

The Crosswell City Council met in Regular Session August 3, 2009, at the William Aitkin Memorial Library, 111 N. Howard Ave., Crosswell, MI. Mayor Macklem called the meeting to order at 7:30 P.M.

Present: G. Macklem, M. Willis, M. O'Veil, M. McMillan, J. Geiger  
Administration: City Administrator Dave Tait, City Clerk Suzanne Dobson  
Guests: Jeffersonian Reporter Margaret Whitmer

I. **PLEDGE OF ALLEGIANCE:**

- II. **Approval of Minutes** from the Regular Council Meeting of July 20, 2009 & Special meeting of July 27, 2009

McMillan moved to approve the minutes of July 20, 2009 and July 27, 2009 as presented, second by Geiger. Motion Carried.

III. **Public Comments:**

None

IV. **APPROVAL OF AGENDA:**

Willis moved to approve the agenda as presented, second by O'Veil. Motion Carried.

V. **CORRESPONDENCE:**

- a. Planning Commission minutes – 7/22/09: Receive and file.
- b. Sanilac Economic Alliance Newsletter: Receive and file.

VI. **ADMINISTRATOR'S REPORT:**

- Beer Tent has been approved for the festival
- Festival is this weekend
- N Howard paving project

VII. **COUNCIL MEMBER REPORT:**

- A. Macklem: 1. Little League State Tournament – Thank you; 2. Bike Path by Michigan Sugar looks good; 3. House next to Community Center still doing business; 4. Drainage on Melvin St.
- B. Willis: 1. Sidewalk by Fallowfield law office trees growing out; 2. Crosswell sign on east end of town on M90; 3. City Picnic donation
- C. O'Veil: No report
- D. McMillan: 1. North Howard second house zoning and use.
- E. Geiger: 1. Lampost look good.

VIII. **UNFINISHED BUSINESS:**

None

IX. **NEW BUSINESS:**

a. **FOIA Resolution:**

Geiger moved to adopt Resolution #08-03-2009 to provide for the establishment of procedures, guidelines and fees to be charged in connection with Freedom of Information Act requests; and to exempt certain information and records from disclosure, second by O'Vell.

Roll Call Vote: Geiger, yes; O'Vell, yes; Willis, yes; McMillan, yes; Macklem, yes. 5 yeas, 0 nays. Motion Carried.

RESOLUTION NO. 08-03-2009  
A RESOLUTION TO PROVIDE FOR THE ESTABLISHMENT OF  
PROCEDURES, GUIDELINES AND FEES TO BE CHARGED IN  
CONNECTION WITH FREEDOM OF INFORMATION ACT  
REQUESTS; AND TO EXEMPT CERTAIN INFORMATION AND  
RECORDS FROM DISCLOSURE.

WHEREAS, the City of Croswell is a public body within the meaning of the Freedom of Information Act, as amended, being MCL 15.231 et seq. (the Act); and

WHEREAS, the declared public policy of the State of Michigan, as set forth in MCL 15.231(2) of the Act, is that all persons, except those persons incarcerated in state or local correctional facilities, are entitled to full and complete information regarding governmental decision-making in a manner consistent with the provisions of the Act; and

WHEREAS, in its capacity as a public body, the City of Croswell creates, possesses and maintains certain records which fit within the definition of the term "public records", as that term is defined and used in the Act; and

WHEREAS, the City of Croswell is required by the provisions of the Act to grant requests by persons or corporations desiring to inspect or receive copies of public records which describe the public record sought sufficiently to enable the public body to find the public record, except as provided in MCL 15. 243 §13; and

WHEREAS, the Act permits a public body to charge a fee for providing a copy of public records as enumerated therein and requires that it establish and publish procedures and guidelines to implement the provisions of MCL 15.234 §4(3) regarding the calculations of costs and the applicable procedures and guidelines; and

WHEREAS, the City of Croswell desires to establish procedures, guidelines and fees in accordance with and pursuant to the provisions of the Act for application to and for use in connection with requests received by it pursuant to the Act for the inspection or receipt of copies of public records including, but not necessarily limited to the actual cost of labor incurred in the

examination, review, separation and deletion, duplication and mailing of non-exempt public record in response to requests for copies of said public records, and, in appropriate circumstances, the actual cost of labor incurred in the search, examination, review and the deletion and separation of exempt from non-exempt material as provided in MCL 15.243 §13 and MCL 15.244 §14.

