Brainerd, MN
November 7th, 2022

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 Bevans.

Upon roll call, the following members were noted as present: Johnson, Bieser, Stenglein, Erickson, O'Day, Stunek, and Bevans. Mayor Badeaux was noted as present.

Council President Bevans opened the meeting with the Pledge of Allegiance to the flag.

MOVED AND SECONDED BY COUNCIL MEMBERS ERICKSON AND STENGLEIN, DULY CARRIED, TO APPROVE THE AGENDA.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND ERICKSON TO APPROVE THE CONSENT CALENDAR.

A. **Approval of Bills**
B. **Approval of Minutes**
   a. **Regular City Council Meeting held on October 17th, 2022**
C. **Approval of Licenses**
D. **Department Activity Report**

Upon roll call, Council Members Johnson, Bieser, Stenglein, Erickson, O'Day, Stunek, and Bevans voted "aye". No member voted "nay". The Chair declared the motion carried.

Annual Presentation by The Center

Kathy Tousa, 14075 Firewood Dr, Baxter, President of the Center Board, and DeAnn Barry, 18610 Smith Road, Executive Director, presented to the City Council their annual presentation required for funding from the Charter levy contributions.

Conduct Dangerous Dog Hearing

Attorney Langel gave an overview of the proceedings.

Animal Control Officer O'Brien gave an overview of the incident that took place on October 19th, with the dog owned by Mr. Young. He stated that the dog was previously declared as potentially dangerous in 2019. He stated also that there was video evidence of the October 19th incident, however, the Council did not elect to view the evidence. The owner of the dog has concealed the dog from law enforcement; therefore, the dog is not in custody.

Sarah, the owner of the victim dog spoke about the incident.

Attorney Langel clarified that the Council must declare that the dog is dangerous, and then decide what to do with the dog.

MOVED AND SECONDED BY COUNCIL MEMBER JOHNSON AND O'DAY, DULY CARRIED, TO DECLARE THE DOG DANGEROUS.

Member O'Day stated that he does not take joy in euthanizing an animal. However, the Council had given the owners of a previous dangerous dogs a second chance and the dogs ended up hurting their own owner. He does not want to take the chance again to have someone else injured.

Member Johnson stated that the situation is unfortunate, and it is not the dog's fault that it's owner couldn't properly train it.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND O'DAY, DULY CARRIED, TO EUTHANIZE THE DOG.

Council Committee Reports

Safety and Public Works

Approve Addition of Rectangular Rapid-Fire Beacon (RRFB) at N 3rd Street and Holly Street Intersection

Committee Chair O'Day stated that this would be at the high traffic intersection at the hospital.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND ERICKSON, DULY CARRIED, TO INSTALL AN RRFB CROSSING AT N. 3RD STREET AT HOLLY STREET/ESSENTIA HEALTH AT A COST NOT TO EXCEED $15,000.

Discussion on Grant Application Candidates

Committee Chair O'Day gave an overview of the grants that staff is considering applying for.

Member Erickson stated that he would be abstaining from voting due to his employment.

Member Johnson asked how a roundabout would be fit in at the proposed intersection of Willow and S 6th street. MnDOT previously rejected an improvement to this intersection when the road was improved previously.

City Engineer/ Public Works Director Dehn stated that the goal would be to fit into the current confines.

Mayor Badeaux stated that he objects to the application of the roundabout because of MnDOT's refusal to take care of the matter when the road was reconstructed previously.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND BIESER TO AUTHORIZE STAFF TO APPLY FOR THE 3 GRANTS AS PRESENTED.

Council Members Johnson, Bieser, Stenglein, O'Day, Stunek, and Bevans voted "aye". No Member voted "nay". Member Erickson abstained from voting.

Direction on Active Code Enforcement Cases

Committee Chair O'Day gave an overview of the properties being reviewed.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND ERICKSON TO ISSUE A 10 DAY ORDER TO CORRECT LETTER AND BEGIN WORKING WITH THE CITY ATTORNEY FOR ABATEMENT OF THE PROPERTY FOR BOTH PROPERTIES.

