

Barnesville City Council
Regular Meeting
June 12, 2006

Mayor Ken Bauer called this regular meeting to order at 7:00 p.m. Present were Mayor Bauer and council members Larry Davis Jr., Kim Simonsen, Del Ellefson, Chad Hagen, Roger Cooper and Merlin Strom. Also in attendance were City Clerk Jeri Davis, EDA Director Karen Lauer, Police Chief Dean Ernst, Public Works Supt. Dave Riddering, TEC Coordinator Guy Swenson, Gary Giltner with People Service, John Shockley with Onstad Twichell, Brian Stich and Marty Soma with Ulteig Engineers, Inc., Dana and Becky Eggiman, Barbara Carlisle, Jodene Miller, Jerry Emmerich, Mary Nosal, Phil Rogers, and Pam Aakre from the Record Review.

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

Mayor Bauer asked if there were any additional items or amendments to the agenda. The only amendment on the May 8, 2006 minutes was under the board and commission approval, it was Mr. Cooper moved and second by Mr. Hagen to approve the board and commission reports..

06-12-06-01 Motion by Mr. Ellefson and second by Mr. Davis to approve the agenda with the correction to the May 8, 2006 minutes to include under the board and commission reports that it was Mr. Cooper and second by Mr. Hagen to approve the reports. Motion carried.

06-12-06-02 Motion by Mr. Ellefson and second by Mr. Davis to approve the consent agenda as presented. Motion carried. The following items were included in the consent agenda.

1. Approval of the minutes of the regular meeting held on May 8, 2006.
2. Approval of the minutes of the special meeting held on May 15, 2006.
3. Approval of the minutes of the special meeting held on May 30, 2006.
4. Department head reports
5. Finance report-approval of check numbers 55687-55895 in the amount of \$226,973.86 and EFT payments in the amount of \$90,042.24.
6. Hire Tanner Larson and Carl Renecker for part time seasonal work for the public works department, with Tanner Larson receiving \$7.00 per hour and Carl Renecker receiving \$7.50 per hour.
7. Approve the gambling permit for the Barnesville Thursday Nite Lions for August 25, 2006 at Pam's Café.
8. Accept Tom Summers resignation in the Liquor Store.
9. Approve the Barnesville Knights of Columbus liquor license for August 26, 2006.

Mayor Bauer next went thru the board and commission reports.

06-12-06-03 Motion by Mr. Cooper and second by Mr. Strom to approve the board and commission reports as presented. Motion carried.

Mayor Bauer next asked if there were any citizens present to be heard. Ms. Barbara Carlisle approached the podium and handed out a handout to the council members. Ms. Carlisle was dissatisfied with the police department and informed council members of her concerns. Mayor Bauer thanked Ms Carlisle for her comments and informed Ms. Carlisle the Council member Chad Hagen and the Mayor would meet with the Police Chief to discuss her concerns.

Mr. Jerry Emmerich representing the Babe Ruth Baseball program next appeared before the council members. Mr. Emmerich was asking for any monetary donations that the council could provide to the program. Mr. Simonsen suggested that the Babe Ruth Baseball program go to organizations that could help in their request.

Mayor Bauer stated that the next item on the agenda was the request to vacate an alley. EDA Director Karen Lauer informed council members that Dana and Becky Eggiman are in the process of building a new home. The Eggiman's are formally requesting that the alley be vacated. Mrs. Lauer stated that a public hearing would be required.

06-12-06-04 Motion by Mr. Simonsen and second by Mr. Ellefson to hold a special hearing on July 10, 2006 to vacate the alley. TEC Coordinator Guy Swenson stated that the easement would go all the way thru the vacated alley. Motion carried.

Mayor Bauer stated the next item on the agenda was the appointment of the City Attorney. Council members had earlier met with several law firms to interview for the City Attorney position. Council members had voted and the recommendation was with Mr. John Shockley with the Ohnstad Twichell, P. C. law firm.

06-12-06-05 Motion by Mr. Cooper and second by Mr. Simonsen to approve the law firm of Ohnstad Twichell, P.C. and Mr. John Shockley be appointed as the City Attorney effective immediately. The monthly retainer will be \$1800.00 per month. Motion carried.

EDA Director Karen Lauer next discussed with council members the Library of the Future project. Mrs. Lauer stated that the estimated costs for this project are estimated between \$200,000 - \$250,000. Mrs. Lauer informed council members that the Library was working on making funds available. Mrs. Lauer was asking approval to make the changes to the Library building and to proceed with the fund raising.

