



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 14, 2022

7:00 PM

Council Chamber

Presiding: R. Steve Tumlin, Mayor

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

Also Present:

Bill Bruton, City Manager

Doug Haynie, City Attorney

Stephanie Guy, City Clerk

CALL TO ORDER:

Mayor R. Steve Tumlin called the meeting to order at 7:00 p.m.

INVOCATION:

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

PLEDGE OF ALLEGIANCE:

Everyone remained standing for the Presentation of Colors by the PD Honor Guard and Pledge of Allegiance.

PRESENTATIONS:

PROCLAMATIONS:

20220772

2022 Public Power & Clean Water Week

Presentation of a Proclamation by Mayor Tumlin, presented to Heidi Dasinger on behalf of Marietta Power & Water.

Presented

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

SCHEDULED APPEARANCES:

- 20220827 Scheduled Appearance**
- Scheduled Appearance - Ariadne Nikiforou
- Present**
- 20220828 Scheduled Appearance**
- Scheduled Appearance - Mickey King
- Present**
- 20220832 Scheduled Appearance**
- Scheduled Appearance - Freeda Williams
- Present**
- 20220833 Scheduled Appearance**
- Scheduled Appearance - Cristina Stallworth
- 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 the following changes to the consent agenda.

*-under Ordinances: Agenda item 20220726 was added to the consent agenda as
a Motion to Table.*

*-under Economic/Community Development: Agenda item 20220771 was added to
the consent agenda.*

*-under Judicial/Legislative: Agenda item 20220683 was added to the consent
agenda and amended to read, "Included in this Ordinance is the required waiver
set forth in 1-4-040 (L) whereby the City Council gives its unanimous consent to
authorize the adoption of this Ordinance at this City Council meeting without the
necessity of placing this matter on the following regular City Council meeting."*

* **20220830** **Historic Preservation Commission Appointment (Ward 7)**

Reappointment of Martin C. Kendall to the Historic Preservation Commission (Ward 7), for a three-year term expiring September 10, 2025.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

ORDINANCES:

* **20220726** **Z2022-22 [REZONING] SK COMMERCIAL REALITY**

Z2022-22 [REZONING] SK COMMERCIAL REALITY (MULTIPLE OWNERS) are requesting the rezoning of approximately 1.3 acres located in Land Lot 1075, District 16, Parcels 0870, 0070, 0860, 0940 & 0270 of the 2nd Section, Cobb County, Georgia, and being known as 330, 332, & 334 Roselane Street and 683 & 687 North Avenue from R-2 (Single Family Residential - 2 units/acre) to OI (Office Institutional). Ward 4B.

Planning Commission recommends Denial.

A motion was made by Ms. McCrae, seconded by Mr. Smith, to recommend denial. The motion carried 3 2 0. Mr. Diffley and Mr. Anderson opposed.

Should City Council approve the rezoning, the following variances would be incorporated as conditions of zoning:

- 1) Variance to reduce the required front yard setback on North Avenue from 30 feet to 10 feet [§708.23 (H.)]*
- 2) Variance to reduce the required planted strip along a public street from 10 foot minimum width to five (5) feet [§ 712.08 (Table G 1)]*
- 3) Variance to reduce the required buffer between OI and R 2 districts from 30 feet to 8 feet along the northern boundary of the property [§708.23 (I.)]*
- 4) Variance to reduce the required buffer between OI and R 2 districts from 30 feet to 10 feet along the southern boundary of the property [§708.23 (I.)]*
- 5) Variance to allow the buffer area not to be counted in addition to the setback requirement [§710.05 (F.)]*

Public Hearing (all parties sworn in)

Motion to Table.

This Matter was Approved to Table on the Consent Agenda.

Vote: 7 – 0 – 0 Tabled

20220751

CA2022-09 [CODE AMENDMENT] COMPREHENSIVE DEVELOPMENT CODE DIVISIONS 708, 712 & 724.

CA2022-09 [CODE AMENDMENT] Proposal to amend the Comprehensive Development Code of the City of Marietta, Section 708.16, Community Retail Commercial; Section 708.17, Regional Retail Commercial; Section 708.26, Light Industrial; Section 708.27, Heavy Industrial; Section 712.01, Special Land Use Permits; Section 712.06, Adult Entertainment; and Section 724.02, Definitions of terms regarding adult establishments.

Planning Commission recommends approval.

A motion was made by Mr. Hunter, seconded by Anderson, to recommend approval. The motion carried 5-0-0.

Public Hearing (all parties sworn in)

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

Shelby Little, Acting Development Services Director, presented information regarding the proposed code amendment related to the Comprehensive Development Code of the City of Marietta, Section 708.16, Community Retail Commercial; Section 708.17, Regional Retail Commercial; Section 708.26, Light Industrial; Section 708.27, Heavy Industrial; Section 712.01, Special Land Use Permits; Section 712.06, Adult Entertainment; and Section 724.02, Definitions of terms regarding adult establishments.

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

A 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

20220761

CA2022-10 [CODE AMENDMENT] COMPREHENSIVE DEVELOPMENT CODE DIVISION 714

CA2022-10 [CODE AMENDMENT] Proposal to amend the Comprehensive Development Code of the City of Marietta, Section 714.03, Signs; Section 714.09, Definitions.

Planning Commission recommends Approval.

A motion was made by Mr. Anderson, seconded by Mr. Hunter, to recommend approval with change in language recommended by legal counsel. The motion carried 5-0-0.

Public Hearing (all parties sworn in)

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

Shelby Little, Acting Development Services Director, presented information regarding the proposed code amendment related to the Comprehensive Development Code of the City of Marietta, Section 714.03, Signs; Section 714.09, Definitions.

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

A 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

RESOLUTIONS:

CITY ATTORNEY'S REPORT:

*** 20220831 Denial of Claim**

Denial of Claim for Gabriel Barker.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved to Deny Claim

*** 20220843 Denial of Claim**

Denial of Claim for Malcolm Pope and Sekayi Stewart.

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

*** 20220770 PY2021 CDBG CAPER**

Motion to approve the PY2021 CDBG Consolidated Annual Performance Evaluation Report (CAPER) draft.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

* **20220771 PY2022 CDBG Annual Action Plan Substantial Amendment**

Motion to approve the CDBG PY2022 Annual Action Plan Substantial Amendment to reallocate unspent funds from program years 2021, 2020, 2019 and 2018.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

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

* **20220752 Tree Replacement Fund (Ed Voyles)**

Motion approving an Ordinance to an amendment to the Fiscal Year 2023 Tree Replacement Fund budget to receive and appropriate a payment of \$2,640.00 from Ed Voyles Family Partnership/Pro Building Systems Inc. for development at 2103 Cobb Parkway South.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

* **20220784 Mental and Emotional Wellbeing Initiative**

Motion to approve the use of \$355,000 of the Coronavirus State and Local Fiscal Recovery Funds designated as Revenue Loss for the implementation of the Mental and Emotional Wellbeing Initiative.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

* **20220841 Public Safety Training Center**

Motion to approve the use of \$3,000,000 of the Coronavirus State and Local Fiscal Recovery Funds designated as Revenue Loss for the continued development of the Public Safety Training Center to include a Multi-use Training Tower, MPD Conex Village, and other improvements.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

* **20220842** **Down Payment Assistance Program**

Motion to approve the use of \$200,000 of the Coronavirus State and Local Fiscal Recovery Funds designated as Revenue Loss for the development of a Down Payment Assistance Program implemented in partnership with the Housing Authority of Cobb County.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 **Approved**

* **20220844** **Affordable Housing Construction Program**

Motion to approve the use of \$820,000 of the Coronavirus State and Local Fiscal Recovery Funds designated as Revenue Loss for the construction of affordable housing through a partnership with Habitat for Humanity.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 **Approved**

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

20220632 **Charter Amendment to Section 5.2**

Motion to approve Charter Amendment to Section 5.2 of the Charter of the City of Marietta, Powers and duties generally; contracts.

Second Reading
Public Hearing

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

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

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

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

* **20220683** **Code Amendment - Computer and Communication System Usage**

Motion to approve an amendment to Section 4-4-11 of the Marietta City Code, internet and electronic mail acceptable use policy.

First Reading

Included in this Ordinance is the required waiver set forth in 1-4-040 (L) whereby the City Council gives its unanimous consent to authorize the adoption of this Ordinance at this City Council meeting without the necessity of placing this matter on the following regular City Council meeting.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved as Amended

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

* **20220786** **FY2022 Additional Tourism Grant Funds**

Motion to grant the following groups the specified amount of the excess Tourism Grant funds and the amendment to the Welcome Center Contract.

NAACP (Juneteenth) \$8,000.00

Marietta Educational Garden Center \$5,000.00

Marietta Cobb Museum of Art \$5,000.00

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 Ashleigh Whitworth and Morgan Stoner and owned by the PMG Whitlock Ave, LLC. PMG Whitlock Ave, LLC is owned and managed by Philip M. Goldstein. Philip Goldstein is the father of Councilmember Goldstein. Council Member Goldstein will not participate in any discussion or vote on this item in his official capacity as a city council member.

Council Member Goldstein discloses that the Atlanta Lyric Theatre rents space owned 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.

This Matter was Approved on the Consent Agenda.

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

* **20220759** **Marietta Golf Center**

Motion to approve an Intergovernmental Agreement with the Marietta Development Authority as tenant for the property known as Marietta Golf Center to commence January 2024.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 **Approved as Amended**

* **20220540** **West Dixie Park**

Motion appropriating up to \$6,000 from the 2009 Parks Bond from planning and design for West Dixie Park to conduct the cleaning and camera inspection of the 42” drainpipe with the park.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 **Approved**

5. Personnel/Insurance: Cheryl Richardson, Chairperson

* **20220763** **2023 Flexible Benefit Plan**

Motion approving the 2023 Flexible Benefit Plan, Summary Plan Description, and increasing the maximum allowable health contribution to \$2,850 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**

* **20220765** **Employee Health Clinic Contract**

Motion to approve employee health clinic contract with Wellstar from January 1, 2023, to December 31, 2025.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 **Approved**

* **20220764** **2023 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 Humana, renewal of pharmacy benefit management services with Express Scripts, transfer of the life and disability insurance carrier to MetLife, and the renewal of the administrative services agreements with all other employee-funded ancillary providers for calendar year 2023. City contributions are increasing 7.4%, but active premiums will remain the same and costs will not be passed on to the employees.

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

6. Public Safety Committee: M. Carlyle Kent, Chairperson

7. Public Works Committee: Grif Chalfant, Chairperson

* **20220779** **2022 SPLOST Intergovernmental Agreement**

Motion to approve the Intergovernmental Agreement for the use and distribution of proceeds from the 2022 Special Purpose Local Option Sales Tax for Joint Projects, with the understanding that the total distribution to the City will be \$3,000,000 for the projects listed in Exhibit A.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

20220781 Washington Avenue Intersection Improvement

Motion authorizing Public Works to install a 3-way stop at Washington Avenue and Lawrence Street, the elimination of the movement from Washington Avenue to Howard Street, and the conversion of the right turn lane into on-street parking with an estimated cost of \$45,000.00. Ward 5

Public Hearing

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

Public Works Director Mark Rice summarized the options for Washington Avenue Intersection improvements.

Speaking regarding this matter included Alex Jinx, who resides in the Marvel Development, along with another area resident.

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

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

Vote: 7 – 0 – 0 Approved

20220783

Saint Anne’s Road Traffic Calming

Motion authorizing Public Works to install a 3-way stop at Wilder Terrace & Saint Anne’s Road and the installation of chicanes between Saint Mary’s Lane and Atwood Drive with an estimated cost of \$50,000.00. Ward 4

Public Hearing

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

Public Works Director Mark Rice summarized the options for Saint Anne’s Road traffic calming.

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

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

Vote: 7 – 0 – 0 Approved

20220782

Chicopee Drive & Etowah Drive Intersection Improvement

Motion authorizing Public Works to convert the intersection of Chicopee Drive and Etowah Drive to a 4-way stop condition with pedestrian crosswalks and storm water modifications with a total estimated cost of \$65,000.00. Ward 4

Public Hearing

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

Public Works Director Mark Rice summarized the options for Chicopee Drive & Etowah Drive.

Speaking regarding this matter included:
Elizabeth Hillis, who lives on Kiowa Drive
Greg Spence, who lives on Chicopee Drive
Matt Anderson, who lives on Chicopee Drive
Camila Noguera, who lives on Etowah Drive
Tony Pearson Clarke, who lives on Chicopee Drive
Will Burns, who lives on Freyer Drive

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

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

Vote: 7 – 0 – 0 Approved

OTHER BUSINESS:

20220845 Repairs of Lawrence Street

Motion to approve the using of \$1,500,000 of the American Recovery Act Funds for the repairs of Lawrence Street - streets and sidewalks, along with \$300,000 of the Ward 5 streets and sidewalks budget for the total amount of \$1,800,000.

In depth discussion was held regarding the need for and funding of repairs on Lawrence Street. Council member Kent noted that the correct total amount for the repairs would be \$1,805,000, if approved by Council.

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

Vote: 3 – 4 – 0 Denied
Voting Against: Cheryl Richardson, Grif Chalfant, Johnny Walker and Andy Morris

*** 20220847 Municipal Electric Authority of Georgia (MEAG) Annual Subscription for Supplemental Power 2023**

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 2023 Annual Subscription with MEAG accordingly.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

* **20220824** **Allgood Road at Merritt Road Improvements -956 Allgood Road**

Motion authorizing acquisition of easements at 956 Allgood Road from Miguel Estrada for the purpose of constructing the Allgood Road at Merritt Road Intersection Improvements Project in exchange for \$277.00.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 **Approved**

* **20220825** **Allgood Road at Merritt Road Improvements Project - 970 Allgood Road**

Motion authorizing acquisition of a portion of property and easements at 970 Allgood Road from Buyside Capital Advisors, LLC for the purpose of constructing the Allgood Road at Merritt Road Intersection Improvements Project in exchange for \$16,079.00.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 **Approved**

* **20220826** **1401 Barclay Circle property acquisition**

Motion to authorize the acquisition of property owned by Jerome Tillem and Yvonne S. Tillem on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 **Approved**

* **20220840** **BLW Actions of September 12, 2022**

Review and approval of the September 12, 2022 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:

*Those addressing the City Council include:
Melissa O'Brien, who lives on Hanlon Road
Elizabeth Hillis, who lives on Kiowa Drive
Robert Gravedoni, who lives on Campbell Hill Road*

ADJOURNMENT:

The meeting was adjourned at 8:52 p.m.

Date Approved: October 12, 2022

R. Steve Tumlin, Mayor

Attest: _____
Stephanie Guy, City Clerk