



# MINUTES

## City Council Regular Session

5:30 PM - Thursday, August 18, 2022  
City Hall, 1225 6th Avenue

The City Council of the City of Marion, Linn County, Iowa met in regular session, on Thursday, August 18, 2022, at 5:30 PM, in the Council Chambers of City Hall, 1225 6th Avenue, with the following members present:

PRESENT: Steve Jensen, Randy Strnad, Grant Harper, Sara Mentzer, Colette Atkins, and Nicolas AbouAssaly

ABSENT: Will Brandt

Mayor AbouAssaly presided over the meeting.

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

### PROCLAMATIONS/OATHS

#### Proclamation - 16th Annual Five Seasons Stand Down Day (September 1, 2022)

Mayor AbouAssaly read and presented the above proclamation to a representative from Five Seasons Stand Down.

### PRESENTATIONS

#### Community Life-Saving Award Presentation

Deputy Fire Chief Jason Hansen presented community life-saving awards to Evalyn James and Connor Ironside for their life-saving actions at the Marion YMCA on July 14, 2022. James and Ironside were the lifeguards on duty at the Marion YMCA when a class participant became unconscious and wasn't breathing in the pool. Because they acted quickly in administering CPR, with support from others in the class, the woman's life was saved.

### PUBLIC FORUM

The following comments submitted prior to the meeting were shown:

- LuxAir Aviation, LLC shared concerns with the Marion Airport Assessment of Existing Conditions report from HDR
- Jet Air shared concerns about the runway length at Marion Airport

### CONSENT AGENDA

Administrative Services

Minutes of the August 2 and 4, 2022 City Council meetings.

Motion to approve liquor licenses including the following:

- New - Kwik Star #1172 - 3055 7th Ave
- Renewal - Eva's Mexican Restaurant - 835 7th Ave

Motion to approve the Fiscal Year 2023 Cigarette License for the following:

- Kwik Star #1172 - 3055 7th Avenue

Motion to approve hold harmless agreement with Tim Troyna regarding a block party event on September 10, 2022 in the 2400 block of 28th Avenue.

Receive and file July 2022 Department Monthly Reports.

Payments as presented in the amount of \$1,445,036.50

### Public Safety

Resolution No. 30772 approving purchase of mobile data computer system from CDW Government and authorizing payment in the amount of \$141,011.90.

### Parks

Resolution No. 30773 approving partial payment no. 4 to Frank's Tree Service for Right of Way Stump Removal and Turf Restoration in the amount of \$30,525.

Resolution No. 30774 approving payment to MasterWorks Studios LLC for repair of the Civil War Statue in the amount of \$15,050.

### Engineering

Resolution No. 30775 approving Change Order No. 5 with Rathje Construction Company regarding the 3rd Avenue Reconstruction Project (NSI) and authorizing payment in the amount of \$11,900.00 (TRANS-18-101)

Resolution No. 30776 approving Partial Payment No. 35 to Snyder & Associates regarding the 2018 Alburnett Road Extension Phase I in the amount of \$6,939.00 (TRANS-18-092)

Resolution No. 30777 approving Change Order 016 with Pearson Wall Systems regarding the Marion Library Building Project BP 09A Gypsum Board and Acoustics regarding repairing damaged drywall in the amount of \$652.00 (FACS-17-034)

Motion to approve Change Orders regarding the Marion Library Project – Construction Manager as Advisor as follows:

- Resolution No. 30778 approving Change Order No 026 with Bush Construction regarding the Marion Library Project – Construction Manager as Advisor to transfer a credit of \$1,146.00 from General Conditions Funds for Ahern Fire's materials for the Play Structure Protection. (FACS-17-034)
- Resolution No. 30779 approving Change Order No 029 with Bush Construction regarding the Marion Library Project – Construction Manager as Advisor to transfer a credit of \$652.00 from General Conditions Funds for Pearson Wall's contract to perform drywall patching. (FACS-17-034)

Resolution No. 30780 approving Change Order No. 008 to Ahern Fire Protection regarding the Marion Library Project – Bid Pkg 21A to add sprinklers to the play area in the amount of \$5,460.00. (FACS-17-034)

Resolution No. 30781 approving Change Order No. 007 to Ahern Fire Protection regarding the Marion Library Project – Bid Pkg 21A for materials needed for the play structure sprinklers in the amount of \$1,146.00. (FACS-17-034)

