



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

Wednesday, August 8, 2012

7:00 PM

Council Chamber

CALL TO ORDER:

INVOCATION:

Council Member Grif Chalfant, Ward 2

PLEDGE OF ALLEGIANCE:

PRESENTATIONS:

PROCLAMATIONS:

20120680 Proclamation - Ann Rutherford Day

Proclamation to declare November 2nd (Ann's birthday) as Ann Rutherford Day in Marietta.

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

SCHEDULED APPEARANCES:

20120751 Scheduled Appearance - Kristen Picken

Resident at 413 Talcott Circle (Ward 4). Speaking to council about "backyard poultry."

UNSCHEDULED APPEARANCES:

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:

- * **20120724 Regular Meeting - July 11, 2012**

Review and approval of the July 11, 2012 regular meeting minutes.

- * **20120725 Special Meeting - July 25, 2012**

Review and approval of the July 25, 2012 special meeting minutes.

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

- * **20120727 Board of Lights and Water Appointment - Resident Member**

Motion to extend the term of Charles "Chuck" George on the Board of Lights and Water (Resident Member) for sixty (60) days from August, 10, 2012.

- * **20120682 Vision 20/20 Committee Appointments**

Motion to approve appointments to the Vision 20/20 Committee to study Marietta Square improvements.

Kelly Contreras, Marietta Pizza Company, to represent the restaurant operators in the downtown area as defined by the attached map.

Cassandra Buckalew, Marietta Trolley Company, to represent the merchants in the downtown area as defined by the attached map.

ORDINANCES:

20120615 Z2012-04 Keith Cristal 85 Atlanta Street

Z2012-04 [REZONING] KEITH CRISTAL request rezoning for property located in Land Lot 12310, District 16, Parcel 1060, 2nd Section, Marietta, Cobb County, Georgia and being known as 85 Atlanta Street from CBD (Central Business District) to CBD (Central Business District) with an additional use to allow for auto rental. Ward 5.

Keith Cristal is a tenant of Councilman Philip Goldstein and or entities that he owns and or has an ownership interest in on Waverly Way (parking), 52-60 Atlanta Street (building), 1535 Rosewood Circle (building), and 48 Atlanta Street (parking). Keith Cristal leases building or parking spaces. Councilman Goldstein does not have any ownership interest in the property (85 Atlanta Street) that is at issue in this matter.

Planning Commission recommends approval Vote: 5 – 0 – 0

Motion: Mr. Thompson made a motion to approve the rezoning request as presented, seconded by Mr. Schupp.

Stipulations: N/A

PUBLIC HEARING (all parties are sworn in)

20120665 Z2012-05 Kolawole Asatola, et al 1492 Bellemeade Farms Road, 1488 Bellemeade Farms Road, 1484 Bellemeade Farms Road, 1480 Bellemeade Farms Road, 1476 Bellemeade Farms Road and 1472 Bellemeade Farms Road

Z2012-05 [REZONING] KOLAWOLE ASATOLA, ET AL request rezoning for property located in Land Lot 01520, District 17, Parcels 0440, 0430, 0420, 0410, 0400 and 0390, 2nd Section, Marietta, Cobb County, Georgia and being known as 1492 Bellemeade Farms Road, 1488 Bellemeade Farms Road, 1484 Bellemeade Farms Road, 1480 Bellemeade Farms Road, 1476 Bellemeade Farms Road and 1472 Bellemeade Farms Road from R-15 (Residential 15,000 sq. ft. - County) to R-3 (Single Family Residential 3 units/acre). Ward 3.

Planning Commission recommends approval Vote: 5 – 0 – 0

Motion: Mr. Thompson moved to approve the rezoning request for the 6 properties listed with the recommendation that council consider total annexation of the entire subdivision, seconded by Mr. Kinney.

Stipulations: N/A

PUBLIC HEARING (all parties are sworn in)

20120666 A2012-01 Kolawole Asatola etal 1492 Bellemeade Farms Road, 1488 Bellemeade Farms Road, 1484 Bellemeade Farms Road, 1480 Bellemeade Farms Road, 1476 Bellemeade Farms Road, and 1472 Bellemeade Farms Road

A2012-01 [ANNEXATION] Kolawole Asatola etal request annexation for property located in Land Lot 01520, District 17, Parcels 0440, 0430, 0420, 0410, 0400, and 0390, and being known as 1492 Bellemeade Farms Road, 1488 Bellemeade Farms Road, 1484 Bellemeade Farms Road, 1480 Bellemeade Farms Road, 1476 Bellemeade Farms Road, and 1472 Bellemeade Farms Road, 2nd Section, Cobb County, Georgia consisting of a total of 2.37 acres. Ward 3.

Planning Commission recommends approval Vote: 5 – 0 – 0

Motion: Mr. Duffley moved to accept the annexation, seconded by Mr. Thompson. Mr. Kinney made a motion to encompass the entire subdivision, seconded by Mr. Thompson.

Stipulations: N/A

PUBLIC HEARING (all parties are sworn in)

20120667 CA2012-03 Kolawole Asatola, et al 1492 Bellemeade Farms Road, 1488 Bellemeade Farms Road, 1484 Bellemeade Farms Road, 1480 Bellemeade Farms Road, 1476 Bellemeade Farms Road, 1476 Bellemeade Farms Road, and 1472 Bellemeade Farms Road

CA2012-03[CODE AMENDMENT] in conjunction with the requested annexation of property located in Land Lot 01520, District 17, Parcels 0440, 0430, 0420, 0410, 0400 and 0390, 2nd Section, Marietta, Cobb County, Georgia, the City of Marietta proposes to designate the Future Land Use of said property as LDR (Low Density Residential). Ward 3.

Planning Commission recommends approval Vote: 5 – 0 – 0

Motion: Mr. Thompson made a motion, seconded by Mr. Duffley, to approve the Future Land Use as Low Density Residential (LDR).

Stipulations: N/A

PUBLIC HEARING (all parties are sworn in)

RESOLUTIONS:

CITY ATTORNEY'S REPORT:

CITY MANAGER'S REPORT:

20120675 Economic Impact Study from Georgia State.

MAYOR'S REPORT:

COMMITTEE REPORTS:

1. Economic/Community Development: Grif Chalfant, Chairperson

- * **20120663** Section Eight Management Assessment Program (SEMAP) FY2012 Certification

Approval of a Resolution authorizing the acceptance of the Section Eight Management Assessment Program (SEMAP) certification for FY 2012.

2. Finance/Investment: Annette Lewis, Chairperson

- * **20120649** Modification of contract

Motion to approve modification of the contract between the City of Marietta and the Marietta Welcome Center, Inc., dated June 8, 2011, resulting from a \$2,774.76 funding shortfall at fiscal year-end in the hotel/motel tax account.

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

- * **20120678** Report of Accomplishments/Short Term Work Programs

Approval of a Resolution to transmit the City of Marietta 5-Year Short Term Work Program 2012 Update to the Comprehensive Plan 2006-2030.

Mr. Kinney made two motions; the first motion covering the change to the Mixed Use Designation adding various office categories. Mr. Kinney moved to recommend to city council that it be accepted as submitted, seconded by Mr. Thompson. Motion carried 4 – 1 – 0. Mr. Schupp opposed.

The second motion made by Mr. Kinney is to forward the report for 2005 and the 2012 Short Term Work Program on to council without a recommendation because the revisions were not received in time to review with staff. Mr. Difley seconded this motion. Motion carried 5 – 0 – 0.

PUBLIC HEARING (all parties are sworn in)

* **20120683 Tower Partners, LLC - 819 & 821 Cogburn Avenue**

Motion to revise stipulations from Z2011-04 Tower Partners, LLC, for property located in Land Lot 10140, District 16, Parcels 750 & 760, 2nd Section, Marietta, Cobb County, Georgia and being known as 819 and 821 Cogburn Avenue.

Tower Partners, LLC is requesting to waive the requirement to provide a 6 ft. wooden opaque fence along the northern property line, which was previously included as a stipulation of zoning for Z2011-04 (20110160).

All other conditions and stipulations approved in conjunction with the approval to rezone the property on June 8, 2011, shall remain in full force and effect.

* **20120640 Revised Detailed Plan for Manor Park**

Motion to approve the revised detailed plan for Manor Park (received 8/2/12) located in Land Lot 1160, District 16, 2nd Section, Marietta, Cobb County, Georgia. The purpose of this revision is to:

1. Remove the sidewalk around the perimeter of the community recreation island.
2. Remove the segment of sidewalk on the east side of Hunt Street south of Forest Avenue.
3. All other conditions and stipulations of the rezoning shall remain.

* **20120641 Revised Final Plat for Manor Park**

Motion to approve the revised final plat for Manor Park (received 8/2/12) located in Land Lot 1160, District 16, 2nd Section, Marietta, Cobb County, Georgia.

* **20120621 Kennesaw Avenue Historic District**

Motion to approve request from the Historic Preservation Commission to pursue a locally designated historic district along Kennesaw Avenue.

In accordance with the Historic Preservation Ordinance, that was revised in March 2010, the Historic Preservation Commission is hereby granted approval from the Mayor and City Council to begin the process to pursue a locally designated historic district along Kennesaw Avenue.

20120528 Alcoholic Beverages General Provisions

Approval of an Ordinance amending 8-8-2-010 "Definitions" and 8-8-2-195 "Minors - Prohibited practices."

4. Parks, Recreation and Tourism: Johnny Sinclair, Chairperson**5. Personnel/Insurance: Grif Chalfant, Vice Chairperson***** 20120679 Property Casualty/Miscellaneous Coverage**

Motion approving the property casualty and other miscellaneous coverage, premiums and companies utilized for the policy period of August 15, 2012 to August 14, 2013.

6. Public Safety Committee: Anthony Coleman, Chairperson**7. Public Works Committee: Jim King, Chairperson***** 20120696 Hidden Driveway Sign at Bouldercrest Drive**

Motion authorizing Public Works to install "Hidden Driveway" signs along Bouldercrest Drive in the vicinity of Banks Street.

APPEARANCES:**OTHER BUSINESS:****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.

1. Contingent on the compliance with Number 3 below, a variance is approved to allow two (2) abandoned, nonconforming pylon signs to remain until August 8, 2013 - one located at the northeast corner of the property near I-75, and one located at the southeast corner of the property, near the intersection of Delk Road and I-75, as indicated on the attached aerial photograph labeled Exhibit A, and identified as Sign #1 and Sign #2.
2. Contingent on the compliance with Number 3 below, the applicant agrees to repair and restore Sign #1 and Sign #2 to good condition within 60 days of approval of the variance.
3. All other illegal and/or abandoned signs on the site would be removed within 60 days of approval of the decision.

20120668 V2012-28 QuikTrip Corporation 720 Powder Springs Street

V2012-28 [VARIANCE] QUIK TRIP CORPORATION request variances for property located in Land Lot 01470, District 17, Parcel 1460 and being known as 720 Powder Springs Street. Variance to increase the maximum front setback from 75' to 172.'; Variance to reduce the required landscape strip width on a portion of Fairgate Road from 10' to 8.73.'; Variance to reduce the required landscape strip width along Fairgate Road from 10' to 5.75' for a parking space encroachment; Variance to reduce the required setback for a fuel storage tank from 20' to 8.'; Variance to increase the allowable height for a monument sign on Powder Springs Street from 15' to 17.3.'; Variance to increase the allowable height for a monument sign on Chestnut Hill Road from 10' to 10'8 ½." . Ward 3.

Bill Hageman is a tenant of Councilman Philip Goldstein at 120 South Park Square. Mr. Hageman leases office space. Councilman Goldstein does not have any ownership interest in the property (720 Powder Springs Street) that is at issue in this matter.

*** 20120744** **Motion to approve changing AWS meeting time**

Motion to approve changing the Monday, November 12, 2012, meeting time to 3:00 p.m.

20120766 **308 N. Fairground Street**

Motion approving settlement of the case of City of Marietta v. SHH Partners, LP, Case Number 10-1-04557-42, with the address of 308 N. Fairground Street, Marietta, Georgia is hereby granted with the following conditions and stipulations:

1. The amount of \$35,000.00 in compensation, which is an additional \$15,890.00 over the City's original payment into the Registry of the Court.
2. The City issues check for \$15,890.00 in additional compensation directly to SHH Partners, LP, (SHH Partners own property free and clear).
3. This motion also includes any other stipulations as approved by the Director of Public Works and the City Attorney.

20120767 316 N. Fairground Street

Motion approving settlement of the case of City of Marietta v. Edward R. Ruddell, Jr., Case Number 10-1-04518-42, with the address of 316 N. Fairground Street, Marietta, Georgia is hereby granted with the following conditions and stipulations:

1. The amount of \$5,000.00 in compensation, which is the City's original payment into the Registry of the Court.
2. This motion also includes any other stipulations as approved by the Director of Public Works and the City Attorney.

20120768 354 N. Fairground Street

Motion approving settlement of the case of City of Marietta v. Ron McNeil and E.R. Ruddell, Jr., Case Number 10-1-04520-42, with the address of 354 N. Fairground Street, Marietta, Georgia is hereby granted with the following conditions and stipulations:

1. The amount of \$3,500.00 in compensation, which is the City's original payment into the Registry of the Court.
2. The City installs a 2 car parking pad.
3. This motion also includes any other stipulations as approved by the Director of Public Works and the City Attorney.

20120769 504/506 Birney Street

Motion approving settlement of the case of City of Marietta v. Mary Ruddell Coulter Family Limited Partnership, Case Number 10-1-04559-42, with the address of 504/506 Birney Street, Marietta, Georgia is hereby granted with the following conditions and stipulations:

1. The amount of \$20,250.00, which is the City's original payment into the Registry of the Court.
2. The City installs a commercial driveway apron on N. Fairground (as offered by the City in April 2012).
3. The City agrees to assist the owner with the application to the Board of Zoning Appeals for a variance of the fence setback to allow fencing within 1 foot from the sidewalk/ROW (as offered by the City in April 2012).
4. The City increases dimensions of parking pad previously constructed by the City as replacement for parking pad removed by the City, on property to comply with zoning ordinance (per discussion between Dan Conn and Ed Ruddell on July 30, 2012).
5. This motion also includes any other stipulations as approved by the Director of Public Works and the City Attorney.

20120770 505/507 Birney Street

Motion approving settlement of the case of City of Marietta v. E.R. Ruddell, Jr., Case Number 10-1-04516-42, with the address of 505/507 Birney Street, Marietta, Georgia is hereby granted with the following conditions and stipulations:

1. The amount of \$20,800.00, which is the City's original payment into the Registry of the Court.
2. The City conveys right of way to E.R. Ruddell, Jr. per the attached drawing and such conveyance shall be by Quitclaim Deed as an exchange of property.
3. The City agrees to assist owner with the application to the Board of Zoning Appeals for a variance, if required, to install additional gravel parking to increase the dimensions of the existing gravel parking pad.
4. The City agrees to assist owner with application to the Board of Zoning Appeals for a variance of the fence setback to allow fencing within 1 foot from sidewalk/ROW.
5. This motion also includes any other stipulations as approved by the Director of Public Works and the City Attorney.

20120771 508/510 Morningside Drive

Motion approving settlement of the case of City of Marietta v. Phillip A. Thomas, Jr. and Edward R. Ruddell, Jr., Case Number 10-1-04560-42, with the address of 508/510 Morningside Drive, Marietta, Georgia is hereby granted with the following conditions and stipulations:

1. The amount of \$19,900.00 in compensation, which is the City's original payment into the Registry of the Court.
2. The City agrees to assist the owners with application to the Board of Zoning Appeals for variance of fence setback to allow fencing within 1 foot from the sidewalk/ROW.
3. This motion also includes any other stipulations as approved by the Director of Public Works and the City Attorney.

20120774 Parcel 21 - Powder Springs Street

Motion to authorize the acquisition of property owned by Michael P. Good and Gail Harris 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.

*** 20120726 BLW Actions of the August 6, 2012**

Review and approval of the August 6, 2012 actions and minutes of the Marietta Board of Lights and Water.

UNSCHEDULED APPEARANCES:**ADJOURNMENT:**