

The COMMON COUNCIL of the City of Tomah met in REGULAR SESSION May 14, 2019 at 6:00 p.m. with Mayor Mike Murray presiding in the Municipal Building, 819 Superior Ave., Tomah WI.

Following the Pledge of Allegiance, roll call was taken with Mike Murray, Lamont Kiefer, Donna Evans, Susan Holme, Mary Ann Komiskey, Richard Yarrington, Jeff Cram, and Shawn Zabinski present. Quorum present. Absent: Travis Scholze. Also in attendance: City Atty. Penny Precour, City Administrator Roger Gorius, and City Clerk JoAnn Cram. Gregg Hagen videotaped the meeting.

Motion by Yarrington, second by Cram to adjourn to closed session pursuant to State Statute 19.85(1)(c) and (e) to confer with legal counsel with respect to personnel issues relating to compensation and in regard to the purchase/sale of land. Motion passed without negative vote. Meeting adjourned to closed session at 6 p.m. Meeting reconvened to open session at 6:25 p.m.

Anyone Desiring to Appear Before the City Council. No one desired to appear.

Mayor. Proclamation for Apraxia Awareness Day. Mayor Murray read the Proclamation for Apraxia Awareness Day declaring May 14th as Apraxia Awareness Day. Mayor Murray commented on the opening of the VA Golf Course. Mayor Murray thanked Parks & Rec Director Protz for the department's efforts in the Arbor Day event.

Motion by Cram, second by Yarrington to approve the Proclamation declaring May 14th, 2019 as Apraxia Awareness Day. Motion passed without negative vote.

City Administrator & Long Range Plan Committee Report. City Administrator Gorius provided a written report regarding current and ongoing activities. **1. Veterans Golf Course Dedication.** The Public Works crew is helping to restore the greens and fairways in an effort to re-open the course. **2. 2020 Census Preparation.** 2020 is the year that the 10 year census will be completed. One of the most significant changes will be the use of social media and other advancements in communication to facilitate the process. **3. Boy Scout Cabin Update.** A walk-through of the Boy Scout cabin has been completed. The report on the building will be presented to the Parks & Recreation Commission. **4. Public Information Meeting.** A meeting to provide information on the history of TID development and availability of funds for downtown improvement projects is scheduled for 5:30 pm on May 16th at Murray's on Main. Andrew Bremer of MSA will field questions and provide information on the design standards policy manual as well as inform businesses of available funding for facade improvement.

Distinguished Service Resolution – Retirement of Linda Niebuhr.

Motion by Kiefer, second by Evans to approve **Resolution No. 2019-05-14-16** – Distinguished Service Resolution in honor of retiring employee Linda Niebuhr. Motion passed without negative vote.

RESOLUTION NO. 2019-05-14-16
RESOLUTION IN RECOGNITION OF LINDA NIEBUHR FOR
SERVICE TO THE CITY OF TOMAH
1981 - 2019

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, neighbors and co-workers, and

WHEREAS, Linda Niebuhr has committed herself to faithfully serving the citizens of Tomah from April of 1981 to April of 2000 as Assistant Coordinator/Director of Community Development/Housing Authority. In May of 2000 she transitioned to the position of Administrative Assistant to the Director of Public Works and Utilities; a position she held until her retirement on April 30, 2019, and

WHEREAS, Linda has proven herself to be a dedicated and trustworthy member of the City of Tomah. Linda's commitment to her community has been evidenced repeatedly in both her tenure with Community Development and Housing Authority as well as the Public Works & Utilities Department assisting her fellow employees as well as multiple Directors of Public Works & Utilities. Linda has exhibited a dedicated level of commitment in assisting members of the public which has been evident throughout her career. Her work assisting the Director of Public Works & Utilities and coordinating the billing and reception of revenue for both water and sewer within the City is to be commended. Her work in assisting with agenda items, coordinating public bids for service and interacting with the City Engineers has been crucial to keeping a department responsible for providing service to a City of over nine thousand residents running effectively and efficiently. Her thoughtfulness and commitment to all of Tomah will be greatly missed, and

WHEREAS, In appreciation for such dedication and service to our Community upon her retiring as Administrative Assistant for the Public Works and Utilities Department the following is submitted to record;

NOW THEREFORE, BE IT RESOLVED, that as Mayor on behalf of The City of Tomah, I commend Linda for her outstanding contribution to our community. The Common Council of the City of Tomah does hereby express its sincere appreciation and thanks to Linda for her dedication and service to the citizens of the City of Tomah and extends its best wishes for her health and happiness in the future.

Dated this 14th day of May 2019.

Michael Murray, Mayor ATTEST: JoAnn M. Cram, City Clerk

Distinguished Service Resolution – Retirement of Diane Webster. Motion by Kiefer, second by Komiskey to approve **Resolution No. 2019-05-14-15** in Distinguished Service Resolution in honor of retiring employee Diane Webster. Motion passed without negative vote.

RESOLUTION NO. 2019-05-14-15
RESOLUTION IN RECOGNITION OF DIANE WEBSTER FOR
SERVICE TO THE CITY OF TOMAH
1993 - 2019

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, neighbors and co-workers, and

WHEREAS, Diane Webster has committed herself to faithfully serving the citizens of Tomah from February of 1993 to May of 2019 as Clerk Typist for the Tomah Public Works Department and transitioning to the position of Bookkeeper in 2000. In February of 2016 Diane was promoted to the position of Deputy City Clerk serving in that capacity to May of 2019, and

WHEREAS, Diane has proven herself to be a dedicated and trustworthy member of the City of Tomah. Diane's commitment to her community has been evidenced repeatedly in her tenure with the Public Works Department assisting her fellow employees and the citizens of Tomah. Her commitment in assisting members of the public has been evident throughout her career. In 2016, she transitioned to her current role as Deputy City Clerk where she took on considerable new challenges. Her work alongside the City Clerk has been invaluable in elections, City Council meetings, and providing various agendas and attending and taking minutes for the Long Range Planning Committee. Diane has provided support in processing numerous licenses, insurance claims, and monthly billings as well as a vast array of other vital duties that are crucial to keeping a community of over nine thousand residents on track. Her thoughtfulness and commitment to all of Tomah will be greatly missed, and

WHEREAS, In appreciation for such dedication and service to our Community upon her retiring as Deputy City Clerk the following is submitted to record;

NOW THEREFORE, BE IT RESOLVED, that as Mayor on behalf of The City of Tomah, I commend Diane for her outstanding contribution to our community. The Common Council of the City of Tomah does hereby express its sincere appreciation and thanks to Diane for her dedication and service to the citizens of the City of Tomah and extends its best wishes for her health and happiness in the future.

Dated this 14th day of May 2019.

Michael Murray, Mayor

ATTEST:

JoAnn M. Cram, City Clerk

City Clerk. City Clerk Cram gave an update on Board of Review and Open Book, staff changes, Andres and Thomas B. Earle grant fund applications, and job description review.

Library Monthly Report. Library Director Irma Keller advised of monthly statistics. There are audio books available and they have added numerous large print books. The Library is gearing up for summer reading program that will start in June. A stained glass window has been commissioned in memory of Helen Zdrojowy.

Convention & Visitors Bureau/Chamber of Commerce. Exec. Dir. Tina Thompson advised June 6th is the celebrating hometown heroes event at 5 p.m. at Firemen's Park. Kite Fest is June 15th. Business After 5 at the County Fair will be July 24th. Back to School BBQ to welcome new teachers and educators will be held in the Fall. August 25th there will be the Music on Milwaukee event. Downtown Thursday Nights will be held beginning July 4th. The parade will be at 10 and the concert series will begin at 6 p.m. with the Fireworks at dusk. There will be quite a bit of filming done that day. They are also hoping to do some filming with Discover Wisconsin for these events. The TID public information session will be held May 16th at 5:30 p.m. at Murray's on Main and Andrew Bremer will also be available for a Forward Tomah meeting at 11:30 a.m. which will address TIDs 9 and 10.

Tomah Public Housing & Community Development Block Grant Monthly Report. Director Rachel Muehlenkamp provided a written report. Director Muehlenkamp advised they are wrapping up the rehab at Lakeside apartments. By the end of the week the newly constructed property on Waterman Street will be purchased by the Housing Authority. The apartments are already rented through the Veteran's assistance housing voucher program. The School District has finished with their work on the building project. The ribbon cutting and open house will be held at 12:30 p.m. on Friday, May 17th. The project did come in slightly over budget but it was a good investment and an excellent project.

Senior & Disabled Services Report. Pam Buchda, Senior & Disabled Services Coordinator provided a monthly calendar and written summary of events. On May 23rd, the Meal Site will be closed due to a Senior Celebration in Sparta. Stop the Bleed training will be held Friday May 24th at 1 p.m. This Sunday a family picnic will be held at Winnebago Park for Sunday Fun Day.

Planning/Building Inspection Monthly Report. Shane Rolff provided a written report. A report was also provided from Corliss Tischer regarding February violations.

Public Works & Utilities Monthly Report - Water, Sewer, Public Works, & Lake Updates. Public Works and Utilities Director Kirk Arity advised the following: Street Department: Stump grinding is being completed. Crack sealing will begin when the weather dries up. Bridge repair is being planned. The public restroom has the concrete work completed. The fencing will be put on a hold temporarily and worked on as time allows. The department is helping restore the VA golf course. The concrete footers have been poured and backfilled for the Salt Shed project. This should be complete around June 1st with the exception of the blacktop installation. Work continues on the downtown alley project. Sewer Department: Flows at the plant are at 1.78 million gallons per day. Operations are normal. Bids were received for the lime stabilization project. There was an emergency repair on Parkview Dr. Water Department: Well #6 media placement is done. The North water tower was power washed last week. They are working on the sprinkler system at the VA for the golf course project. Lake Committee: The next meeting is 5/16/19.

Consent Agenda Items. Motion by Kiefer, second by Cram to approve the following Consent Agenda items. Motion passed without negative vote.

- A. **Minutes** of April 9, 2019 and April 16, 2019 as presented.
- B. **Treasurers Cash and Investment Reports** for April 2019.
- C. **Bartender Licenses** for: Mistie A. Baldwin, Sepriano L. Cantu, Dane K. Dodsworth, Aybria A. Downing, Alizabeth R. Gerke, Stephanie M. Harp, Diana L. Johnson, Tori A. Jones, Jon A. Kirchoff, Lisa B. Kirschbaum, Taylor N. Luebke, Haley E. Maus, Elizabeth M. Parker, Steven J. Pavloski, Veronica A.M. Pfeifer, Chelsie L. Popp, Dean A. Samson, Robin K. Samson, Shelby R. Scott, Carissa J. Serna, Noel E. Tiarks, Samantha L. Trafton, Dennis M. Wagner, Linda L. Wagner, and Lori A. Zimmerman.
- D. **2019 Budget Amendment** – Increase Acct. #03-52300-3400 Ambulance Operating Supplies by \$1,500 from Acct. 03-48500 Grants & Donations for the purchase of stroke educational information.
- E. **2019 Budget Amendment** – Increase Acct. #17-49200 Transfer From Other Funds TID 9 by \$9,000 from Acct. 01-59200-7390 Transfer to Other Funds to record the transfer from the General Fund for start-up expenses
- F. **2019 Budget Amendment** – Adjust Acct. #14-57725-2100 – TID Industrial Dev. Prof. Services (3rd Gen Grant) by \$1,500,000; Adjust Acct. 14-57620-8200 Other Parks Outlay – Buildings (Kiosk) by \$39,066; Adjust Acct. 14-57725-5700 Industrial Dev. Loan Rehab by \$250,000; Adjust Acct. 14-59800-7330 Transfer to Other Funds Debt Service by \$119,864; Adjust Acct. 14-57331-8500 \$100,000 Hwy/Street Outlay for Street Lights and Increase TID 8 Fund Balance Applied (Grant) by \$250,000 in Acct. 14-49300, and Increase TID 8 Proceeds from Long Term Debt by \$700,000 in Acct. 14-49100
- G. **2019 Budget Amendment** – Transfer \$600 from Acct. 03-49300 Fund Balance Applied Designated to Acct. 03-55230-3400 Ambulance Outlay Equipment to purchase children's educational materials
- H. **2019 Budget Amendment** – Recognize Donation of \$1,500 in Acct. 03-48500 Grants & Donations and authorize expenditure of \$1,500 from Acct. #03-52300-3400 Ambulance Operating Supplies for the purchase of a stretcher oxygen tank holder
- I. **2019 Budget Amendment** – Recognizing Donation from Mitch Koel of \$500 in Acct. 05-48503 Donations – K9 Program for future K-9 related expenses from Acct. #05-52140-8300.

Review and Action on State of WI-DOA Mandatory Close-Out Program for CDBG Revolving Loan Fund for Economic Development (RLF-ED). Dir. Muehlenkamp advised further discussion was held at the May CDBG meeting. The CDBG Committee is recommending that the CDBG ED RLF Fund be closed by the submission to State of WI-DOA of Self-Certification for eligibility under CPD Notice 04-11 to certify that the City of Tomah hasn't received a CDBG-ED award between 1/1/1992 and present, and upon date the State of WI acceptance and approval is received, the program shall be closed and no federal or state regulations shall apply to these funds. Program funds at the time of closing shall be assigned as follows: 50% to Fire and Ambulance designated for new combined facility/building land purchase & design concept and 50% to Parks & Recreation designated for ADA compliance projects in Winnebago Park and other City parks. Funds received/collected from outstanding loans after the close-out shall be allocated 100% to the TID eligible business loan program fund for TID 8, 9 & 10. The City would keep the cash on hand and have the ability to use the funds on the outstanding loans that will be collected.

This would allow the fund to be closed out. This moves away from the other options but doesn't require the city to borrow money for undesignated projects. This closes it out without any other reporting and the city can use the funds as it chooses. It was proposed that the outstanding loans would be a separate TID loan fund from TID 8 and would allow for borrowing in TIDs 9 and 10. The current open loans are approximately 7-8 years from completion. Proposal was made to make a slight change to amend the proposal removing the word TID and make it a revolving loan fund for all businesses in the City. City Treasurer Mann recommended talking to Andrew Bremer of MSA regarding adding the funding mechanism to the TID process.

Motion by Cram, second by Evans to select Option 3 as follows: The CDBG ED RLF Fund be closed by the submission to State of WI-DOA of Self-Certification for eligibility under CPD Notice 04-11 to certify that the City of Tomah hasn't received a CDBG-ED award between 1/1/1992 and present, and upon date the State of WI acceptance and approval is received, the program shall be closed and no federal or state regulations shall apply to these funds and Mayor Murray is authorized to sign the documents. Program funds are not designated at this time. Motion passed without negative vote.

Conditional Use Permit Application of Lisa Mueller to Operate a Rooming-house in her Single Family Home Located at 917 Oak Ave.

Motion by Komiskey, second by Zabinski to authorize the Conditional Use Permit for Lisa Mueller to operate a rooming-house in her single family home located at 917 Oak Avenue up to three (3) bedrooms with no other conditions. Motion passed without negative vote.

Intergovernmental Agreement between the City of Tomah and Monroe County RE CTY ET Reconstruction Project. The reconstruction project for County Highway ET has begun. The agreement serves as the 1st step and commitment to partnering with Monroe County. The project is anticipated to start in 2023/2024. The agreement has been reviewed by legal counsel, the City Administrator and Monroe County has voted on the draft agreement.

Motion by Yarrington, second by Evans to approve the Intergovernmental Agreement between the City of Tomah and Monroe County regarding the County Highway ET reconstruction project as presented. Motion passed without negative vote.

State Municipal Financial Agreement Regarding Hwy 12 & Veterans St Intersection Replacement. The DOT is coordinating the Highway 12 and Veterans St intersection replacement with the ET Project. \$208,980 is to be expended in conjunction with the ET reconstruction.

Motion by Kiefer, second by Cram to approve the State Municipal Financial Agreement regarding the Highway 12 and Veterans Street intersection replacement as presented. Motion passed without negative vote.

Drainage Easements Between City of Tomah Utilities and Laurel Burns and Thomas and Ellen Champlin for Lakeview Drive. There are drainage concerns at Bow Street and Lakeview Drive. Minor landscaping will need to be done between lot lines at 1315 Lakeview Drive. 1321 Lakeview Drive will allow a 15' wide perpetual utility easement and right-of-way to lay, construct, reconstruct, install, maintain, operate, supplement, and/or remove utility improvements, a drainage course and/or other related appurtenances that may from time to time be required. In exchange for the easement, the utility will grade the area between the property lines of 1315 Lakeview Drive and 1321 Lakeview Drive to include any additional topsoil, seeding, mulch, tree removal and removal of soil to facilitate the drainage to the City owned property adjacent to the two parcels.

Motion by Yarrington, second by Zabinski to approve the drainage easements between the City of Tomah Utilities and Laurel Burns and Thomas and Ellen Champlin for 1315 and 1321 Lakeview Drive as presented. Motion passed without negative vote.

Award Lime Stabilization Project. Bids were received for the lime stabilization project. It is requested that the project be awarded to Schwing Bioset.

Motion by Kiefer, second by Cram to award the lime stabilization project bid to Schwing Bioset after all negotiations and clarifications are completed by staff. Motion passed without negative vote.

Adult Crossing Guard Program

The Police Dept. has managed the adult crossing guard program for many years. There are currently 6 crossing guard locations. The concern is the lack of availability of people to work in

both the primary and alternate positions. Chief Nicholson is authorized to approach the Tomah School District administrative staff to determine if they would be willing to assume the duties of appointing and overseeing the adult crossing guard program. No further action at this time.

License Application – Secondhand Article Dealer License – Kristi’s Place at 322 Superior. Motion by Yarrington, second by Kiefer to approve the Secondhand Article Dealer License for Kristi’s Place at 322 Superior Avenue for the licensing period ending Dec. 31, 2019. Motion passed without negative vote.

License Application – Secondhand Article Dealer License – Tomah Resource Store at 1104 Superior. Motion by Yarrington, second by Cram to approve the Secondhand Article Dealer License for the Tomah Resource Store at 1104 Superior Avenue for the licensing period ending Dec. 31, 2019. Motion passed without negative vote.

Renewal of “Class B” Liquor & Class “B” Fermented Malt Beverage Licenses

Motion by Evans, second by Kiefer 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, 2019 – June 30, 2020 unless sooner revoked and contingent on any or all unpaid tax obligations, assessments or other fees owed to the City are paid and must be compliant with building, plumbing, electrical, zoning, health or fire codes at the time the license is to be renewed. Motion passed without negative vote.

1. American Legion Post 201 – Randi W. Owen, Agent at 800 Wisconsin Avenue
2. The Break Room – Chad Madson, Agent at 1123 Superior Ave.
3. The Bank – Jay Larsen, Agent at 1015 Superior Avenue
4. C & H Food Service, Inc. - Perkins, Justin Johnson, Agent at 1015 E. McCoy Blvd.
5. Cancun Bay Ltd. – Cancun Mexican Restaurant, Jesus Gonzalez Hidalgo, Agent at 1422 Superior Ave. (Reserve License)
6. Carlton LLC – The Carlton, Samantha G. Davis, Agent at 309 Superior Ave.
7. The Chill Zone – Corey Williams, Owner at 1119 Superior Ave.
8. Cran-Bear Pub - T & J Hospitality, LLC - Tyson Koput, Agent at 319 Wittig Road
9. Crow Bar LLC – The Crow Bar, Troy Gilson, Agent at 1206 Superior Avenue
10. Dimensions II, LLC – Dimensions, Patrick J. Murphy, owner, at 1110 Superior Avenue
11. Don Cinco De Mayo Cantina, Andres Valencia, Agent at 918 McCoy Blvd.
12. Swami Hospitality - Econo Lodge, Dilipkumar Patel, Agent at 2005 N. Superior Avenue
13. Franny’s Bar, James Frandsen, owner at 1115 Superior Avenue
14. Ground Round Grill & Bar - T & J Hospitality LLC - Tyson Koput, Agent at 201 Helen Walton Drive, Suite #1
15. Kelsey’s, Dave Berndt, owner at 201 Superior Avenue
16. Murray’s on Main, Michael Murray-Agent at 810 Superior Ave.
17. Smoke’s Elbow Room Bar - Kenneth Pierce, owner at 114 W. Benton Street
18. Vino-Anjo-Joline Powell, Agent at 800 Superior Ave. (Reserve License)

Renewal of Class “B” Fermented Malt Beverage Licenses

Motion by Evans, second by Zabinski to approve the Class “B” Fermented Malt Beverage Licenses in the City of Tomah as printed for the period of July 1, 2019 – June 30, 2020 unless sooner revoked and contingent on any or all unpaid tax obligations, assessments or other fees owed to the City are paid and must be compliant with building, plumbing, electrical, zoning, health or fire codes at the time the license is to be renewed. Motion passed without negative vote.

1. Area Community Theatre-Robert Shutter, Agent at 907 Kilbourn Avenue
2. China Buffet, Eastern Chinese Restaurant, Cai Deng Zheng, owner at 115 W. McCoy Blvd.
3. Hampton Inn, Ruth Stump, Agent at 219 Buan St.
4. Knights of Columbus Corp. –David Dechant, Agent – Knights of Columbus Hall, 202 E. Juneau Street
5. Peking Chinese Restaurant, LLC – Jiaona M. Ng, Agent at 1013 Superior Avenue
6. Northfield Restaurant Corp. – Pizza Hut, James E. Gerlach, Agent at 1821 N. Superior Ave
7. Tomah American Legion Baseball – Todd Steffel, Agent at 400 N. Glendale Avenue (May 8, 2019 through October 31, 2019)
8. Mandy’s Café and Deli – Mandy Bacholl, Agent – 201 Helen Walton Drive

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

Motion by Evans, second by Komiskey 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, 2019–June 30, 2020 unless sooner revoked and contingent on any or all unpaid tax obligations, assessments or other fees owed to the City are paid and must be compliant with building, plumbing, electrical, zoning, health or fire codes at the time the license is to be renewed. Motion passed without negative vote.

1. Aldi Inc. – Troy Lenning, Agent at ALDI #52 at 1844 N. Superior Avenue
2. Festival Foods – Kristie Vaughn Korish, Agent at 701 E. Clifton Street
3. Hwy 21 BP – Rupesh Patel, Agent Wittig Corp. at 311 Wittig Rd
4. Hwy 21 Shell.– Rupesh Patel, Agent at 907 E. McCoy Blvd.
5. Kwik Trip, Inc. – Britney E Hall, Agent – Kwik Trip #484 at 124 W. McCoy Blvd.

6. Kwik Trip, Inc. – Jamie A. Prestwood, Agent – Kwik Trip #796 at 310 E. McCoy Blvd.
7. Kwik Trip, Inc. – Danita A. Schmitz, Agent, Kwik Trip #718 at 1504 Superior Ave.
8. Tomah Quick Stop & Spirit Shop, LLC – Casey B. Purdy, Agent at 201 W. Veterans Street
9. Wal-Mart Stores East, LP – David R. Schoeberl, Agent – Wal-Mart Supercenter #965, 222 W. McCoy Blvd.

Renewal of Class “A” Fermented Malt Beverage Licenses

Motion by Evans, second by Cram to approve the Class “A” Fermented Malt Beverage Licenses in the City of Tomah as printed for the period of July 1, 2019 – June 30, 2020 unless sooner revoked and contingent on any or all unpaid tax obligations, assessments or other fees owed to the City are paid and must be compliant with building, plumbing, electrical, zoning, health or fire codes at the time the license is to be renewed. Motion passed without negative vote.

1. Casey’s General Store, Heidi Marcyes, Agent at 313 N. Superior Ave.
2. Tomah Mini Mart, Donovan Riedesel, Agent at 215 W. Clifton Street

Renewal of “Class C” Wine Licenses

Motion by Evans, second by Kiefer to approve the “Class C” Wine Licenses in the City of Tomah as printed for the period of July 1, 2019 – June 30, 2020 unless sooner revoked and contingent on any or all unpaid tax obligations, assessments or other fees owed to the City are paid and must be compliant with building, plumbing, electrical, zoning, health or fire codes at the time the license is to be renewed. Motion passed without negative vote.

