

City Council Minutes
Tuesday, December 10, 2024

Regular Meeting
City Hall Council Chambers

Tuesday, December 10, 2024
6:00 p.m.

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

Councilor Phanthay-absent
Councilor Kimball-present
Mayor Daniels-present
Councilor O’Halloran-present
Councilor Morin-present

Mayor Daniels declared that a quorum was present. City Manager Eric Glidden and City Solicitor Johnathan Pottle were also present.

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

Mayor Daniels read the notice for the regular meeting.

TO: Soubanh Phanthay, Dani O’Halloran, William Kimball, Jenn Morin and Michele Daniels;
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, December 10, 2024 beginning at 6:00 p.m.**, at 80 North Main Street, to consider and act on the items on the attached agenda.

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

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

OFFICER’S RETURN

I have on the date(s) and time(s) indicated given notice of this meeting by giving in hand of by leaving at the usual dwelling place of the within named an attested copy of this notice of meeting:

Given/Delivered to:	by (person delivering)	Title	Date	Time
Soubanh Phanthay			12/05/2024	
Dani O’Halloran			12/05/2024	
William Kimball			12/05/2024	
Jenn M. Morin			12/05/2024	
Michele Daniels			12/05/2024	

CITY COUNCIL REGULAR MEETING
Tuesday, December 10, 2024 6:00 P.M.
Brewer City Hall Council Chambers

- I. Call to Order** (Mayor Daniels)
- II. Roll Call** (City Clerk)
- III. Pledge of Allegiance to the Flag of the United States of America** (Mayor Daniels)
- A. Minutes of the November 19, 2024 Regular Meeting and Annual Meeting**
(Councilor Phanthay)
- B. Awards, Petitions and Public Comments**
 - 1. Swearing-In Ceremony Brewer Fire Department Captain, Richard Doughty
Brewer Fire Department Captain, Brandon Randall
 - 2. (2024-B055) RESOLVE Recognize Brewer High School Field Hockey Team for
Winning 2024 State of Maine Class A North Regional
Championship. (Councilor O'Halloran)
 - 3. City Manager's Report
 - 4. Public Comments
- C. Consent Calendar**
 - 1. (2024-A210) ORDER Award contract for road reconstruction, paving and
stormwater work on Pleasant Street, Central Avenue and
Glenwood Avenue. (Councilor Kimball)
 - 2. (2024-A211) ORDER Waive foreclosure of certain mobile home properties
located in Brewer, Maine. (Councilor Morin)
 - 3. (2024-A212) ORDER Commit water assessment to Treasurer for collection.
(Councilor Phanthay)
 - 4. (2024-A213) ORDER Commit sewer assessment to Treasurer for collection.
(Councilor O'Halloran)
 - 5. (2024-A214) ORDER Authorize derooting of sewer collection system.
(Councilor Kimball)
 - 6. (2024-A215) ORDER Authorize contract with Hawkeye Fiber for installation of
fiber optic cabling from Hayes Treatment Plant to pump
station. (Councilor Morin)
 - 7. (2024-A216) ORDER Authorize contract with Wright Pierce for construction
administration/oversight, termination panel design, and
panel building for fiber optic installation from plant to
pump station. (Councilor Phanthay)
 - 8. (2024-A217) ORDER Authorize extended Landfill hours for compost, brush,
metals and non-freon containing appliances.
(Councilor O'Halloran)
 - 9. (2024-A218) ORDER Authorize purchase of replacement dump truck/plow for
Public Works. (Councilor Kimball)
 - 10. (2024-A219) ORDER Authorize City Manager to enter into a contract for animal
control services. (Councilor Morin)

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- 11. (2024-A220) ORDER Accept conveyance of 199 Wilson Street from the Brewer Historical Society to the City of Brewer.
(Councilor Phanthay)
- 12. (2024-A221) ORDER Accept Bureau of Highway Safety grants.
(Councilor O'Halloran)
- 13. (2024-A222) ORDER Authorize purchase of potassium permanganate pumps.
(Councilor Kimball and Councilor Morin)

D. Monthly Reports (Councilor Morin)

E. Nominations, Appointments, Elections

- 1. (2024-A223) ORDER Reappoint Registrar of Voters.
(Councilor Phanthay)

F. Unfinished Business

Consent Calendar

- 1. (2024-C016) ORDER Amend Chapter 36 of the Charter, Codes and Ordinances of the City of Brewer, entitled "Purchasing Ordinance", Article 3, entitled "Functions and Policies", to strengthen controls. (Councilor Daniels)
- 2. (2024-C017) ORDER Amend Chapter 24 of the Charter, Codes and Ordinances of the City of Brewer, entitled "Land Use Code", Article 3, "Zoning Districts", Sections 306 and 307, and Article 4, "Performance Standards", Section 413.
(Councilor O'Halloran)
- 3. (2024-C018) ORDER Create Chapter 53 of the Charter, Codes and Ordinances of the City of Brewer, entitled "City of Brewer Code of Ethics Ordinance. (Councilor Kimball)

G. New Business

- 1. (2024-C019) ORDER Amend Chapter 24 of the Charter, Codes and Ordinances of the City of Brewer, entitled "Land Use Code", Article 4, "Performance Standards", Section 445, and Article 14, "Definitions". (Councilor Kimball)
- 2. (2024-A224) ORDER Convene in executive session pursuant to Title 1, M.R.S.A. §405(6)(E) to consult with legal counsel regarding City Council rights and duties. (Councilor Morin)

H. New Items with Leave of Council

I. ADJOURN***

A. Minutes of the November 19, 2024 Regular Meeting and Annual Meeting

ACTION: Councilor Kimball moved that the minutes to the November 19, 2024 Regular Meeting and Annual Meeting be accepted and placed on file. Councilor Morin seconded the motion. The motion passed with a vote of 4 to 0.

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B. Awards, Petitions and Public Comments

**1. Swearing-In Ceremony Brewer Fire Department Captain, Richard Doughty
Brewer Fire Department Captain, Brandon Randall**

The city clerk swore in City of Brewer Fire Captain Richard Doughty and City of Brewer Fire Captain Brandon Randall. Councilor Morin presented Brewer Challenge Coins to Captain Doughty and Captain Randall.

2024-B055

December 12, 2024

TITLE: RESOLVE, RECOGNIZE BREWER HIGH SCHOOL FIELD HOCKEY TEAM FOR WINNING 2024 STATE OF MAINE CLASS-A NORTH REGIONAL CHAMPIONSHIP.

Filed December 2, 2024

By Dani O'Halloran

WHEREAS, the 2024 Brewer High School Field Hockey team completed their regular season with a record of 12-2 and was awarded the #2 seed for the State of Maine Class-A Field Hockey North Regional post-season playoff; and

WHEREAS, the team defeated the Camden Hills Windjammers 3 to 0 in the Class-A North Quarterfinals; and

WHEREAS, the team defeated the Messalonskee High Eagles 1 to 0 in the Class-A North Semifinals; and

WHEREAS, the team defeated the Skowhegan River Hawks 3 to 0 to become Class-A North Regional Champions, breaking Skowhegan's streak of 22 consecutive regional titles; and

WHEREAS, the team made its first ever appearance at the Maine Principals' Association State of Maine Class-A Field Hockey Championship game; and

WHEREAS, the Kennebec Valley Athletic Conference named Allie Flagg and Jordin Williams as 2024 Class-A First Team All-Conference honorees, and named Paige Oakes as 2024 Class-A Second Team All-Conference honoree; and

WHEREAS, the Kennebec Valley Athletic Conference named Allie Flagg, Lilly Goodwin, Maci Morneau, Paige Oakes and Jordin Williams as 2024 Class-A Academic All-Conference honorees; and

WHEREAS, the Kennebec Valley Athletic Conference named Coach Jamie Emerson as 2024 Class-A Field Hockey Coach of the Year; and

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WHEREAS, the Maine Field Hockey Association named Abbie Derosier, Allie Flagg and Jordin Williams as 2024 All-State honorees.

NOW, THEREFORE, BE IT RESOLVED, that the Brewer City Council on behalf of the Citizens of the City of Brewer, Maine, herewith recognizes and congratulates the 2024 Brewer High School Field Hockey team for earning the Class-A State of Maine North Regional Championship and carrying on the tradition of Brewer excellence; and

BE IT FURTHER RESOLVED, that the Brewer City Council congratulates the following athletes, coaches, and support staff on their outstanding achievement:

Seniors: Lilly Goodwin, Maci Morneau, Paige Oakes, Team Captain Allie Flagg, Team Captain Isabella “Bella” Pierce and Team Captain Jordin Williams

Juniors: Abbie Derosier, Olivia Gilmore, Lydia Jordan, Isabelle Long, Delaney McDonough and Sayde Persaud

Sophomores: Ella Davis, Abbie Flagg, Alleia Richards and Syrina Zavala

Freshmen: Ali Adair, Elizabeth Burr, Alaina Michaud, Maeve Pelletier, Brooke Tower and Kori Woodman

Head Coach: Jamie Emerson

Assistant Coaches: Grace Brydges, Skip Estes and Jaiden Williams

Team Doctor: Dr. Patrick Healy

Athletic Director: David Utterback

ACTION: No motion was made on the resolve and through the Chair the Council considered it tabled until the next regular meeting

3. City Manager’s Report

Brewer City Manager Eric Glidden gave a report on the ongoing operations of the City Manager’s Office. The City Manager announced that the Wreaths Across America team had reached its goal of collecting funds for 394 wreaths to be laid on the graves of soldiers buried in Brewer, and that a ceremony for the event would be held Saturday, December 14. The City Manager reported that One-Hundred-and-Eighty-Thousand in funds were anticipated from the Federal Emergency Management Agency (FEMA) in response to the storm that struck the City on December 17, 2023. The City Manager gave an update on 499 Wilson Street, a City owned property slated for demolition, noting that the Public Works Department had been through the house and created an inventory of items of commercial value. The City Manager said that the Brewer Water Department had continued work following water main breaks in October, and that normal service had been restored for all but one address on temporary water, that address was expected to be restored to regular water service in the near future. The City Manager noted that the Water Department was continuing to investigate why the water mains failed.

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Public Comments

There were no public comments.

C. Consent Calendar

2024-A210

December 10, 2024

TITLE: ORDER, AWARD CONTRACT FOR ROAD RECONSTRUCTION, PAVING AND STORMWATER WORK ON PLEASANT STREET, CENTRAL AVENUE AND GLENWOOD AVENUE.

