December 8, 2016

The City Council of the City of Marion, Linn County, Iowa met in regular session, Thursday, December 8, 2016, at 5:30 p.m. in the council chambers of City Hall with Mayor AbouAssaly presiding and the following council members present: Draper, Etzel, Brandt, Nicholson, and Pazour. Absent: Spinks.

The meeting was opened with the Pledge of Allegiance.

Council observed a moment of silence.

Mayor AbouAssaly administered the Oath of Office to Ward 4 Council Member Dave Nicholson.

Mayor AbouAssaly administered the Oath of Office to Marion Firefighters James Romer, William Zamastil, and Cody Oberfoell.

Citizen’s presentations, comments, and/or petitions: None.

Motion Pazour, seconded by Brandt to approve the Consent Calendar, as follows:

Motion to approve minutes of the November 15 and 17, 2016 City Council meetings.

Motion to approve the bills as presented in the amount of $1,676,512.34.

Motion to approve the following liquor license applications:

* 1. Renewal application for a Class B Beer Permit with additional privilege for Sunday Sales for Mama Oyiza Enterprises, LLC, dba Michello’s Pizzeria (808 7th Avenue). Expiration 01/06/2017. One violation in previous five years.
  2. Renewal application for a Class E Liquor License with additional privileges for Carryout Wine, Carryout Beer, and Sunday Sales for Wal-Mart Stores, Inc., dba Wal-Mart Supercenter #3630 (5491 Business Highway 151). Expiration 01/03/2017. One violation in previous five years.
  3. Renewal application for a Class C Liquor License with additional privileges for Catering, Outdoor Service, and Sunday Sales for Carlos O Kelly’s of Marion, Inc., dba Carlos O Kelly’s Mexican Café (3320 Armar Drive). Expiration 12/30/2016. No violations in previous five years.
  4. Renewal application for a Class C Liquor License with additional privileges for Native Wine and Sunday Sales for Mandarin Spice Buffet and Grill (1412 Twixt Town Road). Expiration 12/24/2016. No violations in previous five years.

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Resolution No. 25705 approving application for a special lunch permit allowing Big Shots Bar and Grill (1803 6th Avenue) to allow underage persons to enter their place of business for lunch during the hours of 11:00 a.m. and 3:00 p.m.

Motion to receive and file the Abstract of Votes from the 2016 Linn County General Election held on the 8th day of November, 2016.

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

* 1. Resolution No. 25706 approving Partial Payment No. 9 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 $86,498.59.
  2. Resolution No. 25707 approving Partial Payment No. 6 to Rathje Construction Company, Inc. regarding the 2016 Fairview Drive Reconstruction Project in the amount of $12,805.61.
  3. Resolution No. 25708 approving Partial Payment No. 4 to Rathje Construction Company, Inc. regarding the 2016 Winslow Road Reconstruction Project in the amount of $24,320.22.

Resolution No. 25709 accepting the Arbor at Lindale Trail sanitary sewer to the City of Marion.

Resolution No. 25710 accepting Bedford Heights 1st Addition to the City of Marion.

Resolution No. 25711 accepting the 2016 Fairview Drive Reconstruction Project.

Motion to receive and file staff report regarding Flood Plain Development Permit associated with fill for the future development of 1111 Eagleview Drive, Lot 1, Eagle Ridge Park Third Addition (Kristi Mollet, President, Eagle Ridge, L.C.).

Motion to receive and file correspondence regarding the intersection of Munier Road and Highway 100 (Richard Rasmussen, 9 Chapelridge Circle Apt. A).

Resolution No. 25712 accepting Tower Terrace Road paving associated with the Tower Terrace Road Improvement Project, Phase V, from 10th Street to Winslow Road.

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Resolution No. 25713 accepting Winslow Road paving regarding the Winslow Road Realignment Project associated with the Bridge Creek Fourth Addition from Settlers Drive to Tower Terrace Road.

Motion to receive and file a recommendation from the Bicycle and Pedestrian Advisory Committee to apply to the Corridor Metropolitan Planning Organization for additional funding for the CeMar Trail.

Motion to receive and file a recommendation from the Bicycle and Pedestrian Advisory Committee to apply to the Corridor Metropolitan Planning Organization for transit stop funding.

Motion to receive and file an Engagement Letter with Piper Jaffrey for professional services regarding lease purchase-Uptown Parking Project.

Resolution No. 25714 approving Engagement Letter with Piper Jaffrey for professional services regarding lease purchase-Uptown Parking Project.

Resolution No. 25715 amending the professional services agreement between the City of Marion and Matthew Kargol for Living Room Set associated with ImaginArt in the Alleys in the amount of $17,000 (originally approved on April 7, 2016).

Resolution No. 25716 approving Partial Payment No. 9 to Owen Lewis Consulting in the amount of $5,650.00.

Motion to receive and file correspondence requesting to name Marion Times as the official newspaper of record for the City of Marion (Sarah Olderding, General Manager).

Resolution No. 25717 approving a request to name Marion Times as the official newspaper of record for the City of Marion.

Motion to receive and file correspondence regarding noise and Tower Terrace Road (Bob Schlegel, 3600 10th Street).

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

* 1. Wedding, Lowe Park Amphitheater, October 8, 2017, 8:00 a.m. – 11:00 p.m. (Macy Koch and David Donaway, 10 Washington Street, Hyde Park, MA).

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

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Moved by Draper, seconded by Pazour to approve the consent calendar with Mayor AbouAssaly abstention from voting and discussion regarding the following items:

Motion to approve the following liquor license applications:

* 1. Renewal application for a Special Class C Liquor License with additional privilege for Sunday Sales for Giving Tree Theater, LLC, dba Giving Tree Theater (752 10th Street). Expiration 12/31/2016. No violations in previous five years.
  2. Renewal application for a Class E Liquor License with additional privileges for Carryout Wine, Carryout Beer, Outdoor Service, and Sunday Sales for Hy-Vee, Inc., dba Hy-Vee Food Store (3600 Business Highway 151 E). Expiration 01/14/2017. No violations in previous five years.

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

* 1. Resolution No. 25718 approving Partial Payment No. 5 to L.L. Pelling Company, Inc. regarding the 2016 Lowe Park Parking Lot Project in the amount of $37,752.95.
  2. Resolution No. 25719 approving Partial Payment No. 6 to Genesis Equities, LLC per Resolution No. 25306 regarding the 2015 Central Corridor Improvements Project (13th to 31st Street – Stage 2; Phase II) in the amount of $120,565.61.

Resolution No. 25720 accepting First Amendment to Temporary Construction Easement with HY-VEE, Inc. regarding the 2015 Central Corridor Improvements Project (13th to 31st Street – Stage 2; Phase II).

Motion to receive and file request from Morris Wood Enterprises for the issuances of two (2) building permits prior to approval of Authors 4th Addition Final Plat.

Motion to receive and file a request for tax increment financing (TIF) assistance from GLD Commercial.

Council Member Pazour asked about the TIF assistance that GLD Commercial is requesting. City Manager Lon Pluckhahn presented the staff report. Council Member Brandt asked when the Lowe Park parking lot will be opened. Parks Director Mike Carolan stated that it will open in the spring. Vote: Yeas: Draper, Etzel, Brandt, Nicholson, and Pazour. Nays: None. Abstention: AbouAssaly. Motion carried.

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Ordinance No. 16-17 amending Chapter 63 of the Code of Ordinances establishing the speed limit on Tower Terrace Road from the west City Limits to the east City Limits as 35 mph except for that area from 10th Street to 1,000 feet east which shall be 25 mph when children are present *(remove code section 5V)* was read by Etzel for second consideration. Moved by Etzel, seconded by Draper to approve the second reading of Ord. No. 16-17. All in favor, motion carried.

Moved by Draper, seconded by Pazour to suspend the rules and place Ord. No. 16-17 on the agenda for adoption and to adopt Ord. No. 16-17. All in favor, motion carried.

Ordinance No. 16-18 amending Chapter 63 of the Code of Ordinances establishing the speed limit on Seventh Avenue from Marion Boulevard to 250 feet west of Sixth Street as 35 mph *(remove code section 5B)* was read by Brandt for initial consideration. Moved by Brandt, seconded by Etzel to approve the first reading of Ord. No. 16-18. All in favor, motion carried.

