



City of Marietta

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

Meeting Minutes

CITY COUNCIL

R. Steve Tumlin, Mayor
Stuart Fleming, Ward 1
Grif Chalfant, Ward 2
Johnny Walker, Ward 3
G. A. (Andy) Morris, Ward 4
Anthony Coleman, Ward 5
Michelle Cooper Kelly, Ward 6
Philip M. Goldstein, Ward 7

Wednesday, December 9, 2015

7:00 PM

Council Chamber

Presiding: R. Steve Tumlin, Mayor

Present: Grif Chalfant, Johnny Walker, G. A. (Andy) Morris, Anthony Coleman, Michelle Cooper Kelly and Philip M. Goldstein

Absent: Stuart Fleming

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 7:00 p.m.

INVOCATION:

Mayor Tumlin called upon Council member Philip M. Goldstein to give the invocation.

PLEDGE OF ALLEGIANCE:

Mayor Tumlin asked everyone to remain standing for the Pledge of Allegiance.

PRESENTATIONS:

PROCLAMATIONS:

20151133

Marietta High School Boys Cross Country Team win State and Nike Southeast Championship!

The Mayor and City Council recognizes Coach Coleman and the boys Cross Country team from Marietta High School as repeat State Champions!

Marietta's cross country team is also recognized as the best in the Southeast after winning the Class AAAAAA Nike Cross Nationals Southeast Regional meet at the WakeMed Soccer Complex in Cary, N.C. As one of the top Teams in the nation, Marietta XC advanced to the Nike Cross Nationals championship held at Glendoveer Golf Course in Portland, Ore. on Saturday, December 5th and placed 15th in the US.

Presented

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

SCHEDULED APPEARANCES:

UNSCHEDULED APPEARANCES:

Larry Wills, who lives on Oakmont Drive, expressed concern regarding agenda item 20151100, Resolution adopting a modification to the Urban Redevelopment Plan.

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).

Pro tem Johnny Walker briefly explained the consent agenda process.

A motion was made by Council member Goldstein, seconded by Council member Chalfant, to suspend the rules of order to add an item to the agenda regarding property acquisition. The motion carried by the following vote:

*Vote: 6 - 0 - 0 Approved
(See agenda item 20151156)*

City Attorney Doug Haynie noted the following changes to the consent agenda:

-under Ordinances: Agenda item 20150983, Rezoning request for 180 Locust Street, should show Council member Goldstein abstaining.

-under Other Business: Agenda item 20151138, Revised to the detailed plan for Meeting Park, was added to the consent agenda.

-under Other Business: Agenda item 20151138, Abandonment of Right of Way, and 20151140, Settlement Agreement, were added to the consent agenda.

-under Other Business: Agenda item 20151126, BLW Actions, was removed from the consent agenda.

Mr. Haynie then opened the public hearing for those items on the consent agenda requiring a public hearing.

Larry Wills, who lives on Oakmont Drive, again expressed concern and objected to agenda item 20151100, Resolution adopting a modification to the Urban Redevelopment Plan.

Seeing no one else wishing to speak, the public hearing was closed.

A motion was made by Council member Walker, seconded by Council member Chalfant, to approve the consent agenda as modified. The motion carried by the following vote:

Vote: 6 – 0 – 0 Approved

MINUTES:

- * **20151090** Regular Meeting - November 11, 2015
- Review and approval of the November 11, 2015 regular meeting minutes.
- This matter was Approved on the Consent Agenda.**
- Vote: 6 – 0 – 0 Approved**
- * **20151092** Special Meeting - November 19, 2015
- Review and approval of the November 19, 2015 special meeting minutes.
- This matter was Approved on the Consent Agenda.**
- Vote: 6 – 0 – 0 Approved**

MAYOR’S APPOINTMENTS: (for informational purposes only)

CITY COUNCIL APPOINTMENTS:

ORDINANCES:

- * **20150983** **Z2015-38 [REZONING] WILLIAM C. HAGEMANN PROFIT SHARING PLAN**
- [Ord 7861](#) Z2015-38 [REZONING] WILLIAM C. HAGEMANN PROFIT SHARING PLAN requesting rezoning for property located in Land Lot 1158, District 16, Parcel 1240, 2nd Section, Marietta, Cobb County, Georgia, and being known as 180 Locust Street from OI (Office Institutional) to R-4 (Single Family Residential - 4 units/acre). Ward 3A.

Council member Goldstein previously disclosed that he owns property at 195 Locust Street.

Public Hearing held during the consent agenda.

This matter was Approved on the Consent Agenda.

Vote: 5 – 0 – 1 Approved
Abstaining: Philip M. Goldstein

* **20151085 Z2015-39 [REZONING] CITY OF MARIETTA**

[Ord 7860](#)

Z2015-39 [REZONING] CITY OF MARIETTA request rezoning for property located in Land Lot 1075, District 16, 2nd Section, Marietta, Cobb County, Georgia and being known as a portion of Burnap Street right-of-way from unzoned to R-2 (Single Family Residential - 2 units/acre). Ward 4B.

Public Hearing held during the consent agenda.

This matter was Approved on the Consent Agenda.

Vote: 6 – 0 – 0 Approved

* **20150959 CA2015-11 [CODE AMENDMENT]**

[Ord 7859](#)

CA2015-11 [CODE AMENDMENT] Proposal to amend Division 722, paragraph 722.06 Reversionary Clause, as shown below, by deleting it in its entirety.

722.06 Reversionary clause If at the time of 12 months from the date of rezoning of property the owner has not obtained a building permit, and presented the necessary development plans as determined by the Department of Planning and Zoning on at least a portion of said property, the Planning and Zoning Director may propose a map amendment to rezone the property back to the previous zoning district classification. The owner of the property will be notified of the reversionary action to take place and afforded an opportunity to appear before the Planning Commission and City Council to show cause why the reversionary action should not be taken.

Public Hearing held during the consent agenda.

This matter was Approved on the Consent Agenda.

Vote: 6 – 0 – 0 Approved

RESOLUTIONS:

CITY ATTORNEY'S REPORT:

CITY MANAGER'S REPORT:**MAYOR'S REPORT:****COMMITTEE REPORTS:****1. Economic/Community Development: G. A. (Andy) Morris, Chairperson****2. Finance/Investment: Stuart Fleming, Chairperson***** 20151047 GMA Annual Mayors' Day Conference**

Motion approving travel and training expenses for the Mayor and Council members who wish to attend the Georgia Municipal Association (GMA) Annual Mayors' Day Conference, January 22-25, 2016, in Atlanta, Georgia.

This matter was Approved on the Consent Agenda.

Vote: 6 – 0 – 0 Approved

*** 20151048 National League of Cities (NLC)**

Motion approving travel and training for Mayor and Council members who wish to attend the National League of Cities (NLC) Congressional City Conference in Washington, DC, March 5-9, 2016.

This matter was Approved on the Consent Agenda.

Vote: 6 – 0 – 0 Approved

3. Judicial/Legislative: Philip M. Goldstein, Chairperson*** 20151066 Residential Uses in RA Districts**

Motion to authorize advertisement of the Comprehensive Development Code of the City of Marietta, Division 708.05 RA-4, Single Family Residential - Attached, Paragraph C, Temporary/Conditional Uses Allowed by the Director; Division 708.06 RA-6, Single Family Residential - Attached, Paragraph C, Temporary/Conditional Uses Allowed by the Director; and Division 708.07 RA-8, Single Family Residential - Attached, Paragraph C, Temporary/Conditional Uses Allowed by the Director.

This matter was Approved on the Consent Agenda.

Vote: 6 – 0 – 0 Approved for Advertisement

* **20150872 Electronic Signs**

Motion to authorize advertisement of amendments to the Zoning Ordinance, Section 714, Signs.

This matter was Approved on the Consent Agenda.

Vote: 6 – 0 – 0 Approved for Advertisement

4. Parks, Recreation and Tourism: Michelle Cooper Kelly, Chairperson

* **20151062 Street Closure Requests for Marietta Square Farmer’s Market**

Motion to approve street closures for the 2016 Marietta Square Farmer’s Market as follows:

Saturday closure of Mill St. (from the railroad tracks to West Park Sq.):
January 9, 2016 to March 26, 2016; from 7 a.m. to 2 p.m.

