



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, October 11, 2023

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
Daniel White, 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 Richardson to give the invocation.

PLEDGE OF ALLEGIANCE:

Everyone remained standing for the Pledge of Allegiance.

PRESENTATIONS:

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.

Presented

20230793**Park Street Poster Contest**

Presentation of the Park Street Poster Contest winners.

Presented

20230829**2023 Fire Prevention Week Poster Contest**

Presentation by the Marietta Fire Marshal's Office recognizing the 2023 Fire Prevention Week Poster Contest winners from Marietta City Schools.

Presented

PROCLAMATIONS:**ANNOUNCEMENTS OF GENERAL COMMUNITY INFORMATION BY THE MAYOR, COUNCIL AND/OR CITY MANAGER:****SCHEDULED APPEARANCES:****20230863****Scheduled Appearance**

Scheduled Appearance - Morris Nix.

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 Daniel White noted changes to the consent agenda.

-under Ordinances: Agenda item 20230367 was added to the consent agenda as a Motion to Table.

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

Vote: 7 – 0 – 0

Approved

MINUTES:

- * **20230819** **Regular Meeting - September 13, 2023**
- Review and approval of the September 13, 2023 regular 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:**

- * **20230814** **Planning Commission Appointment (Ward 4)**
- Reappointment of Byron “Tee” Anderson to the Planning Commission (Ward 4), for a three-year term expiring October 14, 2026.
- Byron “Tee” Anderson has been on the board since September 2017.*
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 – 0 – 0** **Approved**
- * **20230815** **Planning Commission Appointment (Ward 5)**
- Reappointment of Brenda McCrae to the Planning Commission (Ward 5), for a three-year term beginning immediately upon appointment and expiring October 14, 2026.
- Brenda McCrae has been on the board since December 11, 2013.*
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 – 0 – 0** **Approved**
- * **20230816** **Marietta Development Authority Appointment - Post 2**
- Reappointment of William Dunaway to the Marietta Development Authority (Post 2), for a term that expires October 13, 2025.
- William Dunaway has been on the board since October 13, 2021.*
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 – 0 – 0** **Approved**

ORDINANCES:

20230719 Z2023-21 [REZONING] FRANK KLIMES (CESAR AUTO REPAIRS, LLC.)

Ord 8353

Z2023-21 [REZONING] FRANK KLIMES (CESAR AUTO REPAIRS LLC) are requesting the rezoning of 0.38 acres located in Land Lot 1214, District 16, Parcel 0970 of the 2nd Section, Cobb County, Georgia, and being known as 733 Washington Avenue from CRC (Community Retail Commercial) to R-4 (Single-Family Residential - 4 units/acre). Ward 1A.

Planning Commission recommends Approval

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

Public Hearing (all parties sworn in)

City Attorney Daniel White 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 733 Washington Avenue from CRC (Community Retail Commercial) to R-4 (Single-Family Residential - 4 units/acre).

Thomas Hynaman, (Frank Klimes Construction, LLC.) requested rezoning of the subject property to allow for remodeling of a house currently on the property to be used as a single-family home.

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 733 Washington Avenue from CRC (Community Retail Commercial) to R-4 (Single-Family Residential - 4 units/acre).

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

20230724

Z2023-22 [REZONING] ROSENT HOLDING COMPANY, LLC.

Z2023-22 [REZONING] ROSENT HOLDING COMPANY, LLC. is requesting the rezoning of 0.62 acres located in Land Lot 8540, District 16, Parcel 0080 of the 2nd Section, Cobb County, Georgia, and being known as 640 Collins Road from R-2 (Single-family Residential - 2units/acre) to LI (Light Industrial). Ward 6B.

Planning Commission recommends Approval with Stipulation

Mr. Diffley made a motion, seconded by Ms. McCrae, to recommend approval of the request as stipulated. The motion carried with a vote of 7-0-0.

Stipulation: The Commission recommends not approving the following variance which would be incorporated as a condition of zoning should Council approve the request as submitted.

- 1.Variance to allow gravel as an acceptable parking surface (§716.08 A & B)
- 2.Variance to reduce the buffer adjacent to residential (654 Collins Road) on the southeastern side for the construction of a new driveway and parking area as shown on the attached site plan. (§708.26 I)

Public Hearing (all parties sworn in)

City Attorney Daniel White 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 640 Collins Road from R-2 (Single-family Residential - 2units/acre) to LI (Light Industrial).

Toni Blanca (Rosent Holding Company, LLC.) requested rezoning of the subject property to provide overflow parking for his business located across the street. He mentioned that there were plans to construct a warehouse on the lot and a need to use gravel temporarily until the construction was complete.

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

Discussion was held by Council.

Motion to table the rezoning request for property located at 640 Collins Road from R-2 (Single-family Residential - 2units/acre) to LI (Light Industrial).

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

Vote: 7 – 0 – 0

Tabled

* **20230228** **Z2023-06 [REZONING] WESTPLAN INVESTORS (MARIETTA CROSSING, LLC)**

Z2023-06 [REZONING] WESTPLAN INVESTORS (MARIETTA CROSSING, LLC) are requesting the rezoning of 19.25 acres located in Land Lots 1239 & 1240, 1281, & 1282 District 16, Parcels 0270, 0060, and 1310 of the 2nd Section, Cobb County, Georgia, and being known as 50 Powers Ferry Road; 2301 & 2315 Wylie Drive from MXD (Mixed Use Development) to MXD (Mixed Use Development). Ward 7A.

Planning Commission recommends Approval

Mr. Diffley made a motion, seconded by Mr. McClure, to recommend approval. The motion carried with a vote of 6-0-0.

Public Hearing (all parties sworn in)

Motion to table until November 8, 2023 City Council Meeting

This Matter was Tabled on the Consent Agenda.

Vote: 7 – 0 – 0 Tabled

* **20230367** **CA2023-05 [CODE AMENDMENT] Comprehensive Development Code, Div. 708, Section 708.18, CBD, Central Business District.**

Proposal to amend the Comprehensive Development Code of the City of Marietta, Division 708, District Standards and Permitted Uses, 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).

Planning Commission recommends Approval

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

Public Hearing (all parties sworn in)

Motion to table until November 8, 2023 City Council Meeting

This Matter was Tabled on the Consent Agenda.

Vote: 7 – 0 – 0 Tabled

RESOLUTIONS:

CITY ATTORNEY'S REPORT:

CITY MANAGER'S REPORT:**MAYOR'S REPORT:****COMMITTEE REPORTS:****1. Economic/Community Development: Andre L. Sims, Chairperson****2. Finance/Investment: Joseph R. Goldstein, Chairperson***** 20230805 Tree Preservation Fund (Caliber Car Wash)****Ord 8349**

Motion to approve an Ordinance for an amendment to the Fiscal Year 2024 Tree Preservation Fund Budget to receive and appropriate a payment of \$1,430.00 for construction activity at 1090 Hagood Circle.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

3. Judicial/Legislative: G. A. (Andy) Morris, Chairperson**20230584 Charter Amendment to Section 3.3****Ord 8351**

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 Daniel White 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:
Robbie Huck*

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 Approved

Revised Detailed Plan - Mirus

Motion to approve a revised detailed plan for 550 Franklin Gateway with the following conditions:

- 1. Site will comply with the Tree Protection and Landscaping ordinance (§712.08).
 - 2. Approval applies to Phase 1 only. Plans for any future expansion must be submitted to City Council for review and approval.
- * **20230812**

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

Final Plat - Bluffs at Bells Ferry

Motion to approve the final plat for the Bluffs at Bells Ferry, a 53-unit townhome community with private streets that was annexed and rezoned to MXD (Mixed Use Development) per Z2022-05.

- * **20230807** **This Matter was Approved on the Consent Agenda.**

Vote: 7 – 0 – 0 Approved

Detailed Plan - Roselane Street Townhomes

Motion to approve the detailed plan for 22 townhomes at 369, 371, 375, 377, 379, 383 & 385 Roselane Street, zoned PRD-SF (Z2017-21).

- 20230809** *Rusty Roth, Development Services Director, presented the request for approval of the detailed plan for 22 townhomes at 369, 371, 375, 377, 379, 383 & 385 Roselane Street, zoned PRD-SF (Z2017-21).*

Discussion was held by Council, specifically regarding the placement of the required street trees.

Motion to approve the detailed plan for 22 townhomes at 369, 371, 375, 377, 379, 383 & 385 Roselane Street, zoned PRD-SF (Z2017-21) with the following:

-Variance to modify the required street trees according to the approved plan.

The 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

4. Parks, Recreation and Tourism: Johnny Walker, Chairperson*** 20230808 Cherokee Heights Arts Festival Request for City Sanctioning**

A Motion Approving the Cherokee Heights Arts Festival November 11, 2023 as a City Sanctioned Event to Allow Alcohol Sales and Consumption on Etowah Drive Between Freyer and Seminole between 9 am and 4 pm.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

*** 20230810 Merritt Road Landfill (Rebel Ridge Greenspace)**

Motion to approve the resolution in support of the 2023-2024 Georgia Outdoor Stewardship Program Grant application seeking funding of \$3,000,000 for the capping and redevelopment of the Merritt Road inert landfill to an outdoor recreation use with a commitment of local matching funds of \$1,005,350 (25.1%) if selected.

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****7. Public Works Committee: Grif Chalfant, Chairperson***** 20230737 Proposed Code Addition to the Water Use Ordinance for Water Efficiency Code Requirements****[Ord 8352](#)**

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

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

20230802**Canton Road Speed Limit Adjustment**

Motion authorizing Public Works to lower the speed limit to 35 MPH on Canton Road, from Cherokee Street to Elizabeth Street, and to post the speed limit of 25 MPH on Whitcher Street, from Church Street to Campbell Hill Street, and Cherry Street, from Cherokee Street to Church Street, with an estimated cost of \$2000.00. Wards 4B & 5B

Public Hearing Required

City Attorney Daniel White opened the public hearing and called forward those wishing to speak.

Public Works Director Mark Rice summarized the proposal for the Canton Road speed limit adjustment.

