



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, May 10, 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 Morris to give the invocation.

PLEDGE OF ALLEGIANCE:

Everyone remained standing for the Pledge of Allegiance.

PRESENTATIONS:

20230434

Marietta Police Officer

Recognition of the newest officer to the Marietta Police Department:

· Officer Andrea Figueroa

Presented

20230454

Citizens' Government Academy Graduates

The following are graduates from our 2023 Citizens' Government Academy Class.

April Bailey	Mia Plachkinova
Sharon Blok	Melanie Prillaman
Norris Clemmons, Jr.	Efrain Ramirez
Crystal Consonery	Kathryn Remmele
Paul Conyngham	Edith Richmond
Shamika Evans	Julie Rome
Arlen Griffin	Gwen Sewell
Marco Holland	Zahrah Shabazz
J. Katina Jonasson	Ronda Smith
Jammye King	Nicole Smith
Benita McKoy	Rosser Southerland
Sonjia Mitchell	Tracy Stevenson
Claire Mozley	Jacquelyn Swint
Nina Nunes Eussen	Javon Swint

Presented**PROCLAMATIONS:****ANNOUNCEMENTS OF GENERAL COMMUNITY INFORMATION BY THE MAYOR, COUNCIL AND/OR CITY MANAGER:****SCHEDULED APPEARANCES:****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).

Prior to the Consent Agenda, a motion was made by Council member Goldstein, seconded by Council member Richardson, to suspend the rules of order to add an item to the agenda related to a Denial of Claim. The motion carried by the following vote:

*Vote: 7 - 0 - 0 Approved
(See agenda item 20230460)*

Mayor Pro tem Johnny Walker briefly explained the consent agenda process.

City Attorney Doug Haynie noted changes to the consent agenda.

-under Other Business: Agenda item 20230425 was added to the consent agenda.

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: 7 – 0 – 0 Approved

MINUTES:

* **20230413 Regular Meeting - April 12, 2023**

Review and approval of the April 12, 2023 regular meeting minutes.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

* **20230414 Executive Session Minutes**

Review and approval of the following executive session minutes:

February 22, 2022 Special Called Agenda Work Session
May 9, 2022 Agenda Work Session
July 11, 2022 Agenda Work Session
July 13, 2022 Agenda Review Session

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

MAYOR’S APPOINTMENTS: (for informational purposes only)

CITY COUNCIL APPOINTMENTS:

* **20230385 Marietta Historic Board of Review - Ward 1**

Reappointment of Dorothy Woodruff to the Marietta Historic Board of Review (Ward 1), for a two-year term expiring May 13, 2025.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

* **20230373 Marietta Historic Board of Review - Ward 2**

Reappointment of David Freedman to the Marietta Historic Board of Review (Ward 2), for a two-year term expiring May 13, 2025.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

- * **20230386** **Marietta Historic Board of Review - Ward 5**
- Reappointment of Jesse D. Bonner, Jr., to the Marietta Historic Board of Review (Ward 5), for a two-year term expiring May 13, 2025.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 – 0 – 0** **Approved**
- * **20230388** **Marietta Historic Board of Review - Ward 6**
- Reappointment of Stacy Smith to the Marietta Historic Board of Review (Ward 6), for a two-year term expiring May 13, 2025.
- Council member Goldstein disclosed that Stacy Smith is a tenant of a member of his family and/or an entity owned by a member of his family.*
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 – 0 – 0** **Approved**
- * **20230387** **Board of Zoning Appeals Appointment - Ward 5**
- Reappointment of Juanita Carmichael to the Board of Zoning Appeals (Ward 5), for a three-year term, expiring May 12, 2026.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 – 0 – 0** **Approved**
- * **20230389** **Board of Zoning Appeals Appointment - Ward 6**
- Reappointment of Bobby Van Buren to the Board of Zoning Appeals (Ward 6), for a three-year term, expiring May 12, 2026.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 – 0 – 0** **Approved**

ORDINANCES:

- 20230289** **Z2023-07 [REZONING] REBECCA BERTHOLD (JUDD BARE)**
- Ord 8333** Z2023-07 [REZONING] REBECCA BERTHOLD (JUDD BARE) are requesting the rezoning of 0.46 acres located in Land Lot 287, District 17, Parcel 0590 of the 2nd Section, Cobb County, Georgia, and being known as 524 West Atlanta Street from NRC (Neighborhood Retail Commercial) to LI (Light Industrial). Ward 1A.

