



# 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*  
*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, May 9, 2018

7:00 PM

Council Chamber

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**Presiding:** R. Steve Tumlin, Mayor

**Present:** Cheryl Richardson, Grif Chalfant, Johnny Walker, G. A. (Andy) Morris, Reggie Copeland, Michelle Cooper Kelly and Joseph R. Goldstein

**Also Present:**

*William F. Bruton, Jr. City Manager*

*Daniel White, Assistant 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 was asked to remain standing for the Pledge of Allegiance.*

### PRESENTATIONS:

### PROCLAMATIONS:

#### **20180546      Historic Preservation Month**

Mayor Tumlin presents a Proclamation to Steve Imler, Member of the Marietta Historic Preservation Commission recognizing May 2018 as Historic Preservation Month in the city of Marietta in conjunction with the celebration of National Historic Preservation Month.

**Presented**

**20180555 Participation in “National Kids to Parks Day”**

Mayor Tumlin presents a Proclamation to Rich Buss recognizing the participation by the City in “National Kids to Parks Day” on Saturday, May 19, 2018.

**Presented****ANNOUNCEMENTS OF GENERAL COMMUNITY INFORMATION BY THE MAYOR, COUNCIL AND/OR CITY MANAGER:****CONSENT AGENDA: Consent agenda items are marked by an asterisk (\*). Consent items are approved by majority of council.**

*Prior to the Consent Agenda, a motion was made by Council member Chalfant, seconded by Council member Morris, to suspend the rules of order to add an item related to property acquisition. The motion carried by the following vote:*

*Vote: 7 – 0 – 0 Approved*

*Motion to authorize acquisition of property located the agreement for the sale and purchase of property at 240 Frasier Street from the City of Marietta to Traton Homes, LLC for the sum of \$40,000. The motion carried by the following vote:*

*Vote: 7 – 0 – 0 Approved*

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

*City Attorney Doug Haynie noted the following changes to the consent agenda:*

*-under Judicial/Legislative: Agenda item 20180337 was added to the consent agenda with the following amendment:*

*4. Stipulation #8(d): Reduce the building setback along 100 Florence Street to five (5) feet and to reduce the building setback along Florence Street such that it will include a 2’ grass strip, 5’ sidewalk, and 10’ landscape strip.*

*-under Judicial/Legislative: Agenda item 20180338 was added to the consent agenda.*

*-under Public Works: Agenda item 20180372 was added to the consent agenda.*

*-under Public Works: Agenda item 20180374 remains on the consent agenda with Council member Goldstein abstaining.*

*-under Other Business: Agenda item 20180448 was added to the consent agenda.*

*Mr. Haynie then opened the public hearing for those items on the consent agenda requiring a public hearing. Seeing no one wishing to speak, the public hearing was closed.*

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

**Vote: 7 – 0 – 0 Approved**

*with the following exceptions:*

*Council member Goldstein abstaining on agenda item 20180374*

**MINUTES:**

- \* **20180530**      **Regular Meeting - April 11, 2018**
- Review and approval of the April 11, 2018 regular meeting minutes.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 – 0 – 0**                      **Approved**
- \* **20180531**      **Special Meeting - April 24, 2018**
- Review and approval of the April 24, 2018 special meeting minutes.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 – 0 – 0**                      **Approved**
- \* **20180532**      **Special Meeting - April 25, 2018**
- Review and approval of the April 25, 2018 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:**

- \* **20180493**      **Board of Zoning Appeals Appointment**
- Reappointment of James A. Mills to the Board of Zoning Appeals (Ward 3) for a 3 year term, expiring May 13, 2021.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 – 0 – 0**                      **Approved**

**ORDINANCES:**

- 20180359**      **Z2018-16 [REZONING] GLOBAL US PROPERTIES INC**
- Z2018-16 [REZONING] GLOBAL US PROPERTIES INC is requesting the rezoning of 1.3 acres located in Land Lot 1170, District 16, Parcel 1130, 2nd Section, Marietta, Cobb County, Georgia, and being known as 1686 Roswell Road from CRC (Community Retail Commercial) to OI (Office Institutional). Ward 7A.

