

September 19, 2019

The City Council of the City of Marion, Linn County, Iowa met in regular session, Thursday, September 19, 2019, at 5:30 p.m. in the council chambers of City Hall with Mayor AbouAssaly presiding and the following council members present: Draper, Atkins, Jensen, Strnad, Brandt, and Gadelha. Absent: None.

The meeting opened with the Pledge of Allegiance.

Council observed a moment of silence.

**PROCLAMATIONS/OATHS** – None

**PRESENTATIONS** – None

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

**CONSENT AGENDA**

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

Motion to approve minutes of the September 3 and 5, 2019 City Council meetings.

Motion to approve the following liquor license applications:

- a. Renewal – Urban Pie – 1138 & 1144 7th Avenue  
Class C Liquor License with additional privileges of Outdoor Service and Sunday Sales. No violation in last five year.
- b. Renewal – CVS Pharmacy #10032 – 3495 7th Avenue  
Class E Liquor License with additional privileges of Class B Wine, Class C Beer and Sunday Sales. No violations in last five years.

Motion to approve the following Hold Harmless Agreements:

- a. Swamp Fox Festival and Fall Marion Market; September 27-29, 2019; Marion Square Park, Lowe Park, Uptown Marion and Thomas Park (Swamp Fox Committee and Marion Chamber of Commerce, 1225 6th Avenue) (Permit #2019-00000091)

Motion to approve the 2020 City Council Meeting Schedule.

Motion to receive and file correspondence regarding resignation of Ben High from the Library Board effective September 10, 2019.

Motion to approve payments as presented in the amount of \$1,404,066.36.

Resolution No. 27969 approving the Police Chief Employment Agreement with Mike Kitsmiller.

Resolution No. 27970 approving partial payment No. 15 to A&J Associates for the Public Service Maintenance Facility in the amount of \$13,536.96 (FACS-17-069).

Resolution No. 27971 approving Partial Payment No. 2 to Rathje Construction regarding the Public Service Maintenance Facility Grading Project in the amount of \$64,552.52 (FACS-17-069).

Resolution No. 27972 approving partial payment No. 51 to Anderson Bogert Engineers for the Public Services site plan development in the amount of \$4,745.75 (FACS-17-069).

Resolution No. 27973 approving partial payment No. 52 to Anderson Bogert Engineers for the Public Services site plan development in the amount of \$2,656.00 (FACS-17-069).

Resolution No. 27974 approving partial payment No. 53 to Anderson Bogert Engineers for the Public Services site plan development in the amount of \$3,026.50 (FACS-17-069).

Resolution No. 27975 approving Partial Payments No. 2 to Septagon Construction Co. regarding the Lowe Park Maintenance Facility Addition Project in the amount of \$86,713.86. (FACS-18-019)

Resolution No. 27976 approving Partial Payment No. 20 to Snyder & Associates regarding the 2018 Alburnett Rd Extension Phase 1 in the amount of \$15,207.04. (TRANS-18-092)

Motion directing staff to proceed with the vacation of public alleys within Block 28 (Marion Public Library) and Block 29 (Parking Lot) of Original Town, Marion, Linn County, Iowa.

Resolution No. 27977 approving payment no. 4 to Cara Briggs Farmer (Synergy Metal Works) for the artistic design of the gateway feature associated with the CeMar Trail Bridge over Marion Boulevard in an amount of \$1838.16. (TRL-17-055)

Resolution No. 27978 approving payment no. 11 to Snyder & Associates per the Contract for the Indian Creek Trail [STP-U-4775(631)—70-57] in the amount of \$2,993.57. (TRL-18-056)

Motion to receive, file, and discuss a letter of request from Integrity Custom Homes, Inc. regarding a request to connect Smithland Drive, between Echo Hill Drive and Oak Park Circle. (Integrity Custom Homes, Inc.)

All in favor, motion carried.

Mayor AbouAssaly relinquished the gavel to Mayor Pro Tem Strnad at 5:36 p.m. Mayor Pro Tem Strnad presided over the meeting.

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

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

Resolution No. 27979 approving Partial Payment No. 13 to Martin Gardner Architecture for professional services regarding the Lowe Park Maintenance Facility Addition Project in the amounts of \$612.00. (FACS-18-019)

Resolution No. 27980 approving Partial Payment No. 2 to Anderson-Bogert Engineers regarding the Marion AirCom Park Sanitary Sewer Extension Project in the amount of \$3,170.00. (SWR-18-111)

Resolution No. 27981 approving Partial Payment No. 13 to Anderson-Bogert Engineers regarding the Marion Runway 17/35 Reconstruction Project in the amount of \$2,132.54. (ANN-18-082)

Resolution No. 27982 approving payment no. 6 to Anderson-Bogert Engineers for professional services regarding general airport consulting per the contract for the Marion Airport in the amount of \$1,534.50. (ANN-18-082)

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 5:37 p.m. Mayor AbouAssaly presided over the meeting.

**REGULAR AGENDA**

Moved by Jensen, seconded by Atkins to approve the second consideration of Ordinance No. 19-23 Providing for the Division of Taxes Levied on Taxable Property in the September 2019 Collins Road Extension Urban Renewal Area Addition, Pursuant to Section 403.19 of the Code of Iowa. All in favor, motion carried.

Moved by Strnad, seconded by Brandt to suspend the rules and proceed to final consideration of Ordinance No. 19-23. Vote: Yeas: Draper, Jensen, Strnad and Brandt. Nays: Atkins, Gadelha, AbouAssaly. Motion carried.

Moved by Brandt, seconded by Gadelha to approve the final consideration of Ordinance No. 19-23 Providing for the Division of Taxes Levied on Taxable Property in the September 2019 Collins Road Extension Urban Renewal Area Addition, Pursuant to Section 403.19 of the Code of Iowa. All in favor, motion carried.

Moved by Gadelha, seconded by Brandt to approve Resolution No. 27983 approving Fiscal Year 2019-2020 Capital Budget Transfers. All in favor, motion carried.

Moved by Atkins, seconded by Jensen to approve Resolution No. 27984 approving contract and bond with Christner Contracting, Inc. regarding the 2019 Fire Station Project in the amount of \$9,367,000.00. (FACS-18-062) All in favor, motion carried.

Moved by Jensen, seconded by Atkins to approve Resolution No. 27985 approving contract and bond with Peterson Contractors, Inc. regarding the Removal of Railroad Bridge over Marion BLVD in advance of CEMAR Trail in the amount of \$310,524.50. (STP-U-4775(632)—70-57) (TRL-17-055) Vote: Yeas: Atkins, Jensen, AbouAssaly, Strnad, Brandt and Gadelha. Nays: Draper. Motion carried.

Moved by Strnad, seconded by Brandt to direct staff to create an Oversize and Overload Truck Permit Policy. Council Member Draper asked if policy will come back to Council for approval. City Engineer Mike Barkalow confirmed it would. All in favor, motion carried.

Moved by Brandt, seconded by Jensen to receive, file and discuss final Sanitary Sewer Study by HDR. All in favor, motion carried.

Mayor AbouAssaly relinquished the gavel to Mayor Pro Tem Strnad at 5:48 p.m. Mayor Pro Tem Strnad presided over the meeting.

Moved by Gadelha, seconded by Draper to approve Resolution No. 27986 approving contract and bond with L.L. Pelling Company, Inc. regarding the 2019 HMA Resurfacing Project in the amount of \$1,025,331.00. (ANN-18-086) 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 5:49 p.m. Mayor AbouAssaly presided over the meeting.

Moved by Atkins, seconded by Jensen to approve Resolution No. 27987 approving Echo Ridge Estates 3rd Addition Final Plat and Memorandum of Agreement for property located north of Echo Hill Road and west of Alburnett Road, Marion, Iowa. (Integrity Custom Homes, Inc.) All in favor, motion carried.

Mayor AbouAssaly relinquished the gavel to Mayor Pro Tem Strnad at 5:48 p.m. Mayor Pro Tem Strnad presided over the meeting.

Moved by Jensen, seconded by Atkins to approve Resolution No. 27988 approving an Acquisition Plat for property located on the south side of 35th Avenue east of Hemingway Street. (Linn-Mar Community School District and Robson Homes) Vote: Yeas: Draper, Atkins, Jensen, Strnad, Brandt, Gadelha. Nays: None. Abstention: AbouAssaly. Motion carried.

Moved by Brandt, seconded by Gadelha to approve Resolution No. 27989 approving a request to waive Ch.175, Subdivision Regulations of the Marion Code of Ordinances to allow the issuance of one (1) building permit for Lot 1, Gemstone Sixth Addition prior to Final Plat. (Morris Wood Enterprises, LLC) Vote: Yeas: Draper, Atkins, Jensen, Strnad, Brandt, Gadelha. Nays: None. Abstention: AbouAssaly. Motion carried.

