

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: Scheeler, Parks, Borkenhagen, Koep, Pritschet, Bevans, and Cumberland. Mayor Wallin noted as absent.

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

Council President Cumberland reported the following amendments to the July 1, 2013 minutes: Change "Friday" to "Thursday" in her report relating to the airing of the Jack Shultz presentation on Lakeland Public TV, and correct the motion on page 7 relating to accepting the bid from Hy-Tec Construction for the City Hall Restoration Project to read as follows:

City Hall Restoration Bids – Accept Low Bid from Hy-Tec Construction in the Amount of \$105,500 – Approved

Safety and Public Works Committee Chair Scheeler reported that the following base bids were received for the second bid opening for the City Hall restoration project and that staff recommends acceptance of the low bid:

- Hy-Tec Construction of Brainerd - \$105,500
- W. Gorham Company of St. Joseph - \$107,973
- KUE Contractors of Watkins - \$162,166

MOVED AND SECONDED BY ALDERMEN SCHEELER AND BORKENHAGEN, DULY CARRIED, TO ACCEPT THE LOW BID FROM HY-TECH CONSTRUCTION IN THE AMOUNT OF \$105,500 FOR THE CITY HALL RESTORATION PROJECT WITH \$66,480 TO BE PAID FROM CAPITAL FUND #400 AND THE BALANCE OF \$39,020 TO BE PAID FROM THE 2013 SPECIAL PROJECTS ACCOUNT.

MOVED AND SECONDED BY ALDERMEN KOEP AND SCHEELER, DULY CARRIED, TO ACCEPT THE AMENDMENTS TO THE JULY 1, 2013 MINUTES AS PRESENTED.

MOVED AND SECONDED BY ALDERMEN SCHEELER AND BORKENHAGEN TO APPROVE THE CONSENT CALENDAR AS PRESENTED AND THE JULY 1, 2013 MINUTES AS AMENDED.

A. Approval of the Minutes of the Regular Meeting held on July 1, 2013, as distributed – Approved

B. Approval of Licenses – Approved

1. Contractor's Licenses - 2 - New

2. Contractor's Licenses - 1 - Renewals
3. Tobacco License - 1 - New
 - Brainerd Warehouse Liquors LLC
(Contingent on Fire Chief Approval)

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. Temporary On-Sale Liquor License – Submitted by The Crossing Arts Alliance for an Event to be held on August 24, 2013 from 5:00 P.M. to 8:00 P.M. at the Q Gallery, Franklin Art Center, 1001 Kingwood St #222, Brainerd, MN 56401 – Approved

E. Police Department – Officer Jay Personius – Complete 1-Year Probation – Change Employment Status from “Probationary” to “Regular” – Adjust Pay to the “2nd Year Officer” Rate – \$4,708.72/month – Effective 6/9/13 – Approved

F. Call for Applicants:

1. Charter Commission – One Term to Expire 12/31/2015
2. Housing & Redevelopment Authority (HRA) – One Term to Expire 6/6/18
3. 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
4. Parks and Recreation Board – Term Expires 12/31/2014
5. Transportation Committee – Two Terms to Expire 12/31/2014

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

Approval of Bills and Transfer of Funds – Recommended by the Personnel and Finance Committee – Approved

General Fund to Public Safety Fund	\$319,000
General Fund to Park Fund	\$90,000
General Fund to Street & Sewer	\$32,000
General Fund to Airport Fund	<u>\$12,960</u>
	\$453,960

MOVED AND SECONDED BY ALDERMEN BEVANS AND PRITSCHET TO APPROVE PAYMENT OF THE BILLS AND TRANSFER OF THE FUNDS AS PRESENTED.

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

Unfinished Business

2012 Audit Presentation – CliftonLarsonAllen – Accepted

The Chair recognized Mr. Tom Koop and Ms. Mary Reedy from the City’s auditing firm CliftonLarsonAllen, who presented the 2012 Audit to the Council and public.

