



BANKS COUNTY BOARD OF COMMISSIONERS MEETING

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

Tuesday, October 24, 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

Planning Official Kerri Fincannon

County Clerk Regina Gailey

Human Resources Director Arlene Ivey

Fire Chief Steve Nichols

Public Utilities Director Horace Gee

County Attorney Randall Frost

2. APPROVAL OF AGENDA

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

- *Add the following:*
 - 4b. Personnel: FMLA Extended Leave Request Arlene Ivey*
 - 4c. Public Utilities: Side-by-Side Purchase Horace Gee*
 - 4d. Fire/EMS: Fire Engine Purchase Steve Nichols*

Motion to amend and approve the agenda as stated.

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 Ausburn led the Pledge to the American Flag.

4. MISCELLANEOUS:

a. 2023 Windmill Farm Youth Hunt Benji Ward

Mr. Ward stated the hunt would be held on November 24th and 25th. He thanked the Commissioners for their support and stated they had at least 40 applications but limited the hunt to 25 applications. He stated

as usual the hunt would be managed by the GA DNR. Commissioner Gardiner suggested holding 2 separate hunts to allow more participation. He stated he would check on this and report back in the December meeting.

b. Personnel: FMLA Extended Leave Request Arlene Ivey

Ms. Ivey stated there was an employee approaching the end of the 12 week FMLA leave allowed and asked for an extension until December 31, 2023. She stated the employee would be responsible for the cost of the health insurance.

Motion to approve the leave extension.

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 the motion passed.

c. Public Utilities: Side-by-Side Purchase Horace Gee

Chairman Turk stated he had researched and gotten quotes of different options as requested. He stated the best quote he had received was from Gainesville Motor Sports at \$13,220.90 which was a Kawasaki Mule that included a top, windshield and was a 4x4.

Motion to approve the purchase from Gainesville Motor Sports.

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 the motion passed.

d. Fire/EMS: Fire Engine Purchase Steve Nichols

Fire Chief Steve Nichols stated he had been offered an HME 2012 Fire Engine that had never been placed in service and had 5,000 miles and less than 100 hours on the pump. He stated Maysville Fire Department was asking \$325,000. He further stated this could be purchased with 2022 SPLOST funds. He stated a new comparable truck would be approximately \$760,000 and, on the market, the used truck would be approximately \$525,000.

Motion to approve the purchase for \$325,000 to be paid from the 2022 SPLOST funds.

Motion made by Commissioner Garrison, 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.

5. PREVIOUS BUSINESS ACTION:

- a. Tabled 10/10/2023: Planning Commission: Various Recommendations for Code Amendments**
Motion to remove the item from the table.

Motion made by Vice Chairman Maxwell, Seconded by Commissioner Ausburn.
Voting Yea: Chairman Turk, Vice Chairman Maxwell, Commissioner Ausburn, Commissioner Gardiner, Commissioner Garrison
Vote: 5:0
All yea votes and the motion passed.

Planning Official Kerri Fincannon presented the following Planning Commission recommendation:

- **Home Occupation**

Planning Commission proposal to add:

Article IV, Section 417 – Home Occupations

9. A business license shall be obtained from Banks County prior to the operation of any home occupation. Said Business license shall require approval by the zoning administrative officer. Failure to annually renew a business license within the specified time will result in the withdrawal of approval from the Planning Office. Applications for Conditional Home Occupations shall clearly define the specific use.

Motion to approve the Planning Commission recommendation.

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 the motion passed.

- **Setbacks for residences from farm structures – 800 ft.**

Planning Commission proposal to add:

Appendix A, Article IV, Section 411 – Setbacks

e. No dwelling in an R-1 or R-2 zone shall hereafter be erected within 800 ft of an existing agricultural use as defined in Appendix A, Article VI, Section 602(12).

Commissioner Ausburn stated he did not like this addition and definitely not in ARR zoning district since it would handicap the small acreage property owner. He also stated concerns with creating non-buildable lots. Vice Chairman Maxwell stated if someone builds a house next to a poultry house, then they know the effects. Chairman Turk stated they could apply for a variance on the setback.

Attorney Randall Frost stated that a variance should rely on a hardship situation that the landowner did not create. He further stated the county code had specific criteria for considering a variance. Commissioner Ausburn stated this could be visited later.

Motion to deny the Planning Commission recommendation.

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.

- **Accessory Buildings and Structures**

Planning Commission proposal to add:

Appendix A, Article IV, Section 412 – Accessory building and structures.

In R-1 zone, accessory building and structure shall be located only in side or rear yards.

Chairman Turk stated these should be considered on an individual basis. Discussion was had concerning ***the addition of 5 acre minimum with 100 ft setback from the road right of way in ARR and CAD zones.***

Motion to approve the Planning Commission recommendation with the additions as stated.

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.

- **Addresses/Platting Authority**

Planning Commission recommended the following changes to the Code of Ordinances:

1. *Chapter 62, Article III, Section 62-63, Designation of street numbers. “(g) All persons requiring a street number assignment must apply by telephone for such number from the county E-911 at least two weeks in advance.” should be deleted and replaced with “(g) No address will be issued without first applying for a building permit from the Planning Department. The Planning Department will request an address from E-911 on behalf of the applicant.”*
2. *Chapter 74, Article II, Section 74-33, Platting authority. “The planning commission official shall be the official platting authority. No plat of a land subdivision or retracement plat shall be entitled to be recorded in the office of the clerk of superior court of the county unless it shall have the approval endorsement of the planning official, or his designee, written on such plat. The filing or recording or attempted filing of a plat of a subdivision or retracement plat without the approval of the planning commission official as required by this chapter is declared to be a misdemeanor. The planning commission official is authorized to levy charges for certain actions, inspections, and to cover certain direct costs. Such fees are to be used only to defray costs of the planning commission staff.”*
3. *Chapter 74, Article II, Section 74-34, Use of plat. “No person shall sell or transfer or agree to sell any land by reference to or exhibition of or other use of a plat of a subdivision before that plat has been approved endorsed by the county planning commission official and recorded in the office of the clerk of superior court of the county. The description by metes and bounds in the instrument of transfer or other documents shall not exempt the transaction from such penalties.*
4. *Chapter 74, Article IV, Section 74-98, Review of final plat.
(a) The chairman planning official or a designated member of the planning commission department shall check the plat for conformance with the approved/conditionally approved preliminary plat and for compliance with this chapter and other relevant county regulations and ordinances and report findings and recommendations to the planning commission and/or the board of commissioners in public session.*

(b) Class I and minor subdivisions may be reviewed in office and approved without a public hearing. Class II and III subdivisions must be approved by the planning commission and endorsed by the planning official in public session. Class IV subdivisions must be approved by the Board of Commissioners through the public hearing process with a recommendation from the planning commission and endorsed by the planning official.

(c) No Class II, Class III, or Class IV final plat shall be acted upon by the planning commission except in public session. Such sessions or hearings must be held at least monthly and are generally held on the first and third Tuesdays of each month. The field representative planning official is not empowered to approve or disapprove a final plat request for a Class II, Class III, or Class IV subdivision. The field representative planning official will attempt to send not less than seven days before the public hearing a notice of the date and time of the hearing by regular mail to the person designated in the letter requesting final plat review. The field representative planning official will attempt to contact by telephone the person designated in the letter requesting final plat approval to remind the person of the date and time of the hearing. However, it is the responsibility of the person requesting final plat review to know the date and time of the hearing and to be present at the hearing or have a representative at the hearing.

(d) The planning commission shall take no action shall be taken on a final plat if the applicant or designated representative is not present at the hearing, in which case the 45-day requirement in subsection (g) of this section is automatically waived for 46 days.

(e) At a public hearing within 30 days of request for final plat approval, the planning commission approving board shall take one of the following actions which shall be recorded, with reasons for disapproval where appropriate, in the minutes:

(1) Approve the final plat.

(2) Disapprove the final plat and further notify the subdivider in writing of the specific reasons for disapproval within five days.

(3) Table the request for approval to a date certain.

(f) In order for the planning commission approving board to approve a final plat, all requirements of these regulations must have been satisfied, and all improvements required must have been completed not less than 15 work days prior to the scheduled hearing at which final plat approval is requested. All improvements shall be inspected by the planning commission approving board during this five-day period.

(g) Plats not acted on by the planning commission approving board within 45 days of request for approval shall be deemed approved and a certificate of final plat approval shall be issued on request of the subdivider (tabling a request is acting on the request). If, however, the planning commission approving board determines that additional time is required to study a final plat, an extension of time shall be requested in writing from the subdivider, who may agree to a specific time extension in lieu of a plat disapproval.

(h) If final plat approval is requested two times and is denied both times because required improvements have not been made, the planning commission approving board shall not further consider that plat for 90 days following the date of the second disapproval.

(i) When all conditions for approval of the final plat have been met and such approval has been granted, the planning commission official shall endorse and date the certificate of final plat approval on the original copy of the final plat. Such approval and endorsement convey the authority to record the plat and to sell lots shown on the plat.

5. Chapter 74, Article IV, Section 74-100, Final plat specification.

(3) s. Subdivision Notes section to include type of subdivision(s) included on survey. In the case of Class I subdivisions, notes section shall include the full legal name of immediate family member to whom the parcel is to be conveyed. Family members must be aged eighteen or older and provide a notarized affidavit of age and relationship to property owner. This section shall also include the

date of the last separation of the same parcel and the class of that division as defined in Chapter 74, Article III, Section 74-61, Definitions.

Chairman Turk stated the Planning Commission needs to hear Class I, Class II, Class III and Class IV. He further stated the Board of Commissioners needs to hear Class IV.

Motion to approve the Planning Commission recommendation to amend with the change:

Move Class I from 4b. to 4c.

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 yea votes and the motion passed.

- **Wedding and Event Venues**

Proposal for the following County Code amendments:

- *Article VI ARR, Agricultural, Rural, Residential District, Section 603 Conditional Uses.
7. Wedding and Event Venues – No more than a 100-person occupancy*
- *Article VIII C-1, Neighborhood Commercial District, Section 802 – Permitted Uses.
9. Wedding and Event Venues, no more than 100-person occupancy*
- *Article VIII C-1, Neighborhood Commercial District, Section 803 – Conditional Uses.
15. Wedding and Event Venues, no more than 250-person occupancy*
- *Article IX(A) C-2, General Commercial District, Section 902(A) – Permitted Uses.
11. Wedding and Event Venues*

Motion to approve the Planning Commission recommendation to provide for Wedding and Event Venues with the following deletions/additions:

- *Delete: Article VI ARR, Agricultural, Rural, Residential District, Section 603 Conditional Uses.
7. Wedding and Event Venues – No more than a 100-person occupancy*
- *Delete: Article VIII C-1, Neighborhood Commercial District, Section 803 – Conditional Uses.
15. Wedding and Event Venues, no more than 250-person occupancy*
- *Delete: Article IX(A) C-2, General Commercial District, Section 902(A) – Permitted Uses.
11. Wedding and Event Venues*
- *Add: Article IX(A) C-2, General Commercial District, Section 903(A) – Conditional Uses.
12. Wedding and Event Venues - No more than 250-person occupancy*

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 the motion passed.

- **Article IX(A) C-2, General Commercial District – Extended Stay Hotels or Motels**

Proposal to remove from the Code of Ordinances Article IX(A) C-2, General Commercial District, Section 902(B) – Conditional Uses, item number 26 in its entirety and to replace it with the following:

- **Article IX(A) C-2, General Commercial District, Section 902(B) – Conditional Uses.**
26. *Extended Stay Hotels or Motels – any hotel or motel that is locally operated with the intent of allowing guests to occupy a unit for more than 7 consecutive days but not more than 29 consecutive days. Extended Stay Hotels or Motels are subject to the Rules and Regulation so the Georgia Health Code, as amended from time to time. Reference Article XXIII.*

The Planning Commission recommended denial of the recommendation by Ms. Fincannon.

All Commissioners agreed the current code was sufficient for this designation.

Motion to approve the Planning Commission recommendation to deny the Planning Official recommendation.

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.

