

MINUTES FOR COMMON COUNCIL JUNE 20, 2023

Call to Order, Pledge of Allegiance, Roll Call

The meeting was called to order by Mayor Michael Murray at 6:00 p.m. Roll call was taken after the Pledge of Allegiance. Present: Michael Murray, Travis Scholze, Richard Yarrington, Shawn Zabinski, John Glynn, Lamont Kiefer, and Dean Peterson. Absent: Nicole Hart. Also present: Kirk Arity, Molly Powell, Shane Rolff (remote), Pam Buchda, Atty. Penny Precour, Becki Weyer, Tim Adler, and Irma Keller. The meeting was videotaped by Hagen Sports Network. All motions are unanimously approved unless otherwise noted.

Adjourn to Closed session pursuant to Wis Stat § 19.85(1)(g) To confer with legal counsel concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved

Motion by Peterson, second by Kiefer, to adjourn into closed session pursuant to Wis Stat § 19.85(1)(g) to confer with legal counsel. Motion carried. Meeting adjourned to closed session at 6:02 p.m.

Resume Open Session

Open session resumed at 6:34 p.m.

ANYONE DESIRING TO APPEAR TO COUNCIL

Dave Deprey from 1201 Kilbourne Ave appeared to the Council to address the issues with loud music downtown and to voice his support for the proposed outdoor cabaret ordinance changes on the agenda.

Mayor

The Tractor Pull is in town, use caution with extra visitors and with construction going on. The Mayor thanked city staff for their professionalism and presence on social media.

Senior Executive Team Monthly Report

The Senior Executive Team provided a monthly written report. SET Chair Kirk Arity informed the Council of a potential for “brownfield” development at the landfill superfund site using solar energy. SET met with a representative from WHEDA to explore grants and/or funding and information to share on the city’s website. Arity covered the training recently attended and future training for members of the SET.

Public Safety May Monthly Report

Adler provided a monthly written report and covered the highlights with the Council.

Fire: Roy Gigous retired after 29 years of service. Adler attended a weekend rail incident safety training.

The fire department’s old pontoon boat was sold on Wisconsin Surplus, and the proceeds will be used to purchase a replacement.

EMS: They are down one full time paramedic. They are currently in the process of moving items into the new building and should be completely moved in by July 15th. Adler will be taking a week of vacation beginning next week.

Library

Dir. Keller provided an update on the number of checkouts over the last month: 1,917 eBooks and 5,026 physical checkouts. Keller covered the newly released books and the summer programs available at the library. All programs at the library are listed at Tomahpubliclibrary.org.

Senior & Disabled Services Monthly Report

Dir. Buchda provided a monthly written report and covered the highlights with the Council. She also covered the upcoming Senior and Disabled Services events. The rental at 1000 Superior is now occupied with new owners, Jensen Tax & Accounting LLC. There has been an influx of homeless visitors at the Sr. Center.

Planning & Building Inspection

Rolff provided the May Building & Code Enforcement Reports and entertained questions from the Council. There were 42 building permits issued. Code enforcement has been primarily long grass complaints and improperly disposed large item issues. Rolff gave updates on current construction projects in the city.

CONSENT AGENDA

Motion by Zabinski, second by Pater, to approve the following consent agenda:

- A. Approval of Minutes from May 16, 2023
- B. Approval of Minutes from June 06, 2023
- C. Annual renewal of “Class A” Liquor & Class “A” Fermented Malt Beverage Licenses, “Class B” Liquor & Class “B” Fermented Malt Beverage Licenses, and “Class C” Wine Beverage Licenses
- D. May 31, 2023 Cash and Investments Schedule

Motion carried.

Allocation of Room Tax for New Athletic Field Complex and Ice Center Improvements

Motion by Glynn, second by Peterson, to approve the proposed allocation of room tax percentages: 1% Recreation Park yearly improvements, 1.75% for Flare Ave ballfield/park complex, and 1.25% for Tomah Ice Center Improvements. Motion carried.

Award New Public Athletic Field Complex Bids

Motion by Scholze, second by Zabinski, to award Contract #1 with Alternate A to Gerke Excavating to construct ballfields and site amenities and to award contract #2 to Americon to reconstruct a restroom and concession building. Motion carried.

