

## **Minutes of the Common Council – 6 April 2011**

A meeting of the Common Council of the City of Prairie du Chien was held on Wednesday April 6<sup>th</sup> 2011 at 7:00 PM in the Council Chambers of City Hall. Mayor Dave Hemmer called the meeting to order. **Call to order/Roll Call** – Jaaren Riebe absent **Certification of the open meeting law agenda requirements** – ACTION: To certify MOTION: Munson SECOND: Solomon VOTE: 11-0 (Riebe absent) **Pledge of Allegiance** – Led by Erwin Mueller

### **I. PUBLIC HEARINGS, PRESENTATIONS, AND INPUT**

#### **A. PRESENTATION – Prairie du Chien Half Marathon**

Don Hansen was present to explain the alternative routes being proposed due to the potential impact of the flooding on the Mississippi River.

#### **B. APPROVAL of aforesaid agenda item**

ACTION: To approve the alternate routes for the Prairie du Chien Half Marathon MOTION: Hein SECOND: Munson VOTE: 11-0 (Riebe absent)

### **II. CONSIDERATION OF CONSENT AGENDA**

A. COUNCIL MINUTES – March 15<sup>th</sup> 2011, B. FINANCE COMMITTEE – March 15<sup>th</sup> 2011, C. SPECIAL COUNCIL MINUTES – March 24<sup>th</sup> 2011, D. PARK BOARD – February 16<sup>th</sup> 2011, E. PLAN COMMISSION – December 20<sup>th</sup> 2010, F. PUBLIC WORKS COMMITTEE – February 22<sup>nd</sup> 2011, G. BOARD OF ZONING APPEALS – November 18<sup>th</sup> 2010

The City Administrator requested that Item D be pulled. ACTION: To approve the consent agenda, minus Item D MOTION: Hein SECOND: Munson VOTE: 11-0 (Riebe absent)

### **III. ITEMS REMOVED FROM CONSENT AGENDA**

None

### **IV. CITIZENS' COMMENTS, OBSERVATIONS, PETITIONS, AND PUBLIC INPUT**

#### **A. PETITION – Request to declare 328 North Wacouta Street a public nuisance**

The petition was delivered to the City Administrator on Friday by Veronica Dickman. ACTION: To receive the petition and direct staff to move forward with a public nuisance determination MOTION: Pintz SECOND: Solomon VOTE: 11-0 (Riebe absent)

### **V. COMMITTEE REPORTS AND ACTIONS**

#### **A. FINANCE – Claims**

ACTION: To approve MOTION: Hein SECOND: Solomon VOTE: 11-0 (Riebe absent)

#### **B. FINANCE - BID APPROVAL - Aquatic Center Diving Boards**

ACTION: To award the bid (\$6,230) to Carrico Aquatic Resources, Oelwein, IA MOTION: Pintz SECOND: Hein VOTE: 11-0 (Riebe absent)

#### **C. FINANCE - BID APPROVAL - East McLeod and Ohio Street Project**

ACTION: To award the bid to Iverson Construction, Kieler, WI, for \$80,106. MOTION: Hein SECOND: Munson VOTE: 11-0 (Riebe absent)

#### **D. FINANCE - BID APPROVAL - South Michigan Street (Webster to Taylor)**

ACTION: To approve doing the entire project, and cover the \$75,000 shortfall from four accounts: \$30,000 from the East McLeod Street (North Wacouta to North Michigan) project (2011-2013 Capital Budget), \$30,000 from the St. Feriole Island Riverwall (2011-2013 Capital Budget), \$7,294 from the

Water Department General Fund and \$7,294 from the WWTP General Fund MOTION: Munson  
SECOND: Pintz VOTE: 11-0 (Riebe absent)

**E. FINANCE - DISCUSSION AND ACTION – Resolution 2011-15 (WRITING OFF UNCOLLECTIBLE ACCOUNTS RECEIVABLES)**

ACTION: To approve Resolution 2011-15 MOTION: Hein SECOND: Ames VOTE: 11-0 (Riebe absent)

**F. FINANCE - BID APPROVAL – Urban Forestry Initiative Consultant**

ACTION: To approve the consultant proposal of Bluestem Forestry Consultant, Drummond, WI for \$22,000 MOTION: Pintz SECOND: Ames VOTE: 11-0 (Riebe absent)

**G. FINANCE - DISCUSSION AND APPROVAL – Grading, Filling and Compacting Work on the Stratton Property**

ACTION: To award the project to Prairie Sand and Gravel, for a price not to exceed \$5,000, to do the work on the downtown property, and for the work to be done by May 31<sup>st</sup>, and waive the requirement for three quotes MOTION: Titlbach SECOND: Pintz VOTE: 11-0 (Riebe absent)

**H. FINANCE - DISCUSSION AND APPROVAL – Purchase of minivan for taxi service**

ACTION: To approve the purchase of an ADA-compliant, seven-person lowered floor minivan for \$35,249, of which the city's share is \$5,680, the fund to come from the Capital Budget MOTION: Hein SECOND: Solomon VOTE: 11-0 (Riebe absent)

**I. PUBLIC WORKS - Parking Issues in 1400 Block of South Beaumont Street at East Parrish**

ACTION: To approve that the first 25 feet on the west side of the 1400 block of South Beaumont at East Parrish Street be designated as no parking MOTION: Hein SECOND: Munson VOTE: 11-0 (Riebe absent)

