

City Council Minutes  
September 13, 2011

Regular Meeting  
City Hall Council Chambers

Tuesday, September 13, 2011  
6:00 p.m.

The regular meeting was called to order by Chairman Joseph Ferris.  
The city clerk called the roll:

Chairman Ferris	-	present	Councilor Doughty	-	present
Councilor Verow	-	present	Councilor Goss	-	present
Councilor O'Connell	-	present			

Chairman Ferris declared a quorum present. City Manager Bost and City Solicitor Dearborn were also present.

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

Chairman Ferris read the notice for the regular meeting.

TO: Joseph Ferris, Larry Doughty, Arthur Verow, Jerry Goss and Kevin O'Connell  
MEMBERS OF THE BREWER CITY COUNCIL You are hereby notified a regular meeting of the City Council will be held on Tuesday, September 13, 2011 at 6:00 p.m. in the Council Chambers at Brewer City Hall to consider and act on the items on the attached agenda.

s/Joseph Ferris  
Mayor and Chairman of the City Council

or \_\_\_\_\_  
Majority of the City Council

a true copy, attest: s/Howard F. Kroll  
City Clerk

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OFFICER'S RETURN

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

Given/Delivered to:	by (person delivering)	Title	Date	Time
Joseph Ferris	L. Kelley	Ptl.	09/09/11	1830
Larry T. Doughty	D. Lord	Sgt.	09/09/11	1910
Arthur Verow	D. Lord	Sgt.	09/09/11	1914
Jerry Goss	D. Lord	Sgt.	09/09/11	1917
Kevin O'Connell	L. Kelley	Ptl.	09/09/11	1740

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**CITY OF BREWER REGULAR MEETING**  
**Tuesday, September 13, 2011 6:00 P.M.**  
**Brewer City Hall Council Chambers**

- I. Call to Order.** (Mayor Joseph Ferris)
- II. Roll Call.** (City Clerk)
- III. Pledge of Allegiance to the Flag of the United States of America.**  
(Mayor Ferris)
- A. Minutes of August 9, 2011 Regular Meeting.** (Councilor Verow )
- B. Awards, Petitions and Public Comments.**
  - 1. Public Comments.
    - a. Petition.
- C. Consent Calendar.**
  - 1. (2011-A156) ORDER, Accept Donation to the Brewer Parks and Recreation Department for the Summer Program/Leagues. (Councilor O’Connell)
  - 2. (2011-A157) ORDER, Accept Donations to the Brewer Parks and Recreation Department for the Annual Brewer Days Celebration. ( Councilor Goss )
  - 3. (2011-A158) ORDER, Commit Water Assessment to Treasurer for Collection. (Councilor Doughty)
  - 4. (2011-A159) ORDER, Commit Sewer Assessment to Treasurer for Collection. (Councilor Verow)
  - 5. (2011-A160) ORDER, Authorize Purchase of Fire Turnout Gear. (Councilor O’Connell)
  - 6. (2011-A161) ORDER, Accept an Undeveloped Portion of Staples Street Extension from Joseph A. Coffin, Jr. (Councilor Goss)
  - 7. (2011-A162) ORDER, Declare the Property Situated at 296 Wiswell Road to be Surplus Property and to Authorize the City Manager, or His Designee, to Dispose of Said Property. (Councilor Doughty)
  - 8. (2011-A163) ORDER, Accept a Temporary Easement and a Permanent Easement from Hilary B. Graebert and Delores A. Craig and a Subordination of Mortgage to an Easement from Bank of America, N.A. on Tibbetts Street. (Councilor Verow)
  - 9. (2011-A164) ORDER, Authorize the Purchase and Installation of a Replacement Motor for the Water Pollution Control Facility Freight Elevator. (Councilor Goss)
  - 10. (2011-A165) ORDER, Authorize Tibbetts Street Sewer Separation Project-Private Property Sewer Lateral Connection. (Councilor O’Connell)
  - 11. (2011-A166) ORDER, Authorize the City’s Participation in the 2011 Regional Household Hazardous Waste Collection and Disposal Program. (Councilor Goss)

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12. (2011-A167) ORDER, Accept Temporary Construction Easements For the Jefferson Street Sewer Separation Project. (Councilor Doughty)
13. (2011-A168) ORDER, Award Contract for Professional Services for Mersinger Plaza Pocket Park. (Councilor O'Connell)
14. (2011-A169) ORDER, Authorize Purchase of Rock Salt. (Councilor Verow)
15. (2011-A170) ORDER, Authorize Purchase of Sand. (Councilor Goss)
16. (2011-A171) ORDER, Award Contract for Conversion of Auditorium and City Hall Boilers to Use #2 and Natural Gas. (Councilor Verow)
17. (2011-A172) ORDER, Accept Temporary Construction Easements For the Tibbetts Street Sewer Separation Project. (Councilor Verow)
18. (2011-A173) ORDER, Accept Donations to the Brewer Parks and Recreation Department for the Fall Program/Leagues. (Councilor O'Connell)
19. (2011-A174) ORDER, Authorize Change Order to Lou Silver, Inc. on the Jefferson Street Area Sewer Service Improvement Project for \$60,000 to Cover the Additional Costs Associated with Connecting Sewer Laterals. (Councilor O'Connell)
20. (2011-A175) ORDER, Authorize the Creation of a Legal Entity (LLC) To Take and Hold Title to the Following Schools: Brewer Middle School, State Street, Washington Street and Capri Street, Subject to Certain Conditions. (Councilor Verow)
21. (2011-A176) ORDER, Authorize Borrowing and Issuance of Capital Improvement Bond in the Principal Amount of \$985,000. (Councilor Goss)
22. (2011-A176A) ORDER, Authorize the Purchase of a Used 816 Caterpillar Pusher/Packer. (Councilor Doughty)
23. (2011-A176B) ORDER, Authorize the Purchase of a Replacement Pickup Truck for Public Works. (Councilor Verow)
24. (2011-A176C) ORDER, Accept Sand Shed Reimbursement From the State Of Maine and Appropriate for Capital Projects. (Councilor Goss)
25. (2011-A176D) ORDER, Amend 2008 Economic Development TIP to Specify FY2012 Captured Value. (Councilor Doughty)
26. (2011-A176E) ORDER, Authorize Write-Off of Uncollectable Real Estate Taxes (Brewer Junk). (Councilor O'Connell)
27. (2011-A176F) ORDER, Reappropriate Unneeded Funds to Water General Capital Reserve Account (Councilor. (Councilor Verow)

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28. (2011-A176G) ORDER, Authorize Purchase and Installation of Cabinets In the Public Safety Museum. (Councilor Goss)
29. (2011-A176H) ORDER, Authorize Repairs to the Fire Department's Ladder Truck(Engine 305). (Councilor Doughty)
30. (2011-A176I) ORDER, Authorize the Brewer Water Department To Declare Property Surplus and Dispose the Same. (Councilor Verow)
31. (2011-A176J) ORDER, Authorize the Installation of Supplemental Air Conditioning in the Fire Department Living Quarters. (Councilor O'Connell)
32. (2011-A176K) ORDER, Authorize the Brewer Water Department to Move Funds from one Program to Another. (Councilor Goss)
33. (2011-A176L) ORDER, Authorize the Brewer Water Department to Move Funds from Scada Upgrade to Meter Program. (Councilor Verow)

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

**E. Nominations, Appointments, Elections.**

1. (2011-A177) ORDER, Issue Warrant for November 8, 2011 Annual Municipal Election. (Councilor O'Connell)
2. (2011-B035) RESOLVE, Confirm City Manager's Appointment of Code Enforcement Officer, Plumbing Inspector and Building Inspector for the City of Brewer. (Councilor Goss)
3. (2011-B036) RESOLVE, Prescribe Registrar of Voters Hourly Schedule for the November 8, 2011 Annual Municipal Election and the November 8, 2011 State of Maine Referendum Election. (Councilor Doughty)

**F. Unfinished Business.**

1. (2011-C006) Amend Chapter 31, Entitled Sewer and Pre-Treatment Ordinance, Article 12 "Schedule of Sewer Rates", Section 1200 of the Charter Codes and Ordinances of the City of Brewer. (Councilor Verow) (posted 7/13/2011)
2. (2011-C007) Amend Chapter 3, Entitled The City Clerk, by Adding a Section 102.19 to Section 102 (Duties) of the Charter Codes and Ordinances of the City of Brewer. (Councilor O'Connell)(posted 7/13/2011)
3. (2011-C008) Amend Chapter 5, Assessor, Article 2 (The Board of Assessment Review) by adding Section 208-A (Role of the City Clerk) of the Charter Codes and Ordinances of City of Brewer. (Councilor Goss)(posted 7/13/2011)
4. (2011-C009) Amend Chapter 26, Entitled Animal Control, Article 2 Dogs, Section 208 Duty to Dispose of Feces of the Charter Codes and Ordinances of the City of Brewer. (Councilor Verow) (posted 8/10/2011)

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5. (2011-C010) Amend Chapter 19, Article 3, Section 315 Parking Limited and Prohibited, Schedule C of the City of Brewer Charter, Codes and Ordinances Entitled "Traffic Code" To Amend Item 132 (No Parking on Pendleton Street Between Parkway South and Sky View Avenue. (Councilor Doughty) (posted 8/10/2011)
6. (2011-A147) ORDER, Award Contract for Engineering Services for City Hall Accessibility Project. (Councilor O'Connell)

**G. New Business.**

1. (2011-C011) Amend the Land Use Code, Chapter 24, Article 7 (Subdivision Ordinance), of the Charter, Codes and Ordinances of the City of Brewer by Complete Substitution of the Article. (Councilor Verow )
2. (2011-C012) Amend Chapter 20, Entitled "Licenses and Permits", Article 1 (General Provisions Applicable to Both Licenses and Permits) and Article 2 (Licenses) of the Charter, Codes and Ordinances of the City of Brewer. (Councilor Doughty)
3. (2011-C013) Amend Chapter 9, Article 6, Section 602 of the City of Brewer's Codes and Ordinances to Permit the Sale and Use of Fireworks And Consumer Fireworks in the City of Brewer After January 1, 2011. (Councilor Verow )
4. (2011-A178) ORDER, Authorize One-Time Contribution to Penobscot Community Healthcare. (Councilor Doughty)
5. (2011-A179) ORDER, Refer a Proposed Amendment to Chapter 24, Article 4, Section 438.7 of the City of Brewer's Codes and Ordinances to the City of Brewer Planning Board for a Hearing and Recommendation within Sixty (60) Days of the Passage of this Order. (Councilor Goss)
6. (2011-A179A) ORDER, An Order to Adopt the Chamberlain Street Revitalization Plan.(Councilor Goss)
7. (2011-A180) ORDER, Convene in Executive Session Pursuant to Title 1, M.R.S.A. §405(6)(E) on a Legal Matter. (Councilor O'Connell)

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

**I. ADJOURN.**

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**A. Minutes of August 9, 2011 Regular Meeting.**

**ACTION:** Councilor Verow moved that the minutes be accepted. The motion was seconded and passed.

The minutes were approved by unanimous vote.

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

Chairman Ferris asked that resolve 2011-B037 be taken out of order under suspension of the rules and acted upon at this time.

The City Clerk called the roll. It was a unanimous vote and resolve 2011-B037 was taken up at this time.

2011-B037

September 13, 2011

TITLE: RESOLVE, RECOGNIZE RODNEY BUTLER FOR HIS SERVICE  
TO THE CITY OF BREWER.

filed September 13, 2011  
(under suspension of the rules)  
by Larry T. Doughty and  
Kevin O'Connell

WHEREAS, Brewer Code Enforcement Officer Rodney Butler resigned from an outstanding career with the City of Brewer on September 9, 2011; and

WHEREAS, since joining the City in April 2010 as Code Enforcement Officer, Inspector of Buildings and Licensed Plumbing Inspector, Rodney Butler proved to be a knowledgeable and skilled member of the City and was recognized among his peers and the community as a competent and valuable professional; and

WHEREAS, under Rodney's guidance, the Brewer Code Enforcement Department earned recognition as one of the most efficient and organized departments in the State of Maine; and

WHEREAS, Rodney's effective management style and commitment to excellence has allowed the members of the department to grow in knowledge and assume leadership roles and will insure that the department continues to operate in an efficient and effective manner; and

WHEREAS, the City Council wishes to formally express its appreciation to Rodney Butler for his many contributions to the growth and development of the City and its Code Enforcement Department;

NOW, THEREFORE, BE IT RESOLVED, that the Brewer City Council, on behalf of the Citizens of the City of Brewer, herewith recognizes and commends Rodney Butler for his outstanding and dedicated service to the community.

**ACTION:** Councilor Verow moved that the resolve be adopted. The motion was seconded and passed.

Councilor members thanked Rodney for his service as Code Enforcement Officer and presented him with a commendation plaque.

The resolve was adopted by unanimous vote.

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**PUBLIC COMMENTS.**

Petition – Discussion of new water line installations on Green Point Road, Elm Street and Wiswell Road.

Councilor Verow asked City Planner Linda Johns about two projects that were on the Planning Board Agenda on September 12, 2011.

Councilor O’Connell thanked the Parks and Recreation Department for their Brewer Days Celebration work.

**C. Consent Calendar.**

**ACTION:** Councilor Doughty removed orders 2011-A170, A174, A176 and A176A from the consent calendar.

Councilor Verow moved that the remaining orders on the consent calendar have passage. The motion was seconded and passed by unanimous vote.

2011-A156

September 13, 2011

TITLE: ORDER , ACCEPT DONATION TO THE BREWER PARKS AND RECREATION DEPARTMENT FOR THE SUMMER PROGRAM/LEAGUES.

filed September 7, 2011  
by Councilor O’Connell

WHEREAS, the Brewer Parks and Recreation Department has received a donation of \$476.60 from Bangor-Brewer Athletic Club for Brewer Parks and Recreation Department’s Summer Program/Leagues;

NOW, THEREFORE, BE IT ORDERED, that the City of Brewer, by vote of its City Council, herewith accepts this donation and directs that the donated funds be receipted to the Summer Program/Leagues account (0107123 300327); and

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AND FURTHER ORDERED, that the City Council herewith authorizes the appropriation and expenditure of these funds from account 0117121 506120 (Summer Program/Leagues).

NOTE: The Brewer Parks and Recreation Director sends a letter of acknowledgement and appreciation on behalf of the City Council to all those that donate to these programs.

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2011-A157

September 13, 2011

TITLE: ORDER, ACCEPT DONATIONS TO THE BREWER PARKS AND RECREATION DEPARTMENT FOR THE ANNUAL BREWER DAYS CELEBRATION.

filed September 7, 2011  
by Councilor Goss

WHEREAS, the City of Brewer has received a donation of \$500.00 from Eastern Maine Healthcare Systems and \$50.00 from Bangor Federal Credit Union for support of this year's Brewer Days Celebration;

NOW, THEREFORE, BE IT ORDERED, that the City of Brewer, by vote of its City Council, herewith accepts these generous donations, and directs that the donated funds be receipted to account 0200000 320000 71002 (Brewer Days Contributions); and

FURTHER ORDERED, that the City Council herewith authorizes the appropriation and expenditure of these funds from account 0200000 520000 71002 (Brewer Days Expense).

NOTE: The Brewer Parks and Recreation Director sends a letter of acknowledgement and appreciation on behalf of the City Council to these businesses for their generous donations.

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2011-A158

September 13, 2011

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

filed September 7, 2011  
by Councilor Doughty

WHEREAS, under Chapter 40 of the Water Department Ordinance of the City of Brewer, 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 **\$635,078.00** at the established rate, as provided by Maine Law and as such sections may be amended from time to time; and

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

EVENT	COMMITMENT	COMMENTS
September, 2011	\$627,993.43	
June, 2011	\$ 1,681.25	
July, 2011	\$ 2,426.41	
August, 2011	\$ 2,976.91	
Total	<b>\$635,078.00</b>	

FURTHER, IT IS ORDERED, that a detailed commitment of the **\$635,078.00** is on file in the City Clerk's office and incorporated into this order; and

FURTHER, IT IS ORDERED, that a majority of the City Council shall sign the detailed commitment on file in the City Clerk's office; and

FURTHER, IT IS ORDERED, that the City Clerk shall deliver the signed commitment to the City Treasurer, as agent for the City Council.

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2011-A159

September 13, 2011

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

filed September 7, 2011  
by Councilor Verow

WHEREAS, under Chapter 31 of the Sewer and Pre-treatment Ordinance of the City of Brewer, a sewer charge is assessed to sewer users;

NOW, THEREFORE WE, the Brewer City Council does hereby commit to the Treasurer or Deputy Treasurer of Brewer for collection, the sum of **\$550,484.03** at the established rate, as provided by Title 30A M.R.S.A. § 3406 and Title 38 M.R.S.A. § 1208 and as such sections may be amended from time to time; and

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

EVENT	COMMITMENT	COMMENTS
September, 2011	\$545,624.30	
June, 2011	\$1,001.48	
July, 2011	\$2,355.84	
August, 2011	\$1,502.41	
<b>Total</b>	<b>\$550,484.03</b>	

FURTHER, IT IS ORDERED, that a detailed commitment of the **\$550,484.03** is on file in the City Clerk's office and incorporated into this order; and

FURTHER, IT IS ORDERED, that a majority of the City Council shall sign the detailed commitment on filed in the City Clerk's office; and

FURTHER, IT IS ORDERED, that the City Clerk shall deliver the signed commitment to the City Treasurer, as agent for the City Council.

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2011-A160

September 13, 2011

TITLE: ORDER, AUTHORIZE PURCHASE OF FIRE TURNOUT GEAR.

filed September 7, 2011  
by Councilor O'Connell

WHEREAS, firefighting is a dangerous profession which requires specific protective clothing to protect and insure personnel safety; and

WHEREAS, the shelf life of protective clothing is 10 years and much of the department's protective clothing has reached or exceeded that 10 year limit; and

WHEREAS, Industrial Protection Services, LLC of Yarmouth, Maine has submitted an acceptable price quote for 11 new sets of protective clothing; and

WHEREAS, said protective clothing will cost a total of \$15,653.00; and

WHEREAS, funding for the replacement of turnout gear was included in the FY12 CIP recently approved by the City Council;

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Council hereby authorizes the purchase of 11 sets of turnout gear from Industrial Protection Services; and

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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; and

BE IT FURTHER ORDERED, that the purchase be charged to CIP account 0510132-551214 (Fire Turnout Gear Replacement).

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2011-A161

September 13, 2011

TITLE: ORDER, ACCEPT AN UNDEVELOPED PORTION OF STAPLES STREET EXTENSION FROM JOSEPH A. COFFIN, JR.

filed September 7, 2011  
by Councilor Goss

WHEREAS, Joseph A. Coffin, Jr. inherited an undeveloped portion of Staples Street Extension as shown on the Subdivision Plan recorded in the Penobscot County Registry of Deeds in Plan Book 20, Page 89, which Joseph A. Coffin, Jr. acquired by operation of law under Title 23 M.R.S.A. 3032 from his father Joseph A. Coffin, Sr.; and

WHEREAS, said property is of no value to Joseph A. Coffin, Jr.; and

WHEREAS, he has offered the said property to the City; and

WHEREAS, the City is willing to accept title to the property;

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Council accepts the Release Deed from Joseph A. Coffin, Jr. on an undeveloped portion of Staples Street Extension; and

FURTHER BE IT ORDERED, that the City Clerk shall record said Release Deed in the Penobscot County Registry of Deeds upon this Order becoming effective.

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2011-A162

September 13, 2011

TITLE: ORDER, DECLARE THE PROPERTY SITUATED AT 296 WISWELL ROAD TO BE SURPLUS PROPERTY AND TO AUTHORIZE THE CITY MANAGER, OR HIS DESIGNEE, TO DISPOSE OF SAID PROPERTY.

filed September 7, 2011  
by Councilor Doughty

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WHEREAS, the City acquired title to the property situated at 296 Wiswell Road, and by virtue of expired tax liens; and

WHEREAS, the City has perfected its title by a Bill in Equity; and

WHEREAS, City staff has concluded that the property is not required by the City for public purposes;

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Council hereby declares that property situated at 296 Wiswell Road to be surplus property and authorize the City Manager, or his designee, to list said property for sale with a licensed Maine real estate broker; and

FURTHER BE IT ORDERED, that the City Manager, or his designee, is authorized to sell the said property at such price as he determines to be in the best interest of the City; and

FURTHER BE IT ORDERED, the City Manager, or his designee, is authorized to take any and all actions and to sign any and all documents to effectuate the sale of said property.

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2011-A163

September 13, 2011

TITLE: ORDER, ACCEPT A TEMPORARY EASEMENT AND A PERMANENT EASEMENT FROM HILARY B. GRAEBERT AND DELORES A. CRAIG AND A SUBORDINATION OF MORTGAGE TO AN EASEMENT FROM BANK OF AMERICA, N.A. ON TIBBETTS STREET

filed September 7, 2011  
by Councilor Verow

WHEREAS, the City has undertaken the Tibbetts Street Sewer Separation Project; and

WHEREAS, the City needs a Temporary Easement and a Permanent Easement from Hilary B. Graebert and Delores A. Craig in order to complete said Sewer Separation Project; and

WHEREAS, Hilary B. Graebert and Delores A. Craig are willing to grant the City the required Easements; and

WHEREAS, Hilary B. Graebert and Delores A. Craig have a Mortgage on this property with Bank of America, N.A.; and

WHEREAS, the Bank of America, N.A. has subordinated its mortgage to the Permanent Easement being granted by Hilary B. Graebert and Delores A. Craig to the City; and

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WHEREAS, an Order by the Brewer City Council does not go into effect until five days after approval unless such Order contains an Emergency Preamble; and

WHEREAS, the City has entered into a contract for the said Sewer Separation Project; and

WHEREAS, the Contractor has already begun work on the said Sewer Separation Project; and

WHEREAS, the Contractor needs to work within the limits of the granted Easements as soon as possible; and

WHEREAS, said facts create an emergency within the Charter Code and Ordinance of the City of Brewer and require this Order to become effective immediately upon the passage to protect the public health, safety and welfare of the citizens of Brewer;

NOW, THEREFORE BE IT ORDERED, that the City Council hereby accepts the Easements form Hilary B. Graebert and Delores A. Craig, a copies of which are attached to this Order and made a part hereof; and

FURTHER IT BE ORDERED, the City Council hereby accepts the Subordination of Mortgage to an Easement from Bank of America, N. A., a copy of which is attached to this Order and made a part hereof; and

FURTHER BE IT ORDERED, the City Clerk shall record the Easement and Subordination of Mortgage to an Easement in the Penobscot County Registry of Deeds; and

FURTHER, BE IT ORDERED, this City Council Order shall take effect upon its passage.

