

The Banks County Board of Commissioners held their regular meeting on October 12, 2021 at 6:30 p.m. in the Board Room of the Banks County Courthouse Annex.

Members Present

Chairman Charles Turk
Vice Chairman Danny Maxwell
Commissioner Bo Garrison
Commissioner Sammy Reece
Commissioner Keith Gardiner

Staff Present

County Clerk Jenni Gailey
Assistant County Clerk Erin Decker
Code Enforcement Officer Paul Ruark
Fire Chief Steve Nichols
County Attorney Randall Frost
Public Utilities Director Horace Gee

Media

Angie Gary, Mainstreet News

1. Call to Order

Ch. Turk called the meeting to order.

2. Approval of Agenda

Ch. Turk stated that following items needed to be changed on the agenda.

- Item 6b. Maximum Powersports would become Item 14.
- Item 6b would become Neal Rd – Damen Braswell – Public Comment.
- Add item 9b. Cardiac Monitor Vendor Award.
- Add Change Order #2 to Item 12.
- Add Item 13b. Unexpired term October 2024.
- Executive Session – Personnel/Litigation would become Item 15.
- Adjournment would become Item 16.

Motion to approve the agenda: Charles Turk

Second: Sammy Reece

Vote: 5:0

All aye votes and the motion passed.

3. Chairman's Report

Ch. Turk reported on the following:

- E911 received the following emergency calls – 320 Fire/EMS – 3,419 Sheriff Office – 554 Other.
- COVID-19 numbers had decreased to 330 positive cases, as where last month they were about 1,000 positive cases tested at the Health Department.
- Yonah-Homer Road Culvert repair was delayed for a few days because of rain but hopefully it would be opened within the next few weeks.
- The new med unit had been picked up and was awaiting a state inspection to certify the unit and when that was completed, the new unit would be in full operation.

4. Pledge to the American Flag

Commissioner Keith Gardiner led the Pledge to the American Flag.

5. Approval of Previous Minutes – 9/14

Motion to approve the minutes: Danny Maxwell

Second: Keith Gardiner

Vote: 5:0

All aye votes and the motion passed.

6. Public Comment

a. Sewer System

Kenneth Bennett

Kenneth Bennett – Bennett Road – Stated he would like to commend the Health Department for the smooth operation of the vaccination clinic that was held.

Mr. Bennett also stated he had concerns about an article written in the August 25th edition of the Banks County News where it stated that Richard Brooks had prepared an analysis on the Banks Crossing Business Park where he had estimated what the benefit of the park would be to Banks County by 2030. Mr. Bennett stated the article used estimated 4 times and projected 1 time in 3 paragraphs and the article said “that is a profit” and Mr. Bennett said it wasn’t a profit it was just a projection. He stated we would have to wait 9 years to see if that came true.

Another question Mr. Bennett asked was what happened to the excess funds that were asked for in the loan for the construction of sewer? Ch. Turk stated if the construction went over but, in that case, the additional funds would have to be approved by the Commissioners and further stated the County would only pay for what was borrowed not the amount of the loan that was asked for.

Mr. Bennett further asked how long had the County been hauling sewer for Mar Jac and who hauled the waste? Public Utilities Director Horace Gee stated that since the plant was opened in May the County has been paying Griffin Brothers to haul the waste. Mr. Gee stated he bid the transport out and received three bids and Griffin Brothers was the lowest.

Mr. Bennett also asked who took care of the waste disposal for other county departments? Ch. Turk stated different departments got their own bids for waste removal. Mr. Bennett also asked if the funds came from the overall budget or from each department. Ch. Turk said individual department budgets where were the companies were paid from but it was still all county funds.

Lastly Mr. Bennett asked if the County kept track of how many students go to school that live in the new apartments? Ch. Turk stated he needed to ask the school system that question.

b. Neal Road – Franklin County Re-Zoning

Damen Braswell

Damen Braswell – 633 Neal Road, Franklin County – Stated that the property in question for rezoning in Franklin County would have a direct impact for Banks County. He stated Neal Road was a narrow road that school buses and residential traffic travel. He further stated it was already hard to pass when meeting a school bus so how was a school bus and a very large heavy piece of equipment supposed to pass safely. Mr. Braswell also stated that the road only had a 30-foot right-of-way, no ditches and blind curves. He stated the company that wanted the new zoning would not bring jobs to the area because the property would be used as a storage lot for

large equipment. He further stated the large equipment would add extra noise and pollution to the area and damage the narrow road. Mr. Braswell said rezoning property from commercial agriculture to light industrial would decrease his property values and furthermore would cause a snowball effect for the other surrounding properties in Banks County.

Mr. Braswell stated he was against this re-zoning request and urged the Commissioners to talk to Franklin County about the issue.

7. Public Hearings:

a. Planning Commission: CU-21-06 — Shuxuan Dong, Elegant Massage — An application has been submitted for the conditional use of the property identified as 309 Steven B Tanger Blvd. to be used for a massage therapy practice.

Ch. Turk closed the meeting and County Attorney Randall Frost opened the public hearing. Atty. Frost stated this was a public hearing for CU-21-06 — Shuxuan Dong, Elegant Massage for an application that had been submitted for the conditional use of the property identified as 309 Steven B Tanger Blvd. to be used for a massage therapy practice. Code Enforcement Officer Paul Ruark stated that the Planning Commission recommended approval of the application.

In Favor of the Application

Shuxuan Dong — 3335 Earhart Way, Buford, GA 30518 — Stated she was a massage therapist and wanted to locate her business here so it would be closer to home than her other two locations. She further stated this location would be a little bit different than the other locations because she wanted to do 50% massage and 50% retail for massage products.

Comm. Reece asked Ms. Dong where her other locations were? Ms. Dong stated one was in Dawsonville and the other was in Ellijay.

Vice Ch. Maxwell asked Ms. Dong how many employees would she have? Ms. Dong said she would only have one employee other than herself.

Ch. Turk asked Ms. Dong what would the hours of operation be? Ms. Dong stated that she would only be opened Monday – Saturday 10:00 a.m. – 5:00 p.m.

Atty. Frost closed the public hearing and Ch. Turk opened the meeting.

Motion to overturn the Planning Commission recommendation and deny the application: Bo Garrison

Second: Danny Maxwell

Vote: 4:1

Keith Gardiner: Nay

Sammy Reece: Aye

Danny Maxwell: Aye

Bo Garrison: Aye

Charles Turk: Aye

Four aye votes and the motion passed.

(Copy of Resolution filed in Attachment to Minutes Book 10-4)

b. Planning Commission: Z-21-07 – James Dudley, 5100 Old Hwy S, LLC – An application has been submitted to rezone the property identified as parcel B35 038C, an 11.72-acre lot at Harmony Church Rd. and Hwy 441, from ARR (Agricultural, Rural, Residential) to C2 (Commercial) to be used for an office/warehouse and parking.

Ch. Turk closed the meeting and Atty. Frost opened the public hearing.

Atty. Frost stated this was a public hearing for application Z-21-07 – James Dudley, 5100 Old Hwy 441, to rezone the property identified as parcel B35 038C, an 11.72-acre lot at Harmony Church Rd. and Hwy 441, from ARR (Agricultural, Rural, Residential) to C2 (Commercial) to be used for an office/warehouse and parking. Officer Ruark stated the Planning Commission recommended denial of the application.

In Favor of the Application

JR Dudley – 230 Ledford Farm Road, Fairplay, SC – Stated he had previously owned a warehouse at 5100 Old Hwy. 441 that he sold. He stated these warehouses would be replacements for the one he sold. He further stated the warehouse space would allow small businesses a chance to grow with the economy. He stated during the Planning Commission meeting there were opposition over traffic safety and Mr. Dudley said he believed the road was designed for heavier traffic and maybe the speed limit could also be reduced.

Ch. Turk asked how many tractor trailers would there be a day? Mr. Dudley stated he hasn't had any spaces leased yet so he couldn't answer that question.

Ch. Turk asked Mr. Dudley was that his design and Mr. Dudley stated that his design was flexible.

Comm. Reece stated that Mr. Dudley would probably have to have an accel and decal lane off Harmony Church Road to have enough room to turn.

