Brainerd, MN
January 2, 2024

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: Terry, Stenglein, Johnson, Czeczok, O'Day, Stunek, 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 STUNEK AND CZECZOK, DULY CARRIED, TO APPROVE THE AGENDA.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND CZECZOK TO APPROVE THE CONSENT CALENDAR WITH THE REMOVAL OF THE NEW TOBACCO LICENSE FOR LIMOS ETC FOR FURTHER DISCUSSION.

A. **Approval of Bills**
B. **Approval of Minutes**
    a. **Regular City Council Minutes December 18th, 2023**
C. **Department Activity Report**
D. **Adopt Resolution Designating Financial Institutions as Depositories for 2024**
E. **Annual Authorization to Perform Electronic Transfers**
F. **Designate the Brainerd Dispatch as the Official Newspaper for Calendar Year 2024 pursuant to the City Charter and Authorize Signatures on Contract with Dispatch**
G. **Adopt Resolution Approving Signature Authorization for 2024 Capital Projects for the Brainerd Lakes Regional Airport**
H. **Approve Hiring of 2023-2024 Warming House Attendant Temporary Employees**

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

Approve New Tobacco License for Limos Etc. DBA Risky Business Novelties and Videos, 3261 Washington Street- Contingent upon Police and Fire Approvals

Member Czeczok stated that items removed from the consent calendar must be heard directly after the consent calendar is approved per the Council Rules of Decorum.

Member Johnson stated that less than a month ago the Council had received a memo outlining 13 infractions by the business applying for this license. The Council unanimously denied the renewal of the license. Without any documentation, he is wondering why the Council is now being asked to approve a new license.

Finance Director Hillman stated that the new application was submitted after a restructuring. It is normal practice for these licenses to be on the Council agenda contingent upon Police and Fire Department Approvals.

Attorney Langel stated that the only thing that has changed is that there has been an assertion that the prior owner is no longer associated with the business in any way. He has not received any evidence of corporate documents to indicate that ownership has been terminated or that he is no longer an officer of the corporation. There is some inconsistency in who exactly is a shareholder and officer in the corporation. He would prefer that the applicant supply additional documentation prior to the Council acting.

Assistant Chief Runde stated that the application is under background investigation by the Police Department.

Member Czeczok stated that similarly the Council is asked to approve applications for other licenses that they never lay eyes on. He struggles with approving something that the Council never sees.

Member O'Day asked to clarify that the Council is just approving the application not the license.

Attorney Langel stated that it is an approval pending of the license Police and Fire approvals.

Chair Bevans stated that it would not come back to the Council after Police and Fire approvals.

Attorney Langel recommended that Council take no action and request that the applicant provide information to support the assertion that the prior owner is no longer associated with the business.

State of the City

Mayor Badeaux gave his address to the citizens of the City of Brainerd.

Council Committee Reports

Personnel and Finance Committee

Consider Approval of the Revised Employee Policy Manual

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STUNEK, DULY CARRIED, TO APPROVE THE UPDATED EMPLOYEE POLICY MANUAL AS PRESENTED.

Discuss BPU Commission's Recommendation for a Work Group Formation

Committee Chair Johnson stated that information was provided from the last BPU Commission meeting to prepare for the upcoming special meeting.

Ratify the Hiring of Recreation Specialist Haley Blank

Committee Chair Johnson stated that this is a budgeted position that is being filled due to a resignation.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND TERRY, DULY CARRIED, TO RATIFY THE HIRING OF HALEY BLANK EFFECTIVE JANUARY 17, 2024; FURTHER, THAT SHE BE PLACED ON STEP 2 OF THE RECREATION SPECIALIST WAGE GRID ($30.56 PER HOUR).

Consider Approval of Classification Points as Recommended by Flaherty & Hood.

Committee Chair Johnson stated that the points have been reviewed endlessly, the Council has varying opinions, but the points must be approved for pay equity.

Member O'Day stated that 16 grievances were received by staff, and nothing changed. He stated that the points need to be looked at further.

Member Czeczok stated that the scale does not make sense in a number of instances. Without knowing what the grievances contained he cannot approve the points.

Member Johnson stated that he agrees, however, he will vote yes due to having to comply with State law by the end of the month.

Chair Bevans asked if union negotiations could influence the points.

Interim Administrator Wussow stated that the "appeals" will not be argued during the union negotiations. The appeals process is complete. They need to be adopted to come into compliance with State pay equity law.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STUNEK TO APPROVE THE FINAL PAY EQUITY POINTS FOR EACH JOB CLASSIFICATION AS PRESENTED.

