

Barnesville City Council
Regular Meeting
March 14, 2016

Mayor Gene Prim called this regular meeting to order at 7:00 p.m. Members present were Council members Jason Rick, Don Goedtke, Betty Strom, Larry Davis, Jr., Dawn Stuvland and Brad Field. Others in attendance were City Administrator Mike Rietz, Sara Nyhus-Wear with Ohnstad Twichell, City Clerk Jeri Reep, Finance Director Laurie Schell, TEC Manager Guy Swenson, EDA Director Karen Lauer, Police Chief Dean Ernst, Ambulance Manager Scott Nelson, Public Works Supt. Trevor Moen, Mike Kurkowski with People Service, Jon Pauna with KLJ Engineering, Jack Fay with Ehlers Investment Partners, Jason McCoy from Partnership 4 Health, and Pam Aakre with the Record Review.

Mayor Prim next asked if there were any additions or corrections to the agenda City Administrator Mike Rietz stated that the following needed to be added to the agenda: Approval to hire Allan Kertscher and Harold Opsahl for a part-time Golf Course mower, approval to allow Boy Scouts to use the lot next to the Green Building, approval of the petition for Local Improvements at 110 3rd Street SE, and to add Billing Clerk Shana Cihak to the TOC Conference to be held in Fargo.

03-14-16-01 Motion by Mr. Davis and second by Mrs. Strom to approve the agenda as presented with the following additions: Approval to hire Allan Kertscher and Harold Opsahl for a part-time Golf Course mower, approval to allow Boy Scouts to use the lot next to the Green Building, approval of the petition for Local Improvements at 110 3rd Street SE, and to add Billing Clerk Shana Cihak to the TOC Conference to be held in Fargo. Motion carried.

Mayor Prim stated the next item on the agenda was the consent agenda.

03-14-16-02 Motion by Mrs. Strom and second by Mr. Rick to approve the consent agenda. Motion carried. The following items were on the consent agenda.

1. Approval of the minutes of the regular meeting held on February 8, 2016.
2. Approval of the department head reports.
3. Approval of check numbers 81565-81711 in the amount of \$227,522.92 and EFT payments in the amount of \$286,879.73.
4. Approval of the final pay request-Bristlin & Son Construction in the amount of \$16,356.43 for the Old City Hall project.
5. Approval of travel for the following to attend the TOC Conference in Fargo-Guy Swenson, Elliot Goheen, Mike Pearson, Diane Hanson, and Shana Cihak.
6. Approval of travel for TEC Manager Guy Swenson to attend the 2016 American Public Power Association National Convention.
7. Approval of the 2015 SAIFI, SAIDI, and CAIDI reports.
8. Approval of the gambling request from the Barnesville Lions Club-April 14, 2016.
9. Approval of the gambling request from the Barnesville Rod & Gun Club-February 26, 2016.
10. Approval to hire Robert Troy as part-time Liquor Store Clerk at \$9.50 per hour.

11. Approval of a lot merge request-Block 1, Lot 10, Stoneridge Addition.
12. Approval to hire Allan Kertscher as part-time Golf Course mower at \$12.00 per hour.
13. Approval to hire Harold Opsahl as part-time Golf Course mower at \$10.25 per hour.

Mayor Prim stated the next item on the agenda was the boards and commission reports.

Council members reported on the boards and commissions they serve on.

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

Mayor Prim stated the next item on the agenda was the request from the Boy Scouts to use the lot next to the Green Building.

City Administrator Mike Rietz informed council members that the Boy Scouts are holding an annual food drive, and would like to camp out by the Food shelf building to raise awareness of the food drive.

03-14-16-03 Motion by Mr. Goedtke and second by Mrs. Strom to allow the Boy Scouts to camp out next to the Food Shelf building on March 18, 2016. Motion carried.

Mayor Prim stated the next item on the agenda was the investment report with Jack Fay with Ehlers Investment Partners.

Mr. Jack Fay next approached the council and discussed the General Investment account and the Community Project fund. Mr. Fay discussed the profit in 2015 and the interest earnings. Mayor Prim asked council members if they had any questions for Mr. Fay. There were no questions.

Mayor Prim stated the next item on the agenda was the discussion of the snow removal in the Commercial Park.

City Administrator Mike Rietz informed council that this item was tabled from the February council meeting. Barnesville Homes has requested that the City have the snow from the street removed from the boulevard in front of his business, or at least pushed to one side.

Public Works Supt. Trevor Moen stated that he would like to treat the Commercial Park as a residence.

03-14-16-04 Motion by Mr. Field and second by Mr. Goedtke to continue to remove snow in the Commercial Park as we have been in the past, and deny Barnesville Homes request to remove snow from the street from the boulevard in front of his business. The following voted aye: council members Goedtke, Strom, Davis, Stuvland and Field. The following voted nay: none. Council member Rick abstained due to him having a snow removal business. Motion carried.

Mayor Prim stated the next item on the agenda was the awarding of bids for Improvement District 2016-01, the Del Acres Gilbertson 2nd Addition.

Mr. Jon Pauna with KLJ Engineering next discussed the Del Acres Gilbertson project. Mr. Pauna stated that the bid opening was held and 13 bids were received. Mr. Pauna stated that Riley Bros. Construction was the lowest bidder in the amount of \$961,727.43. Mr. Pauna stated that the city bid at the right time, and thanked the Mayor, council members and EDA Director Karen Lauer for their time spent on this project.

City Administrator Mike Rietz stated that the base bid was \$795,406.24. The base bid includes doing all the water and sewer infrastructure and building the roads for the first block. Alternate #1 includes completing the rest of the roads in the subdivision, which was bid at \$166,321.19 and alternate #2 was \$22,791.00 is for the paving the parking lot across from the Liquor Store and patching 3rd Street SE after the installation of the water and sewer hookups of the Townhomes on 3rd project.

City Administrator Mike Rietz stated that the Personnel and Finance committee recommending awarding the bid and both alternates.

03-14-16-05 Motion by Mr. Rick and second by Mr. Goedtke to approve the bid from Riley Bros. Construction in the amount of \$795,406.24 Del Acres Gilbertson 2nd Addition, and Alternate #1 in the amount of \$166,321.19 to complete the rest of the roads in the subdivision and Alternate #2 for the paving of the parking lot across from the Liquor Store in the amount of \$22,791.00. Motion carried.

Mayor Prim stated the next item on the agenda was the 1st Reading of Ordinance 2016-02, a Tobacco Ordinance.

Mr. Jason McCoy with Partnership 4 Health next discussed with council members about the changes to the Ordinance regarding tobacco. Mr. McCoy stated that he has been working with Clay County to make sure electronic nicotine delivery systems are regulated like traditional tobacco products. Mr. McCoy stated that all parks would also be tobacco free. Mayor Prim questioned if Wagner Park would be included as tobacco free. City Administrator Mike Rietz stated that the committee will review and report back at the April regular meeting.

03-14-16-06 Motion by Mr. Davis and second by Mrs. Strom to approve the 1st reading of Ordinance 2016-02. Motion carried.

ORDINANCE NO. 2016-02

AN ORDINANCE TO AMEND AND REENACT SECTION 4-0213 AND TO CREATE AND ENACT SECTION 6-0904 OF THE BARNESVILLE CITY CODE RELATING TO TOBACCO, ELECTRONIC DELIVERY DEVICES, AND TOBACCO-FREE PARKS.

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

SECTION 1. Section 4-0213 of the Barnesville City Code is hereby amended and reenacted to read as follows:

SEC. 4-0213. TOBACCO.

Subd. 1. Definitions. ~~The following terms, as used in this Section, shall have the meanings stated:~~ Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

1. "Child-Resistant Packaging" means packaging that meets the definition set forth in Code of Federal Regulations, Title 16, Section 1700.15(b), as in effect on January 1, 2015, and was tested in accordance with the method described in Code of Federal Regulations, Title 16, Section 1700.20..

~~112.~~ **"Compliance Checks"** means the system the City uses to investigate and ensure that those authorized to sell ~~tobacco, tobacco~~ licensed products, and tobacco-related devices are following and complying with the requirements of this Section. Compliance checks shall involve the use of minors as authorized by this Section. Compliance checks shall also mean the use of minors who attempt to purchase ~~tobacco, tobacco products, or tobacco-related devices~~ licensed products for educational, research and training purposes as authorized by State and Federal laws. Compliance checks may also be conducted by other units of government for the purpose of enforcing appropriate Federal, State, or local laws and regulations relating to ~~tobacco, tobacco products, and tobacco-related devices~~ licensed products.

3 "Electronic Delivery Devices" shall mean any product containing or delivering nicotine, lobelia, or any other substance intended for human consumption that can be used by a person to simulate smoking in the delivery of nicotine or any other substance through inhalation of aerosol or vapor from the product. Electronic delivery devices include any component part of a product, whether or not marketed or sold separately. Electronic delivery devices do not include any product that has been approved or certified by the United States Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is marketed and sold for such an approved purpose. The term includes any such devices, whether they are manufactured, distributed, marketed or sold as e-cigarettes, e-cigars, e-pipes, or under any other product name or descriptor.

~~54.~~ **"Individually Packaged"** means the practice of selling any ~~tobacco or tobacco~~ licensed product wrapped individually for sale. Individually ~~wrapped tobacco and tobacco~~ packaged products shall include, but are not limited to, single cigarette packs, single bags or cans of loose tobacco in any form, and single cans or other packaging of snuff or chewing tobacco. Cartons or other packaging containing more than a single pack or other containers as described in this Subdivision shall not be considered individually packaged.

6. "Indoor Area" means all space between a floor and a ceiling that is bounded by walls, doorways, or windows, whether open or closed, covering more than 50 percent of the combined surface area of the vertical planes constituting the perimeter of the area. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent. A standard (0.011 gauge with an 18 by 16 mesh count) window screen is not considered a wall.

7. "Licensed Products" means the term that collectively refers to tobacco, tobacco-related devices, electronic delivery devices, and nicotine or lobelia delivery products.

68. "Loosies" means the common term used to refer to a single or individually ~~packed~~ packaged cigar or cigarette or any other licensed product that has been removed from its intended retail packaging and sold individually. Loosies does not include individual cigars with a retail price, after any discounts or before any sales taxes are imposed, of more than \$2.00 per cigar.

79. "Minor" means any natural person who has not yet reached the age of eighteen (18) years.

910. "Movable Place of Business" refers to any form of business operated out of a kiosk, truck, van, automobile, or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions.

11. "Nicotine or Lobelia Delivery Products" means any product containing or delivering nicotine or lobelia intended for human consumption, or any part of such product, that is not tobacco or an electronic delivery device as defined in this section. Nicotine or lobelia delivery products do not include any product that has been approved or otherwise certified for legal sale by the United States Food and Drug Administration for tobacco use cessation, harm reduction, or for other medical purposes, and is being marketed and sold solely for that approved purpose.

812. "Retail Establishment" means any place of business where ~~tobacco, tobacco products, or tobacco-related devices~~ licensed products are available for sale to the general public. The phrase ~~Retail establishments~~ shall include, but not be limited to, grocery stores, convenience stores, gasoline service stations, bars, and restaurants.

1013. "Sale" means any transfer of goods for money, trade, barter, or other consideration.

314. "Self-Service Merchandising" means open displays of ~~tobacco, tobacco products, or tobacco-related devices~~ licensed products in any manner where any person shall have access to the ~~tobacco, tobacco products, or tobacco-related devices, licensed products~~ without the assistance or intervention of the licensee or the licensee's employee. The assistance or intervention shall entail the actual physical exchange of the ~~tobacco, tobacco product, or tobacco related device~~ licensed product between the customer and the licensee or employee. Self-service merchandising ~~shall not include vending machines~~ sales are interpreted as being any sale where there is not an actual physical exchange between the clerk and the customer.

15. "Smoking" means inhaling or exhaling smoke from any lighted or heated cigar, cigarette, pipe, or any other tobacco or plant product, or inhaling or exhaling aerosol or vapor from an electronic delivery device. Smoking includes being in possession of a lighted or heated cigar, cigarette, pipe, or any other tobacco or plant product intended for inhalation, or any electronic delivery device that is turned on or otherwise activated.

116. "~~Tobacco or Tobacco Products~~" means any ~~substance or item~~ product containing, made or derived from tobacco leaf that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product, including but not limited to, cigarettes; cigars; ~~pipe tobacco; snuff, fine cut or other chewing tobacco;~~ cheroots; stogies; perique; granulated, plug cut, crimp cut, ready-rubbed, and other smoking tobacco; snuff flower;

cavendish; ~~shorts~~, plug and twist tobacco; fine cut and other chewing tobaccos, shorts, dipping tobacco; refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco leaf prepared in such a manner as to be suitable for chewing, sniffing, or smoking. Tobacco does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.

217. "Tobacco Related Devices" means any ~~tobacco product as well as a~~ pipe, rolling papers or other device intentionally designed or intended to be used in a manner which enables the chewing, sniffing, ~~or~~ smoking or inhalation of vapors of tobacco or tobacco products. Tobacco-related devices include components of tobacco-related devices which may be marketed or sold separately.

18. "Use" means the inhaling or exhaling of aerosol or vapor from any electronic delivery device. Use shall also mean being in possession of an electronic delivery device that is turned on or otherwise activated.

419. "Vending Machine" means any mechanical, electric or electronic, or other type of device which dispenses ~~tobacco, tobacco products, or tobacco related devices~~ licensed products upon the insertion of money, tokens, or other form of payment directly into the machine by the person seeking to purchase the ~~tobacco, tobacco product, or tobacco related device~~ licensed product.

Subd. 2. License. ~~It is unlawful for any~~ No person to shall sell or offer to sell any tobacco, ~~tobacco products, or tobacco related device,~~ electronic delivery device, or nicotine or lobelia delivery product without first having obtained a license to do so from the City.

Subd. 3. Fees. No license shall be issued under this Section until the appropriate license fee shall be paid in full.

(SEE SEC. 1-0904, FEES, RATES AND CHARGES SCHEDULE)

Subd. 4. Basis for Denial of License. The following shall be grounds for denying the issuance or renewal of a license under this Section; however, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the City must deny the license. If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this Section.

A. The applicant is under the age of eighteen (18) years.

B. The applicant has been convicted within the past five years of any violation of a 247 (12-01-04) Federal, State or local law or City Code provision, or other regulation relating to tobacco or ~~tobacco products, or tobacco related devices,~~ electronic delivery device, or nicotine or lobelia delivery product.

C. The applicant has had a license to sell tobacco, ~~tobacco products or~~ tobacco related devices, electronic delivery device, or nicotine or lobelia delivery product revoked within the preceding twelve months of the date of application.

D. The applicant fails to provide any information required on the application, or provides false or misleading information.

E. The applicant is prohibited by Federal, State, or local law, City Code provision or other regulation from holding such a license.

F. No License shall be issued to a moveable place of business. Only fixed location businesses shall be eligible to be licensed.

G. All licenses issued shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license to another location or person shall be valid.

H. The renewal of a license issued under this section shall be handled in the same manner as the original application. The request for a renewal shall be made at least 30 days but no more than 60 days before the expiration of the current license.

I. Issuance of a license issued under this section shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of the license.

J. No license shall be granted to any person for any location that is within 500 feet of a school, playground, house of worship, or youth-oriented facility, as measured by the shortest line between the space to be occupied by the proposed licensee and the occupied space of the school, playground, house of worship, or youth-oriented facility, unless that person has been licensed to sell such licensed products in that location for at least one year before the date this section was enacted into law. For the purpose of this section, a youth-oriented facility is defined to include any facility with residents, customers, visitors, or inhabitants of which 25 percent or more are regularly under the age of 21 or which primarily sells, rents, or offers services or products that are consumed or used primarily by persons under the age of 21.

Subd. 5. Prohibition. Smoking, including the use of any electronic delivery device, shall not be permitted and no person shall smoke within the indoor area of any establishment licensed under this ordinance or where prohibited by the Minnesota Clean Indoor Air Act, as it may be amended from time to time. Smoking for the purposes of sampling licensed products is prohibited.

Subd. 56. Prohibited Sales. It is a violation of this Section for any person to sell or offer to sell any tobacco, tobacco product, or tobacco related device:

A. To any person under the age of eighteen (18) years.

B. By means of any type of vending machine, ~~except as may otherwise be provided in this Section.~~

C. By means of self-service methods whereby the customer does not need to make verbal or written request to an employee of the licensed premise in order to receive the tobacco, ~~tobacco related product, or tobacco related device, electronic delivery device, or nicotine or lobelia delivery product,~~ and whereby there is not a physical exchange of the tobacco, ~~tobacco product, or tobacco related device, electronic delivery device, or nicotine or lobelia delivery product~~ between the licensee or the licensee's employee and the customer.

D. By means of loosies as defined herein.

E. Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic, or controlled substances except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process. It is not the intention of this provision to ban the sale of lawfully manufactured cigarettes or other projects subject to this ordinance.

F. By any other means, or to any other person, or in any other manner or form prohibited by Federal, State or other local law, City Code provision, or other regulations.

Subd. 67. Vending Machines. It is unlawful for any person licensed under this Section to allow the sale of tobacco, tobacco products, or tobacco related devices by the means of a vending machine unless minors are at all times prohibited from entering the licensed establishment.

Subd. 78. Self-Service Sales. It is unlawful for a licensee under this Section to allow the sale of tobacco, tobacco products, or tobacco related devices by any means whereby the customer may have access to such items without having to request the item from the licensee or the licensee's employee and whereby there is not a physical exchange of the tobacco, tobacco product, or the tobacco related device between the licensee or his or her clerk and the customer. All tobacco, tobacco products, and tobacco related devices shall either be stored behind a counter or other area not freely accessible to customers or in a case or other storage unit not left open and accessible to the general public. Licensees which prohibit individuals less than 18 years of age from entering the premises and which derive at least 90 percent of their revenue from tobacco and tobacco-related products are exempt from this subdivision.

Subd. 9. Liquid packaging. It shall be a violation of this ordinance for any person to sell or offer to sell any liquid, whether or not such liquid contains nicotine, which is intended for human consumption and use in an electronic delivery device, in packaging that is not child-resistant. Upon request, a licensee shall provide a copy of the certificate of compliance or full laboratory testing report for the packaging used.

Subd. 810. Responsibility. All licensees under this Section shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products or tobacco related devices on the licensed premise, and the sale of such an item by an employee shall be considered a sale by the license holder. Nothing in this Section shall be construed as prohibiting the City from also subjecting the clerk to whatever penalties are appropriate under this Section, State or Federal law, or other applicable law or regulation.

Subd. 911. Compliance Checks and Inspections. All licensed premises shall be open to inspection by the City police or other authorized City official during regular business hours. From time to time, but at least once per year, the City shall conduct compliance checks by engaging, with the written consent of their parents or guardians, minors over the age of fifteen (15) years but less than eighteen (18) years to enter the licensed premise to attempt to purchase tobacco, tobacco products, or tobacco related devices. Minors used for the purpose of compliance checks shall not be guilty of unlawful possession of tobacco, tobacco products, or tobacco related devices when such items are obtained as part of the compliance check. No minor used in compliance checks shall attempt to use a false identification or theatrical makeup misrepresenting the minor's age. All minors lawfully engaged in a compliance check shall answer all questions about the minor's age asked by the licensee and shall produce any identification for which he or she is asked. The minor shall be accompanied by the City police or an authorized City official to the location of the compliance check. Nothing in this Section shall prohibit compliance checks authorized by

State or Federal laws for educational, research, or training purposes, or required for the enforcement of a particular State or Federal law.

Subd. ~~10~~12. Violations.

A. Notice. Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged violator of his or her right to be heard on the accusation.

B. Hearings. If a person accused of violating this Section so requests, a hearing shall be scheduled, the time and place of which shall be published and provided to the accused violator.

C. Hearing Officer. The Council or a person or persons designated by the Council shall serve as the hearing officer.

D. Decision. If the hearing officer determines that a violation of this Section did occur, that decision, along with the hearing officer's reasons for finding a violation and the penalty to be imposed under this Section, shall be recorded in writing, a copy of which shall be provided to the accused violator. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, such findings shall be recorded and a copy provided to the acquitted accused violator.

E. Appeals. Appeals of any decision made by the hearing officer shall be filed in the District Court for the City in which the alleged violation occurred.

F. Misdemeanor Prosecution; No Administrative Penalty. Nothing in this Section shall prohibit the City from seeking prosecution as a misdemeanor for any alleged violation of this Section. If the City elects to seek misdemeanor prosecution, no administrative penalty shall be imposed.

G. Continued Violation. Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

Subd. ~~11~~13. Penalties.

A. Licensees. Any licensee found to have violated this Section, or whose employee shall have violated this Section, shall be charged an administrative penalty of ~~\$75.00~~ \$250.00 and a written violation warning from the City for a first violation of this Section. For a second violation, an administrative penalty of ~~\$200.00~~ \$500.00 shall be imposed and the licensee=s authority to sell tobacco products or tobacco related devices shall be suspended for not less than three (3) days. For a third violation, an administrative penalty of ~~\$250.00~~ \$750.00 shall be imposed and the licensee=s authority to sell tobacco products or tobacco related devices shall be suspended for not less than ten (10) days. For a fourth violation, the licensee=s authority to sell tobacco products or tobacco related devices shall be revoked.

B. Other Individuals. An individual who sells tobacco products or tobacco related devices to a person under the age of eighteen (18) years shall be charged an administrative fee of ~~\$50.00~~ \$250.00. Upon a juvenile violating this Section, the penalty shall be in accordance with Minnesota Statutes, Section 260.195.

C. Misdemeanor. Nothing in this Section shall prohibit the City from seeking prosecution as a misdemeanor for any violation of this Section.

Subd. 1214. Exceptions and Defenses. Nothing in this Section shall prevent the providing of tobacco products or tobacco related devices to a minor as part of a lawfully recognized religious, spiritual, or cultural ceremony. It shall be an affirmative defense to the violation of this Section for a person to have reasonably, and in good faith, relied upon representations of proof of age as described by State law.

(CODIFIER=S NOTE: See Chapter 6-07 for Tobacco Regulations Relating to Minors)

SECTION 2. Section 6-0904 of the Barnesville City Code is hereby created and enacted to read as follows:

SEC. 6-0904. TOBACCO-FREE PARKS.

Subd. 1. Definitions.

A. “All times” means 24 hours a day, seven days a week.

B. “Electronic delivery device” means any product containing or delivering nicotine, lobelia, or any other substance intended for human consumption that can be used by a person to stimulate smoking in the delivery of nicotine or any other substance through inhalation of vapor from the product. The term includes any such devices, whether they are manufactured, distributed, marketed or sold as e-cigarettes, e-cigars, e-pipes, or under any other product name or descriptor.

C. “Park Property” means all facilities, parks, trails, open space, and other property owned, leased, rented, contracted, used, or controlled by the City of Barnesville for parks and recreational purposes.

D. “Smoking” means inhaling or exhaling from any lighted or heated cigar, cigarette, pipe, or any other tobacco or plant product, or inhaling or exhaling aerosol or vapor from any electronic delivery device. Smoking shall include being in possession a lighted or heated cigar, cigarette, pipe, or any other lighted or heated tobacco or plant product intended for inhalation, or an electronic delivery device that is turned on or is otherwise activated.

E. “Staff” means any person employed by the City of Barnesville in a full- or part-time capacity, any position contracted for by the city, or any person working on a volunteer basis. The term includes, but is not limited to: elected and appointed officials, city personnel, contractors, consultants, and vendors.

F. “Tobacco Product” means any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product, including but not limited to cigarettes, cigars and other smoking tobacco; snuff and other chewing tobaccos; and any other kinds and forms of tobacco.

“Tobacco Use” means the act of smoking, the use of smokeless tobacco, or the use of any other tobacco product in any form, including the use of electronic delivery devices.

“Visitor” means any person subject to this policy who is not city staff.

Subd 2. Policy. The sale and use of tobacco products and electronic delivery devices is prohibited at all times in or on all park property the City of Barnesville has the authority to control regardless of location.

Subd. 3. Applicability. This policy applies to all visitors and staff on park property. Organizers and attendees at public or private events on city park property are required to abide by this policy. Event organizers are also responsible for communicating and enforcing this policy. Except for the bathhouse facility at Wagner Park Campground, this policy does not apply to Wagner Park Campground

Subd. 4. Exceptions. It is not a violation of this policy to use a product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose. It is not a violation of this policy for a Native American to use tobacco on park property as part of a traditional Native American spiritual or cultural ceremony. Approval from city administration must be requested and received prior to the ceremony.

Subd. 5. Dissemination. Signage will be posted at strategic locations to notify staff and visitors of this policy.

Subd. 6. Compliance and Enforcement. The success of this policy depends on the consideration and cooperation of both tobacco-users and non-users. Enforcement of this policy is a shared responsibility of staff and park visitors. Individuals acting in violation of this policy will be reminded and asked to comply. Staff found to have violated this policy may be subject to disciplinary action. Visitors who violate this policy may be asked to leave park property

SECTION 3. 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 ____ day of _____ 2016.

APPROVED BY:

Mayor

ATTEST:

City Clerk

First Consideration: March 14, 2016

Second Consideration: April 11, 2016

Date of Publication: April 18, 2016

Mayor Prim stated the next item on the agenda was the purchase of a Bobcat Skid Steer.

City Administrator Mike Rietz informed council members that Public Works Supt. Trevor Moen was made aware of a program by Bobcat that would allow us to trade in for a new machine yearly at zero cost. The program allows us to put up to 200 hours on the machine. The cost of a new skid steer after trading in our old Bobcat is \$26,500.00. This purchase was not a budget item. We would need to put off the purchase of golf carts for a year in the amount of \$5,000 and reduce the sinking funds for the street sweeper from \$40,000 to \$18,500.

03-14-16-07 Motion by Mr. Davis and second by Mr. Rick to approve the purchase of a new S650 T-4 Bobcat Skid-Steer loader through Bobcat in the amount of \$26,500.00 and the trade in of our old Bobcat. Motion carried.

Mayor Prim stated the next item on the agenda was the purchase of Lifepak Cardio Monitors.

City Administrator Mike Rietz stated that the Ambulance Service Cardia Monitors are about 10 years old. These monitors have a limited service life. Mr. Rietz stated that there is a grant available to receive 30% off the purchase price on new monitors. This amounts to \$8,000 per device. Our service contract and modem contracts are fully transferable to the new monitors as well. This purchase would amount to a \$12,886.40 over the capital budget for the year, but would have a savings on next year's budget.

03-14-16-08 Motion by Mr. Rick and second by Mrs. Strom to approve the purchase of two Lifepak Cardiac Monitors for the Ambulance Dept. in the amount of \$42,886.40. Motion carried.

Mayor Prim stated the next item on the agenda was the 1st reading of Ordinance 2016-04, an Internet Ordinance change.

TEC Manager Guy Swenson stated that this is a change to the internet speed. This change would increase the internet upload and download speeds by at least 5 mbps and change the internet ordinance to allow changes in speeds and pricing to be determined by resolution rather than an ordinance change.

03-14-16-09 Motion by Mr. Rick and second by Mrs. Strom to approve the 1st reading of Ordinance 2016-04. Motion carried.

ORDINANCE 2016-04

AN ORDINANCE TO AMEND AND RE-ENTACT CHAPTER 8-01 SECTION 2-0113 OF THE REVISED BARNESVILLE CITY CODE OF 2013

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

SECTION 1. Section 2-0113 of the Revised Barnesville City Code of 2013 is hereby amended and re-enacted as follows:

SECTION 2-0113. ESTABLISHMENT OF CERTAIN TELEPHONE, CABLE TV, ~~DSL~~, AND HIGH SPEED INTERNET SERVICE RATES MINIMUM REQUIREMENTS, AND ADOPTION OF TELECOMMUNICATIONS TARIFFS.

Section 1. Costs for ~~DSL~~ High Speed Internet service

High Speed Internet rates will be set and adjusted by resolution of the City Council.

	MONTHLY COSTS		SPEEDS	
	High Speed Internet/DSL		Down speed	Up speed
1.	\$24.95	(Bronze)*	up to 128 kbps	up to 128 kbps
2.	\$36.95	(Silver)	up to 6 Megbps	up to 1.5 Megbps
3.	\$52.95	(Gold)	up to 10 Megbps	up to 2 Megbps
4.	\$69.95	(Platinum)	up to 20 Megbps	up to 2 Megbps
5.	\$109.95	Business 1	up to 40 Megbps	up to 4 Megbps
6.	\$129.95	Business 2	up to 50 Megbps	up to 5 Megbps
7.	\$259.95	Business 3	up to 50 Megbps	up to 10 Megbps
8.	\$389.95	Business 4	up to 100 Megbps	up to 20 Megbps

* New DSL customers only

Cost for additional Email accounts: \$ 2.00 per month

Cost for Static IP addresses \$5.00 per month

Cost for 2nd Static IP addresses \$10.00 per month

DSL “Combo” package

When DSL is purchased along with Barnesville Long Distance and Barnesville Cable TV service the customer will receive a monthly “Combo” discount on the cost of the DSL level as follows:

- \$5.00 per month discount for Bronze DSL service
- \$15.00 per month discount for Silver DSL service
- \$20.00 per month discount for Gold DSL service
- \$25.00 per month discount for Platinum DSL service.
- \$30.00 per month discount for Business 1,2,3,4 DSL service.

The DSL “Combo” package is available to business and residential customers.

DSL Installation charge: \$185.00 non-recurring (DSL Installation charges will follow the NECA Tariff as changes occur within the tariff)*-*

- DSL Installation charge may be waived.

Conditions for waiver: Customer agrees to maintain DSL service for a minimum period of six months (180 days). Customer will be billed DSL service installation charge should they fail to maintain DSL service for the six month period. Service order charges are not waived.

Section 2. Equipment Provided by Customer

Network Interface Card (NIC)

Modem: Options

- 1) Customer can provide their own modem, or
- 2) Purchase a Modem/router from City Hall—\$140.00 (plus applicable taxes), or
- 3) Rent a Modem/router, Wireless Router, or Wireless Access point for \$4.95 per month.

SOFTWARE REQUIRED/RECOMMENDED

INTERNET BROWSER: Customer provided

FIREWALL: Software and electrical surge protector are responsibility of subscriber.

Section 3. Equipment provided for Customer

3 meter CAT 5 patch cord

Section 4. Cost for Dial up Internet service—Dial up Service will no longer be offered after February 18, 2010. Current Dial up customers will continue to be supported and can remain on the system for as long as they choose, however, once a customer leaves Dial up service they cannot get reconnected to Dial up. (These customers will qualify for the Bronze DSL package)

All Dial-up rates will remain in effect until the last customer has chosen to disconnect from the Dial-up system.

All rates listed will apply equally to residential or business service.

1.	35 hours per month	\$9.95	(20 cents per hour over 35 hours)
2.	100 hours per month	\$14.95	(15 cents per hour over 100 hours)
3.	Unlimited	\$19.95	
4.	Unlimited Package	\$14.95	(when purchased with Barnesville Long Distance and Barnesville Cable TV service)

~~Section 5. Equipment provided by Customer~~

~~Modem 56 kbps~~

~~Section 6. Billing~~

~~The monthly charge for Broadband and Dial up Internet service will be billed forward.~~

~~If service is disconnected, the billing for service will be ½ the monthly rate if disconnected on or before the 15th day of the present month. Service disconnected after the 15th day of the present month will be billed for the full month.~~

~~Section 7. Rate adjustments.~~

~~1) First time DSL customers receive a \$10.00 per month credit for 3 months with one year service agreement.~~

~~2) In support of Economic Development efforts and with Council approval, DSL monthly service charges may be reduced up to 50 percent for a time period no longer than 1 year.~~

~~Section 8.2 Transfers to General Fund~~

~~A. Operating Transfer Calculation.~~

- ~~The operating transfer to the City of Barnesville's General Fund is determined annually during the budget process. To meet the financial goals of the Broadband and Internet fund and provide a reasonable transfer to the General Fund to meet its revenue resource requirements. The transfer amount is calculated by multiplying the number of active DSL connections reported to the National Exchange Carrier Association (NECA) in December from the previous budget year by the transfer rate of \$157.74 per active DSL Connection. (Example: 2015 transfers would be based on the number of active DSL Connections reported to NECA in December 2013)~~

2. Additional transfers may be authorized by the City Council provided that an unplanned, or emergency, expenditure out of the general fund budget occurs and it is necessary to fund said expenditure out of additional transfers from the utility provided that a majority vote of the City Council is required to authorize an additional transfer.

SECTION 2. EFFECTIVE DATE: This ordinance shall take effect upon publication in accordance with the Barnesville City Charter.

PASSED by the Barnesville City Council this 11th day of April, 2016.

APPROVED:

Eugene Prim, Mayor

ATTEST:

Jeri Reep
Clerk

First Consideration:	March 14, 2016
Second Consideration:	April 11, 2016
Date Adopted:	April 11, 2016
Date of Publication:	April 18, 2016

Mayor Prim stated the next item on the agenda was the Turner Affiliation agreement.

TEC Manager Guy Swenson stated that this item has not been to the TEC Board due to the timing of this notice. Mr. Swenson stated that NCTC was able to negotiate a better rate than Turner originally proposed. This is a 4-year agreement.

03-14-16-10 Motion by Mr. Davis and second by Mr. Rick to authorize TEC Manager Guy Swenson to sign the Turner 2016 Affiliation Agreement. Motion carried.

Mayor Prim stated the next item on the agenda was the Petition for Local Improvements.

City Administrator Mike Rietz informed council members that a property owner has sanitary sewer line that is not working and has requested a petition for local improvements. This would allow the street be improved by replacement of the sanitary sewer service line, and that the city would assess the entire cost of the improvement against the property at 110 3rd Street SE.

03-14-16-11 Motion by Mrs. Stuvland and second by Mr. Davis to approve the Petition for Local Improvements at 110 3rd Street SE. Motion carried.

Mayor Prim next stated that he would like to call a Special meeting in April to discuss our priorities and planning, asked council members to suggest 1-2 priorities or goals they would like to see for the coming years.

Mayor Prim adjourned the meeting at 8:52 p.m.

Submitted by:

Attest:

Jeri L. Reep
City Clerk

Eugene Prim
Mayor