Brainerd, MN
September 5, 2023

Pursuant to due call and notice thereof, the regular meeting of the Brainerd City Council was called to order at 7:33 P.M. by Council President Bevans.

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

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

Member Czeczok requested that an additional item be added to the agenda to authorize the Mayor to send a letter to Governor Walz regarding the School Resource Officer issue.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STUNEK, DULY CARRIED, TO APPROVE THE AGENDA WITH THE ADDITION OF AUTHORIZE THE MAYOR TO SEND A LETTER TO GOVERNOR WALZ REGARDING THE SCHOOL RESOURCE OFFICER ISSUE.

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

A. **Approval of Bills**
B. **Approval of Minutes**
    a. **Regular City Council Minutes August 21, 2023**
    b. **Workshop Minutes August 28, 2023**
C. **Approval of Licenses**
D. **Department Activity Report**

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

Council Committee Reports

Personnel and Finance Committee

Approve Withdrawal of School Resource Officer Services Agreement with ISD 181

Committee Chair Johnson stated that there was a law passed at the State this year that as of August 1st changes the way that police officers can operate in schools when they are contracted by the school. Withdrawing from the agreement with the school district will eliminate certain liabilities under this new law. Superintendent Hahn was present at the committee meeting, she understands that the City needs to protect itself from liability and is hopeful that Governor Walz will call a special session to fix the language in the law. If approved, Superintendent Hahn will bring the agreement to the school board's next meeting.

Member Czeczok asked whether it was required of the school district to dissolve the agreement if the City already has approved the withdrawal. He also asked about the impact cost of the officer to the Police Department Budget.

Committee Chair Johnson stated that in order for the withdrawal to take immediate effect, it needs to be passed by both parties. If only the City were to withdraw there would be a

ninety-day waiting period. He stated that the cost for the police officer could come from the State allocation for public safety.

Chief Davis stated that the circumstances are very unfortunate. He appreciated the opportunity to consult with Attorney Langel. The department is confident that they can be attentive to the school's needs but be separated enough to not incur liability. It does not look good or feel good, but this is the obvious way to proceed.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STUNEK, DULY CARRIED, TO AUTHORIZE STAFF TO WORK WITH ATTORNEY LANGEL IN WITHDRAWING FROM THE SCHOOL RESOURCE OFFICER SERVICES AGREEMENT WITH ISD 181.

Accept Retirement of Police Administrative Supervisor Julie McCullough

Committee Chair Johnson stated that Ms. McCullough has been with the City for 28 years. The City will miss her and has benefited from her knowledge.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND TERRY, DULY CARRIED, TO ACCEPT WITH REGRET POLICE ADMINISTRATIVE SUPERVISOR JULIE MCCULLOUGH'S RETIREMENT EFFECTIVE NOVEMBER 30, 2023, AND TO AUTHORIZE SEVERANCE PAY PER CITY POLICY; FURTHER, TO AUTHORIZE STAFF TO BEGIN THE PROMOTIONAL PROCESS TO BACKFILL THE POSITION.

Consider Voting Operations, Technology & Election Resources (VOTER) agreement with Crow Wing County

Committee Chair Johnson stated that the City could potentially make a couple of hundred dollars a year on this. However, since the County does the heavy lifting on elections they will retain the dollars.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STUNEK, DULY CARRIED, TO AUTHORIZE APPROPRIATE SIGNATURES ON THE STATE OF MINNESOTA VOTING OPERATIONS, TECHNOLOGY & ELECTION RESOURCES (VOTER) ACCOUNT COUNTY - MUNICIPALITY AGREEMENT FOR CROW WING COUNTY TO RETAIN THE FULL VOTER ANNUAL APPROPRIATION UNTIL THE COUNTY'S ANNUAL FUNDING ALLOCATION EVER EXCEEDS $50,000.

Discussion of Lakes Media Collaborative response for repayment

Committee Chair Johnson stated that ultimately the City paid Lakes Media for one year that they did not render services. Staff has not been able to uncover a contract with Lakes Media. It does not look like the City has any legal standing to get the money back.

Chair Bevans stated that this was referred to the attorney, he wonders if there is any liability that Lakes Media may have by potentially not fulfilling their 501(c)3 requirements. Could the City be a whistleblower with the State of Minnesota's Attorney General's Office. Is this something that the City could notify the department about.

Committee Chair Johnson stated that he has seen a form to the affect.

Chair Bevans asked to have Lakes Media's tax standing on the next Council meeting.

Safety and Public Works Committee

Approve Event/Street Closure Application - Fire Dept Open House

Committee Chair O'Day stated that the Fire Department's open house will be on October 12th. This is a great event for the community.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND CZECZOK, DULY CARRIED, TO APPROVE THE APPLICATION UNDER THE CONDITIONS LISTED IN THE EVENT APPLICATION.

Approve Event/Street Closure Application - Armed Forces Tribute Event

Committee Chair O'Day stated that the applicant is requesting a few of the parking spots on South 4th Street be blocked off on September 15th.

