

CITY COUNCIL AGENDA

Brainerd, Minnesota
June 19, 2017
7:30 P.M.
Brainerd City Hall
Council Chambers

1. **Call To Order - 7:30 PM**

2. **Roll Call**

☐ G. Johnson ☐ S. Hilgart ☐ J. Lambert ☐ K. Stunek
☐ K. Bevans ☐ D. Badeaux ☐ D. Pritschet ☐ Mayor Menk

3. **Pledge Of Allegiance**

4. **Approval Of Agenda - Voice Vote**

5. **Consent Calendar**

NOTICE TO PUBLIC - all matters listed are considered routine by the Council and will all be enacted by one (1) motion. There will be no separate discussion of these items unless good cause is shown prior to the time the Council votes on the motion to be ADOPTED BY ROLL CALL

A. **Approval Of Minutes**

1. Regular Meeting Held on June 5, 2017

Documents:

[20170605_CCdraft.pdf](#)

B. **Approval Of Licenses**

1. Contractor's Licenses - 2 - New and 3 - Renewals

Documents:

[Licensed Contractors 2017-06-19.pdf](#)

C. **Department Activity Reports**

1. Police Chief

2. Finance Director - as distributed

Documents:

[PD Report.pdf](#)

6. **Council Committee Reports**

A. **Personnel And Finance Committee**

1. Approval Of Bills & Payments To Contractors

<u>Contractor</u>	<u>Imp #</u>	<u>Project</u>	<u>Amount Paid</u>	<u>Amount Retained</u>
Asphalt Preservation	17-02	2017 Chip Seal Project-Final	\$124,773	\$0
Braun Intertec	14-03	Jackson St Resurfacing thru 5/26/17	\$3,254	\$0
Tom's Backhoe	14-15	Airport Util Ext	\$16,712	\$0

B. Safety And Public Works Committee

Documents:

SPWAgenda.pdf

1. 2018 And 2019 Street And Sewer Capital Improvement Plan Update

Documents:

CIP 2018 and 2019.pdf

2. Adoption Of ADA Transition Plan

Documents:

Adoption of ADA Plan.pdf

3. Event/Street Closure Application - Jaycees Street Fest

Documents:

Event and Street Closure Application.pdf

4. Improvement 17-02 - 2017 Chip Seal Project Final Pay Application

Documents:

17-02 Final Pay Estimate 1.pdf

5. No Parking Request - N 1st Street And Kingwood Street

Documents:

No Parking Request.pdf

6. Petition To Vacate - Terrace Avenue - Set Public Hearing

Documents:

Vacation Petition.pdf

7. 2018 State Of Minnesota Transit Grant Resolution (Roll Call)

Documents:

[Res - 2018 State of Minnesota Transit Grant.pdf](#)

8. Amendment For Engineering Services For SEH/WSN For Airport Utility Project

Documents:

[SEH Fee Amendment Request.pdf](#)

7. **Unfinished Business**

A. **Final Reading Of Proposed Ordinance 1468 - Ordinance Amending Section 1315 Of Brainerd City Code Pertaining To Parking For Street Cleaning And Snow Removal**

- a. Hold Public Hearing
- b. Consider Testimony and Alternatives
- c. Hold Final Reading of Ordinance (voice vote)
- d. Adopt Ordinance (roll call)

Documents:

[Ord 1468.pdf](#)

B. **Final Reading Of Proposed Ordinance 1467 - Ordinance Adding Section 455 To Brainerd City Code Pertaining To Subsurface Sewage Treatment Systems And Memorandum Of Understanding With Crow Wing County**

- a. Hold Public Hearing
- b. Consider Testimony and Alternatives
- c. Hold Final Reading of Ordinance (voice vote)
- d. Adopt Ordinance (roll call)
- e. Authorize Signatures on MOU with Crow Wing County (voice vote)

Documents:

[Ord 1467 and MOU.pdf](#)

C. **Call For Applicants - Informational
(Application Information at the [City's website](#))**

Mayor Recommended: (all terms expire on 12/31 of said year)
Charter Commission - 1 term (Expire 2020)
Transportation Advisory Committee - 1 term (Expire 2018)

8. **New Business**

A. **Rental Dwelling Appeals Board Report**

Documents:

Rental Board Recommendation.pdf

9. **Public Forum**

Time allocated for citizens to bring matters not on the agenda to the attention of the Council - Time limits may be imposed

10. **Staff Reports**

(Verbal: Any Updates since Packet)

11. **Council Member Reports**

12. **Committee Recommendations - Recommended By Council President**

A. Planning Commission - Mr. Patrick Wussow

B. Airport Commission - Mr. Jeffrey Czeczok

Documents:

PC Appt.pdf

AC Appt.pdf

13. **Adjourn**

NOTE: Safety and Public Works Committee will meet at 6:45 P.M.

ANY INDIVIDUAL NEEDING SPECIAL ACCOMMODATIONS,
PLEASE CALL 828-2307

Visit the [City's Website](http://ci.brainerd.mn.us) (ci.brainerd.mn.us)

MISSION

"Provide high quality, cost effective public services and leadership in creating
a sustainable city"

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: Johnson, Hilgart, Lambert, Stunek, Bevans, Badeaux 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 STUNEK AND LAMBERT, DULY CARRIED, TO ADD VACANT POSITIONS FOR THE AIRPORT COMMISSION AND PLANNING COMMISSION UNDER CALL FOR APPLICANTS RECOMMENDED BY COUNCIL PRESIDENT.

MOVED AND SECONDED BY ALDERMEN STUNEK AND LAMBERT, DULY CARRIED, TO APPROVE THE AGENDA AS AMENDED.

MOVED AND SECONDED BY ALDERMEN STUNEK AND LAMBERT, DULY CARRIED, TO ADD SECOND HAND GOODS DEALER LICENSE APPLICATION TO THE CONSENT CALENDAR.

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

A. Approval of the Minutes of the Regular Meeting held on May 15, 2017 – Approved

B. Approval of Licenses – Approved

Contractor's Licenses – 5 – New and 7- Renewals
Bulk Plant License – 1 Renewal
Growler License – 1 Renewal
Filling Station Licenses – 9 Renewals
Off-Sale Beer Licenses – 5 Renewals
On-Sale Beer Licenses – 2 Renewals
On-Sale Wine License – 2 Renewals
On-Sale Liquor Licenses – 9 Renewals
Club On-Sale Licenses – 4 Renewals
Off-Sale Liquor Licenses – 5 Renewals
Taproom License – 1 Renewal

C. On-Sale Liquor License Renewal – Submitted by 612 Station, LLC., DbA 612 Station, 612 Front St., Brainerd, MN – Subject to Satisfaction of All City Code Requirements – Approved

D. Department Activity Reports- Approved

1. Fire Chief
2. Parks Director

E. Minnesota Lawful Gambling Application for Exempt Permit – Submitted by the Brainerd Jaycees for an Event to be held on August 5, 2017 In Kiwanis Park, 1101 E River Rd, Brainerd, MN – Approved

F. Extension of Premises – Submitted by the Eagles Club for an Event to be held on July 4, 2017 at 124 Front St., Brainerd, MN – Approved

G. (Added Item) Second Hand Goods Dealer License Application – Submitted by Stafford Simmons Kaplan dba JAK Antiques & Collectibles to Conduct Business at the American Legion Post 255, 708 Front Street, Brainerd. Approval of is Contingent Upon and Subject to Police and Fire Chief's Approval/Recommendation – Approved

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

Council Committee Reports

Personnel and Finance Committee Report

Approval of Bills & Payments to Contractors – Approved

<u>Contractor</u>	<u>IMP#</u>	<u>Project</u>	<u>Amount Paid</u>	<u>Amount Retained</u>
S.E.H.	14-15	Airport Util Ext thru 4/30/17	\$20,659	\$0
Tri-City Paving	14-03	Jackson St Resurfacing	\$116,612	\$6,137

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

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

Purchase of Inflatable Style Rescue Boat – Approved

MOVED AND SECONDED BY ALDERMEN JOHNSON AND HILGART, DULY CARRIED, TO APPROVE THE PURCHASE OF A ZODIAC RESCUE BOAT WITH MOTOR AND TRAILER IN THE AMOUNT OF \$13,000 FOR THE FIRE DEPARTMENT.

Committee Chair Johnson indicated this was discussed last November when the Fire Department sold the old fire engine and hovercraft for \$12,981. This money will go towards the purchase of the new boat which will work on many more surfaces than the hovercraft could.

Ratification of Conditional Job Offer For Assistant City Engineer Position – Approved

MOVED AND SECONDED BY ALDERMEN JOHNSON AND STUNEK, DULY CARRIED, TO RATIFY THE CONDITIONAL JOB OFFER FOR JAMES FLADUNG FOR THE ASSISTANT CITY ENGINEER POSITION EFFECTIVE JUNE 26, 2017 SUBJECT TO SUCCESSFUL COMPLETION OF REQUIRED PRE-EMPLOYMENT EXAMS; FURTHER, MR. FLADUNG'S STARTING PAY WILL BE \$5,403.68 PER MONTH WHICH IS STEP A (85% OF BASE WAGE) OF THE CITY'S SALARY ADMINISTRATION PLAN.

Ratification of Conditional Job Offer for Street Department Maintenance I Position - Approved

MOVED AND SECONDED BY ALDERMEN JOHNSON AND HILGART, DULY CARRIED, TO RATIFY THE CONDITIONAL JOB OFFER FOR SHAWN MIDDAGH FOR THE STREET DEPARTMENT MAINTENANCE I POSITION EFFECTIVE JUNE 19, 2017 SUBJECT TO SUCCESSFUL COMPLETION OF REQUIRED PRE-EMPLOYMENT EXAMS; FURTHER, MR. MIDDAGH'S STARTING PAY WILL BE \$22.11 PER HOUR PER THE IUOE (STREET DEPARTMENT) UNION CONTRACT.

Hiring Process - Consider Allowing Staff to Make Conditional Job Offers – Approved

MOVED AND SECONDED BY ALDERMEN JOHNSON AND STUNEK, DULY CARRIED, TO AUTHORIZE CITY ADMINISTRATOR OR DESIGNEE TO CONDUCT THE HIRING PROCESS AND PROVIDE VERBAL AND WRITTEN CONDITIONAL JOB OFFERS INCLUDING ALL CONDITIONS THAT WILL NEED TO BE SATISFIED BEFORE THE OFFER IS FINAL. SAID CONDITIONS SHALL INCLUDE THAT THE CITY COUNCIL RETAINS THE ULTIMATE APPROVAL OF THE HIRING. PERMISSIBLE HIRING ACTION BY THE COUNCIL CAN INCLUDE RATIFICATION OF THE JOB OFFER/OFFICIAL HIRING AT THEIR NEXT COUNCIL MEETING.

Committee Chair Johnson stated essentially what this is doing is saving time in the process, but is ultimately the decision of the council to approve.

League of MN Cities Insurance Trust Liability Coverage Waiver Form – Approved

MOVED AND SECONDED BY ALDERMEN JOHNSON AND HILGART, DULY CARRIED, TO APPROVE AND SUBMIT THE LIABILITY COVERAGE WAIVER FORM WITH "DOES NOT WAIVE" THE MONETARY LIMITS ON MUNICIPAL TORT LIABILITY ESTABLISHED BY MINNESOTA STATUTES, SECTION 466.04 OPTION SELECTED.

Committee Chair Johnson indicated this is an annual discussion if we are to waive the tort limits. We have traditionally not waived the limits so we are capped on any lawsuits that came to the city. The premiums are a bit higher but the worst case scenario is we cannot be hit with a thirty billion dollar lawsuit.

League of MN Cities Membership Dues for Fiscal Year 2018 – Informational

Committee Chair Johnson stated the League of Minnesota Cities Board of Director's voted to hold membership dues flat with no increase going into the next fiscal year. This would be the first time that dues have remained the same since 2012.

Safety and Public Works Committee Report

Authorization for Appraisal and Offer - Wright Street Re-Alignment – Approved

MOVED AND SECONDED BY ALDERMEN BEVANS AND BADEAUX, DULY CARRIED, TO AUTHORIZE STAFF TO SEEK AN APPRAISAL AND SEND OUT AN OFFER LETTER ONCE THE APPRAISAL IS RECEIVED PER THE ATTACHED LEGAL DESCRIPTION AND DRAWING.

Committee Chair Bevans explained that once the appraisal is completed, it will come back for final approval.

Downtown Landscaping Report - Planning Department – Informational

Committee Chair Bevans stated at the April 17th City Council meeting, we asked for more detail as to a breakdown of what was included in the quote from Northwoods Landscaping. The report was provided showing what is required and occurring downtown and the timeframe of the work being completed.

MnDOT Master Partnership Agreement – Adopted by Resolution No. 33:17

MOVED AND SECONDED BY ALDERMEN BEVANS AND LAMBERT TO ADOPT RESOLUTION NO. 33:17 TO ENTER INTO THE MASTER PARTNERSHIP AGREEMENT WITH MNDOT.

Committee Chair Bevans explained we do some exchanges with MnDOT – we help them out and they help us out. This resolution allows us to continue doing so without the need of having a formal agreement each and every time.

RESOLUTION NO. 33:17

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

Stop Sign Request - N 9th Street and Juniper Street – Approved

Committee Chair Bevans discussed the request to install a two-way stop sign on 9th Street North at the intersection of Juniper Street. There was a unanimous vote at the Safety and Public Works Committee meeting to approve the request, and many people are here today to speak in favor.

MOVED AND SECONDED BY ALDERMEN BEVANS AND BADEAUX, DULY CARRIED, TO APPROVE THE STOP SIGN REQUEST FROM ST. FRANCIS SCHOOL TO BE INSTALLED ON 9TH STREET NORTH AT THE INTERSECTION OF JUNIPER.

Assistant City Engineer Sandy stated it should take no more than a couple weeks to have the sign in place based on availability of the sign.

(Added Item) Hauling of Riprap – Approved

Assistant City Engineer Sandy informed the council that the Street Department is always in need of riprap. Marvin Bush, Street Department Employee, has loads of rock he is willing to part with in exchange for a load of our chips left over from our numerous chip seal projects. Since we use rock at many locations, we welcome the chance to receive riprap at low to no cost.

MOVED AND SECONDED BY ALDERMEN BEVANS AND LAMBERT, DULY CARRIED, TO APPROVE THE EXCHANGE OF LOADS OF ROCK FOR A LOAD OF LEFT OVER CHIPS FROM CHIP SEALING PROJECTS WITH MR. MARVIN BUSH.

Unfinished Business

Public Hearing - Resolution for Improvements 15-12 and 16-10 - Ordering the Improvements, Ordering Preparation of Plans and Specifications, Approving Plans and Specifications, and Authorizing Advertisement for Bids - Adopted by Resolution 34:17

The Chair Opened the public forum at 7:44 P.M.

No one came forward

The Chair Closed the public forum at 7:44 P.M.

MOVED AND SECONDED BY ALDERMEN BEVANS AND HILGART TO ADOPT RESOLUTION NO. 34:17 ORDERING PREPARATION OF PLANS AND SPECIFICATIONS, APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR BIDS.

IMPROVEMENT 15-12

Street Reconstruction

S. 6th Street East Frontage Road – CR 117 to Wright Street

IMPROVEMENT 16-10

Street Resurfacing

Williams Street – NW 5th Street to NW 4th Street

NW 5th Street – Washington Street to Williams Street

NW 3rd Street – James Street to Washington Street

James Street – NW 4th Street to NW 2nd Street and NW 6th Street to NW 8th Street

NW 8th Street – Charles Street to Washington Street

NW 7th Street – Charles Street to Washington Street

RESOLUTION NO. 34:17

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

Public Hearing – Final Reading of the ADA Transition Plan – To Gather Input from the Public on the Draft Plan - Informational

The Chair Opened the public forum at 7:45 P.M.

No one came forward.

Council Member Lambert read a letter sent by Ms. Mary Koep.

The Chair Closed the public forum at 7:47 P.M.

Assistant City Engineer Sandy stated the final report will be compiled for the next council meeting.

Public Hearing - Final Reading of Proposed Ordinance 1465 - To Amend Brainerd Zoning Ordinance Sections 515-02, 515-54, 515-55, and 515-56 Regarding Short Term Rentals- Approved

The Chair Opened the public forum at 7:48 P.M.

No one came forward.

The Chair Closed the public forum at 7:48 P.M.

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

MOVED AND SECONDED BY ALDERMEN BEVANS AND LAMBERT TO HOLD THE FINAL 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.

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

MOVED AND SECONDED BY ALDERMEN BEVANS AND LAMBERT TO ADOPT 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.

ORDINANCE NO. 1465

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

Public Hearing - Final Reading of Proposed Ordinance 1466 - An Ordinance Amending Brainerd Zoning Ordinance Section 515-66-2 Regarding Transient Food Unit (TFU) Permitted Hours of Operation - Approved

The Chair Opened the public forum at 7:50 P.M.

No one came forward.

The Chair Closed the public forum at 7:50 P.M.

Council Member Lambert inquired about the closing time. City Planner Ostgarden indicated in a previous meeting, a council member requested the change to 2 A.M. versus 10 P.M.

Council Member Johnson was surprised to hear the petitioner changed the hours as suggested by council. City Planner Ostgarden stated we received a letter from the petitioner agreeing with the 2 A.M. close time.

MOVED AND SECONDED BY ALDERMEN JOHNSON AND HILGART, DULY CARRIED, TO HOLD THE FINAL READING OF ORDINANCE 1466 AMENDING BRAINERD ZONING ORDINANCE SECTION 515-66-2 REGARDING TRANSIENT FOOD UNIT (TFU) PERMITTED HOURS OF OPERATION TO 2 A.M.

MOVED AND SECONDED BY ALDERMEN JOHNSON AND HILGART TO ADOPT ORDINANCE 1466 AMENDING BRAINERD ZONING ORDINANCE SECTION 515-66-2 REGARDING TRANSIENT FOOD UNIT (TFU) PERMITTED HOURS OF OPERATION TO 2 A.M.

ORDINANCE NO. 1466

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

Joint Meeting with the City of Baxter to Approve to Meet June 26, 2017 or Discuss Alternate Date – Informational

Finance Director Hillman discussed the previous date of June 12th, 2017 would not work for Baxter, as they have an open house scheduled for that day. The date proposed from the City Administrator of Baxter is June 26th, 2017. This date will not work for many council members. After discussion of various other options, July 24th or 25th, 2017 will be proposed to Baxter as possible meeting dates.

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

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

Charter Commission – 1 term (Expire 2020)

Transportation Advisory Committee – 1 term (Expire 2018)

(Added Item) Council President Recommended: (all terms expire on 12/31 of said year)

Airport Commission – 1 term (Expire 2019)

Planning Commission – 1 term (Expire 2018)

New Business

Hearing to Contest Liquor License Violation Fine - Denied

Finance Director Hillman stated a letter was received by Mr. Isaac Carranza, owner of Big Dogs Bar who is requesting to be heard by council to contest a liquor license violation fine. One of Mr. Carranza's employees sold alcohol to a minor and according to City Code 1205.56 Subd. 3, there is a \$500 fine to the owner of the establishment with the opportunity for a hearing before the City Council. As noted on the agenda request, the employee is being criminally charged for serving alcohol to a minor.

The Chair recognized Mr. Isaac Carranza, 917 E Street, Brainerd owner of Big Dogs Bar on 718 Laurel Street, Brainerd. Mr. Carranza addressed his concerns to the council and requested the fine be reduced or eliminated.

Council discussion was held.

MOVED AND SECONDED BY ALDERMEN BEVANS AND LAMBERT TO DENY MR. CARRANZA'S REQUEST TO REDUCE OR ELIMINATE THE \$500 LIQUOR VIOLATION FINE.

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

First Reading of Proposed Ordinance 1467 - Ordinance Adding Section 455 to Brainerd City Code Relating to Subsurface Sewage Treatment Systems – Approved

Assistant City Engineer Sandy stated the purpose of this ordinance is to adopt Crow Wing County's technical regulations pertaining to Subsurface Sewage Treatment Systems. This is to formalize a process we have already been going through with Crow Wing County.

MOVED AND SECONDED BY ALDERMEN BEVANS AND JOHNSON, DULY CARRIED, TO HOLD THE FIRST READING OF PROPOSED ORDINANCE 455 PERTAINING TO SUBSURFACE SEWAGE TREATMENT SYSTEMS – TECHNICAL STANDARDS AND CRITERIA. THE MOU (MEMORANDUM OF UNDERSTANDING) WILL BE BROUGHT BACK FOR COUNCIL APPROVAL AFTER THE 2ND READING.

First Reading - Proposed Ordinance 1468 – An Ordinance Amending Section 1315 of Brainerd City Code Relating to Parking for Street Cleaning and Snow Removal – Approved

Assistant City Engineer Sandy stated the Safety and Public Works Committee has researched the way to re-write the current ordinance pertaining to parking restrictions during a snow emergency and to create a map showing the changes. Staff has re-written the current ordinance to reflect these changes. This is to re-establish the snow emergency routes with a few tweaks to the system, along with enforcement during plowing. The new ordinance would place a parking ban on snow emergency routes for 48 hours after declaration of snow emergency. This is to give the street crews proper time to plow, apply chemicals and scrape the streets on the major commuter routes before allowing parking.

Council discussion was held regarding the map, snow emergency routes and suggested changes.

MOVED AND SECONDED BY ALDERMEN LAMBERT AND HILGART, DULY CARRIED, TO AMEND ORDINANCE NO. 1468 SECTION 1315 OF THE BRAINERD CITY CODE RELATING TO PARKING FOR STREET CLEANING AND SNOW REMOVAL.

File an Application with MN Management of Budget Office for the Purpose of the Proposed Expansion of the Cuyuna Trail and the Three Bridges Trail Project- Adopted per Resolution No. 35:17

Finance Director Hillman began with informing all council members of an updated resolution in their email this afternoon and a copy was provided at the council meeting tonight.

MOVED AND SECONDED BY ALDERMEN JOHNSON AND STUNEK TO ADOPT RESOLUTION NO. 35:17 AUTHORIZING THE CITY ADMINISTRATOR TO FILE AN APPLICATION WITH THE MINNESOTA MANAGEMENT AND BUDGET OFFICE FOR THE PURPOSE OF THE PROPOSED EXPANSION OF THE CUYUNA TRAIL AND THE THREE BRIDGES TRAIL PROJECT.

RESOLUTION 35:17

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

Planning Commission

Variance Request - Exterior Building Material at 1924 South 10th Street - Nor-Son Inc. on behalf of DH Holdings – Approved

City Planner Ostgarden indicated the Planning Commission previously voted unanimous to deny the variance based on the findings of fact and there are no practical difficulties preventing them from following the ordinance.

Council discussion took place and it was suggested that the Planning Committee re-examine the existing ordinance for possible modifications that would allow a business more flexibility and encourage them to enter the community.

MOVED AND SECONDED BY ALDERMEN JOHNSON AND HILGART TO APPROVE THE VARIANCE SUBMITTED BY NOR-SON INC., ON BEHALF OF DH HOLDINGS, 1924 10TH ST S. BRAINERD TO PROVIDE AN ALTERNATE EXTERIOR BUILDING MATERIAL AND TO

DIRECT PLANNING AND ZONING COMMISSION TO REVIEW THE EXISTING ORDINANCE FOR POSSIBLE CHANGES FOR REDEVELOPMENT PROJECTS.

City Attorney explained that the rules to the ordinance changed after this building was originally built. State law, which is now in the code, indicates that a building cannot be vacant for over a year to be protected by the non-conforming rule. However, this building was vacant for over a year and they lost the non-conforming privilege. They are requesting the variance to be able to go back to the non-conforming privilege to allow an alternate exterior material.

City Planner Ostgarden read various points from the Criteria for granting variances and council discussion was held.

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

Public Forum

The Chair Opened the public forum at 8:32 P.M

No one came forward.

The Chair Closed the public forum at 8:33 P.M.

Staff Reports

City Planner Ostgarden spoke on behalf of City Administrator Thoreen about the council meeting for a presentation of the Comprehensive Plan by NJPA. The question is if council would like this to be part of a regular meeting or a special council meeting. The presentation and discussion should take no more than 20 minutes. Council discussion took place and it was decided to add this presentation to a regular meeting.

Fire Chief Holmes reminded everyone the State Fire Convention taking place this week; Wednesday June 7th through Saturday June 10th. There will be approximately 300 firefighters and their families expected this year with many events planned. Everyone is welcome to attend the various events including a parade scheduled for Saturday, June 10th. A memorial service will follow the parade.

Council Member Reports

Council Member Lambert questioned the Brainerd City Code 1205.21 Subd. 2, 3, 4 and 5 as to updating this to reflect the legal drinking age of 21.

Council President Pritschet stated he will be absent from the next council meeting June 19th, 2017. He is accompanying seven students to Birmingham, Alabama for nationals in Speech and Debate. Congratulations to these students!

Council Member Hilgart attended the recent Transit Advisory Committee meeting regarding Crow Wing County transit partnership. Crow Wing County is reconsidering this partnership. Council Member Hilgart also said she would be absent from the June 19th council meeting.

Council Member Johnson stated he will be absent from the next council meeting on June 19th, 2017. He added last week the HRA held a meeting to go over their goals, action steps and strategic plan. They are working very hard and should be commended.

Mayor Menk reported that History Week is taking place June 11 – 17th, 2017. Mary Koep is working hard along with others to arrange this event. The Chamber, HRA, BLADEC and 10 other businesses and organizations are participating in an entrepreneurial contest called Destination Downtown. The kickoff will be in the next couple weeks – it will happen in 3 phases with a rough draft of ideas, finalized and presented to the judges in ways to improve the downtown area. The winner will receive a \$50,000 prize package which would include such things as brand marketing, subsidiaries for HRA, etc. Range Deluxe will be leading the event and more details will follow. Ed and Sarah Shaw, new owners of the Blue Ox property have submitted an application for an \$8,000 grant for the city to improve the building.

Adjourned to the Retirement Party for Jeff Hulsether to be Held June 6, 2017

The Chair adjourned at 8:45 P.M.

James M. Thoreen
City Administrator

CITY OF BRAINERD
LICENSED CONTRACTORS
CITY COUNCIL MEETING
June 19, 2017

(2 New, 3 Renewals)

CONTRACTOR	TELEPHONE	TYPE	INSURANCE	BOND	STATE NO.
FIRE WORKS FIREPLACE INSTALLATION INC. 3030 4TH STREET S. WAITE PARK, MN 56387 17-0168	(320) 240-9490	MECH	8/18/2017	10/22/2018	MB003629
FIVE STAR HOME IMPROVEMENTS LLC 1134 OAK KNOLL DRIVE BRAINERD, MN 56401 17-0169 (new)	(218) 252-0439	GENL	2/5/2018	12/31/2017	BC645690
API GARAGE DOOR STORE, INC. 25188 HAZELWOOD DRIVE NISSWA, MN 56468 17-0170 (new)	(218) 824-0022	OVRD	12/31/2017	12/31/2017	
G&L EXCAVATING 3734 CEDAR SCENIC ROAD N BAXTER, MN 56425 17-0171	(218) 839-0194	EXCA	10/7/2017	12/31/2017	L1059
MASONRY BY HINES, LLC 19151 LOVE LAKE ROAD BRAINERD, MN 56401 17-0172	(218) 821-2626	MASO	10/25/2017	12/31/2017	

**BRainerd POLICE DEPARTMENT
MEMORANDUM**

TO: Brainerd City Council
FROM: Police Chief Corky McQuiston
DATE: 06-14-17
RE: Monthly Report



K-9 Searches at Area Schools

On May 10th, Sergeant Paul Dooley and his K-9 partner Keno participated with two other area K-9 officers conducted K-9 searches for drugs at schools in Brainerd, Baxter, and Crosby.



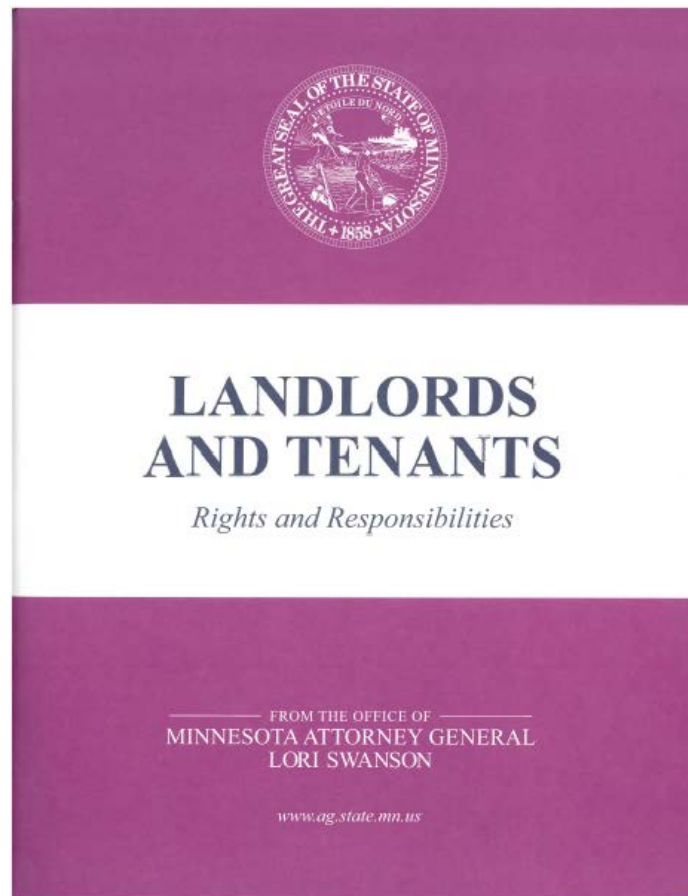
TZD

At our May monthly Brainerd Lakes Toward Zero Death meeting, the group posed for a picture to show off our new sign that was donated by Action Graphics. A major component to the TZD mission is continued public outreach and media events. The sign will be used at functions and events to promote the local and statewide initiatives involved. Thank you to Action Graphics for their generous support of our organization. The Brainerd Lakes TZD group is one of the best examples of how our agency partners and collaborates with a multi-disciplinary group to problem-solve by developing strategies to address traffic safety in our community.

May Mobilization is always targets Seat Belt enforcement leading up to the first major summer holiday weekend. Unfortunately seat belt use in outstate Minnesota continues to see rates below the state average.

Monthly Rental Property Meeting

May 10th was the last Monthly Rental Property Owners meeting hosted at the police department until September. The group takes the summer months off. There was a good presentation on information for the group on Human Trafficking with an interactive discussion between the group and the three different presenters. We also engaged in discussions on the Disorderly Use of Licensed Property, Property Owner notifications related to this, and incidents that constitute violations, and a reminder to property owners on how to make data requests on their properties.



We have updated information packets for rental property owners that have the most current version of the Landlords and Tenants Rights and Responsibilities handbook published by the MN Attorney General's Office. The packet we hand out has other information related to Principles of Successful Rental Property Management, How to File and Eviction Action in Minnesota, Applicant Screening Tips, and a sample Crime Free Lease Addendum.

Level 3 Predatory Offender

On May 30th, the police department learned that Level 3 Predatory Offender Terrance Lindmark changed his registration address to Homeless in the Downtown Brainerd Area, effective June 1st. While Lindmark has a homeless status he is required to complete weekly check-ins with police to remain compliant with registration requirements. Lindmark had been residing in rural Crow Wing County.

56-year-old Terrance Lee Lindmark has a history of sexual contact with male and female victims between the ages of four and ten. Contact included penetration. Force was used to gain compliance and Lindmark was known to the victims.

Since Lindmark was not new to the community and has resided in Brainerd in the past, a community notification meeting was not held. Public Fact Notification Sheets are available at the Brainerd Police Department and that same information was posted on our Facebook Page.

Brainerd Police Department
FACT SHEET
NOTIFICATION OF RELEASE IN MINNESOTA

RISK LEVEL THREE In addition to level two notification (schools and daycares as well as establishments and organizations that primarily serve individuals likely to be victimized by the offender), law enforcement may notify other members of the community whom the offender is likely to encounter.

The *Brainerd Police Department* is available to provide you with useful information on personal safety. The *Brainerd Police Department* may be reached at (218) 829-2805. To report criminal activity by this offender or any other individual, please call 911.

TERRANCE LEE LINDMARK
DOB: 03/20/1961
OID: 112604

Race: White	Hispanic: No
Height: 5'06"	Eyes: Hazel
Weight: 166 lbs.	Hair: Brown
Complexion: Medium	Build: Slender

Registration statute(s): 609.343

Investigating agency: Little Falls Police Department

Supervision Agency: Crow Wing County Community Corrections 218-824-1135

Offense: Offender has a history of sexual contact with victims (male and female, ages 4 to 10). Contact included penetration. Force was used to gain compliance. Offender was known to victims.

Address: Homeless Downtown Brainerd, MN 56401

Date of address change: 06/01/2017



03/28/2017 03/28/2017

The *Brainerd Police Department* is releasing this information pursuant to Minnesota Statutes 244.052. This statute authorizes law enforcement agencies to inform the public of a sexual or predatory offender's release from prison or a secure treatment facility when the *Brainerd Police Department* believes that the release of information will enhance public safety and protection.

The individual who appears on this notification has been convicted of Criminal Sexual Conduct or another offense that requires registration with law enforcement pursuant to Minnesota Statutes 243.166 or 243.167.

This offender is *not wanted by the police* at this time and *has served the sentence* imposed on him/her by the court. This notification is not intended to increase fear in the community. Law enforcement believes that an informed public is a safer public.

The *Brainerd Police Department* may not direct where the offender does or does not reside, nor can this agency direct where he/she works or goes to school. The risk level of this offender has been determined largely on his/her potential to re-offend based on his/her previous behavior.

Convicted sexual and predatory offenders have always been released to live in our communities. It was not until the passage of the Registration Act that law enforcement had an ability track the movement of these offenders after their initial release. With the passage of the Community Notification Act law enforcement may now share information about many of these offenders with the public. Abuse of this information to threaten, harass or intimidate a registered offender is unacceptable and such acts could be charged as a crime. Such abuses could potentially end the ability of law enforcement to provide these notifications. If community notification ends the only person who wins is the offender. Many of these offenders derive their power from the opportunity that secrecy provides.

Below is a link to the Department of Corrections public website that has a link to the Offender Locator Search and Active DOC Fugitives where additional information can be located on Level 3 Predatory Offenders:

<https://coms.doc.state.mn.us/PublicViewer/>

Training

On May 18th, I was invited to attend de-escalation training with staff at Essentia Health St. Joseph's Medical Center. The presentation was by Dr. Kristi Estabrook. Dr. Estabrook is a Psychiatrist based at Essentia Duluth St. Mary's Medical Center with her background in Psychiatry and Psychosomatic Medicine. Police officers frequently work with Essentia staff regarding persons in the community in mental health crisis and substance abuse behavioral problems that often times present themselves at the Emergency Department at St. Joe's.

Dr. Estabrook's presentation talked about the different circumstances in dealing with patients in crisis and options for treating them combined with proper medications to stabilize them along with appropriate interactions based on their diagnoses.

State Traffic Cameras

On May 5th, the Baxter Police Chief, the 911 Communication Center Supervisor for the Crow Wing County Sheriff's Department, and I met with some staff at the MNDot Regional Office in Baxter where we participated in a teleconference about the traffic cameras that are currently in use on State Highway 210 in Brainerd and Baxter. MNDot is upgrading their system in Brainerd/Baxter to the equipment and technology that is currently in use in the other areas of the state.

Their system here was very unique in that it allowed the local sheriff's department 911 dispatchers to be users on their system. It gave them access to operate the cameras to pan and zoom. We were very fortunate to have this ability as it allowed dispatchers to provide enhanced 911 services to us by providing real-time information for driving complaints, crashes, and other criminal matters that occurred on those roadways and provided a more efficient response and utilization of resources. We also appreciated it for their ability to watch officers of traffic stops to provide another level of officer safety for our staff.

Unfortunately with the upgrade we are losing this ability. In meeting with them, we were hoping that the option may be available to take over the existing system and potentially have the Crow Wing County 911 Center own/operate the system and develop some type of cost sharing between Brainerd, Baxter, and Crow Wing County. Ultimately, MNDot staff decided not to offer us this option. It is our understanding that this system in place in Brainerd/Baxter was unlike any other areas of the state and no other local entities were users on their system with cameras that functioned like this.

With the replacement cameras coming, they will have public access available similar to the link and mapping system below. If you visit this link you'll notice there are currently no cameras on the map in our area because of the older technology and system in place:

<https://hb.511mn.org/#camerasHome?layers=cameras&timeFrame=TODAY>

Conduct on Premises Activity Report for May

ICR	Date Reported	Title	Address	Summary
17006350	05/07/17	Conduct on Premises	602 College Drive	Conduct on Premises Notice
17006800	05/16/17	Conduct on Premises	500 NW 4 th Street	Conduct on Premises Notice
17006978	05/19/17	Conduct on Premises	1618 Norwood Street	Conduct on Premises Notice
17007051	05/20/17	Conduct on Premises	1319 South 8 th Street	Conduct on Premises Notice
17007423	05/28/17	Conduct on Premises	808 North 10 th Street	Conduct on Premises Notice

Monthly Police Activity

May	2017	2016
Calls	1581	1556
Citations (Inc. Parking)	265	216
Part I and Part II Crimes Reported	258 **	371

**** Note:** This does not include files that have not yet been coded.

97 parking tickets were issued in the month of May with the following dispositions:

7	Dismissed
4	Business Validations
47	Paid in Full
0	Partial Payments Received
39	No Payment Received

Revenue Recapture Receipts:

To Date: \$ 32,618.06

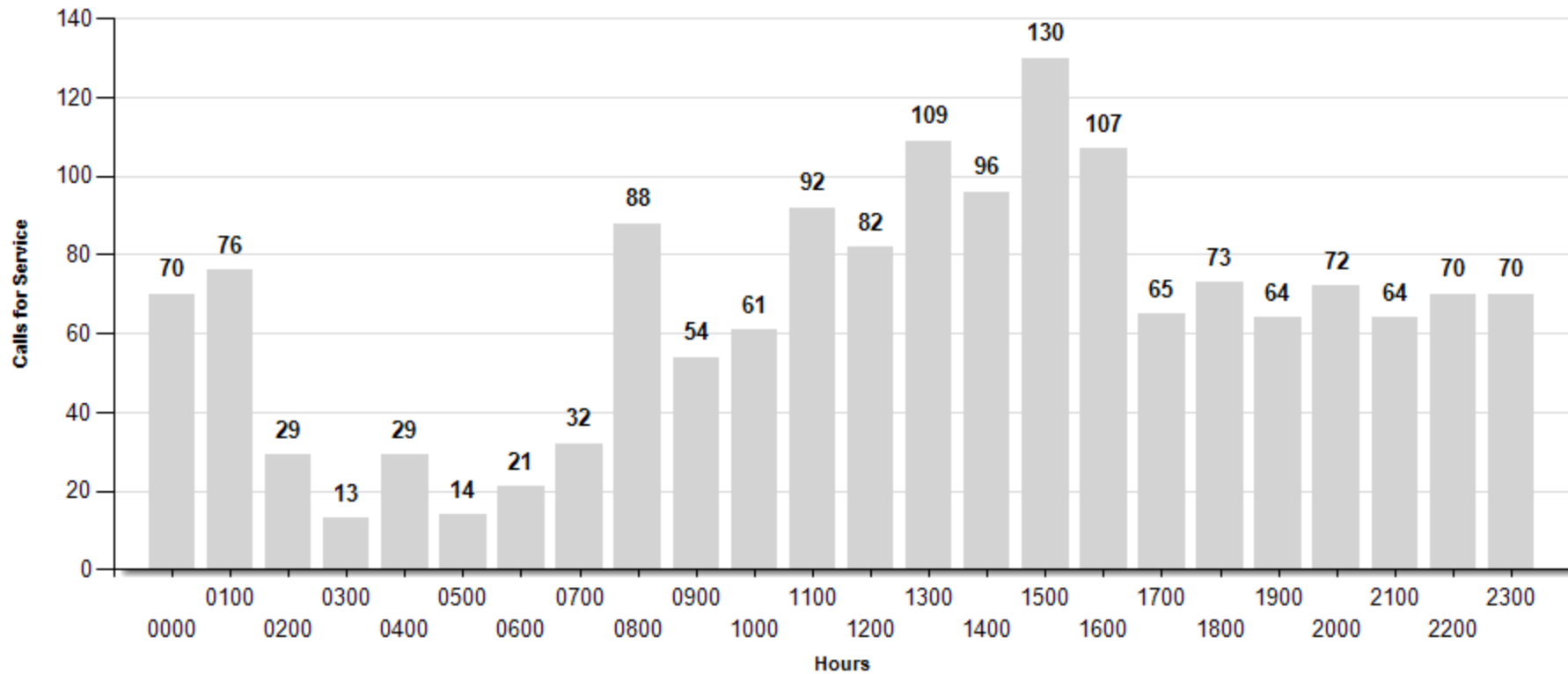
In 2017: \$ 4,608.60



Calls for Service Hourly

5/1/2017 to 5/31/2017

Total Calls: 1630



**CITY OF BRAINERD
SAFETY AND PUBLIC WORKS COMMITTEE
AGENDA**

June 19, 2017

6:30 P.M.
City Council Chambers

1. 2018 and 2019 Street and Sewer Capital Improvement Plan Update
2. Adoption of ADA Transition Plan
3. Event/Street Closure Application – Jaycees Street Fest
4. Improvement 17-02 – 2017 Chip Seal Project Final Pay Application
5. No Parking Request – N 1st Street and Kingwood Street
6. Petition to Vacate – Terrace Avenue – Set Public Hearing
7. 2018 State of Minnesota Transit Grant Resolution
8. Amendment for Engineering Services for SEH/WSN for Airport Utility Project.



Brainerd City Council Agenda Request

Agenda Item #

Requested Meeting Date:

Title of Item:

☐ INFORMATION ONLY ☐ CONSENT AGENDA ☐ P&F COMMITTEE ☐ SPW COMMITTEE ☐ MAIN AGENDA	Action Requested: ☐ Approve/Deny Motion ☐ Adopt Resolution (attach draft) ☐ Direction Requested ☐ Discussion Item ☐ Hold Public Hearing* ☐ Ordinance 1 st Reading <i>*provide copy of published hearing notice</i>
Submitted by:	Department:
Presenter (Name & Title):	Estimated Time Needed:
Summary of Issue:	
Alternatives, Options, Effects on Others/Comments:	
Recommended Action/Motion:	
Financial Impact: <i>Is there a cost associated with this request:</i> ☐ Yes ☐ No <i>What is the total cost, with tax and shipping</i> \$ _____ <i>Is this budgeted?</i> ☐ Yes ☐ No <i>Please Explain:</i>	

MEMO

TO: Safety and Public Works Committee

FROM: Paul Sandy, City Engineer 

DATE: June 13th, 2017

RE: 2018 and 2019 Street and Sewer Capital Improvement Plan

With the 2017 construction season in full swing, staff has been construction staking and performing construction observation on our current construction projects. While this takes a majority of staff's time when they are out in the field, we also like to begin to think about gathering our survey data for projects that we foresee coming in the next construction seasons, more notably 2018 and 2019. Staff wanted to report on what projects are planned and also wanted to generate some discussion on work load for these two seasons and staffing levels and needs to accomplish this work load.

2018 Street and Sewer Capital Plan

The 2018 construction season will mainly consist of working with MnDOT to reconstruct S 6th Street. Our portion of this job consists of replacing the underground utilities such as the watermain and sanitary sewer. The plans for this project have already been completed and are in review in St. Paul for bidding in August/September 2017 for an early construction start in 2018.

We have two technicians on staff that will be performing a majority of the construction staking and observation for the utility installation on this project. However, we have spoken on a staff level, and we believe that the level of staking and observation on the S 6th Street project will not require 2 full time technicians in the field at all times.

Staff has spoken internally and feels that it might be a prime opportunity with large sewer and water contractors in town for the S 6th Street project to take a look at some of our critical sewer in SE Brainerd, in particular, the alley between oak and pine between SE 12th Street and SE 19th Street. Staff recognizes that there are numerous blocks of critical sewer in SE Brainerd, but through routine maintenance and emergency repairs, we have been able to keep most of these lines serviceable and limp them along until we can get large replacement projects in place.

2019 Street and Sewer Capital Plan

Previous discussion at the council level have generated interest in reconstructing Buffalo Hills Lane in the 2019 Construction Season. Staff has already been diligently collecting survey data and should be ready to start design in the winter of 2017/2018 and should be able to finish the design in the fall/winter of 2018. As you recall from previous discussions, we also have the large federally funded sidewalk projects currently listed as a 2019 project. From the estimates that were included in the grant applications, the total federal funding and local shares anticipated are:

- S 6th Street Sidewalk Extension: \$437,600 Federal (Engineering is part of the 80/20 federal split)
\$110,000 Local Match
- Garfield SRTS Phase II: \$280,000 Federal
\$70,000 + (Engineering Fees) Local Match
- Garfield SRTS Phase III: \$408,000 Federal
\$102,000 + (Engineering Fees) Local Match

With these large sidewalk projects being planned for 2019, there are also some street reconstructions and resurfacings that will need to take place along with these sidewalk projects. This work would be similar to what we did around Garfield Elementary, where we reconstructed the streets around Garfield with local funds and placed the sidewalks along those routes with the federal grant money we received for Garfield SRTS Phase I. As part of the SRTS projects, there will be sidewalk placed on H Street from 8th Avenue NE – 13th Avenue NE and also along 10th Avenue NE from Washington Street to I Street. Staff feels this would be an opportune time to construct H Street to a narrower width, thus being able to fit a new sidewalk on the north side of the street and also construct 10th Avenue NE. Both H Street and 10th Avenue NE have been in the 5 year CIP, and with these sidewalk projects being planned in this area, this would be a good time to do both projects and get both the streets and the sidewalks completed at once.

Staff looked at the level of staffing that would be required to deliver a program of this size in 2019, and provided a recommendation to the committee for discussion and input.

Local Program: Staff designs and constructs Buffalo Hills Lane (Assessments and State Aid), H Street from 8th Avenue NE to 13th Avenue NE (Assessments and State Aid), and 10th Avenue NE (Assessments and Local).

SRTS and Sidewalk Extension Project: Staff proposes and would like some committee discussion on letting and RFP for design and construction engineering services for the design and construction of the S 6th Street Sidewalk Extension, Garfield SRTS Phase II, and Garfield SRTS Phase III Projects. Staff feels that the level of construction observation and documentation required for these large federal projects and the other work proposed to be done in 2019 would be beyond what Engineering staff could handle in one construction season. As this is a more specialized project, staff feels that the street reconstructions and resurfacings would be better suited as completed by staff and leaving the more specialized federal projects for consultant teams.

In summary, staff would like to generate some discussions about the items proposed in this memo so we can allocate engineering staff time and resources accordingly this summer and coming into the winter months.



Brainerd City Council Agenda Request

Agenda Item #

Requested Meeting Date:

Title of Item:

☐ INFORMATION ONLY ☐ CONSENT AGENDA ☐ P&F COMMITTEE ☐ SPW COMMITTEE ☐ MAIN AGENDA	Action Requested: ☐ Approve/Deny Motion ☐ Adopt Resolution (attach draft) <i>*provide copy of published hearing notice</i> ☐ Direction Requested ☐ Discussion Item ☐ Hold Public Hearing* ☐ Ordinance 1 st Reading
Submitted by:	Department:
Presenter (Name & Title):	Estimated Time Needed:
Summary of Issue:	
Alternatives, Options, Effects on Others/Comments:	
Recommended Action/Motion:	
Financial Impact: <i>Is there a cost associated with this request:</i> ☐ Yes ☐ No <i>What is the total cost, with tax and shipping</i> \$ _____ <i>Is this budgeted?</i> ☐ Yes ☐ No <i>Please Explain:</i>	

City of Brainerd ADA Transition Plan

June 2017



Adopted by City Council: _____

The City of Brainerd complies with all applicable provisions of the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973, and does not discriminate on the basis of disability in the admission or access to, or treatment or employment in, its services, programs, or activities. Upon request, accommodation will be provided to allow individuals with disabilities to participate in all City of Brainerd services, programs, and activities. The City has designated coordinators to facilitate compliance with the Americans with Disabilities Act of 1990 (ADA), and to coordinate compliance with Section 504 of the Rehabilitation Act of 1973 as mandated by the U.S. Department of Housing and Urban Development regulations. For information, contact the Human Resources or the City Administrator, 501 Laurel Street, Brainerd, MN 56401; (218) 828-2307. Upon request, this information can be available in Braille, large print, audio tape and/or electronic format, or TTY.

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Introduction

Transition Plan Need and Purpose

The Americans with Disabilities Act (ADA), enacted on July 26, 1990, is a civil rights law prohibiting discrimination against individuals on the basis of disability. ADA consists of five titles outlining protections in the following areas:

1. Employment
2. State and local government services
3. Public accommodations
4. Telecommunications
5. Miscellaneous Provisions

Title II of ADA pertains to the programs, activities and services public entities provide. As a provider of public transportation services and programs, the City of Brainerd must comply with this section of the Act as it specifically applies to public service agencies. Title II of ADA provides that, "...no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity." ([42 USC. Sec. 12132](#); [28 CFR. Sec. 35.130](#))

As required by Title II of [ADA, 28 CFR. Part 35 Sec. 35.105 and Sec. 35.150](#), the City of Brainerd has conducted a self-evaluation of its facilities within public rights of way and has developed this Transition Plan detailing how the organization will ensure that all of those facilities are accessible to all individuals. This document serves as a supplement to City's existing Transition Plan covering buildings, services, programs and activities.

The Transition Plan reviews and develops the City of Brainerd's policies, practices, and programs involving public rights-of-way and assists City of Brainerd staff in understanding its obligations under the various state and federal guidelines to provide accessibility for individuals with disabilities to City programs, services, and activities. The plan also catalogs and identifies barriers to accessibility within the City's public rights-of way as well as gives a general outline or timeframe for removal of the barrier.

ADA and its Relationship to Other Laws

Title II of ADA is companion legislation to two previous federal statutes and regulations: the [Architectural Barriers Acts of 1968](#) and [Section 504 of the Rehabilitation Act](#) of 1973.

The Architectural Barriers Act of 1968

The Architectural Barriers Act of 1968 (ABA) is a Federal law that requires facilities designed, built, altered or leased with Federal funds to be accessible. The Architectural Barriers Act marks one of the first efforts to ensure access to the built environment.

Section 504 of the Rehabilitation Act of 1973

Section 504 of the Rehabilitation Act of 1973 (ABA) is a Federal law that protects qualified individuals from discrimination based on their disability. The nondiscrimination requirements of the law apply to employers and organizations that receive financial assistance from any Federal department or agency. Title II of ADA extended this coverage to all state and local government entities, regardless of whether they receive federal funding or not.

The American with Disabilities Act

The American with Disabilities Act of 1990 (ADA) is a federal law that prohibits discrimination on the bases of disability in employment, state and local government, public accommodations, commercial facilities, transportation, and telecommunications. The ADA works in unison with the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973. The ADA has five titles that are as follows:

- o Title I: Employment
- o Title II: Public Services and Public Transportation
- o Title III: Public Accommodations
- o Title IV: Telecommunications
- o Title V: Miscellaneous Provisions

Architectural and Transportation Barriers Compliance Board

The Access Board, also known as the Architectural and Transportation Barriers Compliance Board, is an independent federal agency devoted to accessibility for people with disabilities. The Board was created in 1972 to ensure access to federally funded facilities and is now the leader in sources for information on accessible designs.

Public Rights of Way Accessibility Guidelines

Public Rights of Way Accessibility Guidelines (PROWAG) is developed by the Access Board and are guidelines that address accessibility in the public right-of-way. Sidewalks, street crossings, and other elements of public rights-of-way are all covered in the PROWAG Guidelines. The City of Brainerd's Transition Plan primarily adheres to PROWAG.

MnDOT Technical Memorandum 15-02-TR-01

MnDOT Technical Memorandum 15-02-TR-01 was issued by MnDOT in 2015 and extends the expiration of Technical Memorandum 10-02-TR-01 Adoption of Public Rights of Way Accessibility Guidance to MnDOT staff, cities, and counties. This memorandum makes PROWAG the primary guidance for accessible facility design for all MnDOT projects. MnDOT is beginning to integrate PROWAG into the Road Design Manual and other technical guidance.

Technical Memorandum 10-SA-01

Technical Memorandum 10-SA-01 is to clarify ADA requirements as they apply to local Federal-aid projects and State-aid projects. The memorandum states that Local Federal-aid projects must provide pedestrian curb ramps and detectable warning systems on all new and existing curb ramps within the project limits even if the proposed work can be done without disturbing the existing sidewalks or pedestrian ramps. Project plans that do not adhere to these requirements will not be approved by MnDOT. MnDOT, however, will not review State-aid project plans for accessibility requirements because the responsibility to provide accessible facilities per guidance falls on the local agency.

Technical Memorandum 15-01-T-01

Technical Memorandum 15-01-T-01 is to provide guidance as it relates to pedestrian crossing facilitation. The memorandum includes sections on curb ramp installation and provides guidance for various crosswalk configurations including those where sidewalks may only be on one side of the road or at crossings where there is no sidewalk.

Agency Requirements

In the Americans with Disabilities Act (ADA), the term disability is defined, with respect to an individual, as:

- o A physical or mental impairment that substantially limits one or more of the major life activities of such individual;
- o A record of such an impairment; or
- o Being regarded as having such impairment.

When addressing accessibility needs and impairments, it is important to note that ADA does not supersede or take precedence over state or local law, such as the Minnesota Human Rights Act, that may offer greater or equivalent protections.

Under Title II, the City of Brainerd must meet these general requirements:

- o Must operate their programs so that, when viewed in their entirety, the programs are accessible to and useable by individuals with disabilities ([28 C.F.R. Sec. 35.150](#)).

- o May not refuse to allow a person with a disability to participate in a service, program or activity simply because the person has a disability ([28 C.F.R. Sec. 35.130 \(a\)](#)).
- o Must make reasonable modifications in policies, practices and procedures that deny equal access to individuals with disabilities unless a fundamental alteration in the program would result ([28 C.F.R. Sec. 35.130\(b\) \(7\)](#)).
- o May not provide services or benefits to individuals with disabilities through programs that are separate or different unless the separate or different measures are necessary to ensure that benefits and services are equally effective ([28 C.F.R. Sec. 35.130\(b\)\(iv\) & \(d\)](#)).
- o Must take appropriate steps to ensure that communications with applicants, participants and members of the public with disabilities are as effective as communications with others ([29 C.F.R. Sec. 35.160\(a\)](#)).
- o Must designate at least one responsible employee to coordinate ADA compliance [[28 CFR Sec. 35.107\(a\)](#)]. This person is often referred to as the "ADA Coordinator." The public entity must provide the ADA coordinator's name, office address, and telephone number to all interested individuals [[28 CFR Sec. 35.107\(a\)](#)].
- o Must provide notice of ADA requirements. All public entities, regardless of size, must provide information about the rights and protections of Title II to applicants, participants, beneficiaries, employees, and other interested persons [[28 CFR Sec. 35.106](#)]. The notice must include the identification of the employee serving as the ADA coordinator and must provide this information on an ongoing basis [[28 CFR Sec. 104.8\(a\)](#)].
- o Must establish a grievance procedure. Public entities must adopt and publish grievance procedures providing for prompt and equitable resolution of complaints [[28 CFR Sec. 35.107\(b\)](#)]. This requirement provides for a timely resolution of all problems or conflicts related to ADA compliance before they escalate to litigation and/or the federal complaint process.

Self-Evaluation

Overview

The City of Brainerd is required, under Title II of the Americans with Disabilities Act (ADA) and 28CFR35.105, to perform a self-evaluation of all its policies, practices and programs, and current facilities, including buildings and infrastructure in public right of way. This self-evaluation will identify what policies and practices impact accessibility and examine how the City implements these policies. The goal of the self-evaluation is to verify that, in implementing the City's policies and practices, the departments are providing accessibility and not adversely affecting the full participation of individuals with disabilities.

The self-evaluation will look at City policies related to holding meetings, communications, hiring practices, etc..

The self-evaluation also examines the condition of the City's Pedestrian Circulation Route/Pedestrian Access Route) (PCR/PAR) and identifies potential need for PCR/PAR infrastructure improvements. This will include the sidewalks, curb ramps, bicycle/pedestrian trails, traffic control signals and transit facilities that are located within the City's rights of way.

Self-Evaluations for all of the above criteria are found in the appendices at the end of this report.

Any barriers to accessibility identified in the self-evaluation and the remedy to the identified barrier are set out in this transition plan.

Summary

In 2013-2016, the City of Brainerd conducted an inventory/evaluation of all City policies and facilities including pedestrian facilities within its public right of way. Facilities evaluated included the following;

- City Practices
 - Employment
 - Communications
- Pedestrian Facilities in the Right of Way
 - Sidewalks - 35.8 miles
 - Curb ramps - 836
 - Trails – 10 miles
 - Traffic Control Signals - 4
 - On Street Parking
 - Right of Way Maintenance Policies
- Transit Facilities
 - Bus Stops - 0
 - Transit Policies
- Building Facilities
 - City Hall
 - Police Department
 - Fire Department
 - NE Fire Hall
 - Park Department Office
 - Street Department Garage

- o City Hall Annex
 - o Library
 - o City Owned Parking Lots
- Park Facilities in the following parks
 - o Gregory Park
 - o Kiwanis Park
 - o Buffalo Hills Park
 - o Memorial Park
 - o Mill Park
 - o Triangle Park
 - o Bane Park
 - o Obrien Park
 - o Lum Park
 - o Trailside Park

A detailed evaluation on how these facilities relate to ADA standards is found in the appendices under each Department and will be updated periodically as the facilities are updated or changed.

Policies and Practices

Previous Practices

Since the adoption of the ADA, the City of Brainerd has striven to provide accessible pedestrian features as part of the City's capital improvement projects. As additional information was made available as to the methods of providing accessible pedestrian features, the City has updated their procedures to accommodate these methods. For example, as pedestrian curb ramp designs have been updated and changed, the City has adapted to these new preferred designs. Further, as City owned buildings have been remodeled or built, they have been updated or built to the latest ADA design.

Policy

The City of Brainerd's goal is to continue to provide accessible pedestrian design features as part of the City's capital improvement projects. The City has established ADA design standards and procedures as listed in Appendix J. All city facilities will be updated to latest building code and ADA design when improvements are made. These standards and procedures will be kept up to date with nationwide and local best management practices.

The City will consider and respond to all accessibility improvement requests. All accessibility improvements that have been deemed reasonable will be scheduled consistent with transportation priorities. The City will coordinate with external agencies to ensure that all new or altered pedestrian facilities within the City's jurisdiction are ADA compliant to the maximum extent feasible.

Maintenance of pedestrian facilities within the public right of way will continue to follow the policies set forth by the City . (City Code Sections 800 Administration and Regulation of the Public Right of Way, City Code Section 825 Sidewalks)

Requests for accessibility improvements can be submitted to the City Administrator. Contact information for City Administrator is located in Appendix A.

Programs

Pavement Management Program

The City's pavement management program is a plan in which identifies priorities and timeframes for the maintenance and reconstruction of City streets and trails. This program offers information on pavement qualities and accessibility barriers in the City's transportation system in order to keep the City's transportation system in an acceptable and good condition. The City Engineering Department creates an annual construction schedule based upon this and budget information. This pavement management program offers an excellent opportunity for the City to evaluate its needs and upgrade City right-of-way facilities to applicable standards. The data driven nature of the pavement management program is an extremely effective method to prioritize ADA compliance.

Walkable/Bikeable City Committee

The City has implemented a Walkable/Bikeable City Committee which is a committee dedicated to the purpose of making the City more walkable/bikeable and accessible to its citizens. The Walkable/Bikeable Committee has created a plan which identifies deficiencies and gaps in the current City infrastructure and identifies locations and projects that the City could implement to make the City more walkable, bikeable, and accessible. The plan also outlines general costs for projects and priorities within the infrastructure over a 10 year implementation period.

Capital Improvement Plan

The City of Brainerd's capital improvement program works in unison with the pavement management program and identifies projects to be constructed within the next 5 years along with cost estimates for the work and budgeting information. The City uses this as a vehicle for budgeting and bonding purposes.

Safe Routes to School

The City of Brainerd has been very effective in receiving federal Safe Routes to School funds through MnDOT for qualifying projects and safety improvements around schools. The City has a Safe Routes to School plan in which identifies priority areas for ADA and accessibility improvements along with other safety improvements around schools.

ADA Coordinator

In accordance with 28 CFR 35.107(a), the City of Brainerd has identified an ADA Title II Coordinator to oversee the City policies and procedures. Contact information for this individual is located in Appendix A.

Improvement Schedule

Priority Areas

The City of Brainerd has identified specific locations as priority areas for planned accessibility improvement projects. These areas have been selected due to their proximity to specific land uses such as schools, government offices and medical facilities, as well as from the receipt of public comments. The priority areas identified in each Department's self-evaluation are as follows:

- City Practices (Administration)
 - None
- Public Right of Way (Engineering)
 - Sidewalks with no curb ramps at intersections
 - Curb ramps around schools or other public facilities that generate high volumes of pedestrian traffic
 - Non-compliant curb ramps and pedestrian access routes that are reported as concerns.
- Transit
 - None
- Building Facilities (Building Safety Department)
 - Improve Entrance to Parks Department Facility on Lum Park Road
- Park Facilities (Building Safety & Parks Department)
 - Add sidewalk to pavilion at Buffalo Hills Park

Additional priority will be given to any location where an improvement project or alteration was constructed after January 26, 1991, and accessibility features were omitted.

Schedule

The City of Brainerd has set scheduled goals for improving accessibility in each Departments Self Evaluation Plan attached in the Appendices.

The schedules will be prioritized and are based on needs, public input, funds available, and timelines to implement ADA improvement projects

Implementation Methodology

City Practices

With the completion of the Transition Plan, the City of Brainerd's practices and policies are currently up to date as related to ADA policies. If areas are identified in the future as being non-compliant, a schedule will be implemented to correct the issues.

Right of Way

The City of Brainerd will utilize two methods for upgrading pedestrian facilities to the current ADA standards. The first and most comprehensive of the two methods are the scheduled street and utility improvement projects. All pedestrian facilities impacted by these projects will be upgraded to current ADA accessibility standards. The second method is the stand alone sidewalk and ADA accessibility improvement project. These projects will be incorporated into the Capital Improvement Program (CIP) on a case by case basis as recommended by the City of Brainerd staff and approved by the City Council. The City's CIP, which includes a detailed schedule and budget for specific improvements, is included in Appendix I.

Transit

The City of Brainerd's transit systems did not have any areas on non-compliance identified in its system. If areas are identified in the future as being non-compliant, a schedule will be implemented to correct the issues.

Building Facilities

The City of Brainerd will utilize two methods for upgrading buildings to meet current ADA standards. The first and most comprehensive of the two methods are the scheduled building improvements plan as part of the Capital Improvement Plan. All ADA related facilities impacted by these projects will be upgraded to current ADA accessibility standards. For example, all new and remodeled buildings will be built or upgraded to meet the latest ADA standards. The second method is the stand alone ADA accessibility improvement project. These projects will be incorporated into the Capital Improvement Program (CIP) on a case by case basis as recommended by the City of Brainerd staff and approved by City Council. These projects will

projects will most likely arise from a need to upgrade a specific facility based on input from the public. Currently, the City is in the process of performing comprehensive facilities study which will be included in the appendices of this report when the study is completed.

Park Facilities

The City of Brainerd will utilize two methods for upgrading park facilities to meet current ADA standards. The first and most comprehensive of the two methods are the scheduled park improvements as shown part of the Capital Improvement Plan. All ADA related facilities impacted by these projects will be upgraded to current ADA accessibility standards. For example, if a tennis court or a restroom was scheduled to be upgraded or remodeled, it will be built or upgraded to meet the latest ADA standards. The second method is the stand alone ADA accessibility improvement project. These projects will be incorporated into the Capital Improvement Program (CIP) on a case by case basis as determined by the Park Board. These projects will most likely arise from a need to upgrade a specific facility based on input from the public. Currently, the City is in the process of performing comprehensive facility studies which will be included in the appendices of this report when the study is completed.

Public Outreach

The City of Brainerd recognizes that public participation is an important component in the development of this document. Input from the community has been gathered and used to help define priority areas for improvements within the jurisdiction of the City of Brainerd.

Public outreach for the creation of this document consisted of the following activities:

- o Public Hearing – A Public Hearing on the ADA Transition Plan was held at 7:30 P.M. on June 5, 2017 at the regularly scheduled City Council meeting. There were no members of the public that spoke at the public hearing. However, a letter was received by a constituent regarding ADA matters and can be seen in Appendix C.
- o Notice in City Newsletter – A notice was published in the City's April, May, and June City Newsletter giving the time and the date of the public hearing on the plan. It also provided the City website information to access the electronic version of the plan for review.
- o The plan was posted on the City website from April 21st, 2017 to June 4th, 2017. City staff did not receive any feedback besides what was presented in letter form to the council during the public hearing. The final plan will be posted to the City website when the City Council adopts the plan.

A summary of comments received and detailed information regarding the public outreach activities are located in Appendix C.

Grievance Procedure

Under the Americans with Disabilities Act, each agency is required to publish its responsibilities in regards to the ADA. A draft of this public notice is provided in Appendix D. If users of the City of Brainerd's facilities and services believe the City has not provided reasonable accommodation, they have the right to file a grievance.

In accordance with 28 CFR 35.107(b), the City has developed a grievance procedure for the purpose of the prompt and equitable resolution of citizens' complaints, concerns, comments, and other grievances. This grievance procedure is outlined in Appendix D.

Monitor the Progress

This document will continue to be updated as conditions within the City evolve.

The appendices in this document will be updated periodically, while the main body of the document will be updated periodically to reflect changes with a future update schedule to be developed at that time. With each main body update, a public comment period will be established to continue the public outreach.



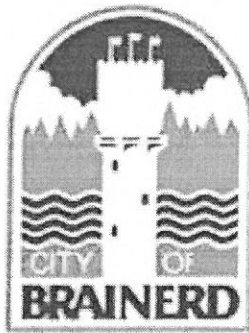
Brainerd City Council Agenda Request

Agenda Item #

Requested Meeting Date:

Title of Item:

☐ INFORMATION ONLY ☐ CONSENT AGENDA ☐ P&F COMMITTEE ☐ SPW COMMITTEE ☐ MAIN AGENDA	Action Requested: ☐ Approve/Deny Motion ☐ Adopt Resolution (attach draft) ☐ Direction Requested ☐ Discussion Item ☐ Hold Public Hearing* ☐ Ordinance 1 st Reading <i>*provide copy of published hearing notice</i>
Submitted by:	Department:
Presenter (Name & Title):	Estimated Time Needed:
Summary of Issue:	
Alternatives, Options, Effects on Others/Comments:	
Recommended Action/Motion:	
Financial Impact: <i>Is there a cost associated with this request:</i> ☐ Yes ☐ No <i>What is the total cost, with tax and shipping</i> \$ _____ <i>Is this budgeted?</i> ☐ Yes ☐ No <i>Please Explain:</i>	



Street Closure, Special Event And Festival Application

Brainerd, Minnesota

Thank you for your interest in organizing a special event in Brainerd. The City is home to numerous cultural, community, and recreational events. These events are integral to our sense of community, and they play an important economic role by increasing tourism, generating downtown foot traffic, and fostering a festive atmosphere within the City. We look forward to working with you to help make your event a success.

All special events and festivals that require significant logistics planning between City departments or are requesting a street closure must submit this application to the City Administrator's Office at least thirty (30) days prior to the event. Event planners are encouraged to submit their applications as early as possible. City Council must approve all street closure requests, and additional licenses and permits may also be required, as outlined in part III of this application.

For questions, please contact the City of Brainerd Engineering Office at:

501 Laurel Street
Brainerd, MN 56401
Phone: (219) 828-2309
Email: engineering@ci.brainerd.mn.us

Application for a Street Closure, Special Event and Festival Permit

PART I: GENERAL INFORMATION

Name of the event: Bramerd Jaycees Streetfest

Date(s) of the event: July 28th & 29th, 2017

Time of event (setup to breakdown): setup: 3 pm 7-28-2017 Breakdown: Midnight of Saturday night 7-29-2017

Location: Downtown Brainerd

Estimated number of attendees: 2,000+

Organizer Information

Organizer's name (Please print): Michael O'Day - Bramerd Jaycees

Organizer's address: _____

Event contact person: Michael O'Day

Event contact daytime phone number: (h) _____ (w) 218 828 4418 (c) 218 851 3716

Event contact persons e-mail address: michaeltoday1@gmail.com

Contact name and phone number to be used on the day of the event: Michael O'Day

(h) _____ (w) _____ (c) 218 851 3716

For Profit/Nonprofit status (type): Non profit

Applicant Information, if different from the event organizer:

Applicant name (Please print): _____

Applicant address: _____

Applicant's telephone number (h) _____ (w) _____ (c) _____

Event contact e-mail address: _____

Description of Activities

Brief description of the activities planned during the event: Friday 7-28 from
3pm - 12am - Wing Competition, live music, games
Saturday 7-29 - Ribfest (Cub Foods), live music, carnival games, Downtown
walking tour, various eating contests, etc...

If a parade, please describe the proposed route with the assembly and dispersal locations and attach a map: _____

Site Information

Electrical usage? Yes ☒ No ☐

Describe the type of equipment to be used and how you intend to supply the power:

No will use power drops built by the Braintree Jaycees,
and will coordinate w/ water & lights for any needs

Amplified sound? Yes ☒ No ☐

Description of any recording and sound amplification equipment to be used in your event and the times:

Pro sound equipment by Silent Partner Prod. Friday 7-28-2017
5pm - 12am & Saturday 7-29-2017 from noon - 12am

Restrooms provided? Yes ☒ No ☐ How many? 30+

A ratio of 1 restroom for every 100-150 people is recommended. handicaps

Company contracted for restrooms: Blakeman

If restrooms are provided by neighboring property(s) please submit the location and the property owner's signature to verify that approval has been granted.

Sign, banners, and posters/flyers? Yes ☒ No ☐

Locations and descriptions: Smaller signs on street corners, larger on
banners between buildings at 7th St. S & Laurel St. 50th (371) & 210

Trash Disposal? Yes ☒ No ☐

Company contracted for trash disposal: Nisswa Sanitation

Event Layout and Street Site Map Yes ☒ No ☐

Please provide a layout of the event showing booths, staging, amusements, food, etc. and also provide a street map or park map showing the borders of the event.

Area Notification

Please describe your plans to notify property owners, tenants, and/or businesses within 300 feet of the event or festival site prior to City Council meeting.

Notice will be posted in establishments downtown, Notice will be delivered July 1 for parking closures and every day for one week prior to the event

PART II: STREET CLOSURE REQUEST

While the City continues to treat downtown as a venue for special events, event plans must be balanced with the interests and needs of property owners.

Throughout all events, businesses should be reasonably accessible to the general public. If a business's entrance is blocked by the event layout, then accommodations such as signage, handbills, or similar methods should be made available to mitigate the impact on customer access. If a street closure occurs along residential streets, reasonable efforts must be made to alert all property owners along the road of the proposed closure. All street closures must be approved by City Council.

Please describe the name and sections of the streets for which you are requesting temporary closure (e.g. "South 7th Street between Maple Street and Front Street").

- Laurel Street between 56th St. and 55th St.
- City hall parking lot on East side of building

Time and date for beginning of street closures: Fri. 7.28 3pm

Time and date for reopening of streets: Sunday 7.30 @ 12 am

Please describe your plans to notify property owners, tenants, and/or businesses along the affected route of the proposed street closure within 300 feet prior to City Council meeting. The City will supply you with a Notice of Hearing flyer to use in notification that lists the necessary information.

Hand deliver notifications to all 3 weeks prior & parking notifications every day 1 week prior to the event start date

Failure to notify property owners and tenants in street closure areas will result in revocation of street closure permit.

Please describe how your event preserves customer and residential access for businesses and houses along your proposed street closure (e.g. preserving pedestrian flow along the downtown sidewalks). Additional pages or proposed layouts may be attached.

All sidewalks will remain open
Minimal to no blocking of businesses and residents

PART III: CONTACTS, PERMITS, AND FEES CHECKLIST

Each special event has its own requirements and needs. Listed below is a summary of the permits and fees common to many special events. Please note that it is *not* necessary to have all permits approved upon submission of this application. However, this checklist should serve as a guide as you plan your event. *All special events must have all permits and fees paid and approved prior to the start of the event.*

Permit, License, or Checklist	Yes	Pending	N/A	Contact (See contact information below)
Authorization to use a city park			X	Contact the Parks & Recreation Department for information.
Fire/EMS/Police support	X			Check yes to request emergency support. The appropriate level of fire, EMS, and police support will be determined by the City based on crowd size and the type of event. Fees may be discussed with the sponsor.
Food and vendor licenses	X			All vendors must apply for a temporary license through the Commissioner of Revenue's Office. Food vendors are required to collect and report meals tax.
Health Department permit	X			All food vendors must apply for a temporary food permit through the Minnesota Health Department (MDH).
Insurance certificate	X			May be required before issuing a permit.
Sign/banner permits			X	Contact the Planning Department for information.
Parade permit			X	Issued by the Police Department after complete submission of application.
Street closure		X		Must be approved by City Council after submission of the special events application. Contact the City Engineering Department for information/procedure. Closure of a State highway must be approved by MNDOT prior to City Council review.
Alcohol Use Permit	X			Must be approved by City Council after submission of the special events application. Contact the City Administrator's Office for information/procedure.

Contact Information:

Administrator's Office:	(218) 828-2307 E-MAIL admin@ci.brainerd.mn.us
Engineering Department:	(218) 828-2309 E-MAIL engineer@ci.brainerd.mn.us
Commissioner of Revenue:	(651) 282-5225 E-MAIL www.taxes.state.mn.us
Parks and Rec. Department:	(218) 828-2320 E-MAIL parks@ci.brainerd.mn.us
Planning Department:	(218) 828-2309 E-MAIL planning@ci.brainerd.mn.us
Police Department:	(218) 829-2805 E-MAIL police@ci.brainerd.mn.us
MN Department of Health	(320) 223-7300 E-Mail www.health.state.mn.us
MNDOT – Baxter Office	(218) 828-5700 E-Mail www.dot.state.mn.us

PART IV: HOLD HARMLESS AGREEMENT AND INSURANCE INFORMATION

The applicant covenants to save, defend, hold harmless, and indemnify the City of Brainerd and all of its officers, departments, agencies, agents, and employees (collectively the "City") from and against any and all claims, losses, damages, injuries, fines, penalties, costs (including court costs and attorney's fees), charges, liability, or exposure, however caused, resulting from, arising out of, or in any way connected with the applicant's event herein described.

The City, in its discretion, may require the Applicant to obtain liability insurance for any special event. If liability insurance is required, the following requirements apply:

- a. Minimum of \$1,000,000 in commercial general liability insurance.
- b. Applicant's insurance shall be primary.
- c. Insurance shall cover liability for injury death and property damage including coverage for alcohol related claims, if alcohol will be served.
- d. The insurance policy must be issued by an insurance company licensed to do business in Minnesota acceptable to the City.
- e. The City must be named as an "Additional Insured" on the policy.
- f. At least ten (10) days prior to the event, the applicant must give to the City a Certificate of Insurance showing the required coverage.

PART V: SIGNATURE OF EVENT APPLICANT

I attest that the above information is true and accurate and I have signed this application on behalf of the Applicant. I certify under penalties of perjury that I am authorized to execute contracts and other instruments and legally bind the Applicant.


Signature of the Event Applicant

5.31.2017
Date submitted to the City

Michael C. O'Day
PRINT NAME

Event Chair
Event Applicant Title

PART VI: FOR OFFICIAL USE ONLY

Departmental Sign-Offs Required

	Approval Date/Initials	Comments
Brainerd Public Utilities	<u>X</u>	<u>Applicant is lining up Electric w/ BPU</u>
City Administration	<u>X</u>	<u>None</u>
Engineering Depart.	<u>X</u>	<u>Will have to provide daily parking</u>
Fire Department	<u>X</u>	<u>None</u>
Fire Support/EMS	<u>X</u>	<u>None</u>
Parks and Recreation	<u>X</u>	<u>None</u>
Planning Department	<u>X</u>	<u>None</u>
Police Department	<u>X</u>	<u>None</u>

*passes for loaded spots
* Organize Traffic Control w/ Street Department*

Certification of Street Closure Approval

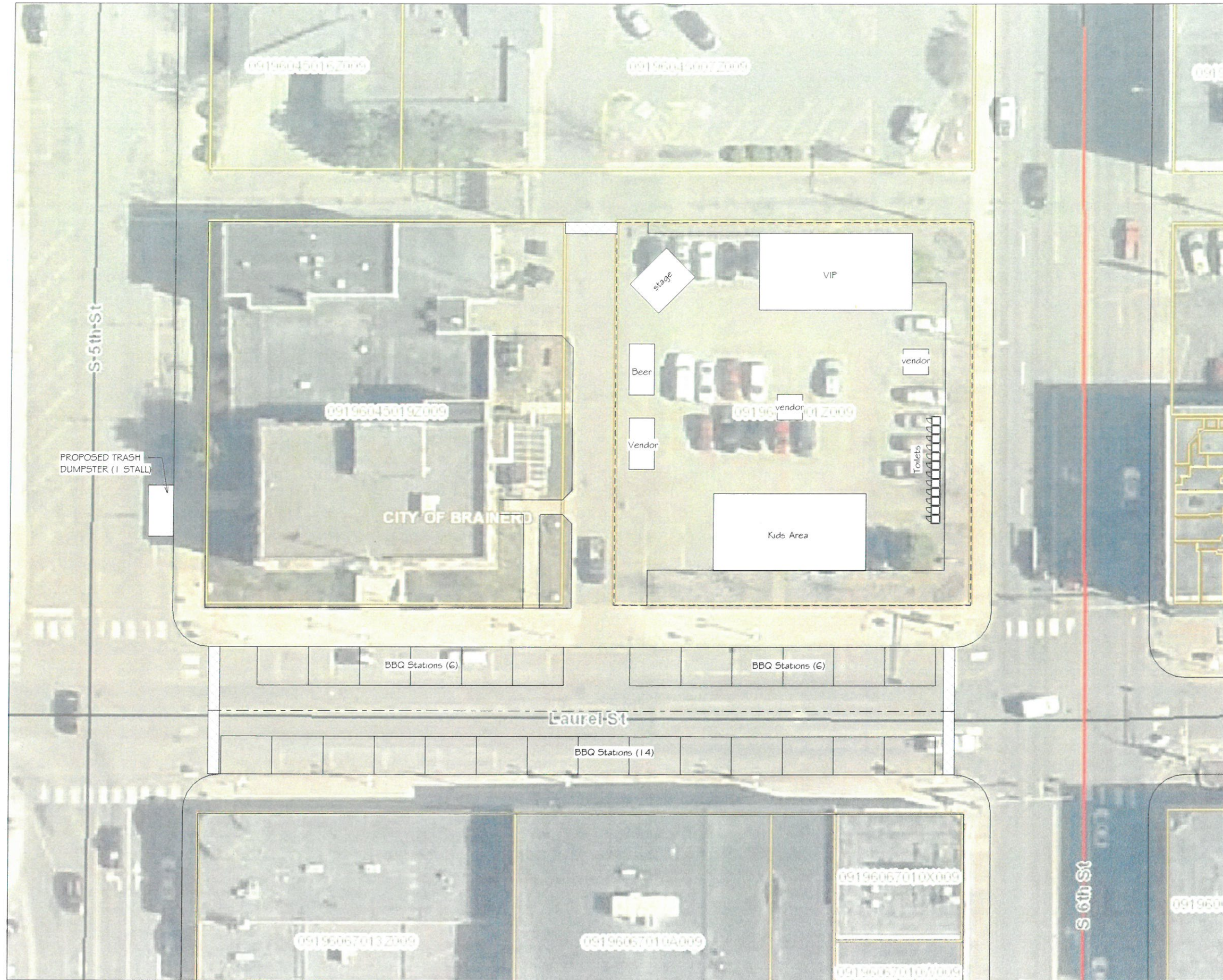
The street closure request as described herein was approved by City Council at their _____, 20__ meeting. Approval is subject to the following condition:

Special Event/Festival Application and Permit Approval

The Special Event as described above is approved subject to any conditions noted on this form or otherwise set forth by the City of Brainerd.

City Administrator

Date



① MAIN LEVEL FLOOR PLAN
1" = 20'-0"

REVISIONS

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Architect under the laws of the State of Minnesota

11360 BUSINESS 371
BRAINERD, MN 56401
PHONE 218/829-8529
FAX 218/829-5383
www.hytecconst.com
lic #BC-20050648

HYTEC
CONSTRUCTION
ARCHITECTURAL DIVISION

PROPOSED STREETFEST
LAYOUT
MAIN FLOOR PLAN

DATE:

05/26/17

SHEET:

A1.1



Brainerd City Council Agenda Request

Agenda Item #

Requested Meeting Date:

Title of Item:

- ☐ INFORMATION ONLY
☐ CONSENT AGENDA
☐ P&F COMMITTEE
☐ SPW COMMITTEE
☐ MAIN AGENDA

Action Requested:

- ☐ Approve/Deny Motion
☐ Adopt Resolution (attach draft) **provide copy of published hearing notice*
- ☐ Direction Requested
☐ Discussion Item
☐ Hold Public Hearing*
☐ Ordinance 1st Reading

Submitted by:

Department:

Presenter (Name & Title):

Estimated Time Needed:

Summary of Issue:

Alternatives, Options, Effects on Others/Comments:

Recommended Action/Motion:

Financial Impact:

Is there a cost associated with this request: ☐ Yes ☐ No
What is the total cost, with tax and shipping \$ _____
Is this budgeted? ☐ Yes ☐ No
Please Explain:

CITY OF BRAINERD ENGINEERING

Project 17-02 - 2017 CHIP SEAL PROJECT Final Pay Request No. 1

Contractor: Asphalt Preservation Company Inc.
22923 N Pearl Lake Rd
Detroit Lakes, MN 56501

Contract No. 2017-3
Vendor No. N/A
For Period: 5/22/2017 - 6/2/2017
Warrant # _____ Date _____

Contract Amounts

Original Contract	\$105,797.01
Contract Changes	\$0.00
Revised Contract	\$105,797.01

Work Certified To Date

Base Bid Items	\$124,773.47
Backsheet	\$0.00
Change Order	\$0.00
Supplemental Agreement	\$0.00
Work Order	\$0.00
Material On Hand	\$0.00
Total	\$124,773.47

Funds Encumbered

Original	\$105,797.01
Additional	N/A
Total	\$105,797.01

	Work Certified This Request	Work Certified To Date	Less Amount Retained	Less Previous Payments	Amount Paid This Request	Total Amount Paid To Date
17-02	\$124,773.47	\$124,773.47	\$0.00	\$0.00	\$124,773.47	\$124,773.47
Percent Retained: 0.0000%						
Amount Paid This Final Pay Request					\$124,773.47	

I hereby certify that a Final Examination has been made of the noted Contract, that the Contract has been completed,
that the entire amount of Work Shown in this Final Voucher has been performed and the Total Value of the Work Performed
in accordance with, and pursuant to, the terms of the Contract is as shown in this Final Voucher.

Approved By Sandy, Paul G
c0d44009702fc2d8c6f0b40a1d2e21f0
0a245aecc2dd1369f0516a535bb53c6d
County/City/Project Engineer
06/06/2017

Approved By
Marquis, Averre
6395be64dfc926a4bcd921db4186622d
9fcd03475c4d4ffa56b1ce51ceccb03b
Contractor

CITY OF BRAINERD ENGINEERING

Project 17-02 - 2017 CHIP SEAL PROJECT
Final Pay Request No. 1

Contractor: Asphalt Preservation Company Inc. 22923 N Pearl Lake Rd Detroit Lakes, MN 56501

Date

Contract No.	2017-3
Vendor No.	N/A
For Period:	5/22/2017 - 6/2/2017
Warrant # _____	Date _____

06/06/2017
Date

CITY OF BRAINERD ENGINEERING

Project No. 17-02
Final Pay Request No. 1

17-02 Payment Summary

No.	From Date	To Date	Work Certified Per Request	Amount Retained Per Request	Amount Paid Per Request
1	05/22/2017	06/02/2017	\$124,773.47	\$0.00	\$124,773.47
Totals:			\$124,773.47	\$0.00	\$124,773.47

17-02 Funding Category Report

Funding Category No.	Work Certified To Date	Less Amount Retained	Less Previous Payments	Amount Paid This Request	Total Amount Paid To Date
000	124,773.47	0.00	0.00	124,773.47	124,773.47
Totals:		\$124,773.47	\$0.00	\$0.00	\$124,773.47

17-02 Funding Source Report

Accounting No.	Funding Source	Amount Paid This Request	Revised Contract Amount	Funds Encumbered To Date	Paid To Contractor To Date
401-41702-5530	Local-City of Brainerd	124,773.47	105,797.01	105,797.01	124,773.47
Totals:		\$124,773.47	\$105,797.01	\$105,797.01	\$124,773.47

CITY OF BRAINERD ENGINEERING

Project No. 17-02
Final Pay Request No. 1**17-02 Project Item Status**

Line	Item	Description	Units	Unit Price	Contract Quantity	Quantity This Request	Amount This Request	Quantity To Date	Amount To Date
2017 SEAL COAT									
1	2021.501	MOBILIZATION	LS	\$7,000.00	1	1	\$7,000.00	1	\$7,000.00
2	2355.502	BITUMINOUS MATERIAL FOR FOG SEAL	GAL	\$0.72	8293	10721	\$7,719.12	10721	\$7,719.12
3	2356.505	BITUMINOUS MATERIAL FOR SEAL COAT	GAL	\$1.69	24177	28343	\$47,899.67	28343	\$47,899.67
4	2356.506	BITUMINOUS SEAL COAT	S Y	\$0.68	69069	84051	\$57,154.68	84051	\$57,154.68
5	2563.601	TRAFFIC CONTROL	LS	\$5,000.00	1	1	\$5,000.00	1	\$5,000.00
Totals For 2017 SEAL COAT:							\$124,773.47		\$124,773.47
Project Totals:							\$124,773.47		\$124,773.47



Brainerd City Council Agenda Request

Agenda Item #

Requested Meeting Date:

Title of Item:

☐ INFORMATION ONLY ☐ CONSENT AGENDA ☐ P&F COMMITTEE ☐ SPW COMMITTEE ☐ MAIN AGENDA	Action Requested: ☐ Approve/Deny Motion ☐ Adopt Resolution (attach draft) ☐ Direction Requested ☐ Discussion Item ☐ Hold Public Hearing* ☐ Ordinance 1 st Reading <i>*provide copy of published hearing notice</i>
Submitted by:	Department:
Presenter (Name & Title):	Estimated Time Needed:
Summary of Issue:	
Alternatives, Options, Effects on Others/Comments:	
Recommended Action/Motion:	
Financial Impact: <i>Is there a cost associated with this request:</i> ☐ Yes ☐ No <i>What is the total cost, with tax and shipping</i> \$ _____ <i>Is this budgeted?</i> ☐ Yes ☐ No <i>Please Explain:</i>	

Section 1310 – Parking Regulations

1310.01 General Rule. Subdivision 1. Parallel and Angle Parking. Every vehicle parked upon any street with a curb shall be parked parallel to the right hand curb and with the right hand wheels of such vehicle within 12 inches of the curb, except on streets where angle parking is required and designated. On any such street every vehicle parked shall be parked with the front of such vehicle facing the curb or away from the traveled portion of the street at an angle of approximately 45 degrees from the direction of travel on the adjacent traffic lane and facing between the painted marking on the street or curb indicating the parking space. No vehicle longer than a standard manufactured passenger vehicle or longer than a standard manufactured light duty pickup or van rated one ton or less and no vehicle with a trailer attached shall be parked in any angle parking area or space. On any street without a curb, every vehicle shall be parked to the right of the main traveled portion thereof and parallel thereto facing the direction of travel in the adjacent traffic lane and in such a manner as not to interfere with the free flow of traffic.

(Amended Ord. 1239 – 2004)

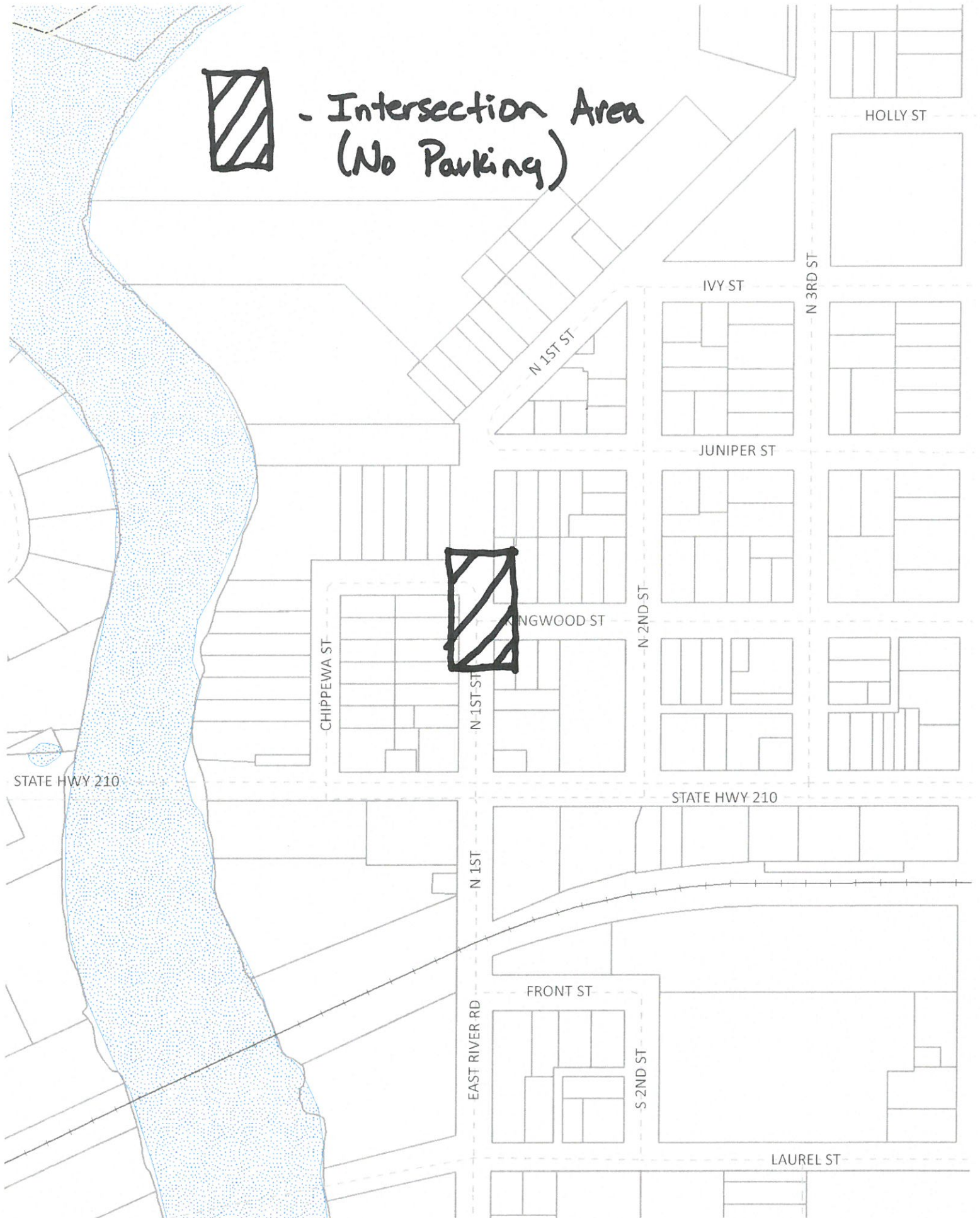
1310.03 Ignition in Parking Vehicles. Every person parking a passenger automobile on any public street or alley in the City shall lock the ignition, remove the key and take the same with him.

1310.05 Parking Prohibited. Subdivision 1. General Rule. No person shall park a vehicle or permit it to stand, whether attended or unattended, upon any highway within the City, in any of the following places:

- a) on a sidewalk or boulevard;
- b) in front of a public or private driveway;
- c) within an intersection;
- d) within 15 feet of a fire hydrant;
- e) on a crosswalk;
- f) within 20 feet of a crosswalk at an intersection;
- g) within 30 feet of any flashing beacon, stop sign, or traffic control signal located at the side of a roadway;

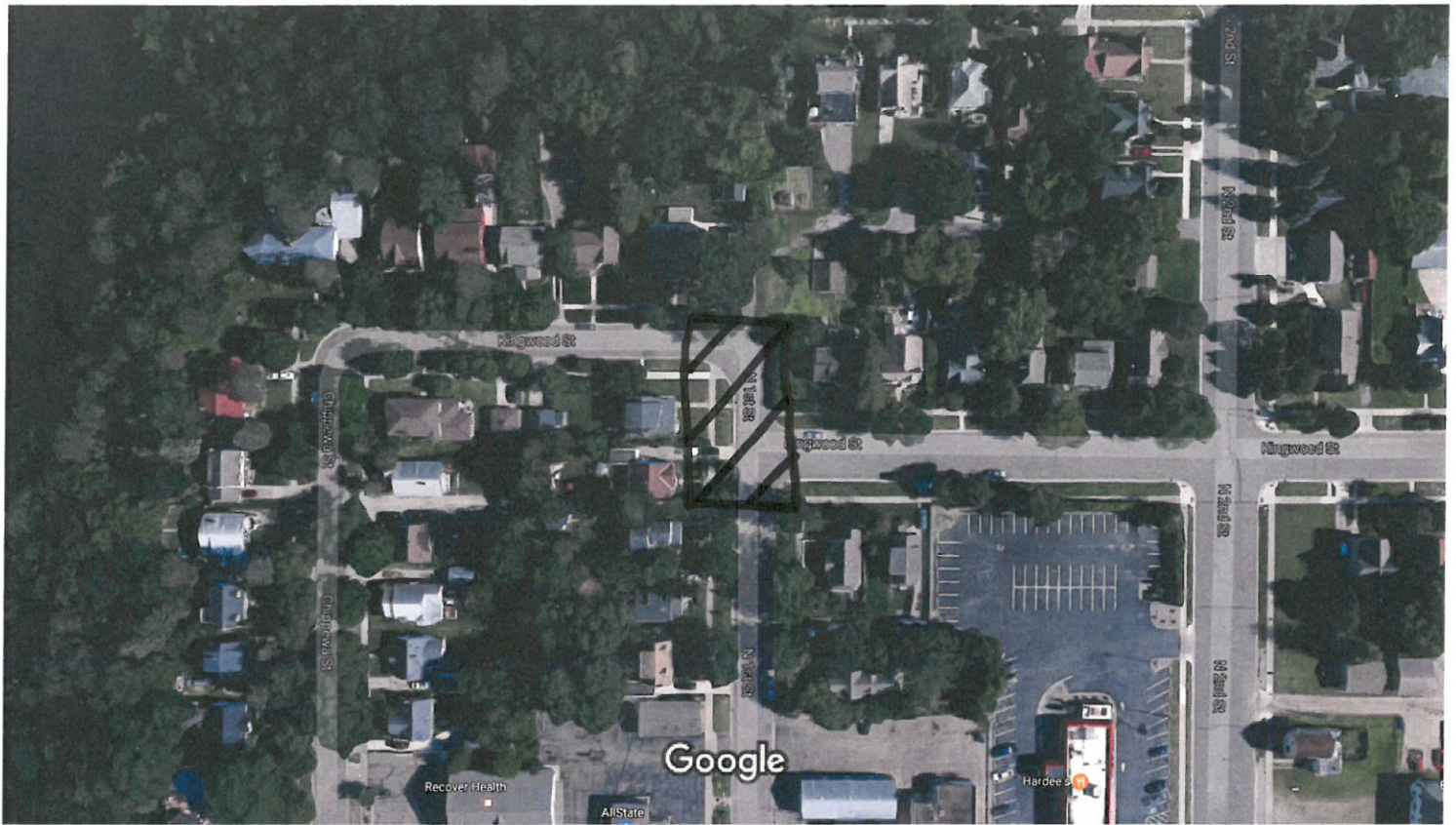


- Intersection Area
(No Parking)





Kingwood Street and N 1st Street Parking Request



Imagery ©2017 Google, Map data ©2017 Google 50 ft

 - Intersection Area (No Parking)



Brainerd City Council Agenda Request

Agenda Item #

Requested Meeting Date:

Title of Item:

☐ INFORMATION ONLY ☐ CONSENT AGENDA ☐ P&F COMMITTEE ☐ SPW COMMITTEE ☐ MAIN AGENDA	Action Requested: ☐ Approve/Deny Motion ☐ Adopt Resolution (attach draft) ☐ Direction Requested ☐ Discussion Item ☐ Hold Public Hearing* ☐ Ordinance 1 st Reading <i>*provide copy of published hearing notice</i>
Submitted by:	Department:
Presenter (Name & Title):	Estimated Time Needed:
Summary of Issue:	
Alternatives, Options, Effects on Others/Comments:	
Recommended Action/Motion:	
Financial Impact: <i>Is there a cost associated with this request:</i> ☐ Yes ☐ No <i>What is the total cost, with tax and shipping</i> \$ _____ <i>Is this budgeted?</i> ☐ Yes ☐ No <i>Please Explain:</i>	

PETITION FOR STREET OR ALLEY VACATION

Date MAY 7, 2017

Brainerd, Minnesota

To the City Council of Brainerd, Minnesota:

We, the undersigned, owners of real estate abutting on the following described street or alley hereby
petition that such street be vacated as follows:

SEE ATTACHED.

in accordance with the provisions of Brainerd City Code Section 810.

<u>NAME</u>	<u>ADDRESS</u>	<u>LOT</u>	<u>BLOCK</u>	<u>ADDITION</u>
<u>RICHARD W. JENSEN JR.</u>	<u>1028 TERRACE AVE</u>			

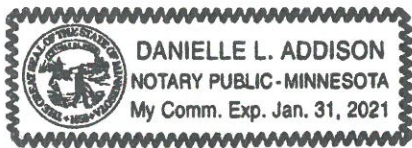
		<u>LOT 13</u>	<u>TERRACE PARK ADDITION</u>	
--	--	---------------	------------------------------	--

STATE OF MINNESOTA }
 }
COUNTY OF CROW WING }

Richard Jensen Jr., being duly sworn on oath, deposes and says that he/she is the property owner in regard to the above entitled petition; that he/she has read the foregoing petition which includes the signatures of abutting property owners and knows the contents and signatures thereof; and that the same are true of his own knowledge, save and except as to those matters therein stated on information and belief, and to such matters, he/she believes it to be true.



Subscribed and sworn to before me
this 7 day of June, 2017
Danielle Addison





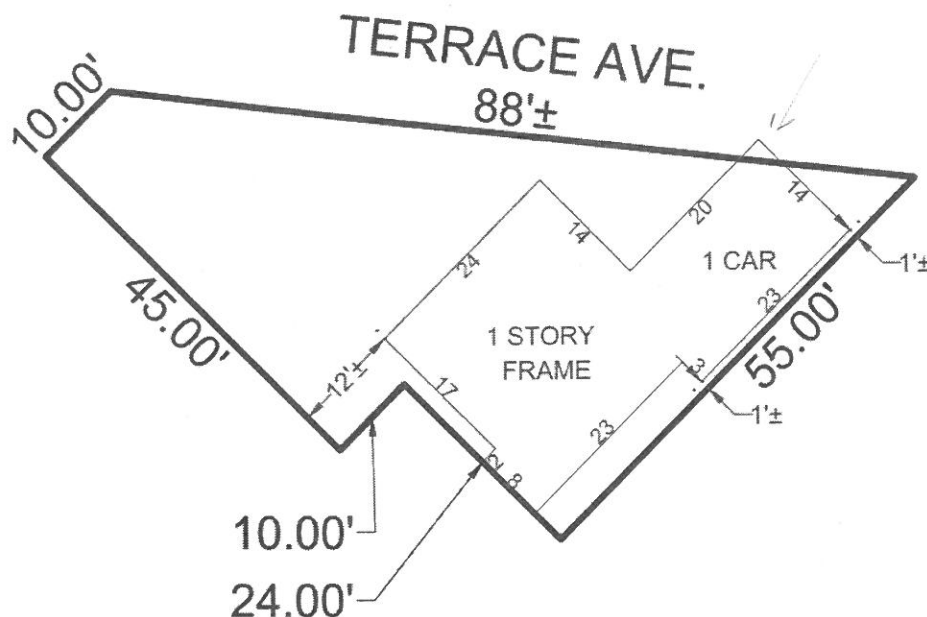
EPIC PROPERTY SERVICES

EPIC PROPERTY SERVICES, INC.

PROPERTY SKETCH

ENCROACHED

20 Scale



1028 TERRACE AVE.

BRAINERD

THIS IS NOT A SURVEY NOR SHOULD THIS BE USED AS A SURVEY TO LOCATE FUTURE IMPROVEMENTS. This drawing is for residential mortgage informational purposes only. The information relating to the property dimensions is based upon the recorded plat or maps in the county records. The improvements location and dimensions shown are approximate and based upon a visual inspection.



Corporation or Partnership
to Corporation or PartnershipNo delinquent taxes and transfer entered; Certificate
of Real Estate Value () filed (✓) not required
Certificate of Real Estate Value No.

August 6, 2008 19

Deborah A. Erickson

County Auditor

by R&J

091930010133009 PT

Deputy

0807777

STATE DEED TAX DUE HEREON: \$ 1.65

Date: June 30, 2008

Total Consideration is \$500.00 or Less

FOR VALUABLE CONSIDERATION, CITY OF BRAINERD

, a municipal corporation under the laws of
Minnesota, Grantor, hereby conveys and quitclaims to CitiMortgage, Inc.a corporation under the laws of , real property in
Crow Wing County, Minnesota, described as follows:

A temporary easement over that portion of Terrace Avenue adjacent to Lot 13, Block 1, Terrace Park Addition to the City of Brainerd described as follows: Commencing at a point located at the Northeast corner of Lot 13, Block 1, Terrace Park Addition to the City of Brainerd, thence West along the North line of said Lot 13 a distance of ten feet (10') to the point of beginning of the temporary easement to be described, thence North for a distance of five feet (5') at a right angle to the North line of Lot 13; thence west for a distance of twelve feet (12') on a line parallel with and five feet (5') distant from the North line of Lot 13 to a point; thence south for a distance of five feet (5') at a right angle to the line just described to a point on the North line of Lot 13 which is twelve feet (12') distant from the point of beginning; thence East along the North line of Lot 13 a distance of twelve feet (12') to the point of beginning. This easement shall be automatically extinguished upon the occurrence of either of the following events: 1) removal or destruction of the existing garage which is encroaching into the area described above, or 2) expansion of the existing garage within the area described above. (If more space is needed, continue on back)

together with all hereditaments and appurtenances belonging thereto.

Affix Deed Tax Stamp Here

WELL CERTIFICATE
RECEIVED () NOT REQUIRED (✓)

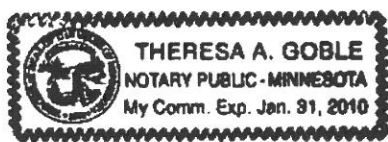
STATE OF MINNESOTA

COUNTY OF CROW WING

ss.

The foregoing was acknowledged before me this 30th day of June, 2008
by James E. Wallin and Daniel J. Vogt
the Mayor and City Administrator
of City of Brainerd, a municipal corporation
under the laws of Minnesota, on behalf of the City of Brainerd

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK)



THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS):

Thomas Fitzpatrick
Brainerd City Attorney
P.O. Box 367
Brainerd, MN 56401-0367
Telephone: 218-828-2775
Attorney Registration #29865

RETURN TO: 8-09204
Burnet Title

435112

RETURN TO:
France Ave.
Edina, MNOffice of County Recorder
County of Crow Wing, MNI hereby certify that the within instrument was filed
in this office for record on the 6 day of Aug
A.D. 2008 at 5 o'clock P.M.
and was duly recorded as Doc No. 0751700

County Recorder
Deputy

(reserved for recording data)

CITY OF BRAINERD

By James E. Wallin
Its James E. Wallin, MayorBy Daniel J. Vogt
Its Daniel J. Vogt
City Administrator

SIGNATURE OF PERSON TAKING ACKNOWLEDGMENT

Tax Statements for the real property described in this instrument should
be sent to (Include name and address of Grantee):

No Change

CURRENT TAX CERTIFICATION
() REQUIRED (✓) NOT REQUIRED

DATE August 6, 2008 REC# 101635
DEED TAX HEREON OF \$ 1.65
DEBORAH A. ERICKSON, BY R&J
CROW WING COUNTY AUDITOR

700

CURRENT TAX CERTIFICATION
() REQUIRED ☒ NOT REQUIRED
CERTIFICATE OF REAL ESTATE VALUE
() FILED ☒ NOT REQUIRED
NO DELINQUENT TAXES TRANSFER ENTERED
DATE Aug 27 2013 REC# 218981
DEED TAX HEREON OF \$ 1.65
LAUREEN E. BORDEN, BY lw
CROW WING COUNTY AUDITOR TREASURER
TRANSFER # 1306155
RE CODE: 09193001013Z009

Office of County Recorder
County of Crow Wing, MN }

I hereby certify that the within instrument was filed
in this office for record on the 27 day of Aug
A.D. 2013 at 3:58 o'clock P.M.
and was duly recorded as Doc. No

0834735

By Dorothy Albertson County Recorder
Deputy

Minnesota Uniform Conveyancing Blanks
Form No.29-M-QUIT CLAIM DEED
Individual(s) to Joint Tenants

eCRV:
STATE DEED TAX DUE HEREON: \$1.65
Date: August 1, 2013

FOR VALUABLE CONSIDERATION, Richard W. Jensen Jr. and Lana J. Jensen, husband and wife, Grantor(s), hereby convey(s) and quitclaim(s) to Richard W. Jensen Jr. and Lana J. Jensen, husband and wife, Grantees as joint tenants, real property in Crow Wing County, Minnesota, described as follows:

o Lot Thirteen (13), Block One (1) and the East Ten (10) feet of Lots Seven (7) and Eight (8), Block One (1), Terrace Park Addition to the City of Brainerd

Consideration is less than \$500.

together with all hereditaments and appurtenances belonging thereto.

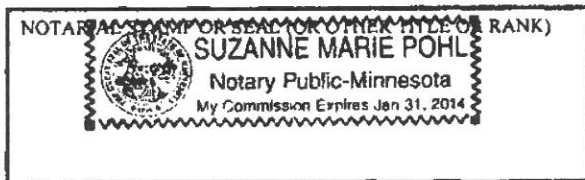
Affix Deed Tax Stamp here



Richard W. Jensen Jr.
Richard W. Jensen Jr.
Lana J. Jensen
Lana J. Jensen

STATE OF MINNESOTA
COUNTY OF CROW WING

The foregoing instrument was acknowledged before me this 1st day of August, 2013, by Richard W. Jensen Jr. and Lana J. Jensen, husband and wife, Grantor(s).



SIGNATURE OF PERSON TAKING
ACKNOWLEDGMENT

Tax Statements for the real property described in this instrument
should be sent to (Include name and address of Grantee)

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS)

Cygnature Title & Abstract, Inc.
13432 Elmwood Drive, Suite 1 Baxter, MN 56425

13-49712B

RETURN TO

Richard W. Jensen Jr. and Lana J. Jensen
919 Bluff Avenue
Brainerd, MN 56401



Brainerd City Council Agenda Request

Agenda Item #

Requested Meeting Date:

Title of Item:

☐ INFORMATION ONLY ☐ CONSENT AGENDA ☐ P&F COMMITTEE ☐ SPW COMMITTEE ☐ MAIN AGENDA	Action Requested: ☐ Approve/Deny Motion ☐ Adopt Resolution (attach draft) ☐ Direction Requested ☐ Discussion Item ☐ Hold Public Hearing* ☐ Ordinance 1 st Reading <i>*provide copy of published hearing notice</i>
Submitted by:	Department:
Presenter (Name & Title):	Estimated Time Needed:
Summary of Issue:	
Alternatives, Options, Effects on Others/Comments:	
Recommended Action/Motion:	
Financial Impact: <i>Is there a cost associated with this request:</i> ☐ Yes ☐ No <i>What is the total cost, with tax and shipping</i> \$ _____ <i>Is this budgeted?</i> ☐ Yes ☐ No <i>Please Explain:</i>	

RESOLUTION
NO _____

**A RESOLUTION AUTHORIZING AN AGREEMENT WITH THE STATE OF MINNESOTA TO PROVIDE
PUBLIC TRANSPORTATION SERVICES IN THE YEAR 2018**

BE IT RESOLVED, that the City of Brainerd enters into an Agreement with the State of Minnesota to provide public transportation services in Crow Wing County and selected areas of Cass County in 2018; and

BE IT RESOLVED, that the City of Brainerd agrees to provide a local share of 15 percent of the total operating cost and 20 percent of the total capital costs; and

BE IT RESOLVED, that the City of Brainerd agrees to provide 100 percent of the local share necessary for expenses that exceed funds available from the State; and

BE IT RESOLVED, that the persons authorized to submit Requests for Funds (RFFs) to the State of Minnesota are the Transit Coordinator and Accounts Payable Administrative Specialist; and

BE IT FURTHER RESOLVED, that the City of Brainerd authorizes the Mayor and the City Administrator to execute the aforementioned Agreement and any amendments thereto.

Adopted this _____ day of _____, 201__

DAVID J. PRITSCHET
President of the Council

Approved this _____ day of _____, 201__

EDWIN L. MENK
Mayor

ATTEST: _____
JAMES M. THOREEN
City Administrator



Brainerd City Council Agenda Request

Agenda Item #

Requested Meeting Date:

Title of Item:

☐ INFORMATION ONLY ☐ CONSENT AGENDA ☐ P&F COMMITTEE ☐ SPW COMMITTEE ☐ MAIN AGENDA	Action Requested: ☐ Approve/Deny Motion ☐ Adopt Resolution (attach draft) ☐ Direction Requested ☐ Discussion Item ☐ Hold Public Hearing* ☐ Ordinance 1 st Reading <i>*provide copy of published hearing notice</i>
Submitted by:	Department:
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Alternatives, Options, Effects on Others/Comments:	
Recommended Action/Motion:	
Financial Impact: <i>Is there a cost associated with this request:</i> ☐ Yes ☐ No <i>What is the total cost, with tax and shipping</i> \$ _____ <i>Is this budgeted?</i> ☐ Yes ☐ No <i>Please Explain:</i>	



Building a Better World
for All of Us®

June 15, 2017

RE: *Professional Services Contract Amendment*
City of Brainerd, Minnesota
2016 Brainerd Airport Utility Extension
City No. 14-15
SEH No. BRDMN 131759
WSN No. 0101B0042.002

Mr. Paul Sandy, PE
City Engineer
City of Brainerd
501 Laurel Street
Brainerd, MN 56401

Dear Mr. Sandy:

The SEH WSN Team is seeking approval of a fee amendment to the Construction Phase Professional Services contract for ongoing support and coordination of the Contractor correcting defective work. This amendment is needed as our current contract was based on services through the construction contract final completion date of June 2, 2107. The project is still incomplete and is currently anticipated not to be completed until late summer or fall of 2017.

The main work remaining is correcting 3 segments of water main that are not passing hydrostatic pressure tests in Project Area 1 along TH 210. There is also a segment of gravity sanitary sewer main in Lum Park that requires grade correction. There are also other miscellaneous punch list items needing to be addressed. The Contractor is focusing his efforts on the water main repairs, which has been the case since resuming work in 2017. There are currently no connections to the new water main.

Change Order No. 6 amended the final contract completion date from December 14, 2016 to June 2, 2017. Liquidated Damages in the amount of \$900 per day or \$6,300 per week went into effect starting June 3, 2017.

The SEH WSN Team has been diligently monitoring the previously approved professional services amended budget with targeted construction observation and administration. Our goal moving forward is to budget our services to average up to \$6,300 per week. This allows for approximately 28 hours of field observation time, a construction progress meeting, and normal administration time per week.

SEH's scope excludes support, management and defending the Owner's pursuit of liquidated damages and excludes legal/litigation support, rather these are additional services beyond the current fee amendment request and in place contracts. Also excluded are services in connection with possible new permitting applications associated with the corrective work and or re-design of alternate solutions.

Engineering construction phase services are highly dependent on factors beyond the engineer's control such as the contractor's management of schedule, progress, intensity and quality of work; his response to corrective work directives; the weather; and site conditions, that can all result in more time needed to administer and observe construction. Attached is a SEH Agreement for Professional Services for the requested fee amendment.

Engineers | Architects | Planners | Scientists

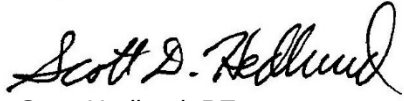
Short Elliott Hendrickson Inc., 416 South 6th Street, Suite 200, Brainerd, MN 56401-3540

SEH is 100% employee-owned | sehinc.com | 218.855.1700 | 866.852.8880 | 888.908.8166 fax

Mr. Paul Sandy, PE
June 15, 2017
Page 2

Thank you for your consideration. If you have any questions, please feel free to call.

Sincerely,

A handwritten signature in black ink that reads "Scott D. Hedlund". The signature is fluid and cursive, with the first name "Scott" and last name "Hedlund" clearly legible.

Scott Hedlund, PE
Sr. Project Manager

sh/mrb

Enclosure

c: Jim Thoreen, City of Brainerd

Dave Reese, WSN

p:\ae\b\brdmn\131759\1-gen\10-setup-cont\03-proposal\construction phase\june 2017 ca fee amend\l city seh wsn construction services contract fee amendment - 061517.docx

Agreement for Professional Services

This Agreement is effective as of June 3, 2017, between City of Brainerd, Minnesota (Client) and Short Elliott Hendrickson Inc. (Consultant).

This Agreement authorizes and describes the scope, schedule, and payment conditions for Consultant's work on the Project described as: Brainerd Airport Utility Extension – Construction Services: Defective Work Support and Coordination.

Client's Authorized Representative: Paul Sandy, PE
Address: 501 Laurel Street
Brainerd, MN 56401
Telephone: 218.828.2309 **email:** psandy@ci.brainerd.mn.us

Project Manager: Scott D. Hedlund, PE
Address: 416 South 6th Street, Suite 200
Brainerd, MN 56401
Telephone: 218.855.1705 **email:** shedlund@sehinc.com

Scope: The Basic Services to be provided by Consultant as set forth herein is provided subject to the attached General Conditions of the Agreement for Professional Services (General Conditions Rev. 12.07.15) which is incorporated by reference herein and subject to Exhibits attached to this Agreement, and the scope of services outlined in attached **Exhibit A** Work Plan Summary and Fee Estimate, and SEH letter dated 04/12/17.

Construction Phase Services

During the construction phase, SEH professionals shall:

1. Make visits to the site at intervals appropriate to the various stages of construction to observe as an experienced and qualified design professional the progress and quality of the executed work of the Contractor(s), and to determine in general, if such work is proceeding in accordance with the Contract Documents. The Owner has not retained SEH to make exhaustive or continuous on-site inspections to check the quality or quantity of such work.

SEH shall not be responsible for the means, methods, techniques, sequences, or procedures of construction selected by the Contractor(s), or the safety precautions and programs incidental to the work of the Contractor(s). SEH efforts will be directed toward providing a greater degree of confidence for the Owner that the completed work of the Contractor will conform to the Contract Documents, but SEH shall not be responsible for the Contractor's failure to perform the construction work in accordance with the Contract Documents.

During such visits and on the basis of on-site observations, SEH will keep the Owner informed of the progress of the work and will endeavor to guard the Owner against defects and deficiencies in the work of the Contractors. This obligation does not include anything related to safety. It is agreed that safety matters are Contractor's responsibility.

2. Review samples, schedules, shop drawings, the results of tests and inspections and other data which the Contractor is required to submit, but only for conformance with the design concept of the project and compliance with the information given in the Contract Documents. Such review shall not extend to means, methods, sequences, techniques or procedures of construction or to safety precautions and programs incidental thereto. SEH shall receive and review (for general content as required by the specification), maintenance and operating instructions, schedules, guarantees, bonds and certificates of inspection which are to be assembled by the Contractor in accordance with the Contract Documents.

3. Consult with and advise the Owner, act as the Owner's representative at the Project site, issue all instructions of the Owner to the Contractor, and prepare routine change orders as required.
4. Review the Contractor's Application for Payment, determine the amount owing the Contractor, and make recommendations to the Owner regarding the payment thereof.

SEH's recommendations constitute a representation to the Owner that, to the best of SEH's knowledge, information, and belief, the work has progressed to the point indicated on said application, and the quality of work is in accordance with the Contract Documents, subject to the results of any subsequent test called for by the Contract Documents, and any qualifications stated in their recommendations.

SEH's responsibilities under this paragraph are subject to the limitations set out in paragraph 1.
5. Conduct a site visit to determine if the project is substantially complete. Such site visits may include representatives from the Owner. If the Contractor has fulfilled all of his obligations, SEH may give written notice to the Owner that the work is acceptable for final payment.
6. Provide construction surveys and staking to enable the Contractor to perform its work.
7. Providing assistance in the start-up, testing, adjusting and balancing during operation of pumping equipment or systems, and reviewing Contractor-prepared operating and maintenance manuals.
8. Provide Resident Project Representation (RPR) services as described in Exhibit B.
9. Furnish the Owner a set of reproducible record prints of drawings and addendum drawings showing those changes made during the construction process, based on the marked up prints, drawings, and other data furnished by the Contractor to SEH.

Additional Services

1. If authorized by the Owner, SEH shall furnish additional services:
 - (a) Preparation of applications and supporting documents for government grants, loans, or advances.
 - (b) Preparation or review of environmental assessment worksheets and environmental assessment impact statements.
 - (c) Review and evaluation of any statements or documents prepared by others and their effect on the requirements of the project.
 - (d) Additional services due to significant changes in the general scope of the Project or its design including but not limited to, changes in size, complexity of character or type of construction.
 - (e) Preparing Change Orders or other services and supporting data or providing other services in connection with changed project conditions which are inconsistent with the original design intent including, but not limited to, changes in project size, complexity, Owner's schedule, character of construction or method of financing.
 - (f) Providing professional services made necessary by the default of the Contractor or by major defects in the Work of the Contractor in the performance of the Construction Contract.
 - (g) Providing any type of property surveys or related engineering services needed for the transfer of interests in real property and providing other special field surveys.
 - (h) Providing services in support of Owner's pursuit, collection, and or defense of liquidated damages.
 - (i) Providing services after issuance to the Owner of the final Certificate for Payment.
 - (j) Providing services of professional consultants for other than the normal services stated in the Agreement.
 - (k) Preparation of descriptions for permanent and/or temporary easements.
 - (l) Serving as an expert witness for the Owner in any litigation or other proceedings.
 - (m) Assistance in connection with Bid protests, rebidding or renegotiating contracts for construction, materials, equipment, or services, except when such assistance is required by the Agreement.
 - (n) Assistance responding to alleged violations with and or application for new Agency permits such as WCA and USACE (wetland) and MnDNR related to corrective work.
 - (o) Additional services not otherwise provided for in this Agreement.

2. Required Additional Services: SEH shall perform or furnish (without requesting or receiving specific advance authorization from Owner) the types listed below. SEH shall advise Owner in writing promptly after starting any such Additional Services.
- (a) Services in connection with Work Change Directives and Change Orders to reflect changes requested by Owner, so as to make the compensation commensurate with the extent of the Additional Services rendered.
 - (b) Services in making revisions to Drawings and Specifications required by reviewing authorities or occasioned by the acceptance of substitute materials or equipment other than "or-equal" items; and services after the award of the Construction Agreement in evaluating and determining the acceptability of a substitution which is found to be inappropriate for the Project or an excessive number of substitutions.
 - (c) Services resulting from significant delays, changes, or price increases occurring as a direct or indirect result of materials, equipment, or energy shortages.
 - (d) Additional or extended services during construction made necessary by (1) emergencies or acts of God endangering the Work, (2) an occurrence of a Hazardous Environmental Condition, (3) Work damaged by fire or other cause during construction, (4) defective, neglected, or delayed work by Contractor, (5) acceleration of the progress schedule involving services beyond normal working hours, or (6) default by Contractor.
 - (e) Services in connection with any partial utilization of any part of the Work by Owner prior to Substantial Completion.
 - (f) Evaluating an unreasonable claim or an excessive number of claims submitted by Contractor or others in connection with the Work.

RPR services will be provided in accordance with attached **Exhibit B**.

Schedule: Our services are ongoing until project construction is complete as the construction Contractor failed to meet the contract final completion date of June 2, 2017. The current anticipated final completion is late summer or fall of 2017.

Payment: The fee is hourly estimated to be \$6,300.00 per week including expenses and equipment until construction is completed.

The payment method, basis, frequency and other special conditions are set forth in attached **Exhibit A-1**.

This Agreement for Professional Services, attached General Conditions, Exhibits and any Attachments (collectively referred to as the "Agreement") supersedes all prior contemporaneous oral or written agreements and represents the entire understanding between Client and Consultant with respect to the services to be provided by Consultant hereunder. In the event of a conflict between the documents, this document and the attached General Conditions shall take precedence over all other Exhibits unless noted below under "Other Terms and Conditions". The Agreement for Professional Services and the General Conditions (including scope, schedule, fee and signatures) shall take precedence over attached Exhibits. This Agreement may not be amended except by written agreement signed by the authorized representatives of each party.

Other Terms and Conditions: Other or additional terms contrary to the General Conditions that apply solely to this project as specifically agreed to by signature of the Parties and set forth herein: None.

p:\ae\lb\brdmn\131759\1-gen\10-setup-cont\03-proposal\construction phase\june 2017 ca fee amend\letter agreement_construction defective work coord.docx

Short Elliott Hendrickson Inc.

City of Brainerd, Minnesota

By:



By:

Scott D. Hedlund, PE
Title: Senior Project Manager

Title:



Brainerd City Council Agenda Request

Agenda Item #

Requested Meeting Date:

Title of Item:

☐ INFORMATION ONLY ☐ CONSENT AGENDA ☐ P&F COMMITTEE ☐ SPW COMMITTEE ☐ MAIN AGENDA	Action Requested: ☐ Approve/Deny Motion ☐ Adopt Resolution (attach draft) ☐ Direction Requested ☐ Discussion Item ☐ Hold Public Hearing* ☐ Ordinance 1 st Reading <i>*provide copy of published hearing notice</i>
Submitted by:	Department:
Presenter (Name & Title):	Estimated Time Needed:
Summary of Issue:	
Alternatives, Options, Effects on Others/Comments:	
Recommended Action/Motion:	
Financial Impact: <i>Is there a cost associated with this request:</i> ☐ Yes ☐ No <i>What is the total cost, with tax and shipping</i> \$ _____ <i>Is this budgeted?</i> ☐ Yes ☐ No <i>Please Explain:</i>	

**ORDINANCE
NO. 1468**

**AN ORDINANCE AMENDING SECTION 1315 OF THE
BRAINERD CITY CODE PERTAINING TO PARKING
FOR STREET CLEANING AND SNOW REMOVAL**

THE CITY COUNCIL OF THE CITY OF BRAINERD DOES ORDAIN:

SECTION ONE: That Section 1315.03 be amended by deleting the first paragraph of the Section in its entirety and substituting in lieu thereof the following:

1315.03 Snow Emergencies. In the event of an accumulation of snow which necessitates the removal of snow from the streets of the City, the City Engineer may declare a snow emergency by means of local news media and social media. Upon declaration of a snow emergency, parking is banned on all snow emergency routes for a period of 48 hours. On the first day of said declared snow emergency, there shall be no parking on all north/south streets (or streets that predominantly run north and south), all streets lying west of the Mississippi River, and all streets south of Wright Street, excluding all streets within the Downtown Special Services District as described in Subd. 1. On the second day of said declared snow emergency, there shall be no parking on all east/west streets, or streets that run predominantly east and west, excluding all streets within the Downtown Special Services District as described in Subd. 1 and streets that were covered on day 1.

SECTION TWO: That Section 1315.03 Subd. 1 be amended by deleting the first paragraph of the Section in its entirety and substituting in lieu thereof the following:

Subd. 1. Downtown Special Services District Snow Removal Parking Regulations. That during a snow emergency, there shall be no parking of motor vehicles, trailers, and conveyances on the streets in the City's Downtown Special Services District, within the area bounded by the railroad tracks on the north, Maple Street on the south, South Sixth Street on the west, and South Eighth Street on the East, between the hours of 3:00 a.m. and 9:00 a.m. or until the snow has been removed from the street and sidewalks on that block.

SECTION THREE: That Section 1315.03 Subd. 4 be amended by deleting the first paragraph of the Section in its entirety and substituting in lieu thereof the following:

Subd. 4. Parking Regulation Enforcement. When a snow emergency is declared, vehicles that are plowed around and in violation of this section will be ticketed accordingly. Vehicles parked and/or plowed around on Snow Emergency Routes or in violation of Subd. 1 will be ticketed and towed immediately at the owner's expense. Vehicles that are plowed around on all other streets and not moved within 48 hours after the issuance of the ticket will be in violation of Section 1310.05 r of the City Code and towed at the owner's expense.

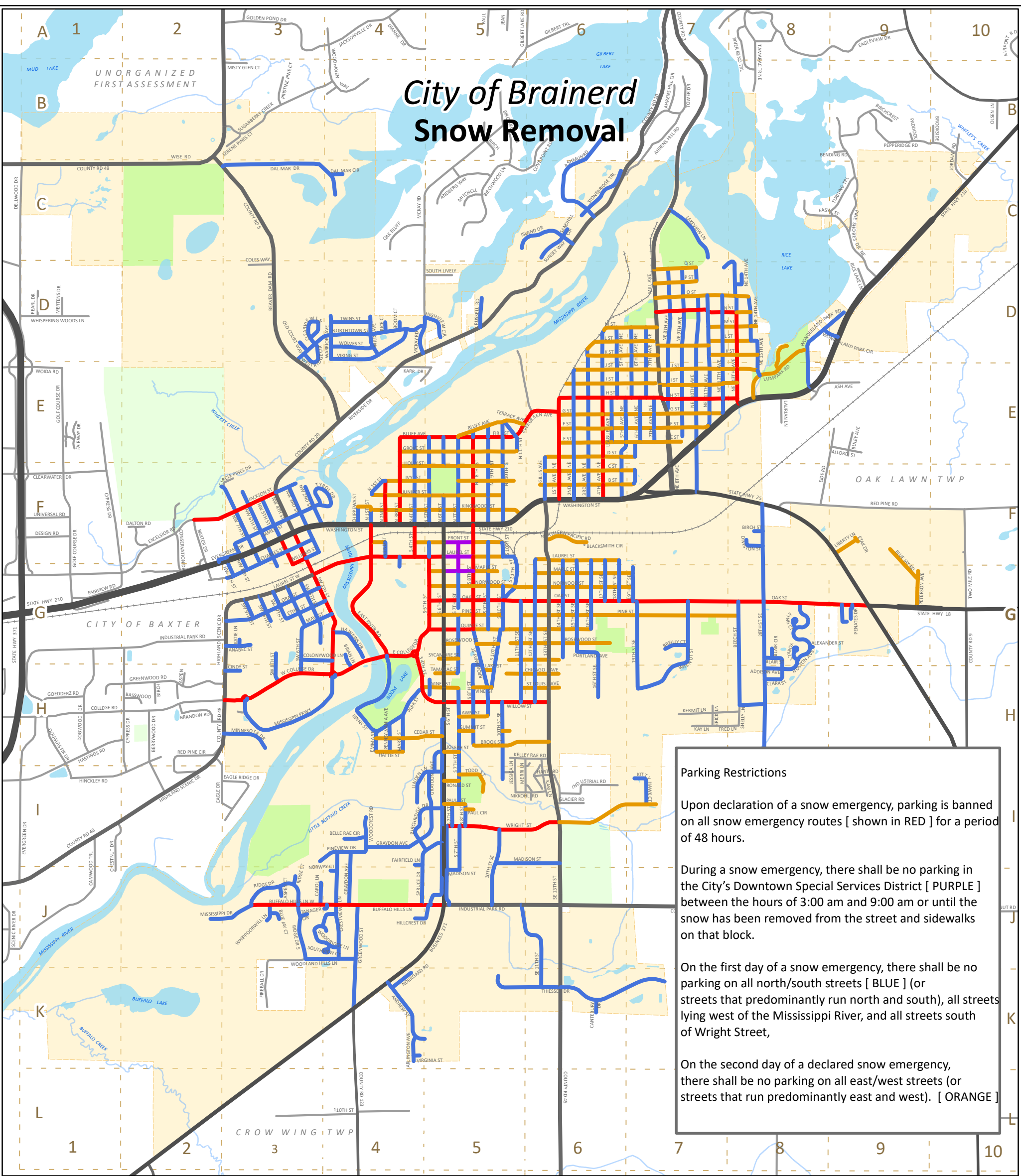
Adopted this _____ day of _____, 2017

DAVID J. PRITSCHET
President of the Council

Approved this _____ day of _____, 2017

EDWIN L. MENK
Mayor

ATTEST: _____
JAMES M. THOREEN
City Administrator



City of Brainerd Snow Removal

Parking Restrictions

Upon declaration of a snow emergency, parking is banned on all snow emergency routes [shown in RED] for a period of 48 hours.

During a snow emergency, there shall be no parking in the City's Downtown Special Services District [PURPLE] between the hours of 3:00 am and 9:00 am or until the snow has been removed from the street and sidewalks on that block.

On the first day of a snow emergency, there shall be no parking on all north/south streets [BLUE] (or streets that predominantly run north and south), all streets lying west of the Mississippi River, and all streets south of Wright Street,

On the second day of a declared snow emergency, there shall be no parking on all east/west streets (or streets that run predominantly east and west). [ORANGE]

1st Ave NE	E6-F6	10th Ave NE	D7-F7	Bluff Ave	E4-E5	East River Rd	F4-G4	Jordan Rd	B10-C10	Nikkohl Rd *	I5-I6	Stonebridge Ct	C6
1st St N	F5	10th St N	E5-F5	Breilly Ct	G7	Easy St	C8-C9	Joseph St	H5	Norwood St	G5-G7	Stonebridge Trl	C6
2nd Ave NE	E6-F6	10th St S	F5, G5	Brian Ln	G4	Emma St	H4	Juniper St	F4-F5	O St	D7-D8	Sugarberry Creek	B3-B4
2nd St N	F5	10th St SE	H5-I5	Broadway St	H5	Erick Ln *	H7	K St	D6-D8	Oak Lawn	G9-G10	Summit St	H5, H5
2nd St NW	F3	11th Ave NE	D7-E7	Brook St	H5-H6	Etak Dr	F9	Kari Ln *	H6-I6	Oak Ridge Rd	H8-L8	Sunset Way	C6
2nd St S	F4	11th St S	G5-G5	Boom Ct	D4	Ethel St	G3-G4	Katie Ln	G3	Oak St	G5-G9	Sycamore St	G5
3rd Ave NE	D6-F6	11th St SE	G5-K6	Buffalo Hills Ln E	J4-J5	Evergreen Ave	E5-E6	Kay Ln *	H7	Old Court Way	D3	Tamarac St	H5
3rd St N	E4-F4	12th Ave NE	D7-E7	Buffalo Hills Ln W	J3-J4	Evergreen Dr	F2-F3	Kelley Rae Rd *	H5-H6	P St	D7	Tanager Cir	J3
3rd St NW	F3	12th St SE	F6-H6	Business 371	J5-L2	F St	E6-E7	Kermit Ln *	H7-H8	Park St	H4	Terrace Ave	E5
3rd St S	F4	13th Ave NE	D7-E8	C St	F6-F7	Fairfield Ln	I4	King Ct	G8	Paul Cir / St	I5	Thiesse Dr	K5-K7
4th Ave NE	D6-F6	13th St SE	F6-J6	Cantebury Ct	K6	Fire St	E5	Kingwood St	F4-F5	Pennsylvania Ave	H4	Todd St	I5
4th St N	E4-F4	14th Ave NE	D8	Carol Ln	J3	Fireball Dr	J3-K3	Kitty Hawk Ct	I7	Peterson Ave	G9	Twins St	D4
4th St NW	F3	14th St SE	F6-G6	Cedar St	H4-H5	Fred Ln *	H7-H8	L St	D6-D8	Pine Shores Rd	B9-D9	Two Mile Rd	F10-H10
4th St SW	G3-H4	15th Ave NE	D8-E8	Charles St	F3-G3	Front St	F4-F5	Laurel St	F4-F6	Pine St	G5-G8	Tyrol Dr	F3-F4
5th Ave NE	D6-F6	15th St SE	F6-G6	Chicago Ave	H5-H6	G St	E6-E7	Laurel St W	F4-G3	Pineview Dr	I3-I4	Viking St	D4
5th St N	E5-F5	16th St SE	F6-G6	Chippewa St	F4	Gillis Ave	E6-F6	Lake St	H5	Portland Ave	G5-G6	Vine St	H4-H5
5th St NW	F3	17th St SE	F6-G6	Cindy St	H3	Glacier Rd *	I6	Lakeview Ln	C7	Q St	D7	Virginia St	K4
5th St S	F5-G5	18th St SE	F6-G6	Circle Pines Dr	F3	Graydon Ave	J4-H5	Lawn St	H5	Quince St	G5-G6	Walnut St	G7-H7
5th St SW	G3	19th St SE	G6-H6	Clara St	H8	Greenwood St	J4-K4	League Ave	E6	Red Pine Rd	F8-F10	Warrior Ave	D4
6th Ave NE	D7-E7	28th St SE	F8-H8	Clearview Ln	D3	Grove St	E4-E5	Liberty Ln	F9	Rice Ct	D4	Washington St	F3-F4
6th St N	E5-F5			Coles Way *	D3	H St	E6-H8	Linden Ln	E4-E5	Ridge Ct	J3	Washington St NE	F6-E8
6th St NW	F3	Addison Ave	H8	College Dr E	G4-G5	Hattie St	H4	Lum Park Rd	D8-E8	Ridge Dr	J3	Washington St W	F3-F4
6th St S	F5-J5	Alexander St	G8	College Dr W	H3-G4	Hart Rd *	I6	M St	D6-D8	Ridge Dr S	J3	Westridge Cir	D3
6th St SW	G3	Anabec St	G3	Colonywood Ln	G3-G4	Hawkins Dr	G4	Madison St	J5-I6	Riverside Dr	A7-F3	Whippoorwill Ln	J3
7th Ave Ne	D7-E7	Andrew St	K4	Cora St	G3	Highland Scenic Dr	G3-J1	Maple St	G5-G7	Robin Rd	F10-G10	Wild Ave	D4
7th St N	E5-F5	Arlington Ave	K4	County Rd 117	J5-J7	Highview Cir	D5	May St	G3-G4	Ronald St	I5	Williams St	F3
7th St NW	F3	Ashmun Rd	C6	County Rd 20	A7-F3	Hillcrest Dr	J4-J5	Mary St	H4	Rosewood St	G5-G6	Willow St	H4-H6
7th St S	F5-J5	Aspen Ct	J3	County Rd 3	A7-F7	Holly St	F4-F5	McKay Rd	D9	Russell Rd	D5	Wise Rd	A2-C2
7th St SW	G3	B St	F6-F7	County Rd 48	H3-1	Holton Ave	G8-H8	Meadowlark Ln	F9-F10	Sandhill Ct / Cir	C6	Wolves St	D4
8th Ave NE	D7-F7	Beaver Dam Rd	B2-E4	County Rd 49	A2-C2	I St	E6-E8	Merri Ln *	H6-I6	Serene Pines Ct	B3	Wonderland Park Cir	D8-D9
8th St N	E5-F5	Beech St	G8-H8	County Rd 45	F6-K6	Industrial Park Rd	J5-J7	Mill Ave	C7-E7	Shelly Ln *	H8	Wonderland Park Rd	E8-D9
8th St NW	F3	Belle Rae Cir	I4	County Rd 5	B2-E4	Industrial Rd	I6	Minnesota Dr	H3	Southview Ct	J4	Woodcrest Rd	I4
8th St S	F5-H5	Birch St	F8	Crestview Ln	I4-J4	Island Dr	C5-C6	Mississippi Pkwy	H3-H4	Spruce Dr	J4-I5	Woodland Hills Ln	J3-J4
8th St SW	G3	Birchridge Dr	I4-I5	Crow Wing Rd	G9-G10	Ivy St	F4-F5	Mississippi Dr	J2-J3	St Louis Ave	H5-H6	Woodridge Ln	J4
9th Ave NE	D7-E7	Blacksmith Cir	F6	D St	E6-E7	J St	E6-F8	N St	D7-D8	State Ave	G10	Wright St	I5-I7
9th St N	E5-F5	Blair Cir	G8	Dal-Mar Cir	C4	Jackson St	F3	Norrard Rd	K4	State Hwy 18	G9-G10	York Ct	G8
9th St NW	F3-G3	Blair St	G8	Dal-mar Dr	C3-C4	James St	F3	Northern Pacific Rd	F6	State Hwy 210	B10-G1		
9th St S	F5-H5	Blue Jay Ct	J3	Division St	F8	Jenny St	H4	Northtown St	D3-D4	State Hwy 25	F7-L10		
9th St SW	G3	Blue Jay Rd	F9-G9	E St	E6-E7	Jessica Ln *	H5-I5	Norway Ct	J4	State Hwy 371	D1-H1		



Legend

- Roads**
- Snow Emergency Routes
 - Special Services District
 - Day 1
 - Day 2
 - County
 - State
 - Lakes
 - Parks
 - City Limits

Disclaimer: This map is intended for reference purposes only and is not a legally recorded map nor survey. The City of Brainerd shall not be liable for any damages or claims that arise due to accuracy, availability, use, or misuse of the information herein pursuant to MN Statute 466.03 Subd 21.



Brainerd City Council Agenda Request

Agenda Item #

Requested Meeting Date:

Title of Item:

☐ INFORMATION ONLY ☐ CONSENT AGENDA ☐ P&F COMMITTEE ☐ SPW COMMITTEE ☐ MAIN AGENDA	Action Requested: ☐ Approve/Deny Motion ☐ Adopt Resolution (attach draft) ☐ Direction Requested ☐ Discussion Item ☐ Hold Public Hearing* ☐ Ordinance 1 st Reading <i>*provide copy of published hearing notice</i>
Submitted by:	Department:
Presenter (Name & Title):	Estimated Time Needed:
Summary of Issue:	
Alternatives, Options, Effects on Others/Comments:	
Recommended Action/Motion:	
Financial Impact: <i>Is there a cost associated with this request:</i> ☐ Yes ☐ No <i>What is the total cost, with tax and shipping</i> \$ _____ <i>Is this budgeted?</i> ☐ Yes ☐ No <i>Please Explain:</i>	

**ORDINANCE
NO. 1467**

**AN ORDINANCE ADDING SECTION 455
TO THE BRAINERD CITY CODE**

SECTION ONE: That the Brainerd City Code be amended by adding Section 455 entitled "Subsurface Sewage Treatment Systems – Technical Standards and Criteria" as follows:

Section 455 – Subsurface Sewage Treatment Systems – Technical Standards and Criteria

455.01 Purpose and Authority. The purpose of the Subsurface Sewage Treatment System (SSTS) Ordinance is to provide minimum standards for and regulation of Individual Sewage Treatment Systems (ISTS) and Midsized Sewage Treatment Systems (MSTS) including the proper location, design and construction; their necessary modification and reconstruction; their operation, maintenance and repair to protect surface water and groundwater from contamination by human sewage and waterborne household and commercial wastes; to protect the public's health and safety, and eliminate or prevent the development of public nuisances pursuant to the authority granted under Minnesota Statutes sections 115.55, 145A.05, 375.51, 394.21-394.37, and 471.82, the County Comprehensive Plan and the County Land Use Ordinance.

455.03 Intent. It is intended by the City that this Ordinance will promote the following:

- a) The protection of lakes, rivers and streams, wetlands, and groundwater in the City of Brainerd essential to the promotion of public health, safety, welfare, socioeconomic growth and development of the City.
- b) The regulation of proper SSTS construction, reconstruction, repair and maintenance to prevent the entry and migration of contaminants, thereby protecting the degradation of surface water and groundwater quality.
- c) The establishment of minimum standards for SSTS placement, design, construction, reconstruction, repair and maintenance to prevent contamination and, if contamination is discovered, the identification and control of its consequences and the abatement of its source and migration.
- d) The appropriate utilization of privy vaults and other non-water carried sewage collection and storage facilities.

455.05 Jurisdiction. The jurisdiction of this Ordinance shall include all lands in the corporate limits of the City of Brainerd.

455.07 Effective Date. The provisions set forth in this Ordinance shall become effective on August 1st, 2017.

455.09 Scope. This Ordinance regulates the siting, design, installation, alterations, operation, maintenance, monitoring, and management of all SSTS within the City's applicable jurisdiction including, but not necessarily limited to individual SSTS and cluster or community SSTS, privy vaults, and other non-water carried SSTS. All sewage generated in unsewered areas of the City shall be treated and dispersed by an approved SSTS that is sited, designed, installed, operated, and maintained in accordance with the provisions of this Ordinance or by a system that has been permitted by the MPCA.

455.11 City Administration.

- a) The City of Brainerd shall administer the SSTS program and all provisions of this ordinance within the incorporated area of the City of Brainerd.
- b) The City's duties and responsibilities include, but are not be limited to, the following:
 - 1) Review all applications for SSTS.
 - 2) Issue all permits required in this Article.
 - 3) Inspect all work regulated in this Article.
 - 4) Investigate all complaints regarding SSTS.
 - 5) Issue certificates of installation, certificates of compliance or notices of noncompliance where applicable.
 - 6) Enact enforcement provisions of this Article as necessary.
 - 7) Refer unresolved violations of this Article to the City Attorney.
 - 8) Maintain current records for each permitted SSTS including all site evaluation documents, design documents, inspection documents, and other applicable documents.
 - 9) The City shall employ or retain under contract qualified and appropriately licensed professionals to administer and operate the SSTS program.
 - 10) Submit annual reports to MPCA as required.

455.13 State Administration. The owner or owners of a single SSTS or a group of SSTS under common ownership must obtain an SDS permit from the agency according to chapter 7001 when all or part of proposed or existing soil dispersal components are within one-half mile of each other and the combined flow from all proposed and existing SSTS is greater than 10,000 gallons per day. For proposed SSTS, the flow must be determined according 7081.0110. For existing SSTS, the flow is determined by the greater of the average maximum seven-day measured flow or flow amounts according to part [7081.0110](#). The highest calculated value of the various methods in Table I under part [7081.0130](#), subpart 1, must be used to make this determination, with no reduction allowed. An SDS permit is not required if a factor of safety is added to the design flow that results in a design flow that is in excess of the SDS permit threshold.

455.15 Liability. The City's involvement in administration of this Ordinance does not create a special duty to any person and, further liability or responsibility shall not be imposed upon the City or County or any of its officials, employees, or other contract agents, for damage resulting from the defective construction, operation, or abandonment of any onsite or cluster SSTS regulated under this Ordinance or by reason of any standards, requirements, or inspections authorized by this Ordinance hereunder.

455.17 All SSTS. Except as explicitly set forth in Section 37.12, all provisions of this Ordinance shall apply to any SSTS regardless of the date it was originally permitted.

455.19 Existing Permits. Unexpired permits which were issued prior to the effective date of this Article shall remain valid under the terms and conditions of the original permit until the original expiration date or until a change in system design, whichever is earlier.

455.21 SSTS on Lots Created After January 23, 1996. All lots created after January 23, 1996, must have a minimum of two soil treatment and dispersal areas that can support Type 1 systems as defined by Minnesota Rule 7080.2200.

455.23 Upgrade, Repair, Replacement and Abandonment.

- a) SSTS Capacity Expansions. Expansion of an existing SSTS must include any system upgrades that are necessary to bring the entire system into compliance with the prevailing provisions of this Ordinance at the time of the expansion.
- b) Bedroom Addition. Any addition to a structure that includes bedroom(s) that require a building permit from the City shall require that the SSTS meet the required design flow according to Minnesota Rule 7080.1860 or be upgraded to meet Class 1 sizing for both the septic tanks and soil absorption area. Any required upgrades shall be completed within two years.
- c) Failure to Protect Groundwater. An SSTS that is determined not to be protective of groundwater in accordance with Minnesota Rule 7080.1500, Subp. 4(B) shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Article within 10 months upon receipt of a Notice of Noncompliance and must meet Class I sizing requirements according to Minnesota Rule 7080.1860.
- d) Imminent Threat to Public Health or Safety. An SSTS posing an imminent threat to public health or safety shall be pumped within 24 hours and managed as a holding tank in accordance with Minnesota Rule 7080.1500, Subp. 4(A) and said SSTS shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Article within 10 months upon receipt of a Notice of Noncompliance and must meet Class I sizing requirements according to Minnesota Rule 7080.1860.
- e) Abandonment. Any SSTS, or any component thereof, which is no longer intended to be used, must be abandoned in accordance with Minnesota Rule 7080.2500.

455.25 SSTS in Floodplains. SSTS shall not be located in a floodway. Wherever possible, location within any part of a floodplain should be avoided. If no option exists to locate a SSTS outside of a floodplain, location within the flood fringe is allowed if the requirements in Minnesota Rule 7080.2270 and all relevant local requirements are met.

455.27 Class V Injection Wells. All owners of new or replacement SSTS that are considered to be Class V injection wells, as defined in the Code of Federal Regulations, Title 40, Part 144, are required by the Federal Government to submit a UIC Class 5 Inventory Form to the Environmental Protection Agency as described in 40 CFR Part 144. Further, owners are required to identify all Class V injection wells in property transfer disclosures.

455.29 SSTS Practitioner Licensing.

- a) No person shall engage in site evaluation, inspection, design, installation, construction, alteration, extension, repair, maintenance, or pumping of SSTS without an appropriate and valid license issued by MPCA in accordance with Minnesota Rules Chapter 7083 except as exempted in Rule 7083.0700.
- b) An MPCA license is not required of an individual who is constructing a SSTS on land that is owned by the individual and functions solely as a dwelling for that individual pursuant to Minnesota Rule 7083.0700. Installation of the system shall be based upon a design by a licensed designer. The system shall be inspected before it is covered and a 24-hour notification to the Department for inspection is required.

455.31

Prohibitions.

- a) Occupancy or Use of a Building without a Compliant SSTS. It is unlawful for any person to maintain, occupy, or use any building intended for habitation or that contains plumbing fixtures that is not provided with a wastewater treatment system or that disposes of wastewater in a manner that does not comply with the provisions of this Ordinance.
- b) Sewage Discharge to Ground Surface or Surface Water. It is unlawful for any person to construct, maintain, or use any SSTS system regulated under this Ordinance that results in raw or partially treated wastewater seeping to the ground surface or flowing into any surface water. Any surface discharging system must be permitted under the National Pollutant Discharge Elimination System program by the MPCA.
- c) Sewage Discharge to a Well or Boring. It is unlawful for any person to discharge raw or treated wastewater into any well or boring as described in Minnesota Rule 4725.2050, or any other excavation in the ground that is not in compliance with this ordinance.
- d) Discharge of Hazardous or Deleterious Materials. It is unlawful for any person to discharge into any treatment system regulated under this Ordinance any hazardous or deleterious material that adversely affects the treatment or dispersal performance of the system or groundwater quality.

455.33

Alternative Local Standards Adopted by Reference.

- a) Adoption of Rule by Reference.
 - 1) The City hereby adopts by reference the provisions of Minnesota Rules Chapters 7080 -7083 in their entirety except as referenced under Section 37.18(B), except as otherwise expressly modified by this Ordinance.
 - 2) When "2006 version of Minnesota Rules Chapter 7080" is utilized, the reference is to the rules effective April 3, 2006, otherwise the City is referencing the current rules in effect.
 - 3) All new construction or replacement of SSTS shall employ sewage tanks, distribution media and treatment products which have been registered by the Minnesota Pollution Control Agency.
- b) Alternative Local Standards for New and Existing SSTS.
 - 1) The City hereby adopts the 2006 version of Minnesota Rules Chapter 7080 for all new and existing residential Type I, Type II and Type III SSTS and SSTS that serve any Food, Beverage and Lodging Establishment under 2,500 gallons per day provided the effluent discharge does not exceed the standards in Minnesota Rule 7080.2150, Subp. 3(K).

455.35

Differences in Standards.

- a) List of Different Adopted Standards.
 - 1) In no land use district shall a building permit, shoreline alteration permit, minor subdivision, plat, conditional use permit or variance be issued without a current Certificate of Compliance or Certificate of Installation that has not expired according to Section 37.26(C) of this ordinance.
 - 2) At least one cleanout at or above finished grade shall be installed between the structure and the septic tank with additional clean outs at intervals not more than 100 feet.

- 3) Class I sizing is required on all new construction. New construction will be defined as placement of a new structure or replacement structure that is served by pressurized water.
- 4) Minimum septic tank sizing shall be 1,500 gallons. This can be accomplished through a compartmentalized tank, multiple tanks in series, or a single existing 1500 gallon tank with the use of an effluent filter for the last baffle. The filter must be of such a design that when the filter is removed from the filter housing, the flow of water leaving the tank is not allowed. The first tank or compartment shall be no less than 1,000 gallons in size and applies to new and replacement SSTs. Any additional septic tanks shall be a minimum of 1,000 gallons. All other tank sizing shall follow Minnesota Rule 7080.1930 with 1,500 gallon tank sizing replacing 1,000 gallon tank sizing for 3 bedrooms or less according to Table V.
- 5) Pump tank sizing shall follow Minnesota Rule 7080.2100.
- 6) Soil pits shall be required. The soil pit shall and be excavated to a depth that will allow the verification of redoximorphic features and the three feet of vertical separation as required. Location of soil pits shall be adjacent to the lowest trench or next to the down slope side of an elevated treatment area. The pit shall not impact the hydraulic performance of the ISTS. A certificate of installation will not be issued until the soils are verified. Soils may be verified by a licensed and certified inspector. The inspector may not share the same license as the person who designed or installed the system. The soil profile must be submitted to the county inspector or its designee on the county approved form at or before the time of the installation inspection. If the soil profile is not provided by the installation inspection, county staff will verify the soils via a soils pit during the installation inspection.
- 7) All dwellings or buildings that contain plumbing fixtures shall meet the required setbacks to the septic tank and soil absorption area. Accessory structures, including but not limited to, decks, screen decks, porches, sheds, garages and pole buildings shall not be required to meet said setbacks provided that the tank(s) can be maintained properly and that the structure does not negatively impact the function of the system.

455.37 Compliance Criteria for Existing SSTs. For an SSTs built before April 1, 1996, and outside of areas designated as “SWF” – Systems in shoreland areas, wellhead protection areas, or systems serving food, beverage, or lodging establishments – there must be at least two feet of vertical separation between the bottom of the dispersal system and seasonal saturation or bedrock.

455.39 Holding Tanks. Holding tanks may be allowed for the following applications: as replacements for existing failing SSTs and SSTs that pose an imminent threat to public health or safety, on lots with limitations that will not allow for the installation of a Type 1 SSTs or for uses that are seasonal or intermittent in nature and will not use more than 150 gallons of water per day.

455.41 Variance Requests. A property owner may request a variance from the standards as specified in this ordinance pursuant to Article 8 of this Ordinance.

455.43 State Agency Variance Requests. Variances that pertain to the standards and requirements of the State of Minnesota must be approved by the affected State Agency

pursuant to the requirements of the State Agency. No permits will be issued by the City until all required State Agency variances have been approved.

455.45 Permit Requirements.

- a) Activities Not Requiring a Land Use Permit from the County. A land use permit from the County is not required for minor repairs or replacements of system components that do not alter the original function of the system; change the treatment capacity of the system; change the location of the system; or otherwise change the original system design, layout, or function. Examples are, but not limited to, pumps, baffles, and effluent filters.
- b) Activities Requiring a Land Use Permit from the County. A land use permit from the County shall be obtained by the property owner or an agent of the property owner from the County prior to the installation, construction, replacement, modification, alteration, or capacity expansion including the use of advanced treatment components of a SSTS. It is unlawful for any person to construct, install, modify or replace a SSTS without the appropriate permit from the Department including repair or replacement of components that will alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or function. The issuing of any permit, variance, or conditional use under the provisions of this ordinance shall not absolve the applicant of responsibility to obtain any other required permit.
- c) Permit Requirements. Land Use Permit applications from the County shall be made on forms provided by the Department and signed by the applicant or applicant's agent, and must include the following information and documentation:
 - 1) Applicant name, mailing address, telephone number, and email address.
 - 2) Property Identification Number, property address and legal description of property location.
 - 3) Site Evaluation Report, as defined by Section 37.18, and shall be made on form provided by the Department.
 - 4) Design Report, as defined by 37.18, and shall be made on form provided by the Department.
 - 5) A management plan, as defined by Minnesota Rule 7082.0600.
- d) Application Review and Response. The Department shall review a permit application and supporting documents according to Article 3 of this Ordinance.
- e) Appeal. The applicant may appeal any decision of the Department in accordance with Section 8.7 of this Ordinance.
- f) Permit Expiration. A Land Use Permit from the County for a new SSTS is valid for a period of no more than two years from its date of issue. A Land Use Permit for the replacement of SSTS failing to protect groundwater is valid for 10 months. A Land Use Permit from the County for the replacement of SSTS that are imminent threats to public health is valid for 10 months. Satisfactory completion of construction shall be determined by as-built drawings and a signed certification that the construction and installation of the system was completed in reasonable conformance with the approved design documents by a qualified employee of the Department or a licensed inspection business, which is authorized by the Department and independent of the owner and the SSTS installer.
- g) Transferability. A Land Use Permit from the County may be transferred to a new owner provided there are no proposed changes to the SSTS design.

- h) Suspension or Revocation. The Department may suspend or revoke a Land Use Permit from the County issued under this section for any false statements, misrepresentations of facts on which the Land Use Permit was issued, or unauthorized changes to the system design that alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system design, layout, or function. A notice of suspension or revocation and the reasons for the suspension or revocation shall be conveyed in writing to the permit holder. If suspended or revoked, installation or modification of a treatment system may not commence or continue until a valid Land Use Permit is obtained.
- i) SSTS Assessment Requirements. For those SSTS without a management plan or operating permit according to the provisions of this Article, the following provisions apply:
 - 1) The owner of an SSTS or the owner's agent shall regularly, but in no case less frequently than every three years, assess whether sewage tanks leak below the designed operating depth and whether sewage tank tops, riser joints, and riser connections leak through visual evidence of major defects and measure or remove the accumulations of scum, grease, and other floating materials at the top of each septic tank and compartment, along with the sludge, which consists of the solids denser than water.
 - 2) All solids and liquids must be removed by pumping from all tanks or compartments in which the top of the sludge layer is less than 12 inches from the bottom of the outlet baffle or transfer hole or whenever the bottom of the scum layer is less than three inches above the bottom of the outlet baffle or transfer hole. Total sludge and scum volume must not be greater than 25 percent of the tank's liquid capacity. Removal of accumulated sludge, scum, and liquids from septic tanks and pump tanks must be through the maintenance hole. The removal of solids from any location other than the maintenance hole is not a compliant method of solids removal from a sewage tank, and this method does not fulfill the solids removal requirement of this part or a management plan. Liquid and solids removal from clean-out pipes is allowed for holding tanks.

455.47

Operating Permit.

- a) An Operating Permit shall be required for the following SSTS:
 - 1) SSTS with high strength waste effluent standards that exceed Minnesota Rule 7080.2150, Subp. 3(K);
 - 2) Holding Tanks;
 - 3) SSTS serving three or more connections;
 - 4) Type 4 and Type 5 SSTS;
 - 5) SSTS that exceed a daily flow of 2,500 gallons per day; or,
 - 6) MSTs designed under Minnesota Rules Chapter 7081.
- b) Operating Permits shall be a signed agreement between the Department and the property owner and shall include monitoring, performance, mitigation, and reporting requirements.
- c) A valid Operating Permit shall be considered a certificate of compliance if that system is in compliance with the requirements of the Operating Permit.
- d) Owners of holding tanks shall provide the Department upon request a copy of a valid monitoring and disposal contract executed between the owner and a licensed maintenance business, which guarantees the removal of the holding tank contents in a timely manner and prevents an illegal discharge in

accordance with Minnesota Rule 7082.0100, Subp. 3(G). This requirement is waived if the owner is a farmer who is exempt from licensing under Minn. Stat., § 115.56, subd. 3(b)(3).

- e) Operating Permits shall be valid for the specific term stated on the permit as determined by the Department.
- f) An Operating Permit must be renewed prior to its expiration. If not renewed, the Department may require the system to be removed from service or operated as a holding tank until the permit is renewed. If not renewed within 90 calendar days of the expiration date, the Department may require that the system be abandoned in accordance with Section 37.13(E).
- g) Operating Permits do not transfer to new property owners. New owners shall apply for an Operating Permit in accordance with Section 37.25. The Department shall not terminate the current permit until 90 calendar days after the date of sale unless an imminent threat to public health and safety exists. To consider the new owner's application, the Department may require a performance inspection of the treatment system certified by a licensed inspector or qualified employee.
- h) A report shall be prepared and certified by the licensed inspection business or licensed service provider. The report shall be submitted to the Department on a form provided by the Department on or before the compliance reporting date stipulated in the operating permit as required. The report shall contain a description of all maintenance and servicing activities performed since the last compliance monitoring report as described in the operating permit.
- i) The Department may suspend or revoke any Operating Permit issued under this section for any false statements or misrepresentations of facts on which the Operating Permit was issued.
- j) If suspended or revoked, the Department may require that the treatment system be removed from service, operated as a holding tank, or abandoned.
- k) At the Department's sole discretion, the operating permit may be reinstated or renewed upon the owner taking appropriate corrective actions.

455.49

Compliance Inspection Program.

- a) Department Responsibility. It is the responsibility of the Department, or its agent, to perform installation inspections of new SSTS or upgrades of SSTS to assure that the requirements of this Ordinance are met.
 - 1) All compliance inspections must be performed and signed by licensed inspection businesses or qualified employees certified as inspectors.
 - 2) The Department shall be given access to enter a property at any reasonable time to inspect and/or monitor the SSTS system. As used in this paragraph, "property" does not include a residence or private building.
 - 3) No person shall hinder or otherwise interfere with the Department's employees in the performance of their duties and responsibilities pursuant to this Ordinance. Refusal to allow reasonable access to the property by the Department shall be deemed a separate and distinct offense.
 - 4) A signed winter agreement may be accepted in lieu of a compliance inspection for property transfers, permit applications and designs to the Department between November 1 and April 30, at the Department's sole discretion, provided the required information is submitted to the Department by June 1 of the subsequent year. Failure to fulfill all of the obligations of the winter agreement shall be a violation of this Ordinance.
- b) New Construction or Replacement.

- 1) New installation inspections must be performed on new or replacement SSTS to determine compliance with Minnesota Rules, Chapters 7080 or 7081, respectively, according to this section. SSTS found to be noncompliant with other applicable requirements must be repaired or replaced according to the Department's requirements.
 - 2) It is the responsibility of the SSTS owner or the owner's agent to notify the Department 24 hours prior to the installation inspection.
 - 3) If the installer provides proper notice and the department does not provide an inspection within one hour after an inspection time was set, the installer may complete the construction per the following: The installer shall submit photographs of the entire uncovered system and an as-built drawing with a certified statement that the installation of the SSTS met the appropriate standards of this Article within five working days of the installation.
 - 4) A Certificate of Installation for new SSTS construction or replacement shall be issued by the Department within 30 days of inspection if the Department has reasonable assurance that the system was built in accordance with the applicable requirements as specified in the construction permit.
 - 5) The Certificate of Installation must include a certified statement by the certified inspector or qualified employee who conducted the inspection that the SSTS is or is not in compliance with the ordinance requirements. If the SSTS is determined not to be in compliance with the applicable requirements, a notice of noncompliance must be issued to the owner which includes a statement specifying those ordinance provisions with which the SSTS does not comply.
 - 6) No SSTS shall be placed into operation until a valid Certificate of Installation has been issued.
 - 7) Certificates of Installation for new construction or replacement shall remain valid for (5) five years from the date of issue unless the Department finds evidence of noncompliance.
- c) Existing Systems.
- 1) Compliance inspections shall be required when any of the following conditions occur:
 - a) When applying for a building permit, shoreline alteration permit, minor subdivision, plat, land use map amendment, conditional use permit or variance and the Certificate of Installation is more than five years old or the Certificate of Compliance is more than three years old.
 - b) Within 90 days of conveyance of any real property and the Certificate of Installation is more than five years old or the Certificate of Compliance is more than three years old.
 - c) Any time there is a change in use of the property being served by an existing SSTS which may impact the performance of the system.
 - d) At any time as required by this Ordinance or the Department deems appropriate such as upon receipt of a complaint or other notice of a system malfunction.
 - 2) Compliance inspections of existing SSTS shall be reported on the inspection report forms provided by MPCA. The following conditions, must be assessed, or verified:
 - a) Watertightness assessment of all treatment tanks including a leakage report;
 - b) Vertical separation distance between the bottom of the soil treatment and dispersal system and the periodically saturated soil or bedrock

including a vertical soils separation verification report unless soils have been verified according to Minnesota Rule 7082.0700, Subpart 4B.

- c) Sewage backup, surface seepage or surface discharge including a hydraulic function report.
- 3) The Certificate of Compliance must include a certified statement by a Qualified Employee or licensed inspection business, indicating whether the SSTS is in compliance with the requirements of this Article. If the SSTS is determined not to be in compliance with the applicable requirements, a notice of noncompliance must include a statement specifying those ordinance provisions with which the SSTS does not comply. A construction permit application must be submitted to the Department if the required corrective action is not a minor repair.
- 4) The Certificate of Compliance or notice of noncompliance must be submitted to the Department no later than 15 calendar days after the date the inspection was performed.
- 5) Certificates of Compliance for existing SSTS shall remain valid for three years from the date of issue unless the Department finds evidence of noncompliance.
- d) Transfer of Property
 - 1) Any property on which a SSTS is located shall not be transferred or sold unless the parties to the transaction have complied with one of the following:
 - a) A current Certificate of Compliance, as provided by Section 37.26 C
 - b) A written agreement, as provided by Section 37.26 A.
 - c) In the event the seller does not provide a Certificate of Compliance or compliant Operating Permit, the seller and buyer may establish a written agreement or contract to repair, replace or upgrade the existing SSTS according to the terms of this Ordinance.
 - d) The buyer may accept total responsibility of the existing SSTS and be responsible for the necessary upgrading. In the absence of a written agreement according to Section 37.26 (D)(1)(b), the buyer shall be responsible for the necessary upgrading of said SSTS.
- e) Commercial SSTS
 - 1) Septic tank effluent testing for Carbonaceous Biochemical Oxygen Demand (CBOD), Biological Oxygen Demand (BOD), Total Suspended Solids (TSS), Nitrogen and oil / grease combination is mandatory for all SSTS that serve commercial establishments that serve food and beverages or have a flow that exceeds 1000 gallons per day as part of any compliance inspection.
 - 2) Effluent testing shall not be required for commercial SSTS that have a current operating permit as of the date this Ordinance is effective. If all provisions of the operating permit are met, the SSTS shall be considered to be in compliance.
 - 3) An SSTS with effluent testing that does not meet the standards in the Minnesota Rule 7080.2150, Subpart 3(K) shall be upgraded within 3 years to meet said standards and be placed on an Operating Permit as provided in this Ordinance.
- f) Vertical Separation Reduction. Minnesota Rule 7080.1500, Subp. 4(D) is hereby adopted allowing a 15 percent reduction in vertical separation distance for settling of sand or soil, normal variation of measurements and interpretations of the limiting layer for existing SSTS. This provision does not apply to Section 37.20.

455.51 Enforcement. Enforcement of this Article shall follow the standards in Article 3 of this Ordinance.

455.53 State Notification of Violation. The Department shall notify the MPCA of any inspection, installation, design, construction, alteration or repair of an SSTS by a licensed/certified person or any septage removal by a licensed maintainer that is performed in violation of the provisions of this Ordinance. The department shall also notify the MPCA of any discovered straight pipes pursuant to Minnesota Statute 115.55 Subdivision 11.

455.55 Record Keeping. The City and County shall maintain a current record of all permitted systems. The record shall contain all permit applications, issued permits, fees assessed, variance requests, Certificates of Compliance, notices of noncompliance, enforcement proceedings, site evaluation reports, design reports, record drawings, management plans, maintenance reports, Operating Permits, an annual list of all sewage tanks installed in the City sorted by licensed installation businesses, and other records the City deems relevant to a particular system.

455.57 Annual Report. The Department shall provide an annual report of SSTS permitting activities to MPCA no later than February 1 for the previous calendar year.

455.59 Fees. From time to time, the County Board shall establish fees for activities undertaken by the Department pursuant to this Ordinance. Fees shall be due and payable at a time and in a manner to be determined by the Department.

455.61 Dispute Resolution. Resolution of disputes between SSTS Certified Individuals regarding conflicting compliance inspections, determination of seasonal saturation of soils and other technical issues shall follow Minnesota Rule 7082.0700, Subp. 5.

Adopted this _____ day of _____, 2017

DAVID J. PRITSCHET
President of the Council

Approved this _____ day of _____, 2017

EDWIN L. MENK
Mayor

ATTEST: _____
JAMES M. THOREEN
City Administrator

Memorandum of Understanding
Between the County of Crow Wing
And the
City of Brainerd

WHEREAS, Minnesota Statutes, Section 394.32 provides that the governing body of any municipality may contract with the County Board for planning and zoning services to be provided by the County, and the contract may provide that the municipality shall pay such fees as agreed for the services performed; and

WHEREAS, the County of Crow Wing (“County”) and the City of Brainerd (“City”) recognize the importance of cooperating on land use issues in order to: promote and protect public health, safety and welfare; promote and provide for the orderly development of the county; and provide official controls to implement the goals and policies included in the respective comprehensive plans of the respective units of government; and

WHEREAS, the County and City desire to enter into a Memorandum of Understanding in order to cooperate in administering subsurface sewage treatment systems (SSTS) within the City for the purpose of ensuring better consistency in land use regulations and in the implementation of those regulations; and

WHEREAS, the County and City desire to enter into a Memorandum of Understanding to ensure mutual understanding of each party to this Memorandum of their respective duties and responsibilities related to land use issues; and

WHEREAS, the permitting and enforcement process may involve provisions enforced by the County and provisions enforced by the City.

NOW THEREFORE IT IS AGREED, by the County of Crow Wing and the City of Brainerd that Crow Wing County will enforce the SSTS rules of the City of Brainerd within the incorporated area of the City of Brainerd; and

It IS FURTHER AGREED, by the County of Crow Wing and the City of Brainerd to cooperate in administering the City of Brainerd SSTS ordinance in the City of Brainerd as set out in Attachment 1 of this Memorandum of Understanding.

COUNTY OF CROW WING

BY _____
Chairman, Crow Wing County Board of Commissioners

DATE _____

ATTEST _____
Administrator, Crow Wing County

CITY OF BRAINERD

BY _____
Mayor, City of Brainerd

DATE _____

ATTEST _____
City Administrator

ATTACHMENT 1

A. Administrative Provisions

1. The County shall be responsible to review and approve all subsurface sewage treatment system (SSTS) permits requests within the City.
2. Permit fees for review, approval, inspection and enforcement of SSTS shall be according to the most recent fee schedule approved by the County Board.
3. The County shall conduct one on-site installation inspection for each approved permit application. All subsequent inspections shall be according to the most recent fee schedule approved by the County Board.
4. The County shall enforce the City SSTS ordinance within the City for proper installation of SSTS only. The County will take appropriate action to bring the parcel into compliance with the City SSTS ordinance.
5. The City shall be responsible for pursuing any civil or criminal violations.

B. Respective Duties and Responsibilities

1. The City shall provide the County copies of all existing permits, variances, conditional use permits, interim use permits and any other permits upon request of the County.
2. The County shall provide the City with copies of approved SSTS permits and SSTS Certificates of Installation within the City within seven days of completion in an electronic format.
3. The County and City shall meet once per year to discuss this memorandum of understanding.
4. The County shall notify the City no less than 60 days to terminate this memorandum of understanding.
5. The City shall notify the County no less than 60 days to terminate this memorandum of understanding.



Brainerd City Council Agenda Request

Agenda Item #

Requested Meeting Date:

Title of Item:

☐ INFORMATION ONLY ☐ CONSENT AGENDA ☐ P&F COMMITTEE ☐ SPW COMMITTEE ☐ MAIN AGENDA	Action Requested: ☐ Approve/Deny Motion ☐ Adopt Resolution (attach draft) ☐ Direction Requested ☐ Discussion Item ☐ Hold Public Hearing* ☐ Ordinance 1 st Reading <i>*provide copy of published hearing notice</i>
Submitted by:	Department:
Presenter (Name & Title):	Estimated Time Needed:
Summary of Issue:	
Alternatives, Options, Effects on Others/Comments:	
Recommended Action/Motion:	
Financial Impact: <i>Is there a cost associated with this request:</i> ☐ Yes ☐ No <i>What is the total cost, with tax and shipping</i> \$ _____ <i>Is this budgeted?</i> ☐ Yes ☐ No <i>Please Explain:</i>	

CITY OF BRAINERD
RENTAL DWELLING LICENSE
BOARD OF APPEALS

Minutes of Special Meeting

Tuesday, June 13, 2017

The Brainerd Rental Dwelling License Board of Appeals met in special session at 5:00 p.m. Tuesday, June 13, 2017 in the City Council Chambers. Members present were Chair Teresa Hettver, Amy Gray, and Rachel Zeta. Absent was member Todd Barnett and recused member Rick Fargo. Also present was City Council Liaison Councilman Dave Badeaux and City Administrator Jim Thoreen.

Chair Hettver opened the meeting and yielded to City Administrator Thoreen for a summary of the status of the properly noticed revocation of the rental housing license issued to DTM Partnership, 8845 Medley Lane, Golden Valley, MN for 12 units on the top floor of 217 So. Sixth Street, Brainerd, MN pursuant to Brainerd City Code 425.2020. Mr. Thoreen reviewed the action taken by the Board on May 17, 2017 and recommended that the action be revised and replaced in order to adopt the full Findings of Fact, Conclusions, and Final Determination as submitted by City Attorney Langel. The May 17 action did not include all materials forwarded by the Attorney.

The Board discussed the recommendation and noted that the action of this date will supersede any previous action it has taken in this matter.

On motion of Gray, seconded by Hettver and by a unanimous vote, with one member absent, the Rental Dwelling License Board of Appeals hereby adopts the following resolution for submission to the Brainerd City Council at its meeting of Monday, July 3, 2017:

BE IT RESOLVED that the City of Brainerd Rental Dwelling License Board of Appeals on this date does hereby adopt the Findings of Fact, Conclusions and Determination as submitted by the City Attorney, to wit:

(See following pages numbered 3-7)

On motion of Zetah, seconded by Gray and carried the Board of Appeals adjourned at 5:10 p.m.



Jim Thoreen
Administrator/Recorder

CITY OF BRAINERD
RENTAL DWELLING LICENSE BOARD OF APPEALS

In re the Appeal of DTM Partnership, LLC
of the Housing Inspector's Recommendation
to Revoke the Rental License for the Property

Located at 217 South 7th St.

An evidentiary hearing before the Board of Appeals was held on April 25, 2017, in the Council Chambers in City Hall, Brainerd. Joseph J. Langel, City Attorney, appeared on behalf of the City. Attorney Loren Gross appeared on behalf of the property owner, DTM Partnership, LLC.

Based on the evidence presented at the hearing, the Board makes the following:

FINDINGS OF FACT

1. DTM Partnership, LLC ("Landlord") owns the building located at 217 South 7th Street in Brainerd. The first floor is commercial space, which is currently empty, and the second floor contains 12 apartments. Landlord holds a Rental Housing License for the apartments. Exh. 1.
2. Owner Julian Jayasuriya testified that he bought the building in 2004, and that it was his practice to take tenants who could not get housing elsewhere. He worked with Lutheran Social Services to place tenants there, even though the tenants had "lots of issues."
3. Mr. Jayasuriya testified that he does not manage the property; he "recused himself totally." He hired Nancy Osterman in November 2015 to manage the property. Ms. Osterman has prior rental management experience. Exh. 18.
4. For the two year period from October 1, 2014, through September 30, 2016, there were 112 police calls to the apartment building. Exh. 2.
5. On February 20, 2016, City police responded to a report of a disturbance at the apartment building. Officers learned that two men were arguing in Apartment No. 217, and that there was loud yelling and banging on the walls. One man was arrested for Disorderly Conduct and a probation violation, and another man was arrested on a felony warrant. The Police Department issued a "conduct on premises" letter to the Landlord. Exh. 3, 4.

6. On March 6, 2016, police received a noise complaint concerning banging on the walls. The responding officers could smell marijuana in the residence. Exh. 4.
7. On March 25, 2016, the Police Department issued a second "conduct on premises" letter to the Landlord. The letter required the Landlord to submit a written management plan within ten days. Exh. 5.
8. Chief McQuiston had telephone conversations with Mr. Jayasuriya and Ms. Osterman. Ms. Osterman told the Chief that going forward, she would undertake criminal and civil court checks for prospective tenants. Exh. 7. She had not been doing that previously. Ms. Osterman testified that she had never used an outside service for background checks. After receiving the second notice and speaking to Chief McQuiston, she began to check public, online information. She further testified that she does not deny prospective tenants just because they have a criminal record.
9. Ms. Osterman submitted a note and a "management plan" to the Police Department. The plan lists the actions taken by management, such as removal of the tenant in Apartment No. 209. That tenant had a history of disturbances with his girlfriend. After the City demanded a plan of action to prevent further disorderly conduct, the tenant was told to leave. Similarly, the tenants in Apartment 217 had a history of disturbances. After Landlord received the second notice from the Police Department, Landlord evicted the Apartment 217 tenants. Exh. 6.
10. The "management plan" in Exhibit 6 does not contain any information about an actual management plan. It simply lists the actions taken with respect to the tenants of two of the apartments. On April 25th, Chief McQuiston requested that Ms. Osterman revise her documents and resubmit a management plan. Exh. 7.
11. On April 27th, the Chief received an updated written document from Ms. Osterman that constituted an acceptable management plan. Exh. 7, 8. The plan indicates that future tenants would be screened using public court websites, but not a full credit and criminal background check. The plan further indicated that signed leases will "include a 3 police call policy for termination of lease for behavior issues." Exh. 8.
12. On August 11, 2016, the police received a report of a threat with a firearm at the apartment building. A tenant was arrested for terroristic threats and 2nd degree assault. Exh. 9.
13. On August 16, 2016, the Chief sent a certified letter dated August 15th to the Landlord notifying him of the latest instance of disorderly conduct and requesting

- an explanation within ten days regarding what actions will be taken in response. Exh. 10, 11.
14. After nine days, Chief McQuiston sent an e-mail to Mr. Jayasuriya reminding him of the requirement for a response and the fact that the Council may take action against the rental license. Exh. 12.
 15. On September 9, 2016, Ms. Osterman sent a letter to the Chief responding to the August 11th incident. She stated that she sent a tenant a warning letter about her co-tenant's behavior (threatening someone with a shotgun). Neither the tenant nor the co-tenant, however, were evicted. Ms. Osterman also admitted that she never checked on a prospective tenant's unlawful detainer history before. Exh. 13.
 16. In her September 9th letter, Ms. Osterman indicated that she and the owner decided to terminate the caretaker. During the hearing, Ms. Osterman testified that the existing caretaker (Mike Bessette) actually stayed in that position for months after he was terminated until they found a new caretaker.
 17. On February 8, 2017, Chief McQuiston sent a memorandum to the Safety & Public Works Committee recommending revocation or suspension of the Landlord's Rental Dwelling License due to violations of the City Code. He also noted that no one had yet been identified as a replacement caretaker and that the terminated caretaker (Mr. Bessette) was still in place. The Chief further noted that in a 24 month period the subject property had 112 police calls, of which 36 involved "disturbances, noise complaints, fights, intoxicated persons and assaults." Exh. 14. This is more than six other rental properties in the same area combined. Exh. 14. A similar memorandum was sent to Building Official Tim Caughey and the City Council. Exh. 15.
 18. On or about February 28, 2017, Building Official Caughey sent a memo to the Landlord proposing to revoke the Rental License and providing notice of the appeal process. Exh. 15.
 19. Landlord provided notice of the new caretaker in a fax dated March 23, 2017. Exh. 16. Five days later, police received a complaint about noise coming from an apartment. Upon investigation it was determined that the noise was from the new caretaker, Kortwyn Lueck. Exh. 16. Mr. Lueck has an extensive criminal record, including felonies. Exh. 17.
 20. At the hearing, Ms. Osterman provided a copy of a "Lease Addendum – Agreement to Uphold a Zero-Tolerance Drug-Free and Crime-Free Policy." Exh. 19. There is no evidence that this document was in use or enforced by the Landlord in 2016.

21. Mr. Jayasuriya testified, essentially reading from Exhibit 20. He acknowledges “excessive calls to the police department” and blames some of the noise issues on nearby bars. He asserted that some intoxicated people get into the apartment building and that the “doors and cameras have been tampered with on numerous occasions.”
22. Mr. Jayasuriya provided a new “Management Plan DBM” at the hearing. Exh. 21. This document was not provided to the City prior to the hearing on appeal. Ms. Osterman and Mr. Jayasuriya testified regarding how the apartment building would be managed in the future.

CONCLUSIONS

1. The City Building Official issued a Notice of Proposed License Revocation pursuant to City Code section 425.1940 for the licensee’s failure to take appropriate action following conduct by tenants and/or their guests on the licensed premises under Section 425.2020. Exh. 15.
2. Section 425.2020 provides that a licensee must take appropriate action following conduct by tenants and/or their guests on the licensed premises that is determined to be disorderly. After the first incident of disorderly conduct, a notice is sent by the Police to the licensee. If a second instance occurs and the licensee is so notified, the licensee must submit a written management plan. If a third instance occurs within 12 months, the license may be revoked.
3. The first instance of disorderly conduct occurred on February 20, 2016, and a notice was sent to the licensee. Exh. 3, 4.
4. The second instance occurred on March 6, 2016. Exh. 4. A notice was sent that required submission of a management plan. Exh. 5.
5. A management plan was not submitted within the required 10 days, and the first attempt at a plan did not suffice. Exh. 6. An acceptable plan was eventually submitted. Exh. 7, 8.
6. The third instance occurred on August 11, 2016. Exh. 9, 10. The licensee was asked how it was going to deal with the disorderly conduct. Exh. 11. In response, license admitted failing to properly check the background of tenants. Exh. 13.
7. The licensed premises has a history of an unusually high number of police calls – nearly double the number of the nearest six apartment buildings combined. Exh. 14.

8. Licensee accepted tenants without performing full background checks, relying instead on public court records. Licensee knowingly accepting tenants with criminal records.
9. Licensee failed to retain a caretaker on site who could properly maintain control over the premises.
10. Licensee failed to promptly and properly deal with tenants who caused problems in the building. Even the proposed management plan allowed for up to three police calls before eviction for behavior. Exh. 8.
11. Testimony regarding what Licensee would purportedly do in the future is irrelevant to this proceeding, which focuses on the disorderly conduct in 2016.
12. The Code requirements for initiating a license revocation proceeding under Section 425.2020 were satisfied. Licensee timely appealed the proposed revocation and a hearing was held in accordance with Section 425.1960.
13. The Board of Appeals concludes that the conduct at the apartment building in 2016, as set forth above, constitutes disorderly conduct on the premises under Section 425.2020 and revocation of the Rental Housing License No. 2016-01023 for 217 7th Street South is appropriate.

FINAL DETERMINATION

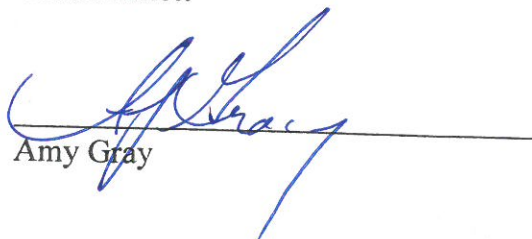
The Board hereby recommends that the City Council revoke the Landlords license not later than July 13, 2017. The tenants shall be notified as required by City Code and Licensee shall work with the tenants to move them from the premises as efficiently as possible.

Dated: June 13, 2017


Teresa Hettver


Todd Barnett


Rachel Zetah


Amy Gray



Brainerd City Council Agenda Request

Agenda Item #

Requested Meeting Date:

Title of Item:

☐ INFORMATION ONLY ☐ CONSENT AGENDA ☐ P&F COMMITTEE ☐ SPW COMMITTEE ☐ MAIN AGENDA	Action Requested: ☐ Approve/Deny Motion ☐ Adopt Resolution (attach draft) ☐ Direction Requested ☐ Discussion Item ☐ Hold Public Hearing* ☐ Ordinance 1 st Reading <i>*provide copy of published hearing notice</i>
Submitted by:	Department:
Presenter (Name & Title):	Estimated Time Needed:
Summary of Issue:	
Alternatives, Options, Effects on Others/Comments:	
Recommended Action/Motion:	
Financial Impact: <i>Is there a cost associated with this request:</i> ☐ Yes ☐ No <i>What is the total cost, with tax and shipping</i> \$ _____ <i>Is this budgeted?</i> ☐ Yes ☐ No <i>Please Explain:</i>	

Jim Thoreen

From: Dave Pritschet
Sent: Thursday, June 15, 2017 9:42 AM
To: Jim Thoreen
Subject: Council President Appointment

Good morning,

I would like to recommend the appointment of Jeff Czczok to the airport commission and Patrick Wussow to planning and zoning. I would like the appoints to go before the council at this Monday's meeting, if at all possible.

Thanks,

Dave



Brainerd City Council Agenda Request

Agenda Item #

Requested Meeting Date:

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