



**City of Marietta
Meeting Minutes
CITY COUNCIL**

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

William B. Dunaway, Mayor
Betty Lou Hunter, Ward 1
M. C. (Pete) Waldrep, Jr., Ward 2
John V. Sinclair, Ward 3
G. A. (Andy) Morris, Sr., Ward 4
Rev. Anthony Coleman, Ward 5
James W. King, Ward 6
Philip M. Goldstein, Ward 7

Wednesday, July 13, 2005

7:00 PM

Council Chamber

Presiding: William B. Dunaway

Present: Betty Lou Hunter, M. C. "Pete" Waldrep, Jr., John Vincent Sinclair, G. A. "Andy" Morris, Rev. Anthony Coleman and Philip M. Goldstein

Absent: James W. King

Also Present:

William F. Bruton, Jr., City Manager

Douglas R. Haynie, City Attorney

Shelia R. Hill, City Clerk

CALL TO ORDER:

Mayor William B. Dunaway called the meeting to order at 7:00 p.m.

INVOCATION:

Council member M. C. "Pete" Waldrep, Jr., gave the invocation.

PLEDGE OF ALLEGIANCE:

Mayor Dunaway called on Mike Wilson who serves on the Planning Commission to lead the pledge of allegiance.

PRESENTATIONS:

20050823 Swearing-In Ceremony

Swearing-in ceremony for police officer Joseph Matthew Berry.

Mayor Dunaway, joined by Deputy Police Chief David Beam, administered the oath of office for Marietta's newest police officer Joseph Matthew Berry.

Oath Administered.

PROCLAMATIONS:

CONSENT AGENDA:

Appointment of Charles M. Brown, III to the Marietta Museum of History Board of Directors for an unexpired term of three years expiring on October 31, 2007.

This Matter was Approved on the Consent Agenda.

Vote: 5 - 0 - 1 **Approved**
Abstain: 1 - Philip M. Goldstein

* **20050761 Marietta Redevelopment Corporation Appointment**

Appointment of Scott Condra to the Marietta Redevelopment Corporation Board of Directors for a term of two years expiring on July 13, 2007.

This Matter was Approved on the Consent Agenda.

Vote: 5 - 0 - 1 **Approved**
Abstain: 1 - Philip M. Goldstein

* **20050762 Marietta Redevelopment Corporation Chairman**

Appointment of Floyd Northcutt as chairman of the Marietta Redevelopment Corporation Board of Directors.

This Matter was Approved on the Consent Agenda.

Vote: 5 - 0 - 1 **Approved**
Abstain: 1 - Philip M. Goldstein

ORDINANCES:

20050660 Z2005-23 Marietta Charter Schools 368 Wright Street

Ord 6826 Z2005-23 Marietta Charter Schools requests rezoning for property located in Land Lot 1291, Parcels 162, 16th District, 2nd Section, Marietta, Cobb County, Georgia and being known as 368 Wright Street from OI (Office Institutional) to OI with conditions (Office Institutional). Ward 5A.

Mayor Dunaway opened the public hearing. City Attorney Douglas Haynie explained the rules of order for rezoning hearings and swore in those wishing to speak.

Garvis Sams, attorney for the applicant, requested rezoning of property located at 368 Wright Street from OI (Office Institutional) to OI with conditions (Office Institutional) to be used for the Marietta Charter Schools. Mr. Sams distributed a revised copy of the Letter of Stipulations dated July 13, 2005 along with a traffic study of the area. The property is a two-acre tract of land located across from the Johnny Walker Homes site, which is slated for redevelopment.

The building located on the property has been used by the Center for Family Resources and the Wright Street Elementary. The traffic study presented shows that the level of service at the intersections in the area would continue to operate successfully. In addition, there would be adequate parking available to accommodate the school with respect to the city's required parking ratio.

Mr. Sams pointed out that the requested zoning would be used for the Charter School only, even though other projects are allowed. The building would be renovated but the applicant had no plans for expansion. The drop off and pick up times for the students would be staggered as to not hinder traffic flow in the area. Lastly, the Charter School would open on August 16, 2006 and operate from August 15th to June 1st each following year. The school would be open from 6:00 a.m. to 6:00 p.m., which includes the before and after school programs.

Council member Goldstein requested that item fourteen of the July 13, 2005 letter of stipulations be amended to read, "The granting of a contemporaneous variance waiving the minimum tract size for schools, colleges and universities (public and private) in an O & I zoning district from 5 acres to 2.03 acres for a charter school." Mr. Sams agreed and stated again for the record that the requested zoning would be used for the Charter School only.

