October 19, 2017

The City Council of the City of Marion, Linn County, Iowa met in regular session, Thursday, October 19, 2017, at 5:30 p.m. in the council chambers of City Hall with Mayor AbouAssaly presiding and the following council members present: Draper, Etzel, Spinks, Brandt, Nicholson (via phone), and Pazour. Absent: None.

Special Note: Council Member Dave Nicholson participated in the Council meeting via phone conference.

The Marion Police Department Honor Guard presented the colors. The meeting was opened with the Pledge of Allegiance.

Council observed a moment of silence.

Police Chief Joe McHale made a presentation for the promotion of Corporal Jeff Hartwig to Sergeant. Sergeant Hartwig introduced the members of his family in the audience. Chief McHale reviewed Sergeant Hartwig’s many accomplishments since he was hired as a police officer in 1999.

Shannon Ramsay, President and CEO of Trees Forever, presented City Arborist Mike Cimprich with the Trees Forever Advocate Award. Ms. Ramsay reviewed Mr. Cimprich’s accomplishments.

Mayor AbouAssaly read a proclamation for **National Disability Employment Awareness Month. He presented the proclamation to Steve Moshier, Chair of the Marion Civil Rights Commission.**

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

Nick Glew, President of the Marion Economic Development Corporation, was present regarding the Uptown Dental project. Mr. Glew introduced Dr. Joe Lenz. Dr. Lenz explained the complications of building on the site at 890 7th Avenue. Mr. Glew explained that Dr. Lenz is requesting financial assistance for the clean-up of the brownfield site. Planning Director Tom Treharne noted that the City has provided assistance to other businesses that have found underground tanks on their sites.

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

Motion to approve minutes of the September 26, October 3 and 5, 2017 City Council meetings.

Motion to approve the bills as presented in the amount of $1,079,571.77.

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Motion to approve the following liquor license applications:

* 1. Renewal application for a Class E Liquor License with additional privileges for Carryout Wine and Carryout Beer for Fareway Stores, Inc., dba Fareway Stores, Inc. #949 (3300 10th Avenue). Expiration 11/15/2017. No violations in previous five years.

Resolution No. 26412 approving the disposal of City property.

Resolution No. 26413 approving the Annual Financial Report for the fiscal year ending June 30, 2017.

Resolution No. 26414 approving solid waste and recycling services agreement with ABC Disposal Systems.

Resolution No. 26415 approving architectural and engineering services agreement with Knapp Warden LLC.

Resolution No. 26416 approving Partial Payment No. 1 to Knapp Warden LLC for design services associated with the Eco Industrial Park Phase I, in the amount of $15,000.00.

Resolution No. 26417 approving Partial Payment No. 2 to MSA for professional services regarding the Lowe Park South End Development Project in the amount of $3,325.00.

Resolution No. 26418 approving Memorandum of Agreement between the City of Marion and Monarch Research Project, related to the 2018 1,000 Acre Pollinator Initiative.

Motion to receive and file a letter resigning from the Construction Code Review Board (David Martin, 890 18th Street).

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

* 1. Resolution No. 26419 was moved to the consent calendar with Mayor AbouAssaly abstaining.
  2. Resolution No. 26420 approving Partial Payment No. 11 to Snyder & Associates, Inc. regarding the Alburnett Road Extension concept study in the amount of $23,621.00.

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* 1. Resolution No. 26421 approving Partial Payment No. 1 to Taube Excavation, Inc. regarding the Tower Terrace Road (Phase VI) – 2017 Demolition [3493 Winslow and 3490 Indian Creek Properties] in the amount of $29,600.00.

Resolution No. 26422 accepting the 2017 Sanitary Sewer Sliplining Project.

Resolution No. 26423 accepting Bridge Creek 4th Addition to the City of Marion.

Resolution No. 26424 accepting Downing Farm 2nd Addition to the City of Marion.

Resolution No. 26425 accepting Champions Estates 4th Addition to the City of Marion.

Resolution No. 26426 accepting the Tower Terrace Road (Phase VI) – 2017 Demolition [3493 Winslow and 3490 Indian Creek Properties].

