

**Brainerd, MN
November 18, 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: Koep, Pritschet, Bevans, Scheeler, Parks, Borkenhagen and Cumberland. Mayor Wallin was also noted as present.

President Cumberland opened the meeting with the Pledge of Allegiance to the Flag.

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

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

A. Minutes of the Regular Meeting held on November 4, 2013, as distributed – Approved

B. Approval of Licenses – Approved

1. Contractor's Licenses – 1 – Renewal
2. Second Hand Goods Dealer
 - Bargains on 7th, Kristine Hochmayr – 2014 Renewal
 - Golden Eagle Rare Coins LLC, Richard C. Ernst II – 2014 Renewal

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. Minnesota Lawful Gambling – Resolution No. 54:13 Adopted – Approving the Application for Premises Permit and Lease for Lawful Gambling Activity as Submitted by Heartland Animal Rescue Team to Conduct Lawful Gambling at Cornerstone Liquor, 702 Laurel Street, Brainerd

E. Minnesota Lawful Gambling – Resolution No. 55:13 Adopted – Approving Application for Premises Permit and Lease for Lawful Gambling Activity as Submitted by VFW #1647 to Conduct Lawful Gambling at Shep's on 6th, 315 S 6th Street, Brainerd

F. Liquor License Transfer – Gregg Gribbon to Shanna Gondringer – 707 Laurel Street, Brainerd (The Iron Rail) – Effective December 3, 2013 – Approved

G. Call for Applicants:

1. Transportation Committee – Two Terms to Expire 12/31/2014
2. GreenStep City Committee – Five Terms (Expiration TBD)

Upon roll call, members Koep, Pritschet, Bevans, Scheeler, Parks, Borkenhagen 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

General Fund to Public Safety Fund	\$228,000
General Fund to Park Fund	\$45,000
General Fund to Street & Sewer Fund	\$55,000
General Fund to Airport Fund	<u>\$12,960</u>
Total Transfers from #101	\$340,960

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

BPU Proposed Hydroadam Purchase Agreement with Language Changes as Distributed – Approved

The Chair recognized Mr. Scott Magnuson and Mr. Todd Wicklund from Brainerd Public Utilities who distributed two new pages with language changes to the draft Purchase Agreement with Wausau Paper which was included in the Packet for Council’s review relating to interchange issues. Mr. Wicklund stated that the Purchase Agreement would allow a 90-day period to begin due diligence involving further research on various issues and concerns that have been raised. They answered questions of the Council. It was clarified that the City is still able to “get out” of this agreement beyond the approval of this step. The Chair thanked them for their presentation.

The Chair recognized Mr. Mark Halverson, 156 Pine View Drive, who inquired about the repair work being done on the west side of the dam.

Mr. Magnuson stated that work is being done as a result of the yearly review by the Federal Regulatory Commission and that Wausau is paying for the project.

MOVED AND SECONDED BY ALDERMEN BEVANS AND SCHEELER TO AUTHORIZE SIGNATURES ON THE PURCHASE AGREEMENT BETWEEN THE CITY OF BRAINERD AND WAUSAU PAPER MILLS, LLC WITH THE TWO (2) LANGUAGE CHANGES AS DISTRIBUTED TO COUNCIL.

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

Council Committee Reports

Safety and Public Works Committee Report – Held Over

28th Street Project – Held Over

Nuisance Abatement/Citation Assessments – Informational

City Engineer Hulsether referred to the memo in the Packet related to Nuisance Abatements which explained how the amounts are figured out and the process for notifying property owners.

Neighborhood First – Recommendations 1 and 2 – Held Over

Reinstatement of Tri-Plex – 510 F Street NE – Held Over

1223 Pine Street – Informational

City Planner Ostgarden stated that a 9:00am Court Date is scheduled for Tuesday, November 19, 2013 and that the defendant has been appointed a public defender.

