

October 4, 2018

The City Council of the City of Marion, Linn County, Iowa met in regular session, Thursday, October 4, 2018, at 5:31 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. (Ward 1 seat currently vacant.)

The meeting opened with the Pledge of Allegiance.

Council observed a moment of silence.

### **PROCLAMATIONS/OATHS**

Deputy Fire Chief Jason Hansen introduced the Fire Department staff who were chosen for the SRT/Tactical Team. Ryan Steffen, Cody Oberfoell and Nathan Rowe were awarded pins for their participation and service. Steffen, Oberfoell and Rowe underwent special training to make them tactical medics being able to respond with the SRT team in case of emergency.

A proclamation designating October 7-13, 2018 as Fire Prevention Week was read by Mayor AbouAssaly. The proclamation was presented to Fire Chief Deb Krebill.

### **PRESENTATIONS**

Levi Larson with Marsy's Law for Iowa presented information about Marsy's Law for Iowa. Currently, Iowa is one of 15 states that does not provide constitutional protections for crime victims. The goal of this movement is for crime victims to have legally protected rights just as those who are accused and convicted do. Larson stated at this point she's asking for petition signatures which can be done by going to [ia.marsyslaw.us](http://ia.marsyslaw.us). Council Member Jensen asked if this has been considered by legislation previously. Larson stated in 2018 it passed the sub-committee but never made it to the floor.

Curtis R. Nelson, President and CEO of EDC, Inc. shared information regarding the organization. EDC, Inc. provides business acceleration for start-up entrepreneurs as well as those with long established businesses. Last month marked the 15 year anniversary. To date they have helped over 1000 businesses. They receive financial support from City of Cedar Rapids, City of Iowa City, City of Coralville, City of Hiawatha and more. Nelson would like to ask Marion to contribute. Council Member Gadelha asked of EDC's involvement with area schools. Nelson stated they currently work more with colleges. Gadelha encouraged Nelson to talk more directly with high schools.

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

### **CONSENT AGENDA**

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

Motion to approve minutes of the September 18 and 20, 2018 City Council meetings.

Motion to approve the following liquor license applications:

- a. Renewal – Aldi  
1001 50th Street  
Class C Beer Permit (BC) with additional privileges of Class B Wine Permit (Carryout Wine – includes Native Wine) and Sunday Sales. One violation in the last five years.

Motion to approve the following Hold Harmless Agreements:

- a. Fall Festival/House Gathering, 3130 Stanley Cup Drive, October 6, 2018, 7:00 – 10:00 p.m. (Mike Hicks, 3130 Stanley Cup Drive).

Resolution No. 27180 setting the dates for the Annual City Council Work Session meetings regarding the Operating Budget during the month of January.

Motion to receive and file certified list for Police Communications Center Manager.

Motion to receive and file certified list for IT Support Analyst.

Motion to approve payments as presented in the amount of \$2,782,533.77.

Resolution No. 27181 approving support for Trees Forever Woodlands Symposium in the amount of \$7,500.00 (budgeted under Urban Forest).

Resolution No. 27182 approving buy-up dental insurance plan with Wellmark for January 1, 2019.

Motion to receive and file new job description (IT System Administrator).

Resolution No. 27183 amending the 04/01/2018 non-bargaining pay schedule to add the job title IT System Administrator.

Resolution No. 27184 setting a standard date and time for an annual Trick-or-Treat Night in City of Marion.

Resolution No. 27185 approving Partial Payment #39 to Anderson-Bogert Engineers for the Public Services site plan development in the amount of \$1,277.50.

Resolution No. 27186 to establish the Marion Public Safety Communications Center and Governance Board.

Motion to approve Engineering Department project payments as follows:

- a. Resolution No. 27187 approving Partial Payment No. 2 to HDR Engineering, Inc. regarding the 2018 Sanitary Sewer Capacity Study in the amount of \$3,000.82.
- b. Resolution No. 27188 approving Partial Payment No. 4 to Calhoun-Burns and Associates, Inc. regarding 2018 Bridge Rating & Inspection Services in the amount of \$184.25.
- c. Resolution No. 27189 approving Partial Payment No. 19 to Veenstra & Kimm, Inc. regarding Indian Creek Trunk Sewer-Segment 7 Project in the amount of \$2,080.50.
- d. Resolution No. 27190 approving Partial Payment No. 1 to Taube Excavation, Inc. regarding the 1195 6th Avenue Disposal in the amount of \$13,400.00.
- e. Resolution No. 27191 approving Partial Payment No. 2 to Curtis Contracting Corp. regarding the 2018 Sidewalk Assessment Project in the amount of \$39,629.64.
- f. Resolution No. 27192 approving Partial Payment No. 7 to Rathje Construction Co. regarding the Grant Wood Trail Extension Project in the amount of \$20,165.02.
- g. Resolution No. 27193 approving Partial Payment No. 4 to BWC Excavating, LC regarding the 2017 Northview Drive Reconstruction Project in the amount of \$155,883.91.

Resolution No. 27194 accepting the 1195 6th Avenue Disposal Project.

Resolution No. 27195 approving Contract and bond with Eastern Iowa Excavating and Concrete, LLC regarding the 668 7th Avenue Parking Lot Project.

Motion to receive, file, discuss and refer to TAC a request regarding modifications to the speed limit in school zones on Alburnett Road. (Tom Daubs, 6315 Highway 151)

Motion to approve Planning Department project payments as follows:

- a. Resolution No. 27196 approving Payment No. 22 to Anderson Bogert Engineers per the contract for the Grant Wood Trail Extension Project (Iowa DOT Project No. TAP-U-47775(628)8I-57) in the amount of \$1,206.66.

- b. Resolution No. 27197 approving Payment No. 7 to RDG Planning and Design for services related to an update to the Neighborhood at Indian Creek Master Plan in the amount of \$1,793.38. Contract amount remaining \$10,072.94.
- c. Resolution No. 27198 approving Payment No. 35 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 \$48.15.
- d. Resolution No. 27199 approving Payment No. 4 to Linn County for Marion's portion of the Linn County Hazard Mitigation Plan Update in the amount of \$283.05.

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

- a. Final Plat for Indian Creek Way 1st Addition to Linn County located at 4601 Indian Creek Way, Marion, Linn County, Iowa (Reagan Robinson).

Resolution No. 27200 approving Civil Rights Commission Low & Moderate Income Grant Program.

All in favor to approve consent agenda, motion carried.

Mayor AbouAssaly relinquished the gavel to Mayor Pro Tem Gadelha at 6:06 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:

Motion to approve the following liquor license applications:

- a. Privilege Amendment – Casey's General Store #2770  
2020 7th Avenue  
Privilege change from Class B Native Wine Permit to Class B Wine Permit (carryout wine – includes Native Wine).
- b. Privilege Amendment – Casey's General Store #2924  
1100 Eagle View Drive  
Privilege change from Class B Native Wine Permit to Class B Wine Permit (carryout wine – includes Native Wine).
- c. Privilege Amendment – Casey's General Store #2760  
975 S 11th Street

Privilege change from Class B Native Wine Permit to Class B Wine Permit (carryout wine – includes Native Wine).

Motion to approve Engineering Department project payments as follows:

- a. Resolution No. 27201 approving Partial Payment No. 9 to Abode Construction, Inc. regarding the 2017 Lucore Road Reconstruction Project in the amount of \$82,371.64.
- b. Resolution No. 27202 approving Partial Payment No. 7 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 \$227,249.88.
- c. Resolution No. 27203 approving Partial Payment No. 1 to Abode Construction, Inc. regarding the 2018 Storm Sewer Project in the amount of \$77,795.14.
- d. Resolution No. 27204 approving Partial Payment No. 2 to Martin Gardner Architecture regarding 525 11th Street Assessment in the amount of \$5,200.00.
- e. Resolution No. 27205 approving Partial Payment No. 3 for reimbursement to Morris Wood Enterprises, LLC regarding the Tower Terrace Road – Phase VI (Winslow Road to Lennon Lane) Project in the amount of \$216,613.69.
- f. Resolution No. 27206 approving Partial Payment No. 4 to Anderson-Bogert Engineers regarding the Marion Runway 17/35 Reconstruction in the amount of \$1,283.36.

