

Barnesville City Council
Regular Meeting
May 10, 2010

Mayor Dahnke called this regular meeting to order at 7:00 p.m. Members present were Mayor Dahnke and Council members Darin Allmaras, Larry Davis, Jr., Del Ellefson, Jeremy Krause, Jason Rick and Merlin Strom. Others in attendance were City Attorney John Shockley, City Administrator Mike Rietz, City Clerk Jeri Reep, Public Works Supt. Dave Riddering, TEC Manager Guy Swenson, EDA Director Karen Lauer, Finance Director Laurie Schell, Brandon Anderson with People Service, Dan Hanson with Ulteig Engineers, Barbara Carlisle, Diane Peterson, Beverly Hanson, Don Larson, Steve Montplaisir and Pam Aakre with the Record Review.

Mayor Dahnke called the meeting to order at 7:00 p.m.

Mayor Dahnke asked City Administrator Mike Rietz to take roll call.

The next item on the agenda was the pledge of allegiance. All rose to recite the pledge of allegiance.

Mayor Dahnke next asked if there were any additions or corrections to the agenda. City Administrator Mike Rietz stated that we need to add the Clay County Fair donation request and CSAH 43 skin patching and seal coating.

05-10-10-01 Motion by Mr. Krause and second by Mr. Rick to approve the agenda and consent agenda as presented, with the additions of the Clay County Fair donation request, and CSAH 43 skin patching and seal coating. Motion carried. The following items were on the consent agenda.

1. Approval of the minutes of the regular meeting held on April 12, 2010.
2. Approval of the minutes of the special meeting held on April 21, 2010.
3. Approval of the minutes of the special meeting held on April 29, 2010.
4. Department head reports.
5. Approval of check numbers 68549-68711 in the amount of \$200,701.64, and EFT payments in the amount of \$189,458.95.
6. Approval to hire the following part-time seasonal Public Works employees:
 - a. Chad Haugrud @ \$8.25 per hour
 - b. Tyler Januscheitis @ \$7.75 per hour
 - c. Matthew Walters @ \$7.75 per hour
7. Approval to purchase DSL modems from Modern Enterprise Solutions, Inc. in the amount of \$2,180.10, plus shipping and taxes.
8. Approval of the Cisco SMARTnet Service Renewal, not to exceed \$2,756.00.
9. Approval to converting the current single year \$5,000.00 utility bond with the State of MN to a continuous utility bond in the amount of \$5,000.00.

10. Approval of the Clay County Fair donation request in the amount of \$1,000.00.
11. Approval to hire the following for Golf Course grounds keeper:
 - a. Ryan LeNoue @ \$7.25 per hour
 - b. Cory Amundson @ \$7.25 per hour
 - c. Christopher Nosal @ \$8.00 per hour
12. Approval to hire the following for the Golf Course Pro Shop:
 - a. Rosalea Cihak @ \$9.00 per hour
 - b. Nancy Kava @ \$9.00 per hour
 - c. Mary Ann Thompson @ \$9.00 per hour
 - d. Gloria Emerson @ \$8.75 per hour
 - e. Wayne Emerson @ \$7.75 per hour
 - f. Kate Hansen @ \$7.75 per hour
13. Approval to hire Annette Dibley as a Liquor Store Clerk @ \$8.86 per hour

Mayor Dahnke stated the next item on the agenda was the board and commission reports.

Council member Merlin Strom stated that Planning & Zoning are working on some language changes. Mr. Strom stated that Joint Powers met in April, and they are looking at updating the Comprehensive Plan.

Council member Jason Rick stated that the Community Education is looking for two new members.

Council member Jeremy Krause stated that the Golf Course is open, and they have had fewer repairs this spring.

05-10-10-02 Motion by Mr. Ellefson and second by Strom to approve the board and commission reports as presented. Motion carried.

Mayor Dahnke stated the next item on the agenda was the public forum.

Mr. Leonard Boone approached the council. Mr. Boone stated that he was speaking for himself, Frank Boone, and Raymond Peppel. Mr. Boone stated that they would like to be de-annexed from the city limits, and become a township resident. Mayor Dahnke stated that they would take his request into consideration.

Mr. Kim Peterson next discussed with council members a new development with a water issue. Mr. Peterson stated that this is leaking from the curb stop. Mayor Dahnke informed Mr. Peterson that this is an agenda item, and would be discussed later in the agenda.

Ms. Barbara Carlisle approached the council and had questions for the council. Ms. Carlisle asked if the agenda could be placed on-line. Asked why council meetings are held on Monday evenings, and if the city could post the agenda a week ahead of time. Asked if the April 21, 2010 council meeting is going to be on the local cable channel.

Stated that she would like to see the revenue and expenses for the Main Street fund. Asked what the total assessed area cost share is for the Front Street improvement.

