

The COMMON COUNCIL of the City of Tomah met in REGULAR SESSION July 9, 2019 at 6:30 p.m. with Mayor Mike Murray presiding in the Municipal Building, 819 Superior Ave., Tomah WI.

Following the Pledge of Allegiance, roll call was taken with Mike Murray, Travis Scholze, Lamont Kiefer, Donna Evans, Sue Holme, Mary Ann Komiskey, Richard Yarrington, Jeff Cram, and Shawn Zabinski present. Quorum present. Absent: None. Also in attendance: City Atty. Penny Precour, City Administrator Roger Gorius, and City Clerk JoAnn Cram. Gregg Hagen videotaped the meeting.

**Anyone Desiring to Appear Before the City Council.** Bob Kersten of 1523 Hollister Avenue addressed the Council regarding the speed problem near his home. He has requested police patrol and has not seen active patrol in his area. Mr. Kersten suggested the speed should be changed to 30 miles per hour both ways out to CM. Mr. Kersten also advised that due to the lack of patrol, he doesn't feel Chief Nicholson should receive the increase in wages which is to be addressed on this agenda.

**Appointment of Jerry Steele, to the Ambulance Commission.**

Motion by Cram, second by Scholze to accept Mayor Murray's recommendation and appoint Jerry Steele to the Ambulance Commission to fulfill the remaining term of Larry Siekert with the term expiring in April 2021. Motion passed without negative vote.

**Mayor.** Mayor Murray thanked the Chamber of Commerce and all the volunteers for their 4<sup>th</sup> of July events (parade and music downtown). Mayor Murray also thanked everyone involved with the Grand National Tractor Pull.

**City Administrator & Long Range Plan Committee Report.** City Admin. Gorius provided a written report regarding current and ongoing activities. With the increase in building permits and construction, Shane has a full-time job keeping up with ensuring compliance and safety. This coupled with the need for inspections throughout the City leaves little time for looking into noncompliance issues. In order to alleviate this problem, the job description for the code enforcement officer has been rewritten and will be brought to the Council with a resolution to allow for a full-time position in the 2020 Budget. Admin. Gorius updated the Council regarding the completion of the Veterans Housing Project at the former Hardware Hank Store site. Department head evaluations are complete for 2019. The new street lamps have been delivered and installation will occur the end of July.

**City Clerk.** City Clerk Cram advised the Joint Review Board will meet July 25<sup>th</sup> to review the annual TID report. Clerk Cram also addressed the four-year maintenance postcards sent out by the Wisconsin Election Commission regarding active voter registrations and voter registration by mail.

**Library Monthly Report.** Library Director Irma Keller provided Library statistics. Dir. Keller provided a summary of the various programs the Library offers. The summer reading program continues and everyone is welcome to participate.

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

**Senior & Disabled Services Report.** Pam Buchda, Senior & Disabled Services Coordinator provided a monthly calendar and written summary of events. Ms. Buchda gave a summary of the music program, upcoming events, and a report on the speakers that presented information during the last month.

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

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

- A. **Minutes** of June 11, 2019 as presented.
- B. **Treasurers Cash and Investment Reports** for June 2019.
- C. **Bartender Licenses** for Roger A. Bailey, Jr., Joyce E. Endle, Heather R. Farlow, Hannah E. Hood, Tristan P. Hunt, ShelbyJean M. Krutke, Tammy J. Madden, John A. Nelson, David M. Rigby, Celestina M. Segura, Tammy L. Spooner, and Brooke T. Walling.
- D. **Indoor Cabaret License Renewals** for American Legion Post 201, The Carlton, Dimensions II, Kelsey's, Knights of Columbus, and Strike Zone/Pizones.
- E. **Special Beer Permit** for Tomah Lions Club for August 24, 2019 for Music on Milwaukee Street Event.

- F. **Special Beer & Wine Permit** for the Tomah Rotary Club for September 14, 2019 at the "Kegs, Corks & Forks" Festival at Recreation Park Ice Center Building at 1625 Butts Avenue.
- G. **Special Beer Permit** for Queen of the Apostles for Aug. 17, 2019 at 315 W. Monroe Street.
- H. **2019 Budget Amendment** – Recognizing Donation of \$1,500 from Wal-Mart in Acct. #03-48500 Ambulance Grants and Donations and Authorize an Expenditure of \$1,500 from Acct. #03-52300-3400 Ambulance Operating Supplies for Smart TVs for Training Purposes
- I. **2019 Budget Amendment** – Recognizing Revenue of \$525.80 from Everest Emergency Vehicles for Vehicle Repairs in Acct. #03-48440 Insurance Recoveries and Authorize an Increase in the Related Expense Account of \$525.80 – Ambulance Repair and Maintenance Acct. #03-52300-3500.
- J. **Request from Kelsey's & Smoke's Elbow Room for Extension of Class "B" Fermented Malt Beverage Licenses and "Class B" Liquor Licenses** for Special Event on August 3, 2019 and Authorization to Close the Alleyway until 10 p.m.
- K. **Request for Exemption for City of Tomah Residents from Monroe County Library Tax.**

**Amendment to Application for Special Event Outdoor Cabaret License from the Greater Tomah Area Chamber of Commerce for the Music on Milwaukee Street Event for August 24, 2019.** The Chamber was granted a special event outdoor cabaret license for the 100 block of E. Milwaukee Street for a downtown street concert. The original application indicated 6 to 9 p.m. and it is requested that the Council authorize the event to exceed the 10 p.m. limit for Special Event Outdoor licenses and authorize the music to be allowed from 4 to 11 p.m.

Motion by Zabinski, second by Scholze to amend the Special Event Outdoor Cabaret License for the Greater Tomah Area Chamber of Commerce for the Music on Milwaukee Street Event, August 24, 2019 and authorize the ending time for the music of 11 p.m. Motion passed without negative vote (Cram abstained).

**Resolution Authorizing an Application to the Board of Commissioners of Public Lands for a Loan of \$500,000 for the Purpose of Financing TID #9 Economic Development Incentive and Levying a Direct Annual Tax to Pay the Annual Installments of Principal and Interest.** The interest rate will be 4% for the proposed 15-year life of the loan. The project is an approximate 181,000 square foot addition to the existing building along with associated parking and drive aisle improvements for manufacturing purposes. The development agreement authorized a one-time payment of \$500,000 as an incentive to construct the 36 million-dollar facility. This project is nearing completion and the payment is due on or about the end of August.

Motion by Komiskey, second by Kiefer to approve the exact **Resolution No. 2019-07-09-24** authorizing an application to the Board of Commissioners of Public Lands for a Loan of \$500,000 at 4% for the financing TID #9 Economic Development Incentive and levying a direct annual tax to pay the annual installments of principal and interest. Motion passed without negative vote.

RESOLUTION NO. 2019-07-09-24

**TO: BOARD OF COMMISSIONERS OF PUBLIC LANDS**

We, the undersigned City Administrator and clerk of the City of **Tomah**, in the County of **Monroe**, Wisconsin, in accordance with the provisions of Chapter 24 of the Wisconsin Statutes, do hereby make application for a loan of **Five hundred thousand and 00/100 Dollars (\$500,000.00)** from the Trust Funds of the State of Wisconsin for the purpose of **financing TID #9 development incentive for TORO expansion**.

The loan is to be continued for a term of **15** years from the 15th day of March preceding the date the loan is made. The loan is to be repaid in annual installments, as provided by law, with interest at the rate of **4.00** percent per annum.

We agree to the execution and signing of such certificates of indebtedness as the Board may prepare and submit, all in accordance with Chapter 24, Wisconsin Statutes.

The application is based upon compliance on the part of the City with the provisions and regulations of the statutes above referred to, as set forth by the following statements which we do hereby certify to be correct and true.

The meeting of the Common Council of the City of **Tomah**, in the County of **Monroe**, Wisconsin, which approved and authorized this application for a loan was a regularly called meeting held on the 9th day of July, 2019.

