Brainerd, MN
June 3rd, 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: Johnson, Czeczok, O'Day, Stunek, Terry, Stenglein, and Bevans. Mayor Badeaux was noted as present.

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

Member Czeczok stated that the process for putting item 8B first reading of Ordinance 1569 restricting residential picketing on the agenda was incorrect, additional information was not received by the Council that the strike work group had received, and it is the right of the Council to ask to review a draft of an ordinance prior to its first reading. When a process is rushed, we risk controversy.

Chair Bevans stated that he asked to have staff prepare an ordinance as it is considered by some to be timely. The people that may or may not have the most problem will be our neighbors, and he's not sure the City of Brainerd is ready for that. There is an opportunity to learn from staff during the item. He asked Administrator Broyles to review the process from the Rules of Decorum for Council Members and Citizens to bring items to the Council for consideration. Regarding decorum, can people speak on an issue? The answer is yes, if a public hearing is scheduled. Who on the Council has thought "I wish we could let people speak" during a meeting.

Member Czeczok stated that he appreciates the explanation. However, he believes that Chair Bevans asked staff to "draft an ordinance", not to put an item on the agenda. That distinction is where he has an issue. He would like to follow up to amend the agenda further if this motion passes.

MOVED AND SECONDED BY COUNCIL MEMBERS CZECZOK AND STENGLEIN TO AMEND THE AGENDA TO REMOVE OF THE FIRST READING OF PROPOSED ORDINANCE 1569.

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

MOVED AND SECONDED BY COUNCIL MEMBERS CZECZOK AND STENGLEIN, DULY CARRIED, TO AMEND THE AGENDA TO INCLUDE DISCUSSION OF RESIDENTIAL PICKETING AS NEW BUSINESS.

MOVED AND SECONDED BY COUNCIL MEMBERS CZECZOK AND STENGLEIN TO APPROVE THE AMENDED AGENDA.

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

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

A. **Approval of Bills**
B. **Approval of Minutes**

C. **Approval of Licenses**
D. **Department Activity Report**
E. **Approve Temporary On-Sale Liquor License Application Submitted by Cuyuna Brewing Company for an Event to be held on June 21, 2024 at Endurance Shop, 423 Washington St - Contingent upon approvals**
F. **Approve New On-Sale Restaurant and Sunday Sales Liquor License Application Submitted by East Coast Hospitality LLC DBA Sage on Laurel at 606 Laurel St - Contingent upon approvals**
G. **Approve New Wine/Strong Beer Liquor License Application Submitted by Chick N Rice LLC, DBA Chick N Rice at 603 Laurel St - Contingent upon approvals**
H. **Approve Temporary On-Sale Liquor License Applications Submitted by Crossing Arts Alliance for Events to be held on June 14, July 12, August 9, September 6, and October 11 at 711 Laurel Street - Contingent upon Approvals**
I. **Authorize Hiring of 2024 Summer Temporary Employees**
J. **Approve Event Application - BHS Homecoming 5K**

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

Council Committee Reports

Personnel and Finance Committee

Authorize the Fire Department to Apply for the 2024-2025 ARMER Equipment Grant through the MN DPS ECN

Committee Chair Johnson stated that the Fire Department is requesting to apply for a grant in the amount of $136,000 and the match by the City would be $6,800. The City budgeted $20,000 for the replacement of radio equipment in 2024, and this would be used for the matching funds.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STUNEK, DULY CARRIED TO APPROVE THE FIRE DEPARTMENT TO APPLY FOR THE 2024-2025 ARMER EQUIPMENT GRANT THROUGH THE MN DEPARTMENT OF PUBLIC SAFETY EMERGENCY COMMUNICATION NETWORK.

Approve the Resignation of Community Service Officer Richard Berry

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND TERRY, DULY CARRIED TO ACCEPT THE RESIGNATION OF COMMUNITY SERVICE OFFICER RICHARD BERRY EFFECTIVE MONDAY, JUNE 3, 2024.

Ratify the Hiring of Community Service Officer Drew Belton

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STUNEK, DULY CARRIED TO RATIFY THE HIRING OF DREW BELTON EFFECTIVE MAY 29, 2024, AT $20.09 PER HOUR.

Authorize Reestablishment of the Transit Operations Specialist Position

Committee Chair Johnson stated that the position was in place until about 18 months ago to consider whether the position could be supported. The current fare structure should support the position without having to levy extra dollars or raise rates.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND TERRY, DULY CARRIED TO REESTABLISH THE TRANSIT OPERATIONS SPECIALIST POSITION WITH THE ATTACHED UPDATED JOB DESCRIPTION; APPROVE THE TRANSIT OPERATIONS SPECIALIST JOB CLASSIFICATION POINTS AT 241; AND AUTHORIZE STAFF TO NEGOTIATE THE WAGE FOR THE TRANSIT OPERATIONS SPECIALIST POSITION WITH THE IBEW ADMINISTRATIVE SUPPORT UNION.

Adopt Resolution Appointing Election Judges and Setting Pay

Member Czeczok thanked the election judges for being willing to serve.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STUNEK TO ADOPT RESOLUTION APPOINTING AND SETTING THE WAGES FOR ELECTION JUDGES AT $22 PER HOUR FOR HEAD AND ASSISTANT JUDGES AND $18 PER HOUR FOR ELECTION AND TRAINEE JUDGES.

RESOLUTION 27:24

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

Consider Subordination Agreement

Committee Chair Johnson stated that the City is currently in the second position for this mortgage. The borrowers received an SCDG loan almost ten years ago, forgivable at 10% per year. The loan will be forgiven in August of 2024.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND TERRY, DULY CARRIED TO AUTHORIZE SIGNATURE ON THE SUBORDINATION AGREEMENT, WHEREAS THE CITY RETAINS SECOND POSITION ON THE MORTGAGE FOR 1614 LAUREL STREET.

Authorize the Police Department to Apply for the Traffic Safety Enforcement Grant

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STUNEK, DULY CARRIED TO AUTHORIZE THE POLICE DEPARTMENT TO APPLY FOR THE TRAFFIC SAFETY ENFORCEMENT GRANT FROM THE MN DEPARTMENT OF PUBLIC SAFETY, OFFICE OF TRAFFIC SAFETY.

Safety and Public Works Committee

Approve Change Order Request - Imp 21-15 Buffalo Hills Gully Remediation

Committee Chair O'Day stated that the change order is for manhole covers that needed to be raised to fit in with the grading of the gully.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND CZECZOK, DULY CARRIED TO APPROVE THE CHANGE ORDER REQUEST AS PRESENTED IN THE AMOUNT OF $6,151.

Approve Change Order Request - Imp 22-08 - South Brainerd Reconstruction

Committee Chair O'Day stated that the change order is for additional items that were not foreseen.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND CZECZOK, DULY CARRIED TO APPROVE THE CHANGE ORDER REQUEST AS PRESENTED IN THE AMOUNT OF $6,683.

Information on Tree Knockdown Cost Recovery

Committee Chair O'Day stated that reimbursement is not currently pursued when a tree is struck or destroyed.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND STENGLEIN, DULY CARRIED TO DIRECT STAFF PURSUE REPLACEMENT COSTS OF TREES THAT ARE DESTROYED BY INSURED DRIVERS.

Review Vacant Building Registry Ordinance

Committee Chair O'Day stated that the only potential issue to resolve may be the amount for which the building would be assessed if it is put on the registry. The City is trying to encourage vacant building owners to fix up their properties or sell.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND CZECZOK, DULY CARRIED TO BRING THE ORDINANCE FOR THE VACANT REGISTRY TO THE NEXT MEETING TO CONDUCT THE FIRST READING.

Direction on Active Code Enforcement Cases

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND CZECZOK, DULY CARRIED, TO ISSUE AN ORDER TO CORRECT LETTER AND OBTAIN A SEARCH WARRANT TO ABATE THE NUISANCE AT 320 8TH ST N.

Unfinished Business

Accept Resignation of Troy Rushmeyer from the Park Board

Mayor Badeaux thanked Troy for the immense amount of time that he dedicated to the Park Board. He went through the long process of doing the Park Master Plan.

