



# MINUTES

## City Council Regular Session

5:30 PM - Thursday, November 19, 2020  
City Hall, 1225 6th Avenue

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The City Council of the City of Marion, Linn County, Iowa met in regular session, on Thursday, November 19, 2020, at 5:30 PM, in the Council Chambers of City Hall, 1225 6th Avenue, with the following members present:

PRESENT: Grant Harper, Colette Atkins, Steve Jensen, Nicolas AbouAssaly, Will Brandt, Rene Gadelha, and Randy Strnad

ABSENT: None

Mayor AbouAssaly presided over the meeting.

The meeting opened with the pledge of allegiance and Council observed a moment of silence.

### PROCLAMATIONS/OATHS

Council Member Atkins read the proclamation regarding Pancreatic Cancer Awareness Day which is November 19, 2020. The proclamation was presented to Mary Ellen Oglesby with the Michael W. Oglesby Foundation.

Council Member Harper read the proclamation regarding Small Business Saturday which is on November 28, 2020. The proclamation was presented to Brooke Prouty with Uptown Marion.

### PRESENTATIONS

Nick Glew with MEDCO introduced Brady Quinn who will help support business retention and small businesses. Brady stated he was born and raised in Marion and is excited to bring his passions for small business, entrepreneurship and Marion all into one place.

### PUBLIC FORUM

Randy Lucore (All Stor Storage, 4099 Derek Drive) submitted comments prior to the Council meeting regarding storage facilities. He is concerned with existing facilities falling under non-conforming use and not being able to rebuild if the zoning code is approved.

### CONSENT AGENDA

## Administrative Services

Minutes of the November 2 and 5, 2020 City Council meetings.

Liquor licenses including the following:

- Renewal - Casey's General Store #2562 - 680 Lindale Drive
- Renewal - La Cantina Bar & Grill - 3217 7th Avenue
- Renewal - Naso's Pizza - 453 7th Avenue

Receive and file October 2020 Department Monthly Reports

Mayoral appointments to Community Equity Task Force:

- Marion Alliance for Racial Equity Representative - Myke Darrough

Receive and file correspondence from Debra Callahan regarding resignation from Planning and Zoning Commission.

Payments as presented in the amount of \$3,849,316.28

Receive and file memo regarding 2021 City Council Meeting Schedule.

Resolution No. 28994 setting the date for public hearing on proposal to enter into a General Obligation Disaster Recovery Loan Agreement and to borrow money thereunder in a principal amount not to exceed \$40,000,000

Resolution No. 28995 approving the Annual Urban Renewal Report for the fiscal year ending June 30, 2020.

Resolution No. 28996 approving the Certification of Tax Increment Financing (TIF) Indebtedness to the Linn County Auditor's Office for Fiscal Year 2021-2022 collection.

## Parks

Resolution No. 28997 approving Partial Payment No. 2 to Waters Edge Aquatic Design for professional services regarding the Outdoor Aquatic Center Feasibility Study in the amounts of \$6,248.00. (REC-18-041)

## Engineering

Resolution No. 28998 approving Partial Payment No. 5 to HDR, Inc. for Sanitary Sewer Capacity Study in the amount of \$11,533.71. (SWR-18-021)

Resolution No. 28999 accepting the 2020 Storm Sewer Project. (ANN-18-031)

Resolution No. 29000 approving a Stop Sign stopping north bound traffic on Elshire Street at its intersection with East Robins Road.

Resolution No. 29001 approving Change Order No. 1 with Midwest Concrete, Inc. regarding Cold Weather Protection for the Grand Avenue Spur North On Existing Trail To North Side Of Marion BLVD Bridge Over Indian Creek; PCC Trail; CeMar Phase II in the amount of \$16,489.30 (TAP-U-4775(636)—8I-57) (TRL-17-055)

Resolution No. 29002 approving Change Order #6 with Rathje Construction

Company regarding the 2020 A Avenue Reconstruction Project (NSI) for replacement of unsuitable backfill material in the amount of \$32,400.00. (TRANS-18-090)

#### Community Development

Resolution No. 29003 approving payment no. 58 to Universal Field Services, Inc. for services related to right-of-way acquisitions for the Central Corridor Improvement Project, 13th Street and 31st Street in the amount of \$2,683.90 (TRANS-17-099)

Resolution No. 29004 setting a public hearing for December 3, 2020 for the update of the Official Zoning Map for property located within Ward 2 that includes Precincts 05, 06 and 07.

