

1. Agenda

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# City of Marietta

205 Lawrence Street  
Post Office Box 609  
Marietta, Georgia 30061

## Meeting Agenda CITY COUNCIL

*R. Steve Tumlin, Mayor*  
*Cheryl Richardson, Ward 1*  
*Grif Chalfant, Ward 2*  
*Johnny Walker, Ward 3*  
*G. A. (Andy) Morris, Ward 4*  
*Reggie Copeland, Ward 5*  
*Michelle Cooper Kelly, Ward 6*  
*Joseph R. Goldstein, Ward 7*

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Wednesday, July 8, 2020

7:00 PM

Council Chamber

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### CALL TO ORDER:

### INVOCATION:

*Council Member Michelle Cooper Kelly, Ward 6*

### PLEDGE OF ALLEGIANCE:

### PRESENTATIONS:

**20200598** Acknowledgement of Council Member Michelle Cooper Kelly being Elected to the Position of GMA's Third Vice President

### PROCLAMATIONS:

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

*Public Health Alert from Cobb & Douglas Public Health*

### SCHEDULED APPEARANCES:

**Each speaker is allotted five (5) minutes.**

**20200536** Scheduled Appearance  
Scheduled Appearance - Donald Barth

**20200568      Scheduled Appearance**

Scheduled Appearance - Trina Griffiths

**CONSENT AGENDA:**

**Consent agenda items are marked by an asterisk (\*). Consent items are approved by majority of council. A public hearing will be held only for those items marked by an asterisk that require a public hearing (also noted on agenda).**

**MINUTES:****\*      20200562      Regular Meeting - June 10, 2020**

Review and approval of the June 10, 2020 regular meeting minutes.

**MAYOR'S APPOINTMENTS: (for informational purposes only)****CITY COUNCIL APPOINTMENTS:****\*      20200545      Cobb-Marietta Water Authority Appointment**

Motion appointing Council Member Grif Chalfant to the Cobb-Marietta Water Authority for a term of four (4) years, beginning August 15, 2020 and expiring August 14, 2024.

**ORDINANCES:**

**20200345      Z2020-19 [REZONING] PULTE HOME COMPANY, LLC**

**Z2020-19 [REZONING] PULTE HOME COMPANY, LLC** is requesting the rezoning of 3.8 acres located in located in Land Lots 290, District 17, Parcel 0640 of the 2nd Section, Cobb County, Georgia, and being known as 521 Atlanta Street from OI (Office Institutional) to PRD-SF (Planned Residential Development - Single Family). Ward 1A.

*The Planning Commission recommends Approval as Stipulated.  
TABLED from the City Council Meeting on June 10, 2020.*

*Mr. Diffley made a motion, seconded by Mr. Anderson to recommend approval as submitted including the letter of stipulations dated May 22, 2020, except that item #4 be amended to restrict the number of leasable units at any one time to no more than five percent. The motion carried 7-0-0.*

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

*Letter of stipulations and variances from Rob Hosack and James A. Balli, Taylor English Decisions, LLC to Shelby Little, Planning & Zoning Manager for the City of Marietta, dated June 5, 2020.*

**Public Hearing (all parties are sworn in)**

**20200367      Z2020-24 [REZONING] BERCHER HOMES, LLC**

**Z2020-24 [REZONING] BERCHER HOMES, LLC** is requesting the rezoning of 0.43 acres located in Land Lot 1231, District 16, Parcels 0260 & 0270 of the 2nd Section, Cobb County, Georgia, and being known as 224 & 226 Crescent Circle from OI (Office Institutional) to PRD-SF (Planned Residential Development - Single Family). Ward 3A.

*The Planning Commission recommends Approval as Stipulated.  
TABLED from the City Council Meeting on June 10, 2020.*

*Mr. McClure made a motion, seconded by Mr. Diffley to recommend approval including the letter of stipulation from Mr. Moore dated May 29, 2020. The motion carried 7-0-0.*

*Applicant submitted a new stipulation letter on July 6, 2020.*

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

*Letter of stipulations and variances from J. Kevin Moore of Moore Ingram Johnson & Steele to Shelby Little, Planning & Zoning Manager for the City of Marietta, dated July 6, 2020.*

**Public Hearing (all parties are sworn in)**

**20200167      Z2020-13 [REZONING] CAMPUS REALTY ADVISORS, LLC (HARTWOOD INVESTMENTS, LLC)**

**Z2020-13 [REZONING] CAMPUS REALTY ADVISORS, LLC (HARTWOOD INVESTMENTS, LLC)** are requesting the rezoning of 9.57 acres located in Land Lots 505 & 576, District 17, Parcels 0170, 0720, 0710, 0700, & 0690 of the 2nd Section, Cobb County, Georgia, and being known as 315 Frey's Gin Road and 1222, 1230, 1238, & 1246 Banberry Road from PRD-SF (Planned Residential Development - Single Family) to PRD-MF (Planned Residential Development - Multi Family). Ward 7A.

