Brainerd, MN
April 3, 2017

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 Pritschet.

Upon roll call, the following members were noted as present: Badeaux, Johnson, Hilgart, Lambert, Stunek, Bevans and Pritschet. Mayor Menk was also noted as present.

Council President Pritschet opened the meeting with the Pledge of Allegiance to the Flag.

MOVED AND SECONDED BY ALDERMEN BEVANS AND LAMBERT, DULY CARRIED, TO ADD AN OFF-SALE LIQUOR AND TOBACCO LICENSE TRANSFER FROM PAUL E. KOERING, BAXTER LIQUOR MART TO RYAN BARRETT, BARRETT'S NE LIQUOR, INC, DBA NE LIQUOR TO THE CONSENT CALENDAR.

MOVED AND SECONDED BY ALDERMEN BEVANS AND JOHNSON, DULY CARRIED, TO APPROVE THE AGENDA.

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

A. Approval of the Minutes of the Regular Meeting held on March 20, 2017 – Approved

B. Approval of Licenses – Approved

1. Contractor's Licenses – 1 – New and 1- Renewal

C. Department Activity Reports – Approved

1. Fire Chief
2. Park Director

D. Minnesota Lawful Gambling –Resolution No. 20:17 - Authorizing the Brainerd Aeries Eagles #287 to Conduct Off-Site Gambling on April 22-April 23, 2017 at Memorial Park, 1700 Mill Avenue, Brainerd, MN – Approved

E. Temporary On-Sale Liquor License Application – Submitted by the Elks Governing Body for an Event to be Held on May 3, 2017 at the Brainerd National Guard Armory, 1115 Wright Street, Brainerd, MN – Approved

F. Resolution 21:17 - Concluding Solar Energy Application – Approved

G. *(Added Item)* Off Sale Liquor License Transfer – Paul E. Koering, Baxter Liquor Mart to Ryan Barrett; Barrett's NE Liquors, Inc. dba NE Liquor - Approved

H. *(Added Item)* Tobacco License Transfer – Paul E. Koering, Baxter Liquor Mart to Ryan Barrett; Barrett's NE Liquors, Inc. dba NE Liquor - Approved

Upon roll call, members Badeaux, Johnson, Hilgart, Lambert, Stunek, Bevans, and Pritschet voted "aye." No member voted "nay." The Chair declared the motion carried.

Council Committee Reports

Safety and Public Works Committee Report

Resolution Accepting Bids for Improvements 14-01, 14-03 & 16-13 – Adopted by Resolution No. 22:17:

MOVED AND SECONDED BY ALDERMEN BEVANS AND BADEAUX, TO ADOPT THE RESOLUTION ACCEPTING THE LOW BID BY TRI-CITY PAVING INCORPORATED IN THE TOTAL AMOUNT OF $1,039,128.90: $495,571.42 FOR IMPROVEMENT 14-01 OAK STREET MILL AND OVERLAY, $270,736.73 FOR IMPROVEMENT 14-03 JACKSON STREET RESURFACING, AND $272,820.75 FOR IMPROVEMENT 16-13 BUFFALO HILLS LANE RESURFACING AS PER SECTION 429 OF MINNESOTA STATUTE FOR ASSESSMENT PURPOSES.

RESOLUTION NO 22:17

Upon roll call, members Badeaux, Johnson, Hilgart, Lambert, Stunek, Bevans, and Pritschet voted "aye." No member voted "nay." The Chair declared the motion carried.

Improvements 14-01, 14-03 & 16-13 – Accept proposals from Braun Intertec for Material Sampling and Testing – Approved

MOVED AND SECONDED BY ALDERMEN BEVANS AND LAMBERT, DULY CARRIED, TO ACCEPT THE QUOTES FOR MATERIAL SAMPLING AND TESTING AS PROPOSED BY BRAUN INTERTEC AT AN ESTIMATED AMOUNT OF $50,490 FOR IMPROVEMENT PROJECTS 14-01, 14-03 AND 16-13.

Request from Northern Pacific Center - Discussion

Committee Chair Bevans summarized the situation. The Northern Pacific Center has several abandoned plumbing fixtures that are not distributed among the NP Center buildings as needed to redevelop the property efficiently. At the time the council adopted ordinances establishing the SAC and WAC fees, Subd. 4 provided for the transfer of an ERC (Equivalent Residential Connections) from a structure being removed to a structure being constructed. The council also adopted five special conditions for the transfer of an ERC credit. The NP Center is requesting credits for plumbing fixtures that are not being directly impacted by a remodel project, and were abandoned some 50 years or more ago and have not been a customer or financial supporter of utility infrastructure for that period. Credits have been granted to the NP Center for plumbing fixtures that were generally active and were being removed or abandoned in the area of, and in conjunction with, a remodel project. The Committee would like to assist in some way but recognizes that there is a lot of old property in the City with abandoned plumbing fixtures, and we would be putting an additional load on the system without getting any financial assistance if credits are to be given.

