



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, December 14, 2011

7:00 PM

Council Chamber

CALL TO ORDER:

INVOCATION:

Council Member Annette Lewis, Ward 1, introduces Major Mike Hathaway for the invocation.

PLEDGE OF ALLEGIANCE:

PRESENTATIONS:

20110762 Government Finance Officers Association Award

Sam Lady, Finance Director, and Beth Keller, Accounting Manager, City of Marietta Finance Department, receive the GFOA Award for the 24th consecutive year. The Certificate of Achievement for "Excellence in Financial Reporting" is given by the Government Finance Officers Association of the United States and Canada for its Comprehensive Annual Financial Report (CAFR). The GFOA Press Release states "This Certificate is the highest form of recognition in the area of governmental accounting and financial reporting, and its attainment represents a significant accomplishment by a government and its management."

20111108 Donation to the Fire Museum

Presentation of a check by Betty Hunter, Loop Group President, to Scott Tucker, Assistant Chief, for the Marietta Fire Museum.

20111121 Statewide Award for Beautification - Keep Georgia Beautiful

Keep Georgia Beautiful awarded Marietta a statewide award for beautification for helping protect the local environment and beautifying the city's major corridors. "Local communities should be very proud of the efforts winning groups and individuals put forth to make their part of the world a better place," Keep Georgia Beautiful Foundation executive director Sarah Visser said. "We are proud to pull all of these local efforts together and highlight the great work and progress being made statewide."

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:*** 20111089 Regular Meeting - November 7, 2011**

Review and approval of the November 7, 2011 regular meeting minutes.

*** 20111090 Special Called Meeting - November 14, 2011**

Review and approval of the November 14, 2011 special meeting minutes.

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

20111080 Appointments to the Marietta Historic Board of Review effective January 1, 2012.

Initial one year term:

Annette Lewis Ward 1 - Bret Bittner

Grif Chalfant Ward 2 - David Freedman

Johnny Sinclair Ward 3 -

Van Pearlberg Ward 4 -

Initial two year term:

Anthony Coleman Ward 5 -

Jim King Ward 6 - Rebecca Nash Paden

Philip M. Goldstein Ward 7 -

Mayor Tumlin - Johnny M. Walker

City Council At Large Appointment -

*** 20111106 Historic Preservation Commission Appointment**

Reappointment of Terry Lee to the Historic Preservation Commission (Ward 5) for a three year term beginning immediately and expiring December 13, 2014.

*** 20111131 Planning Commission Appointment**

Appointment of Stephen Diffley to the Marietta Planning Commission (Ward 7) for a term of three years expiring on January 14, 2015.

ORDINANCES:

20110892 Z2011-15 RaceTrac Petroleum, Inc. 1400 Powder Springs Road

Z2011-15 [REZONING] RACETRAC PETROLEUM, INC. request rezoning for property located in Land Lot 02600, District 19, Parcel 0030, 2nd Section, Marietta, Cobb County, Georgia and being known as 1400 Powder Springs Street from R-2 (Single Family Residential - 2 units/acre) to CRC (Community Retail Commercial). Ward 2.

Planning Commission recommends approval w/stipulations Vote: 6 – 0 – 0

Motion: Mr. Thompson made a motion to approve with stipulations, seconded by Mr. Kinney

Stipulations: Letter of Stipulations from Mr. Moore to Russell J. Roth, dated December 13, 2011, with the following additional stipulations:

- (1) No future access from the dead-end of Murray Circle in the rear of the property would be granted;*
- (2) All existing buildings and sheds will be removed;*
- (3) The entire site will be graded at the start of work;*
- (4) New trees will be planted within the buffer where there is not adequate existing vegetation.*

PUBLIC HEARING (all parties are sworn in)

Mr. Moore and or his firm have represented and do represent Philip Goldstein, family members or entities that are owned by Philip Goldstein from time to time.

This item was tabled at the November 7, 2011 City Council Meeting.

RESOLUTIONS:**CITY ATTORNEY'S REPORT:***** 20111122 Denial of a claim**

Denial of a claim of Jonathan Mark Blankenship.

*** 20111130 Denial of a claim**

Denial of a claim of Donna Thompson.

CITY MANAGER'S REPORT:**MAYOR'S REPORT:****COMMITTEE REPORTS:**

1. Economic/Community Development: Grif Chalfant, Chairperson**2. Finance/Investment: Annette Lewis, Chairperson***** 20111085 FY12 Supplemental Funding for the Cemetery Budget**

Approval of an Ordinance amending the Fiscal Year 2012 budget to appropriate Cemetery Fund reserves to cover the cost of repairs of monuments and walls at the city cemetery.

3. Judicial/Legislative: Philip M. Goldstein, Chairperson*** 20110986 Precinct Polling Place Amendment**

Motion to authorize advertisement of a permanent polling place change for Ward 4 from the Grace Community Church to World Changers Church International, 601 Tower Road, Marietta, GA 30060 to coincide with the change adopted by the Cobb County Board of Election and Registration.

*** 20111030 Sunday Alcohol Sales**

Motion to appoint the Cobb County Board of Elections and Registration as the election superintendent for the City of Marietta for the March 6, 2012 Special Election regarding the Sunday Alcohol Sales Referendum.

*** 20111031 Sunday Alcohol Sales**

Motion to approve a contract between the City of Marietta and the Cobb County Board of Elections and Registration whereby the Cobb County Board of Elections and Registration would act as the election superintendent for the March 6, 2012 Special Election for the City of Marietta regarding the Sunday Alcohol Sales Referendum.

*** 20111032 School Bond Issue**

Motion to appoint the Cobb County Board of Elections and Registration as the election superintendent for the City of Marietta for the March 6, 2012 vote regarding a Special Election to determine the issuance or non-issuance of a \$7,145,000.00 General Obligation Bond for the City of Marietta related to a Multi-Use Auditorium, instructional space and associated facilities at Marietta High School.

* **20111033 School Bond Issue**

Motion to approve a contract between the City of Marietta and the Cobb County Board of Elections and Registration whereby the Cobb County Board of Elections and Registration would act as the election superintendent for the March 6, 2012 Special Election for the City of Marietta related to a Multi-Use Auditorium, instructional space and associated facilities at Marietta High School.

* **20111078 ARC LCI Study Grants**

Approval of a Resolution of Council for the submission of the following two ARC/LCI Study Grants:

- A Master Plan for SPSU and Life University and visibility along Cobb Parkway
- Study for Transportation Design Standards and Gateway Master Plans to help develop a guide for common design standards.

20111084 Vehicle Immobilization Ordinance

Approval of Vehicle Immobilization Ordinance for the city limits of Marietta.

Philip M. Goldstein disclosed that Benny and Sue Robinson (Robinson's Coins) lease parking spaces from him at 48 Atlanta Street, Marietta. Further and I own property at 19-21 Atlanta Street, Marietta, as well as many other properties in Downtown Marietta and in the City of Marietta. Other family members and entities also own property in the City of Marietta.

Council Member Goldstein disclosed that he has an agreement with Gary Eubanks on property located at or near Denmead Street, Marietta, GA.

Mayor Tumlin disclosed that he has had a business relationship with Eubanks, but does not any longer.

Council Member Goldstein disclosed that Gary Leake is a tenant of PMG Whitlock Ave, LLC at 19 Atlanta Street, Marietta, GA, and he is the owner of and manager of said LLC.

20111136 Manor Parc Subdivision - Sight Distance Easements

Motion accepting sight distance easements from CG Cole Street, LLC and Manor Parc H1, LLC, subject to approval of all documents by the City Manager, City Attorney and Public Works Director.

Council member Goldstein disclosed that he banks with BB&T. BB&T is the seller of some of the property related to this matter.

Council member Sinclair disclosed that he has a business relationship with a party involved in this development and will abstain regarding this matter.

Council member Sinclair abstaining.

20111137 Manor Parc Subdivision - Exchange of Property

Motion authorizing exchange of property with CG Cole Street, LLC and Manor Parc H1, LLC subject to approval of all documents by the City Manager, City Attorney and Public Works Director.

Council member Goldstein disclosed that he banks with BB&T. BB&T is the seller of some of the property related to this matter.

Council member Sinclair disclosed that he has a business relationship with a party involved in this development and will abstain regarding this matter.

Council member Sinclair abstaining.

20111082 Manor Parc Subdivision

Motion to approve the Revised Final Plat for Manor Parc Subdivision. Also, motion to approve a stipulation to the revised Detailed Plan for Manor Parc Subdivision to allow the existing 46" wide stair that accesses both lots 29 & 30 to remain. Approval of the final plat is subject to the review and approval of the City Attorney, City Manager, Public Works Director and Development Services Director.

Council member Goldstein disclosed that he banks with BB&T. BB&T is the seller of some of the property related to this matter.

Council member Sinclair disclosed that he has a business relationship with a party involved in this development and will abstain regarding this matter.

Council member Sinclair abstaining.

4. Parks, Recreation and Tourism: Johnny Sinclair, Chairperson**5. Personnel/Insurance: Van Pearlberg, Chairperson**

6. Public Safety Committee: Anthony Coleman, Chairperson**7. Public Works Committee: Jim King, Chairperson***** 20111070 Roadway Performance Guarantee Requirements**

Motion authorizing Public Works to establish a “per lot” topping fee to be collected by the City of Marietta at the Certificate of Occupancy point for each subdivision lot. This topping fee would be based upon 125% of the current estimated cost of the topping coat for the subdivision roads, balanced across the number of undeveloped lots. The City of Marietta would establish and maintain the escrow account. When the amount in the account for the subdivision reaches 110% of the estimated pavement cost, the City of Marietta could either have the developer use the funds to pave the roadways, or the paving could be done by the City of Marietta. Public Works may at any time require an updated quote for topcoat and adjust the per lot topping fee to address the difference between current forms of guarantee, including escrow, and 125% of the quote. Any excess funds in the escrow account after the roadways have been topped could be returned to the developer. Public Works will also remove “line of credit” as an acceptable method of guarantee for roadway performance. Where possible, Public Works will require topping to occur at time of 50% completion of the lots.

Council member Chalfant abstaining.

20111069 Tower Road Directional Sign at entrance of Wellstar Kennestone Hospital

Motion authorizing an easement allowing Wellstar Kennestone Hospital to install and maintain a way finding sign encroaching into the Tower Road right of way 4 feet 10 inches perpendicular and by 3 feet along the right of way with no portion of above ground sign to be closer than 12 inches to the existing sidewalk as shown on the attached drawings for Wellstar Kennestone, provided by Henry Incorporated, last revised 11-10-11. Sign must comply with all applicable ordinances and processes not otherwise addressed in this motion. Approval is subject to approval of final easement, location, and indemnification agreement(s) by the City Attorney and Public Works Director.

Council member Johnny Sinclair disclosed that he serves on the Kennestone Regional Board.

APPEARANCES:**OTHER BUSINESS:**

20111071 V2011-40 Marietta Housing Authority 55 Henderson Street; 216 and 220 Crescent Circle

Motion to approve variances for property located in Land Lots 12300 and 12310, District 16, Parcels 1000, 0900, and 0240 and being known as 55 Henderson Street, 216 and 220 Crescent Circle, as follows:

1. Variance to increase the allowable number of beds from 48 to 150, in order to allow the existing number of units in the current facility [Section 708.23(19)(b)]
2. Variance to increase the allowable floor area ratio from 0.75 to 1.13. [Section 708.23 H]
3. Variance to reduce the required buffer from 30 foot buffer and the required 6 foot side yard setback in order to accommodate only those areas where the existing building, sidewalk and easements that currently encroach into the buffer and/or setback. No trees will be removed from the buffer area, and in any areas where the current buffer is determined by the City Arborist to be insufficient, additional trees shall be planted to improve the buffer. [Section 708.23(H).
4. Variance to waive the requirement for a permanent wall or solid fence not less than six feet in height as part of the buffer adjacent to residential properties. [Section 710.05(D)]
5. Variance from the optional site design elements of the Commercial Corridor Design Overlay District. [Section 712.09 (G)(2.a)]
6. Variance to reduce the required 6' wide sidewalk along Henderson Street to 5 feet. [Section 712.09 (G)(4.a.i)]
7. Variance to reduce the required 6 foot wide sidewalk along Crescent Circle to 5 feet for the existing sidewalk. [Section 712.09 (G)(4.a.i)]
8. Variance to waive the requirement for pedestrian lighting fixtures every 60 feet within the landscape zone. [Section 712.09 (G)(4.a.ii.8)]
9. These variances shall be for the current developed property only, and will be discontinued upon any redevelopment of the site such that the current building is demolished or removed.

20110982 V2011-33 [Variance] Traton Homes (Rockford Township) Land Lots 00360, 00370, and 00380, District 19.

Motion to approve the following variances for property located in Land Lots 00360, 00370, and 00380, District 19 being known as Rockford Township. Variance to reduce required tree density from 692.5 units to 519.6 units [Section 712.08 (D) (4)]; variance to provide two 3" trees in the front yard of each lot in lieu of the requirements for planted border areas listed under Table G-1. [Section 712.08 (G) (2) (a)].

Mayor Tumlin disclosed that in 2009 political contributions were reported from Traton and its principals in the aggregate of over \$250. Also, Smith, Tumlin, McCurley & Patrick, P.C., represented Mr. John Elliott in the sale and separation of the Smith Manning property.

Council member Sinclair disclosed that in 2009 he received a political contribution of greater than \$250 from Mr. Bill Poston of Traton Corporation. Also, he sold Mr. Will Etheredge, the neighboring property owner at the Smith Manning House, his house. In addition, he was the listing agent at Rockford for Mr. John Elliott, the previous owner, in his capacity as a Realtor at Harry Norman Realtors, but the project went bankrupt before they sold anything.

This item was tabled at the November 7, 2011 City Council Meeting.

Council Member Chalfant requested at the Monday, December 12, 2011 Agenda Work Session that council table this item until the January 11, 2012 City Council Meeting.

20111138 Traton Homes (Rockford Township) Land Lots 00360, 00370, and 00380, District 19.

Motion to approve extension of the current deadline for tree installation at Rockford Township and to direct staff to require the following of Traton Homes:

(1) Provide letters to extend the current deadline for tree installation for Lots 19, 20, 25, 32, 33 and 57, which have already received certificates of occupancy from December 31, 2011 to February 28, 2012. Traton Homes shall request permission from all property owners;

(2) For any new requests for certificates of occupancy, Traton Homes must submit letters verifying that they will either comply with the current tree plan or will comply with the new landscape plan by February 28, 2012, and further, that Traton Homes has informed new property owners of this requirement and have written permission from said property owners to enter their property in order to plant trees in compliance with the new landscape plan.

Mayor Tumlin disclosed that in 2009 political contributions were reported from Traton and its principals in the aggregate of over \$250. Also, Smith, Tumlin, McCurley & Patrick, P.C., represented Mr. John Elliott in the sale and separation of the Smith Manning property.

Council member Sinclair disclosed that in 2009 he received a political contribution of greater than \$250 from Mr. Bill Poston of Traton Corporation. Also, he sold Mr. Will Etheredge, the neighboring property owner at the Smith Manning House, his house. In addition, he was the listing agent at Rockford for Mr. John Elliott, the previous owner, in his capacity as a Realtor at Harry Norman Realtors, but the project went bankrupt before they sold anything.

20111114 Vehicle Immobilization Ordinance

Ordinance presented by Mayor Tumlin concerning Vehicle Immobilization.

*** 20111091 BLW Actions of December 12, 2011**

Review and approval of the December 12, 2011 actions and minutes of the Marietta Board of Lights and Water.

Council members Coleman and Goldstein voting against.

UNSCHEDULED APPEARANCES:**ADJOURNMENT:**