

Pursuant to due call and notice thereof, the regular meeting of the Brainerd City Council was called to order at 7:30 P.M. by Council President Bevans.

Upon roll call, the following members were noted as present: Czeczok, O'Day, Stunek, Terry, Stenglein, Johnson, and Bevans. Mayor Badeaux was noted as present.

Council President Bevans opened the meeting with the Pledge of Allegiance to the flag.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND STUNEK, DULY CARRIED, TO APPROVE THE AGENDA.

MOVED AND SECONDED BY COUNCIL MEMBERS TERRY AND STENGLEIN TO APPROVE THE CONSENT CALENDAR.

- A. Approval of Bills**
- B. Approval of Minutes**
 - a. Regular City Council Minutes July 17, 2023**
- C. Approval of Licenses**
- D. Department Activity Report**
- E. Ratify the Hiring of Officer Cameron Walkowiak Effective July 31, 2023, at Step 1 of Police Officer Rate (\$31.35 per hour)**
- F. Approval of Electric Distribution Supervisor Job Description**
- G. Approval of Journeyman Electrician Job Description**

Upon roll call, Council Members Czeczok, O'Day, Stunek, Terry, Stenglein, Johnson, and Bevans. voted "aye". No member voted "nay". The Chair declared the motion carried.

Council Committee Reports

Safety and Public Works Committee

Direction on Active Code Enforcement

Committee Chair O'Day gave an overview of the cases.

MOVED AND SECONDED BY MEMBERS O'DAY AND CZECZOK, DULY CARRIED, TO FOLLOW STAFF RECOMMENDATIONS.

Approve Event Application - BHS Homecoming 5K

Committee Chair O'Day gave an overview of the event, it will include use of the trails in Kiwanis and Rotary. There will be no street closures with this event.

MOVED AND SECONDED BY MEMBERS O'DAY AND STENGLEIN, DULY CARRIED, TO APPROVE THE APPLICATION UNDER THE CONDITIONS AS DESCRIBED IN THE EVENT APPLICATION.

Adopt Name-A-Truck Selection

Committee Chair O'Day stated that the most popular name was "Plow Bunyan", with "Snowbegone Kenobi", and "Blade the Blue Ox" coming in second and third.

MOVED AND SECONDED BY MEMBERS O'DAY AND CZECHOK, DULY CARRIED, TO ADOPT "PLOW BUNYAN" AS THE NAME OF THE NEW TRUCK.

Approve Transit Lease Agreement

Committee Chair O'Day stated that the rent is being increased by \$40 each month to total \$700 per month.

MOVED AND SECONDED BY MEMBERS O'DAY AND STENGLEIN, DULY CARRIED, TO APPROVE THE TRANSIT OFFICE LEASE AS PRESENTED.

Approve Change Orders #3, #4, and #5 - Harrison SRTS

Committee Chair O'Day gave an overview of the changes. With the change order, the total spent on the project is \$492,165 which is still under the project grant of \$500,000.

MOVED AND SECONDED BY MEMBERS O'DAY AND CZECHOK, DULY CARRIED, TO APPROVE CHANGE ORDERS 3, 4, AND 5 IN THE TOTAL AMOUNT OF \$12,638.

Approve Letter of Support and Adopt Resolution - TH 210 MPDG Grant

MOVED AND SECONDED BY MEMBERS O'DAY AND STENGLEIN TO APPROVE THE LETTER OF SUPPORT AND ADOPT RESOLUTION SUPPORTING MNDOT'S MPDG GRANT APPLICATION.

RESOLUTION 31:23

Upon roll call, Council Members Czechok, O'Day, Stunek, Terry, Stenglein, Johnson, and Bevans. voted "aye". No member voted "nay". The Chair declared the motion carried.

Approve MnDOT Agreement - Engineering Services on TH 371B/Willow St Roundabout Project

Committee Chair O'Day stated that this is the roundabout on Willow and South 6th, potentially to be completed in 2025. The agreement states that MnDOT and the City will cost share the engineering services in total of \$196,998. The agreement also includes cost share for the estimated project cost \$333,995.

Mayor Badeaux stated that this is \$200,000 for engineering services that should have been conducted when the road was reconstructed.

Chair Bevans asked about the amount that the roundabout could have cost if it had been included in the South 6th Street reconstruction.

City Engineer/Public Works Director Dehn stated that this is unknown.

MOVED AND SECONDED BY MEMBERS O'DAY AND STENGLEIN, DULY CARRIED, TO APPROVE THE JOINT POWERS AGREEMENT WITH MNDOT AS PRESENTED.