Resolution No. 30782 approving payment to the East Central Iowa Council of Governments regarding the Indian Creek Watershed Management Authority in the amount of \$17,432.90

Resolution No. 30783 approving agreement with Substantial Rock LLC regarding the 2021 Central Corridor 7th Avenue from 8th Street to 12th Street Pavement Reconstruction and Streetscaping Project (TRANS-18-101)

#### Community Development

Resolution No. 30784 setting a public hearing for September 8, 2022 regarding a request to vacate portions of 17th Street between 5th and 6th Avenues, Marion, Iowa (Donald Carsner)

#### Library

Resolution No. 30785 approving partial payment No. 33 to Engberg Anderson, Inc. regarding the Library Building Project in the amount of \$6,300.00 (FACS-17-034)

Moved by Atkins, seconded by Jensen, to approve consent agenda as shown above.

Approved unanimously

Mayor AbouAssaly relinquished the gavel to Deputy Mayor Pro Tem Harper at 5:40 p.m. Deputy Mayor Pro Tem Harper presided over the meeting.

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

#### Engineering

Resolution No. 30786 approving Partial Payment No. 1 to Abode Construction, Inc. regarding the demolition of Airport Quonset Hut located at 1690 Marion Airport Road and authorizing payment in an amount of \$4,900.00

Resolution No. 30787 accepting the Airport Quonset Hut Demolition located at 1690 Marion Airport Road.

Resolution No. 30788 approving Change Order No. 020 with Acme Electric regarding the Marion Library Building Project BP 26A regarding adding room schedulers and data cabling in the amount of \$19,672.67 (FACS-17-034)

Motion to receive and file Marion Airport Assessment of Existing Conditions from HDR.

Moved by Mentzer, seconded by Atkins, to approve consent agenda with Mayor

AbouAssaly's abstention as shown above.

Approved by the following votes:

Ayes: Jensen, Strnad, Harper, Mentzer, and Atkins

Abstained: AbouAssaly

Deputy Mayor Pro Tem Harper relinquished the gavel to Mayor AbouAssaly at 5:40 p.m. Mayor AbouAssaly presided over the meeting.

## **REGULAR AGENDA**

### Administrative Services

Resolution No. 30789 amending the non-bargaining pay schedule to adjust the salary range for the Deputy City Manager position.

Moved by Strnad, seconded by Mentzer, to approve Resolution No. 30789.

Approved unanimously

Resolution No. 30790 approving employment agreement with Kim Downs as Deputy City Manager

Moved by Harper, seconded by Jensen, to approve Resolution No. 30790.

Approved unanimously

### Public Services

Ordinance No. 22-15 amending Chapter 105 of the Code of Ordinances relating to Solid Waste by Establishing Base Monthly Collection Fees at \$20.00 and increasing commercial rates. (Second Consideration)

Moved by Jensen, seconded by Harper, to approve the second consideration of Ordinance No. 22-15.

Approved unanimously

Resolution No. 30791 approving contract with King-Knutson Construction for the Pre-Engineered Steel Building Package associated with the new Public Service Maintenance Facility and authorizing payment in the amount of \$4,585,000. (FACS-17-069).

Moved by Atkins, seconded by Jensen, to approve Resolution No. 30791.

Approved unanimously

Motion to approve Project Calendar for the Roof Repair Package associated with Marion City Hall:

- Resolution No. 30792 approving Resolution of Necessity regarding the Roof Repair Package associated with Marion City Hall.
- Resolution No. 30793 ordering preparation of detailed plans, specifications, notice of hearing and letting, notice to bidders, form of contract, and estimate of cost regarding the Roof Repair Package associated with Marion City Hall.
- Resolution No. 30794 approving and adopting final plans, specifications, notice of hearing and letting, notice to bidders, form of contract, and

estimate of cost regarding the Roof Repair Package associated with Marion City Hall.

Moved by Mentzer, seconded by Atkins, to approve the project calendar as shown above.

Approved unanimously

Public Hearing regarding the Foundation Repair Package associated with the new Public Service Maintenance Facility (FACS-17-069).

Mayor AbouAssaly opened the public hearing regarding item referenced above. Public Services Director Ryan Miller provided a staff report. No comments, written or verbal, were received. Mayor AbouAssaly declared the public hearing closed.

Resolution No. 30795 approving bids and awarding contract to Western Specialty Contractors for the Foundation Repair Package associated with the new Public Service Maintenance Facility in the amount of \$348,500.00 (FACS-17-069).

Moved by Strnad, seconded by Atkins, to approve Resolution No. 30795.

Approved unanimously

## Engineering

Public comment period regarding a request to designate 4th Avenue between 12th Street and 14th Street a one-way (westbound) and 13th Street a one-way from 3rd Avenue to 4th Avenue a one-way. (Southbound)

Mayor AbouAssaly opened the public comment period regarding item referenced above. Rick Brewer (tenant of 333 13th Street) spoke in opposition of the measure. Jerry Van Deusen (landlord of 333 13th Street) spoke in opposition of the measure. Officer Brian Davis (school resource officer at Marion Independent School District (MISD)) spoke in support of the measure. Diana Zrudsky (890 Central Avenue) spoke in support of the measure. The following comments submitted prior to the meeting were shown: Shari Funck with Marion Independent School District wrote in support of the measure. Janelle Brouwer with Marion Independent School District wrote in support of the measure. John Fitch (1175 Valley Park Street) wrote in support of the measure. Jerry and Vicki Van Deusen (landlord at 333 13th Street) wrote in opposition of the measure. Rick and Cheryl Brewer (tenant of 333 13th Street) wrote in opposition of the measure. No other comments, written or verbal, were received. Mayor AbouAssaly declared the public comment period closed.

Motion to receive, file and discuss TAC report regarding a request to designate 4th Avenue between 12th Street and 14th Street a one-way (westbound) and 13th Street a one-way from 3rd Avenue to 4th Avenue a one-way. (Southbound) (Marion Independent School District, MISD)

Moved by Harper, seconded by Jensen, to approve the item referenced above.

Approved unanimously

Resolution No. 30796 establishing 4th Avenue between 12th Street and 14th Street a one-way (Westbound) and approving installation of the appropriate

traffic control signs.

Moved by Jensen, seconded by Harper, to approve Resolution No. 30796. Councilmember Harper spoke about how the residents at 333 13th Street would have a hard time pulling back into their home during the drop off and pick up times. Councilmember Mentzer spoke about other schools with similar drop off and pick up situations. Councilmember Strnad spoke about only approving the 4th Avenue measure first before changing 13th Street. Councilmember Harper stated he would like to hear back from Officer Davis in a year to find out if the safety in the area has improved.

Approved unanimously

Resolution No. 30797 establishing 13th Street between 3rd Avenue and 4th Avenue as a one-way (Southbound) and approving installation of the appropriate traffic control signs.

Moved by Atkins, seconded by Jensen, to approve Resolution No. 30797. Mayor AbouAssaly asked if an additional parking lot being added south of 4th Avenue and west of 13th Street would help with safety. City Engineer Mike Barkalow stated it would not impact the drop off and pick up situation. Councilmember Jensen stated there have been several options discussed and would like to wait to hear back from Officer Davis before making 13th Street a one-way. Councilmember Mentzer spoke about the Safe Routes to School plan and its purpose.

Failed by the following votes:

Ayes: Mentzer, Atkins, and AbouAssaly

Nays: Jensen, Strnad, and Harper

## Community Development

Ordinance No. 22-16 approving an amendment to Section 176.52 of the Marion Code of Ordinances regarding drive-thru facility stacking and design requirements. (Second Consideration)

Moved by Mentzer, seconded by Atkins, to approve the second consideration of Ordinance No. 22-16.

Approved unanimously

Public hearing regarding a request to amend the Future Land Use Map of the Marion Comprehensive Plan from Single-Family Detached Residential to Single Family Attached Residential and to rezone property from AG, Agricultural Holding to SR-4, Suburban Two-Family Residential District for property located west of Winslow Road and south of Tower Terrace Road extended, Marion, Iowa. (Atwood Rentals, LLC) (continued from 8/5/2022)

Mayor AbouAssaly opened the public hearing regarding item referenced above. Community Development Director Tom Treharne provided a staff report. Todd Wood (2505 Deer Lane Road) is the owner of this parcel in spoke in support of the measure. No other comments, written or verbal, were received. Mayor AbouAssaly declared the public hearing closed.

Mayor AbouAssaly relinquished the gavel to Deputy Mayor Pro Tem Harper at 7:04 p.m. Deputy Mayor Pro Tem Harper presided over the meeting.

