



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, August 10, 2011

7:00 PM

Council Chamber

CALL TO ORDER:

INVOCATION:

Council Member Van Pearlberg, Ward 4

PLEDGE OF ALLEGIANCE:

PRESENTATIONS:

20110714 Georgia Association of Chiefs of Police Recognition

The Georgia Association of Chiefs of Police (GACP) presented an Award of Excellence to the Marietta Police Department's gun safety seminar for the public .

20110722 Recognition of Fleet Maintenance

Fleet Equipment Magazine named Marietta's internal program to maintain its vehicles one of the top 100 in the country for the seventh year in a row.

PROCLAMATIONS:

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

SCHEDULED APPEARANCES:

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:

- * **20110704 Regular Meeting - July 13, 2011**
Review and approval of the July 13, 2011 regular Meeting Minutes
- * **20110705 Special Meeting - July 27, 2011**
Review and approval of the July 27, 2011 special meeting minutes.

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

- * **20110700 Planning Commission Appointment**
Appointment of William "Bill" Hagemann to the Planning Commission (Ward 2) for a term of three years, expiring on August 10, 2014.
- * **20110652 Marietta Museum of History Re-appointments**
Request for approval of a recommendation by the Museum of History Board to reappoint Thomas McBrayer, Alice Summerour, Guy H. Northcutt Jr., Harry Lembeck and Danna Kaye to the Board of Directors for 3-year terms.

ORDINANCES:**20110516 Z2011-09 Glenn F. & Bernardine W. Drake 155 Montgomery Street**

Z2011-09 [REZONING] GLENN F. & BERNARDINE W. DRAKE request rezoning for property located in Land Lot 11450, District 16, Parcel 0060, 2nd Section, Marietta, Cobb County, Georgia and being known as 155 Montgomery Street from R-3 (Single Family Residential 3 units/acre) to R-4 (Single Family Residential 4 units/acre). Ward 5.

Ordinance approving the rezoning of 155 Montgomery Street from R3 to R4 with stipulations and a variance as stated.

Council member Goldstein disclosed that the engineer for this project is and has done work for an entity that he owns and/or for himself.

Council member Chalfant disclosed that he has done business with the engineer for this project.

1. The existing 8 ft. white picket privacy fence currently located along a portion of the western (Drake/Panetta) property line will be extended along the entire western property line to the right of way of Montgomery Street. A new 8 ft. white picket privacy fence, which will match the fence that currently runs along the western (Drake/Panetta) property line, shall be constructed along the entire northern (Yustat/Drake) property line to the right of way of Harold Street.
2. Applicant will meet with Public Works staff to determine if a retention/detention pond is necessary. If deemed necessary, it will be located away from the northwestern corner of the property, if possible. If changes need to occur, this matter will be discussed between the Mr. Drake, Yustats, Mr. Panetta, and the City of Marietta Public Works Departments. However, compliance with all City and State regulations is required.
3. The garages will be in compliance with all City of Marietta codes; and each garage will have similar color and façade material as the principle structure.
4. One row of trees will be planted along the northern and western property lines. This buffer will consist of a single row of trees of a minimum of 2" caliber and will include crape myrtles and bald cypress trees. Due to the mix of tree species within the buffer, the city arborist will determine spacing requirements.
5. The developer will hire an arborist to determine the health of all remaining trees and the impact on the remaining trees from the proposed plans. The developer will follow the recommendation of the arborist as well as meet the current tree ordinance.
6. The houses will be LEED [Leadership in Energy and Environmental Design] certified.
7. The houses will be constructed in compliance with all codes.
8. The houses that will be built will be one of the attached plans (see attached renderings):
 - a. Ansel
 - b. Henry David
 - c. Hudson
 - d. Dillard
 - e. Watkins
 - f. Emmerson
 - g. Hayek House
 - h. Gifford
 - i. Hampton Roads
9. The square footage of the homes will be a minimum of 1800 square feet.
10. Owners are contracting with a specific builder, but during the course of construction and for reasons unknown at this time may find it necessary to change builders. Homes will continue in the same appearance and outside style, as stipulated in item #8 above.

The following variance is approved:

1. A variance to increase the maximum height of a fence along a side yard from 4 ft. to 8 ft.

Planning Commission recommends Denial

Vote: 4 – 0

Motion: Mrs. Watkins made motion to recommend to City Council that this request be denied, seconded by Mr. Diffley.

Stipulations: N/A

PUBLIC HEARING (all parties sworn in)

Was presented at the July 13, 2011 City Council Meeting and tabled to the July 27th Judicial Legislative Committee.