Resolution No. 26427 approving a Stop Sign stopping east bound traffic on Cottage Ridge Drive at its intersection with Winslow Road (Staff).

Resolution No. 26428 approving a Stop Sign stopping west bound traffic on Cottage Ridge Drive at its intersection with Echo Hill Road (Staff).

Resolution No. 26429 approving a Stop Sign stopping east bound traffic on Glen Rock Circle at its intersection with Echo Hill Road (Staff).

Resolution No. 26430 approving Temporary Construction Easement with Adam Chaisson, for property located at 1345 6th Avenue regarding the Central Corridor Improvements – Phase 3 (13th Street to 19th Street).

Resolution No. 26431 approving the establishment of a “No Parking” zone on both sides of 35th Avenue from 35th Street east to the City Limits (Staff).

Motion to approve Project Calendar regarding the Grant Wood Trail Project: TAP-U-4775(628)--8I-57, as follows:

* 1. Motion to retain the City Engineer as Project Engineer regarding the Grant Wood Trail Project: TAP-U-4775(628)--8I-57.
  2. Resolution No. 26432 approving Resolution of Necessity regarding the Grant Wood Trail Project: TAP-U-4775(628)--8I-57.

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* 1. Resolution No. 26433 ordering preparation of detailed plans, specifications, notice of hearing and letting, notice to bidders, form of contract, and estimate of cost regarding the Grant Wood Trail Project: TAP-U-4775(628)--8I-57.
  2. Resolution No. 26434 approving and adopting final plans, specifications, notice of hearing and letting, notice to bidders, form of contract, and estimate of cost regarding the Grant Wood Trail Project: TAP-U-4775(628)--8I-57.

Resolution No. 26435 approving a contract with SRF Consulting Group, Inc. regarding the 29th Avenue and Indian Creek Intersection Improvement Study in the amount of $ 29,026.96.

Resolution No. 26436 approving application for engineering services from the Iowa DOT by means of the Traffic Engineering Assistance Program (TEAP) regarding the 8th Avenue and Lindale Drive Intersection Improvement Project.

Resolution No. 26437 approving application for engineering services from the Iowa DOT by means of the Traffic Engineering Assistance Program (TEAP) regarding the 10th Street and 10th Avenue Intersection Improvement Project.

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

* 1. **Resolution No. 26438 approving Payment No. 4 to Stanley Consultants, Inc. for Urban Design services related to the Central Corridor Project in the amount of $5,000.00.**
  2. Resolution No. 26439 approving payment to Stanley Consultants Inc. for Phase I Environmental Site Assessment for 1405 7th Avenue in the amount of $1,750.00.

Motion directing staff to present Scope of Services relative to land use and zoning for Indian Creek Neighborhood area.

Motion to receive and file from the Planning and Zoning Commission a recommendation requiring the installation of street trees at the time of development.

Motion directing staff to develop an ordinance for installation of street trees at the time of development.

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Motion to receive and file a letter resigning from the Historic Preservation Committee (David Martin, 890 18th Street).

Resolution No. 26440 approving an addendum to the 2016 Agreement with the Iowa Department of Transportation regarding the CeMar Trail project.

Motion to receive, file, and refer to TAC a staff report regarding speed limits on Winslow Road associated with bike sharrows.

Motion to receive and file a letter of support regarding public parking lots in Block 22 (Annette Perry, Perry Development Partners, 200 Rosedale Road, Cedar Rapids).

Resolution No. 26441 setting a public hearing for November 21, 2017 regarding the FY 2018-2023 Capital Improvement Program (CIP).

Resolution No. 26442 approving the 2018 Program Design with Viverae for the Employee Well-Being Program.

Resolution No. 26443 accepting art installations and approving final payments associated with the Uptown Artway.

Resolution No. 26444 authorizing deferred compensation agreement (Daniel D. Whitlow).

Resolution No. 26445 approving Partial Payment No. 11 to Owen Lewis Consulting for the conversion of payroll data from our current payroll software to the New World software system in the amount of $2,000.00.

Motion to receive and file September 2017 Departmental Reports.

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

* 1. Holiday Open House, Be Inspired/DiModa Boutique, November 9 through November 11, 2017, 10:00 a.m. – 4:00 p.m. (Jill Deklotz and Tammy Cannavo, 720 11th Street).
  2. Wine with Witches, Be Inspired/DiModa Boutique, November 12, 10:00 a.m. – 8:00 p.m. (Jill Deklotz and Tammy Cannavo, 720 11th Street).

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

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Charles Knudsen, 2835 24th Avenue, asked whether it is legal to have a Council Member participate in the Council meeting via phone conference. City Attorney Ryan Tang explained that Council Member Nicholson can participate via phone with proper notice and as long as Council Member Nicholson can hear the proceedings and participate in the proceedings.

Mayor AbouAssaly relinquished the gavel to Mayor pro tem Spinks at 6:00 p.m.. Mayor pro tem Spinks presided over the meeting.

Moved by Pazour, seconded by Etzel to approve 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 Class C Beer Permit with additional privilege for Sunday Sales for Hy-Vee, Inc., dba Hy-Vee Gas (3550 Highway 151 E). Expiration 11/18/2017. No violations in previous five years.

**Resolution No. 26446 setting November 9, 2017 as a Public Hearing regarding a request to** amend the Future Land Use Map of the Marion Comprehensive Plan from Single-Family Detached Residential to Single-Family Attached Residential (Edison, Vaughn Farm Co. Inc. and Abode Construction, Inc.).

**Resolution No. 26447 setting November 9, 2017 as a Public Hearing regarding a request** and to rezone property located northeast of Lucore Road and southeast of Indian Creek Road from A-1 Rural Restricted to R-2 Medium Density Single Family Residential and PD-R Planned Development Residential (Edison, Vaughn Farm Co. Inc. and Abode Construction, Inc.).

Resolution No. 26419 approving Partial Payment No. 3 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 $7,500.00.

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

Mayor pro tem Spinks relinquished the gavel back to Mayor AbouAssaly at 6:01 p.m.. Mayor AbouAssaly presided over the meeting.

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Mayor AbouAssaly opened a public hearing regarding the approval of a renewal of contract with U.S. Cellular for their lease of the tower located at Fire Station No. 1, 600 8th Avenue. No comments, written or verbal, were received. Mayor AbouAssaly declared the public hearing closed.

Resolution No. 26448 approving the renewal of a contract with U.S. Cellular for their lease of the tower located at Fire Station No. 1, 600 8th Avenue was read by Draper. Moved by Draper, seconded by Brandt to approve Res. No. 26448. Council Member Pazour requested a staff report. Fire Chief Deb Krebill presented the staff report. All in favor, motion carried.

Mayor AbouAssaly opened a public hearing regarding the approval of a new contract with Verizon for a lease to use the property and the tower located at Fire Station No. 1, 600 8th Avenue. No comments, written or verbal, were received. Mayor AbouAssaly declared the public hearing closed.

Resolution No. 26449 approving a new contract with Verizon for a lease to use the property and the tower located at Fire Station No. 1, 600 8th Avenue was read by Etzel. Moved by Etzel, seconded by Pazour to approve Res. No. 26449. Council Member Pazour requested a staff report. Fire Chief Deb Krebill presented the staff report. All in favor, motion carried.

Ordinance No. 17-28 relating to the use of fireworks (banning all fireworks) was read by Spinks for initial consideration. Moved by Spinks, seconded by Draper to approve the first reading of Ord. No. 17-28. Council discussed the proposed Ordinance. Fire Chief Deb Krebill and Police Chief Joe McHale responded to Council questions. Roll Call: Yeas: Spinks, AbouAssaly, and Pazour. Nays: Draper, Etzel, Brandt, and Nicholson. Motion failed.

Ordinance No. 17-29 relating to the use of fireworks (restricting the use of fireworks to July 3, 12:00 p.m. – 11:00 p.m., July 4, 12:00 p.m. – 11:00 and December 31, 6:00 p.m. – 12:30 a.m. January 1 only) was read by Brandt for initial consideration. Moved by Brandt, seconded by Etzel to approve the first reading of Ord. No. 17-29. Moved by Brandt, seconded by Draper to amend the motion to delete the use of fireworks on July 3rd from 12:00 p.m. to 11:00 p.m. All in favor of the amendment, motion carried. Judy Saluri, 1785 Grand Avenue, stated that she feels 12:30 a.m. on January 1st is too late. Council discussed the proposed Ordinance. Roll Call on the first reading of Ord. No. 17-29 as amended: Yeas: Etzel, Spinks, Brandt, Nicholson, and Draper. Nays: AbouAssaly and Pazour. Motion carried.

