



City of Marietta Meeting Minutes CITY COUNCIL

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

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

Monday, November 9, 2009

7:00 PM

Council Chamber

Presiding: William B. Dunaway

Present: Philip M. Goldstein, Jim King, Rev. Anthony Coleman, Holly Walquist, Grif Chalfant and Van Pearlberg

Absent: Annette Lewis

Also Present:

William F. Bruton, City Manager

Douglas R. Haynie, City Attorney

Stephanie Guy, City Clerk

CALL TO ORDER:

Mayor William B. Dunaway called the meeting to order at 7:15 p.m.

INVOCATION:

Council member Pearlberg introduced Rev. Buck Reese, President of Network Ministries who gave the invocation.

PLEDGE OF ALLEGIANCE:

Mayor Dunaway called upon Bill Paton to lead the pledge of allegiance.

PRESENTATIONS:

PROCLAMATIONS:

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

Mayor Dunaway announced that the City of Marietta and Marietta Kiwanis will hold the fifth annual Veterans Day parade and ceremony on the Square November 11.

A Homecoming celebration is planned for Melanie Oudin on the Square November 24. Also, the Gone with the Wind will celebrate the film's 70th anniversary the weekend.

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).

Mayor Dunaway briefly explained the consent agenda process. The following amendments were made to the consent agenda:

-under Minutes: Agenda item 20090995 was added to the consent agenda.

-under Ordinances: Agenda item 20091181 was added to the consent agenda and agenda items 20091179, 20091187, 20091189 were removed from the agenda.

-under Judicial/Legislative: Agenda item 20091205 was added to the consent agenda.

-under Public Works: Agenda item 20091137 was added to the consent agenda and amended to read, "Motion approving the installation of 3 way stop on East Dixie Avenue at Sycamore Street."

-under Other Business: Agenda items 20091245, 20091243, 20091242, 20091241, 20091240, 20091236, 20091239, 20091192 were added to the consent agenda. Agenda item 20091138 was referred to the Committee meetings. Agenda items 20091238 and 20091239 were amended to add the following language, "The bond counsel shall be McKenna Long & Aldridge LLP, the underwriter counsel shall be Murray Barnes Finister LLP, and the underwriter Morgan Keegan & Company."

A motion was made by Council member King, seconded by Council member Goldstein, to suspend the rules of order to add an item to the consent agenda regarding the sale of Excess Reserve Capacity/ City of Jackson. The motion carried by the following vote:

Vote: 6 - 0 - 0 *Approved*
(See agenda item 20091271)

Mayor Dunaway opened the public hearing for items on the consent agenda requiring a public hearing. Seeing no one wishing to speak, the public hearing was closed.

A motion was made by Council member King, seconded by Council member Coleman, to approve the consent agenda as amended. The motion unanimously carried by the following vote:

Vote: 6 - 0 - 0 *Approved*

With the following exceptions:

-Council member Goldstein abstaining on agenda items 20091176, 20091177, 20091181, 20091185, and 20091186.

-Council member Goldstein voting against agenda items 20091236 and 20091239.

-Council member Pearlberg abstaining on agenda items 20091236, 20091238 and 20091239.

MINUTES:

* **20090995 Regular Meeting - September 9, 2009**

Review and approval of the September 9, 2009 regular meeting minutes.

Land Use of said property as MXD (Mixed Use Development). Ward 3.

Mayor Dunaway opened the public hearing. Seeing no one wishing to speak, the public hearing was closed.

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

Vote: 6 - 0 - 0 Approved

* **20091175 Code Enforcement - 431 Booth Circle**

[Ord 7421](#)

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 431 Booth Circle.

Listed Owner: Diane Corbin

Repeat Violation History: (1) previous case since February 13, 2006.

Certified mail receipt received 10/23/09.

Taxes paid: Yes

PUBLIC HEARING REQUIRED

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 0 Approved

* **20091176 Code Enforcement - 1279 W. Booth Road Extension**

[Ord 7422](#)

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 1279 W. Booth Road Extension.

Listed Owner: Michelle Miller

Repeat Violation History: (5) previous cases since September 10, 2007.

Certified mail receipt not received as of 10/30/09.

Taxes paid: Yes

PUBLIC HEARING REQUIRED

This Matter was Approved on the Consent Agenda:

Vote: 5 - 0 - 1 Approved

Abstain: 1 - Philip M. Goldstein

* **20091177 Code Enforcement - 733 Bonnie Dell Drive**

[Ord 7423](#)

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 733 Bonnie Dell Drive.

Listed Owner: Federal National Mortgage Association

Repeat Violation History: None

Certified mail receipt received 10/19/09; not signed by Officer of Federal National Mortgage Association.

Taxes paid: Yes
PUBLIC HEARING REQUIRED

This Matter was Approved on the Consent Agenda.

Vote: 5 - 0 - 1 **Approved**
Abstain: 1 - Philip M. Goldstein

* **20091179 Code Enforcement - 281 Pam Lane**

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 281 Pam Lane.

Listed Owner: Eskew, Jennifer Lynn & Thomas, Eric Sr.

Repeat Violation History: (2) previous cases since April 25, 2006.

Certified mail receipt not received as of 10/30/09.

Taxes paid: Yes
PUBLIC HEARING REQUIRED

This matter was Removed.

* **20091181 Code Enforcement - 574 Welch Street**

[Ord 7424](#)

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 574 Welch Street.

Listed Owner: Arnold L. Long

Repeat Violation History: (13) previous cases since January 11, 2001.

Certified mail receipt not received as of 10/30/09.

Taxes paid: Yes
PUBLIC HEARING REQUIRED

This Matter was Approved on the Consent Agenda.

Vote: 5 - 0 - 1 **Approved**
Abstain: 1 - Philip M. Goldstein

* **20091185 Code Enforcement - 1459 James Street**

[Ord 7425](#)

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 1459 James Street.

Listed Owner: Brewer Edna W.

Repeat Violation History: (4) previous cases since July 30, 1999.

Certified mail receipt received 10/22/09; not signed by owner.

Taxes paid: Unpaid; owes \$818.50 for 2009.

PUBLIC HEARING REQUIRED

This Matter was Approved on the Consent Agenda.

Vote: 5 - 0 - 1 **Approved**
Abstain: 1 - Philip M. Goldstein

- * **20091186** **Code Enforcement - 211 Scott Drive**
[Ord 7426](#) 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 211 Scott Drive.
Listed Owner: Fuller Karen Z.
Repeat Violation History: (2) previous cases since September 25, 2007.
Certified mail receipt received 10/29/09; not signed by owner.
Taxes paid: Yes
PUBLIC HEARING REQUIRED

This Matter was Approved on the Consent Agenda.

Vote: 5 - 0 - 1 **Approved**
Abstain: 1 - Philip M. Goldstein
- * **20091187** **Code Enforcement - 221 Scott 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 221 Scott Drive.
Listed Owner: McMullan Partners LLC
Repeat Violation History: None
Certified mail receipt received 10/19/09; not signed by Registered Agent.
Taxes paid: Yes
PUBLIC HEARING REQUIRED

This matter was Removed.
- * **20091189** **Code Enforcement - 566 W. Atlanta 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 566 W. Atlanta Street.
Listed Owner: George Sigalos
Repeat Violation History: (4) previous cases since June 23, 2009.
Certified mail receipt not received as of 10/30/09.
Taxes paid: Unpaid, owes \$1590.11 for 2008 & 2009
PUBLIC HEARING REQUIRED

This matter was Removed.
- * **20091237** **Denial of Claim**
Denial of claim of Kim and Lyseenia Johnson.
This Matter was Approved to Deny Claim on the Consent Agenda.

Vote: 6 - 0 - 0 **Approved to Deny Claim**

- * **20091142 Theft by Shoplifting**
[Ord 7417](#) Approval of an Ordinance amending Section 10-4-150 of the City Code, "Theft by shoplifting" where the subject of the theft was valued at \$300.00 or less.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 0

Approved

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

- * **20091154 Georgia Recreational Trails Grant Project Application Approval**
Approval of a Resolution authorizing the submission of a Georgia Recreational Trails Program (RTP) Grant requiring local cash or in-kind match to the Georgia DNR for project funding.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 0

Approved

5. Personnel/Insurance: Van Pearlberg, Chairperson

6. Public Safety Committee: Anthony Coleman, Chairperson

7. Public Works Committee: Jim King, Chairperson

- * **20091136 Livable Center Initiative Funding Applications**
Approval of Resolutions for Livable Centers Initiatives (LCI) 2010 Funding for the Powder Springs Street Streetscapes and Franklin Road Improvement Phase A.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 0

Approved

- * **20091137 East Dixie Avenue Traffic**

Motion approving the installation of traffic controlling devices between Sycamore Street and Delk Street.

Motion approving the installation of 3 way stop on East Dixie Avenue at Sycamore Street.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 0

Approved

SCHEDULED APPEARANCES:

UNSCHEDULED APPEARANCES:

OTHER BUSINESS:

- * **20091200 Donation of property**
- Motion to accept donation of Landscape Easement at 316 Alexander Street - From DJL Marietta Properties for Renaissance District Improvements Project with the following Stipulations:
1. Tract 1 (one) is for Landscape Easement only. Zoning setbacks not affected.
 2. Sprinkler system located in Landscape Easement. If damaged during construction, replace with like kind materials.
 3. Owners signage not to be blocked by foliage (can relocate signage with owner's permission)
- This Matter was Approved on the Consent Agenda.**
- Vote: 6 - 0 - 0 Approved**
-
- * **20091199 Donation of property**
- Motion to accept donations for Fairground Street Improvements:
- Temporary Construction Easement at 136 S. Fairground Street and 157 S. Fairground Street - From David Townsend.
- Temporary Construction Easement at 180 Woods Dr. From Colleen A. Parker
- Temporary Construction Easement at 611 Colonial Cr. From Kenneth Ray Herron with stipulations to replace fence behind wall and remove three Birch trees.
- This Matter was Approved on the Consent Agenda.**
- Vote: 6 - 0 - 0 Approved**
-
- * **20091201 Property Acquisition**
- Motion authorizing acquisition of Right of Way at 505 Freyer Dr. from Thomas E. Koch, for the Fairground Street (Allgood Rd. to N. Marietta Pwky.) Project in exchange for the sum of \$16,400.00 with the following stipulations: a new curb cut/driveway apron be located further south of the existing driveway apron at the existing ROW marker between the two dogwood trees.
- This Matter was Approved on the Consent Agenda.**
- Vote: 6 - 0 - 0 Approved**
-
- * **20091206 Property acquisition**
- Motion to approve acquisition of temporary construction easement and permanent landscape easement from 244 Roswell Street Condominium Association for the amount of \$18,200.00 along with the installation of crepe myrtles.
- This Matter was Approved on the Consent Agenda.**

Vote: 6 - 0 - 0

Approved

* **20091204 Property acquisition**

Motion authorizing acquisition of Right of Way at 550 Franklin Road from Franklin Road Commercial Plaza, LLC for the Franklin Road (South Marietta Parkway to Delk Road) Project in exchange for the sum of \$74,702.50.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 0

Approved

* **20091202 Property acquisition**

Motion authorizing acquisition of Right of Way at 620 and 630 Franklin Rd. From Swami Hospitality for the Franklin Rd. (S. Marietta Pwky. to Delk Rd.) Project in exchange for the sums of \$9,000 and \$14,000, respectively, with stipulations:

1. Access must be maintained to Super 8 at all times. Work is to be completed on half of the access at a time.
2. For both parcels, all landscaping that is removed must be replanted with small trees and bushes/hedges.
3. At any place in the Super 8 or Ramada's parking places, when concrete surfaces are damaged, the City will repair or replace to a condition as equal to or better than pre-construction condition.
4. Any parking striping damaged at any place in Super 8's or Ramada's parking places will be repaired or replaced by the City.
5. The owner must be notified at least 24 hours before start of the work.
6. Any equipment not in use shall be removed within 4 hours of any request so as not to inconvenience guests.
7. The City of Marietta shall replant landscaping in the orange areas indicated on the attached drawing.
8. The main Ramada trade fixture sign and the main Super 8 fixture sign shall remain in place and left undisturbed.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 0

Approved

* **20091198 Property donations**

Motion to accept donations of driveway easements and temporary construction easement for the 2008 City of Marietta Sidewalks Project.

680 Walnut Dr: Temp Construction Easement - From Kenneth A. and Barbara R. White

63 Whitlock Dr: Temp Construction Easement - From Dean Wardlaw

113 Whitlock Dr: Temp Construction Easement - From Jeremy and Kristen Moffett

133 Whitlock Dr: Temp Construction Easement - From Travis Reed Weeks. Stips: Sprinkler System is not to be disturbed, or repair if relocation is needed.

Please call homeowner before construction.

95 Whitlock Dr: Temp Construction Easement - From Anne Yarwood

73 Whitlock Dr: Temp Construction Easement - From Cindi Parris. Stips: Widen driveway for future expansion. Extend apron to 1' south of existing mailbox. See Plat.

634 Walnut Dr: Temp Construction Easement - From Tyler Lee and Christina Ann Morris. Stips: All six dogwood trees to be removed from both sides of driveway.

612 Walnut Dr: Temp Construction Easement - Walter Gresh Jr. Stips: Irrigation system along ROW to be replaced or repaired if disturbed during construction. Please call Mr. Gresh for location of sprinkler head.

153 Whitlock Dr: Temp Construction Easement - From Dr. Dorothy Harrell Brown. Stips: If two sewer cleanouts are to be disturbed/covered over, bring cleanout up to new grade level.

31/41 Whitlock Dr: Temp Construction Easement - From AKM Enterprises

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 0

Approved

* **20091203 Property acquisition**

Motion authorizing acquisition of Right of Way at 574 Church Street from SPR Enterprises for Church Street at Margaret Avenue median improvements in exchange for the sum of \$6,118.00.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 0

Approved

* **20091242 Property acquisition - 704 Fairgate Road**

Motion to Approve Purchase of Property at 704 Fairgate Road for the purpose of Powder Springs Streetscapes improvements.

704 Fairgate Road from Attic Self Storage in exchange for \$5,700 for the purchase of property to construct permanent and temporary construction easements.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 0

Approved

* **20091241 Relocation of Power Poles by Georgia Power**

Motion to Approve Relocation of Power Poles by Georgia Power for Roswell St. (Victory-Cobb Improvements)

Georgia Power Company Poles Relocation from Georgia Power Company.

Stipulation not to exceed \$209,246 under the terms and conditions as accepted by the City Attorney and Public Works Director.

This Matter was Approved on the Consent Agenda.

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

* **20091240** **Property acquisition- 550 Seminole Drive**

Motion to Approve Right-of-Way Acquisition for the purpose of Fairground Street Improvements at 550 Seminole Drive

550 Seminole Drive from J.D. Thompson in exchange for \$7,100.

This Matter was Approved on the Consent Agenda.

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

20091138 **Bouldercrest Drive at Banks Street Intersection**

Request for stop sign based upon sight distance requirements.

This matter was Referred to the PUBLIC WORKS COMMITTEE.

* **20091235** **Certified Results for the November 3, 2009 General Election**

Motion to approve the certified election results for the November 3, 2009 City of Marietta General Election as presented by the Cobb County Board of Elections and Registration.

This Matter was Approved on the Consent Agenda.

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

* **20091236** **Bond Election Results**

Resolution declaring the results of a Bond Election held on November 3, 2009; providing for notification of the District Attorney; and for other related purposes.

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

Vote: 4 - 1 - 1 **Approved**

Vote Against: Philip M. Goldstein

Abstain: Van Pearlberg

* **20091238** **Bond Refunding - 2002 and 2008 School Board Bonds and 2007 Public Safety Bonds**

Motion to hire Public Financial Management Inc., as the City's financial advisor and authorize to move forward with refunding the 2002 and 2008 School Board Bonds and 2007 Public Safety Bonds, as long as combined savings equals at least 3%.

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

Vote: 6 - 0 - 0

Approved

For: Grif Chalfant, Holly Marie Walquist, Van Pearlberg, Rev. Anthony Coleman, James W. 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 Pearlberg, seconded by Council member Walquist, to close the Executive Session. The motion carried by the following vote:

Vote: 6 - 0 - 0

Approved

For: Grif Chalfant, Holly Marie Walquist, Van Pearlberg, Rev. Anthony Coleman, James W. King, and Philip M. Goldstein

A motion was made by Council member King, seconded by Council member Goldstein, to suspend the rules of order to add an item regarding the purchase of property located at 591 Frasier. The motion carried by the following vote:

Vote: 7 - 0 - 0

Approved

(See agenda item 20091276)

*** 20091245 Property condemnation - 761 Powder Springs Street**

Motion to authorize the acquisition of property owned by Wachovia Bank, National Association, 761 Powder Springs Street, 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.

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

Vote: 6 - 0 - 0

Approved

20091243 Property acquisition - 761 Powder Springs Road

Motion to Purchase Right of Way at 761 Powder Springs Road from Wachovia in exchange for \$35,800 for the Powder Springs Road Streetscapes Project.

Stipulations:

1. Grantee shall maintain reasonable access to parcel at all times
2. Option with all attachments and exhibits will survive will survive the closing
3. Grantee understands reasonable access to driveways serving Powder Springs Road must be maintained at all times.
4. Grantee will diligently pursue to completion its construction, and will not use any portion of the parcel as a construction staging area, nor store construction vehicles and equipment on the parcel.
5. Pylon sign is to be relocated and re-constructed by owner as a monument style sign meeting Marietta Ordinances.

Motion to approve with the deletion of stipulation # 5.

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

Vote: 6 - 0 - 0 Approved

20091276 Property Acquisition - 591 Frasier

Motion to approve property acquisition for the purpose of Fairground Street Improvements at 591 Frasier Street:

591 Frasier Street from Robert Winch in exchange for \$155,000.

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

Vote: 6 - 0 - 0 Approved

ADJOURNMENT:

The meeting was adjourned at 8:23 p.m.

Date Approved: 12/09/09

William B. Dunaway, Mayor

Attest: _____
Stephanie Guy, City Clerk