In Opposition of the Application

Gordon Haynes – 321 Harmony Church Road – Stated he was the adjoining property owner and sold the property to Mr. Dudley. He stated when he sold the property, he expected possible commercial but was concerned with the safety of his pond that was feed by two streams. He stated what pre-cautions would be made to keep oil and fluids that leak out on the parking lot from getting into the streams. He stated traffic was another concern along Harmony Church Road and at the intersection of Hwy 441.

Tom Lord – 641 Walnut Drive – Stated the rezoning sign was too small and wanted to support his surrounding neighbors. He stated the intersection would have to be modified to allow for heavier traffic and he was also concerned about the lighting around the building. He stated he was opposed to the rezoning.

Tammy Lundy – 196 Harmony Church Road – Stated she was the property owner directly across from Mr. Dudley's property and was opposed to the application because of the intersection at Hwy 441 and Harmony Church Road. She stated this intersection was dangerous and not appropriate for 18-Wheeler traffic. She said she was asking the Commissioners to deny the application.

Atty. Frost closed the public hearing and Ch. Turk opened the meeting.

Motion to approve the recommendation of the Planning Commission to deny the application:

Charles Turk

Second: Bo Garrison

Vote: 5:0

All aye votes and the motion passed.

(Copy of Resolution filed in Attachment to Minutes Book 10-4)

8. Public Transportation: GDOT FY2023 Grant Application

Tracie Hammond

Senior Center/Public Transit Director Tracie Hammond stated this was a grant application for the FY2023 Public Transportation Grant that was received annually. She further stated she needed authorization for the Chairman to sign the resolution and documents for the grant application.

Motion to approve the grant application and authorization for the Chairman to sign the resolution and application: Sammy Reece

Second: Keith Gardiner

Vote: 5:0

All aye votes and the motion passed.

(Copy of Resolution filed in Attachment to Minutes Book 10-4) 2021-15

9. Fire/EMS: Firehouse Subs Public Safety Equipment Grant

Steve Nichols

Fire Chief Steve Nichols stated Hickory Flat Fire Station needed training equipment and since Firehouse Subs opened in Banks County, Banks County Fire/EMS was eligible to apply for their grant. He stated Banks County had been awarded the grant and he needed permission to purchase a complete set of extrication tools in the amount of \$34,601.20.

Motion to accept the extrication equipment with a value of \$34,601.20 from Fire House Subs: Charles Turk

Second: Sammy Reece

Vote: 5:0

All aye votes and the motion passed.

9b. Cardiac Monitor Vendor Award

Chief Nichols stated three vendors had provided quotes for twelve cardiac monitors. He stated Stryker had the lowest price in the amount of \$235,197.00. He further stated he was asking the Commissioners to approve the bid and purchase that would be paid for from a FEMA grant that the County had received.

Motion to approve the bid and purchase: Charles Turk

Second: Danny Maxwell

Vote: 5:0

All aye votes and the motion passed.

10. Recreation: Nails Creek Youth Hunt

Benji Ward with Nails Creek Baptist Church Men's Ministry asked the Commissioners for permission to have the annual Youth Hunt on the county property. He stated Nails Creek was partnering with the GA DNR and this hunt would take place the Friday and Saturday after Thanksgiving.

Motion to approve the request: Danny Maxwell

Second: Keith Gardiner

Vote: 5:0

All aye votes and the motion passed.

11. Public Utilities: Waterline on Lynn Drive

Horace Gee

Public Utilities Director Horace Gee stated that he had received a call from a property owner on Lynn Drive that stated Ms. Garrison's well was going dry and wanted to know if the County could provide water to her property. Mr. Gee stated he looked into the request and this area was not in the City of Homer's service area and Banks County could run a 6" waterline from Temple Road to Lynn Drive. He further stated the County could provide the materials and the contractor Every Oliver would install 650' of waterline to the corner of her property for approximately \$5,000. Ms. Garrison would be responsible for the cost of the other 650 ft. of waterline and the cost of the meter.

Motion to approve the waterline on Lynn Drive: Sammy Reece

Second: Keith Gardiner

Vote: 5:0

All aye votes and the motion passed.

