

**Barnesville City Council
Regular Meeting
April 11, 2005**

Mayor Bauer called this meeting to order at 7:00 p.m. Present were Mayor Bauer and Council members Charles Martinson, Del Ellefson, Roger Cooper, Chad Hagen, Kim Simonsen and Guy Swenson. Others in attendance were Deputy Clerk Jeri Davis, EDA Director Karen Lauer, City Attorney Mike Hannaher, Public Works Superintendent Dave Riddering, Animal Control Officer Terry Lapos, General Manager Gerald Dow, Les LaFayette with People Services, Youth Alive Representative Erica Maligen, Harvey Gilbertson, Ed Gilbertson and Pam Aakre from the Record Review.

Mayor Bauer stated that the first item on the agenda for the evening was the pledge of allegiance. All rose to recite the pledge of allegiance.

Mayor Bauer asked if there were any additional items for the agenda. Public Works Superintendent informed council members that the 6th Street NW Street is in poor condition. Mr. Riddering stated that presently the street is closed.

EDA Director Karen Lauer thanked the various departments for the help received in the demolition of the old lumbar yard.

Council member Charles Martinson stated that he had a correction in the minutes. On the March 29, 2005 special meeting, motion 03-29-05-03, motion approved needs to be added.

04-11-05-01

Motion by Mr. Swenson and second by Mr. Martinson to approve the consent agenda with the minute correction as stated. Motion carried. The following items were included in the consent agenda.

1.
Approval of the March 14, 2005 and March 29, 2005 minutes.
2.
Department head reports
3.
Finance report-approval of check numbers 14580-14600, 52873-53010 in the amount of \$308,312.34, and EFT payments in the amount of \$100,563.70.
4.
Approval to hire the seasonal part-time lifeguards as recommended.
5.
Approval to hire Karl Kringler as a full time temporary Street Maintenance I position with the rate of pay at \$8.00 per hour.
- 6.

Approval to hire Thomas Summers, Robert Krauth and Eric Nielsen for the Golf Course with the rate of pay at \$6.50 per hour.

7.

Approval of the Golf Course management board members for the 2005-2006 season.

a.

President-Carroll Swenson

b.

Vice President-Greg Sletten

c.

Secretary-Doris Hanson

d.

Ross Amundson

e.

Mayor Ken Bauer

f.

COO-Michael Brethorst

g.

Chuck Martinson

8.

Approval of the following travel

a.

Jeri Davis-Clerks Institute

b.

Mike Brethorst-Pay Equity

c.

Mike Brethorst-Finance Training

d.

Dave Riddering-Spring Maintenance EXPO

e.

Gerald Dow-TEC

9.

Approval of the gambling license for Barnesville Ducks Unlimited to be held at Old 52 Bar & Grill on April 21, 2005.

Mayor Bauer next went thru the board and commission reports.

Council member Chad Hagen informed council members that the airport is now open. Council member Del Ellefson informed members that the Park Department minutes will try to be included in future agenda packets. Erica Maligen presented the Youth Alive report.

04-11-05-02

Motion by Mr. Ellefson and second by Mr. Hagen to approve the boards and commission reports. Motion carried.

Mayor Bauer next asked if there were any citizens present to be heard. There were none.

Mayor Bauer next informed council members of the following corrections to the agenda. The removal of the health insurance discussion for part-time employees and tabling the Pond/Tower funding discussion until the May meeting.

04-11-05-03

Motion by Mr. Ellefson and second by Mr. Martinson to approve the recommended changes to the agenda. Motion carried.

Mayor Bauer next opened the public hearing for the Gilbertson Annexation at 7:12 p.m. Mayor Bauer asked if there were any citizens present for input, there were no citizens present for or against the proposed annexation. Deputy Clerk Jeri Davis stated that all proper notices have been met. There was no further input for the hearing. Mayor Bauer closed the public hearing at 7:15 pm.

04-11-05-04

Motion by Mr. Cooper and second by Mr. Ellefson to approve the following ordinance for the annexation of certain properties located in Humboldt Township, Clay County, to the city of Barnesville, Clay County Minnesota, pursuant to MN Statues 414.033. Motion carried.