Ms. Reedy noted the following Brainerd Public Utilities Audit Results:

- Clean Opinion on Financial Statements
- Internal Control – One Deficiency (Inventory)
- Minnesota Legal Compliance – No Findings

Ms. Reedy then noted the following City of Brainerd Audit Results:

- Unqualified Opinion
 - On the basic financial statement
- Compliance and Internal Control over Financial Reporting
 - Tests did not disclose any instances of non-compliance that are required to be reported under *Government Auditing Standards*
 - One Material Weakness
 - o Auditor Drafts Financial Statements and Notes
- Compliance with requirements applicable to each major program and internal control over compliance in accordance with OMB circular A-133
 - o The City complied in all material respects with the federal compliance requirements that are applicable to its major federal program
 - o Highway Planning and Construction
 - o Assistance to Firefighters Grant
- Minnesota Legal Compliance
 - Seven areas – two compliance issues
 - o Prompt payment of invoices
 - o Contract language

Mr. Koop and Ms. Reedy reported that overall audit results are positive and that it is recommended that the finance director take the financial statement lead next year and lose the material weakness finding.

Mr. Koop and Ms. Reedy answered questions of the Council and the Chair thanked them for their presentation and asked for official acceptance of the document.

MOVED AND SECONDED BY ALDERMEN SCHEELER AND BORKENHAGEN, DULY CARRIED, TO ACCEPT THE 2012 AUDIT DOCUMENT AS PRESENTED.

City Hall HVAC System Presentation – Refer to Budget Workshop Meeting – Approved

The Chair recognized Mr. Jeremiah Christenson PE, LEED Ap Managing Principal/Project Manager of ONE Building Systems Consultants of Fargo, who

presented a report for the evaluation of the City of Brainerd, City Hall HVAC System including ONE's recommendations for repairs, replacements and modifications to address ongoing system failures and energy inefficiencies.

Two proposal options were included in the proposal:

Option 1: Replace Heat Pumps at a cost of \$436,414

Option 2: VAV Ventilation System at a cost of \$542,894

City Engineer Hulsether reported that the main issue has been compressor failure and that two compressors currently out of order. He stated that because of the compressors being located in the ceiling they are difficult to replace.

MOVED AND SECONDED BY ALDERMEN KOEP AND SCHEELER, DULY CARRIED, TO DISCUSS THE HVAC SYSTEM REPLACEMENT AT THE UPCOMING BUDGET WORKSHOP.

City Administrator Goble suggested discussion on facility bonds at the budget workshop based on the police and fire buildings needing updates as well as a desperate need for a salt and storage building.

The Chair thanked Mr. Christensen for his presentation.

Industrial Park Lots Update – Kevin Close

The Chair welcomed Mr. Kevin Close of Close-Converse Commercial Real Estate who reported that interest in industrial real estate is on the rise and that he feels hopeful that sales will begin to materialize soon. He stated that land sales remain difficult to obtain.

Mr. Close answered questions of the Council and the Chair thanked him for his presentation.

Break

The Council took a break from 8:55 P.M. to 9:00 P.M.

New Business

Strategic Plan Focus Area – Mississippi River Riverwalk – Move Forward with Mississippi River Partnership between the City and the University of MN Center of Rural Design Contingent on Finding Funds to Implement the Proposal – Approved

- Center for Rural Design University of MN Proposal – Consider the Mississippi River Partnership Plan for the City of Brainerd

City Planner Ostgarden introduced Mr. Duane Thorbeck and Mr. Stephen Roos from the University of Minnesota Center of Rural Design (CRD) along with Mr. Randy Thoreson of the National Park Service RTCA, who discussed a proposed *Mississippi River Partnership Plan* between the City of Brainerd and UMCRD.

City Planner Ostgarden stated that the proposal fee is \$19,970 and recommended that Council accept the proposal contingent upon finding funds to implement the proposal.

Mr. Thorbeck provided a proposal overview and discussed issues that the CRD addresses locally and globally such as accommodation of population growth in the future. He discussed the importance of citizens becoming stakeholders in a project and suggested a citizen-based steering committee should this partnership become a reality.

Mr. Thoreson stated that he wants to help tie together all of the ideas that have been developed throughout the planning process and pointed the Council's attention to the Work Task "Phases" presented in the Packet.

MOVED AND SECONDED BY ALDERMEN SCHEELER AND PARKS TO MOVE FORWARD WITH THE MISSISSIPPI RIVER PARTNERSHIP PLAN BETWEEN THE CITY OF BRAINERD AND THE UNIVERSITY OF MINNESOTA CENTER OF RURAL DESIGN CONTINGENT ON FINDING FUNDS TO IMPLEMENT THE PROPOSAL.

Council held discussion on funding options and research that has been ongoing since 2008.

Council Member Parks called the question.

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

Planning Commission

Variance at 1423 South 10th Street – Misty Bayliss – Approved

City Planner Ostgarden reported that that the property owner has requested a variance to construct a detached garage with a separation of six (6) feet from the principal building. He clarified that the dimensions provided in the site plan are from the property line, not the curb line.

Findings-of-Fact:

1. The property is located in an R-1 (Single Family Residential) District
2. The property is a corner lot with a lot size of 75' x 144' (10,800) sf.
3. The garage will be located six (6) feet from the house.
4. Access to the garage will be off the Summit Street cul-de sac.
5. All setbacks, lot coverage and garage size limits requirements are met.
6. The property owner proposes to use the property in a reasonable manner because the eight hundred eighty-four (884) sf garage is a typical garage size and comparable in size to other garages in the neighborhood.
7. There are practical difficulties in meeting Zoning Ordinance requirements because the house location does not permit a garage anywhere but in front of the dwelling.

8. The variance will not alter the essential neighborhood character because the house across the street has a detached garage. The garage size and roof pitch will be compatible with the size and pitch of other garages in the neighborhood.
9. Granting the variance is consistent with the Comprehensive Plan because it supports the Land Use Strategy of:
Encourage compatible infill residential development throughout the developed portions of the city, to encourage the efficient use of land, the establishment of a strong tax base and the cost effective provision of city services.
10. No public comment (written or verbal) was received.

MOVED AND SECONDED BY ALDERMEN SCHEELER AND KOEP, DULY CARRIED, TO APPROVE THE REQUEST OF MS. MISTY BAYLISS FOR A VARIANCE TO ALLOW CONSRUCTION OF A DETACHED ACCESSORY BUILDING IN THE FRONT YARD AT 1423 SOUTH 10TH STREET BASED ON THE FINDINGS-OF-FACT AND PLANNING COMMISSION RECOMMENDATION.

First Reading – Proposed Ordinance No. 1407 – An Ordinance Amending Ordinance No. 812 Pertaining to Zoning in the City of Brainerd; Rezoning the South End of 19th Street from R-3 (Multiple Family Residential) District to R-1 (Single Family Residential) District, Further to Dispense with the Actual Reading – Approved

Findings-of-Fact:

1. The property is approximately twenty-five (25) acres the majority of which is wetland.
2. The area for rezoning is at the end of 19th Street which is a dead end street.
3. 19th Street provides access to an area of single family dwellings and is the only outlet. The R-3 zoning would generate more traffic through the neighborhood than would R-1 zoning.
4. The potential for a 19th Street extension is very unlikely due to the wetlands to the south.
5. A portion of the area was split into 4 large lots that due to the high water table in the area would make multiple family development very difficult.
6. The area is identified as Low Density Residential on the Future Land Use Map. Rezoning is in keeping with the Comprehensive Plan.
7. No public comment (written or verbal) was received.
8. R-3 zoning will prevent the construction of single family dwellings in this area.

MOVED AND SECONDED BY ALDERMEN KOEP AND PRITSCHET, DULY CARRIED, TO HOLD THE FIRST READING OF PROPOSED ORDINANCE NO. 1407 – AN ORDINANCE AMENDING ORDINANCE NO. 812 PERTAINING TO ZONING IN THE CITY OF BRAINERD; REZONING THE SOUTH END OF 19TH STREET FROM R-3 (MULTIPLE FAMILY RESIDENTIAL) TO R-1 (SINGLE FAMILY RESIDENTIAL) DISTRICT, FURTHER TO DISPENSE WITH THE ACTUAL READING.

Public Forum

The Chair recognized Mr. Mike Murphy, 8371 Greenwood Road, Baxter, who stated that he had 5 items to discuss; difficulties in improving rental properties based on federal regulations, request for a better policy on property regulations related to his duplex that has a residential and business under one roof, requiring the City to cut their own grass before sending letters to citizens such as himself requiring them to cut grass, suggestions on the proposed riverwalk and complaints with the industrial park.

Council Member Koep referred the issues of EPA Regulations on Rental Properties to the Safety and Public Works Committee.

President Cumberland assured Mr. Murphy that all of the issues he brought forth would be considered.

Reports

Mayor's Report

Mayor Wallin was absent.

City Attorney's Report

City Attorney Fitzpatrick stated that he had nothing to report.

City Administrator's Report

City Administrator Goble stated that Mayor Wallin asked her to remind the public about the Country Sampler Picnic to be held on Wednesday, July 17, 2013 from 4:00 P.M. to 8:30 P.M. She also reported that the narration is complete for the community video and CGI will be in the community on July 31st and August 1st to record video of various areas in town.

City Engineer's Report

City Engineer Hulsether reported that:

- The car and brat show scheduled for downtown on July 20th on has been cancelled
- BNSF rail replacement project has been postponed and will tentatively start in about a week; information and temporary closings will be announced through public service announcements when more details are available
- He will attend the next Airport Commission meeting to answer continuing questions on scope of and funding for the utilities extension project

City Planner's Report

City Planner Ostgarden reported that:

- The Planning Department has submitted an application to the League of American Bicyclists to become a bike-friendly community

- The Whittier planning committee had its first workshop, meeting with Mr. Anderson, DeAnn Barry and residents to share ideas and answer questions; the public notification process is a successful work in progress
- There will be a Marketing Plan meeting on July 26, 2013 for the Mississippi River Trail based on Brainerd being a “host city”
- There will be a meeting on July 18, 2013 at the Brainerd Public Library from 1:30 – 3:00 P.M. featuring Charles Marohn on using the City’s existing strengths to improve the quality of life for Brainerd residents and business owners; this is part one of a series related the Building a Better Brainerd effort and is titled “The Grid”

Police Chief’s Report

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

Finance Director’s Report

Finance Director Hillman stated that she had nothing in addition to her written report and that the budget process will soon be in full force.

Council President’s Report

Council President Cumberland thanked the following:

- Mills Company for their donation for a scoreboard at Mills field
- The Dispatch for their article congratulating McDonald’s for landscaping on their property
- Citizens and staff that participated in SRTS walk
- All involved in 4th of July and Tri-Motor events
- SEH for continuing trail construction notification to residents in Buffalo Hills area
- GIS Tech Shawn Strong for getting Town Hall video on website
- Lakeland TV for airing Boomtown presentation
- Businesses who sponsored CGI Communications web video via advertisements or with support in general

Council President Cumberland also invited Council Members to form a Wiffle Ball team for the “Big Wiff Wiffleball Tournament” to be held on August 17, 2013 which benefits the future Miracle Field to be built at Bane Park.

She also announced upcoming meetings that Council members could take part in that she will not be able to attend:

- July 25, 2013 at LMC office in St. Paul on organized trash collection
- July 26, 2013 Marketing Plan Meeting from 10am-12pm at City Hall

Council Committee Reports

Tax Forfeit Parcels – Authorize the Purchase of 3 Tax Forfeit Parcels at the Purchase Price of \$10,170.68 with the Funds Provided by the Brainerd Rotary; Further to Designate the Approximately 40 Acre Area as “Rotary Riverside Park” as Requested – Approved

Per a memo included in the Packet from City Engineer Hulsether, special legislation has passed to authorize the County to sell 3 tax forfeit parcels in the flood plain adjacent to the Mississippi River to the City of Brainerd as a negotiated sale for the amount of \$10,170.68. Also attached to the Packet was a letter from the Brainerd Rotary, who offered the sale price of these lots and in addition to assisting the City in 2011 to acquire the adjoining 38 acres, requested that the City Council consider allowing Rotary to “adopt” this area and that it be designated as “Rotary Riverside Park” in exchange for providing manpower and financial assistance on an ongoing basis in order to maintain the area as a benefit to the citizens of the Brainerd Lakes area.

MOVED AND SECONDED BY ALDERMEN SCHEELER AND KOEP, DULY CARRIED, TO APPROVE THE PURCHASE OF 3 TAX FORFEIT PARCELS AT THE PURCHASE PRICE OF \$10,170.68 WITH THE FUNDS PROVIDED BY THE BRAINERD ROTARY CLUB; FURTHER TO DESIGNATE THE APPROXIMATELY 40 ACRE AREA AS “ROTARY RIVERSIDE PARK” AS REQUESTED.

Temporary Sidewalk Closure Request – Submitted by Mr. Mike Murphy for the Right-of-Way Adjacent to his Property on the Southeast Corner of South 9th and Maple Streets to Accommodate a Foundation/Basement Project – Subject to Requirement that the Sidewalk be Available for Unobstructed Pedestrian Traffic No Later than October 15, 2013 – Approved

Safety and Public Works Committee Chair Scheeler reported that Brainerd resident Mike Murphy has requested to be allowed to temporarily stockpile excavated materials within the adjacent street right of way in the southeast corner of South 9th and Maple Streets to accommodate a foundation/basement replacement project. Staff recommends approving this request.

MOVED AND SECONDED BY ALDERMEN SCHEELER AND BORKENHAGEN, DULY CARRIED, TO APPROVE THE REQUEST OF MR. MIKE MURPHY TO TEMPORARILY CLOSE THE RIGHT-OF-WAY ADJACENT TO HIS PROPERTY ON THE SOUTHEAST CORNER OF SOUTH 9TH AND MAPLE STREETS TO ACCOMMODATE A FOUNDATION/BASEMENT PROJECT – SUBJECT TO REQUIREMENT THAT THE SIDEWALK BE AVAILABLE FOR UNOBSTRUCTED PEDESTRIAN TRAFFIC NO LATER THAN OCTOBER 15, 2013.

Bus Parking Request – Informational

Safety and Public Works Committee Chair Scheeler reported that a great deal of discussion was held on the subject and more information would be forthcoming.

Building Permit Rebate Request – 109 Birchridge Drive – Denied

Per a memo from City Engineer Hulsether, the property owner at 109 Birchridge Drive is requesting a deviation from the 2012 Building Permit Rebate eligibility dates

based on a late pick up of the building permit to complete additional window replacements on their property. Staff recommends denial based on setting precedence.

MOVED AND SECONDED BY ALDERMEN SCHEELER AND KOEP, DULY CARRIED, TO DENY THE REQUEST OF THE PROPERTY OWNER AT 109 BIRCHRIDGE DRIVE FOR DEVIATION FROM THE 2012 BUILDING PERMIT REBATE ELIGIBILITY DATE.

Safety and Public Works Committee Chair Scheeler stated that Committee feels this is the fault of the contractor and that the property owner should work directly with the contractor to get the issue resolved.

19th Street SE Sod Issue – Direct Staff, BPU and Resident(s) Affected to Meet to Discuss Solutions and Cost Responsibility – Approved

This item is a carryover from the July 1, 2013 meeting relating to resolving the issue of sod that has died on the SE 19th Street project. A memo from the City Engineer was included in the Packet which included staff concerns with sod maintenance issues in general.