Approve LHB Proposal - Engineering Services for Historic Water Tower

Committee Chair O'Day stated that this is for the engineering of the stairs, windows, and electrical tape and lights for heat and light inside the bowl.

MOVED AND SECONDED BY MEMBERS O'DAY AND CZECZOK, DULY CARRIED, TO APPROVE THE LHB PROPOSAL IN THE AMOUNT OF \$14,000.

Discussion on Proposed Ordinance on E-Bike Regulations

Committee Chair O'Day stated that the proposed ordinance seemed to be straightforward. The committee recommended a few changes, and staff will come back with an ordinance at the next meeting.

Review Draft Ordinance for Amendment to Section 320.19 - Contesting Administrative Citations

Committee Chair O'Day stated that the ordinance will come back at the next meeting to streamline the appeals process.

Personnel and Finance Committee

Approve 2023 Relief Association Annual Report

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STUNEK, DULY CARRIED, TO AUTHORIZE STAFF TO SIGN THE ANNUAL REPORT AND INCREASE THE AMOUNT ANNUAL AMOUNT UP TO \$14,000 PER YEAR OF SERVICE.

Approve MOU Extension to Allow IBEW Employees to Work at Hydro Facility

Committee Chair Johnson stated that this is the MOU to work at the hydro dam through December 31, 2024.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND TERRY, DULY CARRIED, TO APPROVE THE MOU BETWEEN THE CITY OF BRAINERD, THE USW LOCAL NO. 9230 UNIT 09 UNION, AND THE IBEW LOCAL NO. 31 UNION REPRESENTING PUBLIC UTILITY EMPLOYEES THAT ALLOWS IBEW BPU EMPLOYEES TO ASSIST AT THE HYDRO DAM FACILITY AS NEEDED THROUGH DECEMBER 31, 2024; FURTHER, TO AUTHORIZE THE SIGNATURE OF CITY ADMINISTRATOR ON SAID MOU.

Approve Updated City of Brainerd Organizational Chart

Committee Chair Johnson stated that this was the subject of the workshop, it does not include changes to IT as the City is still looking at options to best serve the organization. The Finance Manager, Operations Manager, and Water/Wastewater Manager were reclassified to be municipal utility division managers and they will have the same vacation schedule as department heads.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STUNEK, DULY CARRIED, TO APPROVE THE UPDATED CITY OF BRAINERD ORGANIZATIONAL CHART AS PRESENTED AND DIRECT STAFF TO UPDATE THE EMPLOYEE POLICY MANUAL ACCORDINGLY.

Discussion of Proposed 2024 Debt Levy

Committee Chair Johnson stated that the debt levy will increase. There was some discussion about the long-term capital and street projects, the committee does not feel it is sustainable to continue to borrow \$2.5 million a year for projects. There may need to be some changes made to the Capital Improvement Plan. He appreciates the work done by Finance Director Hillman.

Discussion on Annual Budget Timeline and Set Workshop

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND TERRY, DULY CARRIED, TO SET A BUDGET WORKSHOP FOR MONDAY, AUGUST 28TH, AT 6:00 P.M. IN THE CITY COUNCIL CHAMBERS.

2022 Tax Increment Financing (TIF) Report Summary – Informational

Committee Chair Johnson stated that the TIF report was submitted on time.

Unfinished Business

Call for Applicants – Informational:

Mayor Recommended: (terms to expire on 12/31 of said year)

Charter Commission – 2 terms (Expire 2026) 2 terms (Expire 2025)

Library Board- 1 term (Expire 2025)

Rental Dwelling License Board of Appeals – 5 terms (Expire 2025)

TAC—1 term (Expires 2023)

Mayor Recommended: (terms to expire 09/07 of said year)

Economic Development Authority (EDA) – 1 term (Expire 2028)

Council President Recommended: (terms to expire 12/31 of said year)

Parking Commission—1 term (Expire 2026)

Final Reading of Proposed Ordinance 1553- Establish Country Manor – Planned Unit Development District, Consider Approval of the Preliminary Plat and Final Plat for Country Manor, and Consider Approval of the PUD General Concept Plan and Development Stage Plan for Country Manor

Community Development Director Kramvik gave an overview of the project.

MOVED AND SECONDED BY COUNCIL MEMBERS STUNEK AND O'DAY, DULY CARRIED, TO CONDUCT THE FINAL READING OF PROPOSED ORDINANCE 1553 AND DISPENSE WITH THE ACTUAL READING, AN ORDINANCE AMENDING SECTION 515-2-21. D OF THE ZONING CODE.

MOVED AND SECONDED BY COUNCIL MEMBERS STENGLEIN AND O'DAY TO ADOPT ORDINANCE 1553.

ORDINANCE 1533

Upon roll call, Council Members Czczok, O'Day, Stunek, Terry, Stenglein, Johnson, and Bevans. voted "aye". No member voted "nay". The Chair declared the motion carried.

New Business

Consider Interim Use Permit (IUP) For One Short Term Rental - 515 S 9th St.

Community Development Director Kramvik stated that staff periodically review short term rental websites for Brainerd properties and noticed that this property was being advertised as a short-term rental. Staff reached out to the property owner and made him aware of the ordinance regarding short term rentals, he applied for an IUP that was considered at the Planning Commission meeting. The Planning Commission did unanimously approve the permit, the commission asked staff to reach out to the Initiative Foundation to see if there were any issues with the DEED Mainstreet funding that the property owner received. There were no issues with the grant that the EDA had awarded the property. In order to deny Interim Use Permits findings of fact need to be stated in the denial.

Member O'Day stated that he did not sit on the subcommittee for the EDA, he asked whether there was any mention of short-term rental in his application.

Community Development Director Kramvik stated that he contacted BLAEDC and went line by line through the application, there was no mention of making this home a short-term rental.

Mayor Badeaux stated that the use of the property as a short-term rental operating outside of its own license was caught by staff and informed the operator that they couldn't have a short-term rental without the proper permit. He stated that the owner is still advertising this property and has it actively advertised on air bnb at the time of the meeting. Why would the City issue a permit to someone who is aware that they are illegally operating the property and still has the property listed.

Member Stenglein stated that Commissioner Duval brought up was that the variance was granted for this property in part of our comprehensive plan recognizing a need for long-term housing. If the property had been brought forth as a short-term rental, it may not have been granted the variance in the first place for the construction.

Members asked to clarify the IUP process.

Chair Bevans stated that the rental is in violation of the zoning code because it is currently operating without a license.

City Attorney Langel stated that if no member made a motion to approve the IUP, a motion to deny must be made with reasons for denial. Rationale would come from the findings of fact so that in the event of an appeal the City has support for their denial.

Mayor Badeaux stated that rental properties are a business within the residential district. We have a responsibility to residents to create boundaries and restrictions on how these properties operate. We should not be rewarding owners who operate a business without a permit.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND JOHNSON TO DENY THE INTERIM USE PERMIT FOR ONE SHORT TERM RENTAL AT 515 S 9TH ST DUE TO THE USE OF DEED MAINSTREET FUNDS FOR A SHORT-TERM RENTAL AND ACTIVELY RUNNING A SHORT-TERM RENTAL WITHOUT AN INTERIM USE PERMIT AS A VIOLATION OF THE ZONING CODE.

Members Czczok, O'Day, Stunek, Terry, Stenglein, and Johnson voted "aye". Member Bevans voted "nay". The Chair declared the motion carried.

First Reading - Proposed Ordinance 1554 - Creating Chapter 16 - Sale and Use of Cannabis, and Section 1600 of the City Code - Use of Cannabis in Public Places

City Engineer/Public Works Director Dehn gave an overview of the proposed ordinance as discussed at the workshop.

Member Johnson asked if we were married to creating Chapter 16, rather in favor of a Chapter 420.

MOVED AND SECONDED BY COUNCIL MEMBERS STUNEK AND JOHNSON, DULY CARRIED, TO CONDUCT THE FIRST READING OF PROPOSED ORDINANCE 1554 CREATING CHAPTER 16- SALE AND USE OF CANNABIS, AND SECTION 1600 OF THE CITY CODE- USE OF CANNABIS IN PUBLIC PLACES AND DISPENSE WITH THE ACTUAL READING.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND O'DAY, DULY CARRIED, TO CALL FOR A PUBLIC HEARING AT THE AUGUST 21ST, 2023 CITY COUNCIL MEETING.

Consider Requesting MnDOT to Install No Parking Signs on South 6th Street

City Engineer/Public Works Director Dehn gave an overview of parking restrictions on the 371B/South 6th Street corridor.

Member Stenglein asked if the potential demonstration project would put parking onto the street.

Chair Bevans asked to stay on topic of the lawsuit.

Member Czczok asked for clarification of statutes that imply parking in the driving lane is not allow in this section of the corridor. He referred to an e-mail by Administrator Bergman in March.

Chief Davis stated that there are three statutes that would address the issue and prohibit the parking. Statutes addressed what you can do within a business district. He quoted MN Statute 169.34 Subdivision 1, 15D. that does refer to parking in a traffic lane and if asked by a peace officer to move, not doing so could result in a citation.

Attorney Langel stated that discussion is off topic.

Member O'Day asked whether there is a citation that the Brainerd Police can issue for disrupting the normal flow of traffic.

Chief Davis stated that careless driving citation would apply.

Chair Bevans asked to discuss the motion.

Member Johnson stated that he agreed that there would be discussion, but in the end we do not want "no parking" signs on South 6th Street because they would be unsightly and redundant because obviously you cannot park in a traffic lane.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND O'DAY TO DENY THE REQUEST, TO REQUEST ADDITIONAL SIGNAGE FROM MNDOT.

Upon roll call Members O'Day, Stunek, Terry, Stenglein, Johnson, and Bevans voted "aye". Member Czczok voted "nay". The Chair declared the motion carried.

Consider Revised Rules of Decorum/Council Procedures

Administrator Bergman gave an overview of the revisions in the rules of decorum.

Member Czczok stated that the rules of decorum should include the Administrator informing the Council of any litigation against the City as soon as practical.

MOVED AND SECONDED BY COUNCIL MEMBERS CZECZOK AND JOHNSON, DULY CARRIED, TO ADOPT THE AMENDED RULES OF DECORUM AND PROCEDURE WITH THE ADDITION OF A LINE STATING THAT THE CITY ADMINISTRATOR WILL INFORM THE CITY COUNCIL OF ANY PENDING LITIGATION AS SOON AS PRACTICAL.

Public Forum

The Chair opened the public forum at 8:22 p.m.

No one came forward.

The Chair closed the public forum at 8:23 p.m.

Staff Reports

HR Director Schubert wished Community Development Director Kramvik a very Happy Birthday.

Community Development Director Kramvik stated that the Planning Commission has been working on the potential updated parking ordinance.

City Engineer/Public Works Director Dehn stated that the Harrison SRTS project is mostly completed, the street has been opened for traffic. The rapid flashing beacon signal signs have been delayed until this fall. The trees in the school's CUP are included, the trees will be planted this fall when the weather is more favorable. North Brainerd continues progress well, it is expected to be completed near the end of August. The 6th and Willow roundabout project has kicked off with SEH engaging property owners. Staff is looking for two members to be a part of the PMT.

Members Terry and Czczok volunteered to be on the PMT.

Chair Bevans asked IT/GIS Director Strong whether there is a large difference between IT at BPU and the rest of the City. He would like an analysis at a future meeting.

Police Chief Davis recognized the Police Department drug investigator and the task force he is assigned to. There was a residence where they recovered about 15,000 fentanyl pills recently. Statistically speaking, 9,000 of those pills would have a lethal dose of narcotics. The investigation involved multiple counties and states. The department has not lost focus on the opioid crisis.

City Administrator Bergman stated that she attended the DDBC business visits. The realtors that are a part of the Counselors of Real Estate went on a bus tour. They will present their findings on August 10th. The Mayor and herself will be attending the Mayor's Prayer Breakfast on the 9th. Finally, if there is any feedback on the new agendas, please let us know. They will continue to be sent out as PDFs until training can be given.

Mayor's Report

Mayor Badeaux requested more information about what it means when someone steps outside of the licenses that they are issued in the City of Brainerd, specifically with rentals and housing. He wonders what the repercussions are for having an unpermitted short-term rental.

Council Member Reports

Member Stenglein stated that the 50th Anniversary party was held for Region V. She sat with Lucy Nesheim former alderman. She thanked everyone who reached out to her regarding micro-mobility with their feedback.

Member Stunek stated that Streetfest was fun.

Member Czczok sang Mr. Kramvik a short birthday song.

Member Johnson stated that he will be resigning from the Kitchigami Regional Library Board. He will find a suitable replacement and bring them forward.

Chair Bevans went to the Northside Residents community picnic, it went well. The Northside road construction is moving along. He went to the DDBC business visits and business social. He got a blue ribbon on his cookies at the County Fair. He will bring samples.

Adjourn

MOVED AND SECONDED BY COUNCIL MEMBERS STUNEK AND STENGLEIN,
DULY CARRIED, TO ADJOURN THE MEETING.

The Chair adjourned the meeting at 8:38 p.m.



Jennifer Bergman
City Administrator