Speakers in Opposition:

Cleamontine Durham, who resides at 420 Henry Drive, expressed concern regarding the requested variance waiving the minimum tract size for the charter school from the required 5 acres to 2.03 acres. She feels that if granted, this would set precedence in Marietta for other schools coming into the area.

Kerry Graham, who resides at 67 Trammel Street, expressed concern regarding the increased traffic flow in the area since the school does not plan to use bus transportation.

Felecca W. Taylor, 5531 Deerfield Place in Kennesaw, proposed that the applicant consider using the old Lemon Street Elementary School as an alternative. She feels that the community surrounding the former Wright Street Elementary School would not be able to accommodate the proposed Charter School.

Mary West, who resides at 260 Wright Street, suggested solutions to the traffic issues that would occur with the opening of the school such as school bus use, van bus use, central drop off points, crossing guards and/or police traffic officers.

Sarah Bullington, who resides at 229 Wright Street, spoke in favor of the rezoning request stating that the Charter School would offer more options for children with varying learning styles.

Council member Goldstein inquired about the number of trips a day being made currently by the Family for Family Resources in regards to traffic flow. Louis Chalmers with LAI Engineering stated that currently there are 100 plus trips per day currently and the projected amount for the school would be about 360 trips during peak hours.

Council member Goldstein also inquired whether the traffic figures included the anticipation of the widening of Reynolds Street. Mr. Chalmers stated that the data was collected regarding the existing conditions of the surrounding intersections. Mr. Chalmers mentioned that Reynolds Street might need to be widened with the development of the Johnny Walker Homes Site; however that would not affect the current project.

Council member Sinclair expressed concern with widening Reynolds Street and stated for the record that while he serves on the City Council, he would not vote to widen Reynolds Street. He also stated that he was not aware of any attempt or discussion by council to do so.

Council member Goldstein asked Mr. Sams if the applicant would agree to stay within the confines of the footprint of the existing facility. Mr. Sams stated that there were no plans to expand beyond the existing footprint of the building and would make that a condition of the rezoning.

Expounding on the use of Lemon Street Elementary School, Brad Rainey stated that Lemon Street and several other facilities were considered; however, they could not be used according to the school system. Mr. Rainey also mentioned that the Charter School would be in favor of a Neighborhood Advisory Board to allow the involvement of the community.

Mayor Dunaway closed the public hearing.

Motion to approve the rezoning request with the Letter of Stipulations dated July 13, 2005 from Garvis L. Sams, Jr., along with the following stipulations:

- 1) That there be no portable classrooms.*
- 2) The Charter School must meet SACS standards and/or guidelines at or before opening the school and continue to meet those standards while operating as they pertain to the facilities.*
- 3) The Charter School must seek and achieve SACS accreditation by 2009 and maintain accreditation while operating as a school facility.*
- 4) The maximum number of students allowed to be enrolled and attend the school shall be 396 students.*
- 5) The applicant shall not expand outside of the current footprint of the building.*
- 6) The Charter School shall establish a board or advisory committee that must be maintained for at least three years; and at least one member shall be a member of the community.*
- 7) Item fourteen of the July 13, 2005 letter of stipulations shall be hereby amended to read, "The granting of a contemporaneous variance waiving the minimum tract size for schools, colleges and universities (public and private) in an O&I zoning district from 5 acres to 2.03 acres for a charter school."*

A motion was made by Council member Sinclair, seconded by Council member Morris, that this matter be Approved as Stipulated. The motion carried by the following vote:

Vote: 5 - 1 - 0

Approved as Stipulated

Vote Against: 1 - Rev. Anthony Coleman

20050661 Z2005-24 Joseph W. & Glenda G. Mertes 60 Polk Street

Z2005-24 Joseph W. & Glenda G. Mertes requests rezoning for property located in Land Lot 1158, Parcel 69, 16th District, 2nd Section, Marietta, Cobb County, Georgia and being known as 60 Polk Street from R-4 (Single Family Residential) to OIT (Office Institution Transitional). Ward 4A.

Motion to table the rezoning request until the August 10, 2005 regular City Council meeting with advertisement fees paid by the applicant.

This matter was Tabled.

20050662 Z2005-25 Oakley Development 1408 & 1430 Sandtown Road

Ord 6827

Z2005-25 Oakley Development Company requests rezoning of property located in Land Lot 209, Parcels 3 and 15, 17th District, 2nd Section, Marietta, Cobb County, Georgia and being known as 1408 and 1430 Sandtown Road from R-2 and R-20 [Single Family Residential (County)] to PRD-SF (Planned Residential Development Single Family). Ward 2B.

