



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
G. A. (Andy) Morris, Ward 4
Rev. Anthony C. Coleman, Ward 5
James W. King, Ward 6
Philip M. Goldstein, Ward 7

Wednesday, December 11, 2013

7:00 PM

Council Chamber

Presiding: R. Steve Tumlin, Mayor

Present: Annette Lewis, Grif Chalfant, Johnny Sinclair, G. A. (Andy) Morris, 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 7:00 p.m.

INVOCATION:

Mayor Tumlin called upon Council member Morris to give the invocation.

PLEDGE OF ALLEGIANCE:

Council member Morris asked everyone to remain standing for the pledge of allegiance.

PRESENTATIONS:

20131441

2013 Citizens' Government Academy Graduates

Robert Barnes, Emily Collette, David Dudley, Janet Gilliland, Wes House, David Huggins, Joe Kinstle, Patricia Koutouzis, Richard Maher, Jill Mayer, Steve Michael, Ryan Moore, Nancy Petrone, Sonya Pullard, Ashley Shurtz, Alice Summerour, Lindsey Thompson, Katherine Thurmond, Brian Torres, Jeanette Van der Linden, Carol Warner, Ryan Warner, Bill White, and Victoria Woodall.

Presented

20131434 Vision 20/20 Report

Report by the Vision 20/20 Committee.

The Vision 20/20 Committee report was giving by committee chair, Kee Carlisle.

Presented

PROCLAMATIONS:**20130989 Distinguished Service Award**

Presentation of a Distinguished Service Award honoring Council Member Johnny Sinclair. Council Member Sinclair served the citizens of Marietta for 12 years with honor and distinction from 1998-2005 and 2010-2013.

Presented

20130990 Distinguished Service Award

Presentation of a Distinguished Service Award honoring Council Member Jim King. Council Member King served the citizens of Marietta for 12 years with honor and distinction from 2002-2013.

Presented

20131459 Distinguished Service Award

Presentation of a Distinguished Service Award honoring Council Member Annette Paige Lewis. Council Member Lewis served the citizens of Marietta for 8 years with honor and distinction from 2006-2013.

Presented

20131414 Proclamation - Marietta Center for Advanced Academics (MCAA)

Mayor Tumlin presents a Proclamation to Jennifer Hernandez, Principal of MCAA. MCAA is a unique elementary magnet school in the Marietta City School District. This Proclamation honors MCAA for their numerous successes including being named a 2010 and 2012 Georgia School of Excellence, the 2011 Georgia Student Achievement Platinum Award Winner, and the 2013 US Department of Education national Blue Ribbon School, having the highest performing school in the state of Georgia on the College and Career Readiness Performance Index in 2012.

Presented

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

Council member Lewis mentioned that the Loop Group Christmas Parade will be held Thursday, December 12 at 6:30 p.m., beginning at Emerson Court.

SCHEDULED APPEARANCES:**UNSCHEDULED APPEARANCES:**

Larry Wills, who resides on Oakmont Drive, spoke regarding the water rate increased approved by the City Council on the consent agenda.

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 Andy Morris called upon Council member Johnny Sinclair, to preside over this portion of the meeting. Council member Sinclair briefly explained the consent agenda process.

-under Ordinances: Agenda item 20131256, 1356 Cobb Industrial Drive, remains on the consent agenda and should note a public hearing will be held.

-under Ordinances: Agenda item 20131061, Sign Ordinance Revision, remains on the consent agenda and amended on page 23, the words "off premises" should be deleted from item 12 under definitions.

-under Economic/Community Development: Agenda item 20131366, Approval of a contract with Real Estate Consultant, was added to the consent agenda and amended on page 11, item D regarding the management fee.

-under Parks, Recreation and Tourism: Agenda item 20131362, The Betty Lou Hunter Gazebo at Brown Park, should show Council member Coleman opposed.

-under Other Business: Agenda item 20131461, The Farm at the Retreat Preliminary Plat, was added to the consent agenda.

City Attorney Doug 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 member Goldstein voting against agenda item 20131061.

Council member Goldstein abstaining on agenda item 20131334.

Council member Coleman voting against agenda item 20131362.

MINUTES:

- * **20131386** **Regular Meeting - November 13, 2013**
- Review and approval of the November 13, 2013 regular meeting minutes.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 – 0 – 0** **Approved**
- * **20131387** **Special Meeting - November 19, 2013**
- Review and approval of the November 19, 2013 special meeting minutes.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 – 0 – 0** **Approved**
- * **20131388** **Special Meeting - November 21, 2013**
- Review and approval of the November 21, 2013 special meeting minutes.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 – 0 – 0** **Approved**

MAYOR'S APPOINTMENTS:**CITY COUNCIL APPOINTMENTS:**

- * **20130205** **Planning Commission Appointment**
- Appointment of Brenda McCrae to the Planning Commission (Ward 5), for a three year term beginning immediately upon appointment and expiring December 9, 2016.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 – 0 – 0** **Approved**
- * **20131147** **Civil Service Board Appointment**
- Appointment of James Tarvin to the Civil Service Board (Post 3 Council Appointment) for a three (3) year term beginning January 1, 2014 and expiring December 31, 2016.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 – 0 – 0** **Approved**

the City of Marietta proposes to designate the Future Land Use of said property as LDR (Low Density Residential).

Public Hearing held during the consent agenda.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved

20131296

Z2013-31 Alberto Chamorro 107-109 Gramling Street

Z2013-31 [REZONING] ALBERTO CHAMORRO request rezoning for property located in Land Lot 02180, District 17, Parcel 0260, 2nd Section, Marietta, Cobb County, Georgia and being known as 107-109 Gramling Street from R-4 (Single Family Residential 4 units/acre) to R-4 (Single Family Residential 4 units/acre) with an additional use as a duplex.

Development Services Director Brian Binzer presented information regarding the rezoning request for property located at 107-109 Gramling Street.

City Attorney Doug Haynie opened the public hearing. Mr. Haynie then explained the rules of order and swore in those wishing to speak.

Mr. Alberto Chamorro requested rezoning for his property in order to maintain the use as a duplex. Mr. Chamorro mentioned that substantial work has been done to enhance the property and should be completed within six months.

Mrs. Liz Helmick, President of the Neighborhood Association, spoke in favor of the rezoning request.

The public hearing was closed.

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

Vote: 7 – 0 – 0

Approved

20131297

Z2013-30 Noel Palmer 120-122 Gramling Street

Z2013-30 [REZONING] NOEL PALMER request rezoning for property located in Land Lot 02180, District 17, Parcel 0680, 2nd Section, Marietta, Cobb County, Georgia and being known as 120-122 Gramling Street from R-4 (Single Family Residential 4 units/acre) to R-4 (Single Family Residential 4 units/acre) with an additional use as a duplex.

Development Services Director Brian Binzer presented information regarding the rezoning request for property located at 120-122 Gramling Street.

City Attorney Doug Haynie opened the public hearing and swore in those wishing to speak.

Mr. Noel Palmer requested rezoning for his property in order to maintain the use as a duplex. Mr. Palmer submitted pictures of the work that has been completed and it should only take a couple months to finish the project.

Mrs. Liz Helmick, President of the Neighborhood Association, spoke in favor of the rezoning request.

The public hearing was closed.

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

Vote: 7 – 0 – 0 Approved

*** 20131061 Sign Ordinance Revision**

Approval of an Ordinance amending the Comprehensive Development Code of the City of Marietta, Division 714, Signs.

Public Hearing held during the consent agenda.

Motion to approve with an amendment to section 714.09 Definitions, number 12 should read, "Sign, digital: Electronic signage that uses LED (Light Emitting Diode) screens..."

This Matter was Approved on the Consent Agenda.

Vote: 6 – 1 - 0 Approved as Amended
Voting Against: Philip M. Goldstein

RESOLUTIONS:

CITY ATTORNEY'S REPORT:

City Attorney Doug Haynie gave an update regarding the Redevelopment Bond approved by the voters in November. The Bond Validation hearing was held Monday, December 9, where they were approved and validated by the Superior Court of Cobb County.

*** 20131442 Denial of Claim**

Denial of the claim of Trish and Mark Evans.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved to Deny Claim

*** 20131456 Denial of Claim**

Denial of the claim of Maria Michelle Baylor, Khalia Michelle Baylor, Khaira Jonelle Baylor, Stefanie Acacia Gilbert and Steve Andre Gilbert, II.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved to Deny Claim

CITY MANAGER'S REPORT:

MAYOR'S REPORT:

COMMITTEE REPORTS:

1. Economic/Community Development: Grif Chalfant, Chairperson

* **20131358 Joint Land Use Study (JLUS) - Dobbins Air Reserve Base**

Motion to authorize participation in the Joint Land Use Study (JLUS) - Dobbins Air Reserve Base, with no funding required.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved

* **20131366 Approval of a contract with Real Estate Consultant**

Motion approving the attached contract with Jones Lang LaSalle serving as the Real Estate Consultant for the Franklin-Gateway Redevelopment Area.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved as Amended

2. Finance/Investment: Annette Lewis, Chairperson

* **20131383 Tourism Development Funding**

Approval of an Ordinance amending the Fiscal Year 2014 Budget to appropriate \$77,167 from the tourism development contingency to cover the expenses of the special events relating to the 150th anniversary of the Civil War.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved

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

- * **20131334** Motion to approve the use of a Conflict of Interest Affidavit related to the Franklin Gateway Area Bond issuance to be executed individually not as a group at their discretion.