O R D I N A N C E No. 2005-5

AN ORDINANCE PROVIDING FOR THE ANNEXATION OF CERTAIN PROPERTIES LOCATED IN HUMBOLDT TOWNSHIP, CLAY COUNTY, TO THE CITY OF BARNESVILLE, CLAY COUNTY MINNESOTA, PURSUANT TO MINNESOTA STATUTE 414.033

THE CITY COUNCIL OF THE CITY OF BARNESVILLE DOES ORDAIN :

SECTION ONE: That Harvey Gilbertson and Ed Gilbertson, the fee owner of certain property in the County of Clay, State of Minnesota, described as follows:

THAT PART OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 137 NORTH, RANGE 45 WEST OF THE FIFTH PRINCIPAL MERIDIAN, CLAY COUNTY, MINNESOTA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 29; THENCE SOUTH 01°05'59" EAST (ASSUMED BEARING), ALONG THE WESTERLY LINE OF THE NORTHWEST QUARTER OF SAID SECTION 29, FOR A DISTANCE OF 1,716.78 FEET TO THE SOUTHWEST CORNER OF BARNESVILLE I-94

COMMERCIAL ACRES, AS PLATTED, AND THE TRUE POINT OF BEGINNING; THENCE SOUTH 89°58'28" EAST, ALONG THE SOUTHERLY LINE, AND THE SOUTHERLY LINE AS EXTENDED EAST, OF SAID BARNESVILLE I-94 COMMERCIAL ACRES, FOR A DISTANCE OF 2,177.03 FEET; THENCE SOUTH 01°05'59" EAST, PARALLEL WITH THE WESTERLY LINE OF THE NORTHWEST QUARTER OF SAID SECTION 29, FOR A DISTANCE OF 858.00 FEET; THENCE NORTH 89°58'28" WEST FOR A DISTANCE OF 2,177.03 FEET TO A POINT OF INTERSECTION WITH THE WESTERLY LINE OF THE NORTHWEST QUARTER OF SAID SECTION 29; THENCE NORTH 01°05'59" WEST, ALONG THE WESTERLY LINE OF THE NORTHWEST QUARTER OF SAID SECTION 29, FOR A DISTANCE OF 858.00 FEET TO THE TRUE POINT OF BEGINNING.

SAID TRACT OF LAND CONTAINS 42.873 ACRES, MORE OR LESS, AND IS SUBJECT TO A CITY STREET EASEMENT AND TO OTHER EASEMENTS AS MAY BE OF RECORD.

P.I.N: 160290260

Sect/Town/Range: 29 / 137 / 45 W

Location: Land South of the existing Barnesville Commercial Park.

Filed a petition with the City Council of the City of Barnesville pursuant to Section 414.033, Subdivision 2 (3) of the Minnesota Statutes. This property is located within HUMBOLT Township of Clay County. This area contains approximately 42.873 acres of land.

SECTION TWO: That said realty abuts the City of Barnesville and is less than 60 acres in size.

SECTION THREE: That pursuant to Minnesota Statutes Section 414.033, Subdivision 13, the petitioner will see no change in their electric utility service at this time.

SECTION FOUR: That pursuant to Minnesota Statutes Section 414.033, Subdivision 2b, the City of Barnesville has held the required public hearing and notified the town along with all landowners within and contiguous to the area being annexed.

SECTION FIVE: That Council of the City of Barnesville deems the annexation of said realty to the City of Barnesville to be in the best interest of the City of Barnesville and the territory affected and accordingly, said realty is hereby annexed to the City of Barnesville Urban Residential (R2) District so as to become and be part of the City of Barnesville and included within its corporate limits and boundaries thereof.

SECTION SIX: The property taxes payable on the annexed land shall continue to

be paid to the affected town for the year in which the annexation becomes effective. If the annexation becomes effective on or before August 1, of a levy year, the City may levy on the annexed area beginning with that same levy year. If the annexation becomes effective after August 1 of a levy year, the town may continue to levy on the annexed area for that levy year, and the City may not levy on the annexed area until the following levy year. The first year following the year when the City could first levy on the annexed area, property taxes on the annexed land shall be paid to the City. However, the City shall make a cash payment to the town for the period and in accordance with the following schedule:

- i.
In the first year following the year the City could first levy on the annexed area, and amount equal to 90% of the property taxes distributed to the town in regard to the annexed area in the last year the property taxes from the annexed area were payable to the town;
- ii.
In the second year, an amount equal to 70% ;
- iii.
In the third year, an amount equal to 50% ;
- iv.
In the fourth year, an amount equal to 30% ; and
- v.
In the fifth year, an amount equal to 10%.

SECTION SEVEN: This Ordinance shall take effect and be in force one week from and after its publication and is further subject to final approval of Minnesota Planning Municipal Boundary Adjustments.

KENNETH J BAUER
MAYOR

ATTEST: _____
MICHAEL M. BRETHORST
Chief Operating Officer

04-11-05-05

Motion by Mr. Martinson and second by Mr. Hagen to approve the Annexation summary for the newspaper. Motion carried.

SUMMARY OF ORDINANCE 2005-5 PROVIDING FOR THE ANNEXATION OF CERTAIN PROPERTIES LOCATED IN HUMBALT TOWNSHIP, CLAY COUNTY, TO THE CITY OF BARNESVILLE, CLAY COUNTY MINNESOTA, PURSUANT TO MINNESOTA STATUTE 414.033

SECTION ONE: That Harvey Gilbertson and Ed Gilbertson, the fee owner of certain property in the County of Clay, State of Minnesota, described as follows:

THAT PART OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 137 NORTH, RANGE 45 WEST OF THE FIFTH PRINCIPAL MERIDIAN, CLAY COUNTY, MINNESOTA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 29; THENCE SOUTH 01°05'59" EAST (ASSUMED BEARING), ALONG THE WESTERLY LINE OF THE NORTHWEST QUARTER OF SAID SECTION 29, FOR A DISTANCE OF 1,716.78 FEET TO THE SOUTHWEST CORNER OF BARNESVILLE I-94 COMMERCIAL ACRES, AS PLATTED, AND THE TRUE POINT OF BEGINNING; THENCE SOUTH 89°58'28" EAST, ALONG THE SOUTHERLY LINE, AND THE SOUTHERLY LINE AS EXTENDED EAST, OF SAID BARNESVILLE I-94 COMMERCIAL ACRES, FOR A DISTANCE OF 2,177.03 FEET; THENCE SOUTH 01°05'59" EAST, PARALLEL WITH THE WESTERLY LINE OF THE NORTHWEST QUARTER OF SAID SECTION 29, FOR A DISTANCE OF 858.00 FEET; THENCE NORTH 89°58'28" WEST FOR A DISTANCE OF 2,177.03 FEET TO A POINT OF INTERSECTION WITH THE WESTERLY LINE OF THE NORTHWEST QUARTER OF SAID SECTION 29; THENCE NORTH 01°05'59" WEST, ALONG THE WESTERLY LINE OF THE NORTHWEST QUARTER OF SAID SECTION 29, FOR A DISTANCE OF 858.00 FEET TO THE TRUE POINT OF BEGINNING.

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P.I.N: 160290260

Sect/Town/Range: 29 / 137 / 45 W

Location: Land South of the existing Barnesville Commercial Park.

SECTION FIVE: That Council of the City of Barnesville deems the annexation of said realty to the City of Barnesville to be in the best interest of the City of Barnesville and the territory affected and accordingly, said realty is hereby annexed to the City of Barnesville Urban Residential (R2) District so as to become and be part of the City of Barnesville and

included within its corporate limits and boundaries thereof.

A printed copy of this ordinance is available for inspection by any person during regular office hours (Monday through Friday, 8:00 a.m. to 4:30 p.m.) of the City Clerk at City Hall, 102 Front Street, Barnesville, Minnesota.

Public Works Superintendent Dave Riddering discussed with council members the possibility of reducing the amount of Comp time for the Streets and Parks Department and replacing with paid over-time.

04-11-05-06

Motion by Mr. Simonsen and second by Mr. Ellefson to approve paying the Streets and Parks Department for the over-time worked rather than in comp time. Motion carried.

Public Works Superintendent Dave Riddering discussed with council members the possibility of his position being a salary position rather than an hourly position. Mr. Riddering stated that by doing this, the amount of comp time earned would be reduced.

04-11-05-07

Motion by Mr. Simonsen and second by Mr. Swenson to change the Public Works Superintendent position from an hourly position to a salaried position, effective April 17th. In the event that Mr. Riddering would terminate his employment with the city of Barnesville, Mr. Riddering would be paid at a rate for comp time hours of pay prior to his going on a salaried position. Motion carried.

Public Works Superintendent Dave Riddering discussed with council members the quotes that he had received for an ATV 4 x 4 for the Park Department for herbicide spraying and mosquito spraying. Mr. Riddering stated that this was a budgeted item in the amount of \$6,000.

04-11-05-08

Motion by Mr. Cooper and second by Mr. Ellefson to approve the purchase of an ATV 4 x 4 for the Park Department in the amount of \$5,064 from Nelson Polaris. Motion carried.

Mayor Bauer next discussed the replacement of windows at the Old City Hall.

04-11-05-09

Motion by Mr. Simonsen and second by Mr. Hagen to replace windows at the Old City Hall, with funding from the discretionary fund in the amount of \$6,000 and \$3,000 from the building and grounds fund. Motion carried.

General Manger Gerald Dow discussed with council members the bids that he had received for the F550 bucket truck. Mr. Dow stated that the highest bidder was from Ottetail Power in the amount of \$72,000. Council member Charles Martinson asked Mr. Dow what the market value is on this truck. Mr. Dow stated that the truck is like a

demonstrator vehicle and that this truck is definitely worth the bid that Ottertail Power had submitted.

04-11-05-10

Motion by Mr. Martinson and second by Mr. Simonsen to approve the sale of the F550 bucket truck to Ottertail Power in the amount of \$72,000. Motion carried.

General Manager Gerald Dow informed council members that the East feeder route is in need of rehabilitation. Mr. Dow stated that the estimated cost is \$21,000 for the first phase of this project. The funding for the first phase of the project is included in the capital expenditures budget.

04-11-05-11

Motion by Mr. Swenson and second by Mr. Simonsen to approve the expenditure of \$21,000 for the first phase of the East feeder rehab project. Motion carried.

General Manager Gerald Dow discussed with council members the annual oil test conducted on the East Substation transformer. Mr. Dow stated that the testing revealed that hydrogen and methane gas is forming inside the transformer indicating deterioration. Mr. Dow stated that the estimated cost is in the amount of \$14,144.00 from Ulteig Engineering. Mr. Dow informed council that two quotes had been obtained. Mr. Dow stated that this was not a budgeted item.

04-11-05-12

Motion by Mr. Simonsen and second by Mr. Martinson to approve the award to Ulteig Engineers for engineering services required to replace the East substation transformer in the amount of \$14,144. Motion carried.

General Manager Gerald Dow discussed with council members the Universal Service Fund fee. Mr. Dow stated that this is a fee that is required and should be passed onto the customer.

04-11-05-13

Motion by Mr. Swenson and second by Mr. Ellefson to apply the Universal Service Fund fee of \$.72 to the cost each residential and single line business telephone service. A Universal Service Fund fee of \$1.02 to each multi-line business telephone service. These fees will be listed as a line item on the monthly telephone statements no latter than the June 25, 2005 billing. Motion carried.

Mayor Bauer next discussed the Resolution establishing procedures relating to compliance with reimbursement bond regulations under the Internal Revenue Code.

04-11-05-14

Motion by Mr. Simonsen and second by Mr. Ellefson to approve the following resolution. Motion carried.

04-11-05-15

Motion by Mr. Simonsen and second by Mr. Cooper to approve the second reading of the Maintenance Private Property ordinance. Motion carried.

Ordinance 2005 –

**An ordinance amending Chapter 10 (Maintenance of Private Property)
sec. 10.13. Ordinance 2005 - : shall replace in whole with the following:**

Subd. 1. It is the primary responsibility of any owner or occupant of any lot or parcel of land to maintain any weeds or grass growing thereon at a height of not more than five inches, or obviously neglected; to remove all public health or safety hazards there from; to install or repair water service lines upon any property which is improved with commercial or habitable structures; and to treat or remove insect-infested or diseased trees thereon.

Subd. 2. If any such owner or occupant fails to assume the primary responsibility described in Subdivision 1 of this Section, and after notice given by the City Administrator has not within seven days, (24 hours for weed and grass violations) of such notice complied, the City may cause such work to be done and the expenses thus incurred shall be a lien upon such real estate. The City Administrator shall certify to the County Auditor of Clay County a statement of the amount of the cost incurred by the City. Such amount together with interest shall be entered as a special assessment against such lot or parcel of land and be collected in the same manner as real estate taxes.

SECTION TWO: This ordinance shall take effect and be in force 30 days from and after its publication.

Approved this 11th Day of April, 2005

KENNETH J. BAUER
Mayor

ATTEST:

MICHAEL M. BRETHORST
Chief Operations Officer

04-11-05-16

Motion by Mr. Simonsen and second by Mr. Ellefson to approve the second reading of the Public Nuisance ordinance. Motion carried.

Ordinance 2005 -

**An ordinance amending Chapter 10 (Public Nuisance) sec. 10.60
Ordinance 2005 - : shall replace in whole with the following:**

Subd. 1. Unlawful Acts. It is unlawful for any person to maintain a public nuisance by his/her act or failure to perform a legal duty, and for purposes of this Section, a public nuisance shall be defined as any of the following: (1) maintaining or permitting a condition which unreasonably annoys, injures or endangers the public peace, safety, health, morals, decency, comfort or repose of any considerable number of members of the public; or, (2) allowing noxious weeds, including all weeds defined by the State Commissioner of Agriculture to be injurious to public health, roads, crops, livestock, and other property including obviously neglected lawns and/or yards; or, (3) interfering with,

obstructing or rendering dangerous for passage, any street, public right-of-way, or waters used by the public; or, (3) any other act or omission declared by law to be a public nuisance.

Subd. 2. Permitting a Public Nuisance. It is unlawful for any person to permit real property under his/her control to be used to maintain a public nuisance, or let the same to another knowing it is to be so used.

Subd. 3. Notice to Abate. Authorized City personnel shall give notice to any person maintaining a nuisance to abate such practice forthwith or within a designated time, and if the owner or occupant of the premises on which such practice shall be situated shall neglect or refuse to remove or correct the same for more than 24 hours after such notice is given or within the time specified in the notice, the owner shall, upon conviction, be penalized in accordance with this Section. There will be ONLY one notice given within a calendar year for the same nuisance violation. If the nuisance occurs on the same property within that calendar year of the first notice, abatement may proceed without notice and the cost of such abatements will be assessed to the property.

Subd. 4. Cost of Abatement. Any person convicted of maintaining or permitting a public nuisance who fails to abate such nuisance may be charged for abatement costs as incurred by the City. Where abatement is undertaken by City personnel, costs shall be charged at \$50.00 per hour of labor but not less than \$50.00, in addition an administrative fee of \$25.00 per occurrence. Abatement includes, but is not limited to, clearing of yards and mowing of lawns.

SECTION TWO: This ordinance shall take effect and be in force 30 days from and after its publication.

Approved this 11th Day of April, 2005

KENNETH J. BAUER
Mayor

ATTEST:

MICHAEL M. BRETHORST
Chief Operations Officer

04-11-05-17

Motion by Mr. Swenson and second by Mr. Ellefson to approve the second reading of the Trees and Weeds ordinance. Motion carried.

Ordinance 2005-

An ordinance amending Chapter 7 (Regulation of Trees, Grass, and Weeds in Street) sec. 7.20 Ordinance 2005 - : shall replace in whole with the following:

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 actions 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;

(c) 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 five inches or be an obviously neglected lawn and / or yard, it shall be prima facie evidence of a failure to comply with this Subdivision, and become a Public Nuisance, subject to Sec 10.60. Every owner of property abutting on any street shall, subject to the provisions herein requiring a permit therefore, 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.

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.

SECTION TWO: This ordinance shall take effect and be in force 30 days from and after its publication.

Approved this 11th Day of April, 2005

KENNETH J. BAUER
Mayor

ATTEST:

MICHAEL M. BRETHORST
Chief Operations Officer

Mayor Bauer stated that the regular meeting would be adjourned, but they would be having a closed meeting on the Cris Mortenson litigation update.

Mayor Bauer adjourned the regular meeting at 7:45 p.m.

Mayor Bauer next discussed the proposed fencing that Mr. Mortenson had proposed for his property. Council members discussed the proposal from Mr. Mortenson.

Mayor Bauer stated that the litigation process would continue between the two Attorneys and City Council.

Mayor Bauer adjourned the meeting at 8:04 p.m.

Submitted by:

Attest:

Jeri Davis
Deputy Clerk

Kenneth J. Bauer
Mayor