

**MEETING MINUTES - CITY OF TOMAH  
COMMITTEE OF THE WHOLE**

A COMMITTEE OF THE WHOLE MEETING of the City of Tomah was held on the 10th day of May, 2010 at 6:30 p.m. in the Council Chambers at City Hall.

The following members were present: Nellie Pater, Dennis Greeno, John Cram, Larry Siekert, George Wright, Luke Bohlen, Ted Schleicher, and Pam Buchda. Absent: None.

Also present: Mayor John Rusch, City Administrator Jim Bialecki, City Clerk JoAnn M. Cram, Police Chief Wes Revels, Ambulance Director Jody Allen, Fire Chief Kevin Decorah, and Parks, Treasurer Julia Rusch, and Recreation Director Joe Protz. Gregg Hagen videotaped the meeting.

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Chairperson John Cram called the meeting to order at 6:30 p.m.

Motion by Wright, second by Schleicher approve the minutes of the April 12, 2010 regular Committee of the Whole meeting as presented. Motion passed without negative vote.

**Ambulance Department Monthly Report.** Ambulance Director Jody Allen provided the monthly department report.

**Fire Department Monthly Report.** Fire Chief Decorah provided the monthly fire department report.

**Zoning/Planning/Building Inspection.** Dir. Shane Rolff provided a written summary of building permits and zoning activities.

**Police Department Monthly Report.** Police Chief Wes Revels provided a summary of police activities for April. The Police Department will now be a permanent drop off for unwanted medications. The downtown cleanup project went very well. There is a significant death investigation currently being conducted by the police department.

**Parks and Recreation Monthly Report.** Parks & Recreation Director Joe Protz provided a summary of Parks and Recreation activities. Summer sign up is Sunday at 5 p.m. for all summer activities at Recreation Park.

**Treasurers Cash & Investment Reports.** Motion by Wright, second by Greeno to approve the March cash and investment reports. Motion passed without negative vote.

**Special Beer Permits – MC Support Service LLC for the Grand National Tractor Pull, Recreation Park – June 23-27, 2010 and for the Monroe County Fair, Recreation Park, July 28-August 1, 2010 and Special Beer Permits – Veterans Association for the Grand National Tractor Pull, Recreation Park – June 23-27, 2010 and for the Monroe County Fair, Recreation Park, July 28-August 1, 2010.**

It has been more than six months that there have been issues between the Veterans Assoc. & the Ag Society (MC Support Service LLC) regarding licensure and utilization of facilities for the Annual Tractor Pull and Monroe County Fair. The recommendation from the City Attorney and Mayor is to grant a license to each entity with the understanding the Ag Society (MC Support Service LLC) will still utilize the land they lease by obtaining the license for the grandstand and bleacher area and the Veterans Assoc. will lease their beer garden area.

Attorney Bill Curran, representative of MC Support Service LLC addressed the Committee. Atty. Curran advised that the Ag Society has looked at ways to maintain their financial viability. MC Services LLC has applied for the beer license. The I-Dividers and the Lions have worked out an agreement for beer sales. The three beer vendors were approached by MC Services LLC in an effort to change the way things are done. There is no intent to move the Veterans group out of the position of being a beer seller at the Tractor Pull or Fair. Atty. Curran advised that the Ag Society has rented Recreation Park for the two events. The number one goal of the Ag Society and MC

Support Service LLC is to preserve the financial viability of the Tractor Pull. Mr. Curran advised that the Monroe County Ag Society has paid \$2,220,000 over the past years on improvements to Rec Park. There is a list of items costing over \$600,000 that the Ag Society plans on doing in the future. The recently purchased campground supports itself. Their consultant is recommending a reserve fund of up to \$150,000. The current reserve fund is zero. Insurance coverage is also an issue and the need for adequate coverage. Alcohol related coverage is needed in addition to workers compensation. Atty. Curran wants the City to grant one license for both events to the MC Support Service LLC. The Ag Society would like to be in control of the license. If two licenses are issued, the Ag Society will work with the Veterans and a sub lease would be developed. Atty. Curran advised they would work with the Veterans Assoc. for the first five years and they have also agreed to a second five years. MC Support Services LLC was formed for the purpose of getting money for the alcohol sales and is an organization for anyone that wants to join. The dues for becoming a member are a certain number of volunteer hours at the Tractor Pull or Fair and controlled by contractual agreements with the Ag Society. The agreement that was drafted after a mediation session was based upon a plan created between the Veterans Association and the City Attorney. The option at that time was that the MC Support Service LLC got the only beer license. A public purpose doctrine was provided. Whenever a municipality has charge of certain assets or funds, the public funds cannot be used for private purposes. When you issue a temporary beer permit for a special event, it is presumed to have a purpose that is good for the whole community, but there are a lot of circumstances in that the event is so modest, the event isn't generating enough revenue to determine whether it's helping a private group or the general public. The dollar amounts involved here are getting so high you need to look at the public purpose and when someone is gaining that much of an advantage, you have to evaluate whether the public assets are being granted for a private purpose or for the Ag Society's purpose which is to promote the area and Rec Park.

Attorney Carmichael advised that 100% of the net revenues are split between the 3 groups that comprise the Veterans Association. The problem is that the Ag Society needs more money. Information has been provided for several years which includes the operational costs and identifies the profits. Since 1996, in user fees, the Vets Association has paid over \$300,000 to the Ag Society. That money was paid directly as a result of beer sales. For every dollar received by the Vets Assoc. goes to pay for the clubhouse used for the meetings of the Veterans, the American Legion funds scholarships, Badger Boys, memorial wreaths, numerous volunteer programs, socials, bingos, and support local charities. The VFW Post provides the firing squad for funerals and other functions. They sponsor the Voice of Democracy Contest and Award Scholarships, the Christmas display, phone cards for Armed Forces members, Safety Patrol, flags for the schools, and programs at the VA hospital. The DAV provides substantial support for the transportation program for medical treatment and many, many other civic donations. The Veterans Association has had the beer licenses since 1945. Precedence has been set and the Vet's Association can't accept an outline of a contract with too many holes and no guarantees for renewals. There were no clauses added for inflation or cost of living increases in the future. What happens 5-10 years from now? Taking both licenses away is sending a signal to the Vets Association that the end is near and they don't want to give that up. They need this money for what they do and what they do is worthwhile. To the Vets knowledge, in 63 years there has not been any charges levied against them for their sales of beer. They have also not received any complaints from the police department about alcohol related issues. The Veterans Association understands that insurance will be a substantial cost if two licenses are granted.

Curtis Gibeaut – 34 years in American legion and DAV Rep at VA hospital advised the 5 year contract has a clause that states if the Veterans Assoc. made a mistake they could be evicted. In the past year, the DAV alone has put out over \$11,347. The books are audited by the State and the National DAV. Why did the Ag Society overspend and why didn't they put money away over the years? Pete Peterson feels that the issue boils down to the bottom line of money and the Veterans issue is survival. This has been going on for six months and zero progress has been made. The two licenses is the best solution to a bad situation.

Mr. Chris Dawley of the Lions Club feels the insurance needs to be brought to the forefront as the volunteers aren't covered. He wants to make sure that everyone volunteering is covered by some

sort of insurance policy so they will have medical coverage. The Lions Club relies on the money that is made over this event and reiterates that the bickering has gone on long enough.

Chris Schrier thanked the City for allowing the Ag Society to have the event. There is a great facility at Rec Park. The financial situation of the Tractor Pull is important. Through the last 3 years of budgets, the Board has looked at ways to survive and keep the pull. Non profits are encouraged to attend. Chairperson Cram asked that this be adjourned until Tuesday at the Council meeting to clarify the date of the creation of the bona fide club. The MC Support Services LLC Articles of Organization and Constitution were provided during the meeting and there are conflicting dates that need clarification.

Motion by Wright, second by Greeno to send this to the Common Council on May 11, 2010 without a recommendation at this time to clarify the creation of the bona fide club. Motion passed without negative vote.

**Ordinance Amending Section 12.61, Amending and Renumbering Sections 12.62, 12.63, and 12.64 to 12-68, 12-69, and 12-70, and Inserting New Sections 12.62, 12.63, 12.64, 12.65, 12.66 and 12.67 of the Municipal Code of the City of Tomah Regarding Farmers Market and Authorization of \$20 Fee Per Season Along With the City of Tomah Farmer's Market Seller's Registration.** The Parks & Recreation Commission is recommending the City Council adopt the Ordinance amending Section 12.61 accepting the changes in the location of the Farmers Market to include recommending a \$20 per season fee along with the City of Tomah Farmer's Market Seller's Registration.

Karen Waege appeared representing Star Valley Orchards. She is asking on behalf of several current market vendors to continue to allow reselling items there. The vendors are favoring the Burnstad's location. Ms. Waege is concerned about the freshness of the produce. Ms. Waege feels that the vast majority of the produce purchased at Cashton is produced by Amish and that the items are being picked on Saturday and sold on Wednesday. Ron Waege advised that there are vendors moving in from Eau Claire and La Crosse and the farmers market has outgrown Gillette Park. Burnstad's has offered to host the Farmers Market.

Matthew Boyea of 1321 Grant Street advised he started selling at the Farmers Market last year and wants to have a wide diverse offering. Matthew provided a survey obtained during this meeting. He also has signatures from vendors on a petition that was circulated last January. They are against being organized and assigned stall spaces and opposed to annual and weekly fees and inspections of private farms. There is also a petition for consumers only. He believes the signatures represent the vendor's opinion and would like to leave the Farmers Market in Gillett Park.

Aldersperson Buchda is opposed to parts of the ordinance. She doesn't think we should restrict resellers and believes in free market. Ms. Buchda doesn't have a problem with the \$20 registration fee to register to sell so we have knowledge of who is there. Business owner's downtown would like the Farmers Market to stay downtown. Aldersperson Pater has gotten phone calls advising they would like to see the Farmers market stay in Gillett Park and that the Farmers Market shouldn't be restricted. People like the Farmers Market downtown as it's good for businesses. Parking has been an issue at Gillett Park and the farmers can't get along to make it work. Aldersperson Schleicher asked how many vendors participate and how many of those are re-sellers. Last fall some vendors came in and brought several issues to the Parks Commission. Right now there is no policing as to what is sold or who sells. The Parks & Rec Commission is proposing the registration form and moving the Farmers Market to Burnstad's. This has created ongoing discussions over the last five months at Parks and Recreation Commission meetings. Burnstad's offers ample parking. By our Ordinance, it restricts items to home grown or produced. Every Farmers Market in the area charges a fee and the city has been trying to work with the groups.

Motion by Pater, second by Buchda to send this ordinance back to the Parks & Recreation Commission as Ms. Buchda would like to see the resale language removed and feels the resellers should be allowed. Motion does not pass with Greeno, Siekert, Bohlen, Wright and Schleicher, and Pater voting no. Aye votes – Bohlen and Buchda.

Alderperson Buchda advised she would like to see the \$20 registration stay and the resellers should be allowed. Alderperson Buchda would like to see the Farmers Market in Gillett Park. Burnstad's would not be an option if resale is allowed. Discussion was held to spread out the Farmers Market and place vendors on Holton and Superior.

Joe Protz advised that spreading out in the Park has been addressed by the Parks and Recreation Commission. Gillett Park is heavily used and by spreading out the Farmers Market, it is felt it would cut down the use of the other park functions. Vendors need to cooperate regarding parking issues and if everyone cooperates, the Farmers Market in Gillett Park is workable.