Mayor Dahnke asked if there were any other citizens present to be heard. There were none.

Mayor Dahnke stated that he would move the discussion of the water service leak in Peterson-Gilbertson Addition next on the agenda. Bree Such was present and stated that she has been having a water leak at her residence at 101 15th Street NE, that she has water under her driveway. Mr. Kim Peterson questioned what type of material was used in the development. Mr. Dan Hanson with Ulteig Engineers stated that the water main and service was tested during the development. After much discussion, this item will be tabled to the June 14th regular council meeting.

Mayor Dahnke stated the next item on the agenda was the 2nd reading of Ordinance 2010-1, an ordinance relating to accessory structures. City Administrator Mike Rietz stated that the Planning and Zoning took the suggested ideas into consideration.

05-10-10-03 Motion by Mr. Davis and second by Mr. Rick to approve the 2nd reading of Ordinance 2010-1. Motion carried.

Ordinance 2010-1

AN ORDINANCE TO AMEND SECTION 11.62 OF THE BARNESVILLE MUNICIPAL CODE RELATING TO ACCESSORY STRUCTURES

BE IT ORDAINED by the City Council of the City of Barnesville that the following Section of the Barnesville Municipal Code is hereby amended by repealing and recreating Section 11.62 to read:

SEC. 11.62. ACCESSORY STRUCTURES IN RESIDENTIAL DISTRICTS

Subd. 1. Structure Placement. No accessory building shall be erected or located within either a front or side yard, except that accessory buildings in residential districts may be permitted in the side yard behind the front building line of the principal structure, provided that the side yard setback required for a principal structure is maintained.

Subd. 2. Ground Coverage/Permitted Structure Size. For lots 10,000 square feet or under in area, the total floor area of any garage(s) and accessory buildings may not exceed 1,000 square feet; for lots over 10,000 square feet to 15,000 square feet the total floor area of any garage(s) and accessory buildings may not exceed 1,200 square feet; for lots over 15,000 square feet to 20,000 square feet the total floor area of any garage(s) and accessory buildings may not exceed 1,400 square feet; for lots over 20,000 square feet to 25,000 square feet the total floor area may not exceed 1,600 square feet; for lots over 25,000 square feet to 30,000 square feet the total floor area of any garage(s) and

accessory buildings may not exceed 1,800 square feet; for lots over 30,000 square feet to 35,000 square feet the total floor area may not exceed 2,000 square feet and for lots exceeding 35,000 square feet the total floor area of any garage(s) and accessory buildings may not exceed 2,200 square feet; and in all cases the total floor area may not exceed the ground coverage of the dwelling, less any attached garage.

Subd. 3. Lot Coverage. No accessory building, structure, and/or detached garage for a single family dwelling shall occupy more than twenty-five percent (25%) of the area of the rear yard. The total area of garages and accessory buildings for a two-family dwelling is limited to 750 square feet per unit.

Subd. 4. Number of Structures. Only one accessory building and/or structure on any single lot except for an accessory building for storage not exceeding one hundred fifty (150) square feet in addition to a detached garage. Buildings such as gazebos, outdoor living rooms and pool enclosures may be constructed in addition to the accessory buildings, subject to the lot coverage requirements.

Subd. 5. Appearance of Structure. Any accessory building which is over 150 square feet or located in the side yard must be similar in design, materials and color to the primary structure located on the lot.

Subd. 6. Construction type. All accessory buildings must be erected on a permanent foundation or anchored to the ground. Storage buildings not on a permanent foundation must be skirted to prevent animals or rodents access under the building or built on a concrete footing.

Subd. 7. Encroachment. All buildings, including those of less than 120 square feet may not encroach into required easements.

Subd. 8. Setback Requirements. No buildings or accessory structures are allowed in required setbacks.

Subd. 9. Height Accessory buildings of 150 square feet or less may not exceed eleven (11) feet in height to the peak. No accessory building over 150 square feet shall be higher than the principal residence. The side walls may not exceed ten (10) feet as measured from the finished floor to the top plate. On properties of 30,000 square feet or larger, accessory buildings in the rear yard shall be allowed to have side walls up to 12 feet as measured from the finished floor to the top plate. Accessory buildings with sidewalls greater than ten feet shall have a required setback of 15 feet from the rear and side property lines.

Subd. 10. Sequential Requirements. No accessory building or structure other than a fence or temporary construction may be constructed prior to the time of construction of the principal building or structure. No accessory building may be constructed on a property where the primary structure is substandard, has safety violations, or is vacant. Upon demolition of the primary structure, the accessory buildings must also be removed

from the lot, unless the demolition permit is issued in conjunction with a building permit for a new primary structure.

Subd. 11. Sequential Requirements – Exceptions. The requirements of Subdivision 10 may be waived in the following circumstances:

1. An accessory building may remain on the lot when the primary structure has been demolished and removed from the lot in accordance with an order of demolition from the city or its building inspector.

Subd. 12. Building Permit Required. Any accessory building which is 120 square feet or larger is required to have a building permit before construction may begin.

EFFECTIVE DATE: This ordinance become effective upon its passage and enactment, followed by publication according to law.

PASSED AND ADOPTED by the Barnesville City Council this 10th day of May, 2010.

By:

Fred Dahnke
Mayor

Attest:

Jeri Reep
City Clerk

First Reading: February 8, 2010
Second Reading: May 10, 2010
Adopted: May 10, 2010
Published: May 17, 2010

Mayor Dahnke stated the next item on the agenda was the Summary Ordinance 2010-1, the summary for the accessory structures ordinance.

05-10-10-4-04 Motion by Mr. Davis and second by Mr. Allmaras to approve the 2nd reading of Summary Ordinance 2010-1. Motion carried.

TITLE AND SUMMARY OF ORDINANCE NO. 2010-1

The following Ordinance is hereby published by title and summary:

1. Title of Ordinance:

An Ordinance to Repeal and Recreate Section 11.62 of the Barnesville Municipal Code relating to Accessory Buildings

2. Summary of Ordinance:

The provisions of this ordinance apply to all accessory structures located in all residential districts within the City of Barnesville. It sets forth the placement, ground coverage, and height, number of structures, appearance, and construction type.

This Ordinance shall take effect upon publication in accordance with the Barnesville City Charter.

3. Availability of Ordinance:

A complete, printed copy of this Ordinance is available for inspection by any person during regular business hours in the office of the City Clerk, Barnesville City Hall, 102 Front Street North, Barnesville, Minnesota.

This Ordinance was passed by the City Council of the City of Barnesville on the 10th day of May, 2010.

APPROVED:

FRED DAHNKE, Mayor

ATTEST:

JERI REEP, City Clerk

1ST Reading: February 8, 2010
2nd Reading: May 10, 2010
Adopted: May 10, 2010
Date of Publication: May 17, 2010

Mayor Dahnke stated the next item on the agenda was the lot merge request for Midwest Regional Development.

EDA Director Karen Lauer informed council members that Clay County requires council approval for all lot merge requests. Midwest Regional Development, LLC is the owner of Block 1, Lots 2 and 3, Heartland 2nd Addition. A buyer has been identified for these lots, provided that the lots are merged into one parcel number.

05-10-10-05 Motion by Mr. Davis and second by Mr. Strom to approve the lot merge request for Midwest Regional Development, LLC for Block 1, Lots 2 and 3, Heartland 2nd Addition. Motion carried.

Mayor Dahnke stated the next item on the agenda was the farm land rent payment for the Commercial Park. City Administrator Mike Rietz informed council members that the city received a bill from Dean's Bulk Service for tree removal and mowing in the Commercial Park. Mr. Rietz stated that the land rent payment should go to the EDA. Mr. Rietz recommended for the Council to reverse their action from October 2009, and allocate the farm rent payment to the EDA budget to offset the cost of clearing the land.

05-10-10-06 Motion by Mr. Davis and second by Mr. Ellefson to reverse their action from October 2009, and allocate the farm rent payment to the EDA budget to offset the cost of clearing the land for the Commercial Park. Motion carried.

Mayor Dahnke stated the next item on the agenda was the Central Office DS-3 upgrade. TEC Manager Guy Swenson informed council members that the equipment in the central office is in need of repair or replacement. The current equipment is 22 years old, and beginning to create problems with service delivery. Mr. Swenson was recommending to

purchase and install 2 Nortel FMT-150 OC-3 MUX's for a cost of \$3,100.00. Mr. Swenson stated that funds are available in the central office upgrade to complete this project.

05-10-10-07 Motion by Mr. Krause and second by Mr. Strom to approve the purchase of 2 Nortel FMT-150 OC-3 MUX's for a cost of \$3,100.00 from Red River Telephone. Motion carried.

Mayor Dahnke stated the next item on the agenda was the Central Office switch upgrade. TEC Manager Guy Swenson informed council members that our current telephone switch is 22 years old and has limited ability to add new functionality. Mr. Swenson was recommending replacing our current switch with a Nortel CS-1500 soft switch. This upgrade will enable to offer voice mailboxes, auto attendant (with online control), and "in house" conference calling, just to name a few of the enhanced features currently not available. The cost to upgrade to the Nortel CS-1500 is \$310,849.00, plus the calyx interface cost plus the cost of the Calix interface. Mr. Swenson stated that this is not a budget item.

05-10-10-08 Motion by Mr. Ellefson and second by Mr. Strom to authorize staff to obtain bids for the Central Office upgrade, a SIP interface-which requires a 56 port DSX Jackfield and an L2/L3 Ethernet Switch. Motion carried.