Council Members Bieser, Stenglein, Erickson, O'Day, Stunek, and Bevans voted "aye". Member Johnson voted "nay". The Chair declared the motion carried.

Personnel and Finance Committee

Authorize Advertisement for Bids- Memorial Park Softball Lights

Committee Chair Johnson stated that the committee directed staff to follow regular budgetary processes.

Ratify the Hiring of Samuel Jensen as Parks Maintenance I

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STENGLEIN, DULY CARRIED, TO RATIFY THE HIRING OF SAMUEL JENSEN EFFECTIVE NOVEMBER 14, 2022; FURTHER, THAT HE BE PLACED ON STEP 1 OF THE PARK MAINTENANCE WAGE GRID ($20.48 PER HOUR).

Ratify the Hiring of Cari LaRose as Administrative Specialist- Public Works Department

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STUNEK, DULY CARRIED, TO RATIFY THE HIRING OF CARI LAROSE EFFECTIVE OCTOBER 31, 2022; FURTHER, THAT SHE BE PLACED ON STEP 3 OF THE ADMINISTRATIVE SPECIALIST WAGE GRID ($23.45 PER HOUR).

Ratify the Hiring of Community Service Officer (CSO)

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STENGLEIN, DULY CARRIED, TO RATIFY THE HIRING OF COMMUNITY SERVICE OFFICER JASON BOLLER WITH A STARTING WAGE OF $16.00 AN HOUR EFFECTIVE NOVEMBER 3, 2022.

Accept Resignation of Lineworker Johnathan Engholm

Committee Chair Johnson stated that BPU will not be backfilling the position immediately, and the PUC will be reevaluating the department's needs.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STUNEK, DULY CARRIED, TO ACCEPT THE RESIGNATION OF JONATHAN ENGHOLM EFFECTIVE NOVEMBER 4, 2022.

Approve Revised Assistant Planner Job Description

Committee Chair Johnson stated that the description removes the Bachelor's degree requirement.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STENGLEIN, DULY CARRIED, TO APPROVE THE REVISED ASSISTANT PLANNER JOB DESCRIPTION AS PRESENTED.

Approve Health Insurance Memorandums of Agreement (MOA) for 2023 Health Insurance Plans

Committee Chair Johnson stated that the unions already agreed to the plans.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STUNEK, DULY CARRIED, TO APPROVE THE MOAS AS PRESENTED DETAILING THE 2023 HEALTH INSURANCE PLAN OPTIONS AND CONTRIBUTION RATES FOR THE IBEW LOCAL NO. 31 UNION REPRESENTING THE ADMINISTRATIVE SUPPORT GROUP; IBEW LOCAL NO. 31 REPRESENTING THE BRAINERD PUBLIC UTILITIES GROUP; LELS LOCAL 65 UNION REPRESENTING POLICE OFFICERS; AND USW UNION LOCAL 9230 UNIT 09 REPRESENTING HYDRO EMPLOYEES.

Adopt Resolution Relating to Finance Transferring Certain Funds to and from Sinking Funds 301 and 313

Committee Chair Johnson stated that $83,900 will be transferred to the General Fund instead of the Capital fund due to two debt issues being paid off.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STENGLEIN TO ADOPT RESOLUTION RELATING TO FINANCE TRANSFERRING CERTAIN FUNDS TO AND FROM SINKING FUNDS; CLOSING OUT FUNDS 301 AND 313 WITH THE CASH BALANCES BEING TRANSFER TO FUND 101 AND ANY FUTURE DELINQUENT TAX REVENUES OR SPECIAL ASSESSMENT COLLECTIONS GOING TO FUND 400.

RESOLUTION 43:22

Upon roll call, Council Members Johnson, Bieser, Stenglein, Erickson, O'Day, Stunek, and Bevans voted "aye". No member voted "nay". The Chair declared the motion carried.

