



City of Marietta

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

Meeting Minutes 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, March 8, 2023

7:00 PM

Council Chamber

Presiding: R. Steve Tumlin, Mayor

*Present: Cheryl Richardson, Grif Chalfant, Johnny Walker, Andy Morris,
M. Carlyle Kent, Andre L. Sims and Joseph R. Goldstein*

Also Present:

Bill Bruton, City Manager
Doug 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 Chalfant to give the invocation.

PLEDGE OF ALLEGIANCE:

Everyone remained standing for the Pledge of Allegiance.

PRESENTATIONS:

20230199 **Tree City USA Award**

Recognition of the 39th consecutive Tree City USA award from the Georgia Forestry Commission as received by Rich Buss, Director of Parks, Recreation and Facilities Department. Marietta is the second oldest Tree City in the State of Georgia.

Presented by Council Member Johnny Walker

Presented

20230252 2023 Marietta High School Wrestling State Championship

Presentation to Malachi Sanders - Marietta High School Wrestling Champion

Presented

PROCLAMATIONS:**20230257 Proclamation - James Kenneth Lowman**

Presentation of a Proclamation to James Kenneth Lowman, recognizing his service on the Board of Zoning Appeals.

Presented

ANNOUNCEMENTS OF GENERAL COMMUNITY INFORMATION BY THE MAYOR, COUNCIL AND/OR CITY MANAGER:**SCHEDULED APPEARANCES:****20230240 Scheduled Appearance**

Scheduled Appearance - Donald Barth

Present

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 Pro tem Johnny Walker briefly explained the consent agenda process.

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

-under Ordinances: Agenda items 20230102 and 20230139 were added to the consent agenda as a Motion to Table.

-under Judicial/Legislative: Agenda item 202300180 was added to the consent agenda.

-under Other Business: Agenda item 20230262 remains on the consent agenda with Council member Goldstein abstaining.

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

Vote: 7 – 0 – 0

Approved

MINUTES:*** 20230236 Regular Meeting - February 8, 2023**

Review and approval of the February 8, 2023 regular meeting minutes.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

MAYOR’S APPOINTMENTS: (for informational purposes only)**CITY COUNCIL APPOINTMENTS:***** 20230181 Planning Commission Appointment (Ward 6)**

Reappointment of Robert Kinney (Ward 6) to the Planning Commission for three (3) year term expiring March 7, 2026.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

*** 20230164 Historic Preservation Commission Appointments (Ward 2)**

Reappointment of David Freedman to the Marietta Historic Preservation Commission (Ward 2), for a 3-year term expiring February 11, 2026.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

*** 20230238 Planning Commission Appointment (Ward 2)**

Reappointment of Frasure Hunter to the Planning Commission (Ward 2), for a three (3) year term expiring March 13, 2026.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

*** 20230256 Board of Zoning Appeals Appointment (Ward 2)**

Appointment of Walt Walker to the Board of Zoning Appeals (Ward 2), for a three year term beginning immediately and expiring on March 11, 2026.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

* **20230116** **Marietta Civil Service Board - Post 5**

Reappointment of Philip Hynninen to the Marietta Civil Service Board (Post 5), for a one-year term expiring January 31, 2024.

Philip Hynninen has been on the board since January 2019.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 **Approved**

* **20221156** **Ethics Committee Council Appointment**

Appointment of Michelle Cooper Kelly to the Ethics Committee (Council Appointment), for a term of two (2) years expiring March 12, 2025.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 **Approved**

ORDINANCES:

* **20230102** **Z2023-04 [REZONING] TOTAL PROPERTY ADVISORS, LLC.**

Z2023-04 [REZONING] TOTAL PROPERTY ADVISORS, LLC. is requesting the rezoning of 10.05 acres located in Land Lot 138, District 17, Parcel 0030 of the 2nd Section, Cobb County, Georgia, and being known as 400 Booth Road from R-2 (Single Family Residential - 2 units/acre) to PRD-SF (Planned Residential Development - Single Family Residential). Ward 3B.

Planning Commission recommends Approval as Stipulated

Mr. McClure made a motion, seconded by Mr. Anderson, to recommend approval of the request as stipulated. The motion carried with a vote of 4-2-0. Ms. McCrae and Mr. Hunter opposed.