12. Contracts & Agreements:

a. Recreation: Windmill Park Contract Change Order #1 for Waterline Reroute and Change Order #2 Windmill Park Irrigation Line

Ch. Turk stated a change order was needed due to the irrigation and water supply lines for the bathrooms and concessions.

He further stated Change Order #1 was for the tap on the Homer water system to supply water to the bathrooms and concessions in the amount of \$5,501.

Motion to approve Change Order #1 in the amount of \$5,501: Bo Garrison

Second: Danny Maxwell

Vote: 5:0

All aye votes and the motion passed.

(Copy of Change Order filed in Attachment to Minutes Book 10-4)

He stated Change Order #2 in the amount of \$11,431 was for the irrigation lines that would connect onto the well.

Motion to approve Change Order #2: Danny Maxwell

Second: Keith Gardiner

Vote: 5:0

All aye votes and the motion passed.

(Copy of Change Order filed in Attachment to Minutes Book 10-4)

b. On-Call & TSPLOST Project Contract Extension: KCI Technologies

Ch. Turk stated hours needed to be added to KCI's contract for project supervision of road projects. The amount of the additional funds to be added were \$13,500 for On-Call Engineering and \$6,000 for TSPLOST for a total of \$19,500.

Motion to approve the additional funds: Charles Turk

Second: Sammy Reece

Vote: 5:0

All aye votes and the motion passed.

13. Boards & Authorities:

a. Planning Commission: 4-year term

Ch. Turk stated the term for Brian Mathis was about to expire. Ch. Turk further stated that he had spoken with Mr. Mathis and Mr. Mathis stated he was willing to continue to serve another term.

Motion to appoint Brian Mathis for another 4-year term: Charles Turk

Second: Danny Maxwell

Vote: 5:0

All aye votes and the motion passed.

b. Planning Commission: Unexpired Term October 31, 2024

Ch. Turk stated Planning Commission Chairman Jack Stewart had passed away and that position needed to be filled for the unexpired term until October 31, 2024. Ch. Turk stated they had a list of applicants.

Motion to nominate Sam Moon to the unexpired term: Bo Garrison

Second: Sammy Reece

Vote: 5:0

All aye votes and the motion passed.

14. Maximum Powersports of Georgia

Ch. Turk stated he wanted to discuss this because at this point, he had failed to get a business license.

Ch. Turk asked what the pleasure of the Board was?

Comm. Reece asked if Mr. Lurie gave a reason he didn't come to the meeting tonight. Ch. Turk stated he said his lawyer wasn't available and the only thing he had put on the appearance form was he had some questions that he would like answers from the Commissioners.

Comm. Garrison stated he personally felt like they had given him every opportunity to step up and fulfill the obligations that he had agreed to.

Officer Ruark stated Mr. Lurie came into the office on October 1, 2021 and did not purchase a business license when he came in.

Comm. Garrison asked Atty. Frost legally what could be done since Mr. Lurie had not fulfilled his obligation that he was asked to do? Atty. Frost stated he would have to look at the code to see what rights the County had.

Comm. Gardiner stated it could be discussed in executive session concerning potential litigation.

Motion to table until executive session was over: Keith Gardiner

Second: Bo Garrison

Vote: 5:0

All aye votes and the motion passed.

15. Executive Session – Personnel/Potential Litigation

Motion to enter into executive session concerning potential litigation: Bo Garrison

Second: Keith Gardiner

Vote: 5:0

All aye votes and the executive session began at 7:33 p.m.

Motion to close the executive session: Sammy Reece
Second: Bo Garrison
Vote: 5:0
All aye votes and the executive session ended at 8:13 p.m.

Motion to send Officer Ruark out to issue a citation for operating a business without a business license since they had been given several attempts to get a license: Charles Turk
Second: Bo Garrison
Vote: 5:0
All aye votes and motion passed.

16. Adjournment

Motion to adjourn the meeting: Bo Garrison
Second: Keith Gardiner
Vote: 5:0
All aye votes and the meeting adjourned at 8:14 p.m.

Chairman

Assistant County Clerk
