

The City Council of the City of Marion, Linn County, Iowa met in regular session, Thursday, June 21, 2018, at 5:30 p.m. in the council chambers of City Hall with Mayor AbouAssaly presiding and the following council members present: Draper, Etzel, Jensen, Gadelha, Brandt, and Strnad. Absent: None.

The meeting was opened with the Pledge of Allegiance.

Mayor AbouAssaly gave a short presentation regarding the Livability Award. He attended the United States Conference of Mayors in Boston, MA where Marion received the Livability Award. Marion was one of ten cities with populations under 100,000 that were recognized. The City was recognized for the Uptown Artway project which has put Marion on the map. He recognized all city staff, Marion Chamber of Commerce, Uptown Marion, Linn County Supervisor Brent Oleson, and all others who played a part in this project. He presented the award to the citizens of Marion.

Moved by Strand, seconded Etzel to approve consent calendar as follows:

Motion to approve minutes of the June 5, 7, and 14, 2018 City Council meetings.

Motion to approve the bills as presented in the amount of \$2,223,418.70.

Motion to approve the following liquor license applications:

- a. New application for a Class C Liquor License with additional privilege for Class B Wine Permit, Outdoor Service, and Sunday Sales for Volleyfrog Iowa LLC, dba Oasis Sandbar Marion (1710 Marion Airport Road). Effective 05/01/18.

Resolution No. 26942 approving the renewal of General Insurance with Iowa Communities Assurance Pool (ICAP) for FY18-19.

Resolution No. 26943 approving transfer of excess workers compensation funds to the Employee Benefits Fund within fiscal year 2017-2018 budget.

Resolution No. 26944 approving the five year audit proposal for audit services with Hogan-Hansen for the years ended June 30, 2020-2024.

Resolution No. 26945 approving Lianne Cairy as an authorized signer on the City's financial accounts.

Resolution No. 26946 approving the transfer of funds within the fiscal year 2017-2018 budget. \$264,908.61 (Transfer from 325-Subdivision Dev. Escrow to 301-Capital Projects for payout related to Briargate 6th Addition).

Resolution No. 26947 authorizing Rene Gadelha and Randy Strnad to authorize payments from the City's financial accounts for the GLD Hotel Project only.

Resolution No. 26948 approving Partial Payment No. 37 to Anderson-Bogert Engineers for the Public Services site plan development in the amount of \$3,139.00.

Resolution No. 26949 approving Partial Payment No. 2 to Price Electric for the installation of street light poles associated with the Verizon Small Cell Project in the amount of \$24,666.50.

Motion directing staff to proceed with the vacation of a Trail Easement located on property owned by the Residences at the Park, Home Owners Association.

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

- a. Resolution No. 26950 approving Partial Payment No. 5 to Snyder & Associates regarding the 2018 Alburnett Road Extension Phase I in the amount of \$74,407.08.
- b. Resolution No. 26951 approving Partial Payment No. 4 to Anderson-Bogert Engineers regarding the Tower Terrace Road Phase IX Improvements in the amount of \$12,250.00.
- c. Resolution No. 26952 approving Partial Payment No. 1 to Rathje Construction Company, Inc. regarding the 2017 Storm Sewer Project – Supplemental Contract in the amount of \$2,565.00.

Resolution No. 26953 approving a Stop Sign stopping north bound traffic on Hemingway Street at its intersection with 35th Avenue.

Resolution No. 26954 approving a Stop Sign stopping north bound traffic on Prairie Trail at its intersection with Tramore Road.

Resolution No. 26955 approving a Stop Sign stopping south bound traffic on Prairie Trail Court at its intersection with Tramore Road.

Resolution No. 26956 approving a Stop Sign stopping south bound traffic on Ridge Line Drive at its intersection with Echo Hill Road.

Resolution No. 26957 approving a Stop Sign stopping south bound traffic on Cedar Ridge Drive at its intersection with Waveland Drive.

Resolution No. 26958 approving a Stop Sign stopping west bound traffic on Shadow Creek Lane at its intersection with Ridge Line Drive.

Resolution No. 26959 approving Temporary Construction Easement with Lee Ann Krapfl, 1580 Northview Drive, regarding the 2017 Northview Drive Reconstruction Project (NSI).

Resolution No. 26960 accepting the 2017 Storm Sewer Project – Supplemental Contract.

Resolution No. 26961 accepting the 2017 Armar Drive Extension Project.

Resolution No. 26962 approving a contract with Anderson-Bogert Engineers and Surveyors, Inc. regarding the 2018 Central Corridor 7th Avenue Preliminary Design in the amount of \$261,133.00.