Planning Commission recommends Approval as Stipulated

Mr. Kinney made a motion, seconded by Mr. Hunter, to recommend approval of NRC zoning with the additional use of T-Shirt printing. The motion carried 5-0-0.

Public Hearing (all parties are 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 request for the rezoning for property located at 524 West Atlanta Street from NRC (Neighborhood Retail Commercial) to LI (Light Industrial).

The applicant requested rezoning of the subject property to operate a t-shirt printing and distribution facility at this location. The applicant stated that the property will be used for t-shirt production, storage, and office/showroom space.

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

Discussion was held by Council.

Motion to approve the rezoning request for property located at 524 West Atlanta Street from NRC (Neighborhood Retail Commercial) to LI (Light Industrial).

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

Vote: 7 – 0 – 0

Approved

20230269

Z2023-09 [REZONING] RAJANIKANTH PANDIRI

[Ord 8332](#)

Z2023-09 [REZONING] RAJANIKANTH PANDIRI is requesting the rezoning of 0.123 acres located in Land Lot 290, District 17, Parcel 0580, 2nd Section, Marietta, Cobb County, Georgia, and being known as 374 Kings Court from RA-6 (Single Family Residential Attached - 6 units/acre) to RA-6 (Single Family Residential Attached - 6 units/acre) with a variance to increase the density to 16.3 units/acre. Ward 1A.

The Planning Commission offers No Recommendation

Mr. Hunter made a motion, seconded by Mr. Diffley, to make no recommendation to Council.

The motion carried 5-0-0.

Approval of the request as submitted would require incorporation of the following variances:

- 1. Variance to reduce the minimum lot size for a duplex from 11,000 sq.ft. to 5,377 sq.ft.*
- 2. Variance to increase the density to 16.3 units/acre.*
- 3. Variance to reduce the minimum floor area per unit from 1,150 sq.ft. to 1,000 sq.ft.*
- 4. Variance to increase the maximum lot coverage from 35% to 38%. [§708.06 (H)] (based on Staff calculation of new total heated square feet/lot size - 2,033 sq.ft./5,377 sq.ft.)*

5. Variance to reduce the front setback from 25 ft. to 22 ft. [§708.06 (H)] (based on Staff measurement)
6. Variance to reduce the rear setback from 30 ft. to 15 ft.
7. Variance to eliminate the requirement for the provision of a guest parking space.

Public Hearing (all parties are 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 request for the rezoning for property located at 374 Kings Court from RA-6 (Single Family Residential Attached - 6 units/acre) to RA-6 (Single Family Residential Attached - 6 units/acre), with a variance to increase the density to 16.3 units/acre.

The applicant requested rezoning of the subject property to renovate an existing duplex on a nonconforming lot. The applicant had begun renovations without receiving a permit and was issued a stop-work order. The amount of money allocated for renovations exceeds the 50% threshold of appraised building value, which then mandates that a non-conforming structure and lot be brought up to current codes. To proceed with plans as-is, multiple variances would be needed.

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

Discussion was held by Council.

Motion to approve the rezoning request for property at 374 Kings Court from RA-6 (Single Family Residential Attached - 6 units/acre) to R-4 (Single Family Residential - 4 units/acre), with the following variances are incorporated as a condition of zoning:

1. Variance to allow the property to function as a single family detached dwelling subject to R-4 permitted uses and Section 712.11, Residential Infill Development Overlay District.
2. Variance to increase the permitted density from 8 units/acre to 8.13 units/ac.
3. Variance to reduce the permitted side setback from 5 ft. to 3.6 ft.
4. Variance to waive the required architectural standards.

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

Vote: 7 – 0 – 0

Approved as Amended

20230305

Z2023-10 [REZONING] SKY PROP, LLC.

[Ord 8334](#)

Z2023-10 [REZONING] SKY PROP, LLC. is requesting the rezoning of 0.66 acres located in Land Lot 1215, District 16, Parcels 1500 & 0440 of the 2nd Section, Cobb County, Georgia, and being known as 523 & 533 Washington

Planning Commission recommends Approval

Mr. Diffley made a motion, seconded by Mr. Hunter, to recommend approval to rezone both properties to CRC with 4 variances. The motion carried 3-2-0. Mr. Anderson and Mr. McClure opposed.

Approval of the request as would require incorporation of the following variances: Should Council approve, the following variances would be incorporated as conditions of zoning:

- 1. Variance to allow the existing sidewalk to remain along the entire frontage in lieu of constructing a 6-foot sidewalk with 2-foot grass strip.*
- 2. Variance to increase the maximum front setback from 16 ft. to 18 ft*
- 3. Variance to reduce the setback for an accessory structure adjacent to residential from 25 ft. to 24 ft.*
- 4. Variance to allow two garages (accessory structures) not to reflect the architectural style and building material of the dwelling (principal) structure.*

Public Hearing (all parties are 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 request for the rezoning for property located at 523 & 533 Washington Avenue from R-4 (Single Family Residential - 4 units/acre) and CRC (Community Retail Commercial) to CRC (Community Retail Commercial).

The applicant, Todd Spencer, and property owner, Dr. Richard Schuyler, requested rezoning and variance for the subject property to renovate the former day care building into a health clinic. Since the construction cost of such a substantial renovation will trigger the City's nonconforming use clause, the applicant would be required to come into compliance with all zoning requirements. The proposed improvements include expanding and renovating the existing building (interior and exterior), providing a new parking lot, and improving the sidewalk and streetscape environment in front of 533 Washington Avenue with a new brick sidewalk and street trees.

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

Discussion was held by Council regarding the existing conditions of the property including the sidewalk, chain link fence and two garages located behind the principal structure.

Motion to approve the rezoning request for property at 523 and 533 Washington Avenue from R-4 (Single Family Residential - 4 units/acre) and CRC (Community Retail Commercial) to CRC (Community Retail Commercial), with the following variances are incorporated as a condition of zoning:

- 1. Variance to allow the existing sidewalk to remain along the entire frontage in lieu of constructing a 6-foot sidewalk with 2-foot grass strip.*

2. Variance to increase the maximum front setback from 16 ft. to 18 ft.
 Variance to reduce the setback for an accessory structure adjacent to residential from 25 ft. to 24 ft.

3. Variance to allow two garages (accessory structures) not to reflect the architectural style and building material of the dwelling (principal) structure for the duration of the renovation of the main structure. At that time, at least one structure must be removed/demolished and the remaining structure must be modified to match the architectural style of the principal building. This work must be complete prior to occupancy of the principal structure.

*The following stipulation is incorporated as a condition of zoning:
 The chain link fence fronting Washington Avenue must be removed and replaced with a wrought iron (or of similar appearance) ornamental fence meeting Section 710.04, Fences and walls.*

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

Vote: 7 – 0 – 0

Approved as Amended

RESOLUTIONS:

CITY ATTORNEY'S REPORT:

* **20230359 Denial of Claim**

Denial of Claim for Carol Burkes.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved to Deny Claim

* **20230383 Denial of Claim**

Denial of Claim for David Abrohams.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved to Deny Claim

* **20230440 Denial of Claim**

Denial of Claim for Anthony Brooks.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved to Deny Claim

- * **20230452** **Denial of Claim**
- Denial of Claim for Dimitar H. Apostolov.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 – 0 – 0** **Approved to Deny Claim**

- * **20230460** **Denial of Claim**
- Denial of Claim for Zequelia Chandler.
- 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**

- * **20230360** **Revised Detailed Plan - Caswell Overlook**
- Motion to authorize Development Services staff to work with the Caswell Overlook Homeowners Association on the replacement of street trees creating conflicts between driveways and utilities. Plans for tree replacement, which may be done in phases, will be submitted to staff for review and approval and must comply with the standards outlined in Section 712.08 (G.2.c) "Street tree requirements for small lot subdivisions and townhouse subdivisions." The Director of Development Services is given authority to waive tree replacement requirements in situations where utility conflicts will result in no feasible opportunity for replanting.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 – 0 – 0** **Approved**

4. Parks, Recreation and Tourism: Johnny Walker, Chairperson*** 20230371 Marietta Arts Council Request to Display Student Art**

A motion approving the installation of Marietta City Schools student art at various playgrounds designated by staff in conjunction with Marietta City Schools and the Marietta Arts Council from June 1, 2023, until August 1, 2023.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

5. Personnel/Insurance: Cheryl Richardson, Chairperson**6. Public Safety Committee: M. Carlyle Kent, Chairperson****7. Public Works Committee: Grif Chalfant, Chairperson***** 20230365 Root Street On-Street Parking**

Motion authorizing a two (2) space loading zone to be installed along the eastern side of Root Street at North Park Square, converting both sides of the street to a fire lane, and replacing/updating the existing signage to indicate a fire lane, no parking, and a loading zone from North Park Square to Hansell Street with an estimated cost of \$750.00. Ward 5A

Council Member Goldstein discloses that members of his family and entities owned by members of his family own property along Root Street.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

*** 20230366 Local Road Safety Plan**

Motion authorizing the adoption of the Local Road Safety Plan by the Mayor & Council and submittal to the Georgia Department of Transportation by the Public Works Department.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

OTHER BUSINESS:**20230326 Certificate of Approval - 25 Polk Street (New Construction)**

Consideration of a certificate of approval requested by Marietta Station Partners, LLC c/o Bridger Properties, LLC for new construction at 25 Polk Street.

Public Hearing (all parties sworn in)

Council Member Goldstein discloses that Philip M. Goldstein and two entities originally owned by Gary Eubanks and/or members of Gary Eubanks' family have cross access easements over their respective properties. Marietta Station Partners, LLC acquired the responsibilities and interest in the cross access easement that was originally held by the Eubanks entities. Philip M. Goldstein is the father of Council Member Goldstein.

Development Director Rusty Roth presented information related to the Certificate of Approval requested by Marietta Station Partners, LLC c/o Bridger Properties, LLC for new construction at 25 Polk Street.

Marietta Station Partners, LLC c/o Bridger Properties, LLC submitted an application for a Certificate of Approval for new construction of a building containing 135 residential units and structured parking. The property at 25 Polk Street currently contains surface parking with little to no landscaping. At the May 1st, 2023 Historic Board of Review meeting, a motion was approved to deny, based on the Historic Board of Review's guidelines, that this building is not compatible with surrounding buildings in regards to scale, height, proportion, and mass.

Discussion was held by Council, specifically regarding the height of the proposed building as it relates to the adjacent buildings.

A motion was made by Council member Kent, seconded by Council member Sims, to reject the action of the Marietta Historic Board of Review taken on May 1, 2023, which action was to deny the Certificate of Approval. Further, to recommend that the applicant modify and resubmit the plan to the Historic Board of Review, with up to 90 days to resubmit and waiving the six (6) month time frame to resubmit.

A substitute motion was made by Council member Chalfant, seconded by Council member Morris, to approve the action of the Historic Board of Review of the City of Marietta, taken May 1, 2023, which action was to deny the application, provided however, that the original application shall remain pending and that the applicant shall bring back new plans to the Historic Board of Review following town hall meetings no later than 120 days from today. Further, the applicant shall work closely with the City moving forward. The motion carried by the following vote:

Vote: 7 – 0 – 0

Approved as Amended

* **20230436** **Appeal of V2023-03 (20230183) STEPHEN M. MCCUNE**

Consideration of appeals filed by Marla Blackstone, Wayne Blackstone, Lee Chesney, Georgiann Watson, Kandon Render, and Kristen Render regarding the Board of Zoning Appeals decision on March 27, 2023 for property located at 332 North Woodland Drive (V2023-03). The appeal hearing shall be conducted as set forth in Section 720.08 of the Code of Ordinances of the City of Marietta.

Motion to accept the request to withdraw the Appeal.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 **Approved**

* **20230453** **Municipal Electric Authority of Georgia (MEAG) Voting Member and Delegate**
Res 1729

Motion to approve a recommendation by the BLW Board to designate Board Member Andy Morris as the voting delegate and General Manager Ron Mull as the alternate selection for the 2023 MEAG Annual Meeting.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 **Approved**

* **20230455** **1121 Cobb Parkway -Rottenwood Creek Trail Phase I Project**

Motion authorizing acquisition of easements at 1121 Cobb Parkway from Atlanta Industrial, LLC for the purpose of constructing the Rottenwood Creek Trail Phase I Project in exchange for \$203,100.00.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 **Approved**

* **20230456** **Property Condemnation - 991 Wylie Road**

Motion to authorize the acquisition of property owned by Bridge WF II GA Element 41, 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.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

* **20230425 BLW Actions of May 8, 2023**

Review and approval of the May 8, 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:

John Cole, who resides on Cole Street, addressed City Council.

ADJOURNMENT:

The meeting was adjourned at 9:12 p.m.

Date Approved: June 14, 2023

R. Steve Tumlin, Mayor

Attest: _____
Stephanie Guy, City Clerk