Motion to remove from table Resolution No. 30771 regarding an amendment to the Marion Future Land Use Map of the Marion Comprehensive Plan (Atwood Rentals, LLC) (Tabled 8/4/22)

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

Approved by the following votes:

Ayes: Jensen, Strnad, Harper, Mentzer, and Atkins

Abstained: AbouAssaly

Resolution No. 30771 approving an amendment to the Marion Future Land Use Map of the Marion Comprehensive Plan from Single-Family Detached Residential to Single Family Attached Residential for property located west of Winslow Road and south of Tower Terrace Road extended, Marion, Iowa. (Atwood Rentals, LLC) (Tabled 8/4/22)

Moved by Jensen, seconded by Atkins, to approve Resolution No. 30771. Councilmember Jensen stated he would like to see single family housing in this location. Councilmember Atkins stated she would like to see the housing study prior to making a decision.

Failed by the following votes:

Ayes: Mentzer

Nays: Jensen, Strnad, Harper, and Atkins

Abstained: AbouAssaly

Motion to remove from table Ordinance No. 22-17 regarding a request to rezone property located west of Winslow Road and south of Tower Terrace Road extended, Marion, Iowa (Atwood Rentals, LLC) (Tabled 8/4/22) was removed from the agenda.

Ordinance No. 22-17 approving a request to rezone property from AG, Agricultural Holding to SR-4, Suburban Two-Family Residential District for property located west of Winslow Road and south of Tower Terrace Road extended, Marion, Iowa (Atwood Rentals, LLC) (Initial Consideration) (Tabled 8/4/22) was removed from the agenda.

## **OTHER DEPARTMENT DISCUSSION**

### **Discussion regarding the Consideration of a Request to amend the 2020 Development Agreement with Genesis Equities regarding the 6th Avenue Project to include a Revised Concept Plan**

Community Development Director Tom Treharne provided history regarding the development agreement and the current concept plan provided. Treharne stated when the original concept plan was approved, it was a different time economically which is why the concept plan has needed to change. Councilmember Jensen stated the newest proposed concept plan is a major deviation from the original concept plan. Deputy Mayor Pro Tem Harper also spoke about the changes in the newest concept plan and asked if

there has been any traffic studies in that area. Treharne stated there has not been a traffic study done. City Manager Ryan Waller asked for clarification on how Council would like to move forward. Deputy Mayor Pro Tem Harper stated he would not be in favor of moving forward with the proposed concept plan. Councilmember Jensen agreed that he is not supporting of the proposed concept plan. Councilmembers Atkins and Strnad also agreed.

## **PUBLIC FORUM**

Jeff Witter (3405 7th Avenue Suite 102, Marion) spoke about the 6th Avenue Project and the changes that have been done since Marion Iron was located at the property. He also spoke about the language in the 2020 Development Agreement and how the proposed concept plan fits the requirements.

City Attorney Kara Bullerman stated that the development agreement with Genesis gives the City the right to agree or not agree to changes requested by the developer to the concept plan for the development of their property. She stated the agreement does require the City to give good faith consideration to any such requests.

Brian Rosteck (4140 Deer Valley Drive) spoke about the development agreement with Genesis Equities and how the property has been marketed.

## **COUNCIL COMMENTS**

Councilmember Mentzer thanked everyone for their support tonight regarding the two lifeguards at the YMCA. She also about a group from Ames and Pella that came to Marion to look at area projects. She reminded everyone there is yoga on Saturday morning out at Lowe Park.

Deputy Mayor Pro Tem Harper relinquished the gavel to Mayor AbouAssaly at 7:43 p.m. Mayor AbouAssaly presided over the meeting.

Councilmember Atkins welcomed the Kim Downs to the City of Marion. She stated school is starting back and is very hopeful and excited that the library will open soon.

Councilmember Harper thanked staff for their work on the communications for the 7th Avenue Streetscape project.

Mayor AbouAssaly welcomed Kim Downs and looks forward to working with her. Mayor spoke about touring Marion with the group out of Ames who wanted to see what Marion has been doing. He also thanked the four kids who joined him today as Mayor for a Day.

## **CLOSED SESSION**

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

Moved by Mentzer, seconded by Harper, to adjourn to closed session as stated above. 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. A roll call vote was



taken.

Approved unanimously

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

Approved unanimously

**ADJOURN**

Mayor AbouAssaly adjourned the meeting at 8:08 p.m.

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Nicolas AbouAssaly, 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 Gazette on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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Rachel Bolender, City Clerk