



BANKS COUNTY BOARD OF COMMISSIONERS MEETING

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

Tuesday, August 22, 2023 at 6:30 PM

MINUTES

1. CALL TO ORDER

Ch. Turk called the meeting to order.

PRESENT

Chairman Charles Turk

Vice Chairman Danny Maxwell

Commissioner Chris Ausburn

Commissioner Keith Gardiner

Commissioner Bo Garrison

STAFF

County Clerk Regina Gailey

Human Resources Director Arlene Ivey

Election Superintendent Andra Phagan

County Attorney Randall Frost

2. APPROVAL OF AGENDA

Ch. Turk stated the agenda needed to be amended as followed:

- Delete Item 5a.
- Add Personnel to 8. Executive Session - Litigation

Motion to approve the agenda as amended.

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 motion passed.

3. PLEDGE TO THE AMERICAN FLAG:

Commissioner Garrison led the Pledge to the American Flag.

4. PUBLIC COMMENT

a. Brian Parker – Election Integrity: Paper Ballots

Brian Parker, Chairman of the Banks County Republican Party stated there was a loss of trust in the electronic voting machines used in elections. He stated it is the duty of the Commissioners to provide for secure and transparent elections. He said machine inaccuracy has been found throughout the state. He stated concerns with election integrity with the Dominion voting machines due to inaccuracies. He demanded hand-marked security grade paper ballots hand counted at the precinct going forward as specified to be provided in OCGA §21-2-334 when exceptions occur. He stated the Georgia system is not accurate and are hackable.

Elections Superintendent Andra Phagan stated the machines were publicly tested every election but no one ever shows up to observe the testing. Everyone can be voted for in any precinct in the county.

L&A procedures are advertised before every election.

Every vote in Georgia is recorded on paper ballots and printed out from paper that the county has to order each election.

In 2020 every election was hand counted and matched the machine exactly. Each election will be audited in 2024 and all citizens may watch the recount.

She further stated changing to paper ballots would have to be an emergency.

5. PUBLIC HEARINGS:

- a. **Tabled 6/27/2023: Z-23-04 - Bryan & Tawana Wood - An application has been submitted to rezone a 5-acre portion of the property identified as B51 025C, a 15.35-acre lot located at the intersection of Hwy 441 and McCoy Bridge Rd., from ARR to C2 to be used for a wholesale establishment with a special use for a storage yard for railway components.**

DELETED

- b. **Planning Commission: CU-23-08 – An application has been submitted for the property identified as B77 026A, a 59.06 acre lot located on Hwy 59 at 114 Hatchery Way, to be conditionally used as a cold storage facility.**

Chairman Turk closed the meeting and opened the public hearing. Atty Frost asked Planning & Zoning Official Kerri Fincannon to give the report of the Planning Commission. Ms. Fincannon stated this was for Marjac Poultry and the Planning Commission recommended approval by unanimous vote. She stated the current zoning was M-1, Industrial and would remain the same. Tyre Jones, General Manager spoke in favor of the application by stating the name of the business would be Banks Cold Storage and would consist of a 210,000 square ft. cold storage facility with approximately 67 employees. Chairman Turk asked what the investment would be. Mr. Jones stated \$70,000,000+. Commissioner Garrison asked if Marjac was expecting tax abatement for the project. Mr. Jones stated they would apply for abatements if available. Commissioner Maxwell expressed appreciation to Marjac for locating in Banks County but stated no abatements were available at this time. Commissioner Ausburn asked about truck traffic. Mr. Jones stated approximately 70 trucks within a 16 hour period but would mostly be limited to Hwy 59 and I85. He also said 70% to 90% would be exports. Josh Trimble of McCoy Bridge Rd, Homer stated he thought this would be a great addition to Banks County.

Atty Frost closed the public hearing Chairman Turk opened the meeting.

Motion to approve the application.

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 the motion passed.

(Copy of resolution filed in Attachment to Minute Book 11-1)

- c. **Planning Commission: Z-23-04 – Bryan & Tawana Wood – An application has been submitted to rezone a 5 acre portion of the property identified as B51 -25C, a 15.35 acre lot located at the intersection of Hwy 441 and McCoy Bridge Rd., from ARR to C2 to be used for a wholesale**

establishment with a special use for a storage yard for railway components has been modified to encompass the entire 15.35 acre parcel.

Chairman Turk closed the meeting and opened the public hearing. Atty Frost asked Planning & Zoning Official Kerri Fincannon to give the report of the Planning Commission. Ms. Fincannon stated this was considered in a previous meeting but the plat was found in error and the 15.35 acres was not eligible for split. The applicants requested due to error, to change the scope of the rezone to include the whole 15.35 acres instead of 5 acres. She said the only change in the application was the acreage being rezoned. She said the use would be storage yard only which would limit the amount of traffic visiting the facility and that typically storage yards are not permitted in C2, however several types of implemental storage such as agricultural and farm supply storage and lumber yard storage are permissible with a conditional use. There will not be customer traffic in and out of the storage yard and the remainder of the property would be left unused and as greenspace. She further stated the Planning Commission recommended denial with a 3-2 vote to deny the application.

Tawana Wood, landowner from 509 Delia Drive, Commerce spoke in favor of the application by stating the original application was submitted in June 2023 for Lanier Steel Products to store their products on the property in a storage yard but was deemed invalid due to a platting error and a request was made to table the application. She stated the application would remain the same except they now wished to rezone the entire 15.35 acre parcel. She stated it was adjacent to another 7.27 acre parcel they owned at 862 McCoy Bridge Rd, Homer that was already zoned C2, Commercial. She said that the 15.35 acre parcel had 747.22 feet of road frontage along the Hwy 441 Bypass. She said it was clearly located within the Commercial Activity Node Character Area specifically designated in the 2018 Comprehensive Plan to Bypass Neighborhoods.

Favor:

Angela McCurry of 223 Venter Drive, Commerce and owner of Lanier Steel Products spoke in favor of the application by stating they served many local establishments such as Marjac in Maysville and Fieldale Farms. She stated they would stock rail components but would rarely touch the product except for occasional cleanup to include welding & grinding. She stated they would stock such items as spikes, various size bolts, drill bits and track tools.

AJ Purcell of 432 Wrights Mill Rd, Commerce stated it was small business that he was in favor of locating in Banks County.

Opposition:

Marsha Harris of 1554 McCoy Bridge Rd, Commerce spoke in opposition of the application by stating she was not against small business or them locating in Banks County but she did not feel this storage yard would benefit the community on McCoy Bridge Rd.

Jeremy Harris of 1554 McCoy Bridge Rd, Commerce spoke in opposition of the application by stating concerns with land disturbing without the proper permits. He stated the county code states a business like this would be in violation. He also stated only one person from Banks County spoke in favor of the application.

Josh Trimble of 1565 McCoy Bridge Rd, Commerce spoke in opposition of the application by stating it is not in compliance with the Banks County Comprehensive Plan. He cited county code stating various sections that address nuisance, depleting property values and compatibility with the neighboring

properties. He said the decision should be made in the best interest of the citizens of surrounding community.

Michelle Peterson of 766 McCoy Bridge Rd, Homer stated this would be no benefit to the county. She stated there would be no access on Hwy 441 but would be on McCoy Bridge Rd. She also stated the applicants did not live in Banks County.

Rebuttal:

Ms. Wood stated Lanier Steel was not a walk-in store but provides repair and installation material and components for rail spurs such as Huber, Georgia Power, Marjac Poultry, Fieldale Farms, Bailey Feed Mill, WC Pulpwood, etc.

Chairman Turk asked Ms. McCurry about the tax benefit to Banks County and if the sales tax was at point of delivery. Ms. McCurry stated yes but they would have inventory tax at the end of the year and that they currently have 4 employees. She did say that there would be occasional contractors onsite sales. Chairman Turk asked if the current location originally owned by Lanier Steel Product, Inc and then Lanier Steel Realty, LLC acquired the property who sold to Red Fern Ventures, LLC. She stated yes. He then asked if this was a "willing sale" of a seller and a buyer with no condemnation. She stated yes. He stated the current location was a much more suitable location. She said they had sold the whole property but were currently leasing the property until March 2024 and did not plan to renew the lease. She stated they would store approximately \$500,000 to \$550,000 of inventory.

Vice Chairman Maxwell stated concerns with rezoning the whole 15.35 acres when only 5 acres would be used for that purpose.

Chairman Turk read the criteria for considering a conditional use in Section 1104 of the Banks County Code as follows:

(a)The existing uses and zoning of nearby property and whether the proposed zoning will adversely affect the existing use or usability of nearby property.

(b)The extent to which property values are diminished by the particular zoning restrictions.

(c)The extent to which the destruction of property values promotes the health, safety, morals or general welfare of the public.

(d)The relative gain to the public, as compared to the hardship imposed upon the individual property owner.

(e)The physical suitability of the subject property for development as presently zoned and under the proposed zoning district.

(f)The length of time the property has been vacant, considered in the context of land development in the area in the vicinity of the property, and whether there are existing or changed conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the rezoning request.

(g)The extent to which the proposed zoning will result in a use which will or could cause excessive or burdensome use of existing streets, transportation facilities, utilities, schools, parks, or other public facilities.

(h) Whether the proposed zoning will create risk of adverse environmental effects to the community, including, without limitation, air pollution, surface water contamination or groundwater contamination.

