

The Crosswell City Council met in Regular Session October 5, 2009, at the William Aitkin Memorial Library, 111 N. Howard Ave., Crosswell, MI. Mayor Macklem called the meeting to order at 7:36 P.M.

Present: G. Macklem, M. Willis, M. McMillan, J. Geiger

Absent: M. O'Veil

Administration: City Administrator Dave Tait, City Clerk Suzanne Dobson

Guests: Emily Lemke, Larry & Rhonda Fetting, Jerry Schovan, Greg Soule, Janet & John Murphy, Paul Westbrook, Jeffersonian Reporter Margaret Whitmer

I. **PLEDGE OF ALLEGIANCE:**

- II. **APPROVAL OF MINUTES** from the Regular Council Meeting of September 21, 2009
Geiger moved to approve the minutes of September 21, 2009 as presented, second by Willis. Motion Carried.

III. **PUBLIC COMMENTS:**

None

IV. **APPROVAL OF AGENDA:**

Scratch item b. from Unfinished Business Sanilac County Economic Alliance.

McMillan moved to approve the agenda as amended, second by Geiger. Motion Carried.

V. **PUBLIC HEARING - PROPOSED ORDINANCE # 167-17 - BED & BREAKFAST:**

Willis moved to open the Public Hearing for proposed Ordinance #167-17 Bed & Breakfast Establishments at 7:38 p.m., second by McMillan. Motion Carried.

Mayor Macklem asked if there were any questions.

Resident: If all the regulations can not be followed are there variances? Ans: You would apply to the Planning Commission, they have the final approval.

Hearing held open.

VI. **PUBLIC HEARING - MICHIGAN SUGAR IFT CERTIFICATE:**

Willis moved to open the Public Hearing for the Michigan Sugar IFT Certificate at 7:40 p.m., second by McMillan. Motion Carried.

Michigan Sugar Representative Greg Soule explained the equipment purchase is for three energy reduction projects; 1. Replacing 1970's era boiler controls; 2. Applying a new high temperature seal and insulation to the pulp drier; 3. Insulating high pressure/temperature steam lines.

Hearing held open

VII. **CORRESPONDENCE:**

- a. Sanilac Economic Alliance: Receive and file.

VIII. **ADMINISTRATOR'S REPORT:**

- Revenue Sharing cuts have not been finalized by the State
- Fire Dept. tanker
- Truck speed on N. Howard
- Water shut off in sidewalk
- Employee on medical leave
- Community Center tables and chairs
- Small engine shop on N. Howard sign removed
- Harrington Rd., bridge repair

IX. **COUNCIL MEMBER REPORT:**

- A. Macklem: No report
- B. Willis: No report
- C. O=Vell: Absent
- D. McMillan: No report
- E. Geiger: No report

X. **UNFINISHED BUSINESS:**

- a. Under Blade Scrapper:
Knapheide Truck Equipment - \$14,093.00
Shults Equipment - \$15,044.00

The lowest bid does not meet the bid specifications.

McMillan moved to award the Under blade scrapper to Shults Equipment for the amount of \$15,044.00, second by Geiger. Motion Carried.

- b. ~~Sanilac County Economic Alliance Contribution: Scratch~~

XI. **NEW BUSINESS:**

- a. Close Public Hearing :
1. Ordinance # 167-17:

Mayor Macklem asked if there were any further questions regarding proposed ordinance #167-17 Bed and Breakfast establishments.

With no comments McMillan moved to close the Public Hearing at 7:48 p.m., second by Geiger. Motion Carried.

Willis moved to adopt Ordinance #167-17 Bed & Breakfast Establishments, second by McMillan.

Roll Call Vote: Willis, yes; McMillan, yes; Geiger, yes; Macklem, yes. 4 yeas, 0 nays, 1 absent. Motion Carried.

ORDINANCE NO. 167-17

AN ORDINANCE TO AMEND THE CITY OF CROSWELL ZONING ORDINANCES TO ADD ORDINANCE 167 -17 TO ALLOW BED AND BREAKFAST ESTABLISHMENTS UPON APPROVAL OF A SPECIAL LAND USE PERMIT AND LICENSE.

THE CITY OF CROSWELL ORDAINS:

SECTION 1. Title.

This Ordinance shall be know as the “Bed and Breakfast Establishment” Ordinance.

SECTION 2. Purpose.

It is the intent of this section to establish reasonable standards for Bed and Breakfast establishments as a Special Land Use to assure that:

1. The property is suitable for transient lodging facilities.
2. The use is compatible in the zoning district where it is located.
3. Adjacent lands shall not be subject to increased trespass or nuisance.
4. The impact of the establishment is compatible with the existing zoning and the impact on the surrounding properties and use are no greater than that of a private home with houseguests.

SECTION 3. Definitions.

As used in this section, “Bed and Breakfast” means an owner occupied single family residential structure occupied by the innkeeper having one or more rooms available for rent to transient tenants and serves meals at no extra cost.

SECTION 4. Permitted Special Land Use.

Bed and Breakfast establishments shall be permitted in the Agricultural, Commercial, Residential-1A, Residential-1B, Multi-Family Districts, subject to the conditions imposed and subject to the approval of the Planning Commission.

SECTION 5. Application Process.

1. Requests for operation of a Bed and Breakfast facility shall be submitted in writing to the City Planning Commission on a form approved by the Commission.
2. When applying for special approval, a site plan shall be provided indicating the location of the dwelling, the lot dimensions, location of proposed parking areas, signage,

landscaping, etc. The Planning Commission has discretion related to site plan requirements and may require a site plan designating any matters the Commission deems necessary to make a decision on the application. Complete floor plan of the dwelling unit and an off-street parking plan shall be submitted with the initial request for operation of a bed and breakfast facility.

3. The Planning Commission shall require a floor plan of the structure, drawn to an architectural scale of not less than 1/8th inch = 1 foot, which a copy may be forward to the Fire Department.

4. The owner shall provide proof of evaluation and approval of the septic systems and food service facilities by the Health Department or other appropriate agency, and conformance to the agency's requirements shall be supplied by the owner/occupant prior to approval of a special land use permit, and thereafter shall be available upon request.

5. The Planning Commission shall conduct at least one public hearing on the application and follow notice procedures required by the state zoning enabling acts.

6. To the extent required by state law, the Planning Commission will provide public notice at least 15 days prior to the hearing in a newspaper of general circulation indicating the nature of the request, time and location when the application will be considered and description of the proposed use and opportunity to be heard at the public meeting or indicate where and when public comments will be received.

7. The notice of public hearing on the request will be mailed or delivered at least 15 days prior to the hearing to each property that is within three hundred (300) feet of the applicant's property and an affidavit of mailing or delivery will be maintained in the file or as required by the state law.

8. The conditions imposed with respect to the approval of a land use or activity shall be recorded in the minutes of the approval action and remain unchanged except upon the mutual consent of the approving authority and the landowner.

SECTION 6. Minimum Requirements.

1. All facilities will comply with applicable city, county, and state building laws and plumbing, electrical, mechanical, fire, health, and barrier free codes or other state and federal requirements.

2. Bed and Breakfast establishments shall not be located less than fifteen hundred (1500) feet from another approved bed and bedfast.

3. The residence shall be the principal dwelling unit on the property, and shall be owner occupied at all times. The Bed and Breakfast use shall be subordinate to the principal use of the building as a single-family dwelling.

4. The establishment will have at least two (2) exits to the outdoors, unless more are

required by applicable building or fire codes.

5. The establishment will have no more than four (4) sleeping rooms in the residence that may be used for rental/guest occupancy purposes.

6. The establishment will have no more than sixteen (16) overnight guests who may be accommodated at any time.

7. The rooms utilized for sleeping shall be a part of the primary residence, and not specifically constructed for rental purposes.

8. The guest sleeping rooms shall have a minimum size of one hundred (100) square feet for each two occupants, with an additional thirty (30) square feet for each additional occupant to a maximum of four (4) occupants per room.

9. Each sleeping room for overnight occupancy must have a separate operating smoke detector alarm and a fire extinguisher in proper working order on each floor.

10. Lavatory and bathing facilities must be available to all persons using any sleeping room.

11. The owner/operator of a Bed and Breakfast establishment shall keep a guest registry which shall be available for inspection by the Zoning Administrator, and police and fire officials.

12. The length of stay for each guest shall not exceed fourteen (14) consecutive days and not more than thirty (30) days in any one (1) calendar year.

13. In the event the Planning Commission or Zoning Administrator determines that noise generation may be disturbing to neighbors, or that the location of the establishment is in an area where trespass onto adjacent properties is likely to occur, then the Planning Commission may require that fencing and/or a planting buffer may be constructed and maintained. This requirement survives the application approval.

14. The establishment and occupants shall not interfere with the use and quiet enjoyment of neighboring property owner's use of property.

15. There shall be no separate cooking facilities used for the Bed and Breakfast and the residence kitchen shall not be remodeled into a commercial kitchen for sale of meals.

16. Food will only be served to registered over-night guests.

17. The exterior of the structure must be maintained in good quality condition and free from chipping paint, safety hazards, or excessive deterioration.

SECTION 7. Parking.

1. Vehicle parking is prohibited between the front of the building and public right-of-way.

2. The establishment shall maintain at least one (1) parking space for the owner/operator and one (1) for each guest room.

3. Unless waived for good cause, sufficient off street parking shall be provided as it pertains to single-family dwellings and bed and breakfast facilities and parking lots shall be paved, and stacking cars one behind the other for bed and breakfast patrons shall not be permitted. Parking areas shall be adequately screened, to the extent required by the approving body, from other adjacent residential lots.

SECTION 8. Signage.

1. One sign, not exceeding two square feet, shall be permitted in the front of the dwelling unit on the property.

2. Signage shall not obstruct traffic or line of sight for vehicles and shall not be maintained in the public right of way.

3. Unless waived by the City Council, signage shall conform to all City Ordinances . An elevation drawing of the proposed sign shall be provided when applying for a special use permit.

SECTION 9. Approval.

1. A special use permit shall not be granted if the essential character of a lot or structure within the zoning district, in terms of use, traffic generation or appearance will be changed substantially by the occurrence of the Bed and Breakfast use.

2. The Planning Commission may impose reasonable conditions for issuance of the special use permit under the requirements of this Ordinance or reasonably inferred from this Ordinance.

3. If the application is approved, a written permit-license valid for one (1) year shall be issued to the Applicant. The Applicant will be required to request approval of a new permit-license at least thirty days (30) prior to the expiration of the permit-license. In those cases where no complaints have been registered with the City of Croswell, a new permit-license will be approved by the Zoning Administrator. If two (2) or more complaints have been registered with the City of Croswell, and those complaints are from at least two (2) different residents, a new permit-license application request must be submitted to the Planning Commission for determination of renewal. The Planning Commission will conduct a public hearing on the request after written notice to all properties within three hundred (300) feet of the applicant's property.

4. The issuance and renewal of the permit-license shall be conditioned upon all the requirements set forth in this Ordinance, reasonable conditions of the Planning Commission, and payment of all fees required by this Ordinance.

5. The bed and breakfast facility permit-license is not assignable and will automatically become null and void up sale or transfer of the property, except new owners may apply to continue the use as provided this Ordinance.

SECTION 10. Application Fee.

1. The City Council is authorized to set an application fee and license-permit fee by resolution.

2. The fee schedule may be amended from time to time to cover reasonable costs of the application and permit-license, including but not limited to: publication, inspection, and administration costs.

SECTION 11. Enforcement.

1. An action to enforce this Ordinance may be commenced in any court of jurisdiction to order relief for damages, injunctive and equitable relief. The costs to abate any violation of this Ordinance may attach as a special assessment and/or lien including an award of costs and attorney fees and as otherwise provided by law.

2. This Ordinance may be enforced by the City Administrator or designee, including but not limited to, the City Zoning Administrator, Building Official/Code Enforcement Officer.

SECTION 12. Penalty.

In addition to injunctive relief ordered by any court of competent jurisdiction, a person violating this Ordinance is guilty of a misdemeanor and is subject to payment of a fine of not more than five hundred (\$500.00) dollars and/or up to 90 days imprisonment plus costs, fees, and restitution as allowed by law.

SECTION 13. Severability.

If any Section, subsection, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent portion of this ordinance, and such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 14. Savings.

All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this Ordinance take effect are saved and may be consummated according to the law in force when they are commenced.

SECTION 15. Construction of Ordinance.

It is not intended by this Ordinance to repeal, abrogate annul or in any way impair or interfere with any existing provisions of law or ordinance, or with any rules or regulations previously adopted or issued or which shall be adopted or issued, provided however that where this Ordinance imposed a greater restriction than is required by any existing law, ordinance, rules or regulations, the provisions of this Ordinance shall control.

SECTION 16. Effective Date.

The provisions of this Ordinance shall take effect fifteen (15) days after its enactment and upon publication or as required by law and City of Croswell Charter.

CERTIFICATION

I, SUZANNE DOBSON, City Clerk of Croswell, do hereby certify that Ordinance #167-17 was adopted by the City of Croswell at a Regular meeting of the City of Croswell Council held at the Community Center on the 5th day of October, 2009.

Vote on this Resolution, 5 members being present was as follows:

AYES: Willis, McMillan, Geiger, Macklem

NAYS: _____

ABSENT: O’Vell

Further certify that said Ordinance No. 167-17 adopted by the City of Croswell Council on the 5th day of October, 2009, was published in The Jeffersonian, a paper published in Sanilac County and circulated in the City of Croswell, on the 11th day of October, 2009, this being the first and final day of publication of this Ordinance.

Suzanne M. Dobson, City Clerk

Gary Macklem, Mayor

b. Close Public Hearing:

1. Michigan Sugar IFT - Resolution:

Mayor Macklem asked if there were any questions regarding the Michigan Sugar IFT request.

With no comments, McMillan moved to close the public hearing at 7:50 p.m., second by Willis.
Motion Carried.

McMillan moved to adopt Resolution #10-05-09 approving application of Michigan Sugar for Industrial Facilities Exemption Certificate to invest in three energy reductions projects, second by Willis.

Roll Call Vote: McMillan, yes; Willis, yes; Geiger, yes; Macklem, yes. 4 yeas; 0 nays; 1 absent.
Motion Carried.

RESOLUTION #10-05-2009

Resolution Approving Application of Michigan Sugar Company for Industrial Facilities Exemption Certificate to invest in three energy reductions projects:

1. Replacing 1970's era boiler controls
2. Applying a new high temperature seal and insulation to the pulp drier
3. Insulating high pressure/temperature steam lines

WHEREAS, pursuant to P.A. 198 of 1974, M.C.L. 207.551 et seq., after a duly noticed public hearing held on February 21, 1977, this Council by resolution established The Croswell Industrial Development District.

WHEREAS, Michigan Sugar Company has filed an application for an Industrial Facilities Exemption Certificate with respect to invest in three energy reductions projects, within the Croswell Industrial Development District; and

1. Replacing 1970's era boiler controls
2. Applying a new high temperature seal and insulation to the pulp drier
3. Insulating high pressure/temperature steam lines

WHEREAS, before acting on said application, the City of Croswell held a hearing on October 5, 2009, at the Wm. Aitkin Memorial Library, 111 N. Howard St., Croswell, MI., at 7:30 P.M. at which hearing the applicant, the assessor, and a representative of the affected taxing units were given written notice and were afforded an opportunity to be heard on said application; and

WHEREAS, the three energy reductions projects to be purchased and/or leased had not begun earlier than six (6) months before September 8, 2009, the date of the acceptance of the application for the Industrial Facilities Exemption Certificate; and

WHEREAS, completion of the three energy reductions projects to be purchased and/or leased is calculated to and will at the time of issuance of the certificate have the reasonable likelihood to retain, create or prevent the loss of employment in the City of Croswell; and

WHEREAS, the aggregate SEV of personal property exempt from ad valorem taxes within the City of Croswell, after granting this certificate, will exceed 5% of an amount equal to the sum of the SEV of the unit, plus the SEV of personal property thus exempted.

NOW, THEREFORE, BE IT RESOLVED BY the City of Croswell that:

1. The Croswell City Council finds and determines that the granting of the Industrial Facilities Exemption Certificate considered together with the aggregate amount of certificates previously granted and currently in force under Act No. 198 of the Public Acts of 1974 and Act No. 255 of the Public Acts of 1978, shall not have the effect of substantially impeding the operation of the City of Croswell, or impairing the financial soundness of a taxing unit which levies ad valorem property taxes in the City of Croswell.

2. The application of Michigan Sugar Company for an Industrial Exemption Certificate with respect to new machinery, equipment, furniture and building improvements to be acquired and installed on the following described parcel of real property situated within the Croswell Industrial development District, to wit:

T10N R16E Section 29, South 2 of Southeast 2 Exc Commencing North 6 degrees East 832.96 feet and East 33 feet of Southwest corner of Southeast 1/4, thence North 6 degrees East 485.5 feet east 95.75 feet South 157.6 feet West 24 feet South 16.7 feet East 16.4 feet south 306.50 feet West 155 feet to point the point of beginning. Also Exc South 200 feet of West 225 feet also Exc Bike Path along south line 74.51 acres. Also lot 44 Assessors Plat Exc Comm at Northeast corner of Lot 45 thence n 80 feet West 215 South 162 feet East 40 feet North 82 feet East 175 feet to Point of Beginning. Also exc Comm North 6 degrees East 997 feet North of Southeast corner of Section 29 as Point of Beginning, Thence N 72 degrees West 118.4 feet to Point of Beginning. Also Exc Comm at Southeast corner of Lot 47, Assessors Plat as Point of Beginning, thence N 18 degrees West 165.1 feet, East 28.32 feet to West Bank of Black River, southerly along river to a point 17.67 feet East of Northerly corner of Lot 47, South 45 degrees East 58.53 feet, South 23 degrees East 35 feet, South 3 degrees West 84 feet to Point of Beginning 20.92 acres.

be and the same is hereby approved.

3. The Industrial Facilities Exemption Certificate when issued shall be and remain in force and effect for a period of twelve (12) years after completion.

CERTIFICATION:

I, Suzanne Dobson, City Clerk of Croswell, do hereby certify that Resolution #10-05-2009 was adopted by the City Council at a Regular meeting of the City Council held at the Wm. Aitkin Memorial Library, on the 5th day of October, 2009.

Vote on this Resolution, 4 members being present was as follows:

AYES: McMillan, Willis, Geiger, Macklem

NAYS: _____

ABSETN: O'Vell

Suzanne Dobson, City Clerk

Gary Macklem, Mayor

- c. Citizen complaint – Speed bumps: Mr. Levitt was not present. Concerns were regarding dangerous dogs and speeding, possibly the placing of speed bumps.

City Administrator spoke with Mr. Levitt and explained the hazards of speed bumps when plowing and will also research ordinances on dangerous dogs.

- d. Citizen complaint – Michigan Sugar Smell: Janet & John Murphy, Gaige St., expressed their concerns regarding Michigan Sugar odor. Mrs. Murphy contacted Scott from DEQ and he told her there were not enough complaints.

Rhonda Fetting, employee of Michigan Sugar explained that she knows Michigan Sugar is trying their best to control the odor, she works with the odor control. It is an organic smell, not chemical.

Michigan Sugar Rep Greg Soule explained the reason for the very unusual smell a couple of weeks ago, which was out of the ordinary, and the process they are doing to control the smell.

The city will continue to contact Michigan Sugar when the smell gets out of hand, like they have in the past.

- e. Halloween Hours: Geiger moved to set Halloween hours for Saturday, October 31, 2009 from 6 p.m. to 8 p.m., second by McMillan. Motion Carried.
- f. Disability bids: Geiger moved to reject the disability bids as presented, second by Willis. Motion Carried.

XII. **PUBLIC COMMENTS**

None

XIII. **APPROVAL OF ACCOUNTS PAYABLE:**

Willis moved to approve the Accounts Payable for the amount of \$131,420.94 as the bills be paid, second by McMillan. Motion Carried.

XIV. **CLOSED SESSION UNION NEGOTIATIONS:**

Willis moved to go into Closed Session for Union Negotiations at 8:17 p.m., second by McMillan.

Roll Call Vote: Willis, yes; McMillan, yes; Geiger, yes; Macklem, yes. 4 yeas; 0 nays; 1 absent. Motion Carried.

McMillan moved to adjourn from Closed Session at 8:25 p.m., second by Geiger. Motion Carried.

City Council Union Committee to meet with Utility Workers regarding union negotiations within the next two weeks.

XV. **ADJOURNMENT:**

With no further business Mayor Macklem adjourned the meeting.

Meeting adjourned at 8:30 p.m.

Suzanne Dobson, CMC
Croswell City Clerk

Gary Macklem, Mayor