



MINUTES

City Council Regular Session

5:30 PM - Thursday, July 22, 2021

City Hall, 1225 6th Avenue

The City Council of the City of Marion, Linn County, Iowa met in regular session, on Thursday, July 22, 2021, 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

Proclamation - National Disability Independence Day (July 26, 2021)

Mayor Pro Tem Atkins read and presented the proclamation referenced above to Kent Jackson with the Marion Civil Rights Commission.

PRESENTATIONS

No presentations took place.

PUBLIC FORUM

No one came forward to speak.

CONSENT AGENDA

Administrative Services

Minutes of the July 6, 2021 City Council meeting.

Liquor licenses including the following:

- Renewal - Goldfinch Tap & Eatery - 740 10th Street
- Renewal - Casey's General Store #2924 - 1100 Eagleview Drive
- New - The Hip-Stir - 1120 7th Avenue

Motion to approve the Fiscal Year 2022 Cigarette License for the following:

- Neighborhood Tobacco Outlet - 2500 7th Avenue (LLC Ownership Change)

Payments as presented in the amount of \$1,059,849.65.

Receive and file June 2021 Department Monthly Reports.

Resolution No. 29712 adopting final assessment schedule for Fiscal Year 2022 Quarter 1 Delinquent Fees and Confirming and Levying the Assessments.

Motion to approve a Hold Harmless agreement with the Marion Chamber of Commerce regarding the Uptown Getdown event on August 5, 12, 9, and 26, 2021 at Lowe Park.

Resolution No. 29713 authorizing payout of earned and unused accumulated leave to Lon Pluckhahn on the August 6, 2021 payroll.

Public Safety

Resolution No. 29714 approving payment to Graybill Communications for outfitting two new Police Interceptor Utility vehicles in the amount of \$36,885.36.

Resolution No. 29715 approving deviation from the Marion purchasing policy and approving the purchase of a replacement squad car from Stiver's Ford in the amount of \$33,855.

Resolution No. 29716 approving purchase from Karl Chevrolet of equipment to outfit the new Battalion Chief vehicle in an amount not to exceed \$45,000

Resolution No. 29717 approving purchase of a Zoll monitor from Coast Biomedical Equipment in the amount of \$27,000.

Engineering

Resolution No. 29718 approving agreement with Richardson Properties LLC regarding the 2021 Central Corridor 7th Avenue from 8th Street to 12th Street Pavement Reconstruction and Streetscaping Project (TRANS-18-101)

Resolution No. 29719 approving agreement with Arnold Property Group LLC regarding the 2021 Central Corridor 7th Avenue from 8th Street to 12th Street Pavement Reconstruction and Streetscaping Project (TRANS-18-101)

Resolution No. 29720 approving agreement with MMP Investments, Inc. regarding the 2021 Central Corridor 7th Avenue from 8th Street to 12th Street Pavement Reconstruction and Streetscaping Project (TRANS-18-101)

Resolution No. 29721 approving payment to East Central Iowa Council of Governments for the Indian Creek Watershed Authority in the amount of \$17,433.00.

Resolution No. 29722 approving Partial Payment No. 7 to Stanley Consultants regarding the Central Corridor Project in the amount of \$3,538.67. (TRANS-18-091)

Resolution No. 29723 approving Partial Payment No. 3 to Shoemaker & Haaland regarding Marion/CeMar Trail Construction Management Services in the amount of \$1,582.35. (TAP-U-4775(638)—81-57) (TRL-17-055)

Resolution No. 29724 Rescinding a Portion of Resolution No. 29429 Regarding

No Parking Zones and Establishing No Parking Zones on the West Side of 9th Street

Resolution No. 29725 Setting Public Hearing for August 19, 2021 regarding Indian Creek and Dry Run Creek Truck Sanitary Sewer Capacity Improvements – Segment 7 (SWR-17-026)

Community Development

Resolution No. 29726 setting the date of August 5, 2021 for a public hearing regarding an update to the Official Marion Zoning Map for property located within City Council Ward 4, which includes precincts 11, 12 13 and 14. (City of Marion)

Resolution No. 29727 approving payment no. 5 to RDG Planning & Design, Inc. for professional services regarding the 11th Street Plaza Project in the amount of \$872.36. (GOV-19-122)

Resolution No. 29728 approving payment no. 15 to Universal Field Services, Inc for services related to the Indian Creek Trail Project in the amount of \$2,695.00. (Iowa DOT Project Number: STP-U-4775(631) --70-57) (TRL-18-056).

Resolution No. 29729 approving payment no. 12 to HDR Engineering, Inc for engineering services associated with the 10th Avenue Sidepaths project (Iowa DOT Project Number: TAP-U-4775(635)—8I-57) in the amount of \$4,527.53. (TRL-18-110)

Resolution No. 29730 approving payment no. 1 to RDG Planning & Design, Inc. for professional services regarding the East Area Land Planning in the amount of \$7,460.83. (GOV-19-122)

Resolution No. 29731 approving payment no. 2 to RDG Planning & Design, Inc. for professional services regarding the East Area Land Planning in the amount of \$7,400.00. (GOV-19-122)

Moved by Strnad, seconded by Harper, to approve consent agenda as shown above but removing Resolution No. 29277 for separate consideration. Council Member Strnad stated that was a mistake to remove Resolution No. 29277. City Attorney Kara Bullerman stated it would be best to amend the motion that was made. Moved by Atkins, seconded by Jensen to amend motion by approving entire consent agenda as shown above. Approved unanimously to amend motion.

Amended Motion Approved unanimously

Mayor AbouAssaly relinquished the gavel to Mayor Pro Tem Atkins at 5:39 p.m. Mayor Pro Tem Atkins presided over the meeting.

CONSENT AGENDA WITH MAYOR ABOUASSALY'S ABSTENTION

Public Services

Resolution No. 29732 approving change order no. 6 with Mid-States Concrete Industry regarding the Precast Concrete Package for the Public Services Maintenance Facility in the amount of \$131,400.00 (FACS-17-069).

Resolution No. 29733 approving partial payment No. 7 to Mid-States Concrete regarding the Precast Concrete Package for the Public Service Maintenance Facility in the amount of \$131,400.00 (FACS-17-069).

Resolution No. 29734 approving partial payment no. 10 to Wendling Quarries, Inc. for final disposition of storm debris in the amount of \$255,525.65.

Resolution No. 29735 approving contract with Shive-Hattery for design services related to derecho repairs for the existing Public Service facility in an amount not to exceed \$15,000.

Community Development

Resolution No. 29736 approving payment no. 2 to HDR Engineering, Inc for consultant services associated with the Task Order One: Marion Airport project in the amount of \$7,981.43. (ANN-18-082)

Resolution No. 29737 setting the date of August 5, 2021 for a public hearing regarding a request for approval of a preliminary and final site development plan for Smoothie King at the northwest corner of 62nd Street and Carlson Way.

Moved by Harper, seconded by Jensen, to approve consent agenda with Mayor AbouAssaly's abstention as shown above. Resolution No. 28737 was removed from the consent agenda for separate consideration.

Approved by the following votes:

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

Abstained: AbouAssaly

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

Resolution No. 29737 setting the date of August 5, 2021 for a public hearing regarding a request for approval of a preliminary and final site development plan for Smoothie King at the northwest corner of 62nd Street and Carlson Way. (was removed from Consent Agenda with Mayor AbouAssaly's abstention for separate consideration)

Moved by Harper, seconded by Brandt, to approve Resolution No. 29737. Council Member Gadelha stated she has concerns regarding stacking of cars with the design as presented. Council Member Strnad and Council Member Harper both shared similar concerns. Community Development Director Tom Treharne stated staff would like the public hearing to still be held to give the development an opportunity to speak. City Attorney Kara Bullerman stated the action item on August 5, 2021 regarding this item could also be tabled if Council chooses not to move forward with the plan as presented.

Approved by the following votes:

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

Abstained: Atkins and AbouAssaly

Deputy Mayor Pro Tem Jensen relinquished the gavel to Mayor AbouAssaly at

5:56 p.m. Mayor AbouAssaly presided over the meeting.

REGULAR AGENDA

Administrative Services

Ordinance No. 21-19 Amending Chapter 99, Sections 99.02 and 99.04 of the Code of Ordinances relating to Sewer Service Charges - Connection Fees. (Second Consideration)

Moved by Jensen, seconded by Harper, to approve second consideration of Ordinance No. 21-19.

Approved unanimously

Motion to approve a Hold Harmless agreement with Rene Gadelha regarding a backyard gathering on July 31, 2021 at 3476 Barnsley Circle.

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

Approved by the following votes:

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

Abstained: Gadelha

Resolution No. 29738 appointing Community Development Director Tom Treharne as Acting City Manager and Fire Chief Deb Krebill as Acting City Manager Pro Tem.

Moved by Brandt, seconded by Gadelha, to approve Resolution No. 29738.

Approved unanimously

Engineering

Resolution No. 29739 approving Change Order 001 with Ahern Fire Protection regarding the Marion Library Bid Pakg 21A Fire Suppression regarding sprinkler layout in the amount of \$2,407.00. (FACS-17-034)

Moved by Gadelha, seconded by Atkins, to approve Resolution No. 29739.

Approved unanimously

Resolution No. 29740 approving Change Order 002 with Pearson Wall Systems regarding the Marion Library Bid Pkg 09A Gypsum Board and Acoustics regarding changes to the second floor study rooms in the amount of \$1,942.00 (FACS-17-034)

Moved by Strnad, seconded by Gadelha, to approve Resolution No. 29740.

Approved unanimously

Resolution No. 29741 approving Change Order 002 with Ahern Fire Protection regarding the Marion Library Bid Pakg 21A Fire Suppression regarding moving the FDC in the amount of \$12,837.00. (FACS-17-034)

Moved by Harper, seconded by Brandt, to approve Resolution No. 29741.

Approved unanimously

Resolution No. 29742 approving Change Order 002 with Acme Electric company

regarding the Marion Library Project – Bid Pkg 26A regarding Electrical regarding the moving the FDC in the amount of \$789.00. (FACS-17-034)

Moved by Jensen, seconded by Harper, to approve Resolution No. 29742.

Approved unanimously

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

- Resolution No. 29743 approving Change Order No 004 with Bush Construction regarding the Marion Library Project – Construction Manager as Adviser to transfer \$2,407.00 from Contingency to Mechanical Changes. (FACS-17-034)
- Resolution No. 29744 approving Change Order No 005 with Bush Construction regarding the Marion Library Project – Construction Manager as Adviser to transfer \$6,020.00 from Contingency to CR 031 – ASI 042. (FACS-17-034)
- Resolution No. 29745 approving Change Order No 006 with Bush Construction regarding the Marion Library Project – Construction Manager as Adviser to transfer \$1,942.00 from Contingency to CR 040 – PR 005 – Framing for second floor study room. (FACS-17-034)

Moved by Atkins, seconded by Jensen, to approve project calendar as shown above. Council Member Jensen asked that an update regarding the Library Project be given at a future meeting.

Approved unanimously

Resolution No. 29746 approving Change Order 001 with Commercial Flooring regarding the Marion Library Project – Bid Pkg 09B Flooring regarding the change to the rubber flooring layout in the amount of \$6,020.00 (FACS-17-034)

Moved by Brandt, seconded by Gadelha, to approve Resolution No. 29746.

Approved unanimously

Mayor AbouAssaly relinquished the gavel to Mayor Pro Tem Atkins at 6:07 p.m. Mayor Pro Tem Atkins presided over the meeting.

Resolution No. 29747 approving contract and bond with Peterson Contractors Inc. regarding the 10th Avenue Sidepaths PCC Sidewalk/Trail in the amount of \$2,705,569.91. (TAP-U-4775(635)—8I-57)(TRL-18-110)

Moved by Gadelha, seconded by Brandt, to approve Resolution No. 29747.

Approved by the following votes:

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

Abstained: AbouAssaly

Resolution No. 29748 approving Memorandum of Agreement with Lux Air Aviation LLC regarding the AirCom Park Sanitary Sewer Extension Project (SWR-18-111)

Moved by Strnad, seconded by Jensen, to approve Resolution No. 29748.

Mayor AbouAssaly left the meeting at 6:09 p.m.

Approved by the following votes:

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

Resolution No. 29749 approving Memorandum of Agreement with P&N Flight and Charter regarding the AirCom Park Sanitary Sewer Extension Project (SWR-18-111)

Moved by Harper, seconded by Jensen, to approve Resolution No. 29749.

Approved by the following votes:

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

Resolution No. 29750 approving and adopting final plans, specifications, notice of hearing and letting, notice to bidders, form of contract, and estimate of cost regarding the Marion AirCom Park Sanitary Sewer Extension Project (SWR-18-111)

Moved by Jensen, seconded by Harper, to approve Resolution No. 29750.

Approved by the following votes:

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

Community Development

Resolution No. 29751 approving a request for four (4) building permits prior to the approval of the Ridge at Indian Creek 2nd Addition Final Plat for property located north of Tower Terrace Road extended and east of Lucore Road (Abode Construction)

Moved by Brandt, seconded by Jensen, to approve Resolution No. 29751.

Mayor AbouAssaly returned at 6:11 p.m.

Council Member Harper asked if this request is out of the normal sequence of steps for final platting and asked what is driving this request. Community Development Director Tom Treharne stated all the public improvements for this subdivision have been completed except for construction of Tower Terrace Road. Staff have been working with the developer to give them options on how to proceed. It was decided that this was the best option to keep the project moving. Treharne stated the final plat is required to be approved before any of the permits are complete or lots are sold. Council Member Jensen asked which lots the building permits are for. Treharne stated they are east of the roundabout and that access to the subdivision will be off of Lucore Road.

Approved by the following votes:

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

Abstained: AbouAssaly

Mayor Pro Tem Atkins relinquished the gavel to Mayor AbouAssaly at 6:19 p.m. Mayor AbouAssaly presided over the meeting.

Ordinance No. 21-20 amending Ch. 176.06, Rules and Definitions of the Marion Code of Ordinances. (Second Consideration)

Moved by Gadelha, seconded by Brandt, to approve second consideration of Ordinance No. 21-20.

Approved unanimously

Resolution No. 29752 approving the Library 1st Addition Final Plat for property located south of 6th Avenue between 11th and 12th Street (City of Marion)

Moved by Strnad, seconded by Gadelha, to approve Resolution No. 29752.

Approved unanimously

Resolution No. 29753 approving the purchase of Outlot A English Glen Second Addition located south of Penny Lane in the amount of \$4,000.00.

Moved by Harper, seconded by Atkins, to approve Resolution No. 29752.

Approved unanimously

Resolution No. 29754 approving an encroachment agreement with The Hip-Stir regarding a portion of the alleyway bounded by 11th and 12th Streets and 7th and 8th Avenues for outdoor dining.

Moved by Jensen, seconded by Atkins, to approve Resolution No. 29754.

Council Member Gadelha left at 6:21 p.m.

Approved by the following votes:

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

Resolution No. 29755 approving an encroachment agreement with Whaddaywant, Inc. regarding adjacent 7th Avenue sidewalk at 1204 7th Avenue for outdoor dining.

Moved by Atkins, seconded by Jensen, to approve Resolution No. 29755.

Council Member Gadelha returned at 6:23 p.m.

Approved by the following votes:

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

OTHER DEPARTMENT DISCUSSION

Discussion Regarding Fireworks

Police Chief Kitsmiller provided an overview on calls for service received by Marion and Cedar Rapids regarding fireworks and citations given. Kitsmiller also provided information regarding Chapter 40.07 of the Marion Code of Ordinances regarding disorderly houses. Council Member Jensen asked for more clarification regarding disorderly houses. Kitsmiller read the definition and stated this could apply to property owners when fireworks are being used outside of the allowed hours. Council Member Harper stated

staff should include information regarding citations and fines if caught on any public notices. Council Member Strnad shared concerns about the louder fireworks being used and asked if we can ban certain types of fireworks. Kitsmiller stated he doesn't believe an officer would have the knowledge of what is an allowed firework and what isn't. Fire Chief Deb Krebill provided information regarding fireworks vendors in Cedar Rapids and Marion as well as an overview of any fires or injuries since 2017. Krebill stated she has a report that will be distributed to Council with information she received from other fire chiefs in the state. Council Member Jensen stated by looking at the data given it doesn't appear to make any difference whether fireworks use is allowed or not. He stated this is a state issue and encouraged residents to contact their legislators. Council Member Jensen asked if the City has restricted as much as we can regarding sales. Bullerman confirmed that Marion can only restrict sales by zoning. Council Member Atkins has concerns with enforcement and agrees that this is a state issue. Council Member Brandt stated he is in favor of looking into the disorderly house ordinance further. Council Member Gadelha agrees that this is a state issue and stated she wants to reserve the right to use fireworks. Gadelha asked that fireworks use be a question on the citizen survey. Mayor AbouAssaly stated it's impossible to use fireworks in an urban setting without impacting your neighbors. Mayor AbouAssaly has concerns with the larger and longer displays in neighborhoods. Council Member Brandt asked if the City profits from fireworks sales. City Manager Lon Pluckhahn stated the City only receives local option sales tax revenue but it does not cover the time it takes staff to inspect vendors. City Manager Lon Pluckhahn stated after council reviews Chief Krebill's report, they can direct staff to make any code changes if they choose.

Discussion Regarding Amendment to Marion Code of Ordinances Chapter 20.03 Regarding Extended Vacancies of the City Manager

City Attorney Kara Bullerman shared the concerns that were brought forward regarding long-term versus short-term vacancies of the City Manager. Bullerman spoke about options that could be added into the code including a review process of any Acting or Interim City Manager or a time limit. Council Member Strnad stated he would like to see a review period. Council Member Harper shared concerns with continuity of operations and making the right decision as conditions alter with workloads and projects. Council Member Harper would like a few drafts presented to Council for further review. Council Member Gadelha stated she would be in favor of a more robust code concerning vacancies of the City Manager.

PUBLIC FORUM

Joe Spinks (3165 29th Avenue) spoke about City Manager Lon Pluckhahn and thanked him for all the work that he's done for Marion as City Manager.

COUNCIL COMMENTS

Council Member Atkins wished Lon the best and thanked him for all his help since she's been on Council. She stated that the Community Equity Task Force will be meeting Friday, July 23 at 5 p.m. and encouraged those interested to attend.

Council Member Strnad wished safe travels for everyone participating in RAGBRAI which kicks off this weekend.

Mayor AbouAssaly thanked staff for all their work on the current projects and asked everyone for patience. He thanked Uptown Mainstreet Director Brooke Prouty and Communications Manager Amber Bisinger for their work with communications regarding the construction. He thanked Lon Pluckhahn for all his work and stated Lon can feel proud about what has been accomplished since he's been City Manager.

ADJOURN

Mayor AbouAssaly adjourned the meeting at 7:17 p.m.

Nicolas AbouAssay, Mayor

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