

September 20, 2018

The City Council of the City of Marion, Linn County, Iowa met in regular session, Thursday, September 20, 2018, at 4:00 p.m. in the council chambers of City Hall with Mayor AbouAssaly presiding and the following council members present: Draper, Jensen, Gadelha and Brandt. Absent: Etzel and Strnad.

The meeting opened with the Pledge of Allegiance.

Council observed a moment of silence.

Mayor AbouAssaly stated the reason for starting the meeting early tonight was due to an event honoring Vic Klopfenstein that a couple council members would be attending. Mayor AbouAssaly also clarified the reasons for the special agenda section at Tuesday's Council meeting. This was due to limited council members and a time constraint for the items voted on.

Mayor AbouAssaly also shared the All-Star Community Award that Marion received on Thursday at the League of Cities Conference.

PROCLAMATIONS/OATHS – No proclamations took place.

PRESENTATIONS – No presentations took place.

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

CONSENT AGENDA

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

Motion to approve minutes of the September 4 and 6, 2018 City Council meetings.

Motion to change the October 2, 2018 Council work session start time to 3:00 p.m. (due to cancellation of the September 17, 2018 special work session regarding the Capital Improvement Program.)

Motion directing staff to publish notice of intent to fill Ward 1 Council seat vacancy by appointment.

Motion to approve the following liquor license applications:

- a. Renewal – Urban Pie
1138 & 1144 7th Avenue
Class C Liquor License (LC) with additional privileges of Outdoor Service and Sunday Sales. Effective 10/10/2018. No violations in the last five years.
- b. Renewal – CVS Pharmacy
3495 7th Avenue
Class E Liquor License (LE) with additional privileges of Class B Wine Permit (Carryout Wine), Class C Beer Permit (Carryout Beer) and Sunday Sales.

Motion to approve the following Hold Harmless Agreements:

- a. Chocolate Walk, Uptown Marion and Uptown Artway, October 5, 2018, 8:00-10:30 p.m. (Marion Chamber of Commerce, 1225 6th Avenue Suite 100).

Motion to approve the following Mayoral Appointments:

- a. Leslie Fox, 1380 Maple Street, Robins IA 52328, Marion Arts Council, term expires 01/01/2021.

Motion to receive and file the August Monthly Reports.

Motion to receive and file the Civil Service Rules.

Motion to approve payments as presented in the amount of \$1,002,576.62.

Resolution No. 27144 approving the annual Street Finance Report for the year ended June 30, 2018.

Motion to receive and file the new job description of Police Communications Center Manager.

Resolution No. 27145 amending the 04/01/2018 non-bargaining pay schedule to include the Police Communications Center Manager.

Motion to receive and file the new job description of Part-Time Event Coordinator.

Resolution No. 27146 approving Partial Payment No. 2 to A&J Associates for the Public Services Maintenance Facility in the amount of \$6,400.00.

Resolution No. 27147 approving the Memorandum of Understanding with the United States Marshals Service regarding a Violent Offender Task Force (VOTF).

Resolution No. 27148 approving Partial Payment No. 7 to MSA for professional services regarding the Lowe Park South End Development Project in the amount of \$3,325.00

Motion to approve Engineering Department project payments as follows:

- a. Resolution No. 27149 approving Partial Payment No. 1 to Mooney-Engle Land Co, LLC for costs associated with Downing Farms 3rd Addition in the amount of \$9,108.25.
- b. Resolution No. 27150 approving Partial Payment No. 8 to Snyder & Associates for costs associated with 2018 Alburnett Road Extensions Phase I in the amount of \$27,387.94.

Resolution No. 27151 accepting Downing Farms 3rd Addition to the City of Marion.

Motion to receive, and file correspondence regarding the condition of Indian Creek Road and the lack of a signaled pedestrian crossing on 10th Street. (Eric Brown, 1560 25th Avenue)

Resolution No. 27152 accepting bids and awarding contract to Taube Excavation regarding the 526 13th Street Property Disposal Project in the amount of \$12,800.00.

Resolution No. 27153 approving contract with Taube Excavation regarding the 526 13th Street Disposal Project.