Personnel and Finance Committee

Park Building Entrance ADA Repair – Acceptance of Low Bid from Pete's Cabin Care in the amount of \$6,950.42 from the Park Department Budget – Approved

MOVED AND SECONDED BY ALDERMEN BEVANS AND PRITSCHET, DULY CARRIED, TO ACCEPT THE LOW BID FROM PETE'S CABIN CARE OF \$6,950.42 TO BE PAID FROM THE PARK DEPARTMENT BUDGET FOR WORK TO BE DONE AT THE PARKS AND RECREATION OFFICE TO MAKE THE OFFICE ENTRANCE ADA COMPLIANT – SUBJECT TO THE ENGINEER'S FINAL APPROVAL.

Personnel and Finance Committee Chair Bevans stated that because of some differences in terminology between the RFP and bid, Committee has requested that the City Engineer review the bid before work is started on the project.

HART – January 1, 2014 Agreement Renewal – Approved

MOVED AND SECONDED BY ALDERMEN BEVANS AND PARKS, DULY CARRIED, TO APPROVE THE 2014 CONTRACT BETWEEN THE CITY OF BRAINERD AND HEARTLAND ANIMAL RESCUE TEAM (HART) WITH PROVISIONS AS WRITTEN.

Personnel and Finance Committee Chair Bevans stated that HART rescinded a 2014 increase per capita that they had originally submitted to the City.

Fire Department – Accept Resignation of Full Time Fire Fighter Clinton Langerud – Effective 11/22/2013 – Approved

MOVED AND SECONDED BY ALDERMEN BEVANS AND PRITSCHET, DULY CARRIED, TO ACCEPT THE RESIGNATION OF FULL TIME FIREFIGHTER CLINTON LANGERUD EFFECTVIE 11/22/2013.

Parks Department – Retirement of Recreation Coordinator Bonnie Muzik – Accept with Regret and Authorize Severance Pay – Approved

MOVED AND SECONDED BY ALDERMEN BEVANS AND PARKS, DULY CARRIED, TO ACCEPT, WITH REGRET, THE RETIREMENT OF RECREATION COORDINATOR BONNIE MUZIK AND AUTHORIZE SEVERANCE PAY PER POLICY.

Gas Utility Franchise Fee Research – Status of

Personnel and Finance Committee Chair Bevans discussed a chart developed by staff showing projected revenues that could be garnered from a gas utility franchise fee. He stated that further discussion will be held at future meetings.

City Administrator Search – Informational

City Administrator Goble stated that per Springsted, Inc., 17 resumes have been received and the screening process will begin the end of November with information to be presented to Council by December 6, 2013 at which time Council will determine what candidates to interview. She stated that interviews will be conducted either the last week of December or the first week of January, 2014.

Unfinished Business

Carl Faust – History Week Preparation – Authorize Brainerd History Preservation Group to Send Letter of Invitation to Governor Dayton – Approved

The Chair recognized Mr. Carl Faust who discussed that 2014 is the centurion year of not only City Hall but several other buildings in Brainerd. On behalf of the Brainerd History Preservation Group he requested a letter be composed and sent to Governor Dayton inviting him to appear sometime during “Brainerd History Week” to be held June 16th-20th of 2014.

Council Member Koep stated that an official request is required by the Governor's office.

MOVED AND SECONDED BY ALDERMEN KOEP AND PRITSCHET, DULY CARRIED, TO AUTHORIZE THE BRAINERD HISTORY PRESERVATION GROUP TO SEND A LETTER TO MINNESOTA GOVERNOR DAYTON'S OFFICE REQUESTING A VISIT DURING BRAINERD HISTORY WEEK TO BE HELD JUNE 16TH – JUNE 20TH OF 2014 IN BRAINERD.

Whittier Property – Meeting to be held on December 5, 2013 from 6:00pm to 8:00pm at United Congregational Church, 415 Juniper Street, to discuss the Future of the Whittier School Building – Approved

Alderman Bevans discussed the continued concern of residents in the area surrounding the former Whittier School building. He stated that he has scheduled a neighborhood meeting to be held at United Congregational Church from 6:00pm to 8:00pm on Thursday, December 5, 2013 to discuss what is “next” for Whittier School.

