

The COMMON COUNCIL of the City of Tomah met in **REGULAR SESSION**, May 11, 2010 at 6:00 p.m. with Mayor John Rusch presiding.

Following the Pledge of Allegiance, roll call was taken with George Wright, Luke Bohlen, Ted Schleicher, Pam Buchda, Nellie Pater, Dennis Greeno, John Cram, and Larry Siekert present. Absent: None. Also in attendance: City Admin. Jim Bialecki, City Attorney Rick Radcliffe (arrived at 6:15 p.m.), and City Clerk JoAnn Cram. Gregg Hagen videotaped the meeting.

Motion by Cram, second by Greeno to adjourn to closed session pursuant to State Statute 19.85(1)(c) to confer with legal counsel with respect to Police Department non-represented compensation and to discuss authorization to negotiate deputy city clerk compensation package. Adjourned to closed session at 6:01 p.m. Motion passed without negative vote.

Meeting reconvened to open session at 6:30 p.m.

**Anyone Desiring to Appear Before the City Council.**

**Minutes:** Motion by Greeno, second by Bohlen, to approve the April 13, 2010 Regular Council minutes as presented. Motion passed without negative vote.

Motion by Cram, second by Greeno to approve the April 20, 2010 Special Reorganizational Council minutes as presented. Motion passed without negative vote.

**Mayor Report. Distinguished Service Resolution in Recognition of Joe McDaniel.**

Motion by Schleicher, second by Buchda to adopt **Resolution No. 2010-05-11-20** Distinguished Service Resolution in recognition of Joe McDaniel. Motion passed without negative vote.

**RESOLUTION NO. 2010-05-11-20  
DISTINGUISHED SERVICE RESOLUTION IN RECOGNITION OF  
JOE MC DANIEL  
FOR DEDICATED SERVICE AND COMMITMENT  
ON THE LAKE RESTORATION PROJECT  
2002 TO 2010**

WHEREAS, However effective government may be in serving the needs of its citizens, the soul of our city and its' vitality as a place to live and work depend on the relationship of families, friends and neighbors. Strengthening those bonds is not as much in the hands of institutions or governments as it is in the hearts of the people and individuals, who take that extra step and work to help people of all ages, races and religions, and

WHEREAS, Joe McDaniel has served the City of Tomah by working countless hours in an effort to restore, beautify and improve the recreational use and ecological value of Lake Tomah and, as a member and leader serving on the Lake Committee, Joe was instrumental in initiating a partnership with the Wisconsin Department of Natural Resources and the Monroe County Land Conservation Department in an effort to explore the opportunity to improve the current conditions of Lake Tomah, and

WHEREAS, His outstanding dedication and service to our community and surrounding area over the course of this lengthy and challenging project has resulted in the completion of a new lake map, a lake drawdown, carp eradication using rotenone, and sport fish stocking, and

NOW THEREFORE, BE IT RESOLVED, that as Mayor of the City of Tomah, and on behalf of our City, we commend Joe for his outstanding contribution to others and to our community who will enjoy Lake Tomah for many years to come. The Common Council of the City of Tomah does hereby express its sincere appreciation and thanks to Joe for his dedicated public service to the citizens of the City of Tomah and extends its best wishes for his health and happiness.

Dated this 11<sup>th</sup> day of May, 2010.

John J. Rusch, Mayor

ATTEST: JoAnn M. Cram, City Clerk

**Mayor.** Mayor Rusch provided a summarized report of top taxpayers over the past two years, and comparisons between 2000 and 2009 regarding increases in valuation, new construction, and governmental jobs in the Tomah area.

**City Administrator.** No report.

**City Clerk.** The City of Tomah website can be found at [www.tomahonline.com](http://www.tomahonline.com). Open Book is scheduled for May 28<sup>th</sup> at City Hall. Board of Review is scheduled for Thursday, June 10<sup>th</sup> from 10 a.m. to Noon. Interviews for deputy city clerk will be conducted on Wednesday, May 12<sup>th</sup>.

**Lake Tomah Committee Update.** Kim Mello of the Lake Committee advised that on March 30<sup>th</sup>, the DNR electro-shocked and netted the Lake and found zero carp. There were three native fish species found. The DNR will stock the lake as the fish supply is available. There will be a committee meeting in the next few weeks to elect a new chairperson. Vegetation on the islands was burned a few weeks ago. The DNR planted 40 white oaks after the burning on the islands.

