

Barnesville City Council
Regular Meeting
Monday, October 13, 2003

Mayor Gene Prim called this meeting to order at 7:05 p.m. Present were Mayor Prim. Council members Chad Hagen, Roger Cooper, Jerry Ames, Larry Davis Jr., and Charles Martinson. Others in attendance were Finance Director Brian Jacobson, City Administrator Raymond Miller, City Attorney Mike Hannaher, Pam Aakre from the Record Review, Public Works Director Dave Riddering, Electric Superintendent Jerryl Tenderholt, General Manager Gerald Dow, Main Street Director Brenda Brand, EDA Director Karen Lauer, Deputy Clerk Jeri Davis, Tom Trowbridge from Larson-Peterson & Associates, Police Chief Dean Ernst, Kristal Rick, and Jonathan Slininger. Absent was Council member Kim Simonsen.

10-13-03-01 Motion by Mr. Davis and second by Mr. Martinson to approve the agenda. Carried.

There were no citizens to be heard.

Mayor Prim next discussed with Mr. Tom Trowbridge from Larson-Peterson & Associates the alley behind City Hall. Mr. Trowbridge stated that the original costs to pave the alley would be \$2,500 - \$3,500. Mr. Trowbridge stated that the actual cost would be closer to \$10,000. Council members decided to wait on this project until a later date.

10-13-03-02 Motion by Mr. Davis and second by Mr. Cooper to make payment to Mark Sand & Gravel Company in the amount of \$146,877.75 for the partial payment on the TH 9 street and underground utility improvements. Carried.

10-13-03-03 Motion by Mr. Davis and second by Mr. Martinson to make payment to Mark Sand & Gravel Company in the amount of \$44,133.37 for the partial payment on the street and underground utility improvements TH 9. Carried.

10-13-03-04 Motion by Mr. Davis and second by Mr. Cooper to make payment to Feldt Plumbing & Heating in the amount of \$50,316.21 for the watermain improvements on fourth avenue NE to Dean's Bulk Service. Carried.

Mr. Trowbridge discussed the seeding on Second Avenue Northeast, Mr. Trowbridge stated that this area will be ready for seeding and would be completed yet this fall.

Mayor Prim next asked for the department head reports.

General Manager Gerald Dow had nothing more to report at this time.

Public Works Director Dave Riddering had nothing more to report at this time.

Police Chief Dean Ernst stated that Animal Control Officer Julie Holen would be resigning from her position.

Finance Director Brian Jacobson had nothing more to add to his report.

The Golf Course did not include a budget to the council. Council member Charles Martinson stated that he would see that this would be included so the council would get a budget.

Mayor Prim stated that the vacant lot next to the State Farm building is in the works for a Fire Department museum thru the efforts of the Fire Department and Lions Club.

Council member Davis stated he had nothing new to report on the CM Repair property. Attorney Mike Hannaher will draw up an agreement between the city and CM Repair.

10-13-03-05 Motion by Mr. Ames and second by Mr. Hagen to approve the second reading of Ordinance 2003-10. Carried.

ORDINANCE 2003-10

AN ORDINANCE AMENDING ORDINANCE NO. 1995-9, INCREASING LICENSE FEES AND REPEALING INCONSISTENT ORDINANCES

THE CITY OF BARNESVILLE DOES HEREBY ORDAIN:

WHEREAS, the City Council did previously enact Ordinance No. 1995-9, a Liquor License ordinance for the City of Barnesville; and

NOW THEREFORE, Ordinance No. 1995-9 is hereby repealed as follows:

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

Section 1 - Provisions of State Law Adopted

Provisions of Minnesota Statutes, Chapter 340A relating to the definition of terms, licensing, consumption, sales, financial responsibility of licensees, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor are adopted and made a part of this ordinance as if set out in full.

Section 2 - License Required

Subd. 1 - General Requirement

No person, except a wholesaler or manufacturer to the extent authorized under state license, shall directly or indirectly deal in, sell, or keep for sale in the city any intoxicating liquor without a license to do so as provided in this ordinance. Liquor licenses shall be limited to "on-sale" only. "On-sale" licenses shall be issued only to hotels, clubs, restaurants, and exclusive liquor stores and shall permit "on-sale" of liquor only.

Subd. 1(a) - Temporary On-Sale Licenses

Subject to the approval of the Commissioner of Public Safety, temporary on-sale licenses shall be issued only to clubs or charitable, religious, or other non-profit organizations in existence for at least three years. A temporary license authorizes the on-sale of intoxicating liquor in connections with a social event within the City sponsored by the licensee and subject to restrictions imposed by the state liquor act." (1996-4)

Subd. 2 - On-Sale Wine Licenses

"On-sale" wine licenses shall continue to be governed by the terms and conditions of Ordinance No. 1983-5 which governs the terms and conditions of non-intoxicating malt liquor licenses and wine licenses within the City of Barnesville.

Subd. 3 - Number of Licenses

The number of licenses authorized shall be governed by state statutes.

Subd. 4 - Special License for Sunday Sales

A special license authorizing sales on Sunday in conjunction with the serving of food may be issued to any hotel, restaurant, or club which has facilities for serving at least 30 guests at one time, and which has an on-sale license. The annual fee for a Sunday license shall be \$50.00." (1996-6)

Subd. 5 - Community Festival Licenses

The holder of a retail on-sale or combination intoxicating liquor license may be issued a community festival license to dispense intoxicating liquor off premises at a community festival held within the City of Barnesville. The authorization shall specify the area in which the intoxicating liquor must be dispensed and consumed, and shall not be issued unless the licensee demonstrates that it has liability insurance as prescribed by state statutes to cover the event.

Subd. 6 - Combination Licenses

A city of the fourth class may issue an off-sale and on-sale intoxicating liquor license to the same licensee or, in lieu of issuing on-sale and off-sale licenses separately to a licensee, may issue a combination on-sale and off-sale license.

Section 3 - Application for License

Subd. 1 - Form

Every application for a license to sell liquor shall state the name of the applicant, the applicant's age, representations as to the applicant's character (with such references as the council may require), the applicant's citizenship, the type of license applied for, the business and connection with which the proposed licensee will operate and its location, whether the applicant is the owner and operator of the business, how long the applicant has been in that business at that place, and such other information as the council may require from time to time. Every application shall also include a copy of each summons received by the applicant under Minnesota Statutes, Section 34A.802 during the preceding year. In addition to containing such information, the application shall be in the form prescribed by the Bureau of Criminal Apprehension and shall be verified and filed with the City Administrator. No person shall make a false statement in an application.

Subd. 2 - Bond

Each application for a license shall be accompanied by a surety bond or, in lieu thereof, cash or United States government bonds of equivalent market value as provided in Minnesota Statutes, Section 34A.412, Subd. 1. Such surety bond or other security shall be in the sum of \$ 500.00 for an applicant for an on-sale license.

Subd. 3 - Financial Responsibility

No liquor license may be issued, renewed, or maintained unless the applicant demonstrates proof of financial responsibility as defined in Section 34A.409 with regard to liability under the Minnesota Statutes, Section 34A.801. Such proof shall be filed with the Commissioner of Public Safety. Any liability insurance policy filed as proof of financial responsibility under this subdivision shall conform to Minnesota Statutes, Section 34A.409.

Subd. 4 - Approval of Security

The security offered under Subd. 2 shall be approved by the city council. Liability insurance policies required by this ordinance, but not by state law, and surety bonds required under Subd. 2, shall be approved as to form by the city attorney. Operation of a licensed business without having on file with the city, at all times, effective security as required in Subdivisions 2 and 3 is cause for revocation of the license.

Section 4 - License Fees

Subd. 1 - Fees

The annual fee for ~~an on-sale liquor~~ a combination license shall be \$ ~~225.00~~.
2004 - \$325, 2005 - \$650.

Subd. 1(a) - Temporary License Fees.

The temporary license fee shall be \$50.00. (1996-4)

Subd. 1(b) - Community Festival License Fees.

The community festival license fee shall be \$25.00.

Subd. 2 - Payment

Each application for a license shall be accompanied by a receipt from the city treasurer for the payment in full of the license fee and the fixed investigation fee required under Section 5, Subd. 1, if any. All fees shall be paid into the general fund. If an application for a license is rejected, the treasurer shall refund the amount paid as the license fee.

Subd. 3 - Term; Prorata Fee

Each license shall be issued for a year except that if the application is made during the license year, a license may be issued for the remainder of the year for a prorata fee, with an unexpired fraction of a month being counted as one month. Every license shall expire on the last day of December.

Subd. 4 - Refunds

No refund of any fee shall be made except as authorized by statute.

Section 5 - Granting of Licenses

Subd. 1 - Preliminary Investigation

On an initial application for an on-sale license, and on application for transfer of an existing on-sale license, the applicant shall pay with the application an investigation fee of \$ 50.00 and the city shall conduct a preliminary background and financial investigation of the applicant. The application in such case shall be made on a form prescribed by the State Bureau of Criminal Apprehension and with such additional information as the council may require. If the council deems it in the public interest to have an investigation made on a particular applicant for renewal of an on-sale license, it shall so determine. In any case, if the council determines that a comprehensive background and financial investigation of the applicant is necessary, it may conduct the investigation itself or contract with the Bureau of Criminal Investigation for the investigation. No license shall be issued, transferred, or renewed if the results show, to the satisfaction of the council, that issuance would not be in the public interest. If an investigation outside the state is required, the applicant shall be charged the cost, not to exceed \$10,000, which shall be paid by the applicant after deducting any initial investigation fee already paid. The fee shall be payable by the applicant whether or not the license is granted.

Subd. 2 - Hearing and Issuance

The city council shall investigate all facts set out in the application, and not investigated in the preliminary background, and financial investigation conducted pursuant to Subd. 1. Opportunity shall be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the council shall, in its discretion, grant or refuse the application. No license shall become effective until it, together with the security furnished by the applicant, has been approved by the Commissioner of Public Safety.

Subd. 3 - Person and Premises Licensed; Transfer

Each license shall be issued only to the applicant and for the premises described in the application. No license may be transferred to another person or place without city council approval. Any transfer of stock of a corporate licensee is deemed a transfer of the license, and a transfer of stock without prior council approval is grounds for revocation of the license.

Section 6 - Persons Ineligible for License

No license shall be granted to any person made ineligible for such a license by state law. No license shall be issued to an individual who is not a resident of the city. No more than one intoxicating liquor license shall be directly or indirectly issued within the city to any one person.

Section 7 - Places Ineligible for License

Subd. 1 - General Prohibition

No license shall be issued for any place or any business ineligible for such a license under state law.

Subd. 2 - Delinquent Taxes and Charges

No license shall be granted for operation of any premises on which taxes, assessments, or other financial claims of the city are delinquent and unpaid.

Subd. 3 - License Restrictions

No license shall be granted within 100 feet of any school or 100 feet of any church.

Section 8 - Conditions of Licenses

Every license is subject to the conditions in the following subdivisions and all other provisions of this ordinance and of any other applicable ordinance, state law, or regulation.

Subd. 1 - Insurance

Compliance with financial responsibility requirements of state law and of this ordinance is a continuing condition of any license granted pursuant to this ordinance.

Subd. 2 - Licensee's Responsibility

Every licensee is responsible for the conduct in the licensed establishment and any sale of alcoholic beverages by any employee authorized to sell such beverages in the establishment is the act of the licensee.

Subd. 3 - Inspections

Every licensee shall allow any peace officer, health officer, or properly designated officer or employee of the city to enter, inspect, and search the premises of the licensee during business hours without a warrant.

Subd. 4 - Display During Prohibited Hours

No "on-sale establishment" shall display liquor to the public during hours when the sale of liquor is prohibited.

Section 9 - Hours

No sale of intoxicating liquors shall be made on any Sunday between the hours of 1:00 am and 12:00 noon, nor between the hours of 10:00 pm and 12:00 midnight. Provided, however, that in any year that December 31st falls on a Sunday, license holders may stay open on that Sunday until midnight and until 1:00 am on Monday, January 1st of the next year. ~~nor shall there be any sale of intoxicating liquor between~~ the hours of 1:00 am and 7:00 pm on

~~the days of any state-wide election.~~ No sale shall be made between the hours of 1:00 am and 8:00 am on any other day.

Section 10 - Suspension and Revocation

The council shall either suspend for up to 60 days or revoke any liquor license, or impose a civil fine not to exceed \$2,000, for each violation upon a finding that the licensee has failed to comply with any applicable statute, regulation, or ordinance relating to alcoholic beverages. Except in cases of failure of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to Minnesota Statutes, Sections 14.57 to 14.70 of the Administrative Procedures Act. Lapse of required dram shop insurance or bond or withdrawal of a required deposit of cash or securities shall effect an immediate suspension of any license issued pursuant to this ordinance without further action of the city council. Notice of cancellation, lapse of a current liquor liability policy or bond, or withdrawal of deposited cash or security shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance or bond, or withdrawal of a required deposit, or of suspension or revocation of a license may request a hearing thereon and if such a request is made in writing to the City Administrator a hearing shall be granted within 10 days or such longer period as may be requested. Any suspension under this paragraph shall continue until the city council determines that the financial responsibility requirements of the ordinance have again been met.

Section 11 - Penalty

Any person violating any provision of this ordinance is guilty of a misdemeanor and upon conviction shall be punished by fines and imprisonment up to a maximum as provided by state law for misdemeanor convictions.

Section 12 - Repeal

Ordinance No. 1995-9 is hereby repealed.

10-13-03-06 Motion by Mr. Cooper and second by Mr. Martinson to approve the second reading of Ordinance 2003-16. Carried.

ORDINANCE 2003-16

AN ORDINANCE REVISING RATES FOR ELECTRICITY

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

WHEREAS, Ordinance 2002-14 sets forth rates for electricity for the Barnesville Municipal Power utility and;

WHEREAS, the City Council did previously enact Ordinance 2002-14 and;

WHEREAS, the Telephone/Electric/Cable TV (T.E.C.) Advisory Board for the City has recommended that Section 8 and Section 9 of Ordinance 2002-14 be replaced;

NOW, THEREFORE, Section 8 and Section 9 of Ordinance 2002-14 is hereby replaced as follows:

Section 8 Electric Rate Schedules

A. RATE SCHEDULE #1:

GENERAL SINGLE PHASE service Residential: (RL1 & AR1)

Base Charge \$11.00

Energy Charge \$.060

\$.0625 per kwh (effective all billing after January 1, 2004)

\$.0650 per kwh (effective all billing after January 1, 2005)

Available to all residential customers.

B. RATE SCHEDULE #2:

GENERAL SINGLE PHASE service Commercial: (RC1 & DI1)

Base Charge \$12.00

Energy Charge \$.067

\$.0695 per kwh (effective all billing after January 1, 2004)

\$.072 per kwh (effective all billing after January 1, 2005)

Available to commercial customers for single phase service

C. RATE SCHEDULE #3

GENERAL THREE PHASE SERVICE: (GS6 & DI9)

Base Charge \$16.00

Energy Charge \$.070/kwh

\$.075 per kwh (effective all billing after January 1, 2004)

Demand Charge

0-35 kw no charge

over 35 kw \$8.00/kw

Available to all customers for three phase service only when kwh of energy used is less than 10,000 kwh during any billing period. Available as an alternate to Rate Schedule #4.

D. RATE SCHEDULE #4:

GENERAL THREE PHASE SERVICE: (GS1)

Base Charge \$15.00

Energy Charge \$.040 per kwh

\$.045 per kwh (effective all billing after January 1, 2004)

Demand Charge \$7.00/kw

Available to all customers for three phase service, with less than 15 kw demand measured during any 15 minute interval. This rate will also be available to customers who chose to purchase and install individual demand controllers to limit their demand measured to 15 kw or less during any 15 minute interval, even if these customers have already been placed in the large power rate group. Available as an alternate to Rate Schedule #3.

E. RATE SCHEDULE #5

LARGE POWER THREE PHASE SERVICE (LP1 & DI1)

Base Charge	\$20.00
Demand Charge	
First 50 kw	\$7.00/kw
Excess kw	\$5.20/kw
Energy Charge	
All kwh	\$.039 kwh
	\$.044 kwh (effective all billing after January 1, 2004)

Available to all customers for three phase service. Billing demand to be the maximum measured during any 15 minute interval during the billing period.

F. RATE SCHEDULE #6

SECURITY LIGHTS: (YL1)

Charge per light	\$12.25 per month
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Available to all customers for un-metered lights, 200 watts or less, owned, installed and maintained by the customer.

G. DEFINITION OF TERMS:

1. Residential Customers: any electric service which includes the primary residence of any person or people.
2. Commercial Customers: any electric service which does not include the primary RESIDENCE of any person or people.

H. RULES FOR CHOICE OF OPTIONAL RATES

1. Any of the alternate rates available to the customer may be selected. The customer shall have 90 days from the effective date of this ordinance to select the rate he/she wishes to use. Upon selection of a rate alternate, the customer shall be required to use that option for one year.

- A Dual Fuel Services
Dual Fuel Service Rate: \$.031 per kwh
\$.033 per kwh effective January 1, 2004
\$.034 per kwh effective January 1, 2005

This rate is available to all customers with a dual fuel heating system controlled by the city's load management system. To qualify:

1. A heating system must use electricity as its primary source of heat; and
2. The secondary source of heat must be fossil fuel, thermostatically controlled and capable of heating the structure to 68 degrees and maintaining that temperature; and
3. The dual fuel load shall be metered separately; and
4. The customer must make a five year commitment to the program.

B. Dual Fuel Incentive for Existing Buildings

An incentive will be offered for all customers converting to a dual fuel system. All potential dual fuel commercial customers will require prior approval of the T.E.C. Advisory Board or City Council.

This incentive will be calculated using the following formula:

number of gallons of fuel used during the previous heating season multiplied by BTU's per gallon (per fuel chart) then multiply by furnace efficiency percentage then divided by 3412 then multiply by dual fuel rate then multiply by 0.39 = Incentive to install dual fuel

Example 1

Fuel oil: _____ gallons x 137,520 x .75 divided by 3412 x appropriate dual fuel rate x .039 = this amount is the incentive.

Example 2

Propane: _____ gallons x 91,600 x .75 divided by 3412 x appropriate dual fuel rate x .039 = this amount is the incentive

An additional \$100.00 incentive will be paid to the contractor selling and promoting, the dual fuel system.

Section 9 continued

C. Dual Fuel Incentive for New Construction

A \$200.00 one-time payment will be made to the general contractor.

D. Financing for Dual Fuel Installations

All new approved dual fuel heating installations are eligible for a 5 year, 6% annual interest loan of up to \$2,000.00. This loan will be paid back in equal monthly installments on the customer's utility bill. Loans for commercial customers will require prior approval by the T.E.C. Advisory Board or the City Council.

E. Off Peak Services

Off Peak Service Rate: \$.031 per kwh
 \$.033 per kwh effective January 1, 2004
 \$.034 per kwh effective January 1, 2005

This rate is available for electric thermal storage (ETS) space heaters, under concrete slab electric heating systems and electric heated liquid filled under concrete slab heating systems. Off Peak Services must be metered separately and controlled by the city's load management system.

F. Water Heater Incentive Program

All customers shall be eligible for a rebate of \$2.00 per gallon for the installation of a new electric water heater with a storage capacity of at least 50 gallons. This rebate increases to \$3.00 per gallon for new water heaters with a minimum storage capacity of 80 gallons. Water heaters must be controlled by the city's load management. The rebate shall be credited on the customer's utility bill as soon as the following are provided:

1. Proof of purchase and installation of a qualifying water heater; and
2. Verification by electric utility personnel that the load controls have been installed and properly wired.

This incentive is limited to one rebate per address during any 5-year period.

EFFECTIVE DATE: This ordinance shall 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 October, 2003.

APPROVED:

Eugene Prim, Mayor

ATTEST:

Ray Miller, City Administrator

First Reading: September 8, 2003
Second Reading: October 13, 2003
Publication: October 20, 2003

10-13-03-07 Motion by Mr. Ames and second by Mr. Cooper to approve the Planning Commission recommendation for the warming house variance. Carried.

10-13-03-08 Motion by Mr. Martinson and second by Mr. Cooper to approve the following as election judges for the upcoming election. Janice Beckett, Pearl Quinnild, Pamela Carr, Carol Mulcahy, Mabel Sacrison, Mary Ann Plath, Jean Pederson, Sis Montplaisir, Joetta Steinke. Dar Dines, Ivy Olson and Lavonne Heng. Carried.

10-13-03-09 Motion by Mr. Martinson and second by Mr. Davis to approve the purchase of the cable locator from Ditch Witch in the amount of \$3,835.00. The funding will be from the electric, telephone and cable tv utilities. Carried.

10-13-03-10 Motion by Mr. Martinson and second by Mr. Hagen to approve the Broadband and Internet enterprise fund as discussed at the joint meeting of the City Council and TEC Board. Carried.

10-13-03-11 Motion by Mr. Davis and second by Mr. Hagen to approve payment of \$2,250.00 for the Barnesville Babe Ruth Baseball program. Carried.

10-13-03-12 Motion by Mr. Hagen and second by Mr. Davis to approve the ambulance budget increase in the amount of \$3,952.00, which would be offset by the revenue generated from the Steam Thresher's Reunion held at Rollag this year. This increase would allow the ambulance department to purchase a cot for the department. Motion carried.

Council next discussed the proposed water ordinance. Finance Director Brian Jacobson stated that the auditors stated in the yearly audit that the city is under the costs for the water fund.

10-13-03-13 Motion by Mr. Davis and second by Mr. Hagen to approve the first reading of the following ordinance. Carried.

ORDINANCE NO. 2003-18

AN ORDINANCE TO INCREASE WATER USAGE FEE

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

WHEREAS, the City Council did previously enact Ordinance No. 1994-4, Water Rates for the City of Barnesville; and

WHEREAS, the City Council for the City has recommended that the water usage fee be increased;

NOW, THEREFORE, Ordinance No. 1994-4, is hereby amended as follows:

Section 1: Water Rate

A: Water shall be charged monthly to each customer at \$12.20 for a standard 5/8 inch meter connection.

$$\frac{.625}{12.20} = \frac{\text{meter size}}{X}$$

Example: for a four (4) inch meter connection, the computation would be:

$$\frac{.625}{12.20} = \frac{4.0}{X}$$

$$.625 x = 48.80$$

$$x = \$78.08 \text{ per month}$$

B. In addition to the foregoing flat rate, Water usage shall be charged at \$1.~~25~~ 50 per 1,000 gallons.

10-13-03-14 Motion by Mr. Davis and second by Mr. Martinson to approve the first reading of the following ordinance. Carried.

Ordinance No. 2003-19

An Ordinance to Increase Fees For Sewer Service

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

WHEREAS, the City Council did previously enact Ordinance No. 1991-3, Sewage Service Rates for the City of Barnesville; and

W I HEREAS, the City Council for the City has recommended that the fee be increased;

NOW, THEREFORE, Ordinance No. 1991-9, is hereby amended as follows:

Section 1:

B. Volume Charge In addition to the flat rate charge set forth in Section #I-A, the volume charge shall be determined by taking the average amount of water used by the customer in the months of January and February each year and that average volume multiplied by \$1.00 per thousand gallons or fraction thereof and billed on a monthly basis.

Police Chief Dean Ernst reported to the council that the 1999 Ford Explorer experienced a major engine break down. Police Chief stated that the engine does not work at all, that the failure was mechanical and was not caused by any particular fault. Council discussed what the options were to repair this break in the squad vehicle.

10-13-03-16 Motion by Mr. Davis and second by Mr. Hagen to repair the 1999 Ford Explorer in the amount not to exceed \$4,000.00. Motion carried.

Police Chief Dean Ernst next discussed with council the purchase of a new squad vehicle. Police Chief Ernst presented two different makes of vehicles available to the department and the options available.

10-13-03-17 Motion by Mr. Davis and second by Mr. Hagen to proceed with the 2004 Dodge Intrepid vehicle, with a lease option until the first of the year, which at that time we would purchase the vehicle. Motion carried.

10-13-03-18 Motion by Mr. Davis and second by Mr. Ames to change the job description for Jeri Davis to Customer Service/Records Manager Grade 11, Step 9. Motion carried.

10-13-03-19 Motion by Mr. Davis and second by Mr. Ames to change the personnel policy Article 2, Section 4-Overtime. The following voted for: Mr. Davis, Mr. Ames, Mr. Hagen, and Mr. Martinson, voting against was Mr. Cooper. Motion carried.

10-13-03-20 Motion by Mr. Martinson and second by Mr. Davis to approve the following travel and expenses for the month. Jerry Dow, Jerryl Tenderholt, John Bodine, Rick Raftvold and Chuck Martinson to attend the Missouri River Energy Services meeting in Alexandria. Mr. Tom Olson to attend the Nortel users meeting in Alexandria, MN. Mr. Jerry Dow travel to Moorhead to attend the 702 Communications Board Meeting. These expenses will be funded in the telephone and electric budget. Motion carried.

Finance Director Brian Jacobson stated that there were no changes in the discretionary fund..

Approval of the minutes from the September 8, 2003 meeting will be approved at the November meeting.

10-13-03-21 Motion by Mr. Hagen and second by Mr. Cooper to approve the Bingo application for the Trojan Takedown Club for November 13, 2003. Motion carried.

10-13-03-22 Motion by Mr. Hagen and second by Mr. Martinson to approve the attendance for ambulance manager Ginny Jacobson at the national conference to be held November 22-26, 2003 in San Antonio, Texas. Total cost will be \$1,002.00. Also the approval of Finance Director Brian Jacobson to attend the Local Governments Conference to be held at Brooklyn Center on October 20, 2003. Total cost will be \$195.00 Approval of Jerry Dow, Jerryl Tenderholt, John Bodine, Rick Raftvold and Chuck Martinson to attend the Missouri River Energy Services meeting in Alexandria. Cost will be \$75.00. Approval of Tom Olson to attend the Nortel users meeting in Alexandria-estimated cost will be \$105.00. Approval of General Manager Jerry Dow to attend the 702 Communications meeting in Moorhead, estimated cost will be \$20.00. Carried.

10-13-03-23 Motion by Mr. Ames and second by Mr. Davis to approve the \$500.00 budgeted for the REACH program. Motion carried.
Council next discussed the sale of the City's approximately \$710,000 General Obligation Refunding Bonds, Series 2003B.

10-13-03-24 Motion by Mr. Ames and second by Mr. Martinson to approve the following resolution.

RESOLUTION NO. 10-13-03-24

**A RESOLUTION AWARDING THE SALE OF \$710,000 GENERAL
OBLIGATION REFUNDING BONDS, SERIES 2003B;
FIXING THEIR FORM AND SPECIFICATIONS;
DIRECTING THEIR EXECUTION AND DELIVERY;
AND PROVIDING FOR THEIR PAYMENT**

BE IT RESOLVED By the City Council of the City of Barnesville, Clay County, Minnesota (City) as follows:

Section 1. Sale of Bonds.

1.01. It is hereby determined that:

(a) the City is authorized by Minnesota Statutes, Chapter 475 (Act) and Section 475.67, Subdivision 3, of the Act to issue and sell its general obligation bonds to refund obligations and the interest thereon before the due date of the obligations, if consistent with covenants made with the holders thereof, when determined by the City Council to be necessary or desirable for the reduction of debt service cost to the City or for the extension or adjustment of maturities in relation to the resources available for their payment;

(b) Section 475.67, subdivision 4 of the Act permits the sale of refunding obligations during the six month period prior to the date on which the obligations to be refunded may be called for redemption;

(c) it is necessary and desirable to reduce debt service costs that the City issue approximately \$710,000 General Obligation Refunding Bonds, Series 2003B (Bonds) to refund certain outstanding general obligations of the City;

(d) the outstanding bonds to be refunded (Refunded Bonds) consist of the \$995,000 General Obligation Refunding Bonds of 1995, dated May 1, 1995, of which \$680,000 in principal amount is currently outstanding and is callable on February 1, 2004.

1.02. The City hereby establishes a pricing committee with respect to the Bonds, comprised of the Mayor or City Council member designated by the Mayor and the Finance Director, with respect to the Bonds. The pricing committee is authorized and directed, with the advice of the City's financial advisor, Ehlers & Associates, Inc., to (a) review proposals for the sale of the Bonds, and (b) award the sale of the Bonds to the prospective purchaser (Purchaser) with a proposal conforming to the terms of proposal distributed by the City and offering the

lowest true interest cost, which shall in any event result in a debt service reduction of at least three percent, compared to debt service on the Refunded Bonds, calculated in accordance with Minnesota Statutes, Section 475.67, subd. 12. The City hereby approves the sale of the Bonds to the Purchaser, at the price and at the rates to be determined by the pricing committee. Issuance of the Bonds shall be conclusive evidence that the pricing committee has determined such price and rates in accordance with this Resolution.

1.03. The amount proposed by the Purchaser in excess of \$701,480 is credited to the Debt Service Fund hereinafter created. The City Administrator/Clerk-Treasurer is directed to retain the good faith check of the Purchaser, pending completion of the sale of the Bonds, and to return the good faith checks of the unsuccessful proposers forthwith. The Mayor and City Administrator/Clerk-Treasurer are directed to execute a contract with the Purchaser on behalf of the City.

1.04. The City will forthwith issue and sell the Bonds pursuant to Minnesota Statutes, Chapter 475 (Act) in the total principal amount of \$_____, originally dated as of the date of delivery, in the denomination of \$5,000 each or any integral multiple thereof, numbered No. R-1, upward, bearing interest at the rates to be determined by the pricing committee described in Section 1.01, and which mature serially on February 1 in the years and amounts as follows:

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
2005		2009	
2006		2010	
2007		2011	
2008		2012	

1.05. Optional Redemption. The City may elect on February 1, 2010, and on any day thereafter to prepay Bonds due on or after February 1, 2011. Redemption may be in whole or in part and if in part, at the option of the City and in such manner as the City will determine. If less than all Bonds of a maturity are called for redemption, the City will notify DTC (as defined in Section 8 hereof) of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interests in such maturity to be redeemed. Prepayments will be at a price of par plus accrued interest.

Section 2. Registration and Payment.

2.01. Registered Form. The Bonds will be issued only in fully registered form. The interest thereon and, upon surrender of each Bond, the principal amount thereof, is payable by check or draft issued by the Registrar described herein.

2.02. Dates; Interest Payment Dates. Each Bond will be dated as of the last interest payment date preceding the date of authentication to which interest on the Bond has been paid or

made available for payment, unless (i) the date of authentication is an interest payment date to which interest has been paid or made available for payment, in which case the Bond will be dated as of the date of authentication, or (ii) the date of authentication is prior to the first interest payment date, in which case the Bond will be dated as of the date of original issue. The interest on the Bonds is payable on February 1 and August 1 of each year, commencing August 1, 2004, to the registered owners of record as of the close of business on the fifteenth day of the immediately preceding month, whether or not that day is a business day.

2.03. Registration. The City will appoint, and will maintain, a bond registrar, transfer agent, authenticating agent and paying agent (Registrar). The effect of registration and the rights and duties of the City and the Registrar with respect thereto are as follows:

(a) Register. The Registrar must keep at its principal corporate trust office a bond register in which the Registrar provides for the registration of ownership of Bonds and the registration of transfers and exchanges of Bonds entitled to be registered, transferred or exchanged.

(b) Transfer of Bonds. Upon surrender for transfer of a Bond duly endorsed by the registered owner thereof or accompanied by a written instrument of transfer, in form satisfactory to the Registrar, duly executed by the registered owner thereof or by an attorney duly authorized by the registered owner in writing, the Registrar will authenticate and deliver, in the name of the designated transferee or transferees, one or more new Bonds of a like aggregate principal amount and maturity, as requested by the transferor. The Registrar may, however, close the books for registration of any transfer after the fifteenth day of the month preceding each interest payment date and until that interest payment date.

(c) Exchange of Bonds. When Bonds are surrendered by the registered owner for exchange the Registrar will authenticate and deliver one or more new Bonds of a like aggregate principal amount and maturity as requested by the registered owner or the owner's attorney in writing.

(d) Cancellation. Bonds surrendered upon transfer or exchange will be promptly cancelled by the Registrar and thereafter disposed of as directed by the City.

(e) Improper or Unauthorized Transfer. When a Bond is presented to the Registrar for transfer, the Registrar may refuse to transfer the Bond until the Registrar is satisfied that the endorsement on the Bond or separate instrument of transfer is valid and genuine and that the requested transfer is legally authorized. The Registrar will incur no liability for the refusal, in good faith, to make transfers which it, in its judgment, deems improper or unauthorized.

(f) Persons Deemed Owners. The City and the Registrar may treat the person in whose name a Bond is registered in the bond register as the absolute owner of the Bond, whether the Bond is overdue or not, for the purpose of receiving payment of, or on account of, the principal of and interest on the Bond and for all other purposes, and

payments so made to a registered owner or upon the owner's order will be valid and effectual to satisfy and discharge the liability upon the Bond to the extent of the sum or sums so paid.

(g) Taxes, Fees and Charges. The Registrar may impose a charge upon the owner thereof for a transfer or exchange of Bonds sufficient to reimburse the Registrar for any tax, fee or other governmental charge required to be paid with respect to the transfer or exchange.

(h) Mutilated, Lost, Stolen or Destroyed Bonds. If a Bond becomes mutilated or is destroyed, stolen or lost, the Registrar will deliver a new Bond of like amount, number, maturity date and tenor in exchange and substitution for and upon cancellation of the mutilated Bond or in lieu of and in substitution for any Bond destroyed, stolen or lost, upon the payment of the reasonable expenses and charges of the Registrar in connection therewith; and, in the case of a Bond destroyed, stolen or lost, upon filing with the Registrar of evidence satisfactory to it that the Bond was destroyed, stolen or lost, and of the ownership thereof, and upon furnishing to the Registrar an appropriate bond or indemnity in form, substance and amount satisfactory to it and as provided by law, in which both the City and the Registrar must be named as obligees. Bonds so surrendered to the Registrar will be cancelled by the Registrar and evidence of such cancellation must be given to the City. If the mutilated, destroyed, stolen or lost Bond has already matured or been called for redemption in accordance with its terms it is not necessary to issue a new Bond prior to payment.

(i) Redemption. In the event any of the Bonds are called for redemption, notice thereof identifying the Bonds to be redeemed will be given by the Registrar by mailing a copy of the redemption notice by first class mail (postage prepaid) to the registered owner of each Bond to be redeemed at the address shown on the registration books kept by the Registrar and by publishing the notice if required by law. Failure to give notice by publication or by mail to any registered owner, or any defect therein, will not affect the validity of the proceedings for the redemption of Bonds. Bonds so called for redemption will cease to bear interest after the specified redemption date, provided that the funds for the redemption are on deposit with the place of payment at that time.

2.04. Appointment of Initial Registrar. The City appoints U.S. Bank National Association, St. Paul, Minnesota, as the initial Registrar. The Mayor and the City Administrator/Clerk-Treasurer are authorized to execute and deliver, on behalf of the City, a contract with the Registrar. Upon merger or consolidation of the Registrar with another corporation, if the resulting corporation is a bank or trust company authorized by law to conduct such business, the resulting corporation is authorized to act as successor Registrar. The City agrees to pay the reasonable and customary charges of the Registrar for the services performed. The City reserves the right to remove the Registrar upon 30 days' notice and upon the appointment of a successor Registrar, in which event the predecessor Registrar must deliver all cash and Bonds in its possession to the successor Registrar and must deliver the bond register to the successor Registrar. On or before each principal or interest due date, without further order of

this Council, the City Administrator/Clerk-Treasurer must transmit to the Registrar monies sufficient for the payment of all principal and interest then due.

2.05. Execution, Authentication and Delivery. The Bonds will be prepared under the direction of the City Administrator/Clerk-Treasurer and executed on behalf of the City by the signatures of the Mayor and the City Administrator/Clerk-Treasurer, provided that all signatures may be printed, engraved or lithographed facsimiles of the originals. If an officer whose signature or a facsimile of whose signature appears on the Bonds ceases to be such officer before the delivery of any Bond, that signature or facsimile will nevertheless be valid and sufficient for all purposes, the same as if the officer had remained in office until delivery. Notwithstanding such execution, a Bond will not be valid or obligatory for any purpose or entitled to any security or benefit under this Resolution unless and until a certificate of authentication on the Bond has been duly executed by the manual signature of an authorized representative of the Registrar. Certificates of authentication on different Bonds need not be signed by the same representative. The executed certificate of authentication on a Bond is conclusive evidence that it has been authenticated and delivered under this Resolution. When the Bonds have been so prepared, executed and authenticated, the City Administrator/Clerk-Treasurer will deliver the same to the Purchaser upon payment of the purchase price in accordance with the contract of sale heretofore made and executed, and the Purchaser is not obligated to see to the application of the purchase price.

2.06. Temporary Bonds. The City may elect to deliver in lieu of printed definitive Bonds one or more typewritten temporary Bonds in substantially the form set forth in Section 3 with such changes as may be necessary to reflect more than one maturity in a single temporary bond. Upon the execution and delivery of definitive Bonds the temporary Bonds will be exchanged therefor and cancelled.

Section 3. Form of Bond.

3.01. The Bonds will be printed or typewritten in substantially the following form:

No. R-____ UNITED STATES OF AMERICA \$ _____
STATE OF MINNESOTA
COUNTY OF CLAY
CITY OF BARNESVILLE

GENERAL OBLIGATION REFUNDING BOND, SERIES 2003B

<u>Rate</u>	<u>Maturity</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
		November __, 2002	

Registered Owner: Cede & Co.

The City of Barnesville, Minnesota, a duly organized and existing municipal corporation in Clay County, Minnesota (City), acknowledges itself to be indebted and for value received promises to pay to the Registered Owner specified above or registered assigns, the principal sum of \$_____ on the maturity date specified above with interest thereon from the date hereof at the annual rate specified above, payable February 1 and August 1 in each year, commencing August 1, 2004, to the person in whose name this Bond is registered at the close of business on the fifteenth day (whether or not a business day) of the immediately preceding month. The interest hereon and, upon presentation and surrender hereof, the principal hereof are payable in lawful money of the United States of America by check or draft by U.S. Bank National Association, St. Paul, Minnesota, as Bond Registrar, Paying Agent, Transfer Agent and Authenticating Agent, or its designated successor under the Resolution described herein. For the prompt and full payment of such principal and interest as the same respectively become due, the full faith and credit and taxing powers of the City have been and are hereby irrevocably pledged.

The City may elect on February 1, 2010, and on any day thereafter to prepay Bonds due on or after February 1, 2011. Redemption may be in whole or in part and if in part, at the option of the City and in such manner as the City will determine. If less than all Bonds of a maturity are called for redemption, the City will notify Depository Trust Company (DTC) of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interests in such maturity to be redeemed. Prepayments will be at a price of par plus accrued interest.

The City Council has designated the issue of Bonds of which this Bond forms a part as "qualified tax exempt obligations" within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the Code) relating to disallowance of interest expense for financial institutions and within the \$10 million limit allowed by the Code for the calendar year of issue.

This Bond is one of an issue in the aggregate principal amount of \$_____ all of like original issue date and tenor, except as to number, maturity date, redemption privilege, and interest rate, all issued pursuant to a resolution adopted by the City Council on October 13, 2003 (the Resolution), for the purpose of providing money to refund the outstanding principal amount of certain general obligation bonds of the City, pursuant to and in full conformity with the home rule charter of the City and the Constitution and laws of the State of Minnesota, including Minnesota Statutes, Section 475.67 and the principal hereof and interest hereon are payable primarily from special assessments against property specially benefited by local improvements and net revenues of the wastewater treatment system of the City in a special debt service fund of the City as set forth in the Resolution to which reference is made for a full statement of rights and powers thereby conferred. The full faith and credit of the City are irrevocably pledged for payment of this Bond and the City Council has obligated itself to levy ad valorem taxes on all taxable property in the City in the event of any deficiency in special assessments and net wastewater treatment system revenues pledged, which taxes may be levied without limitation as

to rate or amount. The Bonds of this series are issued only as fully registered Bonds in denominations of \$5,000 or any integral multiple thereof of single maturities.

As provided in the Resolution and subject to certain limitations set forth therein, this Bond is transferable upon the books of the City at the principal office of the Bond Registrar, by the registered owner hereof in person or by the owner's attorney duly authorized in writing, upon surrender hereof together with a written instrument of transfer satisfactory to the Bond Registrar, duly executed by the registered owner or the owner's attorney; and may also be surrendered in exchange for Bonds of other authorized denominations. Upon such transfer or exchange the City will cause a new Bond or Bonds to be issued in the name of the transferee or registered owner, of the same aggregate principal amount, bearing interest at the same rate and maturing on the same date, subject to reimbursement for any tax, fee or governmental charge required to be paid with respect to such transfer or exchange.

The City and the Bond Registrar may deem and treat the person in whose name this Bond is registered as the absolute owner hereof, whether this Bond is overdue or not, for the purpose of receiving payment and for all other purposes, and neither the City nor the Bond Registrar will be affected by any notice to the contrary.

IT IS HEREBY CERTIFIED, RECITED, COVENANTED AND AGREED that all acts, conditions and things required by the home rule charter of the City and the Constitution and laws of the State of Minnesota to be done, to exist, to happen and to be performed preliminary to and in the issuance of this Bond in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done, do exist, have happened and have been performed as so required, and that the issuance of this Bond does not cause the indebtedness of the City to exceed any constitutional, statutory or charter limitation of indebtedness.

This Bond is not valid or obligatory for any purpose or entitled to any security or benefit under the Resolution until the Certificate of Authentication hereon has been executed by the Bond Registrar by manual signature of one of its authorized representatives.

IN WITNESS WHEREOF, the City of Barnesville, Clay County, Minnesota, by its City Council, has caused this Bond to be executed on its behalf by the facsimile or manual signatures of the Mayor and City Administrator/Clerk-Treasurer and has caused this Bond to be dated as of the date set forth below.

Dated: _____

CITY OF BARNESVILLE, MINNESOTA

(Facsimile)
City Administrator/Clerk-Treasurer

(Facsimile)
Mayor

CERTIFICATE OF AUTHENTICATION

Signature Guaranteed:

NOTICE: Signature(s) must be guaranteed by a financial institution that is a member of the Securities Transfer Agent Medallion Program ("STAMP"), the Stock Exchange Medallion Program ("SEMP"), the New York Stock Exchange, Inc. Medallion Signatures Program ("MSP") or other such "signature guarantee program" as may be determined by the Registrar in addition to, or in substitution for, STAMP, SEMP or MSP, all in accordance with the Securities Exchange Act of 1934, as amended.

The Bond Registrar will not effect transfer of this Bond unless the information concerning the assignee requested below is provided.

Name and Address:

(Include information for all joint owners if this Bond is held by joint account.)

Please insert social security or other identifying number of assignee

PROVISIONS AS TO REGISTRATION

The ownership of the principal of and interest on the within Bond has been registered on the books of the Registrar in the name of the person last noted below.

Date of Registration

Registered Owner

Signature of
Officer of Registrar

Cede & Co.
Federal ID #13-2555119

3.02. The City Administrator/Clerk-Treasurer is authorized and directed to obtain a copy of the proposed approving legal opinion of Kennedy & Graven, Chartered, Minneapolis,

Minnesota, which is to be complete except as to dating thereof and cause the opinion to be printed on or accompany each Bond.

Section 4. Payment; Security; Pledges and Covenants.

4.01. (a) The Bonds are payable from the General Obligation Refunding Bonds, Series 2003E Debt Service Fund (Debt Service Fund) hereby created, and the revenues described in Section 4.02 are hereby pledged to the Debt Service Fund.

(b) The debt service fund, if any, heretofore established for the Refunded Bonds as defined in the resolution providing for the issuance and sale of the Bonds, is terminated, and all monies therein are hereby transferred to the Debt Service Fund herein created. If a payment of principal or interest on the Bonds becomes due when there is not sufficient money in the Debt Service Fund to pay the same, the City Administrator/Clerk-Treasurer will pay such principal or interest from the general fund of the City, and the general fund will be reimbursed for those advances out of the proceeds of the revenues described in Section 4.02 when collected.

(c) There is hereby appropriated to the Debt Service Fund any amount over the minimum purchase price of the Bonds paid by the Purchaser.

4.02. The City will create and continue to operate its Sewer Fund to which will be credited all gross revenues of the sewer plant and system and out of which will be paid all normal and reasonable expenses of current operations of the sewer plant and system. Any balance therein will be deemed net revenues and will be transferred from time to time, together with special assessments (Assessments) levied for improvements (Improvements) financed by the Refunded Bonds, to the Debt Service Fund which fund will be used only to pay principal of and interest on the Bonds and any other bonds similarly authorized. There will always be retained in the Debt Service Fund a sufficient amount to pay principal of and interest on all the Bonds, and the City Administrator/Clerk-Treasurer will report any current or anticipated deficiency in the Debt Service Fund to the City Council.

4.03. It is determined that estimated collection of Assessments and interest thereon and net revenues of the wastewater treatment system for the payment of principal and interest on the Bonds will produce at least five percent in excess of the amount needed to meet when due, the principal and interest payments on the Bonds and that no tax levy is needed at this time.

4.04. The Administrator/Clerk-Treasurer is directed to file a certified copy of this resolution with the County Auditor of Clay County and to obtain the certificate required by Section 475.63 of the Act.

4.05. It is hereby determined that upon the receipt of proceeds of the Bonds (Proceeds) for payment of the Refunded Bonds that an irrevocable appropriation to the debt service fund for the Refunded Bonds will have been made within the meaning of Section 475.61, subdivision 3 of the Act and the City Administrator/Clerk-Treasurer is hereby authorized and directed to certify

such fact to and request the County Auditor to cancel any and all tax levies made by the resolution authorizing and approving the Refunded Bonds.

4.06. The City Council covenants and agrees with the holders of the Bonds that so long as any of the Bonds remain outstanding and unpaid, it will keep and enforce the following covenants and agreements:

(a) The City will continue to maintain and efficiently operate the sewer plant and system as public utilities and conveniences free from competition of other like utilities and will cause all revenues therefrom to be deposited in bank accounts and credited to the sewer system accounts as hereinabove provided, and will make no expenditures from said accounts except for a duly authorized purpose and in accordance with this resolution.

(b) The City will also maintain the Debt Service Fund as a separate account in the Sewer Fund and will cause money to be credited thereto from time to time, out of net revenues from the sewer plant and Assessments, in sums sufficient to pay principal of and interest on the Bonds when due.

(c) The City will keep and maintain proper and adequate books of records and accounts separate from all other records of the City in which will be complete and correct entries as to all transactions relating to the sewer plant and system and which will be open to inspection and copying by any bondholder, the bondholder's agent or attorney, at any reasonable time, and it will furnish certified transcripts therefrom upon request and upon payment of a reasonable fee therefor, and said account will be audited at least annually by a qualified public accountant and statements of such audit and report will be furnished to all bondholders upon request.

(d) The City Council will cause all persons handling revenues of the sewer plant and system to be bonded in reasonable amounts for the protection of the City and the bondholders and will cause the funds collected on account of the operations of the sewer plant and system to be deposited in a bank whose deposits are guaranteed under the Federal Deposit Insurance Law.

(e) The Council will keep the sewer plant and system insured at all times against loss by fire, tornado and other risks customarily insured against with an insurer or insurers in good standing, in such amounts as are customary for like plants, to protect the holders, from time to time, of the Bonds and the City from any loss due to any such casualty and will apply the proceeds of such insurance to make good any such loss.

(f) The City and each and all of its officers will punctually perform all duties with reference to the sewer plant and system as required by the laws of the State of Minnesota.

(g) The City will impose and collect charges of the nature authorized by Minnesota Statutes, Section 444.075 at the times and in the amounts required to

produce, net revenues, together with available Assessments, adequate to pay all principal and interest when due on the Bonds and to create and maintain such reserves securing said payments as may be provided in this resolution.

(h) The City Council will levy general ad valorem taxes on all taxable property in the City when required to meet any deficiency in net revenues and collection of Assessments pledged for payment of the Bonds.

Section 5. Refunding; Findings; Redemption of Refunded Bonds.

5.01. The Refunded Bonds are the General Obligation Refunding Bonds of 1995, of the City, dated November 19, 2003, of which \$680,000 in principal amount is callable on February 1, 2004. It is hereby found and determined that based upon information presently available from the City's financial advisers, the issuance of the Bonds is consistent with covenants made with the holders thereof and is necessary and desirable for the reduction of debt service cost to the municipality.

5.02. It is hereby found and determined that the Proceeds will be sufficient to prepay all of the principal of, interest on and redemption premium (if any) on the Refunded Bonds.

5.03. The Refunded Bonds maturing on February 1, 2005 and thereafter will be redeemed and prepaid on February 1, 2004. The Refunded Bonds will be redeemed and prepaid in accordance with their terms and in accordance with the terms and conditions set forth in the forms of Notice of Call for Redemption attached hereto as Attachment B which terms and conditions are hereby approved and incorporated herein by reference. The Registrar for the Refunded Bonds is authorized and directed to send a copy of the Notice of Redemption to each registered holder of the Refunded Bonds.

5.04. When all Bonds and all interest thereon, have been discharged as provided in this section, all pledges, covenants and other rights granted by this resolution to the holders of the Bonds will cease, except that the pledge of the full faith and credit of the City for the prompt and full payment of the principal of and interest on the Bonds will remain in full force and effect. The City may discharge all Bonds which are due on any date by depositing with the Registrar on or before that date a sum sufficient for the payment thereof in full. If any Bond should not be paid when due, it may nevertheless be discharged by depositing with the Registrar a sum sufficient for the payment thereof in full with interest accrued to the date of such deposit.

Section 6. Authentication of Transcript.

6.01. The officers of the City are authorized and directed to prepare and furnish to the Purchaser and to the attorneys approving the Bonds, certified copies of proceedings and records of the City relating to the Bonds and to the financial condition and affairs of the City, and such other certificates, affidavits and transcripts as may be required to show the facts within their knowledge or as shown by the books and records in their custody and under their control,

relating to the validity and marketability of the Bonds and such instruments, including any heretofore furnished, will be deemed representations of the City as to the facts stated therein.

6.02. The Mayor and City Administrator/Clerk-Treasurer are hereby authorized and directed to certify that they have examined the Official Statement prepared and circulated in connection with the issuance and sale of the Bonds and that to the best of their knowledge and belief the Official Statement is a complete and accurate representation of the facts and representations made therein as of the date of the Official Statement.

6.03. The City authorizes the Purchaser to forward the amount of Bond proceeds allocable to the payment of issuance expenses (other than amounts payable to Kennedy & Graven, Chartered as Bond Counsel) to U.S. Trust Company, Minneapolis, Minnesota on the closing date for further distribution as directed by the City's financial adviser, Ehlers & Associates, Inc.

Section 7. Tax Covenant.

7.01. The City covenants and agrees with the holders from time to time of the Bonds that it will not take or permit to be taken by any of its officers, employees or agents any action which would cause the interest on the Bonds to become subject to taxation under the Internal Revenue Code of 1986, as amended (the Code), and the Treasury Regulations promulgated thereunder, in effect at the time of such actions, and that it will take or cause its officers, employees or agents to take, all affirmative action within its power that may be necessary to ensure that such interest will not become subject to taxation under the Code and applicable Treasury Regulations, as presently existing or as hereafter amended and made applicable to the Bonds.

7.02. (a) The City will comply with requirements necessary under the Code to establish and maintain the exclusion from gross income of the interest on the Bonds under Section 103 of the Code, including without limitation requirements relating to temporary periods for investments, limitations on amounts invested at a yield greater than the yield on the Bonds, and the rebate of excess investment earnings to the United States if the Bonds (together with other obligations reasonably expected to be issued in calendar year 2003) exceed the small-issuer exception amount of \$5,000,000.

(b) For purposes of qualifying for the small issuer exception to the federal arbitrage rebate requirements, the City finds, determines and declares that the aggregate face amount of all tax-exempt bonds (other than private activity bonds) issued by the City (and all subordinate entities of the City) during the calendar year in which the Bonds are issued and outstanding at one time is not reasonably expected to exceed \$5,000,000, all within the meaning of Section 148(f)(4)(C) of the Code.

Furthermore:

- (i) each of the Refunded Bonds was issued as part of an issue which was treated as meeting the rebate requirements by reason of the exception for governmental units issuing \$5,000,000 or less of bonds;
- (ii) the average maturity of the Bonds does not exceed the remaining average maturity of the Refunded Bonds; and
- (iii) no maturity of the Bonds has a maturity date which is later than the date which is 30 years after the date the original bonds (refunded by the Refunded Bonds) were issued.

7.03. The City further covenants not to use the proceeds of the Bonds or to cause or permit them or any of them to be used, in such a manner as to cause the Bonds to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

7.04. In order to qualify the Bonds as "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Code, the City makes the following factual statements and representations:

(a) the Bonds are not "private activity bonds" as defined in Section 141 of the Code;

(b) the City hereby designates the Bonds as "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Code;

(c) the reasonably anticipated amount of tax-exempt obligations (other than private activity bonds, that are not qualified 501(c)(3) bonds) which will be issued by the City (and all subordinate entities of the City) during calendar year 2003 will not exceed \$10,000,000; and

(d) not more than \$10,000,000 of obligations issued by the City during calendar year 2003 have been designated for purposes of Section 265(b)(3) of the Code.

7.05. The City will use its best efforts to comply with any federal procedural requirements which may apply in order to effectuate the designations made by this section.

Section 8. Book-Entry System; Limited Obligation of City.

8.01. The Bonds will be initially issued in the form of a separate single typewritten or printed fully registered Bond for each of the maturities set forth in Section 1.03 hereof. Upon initial issuance, the ownership of each Bond will be registered in the registration books kept by the Bond Registrar in the name of Cede & Co., as nominee for The Depository Trust Company, New York, New York, and its successors and assigns (DTC). Except as provided in this section,

all of the outstanding Bonds will be registered in the registration books kept by the Bond Registrar in the name of Cede & Co., as nominee of DTC.

8.02. With respect to Bonds registered in the registration books kept by the Bond Registrar in the name of Cede & Co., as nominee of DTC, the City, the Bond Registrar and the Paying Agent will have no responsibility or obligation to any broker dealers, banks and other financial institutions from time to time for which DTC holds Bonds as securities depository (Participants) or to any other person on behalf of which a Participant holds an interest in the Bonds, including but not limited to any responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any Participant or any other person (other than a registered owner of Bonds, as shown by the registration books kept by the Bond Registrar), of any notice with respect to the Bonds, including any notice of redemption, or (iii) the payment to any Participant or any other person, other than a registered owner of Bonds, of any amount with respect to principal of, premium, if any, or interest on the Bonds. The City, the Bond Registrar and the Paying Agent may treat and consider the person in whose name each Bond is registered in the registration books kept by the Bond Registrar as the holder and absolute owner of such Bond for the purpose of payment of principal, premium and interest with respect to such Bond, for the purpose of registering transfers with respect to such Bonds, and for all other purposes. The Paying Agent will pay all principal of, premium, if any, and interest on the Bonds only to or on the order of the respective registered owners, as shown in the registration books kept by the Bond Registrar, and all such payments will be valid and effectual to fully satisfy and discharge the City's obligations with respect to payment of principal of, premium, if any, or interest on the Bonds to the extent of the sum or sums so paid. No person other than a registered owner of Bonds, as shown in the registration books kept by the Bond Registrar, will receive a certificated Bond evidencing the obligation of this resolution. Upon delivery by DTC to the City Administrator/Clerk-Treasurer of a written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., the words "Cede & Co.," will refer to such new nominee of DTC; and upon receipt of such a notice, the City Administrator/Clerk-Treasurer will promptly deliver a copy of the same to the Bond Registrar and Paying Agent.

8.03. Representation Letter. The City has heretofore executed and delivered to DTC a Blanket Issuer Letter of Representations (Representation Letter) which will govern payment of principal of, premium, if any, and interest on the Bonds and notices with respect to the Bonds. Any Paying Agent or Bond Registrar subsequently appointed by the City with respect to the Bonds will agree to take all action necessary for all representations of the City in the Representation letter with respect to the Bond Registrar and Paying Agent, respectively, to be complied with at all times.

8.04. Transfers Outside Book-Entry System. In the event the City, by resolution of the City Council, determines that it is in the best interests of the persons having beneficial interests in the Bonds that they be able to obtain Bond certificates, the City will notify DTC, whereupon DTC will notify the Participants, of the availability through DTC of Bond certificates. In such event the City will issue, transfer and exchange Bond certificates as requested by DTC and any other registered owners in accordance with the provisions of this Resolution. DTC may determine to discontinue providing its services with respect to the Bonds at any time by giving

CITY OF BARNESVILLE)
)

I, the undersigned, being the duly qualified and acting City Administrator/Clerk-Treasurer of the City of Barnesville, Clay County, Minnesota, do hereby certify that I have carefully compared the attached and foregoing extract of minutes of a regular meeting of the City Council of the City held on October 13, 2003 with the original minutes on file in my office and the extract is a full, true and correct copy of the minutes insofar as they relate to the issuance and sale of \$_____ General Obligation Refunding Bonds, Series 2003B of the City.

WITNESS My hand officially as such City Administrator/Clerk-Treasurer and the corporate seal of the City this _____ day of _____, 2003.

City Administrator/Clerk-Treasurer
Barnesville, Minnesota

(SEAL)

NOTICE OF CALL FOR REDEMPTION

\$995,000
 GENERAL OBLIGATION REFUNDING BONDS, SERIES 2003B
 CITY OF BARNESVILLE
 CLAY COUNTY, MINNESOTA

NOTICE IS HEREBY GIVEN that, by order of the City Council of the City of Barnesville, Clay County, Minnesota, there have been called for redemption and prepayment on

FEBRUARY 1, 2004

all outstanding bonds of the City designated as General Obligation Refunding Bonds of 1995, dated May 1, 1995, having stated maturity dates of February 1 in the years 2005 through 2012, both inclusive, totaling \$680,000 in principal amount, and with the following CUSIP numbers:

<u>Year</u>	<u>Amount</u>	<u>CUSIP</u>
2005	\$70,000	
2006	70,000	
2007	75,000	
2008	85,000	
2009	90,000	
2010	90,000	
2011	95,000	
2012	105,000	

The bonds are being called at a price of par plus accrued interest to February 1, 2004, on which date all interest on said bonds will cease to accrue. Holders of the bonds hereby called for redemption are requested to present their bonds for payment at the main office of U.S. Bank National Association, in the City of St. Paul, Minnesota (formerly known as American Bank, N.A.), on or before February 1, 2004.

If by mail:

U.S. Bank National Association
 Corporate Trust Operations
 60 Livingston Avenue, 3rd Floor
 EP-MN-WS3C
 St. Paul, MN 55107

If by hand:

U.S. Bank National Association
 60 Livingston Avenue
 3rd Floor - Bond Drop Window
 St. Paul, MN 55107

Importance Notice: In compliance with the Economic Growth and Tax Relief Reconciliation Act of 2001, federal backup withholding tax will be withheld at the applicable

backup withholding rate in effect at the time the payment by the redeeming institutions if they are not provided with your social security number or federal employer identification number, properly certified. This requirement is fulfilled by submitting a W-9 Form, which may be obtained at a bank or other financial institution.

The Registrar will not be responsible for the selection or use of the CUSIP number, nor is any representation made as to the correctness indicated in the Redemption Notice or on any Bond. It is included solely for convenience of the Holders.

Additional information may be obtained from:

U.S. Bank National Association
Corporate Trust Division
Bondholder Relations (800) 934-6802

Dated: October 13, 2003.

BY ORDER OF THE CITY COUNCIL

By _____
City Administrator/Clerk-Treasurer
City of Barnesville, Minnesota

STATE OF MINNESOTA
COUNTY OF CLAY

COUNTY AUDITOR'S
CERTIFICATE AS TO
REGISTRATION WHERE NO AD
VALOREM TAX LEVY

I, the undersigned County Auditor of Clay County, Minnesota, hereby certify that a resolution adopted by the City Council of the City of Barnesville, Minnesota, on October 13, 2003, relating to General Obligation Refunding Bonds, Series 2003B, the amount of \$ _____, dated November 19, 2003, has been filed in my office and said obligations have been registered on the register of obligations in my office.

WITNESS My hand and official seal this _____ day of _____, 2003.

County Auditor
Clay County, Minnesota

(SEAL)

Deputy

Mayor Prim stated that he had received a letter of resignation from minutes recorder Leslie Brenner.

10-13-03-25 Motion by Mr. Ames and second by Mr. Davis to accept the resignation from Leslie Brenner. Carried.

10-13-03-26 Motion by Mr. Davis and second by Mr. Martinson to approve the checks number 11500 - 11708 in the amount of \$272,472.63, and checks numbers 11709 – 11712 in the amount of \$244,077.33, check number 704 in the amount of \$749.49 and also the EFT payments in the amount of \$110,386.68. Carried.

As there was no further business before the council, Mayor Prim adjourned the meeting at 8:06 p.m.

Submitted by:

Attest:

Jeri Davis
Deputy Clerk

Eugene Prim
Mayor