Resolution No. 27207 establishing two public utility easements with Interstate Power & Light Company (Alliant Energy) south of Tower Terrace Road, between Winslow Road and Indian Creek Road.

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

#### **REGULAR AGENDA**

Moved by Brandt, seconded by Jensen to receive, file and discuss correspondence requesting deferral of liquor license suspension. (Cibo Fusion, 685 Marion Boulevard). Vote: Yeas: Jensen, Gadelha, Brandt and Strnad. Nays: None. Abstention: AbouAssaly. Motion carried.

Resolution No. 27208 approving a deferral of liquor license suspension for Cibo Fusion until January 19, 2019 (Cibo Fusion, 685 Marion Boulevard) was read by Strnad. Moved

by Strnad, seconded by Jensen to approve Res. No. 27208. Council Member Strnad stated he appreciates the attention and details that came in on this. Strnad does not want to start the habit of making exceptions. Council Member Jensen doesn't think there is further discussion on the penalty and suspension. The question is does it take effect immediately or deferred. Council Member Brandt does not see the need to set a precedent to defer. Mayor Pro Tem Gadelha appreciated the request letter and presentation Cibo gave on September 20. She stated that Council needs to consider what legal and Police Department have recommended. Vote: Yeas: Jensen. Nays: Gadelha, Brandt and Strnad. Abstention: AbouAssaly. Motion failed.

Mayor Pro Tem Gadelha relinquished the gavel to Mayor AbouAssaly at 6:14 p.m. Mayor AbouAssaly presided over the meeting.

Moved by Jensen, seconded by Brandt to set a special work session for October 8, 2018 at 5:00 p.m. at the Marion Public Library regarding current and future plans for library service. (Joint meeting with Library Board at their regularly scheduled meeting.) City Manager Lon Pluckhahn stated the purpose of this meeting. Council Member Gadelha asked if anything is distributed can copies be given to those not in attendance. Pluckhahn confirmed. All in favor, motion carried.

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

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

Moved by Jensen, seconded by Strnad to receive, file, discuss and refer to TAC a request regarding requesting additional speed limit signs on Lucore Road north of Hunter Ridge Road. (Karen Westhoff, 5680 Lucore Road) All in favor, motion carried.

Moved by Gadelha, seconded by Brandt to receive, file, discuss and concur with TAC Report regarding the request of additional speed limit signs on Lucore Road north of Hunters Ridge Road. (Karen Westhoff, 5680 Lucore Road) All in favor, motion carried.

Moved by Brandt, seconded by Gadelha to receive, file, discuss and concur with TAC Report regarding requesting stop signs at the intersection of Williams Drive and Shady Oak Drive. (Mike Etzel, 801 Williams Drive) All in favor, motion carried.

Resolution No. 27209 approving a Stop Sign stopping north bound traffic on Shady Oak Drive at its intersection with Williams Drive was read by Strnad. Moved by Strnad, seconded by Brandt to approve Res. No. 27209. All in favor, motion carried.

Resolution No. 27210 approving a Stop Sign stopping east bound traffic on Williams Drive at its intersection with Shady Oak Drive was read by Jensen. Moved by Jensen, seconded by Brandt to approve Res. No. 27210. All in favor, motion carried.

Resolution No. 27211 approving a Stop Sign stopping west bound traffic on Williams Drive at its intersection with Shady Oak Drive was read by Gadelha. Moved by Gadelha, seconded by Strnad to approve Res. No. 27211. All in favor, motion carried.

Moved by Brandt, seconded by Jensen to receive, file and discuss correspondence regarding drainage issues at Indian Creek Country Club. (Tom Newbanks, 2965 Edgebrooke Drive) City Engineer Mike Barkalow stated Mr. Newbanks was here and would like to speak regarding the drainage issues. Tom Newbanks handed out a copy of the abstract which provides information regarding the Storm Sewer and Drainage Easement. Newbanks stated the last time this ditch was maintained was in 2009 and lasted two years. Council Member Brandt asked if resolution was already in place. Barkalow confirmed. Council Member Jensen wanted confirmation that the request was for the City to install a pipe. Newbanks confirmed. Council Member Strnad asked if Indian Creek Country Club would pay the 75% as per City policy. Newbanks stated the country club felt this was a City issue. Mayor AbouAssaly would like staff to bring more information regarding this area. Council Member Gadelha stated she would like to adhere to City policy. Mayor AbouAssaly asked if there is currently a program that Public Services offers. Public Services Director Ryan Miller stated they have had agreements before. There are cost-sharing options but they are considered case by case. Council directed staff to bring more information back to staff. All in favor, motion carried.

Mayor AbouAssaly relinquished the gavel to Mayor Pro Tem Gadelha at 6:48 p.m. Mayor Pro Tem Gadelha presided over the meeting.

Moved by Strnad, seconded by Brandt to receive and file runway lighting recommendations from the Airport Advisory Committee Meeting. Council Member Strnad asked what are the next steps. City Engineer Mike Barkalow stated the project is included in the Capital Improvements Program. Strnad asked about funding. Barkalow stated there is some funding from a Iowa DOT Grant but remaining is unfunded. Vote: Yeas: Jensen, Gadelha, Brandt, Strnad. Nays: None. Abstention: AbouAssaly. Motion carried.

Moved by Strnad, seconded by Brandt to reconsider 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). (Failed 09/20/2018). Council Member Strnad stated this is being reconsidered due to the lack of attendance at the

September 20, 2018 meeting. Vote: Yeas: Jensen, Gadelha, Brandt, Strnad. Nays: None. Abstention: AbouAssaly. Motion carried.

Moved by Jensen, seconded by Strnad to direct staff to place Resolution No. 27171, approving Addendum No. 1 to the Memorandum of Agreement regarding the installation of Tower Terrace Road – Phase VI, on the agenda of the October 18, 2018 City Council Meeting. (Morris Wood Enterprises, LLC). (Failed 09/20/2018). Vote: Yeas: Jensen, Gadelha, Brandt, Strnad. Nays: None. Abstention: AbouAssaly. Motion carried.

Mayor Pro Tem Gadelha 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) (Continued from September 20, 2018). Community Development Director Tom Treharne presented the staff report. No comments, written or verbal, were received. Mayor Pro Tem Gadelha stated the public hearing will remain open until the October 18, 2018 meeting.

Mayor Pro Tem Gadelha 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) (Continued from September 20, 2018). No comments, written or verbal, were received. Mayor Pro Tem Gadelha stated the public hearing will remain open until the October 18, 2018 meeting.

Mayor Pro Tem Gadelha relinquished the gavel to Mayor AbouAssaly at 7:01 p.m. Mayor AbouAssaly presided over the meeting.

Mayor AbouAssaly opened the public hearing regarding an amendment to the Marion Code of Ordinances to establish regulations relating to use standards. Community Development Director Tom Treharne presented the staff report. No comments, written or verbal, were received. Mayor AbouAssaly declared the public hearing closed.

Ordinance No. 18-28 amending the Marion Code of Ordinances and establishing Section 176.52, Use Standards was read by Strnad for initial consideration. Moved by Strnad, seconded by Brandt to approve the first reading of Ord. No. 18-28. All in favor, motion carried.

Motion to remove from table, Ordinance 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 Building and Uses was removed from the agenda.

Ordinance No. 18-25 approving the revision of Chapter 176 Marion Zoning Ordinance for approval of an amendment to Chapter 176.32, Accessory Building and Uses of the Marion Code of Ordinances regarding Accessory Building and Uses (Initial Consideration) (Tabled September 6, 2018) was removed from the agenda.

Mayor AbouAssaly relinquished the gavel to Mayor Pro Tem Gadelha at 7:06 p.m. Mayor Pro Tem Gadelha presided over the meeting.

Resolution No. 27212 approving 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) was read by Brandt. Moved by Brandt, seconded by Strnad to approve Res. No. 27212. Moved by Strnad, seconded by Jensen to table Res. No. 27212. Vote for motion to table: Yeas: Jensen, Gadelha, Brandt and Strnad. Nays: None. Abstention: AbouAssaly. Motion carried.

Resolution No. 27213 approving 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) was read by Brandt. Moved by Brandt, seconded by Strnad to approve Res. No. 27213. Moved by Strnad, seconded by Brandt to table Res. No. 27213. Vote for motion to table: Yeas: Jensen, Gadelha, Brandt and Strnad. Nays: None. Abstention: AbouAssaly. Motion carried.

Mayor Pro Tem Gadelha relinquished the gavel to Mayor AbouAssaly at 7:08 p.m. Mayor AbouAssaly presided over the meeting.

Moved by Brandt, seconded by Gadelha to receive and file correspondence regarding proposed storage facility moratorium. (Marty and Amy Steffensmeier, 3914 Forest View Court NE, Cedar Rapids, IA 52411). All in favor, motion carried.

Resolution No. 27214 approving a twelve (12) month moratorium on the expansion or creation of self-service storage facilities, including without limitation the City's acceptance, processing and approval of land use and building permit applications within the C-3, General Commercial, C-4, Warehouse Commercial and I-1, Restricted Industrial zoning districts and providing for an immediate effective date was read by Strnad. Moved by Strnad, seconded by Gadelha to approve Res. No. 27214. Mayor AbouAssaly asked about status of the Steffensmeier project. Community Development Director Tom Treharne stated there are no building permits issued for that project. Mayor AbouAssaly stated that staff should move forward with drafting ordinance so projects are not held up. All in favor, motion carried.

#### **OTHER DEPARTMENT DISCUSSION**

City Manager Lon Pluckhahn brought forward the anticipated next meeting date to discuss the Capital Improvement Program will be Monday, October 29, 2018 at 4:00 p.m.

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

**COUNCIL DISCUSSION**

Council Member Brandt wanted to thank Jo Person for her years of service at the Marion Public Library.

Council Member Jensen asked for clarification regarding the Ward 1 vacancy and who would vote if a special election was called. He stated Council chose to appoint someone to fill the vacancy to help save \$25,000-35,000 for a one year seat. City Attorney Ryan Tang stated it was the legal department's opinion that because Ms. Etzel was elected by the city at large, that voting to fill this vacancy would be by the city at large. Council Member Gadelha asked if it was her seat that had vacancy, it would be filled by members from that ward. Tang confirmed. Charley Knudsen (2835 24th Avenue) stated he was part of group that fought for the ward vote two years ago and doesn't understand why this would be voted on at-large.

Mayor AbouAssaly stated he has attended numerous ribbon cuttings in the past week including one for opening of Lucore Road. He thanked residents for their patience during the construction. He would also like to thank Jo Pearson for her years of service. He stated he had attended the Iowa Library Association 2018 Annual Conference where Dawn Cline received an award.

**CLOSED SESSION**

Motion to adjourn to closed session regarding land acquisition as permitted under Section 21.5(1)(j) of the Code of Iowa was removed from the agenda.

Mayor AbouAssaly adjourned the meeting at 7:21 p.m.

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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