



# MINUTES

## City Council Regular Session

5:30 PM - Thursday, February 9, 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, February 9, 2023, at 5:30 PM, in the Council Chambers of City Hall, 1225 6th Avenue, with the following members present:

PRESENT: Steve Jensen, Grant Harper, Sara Mentzer, Colette Atkins, Nicolas AbouAssaly, and Will Brandt

ABSENT: Randy Strnad

Mayor AbouAssaly presided over the meeting.

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

### PROCLAMATIONS/OATHS

#### **Proclamation - Black History Month (February 2023)**

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

#### **Proclamation - Love Your Library Month (February 2023)**

Councilmember Steve Jensen read and presented the proclamation referenced above to James Teahen with the Marion Public Library and Susan Kling with the Marion Public Library Board.

### PUBLIC FORUM

Cydney Lovell with ITC Midwest (123 5th Street SE, Cedar Rapids) addressed concerns made at the work session regarding the proposed chain link fence at the site and security concerns.

### CONSENT AGENDA

#### Administrative Services

Minutes of the January 17, 19, 27 and 30, 2023 City Council meetings

Motion to approve liquor licenses as follows:

- Renewal - Nara Thai Cuisine - 1725 Blairs Ferry RD Unit 102
- Renewal - Cedar Rapids Bowling Center - 265 Blaris Ferry Road NE
- Renewal - Marion Veterans Club - 625 31st Street

Motion to approve alcohol violation calendar as follows:

- Resolution No. 31143 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 (Zoey's Pizzeria)
- Resolution No. 31144 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 (Carlos O'Kelley's #0840)
- Resolution No. 31145 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 (NASOS)
- Resolution No. 31146 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 (The Edison Restaurant & Pub)
- Resolution No. 31147 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 (Napolis)
- Resolution No. 31148 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 (Eva's Mexican Restaurant)
- Resolution No. 31149 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 (Towneplace Suites by Marriott)

Motion to approve alcohol violation calendar as follows:

- Resolution No. 31150 accepting waiver of hearing and consent to alcohol violation penalty/settlement agreement established in section 123.50(3) of the Code of Iowa (Your Pie)
- Resolution No. 31151 accepting waiver of hearing and consent to alcohol violation penalty/settlement agreement established in section 123.50(3) of the Code of Iowa (Beans Teas and Other Things)

Motion to approve tobacco violation calendar as follows:

- Resolution No. 31152 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 Gas)
- Resolution No. 31153 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 (Greenleaf Tobacco)
- Resolution No. 31154 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 (Casey's General Store #2770)
- Resolution No. 31155 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 (Casey's General

Store #2919)

- Resolution No. 31156 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 (BP to Go)
- Resolution No. 31157 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 (Hawks Smoke Shop)
- Resolution No. 31158 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 (Kum & Go Store 509)

Certified List for Police Sergeant and Police Lieutenant

Receive and file correspondence from Colette Atkins regarding her resignation from the Marion City Council effective March 31, 2023

Motion directing staff to publish notice of intent to fill Ward 1 vacancy by appointment

Resolution No. 31159 setting date of public hearing for February 23, 2023 regarding adoption of the 2023 Code of Ordinances

Payments as presented in the amount of \$6,983,117.18

Resolution No. 31160 approving partial payment no. 26 to Tidal Basin Government Consulting LLC for services related to Derecho Disaster Recovery in the amount of \$786.25

Resolution No. 31161 approving 42-month agreement with KnowBe4 regarding security training and services and authorizing payment in the amount of \$14,958.72

#### Public Services

Resolution No. 31162 approving contract amendment and Change Order No. 12 with Mid-States Concrete Industry regarding the Precast Concrete Package for the Public Services Maintenance Facility and authorizing payment in the amount of \$532,044 (FACS-17-069)

#### Public Safety

Resolution No. 31163 approving an update to the Police Department Public Records Request Policy and Fee Schedule

Resolution No. 31164 approving payment to Keltek Incorporated regarding installation of equipment and authorizing payment in the amount of \$39,525.50

Resolution No. 31165 approving payment to Traffic Control Corporation for GPS preemption vehicle kits in the amount of \$23,250

Resolution No. 31166 approving a contract with Atchison Consulting Service (ACS) regarding the development of the City of Marion Emergency Operations

Plan (EOP) and Continuity of Operations Plan (COOP) in the amount not to exceed \$23,100

