

MINUTES OF A MEETING OF THE  
COUNCIL OF THE CITY OF MARION, ARKANSAS

The Council of the City of Marion, Arkansas met in regular session Tuesday, August 24, 2021, at 7:00 p.m. at Marion City Hall.

Present:	Frank A. Fogleman	Mayor
	Kelsey Hensley	Councilwoman (1-1)
	David Bigger	Councilman (1-2)
	Cliff Wood	Councilman (2-1)
	Jim Spence	Councilman (2-2)
	Bryan Jackson	Councilman (3-1)
	Sherry Holliman	Councilwoman (3-2)
	James C. Hale III	City Attorney
	David W. Rikard	City Treasurer
	Patty James	City Clerk

Others

Present:	Ed Cain	Planning Commission Consultant
	John Millsap	Asst. Police Chief
	Andy Rawls	Parks Superintendent
	Fred Thorne, Jr.	Building Inspector
	Jerry Kelley	Water Superintendent
	Gordon Floyd	Streets Superintendent

Absent:	Brannon Hinkle	Police Chief
	Woody Wheelless	Fire Chief

I.

Councilman Bigger made a motion, seconded by Councilwoman Holliman, to approve the minutes of July 27, 2021, Council meeting. All Council members present voted in favor of the motion.

II.

Citizens' Concerns: Lisa O'Neal addressed the Council on behalf of Jimmy and Amy Tau. They have recently purchased the old Wendy's building. They are going to open a restaurant called "The Venue". This will be a high-end restaurant, therefore, they are wanting to serve hard liquor. The new

Alcohol and Beverage Commission guidelines require a business that wants to obtain a liquor license to get prior approval from the City Council before the liquor license will be approved and issued by the Alcohol and Beverage Commission.

Lisa O'Neal provided a draft ordinance for approval. This item was covered under Resolutions and Ordinances later in the meeting.

### III.

#### Committee Reports:

Planning Commission: There was no agenda, therefore, there was no August 3, 2021, Planning Commission meeting. There is an agenda for the September 7, 2021, Planning Commission meeting. This meeting will be at 6:30 p.m. at Marion City Hall.

Water and Sewer: The owner of the building located at 310 Judge Smith Dr., formerly a doctor's office, has signed the paperwork to sell the property to the City for \$415,000.00. The closing date had not yet been set.

Parks and Recreation: No Report

Streets and Drainage: No Report

Sanitation: No Report

Building Inspector: Fred Thorne, Jr. reported 2 new house permits, 0 commercial permits and 17 miscellaneous permits were issued for the month of August. That brings year-to-date totals to 28 new house permits, 3 commercial permits and 211 miscellaneous permits.

Fred Thorne, Jr. is compiling some new guidelines for permits that will be issued for new construction, as well as other miscellaneous permits. He will bring those guidelines to the next Council meeting for consideration.

Fire and Police: Councilwoman Hensley reported that the Fire and Police Committee met recently to discuss the bids for repairing the roof on Fire Station No. 2. The Committee agreed that Jonesboro Roofing Company should do the job. Councilwoman Hensley made a motion, seconded by Councilman Wood, to authorize the acceptance of the proposed bid of

\$23,425.00 from Jonesboro Roofing Company. All Council members present voted in favor of the motion.

Police Chief Hinkle and Asst. Police Chief Millsap have two proposed policy changes that they want to get approved by the Council. The Fire and Police Committee will meet and discuss these two items (nepotism and vehicle use) and make the necessary recommendations to the Council at the next Council meeting.

#### IV.

Old Business: Moring Environmental Services will do a phase I environmental study on the 188 Hwy 77 property. The cost of the study will be \$1,700.00. City Attorney Hale has revised the contract and sent it to the seller's attorney. If the City receives a clearance letter, upon the conclusion of the environmental study, the City will move forward with purchasing and closing on the property.

Mayor Fogleman, Jerry Kelley, City Attorney Hale and Jerome Alford of Bond Engineering, met with representatives from ArDot concerning who will bear the cost for moving the water and sewer lines for the Military Road project. ArDot advised they do not own the right-of-way east of Cherry Street and as such, it appears as if the responsibility will fall upon ArDot to bear most of this cost. Jerome Alford is awaiting confirmation from ArDot concerning the cost estimates.

Attorney Tom Donaldson gave the Council an update on the Old Station located at Hwy 64 and I-55. He reported the design engineer and soil engineer have completed their work. The drainage district must stabilize the ditch. Once this is completed, Mr. Shaw can proceed with the interior work on the property.

Mayor Fogleman gave an update on the Overpass Project. Universal Services has completed the appraisal and evaluation on the Marconi and Williford properties. There is a second firm reviewing the evaluation of the properties.

October 1, 2021, at 10:00 a.m. is the tentative date set for the unveiling of the renaming of Maple Street as Chief Gary Kelley Street. Charlene and Daniel Kelley will attend the unveiling and the public is invited.

The house located at 21 Maple Street has been demolished. The trees still need to be removed to complete the project.

Councilman Bigger made a motion, seconded by Councilwoman Hensley, to authorize Mayor Fogleman to sign the one-year agreement with Caton Consultants, LLC, for 30 hours per month of consulting for \$2,500.00, with the legal venue of Crittenden County and with a start date of September 1, 2021. After discussion, the motion failed to pass with 4-nays and 2-ayes.

V.

New Business: An advertisement for bids will be placed for the sewer pond levee repair. The work must be done as a result of levee erosion. Jerry Kelley advised the excavation of nearby City property will leave a hole 80 feet wide, 400 feet long and 10 feet deep.

A citizen requested Mayor Fogleman to bring before the Council the consideration of an overhead walkway across the interstate from Bayou Vista to the school complex.

VI.

Resolutions and Ordinances: Councilman Spence made a motion, seconded by Councilman Wood, to approve the continuation of the personal and real property tax mileage rate of 5 mills for calendar year 2022. All Council members approved the motion. The Resolution was numbered 2021-09.

Mayor Fogleman presented a draft ordinance to waive competitive bidding for the repair of the roof at Fire Station No. 2.

Councilman Wood made a motion, seconded by Councilman Jackson, to read the ordinance by title only. All Council members present voted in favor of the motion.

City Attorney Hale read the following proposed ordinance by title only:

**AN ORDINANCE WAIVING COMPETITIVE BIDDING FOR THE REPAIR OF ROOFING FOR FIRE STATION NO. 2 IN THE CITY OF MARION AND DECLARING AN EMERGENCY.**

Councilman Wood made a motion, seconded by Councilman Spence, that the proposed ordinance be adopted on the first reading. On roll call, the following votes were recorded: Hensley-aye, Bigger-aye, Wood-aye, Spence-aye, Jackson-aye and Holliman-aye.

Councilman Wood made a motion, seconded by Councilman Spence, to suspend the rules and read the proposed ordinance by title only a second time. All Council members present voted in favor of the motion.

City Attorney Hall read the proposed ordinance by title only:

**AN ORDINANCE WAIVING COMPETITIVE BIDDING FOR THE REPAIR OF ROOFING FOR FIRE STATION NO. 2 IN THE CITY OF MARION AND DECLARING AN EMERGENCY.**

Councilman Wood made a motion, seconded by Councilman Bigger, that the proposed ordinance be adopted on the second reading. On roll call, the following votes were recorded: Bigger-aye, Wood-aye, Spence-aye, Jackson-aye, Holliman-aye and Hensley-aye.

Councilman Wood made a motion, seconded by Councilman Spence, that the rules be suspended and the proposed ordinance be read by title only a third time. All Council member present voted in favor of the motion.

City Attorney Hale read the proposed ordinance by title only:

**AN ORDINANCE WAIVING COMPETITIVE BIDDING FOR THE REPAIR OF ROOFING FOR THE FIRE STATION NO. 2 IN THE CITY OF MARION AND DECLARING AN EMERGENCY.**

Councilman Spence made a motion, seconded by Councilman Wood that the proposed ordinance be adopted on the third reading. On roll call, the following votes were recorded: Wood-aye, Spence-aye, Jackson-aye, Holliman-aye, Hensley-aye and Bigger-aye.