MOVED AND SECONDED BY ALDERMEN SCHEELER AND PARKS, DULY CARRIED, TO ENCOURAGE COUNCIL MEMBER BEVANS TO HOLD A MEETING AT UNITED CONGREGATIONAL CHURCH ON THURSDAY, DECEMBER 5, 2013 FROM 6:00 P.M. TO 8:00 P.M. TO DISCUSS THE FUTURE OF THE WHITTIER SCHOOL BUILDING.

New Business

Order of Ordinance Readings – Discussion of – No Action Taken

Council President Cumberland discussed that in the past an ordinance appeared on 3 consecutive agendas with 1st Reading being the Public Hearing, the 2nd Reading being the ordinance listed on the consent calendar and the 3rd Reading being the adoption until 2004 when the Charter Commission determined that the adoption could take place at the 2nd reading after the public hearing. She and City Administrator Goble asked for direction on whether the past practice of holding the public hearing at the 1st reading should be revisited.

City Planner Ostgarden stated that the process of using 3 readings would not work if the Council was not willing to vote at the 1st reading. He stated that the 2nd reading would be used to make any adjustments brought forth at the 1st reading with the final form being adopted at the 3rd reading. He stated that with the current process, if the Council denies an ordinance at the 1st reading it is denied without a public hearing which he feels does not give the ordinance a fair chance.

Time constraints were discussed.

Council Member Koep suggested that research on the process followed by other charter cities.

Submittal of Application for Smart Growth America's Free Technical Assistance Workshops – Walkability Audit – Approved

City Planner Ostgarden discussed the walkable bikeable committee, stating that the committee will need to be able to have a process established by which it can make recommendations to the City Council on Brainerd being a walkable bikeable community. He stated that this Walkability Audit will help that process to be established.

MOVE AND SECONDED BY ALDERMEN BORKENHAGEN AND PRITSCHET, DULY CARRIED, TO AUTHORIZE SUBMITTAL OF THE APPLICATION FOR SMART GROWTH AMERICA'S FREE TECHNICAL ASSISTANCE WORKSHOPS WALKABILITY AUDIT.

Downtown Christmas Holiday Events – Nancy Williams – Informational

The Chair recognized Ms. Nancy Williams and Jessica Blakeman of the Downtown business group that has scheduled events for all weekends leading up to Christmas. They discussed various promotions and activities and invited the audience and public to please join in. Schedules can be found on the Downtown Brainerd Facebook page as well as the www.visitbrainerd.com website. The Chair thanked them for their presentation.

Council Member Pritschet stated that he did all of his Christmas shopping in Downtown Brainerd last year and that it was a wonderful experience.

Level III Predatory Offenders – Prohibited Location of Residence – Possible Proposal Ordinance – Informational

City Attorney Fitzpatrick stated that the proposed ordinance basically mirrors the State Statute which requires a disbursement of Level III Predatory Offenders rather than allowing

numerous offenders to live in one small area. He stated that he does not feel this ordinance is focused on a penalty standard but rather to provide the departments involved with placement of Level III Predatory Offenders with a formal statement of the City's position on a tolerable placement guide.

Public Forum

None

Reports

Mayor's Report

Mayor Wallin stated that he has a video and roughly 300 slides that he plans to convert to DVD of the construction and remodeling of City Hall which he plans to have available for History Week. He reported on the Veterans Day programs at Riverside School, Brainerd High School, and Woodland Good Samaritan as well as the Civil Air Patrol Cadet Promotion.

City Attorney's Report

City Attorney Fitzpatrick stated that he had nothing to report.

