

The COMMON COUNCIL of the City of Tomah met in REGULAR SESSION November 12, 2019 at 6:30 p.m. with Mayor Mike Murray presiding in the Municipal Building, 819 Superior Avenue, Tomah WI.

Following the Pledge of Allegiance, roll call was taken with the following members present: Mike Murray, Travis Scholze, Lamont Kiefer, Donna Evans, Sue Holme, Jeff Cram, Richard Yarrington, and Shawn Zabinski. Absent: Mary Ann Komiskey. Quorum present.

Also present: City Attorney Penny Precour, City Administrator Roger Gorius, and City Clerk JoAnn Cram. Gregg Hagen videotaped the meeting.

Anyone Desiring to Appear Before the City Council. April Seering, Angel Hugs Community Helpers, 320 W La Crosse Street, Tomah spoke on behalf of Kayla Devito. They are getting the word out about anyone in need in Tomah. They have an adopt a family program for Christmas that they are taking donations of toys or clothing and gift cards, etc. or people can opt to adopt an entire family. The sponsor sets the pace and those applications are paired with families that have submitted needs within the community. There is a Facebook group called Angel Hugs Original and the link is Facebook.com/groups/angelhugsch for community helpers.

John Pleuss appeared regarding his request for information. Mr. Pleuss was advised to go to the City Clerk's office in the morning regarding his request. Mr. Pleuss also wanted to address the County ET Project.

Public Hearing: 2020 Budget Hearing. Motion by Scholze, 2nd by Zabinski to open the public hearing. Motion passed. Mayor Murray declared the public hearing open at 6:40 p.m. City Administrator Gorius advised that the overall budget comes in at \$8.64 (including the Lake District levy) which is exactly the same total as last year. The levy has gone up .01 cent since the Budget Workshop. Alderperson Yarrington requested an amendment to the Budget to increase the Judge's salary by \$1,000. Motion by Yarrington, 2nd by Evans to raise the Judge's salary by \$1,000. The \$8,000 surplus which resulted from the expenditure restraint figure would go down to \$7,000 and funds would be slotted into the Judge's budget. Motion passed without negative vote. Motion by Cram, second by Zabinski to close the Budget Hearing. Motion passed. Mayor Murray declared the public hearing closed at 6:45 p.m.

Resolution Adopting the 2020 Budget and Establishing Tax Rate. The proposed total expenditures are \$24,473,598 (all funds) compared to \$20,590,593 in 2019. The City Property Tax Levy will be \$5,615,451 or \$8.54 per thousand dollars of assessed value. This is up from \$5,334,692 in 2019 or \$8.26 per thousand dollars of assessed value. Assessed valuation increased by \$11,359,300 (\$646,146,200 to \$657,505,500).

Motion by Yarrington, second by Kiefer to approve **Resolution No. 2019-11-12-36** Adopting the 2020 Budget and Establishing the Tax Rate at \$8.54 per \$1,000 of assessed valuation as amended to include a \$1,000 increase for the Municipal Judge. Motion passed without negative vote.

Minutes. Motion by Cram, second by Zabinski to approve the October 8, 2019 Regular Council Meeting Minutes as presented. Motion passed without negative vote.

Motion by Zabinski, second by Evans to approve the October 19, 2019 Special Budget Workshop Council Meeting Minutes as presented. Motion passed without negative vote.

Appointments: Motion by Scholze, second by Yarrington to appoint Megan Jensen to the Housing Authority to fulfill the remaining term of Kevin McCoy with the term expiring April 2021. Motion passed without negative vote.

Motion by Kiefer, second by Yarrington to appoint Megan Jensen to the Community Development Block Grant Committee to fulfill the remaining term of Kevin McCoy with the term expiring April 2021. Motion passed without negative vote.

Mayor. Mayor Murray advised that alternate side parking is now in effect and citizens are reminded to abide by the ordinance. The Special Needs Christmas Party will be held on December 14th and registration will be online shortly.

Distinguished Service Resolution. Motion by Evans, second by Yarrington to approve **Resolution No. 2019-11-12-37** in recognition of Dennis M. Wagner for service to the City of Tomah. Motion passed without negative vote.

RESOLUTION NO. 2019-11-12-37
RESOLUTION IN RECOGNITION OF DENNIS M. WAGNER IN
SERVICE TO THE CITY OF TOMAH 2002-2019

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.

WHEREAS, Dennis M. Wagner has committed himself to faithfully serving the citizens of Tomah from 2002 to 2019 as a member of the Public Works Department, and

WHEREAS, Dennis has proven himself to be a dedicated and trustworthy member of the City of Tomah. Dennis's commitment to his community has been evidenced repeatedly in his many years with the Tomah Public Works Department as Sanitation operator, Truck Driver and a host of varied and vital service positions within the department that have enhanced the lives of our Citizens. Dennis often dedicated hours of his time in cleanup efforts related to snow and rain events that would have affected the capability of the City to function and maintain services to its citizens. Dennis repeatedly went beyond and above his assigned duties to make the extra effort that provided for the comfort and protection of our citizens. His dedication and selflessness are a true testimonial to his pride and care for the City of Tomah and this City and its citizens are much the better for his service, and

WHEREAS, In appreciation for such dedication and service to our Community upon his retirement from the Public Works Department of the City of Tomah the following is submitted to record;

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

Dated this 12th day of November, 2019.

Michael Murray, Mayor

ATTEST: JoAnn M. Cram, City Clerk

City Administrator & Long Range Planning Committee Report. City Administrator Gorius provided a written report regarding current and ongoing activities.

City Clerk. City Clerk Cram reported that the Spring Election notice will be published on November 25th and even districts are on the ballot plus the Mayor and Municipal Judge. Training continues for the various stages of the new agenda software.

Library Monthly Report. The Annual Christmas Silent Auction Fundraiser will be held Tuesday, December 3rd at the Public Library from 3 p.m. to 7 p.m.

Tomah Public Housing & Community Development Block Grant Monthly Report. No report.

Senior & Disabled Services Report. Senior & Disabled Services Coordinator Pam Buchda provided a monthly calendar and written summary of various events. The annual Arts and Craft Sale will be held on Nov. 23rd from 9-3:30 p.m. at Recreation Park. Tomah's Great Holiday Shopping Hunt will be a combination of events at the Fairgrounds, the Methodist Church and the ACT Theater. All three will participate in the arts and craft event. All 3 venues are selling lunches. Nov. 17th is the Sunday Funday for special needs members and all who want to attend. A guest speaker will also present to the parents and caregivers.

Planning/Building Inspection Monthly Report. Shane Rolff provided a written report.

Fire Department Monthly Report. Fire Chief Adler provided a written report and advised that October was spent doing safety education at all the area schools.

Parks and Recreation Monthly Report: Parks Department, Recreation Programs, Aquatic Center, Recreation Park. Director Protz provided a written monthly report.

Ambulance Department Monthly Report. Director Dunford provided a written report and advised the following: The Dept. was invited to a conference which is an event for heroes and survivors for cardiac saves and were recognized for four saves.

Police Department Monthly Report. Police Chief Mark Nicholson provided a monthly written report and advised the Christmas Giving Tree will be up soon and will have 80-100 names on it. The names are provided from Families First and Monroe County Human Services.

Public Works & Utilities Director – Water, Sewer, Public Works, and Lake Updates. Director Arity provided a monthly written report and advised the Leaf Vac may get out to pick up more leaves, however, it is very weather dependent. The Lake Committee will meet in January

and will not meet any more in 2019. There are three street lights that are not functioning at this time. The electrician needs to complete more work on those lights.

Tomah Chamber & Visitors Center. Ex. Director Thompson advised they are doing 2020 planning at this time. The membership appreciation event will be at the American Legion on Dec. 13th. The annual banquet will be held the last Monday in February. The Holiday Parade will be on Nov. 29th and registrations are now open for that. The Thanksgiving Dinner will be at Murray's on Main this year from 11 a.m. to 1 p.m.

Treasurer's Cash & Investment Reports – October 2019. Motion by Scholze, second by Evans to accept the October Cash and Investment reports as presented. Motion passed without negative vote.

