants or shrubs~~ seven (7) feet behind said right-of-way line and/or twenty feet (20') from the edge of the travel way until the point of tangency, whichever is greater.

**426.3** At street intersections where there is no known radius ~~or of~~ curvature allowed, the minimum set-back line shall be twenty feet (20') from the edge of travel way until the point of tangency determined by locating a line parallel to and fifteen (15) feet wider than the existing street lines concerned. ~~These fifteen (15) foot set back lines shall then become the minimum set back line for planting.~~

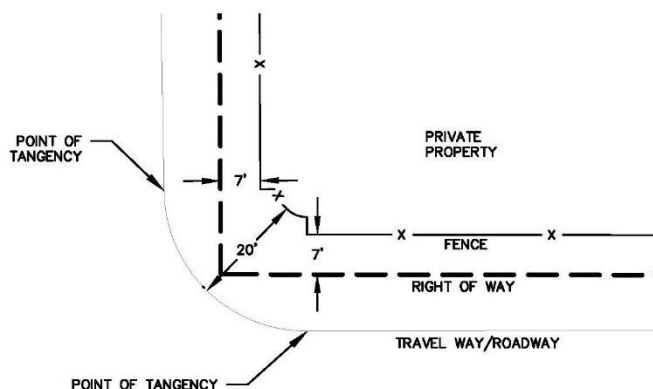


**426.4** Landscaping and plantings shall also adhere to the minimum requirement for clear space around hydrants as included in Chapter 40 (Water Department), Section 303 of the City of Brewer Charter, Codes and Ordinances.

**436** YARDS AND SETBACKS

**436.7** FENCES

There shall be a seven foot (7') front yard setback for fences when along a public road, private road, or common driveway. At intersections where a radius of curvature is shown on the plan or deed, the



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minimum set-back line shall be seven (7) feet behind said right-of-way line and/or twenty feet (20') from the edge of the travel way until the point of tangency, whichever is greater. At street intersections where there is no known radius of curvature, the minimum set-back line shall be twenty feet (20') from the edge of travel way until the point of tangency.

Fences may be placed directly on side and rear property lines. Consideration should be made for access to maintain the fence.

Fences shall also adhere to the minimum requirement for clear space around hydrants as included in Chapter 40 (Water Department), Section 303 of the City of Brewer Charter, Codes and Ordinances.

**ARTICLE 6 SITE PLAN REVIEW**

**605.1 EXPIRATION OF PLANNING BOARD APPROVAL (#2)**

The ability and procedure of a major site plan to be approved and constructed in phases shall be determined on a case-by-case basis by the Planning Board. If permitted, details of such phasing shall be outlined on the site plan and written Planning Board Order. Previously approved site plans may be eligible for phasing if brought before the Planning Board for an amended site plan review within eighteen months of approval.

Site plan approval granted by the Planning Board shall expire if the work or use involved is not commenced within one year of the date which the approval is granted, or if the work is not substantially completed within eighteen months of the site plan approval date. For projects approved for completion in phases, site plan approval shall expire if the work does not meet the phasing conditions approved for the project.

Expiration of the applicable dates prior to commencement or substantial completion shall void the site plan approval unless the Code Enforcement Officer has granted an extension for a period not to exceed ninety days based on the Code Enforcement Officer's written finding of a reasonable cause. If additional extensions are required, the Planning Board may grant such additional extensions based on a written finding of reasonable cause.

Requests for the Planning Board to grant an extension shall include a letter stating the reason for the extension request, proposed extension date, and the non-refundable fee as set forth in the then current City Council adopted fee schedule, payable to the City of Brewer. Three (3) copies of the above information and the check shall be submitted to the Planning Department four weeks prior to the Planning Board meeting.

**606 REQUIRED INFORMATION (#2)**

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Application for the establishment of uses and/or site improvements requiring site plan review shall be accompanied by plans (one inch equals twenty feet is preferred) drawn to scale, and accompanying written materials bound either in a punch and bind or 3-ring binder. Site plans shall be based on field measurements and current on-site data prepared, signed, and stamped by a State of Maine licensed professional land surveyor, engineer, or landscape architect. For purposes of site plan review, the “site” consists of the entire parcel of land and not just the portion developed. The required submission containing at a minimum the following information:

**610 SITE PLAN AMENDMENTS**

Minor revisions to an approved site plan may be permitted by the City Planner, subject to the following conditions:

- 610.1** A narrative and revised plan(s) showing the revision is submitted (in three copies) to the Planning Department along with the non-refundable fee as set forth in the then current City Council adopted fee schedule, payable to the City of Brewer.

