July 6, 2017

The City Council of the City of Marion, Linn County, Iowa met in regular session, Thursday, July 6, 2017, at 5:30 p.m. in the council chambers of City Hall with Mayor AbouAssaly presiding and the following council members present: Etzel, Brandt and Nicholson. Absent: Draper, Spinks, and Pazour.

The meeting was opened with the Pledge of Allegiance.

Council observed a moment of silence.

Citizen’s presentations, comments, and/or petitions:

Kurt Kraus, 3198 Hawks Ridge Court, requested that the City take over the maintenance of the sidewalks adjacent to East Robins Road between Newcastle Road and the City limits. He noted that there is a large berm that makes it difficult for the residents to access the sidewalk. Sarah Hora, 1440 Forest Lane, also asked that the City maintain the sidewalk adjacent to East Robins Road. Mayor AbouAssaly noted that staff will review the request and report back to the City Council.

Council Member Draper arrived at 5:42 p.m.

Moved by Brandt, seconded by Draper to approve the Consent Calendar, as follows:

Motion to approve minutes of the June 20 and 22, 2017 City Council meetings.

Motion to approve the bills as presented in the amount of $3,008,437.32.

Motion to approve a correction to the June 22, 2017 schedule of bills in the amount of $491,248.55.

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 Whaddaywant Marion LLC, dba Tomasos Pizza (1111 7th Avenue). Expiration 08/03/2017. No violations in previous five years.

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

* 1. Resolution No. 26157 approving Partial Payment No. 6 to Rathje Construction Company, Inc. regarding the 2016 Winslow Road Reconstruction Project in the amount of $225,657.84.

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* 1. Resolution No. 26158 approving Partial Payment No. 3 to Hunt Construction Company, Inc. regarding the 2017 Sidewalk Ramp Repair Project in the amount of $9,467.24.
  2. Resolution No. 26159 approving Partial Payment No. 10 for reimbursement to Mooney-Engle Land Company, LLC, regarding the Tower Terrace Road – Phase V (10th Street to Indian Creek Road) Project in the amount of $30,025.17.
  3. Resolution No. 26160 was moved to the following consent calendar.
  4. Resolution No. 26161 approving Partial Payment No. 14 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 $14,996.39.

Resolution No. 26162 accepting the Tower Terrace Road Project - Phase V (10th Street to Indian Creek Road).

Resolution No. 26163 approving Temporary Construction Easement with Karen M. Pasker and James R. Thomas, 405 14th Street, regarding the 2017 Storm Sewer Project.

Motion to approve Project Calendar regarding Temporary Construction Easements associated with the 2017 Sidewalk Assessment Project as follows:

* 1. Resolution No. 26164 approving Temporary Construction Easement with Jeremy A. Smith, 1095 29th Street, regarding the 2017 Sidewalk Assessment Project.
  2. Resolution No. 26165 approving Temporary Construction Easement with Travis J. Salter, 1015 29th Street, regarding the 2017 Sidewalk Assessment Project.
  3. Resolution No. 26166 approving Temporary Construction Easement with Aron Sweet, 2920 10th Avenue, regarding the 2017 Sidewalk Assessment Project.

Motion to receive, file, and refer to TAC correspondence regarding a request for a Pedestrian Crosswalk on Boyson Road at Timber Creek Drive (Robert Raftis, 2025 Timber Creek Drive).

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

* 1. Resolution No. 26167 approving Payment for FY17 Corridor Metropolitan Planning Organization (CMPO) membership dues in the amount of $17,062.30.

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Motion to receive and file the following items to the Planning and Zoning Commission:

* 1. Final Plat for Industrial Center East 13th Addition for property located north of 3rd Avenue and west of 44th Street (James and Teri Anderson).
  2. Preliminary and Final Site Development Plan for Sunny Ridge Villas Phase 2 located west of Bison Street and north of Kacena Avenue (DFMA, Inc., Chad Pelley).

Motion to receive and file correspondence regarding fireworks (Amber Dunlap, 3260 4th Street, Shelby Schott, 1565 Valleyview Drive, and Kelly Hidlebaugh, 2165 Northview Drive).

