



City of Marietta

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

Meeting Agenda 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, March 10, 2010

7:00 PM

Council Chamber

CALL TO ORDER:

INVOCATION: *Annette Lewis, Ward 1 Council Member introduces
Vesey Banuel, 2nd Grade, A.L. Burruss Elementary School for the invocation*

PLEDGE OF ALLEGIANCE:

PRESENTATIONS:

20100246 Distinction for Excellence - Alarm Ordinance

Presentation of an award from Mr. Glen Mowrey, Security Industry Alarm Coalition Director's Award, to the Marietta Police Department, Chief Daniel Flynn, for Distinction of Excellence in Alarm Management for the city of Marietta's Alarm Ordinance and how the program is managed.

PROCLAMATIONS:

20100247 Recognition of Darrell Dickerson

Presentation of a Proclamation recognizing Darrell Dickerson who faithfully served the citizens and customers of the city of Marietta/BLW for 38 years for his generous creation of an endowment for the "Marietta First Award" presented to employees annually for consistently putting Marietta first in their actions and deeds.

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).

MINUTES:*** 20100240 Regular Meeting - February 10, 2010**

Review and approval of the February 10, 2010 regular meeting minutes.

MAYOR'S APPOINTMENTS:**CITY COUNCIL APPOINTMENTS:****20100007 Board of Lights and Water - Citizen Member**

Appointment to the Marietta Board of Lights and Water (citizen member) to fill an expired term.

*** 20100126 Marietta Redevelopment Corporation (MRC) Board of Directors**

Re-appointment of Ray Buday, Mark Gibbs, Ron Francis, Terry Lee, and John Schupp to the Marietta Redevelopment Corporation (MRC) Board of Directors for a two-year term, expiring April 10, 2012.

*** 20100151 Planning Commission Appointment**

Reappointment of Kenneth Carter to the Planning Commission (Ward 5) for a term of three years, effective March 11, 2010 and expiring on March 12, 2013.

*** 20100156 Ethics Committee Council Appointment**

Re-appointment of Rev. James O. Speed to the Ethics Committee for a two year term expiring April 9, 2012.

*** 20100157 Ethics Committee Appointment**

Re-appointment of Jerry Gentry to the Ethics Committee for a two-year term that expires on May 8, 2012, as recommended by the Ethics Committee.

ORDINANCES:

20100085 Z2010-02 Reformed Theological Seminary 1580 and 1584 Terrell Mill Road

Z2010-02 [REZONING] REFORMED THEOLOGICAL SEMINARY request rezoning for property located in Land Lots 801 and 855, District 17, Parcels 15 and 7, 2nd Section, Marietta, Cobb County, Georgia and being known as 1580 and 1584 Terrell Mill Road from CRC (Community Retail Commercial) to CRC with stipulations (Community Retail Commercial with stipulations). Ward 1.

Planning Commission recommends approval with stipulation Vote: 6 - 0 - 0

Stipulation: To have the applicant work with the city to further specify the details of right-of-way donation for the future Rottenwood Creek Trail.

PUBLIC HEARING (all parties are sworn in)

20100101 Z2010-04 William Kendrick (Ken) Kirk a portion of 578 Anderson Road

Z2010-04 [REZONING] MARK KIRK (WILLIAM KENDRICK "KEN" KIRK) request rezoning for property located in Land Lot 289, District 20, Parcel 1050, 2nd Section, Marietta, Cobb County, Georgia and being known as a portion of 578 Anderson Road from R-20 [Single Family Residential (County)] to R-2 [Single Family Residential 2 units/acre (City)]. Ward 4.

Planning Commission recommends approval Vote: 6 - 0 - 0

Stipulation: n/a

PUBLIC HEARING (all parties are sworn in)

20100102 A2010-01 William Kendrick (Ken) Kirk a portion of 578 Anderson Road

A2010-01 [ANNEXATION] MARK KIRK (WILLIAM KENDRICK "KEN" KIRK) request annexation for property located in Land Lot 02890, District 20, Parcel 1050 and being known as a portion of 578 Anderson Road, 2nd Section, Cobb County, Georgia consisting of 0.5 acres. Ward 4.

Planning Commission recommends approval Vote: 6 - 0 - 0

Stipulation: n/a

PUBLIC HEARING (all parties are sworn in)

20100103 CA2010-01 William Kendrick (Ken) Kirk a portion of 578 Anderson Road

CA2010-01 [CODE AMENDMENT] MARK KIRK (WILLIAM KENDRICK "KEN" KIRK) in conjunction with the requested annexation of property located in

Land Lot 289, District 20, Parcel 1050, 2nd Section, Marietta, Cobb County, Georgia, and being known as a portion of 578 Anderson Road, the City of Marietta proposes to designate the Future Land Use of said property as LDR (Low Density Residential). Ward 4.

Planning Commission recommends approval Vote: 6 - 0 - 0

Stipulation: n/a

PUBLIC HEARING (all parties are sworn in)

* **20100244 Code Enforcement - 921 Westland Drive**

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 921 Westland Drive.

Listed Owner: Bank of America

Repeat Violation History: None

Certified mail receipt received February 8, 2010; not signed by an Officer.

Taxes paid: Yes

Ward: 2A

PUBLIC HEARING REQUIRED

Philip M. Goldstein abstaining

RESOLUTIONS:

CITY ATTORNEY'S REPORT:

CITY MANAGER'S REPORT:

MAYOR'S REPORT:

COMMITTEE REPORTS:

1. Economic/Community Development: Grif Chalfant, Chairperson

2. Finance/Investment: Annette Lewis, Chairperson

* **20100199 Fiscal Year 2010 Gone with the Wind Museum Fund**

Approval of an Ordinance amending the Fiscal Year 2010 Gone with the Wind Museum Fund to appropriate proceeds from the re-premier special event to cover the cost of expenses.

3. Judicial/Legislative: Philip M. Goldstein, Chairperson*** 2010092 Historic Preservation Ordinance**

Approval of the proposed Historic Preservation Ordinance.

Council members Lewis, Coleman and Goldstein opposed.

*** 20100179 Amendment of 2008 Order of Bond Schedule**

Approval of an Ordinance amending the current Order of Bond Schedule to reflect changes to bond amounts for offenses of shoplifting and various tag violations.

*** 20100206 Unexpired contracts**

Motion to ratify certain unexpired contracts in accordance with section 36-30-3 of the Official Code of Georgia Annotated (O.C.G.A.) with the ability to terminate in 60 days.

- Contract No. 634 - Administrative Services Agreement for retirement plan with the International City Management Association Retirement Corporation. The contract is ongoing w/60-day termination clause.

- Contract No. 1439 Deferred Compensation Plan with Nationwide (formerly known as PEBSCO). The agreement is ongoing (at will).

- Contract Nos. 1366 & 1370 Temporary License Agreement & Release Indemnity Agreement with Richard L. Moore (Now the Estate of Richard L. Moore). The agreements are ongoing (at will).

- Contract No. 1900A Life Insurance for employees with MetLife. The agreement is ongoing w/30-day termination notice.

- Contract No. 2982 Consultant Fire & Police Testing agreement with James Austin. The agreement will be in effect until completed w/10-day termination notice.

- Contract 3315 & 3545 Independent Contractor Agreement and amendment to the agreement with Classic Golf Management, Inc., for the day-to-day operations of the City Club Marietta effective January 1, 2007. Expires 10/1/2010

-Contract 3423 License Agreement with the Friends of Brown Park establishing rights, responsibilities and ownership of improvements contracted for, or completed, to Brown Park by the Friends of Brown Park. Effective July 11, 2007 - Expires July 1, 2017

-Contract 3669 Lease Contract for the Clarke Library (156 Church Street)between the City of Marietta and K. Mike Whittle Designs, Inc. Effective June 11, 2009 - Expires December 31, 2014, unless sooner terminated with 60 day notice.

-Contract 3535 An Agreement approving the assignment of the rights and responsibilities of American Transit Systems Inc., in Agreement number 1864 "Bus Stop Shelter Agreement" between the city and American Transit System, to Signal Outdoor Advertising, LLC. Approved May 12, 2008 for five years and shall

automatically renew for an additional two successive five year terms.

- Contract No. 3618 Pension Contracts Investment Management Services City of Marietta/BLW Defined Benefit Pension Plan; City of Marietta/BLW Define Benefit Pension Plans Investment Documents; City of Marietta/BLW Define Pension Plans Investment Documents; Investment Management Agreement to appoint Victory Capital Management, Inc. as Investment Manager for the City of Marietta. Approved January 14, 2009

* **20100280 Additional Unexpired contracts**

Motion to ratify certain unexpired contracts in accordance with section 36-30-3 of the Official Code of Georgia Annotated (O.C.G.A.) with the ability to terminate in 60 days.

- Contract Nos. 2907 & 799 Temporary License Agreement with Wesley A. Godwin for placement of power generator at 48 Atlanta Street. The agreement is on-going w/30-day termination notice.

Disclosure by Councilman Philip M. Goldstein:

Deventer North America, Inc is a tenant of mine at 48 Atlanta Street/39 Winters Street and currently subleases the property to another person or entity. I abstain from this issue dealing with Deventer North America, Inc.

-Contract 3696 Temporary Revocable License Agreement between the City of Marietta and the Theatre in the Square to encroach on city right-of-way to support three (3) columns to support a new building façade and marquee. Approved July 8, 2009.

Disclosure by Councilman Philip M. Goldstein:

Theatre in the Square, Inc. is a Tenant of mine at this address. I abstain from this issue dealing with Theatre in the Square, Inc.

* **20100214 Property Management Agreement**

Motion approving the attached Property Management Agreement between the city of Marietta and the Marietta Housing Authority for Preston Chase Apartments.

* **20100245 City Charter Amendment regarding Agenda Work Sessions**

Resolution to the Cobb Delegation regarding an amendment to Charter Section 2.9 relative to Council meetings, regular and special.

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

* **20100073 Street Closures**

Motion to temporarily close streets and parking spaces for the Glover Park Concert

Series; Taste of Marietta; May-retta Daze Spring Arts and Crafts Show; 97.1 Wing and Rock Fest; Juneteenth; Fourth in the Park parade and festival; Labor Day Fine Art Show (Art in the Park); Antique Street Festival; Marietta Reads; Cobb Community Services Board Book Faire on the Square; Harvest Square Arts and Crafts Show/Halloween Happenings; Atlanta Buddy Walk; MUST Ministries Gobble Jog; and, Farmer's Market: and, approve the city sanctioning of the 97.1 Wing and Rock Fest.

* **20100197 Laurel Park Tennis Center Contract**

Motion approving the extension of the existing Laurel Park Tennis Center Independent Contractor Agreement with Allcourt, Inc. on a month-to-month basis while bids are being considered.

5. Personnel/Insurance: Van Pearlberg, Chairperson

6. Public Safety Committee: Anthony Coleman, Chairperson

7. Public Works Committee: Jim King, Chairperson

* **20100243 Adams Circle and Gunter Street Temporary Closure for Construction**

Motion approving a 120 day closure of Adams Circle and Gunter Street by Marietta Housing Authority for construction purposes and authorizing Public Works Department to administratively extend closure as necessary.

SCHEDULED APPEARANCES:

UNSCHEDULED APPEARANCES:

OTHER BUSINESS:

* **20100265 123 Thurmond Court Right of Way Donation**

Motion approving donation of Right of Way fronting Henry Drive and Thurmond Court at 123 Thurmond Court by Marietta Housing Authority to provide sufficient right of way to encompass the sidewalks.

* **20100286 903 Roswell Street**

Motion authorizing acquisition of Right of Way at 903 Roswell Street in exchange for \$26,400 from Chi Lap, LLC for Roswell Street Improvements (Victory Drive to Cobb Parkway) Project .

* **20100284** **Temporary Construction Easements for Charles Avenue Drainage Improvements Project**

Motion accepting donation of temporary construction easements for drainage improvements along Charles Avenue from the following properties:

131 Charles Avenue from Elvine Olberg Jr. with stipulation front yard to be graded flush to back of curb.

145 Charles Avenue from Scarlett Malpass.

155 Charles Avenue from Ovaline Yearwood with stipulation City to remove pecan tree and all limbs, stumps and debris.

165 Charles Avenue from Dennis L. Moore.

173 Charles Avenue from Janet R. Lawrence.

* **20100287** **308 N. Fairground Street**

Motion to authorize the acquisition of property owned by Mr. Edward R. Ruddell, Jr. on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

* **20100288** **316 N. Fairground Street**

Motion to authorize the acquisition of property owned by Mr. Edward R. Ruddell, Jr. on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

* **20100289** **354 N. Fairground Street**

Motion to authorize the acquisition of property owned by Mr. Edward R. Ruddell, Jr. on behalf of the City of Marietta by means of eminent domain. A description

of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

* **20100290** **504 Birney Street**

Motion to authorize the acquisition of property owned by Ms. Mary R. Coulter on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

* **20100291** **505 Birney Street**

Motion to authorize the acquisition of property owned by Mr. Edward R. Ruddell, Jr. on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

* **20100292** **508 Morningside Drive**

Motion to authorize the acquisition of property owned by Mr. Edward R. Ruddell, Jr. & Mr. Phillip A. Thomas, Jr. on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

20100294 **Parks Design**

Motion to authorize the City Manager to take any and all actions necessary for bidding out professional services for parks design associated with the 2009 Parks Bond.

20100295 Wildwood and Burruss Parks

Motion to authorize staff to work with the owner of property that would allow the City to connect Wildwood and Burruss Parks.

20100296 Parks Land

Motion to authorize advertisement that the City is interested in obtaining park land through gift or purchase in the City of Marietta.

*** 20100241 BLW Actions of March 8, 2010**

Review and approval of the March 8, 2010 actions and minutes of the Marietta Board of Lights and Water.

ADJOURNMENT: