

CHARTER COMMISSION

City of Brainerd, Minnesota
City Hall, 501 Laurel Street, Council Chambers
Wednesday, April 20, 2022 @ 4:00pm

The public is invited to attend this meeting in person

Meeting is also streamed live on YouTube: www.youtube.com/CityOfBrainerdMN

1. Call To Order

2. Roll Call

___ K. Bevans ___ J. Burton ___ J. Czczok ___ J. Lambert

___ M. O'Day ___ A. Shipe ___ K. Yeager

3. Approval/Amendment Of Agenda

4. Approval Of Minutes

Documents:

Charter Commission 2021-11-10 draft minutes.pdf

5. New Business

5.A. Discussion On The Intent Of The Charter Amendment

Documents:

Charter Intent Discussion.pdf

5.A.1. Charter Intent Discussion- O'Day

Documents:

ODay Email Intent.pdf

5.B. Discussion Of Chapter One- Names, Boundaries, Powers, And Divisions

Documents:

Discussion on Chapter 1.pdf

5.C. Discussion Of Chapter Five- Streets

Documents:

Discussion on Chapter 5.pdf

6. Commissioner Comments

7. Adjourn

Pursuant to due call and notice thereof, the meeting of the Brainerd Charter Commission was called to order at 5:00 P.M. by Charter Commission Vice Chair Yeager.

Upon roll call, the following members were noted present: Commissioners Bevens, Burton, Yeager, O'Day, Shipe, and Lambert. City Administrator Bergman, Finance Director Hillman, HR Director Schubert, Engineer/ Interim Public Works Director Sandy, BPU Finance Director Wicklund, Attorney Langel were also noted as present. Commissioners Czeczok, and Marohn were noted as absent.

Approval/Amendment of Agenda

MOVED AND SECONDED BY COMMISSIONERS O'DAY AND LAMBERT, DULY CARRIED, TO APPROVE THE AGENDA.

Approval of the Minutes

MOVED AND SECONDED BY COMMISSIONERS LAMBERT AND O'DAY, DULY CARRIED, TO APPROVE THE MINUTES OF THE MEETING HELD ON OCTOBER 13, 2021.

Old Business

Update on the Evergreen Cemetery

Administrator Bergman stated that the discussion that took place at the October Charter Commission meeting regarding the Evergreen Cemetery Board going forward with an RFP for the greenspace allocation was reviewed by Attorney Langel. He determined that by definition the cemetery would not qualify for greenspace designation. Evergreen would like to come back to the Charter Commission at their December meeting

Attorney Langel stated that the definition of greenspace is not contained in the City Code, green space is a space that is utilized by the public to connect people to nature and protect the natural environment. He also stated that there is a statute from the 1950's that does not allow Third Class Charter Cities to allocate money to cemeteries. Legislation would have to be changed in order to allow funds being provided to Evergreen.

Commission discussion took place.

Vice Chair Yeager encouraged all present to continue to think of creative ways to support Evergreen Cemetery.

Administrator Bergman stated that they would reach out to Senator Ruud and Representative Heintzeman to create legislation.

Consider Redline Version of the Public Utilities Commission Chapter

Administrator Bergman stated that discussion of the Public Utilities Commission Chapter 6 took place at the September Charter Commission meeting and was postponed to November to

allow staff opportunity to review and discuss the redlined version proposed by Attorney Langel. No further comment was given to staff, and staff is proposing an Ordinance be drafted for Chapter 6 from the draft.

Attorney Langel reviewed the changes made and gave an overview of the reasoning behind the change.

Brainerd Public Utilities Finance Director Todd Wicklund stated that the only change that he sees as necessary would be in paragraph four. He is concerned about micromanagement of the City Council on the Public Utilities Commission.

Commissioner Johnson, Public Utilities Commission, stated that the hiring and firing for the PUC is the biggest piece of having a commission. With the way the proposed Charter amendment reads there will be no point in having a commission.

Commissioner O'Day stated that he didn't see a change in the duties of the PUC. He stated that with the change, staffing liability would be the sole responsibility of the City.

Commissioner Matten, Public Utilities Commission, questioned why the commission level approval in hiring is being taken out of the Charter when the staff working with the person in the position should be approving their hiring.

MOVED AND SECONDED BY COMMISSIONERS SHIPE AND LAMBERT, DULY CARRIED, TO APPROVE THE PROPOSED CHANGES AND DIRECT STAFF TO PREPARE AN ORDINANCE FOR AMENDING CHAPTER 6 PUBLIC UTILITIES COMMISSION FOR CONSIDERATION BY THE CITY COUNCIL.

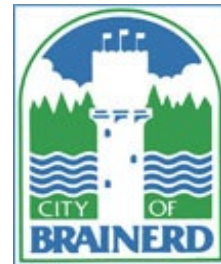
Adjourn

MOVED AND SECONDED BY COMMISSIONERS LAMBERT AND SHIPE, DULY CARRIED, TO ADJOURN THE CHARTER COMMISSION MEETING.

Commission Vice Chair Yeager adjourned the meeting 6:06 p.m.

Secretary

MEMO



TO: Charter Commission Members
FROM: City Administrator, Jennifer Bergman
DATE: April 15, 2022
RE: Discussion on the Intent of the Charter

The City Council approved the agreements for the Charter contributions for events/community action programs with Brainerd Community Action and senior center organizations with the Center. However, the Council had some questions regarding the contribution to an arboretum or green space organization. The Council made a motion to “send to the Charter Commission to clarify the language change instituted that said there shall be a greenspace or arboretum within the city limits.”

The City received one proposal for a greenspace or arboretum organization from the Northland Arboretum (see attached). The Council discussed whether the Northland Arboretum would qualify for the funding since approximately 260 of the 420 acres are located within the city limits of Baxter including the Visitor Center (see attached maps). Also, that the Arb is requesting funding for operations and the operations of the Arb are done at the Visitor’s Center which is located outside of the city limits.

Therefore, the Council did not authorize the funding for the Northland Arboretum. Instead, the City Council has asked the Charter Commission to clarify the intent of “within the city limits of Brainerd.”

On April 11th, the Northland Arboretum sent a letter to members of the Charter Commission, Council and the Mayor (see attached) and they plan to attend the Charter Commission meeting.



City of Brainerd RFP: Arboretum or Green Space Organization
Response from Northland Arboretum (aka Paul Bunyan Arboretum)

Deadline: March 10th, 2022

1. A narrative describing the organizations mission, vision, and goals.

The Northland Arboretum has been a staple of the Brainerd community since it became a nonprofit organization in 1974. Previously a landfill, our organization has a “trash to treasure” narrative which shows the perseverance of our residents and the value the Northland Arboretum provides to the community. Over the years, the Northland Arboretum’s programming has evolved with changing times but at the core, three pillars of strength remain holding the organization together: Education, Recreation, and Conservation. It is beneath these pillars that the organization has been able to endure tough times, and it is upon these pillars we will build a strong foundation as we recover from a pandemic.

With a new leadership team in place, the Northland Arboretum has recently conducted a strategic planning process resulting in a new mission and vision of our organization as well as newly defined value statements. We are dedicated to utilizing these tools to make a significant impact on the residents of Brainerd in the next several years. The overarching vision for our Arb is to be a place where the community respects and connects with the natural world. Our mission is to *be a valued community asset providing outdoor recreation and educational activities for all while protecting the natural environment*. As we move forward with our strategic plan and navigate the unknown terrain coming out of a pandemic, we lean on our identified core values:

We are stewards of the natural world.

We are a place for the community to feed the mind, body, and soul.

We are welcoming and accessible to all.

We are a place for lifelong learning.

Our strategic plan identified several gaps in our programming, infrastructure, and capacity. Each goal falls into one of seven categories and is clearly outlined with objectives and actionable items. One of our biggest lifts falls under our Education and Recreation category (Strategy II) with the goal to provide programming that creates positive connections between people and nature. The strategy behind this goal has many layers. There are proven positive trends among individuals who connect with nature on a regular basis and their mental health. We believe the Arb can significantly improve our community health by providing opportunities to be mindful in nature. In addition, we believe good stewards of our planet are grown from sparks of curiosity. Those sparks must be fed and nurtured with hands-on nature experiences for all ages so that we may make those positive connections, healing both our planet and our visitors.

One objective underneath our education goal is to enhance our nature-based programs by hiring an Education Coordinator who will develop and implement curriculum to share with groups without abundant greenspace readily available to them. We also would like to solve the transportation barrier that some groups or individuals may experience by bringing nature-based programs to them thereby helping people realize that connecting with nature can be done in their own backyard or on a neighborhood stroll. Some of the foundation for this objective is currently underway by our current GreenCorps service member who is building relationships with Harrison Elementary, Discovery Woods, and Garfield Elementary.

Improvements to our key infrastructure is a key goal that is necessary to the overall operations of the Arb. We are not able to sustain a beautiful 420-acre greenspace for the community without the proper tools and resources. One such resource in dire need of repair or replacement is the maintenance building, one of the original structures for the organization. The organization has recently grown in capacity and increased its public awareness; therefore, a secure, multi-purpose structure to serve as a shop, maintenance office, additional public restroom facility, a homebase for volunteers, and an organized and safe storage unit to keep valuable assets out of the elements is needed. This building will be a necessary component to ensuring our grounds, gardens, and trail systems provide an excellent nature experience for all who visit, including a great first impression to tourists who bring financial means to the Brainerd community.

Additional details surrounding our goals and objectives can be found in our attached 2022-2024 Strategic Plan.