Filed November 22, 2024

By William Kimball

WHEREAS, in 2023, Pleasant Street, Central Avenue, and Glenwood Avenue, in Brewer, Maine, were identified as in need of significant roadway and drainage work prior to repaving; and

WHEREAS, given the scope and anticipated cost of the work, the project was slated to be accomplished in two phases: \$350,000 in the Fiscal Year 2025 (FY25) Capital Improvement Program (CIP) for Pleasant Street and the dead end of Central Avenue and another \$200,000 in the Fiscal Year 2026 (FY26) CIP for the rest of the work; and

WHEREAS, bids were solicited for the FY25 Phase I work, and nine competitive bids were received (see attached bid summary); and

WHEREAS, the low bid received was from Hughes Bros, Inc., of Hampden, Maine, for \$159,366.70; and

WHEREAS, given the reasonableness of the bid price, a quote was requested from Hughes Bros. to complete the work necessary for Phase II on the remaining portion of Central Avenue and Glenwood Avenue as well as a much-needed plow truck turnaround for Public Works (see attached quote); and

WHEREAS, the total original bid plus the change order with contingency remains well below the amount budgeted for just Phase I of the project, and Hughes Bros has indicated their willingness to complete all of the work next year.

NOW, THEREFORE, BE IT ORDERED, that the City Manager of the City of Brewer, or his designee, is authorized to execute a contract with Hughes Bros, Inc. of Hampden, Maine in the amount of \$250,000 (bid amount plus approximately 15% contingency) for the Pleasant Street Reconstruction Project with change order to complete the repaving of Central Avenue and Glenwood Avenue and to construct a plow turn around; and

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BE IT FURTHER ORDERED, that the cost of this project shall be charged to CIP account 0510113-551651 (Pleasant Street Reconstruction); and

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

Statement of Fact: This order authorizes a construction contract with Hughes Bros., Inc. for the Pleasant Street Reconstruction Project for \$250,000 (bid amount, plus two change orders, plus contingency). Because the bid amount was significantly lower than anticipated, a quote was requested to complete the remaining work that was intended to be done as part of Phase II of this project at a later time. The bid, change orders, and recommended contingency are well below what was allocated for Phase I of this project in the FY25 CIP.

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Pleasant Street Reconstruction Project												
Bids Opened on 11/15/2024												
City of Brewer												
Bid Tabulation												
Bidder: Hughes Bros. Inc.												
Bidder: Wellman												
Bidder: RF Jordan												
Bidder: Atlantic Landscape Const.												
Bidder: Whitmore Contracting												
Bid Items	Quantity	Unit	Bid Price	Total	Bid Price	Total	Bid Price	Total	Bid Price	Total	Bid Price	Total
1. Bit. Pavement (19.0 mm)	220	Tons	\$129.30	\$28,446.00	\$130.00	\$28,600.00	\$135.00	\$29,700.00	\$125.00	\$27,500.00	\$160.00	\$35,200.00
2. Bit. Pavement (9.5mm (Fine))	130	Tons	\$140.00	\$18,200.00	\$140.00	\$18,200.00	\$145.00	\$18,850.00	\$125.00	\$16,250.00	\$180.00	\$23,400.00
3. Gravel	750	CY	\$37.82	\$28,365.00	\$35.80	\$26,850.00	\$38.00	\$28,500.00	\$35.50	\$26,625.00	\$45.00	\$33,750.00
4. Roadway Fabric	1500	SY	\$2.02	\$3,030.00	\$3.85	\$5,775.00	\$4.50	\$6,750.00	\$2.25	\$3,375.00	\$4.00	\$6,000.00
5. 15" HDPE Storm Drain	220	LF	\$72.75	\$16,005.00	\$116.90	\$25,718.00	\$90.00	\$19,800.00	\$30.00	\$6,600.00	\$70.00	\$15,400.00
6. 12" HDPE Storm/Under Drain	430	SY	\$60.59	\$26,053.70	\$119.19	\$51,251.70	\$72.00	\$30,960.00	\$32.00	\$13,840.00	\$60.00	\$25,800.00
7. 4" Diameter Catch Basin/Drain Mh	5	EA	\$4,109.00	\$20,545.00	\$1,656.00	\$8,280.00	\$1,824.00	\$9,120.00	\$326.00	\$1,630.00	\$5,800.00	\$12,000.00
8. Common Excavation	500	CY	\$20.46	\$10,230.00	\$18.24	\$9,120.00	\$30.00	\$15,000.00	\$17.50	\$8,750.00	\$24.00	\$12,000.00
9. Mobilization	1	LS	\$2,564.00	\$2,564.00	\$3,000.00	\$3,000.00	\$25,000.00	\$25,000.00	\$6,000.00	\$6,000.00	\$22,000.00	\$22,000.00
10. Traffic Control	1	LS	\$736.00	\$736.00	\$7,062.00	\$7,062.00	\$2,500.00	\$2,500.00	\$12,000.00	\$12,000.00	\$3,000.00	\$3,000.00
11. Erosion Control	1	LS	\$5,202.00	\$5,202.00	\$7,080.00	\$7,080.00	\$5,500.00	\$5,500.00	\$2,500.00	\$2,500.00	\$2,500.00	\$2,500.00
				\$159,366.70		\$190,936.70		\$195,310.00		\$199,530.00		\$208,050.00
12. Rock Excavation	1	CY	\$ 357.00		\$ 135.00		\$ 385.00		\$ 1,000.00		\$ 65.00	
13. Ledge Excavation	1	CY	\$ 375.00		\$ 447.60		\$ 385.00		\$ 1,000.00		\$ 175.00	
Bidder: Eastwood Contractors Inc.												
Bidder: Lou Silver Inc.												
Bidder: C&C Lynch Excavation												
Bidder: Facility and Const. Services												
Bid Items	Quantity	Unit	Bid Price	Total	Bid Price	Total	Bid Price	Total	Bid Price	Total	Bid Price	Total
1. Bit. Pavement (19.0 mm)	220	Tons	\$140.00	\$30,800.00	\$180.00	\$39,600.00	\$225.00	\$49,500.00	\$212.00	\$46,640.00	\$0.00	\$0.00
2. Bit. Pavement (9.5mm (Fine))	130	Tons	\$150.00	\$19,500.00	\$192.00	\$24,960.00	\$225.00	\$29,250.00	\$212.00	\$27,560.00	\$0.00	\$0.00
3. Gravel	750	CY	\$40.00	\$30,000.00	\$27.00	\$20,250.00	\$50.00	\$37,500.00	\$76.00	\$57,000.00	\$0.00	\$0.00
4. Roadway Fabric	1500	SY	\$3.00	\$4,500.00	\$3.00	\$4,500.00	\$7.50	\$11,250.00	\$2.96	\$4,440.00	\$0.00	\$0.00
5. 15" HDPE Storm Drain	220	LF	\$133.00	\$29,260.00	\$120.00	\$26,400.00	\$150.00	\$33,000.00	\$190.00	\$41,800.00	\$0.00	\$0.00
6. 12" HDPE Storm/Under Drain	430	SY	\$125.00	\$53,750.00	\$110.00	\$47,300.00	\$125.00	\$53,750.00	\$190.00	\$81,700.00	\$0.00	\$0.00
7. 4" Diameter Catch Basin/Drain Mh	5	EA	\$4,500.00	\$22,500.00	\$5,000.00	\$25,000.00	\$5,500.00	\$27,500.00	\$1,900.00	\$9,500.00	\$0.00	\$0.00
8. Common Excavation	500	CY	\$40.00	\$20,000.00	\$20.00	\$10,000.00	\$35.00	\$17,500.00	\$190.00	\$95,000.00	\$0.00	\$0.00
9. Mobilization	1	LS	\$6,000.00	\$6,000.00	\$5,000.00	\$5,000.00	\$13,000.00	\$13,000.00	\$4,500.00	\$4,500.00	\$0.00	\$0.00
10. Traffic Control	1	LS	\$3,500.00	\$3,500.00	\$16,000.00	\$16,000.00	\$10,000.00	\$10,000.00	\$7,500.00	\$7,500.00	\$0.00	\$0.00
11. Erosion Control	1	LS	\$4,000.00	\$4,000.00	\$6,000.00	\$6,000.00	\$1,500.00	\$1,500.00	\$5,000.00	\$5,000.00	\$0.00	\$0.00
				\$224,250.00		\$225,010.00		\$283,750.00		\$335,640.00		\$0.00
12. Rock Excavation	1	CY	\$ 450.00		\$ 200.00		\$ 500.00		\$ 750.00		\$ 250.00	
13. Ledge Excavation	1	CY	\$ 450.00		\$ 200.00		\$ 750.00		\$ 750.00		\$ 750.00	

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11/19/24

Jeremy Caron, P.E.
City Engineer
City of Brewer, Engineering Department
22 Greenpoint Road
Brewer, ME 04412

RE: Pleasant Street Reconstruction- CO #1 30'x 20' Turnaround on Pleasant Street/ CO #2 1" Mill and 1.5" Overlay on Glenwood and Central Avenue

Lump Sum \$6,971

Change Order #1 Turn Around

- Excavation-- \$1354
- 2" Type A --- \$1660
- 600 X Fabric-\$246
- Fine Grade-- \$691
- 10 Ton 19 MM Pavement--- \$1,398
- 6 Ton 9.5 MM Pavement---\$840
- Loam Seed and Mulch--- \$782

Lump Sum \$51,242

Change Order #2 Mill and Overlay

- 250 Ton 9.5 MM --- \$35,110
- 3000 SY 1" Milling --- \$12,032
- Additional Traffic Control-\$1,430
- Loam, Seed and Mulch --- \$2,670


Curtis Van Aken
Project Manager

Authorized Owner's Representative Approval:

Signature: _____

Print: _____

Date: _____

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2024-A211

December 10, 2024

TITLE: ORDER, WAIVE FORECLOSURE OF CERTAIN MOBILE HOME PROPERTIES LOCATED IN BREWER, MAINE.

Filed November 26, 2024
By Jenn M. Morin

WHEREAS, on June 30, 2023, after notices were provided in accordance with state law, the City of Brewer filed at the Penobscot Registry of Deeds liens against the mobile homes listed below for failure to pay Fiscal Year 2023 (FY23) real estate taxes in full; and

WHEREAS, FY23 taxes on these properties remain unpaid and the statutory foreclosure will take place on December 30, 2024; and

WHEREAS, it is not in the best interest of the City of Brewer to allow the foreclosure of said properties to take place because they all rest on rented land and foreclosure could possibly result in the City being liable for rents and/or other expenses due.

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Council herewith agrees to waive foreclosure on the properties listed below located in Brewer, Maine, for the 2023 tax year and authorizes the City Treasurer or her designee to sign statutory waivers of foreclosure and record them in Penobscot County Registry of Deeds; and

BE IT FURTHER ORDERED, that the Treasurer or her designee is authorized to take any and all other actions that may be necessary to carry out the terms and conditions of this order.

MAP & LOT	NAME	LOCATION
01000-02540	NADEAU SHARON E	25 BLACK BEAR ROAD
01000-02503	CRANE VICI-JO	7 WHITE TAIL ROAD
0180N-07109	DAIGNEAULT RICHARD & STEPHANIE	6 BALSAM DRIVE

Statement of Fact: This order waives automatic foreclosure on three mobile homes that still owe 2023 taxes because they are located on leased land. This action prevents the City from becoming liable for past due rent, utilities, and other costs related to these mobile homes' land leases. Waiving foreclosure does not preclude the City from seeking foreclosure on a property at some point in the future.

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2024-A212

December 10, 2024

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

Filed November 27, 2024
By Soubanh Phanthay

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 **\$813,996.34** 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
December 2024	\$808,100.92	
September 2024	\$1,543.22	
October 2024	\$2,861.55	
November 2024	\$1,490.65	
TOTAL	\$813,996.34	

Statement of Fact: This is a quarterly order.

2024-A213

December 10, 2024

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

Filed November 27, 2024
By Dani O'Halloran

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WHEREAS, under Chapter 31 of the Charter, Codes and Ordinances of the City of Brewer, entitled “Environmental Ordinance”, 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 **\$772,299.10** 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
December 2024	\$765,506.00	
September 2024	\$755.20	
October 2024	\$2,117.50	
November 2024	\$3,920.40	
TOTAL	\$772,299.10	

Statement of Fact: This is a quarterly order.

2024-A214

December 10, 2024

TITLE: ORDER, AUTHORIZE DEROOTING OF SEWER COLLECTION SYSTEM.

Filed December 2, 2024
By William Kimball

WHEREAS, the City of Brewer owns and maintains the sewer collection system; and

WHEREAS, tree roots penetrating the sewer collection system are a major obstacle in maintaining a freely flowing system vital for the conveyance of wastewater to the treatment plant; and

WHEREAS, the City of Brewer regularly removes roots when found, but for large areas slated for treatment, the City has contracted out this service for many years to Duke’s Roots; and

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WHEREAS, lines derooted by Duke’s carry a three-year warranty against root growth which keeps insurance costs low and several lines scheduled for flushing in the upcoming year have expiring warranties.

NOW, THEREFORE, BE IT ORDERED, that the City of Brewer, by vote of its City Council, authorizes the Department of Environmental Services to contract with Duke’s Roots, in an amount not to exceed \$20,000 (contracted price plus contingency), to be paid from the Sewer Line Materials and Supplies account (0818101-502700); and

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

Statement of Fact: The City of Brewer collection crew removes roots affecting the sewer collection system when they are found, but Duke’s Roots has been used to maintain larger amounts of pipe for many years.

2024-A215

December 10, 2024

TITLE: ORDER, AUTHORIZE CONTRACT WITH HAWKEYE FIBER FOR
INSTALLATION OF FIBER OPTIC CABLING FROM HAYES
TREATMENT PLANT TO PUMP STATION.

Filed December 3, 2024
By Jenn M. Morin

WHEREAS, the City of Brewer Water Department's communication system to the pump station was installed in 1996, and due to the age of the communication protocol, it is increasingly difficult to obtain hardware to replace failed components; and

WHEREAS, the communication system platform no longer meets communication and security needs of the pump station; and

WHEREAS, bids were solicited, received and evaluated for the installation of fiber optic cabling from the Hayes Treatment Plant to the pump station, and Hawkeye Fiber Optics, Inc., of Poland, Maine, provided the lowest bid; and

WHEREAS, the City of Brewer received American Rescue Plan Act (ARPA) funds for infrastructure projects, and \$100,000 was approved to address this issue as part of the Brewer Water Fiscal Year 2025 Capital Improvement Program.

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Council authorizes the City Manager, or his designee, to enter into a contract for the amount of \$47,883.60 with Hawkeye Fiber Optics for the installation of fiber optic cabling from the Hayes Treatment Plant to the pump station; and

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BE IT FURTHER ORDERED, that the City Council authorizes a contingency of up to \$3,000 to be used if necessary, during this project; and

BE IT FURTHER ORDERED, that costs associated with this work be charged to 0200001-520000-20615, titled Water Hatcase Fiber.

Statement of Fact: The pump station communication system is old and is failing to meet current industry standards. This order authorizes fiber installation, an upgrade that will improve controls between the ozone plant and pump station, and enhance security. Two bids were received for this project; this order accepts the lowest bid.

Contractor	Base Bid	Bid Alternate	Total base Bid + Alternate
Pine Ridge Technologies	\$41,110.00	\$19,777.00	\$60,888.00
Hawkeye Fiber Optics Inc.	\$32,074.91	\$15,808.69	\$47,883.60

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11 Bowdoin Mill Island, Suite 140
Topsham, ME 04086
Phone: 207.725.8721 | Fax: 207.729.8414
www.wright-pierce.com

November 26, 2024
W-P Project No. 21964A

Rodney Butler
Superintendent
Brewer Water Department
223 Greenpoint Road
Brewer, ME 04402

Subject: Raw Water Pump Station Fiber Optic Cable Installation Project
Bid Evaluation and Recommendation

Dear Rodney:

We have completed our review of the construction bids received by the Brewer Water Department (BWD) on November 21, 2024, at the BWD Office at 223 Greenpoint Road, Brewer, Maine for the Raw Water Pump Station Fiber Optic Cable Installation. The following is a summary of our evaluation.

Two bids were received and reviewed, and the base bids and bid alternate A (basis of award) ranged from \$47,883.60 to \$60,888.00. A tabulation of the bidding results is attached for reference. The engineer's estimate for this project was \$75,000. Hawkeye Fiber Optics, Inc. of Poland, Maine submitted the low bid of \$47,883.60. Our review of the bid indicates that Hawkeye Fiber Optics submitted all required documentation with their bid as stated in the Advertisement for Bids.

Wright-Pierce spoke to a representative of the Selectboard from Leeds, Maine, where Hawkeye recently completed a town wide fiber optic cable installation. They had no reservations recommending Hawkeye for the fiber optic installation and indicated they were professional and performed excellent installation work.

Based on the information we have reviewed, we are not aware of any reason why this contract should not be awarded to Hawkeye Fiber Optics, Inc., as the lowest responsive and responsible bidder. Please note that Wright-Pierce cannot make any guarantee that they will perform the work within budget and in accordance with the Contract Documents.

If you have any questions, please feel free to contact us.

Sincerely,

WRIGHT-PIERCE

A handwritten signature in blue ink that reads "Darrin D. Lary". The signature is written in a cursive style.

Darrin D. Lary, P.E.
Senior Project Manager
darrin.lary@wright-pierce.com
Enclosures

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2024-A216

December 10, 2024

TITLE: ORDER, AUTHORIZE CONTRACT WITH WRIGHT PIERCE FOR CONSTRUCTION ADMINISTRATION/OVERSIGHT, TERMINATION PANEL DESIGN, AND PANEL BUILDING FOR FIBER OPTIC INSTALLATION FROM PLANT TO PUMP STATION.

Filed December 3, 2024

By Soubanh Phanthay

WHEREAS, the City of Brewer Water Department's communication system to the pump station was installed in 1996, and due to the age of the communication protocol, it is increasingly difficult to obtain hardware to replace failed components; and

WHEREAS, the communication system platform no longer meets communication and security needs of the pump station; and

WHEREAS, engineering services are needed to properly design, bid, oversee, and administer the installation of fiber optic from the Hayes Treatment Plant to the pump station, and Wright Pierce Engineers of Topsham, Maine, is very experienced with the plant and its needs; and

WHEREAS, the City of Brewer received American Rescue Plan Act (ARPA) funds for infrastructure projects, and approximately \$100,000 was approved to address this issue as part of the Brewer Water Fiscal Year 2025 Capital Improvement Program, along with up to \$25,000 in water capital reserve funds should the total project cost exceed \$100,000.

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Council authorizes the City Manager, or his designee, to enter into a contract for the amount of \$42,100 with Wright Pierce Engineering for construction administration, pump station panel design, and panel build; and

BE IT FURTHER ORDERED, that the City Council authorizes a contingency of up to \$2,500 to be used if necessary, during this project; and

BE IT FURTHER ORDERED, that costs associated with this work be charged to 0200001-520000-20615, titled Water Hatcase Fiber; and

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

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Statement of Fact: The pump station communication system is old and is failing to meet current industry standards. Wright Pierce has designed and assisted with the development of the fiber optic cabling necessary to meet current and future requirements. This order authorizes the following:

1. **Construction Oversight:** Wright Pierce will provide oversight services, including answering technical questions, reviewing submittals, and conducting on-site inspections - \$7500
2. **Termination Panel Design:** This includes designing the termination panel for the fiber optic cable, which will convert the signal to Ethernet and replace current hardware - \$8000
3. **Panel Build at the Pump Station:** The designs will be implemented by the control's contractor, who will build, and test the panel at the pump station - \$26,600

This comprehensive approach ensures that the pump station's security and communication systems are upgraded to current standards, enhancing both functionality and reliability.

• FO cable design & bidding services (WP)	\$15,000 -completed
• FO cable construction (Hawkeye)	\$47,883 -separate order
• Construction Administration (WP)	\$7,500
• RIO panel design services (WP)	\$8,000
• RIO panel supply and fabrication (WP)	<u>\$26,600</u>
Total project budget Phase 1	\$104,983

2024-A218

December 10, 2024

TITLE: ORDER, AUTHORIZE PURCHASE OF REPLACEMENT DUMP TRUCK/PLOW FOR PUBLIC WORKS.

Filed December 3, 2024
By William Kimball

WHEREAS, bids were solicited, received and evaluated for the purchase of a 3-ton dump truck/snowplow to replace Public Works Unit #434, a 2015 International Work Star 7300 plow truck; and

WHEREAS, Allegiance Trucks of Bangor, Maine, has offered the City of Brewer the lowest price on a truck that best fits the City's needs; and

WHEREAS, given that the bids all came in below the approved budget, it is the recommendation of the Public Works Director to purchase carbide cutting edges rather than steel, which will add just over \$2,000 to the overall cost, but are expected to last four times as long.

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NOW, THEREFORE, BE IT ORDERED, that the Brewer City Manager, or his designee, is authorized to sign a purchase order to Allegiance Trucks, for an amount up to \$141,000 for the purchase of a 2025 Ford F-600 dump truck with plow/wing/sander body, carbide cutting edges and extended warranty; and

BE IT FURTHER ORDERED, that funds for this purchase shall be charged to CIP account 0510133-551653, titled #427 Ford F600 Dump Plow; and

BE IT FURTHER ORDERED, that the current Public Works Unit # 434, a 2015 International Work Star dump truck, with a plow and wing, (VIN 3HAWAAAR1FL731232), be declared surplus and released to Allegiance Trucks as a trade-in on this purchase once the new truck has been delivered to the City; and

BE IT FURTHER ORDERED, that the City Manager, or his designee be authorized to finalize the transfer of ownership on Unit #434 to Allegiance Trucks as part of this purchase.

Statement of Fact: This order authorizes purchase of a replacement dump/plow truck as approved in the Fiscal Year 2025 Capital Improvement Program budget, with the least productive dump/plow in the fleet being traded in to offset a portion of the cost. As shown in the bid results, Allegiance was not the lowest bidder; however, after careful review of the all aspects of the bids submitted, it was determined that the Ford F-600 bid would best suit the City's needs.

