

City Council Minutes  
Special Meeting, Friday, September 26, 2025

Special Meeting  
City Hall Council Chambers

Friday, September 26, 2025  
11:00 a.m.

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

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

Councilor O'Halloran-present  
Councilor Morin-present

Mayor Daniels declared that a quorum was present. Assistant City Manager Jason Moffitt 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 **special meeting** of the City Council of the City of Brewer will be held on **Friday, September 26, 2025 beginning at 11:00 a.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			09/24/2025	
Dani O'Halloran			09/24/2025	
William Kimball			09/24/2025	
Jenn M. Morin			09/24/2025	
Michele Daniels			09/24/2025	

\*\*\*

City Council Minutes  
Special Meeting, Friday, September 26, 2025

**CITY COUNCIL SPECIAL MEETING**  
**Friday, September 26, 2025, 11:00 A.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** (none)
  - B. Awards, Petitions and Public Comments** (none)
  - C. Consent Calendar** (none)
  - D. Monthly Reports** (none)
  - E. Nominations, Appointments, Elections** (none)
  - F. Unfinished Business**
    - 1. Discussion Discussion and adoption of decision regarding appeal of deemed denial of Elevate Child Care Center's City of Brewer Day Care Provider License application.
  - G. New Business** (none)
  - H. New Items with Leave of Council**
  - I. ADJOURN**
- \*\*\*

**A. Minutes**

There were no meeting minutes.  
\*\*\*

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

There were no awards, petitions, or public comments.  
\*\*\*

**C. Consent Calendar**

There was no consent calendar.  
\*\*\*

**D. Monthly Reports**

There were no monthly reports.  
\*\*\*

City Council Minutes  
Special Meeting, Friday, September 26, 2025

**E. Nominations, Appointments, Elections**

There were no nominations, appointments or elections.

\*\*\*

**F. Unfinished Business**

1. Discussion Discussion and adoption of decision regarding appeal of deemed denial of Elevate Child Care Center's City of Brewer Day Care Provider License application.

The Council continued their deliberations on the matter of the appeal of Elevate Child Care Center's deemed denial of its City of Brewer Day Care Provider License application. The City Solicitor presented for the Council's consideration a draft decision based on the hearing conducted earlier in the week. The City Solicitor noted that the City had received an email from the owner of Elevate Child Care Center indicating that Friday, September 26 would be the final day of operation for the business, rendering previous consideration of a possible transition period moot.

## **NOTICE OF DECISION** **BREWER CITY COUNCIL**

### ***In re: Appeal of Elevate Childcare Center LLC of Deemed Denial of City of Brewer License***

#### **INTRODUCTION**

This Notice of Decision concerns an appeal of Elevate Childcare Center LLC ("Elevate") of a deemed denial regarding its application for a City of Brewer Child Care Center License.

#### **PROCEDURAL HISTORY, SUBJECT MATTER JURISDICTION, STANDING, AND STANDARD OF REVIEW**

Elevate filed a license application with the Brewer City Clerk for a Child Care Center License pursuant to Chapter 20 of the Brewer Codes and Ordinances. The Brewer City Clerk received an unfavorable recommendation from the Brewer Public Safety Director regarding Elevate's application. Sixty days then expired rendering Elevate's application as a deemed denial. Thereafter, Elevate was notified by letter dated August 29, 2025, of the deemed denial and unfavorable recommendation together with notice of appeal rights. Elevate then filed a timely appeal to challenge the deemed denial dated September 11, 2025.

**City Council Minutes**  
**Special Meeting, Friday, September 26, 2025**

With consent from Elevate on scheduling a hearing date, the City Council scheduled and convened a meeting to conduct a hearing on Elevate's appeal on September 23, 2025. At the September 23 hearing, and as an initial preliminary matter, it was determined no member of the City Council had a conflict of interest or bias to participate and make a decision on Elevate's appeal. Elevate was provided an opportunity and did not raise any conflict of interest or bias issues. The City Council then determined Elevate filed a timely appeal, had standing, and that the Council had subject matter jurisdiction on the appeal. The City Council also determined it was a de novo proceeding.

**APPEAL RECORD**

The record of the appeal consists of:

- City Clerk's letter to Elevate regarding deemed denial
- Memorandum from Brewer Public Safety Director with unfavorable recommendation
- Elevate Appeal application to the Brewer City Council
- Testimony and argument of Sara Grant, owner of Elevate
- Testimony and Argument of Brewer Public Safety Director Chris Martin
- Testimony and Argument of Detective Gauvin
- Testimony and Argument of Michelle Harmon
- Testimony and Argument of Sandra Simpson
- Testimony and Argument of Kristen Boucher, with assistance of Betsey Grant
- Comments from unidentified members of the public
- Written statements from
  - Michelle Harmon
  - Kristen Boucher
  - Leane Cyr (submitted by Sandra Simpson)
- Elevate Message via Procure regarding April 2, 2025 Incident
- Brewer Police Department Investigation Timeline
- Letter from DHHS Investigator Smith to Boucher Parents dated July 29, 2025
- July 2022 DHHS Plan of Action
- Chapter 20 of the Brewer Codes and Ordinances
- Recordings of the September 23 and 26, 2025 Council meetings, which include the Elevate proceeding
- Email correspondence from Sara Grant to Brewer City Council dated September 24, 2025, regarding Elevate's transition plans

**FINDINGS AND CONCLUSIONS**

The City Council's review of all relevant evidence and applicable laws demonstrates Elevate is not entitled to a City of Brewer License to operate a Child Care Center.

Specifically, in this case, the Maine Department of Health and Human Services ("DHHS") identified 26 regulatory violations associated with an incident that occurred at Elevate on April 2, 2025, some of which were repeat violations from prior events. These are all identified in the July 16, 2025 Plan of Action attached to the Conditional License issued by DHHS dated September 19, 2025.

City Council Minutes  
Special Meeting, Friday, September 26, 2025

As to the severity of the incident on April 2, 2025, the City Council found relevant the specific facts and circumstances surrounding that incident to collectively result in a significant and severe event resulting in multiple violations that were not sufficiently addressed through corrective plans and actions (rough handling/abuse of child; little to no remorse of the Elevate teacher involved; lack of communication and understanding of Elevate's obligations and DHHS's role in investigating the April 2, 2025 incident; pending criminal charges against the former Elevate teacher involved in the April 2, 2025 incident; delay in taking specific corrective actions from an administration and operational standpoint; no specifically tailored implementation plan, schedule, and method(s) of accountability to address violations).

Further, prior records show additional events of "rough handling" of children of similar nature at the Elevate facility based on the July 2022 Plan of Action and testimony and comments received at the hearing held on September 23, 2025.

At the September 23 hearing, the City Council questioned Elevate on the facility's status, what steps had been completed to address the violations, and what further steps Elevate planned to implement to achieve and maintain compliance. Based on the evidence presented, the City Council did not find Elevate's corrective plans, or lack thereof, to be credible enough to persuade the City Council that Elevate could achieve and responsibly maintain compliance with all legal requirements. The City Council also found Elevate failed to demonstrate it had sufficient capacity and resources to successfully carry out necessary corrective actions to adequately address the violations to bring the facility into compliance. Specifically, the lack of a clear training regime and implementation plan focused on addressing the deficiencies identified in the July 16, 2025 Plan of Action, combined with the uncertainty of sufficient personnel and related plans to run the facility, collectively demonstrated insufficient capacity/ability to administer and operate the facility in compliance with legal requirements.

**DECISION AND ORDER**

Pursuant to Chapter 20 of the Brewer Codes and Ordinances, if the City Council determines an application does not meet all Federal or State statutes or municipal Codes and Ordinances, it may either deny the application or approve the license subject to certain conditions when the City Council believes it is in the best interest of the public. (Brewer Code of Ordinances, Chapter 20, Article 1, Section 107.)

Based on the foregoing and consideration of all relevant evidence, the City Council concludes: (i) the record of the proceeding firmly establishes Elevate's non-compliance with applicable legal requirements, including those listed in the DHHS Plan of Action dated July 16, 2025; and (ii) a conditional license from the City of Brewer is not in the best interest of the public.

The License Application of Elevate Childcare Center LLC and corresponding appeal application are here by DENIED effective as of 11:59 PM on the date stated below.

The City Clerk shall maintain a record of this Notice of Decision and cause it to be delivered to all necessary and appropriate parties.

City Council Minutes  
Special Meeting, Friday, September 26, 2025

*Dated this 26<sup>TH</sup> day of September 2025, in Brewer, Maine.*

**BREWER CITY COUNCIL**

\_\_\_\_\_  
Michele Daniels, Mayor

\_\_\_\_\_  
Jenn M. Morin, Deputy Mayor

\_\_\_\_\_  
Soubanh Phanthay, Councilor

\_\_\_\_\_  
Dani O'Halloran, Councilor

\_\_\_\_\_  
William Kimball, Councilor

**NOTICE OF APPEAL RIGHTS**

This Notice of Decision may be appealed directly to the Maine Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure

City Council Minutes  
Special Meeting, Friday, September 26, 2025

Councilor Morin expressed her feelings that, although denying the license would impact families in need of child care, incorporating a transition period would have been a mistake that undermined the denial. Councilor Phanthay expressed his hope that in denying the license, that other child care providers might have opportunity to step in and meet the need more appropriately. Mayor Daniels noted that the rapid closure of Elevate suggested that the business would not have had been able to continue operations for a transition period.

**ACTION:** Councilor Morin moved that the Council deny the appeal application of Elevate Child Care Center, LLC. together with its license application based on the reasons set forth in the proposed written notice of decision. Councilor Phanthay seconded the motion. The order passed with a unanimous vote.

\*\*\*

**ACTION:** Councilor Phanthay moved that the written notice of decision be adopted. Councilor Morin seconded the motion. The motion passed with a unanimous vote.

\*\*\*

**G. New Business**

There was no new business.

\*\*\*

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

There were no new items with leave of Council.

\*\*\*

**I. ADJOURN**

**ACTION:** Councilor Kimball moved to adjourn. Councilor O'Halloran seconded the motion. The motion passed with a unanimous vote. The meeting adjourned at 11:10 P.M.

\*\*\*

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

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