

**Barnesville City Council  
Regular Meeting  
October 9, 2006**

Mayor Ken Bauer called this regular meeting to order at 7:00 p.m. Present were Mayor Bauer and Council members Roger Cooper, Larry Davis, Jr., Del Ellefson, Chad Hagen, Kim Simonsen and Merlin Strom. Also in attendance were City Clerk Jeri Reep, Finance Director Joel Haugrud, EDA Director Karen Lauer, TEC Coordinator Guy Swenson, Public Works Supt. Dave Riddering, Police Chief Dean Ernst, City Attorney John Shockley, Karla Olson and Seth Lynn with Ulteig Engineers, Merlin Melby, Earl Foss, Del Peterson, Kim Peterson, and DeLyle Fankhanel.

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

Mayor Bauer next called on City Clerk Jeri Reep to take roll call. Mayor Bauer asked if there were any additions to the agenda. The only addition was the approval of a Digital Receiver.

**10.6.6.1** Motion by Mr. Davis and second by Mr. Ellefson to approve the agenda as presented. Motion carried.

**10.6.6.2** Motion by Mr. Davis and second by Mr. Strom 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 September 11, 2006.
2. Department head reports.
3. Finance report-approval of check numbers 56570-56787 in the amount of \$612,410.27 and EFT payments in the amount of \$105,073.89.
4. Approval of Barnesville Dollars for Scholars to use the Council Chambers on October 28<sup>th</sup> and 29<sup>th</sup>, 2006.
5. Approval of travel for Guy Swenson to attend the Missouri River Annual Meeting.
6. Approval of travel for Guy Swenson and Ione Hammer to attend the NECA Training.

Mayor Bauer next went thru the board and commission reports.

**10.6.6.3** Motion by Mr. Cooper and second by Mr. Hagen to approve the board and commission reports as presented. Motion carried.

Mayor Bauer next asked if there were any citizens present to be heard.

Mr. DeLyle Fankhanel approached the podium and discussed with council members a letter that he had received from the city in regards to truck parking. After discussion, the council directed Police Chief Dean Ernst to work with Mr. Fankhanel to work on a solution to the parking issues and report back at the November council meeting.

Mr. Earl Foss with Blue Eagle Town homes next approached the podium to discuss the garbage pickup at his Town homes. Mr. Foss was looking at suggestions for his tenants for garbage pickup. Mr. Foss stated that Fuchs Sanitation will only pick-up at a certain location at the Town homes. Council member Cooper and Davis suggested staying in contact with Fuchs Sanitation to come up with a solution for garbage pickup at the Blue Eagle Town homes.

Mr. Merlin Melby next approached the podium to discuss the “Library of the Future” project. Mr. Melby discussed with council members the status of the project. Mr. Melby informed council members that they would like to add on to the existing Library, adding to the North of the existing building. Mr. Melby stated that they were looking at ways to fund the project, and that this is going to be the future of this town and community. Council members had no further questions for Mr. Melby.

Mayor Bauer stated the next item on the agenda was the insurance waiver to waive the insurance limit in order to have \$1,000,000 of coverage for municipal tort liability claims.

**10.6.6.4** Motion by Mr. Simonsen and second by Mr. Ellefson to waive the monetary limits on tort liability established by Minnesota Statutes 466.04, to the extent of the limits of the liability coverage obtained from LMCIT. Motion carried.

Mayor Bauer stated the next item on the agenda was the Business DSL Speed increase. TEC Coordinator Guy Swenson discussed with council members the DSL speed for the business customers. Mr. Swenson stated the fees will stay the same for the customers.

**10-06-06-05** Motion by Mr. Simonsen and second by Mr. Ellefson to approve the 1<sup>st</sup> reading of Ordinance 2006- 22. Motion carried.

## **Ordinance 2006-22**

### **An ordinance amending Ordinance 2006-17 AN ORDINANCE TO ESTABLISH THE RATES AND CHARGES FOR BROADBAND AND INTERNET SERVICE**

**WHEREAS:** The City of Barnesville did previously enact Ordinance 2006-17 an ordinance to establish charges for broadband and internet service.

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

**NOW THEREFORE:** Ordinance 2006-17 is hereby amended as follows:

HOME OFFICE/SMALL BUSINESS/BUSINESS

1.	\$49.90	<del>256</del> <b>384</b> kbps	128 kbps
2.	\$64.90	<del>312</del> <b>512</b> kbps	128 kbps
3.	\$84.90	<del>584</del> <b>640</b> kbps	128 kbps

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

**PASSED AND ADOPTED** by the Barnesville City Council this 13<sup>th</sup> day of November 2006

Approved this 13<sup>th</sup> Day of November, 2006

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KENNETH J. BAUER  
Mayor

ATTEST:

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Jeri L. Reep  
City Clerk

Mayor Bauer stated the next item on the agenda was the discussion of the Motorola DSL Line Cards. TEC Coordinator Guy Swenson informed council members that the DSL customers continue to grow, and we need an additional six DSL line cards, the estimated cost is \$3,312.00 plus shipping.

**10.10.6.6** Motion by Mr. Cooper and second by Mr. Ellefson to approve the purchase of six DSL line cards, not to exceed \$3312.00 plus shipping charges. Motion carried.

Mayor Bauer stated the next item on the agenda was the DSL Modems/Port Cards. TEC Coordinator Guy Swenson discussed with council members the 128 speed DSL promotion. Mr. Swenson stated that the promotion has been greater than anticipated.

Mr. Swenson stated that we need an additional 15 line cards and 20 additional modems. Mr. Swenson stated that this is not a budgeted item.

**10.10.6.7** Motion by Mr. Simonsen and second by Mr. Ellefson to purchase the additional DSL line cards and modems, not to exceed \$10,800.

Mr. Swenson informed council members that the cost is \$12,060.00.

Mr. Simonsen amended his motion, second by Mr. Ellefson to allow staff to purchase the 30 modems and 15 line cards in the amount of \$12,060.00. Motion carried.

Mayor Bauer stated the next item on the agenda was the Digital Receiver discussion. TEC Coordinator Guy Swenson discussed with council members the purchase of a digital receiver for Channel 58. The estimated cost is \$1,000.

**10-10-06-08** Motion by Mr. Simonsen and second by Mr. Strom to approve the purchase of a digital receiver for Channel 58, not to exceed \$1,000. This expenditure is to be from the Cable budget. Motion carried.

Mayor Bauer stated the next item on the agenda was the pay request from Visser Scraper Service.

**10.10.6.9** Motion by Mr. Cooper and second by Mr. Hagen to approve the Partial Payment No. 4 from Visser Scraper Service in the amount of \$194,751.96. Mayor Ken Bauer questioned if the rock negotiation has been settled yet. Mr. Seth Lynne with Ulteig Engineers stated that it has not been paid yet. Motion carried.

Mayor Bauer stated the next item on the agenda was the Stabilization Pond System Expansion Change Order. Mrs. Karla Olson with Ulteig Engineers discussed the Change Order. Mrs. Olson stated that Visser Scraper was asking for a 30 day time extension with the substantial completion date of December 15, 2006. There is no change to the final completion date. The other change order is the costs related to the excavation and plan changes due to the suitable soils. This cost has been reduced by \$41,829. Public Works Supt. Dave Riddering stated that he did not see a problem with this 30 day extension.

**10.10.6.10** Motion by Mr. Cooper and second by Mr. Ellefson to approve the Change Order No. 2 from Visser Scraper Service for the Stabilization Pond System Expansion. Motion carried.

Mayor Bauer stated the next item on the agenda was the discussion of the life guards at the Blue Eagle Lake. Public Works Supt. Dave Riddering informed council members that due to the Child Labor Laws, it is very difficult to adequately staff the beach. Mr. Riddering stated that if there were no lifeguards on duty, a sign would be posted. Council member Kim Simonsen stated that some parents may be upset with no lifeguards at the

lake. Council member Chad Hagen stated that Community Education may continue with the swimming lessons. After much discussion, this item will be tabled until the November regular council meeting.

Mayor Bauer next item on the agenda was the 2<sup>nd</sup> Reading of Ordinance 2006-19. The Special Assessment Deferral Policy.

**10.10.6.11** Motion by Mr. Hagen and second by Mr. Strom to approve the 2<sup>nd</sup> Reading of Ordinance 2006-19. Motion carried.

**CITY OF BARNESVILLE  
COUNTY OF CLAY  
ORDINANCE 2006-19**

**AN ORDINANCE TO AMEND SECTION 2.72 OF THE  
BARNESVILLE  
MUNICIPAL CODE RELATING TO SPECIAL ASSESSMENT DEFERRALS**

BE IT ORDAINED by the City Council of the City Of Barnesville that  
Section

11.36 is hereby amended as follows:

**SEC. 2.72. SPECIAL ASSESSMENT DEFERRMENT POLICY; HOUSING DEVELOPMENTS.**

**Subd. 1.** The City hereby establishes the policy to defer special assessments upon all surface and subsurface improvements for single-family residential developments as follows:

- A. 1 to 9 housing units in one subdivision plat: No deferral;
- B. 10 to 20 housing units in one subdivision plat: 2-year deferral;
- C. Over 20 housing units in one subdivision plat: 5-year deferral.

**Subd. 2.** Subdivision plats may not be combined or added together to increase the deferral period and there will be no deferrals allowed in connection with Tax Increment Housing Districts.

**Subd. 3.** For any lot which has been granted a 5-year deferral as specified above, the deferral for said lot shall end when **THE LOT IS SOLD OR** a building permit is issued for construction on said lot, **WHICHEVER**

**OCCURS FIRST. AT THAT TIME,** ~~When the building permit is issued,~~ the City Clerk-Treasurer shall certify the special assessments to the County Auditor for collection.

**Subd. 4.** Any special assessments not certified to the County Auditor shall be deferred one year when a licensed contractor obtains a building permit for a single family house to be built on the basis of speculation and certifies the same. Assessments will be certified to the County Auditor the year following the issuance of the building permit.

**Subd. 5.** A 15-year amortization period will be allowed on special assessments deferred pursuant to this Section. The first year of payment shall be the first year of said 15-year amortization period. Interest, at a rate set when the deferral is granted, shall accrue during the accrual period and continue during the repayment period.

**Subd. 6.** The owner(s) of any parcel that has a deferred special assessment may request that the special assessment payments commence at an earlier date by notifying the City Clerk-Treasurer, in writing, by November 15<sup>th</sup> that they wish to have payments commence the following year.

**Subd. 7** In the event the application of this Section would cause a financial hardship to the City, the Council, in its sole discretion, reserves the right to deny deferment.

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 9<sup>th</sup> day of October 2006.

By:

\_\_\_\_\_  
Kenneth J. Bauer  
Mayor

Attest to:

\_\_\_\_\_  
Jeri L. Reep

City Clerk

Mayor Bauer stated the next item on the agenda was the 2<sup>nd</sup> Reading of Ordinance 2006-20.

**10.10.6.12** Motion by Mr. Davis and second by Mr. Strom to approve the 2<sup>nd</sup> Reading of Ordinance 2006-20. Motion carried.

**City of Barnesville  
County of Clay  
Ordinance 2006 - 20**

**AN ORDINANCE TO AMEND SECTION 3.60 OF THE BARNESVILLE  
MUNICIPAL CODE RELATING TO SUMP PUMP DRAIN REGULATIONS**

**BE IT ORDAINED** by the City Council of the City Of Barnesville that Section 3.60 is hereby amended as follows:

**SEC. 3.60. SUMP PUMP DRAIN REGULATIONS AND UNLAWFUL ACTS.**

Subd. 1. Purpose. The Council finds that the City sanitary sewerage collection and treatment facilities are unable to receive and dispose of the present volume of unpolluted water including, but not limited to, cooling water, ground water and natural precipitation now being intentionally pumped or directed into such facilities; that, if allowed to continue, a potential danger to the health of persons and the safety of property exists in such collection of such waters thereby causing raw sewage to back up into basements and onto property of customers; that, if allowed to continue, the potential danger exists of exceeding the capacity of the treatment facilities thereby impairing the proper operation thereof and complete treatment of other sewage; and, that the restricted and regulated installation, use and operation of sump pumps is therefore necessary to protect the health, safety and welfare of customers and residents.

Subd. 2. Sump Pump Drainage. All premises upon which sump pumps are, presently or in the future, installed or in use shall have permanently installed thereon a drain for the discharge of water from such pump directly into the storm sewer system or into a natural waterway. The type, size and placement of materials used, and the manner of construction of the drain from the discharge on the pump to the discharge end of the drain, shall be incorporated into written standards proposed by the Wastewater Superintendent, and adopted by resolution of the Council. All underground drain

construction hereafter performed shall be inspected by the Wastewater Superintendent before it is covered.

~~Subd. 3. ByPass Construction and Use. If, in the opinion of the Wastewater Superintendent, it is either impossible or impractical to install a year-round frost-free sump pump drain on certain premises within the established written standards, the Wastewater Superintendent may direct the issuance of a written permit (bypass permit) to install a bypass for temporarily pumping into the sanitary sewerage system during any time or times as the permanent drain is frozen or in danger of freezing. Such time of bypass use (bypass time) shall be fixed and determined by the Wastewater Superintendent and notice to permit holders of the beginning and ending of such time shall be given through local news media or by mailed notice to each owner or occupant of premises upon which a written permit has been issued. The construction and use of a bypass described in this Subdivision shall at no time be considered a substitute for the construction and use of the permanent drain requirement of Subdivision 2 of this Section.~~

Subd. 3 Seasonal Waivers While sump pump discharge into the sanitary sewer is strictly prohibited from April 1 to October 31, residents may apply for a seasonal waiver. Any person granted a seasonal waiver shall be charged a \$50 upfront fee to cover the cost of City staff and the additional cost in treating the extra water during the period of the waiver. If a seasonal waiver is granted, the owner of the property may place a pipe connecting the sump pump to the sanitary sewer, which must have a shut-off valve. City staff, on or around April 1 each year, will close the valve so that no water can reach the sanitary sewer line and place a seal on that valve. City staff, on or about November 1 of each year will remove the seal and open the valve to allow discharge into the sanitary sewer system if the owner desires. No person other than City staff may remove the seal and change the valve. If upon inspection by City staff the seal has been tampered with, the owner of the property will be charged a \$100 per month surcharge for each month between the discovery of the tampering and the last inspection by City staff. By applying for the waiver, the owner has also granted permission to City staff to inspect the connection and seal anytime between April 1 and November 1 to determine whether or not the seal has been tampered with. Such inspections must be made between 8:00 a.m. and 8:00 p.m. and only when a resident of the premises is on site. Failure to allow such an inspection or to allow the City staff entry around November 1 and April 1 to switch the valves and place on or remove the seal shall result in automatic revocation of the seasonal waiver. In addition, if at any time City staff determines that the seal has been tampered with, this will result not only in the surcharge set forth above, but also automatic revocation of the seasonal waiver.

Subd. 4. Unlawful Acts. On and after the effective date of this Section, it is unlawful for any customer or other person:

A. To fail or refuse to have permanently installed on premises owned by him/her a sump pump drain constructed in accordance with written standards prescribed by the City.

B. To pump or direct such waters into the sanitary sewerage system, except bypass permit holders so pumping during a bypass time.

C. To hinder, delay or deny a representative of the City access at any and all reasonable times to premises served by the City sanitary sewerage system for the purpose of inspection to determine compliance with this Section.

Subd. 5. Additional Remedy. In any case where access for inspection of premises by a representative of the City to verify compliance with this Section is denied, or in any case of failure or refusal to comply with any other provision of this Section, the City may discontinue water service to such premises along with a \$100.00 per month penalty.

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 9th day of October 2006.

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Kenneth J. Bauer  
Mayor

Attest:

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Jeri L.Reep  
City Clerk

Mayor Bauer stated the next item on the agenda was 1<sup>st</sup> Reading of Ordinance 2006-21. Council member Merlin Strom informed council members that this ordinance would put a time frame on the conditional uses.

**10.10.6.13** Motion by Mr. Strom and second by Mr. Simonsen to approve the 1<sup>st</sup> Reading of Ordinance 2006-21. Motion carried.

**Ordinance 2006 - 21**

**AN ORDINANCE TO AMEND SECTION 11.81 OF THE BARNESVILLE  
MUNICIPAL CODE RELATING TO ZONING DISTRICTS**

**BE IT ORDAINED** by the City Council of the City Of Barnesville that Section 11.36 is hereby amended as follows:

SEC. 11.81. BOARD OF ADJUSTMENT.

Subd. 1. General. In accordance with law, the Council shall appoint and organize a Board of Adjustment, whose membership shall be the same as the Planning Commission, which Board may adopt rules to govern its procedures. The Board shall hold meetings, keep minutes, and pursuant to notice, shall conduct hearings, take testimony under oath, and render decisions in writing within forty-five (45) days after hearing or continued hearing. A fee of \$25.00 shall be charged for any appeal or proceeding filed with the Board.

Subd. 2. Appeals. The Board shall have the power to hear and decide appeals from any order, requirement, decision, grant or refusal made by the Zoning Officer in the administration of this Chapter.

Subd. 3. Variances. The Board upon appeal shall have the power to authorize variances from the requirements of this Chapter, and to attach such conditions to the variances as it deems necessary to assure compliance with the purpose of this Chapter. A variance may be permitted if all of the following requirements are met:

- A. Literal enforcement of the Chapter would result in undue hardship with respect to the property.
- B. Such unnecessary hardship results because of circumstances unique to the property.
- C. The variance observes the spirit and intent of this Chapter, produces substantial justice, and is not contrary to the public interest

Subd. 4. Conditional Uses. The Board shall have the power to authorize conditional uses if the following requirements are met:

- A. The conditional uses shall be in accordance with the standards specified for such class of conditional uses as specified in the district regulations provisions of this Chapter.

B. The conditional use shall not involve any element or cause any condition that may be dangerous, injurious, or noxious to any other property or persons, and shall comply with the performance standards of the fencing and screening provisions of this Chapter.

C. The conditional uses shall be sited, oriented and landscaped to produce a harmonious relationship of buildings and grounds, adjacent buildings and property.

D. The conditional use shall produce a total visual impression and environment which is consistent with the environment of the neighborhood.

Subd. 5. Interim Uses. The Board shall have the power to authorize interim uses if the following requirements are met:

A. The use conforms to the zoning regulations;

B. The date or event that will terminate the use can be identified with certainty;

C. Permission of the use will not impose additional costs on the public if it is necessary for the public to take the property in the future; and

D. The user agrees to any conditions that the governing body deems appropriate for permission of the use.

E. Public hearings on the granting of interim use permits shall be held in the same manner as required for variances and conditional use permits.

F. Unless otherwise specified by the Board of Directors at the time it is authorized, an interim use permit shall expire if the applicant fails to utilize such interim use permit and fulfill each and every provision attached thereto within one year from the date of its authorization.

G. Applicants will be required to pay a \$150 fee when filing for an Interim Use Permit.

**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 13th day of November 2006.

\_\_\_\_\_  
Mayor

Attest to:

\_\_\_\_\_  
City Clerk

Mayor Bauer next called on EDA Director Karen Lauer to discuss the water tower demolition. EDA Director Karen Lauer updated council members on the demolition of the water tower and the projected completion date of mid-November.

Mayor Bauer called for a short recess at 8:20.

Mayor Bauer rejourned the meeting at 8:30 p.m.

Mayor Bauer stated the next item on the agenda was the Supervisory Control Replacement Water Treatment Facility Change Order No. 2. Council member Del Ellefson stated that this Change Order is an increase of \$3,889.50 for an addition of submersible level transducers in each of the three filter cells, and elimination of the existing bubbler system.

**10.10.6.14** Motion by Mr. Ellefson and second by Mr. Cooper to approve the Change Order No. 2 from Telemetry and Process Controls, Inc. in the amount of \$3,889.50. Motion carried.

Mayor Bauer stated the next item on the agenda was the Partial Payment No. 8 to Caldwell Tanks.

**10.10.6.15** Motion by Mr. Simonsen and second by Mr. Davis to approve the Partial Payment No. 8 to Caldwell Tanks in the amount of \$10,127.00. Motion carried.

The next item on the agenda was to set the Public Hearing date for the Del Acres-Gilbertson Addition. Mayor Bauer called on Mr. Gary Nansen with Ulteig Engineers. Mr. Nansen presented council members a handout for the assessment hearing outline. Mr. Nansen stated the final project costs for the Phase 1 Street and utility improvements; including fees and contingencies is \$831,321. This amounts to \$1460.58 per lot for the 36 lots in Phase 1 for the 2002 deferred storm sewer assessments. Mr. Nansen also noted that the city has agreed to pay the developer \$10,000 for the permanent easement rights on Thirteenth Street. The developer will permit the City to recover the costs by assessing \$94.00 to each of the 106 lots. The estimated cost for the special assessments is \$18,000. Mr. Nansen stated that he will have new numbers for the public hearing in November. Council members had no further questions for Mr. Nansen.

**10.10.6.16** Motion by Mr. Simonsen and second by Mr. Ellefson to set the Public Hearing for November 13, 2006 at 7:00 p.m. for the 2006 Street and

Utility Improvements for the Del Acres-Gilbertson First Addition-Phase 1.  
Motion carried.

Mayor Bauer next stated that the council would be holding a closed meeting to discuss an employee personnel issue. Pam Aakre with the Record Review questioned why the closed meeting. Mayor Bauer informed Mrs. Aakre that it concerned data privacy issues with an employee.

Mayor Bauer closed the meeting at 9:00 p.m.

Mayor Bauer next informed council members that they had a resignation from Angie Ernst from the Police Dept. effective Sept. 29, 2006.

**10.10.6.17** Motion by Mr. Davis and second by Mr. Cooper to accept the resignation of Angie Ernst for the Police Dept. secretary effective Sept. 29, 2006.

Mayor Bauer stated that they also had a resignation for Angie Ernst from the Liquor Store.

**10.10.6.18** Motion by Mr. Davis and second by Mr. Cooper to accept the resignation for Angie Ernst for the Liquor Store Clerk immediately, with two weeks compensation. Motion carried.

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

Submitted by:

Attest:

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Jeri L. Reep  
City Clerk

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Kenneth J. Bauer  
Mayor