MOVED AND SECONDED BY ALDERMEN KOEP AND BORKENHAGEN, DULY CARRIED, TO DIRECT STAFF TO MEET WITH THE RESIDENT(S) WHOSE SOD PLACED DURING THE SE 19TH STREET PROJECT HAS DIED AS WELL AS BRAINERD PUBLIC UTILITIES BECAUSE OF DAMAGE DURING BORING OPERATIONS; ALL IN AN EFFORT TO RESOLVE THE ISSUE OF SOD DYING FOR THIS AND FUTURE PROJECTS INCLUDING COST TO CITY AND PROPERTY OWNERS.

Personnel and Finance Committee

LMCIT Renewal – Authorize Contract Renewal for Property, Casualty and Liability Insurance – Approved

MOVED AND SECONDED BY ALDERMEN BEVANS AND PRITSCHET, DULY CARRIED, TO APPROVE THE LEAGUE OF MINNESOTA CITIES INSURANCE TRUST (LMCIT) CONTRACT, EFFECTIVE 6/1/2013 THRU 5/31/2014.

Police Department Investigator Vehicle Purchase – Authorize Police Department to Spend up to \$22,000 for Investigator Vehicle and Equipment Installation Utilizing Funds from Sale of Previous Vehicles, Already Scheduled 2013 Lease Payments and Reserve Funds rather than Leasing – Approved

A request was included in the Packet from Police Chief McQuiston for authorization to purchase an investigator vehicle; however, rather than leasing the vehicle as done in the past the Police Department would like to utilize funds from selling current vehicles, the funds already scheduled for 2013 lease payments reserve funds in order to get a better deal on the cost overall.

MOVED AND SECONDED BY ALDERMEN BEVANS AND PARKS, DULY CARRIED, TO AUTHORIZE THE POLICE DEPARTMENT TO SPEND UP TO \$22,000 FOR A NEW INVESTIGATOR VEHICLE AND EQUIPMENT INSTALLATION;

DISCONTINUING THE USUAL PRACTICE OF LEASING AND INSTEAD UTILIZING FUNDS FROM THE SALE OF PREVIOUS VEHICLES, ALREADY SCHEDULED 2013 LEASE PAYMENTS AND RESERVE FUNDS.

City Center TIF Decertification Money Return per Crow Wing County Disposition of – Acknowledge Receipt of \$9,013.51 into Capital Projects Fund – Approved

Personnel and Finance Committee Chair Bevans reported that the City has received its portion of the settlement on the decertification of the City Center TIF District and that the \$9,013.51 has been receipted into the Capital Projects Fund. He stated that staff requests acknowledgement of this receipt.

MOVED AND SECONDED BY ALDERMEN BEVANS AND PRITCSHET, DULY CARRIED, TO ACKNOWLEDGE THE RECEIPT OF \$9,013.51 RECEIVED FROM THE SETTLEMENT ON THE DECERTIFICATION OF THE CITY CENTER TIF DISTRICT INTO THE CAPITAL PROJECTS FUND.

Budget Workshop – Scheduled for Monday, July 29, 2013 at 6:00 P.M. – Approved

MOVED AND SECONDED BY ALDERMEN BEVANS AND PARKS, DULY CARRIED, TO HOLD A 2014 BUDGET WORKSHOP ON MONDAY, JULY 29, 2013, AT 6PM AT THE POLICE DEPARTMENT TRAINING ROOM.

Other Committees

Airport Commission Liaison Scheeler reported that over 1,500 people participated in the Tri-Motor event held over the July 4th weekend and that the Airport's new ad campaign is receiving very positive feedback. He stated that the Airport Commission's first strategic planning process has been completed after numerous meetings.

Council President Cumberland reported that she had attended the property managers and owners group at which presentations on the training of homeless youth, lead paint and nuisance violations were held. She stated that Wednesday is the Senior Center picnic.

Adjourn – To June 29, 2013 Budget Workshop at 6:00 P.M. at the Police Department Training Room

The Chair adjourned the meeting at 10:42 P.M.

Theresa A. Goble
City Administrator