* **20110602 Z2011-10 75 Property Partners, LLC and 1345 Canton, LLC, 1335 Canton Road and 1345 Canton Road**

Z2011-10 [REZONING] 75 PROPERTY PARTNERS, LLC AND 1345 CANTON, LLC request rezoning for property located in Land Lot 09270 AND 08740, District 16, Parcels 0160 and 0510, 2nd Section, Marietta, Cobb County, Georgia and being known as 1335 Canton Road and 1345 Canton Road from CRC (Community Retail Commercial) and LI (Light Industrial) to OI (Office Institutional). Ward 6.

1. The following variances shall be for the current developed property only, and shall be discontinued upon the redevelopment of the site (subject to Section 706 Nonconforming Uses):

- Variance to allow the current trees and landscaping conditions satisfy the requirements of Section 712.08 until the site is redeveloped.(Variance for all parcels)

Parcel 1 (1335 Canton Road)

- Does not require any variances.

Parcel 2 (1339 Canton Road)

- Variance to increase the allowable impervious surface coverage from 80% to 81.7%.

Parcel 3 (1337 Canton Road)

- Variance to reduce the required parking from 60 spaces to 48 spaces.
- Variance to increase the allowable impervious surface coverage from 80% to 86.8%.
- Variance to reduce the required landscaped area from 15% to 12.4%.

Parcel 4 (1341 Canton Road)

- Variance to increase the allowable impervious surface from 80% to 86.5%.
- Variance to reduce the required landscaped from 15% to 13.5%.

Parcel 5 (1343 Canton Road)

- Variance to increase the allowable impervious surface coverage from 80% to 85.3%.
- Variance to reduce the required landscaped area from 15% to 14.7%.
- Variance to reduce the side yard setback from 15 feet to 10 feet.

2. Formation of an owner's association to take care of landscaping which was addressed by the applicant, and that there be a common easement for parking and access so that no building owner would have any control over access and parking.

3. The drainage situation be reviewed with the Public Works Department and if the Public Works Department has any objections to the current situation that they be resolved.

Planning Commission recommends approval with stipulations *Vote: 6 – 0*

Motion: Mr. Kinney made a motion, seconded by Mr. Gillis, to accept the application for rezoning, as submitted, with the following stipulations:

PUBLIC HEARING (all parties are sworn in)

*** 20110661 CA2011-05 Amendment to the Comprehensive Development Code regarding Signs**

CA2011-05 [Code Amendment] Proposal to amend the Comprehensive Development Code of the City of Marietta, Section 714.03 Signs exempt from permit regulations; Section 714.06 Prohibited Signs; Section 714.08 Downtown Marietta Sign District; Section 714.09 Definitions: and Section 724.02 Definition of terms.

Planning Commission recommends approval *Vote: 6 – 0*

Motion: Mr. Kinney made a recommendation to city council that these changes be accepted as submitted, seconded by Mr. Carter. Motion carried 6 – 0.

Stipulations: N/A

PUBLIC HEARING (all parties are sworn in)

RESOLUTIONS:

CITY ATTORNEY'S REPORT:

*** 20110721 Denial of Claim**

Denial of claim of Kelvin T. Cook

*** 20110736 Denial of Claim**

Denial of the claim of Leshundria Driver.

* **20110737 Denial of Claim**

Denial of the claim of Lori Nelson.

CITY MANAGER'S REPORT:

MAYOR'S REPORT:

COMMITTEE REPORTS:

1. Economic/Community Development: Grif Chalfant, Chairperson

2. Finance/Investment: Annette Lewis, Chairperson

* **20110650 Donation to the Tree Preservation Fund by Mountain Motorsports**

Approval of an Ordinance amending the Fiscal Year 2012 Tree Preservation Fund budget to receive and appropriate a \$9,387.40 donation from Mountain Motorsports.

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

* **20110595 Resolution for Bishop Chandler David Owens**

Approval of a Resolution to maintain Olive Street as the street name but to memorialize Olive Street from Roswell Street to Chester Street, as "Bishop Chandler D. Owens Memorial Way".

* **20110606 Wellstar Health Systems - Tower Road Streetscape**

Motion to revise stipulations attached to a variance approved on July 11, 2007, that eliminated the 10' landscape strip along Tower Road; and to approve the revised Tower Road Streetscape plan by Bilson and Associates, dated June 8, 2011. In addition, since the placement of underground utilities across Tower Road near the corner of Church Street will only allow the planting of 18 of the required 23 trees, the applicant agrees to work with staff to identify the appropriate location to plant the remaining 5 trees.

The applicant agrees to comply with all other stipulations, which shall remain in effect.