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

Approve Final Pay Request - Imp 23-02 Crack Sealing

Committee Chair O'Day stated that staff retained some left-over material to be used next year.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND CZECZOK, DULY CARRIED, TO APPROVE THE FINAL PAY REQUEST FOR IMP 23-02 CRACK SEALING IN THE AMOUNT OF $25,200.

Review Request from BNSF for S. 4th Street Crossing Improvements

Committee Chair O'Day stated that staff presented a number of opportunities to exchange and partner with the railroad and the committee added a couple of opportunities as well. The estimate for the road repair would be about $104,000. This could be a great way to leverage some of the improvements the City has been requesting.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND STENGLEIN, DULY CARRIED, TO AUTHORIZE STAFF TO DISCUSS EXCHANGE AND PARTNERSHIP IDEAS.

Authorize Staff to Apply for MnDNR ReLeaf Community Forestry Grant

Committee Chair O'Day stated that the committee felt it was important to replace as many trees that are either dead or diseased as possible. The grant cycle is 3 years, this is the reason for asking for more grant dollars than was recommended by staff.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND CZECZOK, DULY CARRIED, AUTHORIZE STAFF TO APPLY FOR THE MNDNR RELEAF COMMUNITY FORESTRY GRANT PROGRAM FOR $60,000 UP TO $100,000.

Approve Change Order 4 for Imp 21-12 - North Brainerd Reconstruction

Member Czeczok clarified that the seeding will include seed for phase three as well as seeding up to $3000 as needed in phases one and two.

Committee Chair O'Day stated that the dirt does need to be covered in phase three over the winter.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND CZECZOK, DULY CARRIED, TO APPROVE CHANGE ORDER 4 IN THE AMOUNT OF $9,991.80 AND DIRECT CONTRACTOR TO PLACE TEMPORARY SEED IN PHASE THREE AND AS NEEDED UP TO $3,000 IN PHASES ONE AND TWO.

Discussion on Rental Dwelling License Board of Appeals

Committee Chair O'Day stated there are no members on the board, the discussion centered around Safety and Public Works Committee taking on the appeals process.

Member Czeczok stated that since the committee was formed, there has never been a need for it.

Mayor Badeaux stated that he was previously the liaison on the committee and was assured that they would never meet. However, did meet right after he became the liaison.

Member Johnson stated that on its face it looks like a power grab, however, he does support the committee taking on additional duties.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND CZECZOK, DULY CARRIED, TO DIRECT STAFF TO DRAFT AN ORDINANCE TO MAKE THE SAFETY AND PUBLIC WORKS COMMITTEE THE RENTAL LICENSE BOARD OF APPEALS.

Direction on Active Code Enforcement Cases

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

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND STENGLEIN TO FOLLOW STAFF DIRECTION FOR PROPERTIES 1623 EMMA ST, 1005 3RD AVE NE, 915 LAUREL ST, 823 WILLOW ST, 701 4TH ST SW.

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

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)
Council President Recommended: (terms to expire 12/31 of said year)
Parking Commission—1 term (Expire 2026)

Committee Resignations

Chair Bevans stated that he would like to resign from the EDA as he would like to see more citizens on the board.

Final Reading - Proposed Ordinance 1555 – Amending Section 320- Contesting Administrative Citations

Community Development Director gave a brief overview of the ordinance.

MOVED AND SECONDED BY COUNCIL MEMBERS STENGLEIN AND O'DAY, DULY CARRIED, TO CONDUCT THE FINAL READING OF PROPOSED ORDINANCE 1555- AMENDING SECTION 320- CONTESTING ADMINISTRATIVE CITATIONS AND DISPENSE WITH THE ACTUAL READING.

The Chair opened the public hearing at 8:02 p.m.

No one came forward.

The Chair closed the public hearing at 8:03 p.m.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND TERRY TO ADOPT ORDINANCE 1555.

ORDINANCE 1555

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

New Business

First Reading - Proposed Ordinance 1556 - Creating Section 1350 of the City Code - Micromobility

City Engineer Public Works Director Dehn stated that due to the Labor Day holiday the notice for the hearing was delayed, meaning that the public hearing will have to take place on the 1st meeting in October.

MOVED AND SECONDED BY COUNCIL MEMBERS CZECZOK AND STENGLEIN, DULY CARRIED, TO CONDUCT THE FIRST READING OF PROPOSED ORDINANCE 1556 AN ORDINANCE CREATING SECTION 1350 OF THE CITY CODE REGARDING MICROMOBILITY AND DISPENSE WITH THE ACTUAL READING.

MOVED AND SECONDED BY COUNCIL MEMBERS STENGLEIN AND TERRY, DULY CARRIED, TO SET THE PUBLIC HEARING FOR ORDINANCE 1556 FOR OCTOBER 2ND, 2023 AT 7:30 PM.

