Brainerd, Minnesota
February 19, 2013

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 Cumberland.

Upon roll call, the following members were noted present: Pritschet, Bevans, Scheeler, Parks, Borkenhagen, Koep and Cumberland. Mayor Wallin was also noted as present.

MOVED AND SECONDED BY ALDERMEN BEVANS AND SCHEELER, DULY CARRIED, TO APPROVE THE AGENDA AS PRESENTED.

MOVED AND SECONDED BY ALDERMEN BEVANS AND PARKS TO APPROVE THE CONSENT CALENDAR AS PRESENTED.

Note: The February 4, 2013 City Council minutes were amended prior to their adoption at this meeting to reflect that the City Council had intended to adopt a resolution and, subsequently submitted to the MN Department of Transportation said “Resolution No. 10:13” as part of the Safe Routes to School grant application on February 14, 2013.

A. Approval of the Minutes of the Regular Meeting held on February 4, 2013 as Amended, and the Strategic Planning Session held on February 11, 2013, as distributed – Approved

B. Approval of Licenses – Approved

1. Contractor’s Licenses – 1 – New

2. Contractor’s Licenses – 5 – Renewals

C. Department Reports – Approved

1. Mayor’s report of activities distributed to Council

2. Police Chief’s report of activities distributed to Mayor and Council

3. Finance Director’s report distributed to Mayor and Council

D. Fire Department – Authorize Leave of Absence Request as Submitted by Clinton Headley – Approved

E. Call for Applicants:

1. Cable TV Advisory Committee – One Term to Expire 12/31/2015
2. Charter Commission – One Term to Expire 12/31/2015
3. Housing and Redevelopment Authority – One Term to Expire 6/6/2017
4. Planning Commission – One Term to Expire 12/31/2015

5. Rental Dwelling Board of Appeals:
    a. *One "Tenant Representative Position" – Term Expires 12/31/2014*
    b. *One "General Public Representative" – Term Expires 12/31/2014*
6. Transportation Committee – Two Terms to Expire 12/31/2014

Upon roll call, members Pritschet, Bevans, Scheeler, Parks, Borkenhagen, Koep and Cumberland voted "aye." No member voted "nay." The Chair declared the motion carried and the Consent Calendar adopted.

Approval of Bills and Operating Fund Transfers – Recommended by the Personnel and Finance Committee:

General Fund to Public Safety Fund	$245,000
General Fund to Park Fund	$48,000
General Fund to Street & Sewer Fund	$42,000
General Fund to Airport Fund	$12,960
	$347,960

MOVED AND SECONDED BY ALDERMEN BEVANS AND BORKENHAGEN TO APPROVE THE PAYMENT OF BILLS AND OPERATING FUND TRANSFERS AS PRESENTED.

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

Presentation – Office of Traffic Safety Award – Law Enforcement Liaison Frank Scherf

The Chair recognized Mr. Frank Scherf of the Office of Traffic Safety. Mr. Scherf and Police Chief McQuiston presented information on the "To Zero Deaths" program which was formerly known as the "Safe and Sober" program. Each year the program rewards a police department with a high success rate in the TZD program and this year Brainerd was chosen; Mr. Scherf presented Police Chief McQuiston with a radar unit valued at $2,600.

Unfinished Business

First Reading – Proposed Ordinance No. 1402 – An Ordinance Amending Section 1170.03 of the Brainerd City Code by Striking d) of Paragraph One of Said Section and Replacing Said d) and Adding a New e) to Add an Additional Qualification Opportunity for Organizations to Conduct Lawful Charitable Gambling in the City of Brainerd – Further to Dispense with the Actual Reading – Approved

MOVED AND SECONDED BY ALDERMEN BEVANS AND PARKS, DULY CARRIED, TO HOLD THE FIRST READING OF PROPOSED ORDINANCE NO. 1402 – AN ORDINANCE AMENDING SECTION 1170.03 OF THE BRAINERD CITY CODE BY STRIKING D) OF PARAGRAPH ONE OF SAID SECTION AND REPLACING SAID D) AND ADDING A NEW E) TO ADD AN ADDITIONAL QUALIFICATION OPPORTUNITY

FOR ORGANIZATIONS TO CONDUCT LAWFUL CHARITABLE GAMBLING IN THE CITY OF BRAINERD, FURTHER TO DISPENSE WITH THE ACTUAL READING.

Mobile Food Unit Committee Report – Council President Cumberland – Informational

Chair Cumberland presented the report from the February 15, 2013 meeting. Discussion was held. Further review by staff was requested.

Request for Hearing – Discussion of – No Action Taken

The Chair noted that a verbal and written request was received by Council at the February 4, 2013 Council meeting from Mr. Guy Green requesting a hearing on the removal of Alderman Gary Scheeler from office.

The Chair recognized City Attorney Fitzpatrick, who reviewed the process for removing a council member relating to the City Charter. The Chair asked if there was Council action on the request. No motion was put forward so no action was taken by Council.

Planning Commission

Variance for 3rd Accessory Building – Harvey Doucette, 1201 Brook Street – Approved

Findings-of-Fact:

1. The property is zoned R-1 (Single Family Residential) District.
2. The variance is to allow a third accessory building on the lot.
3. The lot size is 122.5' wide by 340' deep or 41,560 square feet. The lot is unique in that it has considerably more depth and lot area than a typical single family lot in the city.
4. The total square footage of all accessory buildings is 3,080 square feet is less than the maximum 10% lot area coverage for accessory buildings.
5. Total lot coverage is limited to 50% of lot area or 20,280 sf. Total lot coverage is less than 6,000 square feet.
6. The roof pitch is 5/12 and the garage height will be approximately 11½ feet. This will match the height of the existing accessory building.
7. The character of the locality will not be adversely affected because:
    a. The accessory building placement will not be visible from a public street.
    b. Dwellings along Brook Street are located along the street setback line creating a distance of over 200' to the nearest adjacent dwelling along Brook Street.
    c. The dwelling to the north is buffered by woodlands and wetland.
8. An additional accessory building is not contrary to the Comprehensive Plan Goals and Strategies.
9. A small accessory building will be removed prior to construction of the proposed accessory building.
10. There are no City or agency concerns.
11. There is no neighborhood opposition.
    The petition spoke in favor, no one spoke in opposition

MOVED AND SECONDED BY ALDERMEN BEVANS AND PRITSCHET, DULY CARRIED, TO APPROVE THE VARIANCE FOR 3RD ACCESSORY BUILDING AS REQUESTED BY HARVEY DOUCETTE, 1201 BROOK STREET, BRAINERD, BASED ON THE RECOMMENDATION OF THE PLANNING COMMISSION AND THE 12 FINDINGS-OF-FACT AS PRESENTED.

Conditional Use Permit for Parking Lot Expansion – ISD 181, 801 Washington – Approved

Findings-of-Fact:

1. The property is located in an R-1 (Single Family Residential) District and school uses are permitted as a conditional use in this zoning district.
2. In 2005 the School District was granted a CUP to permit the Washington School now the Washington Education Services Building to be used for District administrative purposes, community related school functions and general community events.
3. In 2005 it was determined that off-street parking will be provided to meet the day to day District staffing needs. A fifty-nine (59) space off-street parking lot was built to accommodate District staff parking.
4. Additional staff is planned to be located at the WESB requiring the need for additional off-street parking.
5. The District is proposing to add forty-six (46) employees at the WESB increasing the total to ninety-four (94) employees and the parking lot expansion will create ninety-seven (97) spaces.
6. It is understood that providing off-street parking will not meet the demand for school related functions and community events.
7. There are no residential uses on the block and the lot will be screened to buffer the lot from residential uses located across the street.
8. The area has some transition with the District owning two blocks and an industrial use located to the east.
9. The use is consistent with Zoning Ordinance Intent and Purpose section in that:
    a. The additional off-street parking will protect the neighborhood in that the expansion does not result in a loss of residential dwellings and the expansion will prevent a chaotic parking situation from occurring on a day to day basis.
    b. The off-street parking permits the reuse of an existing historical and significant building in the community.
    c. The additional off-street parking will help prevent day to day right-of-way congestion.
10. There are no agency concerns and the only City department concern is a stormwater plan has not been approved by the City.
11. There is no neighborhood opposition.

A petitioner's representative spoke in favor, no one spoke in opposition.

MOVED AND SECONDED BY ALDERMEN PARKS AND SCHEELER, DULY CARRIED, TO APPROVE CONDITIONAL USE PERMIT #238 FOR A PARKING LOT EXPANSION AT PINE STREET AND 9TH STREET SOUTH AS REQUESTED BY ISD #181 AND BASED ON THE RECOMMENDATION OF THE PLANNING COMMISSION AND 11 FINDINGS-OF-FACT AS PRESENTED.

Public Forum

Chair Cumberland stated that while researching the process of public forum procedures she found the entire time allotted should be no longer than 15 minutes of the meeting. She reminded the pubic that items discussed should not include anything already on the current agenda.

