

**Brainerd, MN**  
**August 16<sup>th</sup>, 2021**

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: O'Day, Stunek, Johnson, Pritschet, Stenglein, Erickson, and Bevans. Mayor Badeaux was also noted as present.

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

MOVED AND SECONDED BY ALDERMEN JOHNSON AND PRITSCHET, DULY CARRIED, TO APPROVE THE AGENDA WITH MOVING THE CONSIDERATION FOR CONDITIONAL USE PERMIT FOR THE OPERATION OF A PRIVATE LEARNING CENTER AT 310 N. 7<sup>TH</sup> ST AFTER THE CONSENT CALENDAR.

MOVED AND SECONDED BY ALDERMEN O'DAY AND PRITSCHET TO APPROVE THE CONSENT CALENDAR.

- A. **Approval of Bills- Approved**
- B. **Approval of the Minutes of the Regular Meeting held on August 2<sup>nd</sup>, 2021- Approved**
- C. **Approval of Licenses-Approved**
- D. **Department Activity Reports- Approved**
- E. **Temporary On-Sale Liquor License Application- Submitted by Brainerd Jaycee's for a Community Event- Brainerd Jaycee's Street Fest to be held on September 25<sup>th</sup>, 2021- Approved**
- F. **Minnesota Lawful Gambling Application for Exempt Permit- Central Lakes College Foundation, 501 W College Dr, Brainerd, MN 56401 for a Raffle to be held on September 12, 2021- Approved**

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

**Consideration for Conditional Use Permit for the Operation of a Private Learning Center at 310 N. 7<sup>th</sup> St.- Approved**

City Attorney Langel stated that there has been considerable discussion at the staff level. The City's current zoning ordinance does not define school. Using the State of Minnesota's Education Code Attorney Langel stated that Mr. Erfurth fulfills some of the requirements of a school including having a baccalaureate degree, but he is still not the primary instructor for the students, therefore, does not meet the definition of school using the education code. However, because the City's zoning code does not define school, it is up to the City Council to determine their definition and whether or not to grant a conditional use permit.

Community Development Director Chanski stated that the Planning Commission held to a much broader definition of school, which led to their unanimous recommendation to approve the conditional use permit.

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The Chair opened the floor for public comment.

The Chair recognized James Erfurth, 13216 Highway 18, Brainerd, stated that he is the owner of the Montessori school, and is a homeschool parent himself. The Erfurths and parents of the school have chosen a house as a setting for their homeschool students to do group learning in an environment that is conducive to learning.

The Chair recognized John Berg, 15340 Russel Road, Brainerd, who stated he is a grandparent of 3 Montessori students. He can only speak highly of the schooling that the children are receiving. He urges the City Council to look broadly at the definition and support the conditional use permit as it is a school for children to gather and learn.

The Chair recognized Preston Windorski, 8073 Travis Trail, Brainerd, who stated as a clarification to the definition of the term non-public school to include homeschool.

The Chair recognized Joseph Benson, 9622 S Lively, Brainerd, who stated that he believes that the private learning center is a school. It is a place children gather and learn. If you asked his two children who are technically homeschooled, where they go to school, they would tell you that the center is where they go to school.

The Chair recognized Jim Runberg, 1205 Lakeview Lane, Brainerd, who stated he has been an appraiser for a number of years and appraises loss of value. He is concerned about the parking, traffic, and the fence aesthetic that the owners put up. He requested that the Council require the softening of the fence to better fit the R-1 neighborhood designation.

The Chair closed the floor for comment.

**MOVED AND SECONDED BY STENGLEIN AND O'DAY TO APPROVE A CONDITIONAL USE PERMIT TO OPERATE A PRIVATE LEARNING CENTER AT 310 N. 7<sup>TH</sup> ST WITH THE CONDITION THAT ALL REQUIREMENTS FROM THE STATE OF MINNESOTA AND THE CITY OF BRAINERD BUILDING OFFICIAL ARE MET.**

Member Johnson stated that the Council should suggest fence softening as a condition to the approval of the permit. He is glad to have gotten guidance from Attorney Langel, who was able to answer questions about the definition of a school that he had. He believes a school is a community, which they clearly have in the learning center.

**MOVED AND SECONDED BY STENGLEIN AND O'DAY, DULY CARRIED, TO AMEND THE MOTION TO HAVE THE APPLICANT WORK WITH CITY STAFF TO ADD APPROPRIATE VEGETATION OR SCREENING OF THE FENCE.**

Member Pritschet stated that he believes parents have a duty and responsibility to their child's education, by extending that responsibility in this way they are doing the right thing.

Member O'Day stated that the only concerns he has is if it is the intention to put in a parking lot or change the feel of the home, of which he has received communication that these concerns are not a part of the future plan. He was also concerned about the number of children they intend to teach in the future.

Mayor Badeaux stated that there is no reason for citizens to be concerned about the center because it is a great setting for children to be educated.

Chair Bevans stated his opposition to the permit. The school is in Ward 2 and a number of his constituents have concerns about the use. He is not in opposition of Montessori schools, rather the use of a single-family home for a business. He believes Attorney Langel's definition of school is not being met, and that it is indeed a business. He stated that approval of the permit seemed likely but wanted to remind the applicants that in order to be a part of a neighborhood, you need to be neighborly.

MOVED AND SECONDED BY ALDERMEN STENGLEIN AND O'DAY TO APPROVE A CONDITIONAL USE PERMIT TO OPERATE A PRIVATE LEARNING CENTER AT 310 N. 7<sup>TH</sup> ST WITH THE CONDITION THAT ALL REQUIREMENTS FROM THE STATE OF MINNESOTA AND THE CITY OF BRAINERD BUILDING OFFICIAL ARE MET, FURTHER THAT THE APPLICANT WORK WITH STAFF TO ADD APPROPRIATE VEGETATION OR SCREENING OF THE FENCE.

Chair Bevans called for a roll call vote. Members O'Day, Stunek, Johnson, Pritschet, Stenglein, and Erickson voted "aye". Member Bevans voted "nay". The Chair declared the motion carried.

## **Council Committee Reports**

### **Safety and Public Works**

#### **Consider Policy and Street Light Request- 1604 14<sup>th</sup> Ave NE- Informational**

Committee Chair O'Day stated that the number of streetlights active in the City was reduced in 2008 to reduce cost. There have been several requests for streetlights to be turned back on for various reasons. The committee directed staff to draft a policy for streetlights based on examples from other cities, including aesthetics, for ease of decision making.

### **Personnel & Finance**

#### **Fire Department Relief Association Annual Report- Approved**

Committee Chair Johnson stated that the Brainerd Fire Department Relief Association requested a pension benefit increase. The fund balance is 105% therefore can support the increase.

MOVED AND SECONDED BY ALDERMEN JOHNSON AND STENGLEIN, DULY CARRIED, TO INCREASE THE PENSION BENEFIT TO \$14,750 PER YEAR OF SERVICE.

MOVED AND SECONDED BY ALDERMEN JOHNSON AND STENGLEIN, DULY CARRIED, TO AUTHORIZE STAFF TO SIGN THE FIRE RELIEF ASSOCIATION ANNUAL REPORTS.

#### **Cable TV Committee Recommendation for PEG Channel- Approved**

Committee Chair Johnson stated that the goal is to have an agreement with CLC that is similar to the agreement that the City had with Lakes Media.

MOVED AND SECONDED BY ALDERMEN JOHNSON AND STUNEK, DULY CARRIED, TO AUTHORIZE STAFF TO ESTABLISH AN AGREEMENT WITH CLC THAT WILL REVIVE PUBLIC ACCESS TV, PROVIDE SOME STAFFING FOR OPERATING MEETINGS, AND ALLOW FOR CITY MEETING TO BE BROADCAST ON CABLE.

Committee Chair Johnson stated that Lakes Media is under no legal obligation to return the funds.

MOVED AND SECONDED BY ALDERMEN JOHNSON AND STENGLEIN, DULY CARRIED, TO FORMALLY REQUEST REFUND OF UNSPENT FUNDS CONTRIBUTED TO LAKES MEDIA COLLABORATIVE BE RETURNED TO THE CITY.

#### **Discussion of Assessments at 711 12<sup>th</sup> Ave NE- PID 41190601-Approved**

Committee Chair Johnson stated that the owner of the adjoining lot wants to purchase the tax forfeit lot. The County sells their tax forfeit parcels for market value and add on any assessments to the lot. The discussion from committee was that the City would agree to forgive lot cleanup and utilities assessments but does not want to set precedence on forgiving street assessments.

MOVED AND SECONDED BY ALDERMEN JOHNSON AND STUNEK, DULY CARRIED, TO FOREGO THE COLLECTION OF THE OUTSTANDING ASSESSMENT FOR THE LOT CLEAN UP AND UTILITIES IN THE AMOUNT OF \$2575. FURTHER, TO DIRECT STAFF TO WORK WITH CITY ATTORNEY TO CERTIFY THE STREET IMPROVEMENT AMOUNT \$5,815 OVER 10 YEARS WITH NO INTEREST, IF MS. NIESEN PURCHASES THE TAX FORFEIT LOT.

#### **Request for Sesquicentennial Purchase-Approved**

MOVED AND SECONDED BY ALDERMEN JOHNSON AND STENGLEIN, DULY CARRIED, TO AUTHORIZE RENTING 2 BOUNCY CASTLES, YARD GAMES, AND CHAIRS, AND ALLOTING UP TO A \$750 PRINTING BUDGET FOR A TOTAL OF \$1830 FOR THE SESQUICENTENNIAL CELEBRATION OUT OF THE SPECIAL PROJECTS FUND.

#### **Consider Resolution to Establish a Fire Escrow Account- Approved**

Committee Chair Johnson stated that when a fire or explosion damages a building, it is the responsibility of the property owner to make the necessary repairs to the property to ensure it meets the requirements of the building code in order for a city to allow the building to remain occupied or be reoccupied. However, if the property owner fails to make the necessary repairs, the responsibility may fall on the city to either make the necessary repairs or condemn the building and, ultimately, demolish it. A fire escrow account is funded by direct payment to the City from the property owner's insurer at the time a claim is filed in the amount of the 25% of the actual cash value of the insured's real property. The City holds these funds in the escrow account until the time the necessary repairs are made, or the property is demolished. If the City must make repairs or demolish the building, the City uses the escrowed funds, returning any balance to the property owner upon completion.

MOVED AND SECONDED BY ALDERMEN JOHNSON AND STUNEK TO ADOPT RESOLUTION 48:21 TO ESTABLISH A FIRE ESCROW ACCOUNT.

**RESOLUTION 48:21**

Upon roll call, members O’Day, Stunek, Johnson, Pritschet, Stenglein, Erickson, and Bevans voted “aye”. No member voted “nay”. The Chair declared the motion carried.

**Approval of Loan Subordination- Approved**

Committee Chair Johnson stated that the owner received a grant/loan from the HRA for the property. The owner is refinancing, and the loan needs to be subordinate to the primary lender and the City to have the 2<sup>nd</sup> position on the mortgage. This is standard procedure.

MOVED AND SECONDED BY ALDERMEN JOHNSON AND STENGLEIN, DULY CARRIED TO APPROVE THE SUBORDINATION REQUEST FOR MR. DARIN KRUCHEK, 712 2<sup>ND</sup> AVE NE.

**2020 Tax Increment Financing (TIF) Report Summary- Informational**

Committee Chair Johnson stated that the report summary was submitted on time and published in the Dispatch. Direct any questions to the Finance Director.

**Unfinished Business**

**Final Reading- Proposed Ordinance No. 1519- An Interim Ordinance Placing a Temporary Moratorium on Application to Amend the Zoning Ordinance Including the Official Zoning Map of the City and Directing that Studies of Official Controls Related Thereto be Conducted- Approved**

Community Development Director Chanski stated that this ordinance was originally introduced at the July 19<sup>th</sup> meeting. The interim ordinance will allow for the City to be exempt from the 60-day rule for requests to amend the zoning code while it is being rewritten.

MOVED AND SECONDED BY ALDERMEN STUNEK AND PRITSCHET, DULY CARRIED, TO HOLD AND DISPENSE WITH THE FINAL READING OF THE PROPOSED ORDINANCE NO. 1519.

The Chair opened the public hearing at 8:28 p.m.

No one came forward.

The Chair closed the public hearing at 9:00 p.m.

MOVED AND SECONDED BY ALDERMEN STENGLEIN AND JOHNSON TO ADOPT ORDINANCE NO. 1519 AN INTERIM ORDINANCE PLACING A TEMPORARY MORATORIUM ON APPLICATIONS TO AMEND THE ZONING ORDINANE INCLUDING THE OFFICIAL ZONING MAP OF THE CITY AND DIRECTING THAT STUDIES OF OFFICAL CONTROLS RELATED THERETO BE CONDUCTED.

**ORDINANCE 1519**

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

**Call for Applicants – Informational:**

**(Application Information at [www.ci.brainerd.mn.us/boards/](http://www.ci.brainerd.mn.us/boards/))**

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

Cable TV Advisory Committee – 1 term (Expire 2021) – 2 terms (Expire 2022)

Charter Commission – 1 term (Expire 2022)

Rental Dwelling License Board of Appeals – 3 terms (Expire 2022)

Transportation Advisory Committee (TAC) – 1 term (Expire 2022)

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

Economic Development Authority (EDA) – 1 term (Expire 2021) – 1 term (Expire 2026)

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

Police & Fire Civil Service Commission – 1 term (Expire 2023)

**Ad Hoc Committees – Applicants Needed**

Water Tower Fundraising Committee – Two positions available

**New Business**

**Adopt Resolution Providing for the Issuance and Sale of General Obligation Bonds, Series 2021A, In the Proposed Amount of \$7,880,000- Approved**

Administrator Bergman stated that the resolution included in the packet has been amended, the current resolution was provided by e-mail before the meeting to the council and copies were distributed at the meeting.

The Chair recognized Paul Steinman of Baker Tilly to provide information. Mr. Steinman stated that the bonding request is \$5,915,000 for the Utility Revenue Bonds which includes the water storage tank. The 2021 Improvement projects request is \$1,965,000.

