



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
Irvan A. "Van" Pearlberg, Ward 4
Rev. Anthony C. Coleman, Ward 5
James W. King, Ward 6
Philip M. Goldstein, Ward 7

Wednesday, January 11, 2012

7:00 PM

Council Chamber

Presiding: R. Steve Tumlin, Mayor

Present: Annette Lewis, Grif Chalfant, Johnny Sinclair, Van Pearlberg,
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 7:01 p.m.

INVOCATION:

Mayor Tumlin called upon Council member Grif Chalfant to give the invocation.

PLEDGE OF ALLEGIANCE:

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

PRESENTATIONS:

PROCLAMATIONS:

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

SCHEDULED APPEARANCES:

UNSCHEDULED APPEARANCES:

MINUTES:

- * **20111171** **Regular Meeting - December 14, 2011**

Review and approval of the December 14, 2011 regular meeting minutes.
This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 – 0 **Approved**
Absent for the vote: Van Pearlberg

- * **20111172** **Special Meeting - December 16, 2011**

Review and approval of the December 16, 2011 special called meeting.
This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 – 0 **Approved**
Absent for the vote: Van Pearlberg

MAYOR'S APPOINTMENTS:

- * **20120015** **Municipal Judge**

Reappointment of Roger J. Rozen as the Marietta Municipal Chief Judge.
This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 – 0 **Approved**
Absent for the vote: Van Pearlberg

- * **20120016** **Municipal Associate Judges**

Reappointment of the following Municipal Associate Judges:
Lawrence E. Burke
Phyllis Gingrey Collins
Mazi Mazloom
John Storey Morgan
Robert F. Schnatmeir
Melinda Taylor
Nathan Wade
Steve Yaklin

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 – 0 **Approved**
Absent for the vote: Van Pearlberg

- * **20120017** **Municipal Associate Judge**
- Appointment of the following Municipal Associate Judge:
Robert J. Grayson
- This Matter was Approved on the Consent Agenda.**
- Vote: 6 - 0 – 0** **Approved**
Absent for the vote: Van Pearlberg

MAYOR'S APPOINTMENTS WITH THE CONSENT OF COUNCIL:

- * **20120001** **Mayor Pro tem**
- Appointment of Grif Chalfant as Mayor Pro tem for a term of one year expiring on January 9, 2013.
- This Matter was Approved on the Consent Agenda.**
- Vote: 6 - 0 – 0** **Approved**
Absent for the vote: Van Pearlberg
- * **20120002** **Presiding Officer**
- Appointment of Philip M. Goldstein as Presiding Officer for a term of one year expiring on January 9, 2013.
- This Matter was Approved on the Consent Agenda.**
- Vote: 6 - 0 – 0** **Approved**
Absent for the vote: Van Pearlberg
- * **20120003** **Economic/Community Development Committee**
- Appointment of the Economic/Community Development Committee: Griffin Lee Chalfant, Jr., as Chairman, John V. Sinclair and Rev. Anthony Coleman for a term of one year expiring on January 9, 2013.
- This Matter was Approved on the Consent Agenda.**
- Vote: 6 - 0 – 0** **Approved**
Absent for the vote: Van Pearlberg
- * **20120004** **Finance/Investments Committee**
- Appointment of the Finance/Investments Committee: Annette Paige Lewis as Chairman, James W. King and Philip M. Goldstein for a term of one year expiring on January 9, 2013.
- This Matter was Approved on the Consent Agenda.**

Vote: 6 - 0 - 0 **Approved**
Absent for the vote: Van Pearlberg

* **20120005** **Judicial/Legislative Committee**

Appointment of the Judicial/Legislative Committee: Philip M. Goldstein as Chairman, James W. King and Ivan Alan Pearlberg for a term of one year expiring on January 9, 2013.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 0 **Approved**
Absent for the vote: Van Pearlberg

* **20120006** **Parks, Recreation & Tourism Committee**

Appointment of the Parks, Recreation and Tourism Committee: John V. Sinclair as Chairman, Annette Paige Lewis and Rev. Anthony Coleman for a term of one year expiring on January 9, 2013.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 0 **Approved**
Absent for the vote: Van Pearlberg

* **20120007** **Personnel/Insurance Committee**

Appointment of the Personnel/Insurance Committee: Ivan Alan Pearlberg as Chairman, Philip M. Goldstein and Griffin Lee Chalfant, Jr. for a term of one year expiring on January 9, 2013.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 0 **Approved**
Absent for the vote: Van Pearlberg

* **20120008** **Public Safety Committee**

Appointment of the Public Safety Committee: Rev. Anthony Coleman as Chairman, Ivan Alan Pearlberg and John V. Sinclair for a term of one year expiring on January 9, 2013.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 0 **Approved**
Absent for the vote: Van Pearlberg

* **20120009** **Public Works Committee**

Appointment of the Public Works Committee: James W. King as Chairman, Griffin

Lee Chalfant, Jr., and Annette Paige Lewis for a term of one year expiring on January 9, 2013.

This Matter was Approved on the Consent Agenda.

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

Absent for the vote: Van Pearlberg

* **20120018**

City Solicitor

Appointment of Robert I. Donovan as the City Solicitor to serve at the pleasure of and upon the concurrence of the Mayor and a majority of City Council.

This Matter was Approved on the Consent Agenda.

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

Absent for the vote: Van Pearlberg

* **20120019**

Associate City Solicitors

Reappointment of the following Associate City Solicitors to serve at the pleasure of and upon the concurrence of the Mayor and a majority of City Council:

Steve Cook
Susan M. Miller
Michael B Syrop
Keith M. Olmert
Carmen Porreca
Thomas Griner
Jason Treadway
Latonia Patrice Hines

This Matter was Approved on the Consent Agenda.

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

Absent for the vote: Van Pearlberg

* **20120010**

BLW Council Representative

Appointment of James W. King as the Board of Lights and Water (BLW) representative for a term of one year expiring on January 9, 2013.

This Matter was Approved on the Consent Agenda.

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

Absent for the vote: Van Pearlberg

* **20120011**

Marietta Board of Education Council Liaison

Appointment of Annette Paige Lewis as the Marietta Board of Education liaison for a one year term expiring on January 9, 2013.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 0 **Approved**
Absent for the vote: Van Pearlberg

* **20120012** **Marietta Housing Authority Council Liaison**

Appointment of Rev. Anthony Coleman as the Marietta Housing Authority liaison for a term of one year expiring on January 9, 2013.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 0 **Approved**
Absent for the vote: Van Pearlberg

CITY COUNCIL APPOINTMENTS:

* **20111164** **Historic Board of Review Appointment**

Appointment of Terry G. Lee to the Marietta Historic Board of Review (Ward 5) for a one year term beginning immediately and expiring January 2, 2013.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 0 **Approved**
Absent for the vote: Van Pearlberg

20111165 **Historic Preservation Commission Appointment**

Appointment of Thomas Browning to the Historic Preservation Commission (Ward 5) for a three year term beginning immediately and expiring January 11, 2015.

No Action Taken

* **20120013** **Cobb Housing, Inc. (CHI)**

Appointment of Annette Lewis to the Cobb Housing, Inc. (CHI) Board of Directors for a one year term expiring on January 9, 2013.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 0 **Approved**
Absent for the vote: Van Pearlberg

* **20111135** **Cobb Municipal Association (CMA) 2012 Delegates**

Appointment of Johnny Sinclair and Philip M. Goldstein as the 2012 voting delegates for the Cobb Municipal Association (CMA) business meetings.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 – 0 **Approved**
Absent for the vote: Van Pearlberg

ORDINANCES:

RESOLUTIONS:

CITY ATTORNEY'S REPORT:

CITY MANAGER'S REPORT:

MAYOR'S REPORT:

COMMITTEE REPORTS:

1. Economic/Community Development: Grif Chalfant, Chairperson

2. Finance/Investment: Annette Lewis, Chairperson

* **20111134** **National League of Cities (NLC)**

Motion approving attendance for Mayor and Council members who wish to attend the National League of Cities (NLC) Congressional City Conference in Washington, DC, March 10-12, 2012.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 – 0 **Approved**
Absent for the vote: Van Pearlberg

* **20111145** **Acceptance of HEAT grant from the State of Georgia**

[Ord 7569](#)

Approval of an Ordinance amending the Fiscal Year 2012 General Fund Budget to receive and appropriate a grant from the Governor's Office of Highway Safety to maintain a HEAT (DUI) unit.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 – 0 **Approved**
Absent for the vote: Van Pearlberg

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

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

- * **20111190** **Easement agreement with the Municipal Electric Authority of Georgia (MEAG) for Custer Park**

Motion approving an Easement Agreement with MEAG for utility lines crossing Custer Park as required by North American Electric Reliability Corporation (NERC) regulations.

Motion approving an Easement Agreement with MEAG for utility lines crossing Custer Park as required by North American Electric Reliability Corporation (NERC) regulations, subject to the approval of the final document by the City Attorney, City Manager and Parks, Recreation & Facilities Director, which shall contain language not waiving the City's sovereign immunity.

This Matter was Approved as Amended on the Consent Agenda.

Vote: 5 - 1 - 0 **Approved**

Voting Against: Philip M. Goldstein

Absent for the vote: Van Pearlberg

- * **20111191** **Easement agreement with Georgia Power for Custer Park**

Motion approving Easement Agreement with Georgia Power for utility lines crossing Custer Park as required by North American Electric Reliability Corporation (NERC) regulations.

Motion approving Easement Agreement with Georgia Power for utility lines crossing Custer Park as required by North American Electric Reliability Corporation (NERC) regulations, subject to the approval of the final document by the City Attorney, City Manager and Parks, Recreation & Facilities Director, which shall contain language not waiving the City's sovereign immunity.

This Matter was Approved as Amended on the Consent Agenda.

Vote: 5 - 1 - 0 **Approved**

Voting Against: Philip M. Goldstein

Absent for the vote: Van Pearlberg

5. Personnel/Insurance: Van Pearlberg, Chairperson**6. Public Safety Committee: Anthony Coleman, Chairperson****7. Public Works Committee: Jim King, Chairperson**

* **20111068** **Amending City Ordinance, Streets and Sidewalks**

Approval of revisions to City Code Ordinance, Section 5-4, City Streets and Sidewalks.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 – 0 **Approved**
Absent for the vote: Van Pearlberg

* **20111152** **Zayo Fiber Solutions Overhead Utilities**

Motion approving variance from the underground utility ordinance, 5-4-160, for utility work shown on the following permit request:

2011-79 for Zayo Fiber Solutions to overlash existing fiber along Maple Avenue, Holland Street, Kennesaw Avenue, Roselane Street, Radium Street, Church Street, Hillside Avenue, Campbell Hill Street, Freyer Drive, Cherokee Street, Sessions Street and Allgood Road.

Motion to approve with the following additional language, "This motion does not grant a perpetual variance and if it is later determined that the utilities must go underground; it will be done at the cost of the applicant."

This Matter was Approved as Amended on the Consent Agenda.

Vote: 6 - 0 – 0 **Approved**
Absent for the vote: Van Pearlberg

* **20120041** **Zayo Fiber Solutions Overhead Utilities**

Motion approving variance from the underground utility ordinance, 5-4-160, for utility work shown on the following permit requests:

1. 2011-74 for Zayo Fiber Solutions to install new overhead service along Franklin Drive on existing poles to supply a cell tower.
2. 2011-75 for Zayo Fiber Solutions to install new overhead service on Fairgate Road on existing poles to supply a cell tower.

Motion to approve with the following additional language, "This motion does not grant a perpetual variance and if it is later determined that the utilities must go underground; it will be done at the cost of the applicant."

This Matter was Approved as Amended on the Consent Agenda.

Vote: 6 - 0 – 0 **Approved**
Absent for the vote: Van Pearlberg

* **20120040** **1018, 1024 and 1032 Roswell Street**

Motion authorizing the revision of the condemnation of property of the estate of Marcello Reyes (Marcelo Reyes) at 1018, 1024 and 1032 Roswell Street for the Roswell Street Improvements project as per the new attached Right of Way sketch.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 – 0 **Approved**
Absent for the vote: Van Pearlberg

APPEARANCES:

OTHER BUSINESS:

* **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.

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

This Matter was Approved to Table on the Consent Agenda.

Vote: 6 - 0 – 0 **Approved to Table**
Absent for the vote: Van Pearlberg

* **20110986 Precinct Polling Place Amendment**

Motion to approve 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.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 – 0 Approved
Absent for the vote: Van Pearlberg

* **20111173 BLW Actions of January 9, 2012**

Review and approval of the January 9, 2012 actions and minutes of the Marietta Board of Lights and Water.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 – 0 Approved
Absent for the vote: Van Pearlberg

* **20110462 455 N. Fairground Street**

Motion authorizing acquisition of the property at 455 N Fairground Street from Quantum National Bank for the purpose of constructing the Fairground Street Improvement Project - Allgood Road to North Marietta Parkway in exchange for \$85,000.00.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 – 0 Approved
Absent for the vote: Van Pearlberg

(Council member Pearlberg arrived.)

A motion was made in open session by Council member King, seconded by Council member Sinclair, to enter an Executive Session to discuss real estate acquisition and legal matters. The motion carried by the following vote:

Vote: 7 - 0 - 0 Approved
For: Annette Lewis, Grif Chalfant, Johnny Sinclair, Van Pearlberg, Rev. Anthony Coleman, Jim King, and Philip M. Goldstein

The Executive Session was held (the Chairman's affidavit is attached hereto as Attachment A).

A motion was made in open session by Council member Sinclair, seconded by Council member Goldstein, to close the Executive Session. The motion carried by the following vote:

Vote: 7 - 0 - 0

Approved

For: Annette Lewis, Grif Chalfant, Johnny Sinclair, Van Pearlberg, Rev. Anthony Coleman, Jim King, and Philip M. Goldstein

UNSCHEDULED APPEARANCES:

ADJOURNMENT:

The meeting was adjourned at 7:43 p.m.

Date Approved: 02/08/2012

R. Steve Tumlin, Mayor

Attest: _____
Stephanie Guy, City Clerk