Mayor Pro Tem Strnad opened public hearing regarding an amendment to the Marion Code of Ordinances establishing Chapter 176.53 Marion Municipal Airport Land Use and Height Overlay Zoning. (Continued from September 5, 2019). Community Development Director Tom Treharne provided staff report. Frank Sherman (4170 Canton Court, Marion) spoke in favor of the ordinance but had some concerns about the definition for Zone A and items in table of uses for Zone B. No comments, written or verbal, were received. Mayor Pro Tem Strnad declared public hearing closed.

Moved by Gadelha, seconded by Draper to approve the second consideration of Ordinance No. 19-24 amending the Marion Code of Ordinances establishing Chapter 176.53 Marion Municipal Airport Land Use and Height Overlay Zoning as amended including striking the language for definition of Zone A and change the four uses for Zone B as non-compatible. Vote: Yeas: Draper, Atkins, Jensen, Strnad, Brandt, Gadelha. Nays: None. Abstention: AbouAssaly. Motion carried.

Moved by Atkins, seconded by Jensen to approve Resolution No. 27990 approving Seventh Avenue Commercial 4th Addition Final Plat and Memorandum of Agreement for property located 2590 6th Avenue and 2525 7th Avenue, Marion, Iowa. (Genesis Equities, LLC) 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 6:24 p.m. Mayor AbouAssaly presided over the meeting.

Moved by Jensen, seconded by Atkins to approve Resolution No. 27991 approving deferral of sidewalk installation along 22nd Street for property located at 2274 5th Avenue. (TWG Development, LLC) All in favor, motion carried.

Moved by Strnad, seconded by Brandt to approve Resolution No. 27992 approving Marion Lofts 1st Addition Final Plat and Memorandum of Agreement for property located at 2274 5th Avenue, Marion, Iowa. (TWG Development LLC) All in favor, motion carried.

Moved by Brandt, seconded by Gadelha to approve Resolution No. 27993 approving the Rookwood Estates 1<sup>st</sup> and 2<sup>nd</sup> Addition Final Site Development Plan for property located east of Scott Street and north of Cope Drive. (Rookwood Estates, LLC) All in favor, motion carried.

Mayor AbouAssaly opened the public hearing regarding a rezoning request from R-5, Moderate Density Multiple Family Residential to PD-R, Planned Development Residential located at 356 and 376 9<sup>th</sup> Street and Lot 4, Block 42 Original Town, Marion, Iowa. Community Development Director Tom Treharne provided staff report. Joe Hill (1325 Pacific Highway 2707, San Diego, CA 92108) spoke in favor of the measure. He detailed other project in Marion and thanked Council and staff for their support. No comments, written or verbal, were received. Mayor AbouAssaly declared public hearing closed.

Moved by Gadelha, seconded by Draper to approve the initial consideration of Ordinance No. 19-25 approving a rezoning request from R-5, Moderate Density Multiple Family Residential to PD-R, Planned Development Residential located at 356 and 376 9<sup>th</sup> Street and Lot 4, Block 42 Original Town, Marion, Iowa. (Seven Hills East, LLC) All in favor, motion carried.

Moved by Atkins, seconded by Gadelha to approve Resolution No. 27994 approving The United States Department of Transportation Standard Title VI – Non-Discrimination Assurances and a Title VI Non-Discrimination Agreement between the Iowa Department of Transportation and the City of Marion. All in favor, motion carried.

#### **OTHER DEPARTMENT DISCUSSION – None**

#### **PUBLIC FORUM**

John Nieland (1390 48th Street, Marion) spoke in regards to the Solid Waste Agency on County Home Road. He shared concerns and recommended Council close the waste agency.

Kent Backen (3436 Barnsley Circle, Marion) spoke in regards to the request to connect Smithland Drive, between Echo Hill Drive and Oak Park Circle.

#### **COUNCIL DISCUSSION**

Council Member Gadelha thanked staff for adding more visuals to the Thursday Council meeting.

Council Member Draper spoke in regards to the Solid Waste Agency and provided history regarding the old Stickney's Bar and Grill in Marion.

Mayor AbouAssaly gave reaching higher recognition to Rachel Bolender for attending the Iowa Municipal Professionals Academy. He also listed several events he's attended including Intercultural Day at Tuma Soccer Fields, Lowe Park All-Inclusive Playground ribbon cutting, Civil Rights Commission 5 year celebration, Police Chief selection, groundbreaking of new fire station and a new restaurant opening.

**CLOSED SESSION**

Moved by Jensen, 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 she 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.

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

Mayor AbouAssaly adjourned the meeting at 7:58 p.m.

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

Attest:

\_\_\_\_\_  
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