June 9, 2016

The City Council of the City of Marion, Linn County, Iowa met in regular session, Thursday, June 9, 2016, at 5:30 p.m. in the council chambers of City Hall with Mayor AbouAssaly presiding and the following council members present: Pazour, Etzel, Spinks, Brandt, Strnad, and Draper. Absent: None.

The meeting was opened with the Pledge of Allegiance.

Council observed a moment of silence.

Citizen’s presentations, comments and/or petitions:

Kay Lammers, 2820 2nd Avenue, requested an update on the Library project plans and asked if there would be a vote on the project. Mayor AbouAssaly explained that the Library Board has not approved a plan for the library project yet. Planning and Development Director Tom Treharne explained that project options have been presented but a plan has not been approved. Mayor AbouAssaly stated that we will need to have a community conversation regarding the project when the Library Board makes a recommendation. Library Director Elsworth Carman encouraged the public to come to the Library to get information regarding the proposed project.

Charles Knudsen, 2835 24th Avenue, asked the status of his request to change the election code. He also stated that he is waiting for a response regarding parking in front of the First Presbyterian Church. City Engineer Dan Whitlow explained that TAC is evaluating the parking situation.

Craig Campbell, 1062 7th Avenue, stated that he submitted a petition to the City Council signed by the Uptown business owners on the north side of 7th Avenue. He noted that they are requesting that 7th Avenue be closed to traffic between 10th Street and 12th Street during all public events in the park. Mr. Campbell explained that closing 7th Avenue during events at the park will provide a safer, pedestrian friendly experience. Council Member Pazour expressed concern that closing 7th Avenue would eliminate 30 to 35 parking spots. Council Member Draper stated that 7th Avenue may be able to be closed after 6th Avenue is complete. Council Member Spinks expressed concern about closing off the access to the mall. Mayor AbouAssaly explained that staff will review the request and report back to the City Council.

LaSheila Yates, Executive Director of the Cedar Rapids Civil Rights Commission, made a presentation regarding the Civil Rights Commission and lawful source of income. Council asked questions of Ms. Yates regarding civil rights and lawful source of income. Devin Kelly, Assistant City Attorney, answered questions regarding lawful source of income.

The following public hearings have been removed from the agenda: public hearing regarding the sale of land to Anderson Automotive (3rd Avenue and 44th Street), public hearing regarding an amendment to the Marion Commerce Corridor Urban Renewal Plan, public hearing regarding a revised development agreement with TWG Development LLC, including annual appropriation tax increment payments, and a public hearing regarding a development agreement with Emerson Mattress, Inc., including annual appropriation tax increment payments.

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Council removed the following motions from the consent calendar for separate consideration:

Motion to receive and file correspondence from Kim D. Smith regarding request for City Council to consider an ordinance that would ensure front yards could not be used as a parking or storage area in residential areas.

Motion to receive and file a petition requesting to close 7th Avenue between 10th Street and 12th Street to vehicular traffic during all public events (Craig Campbell and various Marion business owners north of 7th Avenue).

Moved by Strnad, seconded by Etzel to approve Consent Calendar, as follows:

Motion to approve minutes of the May 17 and 19, 2016 City Council meetings.

Motion to approve the bills as presented in the amount of $2,309,802.00.

Motion to approve the following liquor license applications:

* 1. Renewal application for a Class C Beer Permit with additional privilege for Carryout Native Wine and Sunday Sales for Petroleum Services Company, LLC, dba Hawkeye Convenience Stores (1010 East Post Road). Expiration 06/30/2016. No violations in previous five years.
  2. Renewal application for a Class C Beer Permit with additional privilege for Carryout Native Wine and Sunday Sales for Petroleum Services Company, LLC, dba Hawkeye Convenience Stores (2500 7th Avenue). Expiration 06/30/2016. No violations in previous five years.
  3. Renewal application for a Class E Liquor License with additional privileges for Carryout Wine, Carryout Beer, and Sunday Sales for Kum & Go LC, dba Kum & Go #503 (3215 7th Avenue). Expiration 06/30/2016. No violations in previous five years.
  4. New application for a Class B Beer Permit with additional privilege for Outdoor Service for Rotary Club of Marion-East Cedar Rapids (4500 North 10th Street). Special Event: Rotary Concert in the Park – The Pork Tornadoes 06/11/2016.