City Administrator's Report

City Administrator Goble reported that:

- City Attorney RFP's are due this Friday, Nov 22nd at 4:30
- New video tours are on the City website. Special thank you to Kevin Close, Kevin Thesing and Kim Ellingson for their comments and testimonies on the business and industry tour segment. Other video tours are the Welcome by Mayor Wallin, a Quality of Life, Recreational Opportunities and community organizations. I invite all non-profit community organizations to send their logo and website addresses to me and we will get them on the community organization site. Thank you so much to all the sponsors who supported this City venture. The videos about their businesses can be accessed by clicking on their logo when you view the tour segments. The city's web site is www.ci.brainerd.mn.us – click on video tours.

She also requested Council to go into closed session after the budget workshop on Nov 25th to discuss union negotiation strategies.

City Engineer's Report

City Engineer Hulsether stated that he had nothing to report.

City Planner's Report

City Planner Ostgarden reported that:

- The 2014 First Quarter Newsletter will be put together soon; all departments should be submitting ideas to the Planning Department for content
- The Downtown is planning to put together a marketing committee with the help of Richard Polipnik from "Visit Brainerd"
- The Walkable Bikeable Committee will have its first meeting at 6:00 P.M. on November 25th

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.

Council President's Report

Council President Cumberland reported that she had:

- Attended a City/BLAEDC Economic Gardening Discussion
- Attended the STATE OF THE CITY meeting
- Been interviewed regarding the YMCA strategic planning process and asked for opinions on the community perception of the YMCA
- Participated in recent labor negotiations
- Briefly attended the CAP (Civil Air Patrol) awards ceremony
- Stopped in to visit those involved in the Youth Center (The Shop) as they relocated to the former Citadel building on Washington Street
- Heard a presentation at BPU regarding the future costs of electric power
- Visited with property managers/owners prior to their monthly meeting
- Listened to assorted citizen concerns/questions and tried to provide answers

She also reminded the Council and public to read the City's newsletter and to also remember to be in touch with our representatives with any concerns.

Council Other Committee Reports

Council Member Scheeler stated that on November 28th the Sunshine Kitchen Moonshine Lounge will be hosting a "beggar's banquet" for people to attend and bring dishes to share. Other Council members brought up that many other restaurants or clubs are offering meals for Thanksgiving Day.

Council Member Cumberland stated that there is an upcoming Region 5 Resilient Region that should have City of Brainerd representation;

Adjourn – To Closed Session Pursuant to Attorney Client Privilege to Discuss the Anda Assessment Litigation as permitted by Minnesota Statute 13D.05, Subd. 3(b)

MOVED AND SECONDED BY ALDERMEN SCHEELER AND BORKENHAGEN, DULY CARRIED, TO ENTER INTO CLOSED SESSION AT 9:28 P.M. TO DISCUSS THE ANDA ASSESSMENT LITIGATION AS PERMITTED BY MN STATUTE 13D.05, SUBD.3(b).

The Council reconvened into open session at 9:32 P.M.

MOVED AND SECONDED BY ALDERMEN SCHEELER AND PARKS TO AUTHORIZE CITY ATTORNEY FITZPATRICK TO SIGN A STIPULATION OF SETTLEMENT WHEREBY THE CITY AGREES TO REDUCE THE TOTAL ORIGINAL SPECIAL ASSESSMENT AMOUNT ON THE AFFECTED ANDA PARCELS FROM \$116,706.30 TO \$95,000.00. THE CITY SHALL RECERTIFY THE SPECIAL ASSESSMENTS FOR EACH PARCEL AND SHALL PROVIDE A CREDIT FOR AMOUNTS PREVIOUSLY PAID, DEDUCTING FROM THE \$95,000.00 AN AMOUNT APPLIED TO PRINCIPAL AND INTEREST AS IF THE ORIGINAL ASSESSMENT AMOUNT HAD BEEN \$95,000.00.

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

Adjourn – To the City Council Budget Workshop to be held on Monday, November 25, 2013 at 6:00 P.M. in the City Hall Council Chambers with Closed Session to Discuss Union Negotiations to Follow – Approved

The Chair adjourned the meeting at 9:35 P.M.

Theresa A. Goble
City Administrator