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2011-A164

September 13, 2011

TITLE: ORDER, AUTHORIZE THE PURCHASE AND INSTALLATION OF A REPLACEMENT MOTOR FOR THE WATER POLLUTION CONTROL FACILITY FREIGHT ELEVATOR.

filed September 7, 2011  
by Councilor Goss

WHEREAS, on June 30, 2011 the Facility freight elevator hoist motor experienced an internal short to ground causing it to fail; and

WHEREAS, the Facility's elevator contractor Pine State Elevator Company was asked to submit a quote to replace the failed motor; and

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WHEREAS, Pine State Elevator Company recommended that we replace the motor with a custom built Imperial Motor; and

WHEREAS, the project cost to replace the motor is \$28,100; and

WHEREAS, the Facility received \$28,100 from the City's insurance carrier, Travelers Insurance to fund the cost of the elevator motor replacement project;

NOW, THEREFORE, BE IT ORDERED, that the City Council herewith authorizes the City Manager, or his designee, to issue a purchase order to Pine State Elevator Company for \$28,100 to replace the Facility elevator motor and to charge the project costs to account number 0817702-504100 (Equipment Maintenance); 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.

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2011-A165

September 13, 2011

TITLE: ORDER, AUTHORIZE TIBBETTS STREET SEWER SEPARATION PROJECT-PRIVATE PROPERTY SEWER LATERAL CONNECTION.

filed September 7, 2011  
by O'Connell

WHEREAS, there are four sewer laterals in the Tibbetts Street sewer separation project that are outside of the City's right-of-way that need to be removed from the old abandon sewer and reconnected to the new sanitary sewer; and

WHEREAS, the City's project funding institution, Rural Development cannot pay for work done outside of the City right-of-way; and

WHEREAS, the completion of this work has been included in Maine Earth's contract to be completed in concurrent with the Tibbetts Street sewer separation project; and

WHEREAS, because this work is not eligible for reimbursement through Rural Development the City will be billed directly for the work; and

NOW, THEREFORE, BE IT ORDERED, that the City Council herewith authorizes the City Manager to issue a purchase order to Maine Earth for \$12,900 to connect the four residential sewer laterals to the new sanitary sewer and to charge the project costs to account number 0818101-502700(Sewer Line Maintenance-Materials and Supplies).

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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.

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2011-A166

September 13, 2011

TITLE: ORDER, AUTHORIZE THE CITY'S PARTICIPATION IN THE 2011 REGIONAL HOUSEHOLD HAZARDOUS WASTE COLLECTION AND DISPOSAL PROGRAM.

filed September 7, 2011  
by Councilor Goss

WHEREAS, the City of Brewer has participated in the Regional Household Hazardous Waste Collection and Disposal Program for several years, with other area communities, at the Bangor Public Works at 530 Maine Avenue in Bangor; and

WHEREAS, the Program has been a huge success giving Brewer residents an opportunity to dispose of household hazardous waste such as oil, gas, kerosene, oil based paint, thinner, pesticides, antifreeze, fertilizer, poisons, etc.; and

WHEREAS, the 2011 Regional Household Hazardous Waste Collection and Disposal Program is scheduled for Saturday, October 1, 2011 from 9:00 a.m. to 2:00 p.m. for all Brewer residents who register in advance; and

WHEREAS, the following communities will also participate in this very successful regional program: Bangor, Carmel, Clifton, Dedham, Dixmont, Eddington, Etna, Glenburn, Hampden, Hermon, Holden, Kenduskeag, Milford, Newburgh, Old Town, Orono, Orrington, Penobscot Nation, Stockton Springs, Veazie, and Winterport;

NOW, THEREFORE, BE IT ORDERED, that the City Manager, or his designee, is authorized to sign a Hazardous Waste Collection Agreement which will permit Brewer residents to participate in the 2011 Regional Household Hazardous Waste Collection and Disposal Program; and

BE IT FURTHER ORDERED, that funds for this program shall be charged to City budget account 0818101-506230.

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2011-A167

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TITLE: ORDER, ACCEPT TEMPORARY CONSTRUCTION  
EASEMENTS FOR THE JEFFERSON STREET SEWER  
SEPARATION PROJECT.

filed September 7, 2011  
by Councilor Doughty

WHEREAS, the City has undertaken the Jefferson Street Sewer Separation Project; and

WHEREAS, the City needs Temporary Construction Easements from Trudy M. Morine and Dawn-Shelley Morine, Trustees of the Trudy Morine Living Trust, dated July 6, 1998, and any amendments made thereto, and from James K. Kivell and Megan M. Kivell for the purpose of constructing and replacing sewer service lines (sewer laterals); and

WHEREAS, Trudy M. Morine and Dawn-Shelley Morine, Trustees of the Trudy Morine Living Trust, dated July 6, 1998, and any amendments made thereto, and James K. Kivell and Megan M. Kivell are willing to grant the City the required Temporary Construction Easements; and

WHEREAS, an Order by the Brewer City Council does not go into effect until five (5) days after approval, unless such Order contains an Emergency Preamble; and

WHEREAS, the City has entered into a contract for the said Sewer Separation Project; and

WHEREAS, the Contractor has already completed a majority of the work on the said Sewer Separation Project; and

WHEREAS, the Contractor needs to work within the limits of the granted Temporary Construction Easements as soon as possible; and

WHEREAS, said facts create an emergency within the Charter, Code and Ordinance of the City of Brewer and require this Order to become effective immediately upon passage to protect the public health, safety and welfare of the citizens of the City of Brewer;

NOW THEREFORE BE IT ORDERED, the City Council hereby accepts the Temporary Construction Easements from Trudy M. Morine and Dawn-Shelley Morine, Trustees of the Trudy Morine Living Trust, dated July 6, 1998, and any amendments made thereto, and from James K. Kivell and Megan M. Kivell; and

FURTHER, BE IT ORDERED, this City Council Order shall take effect upon its passage.

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2011-A168

September 13, 2011

TITLE: ORDER, AWARD CONTRACT FOR PROFESSIONAL SERVICES FOR  
MERSINGER PLAZA POCKET PARK.

filed September 7, 2011  
by Councilor O'Connell

EMERGENCY PREAMBLE

WHEREAS, orders passed by the Brewer City Council do not become effective until five days after approval unless such orders contain emergency preambles; and

WHEREAS, to facilitate substantial completion of the project, it would benefit the City to expedite the signing of the contract and starting of the construction; and

WHEREAS, these facts create an emergency within the meaning of the Charter, Code and Ordinances of the City of Brewer and require that the following order become effective immediately upon its approval to protect the public health, common welfare and safety of the citizens of Brewer; and

WHEREAS, on August 10, 2010 the City Council approved the selection of the Masonry Wall Concept plan, and authorized the City Engineer and Public Works Director to carry out the implementation of the redevelopment plan on behalf of the City for site of former Archer Block/Mersinger Building; and

WHEREAS, the proceeds of the HUD grant B-05-SP-ME-0114 have covered the project to date in its entirety, and the remaining \$10,000 will to be used to cover the cost of design, permitting and construction administration of the Mersinger Plaza Pocket Park;

NOW, THEREFORE, BE IT ORDERED, that the City Manager, or his designee, is authorized to execute a contract, under such terms and conditions as he determines to be in the best interest of the Citizens of Brewer, in an amount not to exceed \$8,700.00 plus reimbursable expenses, for the provision of design, permitting and construction administration services related to the new Mersinger pocket park with Context by Design of Bangor, Maine, the consultant deemed most qualified by the City's selection team; and

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; and

BE IT FURTHER ORDERED, that the City Council authorizes the expenditure of costs incurred under this contract in the amount of \$8,700.00 and shall be charged to account 0600057-560020-57008 (Mersinger/Archer lot Architecture and Engineering Expense) to be funded by proceeds from HUD grant B-05-SP-ME-0114; and

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BE IT FURTHER ORDERED, that this City Council Order shall take effect upon passage.

NOTE: The City plans use TIF funds, which it has already set aside, for the construction of the pocket part elements.

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2011-A169

September 13, 2011

TITLE: ORDER, AUTHORIZE PURCHASE OF ROCK SALT.

filed September 7, 2011  
by Councilor Verow

WHEREAS, bid were solicited, received and evaluated for the purchase and delivery of rock salt to the City of Brewer for the upcoming winter season; and

WHEREAS, International Salt Company LLC of Clarks Summit, PA has provided the lowest price per ton to the City of Brewer of the five bids received;

NOW, THEREFORE, BE IT ORDERED, that the City Manager, or his designee, is authorized to sign a purchase order to International Salt Company LLC in the amount of \$117,540 for supplying and delivering 2000 tons of rock salt at \$58.77 per ton; and

BE IT FURTHER ORDERED, that funds for this purchase shall be charged to the Public Works account 0116671-502530, titled, Rock Salt.

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2011-A170

September 13, 2011

TITLE: ORDER, AUTHORIZE PURCHASE OF SAND.

filed September 7, 2011  
by Councilor Goss

WHEREAS, bids were solicited, received and evaluated for the purchase of up to 2,000 cubic yards of winter sand in FY12, and

WHEREAS, Lou Silver Inc. of Orono, Maine has provide the City of Brewer with the lowest bid for acceptable materials of the three bids received;

NOW, THEREFORE, BE IT ORDERED, that the City Manager, or his designee, is authorized to sign a purchase order to Lou Silver Inc. for an amount no greater than \$18,000 for supplying and delivering up to 2,000 cubic yards of winter sand at \$9.00 per yard to the City of Brewer; and

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BE IT FURTHER ORDERED, that funds for this purchase shall be charged to account 0116671-502540, titled, "Sand Purchases".

**ACTION:** Councilor Goss moved that the order have passage. The motion was seconded and passed.

Councilor Doughty asked Public Works Director Dave Cote about Lou Silver, Inc.

Dave Cote said that the City has had past dealings with them and that they will meet our requirements for usage.

The order was passed by unanimous vote.

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2011-A171

September 13, 2011

TITLE: ORDER, AWARD CONTRACT FOR CONVERSION OF AUDITORIUM AND CITY HALL BOILERS TO USE #2 AND NATURAL GAS

filed September 7, 2011  
by Councilor Verow

WHEREAS, The City of Brewer has entered into an agreement with Bangor Gas to supply the auditorium and city hall with natural gas; and

WHEREAS, based upon conservative estimates, total first year savings on fuel costs are projected to be approximately \$22,000.00; and

WHEREAS, the City of Brewer requested proposals for the conversion of the auditorium and city hall boilers to dual fuel use; and

WHEREAS, on August 23, 2011, bids for the conversion project were opened with the following received:

Mechanical Services -	\$38,540.00
Northeast Mechanical -	\$39,899.00
Penobscot Temp. Controls -	\$48,879.00

NOW, THEREFORE, BE IT ORDERED, that the City Manager, or his designee, is authorized to execute a contract with Mechanical Services of Hermon in the amount of \$38,540 for Auditorium and City Hall Boiler Conversions; and

BE IT FURTHER ORDERED, that the costs for these conversions be charged to CIP expense accounts 0510130-551018 (City Hall Energy Efficiency Projects) and 0510124-551442 (Auditorium Natural Gas Conversion); and

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BE IT FURTHER ORDERED, that funding for this work shall be reallocated from the following accounts to the above referenced CIP accounts to supplement funding already appropriated:

\$10,0000115310-502020 City Hall Heating Fuel  
\$12,0000117101-502020 Auditorium Heating Fuel

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2011-A172

September 13, 2011

TITLE: ORDER, ACCEPT TEMPORARY CONSTRUCTION EASEMENTS  
FOR THE TIBBETTS STREET SEWER SEPARATION PROJECT

filed September 7, 2011  
by Councilor Verow

EMERGENCY PREAMBLE

WHEREAS, the City has undertaken the Tibbetts Street Sewer Separation Project; and

WHEREAS, the City needs Temporary Construction Easements from Mark A. Chambers and Elizabeth L. Chambers at 11 Century Street and from Terry L. Gordon and Samantha M. Gordon at 8 Kings Court for the purpose of constructing and replacing sewer service lines (sewer laterals); and

WHEREAS, Mark A. Chambers and Elizabeth L. Chambers and Terry L. Gordon and Samantha M. Gordon, are all willing to grant the City the required Temporary Construction Easements; and

WHEREAS, an Order by the Brewer City Council does not go into effect until five (5) days after approval, unless such Order contains an Emergency Preamble; and

WHEREAS, the City has entered into a contract for the said Sewer Separation Project; and

WHEREAS, the Contractor has already begun work on the said Sewer Separation Project; and

WHEREAS, the Contractor needs to work within the limits of the granted Temporary Sewer Easements as soon as possible; and

WHEREAS, said facts create an emergency within the Charter, Code and Ordinance of the City of Brewer and require this Order to become effective immediately upon passage to protect the public health, safety and welfare of the citizens of Brewer;

NOW THEREFORE BE IT ORDERED, the City Council hereby accepts the Temporary Construction Easements from Mark, A. Chambers and Elizabeth L. Chambers and from Terry L. Gordon and Samantha M. Gordon, a copies of which are attached to this order and made part hereof; and

BE IT FURTHER ORDERED, that this City Council Order shall take effect upon passage.