Approval of Deferment of Assessments

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STUNEK, DULY CARRIED, TO APPROVE THE APPLICATIONS FOR DEFERMENT OF ASSESSMENT PAYABLE IN 2023 FOR THE APPLICANTS AT PID'S 41191220, 41300682, 41191721, and 41250875.

Adopt Budget for Coronavirus State and Local Fiscal Recovery Funds (SLFRF)- Part of the American Rescue Plan Act of 2021 (ARPA)

Committee Chair Johnson stated that the committee gave priority to parks projects.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STUNEK, DULY CARRIED, TO ADOPT BUDGET FOR ARPA FUNDS FOR THE PARKS GIVING PRIORITY TO JAYCEES PARK AT $200,000, LUM PARK BEACH AT$150,000, KIWANIS PARK AT $75,000, AND LUM PARK CAMPGROUND AT $150,000, $300,000 TO 2023 CAPITAL, AND $140,000 FOR OPTION #2 (REPLACING BOTH UNITS) POLICE DEPARTMENT HVAC WITH THE REMAINDER COMING OUT OF 2024 CAPITAL.

Consider Setting a Budget Workshop

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STENGLEIN, DULY CARRIED, TO SET A BUDGET WORKSHOP ON MONDAY, NOVEMBER 28, 2022, AT 6:00 PM IN THE COUNCIL CHAMBERS.

Unfinished Business

Adopt Resolution Adopting Contested Assessments- 2022 Nuisance Abatement

Community Development Director Kramvik gave an overview of the properties staff is recommending that the Council waive and uphold.

The Chair reconvened the public hearing at 8:14 p.m.

No one came forward.

The Chair closed the public hearing at 8:15 p.m.

MOVED AND SECONDED BY COUNCIL MEMBERS ERICKSON AND O'DAY TO WAIVE NUISANCE ASSESSMENTS FOR PIDS'S 41191552, 41191107, 41300564, and 41360806; FURTHER TO ADOPT RESOLUTION ADOPTING THE CONTESTED ASSESSMENTS AS PROPOSED FOR THE 2022 NUISANCE ABATEMENT ASSESSMENTS.

RESOLUTION 44:22

Upon roll call, Council Members Johnson, Bieser, Stenglein, Erickson, O'Day, Stunek, and Bevans voted "aye". No member voted "nay". The Chair declared the motion carried.

Adopt Resolution Adopting Additional Assessments-2022 Nuisance Abatement

Community Development Director Kramvik gave an overview of the properties that staff is recommending Council waive.

The Chair reconvened the public hearing at 8:17 p.m.

No one came forward.

The Chair closed the public hearing at 8:18 p.m.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND ERICKSON TO ADOPT RESOLUTION ADOPTING THE ASSESSMENTS AS PROPOSED FOR THE 2022 NUISANCE ABATEMENT ASSESSMENTS WITH THE EXCEPTION OF PID 41190529 AND 41040637.

RESOLUTION 45:22

Upon roll call, Council Members Johnson, Bieser, Stenglein, Erickson, O'Day, Stunek, and Bevans voted "aye". No member voted "nay". The Chair declared the motion carried.

Public Hearing and Adopt Resolution for Petition to Vacate Alley Submitted by My Neighbor to Love- Alley Blocks M and E, West Brainerd

City Engineer/ Public Works Director Dehn gave an overview of the request. Staff recommends vacating the alley while reserving utility rights.

The Chair opened the public hearing at 8:20 p.m.

Vicki Kinney, 8660 Fernmont Road, Lakeshore, stated the reason why the alley has no use to the owners of the property or adjacent property owners.

The Chair closed the public hearing at 8:21 p.m.

Member Johnson stated that with the current zoning of Traditional Neighborhood 2 (TN-2), he cannot see how this proposal fits in the zone. He does not see how this model is reflective of the other current TN-2 zones within the City.

Member O'Day questioned why the developer believes that the streets surrounding the property could never be developed.

Community Development Director Kramvik stated that at the staff level with the former City Engineer, he did not have indications that NW 2nd Street would ever be developed. The Tyrol neighborhood also abuts the property so development wouldn't be possible on the east side.

Member Stenglein stated that the property has been a road into nothing for as long as she can remember, in all that time, nothing has been built and is not appealing. This is a viable use for the property.

Member Bieser stated that the staff's description of Traditional Neighborhood- 2 further in the packet does in fact fall within the zone.

MOVED AND SECONDED BY COUNCIL MEMBER STENGLEIN AND ERICKSON TO ADOPT RESOLUTION WHICH VACATES THE ALLEYS LYING WITHIN BLOCKS M AND E, WEST BRAINERD WHILE RESERVING RIGHTS TO AN EASEMENT FOR UTILITY PURPOSES.

RESOLUTION 46:22

Upon roll call, Council Members Bieser, Stenglein, Erickson, and Bevans voted "aye". Members Johnson, O'Day, and Stunek voted "nay". The Chair declared the motion carried.

Public Hearing and Discussion on 2022-2023 Downtown Snow Removal

The Chair opened the public hearing at 8:32 p.m.

The following downtown business owners spoke in favor of the Downtown Snow Removal District:

Marie Kirsch, 323 N 10th Street, Knotty Pine Bakery

Theresa Woodward, 909 5th Avenue NE, Cat Tales

Brenda Billman-Arndt, 719 Laurel Street, Purple Fern Bath Company

Ed Menk, 623 Laurel Street, EL Menk Jewelers, stated that square footage may be a better metric in calculating the assessment as continuing to calculate based on frontage is unfair to corner businesses.

Ed Shaw, 606 Laurel Street, Sage on Laurel, stated that the City should reevaluate how the cost is handled, that the commercial tax should also include snow removal services.

The Chair closed the public hearing at 8:43 p.m.

Member O'Day stated that there was a tabled motion from October 3rd.

Finance Director Hillman clarified the motion from the October 3rd.

Member Johnson stated that it may be beneficial to use square footage as a metric, as they do in commercial real estate to calculate the contribution.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND ERICKSON, DULY CARRIED, TO APPROVE THE BID FROM TOM'S BACKHOE SERVICES FOR THE 2022-2023 DOWNTOWN SNOW REMOVAL SERVICES IN THE DOWNTOWN DISTRICT.

Call for Applicants – Informational:

Mayor Badeaux apologized to an applicant for not being more transparent with the process of being appointed to a commission.

(Application Information at www.ci.brainerd.mn.us/boards/)

Mayor Recommended: (terms to expire on 12/31 of said year)
Cable TV Advisory Committee – 2 terms (Expire 2022) --1 term (Expire 2024)
Charter Commission – 1 term (Expire 2022) 1-term (Expire 2025)
Rental Dwelling License Board of Appeals – 2 terms (Expire 2022)
Library Board—1 term (Expire 2023)

Mayor Recommended: (terms to expire 09/07 of said year)
Economic Development Authority (EDA) – 1 term (Expire 2028) – 1 term (Expire 2026)

New Business

Adopt Resolution Declaring Costs to be Assessed, Ordering Preparation of Proposed Assessment, and Ordering a Public Hearing on Proposed 2021-2022 Assessment Downtown Special Services District and Downtown Snow Removal

City Engineer/ Public Works Director stated that this is a correction to the snow removal assessment amounts. The proposed assessment for private properties is being reduced by 16.8%.

MOVED AND SECONDED BY COUNCIL MEMBERS ERICKSON AND STENGLEIN TO ADOPT RESOLUTION IN WHICH DECLARES THE COST TO BE ASSESSED, ORDERS THE PREPARATION OF THE PROPOSED ASSESSMENT, AND SETS A PUBLIC HEARING ON THE PROPOSED ASSESSMENT FOR NOVEMBER 21, 2022, AT 7:30 PM.

RESOLUTION 47:22

Upon roll call, Council Members Johnson, Bieser, Stenglein, Erickson, O'Day, Stunek, and Bevans voted "aye". No member voted "nay". The Chair declared the motion carried.

Consider Preliminary Plat for Creekside Community Development

Community Development Director Kramvik stated that the purpose of this preliminary plat request is to consolidate11 lots into four larger lots. Approval of a preliminary plat by the City Council is an acceptance of the general layout, as submitted, and indicates that the developer may proceed toward final plat approval in accordance with the City Council approval of the preliminary plat, including conditions and the City growth management standards.

Member O'Day clarified that this plat would be contingent on the alley vacation. He thanked the applicant for improving the presentation.

Member Johnson stated that he would be voting no for the preliminary plat as he does not believe that the design and layout fit in the TN-2 district. He gave the description of the TN-2 district to support his statement.

Member Erickson stated that there was a lot of discussion at the Planning Commission meeting in with this development. Because of the discussion at Planning Commission, he will be supporting the motion.

MOVED AND SECONDED BY COUNCIL MEMBERS ERICKSON AND STENGLEIN TO APPROVE THE REQUESTED PRELIMINARY PLAT WITH THE FOLLOWING CONDITIONS: A DEVELOPER'S AGREEMENT FOR STORMWATER RETENTION AND INSTALLATION OF REQUIRED FIRE HYDRANTS ARE RECORDED WITH THE FINAL PLAT FURTHER THAT THE APPLICANT WORKS WITH STAFF TO CREATE THE APPROPRIATE NAMING OF THE PLAT & THE REAR YARD SETBACK MINIMUM INDICATED ON THE PLAT BE 10 FEET.

Upon roll call, Council Members Bieser, Stenglein, Erickson, Stunek and Bevans voted "aye". Members Johnson and O'Day voted "nay". The Chair declared the motion carried.

Consider Conditional Use Permit for a Boarding House on NW 3rd Street

Community Development Director Kramvik gave an overview of the findings of fact for this Conditional Use Permit.

Member O'Day asked about the number of trees required for screening and lighting of the parking lots from the Planning Commission. He asked about the stages of construction or whether all of the buildings would be constructed at once. He also about the maintenance plan that went along with the permit.

Community Development Director Kramvik stated that the developer would need to meet the landscaping ordinance standards. The lighting of the parking lot is not currently planned lighting will be on buildings. Lighting in the parking lot would require an amended CUP. He stated that the developer would need to speak to the construction plan of the buildings. The maintenance plan is not required to issue the permit. The parking deferment was due to the buildings being used by the residents only.

Member Johnson stated that his heart breaks for Kingwood Street if this is the future of the TN-2 neighborhood.

MOVED AND SECONDED BY COUNCIL MEMBERS ERICKSON AND STENGLEIN TO APPROVE THE CONDITIONAL USE PERMIT FOR THE OPERATION OF A BOARDING HOUSE AT LOT 2 BLOCK 1 IN THE PROPOSED PLAT CONTINGENT UPON CITY COUNCIL APPROVAL OF THE FINAL PLAT FOR THIS BLOCK AND THE APPLICANT AND CITY ENTER INTO A DEVELOPMENT AGREEMENT, TO BE RECORDED AGAINST THE SUBJECT PROPERTY, WHICH INCLUDES A CLAUSE REQUIRING THE OWNER TO INSTALL THE ADDITIONAL PARKING STALLS, UPON A FINDING OF THE CITY THAT SUCH ADDITIONAL PARKING STALLS ARE NECESSARY TO ACCOMMODATE THE USE.

Upon roll call, Council Members Bieser, Stenglein, Erickson, and Bevans voted "aye". Members Johnson, O'Day, and Stunek voted "nay". The Chair declared the motion carried.

Consider Conditional Use Permit for a 12-Unit Apartment on NW 3rd Street

Community Development Director Kramvik gave an overview of the findings of fact.

Member Johnson stated that he would be voting no as this development does not reflect the comprehensive plan.

Member O'Day stated that a 12-unit apartment is what he was looking for.

MOVED AND SECONDED BY COUNCIL MEMBERS ERICKSON AND STENGLEIN TO APPROVE THE CONDITIONAL USE PERMIT FOR CONSTRUCTION OF A 12-UNIT MULTI-FAMILY APARTMENT AT LOT 1 BLOCK 1 IN THE PROPOSED PLAT (P.I.N. 41040505, 41040504, 41040503) CONTINGENT UPON CITY COUNCIL APPROVAL OF THE FINAL PLAT FOR THIS BLOCK AND WITH THE CONDITION THAT PARKING LOT LANDSCAPING STANDARDS ARE APPLIED ALONG NW 2ND ST ON THE EAST SIDE.

Council Members Bieser, Stenglein, Erickson, O'Day, Stunek, and Bevans voted "aye". Member Johnson voted "nay". The Chair declared the motion carried.

Set Special Meeting to Canvass the 2022 General Election Results

Finance Director Hillman stated that pursuant to state law, the City Council must canvass the results of the general election between the 3rd and 10th day after the election. The time frame for the 2022 election would be no earlier than November 11th and no later than November 18th. November 11th is a holiday so we cannot meet to canvas and since we do not have a regular meeting on the 14th, we need to have a special meeting to canvas the results sometime between November 14th and the 18th.

MOVED AND SECONDED BY COUNCIL MEMBERS STENGLEIN AND ERICKSON, DULY CARRIED, TO HOLD A SPECIAL MEETING ON WEDNESDAY, NOVEMBER 16, 2022, AT 12:00 P.M. TO CANVASS THE 2022 GENERAL ELECTION.

Public Forum

The Chair opened public forum at 9:15 p.m.

No one came forward.

The Chair closed the public forum at 9:16 p.m.

Staff Reports

Community Development Director Kramvik stated that the Planning Commission at its November 16th meeting will be discussing the allowable lighting temperature for outdoor lighting, the second item will be a public hearing on the moratorium and ordinance language.

City Engineer/ Public Works Director Dehn stated that MnDOT asked for a letter of support for a grant. He will have more information at the second meeting of the month. The Police Department cold storage building is nearing completion. He thanked the Public Works staff for their hard work today for the Election.

Finance Director Hillman stated that the General Election is on November 8th. She thanked staff for their hard work in preparation for the General Election.

City Administrator Bergman stated that the EDA met and adopted their Goals and Action Steps 2023-2024. As Executive Director for the EDA she has reached out to the consultants who have provided services to the EDA to begin negotiating agreements for 2023.

Mayor Report

Mayor Badeaux stated that he voted early, he thanked the County for a smooth voting process, it was enjoyable. He stated that the water tower construction is under way. Halloween in North Brainerd was a fantastic experience. Christmas is on its way, there will be a lot of great events coming including caroling in Gregory Park and sleigh rides in the Buffalo Hills neighborhood.

Council Member Reports

Member Erickson stated that all of the neighborhoods do a great job with Halloween. He thanked the election judges for their hard work at the polls.

Member Bieser stated that he attended the Library Board meeting, he will bring an update to the next meeting.

Member O'Day stated that he would like to consider having community gardens in the downtown district.

Chair Bevans stated that the Northside Neighborhood Association is meeting on November 16th. He passed out over 1000 pieces of candy on Halloween.

Adjourn to Closed Session per MN Statute 13D.03 Labor Negotiation Strategy

MOVED AND SECONDED BY COUNCIL MEMBERS STUNEK AND STENGLEIN, DULY CARRIED, TO ADJOURN TO CLOSED SESSION PER MN STATUTE 13D.03 LABOR NEGOTIATION STRATEGY.

The Chair adjourned to the closed session at 9:25 p.m.

The Chair reconvened the meeting at 9:55 p.m.

Adjourn to Special Meeting to Canvass the 2023 General Election Results on November 16th, 2022, at 12:00 p.m. in City Council Chambers

MOVED AND SECONDED BY COUNCIL MEMBERS ERICKSON AND BIESER, DULY CARRIED, TO ADJOURN TO THE SPECIAL MEETING ON NOVEMBER 16TH AT 12:00 PM.

The Chair adjourned the meeting at 9:55 p.m.

Jennifer Bergman
City Administrator