

**Brainerd, MN
May 15th, 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: Johnson, Czeczok, O'Day, Stunek, Terry, Stenglein, and Bevans. Mayor Badeaux was noted as present.

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

MOVED AND SECONDED BY COUNCIL MEMBERS CZECZOK AND STUNEK, DULY CARRIED, TO APPROVE THE AGENDA.

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

- A. **Approval of Bills**
- B. **Approval of Minutes**
 - a. **Regular City Council Meeting held on May 1st, 2023**
- C. **Department Activity Report**
- D. **Ratify the Hiring of 2023 Interns and Temporary/ Seasonal Employees**
- E. **Approve Temporary On-Sale Liquor License Applications Submitted By Lakes Area Music Festival At 702 S 5th St. On July 28th & 29th, August 4, August 11, August 19th Contingent On Approvals**

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

MS4 Presentation and Public Hearing

City Engineer/Public Works Director Dehn presented the annual presentation of the MS4 (Municipal Separate Storm Sewer System) report. In 2022 staff inspected 48 of 84 outfalls, 22 ponds, 14 stockpiles, and all 22 rain gardens performing maintenance as needed. The City Code was updated to comply with the new permit requirements and implemented new plans and standard operating procedures. He discussed the impacts the MS4 permit has on homeowners and developers and showed examples of good and poor practices.

Member Czeczok asked whether there are any streets in the City of Brainerd that are not salted and sanded and whether the salt and sand will eventually make its way into the storm sewer. He also questioned whether requirements for developers like silk fences and concrete washes would add to the cost of homes.

City Engineer Dehn stated that the City salts and sands based on the conditions of the streets. There are no streets that are off limits for salt and sand. The City does its best to reduce the amount of salt and sand used, there is training that the plow drivers do take to understand the effects of salt and sand. The requirements for developers would depend on the site and the operations of the developer. Those requirements are regulated by the State and enforced by the City as a part of the MS4 permit.

The Chair opened the public hearing at 7:40 p.m.

No one came forward

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The Chair closed the public hearing at 7:41 p.m.

Council Committee Reports

Personnel and Finance Committee

Consider Waiving Nuisance Assessment at 702 2nd Ave NE

Committee Chair Johnson stated this was another timing situation, and that the current owner bought the property at the Sheriff's sale. The assessments were not known to the owner at the time of the purchase.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STUNEK, DULY CARRIED, TO THE WAIVE \$750 NUISANCE ASSESSMENT FOR 702 2ND AVE NE (PID 41191490).

Consider Magnuson Separation Agreement as Recommended by the Public Utilities Work Group and Public Utilities

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND TERRY, DULY CARRIED, TO APPROVE THE SEPARATION AGREEMENT WITH MR. SCOTT MAGNUSON AS PRESENTED.

Accept Resignation of Public Works Administrative Specialist Cari LaRose and Authorize Hiring Process

Member Czczok asked the hiring date of Ms. LaRose.

HR Director Schubert stated that she has been with the City a little over six months.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STUNEK, DULY CARRIED, TO ACCEPT ADMINISTRATIVE SPECIALIST CARI LAROSE'S RESIGNATION EFFECTIVE MAY 19, 2023; FURTHER, TO AUTHORIZE STAFF TO INITIATE THE HIRING PROCESS FOR ADMINISTRATIVE SPECIALIST – PUBLIC WORKS DEPARTMENT POSITION.

Discussion of Outdoor Library Pickup Lockers at the Brainerd Public Library

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND TERRY, DULY CARRIED, TO SUPPORT THE OUTDOOR PICKUP LOCKERS AT THE BRAINERD PUBLIC LIBRARY, WITH THE UNDERSTANDING THAT ANY FUTURE REPAIRS, MAINTENANCE, REPLACEMENT OR VANDALISM CLEAN UP SHALL COME FROM THE LIBRARY LEVY WITHOUT AN ADDITIONAL REQUEST FOR FUNDING.

Safety and Public Works Committee

Approve Event/Street Closure Application- Memorial Day Parade & Event

Committee Chair O'Day stated that anyone who is able to attend some, or all of the event should.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND CZECZOK, DULY CARRIED, TO APPROVE THE APPLICATION UNDER THE CONDITIONS LISTED ON THE APPLICATION.

Consider Request from Brainerd Restoration for Outdoor Seating Downtown Brainerd

Committee Chair O'Day referenced the examples that Brainerd Restoration is looking into. Considerations for ADA compliance and snow removal were also discussed in committee.

