**Brainerd, MN**
**October 21, 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: Borkenhagen, Koep, Pritschet, Bevans, Scheeler, Parks 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.

Council President Cumberland stated that Consent Calendar item "H" includes two corrections to the December 19, 2011 meeting minutes; those being the addition of union contract language into the final motion (after closed session) and the corrected vote on that motion.

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

**A. Approval of the Minutes of the Regular Meeting held on October 7, 2013, as distributed – Approved**

**B. Approval of Licenses – Approved**

1. Contractor's Licenses – 1 – New
2. Contractor's Licenses – 1 – Renewals

**C. Department Reports**

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. Minnesota Lawful Gambling Application to Conduct Excluded Bingo – Submitted by Knights of Columbus council 1491 – Approved**

**E. Resolution No. 47:13 Adopted – Authorizing St. Mathias Parks & Recreation to Conduct Lawful Gambling at Jack's House, 300 Hwy 25 South, Brainerd**

**F. Police Department – Adopt Resolution No. 48:13 – Approving Bomb Disposal Unit Joint Powers Agreement between the State of MN, Crow Wing County and the City of Brainerd for the period of July 1, 2013 – June 30, 2015 and Authorize Proper Signatures – Approved**

**G. Street Department – Maintenance I Employee Darin Caughey – Completion of 6-Month Probationary Period Effective October 8, 2013 – Change Status from "probationary" to "regular" and adjust pay rate to $20.73 per hour effective October 8, 2013, pursuant to Article XI, Section 6, of the I.O.U.E. Local 49 Street Department Union Contract – Approved**

**H. Correction of December 19, 2011 City Council Minutes to Reflect Fire Department $20 Plug-in Fee and Vehicle Washing Approval as well as Corrected Roll Call Vote – Approved**

**I. Kitchigami Regional Library Automation Repair and Replacement (ARR) Statement – Approved and Proper Signatures Authorized**

**J. Call for Applicants:**

1. 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*
2. Transportation Committee – Two Terms to Expire 12/31/2014
3. GreenStep City Committee – Five Terms (Expiration TBD)
4. EDA – One Term to Expire 09/07/2019

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

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

| | |
|---|---|
| - From General Fund to Public Safety Fund | $185,000 |
| - From General Fund to Park Fund | $56,500 |
| - From General Fund to Street & Sewer Fund | $71,500 |
| - From General Fund to Airport Fund | $12,960 |
| - From Parking Fund to Street & Sewer Fund | $18,272 |
| - From Parking Fund to Construction Fund | $25,480 |
| - From Fund #209 to Fund #215 | $5,775 |
| - From Fund #298 to Fund #215 | $143,544 |
| | $519,031 |

MOVED AND SECONDED BY ALDERMEN BEVANS AND PRITSCHET TO APPROVE PAYMENT OF BILLS AND TRANSFER OF FUNDS AS RECOMMENDED BY THE PERSONNEL AND FINANCE COMMITTEE.

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

**Council Committee Reports**

**Personnel and Finance Committee**

**Revised City Administrator Position Profile and Description – Approved**

Per a memo included in the Packet from City Administrator Goble, minor changes to the city administrator position description were displayed in red ink on the attachment. She states that the proposed timeline includes advertisement, recruitment, screening and interviews with a start date no later than mid-February.

MOVED AND SECONDED BY ALDERMEN BEVANS AND PARKS, DULY CARRIED, TO APPROVE THE REVISED CITY ADMINISTRATOR PROFILE AND DESCRIPTION AS PRESENTED.

**Health Insurance Renewal – Continue Current Plans Effective January 1, 2014 – Approved**

MOVED AND SECONDED BY ALDERMEN CUMBERLAND AND GOEDKER, DULY CARRIED, TO APPROVE THE RENEWAL OF THE CITY'S CURRENT HEALTH INSURANCE PLAN OPTIONS WITH HEALTHPARTNERS/NJPA EFFECTIVE 1/1/2014 WITH THE SAME DEDUCTIBLE OPTIONS WHICH ARE AS FOLLOWS:

1. $500 DEDUCTIBLE OPTION
2. $1,000 DEDUCTIBLE OPTION
3. $2,500 HIGH DEDUCTIBLE HEALTH PLAN A/K/A HSA PLAN

**Civic Center Sale to BAHF – Purchase Agreement Approved as Presented and Proper Signatures Authorized**

Chair Bevans noted that BAHA should from now on be referred to as BAHF based on the term "foundation" being necessary to qualify for 501C3.

Per a memo included in the Packet from City Administrator Goble, negotiations with BAHF(Brainerd Amateur Hockey Foundation) were conducted regarding their letter of intent to purchase the Civic Center with the following negotiation points as included in the proposed purchase agreement:

- *BAHF will purchase the building AS IS and equipment for $1 with the City retaining the necessary easements and access purposes over the existing driveway.*
- *City will retain ownership of a gas ice edger. The arrangement with the bleachers currently owned by the City and used by BAHF during the winter months will continue.*
- *BAHF will continue monthly payments to the City of the outstanding loan (current balance is $43,174).*
- *City will remit to BAHF the $4,750 raised by the City for ADA compliance. BAHF will use those funds for those ADA improvements*
- *BAHF will retain any utility credits now held by City related to the property and City agrees that any City WAC/SAC, building permit or other permit fees related to improvements of the Property shall be waived for a period of 10 years.*
- *City has the right of first refusal in the event BAHF sells the facility in the future.*

MOVED AND SECONDED BY ALDERMEN BEVANS AND PRITSCHET, DULY CARRIED, TO APPROVE THE CIVIC CENTER PURCHASE AGREEMENT WITH BAHF AS PRESENTED AND AUTHORIZE PROPER SIGNATURES.

**Fire Department – Resignation of Paid On Call Firefighter Caleb Kreller – Accept with Regret and Authorize Replacement Process – Approved**

MOVED AND SECONDED BY ALDERMEN BEVANS AND PRITSCHET, DULY CARRIED, TO ACCEPT WITH REGRET THE RESIGNATION OF PAID ON CALL FIREFIGHTER CALEB KRELLER AND AUTHORIZE REPLACEMENT PROCESS.

**FEMA Request for Confirmation – Direct Staff to Send Letter Confirming an Understanding of SAFER Grant Obligations – Approved**

Personnel and Finance Committee Chair Bevans stated that correspondence was received from FEMA requesting a letter from the City confirming an understanding of the SAFER grant obligations.

MOVED AND SECONDED BY ALDERMEN BEVANS AND PARKS, DULY CARRIED, TO DIRECT STAFF TO WRITE A LETTER TO FEMA ENSURING THE CITY'S CLEAR UNDERSTANDING OF THE LONG-TERM OBLIGATIONS OF A SAFER GRANT INCLUDING THE MAINTENANCE OF STAFFING LEVELS AND INCURRING NO LAY-OFFS THROUGHOUT THE GRANT PERIOD.

**Safety and Public Works Committee**

**SAC and WAC Fee Waiver Period – Amend Special Considerations Approved in 2002 to Reflect Change from 12 Months to 24 Months when referring to "Residential Reconstruction by Different Owner" as Recommended by Staff – Approved**

Per a memo included in the Packet from City Engineer Hulsether, the Council had waived SAC and WAC fees on a building permit at the September 16, 2013 meeting and at that time staff was asked to develop ordinance language amending the waiver period from 12 months to 24 months. He states that when following up on the Council's direction, it became apparent that the waiting period was established by Council direction and approval at a meeting held July 15, 2002 (also attached) and staff recommends amending that criteria to adjust the time frame from 12 months to 24 months.

MOVED AND SECONDED BY ALDERMEN SCHEELER AND KOEP, DULY CARRIED, TO AMEND THE SPECIAL CONSIDERATIONS APPROVED ON JULY 15, 2002 REFERRING TO SAC AND WAC FEES TO READ "(3) RESIDENTIAL RECONSTRUCTION BY DIFFERENT OWNER – CONSIDER THIS CATEGORY THE SAME AS INITIAL CONSTRUCTION ON ANY VACANT LOT THAT HAS BEEN VACANT FOR 24 MONTHS, AND SUBJECT TO THE SAC AND WAC CHARGES" AS RECOMMENDED BY STAFF.

**Dellwood Drive Project – Held Over**

Safety and Public Works Committee Chair Scheeler stated that staff would like to have additional discussion about this item and then receive direction from the Council on a formal response to the County.

**Safe Routes to School Project Scope – Stay within $300,000 Grant Award and Deny $75,000 City Matching Offer from School District – Approved**

MOVED AND SECONDED BY ALDERMEN SCHEELER AND BORKENHAGEN, DULY CARRIED, TO STAY WITHIN THE $300,000 GRANT AWARD FOR THE SAFE ROUTES TO SCHOOL PROJECT AND NOT ACCEPT THE $75,000 OFFER FROM THE SCHOOL DISTRICT SUBJECT TO A CITY MATCH.

**Street Closure/Event Applications for Parades – Require Parade Permit Application Process to be Concurrent with Event Approval Process including Submittal of Street Closure/Event Application – Approved**

MOVED AND SECONDED BY ALDERMEN SCHEELER AND KOEP, DULY CARRIED, TO REQUIRE THE PARADE PERMIT APPROVAL PROCESS BE CONCURRENT WITH THE EVENT APPROVAL PROCESS INCLUDING THE REQUIRMENT FOR A STREET CLOSURE/SPECIAL EVENT APPLICATION TO BE SUBMITTED ALONG WITH ANY PARADE PERMIT APPLICATION, AS RECOMMENDED BY STAFF.

**Water Tower Leakage Options – Authorize Solicitation of Bids for Steel Structure Capping of the Historic Water Tower Building – Approved**

The Chair recognized City Building Official Tim Caughey, who stated that staff feels "capping" the water tower structure rather than sealing it is a more permanent and feasible solution because of water damage over many years.

MOVED AND SECONDED BY ALDERMEN SCHEELER AND BORKENHAGEN, DULY CARRIED, TO AUTHORIZE SOLICITATION OF BIDS FOR STEEL STRUCTURE CAPPING OF THE HISTORIC WATER TOWER BUILDING.

Staff will look into various funding possibilities including organizations that may specialize in preservation of historic structures.

**MS4 SWPPP (Storm Water Pollution Prevention Plan) – Submit Application for Reauthorization – Approved**

Per a memo included in the Packet from Assistant City Engineer Hulsether, the City is in the process of reapplying for its new MS4 permit as required by MPCA and must document what items in its current Storm Water Pollution Prevention Plan will need to be changed, added or amended. A summary of the changes which need to be made to the SWPPP within 12 months was also included in the Packet.

MOVED AND SECONDED BY ALDERMEN SCHEELER AND KOEP, DULY CARRIED, TO AUTHORIZE SUBMITTAL OF MS4 SWPPP APPLICATION FOR REAUTHORIZATION AS REQUESTED BY STAFF.

**Event Application – Mid-MN Women's Center Event at Kiwanis Park Pier to be held on October 29, 2013 from 6-8:30 P.M. – Approved**

MOVED AND SECONDED BY ALDERMEN SCHEELER AND BORKENHAGEN, DULY CARRIED, TO APPROVE THE SPECIAL EVENT APPLICATION SUBMITTED BY THE MID-MN WOMEN'S CENTER FOR A "DOMESTIC VIOLENCE AWARENESS MONTH LIVE VIOLENCE FREE TRIBUTE" EVENT TO BE HELD ON OCTOBER 29, 2013 FROM 6-8:30 P.M. AT THE KIWANIS PARK BRIDGE PIER.

**"No Motor Vehicle" Signs on Buffalo Hills Trail – Informational**

City Planner Ostgarden reported that concerns were received at City Hall after the vehicles removing buckthorn were observed travelling along the trail. He stated that signs have been ordered and will be installed as soon as they arrive.

**CLC Snow Removal – Held Over**

**LaVonne Thesing Request – Direct Staff to Send Letter to BPU Asking them to Consider the "Looping" Project Over and Around LaVonne Thesing's Property to Alleviate Water Quality Issues – Approved**

MOVED AND SECONDED BY ALDERMEN SCHEELER AND BORKENHAGEN, DULY CARRIED, TO SEND A LETTER TO BPU ASKING THEM TO CONSIDER BEGINNING THE LOOPING PROJECT AS SOON AS POSSIBLE OVER AND AROUND THE LAVONNE THESING PROPERTY TO ALLEVIATE PROBLEMS WITH WATER QUALITY.

**Unfinished Business**

**Public Hearing – To Discuss 2013 Street Improvements:**

City Engineer Hulsether stated that Improvement 13-08, Brainerd Oaks Final Lift, should be removed from the resolution that was included in the Packet; therefore, the Public Hearing is to address assessments on the following projects:

- IMP 13-01: Street Resurfacing/ SW 4th ST between College DR & West Laurel ST
- IMP 13-02: Street Resurfacing/East River Rd between College DR & Washington ST
- IMP 13-03: Street Reconstruction/N 8th ST between Washington ST and Kingwood ST & Street Resurfacing/N 8th ST between Kingwood ST & Fir ST
- IMP 13-04: Street Reconstruction/13th Ave NE between N Street NE and O Street NE
- IMP 13-05: Street Reconstruction/Ivy ST between N 10th ST and N 11th ST

The Chair opened the Public Hearing at 8:16 P.M.

The Chair recognized the following citizens:

Mr. Mike Murphy, 8371 Greenwood Rd, Baxter, referring to his property on block 53, SW 4th Street assessment; stating he objects to the total cost because the street was just redone a few years ago so he feels he should not be assessed for that portion.

The Chair closed the Public Hearing at 8:20 P.M.

City Engineer Hulsether stated that he would look into Mr. Murphy's concern.

**Resolution No. 49:13 Adopted – Approving Assessments for 2013 Street Improvement Projects**

MOVED AND SECONDED BY ALDERMEN SCHEELER AND KOEP TO ADOPT RESOLUTION NO. 49:13 – ADOPTING ASSESSMENTS AS PRESENTED FOR 2013 STREET IMPROVEMENT PROJECTS, INCLUDING:

IMP 13-01: Street Resurfacing/ SW 4th ST between College DR & West Laurel ST
IMP 13-02: Street Resurfacing/East River Rd between College DR & Washington ST
IMP 13-03: Street Reconstruction/N 8th ST between Washington ST and Kingwood ST & Street Resurfacing/N 8th ST between Kingwood ST & Fir ST
IMP 13-04: Street Reconstruction/13th Ave NE between N Street NE and O Street NE
IMP 13-05: Street Reconstruction/Ivy ST between N 10th ST and N 11th ST

**RESOLUTION NO. 49:13**

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

**Public Hearing – To Discuss Downtown Snow Removal and Special Services District Assessments:**

City Engineer Hulsether stated that the following items are up for discussion:

Snow Removal, Irrigation Maintenance, Landscaping, Garbage Collection
Laurel Street from S 6th ST to S 8th ST
Front ST from S 6th ST to S 8th ST
S 7th ST from Maple ST to Front ST

The Chair opened the Public Hearing at 8:24 P.M. No one came forward.

The Chair closed the Public Hearing at 8:25 P.M.

**Resolution No. 50:13 Adopted – Approving Assessments for 2012-2013 Snow Removal and Special Services District including the Following:**

MOVED AND SECONDED BY ALDERMEN KOEP AND SCHEELER TO ADOPT RESOLUTION NO. 50:13 – ADOPTING ASSESSMENTS AS PRESENTED FOR 2012-2013 SNOW REMOVAL AND SPECIAL SERVICES DISTRICT INCLUDING THE FOLLOWING:

Snow Removal, Irrigation Maintenance, Landscaping, Garbage Collection
Laurel Street from S 6th ST to S 8th ST
Front ST from S 6th ST to S 8th ST
S 7th ST from Maple ST to Front ST

**RESOLUTION NO. 50:13**

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

**Quiet Zones – Motion Tabled at September 16, 2013 Meeting: Spend Up to $7,500 for RFP Contingent on Baxter Covering their Share of Costs – Failed**

MOVED AND SECONDED BY ALDERMEN BORKENHAGEN AND SCHEELER, DULY CARRIED, TO PULL THE FOLLOWING MOTION MADE AT THE SEPTEMBER 16, 2013 MEETING OFF THE TABLE:

*MOVED AND SECONDED BY ALDERMEN SCHEELER AND PARKS TO SPEND UP TO $7,500 FROM THE CONSTRUCTION FUND TOWARD A QUIET ZONE RFP CONTINGENT UPON BAXTER PAYING THEIR SHARE OF ANY COSTS INVOLVED.*

Discussion was held on a motion made in 2008 to go out for Quiet Zone RFP's contingent upon Baxter agreeing to move forward. It was the consensus of the Council that

there was not any action taken after that motion was made; therefore, the current motion should be treated as new action.

Upon roll call, members Borkenhagen and Scheeler voted "aye." Members Koep, Pritschet, Bevans, Parks and Cumberland voted "nay." The Chair declared the motion failed.

**New Business**

**Brainerd Lakes Regional Airport Update – Manager Jeff Wig and Board Chair Andy Larson to Report**

The Chair welcomed Airport Manager Jeff Wig and Airport Commission Chair Andy Larson.

Airport Commission Chair Andy Larson thanked the city and county on their support of the Airport, stating they have had a really good year with many strategic goals met. He discussed financial aspects, community engagement, and current marketing efforts by the Airport Commission.

Airport Manager Jeff Wig discussed a number of projects currently going on to improve the airport, the new Airmotive ownership idea to promote Brainerd as a cross-country fuel stop and development of a connection from Lum Park to boundary of the airport. He discussed the airport budget and the "It's a No-Brainer – Fly Out of Brainerd" promotion success. He thanked the City and staff and community for being so welcoming and accommodating since he started his position in January.

The Chair thanked them for their presentation.

**Ad Hoc History Group Presentation – Mr. Carl Faust**

The Chair recognized Mr. Carl Faust, who distributed and read aloud a "Report to City Council on Last Year's Progress on the Historic Preservation of Brainerd" and answered questions of the Council. He thanked the Council for allowing this ad hoc committee to meet, stating that they would like to continue a line of communication in years to come through the City Planning Department with the Council.

The Council consented to allow the disbanding of the Ad Hoc History Group as a city committee and agreed that a line of communication remain open between the History Group through City Planner Ostgarden in order to keep the City and Council informed.

**Charter Amendment – First Reading of Proposed Ordinance No. 1408 Amending Charter regarding City Attorney Position/Contract – Approved**

At the Charter Commission Meeting held on October 10, 2013, City Attorney Fitzpatrick informed the Commission of his intent to retire December 31, 2013 and stated it may be an advantageous time to amend the Charter language as it relates to the duties of the City Attorney. Specifically, he pointed out that the current charter language states that the City Attorney "shall" attend all meetings of the City Council and shall give legal opinions to "any officer of the City". He suggested language could be changed to "shall attend City Council meeting when requested" and substitute the words "any officer of the City" with "the City Administrator".

Per City Attorney Fitzpatrick, this would give the City Council more flexibility in appointment of a city attorney and the ability to control the costs of such service.

City Administrator Goble stated that the Charter can be amended by ordinance with the unanimous vote of the City Council or can be put to a referendum question on the next ballot. An ordinance would be effective 90 days after the final vote unless there is a petition received within 60 days, in which case the item would go on the ballot at the next election.

MOVED AND SECONDED BY ALDERMEN BEVANS AND PRITSCHET, DULY CARRIED, TO HOLD THE FIRST READING OF ORDINANCE NO. 1409 – AN ORDINANCE AMENDING THE CHARTER OF THE CITY OF BRAINERD BY STRIKING SECTION 19 OF CHAPTER TWO OF THE CHARTER OF THE CITY OF BRAINERD AND REPLACING SAID SECTION TO MODIFY THE DUTIES OF THE CITY ATTORNEY, FURTHER TO DISPENSE WITH THE ACTUAL READING.

**Planning Commission**

**Text Amendment – Add to the Zoning Ordinance: "Community Center" Definition and Community Center as a Conditional Use Permit in Residential Zoning Districts – Approved**

City Planner Ostgarden discussed the process of amending the ordinance and discussed the amount of time and consideration that has been put into determining the best use for the Whittier School building and developing a Community Center definition. He discussed how permitted uses and conditional use permits apply and stated that Planning Commission voted 6-1 in favor of an ordinance amending section 515-2-2: Definitions of the Zoning Ordinance to add "Community Center" with the following being the definition of a Community Center:

Community Center – A building or buildings and associated property operated by a public and/or nonprofit group or agency that serves the community that is used for three or more of the following uses: Recreational, Social, Educational, or Cultural Activities and/or Public and/or Nonprofit group offices.

The Chair recognized Ms. Diane Meyer, 520 N 7th Street, who spoke in favor of the Whittier School Building becoming a community center. No one else in the audience came forward. A Public Hearing will be held on November 4, 2013.

MOVED AND SECONDED BY ALDERMEN PRITSCHET AND BEVANS TO APPROVE THE AMENDED LANGUAGE IN SECTION 515-2-2 OF THE ZONING CODE: DEFINITIONS OF THE ZONING ORDINANCE TO ADD "COMMUNITY CENTER" AND DEFINITION AS RECOMMENDED BY THE PLANNING COMMISSION.

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

**First Reading – Proposed Ordinance No. 1409 – An Ordinance Amending Brainerd Zoning Ordinance Sections 515-2-2, 515-54-5, 515-55-5, 515-56-5 and 515-57-5, Regarding Community Centers – Approved**

MOVED AND SECONDED BY ALDERMEN PRITSCHET AND PARKS TO HOLD THE FIRST READING OF ORDINANCE NO. 1409 – AN ORDINANCE AMENDING BRAINERD ZONING ORDINANCE SECTIONS 515-2-2, 515-54-5, 515-55-5, 515-56-5, 515-57-5 REGARDING COMMUNITY CENTERS, FURTHER TO DISPENSE WITH THE ACTUAL READING.

City Planner Ostgarden reported a concern that the proposed language would permit residential property to be used for a community center. To address that concern the following language was presented: "…OR ON PROPERTY THAT HAS NOT BEEN USED FOR RESIDENTIAL PURPOSES…." The proposed language would read:

> COMMUNITY CENTERS IN BUILDING(S) OR ON PROPERTY THAT HAS NOT BEEN USED FOR RESIDENTIAL PURPOSES SUBJECT TO THE FOLLOWING:
>
> - NO INDIVIDUAL ORGANIZATION OR ACTIVITY EXTERIOR ENTRANCES.
> - PUBLIC HOURS ARE LIMITED TO 7:00 A.M. TO 10:00 P.M.
> - NO EXTERIOR ORGANIZATION OR ACTIVITY SIGNS.
> - MERCHANDISE SALES PERMITTED FOR NON-PROFIT AND/OR NOT-FOR-PROFIT AGENCIES.

The new language will be added to the proposed ordinance for 2nd reading consideration.

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

**Variance at 606 South 8th Street – Shanna Placida Perez – Permit a Covered Porch Front Yard Encroachment – Approved**

Findings of Fact:

1. The property is a nonconforming building located in an R-2 (Medium Density Residential) District.
2. It is nonconforming in that a portion of the dwelling and the entire vestibule are located within the required front yard setback.
3. The porch steps are currently not covered and the new roof and supports will not extend out further nor be wider than the porch steps.
4. The covered porch and steps will be in character with the houses located south along South 8th St.
5. The property to the north is constructed to the front and side street property lines.
6. The variance will support the Strategic Plan Focus Area of investing in neighborhoods.
7. The porch is currently and proposed to be open.

Conditions:

The porch cannot be enclosed.

MOVED AND SECONDED BY ALDERMEN PRITSCHET AND SCHEELER, DULY CARRIED, TO APPROVE THE VARIANCE TO PERMIT A FRONT YARD ENCROACHMENT AT 606 SOUTH 8TH STREET – CAPIDAL INVESTMENTS LLC - BASED ON THE 7 FINDINGS-OF-FACT AND 1 CONDITION AND THE RECOMMENDATION OF THE PLANNING COMMISSION.

**Variance at 602 South 8th Street – Capidal Investments LLC – Permit Living Space Addition to a Non-Conforming Building – Approved**

Findings-of-Fact:

1. The property is a nonconforming building located in an R-2 (Medium Density Residential) District.
2. The variance is to add living space onto that portion of the building located at the front and side street yard property lines.
3. The lot is 50' x 75' (3,750 sf) and there is no area on the property to permit a larger building footprint.
4. The building is currently a duplex and it will be rehabilitated to a single family dwelling.
5. The addition will eliminate a flat roof that leaks, is rotted and needs significant repair.
6. Because the addition is a second story it will not affect driver and pedestrian vision at the corner of South 8th St and Oak Street.
7. The addition should have no negative impact on the church located north across Oak Street and the School District educational services building located east across South 8th Street.
8. The subject building and the dwelling to the south are separated by approximately fifty (50) feet. This separation will permit adequate light, air and visibility for the adjacent residential property to the south.
9. The variance will support the Strategic Plan Focus Area of investing in neighborhoods.

MOVED AND SECONDED BY ALDERMEN PRITSCHET AND SCHEELER, DULY CARRIED, TO APPROVE LIVING SPACE ADDITION TO A NON-CONFORMING BUILDING AT 602 SOUTH 8TH STREET – CAPIDAL INVESTMENTS LLC – BASED ON THE 9 FINDINGS-OF-FACT AND THE RECOMMENDATION OF THE PLANNING COMMISSION.

**Public Forum**

The Chair recognized Tim Thompson, 28 Jessica Lane, who referred to the property at 13th and Pine which he worries is a safety and fire hazard.

City Planner Ostgarden stated that charges have been filed by the City's criminal attorney.

**Break**

The Council took a break from 10:15-10:20 P.M.

**Reports**

**Mayor's Report**

Mayor Wallin stated that he had nothing in addition to his written report and wished everyone a safe and happy Halloween.

**City Attorney's Report**

City Attorney Fitzpatrick stated that he had nothing to report.

**City Administrator's Report**

City Administrator Goble reported that:

- For public record, Liberty Paper Company who had indicated interest in purchasing the Wausau Paper Plant has announced that they are discontinuing their efforts to acquire the plant. City representatives and the BLAEDC paper plant task force will continue its efforts to secure a use for the facility and bring economic development to our area.

- The BPU will have a report at the November 4th City Council meeting as to the status of the hydroelectric dam purchase.

- The request for proposals for City Attorney will be advertised Tuesday and next Sunday in the Brainerd Dispatch, it will be on the LMC site, and on the MN Bar Association web site. Proposals are due by 4:30 p.m. November 22nd.

- The Local 4725 International Association of Fire Fighters that represents the City's 7 full-time Fire Equipment Operators have made the decision to take their overtime grievance to arbitration. Representatives from the City and the FEO met in mediation on October 8th but could not come to a settlement that satisfied both parties. The union contacted the Bureau of Mediation Services for a list of arbitrators from which one will be selected to hear and decide the grievance.

**City Engineer's Report**

City Engineer Hulsether stated that he had nothing to report.

**City Planner's Report**

City Planner Ostgarden reported that:

- The Buffalo Hills Trail buckthorn removal was quite successful and has provided a better view of the river along the trail.
- The City newsletter has been sent out and he has been receiving positive reports; he thanked Council Member Borkenhagen for all the hard work in putting it together and stated that the Planning Department will be responsible for its publication from here on out
- The Downtown "Spooktacular" event for Halloween will be held this Saturday from 10:00am to 3:00pm; he reminded the Council that costume judges are still needed.

**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 she had nothing in addition to her written report.

**Council President's Report**

Council President Cumberland reported that she:

- Attended the meeting regarding the hydro dam/paper plant sale at Liberty Paper of Becker, MN.
- Sat in on the Charter Commission meeting held on October 10th.
- Attended and participated in the Council's Downtown Meet & Greet.
- Attended SEH Oktoberfest as well as the Museum and Fire Dept. Open Houses.
- Judged two rounds of the BHS debate team.
- Attended the LMC Regional Meeting in Wadena where topics such as legislative update, health care reform and conflict of interest were covered.
- Sat in on the Safety and Public Works Committee workshop.
- Sat in on the firefighter's mediation.
- Attended board meeting of The Center
- Attended the RSVP Volunteer Luncheon – "Nuts About Volunteers"

She also mentioned the following upcoming items:

- October 23rd at 8:30am in City Hall Conference Room – Joint Meeting of representatives from Downtown, Community Action and City Council re 2014 4th of July Parade
- October 29th at 11:30am at BPU – Healthy City Employee Lunch (Chili Cook-off)
- October 29th from 1-3pm at Northland Arboretum – CGMC Partnership Meeting to discuss economic development/growth in greater MN

**Council Other Committee Reports**

Mayor Wallin stated that he would be attending an Arboretum Board of Directors meeting on Tuesday to discuss funding.

**Adjourn – To Closed Session Pursuant to Attorney Client Privilege to Discuss the Anda Assessment Litigation – 10:35 P.M.**

MOVED AND SECONDED BY ALDERMEN PRITSCHET AND SCHEELER, DULY CARRIED, TO MOVE INTO CLOSED SESSION PURSUANT TO ATTORNEY CLIENT PRIVILEGE TO DISCUSS THE ANDA ASSESSMENT LITIGATION.

The Council reconvened into open session at 10:50 P.M.

**Adjourn – To Closed Session to Discuss 2014 Union Negotiation Strategies – 10:51 P.M.**

MOVED AND SECONDED BY ALDERMEN PRITSCHET AND PARKS, DULY CARRIED, TO MOVE INTO CLOSED SESSION TO DISCUSS 2014 UNION NEGOTIATION STRATEGIES.

The Council reconvened into open session at 11:00 P.M.

**Adjourn – To Budget Workshop to be held on Monday, October 28, 2013 at 6:30 P.M. in the City Hall Council Chambers**

The Chair adjourned the meeting at 11:01 P.M.

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Theresa A. Goble
City Administrator