Budget Transfer Request by Police Department to Apply Insurance Proceeds for Fire Suppression Equipment

Motion by Yarrington, second by Pater, to approve the budget transfer of \$500 from account 01-48420 General Insurance Recoveries to account 01-52100-3400, Law Enforcement Operating supplies to record insurance proceeds from the use of the Police Department’s fire suppression equipment. Motion carried.

Budget Amendment Request by Public Works Department to Apply Refund to Current Year Budget

Motion by Zabinski, second by Glynn, to approve the budget transfer of \$5,313.63 from account 01-48900 Other Miscellaneous to account \$01-53311-3502 Hwy./St. Maintenance Repairs & Maintenance to record income from FABICK for reimbursements from 2021 and 2022. Motion carried.

Resolution Authorizing Payment of Monthly Bills

Motion by Kiefer, second by Zabinski, to approve the Resolution Authorizing Payment of Monthly Bills in the amount of \$3,247,529.94. Motion carried.

RESOLUTION NO : _____

RESOLUTION 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:	2023	\$684,672.79	Check #'s:	142578	142616
				142630	142794
2. Payroll:		\$270,985.70	Dir Dep #'s:	9299217	9299449
3. Wire/ACH Transfers:		\$578,384.80			
4. Invoices:		\$1,713,486.65			
Total:		<u>\$3,247,529.94</u>			

Mayor

Clerk

Requested by: Finance Department

Submitted by: Committee of the Whole

June 20, 2023

Amendment of Ordinance Section 30-80 and 30-83 Regarding Boat Docks (first reading)

Motion by Kiefer, second by Glynn, to waive the first verbatim reading of the amendment of Ordinance Section 30-80 and 30-83 regarding boat docks. Motion carried.

ORDINANCE NO.-----

Ordinance Amending Sections 30-80 and 30-83 of the City of Tomah Municipal Code

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

SECTION ONE: Section 30-80 of the City of Tomah Municipal Code is hereby amended to read as follows:

Sec. 30-80. 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:

Dock means any dock, pier or other structure that is intended for human use on the surface of Lake Tomah.

Personal watercraft (PWC) means a jet driven vessel that the rider sits, kneels, stands, or lays on, or any paddle craft or non-motorized vessels such as canoes, kayaks, inflatable boats and rafts, or rowing boats.

Shore means the ordinary high-water mark for Lake Tomah as determined pursuant to the applicable local and state rules and regulations.

SECTION TWO: Section 30-83 of the City of Tomah Municipal Code is hereby amended to read as follows:

Sec. 30-83. Number restricted.

One dock shall be allowed per 50 lineal feet of frontage abutting Lake Tomah not to exceed:

- (1) Properties zoned "R1" by the Municipal Code shall be allowed one dock per household.
- (2) Properties zoned "R3" by the Municipal Code shall be allowed one dock per two dwelling units.
- (3) Properties zoned for business use shall be allowed a maximum of four docks.
- (4) Properties zoned for agricultural use shall be allowed a maximum of one dock per property.
- (5) Two personal watercraft launches are permitted for every one dock permitted.

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:

Rebecca Weyer, City Clerk

READ:

PASSED:

PUBLISHED:

Approval of Change to Per Diem Meal Policy in City Personnel Manual

Motion by Zabinski, second by Yarrington, that per diem rates for city employees reflect federal meal and incidental per diem rates and approve the handbook change read "the current per diem rate of reimbursement for meals shall be the same as the official federal per diem rates." Motion carried.

Plan Commission recommendation to amend ordinance section Chapter 6 Cabarets. 1st reading, 2nd reading, and adoption.

Motion by Glynn, second by Kiefer, to waive the first verbatim reading of the ordinance amending ordinance section Chapter 6, Cabarets. Motion carried.

Motion by Glynn, second by Kiefer, to waive the second verbatim reading of the ordinance amending ordinance section Chapter 6, Cabarets. Motion carried.

Motion by Kiefer, second by Scholze, to adopt the ordinance amending ordinance section Chapter 6, Cabarets with the amendment of the max decibel level of 70 in the residential area. Motion carried.

ORDINANCE NO. 2023-06-06-D

Ordinance Amending Sections 6-1 and 6-3 of the City of Tomah Municipal Code

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

SECTION ONE: Section 6-1 of the City of Tomah Municipal Code is hereby amended to read as follows:

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 entertainment such as music, karaoke, or any other amplified sound is permitted or furnished to patrons by the management with or without special charge therefor.

Outdoor cabaret means an outdoor area to which the general public is admitted and where entertainment such as music, karaoke, or any other amplified sound is permitted or furnished to patrons by the management with or without special charge therefor.

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 200 feet of the proposed licensed premises for a special event outdoor cabaret license shall receive written notice of the original application. Subsequent applications for similar events will require a general notice to the public. A license shall only be granted following approval by a two-thirds vote of the common council.

SECTION TWO: Section 6-3 of the City of Tomah Municipal Code is hereby amended to read as follows:

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 9:00 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, 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.
- (10) *Noise levels for outdoor cabarets.* Noise from a stationary source shall not exceed the following standards for maximum sound pressure levels measured at the property line:

Zone	Noise Rating (dB)*
Residential Districts	70
Business Districts	85
All Other Districts	75

*Noise measurement shall be made by the City of Tomah Police Department with a sound level meter. Noise measurements shall be made at the nearest lot line of the premises from which a noise complaint is received. The noise meter shall be placed at a height of at least three feet above the ground and at least three feet away from walls, barriers, obstructions, and all other sound-reflective surfaces.

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: Rebecca Weyer, City Clerk
 READ: 06/20/2023
 PASSED: 06/20/2023
 PUBLISHED: 06/26/2023

Plan Commission recommendation to repeal Division 4 Cabarets. 1st reading, second reading, and adoption
 Motion by Yarrington, second by Zabinski, to waive the first verbatim reading of the ordinance repealing Division 4, Cabarets. Motion carried.

Motion by Zabinski, second by Glynn, to waive the second verbatim reading of the ordinance repealing Division 4, Cabarets. Motion carried.

Motion by Kiefer, second by Zabinski, to adopt the ordinance amending ordinance repealing Division 4, Cabarets. Motion carried.

ORDINANCE NO. _____

**Ordinance Repealing Division 4 Cabaret Licenses (Sections 4-133 through 4-138)
of the City of Tomah Municipal Code**

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

SECTION ONE: Division 4 Cabaret Licenses (Sections 4-133 through 4-138) is hereby repealed.

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:

Rebecca Weyer, City Clerk

READ:

PASSED:

PUBLISHED:

**Plan Commission recommendation to amend Outdoor Facility License Ordinance
Committee: Public Works and Utilities Commission**

Motion by Yarrington, second by Zabinski, to waive the first verbatim reading of the ordinance amending ordinances 4-97 through 4-102 of the City of Tomah municipal code. Motion carried.

Motion by Zabinski, second by Pater, to waive the second verbatim reading of the ordinance amending ordinances 4-97 through 4-102 of the City of Tomah municipal code. Motion carried.

Motion by Kiefer, second by Zabinski, to adopt the ordinance amending ordinance amending ordinances 4-97 through 4-102 of the City of Tomah municipal code. Motion carried.

ORDINANCE NO. _____

Ordinance Amending Section 4-97 thru 4-102 of the City of Tomah
Municipal Code

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

SECTION ONE: Section 4-97 of the City of Tomah Municipal Code is hereby amended to read as follows:

Any retail class B license issued shall limit and restrict the consumption of fermented malt beverages and intoxicating liquors as defined in Wis. Stats. Ch. 125 to the building premises so defined on the liquor license application unless, prior to the application of a liquor license or renewal thereof, approval has been obtained from the Committee of the Whole for an outdoor facility.

SECTION TWO: Section 4-98 of the City of Tomah Municipal Code is hereby amended to read as follows:

The application to the City Clerk shall be accompanied by the application fee established by the city council, together with a site and landscape plan of the entire parcel showing the outdoor facility, designating its location with respect to the main premises and other buildings on the site, designating entrances and exits of both the main structure and outdoor facility, and the location of the outdoor facility with respect to buildings on adjoining sites. The application shall also include such other information as the City Clerk may require to ensure compliance with this Code.

SECTION THREE: Section 4-99 Requirements for outdoor facilities of the City of Tomah Municipal Code is hereby amended to read as follows:

- (1) *Entrance and exits.* The fire department and building inspector shall review the entrance and exit systems to ensure that the same are code compliant. In addition, the entrance and exit from the site shall have an alarm system meeting the requirements of the building inspector and chief of police to ensure that the staff inside the parent building will be immediately notified if the entrance or exit has been utilized.
- (2) *Use of right-of-way; setback.* No outdoor area shall be located on a dedicated public right-of-way or within 20 feet thereof. Exceptions may be requested for those lots not able to accommodate the 20-foot minimum setback requirement.
- (3) *Video monitoring.* An operating video camera monitoring system shall be installed in the outdoor area.
- (4) *Fencing and lighting.* The outdoor area shall be enclosed with a fence. The requirements for location, height and style shall meet the minimum requirements as directed by the Committee of the Whole after due consideration is made to the site location and any other pertinent factors specific to the site. Exposed sources of light shall be shielded so as not to be visible outside their premises.
- (5) *Location.* In the event the location of the outdoor area is within 300 feet of property zoned residential, conditions shall be instituted to ensure that such area does not significantly compromise the uses, values and enjoyment of such residential property within the neighborhood of the proposed site.
- (6) *Overall appearance and size.* The overall appearance must meet the downtown standards requirements if applicable or otherwise required by the Committee of the Whole. The outdoor area must be patrolled for trash and cleaned on a daily basis.
- (7) *Tables, chairs, and trash receptacles.* A seating plan shall be submitted and reviewed by the Building Inspector/Fire Chief. The Building Inspector and/or Fire Chief shall provide a calculated occupant load for the area. The occupant load shall be clearly posted. Trash receptacles will be required.

- (8) *Liquor availability.* The availability of liquor shall be consistent with the liquor license of applicant. The liquor license must be amended to include the outdoor area as part of the premises.
- (9) *Surface and materials.* The outdoor area should be on a hard surface; however, exceptions may be granted upon approval by the Committee of the Whole and after due consideration is made to the site location and any other pertinent factors specific to the site. Any and all building materials for structures thereon shall meet the requirements of the Committee of the Whole.
- (10) *Hours of operation.* An outdoor facility shall only be operated during the hours as designated per Wisconsin State Statute for Class B alcohol beverage licenses.

SECTION FOUR: Section 4-100 of the City of Tomah Municipal Code is hereby amended to read as follows:

The Committee of the Whole shall conduct a public hearing and make a recommendation to the city council. Notice shall be given by ordinary mail of the proposed establishment of an outdoor facility to the owners of property immediately adjacent to the area to be considered for the new use extending 300 feet therefrom and to the owners of properties extending 300 feet from the street frontage of the opposite property and also by a class 1 publication in the official newspaper.

SECTION FIVE: Section 4-101 of the City of Tomah Municipal Code is hereby amended to read as follows:

After hearing, the Committee of the Whole shall make a recommendation to the city council. The recommendation shall recommend either approval without special conditions, approval with special conditions, or denial.

SECTION SIX: Section 4-102 of the City of Tomah Municipal Code is hereby amended to read as follows:

Upon recommendation from the Committee of the Whole, the City Council shall consider the application and any special conditions recommended by the Committee of the Whole. If final approval is granted by the City Council, a special use permit shall be issued with any restrictions stated thereon. Any violation of the stated restrictions shall subject the special use permit to automatic revocation without further notice or public hearing.

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

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

Michael Murray, Mayor

ATTEST:

Rebecca Weyer, City Clerk

READ:

PASSED:

PUBLISHED:

Resolution approval for CMAR

Motion by Peterson, second by Scholze, to approve the Resolution approving the CMAR. Motion carried.

Resolution No. _____

COMPLIANCE MAINTENANCE RESOLUTION

RESOLVED that the City of Tomah informs the Department of Natural Resources that the following actions were taken by the City Council:

Review of the 2022 Compliance Maintenance Annual Report, which is attached to this Resolution.

Monitor the operation of the wastewater treatment facility to maintain permit compliance.

Implement and complete a Capacity, Management, Operation and Management (CMOM) program once the DNR drafts a final ruling.

Passed by a _____ vote of the Tomah City Council on June 20, 2023.

Mike Murray, Mayor

Rebecca Weyer, City Clerk

Appointments

Motion by Zabinski, second by Scholze, to approve the appointment of Joanne Klinker to the Lake Committee to Fulfill the Remaining term of Hal Burnham ending in April 2024. Motion carried.

Adjourn

Motion by Peterson, second by Pater, to adjourn. Motion carried. The meeting was adjourned at 7:27 p.m.

Michael Murray, Mayor

Attest: Rebecca Weyer, City Clerk