

July 5, 2018

The City Council of the City of Marion, Linn County, Iowa met in regular session, Thursday, July 5, 2018, at 5:32 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.

Council observed a moment of silence.

A presentation regarding GIVE65, a fundraiser to support the construction of a Linn County senior center, was given by Karen Huber with Home Instead Senior Care. The fundraiser will be held July 10-12, 2018. The previous senior center was damaged 10 years ago in the flood. Currently, senior activities are located at various locations throughout Linn County. Would like to raise funds to help build a new senior center in Linn County. Goal is \$20,000. The more money raised, the more funds they will receive from corporate office in Omaha. Ms. Huber encouraged council and the community to donate.

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

Motion to approve minutes of the June 19, 21, and 27, 2018, City Council meetings.

Motion to approve the bills as presented in the amount of \$2,667,476.38.

Motion to approve the following liquor license applications:

- a. New application for a Class C Liquor License with additional privilege for Sunday Sales for Mountain Man Enterprise, LLC, dba Arlo's (648 8th Street). Effective 06/01/2018.
- b. New application for a Class E Liquor License with additional privileges for Class B Wine Permit, Class C Beer Permit and Sunday Sales for United Petroleum Inc., dba Marion Market & Café (5005 10th Avenue). Effective 07/01/2018.
- c. Transfer application for a Class B Native Wine Permit for Anna Blanchette, dba SugarMe (895 8th Avenue). Effective 07/01/2018.

Resolution No. 26982 adopting Final Assessment Schedule for Fiscal Year 2019 Quarter 1 Delinquent Fee Special Assessments.

Resolution No. 26983 setting public hearing for July 19, 2018 regarding amendments to the Fiscal Year 2018-2023 Capital Improvement Program (Eco Industrial Park, 29th and Indian Creek Intersection Improvement Project and the 2018 Sanitary Sewer Capacity Study).

Motion to receive, file, and discuss letter regarding request for notice for sewer line maintenance. (Noreen Tonkin, 1920 8th Avenue).

Motion directing staff to draft a memorandum of understanding and purchase agreement for land acquisition in regards to Fire Station No. 3.

Resolution No. 26984 approving the 2018 Addendum Agreement with Area Ambulance Service relating to the fee schedule and a three year contract extension.

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

- a. Resolution No. 26985 approving Partial Payment No. 1 to Anderson-Bogert Engineers regarding the Marion Runway 17/35 Reconstruction Project in the amount of \$9,799.30.
- b. Resolution No. 26986 approving Partial Payment No. 4 to Rathje Construction Company regarding the Grant Wood Trail Extension: Highway 13 to 35th Street; HMA and PCC Trail [TAP – U – 4775(628) - - 8I – 57] in the amount of \$242,682.86.
- c. Resolution No. 26987 approving Partial Payment No. 16 to Veenstra & Kimm, Inc. regarding the Indian Creek Trunk Sewer – Segment 7 Project in the amount of \$7,205.50.
- d. Resolution No. 26988 approving Partial Payment No. 2 to Pirc Tobin Construction, Inc. regarding the 2018 Wetland Basin and Grant Wood Trail 31st to 35th Project in the amount of \$50,254.17.
- e. Resolution No. 26989 approving Partial Payment No. 1 to BWC Excavating LC regarding the 2017 Northview Drive Reconstruction Project [NSI] in the amount of \$78,048.91.
- f. Resolution No. 26990 approving Partial Payment No. 2 to Hunt Construction, Inc. regarding the 2018 Sidewalk Ramp Repair Project in the amount of \$44,048.19.

Resolution No. 26991 approving Temporary Construction Easement with Craig J & Lisa M Canavan, 1480 Northview Drive, regarding the 2017 Northview Drive Reconstruction Project (NSI).

Resolution No. 26992 approving Change Order No. 1 with Municipal Pipe Tool Co., LLC regarding the 2018 Sanitary Sewer Sliplining Project in the amount of \$43,450.00.

Resolution No. 26993 accepting the 2018 Sanitary Sewer Manhole Project.

Resolution No. 26994 approving a contract with HDR, Inc. regarding the 2018 Sanitary Sewer Capacity Study in the amount to not exceed \$91,500.00.

Motion to receive, file, discuss, and concur with the TAC Report requesting a street light at the Eastview Avenue and 10th Street Intersection. [Elizabeth McGlynn and Karla Thompson, 999 Eastview Avenue].

Resolution No. 26995 approving a street light at Eastview Avenue and 10th Street.

Resolution No. 26996 approving a street light at Bruce Road and 10th Street.

Resolution No. 26997 approving a street light at Williams Drive and 10th Street.

Resolution No. 26998 approving a street light at Rolling Glen Drive and 10th Street.

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

- a. Preliminary Plat for property located at 180 Boyson Road (Landherr Addition – Christopher R. Landherr).

Resolution No. 26999 approving Change Order for Total Illuminations regarding the Police Lighting Project in an amount of \$4,827.11.

Resolution No. 27000 approving the amendment to the Employee Benefit Consulting Services Agreement with Arthur J. Gallagher, Effective June 15, 2015.

Resolution No. 27001 amending the 04/01/2018 non-bargaining pay schedule to correct Facilities Maintenance job title and the Utility Maintenance Specialist minimum wage band.

Motion to receive and file the updated Personnel Policy No. 5.03 regarding the Library Holidays.

Resolution No. 27002 approving the Early Retirement Option Program for 2018.

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

- a. Lion Cross Country Meet, Lowe Park, September 1, 2018, 7:00-12:00 p.m. (CJ McDonald, Oak Ridge Middle School, 4901 Alburnett Road).
- b. 9th Annual 6th Street BBQ, 1155 6th Street, September 8, 2018, 4:00-10:30 p.m. (Brad and Lisa Rizzio, 1155 6th Street).

- c. Uptown Getdown, City Square Park, August 2, 9, 16, 23, 2018, 6:00-9:00 p.m. (Marion Chamber of Commerce, 1225 6th Avenue, Suite 100).

Mayor AbouAssaly relinquished the gavel to Mayor pro tem Gadelha at 5:39 p.m.

Mayor pro tem Gadelha presided over the meeting.

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

Resolution No. 27003 approving Partial Payment No. 6 to Knapp Warden LLC for design services associated with the Eco Industrial Park Phase One in the amount of \$19,350.00.

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

- a. Resolution No. 27004 approving Partial Payment No. 2 to L.L. Pelling Company, Inc. regarding the 2018 HMA Resurfacing Project in the amount of \$409,107.79.
- b. Resolution No. 27005 approving Partial Payment No. 6 to Abode Construction, Inc. regarding the 2017 Lucore Road Reconstruction Project in the amount of \$103,212.24.
- c. Resolution No. 27006 approving Partial Payment No. 4 to Genesis Equities, LLC per Resolution No. 26329 regarding the 2017 Central Corridor Improvements Project – Phase 3 (13th Street to 19th Street) in the amount of \$62,480.88.

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 5:40 p.m. Mayor AbouAssaly presided over the meeting.

Discussion was had regarding Fireworks. Police Chief Joe McHale stated from June 24 through July 5, 2018, there were 273 calls for service and 13 arrests. During that same date range in 2017, there were 170 calls for service and 5 arrests. Fire Chief Deb Krebill stated in 2018 there have been no calls to the Fire Department, no injuries or grass fires. In 2017, there were 100 calls, one serious injury and three grass fires. Council Member Strnad asked if the calls for service to the police department put any strain on the department. Chief McHale stated calls are prioritized and it didn't affect their response to emergencies. Council Member Jensen asked if the police department had statistics from 2016. Chief McHale stated the department wasn't tracking calls until 2017. Council Member Brandt asked if there is a way to limit or restrict the sale of specific types of fireworks? Chief Krebill stated no. Council Member Jensen asked if there were more vendors than in 2017. Chief Krebill stated her staff has put in 100 hours for inspections. Council Member Gadelha stated she would like to push home rule so we are getting something out of this process.

