

The COMMON COUNCIL of the City of Tomah met in **REGULAR SESSION** December 14, 2010 at 6:00 p.m. with Mayor John Rusch presiding.

Following the Pledge of Allegiance, roll call was taken with Luke Bohlen, Ted Schleicher, Pam Buchda, Dennis Greeno, John Cram, and Larry Siekert present. Absent: George Wright and Nellie Pater. Also in attendance: City Admin. Jim Bialecki, Asst. City Attorney Penny Precour-Berry, and City Clerk JoAnn Cram. Gregg Hagen videotaped the meeting.

Motion by Cram, second by Bohlen to adjourn to closed session pursuant to State Statute 19.85(1)(c) and (e) to confer with legal counsel with respect to Union Contracts – AFSCME and WPPA Contract Ratification and 2011 Non-Union Wages. Motion passed without negative vote. Meeting adjourned to closed session at 6:00 p.m.

Meeting reconvened pursuant to State Statute 19.85(2) to open session at 6:20 p.m.

Anyone Desiring to Appear Before the City Council. Fire Chief Decorah desired to appear before the Council to introduce the new Captains of the Fire Department and a new training officer. Last week interviews were held for training officer. Bob Walker was selected as the training officer for the Fire Department. He has been with the department for the last 11 years and has been working with the prior training officer on these duties. His duties will start January 1, 2011. Interviews were also held last week for the two captain positions. Selected were Steve Laufenberg (20 year member of the department) and Chuck Muller (on the department 9½ years with over 21 years of volunteer fire fighter service). There were seven applicants for the two positions.

Appointment to Library Board to fulfill the remaining term of Tony Hinden with the term expiring April 2012. Motion by Siekert, second by Cram to approve Mayor Rusch's recommendation and appoint Luke Bohlen to the Library Board to fulfill the remaining term of Tony Hinden. Motion passed without negative vote.

Minutes: Motion by Greeno, second by Siekert, to approve the November 9, 2010 Regular Council minutes. Motion passed without negative vote.

Motion by Cram, second by Buchda to approve the November 16, 2010 Special Council Meeting minutes. Motion passed without negative vote.

Mayors Report. Mayor Rusch reported that there is a Veterans Assistance Foundation in the City that will assist veterans that are in need of a place to stay and the contact number is 372-1280.

Resolution awarding the sale of \$5,000,000 Taxable General Obligation Corporate Purpose Build America Bonds. Dawn Gunderson provided information on the bids received for this bond issue. The resolution came in at a lower amount of \$4,975,000. Another document titled 'Sales Results' was presented. Bids were opened earlier today and there were two bids received on the issue. The first bid was from Baird out of Milwaukee. The second bid was from M&I Marshall & Ilsley Bank. The M&I Bank bid did not meet the parameters required and the bid was subsequently rejected. There is a 35% rebate due to the Build America Bonds so the net cost in terms of the money is 4.1%. The first bond issue was at 3.68%. The bond buyer index today was at 4.86% and in 2009 it was at 4.41%. The market has seen an increase which reflects in the rates we are seeing at this sale. It was still wise for the City to go with the Build America Bonds. The changes in the rates are somewhat market driven. The Build America Bond option will not be available in 2011. Costs of issuance are limited to 2% on Build America Bonds. The impact in the change of interest expense is approximately 1-2 cents higher per thousand on an annual basis. Moody's has affirmed our A1 rating.

Motion by Buchda, second by Greeno to approve **Resolution 2010-12-14-49** awarding the sale of \$4,975,000 Taxable General Obligation Corporate Purpose Build America Bonds. Motion passed with roll call vote as follows: Bohlen, Schleicher, Buchda, Siekert, Cram, and Greeno voted yes.

RESOLUTION NO. 2010-12-14-49
RESOLUTION AWARDING THE SALE OF
\$4,975,000 TAXABLE GENERAL OBLIGATION CORPORATE PURPOSE BONDS
(BUILD AMERICA BONDS - DIRECT PAYMENT)

WHEREAS, on November 9, 2010, the Common Council of the City of Tomah, Monroe County, Wisconsin (the "City") adopted initial resolutions authorizing the issuance of general obligation bonds in an amount not to exceed \$2,610,000 for the public purpose of financing street improvement projects; in an amount not to exceed \$1,460,000 for the public purpose of financing water system improvements; and in an amount not to exceed \$930,000 for the public purpose of financing sewerage projects (collectively, the "Initial Resolutions");

WHEREAS, pursuant to the provisions of Section 67.05, Wisconsin Statutes, within 15 days following the adoption of the Initial Resolutions, the City Clerk caused a notice to electors to be published in the Tomah Journal/Monitor Herald, stating the purpose and maximum principal amount of the bond issues authorized by the Initial Resolutions and describing the opportunity and procedure for submitting a petition requesting a referendum on the bond issues authorized by the Initial Resolutions;

WHEREAS, no petition for referendum has been filed with the City Clerk, and the time to file such a petition has expired;

WHEREAS, on November 9, 2010, the Common Council of the City also adopted a resolution providing that the general obligation bonds authorized by the Initial Resolutions be combined, issued and sold as a single issue of general obligation corporate purpose bonds (the "Bonds") for the purpose of paying the cost of the projects described in the Initial Resolutions (the "Project");

WHEREAS, the Common Council hereby finds and determines that the Project is within the City's power to undertake and therefore serves a "public purpose" as that term is defined in Section 67.04(1)(b), Wisconsin Statutes;

WHEREAS, the City has directed its financial advisor, Ehlers & Associates, Inc. ("Ehlers") to take the steps necessary to sell the Bonds;

WHEREAS, Ehlers, in consultation with the officials of the City, prepared a Notice of Sale (a copy of which is attached hereto as Exhibit A and incorporated herein by this reference) setting forth the details of and the bid requirements for the Bonds and indicating that the Bonds would be offered for public sale on December 14, 2010;

WHEREAS, the City Clerk (in consultation with Ehlers) caused notice of the sale of the Bonds to be published and/or announced and caused the Notice of Sale to be distributed to potential bidders offering the Bonds for public sale;

WHEREAS, the City has duly received bids for the Bonds as described on the Bid Tabulation attached hereto as Exhibit B and incorporated herein by this reference (the "Bid Tabulation");

WHEREAS, it has been determined that the bid proposal (the "Proposal") submitted by the financial institution listed first on the Bid Tabulation fully complies with the bid requirements set forth in the Notice of Sale and is deemed to be the most advantageous to the City. Ehlers has recommended that the City accept the Proposal. A copy of said Proposal submitted by such institution (the "Purchaser") is attached hereto as Exhibit C and incorporated herein by this reference;

WHEREAS, it is the finding of the Common Council that it is desirable and in the best interest of the City to take the steps necessary to irrevocably designate the Bonds to be qualified "Build America Bonds" within the meaning of Subsection 54AA(g) of the Internal Revenue Code of 1986, as amended (the "Code") and the regulations promulgated thereunder by the U.S. Department of Treasury (the "Regulations") so that the City may claim refundable credits with respect to each interest payment on the Bonds, payable to the City by the Secretary of the United States Department of the Treasury ("Treasury");

WHEREAS, because the Common Council will designate the Bonds to be qualified Build America Bonds, the interest on the Bonds will be includible in gross income for federal income tax purposes under Subsection 54AA(f)(1) of the Code; and

WHEREAS, the Common Council now deems it to be necessary, desirable and in the best interest of the City that the Bonds be issued in the aggregate principal amount of \$4,975,000 for the following purposes and in the following principal amounts: \$2,597,000 to finance street improvement projects; \$1,453,000 to finance water system improvements; and \$925,000 to finance sewerage projects.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City that:

Section 1A. Ratification of the Notice of Sale and Offering Materials. The Common Council of the City hereby ratifies and approves the details of the Bonds set forth in Exhibit A attached hereto as and for the details of the Bonds. The Notice of Sale and any other offering materials prepared and circulated by Ehlers are hereby ratified and approved in all respects. All actions taken by officers of the City and Ehlers in connection with the preparation and distribution of the Notice of Sale and any other offering materials are hereby ratified and approved in all respects.

Section 1B. Award of the Bonds. The Proposal of the Purchaser offering to purchase the Bonds for the sum set forth on the Proposal (as modified on the Bid Tabulation), plus accrued interest to the date of delivery, is hereby accepted. The Mayor and City Clerk or other appropriate officers of the City are authorized and directed to execute an acceptance of the Proposal on behalf of the City. The good faith deposit of the Purchaser shall be retained by the City Treasurer until the closing of the bond issue, and any good faith deposits submitted by unsuccessful bidders shall be promptly returned. The Bonds bear interest at the rates set forth on the Proposal.

Section 2. Terms of the Bonds. The Bonds shall be designated "Taxable General Obligation Corporate Purpose Bonds (Build America Bonds - Direct Payment)"; shall be issued in the aggregate principal amount of \$4,975,000; shall be dated December 30, 2010; shall be in the denomination of \$5,000 or any integral multiple thereof; shall be numbered R-1 and upward; and shall bear interest at the rates per annum; and mature on December 1 of each year, in the years and principal amounts as set forth on the Pricing Summary attached hereto as Exhibit D-1 and incorporated herein by this reference. Interest is payable semi-annually on June 1 and December 1 of each year commencing on June 1, 2011. Interest shall be computed upon the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The schedule of principal and interest payments due on the Bonds is set forth on the Debt Service Schedule attached hereto as Exhibit D-2 and incorporated herein by this reference (the "Schedule").

Section 3. Redemption Provisions. (a) Optional Redemption: The Bonds maturing on December 1, 2021 and thereafter shall be subject to redemption prior to maturity, at the option of the City, on December 1, 2020 or on any date thereafter. Said Bonds shall be redeemable as a whole or in part, and if in part, from maturities selected by the City and within each maturity, by lot, at the principal amount thereof, plus accrued interest to the date of redemption.

(b) Extraordinary Redemption: The Bonds shall be subject to redemption prior to maturity, in whole or in part, at the option of the City, on any day, at a redemption price equal to 100% of the principal amount redeemed plus accrued interest to the date of redemption, in the event that an Extraordinary Event occurs.

An "Extraordinary Event" will have occurred if either (a) Section 54AA or 6431 of the Code is repealed, amended or modified in a manner which results in a reduction or elimination of the City's 35% cash subsidy payment from the United States Treasury or (b) the United States Treasury fails to make a cash subsidy payment to which the City is entitled and such failure is not caused by any action or inaction by the City.

(c) Mandatory Redemption: If the Proposal specifies that any of the Bonds are subject to mandatory redemption, the terms of such mandatory redemption are set forth on an attachment hereto as Exhibit MRP and incorporated herein by this reference.

Section 4. Form of the Bonds. The Bonds shall be issued in registered form and shall be executed and delivered in substantially the form attached hereto as Exhibit E and incorporated herein by this reference.

Section 5. Tax Provisions.

(A) Direct Annual Irrepealable Tax Levy. For the purpose of paying the principal of and interest on the Bonds as the same becomes due, the full faith, credit and resources of the City are hereby irrevocably pledged, and there is hereby levied upon all of the taxable property of the City a direct annual irrepealable tax in the years 2011 through 2029 for the payments due in the years 2011 through 2030 in the amounts set forth on the Schedule. The amount of tax levied in the year 2011 shall be the total amount of debt service due on the Bonds in the years 2011 and 2012; provided that the amount of such tax carried onto the tax rolls shall be abated by any amounts appropriated pursuant to subsection (D) below which are applied to payment of principal of or interest on the Bonds in the year 2011.

(B) Tax Collection. So long as any part of the principal of or interest on the Bonds remains unpaid, the City shall be and continue without power to repeal such levy or obstruct the collection of said tax until all such payments have been made or provided for. After the issuance of the Bonds, said tax shall be, from year to year, carried onto the tax roll of the City and collected in addition to all other taxes and in the same manner and at the same time as other taxes of the City for said years are collected, except that the amount of tax carried onto the tax roll may be reduced in any year by the amount of any surplus money in the Debt Service Fund Account created below.

(C) Additional Funds. If at any time there shall be on hand insufficient funds from the aforesaid tax levy to meet principal and/or interest payments on said Bonds when due, the requisite amounts shall be paid from other funds of the City then available, which sums shall be replaced upon the collection of the taxes herein levied.

(D) Appropriation. The City hereby appropriates from proceeds of the Bonds or other funds of the City on hand a sum sufficient to be irrevocably deposited in the segregated Debt Service Fund Account created below and used to pay the interest on the Bonds coming due on June 1, 2011 and December 1, 2011 as set forth on the Schedule.

Section 6. Segregated Debt Service Fund Account.

(A) Creation and Deposits. There be and there hereby is established in the treasury of the City, if one has not already been created, a debt service fund, separate and distinct from every other fund, which shall be maintained in accordance with generally accepted accounting principles. Debt service or sinking funds established for obligations previously issued by the City may be considered as separate and distinct accounts within the debt service fund.

Within the debt service fund, there hereby is established a separate and distinct account designated as the "Debt Service Fund Account for \$4,975,000 Taxable General Obligation Corporate Purpose Bonds (Build America Bonds - Direct Payment), dated December 30, 2010" (the "Debt Service Fund Account") and such account shall be maintained until the indebtedness evidenced by the Bonds is fully paid or otherwise extinguished. The City Treasurer shall deposit in the Debt Service Fund Account (i) all accrued interest received by the City at the time of delivery of and payment for the Bonds; (ii) any premium which may be received by the City above the par value of the Bonds and accrued interest thereon; (iii) all money raised by the taxes herein levied and any amounts appropriated for the specific purpose of meeting principal of and interest on the Bonds when due; (iv) such other sums as may be necessary at any time to pay principal of and interest on the Bonds when due; (v) all Direct Payments (defined below) received by the City; and (vi) such further deposits as may be required by Section 67.11, Wisconsin Statutes.

(B) Use and Investment. No money shall be withdrawn from the Debt Service Fund Account and appropriated for any purpose other than the payment of principal of and interest on the Bonds until all such principal and interest has been paid in full and the Bonds canceled; provided (i) the funds to provide for each payment of principal of and interest on the Bonds prior to the scheduled receipt of taxes from the next succeeding tax collection may be invested in direct obligations of the United States of America maturing in time to make such payments when they are due or in other investments permitted by law; and (ii) any funds over and above the amount of such principal and interest payments on the Bonds may be used to reduce the next succeeding tax levy, or may, at the option of the City, be invested by purchasing the Bonds as permitted by and subject to Section 67.11(2)(a), Wisconsin Statutes, or in permitted municipal investments under the pertinent provisions of the Wisconsin Statutes ("Permitted Investments"), which investments shall continue to be a part of the Debt Service Fund Account. Any investment of the Debt Service Fund Account shall at all times conform with the provisions of the Code and any applicable Regulations.

(C) Remaining Monies. When all of the Bonds have been paid in full and canceled, and all Permitted Investments disposed of, any money remaining in the Debt Service Fund Account shall be transferred and deposited in the general fund of the City, unless the Common Council directs otherwise.

Section 7. Proceeds of the Bonds; Segregated Borrowed Money Fund. The proceeds of the Bonds (the "Bond Proceeds") (other than any premium and accrued interest which must be paid at the time of the delivery of the Bonds into the Debt Service Fund Account created above) shall be deposited into a special fund separate and distinct from all other funds of the City and disbursed solely for the purposes for which borrowed. Monies in the Borrowed Money Fund may be temporarily invested in Permitted Investments.

Section 8. Qualified Build America Bond Designation; Irrevocable Election; Compliance with Federal Tax Laws. (a) The Bonds are hereby irrevocably designated qualified Build America Bonds within the meaning of Subsection 54AA(g) of the Code, and the City hereby irrevocably elects to apply Subsection 54AA(g) of the Code to the Bonds. The City represents that all Bond Proceeds, less costs of issuance financed with such Bond Proceeds (which costs shall be in an amount not to exceed 2% of such Bond Proceeds) plus all income from temporary Permitted Investments with respect to such Bond Proceeds ("Available Project Proceeds") shall be used only for capital expenditures. The City acknowledges that among the requirements for the Bonds to qualify and continue to qualify as qualified Build America Bonds is that the Bonds, but for their qualified Build America Bond designation, would be tax-exempt for federal income tax purposes, and hence that the requirements of the Code and Regulations regarding tax-exempt obligations apply to the Bonds. The City hereby covenants to comply with such requirements.

(b) The City thus further represents and covenants that the projects financed by the Bonds and their ownership, management and use will not cause the Bonds to be "private activity bonds" within the meaning of Section 141 of the Code. The City further covenants that it shall comply with the provisions of the Code to the extent necessary to maintain the qualified Build America Bond status of the Bonds including, if applicable, the rebate requirements of Section 148(f) of the Code. The City further covenants that it will not take any action, omit to take any action or permit the taking or omission of any action within its control (including, without limitation, making or permitting any use of the proceeds of the Bonds) if taking, permitting or omitting to take such action would cause any of the Bonds to be an arbitrage bond or a private activity bond within the meaning of the Code or would otherwise cause the Bonds to lose their status as qualified Build America Bonds within the meaning of Subsection 54AA(g) of the Code and the Regulations. The City Clerk or other officer of the City charged with the responsibility of issuing the Bonds shall provide an appropriate certificate of the City certifying that the City can and covenanting that it will comply with the provisions of the Code and Regulations.

(c) The City also covenants to use its best efforts to meet the requirements and restrictions of any different or additional federal legislation which may be made applicable to the Bonds provided that in meeting such requirements the City will do so only to the extent consistent with the proceedings authorizing the Bonds and the laws of the State of Wisconsin and to the extent that there is a reasonable period of time in which to comply.

(d) All investments made pursuant to this Resolution shall be Permitted Investments, but no such investment shall be made in such a manner as would cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code or the Regulations and an officer of the City, charged with the responsibility for issuing the Bonds, shall certify as to facts, estimates, circumstances and reasonable expectations in existence on the date of delivery of the Bonds to the Purchaser which will permit the conclusion that the Bonds are not "arbitrage bonds," within the meaning of the Code or Regulations.

Section 9. Qualified Build America Bonds - Application for Direct Payments to the City. The City shall claim available refundable credits from the Treasury with respect to each interest payment on the Bonds as provided under Subsection 54AA(g)(1) of the Code ("Direct Payments"). The Fiscal Agent (defined below) is hereby authorized and directed to take all necessary actions on behalf of the City to apply for the receipt by the City of such Direct Payments, including the timely filing of necessary Internal Revenue Service forms and information returns for that purpose and/or submitting requests electronically if and as the Treasury establishes an electronic platform in connection with its direct payment procedures. All Direct Payments received by the City shall be promptly deposited in the Debt Service Fund Account and used for no other purpose than as provided in Section 6 of this Resolution.

Section 10. Execution of the Bonds; Closing; Professional Services. The Bonds shall be issued in printed form, executed on behalf of the City by the manual or facsimile signatures of the Mayor and City Clerk, authenticated, if required, by the Fiscal Agent (defined below), sealed with its official or corporate seal, if any, or a facsimile thereof, and delivered to the Purchaser upon payment to the City of the purchase price thereof, plus accrued interest to the date of delivery (the "Closing"). The facsimile signature of either of the officers executing the Bonds may be imprinted on the Bonds in lieu of the manual signature of the officer but, unless the City has contracted with a fiscal agent to authenticate the Bonds, at least one of the signatures appearing on each Bond shall be a manual signature. In the event that either of the officers whose signatures appear on the Bonds shall cease to be such officers before the Closing, such signatures shall, nevertheless, be valid and sufficient for all purposes to the same extent as if they had remained in office until the Closing. The aforesaid officers are hereby authorized and directed to do all acts and execute and deliver the Bonds and all such documents, certificates and acknowledgements as may be necessary and convenient to effectuate the Closing. The City hereby authorizes the officers and agents of the City to enter into, on its behalf, agreements and contracts in conjunction with the Bonds, including but not limited to agreements and contracts for legal, trust, fiscal agency, disclosure and

continuing disclosure, and rebate calculation services. Any such contract heretofore entered into in conjunction with the issuance of the Bonds is hereby ratified and approved in all respects.

Section 11. Payment of the Bonds; Fiscal Agent. The principal of and interest on the Bonds shall be paid by Bond Trust Services Corporation, Roseville, Minnesota, which is hereby appointed as the City's registrar and fiscal agent pursuant to the provisions of Section 67.10(2), Wisconsin Statutes (the "Fiscal Agent"). The City will enter into a contract with the Fiscal Agent to serve as the City's fiscal agent pursuant to Wis. Stats. Sec. 67.10(2). The Mayor and City Clerk are hereby authorized to enter into such contract on the City's behalf. Such contract may provide among other things, for the performance by the Fiscal Agent of the functions listed in Wis. Stats. Sec. 67.10(2)(a) to (j), where applicable, with respect to the Bonds.

Section 12. Persons Treated as Owners; Transfer of Bonds. The City shall cause books for the registration and for the transfer of the Bonds to be kept by the Fiscal Agent. The person in whose name any Bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes and payment of either principal or interest on any Bond shall be made only to the registered owner thereof. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

Any Bond may be transferred by the registered owner thereof by surrender of the Bond at the office of the Fiscal Agent, duly endorsed for the transfer or accompanied by an assignment duly executed by the registered owner or his attorney duly authorized in writing. Upon such transfer, the Mayor and City Clerk shall execute and deliver in the name of the transferee or transferees a new Bond or Bonds of a like aggregate principal amount, series and maturity and the Fiscal Agent shall record the name of each transferee in the registration book. No registration shall be made to bearer. The Fiscal Agent shall cancel any Bond surrendered for transfer.

The City shall cooperate in any such transfer, and the Mayor and City Clerk are authorized to execute any new Bond or Bonds necessary to effect any such transfer.

Section 13. Record Date. The fifteenth day of each calendar month next preceding each interest payment date shall be the record date for the Bonds (the "Record Date"). Payment of interest on the Bonds on any interest payment date shall be made to the registered owners of the Bonds as they appear on the registration book of the City at the close of business on the Record Date.

Section 14. Utilization of The Depository Trust Company Book-Entry-Only System. In order to make the Bonds eligible for the services provided by The Depository Trust Company, New York, New York ("DTC"), the City agrees to the applicable provisions set forth in the Blanket Issuer Letter of Representations previously executed on behalf of the City and on file in the City Clerk's office.

Section 15. Payment of Issuance Expenses. The City authorizes the Purchaser to forward the amount of the proceeds of the Bonds allocable to the payment of issuance expenses to KleinBank, Chaska, Minnesota at Closing for further distribution as directed by Ehlers.

Section 16. Official Statement. The Common Council hereby approves the Preliminary Official Statement with respect to the Bonds and deems the Preliminary Official Statement as "final" as of its date for purposes of SEC Rule 15c2-12 promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934 (the "Rule"). All actions taken by officers of the City in connection with the preparation of such Preliminary Official Statement and any addenda to it or Final Official Statement are hereby ratified and approved. In connection with the Closing, the appropriate City official shall certify the Preliminary Official Statement and any addenda or Final Official Statement. The City Clerk shall cause copies of the Preliminary Official Statement and any addenda or Final Official Statement to be distributed to the Purchaser.

Section 17. Undertaking to Provide Continuing Disclosure. The City hereby covenants and agrees, for the benefit of the owners of the Bonds, to enter into a written undertaking (the "Undertaking") required by the Rule to provide continuing disclosure of certain financial information and operating data and timely notices of the occurrence of certain events in accordance with the Rule. The Undertaking shall be enforceable by the owners of the Bonds or by the Purchaser on behalf of such owners (provided that the rights of the owners and the Purchaser to enforce the Undertaking shall be limited to a right to obtain specific performance of the obligations thereunder and any failure by the City to comply with the provisions of the Undertaking shall not be an event of default with respect to the Bonds).

The City Clerk, or other officer of the City charged with the responsibility for issuing the Bonds, shall provide a Continuing Disclosure Certificate for inclusion in the transcript of proceedings, setting forth the details and terms of the City's Undertaking.

Section 18. Record Book. The City Clerk shall provide and keep the transcript of proceedings as a separate record book (the "Record Book") and shall record a full and correct statement of every step or proceeding had or taken in the course of authorizing and issuing the Bonds in the Record Book.

Section 19. Bond Insurance. If the Purchaser of the Bonds determines to obtain municipal bond insurance with respect to the Bonds, the officers of the City are authorized to take all actions necessary to obtain such municipal bond insurance. The Mayor and City Clerk are authorized to agree to such additional provisions as the bond insurer may reasonably request and which are acceptable to the Mayor and City Clerk including provisions regarding restrictions on investment of Bond proceeds, the payment procedure under the municipal bond insurance policy, the rights of the bond insurer in the event of default and payment of the Bonds by the bond insurer and notices to be given to the bond insurer. In addition, any reference required by the bond insurer to the municipal bond insurance policy shall be made in the form of Bond provided herein.

Section 20. Conflicting Resolutions; Severability; Effective Date. All prior resolutions, rules or other actions of the Common Council or any parts thereof in conflict with the provisions hereof shall be, and the same are, hereby rescinded insofar as the same may so conflict. In the event that any one or more provisions hereof shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions hereof. The foregoing shall take effect immediately upon adoption and approval in the manner provided by law.

Adopted, approved and recorded December 14, 2010.

John J. Rusch, Mayor

ATTEST: JoAnn M. Cram, City Clerk

City Administrator. Report was submitted electronically to Council members.

City Clerk. City Clerk Jo Cram provided information on the Spring Election, Budget Books, Mill Rate and City Website.

Public Works & Utilities – Water, Sewer, Public Works & Lake Updates. Public Works & Utilities Director Ken Patterson provided a written report to the Council. There was a water main break on Hollister and View Street. Winter maintenance is being conducted at the Sewer plant. Mr. Patterson encouraged Council members to ride with the snow plow drivers. Mr. Patterson reminded citizens not to blow snow into the street or onto their neighbor's property and to check the furnace vents and gas meters. Assistance in cleaning out fire hydrants is also appreciated.

Library Report. Library Director Irma Keller advised there was a good attendance at the annual Christmas Tea fundraiser. Director Keller thanked Tony Hinden for his Library Board service.

Chamber of Commerce/Convention & Visitors Bureau. Ex. Director Chris Hanson advised room tax figures were received for the third quarter and they are up 7% from the prior year, however the prior year was 12% down from the year before. We are starting to increase the stays at the hotels which is a good sign. The Veteran's Memorial Committee is receiving a \$7500 check from the Ho Chunk legislature this Friday at the American Legion designated for the dedication pillar. The other pillar will be the Tomah School District KIA. There are Tomah Veterans Memorial T Shirts available for sale at \$15 as a fundraiser.

Tomah Public Housing & Community Development Block Grant Monthly Report. Director Rachel Muehlenkamp provided a summarized report. All apartments are currently full.

Senior & Disabled Services Report. No report.

Parks and Recreation Monthly Report. Parks and Recreation Director Joe Protz provided a written summary for the Council. Winter programs are in full swing and crews are busy with snow removal. It was the goal to keep the trails open for the winter however, with the amount of snow we received, it is difficult. As soon as the weather improves, staff will work on clearing the trail. Special needs holiday party will be held Monday, December 20th at 5:30 p.m. at Recreation Park.

Lake Tomah Committee Update. Fish have been stocked (5700 large mouth bass and another 1600 from Genoa and 105 from Ft. McCoy.) Northern pike are expected to be stocked. Blue gills are also in the lake. The new lake map is complete and available at City Hall. Some tests were conducted and the lake scored very high as benefits of the drawdown are being seen. We will be working on the aquatic invasive species plan and the management plan is right on schedule.

Treasurer's Cash & Investment Reports. Motion by Schleicher, second by Cram to accept the Treasurer's Investment Report for November, 2010. Motion passed without negative vote. Cash report will be available in January.

Bartender Licenses.

Motion by Buchda, second by Siekert to approve the bartender's license as listed with the exception of Matthew M. Anderson who is denied due to alcohol related convictions. Bartender licenses approved as follows: Susan L. Champlin, Tricia M. Guntner, Lisa M. Schroeder.

"Class B" Fermented Malt Beverage (Beer) License and Class "B" Liquor License Expiring June 30, 2011 (Applications From Three Establishments for the one license): 1. Patrick Murphy for Dimensions II L.L.C. at 1110 Superior Avenue, Tomah, WI (Requesting the Regular License in lieu of the Reserve License) 2. Cancun Bay, Ltd. – Jesus Gonzalez Hidalgo for Cancun Mexican Restaurant at 1422 Superior Avenue, Tomah, WI 3. Jason Lowry for The Gas Alley Pub at 1204 Superior Avenue, Tomah, WI. Jesus Gonzalez-Hidalgo, Patrick Murphy and Jason Lowry appeared before the Committee of the Whole and presented reasons why they should get the license. It was the consensus of the committee that due to the start up costs of opening a restaurant and the fact that it was a new restaurant creating jobs, Jesus Gonzalez-Hidalgo should obtain the license. The regular license would enable Cancun Restaurant to remodel and do other things for the restaurant. Patrick Murphy advised he has held the reserve license for seven years and it is more beneficial to have the regular license as there are fewer restrictions. Jason Lowry of The Gas Alley Pub is the current owner of the building and previous license holder. Mr. Lowry owes delinquent property taxes for this property and also an outstanding water & sewer charge. The Department of Revenue has 3 judgments against Mr. Lowry and he has been involved in various ordinance violations relating to alcohol issues. After further thought, Alderperson Buchda would like to refer this for further consideration to the Long Range Planning Committee. Mayor Rusch also feels we should proceed slow on this and get some input from the committee on future desires of the City. The Long Range Planning Committee meets on January 4th and this item will be back on the January Council agenda.

Motion by Buchda, second by Cram to refer this to the Long Range Planning Committee for evaluation of the long range needs of the City since this is the only license left. Motion passed without negative vote.