Motion to receive, file, discuss and refer to TAC a request regarding requesting stop signs at the intersection of Williams Drive and Shady Oak Drive. (Mike Etzel, 801 Williams Drive)

Motion to approve Planning Department project payments as follows:

- a. Resolution No. 27154 approving Payment No. 11 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 \$1,960.74.
- b. Resolution No. 27155 approving Payment No. 12 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 \$2,000.74.
- c. Resolution No. 27156 approving Payment No. 10 to Shoemaker Haaland per the contract for the CeMar Trail (Iowa DOT Project Number: TAP-U-4475(630)81-57) in the amount of \$3,492.15.
- d. Resolution No. 27157 approving Payment No. 34 to Universal Field Services, Inc for services related to right-of-way acquisitions for the Central Corridor Improvement Project, 13th Street to 31st Street in the amount of \$132.75.

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

- a. Rezoning for DeLong Development Co. LC located south of Blairs Ferry Road and north of Twixt Town Road, west of Marion Boulevard, Marion, Linn County, Iowa (DeLong Development Co. LC)

Resolution No. 27158 setting a public hearing for October 4, 2018 amending the Marion Code of Ordinances and establishing Chapter 176.52, Use Standards.

Motion to receive and file Historic Preservation Commission recommendation regarding 525 11th Street (Urban Vintage).

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

Mayor AbouAssaly relinquished the gavel to Mayor Pro Tem Gadelha at 4:08 p.m. Mayor Pro Tem Gadelha presided over the meeting.

CONSENT AGENDA WITH MAYOR ABOUASSALY'S ABSTENTION

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

Resolution No. 27159 to correct legal description in prior legislation. (GLD Properties)

Resolution No. 27160 approving Partial Payment No. 7 to Knapp Warden LLC for design services associated with the Eco Industrial Park Phase One in the amount of \$25,174.36.

Resolution No. 27161 approving purchase of three marked police vehicles from McGrath Automotive in the amount of \$88,584.00.

Motion to approve Engineering Department project payments as follows:

- a. Resolution No. 27162 approving Partial Payment No. 1 to Martin Gardner Architecture for costs associated with 525 11th Street in the amount of \$400.00.

Resolution No. 27163 of support for the 2018 Main Street Challenge Grant nominee, Owen Building.

Resolution No. 27164 approving a Rural Business Enterprise Grant application for Marion Aircom Park Sanitary Sewer Extension.

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

REGULAR AGENDA

Mayor Pro Tem Gadelha opened the hearing regarding notice of alcohol violation by Cibo Fusion (Rachel Sutcliffe, 365 Marion Boulevard.) City Attorney Kara Bullerman asked Sergeant Hartwig to present facts concerning the alcohol violation. Council discussed and asked questions regarding the alcohol violation. Cibo Fusion General Manager Rachel Sutcliff (365 Marion Boulevard) presented and read a letter regarding the alcohol violation. Sergeant Hartwig provided follow-up statements. Council continued discussion regarding the alcohol violation. Mayor Pro Tem Gadelha closed the hearing.

Resolution No. 27165 assessing a civil penalty in the amount of \$1,500 and a 30 day suspension of the liquor license for Cibo Fusion (Rachel Sutcliffe, 365 Marion Boulevard) was read by Jensen. Moved by Jensen, seconded by Brandt to approve Res. No. 27165. Vote: Yeas: Draper, Jensen, Gadelha and Brandt; Nays: None; Abstention: AbouAssaly. Motion carried.

Mayor Pro Tem Gadelha relinquished the gavel to Mayor AbouAssaly at 4:39 p.m. Mayor AbouAssaly presided over the meeting.

Resolution No. 27166 approving the City Manager Pay for Performance for FY17-18 was read by Gadelha. Moved by Gadelha, seconded by Jensen to approve Res. No. 27166. All in favor, motion carried.

Resolution No. 27167 authorizing deferred compensation agreement (Jo Pearson) was read by Brandt. Moved by Brandt, seconded by Gadelha to approve Res. No. 27167. All in favor, motion carried.

Mayor AbouAssaly opened the public hearing regarding establishing access fees on 2184 Echo Hill Road related to Echo Ridge Estates. City Engineer Mike Barkalow presented the staff report. No comments, written or verbal, were received. Mayor AbouAssaly declared the public hearing closed.

Ordinance No. 18-26 establishing access fees on 2184 Echo Hill Road related to Echo Ridge Estates was read by Jensen for initial consideration. Moved by Jensen, seconded by Gadelha to approve the first reading of Ord. No. 18-26. All in favor, motion carried.

Mayor AbouAssaly opened the public hearing regarding establishing access fees on 35th Avenue related to Briargate 6th Addition. City Engineer Mike Barkalow presented the staff report. No comments, written or verbal, were received. Mayor AbouAssaly declared the public hearing closed.