Mayor Dunaway opened the public hearing, and City Attorney Douglas Haynie swore in those wishing to speak.

Attorney for the applicant Garvis Sams requested rezoning for property located at 1408 and 1430 Sandtown Road from R-2 and R-20 [Single Family Residential (County)] to PRD-SF (Planned Residential Development Single Family) for the purpose of developing a active adult community. There would be 24 detached homes located in a gated community with a density of 4.5 units per acre. There would be pedestrian trails linking the sidewalks leading to the open space courtyard. A mandatory homeowners association would maintain the courtyard, streets and other open spaces.

Mr. Sams mentioned the architectural style of the homes would be Americana Craftsman designed by Frank Betts and Associates. Each home would have a front loaded or swing loaded style garage to be used for vehicles only. The homes would be for sale with no more than ten percent (10%) to be rented at any one time. Also, a third party management company would manage the day-to-day operation of the homeowners association.

Council member Waldrep inquired whether the walking trails were located near the creek and what was located in the open area of the community. Mr. Sams

mentioned that the walking trails would be located near the creek. He also stated that the open space contained a patio and grill area for the residents of the community.

Council member Waldrep expressed concern regarding the ability for emergency vehicle to enter and turnaround within the gated community. Acting Public Works Director Daniel Conn mentioned that a cul de sac would be needed to allow emergency vehicles adequate room to turnaround. The applicant was asked to include adequate accessibility for emergency vehicles to the detailed plan, which has to be brought back before council.

Council member Goldstein inquired whether the private roadways would have to meet the same standards as public roadways. Mr. Conn confirmed that all streets within the community would have to be converted to 24 ft. measured from curb to curb back. Mr. Goldstein also suggested that there be no more than five percent (5%) rental of homes at any one time, to which Mr. Sams agreed.

Harry Myers, who resides at 1430 Sandtown Road, expressed concern with the number of homes that would be built directly across from his home. He suggested that the number of homes be reduced to lessen the density of the project.

Mayor Dunaway closed the public hearing.

Motion to approve the rezoning request as presented with the Letter of Stipulations dated June 28, 2005 from Garvis L. Sams, Jr., along with the following amendments:

- 1) All streets shall be converted to 24 ft. measured from back of curb to back of curb with standard right-of-way that is required by the Public Works Department.
- 2) Requirement of a turnaround adequately sized for accessibility for emergency vehicles as approved by the Public Works Department.
- 3) Item seven of the June 28, 2005 Letter of Stipulations is hereby amended to reduce the rental units allowed to five percent (5%).

Mayor Dunaway re-opened the public hearing.

Artie Martin, who resides at 1386 Sandtown Road, expressed concern with the development being built so close to the property located at 1430 Sandtown Road, which belongs to her friend.

Mayor Dunaway closed the public hearing.

A motion was made by Council member Waldrep, seconded by Council member Goldstein, that this matter be Approved as Stipulated. The motion carried by the following vote:

Vote: 5 - 1 - 0

Approved as Stipulated

Vote Against: 1 - John Vincent Sinclair

20050663 A2005-07 Victory Properties 1408 Sandtown Road

Ord 6828 A2005-07 Victory Properties, LLC requests annexation for property located in Land Lot 209, Parcel 3, 17th District, 2nd Section, Cobb County, Georgia consisting of .92 acres and being known as 1408 Sandtown Road. Ward 2B.

Mayor Dunaway opened the public hearing and seeing that there was no one desiring to speak, the public hearing was closed.

A motion was made by Council member Waldrep, seconded by Council member Goldstein, that this matter be Approved. The motion carried by the following vote:

Vote: 6 - 0 - 0

Approved

20050664 CA2005-09 (A2005-07) Oakley Development Company 1408 Sandtown Road

Ord 6829 CA2005-09 (A2005-07) Oakley Development Company, in conjunction with the requested annexation of property located in Land Lot 02090, Parcel 3, 17th District, 2nd Section, Cobb County, Georgia and being known as 1408 Sandtown Road, the City of Marietta proposes to designate the Future Land Use of said property as Medium Density Residential. Ward 2B.

Mayor Dunaway opened the public hearing and seeing that there was no one desiring to speak, the public hearing was closed.

A motion was made by Council member Waldrep, seconded by Council member Goldstein, that this matter be Approved. The motion carried by the following vote:

Vote: 6 - 0 - 0

Approved

*** 20050811 Code Enforcement - 108 Holiday Street**

Ord 6830 An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation rendering sanitary, property at 108 Holiday Street in the corporate limits of the city of Marietta.

Certified mail receipt not returned as of July 6, 2005

Taxes paid: Yes

PUBLIC HEARING REQUIRED

This Matter was Approved on the Consent Agenda.

Vote: 5 - 0 - 1

Approved

Abstain: 1 - Philip M. Goldstein

*** 20050812 Code Enforcement - 131 Holiday Street**

Ord 6831 An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation rendering sanitary, property at 131 Holiday Street in the corporate limits of the city of Marietta.

Certified mail receipt returned and signed for by the management company.

Taxes paid: No

PUBLIC HEARING REQUIRED

CITY MANAGER'S REPORT:**MAYOR'S REPORT:**

Mayor Dunaway expressed his appreciation to the city staff for their hard work in making the 4th of July celebration a success.

Mayor Dunaway mentioned that citizens would be able to show their love for the City of Marietta by joining in the Love the Loop program being held Saturday, July 16, 2005. Love the Loop is a program where the Keep Marietta Beautiful Committee invites everyone to come out and help pick up trash along the loop.

Mayor Dunaway congratulated his assistant, Doris Reidy, who was recently selected as the Employee of the Quarter for the City of Marietta

COMMITTEE REPORTS:**1. Economic/Community Development: John V. Sinclair, Chairperson**

- * **20050463 Comprehensive Plan Approval**
- Motion to approve draft Comprehensive Plan and forward it to Atlanta Regional Commission (ARC) and Georgia Department of Community Affairs (DCA) for review.
- This Matter was Approved on the Consent Agenda.**
- Vote: 5 - 0 - 1 Approved**
Abstain: 1 - Philip M. Goldstein
- * **20050599 Revision of Townhouse Regulations**
- Motion to authorize advertisement of amendments to the zoning ordinance regarding town houses and condominiums.
- This Matter was Approved on the Consent Agenda.**
- Vote: 5 - 0 - 1 Approved**
Abstain: 1 - Philip M. Goldstein
- * **20050734 Community Development Block Grant Projects List**
- Res 2005-1381* A Resolution authorizing the Mayor to sign and submit the Fiscal Year 2006 Community Development Block Grant (CDBG) Final Statement Projects List.
- This Matter was Approved on the Consent Agenda.**
- Vote: 5 - 0 - 1 Approved**
Abstain: 1 - Philip M. Goldstein
- 20050748 Project Assistance within the CSSR TAD - Frasier Circle**
- Motion approving the Marietta Redevelopment Corporation's recommendation concerning Deerfield Development Group, LLC's request for tax increment financing to support development of the Village at Frasier Park. MRC

recommends that the City Council approve \$660,000.00 TAD contribution to Deerfield Development, LLC contingent upon negotiation of a development agreement that would commit the developer to place utilities underground, maintain finish quality of units at established levels and to complete the acquisition of remaining buildings.

(Clerk's Note: Council member Goldstein left the Council Chamber during the presentation.)

Gary Mongeon, Executive Director of the Marietta Redevelopment Corporation (MRC) presented a power point presentation regarding Tax Allocation District (TAD) financing for projects proposed for Frasier Circle, Marietta Mill Lofts and Atlanta Northern Traction Company.

Discussion was held and Council member Sinclair inquired whether public hearings were held regarding Tax Allocation District (TAD) financing. Mr. Mongeon mentioned that no public hearings were held regarding the TAD financing; however, all of these projects have gone through the zoning process, which does require a public hearing.

Council member Sinclair inquired whether the process would be less complicated if developers declared that they intended to seek TAD financing before starting a project. Mr. Mongeon mentioned that developers are not always aware that TAD financing may be needed during the initial stage of the development, which is why they are asking at this time.

Motion approving the \$660,000.00 TAD contribution to Deerfield Development, LLC for tax increment financing to support development of the Village at Frasier Park, and to approve an agreement that is drawn by the city attorney that would commit the developer to place utilities underground, maintain finish quality of units at established levels and to complete the acquisition of remaining buildings.

Council member Waldrep made the following comments regarding the petition for TAD financing for the Village at Frasier Circle and Marietta Mill Lofts:

"First of all, these are good people. These are people that are concerned about Marietta and they are people that I consider friends. This is one of those cases where friends don't see eye to eye. I don't think this is a good precedent to set and Gary has talked a great deal about precedence. Just because another municipality in the community, he mentioned Atlanta, does something does not mean it is good for Marietta.

I think the door has been opened for developers/builders that run into any problem, and I don't doubt that these two gentlemen have done their due diligence, but you start setting precedence where other developers have not done their due diligence. They run out of money and they want to hold a gun to your head saying I don't know if the project will be finished. I think I heard Gary say that a couple times and once again not saying these two people have said that. That's the type of thing the city cannot live under. That's what brings politics into the Marietta Redevelopment Corporation.

You start opening it up to having requests and petitioners coming forward to say, I'm out of money, I didn't figure costs, the housing market went south on me, it wasn't something I planned on, please city help me, help me make this dream come true.

Everybody sitting up here is committed to seeing Marietta owner occupied, redeveloped and blighted areas turned around but we cannot be everything to everybody. When you start opening up petitions for people to come forward you will put the politics back into it with your redevelopment corporation and with each member sitting here. I won't be here in six more months. These guys probably wished I was gone now, but that's something you have to be willing to deal with, and I don't think it is the way you do business.

I know a developer right now in Marietta. Is he in a blighted area? No, but he has hit over a million dollars worth of rock. What if he wanted to come in and tell us, I need some help? I'm not in a blotted area, but I'm going to put up \$32 million dollar homes on the tax roll. How do you turn your back on that type of thing? I think it is a dangerous precedence. I think the council in the future will be here every month subsidizing people. This group has worked very hard to get the city out of businesses that we do not need to subsidize. The hotel finally got a lease to quit pouring money down that hole. You can't do the job of the developer. He has to be able to estimate his projects, he has to be able to figure his cost and not come back to you after the game has started. And with that, obviously, I am not going to be for either of these petitions."

Council member Goldstein made the following comments:

"I have heard a lot mentioned about precedence tonight and from my standpoint, I am looking at each of these on their own case-by-case basis and any future ones I will do the same. Just because I vote for one or against one, does not mean that I will vote for the next or against it. My understanding is that the ones that have come to us have met the criteria. We have set the process and set the criteria for that process. I am speaking about the first two on the agenda, and these two have gone through the process. We took the time to form the Marietta Redevelopment Corporation. We took the time to carefully pick the individuals to serve on that corporation. And these [projects] have followed the process. They have met the criteria, and the folks that we hand appointed to serve on the Marietta Redevelopment Corporation have reviewed these and made recommendations. In both of these, they have made a recommendation for it. I don't believe on one of these that they approved what was being asked. They reduced the amount to four hundred thousand so that it would meet the criteria that we set forth.

One thing I do recognize is that the first projects out of the box of a particular type are more difficult than projects that are normal. In Mr. Littleton's case he has done, from my standpoint, a great service for the community by going in and buying up a number of houses in an area and redoing those. If you drive down that street, you'll see from the ones he has already done that it has made a tremendous impact and a tremendous change. It is not all Mr. Littleton's fault that he has incurred cost. He is doing a number of things, I understand, to meet our goals. Underground utilities are one of the stated goals.

We have held up redoing parts of Frasier Street for a while because of the issue of undergrounds. I think that stuck for about three or four years from some money we had allocated a number of years back. Underground utilities are something we sought and we want. That's something that has come about within the last couple of months as far as a potential for change in that project. If you have driven in the past through Frasier Circle, there are cars parked on the street because most of the homes in that area do not have driveways. They were built without driveways.

Part of what Mr. Littleton is doing there is installing driveways, and that's a project that he does not have to do. That helps us get the cars off the roadway and provides an alternative place for them to be. That helps us and that's part of the goals we have, and it makes a definite difference there. I view that as a benefit to the city and something that is a goal I personally would like to see as a council member. I know Mrs. Hunter in the years I have served with her has tried to redevelop a lot of her area, and that falls in line with that. On the second one, which I am sure we will get to shortly, is a new type of product for the city of Marietta. We do not have, as I understand it, stacked condos in this type of manner. Once it is built, we will: 1) set the price point, and 2) we will plow the ground for future developments. Typically, the way I look at it, the first one out is the hardest to successfully do and sometimes they need a little help. In this case, that is exactly what a TAD is for.

A lot of folks think that this is going to raise their taxes, but it does not raise their taxes. This sets aside the increase that comes from the properties. Once the properties are built, they are increased in assessments and that pays back that money that goes to these and helps get those properties developed. Basically, from my standpoint, it's a situation where the rising tide flows all the boats. If these developments come in, it increases, certainly, the value of the property where the developments are, and it helps all the other properties around it. Because, you now have a higher developed out property bringing a price point, certainly, with a greater assessed value, and that can't help but help the rest of the neighborhood.

Understand, that Pete and I are friends, and I don't want to see him leave. So, don't feel that just because we may differ on a point that council feels that way. We have a disagreement on this and, certainly, that's the way that things work. Thank you."

City Attorney Douglas Haynie asked Council member Hunter to clarify whether she had a preference on when the funding would be paid; assuming the motion was approved. Council member Hunter stated that she would leave that decision up to staff.

A motion was made by Council member Hunter, seconded by Council member Goldstein, that this matter be Approved. The motion carried by the following vote:

Vote: 4 - 2 - 0

Approved

Vote Against: 2 - M. C. "Pete" Waldrep, Jr. and G. A. "Andy" Morris

20050749

Project Assistance within the CSSR TAD - Marietta Mill Lofts

Motion approving Marietta Redevelopment Corporation's recommendation

concerning Church Street Partners, LLC's request for tax increment financing to support development of the Marietta Mill Lofts. Marietta Redevelopment Corporation recommends city council approval of a \$400,000.00 TAD contribution to Church Street Partners, LLC contingent upon negotiation of a development agreement.

Motion approving Marietta Redevelopment Corporation's recommendation concerning Church Street Partners, LLC's request for tax increment financing to support development of the Marietta Mill Lofts. Marietta Redevelopment Corporation recommends city council approval of a \$400,000.00 TAD contribution to Church Street Partners, LLC and approve a development agreement as approved by the city attorney.

Discussion was held regarding the number of units that have already been pre-sold for this development and whether that price was too low. Mr. Mongeon stated that the developer accepted commitments on the units before the costs were fully identified and as a result, the construction cost has escalated faster than anticipated.

Council member Waldrep inquired whether the sidewalks being installed adjacent to the property were required or was that an option added by the developer. Mr. Mongeon stated that he did not have the to answer that question.

Council member Goldstein verified with Mr. Mongeon that this petition has gone through the process and met all of the criteria set forth for TAD financing. Mr. Mongeon confirmed that the project did meet the criteria.

Council member Sinclair presented a copy of the financial projections regarding the project based on a \$550,000 TAD contribution. He stated that the bottom line shows the developer fee and profit after debt service without the TAD is \$573,000. The developer profit including TAD contribution is \$1.1 million, which would lead one to believe that the entire TAD contribution going to fund the developer's profit. Mr. Mongeon mentioned that the affect under this particular scenario would raise the profit margin from 5.6% to 11.4%; however, the MRC has recommended a \$400,000 TAD contribution not the full amount.

The motion was made by Council member Goldstein, seconded by Council member Coleman, that this matter be Approved. The motion carried by the following vote:

Vote: 4 - 3 - 0

Approved

Vote Against: 3 - M. C. "Pete" Waldrep, Jr., John Vincent Sinclair and G. A. "Andy" Morris

(Clerk's Note: The Mayor voted on this matter due to a tie vote.)

Mayor Dunaway made the following comments:

"I do feel like this is something that is good for the city. It has a very fast pay back for a very small investment. We are getting paid back in a hurry, and it is something that fulfills the vision statement, "Live, work and play close to the square." that was created in June 2002.

Hopefully, I am going to be around, and I do know how to use the word no. I know for myself there is no precedence set here at all. I will take everything on a case-by-case basis. I can't tell my wife what I'm going to do tomorrow morning, but I can tell you this, there is no precedence set in my vote of yes on this. Thank you."

20050751 Creation of a Redevelopment Plan and Tax Allocation District - Atlanta Northern Traction Co., LLC

Motion authorizing staff to move forward with the creation of a redevelopment plan and new tax allocation district for an area to include the Atlanta Northern Traction Co., LLC proposed office development on Polk Street and to provide the tax increment financing to support development of the proposed Atlanta Northern Building as recommended by the Marietta Redevelopment Corporation with the understanding that the TAD will need to be approved and created by all required parties in order for the funding to be available. The Marietta Redevelopment Corporation recommends the city council approve a \$600,000.00 TAD contribution to the Atlanta Northern Traction Co., LLC contingent upon negotiation of a development agreement. TAD financing is contingent upon approval of a redevelopment plan and agreement of the County and School Board to pledge increment. TAD funds are delivered when the project meets pre-leasing commitments and bank financing is secured.

(Clerk's Note: Council member Goldstein left the Council Chamber during the presentation.)

Motion to deny the request authorizing staff to move forward with the creation of a Redevelopment Plan and Tax Allocation District concerning Atlanta Northern Traction Company, LLC.

Council member Waldrep made the following comment:

"Once again, this is a beautiful project, and it can certainly be a great addition to the city done by a guy who is a friend. But, by Gary's own definition in the beginning about what a TAD is setup for, which is a social or economic, I'm going to paraphrase, mess in the community, this is not a piece of property that fits that criteria. It's a good piece of property with frontage adjacent to the downtown square that's owned, basically, by two property owners that should be able to come together a build a nice project there without the city having to fund it."

The motion was made by Council member Waldrep, seconded by Council member Morris, that this matter be Denied. The motion was carried by the following vote:

Vote: 3 - 2 - 0

Denied

Voting Against: 2 - Rev. Anthony Coleman and Betty L. Hunter

Absent: Philip M. Goldstein

Mayor Dunaway vetoed the motion.

(The official veto of the amendment by Mayor Dunaway is on file in the City Clerk's Office.)

property acquisition account.

This Matter was Approved on the Consent Agenda.

Vote: 5 - 0 - 1

Approved

Abstain: 1 - Philip M. Goldstein

3. Judicial/Legislative: M. C. "Pete" Waldrep, Jr., Chairperson

4. Parks, Recreation and Tourism: Rev. Anthony Coleman, Chairperson

5. Personnel/Insurance: Betty L. Hunter, Chairperson

* **20050735 Modification to the Supplemental Pension Plan to Comply with new guidance from the IRS**

Ord 6836 Ordinance amending the Supplemental Pension Plan of the City of Marietta/BLW to comply with the new guidance provided by the Internal Revenue Service on the automatic rollover provision of Section 401(a)(31)(B) of the Internal Revenue Code as amended by the Economic Growth and Tax Relief Reconciliation Act of 2001.

This Matter was Approved on the Consent Agenda.

Vote: 5 - 0 - 1

Approved

Abstain: 1 - Philip M. Goldstein

* **20050736 Amendment of Consolidated Pension Plan to delete the mandatory lump sum cashout provision**

Ord 6837 An Ordinance amending the Marietta City Code Section 4-12-6-010, Exhibit B to Chapter 4-12, also known as the Consolidated Pension Plan, to delete Article VII, Subsection 6, "Mandatory lump sum cash out".

This Matter was Approved on the Consent Agenda.

Vote: 5 - 0 - 1

Approved

Abstain: 1 - Philip M. Goldstein

* **20050738 Resolution to amend Cafeteria Plan**

Res 2005-1383 Approval of a Resolution amending the City of Marietta/BLW Cafeteria Plan as adopted on February 12, 1992, as amended, to provide an extended period for incurred claims.

This Matter was Approved on the Consent Agenda.

Vote: 5 - 0 - 1

Approved

Abstain: 1 - Philip M. Goldstein

* **20050797 Amendment of Smoking Policy**

Ord 6838 Approval of an Ordinance amending the Marietta City Code Section 4-4-36 so as to comply with the Georgia Smokefree Air Act of 2005.

This Matter was Approved on the Consent Agenda.

Vote: 5 - 0 - 1 **Approved**
Abstain: 1 - Philip M. Goldstein

6. Public Safety Committee: G. A. "Andy" Morris, Chairperson

7. Public Works Committee: James W. King, Chairperson

20050153 Approval of the Stream Buffer Protection Ordinance

Approval of the Stream Buffer Ordinance which establishes a 50 ft buffer plus a 25 ft impervious area setback on all streams within the City.

A motion to approve the Stream Buffer Protection Ordinance was made by Council member Sinclair. The motion failed for lack of second.

Motion to deny the Stream Buffer Protection Ordinance.

The motion was made by Council member Goldstein, seconded by Council member Waldrep, that this matter be Denied. The motion carried by the following vote:

Vote: 4 - 2 - 0 **Denied**

Vote Against: 2 - John Vincent Sinclair and Rev. Anthony Coleman

* **20050615 Storm Water Management Plan**

Motion to approve the updated Storm Water Management Plan (SWMP) to comply with the Georgia Environmental Protection Division (EPD) requirements and to meet the July 22, 2005 deadline. Revisions to current plan include the SWMP be revised to a 5-year cycle that does not expire, an inventory of the City's storm water system will be conducted and inspection and maintenance will occur on a scheduled annual basis. The initial inventory will be on a 10-year cycle basis and will be on a 5-year cycle thereafter with industrial facilities also being inspected. All items included in the plan will be applicable only while required by the EPA.

This Matter was Approved on the Consent Agenda.

Vote: 5 - 0 - 1 **Approved**
Abstain: 1 - Philip M. Goldstein

* **20050746 Flood Map Modernization Program**

C/A 3119 Approval of an Agreement between the City of Marietta and the Georgia Department of Natural Resources (GNR) for approval of the Georgia Flood Map Modernization Program.