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

* 1. 8th Annual 6th Street Barbeque, 1155 6th Street, September 9, 2017, 5:00 p.m. – 10:30 p.m. (Brad and Lisa Rizzio, 1155 6th Street).
  2. Vendor Fair, Marion Square Park Depot, July 15, 2017, 4:00 p.m. – 10:00 p.m. (Talia Osborn, 2273 C Street SW Apt. A, Cedar Rapids).
  3. Eat Drink and Be Marion Pub Crawl, Uptown Marion, July 13, 2017, 4:30 p.m. – 10:00 p.m. (Brooke Prouty, Marion Chamber of Commerce, 1225 6th Avenue, Suite 100).

Resolution No. 26168 approving Partial Payment No. 5 to Veenstra & Kimm, Inc. for engineering design services regarding the Indian Creek Trunk Sewer – Segment 7 in the amount of $15,828.75

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

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

Motion to approve the following liquor license application:

* 1. Renewal application for a Class E Liquor License with additional privileges for Carryout Native Wine, Carryout Beer, and Sunday Sales for Casey’s Marketing dba Casey’s General Store #2924 (1100 Eagle View Drive). Expiration 08/18/2017. No violations in previous five years.

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

1. Resolution No. 26168 was moved to the prior consent calendar.
2. Resolution No. 26169 approving Partial Payment No. 1 to L.L. Pelling Company, Inc. regarding the 2017 HMA Resurfacing Project in the amount of $419,717.45.
3. Resolution No. 26170 approving Partial Payment No. 11 to Genesis Equities, LLC per Resolution No. 24763 regarding the construction of the Central Corridor Project (26th Street to 31st Street – Stage 2; Phase II) in the amount of $40,447.50.

**Motion to receive and file and refer to the Planning and Zoning Commission**:

* 1. Preliminary Site Development Plan and Preliminary Plat for property located south of Boyson Road and west of Alburnett Road (Midwest Development).

Resolution No. 26160 approving Partial Payment No. 2 to Integrity Custom Homes Inc. for costs associated with Echo Ridge Estates 1st and 2nd Additions to the City of Marion in the amount of $26,540.24.

Motion to receive and file a request for tax increment financing assistance (Lori Bouska, Dairy Queen).

Vote: Yeas: Etzel, Brandt, Nicholson, and Draper. Nays: None. Abstention: AbouAssaly. Motion carried.

Police Chief Joe McHale and Lieutenant Mark Merta made a presentation to the City Council regarding the event held at Cocktails, 1625 Blair Ferry Road, on June 17th. Lt. Merta noted that complaints were received regarding the event. He stated that they will be reviewing their practices regarding hold harmless agreements. Chief McHale explained that they will also be requesting that the City Council approve a revised noise ordinance.

Resolution No. 26171 approving a 28E Agreement between the City of Marion and Linn County Fire/Rescue Services regarding Mutual Assistance was read by Draper. Moved by Draper, seconded by Brandt to approve Res. No. 26171. All in favor, motion carried.

Fire Chief Deb Krebill and Police Chief Joe McHale provided an update to the City Council regarding fireworks. Mayor AbouAssaly noted that many complaints were received. Council discussed the issues caused by the fireworks. The following

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residents spoke opposing the fireworks: Jim and Donna McCabe, 1960 39th Street; Bev Hotle, 3095 McGowan Boulevard; Diane Hutcling, 855 Alexis Lane; Ruth Zanoni, 1080 Portsmith Circle; Cindy Kreassig, 2230 McGowan Boulevard; Ron Kreassig, 2230 McGowan Boulevard; Kim McDaniel, 3098 3rd Street; Maretta Portzline, 2160 24th Street; and Kathy Condon, 2315 Tamerac Drive. The following resident spoke in favor of the fireworks: Tim Gorton, 2575 Bullis Drive.

Moved by Etzel, seconded by Draper to receive and file correspondence in support of fireworks (Ruth Dolezal, 4000 Deer Valley Drive). All in favor, motion carried.

Resolution No. 26172 approving a Professional Service Agreement between the City of Marion and MSA Professional Services, Inc. regarding the Lowe Park South End Development Project in the amount of $66,500.00 was read by Brandt. Moved by Brandt, seconded by Etzel to approve Res. No. 26172. Parks Director Mike Carolan presented the staff report. All in favor, motion carried.

Resolution No. 26173 approving Partial Payment No. 1 to Woodruff Construction regarding the 2017 Marion Independent School Districts Tennis Court Project in the amount of $386,921.70 was read by Nicholson. Moved by Nicholson, seconded by Etzel to approve Res. No. 26173. Parks Director Mike Carolan presented the staff report. All in favor, motion carried.