**J. PUBLIC WORKS – Slow No-Wake Zone on the Mississippi River**

Scott Sheckler addressed the Council asking that the item be delayed to allow for more public debate. Denny Kirschbaum informed the Council that the Rod and Gun Club had met last night and opposed the proposed Slow No-Wake. ACTION: To direct staff to draft an ordinance, to be voted on at the April 19<sup>th</sup> Council meeting, creating a slow no-wake on the Mississippi River west of St. Feriole Island, with the south boundary being the Rock Building and the north boundary being the waters south of the northern-placed buoys, and for the slow no-wake to be in effect during the times the river is navigational MOTION: Pintz SECOND: Hein VOTE: 10-1 (Boylen opposed, Riebe absent)

**VI. OLD BUSINESS**

None

**VII. NEW BUSINESS**

Without objection, the agenda was moved.

**K. DISCUSSION AND ACTION – Mutual Aid Agreement with Postville Fire Department**

ACTION: To approve the mutual aid agreement between the Prairie du Chien Fire Department and the Postville Fire Department MOTION: Wayne SECOND: Hein VOTE: 11-0 (Riebe absent)

**L. DISCUSSION AND ACTION – City Insurance Policies**

Chris Mara was present to answer questions from the Council ACTION: To add the Prairie du Chien Economic Development Corporation and the Prairie du Chien Fire Association to the city policy as additional insureds MOTION: Ruskey SECOND: Titlbach VOTE: 11-0 (Riebe absent)

M. DISCUSSION AND ACTION – Country on the River 2011

Chase Clausen was present to address the Council ACTION: To approve the Country on the River event for 2011, and permit the organizers to use the soccer field on St. Feriole Island for overflow camping, and permit the organizers to keep the existing soundstage in place MOTION: Pintz SECOND: Hein VOTE: 11-0 (Riebe absent)

A. ACTION – Resolution 2011-16 (AUTHORIZING THE MAYOR TO ISSUE A STATE OF EMERGENCY DUE TO MISSISSIPPI RIVER FLOODING)

Discussion was held on the penalties involved and the issue of pedestrians being possibly prohibited from being on St. Feriole Island if the island is closed. ACTION: To approve Resolution 2011-16 MOTION: Wayne SECOND: Solomon VOTE: 8-3 (Titlbach, Hein and Finn opposed, Riebe absent)

B. ACTION – Election Canvass for April 5<sup>th</sup> Spring Election

ACTION: To approve the canvass MOTION: Wayne SECOND: Hein VOTE: 11-0 (Riebe absent)

C. DISCUSSION AND ACTION – Request to Amend Existing Contract with City Administrator

ACTION: To approve the City Administrator's request to remove the clause from his contract requiring the city pay the Employee's portion to the Wisconsin Retirement Fund, pending the official implementation of State Act 10 (the "Budget Repair Bill") MOTION: Pintz SECOND: Ames VOTE: 10-1 (Ruskey opposed, Riebe absent)

D. DISCUSSION AND ACTION – Ordinance 2011-11 (AMENDING AND REPEALING PARTS OF CHAPTER 7)

ACTION: To approve Ordinance 2011-11 MOTION: Titlbach SECOND: Solomon VOTE: 11-0 (Riebe absent)

E. DISCUSSION AND ACTION – Ordinance 2011-12 (CLEANUP OF CLANDESTINE DRUG LAB SITES)

This ordinance would give the city the opportunity to recover costs associated with the cleanup and possible demolition of clandestine drug lab sites, and is in response to the loss of federal and state funds to do these operations. ACTION: To approve Ordinance 2011-12 MOTION: Titlbach SECOND: Pintz VOTE: 11-0

F. DISCUSSION AND ACTION – Resolution 2011-10 (APPROVING A POLICY FOR THE CITY OF PRAIRIE DU CHIEN FOR THE NAMING OF CITY PARKS)

The proposed resolution would set a policy for the city to follow if approached about the naming of parks by individuals or other entities. ACTION: To approve Resolution 2011-10 MOTION: Hein SECOND: Ames VOTE: 11-0 (Riebe absent)

G. DISCUSSION AND ACTION – Resolution 2011-11 (COMMENDING THE SERVICE OF JOE RUSKEY ON THE COMMON COUNCIL OF THE CITY OF PRAIRIE DU CHIEN)

ACTION: To approve Resolution 2011-11 MOTION: Hein SECOND: Munson VOTE: 10-0-1 (Ruskey abstained, Riebe absent)

H. DISCUSSION AND ACTION – Resolution 2011-12 (COMMENDING THE SERVICE OF TED FINN ON THE COMMON COUNCIL OF THE CITY OF PRAIRIE DU CHIEN)

ACTION: To approve Resolution 2011-12 MOTION: Hein SECOND: Wayne VOTE: 10-0-1 (Finn abstained, Riebe absent)

I. DISCUSSION AND ACTION – Resolution 2011-13 (COMMENDING THE SERVICE OF ERWIN MUELLER ON THE COMMON COUNCIL OF THE CITY OF PRAIRIE DU CHIEN)

ACTION: To approve Resolution 2011-13 MOTION: Munson SECOND: Hein VOTE: 10-0-1 (Mueller abstained, Riebe absent)

