

**Brainerd, MN
April 16, 2018**

Council met for a joint closed session, pursuant to MN Statutes, 13D.05, Subd. 3(b) with BPU Commissioners under the Attorney-Client Privilege to discuss the lawsuit by the City of Baxter regarding franchise fees.

Adjourn at 7:30 p.m. to regular meeting

Pursuant to due call and notice thereof, the regular meeting of the Brainerd City Council was called to order at 7:33 P.M. by Council President Pritschet.

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

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

MOVED AND SECONDED BY ALDERMEN BEVANS AND LAMBERT, DULY CARRIED, TO AMEND THE AGENDA BY ADDING ITEM 7 TO SAFETY AND PUBLIC WORKS COMMITTEE; IMPROVEMENT 14-15 – BRAINERD AIRPORT UTILITY EXTENSION FINAL PAYMENT.

MOVED AND SECONDED BY ALDERMEN BEVANS AND JOHNSON, DULY CARRIED, TO ADOPT THE AGENDA AS AMENDED.

MOVED AND SECONDED BY ALDERMEN BEVANS AND LAMBERT, DULY CARRIED, TO AMEND THE CONSENT CALENDAR BY ADDING A TEMPORARY ON-SALE LIQUOR LICENSE SUBMITTED BY THE CROSSING ARTS ALLIANCE, 711 LAUREL STREET FOR AN EVENT TO BE HELD MAY 15, 2018 AND A MINNESOTA LAWFUL GAMBLING APPLICATION SUBMITTED BY THE BRAINERD ELKS LODGE #615 TO CONDUCT OFF-SITE GAMBLING ON MAY 9, 2018 AT THE NATIONAL GUARD ARMORY, 1115 WRIGHT STREET.

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 April 2, 2018 - Approved

B. Approval of Licenses - Approved

Contractor Licenses – 1 – New; 4 - Renewals

C. Department Activity Reports - Approved

1. Police Chief
2. Finance Director

- D. Temporary On-Sale Liquor License Application – Submitted by the Brainerd Jaycees for an Event to be Held May 5th, 2018 at the Essentia Health Sports Center, 502 Jackson St., Brainerd - Approved**
- E. (Added Item) Temporary On-Sale Liquor License Application – Submitted by the Crossing Arts Alliance, 711 Laurel St., Brainerd for an Event to be Held May 15th, 2018 - Approved**
- F. (Added Item) Minnesota Lawful Gambling – Adopt Resolution Authorizing the Brainerd Elks Lodge #615 to Conduct Off-Site Gambling on May 9th, 2018 at the Brainerd National Guard Armory, 1115 Wright St., Brainerd – Adopted by Resolution No. 23:18**

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

Presentations

Facility Study Update

The Chair welcomed Mr. Mike Angland, architect for Widseth Smith Nolting who gave a brief update regarding the progress of the Facility Study. Due to weather, he has been unable to complete the inspections of the roofs. Mr. Angland stated the walk throughs are near completion with the Parks Department upcoming shortly. Mr. Angland will be meeting with the City Administrator the week of May 7th to review the content of the buildings with preliminary cost estimates. A second meeting is scheduled for the week of May 21st to view progress at that time with the goal of being at 90% complete by June 4th and 100% complete by June 18th. Along with the study is a department analysis to incorporate layouts of space versus anticipated growth in each department and daily functions relative to the locations of the departments operationally. The Chair thanked him for the update.

Council Committee Reports

Safety and Public Works Committee Report

Downtown Landscaping and Maintenance Quote Approval - Approved

MOVED AND SECONDED BY ALDERMEN BEVANS AND BADEAUX, DULY CARRIED, TO ACCEPT THE QUOTE FROM NORTHWOODS LANDSCAPING IN THE AMOUNT OF \$12,175 FOR DOWNTOWN STREETScape AND MAINTENANCE FOR 2018.

Event/Street Closure Application – Lowell School Walk-A-Thon - Approved

MOVED AND SECONDED BY ALDERMEN BEVANS AND LAMBERT, DULY CARRIED, TO APPROVE THE EVENT APPLICATION WITH THE CONDITION THE APPLICANT WORK WITH THE ENGINEERING/STREET DEPARTMENT STAFF ON TRAFFIC CONTROL FOR THE STREET CLOSURE.

Event/Street Closure Application – Brainerd High School Triathlon - Approved

MOVED AND SECONDED BY ALDERMEN BEVANS AND BADEAUX, DULY CARRIED, TO APPROVE THE EVENT APPLICATION WITH THE CONDITION THE APPLICANT CONTINUES THE COORDINATION OF THE EVENT THROUGH OFFICER SCHREIFELS AND THE APPLICANT COORDINATE THE NEED FOR TRAFFIC CONTROL DEVICES WITH THE ENGINEERING/STREET DEPARTMENT STAFF IF NECESSARY.

Laurel Street Historic Bridge Railing Placement - Approved

MOVED AND SECONDED BY ALDERMEN BEVANS AND LAMBERT, DULY CARRIED, TO ACCEPT STAFF RECOMMENDATION APPROVING THE INSTALLATION OF THE HISTORIC MONUMENT ON THE FIRE DEPARTMENT PROPERTY CONSISTING OF THE HISTORIC BRIDGE RAILINGS AND PLAQUE BY THE CROW WING COUNTY HISTORICAL SOCIETY WITH CITY STAFF ASSISTANCE IN THE INSTALLATION AND WITH APPROVAL BY THE FIRE DEPARTMENT.

Request for Consideration – Beaver Dam Road Assessment - Denied

MOVED AND SECONDED BY ALDERMEN BEVANS AND LAMBERT, DULY CARRIED, TO DENY THE REQUEST FOR RELIEF ON THE ASSESSMENTS FROM THE PROPERTY OWNER.

Committee Chair Bevans indicated there were many assessments on Beaver Dam Road and the Riverside Drive project. The property owner purchased the property for potential development knowing the assessments and interest costs. Committee Chair Bevans stated the property owner's plans for developing the property are unknown at this time.

College Drive Pavement Discussion - Approved

MOVED AND SECONDED BY ALDERMEN BEVANS AND BADEAUX, DULY CARRIED, TO ACCEPT THE CITY ENGINEERS' RECOMMENDATION AND MOVE FORWARD ON THE COLLEGE DRIVE MILL AND OVERLAY PROJECT USING A 1 – 1 ¼" OVERLAY IN THE 2019 PROJECT YEAR FOR THE APPROXIMATE COST OF \$256,740 TO BE ADVANCED FROM STATE AID FUNDS.

Committee Chair Bevans stated the original construction of College Drive in 2012 used materials that were implemented extensively in 2012 throughout the state. They are proving to be wearing very poorly and getting worse each year, however, the project itself was a success with the amount of traffic it handles. The City wants to take care of the issues as quickly and effectively as possible as the problems will escalate as time goes on.

City Engineer Sandy indicated this is the best solution, as the chip seal option would need to be redone every few years. The option of microsurfacing is a fairly new procedure the City has not yet put into practice on any pavements in Brainerd. City Engineer Sandy stated this may be tried on a smaller section first to monitor the long-term effects before using it on a high-volume street such as College Drive.

(Added Item) Improvement 14-15 – Brainerd Utility Extension Final Payment – Approved

MOVED AND SECONDED BY ALDERMEN BEVANS AND BADEAUX, DULY CARRIED, TO APPROVE STAFF RECOMMENDATION OF THE FINAL PAY ESTIMATE FOR IMPROVEMENT 14-15 IN THE AMOUNT OF \$125,083.41 CONTINGENT UPON THE

CONTRACTOR SUBMITTING ALL OF THE FINAL DOCUMENTATION INCLUDING THE CONSENT TO FINAL PAYMENT, RELEASE OF LIENS AND IC-134 FORMS FOR THE PROJECT.