Saturday closure of North Park Square:

April 2, 2016 to November 26, 2016; from 7 a.m. to 2 p.m.

Saturday closure of Mill St. (from the railroad tracks to West Park Sq.):

December 3, 2016 to December 24, 2016; from 7 a.m. to 2 p.m.

Sunday closure of Mill St. (from the railroad tracks to West Park Sq.):

April 3, 2016 to November 20, 2016; from 12 noon to 5 p.m.

Also, to grant staff the authority to move the Farmer’s Market location as necessary to accommodate Council approved improvements in Glover Park and on North Park Square.

This matter was Approved on the Consent Agenda.

Vote: 6 – 0 – 0 Approved

* **20151063 Street Closure Request for Marietta Square Artist’s Market**

Motion to approve for the closure of Mill St. from the railroad tracks to W. Park Square for the Marietta Square Artists Market the 2nd and 4th Saturdays of the month from April through November 2016.

Also, to grant staff the authority to relocate the Artist’s Market if necessary to conduct Council approved streetscape improvements to North Park Square.

This matter was Approved on the Consent Agenda.

Vote: 6 – 0 – 0 Approved

* **20151076** **New Year's Eve Alcohol Request and Street Closure Change**

A motion approving the following items regarding the New Year's Eve event sponsored by the Branding Project:

1. A waiver of City Code Section 10-4-070 (C) and (E) to provide for the consumption of beer and wine in Glover Park and the sale and consumption of beer and wine adjacent to Glover Park for the duration of the event.
2. Earlier closure of West Park Square on Thursday, December 31, 2015 of 11:00 am instead of 5:00 pm as originally requested and approved (item #20150894), for the purpose of hosting kids activities during the event.

Council member Goldstein has previously disclosed that he is a member or participant of Marietta Square Branding Project, Inc.

This matter was Approved on the Consent Agenda.

Vote: 5 – 0 – 1 **Approved**
Abstaining: Philip M. Goldstein

5. Personnel/Insurance: Johnny Walker, Chairperson

* **20151015** **Marietta Museum of History Appointments**

Consideration of a recommendation by the Museum of History Board to reappoint William Paden, Davis McCollum, Kee Carlisle, Harlon Crimm and Betty Hunter for a term of three (3) years.

This matter was Approved on the Consent Agenda.

Vote: 6 – 0 – 0 **Approved**

* **20151017** **Marietta Museum of History Appointment**

Consideration of a recommendation by the Museum of History Board to appoint Kirkland A. McGhee, as a new appointment, for a term of three (3) years.

This matter was Approved on the Consent Agenda.

Vote: 6 – 0 – 0 **Approved**

6. Public Safety Committee: Anthony Coleman, Chairperson

* **20151039** **Revisions to MPD Policies**

Motions approving revisions to listed policies

A019 (Risk Analysis Board), A051 (Media & Public Relations), A052 (Detention & Housing of Detainees), A070 (Departmental Forms & Reports), A079 (Activated Military Deployment and Reintegration Procedures), C050 (Crime Prevention), E010 (SWAT & Tactical Medic), E035 (Critical Response Team), P010 (Patrol Operations), P044 (Police Vehicles), S020 (Canine Program), S035 (Crime and Accident Scenes), S040 (Organized Crime & Vice Control), S060 (Special Purpose Vehicles), T040 (Firearms Regulations & Qualifications)

This matter was Approved on the Consent Agenda.

Vote: 6 – 0 – 0 Approved

* **20151045 Intergovernmental Agreement - Smyrna**

Motion to approve an Intergovernmental Agreement with Smyrna to house Marietta Police Department inmates.

This matter was Approved on the Consent Agenda.

Vote: 6 – 0 – 0 Approved

* **20151084 Memorandum of Understanding**

Motion approving a Memorandum of Understanding for Georgia's Tax Refund Intercept Program Participation.

This matter was Approved on the Consent Agenda.

Vote: 6 – 0 – 0 Approved

7. Public Works Committee: Grif Chalfant, Chairperson

* **20151051 Burnap Street Right of Way**

Motion authorizing the abandonment, sale, and/or exchange of Burnap Street right of way between Roselane Street and North Avenue, subject to permanent easements being provided for all existing utilities within said right of way until such utilities are abandoned.

Public Hearing held during the consent agenda.

This matter was Approved on the Consent Agenda.

Vote: 6 – 0 – 0 Approved

* **20151058** **GDOT I-75 Managed Lanes Right-of-Way**

Motion approving a request from GDOT to transfer City rights of way for the I-75 Managed Lanes project.

This matter was Approved on the Consent Agenda.

Vote: 6 – 0 – 0 Approved

* **20151059** **GDOT RIGHT OF WAY CONTRACT**

Motion approving a request to approve right of way contract for the acquisition of right of way for the Cobb Parkway at North Marietta Parkway project.

This matter was Approved on the Consent Agenda.

Vote: 6 – 0 – 0 Approved

* **20151060** **Appropriation of Public Works Funds**

[Ord 7858](#)

Approval of an Ordinance amending the Fiscal Year 2016 General Fund budget to receive and appropriate \$24,780 from the sale of right of way for the Public Works Department.

This matter was Approved on the Consent Agenda.

Vote: 6 – 0 – 0 Approved

OTHER BUSINESS:

20150995 V2015-52 [VARIANCE] CLEARCHANNEL OUTDOOR, INC

V2015-52 [VARIANCE] CLEARCHANNEL OUTDOOR, INC is requesting a variance for property located in Land Lot 1212, District 16, Parcel 0210, 2nd Section, Cobb County, Georgia, and being known as 131 Cobb Parkway North, currently zoned CRC (Community Retail Commercial). Ward 5A.

· Variance to allow a digital billboard panel within 500 feet of a residential zoning district.

City Attorney Doug Haynie called forward those wishing to speak regarding this matter.

Brian Binzer, Development Services Director, presented information regarding the requested variance needed and summarized the criteria used to consider variance requests. Mr. Binzer explained that Council recently approved a variance for property located at 131 Cobb Parkway North, currently zoned CRC (Community Retail Commercial). The variance would allow for a taller sign on the property, which was needed because of the construction of the I-75

Managed Lanes project. The new placement of the sign would violate another sign regulation of being within 500 feet of a residential zoning district, which was the reason for the current request.

Discussion was held.

A motion was made by Council member Goldstein, seconded by Council member Walker, to approve the variance request. The motion carried by the following vote:

Vote: 6 – 0 – 0 Approved

*** 20151100 Urban Redevelopment Plan**

Approval of a Resolution of the City of Marietta adopting a modification to the Urban Redevelopment Plan. This item is being added at the request of Mayor Tumlin.

Public Hearing held during the consent agenda.

This matter was Approved on the Consent Agenda.

Vote: 6 – 0 – 0 Approved

(Clerk's Note: Further discussion was held regarding agenda item 20151100, Resolution adopting a modification to the Urban Redevelopment Plan, on page 13.)

*** 20151138 Revision to the detailed plan for Meeting Park L-91 & L-92**

In order to correct an improperly placed building foundation for L-92, JW Homes, LLC, is requesting the following:

1. Reduce the setback between L-91 and L-92 from 10' to 6.3' at the nearest point.
2. Reduce the required access and utility easement width for a private alley from 20' to 18' between L-89, L-90, and L-91.

This revision would only apply to these lots. All other previously approved stipulations and standards would remain in effect.

This item was requested by Council Member Coleman.

This matter was Approved on the Consent Agenda.

Vote: 6 – 0 – 0 Approved

20151121 Appeal Hearing - Officer Written Order of Case # 14-04427 120 Lewis Street Property

Appeal hearing required for boarded up building at 120 Lewis Street.

Council member Goldstein disclosed that Kevin Moore and/or his firm have done work for him, entities he owns and/or family members, etc.

Mayor Tumlin opened the hearing and called forward those wishing to speak.

City Attorney Doug Haynie explained the appeals process related to the ordinance for boarded up property. Mr. Haynie stated that the recently approved ordinance, City Code 7-4-2-150, provides for all property owners who have a boarded up structure to register such with the City. Further, the property owner(s) must comply with guidelines established to alleviate such boarded up status, by removing all boards and completing repairs to the structure to bring it into compliance.

Brian Binzer, Planning and Zoning Director, summarized the events leading up to the appeal hearing. Mr. McWhirter 's property at 120 Lewis Street, which was vacant after a failed project, had a number of concerns that arose such as vandalism, vagrancy, etc. In 2012 the owner was ordered to secure the building, so the owner responded by boarding up the openings.

After the boarding up ordinance was adopted in 2014, the property owner properly made application in February 2015 to keep the building boarded up for three months. The owner subsequently asked for a three month extension in May 2015 stating that he had a contract to purchase the property in the fall of 2015 for a medical office development commencing construction in November 2015. On August 21, 2015, Mr. McWhirter was given notice that time had expired on allowing the property to be boarded up and that he would be subject to fines under the ordinance (as determined by the Municipal Judge). He also was given notice of his right to appeal, which he requested. The appeal was heard by the Director of Development Services on October 7, 2015 and the decision was to require that the property be brought into compliance by December 31, 2015.

Kevin Moore, attorney for the owner of property located at 120 Lewis Street, stated that his client would like to waive and dispense with the requirements of the hearing and simply request to extend the timeframe to come into compliance. Mr. Moore explained that the additional time was needed to demolish the structure.

Discussion was held by Council. There was general agreement to allow the applicant at least six (6) months to remove the structure.

Motion to affirm the decision of the hearing officer and written order in Case #14-04427 for Boarded-Up Property at 120 Lewis Street with the stipulation that the final date for compliance shall be June 10, 2016.

The motion was made by Council member Morris, seconded by Council member Chalfant, to approve the variance request. The motion carried by the following vote:

Vote: 6 – 0 – 0

Approved

* **20151139 Abandonment of Right of Way at 861 & 849 Franklin Road**

Motion Authorizing the Abandonment of Right of Way at 861 & 849 Franklin Road.

Public Hearing held during the consent agenda.

This matter was Approved on the Consent Agenda.

Vote: 6 – 0 – 0 Approved

* **20151140 Settlement Agreement**

Motion to approve a Settlement Agreement between the city and Christopher James Murray, et al. Cobb County Superior Court Case number 12-1-11874-52 subject to approve by the City Attorney and City Manager as to final form of the Agreement.

This matter was Approved on the Consent Agenda.

Vote: 6 – 0 – 0 Approved

20151126 BLW Actions of December 8, 2015

Review and approval of the December 8, 2015 actions and minutes of Marietta Board of Lights and Water.

A motion was made by Council member Morris, seconded by Council member Chalfant, that this matter be Approved. The motion carried by the following vote:

Vote: 6 – 0 – 0 Approved

* **20151156 Property Acquisition**

Motion to approve the acquisition of approximately 2.55 acres in the Magnet area from GDCI GA 4, L.P, in exchange for \$65,000 to be used as a park.

This matter was Approved on the Consent Agenda.

Vote: 6 – 0 – 0 Approved

UNSCHEDULED APPEARANCES:

Larry Wills, who lives on Oakmont Drive, again expressed concern regarding agenda item 20151100, Urban Redevelopment Plan, specifically language on

page 2 that states "...the Mayor and City Council held a public hearing on December 9, 2015, on the modification to the Urban Redevelopment Plan attached hereto as Exhibit A and no objection was made to its adoption..."

Further discussion was held regarding the concerns expressed. City Attorney Doug Haynie stated that the Resolution adopting a modification to the Urban Redevelopment Plan was in proper order and Council may approve the Resolution, if they so desired.

A motion was made by Council member Goldstein, seconded by Council member, to note in the minutes that there was an objection during the public hearing held for agenda item 20151100, Resolution adopting a modification to the Urban Redevelopment Plan. The motion carried by the following vote:

Vote: 4 – 1 – 1 Approved
Voting Against: Andy Morris
Abstaining: Michelle Cooper Kelly

ADJOURNMENT:

The meeting was adjourned at 7:55 p.m.

Date Approved: January 13, 2015

R. Steve Tumlin, Mayor Tumlin

Attest: _____
Stephanie Guy, City Clerk