First Reading - Proposed Ordinance 1557 - Amendment to Section 1015.07 of the City Code Pertaining to Payment of Fees

Community Development Director Kramvik stated that due to the Labor Day holiday the notice for the hearing was delayed, meaning that the public hearing will have to take place on the 1st meeting in October.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND JOHNSON, DULY CARRIED, TO CONDUCT THE FIRST READING OF PROPOSED ORDINANCE 1557 AN ORDINANCE AMENDING SECTION 1015.07 OF THE CITY CODE PERTAINING TO PAYMENT OF FEES.

Adopt Updated Data Practices Policy

City Administrator Bergman gave an overview of the data practices policy. The last time the data practices policy was updated was in 2015. The policy does meet the requirements of the data practices act. The changes to fees, previously requested by Member Czeczok, are included.

MOVED AND SECONDED BY COUNCIL MEMBERS CZECZOK AND O'DAY, DULY CARRIED, TO ADOPT THE CITY OF BRAINERD DATA PRACTICES POLICY.

Set Budget Workshop for September 13th at 6:00 p.m. in the Council Chambers

Finance Director Hillman stated that the original proposed time may conflict with the House Capital Investment Committee meeting where the state bonding requests by the City will be reviewed.

MOVED AND SECONDED BY COUNCIL MEMBERS STENGLEIN AND TERRY, DULY CARRIED, TO SET A BUDGET WORKSHOP FOR SEPTEMBER 13TH AT 5:00 P.M. IN THE BRAINERD CITY COUNCIL CHAMBERS.

Authorize the Mayor to Send a Letter to Governor Walz Regarding the SRO Issue (added item)

Member Czeczok stated that he would like the letter to request the Governor of Minnesota call a special session to change language in the recent law to reduce liability to our Police department.

MOVED AND SECONDED BY COUNCIL MEMBERS CZECZOK AND O'DAY, DULY CARRIED, TO AUTHORIZE THE MAYOR TO SEND A LETTER TO THE GOVERNOR OF MINNESOTA REQUESTING HE CALL A SPECIAL SESSION TO CHANGE LANGUAGE IN THE RECENT LAW TO REDUCE LIABILITY TO OUR POLICE DEPARTMENT.

Public Forum

The Chair opened the public forum at 8:11 p.m.

No one came forward.

The Chair closed the public forum at 8:12 p.m.

Staff Reports

Community Development Director Kramvik stated that he spoke with Mr. Stangler the owner of the 515 S 9th St short-term rental. Stated that in the final letter sent to Mr. Stangler about the denial of the interim use permit, Staff included language that if he continues to operate a short-term rental that it would be grounds for his rental license being revoked. The next Planning Commission will include the off-street parking ordinance and a draft ordinance for short-term rentals. Finally, staff did receive guidance on the interim use language, if there was a code passed no longer allowing interim use permits to operate short-term rentals all issued and valid permits would be terminated.

City Engineer/Public Works Director Dehn stated that on September 13th, the City will be presenting to the House Capital Investment Committee at 6:45 the three priorities for the state bonding bill- the water treatment facility, the pedestrian bridge over 210, and the Cuyuna Lakes

State Trail extension. On September 19th at Crow Wing County Land Services, Crow Wing County Soil and Water is inviting Commissioner Barrows and State Representatives to talk about clean water projects that include the Buffalo Hills Gully.

Chair Bevans asked for an update on the washout into the Mississippi River.

City Engineer/ Public Works Director Dehn stated that the washout did not expand during the recent strong rains. The City is finishing up permitting for the project and can hopefully work with the contractor in the coming weeks.

Finance Director Hillman reminded Council that there will not be a packet for the Budget Workshop on September 13th.

City Administrator Bergman reminded Council that the Employee Appreciation event is on Wednesday, September 6th. She stated that the House Capital Committee will be arriving at 6:45 p.m. if you're interested in attending the presentation, please let her know. She attended the Mainstreet Lunch and Learn downtown. She will be attending the League of Minnesota Clerks and Administrators Learning Academy. Finally, she is happy to report that the Christmas decorations have arrived at the Streets garage, they will be installed the week after Thanksgiving.

Mayor's Report

Mayor Badeaux stated that he also attended the Mainstreet Lunch and Learn. The Flapjack Festival is taking place on Saturday, September 23rd from 8am-12pm. It is in combination with the Touch-a-Truck event.

Council Member Reports

Member Czeczok stated that he bumped into a lady from his building today, she was going on the bus to HART to pet the animals. He was happy that she used transit as her mode of transportation.

Adjourn

MOVED AND SECONDED BY COUNCIL MEMBERS STUNEK AND O'DAY, DULY CARRIED, TO ADJOURN TO THE EMPLOYEE APPRECIATION EVENT TO BE HELD ON SEPTEMBER 6TH, 2023 AT 11:30 AT LUM PARK AND ADJOURN TO COUNCIL WORK SESSION TO BE HELD ON SEPTEMBER 11TH, AT 6:00 P.M. FOR FLAHERTY AND HOOD'S CLASSIFICATION AND COMPENSATION STUDY PRESENTATION.

The Chair adjourned the meeting at 8:20 p.m.

Jennifer Bergman
City Administrator