This Matter was Approved on the Consent Agenda.

Vote: 5 - 0 - 1 **Approved**
Abstain: 1 - Philip M. Goldstein

SCHEDULED APPEARANCES:

20050788 Holly Walquist

City of Marietta Tree Keepers Report

Holly Walquist, Executive Director of the Marietta Tree Keepers, expressed her appreciation to the Mayor, City Council and city staff for helping the Tree Keepers plant more than 1300 trees over a three-year period. There have been over 200 volunteers who have helped raise more than \$60,000 in grants, memberships and donations. To show their appreciation, Mrs. Walquist presented a short film documenting the wonderful work done by the Marietta Tree Keepers.

Present.

UNSCHEDULED APPEARANCES:

Mayor Dunaway opened the floor to those wishing to speak.

Marty Little thanked the City Council for their support of the redevelopment projects being completed on Frasier Circle. He then introduced two of the new homeowners in that area Kathy Kelly, a teacher for Lockheed Elementary, and Mary Maloney Bowswell, a long time resident of Marietta. Mr. Little also mentioned that Shannon Long, Assistant to the City Manager, has also recently purchased a home on Frasier Circle.

Robbie Huck, who resides at 191 Summit Avenue, commented on the presentation regarding the Tax Allocation District (TAD) made by Gary Mongeon, Executive Director of the Marietta Redevelopment Corporation (MRC).

Denette Norrid, who resides at 333 Philips Drive, expressed concern about not being allowed to comment before the council voted on the TAD issues. In the future, she hopes that public hearings are incorporated so that the public feels they are involved throughout the process.

Perry Price expressed concern regarding the construction of new high priced developments in various areas of the city. Mr. Price felt that low-income families would not be able to purchase the homes and would ultimately be pushed out of the city. Mr. Price also stated that he wanted to speak with Council member Hunter about her role as a member of the Marietta Housing Authority.

In response to comments made by Mr. Price, Council member Goldstein verified with the city manager that Council member Hunter is not a member of the Marietta Housing Authority. Also, the Marietta Housing Authority and not the City of Marietta own the property located behind the old bus station and formerly known as Clay Homes.

OTHER BUSINESS:

- * **20050808 Advertisement for Ward 5A Polling Location Change**

Motion to authorize advertisement to change the polling location for Ward 5B from the Turner Chapel AME Church, 545 Hyde Drive, Marietta 30060 to the Cathedral of Turner Chapel AME Church, 429 North Marietta Parkway, Marietta, GA 30060.

This Matter was Approved on the Consent Agenda.

Vote: 5 - 0 - 1

Approved

Abstain: 1 - Philip M. Goldstein

* **20050617 Denmead Street and Dobbs Street Closure**

Motion to close and abandon public right of way along Dobbs Street west of the CSX railroad and tract 2 of Denmead Street, which excludes the southern portion of Denmead Street, and accept payment for said property. The legal descriptions of the property being closed and abandoned are attached to the motion and incorporated herein by reference. The city reserves unto itself and others any currently or previously existing easements, structures, utilities or improvement within said property. In the event the recipient desires to relocate any utilities within the subject property, such request shall be made to the appropriate authority and shall include the payment of the cost to relocate, or include other funding sources for relocation. The city reserves unto itself the right to rescind this motion until December 31, 2005. In the event of rescission, any funds paid hereunder shall be refunded and this motion and all action taken hereunder shall be null and void. The deed from the city shall be by Quitclaim Deed with no representations or warranties. The property shall be purchased "as is where is". The form of the final deed shall be subject to the approval of the City Attorney. The purchase price of the property (Tract 2 and Tract 3) shall be \$82,518.00 dollars payable on or before September 16, 2005 and held in the City Attorney's escrow account in conformity with this motion. This motion is contingent upon the approval of the Georgia Department of Transportation for a new road connection for the Denmead Street extension connection to State Route 120 Loop, the extension of the Denmead Street right-of-way from the existing intersection of Denmead Street and Dobbs Street to North Marietta Parkway and the construction of the Dobbs Street Extension described herein, at no cost to the general fund of the City of Marietta.

Public Hearing

This Matter was Approved on the Consent Agenda.

Vote: 5 - 0 - 1

Approved

Abstain: 1 - Philip M. Goldstein

* **20050830 Denmead Street Right of Way - Public Auction**

Motion to authorize staff to advertise and conduct the public bid and sale of the western portion of the abandoned Denmead Street right of way (Tract 2A). The deed from the city shall be by Quitclaim Deed with no representations or