Resolution No. 29005 setting a public hearing for December 3, 2020 regarding a proposed amendment to Section 176.51-Table 6 and 176.51-Table 7 regarding permitted uses within the BR, Business Regional and OS, Office Services zoning districts (Greg Bjornsen)

#### Library

Resolution No. 29006 approving partial payment no. 3 to Bush Construction in the amount of \$11,830.00 for the Library Building Project (FACS-17-034)

Resolution No. 29007 approving partial payment no. 4 to Bush Construction in the amount of \$9,270.00 for the Library Building Project (FACS-17-034)

Moved by Brandt, seconded by Atkins, to approve Consent Agenda as shown above.

Approved unanimously

Mayor AbouAssaly relinquished gavel to Mayor Pro Tem Jensen at 5:45 p.m. Mayor Pro Tem Jensen presided over the meeting.

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

#### Administrative Services

Motion to approve the Fiscal Year 2021 Cigarette License for the following:

- Kwik Star #589

#### Engineering

Resolution No. 29008 accepting Bridge Creek 5th Addition to the City of Marion.

Resolution No. 29009 approving Change Order No. 5 with Peterson Contractors, Inc. regarding Pavement Repairs for the Removal of Railroad Bridge over Marion BLVD in advance of CEMAR Trail Project in the amount of \$4,350.00. (STP-U-4775(632)—70-57) (TRL-17-055)

## Community Development

Resolution No. 29010 setting a public hearing for December 17, 2020 regarding an amendment to the Marion Future Land Use Plan of the Marion Comprehensive Plan for property located east of Alburnett Road extended (Midwest Development Company)

Resolution No. 29011 setting a public hearing for December 3, 2020 regarding an amendment to the Marion Future Land Use Plan of the Marion Comprehensive Plan, rezoning request and a preliminary site development plan for property located at 3100 10th Avenue. (Green Park Living LLC)

Moved by Gadelha, seconded by Brandt, to approve Consent Agenda with Mayor AbouAssaly's abstention as shown above.

Approved by the following votes:

Ayes: Harper, Atkins, Jensen, Brandt, Gadelha, and Strnad

Abstained: AbouAssaly

Mayor Pro Tem Jensen relinquished the gavel to Mayor AbouAssaly at 5:46 p.m. Mayor AbouAssaly presided over the meeting.

## REGULAR AGENDA

### Administrative Services

Resolution No. 29012 approving letter of understanding with Safety First Flagging regarding traffic control services at the 44th Street Debris Site in an amount not to exceed \$70,000.00.

Moved by Strnad, seconded by Jensen, to approve Resolution No. 29012.

Approved unanimously

Mayor AbouAssaly opened the public hearing regarding the fiscal year 2020-2021 budget amendment. Budget Manager Zach Wolfe provided staff report. No comments, written or verbal, were received. Mayor AbouAssaly declared the public hearing closed.

Resolution No. 29013 approving fiscal year 2020-2021 budget amendment

Moved by Harper, seconded by Brandt, to approve Resolution No. 29013. Council Member Harper stated that the information showed as Derecho resulting in \$40 million in revenue and \$47 million in expenses. He asked if that difference is up to the City to cover. Budget Manager Zach Wolfe confirmed and stated those are initial projections.

Approved unanimously

Motion directing staff to purchase two Electronic Assisted Trikes matching AARP grant funds in an amount not to exceed \$5,500.

Moved by Atkins, seconded by Brandt, to approve item shown above. Council Member Gadelha agreed with statements from Tuesday that if there are four trikes, two should be located Uptown. Council Member Brandt thanked Brooke

Prouty for her efforts to apply for this grant.  
Approved unanimously

#### Public Services

Resolution No. 29014 approving partial payment no. 3 to Southern Disaster Recovery LLC. for emergency debris removal services in the amount of \$3,624,078.04.

Moved by Jensen, seconded by Harper, to approve Resolution No. 29014.  
Approved unanimously

Resolution No. 29015 designating LA Disaster Relief LLC as a non-responsible bidder for the Emergency Waterway Debris Removal Project.

Moved by Brandt, seconded by Atkins, to approve Resolution No. 29015. City Attorney Kara Bullerman stated the owner of the company sent a letter today but it was too late to submit for receive and file on the agenda. Kara stated she reviewed the information and there is still a lot of confusing information and she still has questions. At this point they have not provided the documentation necessary to determine whether they qualify for a bond. It is her recommendation to document this proposal as a non-responsible bidder and move on to the next low bidder. Council Member Gadelha asked if because there was a large price difference in the proposals, should we move accept the other proposal or should we release the request for proposal again. Public Services Director Ryan Miller stated this is a time sensitive project and is in favor of moving forward with Southern Disaster Recovery.

Approved unanimously

Resolution No. 29016 awarding the Emergency Waterway Debris Removal Proposal to Southern Disaster Recovery LLC.

Moved by Gadelha, seconded by Harper, to approve Resolution No. 29016.  
Approved unanimously

#### Parks

Resolution No. 29017 approving bid for park fence repairs with Life Time Fence Company, Inc. for the amount of \$35,240.00.

Moved by Strnad, seconded by Gadelha, to approve Resolution No. 29017.  
Approved unanimously

#### Engineering

Mayor AbouAssaly opened the public hearing regarding the Marion Public Library New Building Project for the following items (FACS-17-034) (continued from the November 05, 2020 meeting):

- Marion Public Library New Building Project BP 05B Decorative Metal
- Marion Public Library New Building Project BP 03A General Trades
- Marion Public Library New Building Project BP 08A Glass & Glazing
- Marion Public Library New Building Project BP 09B Flooring
- Marion Public Library New Building Project BP 11A Food Service

### Equipment

- Marion Public Library New Building Project BP 14A Conveying Systems
- Marion Public Library New Building Project BP 21A Fire Suppression
- Marion Public Library New Building Project BP 26A Electrical
- Marion Public Library New Building Project BP 23A HVAC
- Marion Public Library New Building Project BP 09C Painting
- Marion Public Library New Building Project BP 22A Plumbing
- Marion Public Library New Building Project BP 07A Roofing & Architectural Sheet Metal
- Marion Public Library New Building Project BP 04B Unit Masonry
- Marion Public Library New Building Project BP 09A Gypsum Board & Acoustic Ceilings

no comments, written or verbal, were received. The public hearing shall remain open until December 17, 2020 when the bids are read.

Mayor AbouAssaly opened the public hearing regarding the 2021 35th Street & 7th Avenue Traffic Signal and Turn Lane Improvements Project (CS-TSF-4775(640)—85-57) (TRANS-18-088). City Engineer Mike Barkalow provided staff report. No comments, written or verbal, were received. Mayor AbouAssaly declared the public hearing closed.

Resolution No. 29018 accepting bids and awarding contract to Rathje Construction Company regarding the 2021 35th Street & 7th Avenue Traffic Signal and Turn Lane Improvements Project (CS-TSF-4775(640)—85-57) in amount of \$749,582.47. (TRANS-18-088)

Moved by Harper, seconded by Brandt, to approve Resolution No. 29018.  
Approved unanimously

Resolution No. 29019 approving contract and bond with Rathje Construction Company regarding the 2020 10th St and Central Ave / 10th Ave Intersection Improvements Project (CS-TSF-4775(634)—85-57) in the amount of \$543,934.94. (TRANS-18-089)

Moved by Atkins, seconded by Harper, to approve Resolution No. 29019. Moved by Atkins, seconded by Harper to amend the motion so amount is \$543,834.94. All in favor of motion to amend.

Amended Motion Approved unanimously

Resolution No. 29020 authorizing a funding application to the Corridor Metropolitan Planning Organization for Surface Transportation Block Grant Funds in the Amount of \$2,551,000 and committing to provide local matching funds for the Marion BLVD / 7th Avenue / 10th Avenue Project in Marion [7th Avenue; 12th Street to 22nd Street] (TRANS-20-001)

Moved by Jensen, seconded by Brandt, to approve Resolution No. 29020.  
Approved unanimously

Motion to Receive, file, discuss a request to defer a portion of the sanitary sewer hookup fees. (Don and Kathy Kensinger, 4355 29th Avenue)

Moved by Brandt, seconded by Atkins, to approve above referenced item.

Approved unanimously

Motion to direct staff to develop a Memorandum of Agreement (MOA) regarding the 4355 29th Avenue project to charge the sanitary sewer connection fee equivalent of one acre now and the rest to be charged at time of development of the rest of the property.

Moved by Gadelha, seconded by Brandt, to approve above referenced item.

Approved unanimously

Motion to Receive, File and Discuss Legal Memo regarding the request to install speed signs and warning devices and build a pedestrian bridge next to the Lucore Bridge over Indian Creek.

Moved by Strnad, seconded by Harper, to approve above referenced item.

Approved unanimously

### Community Development

Resolution No. 29021 approving contract amendment no. 2 with Snyder and Associates Inc., associated with the Indian Creek Trail project regarding the timeline of services (STP-U-4775(631)--70-57). (TRL-18-056)

Moved by Harper, seconded by Brandt, to approve Resolution No. 29021.

Approved unanimously

Mayor AbouAssaly relinquished gavel to Mayor Pro Tem Jensen at 6:15 p.m. Mayor Pro Tem Jensen presided over the meeting.

Resolution No. 29022 approving Bowman Meadows 6th Addition Final Plat and Memorandum of Agreement for property located west of Alburnett Road and north of Archer Drive (Midwest Development Company)

Moved by Atkins, seconded by Brandt, to approve Resolution No. 29022.

Approved by the following votes:

Ayes: Harper, Atkins, Jensen, Brandt, Gadelha, and Strnad

Abstained: AbouAssaly

Mayor Pro Tem Jensen relinquished the gavel to Mayor AbouAssaly at 6:16 p.m. Mayor AbouAssaly presided over the meeting.

Motion to receive and file a request for a building permit prior to approval of a Final Site Development Plan for Electric Specialty Manufacturing located at 6451 Partners Avenue. (MEDCO)

Moved by Jensen, seconded by Brandt, to approve above referenced item. Council Member Strnad thanked Nick Glew for the follow-up information and thanked Tom Treharne as well. He stated he always wants to advocate for processes that are in place. He stated even though final approval comes through Council, and owner would agree to responsibility, there could always be things that fall through and it could come back on Council. He stated he would not be in favor of approving the waiver as he has concerns with going against processes

that are in place for a reason.

Approved unanimously

Resolution No. 29023 approving waiver of the City Code to allow the issuance of a foundation permit prior to approval of the Final Site Development Plan for property located at 6451 Partners Avenue, Electric Specialties Manufacturing subject to execution of a hold harmless agreement. (Todd Heying, EMS Properties, LLC)

Moved by Brandt, seconded by Harper, to approve Resolution No. 29023. Council Member Harper appreciates Council Member Strnad's comments earlier about process compliance and using caution when going against processes. He stated there were two considerations that went into his decision which include that this is due to the Derecho and it is only for the foundation permit. Council Member Atkins asked if staff was okay with adjusting the process for this item. Community Development Tom Treharne confirmed they were. Tom stated plans were distributed and comments would be complete by next week and that the earliest the permit would be ready would be November 30. The only change to the process is that the permit is issued before final designs are seen by Planning and Zoning Commission and Council. All internal reviews of the building plans would be conducted as normal. Council Member Atkins asked about the comments that were shared at work session by the Fire Department. Tom stated in the past, the foundation had been fine but once building is constructed the Fire Department had concerns. Mayor AbouAssaly asked for confirmation that Gary Hansen looked at the foundation portion and was comfortable with it. Tom confirmed that is correct.

Approved by the following votes:

Ayes: Harper, Atkins, Jensen, AbouAssaly, Brandt, and Gadelha

Nays: Strnad

Resolution No. 29024 approving Rookwood Estates 2nd Addition Final Plat and Memorandum of Agreement for property located south of Prairie Ridge Avenue east of Scott Street (Rookwood Estates LLC)

Moved by Gadelha, seconded by Brandt, to approve Resolution No. 29024.

Approved unanimously

Resolution No. 29025 approving the Nottingham Hills 9th Addition Final Plat and memorandum of agreement for property located south of Boyson Road west of Nottingham Hills Drive (BBAK Investment LTD)

Moved by Strnad, seconded by Jensen, to approve Resolution No. 29025.

Approved unanimously

Resolution No. 29026 approving the Prairie Ridge Estates 8th Addition Final Plat and Memorandum of Agreement for property located east of Crestwood lane and south of Robinwood Lane (Rookwood Estates LLC)

Moved by Harper, seconded by Brandt, to approve Resolution No. 29026.

Approved unanimously

Ordinance No. 20-12 amending Chapter 162 of the Marion Code of Ordinances



relating to the Electrical Code (Second Consideration)

Moved by Atkins, seconded by Brandt, to approve the second reading of Ordinance No. 20-12.

Approved unanimously

Motion directing staff to review mini-warehouse regulations and develop standards for Climate Controlled Self Storage Facilities within the BR, Regional Business zoning district.

Moved by Jensen, seconded by Harper, to approve the item referenced above. Mayor AbouAssaly asked if this would be to develop proposed regulations and the proposed regulations would come back to Council for approval. Community Development Director Tom Treharne confirmed that it would be worked on internally and staff would also seek feedback from members of the community. The proposed regulation would also go to the Planning and Zoning Commission for review.

Approved unanimously

Library - None

## **OTHER DEPARTMENT DISCUSSION**

City Manager Lon Pluckhahn provided information regarding the 2020 Storm Response. Lon stated that the Council took action tonight to award a contract to remove debris from waterways. Right-of-way trees are still coming down but debris pickup is slowing down. He stated that Council will be taking action in December regarding interim financing since we don't know how long it will take to be reimbursed by FEMA. Lon also encouraged everyone to go visit Marion Square Park and view the wood carving project that is taking place and wrapping up soon.

## **PUBLIC FORUM**

No one came forward to speak.

## **COUNCIL COMMENTS**

Council Member Strnad wished everyone a happy Thanksgiving and hope everyone stays safe and healthy.

Council Member Atkins stated that Small Business Saturday is coming up encouraged everyone to support those small businesses. She also stated that those council members who already qualify for AARP should be the first to test drive the new trikes.

Council Member Gadelha wished everyone a happy Thanksgiving. She stated she toured the YMCA yesterday and said it is a beautiful facility and she is excited for this partnership with the YMCA.

Council Member Harper responded to Council Member Atkins that he is an AARP member and hopes he is first for the test ride. He stated people will be challenged with

the restrictions during the Thanksgiving holiday but asked that people remember there are several things this year to be proud of, including our response to the Derecho at the neighborhood level and community level. He also thanked everyone for their support in regards to the passing of his father.

Mayor AbouAssaly also encouraged everyone to stop by Marion Square Park to view the wood carvings. The online auction begins on November 23 through 29 and 60% of the funds will be donated to Trees Forever for a tree replanting project in Marion. He thanked the parks department for their efforts in decorating the City for the holidays. He stated the Marion Messenger will have the date to pick up storm debris and for residents to call public services if you have debris to pick up. The Marion Chamber Foundation has announced a grant program for individuals and businesses. These funds are from donations received after the Derecho. He stated the first meeting was held for the Community Equity Task Force and the COVID Community Recovery task force is starting again tomorrow. The Linn County Board of Supervisors approved the Linn County Public Health's proclamation yesterday regarding a mask requirement. For Small Business Saturday, you can support small business by visiting [shopwhereilive.com](http://shopwhereilive.com) which is a way to shop and support local businesses online. He encouraged everyone to wear masks and protect each other. He wishes everyone a happy Thanksgiving.

### **CLOSED SESSION**

Motion to adjourn to closed session regarding litigation as permitted under Section 21.5(1)(c) of the Code of Iowa (two separate matters) and regarding personnel matters (evaluation of City Manager performance) as permitted under Section 21.5(1)(i) of the Code of Iowa. (one matter)

Moved by Brandt, seconded by Harper, to approve item referenced above. City Manager Lon Pluckhahn requested the closed session. City Attorney Kara Bullerman has reviewed the subject matters to be discussed and has found it to be an appropriate topic for closed session.

Approved by the following votes:

Ayes: Harper, Brandt, Atkins, Jensen, AbouAssaly, Gadelha, and Strnad

Moved by Jensen, seconded by Gadelha, to reconvene to regular session.

Approved unanimously

Mayor AbouAssaly adjourned the meeting at 8:57 p.m.

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Nicolas AbouAssay, Mayor

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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\_\_.

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Rachel Bolender, City Clerk