



# BANKS COUNTY BOARD OF COMMISSIONERS MEETING

Courthouse Annex Boardroom | 150 Hudson Ridge | Homer, GA 30547

Tuesday, June 13, 2023 at 6:30 PM

## MINUTES

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### 1. CALL TO ORDER

Chairman Charles Turk called the meeting to order.

#### PRESENT

Chairman Charles Turk  
Vice Chairman Danny Maxwell  
Commissioner Chris Ausburn  
Commissioner Keith Gardiner  
Commissioner Bo Garrison

#### STAFF

Finance Officer Randy Failyer  
Planning/Zoning Officer Kerri Fincannon  
Election Superintendent Andra Phagan  
County Clerk Jenni Gailey  
County Attorney Randall Frost

### 2. APPROVAL OF AGENDA

Chairman Turk stated Item 7a. needed to be deleted due to the application being withdrawn before the Planning Commission meeting.

Motion to amend and approve the agenda.

Motion made by Commissioner Garrison, Seconded by Vice Chairman Maxwell.

Voting Yea: Chairman Turk, Vice Chairman Maxwell, Commissioner Ausburn, Commissioner Gardiner, Commissioner Garrison

Vote: 5-0

All yea votes and motion passed.

### 3. APPROVAL OF MINUTES

- a. **5/8/2023 Minutes**
- b. **5/9/2023 Minutes**
- c. **5/15/2023 Minutes**
- d. **5/23/2023 Minutes**

Motion to approve the minutes.

Motion made by Commissioner Gardiner, Seconded by Commissioner Ausburn.

Voting Yea: Chairman Turk, Vice Chairman Maxwell, Commissioner Ausburn, Commissioner Gardiner, Commissioner Garrison

Vote: 5-0

All yea votes and motion passed.

**4. PLEDGE TO THE AMERICAN FLAG**

Chairman Turk led the pledge.

**5. CHAIRMAN'S REPORT**

Chairman Turk gave the following report for the month of May:

- 307 Fire calls
- 2,951 Sheriff's Office calls
- Road paving:
  - Hickory Flat Rd
  - Harden Bridge Rd
  - Industrial Blvd
  - W Ridgeway Rd
  - Morris Gardiner
- Patterson Way change at the playground to one-way and paving

**6. SPECIAL REPORTS/PRESENTATIONS:**

**a. 2023 Banks County Varsity Archery Team State Champions**

Those recognized were:

**Senior Compound:**

Madison Adams  
Tate Edwards  
Reagen Ferguson  
Cody Ayers

**Senior Recurve:**

Grant English  
Ryan Nelson  
Emily Mainor  
Savanna Shafer

**Coaches:**

John Adams  
Ben Brown  
Chris Holloway  
Barry Nelson  
Matt Ayers  
Alfonso Aguilar  
Nikki Aguilar

**b. 2023 State Wrestling Champion in 157 Class: Kellon Walley - Coaches-Kasey Hanley, Forest Garner**

Kellon Walley- 2023 AA State Champion at 157 lbs

Coach Forrest Garner

Coach Kasey Hanley

**c. 2023 State Track & Field Champion in Discus & Shot Put: Shelby Speed-Coach - David Siegler**

Shelby Speed was recognized as state champion in the Discus and the Shot Put.

Coach David Seigler was also recognized.

**d. Rotary Salutes Day in Banks County, Georgia Proclamation**

Chairman Turk read the proclamation designating June 14, 2023 as Rotary Salutes Day in Banks County.

Motion to approve the proclamation.

Motion made by Chairman Turk, Seconded by Commissioner Gardiner.

Voting Yea: Chairman Turk, Vice Chairman Maxwell, Commissioner Ausburn, Commissioner Gardiner, Commissioner Garrison

Vote: 5-0

All yea votes and motion passed. *(Copy of proclamation filed in Attachment to Minutes Book 10-5)*

**7. PUBLIC HEARINGS:**

- a. Planning Commission: Z-23-02 - Bryan & Tawana Wood - An application to rezone property identified as Map/Parcel B51 025C, a 15.35 acre lot located at the intersection of Hwy 441 and McCoy Bridge Rd from ARR to C2 to be combined with the adjoining parcel to mini-storage (Hudson River Storage)**

Item deleted.

- b. Planning Commission: Z-23-03 - Paul & Morgan Kleiber - An application to rezone one acre of property identified as B16 114, a 21.78-acre parcel located at 154 Moccasin Gap Rd., from ARR to C1 with a conditional use for a food catering establishment (Kona Ice) in a structure over 2,500 sq. ft.**

Chairman Turk closed the meeting and opened the public hearing. Attorney Frost asked Planning & Zoning Officer Kerri Fincannon to present her report and the recommendation of the Planning Commission. Ms. Fincannon gave her report as follows:

According to the Georgia Zoning Procedural Law, the application for rezoning may be combined with the application for conditional use. The permitted use in this case is a food catering establishment as is allowable in C1. The conditional use pertains to the size of the structure which will be over the permitted 2500 square feet. This type of endeavor is specifically what was intended for the C1-Commercial zoning designation. Kona Ice is a small business owned and operated by local taxpayers. The business is to be operated out of a private structure with no advertisement. Neighbors would likely be unaware of the existence of a business. The three proposed commercial vehicles would be parked inside the structure, with drivers only being on the property long enough to switch vehicles. The business owner would be the only employee doing any work on site and work would be confined to the structure, no outdoor activities would take place. With the size and layout of the property, it is unlikely that any neighbors would be disturbed. The property owner is willing to separate one acre to be rezoned, restricting unchecked commercial growth in the area.

Ms. Fincannon then stated the Planning Commission recommended approval of the application.

Paul & Morgan Kleiber of 1248 Mt Sinai Rd presented the request by stating they had been in business 9 years in Gainesville but wished to move their business to Banks County. Mr. & Mrs. Kleiber stated the following would apply to the application:

- No advertising on site
- No signage
- No sales on property
- Their current 3 trucks would be parked inside

- They would only be mixing syrups on site
- No customers onsite
- Past Hall County health inspection scores had been 100 and would strive to continue the rating in Banks County

There would be space for approximately 6 vehicles to park inside the building but did not expect to acquire any more than the 3 existing trucks anytime soon. He stated the trucks were 23 ft in length.

Commissioner Garrison asked about how many deliveries are made per week. Ms. Kleiber stated in the peak season maybe one delivery every 7 to 10 days by UPS or FedEx. May through August.

Chairman Turk closed the public hearing and opened the meeting.

Motion to approve the application with the following conditions:

1. No signage
2. No customers/public sales on site
3. No outdoor storage
4. No other commercial activity on site
5. One acre to be cut out of the 21.78 acres to be rezoned C1 for the facility

Motion made by Commissioner Gardiner, Seconded by Vice Chairman Maxwell.

Voting Yea: Chairman Turk, Vice Chairman Maxwell, Commissioner Ausburn, Commissioner Gardiner, Commissioner Garrison

Vote: 5-0

All yea votes and motion passed. *(Copy of resolution filed in Attachment to Minutes Book 10-5)*

## 8. PUBLIC COMMENT:

### a. Replace Voting Machines with Paper Ballots: Charles Purcell

Charles Anthony Purcell of 476 Crystal Springs Rd read from Georgia Code Section §21-2-300 stating that a paper ballot shall be marked with the elector's choices and shall be furnished in a format readable by the elector. He requested that the county remove the current voting machines and to return to hand marked paper ballots for voting according to O.C.G.A §21-2-379.22. He stated the current ballots were not readable because votes were converted to a QR code which may not be readable except through cameras, cell phones or any recording devices which are not allowable in a polling place according to O.C.G.A §21-2-413(e). He went on to state that the Elections staff does a great job.

