

September 6, 2011

UNOFFICIAL

The regular meeting of the Clare City Commission was called to order at 6:00 p.m. in the Commission Chambers by Mayor Pat Humphrey who led the Pledge of Allegiance. Present were: Commissioners Bill Horwood, Pat Humphrey, Tom Koch, John Koch and Jean McConnell. Also present were Ken Hibl, City Manager; Lori Schuh, Main Street Manager; Jared Olson, Steve Kingsbury, Treasurer; Jim Chapman, Fire Chief; and Sarah Schumacher, Deputy Clerk.

2. CONSENT AGENDA:

Moved by Commissioner Bill Horwood second by Commissioner John Koch to approve the items listed with an asterisk (\*) (Agenda, Minutes, Communications, Approval of Bills, Board and Committee Appointments, Second Reading of Proposed Ordinance Change Ordinance 2011-013, and Second Reading of Proposed Ordinance Amendment radiance 2011-010) that are considered to be routine by the City Commission with the exceptions of Item A Board and Committee Appointments which Commissioner John Koch requested be removed from the consent agenda and Item D Proposed Ordinance Amendment 2011-010 which city resident Mel Johns requested to removed from the consent agenda. Roll call vote Ayes: Nays: None. *Motion Carried.*

3. \*APPROVAL OF MINUTES:

Consent Agenda Approved

4. \*APPROVAL OF AGENDA:

Consent Agenda Approved

5. PUBLIC COMMENT:

Kelly Koch, city resident and former Parks and Recreation Advisory Board member commented on her dissatisfaction of the committee reappointment process, stating that in January, 2010, Mayor Pat Humphrey chose not to reappoint her to the Parks and Recreation Committee because of a desire to rotate committee members. Ms. Koch went on to say that the reappointment of Jon Ringelberg shows that this process is not being followed.

Mel Johns, city resident, questioned the city's right to prohibit residents from using wood-fired boilers. Ken Hibl, City Manager, replied by stating that the City of Clare is a 'Home Rule City', and by charter is able to make its own rules and ordinances. Mr. Johns then asked whether it is for safety concerns or some other reason that the city felt it needed to pass this ordinance. Ken Hibl, City Manager stated that since the ordinance is an agenda item, it could be discussed later in the meeting.

6. OLD BUSINESS/UNFINISHED BUSINESS: None.

7. NEW BUSINESS:

A.\*RENEWAL OF BOARD & COMMITTEE APPOINTMENT – REAPPOINTMENT OF MR. JON RINGELBERG (PARKS & RECREATION ADVISORY BOARD)

The appointed term of Parks and Recreation Advisory Board (PRAB) member Jon Ringelberg expired September 1, 2011. Jon has agreed to serve another term at the will of the Mayor and upon endorsement by the City Commission. The Mayor has agreed to reappoint Mr. Ringelberg to serve another term as a voting member of the PRAB; the City Commission is asked to consider endorsing this reappointment. Motion by Jean McConnell second by Bill Horwood to approve the reappointment of Jon Ringelberg to the Parks and Recreation Advisory Board by adoption of Resolution 2011-084. Roll call vote: Yeas: Commissioners Bill Horwood, Pat Humphrey, Jean McConnell, and Tom Koch. Nays: John Koch. Absent: None. *Motion Carried*

B. REQUEST FOR INDUSTRIAL FACILITIES EXEMPTION – ALRO STEEL

CORPORATION Alro Steel Corporation has filed an application (*copy att'd*) with the City of Clare for issuance of a twelve (12) year Industrial Facilities Exemption Certificate for abatement of personal property taxes for cost of machinery and equipment in the amount of \$1,800.00. The City Commission is asked to formally consider the tax abatement request of Alro Steel Corporation. In doing so, the Commission is required to hold a public hearing to receive public comment related to the requests. Upon conclusion of the public hearing, the Commission should deliberate the merits of the application and, if deemed appropriate by the Commission, act on the application by adoption of the separate Resolutions: one for the Exemption Certificate and one for the related, requisite Agreement (*copy att'd*) between the City of Clare and Robotic Welded Parts Inc. To date three of the taxing jurisdictions have responded stating they support issuance/have no objection to the requested exemption. No stated public objections have been received.

Motion by by Jean McConnell second by Bill Horwood to open public hearing. Roll call vote: Yeas: Commissioners Bill Horwood, Pat Humphrey, Jean McConnell, Tom Koch and John Koch. Nays: None. Absent: None. *Motion Carried*

Public Comment: Kathy Methner, Middle Michigan Development Corporation, expressed her appreciation for the City's support of local businesses. Dave Forquer, Alro Steel, also expressed appreciation to the City for the support and consideration the City has given Alro Steel.

