



# MINUTES

## City Council Regular Session

5:30 PM - Thursday, January 5, 2023

City Hall, 1225 6th Avenue

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The City Council of the City of Marion, Linn County, Iowa met in regular session, on Thursday, January 5, 2023, 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, Nicolas AbouAssaly, and Will Brandt

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 - Martin Luther King Jr. Day (January 16, 2023)

Mayor AbouAssaly read and presented the proclamation referenced above to Steve Moshier with the Marion Civil Rights Commission.

### PUBLIC FORUM

No one came forward to speak.

### CONSENT AGENDA

#### Administrative Services

Minutes of the December 20 and 22, 2022 City Council meetings

Motion to approve liquor licenses including the following:

- Renewal - Indian Creek Country Club - 2401 Indian Creek Rd
- Renewal - Hy-Vee Food Store - 5491 Business HWY 151

Payments as presented in the amount of \$1,398,870.53

#### Public Safety

Resolution No. 31091 approving disposal/sale of a self contained breathing apparatus (SCBA) flow tester

Resolution No. 31092 approving the repair of Marion Fire Engine 91 by Cummins Sales and Service and authorizing payment in the amount of \$35,917.47

## Engineering

Resolution No. 31093 accepting the 2022 Alburnett Road and Echo Hill Road Intersection Improvement Project (TRANS-19-118) (CS-TSF-4775(641)--85-57)

Resolution No. 31094 approving supplemental contract with Rathje Construction Company for the 2022 Alburnett Road and Echo Hill Road Intersection Improvement Project and authorizing payment in the amount of \$20,652 (TRANS-19-118) (CS-TSF-4775(641)--85-57)

Resolution No. 31095 approving partial payment no. 18 to Rathje Construction Company regarding the 2021 Central Corridor 7th Avenue from 8th Street to 12th Street Pavement Reconstruction and Streetscaping Project in the amount of \$6,939.37 (TRANS-18-101)

Resolution No. 31096 approving change order 008 with Knutson Construction Services regarding the Marion Library Building Project bid package 03A Concrete Foundations regarding removing remaining allowance funds in the amount of \$14,702.80 (FACS-17-034)

Resolution No. 31097 approving change order no. 004 with Culver's Lawn and Landscape regarding the Marion Library Project bid package 32B Landscaping and Site Restoration regarding removing remaining allowance funds in the amount of \$3,076.07 (FACS-17-034)

Resolution No. 31098 approving change order no. 004 with Corridor Paint regarding the Marion Library Building Project bid package 09C regarding removing remaining allowance funds in the amount of \$20,017.50 (FACS-17-034)

Resolution No. 31099 approving change order no. 037 with Bush Construction regarding the Marion Library Project Construction Manager as Advisor to add funds to General Conditions from allowance deducts (Corridor, Culver's, Knutson) in the amount of \$37,787.37 (FACS-17-034)

Receive and file correspondence from Federal Emergency Management Agency (FEMA) regarding the revised Flood Insurance Rate Map (FIRM) and Flood Insurance Study (FIS) reports for Linn County, Iowa

Motion directing staff to notify impacted property owners and to prepare an appeal regarding the proposed Federal Emergency Management Agency (FEMA) updates

Resolution No. 31100 approving American Rescue Plan Act Subaward Agreement with Linn County for City of Marion Trunk Sewer – Project 7 for an award amount of \$150,000

Motion to direct staff to solicit bids for the demolition of the former Marion Public Library located at 1095 6th Avenue

## Community Development

Resolution No. 31101 accepting the dedication of Lot A of Boyson Place 1st Addition from J Murphy Homes, LLC. for public use as a permanent drainage

easement.

Motion directing staff to proceed with the Central Corridor Review process for the demolition of the former Marion Public Library Building located at 1095 6th Avenue

Moved by Brandt, seconded by Harper, to approve consent agenda as shown above.

Approved unanimously

Mayor AbouAssaly relinquished the gavel to Mayor Pro Tem Harper at 5:37 p.m. Mayor Pro Tem Harper presided over the meeting.

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

### **Parks**

Resolution No. 31102 approving proposal from Modern Companies for heat pump replacement in the Lowe Park Arts and Environment Center and authorizing payment in the amount of \$15,672.14

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

Approved by the following votes:

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

Nays: AbouAssaly

Abstained: AbouAssaly

Mayor Pro Tem Harper relinquished the gavel to Mayor AbouAssaly at 5:38 p.m. Mayor AbouAssaly presided over the meeting.

## **REGULAR AGENDA**

### **Engineering**

Resolution No. 31103 approving a contract with Rinderknecht Associates, Inc. for the Central Plaza Project as a Construction Manager at Risk with a Guaranteed Maximum Price (CMaR with GMP) (REC-18-039) was removed from the agenda.

### **Community Development**

Public hearing regarding an amendment to Chapter 176, Zoning Regulations to establish Ch. 176.56, Architectural Design Standards and Site Development Plan Review. (continued from Dec. 22, 2022)

Mayor AbouAssaly opened the public hearing regarding item referenced above. Principal Planner Dave Hockett provided a staff report. No comments, written or verbal, were received. Mayor AbouAssaly declared the public hearing closed.

Ordinance No. 22-25 amending Chapter 176, Zoning Regulations to establish

Ch. 176.56, Architectural Design Standards and Site Development Plan Review.  
(final consideration)

Moved by Atkins, seconded by Jensen, to approve the final consideration of Ordinance No. 22-25.

Approved unanimously

Public hearing regarding the sale of city-owned property located on the vacated 17th Street between 5th and 6th Avenues, Marion, Iowa (Donald Carsner)

Mayor AbouAssaly opened the public hearing regarding item referenced above. Principal Planner Dave Hockett provided a staff report. Donald Carsner (2155 11th Avenue) spoke in support of sale. No other comments, written or verbal, were received. Mayor AbouAssaly declared the public hearing closed.

Mayor AbouAssaly relinquished the gavel to Mayor Pro Tem Harper at 5:46 p.m. Mayor Pro Tem Harper presided over the meeting.

Resolution No. 31104 approving the sale of city-owned property located on the vacated 17th Street between 5th and 6th Avenues, Marion, Iowa (Donald Carsner)

Moved by Jensen, seconded by Atkins, to approve Resolution No. 31104. Councilmember Jensen he is in favor of selling the entire street to Mr. Carsner.

Approved by the following votes:

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

Nays: AbouAssaly

Abstained: AbouAssaly

Mayor Pro Tem Harper relinquished the gavel to Mayor AbouAssaly at 5:48 p.m. Mayor AbouAssaly presided over the meeting.

Public hearing regarding an annexation request from Frazier Land Investments, LLC, et. al for property west of Mulberry Drive, north of East Robins Road, Marion, Iowa

Mayor AbouAssaly opened the public hearing regarding item referenced above. Associate Planner Kesha Billings provided a staff report. Amanda Madison (2698 E Robins Road) spoke in opposition of the annexation due to businesses her family owns on her property and the inability for the businesses to expand if property is annexed. Billings stated she had previously talked with Nancy Jacobs-De Sotel who was opposed to the annexation. No other comments, written or verbal, were received. Mayor AbouAssaly declared the public hearing closed.

Resolution No. 31105 approving annexation request from Frazier Land Investments, LLC, et. al for property west of Mulberry Drive, north of East Robins Road, Marion, Iowa

Moved by Harper, seconded by Jensen, to approve Resolution No. 31105. Councilmember Harper asked about the rules for continuation of any home business once annexed. Associate Planner Kesha Billings stated property

owners can continue businesses at their current size but can't expand the number of employees, vehicles or buildings for the business. Councilmember Atkins asked if the property is not annexed, what that means for the remaining annexation land area. Billings stated that Frazier Land Investments, LLC et al. could annex into Cedar Rapids but the remaining land area would create an island. Billings stated that the Madison's property is located in Area B of the annexation moratorium agreement with Cedar Rapids. Area B is designated to be annexed into Marion. Councilmember Harper asked if there is any way post-annexation to expand the business. Billings stated there have been times where property owners have worked with the county in the middle of an annexation process and obtained a building permit and had footings constructed prior to the annexation being finalized. City Manager Ryan Waller stated it may be beneficial to table this item to allow time for staff to further review the zoning code. Moved by Brandt, seconded by Atkins to table Resolution No. 31105.

Tabled unanimously

## **PUBLIC FORUM**

No one came forward to speak.

## **COUNCIL COMMENTS**

Mayor AbouAssaly thanked Councilmember Will Brandt for serving as Mayor Pro Tem during 2022.

Councilmember Brandt wished everyone a happy new year.

## **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 Brandt, seconded by Mentzer, to adjourn to closed session as stated above. Assistant City Attorney Pat O'Connell stated that he 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 Harper, to reconvene to regular session.

Approved unanimously

## **ADJOURN**

Mayor AbouAssaly adjourned the meeting at 7:09 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