



City of Marietta

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

Meeting Agenda CITY COUNCIL

R. Steve Tumlin, Mayor
Cheryl Richardson, Ward 1
Grif Chalfant, Ward 2
Johnny Walker, Ward 3
G A. (Andy) Morris, Ward 4
Reggie Copeland, Ward 5
Michelle Cooper Kelly, Ward 6
Joseph R. Goldstein, Ward 7

Wednesday, February 13, 2019

7:00 PM

Council Chamber

CALL TO ORDER:

INVOCATION:

Council Member Johnny Walker, Ward 3

PLEDGE OF ALLEGIANCE:

PRESENTATIONS:

20190110 Presentation of the Marietta Sixth Grade Academy Actors

Mayor Tumlin and Councilmember Chalfant to present to the Marietta Sixth Grade Academy Actors for their designation of "Outstanding Production in Elementary Division" in the 2019 Junior Theatre Festival". This Outstanding Production Trophy is the result of a competition with over 120 schools from around the world.

PROCLAMATIONS:

20190154 National Wear Red Day

Mayor Tumlin and Councilmember Cheryl Richardson presents a Proclamation to the American Heart Association's Go Red for Women.

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

SCHEDULED APPEARANCES:

Each speaker is allotted five (5) minutes.

20190140 Scheduled Appearance

Scheduled Appearance - Larry Wills

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:*** 20190123 Regular Meeting - January 9, 2019**

Review and approval of the January 9, 2019 regular meeting minutes.

MAYOR'S APPOINTMENTS: (for informational purposes only)**CITY COUNCIL APPOINTMENTS:***** 20190092 Marietta Civil Service Board - Post 2**

Appointment of E. Darden Borders to the Marietta Civil Service Board (Post 2), for a three-year term expiring December 31, 2021.

*** 20190093 Marietta Civil Service Board - Post 4**

Appointment of Lawrence Panetta to the Marietta Civil Service Board (Post 4), for a three-year term expiring December 31, 2019.

*** 20190094 Marietta Civil Service Board - Post 5**

Appointment of Philip Hynninen to the Marietta Civil Service Board (Post 5), for a one-year term expiring January 31, 2020.

- * **20190095 Marietta Pension Board - Post 1 (City Manager's Post)**

Appointment of William F. Bruton, Jr. to the Marietta Pension Board (Post 1) for the duration of his tenure as City Manager, to be reappointed with each successive council. If he nominates a designated representative to serve in his place, that individual will also require council appointment.

- * **20190096 Marietta Pension Board - Post 4 (General Employee Representative)**

Appointment of Richard Buss to the Marietta Pension Board (Post 4), for a three-year term expiring December 31, 2019.

- * **20190097 Marietta Pension Board - Post 5 (General Employee Representative)**

Appointment of Patina Brown to the Marietta Pension Board (Post 5), for a three-year term expiring December 31, 2019.

- * **20190098 Marietta Pension Board - Post 6 (General Employee Representative)**

Appointment of Bruce Bishop to the Marietta Pension Board (Post 6), for a three-year term expiring December 31, 2021.

- * **20190099 Marietta Pension Board - Post 7 (General Employee Representative)**

Appointment of Keisha Register to the Marietta Pension Board (Post 7), for a three-year term expiring December 31, 2021.

- * **20190100 Marietta Pension Board - Post 8 (Police Representative)**

Appointment of Steve Kish to the Marietta Pension Board (Post 8), for a three-year term expiring December 31, 2019.

- * **20190102 Marietta Pension Board - Post 9 (Fire Representative)**

Appointment of Bobby Moss to the Marietta Pension Board (Post 9), for a three-year term expiring December 31, 2021.

- * **20190112 Marietta Pension Board - Ex Officio (Police Chief)**

Appointment of Chief Daniel Flynn to the Marietta Pension Board (Ex Officio) for the duration of his tenure as Police Chief, to be reappointed with each successive council. Chief Flynn votes in the absence of the appointed Police Representative.

* **20190113 Marietta Pension Board - Ex Officio (Fire Chief)**

Appointment of Chief Tim Milligan to the Marietta Pension Board (Ex Officio) for the duration of his tenure as Fire Chief, to be reappointed with each successive council. Chief Milligan votes in the absence of the appointed Fire Representative.

ORDINANCES:

20190008 Z2019-03 [REZONING] SUZANNE BERRY LOUGHREY

Z2019-03 [REZONING] SUZANNE BERRY LOUGHREY is requesting the rezoning of 0.73 acres located in Land Lot 1293, District 16, Parcel 0400 of the 2nd Section, Cobb County, Georgia, and being known as 195 Whitlock Drive from R-2 (Single Family Residential - 2 units/acre) to R-2 (Single Family Residential - 2 units/acre) with a variance to increase density to 2.74 units/acre. Ward 3A.

If Council approves the rezoning, the following variances would be incorporated as conditions of zoning:

Variance to reduce the rear side yard setback from 30 feet to 10 feet for the existing home only. [§708.02 (H)]

Variance to increase the allowable density from 2 units/acre to 2.74 units/acre. [§708.02 (H)]

The Planning Commission recommended for Denial.

Mr. Duffley made a motion, seconded by Mr. Hunter to deny this request. The motion carried 5 2 0. Ms. McCrae and Mr. Davis opposed.

If Council approves the rezoning, the following variances would be incorporated as conditions of zoning:

1. Variance to reduce the rear side yard setback from 30 feet to 10 feet for the existing home only. [§708.02 (H)]

2. Variance to increase the allowable density from 2 units/acre to 2.74 units/acre. [§708.02 (H)]

Public Hearing (all parties are sworn in)

RESOLUTIONS:

CITY ATTORNEY'S REPORT:

* **20190084 Denial of Claim**

Denial of Claim for Dawn Curran.

* **20190150 Denial of Claim**

Denial of Claim for Mona Jean Simmons.

CITY MANAGER'S REPORT:

MAYOR'S REPORT:

COMMITTEE REPORTS:

1. Economic/Community Development: Johnny Walker, Chairperson

* **20190043 Reallocation of Program Year 2018 CDBG Funds**

Motion to approve the resolution for reallocation of program year 2018 CDBG funds.

* **20190049 Supplemental Project Framework Agreement (PFA) for Rottenwood Creek Trail Phase 1**

Motion to approve the Supplemental Project Framework Agreement (PFA) with GDOT for additional funding for the engineering and design of Rottenwood Creek Trail Phase 1.

2. Finance/Investment: Joseph R. Goldstein, Chairperson

3. Judicial/Legislative: G. A. (Andy) Morris, Chairperson

* **20190034 Marietta Museum of History's Collection**

Motion approving the request from the Marietta Museum of History for the permanent removal of items from its collection.

* **20190068 Georgia's 2019 Tax Refund Intercept Program Participation**

Motion to approve Memorandum of Understanding between the Judicial Council's Administrative Office of the Courts of Georgia and the City of Marietta Municipal Court related to continued participation in Georgia's Tax Refund Intercept Program for 2019.

* **20190047** **Final Plat - Oakton Section 10, Phase 1**

Motion to approve the final plat for Phase 1 of Oakton Section 10, which would approve the creation of 611 Kennesaw Avenue for lot development.

* **20190048** **Revised Detailed Plan - The Gallery Apartments**

Motion to approve the request by Oak Residential Partners to rebuild Building 20 (10 apartment units) at 773 Wylie Road, which was demolished in 2012 following a fire.

20190066 **Charter amendment concerning Fire and Police Civil Service System**

Motion approving an ordinance amending the City Charter, Section 4.13, et seq., related to the Fire and Police Civil Service System to comply with *Delay v. Sutton*, 304 Ga. 338 (2018) and other administrative updates. The case requires council appointment of all board members. The Civil Service Board respectfully forwards recommended changes pending approval of the City Attorney.

Changes requested by Civil Service Board with a 5-0 vote

First Reading

Public Hearing

* **20190085** **City Code amendment concerning Civil Service Board elections**

Motion approving an ordinance amending Chapter 1-6-2 of City Code related to Civil Service Board elections to comply with *Delay v. Sutton*, 304 Ga. 338 (2018) and other administrative updates. The case requires council appointment of all board members. This change is made in conjunction with the proposed amendment to the City Charter as recommended by the Civil Service Board.

Included in this Ordinance is the required waiver set forth in 1-4-040 (L) whereby the City Council gives its unanimous consent to authorize the adoption of this Resolution at this City Council meeting without the necessity of placing this matter on the following regular City Council meeting. (This waiver requires the unanimous consent of the City Council).

* **20190067 Pension Plan Amendments**

Motion approving an ordinance amending the defined benefit pension plans to comply with Delay v. Sutton, 304 Ga. 338 (2018) related to council appointment of Pension Board members.

Included in this Ordinance is the required waiver set forth in 1-4-040 (L) whereby the City Council gives its unanimous consent to authorize the adoption of this Resolution at this City Council meeting without the necessity of placing this matter on the following regular City Council meeting. (This waiver requires the unanimous consent of the City Council).

* **20190042 Shareable Dockless Devices**

Motion to approve an ordinance to prohibit shareable dockless devices.

Included in this Ordinance is the required waiver set forth in 1-4-040 (L) whereby the City Council gives its unanimous consent to authorize the adoption of this Resolution at this City Council meeting without the necessity of placing this matter on the following regular City Council meeting. (This waiver requires the unanimous consent of the City Council).

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

* **20190054 2019 Street Closure Requests**

Motion to approve the street closures needed to conduct special events during the 2019 Calendar Year as presented; and, to approve Art in the Park and Chalktoberfest as city-sanctioned events to provide for the sale and consumption of alcoholic beverages per the applicable sections of City Code Section 10-4-070.

Philip Goldstein is the father of Council member Goldstein, is a General Partner of the Herbert S Goldstein Family Limited Partnership as well as an owner of the Partnership with his siblings and a trust. Herbert S Goldstein Family Limited Partnership is the owner of the Strand Theater and the Tenant is Friends of the Strand, Inc.

Council member Goldstein abstaining

5. Personnel/Insurance: Cheryl Richardson, Chairperson

20190018 2019 Appointed Officials Review

Motion approving an ordinance to set salaries of the following appointed officials payable in installments per city administrative procedures retroactive to January 1, 2019:

1. Administrative Assistant to the Mayor: \$52,000 per year, and amendment of the associated employment agreement.
2. City Clerk: \$72,800 per year.
3. City Manager: \$221,603.20 per year, and amendment of the associated employment agreement.
4. BLW General Manager: \$139,027.20 per year.
5. Municipal Court Judge: \$72,883.20 per year.
6. Prosecuting Attorney: \$69,305.60 per year.

6. Public Safety Committee: Reggie Copeland, Chairperson*** 20190050 Revisions to MPD Policies**

Motion to approve the revisions to the following policies: A019 (Risk Analysis), A042 (Awards & Commendations), A044 (Uniforms, Equipment & Departmental Property), A045 (Time Control Procedures), A048 (Administrative Protocol), A096 (Part Time Officer), P012 (Public Safety Ambassador Unit) & S034 (Juvenile Procedure).

*** 20190090 Mutual Aid Agreement for the Marietta Fire Department**

Motion to approve the Mutual Aid Agreement between Dobbins Air Reserve Base/Fire Department and Marietta Fire Department.

7. Public Works Committee: Grif Chalfant, Chairperson*** 20180833 Cherokee Street at Sessions Street**

Motion authorizing Public Works to construct the median island and mid-block pedestrian crossing at the intersection of Cherokee Street and Sessions Street using funds from the 2016 SPLOST Gateway.

Council member Goldstein opposed

*** 20190057 Blackwell Lane Parking**

Motion authorizing the installation of a no parking zone along the north side of Blackwell Lane across from the entrance to 195 Forest Avenue (AKA 195 Blackwell Lane).

* **20190061 Polk Street Extension Trucks**

Motion authorizing the installation of no right turn for trucks signs at each of the exits from the Kroger Shopping Center at 1000 Whitlock Avenue onto Polk Street Extension.

* **20190063 620 and 630 Cherokee Street Right-of-Way**

Motion accepting the donation of right-of-way at 620 and 630 Cherokee Street from 620 Cherokee MOB, LLC.

* **20190065 Stewart Avenue Speed Signs**

Motion authorizing the installation of two driver speed feedback signs on Stewart Avenue using Ward 3 and 4 safety funds.

20190086 20 South Fairground Street

Motion to authorize the acquisition of property owned by Jimmy B. Richardson and Tommie Sue Richardson 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.

20190087 324 South Fairground Street

Motion to authorize the acquisition of property owned by Edith Camacho Goicochea & Cosme Alvarado 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.

20190088 601 Powder Springs Road

Motion to authorize the acquisition of property owned by Anthony Williams 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.

20190089 650 Powder Springs Road

Motion to authorize the acquisition of property owned by Noble Realty, 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.

*** 20190101 994 Roswell Street and 1010 Roswell Street**

Motion approving Second Amendment to Purchase and Sale Agreement between the City of Marietta, as Seller, and Peachtree Asset Management, LLC (Atlanta Hard Cider), as Purchaser, for sale of City property located at 994 Roswell Street and 1010 Roswell Street.

OTHER BUSINESS:**20190012 V2019-02 [VARIANCE] WOODSIDE INDUSTRIAL PARK LLC**

V2019-02 [VARIANCE] WOODSIDE INDUSTRIAL PARK LLC is requesting a variance for property located in Land Lots 1213 & 1236, District 16, Parcel 0960, 2nd Section of Cobb County, Marietta, Georgia and being known as **767 Roswell Road**. Ward 5A.

Variance to increase the allowable height for a monument sign in Tier A from 8' to 20'. [*§714.05 Table I*]

20190013 Appeal of V2018-52 (20181138) Kelly King

Consideration of an appeal of the Board of Zoning Appeal's approval of variance V2018-52 (#20181138) by Amanda Gann.

20190134 Appeal of V2018-55 (20181235) Gholamreza Dehghani

Consideration of an appeal of the Board of Zoning Appeal's denial of variance V2018-55 (#20181235) by Gholamreza Dehghani.

*** 20190144 Travel & Training**

Motion approving the Resolution regarding the Travel and Training for City Council for FY2020. Elected Officials may use their funds for MEAG, GMA, NLC, Honorary Commanders, Leadership Cobb and their associated committees.

*** 20190124 BLW Actions of February 11, 2019**

Review and approval of the February 11, 2019 actions and minutes of Marietta Board of Lights and Water.

Regarding BLW agenda item 20190151, Council Member Goldstein discloses that Marietta Square Market, LLC is a tenant of Philip M. Goldstein at 103 Denmead Street. Council Member Goldstein further discloses that Philip M. Goldstein also owns properties around Denmead Street and Mill Street. Philip M. Goldstein is Council Member Goldstein's father. Marietta Square Market, LLC is a tenant of Denmead Street Properties, LLC.

UNSCHEDULED APPEARANCES:

Each speaker is allotted five (5) minutes.

ADJOURNMENT: