

SETTLEMENT AGREEMENT AND RELEASE OF ALL CLAIMS

WHEREAS:

1. Community Action Council of Crow Wing County, Inc., a/k/a Brainerd Community Action (“BCA”) is responsible for planning and administering the Fourth of July parade held in the City of Brainerd, Minnesota (“City”) pursuant to a parade permit from the City. As part of that responsibility, BCA coordinates public safety issues and consults with others for such purpose, including relevant public safety officials of the City;

2. The BCA denied entry to The Brainerd Area Coalition for Peace (“BACP”) to participate in the 2003 Brainerd Fourth of July parade, held in the City of Brainerd, Minnesota;

3. BACP believes that such denial violated its and its members rights to free speech under the First Amendment of the U.S. Constitution and similar provisions of the Minnesota Constitution, and BACP and its members have been prepared to initiate litigation to vindicate their rights unless a satisfactory settlement can be reached;

4. BCA and the City would defend any such litigation, asserting, in part, that all actions taken were motivated by good faith concerns about public safety and did not reflect any intent to deprive BACP or its members of their constitutional rights;

5. Nevertheless, the City and the BCA recognize that the First Amendment of the U.S. Constitution and similar provisions of the Minnesota Constitution confer rights upon applicants for parade participation, including the BACP. The City and the BCA further recognize that procedures governing parade participation must be established which accommodate the First Amendment rights of diverse community participants. Legitimate concerns about public safety and protecting the safety of participants involved in the parade must be addressed with due regard for the constitutional rights of applicants. The City and the BCA acknowledge that the entry procedures for participation

that were in place for the 2003 parade must be improved so as not to unconstitutionally limit community participation in this event and to protect the constitutional rights of applicants such as the BACP to participate in future parades. The result of the BCA's denial of BACP's entry for public safety reasons was that BACP was unable to exercise its free speech rights in the 2003 Fourth of July parade; and

6. It is the desire of the BACP, the City and the BCA to resolve differences, disputes, and all threatened and potential claims arising from the denial of the BACP entry to participate in the 2003 Fourth of July parade located in the City of Brainerd, Minnesota. Specifically, the parties to this action are interested in resolving any and all claims for damages, equitable relief and attorneys' fees amicably, in a full and final fashion, by means of this Agreement.

NOW, THEREFORE, IT IS AGREED by and between the parties as follows:

1. A one-half day or evening public symposium of not less than 2 and 1/2 hours addressing "The Right to Free Speech In The 21st Century Under the United States and Minnesota Constitutions," will be held in the City of Brainerd in 2004.

- a. The symposium will be organized by and produced under the auspices of the League of Minnesota Cities (LMC) and presented in the calendar year 2004 at a time and location convenient to residents of the City, as mutually agreed with BACP. All expenses associated with the presentation of this seminar will be borne by the LMC and/or the League of Minnesota Cities Insurance Trust, including reasonable travel costs of the speakers designated as set forth in subsection b. In addition, the City will undertake reasonable efforts to publicize the symposium. At the symposium, there will be a period of at least one-half hour for questions and comments from the public.
- b. Two of the speakers participating in this program, excluding audience members who may participate, will be designated by the Minnesota Civil Liberties Union and two by the LMC. The designated speakers will be prepared to address the constitutional

topics in the manner described in ¶ 2 below.

- c. The Symposium will be publicized and open to members of the public as well as public officials. The City and BCA agree to encourage attendance by the Mayor and City Council members, the Executive Director and Board of Directors of BCA, the City Attorney and the Chief of Police. Likewise, the BACP agrees to encourage its members to attend the Symposium.
- d. The Symposium will be videotaped and copies of the videotape will be made available for viewing to members of the public and public officials. Further, the videotape will be broadcast at least four times on the public access channel, Channel 8.

2. In developing the program for the Symposium, the LMC will identify timely topics, appoint a Moderator and engage speakers and teachers (such as judges and law school or college professors). The agenda will provide for appropriate participation of persons with differing points of view on First Amendment and constitutional law topics. The Symposium is not intended to provide a forum for ad hominem attacks against individuals or organizations. The Moderator will be authorized to take action to maintain decorum.