Resolution No. 25353 approving Memorandum of Understanding with Moulder and Associates for services provided to recruit and select candidates for the Chief of Police.

Resolution No. 25354 amending an agreement for legal services between Day, Rettig, and Peiffer, P.C. and City of Marion.

Resolution No. 25355 approving Partial Payment No. 9 to Shoemaker & Haaland Engineers for professional services for the Donnelly Park Pedestrian Bridge Design and Development Plan in the amount of $578.00.

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Motion to approve Project Calendar regarding Engineering Department payments as follows:

* 1. Resolution No. 25356 approving Partial Payment No. 3 to Eastern Iowa Excavating & Concrete LLC regarding the 35th Street and 29th Avenue Mini-Roundabout (CS-TSF-4775(629) - - 85 – 57) in the amount of $138,016.53.
  2. Resolution No. 25357 approving Partial Payment No. 1 to Central States Concrete LLC regarding the 2016 ImaginArt in the Alley Project in the amount of $59,565.47.
  3. Resolution No. 25358 approving Partial Payment No. 2 to Rathje Construction Company, Inc. regarding the 2015 Alburnett Road Widening Project in the amount of $56,047.21.
  4. Resolution No. 25359 approving Partial Payment No. 3 to Ricklefs Excavating, LTD regarding the Central Corridor Complete Streets and Capacity Improvements, Roundabout at 7th Avenue and 7th Street, STP-A-4775(627)--86-57 in the amount of $624,738.09.
  5. Resolution No. 25360 approving Partial Payment No. 1 to Ricklefs Excavating, LTD regarding the Donnelly Park Boyson Trail Bridge Replacement Project in the amount of $18,504.10.
  6. Resolution No. 25361 approving Partial Payment No. 2 to Trey Electric Corporation regarding the 2016 Lindale Trail at Lindale Drive Project in the amount of $18,226.70.

Resolution No. 25362 approving contract and bond with Trey Electric Corporation regarding the 2016 Lowe Park Lighting Project.

Resolution No. 25363 accepting Authors 3rd Addition to the City of Marion.

Resolution No. 25364 approving 28E agreement with Cedar Rapids, Hiawatha, and Robins regarding the Indian Creek Trunk Sewer Project.

Resolution No. 25365 approving a stop sign stopping west bound traffic on Saturn Avenue at its intersection with 50th Street.

Resolution No. 25366 approving a stop sign stopping east bound traffic on Saturn Avenue at its intersection with Prairie Hill Drive.

Resolution No. 25367 approving a stop sign stopping east bound traffic on Mercury Avenue at its intersection with Prairie Hill Drive.

Resolution No. 25368 approving Temporary Construction Easement with Crestview Acres Inc. (1485 Grand Avenue) regarding the 2016 Sidewalk Assessment Program.

Resolution No. 25369 approving Temporary Construction Easement with Charles L. Jr. and Viola Slater, per Power of Attorney Sandy Krum (1190 27th Street) regarding the 2016 Sidewalk Assessment Program.

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Resolution No. 25370 approving Temporary Construction Easement with Richard W. II and Susan D. Carroll (1005 Fairview Drive) regarding the 2016 Fairview Drive Reconstruction Project.

Motion to receive and file correspondence regarding project letter associated with the Fairview Drive Reconstruction Project (Wanda Van Dee, 1025 Fairview Drive).

Resolution No. 25371 approving Temporary Construction Easement with Tobia W. & Lynn A. Bartlett (662 6th Avenue) regarding the 7th Avenue Roundabout at 7th Street Project.

Motion to approve Project Calendar regarding Planning and Development Department payment as follows:

* 1. Resolution No. 25372 approving Payment No. 8 to Universal Field Services, Inc. for services related to right-of-way acquisitions for the Central Corridor Improvement Project, 13th Street to 31st Street, in the amount of $9,569.28.

Resolution No. 25373 approving agreement with the Linn County Conservation Board regarding additional funding allocation and project administration for the Grant Wood Trail Extension Project (Highway 13 to 35th Street) (TAP-U-4775(628)—8I-57).

Motion directing staff to proceed with revisions to the parking standards.

Motion to receive and file correspondence from Brent Jackman, Hall & Hall Engineers, requesting a deferment on sidewalk and street trees along the south portion of Lot 2, Marion Enterprise Center Fourth Addition, Electric Specialty Manufacturing, Inc.

Motion to receive and file a revised job description for Library Program Coordinator Adult Services/Information Services.

Resolution No. 25374 approving Partial Payment No. 6 to Owen Lewis Consulting in the amount of $9,457.00.

Resolution No. 25328 approving an amendment to the Chapter 28E agreement with Cedar Rapids regarding Civil Rights Commission services (originally approved January 5, 2012) (removed from 05-19-16 agenda).

Motion to receive and file correspondence from the Marion Civil Rights Commission regarding commissioner appointments.

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Motion to receive and file a resignation letter from Kevin Powell resigning from the Airport Advisory Committee (Kevin Powell, 2890 Silver Oak Trail).

Motion to approve the following Hold Harmless/Noise Waiver Agreements:

* 1. Marion Rotary Concert, Lowe Park, June 11, 2016, 4:00 p.m. – 10:00 p.m. (Patty Webster, Hills Bank, PO Box 113).
  2. 7th Annual 6th Street BBQ, 1155 6th Street, August 27, 2016, 4:00 p.m. – 11:00 p.m. (Brad and Lisa Rizzio, 1155 6th Street).

All in favor of motion to approve the consent calendar, motion carried.

Moved by Strnad, seconded by Pazour to receive and file correspondence from Kim D. Smith regarding request for City Council to consider an ordinance that would ensure front yards could not be used as a parking or storage area in residential areas. All in favor, motion carried.

Moved by Strnad, seconded by Pazour to receive and file a petition requesting to close 7th Avenue between 10th Street and 12th Street to vehicular traffic during all public events (Craig Campbell and various Marion business owners north of 7th Avenue). Moved by Strnad, seconded by Pazour to amend the motion to receive, file, and refer to TAC a petition requesting to close 7th Avenue between 10th Street and 12th Street to vehicular traffic during all public events. All in favor of the amendment, motion carried. All in favor of motion as amended, motion carried.

Moved by Draper, seconded by Spinks to approve Consent Calendar with Mayor AbouAssaly abstention from voting and discussion regarding the following items:

Motion to approve the following Cigarette Permit applications for Fiscal Year 2016-2017: Casey’s General Store #2760, Casey’s General Store #2770, Casey’s General Store #2919, Casey’s General Store #2924, Dollar General Store #7226, Dollar General Store #7398, Fareway Stores, Inc. #949, Guppy’s on the Go, Hawkeye Convenience Store (2500 7th Avenue), Hawkeye Convenience Store (1010 East Post Road), Hy-Vee Drugstore, Hy-Vee Food Store, Hy-Vee Gas, Kum & Go #503, Kum & Go #509, Kwik Stop, Murphy USA #7287, Road Ranger #5146, Smokin Joe’s #10, Walgreens #03876, Walmart #3630, Wrigleyville LLC. (Hometown Cash Advance and Cocktails & Co. did not renew for fiscal year 2016-2017).

Motion to approve Project Calendar regarding Engineering Department payments as follows:

* 1. Resolution No. 25375 approving Partial Payment No. 1 to Genesis Equities, LLC per Resolution No. 25219 regarding the environmental cleanup of the Marion Iron Site associated with the Central Corridor Project (26th Street to 31st Street) in the amount of $51,250.00.

