



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
Andy Morris, Ward 4
M. Carlyle Kent, Ward 5
Andre L. Sims, Ward 6
Joseph R. Goldstein, Ward 7

Wednesday, January 12, 2022

7:00 PM

Council Chamber

CALL TO ORDER:

INVOCATION:

Council Member Johnny Walker, Ward 3

PLEDGE OF ALLEGIANCE:

PRESENTATIONS:

20211007 Presentation of the HBR and HPC

Presentation by the Historic Board of Review and the Historic Preservation Commission to the Family of Ray Worden in recognition of his years of service to both Boards.
Council Member Chalfant and Council Member Walker will assist with the presentation.

PROCLAMATIONS:

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

SCHEDULED APPEARANCES:

**Each speaker is allotted five (5) minutes,
for a combined total of 20 minutes.**

20220029 Scheduled Appearance

Scheduled Appearance - Ray Buday

20220036 Scheduled Appearance

Scheduled Appearance - Donald Barth

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:

- * **20211064 Special Meeting - December 1, 2021**
Review and approval of the December 1, 2021 special meeting minutes.
- * **20211164 Regular Meeting - December 8, 2021**
Review and approval of the December 8, 2021 regular meeting minutes.
- * **20211165 Special Meeting - December 22, 2021**
Review and approval of the December 22, 2021 special meeting minutes.
- * **20220027 Special Meeting - January 5, 2022**
Review and approval of the January 5, 2022 special meeting minutes.

MAYOR'S APPOINTMENTS: (for informational purposes only)**CITY COUNCIL APPOINTMENTS:**

- * **20220042 Cobb Municipal Association 2022 Delegates**
Appointment of Council Member Cheryl Richardson and Council Member M. Carlyle Kent as voting delegates for the Cobb Municipal Association (CMA) business meetings.

- * **20211139 Planning Commission Appointment (Ward 3)**

Reappointment of Boozer McClure to the Planning Commission (Ward 3) for three (3) year term, expiring January 1, 2025.

- * **20211130 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.

- * **20211131 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.

- * **20220016 Historic Preservation Commission Appointment Ward 5**

Appointment of Suzanne Dent to the Historic Preservation Commission (Ward 5), for a three (3) year term, beginning immediately upon appointment and expiring January 12, 2025.

- 20220014 Appointment of Chief Judge**

Appointment of Chief Judge of the Municipal Court for a four year term expiring January 15, 2026.

- 20211133 Appointment of Associate Judges**

Appointment of Associate Judges of City of Marietta Municipal Court for a term ending January 15, 2026 or until a successor is appointed.

- 20211132 Appointment of Prosecuting Attorney**

Appointment of Benjamin Smith as Prosecuting Attorney of the Municipal Court for a two year term expiring January 11, 2024.

- 20211137 Appointment of Assistant Prosecuting Attorneys**

Appointment of Assistant Prosecuting Attorneys of the City of Marietta Municipal Court for a term ending January 11, 2024.

ORDINANCES:**20210946 Z2021-16 [REZONING] DEVELOPMENT COMPANY OF NW GA INC**

Z2021-16 [REZONING] DEVELOPMENT COMPANY OF NW GA INC. is requesting the rezoning of 0.32 acres located in Land Lot 1289, District 16 and Land Lot 288, District 19, Parcel 0260 of the 2nd Section, Cobb County, Georgia, and being known as 250 Frasier Street from OI (Office Institutional) to R-4 (Single Family Residential - 4 units/acre). Ward 1A.

The Planning Commission recommends Denial.

Mr. Smith made a motion, seconded by Ms. McCrae to recommend denial as submitted. The motion carried 5-2-0. Mr. Anderson and Mr. McClure opposed the Denial.

If Council approves the rezoning as submitted, the following variances would be required:

1. *Variance to reduce the minimum lot size required in IDZ to 4,000 square feet [§712.11 (N.)]*
2. *Variance to increase the maximum density allowed in IDZ to 9.375 units/acre [§712.11 (N.)]*

Public Hearing (all parties sworn in)

20211036 Z2022-01 [REZONING] ELLIOT HOMES, LTD.

Z2022-01 [REZONING] ELLIOT HOMES, LTD. is requesting the rezoning of 0.4 acres located in Land Lot 1224, District 16, Parcel 0990 of the 2nd Section, Cobb County, Georgia, and being known as 111 Mountain View Road from R-4 (Single Family Residential - 4 units/acre) to PRD-SF (Planned Residential Development - Single Family). Ward 3A.

The Planning Commission recommends Approval.

Mr. McClure made a motion, seconded by Mr. Hunter, to recommend approval as written. The motion carried 7-0-0.

If Council approves the rezoning as submitted, the following variances would be required:

Amendment to require the subject property, proposed lots 28 and 29, be subject to all the stipulations outlined in Z2019 34.

Adoption of the submitted plan, which includes lots 28 and 29, as the new detailed plan for the Cottages of Keeler Woods, which includes the following:

- *Reduction in the rear yard setback for lots 28 & 29 from 25 ft to 15 ft.*
- *Increase the maximum allowable density from 4.08 units/acres to 4.2 units/acre*

Public Hearing (all parties sworn in)

20211028 Z2022-02 [REZONING] VOYLES FAMILY PARTNERSHIP, LLLP.

Z2022-02 [REZONING] VOYLES FAMILY PARTNERSHIP, LLLP. is requesting the rezoning of 2.066 acres located in Land Lot 781, District 17, Parcel 0040 of the 2nd Section, Cobb County, Georgia, and being known as 2079 Cobb Parkway South from GC (General Commercial - County) to CRC (Community Retail Commercial - City). Ward 7A.

The Planning Commission recommends Approval with Stipulations.

Mr. Difley made a motion, seconded by Mr. Anderson to recommend approval with stipulations. The motion carried 7-0-0.

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

The following variances are incorporated as conditions of zoning:

- *Variance to the northern minor side yard setbacks from 15ft to 10ft for a property zoned CRC [§708.16(H)].*
- *Variance to allow parking ten (10) feet within the front property line [§708.16 (B.6.b)].*

Public Hearing (all parties sworn in)

20211000 A2022-01 [ANNEXATION] VOYLES FAMILY PARTNERSHIP LLLP.

A2022-01 [ANNEXATION] VOYLES FAMILY PARTNERSHIP LLLP. is requesting the annexation of property located in Land Lot 781, District 17, Parcel 0040 of the 2nd Section, Cobb County, Georgia and being known as 2079 Cobb Parkway South, consisting of approximately 2 acres. Ward 7A.

The Planning Commission recommends Approval.

Mr. Difley made a motion, seconded by Mr. Smith, to recommend approval as written. The motion carried 7 0 0.

Public Hearing (all parties sworn in)

20211029 CA2022-01 [CODE AMENDMENT] VOYLES FAMILY PARTNERSHIP, LLLP.

CA2022-01 [CODE AMENDMENT] VOYLES FAMILY PARTNERSHIP, LLLP. In conjunction with the requested annexation of property located in located in Land Lot 781, District 17, Parcel 0040 of the 2nd Section, Cobb County, Georgia and being known as 2079 Cobb Parkway South, the City of Marietta proposes to designate the Future Land Use of said property as CAC (Community Activity Center). Ward 7A.

The Planning Commission recommends Approval

Mr. Diffley made a motion, seconded by Mr. McClure, to recommend approval as written. The motion carried 7-0-0.

Public Hearing (all parties sworn in)

*** 20211077 Z2022-03 [REZONING] GRACEPOINT SCHOOL, INC.**

Z2022-03 [REZONING] GRACEPOINT SCHOOL, INC. is requesting the rezoning of 4.45 acres located in Land Lots 866, 867, 934 & 935, District 16, Parcels 0260 & 0440 of the 2nd Section, Cobb County, Georgia, and being known as 1399 & 1407 Cobb Parkway North from CRC (Community Retail Commercial) to OI (Office Institutional). Ward 4B.

The Planning Commission recommends Approval as Stipulated.

Mr. Anderson made a motion, seconded by Mr. Hunter to recommend approval as stipulated. The motion carried 7 0 0.

If Council approves the rezoning, the following variance would be incorporated as a condition of zoning:

The following variances are incorporated as conditions of zoning:

- *Letter of stipulations from Fred D. Bentley, Jr. to Shelby Little, Planning & Zoning Manager, dated December 31, 2021*
- *Variance to reduce the minimum lot acreage for a school from 5 acres to 4.45 acres. [§708.23 (B.19.a)]*

Motion to TABLE.

20211075 Z2022-04 [REZONING] HEATHERLAND HOMES, LLC.

Z2022-04 [REZONING] HEATHERLAND HOMES, LLC. is requesting the rezoning of 7.49 acres located in Land Lots 147 & 214, District 17, Parcels 0060, 0760, 0770 and 0780 of the 2nd Section, Cobb County, Georgia, and being known as 680 Powder Springs Street and 103 Fairlane Drive from CRC (Community Retail Commercial) to RHR (Residential High-Rise). Ward 3A.

The Planning Commission recommends Denial.

Ms. McCrae made a motion, seconded by Mr. Smith, to recommend denial as written. The motion carried 4 3 0. Mr. Kinney, Mr. Hunter, and Mr. Anderson opposed the Denial.

If Council approves the rezoning as submitted, the following variances would be required:

Letter of stipulations and variances from J. Kevin Moore of Moore Ingram Johnson & Steele to Shelby Little, Planning & Zoning Manager for the City of Marietta, dated January 10, 2022.

Public Hearing (all parties sworn in)

20211026 CA2022-03 [CODE AMENDMENT] Storage of Portable Sanitation Units

CA2022-03 [CODE AMENDMENT] Proposal to amend the Comprehensive Development Code of the City of Marietta, Division 708.10 Multi-Family Residential (RM-8), Division 708.11 Multi-Family Residential (RM-10), Division 708.12 Multi-Family Residential (RM-12), Division 708.13 Residential High Rise (RHR), Division 708.15 Neighborhood Retail Commercial (NRC), Division 708.16 Community Retail Commercial (CRC), Division 708.17 Regional Retail Commercial (RRC), Division 708.18 Central Business District (CBD), Division 708.19 Planned Commercial District (PCD), Division 708.20 Mixed Use Development (MXD), Division 708.24 Office Services (OS), Division 708.26 Light Industrial (LI), Division 708.27 Heavy Industrial (**HI**), Division 708.28 Planned Industrial Development (PID), Division 708.29 Railroads and railroad crossings (**RRX**), Division 712.01 Special Land Use Permits, and Division 724.02 Definition of terms regarding the storage of portable sanitation units.

The Planning Commission recommends Approval.

Mr. Diffley made a motion, seconded by Mr. Anderson, to recommend approval as written. The motion carried 7-0-0.

Public Hearing (all parties sworn in)

RESOLUTIONS:**CITY ATTORNEY'S REPORT:**

* **20220019 Denial of Claim**

Denial of Claim - Felipe Silva, Expedito Silva, Estate of Maria Bezerra Ferreira, Paloma Alcantara Junquiera and Mario Alves De Silva Baba.

* **20220038 Denial of Claim**

Denial of Claim for Amba Products, LLC and Anka Trading, LLC.

CITY MANAGER'S REPORT:

MAYOR'S REPORT:

COMMITTEE REPORTS:

1. Economic/Community Development: Andre Sims, Chairperson

* **20211110 CDBG Annual Action Plan Substantial Amendment**

Motion to approve an amendment to the PY2021 Annual Action Plan to reallocate \$5,861.53 in unexpended PY2020 Administration and Planning funds, and an amendment to the PY2020 Annual Action Plan to reallocate \$8,009.98 in unexpended Public Facilities-CV funds.

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

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

20211123 Final Plat - Burberry at Sandtown

Motion to approve the final plat for 1501 & 1521 Sandtown Road, a 33 townhome development zoned PRD-SF per Z2020-10.

* **20211124 Unexpired Contracts**

Motion to approve certain unexpired contracts to ratify in accordance with Section 36-30-3 of the Official Code of Georgia Annotated (O.C.G.A.).