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

Approval of Earned Sick and Safe Time Policy.

Committee Chair Johnson stated that this is another change to the State law.

Member Czeczok asked how it is determined how an employee takes a mental health day.

HR Director Schubert stated that with the new law, they cannot ask the reason someone is calling in sick. If the absence is longer than three days the City can ask for a doctor's note. There is a no retaliation clause in the law. Family medical leave can also require documentation.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND TERRY, DULY CARRIED, TO APPROVE THE EARNED SICK AND SAFE TIME POLICY AS PRESENTED.

Accept with Regret the Retirement of Public Utilities Director Todd Wicklund

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STUNEK, DULY CARRIED, TO ACCEPT THE RETIREMENT OF PUBLIC UTILITIES DIRECTOR WICKLUND EFFECTIVE MAY 3, 2024, AND AUTHORIZE HIS SEVERANCE PAYOUT PER THE EMPLOYEE POLICY MANUAL.

Committee Chair Johnson stated that there was considerable discussion in committee about job title, description, and who is in charge of the employees with the BPU Commissioners at the meeting. Commissioners asked if there could be a joint meeting to discuss these matters.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND TERRY, DULY CARRIED, TO MOVE THE JOINT SPECIAL MEETING SCHEDULED FOR JANUARY 22ND WITH THE PUBLIC UTILITIES COMMISSION TO THE 8TH OF JANUARY AT 6:00 IN THE CITY COUNCIL CHAMBERS AND INCLUDE THIS ITEM AS DISCUSSION.

Authorize Signatures on League of Minnesota Cities Insurance Trust (LMCIT) Liability Coverage Waiver Form

Committee Chair Johnson stated that this is an annual waiver, the City has traditionally chosen the "does not waive" option.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND TERRY, DULY CARRIED, TO APPROVE AND SUBMIT THE LIABILITY COVERAGE WAIVER FORM WITH "DOES NOT WAIVE" THE MONETARY LIMITS ON MUNICIPAL TORT LIABILITY ESTABLISHED BY MINNESOTA STATUTES, SECTION 466.04 OPTION SELECTED.

Consider Request to Transfer Water Accessibility Charges (WAC) Cash Balance to BPU Department

Committee Chair Johnson stated that he will vote no. He supports the $125,000 for the identified project, he does not support the annual transfer without identifiable projects.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STUNEK TO AUTHORIZE THE TRANSFER OF $125,000 OF CURRENT FUNDS IN THE WATER AVAILABILITY CHARGE FUND (WAC) TO BPU BY FEBRUARY 1, 2024; AND FURTHER TO AUTHORIZE STAFF TO ANNUALLY TRANSFER THE BALANCE OF THE WAC FUNDS TO BPU BY JANUARY 1ST EACH YEAR.

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

Unfinished Business

Commission Appointments

Mayor Badeaux recommended Sheila DeChantal to the Library Board.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND O'DAY, DULY CARRIED, TO APPOINT SHEILA DECHANTAL TO THE BRAINERD LIBRARY BOARD.

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)
HRA 1 term (Expire 2029)
Parks & Rec- 1 term (Expire 2029)
Public Utilities- 1 term (Expire 2026) 1 term (Expire 2029)
TAC- 3 terms (Expire 2025)
Mayor Recommended: (terms to expire on 9/7 of said year)
EDA- 1 term (Expire 2026)
Council President Recommended: (terms expire on 12/31 of said year)
Parking Commission-- 1 term (Expire 2026) 1 term (Expire 2028)
Planning- 2 terms (Expire 2027)

Final Reading- Proposed Ordinance 1563- Amending Salaries for Elected and Appointed Officials

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STENGLEIN, DULY CARRIED, TO CONDUCT THE FINAL READING OF PROPOSED ORDINANCE 1563 AND DISPENSE WITH THE ACTUAL READING.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STENGLEIN TO ADOPT ORDINANCE 1563.

ORDINANCE 1563

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

New Business

Consider Conditional Use Permit to Operate an Auto Repair Service at 100 Washington St.

Community Development Director Kramvik gave an overview of the conditional use permit. The Planning Commission unanimously recommended approval and the property meets all of the conditions for the permit.

MOVED AND SECONDED BY COUNCIL MEMBERS STENGLEIN AND CZECZOK, DULY CARRIED, TO APPROVE THE CONDITIONAL USE PERMIT FOR AN AUTO REPAIR SERVICE AT 100 WASHINGTON ST. BRAINERD, SUBJECT TO THE FINDINGS OF FACT WITH THE CONDITION THAT THE FIRE MARSHAL INSPECTS AND APPROVES THE PROPERTY PRIOR TO OPERATION.