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* 1. Resolution No. 25376 approving Partial Payment No. 1 to L.L. Pelling Company, Inc. regarding the 2016 HMA Resurfacing Project in the amount of $564,061.11.

Resolution No. 25377 approving Partial Payment No. 33 to Martin Gardner Architecture for professional services related to the downtown façade revitalization program in the amount of $1,750.00.

Council Member Pazour asked about the payment to Genesis Equities, LLC. City Engineer Dan Whitlow and Planning and Development Director Tom Treharne provided the staff report on the project. Vote: Yeas: Pazour, Etzel, Spinks, Brandt, Strnad and Draper. Nays: None. Abstention: AbouAssaly. Motion carried.

Ordinance No. 16-06 amending Section 5.13 of the Code of Ordinances regarding place of residence for certain city employees was read by Pazour for initial consideration. Moved by Pazour, seconded by Draper to approve the first reading of Ord. No. 16-06. Fire Chief Deb Krebill answered questions from Council regarding the Ordinance. All in favor, motion carried.

Mayor AbouAssaly opened a public hearing regarding the 2016 Sidewalk Assessment Project. No comments, written or verbal, were received. Mayor AbouAssaly declared the public hearing closed.

Resolution No. 25378 accepting bids and awarding contract to Borst Bros. Construction, Inc. regarding the 2016 Sidewalk Assessment Project in the amount of $128,445.00 was read by Etzel. Moved by Etzel, seconded by Pazour to approve Res. No. 25378. Council Member Pazour asked about sidewalk installation on properties on Indian Creek Road. Planning and Development Director Tom Treharne stated that they have until fall to complete the sidewalks. City Engineer Dan Whitlow noted that next year’s project will be reduced since this year’s project came in above budget. All in favor, motion carried.

Mayor AbouAssaly opened a public hearing regarding the 2016 Winslow Road Reconstruction Project. City Engineer Dan Whitlow presented the staff report. No other comments, written or verbal, were received. Mayor AbouAssaly declared the public hearing closed.

Resolution No. 25379 accepting bids and awarding contract to Rathje Construction Company regarding the 2016 Winslow Road Reconstruction Project in the amount of $994,589.75 was read by Spinks. Moved by Spinks, seconded by Etzel to approve Res. No. 25379. Council Member Spinks asked about liquidated damages. City Engineer Dan Whitlow stated that liquidated damages are set at $750 per day. He explained that liquidated damages are based on cost to the City and inconvenience to the public. All in favor, motion carried.

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Moved by Brandt, seconded by Draper to receive and file staff report regarding request to extend city water and sewage services to 4010 Shady Oak Drive (David Hale, Sr., 4010 Shady Oak Drive). City Engineer Dan Whitlow presented the staff report. All in favor, motion carried.

Moved by Strnad, seconded by Pazour to concur with staff report regarding request to extend city water and sewage services to 4010 Shady Oak Drive (David Hale, Sr., 4010 Shady Oak Drive). City Engineer Dan Whitlow presented the staff report. David Hale, 4010 Shady Oak Drive, explained that his leach field is failing. All in favor, motion carried.

Moved by Draper, seconded by Pazour to receive and file TAC report regarding establishing parking on 7th Avenue (Harold Mally, Noah’s Archive, 945 7th Avenue). All in favor, motion carried.

Moved by Pazour, seconded by Etzel to concur with TAC report regarding establishing parking on 7th Avenue (Harold Mally, Noah’s Archive, 945 7th Avenue). Mayor AbouAssaly explained that TAC is recommending denial of the request to allow parking on 7th Avenue in front of Noah’s Archive. Harold Mally, representing Noah’s Archive, requested that Council allow parking on 7th Avenue in front of his business. Mayor AbouAssaly explained that staff is recommending that on-street parking be reconsidered once the Central Corridor improvements have been completed. All in favor, motion carried.

Mayor AbouAssaly opened a public hearing regarding an annexation application for properties located north of East Robins Road and west of Alburnett Road in Linn County, Iowa. Kesha Billings, Associate Planner, presented the staff report. Jan Heeren, 11509 St. Patrick’s Road, Fairfax**,** stated that she just purchased the property at 3100 Elshire Drive and is closing tomorrow. Ms. Heeren spoke opposing the annexation. No other comments, written or verbal, were received. Mayor AbouAssaly declared the public hearing closed.

Resolution No. 25380 approving annexation application for properties located north of East Robins Road, west of Alburnett Road in Linn County, Iowa (Douglas S. Downing et al, and EAK Farms LLC, along with non-consenting owners Powell, Kelley, Hilsenbeck, Jones, Tupker, Bodensteiner, Runau, Centala, Siefer, Bunney, Spicer, Lefebure, Holtz, Lahr/Weber, & including all adjacent right-of-way) was read by Etzel. Moved by Etzel, seconded by Spinks to approve Res. No. 25380. Vote: Yeas: Etzel, Spinks, Brandt, Strnad and Draper. Nays: Pazour. Abstention from discussion and voting: AbouAssaly. Motion carried.

Mayor AbouAssaly opened a public hearing regarding a request to amend the Future Land Use Map of the Marion Comprehensive Plan and a rezoning of property from C-3,

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General Commercial to R-6, High Density Multiple Family for property located west of Highway 13 and south of 29th Avenue. Planning and Development Director Tom Treharne presented the staff report.

Council Member Draper left the Council Chambers at 7:28 p.m. and returned at 7:29 p.m.

Melissa Walker, 2700 50th Street, and Jeff Lamka, 2730 50th Street, spoke opposing the rezoning. No other comments, written or verbal, were received. Mayor AbouAssaly declared the public hearing closed.

Resolution No. 25381 approving amendment to the Future Land Use Map of the Marion Comprehensive Plan from Corridor Commercial to Multi-Family for property located west of Highway 13 and south of 29th Avenue (Platinum Development LLC) was read by Spinks. Moved by Spinks, seconded by Etzel to approve Res. No. 25381. Planning and Development Director Tom Treharne presented the staff report. Council discussed the land use map amendment. Mark Mowrer, representing Platinum Development, reviewed the proposed development.

Council Member Etzel left the Council Chambers at 7:46 p.m. and returned at 7:47 p.m.

Vote on Res. No. 25381: Yeas: Etzel, Spinks, AbouAssaly, and Brandt. Nays: Pazour and Strnad. Abstention: Draper. Motion carried.

Ordinance No. 16-07 approving the rezoning from C-3, General Commercial to R-6, High Density Multiple Family for property located west of Highway 13 and south of 29th Avenue was read by Brandt for initial consideration. Moved by Brandt, seconded by Spinks to approve the first reading of Ord. No. 16-07. Council discussed the proposed rezoning. Mark Mowrer, representing Platinum Development, reviewed the proposed development. Vote on Ord. No. 16-07: Yeas: Etzel, Spinks, AbouAssaly, and Brandt. Nays: Pazour and Strnad. Abstention: Draper. Motion carried.

Resolution No. 25382 approving Plat of Survey 2071 for property located at 2525 and 2605 7th Avenue, Marion, Iowa (Emerson Mattress, Inc. and Genesis Equities, LLC) was read by Strnad. Moved by Strnad, seconded by Etzel to approve Res. No. 25382. All in favor, motion carried.

Resolution No. 25383 approving Plat of Survey 2042 for property located adjacent and south of 2525 and 2605 7th Avenue was read by Draper. Moved by Draper, seconded by Spinks to approve Res. No. 25383. Planning and Development Director Tom Treharne presented the staff report. All in favor, motion carried.

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Resolution No. 25384 approving purchase agreement with James E. Kleeman and Janice A. Aasgaard regarding the property located at 3490 Indian Creek Road, Marion, Iowa, in the amount of $275,600.00 and providing Payment No. 1 in the amount of $209,000.00 was read by Pazour. Moved by Pazour, seconded by Etzel to approve Res. No. 25384. Planning and Development Director Tom Treharne presented the staff report. All in favor, motion carried.

Resolution No. 25385 approving purchase agreement with James E. Kleeman and Janice A. Aasgaard regarding the property located at 3493 Winslow Road, Marion, Iowa, in the amount of $117,000.00 and providing Payment No. 1 in the amount of $74,000.00 was read by Etzel. Moved by Etzel, seconded by Strnad to approve Res. No. 25385. All in favor, motion carried.

Resolution No. 25386 directing publication of notice of hearing on proposed sale of a portion of public property located near 3rd Avenue and 44th Street (Anderson Automotive) was read by Spinks. Moved by Spinks, seconded by Pazour to approve Res. No. 25386. All in favor, motion carried.

Resolution No. 25387 approving Interim Occupancy Agreement (Anderson Automotive) was read by Brandt. Moved by Brandt, seconded by Draper to approve Res. No. 25387. Assistant to the City Manager Amanda Kaufman presented that staff report. All in favor, motion carried.

Resolution No. 25388 directing publication of notice of hearing on proposed sale of a portion of public property located near 3rd Avenue and 44th Street (KTRO) was read by Strnad. Moved by Strnad, seconded by Brandt to approve Res. No. 25388. Assistant to the City Manager Amanda Kaufman presented that staff report. All in favor, motion carried.

Resolution No. 25389 approving a conditional purchase offer to KTRO, LLC., for land located north of 3rd Avenue, west of 44th Street was read by Draper. Moved by Draper, seconded by Brandt to approve Res. No. 25389. All in favor, motion carried.

Moved by Pazour, seconded by Etzel to receive and file correspondence requesting to change the city code regarding voting (Kathy Greene, 1942 Galway Drive). All in favor, motion carried.

Moved by Spinks, seconded by Pazour to concur with the Mayor’s recommendation regarding the following reappointments:

* 1. Susan Kling, 2790 Brandon Court, Library Board, term expires 06-30-2022.
  2. Sandy Rosenberger, 1201 14th Street, Library Board, term expires 06-30-2022.

All in favor, motion carried.

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Moved by Spinks, seconded by Pazour to concur with the Mayor’s recommendation regarding the following appointments:

* 1. Removal of Queen Githaiga, P.O. Box 1011, Civil Rights Commission.
  2. Shirley Pantini, 4408 Indian Creek Road, Civil Rights Commission, expires December 31, 2016.

All in favor, motion carried.

Council Discussion Time:

Council Member Pazour stated that the property at 15th Street and 5th Avenue needs mowed.   
 Council Member Pazour stated that she and Council Member Spinks will be at the Library on Saturday for Council office hours.

Council Member Spinks thanked Police Chief Harry Daugherty for his 40 years of service to the City. Chief Daugherty is retiring effective June 30th.

Council Member Brandt reminded everyone about the Uptown Marion Market tomorrow in City Square Park from 8:00 a.m. to noon.

Council Member Strnad noted that he and Council Member Brandt spoke to junior and senior students from Marion High School regarding City government. Council Member Strnad thanked the school for inviting them to speak.

Council Member Draper stated that he has received some emails and phone calls regarding his health and asking him to resign from his Council position. Council Member Draper explained that his interests in life are his family, his church, and the City of Marion and he plans to continue to serve on the Council as long as he is able.

Mayor AbouAssaly noted that volunteers are needed for the Uptown Marion Market.

Mayor AbouAssaly congratulated the Marion Home School students that won the national title for Mock Trial competition.

Mayor AbouAssaly noted that the Marion High 5 event was well attended. He explained that $1,400 was raised for the Churches of Marion food pantry. Mayor AbouAssaly explained that Dwight Seegmiller, President of Hills Bank and Trust, spoke at the event. Hills Bank and Trust is building a second location in Marion. Mr. Seegmiller commended the City’s branding process and recited the City’s branding promise.

Mayor AbouAssaly adjourned the meeting at 8:33 p.m.

Attest:

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Nicolas AbouAssaly, Mayor Beth J. Little, Assistant City Clerk