

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 present.

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

Chair Bevans stated that a closed session meeting will need to be added to the agenda to discuss ongoing negotiations with IBEW Local No. 31.

MOVED AND SECONDED BY COUNCIL MEMBERS CZECZOK AND O'DAY, DULY CARRIED, TO APPROVE THE AGENDA WITH THE ADDITION OF A CLOSED SESSION PURSUANT TO MN STATUTES 13D.03 SUBD. 1(B) TO PREPARE FOR NEGOTIATIONS WITH IBEW LOCAL NO 31.

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

- A. Approval of Bills**
- B. Approval of Transfers**
- C. Approval of Minutes**
- D. Department Activity Report**
- E. MN Lawful Gambling Application for Exempt Bingo Submitted by Lower South Long Lake Improvement Association for an Event to be held on September 1, 2024, at Jack's House Bowling, 300 S Highway 25**
- F. Approve Event/Street Closure Application- Brainerd Night Out**
- G. Approve Event/Street Closure Application - First Lutheran Church Summer Picnic/Night Out**
- H. Approve Event/Street Closure Application - Onyenstalk 2: The Ripening Return (Outdoor Concert)**

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.

Conduct Dangerous Dog Hearing

Attorney Langel stated the order of the hearing.

Patricia Davis, 808 3rd Ave NE, stated that her dog Lenny is not dangerous. The situation was a provoked accident. She has multiple people in chambers to support her dog including the mother of the victim, the family of the child who accidentally provoked him, and other supporters.

Kim Davis, 806 W Franklin Ave, Minneapolis, Ms. Davis's daughter, stated that the family has an action plan for the children and the dog. They will do anything possible to keep their dog. He is a huge part of their family.

Member Czeczok asked whether the victim and the boy who startled the dog are still at the daycare. He also asked whether a call was made to the hospital.

Ms. Davis stated that the mother of the victim and the father of the boy are here to support her. She did call the victim's guardian to take her to the hospital to be treated.

Monica Burgoyne, 207 Roosevelt Rd, Onamia, is the victim's mother, stated that her daughter is doing great. She has two large dogs herself, it could have just as well have been her dogs that bit her daughter. Her daughter is very concerned about what will happen to the dog.

Keegan Voss, 517 4th Ave NE, is the father of the child who the dog was on top of. He stated that they have never had a problem with the dog, he is very friendly. His son is concerned about what will happen to the dog.

Animal Control Officer O'Brien gave an overview of the situation. He believes that the dog was provoked which, if you're going to have a dog in a daycare, he cannot imagine how it couldn't be provoked intentionally or not again.

Member Johnson asked about "potentially dangerous" dog hearings that have previously been held. What the difference with this case to bring it straight to dangerous.

Animal Control Officer O'Brien stated that he characterized the dog as dangerous due to the serious nature of the injury, which is defined as substantial bodily harm. The victim sustained a three-inch laceration on her head and a puncture wound to her cheek.

Member Czeczok asked whether this designation is a civil or criminal matter. He also asked whether it is entirely up to the City Council to make the decision about the dog. Finally, he asked what Mr. O'Brien thinks should happen to the dog.

Member Stenglein questioned whether the dog being in a daycare setting has any effect on the characterization.

Animal Control Officer O'Brien stated that he labeled the dog as "dangerous". The statute does not define specific settings.

Attorney Langel stated that the dangerous dog hearing is a civil statute. State law has a series of requirements concerning dogs, cities can make them more restrictive if they want to. If the City Council agrees that it is a dangerous dog, there are a number of conditions placed on the owners to be able to continue to own the dog. The dog would carry the designation of "dangerous" no matter where it resides, whether or not a different municipality would recognize the designation would be up to that municipality.

Member Johnson asked whether there is a third option in designating the dog "potentially" dangerous instead of upholding or denying the characterization of the dog as dangerous.

Attorney Langel stated that the City could reduce the designation to "potentially dangerous" which would remove many of the requirements that could be placed on the dog. The only requirement is microchipping. It creates a procedural oddity changing the designation. Certainly, the designation of "potentially dangerous" would reduce the burden of the owner.

