

MINUTES OF THE PROCEEDINGS OF THE CITY COUNCIL
OF THE CITY OF FOSSTON, POLK COUNTY MINNESOTA
May 13, 2019

The regular meeting of the Council of the City of Fosston, Polk County Minnesota was held in council chambers on Monday, May 13, 2019 at 7:00 p.m.

The meeting was called to order by Mayor Offerdahl with the following members present: Dufault, Anderson, Hoialmen, and Bosselman. Members absent: none. Also present was: Cassie Heide, Chuck Lucken, Lee Cariveau, David Larson, Steven Lyseng, Mike Norland, Ethan Nagel, Bonnie Stewart, Ed LaVelle, Stephen Larson, and Keith Kinnen.

Motion was made by Anderson, seconded by Hoialmen to approve the agenda with the following modification:

- Move agenda item number 12 to the end of agenda.

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

- A) To approve the minutes of the regular meeting held April 15, 2019.
- B) To approve Accounts Payable Bill Listing #19-05 in the amount of \$113,132.71 and AP Bill Listing #19-05A in the amount of \$41,193.24.
- C) To approve Accounts Payable Bill Listing – Omland Court, \$8,062.75

COMMITTEES/BOARDS/COMMISSION:

Law Enforcement: Deputy Ethan Nagel and Chief Deputy Mike Norland were present to discuss matters pertaining to their department.

- The department is working with Heide and residents on nuisance violations. If necessary will work with Attorney Stephen Larson to administratively cite.

City Administration: Heide reported on City matters.

- Six nuisance violation letters were sent. Law enforcement was copied and is working on enforcement.
- The five year transit plan that was directed by MNDOT is nearing completion. Identified unmet needs include extension of service to 7:00a.m. until 6:00p.m. Saturday and Sunday service from 8:00a.m. until noon. The need for a part time transit coordinator. Fosston transit performs at a high level relative to peers with 8.3 passengers per bus hour and \$41.72 cost per hour. LSC consultant representatives will present the plan to council for adoption at the next regular meeting. Heide will forward the plan to council members for review before the next meeting.

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

- Mowing has begun. One mower will be traded in to upgrade to a newer mower.
- Street sweeping has also begun. Curbs will be painted.
- Frost boils are worse this year than in any other year. A tar machine that could patch many of the potholes in town would be a valuable asset. The cost is about \$38,000. Larson will work with administration to consider the budget and when this equipment is appropriate to purchase.
- Natural gas integrity management plan was done. A survey to natural gas customers took place in April. This survey is mandated by the APGA every three years.
- The lagoons are very full and need to get dumped. Samples were performed and staff is awaiting the results to see if water can be dumped. If levels are still too high, more chemicals will need to be added. It is crucial that the City continue to study the work for new storage ponds.

Civic Center: Roy Dufault reported on matters pertaining to this department.

- Summer Rec sign up was last week with great turnout. Registrations are continuing to come in.
- Bagley fourth grade classes are using the pool twice a day.

Community Development:

- One home was sold. There are two more homes to sell. The EDA board resolved to lower the price of the two remaining homes.

Arts & Culture Commission: Bonnie Stewart was present to update the council.

- The Art Crawl was held at the beginning of the month. Twelve artists came into local businesses to showcase their work. The flag banners that were ordered to advertise the event at businesses were very attractive and greatly appreciated. The hardware that was included can serve other banner purposes and used for other City events.

Member Bosselman introduced the following resolution and moved its adoption:

**RESOLUTION AUTHORIZING EXECUTION
OF MN/DOT AGREEMENT FOR
AIRPORT MAINTENANCE AND OPERATION GRANT CONTRACT
RESOLUTION 19-14**

BE IT RESOLVED by the Council of the City of Fosston as follows:

1. That the State of Minnesota Agreement No. 1033489,

“Airport Maintenance and Operations Grant Contract”,
at the **Fosston Municipal Airport** is accepted.

2. That the Mayor and City Administrator are hereby authorized to execute this Contract and any amendments on behalf of the **City of Fosston**.

The motion for the adoption of the foregoing resolution was duly seconded by member Anderson and upon vote being taken thereon the following members voted in favor thereof: Bosselman, Anderson, Dufault, Hoialmen, and Offerdahl.

And the following voted against the same: none.

Whereupon said resolution was declared passed and adopted this 13th day of May, 2019.

James Offerdahl, Mayor

Attest:

Charles Lucken, City Administrator

Council considered adoption of an ordinance of the City of Fosston, Minnesota, amending Chapter 111 Entitled “Alcoholic Beverages” by Revising the Inspection Procedures and Adopting New Penalties for Violations. Attorney Stephen Larson explained that this revision expands the duty of the licensee to comply with inspections and clearly outlines the penalties if the licensee is in violation.

Introduced by Council Member Anderson.

Seconded by Council Member Hoialmen.

ORDINANCE NO. 111

AN ORDINANCE OF THE CITY OF FOSSTON, MINNESOTA, AMENDING CHAPTER 111 ENTITLED “ALCOHOLIC BEVERAGES” BY REVISING THE INSPECTION PROCEDURES AND ADOPTING NEW PENALTIES FOR VIOLATIONS

This Ordinance becomes effective on the date of its publication.

Voting in the negative: none.

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

Passed this 13th day of May, 2019.

James Offerdahl, Mayor

ATTEST: _____
Charles Lucken, City Administrator

Council considered adoption of an ordinance of the City of Fosston, Minnesota, amending Chapter 114 Entitled "Tobacco Regulations" by Revising the Inspection Procedures and Adopting New Penalties for Violations. Attorney Stephen Larson explained that this revision expands the duty of the licensee to comply with inspections and clearly outlines the penalties if the licensee is in violation.

Introduced by Council Member Dufault.

Seconded by Council Member Bosselman.

ORDINANCE NO. 114

AN ORDINANCE OF THE CITY OF FOSSTON, MINNESOTA, AMENDING CHAPTER 114 ENTITLED "TOBACCO REGULATIONS" BY REVISING THE INSPECTION PROCEDURES AND ADOPTING NEW PENALTIES FOR VIOLATIONS

This Ordinance becomes effective on the date of its publication.

Voting in the negative: none.

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

Passed this 13th day of May, 2019.

James Offerdahl, Mayor

ATTEST: _____
Charles Lucken, City Administrator

Member Hoialmen introduced the following resolution and moved its adoption:

**RESOLUTION APPOINTING MEMBERS
TO NORTHERN MUNICIPAL POWER AGENCY**

RESOLUTION 19-15

WHEREAS, the City of Fosston has joined eleven other cities in Northern Minnesota and North Dakota to form the Northern Municipal Power Agency;

NOW, THEREFORE, BE IT RESOLVED, that David Larson be appointed to represent the City of Fosston and Charles Lucken be appointed to represent the Fosston Municipal Utilities Commission in the Northern Municipal Power Agency for the period June 1, 2019 through May 31, 2020.

The motion for the adoption of the foregoing resolution was duly seconded by member Anderson and upon vote being taken thereon the following members voted in favor thereof: Bosselman, Anderson, Dufault, Hoialmen, and Offerdahl.

And the following voted against the same: none.

Whereupon said resolution was declared passed and adopted this 13th day of May, 2019.

James Offerdahl, Mayor

Attest:

Charles Lucken, City Administrator

Member Anderson introduced the following resolution and moved its adoption:

**RESOLUTION AUTHORIZING SPONSORSHIP
OF TRAILS OPERATED BY
KNIGHTRIDERS SNOWMOBILE CLUB
RESOLUTION 19-16**

BE IT RESOLVED, that the City of Fosston act as the legal sponsor for an application for funding to the State of Minnesota Department of Natural Resources for grooming of snowmobile trails managed by the Knightriders.

BE IT FURTHER RESOLVED that upon approval of its application by the state, the City of Fosston may enter into an agreement with the State of Minnesota for the above-referenced project and that it will comply with all applicable laws and regulations as stated in the agreement.

BE IT FURTHER RESOLVED that the City Administrator is authorized to sign such an agreement with the Department of Natural Resources.

BE IT FURTHER RESOLVED that the City Administrator is hereby authorized to serve as the fiscal agent for the above-referenced project.

The motion for the adoption of the foregoing was duly seconded by member Dufault and upon vote being taken thereon the following members voted in favor thereof: Anderson, Dufault, Bosselman, Hoialmen, and Offerdahl.

And the following voted against the same: none.

Whereupon said resolution was declared passed and adopted this.

James Offerdahl, Mayor

ATTEST:

Charles Lucken, City Administrator

Council considered approval of revision to Section 9.05.03, Sick Pay Allowance at Termination. Lucken explained that the revision enables the maximum pay out of sick pay to go into a health savings plan with Minnesota State Retirement System. This revision saves the City FICA &

Medicare contribution costs as well as saves the employee Federal, State, FICA, and Medicare costs.

A motion was made by Dufault, seconded by Anderson to approve the revision to Section 9.05.03, Sick Pay Allowance at Termination. Motion carried by unanimous vote.

Council considered approval of an employment agreement with City Administrator Charles Lucken for the period of July 1, 2019 to June 30, 2020. The agreement includes a 3% increase.

A motion was made by Hoialmen, seconded by Anderson to approve the employment agreement with City Administrator Charles Lucken for the period of July 1, 2019 to June 30, 2020. Motion carried by unanimous vote.

Council discussed the Highway 2 2020 scope of services from Karvako, P.A. Keith Kinnen was present to discuss the upcoming project. Kinnen reported that this project took off during the Safe Routes to School plan. MNDOT officials were present during meetings and took our concerns very seriously relating to speeds on highway 2 as well as pedestrian crossings on highway 2 between the high school and LePiers gas station.

The scope of services was drafted by MNDOT. It includes turn analysis' on Omland, Johnson and Granum Avenue, identify issues, alternatives, hold public meetings, ensure that the remedy is what is right for Fosston, as well as form a community review panel. Kinnen will continue with the scope of services for council to review and approve at a later time.

Council considered adopting ordinance No. 54, an Ordinance of the City of Fosston Amending Chapter 54 of the Code Ordinances to Administer and Regulate the Public Rights of Way in the Public Interest, and to Provide for the Issuance and Regulation of Right of Way Permits.

Attorney Stephen Larson explained that this ordinance relates to the regulation of public right of ways and gives the City control of the procedures followed when requests for equipment placed on the right of way are presented to the City.

Introduced by Council Member Anderson.

Seconded by Council Member Hoialmen.

ORDINANCE NO. 54

AN ORDINANCE OF THE CITY OF FOSSTON, MINNESOTA, ADDING CHAPTER 54 OF THE CODE OF ORDINANCES TO ADMINISTER AND REGULATE THE PUBLIC RIGHTS OF WAY IN THE PUBLIC INTEREST, AND TO PROVIDE FOR THE ISSUANCE AND REGULATION OF RIGHT OF WAY PERMITS

This Ordinance becomes effective on the date of its publication.

Voting in the negative: none.

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

Passed this 13th day of May, 2019.

James Offerdahl, Mayor

ATTEST:

Charles Lucken, City Administrator

Council considered adopting a Small Wireless Facility Design and Review Guideline Policy. Attorney Stephen Larson explained that this policy relates the ordinance number 54 and outlines the procedure the City should follow in relation to requests to place small cell wireless facilities in the City's right of way or street poles.

A motion was made by Bosselman, seconded by Anderson to adopt the Small Wireless Facility Design and Review Guideline Policy.

Lee Cariveau, of Widseth, Smith Nolting was present to discuss the 2019 street and utility improvement project. Cariveau informed the council that the 2018 project on Eaton Avenue is complete. The silt fence has been removed.

A preconstruction meeting will be held here at City Hall on the 23rd at 9:30 with Hagen Construction, Inc. Knife River Materials was awarded the County bid and will perform the City portion under that bid. The engineers estimate was \$103,000 and the bid came in at \$88,000.

Keith Kinnen of Karvacko was present to discuss the 2019 East End Multi Use path. The project has been in review at St. Paul and should be completed soon. Kinnen expects a bid opening at the end of June for work to begin the first part of July. The project is scheduled for five weeks.

Council reviewed a proposal from Widseth Smith Nolting for Fosston Arts Center design services. Bonnie Stewart was present on behalf of the Library Arts Association. She informed the council that the theatre is not compliant for handicap users. The proposal includes addressing the handicap accessibility issues, a larger stage and more seating and is in the amount of \$12,000 for a feasibility study. The FCLAA has offered a good faith contribution of \$3,000 towards the study.

Offerdahl questioned if the association was able to raise funds for the necessary work that will likely come out of the study. Stewart informed that the association is prepared to step up their fund raising efforts and work to secure donations from individuals and community groups. Council would like to have the architect come to the next meeting to discuss the feasibility study. Cariveau will relay to the architect the request and work to make that happen.

Council agreed they need time to review the proposal and have administration look at the budget to determine if there are funds available.

A motion was made by Hoialmen, seconded by Anderson to postpone the agenda item to the next meeting. Motion carried by unanimous vote.

Council reviewed the District Court Order/Judgment on Cross-Motions for Summary Judgment in the case of *Affeldt v. City of Fosston*. Attorney Stephen Larson reminded the council that the Affeldts commenced a lawsuit against the City alleging that the City didn't use the property it purchased from them for an aeration pond, and under state statute, the City has to sell it back to them. In January both parties filed motions for summary judgment. Both attorneys in the case agreed that the facts were not in dispute, but rather the interpretation of the facts were. Judge Remmick was assigned the case and took the ninety days he was allowed to review the motions. He decided that he cannot decide the case without a trial.

With the report from the City Attorney, the meeting was closed under attorney-client privilege in order to protect the City's litigation strategy in *Warren Affeldt and Deborah Affeldt v. City of Fosston, Polk County Court File No. 60-CV-18-931*, which is currently pending in Polk County District Court.

The subject matter to be discussed in the closed session will include:

- The City's legal options in response to the Judge's decision;

- Whether the City should request that the Court allow the City to amend its pleadings in the case;

- To what extent the City Attorney should conduct discovery in the case; and

- The timing and method of Alternative Dispute Resolution the Council would like the City Attorney to pursue.

The meeting of the City Council was reopened. There being no further business to come before the council, motion was made by Anderson, seconded by Dufault to adjourn. Motion carried by unanimous vote.

Charles Lucken, City Administrator