



# 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*

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Wednesday, March 7, 2012

7:00 PM

Council Chamber

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**Presiding:** R. Steve Tumlin, Mayor

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

***Also Present:***

*William F. Bruton, Jr. City Manager*

*Douglas R. Haynie, City Attorney*

*Stephanie Guy, City Clerk*

### CALL TO ORDER:

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

### INVOCATION:

*Council member Pearlberg called upon Buck Reese, President of Network Ministries, to give the invocation.*

### PLEDGE OF ALLEGIANCE:

*The pledge of allegiance was led by the Boy Scouts attending the meeting.*

### PRESENTATIONS:

**20120207      New city website**

Presentation of new city website by IT Director, Ronnie Barrett.

**Presented**

**PROCLAMATIONS:****20120130          Presentation of Tree City Award**

Joe Burgess, Urban Forester from the Georgia Forestry Commission presents the 28th Annual Tree City Award to Joan Ellars, Keep Marietta Beautiful Director who accepts on behalf of the City.

**Presented**

**20120223          Marietta High School Star Student**

Mayor Tumlin presents a Proclamation to Marietta High School's Star Student, Andrew Judd.

**Presented**

**20120222          Swearing-In**

Swearing-in of Arthur Vaughn, for the Ethics Committee Mayor's Appointment.

**Oath Administered**

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

*Curt Seal, who owns rental property at 59 and 204 Kimberly Way, expressed concern regarding disruptive activity that he and his tenants have noticed in the neighborhood such as break-ins and drug use.*

*Larry Willis, who resides at 60 Oakmont, spoke regarding the 2005 City Center South Renaissance (CCSR) Tax Allocation Bonds.*

**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).**

*Mayor Pro tem, Grif Chalfant, called upon Council member Johnny Sinclair, to preside over this portion of the meeting. Council member Sinclair briefly explained the consent agenda process. The following amendments were made to the consent agenda:*

*-under Ordinances: agenda item 20120096 was added to the consent agenda and amended to read, "...approve rezoning 1744 Roswell Road from OI (Office Institutional) to OI with additional use as a hair salon (Office Institutional with additional use as a hair salon)."*

*-under Other Business: agenda items 20120156 was added to the consent agenda and amended to read, "...with the stipulation that the property surrenders and waives the right to use the driveway curb cut on Roswell Street." The contract would also be amended to show a 60 day closing date.*

*-under Other Business: agenda items 20120224 was added to the consent agenda.*

*-under Other Business: agenda item 20120208 was added to the consent agenda as a motion to table.*

*City Attorney Douglas Haynie opened the public hearing for those items on the consent agenda requiring a public hearing. Seeing no one wishing to speak, the public hearing was closed.*

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

*Vote: 7 - 0 - 0                      Approved*

*with the following exceptions:*

*Council members Lewis and Goldstein voting against agenda item 20111149.*

*Council member King voting against agenda item 20120147.*

*Council member Goldstein abstaining on agenda item 20120208.*

## **MINUTES:**

### **\*    20120217            Regular Meeting - February 8, 2012**

Review and approval of the February 8, 2012 regular meeting minutes.

**This Matter was Approved on the Consent Agenda.**

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

### **\*    20120204            Special Meeting - February 27, 2012**

Review and approval of the February 27, 2012 special meeting minutes.

**This Matter was Approved on the Consent Agenda.**

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

## **MAYOR'S APPOINTMENTS:**

## **CITY COUNCIL APPOINTMENTS:**

- \* **20120163**      **Marietta Redevelopment Corporation (MRC) Board of Directors**
- Reappointment of Pete Bilson, Ray Buday, Mark Gibbs, Ron Francis, Terry Lee, George Bentley to the Marietta Redevelopment Corporation (MRC) Board of Directors for a two (2) year term that expires April 10, 2014.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 - 0 - 0**                      **Approved**
- \* **20120181**      **Historic Preservation Commission Appointment (Ward 5)**
- Appointment of Renee J. Severson to the Historic Preservation Commission for a three (3) year term beginning immediately and expiring March 13, 2015.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 - 0 - 0**                      **Approved**
- \* **20120182**      **Planning Commission Appointment**
- Appointment of John Schupp to the Planning Commission (Ward 4) for a three (3) year term beginning immediately and expiring March 13, 2015.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 - 0 - 0**                      **Approved**

**ORDINANCES:**

- \* **20120096**      **Z2012-01 1744 Roswell Road, LLC: Paige Slyman 1744 Roswell Road**
- [Ord 7576](#)      Z2012-01 [REZONING] 1744 Roswell Road, LLC: Paige Slyman request rezoning for property located in Land Lot 11700, District 16, Parcel 0910, 2nd Section, Marietta, Cobb County, Georgia and being known as 1744 Roswell Road from OI (Office Institutional) to OI with additional use as a hair salon (Office Institutional with additional use as a hair salon). Ward 7.
- Motion to approve rezoning 1744 Roswell Road from OI (Office Institutional) to OI with additional use as a hair salon (Office Institutional with additional use as a hair salon).*
- The Public Hearing required and held during the Consent Agenda.*
- This Matter was Approved as Amended on the Consent Agenda.**
- Vote: 7 - 0 - 0**                      **Approved as Amended**

- \* **20110889**      **CA2012-01 Amendment to the Comprehensive Development Code regarding Sidewalks**  
[Ord 7575](#)      CA2012-01 [Code Amendment] Proposal to amend the Comprehensive Development Code of the City of Marietta, Division 732, Required Improvements, Section 732.07 Sidewalks.  
  
*The Public Hearing required and held during the Consent Agenda.*  
  
**This Matter was Approved on the Consent Agenda.**  
  
**Vote: 7 - 0 - 0**                      **Approved**

**RESOLUTIONS:****CITY ATTORNEY'S REPORT:****CITY MANAGER'S REPORT:****MAYOR'S REPORT:****COMMITTEE REPORTS:****1. Economic/Community Development: Grif Chalfant, Chairperson**

- \* **20111149**      **FY 2013/2014 Fund Work Program (MRC)**  
  
Motion approving the FY 2013/2014 Work Program for the Marietta Fund for Neighborhood and Community Revitalization.  
  
**This Matter was Approved on the Consent Agenda.**  
  
**Vote: 5 - 2 - 0**                      **Approved**  
Voting Against: Annette Lewis and Philip M. Goldstein
- \* **20120148**      **FY 2013 Annual Plan**  
  
Approval of a Resolution accepting the FY 2013 Annual Plan which will be submitted to U.S. Department of Housing and Urban Development (HUD).  
  
**This Matter was Approved on the Consent Agenda.**  
  
**Vote: 7 - 0 - 0**                      **Approved**
- \* **20120172**      **Final CDBG 2012 Project's List**  
  
Motion approving the FFY'2012 CDBG Final Statement Project's List.  
  
**This Matter was Approved on the Consent Agenda.**  
  
**Vote: 7 - 0 - 0**                      **Approved**

- \* **20120221**      **Weed and Seed Budget Amendment**
- [Ord 7574](#)      Approval of an Ordinance amending the Fiscal Year 2012 Weed and Seed budget to receive federal CDBG funding for the Weed and Seed Site Coordinator's salary.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 - 0 – 0**                      **Approved**

## **2. Finance/Investment: Annette Lewis, Chairperson**

- \* **20120147**      **GMA 2012 Annual Convention**
- Motion approving travel and training expenses for the Mayor and Council members who wish to attend the Georgia Municipal Association (GMA) 2012 Annual Convention in Savannah, GA June 23 - 26, 2012.
- This Matter was Approved on the Consent Agenda.**
- Vote: 6 - 1 – 0**                      **Approved**  
Voting Against: Jim King
- \* **20120175**      **Franklin Road Little School Project**
- [Ord 7573](#)      Approval of an Ordinance amending the Fiscal Year 2012 Weed and Seed Fund to receive and appropriate \$10,000 from the United Way for the Franklin Road Little School Project.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 - 0 – 0**                      **Approved**
- \* **20120184**      **Administrative Fee Reserve Account**
- [Ord 7572](#)      Approval of an Ordinance amending the Fiscal Year 2012 Section 8 HUD Fund to appropriate Administrative Reserves for the purchase of a replacement vehicle.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 - 0 – 0**                      **Approved**
- \* **20120185**      **Appropriation of Funds for signal at Tower Rd and North Ave**
- [Ord 7571](#)      Approval of an Ordinance amending the Fiscal Year 2012 budget to appropriate payment from Wellstar for signal installation at the intersection of Tower Road at North Avenue.

*Council member Johnny Sinclair disclosed that he serves on the Kennestone Regional Board.*

**This Matter was Approved on the Consent Agenda.**

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

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

**\*      20120146                      GMA Voting Delegates**

Motion to appoint Anthony Coleman as voting delegate and Grif Chalfant as alternate voting delegate for the 2012 GMA Business Meeting being held during the GMA Annual Convention Monday, June 25, 2012.

**This Matter was Approved on the Consent Agenda.**

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

**\*      20120064                      Chairperson - Personnel/Insurance Committee**

*Ord*

Amendment to Code Section 1-4-040, Rules and Procedures of Council.

Approval of an Ordinance waiving the requirement for a second reading as set forth in Section 1-4-040 L of the City of Marietta Charter; further, to amend the last paragraph of Section 1-4-040 V to read, "Each council member shall chair one committee, serve as vice chair of a second committee and serve on a third committee. The mayor shall annually or as needed, if there is a vacancy, make appointments of council members to the committees which are subject to the approval of council."

**This Matter was Approved on the Consent Agenda.**

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

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

**\*      20120170                      Artist's Market Street Closure Request**

Motion approving the applicant's request for closure of Mill Street from the railroad tracks to Church St./West Park Square on the second and fourth Saturdays of the month from April 2012 through November 2012 during the hours of 5:30 a.m. to 3 p.m. for the purpose of conducting an Artist's Market.

**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****\* 20120118 Standard Operating Procedures**

Motion approving revisions to Standard Operating Procedures A037 Intern Program, A041 Organizational Structure, A046 GCIC, NCIC & Departmental Computer Systems, A095 Employee Related Domestic Violence, C022 School Resource Officer Program, C030 Law Enforcement Explorer Program, C050 Crime Prevention, C070 Police Athletic League, P055 Selective Traffic Enforcement Program, S034 Juvenile Procedures, S040 Organized Crime and Vice Control, T015 Health & Wellness Program, and T040 Firearms Qualifications

**This Matter was Approved on the Consent Agenda.**

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

**7. Public Works Committee: Jim King, Chairperson****\* 20120153 FY 2014 Federal Project Solicitation**

Public Works to submit pedestrian and transit safety projects to Cobb County for inclusion in the overall Cobb County request to ARC for federal funding. Projects are prioritized as:

1. South Marietta Pedestrian Crossing Improvements
2. Atlanta Street and South Marietta Parkway Intersection Improvements
3. Cobb Parkway at North Marietta Parkway Intersection Improvements
4. Powder Springs Streetscapes (Phases A, B and C)
5. Roswell Road and Cobb Parkway Intersection Improvements

**This Matter was Approved on the Consent Agenda.**

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

**\* 20120183 Canton Road at Cobb Parkway**

Motion authorizing the northbound closure of Canton Road at Cobb Parkway for 8 months. The Public Works Director is authorized to extend the temporary closure period as needed to facilitate the GDOT Canton Road and railroad bridge replacement project over Cobb Parkway.

**This Matter was Approved on the Consent Agenda.**

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

**APPEARANCES:****OTHER BUSINESS:****20120140 V2012-10 BRE/ESA Properties, L.L.C. (a/k/a Extended Stay America, Inc.)**

V2012-10 [VARIANCE] BRE/ESA Properties L.L.C. (a/k/a Extended Stay America, Inc.) request variance for property located in Land Lot 10010, District 16, Parcel 0020 and being known as 1051 Canton Road. Variance to allow a pylon sign; Variance to increase the sign height from 15 ft. to 35 ft.; Variance to increase the sign face from 90 sf. to 120 sf.; Variance to reduce parking spaces from 182 parking spaces to 136 parking spaces Ward 5.

