

August 23, 2018

The City Council of the City of Marion, Linn County, Iowa met in regular session, Thursday, August 23, 2018, at 5:30 p.m. in the council chambers of City Hall with Mayor AbouAssaly presiding and the following council members present: Draper, Jensen, Gadelha, Brandt and Strnad. Absent: Etzel.

The meeting opened with Posting of the Colors by the Marion Police Department Honor Guard and Pledge of Allegiance.

PROCLAMATIONS/OATHS –

Police Chief Joe McHale made a presentation for the promotion of Corporal Jason Schamberger to Sergeant. Sergeant Schamberger introduced the members of his family in attendance. Chief McHale provided a list of Sergeant Schamberger's many accomplishments.

Council observed a moment of silence.

PRESENTATIONS – No presentations took place.

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

CONSENT AGENDA –

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

Motion to approve minutes of the August 7 and 9, 2018 City Council meetings.

Motion to approve the following liquor license applications:

- a. New – 20/20 Development Co. dba BLOOMS by Bladeworks
1440 Blairs Ferry Road - Class B Native Wine Permit (WBN) with additional privilege of Sunday Sales. Effective 09/01/2018.
- b. Renewal – Whistling Hop, Inc. dba The Famous Mockingbird
1064 7th Avenue - Class C Liquor License (BW) (Beer/Wine) with additional privileges of Class B Wine Permit and Sunday Sales. No violations in last five years. Effective 09/13/2018.
- c. Renewal – Petroleum Services Company, LLC dba Hawkeye Convenience
2500 7th Avenue - Class E Liquor License (LE) with additional privileges of Class B Native Wine Permit, Class C Beer Permit (Carryout Beer) and Sunday Sales. No violations in previous five year. Effective 09/21/2018.

Resolution No. 27078 accepting waiver of hearing and consent to alcohol violation penalty/settlement and imposing the penalties established in Section 123.50(3) of the Code of Iowa (Aldi Foods, 1001 50th Street).

Motion to approve the following Hold Harmless Agreements:

- a. 10th Grade Football Games, Marion Football/Track Complex, August 27, September 10, September 20 and October 11, 2018 from 5:00 – 9:00 p.m. (Corby Laube, Marion High School, 675 S 15th Street).
- b. Marching Band Invite, Marion Football/Track Complex, September 22, 2018 from 4:00 – 10:30 p.m. (Corby Laube, Marion High School, 675 S 15th Street).
- c. Homecoming Parade, Marion High School Parking Lot to Football/Track Complex, September 27, 2018 from 6:00 – 8:30 p.m. (Cory Laube, Marion High School, 675 S 15th Street).
- d. 9th/Varsity Football Games, Marion Football/Track Complex, August 31, September 14, September 28 and October 19, 2018 from 3:00 – 10:30 p.m. (Corby Laube, Marion High School, 675 S 15th Street).
- e. Catwalks, Casino & Cocktails Charity Event, 1317 7th Avenue, September 29, 2018 from 6:00 – 11:00 p.m. (Jess High, Urban Vintage Hair Studio, 1317 7th Avenue Suite 200).
- f. Vikings Football Tailgate, Uptown Artway, October 7, 2018 from 12:00 – 3:00 p.m. (Les Arnold, 4205 Flagstick Drive).
- g. Savoy Brown Concert Fundraiser, Lowe Park Amphitheater, October 7, 2018 from 4:00 – 10:00 p.m. (Jim Jacobmeyer, Artisan's Sanctuary, 1070 7th Avenue).

Motion to approve the following Mayoral appointment:

- a. Tim Mroch, 1225 6th Avenue, Sidewalk Advisory Committee.

Motion to set a special work session regarding the FY2020-2024 Capital Improvement Program for September 17, 2018.

Motion to receive and file memo regarding the resignation of Mike Dooley from the Local Option Sales Tax Oversight Committee.

Motion to approve the recommended terms for the Marion Municipal Airport Committee members as follows:

- a. Bonnie Roth – term ends 12/31/2018
- b. Philip Legate – term ends 12/31/2019
- c. Craig Rairdin – term ends 12/31/2019
- d. Ray Brown – term ends 12/31/2020
- e. Mike Goldberg – term ends 12/31/2020
- f. John Bender – term ends 12/31/2021
- g. Tim Shaffer – term ends 12/31/2021

Motion to approve payments as presented in the amount of \$585,738.62.

Resolution No. 27079 authorizing deferred compensation agreement (Jacob Pisarik).

Resolution No. 27080 approving the engagement letter for Executive Coach Heather Woody.

Resolution No. 27081 approving the contract with Health Solutions for third party administration of the Well-Being Program for the 2019 plan year.

Resolution No. 27082 amending the 04/01/2018 non-bargaining pay schedule to update the IT Support Analyst position.

Motion to receive, file and discuss July 2018 Monthly Department Reports.

Motion to approve Engineering Department project payments as follows:

- a. Resolution No. 27083 approving Partial Payment No. 6 to Anderson-Bogert Engineers regarding the Tower Terrace Road Phase IX Improvements in the amount of \$2,450.00.
- b. Resolution No. 27084 approving Partial Payment No. 3 to Anderson-Bogert Engineers regarding the Marion Runway 17/35 Reconstruction in the amount of \$15,920.13.
- c. Resolution No. 27085 approving Partial Payment No. 7 to Snyder & Associates regarding the 2018 Alburnett Road Extension Phase 1 in the amount of \$22,993.40.

Resolution No. 27086 accepting Prairie Hill 16th Addition to the City of Marion.

Resolution No. 27087 accepting the 2018 Sanitary Sewer Sliplining Project.

Resolution No. 27088 accepting bids and awarding contract to Taube Excavation regarding the 1195 6th Avenue Disposal Project in the amount of \$13,400.00.

Resolution No. 27089 approving contract with Taube Excavation regarding the 1195 6th Avenue Disposal Project.

Resolution No. 27090 accepting bids and awarding contract to Taube Excavation regarding the 1412 5th Avenue Disposal Project in the amount of \$13,185.00.

Resolution No. 27091 approving contract with Taube Excavation regarding the 1412 5th Avenue Disposal Project.

Resolution No. 27092 accepting bids and awarding contract to Taube Excavation regarding the 1480 5th Avenue Disposal Project in the amount of \$10,140.00.

Resolution No. 27093 approving contract with Taube Excavation regarding the 1480 5th Avenue Disposal Project.

Resolution No. 27094 accepting bids and awarding contract to Taube Excavation regarding the 573 14th Street Disposal Project in the amount of \$22,415.00.

Resolution No. 27095 approving contract with Taube Excavation regarding the 573 14th Street Disposal Project.

Resolution No. 27096 accepting bids and awarding contract to Taube Excavation regarding the 880 2nd Street Disposal Project in the amount of \$10,200.00.

Resolution No. 27097 approving contract with Taube Excavation regarding the 880 2nd Street Disposal Project.

Motion to receive, file, discuss and refer to TAC a request regarding speed, traffic flow and crosswalks along 31st Street, 35th Street, Sunburst Avenue and Cardinal Drive. (Kris Benesh, 3315 Sunburst Avenue)

Motion to receive, file, discuss and concur with the TAC Report regarding the request for a stop signs at the intersection of West 34th Avenue and Hawthorne Street. (Buddy Udell, 335 West 34th Avenue)

Resolution No. 27098 approving a stop sign stopping east bound traffic on West 34th Avenue at its intersection with Hawthorne Street.

Resolution No. 27099 approving a stop sign stopping west bound traffic on West 34th Avenue at its intersection with Hawthorne Street.

Motion to approve Planning Department project payments as follows:

- a. Resolution No. 27100 approving Partial Payment No. 9 to Shoemaker Haaland per the contract for the CeMar Trail (Iowa DOT Project No. TAP-U-4475(630)8I-57) in the amount of \$14,036.04.

- b. Resolution No. 27101 approving Partial Payment No. 6 to RDG Planning and Design for services related to an update to the Neighborhood at Indian Creek Master Plan in the amount of \$3,234.07. (Contract amount remaining \$11,865.93.)
- c. Resolution No. 27102 approving Partial Payment No. 21 to Anderson-Bogert Engineers per the contract for the Grant Wood Trail Extension Project (Iowa DOT Project No. TAP-U-4775(628)8I-57) in the amount of \$473.20.

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

- a. Final Plat for DeLong 1st Addition located south of Blairs Ferry Road and north of Twixt Town Road, west of Marion Blvd, Marion, Linn County, Iowa. (DeLong Development Co. LC)

Resolution No. 27103 setting a public hearing for September 6, 2018 regarding approval of an amendment to Chapter 176.32 of the Marion Code of Ordinances regarding accessory structure size.

Resolution No. 27104 setting September 6, 2018 as a public hearing regarding the property between Alburnett Road and Irish Drive north of Tower Terrace to amend the Future Land Use Map of the Marion Comprehensive Plan from Single Family Attached Residential to Single Family Detached Residential & Commercial and Single Family Detached Residential to Commercial and a request to Rezone from Rural Restricted, A-1 to Medium Density Single Family Residential R-2 & General Commercial C-3 and Rural Restricted A-1 to Office/Transitional O-1 (Gill/Green).

All in favor to approve the consent agenda, motion carried.

Mayor AbouAssaly relinquished the gavel to Mayor Pro Tem Gadelha at 5:44 p.m. Mayor Pro Tem Gadelha presided over the meeting.

CONSENT AGENDA WITH MAYOR ABOUASSALY'S ABSTENTION

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

Motion to receive, file and discuss the Engineer's Design Report regarding the Runway 17/35 Reconstruction Project for the Marion Municipal Airport.
(Anderson-Bogert Engineers)

Motion to receive, file, and discuss the Marion Municipal Airport Committee recommendations regarding the Runway 17/25 Reconstruction Project for the Marion Municipal Airport.

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

- a. Final Plat for Marion Enterprise Center 8th Addition located in the 6300 block of Partners Avenue. (J & JM Investments LLC)

Motion approving a letter of support for a Brownfield Tax Credit Application for 1204 7th Avenue. (Hobart Historic Restoration)

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

Mayor Pro Tem Gadelha relinquished the gavel to Mayor AbouAssaly at 5:44 p.m. Mayor AbouAssaly presided over the meeting.

REGULAR AGENDA

Resolution No. 27105 approving the Library Director Employment Agreement with Hollie Trenary was read by Jensen. Moved by Jensen, seconded by Brandt to approve Res. No. 27105. Council Member Gadelha wished Ms. Trenary all the best and looks forward to meeting her. All in favor, motion carried.

Moved by Gadelha, seconded by Strnad to receive, file and discuss a letter from the Indian Creek Watershed Management Authority. (Sandy Pumphrey, Indian Creek Watershed Management Authority) All in favor, motion carried.

Jennifer FencI with East Central Iowa Council of Governments gave a presentation on the Indian Creek Watershed Management Authority. Members of the Indian Creek Watershed Management Authority include Linn County, Soil and Water Conservation District, Marion, Cedar Rapids, Hiawatha and Robins. A list of accomplishments were provided. Noted they received grant funding for a Soil Health Coordinator. Council Member Gadelha asked if there would be a cap to the contribution ask. FencI stated amount requested will be dependent on the success of next project. Mayor AbouAssaly asked if payment would support new Soil Health Coordinator position. FencI stated it would support the position, administration services she provides and materials. Mayor AbouAssaly asked what a successful outcome would be. FencI stated if soil health is achieved, Indian Creek would have better water quality as well as more water. Council Member Gadelha asked if this will be an annual payment, she would like to see more measurable data showing success. Council Member Strnad asked for clarification on in-kind support the City was providing versus cash support. FencI stated in 2016, Marion decided to support in kind instead of cash. Council Member Strnad asked City Manager Lon Pluckhahn how this payment is funded. Pluckhahn stated funding would come from the Stormwater Utility.

Resolution No. 27106 approving payment in the amount of \$17,433 to the Indian Creek Watershed Management Authority was read by Brandt. Moved by Brandt, seconded by Gadelha to approve Res. No. 27106. Mayor AbouAssaly stated they received correspondence from the Marion Water Department in support of payment. Council Member Brandt asked if the City grew to the east, would we then be in another water management authority. City Engineer Mike Barkalow stated a water management authority doesn't currently exist to the east but it could happen. All in favor, motion carried.

Moved by Strnad, seconded by Jensen to receive, file, discuss and refer to TAC a request regarding the use of golf carts within the City Limits. (Joseph Jess, 975 18th Street). Council Member Draper stated if the City were to get serious about golf cart use in city limits, insurance would become an item. He would encourage the city to obtain insurance certificates by those driving on the street. Motion by Gadelha, seconded by Draper to amend motion to remove the referral to TAC. All in favor of amendment, motion carried. All in favor of motion as amended, motion carried.

Resolution No. 27107 approving a grant agreement with the Wellmark Foundation and authorizing funding related to a Safe Routes to School Trail in the amount of \$18,843.25 was read by Draper. Moved by Draper, seconded by Jensen to approve Res. No. 27107. Council Member Brandt asked for confirmation this would be city's portion of the grant. Community Development Director Tom Treharne confirmed. Treharne also stated funding would be added to next year's budget, as amount won't be expended this fiscal year. All in favor, motion carried.

Mayor AbouAssaly 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. (Draper). Community Development Director Tom Treharne presented staff report. Treharne stated this item will come back to include a public hearing for the vacation of property. No comments, written or verbal, were received. Mayor AbouAssaly declared the public hearing closed.

Mayor AbouAssaly opened the public hearing regarding revisions to Chapter 176 Marion Zoning Ordinance by removing and replacing current Chapter 176.06 Rules and Definitions to include new and updated definitions. (Continued from August 9, 2018) No comments, written or verbal, were received. Mayor AbouAssaly declared the public hearing closed.

Ordinance No. 18-20 approving the revision of Chapter 176.06 Rules and Definitions of the Marion Code of Ordinances was read by Jensen for first consideration. Moved by Jensen, seconded by Brandt to approve the first reading of Ord. No. 18-20. Council Member Gadelha asked if staff had heard back from builder's association. Community Development Director Tom Treharne stated Susan Forinash with Cedar Rapids Home Builder's Association had no issues. All in favor, motion carried.

Mayor AbouAssaly opened the public hearing regarding revisions to Chapter 176 Marion Zoning Ordinance by removing and replacing chapter 176.33 Nonconforming Uses, Buildings and Structures with updated provisions and language. (Continued from August 9, 2018) No comments, written or verbal, were received. Mayor AbouAssaly declared the public hearing closed.

Ordinance No. 18-21 approving the revision of Chapter 176.33 Nonconforming Uses, Buildings and Structures of the Marion Code of Ordinances was read by Gadelha for initial consideration. Moved by Gadelha, seconded by Brandt to approved the first reading of Ord. No. 18-21. All in favor, motion carried.

Mayor AbouAssaly opened the public hearing regarding amendment to Chapter 176 Marion Zoning Ordinance, updating Chapter 176.04, Establishment of Districts and Map, to include new zoning district classifications and establishing Chapter 176.51, New Zoning District Classifications. (Continued from August 9, 2018) No comments, written or verbal, were received. Mayor AbouAssaly declared the public hearing closed.

Ordinance No. 18-22 approving the revision of Chapter 176.04, Establishment of Districts and Map, and the creation of Chapter 176.51, New Zoning District Classifications was read by Brandt for initial consideration. Moved by Brandt, seconded by Gadelha to approved the first reading of Ord. No. 18-22. All in favor, motion carried.

Resolution No. 27108 approving the Final Plat and Memorandum of Agreement for Prairie Hill 16th Addition located North of Prairie Ridge Avenue and west of Highway 13, Marion, Iowa (Platinum Development) was read by Strnad. Moved by Strnad, seconded by Brandt to approve Res. No. 27108. All in favor, motion carried.

Mayor AbouAssaly relinquished the gavel to Mayor Pro Tem Gadelha at 6:30 p.m. Mayor Pro Tem Gadelha presided over the meeting.

Resolution No. 27109 approving the Final Plat and Memorandum of Agreement for 13 & 151 2nd Addition located on the northeast corner of Highway 13 & 151 (Mike Esker & Brian Ridge) was read by Draper. Moved by Draper, seconded by Draper to approve Res. No. 27109. Community Development Director Tom Treharne provided staff report. Vote: Yeas: Draper, Jensen, Gadelha, Brandt and Strnad. Nays: None. Abstention: AbouAssaly. Motion carried.

Mayor Pro Tem Gadelha relinquished the gavel to Mayor AbouAssaly at 6:32 p.m. Mayor AbouAssaly presided over the meeting.

Resolution No. 27077 approving a partial deferral of installation of the south 75' of sidewalk adjacent to Downing Farm 1st Addition along Alburnett Road (Tabled on 08/09/2018) was read by Jensen. Moved by Jensen, seconded by Gadelha to approve Res. No. 27077. Community Development Director Tom Treharne presented staff report. Council Member Jensen asked why staff recommend a partial deferral. City Engineer Mike Barkalow stated there would be a lot of extra costs to install sidewalk on that 75 feet. Jordan Anderson (2114 W Sheridan St, Olathe, KS 66061) with Scenic Development spoke in favor of deferring installation of the entire sidewalk. Mayor AbouAssaly asked why Scenic Development wants to defer all of sidewalk. Mr. Anderson stating there is no development to the north. Council Member Strnad commented that the residents of Scenic Development's project will use the sidewalk and is leaning towards installation. Council Member Brandt asked if the owner has certain number of days to install the sidewalk. Barkalow stated they would need the sidewalk installed before a final occupancy certificate can be issued. All in favor, motion carried.

OTHER DEPARTMENT DISCUSSION –

Parks: Parks Director Mike Carolan introduced City Arborist Mike Cimprich. Mike Cimprich provided an update regarding Emerald Ash Borer (EAB) Response. There are currently 969 ash trees within the public right-of-way or parks. This is 15% of the total trees. To date, Urban Forestry staff have removed over 100 ash trees. Staff are also continuing to provide proactive maintenance, which includes sampling, reviewing dense pockets of ash trees for symptoms and targeting poor condition ash trees for removal and sampling. The City received a private resident concern on August 1, 2018. This is located along 44th Street, north of Business Highway 151 and south of McGowan Boulevard. Positive signs of EAB were discovered. Pictures were submitted to the Iowa Department of Agriculture and Land Stewardship (IDALS) who forwarded them to the Iowa State University Plant and Insect Diagnostic Clinic. It was confirmed that the presence of Emerald Ash Borer existed. Urban Forestry staff evaluated trees within a two-mile radius of initial confirmation as well as established a one-mile radius around the area for removals. There were 232 ash trees within that radius. Ash trees in the immediate area shall be removed as soon as possible to eliminate habitat for other EAB infestations and slow the spread. It is the intention of Urban Forestry staff to eliminate Marion's ash tree population over the course of the next five years.

Mike Cimprich stated staff and equipment needs would be evaluated as the removal process moves forward. Some other items to consider are budget adjustments for the added costs, tree replacement increases and an increase in wood material handling. Council Member Strnad asked for clarification that the total tree count given was just city owned trees. Cimprich confirmed. Strnad stated ash tree removal on private property would be a huge cost to homeowners. Cimprich stated they are looking at other cities who offer borrowing programs or other options for homeowners. Council Member Gadelha asked what the injections to ash trees do. Cimprich stated it is the best preventative for EAB. Council Member Jensen asked if someone has EAB already, does the treatment help. Cimprich confirmed that it will kill existing EAB as well as help prevent for the future. Jensen asked if Parks Department has a list of tree removal companies. Cimprich stated that they could recommend. He also recommended residents use a certified arborist. Mayor AbouAssaly stated the staff currently working on trees have been very courteous with residents.

PUBLIC FORUM –

Eric Brown (1560 25th Avenue) wanted to bring attention to the deterioration of Indian Creek Road between 10th Street and 25th Avenue and lack of a safe crossing Brockman Avenue south of 25th Avenue. Mr. Brown showed a video clip of the potholes and damage of Indian Creek Road. Mr. Brown wanted to know why repair of this road is not budgeted. City Engineer Mike Barkalow stated the city has limited resources. He stated there are annual programs in the Capital Improvement Program but specific streets have not been determined yet. Traffic volume is also taken into consideration on which streets to repair. He also stated this road could see some repair in the next five years but the kind of repair is undetermined at this time. Barkalow also stated the future Indian Creek trail would solve the issue regarding a safe crossing.

COUNCIL DISCUSSION –

Mayor AbouAssaly state there were ribbon cuttings for Marion Process Solutions and Emerson School this week. Emerson School is home of the Marion Homeschool Program which is Iowa's largest homeschool program with over 1000 students. He also wished good luck to the two new businesses in the uptown. Mayor AbouAssaly also wanted to thank staff and the community for their kindness to him and his family with the passing of his mother.

Mayor AbouAssaly left the meeting at 7:36 p.m. Mayor Pro Tem Gadelha presided over the meeting.

Council Member Strnad wanted to congratulate Sergeant Schamberger. He also asked for an update regarding the roundabout at 15th Street. City Engineer Mike Barkalow stated it is a private/public partnership so the City is unable to assess charges for any delays. Council Member Jensen asked if the developer can provide an estimated completion date. Council Member Strnad asked if it is a normal practice to agree to a private/public partnership for this type of development. Barkalow stated this was a way to get the overall project completed faster.

Council Member Brandt stated that because the roundabout will not be completed by Swamp Fox, the parade route will be changing. He wanted to remind everyone that Swamp Fox is September 29, 2018.

Council Member Draper provided a history of Marion Square Park. He stated the trees there were planted in 1891 and we need to continue to protect those trees in the park.

Council Member Gadelha thanked staff for all the details and information provided in staff reports. She was also very impressed that we have a tree inventory. She stated all the information helps Council make informed decisions.

CLOSED SESSION

Moved by Brandt, seconded by Strnad to adjourn to closed session regarding land acquisition as permitted under Section 21.5(1)(j) of the Code of Iowa. City Attorney Kara Bullerman stated that she reviewed the subject matter to be discussed and found it to be an appropriate topic for closed session. Roll Call: Yeas: Draper, Jensen, Gadelha, Brandt and Strnad. Nays: None. Motion carried.

Motion by Draper, seconded by Strnad to reconvene to regular session. All in favor, motion carried.

Mayor Pro Tem Gadelha adjourned the meeting at 8:00 p.m.

Rene Gadelha, Mayor Pro Tem

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