Mayor Dahnke stated the next item on the agenda was the Wagner Park Wi-Fi proposal. TEC Manager Guy Swenson informed council members that staff would like to begin the process to install Wi-Fi to campers at Wagner Park. Mr. Swenson stated that once the equipment has proven successful, he would meet with the Park board to discuss service level options and pricing before proceeding further. The cost for the NWA3550 dual radio modem and associated cable, antenna, and mounting hardware is \$982.42. Mr. Swenson stated that we could return the dual radio modem, in the amount of \$725.00 if the test does not work.

05-10-10-09 Motion by Mr. Ellefson and second by Mr. Allmaras to approve the purchase of the NWA3550 dual radio modem and associated cable, antenna, and mounting hardware in the amount of \$982.42. Motion carried.

Mayor Dahnke stated the next item on the agenda was the discussion of the Railroad protective insurance. TEC Manger Guy Swenson informed council members that the railroad requires an insurance policy in addition to the coverage the City has through the League of MN Cities. This policy is a "Railroad Protective" and only covers the railroad during construction. The cost of this insurance is \$2,600.00 plus fees and taxes. Mr. Swenson was recommending acquiring the insurance to complete the borings under the railroad tracks.

05-10-10-10 Motion by Mr. Davis and second by Mr. Rick to approve the additional Railroad Protective insurance in the amount of \$2,600.00, plus fees and taxes. Motion carried.

Mayor Dahnke stated the next item on the agenda was the information from People Service. Mayor Dahnke stated that this is information only, stating that the maintenance budget for 2009-2010 was \$7,979.00 over per the O & M Amendment, which left a balance refunded to the City in the amount of \$2,698.00.

Mayor Dahnke stated the next item on the agenda was the 2nd reading of Ordinance 2010-3, an ordinance relating to trees, sidewalks and streets.

City Administrator Mike Rietz stated that no changes have been made to the ordinance since the May meeting.

05-10-10-13 Motion by Mr. Davis and second by Mr. Rick to approve the 2nd reading of Ordinance 2010-3. Motion carried.

ORDINANCE NO. 2010-3

AN ORDINANCE TO AMEND AND REENACT SECTION 7.05 OF THE BARNESVILLE CITY CODE RELATING TO REGULATION OF ICE, SNOW, TREES, GRASS, AND WEEDS ON PUBLIC SIDEWALKS AND STREETS, AND TO REPEAL SECTION 7.20 IN ITS ENTIRETY.

BE IT ORDAINED by the City Council of the City of Barnesville, as follows:

SECTION 1. Section 7.05 of the Barnesville City Code is hereby amended and reenacted to read as follows:

SECTION 7.05. ICE, SNOW, TREES, GRASS AND WEEDS ON PUBLIC STREETS AND SIDEWALKS

Subd. 1. Definitions. As used in this section, the following words and terms shall have the following meanings:

- A. “City” shall mean the City of Barnesville.
- B. “Large Tree” shall mean any plant material that will grow to a height of over 50 feet.
- C. “Medium Tree” shall mean any plant material that will grow to a height of no more than 50 feet.
- D. “Person” shall mean natural persons, firms or partnerships, corporations, joint companies and associations of every kind.
- E. “Public Place” shall mean any public street, the area within the lines of any street or utility right of way, lane, alley, highway, parkway, playground, and any other public grounds or place of any description.

- F. “Public Tree” shall mean any tree, shrub, bush or other woody vegetation growing in any Public Place.
- G. “Private Tree” shall mean any a tree, shrub, bush or other woody vegetation growing on private property within the City.
- H. “Public Utility” shall mean any public, private, or cooperatively owned line, facility or system for producing, transmitting or distributing communications, power, electricity, light, heat, gas, oil products, water, waste or storm water, which directly or indirectly serves the public or any part thereof within the corporate limits of the City.
- I. “Sidewalk” shall mean a walkway for pedestrians located within any public street right of way property line.
- J. “Small Tree” shall mean any plant material that will grow to a height of no more than 30 feet
- K. “Tree Inspector” Shall mean the individual(s) appointed by the City Administrator to serve as tree inspector(s).
- L. “Wires” shall mean electric light, electric power, telephone, telegraph and guy wires, and all other wires of every description in or suspended over public places as herein defined.

~~**Subd. 1. Ice and Snow a Nuisance.** All snow and ice remaining upon public sidewalks in the areas of the City zoned Commercial C-1 and C-2 is hereby declared to constitute a public nuisance and shall be abated by the owner or tenant of the abutting private property within twenty-four (24) hours after such snow or ice has ceased to be deposited.~~

Subd. 2. Public Sidewalk Requirements. Public sidewalks are required in all areas of the City zoned C-1, as well as other areas deemed necessary by the Council which may include but not be limited to school property, church property, residential and business properties not in C-1. Sidewalks are optional in other areas of the City. Sidewalk construction, repair, replacement, or removal where not required are the responsibility of the abutting property owner, and before commencing any such work, a permit must be obtained from the City Administrator.

Subd. 3. Sidewalk Repair. The owner of any property in the city which has a public sidewalk abutting said property shall keep the sidewalk in good repair and in safe condition for pedestrians. Repairs shall be made in strict accordance with specifications and standards on file in the office of the Streets and Parks Superintendent, which are based on DOT *Standards and Specifications for Construction*, 1995 Edition. Before

commencing such repair, the property owner shall obtain a permit from the City Administrator.

Subd. 4. Enforcement. If by inspection by City personnel or by discovery through citizen complaints, the sidewalk is found to be in need of repairs to make it safe for pedestrians, the City shall serve notice to the property owner and order the owner to have the sidewalk repaired and made safe within 30 days of the notification, and stating that if the property owner fails to do so, the repairs will be made by the City, either by contractor or by City crews, and that the expenses thereof must be paid by the owner at 100% of the cost, and that if unpaid it will be made a special assessment against the property concerned.

Subd. 5. Snow and Ice on Public Sidewalks. All snow and ice remaining upon public sidewalks in all zones are hereby declared to constitute a public nuisance and shall be abated by the owner or tenant of the abutting private property within twenty-four (24) hours after such snow or ice has ceased to be deposited.

Subd. 6. City to Remove Snow and Ice. The City may cause to be removed from all public sidewalks, beginning twenty-four (24) hours after snow or ice has ceased to fall, all snow or ice which may be discovered thereon, and it shall keep a record of the cost of such removal and the private property adjacent to which such accumulations were found and removed.

Subd. 7. Cost of Removal to be Assessed. The City Administrator shall, upon direction of the Council, and on receipt of the information provided for in the preceding Subdivision, The City shall bill the property owner 100% of the cost of the snow and ice removal, if after 30 days, the property owner fails to pay said billing, the City Administrator shall upon direction of the Council, and on the receipt of the information provided for in the previous subdivision, extend the cost of such removal of snow or ice as a special assessment against the lots or parcel of ground abutting on walks which were cleared, and such special assessments shall at the time of certifying taxes to the County Auditor be certified for collection as other special assessments are certified and collected.

Subd. 4. Civil Suit for Cost of Removal. The City Administrator shall, in the alternative, upon direction of the Council, bring suit in a court of competent jurisdiction to recover from the persons owning land adjacent to which sidewalks were cleared, as provided in Subdivision 5, hereof, the cost of such clearing and the cost and disbursement of a civil action therefor.

Subd. 8. Tree Trimming in Public Places. No person shall trim, cut, break, injure, remove or destroy any tree now or hereafter growing, standing or located on or within the public places of the City unless such work is done by the City or with prior written permission of the City.

Subd. 9. Tree Planting Requirements.

A. **Planting in Street Right of Way.** Any person may plant any shade tree or ornamental tree in any part of the street right of way between the lot line and pavement, by complying with the following standards:

- i. No tree shall be planted in such a location that its roots will be likely to damage any public sidewalk, any part of the street pavement, or any driveway or parking area.
- ii. No tree shall be planted in such a location that it will at any time block the view of the drivers of vehicles approaching an intersection.
- iii. The written approval of the Tree Inspector must be obtained prior to the tree being planted.

B. **Planting in New Residential, Commercial or Industrial Developments.** Any person may plant any shade tree or ornamental tree in any part of the street right of way between the lot line and pavement within a new residential, commercial or industrial development by complying with the following standards

- i. In conjunction with issuing a building permit, the Tree Inspector will review landscaping plans and may require trees to be planted in any of the streets, parking lots, parks and other public places abutting the lands developed and/or subdivided, in accordance with guidelines established by the City.
- ii. The City shall develop and maintain a list of desirable trees for planting along streets in three size classes: small, medium and large. A list of trees not suitable for planting will also be created and enforced by the City.
- iii. The spacing of street trees will be in accordance with the three species and size classes listed in this Section, and no trees may be planted closer together than the following: small trees, 30 feet; medium trees, 40 feet; and large trees, 50 feet; except in special plantings designed or approved by the Tree Inspector.
- iv. No trees may be planted under or within 10 lateral feet of any overhead utility wire or within ten (10) lateral feet of any underground utility.
- v. The distance trees may be planted from curbs or curb lines and sidewalks will be in accordance with the three species size classes listed in this Section, and no trees may be planted closer to any

curb or sidewalk than the following: small trees, 2 feet; medium trees, 3 feet; and large trees, 4 feet.

- vi. No street tree shall be planted closer than 35 feet to any street corner, measured from the point of nearest intersecting curbs or curb lines. No street tree shall be planted closer than 15 feet to any fire hydrant, nor 5 feet from any driveway.

Subd 10. Trees in Public Places; Planting, Care and Removal.

- A. The City shall have the right to plant, prune, maintain, and remove trees, plants and shrubs within the lines of all street and public right of ways, streets, alleys, avenues, lanes, squares, and public places as may be necessary to insure the public safety or to preserve or enhance the symmetry and beauty of public places.
- B. The Tree Inspector may remove or cause to be removed any public or private tree or part thereof which is in an unsafe condition or which by reason of its location or nature is injurious to or infringes upon any public utility or public improvement, or is affected with any injurious fungus, insect, or other pest. Every tree overhanging any street or right-of-way within the City shall be pruned so that the branches will not obstruct the light from any street lamp or obstruct the view of any street intersection, and so that there is a clear space of at least 8 feet above the sidewalk and 13 feet above the road surface.
- C. Any tree located on City property in the immediate vicinity of any excavation, demolition or construction site of any building, structure, street or utilities work which has potential for injury, shall be protected from such injury by the property owner or contractor.
- D. Owners of property adjacent to street trees shall maintain trees by periodic watering and fertilization of street trees as necessary to maintain good health and vigor and protect the trees against damage caused by lawnmowers, weed trimmers, snow blowers and similar equipment.
- E. In cases where an owner of private real property abutting City property requests City action on street trees or public trees, the requesting owner shall be financially responsible for the following:
 - i. Removal of trees, limbs, or roots preventing house moving or other construction activities
 - ii. Removal of trees, limbs, or roots for the alteration of tree or abutting property appearance where no hazard or nuisance exists;

- iii. Spraying, fertilizing, or treatment other than may be regularly conducted on a City-wide basis by the City.

Subd. 11. Duty of Property Owners to Cut Grass and Weeds. Every owner of property abutting on any street shall cause the grass and weeds to be cut from the line of such property nearest to such street to the center of such street. If the grass or weeds in such a place attain a height in excess of six (6) inches it shall be prima facie evidence of a failure to comply with this Subdivision. Every owner of property abutting on any street shall, subject to the provisions herein requiring a permit therefor, trim, cut and otherwise maintain all trees and shrubs in un Hazardous and healthy condition, from the line of such property nearest to such street to the center thereof. Hence, the property owner bears all of the responsibility, financially and otherwise, for the grass, weeds, and trees on their property including that property nearest to a street to the center thereof.

Subd. 12. City May Order Work Done. The City may, in cases of failure to comply with this Section, perform such work with employees of the City, keeping an accurate account of the cost thereof for each lot, piece or parcel of land abutting upon such street.

Subd. 13. Assessment. If the City performs maintenance work described in the foregoing Subdivision, the City Administrator shall forthwith upon completion thereof ascertain the cost attributable to each lot, piece or parcel of abutting land. The City Administrator shall, at the next regular meeting thereof, present such certificate to the Council and obtain its approval thereof. When such certificate has been approved it shall be extended as to the cost therein stated as a special assessment against such abutting land and such special assessment shall, at the time of certifying taxes to the County Auditor, be certified for collection as other special assessments. The City may also levy administrative fines for violations of this section.

Subd. 14. City Service. The City may, at the discretion of the Public Works Superintendant, and taking into consideration available resources, choose to trim and or remove trees which are on the right of way. Also, the TEC Coordinator may elect to trim around overhead service lines which may not be on the right of way, and which may be causing problems to said lines, also taking into consideration available resources. These services will be done by the City at no cost to the property owner. However, this does not release any of the responsibility of the property owner as stated in Subdivision 11.

SECTION 2. Section 7.20 of the Barnesville City Code is hereby repealed in its entirety.

~~SECTION 7.20. REGULATION OF TREES, GRASS, AND WEEDS IN STREETS.~~

~~———— **Subd. 1. City to Control Tree Planting.** The City shall have control and supervision of planting shrubs and trees upon, or overhanging, all streets and other public~~

property. The City may establish and enforce uniform standards relating to the species and types of trees to be planted, placement and the maintenance and removal thereof.

——— **Subd. 2. Definitions.** As used in this Section, the following words and terms shall have the meanings stated:

- A. **Public Tree**— A tree, shrub, bush or other woody vegetation growing on any public property owned and/or managed by the City.
- B. **Private Tree**— A tree, shrub, bush, or other woody vegetation growing on private property within the City.
- C. **Street Tree**— a tree, shrub, bush or other woody vegetation growing on land lying between property lines on either side of all streets, avenues and boulevards within the City.
- D. **Park Tree**— a tree, shrub, bush or other woody vegetation in public parks having individual names, and all areas owned by the City, or to which the public has free access as a park.
- E. **Small Tree**— Any plant material that will grow to a height of no more than 30 feet.
- F. **Medium Tree**— Any plant material that will grow to a height of no more than 50 feet.
- G. **Large Tree**— Any plant material that will grow to a height of over 50 feet.
- H. **Public Utility**— Any public, private, or cooperatively owned line, facility or system for producing, transmitting or distributing communications, power, electricity, light, heat, gas, oil products, water, waste or storm water, which directly or indirectly serves the public or any part thereof within the corporate limits of the City.