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2011-A173

September 13, 2011

TITLE: ORDER, ACCEPT DONATIONS TO THE BREWER PARKS AND RECREATION DEPARTMENT FOR THE FALL PROGRAM/LEAGUES.

filed September 7, 2011  
by Councilor O'Connell

WHEREAS, the Brewer Parks and Recreation Department has received donations of \$100.00 from Bruce's Donuts, Inc, \$100.00 from B&L Auto Parts, Inc, \$100.00 from Brewer Federal Credit Union and \$100.00 from Carroll Crew LLC D/B/A Pat's Pizza for Brewer Parks and Recreation Department's Fall Program/Leagues;

NOW, THEREFORE, BE IT ORDERED, that the City of Brewer, by vote of its City Council, herewith accepts this donation and directs that the donated funds be receipted to the Fall Program/Leagues account (0107123 300328); and

AND FURTHER ORDERED, that the City Council herewith authorizes the appropriation and expenditure of these funds from account 0117121 506130 (Fall Program/Leagues).

NOTE: The Brewer Parks and Recreation Director sends a letter of acknowledgement and appreciation on behalf of the City Council to all those that donate to these programs.

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2011-A174

September 13, 2011

TITLE: ORDER, AUTHORIZE CHANGE ORDER TO LOU SILVER INC. ON THE JEFFERSON STREET AREA SEWER SERVICE IMPROVEMENT PROJECT FOR \$60,000 TO COVER THE ADDITIONAL COSTS ASSOCIATED WITH CONNECTING SEWER LATERALS

filed September 7, 2011  
by Councilor O'Connell

WHEREAS, the City has undertaken the Jefferson Street Area Sewer Service Improvement Project; and

WHEREAS, the City has funding available from USDA Rural Development to pay for this; and

WHEREAS, Lou Silver, Inc. was approved to complete the project at the April 28, 2011 Special Council Meeting; and

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WHEREAS, the project included connection of sixty-six (66) existing building sewer services to sanitary sewer stubs within the right-of-way, and capping of existing combined sewer services at residents on the following streets: Jefferson Street, Silk Street, Capri Street, Madison Avenue and Lincoln Street; and

WHEREAS, during construction, we encountered elevation issues at sixteen (16) residents between the existing house service and the new sanitary sewer stub left in the City's right-of-way during previous sewer separation projects completed in years 2000 and 2005; and

WHEREAS, to get the needed elevation to connect the services to effectively convey sewer from the sixteen residents, we instructed the Contractor to install new sewer from the connection location in the right of way to the sanitary sewer main in the street; and

WHEREAS, the City's consultant Olver Associates kept track of the costs associated with the additional work which was outside of the original project scope based on time and materials as specified in the projects Contract Documents;

NOW, THEREFORE BE IT ORDERED, that the City Manager, or his designee, is authorized to execute a change order in the amount of \$60,000 with Lou Silver, Inc. of Veazie, Maine, under such conditions as he feels are in the best interest of the citizens of Brewer, for the provisions of construction of the Jefferson Street Area Sewer Service Improvement Project; and

BE IT FURTHER ORDERED, that the cost of the change order for this work shall be funded from the projects contingency and charged to account number 0680602-560030; 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 services for this project.

**ACTION:** Councilor O'Connell moved that the order have passage. The motion was seconded and passed.

The order was passed by unanimous vote.

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2011-A175

September 13, 2011

TITLE: ORDER, AUTHORIZING THE CREATION OF A LEGAL ENTITY (LLC) TO TAKE AND HOLD TITLE TO THE FOLLOWING SCHOOLS: BREWER MIDDLE SCHOOL, STATE STREET, WASHINGTON STREET AND CAPRI STREET, SUBJECT TO CERTAIN CONDITIONS.

filed September 7, 2011  
by Councilor Verow

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WHEREAS, the completion and opening of the new Brewer K-8 school located at 92 Pendleton Street has left the following four elementary and middle school buildings vacant: Capri Street School (49 Capri Street), Washington Street School (100 Washington Street), State Street School (131 State Street) and Brewer Middle School (5 Somerset Street); and

WHEREAS, the City of Brewer High School District Trustees have moved to allow the City to take title to the property as part of their transition to the new K-8 school, so as to allow the City to gain control of the Brewer school properties and control its future reuse; and

WHEREAS, developments such as this that are significant in nature, when judged by standards of acreage involved, total investment, and infrastructure impact, require special attention so as to insure State and Federal laws and regulations are followed and protections are obtained in regard to site locations and the environment; and

WHEREAS, the creation of a separate legal entity to take and hold title to the former middle and elementary schools to market, develop, and otherwise make use of the property for the betterment of the City;

NOW, THEREFORE, BE IT ORDERED, that the City Council does hereby authorize the creation of a separate legal entity whose purpose is to take and hold title to the former aforementioned schools, once it is conveyed to the City by the City of Brewer High School District Trustees, and that the taking and holding of title to the property shall be subject to the property being free and clear of all encumbrances except those which are reasonably acceptable to the City Manager and City Solicitor (or other legal counsel, as appropriate).

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2011- A176

September 13, 2011

TITLE: ORDER, AUTHORIZE BORROWING AND ISSUANCE  
OF CAPITAL IMPROVEMENT BOND IN THE PRINCIPAL  
AMOUNT OF \$985,500.

filed September 7, 2011  
by Councilor Goss

WHEREAS, The City of Brewer finds it necessary to undertake certain public improvement projects which are eligible for financing by the City of Brewer through the issuance of general obligation bonds or notes under Title 30-A, Section 5772, of the Maine Revised Statutes, as amended, and the City Charter;

NOW, THEREFORE, BE IT ORDERED, That pursuant to authority granted by the constitution and laws of the State of Maine and pursuant to the Charter of the City of Brewer and Section 5772 of Title 30-A, Maine Revised Statutes, as amended, and any other applicable authority under the constitution and the laws of the State of Maine thereto enabling, the City of Brewer is hereby authorized to issue and sell its general obligation bond or bonds (the "Bond or Bonds") of the City of Brewer in an aggregate principal amount not to exceed \$985,500 for the

purpose of providing financing for certain capital improvement projects within the City, including but not limited to, the projects substantially set forth in the exhibit attached hereto as the Capital Improvements Plan (the "Projects") for a term not to exceed thirty (30) years, for a total principal amount of Bonds authorized of \$985,500 for the City of Brewer Capital Improvement Program for Fiscal Year 2012.

The City Council hereby authorizes the City Treasurer/Finance Director and the Chairman of the City Council to execute and deliver the Bonds on behalf of the City of Brewer. The General Obligation Bonds are to be sold upon such further terms and conditions and at such interest rates as may be approved by the Chairman of the City Council and the City Treasurer/Finance Director, and shall have the City Seal affixed and attested by the City Clerk or Deputy Clerk, and shall be approved as to substance by the City Manager and approved as to form by the City Solicitor.

The General Obligation Bonds which are authorized in a principal amount of \$985,500 may be subject to call for redemption pursuant to Title 30-A, Section 5772 (6) of the Maine Revised Statutes, as amended, as determined by the City Treasurer/Finance Director and Chairman of the Brewer City Council to be in the best interests of the City of Brewer, and such call provisions in the Bonds may be with or without premium and provide for the Bonds to be called at such times prior to their maturity as may be determined in the discretion of the City Treasurer/Finance Director and Chairman of the Brewer City Council and stated on the face of the Bonds, and that the Bonds shall contain provisions setting forth the method by which the option to call may be exercised and the procedure for payment in the event of call as well as the legal effect of exercising the option to call the Bonds by the City. The Bonds shall be issued and sold to the Maine Municipal Bond Bank or to the United States of America acting through the Rural Utilities Service or other lending institution or through an underwriter or financial advisor to be determined by the City Treasurer/Finance Director and Chairman of the City Council. A portion of the Bonds and a portion of the interest on the Bonds may be subject to federal income taxation under the provisions of the Internal Revenue Code of 1986, as amended, as such status is determined by the City Treasurer/Finance Director to be in the best interests of the City of Brewer.

ORDERED, That in anticipation of the issuance of the Bonds, pursuant to authority granted by the Charter of the City of Brewer and Section 5772 of Title 30-A, Maine Revised Statutes, as amended, and any other applicable authority under the constitution and the laws of the State of Maine thereto enabling, the City of Brewer is hereby authorized to issue and sell its general obligation bond anticipation note or notes (the "Note or Notes") of the City of Brewer in an aggregate principal amount not to exceed \$985,500 for the purpose of providing temporary financing for the Projects.

The City Council hereby authorizes the City Treasurer/Finance Director and the Chairman of the City Council to execute and deliver the Bonds and Notes on behalf of the City of Brewer. The Bonds and Notes may be executed, sold and delivered to a lending institution selected by the City Treasurer/Finance Director and the Chairman of the City Council upon such

further terms and conditions and at such interest rates and maturities as may be approved by the Chairman of the City Council and the City Treasurer/Finance Director, and shall have the City Seal affixed and attested by the City Clerk or Deputy Clerk, and shall be approved as to substance by the City Manager and approved as to form by the City Solicitor.

ORDERED, That pursuant to the requirements of the Tax Reform Act of 1986, and Section 265 (b)(3) of the Internal Revenue Code of 1986, as amended, the City of Brewer hereby designates the Bonds and Notes to be "qualified tax exempt obligations" of the City and represents that the City shall not issue in 2011 or 2012 an aggregate total amount of qualified tax exempt obligations in excess of \$10,000,000. Further, the City does not reasonably expect to issue tax exempt obligations in an amount in excess of \$5,000,000 during 2011 or 2012.

ORDERED, that subject to appropriation, the City shall take any and all actions required under the Internal Revenue Code of 1986, as amended, to maintain the tax exempt status of the interest on the Bonds and Notes, and to maintain the status of the Bonds and Notes as "qualified tax exempt obligations" of the City, and that the Bonds and Notes may be subject to such further terms and conditions as may be agreed to by the Chairman of the City Council and the City Treasurer/Finance Director to carry into effect the full intent of the orders.

ORDERED, that the City Treasurer/Finance Director or the Chairman of the Brewer City Council be and each of them hereby is authorized for the foregoing purposes to make application to the Maine Municipal Bond Bank, United States of America or other lending institution for sale of the Bonds, and to execute a Loan Agreement with the Bond Bank or Loan Resolution with the United States of America or other loan documents with other lending institutions in such form as the Bond Bank or United States of America or other lending institution may require.

ORDERED, that all actions heretofore taken by the municipal officers of the City of Brewer relating to the issuance of the Bonds and Notes be and they hereby are ratified, approved and confirmed.

ORDERED, that the municipal officers and officials of the City are hereby authorized to execute and deliver any and all documents and certificates, and to take any and all actions, including affixing the seal of the City as may be necessary or convenient to carry out the intent of the foregoing orders or any one of them.

ORDERED, that the law firm of Eaton Peabody, is hereby designated as Bond Counsel for the Town to advise the Town with respect to the issuance and sale of the Bond, and to prepare documents and render opinions as may be necessary or convenient for the purpose.

ORDERED, that the City of Brewer intends to finance, on an interim basis, the expenditures from its General Fund for the costs of the Projects, which costs are reasonably expected to be reimbursed with the proceeds of debt to be incurred by the City of Brewer through issuance of its General Obligation Bonds and Notes, in the maximum principal amount of \$985,500 and that this Order constitute the City's declaration of official intent pursuant to Treasury Regulations Sections 1.142-4 and 1.150-2 evidencing the City's intent to reimburse

expenditures made with respect to the Projects described, with the proceeds of the General Obligation Bonds and Notes in a principal amount not to exceed \$985,500.

CITY OF BREWER

Financial Statement

1. Total City Indebtedness

A. Bonds outstanding and unpaid	\$41,299,651.
B. Bonds authorized and unissued	\$ 4,785,000.
C. Bonds to be issued under this Order:	\$ 985,500.
<b>TOTAL</b>	<b>\$47,070,151.</b>

2. Costs

At an estimated interest rate of 4.5% for a term of 20 years, the estimated costs of this bond issue will be:

Principal	\$ 985,500.
Interest	\$ 306,866.
<b>Total Debt Service</b>	<b>\$1,292,366.</b>

3. Validity

The validity of the bonds is not affected by any errors in the above estimates. If the actual amount of the total debt service for the bond issue varies from the estimate, the approval by the councilors is nevertheless conclusive and the validity of the bond issue is not affected by reason of the variance.

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Karen Fussell  
Treasurer/Finance Director  
City of Brewer, Maine

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**ACTION:** Councilor Goss moved that the order have passage. The motion was seconded

Councilor Goss moved that the order be amended by including the attachment “FY2012 Capital Improvement Program” as part of the order. The motion was seconded and passed.

The order, as amended, was passed by unanimous vote.

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2011-A176A

September 13, 2011

TITLE: ORDER, AUTHORIZE PURCHASE OF A 816 CATERPILLAR  
PUSHER/PACKER

filed September 7, 2011  
by Councilor Doughty

WHEREAS, in June the 36 year old compactor used at the Brewer Landfill began experiencing transmission and other mechanical problems; and

WHEREAS, the expenditure of thousands of dollars for a short term fix does not seem prudent given that the compactor is in the Capital Improvement Program and slated for replacement next year; and

WHEREAS, the City has funds available in the CIP to pay for the replacement of the compactor with a newer, used model; and

WHEREAS, Quotes were solicited, received and evaluated for the purchase of a used trash pusher/packer to replace unit #421 a 1975 816 Caterpillar currently being used at the Brewer CDD Landfill; and

WHEREAS, the Purchasing Agent and Shop Foreman have recommended the purchase of the 19\_\_ 816 Caterpillar trash pusher/packer from \_\_\_\_\_ of \_\_\_\_\_;

NOW, THEREFORE, BE IT ORDERED, that the City Manager, or his designee, is authorized to sign a purchase order to \_\_\_\_\_ in the amount of \$\_\_\_\_\_ for the purchase of a 19\_\_ 816 Caterpillar trash pusher/packer; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the appropriation and expenditure of \$\_\_\_\_\_ from CIP account 0510133-551387, titled “Landfill Compactor #421”, to be funded by \$95,000 in sand shed reimbursement funds and \$\_\_\_\_\_ reallocated from CIP account 0510113-551384 “Lambert Road Repave”, which came in under budget;

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BE IF FURTHER ORDERED, that the current Public Works unit numbered 421, the 1975 816 Caterpillar Landfill Compactor, as part of the purchase agreement, be release to \_\_\_\_\_ for trade-in once the replacement compactor has been delivered to the City of Brewer

**ACTION:** Councilor Doughty moved that the order have passage. The motion was Seconded.

Councilor Doughty moved that the order be tabled.

The motion to table the order was seconded and passed by unanimous vote.

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2011-A176B

September 13, 2011

**TITLE:** ORDER , AUTHORIZE THE PURCHASE OF A REPLACEMENT PICKUP TRUCK FOR PUBLIC WORKS.

filed September 7, 2011  
by Councilor Verow

WHEREAS, Bids were solicited, received and evaluated for the purchase of full size pickup truck and a crew cab ¾ ton pickup truck to replace Public Works units #407 a 2001 GMC pickup truck and a #410 a 2002 Chevrolet crew cab pickup; and

WHEREAS, Quirk Ford of Augusta, Maine has provided the City of Brewer with lowest bid of the three bids received;

NOW, THEREFORE, BE IT ORDERED, that the City Manager, or his designee, is authorized to sign a purchase order to Quirk Ford in the amount of \$48,000 for the purchase of a 2011 Ford ½ ton pickup truck and 2012 Ford ¾ ton crew cab pickup truck; and

BE IT FURTHER ORDERED, that funds for this purchase shall be charged to FY11 account 0510133-551375 title "Pickup Replacement #407" and FY12 account 0510133-551385, titled "Crew cab #410 Replacement"; and

BE IF FURTHER ORDERED, that the current Public Works units numbered 407 and 410, the 2001 GMC pickup and the 2002 Chevrolet crew cab be listed as City surplus once the replacement vehicles have been received from Quirk Ford; and

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

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2011-A176C

September 13, 2011

TITLE: ORDER , ACCEPT SAND SHED REIMBURSEMENT FROM THE STATE OF MAINE AND APPROPRIATE FOR CAPITAL PROJECTS.

filed September 7, 2011  
by Councilor Verow

WHEREAS, on July 27, 2011, the City received \$151,182.66 from the State of Maine representing partial reimbursement of expenses incurred to construct the City's sand shed on Green Point Road in 2005;

NOW, THEREFORE, BE IT ORDERED, that the City Council hereby accepts these funds and authorizes their receipt to CIP revenue account 0500100-300231 (Reimbursements-State of ME); and

BE IT FURTHER ORDERED, that the Council hereby authorizes the appropriation and expenditure of these funds on the following capital projects:

\$95,000	Landfill Compactor (0510133-551387)
\$38,000	Engines 301 and 305 Repairs (0115911-504200)
\$11,000	Fire Dept Additional Cooling (0510122-551206)
<u>\$ 7,000</u>	Auditorium Natural Gas Conversion (0510124-551442)
\$151,000	

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2011-A176D

September 13, 2011

TITLE: ORDER, AMEND 2008 ECONOMIC DEVELOPMENT TIF TO SPECIFY FY2012 CAPTURED VALUE.

filed September 7, 2011  
by Councilor Doughty

WHEREAS, in July 2008 the Brewer City Council adopted the Economic Development Tax Increment Financing District and in April 2010 amended it to expand its area and the projects eligible for financing using these TIF revenues; and

WHEREAS, the FY2012 budget the City Council approved in June 2011 used \$4,873,900 of potential captured value in this TIF District to support the General Fund; and

WHEREAS, the Maine Department of Economic and Community Development recommends that municipal officers formally amend a TIF when the amount of value in a TIF district changes from the amount specified in the original TIF;

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NOW, THEREFORE, BE IT ORDERED, that the City Council herewith amends the Economic Development Tax Increment Financing District (adopted July 2008 and amended April 2010) to capture \$48,497,700 (87.8%) of the \$53,371,600 in potential captured real estate assessed value in the district.

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2011-A176E

September 13, 2011

TITLE: ORDER, AUTHORIZE WRITEOFF OF UNCOLLECTIBLE REAL ESTATE TAXES (BREWER JUNK).

filed September 7, 2011  
by Councilor O'Connell

WHEREAS, in preparation for the annual audit Finance is cleaning up old items; and

WHEREAS, the City is still carrying a \$209.15 receivable for 1998 real estate taxes on a parcel formerly owned by Brewer Junk that is now owned by the City; and

WHEREAS, the taxes are uncollectible;

NOW, THEREFORE, BE IT ORDERED, that the City Council hereby authorizes the writeoff of this \$209.15.

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2011-A176F

September 13, 2011

TITLE: ORDER, REAPPROPRIATE UNNEEDED FUNDS TO WATER GENERAL CAPITAL RESERVE ACCOUNT.

filed Sept 13, 2011  
by Councilor Doughty

WHEREAS, the FY2012 Water Department budget included \$17,000 in anticipated debt service associated with bond financing obtained in May 2011; and

WHEREAS, the City will not owe any principal payments on this loan until FY12; and

WHEREAS, the Water Department would like to use these excess debt service funds to support future capital improvement projects;

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Council hereby authorizes the reallocation of \$17,000 in unneeded principal expense from account 0718700-509000 (Water Debt Principal) to account 0700000-110805 (Water General Capital Reserve) to fund future Water capital projects.

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2011-A176G

September 13, 2011

TITLE: ORDER , AUTHORIZE PURCHASE AND INSTALLATION OF  
CABINETS IN THE PUBLIC SAFETY MUSEUM.

filed September 7, 2011  
by Councilor Goss

WHEREAS private non-taxpayer funds have been raised to complete the construction of the Brewer Public Safety Museum; and

WHEREAS a portion of these funds are needed to design, build and install cabinets and cases for the display of artifacts; and

WHEREAS said cases and cabinets will be built by Owen Gray & Son, a local Brewer business; and

WHEREAS the cost of the cabinets and display cases is \$15,900;

NOW, THEREFORE, BE IT ORDERED, that the City Council hereby authorizes the expenditure of \$15,900 from 0200000-520000-59009 (Fire Museum Expense) to have custom cabinets constructed and installed in the Public Safety Museum by Owen Gray & Sons of Brewer, Maine; and

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

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2011-A176H

September 13, 2011

TITLE: ORDER , AUTHORIZE REPAIRS TO THE FIRE DEPARTMENT'S  
LADDER TRUCK (ENGINE 305).

filed September 7, 2011  
by Councilor Doughty

WHEREAS the pump on Ladder 305, a 2000 Pierce Aerial Ladder, failed due to damage caused by the intake of foreign material; and

WHEREAS the normal lifespan of a fire department ladder truck is 25 years; and

WHEREAS the loss of the use of Ladder 305 would adversely affect the safety of the citizens of Brewer; and

WHEREAS a new replacement truck would cost upwards of \$950,000 or more; and

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WHEREAS repairing Ladder 305 by repairing the pump would extend the life of the truck to its full life span; and

WHEREAS Reliance Equipment of Vassalboro, Maine is able to complete the repairs for approximately \$20,000;

NOW THEREFORE BE IT ORDERED, that the City Council hereby authorizes the expenditure of up to \$20,000 from account 0115911-504200 (Fire Vehicle Maintenance and Repair) for the repair of the pump on Engine 305 to be funded using proceeds from the sand shed reimbursement from the state; and

BE IT FURTHER ORDERED, that the City Manager, or his designee, is authorized to enter into contract with Reliance Equipment of Vassalboro for the completion of required repairs; and

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

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2011-A176I

September 13, 2011

TITLE: ORDER , AUTHORIZE THE BREWER WATER DEPARTMENT TO  
DECLARE PROPERTY SURPLUS AND DISPOSE OF THE  
SAME.

filed September 7, 2011  
by Councilor Doughty

WHEREAS, the Water Department has used items which are of no further use; and

WHEREAS, the Water Department has inquired if any other city department has a use of these items; and

WHEREAS, the Water Department now desires to dispose of the following items:

1. One (1) Sony MVC CD350, camera; and
2. One (1) Palm M130, PDA; and
3. One (1) MP25DV, adding machine; and
4. One (1) used 8' x 12' garage door; and

WHEREAS, these items may have a salvage value but are surplus property for City purposes; and

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

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NOW, THEREFORE, BE IT FURTHER ORDERED that all proceeds be receipted to the water revenue account 0700004-370402 (Non-departmental Revenue).

