CITY COUNCIL AGENDA

City of Brainerd, Minnesota
City Hall, 501 Laurel Street, Council Chambers
Wednesday, May 29, 2024 @ 11:30 AM

The public is invited to attend these meetings in person

Meetings are broadcast on CTC ch 8, Charter ch 181, YouTube, AppleTV, Roku, and Amazon FireTV

1. **Call To Order**
2. **Roll Call**

   ___G. Johnson ___J. Czeczok ___M. O'Day ___K. Stunek ___K. Terry___T. Stenglein ___K. Bevans ___Mayor Badeaux
3. **Pledge of Allegiance**
4. **Approval Of Agenda - Voice Vote**
5. **Discussion Items**

   A. **Discuss the City's Response to Bureau of Mediation Services**
6. **Adjourn**

Visit the City's Website at www.ci.brainerd.mn.us

MISSION

"Provide high quality, cost effective public services and leadership in creating a sustainable city"

City Council
Agenda Request

MEETING DATE: May 29, 2024

TITLE OF ITEM: Discuss the City's Response to Bureau of Mediation Services

AGENDA: Main

ACTION REQUESTED: Direction Requested

SUBMITTED BY: Nick Broyles, City Administrator, Kris Schubert, Human Resources Director

DEPARTMENT: Administration

PRESENTER: Nick Broyles, City Administrator, Kris Schubert, Human Resources Director

ESTIMATED TIME (MIN): 10 Minutes

SUMMARY OF ISSUE: On Friday, May 17th, the City received notification from the Bureau of Mediation Services (BMS) that a petition was filed by the Brainerd Public Utilities Managers and Supervisors Association, Baxter MN, requesting certification as an exclusive representative for collective bargaining purposes. BMS will be determining representation for the following purposed employee group:

"All Managers and Supervisors of the Brainerd Public Utilities, employees by the City of Brainerd, MN, who are public employes within the meaning of MN Stat. 179A.03, subd 14, excluding supervisory employees within the meaning of MN Stat. 179A.03, subd. 17, and confidential employees within the meaning of MN Stat. 179A.03, subd. 4."

The City is required to complete and submit a stipulation form to BMS no later than Friday, May 31st regarding the membership for this proposed union. Once BMS receives the stipulation form from the City and the Petitioner, the Bureau will attempt to resolve the differences, if any.

Attached is a draft Stipulation response as recommended by Staff. This response was prepared with guidance from our City Attorney. Please note that we are recommending that the IT Supervisor and Finance Manager be excluded from this union. The rationale is based on MN Statues, 179A.03 (definitions) as follows:

1. The IT Supervisor does not supervise employees; therefore, that position does not meet the definition of a supervisor; and
2. The Finance Manager is considered a confidential employee as he has access and uses labor relations information; further, he participates in negotiations on behalf of the City.

ALTERNATIVE, OPTIONS, EFFECTS ON OTHERS/COMMENTS: In addition, the City received the attached Notice of Maintenance of Status Quo for the employee group. This notice shall remain in full force and effect until an investigation and/or hearing has been conducted and the matter is disposed of by a determination issued by the Commissioner of the Bureau of Mediation Services. The following items are required per the Status Quo order:

1. Wages, hours and all existing conditions of employment of the employees shall not be changed as of the date of the Notice.
2. Negotiations shall not be carried on.
3. Threats or promises as to changes in wages, hours and conditions of employment are prohibited.
4. Employees shall not be questioned by the employer with respect to members in a labor organization.
5. Employees shall not be discriminated against as a result of the filing of the petition.

RECOMMENDED ACTION/MOTION: Motion to authorize Staff to submit the City's response to BMS as presented.

FINANCIAL IMPACT: n/a at this time.

BUREAU OF MEDIATION SERVICES

May 17, 2024 VIA E-MAIL ONLY

Brainerd Public Utilities Managers and Supervisors Association,
Baxter, Minnesota
- and -
City of Brainerd,
Brainerd, Minnesota

Daniel Loch
Brainerd Public Utilities Managers and Supervisors Association

Kristy Schubert
City of Brainerd

RE: BMS Case No. 24PCE1921

Dear Representatives:

The Bureau of Mediation Services, State of Minnesota (Bureau) has received a petition from the Brainerd Public Utilities Managers and Supervisors Association, Baxter, Minnesota (Petitioner). The petition requests that the Bureau determine an appropriate unit and certify the Union as the exclusive representative for certain employees of City of Brainerd, Brainerd, Minnesota (Employer).

In order to process this petition, the Bureau must accomplish the following three tasks:

1. Determine the definition of the appropriate unit;

2. Establish a list of employees falling within the scope of the appropriate unit; and

3. Determine a method for confirming whether or not a majority of the employees in the appropriate unit wish to be represented by the Union.

It is the preference of the Bureau that these issues be determined by agreement between the parties rather than by Bureau Order. Accordingly, enclosed is a proposed stipulation to serve as the basis for resolving the above issues. The stipulation is a format to facilitate discussions for settlement, and you are free to make changes you find appropriate.

