Brainerd, MN
July 1st, 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: Czeczok, O'Day, Stunek, Terry, Stenglein, Johnson, and Bevans. Mayor Badeaux was noted as absent.

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

Member Czeczok requested the City Council add an item to new business regarding Update from the Strike Contingency Workgroup.

MOVED AND SECONDED BY COUNCIL MEMBERS STUNEK AND TERRY, DULY CARRIED, TO APPROVE THE AGENDA WITH THE ADDITION OF AN ITEM TO NEW BUSINESS REGARDING AN UPDATE FROM THE STRIKE CONTINGENCY WORKGROUP.

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

A. **Approval of Bills**
B. **Approval of Minutes**
C. **Department Activity Report**
D. **Minnesota Lawful Gambling Application For Exempt Permit-Submitted By MN Deer Hunters Association Brainerd Chapter For An Event To Be Held On September 6th, 2024, at The Brainerd Curling Club, 2000 SE 13th St, Brainerd**
E. **Approve Temporary Liquor Licenses Submitted by Lakes Area Music Festival for Events on July 23, 26, & 31 and August 2, 10, 14, & 17 at the Gichi-Ziibi Center, 702 S 5th St**
F. **Authorize Hiring of 2024 Summer Temporary Employee**
G. **Approve Memorandum of Agreement between the City of Brainerd and Teamsters General Local Union No. 346 (Lieutenant and Sergeants) Union regarding Juneteenth 2024**

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

Consider Ordinance Pertaining to Homeless Encampments and Structures

Committee Chair O'Day stated that there has been an increase in complaints about homeless encampments. At this time, this is a solution to pursue. The solution is not designed to punish people for being homeless, it is to encourage them to seek help. This will give the police department more tools to deal with the issue.

Member Terry stated that she appreciates that Member O'Day included that this ordinance is not to punish those who are homeless. She cannot support fining the homeless population as it would criminalize homelessness. She asked for verification of a death in one of the encampments.

Police Chief Davis confirmed there was a death of an individual at a homeless encampment in June.

Member Czeczok stated that a couple of changes were requested for enforcement of the issue.

Community Development Director Kramvik stated the other change requested was in reference to all public property, not just right-of-way.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND CZECZOK, DULY CARRIED, TO DIRECT STAFF TO DRAFT AN ORDINANCE PERTAINING TO HOMELESS ENCAMPMENTS AND STRUCTURES.

Direct Additional Police Enforcement for Parks After-Hours

Committee Chair O'Day stated that with the increase in vandalism in the parks, the Police Department has been adding enforcement.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND CZECZOK, DULY CARRIED, TO DIRECT POLICE DEPARTMENT TO CONTINUE ADDITIONAL PARKS AFTER-HOURS ENFORCEMENT.

Approve Bid - Imp 24-03 2024 Large Patching Project

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND STENGLEIN, DULY CARRIED, TO AWARD OF THE LARGE PATCHING PROJECT TO ANDERSON BROTHERS IN THE AMOUNT OF $47,950, AND FURTHER AUTHORIZE STAFF TO WORK WITH ANDERSON BROTHERS TO COMPLETE ADDITIONAL PATCHING ON SW 4TH STREET TO NOT EXCEED THE TOTAL BUDGETED AMOUNT OF $50,000.

Information on Locations of Annexation Requirement for Water/Sewer Connection

City Engineer/Public Works Director Dehn stated that he included documentation in the packet for Council's review. He gave an overview of the documents. The staff's recommendation is that more of these requirements should be reflected in the City Code.

Chair Bevans stated that the connection fee was discussed at the previous meeting. There was a range for the amount discussed. The packet included a resolution he signed in 2004 for $13,000.

City Engineer/Public Works Director Dehn stated that the resolution referenced was an example of one of the many resolutions adopted by the Council for Riverside, there were yearly resolutions to declare the assessment amount.

Member Czeczok clarified that the amount for connection set by Council for the particular address on Riverside recently was set at $11,300.