2. Describe the green space or arboretum and programs provided by your organization and how it is currently available and will be made available for Brainerd residents

The Northland Arboretum's unique property is the most valuable asset to the organization and the most enjoyable for visitors and members. The 420 acres of greenspace provides excellent, year-round opportunities for recreation and nature observation for Brainerd residents. We provide a 12-mile trail system which converts from hiking and jogging trails in the warm weather months, to meticulously groomed cross-country ski trails in the winter. The ski trails contain 2.5 miles of lighting so skiers may have a safe and comfortable place to stay active in the winter months. For those that enjoy a quiet stroll through our snowy forests, there is a 2-mile snowshoe route separate from the ski trails that provides a less intimidating way for Brainerd residents to stay active in the winter months. During the summer, the trails are lined on either side with tall pines, maples, oaks, and elms. Walking the trails is a get-away experience conveniently located right in the center of our urban landscape. It is a place of solitude. A place to rest your mind and connect with nature.

In addition to the trail system, there are hundreds of acres of natural habitat for the community to enjoy and explore. Whether you want to feel lost in groves of spruce and pine or feel the breeze in the open prairie, there is a natural area to fit your mood. The Arb property boasts a Jack Pine Savanna, a 70-year-old Red Pine stand, prairie restoration areas and the Whiskey Creek watershed flows through the Arboretum. This special ecosystem provides habitat to beavers, otters, and a wide variety of birds while flowing into the mighty Mississippi river. Located just a few steps from the Arboretum's visitor center, the creek provides great observation to wildlife but also reminds us of human impact on critical waterways, providing opportunity for learning land stewardship. Our grounds are considered home to endangered, protected, or threatened wildlife, such as Blanding's turtle, the eastern hognose snake, rusty patched bumble bees, bald eagles, and a variety of owls. It is our protected and expertly managed habitats that have allowed the Arboretum to be identified as an Important Bird Area (IBA) by the Audubon Society and be a Certified Monarch Waystation by The Monarch Watch Organization.

Throughout the grounds, the Arboretum gardens are home to a variety of plants, including rare species like the showy pink lady slipper, pasqueflower, prickly pear cactus, and native plants for all visitors to enjoy. Spring and Summer flora bring photographers and gardeners to the Arb in search of beauty. With over a dozen designated gardens, each with their own uniqueness, visitors enjoy learning about native plants, cultivars, trees, and shrubs. Many gardens have places to sit quietly and enjoy the greenspace and a few even have water features that create an experience for all senses. Strong partnerships with the University of Minnesota Master Gardener program ensure all plants are meticulously cared for, well-marked and provide an educational component to a simple garden walk.

Our educational programming is another amazing value for Brainerd residents. Our paid staff and volunteer instructors provide vast knowledge of the natural world and assist residents in

identifying their interests and pursuing their passions. Our adult nature-based classes range from gardening to beekeeping, identifying trees and invasive species, learning how to protect pollinators, and supporting wildlife. The skills and knowledge taken from these classes are shared with others and used to improve their own properties and greenspaces, contributing to the environmental health and beautification of the City of Brainerd. Our youth-focused nature programming is a major benefit to the community as well. Children who participate in nature-based education are encouraged to take risks, play freely, practice creative thinking skills, and test themselves physically and mentally. The Arb has impacted over 100 children already this year with our youth programming, developing healthy children who will grow into resilient and conscientious adults. Without a doubt, we are significantly impacting children's health and contributing to the overall wellbeing of the Brainerd community.

The Northland Arboretum is a member-supported nonprofit and currently serves 1,100 members as well as the general public. The Arb experiences approximately 25,000 annual visits through its vast nature-based programming. Our convenient location makes the Arb a prime destination for Brainerd residents who choose to stay active outdoors all year round. We continue to keep our membership rates affordable, starting at only \$15 per year for students. There are many benefits that come with a Northland Arboretum membership which Brainerd residents can take advantage of including free entrance for the full year. The Arb also supports many nonprofits by hosting their events and meetings for free. We are seen as the homebase for many organizations and groups including Brainerd Garden Club, the Master Naturalists, Master Gardeners, etc.

In addition, the Arb reaches beyond its borders to impact Brainerd residents. A partnership with the City of Brainerd Parks and Recreation department will result in a city-wide Spring clean-up day by Arboretum volunteers and city staff. Virtual workshops were conducted during COVID for local elementary classrooms. A strengthening partnership with the Crow Wing County Master Gardeners resulted in a Giving Garden which contributed an estimated 1,800 pounds of food to residents of Brainerd.

As a part of our three-year strategic plan, the Arboretum hopes to reach even more Brainerd residents by increasing the capacity of our staff and volunteer base. We will do this in partnership with the Master Gardeners, Master Naturalists, YMCA, Wondertrek, Crow Wing Energized, The Nature Network collaborative, and more. Utilizing these partnerships ensures we are using our funds in the most efficient way possible and impacting the highest number of residents. Meeting Brainerd residents where they are as well as raising awareness of the Arboretum's immense greenspace available to them while also helping them understand the health impact of being outdoors is a significant focus for us.

3. Describe the property and facilities and how they are suited to the programs and activities offered.

One of the greatest strengths of the Northland Arboretum has always been its location and its history. Known as the “central park” of Brainerd, the Arb is conveniently located just east of State Highway 371 and only two blocks from State Highway 210, making it a central location for Brainerd residents, and an easy-to-find destination for visitors. The pandemic significantly increased the value of the Arb as a safe, well-maintained greenspace and Brainerd residents took comfort in being able to maintain social distancing while still being physically active and maintain relationships with friends and family. The Arb has always provided a place of solitude and mindful retreat, but we have only recently come to realize the positive impact our arboretum has on our community mental health and wellbeing.

The Arboretum manages 420 acres in collaboration with Crow Wing County and The Nature Conservancy. These partnerships ensure we have excellent communication with essential players in the political and conservation spheres. Crow Wing County and the Arboretum currently have 74 years remaining on their 100-year lease agreement and are confident in the partnership and progress being made. The county has allowed the Arb to make essential improvements to the grounds which allow us to maintain a great first impression and continue to enhance our educational and recreational programming. The Nature Conservancy’s partnership allows us to stay updated on conservation best practices and maintain their site appropriately so that it may be shared with future generations. Both of these partnerships ensure the Northland Arboretum’s land is in its best shape for the Brainerd community and for us to perform high-quality, nature-based programming and provide a safe space for recreation.

The grounds alone have a lot to offer the residents of Brainerd. As described in Section 2, we have a vast trail system available to Brainerd residents including a fitness trail that is handicap accessible. We provide a variety of natural habitats to explore and observe including wetlands, Jack Pine Savanna, gardens, prairies, beaver pond, Red Pine stand, and more. Each ecosystem provides its own unique experience for visitors and allows us to provide a plethora of knowledge about our natural world and how to be good stewards of it. There is no other community besides Brainerd that provides this distinct combination of habitats in such condition and with such accessibility. It really is a unique asset to hold.

The property is also perfect for anticipated community events such as the Haunted Trail held annually in October, Sertoma’s Winter Wonderland light display in December, and the Lumberjack Ski Race held in January. Thousands of participants and spectators get to experience this beautiful nature preserve in each season, and the residents of Brainerd are fortunate that it is just a stone's throw away. These attractions also bring in significant dollars

to Brainerd businesses by appealing to outside communities and would not be possible without our expansive Arboretum grounds, dedicated staff, and generous volunteers.

Another large asset of the Arb is the 12,000 square foot visitor center which is a multi-purpose space that serves as another source of revenue for our nonprofit. As you walk into the building you are greeted by a front desk volunteer who is knowledgeable of the trail systems, gardens and programs. Summer or winter maps are available depending on the time of your visit and specify information about the ski and trail etiquette. The lobby space is adorned with nature displays and replicas which spark interest with all visitors. For those that want to expand their knowledge, a nature library is available in our conference room and members can check out books at their leisure. A Kids Corner is a comfortable and welcoming place for children to rest from a hike around the grounds. They can color, look at nature books, or check out our new Nature Knapsack program. The visitor center's large meeting spaces make our educational programming possible by providing safe, covered spaces when there is inclement weather or when Minnesota winters force programming indoors. Within these spaces we are also able to utilize technology when we are not able to do in-person classes or workshops. During the pandemic, this virtual component to our educational programming was necessary to continue to share our mission with the Brainerd community.

We make full use of our large meeting spaces and grounds by renting them out for parties and events. Not only does this provide an extra source of revenue for our mission, but we are able to raise awareness of our nonprofit. It has also been a way for us to support other nature-focused or nonprofit organizations in Brainerd community. For example, the Brainerd Garden Club uses the Arb as a homebase for their monthly meetings, Smiles for Jake hosts committee meetings, Brainerd Master Naturalists hold their certification courses from our lower level, and Central Lakes College utilizes our grounds for research and observation.

In addition, the visitor center serves as a great trailhead to the Paul Bunyan State Trail which sees a lot of traffic throughout the year. Regardless of whether those visitors are utilizing the Arb's property, the visitor center is open to them as a place to rest from the elements, fill up water bottles, and use the restroom facilities. These are just a few examples of how our organization is utilized by the Brainerd community. Without the Northland Arboretum the Brainerd community would simply not be the same.

4. Describe how your organization will market and reach out to Brainerd residents

Through our strategic planning process, the Arb leadership team identified a strengths and gaps in our marketing strategies. One of our goals was to install signage at the corner of Conservation Drive and Excelsior that would allow residents to be more aware of our programming and year-round recreational opportunities. This project was made possible by a

private donor and installed in October of 2021. We also identified opportunities with our online marketing including our social media platforms and website. The Northland Arboretum has developed a Marketing Committee made up of Arboretum Board members and marketing professionals to meet our goals going forward. (See Committee Roster attached)

Some of our marketing and outreach strategies involve an Education and Outreach Coordinator role we hope to add to our team. This person would serve in an outreach capacity and ensure we have great communication with our members, partners and organizations we serve. This person will also give us the capacity to have a dedicated Arb staff attend Brainerd events, festivals, and markets and stay face-to-face with residents. Currently, we have a dedicated Membership Coordinator on staff whose responsibility is to develop great relationships with Arboretum members, notify them of upcoming events and workshops, discuss needs, and provide an overall excellent experience for them. The Membership Coordinator is also responsible for recruiting and sustaining our Business Memberships, consisting of supportive Brainerd businesses like Mickey's Pizza & Subs, Ascensus, and Atek. The extra outreach capacity would help us reach beyond our immediate membership.

The Arb will continue using existing marketing and outreach strategies to reach Brainerd residents. Many supportive local businesses post event flyers on their community boards. Staff post activities, workshops and events in the Community Education publication in partnership with the school district. We also utilize the schools when appropriate to reach more children and families. Building connections within the schools with principals, teachers, and Parent-Teacher Associations has proven very beneficial in our outreach goals.

The most successful way to reach the whole community has been increasing our engagement and dedication to social media platforms and investing in the organization's website. Facebook has been a great way to share events and answer participant questions quickly. We have seen a significant increase in engagement on our social platforms which proves there is an interest in our mission and services. Our website now has an option for people to subscribe to our e-newsletter, so they are aware of what is happening at the Arb. A revamped membership page has also helped provide a seamless way to renew Arb memberships or start one. Our boost in membership over the last year has shown that this has been a great service to the community.

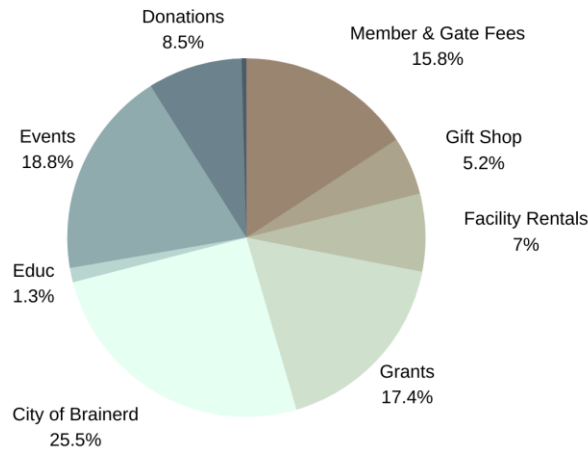
Our thriving partnerships have also helped us reach and serve more Brainerd residents and use our funds efficiently. Our collaboration with the Brainerd YMCA has been essential in understanding needs, providing outdoor space for children, and providing quality nature-based programming for additional residents. (See support letter from YMCA Executive Director attached) The YMCA also shares our events and activity information and collaborates with us on youth programming, reaching even more people in the Brainerd community. Our partners also help make our community events possible. Free events, such as our upcoming Arbor Day event,

attract many people to our grounds so we may build a relationship with more Brainerd residents and share the benefits of nature and our organization.

5. Describe how the funding from the City of Brainerd will be used

We have been very grateful for the City of Brainerd funding, especially during the pandemic when significant revenue streams were taken away from us. For the most part, Brainerd funding is used to keep our visitor center accessible to Brainerd residents and visitors and provides staff capacity so that we may create great recreational and educational experiences surrounding nature. Maintaining a 12,000 square-foot visitor center is no easy feat. Most organizations have seen an increase in utilities, insurance, general maintenance and supplies. Not to mention the current job market and having to retain excellent staff while competing with wages and benefits that are beyond any nonprofit capabilities. Being able to depend on City of Brainerd funding provided by Brainerd residents has meant we can budget our staff, maintenance, and educational programming appropriately regardless of how the pandemic affected other revenue streams.

The graph below shows the Arboretum's income for the 2020-21 fiscal year which was provided to the City Council as a part of our annual presentation. As you can see, the City of Brainerd funds make up about 25% of our operational budget. We hope to continue a positive relationship with the City of Brainerd and its residents by targeting our nature-based youth programming to Brainerd elementary schools, maintaining a great partnership with the Brainerd YMCA, fostering a stronger relationship with Brainerd Parks and Recreation, and staying involved in Brainerd hosted events and activities. We are proud to be a part of this community and believe your funds will help us continue to climb, recover from the pandemic and grow our programming for our residents to enjoy and learn.



FISCAL YEAR 2020-2021
TOTAL REVENUE \$360,970.15

6. Provide a narrative describing the organizations experience in providing programs

Historically, the Northland Arboretum has done an excellent job evolving and enhancing programming to meet community needs throughout its nearly 50-year footprint in the community. When it was established, the Northland Arboretum was simply a nature preserve meant to bring beauty and enjoyment to Brainerd residents after the land was tormented by landfill usage. As the community rallied behind our nonprofit, structured activities began to form led by the Director (as the only staff member at the time) and volunteers. Throughout the 1970's and 80's, programming focused primarily on gardening and preservation. Sharing skills like canning to preserve nature's bounty was an essential skill and made a significant impact on families who did not have steady income or resources.

As the organization grew and more land was acquired, our curriculum topics evolved, more staff and volunteers came onboard, and an additional conservation focus was brought to the forefront. As naturalists and conservationists, the founders of the Arb realized that if this beautiful nature preserve was to be protected, there needed to be advocates and partners engaged in its mission. Teaching conservational practices means we can operate as a strong nonprofit and foster environmental stewardship within the participants of our programming.

Currently, our nature-based curriculum varies depending on participant and member feedback. Our Education Committee meets monthly to discuss topics, participation, attendance, and success of each program we provide. This community involvement ensures our staff and volunteers are making the most impact. Popular topics have included beginner classes which spark curiosity and encourage involvement in nature's process. Adult workshops focused on beekeeping, maple syrup harvesting, mushroom cultivation, straw bale gardening,

and winter sowing all build confidence and prepare the participants for the next step of their journey. Another layer to our programming is the element of helping individuals and families become self-sufficient. Learning to grow produce encourages families to eat healthier and spend less on groceries. Teaching someone about beekeeping sparks an entrepreneurial spirit to produce another source of income for their family. Classes on native plants inspire landowners to grow less lawn and plant prairie habitats on their own property which encourages wildlife.

We also focus on nature-based programming for youth; however, this is an area that we would like to grow as an organization. We currently operate nature camps which encourage children to spend time outdoors. The most recent nature camp was held during winter break for children grades K-4th grade. It was a very successful program that impacted 18 kids by encouraging free play, imagination, nature-immersion and creative thinking. Over half of those children were Brainerd residents, which showed that our marketing was successful in reaching Brainerd families. Looking ahead, we have partnered with the Master Gardeners again to host Gardening 101 classes for youth and adults. We also have a summer nature camp planned for each Thursday from June to August 2022. New programming to encourage young women and girls to get outdoors and build confidence is also on the horizon.

Our partners and volunteers are a key part of our program's success. We are very confident in our nature-based curriculum because of our long-standing partnerships that provide us with high-quality instructors. These partnerships include the Brainerd Lakes Master Naturalists, Crow Wing County Master Gardeners, Bee-Nay-She Bird Council, University of Minnesota Extension, Brainerd YMCA, Brainerd Garden Club, local business professionals, and more! Feedback from participants has also helped our programs thrive and ensure our nature education is making an impact on Brainerd residents. We will continue to survey our participants and use that feedback to grow and enhance our programs.

See attached a full list of the programs we have provided in the last year as well as the ones planned through Summer of 2022.

7. Identify the principal staff and team members that will be providing services, their role, and their experience, training, qualifications, and availability.

The Northland Arboretum is led by a Board of Directors who meet regularly to discuss the organization at a high level. The Board of Directors is currently 8-people strong with professional experience in forestry, conservation, administration, marketing, fundraising, human resources, legal, and financial management. Each Board member also sits on a specific sub-committee targeted at their professional sphere which helps the organization meet specific strategic objectives. For example, we have sub-committees for our educational programming, special events and fundraising, and ground maintenance. (See attached Board Roster and

Committee Roster) Half of our current Board are residents of Brainerd and understand the needs and importance of reaching this significant community.

At the helm of our organization is our Executive Director, Candice Zimmermann, who began her role with the Arb in March of 2020. Since that time she has helped diversify and strengthen funding streams, grown programming, managed ground improvements, coordinated a strategic planning process and improved internal operations for efficiency of funds. The Director position is a full-time role and Zimmermann continues to serve with an “open door” mentality which makes her accessible to all stakeholders including staff, Board members, volunteers, community partners, and donors. Zimmermann holds a Bachelors in Sociology and a Masters in Nonprofit Management. Her professional background includes 6 years in retail operations, logistics, and management and 5 years in nonprofit development, grant writing, program development and nonprofit budgeting.