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

- Variance to reduce the side and rear yard setback along the northeastern side of the existing building only. [§708.23 H.]*
- Variance to reduce the thirty (30) foot buffer on the northeastern side to twenty-five (25) feet for the existing curb line. [§708.23 I.]*

*Assistant City Attorney Daniel White opened the public hearing and explained the rules of order. Mr. Haynie then swore in those wishing to speak.*

*Rusty Roth, Development Services Director, presented information regarding the request to rezone property located at 1686 Roswell Road from CRC (Community Retail Commercial) to OI (Office Institutional).*

*Mr. Win Zell, speaking for the applicant, requested to rezone the property for the redevelopment of the property into a senior living personal care facility. Mr. Zell explained that the building has three (3) floors and a basement, and the applicant is proposing to renovate the second and third floor to house twelve (12) independent senior living studios units. The basement level would be renovated to provide support facilities such as dining areas, multi-purpose meeting and activity rooms, arts and crafts, and media room. The first floor would remain medical offices and there would also be an exterior patio/plaza area around the back of the building. All renovations necessary to convert the building and site would require adherence with all current code requirements.*

*If council approves the zoning, the following variances would be required for the existing building and paving to remain:*

- Variance to reduce the side and rear yard setback along the northeastern side of the existing building only. [§708.23 H.]*
- Variance to reduce the buffer on the northeastern side of the property from thirty (30) feet to twenty-five (25) feet for the existing paving. [§708.23 I.]*

*Discussion was held by Council related to the current and/or increased drainage and runoff issues on the property. Public Works Director Dan Conn stated that the applicant would be required to comply with all stormwater regulations. The applicant agreed to add a stipulation requiring a hydrology study and compliance with all stormwater regulations.*

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

*Further discussion was held. There was general agreement that this matter be tabled to allow the property owner additional time to perform a preliminary hydrology study on the property.*

**A motion was made by Council member Goldstein, seconded by Council Copeland, that this matter be Tabled until the next City Council meeting. The motion carried by the following vote:**

**Vote: 7 – 0 – 0**

**Tabled**

**RESOLUTIONS:****CITY ATTORNEY'S REPORT:****CITY MANAGER'S REPORT:****MAYOR'S REPORT:****COMMITTEE REPORTS:****1. Economic/Community Development: Johnny Walker, Chairperson****\* 20180486            Envision LCI Award Contract**

Motion approving the contract from the Atlanta Regional Commission (ARC) accepting grant funds to conduct a major plan update of the Envision LCI.

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

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

**2. Finance/Investment: Joseph R. Goldstein, Chairperson****\* 20180450            Selection of Audit Firm**

Motion to authorize the execution of a contract between the City of Marietta and Nichols, Cauley & Associates, as the audit firm for financial auditors for fiscal year 2018 through fiscal year 2021.

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

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

**3. Judicial/Legislative: G. A. (Andy) Morris, Chairperson****\* 20180478            Marietta Museum of History's Collection**

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

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

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

\* **20180479 Detailed Plan - Allgood Lawanna**

Motion to approve the attached detailed plan, including the site plan, landscape plan, and building elevations, for the 59 unit townhome development at 1214, 1244, 1250 Allgood Road; 1052 & 1062 Lawanna Drive; and 1355 Lincoya Drive, dated April 30, 2018 and signed by the applicant.

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

**Vote: 7 – 0 – 0 Approved**

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

\* **20180334 Elizabeth Porter Park**

A motion approving the policies and adopting the fees for operation of the sprayground facility at Elizabeth Porter Park.

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

**Vote: 7 – 0 – 0 Approved**

\* **20180484 Acceptance of a Donation from the Cobb Association of REALTORS**

A motion approving the acceptance of a donation in the amount of \$2,400 from the Cobb Association of REALTORS for a swing bench to be located at Kirby Park, and the installation of a plaque on the structure to recognize the organization for their generosity.

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

**Vote: 7 – 0 – 0 Approved**

**5. Personnel/Insurance: Cheryl Richardson, Chairperson**

**6. Public Safety Committee: Reggie Copeland, Chairperson**

\* **20180427 Byrne Memorial Grant Award**

Motion regarding acknowledgement of the 2016 Byrne Memorial Grant Award of \$36,658.00 awarded to the Marietta Police Department for the part-time Police Analyst Position.

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

**Vote: 7 – 0 – 0 Approved**

**7. Public Works Committee: Grif Chalfant, Chairperson****\* 20180353 Soaring Drive Speed Study**

Motion authorizing staff to proceed with next steps of the speed table policy.

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

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

**\* 20180492 Williams Drive Parking**

Motion authorizing no parking and no standing signs to be installed along the accel/decel lanes at 425, 800, 840, and 850 Williams Drive.

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

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

**\* 20180471 Title VI Program Documents**

Motion approving the Title VI Nondiscrimination Agreement and Assurances between the City of Marietta and the Georgia Department of Transportation for compliance with 23 CFR Part 200, Title VI of the Civil Rights Act of 1964, along with approval of the City of Marietta Title VI Policy and DBE Policy statements. Additionally, this motion appoints the Director of Human Resources and Risk Management as the City of Marietta Title VI Coordinator.

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

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

**OTHER BUSINESS:****20180361 HO2018-01 [SPECIAL LAND USE PERMIT - HOME OCCUPATION TYPE B] JOHN DOUGLAS WHITWORTH**

HO2018-01 [SPECIAL LAND USE PERMIT - HOME OCCUPATION TYPE B] JOHN DOUGLAS WHITWORTH is requesting a SLUP for a Home Occupation Type B and variances for property located in Land Lot 1088, District 16, Parcel 0850, 2nd Section of Cobb County, Marietta, Georgia and being known as 583 Chicasaw Drive to establish a home occupation for music lessons and recording studio.

The above-described property is hereby granted a Special Land Use Permit (SLUP) for a Home Occupation Type B for music instruction and recording studio.

The following variances are incorporated as conditions of zoning:

1. Variance to allow gravel as an acceptable driving surface but only from the front corner of the house into the rear yard. The section of the driveway in the front yard and leading from the street to where the existing paved, double strip driveway ends must be paved. [§716.08 (A) & (B)]
2. Variance to reduce the rear yard setback from 30' to 10' for the proposed addition. [§708.03 (H.)]

The following stipulations are incorporated as conditions of the Special Land Use Permit for the Home Occupation Type B for music instruction and recording studio:

1. The home occupation shall be valid only as long as the applicant lives in the home and shall expire when the applicant relocates or sells the property.
2. Noise that can be detected beyond the walls of the home or the use of amplification equipment is prohibited.

*Assistant City Attorney Daniel White called forward those wishing to speak.*

*Rusty Roth, Development Services Director, presented information regarding the request for a special land use permit for property at 583 Chicasaw Drive for a Type B home occupation and variances for gravel and a rear setback reduction. Mr. Roth also summarized the criteria used to determine whether or not the permit should be granted.*

*The applicant John Douglas Whitworth requested the special land use permit to establish a home occupation for music lessons and recording studio. He mentioned that they currently live elsewhere in the city and plan to make 583 Chicasaw Drive their primary residence after the renovations are complete. Mr. Whitworth also explained that he has approximately fifteen (15) students, in addition to working with one recording artist. The recording sessions are conducted with headphones and a computer. He reiterated that there will be no amplification use of any amplifiers.*

*Mr. Whitwork clarified that they wanted to change the existing driveway, made up of two strips of concrete leading from the road to the house, to gravel. The existing concrete strips do not appear to be adequate to prevent erosion and the tracking of mud into the street.*

*Discussion was held regarding to variance to allow a gravel driveway and the use of any amplification equipment. The applicant agreed that the section of the driveway in the front yard and leading from the street to where the existing paved, double strip driveway ends must be paved. He also agreed that to prohibit any noise that can be detected beyond the walls of the home or the use of amplification equipment.*

*A motion was made to grant the Special Land Use Permit (SLUP) for a Home Occupation Type B for music instruction and recording studio, with the following variances are incorporated as conditions of zoning:*



1. Variance to allow gravel as an acceptable driving surface but only from the front corner of the house into the rear yard. The section of the driveway in the front yard and leading from the street to where the existing paved, double strip driveway ends must be paved. [§716.08 (A) & (B)]

2. Variance to reduce the rear yard setback from 30' to 10' for the proposed addition. [§708.03 (H.)]

The following stipulations are incorporated as conditions of the Special Land Use Permit for the Home Occupation Type B for music instruction and recording studio:

1. The home occupation shall be valid only as long as the applicant lives in the home and shall expire when the applicant relocates or sells the property.

2. Noise that can be detected beyond the walls of the home or the use of amplification equipment is prohibited.

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

**Vote: 6 – 1 – 0**

**Approved as Amended**

Voting Against: Cheryl Richardson

**20180496**

**80 North Marietta Parkway-Cobb Landmarks & Historical Society, Inc.**

Motion to approve a Certificate of Approval for the relocation of a 19th century cabin to the Root House Museum property, 80 North Marietta Parkway and the reconstruction of a 19th century smokehouse on this same property according to the attached application and drawings.

*The Historic Board of Review made the following recommendation at their April 30, 2018 meeting:*

*Board Chairman Lee made a motion to approve the Certificate of Approval for relocation and reconstruction of the cabin and smokehouse on the Root Museum property. The motion was seconded by Board member Paden.*

*The motion carried by the following vote: 7-1-0 Board member Worden opposed.*

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

**Vote: 7 – 0 – 0**

**Approved**

\* **20180563**      **Rescind “Hands Free Ordinance”**

Motion to approve the Ordinance to rescind Ordinance No. 8014 commonly known as the “Hands Free Ordinance”.

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 Resolution at this City Council meeting without the necessity of placing this matter on the following regular City Council meeting. (This waiver requires the unanimous consent of the City Council).

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

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

\* **20180564**      **Stay of “Hands Free Ordinance”**

Motion to approve Resolution to Stay Ordinance No. 8014 adopted by the City Council on February 14, 2018 until July 1, 2018 including authorization for the Mayor and City Clerk to execute same.

