



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, June 14, 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 Kent to give the invocation.

PLEDGE OF ALLEGIANCE:

Everyone remained standing for the Pledge of Allegiance.

PRESENTATIONS:

PROCLAMATIONS:

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

SCHEDULED APPEARANCES:

- 20230499** **Scheduled Appearance**
- Scheduled Appearance - Kenneth Robinson.
- Not Present**
- 20230503** **Scheduled Appearance**
- Scheduled Appearance - Lessage Durland.
- Not Present**
- 20230553** **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).

Prior to the Consent Agenda, a motion was made by Council member Chalfant, seconded by Council member Richardson, to suspend the rules of order to add an item to the agenda related to the acquisition of property located at 1121 Cobb Parkway S. The motion carried by the following vote:

Vote: 7 – 0 – 0 Approved
(See agenda item 20230564)

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

City Attorney Doug Haynie noted changes to the consent agenda.

-under Parks and Rec: Agenda item 20230447 was added to the consent agenda and should show Council member Goldstein abstaining.

-under Other Business: Agenda item 20230435 should show a Public Hearing.

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:*** 20230529 Regular Meeting - May 10, 2023**

Review and approval of the May 10, 2023 regular meeting minutes.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

*** 20230530 Special Meeting - May 30, 2023**

Review and approval of the May 30, 2023 special 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:****ORDINANCES:****20230423 Z2023-14 [REZONING] SCOTT W. SJOGREN (LALIWALA)**

Z2023-14 [REZONING] SCOTT W. SJOGREN (LALIWALA) are requesting the rezoning of one acre located in Land Lot 779, District 16, Parcel 0250 of the 2nd Section, Cobb County, Georgia, and being known as 1071 Ruby Drive from CRC (Community Retail Commercial) with stipulations to LI (Light Industrial). Ward 6B.

Planning Commission recommends Denial

Ms. McCrae made a motion to recommend approval with stipulations. The motion failed due to lack of second.

Mr. Smith made a motion, seconded by Mr. Hunter, to recommend denial. The motion carried 4-1-0. Ms. McCrae opposed.

Should Council approve, the following variance would be incorporated as a condition of zoning:

1) Variance to permit trailer sales/service within 50 feet of residentially-zoned properties (Section 708.26 B.8.b.)

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 request for the rezoning for property located at 1071 Ruby Drive from CRC (Community Retail Commercial) with stipulations to LI (Light Industrial).

The applicant, Scott Sjogren, requested rezoning of the subject property to operate his trailer sales lot, using at least one of the structures currently on site as an office space.

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

Discussion was held by Council, specifically regarding the proposed use of the property.

Motion to deny the rezoning request for property located at 1071 Ruby Drive from CRC (Community Retail Commercial) with stipulations to LI (Light Industrial).

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

Vote: 7 – 0 – 0 Denied

20230275

CA2023-02 [CODE AMENDMENT] Comprehensive Development Code, Div. 710, Section 710.04, Fences and Walls.

[Ord. 8338](#)

Proposal to amend the Comprehensive Development Code of the City of Marietta, Division 710, Supplementary District Regulations, Section 710.04, Fences and Walls.

Planning Commission recommends Approval

Mr. McClure made a motion, seconded by Mr. Smith, to recommend approval. The motion carried 4-0-0. Mr. Hunter was not present for the vote.

Public Hearing (all parties sworn in)

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

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

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

Vote: 7 – 0 – 0 Approved

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

- * **20230472** **Denial of Claim**
- Denial of Claim for Michelle Lawrence.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 – 0 – 0** **Approved to Deny Claim**
- * **20230508** **Denial of Claim**
- Denial of Claim for Benjamin Berliner.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 – 0 – 0** **Approved to Deny Claim**
- * **20230514** **Denial of Claim**
- Denial of Claim for Stewart L. Gittens, JR. and Addicia Gittens.
- 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**

- * **20230450** **Adoption of Recommended Budget for FY2024**
- [Ord. 8336](#) Motion to approve the Ordinance adopting an Annual Budget for the fiscal year beginning July 1, 2023 and ending June 30, 2024, for the various funds of the City of Marietta and enacting the tentative Ad Valorem tax levies for said fiscal year for support of the City of Marietta governmental operations and other public purposes, and debt service obligations.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

- * **20230477 Tree Preservation Fund (Big Tex Trailers)**

[Ord. 8337](#)

Motion to approve an Ordinance for an amendment to the Fiscal Year 2023 Tree Preservation Fund Budget to receive and appropriate a payment of \$25,050.00 for construction activity at 850 Cobb Parkway North.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

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

- * **20230478 Revised Detailed Plan - Burberry at Sandtown**

Motion to approve a modification to the originally approved townhome elevations for 1501 & 1521 Sandtown Road, now known as Burberry at Sandtown, by omitting window grids and allowing 1/1 windows on all units.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

- * **20230479 Revised Detailed Plan - Rosehill Townhomes**

Motion to approve the revised townhome elevations for 401 Rose Drive, now known as Rosehill Townhomes, with the rear door being modified to match the front door.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

- * **20230480 Final Plat - The Gates at Hamilton Grove Ph. 2**

Motion to approve the final plat for Phase 2 of the Gates at Hamilton Grove. This phase contains new private streets and 28 townhomes.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

* **20230481** **Code Amendment - Section 712.08, Tree Protection and Landscaping**

Ord. 8341

Motion to authorize staff to advertise proposed changes to Section 712.08, Tree Protection & Landscaping Ordinance.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved

4. Parks, Recreation and Tourism: Johnny Walker, Chairperson

* **20230447** **FY2024 Tourism Grants**

Ord. 8337

Motion to approve the grant amounts presented for each tourism organization, along with the Welcome Center Contract.

The Earl Smith Strand Theatre
 GA Metro Dance Theatre
 Georgia Symphony Orchestra
 Marietta/Cobb Museum of Art
 Marietta History Center
 Marietta Square Branding Project
 The Georgia Ballet
 Brumby Hall & Gardens/GWTW
 Cobb Landmarks
 Marietta Arts Council
 Marietta Fire Museum
 Old Zion Heritage Museum
 Marietta Educational Gardens
 Marietta Theatre Company
 Lemon Street Classic, Inc.
 City Staff Request - City Services
 Marietta Visitors Bureau
 Lease of Welcome Center
 City Staff Marketing Request

Disclosures for Council Member Goldstein for Tourism Grants

Council Member Goldstein discloses that The Earl Smith Strand Theatre rents space owned by the Herbert S. Goldstein Family Limited Partnership. The Herbert S. Goldstein Family Limited Partnership is owned and managed by members of Council Member Goldstein's family. Council Member Goldstein will not participate in any discussion or vote on this item in his official capacity as a city council member.

Council Member Goldstein discloses that GA Metro Dance Theatre is located in space rented by Stone Worthy, LLC and owned by the PMG Whitlock Ave, LLC. PMG Whitlock Ave, LLC is owned and managed by Philip M. Goldstein. Philip Goldstein is the father of Councilmember Goldstein. Council Member Goldstein will not participate in any discussion or vote on this item in his official capacity as a city council member.

Council Member Goldstein discloses that he is on the board of the Marietta Welcome Center representing the City of Marietta.

Council Member Goldstein discloses that he is a member of the Marietta/Cobb Museum of Art.

Council Member Goldstein discloses that Philip M. Goldstein is a member of the Marietta Square Branding Project. Philip M. Goldstein is the father of Council Member Goldstein.

Council member Goldstein discloses that Marietta Theatre Company is believed to be a subtenant of Colt Chambers. A space leased by Colt Chambers is owned by a member of Council member Goldstein's family.

Motion to approve the FY24 Tourism Grants, as follows:

FY 2024 Tourism Grant Allocations

Auto Rental Tax (3%)

<i>The Earl Smith Strand Theatre</i>	<i>\$55,714</i>
<i>GA Metro Dance Theatre</i>	<i>\$17,571</i>
<i>Georgia Symphony Orchestra</i>	<i>\$17,836</i>
<i>Marietta/Cobb Museum of Art</i>	<i>\$69,929</i>
<i>Marietta History Center</i>	<i>\$160,000</i>
<i>Marietta Square Branding Project</i>	<i>\$14,571</i>
<i>The Georgia Ballet</i>	<i>\$11,357</i>
<i>Brumby Hall & Gardens/GWTW</i>	<i>\$67,429</i>
<i>Cobb Landmarks</i>	<i>\$27,929</i>
<i>Marietta Arts Council</i>	<i>\$12,521</i>
<i>Marietta Fire Museum</i>	<i>\$15,000</i>
<i>Old Zion Heritage Museum</i>	<i>\$16,929</i>
<i>Marietta Educational Gardens</i>	<i>\$6,429</i>
<i>Marietta Theatre Company</i>	<i>\$14,571</i>
<i>Lemon Street Classic, Inc.</i>	<i>\$19,000</i>
<i>City Staff Request - City Services</i>	<i>\$196,350</i>
<i>NAACP Juneteenth event</i>	<i>\$13,429</i>
<i>Brumby Gardens Capitol request</i>	<i>\$13,500</i>
<i>Total</i>	<i>\$750,065</i>

Hotel Motel Tax (8%)

<i>Marietta Visitors Bureau</i>	<i>\$390,000</i>
<i>Lease of Welcome Center</i>	<i>\$19,669</i>
<i>City Staff Marketing Request</i>	<i>\$35,000</i>
<i>Total</i>	<i>\$444,669</i>

This Matter was Approved on the Consent Agenda.

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

5. Personnel/Insurance: Cheryl Richardson, Chairperson*** 20230516 FY 2024 City/BLW Pay and Classification System documents**

Motion approving an Ordinance adopting the City of Marietta and Board of Lights and Water Position Allocation Charts, and the Compensation, Position Classification, and Career Development Plans for FY 2024, with changes to take effect on July 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***** 20230465 Fairgate Road Utilities - AO2GZSJ**

Motion authorizing a variance from the Underground Utilities ordinance to allow the installation of fiber to be over lashed on existing fiber and requiring the removal of all duplicate utility poles where AT&T is “next to transfer” along Chestnut Hill Road from the intersection of Chestnut Hill Drive to the intersection of Fairgate Road and then north on Fairgate Road to Heathersett Drive for 1,700 feet. This motion does not grant a perpetual variance. AT&T must relocate underground at their expense if other utilities at these locations are moved underground. Wards 2B and 3A.

Council Member Goldstein discloses that he and Philip M. Goldstein combined own more than \$10,000 of stock in AT&T. Philip M. Goldstein is the father of Council Member Goldstein.

This Matter was Approved on the Consent Agenda.

Vote: 6 – 0 – 1 Approved

Abstaining: Joseph R. Goldstein

*** 20230466 Cunningham Road Utilities - AO2JOAM**

Motion authorizing a variance from the Underground Utilities ordinance to allow the installation of fiber to be over lashed on existing fiber and requiring the removal of all duplicate utility poles where AT&T is “next to transfer” along Cunningham Road from the intersection of Westward Drive to Lowell Drive for 200 feet. This motion does not grant a perpetual variance. AT&T must relocate underground at their expense if other utilities at these locations are moved underground. Ward 2B

Council Member Goldstein discloses that he and Philip M. Goldstein combined own more than \$10,000 of stock in AT&T. Philip M. Goldstein is the father of Council Member Goldstein.

This Matter was Approved on the Consent Agenda.

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

* **20230467** **Austin Avenue Utilities - AO2JXB9**

Motion authorizing a variance from the Underground Utilities ordinance to allow the installation of fiber to be over lashed on existing fiber and requiring the removal of all duplicate utility poles where AT&T is “next to transfer” along Austin Avenue from the intersection of Lawrence Street to the intersection of Washington Avenue and then to 51 Austin Avenue for 500 feet. This motion does not grant a perpetual variance. AT&T must relocate underground at their expense if other utilities at these locations are moved underground. Wards 1A and 5A.

Council Member Goldstein discloses that he and Philip M. Goldstein combined own more than \$10,000 of stock in AT&T. Philip M. Goldstein is the father of Council Member Goldstein.

This Matter was Approved on the Consent Agenda.

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

* **20230468** **Longwood Drive Speed Study**

Motion authorizing Public Works to conduct the speed study of Longwood Drive from Bellemeade Drive to Arden Drive to determine if traffic calming devices are needed. Ward 2B

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 **Approved**

* **20230469** **Barnes Mill Drive Speed Study**

Motion authorizing Public Works to conduct the speed study of Barnes Mill Drive from Barnes Mill Road to Meadow Place to determine if traffic calming devices are needed. Ward 5B

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 **Approved**

* **20230482** **Supplemental Project Framework Agreement (PFA) #3 for Rottenwood Creek Trail Phase 1**
c/a 5179

Motion to accept the grant funds through approval of Supplemental Project Framework Agreement (PFA) #3 with GDOT

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved

OTHER BUSINESS:

20230435 V2023-16 [VARIANCE] ANTHONY S. LOCKE (879 ROSWELL STREET, LLC.)

V2023-16 [VARIANCE] ANTHONY S. LOCKE (879 ROSWELL STREET, LLC.) are requesting a variance for property zoned CRC (Community Retail Commercial), located in Land Lot 1213, District 16, Parcel 0260, 2nd Section, Marietta, Cobb County, Georgia, and being known as 879 Roswell Street. Ward 5A.

1. Variance to reestablish the nonconforming use of automotive repair shop (including paint and body) after discontinuance of 6 months.

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 879 Roswell St NE.

The applicant, Anthony Locke, requested a variance to reestablish the nonconforming use of automotive repair shop (including paint and body) after discontinuance of 6 months. Mr. Locke's repair shop is now considered illegally nonconforming due to the discontinuance of his business license for a period of 6-months. In May 2022 the applicant came to City Hall to renew his license but failed to submit documentation required by the Business License Division. As a result, the 2022 and 2023 license was never issued; the last valid license for auto repair expired on December 31, 2021. To continue his automotive business, Mr. Locke will require a variance to reestablish the nonconforming use of an automotive repair shop (including paint and body) in Tier A after discontinuance of 6 months.

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

Discussion was held by Council, specifically regarding properties within the City that now considered nonconforming use after discontinuance of 6 months.

Motion to approve the variance to reestablish the nonconforming use of automotive repair shop (including paint and body) after discontinuance of 6 months, for property located at 879 Roswell Street. Further, the applicant shall contact the Business License Department immediately to complete any outstanding documents needed for the 2022 and 2023 business license, and satisfy any applicable penalties and fines incurred.

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

Vote: 6 – 1 – 0 **Approved as Amended**

Voting Against: Cheryl Richardson

* **20230562** **Lakewood Drive to Olive Street Project - 380 Roswell Street**

c/a 5181

Motion authorizing acquisition of easements at 380 Roswell Street from Betty G. and D.C. Barfield, et al for the purpose of constructing the Roswell Street-Lakewood Drive to Olive Street Project in exchange for \$750,000.00.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 **Approved**

* **20230563** **Cole Street Sidewalk - 284 North Marietta Parkway**

Motion authorizing the City Attorney to proceed with eminent domain to acquire the parcel at 284 North Marietta Parkway for the Cole Street Sidewalk Project for \$16,800.00.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 **Approved**

* **20230552** **MEAG Solar Power Purchase Contract/2nd Amendment**

Approval of the 2nd Amendment to the MEAG Solar Power Purchase Contract, and to authorize the Mayor to execute this agreement between the City and MEAG.

This Matter was Approved on the Consent Agenda.

Vote: 6 – 1 – 0 **Approved**

Voting Against: Joseph R. Goldstein

* **20230531** **BLW Actions of June 12, 2023**

Review and approval of the June 12, 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**

20230564

1121 Cobb Parkway S. - Atlanta Industrial LL, LLC

Motion to authorize the acquisition of property owned by Atlanta Industrial LL, 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.

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

Vote: 7 – 0 – 0

Approved

UNSCHEDULED APPEARANCES:

ADJOURNMENT:

The meeting was adjourned at 8:43 p.m.

Date Approved: _____

R. Steve Tumlin, Mayor

Attest: _____
Stephanie Guy, City Clerk