Ordinance No. 18-27 regarding establishing access fees on 35th Avenue related to Briargate 6th Addition was read by Jensen for initial consideration. Moved by Jensen, seconded by Brandt to approve the first reading of Ord. No. 18-27. 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 Gadelha for second consideration. Moved by Gadelha, seconded by Brandt to approve the second reading of Ord. No. 18-23. All in favor, motion carried.

Mayor AbouAssaly opened the public hearing regarding the 668 7th Avenue Parking Lot Project. No comments, written or verbal, were received. Mayor AbouAssaly declared the public hearing closed.

Resolution No. 27168 accepting bids and awarding contract to Eastern Iowa Excavating and Concrete, LLC regarding the 668 7th Avenue Parking Lot Project in the amount of \$29,073.90 was read by Brandt. Moved by Brandt, seconded by Gadelha to approve Res. No. 27168. Council Member Gadelha asked if an agreement for maintenance could be considered for this property. City Engineer Mike Barkalow stated he could bring a separate item through Council. All in favor, motion carried.

Moved by Jensen, seconded by Draper to receive, file and discuss Draft 525 11th Street Conditions Report (Martin Gardner Architecture). All in favor, motion carried.

Resolution No. 27169 accepting bids and awarding contract to Rathje Construction Company regarding the 520 12th Street Property Disposal Project in the amount of \$16,800.00 was read by Jensen. Moved by Jensen, seconded by Brandt to approve Res. No. 27169. Council Member Brandt asked if this house was looked at by the Historical Preservation Commission. Community Development Director Tom Treharne stated no. Council Member Brandt asked if Fire has used this property for training. Fire Chief Deb Krebill stated yes but no damage was done to the property. Council Member Jensen stated there is no reason to demolish this property now until it is decided what will be done with the parkade project. Council Member Draper would prefer to table this motion and bring more historical information to the next meeting. Council Member Gadelha asked that the historical preservation commission be more proactive with these older homes. Moved by Jensen, seconded by Gadelha to table Res. No. 27169. All in favor of motion to table, motion carried.

Resolution No. 27170 approving contract with Rathje Construction Company regarding the 520 12th Street Disposal Project was removed from the agenda.

Mayor AbouAssaly relinquished the gavel to Mayor Pro Tem Gadelha at 5:08 p.m. Mayor Pro Tem Gadelha presided over the meeting.

Resolution No. 27171 approving Addendum No.1 to the Memorandum of Agreement Regarding the Installation of Tower Terrace Road – Phase VI (Morris Wood Enterprises, LLC) was read by Brandt. Moved by Brandt, seconded by Jensen to approve Res. No. 27171. Vote: Yeas: Jensen, Gadelha and Brandt. Nays: Draper. Abstention: AbouAssaly. Motion failed.

Resolution No. 27172 approving a Final Plat and Memorandum of Agreement for Gemstone Estates 5th Addition for property located west of Lucore Road and north of Tower Terrace Road (Morris Wood Enterprises, LLC) was read by Jensen. Moved by Jensen, seconded by Brandt to approve Res. No. 27171. Vote: Yeas: Draper, Jensen, Gadelha and Brandt. Nays: None. Abstention: AbouAssaly. Motion carried.

Resolution No. 27173 approving a Final Plat and Memorandum of Agreement for Marion Enterprise Center 8th Addition for property located 6300 block of Partners Avenue (J & JM Investments, LLC) was read by Jensen. Moved by Jensen, seconded by Brandt to approve Res. No. 27173. Vote: Yeas: Draper, Jensen, Gadelha and Brandt. Nays: None. Abstention: AbouAssaly. Motion carried.

Mayor Pro Tem Gadelha relinquished the gavel to Mayor AbouAssaly at 5:13 p.m. Mayor AbouAssaly presided over the meeting.

Resolution No. 27174 approving a Final Plat and Memorandum of Agreement for Country Club Estates 13th Addition for property located east of Irish Drive and north of Tower Terrace Road (CCE, LLC) was read by Gadelha. Moved by Gadelha, seconded by Brandt to approve Res. No. 27174. All in favor, motion carried.

Mayor AbouAssaly opened the public hearing on proposed vacation of a portion of public property described as the south 120 feet of the 10 foot wide North/South Alley between Lots 6,

7 and 8, Block 20, Original Town, now City, of Marion, Linn County, Iowa (Paul A & Carolyn Draper Joint Rev Trust). No comments, written or verbal, were received. Mayor AbouAssaly declared the public hearing will remain open until the October 4, 2018 meeting.

