

**Barnesville City Council  
Regular Meeting  
November 13, 2007**

Mayor 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. Others in attendance were City Attorney John Shockley, Chief Operating Officer Michael Brethorst, Police Chief Dean Ernst, City Clerk Jeri Reep, Public Works Supt. Dave Riddering, Sr. Accountant Laurie Schell, TEC Coordinator Guy Swenson, EDA Director Karen Lauer, Karla Olson, Seth Lynne, and Dan Hanson with Ulteig Engineers, Tami Mortensen, Fred Dahnke, Jeremy Krause, Linda Rice, Diane Nelson, and Pam Aakre with the Record Review.

Chief Operations Officer Mike Brethorst took roll call. Mayor Bauer stated the first item on the agenda was the pledge of allegiance. All rose to recite the pledge.

Mayor Bauer asked if there were any additions or corrections to the agenda. COO Mike Brethorst informed members that the CM Repair agenda item would be tabled until the December regular meeting and to add the 2<sup>nd</sup> Reading of Ordinance 2007-16.

**11-13-07-01** Motion by Mr. Cooper and second by Mr. Davis to approve the agenda and the consent agenda as presented, with the addition of the 2<sup>nd</sup> Reading of Ordinance 2007-16, and tabling the CM Repair agenda item to the December regular meeting. Motion carried. The following items were on the consent agenda.

1. Approval of the minutes of the regular meeting held on October 15, 2007.
2. Approval of the department head reports.
3. Finance report-approval of check numbers 62278-62427 in the amount of \$236,458.72 and check numbers 62274-62277, 62292-62298, 62301 in the amount of \$36,138.24, and EFT payments in the amount of \$112,531.19.
4. Approval of the Outdoor Channel Agreement-(Option 1) expires Sept. 30, 2012.
5. Approval of the old City Hall Server Disposal.
6. Approval of the Special Assessment listing for public nuisances in the amount of \$3,350.
7. Approval of the liability coverage waiver limits of \$1,000,000 from the League of MN Cities Insurance Trust (LMCIT).
8. Approval of the Community Education Board appointment-Ione Lass and Tom Ishaug with their terms expiring June 30, 2010.
9. Approval of travel for Mike Brethorst to attend the Springsted Conference on Dec. 6, 2007-St. Paul.
10. Approval of travel for TEC Coordinator Guy Swenson to attend the MN Telecom Alliance seminar on November 15, 2007-Alexandria.
11. Approval of travel for Cable TV Supt. Mike Pearson to attend the Digital Television Systems workshop on Dec. 5<sup>th</sup>-Bismarck.

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

Council member Chad Hagen reported that the airport is now closed. Mayor Bauer informed members that the Firemen base charge will be changing from \$5.00 per call to \$10.00 per call to respond to a fire. Council member Kim Simonsen reported that the Charter Commission met, but they did not have a quorum.

**11-13-07-02** Motion by Mr. Ellefson and second by Mr. Strom to approve the board and commission reports as presented. Motion carried.

Mayor Bauer stated the next item on the agenda was the public forum. Mayor Bauer asked if there were any citizens present to be heard. There were none.

Mayor Bauer stated the next item on the agenda was the discussion of the election held on November 6, 2007. COO Mike Brethorst informed council members the options they had to resolve the tie between Mr. Del Ellefson and Mrs. Tami Mortensen, which both received 80 votes at the election.

**11-13-07-03** Motion by Mr. Hagen and second by Mr. Davis to approve the coin toss of either heads or tails to break the tie between Mrs. Tami Mortensen and Mr. Del Ellefson to determine the winner of the election. Motion carried.

Mayor Bauer stated the next item on the agenda was to canvas the election results from the November 6, 2007 election.

**11-13-07-04** Motion by Mr. Simonsen and second by Mr. Ellefson to approve the following election results. Motion carried.

**SUMMARY STATEMENT OF VOTES  
FOR GENERAL/SCHOOL ELECTION  
STATE OF MINNESOTA  
CITY OF BARNESVILLE  
COUNTY OF CLAY  
NOVEMBER 6, 2007**

At an Election held in the City of Barnesville, State of Minnesota, on the 6<sup>th</sup> day of November, 2007, the following votes were cast and counted for the candidates.

**Mayor-two year term**

<b>MAYOR</b>	<b>WARD 1</b>	<b>WARD 2</b>	<b>WARD 3</b>	<b>TOTAL</b>
LeRoy Johnson	10	4	7	21
Kim Simonsen	89	64	120	273
Fred Dahnke	116	101	100	317
(write-in)				
Ron Johnson		1		1
Jon Slininger		1		1
Gene Prim			1	1
Jayne Lien			1	1
Kim Peterson			1	1

**WARD 1**

**For the office of City Council-four year term**

Delayne Ellefson	80			80
Tami Mortensen	80			80
Jonathan Slininger	53			53

**WARD 2**

**For the office of City Council-four year term**

Merlin Strom		154		154
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**WARD 3**

**For the office of City Council-four year term:**

Lori Guida		58		58
Jeremy Krause		173		173

**School District #146**

**School Board Members**

	<b>WARD 1</b>	<b>WARD 2</b>	<b>WARD 3</b>	<b>TOTAL</b>
Jeff Stangeland	133	108	162	403
Karla R. Volrath	137	103	152	392
Kari J. Walters	117	118	123	358
Trina D. Spaeth	105	91	114	310

Mayor Bauer stated the next item on the agenda was to determine the next council member of Ward 1 by the flip of the coin toss between Mrs. Tami Mortensen and Mr. Del Ellefson. City Attorney next informed everyone in the council chambers that underneath their chair, that two people had a yellow piece of paper under their chair, and the person to the right of that person would be called to determine which candidate was heads-and which candidate was tails. The other individual would actually perform the coin toss. Mr. Seth Lynne and Mrs. Linda Rice were the two people in the audience who performed the tie breaker. Mr. Seth Lynne performed the coin toss, and Mrs. Linda Rice called Mrs. Tami Mortensen to have tails, and Mr. Del Ellefson to have heads. Mr. Lynne performed the coin toss, and the coin landed heads up. Mrs. Pam Aakre with the Record Review verified the results. Mrs. Tami Mortensen congratulated Mr. Ellefson to the council position.

**11-13-07-05** Motion by Mr. Cooper and second by Mr. Simonsen to approve the following resolution. Those voting in favor of were: Council members Cooper, Simonsen, Hagen, Davis, and Strom. Council member Ellefson abstained from the vote. Motion carried.

RESOLUTION  
City of Barnesville

**WHEREAS:** a General/School Election was held on Tuesday, November 6, 2007 to vote for a Mayor for a two year term and a Council Member for Wards 1, 2, and 3 for a four year term. The official returns of the judges of election were presented:

**WHEREAS:** said returns were duly examined, approved and placed on file in the Office of the City Clerk.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Barnesville that it is hereby found, determined and declared that the General Election held in and for the City of Barnesville on Tuesday, November 6, 2007 was in all respects duly held and the returns thereof have been duly canvassed, the votes cast at said election were:

**Mayor-two year term**

<b>MAYOR</b>	<b>WARD 1</b>	<b>WARD 2</b>	<b>WARD 3</b>	<b>TOTAL</b>
LeRoy Johnson	10	4	7	21
Kim Simonsen	89	64	120	273
Fred Dahnke (write-in)	116	101	100	317
Ron Johnson		1		1
Jon Slininger		1		1
Gene Prim			1	1
Jayne Lien			1	1
Kim Peterson			1	1

**WARD 1**

**For the office of City Council-four year term**

Delayne Ellefson	80	80
Tami Mortensen	80	80
Jonathan Slininger	53	53

**WARD 2**

**For the office of City Council-four year term**

Merlin Strom	154	154
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**WARD 3**

**For the office of City Council-four year term:**

Lori Guida	58	58
Jeremy Krause	173	173

**School District #146**

**School Board Members**

	<b><u>WARD 1</u></b>	<b><u>WARD 2</u></b>	<b><u>WARD 3</u></b>	<b><u>TOTAL</u></b>
Jeff Stangeland	133	108	162	403
Karla R. Volrath	137	103	152	392
Kari J. Walters	117	118	123	358
Trina D. Spaeth	105	91	114	310

**IT IS HEREBY FOUND AND DECLARED** that the following candidates for office of Council elected at the November 6, 2007 General Election for the respective terms are as follows:

Mayor - two year term	Fred Dahnke
Council-four year term	
Ward 1	Delayne (Del) Ellefson
Ward 2	Merlin Strom
Ward 3	Jeremy Krause

**Passed and adopted** by the Council of the City of Barnesville, Clay County, State of Minnesota this 13th day of November, 2007.

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

Attest:

\_\_\_\_\_  
Michael M. Brethorst  
Chief Operating Officer

Mayor Bauer stated the next item on the agenda was the 2008 Budget discussion. COO Mike Brethorst went thru the 2008 budget with council members. Mr. Brethorst discussed the amounts to transfer to the general fund. Mr. Brethorst informed members that we needed to transfer \$125,000 to balance the budget.

Mrs. Linda Rice discussed with council members the donation request from the Barnesville Cemetery Association. The Cemetery Board is asking for a \$5,000 donation from the city. Council member Mr. Simonsen thanked the representatives of the Cemetery Board to attending the meeting.

COO Mike Brethorst next discussed with council members that the council pay be reduced by 25%. Mayor Bauer stated that this recommendation was before the election held on November 6<sup>th</sup>. COO Mike Brethorst informed council members that this reduction in pay has to have Charter Commission approval.

COO Mike Brethorst next discussed the publication of minutes, and the savings impact towards the City. Mr. Brethorst stated that the minutes would be on the internet, library, and City Hall. The public would still have access to the minutes.

Mr. Brethorst next discussed the staffing at Blue Eagle Park during the summer months. The hours at Blue Eagle would be reduced, with the lifeguards only at the beach at the busiest hours.

TEC Coordinator Guy Swenson stated that the department heads have already cut a number of items in their budget, and that we need to progress into the future.

Council member Del Ellefson stated that he does not agree with the reduction of hours at Blue Eagle Lake, thought we should look at the safety of the kids that visit the beach.

After much discussion on the budget, there were no other questions for Mr. Brethorst.

**11-13-07-06** Motion by Mr. Simonsen and second by Mr. Strom to donate \$1500.00 to the Barnesville Cemetery Association, and to transfer \$125,000 into the general fund. Council member Larry Davis, Jr. questioned if there was going to be any donation to the American Legion Baseball. Council member Chad Hagen questioned if we were going to leave the Council Discretionary fund at \$7,000. Council member Larry Davis, Jr. stated that he had no problem in the reduction of council pay. The following voted in favor of: Council members Simonsen, Strom, Hagen, Davis, and Strom. The following voted against: Council member Ellefson. Motion carried.

**11-13-07-07** Motion by Mr. Simonsen and second by Mr. Davis to approve the 2008 budget as presented. Motion carried.

Mayor Bauer stated the next item on the agenda was the wastewater treatment facility expansion update. Mrs. Karla Olson with Ulteig Engineering next approached council members and discussed the update with council. Mrs. Olson stated that the lagoon project should be completed within the month, that they are waiting for paperwork to complete the project. Mrs. Olson reported that the PFA loan has a remaining balance of \$64,110. Mrs. Olson stated that she will have another pay request from Visser Scrapper Service. Council members had no further questions for Mrs. Olson.

**11-13-07-08** Motion by Mr. Cooper and second by Mr. Ellefson to approve Partial Payment #13 to Visser Scrapper Service in the amount of \$39,000.00. Motion carried.

Mayor Bauer stated the next item on the agenda was the Change Order #6 from Visser Scrapper Service. The amount of the change order is \$500.00.

**11-13-07-09** Motion by Mr. Cooper and second by Mr. Davis to approve the Change Order #6 for the stabilization pond expansion in the amount of \$500.00. Motion carried.

Mayor Bauer stated the next item on the agenda was the CSAH 52 – reconstruct discussion. Mr. Dan Hanson with Ulteig Engineers approached council members and updated them on the preliminary engineering report. Mr. Hanson informed council that Clay County has dedicated money for this project, and that it would be a 50% cost share with Clay County. Council member Kim Simonsen questioned if there was monies available to help pay for the expenses. Mr. Dan Hanson stated that he had given COO Mike Brethorst the information for funding assistance. Mr. Hanson stated that the county has dedicated \$1,044,598.00 for this project. COO Mike Brethorst stated that he would like to see an effort to save the trees during the project. Mr. Hanson stated that this project would have an anticipated construction date of 2011.

**11-13-07-10** Motion by Mr. Simonsen and second by Mr. Ellefson to authorize COO Mike Brethorst to send notification to Clay County to the City's intentions to proceed with the street and utility reconstruction on Front Street (CSAH52) for the year 2011. Motion carried.

Mayor Bauer stated the next item on the agenda was the discussion of the Energy Star rebate change. TEC Coordinator Guy Swenson informed council members that this change would be effective January 2008. This change is for central air-conditioners and clothes washers.

**11-13-07-11** Motion by Mr. Davis and second by Mr. Strom to approve the Energy Star Rebate change for 13 SEER central air condition to go to a \$100 rebate and 14 SEER central air conditioner to go to a \$200 rebate. The clothes washer rebate will go to a \$75.00 rebate. Motion carried.

Mayor Bauer stated the next item on the agenda was the Missouri River Energy Service-CIP Program. TEC Coordinator Guy Swenson informed council members that this is a request to increase the electric budget an additional \$1500.00 for Professional Services.

This request is due to the MN Dept of Commerce that has changed the CIP requirements, requiring the utility to reduce consumption by 1.5 percent.

**11-13-07-12** Motion by Mr. Strom and second by Mr. Ellefson to approve the increase for 2008 in the electric fund for professional services in the amount of \$1500.00. Motion carried.

Mayor Bauer stated the next item on the agenda was the request to change the HBO/Cinemax rate.

TEC Coordinator Guy Swenson informed council members that the TEC board is recommending an increase for HBO and HBO/Cinemax package. This increase is due to a wholesale rate increase.

**11-13-07-13** Motion by Mr. Strom and second by Mr. Davis to approve the 1<sup>st</sup> reading of the following ordinance. Motion carried.

### **Ordinance 2007-17**

#### **AN ORDINANCE TO ESTABLISH RATES FOR CABLE TV SERVICES.**

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

WHEREAS, the rates for Cable TV services were previously established by City Council resolution; and

WHEREAS, the City Council did previously enact Ordinance 2007-9, an ordinance to set the monthly rate for cable TV services to institutions or businesses providing their tenants or guests with quality cable programming; and

WHEREAS, the Telephone/Electric/Cable TV (T.E.C.) Board for the City has recommended the following charges for Cable TV services apply;

NOW, THEREFORE, Ordinance No 2007-9 is replaced as follows:

Section 1. Per month service rate\*

Economy Basic Cable	\$11.95
Preferred Basic	\$33.45
<b>(effective January 2008)</b>	<b>\$34.95</b>

Section 2. Per month premium channel rate\*

HBO	\$11.00
<b>(effective January 2008)</b>	<b>\$12.00</b>
CINEMAX	\$ 8.00

Section 3. Per month premium channel package rate\*

HBO/CINEMAX	\$15.00
<b>(effective January 2008)</b>	<b>\$18.00</b>
STARZ/ENCORE	\$ 7.95

Section 4. Monthly cable TV costs for businesses and institutions such as Nursing homes, Assisted living, Hotels and Motels. This section is exclusive to the above mentioned institutions

**BULK RATE:\***

Utilize the current monthly Basic/Preferred Basic rate plus the total number of living units multiplied times the current wholesale cost of programming.

Utilize a mix & match process. Subscribe to Preferred Basic for the "House" location and the Basic rate for the resident units

**Example:**

**Preferred Basic\***

\$33.45 plus 11 living units x \$22.01 (the wholesale cost of programming) = \$275.56 plus tax and FCC charge.

**Effective January 2008**

\$34.95 plus 11 living units x \$23.21 (the wholesale cost of programming) = \$290.26 plus tax and FCC charge.

**Basic\***

\$11.95 plus 11 living units x \$6.00 (the wholesale cost of programming) = \$77.95 plus tax and FCC charge.

**Mix & Match\* (Preferred Basic & Basic)**

\$33.45 plus 11 living units x \$6.00 (the wholesale cost of programming) = \$99.45 plus tax and FCC charge.

**Effective January 2008**

\$34.95 plus 11 living units x \$6.00 (the wholesale cost of programming) = \$265.18 plus tax and FCC charge

**Premium Channels\***

individual HBO: \$11.00 per month per subscriber when provided on an occupant basis. **\$12.00 (effective January 2008)**  
\$4.00 per month per subscriber when provided to all occupants.

Cinemax: \$8.00 per month per subscriber when provided on a individual occupant basis.  
\$4.00 per month per subscriber when provided to all occupants.  
Starz/Encore: \$7.95 per subscriber

Section 5 Service Charges

New Install	\$49.95
Applicable to a residence/business to which Cable TV service has never been installed. Does not apply to multi-tenant buildings.	
Relocates:	\$19.95
Relocating established cable service from one location to another.	
Install additional outlet:	\$15.00
Outlets installed at the time when service is established or relocated.	
Reconnect:	\$19.95
Restoring service previously disconnected.	
Service Call:	\$19.95
Charge applies for services performed at users request. Also applies when repair calls are made as a result of defective or improperly tuned customer owned equipment.	
Install Outlet:	\$19.95
Charge applies to each additional outlet installed at a current subscriber's location.	

\*Premium channels not included. **All rates subject to change.**

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 10th day of December, 2007.

APPROVED:

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Kenneth J. Bauer, Mayor

ATTEST:

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Michael Brethorst  
Chief Operations Officer

TEC Coordinator Guy Swenson next discussed with council members the Barnesville Day Care phone lease. Mr. Swenson stated that normally the city will enter into a 36 month, interest free lease, with the option to buy to any Barnesville telephone customer supplied by the Barnesville Municipal Telephone. Mr. Swenson stated that the Day Care would like to extend the equipment lease to 60 months.

**11-13-07-14** Motion by Mr. Ellefson and second by Mr. Cooper to authorize TEC Coordinator Guy Swenson to enter into a 60 month lease for the Barnesville Child Daycare for the equipment lease for the Barnesville Municipal Telephone. Motion carried.

TEC Coordinator Guy Swenson next informed council members a request to purchase DSL equipment in the amount of \$20,085.41. This is to purchase modems, cards, shelf and associated cables to supply DSL to approximately 100 new customers. Mr. Swenson stated that this is a budgeted item.

**11-13-07-15** Motion by Mr. Ellefson and second by Mr. Hagen to authorize TEC Coordinator Guy Swenson to purchase the DSL equipment necessary from Communication Consultants, Inc., not to exceed \$20,085.41. Motion carried.

TEC Coordinator Guy Swenson next discussed with council members the request to purchase nine Shakespeare decorative light poles in the amount of \$3,258.90. This purchase is to replace poles that are damaged.

**11-13-07-16** Motion by Mr. Ellefson and second by Mr. Strom to authorize TEC Coordinator Guy Swenson to purchase nine Shakespeare decorative light poles from Dakota Supply Group in the amount of \$3,258.90. Motion carried.

Mayor Bauer stated the next item on the agenda was the request for Cable TV spare parts. TEC Coordinator Guy Swenson informed council members that we have used our last spare power supply, and we also need receivers. The total amount of the request is \$5,200.

**11-13-07-17** Motion by Mr. Davis and second by Mr. Strom to authorize TEC Coordinator Guy Swenson to purchase Cable TV parts, Motorola DSR 4530 receiver, 2-SA Power vu D9850 receivers, and 1 Alpha Technologies Power Supply. Total cost not to exceed \$5,200.00. Motion carried.

Mayor Bauer stated the next item on the agenda was the Ottertail Power repairs. TEC Coordinator Guy Swenson informed council members of five locations on the Barnesville Municipal Utility distribution system that need repairs. Mr. Swenson stated that all five involve handling primary power lines requiring additional electric personnel to be on hand during the repairs. The cost for the five repairs is \$14,104.00. Mr. Swenson stated that this system upgrade is included in the 2007 system upgrade budget.

**11-13-07-18** Motion by Mr. Strom and second by Mr. Hagen to approve the five locations electrical upgrade from Otter Tail Power, in the amount of \$14,104.00. Motion carried.

Mayor Bauer stated the next item on the agenda was the 2<sup>nd</sup> reading of Ordinance 2007-15, an ordinance to amend Section 11.04 of the Barnesville Municipal Code relating to definitions.

**11-13-07-19** Motion by Mr. Davis and second by Mr. Ellefson to approve the 2<sup>nd</sup> reading of Ordinance 2007-15. Motion carried.

### Ordinance 2007-15

AN ORDINANCE TO AMEND SECTION 11.04 OF THE BARNESVILLE MUNICIPAL CODE RELATING TO DEFINITIONS:

BE IT ORDAINED by the City Council of the City of Barnesville that Section 11.04 is hereby amended as follows:

#### SECTION 11.04 RULES AND DEFINITIONS

**59. "Yard, Front"** - The space extending between side lot lines from the front property line and the building setback line. ***The front property line line is the boundary of a lot which abuts an existing or dedicated public street, and in the case of a corner lot it shall be the shortest dimension on a public street. If the dimensions are equal the front property line shall be designated by the City.***

***Exception: Reverse Corner Lots - A reverse corner lot exists when based on a proposed building, it is not feasible for the shortest dimension on a public street to be the front property line. In these cases, the lot line abutting the other right-of-way becomes the front property line. The minimum front yard setback must be met wherever the front property line is placed. A rear yard must be designated, but the rear yard may or may not be opposite the front yard. If one of the side yards is parallel to a street a minimum 12 foot setback must be maintained. If no side yard is parallel to a street, the other side yards must have a width that is a minimum of 10% of the narrow width of the lot, wherever they may be placed.***

**61. "Yard, Side"** - A space between the building and the side line of the lot and extending from the front ~~lot~~ ***property line*** to the rear ~~yard~~ ***property line***. In the case of corner lots with normal frontage, there will be only one side yard, adjacent to the interior lot. ~~In the case of the corner lots with reversed frontage, the yards remaining after the required setbacks have been established shall be considered to be side yards.~~

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 2007.

By:

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Kenneth J. Bauer  
Mayor

Attest to:

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Michael M. Brethorst  
Chief Operating Officer

First Reading:                   October 15, 2007  
Second Reading:               November 13, 2007  
Adopted:                         November 13, 2007  
Published:                       November 19, 2007

Mayor Bauer stated the next item on the agenda was the 1<sup>st</sup> Reading of Ordinance 2007-18, an ordinance to increase the sanitation rates. COO Mike Brethorst informed council members that the current rate of garbage is \$12.60 per month.

**11-13-07-20** Motion by Mr. Ellefson and second by Mr. Cooper to approve the 1<sup>st</sup> reading of Ordinance 2007-18. Motion carried.

**Ordinance No. 2006-1 is hereby amended as follows:  
Ordinance No. 2007-18  
AN ORDINANCE TO INCREASE FEES FOR GARBAGE SERVICE**

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

WHEREAS: the City Council did previously enact Ordinance No. 2006-1, Defining garbage and rubbish and providing for an regulating the keeping, gathering, and disposal, thereof and providing for the establishment of fees to be charged for garbage collections., and

WHEREAS: The City Council for the City has recommended that the fee be increased.

NOW, THEREFORE, ordinance No. 2006-1, is hereby amended as follows;

Section 5. Fees

Fees payable by those receiving the garbage collection service shall be payable on a monthly basis, and are hereby established as follows:

\$13.60 monthly per residential customer.

PASSED AND ADOPTED by the Barnesville City Council this 10th day of December, 2007.

APPROVED:

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Kenneth J. Bauer  
Mayor

ATTEST:

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Michael M. Brethorst  
Chief Operating Officer

First Reading: November 13, 2007  
Second Reading: December 10, 2007  
Adopted: December 10, 2007  
Published: December 17, 2007

Mayor Bauer stated the next item on the agenda was the 2<sup>nd</sup> reading of Ordinance 2007-16, an ordinance to amend and reenact Section 5.17, 5.32, 5.54, and 5.71 of the

Barnesville City code relating to consumption and possession of alcoholic beverages on streets, public property and private parking lots to which the public has access; hours and days of beer and liquor sales; and hours and days of sales by on-sale wine licensees.

**11-13-07-21** Motion by Mr. Davis and second by Mr. Hagen to approve the 2<sup>nd</sup> Reading of Ordinance 2007-16. Motion carried.

Ordinance 2007-16

AN ORDINANCE TO AMEND AND REENACT SECTIONS 5.17, 5.32, 5.54, AND 5.71 OF THE BARNESVILLE CITY CODE RELATING TO CONSUMPTION AND POSSESSION OF ALCOHOLIC BEVERAGES ON STREETS, PUBLIC PROPERTY, AND PRIVATE PARKING LOTS TO WHICH THE PUBLIC HAS ACCESS; HOURS AND DAYS OF BEER AND LIQUOR SALES; AND HOURS AND DAYS OF SALES BY ON-SALE WINE LICENSEES.

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

SECTION 1. Section 5.17 of the Barnesville City Code is hereby amended and enacted to read as follows:

**SEC. 5.17. CONSUMPTION AND POSSESSION OF ALCOHOLIC BEVERAGES ON STREETS, PUBLIC PROPERTY, AND PRIVATE PARKING LOTS TO WHICH THE PUBLIC HAS ACCESS.** It is unlawful for any person to consume, or possess in an unsealed container, any alcoholic beverage on any (1) City park, (2) street, (3) public property, or (4) private parking lot to which the public has access, except on such premises when and where permission has been specifically granted or licensed by the Council. An application for permission to consume or possess alcoholic beverages on any (1) City park, (2) street, (3) public property, or (4) private parking lot shall be made to the Barnesville Police Department. The Barnesville Police Department shall make recommendations regarding the application and submit said recommendation to the city Council, prior to the city Council voting on such application. Provided, that this Section shall not apply to the possession of an unsealed container in a motor vehicle when the container is kept in the trunk of such vehicle if it is equipped with a trunk, or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the motor vehicle is not equipped with a trunk. For the purpose of this Section, a utility or glove compartment shall be deemed to be within the area occupied by the driver or passengers. Provided further, that this Section shall not apply to a bus operated under a charter, or to a limousine, both as defined by statute.

SECTION 2. Section 5.32 of the Barnesville City Code is hereby amended and reenacted to read as follows:

**SEC. 5.32. HOURS AND DAYS OF BEER SALES** No sale of beer shall be made between the hours of 1:00 a.m. and 8:00 a.m. on the days of Tuesday through Saturday, nor between the hours of 1:00 a.m. and 12:00 noon on Sunday, nor between the hours of

10:00 p.m. on Sunday and 8:00 a.m. on Monday. Provided, however, that in any year that December 31 falls on a Sunday, license holders may stay open on that Sunday until 1:00 a.m. on Monday, January 1 of the next year. ~~Nor shall there be any sale of beer between the hours of 1:00 a.m. and 7:00 p.m. on the day of any State wide election.~~

SECTION 3. Section 5.54 of the Barnesville City Code is hereby amended and enacted to read as follows:

**SEC. 5.54 HOURS AND DAYS OF LIQUOR SALES** No sale of liquor shall be made between the hours of 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, nor on Sunday between 1:00 a.m. and 12:00 noon, nor between the hours of 8:00 p.m. on December 24 and 12:00 p.m. on December 25. When December 31 falls on a Sunday, licensees may operate from 10:00 a.m. on December 31 to 1:00 a.m. on January 1. ~~There shall not be any sale of intoxicating liquor between the hours of 1:00 a.m. and 7:00 p.m. on the day of any State wide election.~~ (note: This Section does not prohibit sales during hours when on-sale is permitted on Sunday as stated in the Section of this Chapter entitled "Sunday Sales.")

SECTION 4. Section 5.71 of the Barnesville City Code is hereby amended and enacted to read as follows:

**SEC. 5.54 HOURS AND DAYS OF SALES BY ON-SALE WINE LICENSEES.** No on-sale of wine shall be made between the hours of 1:00 a.m. and 8:00 a.m. on the days of Tuesday through Saturday, nor on Sunday between 1:00 a.m. and 12:00 noon and between the hours of 10:00 p.m. on Sunday and 8:00 a.m. on Monday, nor between the hours of 8:00 p.m. on December 24 and 8:00 a.m. on December 25. Provided, however, that in any year that December 31 falls on a Sunday, license holders may stay open on that Sunday until 1:00 a.m. on Monday, January 1 of the next year. ~~Nor shall there be any sale of wine between the hours of 1:00 a.m. and 7:00 p.m. on the day of any State wide election.~~

SECTION 5. This ordinance shall take effect upon publication in accordance with the Barnesville City Charter.

PASSED by the City Council of the City of Barnesville this 13<sup>th</sup> day of November, 2007.

Approved by:

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Kenneth J. Bauer  
Mayor

Attest:

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Michael M. Brethorst  
Chief Operating Officer

First Reading: October 15, 2007  
Second Reading: November 13, 2007  
Adopted: November 13, 2007  
Published: November 19, 2007

Mayor Bauer adjourned the meeting at 9:17 p.m.

Submitted by:

Attest:

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Jeri L. Reep  
City Clerk

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Kenneth J. Bauer  
Mayor