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3 CY 4X4 DUMP TRUCK / SNOW PLOW and WING BID CANVASS				
	Bid closed 1:00PM 11/22/2024 1:00PM			
#434	VENDOR			
1	Make: Chevrolet	O'Connor/Viking	Allgiance/Viking	Allgiance/HP
	Model: Silverado 5500, MD		Ford	Ford
	Year: 2025		F-600	F-600
2	Purchase Price: \$70,240.00		2025	2025
3	Trade-in Allowance: \$9,500.00		\$79,583.00	\$79,583.00
4	Price Less Trade-in: \$60,740.00		\$15,000.00	\$15,000.00
	Warranty: \$0.00		\$64,583.00	\$64,583.00
	Gear (Plow & Wing): \$70,280.00		\$3,900.00	\$3,900.00
5	Delivery *Chassis Only & Subject to change		\$70,280.00	\$93,269.50
		*Approx. 90 - 180 Days	*Feb.-Mar./2025	*Feb.-Mar./2025
	Total:	\$131,020.00	\$134,863.00	\$157,852.50
	Total w/Extended Warranty:	N/A	\$138,763.00	\$161,752.50
			\$138,780.00	\$140,780.00
			*Feb.-Mar./2025	*Feb.-Mar./2025

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2024-A219

December 10, 2024

TITLE: ORDER, AUTHORIZE CITY MANAGER TO ENTER INTO A CONTRACT
FOR ANIMAL CONTROL SERVICES.

Filed December 3, 2024

By Jenn M. Morin

WHEREAS, Maine law requires each municipality to appoint one or more animal control officers to enforce animal control laws and protect the public from unsafe animals (Title 7 M.R.S.A., §3947 Animal Control Officers); and

WHEREAS, the City of Brewer requires the services of a qualified and certified Animal Control Officer (ACO) to enforce animal control laws and ordinances within the City and the State of Maine; and

WHEREAS, the duties of the ACO include responding to complaints, capturing and transporting animals, maintaining records of animal-related incidents, and providing essential public education on animal welfare and ordinances; and

WHEREAS, since Fiscal Year 2021, Brewer's animal control services have been performed by a Brewer police officer (most recently Detective Lutz), however, due to changes in assignments, there is no longer any officer able to provide these services; and

WHEREAS, the City has determined that contracting for these services at a cost of up to \$20,000 per year is in the best interest of the City and will provide effective and reliable animal control services for Brewer residents; and

WHEREAS, the City Council finds it necessary and proper to delegate authority to the City Manager to enter into a contract with a certified and qualified individual to serve as the Animal Control Officer, pursuant to the terms outlined in the contract.

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Council hereby authorizes the City Manager to seek bids for and enter into a one-year contract with an individual who is certified as an Animal Control Officer in the State of Maine, or is able to become certified within 6 months, for the provision of animal control services for up to \$20,000 as outlined in the attached scope of work; and

BE IT FURTHER ORDERED, that, to fund this new contractual expense, the City Council hereby authorizes the appropriation and expenditure of up to \$20,000 from the Animal Control Contracted Services account (0116301-501040) to be funded by unanticipated revenue in the Interest Earnings from account (0105504-300400).

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Statement of Fact: The City of Brewer requires the services of an Animal Control Officer (ACO) to enforce both State and City animal control laws, ensuring public safety and animal welfare. The ACO's responsibilities are included in the attached scope of work (contractually referred to as Exhibit A). This order authorizes the City Manager to enter into a contract not to exceed \$20,000 with a certified Animal Control Officer for a term of one year. The ACO will provide their own vehicle, supplies, and equipment as required for the role. This approach allows the City to ensure consistent and professional animal control services while controlling costs through a yearly fixed fee contract.

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Exhibit A

**Scope of Work
ANIMAL CONTROL OFFICER
City of Brewer**

Date: December 10, 2024

PRIMARY WORK PERFORMED

This contracted position is responsible for enforcement of City of Brewer and State of Maine animal control laws and ordinances. Activities include responding to complaints, conducting patrols, and the capture and transportation of domesticated animals, as required. Work involves contact with the public and contact with potentially dangerous animals in a variety of situations.

The Animal Control Officer is appointed by the Brewer City Council. Contract performance is overseen by the Brewer Public Safety Director or his designee.

ESSENTIAL DUTIES AND RESPONSIBILITIES:

- Enforces all animal welfare laws of the State of Maine and the Animal Control Ordinance of the City of Brewer.
- Transports hurt, stray or sick animals to designated facilities when necessary. All transfer of animals must be reported to the Brewer Public Safety Director or his designee.
- Maintains a detailed call log of all calls and complaints.
- Work involves possible contact with potentially dangerous animals.
- Responds to citizen complaints regarding animal ordinances.
- Provides accurate information on ordinances and impoundment procedures to the community.
- Conducts public education programs.
- Ability to deal courteously with the general public
- Completes activity records and reports. On a yearly basis, completes municipal warrants for unlicensed dogs according to State requirements.
- Maintains the positive working relationship with the Bangor Humane Society.
- Maintains all related equipment necessary to perform duties.
- Investigates violations of State cruelty to animals' laws.
- Testifies in court regarding ordinance violations.
- Handles suspected rabies cases in accordance with State law.
- The Animal Control Officer is on call 24 hours per day, 7 days per week.
- Performs related work, as required.

TRAINING AND EXPERIENCE REQUIRED:

- Must be certified, or able to become certified within six months of employment, as an animal control officer in the State of Maine.
- Must maintain State of Maine ACO Certification throughout employment.
- Background in animal care and handling; graduation from high school; or any equivalent combination of experience and training.

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SPECIAL REQUIREMENTS:

- Must possess valid State of Maine driver's license.
- Must have and maintain a good driving record.
- Must provide their own transportation.
- Must be accessible via email and/or cell phone.
- Must be authorized to work in the United States.
- Must possess equipment and supplies necessary to safely handle, control, trap, and transport animals of various sizes.
- Must not have been convicted of murder, a Class A or Class B offense or a violation of MRSA Title 17-A, chapter 9, 11, 12 or 13 or have been convicted of a criminal violation under Title 17, chapter 42 or been adjudicated of a civil violation for cruelty to animals under chapter 739.

SELECTION GUIDELINES:

Selection of the preferred contractor shall be based on a combination of contract price, experience, and references, each weighted equally.

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2024-A220

December 10, 2024

TITLE: ORDER, ACCEPT CONVEYANCE OF 199 WILSON STREET FROM THE
BREWER HISTORICAL SOCIETY TO THE CITY OF BREWER.

Filed December 4, 2024
By Soubanh Phanthay

WHEREAS, in 2024 the Brewer Historical Society voted to cease operations; and

WHEREAS, it is the wish of the Brewer Historical Society to convey to its property located at 199 Wilson Street in Brewer, Maine, to the City of Brewer as a free and unconditional gift.

NOW, THEREFORE, BE IT ORDERED, that the City of Brewer, by vote of its City Council, herewith accepts title to the property located at 199 Wilson Street in Brewer, Maine, Tax Map 29, Lot 24, and authorizes the City Manager, or his designee, to take any and all actions and sign any and all documents necessary to effectuate the transfer; and

BE IT FURTHER ORDERED, that the City of Brewer also accepts all personal property at 199 Wilson Street, and declares all such personal property surplus, and authorizes the City Manager to dispose of surplus property in a manner that is in the best interests of the citizens of the City of Brewer; and

BE IT FURTHER ORDERED, that the City shall record the executed Quitclaim Deed in the Penobscot County Registry of Deeds.

Statement of Fact: This order accepts the gift of the property located at 199 Wilson Street, the former location of the Brewer Historical Society, from the Brewer Historical Society. The Brewer Historical Society voted to cease operations earlier this year.

QUITCLAIM DEED

BREWER HISTORICAL SOCIETY, a Maine nonprofit corporation with a place of business in Brewer, Maine, as a free and unconditional gift, grants to the **CITY OF BREWER**, a Maine municipal corporation with a place of business in Brewer, Maine, with a mailing address of 80 N. Main Street, Brewer, ME 04412, all of its right, title, and interest in and to that certain real property located at 199 Wilson Street in **Brewer**, Penobscot County, Maine, said real property being more particularly described in the deed from Eleanor C. Snow to Brewer Historical Society, dated March 1, 1982, and recorded in the Penobscot County Registry of Deeds in Book 3264, Page 330, the description therein being incorporated herein by reference.

IN WITNESS WHEREOF, the undersigned representative of Brewer Historical Society, duly authorized, has hereunto set their hand and seal in their said capacity as of this _____ day of _____, 2024.

BREWER HISTORICAL SOCIETY

By: _____
Name:
Title:

STATE OF MAINE

Penobscot County _____, 2024

Personally appeared the above named _____, _____ of Brewer Historical Society and acknowledged before me the foregoing instrument be their free act and deed in their said capacity and the free act and deed of said nonprofit corporation.

Notary Public/Attorney at Law

Print or Type Name as Signed

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2024-A221

December 10, 2024

TITLE: ORDER, ACCEPT BUREAU OF HIGHWAY SAFETY GRANTS.

Filed December 4, 2024
By Dani O'Halloran

WHEREAS, the Brewer Police Department has received three grants from the Bureau of Highway Safety totaling \$29,249.84 for: 2025 Impaired Driving Enforcement; 2025 Speed Enforcement; and 2025 Seat Belt (Click It or Ticket) Enforcement; and

WHEREAS, the funds will be used to pay for the overtime costs of officers assigned to specific enforcement details and require no local match.

NOW, THEREFORE, BE IT ORDERED, that the City Council herewith authorizes the receipt and deposit of these funds into the following accounts:

- 0600058-360000-58071 Bureau of Hwy Safety Grant Revenue – Impaired Driving Enforcement
 - 0600058-360000-58070 Bureau of Hwy Safety Grant Revenue – Speed Enforcement
 - 0600058-360000-58072 Bureau of Hwy Safety Grant Revenue – OP HVE CIOT Enforcement
- ; and

BE IT FURTHER ORDERED, that the City Council herewith authorizes the appropriation and expenditure of these funds from the following accounts:

- 0600058-560000-58071 Bureau of Hwy Safety Grant Expense – Impaired Driving Enforcement
- 0600058-560000-58070 Bureau of Hwy Safety Grant Expense – Speed Enforcement
- 0600058-560000-58072 Bureau of Hwy Safety Grant Expense – OP HVE CIOT Enforcement

Statement of Fact: The City of Brewer Police Department received \$29,249.84 in grants for enforcement details. These funds will be used to cover overtime expenses for officers assigned to details.

\$9,849.84	2025 Impaired Driving Enforcement
\$9,700.00	2025 Speed Enforcement
\$9,700.00	2025 OP HVE CIOT & Sustained Enforcement

2024-A222

December 10, 2024

TITLE: ORDER, AUTHORIZE PURCHASE OF POTASSIUM PERMANGANATE PUMPS.

Filed December 5, 2024
By William Kimball and
Jenn M. Morin

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WHEREAS, the Brewer Water Pollution Control Facility (WPCF) has two 30-year-old LMI brand pumps that have far exceeded their useful lives and are in need of replacement; and

WHEREAS, these peristaltic pumps are necessary to, among other things, add potassium permanganate to wastewater sludge, which is a requirement of the City of Brewer's sludge disposal agreement with the Town of Hartland; and

WHEREAS, the WPCF was able to secure a discounted price for the replacement pumps from Sullivan Associates of East Boothbay, Maine, saving over \$4,000 with free shipping.

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 for \$14,000 with Sullivan Associates for two peristaltic pumps for the WPCF; and

BE IT FURTHER ORDERED, that this purchase be charged to the Sewer Plant Equipment Maintenance and Repair account (0817702-504100); and

BE IT FURTHER ORDERED, that the City Council of the City of Brewer herewith exercises its authority under Section 404 of the City's Purchasing Ordinance, Chapter 36 of the Charter, Codes and Ordinances of the City of Brewer in the purchase of this equipment.

Statement of Fact: The order authorizes the expenditure of \$14,000 to purchase two pumps for the Water Pollution Control Facility. These pumps replace 30-year-old models and are used to insert a chemical additive to the process that lessens the odors associated with biosolids.

ACTION: Councilor Morin asked that Order 2024-A217 be removed from the consent calendar. Councilor Kimball moved that the remaining orders on the consent calendar have passage. Councilor O'Halloran seconded the motion. The motion passed with a vote of 4 to 0.

2024-A217

December 10, 2024

TITLE: ORDER, AUTHORIZE EXTENDED LANDFILL HOURS FOR COMPOST,
BRUSH, METALS AND NON-FREON CONTAINING APPLIANCES.

Filed December 3, 2024

By Dani O'Halloran

WHEREAS, the City of Brewer seeks to enhance waste management services for its residents by extending the operating hours of the Brewer Landfill; and

WHEREAS, extended hours will allow the landfill to accept compost, brush, metals, and non-freon containing appliances on Tuesdays and Fridays from 7:30 a.m. to 3:00 p.m. during the months of March through November; and

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WHEREAS, this extension will provide residents with greater access and convenience for disposing of acceptable materials, contributing to improved sustainability and waste management practices.

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Council hereby authorizes the extension of landfill operational hours as follows:

- Tuesdays: 7:30 a.m. to 3:00 p.m.
- Fridays: 7:30 a.m. to 3:00 p.m.
- These expanded hours will be in effect for the months of March through November annually
- After extreme weather events at the discretion of the Public Works Director. In such instances, the hours of operation will be advertised accordingly to the public; and

BE IT FURTHER ORDERED, that the City Manager is authorized to implement this change, provide appropriate public notification, and make necessary adjustments to staffing and operations to accommodate the extended hours; and

BE IT FURTHER ORDERED, that the City Manager provide periodic updates to the City Council on the usage and effectiveness of these expanded hours to assess their impact on residents and operations.

Statement of Fact: This order will extend the Brewer Landfill’s operating hours to include Tuesdays and Fridays from 7:30 a.m. to 3:00 p.m. during the months of March through November. This change will enhance convenience, promote proper waste disposal, and support the City’s sustainability efforts, accommodating seasonal demand and ensuring the landfill remains accessible for these specific materials.

Councilor Morin asked City of Brewer Public Works Director Dave Cote if there was a way to track how many residents took advantage of the extended hours, to ensure that it was the best use of manhours for the Public Works staff. The Public Works Director said that they would keep track of that information.

ACTION: Councilor O’Halloran moved that the order have passage. Councilor Kimball seconded the motion. The motion passed with a vote of 4 to 0.

D. Monthly Reports

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

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E. Nominations, Appointments, Elections

2024-A223

December 10, 2024

TITLE: ORDER, REAPPOINT REGISTRAR OF VOTERS.

Filed November 26, 2024

By Soubanh Phanthay

WHEREAS, Title 21-A M.R.S.A. §101(2) states that, “The municipal officers of each municipality shall appoint in writing a qualified registrar of voters by January 1st of each odd-numbered year.”

NOW, THEREFORE, BE IT ORDERED, that Vincent P. Migliore is herewith reappointed to the position of Registrar of Voters for the City of Brewer; and

BE IT FURTHER ORDERED, that Mr. Migliore’s term shall begin on January 1, 2025 and shall expire on December 31, 2026.

Statement of Fact: State election laws require that a Registrar of Voters be appointed each odd-numbered year.

ACTION: Councilor Morin moved that the order have passage. Councilor Kimball seconded the motion. The motion passed with a vote of 4 to 0.

**F. Unfinished Business
Consent Calendar**

2024-C016

November 19, 2024

TITLE: ORDER, AMEND CHAPTER 36 OF THE CHARTER, CODES AND ORDINANCES OF THE CITY OF BREWER, ENTITLED “PURCHASING ORDINANCE”, ARTICLE 3, ENTITLED “FUNCTIONS AND POLICIES”, TO STRENGTHEN CONTROLS.

Filed November 7, 2024

By Michele Daniels

WHEREAS, Chapter 36 of the Charter, Codes, and Ordinances, entitled “Purchasing Ordinance”, currently requires the City Manager “poll” the City Council for approval of purchases that fall between \$10,000 and \$15,000; and

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WHEREAS, the process of “polling” is difficult to document and, therefore, to verify compliance with after the fact; and

WHEREAS, best practice in purchasing internal control would be establish a bright line between the City Manager’s purchasing authority and that of the City Council such that each step can be documented and verified after the fact as needed.

NOW, THEREFORE, BE IT ORDAINED, by the Brewer City Council that Chapter 36, of the Charter, Codes and Ordinances of the City of Brewer, entitled “Purchasing Ordinance”, Article 3, entitled “Functions and Policies”, be amended as follows:

ARTICLE 3. FUNCTIONS AND POLICIES

SECTION 302.1.4 APPROVAL

No purchase of supplies or services exceeding Fifteen Thousand Dollars (\$15,000.00) shall be made without the written approval of the City Council. ~~For purchases over Ten Thousand Dollars (\$10,000.00) but less than Fifteen Thousand Dollars (\$15,000.00), the City Manager shall poll all members of the City Council for an approval by consensus.~~

SECTION 302.2.3 MINIMUM PURCHASE

Negotiations may be used for the purchase of supplies and services when the estimated cost does not exceed Fifteen Thousand Dollars (\$15,000.00). ~~For purchases over Ten Thousand Dollars (\$10,000.00) but less than Fifteen Thousand Dollars (\$15,000.00), the City Manager shall poll all members of the City Council for an approval consensus.~~

SECTION 302.3.3 PURCHASES ONE THOUSAND DOLLARS (\$1,000.00) TO FIFTEEN THOUSAND DOLLARS (\$15,000.00)

Negotiated purchases exceeding One Thousand Dollars (\$1,000.00), but not exceeding Fifteen Thousand Dollars (\$15,000.00) in value, must be approved by the City Manager prior to award. Approval requests will include a full statement justifying the award recommendation. ~~For purchases over Ten Thousand Dollars (\$10,000.00) but less than Fifteen Thousand Dollars (\$15,000.00), the City Manager shall poll all members of the City Council for an approval by consensus.~~

SECTION 302.3.4 PURCHASES EXCEEDING FIFTEEN THOUSAND DOLLARS (\$15,000.00)

Negotiated purchases exceeding Fifteen Thousand Dollars (\$15,000.00) or greater in value must be approved by the City Council prior to award. Request for such approval will be accompanied by a full statement of facts justifying the recommendation for award. ~~For purchases over Ten Thousand Dollars (\$10,000.00) but less than Fifteen Thousand Dollars (\$15,000.00), the City Manager shall poll~~

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~~all members of the City Council for an approval by consensus.~~

SECTION 302.3.5.7 EXCEPTION

These rules and procedures for employing engineers, architects, surveyors or other professions should not apply to those instances where (a) the City contracts for such services ~~of~~ in connection with the review of subdivisions or site plan reviews and where the applicant for the project has paid the City money for an escrow account to offset the City's costs for such services; (b) the cost of said services is expected to be less than Five Thousand Dollars (\$5,000.00) in any one occurrence (up to a maximum of Fifteen Thousand Dollars (\$15,000.00) in any given year); (c) when, in the judgment of the City Manager ~~and upon polling of the members of the City Council~~, a delay in securing such services through public announcement and/or bid solicitation will negatively impact the City, its services, or its ability to meet project requirements in a cost-effective and/or timely way.

Statement of Fact: This order amends the City’s Purchasing Ordinance to improve accountability and controls by removing the “polling” of the City Council for purchases between \$10,000-\$15,000 since the “polling” process is difficult to document and verify. In removing the polling requirement, the Purchasing Ordinance would ensure the following approvals for all purchases:

Approving Body	Approval Required	Approval Method
Department Head	All purchases	Signature or PO approval
City Manager	Purchases \$1,000 and over	Signature or PO approval
City Council	Purchases over \$15,000	Council vote

2024-C017

November 19, 2024

TITLE: ORDER, AMEND CHAPTER 24 OF THE CHARTER, CODES AND ORDINANCES OF THE CITY OF BREWER, ENTITLED “LAND USE CODE”, ARTICLE 3, “ZONING DISTRICTS”, SECTIONS 306 AND 307, AND ARTICLE 4, “PERFORMANCE STANDARDS”, SECTION 413.

Filed November 12, 2024
By Dani O’Halloran

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”, be changed by making the following amendments to Article 3, “Zoning Districts”, Sections 306 and 307, and Article 4, “Performance Standards”, Section 413:

ARTICLE 3 ZONING DISTRICTS

306.3 ACTIVITY CATEGORIES AND PURPOSES OF ZONING DISTRICTS

The purposes of the several zoning districts are as follows:

“General Business District” The purpose of this district is to provide for a variety of commercial uses, including highway oriented types. The area is intended to be the location for the communities major shopping facilities, including shopping centers. The standards of the district are intended to encourage developments which have controlled vehicular access. The basic utilization unit is one acre; ~~on~~ off lot water and sewer are required.

307 DIMENSIONAL REQUIREMENTS (#31)

307.1 SCHEDULE OF DIMENSIONAL REQUIREMENTS (#57)

All parcels of land, structures and uses shall meet or exceed the following minimum dimensional requirements. Non-conforming parcels of land cannot be created unless otherwise indicated in this ordinance. Letters adjacent to some dimensional requirements refer to notes at the end of the schedule which contain additional requirements. “N/A” shall mean “Not Allowed”.

307.2 USE OF ~~TRIANGULAR AREA LAND~~ ADJACENT TO INTERSECTIONS OF PUBLIC STREET CORNERS

The following provisions shall apply to the ~~triangular~~ area land adjacent to intersections of public street corners:

- ~~1. The location of regulated private land adjacent to public street corners shall be determined and the same as that described in the planting setbacks contained in Article 4 Section 426 of this Land Use Code. On residential properties, the triangle shall be located by measuring a line five (5) feet along each edge of the traveled ways and connecting the ends of the two lines that are farthest from the corner. On commercial properties, the triangle shall be located by measuring a line 10 (ten) feet along each edge of the traveled ways and connecting the ends of the two lines that are farthest from the corner.~~
2. All regulations contained in Article 4 Section 426 of this Land Use Code shall apply.
3. No structure, trees, or plantings shall be allowed within said area described in Section 307.4 above. ~~the triangular area if they interfere with or obstruct sight distance.~~
4. The provisions of this standard shall apply prospectively from the effective date of this Land Use Code.
5. The Code Enforcement Officer shall order the removal of any structure; tree or planting that interferes with or obstructs sight distance.
6. City signs and utilities shall be exempt from the provisions of this standard.

ARTICLE 4 PERFORMANCE STANDARDS

413 EXCAVATION, REMOVAL, AND FILLING AND GRADING OF LANDS (#4)

Any excavation, removal, filling, grading or depositing of inert fill as defined in M.R.S. Title 38 §1303-C within the City of Brewer shall meet the requirements of this Article. The use of land for the excavation, removal, filling, grading or depositing of inert fill as defined in M.R.S. Title 38 §1303-C not prohibited by law, is permitted in the districts set forth in this ordinance provided that such activity will not entail the following:

1. Increase runoff or cause flooding on property of others; or
2. Cause erosion or sedimentation; or
3. Alter any waters of the State, stream, watercourse, natural drainage way or wetland without first having obtained requisite State and/or Federal permits; ~~or~~
4. Cause disturbance to stormwater treatment measures or Shoreland Zoning setback buffers or disturb or alter any "sensitive area" identified by qualified professions which may include but not be limited to restricted buffers, waters of the State and Shoreland Zoning, protected natural resources, predevelopment drainage ways, and significant and essential wildlife habitats without first having obtained requisite City, State and/or Federal permit approvals.

413.1 APPROVAL REQUIRED

- A. Such excavation, removal and filling and grading shall be in accordance with a fill and grading plan, for approval ~~to~~ by the Planning Board. The City Engineer must approve the plan prior to the approval of the Planning Board. This regulation does not apply to normal soil removal for basement or foundation work when a building permit has previously been issued by the Code Enforcement Officer or filling or removal of material indicated on an approved site plan pursuant to Article 6 of this Land Use Code.
- B. ~~Filing Filling~~ or removal of fill material less than 200 cubic yards per property per calendar year shall not require an approved fill and grading plan when such filling and grading ~~does not encroach on any wetland areas~~ is incidental to, and in connection with, normal soil removal for swimming pool, basement or foundation work when a building permit has been issued by the Code Enforcement Officer or filling or removal of material indicated on an approved site plan pursuant to Article 6 of this Land Use Code and which does not involve activities listed under Section 413 above. However, all such filling or removal shall require written approval from the Code Enforcement Officer and City Engineer to be filed with the Code Enforcement Officer.

413.2 FILL AND GRADING PLAN (#37)

- A. The procedure for Planning Board review and approval of a fill and grading plan shall be the same as outlined in Article 6 of this Land Use Code ordinance ~~ordinance~~ for a minor site plan.
- B. Fees for a fill and grading plan shall be a non-refundable application fee set forth in the City Council adopted fee schedule, payable to the City of Brewer, plus the technical review/escrow account fee as defined in Article 6 of this ordinance for a minor site plan.

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The applicant is responsible for the legal notice fees for the required public hearing as set forth in the then current City Council adopted fee schedule.

C. The fill and grading submission shall contain the following:

1. Application form.
2. Demonstration of sufficient right, title or interest in the property. (see Section 606.1 of this Land Use Code ordinance for options).
3. A 24" x 36" fill and grading plan sheet drawn at a scale of not less than one (1) inch equals twenty feet, fifty (50) feet equals one (1) inch, showing:
 - a. existing and proposed grades, including at no more than two foot contour intervals with corresponding basis of elevation and who/how the contours were determined. If a Maine registered surveyor is not utilized to complete the contours, the plan shall include base point with elevation and several existing grade shots such that accuracy of information can be reviewed;
 - b. drainage and stormwater treatment areas;
 - c. existing site conditions and utility infrastructure (soils, vegetation, property lines, entrances and streets, flood areas, culverts, sewer manholes, catchbasins, water shut offs, gas shut offs, utility poles, buildings, wells, subsurface wastewater disposal systems, location of on-site and adjacent protected natural resources, public drinking water supplies, etc.);
 - d. location of sensitive areas on and within one-hundred (100) feet of the site including natural water resources and intermittent channels, significant and essential wildlife habitats, and natural areas and natural communities;
 - e. location of vegetated buffers not to be disturbed;
 - f. limits of disturbance including vegetation clearing and grading which shall be marked on the site and maintained throughout the project;
 - g. project schedule along with erosion control inspection frequency;
 - h. temporary and permanent erosion control measures meeting "Best Management Practices" including an erosion and sedimentation control plan in accordance with the standards and requirements of Chapter 500 defined in this Land Use Code; using 12 point items outline in Erosion and Sedimentation Control: Best Management Practices, published by the Maine Department of Environmental Protection, Bureau of Land and Water Quality, dated March 2003
 - i. Submittal of required information in accordance with Sections 440, 439.2 and 439.2.2 of this Land Use Code as applicable;
 - j. plus other data as may be required by the City Engineer, Code Enforcement Officer and/or City Planner;
 - k. Upon completion of all such excavation, removal and filling of lands, it shall be graded, loamed and seeded.
4. Demonstration that the items listed under Section 413 above will be met.

413.3 MINERAL EXTRACTION- REMOVAL OF FILL, GRAVEL, STONE, LOAM

In the districts set forth in this Land Use Code within the City of Brewer, provided that such operation will not have a significant detrimental effect on the use and peaceful enjoyment of abutting properties as a result of noise, vibrations, fumes, odor, dust, glare, air quality, or other cause and meets the requirements of this Land Use Code and Article, any operation

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within any twelve (12) month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed away from the extraction site shall not be permitted within ~~100 75~~ feet of any property line nor within 100 feet of any street right of way line. Areas within 100 feet of said lines shall be maintained as a natural uncut buffer and remain in stable condition. ~~without the written permission of the owner of such adjacent property~~

Statement of Fact: These amendments are proposed to make the ordinance current with State and Federal regulations and to be consistent with other local ordinances. The Planning Board held a public hearing on November 4, 2024 and unanimously made the recommendation to adopt these amendments to Chapter 24, “Land Use Code”, as written. There were no public comments.

2024-C018

November 19, 2024

TITLE: ORDER, CREATE CHAPTER 53 OF THE CHARTER, CODES AND ORDINANCES OF THE CITY OF BREWER, ENTITLED “CITY OF BREWER CODE OF ETHICS ORDINANCE”.

Filed November 12, 2024
By William Kimball

BE IT ORDAINED, by the Brewer City Council that Chapter 53, of the Charter, Codes and Ordinances of the City of Brewer, entitled “City of Brewer Code of Ethics Ordinance”, shall be adopted as follows:

CITY OF BREWER CODE OF ETHICS ORDINANCE

1. Declaration of Policy

The proper operation of the City of Brewer requires that all City Officials with executive decision-making authority, whether elected or appointed, be impartial, equitable and responsive to the needs of the people and each other in the performance of their respective functions and duties; that proper conduct by City officials be maintained to promote public confidence in the integrity of the City’s government; and that public office not be used for personal or financial gain or advantage. In recognition of these goals, a Code of Ethics is hereby established for City Officials (“Code” or “Ordinance”).

2. Definitions

BUSINESS - any corporation, partnership, individual, sole proprietorship, joint venture, or any other legal recognized entity organized for the purposes of making a profit.

CITY OFFICIAL - any individual who is an elected official or an appointed member of an executive board as defined herein.

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CENSURE - a judgment or resolution condemning a person for misconduct.

EXECUTIVE BOARDS - City Council, Board of Assessment Review, Planning Board, and Board of Appeals.

FINANCIAL INTEREST - a direct or indirect interest having monetary or pecuniary value, including, but not limited to, the ownership of shares of stock.

IMMEDIATE FAMILY – spouse, and children, parents, brothers and sisters.

PERSONAL INTEREST – any interest of a City Official acting in their private capacity as a resident, landowner, taxpayer, citizen, or member of the general public.

SPECIAL INTEREST – a direct or indirect interest having value peculiar to a certain individual or group, whether economic or otherwise, which value may accrue to such individual or group as a result of action or failure to act on the part of the City and which interest is not shared by the general public.

3. Purpose

The purpose of this Code is to establish ethical standards of conduct expected of all City Officials by setting forth those acts or actions deemed to be in conflict or incompatible, or that create the appearance of impropriety, with the best interests of the City of Brewer.

4. Statutory Standards

There are certain provisions of the general statutes of the State of Maine which should, while not set forth herein, be considered an integral part of this Ordinance. Accordingly, the provisions of the following sections of the general statutes of the State of Maine, as may be amended, are hereby incorporated by reference and made a part of this Code of Ethics, and shall apply to all City Officials of the City of Brewer whenever applicable as if more fully set forth therein, to wit:

17 MRSA § 3104 Conflicts of Interest; Purchases by the State

17-A MRSA § 456 Tampering with Public Records of Information

17-A MRSA § 602 Bribery in Official and Political Matters

17-A MRSA § 603 Improper Influence

17-A MRSA § 604 Improper Compensation for Past Action

17-A MRSA § 605 Improper Gifts to Public Servants

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17-A MRSA § 606 Improper Compensation for Services

17-A MRSA § 607 Purchase of Public Office

17-A MRSA § 608 Official Oppression

17-A MRSA § 609 Misuse of Information

17-A MRSA § 903 Misuse of Entrusted Property

21 MRSA § 533 Persons Ineligible to Serve as Election Officials

30-A MRSA § 2605 Conflicts of Interest

30-A MRSA § 5122 Interest of Public Officials, Trustees or Employees

5. Disclosure of Confidential Information

No City official shall, without authorization, disclose confidential information concerning the property, government or affairs of the City; nor shall they use such information to advance their financial, personal, or special interest of themselves or others. For purposes of this subsection, the term "confidential information" shall mean any information, oral or written, which comes to the attention of, or is available to, such City Official only because of their position with the City and is not a matter of public record. Without limiting the generality of the foregoing, information received and discussed during an executive session of the Brewer City Council called pursuant to 1 M.R.S. § 405 shall be considered within the constraints of this section and shall not be disclosed to any third party unless permitted by an affirmative vote of such body.

6. Contracts, Purchases and Employment

- A. No City Official shall participate directly by means of solicitation, deliberation, approval or disapproval, or recommendation, in the purchase of goods and services for the City, or in the award of any contracts with the City, where to their knowledge there is a financial, personal, or special interest other than that possessed by the public generally in such purchase or award, or held by:
 - i. that City Official or a member of their immediate family;
 - ii. a business in which that City Official or a member of their immediate family serves as an officer, director, trustee, partner or employee in a supervisory or management position; or

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- iii. any other person or business with whom or with which that City Official or a member of their immediate family does business, is negotiating to do business, or has an arrangement concerning future employment.

- B. No City Official shall participate, by means of deliberation, approval, disapproval, or recommendation, in the decision to hire, promote, discipline, lay off or to take any other personnel action in respect to any applicant for City employment or City employee, or vote for appointed positions, where said applicant, employee, or potential appointee is:
 - i. a member of their immediate family; or

 - ii. a person with whom either they or a member of their immediate family are in business.

7. Gifts and Favors

No City Official, shall accept any valuable gift, whether in the form of service, loan, thing or promise, from any person and/or business which to their knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the City; nor shall any City Official: accept any gift, favor or thing of value that tends to influence or could reasonably be expected to influence them in the performance of official duties or was intended as a reward for any official action. This does not prohibit:

- A. gifts or social courtesies related to a family relationship or friendship between the elected or appointed official and the donor, which are not designed to influence the proper judgment or action of the officer or employee in a matter within his authority;

- B. public, government-sponsored or informational events, generally accepted as a condition of office, where refreshments may be served, which are not designed to influence the proper judgment or action of the elected or appointed official in a matter within their authority;

- C. political contributions received in compliance with law;

- D. loans obtained according to commercial practice at the prevailing rate of interest;

- E. customary performance, merit awards or honorariums, consistent with municipal practices.

8. Use of City Property and Facilities

No City Official shall use or authorize others to use City-owned property, including but not limited to, motor vehicles, equipment and buildings except for the following:

- A. for City business;

- C. for purposes and on terms generally available to other persons that is properly authorized by the City;

9. Representing Third Party Interests Before City Agencies

No City Official shall either appear on behalf of any third-party interest before any City agency, or represent a third-party interest in any action, proceeding, or litigation in which the City or one of its agencies is a party. Nothing herein shall prohibit a City Official, on behalf of a constituent in the course of his or her duties as a representative of the electorate, or on behalf of their personal interest, from appearing before a City agency. No City Official shall appear on behalf of any third-party interest before a City agency of which he or she is a current member. Nothing herein shall prohibit a City official, on behalf of his or her personal interest, from appearing before any City agency including that of which he or she is a current member. A City Official who is employed or under retainer by a person having a matter pending before the agency of which the official is a member shall disclose that fact and shall abstain from participation in the matter. Participation includes but is not limited to discussion and/or voting on the matter.

10. Conflicts of Interest

No City Official shall, in such capacity, participate in the deliberation or vote, or otherwise take part in the decision-making process, on any agenda item before their collective body in which they or a member of their immediate family has a financial, personal, or special interest of a pecuniary nature, other than an interest held by the public generally.

11. Disclosure of Conflict

Any City Official who believes that they or a member of their immediate family has a financial, personal, or special interest of a pecuniary nature, other than an interest held by the public generally, in any agenda item before their collective body, shall disclose the nature and possible extent of such interest. The collective body will vote to determine if there is a conflict.

Any City Official who believes that any fellow City Official, or a member of their immediate family has a financial, personal, or special interest of a pecuniary nature, other than an interest held by the public generally, in any item before their collective body, shall disclose the possibility of such interest, and the City Clerk or their designee shall make a record of such disclosure, with a copy forwarded to the Chair of the appropriate Executive Board.

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Once the issue of conflict has been initiated relative to an individual City Official, and disclosure has been made as provided in Section 11(B), the Executive Board shall vote on whether or not such individual shall be excused from participating in the deliberation or vote. The member that is the subject of the disclosure shall not participate in the deliberation or voting on whether a conflict exists.

12. Avoidance of Appearance of Conflict

To avoid the appearance of a violation of this section, once any individual City Official is determined to have a conflict of interest in respect to any agenda item, said individual shall immediately remove themselves from the meeting room or to the area of the room occupied by the general public. They shall not return to their regular seat as a member of the body until deliberation and action on the item is completed. Nothing herein shall require an individual City Official to remove themselves for any item contained on a "Consent Agenda" on which there is no deliberation, the individual's conflict has been determined by the other members, and the right to abstain from voting on the item has been granted.

14. Personal Interest

Nothing herein shall be construed to prohibit any City official from representing his/her own personal interest by appearing before his/her collective body on any such agenda item.

15. Disclosure Statement by City Elected and Appointed Municipal Official

Within fifteen (15) days after each annual municipal election, every elected official shall file a completed disclosure form with the City Clerk with a copy forwarded to the Chair of the appropriate Executive Board and to the chair of the City Council. Within thirty (30) days after his/her appointment, every appointed official shall file a completed disclosure form with the City Clerk, with a copy forwarded to the Chair of the appropriate Executive Board. Each executive body is responsible for ensuring that members comply with the filing of a disclosure statement. An extension beyond the stated time frame for filing a disclosure statement may be approved with a majority vote of the appropriate executive body.

Each executive body will review the financial reports of its members. Should a conflict be discovered, a majority vote of the executive body can refer the matter to the Ethics Board for an opinion. Such disclosure forms shall be under oath and shall contain the following information to the best of the disclosing party's knowledge and belief:

- A. the name of each person or entity, whether incorporated or not, doing business with the City in an amount in excess of \$1,000 during the preceding calendar year from which such disclosing party or member of his/her immediate family has received money or other thing of value in an amount in excess of \$1,000 during the preceding calendar year;

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- B. the name of each entity, whether incorporated or not, doing business with the City in an amount in excess of \$1,000 for preceding calendar year in which such disclosing party or member of his/her immediate family has a financial interest in an amount in excess of \$1,000, including, but not limited to, the ownership of shares of stock;
- C. the name of each nonprofit and/or for profit entity, whether incorporated or not, for which such disclosing party or member of his/her immediate family holds a position of officer or member of any board. For each such entity, such disclosing party shall provide the following information:
- i. a brief description of the purpose of each board and/or office;
 - ii. a short summary of such disclosing party's or family member's duties relative to any such board and/or office;
 - iii. the term of service on each such board and/or office;
 - iv. whether or not such disclosing party or family member receives compensation for service on such board and/or office and the extent to which such compensation exceeds \$100 in the aggregate annually.

For purposes of this subsection "compensation" shall include, but not be limited to, monetary compensation, gifts, gratuities, perks, fringe benefits, services, and any other thing of value.

- D. Every City official shall amend his/her disclosure statement as may be required to ensure the continued accuracy thereof. Each such amendment shall be made within thirty (30) days following the occurrence which requires the amendment.
- E. For purposes of this Code, a list prepared by the Finance Director of those persons or entities doing business with the City in an amount in excess of \$1,000 for the preceding year shall be determinative for purposes of reporting under this section. Income from, and financial investments in, policies of insurance, and deposits in accounts from commercial or savings banks, savings and loan associations, or credit unions and the ownership of less than 5% of the outstanding shares of stock in a publicly held corporation shall not be considered to be a financial interest within the meaning of this section.

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16. Political Standards of Conduct

No City Official shall participate in any political activity which would be in conflict or incompatible with the performance of their official functions and duties for the City. No City Official may use his/her official authority or position for the purposes of influencing or interfering with or affecting the results of any election, nor shall they solicit funds or contributions or accept or receive funds or contributions from City employees for political purposes. No City Official may distribute pamphlets/handbills while he or she is performing their official functions and duties with the City. Notwithstanding the foregoing, nothing herein shall be construed to prohibit any City Official from participating in the political process in their capacity as private citizens.

17. Incompatible Office

No City Official shall occupy any other office, elected or appointed, in any other governmental entity, where the duties of such office are incompatible with the proper discharge of their official duties with the City. For purposes of this Code, the occupancy of any office, elected or appointed, with any other governmental entity by any municipal official is hereby prohibited in any one of the following circumstances:

- A. where the duties of the other office make it a physical impossibility to discharge the duties of the City position; or
- B. where one office is subordinate of the other; or
- C. where one office carries the power of removal of the other; or
- D. where the occupancy of both offices is otherwise prohibited by law.

18. Board of Ethics

- A. BOARD OF ETHICS ESTABLISHED - There is hereby created and established a Board of Ethics consisting of three (3) members who will be sworn in on appointment by the City Council.
- B. TERMS - All members shall be appointed for terms of three (3) years each. Each member shall serve until December 31st of the final year of their appointed term, subject to continuance in office for a period not to exceed six (6) months until a successor is appointed. All members must be residents of the City of Brewer. No member shall serve more than two (2) complete consecutive terms.
- C. OTHER OFFICES PROHIBITED - No member of the Board shall hold any other City office or position or be the member of any City Council appointed committees.

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- D. PROCEDURES AND RECORDS - The Board shall establish such rules as it may determine to be necessary to govern its procedures. In addition, the Board shall at all times maintain in the office of the City Clerk appropriate records of its opinions and proceedings subject to Maine's Freedom of Access Law. 1 M.R.S. § 400 et seq.
- E. DUTIES - The Board shall render advisory opinions to any of the Executive Boards regarding any provisions of this Code to any particular situation. In the performance of its duties, the Board shall limit its review and fact finding only to those issues referred to it by the respective Executive Board. The Board shall also perform such other duties as may be prescribed from time to time by the City Council.
- F. PROCEDURE - Any City Official seeking advice as to whether a particular situation constitutes a violation of this Code shall first submit a written statement describing the nature of the matter to the chairperson of the appropriate Executive Board. If a majority of the Executive Board votes that an advisory opinion is necessary, they may so vote and refer the matter in a written statement to the Ethics Board. If the Ethics Board finds any matter referred is based upon allegations it determines to be frivolous, unfounded or with malice, they shall so advise the appropriate Executive Board. It is the purpose and intent of this Code to provide a mechanism by which all such matters shall be investigated by the Ethics Board and reported to the appropriate executive body as a whole within sixty (60) days if its findings warrant further action. Upon written request to the appropriate Executive Board an extension can be obtained.
- G. ORIENTATION OF EXECUTIVE BOARD MEMBERS AND MUNICIPAL OFFICIALS – All Executive Board members are requested to attend an annual orientation meeting to be scheduled during the month of January of each calendar year or as can be reasonably scheduled. All City Officials are encouraged to attend an annual presentation given by the Board or its designee.
- H. DUTIES OF THE BOARD OF ETHICS - The Board shall meet as needed and, upon request, shall prepare and submit to the City Council an annual report outlining its actions during the preceding 12-month period.
- I. PUBLIC RELEASE OF FINDINGS OF NO WRONGDOING - In cases where the respective Executive Board finds the person accused has not committed any violations, they will be publicly cleared at the next regular meeting of the Executive Board.
- J. PENALTIES - In addition to any other penalties or remedies as may be provided by law, violation of this Code shall constitute cause for censure, after notice and hearing conducted by the applicable Executive Board.

19. SEPARABILITY

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such validity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of the Ordinance.

Statement of Fact: The City of Brewer Code of Ethics Ordinance has been created to establish a framework of ethical standards for all City officials. This Code outlines guidelines for conduct, conflict of interest, confidentiality, and transparency, ensuring that City officials act in the public’s best interest with integrity and accountability. The adoption of the Code of Ethics will help maintain public trust, foster consistency in decision-making, and protect the reputation of the City government. By adopting this Code, the City Council underscores its commitment to ethical governance and sets clear expectations for all officials serving the City of Brewer.

ACTION: Councilor O’Halloran moved that the amendments on the consent calendar be enacted. Councilor Kimball seconded the motion. The motion passed with a vote of 4 to 0.

G. New Business

2024-C019

December 10, 2024

TITLE: ORDER, AMEND CHAPTER 24 OF THE CHARTER, CODES AND ORDINANCES OF THE CITY OF BREWER, ENTITLED “LAND USE CODE”, ARTICLE 4, “PERFORMANCE STANDARDS”, SECTION 445, AND ARTICLE 14, “DEFINITIONS.

Filed December 3, 2024
By William Kimball

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 and Article 14:

Article 4 Performance Standards

445 ELECTRIC VEHICLE CHARGING INFRASTRUCTURE

445.1 This Section shall apply to areas of two (2) or more Level 2 and/or Level 3 electric vehicle chargers/charging stations and associated infrastructure including conduit/wiring, structures, machinery, and equipment necessary and integral to support an electric vehicle including electric vehicle battery chargers installed, constructed, or modified after the effective date of this Ordinance. Electric vehicle chargers, charging stations, and associated equipment and infrastructure shall conform to the following minimum requirements and shall be designed, built, installed and utilized in accordance with all applicable codes, regulations and standards.

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445.2 Definitions:

Level 2 charging: Provides charging through 240 Volts (in residential applications) or 208 Volts (in commercial applications).

Level 3 charging: Is also known as “Direct Current Fast Charging” (DCFC) and voltage is greater than 240 Volts.

EV-Capable parking space means a parking space which is provided with installed electrical panel capacity, dedicated branch circuit(s) and conduit (raceway) to support the future build out of EV charging.

EV-Ready parking space means a parking space which is provided with full circuit installations including electrical panel capacity with dedicated branch circuit(s), raceway, wiring, receptacle, and overcurrent protection devices to make a particular area able to accommodate an EV charger without the charger itself.

EV-Installed parking space means installed infrastructure including electrical panel capacity, with dedicated branch circuit(s) including conduit (raceway) and the fully operational EV charger itself including signage.

445.3 Regulations pertaining to all EVCs, EVCSs, equipment and infrastructure:

445.3.1 No electric vehicle charger (EVC), charging station (EVCS) or infrastructure shall be installed or operated within the City of Brewer except in compliance with this Article and all other local codes and ordinances;

445.3.2 All electric vehicle chargers, infrastructure, equipment and components shall be installed per standards of the latest edition of the National Fire Protection Association (NFPA) standards and National Electrical Code (NFPA 70) Article 625, NFPA 88A and this Article;

445.4 Standards.

445.4.1 Height.

- a) EV chargers, stations and associated components shall not exceed height regulations in this Land Use Code for the zoning district in which they are located.

445.4.2 Setbacks.

- a) EV chargers, stations and associated components shall meet the setbacks of the zoning district in which located and shall also meet other applicable Code setbacks when located within proximity to motor fueling facilities, property lines, buildings, structures, and hazardous installations, including but not limited to: transformers, oil tanks, flammable liquid storage, electrical panels, hazardous materials storage, and combustibles;
- b.) Additional setbacks and clearances may be required as determined by the City of Brewer Fire Chief, Code Enforcement Officer, City Engineer, City Planner, Environmental Services

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Director or their designees to ensure compliance with this Article and Land Use Code, the codes and ordinances of the City of Brewer, and/or to reduce risk of potential for hazards to persons, property, or the environment.

445.4.3 Parking.

- a.) EV charging parking spaces to be used solely for EV vehicle charging use shall meet or exceed the parking setbacks for the zoning district in which they are located and shall not be included in the calculation for both the number of minimum and maximum parking spaces required in this Land Use Code for the site development;
- b.) EV charging parking spaces defined in this Article designed for EV vehicle charging use but which do not contain restrictions of any type prohibiting the usage of such parking spaces by EV or internal combustion engine vehicles, may be included in the calculation for minimum and maximum parking space calculations required in this Land Use Code for the site development and shall meet or exceed parking setbacks for the zoning district in which they are located;
- c.) Where electric vehicle chargers and charging stations are provided in parking areas, accessible EV chargers/stations shall be provided in compliance with the Americans with Disabilities Act (ADA) and Architectural Barriers Act (ABA) and Section 508 of the Rehabilitation Act;
- d.) Charging of electric vehicles shall occur only on and within parking spaces which are designed and approved for such usage.

445.4.4 Design.

- a.) EV chargers and charging infrastructure shall be designed and installed to conform to all applicable industry standards and Nationally Recognized Testing Laboratories (NRTLs) such as Underwriters Laboratory (UL), Electrical Testing Laboratory (ETL), American Society for Testing and Materials (ASTM), Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), National Fire Protection Association (NFPA), National Electrical Code (NEC), National Highway Safety Transportation Administration (NHSTA), Society of Automotive Engineers (SAE), and/or similar certifying organizations and shall comply with the City of Brewer's Building Code, Life Safety Code, other applicable Codes and the codes and ordinances of the City of Brewer. Manufacturer specifications for components shall be submitted as part of the application, along with a statement that the project meets applicable electrical codes;
- b.) On-site design of EV charging spaces and associated infrastructure shall include, but is not limited to: adequate lighting, landscaping, equipment perimeter protection, regulatory and instructional signage to include contact information with telephone number for reporting when the equipment is not operating or other problems, emergency instruction signage conspicuously posted in the area of the EVCS, emergency shutoffs (E-stops) automatic is preferred or such manual shutoff shall be placed twenty (20) feet or greater from any EV

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charging dispenser, on-site installation of a fire blanket box containing an EV fire blanket and placed twenty (20) twenty feet or greater from any EVCS and accessible by the local fire department in event of fire, surge and lightning protection safety devices such as charge circuit interrupting devices (CCIDs) and/or ground fault circuit interrupters (GFCIs), safety labeling on EV charging stations and associated components, concrete and/or concrete-filled steel bollards for equipment protection, retractable cords and/or sufficient cord/cable management provided, tamper-proof switches or locking mechanisms to prevent risk of shock or vandalism, and when possible, implementation of advanced monitoring systems for early detection and response such as localized automatic sensor fire suppression systems and interoperability protocols containing diagnostics to report theft, vandalism, and risk of electric shock or fire;

c.) Such additional design components and/or information as required by the City of Brewer Fire Chief, Code Enforcement Officer, City Engineer and/or City Planner to ensure compliance with the terms of this Land Use Code, this Article, and the Codes and Ordinances of the City of Brewer.

445.5 Operation, Maintenance and Inspections.

a.) Regular operation, maintenance and inspections of EV chargers, charging stations, equipment, and associated infrastructure shall include but is not limited to: regular fixed wiring inspection, hardware & software updates and network connectivity, regular inspection of on-site EV fire blanket and fire blanket box and if EV fire blanket has been used or unusable shall be replaced immediately by the applicant/owner/successor/assigns at their cost, annual thermographic testing by a certified electrician, regular visual checks of cables and connectors for signs of wear and tear, regular testing of surge protection safety devices, and routine inspection, maintenance and repairs of dispensers and associated equipment, connectors, electronics, networking software, and all associated infrastructure. Only persons knowledgeable and qualified in performing the required maintenance, repairs, and inspections shall perform the work and all vehicles and unauthorized persons shall be prevented from entering the EVCS area during such time. It shall be the responsibility of the applicant, their successors, and assigns to ensure compliance with this section;

b.) The applicant, owner, successors and/or assigns of such EVCs, EVCSs, equipment, and infrastructure shall be responsible to ensure that repairs are promptly addressed in accordance with applicable local codes as well as Codes specified herein and are performed by persons experienced and appropriately certified and qualified to do so;

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ARTICLE 14 DEFINITIONS

Accessory Dwelling Unit (ADU) An accessory dwelling unit (ADU) is a ~~secondary~~ self-contained dwelling unit located within, attached to or detached from a single-family dwelling unit located on the same lot as the principal single-family dwelling and meets minimum square footage requirements in accordance with the Technical Building Code and Standards Board, under Title 10 M.R.S. §9722 as may be amended from time to time and does not exceed (450) four hundred fifty square feet. An accessory dwelling unit (ADU) is incidental and subordinate to the principal single-family dwelling.

Automobile Graveyard: A yard, field or other area used to store three (3) or more unregistered or uninspected motor vehicles, unserviceable, discarded, worn-out or junked motor vehicles as defined in 29-A MRSA § 101, subsection 42, or parts of such vehicles. "Automobile graveyard" does not include any area for temporary storage by an establishment or place of business that is primarily engaged in doing auto body repair work to make repairs to render a motor vehicle serviceable. "Automobile graveyard" does include an area used for automobile dismantling, salvage and recycling operations.

Statement of Fact: These ordinance amendments are proposed to include regulations on electric vehicle charging infrastructure and to clarify definitions. The Planning Board held a public hearing on December 2, 2024 and unanimously made the recommendation to adopt these amendments to Chapter 24, " Land Use Code", as written. There were no public comments.

ACTION: Councilor Kimball moved that the amendment be certified and filed with the city clerk for posting. Councilor Morin seconded the motion. The motion passed with a vote of 4 to 0.

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TITLE: ORDER, CONVENE IN EXECUTIVE SESSION PURSUANT TO TITLE 1,
M.R.S.A. §405(6)(E) TO CONSULT WITH LEGAL COUNSEL
REGARDING CITY COUNCIL RIGHTS AND DUTIES.

Filed December 2, 2024
By Jenn M. Morin

BE IT ORDERED, that the Brewer City Council convene in executive session pursuant to Title 1, Maine Revised Statutes Annotated, §405(6)(E) to meet with consult counsel regarding City Council rights and duties.

ACTION: Councilor Morin moved that the order have passage. Councilor Kimball seconded the motion. The motion passed with a vote of 4 to 0. Mayor Daniels said that the Council would recess to go into executive session and then reconvene to close the meeting.

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

Councilor Phanthay-absent
Councilor Kimball-present
Mayor Daniels-present

Councilor O'Halloran-present
Councilor Morin-present

Mayor Daniels declared that a quorum was present. City Manager Eric Glidden and City Solicitor Johnathan Pottle were also present.

H. New Items with Leave of Council

There were no new items with leave of Council.

I. ADJOURN

ACTION: Mayor Daniels declared the meeting adjourned unless doubted. The meeting was adjourned at 7:20 P.M.

ADJOURNED, ATTEST: _____ Vincent P. Migliore
City Clerk

A TRUE COPY, ATTEST: _____ Brewer, Maine