\*\*\*

2011-A176J

September 13, 2011

TITLE: ORDER , AUTHORIZE THE INSTALLATION OF  
SUPPLEMENTAL AIR CONDITIONING IN THE FIRE  
DEPARTMENT LIVING QUARTERS

filed September 7, 2011  
by Councilor Doughty

WHEREAS, After several years of use, the existing air conditioning system in the Fire Department living quarters has proven to be inadequate under extreme summer conditions; and

WHEREAS, Nickerson and O'Day has proposed the installation of a supplemental cooling system which has been deemed technically appropriate by the City Engineer for addressing this issue; and

WHEREAS, Nickerson and O'Day has negotiated a cost sharing arrangement that has been reviewed by the City Engineer and the City Manager and deemed fair and equitable under the terms and conditions of the original contract for the construction of the new Police and Fire Station;

NOW, THEREFORE, BE IT ORDERED that the City Manager, or his designee, is authorized to issue a purchase order to Nickerson and O'Day in an amount not to exceed \$11,000 for the purchase and installation of new supplemental air conditioning equipment in the Fire Department living quarters; and

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

BE IT FURTHER ORDERED that the costs of this work shall be charged to account 0510122-551206 (Public Safety Building).

\*\*\*

2011-A176K

September 13, 2011

TITLE: ORDER , AUTHORIZE THE BREWER WATER DEPARTMENT TO  
MOVE FUNDS FROM ONE PROGRAM TO ANOTHER.

filed September 7, 2011  
by Councilor Goss

City Council Minutes  
September 13, 2011

WHEREAS, the Water Department Ozone Plant roof is leaking around the ventilation pipes; and

WHEREAS, this issue is of immediate attention; and

WHEREAS, the Water Department Capital Improvement Plan has other programs of lesser importance and demand for action; and

WHEREAS, \$5,000 in funding for a Transfer Pump has already been reserved for FY 2012 and there are Water Department has the ability to continue operations in the event this pump fails; and

WHEREAS, \$5,000 in funding for a Peristaltic Pump has already been reserved for FY 2012 and there is a backup pump ready to be placed in service if one of these pumps fails;

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Council hereby authorizes the transfer of funds from both the Peristaltic Pump and the Transfer Pump to fund \$10,000 for roof repairs at the Brewer Ozone Treatment Plant (0571002-572003).

\*\*\*

2011-A176L

September 13, 2011

TITLE: ORDER , AUTHORIZE THE BREWER WATER DEPARTMENT TO MOVE FUNDS FROM SCADA UPGRADE TO METER PROGRAM.

filed September 7, 2011  
by Councilor Verow

WHEREAS, the Water Department can produce a significant unit cost savings with a bulk purchase of residential 3/8" water meters; and

WHEREAS, these savings will help the department meet the Federal mandates for lead free metering; and

WHEREAS, \$10,000 in funding for a SCADA upgrade has already been reserved; and

WHEREAS, the present SCADA system is fully functional and has shown no signs of failure or defect;

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Council hereby authorizes the transfer of funds from the SCADA program to fund \$10,000 for the Water Department meter replacement program (0571003-573012).

\*\*\*

**D. Monthly Reports.**

**ACTION:** Councilor Verow moved that the monthly reports from the city departments be accepted and placed on file. The motion was seconded and passed by unanimous vote.

\*\*\*

**E. Nominations, Appointments, Elections.**

2011-A177

September 13, 2011

**TITLE:** ORDER, ISSUE WARRANT FOR NOVEMBER 8, 2011 ANNUAL MUNICIPAL ELECTION.

filed September 7, 2011  
by Councilor O'Connell

WHEREAS, the City of Brewer annual municipal election will be held on Tuesday, November 8, 2011; and

WHEREAS, Title 21-A, M.R.S.A., Section 626(1) provides that the polls must be opened no earlier than 6:00 a.m. and no later than 9:00 a.m. on election day; and

WHEREAS, Title 21-A, M.R.S.A., Section 626(1) further provides that the municipal officers shall determine the time of opening the polls within the time limits of 6:00 a.m. to 9:00 a.m.; and

WHEREAS, a poll opening time of 7:00 a.m. will, in the judgment of the municipal officers, meet the needs of the municipality for the November 8, 2011 election;

NOW, THEREFORE, BE IT ORDERED, that the municipal officers herewith set the time of 7:00 a.m. for opening the polls for the November 8, 2011 annual municipal election; and

FURTHER ORDERED, that the municipal officers issue a warrant for the regular municipal election to be held on November 8, 2011 with the polls to open at 7:00 a.m.

**CITY OF BREWER  
ANNUAL MUNICIPAL ELECTION**

Penobscot ss.

State of Maine

To: \_\_\_\_\_, a Constable in the City of Brewer.

You are hereby required in the name of the State of Maine to notify the voters of the City of Brewer of the election described in this warrant.

**TO THE VOTERS OF THE CITY OF BREWER  
WARD 1, PRECINCTS 1 AND 2**

You are hereby notified that the annual municipal election in the municipality will be held at the Brewer Auditorium on Tuesday, the eighth day of November, 2011 for the purpose of affecting the election of:

- ONE MEMBER OF THE CITY COUNCIL FOR A THREE YEAR TERM
- TWO MEMBERS OF THE SUPERINTENDING SCHOOL COMMITTEE FOR THREE YEAR TERMS
- ONE TRUSTEE OF THE BREWER HIGH SCHOOL DISTRICT FOR A FIVE YEAR TERM

The polls shall be opened at 7:00 A.M. and close at 8:00 P.M.

The Registrar of Voters shall hold office hours while the polls are open to correct any error in or change a name or address on the voting list, to accept the registration of any person eligible to vote and to accept new registrations.

A person who is not registered as a voter may not vote in any election.

Dated at Brewer, Maine this 13th day of September in the year of Our Lord, Two Thousand Eleven.

Majority of the Municipal Officers of Brewer

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**ACTION:** Councilor O’Connell moved that the order have passage. The motion was seconded and passed.

The order was passed by unanimous vote.

\*\*\*

2011-B035

September 13, 2011

**TITLE:** RESOLVE, CONFIRM CITY MANAGER'S APPOINTMENT OF  
CODE ENFORCEMENT OFFICER, PLUMBING  
INSPECTOR AND BUILDING INSPECTOR FOR THE  
CITY OF BREWER.

filed September 7, 2011  
by Councilor Goss

EMERGENCY PREAMBLE

WHEREAS, resolves adopted by the Brewer City Council do not become effective until five days after approval unless such resolves contain emergency preambles; and

WHEREAS, the current Code Enforcement Officer, Inspector of Plumbing and Building Inspector for the City of Brewer has submitted his resignation effective September 9, 2011; and

WHEREAS, these facts create an emergency within the meaning of the Charter, Code and Ordinances of the City of Brewer and require that the following resolve become effective immediately upon its approval to protect the public health, common welfare and safety of the citizens of Brewer;

WHEREAS, Ben Breadmore, Deputy Code Enforcement Officer, has earned his certification for these appointments;

WHEREAS, the City Council confirms the appointment by the City Manager of Ben Breadmore as Code Enforcement Officer, Plumbing Inspector and Building Inspector for the City of Brewer;

NOW, THEREFORE, BE IT ORDERED, that Ben Breadmore is herewith confirmed as Code Enforcement Officer, Inspector of Plumbing and Building Inspector for the City of Brewer commencing immediately and expiring on March 31, 2012; and

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

FURTHER BE IT ORDERED, this Resolve shall become effective upon its passage.

**ACTION:** Councilor Goss moved that the resolve be adopted. The motion was seconded and passed.

The resolve was adopted by unanimous vote.

\*\*\*

2011-B036

September 13, 2011

**TITLE:** RESOLVE, PRESCRIBE REGISTRAR OF VOTERS HOURLY SCHEDULE FOR THE NOVEMBER 8, 2011 ANNUAL MUNICIPAL ELECTION AND THE NOVEMBER 8, 2011 STATE REFERENDUM ELECTION.

filed September 7, 2011  
by Councilor Doughty

WHEREAS, the City of Brewer annual municipal election and the State of Maine referendum election will be held on Tuesday, November 8, 2011; and

WHEREAS, Title 21-A M.R.S.A., Section 122 (6)(A)(2) provides in part, that in a municipality with a population of more than 2,500, the Registrar of Voters shall accept registrations on the last 5 business days before election day, during the hours that the city clerk's office is open (8:00 a.m. – 5:00 p.m.) and for 2 hours in the evening between 5:00 p.m. and 9:00 p.m. on at least 3 of these days; and

WHEREAS, the City of Brewer has a population greater than 2,500 according to the 2010 federal census; and

WHEREAS, Title 21-A M.R.S.A., Section 122 (8) provides that the hourly schedule may be changed by the municipal officers according to the needs of the municipality; and

WHEREAS, the Registrar of Voters suggests that the needs of the municipality are sufficiently met with the 8:00 a.m. to 5:00 p.m. daily schedule and with election day voter registration so that it is not necessary for the Registrar of Voters to hold office hours and accept registrations during evening hours between 5:00 p.m. and 9:00 p.m. on at least 3 of the days during the last 5 business day period prior to the election; and

WHEREAS, the municipal officers concur with this assessment by the Registrar of Voters;

NOW, THEREFORE, BE IT ORDERED, that the municipal officers herewith prescribe the hours of registration as 8:00 a.m. to 5:00 p.m. on the five business days next prior to the state-wide and city elections to be held on November 8, 2011.

**ACTION:** Councilor Doughty moved that the resolve be adopted. The motion was seconded and passed.

The resolve was adopted by unanimous vote.

\*\*\*

**F. Unfinished Business.**

1. (2011-C006) Amend Chapter 31, Entitled Sewer and Pre-Treatment Ordinance, Article 12 "Schedule of Sewer Rates", Section 1200 of the Charter Codes and Ordinances of the City of Brewer. (Councilor Verow) (posted 7/13/2011)

**ACTION:** Councilor Verow moved that the ordinance amendment be enacted. The motion was seconded and passed.

The ordinance amendment was enacted by 4 to 1 vote, Councilor Verow voting against.

\*\*\*

2. (2011-C007) Amend Chapter 3, Entitled The City Clerk, by Adding a Section 102.19 to Section 102 (Duties) of the Charter Codes and Ordinances of the City of Brewer. (Councilor O'Connell)(posted 7/13/2011)

**ACTION:** Councilor O'Connell moved that the ordinance amendment be enacted. The motion was seconded and passed.

The ordinance amendment was enacted by 4 to 1 vote, Councilor Verow voting against.

\*\*\*

3. (2011-C008) Amend Chapter 5, Assessor, Article 2 (The Board of Assessment Review) by adding Section 208-A (Role of the City Clerk) of the Charter Codes and Ordinances of City of Brewer. (Councilor Goss)(posted 7/13/2011)

**ACTION:** Councilor Goss moved that the ordinance amendment be enacted. The motion was seconded and passed.

The ordinance amendment was enacted by unanimous vote.

\*\*\*

4. (2011-C009) Amend Chapter 26, Entitled Animal Control, Article 2 Dogs, Section 208 Duty to Dispose of Feces of the Charter Codes and Ordinances of the City of Brewer. (Councilor Verow) (posted 8/10/2011)

**ACTION:** Councilor Verow moved that the ordinance amendment be enacted. The motion was seconded and passed.

The ordinance amendment was enacted by unanimous vote.

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5. (2011-C010) Amend Chapter 19, Article 3, Section 315 Parking Limited and Prohibited, Schedule C of the City of Brewer Charter, Codes and Ordinances Entitled "Traffic Code" To Amend Item 132 (No Parking on Pendleton Street Between Parkway South and Sky View Avenue. (Councilor Doughty) (posted 8/10/2011)

**ACTION:** Councilor Doughty moved that the ordinance amendment be enacted. The motion was seconded and passed.

The ordinance amendment was enacted by unanimous vote.