Council discussion was held regarding options and opinions. Staff will follow up with additional information.

<u>Improvement 14-08 – Authorize Final Payment - Approved</u>

MOVED AND SECONDED BY ALDERMEN BEVANS AND BADEAUX, DULY CARRIED, TO APPROVE FINAL PAYMENT FOR IMPROVEMENT 14-08 TO CROW WING COUNTY IN THE AMOUNT OF $621,619.96, WHICH EXCEEDS THE ESTIMATED AMOUNT PREVIOUSLY APPROVED BY $18,688.09.

Committee Chair Bevans stated the majority of the overrun is due from the overrun of curb and gutter removal and replacement which is a 50/50 cost split with the County pursuant to their cost participation policy.

<u>Walkable Bikeable City Committee (WBCC) - Non-Motorized Transportation Plan (NMTP) Tier I Priorities – Discussion</u>

Committee Chair Bevans stated that the Walkable Bikeable City Committee (WBCC) met to review Tier I of the Non-Motorized Transportation Plan (NMTP) and established priorities to be considered for the 2018 budget process, and considered items that may added to the 2017 construction projects which were not budgeted. The information from the WBCC was provided in the packet. There is no recommendation from the Safety and Public Works Committee, and the recommendations from the WBCC will be revisited in the future. Alderman Bevans stated that we do not want to put the plan on the shelf and not do anything before the Tier I timeframe passes.

<u>*(Added item)* Airport Utility Extension Project - Informational</u>

Committee Chair Bevans asked City Engineer Hulsether to address some of the issues regarding the project in light of the Brainerd Dispatch article on March 29, 2017 wherein the Brainerd Public Utilities commented on the state of the project. Specifically, Alderman Bevans asked: Do we need to be conducted an independent test of the installed system? What are the opinions of the consulting or city engineers as to next steps? Are there projections of costs to be incurred to undertake next steps? What costs will the City incur? And, what is our current retainage position with the contractor?

City Engineer Hulsether reported that he had met with BPU officials and the consulting engineers this afternoon. He added that his office and BPU officials became aware of leaks in the water line and that they have been working to resolve the issues. At a meeting about 2 weeks ago, the contractor agreed to retest the entire system. As the result of today's meeting a letter is being drafted and will be sent to the contractor asking for a date of when the issues of leaking lines will be fixed and when all parties agree that the project is complete and accepted. BPU's testing of the system has discovered that parts of the system are not holding pressure. BPU cannot identify why it is not holding pressure, since the system tested well last fall. The contractor is being placed on notice that even though the system apparently passed the pressure tests last fall, due to current failed pressure tests and leaks, we do not consider the project to be substantially complete. Also, notice is being given to the contractor that, due to failure to meet the substantial completion dates as revised, the City will initiate the process to compute liquidated damages. We are holding approximately $240,000 in retainage which is about 3% of the work completed to date.

Personnel and Finance Committee Report

Approval of Bills & Payments to Contractors - Approved

Contractor	IMP #	Project	Amount	Total Retained
CWC Highway Dept	14:08	CSAH 45 (13th Street)	$621,620	$0

MOVED AND SECONDED BY ALDERMEN JOHNSON AND HILGART TO APPROVE THE PAYMENT OF BILLS AND PAYMENTS TO CONTRACTORS AS RECOMMENDED BY PERSONNEL AND FINANCE COMMITTEE.

Upon roll call, members Badeaux, Johnson, Hilgart, Lambert, Stunek, Bevans, and Pritschet voted “aye.” No member voted “nay.” The Chair declared the motion carried.

Police Officer & CSO Request to Hire - Approved

MOVED AND SECONDED BY ALDERMEN JOHNSON AND STUNEK, DULY CARRIED, TO AUTHORIZE MAKING A CONDITIONAL JOB OFFER TO MR. TRAVIS GLEASON, CONTINGENT ON SUCCESSFUL COMPLETION OF THE PRE-EMPLOYMENT SCREENING PROCESS, WITH A STARTING DATE OF APRIL 17, 2017 OR SHORTLY THEREAFTER.

MOVED AND SECONDED BY ALDERMEN JOHNSON AND HILGART, DULY CARRIED, TO APPROVE THE HIRING OF MS. ELIZABETH ANDERSON AS A CSO WITH A START DATE OF APRIL 4, 2017 AT THE CURRENT CSO STARTING WAGE.

City Engineer Hiring - Approved

MOVED AND SECONDED BY ALDERMEN JOHNSON AND STUNEK, DULY CARRIED, TO APPOINT MR. PAUL SANDY, P.E. AS THE BRAINERD CITY ENGINEER TO AN INDEFINITE TERM SUBJECT TO THE TERMS OF THE CITY PROBATIONARY POLICY (SEC. 7, SUBD. 1) WHICH REQUIRES A 6 MONTH PROBATION STARTING FROM THE DATE OF PROMOTION WHICH IS PLANNED TO BE JUNE 10, 2017. TERMS AND CONDITIONS OF EMPLOYMENT ARE SET FORTH IN THE CITY POLICY AS APPLICABLE TO DEPARTMENT HEADS. THE ANNUAL SALARY FOR MR. SANDY IS ESTABLISHED AT $84,920 EFFECTIVE UPON DATE OF APPOINTMENT WHICH IS STEP A OF THE CITY SALARY ADMINISTRATION PLAN OR 85% OF THE TOP PAY GRADE.

Administrative Specialist - Administration Department – Approved

MOVED AND SECONDED BY ALDERMEN JOHNSON AND HILGART, DULY CARRIED, TO APPROVE A CONDITIONAL JOB OFFER TO MS. AUDREY WEBB FOR THE ADMINISTRATIVE SPECIALIST – ADMINISTRATION DEPARTMENT, CONTINGENT ON SUCCESSFUL COMPLETION OF THE PRE-EMPLOYMENT SCREENING PROCESS, WITH A STARTING DATE OF MAY 1, 2017 AND AT STEP A OR 85% OF THE BASE WAGE

Upgrade to Council Chambers Audio System - Informational

Committee Chair Johnson stated we are going to get quotes from two different companies to update the audio system in the Chambers with an estimated amount of less than $7,000.

Paxmar Development Update - Informational

Committee Chair Johnson stated the CWC HRA sold 12 lots to Paxmar Brainerd, LLC. The City received a net check of $63,356. We made whole the Park Dedication fees and allocated a portion of the proceeds to the prepayment of the SAC and WAC fees, with the remaining amount going to the outstanding debt service funds.

Status of Actions on Downtown Properties

Committee Chair Johnson requested the City Administrator give an update on the downtown properties. City Administrator Thoreen stated that the owner of the apartments at 217 South 7th Street has filed an appeal to be heard by the Rental Housing Appeals Board which will likely occur by the end of April. A recommendation from the Rental Housing Appeals Board will then be presented to the Council for consideration at the May 1, 2017 council meeting. The motel at 506 South 6th Street will be on the April 17, 2017 council agenda for a directive to proceed with demolition of the building.

(Added Item) **– Resignation of Mr. Tim Holtz - Approved**

MOVED AND SECONDED BY ALDERMEN JOHNSON AND HILGART, DULY CARRIED, TO ACCEPT THE RESIGNATION WITH REGRET OF MR. TIM HOLTZ, STREET DEPARTMENT MAINTENANCE I EFFECTIVE APRIL 14, 2017; AND TO AUTHORIZE STAFF TO BEGIN THE HIRING PROCESS TO REPLACE MR. HOLTZ.

Unfinished Business

Public Hearing – Final Reading of Proposed Ordinance No. 1463 – Zoning Ordinance Text Amendment – Amending Section 2: Definitions – Add "boarding school" Definition; and to Amend Section 63-6: B-4 (General Commercial) District – Add Boarding Schools as a Conditional Use - Approved

City Planner Ostgarden distributed an updated draft of the proposed ordinance text amendment that includes a boarding school definition and language that would permit a boarding school as a conditional use in B-4 Districts. Mr. Ostgarden explained the history of the ordinance change, adding that the decision regarding the Ordinance should not be based solely on a particular location, but rather the decision should be made as if this use would be appropriate anywhere in the City's B-4 Districts. Mr. Ostgarden also mentioned to the Council that the municipality can make a motion for a 60-day to extension to gather more information on the petition.

Council discussion was held regarding typical zoning of schools, nursing home, group homes, and residential facilities.