At the aforesaid meeting a resolution was passed by a majority vote of the members of the Common Council approving and authorizing an application to the Board of Commissioners of Public Lands, State of Wisconsin for a loan of **Five Hundred Thousand and 00/100 Dollars (\$500,000.00)** from the Trust Funds of the State of Wisconsin to the City of **Tomah** in the County of **Monroe**, Wisconsin, **for the purpose of financing TID #9 development incentive for TORO expansion**. That at the same time and place, the Common Council of the City of Tomah by a majority vote of the members, adopted a resolution levying upon all the taxable property in the city, a direct annual tax sufficient in amount to pay the annual installments of principal and interest, as they fall due, all in accordance with Article XI, Sec. 3 of the Constitution and Sec. 24.66(5), Wisconsin Statutes.

A copy of the aforesaid resolutions, certified to by the city clerk, as adopted at the meeting, and as recorded in the minutes of the meeting, accompanies this application.

A statement of the equalized valuation of all the taxable property within the City of **Tomah**, certified to by the **City Administrator** and clerk, accompanies this application.

Given under our hands in the City of **Tomah** in the County of **Monroe**, Wisconsin, this 9th day of July, 2019.

City Administrator Roger Gorius

ATTEST:

City Clerk JoAnn Cram

**Resolution Addressing Wages of Chief Mark Nicholson.**

Motion by Holme, second by Yarrington to approve **Resolution No. 2019-07-09-25** Addressing the Wages of Mark Nicholson as presented. Motion passed without negative vote.

**RESOLUTION NO. 2019-07-09-25**

**RESOLUTION ADDRESSING WAGES OF CHIEF MARK NICHOLSON**

**WHEREAS**, Mark Nicholson was offered employment as the City of Tomah Chief of Police; and  
**WHEREAS**, certain terms of said employment were memorialized in a letter dated January 16, 2014; and  
**WHEREAS**, Mark Nicholson signed the bottom of the January 16, 2014 letter confirming his acceptance of the offer of employment under said terms; and

**WHEREAS**, on February of 2018, the City of Tomah Common Council approved a wage increase for the Chief of Police when it approved an increase for certain other non-represented police officers; and

**WHEREAS**, on October 9, 2018, the City of Tomah Common Council approved a Classification and Compensation Plan wherein Chief Nicholson was classified as a Range Q, Step 7 in the amount of \$88,670; and

**WHEREAS**, it is acknowledged that Mark Nicholson has not obtained a four (4) year accredited degree in Criminal Justice or related law enforcement field as contemplated by the January 16, 2014 letter; and

**WHEREAS**, the Police and Fire Commission reviewed the lack of obtaining said additional education as contemplated in the letter, and made a determination to retain Mark Nicholson as Chief of Police; and

**WHEREAS**, the City of Tomah Common Council reviewed the October 9, 2018 classification of Chief of Police at the request of Mark Nicholson and found the position to be more properly classified as Range R; and

**WHEREAS**, the City of Tomah Common Council also reviewed the January 16, 2014 letter and considered the fact that Mark Nicholson had not met the education requirement; and

**WHEREAS**, the City of Tomah Common Council determined that it was appropriate to restrict the wage advancement unless a four (4) year degree is acquired.

**NOW, THEREFORE, BE IT RESOLVED** that the wages of Chief Mark Nicholson shall be set at Range R, Step 4 or \$88,858.

**BE IT FURTHER RESOLVED** that the wage advancement of Chief Mark Nicholson shall be restricted/frozen at Step 10 except for cost of living increases unless a four (4) year degree is acquired.

Dated this 9th day of July, 2019.

**CITY OF TOMAH:**

By: Michael Murray, Mayor

By: JoAnn Cram, City Clerk

**Resolution Authorizing the Purchase of Property (W Juneau St).** Motion by Holme, second by Evans to approve **Resolution No. 2019-07-09-26** Authorizing the Purchase of Property on W. Juneau Street (Lincoln property) from Monroe County. Motion passed without negative vote.

**RESOLUTION NO. 2019-07-09-26**

**RESOLUTION OF CITY COUNCIL OF CITY OF TOMAH**

The City Council of the **CITY OF TOMAH**, a Municipal Corporation (the "City") approve the following actions:

**RESOLVED:** City is a valid and existing Municipal Corporation; and

**RESOLVED:** City approves the purchase of property located at 428 W. Juneau Street, Tomah, Wisconsin and legally described as Outlot 230 of the Assessor's Plat of the City of Tomah, Monroe County, Wisconsin, for the purchase price of \$1.00 plus costs; and

**RESOLVED:** City Administrator and the City Clerk of the City are authorized and directed for and on behalf of the City to execute and deliver any such instruments as may be required and to take such other action in the consummation of the transaction contemplated as the City Attorney shall deem to be necessary or desirable, and any and all acts previously taken by such City officers to such end are hereby expressly ratified and confirmed as the acts and deeds of the City.

Dated this 9<sup>th</sup> of July, 2019.

**CITY OF TOMAH:**

By: Michael Murray, Mayor

By: JoAnn Cram, City Clerk

**Write Off Uncollectable Delinquent Personal Property Accounts Receivable for the Years 2014-2017.** Motion by Holme, second by Kiefer to write off uncollectable delinquent personal property accounts receivable for the years 2014-2017 as presented in the amount of \$6,800.69. Motion passed without negative vote.

**Ordinance Amending Section 2-307 Regarding Composition of the Parks and Recreation Commission.** It's requested that the ordinance regarding membership of the Parks and Recreation Commission be amended to allow for two non-citizen members. The composition would be two council members, not more than two non-city resident members, and at least four city resident members. This Commission is not subject to restrictions in Chapter 62 of the WI Statutes and the Council may determine the membership requirements. Two members have moved from the City and it is desired to retain them going forward.

Motion by Yarrington, second by Cram to waive the first verbatim reading of the Ordinance amending Section 2-307 regarding composition of the Parks and Recreation Commission as presented. Motion passed without negative vote.

Motion by Yarrington, second by Kiefer to waive the second verbatim reading of the Ordinance amending Section 2-307 regarding composition of the Parks and Recreation Commission as presented. Motion passed without negative vote.

Motion by Yarrington, second by Scholze to adopt **Ordinance No. 2019-07-05-D** amending Section 2-307 regarding composition of the Parks and Recreation Commission as presented. Motion passed without negative vote.

**ORDINANCE NO. 2019-07-05-D**

**ORDINANCE AMENDING SECTION 2-307 REGARDING COMPOSITION OF THE PARKS AND RECREATION COMMISSION IN THE CITY OF TOMAH MUNICIPAL CODE**

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

**SECTION ONE:** Chapter 2, Sec. 2-307 – Members;terms – is hereby amended as follows:

The parks and recreation commission shall consist of eight members, two members of the council and six members of which at least four of the six commission members must be electors (citizens of the City) appointed by the mayor, subject to confirmation by a majority of the members of the council. The council members' terms shall be for one year and they shall be appointed by the mayor at the annual organizational meeting of the council held on the third Tuesday of April. Members shall be appointed for terms of three years at the annual organizational meeting of the council held on the third Tuesday of April. Their terms shall begin immediately upon appointment.

Sec. 2-308. - Vacancies; compensation.

If a vacancy occurs in any of the positions, the mayor may appoint a successor at any time to fill the unexpired term in that position, upon approval by the city council. Two members shall be appointed in each year for terms of three years. No compensation shall be paid for serving on the parks and recreations commission.

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

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

Michael Murray, Mayor

ATTEST: JoAnn M. Cram, City Clerk

READ: 7/9/2019 PASSED: 7/9/2019 PUBLISHED: 7/19/2019

**Ordinance Amending Chapter 52-10 Regarding Use Restrictions and Performance Standards.** The Planning Commission recommends approval of the ordinance. The current ordinance restricts the cumulative square footage allowed for accessory structures to 1,200 sq. ft. or 10% of the lot area whichever is smaller. The current restrictions does not accommodate more substantial estates on larger lots that may need additional space available for equipment and/or outdoor entertaining areas. Increasing the allowance to 2,400 sq. ft. for lots greater than one acre in size would meet the intent of the ordinance and be consistent with the restrictions on smaller parcels in relation to the size of the lot.

Motion by Cram, second by Kiefer to waive the first verbatim reading of the Ordinance amending Chapter 52-10 regarding use restrictions and performance standards. Motion passed without negative vote.

**Approval of Revised Job Descriptions-Police Dept.** Motion by Cram, second by Evans to approve the revisions for the Chief of Police, Police Lieutenant – Operations Commander and Support Services Commander, Sergeant of Police, Administrative Assistant, and Police Clerk. Motion passed without negative vote.

**Resolution Authorizing Payment of Monthly Bills.**

Motion by Evans, second by Kiefer to approve **Resolution No. 2019-07-09-27** authorizing payment of the monthly bills in the amount of \$2,023,783.36 as presented. Motion passed without negative vote.

**RESOLUTION NO. 2019-07-09-27  
AUTHORIZING PAYMENT OF MONTHLY BILLS**

BE IT RESOLVED by the Common Council of the City of Tomah that the Committee of the Whole has reviewed the monthly bills and recommends the City Council approve said bills as follows:

1. Pre-Paid Checks	\$1,514,384.27	Check #'s 125080-125119 & 125153-125305
2. Payroll	\$ 263,433.62	Direct Deposit #'s 57490-57808
3. Wire Transfers	\$ 33,869.54	
4. Invoices	<u>\$ 212,095.93</u>	Check #'s 125349 - 125385
	\$2,023,783.36	

Mike Murray, Mayor

ATTEST: JoAnn Cram, City Clerk

**Ordinance Amending Chapter 10 of the Municipal Code Regarding Adoption of Electrical Regulations and Permits.** This ordinance amendment updates all references to the WI Dept. of Commerce to the Dept. of Safety and Professional Services. It also eliminates the exception for an electrical permit for the extension or addition of a single branch circuit. A permit and electrical inspection are required to ensure all electrical work is compliant with code. The change adds the requirement that only a State of WI licensed electrical contractor may replace, upgrade or relocate service equipment.

Motion by Evans, second by Kiefer to waive the second verbatim reading of the Ordinance amending Chapter 10 of the Municipal Code regarding adoption of electrical regulations and permits. Motion passed without negative vote.

Motion by Evans, second by Kiefer to adopt **Ordinance No. 2019-07-06-D** amending Chapter 10 of the Municipal Code regarding adoption of electrical regulations and permits. Motion passed without negative vote.

**ORDINANCE NO. 2019-07-06-D  
ORDINANCE AMENDING SECTIONS 10-7, 10-35, 10-93, 10-121, 10-122(d), 10-149, 10-151, 10-152, 10-173, 10-175, 10-176 and 10-263 Regarding Adoption of Electrical Regulations and Permits in the Municipal Code of the City of Tomah**

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

**SECTION ONE: Section 10-7 – Procedure Adopted** is hereby amended to read as follows:

Variances, appeals and determinations shall follow the procedures set out in Wis. Stats. ch. 8, Wis. Admin. Code ch. SPS 316, § SPS 320.19, § SPS 320.20, § SPS 320.21, § SPS 361.21, § SPS 361.22, and § SPS 382.20.

**SECTION TWO: Section 10-35 – Inspections** is hereby amended to read as follows:

(a) *Residential construction.* Inspection shall be made at construction stages as required by Wis. Admin. Code ch. SPS 320 by a state-certified Uniform Dwelling Code (UDC) construction inspector employed by the city.

(b) *Commercial building construction.* Inspections shall be made at construction stages as required by Wis. Admin. Code § SPS 361.41 by a state-certified commercial building inspector employed by the city.

**SECTION THREE: Section 10-93 – Drain Tile for Basements and Crawl Spaces** is hereby amended to read as follows:

A drain tile system is required to be installed for all basements and usable crawl spaces. Drain tile systems shall be installed as per requirements in SPS 321 and SPS 382. A drain tile with a sock shall be used whenever sand is encountered.

**SECTION FOUR: Division 2 – Electrical Installations – Section 10-121 Adaption of Electrical Regulations** is hereby amended to read as follows:

The city adopts Wis. Admin. Code chs. SPS 324, UDC Electrical; SPS 316, State Electrical Code and Commercial Electrical Inspections and Certification of Electricians and Inspectors. The city shall make application to inspect commercial electrical installations.