\*\*\*

6. (2011-A147) ORDER, Award Contract for Engineering Services for City Hall Accessibility Project. (Councilor O'Connell)

**ACTION:** Councilor O'Connell moved that the order be removed from the table. The motion was seconded.

The order was not removed from the table.

\*\*\*

**G. New Business.**

2011-C011

September 13, 2011

**TITLE:** AMEND THE LAND USE CODE, CHAPTER 24, ARTICLE 7 (SUBDIVISION ORDINANCE), OF THE CHARTER, CODES AND ORDINANCE OF THE CITY OF BREWER BY COMPLETE SUBSTITUTION OF THE ARTICLE.

filed September 7, 2011  
by Arthur Verow

Be it ordained by the City Council of the City of Brewer in City Council assembled that Chapter 24, Article 7 (Subdivision Ordinance), of the Charter, Codes and Ordinances of the City of Brewer entitled "Land Use" be amended by complete substitution:  
(Please see attached)

**ACTION:** Councilor Verow moved that the proposed ordinance amendment be filed with the City Clerk for posting. The motion was seconded and passed by unanimous vote.

\*\*\*

2011-C012

September 13, 2011

TITLE: AMEND CHAPTER 20, ENTITLED "LICENSES AND PERMITS,  
OF THE CHARTER, CODES AND ORDINANCES OF THE CITY OF  
BREWER.

filed September 7, 2011  
by Councilor Doughty

Be it ordained by the City Council of the City of Brewer in City Council assembled that Chapter 20 of the Charter, Codes and Ordinances of the City of Brewer entitled "Licenses and Permits" be amended to read as follows:

1. **ARTICLE I. GENERAL PROVISIONS APPLICABLE TO BOTH LICENSES & PERMITS**

**SECTION 103. CITY CLERK: AUTHORITY LIMITATIONS.** The authority of the City Clerk to issue licenses and permits is hereby limited as follows:

**103.3 APPROVAL.** In all cases where the approval of any City Official is required as a condition precedent to issuance of any license or permit by the City Clerk, he or she shall notify promptly such officer or officers, and shall not issue such license or permit until and unless all required approval is received, ~~as evidenced by signatures on the application.~~ by written report or e-mail correspondence.

2. **ARTICLE 2. LICENSES**

**SECTION 202. BEANO.** No person, partnership, corporation or other legal entity shall operate or conduct the amusement commonly known as "Beano" or "Bingo" for the entertainment of the public within the City of Brewer, without obtaining a license from the City for such activity. The fee for such license shall be in accordance with Article 4 of this Chapter. Application for a "Beano" or "Bingo" license shall be made to the City Clerk on the license application form provided by the City Clerk. ~~No such license shall be issued except on approval of the Police Chief and the Fire Chief.~~ No license shall be issued to any person, partnership, corporation or other legal entity unless such person, partnership, corporation or other legal entity is licensed by the Maine State Police to operate or conduct "Beano" or "Bingo" in the City of Brewer. The City Clerk and the Deputy City Clerk are authorized to sign approvals, on behalf of the City Council, for applications to the Maine State Police for "Beano" or "Bingo" licenses, ~~provided the Police Chief and the Fire Chief do not object to the issuance of such licenses. If either the Police Chief or the Fire Chief, or both, object to the issuance of the license, the application shall be referred to the City Council.~~

**SECTION 204. CARNIVALS AND CIRCUS.** Any person, partnership corporation or other legal entity intending to operate a carnival or circus within the limits of the City of Brewer, shall first make application to the municipal officers and receive therefrom, a license. Said application must be approved by the Police Chief, Health Officer, Fire Chief and the Code Enforcement Officer.

**SECTION 206. EXHIBITIONS, PERFORMANCES AND SHOWS (Public).** No person, partnership, corporation, or other legal entity shall conduct or operate on premises any live or recorded exhibition, performance or show, at which an admission fee is charged, without first obtaining a license therefore. No such license shall be granted except upon approval by the Police Chief, Fire Chief and the Health Officer. ~~Licenses for outdoor exhibitions do not require approval by the Fire Chief.~~ Either the Fire Chief or the Police Chief, or both, may condition their certificate of approval upon the presence of one (1) or more members of their respective Departments at the event at the expense of the person conducting or operating the event. No person, partnership, corporation, or other legal entity licensed in accordance with this subsection shall allow upon the premises licensed and under their control, the exhibiting of bare or uncovered breast(s) at or below the areola area or the exhibiting of the breast(s) at or below the areola area of girls or women covered with a transparent or semi-transparent material which exposes to public view the breast(s) at or below the areola area, or exhibiting of bare or uncovered buttocks, genitals, pubic hair, or anus of either girls, women, boys or men covered with a transparent or semi-transparent material which exposes to public view the buttocks, genitals, pubic hair, or anus.

3. **SECTION 209. TRANSIENT SELLER OF CONSUMER MERCHANDISE.** No person, partnership, corporation or other legal entity shall offer for transient sale any consumer merchandise, other than at his, her or its place of business, without obtaining a License from the City Clerk.

**SECTION 209.2.1** For the purposes of this Chapter, a "transient sale" is defined as any sale by a transient seller of consumer merchandise as regulated by Title 32, M.R.S.A., § 4681-14701 et. seq.

4. **SECTION 210. DEALERS IN USED MERCHANDISE AND PAWNBROKERS.**

**SECTION 210.2.2 LICENSING.** The City Council, or their designee, may grant licenses to any person, partnership, corporation or other legal entity of good moral character to be pawnbrokers for one year unless sooner revoked for violation of law. The annual license fee for pawnbrokers shall be in accordance with Article 4 of this Chapter and application for this license shall be made to the City Clerk on forms provided by him or her. Whoever carries on such a business without a license under this Section commits a civil violation for which forfeiture of not more than One Hundred (\$100.00) Dollars may be adjudged. The City shall be entitled to its reasonable attorney fees and costs for successfully prosecuting any violations under this Article.

5. **SECTION 215. VICTUALERS.** Any person, partnership, corporation or other legal entity engaging in the business of preparing and selling any food commonly consumed by persons either on the premises or off the premises, shall be designated a common victualer for the purpose of this Chapter and shall obtain a license therefor. The term "common victualer" shall include persons engaged in the restaurant, bakery, sandwich and delicatessen business. Charitable, religious or fraternal organizations holding breakfasts, lunches, dinners or suppers at the Brewer Auditorium or on the premises of a religious organization shall be exempt from the licensing required by this Chapter. No such license shall be granted except upon certification by the Health Officer, Code Enforcement Officer, Police Chief and Fire Chief.

The fees for victualer License shall be established in accordance with Article 4 of this Chapter.

**SECTION 215.1** Any person, partnership corporation or other legal entity desiring to operate a one (1) day concession within the City at which food commonly consumed by persons is to be sold shall obtain a (1) one-day victualer's license. Said license shall state the time and place at which said concession is to operate. There shall be a limit of two (2) total licenses issued per year to any person, partnership, corporation or other legal entity wishing to obtain a one (1) day victualers license. The fee for said license shall be in accordance with Article 4 of this Chapter.

**SECTION 215.2 LUNCH WAGONS.** Persons, partnerships, corporations or other legal entities desiring to operate lunch wagons on the public streets ~~or property~~ of the City, shall first make an application and receive a license therefore, from the City. Said license shall include the hours at which the lunch wagon may operate within the public ways of the City. No such license shall be issued except upon certification of the Health Officer, Fire Chief and the Police Chief. The fee for said license shall be in accordance with Article 4 of this Chapter.

**SECTION 215.3.** Any Lunch Wagon to be a permanent fixture on private property will have to comply with Chapter 24, Land Use Code of the City of Brewer and all ordinances and codes of the City of Brewer.

**6. ADD A SECTION 216.1 and 216.2**

**SECTION 216.1. CONCESSION STANDS.** Any person, partnership corporation or other legal entity desiring to operate a concession stand within the City at which food commonly consumed by persons is to be sold shall obtain a license. A one day victualer license may be purchased, with a limit of two per year total. All sales shall be on private property. The person operating the concession stand must have written permission from the owner of the property. Must have all State of Maine Licenses that pertain to concession stands and the sale of food therein. The fees for a Concession Stand shall be the same as that of a Lunch Wagon.

**SECTION 216.2** Concession Stands may only locate in the Convenient Business and General Business Zone within the City of Brewer. Any Concession Stand to be a permanent fixture on private property will have to comply with Chapter 24, Land Use Code of the City of Brewer and all ordinances and codes of the City of Brewer.

7. ADD A SECTION 220.

**SECTION 220. OUTDOOR EVENTS WITH MUSIC AND WITH OR WITHOUT**

**ALCOHOL SERVED.** Any person, partnership, corporation or other legal entity desiring to hold an outdoor event shall make application to the City Clerk upon forms provided by him/her. All applications will be presented to the City Council for approval at a City Council meeting. There will be no fee charged for such events. Each establishment shall only be allowed one event per year unless the City Council grants special approval for more.

**SECTION 220.1.** Copy of each application for outdoor event will be forwarded to the City Inspectors (Health Officer, Code Enforcement Officer, Police Chief and Fire Chief) for their approval and a written report shall be sent back to the City Clerk to be forwarded to the City Council before they approve such event. Notice shall be sent to abutters within 500 feet of such outdoor event by the City Clerk's office at least 7 days before the City Council meeting which contains the orders for City Council to approve these events.

**SECTION 220.2.** The City Council will not approve any permit unless the contract with the entertainers and the establishment holding the event contains language that the entertainers will not use profane language during the event. Also any complaints about rowdiness, loud music or profanity from performers may also be cause for the City Council to deny a request for a permit.

**SECTION 220.3.** All establishments with State of Maine Liquor Licenses making application for an outdoor event in an enclosed area and serving alcohol shall follow all of State of Maine Liquor Laws for such events.

**ACTION:** Councilor Doughty moved that the proposed ordinance amendment be filed with the City Clerk for posting. The motion was seconded and passed by unanimous vote.

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2011-C013

September 13, 2011

**TITLE:** ORDER: AMEND CHAPTER 9, ARTICLE 6, SECTION 602 OF THE CITY OF BREWER'S CODES AND ORDINANCES TO PERMIT THE SALE AND USE OF FIREWORKS AND CONSUMER FIREWORKS IN THE CITY OF BREWER AFTER JANUARY 1, ~~2011~~ 2012.

filed September 7, 2011  
by Arthur C. Verow

WHEREAS, the 125<sup>th</sup> Maine Legislature enacted LD83 legalizing the sale, possession and use of fireworks and consumer fireworks in the State of Maine beginning January 1, 2012; and

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WHEREAS, Title 8 M.R.S.A. § 223-A(2) allows municipalities to adopt ordinances relating to the sale and use of fireworks and consumer fireworks within its boundaries; and

WHEREAS, the City Council believes Chapter 9, Article 6, Section 602 of the City's Codes and Ordinances needs to be amended to be consistent with what is allowed under the new law;

NOW, THEREFORE, BE IT ORDERED that Chapter 9, Article 6, Section 602 be amended to read as follows:

**SECTION 602. EXCEPTIONS.** The provisions of this Ordinance shall not apply to the use or possession of signal torpedoes or other signaling devices by railroads in the operation of their trains; or to the sale, use or possession of normal stocks of flash light compositions for photographers or dealers in photographic supplies or flares used to mark disabled vehicles or dangerous spots on the highways or toy pistols, toy canes, toy guns or cannons in which paper caps containing 25/100ths grains or less of explosive compound are used, if they are so constructed that the hand cannot come in contact with the cap when in place for the explosion, or to the sale, possession or use of sparklers that do not contain magnesium chlorinates or perchlorates. Additionally, beginning January 1, 2012, the provisions of this Ordinance shall not apply to the sale, possession and use of consumer fireworks as defined under Title 8 M.R.S.A. § 221-A(1-A), within the City of Brewer, so long as the sale, possession and use of the consumer fireworks are consistent with Title 8 M.R.S.A. § 221-A through and including Section 237, the rules adopted by the Commissioner of the Maine Department of Public Safety and federal law.

