



# 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*

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Wednesday, April 12, 2023

7:00 PM

Council Chamber

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**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 Walker to give the invocation.*

### PLEDGE OF ALLEGIANCE:

*Everyone remained standing for the Pledge of Allegiance.*

### PRESENTATIONS:

20230322

#### Marietta Police Officers

Recognition of the newest officers to the Marietta Police Department:

Officer Caleb Childs

Officer Dwayne Presswood

Officer Alex Walters

Officer Aaron Wright

K-9 Officer Barney with his handler Officer Paul Hill

**Presented**

**20230345 Mount Paran Varsity Girls Volleyball**

Presentation by Mayor Tumlin and Council Member Andy Morris to Coach Selina Chancy and the Mount Paran Varsity Girls Volleyball team on winning the State Championship.

**Presented**

**20230347 Mount Paran Varsity Girls Basketball**

Presentation by Mayor Tumlin and Council Member Andy Morris to Coach Stephanie Dunn and the Mount Paran Varsity Girls Basketball team on winning the State Championship.

**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).**

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

*City Attorney Doug Haynie noted that there were no changes to the consent agenda.*

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

**Vote: 7 – 0 – 0**

**Approved**

**MINUTES:****\* 20230311 Regular Meeting - March 8, 2023**

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

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 – 0 – 0                      Approved**

**\* 20230324 Special Meeting - March 29, 2023**

Review and approval of the March 29, 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:****\* 20230343 Board of Lights and Water (BLW) Board Appointment**

Reappointment of Bruce E. Coyle to the Board of Lights and Water (BLW) Board for a four (4) year term, effective May 8, 2023 and expiring May 12, 2027.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 – 0 – 0                      Approved**

**ORDINANCES:****20230102 Z2023-04 [REZONING] TOTAL PROPERTY ADVISORS, LLC.****[Ord 8331](#)**

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

*Planning Commission recommends Approval as Stipulated*

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

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

*Variances:*

*1) Variance to waive the Purpose and Intent of the PRD SF district [§708.09 (A)]*

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

*Stipulation:*

- 1) Letter of stipulations and conditions from Mr. Parks Huff of Sams, Larkin and Huff, LLP., to Mr. Rusty Roth, City of Marietta Director of Development Services dated March 29, 2023.

*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 400 Booth Road from R-2 (Single Family Residential - 2 units/acre) to PRD-SF (Planned Residential Development - Single Family Residential).*

*Parks Huff of Sams, Larkin & Huff, LLP, representing the applicant, requested rezoning for the subject property to accommodate 37 single family detached residences on just over ten (10) acres yields a density of 3.7 units/acre. Mr. Huff explained that while this proposal is less dense than other recent residential housing developments being constructed, the intent of the PRD-SF zoning district to allow innovative land planning methods to help foster natural resource conservation and neighborhood cohesiveness by reducing vehicle trips and encouraging more pedestrian features. Mr. Huff also presented the proposed site plan, along with a letter of agreeable stipulations/conditions, dated April 12, 2023.*

*Those speaking regarding this matter:*

*Alan Sullivan, resident, Sugar Springs Subdivision  
Larry Will, Oakmont Drive*

*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 400 Booth Road from R-2 (Single Family Residential - 2 units/acre) to PRD-SF (Planned Residential Development - Single Family Residential).*

*The following stipulations are incorporated as a condition of zoning:*

1. Stipulation letter from Parks F. Huff of Sams, Larkin & Huff, LLP to Russell J. Roth, Director of Development Services for the City of Marietta, dated April 12, 2023.

*The following variances are incorporated as conditions of zoning:*

1. Variance to waive the Purpose and Intent of the PRD-SF district

2. Variance not to extend or connect a new street to an existing street.
3. Variance to allow proposed street not to extend to the boundary line of the tract in order to provide normal circulation of traffic within the vicinity.
4. Variance to allow a cul-de-sac road to exceed 700 feet in length.