Should council approve the request, the following variances and stipulation would be incorporated as condition of zoning:

Variances:

- 1) Variance to waive the Purpose and Intent of the PRD SF district [§708.09 (A)]*
- 2) Variance not to extend or connect a new street to an existing street. [§716.03 (B)]*
- 3) Variance to allow proposed street not to extend to the boundary line of the tract in order to provide normal circulation of traffic within the vicinity. [§730.01 (B)]*
- 4) Variance to allow a cul de sac road to exceed 700 feet in length. [§730.01 (E)]*

Stipulation:

1) Letter of stipulations and conditions from Mr. Parks Huff of Sams, Larkin and Huff, LLP., to Mr. Rusty Roth, City of Marietta Director of Development Services dated March 6, 2023.

Public Hearing (all parties sworn in)

Motion to Table until the April 12, 2023 City Council meeting.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Tabled

* **20230139**

Z2023-05 [REZONING] WC ACQUISITIONS, LLC.

Z2023-05 [REZONING] WC ACQUISITIONS, LLC. is requesting the rezoning of 4.78 acres located in Land Lot 925, District 17, Parcel 0290 of the 2nd Section, Cobb County, Georgia, and being known as 1122 Powers Ferry Road from CRC (Community Retail Commercial) to MXD (Mixed Use Development). Ward 7A.

Planning Commission recommends Approval as Stipulated

*Mr. Diffley made a motion, seconded by Mr. Hunter, to recommend approval of the request as stipulated. The motion carried with a vote of 6-0-0.
Should council approve the request, the following variances and stipulation would be incorporated as condition of zoning:*

Variance:

1) Variance to reduce the minimum tract size in MXD from 5 acres to 4.7841 acres (Section 708.20 H).

Stipulation:

1) Letter of stipulations and conditions from Mr. Garvis Sams, Jr. of Sams, Larkin and Huff, LLP., to Mr. Rusty Roth, City of Marietta Director of Development Services dated February 20, 2023.

Public Hearing (all parties sworn in)

Motion to Table until the April 12, 2023 City Council meeting.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Tabled

20230043

CA2023-01 [CODE AMENDMENT] COMPREHENSIVE DEVELOPMENT CODE, SECTION 718.02.

CA2023-01 [CODE AMENDMENT] COMPREHENSIVE DEVELOPMENT CODE, SECTION 718.02. Proposal to amend the Comprehensive Development Code of the City of Marietta, Division 718, Administration and Enforcement, Section 718.02, Administrative Variances.

Planning Commission recommends Approval

Mr. Diffley made a motion, seconded by Mr. McClure, to recommend approval of the request. The motion carried with a vote of 6-0-0.

Public Hearing (all parties sworn in)

City Attorney Doug Haynie opened the public hearing and called forward those wishing to speak.

Rusty Roth, Development Services Director, presented information regarding the proposal to amend the Comprehensive Development Code of the City of Marietta, Division 718, Administration and Enforcement, Section 718.02, Administrative Variances.

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

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

Vote: 7 – 0 – 0

Approved

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

* 20230255 **Denial of Claim**

Denial of the claim of Juliette Henderson.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved to Deny Claim

CITY MANAGER'S REPORT:**MAYOR'S REPORT:****COMMITTEE REPORTS:**

1. Economic/Community Development: Andre L. Sims, Chairperson**2. Finance/Investment: Joseph R. Goldstein, Chairperson****3. Judicial/Legislative: G. A. (Andy) Morris, Chairperson***** 20230203 Opioid Settlement Authority**

Motion to approve a Resolution agreeing to participate in national settlements with Teva, Allergan, Walgreens, Walmart and CVS concerning the National Prescription Opioid Litigation.

Council Member Goldstein discloses that an entity owned by himself, and a member of his family have a business relationship with Walgreen Co.

This Matter was Approved on the Consent Agenda.

Vote: 6 – 0 – 1 Approved
Abstaining: Joseph R. Goldstein

*** 20230222 Redistricting Ward Map Study Committee**

Motion to accept the resignation of Andy Morris and appointment of Joseph R. Goldstein to the Redistricting Ward Map Study Committee.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

*** 20230180 Detailed Plan - The Cottages at Keeler Woods Ph. 2**

Motion to approve the detailed plan for ten (10) new homes and a new private street as Phase 2 of the Cottages at Keeler Woods (Z2022-20), currently located at 807 & 811 Polk Street.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

4. Parks, Recreation and Tourism: Johnny Walker, Chairperson*** 20230049 2009 Parks Bond Projects**

Motion to approve rebalancing and reallocation of the 2009 Parks Bond projects as presented, and approval to expend \$50,000 for A.L. Burruss Park, and \$1,003,000 at Wildwood Park to supplement the LWCF grant of \$500,000. One-hundred and twenty thousand dollars of the allocation for W. Dixie Park and any remaining unallocated funds or future revenues will be held and approved for expenditure later.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

5. Personnel/Insurance: Cheryl Richardson, Chairperson

* **20230010 Appointment of Associate Prosecuting Attorneys**

Motion to allow the appointment of two substitute Prosecuting Attorneys to fill the two-year term of office (to January 2024) of the recent resigning Marietta Municipal Court Prosecuting Attorneys pursuant to OCGA § 15-18-95.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

* **20230167 Municipal Associate Judges and Assistant Prosecutors Compensation**

Motion to approve the Municipal Associate Judges compensation to be set at \$350.00 per session and Assistant Prosecutors compensation to be set at \$300.00 per session, to be retroactive back to January 1, 2023.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

* **20230220 Acting Pay for Assistant Prosecutors**

Motion to allow Acting Pay for Assistant Prosecutors who perform more than 6 consecutive sessions, to be retroactive back to January 1, 2023.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

6. Public Safety Committee: M. Carlyle Kent, Chairperson

7. Public Works Committee: Grif Chalfant, Chairperson

* **20230173 Hickory Walk Speed Study**

Motion authorizing Public Works to conduct the speed study of Hickory Walk from Old Dallas Road to Hickory Walk to determine if traffic calming devices are needed. Ward 3A

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

* 20230174

Westland Drive Speed Study

Motion authorizing Public Works to conduct the speed study of Westland Drive from Wilson Circle to Westland Way to determine if traffic calming devices are needed. Ward 3A

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

* 20230176

Blanche Drive Speed Study

Motion authorizing Public Works to conduct the speed study of Blanche Drive from Wylie Drive to Blanche Court to determine if traffic calming devices are needed. Ward 7A.

Requested by Council Member Goldstein

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

* 20230177

Roselane Street Utilities

Motion authorizing variance from the underground utility’s ordinance allowing a new support pole in the right-of-way at 343 Roselane Street. 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. Ward 4B

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

* 20230178

Donation of Right-of-Way

Motion authorizing the Public Works to receive the donation of right-of-way located at 201 White Street per the Quitclaim Deed from GME White1 LLC. Ward 4B

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

* **20230179** **Donation of Right-of-Way**

Motion authorizing the Public Works to receive the donation of right-of-way located at 203 White Street per the Quitclaim Deed from GME White3 LLC. Ward 4B

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 **Approved**

* **20230053** **Holiday Street On-Street Parking**

Motion authorizing a no parking zone to be installed along the righthand side of Holiday Street from Lawrence Street to the dead-end with an estimated cost of \$500.00. Ward 5A

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 **Approved**

OTHER BUSINESS:

20220883 **V2022-34 [VARIANCE] ARIADNE NIKIFOROU**

V2022-34 [VARIANCE] ARIADNE NIKIFOROU is requesting variances for property zoned CRC (Community Retail Commercial), located in Land Lot 1235, District 16, Parcel 0880, 2nd Section, Marietta, Cobb County, Georgia, and being known as 670 Roswell Street. Variance to allow an automotive repair shop (including paint and body) within 200 feet of a property used for a school or park; variance to allow an automotive repair shop (including paint and body) within 200 feet of a property zoned R-4; variance to allow an automotive repair shop (including paint and body) operate within the Commercial Corridor Design Overlay - Tier A; variance to allow tree removal within the existing buffer to be replaced with one row of evergreen trees; variance to allow gravel as an acceptable parking surface, only as shown on the attached application. Ward 1A.

Tabled at the November 9, 2022, December 14, 2022 and February 8, 2023 City Council meetings

Public Hearing (all parties sworn in)

City Attorney Doug Haynie opened the public hearing and called forward those wishing to speak.