Motion by Buchda, second by Wright to recommend the Common Council amend the ordinance keeping the \$20 registration fee and allowing re-sellers and amend the location for vendors to remain at Gillett Park on Holton and Superior Avenue. Motion passed with one negative vote (Bohlen).

**Request for Exception to City Ordinance Regarding Three Dogs at 464 Green Acre Ave.** The Baumbach's are requesting permission to house three dogs at their residence. This item was tabled for 30 days from the April meeting to allow the Baumbach's time to comply with the ordinance. Another member of the family has agreed to take one dog, however, due to an illness, was unable to do so in April. One of the dogs will be taken to the mother-in-laws residence; however, the mother-in-law is ill.

Motion by Buchda, second by Pater to give the Baumbach's one year to get the situation in order. Motion does not pass with four negative votes (Nay - Schleicher, Wright, Bohlen, and Greeno). (Ayes – Buchda, Pater and Siekert).

**Class "B" Fermented Malt Beverage License and "Class B" Liquor License for Timothy Laufenberg, d/b/a Brahmas, July 1, 2010 – June 30, 2011.** Timothy Laufenberg has applied for a Class "B" Fermented Malt Beverage License and "Class B" Liquor License for the premise at 1117 Superior Avenue known as Brahmas effective July 1, 2010. Chief Revels presented a packet of information to the Committee regarding past activities that have occurred at Brahmas under the prior ownership which included a number of negative activities. Mr. Laufenberg advised he has hired all new bartenders and has made numerous changes in the way the bar is managed. Mr. Tim Laufenberg advised he will guarantee that the bar will be managed more closely and past issues will not occur again. If problems continue in the bar, Mr. Laufenberg was advised there will be a request for revocation.

Motion by Greeno, second by Buchda to recommend the Common Council approve the Class "B" Fermented Malt Beverage License and "Class B" Liquor License for Timothy Laufenberg, d/b/a Brahmas, effective July 1, 2010 – June 30, 2011 unless sooner revoked. Motion passed with one negative vote (Bohlen).

**Class "B" Fermented Malt Beverage License and "Class B" Liquor License for Big Qwarta LLC, Curt Allen-Agent, d/b/a JJ's Carlton, July 1, 2010 – June 30, 2011.** Big Qwarta LLC has applied for a Class "B" Fermented Malt Beverage License and "Class B" Liquor License for the premise at 309 Superior Avenue. Mr. Davis has submitted a letter stating he would relinquish the license contingent on the transfer to Big Qwarta, LLC.

Motion by Wright, second by Pater to recommend the Common Council approve the Class "B" Fermented Malt Beverage License and "Class B" Liquor License in the City of Tomah as printed for Big Qwarta LLC, Curt Allen – Agent, d/b/a JJ's Carlton, effective July 1, 2010 – June 30, 2011 unless sooner revoked. Motion passed without negative vote.

**Renewal of "Class B" Liquor & Class "B" Fermented Malt Beverage Licenses.**

Motion by Wright, second by Greeno to recommend the Common Council approve the "Class B" Liquor and Class "B" Fermented Malt Beverage Licenses in the City of Tomah as printed for the

period of July 1, 2010 – June 30, 2011 unless sooner revoked. Motion passed without negative vote.

1. Grassman-Sowle-Larsen-Senz AL Post #201 – Douglas Lewis, Agent - The American Legion at 800 Wisconsin Avenue
2. Tomchadah, Inc. – Chad Madson, Agent – The Break Room at 1123 Superior Avenue
3. Timothy Callahan – 720 W. Council St – Callahan’s Bar at 1119 Superior Avenue
4. Cranberry Country Lodge LLC – Robert Dippen Agent – Cranberry Country Lodge at 319 Wittig Road
5. Crow Bar LLC – Troy Gilson, Agent – The Crow Bar at 1206 Superior Avenue
6. Dimensions II, LLC – Patrick Murphy, Agent – Dimensions at 1110 Superior Avenue
7. SJ Burch LLC – Joan Burch, Agent – Econo Lodge at 2005 N. Superior Avenue
8. Burnstad Bros., Inc. – Kent Burnstad, Agent – Burnstad’s European Restaurant & Pub at 701 E. Clifton Street
9. James Frandsen – 1300 Lincoln Avenue – Franny’s at 1115 Superior Avenue
10. Matthew M. Anderson – Gas Alley Pub at 1204 Superior Avenue
11. T & J Hospitality, LLC – Tyson Koput, Agent – Ground Round Grill & Bar, 201 Helen Walton Drive, Suite #1
12. Tomah Hospitality, LLC – David Olson, Agent – Holiday Inn at 1017 E. McCoy Blvd.
13. Karen Kelsey, 307 W. Jackson Street, Kelsey’s Class Act at 201 Superior Avenue
14. Allan E. Thompson – 812 1/2 Superior Ave – Mr. Ed’s TeePee at 804-818 Superior Avenue
15. Kenneth Pierce – 7015 Cty Hwy M – Smoke’s Elbow Room at 114 W. Benton Street
16. Sportsman’s Bar of Tomah LLC – Dorothy Walker, Agent – Sportsman’s Bar at 1106 Superior Avenue
17. , II Zones, LLC – Bruce Gilson, Agent, Strike Zone at 202-210 Superior Avenue
18. The Bank – James H. Smith Jr. at 1015 Superior Avenue

#### **Renewal of Class “A” Fermented Malt Beverage Licenses**

Motion by Wright, second by Greeno to recommend the Common Council approve the Class “A” Fermented Malt Beverage Licenses in the City of Tomah as printed for the period of July 1, 2010– June 30, 2011 unless sooner revoked. Motion passed without negative vote.

1. Casey’s Marketing Company – Nancy Gollmer, Agent – Casey’s General Store #1933 at 313 N. Superior Avenue.
2. Kwik Trip, Inc. – Chontell Smart, Agent – Kwik Trip #718 at 1504 Superior Avenue
3. Rupesh Patel, Agent – Hwy. 21 Mobil, 907 E. McCoy Blvd.
4. Gador, Inc. – Donovan Riedesel, Agent – Tomah Mini Mart at 215 W. Clifton Street

#### **Renewal of “Class A” Liquor & Class “A” Fermented Malt Beverage Licenses**

Motion by Wright, second by Greeno to recommend the Common Council approve the “Class A” Liquor and Class “A” Fermented Malt Beverage Licenses in the City of Tomah as printed for the period of July 1, 2010 – June 30, 2011 unless sooner revoked. Motion passed without negative vote.

1. Aldi Inc. – Troy Lenning, Agent – ALDI #52, 1844 N. Superior Avenue
2. Burnstad Bros., Inc. – Alex Zamarripa, Agent – Burnstad’s Market at 701 E. Clifton Street
3. Simran Corp. – Hasmukh Patel, Agent – Highway 12 & 16 BP at 1030 E. Clifton Street
4. Wittig Corporation – Rupesh Patel, Agent – Hwy. 21 BP at 311 Wittig Rd.
5. Kwik Trip, Inc. – Jill McDonah, Agent – Kwik Trip #484 at 124 W. McCoy Blvd.
6. Kwik Trip, Inc. – Toni Phelps, Agent – Kwik Trip #796 at 310 E. McCoy Blvd.
7. Lark Inn Inc. – Sharon Larkin, Agent – Lark Inn General Store at 229 N. Superior Avenue
8. Tomah Quick Stop & Spirit Shop, LLC – Casey B. Purdy, Agent – Tomah Quick Stop & Spirit Shop at 201 W. Veterans Street
9. Wal-Mart Stores East, LP – Brett Johnson, Agent – Wal-Mart Supercenter #965, 222 W. McCoy Blvd.

#### **Renewal of Class “B” Fermented Malt Beverage Licenses**

Motion by Schleicher, second by Greeno to recommend the Common Council approve the Class “B” Fermented Malt Beverage Licenses in the City of Tomah as printed for the period of July 1, 2010 – June 30, 2011 unless sooner revoked. Motion passed without negative vote.

1. R&M Stump Investments LLC – Ruth Stump Agent – AmericInn Lodge & Suites at 750 Vandervort St.
2. Eastern China Buffet – Caideng Zheng – China Buffet at 115 W. McCoy Blvd.
3. Raim Baftiri – Four Star Family Restaurant at 918 E. McCoy Blvd.
4. Knights of Columbus Corp. – Anthony Felber, Agent – Knights of Columbus Hall, 202 E. Juneau Street
5. ZM Peking Chinese Restaurant, LLC – Jiaona M. Ng, Agent of Peking Chinese Restaurant at 1013 Superior Avenue
6. Northfield Restaurant Corporation–Ricky Murray, Agent–Pizza Hut at 1821 N. Superior Ave
7. Tomah Softball Association – Kevin Murray, Agent – 400 N. Glendale Avenue (May 15 through October 31, 2010)

**Renewal of “Class C” Wine Licenses**

Motion by Wright, second by Siekert to recommend the Common Council approve the “Class C” Wine Licenses in the City of Tomah as printed for the period of July 1, 2010 – June 30, 2011 unless sooner revoked. Motion passed without negative vote.

1. Eastern Chinese Restaurant – Caideng Zheng - China Buffet at 115 W. McCoy Blvd.
2. ZM Peking Chinese Restaurant LLC – Jiaona M. Ng, Agent, Peking Chinese Restaurant at 1013 Superior Avenue
3. Northfield Restaurant Corp. – Ricky Murray, Agent – Pizza Hut at 1821 N. Superior Avenue

**Cabaret Licenses**

Motion by Wright, second by Greeno to recommend the Common Council approve the Cabaret Licenses as printed for the period of July 1, 2010 to June 30, 2011 unless sooner revoked. Motion passed without negative vote.

1. Grassman-Sowle-Larsen-Senz AL Post #201, American Legion, 800 Wisconsin Avenue
2. Timothy H. Laufenberg, Brahmas, 1117 Superior Avenue
3. Tomchadah Inc. d/b/a Break Room Bar & Grill, 1123 Superior Avenue
4. Timothy D. Callahan, Callahan’s Bar, 1119 Superior Avenue
5. Big Qwarta LLC, The Carlton, 309 Superior Avenue
6. Cranberry Country Lodge, LLC – Cranberry Country Lodge, 319 Wittig Road
7. Patrick Murphy, Dimensions, 1110 Superior Avenue
8. James Frandsen, Franny’s, 1115 Superior Avenue
9. Matthew M. Anderson, Gas Alley Pub, 1204 Superior Avenue
10. Tomah Hospitality, LLC – Holiday Inn – 1012 E. McCoy Blvd.
11. Karen Kelsey, Kelsey’s Class Act, 201 Superior Avenue
12. Knights of Columbus Corp. – Knights of Columbus Hall, 202 E. Juneau Street
13. Allan E. Thompson, Mr. Ed’s TeePee, 804-814 Superior Avenue
14. Kenneth Pierce, Smoke’s Elbow Room, 114 W. Benton Street
15. Dorothy Walker, Sportsman’s Bar, 1106 Superior Avenue
16. Bruce W. Gilson, Strike Zone, 202-210 Superior Avenue
17. James H. Smith, Jr., The Bank, 1015 Superior Avenue

**Resolution Approving Monthly Bills.** Motion by Schleicher, second by Wright to recommend the Common Council approve the resolution authorizing payment of the monthly bills for a total amount of \$1,794,869.60. Motion passed without negative vote.

**Monthly Financial Report – April.** Motion by Schleicher, second by Greeno to approve the April monthly financial reports. Motion passed without negative vote.

Motion by Wright, second by Bohlen to adjourn. Motion passed without negative vote. Meeting adjourned at 9:08 p.m.

Respectfully Submitted,

JoAnn M. Cram, City Clerk