Resolution No. 26174 approving purchase of property described as 184 8th Avenue, Marion from Scott Bizek associated with the Alburnett Road Extension Project in the amount of $135,330.00 was read by Draper. Moved by Draper, seconded by Etzel to approve Res. No. 21674. City Engineer Dan Whitlow presented the staff report. All in favor, motion carried.

Moved by Etzel, seconded by Brandt to receive and file TAC Report regarding a request for “No Parking” on east side of Edgebrooke Drive from 29th Avenue to 3345 Edgebrooke Drive (Grant Harper, 2522 Vaughn Drive). City Engineer Dan Whitlow presented the staff report. All in favor, motion carried.

Moved by Brandt, seconded by Etzel to receive and file correspondence opposing the establishment of a “No Parking” zone on the east side of Edgebrooke Drive from 29th Avenue to 3345 Edgebrooke Drive, as follows:

* 1. Shelley Wilken, 3005 Edgebrooke Drive.
  2. Wendy Lynn, 2925 Edgebrooke Drive.
  3. Kendra Abrokwa, 3000 Edgebrooke Drive.
  4. Aaron Pata, 3345 Edgebrooke Drive.
  5. Linda Newbanks, 2965 Edgebrooke Drive

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* 1. Tom Newbanks, 2965 Edgebrooke Drive.
  2. Brad Wilken, 3005 Edgebrooke Drive

All in favor of motion to receive and file the correspondence, motion carried.

Resolution No. 26175 approving the establishment of a “No Parking” zone on the east side of Edgebrooke Drive from 29th Avenue to 3345 Edgebrooke Drive was read by Nicholson. Moved by Nicholson, seconded by Brandt to approve Res. No. 26175. The following residents spoke opposing the removal of parking: Nicole Green, 3275 Edgebrooke Drive; Michael Lorenz, 3180 Edgebrooke Drive; Tom Newbanks, 2965 Edgebrooke Drive; Bob Kalous, 3340 Edgebrooke Drive; Megan Abbott, 3155 Edgebrooke Drive; Jake Abbott, 3155 Edgebrooke Drive; Dean Thomas, 3185 Edgebrooke Drive; and Cory Lorenz, 3180 Edgebrooke Drive. Vote: Yeas: None. Nays: Draper, Etzel, AbouAssaly, Brandt, and Nicholson. Motion failed.

City Engineer Dan Whitlow noted that the asbestos testing on the 7th Avenue Railroad Bridge is complete. He noted that no asbestos was found in the concrete. There were trace amounts of asbestos found in the caulk.

**Resolution No. 26176 setting July 20, 2017 as the date for a Public Hearing regarding a request to amend Ordinance No. 13-14 of the Marion Code of Ordinances regarding the hours of operation for property located along Tower Terrace Road west of 10th Street and east of Irish Drive was read by Draper. Moved by Draper, seconded by Etzel to approve Res. No. 26176. All in favor, motion carried.**

Resolution No. 26177 approving claim for Payment No. 1 to Randy Bries, the residential tenant that has relocation from the Meier Vet Clinic in the amount of $1,000.00 was read by Etzel. Moved by Etzel, seconded by Brandt to approve Res. No. 26177. Planning and Development Director Tom Treharne presented the staff report. All in favor, motion carried.

Mayor AbouAssaly left the meeting at 7:08 p.m. Acting Mayor pro tem Draper presided over the meeting.

Moved by Brandt, seconded by Etzel to receive and file a request for tax increment financing assistance (Genesis Equities, LLC). Vote: Yeas: Draper, Etzel, Brandt, and Nicholson. Nays: None. Motion carried.

**Acting Mayor pro tem Draper opened a public hearing regarding disposition of a portion of city owned property located between 26th Street and 31st Street south of 8th Avenue and north of 5th Avenue including Plat of Survey 2054 and 2055, and Parcel B of Plat of Survey No. 2172 (GLD). No comments, written or verbal, were received. Acting Mayor pro tem Draper declared the public hearing closed.**

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**Resolution No. 26178 approving disposition of a portion of city owned property located between 26th Street and 31st Street south of 8th Avenue and north of 5th Avenue including Plat of Survey 2054 and 2055, and Parcel B of Plat of Survey No. 2172 (GLD) was read by Nicholson. Planning and Development Director Tom Treharne noted that this item is not ready for approval. Res. No. 26178 died for lack of a second.**

Resolution No. 26179 approving the Final Plat and Memorandum of Agreement for Prairie Trail 2nd Addition for property located south of Echo Hill Road and west of Alburnett Road, Marion, Linn County, Iowa (Midwest Development) was read by Draper. Moved by Draper, seconded by Brandt to approve Res. No. 26179. Vote: Yeas: Draper, Etzel, Brandt, and Nicholson. Nays: None. Motion carried.

Resolution No. 26180 approving the issuance of four (4) building permits prior to approval of a Final Plat for Briargate 6th Addition by Abode Construction was read by Etzel. Moved by Etzel seconded by Brandt to approve Res. No. 26180. Vote: Yeas: Draper, Etzel, Brandt, and Nicholson. Nays: None. Motion carried.

Resolution No. 26181 approving a Right of Way Easement for 26th Street from 7th Avenue to 8th Avenue (Genesis) was read by Brandt. Moved by Brandt, seconded by Etzel to approve Res. No. 26181. Planning and Development Director Tom Treharne presented the staff report. Vote: Yeas: Draper, Etzel, Brandt, and Nicholson. Nays: None. Motion carried.

**Resolution No. 26182 approving a Final Plat and Memorandum of Agreement for 13 & 151 1st Addition located at the northeast corner of Highway 13 and 151 (Water Rock LLC) was read by Nicholson. Moved by Nicholson, seconded by Brandt to approve Res. No. 26182. Planning and Development Director Tom Treharne presented the staff report.** Vote: Yeas: Draper, Etzel, Brandt, and Nicholson. Nays: None. Motion carried.

**Acting Mayor pro tem Draper opened a public hearing regarding**a proposed Development Agreement with MOJO Properties, LLC. City Manager Lon Pluckhahn presented the staff report. **No other comments, written or verbal, were received. Acting Mayor pro tem Draper declared the public hearing closed.**

Resolution No. 26183 approving a Development Agreement with MOJO Properties, LLC, authorizing Annual Appropriation Tax Increment Payments and Pledging Certain Tax Increment Revenues to the Payment of the Agreement was read by Etzel. Moved by Etzel, seconded by Draper to approve Res. No. 26183. Vote: Yeas: Draper, Etzel, Brandt, and Nicholson. Nays: None. Motion carried.

Mayor AbouAssaly returned to the meeting at 7:21 p.m.

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Resolution No. 26184 approving surveillance camera solution from Graybill Communications for the Uptown Artway in the amount of $14,578.70 was read by Brandt. Moved by Brandt, seconded by Etzel to approve Res. No. 26184. Assistant to the City Manager Amanda Kaufman presented the staff report. Council Member Brandt asked about the SD card cost. Vote: Draper, Etzel, AbouAssaly, and Nicholson. Nays: Brandt. Motion carried.

Acting Mayor pro tem Draper relinquished the gavel to Mayor AbouAssaly at 7:25 p.m. Mayor AbouAssaly presided over the meeting.

Assistant to the City Manager Amanda Kaufman made a presentation to the City Council regarding the Capital Improvement Program (CIP) timeline.

Tom Barnes, 920 Williams Drive, President of the Marion-East Cedar Rapids, Iowa, Rotary Club, made a presentation to the City Council regarding the Pole Clock Project. Mr. Barnes explained that the Club plans to apply for a Rotary District Community Grant. The grant requires that the City agrees to provide a plot of property for the clock, provide electrical, and a reasonable level of security for the clock. Mr. Barnes requested that the Memorandum of Understanding be placed on the next Council agenda for consideration.

Council Discussion Time:  
 City Manager Lon Pluckhahn responded to Council Member Brandt’s question regarding Resolution No. 26184. He noted that the SD card is not a standard SD card. It is a special card that can tolerate high heat. Council Member Brandt requested a copy of the invoice.

Council Member Draper suggested that the City Council pass a resolution in support of option 3 for the County Supervisor representation plan in the August 1, 2017 special election.

Council Member Draper gave a history lesson on the Weber Paint and Smitty’s Shoe Repair building.

Mayor AbouAssaly adjourned the meeting at 7:39 p.m.

Attest:

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