- **Quasi-Judicial Body**

Ms. Fincannon recommended the following:

- *The Board of Commissioners shall appoint a quasi-judicial body (board or officer) to oversee delegated administrative decisions. Administrative decisions are those decisions not specifically enumerated as “Zoning Decisions” or final legislative acts as defined by the 2022 Zoning Procedural Law.*

The Planning Commission recommended denial of the recommendation by Ms. Fincannon.

Motion to approve the Planning Commission recommendation of denial of the Planning Official proposal.

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 yea votes and the motion passed.

- **County Initiated Rezones**

Ms. Fincannon recommended the following addition to the Code of Ordinances:

- **Section 1103. - Applications for rezoning, conditional use permits or variances.**

Section 1103.1 Applications (i) for an amendment of the official zoning map to rezone any parcel of property from one zoning district to another, (ii) for a conditional use permit to allow a conditional use in any zoning district or (iii) for a variance from the provisions of these regulations may be made only by (a) the governing body, (b) the planning commission, (c) the zoning administrative officer or (d) the property owner of the parcel to be considered. All such applications shall be initiated as

provided in section 5.02 of the policies and procedures ordinance, and shall be considered in accordance with the provisions of the policies and procedures ordinance.

Section 1103.2 The following application materials shall be filed in connection with applications described in section 1103.1(a-c) above:

(a) An application form furnished by the zoning administrative officer.

(b) A legal description of the property to be considered in the application. The legal description shall be by metes and bounds unless an alternative legal description is accepted by the zoning administrative officer. Boundary surveys of the property should be submitted with the application whenever available.

(c) A report from the zoning administrative officer which clearly states the reason for the application, background information in support of such application, and any other information deemed pertinent by the applicant or the zoning administrative officer.

(d) Approval of the Chairman of the Planning Commission and the Chairman of the Board of Commissioners.

Section 1103.3 The following application materials shall be filed in connection with applications described in section 1103.1(d) above: ...

Section 1103.4 All site plans required by these regulations shall, at a minimum, contain the following information: ...

Section 1605. - Proposals for modifications relating to particular property.

(a) Authority to file applications. The board of commissioners, the planning commission, the zoning administrative officer or any property owner may file an application for an amendment of the official zoning map of a zoning ordinance to rezone a particular parcel or parcels, for a conditional use permit under a land use ordinance relating to a particular parcel, or for a variance under any land use ordinance which provides for variances; ...

The Planning Commission recommended approval of the recommendation by Ms. Fincannon by a vote of 2 in favor and 1 in opposition.

Attorney Frost stated all zoning actions must go through the Planning Commission and the Board of Commissioners with public hearings. Ms. Fincannon stated that currently there was no provision for a county initiated rezone. Attorney Frost stated he and Ms. Fincannon will work on a clear procedure for this matter.

Motion to deny the Planning Commission recommendation as presented.

Motion made by Commissioner Ausburn, 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.

- **Criteria to Consider Conditional Use – Involuntary Termination**

Ms. Fincannon recommended the following addition to the Code of Ordinances:

Article XI, Section 1105 – Criteria to consider conditional uses.

- *F. (9). The Banks County Planning Department shall notify the Board of Commissioners through the Planning Commission of involuntary termination in the event of non-compliance and shall change the official zoning maps to reflect any involuntary termination.*

The Planning Commission recommended approval of the recommendation by Ms. Fincannon by a vote of 2 in favor and 1 in opposition.

Motion to deny the Planning Commission recommendation.

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 the motion passed.

- **Economic Development Blueprint**

Ms. Fincannon stated the Planning Commission recommended to request that the Development Authority discontinue the use of the 2019 Economic Development Blueprint and to furthermore declare the repeal of said document and its implications to the future of the County.

Motion to deny the Planning Commission recommendation.

Motion made by Chairman Turk, Seconded by Commissioner Gardiner.

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

Voting Nay: Commissioner Ausburn, Commissioner Garrison

Vote: 3:2

Motion to deny passed by majority vote.

6. ADJOURNMENT

Motion to adjourn the meeting at 8:17 p.m.

Motion made by Commissioner Garrison, Seconded by Commissioner Ausburn.

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