"Class C" Wine License for Paula J. Caucutt for Natural Connection at 1012 Superior Avenue, Tomah, WI

Motion by Buchda, second by Cram to approve the "Class C" wine license for Paula J. Caucutt for Natural Connection at 1012 Superior Avenue, Tomah. Motion passed without negative vote.

Taxi Cab License Renewal for CJ's Taxi

Wendy Steyer of CJ's Taxi has applied for renewal of her taxi cab license for the year 2011 for one vehicle. Inspections have been completed and insurance certificate is on file.

Motion by Siekert, second by Greeno to approve the renewal of the taxi cab license for CJ's Taxi for 2011 (2006 Saturn VIN #1G8AZ55F46Z110648). Motion passed without negative vote.

Taxi Cab License Renewals for Ace Cab Co.

David Lincoln of Ace Cab Co. has applied for renewal of his taxi cab license for the year 2011 for six vehicles. Inspections have been completed and insurance certificate is on file.

Motion by Siekert, second by Bohlen, to approve the renewal of the taxi cab license for Ace Cab Co. for 2011(1992 Chevrolet Caprice VIN #161BL53E6NR104900, 1995 Mercury Grand Marquis VIN #2MELM75W4SX644272, 1997 Ford Crown Victoria VIN #2FALP73WXVX127984, 1993 Chevrolet Caprice VIN #1G1BL53E5PR121528, 1993 Chevrolet Caprice VIN #1G1BL53E2PR142725, 1992 Chevrolet Caprice VIN #1G1BL53EXNR149225). Motion passed without negative vote.

Taxi Cab License Renewals for F.D.S. Enterprises

Douglas Luchsinger of F.D.S. Enterprises d/b/a Tomah Transit has applied for renewal of his taxi cab license for the year 2011 for three vehicles. Inspections have been completed and insurance certificate is on file.

Motion by Siekert, second by Cram to approve the renewal of the taxi cab license for F.D.S. Enterprises for 2011 (2010 Dodge Braun Van VIN #2D4RN4DE8AR205999, 2010 Dodge Braun Van VIN #2D4RN4DE6AR205998, 2010 Dodge Braun Van VIN #2D4RN4DE4AR205997). Motion passed with one negative vote. (Schleicher)

Secondhand Jewelry Dealer & Secondhand Article Dealer License Renewal for Carolyn Habelman, Antique Mall of Tomah at 1510 Eaton Avenue, Tomah, WI.

Motion by Siekert, second by Buchda to approve the renewal of the secondhand jewelry dealer and secondhand article dealer license for Carolyn Habelman of The Antique Mall of Tomah at 1510 Eaton Ave., Tomah. Motion passed without negative vote.

Pawnbroker License Renewal for Douglas & Dawn Duncan, Pioneer Pawn Shop at 108 E. Veterans Street, Tomah, WI

Motion by Siekert, second by Cram to approve the renewal of the pawnbroker license for Douglas & Dawn Duncan of Pioneer Pawn Shop at 108 E. Veterans St., Tomah. Motion passed without negative vote.

Resolution denying claim of Josanne Burgess

A claim was received regarding alleged damage to her vehicle on July 28, 2010. The insurance company completed their investigation and is recommending denial as there is no negligence on behalf of the City.

Motion by Greeno, second by Cram, to approve **Resolution No. 2010-12-14-50** denying the claim of Josanne Burgess. Motion passed without negative vote.

RESOLUTION NO. 2010-12-14-50

RESOLUTION DENYING CLAIM OF JOSANNE BURGESS

WHEREAS, a Notice of Claim was filed against the City of Tomah alleging vehicle damage due to striking a patched area while traveling on Superior Avenue in Tomah, Wisconsin on July 28, 2010; and,

WHEREAS, on December 13, 2010 the Committee of the Whole reviewed the same and has recommended that said claim be denied.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Tomah that the claim of Josanne Burgess be and is hereby denied.

Dated this 14th day of December, 2010.

John Rusch, Mayor

ATTEST: JoAnn M. Cram, City Clerk

Approval of Scope of Engagement Regarding proposed issuance of \$5,000,000 with Quarles & Brady LLP

Motion by Greeno, second by Cram to approve the Scope of Engagement for the proposed issuance of \$5,000,000 City of Tomah General Obligation Refunding Bonds as presented and authorize the Mayor to sign the document. Motion passed without negative vote.

Ordinance amending Section 38-30 (a) regarding snow and ice removal

The Public Works and Utilities Commission is recommending that the ordinance be amended so that the City can better enforce snow removal requirements. The time allowed to remove snow will be changed from 48 to 24 hours after a snowfall. Property will be tagged giving an additional 24 hours and if the sidewalk is still not cleared, the contractor will remove the snow and the property owner will be billed a minimum of \$100.

Motion by Greeno, second by Siekert, to waive the first verbatim reading of the ordinance amending Section 38-30 (a) regarding snow and ice removal. Motion passed without negative vote.

Motion by Greeno, second by Bohlen, to waive the second verbatim reading of the ordinance amending Section 38-30 (a) regarding snow and ice removal. Motion passed with aye votes from Greeno, Bohlen and Schleicher and Mayor Rusch broke the tie to pass. Nays were Siekert, Cram and Buchda. Discussion: Alderpersons Buchda and Cram would like to wait to pass this ordinance for public input on the passage of this ordinance and give citizens an opportunity to contact their alderperson. Alderperson Greeno feels that delaying this ordinance will not solve any of the problems. Alderperson Cram feels that the system normally works with the first verbatim reading one month and the second reading and adoption the following month. Notices will not be posted on Sunday, nor will snow be removed by the City on Sunday. The new ordinance does not make it any harder, it simply clarifies the process. Currently, the old ordinance is being followed. In the meantime, it is requested that citizens help each other out with their sidewalks to try to get the sidewalks cleaned in a timely manner. Monroe County does have community service workers available to assist with clearing snow for people who can't do it themselves.

Motion by Greeno, second by Bohlen, to adopt **ORDINANCE 2010-12-04-D** amending Section 38-30 (a) regarding snow and ice removal. Motion passed with negative votes from Siekert, Cram, and Buchda. Ayes – Schleicher, Bohlen and Greeno with Mayor Rusch breaking the tie.

Ordinance No. 2010-12-04-D

ORDINANCE AMENDING SECTION 38-30 (a) OF THE MUNICIPAL CODE OF THE CITY OF TOMAH

The Common Council of the City of Tomah do ordain as follows:

SECTION ONE: Section 38-30(a) of the Municipal Code is hereby amended to read as follows:

Sec. 38-30. Snow and ice removal.

- (a) Owners responsibility. The owner or occupant of any lot or parcel shall promptly each day, and in no event later than 24 hours after any snowstorm, remove all snow and ice which may have fallen or accumulated upon the sidewalk in front of such lot or parcel; provided, when ice has so formed that it cannot be removed, the owner or occupant shall keep the same sprinkled with a material which will prevent the sidewalk from being dangerous to pedestrians. This provision does not apply to the owner or occupant of any sidewalk 25 feet or more away from the respective property line of the owner or occupant.

SECTION TWO: All ordinances in conflict with the foregoing are hereby repealed.

SECTION THREE: This ordinance shall take effect upon passage and publication.

John J. Rusch, Mayor

ATTEST: JoAnn Cram, City Clerk

Request to Carry Forward \$15,000 from 2010 Fund 8 Capital Projects Rec Park Outlay (Account #8-57621-820) to 2011 Capital Projects Rec Park Outlay (Account #8-576210-820) for Fencing at Recreation Park. In 2010, a Capital Projects Recreation Park \$15,000.00 joint fencing project with the Monroe County Agricultural Society didn't get accomplished due to time restraints.

Motion by Schleicher, second by Buchda, to approve the request to carry forward \$15,000.00 from Capital Outlay Recreation Park Account #8-57621-830 to 2011 Capital Outlay Recreation Park Account #8-57621-820 for fencing at Recreation Park. Motion passed without negative vote.

Petition and Resolution Approving the Discontinuance of a Portion of Improved / Unimproved Deer Creek Street (Birdd Properties, Inc.). Justin Birdd of Birdd Properties Inc. is requesting to vacate and discontinue a street known as Deer Creek Street described as: A sixty (60') wide portion of Deer Creek Street that is south and west of Grandview, three hundred and two (302') west of the intersection with Grandview Street located in Deer Creek Subdivision, Section 37, Township 18 North, Range 1 West, City of Tomah, also to include all utility easements. This would allow construction of multi-family housing.

Motion by Schleicher, second by Cram, to approve **Resolution No. 2010-12-14-51** discontinuing a portion of unimproved Deer Creek Street. Motion passed without negative vote.

RESOLUTION NO. 2010-12-14-51

RESOLUTION APPROVING THE DISCONTINUANCE OF A PORTION OF IMPROVED/UNIMPROVED DEER CREEK STREET

WHEREAS, Birdd Properties Inc. petition the City of Tomah, to on its own motion, discontinue all of Deer Creek Street described as: A sixty foot (60') wide portion of Deer Creek Street that is south and west of Grandview, three hundred and two foot (302') west of the intersection with Grandview Street located in Deer Creek subdivision, Section 37, Township 18 North, Range 1 West, City of Tomah, Monroe County, Wisconsin. Also including all utility easements on said lots. 15, 16, 17, 25, 26 and 27 also to be discontinued.

WHEREAS, Notice of hearing thereon by Class 3 notice under Chapter 985 Wis. Stats. was published and notification was provided to abutting property owners;

WHEREAS, Said hearing was held on November 18, 2010;

WHEREAS, the discontinuance of the above described portion of Deer Creek Street will make the construction of a multi-family housing feasible;

NOW, THEREFORE, BE IT RESOLVED, by the Common Council of the City of Tomah that the above described portion of Deer Creek Street is hereby discontinued in conformance with Wis. Stat. 66.1003 with the City retaining the necessary utility easements in the discontinued streets;

Resolution passed this 14th day of December, 2010.

John J. Rusch, Mayor

ATTEST: JoAnn M. Cram, City Clerk

Requesting the Use of Funds for Recreation Building Upgrades from Fund 8 Capital Projects Rec Park Outlay Buildings Account #8-57621-820 from the Remaining Balance of the Project of Upgrading the Office Building Restrooms. \$30,000 for Recreation Park Outlay Building was budgeted for repair and upgrades to the office building restrooms at Recreation Park. The cost for upgrades was around \$17,000 resulting in \$13,000 remaining in the fund. It is requested to use up to \$10,000 to upgrade the Recreation Building heating system, replace the water heater, and replace the door handles.

Motion by Schleicher, second by Buchda, to approve the 2010 Budget Amendment to use up to \$10,000 from Rec. Park Outlay Building (Account #8-57621-820) to upgrade the heating system, replace water heater and replace the door handles in the Recreation Building. Motion passed without negative vote.

Ordinance amending Section 28-82 regarding Carrying Dangerous Weapon

It is requested that the word "pistol" be eliminated from the current ordinance to be in compliance with State Statute.

Motion by Bohlen, second by Cram, to waive the first verbatim reading of the ordinance amending Section 28-82 regarding Carrying Dangerous Weapons. Motion passed without negative vote.

Ordinance amending Section 30-21 regarding Domestic Animals in City Parks.

A Committee was formed to review all animal ordinances. This amendment regarding animals in the parks is hereby requested.

Motion by Bohlen, second by Buchda, to waive the first verbatim reading of the ordinance amending Section 30-21 regarding domestic animals. Motion passed without negative vote.

Ordinance creating Article III, Chapter 8 (8-64-8-70) Animal Regulations

The Committee also requested adding language to include 8-64 Leading Animal from Motor Vehicle, 8-65 Use of Poisonous and Controlled Substances, 8-66 Instigating fights between Animals, 8-67 Shooting at Caged or Staked Animals, 8-68 Harassment of Police and Fire Animals, 8-69 Harassment of Service Dogs, and 8-70 Unlawful Public Sales of Animals.

Motion by Bohlen, second by Cram, to waive the first verbatim reading of the ordinance creating Section 8-64 to Section 8-70. Motion passed without negative vote.

