

MINUTES OF THE PROCEEDINGS OF THE CITY COUNCIL  
OF THE CITY OF FOSSTON, POLK COUNTY MINNESOTA  
JUNE 30, 2014

Pursuant to due call and notice thereof, a Special Meeting of the Council of the City of Fosston was held in Council Chambers on Monday, June 30, 2014 at 8:30 a.m.

The meeting was called to order by Mayor Offerdahl with the following members present: Carlson and Hoialmen. Member absent: Dufault and Veum. Also present was Administrator Lucken, Dean Vikan, Dave Larson and City Attorney Mike Brouse.

The purpose of the meeting was to update the Council on the petroleum contamination cleanup at the Harry & Lloyd's Service site and to consider taking title to the property prior to completion of the cleanup process.

The building has been demolished and removed from the site. The City has incurred costs of \$22,079, which include tank removal, legal fees, taxes and environmental consulting fees, through May 28, 2014. This does not include the cost of demolition by Lenex Sand & Gravel. These costs will be offset against the \$30,000 purchase price of the property. The total remediation, engineering & MPCA costs are estimated by Landmark Environmental to be \$162,265. The City received a Contamination Cleanup grant from DEED in the amount of \$122,295 and the City will match the grant with \$39,970. Lenex is ready to begin excavation of the contaminated soil on Tuesday or Wednesday, depending on Landmark's schedule. It is important to have title to the property prior to beginning the cleanup process.

City Attorney Brouse briefed the Council on the status of the title of the Harry & Lloyd's property. The quiet title action has been completed and the title is clear. Brouse expressed some concern regarding the potential liability of taking possession of the property prior to the completion of the contamination cleanup and assurances that the site contains no further contamination.

Council heard from Ken Haberman, President of Landmark Environmental, via conference call regarding the process for contamination cleanup. Haberman gave an overview of the Development Response Action Plan and the Implementation Report that has been submitted to MPCA. The Response Action Plan outlines the actions to be taken as part of the cleanup process. Haberman was asked about the potential liability to the City and to the developer, Dr. Gabe Wiener, relating to ongoing soil contamination issues on the site. Haberman responded that neither the City nor the developer would have any responsibility for the contamination. The responsibility remains with the original operator of service station. Haberman reported that this information is contained in MN Statute 115C. He also reported that contaminated groundwater is not an issue for this site. As part of the remediation process, the developer will be required to use a vapor barrier under and around the basement. Haberman recommended that the City take possession of the property right away.

Brouse requested that Haberman send him a copy of the MN Statute 115C for him to review prior to accepting title to the property. Haberman will contact MPCA to request a copy of a General Liability Letter. The letter states the definition of a “responsible party” and cites special provisions of the statute as they relate to mortgagees. The letter states that if a person comes into possession of a property after the tanks have been removed, and where a petroleum tank release attributable to those tanks had previously occurred, that a person is not responsible and cannot be ordered to take corrective action. MPCA will also provide a Lender Letter to protect lenders if requested.

Carlson made motion, seconded by Hoialmen to approve recording of the deed from Harry and Lloyd’s Service, Inc. to the City of Fosston upon review of MN Statute 115C by the City Attorney. Motion carried by unanimous vote.

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

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Charles Lucken, City Administrator