J. DISCUSSION AND ACTION – Resolution 2011-14 (ESTABLISHING THE JURISDICTIONAL TRANSFER OF MAIN STREET AND LA POINTE STREET, IN THE CITY OF PRAIRIE DU CHIEN, CRAWFORD COUNTY, WISCONSIN, AND THE CONNECTING HIGHWAY CHANGES ON STH 27 AND STH 35, ALSO IN THE CITY OF PRAIRIE DU CHIEN, CRAWFORD COUNTY, WISCONSIN)

This resolution is being requested by the Department of Transportation in relation to the Highway 18 Bypass project. ACTION: To approve Resolution 2011-14 MOTION: Titlbach SECOND: Ames VOTE: 10-1 (Boylen opposed, Riebe absent)

N. DISCUSSION AND APPROVAL – Selection of Consultant for the Transit in the Park Program

ACTION: To approve MSA as the consultant on the project MOTION: Ruskey SECOND: Hein VOTE: 11-0 (Riebe absent)

O. ADJOURN to CLOSED SESSION (9:25 PM)

Under Wisconsin State Statute 19.85 (1) (g) - Conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved. RE: Possible litigation against the city  
Also under Wisconsin State Statute 19.85 (1) (e) - Deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session. RE: Developers' Agreement with Jill and Scott Sheckler.

MOTION: Solomon SECOND: Pintz VOTE: 11-0 (Riebe absent)

NOTE: Jill and Scott Sheckler, Dan Key (their attorney) and J.D. Milburn (Department of Commerce) were present in the closed session for the second item only.

P. CONVENE into OPEN SESSION (10:34 PM)

MOTION: Pintz SECOND: Ruskey VOTE: 11-0 (Riebe absent)

Q. ACTION from CLOSED SESSION

ACTION: To approve the city providing \$500,000 from TIF #4 and \$345,000 from TIF #6 to Jill and Scott Sheckler for the development of a hotel and convention center in downtown Prairie du Chien, contingent on the following items: A) the bank financing the project provides the city with a letter stating their position that the city must contribute \$500,000 to the project, B) the city's contribution be spent last as the project develops, and C) the Shecklers agree to an amendment to their developer's agreement with the City that the project be assessed at no less than \$4,000,000, and, if the project assesses at less, the Shecklers will agree to a penalty equal to the total tax revenue of all taxing authorities not created. MOTION: Pintz SECOND: Solomon VOTE: 8-3 (Wayne, Munson and Finn opposed, Riebe absent)

ACTION: To deny the claim of Pauline Clanton against the City of Prairie du Chien MOTION:  
Solomon SECOND: Pintz VOTE: 11-0 (Riebe absent)

**VIII. ADJOURN (10:41 PM)**

MOTION: Ruskey SECOND: Mueller VOTE: 11-0 (Riebe absent)

Submitted by City Administrator Aaron Kramer

**RESOLUTION 2011-11**

**COMMENDING THE SERVICE OF JOE RUSKEY ON THE COMMON COUNCIL OF THE  
CITY OF PRAIRIE DU CHIEN**

**WHEREAS**, Joe Ruskey has served as a member of the Common Council of the City of Prairie du Chien since April 18<sup>th</sup> 2006; and

**WHEREAS**, Joe has provided valuable leadership and insight as a member of several boards and commissions, including, but not limited to, the Renewable Energy Study Committee and the city's Negotiating Committee; and

**WHEREAS**, Joe Ruskey has provided his constituents with fair and respected representation during his tenure on the Common Council of the City of Prairie du Chien;

**NOW BE IT HEREBY RESOLVED**, that I, Mayor Dave Hemmer, along with the members of the Common Council of the City of Prairie du Chien, and on behalf of the residents of the City do hereby commend and thank Joe Ruskey for his service on the Common Council of the City of Prairie du Chien.

Adopted this 6<sup>th</sup> day of April 2011.

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Aaron Kramer, City Administrator

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David Hemmer, Mayor

**RESOLUTION 2011-12**

**COMMENDING THE SERVICE OF TED FINN ON THE COMMON COUNCIL OF THE  
CITY OF PRAIRIE DU CHIEN**

**WHEREAS**, Ted Finn has served as a member of the Common Council of the City of Prairie du Chien since 2010; and

**WHEREAS**, Ted has provided leadership and insight as a member of the Finance Committee and Public Works Committee; and

**WHEREAS**, Ted provided his time and resources as a member of the Council to fill a vacancy;

**NOW BE IT HEREBY RESOLVED**, that I, Mayor Dave Hemmer, along with the members of the Common Council of the City of Prairie du Chien, and on behalf of the residents of the City do hereby commend and thank Ted Finn for his service on the Common Council of the City of Prairie du Chien.

Adopted this 6<sup>th</sup> day of April 2011.

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Aaron Kramer, City Administrator

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David Hemmer, Mayor

**RESOLUTION 2011-13**

**COMMENDING THE SERVICE OF ERWIN MUELLER ON THE COMMON COUNCIL OF THE CITY OF PRAIRIE DU CHIEN**

**WHEREAS**, Erwin Mueller has served as a member of the Common Council of the City of Prairie du Chien since 2010, this being his second time of service as a member, with his previous term lasting from 1999 through 2007; and

**WHEREAS**, Erwin has provided leadership and insight as a member of the Finance Committee; and

**WHEREAS**, Erwin provided his time and resources as a member of the Council to fill a vacancy;

**NOW BE IT HEREBY RESOLVED**, that I, Mayor Dave Hemmer, along with the members of the Common Council of the City of Prairie du Chien, and on behalf of the residents of the City do hereby commend and thank Erwin Mueller for his service on the Common Council of the City of Prairie du Chien.

Adopted this 6<sup>th</sup> day of April 2011.

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Aaron Kramer, City Administrator

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David Hemmer, Mayor

**RESOLUTION 2011-14**

**ESTABLISHING THE JURISDICTIONAL TRANSFER OF MAIN STREET AND LA POINTE STREET, IN THE CITY OF PRAIRIE DU CHIEN, CRAWFORD COUNTY,**

**WISCONSIN, AND THE CONNECTING HIGHWAY CHANGES ON STH 27 AND STH 35,  
ALSO IN THE CITY OF PRAIRIE DU CHIEN, CRAWFORD COUNTY, WISCONSIN**

**WHEREAS**, the functional/jurisdictional relationship of present State and Local Highway Systems have been cooperatively reviewed by the City of Prairie du Chien and the State; and

**WHEREAS**, the State and the City of Prairie du Chien have cooperated in developing this jurisdictional change; and

**WHEREAS**, the Wisconsin Department of Transportation, under s. 84.02(3), may enter into a jurisdictional transfer agreements with local units of government, thereby facilitating such alterations in jurisdictional highway system;

**THEREFORE BE IT RESOLVED**, that the Common Council of the City of Prairie du Chien approves the following segments of highway be added to the City highway system and deleted from the City connecting limits mileage:

- 1) Iowa Street (USH 18), beginning at the intersection with Main Street and extending easterly to the Marquette Street intersection. This section of roadway is 0.42 miles in length.
- 2) Wisconsin Street (USH 18), beginning at the intersection with Marquette Street and extending westerly to the Main Street intersection. This section of roadway is 0.40 miles in length.
- 3) Marquette Street (USH 18), beginning at the intersection with Wisconsin Street and extending southerly to the Iowa Street intersection. This section of roadway is 0.08 miles in length.
- 4) Marquette Street (USH 18), beginning at the intersection with Iowa Street and extending southerly to the La Pointe Street intersection. This section of roadway is 1.66 miles in length.

**BE IT FURTHER RESOLVED**, that the Common Council of the City of Prairie du Chien approves the following segments of highway be deleted from to the City highway system and added to the City connecting limits mileage:

- 1) Iowa Street (WIS 27 East), beginning at the intersection with Main Street and extending easterly to the Marquette Street intersection. This section of roadway is 0.42 miles in length.
- 2) Wisconsin Street (WIS 27 West), beginning at the intersection with Marquette Street and extending westerly to the Main Street intersection. This section of roadway is 0.40 miles in length.
- 3) Marquette Street (WIS 35 North), beginning at the intersection with Wisconsin Street and extending southerly to the Iowa Street intersection. This section of roadway is 0.08 miles in length.
- 4) Marquette Street (WIS 35), beginning at the intersection with Iowa Street and extending southerly to the La Pointe Street intersection. This section of roadway is 1.66 miles in length.

**BE IT FURTHER RESOLVED**, that the Common Council of the City of Prairie du Chien approves the following segments of highway be deleted from to the City highway system mileage:

- 1) Main Street, beginning at the intersection of Wisconsin Street and extending southerly to the intersection of Iowa Street. This section of roadway is 0.08 miles in length.
- 2) Main Street beginning at the intersection of Iowa Street and extending southerly to the intersection of Lockwood Street. This section of roadway is 1.24 miles in length.
- 3) La Pointe Street beginning at the intersection South 11th Street and extending easterly to the intersection of Marquette Road.. This section of roadway is 0.28 miles in length.

**BE IT FURTHER RESOLVED**, that the City of Prairie du Chien Common Council authorizes the Mayor to execute the Jurisdictional Transfer Agreement with the State of Wisconsin Department of Transportation. The State will: 1) Provide a set of as-built plans to the City, 2) Assume all access and permitting control along existing USH 18, and 3) Retain all roadway right-of-way along existing USH 18. The City shall: 1) Accept connecting highway and maintenance responsibility for the new connecting highway limits as described above. General maintenance activities include the application of protective coatings, the removal and control of snow, the removal, treatment and sanding of ice, interim repair of highway surfaces and adjacent structures, and all other operations, activities and processes required on a continuing basis for the preservation of the highway. Maintenance activities also include the installation, replacement, rehabilitation, or maintenance of highway signs, traffic signal controls, highway lighting, pavement markings, and intelligent transportation systems as determined by the City, 2) Allow no additional accesses to WIS 27 between Main Street and Marquette Road, on Wisconsin Street and Iowa Street, other than what access exists upon completion of State Project 1661-05-05/75 and 1661-05-04/74, respectively, and 3) Allow no additional accesses to WIS 35 between Wisconsin Street and La Pointe Street other than what access exists upon completion of State Project 1661-05-05/75.

Adopted this 6<sup>th</sup> day of April 2011.

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Aaron Kramer, City Administrator

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David Hemmer, Mayor

**RESOLUTION 2011-15**  
**WRITING OFF UNCOLLECTIBLE ACCOUNTS RECEIVABLES**

**WHEREAS**, the City of Prairie du Chien has made substantial efforts to collect certain ambulance accounts described on Attachment “A”; and,

**WHEREAS**, these accounts have been deemed uncollectible by City staff and the City Attorney for a variety of reasons; and,

**WHEREAS**, it is necessary to remove these delinquent accounts deemed uncollectible from the City’s accounting records.

**NOW, THEREFORE, BE IT RESOLVED** that the list of accounts listed on Attachment “A” in the amount of \$3,193.35 shall be removed from the City’s accounting records.

Adopted this 6<sup>th</sup> day of April 2011.

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Aaron Kramer, City Administrator

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David Hemmer, Mayor

<b><u>ATTACHMENT A</u></b>		
<b><u>NAME</u></b>	<b><u>DATE</u></b>	<b><u>DUE</u></b>
Edward Raab	2-26-2004	\$1,390.56
Ben Bruckmaster	4-15-2004	\$ 43.15
Aaron Richard	11-10-2004	\$1,308.87
Nathan Hubanks	1-12-2005	\$ 119.82
Don Boardman	12-05-2005	\$ 329.54
Theresa Toole	6-26-2003	\$ 1.41

**RESOLUTION 2011-16**  
**AUTHORIZING THE MAYOR TO ISSUE A STATE OF EMERGENCY DUE TO MISSISSIPPI RIVER FLOODING**

**WHEREAS**, the Common Council of the City of Prairie du Chien, Crawford County, Wisconsin, by this resolution, adopted by a majority of the Council on a roll call vote with a quorum present and voting and proper notice having been given, resolves and orders as follows:

**BE IT RESOLVED**, an emergency shall be declared by the Mayor of the City of Prairie du Chien, as existing for the following reasons: **Mississippi River Flooding (See Attachment A)**, and;

**FURTHERMORE**, the period of emergency shall be limited to the time during which emergency conditions exist or are likely to exist in the City of Prairie du Chien, and;

**FURTHERMORE**, the Common Council, or its designated agents, has the authority to order whatever is necessary and expedient for the health, safety, welfare and good order of the City of Prairie du Chien during the emergency, including without limitation the power to bar, restrict and remove all unnecessary traffic, vehicular or pedestrian, from the local roads, streets and highways, and;

**FURTHERMORE**, any person who violates a lawful order of the Common Council or its agents made under this emergency declaration shall forfeit not more than \$100, or, in default of payment of the forfeiture, shall be subject to imprisonment for six (6) months on each separate offense.

Adopted this 6<sup>th</sup> day of April 2011.

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David Hemmer, Mayor

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Aaron Kramer, City Administrator

**ATTACHMENT A**  
**MAYORAL DECLARATION OF STATE OF EMERGENCY**

I, David Hemmer, Mayor of the City of Prairie du Chien, Crawford County, Wisconsin, under the powers vested in me by Resolution 2011-16, adopted by the Common Council of the City of Prairie du Chien, do hereby declare a state of emergency in the City, existing for the following reasons: Mississippi River Flooding, and;

Furthermore, the period of emergency shall be limited to the time during which emergency conditions exist or are likely to exist in the City of Prairie du Chien, and;

Furthermore, the Common Council, or its designated agents, has the authority to order whatever is necessary and expedient for the health, safety, welfare and good order of the City of Prairie du Chien during the emergency, including without limitation the power to bar, restrict and remove all unnecessary traffic, vehicular or pedestrian, from the local roads, streets and highways, and;

Furthermore, any person who violates a lawful order of the Common Council or its agents made under this emergency declaration shall forfeit not more than \$100, or, in default of payment of the forfeiture, shall be subject to imprisonment for six (6) months on each separate offense.

Adopted this \_\_\_ day of April 2011.

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David Hemmer, Mayor

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Aaron Kramer, City Administrator (Witness)

**ORDINANCE NO. 2011-11**  
**AN ORDINANCE AMENDING AND REPEALING PARTS OF CHAPTER 7 OF THE MUNICIPAL CODE OF THE CITY OF PRAIRIE DU CHIEN, WISCONSIN**

The Common Council of the City of Prairie du Chien, Crawford County, Wisconsin, do ordain as follows:

**Section 1:** That Section 7.03(3) is hereby repealed and recreated to read as follows:  
(3) 45 M.P.H.

(a) North Marquette Road, from the north entrance of the 3M plant north to the North corporate boundary of City of Prairie du Chien.

**Section 2:** That Section 7.05(5) is hereby repealed and recreated to read as follows:

(5) NO PARKING EXCEPT FOR AUTHORIZED VEHICLES. No person shall park any vehicle, except designated emergency vehicles, at the following locations:

(a) On the North side of East Park Street from North Beaumont Road to the alley in between North Beaumont Road and North Wacouta Avenue and on the South side of East Park Street from North Beaumont Road to the entrance of the Crawford County Jail Sallyport/garage.

**Section 3:** That Section 7.05(7)(a) is repealed and recreated to read as follows:  
(a) 5 minutes. At 4 spaces in front of the U.S. Post Office on South Beaumont Road.

**Section 4:** That Section 7.05(8)(b) is deleted in its entirety.

**Section 5:** That Section 7.20 is deleted in its entirety.

**Section 6:** Any Ordinance or parts thereof inconsistent herewith are hereby repealed.

**Section 7:** This Ordinance shall be effective from and after its passage and publication as required by law.

Passed and approved this 6th day of April, 2011.

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David Hemmer, Mayor

ATTEST:

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Aaron Kramer, City Administrator

## **ORDINANCE 2011-12**

### **AN ORDINANCE CREATING SECTION 10.11, CLEANUP OF CLANDESTINE DRUG LAB SITES AND CHEMICAL DUMP SITES, OF THE MUNICIPAL CODE OF CITY OF PRAIRIE DU CHIEN, CRAWFORD COUNTY, WISCONSIN**

The Common Council of the City of Prairie du Chien, Crawford County, Wisconsin, do ordain as follows:

**Section 1.** That Section 10.11, Cleanup of Clandestine Drug Lab Sites and Chemical Dump Sites, of the Municipal Code of the City of Prairie du Chien, Crawford County, Wisconsin, is hereby created to read as follows:

#### **10.11 CLEANUP OF CLANDESTINE DRUG LAB SITES AND CHEMICAL DUMP SITES.**

(1) GENERAL PROVISIONS. The purpose of this section is to reduce public exposure to health risks where law enforcement officers have determined that hazardous chemicals or residue from a suspected clandestine drug lab Site or chemical dump Site may exist. Professional reports, based on assessments, testing and investigations, show that chemicals used in the production of illicit drugs can condense, penetrate, and contaminate surfaces, furnishings, and equipment of surrounding structures. The City Council finds that such Sites, and the personal property within such Sites, may contain suspected chemicals and residues that place people, particularly children or adults of child bearing age, at risk when exposed

through inhabiting or visiting the Site or using or being exposed to contaminated personal property.

(2) INTERPRETATION AND APPLICATION. In the interpretation and application of this section, the provisions herein shall be construed to protect the public health, safety and welfare. Where the conditions imposed by any provision of this section are either more or less restrictive to the public than comparable provisions imposed by any other law, ordinance, statute, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements on the public shall prevail. Should any court of competent jurisdiction declare any section or subpart of this section to be invalid, such decision shall not affect the validity of the section as a whole or any part thereof, other than the provision declared invalid.

(3) DEFINITIONS. For the purposes of this section, the following terms or words shall be interpreted as follows:

- (a) Building Inspector: The Building Inspector for the City of Prairie du Chien or his/her duly authorized representative(s).
- (b) Chemical Dump Site: Shall mean any place or area where chemicals or other waste materials used in a clandestine drug lab operation have been located.
- (c) City: Shall mean the City of Prairie du Chien.
- (d) Clandestine Drug Lab Operation: Shall mean the unlawful manufacture or attempt to manufacture a controlled substance.
- (e) Clandestine Drug Lab Site: Shall mean any place or area where law enforcement has determined that an unlawful clandestine drug lab operation exists or existed. A clandestine drug lab Site may include, but is not limited to, dwellings, accessory buildings, structures or units, vehicles, boats, trailers or any other area or locations.
- (f) Controlled Substance: Shall mean any drug, substance or immediate precursor in Chapter 961 of the Wisconsin State Statutes together with any amendments or modifications thereto. The term shall not include distilled spirits, wine, malt beverages, intoxicating liquors or tobacco.
- (g) Household Hazardous Waste: Shall mean waste generated from a clandestine drug lab operation.
- (h) Site: Shall mean chemical dump Site and/or clandestine drug lab Site.
- (i) Manufacture: In places other than a pharmacy, shall mean and include the production, cultivation, quality control, and standardization, by mechanical, physical, chemical or pharmaceutical means, and the packing, repacking, tableting, encapsulating, labeling, re-labeling, or filling of a controlled substance.
- (j) Owner: Shall mean any person(s), firm(s), corporation(s) or other entity who or which owns, in whole or in part, the land, building, structure, vehicle, boat, trailer or other location associated with a Site.

(4) DECLARATION OF SITE AS A PUBLIC HEALTH NUISANCE. A Site, all areas in proximity to a Site, and all personal property located on areas in proximity to a Site, are potentially unsafe due to health hazards and are hereby declared to be a public health nuisance.

(5) LAW ENFORCEMENT ACTION.

- (a) When a law enforcement authority determines the existence of a Site, the Site and all personal property located in proximity to the Site shall be declared a public health

nuisance. Law enforcement authorities who identify conditions associated with a Site are authorized to take the following action:

- (1) Promptly notify the Building Inspector, child protection officials, public health authorities, and the appropriate enforcement division of the Drug Enforcement Administration of the U.S. Justice Department. This notice must, at a minimum, identify the location of the Site, the property owner, if known, and the conditions found on the Site;
- (2) Treat, store, transport or dispose of all household hazardous waste found at the Site in a manner consistent with state and federal rules and regulations;
- (3) Issue a temporary Declaration of Public Health Nuisance for the Site and post a copy of the declaration on all doorway entrances to the Site or, in the case of bare land, post the declaration in several conspicuous places on the property. This temporary Declaration of Public Health Nuisance issued by law enforcement shall not expire until after the Building Inspector inspects the Site and determines the appropriateness of issuing a permanent Declaration of Public Health Nuisance;
- (4) Notify all persons occupying the Site that a temporary Declaration of Public Health Nuisance has been issued;
- (5) Require all persons occupying the Site to immediately vacate the Site, to remove all pets from the Site, and not to return to the Site without written authorization from the Building Inspector;
- (6) Notify all occupants vacating the Site that all personal property at the Site may be contaminated with dangerous chemical residue; and
- (7) After all occupants have vacated the Site, put locks on each doorway entrance to any buildings located on the Site to prohibit people from entering the Site without authorization.