MOVED AND SECONDED BY COUNCIL MEMBERS CZECZOK AND O'DAY, DULY CARRIED, TO ACCEPT TROY RUSHMEYER'S RESIGNATION FROM THE PARK 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)
Park Board – 1 term (Expire 2026)
Transportation Advisory Committee- 2 terms (Expire 2025)
Mayor Recommended: (terms to expire on 9/7 of said year)
Economic Development Authority- 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)

Final Reading - Proposed Ordinance 1565 - Short-Term Rentals

Community Development Director Kramvik gave an overview of changes made since the last iteration of the ordinance. This version of the ordinance removed the individual owner cap, set a cap of 40 total units, and allowed up to two units in buildings with four or more units, and only allowing one unit in a multi-family with three or less units.

Member Johnson asked about the differences between the proposed ordinance and the ordinance that is currently in place.

Community Development Director Kramvik stated that the current ordinance does not have a cap on the total number of units, there is no cap on the number units in an apartment building or in the town center, and that all rentals need to be compliant with the ordinance by December 31, 2025.

MOVED AND SECONDED BY COUNCIL MEMBERS STENGLEIN AND CZECZOK, DULY CARRIED, TO CONDUCT THE FINAL READING OF PROPOSED ORDINANCE 1565 AND DISPENSE WITH THE ACTUAL READING.

Chair Bevans stated that he would vote in favor, however, he thinks it is like a 170-mph speed limit.

MOVED AND SECONDED BY COUNCIL MEMBERS STENGLEIN AND CZECZOK TO ADOPT ORDINANCE 1565.

ORDINANCE 1565

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

Consider Sound Review Report Documents for Proposed Crypto-Mining Outdoor Storage Facility

Community Development Director Kramvik gave an overview of the documents that staff are suggesting including in the report.

Member Terry asked staff to further research the ownership of the VCV holdings and zoning variance lapses and timeline in regard to the original variance.

Member Stenglein asked whether this list of documents is exhaustive.

Community Development Director Kramvik stated that these documents are specific to the sound report which he considers this an exhaustive list for the sound review. Staff could include more information the next time the IUP comes forward.

Member Czeczok asked when the expiration of the extension is. He also asked what would happen if a decision is not made prior to that date.

Community Development Director Kramvik stated that it is based on the application date of the IUP. The extension would be 120 days past the application date. The expiration is now July 30th. If no decision is made by City Council prior to that date, the permit will be issued.

Member Johnson stated that he will be voting no, as he bets that the permit will be issued eventually, and the Council is wasting many peoples' time.

MOVED AND SECONDED BY COUNCIL MEMBERS TERRY AN STENGLEIN TO APPROVE THE REQUIRED REPORT DOCUMENTS AND THAT THE CITY COUNCIL SHOULD RECONSIDER THE IUP AFTER ALL DOCUMENTS HAVE BEEN REVIEWED AND COLLECTED BY STAFF.

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

Strike Contingency Work Group Update

Administrator Broyles stated that the group has been meeting twice a week since April 30th. The effort has been made to develop a plan that could apply to the current situation and the hope is to have a final document by the second week in June. Once the document is completed, staff will work toward applying the document to all departments.

New Business

First Readings - Proposed Ordinances 1567 & 1568 - Cannabis and Off-Sale Liquor

Community Development Director Kramvik gave an overview of each of the ordinances. Municipalities must allow for cannabis dispensaries based on population size but are allowed to adopt reasonable restrictions on the time, place, and manner of the operations of a cannabis business, provided that such restrictions do not prohibit the establishment of the operation of cannabis businesses, impose an initial retail fee of $500 or up to half the amount of the applicable initial license fee charged by the Office of Cannabis Management (OCM), whichever is less. The city may also charge a renewal retail registration fee of $1,000 or up to half the amount of the applicable renewal license fee charged by the OCM, whichever is less. A city that issues cannabis retailer registrations may, by ordinance, limit the number of licensed cannabis retailer with a retail operations endorsement to no fewer than one registration for every 12,500 residents.

Member Czeczok asked whether Brainerd's two allowed dispensaries take up two of the six dispensaries limitations of the County.

