



MINUTES

City Council Regular Session

5:30 PM - Thursday, October 5, 2023

City Hall, 1225 6th Avenue

The City Council of the City of Marion, Linn County, Iowa met in regular session, on Thursday, October 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, Nicolas AbouAssaly, Will Brandt, and Gage Miskimen

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 - Fire Prevention Week (October 8-14, 2023)

Councilmember Strnad read and presented the proclamation referenced above to Fire Chief Tom Fagan.

Proclamation - National Disability Employment Awareness Month (October 2023)

Councilmember Miskimen read and presented the proclamation referenced above to Megan Middaugh with the Marion Civil Rights Commission.

PRESENTATIONS

Presentation regarding Uptown Marion and Main Street Iowa Program

Brooke Prouty with Uptown Marion provided a review of the district and a history of the Main Street Iowa Program for Marion. Uptown Marion Advisory Board President Ben Davis spoke about the advisory board and current priorities. Councilmember Harper asked for more information about the future creation of a SSMID district. Prouty stated it is similar to a homeowners association for a commercial district.

Presentation of the Project of the Year Award for the Central Corridor 7th Avenue - 8th to 12th Pavement Reconstruction and Streetscaping Project

City Engineer Mike Barkalow provided a review of the above referenced project and presented the award to City Council.

PUBLIC FORUM

No one came forward to speak.

CONSENT AGENDA

Administrative Services

Minutes of the September 19 and 21, 2023 City Council meeting

Motion to approve hold harmless agreements with the following:

- CablePro Installations regarding a Halloween Party on October 28, 2023 at 2515 8th Ave

Liquor licenses including the following:

- Renewal - Morning Story - 2931 7th Ave
- Renewal - Fareway Stores Inc - 3300 10th Ave
- New - Kwik Star #589 - 962 62nd Street

Certified Lists for the following positions:

- Fire Lieutenant
- Deputy Fire Chief

Payments as presented in the amount of \$2,224,422.96

Resolution No. 31616 approving agreement with Iowa Economic Development Authority (IEDA) and Uptown Marion regarding support of the Main Street Iowa Program in Marion

Resolution No. 31617 approving addendum no. 1 to the Main Street Iowa Program agreement with Iowa Economic Development Authority (IEDA) and Uptown Marion and authorizing payment in the amount of \$30,000

Resolution No. 31618 approving partial payment no. 34 to Tidal Basin Government Consulting LLC for services related to Derecho Disaster Recovery in the amount of \$2,451.25

Receive and file Policy Review Schedule

Resolution No. 31619 approving agreement with Lively, Inc. regarding a Health Savings Account benefit and authorizing payment in amount as outlined in the agreement

Engineering

Resolution No. 31620 approving contract amendment no. 4 with RDG Planning and Design regarding design services for the Central Plaza and authorizing payment in the amount of \$20,370 (REC-24-001)

Resolution No. 31621 approving contract with Anderson Bogert Engineers and Surveyors, Inc. regarding the Highway 100 and East Post Road Emergency Repair and authorizing payment in the amount of \$6,322.50

Resolution No. 31622 approving purchase of a 2024 F150 SuperCAB truck from Lynch Ford and authorizing payment in the amount of \$42,997

Resolution No. 31623 approving reallocation of \$600,000 from the 7th Avenue project to the Indian Creek Trunk Sewer - Segment 4, 5, 7 project for watermain work along Central Avenue, Boyson Road and Larick Drive

Community Development

Resolution No. 31625 approving contract amendment with Iowa Economic Development Authority regarding the Community Development Block Grant Disaster Recovery (CDBG-DR) Program for the Hoth Flats Project to request an additional \$85,000 in grant funding

Resolution No. 31626 approving a professional service agreement with RDG Planning and Design regarding the Comprehensive Plan Update and authorizing payment in an amount not to exceed \$131,000

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

Approved unanimously

Resolution No. 31624 accepting a warranty deed for Lots A and B, Squaw Creek Meadows Third Addition in the City of Marion, Linn County, Iowa (Platinum Development LLC) was removed from the agenda.

Mayor AbouAssaly relinquished the gavel to Mayor Pro Tem Harper at 5:59 p.m. Mayor Pro Tem Harper presided over the meeting.

CONSENT AGENDA WITH MAYOR ABOUASSALY'S ABSTENTION

Engineering

Resolution No. 31627 accepting the 2023 10th Avenue Resurfacing Project (ANN-24-001) (TRANS-18-090)

Resolution No. 31628 approving contract with Price Electric regarding the Highway 100 and East Post Road Emergency Repair and authorizing payment in the amount of \$23,250

Community Development

Resolution No. 31629 approving payment to East Central Iowa Council of Governments (ECICOG) in an amount not to exceed \$150,000 for the administration of Community Development Block Grant - Disaster Recovery (CDBG-DR) funds related to the Bell Tower Lofts Project.

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, Strnad, Harper, Mentzer, Brandt, and Miskimen

Abstained: AbouAssaly

Mayor Pro Tem Harper relinquished the gavel to Mayor AbouAssaly at 6:00 p.m. Mayor AbouAssaly presided over the meeting.

REGULAR AGENDA

Administrative Services

Ordinance No. 23-25 amending Section 55-8 regarding Scheduled Violations, Subsection 218-3 regarding Noise Enforcement-Fines, and Chapter 309-5(C) regarding Vehicles, All-Terrain, Off-Road Utility and Snowmobiles of the Marion Code of Ordinances (second consideration)

Moved by Mentzer, seconded by Brandt, to approve the second consideration of Ordinance No. 23-25.

Approved unanimously

Public Services

Motion directing staff to proceed with curbside collection strategy scenario A1 and authorizing implementation thereof

Moved by Strnad, seconded by Mentzer, to approve the item referenced above. Councilmember Jensen stated future discussion will take place to decide the size of the containers.

Approved unanimously

Engineering

Public comment regarding the addition of a Rectangle Rapid Flashing Beacon (RRFB) at the intersection of McGowan and 35th Street

Mayor AbouAssaly opened the public comment period regarding item referenced above. City Engineer Mike Barkalow provided a staff report. Ann Wells (1930 39th Street), Jessica Hora (4110 McGowan Blvd), Jason Hora (4110 McGowan Blvd) and Taylor Norden (2815 McGowan Blvd) all spoke in support of installation of a RRFB device. The following submitted comments prior to the meeting: Mary Jo Adams (1820 Charleston Drive), Kara and Jason Bowman (3370 Jonquil Ln), Danielle Henin (2233 49th Street), Elizabeth Coder (2650 Heatherview Circle) and Erin Wells (1930 39th Street) all wrote in support of the installation of a RRFB device. No other comments, written or verbal, were received. Mayor AbouAssaly declared the public comment period closed.

Motion to receive and file Traffic Advisory Committee (TAC) report regarding the addition of a Rectangle Rapid Flashing Beacon [RRFB] at the intersection of McGowan and 35th Street

Moved by Miskimen, seconded by Strnad, to approve the item referenced above. Councilmember Jensen stated he would still have concerns that if we installed a RRFB device south of the intersection, that kids wouldn't go south to cross and then go back north to McGowan and they would continue to cross 35th Street at McGowan. Jensen would like to continue to monitor this intersection for possible safety options. Councilmember Mentzer agreed and stated she would like to continue to investigate options for a safe crossing. Councilmember Miskimen stated he would also like to continue looking at this intersection for safety options. Councilmember Harper stated we should work with the school district to determine how many students cross to go to Wilkins. He also stated he would still like to install a RRFB device in the interim.

Approved unanimously

Motion to direct staff to move the 30 MPH sign on 35th street for southbound traffic from Parkcrest Court to McGowan Blvd., deploy the Automatic Traffic Enforcement (ATE) vehicle on 35th Street, and continue the recommended maintenance of the intersection

Moved by Jensen, seconded by Miskimen, to approve the item referenced above. Councilmember Harper stated he agrees with the initial actions but would like to see more done including the RRFB device until something else can be done. Mayor AbouAssaly asked what other options could be installed to improve safety. City Engineer Mike Barkalow stated we could do a further traffic analysis and do pedestrian counts this spring to capture the school traffic. Councilmember Jensen asked for a count of how many flashing beacons there are in the City. He also asked if there was any issue with adding a RRFB on a three-lane road. Barkalow stated there isn't a difference when adding a RRFB device to a three-lane versus a two-lane road. Councilmember Jensen stated he would like to see studies about the effectiveness of a RRFB device. Councilmember Strnad spoke about the lack of funding for school districts and the limits placed on school transportation. He also spoke about working with the school districts to help with bus routes and getting more funding for safe transportation to schools. Councilmember Brandt stated the intersection should continue to be looked at.

