

MINUTES OF THE PROCEEDINGS OF THE CITY COUNCIL
OF THE CITY OF FOSSTON, POLK COUNTY MINNESOTA
June 8, 2020

The regular meeting of the Council of the City of Fosston, Polk County Minnesota was held in council chambers on Monday, June 8, 2020 at 7:00 p.m.

The meeting was called to order by Mayor Offerdahl with the following members present: Anderson, Dufault, Hoialmen and Bosselman via zoom. Members absent: none. Also present was: Chuck Lucken, Cassie Heide, David Larson, Jim Tadman, Ethan Nagel, Lee Cariveau, Sarah Manecke, Amelia Linehan, Stephen Larson, Gemma Scott, Jasmyn Mikkelsen, and Rebecca Reese in person. Also present via zoom was: Karen Graham, Keith Kinnen, and Paul Peltier, Mike Mulry.

Motion was made by Anderson, seconded by Bosselman to approve the agenda with no modifications.

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 May 11, 2020.
- B) To approve Accounts Payable Bill Listing #20-06 in the amount of \$112,400.99 and AP Bill Listing #20-06A in the amount of \$73,841.62
- C) To approve Accounts Payable Bill Listing – Omland Court, \$5,937.84

COMMITTEES/BOARDS/COMMISSION:

Law Enforcement: Deputy Ethan Nagel and Sheriff Jim Tadman were present to report on matters pertaining to Fosston Law Enforcement

- Traffic stops accounted for about 25% of work last month.
- Some department officers have assisted in Bemidji and Anoka County with protests.

City Administration: Cassie Heide and Chuck Lucken report on matters pertaining to City Administration

- Two new statues were installed on May 22nd. Fundraising efforts will begin soon for a modern-day marine and air force statue.
- Chuck thanked the current and past councils for a great career at the City of Fosston and is looking forward to retirement. Chuck wishes the city well and will be around to assist the city if needed.

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

- Dave expressed his thanks to Chuck for the great working relationship and appreciates his leadership throughout the years.

- Pond 3 has been dumped.
- Apprenticeship training continues with the new linemen, Swanson beginning the program.
- School zone signs were installed on 2nd St.

Civic Center: Karen Graham reported on matters pertaining to her department.

- Summer Rec and swimming programs will begin in June with swimming lessons on the 15th and summer rec on the 22nd.
- A preparedness for the reopening has been established and furnished to City Administrator.
- a quote for restoring the stone wall in front of the Civic Center was received from The Caulkers who performed the restoration work on the stone wall on the North side of the school. Staff will look into grant opportunities. Graham will determine the length of time the estimate is good for.
- Karen expressed her thanks and well wishes to Chuck and appreciates his knowledge and calm and steady leadership over the years.

Community Development

- Dufault informed the council the EDA board met at noon today and largely discussed the loan application from D3D along with regular business.

Hospital Board

- Dufault reported that over the last 90 days Minnesota hospitals have lost approximately 3 billion dollars. Essentia as a whole has lost approximately 100 million. The Fosston Essentia Campus has continued to cash flow and operate their facility in the black.

Arts & Culture Commission: No report

City Attorney: No Report

Council held an appeal hearing of a potentially dangerous dog determination for two dogs involved in one attack of a cat.

Rebecca Reese of Erskine, Jasmyn Mikkelsen of Fosston and Gemma Scott of Fosston were present. Reese and Mikkelsen's dogs participated in an attack on Gemma and Larry Scotts cat that resulted in the need to put the cat down. Reese and Mikkelsen acknowledged the likelihood that the attack occurred although they didn't witness it. Scott witnessed the attack and affirmed that both dogs participated in the attack of the cat. Reese and Mikkelsen expressed their regrets

that the attack happened. The Scotts did not press charges against either owner of the animal and wish to live in peace with their neighbor.

Member Anderson introduced the following resolution and moved its adoption:

CITY OF FOSSTON
RESOLUTION NO. 20-17

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

WHEREAS, the Polk County Sheriff’s Office, after an investigation, determined that two dogs, a “Pitbull/Boxer mix” named “Judge”, which is owned by Jasymn Mikkelson (“Mikkelson”), and the other, a German Shepherd named “Jolly” which is owned by Rebecca Reese (“Reese”) were “potentially dangerous dogs” under Fosston City Ordinance, Section 93.11(C)(2) because it had “bitten a . . . domestic animal on . . . private property”, by virtue of incident having occurred on May 30, 2020502 9th Street NW, Fosston, Minnesota.

WHEREAS, the Polk County Sheriff’s Office personally served Mikkelson and Reese with potentially dangerous dog designations on or about June 1, 2020.

WHEREAS, because the potentially dangerous designation could result in could result in restrictions on the Mikkelson and Reese’s ownership and/or enjoyment of their dogs¹, the City of Fosston afforded Mikkelson and Reese the right to appeal the potentially dangerous dog designation. A Notice of Right to Appeal was personally served upon Cynthia Larson on or about June 1, 2020 by the Polk County Sheriff’s Office.

¹ 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).

WHEREAS, on or about June 1, 2020, Mikkelson and Reese requested an appeal of the potentially dangerous dog designation in writing.

WHEREAS, the City Council of Fosston held a hearing on Mikkelson and Reese's potentially dangerous dog designation appeals on June 8, 2020 at approximately 7:15 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, Deputy Ethan Nagel of the Polk County Sheriff's Office explained the incident and presented the law enforcement report that was generated from the May 30, 2020 incident involving Judge and Jolly in support of the potentially dangerous dog designation.

2. During the appeal hearing, Mikkelson and Reese 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 designations made by the Polk County Sheriff's Office against Judge and Jolly should be reversed and otherwise vacated because: Judge and Jolly did not exhibit unusually aggressive behavior and Mikkelson and Reese provided mitigating information about the incident.

4. Based upon the findings and conclusions, the City Council of Fosston voted to reverse the potentially dangerous dog designation made against Judge and Jolly on or about June 1, 2020 and, now, therefore, makes the following order:

ORDER

1. That the designation made by the Polk County Sheriff's Office on or about June 1, 2020 that Judge and Jolly are potentially dangerous dogs under Fosston City Ordinance, Section 93.11(C)(2) are **HEREBY REVERSED AND OTHERWISE VACATED**.

2. That the City Administrator, or designee, is **ORDERED** to deliver to Mikkelson and Reese 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 June 8, 2020.

Approved:

Mayor

ATTEST: _____

City Administrator

Council considered adoption of a credit card policy for the City of Fosston. Attorney Larson has reviewed the policy. Heide informed the council that the policy was a sample policy from another city. Brady Martz recommended the adoption of a credit card policy.

Motion was made by Anderson seconded by Bosselman to approve the credit card policy for the City of Fosston as presented. Motion carried by unanimous vote.

Council reviewed the civic center lease requested revisions from Fosston ISD 601. Heide reported that the school board reported concerns with the language in the force majeure clause regarding the city having sole discretion of an act of God occurring. The school boards attorney revised the clause to further identify acts of God. The city attorney also removed the part of the clause that dealt with loss of funding being connected with the act of God causing the end of parties' obligations. Heide reported to the Superintendent the need for that language to remain in the clause. The superintendent informed that the board sees the lease in terms of use of building not source of funding.

Council discussed at length the next steps to take. Member Dufault and Mayor Offerdahl expressed their concern for lack of trust the school board has that the city wouldn't do what can reasonably be done to assist the school in a time of need or challenge. Heide reminded the council that last year the lease was not approved until August. If the school board does not vote to approve the lease at their June meeting, the lease would expire at the end of the month and the school would, for a second year, not have a lease in place at time of expiration. Member Dufault expressed his desire for the city and school to regain the mutual trust and good working relationship and believes the inclusion of a force majeure further breaks down that trust rather than building it up.

Motion was made by Dufault seconded by Hoialmen to send the lease back to the school with the force majeure struck from the lease. Motion carried by unanimous vote.

Council considered approval of pay application no. 1 from Hagen Construction, Inc for 2020 street & utility improvements in the amount of \$127,637.25.

Motion was made by Anderson seconded by Bosselman to approve pay application no. 1 from Hagen Construction, Inc for 2020 street & utility improvements in the amount of \$127,637.25. Motion carried by unanimous vote.

Council considered approval of a loan application from D3D per recommendation of F.E.D.A. Heide informed the council that the EDA board met at noon where Todd and Melinda Sandwick, Bryce Oakes and Austin Peterson of D3D presented to the board. The board recommended the approval of a loan in the amount of \$270,000 at 2.5% fixed interest for five years, resetting every five years at 1.25% under prime interest rate for a term of 20 years.

Motion was made by Dufault seconded by Bosselman to approve the loan to D3D in the amount of \$270,000 at 2.5% fixed interest for five years, resetting every five years at 1.25% under prime interest rate for a term of 20 years per recommendation of F.E.D.A. Motion carried by unanimous vote.

Council did not consider a loan application approval from Maple Pine Café as F.E.D.A. is gathering more information from the applicant.

Lee Cariveau, WSN reported that the wastewater expansion project continues to move forward. Heide sent a request to be placed on the intended use plan (IUP) with Minnesota Public Facilities Authority. Minnesota Pollution Control agency has not yet provided final comments. Monitoring wells were installed, and readings are continuing to be gathered. Significant industrial user agreements were sent to city staff to review.

The 2020 street and utility project continue to make progress. Bacteria samples are being performed and the new water infrastructure will be online Wednesday with negative bacteria

reports. Additional water connection work on 6th street is being calculated for council consideration.

Keith Kinnen, Karvako, PA reported the East end multi use path project will be completed soon as punch list items are being completed by Gordon Construction.

Work to secure snow removal equipment at the airport has proved to be difficult under the Buy America regulations. An oversized tractor would have driven the costs up and made it necessary to push future capital improvements off as more entitlement funds would have needed to be used on the larger, more expensive tractor. Instead of buying a larger, more expensive tractor we will work to get funding from MnDOT for a tractor that doesn't need to meet the Buy America regulations and be able to do the capital improvements already planned in future years.

Mayor Offerdahl closed the meeting with thanks and gratitude to Chuck Lucken for all he has done to progress the city to where it is now and for his great leadership for the past 33 years.

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

Charles Lucken, City Administrator