



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
G. A. (Andy) Morris, Ward 4
Reggie Copeland, Ward 5
Michelle Cooper Kelly, Ward 6
Joseph R. Goldstein, Ward 7

Wednesday, January 9, 2019

7:00 PM

Council Chamber

Presiding: R. Steve Tumlin, Mayor

Present: Cheryl Richardson, Grif Chalfant, Johnny Walker, G. A. (Andy) Morris, Reggie Copeland, Michelle Cooper Kelly and Joseph R. Goldstein

Also Present:

William F. Bruton, Jr. City Manager
Daniel White, Assistant City Attorney
Stephanie Guy, City Clerk

CALL TO ORDER:

Mayor R. Steve Tumlin called the meeting to order at 7:03 p.m.

INVOCATION:

Mayor Tumlin called upon Council member Chalfant to give the invocation.

PLEDGE OF ALLEGIANCE:

Everyone was asked to remain standing for the Pledge of Allegiance.

PRESENTATIONS:

20181401 2019 Marietta High School Baseball Team

Introduction of the 2019 Marietta High School Baseball Team presented by Councilmember Walker & Councilmember Copeland.

Presented

PROCLAMATIONS:

Council Member Goldstein discloses that Marion Savic is a tenant of a member of his family and/or and entity owned by a member of his family.

A motion was made by Council member Kelly, seconded by Council member Richardson, to suspend the rules of order to add an item to the Council agenda to approve the Termination Agreement effective as of January 9, 2019, by and between The City of Marietta and Drive Shack Marietta, LLC. The motion carried by the following vote:

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

A motion was made by Council member Kelly, seconded by Council member Walker, to add the Termination Agreement effective between The City of Marietta and Drive Shack Marietta, LLC, to the consent agenda. The motion carried by the following vote:

Vote: 7 – 0 – 0 Approved
(See agenda item 20190073)

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

Assistant City Attorney Daniel White noted the following changes to the consent agenda:

-under Mayor's Appointment: Agenda items 20181424 - 20181432 were added to the consent agenda.

-under Council Appointments: Agenda items 20181433, 20190031 and 20190032 were added to the consent agenda.

-under Judicial/Legislative: Agenda item 20181372 was added to the consent agenda with Council members Chalfant and Goldstein opposed.

under Public Works: Agenda item 20181291 should show Council member Goldstein abstaining.

under Public Works: Agenda item 20181293 was added to the consent agenda as a Motion to Table.

-under Public Works: Agenda item 20181379 was added to the consent agenda.

under Other Business: Agenda items 20181406, 20190015, 20190022 - 20190025 and 20190028 - 20190030 were added to the consent agenda.

Mr. White then opened the public hearing for those items on the consent agenda requiring a public hearing. Seeing no one wishing to speak, the public hearing was closed.

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

Vote: 7 – 0 – 0 Approved

with the following exceptions:

Council members Goldstein opposed to agenda item 20181369 and abstaining on agenda item 20181293

Council member Chalfant and Goldstein opposed to agenda item 20181372

MINUTES:

- * **20181404 Regular Meeting - December 12, 2018**
- Review and approval of the December 12, 2018 regular meeting minutes.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 – 0 – 0 Approved**
- * **20181405 Special Meeting - December 19, 2018**
- Review and approval of the December 19, 2018 regular meeting minutes.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 – 0 – 0 Approved**

MAYOR’S APPOINTMENTS:

- * **20181424 Mayor Pro tem**
- Appointment of Johnny Walker as Mayor Pro tem for a term of one year expiring on January 8, 2020.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 – 0 – 0 Approved**
- * **20181425 Presiding Officer**
- Appointment of Andy Morris as Presiding Officer for a term of one year expiring on January 8, 2020.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 – 0 – 0 Approved**