#### Engineering

Resolution No. 31167 approving partial payment no. 19 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 \$9,897.30 (TRANS-18-101)

Resolution No. 31168 approving partial payment no. 5 to EB Solutions, Inc. regarding the Wetland Mitigation and Annual Monitoring for the Grant Wood Trail in the amount of \$1,680

Resolution No. 31169 rescinding Resolution No. 31099 and approving change order no. 037R 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 \$37,796.37 (FACS-17-034)

Resolution No. 31170 authorizing a funding application to the Corridor Metropolitan Planning Organization for regional transportation funds in the additional amount of \$1,635,000 and committing to provide local matching funds for the Marion BLVD / 7th Avenue / 10th Avenue Project in Marion (7th Avenue; 12th Street to 22nd Street) (TRANS-20-001)

#### Community Development

Resolution No. 31171 approving payment no. 39 to Shoemaker Haaland per the contract for the CeMar Trail in the amount of \$4,546.96 (Iowa DOT Project Number: TAP-U-4475(630)-8I-57) (TRL-17-055)

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

Approved unanimously

Mayor AbouAssaly relinquished the gavel to Mayor Pro Tem Harper at 5:41 p.m. Mayor Pro Tem Harper presided over the meeting.

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

#### Administrative Services

Resolution No. 31172 approving Affirmative Defense Agreement with La Cantina Bar and Grill

#### Public Services

Resolution No. 31173 approving a letter of engagement with Greyhawk North America, LLC for consulting services and authorizing payment in an amount not to exceed \$25,000

Resolution No. 31113 approving contract with Dan's Overhead Doors for the

Overhead Door Package associated with the Public Service Maintenance Facility and authorizing payment in the amount of \$597,956 (FACS-17-069) (Removed from agenda 1/19/23)

Resolution No. 31114 approving contract with LL Pelling for the Paving Package for the Public Service Facility and authorizing payment in the amount of \$1,242,835 (FACS-17-069) (Removed from agenda 1/19/23)

Resolution No. 31115 approving contract with T&K Roofing for the Roofing Package associated with the Public Service Maintenance Facility and authorizing payment in the amount of \$2,200,000 (FACS-17-069) (Removed from agenda 1/19/23)

Resolution No. 31116 approving contract with Hawkeye Electric for the Electrical Package for the Public Services Facility and authorizing payment in the amount of \$2,228,960 (FACS-17-069) (Removed from agenda 1/19/23)

Resolution No. 31117 approving contract with B.G. Brecke for the Mechanical Package associated with the Public Service Maintenance Facility and authorizing payment in the amount of \$5,892,630 (FACS-17-069) (Removed from agenda 1/19/23)

Resolution No. 31174 approving a change order with Western Specialty Contractors for the foundation repairs to the Public Service Facility and authorizing payment in the amount of \$46,164.99 (FACS-17-069)

Resolution No. 31175 approving contract amendment and change order with A-One Geothermal for the Geothermal Field Site Package and authorizing payment in the amount of \$31,863

Resolution No. 31176 approving contract to Wendling Quarries regarding concrete reclamation and recycling services and authorizing payment in the amount not to exceed \$55,600

Resolution No. 31177 authorizing payment to Stearns, Conrad and Schmidt Consulting (SCS) Engineers in the amount of \$46,588.26

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

Approved by the following votes:

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

Nays: AbouAssaly

Abstained: AbouAssaly

## Engineering

Resolution No. 31178 accepting paving associated with Marion Aircom Park 1st Addition to the City of Marion

Moved by Mentzer, seconded by Brandt, to approve Resolution No. 31178.

Approved by the following votes:

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

Nays: AbouAssaly

Abstained: AbouAssaly

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

## **REGULAR AGENDA**

### **Public Services**

Motion to approve Project Calendar for the General Construction and Building Concrete Trade Packages associated with the new Public Service Maintenance Facility as follows:

- Resolution No. 31179 approving Resolution of Necessity regarding the General Construction and Building Concrete Trade Packages associated with the new Public Service Maintenance Facility (FACS-17-069)
- Resolution No. 31180 ordering preparation of detailed plans, specifications, notice of hearing and letting, notice to bidders, form of contract, and estimate of cost regarding the General Construction and Building Concrete Trade Packages for the new Public Service Maintenance Facility (FACS-17-069)
- Resolution No. 31181 approving and adopting final plans, specifications, notice of public hearing for March 9, 2023 and letting, notice to bidders, form of contract, and estimate of cost regarding the General Construction and Building Concrete Trade Packages for the new Public Service Maintenance Facility (FACS-17-069)

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

Approved unanimously

### **Engineering**

Resolution No. 31182 approving contract and bond with Ralston Construction, Inc. regarding the 2023 Storm Sewer Project in the amount of \$128,180.55 (ANN-18-031)

Moved by Jensen, seconded by Atkins, to approve Resolution No. 31182.

Approved unanimously

Ordinance No. 23-01 amending Chapter 63 of the Code of Ordinances establishing the speed limit on Fernow Road from Fields Drive to Highway 13 as 35 mph (Second consideration)

Moved by Harper, seconded by Jensen, to approve the second consideration of Ordinance No. 23-01.

Approved unanimously

Motion to approve project calendar regarding the 2023 Hanna Park Improvements Project as follows:

- Motion to retain the City Engineer as Project Engineer regarding the 2023

Hanna Park Improvements Project (REC-18-048)

- Resolution No. 31183 approving Resolution of Necessity regarding the 2023 Hanna Park Improvements Project (REC-18-048)
- Resolution No. 31184 ordering preparation of detailed plans, specifications, notice of hearing and letting, notice to bidders, form of contract, and estimate of cost regarding the 2023 Hanna Park Improvements Project (REC-18-048)
- Resolution No. 31185 approving and adopting final plans, specifications, notice of hearing and letting, notice to bidders, form of contract, and estimate of cost regarding the 2023 Hanna Park Improvements Project (REC-18-048)

Moved by Brandt, seconded by Harper, to approve the project calendar as shown above.

Approved unanimously

Community Development

Resolution No. 31186 approving professional services agreement with Cara Briggs Farmer for the CeMar Trail bridge light towers and authorizing payment in the amount of \$169,750

Moved by Mentzer, seconded by Harper, to approve Resolution No. 31186.

Approved by the following votes:

Ayes: Jensen, Harper, Mentzer, Atkins, and AbouAssaly

Nays: Brandt

Abstained: Brandt

Resolution No. 31187 approving public improvement deferrals associated with the Marion South Substation Addition Final Plat for property located north of Highway 100 and west of 44th Street (ITC Midwest, LLC)

Moved by Atkins, seconded by Jensen, to approve Resolution No. 31187.

Approved unanimously

Resolution No. 31188 approving an encroachment agreement for a freestanding monument sign into the City owned right-of-way of 10th Avenue for property located at 999 44th Street (Platinum Development LLC)

Moved by Jensen, seconded by Atkins, to approve Resolution No. 31188. Councilmember Mentzer would like the City to continue conversations with the property owner to determine an agreeable solution. Councilmember Harper stated he doesn't feel like this would set a precedent because of all the unique aspects of this property. Councilmember Jensen stated he feels this would create a precedent.

Failed by the following votes:

Ayes: Harper

Nays: Jensen, Mentzer, Atkins, AbouAssaly, and Brandt

## **OTHER DEPARTMENT DISCUSSION**

No other discussions took place.

## **PUBLIC FORUM**

Ana Clymer (2475 McGowan Blvd) spoke about the 2022 Equity Initiative Report and the recommendations from the Community Equity Task Force. Clymer outlined the recommendations and lack of implementation details that were provided in the report.

Gretchen Lawyer (5770 1st Avenue NW, Cedar Rapids) spoke on behalf of Circe Stumbo (339 Pheasant Avenue) and Erica Bernard (2690 14th Avenue) and provided feedback about the 2022 Equity Initiative Report and would like to meet with city leadership to address questions from Marion Alliance for Racial Equity.

Reverend Gary Sneller (829 74th Street NE) spoke about the 2022 Equity Initiative Report and the recommendations from the Community Equity Task Force.

Anne Harris Carter (3626 Bever Avenue SE, Cedar Rapids) spoke on behalf of Advocates for Social Justice and stated they stand in support of Marion Alliance for Racial Equity. Carter spoke regarding the 2022 Equity Initiative Report.

## **COUNCIL COMMENTS**

Councilmember Mentzer reminded everyone about the Marion ICE event that is happening this Saturday in Uptown Marion.

## **CLOSED SESSION**

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

Moved by Harper, seconded by Jensen, 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 unanimously

Moved by Brandt, seconded by Jensen, to reconvene to regular session.

Approved unanimously

## **ADJOURN**

Mayor AbouAssaly adjourned the meeting at 7:05 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