

September 6, 2018

The City Council of the City of Marion, Linn County, Iowa met in regular session, Thursday, September 6, 2018, at 5:30 p.m. in the council chambers of City Hall with Mayor AbouAssaly presiding and the following council members present: Jensen, Gadelha, Brandt and Strnad. Absent: Draper and Etzel.

The meeting opened with the Pledge of Allegiance.

Council observed a moment of silence.

### **PROCLAMATIONS/OATHS**

Mayor AbouAssaly read the proclamation designating September as YMCA Appreciation Month. He presented the proclamation to Bob Carlson, Director of the YMCA.

Mayor AbouAssaly read the proclamation designating September 17-23, 2018 as Constitution Week.

**PRESENTATIONS** – No presentations took place.

**CONSENT AGENDA PUBLIC FORUM** – No one came forward to speak.

### **CONSENT AGENDA –**

Moved by Jensen, seconded by Gadelha to approve the Consent Agenda as follows:

Motion to approve minutes of the August 21 and 23, 2018 City Council meetings.

Resolution No. 27110 accepting I-Pact Certificate of Completion as Affirmative Defense and imposing the penalties established in Section 123.50(3) of the Code of Iowa (Smokin' Joes, 480 7th Avenue).

Motion to receive and file a request to be heard by council on Notice of Alcohol Violation by Cibo Fusion (Rachel Sutcliffe, 685 Marion Boulevard).

Resolution No. 27111 setting a hearing for September 20, 2018 regarding a request to be heard by council on Notice of Alcohol Violation by Cibo Fusion (Rachel Sutcliffe, 685 Marion Boulevard.)

Motion to approve the following Hold Harmless Agreements:

- a. Middle School Football Games and Track Meets, Marion Football Complex, September 11, September 18, September 25, October 2, October 9, and October 15, 2018, April 11 and May 7, 2019, 3:00 – 8:00 p.m. (Mike Manderscheid, Vernon Middle School, 1350 4th Avenue).

- b. Swamp Fox Festival, Lowe Park, City Square Park, Uptown Artway and Thomas Park, September 28-30, 2018. (Patty Wise, 2570 Valleyview Court)
- c. Balloon Glow, 1710 Marion Airport, September 22, 2018 5:00 – 9:00 p.m. (P&N Flight School, 1710 Marion Airport)

Resolution No. 27112 rescinding Resolution 24835 and 24836 related to scheduled annual meetings regarding the strategic plan and budget.

Motion to approve the 2019 City Council Meeting Schedule.

Motion to approve payments as presented in the amount of \$1,863,314.37.

Resolution No. 27113 amending the 04/01/2018 non-bargaining pay schedule to add the job title Marketing & Development Manager. (Previously one of Library Coordinator II – salary remains the same)

Motion to approve Engineering Department project payments as follows:

- a. Resolution No. 27114 approving Partial Payment No. 1 to Anderson-Bogert Engineers regarding the 2018 Central Corridor-7th Avenue Preliminary Design in the amount of \$8,948.00.
- b. Resolution No. 27115 approving Partial Payment No. 2 to Anderson-Bogert Engineers regarding the 2018 Central Corridor-7th Avenue Preliminary Design in the amount of \$10,800.90.
- c. Resolution No. 27116 approving Partial Payment No. 1 to HDR Engineering Inc. regarding the 2018 Sanitary Sewer Capacity Study in the amount of \$9,343.51.
- d. Resolution No. 27117 approving Partial Payment No. 4 to Pirc Tobin Construction, Inc. regarding the 2018 Wetland Basin and Grant Wood Trail 31st to 35th Project in the amount of \$320.62.
- e. Resolution No. 27118 approving Partial Payment No. 3 to BWC Excavating LC regarding the 2017 Northview Drive Reconstruction Project [NSI] in the amount of \$53,221.37.
- f. Resolution No. 27119 approving Partial Payment No. 1 to Curtis Contracting Corp. regarding the 2018 Sidewalk Assessment Project in the amount of \$7,723.03.