The Northland Arboretum employs two other full-time staff and 6 part-time staff. One of the incredible full-time staff is the Administrative Assistant, Kelly Hughes. Hughes has been with the organization for six years and in true nonprofit form, she wears many hats. She fully manages the Arboretum gift shop including inventory, procurement, budgeting, and vendor relations. She is responsible for supporting the Board of Directors when necessary and acting as a liaison for certain sub-committee meetings. She communicates wonderfully with volunteers, stakeholders and donors. She handles the coordination of programs, including reaching out to instructors, coordinating class supply lists, and participant registrations. She is also responsible for most procurement of office and building supplies and identifying and communicating any facility issues or improvements. Hughes also operates as the marketing and graphic design specialists within the organization. She manages the Arb’s social media accounts, designs flyers and marketing collateral for events, communicates with professional printers and advertisers, and ensures our website (which is managed by a Board member) is up to date. Hughes is currently the most tenured staff member on the team apart from a few key volunteers.

Rick Hines, Maintenance Supervisor is the other full-time staff member who is responsible for the Arboretum grounds and ensures the facilities are safe and fully functional for all visitors. Hines has been with the Arb for 2.5 years and has decades of experience doing handyman work, motor and vehicle repair, and equipment maintenance. He is a Brainerd native who understands the needs of the community and can personally testify to the importance of the Arboretum on residents who are struggling financially. His main focus is maintaining a great first impression for all who visit so they may enjoy a safe, peaceful place to be outdoors. The Arboretum is also a destination for visitors outside our immediate area and when we provide a good experience it reflects well not just on the organization but on the entire City of Brainerd. Hines has done great work in his short time with the Arb and will continue to make a positive impact.

The Arboretum's part-time staff include a Bookkeeper, Membership Coordinator, Volunteer Coordinator and Front Desk staff. On average, each position works about 10 hours per week and availability varies. These positions are essential for the overall operations and are the "face" of the Arb. When they walk into the Arb, residents can be certain they will be greeted with a friendly face. Our staff are also trained to know about the grounds, the best trails for your level of experience, Arb memberships, and provide details on the activities and events coming up at the Arb. Without these staff, this experience would be limited and our visitor center would not remain open seven days a week for Brainerd residents.

8. Describe the past performance of key team members and firm to deliver quality work within the time constraints and budget.

The Northland Arboretum team is small but incredibly efficient and responsive to community needs. Arboretum staff have experience managing grants, both from an implementation level and from a financial perspective. Grant reporting has been made more efficient with the onboarding of a new bookkeeper and a dedicated grant committee helps keep grant outcomes, milestones, and deadlines at the forefront of our operations. Within the last few years, the Arb has been awarded several new grants to grow programs and meet greater needs in the community. One such project has been the Nature Knapsack program which has allowed the organization to encourage children to get outside and learn more about observation and research of our natural world. Another program that has grown with the result of local grant funds includes the Giving Garden program in partnership with the Master Gardeners. These success stories show that the Arboretum is fully capable of using our lean staff and resources efficiently to provide quality programming. Although our staff capacity may seem limited, they are mission-focused and determined to thrive as an organization and make significant contributions to the Brainerd community. The Arboretum is prepared to meet all expectations of the Brainerd funding and to highlight our impact on Brainerd residents.

A significant amount of effort is contributed by our volunteers. Volunteers provide high-quality and efficient work for the Arboretum including gardening, administrative work, ground maintenance, special projects, fundraising, and participation in educational activities. Volunteers are, for the most part, self-sufficient but our Volunteer Coordinator acts as a bridge for communication between volunteers and Arb staff and helps recruit and retain volunteers. Of our 40 core volunteers, 52% are Brainerd residents. We also have volunteers that rally during our biggest fundraiser, the Haunted Trail, in which we have nearly 200 volunteers helping to make the event possible. If there is ever a time throughout the year to signify the high performance and efficiency of the Northland Arboretum team, it is during Haunted Trail season.

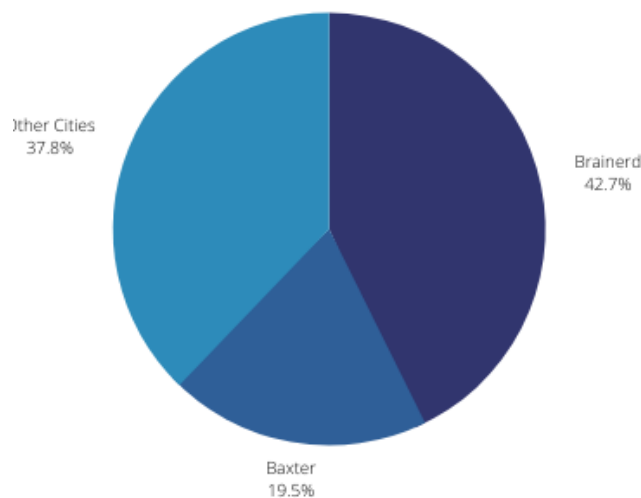
9. Provide a copy of the organizations budget listing revenues and expenses

See attached copy of the Northland Arboretum budget for FY2022.

10. Any other specific experience, knowledge, or abilities that uniquely quality your firm and team for providing the selected services

The Arb is at a unique point in its history as it approaches its 50th nonprofit anniversary. The pandemic certainly highlighted the importance of greenspaces on surrounding communities and Brainerd residents take pride in the Arboretum’s beauty, progress and impact. The stories of how each local is connected to the Arb make our impact even stronger. In just a short timeframe, our organization evolved from a landfill where residents remember throwing away junk to standing on that same point today and breathing in fresh air, observing wildlife, and walking under towering pines. It is a community story to be told and shared with future generations.

The Arb’s individual components could be found scattered throughout the Lakes region; however, it is the combination of recreation, education, and conservation elements that make this a unique and irreplaceable gift for Brainerd residents. Our membership is broken into the following graphic to show the comparison of utilization by city. It is important to note, Brainerd residents consist of approximately 43% of the current utilization, followed by Baxter at 19%. The next highest utilization rate is the city of Nisswa at 3%. The remaining piece of the pie is a culmination of other cities, including those outside our county and the state.



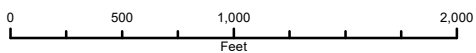
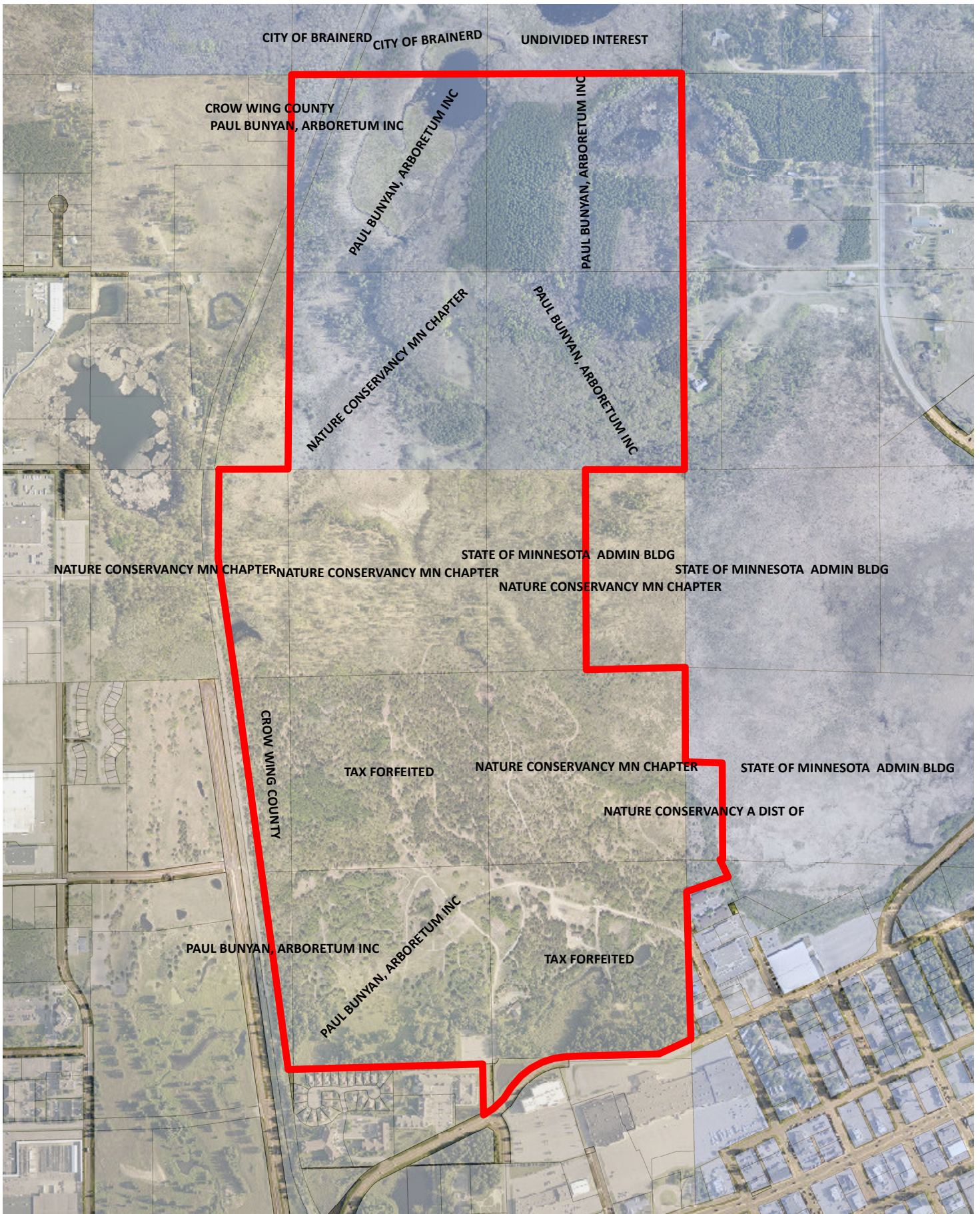
This data also reveals that the Arb is a destination for people, bringing in outside revenue and positively impacting our local economy. With Brainerd residents being the most likely to visit the Arb and take part in our programming, we are taking strategic measures to serve the population appropriately and meet them where they are. Based on anecdotal data, most residents utilize the Arb for recreation compared to education or conservation purposes. This

means the most significant impact we are currently making is on the community's physical health and wellbeing. This data motivates us as a nature-based nonprofit to concentrate on maintaining the grounds so Brainerd residents may have the opportunity improve their overall health while being surrounded by the healing powers of nature.