* **20211126 2022 City of Marietta Comprehensive Plan Steering Committee**

Motion to appoint Council Member Joseph Goldstein & Council Member M Carlyle Kent to serve on the comprehensive plan steering committee.

4. Parks, Recreation and Tourism: Johnny Walker, Chairperson*** 20211122 Laurel Park Tennis Center Independent Contractor Agreement Renewal**

Motion approving the 1st Modification to the Independent Contractor Agreement with Tennis Dynamics, LLC., extending the term for operations of the Laurel Park Tennis Center until December 31, 2025.

*** 20211127 Custer Park Soccer Complex Independent Contractor Agreement Renewal**

Motion approving the 1st Modification to the Independent Contractor Agreement with the YMCA of Metro Atlanta through its McCleskey-N.E. Cobb Branch, extending the term for operations of the Custer Park Sports Complex through December 31, 2025.

5. Personnel/Insurance: Cheryl Richardson, Chairperson**6. Public Safety Committee: M. Carlyle Kent, Chairperson****7. Public Works Committee: Grif Chalfant, Chairperson***** 20211114 Polk and Lindley Avenue Utilities**

Motion authorizing variance from the underground utility's ordinance allowing a new support pole in the right-of-way at the intersection of Polk and Lindley Avenue. This motion does not grant a perpetual variance. Marietta Power must relocate underground at their expense if other utilities at the location are moved underground.

*** 20211115 Supplemental Project Framework Agreement (PFA) for Rottenwood Creek Trail Phase 1**

Motion to accept the grant funds through approval of the Supplemental Project Framework Agreement (PFA) with GDOT accepting funds in the amount of \$440,000 for Rottenwood Creek Trail Phase 1.

OTHER BUSINESS:*** 20220046 Acquisition of easements at 770 Polk Street for the Polk Street at Mountain View Road Project.**

Motion authorizing acquisition of an easement at 770 Polk Street for the purpose of constructing the Polk Street at Mountain View Road Project in exchange for \$8,913.00.

- * **20220047** **Acquisition of an easement at 36 Marietta Walk Trace for the Powder Springs Streetscape - Sandtown Rd to S Marietta Parkway Project.**
- Motion authorizing acquisition of an easement at 36 Marietta Walk Trace from Marietta Walk Homeowners Association Inc. for the purpose of constructing the Powder Springs Streetscape - Sandtown Rd to S Marietta Parkway Project in exchange for \$6,650.00 and the stipulation as listed below.
- All trees and shrubs removed and damaged during construction shall be replaced in kind.
- * **20220048** **Acquisition of easements at 920 Cobb Parkway S for the Rottenwood Creek Trail Phase I Project.**
- Motion authorizing acquisition of easements at 920 Cobb Parkway South from Waffle House, Inc. for the purpose of constructing the Rottenwood Creek Trail Phase I Project in exchange for \$129,280.00.
- * **20220049** **Acquisition of easements at 1401 Barclay Circle for the Rottenwood Creek Trail Phase I Project.**
- Motion authorizing acquisition of easements at 1401 Barclay Circle from Yvonne Tillem for the purpose of constructing the Rottenwood Creek Trail Phase I Project in exchange for \$16,850.00.
- * **20220050** **Acquisition of 540 Powder Springs Street**
- Motion to approve acquisition of Powder Springs Street Project Parcel 29, 540 Powder Springs Street, owned by Club Office Park Homeowner's Association for the amount of \$31,300.00.
- * **20220051** **Acquisition of 686 Powder Springs Street**
- Motion to approve acquisition of Powder Springs Street Project Parcel 5, 686 Powder Springs Street, owned by Eagle Lube Land for the amount of \$18,500.00.
- * **20220045** **BLW Actions of January 10, 2022**
- Review and approval of the January 10, 2022 actions and minutes of Marietta Board of Lights and Water.
- Council Member Joseph Goldstein opposes BLW item #20220035, Natural Gas*

UNSCHEDULED APPEARANCES:

**Each speaker is allotted five (5) minutes,
for a combined total of 30 minutes.**

ADJOURNMENT: