

The Banks County Board of Commissioners held their regular meeting on June 8, 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
Finance Officer Randy Failyer
Code Enforcement Officer Paul Ruark
Fire Chief Steve Nichols
County Attorney Randall Frost

1. Call to Order

Ch. Turk called the meeting to order.

2. Approval of Agenda

Ch. Turk stated the following needed to be added to the agenda:

10 h. Georgia Mountain Regional Commission – Public Sector
10 i. Recreation Board

Motion to approve the agenda: Danny Maxwell

Second: Bo Garrison

Vote: 5:0

All aye votes and the motion passed.

3. Chairman's Report

Ch. Turk reported on the following:

- Fire Calls – 322, Sheriff Calls – 3768, Other Agency Calls – 628 for a total of 4,718 E911 calls
- Health Department had vaccinated a total of 12,238 people
- Two pipes were completed at Steven Tanger and hopefully the third would be poured soon. Hopefully in about 3 weeks the project would be complete.
- Borders Road paving was complete and Hebron Road was being patched and the paving should be completed soon.
- Comm. Reece stated he talked to the Gillsville Mayor and he had told Comm. Reece that he had dialed 911 about a tree that had fallen and he got Banks County 911 and it rang only one time before someone answered the phone but when he was transferred to Hall County because that was where he lived it took Hall County eleven rings to answer an emergency call. Comm. Reece stated it was great that our E911 can answer calls so quickly.

4. Pledge to the American Flag

Vice Ch. Maxwell led the Pledge to the American Flag.

5. Approval of Previous Minutes – 5/4/2021, 5/11/2021, 5/18/2021

Motion to approve the minutes: Sammy Reece

Second: Keith Gardiner

Vote: 5:0

All aye votes and the motion passed.

6. Public Comment: Request for Tax Office presentation on tax information and other questions

Kenneth Bennett

Kenneth Bennett - 1112 Bennett Road – Stated he had talked with the Tax Commissioner and Tax Assessors' Office about holding an information seminar about taxes for public information and education. He further stated he had some follow-up questions about the County Attorney, GA Power and the gas line, capacity of water and sewer, new projects and the long-term sewer plan. Mr. Bennett thanked the Commissioners for the commitment to preserve the County at the meeting on May 18, 2021.

7. Public Hearings:

a. Planning Commission Recommendations: Z-21-03 – Chris Phagan – Application to rezone the property identified as parcel B53 133 consisting of a 7.79-acre lot at Hwy 441 and Banks Rd, from ARR (Agricultural, Rural, Residential) to C2 (Commercial) to be used as a medical office building.

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

Atty. Frost stated the application was to rezone the property identified as parcel B53 133 consisting of a 7.79-acre lot at Hwy 441 and Banks Rd, from ARR (Agricultural, Rural, Residential) to C2 (Commercial) to be used as a medical office building.

Zoning Officer Paul Ruark stated that the Planning Commission recommended approval of the application at the June 1, 2021 meeting.

In Favor of the Application

Dave Ward, President and CEO of Medlink of Georgia – 1060 Creekstone Lane, Bishop, GA – Stated Medlink of Georgia is a federally qualified community health center in which they have 20 locations in Northeast Georgia. He stated the current Banks County facility was beside Anderson Auto in Homer but they had outgrown the facility and it was time to move on and make further investment into this community. The Homer office currently employed about 12 people.

He stated they proposed to get the property rezoned to build a medical campus and help serve the community. He further stated the facility would be a professional medical facility that would house 5 family medical doctors, 2 pediatricians, 1 mental health specialist, 1 part-time diabetic/nutritional counselor and pharmacy with discounted medications. He stated eventually over long-term they would look to move their dental site to the medical campus. He stated they would start with 30 employees and a benefit of the facility was that they took anyone, whether they had insurance or not. Mr. Ward stated they had received a federal expansion grant for the facility

Ch. Turk asked if they were only going to put a medical complex on the property and not retail. Mr. Ward stated yes it would only be a medical facility

In Opposition of the Application

Scott Banks – 186 Banks Road – Stated his wife and he were not really opposed to the application but they did have a few concerns they would like to address. He stated they had a small pond behind their house that was kept alive by the runoff from the field that Medlink had proposed to rezone. He stated they would like to keep seeing the runoff and understood that they needed a retention pond but would like the flow to stay the same. He stated the other concern they had was getting in and out and thought Banks Road might need to be widened.

Ch. Turk stated that maybe Medlink could look at widening Banks Road and DOT may increase the length of the turn lane.

Amy Banks – 186 Banks Road – She stated she wanted clarity about where the road and entrance would be going because it could be dangerous for them and their family coming in and out of the road.

Mr. Ward stated they were prepared to partner with the County to widen Banks Road since it was so narrow and they wanted to make it safe for everyone. He stated as far as the watershed, he was happy to have the water go downhill but would have to consult with his environmental engineer as what was permitted or allowed.

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

Motion to approve the Planning Commission recommendation for approval but also to address the concerns of the residences on the road before the construction begins: Danny Maxwell

Second: Bo Garrison

Vote: 5:0

All aye votes and the motion passed.

(Copy of Resolution filed in Attachment to Minute Book 10-3)

b. Planning Commission Recommendations: Z-21-04 – Chelsea Patterson – Application to rezone the property identified as parcel B48 011, a 6-acre lot on Hwy 441, from ARR (Agricultural, