



# MINUTES

## City Council Regular Session

5:30 PM - Thursday, August 5, 2021

City Hall, 1225 6th Avenue

---

The City Council of the City of Marion, Linn County, Iowa met in regular session, on Thursday, August 5, 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, and Randy Strnad

ABSENT: Rene Gadelha

Mayor AbouAssaly presided over the meeting.

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

### PROCLAMATIONS/OATHS

#### Proclamation - Derecho Remembrance (August 10, 2021)

Mayor AbouAssaly read the proclamation referenced above.

### PRESENTATIONS

Fire Department Appointments/Promotions:

- Firefighter/Paramedic Pacer Langguth
- Promotion from Firefighter to Battalion Chief: Kale McBurney, Pete Lammer and James O'Brien
- Promotion from Lieutenant to Battalion Chief: Cameron Ford

Fire Chief Deb Krebill recognized the above referenced individuals and stated their accomplishments. Mayor AbouAssaly administered the oath of office.

### PUBLIC FORUM

Stephanie Philips with Victory Gymnastics (6240 North Gateway, Marion) spoke regarding the deferral of sidewalk installation.

### CONSENT AGENDA

Administrative Services

Minutes of the July 20 and 22, 2021 City Council meeting.

Mayoral appointments:

- Civil Rights Commission - Ann DiGiacomo, term expires 12/31/2021
- Community Equity Task Force - Acting City Manager - Tom Treharne

Liquor licenses including the following:

- Renewal - Casey's General Store #2770 - 2020 7th Avenue
- Renewal - Blooms by BladeWorks - 1440 Blairs Ferry Road

Motion to approve Hold Harmless agreements with:

- Marion Independent School District regarding high school football and track events on August 27, September 17, September 24, October 13, October 15, 2021 and April 7 and May 2, 2022 in Thomas Park.
- Brandon Zousel regarding Country Club Estates block party event on August 28, 2021 at 520-580 West Williams Drive.
- Travis Fuller regarding class reunion/band event on September 4, 2021 in the Uptown Artway.
- Gayle Richardson regarding a neighborhood block party event on September 11, 2021 at 1840-1990 Winding Creek.
- Kristy Knight regarding a wedding reception event on September 18, 2021 at 1115 6th Street.

Payments as presented in the amount of \$3,981,803.77

Resolution No. 29756 correcting Resolution 29696 approving fiscal year 2020-2021 Operating Budget Transfers in the amount of \$194,791.80.

Resolution No. 29757 approving payment to Diligent Corporation regarding agenda management software in the amount of \$18,900.00

Resolution No. 29758 setting the date for a public hearing on proposal to enter into a General Obligation Sewer Improvement Loan Agreement and to borrow money thereunder in a principal amount not to exceed \$400,000.

Resolution No. 29759 approving partial payment no. 7 and 8 to Tidal Basin for consulting services related to Derecho Disaster Recovery in the amount of \$23,263.75 and \$20,396.25 respectively.

Resolution No. 29760 approving payment to Christner Contracting Inc. for derecho damages in the amount of \$33,905.

Resolution No. 29761 correcting payment reference in Resolution No. 29693 regarding amendment no. 1 to the agreement with City of Cedar Rapids regarding the provision of wastewater treatment.

## Parks

Resolution No. 29762 approving final payment to T&K Roofing & Sheet Metal, Co. regarding Thomas Park Administration Building and Shop roof repair in the amount \$48,701.00.

## Engineering

Resolution No. 29763 accepting Bowman Meadows 8th Addition to the City of Marion.

Resolution No. 29764 approving agreement with MAWM, LLC regarding the 2021 Central Corridor 7th Avenue from 8th Street to 12th Street Pavement Reconstruction and Streetscaping Project (TRANS-18-101) (Moved to Consent Agenda with Mayor AbouAssaly's abstention section)

Resolution No. 29765 approving agreement with Shaffer Real Estate LLC regarding the 2021 Central Corridor 7th Avenue from 8th Street to 12th Street Pavement Reconstruction and Streetscaping Project (TRANS-18-101)

Resolution No. 29766 approving Change Order No. 1 with Rathje Construction Company regarding the 2021 Central Corridor 7th Avenue from 8th Street 12th Pavement Reconstruction and Streetscaping Project in the amount of \$64,203.84 (TRANS-18-101)

Resolution No. 29767 approving Change Order No. 19 with Rathje Construction Company regarding the 2021 Central Corridor 7th Avenue from 8th Street 12th Pavement Reconstruction and Streetscaping Project in the amount of \$13,220.00 (TRANS-18-101)

Resolution No. 29768 approving Partial Payment No. 1 to Rathje Construction Company regarding the 2021 Central Corridor 7th Avenue from 8th Street 12th Pavement Reconstruction and Streetscaping Project in the amount of \$257,227.15 (TRANS-18-101)

Resolution No. 29769 approving Partial Payment No. 3 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 the amount of \$174,622.26. (TRANS-18-088)

Resolution No. 29770 approving Partial Payment No. 1 to Rathje Construction Company regarding the 10th Street and Central Avenue/10th Avenue Intersection Improvements Project in the amount of \$130,512.69 (TRANS-18-090)

Resolution No. 29771 approving Partial Payment No. 1 to Hydro-Klean, LLC. regarding the 2021 Sanitary CIPP Rehabilitation Project in the amount of \$32,023.34 (ANN-18-029)

Resolution No. 29772 approving Partial Payment No. 2 to Hunt Construction Co, Inc. regarding the 2021 Sidewalk Ramp Project in amount of \$39,598.09. (ANN-18-106)

Resolution No. 29773 approving Partial Payment No. 13 to Braun Intertec regarding the CeMar Phase 1-3 Plant Monitor and Soil testing in the amount of \$355.00. (TRL-17-055)

Resolution No. 29774 approving Partial Payment No. 6 to Anderson Bogert Engineers regarding the Alburnett Road & Echo Hill Road Roundabout Project in the amount of \$9,459.50. (CS-TSF-4775(641)—85-57)(TRANS-19-118)

Resolution No. 29775 Rescinding Resolution No. 10477 Regarding Handicapped parking space at 3090 McGowan Boulevard.

Resolution No. 29776 approving Partial Payment No. 5 to Acme Electric Company regarding the Marion Library Project – Bid Pkg 26A regarding Electrical

in the amount of \$193,295.39. (FACS-17-034)

Resolution No. 29777 approving Partial Payment No. 6 to Pearson Wall Systems regarding the Marion Library Project – Bid Pkg 09A Gypsum Board & Acoustics in the amount of \$69,165.23. (FACS-17-034)

Resolution No. 29778 approving Partial Payment No. 7 to Pipe Pro, Inc. regarding the Marion Library Project – Bid Pkg 22A & 23A Plumbing and HVAC in the amount of \$309,761.43. (FACS-17-034)

Resolution No. 29779 approving Partial Payment No. 6 to Seedorf Masonry regarding the Marion Library Project – Bid Pkg 04B regarding Gypsum Board & Acoustics in the amount of \$245,917.00. (FACS-17-034)

Resolution No. 29780 approving Partial Payment No. 4 to Ahern Fire Protection regarding the Marion Library Project – Bid Pkg 21A Fire Suppression in the amount of \$9,498.81. (FACS-17-034)

Resolution No. 29781 approving Partial Payment No. 3 to Black Hawk Roof Co., Inc. regarding the Marion Library Project – Bid Pkg 07A Roofing in the amount of \$12,275.52. (FACS-17-034)

Resolution No. 29782 approving Partial Payment No. 5 to Peak Construction Group regarding the Marion Library Project – Bid Pkg 05B & 06A General Trades & Misc. Steel in the amount of \$70,062.50. (FACS-17-034)

Resolution No. 29783 approving Partial Payment No. 3 to Culvers Landscape, Inc. regarding the Marion Library Project – Bid Pkg 32B Landscaping Site Restoration in the amount of \$7,476.88. (FACS-17-034)

Resolution No. 29784 approving Partial Payment No. 1 to Zephyr Aluminum regarding the Marion Library Project – Bid Pkg 08A Glass and Glazing in the amount of \$164,804.10. (FACS-17-034)

Resolution No. 29785 approving Partial Payment No. 2 to Zephyr Aluminum regarding the Marion Library Project – Bid Pkg 08A regarding Glass and Glazing in the amount of \$29,102.30. (FACS-17-034)

Resolution No. 29786 approving Change Order 003 with Ahern Fire Protection regarding the Marion Library Project – Bid Pkg 21A in regards to the second floor study to modify the sprinkler piping in the amount of \$3,297.00 (FACS-17-034)

Resolution No. 29787 approving Change Order No 008 with Bush Construction regarding the Marion Library Project – Construction Manager as Adviser to transfer \$3,841.00 from Contingency to CR 043 – PR 008 – Added Dampers. (FACS-17-034)

#### Community Development

Receive and file correspondence requesting a deferral of sidewalk installation located at 6240 N. Gateway Drive, Marion, Iowa. (Eric Phillips, Victory Sports Center)

Resolution No. 29788 approving the vacation of a 5' drainage and sewer easement on Lot 17 of Hunters Field 10th Addition Final Plat to the City of

Marion, Iowa. (Frazier Homes, LLC)

#### Library

Resolution No. 29789 approving partial payment No. 13 to Bush Construction for the Library Building Project in the amount of \$75,881.60 (FACS-17-034)

Moved by Jensen, seconded by Atkins, to approve consent agenda as shown above. Resolution No. 29764 was removed and added to the Consent Agenda with Mayor AbouAssaly's Abstention.

Approved unanimously

Mayor AbouAssaly relinquished the gavel to Mayor Pro Tem Atkins at 5:53 p.m. Mayor Pro Tem Atkins presided over the meeting.

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

#### Engineering

Resolution No. 29790 approving Partial Payment No. 1 to Hughes Aerospace Corporation regarding the Marion Airport Instrument Flight Procedure Design Navigation Services and Maintenance in the amount of \$47,662.50. (ANN-18-082)

Resolution No. 29791 approving Partial Payment No. 5 to Anderson-Bogert Engineers regarding the Marion AirCom Park Sanitary Sewer Extension Project in the amount of \$2,089.09. (SWR-18-111)

Resolution No. 29792 approving Partial Payment No. 1 to Peterson Contractors Inc. regarding the 10th Avenue Sidepaths PCC Sidewalk/Trail in the amount of \$7,158.60. (TAP-U-4775(635)—8I-57)(TRL-18-110)

Resolution No. 29793 approving Partial Payment No. 14 to Peterson Contractors, Inc. regarding the CEMAR Phase III Project in City of Marion, from Marion Boulevard bridge over Indian Creek north preservation trail Bridge New, Steel Girder amount \$13,726.00. [TAP-U-4775(637)-8I-57] (TRL-17-055)

Resolution No. 29794 approving Partial Payment No. 2 to LL Pelling Co, Inc. regarding the 2021 HMA Resurfacing Project in amount of \$478,599.53. (ANN-18-086)

Resolution No. 29795 approving Partial Payment No. 1 to B.G. Brecke, Inc. regarding the 2021 Sanitary Sewer Manhole Project in the amount of \$31,490.60 (ANN-18-029)

Resolution No. 29796 amending contract with OPN Architects Inc and authorizing payment, regarding Fire Station professional services related to Derecho damages in the amount of \$44,117.50

Resolution No. 29764 approving agreement with MAWM, LLC regarding the 2021 Central Corridor 7th Avenue from 8th Street to 12th Street Pavement Reconstruction and Streetscaping Project (TRANS-18-101)

Moved by Brandt, seconded by Jensen, to approve consent agenda with Mayor AbouAssaly's abstention as shown above.

Approved by the following votes:

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

Abstained: AbouAssaly

Mayor Pro Tem Atkins relinquished the gavel to Mayor AbouAssaly at 5:54 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. (Final Consideration)

Moved by Atkins, seconded by Jensen, to approve the final consideration of Ordinance No. 21-19.

Approved unanimously

Public hearing on Urban Renewal Plan Amendment for Collins Road Extension Urban Renewal Area.

Mayor AbouAssaly opened the public hearing regarding item referenced above. Assistant to the City Manager Amal Eltahir provided a staff report. No comments, written or verbal, were received. Mayor AbouAssaly declared the public hearing closed.

Resolution No. 29797 approving Collins Road Urban Renewal Plan Amendment.

Moved by Strnad, seconded by Atkins, to approve Resolution No. 29797.

Approved unanimously

Mayoral appointments to the Local Option Sales Tax (LOST) Oversight Committee:

- Ann Brendes, 1145 Indian Creek Circle, Marion; term expires 12/31/21
- Forrest Ward, 2200 24th Street, Marion; term expires 12/31/21
- Elizabeth Wilson, 1407 7th Street, Marion; term expires 12/31/22

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

Approved unanimously

### **Parks**

Resolution No. 29798 amending contract with Frank's Tree Service regarding hazardous tree removals in the amount of \$73,950.

Moved by Jensen, seconded by Harper, to approve Resolution No. 29798.

Approved unanimously

Resolution No. 29799 approving payment to Frank's Tree Service regarding hazardous tree removals in the amount of \$73,950.

Moved by Atkins, seconded by Jensen, to approve Resolution No. 29799.

Approved unanimously

## Engineering

Motion to receive, file and refer to TAC a petition regarding installation of Stop Signs at the intersection of 12th Street and F Avenue. (Jaime Bussey, 1215 F Avenue)

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

Approved unanimously

Resolution No. 29800 approving agreement 2022-6-005 with the Iowa Department of Transportation regarding Interstate 380 and Tower Terrace Road Interchange. (TRANS-21-001)

Moved by Atkins, seconded by Jensen, to approve Resolution No. 29800.

Approved unanimously

## Community Development

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

Moved by Strnad, seconded by Atkins, to approve final consideration of Ordinance No. 21-20.

Approved unanimously

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, Marion, Iowa.

Mayor AbouAssaly opened the public hearing regarding item referenced above. Principal Planner Dave Hockett provided a staff report. Brian Ridge (740 Kacena Drive, Hiawatha) addressed vehicle stacking issues that were previously brought up by Council. Bobby Singleton (6156 Carlson Way) provided information regarding potential solutions to vehicle stacking issues at the property. Shawn Keating (2664 Greenway Court) spoke with concerns about stacking of vehicles in front of adjacent buildings. No other comments, written or verbal, were received. Mayor AbouAssaly declared the public hearing closed.

Resolution No. 29801 approving the Preliminary Site Development Plan for Smoothie King located at the northwest corner of Carlson Way and 62nd Street, Marion, Iowa. (Ridge Development LLC)

Moved by Harper, seconded by Brandt, to approve Resolution No. 29801. Council Member Jensen stated he previously met with Brian Ridge who provided information regarding drive through statistics. Mayor AbouAssaly asked how traffic would be routed from the west. Brian Ridge stated there would be permanent signage and directional signage installed. Council Member Strnad shared concerns that there will still be stacking issues and had concerns about future use of the property.

Approved by the following votes:

Ayes: Harper, Brandt, Jensen, and AbouAssaly

Nays: Strnad

Abstained: Atkins

Resolution No. 29802 approving the Final Site Development Plan for Smoothie King located at the northwest corner of Carlson Way and 62nd Street, Marion, Iowa. (Ridge Development LLC)

Moved by Jensen, seconded by Harper, to approve Resolution No. 29802.

Approved by the following votes:

Ayes: Harper, Jensen, AbouAssaly, and Brandt

Nays: Strnad

Abstained: Atkins

Resolution No. 29803 approving a deferral of sidewalk installation located at 6240 N. Gateway Drive, Marion, Iowa. (Eric Phillips, Victory Sports Center)

Moved by Atkins, seconded by Jensen, to approve Resolution No. 29803. Council Member Harper asked that a sidewalk plan be created and given to all commercial properties in that area. Mayor AbouAssaly asked if there will be a plan for sidewalks in that area. Principal Planner Dave Hockett stated there currently is not a plan but staff has met to develop a plan and will bring that back at a future council meeting. Council Member Strnad recommended that an expiration of one year be added to this deferral. Mayor AbouAssaly stated he is in favor of a deferral as long as it's not indefinite. Hockett stated that per the final plat memorandum of agreement, staff can require sidewalk be installed at any time.

Approved unanimously

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

Resolution No. 29804 approving Plat of Survey No. 2250 for property located east of Winslow Road and south of Royal Oak Ridge Road, Marion, Iowa. (Hunters Ridge Development Company, LC)

Moved by Brandt, seconded by Jensen, to approve Resolution No. 29804.

Approved by the following votes:

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

Abstained: AbouAssaly

Resolution No. 29805 approving scope of services and contract Amendment No. 2 to AIA document B105 with RDG Planning and Design regarding land use planning for the northwest corner of Highway 13 and Highway 100 (Holloway property) in the amount of \$19,750.

Moved by Brandt, seconded by Harper, to approve Resolution No. 29805.

Approved by the following votes:



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

Abstained: AbouAssaly

Mayor Pro Tem Atkins relinquished the gavel to Mayor AbouAssaly at 6:34 p.m. Mayor AbouAssaly presided over the meeting.

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)

Mayor AbouAssaly opened the public hearing regarding item referenced above. Principal Planner Dave Hockett provided a staff report. Shawn Keating (2664 Greenway Court) spoke in favor of the zoning change. No other comments, written or verbal, were received. Mayor AbouAssaly declared the public hearing closed.

Ordinance No. 21-21 approving an update to the Official Marion Zoning Map for property located within Marion City Council Ward 4, which includes precincts 11, 12, 13 and 14. (Initial Consideration)

Moved by Strnad, seconded by Brandt, to approve the initial consideration of Ordinance No. 21-21. Council Member Harper asked about non-conforming uses. Principal Planner Dave Hockett went through the properties that will become or remain a non-conforming use. Council Member Strnad spoke about insurance coverages and non-conforming use structures that may sustain damage.

Approved unanimously

Council Member Jensen left the meeting at 6:55 p.m.

## **OTHER DEPARTMENT DISCUSSION**

### **Update Regarding COVID Response**

Acting City Manager Tom Treharne provided information regarding case counts and increases the past month. Treharne stated staff has been discussing mask requirements and it has been determined that those visiting city facilities wear a mask and staff will be asked to wear a mask when in common areas or when social distancing can't occur. Council Member Harper asked if this will change how council meetings are conducted. Treharne stated it has been discussed that those attending public meetings will be asked to wear a mask and can remove the mask when speaking. Council Member Atkins asked if we can require masks throughout the City. City Attorney Kara Bullerman stated the mandate could be made only for city facilities.

## **PUBLIC FORUM**

Chuck Smiley (2735 Highland Circle) spoke with concerns about the future of Marion.

Stephanie Phillips (6240 North Gateway) spoke about future sidewalk installation at Victory Sports.

## **COUNCIL COMMENTS**

Council Member Harper congratulated the Marion baseball team on their state championship.

Council Member Atkins also congratulated the Marion baseball team.

Council Member Brandt also congratulated the Marion baseball team.

Council Member Strnad stated he attended the National Night Out event and thanked all those who attended.

Mayor AbouAssaly congratulated the members of the fire department who were recognized tonight. Mayor AbouAssaly stated there are a number of activities planned for the one year anniversary of the derecho on August 10, 2021. Mayor AbouAssaly stated 6th Avenue will be opened tomorrow and there will be a ribbon cutting at 9:30 a.m. Mayor AbouAssaly stated next week will be the ribbon cutting for the new fire station.

### **CLOSED SESSION**

Motion to adjourn to closed session regarding litigation as permitted under Section 21.5(1)(c) of the Code of Iowa.

Moved by Harper, seconded by Atkins, 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 by the following votes:

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

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

Approved by the following votes:

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

### **ADJOURN**

Mayor AbouAssaly adjourned the meeting at 7:47 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