**Public Works & Utilities – Water, Sewer, Public Works & Lake Updates.** Public Works & Utilities Director Ken Patterson provided a written report to the Council. Water mains have been flushed. Hollister Avenue project is progressing. The new phosphorous law is coming to the State of Wisconsin. If the law is imposed, new limits would require significant additional funding for the

city to meet the standards. Municipalities are very much against this law change. It will take 5 – 10 years to implement this if the law passes. The lake is at the level it will remain until the end of August – 3 feet low. There is an informational meeting on Wed., May 12 at 5 p.m. regarding Hollister Avenue for citizens for work that will be done in addition to what was already approved.

**Library Report.** Library Director Irma Keller advised they celebrated National Library Week last month. The library offers a DVD cleaning service for \$3 per DVD. The Friends of the Library are selling a tote bag as a fundraiser. The library is planning to ask for money to build a parking lot next to the Library from the Andres Fund and the Thomas B. Earl Fund. The Friends of the Library have contributed \$1500 towards this project.

**Chamber of Commerce/Convention & Visitors Bureau.** Executive Director Chris Hanson provided a report regarding state tourism numbers. Overall, state numbers are down. The room tax in the City is impacted mainly by the Fort McCoy business. We are down about 8% in Monroe County for tourism dollars. There is a Lunch and Learn Tuesday, May 18<sup>th</sup> put on by WTC on Impacts and Challenges for your Business and Social Media. The 4<sup>th</sup> of July parade entries are being accepted at the Chamber. More participants have been recruited for the 4<sup>th</sup> of July fireworks but more funding is needed for this family event. Teacher Appreciation Business After 5 is next week at the Holiday Inn. This Saturday the Tomah Veterans Memorial Committee will be doing celebrity bartending at the Ground Round.

**Tomah Public Housing & Community Development Block Grant Monthly Report.** Director Rachel Muehlenkamp provided a summarized report. They are proceeding on working on the crawl spaces at Lakeside. The audit report is complete.

**Senior & Disabled Services Report.** A written report was provided. The apartment on the upper level has been rented.

**Treasurer's Cash & Investment Reports – March 2010.** Motion by Siekert, second by Cram to accept the Treasurer's Cash & Investment Report for March, 2010. Motion passed without negative vote.

**Rehabilitation FR10-4.** The CDBG has recommended that the Common Council approve a deferred payment home improvement loan in the amount of \$3,500 for improvements at 211 N. Superior Avenue for floor replacement in the living room, 2 bedrooms and a hallway.

Motion by Wright, second by Schleicher to approve **Rehabilitation FR10-4**, a deferred payment home improvement loan in the amount of \$3,500 for improvements as listed at 211 N. Superior Avenue. Motion passed without negative vote.

**Rehabilitation SR10-5.** The CDBG has recommended that the Common Council approve a 2% home improvement loan in the amount of \$6,000 for 513 McLean Avenue for materials only for siding, insulation, soffit & fascia, with owner to complete the installation.

Motion by Wright, second by Bohlen to approve **Rehabilitation SR10-5**, a 2% home improvement loan in the amount of \$6,000 for 513 McLean Avenue for improvements as listed with the owner to complete the installation. Motion passed without negative vote.

**Special Beer Permits – MC Support Service LLC for the Grand National Tractor Pull, Recreation Park – 6/23-27/2010 and for the Monroe County Fair, Rec Park, 7/28-8/1/2010.**

**Special Beer Permits – Veterans Association for the Grand National Tractor Pull, Recreation Park – 6/23-27/2010 and for the Monroe County Fair, Recreation Park, 7/28-8/1/2010.**

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 beer license for the grandstand and bleacher areas and lease all the grounds and buildings except for the fenced in beer tent area which has traditionally been occupied by the Veterans Association, and the Veterans Assoc. will lease their beer garden area and have authorization to occupy that portion of the grounds and be issued a license to sell beer in that area only. Both of the associations have made applications to rent Recreation Park for 2010. Clarification was requested regarding the date of creation of the bona fide club and the City received confirmation that the club was formed in July of 2009 and filed for LLC in December of 2009 and was therefore in existence the six months required by statute.

The City provides the grounds for the event and the City provides the permit for the clubs to sell beer. Both organizations have different interests and part of the issue is that the City doesn't get

involved in the management of the event. The City will grant a permit to both organizations for specific areas to participate in the event. Everyone expects the Vets Association to contribute to the overall event and they have historically done that. The Ag Society coordinates the event and pays for the advertising and brings the event to the City.

Motion by Schleicher, second by Greeno to approve a Special Beer Permit to the 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 for the Grandstand and Bleacher areas and to approve a Special Beer Permit to the Tomah Veterans Association, Inc. for the Grand National Tractor Pull, Recreation Park – June 23-27, 2010 and for Monroe County Fair, Recreation Park, July 28-August 1, 2010 for the Veterans Beer Garden area. Motion amended to add the following: “according to the lease agreement at a price of \$1 per day”. The amendment was not seconded and the motion dies.

Motion by Schleicher, second by Greeno to approve a Special Beer Permit to the 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 for the Grandstand and Bleacher areas and to approve a Special Beer Permit to the Tomah Veterans Association, Inc. for the Grand National Tractor Pull, Recreation Park – June 23-27, 2010 and for Monroe County Fair, Recreation Park, July 28-August 1, 2010 for the Veterans Beer Garden area. In addition, the motion is to grant two rental agreements – one to the Veterans Assoc. for the beer garden as defined by the area they have traditionally utilized enclosed by the orange snow fence. In addition, a rental lease would be granted to the Ag Society to include the balance of the grounds and buildings at Recreation Park. In addition the motion is to charge nothing to the Vets Assoc. for the lease of those grounds and to reduce the fee owed by the Ag Society to the City by the sum of \$360 because the lease will exclude the beer garden area. Motion passes with two negative votes (Buchda and Pater).

**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 recommended 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 and moving the Farmers Market to Burnstad’s. The recommendation from the Committee of the Whole is different as they are requesting amending the ordinance keeping the \$20 registration fee, allowing re-sellers to participate and retaining the location of Gillett Park on Holton and Superior Avenue. A draft of the revisions is provided for review.

Ronald and Karen Waege of Warrens addressed concerns regarding the Farmers Market regulations being discussed. Monroe County Health Department receives the complaints from the State. Rod Sherwood appeared and advised they own the building across from the Farmers Market and they have complained in the past regarding the parking and the safety. The Farmers Market has grown and parking is a big issue. There is no sidewalk on the rest of the block behind the Sherwood property and kids cross the street to get to the sidewalk. Downtown Tomah is meeting tomorrow and they will try to help. An option would be for public works and the police department to get signage by the business for beauty shop parking only during the farmer’s market hours. The Amish also park their horses and buggies in the alley and damage lawns and leave manure behind. Chris Hanson, Director of Chamber of Commerce researched chambers and CVB’s around the state and he did not receive one positive comment back that allow resellers in their farmers markets. A lot of communities take the stand that they do not allow resellers. His suggestion is to think about what you want the farmers market to mean to the City of Tomah – to you as a consumer and to the City of Tomah.

Motion by Buchda, second by Wright to waive the first verbatim reading of the ordinance as amended by the Committee of the Whole 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 to allow re-sellers, keep the location at Gillett Park and require registration and a fee to participate in the Farmers Market. Motion passed without negative vote.

Motion by Buchda, second by Wright to waive the second verbatim reading of the ordinance as amended by the Committee of the Whole 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 to allow re-sellers, keep the location at Gillett Park and require registration and a fee to participate in the Farmers Market. Motion passed without negative vote.

Motion by Buchda, second by Wright to adopt **Ordinance No. 2010-05-01D** amended by the Committee of the Whole 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 to allow re-sellers, keep the location at Gillett Park and require registration and a fee to participate in the Farmers Market. Motion passed without negative vote.

**ORDINANCE NO. 2010-05-01D**

**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**

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

**SECTION ONE:** Section 12.61 is hereby amended to read as follows:

**ARTICLE III. FARMERS' MARKET**

**Sec. 12-61. Sales of certain goods restricted.**

There is hereby established a farmers' market within the city. Except for sales within enclosed structures and business establishments within the city, all persons offering for sale articles for human consumption, such as fruits, vegetables, edible grains, nuts and berries, apiary products, baked goods, maple sugars, syrups and eggs or nonedible articles, such as cut or potted flowers, may offer same for sale only within the designated farmers' market. No such sales as described above shall be made in any other place within the city.