Ordinance amending Article III, Chapter 8 (8-1, 8-23, 8-24, 8-56, 8-57, 8-118, 8-119, 8-121 and 8-149 and removing Sections 8-150, 8-151 and 8-152 regarding Animal Regulations

The Committee also requested amending various definitions, vaccination language, certificate language, neglected, abandoned and injured animals, animal care, limitation on number of cats and dogs, vaccinations, applicability, and removing Sections 8-150, 8-151 and 8-152 regarding notice to owner, redemption, and unclaimed animals.

Motion by Bohlen, second by Greeno, to waive the first verbatim reading amending Chapter 8 Sections 8-1, 8-23, 8-24, 8-56, 8-57, 8-118, 8-119, 8-121, 8-149 and removing Sections 8-150, 8-151 and 8-152 regarding animal regulations. Motion passed without negative vote.

Building Improvements – Administration Section of City Hall.

City Admin. Bialecki has a quote from B.J. Rice Enterprises for \$20,990.00 for sheetrock and paint for interior and exterior walls, new ceiling tiles, vinyl cove base, new electrical receptacles and switches, carpet cleaning, and a fixed window between main office and treasurer's office. This will create additional insulation and reduce heating costs. An audit was conducted on the work stations in the administration area by our Workers Comp. representative. New desks, chairs and keyboard

trays were suggested. The current configurations of all the work stations cause physical issues for all employees. There should be \$40,764.52 left in the building fund.

Motion by Bohlen, second by Greeno, to approve authorizing building improvements for the administration section of the building including the furniture at \$6,801.64 to complete the remodel process. Motion passed without negative vote.

Budget Amendment – Request for carryover of grant funds from the 2010 budget to the 2011 budget. In 2009, the Police Department applied for and received a Grant in the amount of \$19,151.00. The remaining \$719.16 is approved for use in the disposal of unwanted medications and prescription drugs.

Motion by Buchda, second by Siekert, to approve a 2010 budget amendment to carry forward \$719.16 from 2010 Budget Account #G 48500 Donations to 2011 Budget Account #1-52110-340 Community Services – Operating for use in the disposal of unwanted medications and prescription drugs. Motion passed without negative vote.

Request to Update Parks and Recreation Seasonal Job Descriptions and Approve Seasonal Rates. Joe Protz, Park and Rec. Director would like to update the job descriptions for part-time seasonal workers. He is also requesting approval of seasonal rate changes. Job Descriptions include: Summer Maintenance Worker, Red School House Museum Greeter, Head Lifeguard, Associate Head Lifeguard, Lifeguard, Pool Attendant, Summer Recreation Supervisor, Youth Baseball/Softball instructor and Field Maintenance Worker, Youth Instructor, Umpire/Official, Open Gym/Skate Supervisor, Program Supervisor, Fitness Instructor, Scorekeeper and Spring/Summer Intern.

Motion by Siekert, second by Cram, to approve the job descriptions as listed above and to approve seasonal rates as presented. Motion passed without negative vote.

Approval of the City of Tomah Election Emergency Contingency Plan

This plan has been developed in the event of an emergency on Election Day. It provides general direction for Election staff and city officials/departments when dealing with an emergency situation during the Election process.

Motion by Greeno, second by Buchda, to approve the City of Tomah Election Emergency Contingency Plan as presented. Motion passed without negative vote.

Resolution Authorizing Payment of Monthly Bills. Motion by Schleicher, second by Cram to approve **Resolution No. 2010-12-14-52** Authorizing Payment of the Monthly Bills. Motion passed without negative vote.

RESOLUTION NO. 2010-12-14-52 AUTHORIZING PAYMENT OF MONTHLY BILLS

BE IT RESOLVED by the Common Council of the City of Tomah that the Committee of the Whole has reviewed the monthly bills and recommends the City Council approve said bills as follows:

1. Pre-Paid Checks	\$ 288,080.52	(Check #'s 105841-105875)
2. Payroll	\$ 262,993.71	Direct Deposit (#25161-25454)
3. Wire Transfers	\$ 19,105.58	
4. Invoices	\$ 183,878.23	(Check #'s 105890-106024)
Total	\$ 754,058.04	

ATTEST: John J. Rusch, Mayor
JoAnn Cram, Clerk

Rehabilitation FR10-13. At the December 2, 2010 meeting of the Community Development Commission, it was recommended to the Common Council that a home improvement 4% loan in the amount of \$12,000 be approved for 520 N. Glendale Ave. for roof replacement and siding.

Motion by Buchda, second by Bohlen, to approve Rehabilitation FR 10-13 a 4% home improvement loan in the amount of \$12,000 for roof replacement and siding including removal of 3 layers of shingles. Motion passed without negative vote.

Ratification and Authorization for the Mayor and City Administrator to Sign the 2011-2012 WPPA Union Contract.

Motion by Buchda, second by Siekert, to approve the Ratification and Authorization to sign the 2011-2012 WPPA Union Contract. Motion passed without negative vote.

Ratification and Authorization for the Mayor and City Administrator to Sign the 2011-2012 AFSCME Union Contract.

Motion by Cram, second by Buchda, to approve the Ratification and Authorization to sign the 2011-2012 AFSCME Union Contract. Motion passed without negative vote.

Non Union Wage Increase.

Motion by Greeno, second by Buchda, to approve non union wage increases to be the same increases as the union employees for 2011. Motion passed without negative vote.

Update on Status of Veterans Memorial Oversight Group – Information Only. Alderperson Ted Schleicher advised a donation is being received from the Ho Chunk Nation this Friday at the American legion for a 2 p.m. program. There is approximately \$132,000 in the fund for this project. The tiles will increase from \$200 to \$250 and the bricks from \$75 to \$100 effective January 1st. Excavation has begun and in the spring the slab and pillars will be installed. Dedication is projected for over the 4th of July weekend.

Motion by Greeno, second by Siekert to adjourn. Motion passed without negative vote. Meeting adjourned at 8:07 p.m.

Approved: John J. Rusch, Mayor

Attest: JoAnn M. Cram, City Clerk
To be approved 01/11/2011