Request by Savannah Hays for Consideration of Bartender License. Ms. Hays appeared and is requesting reconsideration of her bartender license. There are extenuating circumstances. Chief Nicholson advised that the Council is required to consider efforts for rehabilitation and fitness to perform the licensed activity.

Motion by Scholze, second by Yarrington to approve the bartender license for Savannah Hays. Motion passed without negative vote.

Bartender Licenses. Motion by Kiefer, second by Zabinski to approve the bartender applications as follows: Lisa Brikl, Catherine Brown, Ramona Brown, Brianna Greeno, Rebecca Guldennaare, Tosha Hemmersbach, Deanna McDonald, Susa Michaelis, Cierra Reimann, Abby Skowronski, Renee Visgar, and Adrianna Williams. Motion passed without negative vote.

Application of "Class C" Wine Beverage License for The Baker's Table at 233 N. Superior. Motion by Cram, second by Evans to approve the "Class C" Wine License for The Baker's Table at 233 N. Superior Avenue, Stephanie Brickl Agent for the period of November 13, 2019 to June 30, 2020 unless sooner revoked. Motion passed without negative vote.

Special Beer and Wine Permit for North American Squirrel Association (N.A.S.A.) on Feb 22, 2020 at Recreation Park-Recreation "Gold" Building for their "Annual N.A.S.A. Banquet". Motion by Yarrington, second by Zabinski to approve the Special Beer and Wine Permit for North American Squirrel Association (N.A.S.A.) on Feb 22, 2020 at Recreation Park-Recreation Bldg. for their "Annual N.A.S.A. Banquet". Motion passed without negative vote.

Special Beer Permit for Monroe County Tavern League on Jan 10-12, 2020 at Recreation Park-Recreation "Gold" Building for their "Monroe County Tavern League Safe Ride Fundraiser-Pool Tournament". Motion by Scholze, second by Kiefer to approve the Special Beer Permit for Monroe County Tavern League on Jan 10-12, 2020 at Recreation Park-Recreation "Gold" Building for their "Monroe County Tavern League Safe Ride Fundraiser-Pool Tournament". Motion passed without negative vote.

2019 Budget Amendment to Increase Donation Income Acct. #05-48500 by \$2,000 and Recognize Sale of Equipment Acct. No. 05-48301 of \$970.09 and Authorize an Expenditure of \$2,695 for Fitness Room Equipment. \$2,000 was received from an anonymous donation and \$970.09 was received from the sale of old fitness equipment. New fitness equipment needs to be purchased at a cost of \$2,695 leaving the remainder of \$275.09 to be left in the Grants and Donations account for future needs.

Motion by Zabinski, second by Yarrington to approve the 2019 Budget Amendment to increase Donation Income Acct. #05-48500 by \$2,000 received from an anonymous donor and recognize the revenue of \$970.09 from the sale of property and also authorize the expenditure of \$2,695 from Acct. #05-57210-8300 – Police Dept. Outlay Equipment for the purchase of new fitness equipment for the Police Dept. Motion passed without negative vote.

2019 Budget Amendment to Increase Donation Income Acct. #05-48500 by \$2,000 and Authorize an Expenditure of \$1,758.00 from Acct. #05-52100-2900 Law Enforcement Service Contracts for the subscription to The Leads Online Program. A Wal-Mart Community Giving Grant was received to be used for the annual yearly subscription to the police Leads Online Program.

Motion by Cram, second by Kiefer to approve the 2019 Budget Amendment recognizing the \$2,000 Donation in Acct. #05-48500 and authorize the expenditure of \$1,758 from Law Enforcement Service Contracts Acct. #05-52100-2900 for the yearly subscription for the Leads Online Program. Motion passed without negative vote.

2019 Budget Amendment to Recognize a \$500 Donation in the Police Dept. K-9 Program Donation Account # 05-48503 for Future Needs and Purchases Relating to the K-9.

Motion by Evans, second by Zabinski to approve the 2019 Budget Amendment recognizing the \$500 donation in the Donation K-9 Program Acct. # 05-48503 to be used for future needs and purchases for the K-9 Program. Motion passed without negative vote.

