

The COMMON COUNCIL of the City of Tomah met in **REGULAR SESSION** January 11, 2011 at 6:30 p.m. with Mayor John Rusch presiding.

Following the Pledge of Allegiance, roll call was taken with George Wright, Luke Bohlen, Ted Schleicher, Pam Buchda, Nellie Pater, Dennis Greeno, John Cram, and Larry Siekert present. Absent: None. Also in attendance: City Admin. Jim Bialecki, Asst. City Attorney Penny Precour-Berry, and City Clerk JoAnn Cram. Gregg Hagen videotaped the meeting.

Anyone Desiring to Appear Before the City Council. Scott Brand of 617 Mill Street appeared regarding snow plowing concerns at two apartment complexes he owns on Heeler Avenue. Mr. Brand requests that the snow removal ordinance be followed and that the City be considerate of the residents when plowing snow.

Minutes: Motion by Buchda, second by Greeno, to approve the December 14, 2010 Regular Council minutes. Motion passed without negative vote.

Mayors Report. Mayor Rusch complimented the citizens on their efforts cleaning the sidewalks.

City Administrator. Report was submitted electronically to Council members.

City Clerk. City Clerk Jo Cram provided information on the Spring Primary Election.

Public Works & Utilities – Water, Sewer, Public Works & Lake Updates. Public Works & Utilities Director Ken Patterson provided a written report to the Council. Citizens were asked not to push snow from driveways and parking lots back into the streets. The Public Works Commission will meet on Jan. 26th in the Council Chambers regarding sidewalk concerns and snow removal.

Library Report. Library Director Irma Keller advised that they are working on updating their website. The website is at tomahpubliclibrary.com. The library is working on a shelving project. The library also continues to work toward online access which will enable people to look at the library collection and place holds on library material.

Chamber of Commerce/Convention & Visitors Bureau. Ex. Director Chris Hanson advised the Chamber has extended its membership drive thru January 31st. The Tomah Veterans Memorial Committee has exceeded their goal of \$150,000. Freeze Fest sponsored by the Rotary will be held Feb. 4th and 5th. The new website at tomahwisconsin.com is up and running.

Tomah Public Housing & Community Development Block Grant Monthly Report. Director Rachel Muehlenkamp provided a summarized report.

Senior & Disabled Services Report. No report.

Parks and Recreation Monthly Report. Parks and Recreation Director Joe Protz provided a written summary for the Council. They are busy with snow removal, ice rinks, park shelters, building maintenance, and other winter recreation programs. Parks and Recreation is partnering with the Rotary to host the first annual Freeze Fest in February.

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

Motion by Cram, second by Greeno to approve the Treasurer's Cash and Investment Reports for December, 2011. Motion passed without negative vote.

Bartender Licenses.

Motion by Wright, second by Greeno to approve the bartender's license as listed. Bartender licenses approved as follows: Robert J. Bollig, Cindy S. Helming, Kristy E. Hubert, Ashley R. Organ, Kimberly S. Von Ruden, Ruth A. Williams.

Special Beer Permit – Rotary Club of Tomah for February 5, 2011 Freeze Fest at Winnebago Park Enclosed Shelter and Ballfield. The Rotary Club has subsequently withdrawn the request for a special beer permit at Winnebago Park. No action required.

Special Beer Permit – Rotary Club of Tomah for February 5, 2011 Freeze Fest at Recreation Park Recreation Building. Motion by Wright, second by Cram to approve the Special Beer Permit for the Rotary Club of Tomah for February 5, 2011 Freeze Fest at Recreation Park Recreation Building. Motion passed without negative vote. (Pam Buchda abstained as she is a member of the Rotary Club).

“Class B” Fermented Malt Beverage (Beer) License and Class “B” Liquor License Expiring June 30, 2011: 1. Patrick James Murphy for Dimensions II L.L.C. at 1110 Superior Avenue, Tomah, WI (Requesting the Regular License in lieu of the Reserve License) 2. Cancun Bay, Ltd. – Jesus Gonzalez Hidalgo for Cancun Mexican Restaurant at 1422 Superior Avenue, Tomah, WI. Applications were initially received from three establishments for the one liquor license listed above. The Long Range Planning Committee recommends that the license be issued as there is no policy in place to hold the license. It was also the recommendation of the Committee to issue the license to Patrick Murphy of Dimensions. The Cancun Mexican Restaurant would be eligible for the reserve license that would be relinquished by Mr. Murphy.

Motion by Wright, second by Cram, to approve the “Class B” Fermented Beer License and Class “B” Liquor license for Patrick James Murphy of Dimensions II LLC contingent on Mr. Murphy relinquishing his Reserve License for 1/12/11 through 6/30/2011 unless sooner revoked and waive the pro-rated fee through June of 2011. Motion passed with one negative vote from Schleicher.

Approval of Summary Plan Description and Plan Document for City of Tomah Cafeteria Plan. The City of Tomah needs to update the Summary Plan Description and the Plan Document for the Cafeteria Plan in order to comply with newly enacted state and federal mandates.

Motion by Bohlen, second by Wright to approve the amendments to the Summary Plan Description and the Plan Document for the City of Tomah Cafeteria Plan as presented. Motion passed without negative vote.

Ordinance Amending Section 18-20 Regarding Public Health Nuisances. The dog ordinances were reviewed and several changes were requested. This ordinance deals with cleaning up animal fecal matter.

Motion by Bohlen, second by Wright to waive the first verbatim reading of the Ordinance amending Section 18-20 regarding Public Health Nuisances as presented. Motion passed without negative vote.

Motion by Bohlen, second by Siekert to waive the second verbatim reading of the Ordinance Amending Section 18-20 Regarding Public Health Nuisances as presented. Motion passed with one negative vote. (Cram)

Motion by Bohlen, second by Wright to adopt **Ordinance No. 2011-01-01D** Amending Section 18-20 Regarding Public Health Nuisances as presented. Motion passed with one negative vote. (Cram)

Ordinance No. 2011-01-01-D
ORDINANCE AMENDING SECTION 18-20 REGARDING PUBLIC HEALTH NUISANCES
OF THE MUNICIPAL CODE OF THE CITY OF TOMAH

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

SECTION ONE: Section 18-20 of the Municipal Code is hereby amended to read as follows:

Sec. 18-20. Public health nuisances.

The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but shall not be construed to exclude other health nuisances:

- (1) All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.
- (2) Carcasses of animals, birds or fowl not buried or otherwise disposed of in a sanitary manner within 24 hours after death.
- (3) Accumulations of decayed animals or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed.
- (4) Accumulations of animal fecal matter of more than one week in accumulation on any personal property.
- (5) All solid fecal matter deposited by an animal on any street, sidewalk, alley, rights-of-way, public place or public property, parking lots or property of another without consent of the owner. The owner/caretaker of any such animal shall have in his/her possession a scoop, bag or shovel for use in the immediate removal of said fecal matter. This fecal matter shall be placed in a flush toilet or a receptacle ordinarily used for garbage and covered by a lid, or in an otherwise lawful and sanitary manner.
- (6) Disposal of animal fecal matter in any lake, waterway or storm sewer.
- (7) All stagnant water in which mosquitoes, flies or other insects can multiply.
- (8) Privy vaults and garbage cans which are not fly-tight.
- (9) All noxious weeds and other rank growth of vegetation.
- (10) All animals running at large.
- (11) The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust within the city limits or within one mile there from in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property.
- (12) The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, creamery or industrial wastes or other substances.
- (13) Any use of property, substance or other things within the city or within four miles thereof emitting or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, effluvia or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the city.

(14) All abandoned wells not securely covered or secured from public use.

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

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

John J. Rusch, Mayor

ATTEST:
JoAnn M. Cram, Clerk

Approval of 2011-2015 Capital Improvement Plan. 5-Year Capital Improvement Plan items were submitted by the following departments: Public Works, Water, Wastewater Treatment Plant, Parks and Recreation, Ambulance, Police Department, Fire Department, and City Clerk.

Motion by Pater, second by Greeno to approve the 2011-2015 Capital Improvement Plan as presented. Motion passed without negative vote.

Resolution Authorizing Payment of Monthly Bills. Motion by Pater, second by Greeno to approve **Resolution No. 2011-01-11-01** Authorizing Payment of the Monthly Bills. Motion passed without negative vote.

RESOLUTION NO. 2011-01-11-01 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	\$ 309,285.38	(Check #'s 105876-105889)
2. Payroll	\$ 402,257.57	Direct Deposit (#25455-25844)
3. Wire Transfers	\$ 29,830.05	
4. Invoices	\$1,605,836.49	(Check #'s 106073-106194)
5. Vouchers Payable 2010	\$ 120,012.80	
Total	\$2,467,222.29	

John J. Rusch, Mayor

ATTEST: JoAnn Cram, Clerk

Ordinance Amending Section 28-82 Regarding Carrying Dangerous Weapon

Motion by Wright, second by Greeno to waive the second verbatim reading of the ordinance amending Section 28-82 Regarding Carrying Dangerous Weapon. Motion passed without negative vote.

Motion by Siekert, second by Buchda to adopt **Ordinance No. 2011-01-11-02D** amending Section 28-82 Regarding Carrying Dangerous Weapon. Motion passed without negative vote.

Ordinance No. 2011-01-11-02D

ORDINANCE AMENDING SECTIONS 28-82 OF THE MUNICIPAL CODE OF THE CITY OF TOMAH

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

SECTION ONE: Section 28-82 of the Municipal Code is hereby amended to read as follows:
Section 28-82 Carrying Dangerous Weapon.

No person, other than a police officer or other officer authorized to maintain the peace and to serve process, shall carry or wear any slingshot, knuckles, bowie or switchblade knife, dirk or other dangerous weapon. In all cases of conviction hereunder any and all dangerous weapons found on the person of the convicted shall be confiscated and become the property of the city and may be destroyed by order of the court.

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

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

John R. Rusch, Mayor

ATTEST: JoAnn M. Cram, Clerk

Ordinance Amending Section 30-21 Regarding Domestic Animals

Motion by Greeno, second by Cram to waive the second verbatim reading of the ordinance amending Section 30-21 Regarding Domestic Animals. Motion passed without negative vote.

Motion by Bohlen, second by Cram to adopt **Ordinance No. 2011-01-11-03D** amending Section 30-21 Regarding Domestic Animals. Motion passed without negative vote.

Ordinance No. 2011-01-11-03D

ORDINANCE AMENDING SECTION 30-21 OF THE MUNICIPAL CODE OF THE CITY OF TOMAH

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

SECTION ONE: Section 30-21 of the Municipal Code is hereby amended to read as follows:
Sec. 30-21. Animals.

- (a) *Domestic Animals.* Dogs and cats shall be allowed in any park. Said animal shall be contained on a leash, cord or chain of not more than six feet and shall be under the care, custody and control of its owner/caretaker at all times. Any dog or cat in a City park must display current rabies tab and current dog/cat registration tags. The owner/caretaker of any such animal must have in his/her possession a

shovel, scoop, bag or other item for removal of fecal matter left by his/her animal on park grounds. Said owner/caretaker shall remove and deposit any such fecal matter in a receptacle provided for waste.

(b) *Transportation and recreational animals.* No person shall drive or park any animal in any park, except upon established roads and designated parking areas; provided, however, that during periods of officially sanctioned events, animals will be permitted on or in other areas that are specifically designated by officials of such events.

(c) *Wild or nondomestic animals.* No person shall disturb, interfere with, handle or feed any animals or birds in any park.

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

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

John J. Rusch, Mayor

ATTEST: JoAnn M. Cram, Clerk

Ordinance Amending Article III Chapter 8 Sections 8-64, 8-65, 8-66, 8-67, 8-68, 8-69 AND 8-70 Regarding Animal Regulations.

Motion by Greeno, second by Siekert to waive the second verbatim reading of the ordinance amending Sections 8-64, 8-65, 8-66, 8-67, 8-68, 8-69 and 8-70 Regarding Animal Regulations. Motion passed without negative vote.

Motion by Buchda, second by Wright to adopt **Ordinance No. 2011-01-11-04D** amending Sections 8-64, 8-65, 8-66, 8-67, 8-68, 8-69 and 8-70 Regarding Animal Regulations. Motion passed without negative vote.

Ordinance No. 2011-01-11-04D

ORDINANCE CREATING SECTIONS 8-64, 8-65, 8-66, 8-67, 8-68, 8-69 AND 8-70 in CHAPTER 8 ARTICLE III OF THE MUNICIPAL CODE OF THE CITY OF TOMAH

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

SECTION ONE: Section 8-64 to Section 8-70 of the Municipal Code is hereby created to read as follows:

8-64 LEADING ANIMAL FROM MOTOR VEHICLE. No person shall lead any animal upon a highway from a motor vehicle or from a trailer or semitrailer drawn by a motor vehicle. (Wis. Stats. 951.04)

8-65 USE OF POISONOUS AND CONTROLLED SUBSTANCES. No person may expose any domestic animal owned by another to any known poisonous substance, any controlled substance included in schedule I, II, III, IV or V of [ch. 961](#), or any controlled substance analog of a controlled substance included in schedule I or II of [ch. 961](#), whether mixed with meat or other food or not, so that the substance is liable to be eaten by the animal and for the purpose of harming the animal. This section shall not apply to poison used on one's own premises and designed for the purpose of rodent or pest extermination nor to the use of a controlled substance in bona fide experiments carried on for scientific research or in accepted veterinary practices. (Wis. Stats. 951.06)

8-66 INSTIGATING FIGHTS BETWEEN ANIMALS. No person may intentionally instigate, promote, aid or abet as a principal, agent or employee, or participate in the earnings from, or intentionally maintain or allow any place to be used for a cockfight, dog fight, bullfight or other fight between the same or different kinds of animals or between an animal and a person. This section does not prohibit events or exhibitions commonly featured at rodeos or bloodless bullfights.

No person may own, possess, keep or train any animal with the intent that the animal be engaged in an exhibition of fighting.

If a person has been convicted under [sub. \(1\)](#) or [\(2\)](#), the person may not own, possess, keep or train any animal for a period of 5 years after the conviction. In computing the 5-year period, time which the person spent in actual confinement serving a criminal sentence shall be excluded. The person may move the sentencing court to have this requirement waived. The court may waive the requirement except that the waiver may not authorize the person to own, possess, keep or train animals of the species involved in the offense under [sub. \(1\)](#) or [\(2\)](#).

No person may intentionally be a spectator at a cockfight, dog fight, bullfight or other fight between the same or different kinds of animals or between an animal and a person. (Wis. Stat. 951.08(1), (2), (2m), (3))

8-67 SHOOTING AT CAGED OR STAKED ANIMALS. 1) No person may shoot, kill, or wound with a firearm, or with any deadly weapon, any animal that is tied, staked out, caged or otherwise intentionally confined in an artificial enclosure, regardless of size. Whoever is concerned in the commission of a violation of this section is a principal and may be charged with and convicted of the violation although he or she did not directly commit it and although the person who directly committed it has not been convicted of the violation.

