

## **Common Council Meeting (February 26<sup>th</sup> 2013)**

A regular meeting of the Common Council of the City of Prairie du Chien was held on Tuesday February 26<sup>th</sup> 2013 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** – MOTION: Ames SECOND: Solomon VOTE: 12-0 **Pledge of Allegiance:** Led by Mark Thein

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

#### **A. DISCUSSION AND ACTION – Resolution 2013-02 (HONORING NORB ASCHOM FOR HIS YEARS OF BROADCASTING, DECLARING MARCH 1ST 2013 AS NORB ASCHOM DAY IN THE CITY OF PRAIRIE DU CHIEN, AND RECOMMENDING THE INDUCTION OF NORB ASCHOM INTO THE WISCONSIN BROADCASTERS ASSOCIATION HALL OF FAME)**

This Resolution honors Norb Aschom, who has announced he is retiring on March 1st, for nearly 52 years of broadcasting service to the Prairie du Chien area. Aschom was present to receive the award and addressed the Council. A letter from City Planner Frable was entered into the record, commending Norb on his years of service. ACTION: To approve Resolution 2013-02 MOTION: Pintz SECOND: Munson VOTE: 12-0

#### **B. DISCUSSION AND ACTION – Resolution 2013-03 (DECLARING THE CITY'S INTENT TO REQUEST AN EXTENSION OF THE CURRENT PARTIAL QUIET ZONE DESIGNATION)**

The Resolution declares the City's intent to move forward with the Quiet Zone work that has been ongoing since 2005. This will request an extension of the current Partial Quiet Zone designation, while staff prepares a new application with an amended project plan to the Federal Railroad Administration. The City Administrator said the ultimate goal is to have the City under a 24-hour Quiet Zone, with no train horns being blown. ACTION: To approve Resolution 2013-03 MOTION: Hein SECOND: Munson VOTE: 12-0

### **II. CONSENT AGENDA**

A. COUNCIL MINUTES – February 5th 2013; B. FINANCE COMMITTEE – February 5th 2013; C. BOARD OF ZONING APPEALS – January 23rd 2013; D. PLAN COMMISSION – January 21st 2013; E. PROTECTION AND HEALTH COMMITTEE – January 29th 2013; F. BOARD OF AIRPORT COMMISSIONERS – March 13th 2012; G. LARIVIERE PARK BOARD – January 16th 2013; H. PARK BOARD – December 19th 2012; I. DESIGN AND PRESERVATION COMMISSION – July 19th 2012; J. POLICE AND FIRE COMMISSION – January 30th 2013; K. FIRE DEPARTMENT – Chief's Annual Report, Fourth Quarter 2012 Report and Monthly Report (January 2013); L. PRAIRIE DU CHIEN ST. PATRICK'S DAY PARADE – To be held Saturday March 16th at 10 AM, starting on St. Feriole Island, sponsored by the Prairie du Chien Area Chamber of Commerce; M. AIRPORT HANGAR LEASE – Transfer from A.G.T. Enterprises to Adamany Enterprises, Inc.; N. AIRPORT HANGAR LEASE – Transfer from Falyer Corporation to Michael Ripp; O. OPERATORS LICENSES (if any) Ames requested item K be pulled. ACTION: To approve the Consent Agenda minus item K MOTION: Hein SECOND: Munson VOTE: 12-0

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

K. FIRE DEPARTMENT – Chief's Annual Report, Fourth Quarter 2012 Report and Monthly Report (January 2013). Ames asked the Fire Chief to provide more information on his work on re-writing the Department's Standard Operations Procedures in his next report. ACTION: To approve item K of the Consent Agenda MOTION: Ames SECOND: Munson VOTE: 12-0

With objection, the agenda was moved:

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

#### **A. DISCUSSION AND ACTION - Request for declaratory order by the Surface Transportation Board in relation to the Pattison Sand operations along the Highway 18 bypass**

At the request of several constituents, Mayor Hemmer is asking the Council to consider the possibility of filing a petition with the Surface Transportation Board (STB) for declaratory order, requesting that

the STB declare that specific operations conducted in the City of Prairie du Chien at a transloading facility, claimed to be performed by the Wisconsin Southern Railroad, do not constitute "transportation by a rail carrier," and that the City's zoning and other regulations are therefore not preempted under 49 U.S.C. § 10501(b). While there is considerable documentation regarding this issue, the City Administrator has included several in his memo for the Council to review. A memo from the City Administrator is included in the packet, as well as an email from Kyle Pattison regarding his company's position on the preemption issue and their operations. The following people spoke on the issue: Brian Baird (Legal Counsel, WSOR Railroad), Kyle Pattison (Pattison Sand), Beth Regan (Pattison Sand), Scott Clickner (Pattison Sand), Scott Spinner (Pattison Sand), Michael Murphy (Pattison Sand), Dean Goodman (Pattison Sand), Gary Dickmeyer (Pattison Sand), Edie Ehlert (Crawford County Stewardship), John Lochner (Prairie du Chien) and Alan Mullikin (Pattison Sand). Considerable discussion was held on the issue. The City Administrator said correspondences from the following people were entered into the record and provided to Council members: Gloria Wall (Crawford County Health Department), Aaron Marx, Edie Ehlert (Crawford County Stewardship) and Greg Russell

ACTION: To request an informal regulatory clarification from the Surface Transportation Board on whether or not the Pattison Sand operations as structured falls within federal preemption; to ask the STB to investigate this operation in terms of its compliance with federal environmental, noise, and safety regulations; and, submit a request to the Wisconsin River Rail Transit Commission (WRRTC) that owns the improvements upon which the WSOR operates to determine if the transload operation is in compliance with the lease agreement between WSOR and WRRTC MOTION: Hein SECOND: Munson VOTE: 9-3 (Kozelka, Solomon and Pintz opposed)

ACTION: To expend no more than \$5,000, from the City's contingency fund, to execute the actions in the preceding motion MOTION: Munson SECOND: Hein VOTE: 8-4 (Kozelka, Solomon, Ames and Pintz opposed)

ACTION: To take a 10-minute recess MOTION: Solomon SECOND: Munson VOTE: 12-0

The council adjourned at 8:00 PM and re-convened at 8:10 PM.

**IV. CITY ADMININSTRATOR'S REPORT** – No formal action taken

**V. CITIZENS' COMMENTS, OBSERVATIONS, PETITIONS, AND PUBLIC INPUT** – None

**VI. COMMITTEE REPORTS AND ACTIONS**

**C. PARK BOARD - Request from Rendezvous to utilize St. Feriole Island for a 3-year commitment (2013-2015)**

The Park Board, at its February 20th meeting, recommended accepting the proposed application, which does not include the shelter rental fees (\$100). The request from Rendezvous includes the freezing of fees for the three-year period for their organization. Martha Tiemann addressed the Council on behalf of Rendezvous. ACTION: To approve the 3-year contract with Rendezvous, and waive the shelter rental fees and freeze the other fees for the three-year period for their organization MOTION: Munson SECOND: Hein VOTE: 12-0

**A. FINANCE – Claims**

ACTION: To approve the claims MOTION: Hein SECOND: Pintz VOTE: 12-0

ACTION: To direct staff to spend up to \$1,200 toward computer equipment, with laptops being the top consideration MOTION: Pintz SECOND: Solomon VOTE: 12-0

**B. FINANCE - Proposed purchase and sale of the Block 43 parcel**

Under this proposal, the City would purchase the Block 43 parcel from Marty Rifken, and then sell the land to the Redevelopment Authority (RDA). The RDA would then sell the land to Marquette Hayden Properties LLC. The City generates capital from the sale to the RDA that in turn would be used to fund the Downtown Revolving Loan Fund and the General Fund. ACTION: To authorize the RDA

proceed with blight determination MOTION: Hein SECOND: Pintz VOTE: 12-0 ACTION: To refer the sale of the property to RDA to the Plan Commission MOTION: Hein SECOND: Munson VOTE: 12-0

**D. PARK BOARD - Request by Prairie du Chien Jaycees to utilize St Feriole Island for a 3-year commitment (2013-2015)**

The Park Board, at its February 20th meeting, recommended accepting the proposed application. ACTION: To approve the request MOTION: Titlbach SECOND: Munson VOTE: 12-0

**E. PARK BOARD - Request by Bluesfest to utilize St. Feriole Island for a 3-year commitment (2013-2015)**

The Park Board, at its February 20th meeting, recommended accepting the proposed application. ACTION: To approve the request MOTION: Hein SECOND: Ames VOTE: 12-0

**F. PLAN COMMISSION - Certified Survey Map (CSM) located in Government Lot 2 of Section 5, T6N, R6W, Town of Bridgeport, which is in the extraterritorial limits of the City of Prairie du Chien, Crawford County, Wisconsin – brought by Bob Selch**

The Commission, at its February 18th meeting, unanimously recommended that the Council approve the CSM. ACTION: To approve the CSM MOTION: Pintz SECOND: Kozelka VOTE: 12-0

**VII. OLD BUSINESS** - None

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

**B. DISCUSSION AND ACTION – Request to Change Previously-Made Vote (Boylen)**

On February 5th, the Council approved the following motion: ACTION: To award the bid for the Champion Boat Landing (\$185,195) and the Washington Street Park project (\$264,400.70) to Rule Construction MOTION: Leys SECOND: Munson VOTE: 10-1 (Boylen opposed). Following the meeting, Boylen contacted the City Administrator and asked that her vote be changed from a “no” to a “yes”. Per Robert’s Rules of Order (Section 46 – Voting), a member can make the change only by permission of the assembly, which may be given by general consent; that is, by no member’s objecting when the chair inquires if any one objects. If objection is made, a motion may be made to grant the permission, which motion is non-debatable. Hein objected and asked for Boylen to explain why she wanted to change her vote. Boylen said she voted no at first because of flooding concerns at the Washington Street Park, but had since changed her mind. ACTION: To allow Boylen to change her vote MOTION: Titlbach SECOND: Munson VOTE: 11-1 (Pintz opposed)

**C. MAYORAL APPOINTMENT**

ACTION: To approve the appointment of Mike Leard to the Board of Review, replacing Roger Pellock, for a term that expires May 1st 2016 MOTION: Ames SECOND: Solomon VOTE: 12-0

**D. DISCUSSION - Items for future agenda consideration or Committee assignment - None**

**IX. ADJOURN (9:00 PM)**

MOTION: Solomon SECOND: Leys VOTE: 12-0

Submitted by City Administrator Aaron Kramer

**RESOLUTIONS APPROVED**

\* Resolution 2013-02 (HONORING NORB ASCHOM FOR HIS YEARS OF BROADCASTING, DECLARING MARCH 1ST 2013 AS NORB ASCHOM DAY IN THE CITY OF PRAIRIE DU CHIEN, AND RECOMMENDING THE INDUCTION OF NORB ASCHOM INTO THE WISCONSIN BROADCASTERS ASSOCIATION HALL OF FAME)

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