2019 Budget Amendment – Recognize Donations Totaling \$2,000 in Donation – Recreation Programs Acct. #05-48500 and Authorize Expenditures of \$2,000 in Recreation – Supplies Account #05-55200-3400. A \$1,000 donation was received from the Tomah Youth Soccer Association and another \$1,000 from the Jesse Parker Races, Inc. group to be used for Recreation Programs and Supplies.

Motion by Kiefer, second by Scholze to approve the 2019 Budget Amendment recognizing the \$2,000 donation in Acct. #05-48500 Donation – Recreation Programs and authorizing expenditures of \$2,000 from Acct. # 05-55200-3400 Recreation Supplies. Motion passed without negative vote.

2019 Budget Amendment – Recognize Donations Totaling \$6,310 in the Donation – Other Parks Acct. #05-48500 and Authorize an Expenditure of \$6,310 from Grants – Other Parks Supplies Acct. # 05-55200-3400. The following donations have been received: \$4,500 from the Tomah Rotary Club; \$1,000 from the Rotary Foundation; \$280 from Oakdale Electric Cooperative; \$300 from American Transmission Company, and \$130 from Anne Protz as well as \$100 from Ellen Champlin. The \$100 donation from Ms. Champlin is requested to be used to purchase a Memorial Wreath for Memorial Park. The remaining \$6,210 shall be designated to purchase trees. Total donations are \$6,310 and it is requested that authorization be provided to spend the funds on Other Park Supplies.

Motion by Zabinski, second by Kiefer to approve the 2019 Budget Amendment recognizing donations totaling \$6,310 in the Donation – Other Parks Acct. #05-48500 and Authorize an Expenditure of \$6,310 from Grants – Other Parks Supplies to cover the cost to purchase trees and for the memorial wreath as designated. Motion passed without negative vote.

Resolution Regarding Release of Restriction and Reverter by City of Tomah. It has come to the City's attention that in March of 1950 a restriction was put on Butts Avenue land on the former site of Tomah Memorial Hospital. The Quit Claim deed indicates the city conveyed the land that was to be used exclusively as a hospital and if the land ever ceased to be used as a hospital, the land would revert back to the City of Tomah. The new hospital was constructed and the property and buildings were offered to the City at a minimal price to which the Common Council declined due to the size of the building and associated maintenance costs. The Hospital is in the process of selling the parcel and the title search found the restriction on the deed.

Motion by Kiefer, second by Cram to approve **Resolution No. 2019-11-12-38** Regarding Release of Restriction and Reverter by City of Tomah as presented. Motion passed without negative vote.

RESOLUTION NO. 2019-11-12-38

RELEASE OF RESTRICTION AND REVERTER BY CITY OF TOMAH

WHEREAS, the City of Tomah previously conveyed to Tomah Memorial Hospital, Inc. the following described real estate (See Attachment "A":

Those lands described in a Certified Survey Map recorded in Vol. 9 of CSM at page 44 as Document Number 423902 located in the Northeast Quarter of the Northeast Quarter (NE 1/4 of NE 1/4) of Section Five (5), Township Seventeen (17) North, Range One (1) West, City of Tomah, Monroe County, Wisconsin. and,

WHEREAS, at the time of said conveyance the City placed the following Restriction and Reverter on said real estate:

"This conveyance hereby made is to be used exclusively for a hospital site and if not so used within five years from the date of this deed the said tract of land shall revert back to the City of Tomah; and this grant is further subject to the provision that if the said land ever ceases to be used as a hospital then likewise the said land shall revert back to the City of Tomah" as contained in Vol. 183 of Deeds, on page 274, as Document No. 235178. and,

WHEREAS, Tomah Memorial Hospital, Inc. has constructed a new hospital at a new location, namely 501 Gopher Drive, Tomah, Wisconsin and offered to sell the land and building to the City at a minimal price, and

WHEREAS, the Common Council determined the size of the building and maintenance cost associated therewith would not best serve the City's interest, and

WHEREAS, Tomah Memorial Hospital, Inc. now desires to sell the site of the old hospital to a third party who will not use the site as a hospital, and

WHEREAS, the Common Council of the City of Tomah believes the Hospital move and sale of the former hospital site to be in the best interest of the City and Hospital, and

WHEREAS, the Common Council of the City of Tomah, after consideration of the foregoing, has no objection to release of the Restriction and Reverter.

NOW, THEREFORE, the Common Council of the City of Tomah does hereby release in its entirety the Restriction and Reverter as set forth above and described in Volume 183 of Deeds, page 274, Document No. 235178.

The foregoing Release was approved on November 12, 2019 upon Resolution of the Council that further authorized the Mayor and Clerk to sign.
Michael Murray, Mayor
Dated: November 12, 2019
JoAnn M. Cram, City Clerk

Amendment to the Ordinance Amending Chapter 28, Division V, Regarding Possession of Tobacco and Vapor Products by Minors (1st & 2nd Reading & Adoption). After passage and approval last month, it was found that the ordinance contained the penalty amounts and we typically don't include that language in our ordinances. That section is being removed and City Attorney Precour made a couple of other modifications that were needed and are consistent with state statutes.

Motion by Scholze, second by Zabinski to waive the first verbatim reading of the Ordinance Amending Chapter 28, Division V, regarding possession of tobacco and vapor products by minors. Motion passed without negative vote.

Motion by Scholze, second by Cram to waive the second verbatim reading of the Ordinance Amending Chapter 28, Division V, regarding possession of tobacco and vapor products by minors. Motion passed without negative vote.

Motion by Scholze, second by Kiefer to adopt **Ordinance No. 2019-11-09-D** Amending Chapter 28, Division V, regarding possession of tobacco and vapor products by minors. Motion passed without negative vote.

ORDINANCE NO. 2019-11-09-D
ORDINANCE AMENDING CHAPTER 28, DIVISION V, SECTIONS (C) AND (D) POSSESSION OF TOBACCO AND VAPOR PRODUCTS BY MINORS OF THE CITY OF TOMAH MUNICIPAL CODE

SECTION ONE: Chapter 28, Division 5, Section (c) and (d) are hereby amended to read as follows:

- (c) *Prohibited conduct.*
- (1) Consistent with Wis. Stats. § 254.92, a minor shall not do any of the following:
 - a. Purchase or attempt to purchase a tobacco product or vapor product.
 - b. Possess or attempt to possess a tobacco product or vapor product.
 - c. Use a tobacco product or vapor product in a public place.
 - d. Present or offer to an individual a purported proof of age that is false, fraudulent, or not actually his or her own proof of age for the purpose of purchasing, attempting to purchase, possessing, or attempting to possess a tobacco product or vapor product.
 - (2) No individual, regardless of age, who is enrolled in secondary school may possess or attempt to possess a tobacco product or vapor product while on school property.
 - (3) Subsection (1) does not apply to a minor participating in any of the following:
 - a. An undercover operation in which the minor purchases or receives a tobacco product or vapor product under the direction of the minor's employer and with the prior approval of the local prosecutor's office as part of an employer-sponsored internal enforcement action.
 - b. An undercover operation in which the minor purchases or receives a tobacco product or vapor product under the direction of the state police or a local police agency as part of an enforcement action, unless the initial or contemporaneous purchase or receipt of the tobacco product or vapor product by the minor was not under the direction of the state police or the local police agency and was not part of the undercover operation.
 - c. Compliance checks in which the minor attempts to purchase tobacco products for the purpose of satisfying federal substance abuse block grant youth tobacco access requirements, if the compliance checks are conducted with the prior approval of the state police or a local police agency.
 - (4) Subsection (1) does not apply to the handling or transportation of a tobacco product or vapor product by a minor under the terms of that minor's employment.
 - (5) This section does not prohibit an individual from being charged with, convicted of or found responsible for, or sentenced for any other violation of law that arises out of the violation of Subsection (1).
 - (6) Penalties. A person who violates this section is subject to penalties imposed under Sec. 1-14 of the Code of Ordinance.
- (d) *Furnishing to minors.* Consistent with secs. 134.66 and 254.92 (2m), Stats.:
- (1) A person shall not sell, give or furnish any tobacco product or vapor product to a minor, including, but not limited to, through a vending machine.
 - (2) Subsection (1) of this section does not apply to the handling or transportation of a tobacco product or vapor product by a minor under the terms of the minor's employment.
 - (3) Before selling, offering for sale, giving, or furnishing a tobacco product or vapor product to an individual, a person shall verify that the individual is at least 18 years of age by doing one of the following:
 - a. Examining a government-issued photographic identification that establishes that the individual is at least 18 years of age.
 - b. For sales made by the internet or other remote sales method, performing an age verification through an independent, third-party age verification service that compares information available from a commercially available database, or aggregate of databases, that are regularly used by government agencies and businesses for the purpose of age and identity verification to the personal information entered by the individual during the ordering process that establishes that the individual is 18 years of age or older.
 - (4) Penalties. A person who violates this section is subject to penalties consistent with secs. 134.66 (4) and 254.92 (2m), Stats.

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
READ: 10/08/2019 & 11/12/2019
ATTEST: JoAnn M. Cram, City Clerk
PASSED: 11/12/2019
PUBLISHED: 11/22/2019

Ordinance Repealing and Recreating Chapter 22 of the City of Tomah Regarding Floodplain Zoning (2nd Reading & Adoption)

Motion by Yarrington, second by Zabinski to waive the second verbatim reading of the ordinance repealing and recreating Chapter 22 regarding floodplain zoning. Motion passed without negative vote.

Motion by Cram, second by Kiefer to adopt **Ordinance No. 2019-11-10-D** repealing and recreating Chapter 22 regarding floodplain zoning. Motion passed without negative vote.

**ORDINANCE NO. 2019-11-10-D
ORDINANCE REPEALING AND RECREATING CHAPTER 22 OF THE
CITY OF TOMAH FLOODPLAIN ZONING ORDINANCE**

SECTION ONE: Chapter 22 Floodplains, Shorelands, and Wetlands of the Municipal Code is hereby repealed in its entirety and recreated as follows: (Please note Table of Contents and numbering may be revised by Municipal Code when codified into our Municipal Code.)

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ARTICLE I. FLOODPLAIN ZONING DIVISION I

Due to the length of this ordinance recreating Chapter 22, the entire ordinance is not being published. A copy is available at the City of Tomah Clerk's Office at 819 Superior Avenue, Tomah (608-374-7426) and may be viewed in its entirety on the City's Website at www.tomahonline.com.

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:

Date of Public Hearing: September 26, 2019 - Class 2 Hearing Notice Publication

Date of Public Hearing Publication: 9/9/2019 and 9/16/2019

ORDINANCE:

READ: 10/8/2019 & 11/12/2019 PASSED: 11/12/2019 PUBLISHED: 11/22/2019

Rehabilitation Loan SR19-2. This is a deferred payment loan in the amount of \$29,700 for 317 E Monowau Street for a bathroom remodel, new windows, door, repair deck, new furnace, and waterproof system and sump pump in basement.

Motion by Yarrington, second by Zabinski to approve Rehabilitation Loan SR19-2, a deferred payment loan in the amount of \$29,700 for home renovations at 317 E Monowau Street as described. Motion passed without negative vote (Kiefer abstained).

Adaptive Management Agreement with John Kelley. Mr. Kelley has agreed to take part in an Adaptive Management Program regarding a Perpetual Conservation Easement as well as fencing and seeding as prescribed by the Monroe County Land Conservation Office. The City agrees to pay a fee for compliance.

Motion by Scholze, second by Cram to approve the Adaptive Management Agreement with John Kelley as presented. Motion passed without negative vote.

Motion by Evans, second by Zabinski to adjourn to closed session pursuant to State Statute 19.85(1) (c) and (e) to Confer with Legal Counsel with Respect to Union Negotiations, Personnel Issues, and Negotiation of Purchase/Sale of Land. Motion passed without negative vote. The meeting adjourned to Closed Session at 7:36 p.m.

Approved:

Michael Murray, Mayor

ATTEST:

JoAnn M. Cram, City Clerk
Minutes to be approved on December 10, 2019