



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, April 17, 2013

7:00 PM

Council Chamber

Presiding: R. Steve Tumlin, Mayor

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

INVOCATION:

Council member Anthony Coleman called upon Yvonne Williams, Deputy City Clerk, to give the invocation.

PLEDGE OF ALLEGIANCE:

Mayor Tumlin asked everyone to remain standing for the pledge of allegiance.

PRESENTATIONS:

20130291

Distinguished Budget Presentation Award

Presentation of the Distinguished Budget Presentation Award to Lori Duncan, Budget Manager, and Sam Lady, Finance Director, for their presentation of the FY2013 Budget Book. The award is the highest form of recognition in governmental budgeting and represents a significant achievement by the City. This is the 18th consecutive year that the Finance Department has received this award.

Presented

20130335 Distinguished Service Award

Presentation of a Distinguished Service Award to Kenneth Carter for his service on the Planning Commission from January 2004 - March 2013.

Presented**20130308 Marietta Housing Authority Appointment(s)**

Appointment of Chervonta "Taye" Pugh to the Marietta Housing Authority Board for a one year term expiring April 29, 2014.

OATH GIVEN

Appointment made by the Mayor

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

Council member Chalfant wanted to take a moment to wish Mayor Tumlin a Happy Birthday.

SCHEDULED APPEARANCES:**UNSCHEDULED APPEARANCES:**

*Several residents spoke regarding the lack of action regarding the Lawrence Street Recreation Center. Those speaking included:
Jeriene Grimes, who resides at 469 Washington Avenue
Chyna McGarity, who resides at 1511 Gresham Road
Deane Bonner, president of the Cobb NAACP*

Others speaking regarding this matter included Mr. Perry Price, Mrs. Frances Cook and Mr. Charles Levinson, who has expressed interest in running for Mayor in the November 2013 election.

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.

A motion was made by Council member King, seconded by Council member Goldstein, to suspend the rules of order to add an item to the consent agenda for the acquisition of property located at 353 Campbell Hill Street. The motion carried by the following vote:

*Vote: 7 - 0 - 0 Approved
(See agenda item 20130421)*

-under Ordinances: Agenda item 20130233 was added to the consent agenda and amended to add a stipulation that "all of the above variances are specifically tied to the site plan for the Sutton Group Professional Office Building, by TK Consulting Engineers, LLC and dated February 18, 2013."

-under Parks and Rec: Agenda item 20130336 was added to the consent agenda with Council member Coleman voting against.

-under Other Business: Agenda item 20130417 remains on the consent agenda showing that the three (3) stipulations only apply to 1077 S Marietta Parkway.

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 Coleman, 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 Coleman voting against agenda item 20130336.

Council member Goldstein abstaining on agenda item 20130386 and part of agenda item 20130383 related to 25 Polk Street and 55 S Marietta Parkway.

MINUTES:

*** 20130354 Regular Meeting - March 6, 2013**

Review and approval of the March 6, 2013 regular meeting minutes.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 Approved

MAYOR'S APPOINTMENTS:

CITY COUNCIL APPOINTMENTS:

ORDINANCES:

* 20130233

Z2013-12 Todd Cohen (The Sutton Group) 380, 382, 384, 386, 376 and 378 Roselane Street and 823 and 835 Cogburn Avenue**Ord 7656**

Z2013-12 [REZONING] TODD COHEN (THE SUTTON GROUP) request rezoning for property located in Land Lot 10140, District 16, Parcels 0880, 0870, 0860, 0850, 070, 0780, 0900 and 0890, 2nd Section, Marietta, Cobb County, Georgia and being known as 380, 382, 384, 386, 376 and 378 Roselane Street and 823 and 835 Cogburn Avenue from R-2 (Single Family Residential 2 units/acre) to OI (Office Institutional). Ward 4.

Motion to approve rezoning of the above property from R-2 (Single Family Residential 2 units/acre) to OI (Office Institutional), with the following variances and stipulations as conditions of zoning:

1. *Variance to reduce the required buffer against residential from 30 feet to 10 feet.*
2. *Variance to allow the buffer be disturbed and replanted.*
3. *Variance to increase the allowable impervious surface from 80% to 85%.*
4. *Variance to measure the 10' planted border area from the back of the sidewalk rather than the right of way line.*
5. *Variance to reduce two sections of the 10' planted border area, measured from the back of the sidewalk, to 8' where the sidewalk curves around the utility poles.*
6. *Variance to allow small canopied trees in the planted strip/border area where there are overhead utility conflicts.*
7. *Variance to waive the requirement that there be no more than twelve (12) parking spaces in a row without a planter island.*
8. *Variance to waive the two planter islands required at the southeastern corner of the building, and the one planter island at the northwestern corner of the building.*
9. *Variance to waive the required placement of a tree in the planter island with the monument sign at the southeastern entrance/exit to Cogburn Avenue.*
10. *Variance to increase the width of a curb cut from 30 feet to 38 feet (travelway) or 40 feet (face of curb to face of curb).*
11. *All of the above variances are specifically tied to the site plan for the Sutton Group Professional Office Building, by TK Consulting Engineers, LLC and dated February 18, 2013.*

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

20130234

Z2013-13 North River Church of Christ, Inc., 320 Austin Avenue**Ord 7657**

Z2013-13 [REZONING] NORTH RIVER CHURCH OF CHRIST, INC. request rezoning for property located in Land Lot 11640, District 16, Parcel 0020, 2nd Section, Marietta, Cobb County, Georgia and being known as 320 Austin Avenue from R-4 (Single Family Residential 4 units/acre) to OI (Office Institutional). Ward 5.

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

Richard Calhoun, attorney for the applicant, requested rezoning for property located at 320 Austin Avenue from R-4 (Single Family Residential 4 units/acre) to OI (Office Institutional).

Discussion was held regarding the uses under the O&I zoning district classification that would be excluded.

A motion was made to approve rezoning of the above property with the following stipulations incorporated as conditions of the zoning:

The Letter of stipulations from Richard Calhoun to Mayor Steve Tumlin, et al, dated April 17, 2013, except that item #4 of that letter is amended to read as follows:

4. The following uses under the City's O&I zoning district classification are deleted as permitted uses:

- a. #1 – Animal hospitals and veterinary clinics*
- #4 – Banks and financial institutions, including those with drive-in services and automatic tellers*
- c. #5 – Cultural facilities*
- d. #7 – Group homes and halfway houses*
- e. #8 – Fraternity and sorority houses and residence halls*
- f. #9 – Funeral homes*
- g. #10 – Halfway houses*
- h. #11 – Health service clinics*
- i. #12 – Hospitals*
- j. #13 – Hotels*
- k. #14 – Medical and dental laboratories*
- l. #15 – Offices, professional and general business*
- m. #16 – Parking lots and garages*
- n. #17 – Public buildings and utilities*
- o. #18 – Radio, recording and television studio facilities*
 - #19 – Sanitariums, rest and retirement homes, nursing homes, assisted living facilities and personal care homes*
 - #20 – Colleges and universities, including residence halls (Schools continue to be a permitted use)*
 - #21 – Shelters for the homeless*

Also, #22 is amended to read: Other uses which are substantially similar in character and impact to those uses specifically allowed above. Such uses must clearly meet the purpose and intent of this zoning district.

The following variances are approved as conditions of zoning:

Variance to reduce the landscape buffer from 30 feet to 11 feet where the interior driveway encroaches upon the landscape buffer. [Section 708.23(I)].

Variance to waive the requirement that a buffer must consist of a wall or fence. [Section 710.05(D) Buffers].

Vote: 6 - 0 - 1 **Approved**

Abstaining: Philip M. Goldstein

20130397 Urban Redevelopment

Motion to authorize and direct the City Attorney to publish notice of a public hearing to be held on May 8, 2013 (or at a later date as chosen by the Mayor and Council) which public hearing shall authorize public comment upon any urban redevelopment area to be considered by the City of Marietta and any urban redevelopment project considered by the City of Marietta as well as any urban redevelopment plan to be considered by the City of Marietta. The legal notice shall include any and all other requirements set forth in the Urban Redevelopment Law, O.C.G.A. 36-6-1, et seq.

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

Vote: 6 - 0 - 1 **Approved**

Abstaining: Philip M. Goldstein

20130389 Bond Advisors

Motion to employ Dianne McNabb, PFM Group as Financial Consultant for a fee not to exceed \$35,000 and Teresa P. Finister of Murray, Barnes, Finister, LLP. as Bond Counsel for a fee not to exceed \$45,000 and to serve as Disclosure Counsel for a fee not to exceed \$35,000 contingent upon the Urban Redevelopment Bond issue passing and being issued.

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

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

(Clerk's Note: Agenda item 20130389 was rescinded during the July 10, 2013 City Council meeting.)

2. Finance/Investment: Annette Lewis, Chairperson

* **20130327 Weed & Seed Fund**

[Ord 7655](#)

Approval of an Ordinance amending the Fiscal Year 2013 Weed and Seed Fund to appropriate additional revenue and expenditures in order to close out the Fund.

This Matter was Approved on the Consent Agenda.

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

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

* **20130322** **Revised Detailed Plan for Manget Phase I**

Motion to approve the Revised Detailed Plan for Manget Phase I located in Land Lots 1287 and 1288, District 16, 2nd Section, Marietta, Cobb County, Georgia. The purpose of this request is to

1. Convert the twenty (20) remaining, unbuilt townhome lots into thirteen (13) single family detached lots.
2. Convert seven (7) single family parcels into four (4) single family parcels.

This Matter was Approved on the Consent Agenda.

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

* **20130531** **IMAGE Agreement**

Motion authorizing the City of Marietta to submit the materials needed to become IMAGE certified and approve the IMAGE Agreement with ICE.

This Matter was Approved on the Consent Agenda.

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

* **20130177** **Certified City of Ethics**

Approval of a "Certified City of Ethics" Resolution and authorization for staff to submit the resolution and the City of Marietta Code of Ethics Ordinance to the Georgia Municipal Association for application to their "Certified City of Ethics" program.

This Matter was Approved on the Consent Agenda.

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

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

* **20130323** **Playground Equipment Donation and Reinstallation**

Motion authorizing the city to receive playground equipment from the Marietta Housing Authority from the Boston Homes and Fort Hill sites, and authorize the placement of the Fort Hill equipment in Birney Park. Further, to authorize the expenditure of \$17,000 to employ a manufacturer authorized and certified playground installer to remove and install the Fort Hill equipment, and install drainage improvements and certified playground safety surfacing.

This Matter was Approved on the Consent Agenda.

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

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

6. Public Safety Committee: Anthony Coleman, Chairperson

7. Public Works Committee: Jim King, Chairperson

* **20130311 Traffic Calming**

Motion to direct Public Works to enter the speed hump balloting process for Whitlock Drive, Hickory Drive, Heathersett Drive, Carriage Oaks Drive, Lee's Trace, North Hillcrest Drive, Sugar Springs Drive, Griggs Street, Woodvalley Drive, Chesterfield Place, Arden Drive, Maxwell Avenue, Northcutt Street and Devonwood Trail.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 Approved

* **20130312 Traffic Calming in Church Street/Cherokee Street/Kennestone Area**

Motion to add the following intersections identified in the "Cherokee-Church Street Historic District & Kennestone Area Study" to the 13 intersections allocated within the 2011 SPLOST:
Cherokee Street at Sessions Street
Campbell Hill Street at Sessions Street
Tower Road at James Street

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 Approved

* **20130313 Receive and appropriate Admin 6 Check**

[Ord 7658](#)

Approval of an Ordinance amending the Fiscal Year 2013 General Fund budget to receive and appropriate \$1,681 from Josh Howland for an Administrative Policy No. 6 project at 583 Chickasaw Drive.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 Approved

- * **20130314** **Receive and Appropriate LMIG Check**
- [Ord 7659](#) Approval of an Ordinance amending the Fiscal Year 2013 budget to receive and appropriate a check from the Georgia Department of Transportation (GDOT) for asphalt resurfacing through the Local Maintenance and Improvement Grant (LMIG) program.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 - 0 - 0** **Approved**
- * **20130315** **Church Street Mid-Block Crossing**
- Motion to install a mid-block crossing on Church Street at Hansell Street as part of the Church Street Improvement project.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 - 0 - 0** **Approved**
- * **20130158** **Harold Street, Cuthbert Street, Hunt Street and Avery Street Right of Way**
- Motion to approve Quitclaim Deed from the City of Marietta to the Housing Authority of the City of Marietta, Georgia a/k/a Marietta Housing Authority, a body corporate and politic, releasing any interest that the City of Marietta has in the property described in the attached Quitclaim Deed, reserving, however, any rights that the City of Marietta may have regarding any easement, utilities, or other public rights in, across, through or under said property.
- Mayor Tumlin disclosed that Smith, Tumlin and McCurley and Patrick, P.C. performed legal services in real estate for the Marietta Housing Authority (MHA) including the current land purchase contract with Traton. This presents a conflict while still owned by the MHA.*
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 - 0 - 0** **Approved**
- * **20130396** **Termination of Intergovernmental Agreement between the City of Marietta and the Marietta Housing Authority**
- Motion to terminate the Intergovernmental Agreement between the City of Marietta and the Marietta Housing Authority dated November 11, 1998 being Contract No. 1948 in the records of the City of Marietta and recorded in Deed Book 13268, Page 3765, Cobb County, Georgia records.
- Mayor Tumlin disclosed that Smith, Tumlin and McCurley and Patrick, P.C. performed legal services in real estate for the Marietta Housing Authority (MHA) including the current land purchase contract with Traton. This presents a conflict while still owned by the MHA.*

* **20130384** **531 Roselane Street and 598 Nancy Street**

Motion to authorize the acquisition of property owned by Decatur Properties IV, Inc. 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**

* **20130386** **26 Powder Springs Street**

Motion to authorize the acquisition of property owned by 3G Manning, LLLP 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.

Council member Goldstein has previously disclosed that he and/or an entity(s) that he owns, owns property(s) adjacent to the subject, which may be a part of the project. Council member Goldstein abstaining on this item.

This Matter was Approved on the Consent Agenda.

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

* **20130387** **530 Roselane Street**

Motion to authorize the acquisition of property owned by Carl J. Galgano 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.