*Development Services Director Brian Binzer presented information regarding the variance request for property being known as 1051 Canton Road. Mr. Binzer also summarized the criteria for which variance requests should be considered.*

*Harold Buckley with Alston and Bird, LLP and representing Extended Stay American, spoke regarding the variance request. The request included a variance to allow a pylon sign; variance to increase the sign height from 15 ft. to 35 ft.; variance to increase the sign face from 90 sf. to 120 sf.; and variance to reduce parking spaces from 182 parking spaces to 136 parking spaces.*

*Discussion was held regarding the location of the free standing signs on the property and the elimination of one of the signs. There was general agreement that this matter be tabled.*

*A motion was made to table this matter.*

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

**Vote: 7 - 0 - 0 Tabled**

**20120141 V2012-11 Roy W. Mertz 2265 Kingston Court**

V2012-11 [VARIANCE] ROY W. MERTZ request variance for property located in Land Lot 07260, District 17, Parcel 0010 and being known as 2265 Kingston Court. Variance to allow abandoned signs to remain. Ward 7.

*Development Services Director Brian Binzer presented information regarding the variance request for property being known as 2265 Kingston Court. Mr. Binzer also summarized the criteria for which variance requests should be considered.*

*Roy Mertz, representing the applicant, spoke regarding the variance request. The request included a variance to allow abandoned signs to remain to be reused once the business opens again. The business has been closed since the building suffered fire damage in 2006.*

*Council member Chalfant disclosed that he has employed the engineer for this project at various times.*

*Council member Goldstein disclosed that he has used the engineer for this project in the past; however, has no current business dealings with him.*

*Discussion was held regarding the location of the free standing signs on the property, which has previously been split into two parcels. There was general agreement that this matter be tabled.*

*A motion was made to table this matter.*

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

**Vote: 7 - 0 - 0                      Tabled**

**20120142**

**V2012-12 Michael McDonald - Pavilion Development 2195 Cobb Parkway South**

V2012-12 [VARIANCE] MICHAEL MCDONALD (PAVILION DEVELOPMENT) request variance for property located in Land Lot 08050, District 17, Parcel 0160 and being known as 2195 Cobb Parkway South. Variance to allow a general advertising sign outside of the area within 100 feet of the right of way of Interstate 75.; Variance to waive the requirement that a general advertising sign be regulated as a principal use; Variance to allow a general advertising sign to be located within 1,000 foot radius of another general advertising sign; Variance to reduce the side setback for a general advertising sign support structure from 15' to 11'; Variance to reduce the side setback for a general advertising sign face from 11.25' to 7'; Variance to reduce the front setback for a general advertising sign face from 30' to 17'; Variance to allow a general advertising sign be located on a lot upon which a building and signage is located; Variance to allow a general advertising sign be located closer to a permanent structure than the distance that is equal to the height of the sign. Ward 1.

*Development Services Director Brian Binzer presented information regarding the variance request for property being known as 2195 Cobb Parkway South. Mr. Binzer also summarized the criteria for which variance requests should be considered.*

*Paul Suda, attorney for the applicant, spoke regarding the various variance requests that would allow the billboard to remain on the property. The existing Checkers Restaurant would be replaced by an National Tire and Battery (NTB) Store. Mr. Suda also submitted and Notice of Preservation of legal claims for Pavilion Development's variance application.*

*Discussion was held regarding this matter. The City Attorney requested additional time to review the documents submitted.*

*A motion was made by Council member Pearlberg, seconded by Council member Coleman, that this matter be Tabled.*

*A substitute motion was made by Council member Goldstein, seconded by Council member King, to enter Executive Session to discuss a legal matter.*

*Further discussion was held regarding the need for an Executive Session.*

*The motion failed by the following vote:*

*Vote: 3 - 4 - 1                      Failed*

*Voting Against: Grif Chalfant, Van Pearlberg, Anthony Coleman and R. Steve Tumlin*

*(Mayor Tumlin voted on this matter due to the tie vote)*

*Mayor Tumlin called for a vote on the original motion to table this matter.*

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

**Vote: 7 - 0 - 0                      Tabled**

*A motion was made by Council member King, seconded by Council member Lewis, to enter Executive Session to discuss legal matters.*

*Discussion was held.*

*The motion failed by the following vote:*

*Vote: 3 - 4 - 0                      Failed*

*Voting Against: Grif Chalfant, Johnny Sinclair, Van Pearlberg and Anthony Coleman*

\*        **20120156**

**416 Roswell Street Property**

Motion to accept the offer from the Greater Community Church of God in Christ for the disposition of the property at 416 Roswell Street in exchange for \$150,000.00, with the stipulation that the cannot use the driveway curb cut on Roswell Street.

*Motion to accept the offer from the Greater Community Church of God in Christ for the disposition of the property at 416 Roswell Street in exchange for \$150,000.00, with the stipulation that the property surrenders and waives the right to use the driveway curb cut on Roswell Street.*

**This Matter was Approved as Amended on the Consent Agenda.**

**Vote: 7 - 0 - 0                      Approved as Amended**

- \* **20120224** Motion authorizing acquisition of right-of-way and easements within the following properties for the purpose of Powder Springs Multi-Use Trail Project- Bellmeade Drive to Chestnut Hill Road.
- 825 Powder Springs Street in exchange for \$4,525 from TEG Springs Landing, LLC.  
981 Powder Springs Street in exchange for \$2,535 from Missionary Assembly of God Inc.  
993 Powder Springs Street in exchange for \$2,150 from Mario M. de Rivera and Rosalina de Rivera.  
1021 Oregon Trail in exchange for \$8,525 from Missionary Assembly of God Inc.  
1026 Oregon Trail in exchange for \$2,040 from Iglesia Misionera Asamblea De Dios, Inc.  
1025 Arden Drive in exchange for \$2,320 from Mario M. de Rivera and Rosalina de Rivera.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 – 0**

**Approved**

- \* **20120208**

**Tourism Funding**

Motion to approve additional tourism funding in the amount of \$30, 000 by Friday, March 16, 2012 to Theatre in the Square and authorize the modification of the contract with the Welcome Center which funds the Theatre in the Square. Further, the four (4) remaining payments to the Theatre in the Square would be made monthly, according to the contract.

*Council member Goldstein disclosed that he is the owner of and a general manager for the Herbert S. Goldstein Family Limited Partnership that owns the Earl Strand Theater at 115-119 North Park Square, Marietta GA. The tenant is Friends of the Strand, Inc. The tenant has an agreement with the Atlantic Lyric Theater, Inc., to use the facility. Council member Goldstein also owns the properties occupied by and leased to Theatre in the Square, Inc. Council member Goldstein abstains on and will not participate on allocation of funds to the above three (3) entities.*

*Council member Goldstein is or has been a member of: Friends of Brumby Hall, Inc., Cobb Landmarks and Historical Society, Inc., Marietta-Cobb Museum of Art; and the Marietta Museum of History. He is also the Council's appointed member serving on the board of the Marietta Welcome Center and Visitors Bureau, Inc.*

*Council member Pearlberg disclosed that he is a member of Cobb Landmarks & Historical Society and Marietta-Cobb Museum of Art. He subscribes to the Atlanta Lyric Theatre and has performed at the Earl Smith Strand Theatre. Further, his wife is Chairperson of the Georgia Ballet.*

*Mayor Tumlin has previously that he has served as a director, but is currently not serving, of the following organizations being considered for sponsorships: Marietta-Cobb Museum of Art; Theatre in the Square, Inc.; Marietta Museum of History, Inc.; and Friends of the Strand, Inc. Additionally, Mayor Tumlin has provided legal services to Friends of the Strand, Inc. and accounting services to Marietta Museum of History, Inc. Mayor Tumlin has been/is a Member of Brumby Hall, Inc. and Cobb Landmarks & Historical Society.*

*Council member Sinclair has previously disclosed that he is a past Chairman of the Board of the Art Museum and Cobb Landmarks, has been a member of the Welcome Center and the Museum of the History.*

*Motion to Table this matter until a Special Called City Council meeting to be held March 14, 2012.*

**This Matter was Approved as Amended on the Consent Agenda.**

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

\*        **20120219**

**BLW Actions of the March 5, 2012**

Review and approval of the March 5, 2012 actions and minutes of the Marietta Board of Lights and Water.

**This Matter was Approved on the Consent Agenda.**

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

**UNSCHEDULED APPEARANCES:**

**ADJOURNMENT:**

*The meeting was adjourned at 9:09 p.m.*

**Date Approved: April 11, 2012**

\_\_\_\_\_  
**R. Steve Tumlin, Mayor**

**Attest: \_\_\_\_\_**  
**Stephanie Guy, City Clerk**