

**Brainerd, MN
October 21, 2019**

Council met at 6:30 p.m. for a closed session, pursuant to MN Statutes 13D.05 Subd. 3(B) for Attorney-Client Privilege to Discuss the IAFF V. City of Brainerd Lawsuit.

Adjourned to regular meeting at 7:00 p.m.

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 Johnson.

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

Council President Johnson 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 "CITY MEETINGS AT THE COUNTY COURTHOUSE" TO NEW BUSINESS.

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

A. Approval of the Minutes of the Regular Meeting held on October 7, 2019 - Approved

B. Approval of Licenses - Approved

Contractor Licenses – 2 – New

C. Department Activity Reports - Approved

1. Police Chief
2. Finance Director

D. Adopt Resolution Accepting Donations & Contributions for the 3rd Quarter 2019 – Adopted by Resolution No. 56:19

E. Temporary On-Sale Liquor License Application – Submitted by the Crossing Arts Alliance for an Event to be Held November 8, 2019 at 711 Laurel Street, Brainerd – Approved

F. New Tobacco License and Fill Station License Applications – Submitted by Mid-Town Depot, 321 Washington Street, Brainerd – Contingent Upon Background Check and Fire Inspection - Approved

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

October 21, 2019

Community Member of the Month

Mayor Menk presented Mr. Mike Padgett with the Community of the Month award. He stated that Mr. Padgett is always volunteering his time in the community and has been teaching kids to ice skate for over 40 years in Gregory Park. He said the Park Board voted to recognize Mr. Padgett with a plaque at the dedication of the new warming house on October 19th, which will be displayed inside for all to see. He thanked Mr. Padgett for his hard work and dedication to the City of Brainerd.

Presentations

Brainerd Lakes Area Economic Development Corporation (BLAEDC) – Tyler Glynn

The Chair recognized Mr. Tyler Glynn, economic development officer for BLAEDC, who gave a brief review of the information he provided at the recent Economic Development Authority (EDA) meeting. He said the next BLAEDC quarterly meeting will take place on November 5, 2019 with updates on various events, such as the Destination Downtown Contest and the staff changes with the executive director leaving the company. He answered questions and thanked the Council for the opportunity to present.

Memorial Park Design Presentation

The Chair recognized Tony Sailer, Parks Director, who started by congratulating Mr. Mike Padgett for earning the Community of the Month award.

Parks Director Sailer stated the lease with Brainerd Industrial Center for the Mill Avenue parking lot will end March of 2021. He said the Council directed staff and the Park Board to work with Wideth Smith and Nolting on a design plan. He gave a brief review of the various ideas to move some of the facilities from Mill Avenue Park to Memorial Park, which includes two hockey rinks, one pleasure rink, adult softball field, youth softball field and warming house. He said staff submitted a request for an appraisal of the Memorial Park parking lot property, which will take several weeks to receive.

The Chair recognized Mr. Joe Dubel, engineer from WSN, who gave a Powerpoint presentation of the proposed design which includes plans for future development. He said this design would also eliminate the need to purchase the leased parking lot from BIC, as this plan would include a parking lot.

Council discussion took place and questions were answered.

Finance Director Hillman indicated she spoke to the bond council and municipal advisors regarding the project. She stated the project could be funded by General Obligation (GO) Tax Abatement Bonds.

MOVED AND SECONDED ALDERMEN BEVANS AND LAMBERT, DULY CARRIED, TO DIRECT STAFF AND PERSONNEL AND FINANCE COMMITTEE TO FINALIZE THE DETAILS ON THE PARKING LOT APPRAISAL AND RESEARCH THE BONDING OPTIONS AVAILABLE FOR THE MEMORIAL PARK DESIGN PROJECT.

October 21, 2019

Council Committee Reports

Personnel and Finance Committee Report

Approval of Bills & Payments to Contractors - Approved

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

<u>Contractor</u>	<u>IMP#</u>	<u>Project</u>	<u>Amount Paid</u>	<u>Contract Amount</u>
Visu-Sewer	18-11	Joint Manhole Rehab Project	\$12,387	\$13,312

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

Ratify the Hiring of Police Officer Bailey Boelter - Approved

MOVED AND SECONDED BY ALDERMEN BADEAUX AND ERICKSON, DULY CARRIED, TO APPROVE THE RATIFICATION OF HIRING BAILEY BOELTER AS A POLICE OFFICER EFFECTIVE NOVEMBER 4, 2019; FURTHER THAT MR. BOELTER BE PLACED ON STEP 1 OF THE POLICE OFFICER WAGE GRID (\$26.90 PER HOUR).

Training on New Employee Policy Manual - Approved

MOVED AND SECONDED BY ALDERMEN BADEAUX AND STUNEK, DULY CARRIED, TO APPROVE THE RETENTION OF CHRISTIAN SHAFER FOR TRAINING ON OUR NEW EMPLOYEE POLICY MANUAL ON FRIDAY OCTOBER 25, 2019 AT AN ESTIMATED COST OF \$1,300.

Committee Chair Badeaux stated there were department heads that expressed interest in the training. He indicated the fee is considerably less than it would normally be, as Mr. Shafer will be in the area for an unrelated event. He stated that Brainerd Public Utilities (BPU) will be remitting half the fee towards the training.

Small Cities Development Program (SCDP) Grant CDAP-15-0038-O-FY16 (Downtown Grant) - Informational

Committee Chair Badeaux indicated the City was awarded a \$650,000 grant in 2016 for rental and commercial rehab downtown. He stated part of the closeout for the grant is to inform the Council of funds that were not used to be returned to the state.

The Chair recognized Brainerd HRA Director, Ms. Jennifer Bergman, who stated the goals of the grant were to complete at least 17 rental and 8 commercial units of rehabilitation. She said she is happy to announce there were 44 units of rental and 10 units of commercial that were completed with these grant funds. She stated there was also additional program income of \$194,000 that needed to be used, as well as the owners match in funding of \$300,000 for a total investment in downtown of nearly \$1.2 million. She thanked the Council for the ability to apply

for the grant funding and thanked John Schommer, rehab director for the HRA who put in a lot of hard work for this project.

Tower Awards – Approved

MOVED AND SECONDED BY ALDERMEN BADEAUX AND ERICKSON, DULY CARRIED, TO AUTHORIZE STAFF TO PURCHASE THE TOWER AWARDS FROM THE BRUCE FOX COMPANY FOR THE ORIGINAL DESIGNED TOWER AWARD PLAQUES.

Committee Chair Badeaux indicated discussion was held regarding the increased cost of the tower awards. He said the committee thought it was important to research other options but decided to remain with the original design and higher quality of the award purchased from the Bruce Fox Company.

Memorial Park Parking Lot - Informational

Committee Chair Badeaux indicated the appraisal for the Memorial Park property was ordered from Ludenia Appraisal, not to exceed \$3,500 and Council will be updated when received.

Safety and Public Works Committee Report

2019-2020 Downtown Snow Removal – Consideration of Bids and Award Recommendation - Approved

MOVED AND SECONDED BY ALDERMEN BEVANS AND PRITSCHET, DULY CARRIED, TO ACCEPT STAFF'S RECOMMENDATION AND ACCEPT THE BIDS FOR THE 2019-2020 DOWNTOWN SNOW REMOVAL AND AWARDING THE CONTRACT TO TOM'S BACKHOE SERVICE.

Committee Chair Bevans indicated Tom's Backhoe Service was the only bidder, and there is an approximate 5% increase over last year's costs.

Improvement 18-11 – Joint City of Brainerd and Crow Wing County Manhole Rehabilitation Project – Final Pay Estimate Number 1 - Approved

MOVED AND SECONDED BY ALDERMEN BEVANS AND LAMBERT, DULY CARRIED, TO ACCEPT STAFF'S RECOMMENDATION AND APPROVE FINAL PAYMENT TO VISU-SEWER IN THE AMOUNT OF \$18,620, OF WHICH \$12,387 IS THE CITY COST AND \$6,233 IS THE COUNTY COST FOR THE PROJECT.

Resolution – Directing That Costs Incurred in Removing Hazardous Structure Be Reported to Court – 507 South 6th Street – Adopted by Resolution No. 57:19

MOVED AND SECONDED BY ALDERMEN BEVANS AND PRITSCHET TO ACCEPT STAFF'S RECOMMENDATION AND ADOPT A RESOLUTION TO SEND COSTS INCURRED FROM THE DEMOLITION OF THE HAZARDOUS STRUCTURE AT 507 SOUTH 6TH STREET TO THE COURTS.

City Attorney Langel stated the costs incurred consist of legal fees, demolition fees and the cost to repair the wall of the Exhaust Pros building. He said this is a statutory process that will be submitted to the courts and ultimately assessed to the property.

October 21, 2019

Finance Director Hillman stated the funds to pay these costs came out of an old CDBG Fund 209 which was not part of the budget process. She stated these old grant dollars were eligible to be used for this demolition project. She indicated the remaining grant funds are at the Brainerd HRA to be used for any slum or blight conditions and potential applicants would need to meet certain criterion in order to qualify.

