Brainerd, MN
February 6, 2023

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: Terry, Stenglein, Johnson, Czeczok, 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.

Council President Bevans stated that he was asked by My Neighbor To Love Coalition to ask the Council to approve a letter of support for funding for their organization. The item is not on the agenda, but he asked if any Council Member would like to amend the agenda to include the item. No Member came forward with a recommendation to amend the agenda.

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

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

A. **Approval of Bills**
B. **Approval of Minutes**
   a. **Regular City Council Meeting held on January 17th, 2023**
C. **Approval of Licenses**
D. **Department Activity Report**
E. **Adopt Resolution- Minnesota Lawful Gambling Premises Permit Application To Allow Lawful Gambling By Confidence Learning Center At Notch 8, 1551 Northern Pacific Rd, Brainerd**
F. **Minnesota Lawful Gambling Application Change Of Location Brainerd Amateur Hockey Inc, Essentia Health Sports Center, 502 Jackson St, Brainerd**
G. **Minnesota Lawful Gambling Application To Conduct Excluded Bingo- Submitted By St. Andrew's Church, 1108 Willow St, Brainerd For An Event To Be Held On March 18th And November 18th, 2023, At 1108 Willow St, Brainerd**
H. **Minnesota Lawful Gambling Application To Conduct Excluded Bingo- Submitted By Knights Of Columbus Council 1941, 404 N 9th St, Brainerd. Bingo Events To Be Held At St. Francis Catholic Church, 404 N 9th St, Brainerd, On March 2, 9, 16, 30**
I. **Accept The Retirement Of Hydro Operator David Wise Effective March 31, 2023 - Recommended By The Public Utilities Commission.**
J. **Authorize Staff to Begin Hiring Process for Lineworker Vacancy- Recommended by the Public Utilities Commission**
K. **Authorize Sale of Retired Fire Department Apparatus, Engine #4**

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

Council Committee Reports

Personnel and Finance Committee

Approve Memorandum of Understanding (MOU) between the City of Brainerd, IBEW Local No. 31 (Public Utilities) Union, and the United Steel Workers, Local No. 9230 Unit 09 (Hydro) Union allowing IBEW Employees to Work at the Hydro Facility as Needed

Committee Chair Johnson stated that with retirements and the hydro dam being updated to be automated the IBEW workers may need to work in the facility from time to time.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STUNEK, DULY CARRIED, TO APPROVE THE MOU BETWEEN THE CITY OF BRAINERD, THE USW LOCAL NO. 9230 UNIT 09 UNION, AND THE IBEW LOCAL NO. 31 UNION REPRESENTING PUBLIC UTILITY EMPLOYEES THAT ALLOWS IBEW EMPLOYEES TO ASSIST AT THE HYDRO DAM FACILITY AS NEEDED; FURTHER, TO AUTHORIZE THE SIGNATURE OF CITY ADMINISTRATOR ON SAID MOU.

Approve Memorandum of Agreement (MOA) regarding Police Records Management Technician Allyson Timmons Step Placement Adjustment

Member Czeczok thanked staff for responding to his questions on the background of this item.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND TERRY, DULY CARRIED, TO APPROVE THE MOA BETWEEN THE CITY OF BRAINERD AND THE IBEW LOCAL NO. 31 UNION REPRESENTING THE ADMINISTRATIVE SUPPORT EMPLOYEES ADJUSTING THE WAGE GRID STEP PLACEMENT FOR POLICE RECORDS MANAGEMENT TECHNICAN ALLYSON TIMMONS EFFECTIVE JANUARY 1ST, 2023; FURTHER, TO AUTHORIZE SIGNATURES OF PROPER CITY OFFICIALS.

Ratify the Hiring of James Reed for the Senior Engineering Tech/ Project Manager Position

Committee Chair Johnson stated that the position had been posted twice as an Engineering Tech position with no success. It was reposted as a Senior Engineering Tech/ Project Manager Position. There were two candidates, and they chose Mr. Reed to be hired at step 4.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STUNEK, DULY CARRIED, TO RATIFY THE HIRING OF JAMES REED EFFECTIVE FEBRUARY 15, 2023; FURTHER, THAT HE BE PLACED ON STEP 4 OF THE SENIOR ENGINEERING TECH/PROJECT COORDINATOR WAGE GRID AT $31.14 PER HOUR.

Authorize Hiring of Richard Berry as Spring 2023 Police Intern

Committee Chair Johnson stated that the police intern rate of pay is $16 per hour and up to $14 per hour will be reimbursed through Sourcewell.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND TERRY, DULY CARRIED, TO RATIFY THE HIRING OF RICHARD BERRY AS OUR 2023 SPRING POLICE INTERN EFFECTIVE FEBRUARY 2, 2023, AT $16 PER HOUR.

Approve Final Payment- PD Cold Storage Facility

Committee Chair Johnson stated that this is the facility he was told never needed to be constructed, so he didn't know if it was $10,000 under budget or $195,000 over budget. However, it is built and is in use.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STUNEK TO APPROVE THE FINAL PAYMENT TO LIND MASONRY & CONSTRUCTION IN THE AMOUNT OF $5,100.

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

Approve Annual Review of Investment Policy

Committee Chair Johnson stated that Staff recommends no changes to the previous policy.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND TERRY, DULY CARRIED, TO APPROVE THE POLICY AS PRESENTED.

Safety and Public Works Committee

Adopt Resolution and Approve Letter of Support for RAISE Grant Application for TH 210

Committee Chair O'Day stated that this letter is in regard to Federal funds that MnDOT wants to pursue for the TH210 project.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND STENGLEIN TO APPROVE THE LETTER OF SUPPORT AND ADOPTION OF THE RESOLUTION SUPPORTING MNDOT'S RAISE GRANT APPLICATION.

RESOLUTION 09:23

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

Discussion on 2023-2024 Downtown Snow Removal District

Committee Chair O'Day stated that City Engineer/ Public Works Director Dehn presented an alternative to using a contractor in the downtown district for snow removal and beautification. The alternative included hiring a parks employee, potentially adding a special services district for 210 businesses in the district, and purchasing equipment. The employee would be a full-time employee that would do work downtown, during the summer as well as with the Parks Department. The employee would be utilized during all snowfalls. This item was discussion only.

Chair Bevans asked for clarification on street snow removal and questioned the 75% reduction in cost with this model.

City Engineer/ Public Works Director Dehn stated that the downtown would be treated as the rest of the streets with wind rows and would be worked into the regular snow removal routes. The model is an estimate of staff time that would be needed, it does not account for staff benefits, parking lots, the streets, or purchasing equipment.

Member O'Day stated that the estimated contribution of downtown for snow removal would be $11,000, which would be separate from the assessment that they would have for the other special services for downtown.

Mayor Badeaux asked to clarify where this employee would be classified to, parks or public works.

Discussion on Street Lighting Policy

Committee Chair O'Day stated that the discussion was centered around whether or not to include banners and or electricity on the commercial corridors. There is time before the commercial corridor decision needs to be made. In the meantime, the committee would like to see options for planning which poles would have banners and electricity to guide how much the Council is willing to spend on the poles. Residential poles need to be purchased so that they can be included in the reconstruction this summer.

Member Bevans stated that in his opinion the only poles that would need electrical are already in place in downtown. If MnDOT would allow electricity to certain poles on TH210 he would consider purchasing the banners and electricity for some poles in this corridor.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND CZECZOK, DULY CARRIED, TO AUTHORIZE MOVING FORWARD WITH ORDERING RESIDENTIAL POLES AND FIXTURES.

Review Draft Ordinance Amendment for Section 320- Administrative Citations

Committee Chair O'Day stated that staff brought forward a draft ordinance to expedite how Staff can handle grass, garbage, dog feces, and snow. This draft ordinance is similar to how code enforcement of administrative citations was done previously. It will reduce the time from 30 days to 10 days for these common violations.

Member Johnson stated that he would be voting no because there is no upper limit that may be assessed to homeowners in a 12-month period for a single violation.

Committee Chair O'Day stated that the previous limit was $2,000. In a calendar year there is a limited amount of time that staff would be citing these violations. He does not think it's necessary to place a ceiling on something that may cost the City more than $2,000 to abate.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND STENGLEIN TO APPROVE THE DRAFT ORDINANCE AS PRESENTED AND FOR STAFF TO BRING THIS DRAFT ORDINANCE AS A FIRST READING TO THE NEXT CITY COUNCIL MEETING.

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

Direction on Active Code Enforcement Cases

Committee Chair O'Day stated that 1306 Oak street hasn't maintained their sidewalks all winter or removed branches across the sidewalks. The owners also have not responded to staff.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND CZECZOK, DULY CARRIED, TO AUTHORIZE STAFF TO IMMEDIATELY ABATE THE PROPERTY.

Unfinished Business

Committee Resignation

Mr. Yeager postponed his resignation from the Charter Commission and Parking Commission. Rylie Weber submitted a resignation from the Parking Commission.

Mayor Badeaux thanked Rylie for her time on the Parking Commission.

MOVED AND SECONDED BY MEMBERS CZECZOK AND O'DAY, DULY CARRIED, TO ACCEPT WITH REGRET RYLIE WEBER'S RESIGNATION FROM THE PARKING COMMISSION.

Call for Applicants – Informational:

Mayor Badeaux stated that the process at which commissioners are appointed to committees is approved by the City Council and citizens can be a part of as many commissions as they choose and are appointed to.

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)
HRA Board—1 term (Expire 2027)
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)
Parking Commission—1 term (Expire 2026)
Planning Commission-- 1 terms (Expire 2025)

New Business

First Reading – Proposed Ordinance 1542 – Amending Section 1200 of City Code Concerning Sale and Consumption of Liquor in Public Parks

City Engineer/ Public Works Director Dehn stated that the Park Board discussed the draft ordinance at their January meeting. City Attorney Langel has clarified a few items since the Park Board meeting. He recommends that "intoxicating liquor" be changed to "alcoholic beverage" as "intoxicating liquor" is not defined in State statute. He also clarified that the "contained area" that is in the ordinance is not in a statute, it is the responsibility of the licensee to control how, where, and by whom alcohol is consumed.

Member Johnson stated that this sets forth that a club or organization could obtain a license to sell alcohol in the parks, but wanted clarification on whether softball players will be cited if they bring a case of beer to the softball fields since this is not an added use for the parks. The code should include language that disseminates between adult activities and youth activities, including the campground, and other uses of the parks.

Chair Bevans stated that having discussion prior to the first reading is a benefit to the ordinance process.

Member Terry stated that she will not support the opportunity to have alcohol at all parks. She will support discussion around the details of how to issue event licenses.

Member Czeczok asked how many members of the Park Board were present and what the vote was at the meeting.

Mayor Badeaux stated that all members were present, and it passed unanimously.

Chair Bevans asked for clarification on the rules of readings of ordinances and what can and can't be changed between readings.

Attorney Langel stated there are no rules, per se. His opinion is that for non-zoning ordinances that you can modify things between readings. Ideally if you have suggested changes before the first reading that those changes be made and hold the reading based on those changes. He distinguishes zoning because by statute Planning Commissions hold the public hearing. This is an opportunity for the public to comment on the ordinance moving forward. Ordinances such as alcohol in parks are not required to have a public hearing.

Member O'Day stated that we should not discriminate upon which parks can and cannot have alcohol. There are all kinds of events that could allow alcohol in a safe way. The ordinance needs to be crafted to delineate between approved events and adult events, he cited the Fireman's picnic that he used to attend with his family. The City doesn't want ragers at our parks but there is a way to allow for safe drinking in parks.