1. China Buffet, Eastern Chinese Restaurant – Nan Zheng, owner at 1012 Superior Avenue
2. Natural Connection – Paula Caucutt, owner at 1012 Superior Ave.
3. Peking Chinese Restaurant LLC – Jiaona M. Ng, Agent at 1013 Superior Avenue

Resolution Authorizing a Change in the 2019 Position Count by the Creation of a Seasonal Part Time Gardener/Forestry Position for Tomah Parks and Recreation. In the past, the Parks Dept. had a part time Superior Avenue gardener. Director Protz would like to bring part of that position back but add some responsibilities as listed in the job description. Pay is recommended \$13-\$15 per hour. This position would assist with tree planting, the city tree nursery, and also caring for park flowers, boulevards, and the potted plants on Superior Avenue.

Motion by Cram, second by Yarrington to approve **Resolution No. 2019-05-14-17** Authorizing a Change in the 2019 Position Count by the Creation of a Seasonal Part Time Gardener/Forestry Position for the Parks & Rec Department. Motion passed without negative vote.

RESOLUTION NO. 2019-05-14-17

A RESOLUTION AUTHORIZING A CHANGE IN THE 2019 CITY OF TOMAH POSITION COUNT BY THE CREATION OF ONE SEASONAL PART TIME GARDENER/FORESTRY POSITION FOR TOMAH PARKS & RECREATION

WHEREAS, the Common Council of the City of Tomah hereby authorizes a change in the 2019 City of Tomah position count by the creation of one seasonal part time Gardener/Forestry employee who will be responsible for the general upkeep of the Superior Avenue boulevard flower beds, trees and lawn as well as park flower planters, and to assist in the development and operation of the tree nursery and urban forest program, and

WHEREAS, the Common Council of the City of Tomah establishes the seasonal Gardener/Forestry position as part time to include all benefits afforded City employees as outlined in the City of Tomah Personnel Manual. This individual will be required to work a varied and flexible schedule depending on the season and project work load to provide for the needs of the department with scheduled hours determined by the Director of Parks and Recreation (or designee), and

WHEREAS, this position will be classified as a non-exempt non-represented hourly employee with a starting wage between \$13 and \$15 per hour depending on qualifications, and

NOW, THEREFORE BE IT FURTHER RESOLVED that the City of Tomah Common Council does hereby authorize a change in the 2019 City of Tomah Position Count by the creation of a part time seasonal Gardener/Forestry position in the Tomah Parks and Recreation Department as described above. Dated this 14th day of May 2019.

Michael Murray, Mayor ATTEST: JoAnn M. Cram, City Clerk

Approval of Job Description for Part Time Gardener/Forestry Position.

Motion by Cram, second by Yarrington to approve the job description for the Part Time Gardener/Forestry Position in the Parks and Recreation Department as presented. Motion passed without negative vote.

Request 1% of the Existing Room Tax Allocation for the CVB/Chamber Building Be Directed to Proposed Projects and Upgrades at Recreation Park. There is a need for upgrades/replacement to existing paved areas, paving of some additional areas to control drainage and manure management, relocation of the ticket booth to the south gate area and replacing the roadway with pedestrian promenade and amenities at Butts road entry. This change will require an ordinance amendment.

Motion by Cram, second by Evans to approve the request for 1% of the existing room tax allocation currently utilized by the CVB/Chamber for building maintenance be directed to projects and upgrades at Recreation Park as stated. Motion passed without negative vote.

Request for Use of City Streets by ATV/UTV Club

Gary Everts, President of Bear Bluff ATV Club is requesting a 3-hour window to be open for a designated ATV/UTV route in the City. The Bear Bluff and Road Runners Clubs would like to travel, arrive and leave as a group to participate in the 4th of July parade. The requested route is west on Highway ET to Industrial Ave south and then west on Town Line Road to Glendale Avenue to arrive at a staging area assigned by the Chamber. This item comes before the Council without a recommendation from the Committee of the Whole. Mayor Murray advised there was lengthy discussion at the Committee of the Whole meeting. This is a much debated subject in the city. Does the council want to research this further with their constituents? This is a request for 3 hours on a parade day. Concern was voiced regarding setting a precedent by allowing the ATV/UTVs on the City streets. A request was made to postpone this until June to allow an opportunity to canvas their wards. Request was made to verify whether or not ET is an ATV/UTV route from the east. This will be researched and brought back to the June meeting.

Motion by Cram, second by Kiefer to postpone the request by the ATV/UTV Club for use of city streets until the June Council meeting. Motion passed with one negative vote (Komiskey).

Proposal of Fees for Use of Tomah Senior Center. Director Buchda has presented a proposal of renting the Senior Center for use to members and organizations as a gathering place and to generate revenue to offset costs.

Motion by Holme, second by Evans to authorize the renting of the Senior Center at the fees and terms presented. Motion passed with one negative vote (Yarrington).

Lease Agreement Between the City of Tomah and The Tomah Wrestling Club. This month to month lease is for a portion of the upper level of the Sr. & Disabled Services Center at \$400 per month.

Motion by Holme, second by Kiefer to approve the Lease Agreement between the City of Tomah and the Tomah Wrestling Club for the upper level of the Senior Center as presented. Motion passed without negative vote.

Request by VFW for Use of Senior Center for Regional Meetings. The VFW has requested to use the Senior Center for their regional meetings to host a more central meeting location.

Motion by Holme, second by Kiefer to authorize the use of the Senior Center for VFW regional meetings as requested. Motion passed without negative vote.

Resolution Authorizing Payment of Monthly Bills.

Motion by Holme, second by Cram to approve **Resolution No. 2019-05-14-18** authorizing payment of the monthly bills in the amount of \$3,457,107.60 as presented. Motion passed without negative vote.

**RESOLUTION NO. 2019-05-14-18
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	\$2,890,546.95	Check #'s 124610-124652 & 124706-124816
2. Payroll	\$ 373,461.26	Direct Deposit #'s 56965-57239
3. Wire Transfers	\$ 31,758.04	
4. Invoices	<u>\$ 161,341.35</u>	Check #'s 124866-124953
	\$3,457,107.60	

Mike Murray, Mayor

ATTEST: JoAnn Cram, City Clerk

Ordinance Creating Sections 6-1 to 6-12 in the Municipal Code Regarding Amusements and Entertainment (2nd Reading and Adoption)

Motion by Kiefer, second by Cram to waive the second verbatim reading of the ordinance creating sections 6-1 to 6-12 in the Municipal Code Regarding Amusements and Entertainment as presented. Motion passed without negative vote.

Motion by Kiefer, second by Yarrington to adopt **Ordinance No. 2019-05-02-D** creating sections 6-1 to 6-12 in the Municipal Code Regarding Amusements and Entertainment as presented. Motion passed without negative vote.

ORDINANCE NO. 2019-05-02-D

Ordinance Creating Sections 6-1 to 6-12 in Chapter 6 of the City of Tomah Municipal Code Regarding Amusements and Entertainment

SECTION ONE: Chapter 6 – Sections 6-1 to 6-12 Amusements and Entertainment of the Municipal Code is hereby created to read as follows:

Chapter 6 - AMUSEMENTS AND ENTERTAINMENT ARTICLE I.

CABARETS Sec. 6-1.- Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Indoor cabaret means a place to which the general public is admitted and where dancing or live entertainment is permitted or furnished to patrons by the management with or without special charge therefor, and where liquid refreshment or foods are sold.

Outdoor cabaret means an outdoor area to which the general public is admitted and where dancing or live entertainment is permitted or furnished to patrons by the management with or without special charge therefor, and where liquid refreshment or foods are sold.

Special Event Outdoor Cabaret shall be permitted to conduct an outdoor cabaret; however, such license shall be for a period not exceeding one day, and may exceed the noise levels established in the City Code, provided the sounds emanating from the outdoor cabaret are reasonable under the circumstances, subject to Common Council approval. All property owners within 1,000 feet of the proposed licensed premises for a Special Event Outdoor Cabaret License shall receive notice of the application. A license shall only be granted following approval by a two-thirds vote of the Common Council.

Sec. 6-2. - Violation by agent or employee.

A violation of this article by a duly authorized agent or employee of a licensee shall constitute a violation of the licensee. Violations of the provisions of Wis. Stat. ch. 125 shall be grounds for immediate revocation of the cabaret license by the Common Council.

Sec. 6-3. - Restrictions.

No cabaret shall be licensed, maintained, or operated except in conformity with the following regulations:

(1) Unless otherwise provided in this Code, any noise emanating from within the licensed area **shall not violate the regulations of this Code pertaining to noise.**

(2) All cabarets shall be sufficiently lighted to ensure the safety of patrons at all times when any patrons shall be therein, and at all times when the same is open to the public.

(3) Any lighting of the outdoor area of an outdoor cabaret must be shielded so as not to shine directly onto adjoining property or create glare, which is distracting to adjoining property owners or occupiers.

(4) No licensee of an outdoor cabaret shall be permitted to provide music, dancing or singing from 10:00 p.m. to 10:00 a.m., except the Common Council shall establish the time restrictions for a special event outdoor cabaret.

(5) No person under the legal drinking age shall be permitted in any cabaret when such presence is contrary to any State or local regulations.

(6) Every cabaret shall comply with all applicable State and local regulations.

(7) The sale, service or consumption of commodities for which licenses are otherwise required shall not be permitted in any cabaret unless the proper license or licenses therefor are obtained for said premises, in the name of the owner or manager of such cabaret.

(8) Prior to the issuance of the special event outdoor cabaret license by the Clerk, the applicant shall furnish evidence of insurance in an amount established by the City Council for the event, and shall be in force and effect at the time such event is to take place. Said evidence of insurance shall include a certificate of insurance naming the City of Tomah as additional insured in connection with said event. If an entity is self-insured, it must provide evidence of alternative proof of coverage, in a form acceptable to the City Clerk. The City shall be named as an additional insured on the policy.

(9) Outdoor cabaret licensees must provide sufficient sanitation facilities to accommodate the anticipated capacity.

Sec. 6-4. - License required.

No person shall hereafter keep, maintain, conduct or operate any cabaret as defined in section 6-1 without first obtaining a license therefor.

Sec. 6-5. - Exemptions.

A license under this article is not required for musical entertainment provided at events located at Recreation Park.

Sec. 6-6. - Applications.

Any person desiring a cabaret license shall pay the license fee and present to the City Clerk an application in writing, on forms created by the City Clerk, giving the location of the premises to be licensed by street address, premises description, the name of the owner of such premises, the name of the lessee therefor, if any, the name of the person proposing to operate such cabaret, the name of the manager to be in charge of such cabaret, a description of other business to be conducted upon the licensed premises, and a statement of the nature of the entertainment to be furnished. No applicant or manager for such license shall have an arrest or conviction record which substantially relates to the licensed activity.

Sec. 6-7. - Classes of licenses and fees.

(a) License fees shall be in the amount established by resolution. There shall be three classes of cabaret licenses designated as:

(1) Indoor cabaret. Indoor cabaret licensees shall be permitted to conduct an indoor cabaret as defined in section 6-1.

(2) Outdoor cabaret. Outdoor cabaret licensees shall be permitted to conduct an outdoor cabaret as defined in section 6-1.

(3) Special event outdoor cabaret. Special event outdoor cabaret licensees shall be permitted to conduct an outdoor cabaret as defined in section 6-1.

(b) Except for the special event outdoor cabaret license, each license shall terminate on June 30 next following its issuance.

Sec. 6-8. - Investigation.

Each application submitted in accordance with the preceding subsection shall immediately be transmitted by the City Clerk to the Police Department, Fire Department, and Building Inspection Department for investigation, and said officers shall report in writing to the City Council the result of their investigations and their recommendations on such application; and therefore said application shall be presented for

action by the Council at the next or any subsequent meeting thereof. The Fire Department and Building Inspection Department shall inspect the premises for new applications only.

Sec. 6-9. - Granting license.

(a) A license shall be issued by the City Clerk and contain with particularity a description of the premises licensed and the name and address of the licensee. The licenses shall be numbered, and such license shall be posted conspicuously in the premises licensed at all times when the cabaret shall be in use.

(b) All the owners of property zoned residential or multiple dwelling within 100 feet of the indoor cabaret premises shall receive notice of the original application, and a license shall only be granted following approval by a two-thirds vote of the Common Council.

(c) All property owners within 200 feet of the proposed licensed premises for an outdoor cabaret license shall receive notice of the original application. A license shall only be granted following approval by a two-thirds vote of the Common Council.

(d) All property owners within 1,000 feet of the proposed licensed premises for a special event outdoor cabaret license shall receive notice of the application. A license shall only be granted following approval by a two-thirds vote of the Common Council.

Sec. 6-10. - Transfer of license.

No cabaret license shall be transferable as to location but may be transferred as to ownership by the Council, upon approval of the new owner's application for such transfer and payment of the license fee.

Sec. 6-11. - Discretion.

The Council shall have discretion to refuse the granting of any license or transfer thereof if in its judgment the granting or transfer of such license shall be against the public interests, either because of the unsuitability of the location, undesirability or unreliability of the applicant or manager, or because of the failure of such applicant or manager to observe the provisions of this Code in the prior conduct of a cabaret, dance hall, tavern, or other similar place.

Sec. 6-12. - Revocation, suspension, refusal to issue or renew.

Any license granted hereunder shall be subject to revocation or suspension by the city council as follows:

(1) The council shall cause to be served on the licensee a notice specifying how the licensee has failed to comply with this chapter.

(2) The notice shall require the licensee to appear before the city council or a committee thereof at a specified day and hour not less than ten days after personal service of the notice on the licensee, to show cause at such time and place why the license should not be revoked or suspended.

(3) At the time and place set for appearance of the licensee before the council, the licensee shall have the right to appear in person or by counsel and introduce such evidence as he may desire and the city shall confront the licensee with any charges the city may have against him.

(4) After the hearing the council may, at its discretion, revoke or suspend the license.

Secs. 6-13—6-18. - Reserved.

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

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

Michael Murray, Mayor ATTEST: JoAnn M. Cram, City Clerk:

READ: April 9, 2019 & May 14, 2019 PASSED: May 14, 2019 PUBLISHED: May 24, 2019

Ordinance Amending Sections 4-1, 4-133, 4-134, 4-135, 4-136 and 4-137 of the Municipal Code Regarding Cabaret Licenses (2nd Reading and Adoption)

Motion by Kiefer, second by Cram to waive the second verbatim reading of the ordinance amending Sections 4-1, 4-133, 4-134, 4-135, 4-136 and 4-137 of the Municipal Code Regarding Cabaret Licenses as presented. Motion passed without negative vote.

Motion by Kiefer, second by Zabinski to adopt **Ordinance No. 2019-05-03-D** amending Sections 4-1, 4-133, 4-134, 4-135, 4-136 and 4-137 of the Municipal Code Regarding Cabaret Licenses as presented. Motion passed without negative vote.

ORDINANCE NO. 2019-05-03-D

ORDINANCE AMENDING SECTIONS 4-1, 4-133, 4-134, 4-135, 4-136, and 4-137 REGARDING CABARET LICENSES IN THE CITY OF TOMAH MUNICIPAL CODE

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

SECTION ONE: Chapter 4, Sec. 4-1 – Alcohol Beverages, Article I – In General, is hereby amended as follows:

Sec. 4-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Cabaret – Refer to Chapter 6, Section 6-1.

Conditional renewal means a renewal of a license subject to specified conditions as determined by the committee of the whole and approved by the common council. Such conditions shall be made with the intention of promoting and ensuring the compliance of the license holder to the provisions of this chapter and Wis. Stats. ch. 125.

Offenses which substantially relate to the circumstances of the licensed activity shall include, but are not limited to the following:

- (1) Any nonfelony alcohol-related conviction or pending charges within the last 12 months.
- (2) A history of nonfelony alcohol-related convictions as long as the most current conviction or arrest is within the last 24 months.
- (3) Any nonfelony drug related convictions or pending charges within the last 12 months.

- (4) Any nonfelony conviction or pending charges within the last 12 months which involve resisting arrest, battery to a police officer or obstructing justice in direct connection to activity at a licensed alcohol establishment.
- (5) Two or more nonfelony convictions or pending charges in the last 24 months for disorderly behavior type offenses if they occurred in direct connection to activity at a licensed alcohol establishment.
- (6) One or more felony convictions in the last five years involving alcohol, drugs or other behavior if it occurred in direct connection to activity at a licensed alcohol establishment.
- (7) Any other arrest or conviction that is reasonably determined to be substantially related to the circumstances of the licensed activity. The reasons for such a determination shall be stated in writing with particularity by the governing body making said determination.

SECTION TWO: DIVISION 4. - Cabaret Licenses, Sections 133-137 are hereby amended as follows:
Sec. 4-133. - Required.

No person shall keep, maintain, conduct or operate any cabaret as defined in Chapter 6 without first obtaining a cabaret license. No dancing or live music of any nature shall be played or rendered at any time in any premise licensed under this article unless a dance hall license or cabaret license is held for such premises. Efficient means shall be employed to prevent the sounds of music being heard on adjoining premises or on the public streets.

Sec. 4-134. - Application.

Any person desiring a cabaret license shall present to the city clerk his application in writing giving the location of the premises to be licensed by legal description, name of the owner of the premises, name of the lessee, if any, name of the person proposing to operate the cabaret, name of the manager to be in charge of the cabaret, and description of other businesses to be conducted upon the licensed premises.-
Sec. 4-135. - Procedure; discretion of council.

The application for a cabaret license shall be processed in accordance with the procedure set forth in Chapter 6. In reviewing the application for licensure, the council shall have discretion to refuse the granting of any license if such license shall be against the public interests, because of the unsuitability of the location, undesirability or unreliability of the applicant or his manager or because of the failure of such applicant or his manager to observe the provisions of this division in the prior conduct of a cabaret, dance hall, tavern or other similar place.