Moved by Draper, seconded by Brandt to suspend the rules and place Ord. No. 16-18 on the agenda for adoption and to adopt Ord. No. 16-18. All in favor, motion carried.

Resolution No. 25721 approving a Purchase Agreement for property located at 637 16th Street in the amount of $94,500.00 (Glen Subra (Deed Holder) and Roy J. and Sandra Jordan (Contract Holder) was read by Nicholson. Moved by Nicholson, seconded by Draper to approve Res. No. 25721. All in favor, motion carried.

Resolution No. 25722 approving a Purchase Agreement for property located at 1412 5th Avenue in the amount of $94,000.00 (Andrew W. Gieselman) was read by Pazour. Moved by Pazour, seconded by Draper to approve Res. No. 25722. Council Member Pazour spoke opposing a roundabout at this location. All in favor except Pazour, motion carried.

Resolution No. 25723 approving a Purchase Agreement for property located at 1480 5th Avenue in the amount of $92,000.00 (Jamie A. Dawson) was read by Draper. Moved by Draper, seconded by Etzel to approve Res. No. 25723. All in favor except Pazour, motion carried.

Resolution No. 25724 approving Echo Ridge Estates 1st Addition Final Plat and Memorandum of Agreement for property located north of Echo Hill Road and west of Alburnett Road (Integrity Custom Homes) was read by Etzel. Moved by Etzel, seconded by Draper to approve Res. No. 25724. Vote: Yeas: Draper, Etzel, Brandt, Nicholson, and Pazour. Nays: None. Abstention: AbouAssaly. Motion carried.

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Resolution No. 25725 of Intent directing staff to negotiate tax increment financing (TIF) agreement with GLD Commercial was read by Brandt. Moved by Brandt, seconded by Draper to approve Res. No. 25725. Council Member Pazour expressed concern with a 15 year TIF agreement. City Manager Lon Pluckhahn noted that staff will review the request. He reviewed the TIF process. Vote: Yeas: Draper, Etzel, Brandt, Nicholson, and Pazour. Nays: None. Abstention: AbouAssaly. Motion carried.

Resolution No. 25726 releasing real property from development agreement (Fiberight) was read by Nicholson. Moved by Nicholson, seconded by Pazour to approve Res. No. 25726. Council Member Pazour asked if the property could be sold. City Manager Lon Pluckhahn presented the staff report. All in favor, motion carried.

Ordinance No. 16-19 amending the Code of Ordinances regarding the election of City Council Members by Ward was read by Pazour for initial consideration. Moved by Pazour, seconded by Brandt to approve the first reading of Ord. No. 16-19. All in favor, motion carried.

Moved by Pazour, seconded by Draper to suspend the rules and place Ord. No. 16-19 on the agenda for adoption and to adopt Ord. No. 16-19. All in favor, motion carried.

Mayor AbouAssaly recommended the appointment of Bob Kalous, 3340 Edgebrook Drive, to the Nuisance Enforcement/Property Maintenance Advisory Board with term expiring 01-01-20. Moved by Pazour, seconded by Brandt to concur with the Mayor’s recommendation. All in favor, motion carried.

Mayor AbouAssaly recommended the appointment of Tim Mooney, 862 Archer Drive, to the Corridor Metropolitan Planning Organization Policy Board with term expiring 12-31-19. Moved by AbouAssaly, seconded by Draper to concur with the Mayor’s recommendation. Council Member Pazour spoke opposing the appointment. All in favor except Pazour, motion carried.

Moved by AbouAssaly, seconded by Pazour to amend the term ending date for Phil Hershner, 2125 Timber Creek Drive, for the Local Option Sales Tax Committee, from 12-31-19 to 12-31-18. All in favor, motion carried.

Mayor AbouAssaly recommended the following reappointments:

* 1. Angie Pierce-Jennings, 3323 Riverside Drive NE, Cedar Rapids, Arts Council, term expires 01-01-20.
  2. Patrick Schmidt, 1420 25th Street, Arts Council, term expires 01-01-20.
  3. Brenda Kowalsky, 3780 Deer Valley Drive, Arts Council, term expires 01-01-20.

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* 1. Shirley Pantini, 4408 Indian Creek Road, Civil Rights Commission, term expires 12-31-19.
  2. Brett Nilles, 6090 Staggs Leap Lane, Civil Rights Commission, term expires 12-31-19.
  3. Dave Baumler, 1805 Country Club Drive, Civil Rights Commission, term expires 12-31-19.
  4. Renae Forsyth-Christy, 2130 Geode Street, Civil Rights Commission, term expires 12-31-19.
  5. Richard Sundermeyer, 2505 28th Avenue, Construction Code Review Board, term expires 01-01-21.
  6. John Bender, 5630 Woodbridge Crest, Corridor Metropolitan Planning Organization Policy Board, term expires 12-31-19.
  7. John Bender, 5630 Woodbridge Crest, Corridor Metropolitan Planning Organization Executive Committee, term expires 12-31-19.
  8. Nicolas AbouAssaly, 383 Eastview Avenue, Corridor Metropolitan Planning Organization Policy Board, term expires 12-31-19.
  9. Pat Klopfenstein, 5540 Hunter’s Ridge Court, Historic Preservation Committee, term expires 01-01-20.
  10. Ivan Gonzales, 1155 Parkview Drive, Historic Preservation Committee, term expires 01-01-20.
  11. Dwight Hogan, 1565 7th Avenue, Local Option Sales Tax Committee, term expires 12-31-19.
  12. Joe Skvor, 2080 26th Street, Nuisance Enforcement/Property Maintenance Advisory Board, term expires 01-01-20.
  13. Grant Hagen, 1088 Elim Drive, Nuisance Enforcement/Property Maintenance Advisory Board, term expires 01-01-20.
  14. Rene Gadelha, 797 Oak Park Circle, Planning and Zoning Commission, term expires 12-31-21.
  15. Tom Padley, 2860 23rd Avenue, Public Services Board, term expires 12-31-18.
  16. Mark Morgan, 933 18th Street, Public Services Board, term expires 12-31-18.
  17. Colleen Prokup, 2890 18th Avenue, Public Services Board, term expires 12-31-18.
  18. Greg Hapgood, 1180 F Avenue, Water Board, term expires 12-31-22.

Moved by Draper, seconded by Pazour to concur with the Mayor’s recommendations. All in favor, motion carried.

Council Discussion Time:

Fire Chief Deb Krebill reported that the Fire Department responded to an accident today on Highway 151 east of Jordans Grove Road. A semi had left the road

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and was submerged in a pond. The cab with the driver inside was under water. The Fire Department rescue team was able to rescue the driver. Chief Krebill commended her staff for rescuing the driver.

Council welcomed Ward 4 Council Member Dave Nicholson. Mr. Nicholson noted that he is glad to serve on the City Council and he hopes to be an asset to the City.

Council Member Pazour congratulated City Attorney Don Hoskins on his retirement. Mr. Hoskins served the City for 40 years. Council Member Draper noted that the City of Marion had their first attorney in 1840. He noted that in 1863 attorney Jake Davis came to Marion. He was elected Mayor in 1871 and re-elected 8 times. Mr. Davis had the first telephone in Linn County as well as the first automobile.

Council Member Draper stated that Jim Rosche passed away this week. Mr. Rosche owned Price Electric and Hardware in Marion.

Mayor AbouAssaly noted that the City has had retirements of several long term employees recently. Police Chief Harry Daugherty retired this summer, City Attorney Don Hoskins retired after 40 years, and Public Services employee Dave DeHoff retired after 37 years.

Mayor AbouAssaly’s Reaching Higher recognition went to the Christmas in the Park event. He thanked the many volunteers for helping make the event a success. He noted that he received many positive comments regarding Christmas in the Park.

Mayor AbouAssaly encouraged everyone to think about our friends and neighbors who may need assistance during the holidays. He noted there are many opportunities to spread cheer and to help those that need assistance.

Mayor AbouAssaly adjourned the meeting at 6:14 p.m.

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Nicolas AbouAssaly, Mayor

Attest:

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Beth J. Little, Assistant City Clerk