**ARTICLE 14 DEFINITIONS**

**Structure:** Anything constructed, built or erected, the use of which requires a temporary or permanent location on the ground, or attached to something temporarily or permanently located on the ground. This term shall not include fences, retaining walls, sidewalks, walkways, driveways, out-door parking lots and their attendant paving.

**Statement of Fact:** These ordinance amendments are proposed in order to clarify items, update site plan procedures, and better address setbacks for landscaping and fences. The Planning Board held a public hearing on June 5, 2023 and unanimously made the recommendation to adopt these amendments to Chapter 24 Land Use Code as written.

**ACTION:** Councilor Ferris moved that the amendment be certified and filed with the city clerk for posting. Councilor Goss seconded the motion. The motion passed with a unanimous vote.

\*\*\*



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**G. New Business**

2023-C011

July 11, 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 June 20, 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:

**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 March 31. The members appointed to the Board must be residents and voters in the City of Brewer.

**Statement of Fact:** A recent audit of the amendment history for Chapter 5 “Assessor” revealed that language describing the term for members of the Board of Assessment Review was not properly added to the Ordinance. This amendment adds the language that was previously intended.

2023-C012

July 11, 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”.

Filed June 21, 2023

By Michele Daniels

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”, shall be amended as follows:

The purpose of this chapter is to establish a Board of Appeals for the City of Brewer under ~~Title 30, M.R.S.A. (1964) Sec. 2411, et seq., as amended.~~ the Maine Constitution; Title 30-A M.R.S.A., Section 3001, Title 30-A M.R.S.A., Section 2691, and the Brewer City Charter.

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**Statement of Fact:** A recent audit of the amendment history for Chapter 34 “Board of Appeals of the City of Brewer” revealed that language updating a statutory reference was not properly added to the Ordinance. This amendment updates the statutory reference as intended.

2023-C014

July 11, 2023

TITLE: ORDER, AMEND CHAPTER 24 OF THE CHARTER, CODES AND ORDINANCES OF THE CITY OF BREWER, ENTITLED “LAND USE CODE”, ARTICLE 8 “FLOODPLAIN MANAGEMENT”, SECTION 802 “DEVELOPMENT STANDARDS”.

Filed June 27, 2023  
By Joseph L. Ferris

BE IT ORDAINED, by the Brewer City Council that Chapter 24 of the Charter, Codes and Ordinances of the City of Brewer entitled “Land Use Code”, Article 8, “Floodplain Management”, Subsection 802, “Development Standards” be amended as follows; and

BE IT FUTHER ORDAINED, that this amendment shall go into effect on July 19, 2023 to correspond with the new FEMA regulations:

G. **Physical Changes to the Natural Landscape.** Certain development projects, including but not limited to, retaining walls, sea wall, levees, berms, and rip rap, can cause physical changes that affect flooding conditions.

1. All development projects in Zones AE and VE that cause physical changes to the natural landscape shall be reviewed by a Professional Engineer to determine whether or not the project changes the base flood elevation, zone, and/or the flood ~~hazared~~ hazard boundary line.
  - a. If the Professional Engineer determines, through the use of engineering judgement, that the project would not necessitate a Letter of Map Revision (LOMR), a certified statement shall be provided.
  - b. If the Professional Engineer determines that the project may cause a change, a hydrologic and hydraulic analysis that meets current FEMA standards shall be performed.

**Statement of Fact:** This ordinance amendment corrects a typographical error in Amendment 2023-C006 as a ministerial matter. This ordinance amendment was posted by the city clerk on June 30, 2023, and is eligible to be enacted at the regular meeting on July 11, 2023.

2023-C015

July 11, 2023

TITLE: ORDER, AMEND CHAPTER 31 OF THE CHARTER, CODES AND ORDINANCES OF THE CITY OF BREWER, ENTITLED “SEWER

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AND PRE-TREATMENT ORDINANCE”, ARTICLE 12, “SCHEDULE OF SEWER RATES”, SECTION 1200.

Filed July 5, 2023  
By Jerry Goss

BE IT ORDAINED, by the Brewer City Council that Chapter 31 of the Charter, Codes and Ordinances of the City of Brewer entitled “Sewer and Pre-Treatment Ordinance be amended by changing Article 12, Section 1200 to read as follows:

**ARTICLE 12. SCHEDULE OF SEWER RATES**

**SECTION 1200 METER RATES**

Rates based on water meter readings for the use of and for the services furnished, or to be furnished by the municipal sewer facility on property having water metered service, not including meters used exclusively for water not draining into sewers:

QUARTERLY

Effective beginning with and retroactive, the period covered by the September, ~~2022~~ 2023 billing, the following rates shall apply:

For the first 1,000 cu. ft. per quarter: ~~\$102.70~~ \$115.20 minimum charge for Residential customers classified in the billing system as User Type 9.

For the first 1200 cu. ft. per quarter: ~~\$123.24~~ \$138.24 minimum charge for all other users not otherwise classified as a Residential customer.

Effective beginning with the period covered by the September, ~~2022~~ 2023 billing, the following rates shall apply:

For all in excess of 1,000 cu. ft. per quarter: ~~\$10.27~~ \$11.52 per 100 cu. ft.

**Statement of Fact:** The Fiscal Year 2024 budget the Brewer City Council approved includes an increase in the sewer rate of \$1.25 per 100 cubic feet, or about \$17.35 per quarter for the average residential sewer user. This order amends City Ordinance to reflect this change.

**ACTION:** Councilor Daniels asked that Order 2023-C013 be removed from the consent calendar. Councilor Goss moved Amendment 2023-C014 be enacted and that the remaining amendments on the consent calendar be certified and filed with the city clerk for posting. Councilor Daniels seconded the motion. The motion passed with a unanimous vote.

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2023-C013

July 11, 2023

TITLE: ORDER, AMEND CHAPTER 8 OF THE CHARTER, CODES AND ORDINANCES OF THE CITY OF BREWER, ENTITLED “ELECTIONS”, ARTICLE 3, “MUNICIPAL ELECTIONS”, BY ADDING SECTION 303, “INCOMPATIBILITY OF OFFICES”.

Filed June 27, 2023  
By Jenn M. Morin

BE IT ORDAINED, by the Brewer City Council that Chapter 8 of the Charter, Codes and Ordinances of the City of Brewer entitled “Elections”, Article 3, “Municipal Elections”, be amended by adding the following section:

**SECTION 303 INCOMPATIBILITY OF OFFICES**

The elected municipal offices of the City of Brewer are incompatible, and a single resident cannot hold more than one elected municipal office simultaneously. A resident may not file as a candidate for more than one elected municipal office during a single municipal election. The City Clerk shall not issue nomination petitions to a resident for more than one elected municipal office during a single municipal election.

**Statement of Fact:** This amendment clarifies that the elected municipal offices for the City of Brewer are incompatible, and that a single resident cannot file as a candidate for more than one office, and that nomination petitions cannot be issued to a single resident for more than one office.

Councilor Daniels asked what the amendment was intended for. The City Solicitor said that state statute dictated that a person cannot run for two state offices at the same time, and by extension the same applied at the municipal level. The City Solicitor said the amendment would clarify what state law already said. Councilor Daniels said she believed residents should be able to take out nomination papers for anything they want, but that they couldn't turn in papers for more than one office. The City Solicitor said that would still be an issue. The City Solicitor offered to provide the Council a written response for their consideration. Mayor Phanthay said that he would also like more clarification. Councilor Morin said she preferred that a serious candidate would make a choice about what office they sought before collecting signatures. The City Manager noted that taking out papers for more than one office makes it unclear who is running for which office. Councilor Goss said residents might be discouraged to find that the petition they signed was never submitted as the candidate then sought a different office. Councilor Daniels agreed that residents could only submit papers for one office, but suggested that the order be amended to remove the restriction against issuing papers for more than one office, or that the order could be tabled. The City Solicitor noted that if the order was tabled it might overlap with the timing of the upcoming municipal election in November; the city clerk confirmed that nomination petitions would be available in early September. Councilor Goss said that Council should make a decision on the order

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before the election began. Councilor Daniels agreed that the order could be posted and then reviewed before the second reading in August.

**ACTION:** Councilor Daniels moved that 2023-C013 be added back to the consent calendar. Councilor Morin seconded the motion. The motion passed with a unanimous vote. Councilor Goss moved the consent calendar “as is”. Councilor Daniels seconded the motion. The motion passed with a unanimous vote. Mayor Phanthay announced that Amendment C014 was enacted and that the remaining items on the consent calendar were certified and would be filed with the city clerk for posting.

\*\*\*

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

There were no new items with leave of council.

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**I. ADJOURN**

**ACTION:** Councilor Daniels moved that the meeting be adjourned. Councilor Goss seconded the motion. The motion passed with a unanimous vote. The meeting was adjourned at 6:26 P.M.

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

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