



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, September 13, 2023

7:00 PM

Council Chamber

Presiding: R. Steve Tumlin, Mayor

Present: Grif Chalfant, Johnny Walker, Andy Morris, M. Carlyle Kent, Andre L. Sims, Joseph R. Goldstein and Cheryl Richardson (*attending telephonically*)

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 Chalfant to give the invocation.

PLEDGE OF ALLEGIANCE:

Everyone remained standing for the Pledge of Allegiance.

PRESENTATIONS:

20230715 2023 Harvard Debate Champion

Recognition of the outstanding accomplishment of Marietta High School Junior Trina Whitaker as the 2023 Harvard Debate Champion.

Presented

20230730 American Public Works Association (APWA) Accreditation

APWA Director Robert Garland will present National Accreditation of the Marietta Public Works Department to Mark Rice, Director of Public Works, and the Department will be recognized for recent Awards.

Presented

20230792 Hispanic Heritage Month

Recognition of La Parrilla Mexican Restaurants for their contribution to their communities. Hispanic Heritage Month (HHM) takes place September 15 to October 15 every year as a time to recognize and celebrate the many contributions, diverse cultures, and extensive histories of the American Latino community.

Tabled

PROCLAMATIONS:

20230784 2023 Public Power & Clean Water Week

Presentation of a Proclamation to Heidi Dasinger to recognize Marietta Power & Water for Public Power & Clean Water Week.

Presented

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

SCHEDULED APPEARANCES:

20230714 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).

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

City Attorney Doug Haynie noted changes to the consent agenda.

-under Other Business: Agenda item 20230791 was added to the consent agenda.

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

Vote: 7 – 0 – 0 Approved

MINUTES:

* **20230751 Special Meeting - August 9, 2023**

Review and approval of the August 9, 2023 Special Meeting minutes.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

* **20230752 Regular Meeting - August 9, 2023**

Review and approval of the August 9, 2023 Regular Meeting minutes.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

* **20230753 Executive Session Minutes**

Review and approval of the following executive session minutes:

August 30, 2022 Special Called Agenda Work Session
September 12, 2022 Agenda Work Session
November 7, 2022 Agenda Work Session
December 12, 2022 Agenda Work Session

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

MAYOR’S APPOINTMENTS: (for informational purposes only)

CITY COUNCIL APPOINTMENTS:

* **20230718 Marietta Development Authority Appointment**

Reappointment of Fran Sutton (Post 1) to the Marietta Development Authority, for a 2-year term expiring September 13, 2025.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

ORDINANCES:**20230668****Z2023-18 [REZONING] CAPITAL CITY PROPERTIES, LLC.****Ord 8345**

Z2023-18 [REZONING] CAPITAL CITY PROPERTIES, LLC. is requesting the rezoning of 0.27 acres located in Land Lot 1214, District 16, Parcel 0880 of the 2nd Section, Cobb County, Georgia, and being known as 695 Lawrence Street from OI (Office Institutional) to R-4 (Single-family Residential - 4 units/acre).

Planning Commission recommends Approval as Stipulated

Mr. Smith made a motion, seconded by Mr. Diffley, to recommend approval with stipulation. The motion carried with a vote of 7-0-0.

Upon Council's approval of the request to rezone, the following variances would be incorporated as conditions of zoning.

1. Variance to reduce the major side setback from 25 feet to 17.4 feet [§708.04 (H)];
 2. Variance to reduce the minor side setback from 10 feet to 3.7 feet [§708.04 (H)];
 3. Variance to reduce the distance of an accessory structure from the rear and side property lines from 10 feet to 2 feet and 4 feet, respectively [§708.04 (H)].
- (Stipulation that the driveway entrance and paving at the corner of Lawrence Street and Ayers Street will be removed and replaced with grass.)

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 695 Lawrence Street from OI (Office Institutional) to R-4 (Single-family Residential - 4 units/acre).