MOVED AND SECONDED BY ALDERMEN PRITSCHET AND JOHNSON TO ADOPT RESOLUTION 49:21 PROVIDING FOR THE ISSUANCE AND SALE OF GENERAL OBLIGATION BONDS, SERIES 2021A, IN THE PROPOSED AMOUNT OF \$7,880,000.

**RESOLUTION 49:21**

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

**Public Forum**

The Chair opened public forum at 8:35 p.m.

Jordan Dusbabek, 6976 Cuyuna Ave, Barrows, was recognized by the chair. He stated that there is a need for a skate park in the City. This park would be great for people of all ages and backgrounds to “sesh” and enjoy a great hobby and sport. He stated that the previous skate park was not successful because of where it was, lack of patrol, need for cameras, and a few bad eggs who ruined it for everyone. He asked the Council to think about creating another park and stated that there are many people who would help to maintain it.

The Chair closed public forum at 8:37 p.m.

### **Staff Reports**

City Engineer/ Interim Public Works Director Sandy stated that there are large circle stickers with a QR code for the MNDOT Highway 210 project at the government centers in the City and major intersections as a way for people to connect to the online open house for the project that runs through September.

Chief Bestul updated the Council on the Upward Bound Fishing with Cops event that was in his department report. There were 24 diverse youth that participated in the event. Agencies included City of Brainerd, MNDNR, State Patrol, Crow Wing County, and other local law enforcement agencies. Each child was provided with lunch and fishing gear that they got to take home. Reactions from the children and officers were both very positive. He is hoping that this event can happen again.

Administrator Bergman stated that Union negotiations have started. Staff met with Senator Ruud to give background on the state bonding projects which, overall, Staff felt was positively received by Senator Ruud. Ms. Bergman was on Community Focus to update on various happenings in the City. The Sesquicentennial events are coming together. Highlights include: the airport kicking off the week with “Take off to the Sesquicentennial”, Mayor Badeaux will be having a City Council alumni event, and there will be a City Hall open house as part of the celebrations that continue throughout the week. Finally, she gave a shout out to the Communications Intern who has been working very hard on the events as well as putting together a new resident packet.

### **Council Member Reports**

Member Stenglein stated that the Unified Fund in partnership with BLAEDC has funding available for small businesses.

Member Stunek stated that he attended the Northside Residents Block Party as well as the Baxter City Block Party. He was very excited to have the firetrucks there for families to see.

Member Johnson attended the Ski Loons event at Lum Park. He stated that it was fantastic and a great partnership for the City. He would recommend attending their last show on August 18<sup>th</sup>.

Member Erickson seconded the recommendation to attend the Ski Loons show, he was also in attendance. The Fire Advisory Board met and discussed the increase in calls for service- this is due to an increase in population as well as the drought. The Arboretum Board meets on August 26<sup>th</sup> and the Planning Commission on the 18<sup>th</sup>. He also commented that the listening sessions with the zoning code consultants was very helpful, he is hopeful that the zoning code update is going in the right direction.

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Member Pritschet is saddened by the string of events that led to the Lakes Area Music Festival to cancel their remaining concerts. He attended the gala and had a fantastic time. He is looking forward to its return in the future.

Member O'Day suggested that the Walkable Bikeable Committee re-establish with direction to contribute to the Highway 210 project to make a better experience for pedestrians and bicyclists.

Chair Bevans thanked Member Johnson for taking on a difficult issue in his absence at the last meeting. He stated that the latest census shows that Brainerd's population increased to 14,395.

### **Mayors Report**

Mayor Badeaux stated that the Park Board will be having another meeting prior to the budget workshop. If members of the Council have any concerns about the Parks budget, please let him know as the liaison to the committee. As a part of the Sesquicentennial Celebration the Water Tower Committee will be hosting Flap jack Fest at the American Legion regular pancake breakfast on Sunday, September 26<sup>th</sup>. To celebrate National Lumberjack Day, there will be a costume contest, pancake eating contest, and pancake races as a part of the event. Finally, he stated that he was initially supportive of the zoning code listening sessions because they would provide better understanding. However, the fact that the sessions were closed to the public changed his opinion. He believes it is important for the public to hear the Council's thoughts and have access to information.

### **Adjourn to Council Budget Workshop on Monday, August 30<sup>th</sup>, 2021, at 6:00 pm- Approved**

MOVED AND SECONDED BY ALDERMEN O'DAY AND STUNEK, DULY CARRIED, TO ADJOURN TO THE COUNCIL BUDGET WORKSHOP ON MONDAY, AUGUST 30<sup>TH</sup>, 2021 AT 6:00 PM IN THE COUNCIL CHAMBERS.

The Chair adjourned the meeting at 9:00 p.m.

  
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Jennifer Bergman  
City Administrator