Subd. 3. Tree Planting Requirements; Species; Location.

- A. **Landscaping Plan Review.** In conjunction with issuing a building permit for a new dwelling, or when the development of a new subdivision or commercial property occurs, the Tree Inspector will review landscaping plans and may require trees to be planted in any of the streets, parking lots, parks and other public places abutting the lands developed and/or subdivided, in accordance with guidelines established by the City.

- B. ~~**Tree Species.**~~ The City shall develop and maintain a list of desirable trees for planting along streets in three size classes: small, medium and large. A list of trees not suitable for planting will also be created and enforced by the City.
- C. ~~**Spacing Between Trees.**~~ The spacing of street trees will be in accordance with the three species and size classes listed in this Section, and no trees may be planted closer together than the following: small trees, 30 feet; medium trees, 40 feet; and large trees, 50 feet; except in special plantings designed or approved by the Tree Inspector.
- D. ~~**Planting Near Utilities.**~~ No trees may be planted under or within 10 lateral feet of any overhead utility wire.
- E. ~~**Planting Near Curbs and Sidewalks.**~~ The distance trees may be planted from curbs or curb lines and sidewalks will be in accordance with the three species size classes listed in this Section, and no trees may be planted closer to any curb or sidewalk than the following: small trees, 2 feet; medium trees, 3 feet; and large trees, 4 feet.
- F. ~~**Distance from Corners, Fire Hydrants and Driveways.**~~ No street tree shall be planted closer than 35 feet to any street corner, measured from the point of nearest intersecting curbs or curb lines. No street tree shall be planted closer than 15 feet to any fire hydrant, nor 5 feet from any driveway.
- G. ~~**Special Planting Arrangements.**~~ The City may grant a permit for special planting arrangements that deviate from the requirements of this Subdivision, when special circumstances exist.

Subd. 4. Public Trees; Planting, Care and Removal.

- A. ~~**Care of Public Trees.**~~ The City shall have the right to plant, prune, maintain, and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares, and public grounds as may be necessary to insure the public safety or to preserve or enhance the symmetry and beauty of public grounds. No other planting may be done without consent of the Tree Inspector.
- B. ~~**Removal of Trees Endangering Utilities or Other Public Improvements.**~~ The Tree Inspector may remove or cause to be removed any tree or part thereof which is in an unsafe condition or which by reason of its location or nature is injurious to or infringes upon any public utility or public

~~improvement, or is affected with any injurious fungus, insect, or other pest. Every tree overhanging any street or right-of-way within the City shall be pruned so that the branches will not obstruct the light from any street lamp or obstruct the view of any street intersection, and so that there is a clear space of at least 8 feet above the sidewalk and 13 feet above the road surface.~~

~~C. **Protection of Public Trees Near Construction Activities.**~~

~~Any tree located on City property in the immediate vicinity of any excavation, demolition or construction site of any building, structure, street or utilities work which has potential for injury, shall be protected from such injury by the property owner or contractor.~~

~~D. **Tree Topping Prohibited.**~~

~~It is unlawful for any person to top any street tree, park tree, or other tree on public property. "Topping" is defined as the severe cutting back of limbs to stubs within the tree's crown to such a degree so as to remove normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this Section, as determined by the City.~~

~~E. **Permits Relating to Public Trees.**~~

~~It is unlawful for any person to plant, remove, cut above the ground, or disturb any tree on any street, park, or other public place without first filing an application and procuring a permit from the Tree Inspector. The person receiving the permit shall abide by the standards set forth in this Section.~~

~~F. **Adjacent Landowner Responsibility.**~~

~~Owners of property adjacent to street trees shall maintain the trees by periodic watering and fertilization of street trees as necessary to maintain good health and vigor and protect the trees against damage caused by lawnmowers, weed trimmers, snow blowers and similar equipment.~~

~~1. **Public Trees – Private Property Owner Requests – Financial Responsibility.**~~

~~In cases where an owner of private real property abutting City property requests City action on street trees or public trees, the requesting owner shall be financially responsible for the following:~~

- ~~a) Removal of trees, limbs, or roots preventing house moving or other construction activities;~~

b) Removal of trees, limbs, or roots for the alteration of tree or abutting property appearance where no hazard or nuisance exists;

e) Spraying, fertilizing, or treatment other than may be regularly conducted on a City-wide basis by the City.

2. **Financial Responsibility.**— Financial responsibility does not eliminate the requirement of obtaining necessary permits required by this Section.