The applicant, Peter Bright, requested rezoning of the subject property so that it may be used as a residence for his sons to live there. The applicant states that he intends to update the building's kitchen, bathrooms, exterior, and landscaping as well as add a small deck off the kitchen. He would also like to convert the existing shed in the backyard to a garage and add a concrete driveway.

*Speaking regarding this matter:
Terrell Brown*

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

Discussion was held by Council.

A motion was made by Council member Richardson, seconded by Council member Walker, to approve the rezoning request for property located at 695 Lawrence Street from OI (Office Institutional) to R-4 (Single-family Residential - 4 units/acre), with the following variances and stipulations:

Variances:

1. Variance to reduce the major side setback from 25 feet to 17.4 feet.
2. Variance to reduce the minor side setback from 10 feet to 3.7 feet.
3. Variance to reduce the distance of an accessory structure from the rear and

side property lines from 10 feet to 2 feet and 4 feet, respectively.

Stipulations:

- 1. Driveway and paving at the corner will be removed and replaced with grass.*
- 2. The trees in the right of way will not be disturbed.*

An amendment to the motion was made by Council member Goldstein, seconded by Council member Kent, to change stipulation #1 to read, "Driveway and paving at the corner will be removed and replaced with grass according to attached site plan."

A motion to amend the amendment was made by Council member Kent, seconded by Council member Goldstein, to change stipulation #2 to read, "The two trees in the front yard will not be disturbed." The motion carried by the following vote:

Vote: 7 – 0 – 0 Approved

Mayor Tumlin called for a vote on the first amendment, as amended.

The motion carried by the following vote:

Vote: 7 – 0 – 0 Approved

Mayor Tumlin called for a vote on the original motion, as twice amended.

The motion was made by Council member Richardson, seconded by Council member Chalfant, to approve the rezoning request for property located at 695 Lawrence Street from OI (Office Institutional) to R-4 (Single-family Residential - 4 units/acre), with the following variances and stipulations incorporated as a condition of zoning:

Variances:

- 1. Variance to reduce the major side setback from 25 feet to 17.4 feet.*
- 2. Variance to reduce the minor side setback from 10 feet to 3.7 feet .*
- 3. Variance to reduce the distance of an accessory structure from the rear and side property lines from 10 feet to 2 feet and 4 feet, respectively.*

Stipulations:

- 1. Driveway and paving at the corner will be removed and replaced with grass according to attached site plan.*
- 2. The two trees in the front yard will not be disturbed.*

The motion carried by the following vote:

Vote: 7 – 0 – 0 Approved as Amended

20230674

Z2023-19 [REZONING] KENNY PROPERTIES, LLC.

Ord 8346

Z2023-19 [REZONING] KENNY PROPERTIES LLC is requesting the rezoning of 3.528 acres located in Land Lot 781, District 17, Parcel 0120 of the 2nd Section, Cobb County, Georgia, and being known as 2349 Windy Hill Road from GC (General Commercial - Cobb County) to CRC (Community Retail Commercial - City). Ward 7A.

Planning Commission recommends Approval

Mr. Diffley made a motion, seconded by Mr. Hunter, to recommend approval of the request to rezone. The motion carried with a vote of 7-0-0.

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 2349 Windy Hill Road from GC (General Commercial - Cobb County) to CRC (Community Retail Commercial - City).

The applicant, Kenny Properties, LLC, represented by Kevin Moore, requested rezoning and annexation of one parcel currently existing as a retail shopping center. The current business establishments in the retail strip mall are in line with the permitted uses detailed under the CRC zoning ordinance for the City of Marietta. The applicant has not proposed any new development plans for the site.

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

Discussion was held by Council.

Motion to approve the rezoning request for property located at 2349 Windy Hill Road from GC (General Commercial - Cobb County) to CRC (Community Retail Commercial - City).

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

20230675

Vote: 7 – 0 – 0

Approved

Ord 8347

A2023-01 [ANNEXATION] KENNY PROPERTIES, LLC.

A2023-01 [ANNEXATION] KENNY PROPERTIES, LLC. is requesting the annexation of property located in Land Lot 781, District 17, Parcel 0120 of the 2nd Section, Cobb County, Georgia, and being known as 2349 Windy Hill Road, consisting of 3.528 acres. Ward 7A.

Planning Commission recommends Approval

Mr. Diffley made a motion, seconded by Mr. Hunter, to recommend approval of the annexation request. The motion carried with a vote of 7-0-0.

Public Hearing (all parties sworn in)

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

The applicant, represented by Kevin Moore, requested that his presentation from the rezoning be incorporated for the annexation.

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

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

Vote: 7 – 0 – 0 Approved

20230676

CA2023-04 [CODE AMENDMENT] KENNY PROPERTIES, LLC.

Ord 8348

CA2023-04 [CODE AMENDMENT] KENNY PROPERTIES, LLC. In conjunction with the requested annexation of property located in located in Land Lot 781, District 17, Parcel 0120 of the 2nd Section, Cobb County, Georgia, and being known as 2349 Windy Hill Rd, the City Marietta proposes to designate the Future Land Use of said property as CAC (Community Activity Center). Ward 7A.

Planning Commission recommends Approval

Mr. Diffley made a motion, seconded by Mr. Hunter, to recommend approval of the code amendment in conjunction with the annexation. The motion carried with a vote of 7-0-0.

Public Hearing (all parties sworn in)

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

The applicant, represented by Kevin Moore, requested that his presentation from the rezoning be incorporated for the code amendment.

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

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

Vote: 7 – 0 – 0 Approved

RESOLUTIONS:

CITY ATTORNEY'S REPORT:

* **20230759 Denial of Claim**

Denial of Claim for Dwain Howard.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved to Deny Claim

* **20230788** **Denial of Claim**

Denial of Claim for Francisco Rojas Escalante.

This Matter was Approved on the Consent Agenda.

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

* **20230789** **Denial of Claim**

Denial of Claim for Lea Marietta, LLC.

This Matter was Approved on the Consent Agenda.

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

* **20230790** **Denial of Claim**

Denial of Claim for Mildred McCray.

This Matter was Approved on the Consent Agenda.

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

CITY MANAGER'S REPORT:

MAYOR'S REPORT:

COMMITTEE REPORTS:

- 1. Economic/Community Development: Andre L. Sims, Chairperson**
- 2. Finance/Investment: Joseph R. Goldstein, Chairperson**
- 3. Judicial/Legislative: G. A. (Andy) Morris, Chairperson**

* **20230720** **Detailed Plan - 400 Booth Road**

Motion to approve the detailed plan, including house elevations, for 400 Booth Road, which was rezoned in April 2023 for the development of 35 single family homes (Z2023-04) along a new private road.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 **Approved**

20230584 Charter Amendment to Section 3.3

Motion to amend City of Marietta Charter Section 3.3 to adopt a new ward boundary map pursuant to the 2020 decennial census.

Second Reading
Public Hearing (all parties sworn in)

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

The Redistricting Map titled Proposed Wards School and Parks Draft Option 2 was presented for consideration.

*Speaking regarding this matter:
Don Barth.*

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

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

Vote: 7 – 0 – 0 First Reading

* **20230367 Apartments/Multi-family Uses**

Motion to advertise a code amendment to revise Section 708.18, CBD, Central Business District.

Council Member Goldstein disclosed that he, his members of his family and/or entities that he and/or his family members own property in the Central Business District (CBD).

This Matter was Approved on the Consent Agenda.

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

* **20230642 Easement for Courthouse elevator staging and construction****Deed 5833**

Motion to approve a request from Cobb County for an easement adjacent to the Courthouse for elevator staging and construction.

This Matter was Approved on the Consent Agenda.

Vote: 6 – 1 – 0 Approved
Voting Against: Andy Morris

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

* **20230729** **Marietta Square Christmas Lights**

c/a 5202

Motion to redirect the already allocated \$11,571.00 in tourism funds originally given to the Branding Project, and request an additional \$7,429.00 for a total of \$19,000.00 to the City Services account to direct towards the purchase and installation of new lights. Further, to approve the Amended Welcome Center contract.

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 Council Member 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.

This Matter was Approved on the Consent Agenda.

Vote: 6 – 0 – 1 Approved

Abstaining: Joseph R. Goldstein

5. Personnel/Insurance: Cheryl Richardson, Chairperson

* **20230742** **2024 Employee Group Benefits Program Administration**

Motion approving the renewal of group health and dental plan administration with Anthem Blue Cross and Blue Shield, renewing stop-loss coverage with Voya, transferring the retiree Medicare Advantage plan to Aetna, renewal of pharmacy benefit management services with Express Scripts, renewing the life

and disability insurance with MetLife, and the renewal of the administrative services agreements with all other employee-funded ancillary providers for calendar year 2024. City contributions and active premiums will remain the same as last year.

Council Member Cheryl Richardson disclosed a conflict of interest as she is an authorized attorney for ARAG, which provides legal services as a benefit to City employees.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

*** 20230743 2024 Flexible Benefit Plan**

Motion approving the 2024 Flexible Benefit Plan, Summary Plan Description, and increasing the maximum allowable health contribution to \$3,050 with Total Administrative Services Corporation (TASC). Additionally, the maximum allowable health contribution is allowed to increase without further Council action should the IRS announce it after the approval of this motion.

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

20230735

Brookwood Drive Traffic Calming

Motion authorizing the Public Works to install three (3) speed tables, relocate one (1) existing driver feedback sign, addition of one (1) stop sign at the McNeel Court intersection, and additional 25 MPH speed limit signage on Brookwood Drive with an estimated cost of \$8,000.00. Ward 3A

Public Hearing (all parties sworn in)

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

Public Works Director Mark Rice summarized the proposal for Brookwood Drive traffic calming.

*Speaking regarding this matter:
Susan Latham*

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

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

Vote: 7 – 0 – 0 Approved

20230736

Manget Street Traffic Calming

Motion authorizing Public Works to lower the speed limit to 25 MPH on Manget Street from South Marietta Parkway to Waterman Street with an estimated cost of \$825.00. Ward 1A

Public Hearing (all parties sworn in)

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

Public Works Director Mark Rice summarized the proposal for Manget Street traffic calming.

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

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

Vote: 7 – 0 – 0 Approved

20230737 Proposed Code Addition to the Water Use Ordinance for Water Efficiency Code Requirements

Motion for the City of Marietta to adopt Section 6-8-3 for the Water Efficiency Code Requirements as mandated by the State.

Second Reading

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

Vote: 7 – 0 – 0

First Reading

*** 20230567 Red Light Camera Locations**

Motion to install red light camera at the intersection of Cobb Parkway S and S Marietta Parkway.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved

*** OTHER BUSINESS:****20230791 Enforcement Action against Murano Automotive Group - 1296 Carolyn Street**

Motion to authorize the city attorney to file an action for injunctive relief and claim for attorney's fees and court costs against Ana Carolina Murano and Gentil Murant (d/b/a Murano Automotive Group or Murano Auto Repair) and Fritzen Group, LLC seeking to enjoin the operation of an unlicensed auto repair business at 1296 Carolyn Street, Marietta, GA 30062.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved

*** 20230725 Municipal Electric Authority of Georgia (MEAG) Annual Subscription for Supplemental Power 2024**

c/a 5201

Motion to approve the recommendation by the Board of Lights and Water to approve the supplemental power supply nomination as presented and authorize the agreement for the 2024 Annual Subscription with MEAG accordingly.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved

* 20230785

BLW Actions of September 11, 2023

Review and approval of the September 11, 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:

Jennifer Anderson and Donte Cruz addressed City Council.

ADJOURNMENT:

The meeting was adjourned at 8:06 p.m.

Date Approved: _____

R. Steve Tumlin, Mayor

Attest: _____
Stephanie Guy, City Clerk