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

**Vote: 6 – 1 – 0**                      **Approved**

Voting Against: Joseph R. Goldstein

\* **20180535**      **Free Square Parking**

Motion “To Let it Be Known” that 2 blocks over is Free Square Parking on upper parking level of deck at City Hall especially for after 5:30 Thursday and Friday evenings and all day Saturday and Sunday and Special events. To use support notice of such with “signage”, directional and at entrance, City Web Page, and communications with Branding Project, DMDA, and Marietta Welcome Center.

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

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

\* **20180545**      **Election of District 3 West Officers for 2018-2019**

Motion to approve the slate of officers for the GMA’s District 3 West Officers for the 2018-2019 year and authorizing to submit the attached ballot.

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

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

\* **20180566**      **MEAG Power 2018 Annual Meeting**

Motion to approve travel expenses for Council members who wish to attend the 2018 MEAG Power Annual Meeting July 9-11, 2018 in Amelia Island, Florida. This motion includes the City Attorney.

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

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

\* **20180565**      **MEAG Power 2018 Annual Election Voting Delegate Recommendation**

Motion to approve the recommendation from the Board of Lights and Water to appointment Michelle Cooper Kelly as the voting delegate and Ron Mull as the alternate delegate for the 2018 Municipal Electric Authority of Georgia (MEAG) Election.

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

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

\* **20180573**      **686 Powder Springs Street**

Motion authorizing acquisition of a portion of property and easements at 686 Powder Springs Street from Realty Income Corporation for the purpose of constructing the Powder Springs Streetscape - Sandtown Rd to S Marietta Parkway Project in exchange for \$12,600.00 and stipulations as listed below.

1. The driveway and temporary construction easements shall terminate upon the earlier of (a) one year from the start of construction on the property; or (b) completion of construction on the property.
2. Owner reserves the right to comment upon and negotiate the City's proposed conveyance documents.
3. The City's Work shall be conducted in compliance with applicable laws and in conformity with engineering standards. The road work shall not impede pedestrian or vehicular access to/from the Property without prior coordination with the property owner and/or tenant or impair the visibility or otherwise impact any freestanding signage situated on the Property.
4. City, at its sole cost and expense, shall restore the Property to the condition as it existed prior to City's entry onto the Property and performance of the City's Work. Provided that Grantor gives Grantee notice within fifteen (15) days after the termination or expiration of the easement(s) specifying any deficiencies related to the performance of city work, city's obligation to restore the property shall survive termination or expiration of the easement(s) and Grantee shall be given a reasonable time thereafter to correct the city's performance of the work. The city reserves the right to comment upon any deficiencies.

5. Grantor makes no representations or warranties of any kind, either express or implied, with respect to the Property or condition thereof.

6. City accepts the Property as is, where is, with all faults.

7. Current plans indicate that the sign on the property will not be impacted.

However, should the sign be impacted, Owner will provide a commercially reasonable quote for the City of Marietta to replace the sign in accordance with City Code requirements and City will pay the same to Owner, along with any reasonable additional costs actually expended upon completion of the sign repair or replacement work.

**Removed**

\* 20180574

**68. S. Fairground Street**

Motion authorizing acquisition of a portion of property and easements at 68 S. Fairground Street from Terrell Michael Brand & Lenice Yvonne Brand Heaton for the purpose of constructing the Fairground St - South Marietta Parkway to Roswell Street (Fairground B) Project in exchange for \$500.00.

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

**Vote: 7 – 0 – 0**

**Approved**

\* 20180575

**313 Manget Street**

Motion authorizing acquisition of a portion of property and easements at 313 Manget Street from 313 Manget, LLC for the purpose of constructing the Manget Street Improvements - Manget Street at Lakewood Drive Project in exchange for \$6,310.20 and the stipulations listed below:

1. Resod front yard with existing type of grass.
2. Resurface driveway from curb to rear corner of house

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

**Vote: 7 – 0 – 0**

**Approved**

\* 20180533

**BLW Actions of May 7, 2018**

Review and approval of the May 7, 2018 actions and minutes of Marietta Board of Lights and Water.

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

**Vote: 7 – 0 – 0**

**Approved**

**20180598**

**Agreement For The Sale and Purchase of Real Estate**

Motion to approve the agreement for the sale and purchase of property at 240 Frasier Street from the City of Marietta to Traton Homes, LLC for the sum of \$40,000.

**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: 7 – 0 – 0**

**Approved**

**UNSCHEDULED APPEARANCES:**

**ADJOURNMENT:**

*The meeting was adjourned at 8:18 p.m.*

**Date Approved: June 13, 2018**

\_\_\_\_\_  
**R. Steve Tumlin, Mayor Tumlin**

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