Once I have received the respective stipulation from each party, the Bureau will attempt to resolve the differences, if any. Each representative is to complete their respective stipulation form, sign, and return to me no later than Friday, May 31, 2024. If there are any questions, please contact me at 651-649-5421.

Sincerely,

/s/ TAYLOR A. LEBSOCK
Representation Specialist

Enclosure: Stipulations of the Parties Form

May 17, 2024

Brainerd Public Utilities Managers and Supervisors Association,
Baxter, Minnesota
- and -
City of Brainerd,
Brainerd, Minnesota

BMS Case No. 24PCE1921

STIPULATIONS OF THE PARTIES

The undersigned herein stipulate and agree to the following:

1. The purposed appropriate unit description for the employees involved is:

> All Managers and Supervisors of the Brainerd Public Utilities, employes by the City of Brainerd, Minnesota, who are public employes within the meaning of Minn. Stat. 179A.03, subd. 14, excluding supervisory employees within the meaning of Minn. Stat. 179A.03, subd. 17, and confidential employees within the meaning of Minn. Stat. 179A.03, subd. 4.

1a. Please enter suggested changes to the purposed appropriate unit description here (if any):

All Managers and Supervisors of the Brainerd Public Utilities, employed by the City of Brainerd, Minnesota, who are public employees within the meaning of Minn. Stat. 179A.03, Subd. 14 and Subd. 17, excluding confidential employees within the meaning of Minn. Stat. 179A.03, subd. 4.

2. The following employees are **included** within the appropriate unit as described above: (**Please include the employee(s) names, position titles and home mailing addresses.**) **This list shall be in electronic format (preferably Word or Excel) and e-mailed to mediation.services.bms@state.mn.us.**

Emailed an Excel file to mediation.services.bms@state.mn.us.

3. Identify any employees who should be **excluded** from the appropriate unit (include reason why):

1. Aaron Andersen - IT Supervisor. Mr. Andersen does not meet the Supervisory employee definition per Subd.17 as he does not supervise employees.

2. Daniel Loch - Finance Manager. Mr. Loch is a confidential employee per Minn. Stat. § 179A.03, subd. 4, because he is required to access and use labor relations information and he participates in negotiations on behalf of the City.

4. Where 50% or fewer authorization cards have been submitted, the Bureau shall conduct a mail ballot election.

FOR THE EMPLOYER:	**FOR THE UNION:**
_____	_____
(Name of Representative)	(Name of Representative)
_____	_____
(Signature)	(Signature)
_____	_____
(Title)	(Title)
DATE: _____	DATE: _____

NOTE: PLEASE RETURN THIS FORM TO: MEDIATION.SERVICES.BMS@STATE.MN.US NO LATER THAN FRIDAY, MAY 31, 2024.

BUREAU OF MEDIATION SERVICES

IN THE MATTER OF A PETITION FOR DETERMINATION OF AN APPROPRIATE UNIT AND CERTIFICATION AS EXCLUSIVE REPRESENTATIVE

May 17, 2024

Brainerd Public Utilities Managers and Supervisors Association,
Baxter, Minnesota
- and -
City of Brainerd,
Brainerd, Minnesota

BMS Case No. 24PCE1921

NOTICE OF MAINTENANCE OF STATUS QUO

A petition requesting certification as exclusive representative for collective bargaining purposes was filed with the Bureau of Mediation Services on **May 17, 2024**, by **Brainerd Public Utilities Managers and Supervisors Association, Baxter, Minnesota**. The petition raises questions as to the representation of the following described purposed employee group:

> All Managers and Supervisors of the Brainerd Public Utilities, employes by the City of Brainerd, Minnesota, who are public employes within the meaning of Minn. Stat. 179A.03, subd. 14, excluding supervisory employees within the meaning of Minn. Stat. 179A.03, subd. 17, and confidential employees within the meaning of Minn. Stat. 179A.03, subd. 4.

This Notice is issued to preserve existing conditions and promote a free and fair environment for the resolution of this question of representation. This Notice is applicable to all employees within the above-described employee group. It shall remain in full force and effect until an investigation and/or hearing has been conducted and the matter is disposed of by a determination issued by the Commissioner of the Bureau of Mediation Services.

ORDER

1. Wages, hours and all existing conditions of employment of the employees shall not be changed as of the date of this Notice.
2. Negotiations shall not be carried on.
3. Threats or promises as to changes in wages, hours and conditions of employment are prohibited.
4. Employees shall not be questioned by the employer with respect to membership in a labor organization.
5. Employees shall not be discriminated against as a result of the filing of the petition.

This Notice shall not conflict with provisions of an existing labor-management contract or applicable law.

STATE OF MINNESOTA
Bureau of Mediation Services

/s/ TAYLOR A. LEBSOCK
Representation Specialist

cc: Kristy Schubert
Daniel Loch

POSTING

THE EMPLOYER SHALL MAKE COPIES OF THIS NOTICE AND ANY ATTACHMENTS UPON RECEIPT AND POST AT THE WORK LOCATION(S) OF ALL INVOLVED EMPLOYEES.