(b) Prompt notification of the persons and organizations mentioned above may be delayed to accomplish appropriate law enforcement objectives, but only to the extent that public health and child protection responsibilities are not unnecessarily compromised.

(6) SEIZURE OF PROPERTY. When the Site is inside a vehicle, boat, trailer or other form of moveable personal property, law enforcement authorities shall immediately seize it and not allow it to be transported except to a more secure location. In such circumstances, all other requirements of this section shall be followed as closely as possible given the specific type of property in which the Site is discovered.

#### (7) ACTION BY BUILDING INSPECTOR

(a) Inspection and Declaration of Nuisance. Within forty-eight (48) hours of notification that law enforcement authorities have determined the existence of a Site, the Building Inspector shall cause the Site to be inspected to determine whether to issue a permanent Declaration of Public Health Nuisance. Based on the results of the inspection, the Building Official may then promptly issue a permanent Declaration of Public Health Nuisance and a Do Not Enter – Unsafe to Occupy Order for the Site to replace the temporary declaration issued and posted by law enforcement. A copy of the permanent declaration and order shall be posted on all doorway entrances to the Site or, in the case of bare land, shall be posted in several conspicuous places on the property.

(b) Abatement Order. Within 24 hours after the permanent Declaration of Public Health Nuisance has been issued and posted, the Building Inspector shall send written notice to the Site owner ordering abatement of the public health nuisance. The abatement order shall include the following information:

- (1) A copy of the Declaration of Public Health Nuisance and Do Not Enter – Unsafe to Occupy Order and a copy of this section;
- (2) Information about the potentially hazardous condition of the Site;
- (3) Notification of the immediate suspension of the Site’s rental license if applicable; and
- (4) Information that may help the owner locate appropriate services necessary to abate the public health nuisance.

(c) Notice to Concerned Parties. Within three (3) days after the permanent Declaration of Public Health Nuisance has been issued and posted, the Building Inspector shall also mail a copy of the permanent Declaration of Public Health Nuisance, a copy of this section, and a notification of the suspension of the Site’s rental licenses, if applicable, to the following concerned parties at their last known address:

- (1) Occupants or residents of the Site if the identities of such persons are known;
- (2) Neighbors in proximity to the Site who may be affected by the conditions found, as determined by the Building Inspector
- (3) The Prairie du Chien City Administrator
- (4) The City of Prairie du Chien Chief of Police or his/her duly authorized representative(s); and
- (5) The Drug Enforcement Administration of the U.S. Justice Department; the Crawford County Health Department, the Wisconsin Department of Health, and the Wisconsin Department of Natural Resources.

(d) Modification or Removal of Declaration. The Building Inspector is authorized to modify or remove the permanent Declaration of Public Health Nuisance after the Building Inspector receives documentation from a City approved environmental hazard testing and cleaning firm stating that the suspected health and safety risks, including those to neighbors and potential dwelling occupants, either do not exist or have been sufficiently abated or corrected to justify amendment or removal of the declaration.

(8) SITE OWNER’S RESPONSIBILITY TO ACT. Within ten (10) business days of the date the abatement order is mailed to the owner of the Site, the owner shall accomplish the following:

(a) Provide the Building Inspector with written notification:

- (1) That the owner has confirmed that all persons and their pets have vacated the Site;
- (2) Of the name(s) of all children who the owner believes were residing at the Site; and
- (3) That the Site will remain vacated and secured until the public health nuisance is completely abated as required by this section;

(b) Contract with one or more City approved environmental hazard testing and cleaning firms to conduct the following work in accordance with the most current state and federal Health guidelines:

- (1) A detailed on-Site assessment of the extent of contamination at the Site and the contamination of the personal property therein;

- (2) Soil testing of the Site and testing of all property and soil in proximity to the Site which the environmental hazard testing and cleaning firm determines may have been affected by the conditions found at the Site;
- (3) A complete cleanup of the Site (including but not limited to the clean up or removal of plumbing, ventilation systems, fixtures and contaminated soil) or a demolition of the Site and a complete cleanup of the demolished Site;
- (4) A complete clean up, or disposal at an approved dump Site, of all personal property in the Site;
- (5) A complete cleanup of all property and soil in proximity to the Site which is found to have been affected by the conditions found at the Site;
- (6) Remediation testing and follow-up testing, including but not limited to testing of the ventilation system and plumbing, to determine that all health risks are sufficiently reduced, according to state and federal Health guidelines, to allow safe human occupancy and use of the Site and use of the personal property therein and of all property and soil in proximity to the Site;
- (7) Provide the Building Official with the identity of the testing and cleaning firm with which the owner has contracted for abatement of the public health nuisance as required above; and
- (8) Provide the Building Official with a written cleanup schedule with reasonable deadlines for completing all actions required by the abatement order.

