



City of Marietta Meeting Agenda

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

CITY COUNCIL

William B. Dunaway, Mayor
Annette Paige Lewis, Ward 1
Griffin "Grif" L. Chalfant, Jr., Ward 2
Holly Marie Walquist, 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 13, 2008

7:00 PM

Council Chamber

CALL TO ORDER:

INVOCATION:

Council member Holly Walquist, Ward 3

PLEDGE OF ALLEGIANCE:

PRESENTATIONS:

20080969 Swearing-in of new police officers

Swearing-in of police officers in the Marietta Police Department.

Brandon Shepherd
Anthony Meyer

PROCLAMATIONS:

20080641 National Payroll Week

Proclamation presented to Ms. Darlene Moses, American Payroll Association, declaring the week of September 1-5, 2008 as National Payroll Week, giving additional support to the efforts of the people who work in Marietta, Georgia and the payroll profession.

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:

*** 20080942 Special Meeting - July 30, 2008**

Review and approval of the July 30, 2008, City Council Special Called meeting minutes.

* **20080975 Regular Meeting - July 9, 2008**

Review and approval of the July 9, 2008 regular meeting minutes.

Motion to approve the July 9, 2008 regular meeting minutes, with an amendment on page 7 regarding the Marietta Redevelopment Corporation 2008 Work Plan.

MAYOR'S APPOINTMENTS:

CITY COUNCIL APPOINTMENTS:

* **20080174 Board of Zoning Appeals Appointment**

Reappointment of James K. Lowman to the Board of Zoning Appeals (Ward 2) for a three year term beginning immediately and expiring on August 13, 2011.

ORDINANCES:

* **20080624 Code Enforcement - 414 Water Oak Way**

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 414 Water Oak Way.

Listed Owner: Mari Quesada Anibal & Pedro A. Quesada Rosalia O.

Certified mail receipt received 05/16/08 as "not deliverable."

Taxes paid: Yes

PUBLIC HEARING REQUIRED

Philip M. Goldstein abstaining

* **20080926 Code Enforcement - 150 Aviation Road**

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 150 Aviation Road.

Listed Owner: Ocwen Loan Servicing Bank

Certified mail receipt not received as of 07/29/08.

Taxes paid: Yes

PUBLIC HEARING REQUIRED

Philip M. Goldstein abstaining

* **20080943 Code Enforcement - 835 Toliver Street**

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 835 Toliver Street.

Listed Owner: Eberardo Lopez

Certified mail receipt not received as of 08/01/08.

Taxes Paid: Yes

PUBLIC HEARING REQUIRED

Philip M. Goldstein abstaining

* **20080947 Code Enforcement - 593 Tom Read 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 593 Tom Read Drive.

Listed Owner: Gonzalez Jose A.
Certified mail receipt not received as of 08/01/08.
Taxes Paid: Yes
PUBLIC HEARING REQUIRED
Philip M. Goldstein abstaining

* **20080960 Code Enforcement - 222 Cole Street**

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 222 Cole Street.
Listed Owner: Freeport Title & Guaranty, Inc.
Certified mail receipt not received as of 08/01/08.
Taxes Paid: Yes
PUBLIC HEARING REQUIRED
Philip M. Goldstein abstaining

20080756 Z2008-09 Connie Tabb 316 E. Dixie Avenue

Z2008-09 [REZONING] CONNIE TABB request rezoning for property located in Land Lot 02900, District 17, Parcel 0850, 2nd Section, Marietta, Cobb County, Georgia and being known as 316 East Dixie Avenue from LI (Light Industrial) to RM-8 (Multi-Family Residential 8 units/acre). Ward 3.

Planning Commission recommends for approval Vote: 7 - 0 - 0

Motion: Mr. Kinney made a motion to recommend to city council that this rezoning be changed to RM-8, as presented, with stipulations, seconded by Mr. Carter.

Stipulations: (1) There be an agreement, in writing, between the 2 properties about parking and being able to use the property next door for safe egress; and, (2) Follow plan as presented for the exterior and property would be used as a duplex.

PUBLIC HEARING REQUIRED (all parties are sworn in)

RESOLUTIONS:

CITY ATTORNEY'S REPORT:

* **20080970 Denial of a claim**

Denial of a claim of Aaron Love.

CITY MANAGER'S REPORT:

MAYOR'S REPORT:

COMMITTEE REPORTS:**1. Economic/Community Development: Grif Chalfant, Chairperson**

- * **20080841 HCV (Section 8) Pro-forma and Annual Plan**
Request approval of the city of Marietta Housing Choice Voucher Program (Section 8) pro-forma and annual plan.
- 20080986 Motion for Defunding**
Whereas the City of Marietta (hereinafter "City") entered into a development and management agreement with the Marietta Redevelopment Corporation (hereinafter "MRC") dated July 28, 2006, and
Whereas said development and management agreement grants certain rights to the City,
Now therefore, comes the City of Marietta and exercises its rights under the agreement as follows:
1. Pursuant to section 5.7 of the above agreement, the City hereby takes action to withdraw unencumbered balances from the Fund and hereby deauthorizes the use of the Fund for real estate purposes.
2. Pursuant to section 6.8 of the agreement, the City hereby directs the MRC to transfer all unencumbered funds currently held by the MRC to the City.

2. Finance/Investment: Annette Lewis, Chairperson

- * **20080724 ITC Conference**
Motion approving the travel training expenses for the National League of Cities Information Technology and Communications (ITC) Committee in Plano, TX.
Council member King opposed.

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

- 20080725 Ethic Committee Recommendation**
Approval of an Ordinance amending Code Section 1-14-4-180, Section 1, Advisory Opinions.
- * **20080861 Comprehensive Development Code, Special Land Use Permits**
Motion to authorize advertisement of proposed amendments to Division 708.26 Light Industrial, Paragraph B, Division 708.26 Light Industrial, Paragraph E, Division 708.27 Heavy Industrial, Paragraph B, Division 708.27 Heavy Industrial, Paragraph E, Division 712.01 Special Land Use Permits, and Division 724.02 Definitions of Terms, of the Comprehensive Development Code, related to Special Land Use Permits.
- 20080839 Disclosure of Property Acquisitions**
Motion to approve amending the policy dealing with the purchase of real estate to state the following "For real estate purchases, the city, following discussion in executive session (if held) and the delivery of a signed contract by the seller to the city, shall disclose in the public vote to approve the purchase of the property the price, name of the seller, closing date, the CONTRACT and address of the property. The contract shall be released upon the vote of the Council. Exempted

from this policy would be the instance in which the city would be interested in purchasing property at a foreclosure or other bid situations."

20080856 Disclosure of Property Acquisitions

Request by Councilmember Grif Chalfant relative to the disclosure of property acquisitions.

4. Parks, Recreation and Tourism: Holly Walquist, Chairperson

5. Personnel/Insurance: Van Pearlberg, Chairperson

* **20080723 Extension of Service Agreement**

Motion to extend the Service Agreement for property/casualty insurances and related coverages with current provider through 8-16-2009.

* **20080836 Ordinance Revision - Weapons**

Ordinance revising Section 4-4-20-040 of the City/BLW Personnel Rules and Regulations Regarding Weapons.

6. Public Safety Committee: Anthony Coleman, Chairperson

* **20080844 Standard Operating Procedures for the Police Department**

Motion to adopt revisions to the Police Department Standard Operating Procedures: A022 Oleoresin Capsicum Spray/Foam; E012 VIP Security; E020 Barricade Incidents; E025 Civil Disturbance; E040 Emergency Callback; P010 Patrol Operations; T031 Career Development; T040 Firearms Qualifications; T050 Training

7. Public Works Committee: Jim King, Chairperson

* **20080707 Reynolds Street**

Motion approving changing the speed limit on Reynolds St. to 25 mph.
Council member Goldstein opposed.

* **20080714 Cobb Paulding Marietta Transportation Planning Committee Recommendations**

Motion to approve the Cobb Paulding Marietta Transportation Planning Committee Recommendations, as follows:

1. Investigate the potential for inter-parcel access along Whitlock Avenue corridor and conversion of existing parcel drives to right-in and right-out access only.

2. Take initiative to explore options with large employers for providing van pool incentives for employees in Acworth, Kennesaw and West Cobb.

Council member Pearlberg opposed.

* **20080829 Maintenance Agreement for Powder Springs Road Multi-Use Trail**

Motion to approve the Maintenance Agreement between City of Marietta and

Georgia Department of Transportation (GDOT) for Routine Maintenance of Powder Springs Road Multi-Use Trail.

* **20080832**

Signs on State Right of Way

Motion authorizing staff to make a written request to the Georgia Department of Transportation on behalf of City Council to remove advance intersection and advance signal warning signs within the city limits of Marietta that are not identified as "required" by the Manual for Uniform Traffic Control Devices.

* **20080834**

Request for No Parking Zone along a portion of Carolyn Street

Motion authorizing Public Works to install signs stating "No parking from here to corner" beginning on the north side of Carolyn Street approximately 120' from the intersection of Wallace Road.

* **20080919**

Maintenance Agreement for Powder Springs Road Multi-Use Trail and Landscape Median

Motion to approve the Maintenance Agreement between City of Marietta and Georgia Department of Transportation (GDOT) for Routine Maintenance of Powder Springs Road Multi-Use Trail and Landscaped Median.

* **20080972**

Partial property acquisitions

Motion authorizing partial acquisition of the following properties for the purpose of constructing sidewalks

546 Fort Street	Mary P. Broadnax	\$2000
564 (1706) Fort Street	Harold Adams	\$4200
580 Fort Street.	James Brock, Jr.	\$6400
586 Fort Street	David Leaty	\$0
111 North Fairground St.	James Brock, Jr.	\$7200
226 Whitlock Drive	James & Lenora Cahill	\$1500
240 Whitlock Drive	Mae Bell Connor Annandale	\$300
351 North Woodland	Maxwell F. Hall, Jr.	\$ 400
600 Saint Ann'e Road	Charles Baskin	\$3500
643 Kennesaw Avenue	James & Pellie Manning	\$2300

Council members Pearlberg, Lewis and Chalfant opposed.

* **20081012**

Property Acquisitions

Motion authorizing acquisition of the following properties:

Fairground Street Median & Streetscapes - Total Acquisitions

509/511 Morningside Drive	Rube McMillan	\$155,350
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Roswell Street Widening - Olive Street to Fairground - Partial Acquisition

422 Roswell Street	Dorothy Winter	\$3000
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Council members Pearlberg and Chalfant opposed

* **20081013**

Property Acquisitions

Motion to accept donations of portions of the following properties from Anderson Street Group II, LLC, for the construction of road & streetscape

improvements on Roswell Street.

184 Roswell Street
192 Roswell Street
199 Roswell Street

SCHEDULED APPEARANCES:

20081011 SPLOST for schools

Update by the SPLOST school committee.

UNSCHEDULED APPEARANCES:

OTHER BUSINESS:

20080757 V2008-11 Islamic Circle of North America, Inc. 968 Powder Springs Street

V2008-11 [SPECIAL LAND USE PERMIT] ISLAMIC CIRCLE OF NORTH AMERICA, INC. request a Special Land Use Permit for property located in Land Lot 00770, 17th District, Parcel 0152, 2nd Section of Cobb County, Marietta, Georgia and being located at 968 Powder Springs Street. Request for a Special Land Use Permit for a Place of Assembly. Ward 2.

Public Hearing (all parties are sworn in)

20080812 Denial of Sign Permit Application

Appeal of a denial of a Sign Permit application for Clear Channel Outdoor, Inc. to install LED sign faces on existing sign located at 70 Powers Ferry Road, Marietta, GA.

20080921 V2008-13 Burnt Hickory, LLC 900 Whitlock Avenue

Variance to waive the requirements of the Commercial Corridor Design Overlay District to increase the maximum setback along a street right of way from 75 feet to 90 feet along Whitlock Avenue and to 130 feet along Burnt Hickory Road [712.09]; and, a variance to reduce the number of parking spaces required on site based upon shared parking areas with the existing shopping center [716.07]. Ward 4.

Public Hearing (all parties are sworn in)

* **20080948 National League of Cities (NLC)**

Motion to approve travel and training expenses for Mayor and Council members who wish to attend the National League of Cities (NLC) 2008 Congress of Cities and Exposition being held in Orlando, Florida November 11-15, 2008.

Council member King opposed.

* **20080949 NLC Congress of Cities Voting and Alternate Voting Delegates**

Appointment of Holly Walquist as voting and Annette Lewis as alternate voting delegates for the National League of Cities (NLC) Congress of Cities' Annual Business Meeting on Saturday, November 15, 2008.

* **20080954 NLC Council on Youth, Education, and Families**

Motion to approve travel expenses for Council member Annette Lewis to attend

the NLC's Council on Youth, Education, and Families (YEF Council) being held in Charleston, SC on September 25-26, 2008.

Council member King opposed.

* **20080982**

Amend City Ordinance 10-4-122

Approval to amend City Ordinance 10-4-122 Operation of go-carts or other similar vehicles on public roadways, public parks, cemetery, public schools or public property prohibited, to include an exemption for city vehicles operated by city employees for official business.

* **20080991**

Property Condemnation-317 N. Fairground Street

Motion to authorize the acquisition of property owned by Ms. Jessie Edward Wheatcroft 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 members Chalfant, Coleman and Pearlberg opposed.

* **20080992**

Property Condemnation - 327 N. Fairground

Motion to authorize the acquisition of property owned by Mr. Marc Jones 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 members Chalfant, Coleman and Pearlberg opposed.

* **20080993**

Property Condemnation - 383 N. Fairground

Motion to authorize the acquisition of property owned by Mr. Melvin C. Holton 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 members Chalfant, Coleman and Pearlberg opposed.

* **20080994**

Property Condemnation - 415 N. Fairground

Motion to authorize the acquisition of property owned by Mr. Marc Jones 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 members Chalfant, Coleman and Pearlberg opposed.

* **20080995 Property Condemnation - 513 Ramona Street**

Motion to authorize the acquisition of property owned by Mickey King 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 members Chalfant, Coleman and Pearlberg opposed.

* **20080996 Property Condemnation - 559 Fairground Street**

Motion to authorize the acquisition of property owned by 559 Fairground LLC 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 members Chalfant, Coleman and Pearlberg opposed.

* **20080997 Property Condemnation - 591-593 Frasier Street**

Motion to authorize the acquisition of property owned by Mr. Robert Winch 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 members Chalfant, Coleman and Pearlberg opposed.

* **20080998 Property Condemnation - 390 Roswell Street**

Motion to authorize the acquisition of property owned by Corn Enterprises, 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.

Council members Chalfant, Coleman and Pearlberg opposed.

* **20080999** **Property Condemnation - 416 Roswell Street**

Motion to authorize the acquisition of property owned by Louis Tuchiarelli 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 members Chalfant, Coleman and Pearlberg opposed.

* **20081001** **Property Condemnation - 507 Roswell Street**

Motion to authorize the acquisition of property owned by Four Star Ventures, LLC 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 members Chalfant, Coleman and Pearlberg opposed.

* **20081002** **Property Condemnation - 515 Roswell Street**

Motion to authorize the acquisition of property owned by 515 Roswell St., LLC 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 members Chalfant, Coleman and Pearlberg opposed.

* **20081003** **Property Condemnation - 533 Roswell Street**

Motion to authorize the acquisition of property owned by VC Properties LLC 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 members Chalfant, Coleman and Pearlberg opposed.

* **20081004** **Property Condemnation - 547 Roswell Street**

Motion to authorize the acquisition of property owned by Masonic Temple 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 members Chalfant, Coleman and Pearlberg opposed.

* **20081005 Property Condemnation - 574 Roswell Street**

Motion to authorize the acquisition of property owned by United Food and Gas 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.

Council members Chalfant, Coleman and Pearlberg opposed.

* **20081006 Property Condemnation - 602 Roswell Street**

Motion to authorize the acquisition of property owned by Wachovia Bank, N.A. 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 members Chalfant, Coleman and Pearlberg opposed.

* **20081007 Property Condemnation - 251 Roswell Street**

Motion to authorize the acquisition of property owned by W. A. Spinks 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 members Chalfant, Coleman and Pearlberg opposed.

* **20081008 Property Condemnation - 1010 Roswell Street**

Motion to authorize the acquisition of property owned by Four Star RTO, LLC 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 members Chalfant, Coleman and Pearlberg opposed.

* **20081009 Property Condemnation 244 Roswell Street**

Motion to authorize the acquisition of property owned by 244 Roswell Street Condominium Association, 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.

Council members Chalfant, Coleman and Pearlberg opposed.

* **20080978 BLW Actions of August 11, 2008**

Review and approval of the August 11, 2008 actions and minutes of the Marietta Board of Lights and Water Works (BLW).

ADJOURNMENT: