

City Council Minutes
September 26, 2013

Emergency Special Meeting
City Hall Council Chambers

Thursday, September 26, 2013
6:30 a.m.

The emergency special meeting was called to order by Chairman Kevin O'Connell.
The city clerk called the roll:

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

Chairman O'Connell declared a quorum present. City Manager Bost was also present.

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

Chairman O'Connell read the notice for the emergency special meeting.

TO: Joseph Ferris, Arthur Verow, Jerry Goss, Kevin O'Connell and Matthew Vachon
MEMBERS OF THE BREWER CITY COUNCIL You are hereby notified an emergency special meeting of the City Council will be held on Thursday, September 26, 2013 at 6:30 a.m. in the Council Chambers at Brewer City Hall to consider and act on the items on the attached agenda.

s/Kevin O'Connell

Mayor and Chairman of the City Council

or _____

Majority of the City Council

a true copy, attest: s/Pamela J. Ryan

City Clerk

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	Munson	Sgt.	09/24/13	1450
Matthew Vachon	Luce	Off.	09/24/13	1759
Arthur Verow	Munson	Sgt.	09/24/13	1500
Jerry Goss	Munson	Sgt.	09/24/13	1510
Kevin O'Connell	Luce	Off.	09/24/13	1806

CITY COUNCIL EMERGENCY SPECIAL MEETING
Thursday, September 26, 2013 6:30 A.M.
Brewer City Hall Council Chambers

- I. Call to Order.** (Mayor Kevin O'Connell)
- II. Roll Call.** (City Clerk)
- III. Pledge of Allegiance to the Flag of the United States of America.** (Mayor O'Connell)

- B. Awards, Petitions and Public Comments.**
 - 1. Public Comments.
- C. Consent Calendar.**
 - 1. (2013-A164) ORDER, Amend the Lease Between the City of Brewer and Delta Hockey, LLC Dated May 2, 2002, Upon the Sale of the Ice Arena Located at 90 Acme Road in the City of Brewer to Penobsco Hockey, Inc. (Councilor Verow)
- D. Monthly Reports.** (none)
- E. Nominations, Appointments, Elections.**
 - 1. (2013-A165) ORDER, Issue Warrant for November 5, 2013 for City of Brewer School Bond Referendum Election. (Councilor Vachon)
 - 2. (2013-B060) RESOLVE, Prescribe Registrar of Voters Hourly Schedule for the November 5, 2013 City of Brewer School Bond Referendum Election. (Councilor Goss)
- F. Unfinished Business.** (no items)
- G. New Business.** (no items)
- H. New Items with Leave of Council.**
- I. ADJOURN**

- B. Awards, Petitions and Public Comments.**
 - 1. PUBLIC COMMENTS.

None.

C. Consent Calendar.

2013-A164

September 26, 2013

TITLE: ORDER, AMEND THE LEASE BETWEEN THE CITY OF BREWER AND DELTA HOCKEY, LLC DATED MAY 2, 2002, UPON THE SALE OF THE ICE ARENA LOCATED AT 90 ACME ROAD IN THE CITY OF BREWER TO PENOBSCO HOCKEY, INC.

filed September 23, 2013
by 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, the closing date for signing the lease falls within the five day period; 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, the City has been notified that the ice arena located at 90 Acme Road in Brewer is being sold before the end of September, 2013, by Delta Hockey, LLC to Penobsco Hockey, Inc.; and

WHEREAS, as a part of the purchase of the ice arena, Penobsco Hockey, Inc. wants to assume the Lease between the City of Brewer and Delta Hockey, LLC dated May 2, 2002; and

WHEREAS, Section 17.2 of the May 2, 2002 Lease between the City of Brewer and Delta Hockey, LLC allows the Lease to be freely assigned during the initial term and any extensions thereof; and

WHEREAS, the City is fully in favor of Penobsco Hockey, Inc. assuming the Lease upon its purchase of the ice arena; and

WHEREAS, Penobsco Hockey, Inc. has represented to the City that it will vastly improve the ice arena by making the improvements set forth on Exhibit A, attached hereto and made a part hereof, within one (1) year of its acquisition of the ice arena; and

WHEREAS, Penobsco Hockey, Inc. has requested that it be given relief from the rental obligation it is assuming under the May 2, 2002, Lease between Delta Hockey, LLC and the City of Brewer; and

WHEREAS, the City Council believes it is in the best interest of the citizens of the City of Brewer to allow Penobsco Hockey, Inc. to make the improvements set forth on Exhibit A to better serve its citizens, the hockey community within the City of Brewer and beyond;

NOW, THEREFORE, BE IT ORDERED that the City of Brewer, acting through its City Council, supports Penobsco Hockey, Inc.'s assumption of the May 2, 2002, Lease between Delta Hockey, LLC and the City upon its purchase of the ice arena located at 90 Acme Road in the City of Brewer; and

FURTHER, BE IT ORDERED Penobsco Hockey, Inc. agrees to make the improvements set forth on Exhibit A, attached hereto and made a part hereof; and

FURTHER BE IT ORDERED that in exchange for Penobsco Hockey, Inc. making the improvements set forth on Exhibit A within one (1) year of its acquisition of the ice arena, the City agrees to amend the Lease pursuant to Section 22.1 as follows:

(a) The rental obligations from Penobsco Hockey, Inc. to the City of Brewer for the 2013-2014 lease year will be forgiven in its entirety;

(b) The rental obligation from Penobsco Hockey, Inc. to the City of Brewer for the 2014-2015 lease year will be reduced by fifty percent (50%); and

(c) The balance of the terms and conditions of the Lease dated May 2, 2002, between Delta Hockey, LLC and the City of Brewer will remain in full force and effect, unless otherwise amended in writing by the City of Brewer and Penobsco Hockey, Inc.; and

FURTHER BE IT ORDERED, that the City Manager, or his designee, is hereby authorized to take any and all actions and to sign any and all Lease amendments consistent with the terms and conditions of this City Council Order that has been approved as to form by the City Solicitor, or some other attorney representing the City of Brewer.

EXHIBIT A

List of Improvements for the Penobsco Ice Arena

The improvements are listed by priority as what needs to be done first and is an immediate need. These items are scheduled for the first year of operation. Depending on scheduling, etc., we may be able to add some other additional items:

1. Some minor plumbing repairs to shower/restroom facilities/tile both shower stalls between the locker rooms
2. Remodel locker rooms: Ceilings/Painting/Benches/Repairs to Zamboni Room Door

3. Extensive cleaning/sanitizing/mold remediation in locker rooms and showers and extensive painting in these areas and common areas/install false walls behind bleachers and above the office area for overall appearance improvement
4. New Zamboni Ice Resurface Machine (possibly a good used one) and repair the existing machine to be used for a back up
5. Repairs to existing Olympia Unit to be used as a backup
6. Have ABM Mechanical Services evaluate the Ice Chiller Plant for repairs if they think the unit is worth repairing or replacement. As of 9/23 and as per the Purchase & Sale Agreement, Roger Theriault has hired ABM to get the 2nd Compressor up and running and to install 2 more cooling fans. After the closing, we will have ABM Mechanical Services return to completely evaluate the unit and have them get the remaining cooling fans replaced and any other additional repairs they deem necessary if indeed the unit can be salvaged.
7. Miscellaneous repairs to door closures and general cosmetics
8. Have the fire sprinkler system recertified
9. Remodel main office area/painting/built in counter desk areas/ceiling

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

The order was passed by unanimous vote.

D. Monthly Reports.

There were no monthly reports.

E. Nominations, Appointments, Elections.

2013-A165

September 26, 2013

TITLE: ORDER, ISSUE WARRANT FOR NOVEMBER 5, 2013 CITY OF
BREWER SCHOOL BOND REFERENDUM ELECTION.

filed September 23, 2013
by Matthew Vachon

WHEREAS, the City of Brewer School Bond Referendum Election will be held on Tuesday, November 5, 2013; 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 5, 2013 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 5, 2013 City of Brewer School Bond Referendum Election; and

FURTHER ORDERED, that the municipal officers issue a warrant for the City of Brewer School Bond Referendum Election to be held on November 5, 2013 with the polls to open at 7:00 a.m. and close at 8:00 p.m.

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

The order was passed by unanimous vote.

**CITY OF BREWER
WARRANT AND NOTICE OF ELECTION
REFERENDUM ELECTION
NOVEMBER 5, 2013**

Penobscot, ss.

State of Maine

To: _____, Constable of 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 Referendum Election described herein:

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

You are hereby notified that a Referendum Election in this municipality will be held at the Brewer Auditorium, 203 State Street in the City of Brewer at 7:00am on Tuesday, November 5, 2013, for the purpose of determining the following question:

Question 1 : Shall the Board of Trustees of the City of Brewer High School District be authorized to issue bonds or notes in the name of the District for minor capital project purposes in an amount not to exceed \$2,691,136, which bonds may be made callable, for the purpose of renovating and upgrading Brewer High School, including: (i) construction of additional restroom facilities to comply with the Americans with Disabilities Act, (ii) improvements to the gymnasium including replacement of the gym floor, (iii) improvements to communications infrastructure, (iv) construction of multi-purpose instructional space and instructional space for art classes, and (v) other renovations and improvements (the "Project"), provided that the Board of Trustees may modify or reduce the scope of the Project to ensure that the Project remains within budget?

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Please note: This question will authorize the Board of Trustees of the City of Brewer High School District to issue bonds or notes in an amount not to exceed \$2,691,136 to renovate the high school.

Pamela J. Ryan, City Clerk

City of Brewer High School District
Financial Statement
Regarding Borrowing for School Renovation Project

As of the referendum date, the total amount of bonds of the City of Brewer High School District outstanding and unpaid is \$44,060,486 of which \$34,741,171 is principal and \$9,319,315 is interest. This District has \$0 in bonds that are authorized but unissued. The total general obligation to be assumed if the article authorizing this borrowing is ratified by the voters is \$2,691,136. The total debt service costs of the Project will vary depending on the prevailing interest rates at the time the bonds are issued. The total estimated debt service is \$4,111,027 of which \$2,691,136 is principal. Estimated interest of 4.79% on the bonds over 17 years is \$1,419,891.

The validity of the bonds and of the voters' ratification of the bonds may not be affected by any errors in the estimate made pursuant to the above statement. If the actual amount of the total debt service for the bonds varies from the estimate, the ratification by the electors is nevertheless conclusive and the validity of the bond issue is not affected by reason of the variance.

Albert Gibson, Treasurer,
City of Brewer High School District

The polls shall be opened at 7:00 am and closed at 8:00 pm.

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 any new registrations.

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

Dated: September 26, 2013

_____	_____
_____	_____
_____	_____

A majority of the City Council of the City of Brewer

A true copy

Attest: _____
Pamela Ryan, City Clerk

2013-B060

September 26, 2013

TITLE: RESOLVE, PRESCRIBE REGISTRAR OF VOTERS HOURLY
SCHEDULE FOR THE NOVEMBER 5, 2013 CITY OF
BREWER SCHOOL BOND REFEREDNUM ELECTION.

filed September 23, 2013
by Jerry Goss

WHEREAS, the City of Brewer School Bond Referendum Election will be held on Tuesday, November 5, 2013; 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 city election to be held on November 5, 2013.

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

The resolve was adopted by unanimous vote.

F. Unfinished Business.

No items.

G. New Business.

No items.

H. New Items with Leave of Council.

No items.

Chairman O'Connell said he would accept a motion for adjournment.

ACTION: Councilor Goss moved that the meeting be adjourned. The motion was seconded and passed by unanimous vote. The meeting adjourned at 6:35 am.

ADJOURNED, ATTEST: _____ Pamela J. Ryan
City Clerk

A TRUE COPY, ATTEST: _____ Brewer, Maine