

April 4, 2019

The City Council of the City of Marion, Linn County, Iowa met in regular session, Thursday, April 4, 2019, at 5:31 p.m. in the council chambers of City Hall with Mayor AbouAssaly presiding and the following council members present: Draper, Atkins, Jensen, Strnad, Brandt. Absent: Gadelha

The meeting opened with the Pledge of Allegiance.

Council observed a moment of silence.

### **PROCLAMATIONS/OATHS**

Mayor read a proclamation for Child Abuse Prevention Month.

Mayor read a proclamation for Sexual Assault Awareness Month and presented it to Jonathan Chambers with the Riverview Center.

Mayor read a proclamation for Fair Housing Month and presented it to Kim Gordon with the Marion Civil Rights Commission.

### **PRESENTATIONS**

Joe Hill (1325 Pacific Coast Highway Unit 2707, San Diego, CA) provided an update regarding the 520 12th Street and 525 11th Street Project. He has finalized the purchase of the lots where houses will go, started cleaning up site, has met with staff regarding zoning and variance requests, submitted paperwork to start the alley vacation process and has talked with Goodwin House Movers and will finalize date of house move.

David Sorg (OPN Architects, 200 5th Avenue SE, Suite 201, Cedar Rapids, IA) presented the design for the New Fire Station.

Council Member Gadelha arrived at 5:56 p.m.

Council Member Jensen asked if the decontamination area will need to be put in the other stations. Fire Chief Deb Krebill stated yes, within the next couple years. Council Member Jensen asked about start and completion date. David Sorg stated construction should start by September 2019 and completed by July 1, 2020.

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

Motion to approve the Hold Harmless Agreement for St. Joseph's Fun Days was removed from the Consent Agenda for separate consideration.

### **CONSENT AGENDA**

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

Motion to approve minutes of the March 19 and 21, 2019 City Council meetings.

Motion to approve the following liquor license applications:

- a. Renewal – Zoey’s Pizzeria – 690 10th Street  
Special Class C Liquor License (BW) (Beer/Wine) with additional privilege  
Sunday Sales. No violations in the last five years.
- b. Renewal – Cocktails & Company – 1625 Blairs Ferry Road  
Class C Liquor License with additional privileges of Outdoor Service and  
Sunday Sales. No violations in the last five years.
- c. Renewal – Uptown Snug – 760 11th Street  
Class C Liquor License (LC) with additional privileges Class B Wine  
Permit, Outdoor Sales and Sunday Sales. No violations in the last five  
years.
- d. Renewal – Ramsey’s Metro Market – 1120 7th Avenue  
Class C Liquor License with additional privileges of Class B Wine Permit,  
Outdoor Sales and Sunday Sales. One violation in the last five years.

Resolution No. 27537 accepting waiver of hearing and consent to alcohol  
violation penalty/settlement agreement and imposing the penalties established in  
Section 123.50(3) of the Code of Iowa. (Ramsey’s Metro Market)

Resolution No. 27538 accepting waiver of hearing and consent to tobacco  
violation penalty/settlement agreement and imposing the penalties established in  
Section 453A.22(2) of the Code of Iowa. (Hy-Vee Drug Store)

Resolution No. 27539 accepting waiver of hearing and consent to tobacco  
violation penalty/settlement agreement and imposing the penalties established in  
Section 453A.22(2) of the Code of Iowa. (Dollar General #7226)

Motion to approve the following Hold Harmless Agreement(s):

- a. Wedding; June 29, 2019 8:00 a.m. to 11:00 p.m.; Klopfenstein  
Amphitheater (Kelly Kimble, 3109 29th Avenue SW) (Permit #2019-  
00000017)

Motion to approve payments as presented in the amount of \$1,831,745.47.

Resolution No. 27540 setting the date for sale of General Obligation Bonds,  
Series 2019A and General Obligation Urban Renewal Refunding Bonds, Series  
2019C and authorizing the use of a preliminary official statement in connection  
therewith.

Resolution No. 27541 setting the date for the sale of General Obligation Annual  
Appropriation Bonds, Series 2019B and authorizing the use of a preliminary  
official statement in connection therewith.

Resolution No. 27542 setting a public hearing for May 23, 2019 regarding the proposed adoption of a fiscal year 2018-2019 budget amendment.

Resolution No. 27543 setting a date of meeting at which it is proposed to approve a Development Agreement with Synergy Partners, Inc., including annual appropriation tax increment payments.

Resolution No. 27544 approving rental agreement with Mid-Iowa Solid Waste Equipment Company in the amount of \$17,600.00.

Resolution No. 27545 approving partial payment no. 8 to Anderson-Bogert Engineers regarding the 2018 Central Corridor-7th Ave. Preliminary Design project in the amount of \$22,332.50.

Resolution No. 27546 approving Temporary Construction Easement with R & L Hochstedler, LLC, for property located at 2504 5th Avenue regarding the Central Corridor Improvements – Phase 4 (19th Street to 26th Street).

Resolution No. 27547 approving Temporary Construction Easement with Emerson Mattress Inc., for property located at 2525 7th Avenue regarding the Central Corridor Improvements – Phase 4 (19th Street to 26th Street).

Resolution No. 27548 approving contract and bond with Rathje Construction Company regarding the 2019 Sanitary Sewer Maintenance Project.

Motion directing staff to prepare a letter of request to the Iowa Department of Transportation (IDOT) regarding Speed Limit Zones along Iowa 13 within the City of Marion and to the north.

Resolution No. 27549 approving the policy for the application for future Major Streets Oversizing Cost Reimbursements in association with Future Private Development Projects.

Resolution No. 27550 approving the policy for the Reimbursement Request for Major Streets Oversizing Cost in Association with Private Development Projects.

Motion to approve Planning Department project payments as follows:

- a. Resolution No. 27551 approving payment no. 2 to Anderson-Bogert Engineers for general airport consulting for engineering and/or land surveying services per the contract for the Marion Airport in the amount of \$559.00.

- b. Resolution No. 27552 approving payment no. 9 to Snyder & Associates per the contract for the Indian Creek Trail [STP-U-4775(631) --70-57] in the amount of \$8,672.26.
- c. Resolution No. 27553 approving payment no. 41 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 \$91.48.

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

- a. The Marion Central Corridor Districts Plan for property between 2nd Street and 31st Street and 5th Avenue and 9th Avenue. (City of Marion)
- b. An amendment to Section 176.04, Establishment of Districts & Maps of the Marion Code of Ordinance to include Central Corridor Zoning Districts. (City of Marion)
- c. An amendment to Section 176.50, Central Corridor Interim Development Overlay to establish the Marion Central Corridor Zoning Districts. (City of Marion)

Resolution No. 27554 setting a public hearing for April 18, 2019 regarding a new Housing Program and a new Housing Code Table of Fees.

All in favor, motion carried.

Moved by Brandt, seconded by Jensen to approve the following Hold Harmless Agreement:

- a. St. Joseph's Fun Days; May 31 – June 2, 2019; 1790 14th Street, Marion (St. Joseph's Church, 1790 14th Street) (Permit #2019-00000010)

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

Mayor AbouAssaly relinquished the gavel to Mayor Pro Tem Strnad at 6:24 p.m. Mayor Pro Tem Strnad presided over the meeting.

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

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

Resolution No. 27555 approving one year contract renewal for the period July 1, 2019 through June 30, 2020 for Employee Assistance Program with Mercy Medical Center.

Resolution No. 27515 approving contract with OPN Architects regarding the development of the new fire station. (Removed 3/21/19)

Resolution No. 27556 approving partial payment no. 4 to Martin Gardner Architecture for professional services regarding the Lowe Park Maintenance Facility Addition Project in the amount of \$8,160.00.

Resolution No. 27557 approving partial payment no. 10 to Anderson-Bogert Engineers regarding the Marion Runway 17/35 Reconstruction project in the amount of \$2,969.27.

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

- a. A Central Corridor Interim Development Overlay (IDO) review regarding the GLD Multi-Tenant Commercial Building Development Plan located at 2791 7th Avenue. (GLD Properties LLC)

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

Mayor Pro Tem Strnad relinquished the gavel to Mayor AbouAssaly at 6:25 p.m. Mayor AbouAssaly presided over the meeting.

## **REGULAR AGENDA**

Ordinance No. 19-06 amending Chapter 17 of the Code of Ordinances Relating to Council was read by Gadelha for initial consideration. Moved by Gadelha, seconded by Brandt to approve the first reading of Ord. No. 19-06. All in favor, motion carried.

Resolution No. 27533 adopting a Revenue Purpose Statement regarding use of revenues from proposed gas and electric franchise fees pursuant to Iowa Code Section 364.2 (4)(f) (Tabled 03/21/2019) was read by Atkins. Moved by Atkins, seconded by Jensen to approve Res. No. 27533. Mayor AbouAssaly asked what the percentage was for property tax relief. City Attorney Kara Bullerman stated 100%. Council Member Atkins asked how long this purpose statement is in effect. Kara stated it can be kept in effect as long as we want and can amend if needed. All in favor, motion carried.

Mayor AbouAssaly opened the public hearing regarding the proposed adoption of an ordinance amending Chapter 110 of the Code of Ordinances regarding Natural Gas Franchise with MidAmerican Energy Company including the addition of franchise fees. City Attorney Kara Bullerman provided staff report and recommended the public hearing be kept open until next Thursday's meeting. She also recommended Ord. No. 19-07 be tabled until next Thursday as well. No comments, written or verbal, were received. Mayor AbouAssaly stated the public hearing will remain open.

Moved by Jensen, seconded by Strnad to table 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. All in favor, motion carried.

Mayor AbouAssaly opened the public hearing regarding the proposed adoption of an ordinance amending Chapter 111 of the Code of Ordinances regarding Electric Franchise with Interstate Power and Light Company (Alliant) including the addition of franchise fees. City Attorney Kara Bullerman provided staff report. No comments, written or verbal, were received. Mayor AbouAssaly declared the public hearing closed.

Ordinance No. 19-08 amending Chapter 111 of the Code of Ordinances regarding Electric Franchise with Interstate Power and Light Company (Alliant) including the addition of franchise fees was read by Strnad for initial consideration. Moved by Strnad, seconded by Draper to approve the first reading of Ord. No. 19-08. All in favor, motion carried.

Mayor AbouAssaly opened the public hearing regarding the proposed adoption of an ordinance regarding a Franchise Agreement with Linn County Rural Electric Cooperative Association (Linn County REC) to include franchise fees. City Attorney Kara Bullerman provided staff report. No comments, written or verbal, were received. Mayor AbouAssaly declared the public hearing closed.

Ordinance No. 19-09 adding Chapter 114 to the Code of Ordinances regarding a Franchise Agreement with Linn County Rural Electric Cooperative Association (Linn County REC) to include franchise fees was read by Brandt for initial consideration. Moved by Brandt, seconded by Gadelha to approve the first reading of Ord. No. 19-09. All in favor, motion carried.

Resolution No. 27558 approving a Memorandum of Understanding (MOU) with Seven Hills East LLC was read by Gadelha. Moved by Gadelha, seconded by Brandt to approve Res. No. 27558. All in favor, motion carried.

Moved by Atkins, seconded by Brandt to receive and file Police Officer Certified List. All in favor, motion carried.

Moved by Jensen, seconded by Atkins to approve the following Mayoral appointment:

- a. Zoning Board of Adjustment

Angela Jordan, 965 Quarry Oak Drive, term expires 12/31/23

All in favor, motion carried.

Moved by Strnad, seconded by Brandt to approve Project Calendar regarding the RCB Culvert Under Central Avenue North of Indian Creek, as follows:

- a. Motion to retain the City Engineer as Project Engineer regarding the RCB Culvert Under Central Avenue North of Indian Creek.

- b. Resolution No. 27559 approving Resolution of Necessity regarding the RCB Culvert Under Central Avenue North of Indian Creek.
- c. Resolution No. 27560 ordering preparation of detailed plans, specifications, notice of hearing and letting, notice to bidders, form of contract, and estimate of cost regarding the RCB Culvert Under Central Avenue North of Indian Creek.
- d. Resolution No. 27561 approving and adopting final plans, specifications, notice of hearing and letting, notice to bidders, form of contract, and estimate of cost regarding the RCB Culvert Under Central Avenue North of Indian Creek.

All in favor, motion carried.

Mayor AbouAssaly relinquished the gavel to Mayor Pro Tem Strnad at 7:02 p.m. Mayor Pro Tem Strnad presided over the meeting.

Resolution No. 27562 approving contract with HR Green for engineering design services regarding the 10th Street and Central Avenue/10th Avenue Intersection Project in an amount not to exceed \$58,724.00 was read by Brandt. Moved by Brandt, seconded by Jensen to approve Res. No. 27562. Vote: Yeas: Atkins, Jensen, Strnad, Brandt, Gadelha. Nays: Draper. Abstention: AbouAssaly. Motion carried.

Resolution No. 27563 authorizing the submittal of a 2020 Airport State Funding Application which includes the development of an Instrument Approach Procedure and the purchase of an Automated Weather Observation System (Marion Airport Advisory Committee) was read by Gadelha, seconded by Brandt to approve Res. No. 27563. Vote: Yeas: Draper, Atkins, Jensen, Strnad, Brandt, Gadelha. Nays: None. Abstention: AbouAssaly. Motion carried.

Moved by Atkins, seconded by Draper to direct staff to enter into a sales agreement for City owned property located adjacent to 2791 7th Avenue in the amount of \$1,140.00. (GLD Properties LLC). Community Development Director Tom Treharne stated developers have offered to increase amount to \$2,000 plus include survey and abstract fees. Moved by Jensen, seconded by Atkins to amend motion to direct staff to enter into a sales agreement for City owned property located adjacent to 2791 7th Avenue in the amount of \$2,000.00 plus survey and abstract fees. Vote on motion to amend: Yeas: Draper, Atkins, Jensen, Strnad, Brandt, Gadelha. Nays: None. Abstention: AbouAssaly. Motion to amend carried. Council Member Brandt asked if this was final. Tom stated the final sales agreement would come back before Council. Vote on amended motion: Yeas: Draper, Atkins, Jensen, Brandt, Gadelha. Nays: Strnad. Abstention: AbouAssaly. Amended motion carried.

Resolution No. 27564 setting a public hearing for April 18, 2019 regarding the disposition of City owned property located adjacent to 2791 7th Avenue (GLD Properties LLC) was read by Jensen. Moved by Jensen, seconded by Atkins to approve Res. No. 27564. Community Development Director Tom Treharne stated this item will need to be tabled as a legal description is needed prior to sale. Moved by Atkins,

seconded by Jensen to table Res. No. 27564. Vote: Yeas: Draper, Atkins, Jensen, Strnad, Brandt, Gadelha. Nays: None. Abstention: AbouAssaly., motion to table carried.

Mayor Pro Tem Strnad relinquished the gavel to Mayor AbouAssaly at 7:35 p.m. Mayor AbouAssaly presided over the meeting.

Mayor AbouAssaly opened the public hearing regarding The Neighborhood at Indian Creek Master Plan for property between 35th Avenue & Tower Terrace Road extended and 35th Street & 44th Street extended. (City of Marion) Charlie Cowell (RDG Planning & Design, 301 Grand Avenue, Des Moines, IA) provided an overview of the Master Plan. No other comments, written or verbal, were received. Mayor AbouAssaly declared the public hearing closed.

Resolution No. 27565 adopting The Neighborhood at Indian Creek Master Plan for property between 35th Avenue & Tower Terrace Road extended and 35th Street & 44th Street extended. (City of Marion) was read by Strnad. Moved by Strnad, seconded by Gadelha to approve Res. No. 27565. Mayor AbouAssaly asked if trends show this type of development is in demand. Charlie confirmed. Council Member Brandt stated he asked other realtors about the smaller two stall garage houses. They all liked the aspect of smaller lots and state people like lower price point versus more garage space. All in favor, motion carried.

Mayor AbouAssaly opened the public hearing regarding an amendment to the Future Land Use Map of the Marion Comprehensive Plan located between 35th Avenue & Indian Creek Road/Indian Creek Way and 35th Street/Lucre Road & Highway 13. (City of Marion). Community Development Director Tom Treharne provided staff report. No comments, written or verbal, were received. Mayor AbouAssaly declared the public hearing closed.

Resolution No. 27566 amending the Future Land Use Map of the Marion Comprehensive Plan located between 35th Avenue & Indian Creek Road/Indian Creek Way and 35th Street/Lucre Road & Highway 13 (City of Marion) was read by Brandt. Moved by Brandt, seconded by Draper to approve Res. No. 27566. All in favor, motion carried.

Mayor AbouAssaly opened the public hearing regarding zoning from Undesignated and C-1, Neighborhood Commercial to PD-S, Planned Development Special for property between 35th Avenue & Tower Terrace Road extended and 35th Street & 44th Street extended. (City of Marion). Community Development Director Tom Treharne provided staff report. No comments, written or verbal, were received. Mayor AbouAssaly declared the public hearing closed.

Ordinance No. 19-10 approving zoning from Undesignated and C-1, Neighborhood Commercial to PD-S, Planned Development Special for property between 35th Avenue & Tower Terrace Road extended and 35th Street & 44th Street extended (City of



Marion) was read by Gadelha for initial consideration. Moved by Gadelha, seconded by Brandt to approve the first reading of Ord. No. 19-10. All in favor, motion carried.

Mayor AbouAssaly opened the public hearing regarding zoning from Undesignated to PI, Public Institutional located north of 35th Avenue, east of 35th Street. (Linn-Mar Community School District) Community Development Director Tom Treharne provided staff report. No comments, written or verbal, were received. Mayor AbouAssaly declared the public hearing closed.

Ordinance No. 19-11 approving zoning from Undesignated to PI, Public Institutional located north of 35th Avenue, east of 35th Street was read by Atkins for initial consideration (Linn-Mar Community School District) Moved by Atkins, seconded by Jensen to approve the first reading of Ord. No. 19-11. All in favor, motion carried.

Ordinance No. 19-05 approving an amendment to Section 176.25 of the Marion Code of Ordinance to allow the sale of consumer fireworks in the I-1, Restricted Industrial District was read by Jensen for final consideration. Moved by Jensen, seconded by Atkins to approve the third reading of Ord. No. 19-05. Jensen stated he would consider amending motion that would allow for sales in 2019 only for brick and mortar locations that sold for past two years. No other council members seconded. Council Member Strnad asked if there was any movement at state level. Fire Chief Deb Krebill stated it passed out of committee but has stalled ever since. All in favor, motion carried.

Resolution No. 27567 approving an Acquisition Plat for part of Parcel A, Plat of Survey No. 1534 that is part of Lucore Road perpendicular to Indian Creek Road. (City of Marion) was read by Strnad. Moved by Strnad, seconded by Brandt to approve Res. No. 27567. All in favor, motion carried.

#### **OTHER DEPARTMENT DISCUSSION**

Public Services Director Ryan Miller provided update regarding Phase One of the Eco Industrial Park (Public Services Maintenance Facility). Council discussed if building should be a pre-engineered steel frame or pre-engineered precast concrete. Consensus was to look into the steel frame option.

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

#### **COUNCIL DISCUSSION**

Council Member Draper provided facts about Marion's first fire truck and how that would make a great feature out at new fire station. He also provided some history about George Murdoch.

Mayor AbouAssaly stated he recently attended the opening of the Cedar Rapids Encore Café and was asked to be speaker at the Leadership for Five Seasons – Youth Program graduation. He would like to recognize the rest of Council for reaching higher as it was a good decision to save the houses at 520 12th Street and 525 11th Street.

Mayor AbouAssaly adjourned the meeting at 8:47 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\_\_\_\_.

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Rachel Bolender, City Clerk