- * **20181426** **Economic/Community Development Committee**
- Appointment of Johnny Walker Chairman, Grif Chalfant as Vice Chair and Andy Morris to the Economic/Community Development Committee for a term of one year expiring on January 8, 2020.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 – 0 – 0** **Approved**
- * **20181427** **Finance/Investments Committee**
- Appointment of Joseph R. Goldstein Chairman, Reggie Copeland as Vice Chair and Michelle Cooper Kelly to the Finance/Investments Committee for a term of one year expiring on January 8, 2020.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 – 0 – 0** **Approved**
- * **20181428** **Judicial/Legislative Committee**
- Appointment of Andy Morris Chairman, Cheryl Richardson as Vice Chair and Joseph R. Goldstein to the Judicial/Legislative Committee for a term of one year expiring on January 8, 2020.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 – 0 – 0** **Approved**
- * **20181429** **Parks, Recreation & Tourism Committee**
- Appointment of Michelle Cooper Kelly Chairman, Andy Morris as Vice Chair and Reggie Copeland to the Parks, Recreation and Tourism Committee for a term of one year expiring on January 8, 2020.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 – 0 – 0** **Approved**
- * **20181430** **Personnel/Insurance Committee**
- Appointment of Cheryl Richardson Chairman, Joseph R. Goldstein as Vice Chair and Grif Chalfant to the Personnel/Insurance Committee for a term of one year expiring on January 8, 2020.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 – 0 – 0** **Approved**

- * **20181431** **Public Safety Committee**
- Appointment of Reggie Copeland Chairman, Johnny Walker as Vice Chair and Cheryl Richardson to the Public Safety Committee for a term of one year expiring on January 8, 2020.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 **Approved**

- * **20181432** **Public Works Committee**
- Appointment of Grif Chalfant Chairman, Michelle Cooper Kelly as Vice Chair and Johnny Walker to the Public Works Committee for a term of one year expiring on January 8, 2020.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 **Approved**

CITY COUNCIL APPOINTMENTS:

- * **20181433** **Cobb Municipal Association 2019 Delegates**
- Appointment of Grif Chalfant and Joseph Goldstein as voting delegates for the Cobb Municipal Association (CMA) business meetings.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 **Approved**

- * **20190031** **Marietta Historic Board of Review - Ward 1**
- Appointment of Dorothy Woodruff to the Marietta Historic Board of Review (Ward 1), for a two year term expiring January 9, 2021.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 **Approved**

- * **20190032** **Historic Preservation Commission Appointment Ward 3**
- Reappointment of Marion Savic to the Historic Preservation Commission (Ward 3), for a three (3) year term expiring January 9, 2022.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 **Approved**

Council Member Goldstein discloses that Marion Savic is a tenant of a member of his family and/or an entity owned by a member of his family.

ORDINANCES:

20181088 Z2018-30 [REZONING] GT KORDARES TRUST

Z2018-30 [REZONING] GT KORDARES TRUST is requesting the rezoning of 5.94 acres located in Land Lot 289, District 20, Parcel 0100, a portion of 0700, a portion of 0710, a portion of 0750, 1010, and a portion of 0770 of the 2nd Section, Cobb County, Georgia and being known as 578 Anderson Road and portions of 1860 Kendrick Court, 1870 Kendrick Court, 1860 Leonidas Trail, 1870 Leonidas Trail, 1880 Leonidas Trail from R-20 (Single Family Residential - Cobb County) to R-2 (Single Family Residential - 2 units/acre - City). Ward 4C.

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 to rezone property at 578 Anderson Road and portions of 1860 Kendrick Court, 1870 Kendrick Court, 1860 Leonidas Trail, 1870 Leonidas Trail, 1880 Leonidas Trail from R-20 (Single Family Residential - Cobb County) to R-2 (Single Family Residential - 2 units/acre - City).

The applicant requested the rezoning and annexation of the subject property off Burnt Hickory Road. The subject properties represent the only remaining land on the eastern side of Anderson Road that is in unincorporated Cobb County. All surrounding properties on the eastern side of Anderson Road are zoned R-2 in the City and are used for single family residences.

The subject property is undeveloped except for a single house. Although there are no known plans for the development of this property, the intent is to have the property in the City school district for the existing or future homeowner(s).

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

A motion was made by Council member Morris, seconded by Council member Kelly, to approve the rezoning request for property located at 578 Anderson Road and portions of 1860 Kendrick Court, 1870 Kendrick Court, 1860 Leonidas Trail, 1870 Leonidas Trail, 1880 Leonidas Trail from R-20 (Single Family Residential - Cobb County) to R-2 (Single Family Residential - 2 units/acre - City). The motion carried by the following vote:

Vote: 7 – 0 – 0

Approved

20181089**A2018-04 [ANNEXATION] GT KORDARES TRUST**

A2018-04 [ANNEXATION] GT KORDARES TRUST is requesting the annexation of property located in Land Lot 289, District 20, Parcel 0100, a portion of 0700, a portion of 0710, a portion of 0750, 1010, and a portion of 0770 of the 2nd Section, Cobb County, Georgia and being known as 578 Anderson Road and portions of 1860 Kendrick Court, 1870 Kendrick Court, 1860 Leonidas Trail, 1870 Leonidas Trail, 1880 Leonidas Trail, and any associated right of way, consisting of 5.94 acres. Ward 4C.

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

The applicant requested that his presentation from the rezoning be incorporated for the annexation.

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

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

Vote: 7 – 0 – 0**Approved****20181090****CA2018-06 [CODE AMENDMENT]**

CA2018-06 [CODE AMENDMENT] In conjunction with the requested annexation of property located in Land Lot 289, District 20, Parcel 0100, a portion of 0700, a portion of 0710, a portion of 0750, 1010, and a portion of 0770 of the 2nd Section, Cobb County, Georgia and being known as 578 Anderson Road and portions of 1860 Kendrick Court, 1870 Kendrick Court, 1860 Leonidas Trail, 1870 Leonidas Trail, 1880 Leonidas Trail, the City of Marietta proposes to designate the Future Land Use of said property as LDR (Low Density Residential). Ward 4C.

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

The applicant requested that his presentation from the rezoning be incorporated for the code amendment.

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

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

Vote: 7 – 0 – 0**Approved**

20181298

Z2019-01 [SPECIAL LAND USE PERMIT] MISSIONARY ASSEMBLY OF GOD INC (PRISTINE WATER LLC)

Z2019-01 [SPECIAL LAND USE PERMIT] MISSIONARY ASSEMBLY OF GOD INC (PRISTINE WATER LLC) is requesting a Special Land Use Permit for a place of assembly for properties located in Land Lots 77 & 140, District 17, Parcels 0120 & 0220, 2nd Section, Marietta, Cobb County, Georgia and being known as 1021 & 1026 Oregon Trail, currently zoned R-2 (Single Family Residential - 2 units/acre). Wards 2B & 3A.

If Council approves the special land use permit, the following variances would be incorporated as conditions of zoning:

Variances:

1. Variance to increase the maximum allowable building height forty (40) feet to forty-eight (48) feet [§708.02 (H)].
2. Variance to increase the allowable impervious surface area from 50% to 75% on 1021 Oregon Trail to allow the site to remain as-is. [§708.02 (H)]
3. Variance to allow offsite parking on 1026 Oregon Trail satisfy parking requirements for 1021 Oregon Trail. [§716.07 (A)].
4. Variance to allow gravel as an acceptable parking surface according to the submitted plan [§716.08 (B)]
5. Variance to allow a bulk sanitation container in a single-family residential district, which must be enclosed by a 6-foot fence. [§710.08 (3)]
6. Variance to reduce the rear setback for a shed from 10' to 9'. [§708.02 (E.1.b)]

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

Rusty Roth, Development Services Director, presented information regarding the Special Land Use Permit for property located at 1021 and 1026 Oregon Trail SW. Mr. Roth also summarized the criteria used to determine whether the permit should be granted.

The applicant is requesting a special land use permit to expand their facility to include a three (3) story building addition for worship and classrooms. The proposed modifications include a three (3) story building addition, replenishment and expansion of the gravel parking area and restriping of the paved parking section.

If Council approves the special land use permit, the following variances would be incorporated as conditions of zoning:

1. *Variance to increase the maximum allowable building height forty (40) feet to forty-eight (48) feet [§708.02 (H)].*
2. *Variance to increase the allowable impervious surface area from 50% to 75% on 1021 Oregon Trail to allow the site to remain as-is. [§708.02 (H)]*

3. Variance to allow offsite parking on 1026 Oregon Trail satisfy parking requirements for 1021 Oregon Trail. [§716.07 (A)].
4. Variance to allow gravel as an acceptable parking surface according to the submitted plan [§716.08 (B)]
5. Variance to allow a bulk sanitation container in a single-family residential district, which must be enclosed by a 6-foot fence. [§710.08 (3)]
Variance to reduce the rear setback for a shed from 10' to 9'. [§708.02 (E.1.b)]

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

A motion was made by Council member Chalfant, seconded by Council member Walker, to approve the Special Land Use Permit for property located at 1021 and 1026 Oregon Trail SW, with the requested variances incorporated as conditions of zoning. The motion carried by the following vote:

Vote: 7 – 0 – 0

Approved

20181304

Z2019-02 [REZONING] WHITE HAWK BUSINESS PARK, LLC

Z2019-02 [REZONING] WHITE HAWK BUSINESS PARK, LLC is requesting the rezoning of 1.21 acres located in Land Lots 855 & 874, District 16, Parcel 0520 of the 2nd Section, Cobb County, Georgia, and being known as 451 Dickson Road from R-2 (Single Family Residential - 2 units/acre) to LI (Light Industrial). Ward 6B.

If Council approves the rezoning, the following stipulations and variance would be incorporated as conditions of zoning:

Stipulations:

1. Letter of stipulations from Sams, Larkin, Huff & Balli, to Shelby Little, Planning & Zoning Manager, for the City of Marietta, dated December 21, 2018, except that stipulation #2 shall be amended to state that the black chain link fence shall be a minimum height of 6 ft.

Variances:

1. Variance to reduce the minimum lot width from 100 ft. to 47.14 ft. [§708.26 (H)]
2. Variance to reduce the required landscaped buffer from 50 ft to 0 ft. [§708.26 (I)]

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 to rezone property at 451 Dickson Road from R-2 (Single Family Residential - 2 units/acre) to LI (Light Industrial).

The applicant requested rezoning of the subject property to provide a stormwater management facility for its proposed industrial development. The proposed development would be located across Dickson Road to create an industrial park with two buildings. The buildings would provide office and warehouse space with most of the building space being dedicated to warehouse space

If Council approves the rezoning, the following stipulations and variance would be incorporated as conditions of zoning:

Letter of stipulations from Sams, Larkin, Huff & Balli, to Shelby Little, Planning & Zoning Manager, for the City of Marietta, dated December 21, 2018, except that stipulation #2 shall be amended to state that the black chain link fence shall be a minimum height of 6 ft.

*Variance to reduce the minimum lot width from 100 ft. to 47.14 ft. [§708.26 (H)]
Variance to reduce the required landscaped buffer from 50 ft to 0 ft. [§708.26 (I)]*

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

A motion was made by Council member Kelly, seconded by Council member Chalfant, to approve the rezoning request for property located at 451 Dickson Road from R-2 (Single Family Residential - 2 units/acre) to LI (Light Industrial), with the letter of stipulations and requested variances incorporated as conditions of zoning.

The motion carried by the following vote:

Vote: 7 – 0 – 0 Approved

RESOLUTIONS:

CITY ATTORNEY'S REPORT:

*** 20181407 Denial of Claim**

Denial of Claim for Fernando and Tara Calvo, as natural parents of McKenna Calvo, a minor.

This Matter was Approved to Deny 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: Johnny Walker, Chairperson**
- 2. Finance/Investment: Joseph R. Goldstein, Chairperson**
- 3. Judicial/Legislative: G. A. (Andy) Morris, Chairperson**

* **20181367 Revised Detailed Plan - Manget Ph. IV Elevations**

Motion to approve the request by Brock Built for approval of the attached house elevations for Phase 4 of the Manget development.

In order to ensure that homes built within the Manget development are built consistent with the 4-Sided Architecture definition, the following language shall be adopted. The homes in the community shall be traditional in nature, and consistent with the house elevations submitted and signed by Brock Built Homes and approved by the City of Marietta, dated January 9, 2019. Design features, standards, and requirements incorporated in the homes shall be as follows:

- a. Mixture of materials, with material changes taking place on the interior corners or where roof massing accommodates the change of materials. Mixture of the materials should continue, as appropriate, onto the side and rear elevations, i.e. water tables.
- b. Window muntins appropriate to the style of the home on all four sides of the residence.
- c. Shutters on front, side and rear elevations of the homes, where they can be seen from public or private streets or alleys, and where functionally appropriate.
- d. There shall be a maximum of 20 feet horizontally and vertically between architectural fenestration elements (windows, false shutters, change of material, etc.), except on basement level. This will eliminate large expanses of a single material without a break and add architectural interest to the elevations.

In the event of a disagreement as to being four-sided architecture, the City Manager of the City of Marietta, GA shall be the final arbiter of the plan meeting the criteria.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved

- * **20181368** **Final Plat - Scarlet Oaks**
- Motion to approve the final plat for Scarlet Oaks (formerly Sun Lucas), a 12 lot subdivision located at 770, 780, 786, & 790 Powers Ferry Road.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 **Approved**

- * **20181369** **Final Plat - Sessions Walk**
- Motion to approve the final plat for Sessions Walk (formerly Sessions Street Townhomes), a 19-unit townhome development at 425 North Sessions Street.

This Matter was Approved on the Consent Agenda.

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

- * **20181372** **Revised Detailed Plan - Belaire Apartments (825 Powder Springs St)**
- Motion to approve the request by Belaire Apartments LLC to add six (6) “efficiency style” units at 825 Powder Springs Street by finishing the basement of Building #1100. This would increase the number of apartment units from 170 to 176.

This Matter was Approved on the Consent Agenda.

Vote: 5 – 2 – 0 **Approved**
Voting Against: Grif Chalfant and Joseph R. Goldstein

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

5. Personnel/Insurance: Cheryl Richardson, Chairperson

6. Public Safety Committee: Reggie Copeland, Chairperson

7. Public Works Committee: Grif Chalfant, Chairperson

- * **20181375** **Lovena Drive Utilities**
- Motion authorizing variance from the underground utilities ordinance allowing a replacement utility pole at the first pole south of 461 Lovena Drive. This motion does not grant a perpetual variance. Cobb EMC must relocate underground at their expense if other utilities at the location are moved underground.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

* **20181376 Summerour Street Parking**

Motion authorizing the installation of no parking signs along both sides of Summerour Street at 363 Summerour Street.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

* **20181293 68 N. Marietta Parkway Cable Easement**

Request by Comcast for an easement to install underground utility service across City owned property to service the new Marietta Market.

Council Member Goldstein discloses that Marietta Square Market, LLC is a tenant of Philip M. Goldstein in another property. Council Member Goldstein further discloses that Philip M. Goldstein owns property around Denmead Street. Philip M. Goldstein is Council Member Goldstein's father.

Motion to Table the request by Comcast for an easement to install underground utility service across City owned property to service the new Marietta Market.

This Matter was Tabled on the Consent Agenda.

Vote: 6 – 0 – 1 Tabled

Abstaining: Joseph R. Goldstein

* **20181379 Cobb Parkway South Underground Utilities Variance**

Motion approving a variance from the underground utilities ordinance to allow the replacement of the overhead electric service lines at 1690 Cobb Parkway South. This motion does not grant a perpetual variance. The property owner must relocate underground at their expense if other utilities at the location are moved underground.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

20190026 Haley Street Speed Traffic Calming

Motion authorizing the installation of speed tables on Haley St using Ward 1 safety funds.

Public Hearing

City Attorney Doug Haynie opened the public hearing regarding this matter.

Public Works Director Dan Conn gave a brief overview of the events leading up to the public hearing for consideration of speed tables on Haley Street.

Mr. Haynie called forward those wishing to speak regarding the proposed speed tables.

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

A motion was made by Council member Richardson, seconded by Council member Kelly, to authorize the installation of speed tables on Haley Street. The motion carried by the following vote:

Vote: 6 – 1 – 0 Approved
Voting Against: Grif Chalfant

20190027 Waterman Street Speed Traffic Calming

Motion authorizing the installation of speed tables on Waterman St using Ward 1 safety funds.

Public Hearing

City Attorney Doug Haynie opened the public hearing regarding this matter.

Public Works Director Dan Conn gave a brief overview of the events leading up to the public hearing for consideration of speed tables on Waterman Street.

Mr. Haynie called forward those wishing to speak regarding the proposed speed tables.

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

A motion was made by Council member Richardson, seconded by Council member Kelly, to authorize the installation of speed tables on Haley Street. The motion carried by the following vote:

Vote: 6 – 1 – 0 Approved
Voting Against: Grif Chalfant

OTHER BUSINESS:**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.

Mayor Tumlin called on Assistant City Attorney Daniel White to hold the public hearing.

Assistant City Attorney Daniel White opened the hearing and swore in those wishing to speak. Mr. White explained the appeals process related to variance requests approved and/or denied by the Board of Zoning Appeals. This request relates to 347 Cherokee Street was approved by the BZA on November 26, 2018. Ms. Amanda Gann, the adjacent neighbor requests to have her concerns heard in a de novo hearing, as stated under the Zoning Ordinance 720. Council may approve, modify and approve, or reject the determination made by the Board.

At the November 26, 2018 Board of Zoning Appeals meeting, the applicant, Kelly King, was granted a variance to be able to keep a fence located less than the required 2 ft. from the front property line. The Board approved the variance, with stipulations giving the applicant two options to modify the fence so that it would be less of an obstruction. Ms. Gann, the adjacent neighbor who was in opposition to the variance request, expressed safety concerns when pulling in and out of her driveway.

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

Discussion was held by Council regarding the location of the fence and arch on the subject property and whether they posed a safety issue. There was general agreement to allow the parties to work with the Public Works Department to determine if this matter can be resolved.

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

Vote: 6 – 1 – 0 Tabled
Voting Against: Michelle Cooper Kelly

20190014 Variance Stipulation Amendment - 2168 Kingston Court

Motion to amend the stipulation from V2012-11 to allow existing Billboard sign to remain at 2168 Kingston Court.

Discussion was held regarding the request for a variance stipulation amendment for 2168 Kingston Court.

A motion was made by Council member Chalfant, seconded by Council member Morris, to amend the stipulation from V2012-11 to allow existing Billboard sign to remain at 2168 Kingston Court.

Further discussion was held regarding the motion. Council member Chalfant clarified the motion.

Motion to amend the stipulation from V2012-11 to allow the currently existing single faced billboard sign, identified as sign #2 in the original stipulations, to remain at 2168 Kingston Court for "Home2 Suites" advertisement only.

The motion was made by Council member Chalfant, seconded by Council member Morris, that this matter be Approved as Amended.

Vote: 4 – 3 – 0

Approved as Amended

Voting Against: Cheryl Richardson, Reggie Copeland and Joseph R. Goldstein

* **20190015**

994/1010 Roswell Street

Motion to approve First Amendment to Agreement for the Sale and Purchase of Real Estate between the City of Marietta, as Seller, and Peachtree Asset Management, LLC.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved

* **20190022**

686 Powder Springs

Motion authorizing acquisition of a portion of property and easements at 686 Powder Springs Street from Realty Income Corporation for the purpose of constructing the Powder Springs Streetscape - Sandtown Rd to S Marietta Parkway Project in exchange for \$12,600.00 and stipulations as listed below.

1. The driveway and temporary construction easements shall terminate upon the earlier of (a) one year from the start of construction on the property; or (b) completion of construction on the property.
2. Owner reserves the right to comment upon and negotiate the City's proposed conveyance documents.
3. The City's Work shall be conducted in compliance with applicable laws and in conformity with engineering standards. The road work shall not impede pedestrian or vehicular access to/from the Property without prior coordination with the property owner and/or tenant or impair the visibility or otherwise impact any freestanding signage situated on the Property.
4. City, at its sole cost and expense, shall restore the Property to the condition as it existed prior to City's entry onto the Property and performance of the City's Work. Provided that Grantor gives Grantee notice within fifteen (15) days after

the termination or expiration of the easement(s) specifying any deficiencies related to the performance of city work, city's obligation to restore the property shall survive termination or expiration of the easement(s) and Grantee shall be given a reasonable time thereafter to correct the city's performance of the work. The city reserves the right to comment upon any deficiencies.

5. Grantor makes no representations or warranties of any kind, either express or implied, with respect to the Property or condition thereof.

6. City accepts the Property as is, where is, with all faults.

7. Current plans indicate that the sign on the property will not be impacted.

However, should the sign be impacted, Owner will provide a commercially reasonable quote for the City of Marietta to replace the sign in accordance with City Code requirements and City will pay the same to Owner, along with any reasonable additional costs actually expended upon completion of the sign repair or replacement work.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved

* **20190023**

1501 Canton Road

Motion authorizing acquisition of a portion of property and an easement at 1501 Canton Road from Circle A Fences, Inc. for the purpose of constructing the Intersection of Canton Road and Sawyer Road Project in exchange for the stipulations as listed below.

1. Curb cut (curb and gutter) to be installed at 1525 Canton Road by City at drive during construction.

2. Receipt for donation for tax deductible contribution

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved

* **20190024**

1525 Canton Road

Motion authorizing acquisition of a portion of property and an easement at 1525 Canton Road from Circle A Fences, Inc. for the purpose of constructing the Intersection of Canton Road and Sawyer Road Project in exchange for the stipulations listed below.

1. Curb cut (curb and gutter) to be installed by City at drive during construction.

2. Receipt for donation for tax deductible contribution.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved

* **20190025** **1186 Allgood Road**

Motion authorizing acquisition of a portion of property and easements at 1186 Allgood Road from William G. Parsons for the purpose of constructing the Intersection of Allgood Road and Sawyer Road Project in exchange for \$4,600.00 and stipulations as listed below.

1. In the event landscaping or fence is damaged during construction, contractor or the City will replace with like kind fence and landscaping of same size and structure.
- 2.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

* **20190028** **324 Fairground Street**

Motion to authorize staff and the city attorney to commence the process to acquire the following property by means of eminent domain: portion of property and an easement at 324 Fairground Street from Edith Camacho Goicochea & Cosme Alvarado for the purpose of constructing Fairground St - South Marietta Parkway to Roswell Street (Fairground B) Project.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

* **20190029** **20 S. Fairground Street**

Motion to authorize staff and the city attorney to commence the process to acquire the following property by means of eminent domain: portion of property and an easement at 20 S. Fairground Street from Tommy Sue & Jimmy B. Richardson for the purpose of constructing the Fairground St - South Marietta Parkway to Roswell Street (Fairground B) Project.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

* **20190030** **601 Powder Springs Street**

Motion to authorize staff and the city attorney to commence the process to acquire the following property by means of eminent domain: portion of property and an easement at 601 Powder Springs Street from Anthony Williams for the purpose of constructing the Powder Springs Streetscape - Sandtown Rd to S Marietta Parkway Project.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

*** 20190073 Drive Shack Marietta, LLC Termination Agreement**

Motion to approve the Termination Agreement effective as of January 9, 2019, by and between The City of Marietta and Drive Shack Marietta, LLC.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

*** 20181406 BLW Actions of January 7, 2019**

Review and approval of the January 7, 2019 actions and minutes of Marietta Board of Lights and Water.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

UNSCHEDULED APPEARANCES:

ADJOURNMENT:

The meeting was adjourned at 9:34 p.m.

Date Approved: February 13, 2019

R. Steve Tumlin, Mayor Tumlin

Attest: _____
Stephanie Guy, City Clerk