Mayor AbouAssaly opened a public hearing regarding amending Chapter 157 of the Marion Code of Ordinances regarding Storm Water Utility Fees. City Engineer Dan Whitlow presented the staff report. No other comments, written or verbal, were received. Mayor AbouAssaly declared the public hearing closed.

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Ordinance No. 17-30 amending Chapter 157 of the Marion Code of Ordinances regarding Storm Water Utility Fees was read by Pazour for initial consideration. Moved by Pazour, seconded by Brandt to approve the first reading of Ord. No. 17-30. Council discussed the proposed Ordinance. City Engineer Dan Whitlow responded to Council questions. Council Member Pazour called the question. Vote on the first reading of Ord. No. 17-30: Yeas: Etzel, Spinks, AbouAssaly, Brandt, and Nicholson. Nays: Draper and Pazour. Motion carried.

Moved by Draper, seconded by Brandt to receive, file, and concur with TAC Report regarding a request for additional pedestrian traffic control at Blairs Ferry Road and Lindale Drive (Rebecca Watson, 780 West 9th Avenue). City Engineer Dan Whitlow presented the TAC report. All in favor, motion carried.

Moved by Etzel, seconded by Spinks to receive, file, and concur with TAC Report regarding the merge lane on Highway 100 at East Post Road (Tammie Cheney 1889 Berry Road, Cedar Rapids). City Engineer Dan Whitlow presented the TAC report. All in favor, motion carried.

Moved by Spinks, seconded by Pazour to receive, file, and concur with TAC Report regarding the speed limit associated with the 26th Street and 7th Avenue roundabout (Charlie Knudsen, 2835 24th Avenue). Charles Knudsen, 2835 24th Avenue, read a response to a letter he had received from City Engineer Dan Whitlow. Mr. Whitlow’s correspondence was the TAC response to Mr. Knudsen’s February 2017 letter regarding the speed limit at the 26th Street and 7th Avenue roundabout. Council discussed the speed limit in the roundabouts. Moved by Brandt, seconded by Pazour to amend the motion to receive and file the TAC report regarding the speed limit associated with the 26th Street and 7th Avenue roundabout but not to concur with the report. Mr. Knudsen asked if Council will study this matter further. City Engineer Dan Whitlow stated that Council can direct staff to prepare an Ordinance. All in favor of the amendment, motion carried. All in favor of the motion as amended, motion carried.

Resolution No. 26450 approving the Final Plat and Memorandum of Agreement for Glen Rock Farm Seventh Addition located north of Para Drive, west of Winslow Road (Frazier Investments LLC) was removed from the agenda.

Ordinance No. 17-27 amending the Code of Ordinances regarding a request to rezone property located north of Highway 100 on either side of 44th Street from Undesignated to A-1, Rural Restricted (City of Marion) was read by Pazour for second consideration. Moved by Pazour, seconded by Brandt to approve the second reading of Ord. No. 17-27. All in favor, motion carried.

Mayor AbouAssaly opened a public hearing regarding an Amendment to the Central Corridor Interim Development Overlay, Section 176.50(10) of the Marion Code of Ordinances. Planning and Development Director Tom Treharne presented the staff

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report. No other comments, written or verbal, were received. Mayor AbouAssaly declared the public hearing closed.

Resolution No. 26451 extending the Central Corridor Interim Development Overlay (IDO) an additional six months as provided by Section 176.50(10) of the Marion Code of Ordinances was read by Draper. Moved by Draper, seconded by Etzel to approve Res. No. 26451. Planning and Development Director Tom Treharne presented the staff report. All in favor, motion carried.

Moved by Etzel, seconded by Spinks to direct staff to draft plans for additional funding options related to the Capital Improvement Program (CIP). Council Member Pazour expressed concern with funding for the projects. Assistant to the City Manager Amanda Kaufman and Acting City Manager Dan Whitlow presented the staff report and responded to questions from the City Council. All in favor except Pazour, motion carried.