This Matter was Approved on the Consent Agenda.

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

- * **20131355** **18 Whitlock Lease for Gone With the Wind Museum**

Motion to approve extending the lease on 18 Whitlock Avenue for the Gone With the Wind Museum for one year.

This Matter was Approved on the Consent Agenda.

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

- * **20131401** **Sign Ordinance Amendment**

Motion to authorize advertisement of amendments to the Comprehensive Development Code of the City of Marietta regarding Division 714.03, Signs to remove language related to flags.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 **Approved for Advertisement**

- * **20131402** **Flag Ordinance**

Review and approval of amendments to the Comprehensive Development Code of the City of Marietta, Division 712.12, Flags.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 **Approved for Advertisement**

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

- * **20131349** **Atherton Square Park Funding**

Motion approving funding from the Parks Bond not to exceed \$150,000 for vertical structures and historic interpretive items to complete the Atherton Square Park project from Category C, Development of Parks, Facilities and Trails and Greenspace (new and existing).

Council member Goldstein previously disclosed that he and/or his family members own, and/or an entity owned by him or family members own property adjacent to McNeel Alley next to Atherton Square.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

5. Personnel/Insurance: G. A. (Andy) Morris, Chairperson

*** 20131354 FY 2014 City/BLW Allocation Chart**

Approval of an Ordinance amending the FY2014 City/BLW position allocation chart and pay and classification plan in order to reclassify the position of BLW Rate Analyst to Principal Utility Analyst.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

6. Public Safety Committee: Anthony Coleman, Chairperson

7. Public Works Committee: Jim King, Chairperson

*** 20131188 Rottenwood Creek Project Framework Agreement**

Motion to approve Project Framework Agreements with GDOT for the conceptual development and engineering of the Rottenwood Creek Trail, Phase 1.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

*** 20131287 Proposed Radar Speed Signs at Charles Avenue**

Motion to install two radar speed signs on Charles Avenue.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

*** 20131343 Whitlock Avenue Improvements**

Motion to issue RFQ for design and engineering services for the Whitlock Avenue improvements to be done as part of the Redevelopment Bond.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

OTHER BUSINESS:

Public to be presented in early 2014 to Council and implementation soon thereafter” Analysis to include costs and costs savings, equipment needed, and generally all ancillary matters as to going paperless.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved

20131381

Marietta Redevelopment Corporation (MRC) Loan

Motion to approve loan from the City of Marietta to the Marietta Redevelopment Corporation consistent with the Forbearance Agreement and consistent with the terms detailed in the Memorandum of Understanding between the Bank of North Georgia, City of Marietta and Marietta Redevelopment Corporation. Further, to authorize the Mayor and City Clerk to sign attached Memorandum of Understanding with the incorporated terms detailed in the commitment letter. The document shall provide that the city of Marietta has no direct liability to Bank of North Georgia.

Philip Goldstein owns stock jointly in Synovis. Philip Goldstein placed an order on 11-20-2013 to sell the stock he individually owned on 11-21-2013. Said company is the parent of Bank of North Ga. If the stock in Synovis owned jointly was sold, the amount attributable to Philip Goldstein from his ownership portion would continue to be under the State reporting requirement based on the stock price when checked on 11-21-2013. As I have reduced the value of what is owned, I am providing this for disclosure purposes even though it is not required and I am not prohibited from participating in the matter.

Haynie, Litchfield, Crane & White, PC, from time to time, but not in this matter, has performed real estate closings for or with client for Bank of North Georgia.

Mayor Tumlin is a Board member of the MRC and is a member of the governing body that appoints the Board Members of the MRC. The Law Firm, Smith, Tumlin, McCurley & Patrick, PC, of which Tumlin is a non-owner associate, from time to time, but not in this matter, has performed real estate closings for or with client for Bank of North Georgia.

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

Vote: 4 – 3 – 0

Approved

Voting Against: Annette Lewis, Anthony Coleman and Philip M. Goldstein

(On January 6, 2014, Council member Philip M. Goldstein filed a letter of Dissent & Protest regarding agenda item 20131381 that has been included as part of the official minutes.)

20131380 Forbearance Agreement

Motion to approve Forbearance Agreement among the Marietta Redevelopment Corporation, the Bank of North Georgia and the City of Marietta including the authorization for the Mayor and City Clerk to execute same. The document shall provide that the City of Marietta has no direct liability to Bank of North Georgia.

Philip Goldstein owns stock jointly in Synovis. Philip Goldstein placed an order on 11-20-2013 to sell the stock he individually owned on 11-21-2013. Said company is the parent of Bank of North Ga. If the stock in Synovis owned jointly was sold, the amount attributable to Philip Goldstein from his ownership portion would continue to be under the State reporting requirement based on the stock price when checked on 11-21-2013. As I have reduced the value of what is owned, I am providing this for disclosure purposes even though it is not required and I am not prohibited from participating in the matter.

Haynie, Litchfield, Crane & White, PC, from time to time, but not in this matter, has performed real estate closings for or with client for Bank of North Georgia.

Mayor Tumlin is a Board member of the MRC and is a member of the governing body that appoints the Board Members of the MRC. The Law Firm, Smith, Tumlin, McCurley & Patrick, PC, of which Tumlin is a non-owner associate, from time to time, but not in this matter, has performed real estate closings for or with client for Bank of North Georgia.

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

Vote: 4 – 3 – 0

Approved

Voting Against: Annette Lewis, Anthony Coleman and Philip M. Goldstein

(On January 6, 2014, Council member Philip M. Goldstein filed a letter of Dissent & Protest regarding agenda item 20131380 that has been included as part of the official minutes.)

20131460 Forbearance Agreement

Motion or motions related to any other matter or matters regarding the Forbearance Agreement among the City of Marietta, the Bank of North Georgia and the Marietta Redevelopment Corporation and/or related to the loan from the City of Marietta to the Marietta Redevelopment Corporation. This was added at the request of City Attorney, Doug Haynie.

Philip Goldstein owns stock jointly in Synovis. Philip Goldstein placed an order on 11-20-2013 to sell the stock he individually owned on 11-21-2013.

Said company is the parent of Bank of North Ga. If the stock in Synovis owned jointly was sold, the amount attributable to Philip Goldstein from his ownership portion would continue to be under the State reporting requirement based on the stock price when checked on 11-21-2013. As I have reduced the value of what is owned, I am providing this for disclosure purposes even though it is not required and I am not prohibited from participating in the mater.

Haynie, Litchfield, Crane & White, PC, from time to time, but not in this matter, has performed real estate closings for or with client for Bank of North Georgia.

Mayor Tumlin is a Board member of the MRC and is a member of the governing body that appoints the Board Members of the MRC. The Law Firm, Smith, Tumlin, McCurley & Patrick, PC, of which Tumlin is a non-owner associate, from time to time, but not in this matter, has performed real estate closings for or with client for Bank of North Georgia.

No Action Taken

* **20131463**

44 N. Fairground Street

Motion authorizing acquisition of the property at 44 N. Fairground Street from B&B Drywalls Inc. for the purpose of constructing the Fairground Street Improvements Project - Roswell Street to Rigby Street in exchange for \$7,000.00.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved

* **20131464**

74 Black Street

Motion authorizing acquisition of the property at 74 Black Street from Bailey Realty Associates, Inc. for the purpose of constructing the Fairground Street Improvements Project - Roswell Street to Rigby Street in exchange for \$12,890.00 and is inclusive of site improvements.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved

* **20131465**

547 Roswell Street

Motion authorizing acquisition of the property at 547 Roswell Street from the Masonic Temple for the purpose of constructing the Fairground Street Improvements Project - Roswell Street to Rigby Street in exchange for \$1,750.00 and the included stipulations:

1. No silt fencing will be put in the parking lot as it may obstruct customers when loading.
2. No construction equipment will be left on the easement when not in use.
3. Contractor will coordinate with tenant to make sure construction vehicles or equipment will not obstruct their customers when loading materials in their vehicles. Tenant wants contractor to be aware that some customer vehicles may be large and may have difficulty when backing out of parking spaces and want to be sure that the contractor will help to accommodate them and not obstruct their driveway or parking lot in any way.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved

* **20131466**

659 Franklin Road

Motion to authorize the acquisition of property located at 659 Franklin Road owned by Blackford/Carlson Investments 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.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved

* **20131389**

BLW Actions of the December 9, 2013

Review and approval of the December 9, 2013 actions and minutes of the Marietta Board of Lights and Water.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved

Council member Goldstein voting against BLW agenda item 20131445, Deposits into the Municipal Competitive Trust 2014.

Council member Coleman voting against BLW agenda item 20131445, Deposits into the Municipal Competitive Trust 2014, 20131404, Marietta Board of Lights & Water Policy & Procedure No. 3.20, Water Service Rates and 20131406, Marietta Board of Lights & Water Policy & Procedure No. 3.24, Water Monthly Minimums.

UNSCHEDULED APPEARANCES:

ADJOURNMENT:

The meeting was adjourned at 8:18 p.m.

Date Approved: January 8, 2014

R. Steve Tumlin, Mayor Tumlin

Attest: _____
Stephanie Guy, City Clerk