The Ordinance was numbered 591.

Mayor Fogleman presented a draft ordinance granting a petition for a private club liquor license for 304 Bancario Road.

Councilman Hensley made a motion, seconded by Councilman Jackson, to read the proposed ordinance by title only without the emergency clause.

City Attorney Hale read the proposed ordinance by title only:

**AN ORDINANCE ADOPTED PURSUANT TO ACT 1112 OF 2017, APPROVING THE APPLICATION OF SEAFOOD ENTERPRISES DBA THE VENUE RESTAURANT FOR A PRIVATE CLUB TO BE LOCATED AT 304 BANCARIO ROAD, MARION, CRITTENDEN COUNTY, ARKANSAS.**

Councilwoman Hensley made a motion, seconded by Councilman Spence, that the proposed ordinance be adopted on the first reading. On roll call, the following votes were recorded: Hensley-aye, Bigger-aye, Wood-aye, Spence-aye, Jackson-aye and Holliman-aye.

Councilman Spence made a motion, seconded Councilman Jackson, to suspend the rules and read the proposed ordinance by title only without the emergency clause a second time. All Council members present voted in favor of the motion.

City Attorney Hale read the proposed ordinance by title only:

**AN ORDINANCE ADOPTED PURSUANT TO ACT 1112 OF 2017, APPROVING THE APPLICATION OF SEAFOOD ENTERPRISES DBA THE VENUE RESTAURANT FOR A PRIVATE CLUB TO BE LOCATED AT 304 BANCARIO ROAD, MARION, CRITTENDEN COUNTY, ARKANSAS.**

Councilman Spence made a motion, seconded by Councilman Bigger, that the proposed ordinance be adopted on the second reading. On roll call, the following votes were recorded: Bigger-aye, Wood-aye, Spence-aye, Jackson-aye, Holliman-aye and Hensley-aye.

The proposed ordinance will be put on the September Council meeting agenda for consideration.

VII.

Financial Report:

Treasurer Rikard informed the Council that a new checking account has been opened at Premier Bank to handle the CDBG Funds the City will receive for

the benefit of the Sultana Museum. As with all city funds, this account will require two signatures, which currently are the Treasurer and the Mayor. The agreement for this grant requires a short time frame for the turnaround of payments for approved expenses. As such, I (Rikard) recommend that the Council approve adding Gail Tankersley and Patsy House as authorized signers for this account.

Treasurer Rikard noted that the July financials were distributed tonight, so we are now current on the financials. There are still a few bank reconciliation issues that we continue to work on, but the size and volume of issues continue to decrease. Rikard pointed out that sales tax numbers for August were released today and they were better than budget by 9.2% for the city portion and 8.5% for the county portion. Total sales tax collections for through August 2021 were better than budget by 10.8% for the city portion and better by 12.3% for the county portion. Rikard pointed out that overall general fund revenue collections (excluding grant income) through July were better than budget by approximately \$338,000 and general fund expenditures (excluding capital items) are better than budget by approximately \$333,000.

Rikard also noted that the 2020 audit reports were distributed tonight. While the financial statements have an unqualified regularity opinion, the auditors did issue a significant deficiency report with respect to two items. The first was related to being behind on the bank reconciliations resulting in the auditors having to make late adjustments to the financial statements. This is also a violation of municipal accounting law as bank accounts must be reconciled on a timely basis to be in compliance. The second item related to not having a separate fund for the Street Fund.

The city management's response to the issues are included in the report. In summary, we have added temporary help to bring the reconciliations up to date. We have added a Human Resources person who begins next month to take some of the employee-benefit burden off the accounting department and we are looking to hire a degreed accountant to provide a higher level of accounting support. On the fund issue, we have always reported using the method we used last year, but we made some posting errors that caused it to be more difficult to pull that fund out for reporting purposes. We will separate the street activity into a separate fund before the end of 2021.