Staff is spending a lot more time than tent permit fee is covering. Chief Krebill stated the State will reimburse the City \$100 per site. Council Member Brandt suggested the City look at where fireworks can be sold similar to Cedar Rapids.

Mayor AbouAssaly invited any citizens in attendance who wished to address the council to do so. Joyce Kitch (2130 Agate Street) stated there has been two weeks of people shooting off fireworks. On July 4, 2018 they heard 6 hours straight of fireworks. They are shooting them directly over their residence. This noise bothers her fibromyalgia. She asked council to do something. Mayor AbouAssaly reminded those in attendance that under Iowa law, the City can ban use but not sales. Noreen Tonkin (1920 8th Avenue) suggested the City open up Marion ballparks and have residents use at a single site. Ron McDaniel (460 Morris Drive) has lived in Marion for two and a half years. He is specifically against use of bottle rockets. This afternoon his car was covered in debris and burn marks. On night of July 4, 2018, he was up until 11:30 p.m. listening to the fireworks. Has reported to police department and mobile home park management but nothing has been done. He stated bottle rockets are unguided RPG's and somebody is going to get hurt. Nyle Joyce (1390 Country Club Drive) stated he feels the same way as the other residents who spoke. His neighbors have been buying the largest and loudest fireworks they can buy. He listened to fireworks from 1:30 p.m. to 10:30 p.m. on July 4, 2018. He stated there are a lot of veterans in this city and we should have respect and prohibit the use in city limits.

Mayor AbouAssaly relinquished the gavel to Mayor pro tem Gadelha at 5:57 p.m. Mayor pro tem Gadelha presided over the meeting.

Mayor pro tem Gadelha opened the 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). Principal Planner Dave Hockett presented the staff report. Darryl High with High Properties spoke in favor of the preliminary site development plan. He presented information on the redesign. Council Member Jensen stated he was not in favor of the vinyl siding and how the project deviates from the original higher density plan that was proposed. Also stated this project doesn't satisfy the need for higher end rentals. Mr. High stated the units will rent for approximately \$900 per month which is in the middle of neighboring rental units. He also stated he does not agree with the housing study that was performed. He stated it is a struggle to get \$1 per square foot in Linn County. Mayor pro tem Gadelha asked how many units were originally proposed. Mr. High stated 72 units. Mayor pro tem Gadelha stated she doesn't like that it cuts into land to the west and uses up the commercial ground. Mr. High stated they looked at the plat which had a north/south road. They asked why they needed another road to maintain and asked if they could absorb that area. He stated the project is self-contained and self-parks itself. Council Member Draper stated concerns with the lack of windows on side view of units. Kim Schmidt with Vantage Point LLC stated the two windows shown go into the bedrooms. The remaining space is for bedrooms and you would have nowhere to place beds with more windows. Mayor pro tem Gadelha asked if faux windows can be put in the side. Mr. High stated that they had short time between Planning Commission and Council meeting.

No other comments, written or verbal, were received. Mayor pro tem Gadelha declared the public hearing closed.

Resolution No. 27007 approving a Preliminary Site Development Plan for Bluebird Square located on the northeast corner of Highway 13 and 151 was read by Jensen, seconded by Draper to approve Res. No. 27007. Council Member Etzel shared concerns with price point. Asked if units could be half higher end and half lower? Mr. High stated they do have courtyard view units that will be higher in rent. Council Member Brandt asked what the plans for courtyard would be. Mr. High stated there would be a water sculpture, walkways and grass. Mayor pro tem Gadelha agreed with Council Member Etzel on splitting units. Would like to satisfy the needs stated in the housing study. Mr. High stated they build for the market. City Manager Lon Pluckhahn stated that the current top end units in the City are single family homes. Vote: Yeas: Draper, Brandt. Nays: Etzel, Jensen, Gadelha, Strnad. Abstention: AbouAssaly. Motion failed.