The Chair recognized Mr. Guy Green, 1004 "H" Street, Brainerd, who started to speak about his radio show and certain elected officials.

Chair Cumberland ruled Mr. Green out-of-order as his personal situation with certain Council Members was on the agenda and had already been discussed by Council.

MOVED BY ALDERMAN KOEP TO OVERTURN THE COUNCIL PRESIDENT'S "OUT-OF-ORDER" RULING RELATING TO MR. GUY GREEN.

The Chair called for a second; as there was none, the motion failed and Mr. Green left the podium.

Reports

Mayor's Report

Mayor Wallin discussed the 40th anniversary of the Norwegian National Guard, stating that next Sunday he will be attending their farewell banquet. He also discussed the 10th annual Good Samaritan Bowl scheduled for May 5th and 6th for which he is the ambassador.

City Attorney's Report

City Attorney Fitzpatrick stated that he had nothing to report.

City Administrator's Report

City Administrator Goble stated that if Council Members are interested in attending the Region 5 summit meeting on Tuesday, April 2nd from 5:30-7:30 P.M. to please contact her.

City Engineer's Report

City Engineer Hulsether stated that he had nothing to report.

City Planner's Report

City Planner Ostgarden stated that he had nothing to report.

Police Chief's Report

Police Chief McQuiston stated nothing in addition to his written report.

Finance Director's Report

Finance Director Hillman stated nothing in addition to her written report.

Council President's Report

Council President Cumberland stated that she is looking for a team of elected officials to bowl in the Good Samaritan Bowl on May 6th.

She will be appointing a committee for the 2013 City-Wide Clean-up program at the next meeting.

She discussed a recent editorial related to sidewalk shoveling and stressed the importance of residents keeping their sidewalks maintained for safety.

She stated that she was pleased with the Council Strategic Planning Session and discussed the Council's "homework" for the March 11, 2013 Session scheduled for 6:00 P.M. at the Police Department training room.

She called for a Council liaison for BLADC; stating the meetings are held the 3rd Wednesday of each month at 7:30 A.M. and stated that the possibility of a liaison for the Library Board is being looked into further.

Other Committees

Region 5: Council Liaison Pritschet discussed transportation grants, a proposed skate park and bike path striping.

Whittier Task Force: Council Liaison Bevans updated Council on the proposals received by the School Board for the reuse of the Whittier School building and stated that a decision may be possible by late spring or summer.

Showcasing Brainerd: Council Member Koep will be arranging this feature with the first presentation to be held on March 4, 2013 at 7:15 P.M. to be immediately followed by the regular Council meeting at 7:30 P.M.

Rental Property Managers Group: Council Liaison Cumberland stated that the top 12 violations were discussed, stating that it was a great, informative meeting.

Code of Ethics: Council Member Koep stated that she feels a "code of ethics" needs to be established for the Council and suggested a committee for this purpose. The Athenian Oath was referred to by Council President Cumberland and research will ensue.

Council Committee Reports

Personnel and Finance Committee

Compensation Study RFP – Approved

The proposed RFP was included in the Packet. Upon approval, advertisement will be posted immediately with proposals due March 22, 2014 with award to be announced April 1, 2013, and anticipated completion of the project by August 1, 2013.

MOVED AND SECONDED BY ALDERMEN BEVANS AND PARKS, DULY CARRIED, TO APPROVE THE PROPOSED RFP FOR A CITY OF BRAINERD EMPLOYEE COMPENSATION STUDY AS PRESENTED AND AUTHORIZE IMMEDIATE POSTING OF ADVERTISEMENT WITH PROPOSALS DUE MARCH 22, 2013.

2014 Fire Service Calculation – Approved

The 2014 Fire Contract Calculation and an explanation memo from the City Administrator and Finance Director were included in the Packet. The meeting of the Fire Advisory Board is set for Tuesday, March 5, 2013 at 6:30 P.M. at the Fire Station.

MOVED AND SECONDED BY ALDERMEN BEVANS AND PARKS, DULY CARRIED, TO APPROVE THE 2014 FIRE SERVICE CALCULATION AS PRESENTED.

Police Department Police Officer Position – Authorize Conditional Job Offer to Top Candidate Stephen Walker Contingent on Successful Completion of all Pre-employment Exams – Approved

Per a memo in the Packet from Police Chief McQuiston, the Civil Service Commission met and certified the next three candidates on the current eligibility list. Staff requests authorization to make a conditional job offer to the next available candidate on the Police Officer Eligibility List.

MOVED AND SECONDED BY ALDERMEN BEVANS AND PRITSCHET, DULY CARRIED, TO AUTHORIZE A CONDITIONAL JOB OFFER FOR THE POSITION OF POLICE OFFICER TO MR. STEPHEN WALKER CONTINGENT ON SUCCESSFUL COMPLETION OF ALL PRE-EMPLOYMENT EXAMS.

IUOE – Park Maintenance – Union Settlement & Wage Adjustments – Resolution No. 11:13 Adopted

A memo from City Administrator Goble was included in the Packet stating that negotiations with IUOE (Streets), IAFF (FEOs), and IBEW (Administrative) employers are still in progress, that an offer had been made to the Teamster Union representing the Police Supervisors, and that the attached wage resolution for IUOE (Parks) was included as part of the acceptance of their contract by both parties.

MOVED AND SECONDED BY ALDERMEN BEVANS AND PARKS TO ADOPT RESOLUTION NO. 10:13 – IUOE LOCAL NO. 49 (PARKS AND RECREATION) UNION SETTLEMENT WAGE ADJUSTMENTS; FURTHER TO AUTHORIZE APPROPRIATE SIGNATURES ON THE CONTRACT DOCUMENTS.

RESOLUTION NO. 11:13

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

City Administrator Performance Evaluation – Discussion of – Informational

This will be done on or after July 1, 2013 based on Ms. Goble serving as Interim City Administrator since July 1, 2012 with "interim" status removed on January 1, 2013 counting as a successful 6-month probation period status.

Safety and Public Works Committee

Seal Coat Project – Authorize Soliciting of Bids as Presented – Approved

Per a memo included in the Packet from City Engineer Hulsether, staff is requesting authorization to proceed with soliciting bids for the 2013 Seal Coat Project as proposed. Cost estimate and map were included in the Packet for review.

MOVED AND SECONDED BY ALDERMEN SCHEELER AND KOEP, DULY CARRIED, TO AUTHORIZE SOLICITING OF BIDS FOR THE 2013 SEAL COAT PROJECT WITH BID DATE TO BE SET BASED ON COUNTY BID DATE AND COST TO BE COVERED BY THE CONSTRUCTION FUND.

Safety and Public Works Committee Workshop – To be held on Tuesday, March 12, 2013 at 5:00 P.M. in the City Hall Conference Room

MOVED AND SECONDED BY ALDERMEN SCHEELER AND BEVANS, DULY CARRIED, TO HOLD THE SAFETY AND PUBLIC WORKS COMMITTEE WORKSHOP ON TUESDAY, MARCH 12, 2013 AT 5:00 P.M. IN THE CITY HALL CONFERENCE ROOM.

City Hall Mechanical System – Authorize Staff to Prepare RFP for Presentation to Council at March 18, 2013 Meeting – Approved

Per a memo included in the packet from City Engineer Hulsether, staff is requesting authorization to prepare an RFP to solicit proposals from qualified mechanical engineer/architecture firms to evaluate the existing City Hall mechanical system based on recent failures of the current system.

MOVED AND SECONDED BY ALDERMEN SCHEELER AND BEVANS, DULY CARRIED, TO APPROVE THE PREPARATION OF AN RFP TO SOLICIT PROPOSALS FROM QUALIFIED MECHANICAL ENGINEER/ARCHITECTURE FIRMS TO EVALUATE THE EXISTING CITY HALL MECANICAL SYSTEM; FURTHER, THAT THE PROPOSALS BE BROUGHT BACK TO THE MARCH 18, 2013 MEETING.

Improvement 05-01 – College Drive Reconstruction – Work Orders 11 and 12 and Supplemental Agreement #2 – Approved

Attachments to the Packet included Work Orders No. 11 and 12 and Supplemental Agreement No. 2 for the College Drive Project along with a memo briefly describing the work associated with each document.

MOVED AND SECONDED BY ALDERMEN SCHEELER AND BORKENHAGEN TO AUTHORIZE PROCEEDING WITH WORK ORDERS 11 AND 12 AND SUPPLEMENTAL AGREEMENT #2 FOR IMPROVEMENT 05-01 – COLLEGE DRIVE – AS PRESENTED.

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

Tax Forfeit Lot Classification – Classify Lots 23-26, Block 11, Cuyuna Range Addition, as Non-Conservation in order to Include in 2013 Tax Forfeit Parcel Public Auction as Requested by Crow Wing County – Approved

Per a memo from City Engineer Hulsether, Crow Wing County has requested action to classify the parcel identified as non-conservation and their intent to offer the parcel for sale at this year's tax forfeit parcel public auction. He states that staff concurs with the county's actions based on the parcel being wetland.

MOVED AND SECONDED BY ALDERMEN SCHEELER AND BORKENHAGEN, DULY CARRIED, TO APPROVE THE NON-CONSERVATION CLASSIFICATION OF LOTS 23-26, BLOCK 11, CUYUNA RANGE ADDITION, AS REQUESTED BY CROW WING COUNTY IN ORDER FOR SALE INCLUSION AT THIS YEAR'S TAX FORFEIT PARCEL PUBLIC AUCTION.

MPCA Access Agreement to Conduct Soil Borings within the Rights-of-Way of South 10th Street, Quince Street with Authorization for Proper Parties to Enter into the Agreement – Approved

A request from WSN acting as the agent for the Minnesota Pollution Control Agency (MPCA) for an access agreement to conduct soil borings within the rights of way of South 10th Street, Quince Street and the Spur Line Trail was included in the Packet. Per memo from City Engineer Hulsether, staff recommends approval of the agreement and authorization for proper city officials to enter into the agreement.

MOVED AND SECONDED BY ALDERMEN SCHEELER AND BORKENHAGEN, DULY CARRIED, TO APPROVE THE REQUEST FROM WIDSETH SMITH NOLTING, (WSN) ACTING AS THE AGENT FOR THE MPCA, FOR AN ACCESS AGREEMENT TO CONDUCT SOIL BORINGS WITHIN THE RIGHTS OF WAY OF SOUTH 10TH STREET, QUINCE STREET AND THE SPUR LINE TRAIL AND TO AUTHORIZE THE PROPER CITY OFFICIALS TO ENTER INTO THE AGREEMENT.

Improvement 12-12 – Buffalo Hills Trail:

Three documents were attached to the Packet for approval in regards to Improvement 12-12 – Buffalo Hills Trail. Staff recommends approval.

Approval of Professional Services Agreement for Extra Work – Approved

MOVED AND SECONDED BY ALDERMEN SCHEELER AND BORKENHAGEN, DULY CARRIED, TO APPROVE THE PROFESSIONAL SERVICES AGREEMENT FOR

EXTRA WORK ON IMPROVEMENT 12-12 – BUFFALO HILLS TRAIL – AS PRESENTED BY SEH.

Acceptance of Original Proposal for Construction Administration and Observation – Approved

MOVED AND SECONDED BY ALDERMEN SCHEELER AND BORKENHAGEN, DULY CARRIED, TO ACCEPT SEH'S ORIGINAL PROPOSAL FOR CONSTRUCTION ADMINISTRATION AND OBSERVATION IN THE AMOUNT OF $3,500 AS PRESENTED.

Authorization of Advertisement of Bids – Improvement 12-12 – Buffalo Hills Trail – Approved

MOVED AND SECONDED BY ALDERMEN SCHEELER AND BORKENHAGEN, DULY CARRIED, TO AUTHORIZE THE ADVERTISEMENT OF BIDS FOR IMPROVEMENT 12-12 – BUFFALO HILLS TRAIL – WITH BID DATE TO BE DETERMINED BY STAFF.

Private Sewer Service Replacements/Assessments – Informational

Cuyuna Lakes State Trail and Buffalo Hills Trail Sign Designs – Approved

A memo with pictures of proposed sign designs by Council Member Borkenhagen for the Cuyuna Lakes State Trail and Buffalo Hills Trail was included in the Packet for review and approval. Exact locations for the sign have not yet been determined.

MOVED AND SECONDED BY ALDERMEN SCHEELER AND BORKENHAGEN, DULY CARRIED, TO APPROVE THE DESIGNS FOR SIGNS TO BE PLACED ON THE CUYUNA LAKES STATE TRAIL AND BUFFALO HILLS TRAIL IN THE FUTURE AS PRESENTED.

Council Member Borkenhagen was thanked for designing the signs.

Committee Resignations – Accepted with Regret

MOVED AND SECONDED BY ALDERMEN BEVANS AND PRITSCHET, DULY CARRIED, TO ACCEPT, WITH REGRET, THE RESIGNATION OF MR. TAD ERICKSON FROM THE PLANNING COMMISSION EFFECTIVE FEBRUARY 6, 2013.

Adjourn

The Chair adjourned the meeting at 9:20 P.M.

Theresa A. Goble
City Administrator