Rusty Roth, Development Services Director, presented information regarding the variances requested for property at 670 Roswell Street.

The applicant and owner, Ariandre Nikiforou, is requesting multiple variances for the property at 670 Roswell Street. The variances would allow an automotive repair shop within 200 feet of a property used for a school or park, within 200

feet of a property zoned R-4 and to operate within the Commercial Corridor Design Overlay - Tier A. There would also be a variance to allow tree removal within the existing buffer to be replaced with one row of evergreen trees and allow gravel as an acceptable parking surface.

*Those speaking regarding this matter:
Ken Finlayson, who resides on Fraiser Circle
Kathy Kelly, who resides on Fraiser Circle*

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

Discussion was held by Council.

A motion was made by Council member Richardson, seconded by Council member Chalfant, to approve variances for property located in Land Lot 1235, District 16, Parcel 0880, 2nd Section, Marietta, Cobb County, Georgia, and being known as 670 Roswell Street:

- 1. Variance to allow an automotive repair shop (including paint and body) within 200 feet of a property used for a school or park;*
- 2. Variance to allow an automotive repair shop (including paint and body) within 200 feet of a property zoned R-4;*
- 3. Variance to allow an automotive repair shop (including paint and body) operate within the Commercial Corridor Design Overlay - Tier A;*
- 4. Variance to allow tree removal within the existing buffer to be replaced with one row of evergreen trees;*

The following variance was DENIED:

- 5. Variance to allow gravel as an acceptable parking surface. The eleven parking spaces in the southeastern corner of the site, as shown on the attached plan, must be paved with asphalt or concrete. No other graveled areas may be used for parking.*

The motion carried by the following vote:

Vote: 6 – 1 – 0 **Approved as Amended**
Voting Against: Andy Morris

* **20230254**

Southeastern Power Administration (SEPA)/ Renewable Energy Certificate

Motion to approve a recommendation from the Board of Lights and Water to utilize MEAG Power as the specified agent to accept the Southeastern Power Administration (SEPA)/ Georgia-Alabama-South Carolina System Renewable Energy Certificate credits on our behalf.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 **Approved**

* **20230259** **630 Whitlock Ave. - Lindley Sidewalk Improvements Project**

Motion authorizing acquisition of easements at 630 Whitlock Ave. from SAI BABA 2005 Inc for the purpose of constructing the Lindley Sidewalk Improvements Project in exchange for \$9,450.00.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 **Approved**

* **20230260** **1982 Delk Industrial Blvd. - Rottenwood Creek Trail Phase I Project**

Motion authorizing acquisition of easements at 1982 Delk Industrial Blvd. from CPVF III Franklin Forest LLC for the purpose of constructing the Rottenwood Creek Trail Phase I Project in exchange for \$21,200.00.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 **Approved**

* **20230261** **1048 Franklin Gateway - Rottenwood Creek Trail Phase I Project**

Motion to authorize the acquisition of property owned by Navrang, LLC 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. City staff and the City Attorney are authorized to conduct a voluntary purchase if that becomes feasible.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 **Approved**

* **20230262** **102 S. Fairground Street - Fairground St - South Marietta Parkway to Roswell Street (Fairground B) Project Parcel 33**

Motion to authorize the acquisition of property owned by Native Descendants Heritage, LLC 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. City staff and the City Attorney are authorized to conduct a voluntary purchase if that becomes feasible.

This Matter was Approved on the Consent Agenda.

Vote: 6 – 0 – 1 **Approved**
Abstaining: Joseph R. Goldstein

* **20230237**

BLW Actions of March 6, 2023

Review and approval of the March 6, 2023 actions and minutes of the Marietta Board of Lights and Water.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 **Approved**

UNSCHEDULED APPEARANCES:

*Speaking during unscheduled appearances were:
Marietta Resident Tracy Stevenson expressed concern regarding the variance request for 670 Roswell Road.
Another resident expressed concern regarding noise and the quality of life in the Allgood Road and Cobb Parkway area.*

ADJOURNMENT:

The meeting was adjourned at 8:05 p.m.

Date Approved: _____

R. Steve Tumlin, Mayor

Attest: _____
Stephanie Guy, City Clerk