Resolution No. 26372 approving an amendment to public access easement agreement at 777 10th Street (removed from the agenda on 09/21/2017) was read by Spinks. Moved by Spinks, seconded by Brandt to approve Res. No. 26372. Assistant to the City Manager Amanda Kaufman presented the staff report and responded to questions from the City Council. Council Member Draper called the question. All in favor except Pazour, motion carried.

Moved by Spinks, seconded by Pazour to concur with the Mayor’s recommendation for appointment, as follows:

* 1. Kim Gordon, 1324 Holiday Lane, Brooklyn, IA 52211, Civil Rights Commission, term expires 12-31-20.

Council Member Spinks asked the City Attorney if a Commission Member has to be a Marion resident. City Attorney Ryan Tang stated that this Commission does not have a residency requirement. All in favor, motion carried.

Council Member Nicholson ended his phone participation in the meeting at 7:46 p.m.

Council Discussion Time:  
 Council Member Pazour noted that she was impressed with Sergeant Jeff Hartwig’s promotion ceremony.

Council Member Pazour thanked Dave Martin for serving on the Construction Code Review Board and the Historic Preservation Commission.

Council Member Pazour asked if the City Charter could be amended to require a public vote on all projects over $500,000. City Attorney Ryan Tang stated that it would

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be extremely unwieldy to hold an election for every project over $500,000. Council Member Pazour suggested that each project be approved on the November ballot. Mayor AbouAssaly explained that the voters elect the Council Members to represent the citizens and make those decisions. He stated that the Mayor and Council Members take their jobs very seriously and make decisions based on what is in the best interest of the entire community for the greatest good for the greatest number of people.

Council Member Pazour stated that she has heard comments that the new uptown will be along the Tower Terrace Road corridor. Mayor AbouAssaly explained that with the growth to the north there will be a need for commercial services along the Tower Terrace Road corridor. He noted that the community is committed to the Uptown as the vibrant city center of the community. He noted the Uptown is the first impression people see of the City.

Council Member Brandt asked for an update regarding the former Maidrite building. Planning and Development Director Tom Treharne stated that he has visited with the owner. He explained that the City is not holding up the project but there has been no work on the building in the past three weeks. Mr. Treharne stated that he will provide a report to Council at the next City Council meeting. Council Member Draper asked if it safe to have the sidewalk open. City Engineer Dan Whitlow explained that if the work is not accomplished soon, the sidewalk may need to be closed.

Council Member Spinks noted that the promotion ceremony was nice. He thanked the Police Department and Fire Department for providing service to the community 24 hours every day.

Council Member Etzel asked about firework fines. Fire Chief Deb Krebill stated that the fines are set by State law.

Council Member Draper stated that in 1890 the only new building in Marion was a dental office for Dr. Booth. In addition, Council Member Draper provided the history of bicycles. He noted that there is a bicycle with a wooden frame at the History Center.

Mayor AbouAssaly stated that since the last Council meeting he has represented the City on the panel of the Next Gen Summit, he spoke to the 7th graders at Oak Ridge School regarding the Iowa League of Cities writing competition on “If I were Mayor” essays, he participated in a walk for low income senior housing, a ribbon cutting at the Cobban-Hervey building with the Governor and Lt. Governor in attendance, Marion Process Solutions ground breaking, a ribbon cutting for Waldo’s Rock Park, an immigrant recognition dinner in North Liberty, read to students at two schools for America Reads, and the MPO policy board meeting. Mayor AbouAssaly noted he is always proud to represent the City, City Council, and citizens and be an advocate for Marion.

Mayor AbouAssaly noted that he appreciated having the police promotion ceremony at City Hall.

Mayor AbouAssaly recognized Council Member Draper for Reaching Higher with Waldo’s Rock Park. He thanked Council Member Draper for helping to facilitate the donation of the land. He thanked the staff for working on the park.

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Mayor AbouAssaly adjourned the meeting at 8:02 p.m.

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Nicolas AbouAssaly, Mayor

Attest:

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Beth J. Little, Assistant City Clerk