

May 23, 2019

The City Council of the City of Marion, Linn County, Iowa met in regular session, Thursday, May 23, 2019, at 5:31 p.m. in the council chambers of City Hall with Mayor Pro Tem Strnad presiding and the following council members present: Draper, Atkins, Jensen, Brandt, and Gadelha. Absent: AbouAssaly.

The meeting opened with the Pledge of Allegiance.

Council observed a moment of silence.

### **PROCLAMATIONS/OATHS**

Fire Chief Deb Krebill introduced Firefighters Brent Klemm and Aaron Butikofer. Mayor Pro Tem Strnad administered the oath of office.

Mayor AbouAssaly arrived at 5:38 p.m. Mayor Pro Tem Strnad relinquished the gavel to Mayor AbouAssaly at 5:38 p.m. Mayor AbouAssaly presided over the meeting.

Council Member Atkins read the proclamation regarding National Public Works Week. City Engineer Mike Barkalow accepted the proclamation on behalf of the American Public Works Association.

Council Member Jensen read the proclamation regarding the Marion Civil Rights Commission 5-Year Anniversary. Assistant to the City Manager Amal Eltahir accepted the proclamation on behalf of the Marion Civil Rights Commission.

### **PRESENTATIONS**

Pauline Hatala presented several memories and picture from her time living at 520 12th Street.

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

### **CONSENT AGENDA**

Moved by Strnad, seconded by Brandt to approve the consent agenda as follows:

Motion to approve minutes of the May 7, 9 and 15, 2019 City Council meetings.

Motion to approve the following liquor license applications:

- a. Renewal – Walgreens #03876 – 1225 7<sup>th</sup> Avenue  
Class E Liquor License with additional privileges of Class B Wine Permit, Class C Beer Permit (Carryout Beer), Class E Liquor License (LE), and Sunday Sales. No violations in the last 5 years.
- b. Renewal – Hawkeye Convenience Stores – 1010 East Post Road  
Class C Beer Permit with additional privileges of Class B Native Wine Permit, Class C Beer Permit (Carryout Beer), and Sunday Sales. No violations in the last 5 years.

- c. Renewal – Kum & Go #503 – 3215 7<sup>th</sup> Avenue  
Class E Liquor License with additional privileges of Class B Wine Permit,  
Class C Beer Permit (Carryout Beer), Class E Liquor License (LE), and  
Sunday Sales. No violations in the last 5 years.

Motion to receive and file the April department monthly reports.

Motion to approve payments as presented in the amount of \$2,073,409.47.

Resolution No. 27645 naming depositories and deposit limits.

Resolution No. 27646 consenting to assignment of Trustee Agent Agreements;  
Escrow Agent Agreements; and/or Paying Agent and Registrar and Transfer Agent  
Agreements.

Resolution No. 27647 approving payment to Independent Public Advisors LLC in the  
amount of \$47,814.17 for services relating to the issuance of Series 2019ABC  
bonds.

Resolution No. 27648 approving transfer from Special Revenue Fund to General  
Fund in an amount not to exceed \$4,105,922.48 for Employee Benefits Costs  
(Actual amount to be whatever is received through property tax collections).

Resolution No. 27649 approving transfer from the Local Option Sales Tax Fund to  
the Capital Projects Fund in the amount of \$5,205,818.44 for the following projects:

- 10th Street/10th Avenue Project; \$207,000.00 (TRANS-18-089)
- 2018 Sanitary Sewer Capacity Study; \$45,640.36 (SWR-18-033)
- Alburnett Road Extension; \$1,290,417.52 (TRANS-18-092)
- Armar Drive Extension; \$208,412.12 (TRANS-17-093)
- Fire Station HQ; \$10,469.35 (FACS-18-062)
- Central Corridor–6th Ave–13th-19th St; \$695,304.62 (TRANS-18-100)
- Library Project; \$18,676.76 (FACS-17-034)
- Lowe Park SE Development; \$77,343.53 (REC-17-050)
- Neighborhood Street Improvements; \$1,558,603.55 (TRANS-18-090)
- Tower Terrace Road; \$913,950.63 (TRANS-18-095)
- Aquatics Center Feasibility Study; \$30,000.00 (REC-18-041)
- Linger Park Pavilion; \$50,000.00 (REC-18-038)
- Park Development – 29th Ave/50th Street; \$100,000.00 (REC-18-046)