A person is concerned in the commission of a violation of this section under [par. \(a\)](#) if the person does any of the following:

1. Instigates, promotes, aids, or abets the violation as a principal, agent, employee, participant, or spectator.
2. Participates in any earnings from the commission of the violation.
3. Intentionally maintains or allows any place to be used for the commission of the violation.

(3) This section does not apply to any of the following animals:

(b) A captive wild bird that is shot, killed, or wounded on a bird hunting preserve licensed under [s. 169.19](#).

(c) Farm-raised deer, as defined in [s. 95.001 \(1\) \(ag\)](#).

(d) Animals that are treated in accordance with normally acceptable husbandry practices. (Wis. Stats. 951.09(1), (2)(a), (2)(b), (2)(b)1, (2)(b)2, (2)(b)3, (3), (3)(b), (3)(c), (3)(d))

8-68 HARASSMENT OF POLICE AND FIRE ANIMALS. No person may do any of the following to any animal that is used by a law enforcement agency or fire department to perform agency or department functions or duties:

- (a) Frighten, intimidate, threaten, abuse or harass the animal.

- (b) Strike, shove, kick or otherwise subject the animal to physical contact.
(c) Strike the animal by using a dangerous weapon.
(2) **Subsection (1)** does not apply to any of the following:
(a) Any act that is performed by or with the authorization of the animal's handler or rider.
(b) Any act that is necessary for the training of an animal to perform functions or duties for a law enforcement agency.
(Wis. Stats. 951.095(1), (1)(a), (1)(b), (1)(c), (2), (2)(b))

8-69 HARASSMENT OF SERVICE DOGS. Any person may provide notice to another person in any manner that the latter person's behavior is interfering with the use of a service dog and may request that the latter person stop engaging in that behavior. No person, after receiving a notice and request under **par. (a)** regarding a service dog, may do any of the following:

1. Recklessly interfere with the use of the service dog by obstructing or intimidating it or otherwise jeopardizing its safety or the safety of its user.
2. Intentionally interfere with the use of the service dog by obstructing or intimidating it or otherwise jeopardizing its safety or the safety of its user.
3. No person may recklessly allow his or her dog to interfere with the use of a service dog by obstructing or intimidating it or otherwise jeopardizing its safety or the safety of its user.
4. No person may intentionally allow his or her dog to interfere with the use of a service dog by obstructing or intimidating it or otherwise jeopardizing its safety or the safety of its user.
5. No person may recklessly injure a service dog or recklessly allow his or her dog to injure a service dog.
6. No person may intentionally injure a service dog or intentionally allow his or her dog to injure a service dog.
7. No person may recklessly cause the death of a service dog.
8. No person may intentionally cause the death of a service dog.
9. No person may take possession of or exert control over a service dog without the consent of its owner or user and with the intent to deprive another of the use of the service dog. (Wis. Stats. 951.097(1)(a), (1)(b), (1)(b)1, (1)(b)2, (2), (2)(a), (2)(b), (3), (3)(a), (3)(b), (4), (4)(a), (4)(b), (5))

(2) Reference to Statutes. References to specific statutory sections wherever used in these ordinances shall mean the Wisconsin Statutes 2007-2008 as from time to time amended, modified, repealed or otherwise altered by the State Legislature.

(3) Severability. If any section or part of these ordinances is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of these ordinances shall not be affected thereby.

8-70 UNLAWFUL PUBLIC SALES OF ANIMALS. It shall be unlawful for any person to sell, trade, barter, lease, rent, give away or display for a commercial purpose a live animal, including dogs and cats, as well as birds and reptiles, along the roadside, public right-of-way, commercial parking lots, private property, or at an outdoor special sale, swap meet, flea market, garage or yard sale, parking lot sale or similar event within the City of Tomah.

This section does not apply to:

- (1) An event, such as the county fair, animal exhibitions or shows, 4-H activities, and other activities or events that are regulated by other Wisconsin State departments or Monroe County agencies;
- (2) A tax-exempt non-profit organization founded for the purpose of providing humane sanctuary or shelter for abandoned or unwanted animals;
- (3) Retail sales on the premises of a licensed pet store.

8-71—8-84 Reserved.

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

SECTION THREE: These ordinances shall take effect upon passage and publication.

John J. Rusch, Mayor

ATTEST: JoAnn M. Cram, Clerk

Ordinance Amending Article III Animal Regulations Sections 8-1, 8-23, 8-24, 8-56, 8-57, 8-118, 8-119, 8-121 and 8-149 and Removing Sections 8-150, 8-151 and 8-152 Under Article VI Impoundment of the Municipal Code.

Motion by Bohlen, second by Greeno to waive the second verbatim reading of the ordinance amending Sections 8-1, 8-23, 8-24, 8-56, 8-57, 8-118, 8-119, 8-121 and 8-149 and Removing Sections 8-150, 8-151 and 8-152 Under Article VI Impoundment of the Municipal Code. Motion passed without negative vote.

Motion by Bohlen, second by Greeno to adopt **Ordinance No. 2011-01-11-05D** amending Sections 8-1, 8-23, 8-24, 8-56, 8-57, 8-118, 8-119, 8-121 and 8-149 and Removing Sections 8-150, 8-151 and 8-152 Under Article VI Impoundment of the Municipal Code. Motion passed without negative vote.