Election Superintendent Andra Phagan stated the Secretary of State determines the voting method used statewide. She said according to O.C.G.A. §12-2-300(a)(1), *"the voting equipment used for casting and counting votes in county, state, and federal elections shall be the same in each county in this state and shall be provided to each county by the state as determined by the Secretary of State"*. She stated that there was a legal case that determined that a county cannot change the voting method, it must be decided by the Secretary of State. She also stated the QR code may not hold the voting results of the ballot but were for insuring that the ballot was for the correct precinct. She referred Mr. Purcell to the Secretary of State's Office for questions and concerns.

## 9. PREVIOUS BUSINESS ACTION:

- a. **Deferred 11/22/2022 - Planning Commission: Z-22-09 - Application from Seabrook BLC Development LLC c/o Cheeley Law Group of 2500 Old Milton Parkway, Suite 200 Alpharetta, GA 30009 to rezone property from ARR (Agriculture Rural Residential) & C2 (General Commercial) to M1 (Industrial**

**District). Property identified as Map and Parcels B77 010 and B77 008 (+/- 173) acres to be used for Light Manufacturing/Assembly Facility.**

Ch. Turk stated this application had been withdrawn and needed to be removed from the agenda.

Motion to remove the item from the table.

Motion made by Commissioner Garrison, Seconded by Vice Chairman Maxwell.

Voting Yea: Chairman Turk, Vice Chairman Maxwell, Commissioner Ausburn, Commissioner Gardiner, Commissioner Garrison

Vote: 5-0

All yea votes and motion passed.

Motion to delete the item from consideration.

Motion made by Chairman Turk, Seconded by Vice Chairman Maxwell.

Voting Yea: Chairman Turk, Vice Chairman Maxwell, Commissioner Ausburn, Commissioner Gardiner, Commissioner Garrison

Vote: 5-0

All yea votes and motion passed.

**b. Postponed 5/23/2023 - Planning Commission: CU-23-05 - John Phillips-An application has been submitted for a conditional use on the property identified as parcel B41 002, a 63.91-acre lot located on Ervin Chambers Rd., to allow for a poultry farm with reduced setbacks.**

Chairman Turk stated that according to Section 1611 of county code *“The person initiating the proposal or his designated agent (the proponent) may, upon recognition and upon statement of name, address and relationship to the matter, present and explain the proposal. The proponent shall be required to attend the public hearing unless written notice of hardship is received prior to the hearing. Failure of the proponent to attend the public hearing, except in cases of hardship, may be due cause for dismissal or denial of such application.”* He stated they did not receive that at all.

Motion to bring the item from the table.

Motion made by Vice Chairman Maxwell, Seconded by Commissioner Gardiner.

Voting Yea: Chairman Turk, Vice Chairman Maxwell, Commissioner Ausburn, Commissioner Gardiner, Commissioner Garrison

Vote: 5-0

All yea votes and motion passed.

Jerry Rice of Ervin Chambers Rd was present as owner of the property. The original owner of the property Chan Pham sold the property to Mr. Rice on April 28, 2023. John Phillips appeared as a representative of the property and of Mr. Pham at the Commissioners meeting on May 23, 2023. Chairman Turk asked if Mr. Rice had a letter of commitment. Mr. Rice stated not with him but that he could get it. Chairman Turk stated the owner must apply for the conditional use and that Mr. Pham no longer owned the property. Attorney Frost stated the application had to be signed by the owner of the property. He further stated Mr. Rice must apply for the conditional use and would have to wait 6 months before applying according to the zoning ordinance. Attorney Frost agreed that he would have to wait 6 months.

Motion to deny the application.

Motion made by Commissioner Gardiner, Seconded by Commissioner Garrison.

Voting Yea: Chairman Turk, Vice Chairman Maxwell, Commissioner Ausburn, Commissioner Gardiner, Commissioner Garrison

Vote: 5-0

All yeas votes and motion passed. *(Copy of resolution filed in Attachment to Minutes Book 10-5)*

## 10. CONTRACTS AND AGREEMENTS:

### a. **Piedmont Judicial Circuit: 2024 Indigent Defense Contract**

Mr. Failyer stated the contract commitment is approximately \$9,700 per month. He stated by law indigent defense must be provided.

Motion to approve the contract effective January 1, 2024 to expire December 31, 2024.

Motion made by Chairman Turk, Seconded by Commissioner Ausburn.

Voting Yea: Chairman Turk, Vice Chairman Maxwell, Commissioner Ausburn, Commissioner Gardiner, Commissioner Garrison

Vote: 5-0

All yeas votes and motion passed. *(Copy of contract filed in Attachments to Minutes Book 10-5)*

### b. **ACCG 2023 Property & Liability Insurance Renewal**

Mr. Failyer stated the policy had increased due to added property, reappraisal of real property and increased rates. The renewal would be for \$490,901 with a deductible increase to \$5,000. He stated this was included in the FY2024 budget. Commissioner Garrison asked what made up the majority of the premium. Ms. Gailey stated vehicle coverage was the largest portion with the Sheriff's Department making up the majority of vehicle coverage. Chairman Turk stated the Sheriff's Department had approximately 75 vehicles. Mr. Failyer stated new heavy equipment was also added with the Road Department as well as 15 new vehicles for the Sheriff's Department. Ms. Gailey stated some older vehicles would be sold and removed from coverage over time.

Motion to approve the ACCG 2023 Policy renewal.

Motion made by Commissioner Garrison, Seconded by Commissioner Gardiner.

Voting Yea: Chairman Turk, Vice Chairman Maxwell, Commissioner Ausburn, Commissioner Gardiner, Commissioner Garrison

Vote: 5-0

All yeas votes and motion passed.

### c. **Roads & Bridges: Additional engineering for road projects - KCI Technologies - \$17,400**

Chairman Turk stated this was due to added engineering on current projects.

Motion to approve the additional engineering in the amount of \$17,400 to be paid from the Road & Bridge Tax.

Motion made by Vice Chairman Maxwell, Seconded by Commissioner Gardiner.

Voting Yea: Chairman Turk, Vice Chairman Maxwell, Commissioner Ausburn, Commissioner Gardiner, Commissioner Garrison

Vote: 5-0

All yeas votes and motion passed.

## 11. RESOLUTIONS AND ORDINANCES:

### a. **Finance: FY2024 Budget Resolution**

Mr. Failyer stated the FY2024 budget was \$23,727,495. Chairman Turk stated a public hearing was held to present the proposed budget. Vice Chairman Maxwell stated the millage rate would be set at a later date.

Motion to approve the FY2024 Budget resolution.

Motion made by Chairman Turk, Seconded by Vice Chairman Maxwell.

Voting Yea: Chairman Turk, Vice Chairman Maxwell, Commissioner Ausburn, Commissioner Gardiner, Commissioner Garrison

Vote: 5-0

All yea votes and motion passed. *(Copy of Resolution filed in Attachment to Minutes Book 10-5) 2023-07*

## **12. EXECUTIVE SESSION: POTENTIAL LITIGATION**

Motion to enter into executive session to discuss Potential Litigation and Land Acquisition/Disposal at 7:28 p.m.

Motion made by Commissioner Garrison, Seconded by Commissioner Gardiner.

Voting Yea: Chairman Turk, Vice Chairman Maxwell, Commissioner Ausburn, Commissioner Gardiner, Commissioner Garrison

Vote: 5-0

All yea votes and motion passed.

Motion to come out of executive session at 7:47 p.m.

Motion made by Commissioner Garrison, Seconded by Commissioner Gardiner.

Voting Yea: Chairman Turk, Vice Chairman Maxwell, Commissioner Ausburn, Commissioner Gardiner, Commissioner Garrison

Vote: 5-0

All yea votes and motion passed. *(Copy of Affidavit filed in Attachment to Minutes Book 10-5)*

## **13. ADJOURNMENT**

Motion to adjourn at 7:47 p.m.

Motion made by Commissioner Garrison, Seconded by Vice Chairman Maxwell.

Voting Yea: Chairman Turk, Vice Chairman Maxwell, Commissioner Ausburn, Commissioner Gardiner, Commissioner Garrison

Vote: 5-0

All yea votes and the meeting adjourned.

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Chairman

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County Clerk