Resolution No. 27650 approving the renewal of a contract with Wellmark for third  
party administration and stop loss coverage related to health and dental insurance  
for FY 19-20.

Motion to receive and file the 2019 Public Services Work Program.

Resolution No. 27651 approving Partial Payment No. 16 to Snyder & Associates regarding the 2018 Alburnett Rd Extension Phase 1 in the amount of \$9,015.38. (TRANS-18-092).

Resolution No. 27652 approving Temporary Construction Easement with TAH Holdings LLC, for property located at 2325 7th Avenue regarding the Central Corridor Improvements – Phase 4 (19th Street to 26th Street).

Motion to approve Planning Department project payments as follows:

- a. Resolution No. 27653 approving payment no. 18 to Shoemaker Haaland per the contract for the CeMar Trail (Iowa DOT Project Number: TAP-U-4475(630)-8I-57) in the amount of \$25,440.17. (TRL-17-055).
- b. Resolution No. 27654 approving payment no. 43 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 \$612.43. (TRANS-17-099)

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

- a. Rezoning property from O-1, Office Transitional to MR-2 High Density Multiple-Family Residential Density for property located at 1330 East Post Road. (The Views Holdings LLC).
- b. Site plan review with terms and conditions of agreement related to Ordinance 16-09 for property located south of 6th Avenue between 8th and 9th Street. (Perry Development Partners).

Resolution No. 27655 setting a public hearing for June 6th, 2019 regarding an alley vacation and disposition of the east half of the east-west alley located between 376 and 344 9th Street and the north half of the north-south alley located between 849 4th Avenue and 356/376 9th Street. (Seven Hills East LLC)

All in favor, motion carried.

Mayor AbouAssaly relinquished the gavel to Mayor Pro Tem Strnad at 5:51 p.m. Mayor Pro Tem Strnad presided over the meeting.

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

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

Resolution No. 27656 approving payment to Knapp-Warden in the amount of \$25,000.00 for construction management services. (FACS-17-069)

Resolution No. 27657 approving Partial Payments No.7 and No.8 to Martin Gardner Architecture for professional services regarding the Lowe Park Maintenance Facility

Addition Project in the amounts of \$680.00 and \$680.00, respectively. (FACS 18-072)

Motion to approve Engineering Department project payments as follows:

- a. Resolution No. 27658 approving Partial Payment No. 1 for reimbursement to Interstate Power & Light Company (Alliant Energy) regarding the undergrounding of fiber cable associated with the Tower Terrace Road Project - Phase VI (Winslow Road to Lennon Lane) in the amount of \$93,977.00 (TRANS-18-095).
- b. Resolution No. 27659 approving Partial Payment No.1 to Integrity Custom Homes Inc. for costs associated with Echo Hill 3rd Addition to the City of Marion in the amount of \$8,677.63 (ANN-18-109).
- c. Resolution No. 27660 approving Partial Payment No. 1 to HR Green regarding the 2019 10th Street and Central Avenue/10th Avenue Intersection Project Design - in the amount of \$3,650.00. CS-TSF-4775(634)—85-57 (TRANS-18-089)

Resolution No. 27661 approving Temporary Construction Easement with Genesis Equities LLC, for property located at 2605 7th Avenue regarding the Central Corridor Improvements – Phase 4 (19th Street to 26th Street).

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

- a. The Commons at English Glen Phase 2 Preliminary Plat located north of 29th Avenue on either side of Winchester Drive extended. (Robson Homes, Inc.)