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

- a. Resolution No. 26963 approving payment No. 7 to Houseal Lavigne Associates for professional consulting services related to the Marion Zoning Ordinance per the contract for the Marion Airport in the amount of \$1,937.25.
- b. Resolution No. 26964 approving payment No. 8 to Houseal Lavigne Associates for professional consulting services related to the Marion Comprehensive Plan per the contract for the Marion Airport in the amount of \$1,331.00.

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

- a. A request to vacate the southern 120 feet of the north-south alley lying between lots 5, 6, 7 and 8, Block 44 Original Town, Now City of Marion, Linn County, Iowa (Vadim & Rebecca Vorobtsov).
- b. A request to vacate the north 120' of the north-south alley lying adjacent to Lots 3, 4 & 5 of Sutzins 1st Addition, Marion, Linn County, Iowa (Pete Schaul).
- c. Site plan review per conditions of the rezoning for West End (Perry Development Partners).

Resolution No. 26965 approving contract amendment No. 3 with Anderson-Bogert Engineers and Surveyors, Inc. associated with the Grant Wood Trail – 35th Street to Highway 13 in the amount of -\$7,511.

Motion to receive, file and discuss May 2018 Departmental Reports.

Motion to receive, file and discuss letter regarding abandoned railroad tracks at the end of 4th Avenue (Douglas Kelly, REAMS Supply Co, 3780 4th Avenue).

Motion to approve the following Special Permit Endorsements:

- a. Birthday Party, Brick Alley, June 23, 2018, 1:00 p.m. – 6:00 p.m. (Les Arnold, 1038 7th Avenue).

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

- a. NLCC Summer Fest, 275 W 29th Avenue, July 14, 2018, 4:00-8:00 p.m. (New Life Community Church, Brenda Jurgensmeier, 145 Meghann Drive).
- b. Artisan's Sanctuary, Uptown Artway, July 21, 2018, 4:00-8:00 p.m. (Artisan's Sanctuary, Jim Jacobmeyer, 1070 7th Avenue).
- c. Marion Big Band Concerts, Marion Square Park, July 5, 12, 19, and 26, 2018, 7:00-9:00 p.m. (Doreen Zumwalt, 1500 8th Street).
- d. Chatterbox Concert, Uptown Artway, July 7, 2018, 7:00-11:00 p.m. (Uptown Snug, Eric Yerke, 760 11th Street).
- e. House Party for Children's Charity, 2185 Highview Drive, July 1, 2018, 3:00-9:00 p.m. (Matthew J Hoy II, 2185 Highview Drive).
- f. Live Music featuring Anderson Coates, Uptown Artway, June 22, 2018, 7:00-8:15 p.m. (Anderson Coates, 1820 Valentine Drive).

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

Mayor AbouAssaly relinquished the gavel to Mayor pro tem Gadelha at 5:38 p.m. Mayor pro tem Gadelha presided over the meeting.

Council Member Etzel asked the following items be removed from consent calendar for separate consideration: Resolution No. 26969 approving the revised Preliminary Plat for Gemstone Estates 5th Addition located north of Tower Terrace Road and west of Lucore Road. (M&W Ventures, LLC) and Resolution No. 26970 recommending approval of a preliminary plat for The Commons at English Glen Phase II Addition located north of Winchester Drive and west of Sherwood Drive. (Robson Homes, Inc.).

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

Motion to approve the following FY2018-2019 Cigarette permit applications: 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, Casey's General Store #3562, Neighborhood Tobacco Outlet, Hawkeye Convenience Stores, Hy-Vee Drugstore, Hy-Vee Food Stores, Hy-Vee Gas, Kum & Go #503, Kum & Go #509, Marion Food Market, Marion Market & Cafe, Murphy USA #7287, FasMart #5146, Smokin' Joe's Tobacco and Liquor Outlet #10, Walmart #3630, Walgreens #03876, and Wrigleyville Sports Pub.

Resolution No. 26966 approving Partial Payment No. 6 to MSA for professional services regarding the Lowe Park South End Development Project in the amount of \$6,650.00.

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

- a. Resolution No. 26967 approving Partial Payment No. 7 to Genesis Equities, LLC regarding the Central Corridor Improvements Project; Building Demolition in the amount of \$4,440.00.
- b. Resolution No. 26968 approving Partial Payment No.1 to Abode Construction, Inc. for the over width and over depth of pavement and trail associated with Briargate 6th Addition to the City of Marion in the amount of \$300,493.62.

Resolution No. 26971 setting a Public Hearing for July 5, 2018 and directing publication of notice of public hearing regarding a Preliminary Site Development Plan for Bluebird Square located on the northeast corner of Highway 13 and 151. (High Property Management & Development).

Resolution No. 26972 approving a request from GLD to extend the closing of 3025 7th Avenue to August 30, 2018.

Vote: Yeas: Draper, Etzel, Jensen, Gadelha, Brandt, Strnad. Nays: None. Abstention: AbouAssaly. Motion carried.

Resolution No. 26969 approving the revised Preliminary Plat for Gemstone Estates 5th Addition located north of Tower Terrace Road and west of Lucore Road. (M&W Ventures, LLC) was read by Etzel. Moved by Etzel, seconded by Jensen to approve Res. No. 26969. Mayor Pro Tem stated this resolution does not call for rezoning and is only to approve the revised preliminary plat. Council Member Jensen commented on details of the revised preliminary plat. Vote: Yeas: Draper, Etzel, Jensen, Gadelha, Brandt, Strnad. Nays: None. Abstention: AbouAssaly. Motion carried.

Resolution No. 26970 recommending approval of a preliminary plat for The Commons at English Glen Phase II Addition located north of Winchester Drive and west of Sherwood Drive. (Robson Homes, Inc.) was read by Etzel. Moved by Etzel, seconded by Jensen to approve Res. No. 26970. Vote: Yeas: Draper, Etzel, Jensen, Gadelha, Brandt, Strnad. Nays: None. Abstention: AbouAssaly. Motion carried.

Mayor pro tem Gadelha relinquished the gavel to Mayor AbouAssaly at 5:34 p.m. Mayor AbouAssaly presided over the meeting.

Resolution No. 26973 approving the proposed allocation of Hotel Motel Funding for FY18-19 was read by Jensen. Moved by Jensen, seconded by Gadelha to approve Res. No. 26973. Lynette Brenzel (1825 Bloomington Rd) asked to see amounts awarded. City staff displayed awarded amounts. All in favor, motion carried.

Mayor AbouAssaly relinquished the gavel to Mayor pro tem Gadelha at 5:45 p.m. Mayor pro tem Gadelha presided over the meeting.

Resolution No. 26974 approving the selection of Knapp Warden as the Construction Manager for first phase of the Eco Industrial Park was read by Brandt. Moved by Brandt, seconded by Strnad to approve Res. No. 26974. Public Services Director Ryan Miller provided staff report. Council Member Jensen stated he met with Miller with follow-up questions and is now satisfied. Council Member Draper stated he'd like to see that Marion businesses are provided a chance to bid. Miller stated all sub-contractor contracts will go through Council. Mayor Pro Tem Gadelha asked if the construction manager would be hiring the sub-contractors. Miller stated all contracts would be with the City. Council Member Brandt asked who would be on site during construction. Miller stated Bill Knapp will be onsite. Vote: Yeas: Draper, Etzel, Jensen, Gadelha, Brandt, Strnad. Nays: None. Abstention: AbouAssaly. Motion carried.

Mayor pro tem Gadelha relinquished the gavel to Mayor AbouAssaly at 5:58 p.m. Mayor AbouAssaly presided over the meeting.

Ordinance No. 18-18 adopting by reference the International Fire Code 2018 Edition with amendments and providing penalties was ready by Strnad for second consideration. Moved by Strnad, seconded by Gadelha to approve the second reading of Ord. No. 18-18. All in favor, motion carried.

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

Moved by Etzel, seconded by Brandt to receive, file, discuss and refer to TAC request regarding requesting a street light at Eastview Avenue and 10th Street. (Elizabeth McGlynn and Karla Thompson, 999 Eastview Avenue). Elizabeth McGlynn and Karla Thompson were present and provided an overview of the issues in the neighborhood. They provided comments regarding the growth in the neighborhood and lack of lighting. Mayor AbouAssaly thanked them for sharing the information. He stated the request will be sent to the TAC Committee which will review and provide Council with a recommendation. All in favor, motion carried.

Resolution No. 26975 approving a Final Plat and Memorandum of Agreement for Stonefield Commercial First Addition located south of Tower Terrace Road, west and north of 3rd Street (Synergy Equity Partners, LLC) was removed from the agenda.

Mayor AbouAssaly opened the public hearing regarding the renaming of Pioneer Court to Pioneer Drive located west of Larkspur Drive within the Bridge Creek 4th Addition. Community Development Director Tom Treharne provided the staff report. No other comments, written or verbal, were received. Mayor AbouAssaly declared the public hearing closed.

Resolution No. 26976 approving the renaming of Pioneer Court to Pioneer Drive located west of Larkspur Drive within the Bridge Creek 4th Addition was read by Gadelha. Moved by Gadelha, seconded by Jensen to approve Res. No. 26976. All in favor, motion carried.

