

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.

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

Administer Oath of Office

Administrator Bergman administered the Oath of Office to the following Members:

Dave Badeaux- Mayor
Kara Terry- Council Member, Ward 1
Kelly Bevans- Council Member, Ward 2
Gabe Johnson- Council Member, Ward 4
Jeff Czczok- Council Member, At-Large

Elect Council President and Vice President

The Charter states "at the first meeting in January of the City Council after the regular election it shall proceed to elect by ballot from its members a President and Vice-President".

Council President Bevans asked for nominations for Council President to be voted by show of hands vote than by ballot.

Council Member Stunek nominated Council Member Bevans.

Council Member Czczok nominated Council Member Johnson.

Upon roll call, Council Members Terry, Stenglein, Stunek, and Bevans voted for Council Member Bevans. Members Johnson, Czczok, and O'Day voted for Council Member Johnson.

MOVED AND SECONDED BY COUNCIL MEMBERS STUNEK AND CZECZOK, DULY CARRIED, TO ACCEPT THE NOMINATION OF COUNCIL MEMBER BEVANS AS PRESIDENT.

Council Member Bevans was declared Council President for the years of 2023 and 2024.

Council President Bevans asked for nominations for Council Vice President to be voted by voice vote.

Council Member Czczok nominated Council Member Johnson.

MOVED AND SECONDED BY COUNCIL MEMBERS CZECZOK AND STUNEK, DULY CARRIED, TO CONFIRM COUNCIL MEMBER JOHNSON AS VICE PRESIDENT.

Roll Call

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

Appointments to Standing Committees

Council President Bevans recommended Council Members Terry, Stunek, and Johnson to Personnel and Finance committee with Member Johnson as the Chair. He also recommended Council Members Czczok, Stenglein, and O'Day to Safety and Public Works committee with Member O'Day as the Chair.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STUNEK, DULY CARRIED, TO APPROVE THE CHAIRS RECOMMENDATION TO STANDING COMMITTEES.

Approval of Agenda

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND CZECZOK, DULY CARRIED, TO APPROVE THE AGENDA.

Approval of Consent Calendar

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

- A. Approval of Bills and Transfers of Funds**
- B. Approval of Minutes**
 - a. Regular City Council Meeting held on December 19th, 2022**
- C. Approval of Licenses**
- D. Department Activity Report**
- E. Appoint City Attorney Pursuant to City Charter- 2023-2024**
- F. Adopt Resolution Designating Financial Institutions as Depositories for 2023 Pursuant to City Charter**
- G. Annual Authorization to Perform Electronic Transfers**
- H. Designate Brainerd Dispatch as Official Newspaper for Calendar Year 2023 Pursuant to City Charter**
- I. Adopt Resolution Approving Signature Authorization for 2023 Capital Projects for the Brainerd Lakes Regional Airport**
- J. Approve Lease Between the City of Brainerd and Brainerd Solar LLC**
- K. Police Department Biennial Body Camera Audit Report**
- L. Approve City Administrator 2022 Performance Review Summary**
- M. Approve Storm Water Engineering Manual**
- N. Ratify the Hiring of 2023 Winter Temporary Warming House Employees**
- O. Ratify the Hiring of Assistant Planner Dylan Edwards- Effective January 9th, 2023, at Step 1 (\$27.08 per hour)**

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

Presentations

Tower Award to Tad Erickson

Mayor Badeaux had the honor of presenting the Tower Award to former Council Member Tad Erickson. As a Member of the City Council and as an active member on the commissions he was liaison for, particularly the Planning Commission, he has been great servant to our community. He looks forward to working with Mr. Erickson in the future even though he is no longer on the Council.

Former Council Member Erickson thanked the Council for the honor.

Unfinished Business

Appoint Two Members to the Joint Wastewater Management Board

Public Works Director/ City Engineer Dehn stated that this board would be meeting as soon as possible, as there is action that needs to be handled before February 1st.

Council Members Czczok and O'Day volunteered to be a part of the Joint Wastewater Management Board.

Chair Bevans appointed Council Members O'Day and Czczok to the Joint Wastewater Management Board.

Final Reading- Proposed Ordinance 1540- Instituting a Three-Month Moratorium on the Conversion of Dwelling Units to Green Space or Surface Parking

Community Development Director Kramvik gave an overview of Ordinance 1540.

Member Czczok asked whether this was a direct reflection of the changes to accommodate the needs of the church and the hospital.

Community Development Director Kramvik stated that this ordinance allows for a three-month extension to the moratorium to review the language that was of concern previously.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STUNEK, DULY CARRIED, TO CONDUCT THE FINAL READING OF PROPOSED ORDINANCE NO. 1540 AND DISPENSE WITH THE ACTUAL READING.

Chair Bevans opened the public hearing at 7:46 p.m.

No one came forward.

Chair Bevans closed the public hearing at 7:47 p.m.

MOVED AND SECONDED BY COUNCIL MEMBERS CZECZOK AND O'DAY TO ADOPT PROPOSED ORDINANCE NO. 1540, AN ORDINANCE THAT IMPOSES A THREE-MONTH MORATORIUM ON THE CONVERSION OF DWELLING UNITS TO GREEN SPACE OR SURFACE PARKING IN THE TN-1, TN-2, CN-1, AND CN-2 ZONING DISTRICTS.

ORDINANCE 1540

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

Call for Applicants – Informational:

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

Charter Commission – 4 terms (Expire 2026) 1 term (Expire 2025)

Rental Dwelling License Board of Appeals – 5 terms (Expire 2025)

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

Economic Development Authority (EDA) – 1 term (Expire 2028) 1 term (Expire 2026)

Council President Recommended: (terms to expire 12/31 of said year)

Airport Commission-- 1 term (Expire 2025)

Planning Commission-- 2 terms (Expire 2025)

New Business

Authorize Fire Department to Apply for Public Safety Grant

MOVED AND SECONDED BY COUNCIL MEMBERS STUNEK AND JOHNSON, DULY CARRIED, TO AUTHORIZE THE FIRE DEPARTMENT TO APPLY FOR A GRANT THROUGH THE FIREHOUSE SUB PUBLIC SAFETY FOUNDATION.

Authorize Submission of Small Cities Development Program (SCDP) Preliminary Proposal to Department of Employment and Economic Development (DEED)

Finance Director Hillman stated that this grant application is for the southeast area of Brainerd. The application window for the grant was very short, this is a preliminary application. If the application is accepted by DEED, the HRA will submit the formal application at a later date.

MOVED AND SECONDED BY COUNCIL MEMBERS TERRY AND CZECZOK, DULY CARRIED, TO AUTHORIZE THE BRAINERD HRA TO SUBMIT A SMALL CITIES DEVELOPMENT PROGRAM (SCDP) 2023 PRELIMINARY PROPOSAL TO THE DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT (DEED) FOR A SOUTHEAST BRAINERD REHAB GRANT PROGRAM.

First Reading- Proposed Ordinance 1541- An Ordinance Amending Sections 515-4 of the Zoning Code- Restrictions on Demolition and Removal of Dwelling Units

Community Development Director Kramvik gave an overview of Ordinance 1541. A previous similar ordinance failed, and it was to be reviewed by Planning Commission. The section previously recommended to be removed by the Planning Commission has been reviewed and line A3: "City Council approval has been granted through a conditional use permit or interim use permit for an alternative use of the property" has been adjusted to accommodate community concern.

MOVED AND SECONDED BY COUNCIL MEMBERS STENGLEIN AND O'DAY, DULY CARRIED, TO HOLD THE FIRST READING OF PROPOSED ORDINANCE NO. 1541, AN ORDINANCE AMENDING SECTION 515-4: GENERAL BUILDING AND DESIGN STANDARDS AND DISPENSE WITH THE ACTUAL READING OF THE ORDINANCE.

Consider Amendment of Interim Use Permit for Additional Short Term Rental Unit- 1005 S 6th Street

Community Development Director Kramvik gave an overview of the amendment to the previous Interim Use Permit.

Member O'Day asked whether a rotating short-term rental is something that the City has approved before. He also asked how many short-term rentals are in the City.

Community Development Director Kramvik stated that this property was previously approved for one short-term rental that had the potential to rotate units. This is an amendment to that to add another unit. This property is the only short-term rental in the City.

MOVED AND SECONDED BY COUNCIL MEMBERS CZECZOK AND STENGLEIN, DULY CARRIED, TO APPROVE INTERIM USE PERMIT AMENDMENT FOR TWO SHORT TERM RENTAL UNITS CONDITIONAL ON REINSPECTION BY THE BUILDING INSPECTOR AND FIRE MARSHAL. ADDITIONALLY, STAFF RECOMMENDS THAT THE APPLICANT BE ALLOWED TO CHANGE WHICH UNITS IN THE BUILDING ARE USED AS SHORT-TERM RENTALS UPON NOTIFICATION OF STAFF AND REINSPECTION BY THE BUILDING INSPECTOR AND FIRE MARSHAL. ONLY TWO UNITS MAY BE ADVERTISED AS A SHORT-TERM RENTAL AT ANY GIVEN TIME.

Consider Removal of Nuisance Abatement Assessment for 814 Front Street

Community Development Director Kramvik stated that 814 Front Street (PID 41241501) was issued four citations for an unlicensed vehicle and one citation for snow removal in the fall/winter of 2021/ 2022. The property was sold in April 2022. The previous owner did not forward the assessment or information about the assessment hearings to the new owner until recently.

Member Johnson stated that he supports the motion, but the City Council may have set a precedent with the previous property that was handled the same way.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND CZECZOK, DULY CARRIED, TO ASK CROW WING COUNTY TO REMOVE \$662.08 FOR THE NUISANCE ASSESSMENT APPLIED TO PID 41241501 AND IF THE COUNTY IS UNABLE TO REMOVE THE FEE, THE CITY PAYS THE \$662.08 TO CROW WING COUNTY. ALSO, ATTEMPT TO COLLECT THE ASSESSMENT AMOUNT FROM THE PREVIOUS OWNER.

Approve Award for the TH 210/Lum Park Pedestrian Bridge Feasibility Study

Public Works Director/ City Engineer Dehn gave an overview of the request for proposal (RFP) process. Staff recommended SRF due to extra items that added value. Both bids from SRF and WSB were acceptable to staff and within the ARPA budget. However, staff is recommending SRF who presented the best proposal with all criteria considered.

Member Czczok asked for clarification on the corridor.

Public Works Director/ City Engineer Dehn stated that this bridge will eventually connect the Cuyuna Lakes State Trail (CLST) to itself from Highway 210 to Highway 25. The City has identified Lum Park as the preferable crossing.

MOVED AND SECONDED BY COUNCIL MEMBERS STUNEK AND STENGLEIN, DULY CARRIED, TO APPROVE THE PROPOSAL FROM SRF FOR A FEASIBILITY STUDY ON THE TH 210/LUM PARK PEDESTRIAN BRIDGE AND CLST PROJECT IN THE AMOUNT NOT TO EXCEED \$34,584.30.

Request Elected Officials to Participate on TH210/Lum Park Pedestrian Bridge

PMT

Public Works Director/ City Engineer Dehn stated that the SRF agreement includes three project management team meetings. This is to ensure that elected official's input is included in the project.

Chair Bevans appointed Council Members Stenglein and Johnson to the TH210/Lum Park Pedestrian Bridge PMT.

Adopt Resolution Approving MnDOT Agreement for Federal Participation in Construction

Public Works Director/ City Engineer Dehn stated that this allows MnDOT to serve as the fiscal agent for federal funds.

Member Czczok asked if this is an annual agreement.

Public Works Director/ City Engineer Dehn stated that this agreement is updated when the State makes changes to their process. This agreement includes changes to electronic signatures and updates to the States Title VI among other things.

MOVED AND SECONDED BY COUNCIL MEMBERS CZECZOK AND STENGLEIN TO ADOPT THE RESOLUTION AUTHORIZING SIGNATURES ON THE AGREEMENT WITH MNDOT TO ACT AS THE CITY'S AGENT IN ACCEPTING FEDERAL FUNDS ON THE CITY'S BEHALF FOR PROJECTS CONSTRUCTED USING FHWA FUNDING.

RESOLUTION 03:23

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

Adopt Resolution Advancing Municipal State Aid Street (MSAS) Funds

Public Works Director/ City Engineer Dehn stated that advancing funds through this process allows the City to finance State Aid projects in a construction year, even if the City's MSAS fund balance is negative. Payback of the funds we advance comes from future year allotments into the City's State Aid account. These projects are all previously constructed projects that have not been approved for final payments due to the City's advanced MSAS status.

Member Czczok asked how long the City has been advancing the funds.

Public Works Director/ City Engineer Dehn stated that the funds have been advanced for a number of years, though staff is unclear for how long.

MOVED AND SECONDED BY COUNCIL MEMBERS AND STUNEK TO ADOPT RESOLUTION WHICH ADVANCES MUNICIPAL STATE AID STREET (MSAS) FUNDS FOR CONSTRUCTION PROJECTS AS LISTED.

RESOLUTION 04:23

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

Authorize Additional Funds for Motor Grader

Public Works Director/ City Engineer Dehn stated that the Council approved \$385,000 in the 2023 budget for the purchase of a new motor grader. When staff requested an updated purchase order from Ziegler Cat, the state bid contract had been revised, and the price went up over 12%. The current quote received from Ziegler Cat is for \$430,040. The trade-in value for the existing motor grader did not change and remains at \$90,000. The additional funds needed for a grader is \$45,000.

Finance Director Hillman stated that the difference in funds could come from the Capital Fund, allocation of additional ARPA funds for 2023 capital purchases, or by budgeting for the difference in 2024 capital purchases since the final payment will not be made until 2024.

MOVED AND SECONDED BY COUNCIL MEMBERS STENGLEIN AND CZECZOK, DULY CARRIED, TO AUTHORIZE THE PURCHASE OF THE MOTOR GRADER FROM CAT AND ALLOCATE AND ADDITIONAL \$45,000 OF ARPA FUNDS, FOR A TOTAL OF \$345,000, FOR 2023 CAPITAL PURCHASES.

Approve 2023 IUOE Street Department Union Contract Agreement and Wage Resolution

HR Director Schubert stated that the City reached a tentative contract agreement with the IUOE Street Department Union. This included a 2.5% cost of living adjustment (COLA). The union approved the agreement summary on December 20th.

MOVED AND SECONDED BY COUNCIL MEMBERS TERRY AND O'DAY, DULY CARRIED, TO APPROVE THE 2023 TENTATIVE AGREEMENT SUMMARY AND THE ATTACHED CONTRACT SUPPORTING DOCUMENTS BETWEEN THE CITY AND IUOE LOCAL NO. 49 UNION REPRESENTING STREET DEPARTMENT EMPLOYEES.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STUNEK TO ADOPT RESOLUTION SETTING THE IUOE LOCAL NO. 49 STREET DEPARTMENT WAGES FOR 2023.

RESOLUTION 05:23

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

Authorize Signature on League of Minnesota Cities Insurance Trust (LMCIT) Liability Coverage Waiver Form

Finance Director Hillman stated annually the City needs to decide whether or not to waive the statutory tort limits. Historically, the City has elected not to waive the statutory tort limit. Liability coverage is 3.5% more expensive if the city waives the limits.

MOVED AND SECONDED BY COUNCIL MEMBERS CZECZOK AND STENGLEIN, DULY CARRIED, TO APPROVE AND SUBMIT THE LIABILITY COVERAGE WAIVER FORM WITH "DOES NOT WAIVE" THE MONETARY LIMITS ON MUNICIPAL TORT LIABILITY ESTABLISHED BY MINNESOTA STATUTES, SECTION 466.04 OPTION SELECTED.

Ratify Grant Submittal for No Child Left Inside Grant and Designate Matching Funds

Finance Director Hillman stated that the Park Board authorized Staff to apply for the No Child Left Inside grant. The grant is for \$5,000 for skates, sleds, and skating aid equipment. The Park Board also authorized a 100% match (\$5,000) for the grant application to be more competitive. The grant match would be ARPA eligible, however due to the size of the dollar amount Staff would not recommend using ARPA funding. Council could transfer \$5,000 from the Special Projects budget line item to the Park operating budget to be used for a grant match. The City has historically budgeted \$28,000 for special projects.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STENGLEIN, DULY CARRIED, TO RATIFY THE SUBMITTAL OF THE \$5,000 GRANT TO NO CHILD LEFT INSIDE PER CITY POLICY; DESIGNATE \$5,000 OF THE 2023 SPECIAL PROJECTS BUDGET LINE ITEM FOR THE GRANT MATCHING FUNDS; FURTHER TO AUTHORIZE THE \$5,000 TO BE TRANSFERRED TO THE PARKS OPERATING BUDGET IF THE NO CHILD LEFT INSIDE GRANT IS AWARDED TO THE CITY.

Adopt Resolution Designating the Property Taxes Generated by the Mills Property "Annexation Area" to the Park Dedication Fund

Finance Director Hillman stated when the Lively Property was annexed into the City, the agreement with the Township was that for five years following annexation, the property taxes on the property will be dedicated to park development. The resolution was extended twice so that the property taxes generated on the "Annexation Area" were transferred to the Park Dedication Fund through 2021. In the last 15 years, \$75,894 has been transferred from the General Fund to the Park Dedication Fund. The Council can extend the transfer of generated taxes which has been on average about \$5,000 per year for the last 15 years and less in the most recent years, or end the transfer.

Member O'Day asked whether the City would need to amend the transfer if the property is developed. Also, whether the funds are specifically for park development on this property or for parks in general.

Finance Director Hillman stated that yes, it would need to be amended if the property is developed. The funds are for improvements to parks, it was not specific to this property.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND CZECZOK TO ADOPT RESOLUTION TO CONTINUE TO TRANSFER PROPERTY TAXES GENERATED ON THE "ANNEXATION AREA" KNOWN AS MILLS/LIVELY TO THE PARK DEDICATION FUND.

RESOLUTION 06:23

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

Authorize Signatures on Joint Services Agreements for Prosecution Services with Baxter and Nisswa

Administrator Bergman stated Council directed Staff to renew joint prosecution services agreements with Baxter and Nisswa using a 3-year average, based on the number of hours, and implementing a 10% administrative fee. Staff met with representatives from Baxter and Nisswa. The terms of the agreements were agreed to, with the exception of the 10% administrative fee. They understood the need for an administrative fee but requested it be set at 5% as opposed to 10%.

MOVED AND SECONDED BY COUNCIL MEMBERS CZECZOK AND O'DAY TO AUTHORIZE APPROPRIATE SIGNATURES ON JOINT PROSECUTION SERVICES AGREEMENT WITH THE CITIES OF BAXTER AND NISSWA.

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

Public Forum

The Chair opened the public forum at 8:30 p.m.

No one came forward.

The Chair closed the public forum at 8:31 p.m.

Staff Reports

Public Works Director/ City Engineer Dehn gave an update on snow removal. Staff has been working on moving forward with the Street Light Policy. Poles and fixture price has increased roughly 25%. In total, the pole and fixture will cost \$3,400 instead of \$2,500 estimated in 2022. There is no difference in cost for the 3,000 Calvin and 4,000 Calvin lights which was a concern for staff. These are budget estimates, not quotes. There was a meeting January 3rd in the afternoon, staff will continue to develop the street lighting policy to be presented to Council at a future meeting.

Community Development Director Kramvik stated that there was a joint street light work group held on January 3rd that included discussion with representatives of the Planning Commission, Park Board, Community Development Director Kramvik, BPU Operations Manager Hawkinson, and Public Works Director Dehn. The Planning Commission will be looking at potential ordinances to update lighting standards in the zoning code for residential, commercial, and in our parks.

Mayor Report

Mayor Badeaux stated that he has been receiving a lot of phone calls about mail. The Mayor of Brainerd does not control the mail but is willing to reach out to those that do.

Member Terry stated that the County Board addressed this issue at their meeting as well. The County and City can work together to coordinate efforts.

Council Member Reports

Member Czczok noted the time and suggested that the Council explore not holding standing committee meetings and hearing items as a full Council.

Member O'Day welcomed the new members of Council.

Member Stunek thanked Mr. Erickson for his service.

Member Johnson stated that he received a phone call from a constituent about chickens. The citizen requested that four chickens be considered as one pet. With the cost of food rising, it would create an opportunity for people to produce their own eggs. As chickens are flock birds, much like a "hive" of bees, it would be helpful to change the language to allow for more egg laying chickens. He requested the matter be brought to SPW for discussion.

Chair Bevans thanked the Council for placing their confidence in him as well as accepting committee assignments and the chairs of each committee.

Adjourn to The Senior Officials Training On January 11th, At 322 Laurel Street, From 5:00-7:30 P.M.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND TERRY, DULY CARRIED, TO ADJOURN TO THE SENIOR OFFICIALS TRAINING ON JANUARY 11TH, AT 322 LAUREL STREET, FROM 5:00-7:30 P.M.



Jennifer Bergman
City Administrator