Resolution No. 27662 setting a public hearing for June 6th, 2019 regarding an amendment to the Marion Comprehensive Plan and Future Land Use Map to Single-Family Detached Residential and rezoning property to PD-R, Planned Development Residential, SR-3, Suburban Medium Density Single Family Residential and SR-4, Suburban Two-Family Residential for property located north of 29th Avenue on either side of Winchester Drive extended. (Robson Homes)

Motion to approve Planning Department project payments as follows:

- a. Resolution No. 27663 approving payment no. 19 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 \$1,212.50. (GOV-18-012).
- b. Resolution No. 27664 approving payment no. 20 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 \$202.09. (GOV-18-015).

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

Mayor Pro Tem Strnad relinquished the gavel to Mayor AbouAssaly at 5:53 p.m. Mayor AbouAssaly presided over the meeting.

### **REGULAR AGENDA**

Mayor AbouAssaly opened the public hearing regarding the fiscal year 2018-2019 budget amendment. City Manager Lon Pluckhahn provided staff report. No other comments, written or verbal, were received. Mayor AbouAssaly declared the public hearing closed.

Resolution No. 27665 approving the fiscal year 2018-2019 budget amendment was read by Gadelha. Moved by Gadelha, seconded by Brandt to approve Res. No. 27665. All in favor, motion carried.

Mayor AbouAssaly opened the public hearing on proposal to enter into a Sewer Revenue Loan Agreement and borrow funds thereunder. Public Services Director Ryan Miller provided staff report. No other comments, written or verbal, were received. Mayor AbouAssaly declared the public hearing closed.

Resolution No. 27666 taking additional action on proposal to enter into a Sewer Revenue Loan Agreement was read by Atkins. Moved by Atkins, seconded by Jensen to approve Res. No. 27666. All in favor, motion carried.

Mayor AbouAssaly opened the public hearing on proposal to enter into a Solid Waste Revenue Loan Agreement and borrow funds thereunder. No other comments, written or verbal, were received. Mayor AbouAssaly declared the public hearing closed.

Resolution No. 27667 taking additional action on proposal to enter into a Solid Waste Revenue Loan Agreement was read by Jensen. Moved by Jensen, seconded by Atkins to approve Res. No. 27667. All in favor, motion carried.

Mayor AbouAssaly opened the public hearing on proposal to enter into a Road Use Tax Revenue Loan Agreement and borrow funds thereunder. No other comments, written or verbal, were received. Mayor AbouAssaly declared the public hearing closed.

Resolution No. 27668 taking additional action on proposal to enter into a Road Use Tax Revenue Loan Agreement was read by Strnad. Moved by Strnad, seconded by Draper to approve Res. No. 27668. All in favor, motion carried.

Ordinance No. 19-07 amending Chapter 110 of the Code of Ordinances regarding Natural Gas Franchise with MidAmerican Energy Company including the addition of franchise fees

was read by Brandt for final consideration. Moved by Brandt, seconded by Gadelha to approve the third reading of Ord. No. 19-07. All in favor, motion carried.

Ordinance No. 19-12 amending Chapter 20 of the Code of Ordinances Relating to City Manager was read by Gadelha for final consideration. Moved by Gadelha, seconded by Brandt to approve the third reading of Ord. No. 19-12. All in favor, motion carried.

Ordinance No. 19-13 amending Chapter 165 Section 165.11 of the Code of Ordinances Relating to Housing Code Definitions was read by Atkins for final consideration. Moved by Atkins, seconded by Gadelha to approve the third reading of Ord. No. 19-13. All in favor, motion carried.

Ordinance No. 19-14 amending Chapter 176, Section 176.06 of the Code of Ordinances Relating to Zoning Regulations Rules and Definitions was read by Jensen for final consideration. Moved by Jensen, seconded by Atkins to approve the third reading of Ord. No. 19-14. All in favor, motion carried.