**ACTION:** Councilor Verow moved that the proposed ordinance amendment be filed with the City Clerk for posting. The motion was seconded.

The City Solicitor said the title should be amended to read 2012 instead of 2011

Councilor Verow moved that the proposed ordinance amendment be amended by changing the date in the title from 2011 to 2012. The motion was seconded and passed.

The motion to post the proposed ordinance amendment was passed by unanimous vote.

\*\*\*

2011-A178

September 13, 2011

TITLE: ORDER, AUTHORIZE ONE-TIME CONTRIBUTION TO PENOBSCOT COMMUNITY HEALTH CARE.

filed September 7, 2011  
by Councilor Doughty

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WHEREAS, Penobscot Community Health Care opened the doors of its clinic located on Wilson Street in Brewer in July 2010; and

WHEREAS, in this short time the facility has provided affordable health care services to many thousands of individuals and families, many of whom live and/or work in Brewer; and

WHEREAS, Penobscot Community Health Care also operates clinics in the Brewer High School and the new Brewer Community School, which also includes a fully equipped dental care facility; and

WHEREAS, the City of Brewer would like to recognize and support PCHC's mission and the important role it plays in the community; and

WHEREAS, Title 30-A, Section 5725, M.R.S.A. allows a municipality to appropriate money in support of community health care facilities and public health programs;

NOW, THEREFORE, BE IT ORDERED, that the City Council hereby authorizes the one-time appropriation and expenditure of \$14,600 from 0116510-505290 (Nonprofit Contributions – Misc.) to support PCHC's operations in Brewer; and

BE IT FURTHER ORDERED, that funds for this expenditure come from Overlay (0119901-509810).

**ACTION:** Councilor Doughty moved that the order have passage. The motion was seconded.

Councilor Verow moved that the order be amended by striking out the figure \$14,600 and replacing it with the figure \$1,000. There was no second. Motion to amend was defeated.

The order was passed by a 4 to 1 vote, Councilor Verow voting against.

\*\*\*

2011-A179

September 13, 2011

TITLE: ORDER, REFER A PROPOSED AMENDMENT TO CHAPTER 24, ARTICLE 4, SECTION 438.7 OF THE CITY OF BREWER'S CODES AND ORDINANCES TO THE CITY OF BREWER PLANNING BOARD FOR A HEARING AND RECOMMENDATION WITHIN SIXTY (60) DAYS OF THE PASSAGE OF THIS ORDER.

filed September 9, 2011  
by Jerry Goss

WHEREAS, the 125<sup>th</sup> Maine State Legislature enacted amendments to the Maine Medical Use of Marijuana Act; and

WHEREAS, the amendment to Title 22 M.R.S.A. § 2428(10) limiting municipalities' ability to control the sale, purchase, purchase delay, transfer, ownership, use, possession, bearing, transportation, licensing, permitting, registration or taxation of medical marijuana or any other matter pertaining to medical marijuana other than the regulations allow by the Act; and

WHEREAS, Chapter 24, Article 4, Section 438.7 of the City of Brewer's Codes and Ordinances needs to be amended to be consistent with the Legislature's actions; and

WHEREAS, the City Council can initiate revisions to Chapter 24 under Article 1, Section 108.1 of said Chapter; and

WHEREAS, it is the sense of the City Council that an amendment of Chapter 24, Article 4, Section 438.7 should be referred to the City's Planning Board for a hearing and recommendation; and

WHEREAS, it is further the sense of the City Council that it needs to receive the Planning Board's recommendation on the proposed amendment within sixty (60) days from the passage of this Order;

NOW THEREFORE BE IT ORDERED, the proposed amendment to Chapter 24, Article 4, Section 438.7 of the City's Codes and Ordinances that would read as follows be referred to the City Planning Board for hearing and its recommendation:

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“Section 438.7

Employees of a Medical Marijuana Registered Dispensary may assist registered patients as that term is defined in 22 M.R.S.A. § 2422(12), as the same may be amended from time to time, with the use of medical marijuana inside the building(s) on the licensed property. An employee of a Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility, who is also a registered patient, may use medical marijuana inside the building(s) on the licensed property. Any such use of medical marijuana must not be visible from the street or from outside the building(s). Any Medical Marijuana Facility where use of medical marijuana takes place shall have in place protocols and policies to educate registered patients and registered patients who are employees about the dangers of driving a vehicle while medicated and, when possible, to discourage or prevent driving while medicated.”

FURTHER, BE IT ORDERED that the City’s Planning Board hold a hearing on the proposed amendment and submit its recommendation thereon to the City Council within sixty (60) days of the passage of the Order.

**ACTION:** Councilor Goss moved that the order have passage. The motion was seconded and passed.

The order was passed by a 4 to 0 vote, Councilor Ferris abstained.

\*\*\*

2011-A179A

September 13, 2011

**TITLE:** ORDER, AN ORDER TO ADOPT THE CHAMBERLAIN STREET REVITALIZATION PLAN.

filed September 7, 2011  
by Councilor Goss

WHEREAS, The City of Brewer, in collaboration with the Brewer Housing Authority and Penquis CAP initiated the development of the Chamberlain Street Revitalization Plan to promote the stabilization, revitalization and development of this area; and

WHEREAS, this Revitalization Plan is intended only to promote and enhance the ascetic value of this neighborhood, strengthen the commitment to the Brewer Housing Authority and promote positive outgrowth of this area;

NOW THEREFORE BE IT ORDERED, the Brewer City Council hereby adopts the Chamberlain Street Revitalization Plan.

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**ACTION:** Councilor Goss moved that the order have passage. The motion was seconded and passed.

The order was passed by unanimous vote.

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Chairman Ferris said that the New Items with Leave of Council portion of the agenda would be taken up at this time. After taking up three orders under suspension of the rules the Council will return to the New Business portion of the agenda.

The following orders were introduced under suspension of the rules. The City Clerk polled the council and unanimous consent was obtained to take up these items.

2011-A181

September 13, 2011

**TITLE:** ORDER, APPOINT DEPUTY CODE ENFORCEMENT OFFICER,  
DEPUTY PLUMBING INSPECTOR, DEPUTY BUILDING  
INSPECTOR AND ELECTRICAL INSPECTOR.

filed September 13, 2011  
(under suspension of the rules)  
by Jerry Goss and Arthur Verow

EMERGENCY PREAMBLE

WHEREAS, orders passed by the Brewer City Council do not become effective until five days after approval unless such orders contain emergency preambles; and

WHEREAS, it is imperative that the order becomes effective immediately upon passage so that the positions of Deputy Code Enforcement Officer, Deputy Plumbing Inspector, Deputy Building Inspector and Electrical Inspector may be filled promptly; and

WHEREAS, these fact create an emergency within the meaning of the Charter, Code and Ordinances of the City of Brewer and require that the following Order become effective immediately upon its approval to protect the public health, common welfare and safety of the citizens of Brewer;

WHEREAS, Stuart Brooks is licensed and authorized by the State of Maine to perform Code Enforcement duties, inspect electrical, plumbing and buildings; and

WHEREAS, Stuart Brooks has agreed to support the City of Brewer by providing Deputy Code Enforcement, Deputy Plumbing Inspector, Deputy Building Inspector and Electrical Inspector services a minimum of two days a week;

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NOW THEREFORE, BE IT ORDERED, that Stuart Brooks is herewith appointed Deputy Code Enforcement Officer, Deputy Plumbing Inspector, Deputy Building Inspector and Electrical Inspector for the City of Brewer; and

FURTHER BE IT ORDERED, that these appointments will commence immediately upon the passage of this Order.

**ACTION:** Councilor Goss moved that the order have passage. The motion was seconded and passed.

The order was passed by unanimous vote.

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2011-A182

September 13, 2011

**TITLE:** ORDER, AUTHORIZE CONTRACT WITH MAINE POWER OPTIONS (MPO) FOR CONTRACTED ELECTRICAL SERVICES

filed September 13, 2011  
(under suspension of the rules)  
by Jerry Goss and Arthur Verow

ORDERED, that City of Brewer enter into a electrical power contract with Maine Power Options (MPO) for Medium and Street Light accounts;

FURTHER ORDERED, that the City Manager, or his designee, is herewith authorized to sign this contract agreement on behalf of the City of Brewer.

**ACTION:** Councilor Goss moved that the order have passage. The motion was seconded and passed.

The order was passed by a 4 to 0 vote, Councilor O'Connell abstained.

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2011-A183

September 13, 2011

**TITLE:** ORDER, AUTHORIZE PURCHASE OF REPLACEMENT CRUISER FOR THE BREWER POLICE DEPARTMENT.

filed September 13, 2011  
(under suspension of the rules)  
by Larry T. Doughty and  
Kevin O'Connell

WHEREAS, in June 2012 the City Council approved funding for the replacement of a Police cruiser as part of the FY12 Capital Improvement Program; and

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WHEREAS, the City received the following three bids:

O'Connor in Augusta	\$27,513.00
Varney's in Bangor	\$27,523.00
Quirk in Bangor	\$27,748.00; and

WHEREAS, given the negligible difference between the two lowest bids, we recommend going with the more local vendor as travel costs for warranty work would more than exceed the difference in price;

NOW THEREFORE BE IT ORDERED, that the City Manager, or his designee, is herewith authorized and directed to purchase a replacement marked patrol vehicle for the Brewer Police Department from Varney's of Bangor for \$27,523; and

BE IT FURTHER ORDERED, that costs for this purchase be charged to CIP account 0510132 511200 (Police Vehicle).

**ACTION:** Councilor Goss moved that the order have passage. The motion was seconded.

Councilor Doughty moved that the order be amended by adding the following paragraph at the end of the order:

“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.” The motion was seconded and passed.

The order was passed by unanimous vote.

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Chairman Ferris said that the Council would return to the New Business portion of the agenda to take up the last order.

2011-A180

September 13, 2011

TITLE: ORDER, CONVENE IN EXECUTIVE SESSION PURSUANT TO  
TITLE 1, M.R.S.A. §405(6)(E) ON A LEGAL MATTER.

filed September 7, 2011  
by Councilor O’Connell

ORDERED, that the City Council convene in executive session pursuant to Title 1, M.R.S.A. §405(6)(E) on a legal matter.

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**ACTION:** Councilor O'Connell moved that the order have passage. The motion was seconded.

Councilor O'Connell moved that the Council convene into executive session. The motion was seconded and passed by unanimous vote.

Chairman Ferris said the City Council, City Manager, Finance Director and City Solicitor would convene into executive session. He said the regular meeting would resume after the executive session. (7:28 p.m.)

The regular meeting was called back to order by Chairman Joseph Ferris. (7:54 p.m.)  
The city clerk called the roll:

Chairman Ferris	-	present	Councilor Doughty	-	present
Councilor Goss	-	present	Councilor O'Connell	-	present
Councilor Verow	-	present			

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Chairman Ferris said he would accept a motion for adjournment.

**ACTION:** Councilor Doughty moved that the meeting be adjourned. The motion was seconded and passed by unanimous vote. The meeting adjourned at 7:55 p.m.

**ADJOURNED, ATTEST:** \_\_\_\_\_ Howard F. Kroll  
City Clerk  
**A TRUE COPY, ATTEST:** \_\_\_\_\_ Brewer, Maine