(9) **SITE OWNER'S VERIFICATION OF COMPLIANCE.** The Site owner must meet all deadlines established on the cleanup schedule. Pursuant to the deadlines established by the cleanup schedule, the Site owner is required to provide the Building Inspector with a signed statement from a City approved environmental hazard testing and cleaning firm that the Site, all personal property therein and all property and soil in proximity to the Site, is safe for human occupancy and use and that the cleanup was conducted in accordance with the most current state and federal health guidelines.

(10) **SITE OWNER'S RESPONSIBILITY FOR COSTS.** The Site owner is responsible for all costs, including those of the City, of dealing with and abating the public health nuisance, including contractor's fees and the City's costs for services performed in association with the Site. The City's costs may also include, but shall not be limited to:

- (a) Posting of the Site;
- (b) Notification of affected parties;
- (c) Securing the Site, providing limited access to the Site, and prosecution of unauthorized persons found at the Site;
- (d) Expenses related to the recovery of costs, including the assessment process;
- (e) Laboratory fees;
- (f) Cleanup services;
- (g) Administrative fees;
- (h) Legal fees; and
- (i) Other associated costs.

(11) **CITY ACTION AND RECOVERY OF COSTS.**

- (a) If the Site owner fails to comply with any of the requirements of this section, the Building Inspector is authorized to take all reasonable actions necessary to abate the public health nuisance including, but not limited to, contracting with a City approved

environmental hazard testing and cleaning firm to conduct the work outlined in Section 8 (b) of this ordinance.

(b) If the costs to clean the Site or to clean or dispose of the personal property at the Site are prohibitively high in relation to the value of the Site or the personal property, the City is authorized to remove or demolish the Site, structure or building and/or dispose of the personal property therein. These actions shall be taken in accordance with the provisions of sec. 66.0413, Wis. Stats., together with any amendments or modifications thereto.

(c) If the City abates the public health nuisance, in addition to any other legal remedy, the City shall be entitled to recover all of its out-of-pocket costs plus an additional 25% of such costs for administrative and legal expense. The City may recover its costs both by civil action against the owner of the Site, and by assessing such costs as a special charge against the Site and collected at the time real estate taxes are due and payable. The Building Inspector is authorized to notify any lien and/or mortgage holders of the affected Site.

(12) RECOVERY OF COSTS FROM PERSONS CAUSING DAMAGE. No provisions of this section are intended to limit the Site owner's, residents' or the City's right to recover costs incurred under this section from either the persons contributing to the public health nuisance, such as the operators of the Site, and/or from other lawful sources.

(13) SITE OWNER AND ADDRESS. When the Site is real property and the owner or the address of the owner of the Site is unknown, the owner and the owner's address is deemed to be that of the property's taxpayer's name and address as that information is maintained by the county auditor's office. When the Site is a vehicle, boat or trailer and the owner or the address of the owner of the Site is unknown, the owner and the owner's address is deemed to be that of the person on file as the owner on the current or most recent title to the vehicle, boat or trailer.

(12) UNAUTHORIZED REMOVAL OF POSTINGS. It is unlawful for any person, except authorized City personnel, to remove a temporary or permanent Declaration of Public Health Nuisance and/or Do Not Enter – Unsafe to Occupy order from a Site.

(13) ENTRY INTO OR ONTO SITE. While a Declaration of Public Health Nuisance for an affected Site is in effect and has been posted at the Site, no persons are permitted to be inside the Site, or on the Site property without prior written consent of the Building Inspector or as otherwise authorized by this section. To confirm compliance with this section and to execute their duties under this section, law enforcement officers, the Building Inspector, and any persons designated by the Building Inspector, may enter onto the Site property or enter into the Site at any time while a Declaration of Public Health Nuisance is in effect for the Site.

(14) REMOVAL OF PERSONAL PROPERTY FROM THE SITE. While a Declaration of Public Health Nuisance for an affected Site is in effect and has been posted at the Site, no personal property may be removed from the Site without prior written consent from the Building Inspector. Consent to remove personal property shall only be granted at the reasonable discretion of the Building Official, and only in cases of hardship after:

(a) A City approved environmental hazard testing and cleaning firm has advised the City, in writing, that the item(s) of personal property can be sufficiently cleaned to remove all harmful contamination; and

(b) The owner of the personal property agrees in writing:

- (1) That the owner is aware of the danger of using the contaminated property;
- (2) That the owner will thoroughly clean the property to remove all contamination before the property is used; and
- (3) That the owner releases and agrees to indemnify the City, its staff, and the Prairie du Chien City Council from all liability to the owner and/or third persons for injuries or damages caused, or alleged to have been caused, by the contaminated property.

(15) PENALTIES. Any person(s), firm(s), corporation(s), or other entity/entities violating any provision of this Ordinance shall in addition to any costs above set forth shall also be subject to a fine of not less than One-Hundred Dollars (\$100) nor more than One-Thousand Dollars (\$1,000) for each violation of this Ordinance together with the costs of prosecution and in default of payment of such forfeiture and costs of prosecution, shall be imprisoned in the County jail until said forfeiture and costs are paid, but not to exceed six (6) months.

**Section 2.** Any Ordinances or parts thereof inconsistent herewith are hereby repealed.

**Section 3.** This Ordinance shall be effective from and after its passage and publication as required by law.

Passed and approved this 6<sup>th</sup> day of April, 2011.

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Dave Hemmer, Mayor

ATTEST:

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Aaron Kramer, City Administrator