Sec. 4-136. - Issuance of license; transferability.

A license shall be granted to each applicant who shall be approved by a majority vote of the council and shall be issued by the city clerk and contain with particularity a description of the premises licensed and the name and address of the licensee. The licenses shall be numbered consecutively beginning with the number one in each year and such license shall be posted conspicuously in the premises licensed at all times when they shall be in use. No cabaret license shall be transferable as to location or ownership.

Sec. 4-137. - Cabaret regulations.

All licensed cabarets referenced in this chapter shall comply with the regulations as set forth in Chapter 6, failure of which may result in revocation of the cabaret license.

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

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

Michael Murray, Mayor ATTEST: JoAnn M. Cram, City Clerk

READ: April 9, 2019 & May 14, 2019 PASSED: May 14, 2019 PUBLISHED: May 24, 2019

Resolution Establishing Service Charges and Regulatory Fees. Upon approval of the changes to the Cabaret licenses, the resolution regarding charges and fees needs to be updated. The current cabaret fee is \$55. It is proposed that the fee remain the same, however, an outdoor cabaret and a special event cabaret have been created. If the applicant applies for both an indoor and an outdoor, it is proposed that the fee be combined for a total of \$85. It is also requested that the annual dance license be removed as this is outdated and has not been used for many years.

Motion by Komiskey, second by Yarrington to approve **Resolution No. 2019-05-14-19** Establishing Service Charges and Regulatory Fees as presented. Motion passed without negative vote.

RESOLUTION NO. 2019-05-14-19

SERVICE CHARGES AND REGULATORY FEES RESOLUTION

WHEREAS, various service charges and regulatory fees have been added or amended in the Municipal Code, and changes have not been made to the existing resolution since February 14, 2017, and

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Tomah that the following service charges and fees are hereby adopted:

Agent Fee, initial or change of agent \$10.00

Beer Wholesaler License \$25.00 per year [125.28(4)]*

Bowling Alley \$ 10.00 per alley

Business Permit \$15.00

Cabaret Licenses: Indoor \$55.00; Outdoor Cabaret License \$55.00 July-June Annually (\$85 Combination)

Cabaret License - Special Event Outdoor License \$55 Per Day

Cigarette License \$50.00 [134.65(2b)]*

Class "A" Retail Liquor License \$400.00 per year or fraction thereof [125.51(2)(d)]*

"Class A" Retailers Fermented Malt Beverage License \$200.00 per year or fraction thereof [125.25(4)-no maximum or minimum fee]*

"Class B" Retail Liquor License \$500.00 per year or fraction thereof [125.51(3)(e)]*

Reserve "Class B" Liquor – Initial issuance fee \$10,000 plus annual "Class B" Liquor License fee. The \$10,000 is a onetime fee per establishment and location. Bona fide clubs and lodges existing in the state for at least 6 years that apply for a reserve "Class B" license are exempt from paying the initial issuance fee of \$10,000. (125.51(3)(e)2)*

Class "B" Retail Fermented Malt Beverage License \$100 per year or fraction thereof [125.26(4)]

"Class C" Wine License \$100 per year or fraction thereof (125.51(3m))*

Coin Operated Machines \$20.00 per machine

Dance Permits \$20.00 per event

~~Dance Permits \$55.00 Annual License (Jan.-Dec.)~~

Dance Hall License \$30.00

Direct Seller's/Transient Merchant Registration \$30.00 Annual

Farmer's Market/Seller's Registration \$25.00 Annual

Fireworks Seller's Permit \$250.00 Annual Permit

Limousine License \$25.00 per year for the first limousine and \$20 per year for each additional limousine

Mobile Home Park License \$35.00 for each fifty spaces

Operator's License (Bartender) \$50.00 2-Yr. License expiring even years prorated down each 6 months to \$15 for a 6 Month License (\$50/\$30/\$20/\$15)

Pawnbroker License \$210 per year from January to December [134.71(11)]*

Provisional Operator's License (Bartender) \$15.00 [125.17]*

Publication Fee \$12.00

Roller Rink License \$60.00

Secondhand Article Dealer's License \$27.50 Annually from Jan.-Dec. [134.71(11)]*

Secondhand Jewelry Dealer's License \$30.00 Annually from Jan.-Dec. [134.71(11)]*

Secondhand Article Dealer Mall and Flea Market License - \$165 – Valid for 2 years from May 1 of odd #d years to April 30 of next odd #d year [134.71(11)]*

Special Assessment & Tax Search 5 business days \$25.00

Special Assessment & Tax Search Rush Request (12-24 hour turn around time) \$35.00

Taxicab License \$25.00 per year for the first taxicab and \$20 per year for each additional taxicab

Taxicab Driver's License \$25.00 1-Yr License expiring December 31st

Temporary Class "B" Beer License \$10.00 per event [125.26]*

Weights and Measures License \$25.00 Annually (July 1-June 30)

*Fees governed by Wisconsin State Statute. Dated this 14th day of May, 2019.

Effective May 15, 2019. Michael Murray, Mayor ATTEST: JoAnn M. Cram, City Clerk

Request for Street Closures (100 Block E Milwaukee and 900-1000 Block of Kilbourn Ave from 7 a.m. on August 24 to 9 a.m. on August 25 for "Music on Milwaukee" Event.

Motion by Yarrington, second by Evans to approve the street closure as requested. Motion passed without negative vote.

Establish Wage for Accounts Payable/Payroll Clerk. Motion by Yarrington, second by Cram to establish the wage for Accts. Payable/Payroll Clerk Position at Step 2, Range H or \$41,350. Motion passed without negative vote.

Motion by Evans, second by Yarrington to adjourn to closed session pursuant to State Statute 19.85(1)(c) and (e) to Confer with Legal Counsel with Respect to Negotiating the Purchase/Sale of Public Property. Motion passed without negative vote. The meeting adjourned to Closed Session 7:52 p.m.

Approved:

Michael Murray, Mayor

ATTEST:

JoAnn Cram, City Clerk

Minutes to be approved on June 11, 2019