Moved by Brandt, seconded by Etzel to direct staff to prepare a plan and get estimates to complete side paths between Tower Terrace Road and Connection Avenue along 10th Street. Council Member Draper stated lots of kids use street to and from school and it's a safety issue. All in favor, motion carried.

Mayor AbouAssaly relinquished the gavel to Mayor pro tem Gadelha at 6:11 p.m. Mayor pro tem Gadelha presided over the meeting.

Mayor pro tem Gadelha opened the public hearing regarding the property east of the Marion Airport Runway and south of Marion Airport Road to amend the Future Land Use Map of the Marion Comprehensive Plan from Business Park/Office to Light Industrial and to Corridor Commercial and from Light Industrial to Corridor Commercial and a request to Rezone from Restricted Industrial, I-1 to General Commercial, C-3 and from Linn County Agricultural to Restricted Industrial, I-1 and to General Commercial, C-3 (Genesis Equities Land Holding, LLC). Community Development Director Tom Treharne provided the staff report. No other comments, written or verbal, were received, Mayor pro tem Gadelha declared the public hearing closed.

Resolution No. 26977 amending the Future Land Use Map of the Marion Comprehensive Plan from Business Park/Office to Light Industrial and to Corridor Commercial and from Light Industrial to Corridor Commercial located east of the Marion Airport Runway and south of Marion Airport Road (Genesis Equities Land Holding, LLC) was read by Etzel. Moved by Etzel, seconded by Jensen to approve Res. No. 26977. Vote: Yeas: Draper, Etzel, Jensen, Gadelha, Brandt, Strnad. Nays: None. Abstention: AbouAssaly. Motion carried.

Ordinance No. 18-19 approving a rezoning from Restricted Industrial, I-1 to General Commercial, C-3 and from Linn County Agricultural to Restricted Industrial, I-1 and to General Commercial, C-3 located east of the Marion Airport Runway and south of Marion Airport Road (Genesis Equities Land Holding, LLC) was ready by Jensen for initial consideration. Moved by Jensen, seconded by Draper to approve the first reading of Ord. No. 18-19. Vote: Yeas: Draper, Etzel, Jensen, Gadelha, Brandt, Strnad. Nays: None. Abstention: AbouAssaly. Motion carried.

Resolution No. 26978 approving a Final Plat and Memorandum of Agreement for Bowman Woods Unit Thirty-Seven located south of Hawks Ridge Lane and east of Hampshire Drive. (Midwest Development Co.) was ready by Brandt. Moved by Brandt, seconded by Etzel to approve Res. No. 26978. Vote: Yeas: Draper, Etzel, Jensen, Gadelha, Brandt, Strnad. Nays: None. Abstention: AbouAssaly. Motion carried.

Resolution No. 26979 approving an addendum to Fixed Base Operator (FBO) Lease Agreement between City of Marion, Iowa and Luxair Aviation was ready by Strnad. Moved by Strnad, seconded by Brandt to approve Resolution No. 26979. Vote: Yeas: Draper, Etzel, Jensen, Gadelha, Brandt, Strnad. Nays: None. Abstention: AbouAssaly. Motion carried.

Mayor pro tem Gadelha relinquished the gavel to Mayor AbouAssaly at 6:17 p.m. Mayor AbouAssaly presided over the meeting.

Ordinance No. 18-17 designating an area of Marion, Iowa, as the 2018 Workforce Housing Urban Revitalization Area was read by Etzel for final consideration. Moved by Etzel, seconded by Gadelha to approve the third reading of Ord. No. 18-17. All in favor, motion carried.

Resolution No. 26980 approving Economic Development Loan Agreement (Prospect Meadows) was read by Gadelha. Moved by Gadelha, seconded by Brandt to approve Resolution No. 26980. All in favor, motion carried.

Resolution No. 26981 approving updated Personnel Policy No. 3.01 regarding Pay for Performance was ready by Brandt. Moved by Brandt, seconded by Gadelha to approve Resolution No. 26981. All in favor, motion carried.

Citizen's presentations, comments and/or petitions:

David Sheets (4065 Brookside Drive) stated he received a postcard that stated he would be able to speak regarding Res. No. 26969 tonight but no opportunity was given. He stated at a previous council meeting, council voted against zoning on condominiums and he cannot trust the council to protect his property rights.

Jerry Vuichard (3649 Brookside Drive) stated he received a postcard that stated he would be able to speak regarding Res. No. 26969 tonight but no opportunity was given. He asked council why they weren't able to speak. Council Member Gadelha stated she was not aware a postcard was sent out. She stated this was not a public hearing and there is no public portion to speak for resolutions. Community Development Director Tom Treharne stated the postcard used wording for a public hearing and it was a staff error.

Mike Pedersen (3460 27th Avenue) provided comments regarding the June 19, 2018 discussions regarding the Tax Increment and Development Policies. He also provided comments regarding the studies that have been completed and shared concerns they were skewed. He encouraged council to look carefully at zoning within the City. He also shared concerns with moving the public comments section to the end of agenda. Mayor AbouAssaly provided clarification regarding the Tax Increment Policy.

Mayor AbouAssaly commented that council is more open to the public than ever. He stated the public can always email, call or visit them during library council time. He stated council members are always willing to talk.

Todd Wood (2505 Deer Lane Rd) provided clarification regarding his development and stated it's not all about money. He stated he has turned down projects because they are not right for Marion. Council Member Draper asked questions regarding his new development. Mr. Wood encouraged council members to visit.

City Manager Lon Pluckhahn provided clarification regarding moving the public comment section to the end of agenda. He stated it was to create more predictability and it was not intended to be negative.

Mayor AbouAssaly stated many councils limit time the public can speak or eliminate public comment entirely. He stated the Marion City Council has always allowed citizens to speak.

Shari Funck (1605 Grand Avenue) thanked the Council on behalf of the Marion Independent School District and looks forward to partnering in the future.

Payroll Manager Beth Little stated she has served as assistant city clerk for the past 27 years. She shared her thanks to Mayor AbouAssaly and present council members as well as all previous council members she has served. Mayor AbouAssaly offered his thanks and appreciation.

Jane Hawley (4091 Brookside Drive) stated her concerns regarding water drainage onto her property. City Engineer Mike Barkalow stated as part of development, there will be less surface area draining onto her property but will look at that area.

Council Discussion Time:

Council Member Strnad shared frustrations with how council was spoken to by the public. He is offended with how they have been addressed. He stated great things have come to Marion and much more is to come.

Council Member Brandt commented on the many firework tents in Marion. He asked City Attorney Kara Bullerman if there was pending litigation or if Marion could seek to restrict firework tents by zoning. City Attorney Kara Bullerman stated the only way Marion can regulate firework sales is through zoning. Council Member Brandt asked Police Chief McHale how many firework calls they have received. Chief McHale stated seven calls year to date. Council Member Brandt then stated Fire Chief Krebill wanted to address the Council. Fire Chief Krebill presented Council Member Gadelha with a certificate for graduating the Citizens Fire Academy.

Council Member Gadelha stated that the Citizens Fire Academy is a great opportunity. She encouraged anyone interested to attend. She stated she now knows much more about the fire department and the staff at Marion Fire Department. It was educational, challenging and fun. She would like City staff to plug this academy more. Gadelha stated from her past experience, some boards don't allow public comments at all. She stated with moving the public comment section to the end, it stops those citizens that say something and leave. Gadelha also wanted to publicly apologize to Ryan Miller for allowing a citizen to speak at the June 19, 2018 meeting that shouldn't have.

Council Member Jensen wanted to follow-up on Council Member Strnad's comment. He stated when he ran for council last fall he was fully aware citizens wouldn't always be satisfied with his votes. He also provided comments regarding fireworks and he will ask for a status update at the July 5, 2018 meeting.

Council Member Draper provided a history lesson regarding the Maid-Rite building. He stated it has been the location for several businesses including a grocery, barber, tire sales, insurance, meat shop, bakery, dress shops and more. He stated that Marion's first bowling alley was located in the basement. It was a duck pin bowling alley where pins are half the size and the bowling ball is like a large softball. This came to town and stayed in the 1930's and 1940's.

Mayor AbouAssaly wanted to reiterate what an honor it was to represent the city and accept the Livability Award in Boston. He was proud to share what's going on in Marion and the growth. He stated the Spee-Dee Delivery Service groundbreaking was earlier in the week as well as the Timberline Manufacturing ribbon cutting earlier this month. He stated Marion is seeing several ribbon cuttings. Mayor AbouAssaly stated Encore Café has been running for a couple of months and has already received national attention. It has shattered all projections and expectations and are looking at expanding. They have been asked to go to National Meals on Wheels to speak about the program. In closing, he stated people are moving to Marion because they see the progress. He stated council loves the community and encouraged members to discuss items in a constructive manner and to stay willing to be convinced. He stated no decisions are made lightly.

Mayor AbouAssaly adjourned the meeting at 7:19 p.m.

Nicolas AbouAssaly, Mayor

Attest:

Rachel Bolender, Assistant City Clerk