We would like to reiterate that the Northland Arboretum is truly a unique asset to the Brainerd community. We are proud to serve our residents, members, and visitors and improve their overall well-being and connections to nature. We are the homebase for many organizations that do not have a space to meet, practice and socialize, such as the Brainerd Public Schools Cross-Country Ski team, Brainerd Noon Sertoma Club, Brainerd Nordic Ski Club, Brainerd Garden Club, Brainerd Lakes Master Naturalists, Girl Scouts, Sandpipers 4-H club and more. Because of our mission and our proud history, we are engrained in so many Brainerd resident's lives, and we hope to continue to serve the community with the city's support and trust. We thank you for the opportunity to respond to this proposal.

Attachments:

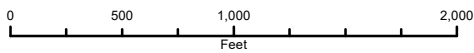
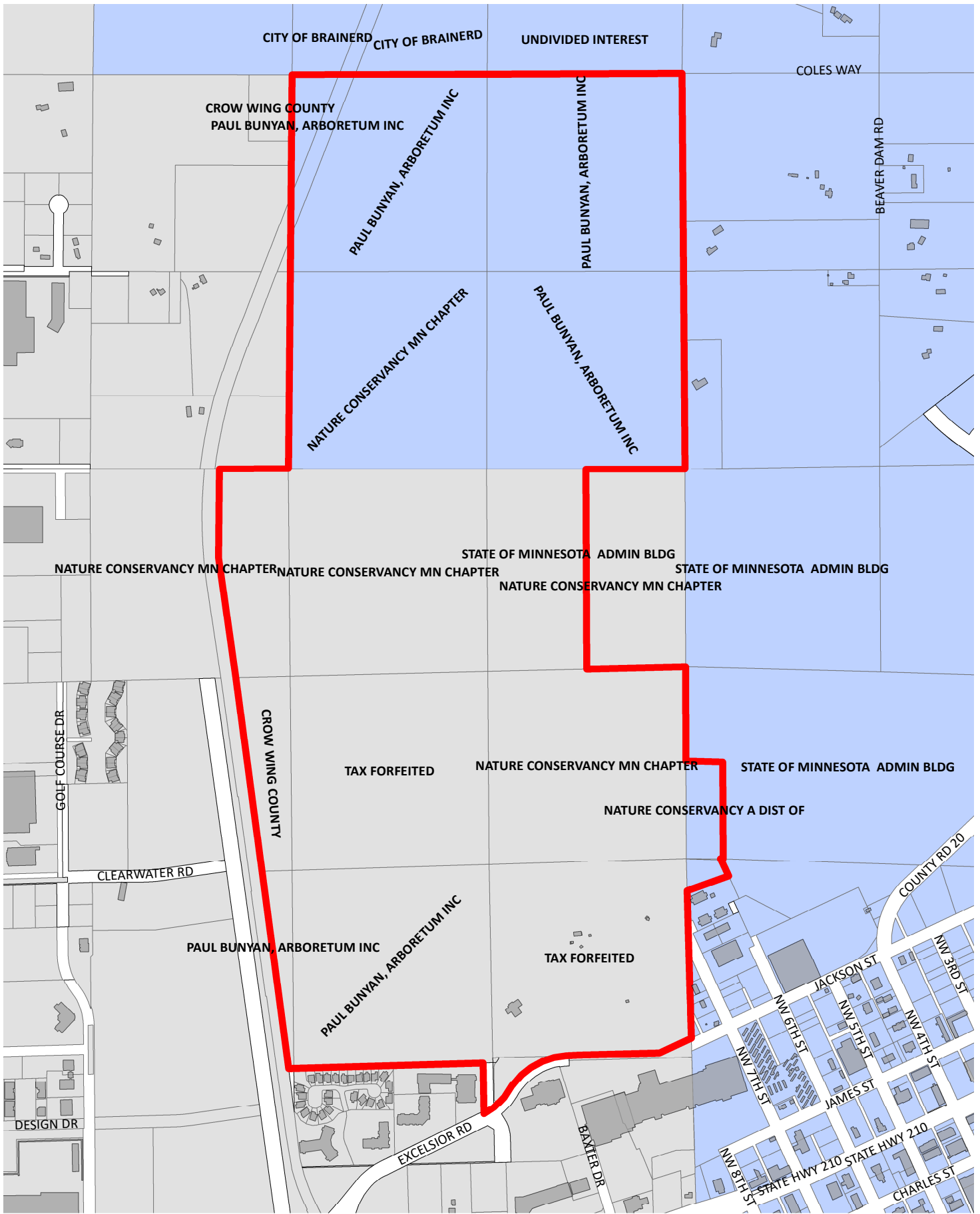
- i. Letters of Support
- ii. Strategic Plan
- iii. FY 2022 Budget
- iv. Board Roster and Committee Roster
- v. Calendar of Events



Print Date
3/21/2022

This map is intended for reference purposes only and is not a legally recorded map nor survey. The City of Brainerd shall not be liable for any damages or claims that arise due to accuracy, availability, use, or misuse of the information herein pursuant to MN Statutes 466.03 Subd 21.





Print Date
3/21/2022

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April 10, 2022

Re: Request for Proposal from the Northland Arboretum and City Charter Amendment

Dear Brainerd Charter Commission Members,

We are writing in regard to the establishment of the Northland Arboretum (Arboretum), the Request For Proposal (RFP) for an arboretum or outdoor green space, and the value the Arboretum has as the outdoor recreation space to Brainerd residents, neighboring communities, and area visitors. We feel some clarity over land ownership and management of the Arboretum may be helpful.

As you may know, the Paul Bunyan Arboretum (aka Northland Arboretum) was founded by Rudy Hillig as a nonprofit entity in 1974 upon the closure of the Brainerd landfill in 1973. The old city landfill property (approximately 45 acres of the current 420 acres) has always been located in the city limits of Baxter but managed by Brainerd until an easement of the land was granted to the Arboretum and stewardship fell to our nonprofit organization. For nearly 50 years, Arboretum staff and volunteers have been “gatekeepers” of that retired Brainerd landfill, managing what could have been a potential eyesore and burden to the community, and helped it evolve into a fully functional and beautiful space for the residents of Brainerd.

It is important to note, at the time the ½ Mill Levy referendum was passed by Brainerd residents in the early 1980's, the main area of the Arboretum was within Baxter city limits, yet Brainerd residents still voted to pass the referendum. Currently, the northern areas of the Arboretum lie within the city limits of Brainerd. The recent amendment by the Charter Commission to the City Charter removed a specific reference to the Arboretum as a recipient of a portion of the levy in favor of allowing the City to grant funds to a greenspace “...within the city limits of Brainerd”. The Arboretum does in fact lie within the city limits of Brainerd while also providing significant value to residents.

What the Arboretum provides the residents of Brainerd is not always tangible but the amount of impact our organization continues to make cannot be denied. We are the homebase for the Brainerd Nordic Ski Club, Brainerd High School XC running and XC ski teams, Sertoma's Winter Wonderland, Lumberjack Jaunt Ski Race, American Red Cross Blood Drives, and more. We also provide a central location for compost drop off and pick up. In just this past year, the Arboretum's educational programming provided over 80 classes and activities for adults and

children to be connected to the outdoors, improve their physical and mental health, and explore nature. Not to mention the economic impact that over 25,000 site visits to the Arboretum has on local businesses. We strongly believe that although our property shares ownership with the city of Baxter, the impact we make on Brainerd residents far exceeds the reach we have in neighboring cities.

From an operational perspective, the Arboretum is six months into our fiscal year which begins in October. We did not expect the funding from the ½ Mill Levy would be in jeopardy. We are fostering conversations with other government agencies and organizations about potential support to expand programs and opportunities for area residents. We want our relationship with the City of Brainerd to be a true partnership, highlighting this extremely unique property while making a lasting impact.

The Northland Arboretum and its Board of Directors are grateful to the residents of Brainerd who chose to support the Arboretum with their tax dollars, and we are also grateful to the Charter Commission and the City Council for their longstanding support of the Arboretum over the years. Dedicated funding is crucial for the Arboretum to maintain programs and expand opportunities for Brainerd residents. It is our sincere hope that you continue to provide the full amount of levy funds allowed to the Northland Arboretum to serve Brainerd residents and for the Arboretum to flourish during these recent trying times.