Resolution No. 27008 approving a Final Site Development Plan for Bluebird Square located on the northeast corner of Highway 13 and 151 was removed from the agenda.

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 read by Strnad for second consideration. Moved by Strnad, seconded by Brandt to approve the second reading of Ord. No. 18-19. 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 6:41 p.m. Mayor AbouAssaly presided over the meeting.

Moved by Draper, seconded by Etzel to direct staff to form a Design Selection Committee to create additional pedestrian bridge concepts for CeMar Trail Project. Council Member Jensen asked for clarification on why pillars of existing bridge need to be removed. City Engineer Mike Barkalow stated the center pillar has to be removed for the turn lane from 7th Avenue to Alburnett Road. All in favor, motion carried.

Resolution No. 27009 approving Payment No. 7 to Shoemaker Haaland per the contract for the CeMar Trail (Iowa DOT Project Number: TAP-U-4475(630)8I-57) in the amount of \$3,682.59 was read by Etzel, seconded by Jensen to approve Res. No. 27009. All in favor, motion carried.

Citizen's presentations, comments and/or petitions:

Noreen Tonkin (1920 8th Avenue) requested that when street projects occur, property within a four block radius is notified. Mayor AbouAssaly asked what is currently provided. City Engineering Mike Barkalow stated that door hangars are distributed for directly affected property 7 days in advance.

Council Member Jensen asked if the City has received other complaints. Barkalow stated no. Council Member Brandt stated he did not have any issues with similar project on his street. Council Member Gadelha asked if the City website had any capabilities for residents to search for projects by address. City Manager Pluckhahn stated not yet but GIS team will be working towards more resident interaction on our website. Mayor AbouAssaly asked to bring this topic back for discussion. Ms. Tonkin asked to be informed prior to this discussion.

Council Discussion Time:

Council Member Brandt wished a happy 4th to everyone. Also thanked Marion Police, Marion Fire, and Linn County Sheriff for responding to his mother's accident.

Council Member Gadelha thanked Marion Police and Fire for the extra time spent protecting the City.

Mayor AbouAssaly also wished to thank the Police Department for response to fireworks complaints. He also thanked Fire Department for their work with vendors. He stated he did talk to legislator regarding the fee and what it is costing the City. He would like to have a discussion about further restricting. He has received nice emails from citizens about police and fire and all departments.

Council Member Jensen stated that the CIP discussion on July 6, 2018 will be one of the most important strategic meetings that the City has. Looks forward to attending.

Council Member Etzel stated that she really likes that Veteran's banners.

Council Member Draper stated the Depot was remodeled 30 years ago. He also stated how in the future, people would be talking about the 2018 council. He stated that there is a rumor that was brought forward while he was at the Library. He wished to speak personally about his health. He has been to Mayo Clinic 17 times this year and has taken many tests. He thinks he has been pretty lucky. He received his first pacemaker 34 years ago. He had a lot of people elect him and has 17 months left of term. He plans to stay on council for remainder of term and will not be resigning.

Moved by Jensen, seconded by Strnad to adjourn to closed session regarding land acquisition as permitted under Section 21.5(1)(j) of the Code of Iowa. City Attorney Ryan Tang stated that he has reviewed the subject matter to be discussed and found it to be an appropriate topic for closed session. Roll Call: Yeas: Draper, Etzel, Jensen, AbouAssaly, Gadelha, Brandt, and Strnad. Nays: None. Motion carried.

Moved by Draper, seconded by Strnad to reconvene to regular session. All in favor, motion carried.

Mayor AbouAssaly adjourned the meeting at 7:32 p.m.

Attest:

Nicolas AbouAssaly, Mayor

Rachel Bolender, Assistant City Clerk