Member Czczok clarified that this is in the planning stage, not installation stage.

Member Johnson stated that Brainerd Restoration qualified for a DEED Mainstreet Grant to pay for the project, City Staff isn't involved in the project, should not affect Staff time.

Mayor Badeaux requested that the seating enable people to sit across from someone.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND STENGLEIN, DULY CARRIED, TO AUTHORIZE STAFF TO WORK WITH BRAINERD RESTORATION FOR THE FREESTANDING SEATING IN THE CITY'S RIGHT-OF-WAY IN DOWNTOWN BRAINERD.

Adopt Resolution Accepting LMC Grant Navigator Funding

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND CZECZOK, DULY CARRIED, TO ADOPT RESOLUTION ACCEPTING LMC GRANT NAVIGATOR FUNDING.

RESOLUTION 23:24

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

Approve Transit Fare Increase for Brainerd

Committee Chair O'Day stated that Staff presented a number of recommendations from the TAC. One of the recommendations was to increase fares by almost double the already increased fare. Our transit partners will be considering the transit system in the coming months, and after they have made their determinations the City Council can revisit the matter.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND CZECZOK, DULY CARRIED, TO REVISIT THE MATTER AT THE FIRST MEETING IN JULY.

Approve WSB Contract Amendment- Harrison Safe Routes to School (SRTS)

Committee Chair O'Day stated that this is for the design work that needed to be done after deciding not to remove on street parking.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND STENGLEIN, DULY CARRIED, TO APPROVE THE WSB CONTRACT AMENDMENT IN THE AMOUNT OF \$4,652.

Request to Award Improvement 22-06- Harrison Safe Routes to School (SRTS)

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND CZECZOK, DULY CARRIED, TO AWARD OF THE IMPROVEMENT 22-06 CONTRACT TO DECHANTAL EXCAVATING IN THE AMOUNT OF \$465,8722.

Committee Chair O'Day stated that this allows the City to use the grant money for the project.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND CZECZOK, DULY CARRIED, TO APPROVE THE SAFE ROUTES TO SCHOOL GRANT AGREEMENT.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND CZECZOK TO ADOPT RESOLUTION APPROVING THE TERMS OF THE GRANT AGREEMENT.

RESOLUTION 24:23

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

Discussion Regarding Improvement 21-15- Buffalo Hills Gully Remediation Project

Committee Chair O'Day gave an overview of the advice by Attorney Langel regarding the responsibility of the City in repairing the gully. The City has changed the land and drainage enough to consider the gully a liability to the City, Attorney Langel also recommended not assessing nearby property owners. The project will be paid for with the grant that the City was awarded which covers 80% of the project cost, the rest will come from potential funding from SWCD and the Storm Water Utility Funds.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND STENGLIN, DULY CARRIED, TO APPROVE THE MOU AGREEMENT WITH CWC SWCD AWARD THE CONSTRUCTION ENGINEERING CONTRACT TO SEH IN THE AMOUNT OF \$64,130.

Unfinished Business

Final Reading- Proposed Ordinance 1549- Amending Sections 1200 and 1205 of the City Code- Sale and Consumption of Alcoholic Beverages in Public Places

City Engineer/Public Works Director Dehn gave an overview of the ordinance.

MOVED AND SECONDED BY COUNCIL MEMBERS STENGLIN AND O'DAY, DULY CARRIED, TO CONDUCT THE FINAL READING OF PROPOSED ORDINANCE 1549 AN ORDINANCE AMENDING SECTIONS 1200 AND 1205 OF THE CITY CODE PERTAINING TO THE SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES IN PUBLIC PLACES AND DISPENSE WITH THE ACTUAL READING.

The Chair opened the public hearing at 7:57 p.m.

Wayne Erickson, 1727 13th Ave NE, stated that the City Council should not support this ordinance. There are enough places to consume alcohol and alcohol attributes to more problems and police department stress.

Marshall Tousignant, 303 Aspen Ct, stated that history has shown us that alcohol has done nothing good for society. If the ordinance is passed, the responsibility for the first casualty is on the shoulders of the City Council.

The Chair closed the public hearing at 8:04 p.m.

Member Johnson stated that he takes the public comment given today very seriously. He believes that as a City if the ordinance does pass, that we need to keep a close eye on incidents, be quick to respond, and rescind any pieces that are at issue. The important issue within the ordinance was that the current regulations are confusing and City staff could not regulate the City Code.

Member Terry stated that she was supportive of the ordinance, however, the ordinance does not include regulations for consumption at youth sport events. Therefore, she will be voting no.

Council discussion took place.

Member O'Day stated that there is softball and campers already in the parks. He thinks the City Council should pass the ordinance as it stands, and staff could bring back an ordinance to amend it to include restricting consumption at youth events at the next meeting.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND O'DAY TO ADOPT ORDINANCE 1549.

ORDINANCE 1549

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

Member Johnson stated that softball players should be cited beginning on Tuesday by direction of the Council.

Final Reading- Proposed Ordinance 1550- Amending Section 1310.05 of the City Code- On-Street Parking of Unattended Trailers

City Engineer/Public Works Director Dehn stated that at the guidance of Council staff struck the language "trailers actively hitched" and put in a clarifying statement pertaining to work/construction trailers allowable by permit.

MOVED AND SECONDED BY COUNCIL MEMBERS STENGLEIN AND CZECZOK, DULY CARRIED, TO CONDUCT THE FINAL READING OF PROPOSED ORDINANCE 1550 AN ORDINANCE AMENDING SECTION 1310.05 OF THE CITY CODE PERTAINING TO ON-STREET PARKING OF UNATTENDED TRAILERS AND DISPENSE WITH THE ACTUAL READING.

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

Marshall Tousignant, 303 Aspen Ct, does not support the ordinance.

The Chair closed the public hearing at 8:16 p.m.

Member Johnson stated that the discussion originated in the Industrial Park to remove unattended trailers from the street and onto private commercial properties. This ordinance bans U-Haul trailers from November to April, no one can move to Brainerd and park a U-Haul on the street during the winter without being ticketed. This ordinance is too much in an attempt to fix a finite problem.

Member O'Day asked Member Johnson if he could support the ordinance if it was limited to just the Industrial Park. He would support the ordinance if it was limited to the Industrial Park. That brings its own challenges in defining the industrial park.

MOVED AND SECONDED BY COUNCIL MEMBERS STENGLEIN AND O'DAY TO ADOPT ORDINANCE 1550.

ORDINANCE 1550

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

Call for Applicants – Informational:

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

Charter Commission – 2 terms (Expire 2026) 2 terms (Expire 2025)

Library Board- 1 term (Expire 2025)

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

TAC—1 term (Expires 2023)

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

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

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

Parking Commission—1 term (Expire 2026)

Planning Commission-- 1 term (Expire 2025) 1 term (Expire 2024)

New Business

First Reading- Proposed Ordinance 1551- Amending Section 515-4-8 Outdoor Lighting of the Zoning Code

Community Development Director Kramvik gave an overview of the ordinance.

MOVED AND SECONDED BY COUNCIL MEMBERS STENGLEIN AND TERRY, DULY CARRIED, TO CONDUCT THE FIRST READING OF PROPOSED ORDINANCE 1551 AN ORDINANCE AMENDING SECTION 515-4-8 OF THE ZONING CODE AND DISPENSE WITH THE ACTUAL READING.

Consider Draft Statute Revision for Cemetery Funding

Administrator Bergman stated State Statutes only allow cities of the fourth class or statutory cities to appropriate funds for cemeteries. Evergreen Cemetery reached out to Representative Heintzeman to request he author a bill to revise Minnesota State Statute 471.84 to include home rule charter cities the ability to appropriate funds to cemeteries. She was contacted by Representative Heintzeman's Legislative Aid with proposed language. Representative Heintzeman asked if the City agrees with the proposed bill and amendment. Rep. Heintzeman is planning to introduce this bill in the 2024 legislative session.

Member Johnson asked who will assume the responsibility of the cemetery if the current board dissolves. If Evergreen reverts to the City, he would be in support of the language, if it reverts to the County he would not.

Chair Bevans stated that this consideration does not go beyond giving agreement to Representative Heintzeman in support of the language.

Member Johnson stated that this is a step in the process to potentially funding Evergreen in the future. He has many questions that he feels he needs answered before the bill is introduced before the City should say it supports it.

Member Czeczok stated that the property lies within the City of Brainerd, the County wants nothing to do with Evergreen.

Member Stenglein stated that cities like Brainerd should have the opportunity to support cemeteries if they choose. The topic is bigger than just Brainerd and the Evergreen.

MOVED AND SECONDED BY COUNCIL MEMBERS CZECZOK AND STENGLEIN TO SUPPORT LANGUAGE TO REVISE MINNESOTA STATUTE 471.84 TO INCLUDE HOME RULE CHARTER CITIES WITH THE ABILITY TO FUND CEMETERIES.

Upon roll call Members Czeczok, Stunek, Stenglein, and Bevans voted “aye”. Members Johnson, O’Day, and Terry voted “nay”. The Chair declared the motion carried.

Set Joint Workshop of City Council and the Brainerd HRA on May 30th at 6:00 p.m.

City Administrator Bergman stated that the Brainerd HRA asked to have a joint workshop to discuss the development of the Thrifty White property and the potential for a TIF district.

Member O’Day asked whether there are more topics for the Council and HRA to discuss at the workshop, as these two boards rarely meet together.

MOVED AND SECONDED BY COUNCIL MEMBERS CZECZOK AND STENGLEIN, DULY CARRIED, TO SET THE JOINT WORKSHOP OF THE CITY COUNCIL AND BRAINERD HRA FOR MAY 30, 2023, AT 6:00 P.M. LOCATION TO BE DETERMINED.

Public Forum

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

No one came forward.

The Chair closed the public forum at 8:32 p.m.

Staff Reports

Community Development Director Kramvik stated that at the next Planning Commission meeting there will be considerations for 3 variances.

City Engineer/Public Works Director Dehn stated that Staff received inquiries from Member O’Day about opening East River Road and Evergreen boat landing. Staff determined that at the time of the request there was a river current extended to the parking lot at the Evergreen landing and road conditions were not dry enough to allow vehicles to drive for public safety. Evergreen landing was accessible by foot. On East River Road between Kiwanis and Rotary Parks staff were concerned that the high flood waters may have produced voids in the road, Braun Intertec was enlisted to scan the road for possible voids. It was determined that there is a possible void in that area, Anderson Brothers will core the road in the area to determine the size of the void. Should the void be minimal the road can be reopened. The focus is public safety and preventing cave ins on the road. Finally, Lyman P. White Park’s construction

is nearing completion and contractors are committed to having the grand opening of the park on June 3rd.

Administrator Bergman stated the City has been approached by Strength Studio to purchase the Annex, previously the City has leased the space. The National Association of Realtors applied for a grant to bring professionals into Crow Wing County to explore properties that may be suited for housing developments. The team will be in the area in July. Finally, Administrator Bergman received a call from Commissioner Franzen to request her to serve on the County HRA Board. She is looking for input from the Council before she commits.

The Council was generally supportive. Chair Bevans asked the Council to let Administrator Bergman or himself know if they had concerns.

HRA Director Charpentier is looking forward to the work session. Greater Lakes Association of Realtors have explored the opportunity for interest in Crow Wing County. The HRA Board will be discussing the opportunity at its next meeting.

Mayor Report

Mayor Badeaux stated that if you are available, you should attend the Memorial Day events. The events are moving, and it is great to be a part of the celebrations and memorials. He requested that Mayoral funds be used for purchase of ferns for the gully so it can be called "The Fern Gully".

Council Member Reports

Member Czeczok stated as a note to police that neighbors of the new sober home on D street have observed suspicious behavior.

Member Stenglein stated that the sober home has improved the curb appeal. The Planning Commission will also be discussing the cannabis legislation at the State.

Member O'Day thanked Mr. Dehn for his report. He was concerned about the use of the landing for fishing opener. East River Road was more of a concern for him to be closed for the length of time it has been closed. He would rather the road be open and repair it if it does need to be fixed. There have been vehicles driving around the barriers.

Member Johnson stated that even though the Mayor cannot appoint him to the nights watch with the change in the Charter, he would volunteer his services to write tickets to those trying to have fun and socialize at Memorial Park.

Chair Bevans asked Deputy Chief Davis what exciting thing happens on June 3rd. He welcomed Deputy Chief Davis into his new position and thanked Chief Bestul for his service. The Council will not meet before Chief Bestul's retirement. He stated that the construction on the Northside is moving along quickly, he congratulated Staff for making it palatable.

Adjourn

MOVED AND SECONDED BY COUNCIL MEMBERS STUNEK AND STENGLEIN, DULY CARRIED, TO ADJOURN THE MEETING.

The Chair adjourned the meeting at 8:47 p.m.

Jennifer Bergman
City Administrator

May 15th, 2023