**SECTION FIVE: Division 2 – Electrical Installations – Section 10-122 (d) – Permits** is hereby amended to read as follows:

(a) *Required.* Permits are required for the installation of all new conductors and equipment that affect the ampacity, conductor size or load. A permit is not required for the replacement of switches, receptacles, light fixtures on existing boxes, circuit breakers and the repair of listed appliances.

(b) *Temporary permits.* A permit for temporary electrical work shall have a specified period of time for which the wiring is to remain in service.

(c) *Emergency installations.* Emergency work may be done before a permit is obtained. The person or contracting business will procure a permit, if required, as soon as possible or the next regular business day.

(d) A residential property owner may install, repair, or maintain electrical wiring on premises that the property owner owns and occupies as a residence, except for replacement, upgrading, or relocation of electric service equipment. The replacement, upgrading, or relocation of electric service equipment shall be completed by a State of Wisconsin licensed Electrical Contractor.

**SECTION SIX: Section 10-149 – Adoption of Plumbing Regulations** is hereby amended to read as follows:

The city has adopted Wis. Admin. Code chs. SPS 381—87, Uniform Plumbing Code.

**SECTION SEVEN: Section 10-151 – Approval of Plans Required** is hereby amended to read as follows:

The plumber shall submit plans to the state for approval when Wis. Admin. Code ch. SPS 382 requires submittal. A copy of state-approved plans shall be filed with the city.

**SECTION EIGHT: Section 10-152 – Inspections** is hereby amended to read as follows:

Inspections shall be made at required stages of construction according to Wis. Admin. Code ch. SPS 320 for one-family and two-family dwellings by a state-certified plumbing inspector employed by the city. Inspection of commercial plumbing shall be done under the requirements set forth by Wis. Stats. § 145.05.

**SECTION NINE: Division 4 – Mechanical Installations -Section 10-173 – Adoption of Mechanical Regulations** is hereby amended to read as follows:

The city adopts Wis. Admin. Code chs. [SPS 323](#), Uniform Dwelling Code, SPS 364 Commercial Building Code and [SPS 345](#) Mechanical Refrigeration.

**SECTION TEN: Section 10-175 – Approval of Plans Required** is hereby amended to read as follows:

The city adopts Wis. Admin. Code chs. [SPS 323](#), Uniform Dwelling Code, SPS 364 Commercial Building Code and [SPS 345](#) Mechanical Refrigeration.

**SECTION ELEVEN: Section 10-176 – Inspections** is hereby amended to read as follows:

Inspections shall be made at installation stages as required for one-family and two-family dwellings per Wis. Admin. Code ch. SPS 320. Commercial installations shall be inspected per Wis. Admin. Code § SPS 361.41 by a state-certified commercial building inspector. Inspectors are to be employed by the city.

**SECTION TWELVE: Division 3 – Minimum Housing Standards – Section 10-263 Compliance Required; Standards** is hereby amended to read as follows:

No person shall occupy as owner or let to another for occupancy any dwelling or dwelling unit for living, sleeping, cooking or eating meals therein which does not comply with the following requirements:

(5) *Guardrails; handrails.* Every dwelling unit shall have properly maintained guardrails and handrails according to the requirements set forth in Wis. Admin. Code chs. SPS 321 and SPS 362.

(6) *Electrical installations.* Existing conditions will be allowed until determined to be unsafe or until replacement or renovation takes place. Any electrical work must comply with Wis. Admin. Code ch. [SPS 316](#).

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

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

Michael Murray, Mayor

ATTEST:

JoAnn M. Cram, City Clerk

Read: June 11, 2019 & July 9, 2019

Passed:

July 9, 2019

Published: July 19, 2019

Motion by Scholze, second by Evans to adjourn to closed session pursuant to State Statute 19.85(1)(c) to Confer with Legal Counsel with Respect to Personnel Issues. Motion passed without negative vote. The meeting adjourned to Closed Session 7:10 p.m.

Approved:

Michael Murray, Mayor

ATTEST:

JoAnn Cram, City Clerk

Minutes to be approved on August 13, 2019