

MINUTES OF THE PROCEEDINGS OF THE CITY COUNCIL  
OF THE CITY OF FOSSTON, POLK COUNTY MINNESOTA  
August 12, 2019

The regular meeting of the Council of the City of Fosston, Polk County Minnesota was held in council chambers on Monday, August 12, 2019 at 7:00 p.m.

The meeting was called to order by Mayor Offerdahl with the following members present: Dufault, Hoialmen, Anderson, and Bosselman. Members absent: none. Also present was: Cassie Heide, Chuck Lucken, David Larson, Ethan Nagel, Amelia Linehan, Mary Reichenbach, Cynthia Larson, Darin Larson, Ed Lavelle, Mike Norland Stephen Larson, and Keith Kinnen.

Motion was made by Bosselman, seconded by Dufault to approve the agenda with the following modifications:

- Consider Approval of Change Order No. 1 for East End Multi Use Path

Motion was made by Anderson seconded by Hoialmen to approve Consent Agenda items A., B., C. Motion carried by unanimous vote.

- A) To approve the minutes of the regular meeting held July 15, 2019 and special meeting minutes from July 29, 2019.
- B) To approve Accounts Payable Bill Listing #19-08 in the amount of \$116,214.04 and AP Bill Listing #19-08A in the amount of \$517,285.04
- C) To approve Accounts Payable Bill Listing – Omland Court, \$6,823.62.

A forum for members of the public present to speak was held. Resident Mary Reichenbach addressed the council with her concerns regarding law enforcements handling of dogs running at large, cable TV issues and unlicensed vehicles. Reichenbach informed the council that she spoke with Assistant Administrator Heide the week before regarding a situation she had with a puppy running at large in her neighborhood. She explained that she called dispatch who told her that Fosston does not have any animal control in place. She then brought the puppy to the law enforcement center at City Hall where she found deputies barbequing how asked her to bring the puppy home overnight. Reichenbach was given the number to our contact, Dany Ekre, in Bagley who picks up stray dogs. Originally Ekre informed Reichenbach he only picks up dogs that law enforcement calls him about but did come to Fosston to pick up the dog. In the meantime, the puppys owners were located and the puppy was given back. Reichenbach was not pleased that the officers didn't have time for her and would not help her. Chief Deputy Norland was in attendance at the meeting and offered that he had spoke with Reichenbach and did not hear the same story she was telling the council from the officers on duty the night of the incident. Norland apologized for the unfortunate circumstances. Mayor Offerdahl informed Reichenbach that a better procedure for holding dogs while waiting for Ekre to come should be identified and staff will work with law enforcement on a solution.

Reichenbach further reported that there are vehicles that are not licenses on the south side of town and wondered why the city wasn't enforcing the ordinance violations. City attorney Stephen Larson was in attendance and offered that there are processes that the city must follow

and if the city does not have the resources or the funding to do so, it does not have to. Mayor Offerdahl asked for the names of the owners of the property Reichenbach was referring to and informed her that City staff would look into the violations and work with law enforcement and our city attorney on the abatement process.

Lastly, Reichenbach voiced her concerns for the cable TV channels that are not coming in at her home. She informed council that she has informed the office of the issues she is having and has not seen an improvement. Mayor Offerdahl informed Reichenbach that a couple of the channels that are having problems are due to the FCC's mandated frequency change and are out of the city's control. Any other channels could be looked at, at her residence to determine if there is a localized problem.

At 7:22pm the public hearing for the appeal of a potentially dangerous dog determination by Darin and Cynthia Larson was opened by Mayor Offerdahl.

Heide informed the council that she was first informed of an incident involving the Larson's family dog, Sammy, and a friend of their children's by Darin Larson several days after the incident. Heide was informed that a friend of Larson's children was bitten by their dog Sammy. The child was taken to Essentia Clinic. The clinic notified law enforcement of the dog bite. Fosston officers were not on duty at the time and county officer Ben Stout responded to the case. Deputy Stout served Larsons with an order of a potentially dangerous dog. Heide then reached out attorney Stephen Larson to ensure city ordinance was properly followed. It was attorney Larson's belief that the city should afford Larsons with the right to appeal the potentially dangerous dog determination. Heide then personally served Cynthia Larson with the right to appeal. Darin Larson then returned the completed request for appeal to Heide a few days later.

Chief Deputy Norland reported that Deputy Stout was told by children at the Larson residence that the kids were bringing the dog sin from outside when the dog bit the child and that the female dog at the residence was in heat and could have caused the male dog to be aggressive and bite.

Cynthia Larson informed the council that she has complied with the order to microchip and update the vaccines on the animal. Cynthia explained that the dogs were going outside and not inside when her son grabbed the dog by the collar to hold him in. Cynthia explained that the boy did not move away from the dog and her dog, Sammy bit a "warning bite" on the forearm and then another bite that punctured the skin above the shoulder. Cynthia further told the council that because the female dog was "in heat" Sammy became upset that he was being held away from her and caused him to bite.

Further member Hoialmen, seconded by Anderson moved the following:

**CITY OF FOSSTON**  
**RESOLUTION NO. 19-26**

**RESOLUTION ORDERING REVERSAL AND  
VACATION OF POTENTIALLY DANGEROUS DOG DESIGNATION**

**WHEREAS**, the Polk County Sheriff’s Office, after an investigation, determined that a dog named “Sammy” which is owned by Darin and Cynthia Larson (“Larsons”) was a “potentially dangerous dog” under Minnesota Statutes, Section 347.50 because it “when unprovoked, inflicted bite(s) on a human or domestic animal on public or private property”, by virtue of incident having occurred on July 17, 2019 at 706 N. Eaton Avenue, Fosston, Minnesota.

**WHEREAS**, the Polk County Sheriff’s Office personally served Darin Larson with a potentially dangerous dog designation on or about July 17, 2019.

**WHEREAS**, because the potentially dangerous designation could result in could result in restrictions on the Larsons’ ownership of Sammy and/or enjoyment of Sammy<sup>1</sup>, the City of Fosston afforded the Larsons the right to appeal the potentially dangerous dog designation. A Notice of Right to Appeal was personally served upon Cynthia Larson on July 31, 2019 by city staff.

**WHEREAS**, on or about August 7, 2019, Cynthia Larson requested an appeal of the potentially dangerous dog designation in writing.

**WHEREAS**, the City Council of Fosston held a hearing on Cynthia Larson’s potentially dangerous dog designation appeal on August 12, 2019 at approximately 7:30 p.m. during its regularly scheduled council meeting.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF CROOKSTON, MINNESOTA, AS FOLLOWS:**

**FINDINGS AND CONCLUSIONS**

1. During the appeal hearing, Chief Deputy Michael Norland of the Polk County Sheriff’s Office explained the incident and presented the law enforcement report that was generated from the July 17, 2019 incident involving Sammy in support of the potentially dangerous dog designation.

---

<sup>1</sup> Restrictions on ownership and enjoyment from the potentially dangerous dog designation includes the requirement that the owner, at his or her own cost, implant a microchip in the dog pursuant to Minnesota Statutes, Section 347.515. Failure to implant the microchip after a potentially dangerous dog designation is a misdemeanor level offense. See Minn. Stat. 347.55(a).

2. During the appeal hearing, the Larsons presented argument and evidence by way of testimony against the potentially dangerous dog designation.

3. Based on the foregoing evidence, and after its full consideration, the City Council of Fosston finds that the foregoing potentially dangerous dog designation made by the Polk County Sheriff's Office against Sammy should be reversed and otherwise vacated since the evidence supports the finding that Sammy, an unneutered male golden retriever, was, in fact, provoked. The facts supporting a finding that Sammy was provoked are as follows: When the child was bitten, another child was attempting to physically restrain Sammy while Sammy was actively pursuing his female dog companion who was "in heat."

4. Based upon the foregoing findings and conclusions, the City Council of Fosston unanimously voted to reverse the potentially dangerous dog designation made against Sammy on or about July 17, 2019 and, now, therefore, makes the following order:

**ORDER**

1. That the designation made by the Polk County Sheriff's Office on or about July 17, 2019 that Sammy is a potentially dangerous dog under Minnesota Statutes, Section 347.50 is **HEREBY REVERSED AND OTHERWISE VACATED.**

2. That the City Administrator, or his designee, is **ORDERED** to personally deliver to the Larsons and the Polk County Sheriff's Office a copy of this Resolution and Order.

Adopted by the City of Council of the City of Fosston on August 12, 2019.

Approved:

\_\_\_\_\_

Mayor

ATTEST: \_\_\_\_\_

City Administrator

## COMMITTEES/BOARDS/COMMISSION:

Law Enforcement: Deputy Ethan Nagel was present to report on matters pertaining to his department.

- The individuals who were responsible for the burglaries and break-ins that occurred last month have been arrested. The case is still active.  
Nagel reminds residents to lock their vehicle and house doors.

City Administration: Cassie Heide reported on administration matters.

- The current housing study is outdated and should be updated. Michelle Landsverk performed the last housing study and has provided an estimate to perform another housing study. The estimate is in the amount of \$5,000. The economic development board met at noon and recommended to the council moving forward with Landsverk to update the study.

Motion was made by Anderson, seconded by Bosselman to hire Michelle Landsverk to update the housing study. Motion carried by unanimous vote.

- Ignite youth center is having a back to school event on Friday, August 23<sup>rd</sup> from 6-9pm. They have requested to close off the alley/driveway between City Hall and Carco. Ignite representatives have spoken with owners of Carco who have no problem with the evening closure. The consensus of the council was to allow the alley/driveway closure for the event.
- Wastewater maintenance plans are moving forward. Part of the process includes a 30 day public comment period which begins next week. Notice has been sent to the newspaper and parties in the immediate area the plans affect.

Street/Utilities/Sanitation: Dave Larson reported on matters pertaining to his departments.

- Crews will be adding gravel to the grass alley on ninth street between Granum and Mary Avenue North. Heide sent letters to those residents last Fall and the majority of the residents would like the alley to be gravel.
- MDV is down. Repairs are being performed to mixers and IPF.
- The substation feeder line replacement is beginning as soon as the railroad permits come in. Construction and materials bids have been awarded.

Community Development: Roy Dufault reported on matters pertaining to community development.

- The economic development board is currently working on updating its goals for 2019-2021.
- The third and final home in the mobile home court has been sold.

Hospital Board: Roy Dufault reported on matters pertaining to the hospital board.

- Fosston Essentia campus is doing well in performance measures.
- The nursing home was recently ranked 3<sup>rd</sup> in the state for quality.
- Essentia continues its engaged and inspired employee mission. Most recently management staff washed the vehicles of other staff members.

Council considered approving a variance permit request from Casey and Kelly Holland, 313 9<sup>th</sup> St. NW for an addition of a third stall garage and master suite. The variance is necessary as the sideyard setback would change from ten feet to four feet. The planning commission has recommended the approval of the permit.

Motion was made by Hoialmen, seconded by Anderson to approve the variance permit request from Casey and Kelly Holland, 313 9<sup>th</sup> St. NW. Motion carried by unanimous vote.

Council considered a request from MDV for a one year extension on their land option. Lucken informed the council that the construction project was put on hold when they had to let their contractor go for sub par work. Member Dufault notes that MDV shows commitment to build eventually as fill is being hauled in and feels the request is reasonable.

Motion was made by Dufault, seconded by Anderson to approve the request from MDV for a one year extension on their land option. Motion carried by unanimous vote.

Council considered approval the 2019 workers compensation premium option of a \$1,000 deductible plan. Heide informed the council that the experience modification rate went up slightly by .05 and the premium is only up a little over a thousand dollars from last year.

Motion was made by Dufault, seconded by Bosselman to approve the 2019 workers compensation premium option of a \$1,000 deductible plan. Motion carried by unanimous vote.

Council considered approving partial pay estimate no. 3 from Hagen Construction, Inc for 2019 street and utility improvement project. Heide informed that engineer Lee Cariveau has approved payment and this payment completes the payments less 5% retainage.

Motion was made by Anderson, seconded by Hoialmen to approve partial pay estimate no. 3 from Hagen Construction, Inc for 2019 street and utility improvement project. Motion carried by unanimous vote.

Council considered approving a quote from Bobcat of Bemidji for a trade in of the toolcat for the recreation department. Heide informed the council that Graham was looking to trade in the current toolcat before 1,000 hours of operation. The trade in value is \$31,000 with a total purchase price of \$24,133.63. The City has purchased and is looking to purchase other light and power equipment and will add this purchase on to an equipment lease with American Federal Bank.

Motion was made by Hoialmen, seconded by Anderson to approve the quote from Bobcat of Bemidji for a trade in of the toolcat for the recreation department. Motion carried by unanimous vote.

Member Anderson, seconded by Dufault introduced the following

**ORDINANCE NO. 701.1**

**AN ORDINANCE OF THE CITY OF FOSSTON, MINNESOTA AMENDING FOSSTON CITY CODE, SECTION 701.10 BY ADDING REGULATIONS FOR THE PURPOSES OF REGULATING RENEWABLE ENERGY SYSTEMS, INCLUDING SOLAR ENERGY SYSTEMS AND WIND ENERGY SYSTEMS.**

**BE IT ORDAINED BY THE CITY OF FOSSTON, as follows:**

Section 1. Fosston City Code, Section 701.10 is amended by adding Subdivision 29, entitled “Renewable Energy Systems”, as follows:

CHAPTER 701.10

FOSSTON ZONING ORDINANCE

SECTION IV. PERFORMANCE STANDARDS

**Subdivision 29. Renewable Energy Systems.**

- A. Intent and Purpose. It is the goal of the City of Fosston to provide a sustainable quality of life for the city’s residents, making careful and effective use of available natural resources to maintain and enhance this quality of life. Cities are enabled to regulate land use under Minnesota Statutes 394 and 462 for the purpose of “promoting the health, safety, morals, and general welfare of the community.”

The renewable energy regulations are intended to promote the health, safety, morals, general welfare, and visual and aesthetic values, of the community.

- A. Solar Energy Systems

- 1. Definitions:

- a) *Building-integrated solar energy system.* A solar energy system that is directly incorporated into the building by replacing typical building materials.
- b) *Ground-mounted solar energy system.* A solar energy system that is installed onto the ground directly or by means of brackets or poles.
- c) *Roof-mounted solar energy system.* A solar energy system mounted to a house or other building.
- d) *Solar energy system.* A set of devices whose primary purpose is to provide for the collection, storage and distribution of solar energy for space heating or cooling, electricity generation or water heating.
- e) *Solar thermal system.* A solar energy system that includes a solar collector and a heat exchanger that heats or preheats water for building heating systems or other hot water needs of the building.

2. Prohibition of Solar Energy Systems. It shall be unlawful for any person, firm or corporation to construct or erect a solar energy system or similar structure(s) within the City of Fosston.

A. Wind Energy Systems

1. Prohibition of Wind Energy Towers. It shall be unlawful for any person, firm or corporation to erect, construct in place or re-erect a tower or similar structure for the purpose of wind-energy generation or windmill purposes within the City of Fosston.

2. Exception. This ordinance does not apply to decorative landscape windmills.

B. Penalty. Violations of any provision of this ordinance shall constitute a misdemeanor. Each day that a violation is allowed to exist shall constitute an offense after a reasonable time has been allowed to affect compliance.

C. Severability. If any provision of this ordinance is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions, to the fullest extent possible, shall not be affected.

Section 2. This ordinance shall take effect upon the date of its publication, or upon the publication of a summary of the ordinance as provided by Minn. Stat., § 412.191, subd. 4, as it may be amended from time to time, which meets the requirements of Minn. Stat. § 331A.01, subd. 10, as it may be amended from time to time.

Voting in the negative: Bosselman.

Voting in the affirmative: Anderson, Dufault, Hoialmen and Offerdahl.

Passed this 12th day of August, 2019.

\_\_\_\_\_  
Mayor

ATTEST: \_\_\_\_\_  
City Administrator

Council considered approving PERA phased retirement option, employment agreement and letter of retirement from Director of Public Works Dave Larson.

Larson informed the council that he has enjoyed working with council over the years and with mixed feelings is ready to retire as of August 31, 2019. As of September 1, 2019 Larson would like to return to work half time. The employment agreement is for a one year period.

Motion was made by Anderson, seconded by Hoialmen to approve PERA phased retirement option, employment agreement and letter of retirement from Director of Public Works Dave Larson. Motion carried by unanimous vote.

Keith Kinnen, Karvakko was present to discuss the 2019 East end multi use path, airport work and the Highway 2 corridor study. Kinnen reported that crews began work on the East end multi use path and the scheduled completion for the project is September 10, 2019.

Kinnen reported that work to obtain a new tractor for snow removal equipment at the airport has not been approved for funding in 2019. The funds will carry over into 2020. Kinnen is having a difficult time finding dealers that can meet the Buy America standards necessary under the FAA, which funds the equipment at 90%.

Kinnen reported that traffic engineering is being performed on the highway 2 corridor study. The first meeting of the community review panel will take place the first week in September.

Council considered Change Order No. 1 for East End Multi Use Path. Kinnen reported that change order no. 1 includes concrete for the sidewalk that will attach the trail to the sidewalk on the North side of the Veterans Memorial as requested by City council during the July regular meeting. Other changes include discrepancies with culvert sizing.

Motion was made by Anderson, seconded by Dufault to approve Change Order No. 1 for East End Multi Use Path. Kinnen. Motion carried by unanimous vote.

There being no further business to come before the council, motion was made by Anderson, seconded by Bosselman to adjourn. Motion carried by unanimous vote.

\_\_\_\_\_  
Charles Lucken, City Administrator