Ordinance No. 2011-01-11-05D

ORDINANCE AMENDING ARTICLE III ANIMAL REGULATIONS SECTIONS 8-1, 8-23, 8-24, 8-56, 8-57, 8-118, 8-119, 8-121 AND 8-149, AND REMOVING SECTIONS 8-150, 8-151 AND 8-152 UNDER ARTICLE VI IMPOUNDMENT OF THE MUNICIPAL CODE OF THE CITY OF TOMAH

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

SECTION ONE: Section 8-1 of the Municipal Code is hereby amended to read as follows:

Section 8-1 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:

Animal means mammals, reptiles, and birds.

Cat means any feline, regardless of age or sex, including domestic, wild or hybrids.

Cruel means causing unnecessary and excessive pain or suffering, or unjustifiable injury or death, including but not limited to failing to provide adequate food and water; failing to detect the need for or withholding veterinary care; creating or allowing unhealthful living conditions, infliction of suffering, injury, or death to an animal by striking, beating, dropping, kicking, dragging, choking, or by the use of an object or weapon; causing pain, injury or death by means of caustic, flammable, boiling, or heated substances; causing suffering, injury or death by suffocation or drowning, failure to provide health-related grooming, failure to provide shade from sun or shelter from extreme temperatures.

Dog means any canine, regardless of age or sex.

Owner means any person owning, harboring, or keeping a dog or cat. The occupant of any premises on which a dog or cat remains or to which a dog or cat customarily returns daily for a period of ten days is presumed to be harboring or keeping the dog or cat within the meaning of this chapter.

Running at large means an animal that is on any of the public ways of the city or property, public or private, other than the premises of its owner, without the permission of the property owner, unless the animal is in the immediate control of the owner, his agent, or a member of his family over 12 years of age either by leash, chain or cord of not more than six feet in length. However, if the animal is tied or staked upon any open or unfenced lot or land within the city, the animal shall be tied or staked in a manner so as to prevent the animal from getting on, across, or within six feet of any walking path, walking trail, sidewalk, street, alley, park or other public property.

Veterinarian means a person duly licensed to practice veterinary medicine in the state.

Vicious animal means any animal that, when unprovoked, bites, injures kills or attacks a human being or domestic animal on either public or private property. An animal shall specifically not be declared vicious if:

- (1) Death, injury or damage is sustained by a person who, at the time thereof, was committing a trespass of the land or criminal trespass of the dwelling upon premises occupied by the owner of the animal;
- (2) Death, injury or damage is sustained by a person who, at the time thereof, was teasing, tormenting, abusing or assaulting the animal or was committing or attempting to commit a crime or violating or attempting to violate an ordinance which protects persons or property;
- (3) Death, injury or damage was sustained by a domestic animal that, at the time thereof, was teasing, tormenting, abusing or assaulting the animal;
- (4) The animal was protecting or defending a human being within the immediate vicinity of the animal from an unjustified attack or assault; or
- (5) The animal was acting in the capacity of a law enforcement agency for law enforcement purposes while under the control and direction of a law enforcement officer or agent.

SECTION TWO: Section 8-23 of the Municipal Code is hereby amended to read as follows:
Sec. 8-23. Vaccination--Required.

The owner of a dog or cat or ferret shall have the animal vaccinated against rabies by a veterinarian within 30 days after the animal reaches five months of age. If the owner obtains the dog or cat or ferret, or brings the animal into the city after the animal has reached six months of age, the owner shall have the animal vaccinated against rabies within 30 days after the animal is brought into the city unless the animal has been vaccinated as evidenced by a current certificate of rabies vaccination. The owner of a dog or cat or ferret shall have the animal revaccinated against rabies by a veterinarian before the date the immunization expires as stated on the certificate of vaccination or, if no date is specified, within three years after the previous vaccination. The certificate of vaccination shall meet the requirements of Wis. Stats. § 95.21(2).

SECTION THREE: Section 8-24 of the Municipal Code is hereby amended to read as follows:

Sec. 8-24. Same--Certificates.

(a) *Issuance.* The veterinarian who vaccinates a dog, cat, or ferret against rabies shall complete and issue to the owner a certificate of rabies vaccination bearing a serial number and in the form approved by the city, stating the owner's name and address, the name, sex, spayed or unspayed, neutered or unneutered, breed and color of the dog or cat or ferret, the date of the vaccination, the type of rabies vaccination administered and the manufacturer's serial number, and the date the immunization expires as specified for that type of vaccine by the U.S. Center for Disease Control. No license shall be issued to a dog or cat without proof of a rabies vaccination.

(b) *Certificate copies.* The veterinarian shall keep a copy of each certificate of rabies vaccination in a file maintained for such purpose until the date that the immunization expires or until the dog or cat or ferret, is revaccinated, whichever occurs first.

SECTION FOUR: Section 8-56 of the Municipal Code is hereby amended to read as follows:

Sec. 8-56. Neglected, abandoned, and injured animals.

(a) *Abandonment prohibited.* No person may abandon any animal. For the purposes of this section, abandonment is defined as the presence of an animal in an environment where the animal is separated from basic needs such as food, water, shelter or necessary medical attention, for a period of longer than twenty-four (24) hours. This includes depositing, leaving, dropping off or otherwise disposing of any live domestic animal on any public or private property.

(b) *Proper medical care required.* No person who owns, harbors or keeps any animal shall fail to provide proper medical attention to such animal when and if such animal becomes sick or injured. If the owner of such animal cannot be located, the city or any animal control agency with which the city has an agreement or contract shall have the authority to take custody of such animal for the purpose of providing medical treatment, and the owner thereof shall reimburse the person or organization for the costs of such treatment.

(c) *Removal; notice to owner.* Any law enforcement officer may remove, shelter and care for an animal found to be cruelly exposed to the weather, starved or denied adequate water, neglected, abandoned or otherwise treated in a cruel manner, and may deliver such animal to an approved facility to be sheltered, cared for and given medical attention, if necessary. In all cases, the owner, if known, shall be immediately notified and may be cited.

(d) *Disposition of animals.* If the owner or custodian is unknown and cannot, with reasonable effort, be ascertained or does not, within seven days after notice, redeem the animal by paying the expenses incurred, it may be treated as a stray and dealt with as such.

(e) *Killing of animal by law enforcement authority.* Whenever an animal is hopelessly injured or diseased so as to be beyond the probability of recovery, it shall be lawful for such officer to kill the animal and the owner thereof shall not recover damages for the killing of such animal unless he shall prove that such killing was

unwarranted. The officer will attempt to contact a veterinarian prior to killing any such animal to ascertain if said animal could recover if it receives appropriate medical attention.

SECTION FIVE: Section 8-57 of the Municipal Code is amended to read as follows:

Sec. 8-57. Animal care.

No person owning or responsible for confining or impounding any animal may fail to provide the animal with proper shelter as prescribed in this section. With regard to animals maintained or confined within the corporate limits of the city, the following standards shall apply:

- (1) *Indoor standards.* Minimum indoor shelter standards shall include the following:
 - a. *Ambient temperatures.* The ambient temperature shall be compatible with the health of the species concerned.
 - b. *Ventilation.* Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animals at all times.
- (2) *Outdoor standards.* Minimum outdoor shelter standards shall include the following:
 - a. *Shelter from sunlight.* When sunlight is likely to cause heat exhaustion of an animal, sufficient shade, accessible during all daylight hours, by natural or artificial means, shall be provided to protect the animal from direct sunlight.
 - b. *Shelter from inclement weather.*
 1. *Animals generally.* Natural or artificial shelter, appropriate to the local climatic conditions for the species concerned, shall be provided, as necessary, for the health of the animal.
 2. *Dogs.* If a dog is tied or confined unattended outdoors under weather conditions which adversely affect the health of the dog, a shelter of suitable size to accommodate the dog shall be provided.
- (3) *Space standards.* Minimum space requirements for both indoor and outdoor enclosures for animals other than dogs shall include:
 - a. *Structural strength.* The housing facilities shall be structurally sound and maintained in good repair to protect the animals from injury and to contain the animals.
 - b. *Space requirements.* Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of debility, stress or abnormal behavior patterns.
 - c. *Dog Tethering Restrictions.*
 - i. *Extreme Weather.* No dog shall be tethered outside in the case of extreme weather, weather advisory, or when a dangerous storm is approaching. No dog shall be tethered outside when temperatures reach above 85 degrees and below 35 degrees Fahrenheit.
 - ii. *Unsafe and Unsanitary Conditions.* No dog will be tethered in unsafe or unsanitary conditions, which includes allowing the animal sufficient area to defecate or urinate in an area separate from the areas where it must eat, drink, and lie down.
 - iii. *Monitoring of Animal.* A tethered dog should be in direct control of and obedient to the owner or keeper, or in close visual range and no person under the age of 12 should be left in charge of the animal.
 - iv. *Tether weight.* It is prohibitive to use a tether weighing more than 15% of the dog's weight.
 - v. *Nighttime Tethering Restrictions.* No dog shall be tethered outside between the hours of 10:00 p.m. and 6:00 a.m.
 - vi. *On-Off Daytime Tether Ratio. 4:1.* No dog will be tethered for more than 4 consecutive hours without being provided a minimum of 1 hour off-tether for exercise and socialization.
 - vii. *Attachment Restrictions.* No person shall tether, fasten, chain, tie, or restrain a dog to any dog house, tree, fence, wall, or other stationary object under circumstance that may endanger its health, safety, or well-being. No dog shall be attached to a motor vehicle.
 - viii. *Tether Construction.* The tether must be of light-weight cable or chain, be of adequate strength to hold the size of the dog, and each end must have a swivel to prevent entanglement.
 - ix. *Tether Length.* The length of the tether must be at least 4 times the length of the dog as measured from the tip of its nose to the base of its tail, or 12 feet in length, whichever is longer.
 - x. *Entanglement.* The tether should be positioned so as to not become entangled with other objects that may cause strangulation or the dog's inability to reach food, water and shelter.
 - xi. *Access to Food, Water, Shade, and Shelter.* The tether length will allow the dog unencumbered and convenient access to edible food, potable water, shade, dry ground, and shelter.
 - xii. *Collars.* Collars cannot be completely made of metal and must be a buckle-type nylon/leather material; prong, pinch, or choke collars are prohibited; collars must fit properly; leather collars must be a minimum of one inch in width for larger dogs and the strength and width appropriate for smaller dogs.
 - xiii. *Age.* No puppy/dog under the age of five months can be tethered.
 - xiv. *Neutering and Spaying.* This ordinance section prohibits the tethering of a dog that has not been spayed or neutered.
 - xv. *Trespassing on Private or Public land.* The tethered dog shall be placed so that it cannot trespass on neighboring properties or encroach upon public thoroughfares.
 - xvi. *Adjacent to other dogs.* No dog shall be tethered that comes closer than three (3) feet from another dog, and only one animal can be placed on each line.
 - xvii. *Sick or Injured.* No dog should be tethered who is sick and/or injured.
 - xviii. *Vicious or Dangerous Dogs.* May not be tethered outside under any circumstances.
 - xix. *Training or Treadmill Devices.* No dog should be tethered outside to a training or treadmill device.
 - xx. *Height of Attachment.* No tether shall be attached to any building or device higher than 7 feet in height.
 - xxi. *Obstructions and Obstacles to Tether.* The inside of the tether circumference shall be clear of any obstacles and be positioned to as not become entangled with other objects that may cause strangulation or inability to reach food or shelter.

(4) *Sanitation standards.* Minimum standards of sanitation shall include weekly cleaning to remove excreta, other waste materials, dirt and trash so as to minimize health hazards.

(5) *Specific housing requirements for dogs.* The minimum requirements for a doghouse shall be as follows:

- a. The floor shall rest on an enclosed base, four inches in height.
- b. The height of the doghouse shall be at least four inches above the height of the occupant dog.
- c. The length and width of the doghouse shall be of such dimensions that the occupant dog can lie flat on its side on the floor.
- d. The doghouse shall have a tight floor which is covered with soft, clean bedding safe for a pet.
- e. The roof and sides of the doghouse shall be constructed so as to be waterproof and windproof.
- f. A baffle shall be placed over the door in inclement weather. A baffle shall consist of some material or structure that will protect the occupant dog from direct exposure to the elements of weather.
- g. The doghouse and run shall be located at least 15 feet from the owner's lot line.
- h. Shade from the direct rays of the sun in the months of June--September, inclusive, shall be provided in the area of the doghouse.
- i. The area around the doghouse shall be reasonably dry, without standing water or mud, and shall be kept reasonably clean.
- j. The minimum outdoor dog run enclosure size shall be four feet by six feet, and shall be of a height and strength sufficient to contain the dog.
- k. The minimum allowable tie out length is 12 feet. The end of the tie out shall be a minimum of 6 feet from any sidewalk.
- l. An animal carried in the bed of a truck must be crated or restrained upon a nonmetal mat so that it cannot fall or jump from the truck or be strangled.
- m. **No** animal may be left or confined in an unattended motor vehicle under conditions that endanger the health or well-being of an animal due to heat, cold, lack of adequate ventilation, or lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability or death to the animal.

SECTION SIX: Section 8-118 of the Municipal Code is hereby amended to read as follows:

Sec. 8-118. Prohibited acts.

It shall be unlawful for any person to own, harbor, or keep any dog or cat that:

- (1) Habitually pursues any vehicle upon any public street, alley, or highway in the city;
- (2) Assaults or attacks any person in the city;
- (3) Runs at large within the limits of the city;
- (4) Habitually barks, cries, or howls to any annoyance of any person;
- (5) Attacks, kills, or wounds any domestic animals;
- (6) Is known by such person to be infected with rabies or to have been bitten by an animal known to have been infected with rabies;
- (7) Goes upon public or private lands or premises without the permission of the owner of such premises and damages any property in any manner whatsoever;
- (8) Defecates or urinates on another person's property;
- (9) The use of spring-poles and spring-pole training is expressly prohibited in the City of Tomah. This includes any device, whether manufactured or homemade, used as a training tool with any breed of dog.
- (10) Has dangerous propensities or has evidenced a disposition to attack human beings or domestic animals, except police dogs under the supervision and control of a police officer pursuant to authorization by the chief of police.

SECTION SEVEN: Section 8-119 of the Municipal Code is hereby amended to read as follows:

Sec. 8-119. Limitation on number of cats and dogs.

(a) *Purpose and intent.* The keeping of more than two dogs, or more than six cats or two dogs and four cats older than five months within the city for more than thirty days of time detracts from, and in many instances, is detrimental to, healthful and comfortable life in such areas. The keeping of a large number of animals, therefore, is declared a public nuisance.

(b) *Number restriction.* No owner or household shall own, harbor, or keep in its possession more than six animals over the age of five months, not to include more than two dogs, on any city lot, land, parcel, or dwelling unit if in a multiple building. This restriction shall not apply to bona fide animal hospitals in which the dogs and cats are confined, or litters of pups or kittens that may be kept for a period of time, not to exceed five months from birth.

SECTION EIGHT: Section 8-121 of the Municipal Code is hereby amended to read as follows:

Sec. 8-121. Vaccinations required.

No dog or cat or ferret shall be kept within the city unless the person owning, harboring, or keeping the dog or cat or ferret furnishes proof upon demand that the dog or cat or ferret has received its rabies vaccination as required by law or is less than five months of age. Upon the failure to provide such proof upon demand, the city police department may impound said dog or cat or ferret and shall release the same to its owner only after the required vaccinations have been arranged for by the owner at the owner's expense. The requirements of this section are in addition to those provisions of this chapter regarding rabies vaccination.

SECTION NINE: Section 8-149 of the Municipal Code is hereby amended to read as follows:

Sec. 8-149. Applicability.

This article applies to any animal, which may be impounded upon occurrence of any one of the following conditions:

- (1) *Any animal in violation of this chapter.* In addition to any penalty provided for violation of this chapter, the city police department may impound any animal that habitually is in violation of section 8-118(1)--(9). Any animal that violates section 8-118(1)--(9) and has been apprehended by a citizen shall be turned over to the city police department for proper disposition.

(2) *Animals running at large.* Any animal running at large in violation of this article shall be impounded. When it is not possible or feasible to catch an animal running at large, and the owner of the animal is known, the owner may be prosecuted.

(3) *Dangerous animals.* Any animal that, in the opinion of the chief of police, or his/her designee, poses an immediate threat to persons, animals, or property, shall be impounded or, if necessary for protection of the public health and welfare, in the sole discretion of the chief of police, or his/her designee killed.

(4) *Rabid animals.* Any animal that has or may have been exposed to rabies shall be quarantined as per state statute. Release of any animal so quarantined shall not occur until, in addition to other requirements contained herein, a licensed veterinarian certifies that the animal is free of rabies and no danger to the community. Wis. State 95.21(4)(a) states as follows: *Quarantine or sacrifice of dog or cat.* Except as provided in [par. \(d\)](#), an officer shall order a dog or cat quarantined if the officer has reason to believe that the animal bit a person, is infected with rabies or has been in contact with a rabid animal. If quarantine cannot be imposed because the dog or cat cannot be captured, the officer may kill the animal. The officer may kill a dog or cat only as a last resort or if the owner agrees. The officer shall attempt to kill the animal in a humane manner and in a manner which avoids damage to the animal's head.

(5) *Other animals.* The chief of police, or his/her designee may, in his discretion, impound any animal found within the boundaries of the city that he believes poses a threat to the health and general welfare of the community or to any person, animal, public property, or private property.

SECTION TEN: Sections 8-150, 8-151 and 8-152 of the Municipal Code are hereby removed.

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

SECTION TWELVE: These ordinances shall take effect upon passages and publication.

John J. Rusch, Mayor

ATTEST: JoAnn M. Cram, Clerk

Conditional Use Permit for Patrick Murphy/Dimensions, 1110 Superior Avenue to Install a Sign/Canopy. Mr. Murphy wishes to install a 25' wide by 4' tall by 4' projecting lettered fabric awning over the frontage of their building entrance. The Planning Commission recommends approval.

Motion by Cram, second by Pater to approve the Conditional Use Permit for Patrick Murphy/Dimensions at 1110 Superior Avenue to install a sign/canopy as requested in the application. Motion passed without negative vote.

Conditional Use Permit for Mathy Construction to Operate a Portable Hot Mix Asphalt Plant for Five Years at 600 Industrial Boulevard, Tomah. Mathy Constructions wishes to obtain approval of a five (5) year conditional use permit. Currently, they are required to apply annually for the permit. The Planning Commission held a public hearing on December 16th, 2010 and recommended that the conditional use permit be approved for a five year increment with annual environmental reporting to the City by Mathy Construction and if deemed necessary by the Plan Commission and/or City Staff, Mathy Construction may be required to appear before the Plan Commission to answer questions and/or modify their current operations.

Motion by Wright, second by Siekert to approve the Conditional Use Permit for Mathy Construction to Operate a Portable Hot Mix Asphalt Plant for Five (5) Years at 600 Industrial Boulevard, Tomah with the condition that annual environmental reporting be made to the City by Mathy Construction and if deemed necessary by the Plan Commission and/or City Staff, Mathy Construction may be required to appear before the Plan Commission to answer questions and/or modify their current operations. Motion passed without negative vote.

Update on Status of Veterans Memorial Oversight Group – Information Only. Alderperson Ted Schleicher advised they have raised \$150,000 which will pay for everything on the monument and memorial that we presently have planned for. They do not want to stop there. They want to upgrade some things in the park area that relate to the Veterans Memorial. Requests continue for donations. There will be continuing maintenance costs such as replacing flags, etc. On February 3rd the Tomah Youth Hockey Association will be playing Sparta and they will donate half of the proceeds from the hockey game. There are over 650 entries as far as donations, tiles and bricks. Dedication is scheduled for late summer/early fall.

Motion by Wright, second by Greeno to adjourn. Motion passed without negative vote. Meeting adjourned at 7:19 p.m.

Approved: John J. Rusch, Mayor

Attest: JoAnn M. Cram, City Clerk
To be approved 02/08/2011