3. The City and BCA recognize that in order to protect free speech rights, the procedures used to determine participation in the annual Fourth of July parade must be neutral with respect to the content of the speech or message of any proposed parade participant, and based on stated criteria. The current BCA procedures for entry in the Fourth of July parade are attached as Exhibit A. The BCA agrees that any changes to its Fourth of July parade procedures will be timely posted on its web site and incorporated into the entry process.

4. The BCA welcomes participation by the BACP in the 2004 Fourth of July parade, and will act promptly upon BACP's submission of an entry form.

5. In exchange for the acknowledgements, agreements and commitments made in

this Agreement, the BACP and all of its members hereby agree to release and forever discharge the City, the BCA and all of their employees, elected officials, agents, members, volunteers, representatives, attorneys, indemnitors, and successors from any and all past, present or future claims whether known or unknown, demands, obligations, actions, or causes of action, at law or in equity, which are associated with the denial of their entry for participation in the 2003 Fourth of July Parade in Brainerd, whether arising by statute, common law or otherwise, and for all claims for damages, of whatever kind or nature, and for all claims for attorneys' fees, costs and expenses. BACP's release includes, without limiting the generality of the foregoing, actions under the Minnesota and United States Constitutions, 42 U.S.C. sections 1981, 1983, 1985, 1986, 1988, any other federal, state, or local statute or regulation regarding civil rights and discrimination; any theory of libel, slander, defamation, assault, battery, negligence, intentional infliction of emotional distress, any claims of retaliation related to BACP's assertion of claimed rights, or other tort claims; or any other theory under state or common law.

6. The parties and their counsel agree to issue a joint press release as set forth in Exhibit A hereto announcing that resolution of this dispute has been reached without adversarial proceedings, in part based on the commitment of the BCA to improve procedures to better accommodate the rights of parade applicants.

7. BACP, on its own behalf and on behalf of its members, represents that it has been represented by counsel of its own choosing with respect to this Agreement, and all matters covered by and relating to it, and that it has been fully advised by counsel with respect to its rights.

8. Representations of Authority and Warranty of Authorization to Enter this

Settlement on behalf of BACP and its members.

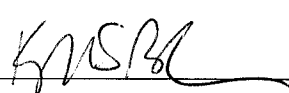


- a. BACP. The individual executing this Agreement on behalf of the BACP and on behalf of each of its members represents and warrants to the City as follows: (i) such individual is and has been duly and fully authorized and empowered to execute, deliver and perform this Agreement, and (ii) any and all necessary consents approvals, votes, meetings and/or hearings have been duly noticed, scheduled and held to authorize, approve and/or ratify this Agreement, and (iii) this Agreement is binding and enforceable as a Release of claims binding members of the BACP as well as the BACP itself.

- b. The City and BCA. The City and the BCA represent and warrant to the BACP as follows: (i) they are fully authorized and empowered to execute, deliver and perform this Agreement, and each and every term of this Agreement as set forth herein, and (ii) any and all necessary consents, approvals, votes, meetings and/or hearings have been duly noticed, scheduled and held to authorize, approve and/or ratify this Agreement, and (iii) this Agreement is binding and enforceable against the City and BCA pursuant to its terms.

IN WITNESS WHEREOF, the parties have executed this Agreement on the respective dates set forth opposite their respective signatures.

BRAINERD AREA COALITION FOR PEACE

Dated: 3-22-04

By   
Its delegate

THE CITY OF BRAINERD *

Dated: _____

By _____
Its _____

COMMUNITY ACTION COUNCIL OF CROW
WING COUNTY, INC. a/k/a BRAINERD
COMMUNITY ACTION

Dated: 3/22/04

By Fancy L Cross

Its Executive Director

3-22-04 — — Clemens Belcher, President

* This Agreement and Release will be recommended to the Brainerd City Council by the three council representatives present at the mediation session conducted on March 22, 2004. This will take place at the City Council meeting to be held on April 5, 2004.

Thomas G. J. J. J.
Brainerd City Attorney

3/22/04

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AMERICAN CELEBRATION PARADE

BRAINERD/BAXTER IS MINNESOTA'S FOURTH OF JULY CAPITAL!

It is time to make plans for your participation in the Fourth of July Parade. The Fourth of July Parade is coordinated by Brainerd Community Action, a private non-profit corporation. Brainerd Community Action intends the parade to be a family event suitable for children of all ages. To ensure a successful parade and celebration, the Fourth of July Committee has adopted the following rules:

1. The parade is limited to 120 units. Participation will be denied to units registering after 120 units have been registered.
2. The maximum length of each unit is 100 feet, with the exception of high school, fire truck units, and special entries.
3. To be registered on the parade roster, all parade units must sign and return the attached "Waiver Agreement," complete and return the entry form, and pay a fee (if applicable).
4. Parade entries will be accepted beginning April 15, 2004, until June 25, 2004. The **ABSOLUTE DEADLINE** for completed parade entries will be **June 25, 2004**, at 5:00 p.m. in the office of Brainerd Community Action.
5. CANDY AND OTHER ITEMS MAY NOT BE THROWN FROM ANY VEHICLES OR FLOATS AT ANY TIME DURING THE PARADE.
6. All commercial units must pay a \$100 entry fee. The fee may be waived under the following circumstances:
 - A. If a donation of an equal or greater amount is made to the Fourth of July Celebration, 213 South Fifth Street, Brainerd, Minnesota 56401.
 - B. If you agree to sponsor a non-profit group or organization in the parade. Please call the Brainerd Community Action office (829-5278) for possible organizations.
7. Any political officeholder or candidate for a political office must pay a \$100 entrance fee, with the exception of Parade Dignitaries.
8. Each horse unit is required to provide for "ROAD APPLE CLEANUP." Please notify Brainerd Community Action to have a road apple cleanup crew provided for an additional fee.
9. The parade will be open to expressions of support for political parties, political candidates, or public issues under the following guidelines:
 - A. Political officeholders or candidates for political office may participate in the parade, subject only to the content-neutral restrictions described in paragraph 10 below.

Entries will be accepted on a first come - first served basis.
Any notice of denial will be sent within ten working days of receipt,
or within three days after the close of the deadline if received after June 20,
and will occur for reasons stated in a written denial notice which are
~~and~~ consistent with the criteria set forth herein.

B. Applicants who seek either to express support for political parties or candidates for office or to express opinions on public or political issues may participate in the parade, subject only to the content-neutral restrictions described in paragraph 10 below.

10. All parade participants shall conduct themselves in a manner appropriate for a family audience of all ages, march in a peaceful and orderly fashion, and participate in a civil manner with respect to other participants and the public. Parade participants shall not use obscenity, profanity, defamation, threats, or fighting words.

The Fourth of July Parade will begin at 5:00 p.m. A letter of confirmation, route map (new route for 2004), directions to access the staging area, the location of water stations and restrooms on the parade route, and the schedule will be sent to you. Before your entry may be registered, the attached forms must be filled out completely and returned to the Brainerd Community Action office.

WE THANK YOU FOR YOUR PARADE ENTRY AND LOOK FORWARD TO ANOTHER SUCCESSFUL FOURTH OF JULY CELEBRATION.

Nancy Cross
Executive Director
Brainerd Community Action

**2004 BRAINERD/BAXTER FOURTH OF JULY CELEBRATION
PARADE ENTRY FORM
FRIDAY, JULY 4, 2004 – PARADE TIME 5:00 P.M.
MINNESOTA'S FOURTH OF JULY CAPITOL**

Yes, we would like to attend
NAME OF UNIT DISPLAYED ON BANNER (IF ANY): _____

SPONSOR'S NAME _____

MAILING ADDRESS _____

CITY _____ STATE _____ ZIP _____

CONTACT PERSON _____

DESCRIPTION OF FLOAT OR UNIT _____

LENGTH OF UNIT _____ (Please Indicate Actual Measurement Of Your Unit)

DO YOU USE MUSIC, PA OR OTHER AMPLIFIED SOUND? _____

ADDITIONAL COMMENTS (for the announcer-use back for more space) _____

JUDGING INFORMATION: PLEASE CHECK THE CATEGORY WHICH PERTAINS TO YOU.