Member O'Day questioned whether the City is "required" not "allowed" two dispensaries. He also asked about the liquor licenses and whether removing off-sale liquor in the TN-2 district would affect any current businesses.

Community Development Director Kramvik stated that yes, the City is required to have two dispensaries, which would count towards the County's requirement of six. However, he has been focusing on the municipal side of the law, so is unsure whether the County has options to limiting the number. Regarding off-sale liquor in TN-2 districts, he stated that the change would not affect current businesses, if it was vacant for over a year it would become legal non-conforming and would not be able to expand the footprint of the building.

MOVED AND SECONDED BY COUNCIL MEMBERS STENGLEIN AND CZECZOK, DULY CARRIED, TO CONDUCT THE FIRST READING OF PROPOSED ORDINANCE 1567 AND DISPENSE WITH THE ACTUAL READING.

MOVED AND SECONDED BY COUNCIL MEMBERS STENGLEIN AND O'DAY, DULY CARRIED, TO CONDUCT THE FIRST READING OF PROPOSED ORDINANCE 1568 AND DISPENSE WITH THE ACTUAL READING.

Discussion of Restricting Residential Picketing

Member Czeczok stated that the item is presented to see whether the Council would like to have to ordinance that was originally presented at the next meeting.

Member O'Day stated that the optics of this ordinance look terrible.

Member Terry stated that she appreciates the reason for bringing the issue forward. It is hard to balance between the neighbor's peace and the first amendment rights of the picketers.

Member Czeczok stated that this is a kneejerk reaction to bring this item forward for the same reasons Members O'Day and Terry stated.

Mayor Badeaux stated that he fully respects the peoples' right to picket wherever they so choose.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STUNEK TO BRING THE DRAFTED ORDINANCE BACK TO THE MEETING ON JUNE 17TH.

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

Consider Updating Rules of Decorum

Administrator Broyles stated that there has been discussion about the rules of decorum. He asked for confirmation from City Council regarding communication: "the Mayor and Council member e-mail communications should be directed either to the City Administrator or to a department head, copying the City Administrator". He would interpret this to mean that this should be broadened to all correspondence and communications so that Department Heads can assign Council directives accordingly. He also stated that there was discussion tonight about how to place an item on the Council agenda the rules say: "Matters for Council action shall be submitted by members of the Council and residents in writing by 12:00 p.m. on the Tuesday immediately preceding the City Council meeting to the City Administrator or to city staff representatives in the case of Committee business." He would interpret this as if an individual Council Member were to e-mail him it is asking for an item to be on the agenda, that it be on the agenda.

Member Johnson questioned the necessity of adding the City Administrator to a phone call.

Administrator Broyles stated that a Council Member could call the City Administrator or appropriate Department Head to staff the request appropriately.

Chair Bevans stated that based on the meeting procedures, he believes it would be up to a majority of the Council to add an item to the agenda later than Tuesday.

Member Czeczok disagrees with the statement. There is a difference between having something on the agenda and giving staff directions to draft an ordinance.

Chair Bevans stated that he was referring to Member Johnson's example, not the actions of the evening.

Member Czeczok stated that he often talks to staff not on the list such as the Transit Coordinator or Wastewater/Water Manager. If he is required to only talk to the Department Head, it may bog down the process and cause unnecessary staff time. He asked Staff to identify the problem.

Administrator Broyles stated that if the communication section is correct as written, then the rules of Decorum need to be amended.

Member O'Day asked whether any citizen of Brainerd could call City Hall and ask for staff. But elected officials are relegated to only talking to a Department Head or the Administrator.

Administrator Broyles stated that he is not advocating for anything, he is pointing out discrepancies between what is written and practiced.

Mayor Badeaux stated that his professional job deals with connecting with other members of staff without the Department Head contact, like requesting street barriers that have already been discussed. He understands that as written, there are problems created with his professional role.

Public Forum

The Chair opened the public forum at 9:16 p.m.

The Chair cautioned Ms. Thiesse that she cannot discuss items on the agenda and that this is her time to give the Council her opinion, not a time to ask questions. She could call City Hall with questions in the morning.