- g. Resolution No. 27120 approving Partial Payment No. 6 to Rathje Construction Co. regarding the Grant Wood Trail Extension: Hwy 13 to 35th Street Project in the amount of \$155,938.12.
- h. Resolution No. 27121 approving Partial Payment No. 18 to Veenstra & Kimm, Inc regarding the Indian Creek Trunk Sewer – Segment 7 Project in the amount of \$1,241.00.
- i. Resolution No. 27122 approving Partial Payment No. 4 to Schnoor-Bonifazi Engineering & Surveying, LC regarding the Tower Terrace Road Phase VI Project in the amount of \$1,166.20.
- j. Resolution No. 27123 approving Partial Payment No. 1 to Synergy Equity Partners, LLC [Tim Mooney] regarding the Tower Terrace Road Phase III Project in the amount of \$59,967.44.

Motion to receive, file and concur with the TAC Report regarding speed, traffic flow and crosswalks along 31st Street, 35th Street, Sunburst Avenue and Cardinal Drive. (Kris Benesh, 3315 Sunburst Avenue)

Resolution No. 27124 accepting Bedford Heights 2nd Addition to the City of Marion.

Motion to approve Planning Department project payments as follows:

- a. Resolution No. 27125 approving Payment No. 33 to Universal Field Services, Inc for services related to right-of-way acquisitions for the Central Corridor Improvement Project, 13<sup>th</sup> Street to 31<sup>st</sup> Street in the amount of \$30.00.
- b. Resolution No. 27126 approving Payment No. 9 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 \$2,649.37.
- c. Resolution No. 27127 approving Payment No. 10 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 \$820.00.
- d. Resolution No. 27128 approving Payment No. 2 to Snyder & Associates per the contract for the Indian Creek Trail [STP-U-4775(631) --70-57] in the amount of \$16,560.86.

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

- a. Final Plat for Emerson School 1<sup>st</sup> Addition located at 1400 10<sup>th</sup> Avenue, Marion, Iowa. (Marion Independent School District)

Resolution No. 27129 setting a public hearing for September 20, 2018 and directing publication of notice of hearing regarding a request to vacate the south 120 feet of the north-south alley between 631 6th Avenue and 610-630 10th Street, Marion, Iowa (Draper request).

Resolution No. 27130 setting a public hearing for September 20, 2018 and directing publication of notice of hearing on proposed disposition of a portion of public property described as the south 120 feet of the previously vacated north-south alley between 631 6th Avenue and 610-630 10th Street, Marion, Iowa (Draper Request).

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

Mayor AbouAssaly relinquished the gavel to Mayor Pro Tem Gadelha at 5:40 p.m. Mayor Pro Tem Gadelha presided over the meeting.

#### **CONSENT AGENDA WITH MAYOR ABOUASSALY'S ABSTENTION**

Moved by Brandt, seconded by Strnad to approve the Consent Agenda with Mayor AbouAssaly's abstention from voting and discussion as follows:

Resolution No. 27131 approving the purchase of one 2018 Ford Edge unmarked vehicle for the Marion Police Department from Lynch Ford in the amount of \$24,500.00.

Motion to approve Engineering Department project payments as follows:

- a. Resolution No. 27132 approving Partial Payment No. 3 to L.L. Pelling Company, Inc. regarding the 2018 HMA Resurfacing Project in the amount of \$15,613.25.
- b. Resolution No. 27133 approving Partial Payment No. 8 to Abode Construction, Inc. regarding the 2017 Lucore Road Reconstruction Project in the amount of \$102,977.87.
- c. Resolution No. 27134 approving Partial Payment No. 6 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 \$77,654.30.
- d. Resolution No. 27135 approving Partial Payment No. 2 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 \$1,589.42.

Resolution No. 27136 accepting the 2018 HMA Resurfacing Project.

Motion to receive and file a request from Morris Wood Enterprises LLC for the issuance of a building permit prior to approval of a Final Plat for the Gemstone Estates 5th Addition.

Resolution No. 27137 approving the issuance of a building permit prior to approval of a Final Plat for Gemstone Estates 5th Addition by Morris Wood Enterprises LLC.

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

Mayor Pro Tem Gadelha relinquished the gavel to Mayor AbouAssaly at 5:41 p.m. Mayor AbouAssaly presided over the meeting.

#### **REGULAR AGENDA**

Moved by Strnad, seconded Jensen to receive and file resignation letter from Kim Etzel from City Council effective September 30, 2018. Council Member Jensen asked about the process to fill the vacancy. City Manager Lon Pluckhahn stated the council will need to decide if they want to fill the vacancy by appointment or hold a special election. If they choose to appoint, notice will need to be made and a petition could still be filed within 14 days of appointment if the citizens wish to hold a special election. Council Member Gadelha thanked Council Member Etzel for her service and stated she will be missed. Council Member Brandt also thanked Council Member Etzel for her seven years of service. Mayor AbouAssaly stated Council Member Etzel was a great member of council and was always a positive representative. Mayor AbouAssaly wished her well and thanked her for her service. All in favor, motion carried.

Resolution No. 27138 approving the Purchase Agreement of 5.68 acres of property from the Curt Robinson Gill Revocable Trust and the Barbara Kay Gill Revocable Trust in the amount of \$989,683.20 was read by Jensen. Moved by Jensen, seconded by Strnad to approve Res. No. 27138. All in favor, motion carried.

Resolution No. 27139 setting a public hearing for September 20, 2018 regarding establishing access fees on 2184 Echo Hill Road related to Echo Ridge Estates was read by Gadelha. Moved by Gadelha, seconded by Jensen to approve Res. No. 27139. All in favor, motion carried.

Resolution No. 27140 setting a public hearing for September 20, 2018 regarding establishing access fees on 35th Avenue related to Briargate 6th Addition was read by Brandt. Moved by Brandt, seconded by Gadelha to approve Res. No. 27140. All in favor, motion carried.

Ordinance No. 18-23 amending Chapter 100A of the Code of Ordinances regarding amendment of access fees for Ordinance No. 13-03, 100A.05 Tower Terrace Road District was read by Strnad for initial consideration. Moved by Strnad, seconded by Brandt to approve the first reading of Ord. No. 18.23. All in favor, motion carried.

Mayor AbouAssaly opened the public hearing regarding the property between Alburnett Rd and Irish Drive north and south of Tower Terrace Road to amend the Future Land Use Map of the Marion Comprehensive Plan from Single Family Attached Residential to Single Family Detached Residential & Commercial and Single Family Detached Residential to Commercial and a request to Rezone from Rural Restricted, A-1 to Medium Density Single Family Residential R-2 & General Commercial C-3 and Rural Restricted A-1 to Office/Transitional O-1. (Gill/Green). Community Development Director Tom Treharne presented the staff report. Aaron Finch (533 Eastview Avenue) spoke in opposition of the rezoning. Mr. Finch had concerns with stormwater drainage and questions regarding light screening. Mr. Treharne stated that there will be a stormwater process to ensure runoff doesn't occur. Mr. Treharne also stated that lighting in any project is required to be downcast. There will be a lighted parking lot but there is not much to block that. Sarah Finch (533 Eastview Avenue) spoke in opposition of the rezoning. Ms. Finch also had concerns with light pollution in the area and specifically the proposed sports fields. Mr. Treharne stated that the sports fields would not be lit. Michael Skoglund (152 Aspen Drive) spoke in opposition of the rezoning. Mr. Skoglund's concerns were in regards to traffic and noise levels. He also had concerns with potential hours of operation. Mr. Treharne stated there are no limits to hours of operation. He also stated Irish Drive was built as a collector street and was designed to carry heavier traffic up to Lowe Park. Mayor AbouAssaly asked if there would be sidewalks installed. Mr. Treharne stated a trail would be on one side with sidewalk on the other. Sarah Finch (533 Eastview Avenue) spoke again with questions regarding potential development of bar or restaurant and noise levels. Mr. Treharne stated the City does have a noise ordinance with parameters to noise levels regardless of the use of the property. City Attorney Kara Bullerman stated the noise ordinance will stand in the development. Ms. Bullerman also stated an establishment can obtain a hold harmless agreement to go above the noise level and time but it would still have a limit. No other comments, written or verbal, were received. Mayor AbouAssaly declared the public hearing closed.