City Engineer/Public Works Director Dehn stated that the City is operating under the Street and Sewer Assessment Policy. They are working together with BPU to update the City Code.

Direction on Active Code Enforcement Cases

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND CZECZOK, DULY CARRIED, TO FOLLOW STAFF RECOMMENDATIONS FOR PROPERTIES 319 9TH ST N, 401 4TH AVE NE, 408 2ND AVE NE.

Notification of CRP Grant Award for TH 210/Lum Park Pedestrian Bridge

Committee Chair O'Day stated that the City was awarded $1.336 million for the year 2025 and $86,000 for 2026. This is a large amount of money. However, the project will cost about $6 million.

Personnel and Finance Committee

Committee Chair Johnson was not feeling well, he turned the duty of going through the agenda items over to Member Terry.

League of MN Cities Insurance Trust (LMCIT) Premium Renewal March 2024-February 2025

Committee Member Terry the City budgeted a 3.2% increase, the actual increase is 5.5% and an 8.1% total increase per the policy.

MOVED AND SECONDED BY COUNCIL MEMBERS STUNEK AND JOHNSON, DULY CARRIED, TO APPROVE THE INSURANCE RENEWAL FROM LMCIT FOR THE PERIOD OF MARCH 1, 2024-FEBRUARY 28, 2025.

Accept Retirement of Street Maintenance I Michael Jensen

MOVED AND SECONDED BY COUNCIL MEMBERS TERRY AND STUNEK, DULY CARRIED, TO ACCEPT THE RETIREMENT OF STREET MAINTENANCE I MICHAEL JENSEN EFFECTIVE JULY 12, 2024, AND AUTHORIZE HIS SEVERANCE PAYOUT PER THE IUOE LOCAL NO. 49 STREET DEPARTMENT UNION CONTRACT; FURTHER, TO AUTHORIZE STAFF TO BEGIN THE HIRING PROCESS TO BACKFILL THE MAINTENANCE I POSITION.

Request Authorization to Backfill Police Officer Position

Committee Member Terry stated that with the hiring the City will return to 27 budgeted officers.

MOVED AND SECONDED BY COUNCIL MEMBERS TERRY AND JOHNSON, DULY CARRIED, TO AUTHORIZE STAFF TO BEGIN THE HIRING PROCESS FOR THE VACANT POLICE OFFICER POSITION.

Consider Central Business District Incentive Policy

Member Czeczok asked for clarification on the area that the policy would cover. He asked about the Public Utility recommendation.

Community Development Director Kramvik gave an overview of the area. The PUC did not give a recommendation. However, they had concerns about the amount of fees that would be forgiven.

Member Czeczok stated that he likes the idea of incentivizing. The cost of doing business is expensive, he'd like to be able to help relieving costs where possible but questioned whether forgiving the $3,300 SAC/WAC fee really going to prevent someone from starting a business. This is based upon the numbers he heard at the Public Utilities Commission.

MOVED AND SECONDED BY COUNCIL MEMBERS TERRY AND STUNEK TO APPROVE THE EDA PROPOSED CENTRAL BUSINESS DISTRICT MAP WITH THE SAME INCENTIVES AS THE RIVER TO RAIL DISTRICT.

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

Discuss Use of Vacant Building Registration Fees

Committee Member Terry stated that the first reading of Ordinance1569 has been conducted and final reading will be conducted at this meeting. Fees would most likely be collected after the sale of a property and could be used to remedy blighted properties.

MOVED AND SECONDED BY COUNCIL MEMBERS TERRY AND JOHNSON, DULY CARRIED, TO CREATE A SEPARATE ACCOUNT FOR VACANT BUILDING REGISTRY FEES CONTINGENT UPON CITY COUNCIL APPROVAL OF PROPOSED ORDINANCE 1569.

Approve Draft Policy on Requests for City-owned Parcels

Committee Member Terry stated that the policy is based on discussion by the City Council.

MOVED AND SECONDED BY COUNCIL MEMBERS TERRY AND STUNEK, DULY CARRIED, TO ADOPT POLICY AS PRESENTED REGARDING REQUESTS FOR CITY-OWNED PARCELS.

Consider Amending Number of Temporary Licenses or Authorize Refund of Fee

MOVED AND SECONDED BY COUNCIL MEMBERS TERRY AND JOHNSON, DULY CARRIED, TO DIRECT STAFF TO AMEND CITY CODE 1200.03 SUBD. 6 TO MATCH THE STATE STATUTE ALLOWING AN ORGANIZATION TO HOLD A TEMPORARY ON-SALE LICENSE FOR 12 DAYS WITHIN A 12 MONTH PERIOD.

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)
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)

Consider Interim Use Permit for Outdoor Storage as a Principal Use at 1918 Thiesse Dr

Community Development Director Kramvik gave an overview of the Interim Use Permit. The new proposed site plan includes 26 containers, forty feet in length. The EDA reviewed the Purchase and Development Agreement (PDA) at its special meeting. The EDA motioned to send a letter to notify VCV that they are in default of the current PDA, the remedy for default has not been determined at this time. The decision of the EDA should have no bearing on the IUP. Based on the sound study, there are a number of factors that could influence the decibels of sound produced by crypto mining at any given time. He added two conditions in addition to those provided in the memo: noise generated by the facility shall meet MPCA regulations and a sound study be conducted, at the expense of Ancheng, between April and October if the facility is running.

Member O'Day asked about the discrepancy and interpretation of the MPCA guidelines. He asked Mr. Kramvik to review the e-mail sent.

Community Development Director Kramvik stated that the MPCA is looking at use to determine impact on a property. The closest properties are zoned residential but portions of them could be considered forested or agricultural based on their use.

Member Stenglein asked about the amount of land needed to be considered for different uses on the same parcel.

Community Development Director Kramvik stated that with these large twenty to forty acre parcels, it is his understanding that considerations could be made of how they are used would be made.

Member Czeczok asked about the sound levels that need to be met in the different zones. He asked about sound testing the properties and how the distance is determined. He stated that he respects staff's opinion, however, he would like to know the MPCAs actual standards specific to these properties.

Community Development Director Kramvik stated that the standards for residential versus agricultural are held to a higher standard. He stated that he could contact the MPCA to clarify any questions.

Chair Bevans asked about the condition contingent upon the EDA approving the material change. Would Ancheng be withdrawing their IUP if the PDA is not agreed to.

Community Development Director Kramvik stated that the PDA is with the EDA and needs to be resolved in order for anything to proceed.

Member Czeczok clarified that a significant reason needs to be given to deny the interim use permit for outdoor storage.

Community Development Director stated that the reasons to deny the interim use permit can be found in the use table for interim use permits. However, staff recommends the approval of the permit.

Member O'Day stated that anywhere on these parcels there could be a house built in the future. In order to avoid the entire issue, the facility could add ten to twelve foot concrete wall around the entire facility.

Member Czeczok questioned whether there are better materials or different solutions for sound deadening around the parcel.

Community Development Director Kramvik stated that the sound deadening could be contingent upon approval by the City Council.

Attorney Langel expressed concern about the fact that the wall would most likely require a variance, and Council is treading into arbitrary conditions. Also, that any type of condition should emanate from the code, he is unaware of anything in the City Code that requires massive walls.

Chair Bevans stated that he will vote against the motion as he also believes that the developer should work with an engineer and staff to determine the best course.

Member Johnson stated that he would rather see the motion include sound barriers on the property approved by staff.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND STENGLEIN TO APPROVE THE INTERIM USE PERMIT WITH ALL OF THE MENTIONED CONDITIONS AND ALSO TO BUILD A TWELVE FOOT TALL, ONE FOOT THICK WALL AROUND THE ENTIRE PARCEL.

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

MOVED BY COUNCIL MEMBER STENGLEIN TO APPROVE THE INTERIM USE PERMITS WITH ALL SEVEN CONDITIONS PROVIDED, CHANGING ANCHENG TO "THE PROPERTY OWNER" AND THE EXPIRATION DATE TO DECEMBER 31, 2025.

The Chair declared the motion failed due to lack of a second.

Member Johnson clarified that the end date for the permit should be one year after start of operations.

Member Terry stated that she appreciates all of the staff work to provide information as requested. She is concerned about the noise, ownership, proximity to Camp Ripley, how the IUP aligns with the Comprehensive Plan, job creation, electricity usage, and environmental impacts. She stated that now that she knows more since the previous issuance of the IUP, she will be voting no.

Member Czeczok asked whether the Comprehensive Plan applies to the Interim Use Permit.

Community Development Director Kramvik stated that the application of the Comprehensive Plan is a part of the rules and administration for interim use permits. He reminded the Council that this IUP is for storage as a principal use and is not focused on crypto mining.

Member Czeczok stated that there is no carbon neutral element as a part of the process. He does not like crypto mining at all. He thinks this whole thing is a mess, he will support the motion because the City has a duty. There are mitigation elements with all of the conditions to the permit. As much as he would not like to have crypto mining, the Council must be responsible to taxpayers and neighbors to issue an IUP with an expiration.

MOVED BY COUNCIL MEMBER JOHNSON AND CZECZOK TO APPROVE THE INTERIM USE PERMIT FOR STORAGE AS A PRINCIPAL USE AT 1918 THIESSE DR WITH THE FOLLOWING CONDITIONS: THE PERMIT IS CONTINGENT UPON THE BRAINERD

EDA APPROVING THE MATERIAL CHANGE IN THE CONSTRUCTION PLANS AND EXTENDING THE CONSTRUCTION COMMENCEMENT DEADLINE,THE PERMIT SHALL EXPIRE AFTER ONE YEAR OF BEGINNING CRYPTO-MINING OPERATIONS, THE APPLICANT SHALL SUBMIT A HAZARDOUS WASTE PLAN APPROVED BY THE COMMUNITY DEVELOPMENT DEPARTMENT, ENGINEERING DEPARTMENT, AND FIRE DEPARTMENT, THE IUP IS TERMINATED UPON OPERATIONS DISCONTINUING AS A CRYPTO MINING FACILITY, IMMERSION MINING IS THE ONLY PERMISSIBLE CRYPTO-MINING ALLOWED ON THE PROPERTY, NOISE GENERATED BY THE FACILITY SHALL MEET MPCA REGULATIONS, A SOUND STUDY BE CONDUCTED AT THE EXPENSE OF ANCHENG BETWEEN APRIL AND OCTOBER IF THE FACILITY IS RUNNING, A SOUND DEAFENING BARRIER ON THE PROPERTY TO BE APPROVED BY STAFF, AND CHANGING ANCHENG TO "THE PROPERTY OWNER".

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

Community Development Director stated that the Council must vote to deny the interim use permit.

Member Czeczok stated that based on the three to four vote to approve the IUP it would be appropriate for the Council to unanimously deny the permit.

MOVED BY COUNCIL MEMBER TERRY AND CZECZOK, DULY CARRIED, TO DENY THE INTERIM USE PERMIT FOR STORAGE AS A PRINCIPAL USE AT 1918 THIESSE DR BASED ON CONCERNS AROUND NOISE ASSOCIATED WITH THE FACILITY, PROPERTY LINES, ALIGNMENT WITH COMPREHENSIVE PLAN, AND THE INFORMATION SINCE INITIAL CONTRACT WAS APPROVED DEMONSTRATES ENVIRONMENTAL IMPACTS AND NOISE IMPACTS ON NEIGHBORS.

Final Reading and Public Hearing - Proposed Ordinance 1569 - Vacant Building Registry Ordinance

Community Development Director Kramvik gave an overview of the ordinance.

MOVED AND SECONDED BY COUNCIL MEMBERS STUNEK AND CZECZOK, DULY CARRIED, TO CONDUCT THE FINAL READING OF ORDINANCE 1569 AND DISPENSE WITH THE ACTUAL READING.

The Chair opened the public hearing at 8:33 p.m.

No one came forward.

The Chair closed the public hearing at 8:34 p.m.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND STENGLEIN TO ADOPT ORDINANCE 1569 PERTAINING TO CREATING A VACANT BUILDING REGISTRY.

ORDINANCE 1569

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.

New Business

Consider Conditional Use Permit for the Expansion of Two Additional Early Childhood Classrooms at TCCAP, 2410 Oak St.

Community Development Director Kramvik gave an overview of the conditional use permit.

Member Johnson thanked TCC for adding more childcare spots.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND TERRY, DULY CARRIED, TO APPROVE THE CONDITIONAL USE PERMIT AT 2410 OAK ST AS REQUESTED WITH THE PROVISION THAT FUTURE ADDITIONAL CHILD OCCUPANCY WILL NOT REQUIRE A CUP AMENDMENT.

Update from the Strike Contingency Workgroup

Administrator Broyles stated that the electronic copy of the authorization to strike by the IBEW Local 31 was received on June 29th. Once the hard copy of the letter is received, the ten-day cooling off period begins. He asked Council to review the press release to inform the public of the potential for a strike and letters drafted requesting assistance from various entities.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND CZECZOK, DULY CARRIED, TO APPROVE THE PRESS RELEASE AND BOTH LETTERS TO BE DISTRIBUTED.

Administrator Broyles stated that the City received an unfair labor charge that has been asserted against the City. Staff will be working with attorneys to provide more information.

Member Czeczok asked whether the unfair labor practice document is attorney-client privileged information.

Attorney Langel stated that the document is not attorney-client privilege.

Administrator Broyles requested that the Council set a Special Council meeting for July 8th at 6:00 p.m. to discuss strike updates and a closed session for negotiation strategy.

Interim Public Utilities Director Wussow requested that the Public Utilities Commission be included in the meeting.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND STENGLEIN, DULY CARRIED, TO SCHEDULE A JOINT SPECIAL MEETING OF THE CITY COUNCIL AND PUBLIC UTILITIES COMMISSION FOR JULY 8TH AT 6:00 P.M.

Public Forum

The Chair opened the public forum at 8:43 p.m.

No one came forward.

The Chair closed the public forum at 8:44 p.m.

Staff Reports

Police Chief Davis stated that on August 15th from 5:00 p.m. to 8:00 p.m. the Police Department and the Northside Neighborhood Association are hosting Brainerd Night Out at Gregory Park. More details to come.

City Engineer/Public Works Director Dehn stated that staff has been monitoring water levels at the Evergreen Landing for safety. The first phase of the South Brainerd project is paved and complete with the new streetlights. It looks awesome he encouraged Council Members to check it out. Arts in the Park took place at Gregory Park on Sunday and it was a great event. The forecast is not looking great for Independence Day and that Lyman P. White Park and the football fields will be utilized for the celebrations.

Community Development Director Kramvik stated that the EDA has authorized a façade improvement grant. It is open to all industrial and commercial uses in the City of Brainerd. The grant will be advertised by BLAEDC on a first come first served basis. The State Affordable Housing Aid funds are being advertised. It is open until July 26th. The Planning Commission has put Highway 210 mixed use in the commercial corridor on the itinerary.

Administrator Broyles thanked Staff's hard work and willingness to be fluid with their schedules and Council's support on a variety of difficult issues in the coming weeks.

Council Member Reports

Member O'Day wished everyone a Happy Independence Day.

Member Stenglein attended Arts in the Park with her dog. This year they made origami frogs at the booth she was at. It was a great time.

Member Czeczok stated that a friend gave him photos of a lawn service blowing grass into the street. He has asked staff to look into the matter. Happy Independence Day.

Adjourn

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

The Chair adjourned the meeting at 8:50 p.m.

Nicholas W. Broyles
City Administrator