MOVED AND SECONDED BY COUNCIL MEMBERS CZECZOK AND STENGLEIN TO DESIGNATE THE DOG AS "POTENTIALLY DANGEROUS", REQUIRE THE OWNERS TO MICROCHIP THE DOG, AND REQUIRE THEM TO INFORM CURRENT AND FUTURE FAMILIES AT THEIR DAYCARE OF THE DESIGNATION.

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

Council Committee Reports

Safety and Public Works Committee

Approve Final Pay Request - SW 4th Street Outfall Repair

Committee Chair O'Day stated that the total cost for the repair was \$289,305.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND CZECZOK, DULY CARRIED, TO APPROVE THE FINAL PAY REQUEST TO LANDWEHR CONSTRUCTION IN THE AMOUNT OF \$1,574.

Approve Final Pay Request - Imp 21-17 Lum Park SPRA Reconstruction Project

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND STENGLEIN, DULY CARRIED, TO APPROVE THE FINAL PAY REQUEST TO ANDERSON BROTHERS IN THE AMOUNT OF \$12,228.

Award Proposal for Engineering Services - Lowell Safe Routes to School Project

Committee Chair O'Day stated that there were two bids, the difference between the two was length of construction time and material testing. The WSB proposal was higher due to estimating an eight week construction timeline and included materials testing. The Bolton and Menk bid only estimated a six week construction and did not include materials testing.

Member Czczok asked whether the lowest bid is required to take low bid.

Attorney Langel stated that the City is not required to go with the low bid.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND CZECZOK, DULY CARRIED, TO AWARD THE LOWELL SAFE ROUTES TO SCHOOL ENGINEERING SERVICES CONTRACT TO WSB IN THE AMOUNT OF \$105,980.

Authorize Advertisement - Imp 24-06 - Laurel Street Bridge Rehabilitation

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND STENGLEIN, DULY CARRIED, TO AUTHORIZE STAFF TO ADVERTISE FOR BIDS FOR IMPROVEMENT 24-06 - LAUREL STREET BRIDGE REPAIR PROJECT.

Authorize Advertisement - Police Department Exterior Repairs Project

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND CZECZOK, DULY CARRIED, TO AUTHORIZE STAFF TO ADVERTISE THE POLICE DEPARTMENT EXTERIOR REPAIR PROJECT FOR BIDS.

Personnel and Finance Committee

Discuss MN State Delegation Agreement

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STUNEK, DULY CARRIED, TO TERMINATE SCOTT SADUSKI'S BUILDING INSPECTION DELEGATION

CONTRACT WITH A 45-DAY WRITTEN NOTICE, APPLY FOR THE “RESERVED DELEGATION” AGREEMENT WITH THE DOLI, ALLOW MR. DESETH TO CONTACT DOLI TO PARTICIPATE IN INSPECTIONS WITHIN 90 MILES OF BRAINERD THAT WOULD QUALIFY FOR THE DELEGATION AGREEMENT EXPERIENCE.

Update on Public Utilities Director Hiring Process

Committee Member Terry stated that the committee interviewed four individuals and extended a job offer to the top candidate. The Council will approve the hiring at the August 5th meeting.

Member Czczok asked for the name of the candidate chosen.

HR Director Schubert stated that the chosen candidate is Christopher Evans.

Consider Authorization to Pay off BPU Advancement

Committee Chair Johnson stated that the City took out an interfund loan in 2023 thinking that the amount would be recognized as other financing sources which would bring up the fund balance and bring the City closer to compliance with the fund balance policy.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STUNEK, DULY CARRIED, TO PAY OFF THE ADVANCEMENT FROM BPU AS OF AUGUST 1, 2024.

Accept Resignation of Lineworkers (Added Item)

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STUNEK, DULY CARRIED, TO ACCEPT THE RESIGNATIONS OF LINeworkers NICK LOCHNER AND RYAN MILLER AS OF JULY 29TH, 2024; FURTHER, TO AUTHORIZE BACKFILLING THE POSITIONS.

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)

Adopt Resolution Denying Interim Use Permit for Outdoor Storage as a Principal Use at 1918 Thiesse Dr

Community Development Director Kramvik stated that the City Council must adopt a resolution to formally deny the Interim Use Permit.

Member Czczok asked how the resolution was put together.

Community Development Director Kramvik stated that the resolution was put together using the motion on July 1st, testimony by the City Council and Planning Commission.

Member Czczok asked if there is something in the resolution that is not factual if it could be removed. He stated that the carbon neutral elements in the resolution are misnomers.

Attorney Langel stated that the purpose of the document is findings, to get something on the record.

Member Czczok asked that the Council consider removing the elements of carbon neutrality because they are frankly not factual.

Member Johnson asked Member Czczok to clarify what he is requesting be removed. He read section iii, subdivision 1 aloud. He questioned whether this subdivision could be removed as there would then be no rationale to support the statement in section iii.

Attorney Langel stated that it would be better to have a finding following the goal. The language is broad.

Member Terry stated that she believes the language is broad enough and factual. She addressed the facts within the statement. The subdivision further drives the denial of the IUP.

MOVED AND SECONDED BY COUNCIL MEMBERS CZECZOK AND JOHNSON TO ADOPT RESOLUTION DENYING THE INTERIM USE PERMIT AT 1918 THIESSE DRIVE FOR OUTDOOR STORAGE AS A PRINCIPAL USE; FURTHER TO REMOVE SECTION III, SUBD 1 FROM THE RESOLUTION.

RESOLUTION 30:24

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

Approve Central Business District Incentive Policy

Community Development Director Kramvik gave an overview of the expansion of the River to Rails incentive district. It aligns with the River to Rails policy, and expands the district to the east and west boundaries of the City and South 6th St.

Member Czczok stated that in the last 5 years the policy has cost the City \$138,000, with 39 businesses benefiting from the incentive, an average of \$3538 per business. This amount is not an amount that would stop a business from starting in the City.

MOVED BY COUNCIL MEMBER CZECZOK TO DENY THE CENTRAL BUSINESS DISTRICT INCENTIVE POLICY.

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

Member Johnson stated that he appreciates the concern about missing out on revenue from building fees. However, one of the factors considered when approving at the EDA was that the infrastructure in the districts will not need to be upsized any time soon. SAC/WAC money must be spent on expanding infrastructure. He feels ok with not charging people today for edge of town development tomorrow.

Member Stenglein stated that it is not whether you are going to be in business or not, but rather where we want businesses to be. It is a big open for business sign on our community and gives warm fuzzies.

Mayor Badeaux stated that he appreciates Member Czczok's comments, the City needs to be very careful with programs like these as they need to be put in place in areas where the SAC/WAC cannot be used. He appreciates that this program is specific to regions where development will not be needed in the near future.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STENGLEIN TO APPROVE THE CENTRAL DISTRICT INCENTIVE POLICY AS PRESENTED.

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

Update regarding IBEW Local No. 31 (Public Utility) Union Strike

City Administrator Broyles stated that the City heard back from Bureau of Mediation Services (BMS) regarding overtime for Non-Union Supervisors. That despite the action being an advantage for those affected, the City cannot make changes to the terms of employment while BMS determines the next steps. The cooling off mediation was held on Friday, July 12th. More information will be provided to the Council during the closed session.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND CZECZOK, DULY CARRIED, TO STRIKE SECTION S FROM THE STRIKE RESOLUTION PER BMS DIRECTION.

New Business

Accept City Flag from the Water Tower Committee

Paul Skogen, Water Tower Committee, gave an update of the work done to the water tower and the improvements that will be made this fall. The City received \$500,000 Congressional spending with the help of Senator Amy Klobuchar. He presented the City flag that the Water Tower Committee had produced to fly from the water tower.

MOVED AND SECONDED BY COUNCIL MEMBERS STUNEK AND JOHNSON, DULY CARRIED, TO FLY THE NEW FLAG ON THE BRAINERD HISTORICAL WATER TOWER.

Approve the Wellhead Protection Plan for Minnesota Department of Health Review and Conduct Public Hearing

BPU Finance Manager Loch gave an overview of the Wellhead Protection Plan. The plan has been reviewed by City Staff and consultants.

Member Czczok requested that the Council review the plan.

The Chair opened the public hearing at 8:32 p.m.

No one came forward.

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

MOVED AND SECONDED BY COUNCIL MEMBERS CZECZOK AND O'DAY, DULY CARRIED, TO APPROVE THE WELLHEAD PROTECTION PLAN DRAFT AND SUBMIT TO THE MN DEPARTMENT OF HEALTH.

Request for Appeal of Nuisance Citation - 1209 Oak St

Community Development Director Kramvik gave an overview of the long grass and weed violation case for appeal based on a complaint received. The owner of the home is aware of the language in the City Code.

Member Johnson asked whether the grass has been mowed.

Community Development Director Kramvik stated the grass has still not been mowed and may be a few inches longer.

Brian Timmers, 1209 Oak St, stated that he has a 6-foot fence around the perimeter of the property. He cited the native landscapes state code.

Member Czczok asked questions about the fence and how the grass is seen if it is solid.

Mr. Timmers stated that the fence is open to the driveway in the alley.

Member Johnson asked about the native landscape provisions.

Community Development Director Kramvik stated that the native landscapes within the state statute specify types of grasses and uses. This grass would be considered a turf grass not a qualifying native landscape grass. If it were a native landscape, it would not have to be fenced in.

Member O'Day asked whether the complaint also included grass outside of the fence.

Community Development Director Kramvik stated that grass along Oak Street was trimmed.

Chair Bevans stated he would vote against the appeal. He is concerned that if people start parking cars in their fenced in yards, they'll start using the same argument.

MOVED AND SECONDED BY COUNCIL MEMBERS CZECZOK AND O'DAY TO GRANT THE APPEAL AS ALL OF THE GRASS IN QUESTION IS WITHIN THE FENCE.

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

Approve Annual Review of Data Practices Policy

Administrator Broyles stated that annually the City must review their Data Practices Policy. The Police Department requested that exhibits G, H, and I be included with the policy specific to Police Department data requests for information. He recommends the approval of the policy and updates.

Member Czczok stated that the City of Brainerd has the most explanatory data practice policy he has ever seen. He thinks it's an excellent policy.

MOVED AND SECONDED BY COUNCIL MEMBERS CZECZOK AND STUNEK, DULY CARRIED, TO APPROVE THE DATA PRACTICES POLICY AND UPDATES.

First Reading - Proposed Ordinance 1570 - Amending City Code 1200.03 Subd. 6 Temporary Licenses

Finance Director Hillman stated that the ordinance presented matches the State Statute to allow organizations to hold up to 12 temporary licenses in a 12 month period.

MOVED AND SECONDED BY COUNCIL MEMBERS STENGLEIN AND CZECHOK, DULY CARRIED, TO CONDUCT THE FIRST READING OF ORDINANCE 1570 AND DISPENSE WITH THE ACTUAL READING.

First Reading - Proposed Ordinance 1571 - Prohibiting Camping in the City of Brainerd

Mayor Badeaux stated that after the packet was released, there was an e-mail exchange that borderlines inappropriate from Council Member Terry's County e-mail. He is concerned that the e-mail requests that the Community Development Director replace the ordinance with a redlined ordinance that was attached to the e-mail. He believes that what is not being asked is that the ordinance be shared with the Council. Rather, asking staff to exchange the ordinance. When Council Member Terry was running for office, he received multiple phone calls from people concerned about a County Department Head making laws in the City of Brainerd. His discussion with those concerned at the time was that everyone has jobs and has the ability to separate themselves from their work. The perception of government is always of concern. When there is potential conflict of interest, the City should have the wherewithal to step back and make sure that actions are appropriate. He does not believe that it is appropriate for Member Terry to comment on the camping subject.

Member Terry stated that she is very disappointed that the Mayor did not talk with her prior to the meeting and for calling her out in a Council meeting. She thought that they had a relationship where they could discuss things face to face. The Mayor is not privy to the conversations that she had with Community Development Director Kramvik. She was not asking for the amended ordinance that she sent to replace the ordinance in the packet. She may have used the wrong language. She was asking for consideration of the amended ordinance. She stated that regarding the use of her County e-mail address, she does not believe she needs a City and County computer to do government work as it is all coming out of taxpayer dollars. It is also more efficient, and she is more responsive using one computer. She has had conversations with IT Director Strong regarding data practices and IT practices. In terms of conflict of interest, she believes that she was elected because she has a County government perspective. There are many issues that overlap between the City and County. Fortunately, she has been able to work on issues that overlap. For example, the social workers that work with city law enforcement. She is an active part of that program, has approved it at the City Council level to do that work, and she is proud of the that work. She will not be silenced on topics that overlap between the City and the County unless legally silenced. She apologizes that it was taken as though she was trying to further something nefariously, that would never be her intent. She has some expertise to offer in this situation, she will not further her agenda through the ordinance other than to provide insight, expertise, and research that she has done on the topic.

Community Development Director Kramvik gave an overview of the ordinance in the packet at the direction of the City Council. Staff have met with Baxter staff. The ordinance references the word "camping". Currently, the Brainerd Police Department cannot remove anyone from public property, right-of-way, or parks as the code does not prohibit camping on public property. There has also been a previous issue with camping on private property. Council Member Terry did send out a revised ordinance, the Police Department and Community Development Department had issues with the language as it could be hard to determine whether people are actively working with social services.

Chief Davis stated that there are limitations that the Police Department does have. If the City does have a strong interest to limit encampments on City property right now there are no tools to prohibit those things. He does not recommend changes to the ordinance that was included in the packet.

Chair Bevans stated that the public hearing is on August 5th.

Member Johnson stated that he likes what Chief Davis has said and the Council has brought up concerns about the wellness and safety of our citizens. Chief Davis has said he does not have a set of tools to service the community. If changes need to be made in the future, those changes could be made.

Member Stenglein stated that she will be voting yes because she does not need the ordinance read to her. However, while she appreciates staff for bringing this forward, she feels it is cutting edge. She would rather see Brainerd in the middle of the pack to try new things like this.

Member Terry stated she will vote yes, to avoid having the ordinance read. The public hearing is on August 5th. She recommends that the Council read the literature regarding the health and safety of residents when it comes to the homeless population. There are a lot of resources available, and she is happy to share the knowledge that she has regarding the issue.

Mayor Badeaux stated he appreciates the work that the staff has done. He looks forward to hearing from the public at the next meeting.

Member O'Day stated that he agrees with what the Police Chief has said. Some of the situations that have taken place may have been prevented if the City had an ordinance in place. He has had comments taken out of context on the matter, to clear that up, he was specifically commenting on people in the parks causing vandalism not homelessness.

Member Czczok stated that he believes it is a compassionate ordinance as it is helping people who need help. Services are available, from what he understands people are not taking advantage of them for whatever reason. The Council needs to look at the community as a whole.

MOVED AND SECONDED BY COUNCIL MEMBERS CZECZOK AND JOHNSON, DULY CARRIED, TO CONDUCT THE FIRST READING OF ORDINANCE 1571 AND DISPENSE WITH THE ACTUAL READING.

Public Forum

The Chair opened the public forum at 9:05 p.m.

No one came forward.

The Chair closed the public forum at 9:05 p.m.

Staff Reports

City Engineer/Public Works Director Dehn stated that the Park Board will be meeting on July 23rd and the first part of the meeting will be at Mills stadium. Staff have received a petition for annexation from 15106 Riverside Drive, staff will bring this before Council at the next meeting.

Community Development Director Kramvik stated that the EDA and Public Utilities Commission will be scheduling a workshop to discuss VCV and provide direction. The Council will be invited. The vacant building registry ordinance will be effective at the end of the week and staff will be sending out letters. BLAEDC has opened the applications for the façade improvement grant through the EDA.

Mayor's Report

Mayor Badeaux stated that at 9:00 p.m. on Saturday, May 20th Brainerd Parks and Recreation will be hosting movies in the park at Lyman P. White. The movie will be "Back to the Future".

Council Member Reports

Member Czczok stated that he received information about the Airport Workgroup. Director Wright wants to meet with the FAA.

Member Terry stated that the AARP Age Friendly Community will be applying for a grant. Brainerd is the 24th Minnesota Community to join the network.

Adjourn

MOVED AND SECONDED BY COUNCIL MEMBERS STUNEK AND JOHNSON, 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 LOCAL NO. 31 PUBLIC UTILITIES UNION.

The Chair adjourned the meeting at 9:11 p.m.

Council adjourned to the closed session after a five-minute break.

The Chair reconvened the meeting at 10:03 p.m.

MOVED AND SECONDED BY COUNCIL MEMBERS STUNEK AND O'DAY, TO ADJOURN THE MEETING.

The Chair adjourned the meeting at 10:03 p.m.



Nicholas W. Broyles
City Administrator