In addition to the basic audited financials, there are two additional letters issued by the auditors. The first letter titled "Communication with those

charged with governance at the conclusion of the audit” is a required communication that the auditors provide each year. The second letter includes management comments on items they noted that were not at the level to include in the basic audit report. The two items mentioned are relatively insignificant. The first was a duplicate payment by the bond trustee; had this not been returned by the vendor, the trustee would have been responsible for the loss. The second item relates to difficulty in finding documents during the audit. While Mr. Rikard stated that he had copies of most of the documents in question, but they were not requested from him.

Last item is to request we set an investment committee meeting to discuss options for investing excess city funds. A meeting was set for Wednesday, September 22<sup>nd</sup>, at 3:00 pm at the Treasurer’s office.

Rikard then opened the floor for questions.

Upon City Treasurer Rikard’s recommendation, Councilwoman Hensley made a motion, seconded by Councilwoman Holliman, to authorize Gail Tankersley and Patsy House to be added to the Premier Bank account that handles CDBG funds for the City and be authorized signers of checks in the absence of Mayor Fogleman and/or Treasurer Rikard. All Council members present voted in favor of the motion.

#### VIII.

##### Departmental Reports:

Jerry Kelley had nothing further to report.

Asst. Chief Millsap had nothing further to report.

Gordon Floyd had nothing further to report.

Andy Rawls had nothing further to report.

Ed Cain had nothing further to report.

Danny Bowden had nothing further to report.

Fred Thorne, Jr. had nothing further to report.



The September Council meeting has been changed to Thursday, September 23, 2021.

Councilman Spence made a motion, seconded by Councilwoman Hensley to suspend the meeting at 9:04 p.m. All Council member present voted in favor of the motion.

At 9:40 P. M. Wood moved, with Spence seconding, to reconvene the meeting. All present voted aye.

Fogleman presented a draft of an ordinance to increase the compensation of the Mayor, the City Attorney, the City Clerk and the City Council. Following discussion, Jackson moved, with Holliman seconding to read the proposed ordinance by title only. All present voted aye.

Fogleman read the title to the following proposed ordinance by title only:

**AN ORDINANCE TO AMEND THE COMPENSATION FOR THE MAYOR, THE CITY ATTORNEY, THE CITY CLERK AND THE CITY COUNCIL.**

Following the reading of the title for the first time, Hensley moved, with Holliman seconding, to approve the proposed ordinance. On a roll call vote, the following votes were recorded: Holliman-aye, Jackson-aye, Bigger-aye, Hensley-aye, Spence-aye and Wood-aye.

Jackson made a motion, seconded by Hensley, that the rules be suspended and the proposed ordinance be read by title only a second time. All present voted aye.

Fogleman read the title to the following proposed ordinance by title only:

**AN ORDINANCE TO AMEND THE COMPENSATION FOR THE MAYOR, THE CITY ATTORNEY, THE CITY CLERK AND THE CITY COUNCIL.**

Following the reading of the title for the second time, Spence moved, with Jackson seconding, to approve the proposed ordinance. On a roll call vote, the following votes were recorded: Jackson-aye, Bigger-aye, Hensley-aye, Spence-aye, Wood-aye and Holliman-aye.

Spence made a motion, seconded by Jackson, that the rules be suspended and the proposed ordinance be read by title only a third time. All present voted aye.

Fogleman read the title to the following proposed ordinance by title only:

**AN ORDINANCE TO AMEND THE COMPENSATION FOR THE MAYOR, THE CITY ATTORNEY, THE CITY CLERK AND THE CITY COUNCIL.**

Following the reading of the title for the third time, Spence moved, with Jackson seconding, to approve the proposed ordinance. On a roll call vote, the following votes were recorded: Bigger-aye, Hensley-aye, Spence-aye, Wood-aye, Holliman-aye and Jackson-aye.

Spence moved, with Hensley seconding, to adopt this ordinance with an Emergency Clause. On a roll call vote, the following votes were recorded: Hensley-aye, Spence-aye, Wood-aye, Holliman-aye, Jackson-aye and Bigger-aye.

The ordinance was numbered 592.

There being no further business to come before the Council and upon proper motion, the meeting adjourned at 9:55 P. M.

\_\_\_\_\_  
Mayor

Attest: \_\_\_\_\_  
City Clerk