Subd. 5. Duty of Property Owners to Cut Grass and Weeds and Maintain Trees and Shrubs.— Every owner of property abutting on any street shall cause the grass and weeds to be cut from the line of such property nearest to such street to the center of such street. If the grass or weeds in such a place attain a height in excess of six (6) inches it shall be prime facie evidence of a failure to comply with this subdivision. Every owner of property abutting on any street shall, subject to the provisions herein requiring a permit therefor, trim, cut and otherwise maintain all trees and shrubs in a non-hazardous and healthy condition, from the line of such property nearest to such street to the center thereof. Hence, the property owner bears all of the responsibility, financial and otherwise, for the grass, weeds, and trees on their property including the property nearest to a street and to the center thereof.

Subd. 6. City May Order Work Done.— The City may, in cases of failure to comply with this Section, perform such work with employees of the City, keeping an accurate account of the cost thereof for each lot, piece or parcel of land abutting upon such street.

Subd. 7. Assessment.— If the City performs maintenance work described in the foregoing Subdivision, the City Administrator shall forthwith upon completion thereof ascertain the cost attributable to each lot, piece or parcel of abutting land. The City Administrator shall, at the next regular meeting thereof, present such certificate to the Council and obtain its approval thereof. When such certificate has been approved it shall be extended as to the cost therein stated as a special assessment against such abutting land and such special assessment shall, at the time of certifying taxes to the County Auditor, be certified for collection as other special assessments are certified and collected.

Subd. 8. City Service.— The City may, at the discretion of the Public Works Supt., and taking into consideration available resources, choose to trim and or remove trees, which are on the right of way. Also, the TEC Coordinator may elect to trim around overhead service lines, which may or may not be on the right of way, and which may be causing problems to said line also, taking into consideration available resources. These services will be done by the city at no cost to the property owner. However, this does not release any of the responsibility of the property owner as stated in Subd. 5.

SECTION 3. This ordinance shall take effect upon publication in accordance with the Barnesville City Charter.

PASSED by the City Council of the City of Barnesville this 10th day of May, 2010.

APPROVED BY:

Mayor

ATTEST:

City Administrator

First Consideration: April 12, 2010
Second Consideration: May 10, 2010
Date of Publication: May 17, 2010

Mayor Dahnke stated the next item on the agenda was the approval of the Summary Ordinance 2010-3.

05-10-10-14 Motion by Mr. Davis and second by Mr. Allmaras to approve the 2nd Reading of Summary Ordinance 2010-3. Motion carried.

TITLE AND SUMMARY OF ORDINANCE NO. 2010 - 3

The following Ordinance is hereby published by title and summary:

1. Title of Ordinance:

An Ordinance to Amend and Reenact Section 7.05 of the Barnesville City Code Relating to Regulation of Ice, Snow, Trees, Grass and Weeds on Public Sidewalks and Streets, and to Repeal Section 7.20 in its entirety.

2. Summary of Ordinance:

The provisions of this ordinance apply to ice, snow, trees, grass and weeds on public streets and sidewalks within the City of Barnesville. It sets forth the care, maintenance

and requirements for planting, care, removal and maintaining of ice, snow, trees, grass and weeds on public streets and sidewalks within the City of Barnesville. It also makes the unlawful removal of trees within the public right of way subject to administrative penalties.

This Ordinance shall take effect upon publication in accordance with the Barnesville city Charter.

3. Availability of Ordinance:

A complete, printed copy of this Ordinance is available for inspection by any person during regular business hours in the office of the City Clerk, Barnesville City Hall, 102 Front Street North, Barnesville, Minnesota.

This ordinance was passed by the City Council of the City of Barnesville on the 10th day of May, 2010.

APPROVED:

Fred Dahnke
Mayor

ATTEST:

Jeri Reep
City Clerk

Date of First Reading: April 12, 2010
Date of Second Reading: May 10, 2010
Date of Publication: May 17, 2010

Mayor Dahnke stated the next item on the agenda was the CSAH 43 skin patching and seal coating. Public Works Supt. Dave Riddering informed council members that this would include 5 blocks of CSAH 43 as part of our skin patching and having it seal coated at the same time we have our area completed. The 2010 area is from 2nd Ave. SE to 5th Ave SE, as well as the "old town" area. The increased area is 7.2%, which we would request reimbursement from the County.

05-10-10-15 Motion by Mr. Allmaras and second by Mr. Rick to approve the skin patching and seal coating for CSAH 43, with Clay County sharing the cost in the amount of 7.2%, based on the actual square footage on the 5 blocks. Motion carried.

05-10-10-16 Motion by Mr. Davis and second by Mr. Rick to adjourn the meeting at 8:05 p.m. Motion carried.

Submitted by:

Jeri L. Reep
City Clerk

Attest:

Fred Dahnke
Mayor