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

**Vote: 7 – 0 – 0**

**Approved as Amended**

**20230139**

**Z2023-05 [REZONING] WC ACQUISITIONS, LLC.**

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

*Planning Commission recommends Approval as Stipulated*

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

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

*Variance:*

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

*Stipulation:*

- 1) *Letter of stipulations and conditions from Mr. Garvis Sams, Jr. of Sams, Larkin and Huff, LLP., to Mr. Rusty Roth, City of Marietta Director of Development Services dated March 8, 2023.*

*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 1122 Powers Ferry Road from CRC (Community Retail Commercial) to MXD (Mixed Use Development).*

*Parks Huff of Sams, Larkin & Huff, LLP, representing the applicant, requested rezoning for the subject property to construct a 5-story, 322-unit apartment building with 6,000 square feet of retail space on the 4.8-acre site. Currently, the property is occupied by a 50,000 square foot Kroger grocery store, built in 1982. The proposed 322-unit multi-family development combines residential with a retail component and is organized under a holistic master plan. Mr. Huff also presented the proposed site plan, along with a letter of agreeable stipulations/conditions, dated March 8, 2023.*

*Those speaking regarding this matter:  
Donald Barth, St. John's Avenue*

*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 1122 Powers Ferry Road from CRC (Community Retail Commercial) to MXD (Mixed Use Development), with following stipulations incorporated as a condition of zoning:*

*Stipulation letter from Garvis L. Sams, Jr. of Sams, Larkin & Huff, LLP to Russell J. Roth, Director of Development Services for the City of Marietta, dated March 8, 2023.*

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

**Vote: 5 – 2 – 0**                      **Approved as Amended**  
Voting Against: Johnny Walker and Andy Morris

*Mayor Tumlin vetoed the motion. (The official veto is on file in the City Clerk's Office.)*

*City Attorney Doug Haynie explained the veto process, stating that it would take five (5) votes to override a veto.*

**A motion was made by Council member Goldstein, seconded by Council member Richardson, to override the Mayor's veto.**

**The motion failed by the following vote:**

**Vote: 4 – 3 – 0**                      **Failed**  
Voting Against: Grif Chalfant, Johnny Walker and Andy Morris

## **RESOLUTIONS:**

### **CITY ATTORNEY'S REPORT:**

\*      **20230279**                      **Denial of Claim**

Denial of Claim for Barry Hamby.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 – 0 – 0**                      **Approved to Deny Claim**

- \* **20230333**      **Denial of Claim**
- Denial of Claim for Ava Jones.
- 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**

- \* **20230280**      **PY2023-2027 Consolidated Plan**
- Res 1727**      Motion to approve the CDBG PY2023-2027 Consolidated Plan, which includes the PY2023 Annual Action Plan and PY2023-2027 Citizen Participation Plan.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 – 0 – 0**                      **Approved**

**2. Finance/Investment: Joseph R. Goldstein, Chairperson**

- \* **20230276**      **Tree Preservation Fund (Roper Laser Co., Inc.)**
- [Ord 8330](#)      Motion to approve an Ordinance for an amendment to the Fiscal Year 2023 Tree Preservation Fund Budget to receive and appropriate a payment of \$990.00 for tree removal at 1171 South Marietta Parkway.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 – 0 – 0**                      **Approved**

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

- \* **20230275**      **Code Amendment - Section 714.04, Fences and walls**
- Motion to authorize staff to advertise a code amendment for Section 714.04, Fences and walls.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 – 0 – 0**                      **Approved**

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\* **20230304**      **Zoning Waiting Period - 750 James St & 630 Tower Road**

Motion to waive the 6-month waiting period established by §722.01 (B) to allow a second rezoning request to be submitted for 750 James Street and 630 Tower Road. This property was rezoned from R-2 to RA-8 on January 11, 2023 per Z2023-02 (#20221089).

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 – 0 – 0                      Approved**

\* **20230287**      **Marietta History Center’s Collection**

Motion approving the request from the Marietta History Center for the permanent removal of items from its collection.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 – 0 – 0                      Approved**

**20230325**      **Moratorium for Apartments/Multifamily**

Motion to approve a six-month moratorium on apartments/multifamily dwellings to allow for a study to be conducted regarding the appropriate zoning category and direct staff to develop definitions and conditions upon which the moratorium should stay in effect and/or expire. Further, authorizing staff to obtain a consultant to conduct the study if needed.