Sincerely,



Bryan Pike
Board President



Dan Lee
Board Vice President



Candice Zimmermann
Executive Director

CC: Brainerd City Council Members
Dave Badeaux - Mayor of Brainerd
Jennifer Bergman - City Administrator

Toni Gage

From: Jennifer Bergman
Sent: Friday, April 22, 2022 10:25 AM
To: Toni Gage
Subject: FW: Charter

From: Mike ODay <moday@ci.brainerd.mn.us>
Sent: Wednesday, April 20, 2022 9:14 AM
To: Jennifer Bergman <jbergman@ci.brainerd.mn.us>; Kelly Bevans <kbevans@ci.brainerd.mn.us>
Subject: Charter

Jennifer,

Please let the following letter serve as my comments regarding the funding of the arboretum in my absence today.

Fellow members of the charter commission, I apologize for my absence. I want to give you all my thoughts on how to answer the question from the council's personnel and finance committee of what we meant by "within the city limits of Brainerd."

In the discussions regarding how to specifically reword the language regarding the half mill levy for what we had already decided to call "an arboretum or greenspace," I recall suggesting that we add in the language "within the city limits of Brainerd." My reasoning for this is that we have an overabundance of existing greenspace already in our city that needs attention, and it is irresponsible for any city government to tax its citizens to pay for any type of project that is:

- #1. Not geographically located within its own well defined boundaries.
- #2. Located within another city.

The Northland Arboretum has penned a letter to the council suggesting that they are and always have been partially in Baxter. That claim would deem any use of funds toward the Northland Arboretum from this discussion a direct violation of the city charter. These funds cannot, and should never fund any type of programs, building improvements, or maintenance that is not within our city limits. I do not know of any buildings or improvements that the Northland Arboretum currently has that are in Brainerd. They have built their main entry, signage, event center, parking lots, gazebo, gardens, trails, etc. all within the city limits of Baxter. Understand that this means that we have taxed Brainerd citizens to pay for buildings and parking lots in the city of Baxter. Does the state of Minnesota provide funding for Wisconsin state parks? Does Baxter provide funding for Brainerd city parks? Then why does Brainerd provide funding for another city? Are we bursting at the seams with funds and can't find anywhere in town to spend money? No. In order to fund the arboretum, and not be a direct violation of the city charter, the Northland Arboretum could theoretically have two options.

1. Go through the lengthy process of annexing its entirety into the city limits of Brainerd.
2. Somehow prove that each and every cent from this levy is being spent on its unimproved and unused property that lies within the city limits of Brainerd.

I'm not sure that the first option is even in the best interest of the city of Brainerd or Baxter, and I don't think that the second option is even possible.

I am a fan of the Northland Arboretum, and I appreciate everything that they have to offer for the citizens of Baxter, and the entire area. I am simply not in favor of spending tax dollars taken from the citizens of Brainerd on projects that are clearly in Baxter or any other city for that matter. Our charter supports my thoughts. Please recommend to the

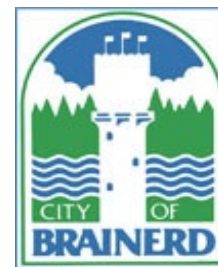
personnel and finance committee that funding the Northland Arboretum would directly violate the Brainerd City Charter.

Thank you,

Mike O'Day

Sent from [Mail](#) for Windows

MEMO



TO: Charter Commission Members
FROM: City Administrator, Jennifer Bergman
DATE: April 15, 2022
RE: Discussion of Chapter One – Names, Boundaries, Powers and Divisions

Following each decennial census, all voting districts must be examined to ensure that equal population is distributed for all federal, state and county offices as well as any municipalities that elect their representatives by district which Brainerd does. This process is known as redistricting. If the population in our wards deviates more than 10%, the City is required to redistrict. However, the change in population from 2010 to 2020 did not deviate more than 10% in any of our wards; therefore, the City of Brainerd was not required to redistrict.

In anticipation of redistricting, we started to look at the Charter to see what changes, if any, would need to be made. When we did that, we discovered that the ward boundaries listed in Chapter One of the Charter were incorrect. It appears as if the Charter was not amended after the change in 2010.

Background

According to City Attorney Langel, in 1909, the legislature passed what is now codified as [Minn. Stat. § 410.21](#), which states as follows:

“The provisions of any charter of any such city adopted pursuant to this chapter shall be valid and shall control as to nominations, primary elections, and elections for municipal offices, notwithstanding that such charter provisions may be inconsistent with any general law relating thereto, and such general laws shall apply only in so far as consistent with such charter.”

Charter provisions regarding “elections for municipal offices” presumably include provisions relating to election wards. This statute contains pretty broad language that seems to put election control firmly in the hands of the Charter Commission. Decades later, however, the legislature passed numerous statutes that are collectively known as the Minnesota Election Law. That includes Chapter 205, a section of which (205.02) states:

*“Subdivision 1. Minnesota Election Law.
Except as provided in this chapter the provisions of the Minnesota Election Law apply to municipal elections, so far as practicable.*

Subd. 2. City elections.

In all statutory and home rule charter cities, the primary, general and special elections held for choosing city officials and deciding public questions relating to the city shall be held as provided in this chapter, except that sections [205.065](#), subdivisions 4 to 6; [205.07](#), subdivision 3; [205.10](#); [205.121](#); and [205.17](#), subdivision 3, do not apply to a city whose charter provides the manner of holding its primary, general or special elections.”

The legislature made Minnesota Election Law applicable to all cities, with the exception of several specific provisions that are not applicable to charter cities. None of those specific provisions concern election wards. To the extent section 410.21 conflicts with section 205.02, the latter controls because it was passed later in time and is more specific. See Minn. Stat. § 645.26 (the more specific provision controls over the general, and the later law controls over an irreconcilable earlier law).

All this is to say that, when it comes to election wards, Chapter 205 appears to control. With respect to changing the boundaries of existing election wards, State law provides when it must occur ([Minn. Stat. § 204B.135, subd. 1](#)), the vehicle for making the changes (([Minn. Stat. § 205.84, subd. 2](#) – by ordinance), the layout of the wards ([Minn. Stat. § 205.84, subd. 1\(a\)](#) – equal in population as practicable and composed of compact, contiguous territory), and the penalty for not changing the wards when required ([Minn. Stat. § 205.84, subd. 2](#) – no further compensation paid to the mayor and council until it is completed).

Given that State law already regulates when and how wards are redrawn, paragraph 2 of Chapter One of the Charter is not necessary at all, other than to state how many wards there ought to be (because that is not addressed by Minnesota Election Law and is therefore entirely up to the City). The entire paragraph can be reduced to a single sentence: “The City shall be divided into four wards in accordance with state law.” The Minnesota Election Law will take care of everything else.

Recommendation

Staff is recommending removing the ward boundaries from the Charter and replacing the language with “the City shall be divided into four wards in accordance with state law.”

BRAINERD CITY CHARTER

CHAPTER ONE

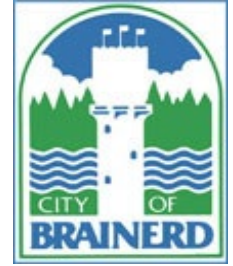
NAME, BOUNDARIES, POWERS AND DIVISIONS

1. All that district of country in the county of Crow Wing contained within the limits and boundaries as now are or hereafter may be established shall be a City by the name of "Brainerd," and all the people now inhabiting, and those who shall hereafter inhabit the same district shall be a municipal corporation by the name of "The City of Brainerd", and by that name may sue and be sued, plead and be impleaded, in any court; make and use a common seal, and alter it at pleasure; take and hold, lease and convey, all such real personal and mixed property as the purposes of the corporation may require, or the transaction or exigencies of the business may render convenient, within or without the limits of such district; shall be capable of contracting and being contracted with, and shall have all the general powers possessed by municipal corporations at common law, and, in addition thereto, shall possess all powers hereinafter specifically granted; and all the authorities thereof shall have perpetual succession.
2. ~~The City shall be divided into four wards in accordance with state law. That the Council be empowered to divide the City of Brainerd by ordinance into four (4) wards as equal in size and population as practicable. The Council must, within 60 days after each U.S. decennial census, readjust the boundaries of the four (4) wards provided there is a 10% or more deviation in population among said wards and if the Council does not do so, the Charter Commission of the City of Brainerd is empowered to do so.~~
 - a. ~~FIRST WARD: All of the territory south of the main line of the Burlington Northern Santa Fe Railroad and east of the Mississippi River beginning at the mainline railroad tracks and following said River south to the south City limits/Woodland Hills Lane, thence east to Greenwood Street, thence south to the centerline of the South 6th Street/Business Highway 371, thence northeast to the centerline of County Road 117, thence east to the centerline of the Spur Line Trail, thence north to the centerline of Willow Street, thence west to the centerline of South 6th Street/Business Highway 371, thence north to the centerline of Rosewood Street, thence east to the centerline of South 7th Street, thence north to the centerline of Quince Street, thence east to the centerline of the Spur Line Trail, thence north to the mainline railroad tracks of the Burlington Northern Santa Fe Railroad, thence west to the Mississippi River to the point of beginning.~~
 - b. ~~SECOND WARD: All of the territory within the City limits west/northwest of the Mississippi River, and, southeast of the Mississippi River commencing at the intersection of the centerline of the Mississippi River and the main line of the Burlington Northern Santa Fe Railroad, thence east along the~~

~~railroad tracks to the centerline of North 8th Street, thence north to the centerline of Washington Street, thence east to the centerline of North 10th Street, thence north to the centerline of Grove Street, thence east to the centerline of North 11th Street, thence north along North 11th Street to the centerline of Evergreen Avenue, thence northeast to the Public Access driveway, thence north along the driveway to the centerline of the Mississippi River.~~

~~c. THIRD WARD: All of the territory north of the main line of the Burlington Northern Railroad and east of a line commencing at the intersection of the Burlington Northern Santa Fe main line track and the centerline of North 8th Street, thence north along North 8th Street to the centerline of Washington Street, thence east to the centerline of North 10th Street, thence north to center line of Grove Street, thence east to the centerline of North 11th Street, thence north to the centerline of Evergreen Avenue, thence northeast to the Public Access Driveway, thence north along the driveway to the centerline of the Mississippi River, thence northeasterly along the centerline of the Mississippi River to the east City limits.~~

~~d.a. FOURTH WARD: All of the territory South of the main line of the Burlington Northern Railroad and east of a line commencing at the intersection of the Burlington Northern Santa Fe main line track and the centerline of the Spur Line Trail, thence south to the centerline of Quince Street, thence west to the centerline of South 7th Street, thence south to the centerline of Rosewood Street, thence west to the centerline of South 6th Street/Business Highway 371 thence south to the centerline of Willow Street, thence east to the centerline of the Spur Line Trail, thence south to the centerline of County Road 117, thence west to the centerline of South 6th Street/Business Highway 371, thence south to the south City limits.~~



MEMO

TO: Brainerd Charter Commission

FROM: Paul Sandy, City Engineer/Public Works Director

DATE: 03/21/2022

SUBJECT: Changes to Brainerd City Charter Chapter 5 – Streets

City staff have taken some time to review Chapter 5 of the Charter in its entirety and have reviewed the section with the City Attorney. These changes to this section are recommended by Staff as we move forward in the Charter revision process.

1. The City Council may by a vote of two-thirds of the members thereof, vacate any highway, street, lane, or alley, or portion of either, and such power of vacating highways, streets, lanes, and alleys within the City of Brainerd is vested exclusively in the City Council and no court or other body or authority shall have any power to vacate any such highway, street, lane or alley.

Recommendation: This section of the Charter speaks to vacating streets, highways, lanes, and alleys and special voting requirements. Minnesota Statute § 412.851 covers, in detail, the Council process in vacating streets. The section of statute also requires that a 4/5 vote of the Council for a proposed vacation without a petition, in which is one difference between the statute (requires simple majority) and the Charter. In staff's opinion, that alone does not warrant retaining this section of the Charter, and that the statutory process makes more sense. Also, to the contrary of the charter language, courts can vacate streets under Minnesota Statute § 505.14, but is rarely done.

It is staff's recommendation that this section of the Charter be struck in its entirety.

2. The City Council shall have power to designate districts or portions of the streets and alleys of the City for the purpose of cleaning the same and may provide for the cleaning of such districts by a contract on such terms as shall be deemed advisable.

Recommendation: This section of the Charter speaks to the city setting aside districts for street cleaning. The city's current practice is sweeping the entirety of the city at least twice per year. The district language in the Charter is old and is not in practice by city maintenance forces.

It is staff's recommendation that this section of the Charter be struck in its entirety.

3. It is hereby made the duty of all owners of land adjoining any street, lane or alley in said City, to construct, reconstruct and maintain in good repair such sidewalks along the side of the street, lane or alley next to the lands of such owners respectively, as may have been heretofore constructed, or shall hereafter be constructed, or directed by the City Council to be built, and of such material and width, and upon such places and grades as the City Council may by ordinance or otherwise prescribe. Whenever the City Council shall deem it necessary

that any sidewalk in the City of Brainerd shall be constructed or re-constructed, it shall by resolution direct such construction or re-construction, specifying the width thereof, and the material of which the same is to be constructed. The publication of such resolution once in the official paper of the City shall be sufficient notice to the owners of the land along which said sidewalk is to be built to construct the same, and unless such owners shall each along each owner's respective land, construct and fully complete such sidewalks within two (2) weeks after the publication of such resolution as aforesaid, the City Council shall forthwith proceed to ascertain the expense of constructing the same and assess and levy such expense upon and against each lot and parcel of land upon which such sidewalk shall front. Such assessment shall be collected in the same way in all things as provided for the collection of special assessments under the provisions of Section 75 of this Charter. And the City Council may either before or after making such assessment cause such portion of such sidewalks as have not been built by the owners of such land fronting on the same and all street crossings to be built by the City, or upon contract or by any other person as the council may determine.

Recommendation: This section of the Charter gets into sidewalk maintenance and adjacent owners being responsible for constructing, reconstructing, and maintaining walks when they fall into disrepair. The city currently constructs and reconstructs walks in line with capital improvement projects but does not assess for any of the sidewalk improvement costs. Being that this is the current practice, and staff does not see homeowners constructing or reconstructing walks in the future, any reference to constructing or reconstructing walks should be removed from the Charter. It is also staff's recommendation that we continue to not assess for constructing or reconstructing walks in the future.

When it comes to maintenance of said walks or keeping walks in a state of good repair, the current practice is to enforce this section on a complaint driven basis. This has long been a discussion point within the engineering department and will likely need to be re-worked in its entirety, dependent on the discussions by the Commission.

Chair Czeczok brought forward something that occurred in 2010 related to a Charter amendment that was passed by the voters in Brainerd. The question was as follows:

Shall Sections 76 and 77 of the Charter of the City of Brainerd pertaining to the construction, reconstruction and repair of sidewalks be amended to state that a property owner who is required to make such sidewalk improvements will be assessed for such expense based on the actual benefit to the property with any excess costs that exceed the benefit paid as a current expense of the City?

This Charter amendment basically references that they city would follow our Street Assessment Policy for making repairs to city walks and would assess based on the actual benefit to the owner for the repairs thereto. Some cities do rely on homeowners to repair sidewalks, and some do assess for sidewalk repair and replacement per Minnesota Statute § 429.021, subd. 1(1). The issue with assessing for anything related to sidewalks is that which there is some benefit, but it is typically relatively small. People are appealing assessments at a higher rate than they used to, and it is a challenge to demonstrate benefit.

It is staff's recommendation that this section of the Charter be struck in its entirety. This would mean that the city would solely be responsible for repair, constructing, and reconstructing walkways at its expense. There would need to be funding allocated annually for a project such as this, that would fall in line with our annual maintenance projects such as crack sealing, seal coating, large patches, and street striping. Staff recommends that a future line item be added to the 5-Year Street and Sewer Capital plan for sidewalk repairs, such as trippers, heaves, and other areas of non-compliance with ADA standards.

It is also important to note that, if the Charter Commission and Council elect to move this direction, that City Code § 805.11 should also be changed if this section is deleted, as it requires property owners to maintain sidewalks (and alleys?), and if they do not, the City can perform the improvement and assess the costs.

4. If the owner of any lot or parcel of land shall suffer any sidewalk along the same to become broken, rotten or out of repair, it shall be the duty of the City Engineer to immediately repair the same in a good, substantial and thorough manner, and to report to the City Council the cost of such repairs in each case, and a description of the lot or parcel of land abutting which such repairs are made, and such report shall be filed and carefully preserved by the City Administrator. And the City Council shall once in each year, at, or as near as conveniently may be, the time of levying the yearly City taxes, assess and levy upon each of the parcels of land fronting or abutting upon sidewalks which have been repaired by the City, the cost of making such repairs. In each case such assessment for all such repairs within the year may be combined in one assessment roll and be collected as provided for in other special assessments in this Charter. In case any such sidewalk shall become so out of repair as to become dangerous and cannot be made safe without being rebuilt, and there are no funds to defray the expense of such rebuilding, it shall be the duty of the City Engineer to remove the same entirely, and the expense of such removal shall be added to the cost of rebuilding when the same shall be reconstructed and collected with the assessment for such reconstruction.

Recommendation: This section gets to process and procedure for identifying issues with existing walks, repairing them promptly, and assessing for the costs of the repair to the property owner. It also talks to that, if there is not enough money to defray the costs of repairs to the walks, that they be removed in their entirety and reconstructed. When a complaint is received, the engineering department will typically work directly with the adjacent owners on making the repair. We have not assessed for a repair in some time, and typically, the homeowner or business owner has paid these costs up front. Follow up on these issues, admittedly, has not been that great in the past. If the Commission and Council move forward with the recommendations in this memo, then this would be a non-issue moving forward.

It is staff's recommendation that this section of the Charter be struck in its entirety.

5. It shall be the duty of the City Council, before ordering the construction of any new sidewalk, to cause ground on which is to be built to be properly graded.

Recommendation: Staff suspects this is an old provision enacted to prevent property owners from constructing a sidewalk without a proper base. Being that sidewalks are being constructed and reconstructed by the city, and if the Commission and Council move forward with repairs being a part of the city's duties, this section becomes obsolete.

It is staff's recommendation that this section of the Charter be struck in its entirety.

6. No railway company or street company shall have any right in cleaning their tracks through any part of the City or otherwise, to pile up snow or other material and leave the same piled upon any traveled portion of any street in the City. Any such company shall be liable to any person who shall be injured by means of any obstruction caused by the company or its servants for all damages sustained.

Recommendation: There is not a good way to enforce this provision of the Charter effectively but through complaints or by city staff visually seeing this take place. No one should be dumping snow on city streets, whether it is a property owner or the railroad. Staff feels this section can be handled by ordinance in city code.

It is staff's recommendation that this section of the Charter be struck in its entirety.

7. It shall require a two-thirds (2/3) vote of the members elect of the City Council to determine, in the first instance to make any improvement for which a special assessment may be levied, except in respect to sidewalks, when a majority shall suffice. But this restriction shall not apply to any subsequent act of the Council touching such improvement, or the special assessment to provide means therefor.

Recommendation: This section of Chapter 5 deals with voting requirements for assessments. State law does specifically allow cities to alter assessment process via Charter, however, staff follows Minnesota Statute § 429 for assessment proceedings. The only real difference between this statute and the Charter is the 2/3 vote requirement rather than a simple majority. If this is not a significant issue for the Charter Commission or Council, then staff would recommend this section be deleted.

It is staff's recommendation that this section of the Charter be struck in its entirety.

1. The City Council may at its discretion defer payment of certain special assessments for street improvements as defined in Chapter 429 of the Minnesota Statutes where a financial hardship exists. The Council shall by Ordinance define the circumstances wherein such deferments may be made.

The City Council does endorse the principal of deferment of special assessments for those citizens where the payment of said special assessments constitute a financial hardship. The Council, in accordance therewith, may defer the payment of a special assessment on homestead property owned by a person who has a financial hardship, and the payment of the assessment would create a further financial hardship.

The deferment may be granted upon an application by the owner on a form prescribed by the County Auditor supplemented by the City Administrator to establish the qualification of the owner for said deferment. All deferments shall be subject to renewal each following year upon the filing of a similar application not later than August 15. The Council shall either grant or deny the deferment, and if it grants the deferment, the deferred assessment shall bear interest at the rate established in the Resolution adopting the assessment. If the Council grants the deferment, the Administrator shall notify the County Auditor who shall record a notice of the deferment with the County Recorder setting forth the amount of the assessment.

A hardship shall be deemed prima facie to exist when all of the following apply:

- A. The applicant, his spouse and family combined shall not have an annual gross income in excess of the low-income limits established by the Housing and Redevelopment Authority of the City of Brainerd in effect at the time of application. All data necessary to confirm applicant's income shall be furnished to the City Administrator.
- B. The total special assessments to be deferred exceed the sum specified in the most current Resolution adopted by the City Council setting this amount.
- C. The applicant certifies that the total assets of the applicant and spouse, exclusive of the homestead, do not exceed the sum specified in the most current Resolution adopted by the City Council setting this amount.
- D. The Crow Wing County Assessor's estimated market value of the applicant's homestead is less than the sum specified in the most current Resolution adopted by the City Council setting this amount.

Notwithstanding the foregoing provisions of this paragraph, the City Council may consider exceptional and unusual circumstances pertaining to an applicant not covered by the above standards; but any determination shall be made in a non-discriminatory manner and shall not give the applicant an unreasonable preference or advantage over other applicants.

The option to defer payment of special assessments shall terminate and all amounts accumulated plus applicable interest shall become due upon the occurrence of any one of the following events:

- A. The death of the owner when there is no spouse who is eligible for deferment;
- B. The sale, transfer, or subdivision of all or any part of the property;
- C. Loss of homestead status on the property;
- D. Determination by the Council for any reason that there would be no hardship to require immediate or partial payment; or
- E. Failure to file a renewal application within the time prescribed in this section.

Recommendation: This Charter section allows for deferrals for financial hardship cases. This is a Charter issue as this kind of deferral is not reflected in state law, so it needs to remain in the charter somewhere, either in Streets (because it is limited to street improvements, or perhaps in Finance. This language also requires an ordinance on the subject. Ordinance 974 was an ordinance amending the Charter and adding in the language you see, and Resolution 49:88 specifically addresses deferment of assessment for senior citizens. Both of which can be seen attached.

There needs to be some discussion from the Commission on this section as it relates to the Streets section of the Charter. If the Commission elects to follow staff's recommendations, much of this section would be deleted and the only thing outstanding would-be deferrals of assessments. This could stay in the streets section or be moved to another location.

Staff does not recommend any additions to the streets section of the Charter or issues the Streets section should address. With the recommended deletions, the only section left related to Streets in the charter would be the deferment of assessments, unless this section were removed, then Section 5 of the Charter could be deleted in its entirety.

Staff will be available at the Charter Commission meeting to answer any questions from the Commission about this section.

CHAPTER FIVE

STREETS

1. ~~The City Council may by a vote of two-thirds of the members thereof, vacate any highway, street, lane, or alley, or portion of either, and such power of vacating highways, streets, lanes, and alleys within the City of Brainerd is vested exclusively in the City Council and no court or other body or authority shall have any power to vacate any such highway, street, lane or alley.~~
2. ~~The City Council shall have power to designate districts or portions of the streets and alleys of the City for the purpose of cleaning the same and may provide for the cleaning of such districts by a contract on such terms as shall be deemed advisable.~~
3. ~~It is hereby made the duty of all owners of land adjoining any street, lane or alley in said City, to construct, reconstruct and maintain in good repair such sidewalks along the side of the street, lane or alley next to the lands of such owners respectively, as may have been heretofore constructed, or shall hereafter be constructed, or directed by the City Council to be built, and of such material and width, and upon such places and grades as the City Council may by ordinance or otherwise prescribe. Whenever the City Council shall deem it necessary that any sidewalk in the City of Brainerd shall be constructed or re-constructed, it shall by resolution direct such construction or re-construction, specifying the width thereof, and the material of which the same is to be constructed. The publication of such resolution once in the official paper of the City shall be sufficient notice to the owners of the land along which said sidewalk is to be built to construct the same, and unless such owners shall each along each owner's respective land, construct and fully complete such sidewalks within two (2) weeks after the publication of such resolution as aforesaid, the City Council shall forthwith proceed to ascertain the expense of constructing the same and assess and levy such expense upon and against each lot and parcel of land upon which such sidewalk shall front. Such assessment shall be collected in the same way in all things as provided for the collection of special assessments under the provisions of Section 75 of this Charter. And the City Council may either before or after making such assessment cause such portion of such sidewalks as have not been built by the owners of such land fronting on the same and all street crossings to be built by the City, or upon contract or by any other person as the council may determine.~~
4. ~~If the owner of any lot or parcel of land shall suffer any sidewalk along the same to become broken, rotten or out of repair, it shall be the duty of the City Engineer to immediately repair the same in a good, substantial and thorough manner, and to report to the City Council the cost of such repairs in each case, and a description of the lot or parcel of land abutting which such repairs are made, and such report shall be filed and carefully preserved by the City Administrator. And the City Council shall once in each year, at, or as near as conveniently may be,~~

Commented [PS1]: There is statute for this. To simplify, we should just follow the statute.

Commented [PS2]: This is not done anymore. We street sweep and clean all streets.

Commented [PS3]: This puts the onus of constructing, reconstructing, and maintaining sidewalks on adjacent properties. Constructing and reconstructing is currently performed by the City. Maintenance is complaint driven and handled by property owners, but minimally enforced for items such as trippers, etc. This is hard to enforce.

~~the time of levying the yearly City taxes, assess and levy upon each of the parcels of land fronting or abutting upon sidewalks which have been repaired by the City, the cost of making such repairs. In each case such assessment for all such repairs within the year may be combined in one assessment roll and be collected as provided for in other special assessments in this Charter. In case any such sidewalk shall become so out of repair as to become dangerous and cannot be made safe without being rebuilt, and there are no funds to defray the expense of such rebuilding, it shall be the duty of the City Engineer to remove the same entirely, and the expense of such removal shall be added to the cost of rebuilding when the same shall be reconstructed and collected with the assessment for such reconstruction.~~

- ~~5. It shall be the duty of the City Council, before ordering the construction of any new sidewalk, to cause ground on which is to be built to be properly graded.~~
- ~~6. No railway company or street company shall have any right in cleaning their tracks through any part of the City or otherwise, to pile up snow or other material and leave the same piled upon any traveled portion of any street in the City. Any such company shall be liable to any person who shall be injured by means of any obstruction caused by the company or its servants for all damages sustained.~~
- ~~7. It shall require a two thirds (2/3) vote of the members elect of the City Council to determine, in the first instance to make any improvement for which a special assessment may be levied, except in respect to sidewalks, when a majority shall suffice. But this restriction shall not apply to any subsequent act of the Council touching such improvement, or the special assessment to provide means therefor.~~

~~8.1.~~ The City Council may at its discretion defer payment of certain special assessments for street improvements as defined in Chapter 429 of the Minnesota Statutes where a financial hardship exists. The Council shall by Ordinance define the circumstances wherein such deferments may be made.

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The deferment may be granted upon an application by the owner on a form prescribed ~~by the County Auditor supplemented~~ by the City Administrator to establish the qualification of the owner for said deferment. All deferments shall be subject to renewal each following year upon the filing of a similar application not later than August 15. The Council shall either grant or deny the deferment, and if it grants the deferment, the deferred assessment shall bear interest at the rate established in the Resolution adopting the assessment. If the Council grants the deferment, the Administrator shall notify the County Auditor who shall record a

notice of the deferment with the County Recorder setting forth the amount of the assessment.

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B. The total special assessments to be deferred exceed the sum specified in the most current Resolution adopted by the City Council setting this amount.

C. The applicant certifies that the total assets of the applicant and spouse, exclusive of the homestead, do not exceed the sum specified in the most current Resolution adopted by the City Council setting this amount.

D. The Crow Wing County Assessor's estimated market value of the applicant's homestead is less than the sum specified in the most current Resolution adopted by the City Council setting this amount.

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- B. The sale, transfer, or subdivision of all or any part of the property;
- C. Loss of homestead status on the property;
- D. Determination by the Council for any reason that there would be no hardship to require immediate or partial payment; or
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