Approved unanimously

Public comment regarding a request for no parking and speed bumps on 3rd Avenue east of 22nd Street

Mayor AbouAssaly opened the public comment period regarding item referenced above. City Engineer Mike Barkalow provided a staff report. Tom Bullis (2233 3rd Avenue) spoke about the lack of parking for parents and how the no parking should be within certain hours. The following comments were submitted prior to the meeting: Tammy Detert (2296 3rd Avenue) wrote in support of no parking on 3rd Avenue and against installation of speed bumps; Tom Bullis (2233 3rd Avenue) wrote in support of no parking on 3rd Avenue; Lanette Hauser (301 22nd Street) wrote in support of no parking on 3rd Avenue. No other comments, written or verbal, were received. Mayor AbouAssaly declared the public comment period closed.

Motion to receive and file Traffic Advisory Committee (TAC) report regarding a request for no parking and speed bumps on 3rd Avenue east of 22nd Street

Moved by Harper, seconded by Jensen, to approve the item referenced above. Councilmember Jensen stated he agrees with having no parking during certain times and asked if that option was considered. City Engineer Mike Barkalow stated it was considered and the no parking is recommended to assist with the access for fire apparatus.

Approved unanimously

Resolution No. 31630 approving the establishment of a "No Parking" zone on the south side of 3rd Avenue from 22nd Street to the bus pull off area, establishment of a "No Parking" zone on the north side of 3rd Avenue from 22nd Street to 27th Street and rescinding Resolution No. 14038 and 24766

Moved by Brandt, seconded by Harper, to approve Resolution No. 31630.

Approved unanimously

Motion to direct staff to deploy the Automatic Traffic Enforcement (ATE) vehicle to the area of 22nd Street and 3rd Avenue as determined by the Police Department

Moved by Mentzer, seconded by Brandt, to approve the item referenced above.

Approved unanimously

Ordinance No. 23-23 amending Chapter 274 Article III of the Marion Code of Ordinances regarding Stormwater Utility (final consideration)

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

Approved unanimously

Resolution No. 31631 approving the Stormwater Utility Standard Operating Procedure and Policy

Moved by Miskimen, seconded by Harper, to approve Resolution No. 31631.

Approved unanimously

Resolution No. 31632 approving the Residential Stormwater Best Management Practices (BMP) Rebate Program Procedures and Policy

Moved by Jensen, seconded by Miskimen, to approve Resolution No. 31632.

Approved unanimously

Mayor AbouAssaly relinquished the gavel to Mayor Pro Tem Harper at 7:03 p.m. Mayor Pro Tem Harper presided over the meeting.

Motion to direct staff to develop a through-the-fence agreement for Lot 8, Aircom Park First Addition

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

Approved by the following votes:

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

Abstained: AbouAssaly

Community Development

Public hearing regarding the disposition of public property described as the west 20' of Lot 8, Block 9 Original Town, Marion, Iowa (City of Marion)

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

Resolution No. 31633 approving the disposition of public property described as the west 20' of Lot 8, Block 9 Original Town, Marion, Iowa (City of Marion)

Moved by Mentzer, seconded by Brandt, to approve Resolution No. 31633. Councilmember Miskimen stated he will be abstaining from this item as the

adjacent owner is on the board of his employer.

Approved by the following votes:

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

Abstained: AbouAssaly and Miskimen

Mayor Pro Tem Harper relinquished the gavel to Mayor AbouAssaly at 7:08 p.m. Mayor AbouAssaly presided over the meeting.

Public hearing regarding a moratorium related to commercial uses along portions of Tower Terrace Road, Highway 13, and the Central Corridor Zoning Districts

Mayor AbouAssaly opened the public hearing regarding item referenced above. Principal Planner Dave Hockett provided a staff report. Mike Bates (361 7th Avenue) spoke against including pawn shops in the moratorium. Mike Marak (5185 8th Avenue) spoke against including his property in the moratorium and its restriction of any expansions for his business. William Rieken (365 7th Avenue) stated he received the notice of the moratorium and has concerns as it relates to his business. Hockett stated he previously spoke with the following individuals who shared concerns: Michelle Burges (1505 7th Avenue), Bob Burger (2556 Hindman Road), Bryan Griswold (5805 Bealle Court), Jean Mellor (1805 Red Fox Way), Representatives from Kwik Trip, Dan Engle (Tower Terrace Road) and Adam Gibbs on behalf of Dollar Tree. No other comments, written or verbal, were received. Mayor AbouAssaly stated the public hearing will remain open.

Ordinance No. 23-26 approving a moratorium related to select commercial uses along portions of Tower Terrace Road, Highway 13, and the Central Corridor Zoning Districts (Initial consideration)

Moved by Strnad, seconded by Mentzer, to approve the initial consideration of Ordinance No. 23-26. Councilmember Harper asked for clarification on comments made earlier by Mike Bates about his business if it sustains damage. Principal Planner Dave Hockett confirmed that if his building sustains over 50% of damage that it would restrict his ability to reopen. Councilmember Harper stated he would like to grant some relief for businesses if their building sustains damage while the moratorium is in effect. Councilmember Jensen agrees and stated he does not want the moratorium to impact existing businesses. He also stated the Council will have the ability to change the code and allow projects if needed. Hockett confirmed another ordinance could be approved to change the code but it would need to be based on use and not specific projects. Councilmember Brandt stated he would like to suggest pawn shops be removed from the moratorium in the central corridor. He also stated he would like to remove the properties surrounding Marak's property be removed from the moratorium. Moved by Brandt, seconded by Jensen to amend the motion to include language about legal non-conforming uses and that the moratorium will not restrict the ability to expand or rebuild for an existing use. Approved unanimously to amend motion.

Hockett asked for Council's input as it relates to including grocery stores to the moratorium. Councilmember Brandt stated he would not like to include grocery

stores to the moratorium. Councilmember Harper stated he would like to include grocery stores as the moratorium is only for a year and that gives staff time to review that specific use when updating the comprehensive plan. Councilmember Mentzer would also like to include grocery stores in the moratorium.

Amended motion approved unanimously

Public hearing regarding a request to rezone property from AG, Agricultural Holding, to PUD, Planned Unit Development for property located south of Fernow Road and east of Bluegrass Street, Marion, Iowa (Rookwood Estates, LLC)

Mayor AbouAssaly opened the public hearing regarding item referenced above. Principal Planner Dave Hockett provided a staff report. Developer Chad Pelley spoke in support of the rezoning. No comments, written or verbal, were received. Mayor AbouAssaly declared the public hearing closed.

Ordinance No. 23-27 approving a request to rezone property from AG, Agricultural Holding, to PUD, Planned Unit Development for property located south of Fernow Road and east of Bluegrass Street, Marion, Iowa (Rookwood Estates, LLC) (initial consideration)

Moved by Miskimen, seconded by Jensen, to approve the initial consideration of Ordinance No. 23-27.

Approved unanimously

Ordinance No. 23-24 approving a request to zone property from Linn County AG, Agriculture, and USR, Urban Service Area to SR-E, Suburban Residential Estate for properties located along East Robins Road between Meadowknolls Road and Mulberry Drive, Marion, Iowa (final consideration)

Moved by Jensen, seconded by Miskimen, to approve the final consideration of Ordinance No. 23-24.

Approved unanimously

PUBLIC FORUM

Dustin Mazgaj (PO Box 110, Walford) spoke about the property at 1501 1st Avenue, Marion and the lack of inspections.

COUNCIL COMMENTS

Councilmember Mentzer reminded everyone about the Marion Chocolate Walk tomorrow night.

Councilmember Harper thanked all other Council members for the discussions tonight.

CLOSED SESSION

Motion to adjourn to closed session regarding personnel matters as permitted under Section 21.5(1)(i) of the Code of Iowa.

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 Miskimen, seconded by Jensen, to reconvene to regular session.

Approved unanimously

ADJOURN

Mayor AbouAssaly adjourned the meeting at 8:35 p.m.

Nicolas AbouAssaly, Mayor

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____.

Rachel Bolender, City Clerk