City Attorney Langel indicated there is litigation pending on the project. The City is trying to close out the project while at the same time dealing with disputed amounts concerning the project. The parties have agreed that this final amount to close out the project will be subject to an agreement between the parties that there are dispute amounts remaining as follows: 1) The amount that Tom's Backhoe claims that is owed on the project 2) The \$126,000 in liquidated damage that the City claims that Tom's Backhoe owes 3) The MPCA penalty that was referenced during the committee meeting as part of this agreement, Tom's is agreeing to pay the penalty. The final payment can be processed subject to the above agreement.

Personnel and Finance Committee Report

Approval of Bills & Payment to Contractor - Approved

MOVED AND SECONDED BY ALDERMEN JOHNSON AND STUNEK TO APPROVE THE PAYMENT OF BILLS AS RECOMMENDED BY PERSONNEL AND FINANCE COMMITTEE AND THE FINAL PAYMENT TO CONTRACTOR TOM'S BACKHOE CONTINGENT UPON THE APPROVAL OF THE SAFETY AND PUBLIC WORKS COMMITTEE.

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

Administration and Use of Small Cities Revolving Loan Funds - Approved

MOVED AND SECONDED BY ALDERMEN JOHNSON AND HILGART, DULY CARRIED, TO APPROVE THE CITY OF BRAINERD REVOLVING LOAN PROGRAM, APPROVE AND AUTHORIZE SIGNATURES ON THE MEMORANDUM OF AGREEMENT (MOA) SUBJECT TO CITY ATTORNEY REVIEW AND AUTHORIZE STAFF TO TRANSFER APPLICABLE FUNDS TO THE HOUSING AND REDEVELOPMENT AUTHORITY (HRA).

Council Member Bevans inquired on the status of the demolition of the downtown hotel building. City Attorney Langel indicated the attorney for the property owner has removed himself from the case and it was requested of the court to put the case back on the calendar.

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

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

Resolution Establishing Polling Locations for Primary and General Elections – Adopted by Resolution No. 24:18

MOVED AND SECONDED BY ALDERMEN JOHNSON AND HILGART TO ADOPT RESOLUTION NO. 24:18 ESTABLISHING POLLING LOCATIONS FOR THE PRIMARY AND GENERAL ELECTIONS.

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RESOLUTION NO. 24:18

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

Resolution Setting Pay For Election Judges – Adopted by Resolution 25:18

MOVED AND SECONDED BY ALDERMEN JOHNSON AND STUNEK TO ADOPT RESOLUTION NO. 25:18 SETTING THE WAGE FOR PRECINCT HEAD AND ASSISTANT HEAD ELECTION JUDGES AT \$12.00 PER HOUR AND ELECTION AND TRAINEE ELECTION JUDGES AT \$10.00 PER HOUR.

RESOLUTION NO. 25:18

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

Unfinished Business

Committee Recommendations – Recommended by Mayor Menk

MOVED AND SECONDED BY ALDERMEN JOHNSON AND HILGART, DULY CARRIED, TO APPOINT MS. REBEKAH KENT TO THE HOUSING AND REDEVELOPMENT AUTHORITY (HRA) FOR A TERM TO EXPIRE 12/31/18.

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) – 1 term (Expire 2021)

Housing & Redevelopment Authority – 1 term (Expire 2018) – *filled by the applicant above*

New Business

Legislative Items - Approved

City Engineer Sandy explained there are some bills being discussed at the legislature that were not included on our legislative agenda. The first is a bill relating to the release of retainage to contractors. City Engineer Sandy recommends the City oppose legislation, specifically SF2783/HF2912 in which would reduce the timeframe in which cities would need to pay retainage, therefore putting undue burden upon cities for completing work not completed by contractors, if the need to have contractors return to finish work.