Resolution No. 27141 approving an amendment to the Future Land Use Map of the Marion Comprehensive Plan from Single Family Attached Residential to Single Family Detached Residential & Commercial and Single Family Detached Residential to Commercial for property between Alburnett Rd and Irish Drive north of Tower Terrace Road (Gill/Green) was read by Jensen. Moved by Jensen, seconded by Gadelha to approve Res. No. 27141. Council Member Gadelha stated she was happy to see that the City is getting ahead and rezoning this entire area for transparency purposes.

Community Development Director Tom Treharne stated citizens with concerns can always contact the Planning Department. There will be a preliminary plat to be approved at the third reading of the ordinance. Items regarding stormwater, lighting and landscaping will be provided then. All in favor, motion carried.

Ordinance No. 18-24 approving a Rezoning from Rural Restricted, A-1 to Medium Density Single Family Residential R-2 & General Commercial C-3 and Rural Restricted A-1 to Office/Transitional O-1 for property between Alburnett Rd and Irish Drive north of Tower Terrace Road. (Gill/Green) was read by Gadelha for initial consideration. Moved by Gadelha, seconded by Jensen to approve the first reading of Ord. No. 18-24. All in favor, motion carried.

Mayor AbouAssaly opened the public hearing regarding revisions to Chapter 176 Marion Zoning Ordinance for approval of an amendment to Chapter 176.32 of the Marion Code of Ordinances regarding accessory structure size. Principal Planner Dave Hockett presented the staff report. Council Member Gadelha asked if this is similar to neighboring communities. Mr. Hockett confirmed. Jim Brooks (2775 Highland Drive) spoke in favor of the amendment. Susan Foster (2745 Highland Drive) spoke in favor of the amendment. Robert Buckley (2730 Heathview Circle) spoke in favor of the amendment. He spoke favorably about the color matching and height of structure requirements. Lois Buckley (2730 Heathview Circle) spoke in favor of the amendment. No other comments, written or verbal, were received. Mayor AbouAssaly declared the public hearing closed.

Ordinance No. 18-25 approving the revision of Chapter 176 Marion Zoning Ordinance for approval of an amendment to Chapter 176.32 of the Marion Code of Ordinances regarding accessory structure size was read by Strnad for initial consideration. Moved by Strnad, seconded by Gadelha to approve the first reading of Ord. No. 18-25. Council Member Jensen suggested staff amend the wording to relate to currently zoned A-1 lots. Mayor AbouAssaly agreed and asked if there was a way accessory structures could come through council for approval. Community Development Director Tom Treharne stated he's hearing Councils concern with structures in the A-1 district and will focus on that. Council Member Gadelha thanked those who spoke tonight. Moved by Strnad, seconded by Jensen to table Ord. No. 18-25. All in favor of motion to table, motion carried.

Ordinance No. 18-20 approving the revision of Chapter 176.06 Rules and Definitions of the Marion Code of Ordinances was read by Brandt for second consideration. Moved by Brandt, seconded by Jensen to approve the second reading of Ord. No. 18-20. All in favor, motion carried.

Ordinance No. 18-21 approving the revision of Chapter 176.33 Nonconforming Uses, Buildings and Structures of the Marion Code of Ordinances was read by Jensen for second consideration. Moved by Jensen, seconded by Gadelha to approve the second reading of Ord. No. 18-21. All in favor, motion carried.

Ordinance No. 18-22 approving the revision of Chapter 176.04, Establishment of Districts and Map, and the creation of Chapter 176.51, New Zoning District Classifications was read by Gadelha for second consideration. Moved by Gadelha, seconded by Brandt to approve the second reading of Ord. No. 18-22. All in favor, motion carried.

Resolution No. 27142 approving an application to the Iowa Department of Transportation for Federal Recreational Trails Program for the Marion Independent School District Safe Routes to School Trail was read by Brandt. Moved by Brandt, seconded by Gadelha to approve Res. No. 27142. All in favor, motion carried.

Motion to receive, file and discuss letter of request for Regional YMCA Functions and Fitness Center's Local Option Sales Tax (LOST) Allocation (YMCA, 207 7th Avenue SE, Cedar Rapids) was removed from the agenda.

Resolution No. 27143 approving payment to YMCA regarding the Regional YMCA Functions and Fitness Center in the amount of \$1,000,000 was removed from the agenda.

Motion directing staff to negotiate a loan guarantee with YMCA was removed from the agenda.

**OTHER DEPARTMENT DISCUSSION** – No discussion.

### **PUBLIC FORUM**

Jim Brooks (2775 Highland Drive) stated he was frustrated with the condition of 7th Avenue. Community Development Director Tom Treharne provided status of the project. Mayor AbouAssaly explained that 6th Avenue construction needs to be completed before 7th Avenue can be started. Mr. Brooks also stated 35th Street between McGowan Blvd and 29th Avenue is in bad shape.

### **COUNCIL DISCUSSION** –

Council Member Strnad stated Cop on a Roof Top is on Friday, September 7 at Dunkin' Donuts and asked people to come out and support that. He also wanted to thank the Marion Police Department for the Human Trafficking forum they held and stated there was a great turnout. Strnad also stated he will be attending the League of Cities Conference next week. He also wanted to thank city staff for their work regarding the flooding this past week.

Council Member Brandt wanted to wish Council Member Draper a speedy recovery.

Council Member Gadelha reminded residents to exercise their right to vote and to participate in the Linn-Mar School District Bond Vote on September 11. She also shared her excitement for the start of the NFL season.



Council Member Jensen wanted to thank the Marion Police Department in their work with the 100 Day Challenge. Sergeant Hartwig stated officers contacted 935 businesses. He also stated because of their media release they are receiving contact information from businesses they missed. Jensen also wanted to thank city staff for their work in relation to the flooding.

Mayor AbouAssaly stated the human trafficking forum was put on because of citizen requests. He stated there were almost 600 people in attendance. He stated that Marion will be receiving the All-Star Community Award from the League of Cities at their conference next week. This will be the second year in a row Marion has received this award. Finally he wanted to thank everyone for attending tonight's meeting and reminded everyone that the regular meeting on September 20th will begin at 4:00 p.m.

**CLOSED SESSION**

Moved by Brandt, seconded by Jensen to adjourn to closed session regarding personnel matters (City Manager performance evaluation) as permitted under Section 21.5(1)(i) of the Code of Iowa. City Attorney Bullerman stated that she has reviewed the subject matter to be discussed and found it to be an appropriate topic for closed session. City Manager Lon Pluckhahn requested the closed session. Roll Call: Yeas: Jensen, AbouAssaly, Gadelha, Brandt, Strnad. Nays: None. Motion carried.

Motion by Strnad, seconded by Jensen to reconvene to regular session. All in favor, motion carried.

Mayor AbouAssaly adjourned the meeting at 9:12 p.m.

\_\_\_\_\_  
Nicolas AbouAssaly, Mayor

Attest:

\_\_\_\_\_  
Rachel Bolender, Assistant City Clerk

The undersigned Assistant City Clerk of Marion, Iowa certifies that the minutes shown immediately above were published in the Marion Times on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Rachel Bolender, Assistant City Clerk