* **20110600 Meeting Rules and Procedures of Council**

Approval of a Resolution establishing rules, policies and procedures for the Mayor and City Council of the City of Marietta.

* **20110701 Sunday Alcohol Sales**

Motion to direct staff to take the appropriate action to place the calling of a referendum to allow the citizens of Marietta, Georgia to vote on whether to authorize retailers to sell by package, malt, beverages, wine and distilled spirits on Sundays between the hours of 12:30 p.m. and 11:30 p.m. Provided, however, that no referendum to conduct this vote shall be called at a time which would not coincide with another vote being conducted by the City of Marietta. Once staff determines a likely date for this referendum, the matter shall be brought back to the Mayor and Council for adoption of a formal resolution calling for the vote, adoption of a resolution and contract appointing the Cobb County Board of Elections and Registration to conduct the election and any other necessary and proper contract, notice or document in order to carry out the intent of this motion.

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

* **20110656 Art in the Park Street Closure Request**

Motion amending the temporary street closures for the Art In The Park event to include E. Park Square from S. Park Square to N. Park Square and Cherokee St. from N. Park Square to Dobbs Street beginning 6:30 PM Friday, September 2, 2011 and continuing until 9:30 PM Monday, September 5, 2011.

5. Personnel/Insurance: Van Pearlberg, Chairperson

* **20110676 Property Casualty/Miscellaneous Coverage**

Motion approving the property casualty and other miscellaneous coverage, premiums and companies utilized for the policy period of August 17, 2011 to August 16, 2012 as follows:

1. Trident/Argonaut through Arthur J. Gallagher Risk Management Services as Brokers for the following coverage's: GL, Law, Public Officials [City & BLW], Property, Flood, Earthquake, Terrorism, Inland Marine, Boiler & Machinery, Public Employee Blanket Crime.
2. New York Marine and General Insurance Company, through AMTrust as Brokers for Excess Workers' Compensation.
3. Chubb Insurance Co. through Arthur J. Gallagher Risk Management Services as Brokers for Fiduciary Responsibility, and other various Public Officials' Bonds.
4. Travelers Casualty & Surety, through Arthur J. Gallagher Risk Management Services as Broker for the BLW Pole Attachment Bond for Bell South

Telecommunication, Inc. if necessary to renew.

Council member Goldstein disclosed that he does business and personal banking with BB&T.

6. Public Safety Committee: Anthony Coleman, Chairperson

7. Public Works Committee: Jim King, Chairperson

* **20110664 Keith School Lane at Dorsey Manor**

Motion to convert the four spaces on Keith School Lane closest to Haynes Street to public parking with two hour parking restriction.

* **20110665 LCI Project Application**

Resolution confirming the City of Marietta's commitment to implement the LCI Project and provide the matching funds and authorization for staff to submit an LCI application for the Roswell Street Streetscape project between Barnes Street and Victory Drive.

APPEARANCES:

OTHER BUSINESS:

* **20110733 Ad Hoc Redistricting Committee**

Motion for an action to establish a Marietta City Council Ad Hoc Redistricting Committee for the purpose of recommending to Council a Ward redistricting plan subject to the 2010 Census and all applicable laws and considerations. The committee shall be comprised of three (3) council members and each shall be appointed by the City Council.

The Redistricting Committee shall:

- (1) Have its first meeting on or before October 15, 2011 upon call by the Mayor.
- (2) Elect a Chair as its first order of business
- (3) Meet as necessary with meetings as called by the Committee Chair
- (4) Be assisted by City Manager and City Attorney or their designees
- (5) Develop a balanced redistricting plan in compliance with the Georgia and United States Constitutions to submit to Council for review and to be placed on the City Council agenda in order to conduct two public hearings in accordance with O.C.G.A. § 36-35-4.1.
- (6) Request a liaison from the Marietta City Board of Education who shall serve with voice, but not vote.

(7) Council Members Annette Lewis, Johnny Sinclair and Anthony Coleman are hereby appointed by council and their appointment to serve on this committee shall terminate upon acceptance by all authorities of such redistricting plan.

(8) Conduct meetings under parliamentary procedure of Roberts Rules of Order and be in compliance with the Georgia Open Meetings Act (50-14-1).

* **20110731 CDBG Cooperation Agreement**

Motion to approve changes made by HUD to the CDBG Cooperation Agreement to include HOME and ESG programs.

* **20110706 Executive Session Minutes**

Review and approval of the following Executive Session Minutes:
Agenda Review Session - May 11, 2011

* **20110739 BLW Actions of August 8, 2011**

Review and approval of the August 8, 2011 actions and minutes of the Marietta Board of Lights and Water.

UNSCHEDULED APPEARANCES:

ADJOURNMENT: