Brainerd, MN
October 17, 2016

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 Scheeler.

Upon roll call, the following members were noted as present: Hilgart, Koep, Pritschet, Bevans, Johnson, Borkenhagen and Scheeler. Mayor Menk was also noted as present.

The Chair opened the meeting with the Pledge of Allegiance to the Flag.

The Chair recognized DJ Collins, Scout Master for Boy Scout Troop 243, who stated that the large group of cub scouts appears tonight as part of the badge work for their "Communication" Merit Badge.

Council Member Bevans requested to move the fifth item on the Consent Calendar (a resolution recognizing Transit Coordinator) to New Business.

Council Member Koep requested the addition of the item, "Discussion of Sign Ordinance/Removal of Signs, including Public Comment" directly following the Consent Calendar.

MOVED AND SECONDED BY ALDERMEN KOEP AND HILGART, DULY CARRIED, TO APPROVE THE AGENDA AS AMENDED.

MOVED AND SECONDED BY ALDERMEN BEVANS AND PRITSCHET TO ADOPT THE CONSENT CALENDAR AS AMENDED.

A. Approval of the Minutes of the Regular Meeting held on October 3, 2016, as distributed – Approved

B. Approval of Licenses – Approved

1. Contractor's Licenses – 2 – New
2. Contractor's Licenses – 2 – Renewals

C. Department Activity Reports – Approved

1. City Administrator
2. Finance Director
3. Police Chief

D. Resolution No. 46:16 Adopted – Approving the Minnesota Lawful Gambling Premises Permit Application to Allow Lawful Gambling by HART at Baxter Liquor Mart, 105 Washington Street NE, Brainerd

E. Resolution No. 47:16 Adopted – Approving the Minnesota Lawful Gambling Premises Permit Application to Allow Lawful Gambling by American Legion Post #255 at 612 Station, 612 Front Street, Brainerd

F. Resolution No. 48:16 Adopted – Accepting Donations & Contributions for 3rd Quarter 2016

G. Resolution No. 49:16 Adopted – Approving the Collateral Assignment of the Royal Tire Contract for Private Development

H. 2017 NJPA Health Insurance Renewal Rates – Approved

Upon roll call, members Hilgart, Koep, Pritschet, Bevans, Johnson, Borkenhagen and Scheeler voted "aye." No member voted "nay." The Chair declared the motion carried.

Sign Removal and Regulations – Referred to Safety and Public Works Committee

City Administrator Thoreen read from City Code Section 515-37-5 relating to all non-permit required signs and the placement thereof. He stated that under his direction, City staff removed several signs found to be non-conforming throughout the City based on being located in the right-of-way. These signs were placed outside City Hall and most have been recovered by their owners. He stated that the action is part of fulfilling the City's responsibilities under the City Charter, Ordinance and State Law. He referred to three documents that have been provided to all candidates in the area which clearly state the right-of-way placement restriction.

Council Member Koep stated that that public comment should be allowed on this subject based on the many calls she received over the weekend. She started out by clarifying that what has happened is not the "fault" of City staff; that the job was done according to State laws and the upholding of the City Code which is adopted by Council. She apologized for the grief it caused to the community and feels that public notification can be improved; she suggested radio ads in addition to newspaper notifications.

Council Member Hilgart stated that she feels there should have been more or better notice to the public and agreed that the ordinance should be reviewed to determine if changes should be made.

At 7:46 P.M. the Chair opened the floor to public comments relating to the removal of yard signs which was conducted on Friday, October 14, 2016 throughout the City.

The Chair recognized the following individuals who spoke to the issue:

- Mr. Kevin Goedker, 1210 9th Ave NE, Brainerd, (area realtor and candidate for Mayor), who distributed and then read aloud from a list of several questions relating to the recent removal of signs by City staff.

- Ms. Nancy Conway, 11300 Arlington Avenue, Brainerd, who stated that she would have appreciated the opportunity to simply move the sign rather than have it very rudely removed by force. She stated that this was especially upsetting based on being a resident who has never been warned or had signs removed before. She stated that she felt the removal rules were not being enforced equally.

- Mr. Doug Kern, 11039 Greenwood Street, Brainerd (Crow Wing County Republican Chair), who stated that he had heard from many individuals that the removal of the signs infringed on their freedom of speech and personal property rights.

- Mr. Mike Higgins, 1801 Mill Avenue, Brainerd, who read from a list of “dumb rules” and stated that things like this being in our local newspaper affect how people perceive Brainerd and that “perception is reality.” He stated that he just signed a lease for a very large company and he will continue to fight for promoting Brainerd and hopes issues like this will not hinder growth.

- Mrs. Colleen Goedker, 1210 9th Avenue NE, Brainerd, (area realtor), who stated that removing campaign and garage sale signs is one thing but removing signs for small businesses, such as real estate agents, hurts their business. She stated that real estate agents received a notice late Friday afternoon and properties with no “for sale” sign lost a full weekend of advertisement, in many cases.

- Mr. Stephen Gotsch, 410 East River Road, Brainerd, who appeared before Council for another item, was informed that right now discussion being heard is for signs removed last week. (See additional comment later in these minutes)

- Ms. Dolly Matten, 1730 Graydon Avenue (area realtor), thanked the City Council for not discarding the signs because the ordinance does give the City the right to discard them immediately. She stated that she does realize it is her job as a realtor or candidate to make sure her signs are where they are supposed to be but a better warning would have been helpful. She stated that this should be a learning experience.

At 8:09 P.M. the Chair ended the public comment period. The item was referred to the Safety and Public Works Committee.

Council Committee Reports

Personnel and Finance Committee Report

Approval of Bills, Transfer of Funds & Payments to Contractors – Approved

General Fund to Public Safety Fund	$30,000
General Fund to Park Fund	$60,000
General Fund to Street & Sewer Fund	$25,000
General Fund to Airport Fund	$12,960
	$127,960

Contractor	IMP #	Project	Amount	Total Retained
Northwoods Landscaping	10-03	Downtown Maint.	$4,750	0
		Red Pine/2 Mile Rd		
Oak Lawn Township	16-12	Seal Coat - FINAL	$12,494	0
S.E.H.	14-15	Arpt Util Ext thru 8/31	$78,141	0
S.E.H.	14-15	Arpt Util Ext thru 9/30	$76,066	0
Tom’s Backhoe	14-15	Arpt Util Ext thru 9/30	$1,329,047	$69,949.85
WSN	16-06	San Sewer Block 46	$472	0

MOVED AND SECONDED BY ALDERMEN KOEP AND PRITSCHET TO APPROVE THE PAYMENT OF BILLS, TRANSFER OF FUNDS AND PAYMENTS TO CONTRACTORS AS RECOMMENDED BY THE PERSONNEL AND FINANCE COMMITTEE.

Upon roll call, members Hilgart, Koep, Pritschet, Bevans, Johnson, Borkenhagen and Scheeler voted "aye." No member voted "nay." The Chair declared the motion carried.

Deferment of Assessments – Authorize Deferment for Parcel 091680010020009 – Request a Review of Resolution No. 06:05 which Determines Deferment Criteria – Approved

Per Agenda Request from Finance Director Hillman, five deferment requests were included for review; one which has met all the financial guidelines as set forth by Resolution 06:05.

MOVED AND SECONDED BY ALDERMEN KOEP AND JOHNSON, DULY CARRIED, TO APPROVE THE ASSESSMENT DEFERMENT REQUEST FOR PARCEL 091680010020009.

MOVED AND SECONDED BY ALDERMEN KOEP AND JOHNSON, DULY CARRIED, TO REQUEST A REVIEW OF THE CURRENT AND PAST ASSESSMENT DEFERMENT CRITERIA TO DETERMINE IF THE RESOLUTION DETERMINING THE CRITERIA SHOULD BE UPDATED RELATING TO PROPERTY VALUE AND ASSETS.

Meal Reimbursement for Transit Coordinator – Authorize Additional $15 Reimbursement for Dinner Expense while at Conference – Request a Review of Meal and Per Diem Staff Reimbursement Criteria – Approved

MOVED AND SECONDED BY ALDERMEN KOEP AND JOHNSON, DULY CARRIED, TO APPROVE THE REQUEST FROM TRANSIT COORDINATOR STONE FOR AN ADDITIONAL $15 REIMBURSEMENT FOR DINNER EXPENSE.