(i) Whether the proposal will create risks that uses with nuisance characteristics will occur.

(j) Whether the proposed zoning will adversely affect property values of others.

(k) Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan, land use plan, or other adopted plans. The zoning administrative officer, planning commission, and governing body are authorized to require such special studies relating to the above factors as they reasonably deem relevant, including without limitation, for such matters as noise, air particulate matter, odor, surface or groundwater contamination, radiation, or other environmental or nuisance considerations. The governing body may approve the application for rezoning provided that it has determined that under the criteria set out above the rezoning is appropriate and has determined that the benefits of and need for the rezoning are greater than any possible depreciating effects and damages to neighboring properties or other parts of the county.

He stated there were cons for approving the application according to this criteria and asked Ms. McCurry what the pros would be to outweigh the cons. Ms. McCurry stated a pro would be bringing the small business and some sales & inventory tax revenue into the county. She said they had been in business since 1985 and their locating would encourage other development in that area.

Commissioner Ausburn asked what is actually done to the components to prep for resale. Ms. McCurry stated there would need to be some restoration such as welding & sanding.

Commissioner Garrison stated he had no problem with the business but he could not go along with the location and that it would not be suitable for the community.

Atty Frost closed the public hearing Chairman Turk opened the meeting.

Commissioner Ausburn stated the Comprehensive Plan designates the area as East Homer Bypass and is for Commercial Development that serves local residents.

All Commissioners agreed that the location of the proposed business was the main concern. Commissioner Ausburn stated he is a fan of small businesses but the location was not ideal. Commissioner Garrison agreed and stated if an acceptable location was found, he would welcome Lanier Steel to the county.

Motion to deny the application.

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 motion passed.

(Copy of resolution filed in Attachment to Minute Book 11-1)

6. PREVIOUS BUSINESS ACTION:

a. Tabled 7/25/2023: Planning & Zoning Appeals Board – 3 year term to expire July 31, 2026

Motion to remove the item from the table.

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

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

Vote: 5:0

All yea votes and the motion passed.

Motion to appoint Cameron Boswell to the position.

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 the motion passed.

b. Tabled 7/25/2023: Planning & Zoning Appeals Board – 3 year term to expire July 31, 2026

Chairman Turk asked for a motion to remove the item from the table. There was no motion.

c. Tabled 7/25/2023: Recreation Board: Resignation – Vacant term to expire 6/30/2026

Motion to remove the item from the table.

Motion made by Chairman Turk, Seconded by Commissioner Garrison.

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

Vote: 5:0

All yea votes and the motion passed.

Motion to appoint Otis Rylee to the position.

Motion made by Chairman Turk, Seconded by Commissioner Garrison.

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

Vote: 5:0

All yea votes and the motion passed.

Ben Ramsey – Recreation Board Resignation

Vice Chairman Maxwell stated Mr. Ramsey had submitted a resignation letter to discontinue service on the board due to a conflict in meeting times.

Motion to accept Mr. Ramsey's resignation.

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 the motion passed.

7. CONTRACTS AND AGREEMENTS:

a. GDOT Local Bridge Replacements

Chairman Turk stated this would involve 4 bridges as follows:

1 – on Duncan Rd

1 – on Sims Bridge Rd

2 - on Yonah Homer Rd

He further stated the county may be required to purchase/acquire some right-of-way if needed however LMIG funds may be used. The replacement period would be 2024 through 2028 and the cost would be between \$50,000 to \$100,000 per bridge.

Motion to approve the Memorandum of Understanding for bridge replacement.

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 the motion passed.

8. EXECUTIVE SESSION – LITIGATION & PERSONNEL

Motion to enter into executive session concerning litigation & personnel at 7:30 p.m.

Motion made by Commissioner Ausburn, 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 motion passed.

Motion to come out of executive session at 8:40 p.m.

Motion made by Commissioner Ausburn, Seconded by Commissioner Gardiner.

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

Vote: 5:0

All yea votes and the motion passed.

(Copy of affidavit filed in attachment to Minute Book 11-1)

BOARD OF ELECTIONS

Chairman Turk stated the Board of Registrars had submitted seven names for eligibility to serve on the Board. For the two positions up for appointment, four names are required to submit to the Superior Court Judge for consideration. The Board of Commissioners reviewed the list and have narrowed the list to the required four candidates as follows:

Nancy Cochran
Wanda Eubanks
Jane (Beth) Gordon
Sharon Pruitt

Motion to approve the names as listed.

Motion made by Commissioner Ausburn, Seconded by Chairman Turk.

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

Vote: 5:0

All yea votes and the motion passed.

9. ADJOURNMENT

Motion to adjourn the meeting at 8:40 p.m.

Motion made by Commissioner Ausburn, 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 motion passed.

Chairman

County Clerk