Ordinance No. 19-15 amending Chapter 131 of the Code of Ordinances Relating to Public Amusements was read by Strnad for second consideration. Moved by Strnad, seconded by Brandt to approve the second reading of Ord. No. 19-15. All in favor, motion carried.

Mayor AbouAssaly opened the public hearing regarding the Eco Industrial Park Phase One Site Package. (FACS-17-069) Public Services Director Ryan Miller provided staff report. No other comments, written or verbal, were received. Mayor AbouAssaly declared the public hearing closed.

Resolution No. 27669 accepting bids and awarding contract to Rathje Construction for the Eco Industrial Park Grading Project in the amount of \$594,735.20 (FACS-17-069) was read by Brandt. Moved by Brandt, seconded by Gadelha to approve Res. No. 27669. All in favor, motion carried.

Ordinance No. 19-18 amending Chapter 105 of the Code of Ordinances regarding Solid Waste by establishing base monthly collection fees at \$15.50, extra bag tags at \$2.50 and special collection rates at \$40.00 was read by Gadelha for initial consideration. Moved by Gadelha, seconded by Brandt to approve the first reading of Ord. No. 19-18. All in favor, motion carried.

Ordinance No. 19-19 amending Chapter 99 of the Code of Ordinances regarding Sewer Charges by increasing monthly domestic and industrial user charges from \$2.30 to \$3.80 and reducing the service charge from \$8.00 to \$2.00 was read by Atkins for initial consideration. Moved by Atkins, seconded by Jensen to approve the first reading of Ord. No. 19-19. All in favor, motion carried.

Mayor AbouAssaly opened the public hearing regarding the 2019 RCB Culvert Under Central Avenue North of Indian Creek Project. (TRANS-18-092) City Engineer Mike Barkalow provided staff report. No other comments, written or verbal, were received. Mayor AbouAssaly declared the public hearing closed.

Resolution No. 27670 accepting bids and awarding contract to Boomerang Corp. regarding the 2019 RCB Culvert Under Central Avenue North of Indian Creek Project in the amount of \$677,777.00 (TRANS-18-092) was read by Jensen. Moved by Jensen, seconded by Draper to approve Res. No. 27670. All in favor, motion carried.

Resolution No. 27671 approving contract and bond with Price Industrial Electric regarding the 2019 Hwy 13 and Hennessey Parkway Traffic Signal and Turn Lane Improvements Project (TRANS-18-074) was read by Strnad. Moved by Strnad, seconded by Gadelha to approve Res. No. 27671. All in favor, motion carried.

Resolution No. 27672 approving removal of a Stop Sign stopping east bound traffic on Indian Creek Road at its intersection with Lucore Road was read by Gadelha. Moved by Gadelha, seconded by Brandt to approve Res. No. 27672. All in favor, motion carried.

Moved by Atkins, seconded by Jensen to approve Project Calendar regarding the 2019 3rd Ave Rehabilitation Project [NSI] (TRANS-18-088), as follows:

- a. Motion to retain the City Engineer as Project Engineer regarding the 2019 3rd Ave Rehabilitation Project. [NSI] (TRANS-18-088)
- b. Resolution No. 27673 approving Resolution of Necessity regarding the 2019 3rd Ave Rehabilitation Project. [NSI] (TRANS-18-088)
- c. Resolution No. 27674 ordering preparation of detailed plans, specifications, notice of hearing and letting, notice to bidders, form of contract, and estimate of cost regarding the 2019 3rd Ave Rehabilitation Project. [NSI] (TRANS-18-088)
- d. Resolution No. 27675 approving and adopting final plans, specifications, notice of hearing and letting, notice to bidders, form of contract, and estimate of cost regarding the 2019 3rd Ave Rehabilitation Project. [NSI] (TRANS-18-088)

All in favor, motion carried.