Consider Interim Use Permit to Operate a Short-Term Rental at 524 N 8th St.

Community Development Director Kramvik gave an overview of the interim use permit. The Planning Commission unanimously recommended approval and the property meets all of the conditions for the permit.

Member Johnson asked if this property operated as a short-term rental without a permit.

Community Development Director Kramvik stated that they had not.

MOVED AND SEDCONDED BY COUNCIL MEMBERS CZECZOK AND JOHNSON, DULY CARRIED, TO APPROVE THE INTERIM USE PERMIT FOR ONE SHORT-TERM RENTAL UNIT AT 524 N 8TH ST BRAINERD, WITH THE FOLLOWING CONDITIONS: THE HOUSE RULES FOR QUIET HOURS ARE ADJUSTED TO REFLECT THE CITY ORDINANCE. THE GUEST CAPACITY FOR THE SHORT-TERM RENTAL SHALL BE SET BY THE BUILDING OFFICIAL. SUBMITTAL OF THE LODGING TAX FORM TO THE FINANCE DEPARTMENT. THE INTERIM USE PERMIT SHALL TERMINATE ON 12/31/2024 OR UPON SALE OR TRANSFER OF THE PROPERTY.

Consider Interim Use Permit to Operate a Short-Term Rental at 701 SW 4th St

Community Development Director Kramvik gave an overview of the interim use permit. Staff found the property on AirBnB without a rental license or short-term license that had been operated for several years. The Planning Commission unanimously recommended approval with several conditions.

Member Johnson asked for clarification on the length of time they have been renting short term rentals at this property and whether the property has a current rental license. He believes with this information that the owner is irresponsible and does not support the permit.

Member O'Day asked for clarification on the property management.

Community Development Director Kramvik clarified the owner's living arrangements and the status of the rental license.

Member O'Day stated that the point of the pending short-term rental ordinance was to put limits of the properties so that they are local people, not people from the cities making mini hotels and not maintaining their properties properly.

Mayor Badeaux stated that he believes this is more egregious than the last property that they denied. The owner has been operating within the City of Brainerd and not following the rules that are put in place for the safety of the people staying in the homes. The Council needs to take a hard stance on mismanaged properties.

Member Czeczok asked how a property owner can correct their actions and be able to utilize their property the way that they choose.

Community Development Director Kramvik stated that there is a 6-month waiting period. If the owner follows ordinances and zoning code for that period of time, they could reapply.

Member Terry asked how the owner would be held accountable to the condition of not leasing to more than two people at a time.

Community Development Director Kramvik stated that it would have to be complaint based, staff would not be able to monitor this.

Member Terry questioned why then this is a condition when it is not something the City can enforce.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND O'DAY, DULY CARRIED, TO DENY THE INTERIM USE PERMIT SUBJECT TO THE FINDINGS OF FACT FOR ONE SHORT-TERM RENTAL UNIT AT 701 SW 4TH ST.

Public Forum

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

David Lange, 13838 Cherrywood, stated his opposition to the new Minnesota State flag due to the cost it is going to incur.

The Chair closed the public forum at 8:13 p.m.

Staff Reports

HRA Director Charpentier stated that the property at 426 B Street has been successfully demolished and the lot is leveled.

City Engineer/Public Works Director Dehn stated that due to the rain over the holidays the skating rinks have deteriorated. Staff is hoping to flood again next week with the colder weather that is expected.

Community Development Director Kramvik stated that the Council will consider tax abatement and planned unit development for Country Manor at the next meeting. The Planning Commission will continue to discuss short-term rentals at its next meeting.

Council Member Reports

Member Czeczok stated that not one single elected official voted for the new flag, it was done by committee.

Member Stenglein stated that the Planning Commission has added garages to their itinerary.

Adjourn

MOVED AND SECONDED BY COUNCIL MEMBERS STUNEK AND JOHNSON, DULY CARRIED, TO ADJOURN THE MEETING TO THE JOINT SPECIAL MEETING WITH THE PUBLIC UTILITIES COMMISSION ON JANUARY 8TH AT 6:00 PM IN THE CITY COUNCIL CHAMBERS, AND TO THE SPECIAL MEETING ON JANUARY 16 AT 5:30 PM IN THE CITY COUNCIL CHAMBERS.

The Chair adjourned the meeting at 8:21 p.m.

Patrick Wussow
Interim City Administrator