- | | | |
|---|--|-------------------------------------|
| <input type="checkbox"/> MARCHING UNIT | <input type="checkbox"/> COMMERCIAL UNIT | <input type="checkbox"/> POLITICIAN |
| <input type="checkbox"/> NON-PROFIT UNIT | <input type="checkbox"/> ANTIQUE/CLASSIC CARS | (NOT JUDGED) |
| <input type="checkbox"/> OPEN CLASS FLOAT | <input type="checkbox"/> BANDS/DRUM LINE | |
| | <input type="checkbox"/> ANIMAL UNITS (DOGS, HORSES, ETC.) | |

THERE WILL BE SPACE FOR 120 UNITS. ENTRY FORMS WILL BE RECEIVED BEGINNING 4/15/04 UNTIL 6/25/04. THIS FORM MUST BE RECEIVED AT THE COMMUNITY ACTION OFFICE NO LATER THAN 5:00 P.M. ON JUNE 25, 2004.

FAX NUMBER: 218-829-4872

ADDRESS: 213 SOUTH 5TH, BRAINERD, MN 56401

WE WILL MAIL A MAP OF THE PARADE ROUTE AND LOCATION OF NECESSARY SERVICES ALONG WITH YOUR STAGING NUMBER

We'll see you in Brainerd/Baxter,
the Fourth of July Capitol of Minnesota!!!!

**AMERICAN CELEBRATION
WAIVER AGREEMENT FOR RELEASE CLAIMS**

FOURTH OF JULY PARADE

We hereby release and discharge the American Celebration committee and Brainerd Community Action, Inc. (hereinafter referred to as the Committee), the City of Brainerd, and the City of Baxter, their agents, employees, and officers, from all claims, demands, actions, judgments and executions that may arise from participation in the Fourth of July parade. The release includes all claims that I or my child may have or which my child's heirs, executors, or assigns may have against the Committee or the cities for all personal and property injuries caused by or arising out of participation in the Fourth of July Parade.

I have read this release and understand all of its terms. I acknowledge the inherent dangers involved in riding on a float, walking in the parade, riding a horse in the parade or riding a vehicle in the parade, including the dangers created by falling off a moving vehicle or horse, other motor vehicle traffic, street condition and other participants. I voluntarily execute this release. I understand and agree that no one will be able to hold the above named parties liable for any injuries to my child or me.

Signature of Participant

Date

Name of Organization

List of Names participating in your parade unit:

EXHIBIT B

The Community Action Council of Crow Wing County, Inc., a/k/a Brainerd Community Action (“BCA”), the City of Brainerd (“City”) and the Brainerd Area Coalition for Peace (“BACP”) are pleased to announce that they have settled any and all claims that the BACP may have had arising out of the denial by BCA of BACP’s entry to participate in the 2003 Brainerd Fourth of July parade, held in the City of Brainerd, Minnesota.

The settlement reached by the parties reflects their joint efforts to avoid litigation and future problems by adopting procedures for parade participation that are fully consistent with the constitutional free-speech rights of applicants who would like to participate in the parade and the public interest in safety.

In addition to the new procedures, the BCA and the City have, through the League of Minnesota Cities, agreed to sponsor a symposium entitled The Right to Free Speech In The 21st Century Under the United States and Minnesota Constitutions, which will be held in Brainerd in 2004 at a date and time to be announced.

The settlement reached does not involve the payment of any money to BACP, and BACP and its counsel the Minnesota Civil Liberties Union sought no monetary payment. The parties seek through this settlement to advance the First Amendment through better procedures for parade participation and public awareness. The BACP believes that its and its members constitutional rights were violated when they were denied permission to participate in the 2003 July 4th parade. BCA believes that they acted in good faith in denying BACP’s entry based upon legitimate public safety concerns, but have acknowledged constitutional violations may have occurred.

Both sides are pleased that a problem-solving settlement could be reached, and that adversarial litigation could be avoided.