Moved by Jensen, seconded by Atkins to approve Project Calendar regarding the 2019 Sidewalk Project (ANN-18-105 & ANN-18-106), as follows:

- a. Motion to retain the City Engineer as Project Engineer regarding the 2019 Sidewalk Project. (ANN-18-105 & ANN-18-106)
- b. Resolution No. 27676 approving Resolution of Necessity regarding the 2019 Sidewalk Project. (ANN-18-105 & ANN-18-106)

- c. Resolution No. 27677 ordering preparation of detailed plans, specifications, notice of hearing and letting, notice to bidders, form of contract, and estimate of cost regarding the 2019 Sidewalk Project. (ANN-18-105 & ANN-18-106)
- d. Resolution No. 27678 approving and adopting final plans, specifications, notice of hearing and letting, notice to bidders, form of contract, and estimate of cost regarding the 2019 Sidewalk Project. (ANN-18-105 & ANN-18-106)

All in favor, motion carried.

Moved by Strnad, seconded by Brandt to receive, file, and discuss TAC report regarding the request for additional no parking on 1st Street from 29th Avenue to 33rd Avenue. All in favor, motion carried.

Mayor AbouAssaly opened the public comment section regarding No Parking on 1st Street from 29th Avenue to 33rd Avenue. Kendall Hepker (3021 1st Street) spoke in opposition of the measure. He referenced current speeding issues, single wide driveways, guest parking would be minimal, current driveway limitations, and inconsistencies with what was stated the first time this issue came before Council regarding fire trucks getting through. Council Member Jensen asked Fire Chief Deb Krebill to clarify the comment regarding fire trucks. Chief Krebill stated when this topic came forward a few years ago, trucks were smaller and had no issue driving through street. Chrys Klein (3000 1st Street) spoke in opposition to the measure. He also stated that fire trucks and buses have no issues driving on street. Karen Dolley (3001 1st Street) spoke in opposition and stated parking on one side will cause issues. Teresa Burrows (3298 1st Street) spoke in opposition and stated fire hydrants were on east side, mailboxes on west side. Tammy March (3020 1st Street) spoke in opposition of the measure. Was curious if what stemmed the petition was the amount of snow received this winter. City Engineer Mike Barkalow stated two letters were received in favor of the measure. Mayor AbouAssaly closed the public comment section.

Resolution No. 27679 approving the establishment of a "No Parking" zone on the west side of 1st Street from 29th Avenue to 33rd Avenue was read by Brandt. Moved by Brandt, seconded by Gadelha to approve Res. No. 27679. Council Member Jensen asked how the side of street with no parking is determined. City Engineer Mike Barkalow stated staff look at driveways, mailboxes, fire hydrants and determine which side will have more space available. Mayor AbouAssaly asked if we heard from school or post office. Mike stated no comments have been received from those entities. City Engineer Mike Barkalow stated the Fire Department drove the truck on the street and there was six inches of space available between truck and vehicles parked. Chrys Klein (3000 1st Street) stated that the large trucks shown in the pictures were only parked there one day. Holly Hastings (3270 1st Street) stated her and her husband are shown to have signed the petition but they did not sign. Moved by Strnad, seconded by Draper to table Res. No. 27679. Council Member Gadelha stated this process needs to start over from beginning and she is not in favor of tabling. Council Member Strnad withdrew his motion. Council Member Draper stated he wants consistency throughout the community and also check with the post office regarding



this street. Council Member Gadelha stated she'd like to have statement added to policy to have originator of petition present at the Council meeting. Vote: Yeas: Draper; Nays: Atkins, Jensen, AbouAssaly, Strnad, Brandt, Gadelha. Motion failed.

Moved by Gadelha, seconded by Brandt to receive and file a request from Linn-Mar Community School District for the issuance of a building permit prior to approval of Linn-Mar 35th First Addition Final Plat. All in favor, motion carried.