*Speaking regarding this matter:
Jason Turner*

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

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

Vote: 7 – 0 – 0

Approved

20230813**Proposed Code Amendment to the Floodplain Management/Flood Damage Prevention Ordinance****Ord 8354**

Motion for the City of Marietta to adopt the revision to Section 7-8-10-050 - Floodplain Management/Flood Damage Prevention Ordinance.

First Reading

Public Works Director Mark Rice summarized the proposed amendment to the Floodplain Management/Flood Damage Prevention Ordinance and requested to waive the second reading for this item.

A motion was made by Council member Goldstein, seconded by Council member Chalfant, to waive the requirement 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.

The motion carried by the following vote:

Vote: 7 – 0 – 0

Approved

Mayor Tumlin called for a vote on the proposed revision to Section 7-8-10-050 - Floodplain Management/Flood Damage Prevention Ordinance, with 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.

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: 7 – 0 – 0

Approved

OTHER BUSINESS:

20230866 Appeal Hearing Requested by Phillip Gerjoi, WAC Body Shop LLC

c/a 5209 In consideration of an appeal by Phillip Gerjoi against the denial of a business license for the WAC Body Shop, LLC.

City Attorney Daniel White opened the Appeal Hearing requested by Phillip Gerjoi, owner of WAC Body Shop LLC, located at 932 Roswell Road.

Mr. Gerjoi requested to appeal the denial by the City of a business license due to non-compliance with the City's zoning regulations. Mr. Gerjoi stated that his business has been located and operated at this location under a grandfather status. He has also had a license for the business in previous years and would like to renew the license.

Patina Brown, Deputy Finance Director, presented additional information as to why the business license was denied. WAC Body Shop LLC applied for and received a business license in 2020, but its license in 2021 was not approved due to outstanding zoning compliance issues. An attempt was not made to apply for a license in 2022 and was therefore operating without a valid license during 2021 and 2022. By the time WAC applied for its license in 2023 it had lost its “grandfathered” status as a legal nonconforming use under Marietta Zoning Code §706.02 (b), which prohibits a nonconforming use from being “reestablished after discontinuance for a continuous period of 6 months...”

Discussion was held regarding the need for an executive session.

A motion was made in open session by Council member Richardson, seconded by Council member Sims, to enter an Executive Session to discuss potential litigation. The motion carried by the following vote:

Vote: 7 – 0 – 0

Approved

The Executive Session was held.

A motion was made in open session by Council member Richardson, seconded by Council member Morris, to exit the Executive Session. The motion carried by the following vote:

Vote: 6 – 0 – 0 **Approved**
Absent for the vote: M. Carlyle Kent

A motion was made by Council member Goldstein, seconded by Council member Richardson, to sustain the decision to deny the business license for WAC Body Shop LLC., located at 932 Roswell Road.

Discussion was held by Council.

A substitute motion was made by Council member Chalfant, seconded by Council member Walker, to override the denial of the business license for WAC Body Shop LLC, located at 932 Roswell Road, with the following conditions:

- 1. WAC is not deemed to have regained its grandfathered status as a legally nonconforming use and it must seek and demonstrate to the appropriate zoning board that it is entitled a variance to continue operating in its current location no later than December 31, 2023.*
- 2. If WAC does not receive a variance regarding the nonconforming conditions of its use prior to December 31, 2023 it shall not be entitled to the grant of a business license in 2024 due to the loss of its grandfathered legally nonconforming status.*
- 3. The City shall retain all tax, late fees, and interested collected for the 2022 and 2023 business licenses and Appellant shall remain current on his taxes and fees in the future.*
- 4. WAC must resolve all outstanding property maintenance and zoning code violations in order to retain its business license at its current location.*

The motion carried by the following vote:

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

* **20230864**

Edward Byrne Memorial Grant Award

Ord 8350

Motion to approve an Ordinance amending the Fiscal Year 2023 Grant Fund for the Marietta Police Department to receive and appropriate a grant for the Edward Byrne Grant Award from the Department of Justice for \$27,717.00 to purchase general equipment.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

* **20230862 Georgia Recreational Trails Program Grant Funding Request**

Motion to authorize Public Works to submit an application for the 2023 Recreational Grants Program for the East Dixie Avenue Trail project.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

* **20230840 MEAG Power 2024 Sale of Excess Reserve Capacity - City of Oxford**

c/a 5206

Approval of the attached agreement allowing the Municipal Electric Authority of Georgia (MEAG) Power to sell 2024 excess reserve capacity, on our behalf, to the City of Oxford, and to authorize the Mayor/ Chairman to execute this agreement for the specified amounts.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

* **20230841 MEAG Power 2024 Sale of Supplemental Capacity**

c/a 5207

Approval of the Sale of Supplemental Capacity to the City of Oxford and to authorize the Mayor/ Chairman to execute this agreement for the specified amounts.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

* **20230820 BLW Actions of October 11, 2023**

Review and approval of the October 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:

ADJOURNMENT:

The meeting was adjourned at 9:22 p.m.

Date Approved: _____

R. Steve Tumlin, Mayor

Attest: _____
Stephanie Guy, City Clerk