NOW, THEREFORE, THE CITY OF CROSWELL RESOLVES THAT:

1. The Croswell City Clerk is hereby designated as the FOIA Coordinator for the City of Croswell.
2. The office of the FOIA Coordinator shall be deemed to be located in the Office of the Croswell City Clerk.
3. The FOIA Coordinator is hereby empowered to designate another individual to act on his or her behalf in accepting and processing requests for public records, and in approving a denial under MCL 15.236 §6(3).
4. Any person seeking to inspect or receive a copy of a public record shall submit his or her request for a public record or records in writing to the FOIA Coordinator or his or her designee. The word "writing" as used in this resolution means handwriting, typewriting, printing, photostating, photographing, photocopying, and every other means of recording, and includes letters, words, pictures, sounds, or symbols, or combinations thereof, and papers, maps, magnetic or paper tapes, photographic films or prints, microfilm, microfiche, magnetic or punched cards, discs, drums, or other means of recording or retaining meaningful content. The words "written request" as used in this resolution shall mean and include a writing that asks for information, and includes a writing transmitted by facsimile, electronic mail or other electronic means.
5. Each such written request shall be submitted to the FOIA Coordinator, or his or her designee, by delivering or causing the delivery of such request to the Croswell City Clerk's office between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday of each week, except on holidays falling on any such days for which the offices of the Croswell City Clerk are closed; provided, however, that any written request that is received by an employee of the City other than the FOIA Coordinator, or his or her designee, shall forthwith forward and deliver that written request to the FOIA Coordinator, or his or her designee.
6. Each such written request which is delivered in person or by ordinary or certified mail shall be deemed to have been received on the date it is delivered to the FOIA Coordinator, or his or her designee, and such receipt shall be documented as to the time at and date on which it was received in the Croswell City Clerk's office.
7. Each such written request which is delivered by facsimile, electronic mail or other electronic means shall be deemed to have been received on the next business day after the electronic transmission is made and delivered to the FOIA Coordinator, or his or her designee, and such receipt shall be documented as to the time at and date on which it was received in the Croswell City Clerk's office.
8. Each such written request shall be retained by the FOIA Coordinator on file for not less than one year.

9. Each such request shall describe the public record or records requested sufficiently to enable the City of Croswell staff to find said public record.

10. After searching for and, if possible, locating the requested public record or records, said public record or records shall be examined and reviewed by the FOIA Coordinator, or his or her designee, and separated and deleted from other public records not included in said request;

11. Any requested public record or records that is or are found shall be first searched, examined and reviewed by the FOIA Coordinator, or his or her designee, to determine if it is or they are wholly exempt from disclosure or, if it contains or they contain both exempt and non-exempt material.

12. If the public record or records is or are determined to contain both exempt and non-exempt material; the non-exempt material shall be separated from the exempt material and the non-exempt material shall be made available for the requesting person's examination and copying.

13. All public records determined to be exempt in whole or in part shall be denied to the requesting person in a written Notice of Denial provided to him or her.

14. All responses to requests for inspection or copies of public records shall be made immediately, if reasonably possible, but in no case more than 5 business days after the day the request is received, unless otherwise agreed to in writing by the requesting person, and shall:

a. grant the request;

b. deny the request in writing provided to the requesting person; or

c. grant the request in part and issue a written notice to the requesting person denying the request in part;

d. issue a notice extending for not more than 10 business days the period during which the City shall respond to the request; provided, that not more than 1 notice of extension shall issue with respect to a particular request. If a notice extending the period for response is issued, it shall contain the reasons for such extension and the date by which the City will grant the request, deny the request in writing provided to the requesting person, or grant the request in part and issue a written notice to the requesting person denying the request in part.

15. A written Notice of Denial shall contain:

a. an explanation of the basis under the Act or other statute for the determination that the public record, or the portion thereof, is exempt from disclosure, if that is the reason for denying the request or a portion of the request;

b. a certificate that the public record does not exist under the name given by the requesting person or by another name reasonably known to the public body, if that is the reason for denying the request or a portion thereof;

c. a description of a public record or information on a public record which is separated or deleted as provided in MCL 15.244 §14 if a separation or deletion is made;

- d. a full explanation of the requesting person's right to do either of the following:
  - i. submit a written appeal to the Croswell City Council that specifically states the word "appeal" and identifies the reason or reasons for reversal of the disclosure denial; or
  - ii. seek judicial review within 180 days after the City's final determination to deny a request under MCL 15.240§10 Notification of the right to judicial review shall include notification of the right to received attorney's fees and damages as provided in MCL 15.240§10 if, after judicial review, the circuit court determines that the City has not complied with the provisions of MCL 15.240§10 (6) and (7) and orders disclosure of all or a portion of a public record.
- e. the signature of the FOIA Coordinator or such other person as he or she might designate in writing.

Formatted: Indent: Left: 0.5", Hanging: 0.5"

16. In the event of a written appeal to the Croswell City Council, the Council shall, within 10 days after receiving the written appeal, do 1 of the following:

- a. reverse the disclosure denial;
- b. issue a written notice to the requesting person upholding the disclosure denial;
- c. reverse the disclosure denial in part and issue a written notice to the requesting person upholding the disclosure denial in part: or
- d. Under unusual circumstances (as where there is a need to search for, collect, or appropriately examine or review a voluminous amount of separate and distinct public records pursuant to a single request or the need to collect the requested public records from numerous field offices, facilities, or other establishments which are located apart from the Croswell City Clerk's office), a notice extending for not more than 10 business days the period during which the City of Croswell shall respond to the appeal may be issued; provided, however, that not more than 1 such notice may issue for such an extension for a particular request.

Formatted: Indent: Left: 0.5"

17. All copies of public records shall be mailed to the requesting person unless personally picked up by the requesting person at the Croswell City Clerk's office after being notified of their availability.

18. A requesting person who is granted a right to inspect a requested public record or records shall be furnished a reasonable opportunity for inspection and examination of such public record or records together with reasonable facilities for making memoranda or abstracts from same during usual business hours. Such inspections and examinations shall be conducted by the requesting person in the presence of such employees of the City of Croswell and under such conditions as the FOIA Coordinator, or his or her designee, might require in order to protect its public records and to prevent excessive and unreasonable interference with the discharge of municipal functions.

19. The following fees shall be charged to the City of Croswell and paid by the requesting person in connection with requests to inspect or copy public records pursuant to the Freedom of Information Act:

a. Photocopy expense 20 cents per page.

b. Labor costs associated with: photocopying records, and any permitted or required searches, examinations, reviews, separation and deletions of material shall be assessed to and paid by the requesting person at the hourly rate paid to the lowest paid public body employee in the employ of the City of Croswell who is capable of retrieving the information necessary to comply with the request; which said rate shall be disclosed to the requesting person at the time the identity of lowest paid public-body employee who is capable of retrieving the requested information is determined and said fees are calculated.

c. actual mailing costs.

20. Notwithstanding anything contained herein to the contrary, no fee shall be charged for searching, examining, reviewing, and deleting and separating exempt from non-exempt material unless failure to charge a fee would result in unreasonably high costs to the public body because of the nature of the request in the particular instance, such as, by way of example, cases requiring advice from legal counsel, additional staffing or other direct expenses not in the ordinary course of business.

21. In any case where the estimated actual cost to the City of Croswell of responding to a request for the inspection or receiving of a copy of a public record exceeds \$50.00, a good faith deposit equal to 1/2 of the estimated cost of such response shall be required at the time the request is received.

22. A copy of a public record shall be furnished, without charge for the first \$20.00 of the fee for each request; to an individual who submits an affidavit that he or she is then receiving public assistance or, if not receiving public assistance, stating facts showing inability to pay the cost because of indigency.

23. Notwithstanding anything contained herein to the contrary, all information and records of the type specifically described in MCL 15.243§13 as amended, are hereby declared to be exempt from disclosure as a public record under either this Resolution or the Act.

#### CERTIFICATION

I, SUZANNE DOBSON, City Clerk of Croswell, do hereby certify that Resolution #08-03-2009 was adopted by the City of Croswell at a Regular meeting of the City of Croswell Council held at the Wm. Aitkin Memorial Library on the 3<sup>rd</sup> day of August, 2009.

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

AYES: Geiger, O’Vell, Willis, McMillan, Macklem

NAYS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Gary Macklem, Mayor

Suzanne M. Dobson, CMC  
City Clerk

b. Croswell EMS Agreement: Willis moved to approve the Croswell EMS Service contract for July 1, 2009 to June 30, 2010 for the amount of \$30,747, second by Geiger. Motion Carried.

c. Boards & Commission Appointments:

1. Council Compensation Committee: O’Vell moved to appoint Richard Bales to the Council Compensation Committee with a term expiring September 2014, second by Willis. Motion Carried.

X. **PUBLIC COMMENTS**

None

XI. **APPROVAL OF ACCOUNTS PAYABLE:**

McMillan moved to approve the Accounts Payable for the amount of \$229,878.02 and the bills be paid, second by Geiger. Motion Carried.

XII. **CLOSED SESSION – UNION NEGOTIATIONS:**

O’Vell moved to go into Closed Session to discuss Union Negotiations at 7:51 p.m., second by Willis.

Roll Call Vote: O’Vell, yes; Willis, yes; Geiger, yes; McMillan, yes; Macklem, yes. 5 yeas, 0 nays. Motion Carried.

Willis moved to adjourn from Closed Session at 8:05 p.m., second by McMillan. Motion Carried.

XIII. **ADJOURNMENT:**

With no further business Mayor Macklem adjourned the meeting.

Meeting adjourned at 8:06 p.m.

---

Gary Macklem, Mayor

---

Suzanne Dobson, CMC  
City Clerk