Motion by Jean McConnell second by Bill Horwood to close public hearing. Roll call vote: Yeas: Commissioners Bill Horwood, Pat Humphrey, Jean McConnell, Tom Koch and John Koch. Nays: None. Absent: None. *Motion Carried.*

Motion by John Koch second by Jean McConnell to approve the Industrial Facilities Exemption Certificate with the adoption of Resolution 2011-085 and approve the related Agreement with the adoption of Resolution 2011-086. Roll call vote: Yeas: Commissioners Bill Horwood, Pat Humphrey, Jean McConnell, Tom Koch and John Koch. Nays: None. Absent: None. *Motion Carried.*

C. PROPOSED ORDINANCE CHANGE – ZONING CHANGE, PARCEL ID 051-35-405-07 ORDINANCE 2011-013

The City approved a zoning change at the request of Ruth Teeter, the owner of a building and property (identified as Tax ID #18-002-20-003-00) located at 4756 East Countyline Road in the City of Clare in August 2010, thereby changing the original zoning of this property from Residential-1 to Commercial-1. Subsequently, this property was sold to Coyne Brothers, who submitted a site plan application for commercial use of the property; the site plan was approved by the City. During the process of the rezoning and site plan process, Mr. Paul Lapham, one of the adjoining property owners, asked that the City consider also changing his parcel of property from Residential-1 to Commercial-1 due to the fact that his property would now be contiguous to two commercial use parcels. The City informed Mr. Lapham it would initiate a zoning change to accommodate his request. Consequently, the City Commission is asked to consider initiating the process to rezone this property parcel. All changes to zoning within the City must be accomplished by ordinance change; the Clare City Commission is the only governing body within the City with the authority to enact, change, or amend the City's Ordinance Codes. However, the City Planning Commission is required (*see copy of att'd Sec 52-32 of the City's Ordinance Codes*) to approve, disapprove, or make suggestions regarding any zoning change prior to its consideration for approval or disapproval by the City Commission. The Planning Commission met on August 10, 2011 and recommended approval of the proposed change

Motion by John Koch second by Jean McConnell to approve Proposed Ordinance Change/Zoning Change of Parcel ID# 051-35-405-07 Ordinance 2011-013 by adoption of Resolution 2011-087. Roll call vote: Yeas: Commissioners Bill Horwood, Pat Humphrey, Jean McConnell, Tom Koch and John Koch. Nays: None. Absent: None. *Motion Carried.*

D. PROPOSED ORDINANCE AMENDMENT – CHAPTER 22, OUTDOOR WOOD FIRED BOILER ORDINANCE (ORDINANCE 2011-010)

The City previously adopted by reference the current edition of the International Fire Codes, thereby significantly reducing the restrictions for burning within the City, but mandating that any such outdoor burning be allowed only by permit and approved the City's Fire Chief, Fire Marshal, or other properly designated City official. Due to potential public safety issues and concerns, our Fire Marshal/Building Inspector and our Fire Chief have subsequently recommended that the City amend its current burning ordinance to prohibit outdoor wood-fired boilers in all zoning districts of the City except industrial districts. The proposed ordinance amendment implementing that recommendation is attached. The City Commission held a noticed public hearing and

subsequently discussed and considered the proposed ordinance amendment and the recommendations of the City Staff at its scheduled meeting on August 15<sup>th</sup>. No public opposition related to the proposed ordinance change was received by the City. The Commission is now asked to consider approving the proposed ordinance revision, thereby prohibiting the use of outdoor wood-fired boilers in all but industrially-zoned districts of the City.

Public Comment: Mel Johns asked the city manager/city commission why they felt it necessary to pass an ordinance banning wood-fired burners in residential areas. Ken Hibl explained that the primary reason is health and safety. Mr. Hibl also stated that any wood-fired boiler already being used in the city would be 'grandfathered' and therefore, not affected by this ordinance.

Jim Chapman, Fire Chief, read an excerpt from the DEQ model ordinance concerning wood-fired boilers which states that wood-boilers are a leading cause of citizen complaints, they are designed for long burn times between loadings, typically have chimney heights of less than ten feet, restricted air flow, low operating temperatures and large fuel loads which frequently result in excessive smoke. Smoke can cause both acute and chronic health problems when nearby residents are exposed. Chief Chapman stated that both he and Dave Williams, Building Inspector and Code Enforcement Officer, feel that after much deliberation and discussion, this Ordinance effectively and appropriately deals with this issue.

Tom Koch stated that he would like to see the ordinance written with certain stipulations in regards to lot size, chimney height, woodpile size, clearances, etc., rather than banning the wood-fired boilers outright.

John Koch disagreed, saying that the boilers are an eyesore, the woodpiles an invitation to rodents, and the heavy low-lying smoke a health hazard. John Koch also stated that this ordinance is the best one to come before the commission in a long time and it is in the best interest of the citizens of Clare.

Ken Hibl told the commission that if they choose to, they could table the issue so that city staff could hire an engineer, talk to some experts and ask them for recommendations.

Motion by John Koch second by Jean McConnell to approve Proposed Ordinance Amendment 2011-010 by adopting Resolution 2011-088. Roll call vote: Yeas: Commissioners Bill Horwood, Pat Humphrey, Jean McConnell and John Koch. Nays: Tom Koch. Absent: None. *Motion Carried.*

**E. APPROVAL OF BIDS – DEMOLITION OF DECOMMISSIONED WWTF**

The City received a \$2.655M low-interest loan from the United States Department of Agriculture (USDA) to complete mandated and necessary improvements to the City's waste treatment operations and facilities. A portion of the loan funds (\$90K) were designated for demolition of the City's decommissioned (late 1980s) waste water treatment facility. Gourdie-Fraser (GFA), the City's engineer of record for the City's water and wastewater operations, solicited demolition bids on behalf of the City to accomplish the demolition work. Seven bids were received (*see copy of att'd GFA correspondence*). GFA reviewed the bids to ensure the bids complied with USDA requirements and met bid specifications. Based on the review, GFA has recommended the demolition work be awarded to Pitsch Companies, the low bidder. The City Commission is asked to approve the bids and award the demolition work to the low bidder.

Motion by John Koch second by Bill Horwood to approve the Bid from Pitsch Companies for the demolition of decommissioned WWTF by adoption of Resolution 2011-089. Roll call vote: Yeas: Commissioners Bill Horwood, Pat Humphrey, Jean McConnell, Tom Koch and John Koch. Nays: None. Absent: None. *Motion Carried.*

**F. APPROVAL OF BIDS – BIOSOLIDS REMOVAL, TRANSPORTATION, & DISPOSAL**

The City received a \$2.655M low-interest loan from the United States Department of Agriculture (USDA) to complete mandated and necessary improvements to the City's waste treatment operations and facilities. A portion of the loan funds (\$100K) were designated for removal of sludge from the City's waste treatment facility lagoons. Gourdie-Fraser (GFA), the City's engineer of record for the City's water and wastewater operations, solicited bids on behalf of the City to accomplish the sludge removal work. Two bids were received (*see copy of att'd GFA correspondence*). GFA reviewed the bids to ensure the bids complied with USDA requirements and met bid specifications. Based on the review, GFA has recommended the sludge removal work be awarded to Gro America, the low bidder. The City Commission is asked to approve the bids and award the project work to the low bidder.

Motion by Jean McConnell second by John Koch to approve the Bid for Biosolids Removal, Transportation & Disposal by adoption of Resolution 2011-090. Roll call vote: Yeas: Commissioners Bill Horwood, Pat Humphrey, Jean McConnell, and John Koch. Nays: None. Absent: None. *Motion Carried.*

**G. AMENDMENT TO ENGINEERING SERVICES CONTRACT – GFA #09067**

The City received a \$2.655M low-interest loan from the United States Department of Agriculture (USDA) to complete mandated and necessary improvements to the City's waste treatment operations and facilities. A portion of the loan funds (\$100K) were designated for engineering services associated with the entirety (engineering & design;

bid specification and document preparation; liaison with USDA; bid solicitation, bid review, and bid award recommendations; materials testing; construction staking, construction oversight; payment review and recommendations; obtaining permits; right-of-way mapping services; and sundry other tasks as required to ensure success of the project. A portion of these services were not included in the standard engineering contract; however, the services were included in GFA's original budget estimates. In order for GFA to receive compensation for the services they already have or will yet perform and were not included in the engineering contract (*see copy of att'd GFA correspondence delineating those services*), USDA is requiring that the City approve a contract amendment. The City Commission is asked to approve the requested amendment (*copy att'd*).

Motion by Jean McConnell second by Bill Horwood to approve an amendment to Engineering Services Contract – GFA #09067 by adoption of Resolution 2011-091. Roll call vote: Yeas: Commissioners Bill Horwood, Pat Humphrey, Jean McConnell, and John Koch. Nays: None. Absent: None. *Motion Carried*.

#### H. CHERRY GROVE CEMETERY CAPITAL PROJECT – REHABILITATION OF CIVIL WAR MONUMENT

Approximately five years ago, the Cherry Grove Cemetery Advisory Board identified and prioritized three capital improvement projects to be completed at the City's cemetery: reconstructing the historical arch over the entrance gate at the cemetery; resurfacing the paved road system within the cemetery; and refurbishing and completing (adding a granite Civil War vintage Union soldier to the top of the monument, which was included in the original monument design and construction in 1894 but was never completed due to the lack of funds) the 110+ year old Civil War Monument.

The Board has been unsuccessful in finding a vendor or craftsman to reconstruct the historical entrance arch; the desired road resurfacing project is presently considered cost-prohibitive; and until this year, the Board has been unsuccessful in locating an artisan who is capable and willing to rehabilitate the monument and add the Union soldier figure to the monument. However, with the opening of the American Marble & Granite Works business establishment in Clare this year, rehabilitating and completing the Civil War Monument is now possible.

Mr. Scott Rambo, the proprietor of this Clare business and its parent company, Bad Axe Marble & Granite Works, has provided the Cemetery Board a proposal (*copy att'd*) to refurbish (*see att'd photos of our existing monument and the before & after photos of a monument refurbished by this company*) and add a 4-foot Union soldier to the top of the monument. The Cemetery Board has asked (*see copy of att'd minutes*) that the City Commission approve the expenditure of funds to complete this work.

Motion by Jean McConnell second by Bill Horwood to approve the Rehabilitation of the Civil War Monument in the Cherry Grove Cemetery by adopting Resolution 11-092. Roll call vote: Yeas: Commissioners Bill Horwood, Pat Humphrey, Jean McConnell, and John Koch. Nays: None. Absent: None. *Motion Carried*

I. DESIGNATION OF VOTING DELEGATES – MICHIGAN MUNICIPAL LEAGUE ANNUAL MEETING

The Michigan Municipal League's Annual Meeting (*see copy of att'd notice*) is scheduled for October 5<sup>th</sup>. The bylaws of the League stipulate that the governing body of each municipal member designate a primary and alternate voting delegate to vote on matters brought before the League membership for consideration at the annual meeting. Two of the City's elected officials (Mayor Pat Humphrey and Commission Bill Horwood) are scheduled to attend the League's annual meeting. The City Commission is asked to formally designate one of the attendees as a primary voting delegate and one of the attendees as the City's alternate voting delegate

Motion by Jean McConnell second by Bill Horwood to designate Pat Humphrey as primary and Bill Horwood as alternate delegate to the Michigan Municipal League Annual Meeting by adoption of Resolution 11-093 Roll call vote: Yeas: Commissioners Bill Horwood, Pat Humphrey, Jean McConnell, and John Koch. Nays: None. Absent: None. Motion Carried.

J. PROPOSED ORDINANCE CHANGE – CHAPTER 52, ZONING, FARM ANIMALS (ORDINANCE 2011-012)

There are a significant number of residential properties within the City that were formerly used for agricultural purposes and have existing barns and other accessory buildings that were intended to house farm animals. A number of those properties remain of sufficient size to continue housing farm animals without having an adverse effect on neighboring residential properties. The City repetitively and routinely receives queries and requests to allow housing farm animals. Coincidentally, we recently received a formal written request (*copy att'd*) just after publishing our first hearing notice on this subject asking that the City consider amending its current ordinance codes to allow the housing of horses on a specific property within the City; our response is attached.

Based on the repetitive requests we have received over the years, we asked our City Attorney to draft a proposed amendment (*copy att'd*) related to this subject. These are the highlights/salient points of the suggested ordinance change:

- Allows keeping of certain farm animals only in Residential-1 properties.
- Specifies the minimum size of the residential property that would allow the housing of farm animals (two acres or more for small animals such as turkeys and rabbits; four acres or more for large animals, including horses, cattle, hogs, and goats).
- Requires approval by special permission of the Planning Commission and specifies the site plan, setback requirements, and other special provisions associated with the special permit.
- Allows, by permit, the keeping of no more than two chickens in any single-family residence.
- Prohibits roosters in the City.

- Specifies the related requirements associated with the keeping of chickens.

We asked the Planning Commission to review and consider the proposed ordinance and provide us guidance in respect to any recommended changes. The Planning Commission recommended approval (*see copy of att'd Resolution 2011-012PC*) of the proposed change. All changes to zoning within the City must be accomplished by ordinance change; the Clare City Commission is the only governing body within the City with the authority to enact, change, or amend the City's Ordinance Codes.

To accommodate the City Commission's formal review of the proposed ordinance change, a public hearing, which is a mandatory requirement for any ordinance change, has been scheduled (*see copy of att'd notice*) to receive comment pertaining to the proposed zoning ordinance revisions. The City Commission is asked to hold the public hearing, consider and discuss the proposed ordinance change, and if the Commission determines the proposed change has merit, approve a first reading of the amendment. Motion by John Koch second by Jean McConnell to open public hearing. Roll call vote: Yeas: Commissioners Bill Horwood, Pat Humphrey, Jean McConnell, and John Koch. Nays: None. Absent: None. *Motion Carried*

Public Comment: None

Motion by Jean McConnell second by John Koch to close public hearing. Roll call vote: Yeas: Commissioners Bill Horwood, Pat Humphrey, Jean McConnell, and John Koch. Nays: None. Absent: None. *Motion Carried*

#### K. TREASURER'S REPORT

The Treasurer's Report was presented

#### L. MAIN STREET MANAGER'S REPORT

The Main Street Manager's Report was presented

#### M. CITY MANAGER'S REPORT

*AirNav.Com Report.* It has been some time since we last shared comments posted to this website regarding our airport, thus a recent copy is attached. As reflected in the comments, our little airport and its management team (namely Dick & JT) continue to receive many kudos for great customer service.

*Request for Replacement Well.* We have received a formal request (copy att'd) for a replacement well adjacent to the Hatton Township Landfill. Consequently, I ask that Mayor Pat and Mayor Pro Tem Jean advise us their availability within the next two weeks, and we will coordinate with the Hatton Township Board to initiate the process for discussion related to the request as outlined in the Consent Decree.

Marketing & Recruitment Grant Services. The City's Main Street Program has been selected (see copy of att'd email) as one of six Michigan Main Street Program recipients for marketing and recruitment services.

City Planning Commission Activities. The City's Planning Commission is scheduled to hold its regularly scheduled monthly meeting on Wednesday, September 14<sup>th</sup>. The Commission will consider a site plan request of the Doherty Hotel to expand its dining room area. The Hotel also has plans for interior renovation of its lobby, dining room, and lounge areas. The Main Street Board approved the design of the proposed hotel expansion at its meeting of September 2<sup>nd</sup>. Work is tentatively scheduled to commence in November. At a special meeting on August 17<sup>th</sup>, the Planning Commission approved a site plan request of Robotic Welded Parts to construct a new 10,600 square foot industrial building to expand its growing business; construction on this building has commenced.

Update – Dunlop Street Improvement Project. The project is completed with the exception of restoration.

Clare RR Depot Project Update. Due to other DPW work commitments, we placed the roofing project of the depot on 'hold' for a week; we will recommence work on the project the week of September 6<sup>th</sup>.

State Proposal to Eliminate Personal Property Tax. The state legislature is considering a recommendation to eliminate the state's current personal property tax. On our behalf, Steve has sent an email to Representative Johnson outlining our concerns regarding this proposal. Steve and I intend to follow-up on this matter and request a personal meeting with Representative Johnson to verbalize and emphasize our concerns. As reflected in Steve's email, elimination of personal property taxes would decrease our present revenues by approximately 12%. As a side bar, I've also attached a White Paper drafted by the Director of Assessment & Equalization of Wayne County, Michigan outlining in greater detail the adverse affects of the Lansing proposal.

City Clerk Absence. Diane will be out of the office for the period September 6<sup>th</sup>-16<sup>th</sup>.

Attachments.

AirNav.Com Report.

Letter of Brette & Kim Walker.

Personal Property Tax Proposal Email & White Paper.

N. \*COMMUNICATIONS

Approved by Consent Agenda

*Medical Marihuana Dispensaries.* Our County Prosecutor issued a Notice to Cease & Desist Order to three Medical Marihuana Dispensaries located in Clare County based on a recent State of Michigan Court of Appeals opinion.

*Charter Communications Correspondence.* The City received the attached correspondence regarding expanded services for Charter Communications customers.

*MMDC Correspondence.* We received the attached President's Report from MMDC.

*Liquor Control Commission Local Government 15-Day Notice.* The City received the enclosed Notice from the LCC.

*Attachments.* As noted above.

O. EXTENDED PUBLIC COMMENT

None

P. COMMISSION DISCUSSION TOPICS

Bill Horwood reported that a resident had expressed concern about vehicles exceeding the speed limit on Ann Arbor Trail.

Q. \*APPROVAL OF BILLS

Approved by Consent Agenda

R. ADJOURNMENT

Motion by Jean McConnell second by John Koch to adjourn meeting. Ayes: All. Nays: None. *Motion Carried* Meeting adjourned at 7:32 p.m.