



# MINUTES

## City Council Regular Session

5:30 PM - Thursday, June 8, 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, June 8, 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, Nicolas AbouAssaly, Will Brandt, and Gage Miskimen

ABSENT: Sara Mentzer

Mayor AbouAssaly presided over the meeting.

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

### **PUBLIC FORUM**

No one came forward to speak.

### **CONSENT AGENDA**

#### Administrative Services

Minutes of the May 16 and 18, 2023 City Council meetings

Motion to approve liquor licenses including the following:

- New - Daisy's Garage - 6147 Carlson Way
- Renewal - Big Shots Bar and Grill - 1803 6th Ave
- Renewal - Walgreens #03876 - 3215 7th Ave

Motion to approve the following Hold Harmless Agreements:

- Uptown Snug Chamber BizMix Summer Fiesta on 7/20 in the Uptown Artway
- Uptown Snug Summer Rock Fest on 6/24, 7/22, 8/5, 8/26, 9/23 in the Uptown Artway
- Music under the Moon on 6/10, 7/15, 8/12 at Lowe Park
- Army Band Father's Day Concert on 6/18 at Lowe Park
- Brule Event on 6/24 at Lowe Park
- Neighborhood get together on 7/1 at 2825 Northview Drive
- LMHS Homecoming Parade on 9/13 starting at Linn-Mar and continuing on 10th to 29th
- Horizons 5k on 9/16 starting and ending at Vernon Middle School

- Fireworks & Fireflies on 7/3 at Lowe Park

Mayor AbouAssaly recommended appointments to the Marion Reforestation Master Plan Steering Committee:

- Brent Neighbor (Parks Deputy Director)
- Mike Cimprich (City Arborist)
- Nicole Behrens (Planning)
- Rachel Murtaugh (GIS Analyst)
- Chuck Whited (ROW Technician)
- Nick McGrath (Trees Forever)
- Brad Neily (Resident, Advocate)
- Chris Kula (Resident, Advocate)
- Greg Wildebour (Resident, MidAmerican Energy)
- Chad Pelley (Twenty40Concepts)
- Brian Soenen (Resident, Advocate)
- Tom Ryan (Tree Board)
- Mollie Lorenz (Tree Board)
- Marilyn Tormey (Tree Board)

Payments as presented in the amount of \$10,676,363.19

Resolution No. 31417 approving agreement with WoodRiver Energy, LLC regarding natural gas sales and authorizing payment in the amount outlined in the agreement

Resolution No. 31418 approving amendment no. 1 to professional service agreement with Tidal Basin Government Consulting LLC for services related FEMA Public Assistance Grant and Derecho disaster recovery

Resolution No. 31419 approving amendment no. 5 to task order no. 1 with Tidal Basin Government Consulting, LLC to extend order timeline to December 31, 2023

Resolution No. 31420 approving the revised purchasing policy with an effective date of July 1, 2023

Resolution No. 31421 amending Resolution 28434 to allocate remaining funds to the Civil Rights Low to Moderate Income Housing Assistance Grant

Motion to approve the following FY2023-2024 Cigarette Permit Applications:

- Big Shots Bar & Grill
- BP to Go #6
- Casey's General Store #2760
- Casey's General Store #2770
- Casey's General Store #2919
- Casey's General Store #2924
- Casey's General Store #3562
- Dollar General Store #7226
- Dollar General Store #7398
- Fareway Stores, Inc #949
- Hawkeye Vapor

- Hy-Vee Fast & Fresh
- Hy-Vee Food Store
- Hy-Vee Gas
- Kum & Go #503
- Kum & Go #509
- Kwik Star #589
- Kwik Star #1008
- Kwik Star #1172
- Murphy USA #7287
- Neighborhood Tobacco Outlet
- Smokin Joe's Tobacco & Liquor Outlet #10
- Walgreens #03876
- Walmart #3630

Resolution No. 31422 approving an amended contract with Day, Rettig, Martin PC for legal services related to criminal prosecutions

Resolution No. 31423 rescinding the Information Technologies Division Purchasing Policy and the Surplus Property Disposal Policy

Resolution No. 31424 approving payment to Southern Disaster Recovery LLC in the amount of \$380,414.93

Receive and file job description for the Parks & Recreation Intern

Resolution No. 31425 approving Health Insurance Agreement regarding Chapter 411

#### Public Services

Resolution No. 31426 rescinding No Fault Sanitary Sewer Backup Policy

Resolution No. 31427 approving purchase of traffic marking paint from Sherwin Williams and authorizing payment in the amount of \$53,295

Resolution No. 31428 authorizing payment to Imon Communications for the installation of fiber optics at the 31st Street and Hwy 100 intersection in the amount of \$43,523

#### Public Safety

Resolution No. 31429 approving agreement with Basepoint Building Automations for building security system replacement at the Police station and authorizing payment in the amount of \$125,043

#### Engineering

Resolution No. 31430 approving change order no. 7 with Rathje Construction Company regarding the 3rd Avenue Reconstruction Project (NSI) and authorizing payment in the amount of \$6,400 (TRANS-18-101)

Resolution No. 31431 approving change order no. 02 with Boomerang Corp. regarding the Indian Creek Trunk Sewer - Segment 7 Project regarding

stockpiled materials and authorizing payment in the amount of \$32,668.80 (SWR-17-026)

Resolution No. 31432 approving partial payment no. 21 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 \$219.45 (TRANS-18-101)

Motion to receive and file Traffic Advisory Committee (TAC) report regarding a request to convert the intersection of 3rd Avenue and 1st Street to a 3-way stop control (Janelle Brouwer, Superintendent, MISD)

Resolution No. 31433 approving a stop sign stopping south bound traffic on 1st Street at its intersection with 3rd Avenue

Resolution No. 31434 approving a stop sign stopping west bound traffic on 3rd Avenue at its intersection with 1st Street

Resolution No. 31435 approving a stop sign stopping north bound traffic on 1st Street at its intersection with 3rd Avenue

Resolution No. 31436 approving ADA transition plan

Resolution No. 31437 approving scope of services and contract amendment no. 3 to AIA document B101 with RDG Planning and Design regarding design services for the Central Plaza and authorizing payment in the amount of \$205,200 (REC-18-039)

#### Community Development

Resolution No. 31438 setting the date for a public hearing on June 22, 2023, regarding a request to rezone property from Linn County AG, Agriculture, and USR, Urban Services Residential to SR-2, Suburban Medium Density Single-Family Residential for property located north of East Robins Road and west of Alburnett Road, Marion, Iowa

Resolution No. 31439 setting a public hearing for June 22, 2023 regarding amendments to Chapter 126 Article III Electrical Code, Chapter 126 Article VI Housing Code, Chapter 223 Nuisance Abatement and Chapter 247 Property Maintenance of the Marion Code of Ordinances

Resolution No. 31440 setting a public hearing for June 22, 2023 regarding a lease agreement with ImOn Communications for the placement of a communications equipment enclosure within Prairie Hill Park located at 5133 29th Avenue Marion, Iowa

Resolution No. 31441 approving contract amendment no. 3 with Shoemaker Haaland Professional Engineers, associated with the CeMar Trail project for an extension of the schedule of services and authorizing payment in the amount of \$10,681.97 [TAP-U-4775(630)—8I-57] (TRL-17-055)

Resolution No. 31442 approving proposal from Pipe Pro Inc. for City Hall heat pump replacements of 42 units over a four year period and authorizing a total payment in the amount of \$338,272.65

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

Approved unanimously

Mayor AbouAssaly relinquished the gavel to Mayor Pro Tem Harper at 5:33 p.m.  
Mayor Pro Tem Harper presided over the meeting.

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

### **Public Services**

Resolution No. 31443 approving partial payment no. 13 to Mid-States Concrete Industry regarding the Precast Concrete Package for the Public Services Maintenance Facility in the amount of \$164,560.63 (FACS-17-069)

### **Engineering**

Resolution No. 31444 approving change order no. 11 with Peterson Contractors Inc. regarding the 10th Avenue Sidepaths PCC Sidewalk/Trail in the amount of \$4,997.95 (TAP-U-4775(635)—8I-57) (TRL-18-110)

Resolution No. 31445 approving partial payment no. 14 with Peterson Contractors Inc. regarding the 10th Avenue Sidepaths PCC Sidewalk/Trail in the amount of \$7,100.89 (TAP-U-4775(635)—8I-57) (TRL-18-110)

Resolution No. 31446 amending Resolution No. 31242 regarding change order no. 009 with Peak Construction Group to update the change order amount to \$3,850.43 (FACS-17-034)

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

Approved by the following votes:

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

Abstained: AbouAssaly

Mayor Pro Tem Harper relinquished the gavel to Mayor AbouAssaly at 5:34 p.m.  
Mayor AbouAssaly presided over the meeting.

## **REGULAR AGENDA**

### **Administrative Services**

Ordinance No. 23-11 amending various sections of the Marion Code of Ordinances (final consideration)

Moved by Miskimen, seconded by Strnad, to approve the final consideration of Ordinance No. 23-11.

Approved unanimously

### **Engineering**

Motion to receive and file Traffic Advisory Committee (TAC) report regarding a no parking request on 28th Avenue and 24th Street Intersection (Elfrida Tillander, 2550 28th Avenue)

Moved by Jensen, seconded by Miskimen, to approve the item referenced above.

Approved unanimously

Public Comment Period regarding the no parking request on 28th Avenue from 24th Street to 31st Street.

Mayor AbouAssaly opened the public comment period regarding item referenced above. Randy Busch (2581 28th Avenue) spoke in opposition of the recommended no parking zones. He stated it is an issue closer to the intersection. The following comments were submitted in advance of the meeting: Mr. Warner (2699 28th Avenue) wrote in support of the recommended no parking zones; Connie Allbaugh (2530 28th Avenue) wrote in support of no parking surrounding the intersection; Wendell Gan (2920 28th Avenue) wrote in support of the recommended no parking zones; Bob Blockhus (2851 28th Avenue) wrote against the no parking zones as recommended; 19 homeowners (all on 28th Avenue) wrote against the no parking zones as recommended. No other comments, written or verbal, were received. Mayor AbouAssaly declared the public comment period closed.

Resolution No. 31447 approving the establishment of a "No Parking" zone on the south side of 28th Avenue from 24th Street to 31st Street

Moved by Harper, seconded by Jensen, to approve Resolution No. 31447. Councilmember Jensen asked how many signed the petition in support. City Engineer Mike Barkalow stated the original petition was only for the 25 feet surrounding the intersection of 24th Street and 28th Avenue. He stated the Traffic Advisory Committee (TAC) reviewed the entire stretch of 28th Avenue from 24th Street to 31st Street as staff is currently going through the entire city to evaluate parking on only one side of the street. Councilmember Brandt asked if we could install "no parking here to corner" signs to further help around the intersections. Barkalow stated staff would wait to see if the recommended no parking zones alleviate the issues and then could reevaluate for additional signage.

Approved unanimously

Motion to receive and file Traffic Advisory Committee (TAC) report regarding a no parking request on 34th Avenue and Stonefield Drive Intersection (Michael Mulholland – 765 34th Avenue)

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

Approved unanimously

Public comment period regarding the no parking request on West 34th Avenue Court, West 34th Avenue, 34th Avenue and Stonefield Drive

Mayor AbouAssaly opened the public comment period regarding item referenced above. Mike Mulholland (765 34th Avenue) spoke in support of the measure and asked that there be no parking on the curve by Stonefield Drive. Greg Luerkens

(155 34th Avenue) spoke in opposition of the recommendation. Darrell Lentner (165 W 34th Avenue) spoke in opposition of the recommendation. The following comments were submitted prior to the meeting: Mike Mulholland (765 34th Avenue) wrote in support of recommended no parking zones; Victoria Thiede-Knipper (465 W 34th Court) wrote in support of recommended no parking zones; Eric Schulz (490 W 34th Court) wrote against no parking zone in cul-de-sac on W. 34th Court. No other comments, written or verbal, were received. Mayor AbouAssaly declared the public comment period closed.

Motion to approve the project calendar regarding No Parking Zones as follows:

- Resolution No. 31448 approving the establishment of a “No Parking” zone on the south side of West 34th Avenue Court
- Resolution No. 31449 approving the establishment of a “No Parking” zone on the south side of West 34th Avenue
- Resolution No. 31450 approving the establishment of a “No Parking” zone on the south side of 34th Avenue
- Resolution No. 31451 approving the establishment of a “No Parking” zone on the east side of Stonefield Drive

Moved by Strnad, seconded by Brandt, to approve project calendar as shown above. City Engineer Mike Barkalow stated staff look at mailboxes, fire hydrants, intersections and will recommend that no parking is placed on the side of the street with the most available parking. Mayor AbouAssaly asked if the Traffic Advisory Committee (TAC) look at all factors and options. Barkalow stated they do as well as SUDAS standards and if this street were built today, it would only have parking on one side.

Approved unanimously

## Community Development

Public hearing regarding an amendment to Chapter 284-6.F(5) related to lot widths and Chapter 340-8.2B(11)(p) related to parking requirements of the Marion Code of Ordinances

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. 23-12 amending Chapter 284-6.F(5) of the Marion Code of Ordinances related to lot widths requirements (initial consideration)

Moved by Miskimen, seconded by Strnad, to approve the initial consideration of Ordinance No. 23-12.

