

Common Council Meeting – September 6th 2011

A regular meeting of the Common Council of the City of Prairie du Chien was held on Tuesday September 6th 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** – All present **Certification of the open meeting law agenda requirements and approval of the agenda** – ACTION: To certify and approve MOTION: Ames SECOND: Munson VOTE: 12-0 **Pledge of Allegiance** – Led by Jaaren Riebe

I. PUBLIC HEARINGS AND PRESENTATIONS

A. PUBLIC HEARING - Considering an amendment to the City's Federal operating assistance grant under Section 5311 of the Federal Transit Act

This amendment deals specifically with LogistiCare, a private organization that has been awarded a contract with the State of Wisconsin to manage non-emergency medical transportation for Medicaid and BadgerCare Plus members who have no other way to get a ride. LogistiCare is interested in using the shared-ride taxi service for some rides. Mayor Hemmer opened the public hearing at 7:05 PM. City Planner Frable outlined the need for the public hearing. Pam Ritchie (Executive Director, Opportunity Center) had questions about the proposal. Hemmer closed the public hearing at 7:12 PM

B. ACTION on aforesaid agenda item

ACTION: To approve the amendment to the City's Federal operating assistance grant under Section 5311 of the Federal Transit Act MOTION: Titlbach SECOND: Hein VOTE: 12-0

C. UPDATE – Ambulance Service Agreement with Interstate EMS

Staff is requesting approval to alter the current agreement with Interstate, effective in November, to reflect their acquisition by Tri-State EMS. Dee and Dan Kussmaul, Interstate EMS, were present to answer questions about the acquisition, as well as representatives from Tri-State EMS.

D. ACTION on aforesaid agenda item

ACTION: To amend the current agreement with Interstate EMS to reflect their acquisition by Tri-State EMS MOTION: Riebe SECOND: Munson VOTE: 12-0

E. UPDATE – Hoffman Hall Capital Campaign

Pam Ritchie, Chairperson of the fundraising campaign, provided an update on the one-year anniversary of the campaign, informing the Council \$1.3 million has been raised. Rory Meisner (3M) and Bill Sexton and Skip Gjolberg (Prairie du Chien Memorial Hospital) were also present to show support for the campaign. The City Administrator also informed the Council a tentative agreement on extending the current utility agreement into 2012 and agreeing on a rate structure for beyond 2012 has been reached.

F. ACTION on aforesaid agenda item

ACTION: To have the Mayor appoint a Building Committee, begin implementation of the Energy Grant, and direct the City Attorney to draft an amendment to the current utility agreement with the State of Wisconsin MOTION: Riebe SECOND: Hein VOTE: 11-1 (Solomon opposed)

G. UPDATE – Country on the River/Rock on the River 2012

Chase Clausen and Scott Sheckler, Junior, Country On The River (COTR), were present to discuss this year's event, next year's event, the proposed Rock on the River 2012, and the idea of permanent fencing on St. Feriole Island for these events and other activities. COTR requested the fencing issue be tabled.

H. ACTION on aforesaid agenda item

ACTION: To table the discussion on permanent fencing MOTION: Riebe SECOND: Solomon. Both the motion and second were withdrawn

Staff indicated there were several issues that needed to be addressed before the issue of permanent fencing could be debated. ACTION: To deny the installation of permanent fencing on St. Feriole Island MOTION: Munson SECOND: Solomon VOTE: 3-9 (Thein, Kozelka, Riebe, Ames, Boylen, Pintz, Titlbach, Hein and Jones opposed) Motion failed

ACTION: To table the discussion on permanent fencing to the first Council meeting in October MOTION: Riebe SECOND: Kozelka VOTE: 9-3 (Solomon, Fleshner and Munson opposed)

Discussion shifted to the 2012 COTR event. Clausen and Sheckler requested the first weekend in August. The City Administrator asked if this request indicated a commitment to keep the event in the City of Prairie du Chien, and Clausen and Sheckler answered in the affirmative. ACTION: To approve Country on the River for August 3rd and 4th 2012, with camping to begin on August 1st MOTION: Hein SECOND: Pintz VOTE: 12-0

Clausen and Sheckler said they were tentatively looking at holding Rock on the River the weekend of July 13th 2012, but were not prepared to ask for official Council action at this time.

I. PRESENTATION – 2011-2012 Fall and Winter Activity Guide

The guide, sponsored by Peoples State Bank, was presented to the Council, with no official action needed.

II. CONSENT AGENDA

A. COUNCIL MINUTES – August 16th 2011, B. DESIGN AND PRESERVATION COMMISSION – February 17th 2011, C. FINANCE COMMITTEE – August 16th 2011, D. PARK BOARD – July 20th 2011, E. OPERATORS' LICENSES, F. OKOTBERFEST – To be held October 15th 2011 on St. Feriole Island (Tony and Sue Rangel) (NOTE: The Park Board gave its approval to the event at its August meeting) ACTION: To approve the Consent Agenda minus item F MOTION: Hein SECOND: Ames VOTE: 12-0

III. ITEMS REMOVED FROM CONSENT AGENDA

F. OKOTBERFEST – To be held October 15th 2011 on St. Feriole Island (Tony and Sue Rangel)
Tony and Sue Rangel, along with Tom Nelson, updated the Council on the event. ACTION: To have a 5-minute recess to allow Oktoberfest officials to hand out food samples to the Council MOTION: Munson SECOND: Ames VOTE: 11-1 (Pintz opposed)

NOTE: The Council was in recess from 8:10 to 8:15 PM.

IV. CITY ADMININSTRATOR'S REPORT

Discussion was held on moving the September 20th Council meeting to September 27th to avoid conflicting with the Prairie du Chien Chamber of Commerce annual awards dinner. There was no consensus to move the meeting. No official action was taken.

V. CITIZENS' COMMENTS, OBSERVATIONS, PETITIONS, AND PUBLIC INPUT

Don McCulloch (1306 South 6th Street) spoke in favor of voting down the current ban on fishing from the Washington Street and Blackhawk Street bridges.

VI. COMMITTEE REPORTS AND ACTIONS

A. FINANCE – Claims

ACTION: To approve MOTION: Hein SECOND: Munson VOTE: 12-0

B. FINANCE – Bond Rating for City

ACTION: To approve the Committee recommendation to direct staff to include funds in the next refinancing to have an official bond rating of the city done. The cost would be roughly \$8,000.

MOTION: Solomon SECOND: Ames VOTE 12-0

C. FINANCE – Resort Area Sales Tax

The City Administrator explained the proposal, which would include the funds only being used for infrastructure (streets, sidewalks, curb and gutter, utilities, storm water, etc.) per state law, the implementation of a five-year sunset clause to require re-authorization of the tax if passed, using a pay-as-you-go model (trailing revenue concept), and clearly outlining which projects would be undertaken before any tax is implemented. ACTION: To approve the Committee report to move forward with the documentation and financial projections needed for determining if the City is eligible to implement a ½ (one-half) percent resort area sales tax MOTION: Solomon SECOND: Pintz VOTE: 10-2 (Thein and Boylen opposed)

D. FINANCE - Lease with Chamber of Commerce

ACTION: To approve the lease with the Chamber of Commerce for the rental of the Tourism Information Center for 2012-2016 MOTION: Hein SECOND: Munson VOTE: 12-0

E. PERSONNEL – Ordinance 2011-25 (REPEALING AND RECREATING SECTION 12.02 (6) AND REPEALING SECTION 12.02 (8) OF THE MUNICIPAL CODE OF THE CITY OF PRAIRIE DU CHIEN, CRAWFORD COUNTY, WISCONSIN)

This ordinance would make changes to the current procedure for issuing new and provisional operator's licenses and renewing existing operator's licenses. ACTION: To approve Ordinance 2011-25 and waive the reading MOTION: Solomon SECOND: Munson VOTE: 7-5 (Kozelka, Riebe, Pintz, Hein and Jones opposed)

VII. OLD BUSINESS

A. DISCUSSION AND ACTION – Possible ordinance regulating the number of cats and dogs in a Home

In May, the Protection and Health Committee voted to take no action on this proposal. At its June 7th meeting, the Council voted 9-1 (Fleshner opposed) to table the item until the first meeting of the Council in September, following a motion from Alderwoman Hein. ACTION: To send the item back to the Protection and Health Committee, and have city staff investigate what other cities have done in regulating the number of pets, as well as exotic animal ordinances MOTION: Hein SECOND: Munson VOTE: 9-2 (Thein and Pintz opposed)

B. DISCUSSION AND ACTION – Public Works Action on Proposed Parking Lot Donation

At its June 23rd meeting, the Public Works Committee voted to deny the proposal from Blair Dillman to build a parking lot at the intersection of Blackhawk and Second Street. Alderman Riebe has requested the item be brought before the full Council, where it was tabled at the last meeting. Discussion was held on why the Committee rejected the offer. No action was taken.

NOTE: Jones left the meeting at 9:10 PM

VIII. NEW BUSINESS (Including items for future agenda consideration or Committee assignment)

A. DISCUSSION AND ACTION - Ordinance 2010-17 (CREATING SECTION 9.19(4) OF THE MUNICIPAL CODE OF THE CITY OF PRAIRIE DU CHIEN, CRAWFORD COUNTY, WISCONSIN RELATIVE TO PROHIBITING FISHING FROM THE WASHINGTON STREET BRIDGE AND THE BLACKHAWK STREET BRIDGE)

This ordinance was approved August 17th 2010. At the last Council meeting, Alderwoman Hein asked that it be brought back before the Council. ACTION: To reconsider Ordinance 2010-17 MOTION: Hein SECOND: Titlbach VOTE: 8-3 (Thein, Solomon and Pintz opposed)
Discussion was held on the ordinance. ACTION: To take no action on rescinding or reviewing Ordinance 2010-17 MOTION: Pintz SECOND: Solomon VOTE: 9-2 (Fleshner and Hein opposed)

B. MAYORAL APPOINTMENTS – Committee Assignments

The Mayor announced new committee assignments at this time. The City Attorney informed the Council the Mayor's decision was being challenged by Aldermen Thein, Fleshner and Pintz, and he requested additional time to study the current city ordinances and the power of the Mayor in this matter. Mayor Hemmer then appointed Kozelka to fill the vacancies on Finance and Public Works, with Kozelka becoming the chairperson of the Public Works Committee.

C. DISCUSSION - Items for future agenda consideration or Committee assignment

None

D. CLOSED SESSION (9:20 PM)

ACTION: To go into closed session 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: Negotiating for purchase of real estate for the Marquette Road Project and RE: Developers' Agreement between the City and Scott and Jill Sheckler (Hotel and Conference Center), and (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 between the City of Prairie du Chien and the town of Prairie du Chien relative to delinquent utility billings. MOTION: Pintz SECOND: Solomon VOTE: 11-0

E. RECONVENE into open session (10:29 PM)

ACTION: To reconvene into open session MOTION: Pintz SECOND: Solomon VOTE: 11-0

F. ACTION from closed session

ACTION: To direct the City Attorney to begin legal proceedings against the town of Prairie du Chien if their delinquent sewer bill (\$15,992.77) is not paid in full by Friday September 9th 2011 MOTION: Ames SECOND: Solomon VOTE: 11-0
ACTION: To cap the Stratton property in downtown Prairie du Chien and decide on a future use for the site MOTION: Thein SECOND: Munson VOTE: 11-0

IX. ADJOURN (10:31 PM)

MOTION: Solomon SECOND: Riebe VOTE: 11-0

Submitted by City Administrator Aaron Kramer

ORDINANCE NO. 2011-25

AN ORDINANCE REPEALING AND RECREATING SECTION 12.02 (6) AND REPEALING SECTION 12.02 (8) OF THE MUNICIPAL CODE OF THE 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 12.02 (6) of the Municipal Code of the City of Prairie du Chien, Crawford County, Wisconsin, is hereby repealed and recreated to read as follows:

(6) OPERATOR'S LICENSE.

- (a) All renewal applications for an operator's license shall be filed in the office of the Clerk-Treasurer on or before May 31 of each odd-numbered year. A \$10 surcharge shall be applied to any application filed after May 31st.
- (b) All renewal applications shall go before the Common Council for approval at one of their regularly-scheduled meetings in June of each odd-numbered year.
- (c) Nothing shall prevent the Council from granting any licenses which are applied for at any other time for a fraction of the two (2) year license period, but no proration of the required fee shall be granted.
- (d) An applicant must meet the following requirements:
 - 1. Applicant must be at least 18 years or older for an Operator's License.
 - 2. Applicant must not have a felony conviction within the last 5 years, the offense(s) substantially relating to the alcohol beverage licensing activity, nor be a habitual law offender as defined in State Statutes 9.39.62(2). In determining habitual law offender status, the background check may go back 15 years.
 - 3. Applicant has not had three or more Operating While Impaired (OWI) conviction within the past five years.
 - 4. Applicant has not had two or more convictions of the following offenses within the past two years:
 - a. Conviction of selling intoxicants to underage persons.
 - b. Conviction of allowing a person to use operator's license.
 - c. Conviction of selling to an intoxicated person.
 - d. Conviction of selling after hours.
 - e. Conviction on selling without a license.
 - f. Conviction of giving away intoxicating liquor to evade provisions of law.
 - g. Conviction of any part of Chapter 125 State Statutes relating to alcohol beverages.
 - h. Other arrests or convictions of charges related to the activities performed while bartending.
 - 5. Applicant does not have any criminal or ordinance convictions that are related to the license requested, to include but not limited to, gambling, controlled substances, disorderly conduct, and battery in a bar within the past 2 years.
 - 6. Applicant does not have a possession of a controlled substance conviction within the past 2 years.
 - 7. Applicant does not have a Sale or Delivery of controlled substance conviction within the past 5 years.

8. Applicant has complied with all court ordered assessments resulting from an OWI or controlled substance conviction.

9. Applicant does not have any pending charges, the offense(s) of which are substantially relating to the alcohol beverage license.

(e) A criminal background records check will be conducted on all applicants by the Prairie du Chien Police Department. This background check will include, but is not limited to, Wisconsin State Criminal History, Prairie du Chien Police Department records, Driver's License (CIB, NCIC, P&P, and DOT) and with other law enforcement agencies where applicant previously resided. The Prairie du Chien Police Chief, or his designee, will make a report and recommendation to the Personnel, License and Insurance Committee.

(f) Any person who lies, misrepresents or omits their personal information on an application shall have their operator's license or provisional license application denied.

(g) If the Police Chief, or his designee, recommends denial of an operator's license application, the applicant has the right to file an appeal with the City Clerk within forty-five (45) days and appear and be represented before the Common Council, to be heard, to present evidence in favor of the granting of the license, and to rebut the evidence presented in opposition to the granting of the license, at a hearing held within forty (40) days of the filing of such appeal.

(h) The Clerk-Treasurer may issue a provisional operator's license subject to the following conditions:

1. A provisional license may be issued only to a person who has applied for a regular beverage operator's license as provided by this Chapter, and meets the requirements as set forth above in 12.02 (6) (d)

2. A provisional license may not be issued to any person who has been denied a regular operator's license by the Common Council.

3. A provisional license shall expire 60 days after its date of issuance, or when a regular operator's license is granted by the Common Council and is issued to the holder, whichever is sooner.

4. The fee for a provisional beverage operator's license shall be \$15.00.

5. On issuance of the provisional operator's license the Clerk/Treasurer or that person's designee shall provide the Police Department with a copy of the application and the Police Department shall then make a background check on the license holder and report the results of same to the Clerk/Treasurer's office.

6. The Police Chief or that person's designee may revoke the provisional operator's license if it is determined that that person's criminal or civil conviction record substantially relates to the duties and circumstances of a beverage operator's position.

7. Any person whose provisional license is revoked shall have the right to file an appeal with the City Clerk within forty-five (45) days and appear and be represented before the Common Council, to be heard, to present evidence in favor of the granting of the license, and to rebut the evidence presented in opposition to the granting of the license, at a hearing held within forty (40) days of the filing of such appeal.

8. No person shall be issued more than 3 provisional operator's licenses in any 2-year period.

Section 2: That Section 12.02 (8) of the Municipal Code of the City of Prairie du Chien, Crawford County, Wisconsin, is hereby repealed.

Section 3: Any ordinance or parts thereof inconsistent herewith are hereby repealed.

Section 4: This Ordinance shall be effective from and after its passage and publication as required by law.

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

Dave Hemmer, Mayor

ATTEST:

Aaron Kramer, City Administrator