City Planner Ostgarden explained the purpose of a B-4 District is for commercial uses that need high volume levels of traffic to operate. However, there are many allowed uses in the B-4 District that do not meet that purpose today. Mr. Ostgarden also shared some of the reasons to allow such a use in a B-4 District.

MOVED AND SECONDED BY ALDERMEN BEVANS AND STUNEK, TO REQUEST A 60 DAY EXTENSION TO FURTHER REVIEW THE ORDINANCE.

City Attorney Langel shared that if you allow Boarding Schools as a conditional use, if an applicant meets the conditions in the ordinance, you have to allow the permit. The proposed ordinance doesn't currently list conditions. City Planner Ostgarden shared that the Planning Commission did consider listing minimum conditions. The Planning Commission felt that the through the conditional use permit process we could add additional requirements (screening, etc.). Attorney Langel stated it depended on how our other ordinances are written but to add random conditions would not be permissible.

There was no further discussion. Upon voice vote the Council President could not clearly rule. He called for a roll call vote.

Upon roll call, members Badeaux, Stunek, and Pritschet voted "aye." Members Johnson, Hilgart, Lambert, and Bevans voted "nay." The Chair declared the motion failed.

The Chair opened the public hearing at 8:33 P.M.

The Chair recognized Mr. Headley Williamson, 4630 Summit Pass, Eagan who generated the request for the ordinance change. Mr. Williamson shared his opinion that there is not a lot of risk at this time. Mr. Williamson also shared that he feels if the school it is not wanted in the community, it is not going to occur in the City and that there are many things that need to occur before the school can open.

The Chair recognized Mr. John Gunstad from BLAEDC. Mr. Gunstad shared that BLAEDC has worked with many potential buyers of the hotel since it has closed and very few have followed through as Mr. Williamson has and that BLAEDC supports the project.

The Chair closed the public hearing at 8:42 P.M.

MOVED AND SECONDED BY ALDERMEN JOHNSON AND LAMBERT, TO HOLD THE FINAL READING OF PROPOSED ORDINANCE NO. 1463 – ZONING TEXT AMENDMENT – AMENDING SECTION 2: DEFINITIONS – ADD "BOARDING SCHOOL" DEFINITION; AND TO AMEND SECTION 63-6: B-4 (GENERAL COMMERCIAL) DISTRICT – ADD BOARDING SCHOOLS AS A CONDITIONAL USE.

Members Badeaux, Johnson, Hilgart, Lambert, and Bevans voted "aye." Members Stunek and Pritschet voted "nay." The Chair declared the motion carried.

MOVED AND SECONDED BY ALDERMEN JOHNSON AND HILGART TO ADOPT ORDINANCE NO. 1463 – ZONING TEXT AMENDMENT – AMENDING SECTION 2: DEFINITIONS – ADD "BOARDING SCHOOL" DEFINITION; AND TO AMEND SECTION 63-6: B-4 (GENERAL COMMERCIAL) DISTRICT – ADD BOARDING SCHOOLS AS A CONDITIONAL USE.

ORDINANCE NO. 1463

Upon roll call, members Badeaux, Johnson, Hilgart, Lambert, and Bevans voted "aye." Members Stunek and Pritschet voted "nay." The Chair declared the motion carried.

Council Review/Discussion of Retreat

City Administrator Thoreen stated that we held a council/management retreat on February 11, 2017. One of the items we discussed was following up on the retreat outcomes, and what we have accomplished since the retreat.

Discussion was held by the Council regarding housing stock; "city branding"; and the water tower improvements.

Call for Applicants – Informational:
(Application Information at www.ci.brainerd.mn.us/boards/)

Mayor Recommended: (all terms expire on 12/31 of said year)

Cable TV Advisory Committee – 1 term (Expire 2019)
Charter Commission – 1 term (Expire 2020)
Transportation Advisory Committee – 1 terms (Expire 2018)

New Business

City Administrator Report

Registration for June League of Minnesota Cities Conference

City Administrator Thoreen reminded the council of the LMC Conference to be held in Rochester June 14-16, 2017. Council Members are to contact the City Administrator if able to attend.

City Administrator Thoreen also gave a brief updated on the proposed PTO policy and the classification study projects. We are also receiving quotes for new chairs in the council chambers.

Hold First Reading of Proposed Ordinance No. 1464 – An Ordinance Amending Section 900 of the Brainerd City Code – Animals and Section 1010 of the Brainerd City Code – Licensing - Approved

City Planner Ostgarden explained the proposed ordinance. Bee colonies will be allowed to be kept in 5 residential zoning districts and he explained the requirements of the hives and colony density. The council needs to decide if they want the fee to be an annual fee or a one-time fee, and the notification requirement.

MOVED AND SECONDED BY ALDERMEN BEVANS AND JOHNSON, DULY CARRIED, THAT THE REQUIRED NOTIFICATION BE 150 FEET OF THE APPLICANT'S PROPERTY LINES AND THAT THE FEE WOULD BE AN ANNUAL FEE.

MOVED AND SECONDED BY ALDERMEN BEVANS AND JOHNSON, DULY CARRIED, TO HOLD THE FIRST READING OF PROPOSED ORDINANCE NO. 1464 – AN ORDINANCE AMENDING SECTION 900 OF THE BRAINERD CITY CODE – ANIMALS AND SECTION 1010 OF THE BRAINERD CITY CODE - LICENSING.

Community Survey Presentation

City Planner Ostgarden presented the Citizen Survey #2 to the Council. Questions included places the respondents would be proud to show nonresidents, goals for the next several years, lot size, density, amenities such as trails and sidewalks, and the importance of investment and redevelopment of downtown. Follow up questions from the first survey were asked such as how to improve the image of the City, how to improve the quality of life in the neighborhoods, and the quality and design of new commercial development.

Planning Commission

Hold First Reading of Proposed Ordinance No. 1465 – Zoning Ordinance Text Amendment Amending Section 2: Definitions – Add "Dwelling, Short Term Rental Unit" Definition; and Amend Section 54-4 – R-1 (Single Family Residential) District, Section 55-5 – R-1A (Single Family Residential) District; Section 56-4 – R-2 (Medium Density Residential) District – Adding Short Term Rentals as an Interim Use

Council Member Johnson stated he would abstain from voting and discussion on this issue.

City Planner Ostgarden reviewed the proposed ordinance with the council and the criteria for a short-term rental.

MOVED AND SECONDED BY ALDERMEN BEVANS AND HILGART, TO HOLD THE FIRST READING OF PROPOSED ORDINANCE NO. 1465 – A ZONING ORDINANCE TEXT AMENDING SECTION 2: DEFINITION – ADD "DWELLING, SHORT TERM RENTAL UNIT" DEFINITION; AND TO AMEND SECTION 54-4 – R-1 (SINGLE FAMILY RESIDENTIAL) DISTRICT; SECTION 55-5 – R-1A (SINGLE FAMILY RESIDENTIAL) DISTRICT, AND SECTION 56-4 – R-2 (MEDIUM DENSITY RESIDENTIAL) DISTRICT BY ADDING SHORT TERM RENTALS AN AS INTERIM USE.

Council Member Bevans posed the question as to what the fee might be. City Planner Ostgarden stated the fee will be the same as for a traditional rental property license and will be included in the next reading of the ordinance. The property will also need to be inspected by the Building Department as is with a traditional rental property.

Council Member Hilgart asked the question about when a resident would have to apply for a vacation rental license. Renewal on an annual basis like the traditional rental properties might not work because you might not rent your property as a vacation rental every year. City Planner Ostgarden stated that staff would discuss.

Members Badeaux, Hilgart, Lambert, Stunek, Bevans, and Pritschet voted "aye". Member Johnson abstained. Chair declared the motion carried.

Public Forum

The Chair Opened the public forum at 9:28 P.M.

The Chair recognized Ms. Amiee Jobe, 1323 Oak Street, Brainerd. Ms. Jobe noted that she was part of the City Planner's focus group and the community wants all this stuff as indicated in the survey responses and focus group discussions, but no one wants to pay for it.

The help from the City might not be direct, but through a reduction or loss of revenue to the City one time. Revenue will come back into the community.

The Chair Closed the public forum at 9:32 P.M.

Staff Reports

City Administrator Thoreen shared information regarding legislative action. The telecommunication bill that the City opposes in its current form is not going anywhere this session. There is a proposed bill on the senate side to increase the LGA appropriation by $12 million, and a workforce housing bill that is going through the legislative process.

Council Member Reports

Council Member Johnson thanked the fire department for their good response to a car accident. Mr. Johnson shared the progress at Brainerd Oaks and Serene Pines and expressed his disappointment with no action on the NP Center's request tonight.

Council Member Badeaux noted that he has been asked by residents if it is worth being on the council and he is proud to state that yes, it is worth it.

Adjourn

The Chair adjourned the meeting at 9:38 P.M.

James M. Thoreen
City Administrator