MOVED AND SECONDED BY ALDERMEN KOEP AND PRITSCHET, DULY CARRIED, TO REVIEW THE MEAL AND PER DIEM REIMBURSEMENTS IN THE EMPLOYEE POLICY GUIDELINES FOR STAFF TO DETERMINE IF FIGURES NEED TO BE UPDATED.

Discussion of Fund Balance Policy Amendment – Amend "Spendable – Unassigned (GAAP Unreserved – Undesignated)" Portion of Fund Balance Policy as Recommended by the Personnel and Finance Committee – Approved

MOVED AND SECONDED BY ALDERMEN KOEP AND JOHNSON, DULY CARRIED, TO AMEND THE "SPENDABLE - UNASSIGNED (GAAP UNRESERVED – UNDESIGNATED)" PORTION OF THE CITY OF BRAINERD FINANCIAL MANAGEMENT POLICIES/FUND BALANCE POLICY RELATING TO "CASH FLOW" BY REPLACING THE WORDS, "GENERAL FUND" WITH THE WORDS, "WORKING FUNDS CURRENT YEAR" AND ADDING THE FOLLOWING AS THE LAST PARAGRAPH, "IF REVENUES EXCEED EXPENDITURES IN EXCESS OF BUDGET IN THE WORKING FUNDS FOR ANY GIVEN YEAR, ALL FUNDS IN EXCESS OF 1% OF OPERATING EXPENDITURES SHOULD BE TRANSFERRED TO THE GENERAL CAPITAL FUND (FUND 400) UNTIL THE CITY GETS TO 50% OF THE UNRESERVED FUND BALANCE."

2016 Capital Projects Fund Update – Informational

Per Agenda Request from Finance Director Hillman, it is estimated that the City will be approximately $25,865 under projected costs for the year and will have a cash balance of about $517,000 at the end of the year.

Safety and Public Works Committee Report

Event/Street Closure Request – St. Francis Marathon – Authorize the Closure of Portions of N 9th, Juniper, N 10th and Kingwood Streets from 9:00 A.M. to 1:00 P.M. on Wednesday, October 19, 2016 – Approved

MOVED AND SECONDED BY ALDERMEN BEVANS AND HILGART, DULY CARRIED, TO APPROVE THE REQUEST FOR THE CLOSURE OF PORTIONS OF N 9TH, JUNIPER, N 10TH AND KINGWOOD STREETS FROM 9:00 A.M. TO 1:00 P.M. ON WEDNESDAY, OCTOBER 19, 2016 FOR THE SAINT FRANCIS CATHOLIC SCHOOL MARATHON.

NW 4th Street Traffic Study – Authorize Preparation of RFP with Costs of Up To $15,000 to be split 50/50 with Crow Wing County – Approved

MOVED AND SECONDED BY ALDERMEN BEVANS AND BORKENHAGEN, DULY CARRIED, TO AUTHORIZE THE PREPARATION OF A RFP TO PERFORM A TRAFFIC STUDY OF THE NW 4TH STREET TRAFFIC CORRIDOR WITH COSTS OF UP TO $15,000 TO BE SPLIT 50/50 BETWEEN THE CITY AND CROW WING COUNTY.

Improvement 14-15 – Airport Utility Extension – Request for Services Agreement Amendment to Reinstate the Engineering Contingency Originally Requested during Agreement Negotiations – Approved

MOVED AND SECONDED BY ALDERMEN HILGART AND BORKENHAGEN TO APPROVE THE SERVICES AGREEMENT AMENDMENT WITH SEH FOR IMPROVEMENT 14-15 (AIRPORT UTILITY EXTENSION) TO REINSTATE THE ENGINEERING CONTINGENCY ORIGINALLY REQUESTED DURING AGREEMENT NEGOTIATIONS.

Committee Member Hilgart stated that this is referring to a previously considered contingency which was denied in March of 2016; however, it is now likely that extra costs will be incurred based on extended hours necessary to complete the project as well as weather delays.

Alderman Bevans spoke against the motion, stating that although he has no doubt the engineering firm is doing the work, this project was not recommended by the City Engineer or SEH/Project Management Team themselves and that the Finance Department of the City had expressed concern on how it would be paid for.

City Engineer stated that the proposed work involves the repair of work performed ten years ago during the Mill Avenue project. He clarified that the projected total cost is still expected to come in below projected cost.

City Administrator Thoreen stated that this motion will not mean that the City will pay the $69,000; that the contingency fund is established for this sort of uncertainty in a project.

Members Hilgart, Koep, Pritschet, Johnson, Borkenhagen and Scheeler voted “aye.” Member Bevans voted “nay.” The Chair declared the motion carried.

Improvement 14-15 – Airport Utility Extension – Status of Private Wells – Authorize up to $12,000 from Contingency Fund to Provide Two Drilled Wells, if Necessary – Approved

MOVED AND SECONDED BY ALDERMEN BEVANS AND HILGART, DULY CARRIED, TO AUTHORIZE UP TO $12,000 FROM THE IMPROVEMENT 14-15 CONTINGENCY FUND TO PROVIDE TWO DRILLED WELLS, IF NEEDED, FOR TWO PARCELS AFFECTED BY THE PROJECT.

Unfinished Business

Public Hearing – Improvement 14-08 and 14-09 Assessments – Resolution No. 50:16 Adopted – Ordering the Special Assessments

The Chair opened the Public Hearing at 8:31 P.M. No one came forward.

The Chair closed the Public Hearing at 8:32 P.M.

MOVED AND SECONDED BY ALDERMEN BEVANS AND HILGART TO ADOPT RESOLUTION NO. 50:16 – ORDERING THE SPECIAL ASSESSMENTS FOR IMPROVEMENT 14-08 AND 14-09.

RESOLUTION NO. 50:16

Upon roll call, members Hilgart, Koep, Pritschet, Bevans, Johnson, Borkenhagen and Scheeler voted “aye.” No member voted “nay.” The Chair declared the motion carried and the resolution adopted.

Public Hearing – Downtown Special Services District Assessments – Adopt Resolution Ordering the Special Assessments – (See Below: One Resolution was adopted for both Downtown Special Services and 2016 Nuisance Abatement)

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.

Public Hearing – 2016 Nuisance Abatement – Resolution No. 51:16 Adopted – Ordering Special Assessments for Downtown Special Services District (DTSS) and 2016 Nuisance Abatement

The Chair opened the Public Hearing at 8:35 P.M.

The Chair recognized Ms. Tisha Scheeler, 1504 Pine Street, Brainerd, who requested re-consideration of the nuisance charged to her property address for an unlicensed vehicle parked on her property.

City Building Official Caughey recorded Ms. Scheeler’s address information to contact her for re-consideration as requested.

The Chair closed the Public Hearing at 8:36 P.M.

MOVED AND SECONDED BY ALDERMEN BEVANS AND PRITSCHET TO ADOPT RESOLUTION NO. 51:16 – ORDERING THE SPECIAL ASSESSMENTS FOR THE DOWNTOWN SPECIAL SERVICES DISTRICT (DTSS) AND 2016 NUISANCE ABATEMENT.

RESOLUTION NO. 51:16

Upon roll call, members Hilgart, Koep, Pritschet, Bevans, Johnson, Borkenhagen and Scheeler voted "aye." No member voted "nay." The Chair declared the motion carried and the resolution adopted.

Call for Applicants – Informational:

(Application Information at www.ci.brainerd.mn.us/boards/)

Cable TV Advisory Committee – 1 Term to expire 12/31/2016
Rental Dwelling Board of Appeals – 1 "Tenant Representative" Term to expire 12/31/16
Ad Hoc Walkable Bikeable City Committee

New Business

First Reading – Proposed Ordinance No. 1462 – An Ordinance Amending Section 1200.21 of the Brainerd City Code Pertaining to On-Sale Liquor Zones and License Limitations regarding a portion of the Franklin Art Center – City Administrator Thoreen Recommends Dispensing with the Actual Reading – Item of "Liquor Zones" referred to Safety and Public Works Committee – Approved

MOVED AND SECONDED BY ALDERMEN JOHNSON AND PRITSCHET, DULY CARRIED, TO HOLD THE FIRST READING OF PROPOSED ORDINANCE NO. 1462 – AN ORDINANCE AMENDING SECTION 1200.21 OF THE BRAINERD CITY CODE PERTAINING TO ON-SALE LIQUOR ZONES AND LICENSE LIMITATIONS REGARDING A PORTION OF THE FRANKLIN ART CENTER; FURTHER, TO DISPENSE WITH THE ACTUAL READING.

Council Member Johnson stated that the City's liquor zone is causing the issue of having the bars in only one area which creates the perception that "all that is downtown is bars" and that the liquor zone should be abolished.

Council Member Hilgart discussed an email that was included in the Packet in opposition to the change to the liquor zone which would allow this brewery; she stated that she would like to hear from all sides on this issue.

Council President Scheeler asked City Planner Ostgarden to verify that the distance between a liquor establishment and a school would not be an issue.

NOTE: It was clarified after the meeting that Ordinance No. 1373, adopted on November 15, 2010, abolished the requirement for a certain distance between liquor establishments and either schools or churches.

Members Hilgart, Pritschet, Bevans, Johnson, Borkenhagen and Scheeler voted "aye." Member Koep voted "nay." The Chair declared the motion carried.

The item, "Liquor Zones" was referred to the Safety and Public Works Committee.

8:40 P.M. (Disturbance occurred in Council Chambers at this time resulting in the forced removal of citizen as mentioned in public comment section at the beginning of the meeting along with a parcel the citizen had brought into chambers as part of a complaint about the City Police Department)

Resolution No. 52:16 Adopted – In Recognition of Transit Coordinator Andy Stone's Selection for the Management Innovation Award from the Minnesota Public Transit Association

City Administrator Thoreen read aloud the resolution which commended Transit Coordinator Andy Stone's selection for the "Management Innovation Award" from the Minnesota Public Transit Association and declared October 19, 2016 as "Andy Stone Day" in the City of Brainerd.

MOVED AND SECONDED BY ALDERMEN KOEP AND BORKENHAGEN TO ADOPT RESOLUTION NO. 52:16 – IN RECOGNITION OF TRANSIT COORDINATOR ANDY STONE'S SELECTION FOR THE MANAGEMENT INNOVATION AWARD FROM THE MINNESOTA PUBLIC TRANSIT ASSOCIATION.

Alderman Koep reported that the City of Brainerd and Crow Wing County will be receiving funds from the State to help the transit program in extending hours of operation. She feels that this is also a result of Mr. Stone and the Transportation Committee's due diligence.

RESOLUTION NO. 52:16

Upon roll call, members Hilgart, Koep, Pritschet, Bevans, Johnson, Borkenhagen and Scheeler voted "aye." No member voted "nay." The Chair declared the motion carried and the resolution adopted.

Public Forum: No one appeared for Public Forum.

Staff Reports – Written

City Administrator Thoreen reported that although there was a man removed by police this evening he wanted to assure people that there is no threat to the public. He stated that he had attended the LMC Regional Conference in Fergus Falls which was a very well-organized event with several breakout sessions. One session he attended on code enforcement will assist Administration to assess security issues for facilities.

Council Member Reports

Council Member Koep reported on sessions that were particularly impressive to her at the LMC regional conference including "rules of decorum" and code enforcement. She stated that although she was unable to attend the "equity and equality" session, she heard very good reviews of that session which reminded her that all people should be treated with the same respect and that rules should be enforced equally.

City Administrator Thoreen stated that at the end of the LMC meeting, Council Member Koep was recognized for over 38 years of public service at both the city and county level. He congratulated her on this honor.

Council Member Johnson brought the Council's attention to a certificate of deposit interest rate with which he was pleased. He also reported that he had attended the Great Pumpkin Festival over the weekend which was a very nice event. He added that seeing public interest in issues brought forth this evening is encouraging and that people should continue to be interested and voice their opinions.

Mayor Menk stated that there are 5 new businesses locating or relocating into the City of Brainerd in the next month or so which shows progress in the City.

Council President Scheeler reported that 18 plaques have been presented over the past year to new businesses which is great news. He requested adjournment to the Distinguished Service Awards to be held on October 27, 2016 and recognized Council Member Gabe Johnson's recognition as "Outstanding Young Person of the Year" as well as Brainerd Police Officer Dooley's recognition as "Outstanding Community Service Provider of the Year."

Adjourn – To Distinguished Service Awards Event to be held at 6:30 P.M. on Thursday, October 27, 2016 at the NP Event Center

The Chair adjourned the meeting at 9:02 P.M.

James M. Thoreen
City Administrator