(Code 1993, § 12.14(1); Ord. No. 2007-09-09-C, § 1(12.14(1)), 9-10-2007)

**SECTION TWO:** Sections 12.62, 12.63 and 12.64 are created and inserted to read as follows:

**Sec. 12-62. Registration required.**

No seller shall engage in sales at the farmer's market within the city without being registered for that purpose as provided herein.

**Sec. 12-63. Registration form.**

Applicants for registration shall complete and return to the clerk a registration form furnished by the clerk at least 15 days prior to issuance of the registration that shall contain the following information:

- (1) Applicant's complete name, permanent address and telephone number, and temporary address, if any;
- (2) Applicant's age, height, weight, color or hair and eyes;
- (3) Name, address and telephone number of the person, firm, association or corporation that the applicant represents or is employed by, or whose merchandise is being sold;
- (4) Temporary address and telephone from where business will be conducted, if any;
- (5) Nature of business to be conducted and a brief description of the merchandise, and any services offered;
- (6) Make, model and license number of any vehicle to be used by the applicant in the conduct of his business;
- (7) Place where the applicant can be contacted for at least seven days after leaving this city;
- (8) Statement as to whether applicant has been convicted of any crime or ordinance violation related to applicant's participation in a farmer's market within the last five years, and the nature of the offense and the place of conviction.

(Code 1993, § 12.07(4)(a))

**Sec. 12-64. Supporting documents.**

With the registration form, applicants shall present to the clerk for examination:

- (1) A driver's license or some other proof of identity as may be reasonably required.

**SECTION THREE:** Sections 12-65, 12-66, and 12-67 are created to read as follows:

**Sec. 12-65. Fees.**

At the time the registration is returned, a fee in the amount determined by the city council shall be paid to the clerk to cover the cost of the processing of the registration and copying related information.

**Sec. 12-66. Registration; term.**

Upon compliance with all of the foregoing conditions, including payment of the fee and designation of the registered agent, the clerk shall register the applicant as a farmer's market seller and date the entry. The registration shall be valid for a period of a calendar year from the date of entry subject to subsequent refusal as provided in this section.

(Code 1993, § 12.07(4)(d))

**Sec. 12-67. Display of registration certificate.**

If the business is being conducted from a vehicle or stationary structure, or table, the certificate of registration or facsimile thereof shall be displayed prominently thereon. The placard issued by the clerk's office shall be displayed

**SECTION FOUR:** Sections 12-68, 12-69, and 12-70 are created (previously numbered 12-62, 12-63, and 12-64) and amended to read as follows:

**Sec. 12-68. Location.**

The area of the farmers' market shall be along the Northern side of East Holton St. and Superior Avenue at Gillett Park, restricted to the area between Superior Ave. and Kilbourn Ave.

(Code 1993, § 12.14(2); Ord. No. 2007-09-09-C, § 1(12.14(2)), 9-10-2007)

**Sec. 12-69. Hours of operation.**

The farmers' market shall be open for operation every Wednesday from 12:00 p.m. to 6:00 p.m. and every Saturday from 7:00 a.m. to 1:00 p.m. from May 1 through October 31 of each year.

(Code 1993, § 12.14(3); Ord. No. 2007-09-09-C, § 1(12.14(3)), 9-10-2007)

**Sec. 12-70. Compliance required.**

All vendors and participants of the farmers' market shall comply with the local, state and federal rules and regulations regarding the respective articles being offered for sale. Failure to comply with the rules and regulations or violations of ordinances related to the Farmer's Market will be grounds for revocation of the applicants registration.

(Code 1993, § 12.14(3); Ord. No. 2007-09-09-C, § 1(12.14(4)), 9-10-2007)

Secs. 12-70--12-86. Reserved.

**SECTION FIVE:** All Ordinances in conflict with the foregoing are hereby repealed.

**SECTION SIX:** This ordinance shall take effect as of July 10, 2010.

John J. Rusch, Mayor

ATTEST:

JoAnn M. Cram, City Clerk

**Request for Exception to City Ordinance Regarding Three Dogs at 464 Green Acre Ave.** The Baumbach's have requested permission to house three dogs at their residence. This item was tabled for 30 days at the April meeting to allow the Baumbach's time to comply with the ordinance. The Committee of the Whole was advised that another member of the family has agreed to take one dog.

**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 – June 30, 2011. Mr. Laufenberg advised he has hired all new bartenders and has made numerous changes in management. Tim Laufenberg guaranteed the bar will be managed more closely and past issues will not occur again.

Motion by Wright, second by Greeno to 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 license being granted to Big Qwarta, LLC.

Motion by Wright, second by Buchda to approve the Class "B" Fermented Malt Beverage License and "Class B" Liquor License in the City of Tomah 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 Schleicher, second by Cram to 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 Schleicher, second by Buchda to 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 Schleicher, second by Wright to 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. – Hasamukh 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 Wright to 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 Greeno, second by Buchda to 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 Greeno, second by Cram to 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 Greeno, second by Cram to approve **Resolution No. 2010-05-11-21** Authorizing Payment of the Monthly Bills. Motion passed without negative vote.

**RESOLUTION NO. 2010-05-11-21 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 | \$1,267,130.28 | (Check #'s 104337-104345)<br>(Check #'s 104478-104522) |
| 2. Payroll         | \$ 262,576.18  | Direct Deposit(#22878 - 23184)                         |
| 3. Wire Transfers  | \$ 19,002.17   |  |
| 4. Invoices        | \$ 246,160.97  | (Check #'s 104 – 104)                                  |
| Total              | \$1,794,869.60 |  |

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

**Ordinance Amending Article II, Offenses Against Peace and Good Order Section 28-19 Inserting 9-101.123 Regarding State Laws – Smoking Prohibited**

Motion by Wright, second by Cram to waive the second verbatim reading of the ordinance Amending Article II, Offenses Against Peace and Good Order Section 28-19 Inserting 9-101.123 Regarding State Laws – Smoking Prohibited. Motion passed without negative vote.

Motion by Wright, second by Cram to adopt **Ordinance No. 2010-05-02D** Amending Article II, Offenses Against Peace and Good Order Section 28-19 Inserting 9-101.123 Regarding State Laws – Smoking Prohibited. Motion passed without negative vote.

**ORDINANCE NO. 2010-05-02D**

**ORDINANCE AMENDING ARTICLE II, OFFENSES AGAINST PEACE AND GOOD ORDER SECTION 28-19 INSERTING 9-101.123 OF THE MUNICIPAL CODE OF THE CITY OF TOMAH REGARDING STATE LAWS SUBJECT TO FORFEITURE**

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

**SECTION ONE:** Section 28-19 Article II Offenses Against Peace and Good Order is hereby amended to read as follows:

The following sections of Wisconsin Statutes defining offenses against the peace and good order of the state are adopted by reference and define offenses against the peace and good order of the City, provided the penalty for commission of such offenses hereunder shall be limited to a forfeiture imposed under section 1-14;

Insert:

State Statute No.	City Violation No.	Offense
101.123	9-101.123 Offense	Smoking Prohibited in Enclosed Public Places and Places of Employment

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

**SECTION THREE:** This ordinance shall take effect on July 5, 2010.

John J. Rusch, Mayor

ATTEST:  
JoAnn M. Cram, City Clerk

**Ordinance Creating Sections 2-278(14) and 38-35 and Amending Sections 38-120, 38-123, and 40-114 (F) Regarding Sidewalks.**

Motion by Wright, second by Cram to waive the second verbatim reading of the Ordinance Creating Sections 2-278(14) and 38-35 and Amending Sections 38-120, 38-123, and 40-114 (F) Regarding Sidewalks. Motion passed with one negative vote. Schleicher

Motion by Wright, second by Cram to adopt **Ordinance No. 2010-05-03D** Creating Sections 2-278(14) and 38-35 and Amending Sections 38-120, 38-123, and 40-114 (F) Regarding Sidewalks. Motion passed with one negative vote. (Schleicher)

**Ordinance No. 2010-05-03D**

**ORDINANCE CREATING SECTIONS 2-278(14) AND 38-35 AND AMENDING SECTIONS 38-120, 38-123 AND 40-114(F) OF THE MUNICIPAL CODE OF THE CITY OF TOMAH**

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

**SECTION ONE:** Section 2-278 (14) of the Municipal Code is hereby created to read as follows:

**Sec. 2-278. (14)** To develop and implement a long range plan of no less than three (3) years in regards to the construction and/or repair of sidewalks within the City. Said plan shall be reviewed on an annual basis to establish target areas and reassess needs as the City's needs and priorities evolve with regard to pedestrian traffic. Each year, as part of the succeeding year's budget preparation, the Commission shall establish a target area according to need within which sidewalk shall be installed where none exists adjacent to the city street. Sidewalks which are unsafe, defective or insufficient in said target areas shall also be repaired or replaced. The cost for newly constructed sidewalks and/or repair shall be allocated pursuant to secs. 38-33 and 38-122 of the Municipal Code of the City of Tomah. The public shall be notified of the designated target area at least twelve (12) months in advance of planned construction to allow property owners to plan for the same.

SECTION TWO: Section 38-35 of the Municipal Code is hereby created to read as follows:

**Sec. 38-35. Street Reconstruction.**

All properties adjacent to street reconstruction where a city street section is being completed shall have sidewalk installed where none exists and sidewalk repaired or replaced when the existing sidewalk is deemed unsafe, defective or insufficient. The cost for newly constructed sidewalks and/or repair shall be paid pursuant to secs. 38-33 and 38-122 of the Municipal Code of the City of Tomah.

SECTION THREE: Section 38-120 of the Municipal Code is hereby amended to read as follows:

**Sec. 38-120. Sidewalk construction required.**

(1) Within one year of the issuance of a building permit for a new residence, the property owner shall install sidewalk for the entire length of his property at his expense provided that the proper street grade has been established. If the proper street grade has not been established, sidewalk may not be installed until an order is issued by the city.

(2) Sidewalks shall be installed abutting properties occupied by new residential construction along any street with an urban section prior to the completion of its construction or the issuance of an occupancy permit. Those receiving permits during the winter months shall install the required sidewalk no later than June 30<sup>th</sup> of the succeeding year.

(3) Exceptions. The Public Works and Utilities Commission may determine that sidewalk is not required when any one of the following conditions apply:

- (a) There is insufficient right-of-way.
- (b) The installation encourages pedestrian traffic in an otherwise dangerous area.
- (c) The installation abuts industrial zoned lands. (Unless situated between other pedestrian generating areas).

SECTION FOUR: Section 38-123 of the Municipal Code is hereby amended to read as follows:

**Sec. 38-123. Variances/Exceptions.**

The property owner may seek relief from the requirements of this Article by requesting in writing a hearing before the Public Works and Utilities Commission. The request shall be made no later than the time limitations set forth in this Article. For determining whether to grant relief from the sidewalk requirements, the Public Works and Utilities Commission shall use the criteria established under sec. 38-120(3) of the Municipal Code of the City of Tomah. Any variance/exception must be approved by the City Council upon recommendation from the Commission.

SECTION FIVE: Section 40-114(f) of the Municipal Code is hereby amended to read as follows:

Sec. 40-114 (f) Sidewalks

(1) Sidewalks shall be installed in all new subdivisions with city streets.

(2) Sidewalks shall be provided to serve the following areas:

- (a) Commercial property. Commercial property shall be provided with concrete sidewalks at least eight feet wide and four inches thick.
- (b) Residential property. Residential property shall be provided along each side of the street with a concrete sidewalk five feet wide and four inches thick.

(3) Exceptions. The owner may seek relief from the requirements of this section by written request to the Planning Commission and Public Works and Utilities Commission. Any request must be approved by the City Council upon recommendation from both Commissions. The criteria established under sec. 38-120(3) shall be used when determining whether an exemption shall be granted.

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

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

John Rusch, Mayor

ATTEST:

JoAnn Cram, Clerk

**Act on Police Department Non-Represented Compensation.**

Motion by Buchda, second by Wright to approve the following for Police Department Lieutenants and Sergeants: Increasing the "not to exceed time" allowed for compensatory time from 40 to 60 hours, raising the clothing allowance from \$500 to \$600, allowing vacation increments of partial days, allow a draw of up to 100% of per diem in advance of training, and time earned in excess of 2080 hours can be credited back to comp time. Motion passed without negative vote.

**Update on Status of Veterans Memorial Oversight Group – Information Only.** Alderperson Schleicher advised that a fundraiser breakfast will be held on Memorial Day at the American Legion. Friday, June 11 will be the second annual golf outing fundraiser. A fundraiser will also be held at the Ground Round this Saturday night.

Motion by Wright second by Cram to adjourn. Motion passed without negative vote. Meeting adjourned at 830 p.m.

Approved: John J. Rusch, Mayor

Attest: JoAnn M. Cram, City Clerk  
To be approved 6/8/2010