



City of Marietta

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

Meeting Minutes

CITY COUNCIL

R. Steve Tumlin, Mayor
Annette Paige Lewis, Ward 1
Griffin "Grif" L. Chalfant, Jr., Ward 2
Johnny Sinclair, Ward 3
Irvan A. "Van" Pearlberg, Ward 4
Rev. Anthony C. Coleman, Ward 5
James W. King, Ward 6
Philip M. Goldstein, Ward 7

Wednesday, May 12, 2010

7:00 PM

Council Chamber

Presiding: R. Steve Tumlin, Mayor

Present: Philip M. Goldstein, Jim King, Rev. Anthony Coleman, Johnny Sinclair, Grif Chalfant, Annette Lewis and Van Pearlberg

Also Present:

William F. Bruton, Jr. City Manager

Douglas R. Haynie, City Attorney

Stephanie Guy, City Clerk

CALL TO ORDER:

Mayor Tumlin called the meeting to order at 7:03 p.m.

INVOCATION & PLEDGE OF ALLEGIANCE:

Council member Sinclair introduced his cousins Riley and Fiona McLaughlin to give the invocation and lead the pledge of allegiance.

PRESENTATIONS:

20100585 Recognition for Outstanding Service

Special recognition for Sergeant Jake King, Police Department for his outstanding efforts in saving the city money by using the Military's Defense Reutilization & Marketing Office (DRMO) in obtaining advanced equipment at no cost to the city.

This matter was Presented

20100584 Sav-A-Watt Energy Challenge

Recognition of the Sav-A-Watt Energy Challenge winner; Sawyer Road Elementary School as presented to Marietta City School Superintendent, Dr. Emily Lembeck and Sawyer Road Elementary School Principal, Jill Sims by Mayor Tumlin.

This matter was Presented

PROCLAMATIONS:**20100586 International Building Safety Month**

Presentation of a Proclamation to Hal Cosper, Chief Building Official, proclaiming the month of May, 2010 as International Building Safety Month and calling upon all citizens to participate in activities to help promote building safety, to create awareness as to the importance of construction and building codes, and to spotlight the role of the dedicated code officials in administering those codes.

This matter was Presented

20100587 Travel and Tourism Week

Presentation of a Proclamation to Theresa Jenkins, Marietta Welcome Center, proclaiming the week of May 8-16, 2010 as Travel and Tourism Week and calling upon all citizens to accompany their visiting family and friends to Marietta's numerous outstanding attractions and to introduce their children to the wealth of tourist resources, which surround us.

This matter was Presented

20100622 Mom Congress

Proclamation presented by Mayor Tumlin to Michelle Cooper Kelly for being selected by Parenting Magazine to represent Georgia at the inaugural "Mom Congress for Education and Learning Conference." Further, congratulating Ms. Kelly on a job well done and thanking her for her contribution to the City of Marietta.

This matter was Presented

**ANNOUNCEMENTS OF GENERAL COMMUNITY INFORMATION
BY THE MAYOR, COUNCIL AND/OR CITY MANAGER:**

CONSENT AGENDA:

Consent agenda items are marked by an asterisk (*). Consent items are approved by majority of council. A public hearing will be held only for those items marked by an asterisk that require a public hearing (also noted on agenda).

The following amendments were made to the consent agenda:

-under City Council Appointments: Agenda item 20100501 was amended to read, "Appointment of George Bentley to the MRC Board for a term of two (2) years effective immediately and expiring April 10, 2012."

-under Other Business: Agenda items 20100497, 20100498, 20100615, 20100616 and 20100619 were added to the consent agenda.

A motion was made by Council member King, seconded by Council member Goldstein, to suspend the rules of order to add two items to the consent agenda regarding the purchase of property. The motion carried by the following vote:

*Vote: 7 - 0 - 0 Approved
(See agenda item 20100703)*

Mayor Tumlin opened the public hearing for items on the consent requiring a public hearing. Seeing no one wishing to speak, the public hearing was closed.

The motion was made by Council member King, seconded by Council member Sinclair, to approve the consent agenda as modified. The motion unanimously carried by the following vote:

*Vote: 7 - 0 - 0 Approved
with the following exceptions:*

-Council member Sinclair abstaining on agenda item 20100524.

-Council member Goldstein abstaining on agenda items 20100511, 20100512, 20100513 and 20100497.

-Council members Lewis and Pearlberg voting against agenda item 20100590.

-Council member Goldstein voting against agenda items 20100615, 20100616 and 20100619.

-Council member King voting against agenda item 20100558.

MINUTES:

*** 20100560 Regular Meeting - April 14, 2010**

Review and approval of the April 14, 2010 regular meeting minutes.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 Approved

* **20100568** **Special Meeting - April 28, 2010**

Review and approval of the April 28, 2010 special called meeting minutes.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

MAYOR'S APPOINTMENTS:

CITY COUNCIL APPOINTMENTS:

20100501 **Marietta Redevelopment Corporation Board Vacancy**

Appointment to the MRC Board for a term of two (2) years effective immediately and expiring April 10, 2012.

Motion to appoint George Bentley to the MRC Board for a term of two (2) years effective immediately and expiring April 10, 2012.

This matter was Approved and Finalized

ORDINANCES:

20100096 **Z2010-03 Mark S. Brock (McKim & Creed, P.A.) 819 and 821 Cogburn Avenue**

Z2010-03 [REZONING] MARK S. BROCK (MCKIM & CREED, P.A.) request rezoning for property located in Land Lot 1014, District 16, Parcels 750 and 760, 2nd Section, Marietta, Cobb County, Georgia and being known as 819 and 821 Cogburn Avenue from R-4 (Single Family Residential 4 units/acre) to OI (Office Institutional).
Ward 4.

Planning Commission recommends denial

Vote: 6 - 0 - 0

Stipulation: n/a

PUBLIC HEARING (all parties are sworn in)

Mayor Tumlin opened the public hearing and called forward those wishing to speak.

Development Services Director Brian Binzer presented information regarding the rezoning request for property located in Land Lot 1014, District 16, Parcels 750 and 760, 2nd Section, Marietta, Cobb County, Georgia and being known as 819 and 821 Cogburn Avenue from R-4 (Single Family Residential 4 units/acre) to OI (Office Institutional).

Discussion was held.

Mayor Tumlin closed the public hearing.

Motion to deny the rezoning request.

The motion was made by Council member Pearlberg, seconded by Council member King, that this matter be denied. The motion carried by the following vote:

Vote: 7 - 0 - 0 Approved to Deny

RESOLUTIONS:

CITY ATTORNEY'S REPORT:

CITY MANAGER'S REPORT:

MAYOR'S REPORT:

COMMITTEE REPORTS:

1. Economic/Community Development: Grif Chalfant, Chairperson

*** 20100524 Marietta Growth Fund**

Motion to Approve the Grant Review Committee Recommendation to award a grant in the amount of \$75,000.00 to Sundial Plumbing Services from the Federal EDI-HUD grant.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 1 Approved
Abstaining: Johnny Sinclair

2. Finance/Investment: Annette Lewis, Chairperson

3. Judicial/Legislative: Philip M. Goldstein, Chairperson

*** 20100081 Proposed Revisions to Section, 706 regarding non-conforming uses**

[Ord 7470](#)

Approval of an Ordinance amending the nonconforming use regulations related to the requirement that a nonconforming building may not be rebuilt, altered or repaired if construction costs exceed 50% of its replacement costs.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 **Approved**

* **20100480**

Fifa

Motion to authorize staff to proceed with a lien foreclosure sale on property located at 138 Rigby Street.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 **Approved**

* **20100511**

Clarke Library

Motion to adopt the Design Guidelines and Preservation Plan for the Clarke Library.

PUBLIC HEARING (all parties are sworn in)

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 1 **Approved**
Abstaining: Philip M. Goldstein

* **20100512**

Brumby Hall

Motion to adopt the Design Guidelines and Preservation Plan for Brumby Hall.

PUBLIC HEARING (all parties are sworn in)

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 1 **Approved**
Abstaining: Philip M. Goldstein

* **20100513**

Marietta Waterworks Building

Motion to adopt the Design Guidelines and Preservation Plan for the Marietta Waterworks Building.

PUBLIC HEARING (all parties are sworn in)

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 1 **Approved**
Abstaining: Philip M. Goldstein

* **20100570**

Preston Chase Apartments

Motion to authorize the City Attorney to appeal the tax notice from the Cobb County Tax Assessors Office regarding the Preston Chase property.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

4. Parks, Recreation and Tourism: Johnny Sinclair, Chairperson

* **20100530 Kiwanis Club Request**

Request from the Marietta Kiwanis Club for the City of Marietta to co-sponsor a pancake breakfast on July 10, 2010 for the purpose of raising funds for the "Forever Remember" statue that will be placed in Joe Mack Wilson Park and, approving the closure of a few parking spaces on East Park Square as necessary to conduct the event.

Further, the Marietta Kiwanis Club is fully responsible for the trash cleanup and removal of all trash generated by the event from the confines of the Marietta Square and the Central Business District. Trash removal from these confines may be accomplished through private means, or the organizers may utilize a city trash truck and driver for the event at a rate of \$67.85 per hour. Marietta Kiwanis Club shall notify the Parks, Recreation and Facilities Department fourteen (14) days in advance if they intend to utilize the city sanitation vehicle.

If the Marietta Kiwanis Club fails to adequately clean the event area of trash and debris and remove said trash and debris from the Central Business District they will be billed for any city services required to accomplish the cleanup of the area.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

* **20100550 Juneteenth Celebration**

Motion to approve city sponsorship of the Juneteenth Celebration Festival sponsored by the Cobb County Branch of the NAACP on Saturday, June 19, 2010.

The Cobb County Branch of the NAACP will cooperate with the Parks, Recreation and Facilities Department and the manager of the Marietta Farmer's Market in establishing the set-up and use of North Park Square.

Further, the Cobb County Branch of the NAACP are fully responsible for the trash cleanup and removal of all trash generated by the event from the confines of the Marietta Square and the Central Business District. Trash removal from these

confines may be accomplished through private means, or the organizers may utilize a city trash truck and driver for the event at a rate of \$67.85 per hour. Cobb County Branch of the NAACP shall notify the Parks, Recreation and Facilities Department fourteen (14) days in advance if they intend to utilize the city sanitation vehicle.

If the Cobb County Branch of the NAACP fail to adequately clean the event area of trash and debris and remove said trash and debris from the Central Business District they will be billed for any city services required to accomplish the cleanup of the area.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 Approved

* **20100594 Laurel Park Ponds**

Motion authorizing Parks, Recreation and Facilities staff to proceed with actions necessary to bid, permit, dredge and renovate the Laurel Park ponds with expenditures to come from the 2009 Parks Bond.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 Approved

5. Personnel/Insurance: Van Pearlberg, Chairperson

6. Public Safety Committee: Anthony Coleman, Chairperson

7. Public Works Committee: Jim King, Chairperson

* **20100577 Hansell Street Closure-Cobb County Parking Deck Staging and Logistics**

Motion to approve request from Choate Construction for a temporary road closure for Hansell Street for the construction of the Cobb County Parking Deck between Waddell St. and Haynes St. beginning in May, 2010 until February, 2011. The sidewalk along Waddell Street would remain open. At the conclusion of the construction, Hansell Street will be repaved by the contractor.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 Approved

* **20100517 Wellstar Outpatient Clinic Tower Crane**

Motion authorizing request by Brasfield Gorrie for a Temporary Air Rights

Agreement for use of a tower crane for the construction of the Wellstar Outpatient Clinic.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 Approved

* **20100319 Frasier Circle Parking**

Motion authorizing installation of no parking signs along both sides of Frasier Circle from Park Street to Park Street.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 Approved

* **20100535 Landscape License Agreement**

Motion authorizing approval of a Landscape License Agreement for sidewalks along city streets surrounding the new Cobb County Parking Deck at 191 Lawrence Street.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 Approved

* **20100519 Local Administered Project Certification**

Motion to approve the Certification Acceptance Qualification Agreement and Certification Acceptance Interview Form with the Georgia Department of Transportation for Federally funded projects.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 Approved

* **20091134 Solid Waste Management Plan**

Motion to approve forwarding the Draft Solid Waste Management Plan to DCA for review.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 Approved

* **20100590 Draft Transportation Improvement Program - Roadway Capacity & New Roadways**

Motion authorizing Public Works to request removal of the Gresham Connector and the Powder Springs Connector from the ARC Plan 2040 modeling and the Cobb CTP.

This Matter was Approved on the Consent Agenda.

Vote: 5 - 2 - 0 **Approved**
Voting Against: Annette Lewis and Van Pearlberg

* **20100620** **Frasier Street and Frasier Circle Sidewalks**

Motion authorizing acquisition of donated temporary construction and driveway easements for the purpose of the Fairground Street Road Improvements and Frasier Street Sidewalk Projects for the properties listed below:

655 Frasier Street, from L.M. Hedden
661 Frasier Circle, from Anthony T. Dallavalle
662 Frasier Circle, from Echiserio Rejo-Alvares
652 Frasier Street, from Frank Watts

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 **Approved**

* **20100621** **Roswell Street Retaining Wall/Improvements at Olive Street**

Motion authorizing acquisition of donated temporary construction and driveway easements for the purpose of the Roswell Street Improvements Project for the properties listed below:

422 Roswell Street, from Dorothy A. Winter
59 Olive Street, from Greater Community Church of God

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 **Approved**

SCHEDULED APPEARANCES:

UNSCHEDULED APPEARANCES:

OTHER BUSINESS:

* **20100497** **V2010-11 First Landmark Bank 307 North Marietta Parkway**

Motion to approve the following variances for property located in Land Lot 11440, District 16, Parcel 2170 and being known as 307 North Marietta Parkway.

1. Variance to reduce the landscaped buffer along the western property line adjacent to 264 Fowler Circle from 20 feet to 10 feet;
2. Variance to reduce the required street plantings from 30 to 26.

Council Member Goldstein disclosed that the First Landmark Bank leases parking spaces at 48 Atlanta Street and is a subtenant in an adjacent building. Council Member Goldstein abstaining on this matter.

Mayor Tumlin disclosed that he is a share holder in First Landmark Bank.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 1 **Approved**
Abstaining: Philip M. Goldstein

20100498

V2010-12 Ben Dosestareh & Farhad Shaliyehsaboo 562 Cobb Parkway North

Motion to approve the following variances for property located in Land Lot 10910, District 16, Parcel 0100 and being known as 562 Cobb Parkway North.

1. Variance to allow a general advertising sign (billboard) on a parcel of property outside of the area within 100 feet of the right-of-way of Interstate 75;
2. Variance to allow a general advertising sign (billboard) to be located within 500 feet of a residence;
3. Variance to allow a general advertising sing (billboard) to be located within 1000 ft. radius of another general advertising sign.

Mayor Tumlin opened the public hearing and called forward those wishing to speak.

Development Services Director Brian Binzer presented information regarding the request for variances for property located in Land Lot 10910, District 16, Parcel 0100 and being known as 562 Cobb Parkway North.

1. Variance to allow a general advertising sign (billboard) on a parcel of property outside of the area within 100 feet of the right-of-way of Interstate 75;
2. Variance to allow a general advertising sign (billboard) to be located within 500 feet of a residence;
3. Variance to allow a general advertising sing (billboard) to be located within 1000 ft. radius of another general advertising sign.

The applicant spoke regarding the request for variances and answered question by Council.

Further discussion was held.

Motion to deny the request for variances.

The motion was made by Council member King, seconded by Council member Pearlberg, that this matter be denied. The motion carried by the following vote:

Vote: 7 - 0 - 0 **Approved to Deny**

* **20100615**

Short-Term Power Sales Agreement with MEAG

Motion for approval of the Short-Term Power Sales Agreement with the Municipal Electric Authority of Georgia (MEAG) as recommended.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 1 - 0 **Approved**
Voting Against: Philip M. Goldstein

* **20100616**

Short-Term Power Sales

Motion to authorize staff to present counter proposals to the Board Chairman for approval pursuant to the terms outlined on Schedule 1, with notice given by e-mail to the Board and Council.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 1 - 0 **Approved**
Voting Against: Philip M. Goldstein

* **20100619**

BLW Actions and Minutes of April 12, 2010

Motion to approve agenda items 20100460 and 20100482 related to the Short-term Power Sales Agreement with MEAG from the BLW Actions and Minutes of April 12, 2010.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 1 - 0 **Approved**
Voting Against: Philip M. Goldstein

* **20100558**

GMA 2010 Annual Convention

Motion to approve travel and training expenses for the Mayor and Council members who wish to attend the Georgia Municipal Association (GMA) 2010 Annual Convention in Savannah, GA June 26-29, 2010.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 1 - 0 **Approved**
Voting Against: Jim King

* **20100562**

GMA Voting Delegates

Motion appointing R. Steve Tumlin as voting delegate and Rev. Anthony Coleman as alternate voting delegate for the 2010 GMA Business Meeting being held during the Annual Convention June 28, 2010.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 **Approved**

* **20100596**

GWTW Memorabilia Collection Lease Renewal

Motion to approve renewal of the contract with Dr. Chris Sullivan for lease of his Gone with the Wind Memorabilia collection until December 31, 2010.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 Approved

* **20100618 MEAG Annual Business Meeting**

Motion appointing R. Steve Tumlin as a voting delegate and Grif Chalfant as an alternate voting delegate for the 2010 MEAG Power Annual Meeting to be held July 12-14 at Amelia Island, Florida.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 Approved

* **20100561 BLW Actions of May 10, 2010**

Review and approval of the May 10, 2010 actions and minutes of the Marietta Board of Lights and Water.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 Approved

* **20100703 Property Acquisition**

Motion to authorize the acquisition of property located at 595 Franklin Road, owned by Focus Seven for the amount of \$23,760 and 1166 Franklin Road, owned by Preferred Partners Plus for the amount of \$2,520.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 Approved

ADJOURNMENT:

The meeting was adjourned at 8:10 p.m.

Date Approved: 06/09/10

R. Steve Tumlin, Mayor

Attest: _____
Stephanie Guy, City Clerk