06-12-06-06 Motion by Mr. Ellefson and second by Mr. Hagen to approve the Library of the Future project and to proceed with the recommended changes to the Library building and to proceed with the fund raising. Motion carried.

Mayor Bauer stated the next item on the agenda was the discussion of the fiber to the premises for the Del Acres/Gilbertson Addition. TEC Coordinator Guy Swenson informed council members that this will expand too many homes, and that this is the long term plan to convert customers to fiber. The estimated cost to provide this service is \$198,109.00.

06-12-06-07 Motion by Mr. Simonsen and second by Mr. Strom to approve the purchase of the equipment and fiber to provide service to the Del Acres/Gilbertson 1st Addition Phase 1, not to exceed \$198,109. Motion carried.

TEC Coordinator Guy Swenson next discussed with council members the request to authorize electrical engineering for the Del Acres/Gilbertson 1st Addition Phase 1. Mr. Swenson stated that this would help in the balance of the entire electrical distribution system.

06-12-06-08 Motion by Mr. Ellefson and second by Mr. Strom to approve the proposal from Ulteig Engineering to provide electrical distribution design and drawings for the Del Acres/Gilbertson 1st Addition-Phase 1, not to exceed \$2500.00. Motion carried.

TEC Coordinator Guy Swenson next informed council members that the Cable TV signals that are received “Off Air” with an antenna are required to be converted to a digital signal by February 2009. The estimated cost is \$2858.00 plus shipping and taxes.

06-12-06-09 Motion by Mr. Simonsen and second by Mr. Ellefson to approve the purchase of the equipment to meet the requirement of the Cable TV signals that are received “Off Air” with an antenna are required to be converted to a digital signal, not to exceed \$2,858.00 plus shipping and taxes. Motion carried.

Mayor Bauer stated the next item on the agenda was the resolution for the Big Stone II Project. TEC Coordinator Guy Swenson informed council members that Missouri River Energy Services is working to expand and improve their generation and transmission capabilities.

06-12-06-10 Motion by Mr. Cooper and second by Mr. Simonsen to approve the following resolution. Motion carried.

**City of Barnesville
of Clay County, Minnesota
Resolution 06-12-06-10
Support For The Big Stone II Project**

WHEREAS: the City of Barnesville is a member of Missouri River Energy Services (MRES), and

WHEREAS: the City of Barnesville purchases all its supplemental power needs from MRES to support its community growth and growing energy needs, and

WHEREAS: MRES has determined that additional base load resources are now necessary to meet the growing needs of all its member municipal electric systems, and

WHEREAS: the Big Stone II Project (BSP II) has been judged to be the most cost effective option to meet the growing needs of Barnesville and other MRES members to ensure rate stability and service reliability on a timely basis, and

WHEREAS: BSP II will incorporate highly efficient technology that will result in a cleaner environment, including a substantial reduction in mercury, sulfur dioxide and nitrogen oxides emissions, and

WHEREAS: BSP II will construct new transmission facilities in the region to improve reliability and in conjunction with other transmission projects in the state will also accommodate development of 800-1,000 MW of additional generation beyond that needed by BSP II, including potential new renewable generation facilities, and

WHEREAS: the City of Barnesville finds this project consistent with its environmental record of 54% hydro power and the balance from the cleanest possible base load generation,

NOW, THEREFORE, BE IT RESOVLED, that the City of Barnesville fully supports the Big Stone II Project generation and transmission facilities, and

BE IT FURTHER RESOLVED, the City urges its state legislators and all state regulators to support the BSP II project base load energy needs of the City and the region, the environmental considerations being shown by the project, the potential for future resource development created by the additional transmission capacity proposed by the project and the cost stability and system reliability BSP II would bring to the area.

Kenneth J. Bauer
Mayor

Mayor Bauer stated the next item on the agenda was the discussion for the electrical distribution materials for the Del Acres/Gilbertson 1st Addition. TEC Coordinator Guy Swenson informed council members the material list for the Del Acres/Gilbertson Addition. Mr. Swenson stated the estimated cost is \$41,000.00.

06-12-06-11 Motion by Mr. Davis and second by Mr. Hagen to approve the expenditure of \$41,000.00 for the purchase of the electrical distribution materials for the Del Acres/Gilbertson 1st Addition-Phase 1. Motion carried.

Mayor Bauer next stated the next item on the agenda was the bids for the Supervisory Controls Replacement for the water treatment facility. Mr. Brian Stich with Ulteig Engineers, Inc. informed council members that only one bid was received. The bid from Telemetry & Process Controls, Inc. in the amount of \$155,640 was the only bid received. The engineers estimate for the project was \$180,000.

06-12-06-12 Motion by Mr. Ellefson and second by Mr. Davis to award the bid for the supervisory controls replacement for the water treatment facility in the amount of \$155,640.00 to Telemetry & Process Controls, Inc. Motion carried.

The next item on the agenda was the discussion of the People Service contract. Council member Kim Simonsen voiced his concerns with the water quality, the fire hydrants that are out of service and several other items. Mr. Simonsen felt that the customers should receive quality water. Gary Giltner with People Service stated that they are up to date on everything, that the lab test shows that everything is fine. Mr. Giltner stated that they would be jetting the sewers soon, and that they are doing everything they can. Mr. Simonsen stated that he was aware of one fire hydrant that has been out of service for over a year now. Mr. Simonsen asked Mr. Giltner to provide to council a timeline to get the projects complete. Council member Larry Davis Jr. asked Mr. Giltner for a list of hydrants that were not working for the Fire Dept. Mayor Bauer stated that this item will be tabled until the July council meeting.

Mayor Bauer stated the next item for discussion was the recommendation for funds allocation for the Public Works Dept. Public Works Supt. Dave Riddering informed council members that the balance of funds be placed between the replacement sinking fund for the street department and the park sinking fund.

06-12-06-13 Motion by Mr. Davis and second by Mr. Cooper to approve the fund allocation as follows: \$9,000 in the street equipment repair and maintenance and the balance of funds \$5,917.50 be placed 50% in the equipment replacement sinking funds for the street department and 50% in the park sinking fund. Motion carried.

Mayor Bauer stated the next item on the agenda was the Minnesota Department of Public Safety Safe & Sober Communities Resolution.

06-12-06-14 Motion by Mr. Ellefson and second by Mr. Hagen to approve the following resolution. Motion carried.

**RESOLUTION 06-12-06-14
CITY OF BARNESVILLE
CLAY COUNTY, MINNESOTA**

RESOLUTION AUTHORIZING EXECUTION OF AGREEMENT

Be it resolved that the Barnesville Police Department enter into a grant agreement with the Minnesota Department of Public Safety, Office of Traffic Safety for the project entitled SAFE & SOBER COMMUNITIES during the period from October 1, 2006 through September 30, 2007.

The Chief of Police, of the Barnesville Police Department is hereby authorized to execute such agreements and amendments as are necessary to implement the project on behalf of the Barnesville Police Department.

Be it further resolved that the Sheriff of Wilkin County is hereby authorized to be the fiscal agent and administer of this grant on behalf of the Barnesville Police Department.

I certify that the above resolution was adopted by the City Council of Barnesville, Minnesota on June 12, 2006.

SIGNED:

WITNESSETH:

Kenneth J. Bauer, Mayor

Jeri L. Davis, City Clerk

The next item on the agenda was the 2nd reading for the Amendment to R-2 Zoning Ordinance.

06-12-06-15 Motion by Mr. Simonsen and second by Mr. Strom to approve the 2nd reading of the R-2 Zoning Ordinance. Motion carried.

**Ordinance 2006-9
City of Barnesville Zoning Amendment
Amending the City Zoning Ordinance**

The City Council of the City of Barnesville does hereby ordain as follows:

WHEREAS, the City of Barnesville did previously enact the Zoning Ordinance in August 1994;

WHEREAS, a section has been identified as needing updating or modification;

NOW THEREFORE: the Zoning Ordinance is hereby amended as follows:

SECTION 9.00

R-2 URBAN RESIDENTIAL DISTRICT

9.01 Purpose: R-2, the Urban District, is designated for land that is presently developed in predominately urban residential lots. The purpose of this district is to permit the continuation and limited expansion of the more densely populated, established sections of the city.

9.02 Permitted Uses:

- a. Agriculture (See Section 26.00)
- b. Single-Family Dwellings
- c. Two-Family Dwellings
- d. Public & Private Schools
- e. Public Parks & Playgrounds
- f. Essential Services
- g. Accessory Uses (See Section 28.00)
- h. Day care facilities serving 12 or fewer persons, residential care facilities serving 6 or fewer persons, and group family day care facilities licensed under Minnesota Rules, parts 9502.0315 to 9502.0445, serving 14 or fewer persons.
- i. Manufactured Housing (See Section 20.00)

9.03 Conditional Uses:

- a. Cemeteries
- b. Home Occupations (See Section 18.01)
- c. Non-Profit Recreational Uses
- d. Nursery Schools
- e. Nursing Homes
- f. Hospitals & Clinics for Humans
- g. Public Utility buildings
- h. Fire Stations
- i. Funeral Homes
- j. Water Recreation & Water Storage
- k. Municipal Buildings & Libraries

- l. Bed and Breakfast Facilities (See Section 18.02)
- m. Planned Unit Residential Projects (See Section 19.00)
- n. Residential Facility for 7 or More Persons
- o. Churches
- p. Daycare facilities serving over 12 people***

9.04 Yard and Lot Requirements:

One Two Accessory

Family Family Structures

Minimum Lot Area 6,000 6,000

Minimum Lot Width

at Setback Line (ft.) 50 50

Minimum Lot Depth (ft.) 120 120

Minimum Rear Yard Setback (ft.) 25 25 [3]

Minimum Front Yard Setback (ft.) [1] [1] 25

Minimum Side Yard Setback (ft.) [2] [2] 5

Maximum Lot Coverage 35% 35%

[1] Twenty-five (25) feet from the property line except on residential streets where the right-of-way is one hundred (100) feet, in which case the setback shall be seventeen and one half (17.5) feet from the property line.

[2] 10% of lot width at front yard setback. Side yard setback on corner lots shall be a minimum of twelve (12) feet from the property line.

[3] Five (5) feet unless a garage entrance faces onto a street, avenue, or alley, the minimum setback will be 18 feet from the property line to accommodate a vehicle from encroaching onto public right-of-way. A setback of ten (10) feet is required if there is a utility easement.

9.05 Garage Space:

All single family homes built, assembled or placed on residential lot must provide, at the minimum, access to and space for sheltered, off-street parking for two standard sized automobiles.

9.06 Permitted Intrusions Into Front Yards:

Uncovered porches and platforms which do not extend above the floor level of the first floor, provided, that they may extend eight feet into the front yard, but in no case will the remaining front yard set be less than 15 feet.

Approved:

Kenneth J. Bauer
Mayor

Attest:

Jeri L. Davis
City Clerk

The next item on the agenda was the Barnesville Child Day Care Center CUP request. EDA Director Karen Lauer informed council members that the Planning Commission recommendation was to approve the CUP Request with the conditions set forth.

06-12-06-16 Motion by Mr. Ellefson and second by Mr. Strom to approve the Barnesville Child Daycare Center CUP request to operate and expand a daycare facility serving over 12 people with the conditions as outlined in the CUP. Motion carried.

EDA Director Karen Lauer informed council members that a motion was necessary to approve the merge on three lots for the Barnesville Day Care Center.

06-12-06-17 Motion by Mr. Simonsen and second by Mr. Cooper to approve the merge of three lots for the Barnesville Child Day Care Center. Motion carried.

EDA Director Karen Lauer next discussed with council members the CUP Request from Karla Pierskalla to move an existing garage onto her property. Mrs. Lauer stated that the Planning Commission is recommending approval with conditions.

06-12-06-18 Motion by Mr. Davis and second by Mr. Strom to approve the CUP Request from Karla Pierskalla to move an existing garage onto the property located at Lots 1 & 2, Block 3, McGrath's 1st Addition, with the conditions as outlined in the CUP. Motion carried.

EDA Director Karen Lauer next discussed with council members the change order to delete the fountain from Quam Construction. Mrs. Lauer had a retention pond agreement prepared and signed by the developer Mr. Delbert Peterson, Mayor Ken Bauer and City Clerk Jeri Davis.

06-12-06-19 Motion by Mr. Simonsen and second by Mr. Ellefson to approve the Retention Pond Agreement as presented. Motion carried.

EDA Director Karen Lauer discussed with council members the electrical quotes and Old City Hall Remodeling project. Mrs. Lauer stated that the balance is \$4,306.21. Council member Kim Simonsen suggested we contact the Clay County jailers to see if they could provide some help in the completion of the work to cut costs.

Mayor Bauer stated the next item on the agenda was the discussion of truck parking by the Old Depot. Council member Larry Davis, Jr. stated that he had talked to Mr. Mike Layton about truck parking in his lot. Mr. Layton is willing to allow up to four truck/trailer parking in his lot. Mr. Philip Rogers questioned if trucks are able to park in front of the depot. Mr. Rogers stated that there is no truck parking on Front Street. After much discussion council members stated that there is no truck parking in front of the Depot.

06-12-06-20 Motion by Mr. Simonsen and second by Mr. Ellefson that no truck parking is allowed in front of the Depot, and that the city will fill in the driveway by the Depot. Motion carried.

EDA Director Karen Lauer next discussed with council members the Old City Hall Remodeling project. Mrs. Lauer discussed the project and expenses to date. Mrs. Lauer presented council members optional items for the project. With the optional items, the project would be over the proposed budget. Council members discussed the optional items, and felt that the carpet replacement could be eliminated.

06-12-06-21 Motion by Mr. Hagen and second by Mr. Ellefson to approve up to \$3,000 in discretionary funds for the Old City Hall Remodeling project, and to remove the carpet estimate. Motion carried.

EDA Director Karen Lauer next discussed the sump pump discharge into the sanitary sewer. Mayor Bauer directed Mrs. Lauer to have the planning and zoning make a recommendation and report back at the July regular council meeting.

Mrs. Lauer next discussed the requirements regarding fences around swimming pools. After some discussion, Mayor Bauer asked City Attorney John Shockley to review and report back at the July regular council meeting.

Mayor Bauer stated the next item on the agenda was the 1st reading amending certain sections of City Code.

06-12-06-22 Motion by Mr. Simonsen and second by Mr. Davis to approve the 1st reading amending certain sections of City Code. Motion carried.

Ordinance 2006-13
City of Barnesville
County of Clay

The Barnesville City Code, a complete codification of the general and permanent ordinances of the City of Barnesville, Minnesota, was adopted by the City Council of the City of Barnesville and went into effect on the 15th day of November, 2004. It is now the

desire of the City Council to amend those certain sections of the City Code as adopted relating to zoning.

The following sections of the City Code related to zoning are hereby repealed:

11.04 Subd. 1	11.37
11.04 Subd. 2	11.40
11.10 Subd. 2b	11.41 Subd.1,2
11.10 Subd. 2	11.43
11.11 Subd 2,3,4,5	11.61
11.12 Subd. 2,3,4,5	11.62
11.13 Subd. 4, 5	11.81 Subd.1,2,3,4
11.14 Subd. 6	11.82 2,3,4
11.20 Subd. 2, 3	
11.21 Subd. 3, 7	
11.30 Subd. 2,3,4,5	
11.31 Subd. 4,5	
11.36 Subd. 3,4,5	

The following ordinances, in place prior to enactment of the City Code are hereby re-adopted since it was never the City Council's intention to repeal them:

2001.11	2002-21
2001.8	2002-7
2001.3	2003-2
2000.2	2003-3
1999.9	2003-5
1999.10	2004-6
2002-2	
2002-13	

In addition, the following amendments adopted after the approval of the City Code are hereby ratified and reaffirmed:

2006-5	2005-14
2006-4	2005-4
2006-3	2005-1
2006-2	

The above referenced ordinances which are adopted and ratified, as set forth above, shall be re-codified and renumbered so that they are inserted in the City Code as follows:

Chapter 11 changes and additions.

This ordinance shall become effective after two readings and publication as required by Minnesota Statutes and the Barnesville City Charter.

WHEREUPON said ordinance was duly declared passed, adopted and approved on the 10th day of July, 2006.

APPROVED:

Kenneth J. Bauer
Mayor

ATTEST:

Jeri L. Davis
City Clerk

Mayor Bauer stated the next item on the agenda was the 1st reading regarding fencing and screening.

06-12-06-23 Motion by Mr. Davis and second by Mr. Strom to approve the 1st reading of the following ordinance. Motion carried.

Ordinance 2006 - X
An Ordinance Amending Barnesville Municipal Code

WHEREAS, the City of Barnesville did previously enact the Municipal Code

WHEREAS, a section has been identified as needing updating or modification;

NOW THEREFORE: the Barnesville Municipal Code is hereby amended as follows:

SEC. 11.61. FENCING AND SCREENING.

Subd. 5. Residential District Fences. All residential fences shall be placed within the property being fenced and conform to the following:

A. Fences along side property lines shall not be more than six (6) feet in height

B. Fences along any rear property line, which is also the rear property line of an

abutting lot, shall not exceed six (6) feet in height.

C. Fences along a rear property line, which line constitutes the side lot line of an abutting lot, shall not exceed six (6) feet in height.

D. The screening provisions for residential districts shall supersede, where applicable, the provisions of this section.

E. All posts or similar supporting instruments used in the construction of fences, shall be faced inward toward the property being fenced.

F. All fences shall not obstruct drainage.

G. All fences located within a utility easement require a conditional use permit.

H. Fences in required front yards shall not exceed thirty-six (36") in height except that fences that are at least seventy five percent (75%) open may be forty eight (48") in height.

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 July 2006.

By:

Mayor
Attest to:

City Clerk

Mayor Bauer stated the next item on the agenda was the first reading of the 17.12 R-1 and R-2 Residential signs.

6.12.6.24.1 Motion by Mr. Simonsen and second by Mr. Ellefson to approve the first reading of the following ordinance. Motion carried.

Ordinance 2006 - X
An Ordinance Amending Ordinance 1994-9, City of Barnesville Zoning Ordinance

WHEREAS, the City of Barnesville did previously enact the Zoning Ordinance in August 2004;

WHEREAS, a section has been identified as needing updating or modification;

NOW THEREFORE: the Zoning Ordinance is hereby amended as follows:

SECTION 17.12

R-1 and R-2 Residential Signs

- a. Residential signs shall not exceed 8 square feet in area and bear only the name and address of the occupants of premises.
- b. No dimension of a sign may be more than three times the other dimension.
- c. The maximum height of any freestanding sign shall be eight (8) feet as measured from the ground to the top of the sign.

d. Churches, schools, hospitals, clinics, libraries or similar uses may be allowed one identification sign, subject to the approval of a conditional use permit, provided that:

- 1. Such signs shall be solely for the purpose of displaying the name of the institution and its activities or services***
- 2. The sign is not to exceed eighty (80) square feet in aggregate area***
- 3. Height is not to exceed 8 feet.***
- 4. Width is not to exceed 12 feet***
- 5. The sign is of a monument styling, rather than pole mounted***
- 6. There is ground landscaping surrounding the base of the sign***
- 7. There are no flashing lights of any type, and***
- 8. such other terms and conditions as may be appropriate and allowed by law***

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 July 2006.

By:

Mayor

Attest to:

Mayor Bauer stated the next item on the agenda was the 2nd reading of the Water Recreation, Water Storage Facilities Ordinance.

06-12-06-25 Motion by Mr. Strom and second by Mr. Ellefson to approve the 2nd reading of the following ordinance. Motion carried.

Ordinance 2006-8
City of Barnesville Zoning Amendment
Amending the City Zoning Ordinance
The City Council of the City of Barnesville does hereby ordain as follows:

WHEREAS, the City of Barnesville did previously enact the Zoning Ordinance in August 1994;

WHEREAS, a section has been identified as needing updating or modification;

NOW THEREFORE: the Zoning Ordinance is hereby amended as follows:

SEC. 11.52. WATER RECREATION AND WATER STORAGE FACILITIES.

Any facility for water recreation with a capacity greater than two thousand (2,000) gallons and/or two (2) feet or more in depth such as private swimming pools, swimming clubs, and commercial fishing ponds, or any other water storage facility such as reservoirs, fish hatcheries, sewage lagoons, and farm ponds shall comply with the following requirements.

Subd. 1. The facility shall conform with the setback requirements.

Subd. 2. The facility shall be enclosed by a fence with a self-closing gate no less than four feet high and no more than four (4) inches from the bottom of the fence to the ground to prevent uncontrolled access.

Subd. 3. The facility, if operated to attract visitors, shall comply with parking requirements established under Off-Street Parking and Loading provisions of this Chapter.

Subd. 4. Before a Zoning Certificate shall be issued to the operator or owner of the facility, a plan shall be submitted to the Board of Adjustment showing the size of the facility, proposed use, parking arrangement and use of buildings on the site, surrounding properties and their usage, and any other pertinent information.

Provided however that the foregoing terms and conditions should not apply to stormwater retention or detention ponds, but that stormwater retention or detention ponds must comply with Storm Water Management ordinances.

Section 11.55 should be added as shown:

STORM WATER MANAGEMENT The purpose of this ordinance is to promote, preserve and enhance the natural resources within the City of Barnesville and protect them from adverse effects brought about by poorly sited development or incompatible activities by regulating land disturbing or development activities that would have an adverse and potentially irreversible impact on water quality.

Subd. 1. Scope and Effect

Effective at the date of adoption of this ordinance, every applicant for a single building project or a subdivision which would disturb five (5) acres or more must submit a storm water management plan to the City of Barnesville Zoning Officer and apply for a General Storm Water Permit through the Minnesota Pollution Control Agency.

No building permit, or subdivision approval to allow land disturbing activities shall be issued until approval of the storm water management plan or a waiver of the approval requirement has been obtained in strict conformance with the provisions of this ordinance.

Subd. 2. Criteria for Permanent Facilities

An applicant shall install or construct on or for the proposed land disturbing or development activity, all storm management facilities necessary to manage increased runoff so that the ten-year storm peak discharge rates existing before the development shall not be increased. An applicant may also make an in-kind or monetary contribution to the development and maintenance of community storm water management facilities designed to serve multiple land disturbing and development activities undertaken by one or more persons, including the applicant.

Subd. 3. Design Standards

Storm Water detention facilities constructed in the City of Barnesville shall be designed according to the most current technology using Best Management Practices as reflected in the MPCA publication "Protecting Water Quality in Urban Areas", dated March 2000 and any amendments thereto.

Approved:

Kenneth J. Bauer
Mayor

Attest:

Jeri L. Davis
City Clerk

06-12-06-26 Motion by Mr. Simonsen and second by Mr. Ellefson to approve the 2nd reading of the following ordinance.

ORDINANCE NO. 2006-10

AN ORDINANCE TO CREATE AND ENACT CHAPTER 2.18 OF THE BARNESVILLE MUNICIPAL CODE RELATING TO ADMINISTRATIVE CITATIONS AND CIVIL AND CRIMINAL PENALTIES

WHEREAS the District Court of Clay County in cooperation with the City of Barnesville has established a criminal diversionary program, whereby the City of Barnesville, for violations of Chapter 10.17 of the Barnesville Municipal Code, instead of filing a criminal complaint, may commence an administrative action pursuant to Chapter 2.18 of the Barnesville Municipal Code.

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

SECTION 1. Chapter 2.18 of the Barnesville Municipal Code is hereby created and enacted to read as follows:

CHAPTER 2.18

ADMINISTRATIVE CITATIONS AND CIVIL PENALTIES.

Subd. 1 Purpose. The City Council finds that there is a need for alternative methods of enforcing the City Code. While criminal fines and penalties have been the most frequent enforcement mechanism, there are certain negative consequences for both the City and the accused. The delay inherent in that system does not ensure prompt resolution. Citizens resent being labeled as

criminals for violations of administrative regulations. The higher burden of proof and the potential of incarceration do not appear appropriate for most administrative violations. The criminal process does not always regard City Code violations as being important. Accordingly, the City Council finds that the use of administrative citations and the imposition of civil penalties is a legitimate and necessary alternative method of enforcement. This method of enforcement is in addition to any other legal remedy that may be pursued for City Code violations.

Subd. 2 General Provisions.

A. A violation of the provisions of Chapter 10.17 of the City Code, in addition to being a possible criminal violation, is an administrative offense that may be subject to an administrative citation and civil penalties. Each day a violation exists constitutes a separate offense. The City may elect to pursue either the administrative offense or the applicable criminal offense, but not both for the same offense.

B. An administrative offense may be subject to a civil penalty not exceeding \$2,000.00.

C. The City Council must adopt by resolution a schedule of fines for offenses initiated by administrative citation. The City Council may adopt a schedule of fees to be paid to administrative hearing officers.

D. The City Clerk must adopt procedures for administering the administrative citation program.

Subd. 3 Administrative Citation

A. A person authorized to enforce provision of Chapter 10.17 of the City Code may issue an administrative citation upon belief that a code violation has occurred. The citation must be issued in person or by mail to the person responsible for the violation or attached to the motor vehicle in the case of a vehicular offense. The citation must state the date, time, and nature of the offense, the name of the issuing officer, the amount of the scheduled fine, and the manner for paying the fine or appealing the citation.

B. The person responsible for the violation must either pay the scheduled fine or request a hearing within seven (7) days after issuance. Payment of the fine constitutes admission of the violation. A late fee of one (1) percent shall be imposed for each day that the requested penalty remains unpaid after the due date, except that said late charge shall be suspended in the event an administrative hearing is requested on or before the due date.

Subd. 4 Administrative Hearing.

A. Any person contesting an administrative offense pursuant to this Chapter may within seven (7) days of the time of issuance of the notice request a hearing by the hearing board who shall forthwith conduct an informal hearing to determine if a violation has occurred.

B. Notice of the hearing must be served in person or by mail on the person responsible for the violation at least ten (10) days in advance, unless a shorter time is accepted by all parties.

C. The hearing board has the authority to determine that a violation occurred, to dismiss a citation, to impose the scheduled fine, and to reduce, stay or waive scheduled fine either unconditionally or upon compliance with appropriate conditions. When imposing a penalty for violation, the hearing office may consider any or all of the following factors.

D. +

a.the duration of the violation;

b.the frequency or reoccurrence of the violation;

c.the seriousness of the violation;

d.the history of the violation;

e.the violators conduct after issuance of the notice of hearing;

f.the good faith effort by the violator to comply;

g.the economic impact of the penalty on the violator;

h.the impact of the violation upon the community; and

i.any other factors appropriate to a just result.

The hearing board may exercise discretion to impose a fine for more than one day of continuing violation, but only upon a finding that (1) the violation caused a serious threat of harm to the public health, safety, or welfare or that (2) the accused intentionally and unreasonably refused to comply with the Code requirement. The hearing boards decision and supporting reasons must be in writing.

5.E. The failure to attend the hearing constitutes a waiver of the violator's rights to an administrative hearing and an admission of the violation. A hearing board may waive this result upon good cause shown. Examples of "good cause" are: death or incapacitating illness of the accused; a court order requiring the accused to appear for another hearing at the same time; and lack of proper service of the citation or notice of the hearing. "Good cause" does not include: forgetfulness and intentional delay.

**Subd. 5 Administrative
Hearing Board**

The Hearing Board will consist of three individuals. Two individuals will be selected by the City Council at their January meeting and serve for that calendar year. The third individual will be one of the two City Council representatives of the ward in which the violation has occurred. The City Clerk will schedule the hearing.

Subd. 6 Recovery of Civil Penalties

- A. If a civil penalty is not paid within the time specified, it will constitute:
 - 1. A lien on the real property upon which the violation occurred if the property or improvements on the property was the subject of the violation and the property owner was found responsible for that violation; or
 - 2. A personal obligation of the violator in all other situations.
- B. A lien may be assessed against the property and collected in the same manner as taxes.
- C. A personal obligation may be collected by appropriate legal means.
- D. Any penalty imposed after the hearing shall become payable within seven days after notice is mailed or personally served, and a late fee of one (1) percent shall be imposed for each day that the requested penalty remains unpaid after the due date.
- E. Failure to pay a fine is grounds for suspending or revoking a license related to the violation.
- F. The City may request the District Court, after a hearing, to hold the violator in contempt of court for not paying the fine, and the Court may impose any such penalties that the Court could impose for not paying a fine for a criminal sentence imposed by the District Court.
- G. If the final adjudication in the administrative penalty procedure is a finding of no violation, then the City may not prosecute a criminal violation in district court based on the same set of facts. This does not preclude the City from pursuing a criminal conviction for a violation of the same provision based on a different set of facts.
- I. For as long as the administrative penalty (and any late charges) remain unpaid, the City reserves the right to charge and prosecute the

violator for a petty misdemeanor or misdemeanor consistent with applicable statutes and ordinances, in which case the administrative penalty will be dropped.

SECTION 2. 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 12th day of June, 2006.

APPROVED:

ATTEST:

KENNETH BAUER, Mayor

JERI DAVIS, City Clerk

Mayor Bauer stated the next item on the agenda was the appointment of Code Official to administer Property Maintenance Standards. EDA Director Karen Lauer informed council members that Building Inspector Roland Holm has agreed to do this.

06-12-06-27 Motion by Mr. Strom and second by Mr. Hagen to appoint Mr. Roland Holm as the Code Official to administer Property Maintenance Standards. Motion carried.

Mayor Bauer adjourned the meeting at 9:10 p.m.

Submitted by:

Attest:

Jeri L. Davis
City Clerk

Kenneth J. Bauer
Mayor