City Engineer Sandy explained the second bill would increase the competitive threshold from \$100,000 to \$175,000 and recommends the City support legislation bill HF3841/SF3399.

City Engineer Sandy indicated that Senator Ruud had presented to the council information regarding the constitutional dedication of auto parts to the transportation bill. Currently, the wording is such that this new money would go into our State Aid account for use

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on 20% of our street system designated as State Aid. There is no suggested motion, as we are concerned it would affect the LGA.

MOVED AND SECONDED BY ALDERMEN LAMBERT AND BEVANS, DULY CARRIED, TO APPROVE THE RECOMMENDATIONS OF CITY ENGINEER SANDY TO OPPOSE LEGISLATIVE BILL SF2783/HF2912; RELEASE OF RETAINAGE TO CONTRACTORS AND SUPPORT LEGISLATIVE BILL HF3841/SF3399; INCREASING THE COMPETITIVE BID THRESHOLD FROM \$100,000 TO \$175,000.

Comprehensive Plan Steering Committee Appointment – Ms. Hara Charlier, Central Lakes College President - Approved

MOVED AND SECONDED BY ALDERMEN HILGART AND JOHNSON, DULY CARRIED, TO APPROVE THE APPOINTMENT OF MS. HARA CHARLIER TO THE COMPREHENSIVE PLAN STEERING COMMITTEE.

Public Forum

The Chair opened the Public Forum at 8:10 p.m.

No one came forward.

The Chair closed the Public Forum at 8:10 p.m.

Staff Reports

City Planner Ostgarden announced the next Comprehensive Plan Steering Committee meeting is taking place on Thursday, April 19th at 4:00 p.m. at the Brainerd Industrial Center. Mr. Mike Higgins agreed to allow a tour of the facility at 3:00 p.m. if anyone is interested in attending. City Planner Ostgarden indicated the four neighborhood ward meetings are complete and many great ideas and comments will be shared with the steering committee.

City Planner Ostgarden explained the Planning Department evaluated the goals and strategies of the 2004 Comprehensive Plan to rate how well the plan was followed. Many areas of the plan did not rate very high due to lack of follow through or education about the plan.

Finance Director Hillman shared on behalf of City Administrator Torstenson that an email was sent to the legislators opposing House File 3830, which is legislation to reduce the amount of LGA if a city receives local option sales tax. The local option sales tax can only be used for a specific purpose as stated in the legislation when it was passed. An update was received after the hearing took place last week that the bill did not pass, but we will monitor. An email was also sent regarding Senate File 3082 encouraging the Senate to discuss LGA, as the Senate was not informed about LGA discussed yet in this session.

Council Member Reports

Council Member Johnson announced the River to Rail Steering Committee met last week. They divided into subcommittees and are working on advertising with plans for possible developments in the district.

Council Member Hilgart indicated it is National Volunteer Appreciation week and thanked the people that serve on the various committees and commissions as a volunteer. She also stated that she attended the Comprehensive Plan Neighborhood meeting and expressed what an enjoyable experience it was. She recently dined at the new Mexican restaurant downtown and encouraged people to visit the downtown area.

Council Member Badeaux announced he will be presenting at the Kitchigami Library on Tuesday, April 17th to talk about the life of the Historic Water Tower. He invited everyone to attend the Library Open House at 4:30 p.m. to see the painting competition and at 6:00 p.m. for the presentation.

Mayor Menk reported the Easter Egg Hunt that took place last weekend was a success and thanked the Parks Department and Rotary Members. Mayor Menk announced he will be presenting awards to 4th graders this week that were nominated by their teachers for working hard to bring up their grades in school. This event was started by Mayor Wallin through the Kiwanis Club, and is referred to as the B.U.G. (Bringing Up Grades) Program.

Adjourn

The Chair adjourned the meeting at 8:26 p.m.

Cassandra Torstenson
City Administrator