Glynnis Thiesse, 9212 County Rd 45, thanked the Council for the interactions that she has had with Council Members. She thinks that the Comprehensive Plan is very well written and thoughtful.

The Chair closed the public forum at 9:17 p.m.

Staff Reports

Police Chief Davis stated that he met with the Crow Wing County Community Services Homeless Response Team to get an update on their efforts. They have been working with individuals to get housing support, mental health support, and substance abuse assistance. They have placed four individuals into housing. There are currently about nine individuals staying at the river landing. There is a second encampment on private property in northwest Brainerd, he and Community Development Director Kramvik spoke with the owner of the property to start the process to clear the encampment. Secondly, there has been an increase in vandalism throughout the City and it is not uncommon at this time of year. The Police Department has implemented targeted enforcement.

Finance Director Hillman stated that filings for City office close on June 4th at 5:00 p.m.

City Engineer/Public Works Director Dehn stated that staff met with the Crow Wing County for orderly annexation discussions. More information will be provided at a future meeting.

Community Development Director Kramvik stated that the next EDA meeting will be held on Thursday, June 6th. The EDA will hear a presentation from Alexandria Economic Development Commission to prepare efforts and possibilities for the Highway 210 construction and a revised purchase and development agreement with VCV. He stated that at the next Council meeting staff will present a request for the state affordable housing aid allocation and the final reading of the ordinance regarding trees and the tree policy.

Interim Public Utilities Director Wussow stated that on Sunday, June 2nd there were 22 residents affected by outages with the light rain. There was also a callout for the Hydro Dam as the water level called for response.

Administrator Broyles stated that the Public Utility Director position application period has closed. The consultant will do their review before presenting candidates to the hiring committee. Tad Erickson will be replacing Dolly Matten on the hiring committee.

Mayor Report

Mayor Badeaux stated that he appreciates that Administrator Broyles is on the dais. There has been an uptick in graffiti, he was in Minneapolis which is covered in graffiti, and he does not want to be Minneapolis. He thanked Team Ascension for taking time to cover the graffiti on the College Street bridge. Government property is expensive so if you're interested in graffiti he wouldn't recommend it. Lastly, he thanked the groups for their presentations for Memorial Day events and to those that have served and given their lives.

Council Member Reports

Member Terry thanked Team Ascension for their work. Lighthouse Beginnings has been very instrumental in their efforts to assist those who are experiencing homelessness. There is an event on June 18th, to talk about the work that Lighthouse Beginnings is doing in our community.

Member Czeczok stated that the Public Utilities Commission had a lot to offer. He thanked staff for all of the work they are doing, there is so much to learn. He stated that he has seen a lot of Council meetings, he admires the respect and courtesy shown by those who are opposed to the crypto mining in the industrial park.

Member Stenglein stated that she attended the Region 5 meeting, there was a resolution at the meeting to move forward with the "poop to power" initiative.

Member O'Day stated that the graffiti was very noticeable this spring, he mentioned that there are a lot of options for security cameras for residents to purchase to assist the police department with investigations for graffiti.

Member Johnson stated that Matt Delaney from Northern Lights Electrical has volunteered his master electrician services to install an outlet at the pony field at Bane Park. Hopefully the Park Board will approve the services in order to make pitching equipment more accessible. Finally, "Brisket on the Farm" will be held on June 18th at the Malloy Farm on County Road 44.

Chair Bevans stated that the EDA meeting will be talking about crypto mining on June 6th at 7:30 a.m.

Adjourn

MOVED AND SECONDED BY COUNCIL MEMBERS STUNEK AND STENGLEIN, DULY CARRIED, TO ADJOURN TO THE CLOSED LABOR NEGOTIATION STRATEGY SESSION PURSUANT TO MN STATUTES, 13D.03, SUBD 1(B) TO PREPARE FOR NEGOTIATIONS WITH IBEW 31 (PUBLIC UTILITIES) AND LELS UNIONS.

Chair Bevans adjourned the meeting to the closed session after a five-minute break.

The Council took a five-minute break and went into close session at 9:00 p.m.

The Chair reconvened the meeting at 9:32 p.m.

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

The Chair adjourned the meeting at 9:32 p.m.

Nicholas W. Broyles
City Administrator