Mayor Badeaux explained the process that the Park Board went through. He stated that there is a solution to allowing the use of alcohol at adult events.

Member Terry stated that good times can happen without the use of alcohol. Her interactions with her constituents centered around a family friendly environment without the behaviors that may occur with the use of alcohol. The parks are a large part of the budget the City should make them family friendly and healthy spaces.

Member Johnson stated that he would like to see more work done on this ordinance prior to approving a reading of the ordinance.

Member Czeczok moved to table the matter.

Chair Bevans made a point of order as there was no motion on the floor to table, he denied the motion.

Member Stenglein would like feedback from the Park Board after the feedback at the Council meeting.

Member Czeczok moved to refer this matter back to the Park Board. The motion died for lack of a second.

Chair Bevans stated that he believes this matter is now in the hands of the City Council to work on.

Kevin Yeager, 325 Bluff Ave, Park Board Member, stated that the Park Board conversation went much like the conversation of the City Council. The use of alcohol in parks came about as allowing it for events and quickly moved to other uses. He stated that alcohol is used in our parks on a daily basis all summer, which leads to the need for enforcement and crafting an ordinance. The Park Board would be happy to help with opinion on supporting specific items. Mr. Yeager stated that the Park Board wants as many people possible to enjoy our parks as long as it can be done safely and responsibly. For events, the organizer would be accountable for related problems that happen during the event.

Chair Bevans asked if anyone wanted to proceed with a first reading. No such motion was made. He asked whether this should be handled during a meeting or if there should be a workshop to meet with staff.

Member O'Day stated that there is a workshop coming up with the Park Board on February 27th at 6:00 p.m.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND CZECZOK, DULY CARRIED, TO REFER THE MATTER TO THE WORKSHOP ON FEBRUARY 27, 2023.

First Reading – Proposed Ordinance 1543 – Amending Section 900.08 of City Code Concerning the Harboring of Chickens and Ducks

Community Development Director Kramvik gave an overview of the sections being amended in the City Code with this ordinance.

Member Czeczok clarified whether neighboring consent is available to those who are new neighbors of the coops.

Community Development Director Kramvik stated that the permit is a yearly permit. Therefore, yes, the new neighbors would have input when it was renewed.

Member O'Day asked to have the neighboring property requirement removed from the ordinance.

Member Johnson suggested that the Council could remove the sentences pertaining to neighboring consent prior to the first reading.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND STUNEK TO AMEND THE ORDINANCE TO REMOVE THE SENTENCES PERTAINING TO NEIGHBOR CONSENT PRIOR TO THE FIRST READING.

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

Mayor Badeaux asked what would happen if the neighbor complained without the neighboring consent required.

Community Development Director Kramvik stated that it would go through the same code enforcement process as other nuisances.

Member Johnson thanked Staff and Council for their work on this item to keep Brainerd on the front lines during the "Egg-pocalypse".

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STENGLEIN, DULY CARRIED, TO HOLD THE FIRST READING OF PROPOSED ORDINANCE NO. 1543, AN ORDINANCE AMENDING SECTION 900.08 OF THE CITY CODE CONCERNING THE HARBORING OF CHICKENS AND DUCKS AND DISPENSE WITH THE ACTUAL READING.

First Reading – Proposed Ordinance 1544 – Amending Section 2014.05 of City Code Concerning the Use of Outdoor Power Equipment

Community Development Director Kramvik gave an overview of the ordinance. He stated that Staff has received complaints from businesses and area schools as well as residents.

Mayor Badeaux stated that he may have been theatrical and facetious about his distaste for this ordinance. He believes we should be accommodating to reasonable requests like not using a backpack blower like Ghostbusters at 5:00 a.m.

Member Czeczok pointed out that those who work overnights have always been left behind on an ordinance like this and don't have any say when snow is removed. He is in favor of the ordinance.

MOVED AND SECONDED BY COUNCIL MEMBERS JUHNSON AND STUNEK, DULY CARRIED, TO HOLD THE FIRST READING OF PROPOSED ORDINANCE NO. 1544, AN ORDINANCE AMENDING SECTION 2014.05 OF THE CITY CODE TO EXEMPT POWER EQUIPMENT FOR THE PURPOSES OF SNOW REMOVAL AND DISPENSE WITH THE ACTUAL READING.

First Reading – Proposed Ordinance 1545 – Amending Section 1315.03 of City Code Concerning Parking Restrictions During Snow Emergencies

City Engineer/ Public Works Director Dehn stated that Staff was asked to review the areas where no parking on all streets is restricted on day one of snow removal for snow emergencies. This ordinance would restrict their parking similar to other areas of the City, with no parking on north-south streets on day one and no parking on east-west streets on day two. The proposed ordinance does not recommend changes to any of the other parking restrictions during snow emergencies in the rest of the City.

Member Johnson stated that he does not support this ordinance change.

Mayor Badeaux stated that he was on SPW when this decision was made. It is good City policy to try to clear all streets day one if possible.

Member O'Day stated that most snowfalls all of the streets are cleared day one. This is about where the cars park if they are restricted to no parking on day one on any surrounding street.

MOVED A ND SECONDED BY COUNCIL MEMBERS O'DAY AND CZECZOK, DULY CARRIED, TO HOLD THE FIRST READING OF PROPOSED ORDINANCE 1545, AN ORDINANCE AMENDING SECTION 1315.03 OF THE CITY CODE: SNOW EMERGENCIES AND DISPENSE WITH THE ACTUAL READING.

Public Forum

The Chair opened the public forum at 8:46 p.m.

Cheyenne Miles, 1120 S 8th St, Owner CC's Bar, stated that she purchased the old Essers's Liquor Store in hopes to make it an event center. She wants her liquor license to cover both of her buildings. She has received no guidance on how to make this possible.

Chair Bevans instructed Ms. Miles to contact Administrator Bergman on Tuesday to get more information.

The Chair closed the public forum at 8:49 p.m.

Staff Reports

Community Development Director Kramvik stated that the next Planning Commission meeting will include an application for a rezoning, final plat for My Neighbor to Love Coalition, and an application for a conditional use permit.

City Engineer/ Public Works Director Dehn gave an update on the snow removal efforts being made by the Street Department to widen streets, knock down boulevards, and remove snow.

Mayor Report

Mayor Badeaux thanked our snow removal employees for their hard work removing snow. He has received a lot of praise for the work done around the schools. He thanked Member Johnson for bringing attention to the need. The City is working the best that they can to coordinate with the School District and thanked City Engineer Public Works Director Dehn for doing so. The St. Patrick's Day celebration and parade will be on March 11th. He would love to see a City float in the parade.

Council Member Reports

Member Czeczok respectfully requested that the Chair start with someone else as he has gone first for all of the meetings he has attended.

Chair Bevans denied the request.

Member Stenglein stated that she attended her first Planning Commission meeting the Zoning Code no longer thumps when you set it on the table, which is a welcome change.

Member Terry stated that she attended the Library Board meeting, there are a lot of great events coming up for the Library so keep an eye out for those on social media. She also attended the Northland Arboretum Board. The Arb will be hosting a Happy Hour for a Cause at Baia Della on Thursday February 9th.

Member Johnson stated that the EDA and HRA have new leadership, he thanked Mr. Kevin Yeager and Rebekah Kent for their willingness to be chairs of their respective commissions.

Adjourn

MOVED AND SECONDED BY COUNCIL MEMBERS STUNEK AND O'DAY, DULY CARRIED, TO ADJOURN THE MEETING.

The Chair adjourned the meeting at 8:54 p.m.

Jennifer Bergman
City Administrator