*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 proposed six-month moratorium on apartments/multifamily dwellings.*

*Those speaking regarding this matter were:*

*Donald Barth, St. John's Avenue*

*Eric Bishop, Kennesaw Avenue*

*Larry Wills, Oakmont Drive*

*Muhammad Sakhi, Hedges Street*

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

*Motion to approve a temporary emergency six-month moratorium on apartments/multifamily dwellings to allow for a study to be conducted regarding the appropriate zoning category and direct staff to develop definitions and conditions upon which the moratorium should stay in effect and/or expire. Further, authorizing staff to obtain a consultant to conduct the study if needed.*



*This moratorium is further adopted pursuant to legal advice from the City Attorney based upon Supreme Court precedent including Carson v. Brown and other similar cases. This Motion shall have no effect on any valid, previously filed application prior to this date, however, any previously filed valid application will be subject to any and all ordinances of the City of Marietta and shall be subject to the review of all zoning authorities, including the Mayor and Council.*

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

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

- \* **20230278                      Resolution to approve a Land and Water Conservation Fund Grant Pre-Application**  
**Res 1726**

A motion adopting a resolution authorizing the submittal of a 2023 LWCF pre-application to the DNR seeking a grant award of \$500,000 for improvements to West Dixie Park with a commitment to fund the remainder of the \$1.2 million project if the grant is awarded.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 – 0 – 0                      Approved**

- \* **20230288                      Marietta Arts Council Requests for TrailFest 2023**

Motion to approve the requests from the Marietta Arts Council to utilize city property for the 2023 TrailFest event, including the addition of Monarch Park instead of Brown Park and the installation of colored Lucite panels on the pedestrian bridge crossing the South 120 Loop without any wording.

**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**

- \* **20230270**      **Marietta Police Department Crisis Response Facility Canine Program**
- c/a 5164**      Motion to approve an Agreement between Marietta City Schools and the City of Marietta regarding Policies and Procedures (SOP# C023) within the Marietta Police Department Crisis Response Facility Canine Program.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 – 0 – 0**                      **Approved**

**7. Public Works Committee: Grif Chalfant, Chairperson**

- \* **20230285**      **Ramona Street On-Street Parking**
- Motion authorizing a no parking zone to be installed along the north sidewalk side of Ramona Street from Fairground Street to Allgood Road with an estimated cost of \$500.00. Ward 4B.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 – 0 – 0**                      **Approved**
- \* **20230286**      **Donation of Right-of-Way**
- Motion authorizing the Public Works to receive the donation of right-of-way located at 362 Lawrence Street per the Quitclaim Deed from TD Property Rentals1 LLC. Ward 5A.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 – 0 – 0**                      **Approved**

**OTHER BUSINESS:**

**20230253**      **V2023-07 [VARIANCE] MARIETTA FIRE DEPARTMENT**

V2023-07 [VARIANCE] MARIETTA FIRE DEPARTMENT is requesting variances for property zoned LI (Light Industrial), located in Land Lot 876, District 16, Parcel 0030, 2nd Section, Marietta, Cobb County, Georgia, and being known as 850 Sawyer Road. Variance to increase the allowable building height from 50' to 65'; variance to allow metal siding on building facades visible from an arterial or collector roadway; variance to allow wall signage cover more than 15% of the wall face. Ward 6B.

*Public Hearing (all parties sworn in)*

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

*Rusty Roth, Development Services Director, presented information regarding the variances requested for property at 850 Sawyer Road.*

*Fire Chief Tim Milligan requested variances to construct a 65' tall tower at the training facility at 850 Sawyer Road. The proposed new tower would be in the wooded area towards the center of the site. Should Council approve the request, the following variances would be granted: Variance to increase the allowable building height from 50' to 65'; variance to allow metal siding on building facades visible from an arterial or collector roadway; variance to allow wall signage cover more than 15% of the wall face.*

*Discussion was held by Council.*

*Motion to approve the following variances for property zoned LI (Light Industrial), located at 850 Sawyer Road:*

- 1. Variance to increase the allowable building height from 50' to 65.'*
- 2. Variance to allow metal siding on building facades visible from an arterial or collector roadway.*
- 3. Variance to allow wall signage cover more than 15% of the wall face.*

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

**Vote: 7 – 0 – 0                      Approved**

\*     **20230344                      City of Marietta Opioid Settlement - Publix**

**Res 1728**                      Motion to approve a Resolution to accept the statewide settlement with Publix concerning the National Prescription Opioid Litigation in the amount of \$73,077.00.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 – 0 – 0                      Approved**

\*     **20230312                      BLW Actions of April 10, 2023**

Review and approval of the March 10, 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:**

*Muhammad Sakhi, who resides on Hedges Street, addressed City Council.*

**ADJOURNMENT:**

*The meeting was adjourned at 8:25 p.m.*

**Date Approved:** May 10, 2023

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**R. Steve Tumlin, Mayor**

**Attest:** \_\_\_\_\_  
**Stephanie Guy, City Clerk**