

The Crosswell City Council met in Regular Session July 6, 2010, at the William Aitkin Memorial Library, 111 N. Howard Ave., Crosswell, MI. Mayor McMillan called the meeting to order at 7:30 P.M.

Present: M. McMillan, M. Willis, L. Krawczyk, R. Butler

Absent: J. Geiger

Administration: Interim City Administrator & City Clerk Suzanne Dobson

Guests: Jeffersonian Reporter Margaret Whitmer; Kim Hartman

I. **PLEDGE OF ALLEGIANCE:**

- II. **APPROVAL OF MINUTES** from the Regular Council Meeting of June 21, 2010; Special Meeting June 29, 2010

Willis moved to approve the minutes of June 21, 2010 and June 29, 2010 as presented, second by Krawczyk. Motion Carried.

III. **PUBLIC COMMENTS**

None

IV. **APPROVAL OF AGENDA:**

Butler moved to approve the agenda as presented, second by Krawczyk. Motion Carried.

V. **PUBLIC HEARING PROPOSED ORDINANCE #317 – OFF ROAD VEHICLES:**

Willis moved to open the public hearing for proposed Ordinance #317 at 7:35 p.m., second by Butler. Motion Carried.

Mayor McMillan asked for any questions/comments or concerns regarding the Off-Road Vehicle ordinance.

Police Chief add to specifically state restriction on N. Howard from Seltzer Rd. to M-90, if traveled must go to the first secondary road not to exceed one mile.

Hearing will be held open.

VI. **CORRESPONDENCE:**

- a. MML League Conference: If Council wishes to attend contact the City Clerk for reservations. Receive and file.
- b. 9-1-1- Emergency Services Millage: Receive and file.
- c. DTE Energy – Public Hearing notice: Receive and file.
- d. Michigan Twp Participating Plan – Newsletter: Receive and file.

VII. **ADMINISTRATOR'S REPORT:**

- State St. to the School we will tube the ditch this year and the total road will be completed in April-May of 2011.
- 14 Center St., Building Inspector stated that the home was secure and no danger and

- there was nothing further she could do, home is vacant.
- Parks are locked only when flooded.
 - Harrington Rd. Park – parking barriers were removed because they were rotted. The information has been passed onto the Parks & Recreation Committee to see if they want to replace them.
 - City Supervisor’s would like to meet with Council regarding the City Administrator expectations and qualities. Ans: Meeting scheduled for July 12 at 5:00 p.m. at the Crosswell Community Center.
 - Texting law went into effect July 1, 2010 – Police has reviewed this with his officers.
 - Water Tower painting will begin July 12th.
 - o Color – White
 - o Check on the cost to change wording to – Home of the Pioneers
 - Working on Grass Ordinance
 - Swinging Bridge Festival August 6 – 8.
 - Firewood Bids due July 16th at 2:00 p.m.

VIII. COUNCIL MEMBER REPORT:

- A. McMillan: No report
- B. Willis: Sugar Factory smell
- C. Geiger: Absent
- D. Krawczyk: Sugar Factory smell
- E. Butler: At the RV dump site on N. Howard request to check to the cost for putting water there to rinse (“non-drinking”).

IX. UNFINISHED BUSINESS:

- a. EMS Director Agreement: Butler moved to approve the EMS Director Agreement with Jeff Dawson as presented, second by McMillan.

Roll Call Vote: Butler, yes; McMillan, yes; Willis, no; Krawczyk, yes. 3 yeas, 1 nay, 1 absent.
Motion Carried.

- b. Electric/Water Supervisor Agreement: Butler moved to approve the Electric/Water Supervisor Agreement with John Williams as presented, second by McMillan.

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

X. **NEW BUSINESS:**

a. **Proposed Ordinance #317 – Off-Road Vehicles:**

Mayor McMillan asked for any questions/comments or concerns regarding proposed Ordinance #317 for Off-Road Vehicles.

Willis moved to close the public hearing for proposed Ordinance #317 at 7:56 p.m., second by Krawczyk. Motion Carried.

Butler moved to adopt Ordinance #317, Off-Road Vehicles, as amended, second by Krawczyk.

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

CITY OF CROSWELL
ORV ORDINANCE
ORDINANCE NO. 317

An ordinance adopted for the purpose of authorizing and regulating the operation of Off Road Vehicles (ORVs) on roads and street in the City of Croswell, Michigan for the purpose of providing penalties for the violation thereof, and for the distribution of public funds resulting from those penalties pursuant to 2009 PA 175, MCL 324.81131.

CITY OF CROSWELL ORDAINS:

Section 1. As used in this ordinance, the following definitions shall apply:

a) “City” means the City of Croswell.

b) “Driver’s license” means an operator’s or chauffeur’s license or permit issued to an individual by the Secretary of State under chapter III of the Michigan vehicle code, 1949 PA 300, MCL 257.301 to 257.329, for that individual to operate a vehicle, whether or not conditions are attached to the license or permit.

c) “Maintained portion” means that portion of a road or street improved, designated or ordinarily used for vehicular traffic.

d) “Operate” means to ride in or on, and be in actual physical control of the operation of an ORV.

e) “Operator” means a person who operates or is in actual physical control of the operation of an ORV.

f) “ORV” means a motor driven off road recreation vehicle capable of crosscountry travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland, or other natural terrain. ORV or vehicle includes, but is not limited to, a multi-track or multi-wheel drive vehicle, an ATV, a motorcycle or related 2-wheel, 3-wheel, or 4-wheel vehicle, an amphibious machine, a ground effect air cushion vehicle, or other means of transportation deriving motive power from a source other than muscle or wind. ORV or vehicle does not include a registered snowmobile, a farm vehicle being used for farming, a vehicle used for military, fire, emergency, or law enforcement purposes, a vehicle owned and operated by a utility

company or an oil or gas company when performing maintenance on its facilities or on property over which it has an easement, a construction or logging vehicle used in performance of its common function, or a registered aircraft.

g) "Road" means a county primary road or county local road as described in section 5 of 1951 PA 1951, MCL 247.655. Road does not include a private road.

h) "Road Commission" means the Board of County Road Commissioners for Sanilac County.

i) "Safety certificate" means a certificate issued pursuant to 1994 PA 451 as amended, MCL 324.81129, or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.

j) "Street" means a city major street or local street as described in section 9 of 1951 PA 51, MCL 247.659.

k) "Visual supervision" means the direct observation of the operator with the unaided or normally corrected eye, where the observer is able to come to the immediate aid of the operator.

Section 2. An ORV shall be operated on the far right of the maintained portion of a street within the City with these exceptions:

a) All State Trunk line Roads.

b) All County Primary (Asphalt) Roads, Howard Avenue from Seltzer Road to M-90, however allowing ingress and egress to a destination, not to exceed one mile, or first Secondary road.

c) Provided however, that in the event that either the Road Commission has CLOSED certain road(s) to ORV use, pursuant to MCL 324.81131(4), operation otherwise permitted under this Ordinance shall not be considered authorized, with respect to such closed road(s).

d) This Ordinance is not intended to authorize the operation of an ORV on a street or highway which is a State Trunk line Highway

Section 3. An ORV shall not be operated on the road surface, roadway, shoulder or right-of-way of any state or federal highway in the City.

Section 4. Except as set forth herein or otherwise provided by law, an ORV meeting all of the following conditions may be operated on a road or street in the City:

- a) At a speed of no more than 25 miles per hour or a lower posted ORV speed limit if such lower speed limit be established.
- b) By a person not less than 12 years of age.
- c) With the flow of traffic.
- d) In a manner which does not interfere with traffic on the road or street.
- e) Traveling single file except when overtaking and passing another ORV.
- f) When visibility is not substantially reduced due to weather conditions.
- g) While displaying a lighted headlight and lighted taillight at all hours.
- h) While the operator and each passenger is wearing a crash helmet and protective eyewear approved by the United States Department of Transportation unless the vehicle is equipped with a roof, or roll bar(s), or windshield that meets or exceeds standards for a

crash helmet and the operator and each passenger is wearing a properly adjusted and fastened seat belt.

- i) With a throttle so designed that when the pressure used to advance the throttle is removed, the engine speed will immediately and automatically return to idle.
- j) While the ORV is equipped with a spark arrester type United States Forest Service approved muffler in good working order and in constant operation.
- k) Pursuant to noise emission standards defined by law.
- l) For the purpose of obtaining access to recognized off road trails, and for the operator to purchase retail goods and services in conjunction with the legal operations of an ORV, may, by the most direct route available, utilize the public roads and street located in the city and in so doing, travel in the most direct perpendicular manner available.
- m) No ORV will be permitted to drive on the City streets or roads before 5:00 am or after 10:00 pm.

Section 5. A child that is at least 12 years of age but less than 16 years of age shall not operate an ORV on a road or street in the City unless the child is under the direct visual supervision of an adult and the child has in his or her immediate possession a Michigan issued ORV safety certificate or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.

Section 6. Unless a person possesses a valid driver's license, a person shall not operate an ORV on a road or street in the City if the ORV is registered as a motor vehicle and is either more than 60 inches wide or has three wheels.

Section 7. The Board of County Road Commissioners, a County Board of Commissioners, and the County and the City is, immune from tort liability for injuries or damages sustained by any person arising in any way out of the operation or use of an ORV on maintained or unmaintained roads, streets, shoulders, and rights-of-way over which the Board of County Road Commissioners, the County Board of Commissioners, or the City has jurisdiction.

Section 8. In a court action in this state, if competent evidence demonstrates that a vehicle is permitted to operate on a road or street pursuant to the code was in a collision with an ORV required to be operated on the far right of the maintained portion of a road or street pursuant to this ordinance, the operator of the ORV shall be considered prima facie negligent.

Section 9. Any person who violates this ordinance is guilty of a municipal civil infraction and may be ordered to pay a civil fine of not more than \$500.00.

Section 10. A court may order a person who causes damage to the environment, a road or other property as a result of the operation of an ORV to pay full restitution for that damage above and beyond the penalties paid for civil fines.

Section 11. The City Treasurer shall deposit all fines and damages collected under this ordinance into a fund to be designated as the ORV fund. The City of Croswell City Council shall appropriate revenue in the ORV fund as follows:

- a) Fifty percent (50%) to the County Road Commission for repairing damage to roads and the environment that may have been caused by ORVs, and for posting signs indicating ORV speed limits, or indicating whether roads are opened or closed to the operation of ORVs.

b) Fifty percent (50%) to the City of Croswell for ORV enforcement and training.

Section 12. This ordinance becomes effective July 22, 2010.

This ordinance is adopted by action of the City of Croswell City Council

Section 13. The provision of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Croswell, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Code.

Certification

I, Suzanne Dobson, Clerk of the City of Croswell, do hereby certify that Ordinance No. 317 was adopted by the City of Croswell Council at a Regular meeting of the City Council held at the Wm. Aitkin Memorial Library on the 6th day of July, 2010.

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

AYES: Butler, Krawczyk, Willis, McMillan

NAYS: _____

ABSENT: Geiger

Further certify that said Ordinance No. 317 adopted by the City of Croswell Council on the 6th day of July, 2010, was published once in The Jeffersonian, a paper published in Sanilac County and circulated in the City of Croswell, on the 11th day of July, 2010, this being the first and final day of publication of this ordinance.

Suzanne Dobson, CMC
City Clerk

Michael McMillan, Mayor

- b. Linda Cornell – Water Tap waive request: Request from Linda Cornell at 124 E. Harrington to have the water tap fee of \$700 waived.

This water connection was made to this house when it was one parcel with a factory. The factory was tapped into the main, the house was tapped into the factory line. Theut's purchased the factory in the 70's and the house was sold in the 80's unaware of the water line connection of the two buildings. DPW Supervisor recommends the fee be waived.

Butler moved to waive the \$700 tap in fee for 124 E. Harrington, second by Willis.

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

- c. Clarification of Resolution #06-01-2009 – Clean-up Fees:

Butler moved to approve Resolution #07-06-2010 the Clarification of Clean up fees, second by McMillan.

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

#07-06-2010
RESOLUTION
CLEAN-UP FEES
REVISED #06-01-2009

Butler moved and McMillan seconded a motion that a Resolution be passed as follows:

WHEREAS, the City of Croswell Council amended Chapter 94: Nuisances of the City of Croswell Ordinances Section 94.100 – 94.102, to provide for Special Assessment for Local Public Improvement; Special Assessment Procedure and Special Assessment and Interest as Lien and Debt Delinquency, being Ordinance Number 314, on June 1, 2009,

WHEREAS, pursuant to said Ordinance that the whole or part of the expense for clean up for a violation of this Chapter is a local public improvement and may be defrayed by special assessments upon the property specially benefited by confirmation of the costs.

NOW THEREFORE, BE IT RESOLVED, that the Croswell City Council has determined that the follow rates will be charged for whole or part of the expense for clean up and shall be applied to the taxes if unpaid as an assessment to the property. If a rate is not listed than the actual cost for clean up will be charged.

Mowing – 1st time - \$200.00; 2nd - \$250.00; 3rd - \$300.00; etc. capped at \$500.00

CERTIFICATION

I, Suzanne Dobson, Clerk of Croswell, do hereby certify that Resolution #07-06-2010 was adopted by the City of Croswell at a Regular meeting of the City of Croswell Council held at the William Aitkin Memorial Library on the 6th day of July, 2010.

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

AYES: Butler, McMillan, Willis, Krawczyk

NAYS: _____

ABSENT: Geiger

Suzanne Dobson, CMC
City Clerk

Michael McMillan, Mayor

- d. Marijuana Law: Willis moved to table until the Planning Commission has submitted a proposed ordinance, second by McMillan. Motion Carried.
- e. Croswell EMS Service Contract: 2010-2011 service contract with Croswell EMS for the amount of \$30,747. Same rate as the 2009-2010 service contract.

Willis moved to approve the Croswell EMS service contract for the fiscal year 2010-2011 for the amount of \$30,747.00, second by Butler.

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

- f. Solicitor's Permit – Commercial Club: Commercial Club submitting a request for a Solicitor's Permit to sell the glow in the dark necklaces and wands.

Willis moved to approve the Solicitor's License for the Commercial Club on August 6 and August 7 and the permit fee be waived, second by Krawczyk. Motion Carried.

- g. MERS – Benefit E – Valuation Request: Municipal Employees Retirement Service is allowing a Benefit E increase only if the municipality pays for an actuarial valuation and pays the increase up front.
- h. EMS Wages – 2010/2011 fiscal year: Willis moved to approve a 1.5% increase for the three full-time EMS employees effective July 1, 2010, second by Krawczyk.

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

XI. PUBLIC COMMENTS

Kim Hartman – City funds; update on the Fun Fest that was held; website; promoting TIFA property.

Willis moved to amend the Agenda and add City Administrator interviews, second by Butler.

Roll Call Vote: Willis, yes; Butler, yes; Krawczyk, yes; McMillan, yes. 4 yeas, 0 nays, 1

absent. Motion Carried.

XII. **CITY ADMINISTRATOR INTERVIEWS:**

Willis moved to hold interviews for four applicants on July 12, 2010 beginning at 6:30 p.m. at the Croswell Community Center, second by Butler. Motion Carried.

XIII. **APPROVAL OF ACCOUNTS PAYABLE:**

Butler moved to approve the Accounts Payable for the amount of \$211,589.80 and the bills be paid, second by Willis. Motion Carried.

XIV. **ADJOURNMENT:**

With no further business Mayor McMillan adjourned the meeting.

Meeting adjourned at 8:45 p.m.

Suzanne Dobson, CMC
City Clerk

Michael McMillan, Mayor