*The Planning Commission recommends Approval as Stipulated*

*Mr. Diffley made a motion, seconded by Mr. Anderson to recommend approval as stipulated. The motion carried 5-0-0.*

*Letter of stipulations and variances from J. Kevin Moore of Moore Ingram Johnson & Steele to Shelby Little, Planning & Zoning Manager for the City of Marietta, dated June 30, 2020. The access on Banberry Road will be restricted to emergency vehicles only and an additional access point will be opened onto Kathleen Drive.*

*Applicant submitted a new stipulation letter on July 6, 2020.*

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

*Letter of stipulations and variances from J. Kevin Moore of Moore Ingram Johnson & Steele to Shelby Little, Planning & Zoning Manager for the City of Marietta, dated July 6, 2020. The access on Banberry Road will be restricted to emergency vehicles only and an additional access point will be opened onto Kathleen Drive.*

**Public Hearing (all parties are sworn in)**

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

\*      **20200600      Denial of Claim**

Denial of Claim for Mouloud Mohammedi.

**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**

**20200528 Detailed Plan for Booth Road at Powder Springs Street (887 Powder Springs Street)**

Motion to approve the detailed plan for a 51-unit detached single family residential development at Booth Road and Powder Springs Street with the following conditions:

1. Variance to allow a fire pit as the required active amenity area.
2. Modification of the attached elevations to include faux shutters with trim along the lower level of the right elevation to comply with four sided architecture.

**\* 20200455 Contractual Agreements with DMDA & Marietta Visitors Bureau**

1. Motion to approve the Lease Agreement between the City of Marietta, as Landlord, and the Marietta Welcome Center, Inc., as Tenant, for property known as 4 Depot Street, Marietta, Georgia.
2. Motion to approve the Intergovernmental Agreement between the Downtown Marietta Development Authority, as Landlord, and the City of Marietta, as Tenant, for the Mill Street Parking Lot.

*Council member Joseph Goldstein opposed*

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

**\* 20200362 Whitaker Park Funding Request**

Motion to adopt an ordinance amending the Whitaker Estate budget for FY21 not to exceed an expenditure of \$9,085 to modify the supports and replace the damaged fabric on the shade structure over the playground equipment at Whitaker Park.

**5. Personnel/Insurance: Cheryl Richardson, Chairperson****6. Public Safety Committee: Reggie Copeland, Chairperson****7. Public Works Committee: Grif Chalfant, Chairperson**

- \*     **20200411**     **Proposed Revision to the Water Use Ordinance for Commercial Car Wash Recycling**
- Motion for the City of Marietta to adopt the revised Water Use Ordinance for Commercial Car Wash Recycling.
- Second Reading*
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- \*     **20200412**     **Proposed Wastewater/Sanitary Sewer System Ordinance**
- Motion for the City of Marietta to adopt the addition of a new Ordinance of the Wastewater/Sanitary Sewer System prohibiting decentralized wastewater systems.
- Second Reading*
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- \*     **20200414**     **Proposed Revision to the Water Use Ordinance for Large Landscape Irrigation Systems**
- Motion for the City of Marietta to adopt the revised Water Use Ordinance for Large Landscape Irrigation Systems.
- Second Reading*
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- \*     **20200515**     **Sequoia Drive No Parking Area**
- Motion authorizing a no parking zone to be installed along Sequoia Drive between the Iroquois Drive/Sequoia Drive intersection and the Kiowa Drive/Sequoia Drive intersection on both sides of the street.
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- \*     **20200516**     **Hardage Trace Speed Study**
- Motion authorizing Public Works to conduct the speed study of the Hardage Trace area to determine if traffic calming devices are needed.
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- \*     **20200517**     **Woolco Drive Speed Limit**
- Motion authorizing the establishment and posting of a 30 MPH speed limit along the entire length of Woolco Drive for both directions of travel between Roswell Road and Gresham Road.



\*      **20200519      Pauladean Circle Utilities**

Motion authorizing variance from the underground utility's ordinance allowing a new utility pole at the property line of 291 and 295 Pauladean Circle. 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.

\*      **20200520      Wylie Road Underground Utilities Variance**

Motion to deny the request from Cobb EMC to receive a variance to City Code Section 5-4-160 Underground Utilities ordinance. Request is to allow the installation of five (5) new poles along the right-of-way at 605 and 671 Wylie Road, one (1) new pole at 662 New Hope Road, and for the installation of 1,551 feet of new overhead service conductors.

\*      **20200521      N. Fairground Street Utilities**

Motion authorizing a variance from the Underground Utilities ordinance to allow the installation of fiber to be over lashed on existing fiber across North Fairground Street from the corner of Rigby Street and North Fairground Street (528 Rigby Street) to 230 North Fairground Street. This motion does not grant a perpetual variance. Zayo Group must relocate underground at their expense if other utilities at the location are moved underground.

\*      **20200524      Kennesaw Avenue Improvements**

Motion authorizing Public Works to construct the Kennesaw Avenue Improvements Options 1 through 6 as selected by Council.

\*      **20200532      Authorization of the Expenditure of Additional TAD Funds for Manget Neighborhood Improvements**

Motion to approve an additional TAD expenditure of \$23,335 for the relocation of Crown Castle's aerial fiber in the Manget Neighborhood.

*Council Member Goldstein discloses that PMG Family, LLC and JRG Marietta Parkway, LLC own properties in the Center City South Renaissance Tax Allocation District. Council Member Goldstein is an owner of both PMG Family, LLC and JRG Marietta Parkway, LLC.*

*Council Member Joseph Goldstein Abstaining*

**OTHER BUSINESS:**

\* **20200592**      **Sunday Alcohol Sales - House Bill 879**

Motion to table to the next Judicial Legislative Committee consideration of House Bill 879 relating to changes in state alcohol laws.

\* **20200584**      **Iroquois and Chicopee Drive Traffic Calming**

Motion authorizing Public Works to install stop signs at the intersection Iroquois and Chicopee Drive to make this a 3-way stop intersection.

**20200597 Fairground St - South Marietta Parkway to Roswell Street (Fairground B)  
Project Parcel 34 - Marietta Properties LLC - 68 S. Fairground Street**

Motion authorizing acquisition of a portion of property and driveway easement at 68 S. Fairground Street from Marietta Properties LLC for the purpose of constructing the Fairground St - South Marietta Parkway to Roswell Street (Fairground B) Project in exchange for \$7,200.00 plus an additional \$300.00, reimbursable within 20 days of a completed survey, and the stipulations listed.

1. Ingress and egress shall be maintained throughout the duration of the project and shall be coordinated with owner and/or tenants. One of the two driveways shall be open at all times while construction is pending in front of the property. Construction directly in front of 68 S Fairground Street shall take no longer than three consecutive months.
2. Temporary Easements granted shall expire upon the earlier of 1) within two years of beginning of project or 2) September 1, 2022.
3. Driveway aprons will be constructed so that vehicles do not "bottom-out" or have to slow down to enter or exit the Property during use and so that it is a smooth transition (no dip or bump) into the Property from the Street.
4. Owner has agreed, for an additional \$2,500.00 (included in the counteroffer), to address any impact to parking spot number 1.
5. Owner shall be reimbursed by City in the amount of \$300 the cost of a new survey and setting the pins at the corners of the Property on Fairground Street within twenty (20) days of submitting a copy of the invoice from the Surveyor.
6. Owner shall provide the original document of Exhibit F, attached hereto and made a part hereof for City to file at closing as consent by the Mortgage holder. At closing, Owner shall convey the Right of Way by the Quit Claim deed attached as Exhibit D and made a part hereof and the Easement by the Temporary Driveway Easement attached as Exhibit E and made a part hereof.
7. Property herein means 68 S Fairground Street, Marietta, Georgia 30060 (a/k/a Parcel 34 of the project) that is owned by Marietta Properties, LLC.
8. Method of conveyance of the 330 square feet for right of right of way shall be a quit claim deed in the form set forth in Exhibit D, attached hereto and made a part hereof. The temporary driveway easement (which shall be in the form set forth in Exhibit E, attached hereto and made a part hereof) as well as the conveyance by quitclaim deed shall be subject to the retention by Owner of any access for the curb cuts as well as existing easements or utilities serving the Property or of record and both shall be subject to access for the curb cuts as well as any existing easements or utilities serving the Property or of record.
9. Any Social Security number or EIN# provided to the City shall not be placed on any public document and shall be kept confidential and shall be provided only at closing.
10. The settlement of this taking shall not be admissible, discussable., relevant, or otherwise mentioned in the case of in the City of Marietta v. Philip Goldstein, et al. {13-1-0582-99) case or in any other matter pending between the City of Marietta and Philip M. Goldstein.

*Council Member Goldstein discloses that 68 South Fairground Street, Marietta, Georgia 30060 is owned by Marietta Properties, LLC. Marietta Properties, LLC is owned by Philip M. Goldstein. Philip M. Goldstein is the father of Council Member Goldstein.*

**20200599 Fairground St - South Marietta Parkway to Roswell Street (Fairground B)  
Project Parcel 33 - Native Descendants Heritage, LLC - 102 S. Fairground Street**

Motion authorizing acquisition of a portion of property and easements at 102 S. Fairground Street from Native Descendants Heritage, LLC for the purpose of constructing the Fairground St - South Marietta Parkway to Roswell Street (Fairground B) Project in exchange for \$45,302.00 and the stipulations listed.

1. The City will re-install all three driveway entrances.
2. The Owner's counteroffer includes \$19,800.00 for the sign estimate.
3. The Owner's counteroffer includes \$1,000.00 for the replacement of two bollards at the southernmost driveway.
4. The Owner's counteroffer includes \$15,000.00 for the loss of six parking spaces.
5. Entering and exiting of the premises shall be maintained throughout the duration of the proposed project and shall be coordinated with the owners. Two driveways shall always be open while construction is pending at the front of the property. Construction directly in front of 102 S Fairground Street shall take no longer than 3 consecutive months.
6. Temporary Easements granted will expire upon the earlier of 1) within 2 years of beginning of project or 2) September 1, 2022.
7. Driveway aprons will be constructed so that vehicles do not "bottom-out" or have to slow down to enter or exit the Property during use and so that it is a smooth transition into the property from the street.
8. Owner shall be compensated for the loss of Six (6) premium parking spots for the amount of \$2500.00 per parking spot. (as noted in item 4 above).
9. Owner shall be reimbursed by the City a reasonable amount for the cost of a new survey and setting the pins at the corners of the Property on 102 Fairground Street within twenty (20) days of submitting a copy of the invoice from the Surveyor.
10. The City shall provide the consent, deed or approval for the Mortgage holder to sign approving the deeding of the ROW and easement to the City by the Owner. Owner shall coordinate all details with the Mortgage holder in order to obtain the release from the Mortgage holder including any release funds due the Mortgage holder if any.
11. Property herein means 102 S. Fairground Street, Marietta Georgia 30060 (aka Parcel 33 of the project as listed in Exhibit "A").
12. Method of conveyance of the 605 square feet for the right of right away shall be a quit claim deed. The temporary easement as well as the conveyance by deed shall be subject to the retention by Owner of any existing easements or utilities serving the Property or of record and both shall be subject to any existing easements or utilities serving the Property or of record.
13. The City will be responsible to repair or replace any damage to the Property and or Utilities impacted by site improvements, proximity damages, and consequential damages so that the affected areas are of the same, or better condition of the Property before the start of project.
14. The City, or any contractors, subcontractors or affiliates vendors for the City used during the Project are not to park or store vehicles, equipment, materials, or interfere in a way that restricts day to day operations of business, or utilizes additional Property other than what is stated in the Agreement.

\*      **20200593      Precinct Polling Place Change**

Motion to approve an Ordinance making a boundary change to divide Marietta 3A precinct to form the Marietta 3B precinct. The polling place location for Marietta 3B will be located at Iglesia Misionera Asambleas De Dios, 1021 Oregon Trail, Marietta, GA 30008. The remaining portion of Marietta 3A will continue to vote at Pleasant Grove Missionary Baptist Church, 566 Whitlock Ave NW, Marietta, GA 30064.

*First Reading*

\*      **20200582      BLW Actions of July 6, 2020**

Review and approval of the July 6, 2020, actions and minutes of Marietta Board of Lights and Water.

**UNSCHEDULED APPEARANCES:**

**Each speaker is allotted five (5) minutes.**

**ADJOURNMENT:**