Approved unanimously

Ordinance No. 23-13 amending Chapter 340-8.2B(11)(p) of the Marion Code of Ordinances related to parking requirements (initial consideration)

Moved by Jensen, seconded by Miskimen, to approve the initial consideration of Ordinance No. 23-13

Approved unanimously

Motion to suspend the rules and proceed to the second consideration of

Ordinance No. 23-13.

Moved by Harper, seconded by Jensen, to approve item referenced above. Mayor AbouAssaly asked for the reasoning on why staff is requesting a waiver of the rules. Principal Planner Dave Hockett stated this was an error in the recodification process and there are two pending medical facility projects and staff need this requirement corrected in the code.

Approved unanimously

Ordinance No. 23-13 amending Chapter 340-8.2B(11)(p) of the Marion Code of Ordinances related to parking requirements (second consideration)

Moved by Brandt, seconded by Harper, to approve the second consideration of Ordinance No. 23-13

Approved unanimously

Motion to suspend the rules and proceed to the final consideration of Ordinance No. 23-13.

Moved by Strnad, seconded by Brandt, to approve item referenced above. Mayor AbouAssaly stated for the record that it is very rare for Marion to suspend the rules for second and third readings but there is a good reading.

Approved unanimously

Ordinance No. 23-13 amending Chapter 340-8.2B(11)(p) of the Marion Code of Ordinances related to parking requirements (final consideration)

Moved by Miskimen, seconded by Strnad, to approve the final consideration of Ordinance No. 23-13.

Approved unanimously

Mayor AbouAssaly relinquished the gavel to Mayor Pro Tem Harper at 6:15 p.m. Mayor Pro Tem Harper presided over the meeting.

Resolution No. 31452 approving the Sycamore Heights Second Addition Preliminary Plat for property north of 35th Avenue and west of 44th Street, Marion, Iowa (Sycamore Development LLC)

Moved by Jensen, seconded by Miskimen, to approve Resolution No. 31452. Principal Planner Dave Hockett addressed questions that Council brought forward at the work session including lighting concerns and the planned homeowner's association. Hockett stated staff received the lighting plan and both public streets and alleys will have lighting. He also stated the size of the homeowners association is still being determined.

Approved by the following votes:

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

Abstained: AbouAssaly

Resolution No. 31453 approving the Sycamore Heights Second Addition Preliminary Site Development Plan for property located north of 35th Avenue and west of 44th Street in Marion, Iowa (Sycamore Development, LLC)

Moved by Miskimen, seconded by Jensen, to approve Resolution No. 31453.

Approved by the following votes:



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

Abstained: AbouAssaly

Mayor Pro Tem Harper relinquished the gavel to Mayor AbouAssaly at 6:21 p.m.  
Mayor AbouAssaly presided over the meeting.

## **PUBLIC FORUM**

No one came forward to speak.

## **COUNCIL COMMENTS**

Councilmember Miskimen spoke about the push-in ceremony that took place Wednesday night and thought it was a great tradition to bring to Marion.

Councilmember Jensen stated summer has kicked off and spoke about the entertainment that will be going on this summer in the Uptown Artway and Lowe Park.

Councilmember Harper spoke about a resident he talked to with concerns about large commercial vehicles parking in the angle parking on 7th Avenue. He stated he's not sure what can be done. Police Chief Mike Kitsmiller stated there are requirements in our code for truck parking in a business district. If parked for legitimate business purposes they must not interfere with other traffic.

Councilmember Brandt stated he enjoyed the push-in ceremony and spoke about the events happening this weekend.

Mayor AbouAssaly stated the Mayor's Youth Council ended for the year and they had a graduation ceremony for the seniors. He stated the group will start back up in the fall. He spoke about the Marion Arts Festival and stated he heard many positive comments from visitors, business owners and vendors. He spoke about the community orientation program that recently took place for summer interns or others new to the area. The purpose is to introduce them to all the opportunities in the area for recreation, housing, arts and entertainment in hopes they will return to or stay in Marion. Mayor AbouAssaly also congratulated all the 2023 high school and college graduates.

## **CLOSED SESSION**

Motion to adjourn to closed session regarding real estate transactions and litigation as permitted under Section 21.5(1)(j) and Section 21.5(1)(c) of the Code of Iowa. (Two separate measures)

Moved by Brandt, seconded by Harper, to adjourn to closed session as stated above. Assistant City Attorney Dan Morgan 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 Strnad, to reconvene to regular session.

Approved unanimously

**ADJOURN**

Mayor AbouAssaly adjourned the meeting at 6:53 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