Resolution No. 27680 approving the issuance of building permit prior to approval of Linn-Mar 35th First Addition Final Plat (Linn-Mar Community School District) was read by Atkins. Moved by Atkins, seconded by Draper to approve Res. No. 27680. All in favor, motion carried.

Resolution No. 27681 approving Eagle Ridge Park 6th Addition Final Plat and Memorandum of Agreement located at 1715 Red Fox Way (Eagle Ridge LC) was read by Jensen. Moved by Jensen, seconded by Gadelha to approve Res. No. 27681. All in favor, motion carried.

Mayor AbouAssaly opened the public hearing regarding amendments to Chapter 176, Zoning Regulations of the Marion Code of Ordinances and adopting the Central Corridor Zoning Districts. (City of Marion) (Continued from May 9, 2019) Community Development Director Tom Treharne provided staff report. No other comments, written or verbal, were received. Mayor AbouAssaly declared the public hearing closed.

Moved by Strnad, seconded by Gadelha to table Ordinance No. 19-16 amending Section 176.04, Establishment of Districts & Map of the Marion Code of Ordinances to include Central Corridor Zoning Districts (City of Marion) (second consideration). All in favor of motion to table, motion carried.

Ordinance No. 19-17 repealing Section 176.50, Central Corridor Interim Development Overlay of the Marion Code of Ordinances and re-establishing Section 176.50 as Central Corridor Zoning Districts. (City of Marion) was read by Brandt for second consideration. Moved by Brandt, seconded by Gadelha to approve the second reading of Ord. No. 19-17. Moved by Jensen, seconded by Strnad to table Ord. No. 19-17. All in favor of motion to table, motion carried.

Resolution No. 27682 supporting and directing staff to proceed with planning and design of a mobile library as outlined in the contract with Specialty Vehicle Services, LLC (hereinafter referred to as SVS, Inc.) (FACS-18-043) was read by Gadelha. Moved by Gadelha, seconded by Brandt to approve Res. No. 27682. All in favor, motion carried.

#### **OTHER DEPARTMENT DISCUSSION**

Police Chief Joe McHale thanked Council and staff for his time serving as Chief for the City of Marion.

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

**COUNCIL DISCUSSION**

Council Member Brandt congratulated graduates.

Council Member Strnad congratulated Chief McHale. He stated he is excited for Prospect Meadows. He also congratulated college and high school graduates.

Council Member Jensen stated Marion has received a lot of press lately with the Gazette. One he enjoyed was a story about when Marion was the County seat. Several people have come up to him stating they've seen the increase in the paper.

Council Member Atkins also congratulated graduates and Prospect Meadows.

Council Member Draper stated Armed Forces Day was May 18. He also spoke in regards to a millstone that was buried on his property.

Mayor AbouAssaly stated the increase in stories regarding Marion is due to having a reporter assigned to cover Marion. Library Director Hollie Trenary made some calls to the Gazette and in working with Communications Manager Amber Bisinger, set up a meeting with the editorial board. He stated Arts Festival was a success despite soggy ground. He also recently participated in a waffle eating contest with Fire Chief Krebill as well as judged cupcake wars at Marion High School. Earlier he attended the Prospect Meadows ribbon cutting. The facility will be a great amenity. He thanked Chief McHale for his time spent at Marion.

**CLOSED SESSION**

Moved by Atkins, seconded by Draper to adjourn to closed session regarding litigation as permitted under Section 21.5(1)(c) of the Code of Iowa. City Attorney Kara Bullerman 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, Atkins, Jensen, AbouAssaly, Gadelha, Brandt, and Strnad. Nays: None. Motion carried.

Mayor AbouAssaly left the closed session at 7:58 p.m.

Moved by Gadelha, seconded by Jensen to reconvene to regular session. All in favor, motion carried.

Mayor AbouAssaly adjourned the meeting at 8:42 p.m.

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Nicolas AbouAssaly, Mayor

Attest:

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Rachel Bolender, City Clerk

The undersigned 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, City Clerk