Mayor AbouAssaly opened the public hearing on proposed disposition of a portion of public property described as the south 120 feet of the 10 foot wide North/South Alley between Lots 6, 7 and 8, Block 20, Original Town, now City, of Marion, Linn County, Iowa (Paul A & Carolyn Draper Joint Rev Trust). No comments, written or verbal, were received. Mayor AbouAssaly declared the public hearing will remain open until the October 4, 2018 meeting.

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 final consideration. Moved by Brandt, seconded by Gadelha to approve the third 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 final consideration. Moved by Jensen, seconded by Brandt to approve the third reading of Ord. No. 18-20. 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 Jensen for final consideration. Moved by Jensen, seconded by Brandt to approve the third reading of Ord. No. 18-22. All in favor, motion carried.

Ordinance No. 18-24 approving a 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 for property between Alburnett Road and Irish Drive north and south of Tower Terrace Road. (Gill/Green) was read by Gadelha for final consideration. Moved by Gadelha, seconded by Jensen to approve the third reading of Ord. No. 18-24. All in favor, motion carried.

Mayor AbouAssaly relinquished the gavel to Mayor Pro Tem Gadelha at 5:25 p.m. Mayor Pro Tem Gadelha presided over the meeting.

Resolution No. 27175 approving the Tower Terrace Commercial Addition Preliminary Plat for property between Alburnett Road and Irish Drive north of Tower Terrace Road (Gill/Green) was read by Brandt. Moved by Brandt, seconded by Jensen to approve Res. No. 27175. Vote: Yeas: Draper, Jensen, Gadelha and Brandt; Nays: None; Abstention: AbouAssaly. Motion carried.

Resolution No. 27176 approving Plat of Survey No. 2284 for property between Alburnett Road and Irish Drive north of Tower Terrace Road (Gill/Green) was read by Jensen. Moved by Jensen, seconded by Brandt to approve Res. No. 27176. Vote: Yeas: Draper, Jensen, Gadelha and Brandt; Nays: None; Abstention: AbouAssaly. Motion carried.

Resolution No. 27179 approving an encroachment agreement for the construction of parking spaces within the Lindale Drive right-of-way associated with the Collins Road Reconstruction Project for 130 Collins Road located east of Lindale Drive and north of Collins Road (Chipokas Army Building LLC) was read by Brandt. Moved by Brandt, seconded by Jensen to approve Res. No. 27179. Vote: Yeas: Draper, Jensen, Gadelha and Brandt; Nays: None; Abstention: AbouAssaly. Motion carried.

Mayor Pro Tem Gadelha relinquished the gavel to Mayor AbouAssaly at 5:27 p.m. Mayor AbouAssaly presided over the meeting.

Resolution No. 27177 approving the Central Corridor Interim Development Overlay review for a multi-tenant commercial property located at 2931 7th Avenue (Culver Enterprises, LLC) was read by Jensen. Moved by Jensen, seconded by Gadelha to approve Res. No. 27177. All in favor, motion carried.

Resolution No. 27178 approving an easement vacation and re-establishment of a new public access easement through property located at 1392 Twixt Town Road associated with the Collins Road Reconstruction Project (Collins Square LLC) was read by Gadelha. Moved by Gadelha, seconded by Brandt to approve Res. No. 27178. Community Development Director Tom Treharne presented the staff report. All in favor, motion carried.

OTHER DEPARTMENT DISCUSSION – No discussion.

PUBLIC FORUM – No one came forward to speak.

COUNCIL DISCUSSION

Council Member Brandt reminded everyone of the Swamp Fox Festival that starts September 28th. Information can be found on the City's website.

Council Member Gadelha thanked Nick Glew for the recent bus tour of Marion businesses. She stated it was neat to see what's going on and see the inside of buildings. Gadelha also wanted to thank the Marion Police Department for increasing surveillance on Alburnett Road. Gadelha would also like to suggest that there is a dashboard of sorts that lists all projects and funding.

Council Member Jensen also wanted to remind everyone to attend the Swamp Fox Festival. Activities are in Uptown and then moving to Lowe Park. Jensen also stated he is going on a ride along with a police officer next week.

Council Member Draper gave an update regarding a recent procedure and his heart. He appreciates the Council and citizen's patience.

Mayor AbouAssaly thanked Council Member Draper for continuing to participate in Council meetings. He also wanted to add that there will not be Council hours at the Library during the Swamp Fox Festival. They will be at a booth during the market. Mayor AbouAssaly stated that last week he attended Intercultural Day 2018.

Mayor AbouAssaly adjourned the meeting at 5:45 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