RESOLUTION NO. 57:19

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

Transportation Alternatives – Authorization to Submit Letter of Intent to Apply for Funds for 28th Street Trail Construction - Approved

MOVED AND SECONDED BY ALDERMEN BEVANS AND LAMBERT TO ACCEPT STAFF'S RECOMMENDATION AND AUTHORIZE A LETTER OF INTENT FOR THE 2024 TRANSPORTATION ALTERNATIVES PROGRAM TO BE SUBMITTED TO THE MINNESOTA DEPARTMENT OF TRANSPORTATION FOR THE 28TH STREET SE TRAIL CONNECTION AS PRESENTED.

Committee Chair Bevans stated if the City is awarded funding, the City would be responsible for approximately 20% of the construction costs and 100% of the engineering costs, which would be an approximate total amount of \$88,000. He said the remaining 80% would be the federally funded portion of approximately \$175,000.

Council Member Erickson stated he will be abstaining from the vote, as his employer is involved in the solicitation process of the grant request.

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

Unfinished Business

Public Hearing – Downtown Special Services, Downtown Snow Removal, and 2019 Nuisance Assessments – Consideration of Resolution Ordering the Special Assessments – Adopted by Resolution No. 58:19

The Chair opened the public hearing at 8:16 p.m.

The Chair recognized Jessica Sommers, 1319 11th Ave NE, who stated she is being assessed \$1,000 for expired license tabs on a car that was not operable. She stated it would have been a financial burden to pay for insurance in order to purchase the tabs and pay the nuisance fees.

Community Development Director Chanski read a letter submitted by Richard Weiss, 319 N 9th Street, who was unable to attend the meeting regarding his nuisance citations assessed for poor roof conditions on his house.

The Chair closed the public hearing at 8:23 p.m.

MOVED AND SECONDED BY ALDERMEN PRITSCHET AND LAMBERT, DULY CARRIED, TO ADJOURN THE PUBLIC HEARING TO NOVEMBER 4, 2019 TO REVIEW THE CONTESTMENTS AT 1319 11TH AVE NE AND 319 N 9TH STREET.

MOVED AND SECONDED BY ALDERMEN LAMBERT AND BEVANS TO ADOPT A RESOLUTION ADOPTING THE ASSESSMENTS AS PROPOSED FOR THE DOWNTOWN SPECIAL SERVICES DISTRICT, 2018-2019 DOWNTOWN SNOW REMOVAL AND 2019 NUISANCE ABATEMENT EXCLUDING THE TWO CONTESTMENTS.

RESOLUTION NO. 58:19

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

Public Hearing – Improvement 17-06 and 17-07 Assessments – Consideration of Resolution Ordering Special Assessments – Adopted by Resolution No. 59:19

City Engineer Sandy stated these improvements are for the H Street and 10th Avenue NE Reconstruction projects. He indicated the original notification letters that were sent out had estimated costs of \$61 per foot for H Street and \$45 per foot for 10th Avenue NE. He said due to the increased construction costs for all projects this year, and the final assessments resulted in \$62.33 per foot for H Street and \$57.21 per foot for 10th Avenue NE. He said he received two letters from property owners at 1004 H Street and 815 10th Ave NE contesting the assessment amounts.

The Chair opened the public hearing at 8:31 p.m.

The Chair recognized Terri Ford, 518 10th Ave NE, who questioned why there was an increase in the cost per foot. She said her husband called and spoke with City Engineer Sandy and was told it was due to cost overruns and cost of oil for the asphalt. She asked about difference regarding the number of layers of material used on H Street versus 10th Avenue. She stated they have received comments regarding the trees being cut down due to the construction.

City Engineer Sandy indicated when the first proposed assessment letters are sent, the assessment rate is based on a "probable cost" estimate, which is calculated by the estimated quantities for the project and costs based on historical values. He stated when the contractor bid on the project, the costs were approximately 20% higher than what was estimated. He said this was the case for projects across the state in 2019. He indicated that 10th Avenue NE is considered a local street which means it is designed for a 7-ton axle weight road design, which consists of 4" of gravel and 2" of bituminous. He said H Street is considered a state aid route and must be designed as a 9-ton axle weight, which consists of 5" of gravel, and two lifts of asphalt which is approximately 3 ½".

The Chair recognized Jean Johnson, 815 10th Ave NE, who is contesting the improvement assessment amounts. She stated she submitted a letter which details the reasons for the objections. She would like confirmation that there will be an adjourned hearing for contested properties. She stated the turf restoration was of poor quality.

City Engineer Sandy stated the weed problem in the boulevard is still under review, as the project has not been closed out. He said the seeding contractor did spray for weeds to try and take care of the issue but will still be under evaluation until next spring.

October 21, 2019

The Chair recognized Diane Holz, 810 H Street, who stated the landscapers sprayed and lay fabric, but she has a large spot in the middle of her yard that is dead. She said there is no way that anyone can afford that high of an assessment.

The Chair closed the public hearing at 8:48 p.m.

MOVED AND SECONDED BY ALDERMEN LAMBERT AND BEVANS, DULY CARRIED, TO ADJOURN THE PUBLIC HEARING TO NOVEMBER 4, 2019 TO REVIEW THE CONTESTMENTS AT 518 10TH AVE NE, 815 10TH AVE NE, 1004 H STREET AND 810 H STREET.

MOVED AND SECONDED BY ALDERMEN LAMBERT AND PRITSCHET TO ADOPT A RESOLUTION ADOPTING THE ASSESSMENTS AS PROPOSED FOR IMPROVEMENTS 17-06 AND 17-07 EXCLUDING THE CONTESTMENTS.

RESOLUTION NO. 59:19

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

City Hall Remodel – Consideration of Bids and Award Recommendation - Approved

City Engineer Sandy stated he provided Council with the bid results for the City Hall Renovation Project.

The Chair recognized Kevin Currie, construction manager for Contegrity Group, recommends the awarding of the contracts by the qualified low bidders as shown below except for Weidner Plumbing & Heating, who withdrew their bid for category 10. He explained category four was an alternate and will not be accepted by the City. He said that category eight was not an accepted category.

CATEGORY	WORK	VENDOR	BID AMOUNT
Category 1	General Construction	Haataja Contracting	\$140,900
Category 2	Masonry/Tuckpointing	Baratto Brothers Construction	\$74,825
Category 3	Roofing	Thelen Heating & Roofing	\$64,800
Category 5	Acoustical Ceilings	St. Cloud Acoustics	\$24,730
Category 6	Flooring	Dorholt Tile & Home Center	\$62,514
Category 7	Painting	Henkemeyer Coatings	\$33,520
Category 9	Fire Suppression	Breth-Zenzen Fire Protection	\$23,835
Category 10	Mechanical/HVAC/Plumbing	NAC Mechanical & Electrical	\$495,000
Category 11	Testing/Balancing/Adjusting	Premier Test & Balance	\$13,000
Category 12	Controls	NAC Mechanical & Electrical	\$110,820
Category 13	Electrical/Communications	Holden Electric Company	\$93,777
TOTAL			\$1,137,721

MOVED AND SECONDED BY ALDERMEN LAMBERT AND PRITSCHET, DULY CARRIED, TO ACCEPT STAFF'S RECOMMENDATION TO APPROVE THE BIDS AND AWARD THE CONTRACTS AS PRESENTED.

(Added Item) City Council Meetings Held at the County Courthouse - Informational

October 21, 2019

IT/GIS Director Strong explained with the building renovations about to start, the City Council meetings will be held at the Crow Wing County Historic Courthouse, starting November 4, 2019 in the County Board Room. He stated there will be no televising capabilities, but the Council meetings will be streamed online to YouTube. He indicated we have received permission from Crow Wing County to use the Jinx Ferrari room for committee meetings if needed.

He further explained with the construction taking place at the high school, the fiber connection for broadcasting on Charter, and possibly CTC has been halted with no guarantee of future connection.

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

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

Cable TV Advisory Committee – 1 term (Expire 2019) - 2 terms (Expire 2021)
Charter Commission – 2 terms (Expire 2020) - 1 term (Expire 2021) – 1 term (Expire 2022)

Mayor Recommended: (terms to expire 09/07 of said year)

Economic Development Authority (EDA) – 1 term (Expire 2020)

New Business

Set Meeting Time on November 4th for City Administrator Applicant Review and Select Finalists for Interviews - Approved

Human Resource Director Schubert stated the deadline to apply for the City Administrator position was October 15, 2019. She said DDA is screening the applicants and Council needs to select the finalists.

MOVED AND SECONDED BY ALDERMEN LAMBERT AND PRITSCHET, DULY CARRIED, TO HOLD A SPECIAL MEETING AT 6:00 P.M. ON NOVEMBER 4TH, 2019 PRIOR TO THE REGULAR COUNCIL MEETING AT THE CROW WING COUNTY COURTHOUSE TO SELECT THE CITY ADMINISTRATOR FINALISTS.

Planning Commission

Variance Request – 1853 Graydon Ave – Setbacks for Garage - Approved

Community Development Director Chanski explained the details of the application, stating the reason for the reduced setback would be in order to construct a larger garage. He said the property is considered legal nonconforming, as the lot is only 60' wide versus the required 75' wide.

MOVED AND SECONDED BY ALDERMEN LAMBERT AND PRITSCHET, DULY CARRIED, TO APPROVE THE VARIANCE REQUEST FOR 1853 GRAYDON AVENUE TO CONSTRUCT A 26' X 28' GARAGE WITH A 55" SIDE YARD SETBACK.

First Reading – Proposed Ordinance No. 1500 – Rezone 11349 Easy Street from R-1A to R-1 – Interim City Administrator Thoreen Recommends to Dispense with the Actual Reading - Approved

Community Development Director Chanski gave a brief review of the application which was submitted to request a reduced setback for an accessory structure. He said the applicant would like to construct a garage with the reduced setbacks. He said the property is on Rice Lake and shoreland regulations need to be followed.

MOVED AND SECONDED BY ALDERMEN LAMBERT AND PRITSCHET, DULY CARRIED, TO HOLD THE FIRST READING OF PROPOSED ORDINANCE NO. 1500 – AN ORDINANCE AMENDING ORDINANCE NO. 812 PERTAINING TO THE ZONING OF 11349 EASY STREET FROM AN R-1A TO AN R-1 DISTRICT TO BE ABLE TO CONSTRUCT A GARAGE.

First Reading – Proposed Ordinance No. 1501 – Nonconforming Rentals – Interim City Administrator Thoreen Recommends to Dispense with the Actual Reading - Denied

Community Development Director Chanski explained that Section 515-15 of the Zoning Code states, *“A nonconforming residential use that had a rental license expire (more than 365 days from date of license expiration) cannot be reestablished as a nonconforming use.”*

He said throughout the City, there are numerous legal nonconforming two-family and multi-family dwellings in single-family residential districts. He indicated if this exclusion was removed from the Zoning Code, the City could license these units to get them back into compliance with the rental housing requirements.

Council discussion took place and questions answered.

Council Member Bevans stated he does not believe this would alleviate the problem and it is the property owner’s responsibility to be diligent and renew the license as required.

Council Member Lambert explained if a family member of the property owner is residing in one of the units, that unit does not have to be licensed. She said the concern comes up when and if that family member vacates that unit and it was previously not licensed.

Council Member Badeaux stated a rental property owner should pay the \$32 rental housing license fee in order to continue the nonconforming use.

MOVED BY ALDERMEN LAMBERT TO HOLD THE FIRST READING OF PROPOSED ORDINANCE NO. 1501 – AN ORDINANCE TO AMEND SECTION 515-15 OF THE ZONING CODE FOR NONCONFORMING RENTALS.

The motion dies for lack of a second.

Public Forum

The Chair opened the public forum at 9:27 p.m.

A resident in the audience asked about viewing the Council meetings on television. She was directed to view future meetings online via YouTube or attend the meetings in person until it

October 21, 2019

hopefully resumes in May. If no home access to the internet, the public library has computers for public use.

The Chair closed the public forum at 9:30 p.m.

Staff Reports

None

Council Member Reports

Council Member Badeaux stated the Walkable Bikeable Committee has applied for a grant to assist residents with snow shoveling this winter. He explained this is due to many of the sidewalks being under construction. He will update the Council as more information is received.

Mayor Menk indicated Council Member Bevans and he attended the Gregory Park dedication on Saturday. He stated he also went to see the entrance at Rotary Park which is being remodeled.

Council Member Pritschet indicated he attended the IDI Welcoming Communities Event along with Council Member Lambert and Interim City Administrator Thoreen.

Interim City Administrator Thoreen indicated the City was awarded a welcome sign on behalf of the Welcoming Communities to be displayed in council chambers.

Council paused for a brief break prior to the closed session.

Closed Session Pursuant Minnesota Statutes 13D.05 Subd. 3(C)(3) To Consider Counteroffers for the Purchase of Property at 304 Washington Street West, 422 4th Street NW, 623 4th Street NW, 502 Jackson Street, 424 3rd Street NW and 622 4th Street NW All in Brainerd, MN 56401 – 9:40 p.m.

The Chair reconvened the meeting at 9:51 p.m.

MOVED AND SECONDED BY ALDERMEN BEVANS AND LAMBERT, DULY CARRIED, TO OBTAIN AN APPRAISAL FOR THE PROPERTY AT 502 JACKSON STREET.

Adjourn to Special Council Meeting, November 4, 2019 at 6:00 p.m. – 9:52 p.m.

James M. Thoreen
Interim City Administrator