

Barnesville City Council
Regular Meeting
April 11, 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, EDA Chair Eric Spilde, Todd Hagen with Ehlers Investment Partners, Jason McCoy from Partnership 4 Health, and Karen Carpenter with the Record Review.

Mayor Prim next asked if there were any additions or corrections to the agenda. City Administrator Mike Rietz stated that there were no additions or corrections.

04-11-16-01 Motion by Mr. Davis and second by Mrs. Strom to approve the agenda as presented. Motion carried.

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

04-11-16-02 Motion by Mr. Davis and second by Mr. Goedtke 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 March 14, 2016.
2. Approval of the minutes of the special meeting held on March 28, 2016
3. Approval of the department head reports.
4. Approval of the 1st Quarter transfers.
5. Approval of the monthly expenditures of check numbers 81712 – 81841 in the amount of \$325,916.40 and EFT payments in the amount of \$236,924.13.
6. Approval to hire Brock Walseth as Pro Shop Manager at \$13.50 per hour.
7. Approval of transformer purchase for the Del-Acres-Gilbertson 2nd Addition from Dakota American in the amount of \$7,800.00 plus tax.
8. Approval of the NECA DSL Tariff exit.

Mayor Prim stated the next item on the agenda was the board 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 2nd reading of Ordinance 2016-02, a Tobacco Ordinance.

City Administrator Mike Rietz stated that smoking would be allowed at Wagner Campground, but no smoking allowed in the bathhouse facility.

04-11-16-03 Motion by Mr. Rick and second by Mr. Davis to approve the 2nd 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. 1012. 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. ~~12~~14. 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 11th day of April, 2016.

APPROVED BY:

Mayor

ATTEST:

City Clerk

First Reading: March 14, 2016
Second Reading: April 11, 2016
Published: April 18, 2016

Mayor Prim stated the next item on the agenda was the approval of the Summary Ordinance 2016-02.

04-11-16-04 Motion by Mr. Rick and second by Mrs. Strom to approve the Summary Ordinance 2016-02. Motion carried.

TITLE AND SUMMARY OF ORDINANCE NO. 2016-02

The following Ordinance is hereby published by title and summary:

1. Title of Ordinance:

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.

2. Summary of Ordinance:

This ordinance updates the regulations regarding tobacco sales and use in the community and includes electronic delivery devices in the regulations. It also creates a section for Tobacco-free parks.

This Ordinance shall take effect upon publication in accordance with the Barnesville
City Charter.

3. Availability of Ordinance:

A complete, printed copy of this Ordinance is available for inspection by any person during regular business hours in the office of the City Clerk, Barnesville City Hall, 102 Front Street North, Barnesville, Minnesota.

This Ordinance was passed by the City Council of the City of Barnesville on the 11th day of April, 2016.

APPROVED:

Eugene Prim, Mayor

ATTEST:

Jeri Reep, City Clerk

First Reading: March 14, 2016
Second Reading: April 11, 2016
Adopted: April 11, 2016
Published: April 18, 2016

Mayor Prim stated the next item on the agenda was the EDA Annual report.

EDA Director Karen Lauer and EDA Chair Eric Spilde next approached the council and discussed the EDA yearly report. Mr. Spilde stated that the mission statement of the EDA is to grow the Greater Barnesville Area as a Family Friendly Community with a Thriving Business Environment. Mr. Spilde & Mrs. Lauer discussed the highlights and accomplishments this past year. Council members had no further questions.

Mayor Prim stated the next item on the agenda was the Bond Pre-sale report for the Del Acres-Gilbertson 2nd Addition.

Mr. Todd Hagen next approached the council and discussed the \$1,275,000 General Obligation Bonds for the Del-Acres Gilbertson 2nd Addition. This would be a 20 year note, and the City's rating is A+. This would be to finance the construction of various improvements in a new residential subdivision. The Personnel and Finance Committee asked Ehlers to analyze this bond issue through direct negotiations with Midwest Bank rather than bidding out the bonds as we typically have in the past. The interest rate would be set by the negotiation rather than competitive bidding. Mr. Hagen stated that the City could award the sale of the Bonds at their council meeting on May 9th, and an estimated closing date of June 1st. Council members had no further questions for Mr. Hagen.

04-11-16-05 Motion by Mr. Field and second by Mr. Rick to approve the following resolution. Upon a roll call vote, the following voted aye: Council members Rick, Goedtke, Strom, Davis, Stuvland and Field. The following voted nay: none. The following were absent: none. Motion approved.

CITY OF BARNESVILLE

COUNTY OF CLAY

STATE OF MINNESOTA

RESOLUTION PROVIDING FOR THE SALE OF

\$1,275,000 GENERAL OBLIGATION IMPROVEMENT BONDS, SERIES 2016A

RESOLUTION NO. 04-11-16-05

Council Member Field introduced the following resolution and moved its adoption.

WHEREAS: the City Council of the City of Barnesville, Minnesota has heretofore determined that it is necessary and expedient to issue the City's \$1,275,000 General Obligation Improvement Bonds, Series 2016A (the "Bonds"), to finance the construction of various improvements in the City; and

WHEREAS: the City has retained Ehlers & Associates, Inc., in Roseville, Minnesota ("Ehlers"), as its independent financial advisor for the Bonds in accordance with Minnesota Statutes, Section 475.060, Subdivision 2 (9),

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Barnesville, Minnesota, as follows:

1. Authorization; Findings. The City Council hereby authorizes Ehlers to assist the City for the sale of the Bonds.

2. Meeting; Proposal Opening. The City Council shall meet at 7:00 p.m. on May 9, 2016, for the purpose of considering proposals for and awarding the sale of the Bonds.
3. Official Statement. In connection with said sale, the officers or employees of the City are hereby authorized to cooperate with Ehlers and participate in the preparation of an official statement for the Bonds and to execute and deliver it on behalf of the City upon its completion.

The motion for the adoption of the foregoing resolution was duly seconded by City Council Member Rick and, after full discussion thereof and upon a vote being taken thereon, the following City Council Members voted in favor thereof. Rick, Goedtke, Strom, Davis, Stuvland, and Field. The following voted against the same: none.

Whereupon said resolution was declared duly passed and adopted.

Dated this 11th day of April, 2016.

APPROVED:

Eugene Prim, Mayor

ATTEST:

Jeri Reep, City Clerk

Mayor Prim stated the next item on the agenda was the variance request at 202 3rd Ave. SE.

City Administrator Mike Rietz stated that this variance is for an intrusion into the front yard setback for a balcony at 202 3rd Ave SE by extending the balcony 2 feet beyond the front of the structure with findings. This balcony is being requested in order to rebuild a stairway to allow for a compliant emergency exit for the property.

04-11-16-06 Motion by Mrs. Strom and second by Mr. Goedtke to approve the variance request at 202 3rd Ave. SE for Doris Brundage and Cindy Olson with the following findings:

1. The use of the property is reasonable based on the need for proper emergency egress from the structure, which enhances the health safety and welfare of residents in the community.
2. The structure in question is fairly unique in that it is one of the older structures in the community and as such provides challenges when it comes to complying with modern health and safety regulations.
3. The variance will not alter the essential character of the locality because will not result in the structure being out of scale, out of placed or otherwise inconsistent with the surrounding area.

Motion carried.

Mayor Prim stated the next item on the agenda was the 1st reading of Ordinance 2016-03.

City Administrator Mike Rietz stated this ordinance comes primarily from the League of MN Cities model ordinance. Our present City Code section could use an update, and this proposed ordinance will address food trucks.

04-11-16-07 Motion by Mr. Davis and second by Mrs. Stuvland to approve the 1st reading of Ordinance 2016-03. Motion carried.

ORDINANCE NO. 2016-03

AN ORDINANCE TO AMEND AND REENACT CHAPTER 4-02, SEC. 4-0215 AND CHAPTER 8—1, SEC. 4-0215 REGULATING THE CONDUCT OF PEDDLERS, SOLICITORS, TRANSIENT MERCHANTS, AND MOBILE FOOD VENDORS AND SETTING LICENSE FEES FOR PEDDLERS, SOLICITORS, TRANSIENT MERCHANTS, AND MOBILE FOOD VENDORS WITHIN THE CITY OF BARNESVILLE, MINNESOTA

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

SECTION 1. Chapter 4-02, Sec. 4-0215 of the Municipal Code of the City of Barnesville is hereby amended and reenacted to read as follows:

Subd. 1. Purpose. This Section is not intended in any way hinder, delay or interfere with legitimate business or organizational activities. The Council finds, however, that solicitors have used public streets and their direct contact with residents of the City for the illegitimate solicitation practices of harassment, nuisance, theft, deceit, or menacing, troublesome or unlawful activities. This Section is intended to ferret out and control: (1) businesses and organizations using solicitation as a means of concealing unlawful activities; and, (2) businesses and organizations which, though its activities be lawful or even commendable, use such illegitimate practices in solicitation; and, (3) persons who, though they represent lawful businesses and organizations, use such illegitimate solicitation practices. The Council further finds that a large number of the residents of the City are employed as their livelihood and means of support by manufacturing

plants and other businesses on shifts rotating between night and day, and to disturb them during their sleeping hours for the purpose of solicitation is a source of nuisance or even harassment and should be subject to control.

Subd. 2. Definitions.

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 ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

A. "Non-Commerical Door-To-Door Advocate." A person who goes door-to-door for the primary purpose of disseminating religious, political, social, or other ideological beliefs. For purpose of this ordinance, the term door-to-door advocate shall fall under the term solicitor and include door-to-door canvassing and pamphleteering intended for non-commercial purposes.

B. "Peddler." A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement, for the purpose of offering for sale, displaying for exposing for sale, selling or attempting to sell, and delivering immediately upon sale, the goods, wares, products, merchandise, or other personnel property that the person is carrying or otherwise transporting. For purpose of this ordinance, the term peddler shall have the same common meaning as the term hawker.

C. "Person." Any natural individual, group, organization, corporation, partnership, or similar association.

D. "Regular Business Day." Any day during which the city hall is normally open for the purpose of conducting public business. Holidays defined by state law shall not be considered regular business days.

E. "Solicitor." A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement, for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property, or services of which he or she may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which delivery or performance shall occur at a later time. The absence of samples or catalogs shall not remove a person from the scope of this provision if the actual purpose of the person's activity is to obtain or attempt to obtain orders as discussed above. For purposes of this ordinance, the term solicitor shall have the same meaning as the term canvasser.

F. "Transient Merchant." A person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, other portable shelter, or empty store front for the purpose of exposing or displaying for sale, selling or attempting to sell, and delivering goods, wares, products, merchandise, or other personal property and who does not remain in any one location for more than fourteen (14) consecutive days.

G. "Mobile Food Vendor." A person who sets up a business in a vehicle-mounted retail establishment that is readily moveable and sells food products directly to a consumer.

H. "Mobile Food Unit." A mobile food unit means a food and beverage service establishment that is a vehicle mounted unit, either:

- (1) motorized or trailered, operating no more than 21 days annually at any one place, or operating more than 21 days annually at any one place with the approval of the City; or

(2) operated in conjunction with a permanent business at the site of the permanent business by the same individual or company, and readily movable, without disassembling, for transport to another location.

Subd. 3. Exceptions to Definitions.

For the purpose of this chapter, the terms **Peddler, Solicitor, Transient Merchant and Mobile Food Vendor** shall not apply to:

(A) Non-commercial door-to-door advocates. Nothing within this ordinance shall be interpreted to prohibit or restrict non-commercial door-to-door advocates. Person engaging in non-commercial door-to-door advocacy shall not be required to register as a solicitor under Section 7.

(B) Any person selling or attempting to sell at wholesale any goods, wares, products, merchandise, or other personal property to a retail seller of the items being sold by the wholesaler.

(C) Any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products, such as baked goods or milk.

(D) Any person making deliveries of perishable food and dairy products to the customers on his or her established delivery route.

(E) Any person making deliveries of newspapers, newsletters, or other similar publications on an established customer delivery route, when attempting to establish a regular delivery route, or when publications are delivered to the community at large.

(F) Any person conducting the type of sale commonly known as garage sales, rummage sales, or estate sales.

(G) Any person participating in an organized multi-person bazaar, farmer's market or flea market.

(H) Any person conducting an auction as a properly licensed auctioneer.

(I) Any officer of the court conducting a court-ordered sale.

Exemption from these definitions shall not, for the scope of this chapter, excuse any person from complying with any other applicable statutory provision or requirement provided by another city ordinance.

Subd. 4. Licensing; Exemptions.

(A) **County/State license required.** No person shall conduct business as a peddler, solicitor, transient merchant, or mobile food vendor within the city limits without first having obtained the appropriate license from the county or state, as may be required by Minnesota Statutes Chapter 329 as it may be amended from time to time, if the county issues a license for the activity or by Minnesota Statutes Chapter 157, as may be amended from time to time.

(B) **City license required.** Except as otherwise provided for by this ordinance, no person shall conduct business within this jurisdiction as a peddler, transient merchant, or mobile food vendor without first obtaining a city license. Solicitors need not be licensed, but are required to register with the city pursuant to Subdivision 9.

(C) **Application.** An application for a city license to conduct business as a peddler, transient merchant or mobile food vendor shall be made at least fourteen (14) regular business days before the applicant desires to begin conducting a business operation within the city. Application for a license shall be made on a form approved by the City Council and available from the office of the city clerk. All applications shall be signed by the applicant. All applications shall include the following information:

- (1) The applicant's full legal name.
- (2) Any and all other names under which the applicant has or does conduct business, or to which the applicant will officially answer to.
- (3) A physical description of the applicant (hair color, eye color, height, weight, any distinguishing marks or features, and the like).
- (4) Full address of applicant's permanent residence.
- (5) Telephone number of applicant's permanent residence.
- (6) Full legal name of any and all business operations owned, managed, or operated by applicant, or for which the applicant is an employee or an agent.
- (7) Full address of applicant's regular place of business, if any exists.
- (8) Any and all business-related telephone numbers of the applicant, including cellular phones and facsimile (fax) machines.
- (9) The type of business for which the applicant is applying for a license.
- (10) Whether the applicant is applying for an annual or daily license.
- (11) The dates during which the applicant intends to conduct business. If the applicant is applying for a daily license, the number of days he or she will be conducting business within the city, with a maximum of fourteen (14) consecutive days.
- (12) Any and all addresses and telephone numbers where the applicant can be reached while conducting business within the city, including the location where a transient merchant intends to set up his or her business.
- (13) A statement as to whether or not the applicant has been convicted with the last five (5) years of any felony, gross misdemeanor or misdemeanor for violating any state or federal statute or any local ordinance, other than minor traffic offenses.
- (14) A statement whether the individual is required to register as a sex offender.
- (15) A list of the three (3) most recent locations where the applicant has conducted business as a peddler, transient merchant or mobile food vendor.
- (16) Proof of any required county or state license.
- (17) Written permission of the property owner or the property owner's agent for any location to be used by a transient merchant or mobile food vendor.
- (18) A general description of the items to be sold or services to be provided.
- (19) Any and all additional information as may be deemed necessary by the City Council.
- (20) The applicant's driver's license number or other acceptable form of identification.
- (21) For each employee or volunteer conducting business under applicant's license, the following information is required:
 - (a) Individual's full legal name.
 - (b) Any and all other names under which the applicant has or does conduct business, or to which the applicant will officially answer to.
 - (c) A physical description of the applicant (hair color, eye color, height, weight, any distinguishing marks or features, and the like).
 - (d) Individual's driver's license number or other acceptable form of identification.

(e) A statement as to whether or not the applicant has been convicted with the last five (5) years of any felony, gross misdemeanor or misdemeanor for violating any state or federal statute or any local ordinance, other than minor traffic offenses.

(f) A statement whether the individual is required to register as a sex offender.

(22) The license plate number, registration information, vehicle identification number (VIN) and physical description for any vehicle to be used in conjunction with the licensed business operation.

(D) **Insurance.** All applicants must provide proof of insurance in the amount required by the City Administrator. All applicants must name the City of Barnesville as an additional insured. Proof of insurance naming the City of Barnesville as an additional insured must be provided to the City Administrator prior to issuance of any license under this Section.

(E) **Fee.** All applications for a license under this chapter shall be accompanied by the fee established by consolidated ordinance of the Council and kept on file in the office of the City Administrator and open for inspection by the public.

(F) **Procedure.** Upon receipt of the application and payment of the license fee, the city clerk will, within two (2) regular business days, determine if the application is complete. An application will be considered complete if all required information is provided. If the city clerk determines that the application is incomplete, the city clerk must inform the applicant of the required, necessary information that is missing. If the application is complete, the city clerk must order any investigation, including background checks, necessary to verify the information provided with the application. Within ten (10) regular business days of receiving a complete application the city clerk must issue the license unless grounds exist for denying the license application under Section 4, in which case the clerk must deny the request for a city peddler or transient merchant license. If the city clerk denies the license application, the applicant must be notified in writing of the decision, the reason for denial and the applicant's right to appeal the denial by requesting, within twenty (20) days of receiving notice of rejection, a public hearing before the City Council. The City Council shall hear the appeal with twenty (20) days of the date of the request for a hearing. The decision of the City Council following the public hearing can be appealed by petitioning the Minnesota Court of Appeals for a writ of certiorari.

(G) **Duration.** An annual license granted under this ordinance shall be valid for one calendar year from the date of issuance. All other licenses granted to peddlers, transient merchants and mobile food vendors under this ordinance shall be valid only during the time period indicated on the license.

(H) **License exemptions.**

(1) No license shall be required for any person to sell or attempt to sell, or to take or attempt to take orders for, any product grown, produced, cultivated, or raised on any farm.

(2) No license shall be required for any person going from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement for the primary purpose of exercising that person's state or federal constitutional rights such as the freedom of speech, freedom of the press, freedom of religion, and the like. This exemption will not apply if the person's exercise of

constitutional rights is merely incidental to what would properly be considered a commercial activity.

Subd. 5. License Ineligibility.

The following shall be grounds for denying a peddler, transient merchant or mobile food vehicle vendor license:

(A) The failure of an applicant to obtain and demonstrate proof of having obtained any required county or state license.

(B) The failure of an applicant to truthfully provide any information requested by the city as part of the application process.

(C) The failure of an applicant to sign the license application.

(D) The failure of an applicant to pay the required fee at the time of application.

(E) A conviction with the past five (5) years of the date of application for any violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects upon the person's ability to conduct the business for which the license is being sought in a professional, honest and legal manner. Such violations shall include, but are not limited to, burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person.

(F) The revocation within the past five (5) years of any license issued to an applicant for the purpose of conducting business as a peddler, solicitor, transient merchant, or mobile food vendor.

(G) When an applicant has a bad business reputation. Evidence of a bad business reputation shall include, but is not limited to, the existence of more than three (3) complaints against an applicant with the Better Business Bureau, the Office of the Minnesota Attorney General or other state attorney general's office, or other similar business or consumer rights office or agency, with the preceding twelve (12) months, or three (3) complaints filed with the city against an applicant within the preceding five (5) years.

Subd. 6. Mobile Food Vendor Regulations.

(A) Vendors must have a valid certification from the Minnesota Department of Health.

(B) Vendors are allowed on public right-of-way in areas zoned commercial or industrial. Vendors are not allowed on public right-of-way in areas zoned residential without approval of the City Council. Vendors are allowed on public property subject to the approval of the location by the City Administrator or his/her designee. Vendors on the public right-of-way shall be subject to on-street parking regulations. Vendors shall not be allowed within 200 feet of a restaurant.

(C) Vendors shall be allowed on private property located in areas zoned commercial or industrial. Vendors shall not be allowed within 200 feet of a restaurant.

(D) Vendors must not obstruct the free flow of traffic, either vehicular or pedestrian, on any street, sidewalk, alleyway, or other public right-of-way.

(E) Vendors must not call attention to his or her business or the items sold by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise.

(F) Vendors must not conduct business in a way as to create a threat to the health, safety, or welfare of any specific individual or the general public.

(G) Vendors shall not be allowed to operate from 10:00 p.m. to 7:00 a.m.

(H) Vendors shall not operate any such business within five hundred (500) feet of any city or county fair, carnival, circus, festival or civic event that is licensed or sanctioned by the city

council, except when the licensee has obtained a temporary food permit from the party responsible for granting approval for participating in such event.

(I) Vendors shall not use any portion of the mobile food unit as living or sleeping quarters.

(J) Signage for the mobile food unit shall be attached to the unit, projecting no more than 6 inches from the unit and shall take up no more than 50% of the surface area of the unit.

(K) The noise level of mechanical equipment or outside sound equipment used in association with any mobile food vehicle may not exceed 70 decibels when measured at the property line that is across the street from or abutting a residential use.

(L) Vendor must provide proof of license, or registration, and identification when requested.

(M) Vendor must not use the license or registration of another person.

(N) Vendor must not allege false or misleading statements about the products or services being sold, including untrue statements of endorsement. No mobile food vendor shall claim to have the endorsement of the city solely based on the city having issued a license or certificate of registration to that person.

(O) Vendor must not remain on the property of another when requested to leave.

(P) Vendor must not otherwise operate their business in any manner that a reasonable person would find obscene, threatening, intimidating or abusive.

Subd. 7. License Suspension and Revocation.

(A) *Generally.* Any license issued under this section may be suspended or revoked at the discretion of the City Council for violation of any of the following:

(1) Subsequent knowledge by the city of fraud, misrepresentation or incorrect statements provided by an applicant on the application form.

(2) Fraud, misrepresentation or false statements made during the course of the licensed activity.

(3) Subsequent conviction of any offense to which the granting of the license could have been denied under Section 4.

(4) Engaging in any prohibited activity as provided under Section 8 of this ordinance.

(5) Violation of any other provision of this ordinance.

(B) *Multiple persons under one license.* The suspension or revocation of any license issued for the purpose of authorizing multiple persons to conduct business as peddlers, transient merchants or mobile food vendors on behalf of the licensee shall serve as a suspension or revocation of each authorized person's authority to conduct business as a peddler, transient merchant or mobile food vendor on behalf of the licensee whose license is suspended or revoked.

(C) *Notice.* Prior to revoking or suspending any license issued under this chapter, the city shall provide a license holder with written notice of the alleged violations and inform the licensee of his or her right to a hearing on the alleged violation. Notice shall be delivered in person or by mail to the permanent residential address listed on the license application, or if no residential address is listed, to the business address provided on the license application.

(D) *Public Hearing.* Upon receiving the notice provided in part (C) of this section, the licensee shall have the right to request a public hearing. If no request for a hearing is received by the city clerk within ten (10) days following the service of the notice, the city may proceed with the suspension or revocation. For the purpose of a mailed notice, service shall be considered complete as of the date the notice is placed in the mail. If a public hearing is requested within the

stated time frame, a hearing shall be scheduled within twenty (20) days from the date of the request for the public hearing. Within three (3) regular business days of the hearing, the City Council shall notify the licensee of its decision.

(E) *Emergency.* If, in the discretion of the City Council, imminent harm to the health or safety of the public may occur because of the actions of a peddler, transient merchant or mobile food vendor licensed under this ordinance, the City Council may immediately suspend the person's license and provide notice of the right to hold a subsequent public hearing as prescribed in part (C) of this section.

(F) *Appeal.* Any person whose license is suspended or revoked under this section shall have the right to appeal that decision in court.

Subd. 8. License Transferability.

No license issued under this chapter shall be transferred to any person other than the person to whom the license was issued.

Subd. 9. Registration.

(A) All solicitors and any person exempt from the licensing requirements of this ordinance under Section 3 shall be required to register with the city prior to engaging in those activities. Registration shall be made on the same form required for a license application, but no fee shall be required. Immediately upon completion of the registration form, the city clerk shall issue to the registrant a certificate of registration as proof of the registration. Certificates of registration shall be non-transferrable.

(B) Individuals that will be engaging in non-commercial door-to-door advocacy shall not be required to register.

Subd. 10. Prohibited Activities.

No peddler, solicitor, transient merchant, non-commercial door-to-door advocate, or other person engaged in other similar activities shall conduct business in any of the following manner:

(A) Calling attention to his or her business or the items to be sold by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise, so as to be unreasonably audible within an enclosed structure.

(B) Obstructing the free flow of traffic, either vehicular or pedestrian, on any street, sidewalk, alleyway, or other public right-of-way.

(C) Conducting business in a way as to create a threat to the health, safety, and welfare of any specific individual or the general public.

(D) Conducting business before 8 a.m. or after 9 p.m.

(E) Failing to provide proof of license, or registration, and identification when requested.

(F) Using the license or registration of another person.

(G) Alleging false or misleading statements about the products or services being sold, including untrue statements of endorsement. No peddler, solicitor, or transient merchant shall claim to have the endorsement of the city solely based on the city having issued a license or certificate of registration to that person.

(H) Remaining on the property of another when requested to leave.

(I) On any property designated as a city park.

(J) Otherwise operating their business in any manner that a reasonable person would find obscene, threatening, intimidating or abusive.

Subd. 11. Exclusion by Placard.

Unless specifically invited by the property owner or tenant, no peddler, solicitor, transient merchant, non-commercial door-to-door advocate, mobile food vendor, or other person engaged in other similar activities shall enter onto the property of another for the purpose of conducting business as a peddler, solicitor, transient merchant, non-commercial door-to-door advocate, mobile food vendor, or similar activity when the property is marked with a sign or placard:

- (1) At least four inches long.
- (2) At least four inches wide.
- (3) With print of at least 48 point in size.
- (4) Stating "No Peddlers, Solicitors or Transient Merchants," "Peddlers, Solicitors, and Transient Merchants Prohibited," or other comparable statement.

No person other than the property owner or tenant shall remove, deface, or otherwise tamper with any sign or placard under this section.

Subd. 12. Penalty.

(A) Any individual found in violation of any provision of this ordinance, shall be a guilty of a misdemeanor.

(B) In addition to and notwithstanding the within and foregoing penalty, the city may apply to the district court for Clay County, Minnesota, for injunctive relief against any individual violating the provisions of this chapter.

Subd. 13. Severability.

If any provision of this ordinance is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected.

SECTION 2. Chapter 8-01, Sec. 4-0215 of the Municipal Code of the City of Barnesville is hereby amended and reenacted to read as follows:

<u>Subd. 4(D). License Fee.</u>	
<u>Solicitor</u>	<u>\$50.00</u>
<u>Mobile Food Vendor</u>	<u>\$100.00</u>

SECTION 3.. Effective Date.

This ordinance becomes effective on the date of its publication, or upon the publication of a summary of the ordinance as provided by Minn. Stat. § 412.191, Subd. 4, as it may be amended from time to time, which meets the requirements of Minnesota Statute Section 331A.01, Subd. 10, as it may be amended from time to time.

Passed by the Council this ____ day of _____, _____.

Attested:

Mayor

Mayor Prim stated the next item on the agenda was the Liquor Store market study.

Mayor Prim stated that he would like to appoint a committee to work on the Liquor Store market study. Mayor Prim appointed Dawn Stuvland from the Liquor Store committee, Brad Field from the Personnel and Finance, Liquor Store Manager Randi Trowbridge, Karen Lauer from the EDA, and Finance Director Laurie Schell and City Administrator Mike Rietz. Mayor Prim asked this committee to meet and report back to the council at a later date.

Mayor Prim stated the next item on the agenda was the resolution approving County project within Municipal Corporate limits.

City Administrator Mike Rietz stated that this resolution is a requirement of the TAP Grant that is funding the construction of a trail from the walking bridge in Blue Eagle Lake to the Tesoro.

04-11-16-08 Motion by Mr. Rick and second by Mrs. Strom to approve the following resolution. Upon a roll call vote, the following voted aye: Council members Rick, Goedtke, Strom, Davis, Stuvland and Field. The following voted nay: none. Motion carried.

CITY OF BARNESVILLE

COUNTY OF CLAY

STATE OF MINNESOTA

RESOLUTION APPROVING COUNTY PROJECT

WITHIN MUNICIPAL CORPORATE LIMITS

RESOLUTION NO. 04-11-16-08

WHEREAS: plans for Project No. SP 014-090-005 showing proposed alignment, profiles grades and cross-sections for the construction, reconstruction or improvement of a new Multi-use path located along TH34 within the limits of the City as a (Federal) Aid Project have been prepared and presented to the City.

NOW, THEREOFRE, BE IT RESOLVED: That said plans be in all things approved.

Dated this 11th day of April, 2016

CERTIFICATION

State of Minnesota

County of Clay

City of Barnesville

I hereby certify that the foregoing Resolution is a true and correct copy of a resolution presented to and adopted by the City Council of Barnesville at a meeting therefor held in the City of

Barnesville, Minnesota on the 11th day of April, 2016, as disclosed by the records of said City in my possession.

ATTEST:

(Seal)

Eugene Prim, Mayor

ATTEST:

Jeri Reep, City Clerk

Mayor Prim stated the next item on the agenda was the 2nd Reading of ordinance 2016-04.

TEC Manager Guy Swenson stated that no changes have been made since the 1st reading of this ordinance.

04-11-16-09 Motion by Mr. Rick and second by Mrs. Stuvland 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.

<u>MONTHLY COSTS</u>			<u>SPEEDS</u>	
<u>High Speed Internet/DSL</u>			<u>Down speed</u>	<u>Up speed</u>
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.

1. 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 approval of Summary Ordinance 2016-04.

04-11-16-10 Motion by Mr. Rick and second by Mrs. Strom to approve the Summary Ordinance 2106-04. Motion carried.

TITLE AND SUMMARY OF ORDINANCE 2016-04

The following Ordinance is hereby published by title and summary:

1. Title of Ordinance:

An Ordinance to Amend Chapter 8-01 Section 2-0113 of The Revised Barnesville City Code of 2013

2. Summary of Ordinance:

This changes language in the code to authorize the City Council to set rates for High Speed Internet by Resolution.

This Ordinance shall take effect upon publication in accordance with the Barnesville City Charter.

3. Availability of Ordinance:

A complete, printed copy of this Ordinance is available for inspection by any person during regular business hours in the office of the City Clerk, Barnesville City Hall, 102 Front Street North, Barnesville, Minnesota.

This Ordinance was passed by the City Council of the City of Barnesville on the 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 Ad Systems Inc. ad insertion agreement.

TEC Manager Guy Swenson informed council members that Ad Insertion that works with small cable companies that cannot afford to purchase and operate their own ad insertions. If Barnesville Cable TV sells advertising locally, we would keep 30% of the revenue generated from that sale. Mr. Swenson stated that our City Attorney is reviewing the agreement.

04-11-16-11 Motion by Mr. Rick and second by Mr. Field to approve the Ad insertion Agreement with Ad Systems, Inc, contingent upon City Attorney approval. Motion carried.

Mayor Prim stated that the next item on the agenda was to set a date for a special council meeting for priority setting session. Mayor Prim set Tuesday, April 19th at 7:00 p.m. for a Special Council meeting for a priority setting session.

Mayor Prim adjourned the meeting at 8:16 p.m.

Submitted by:

Attest:

Jeri Reep
City Clerk

Eugene Prim
Mayor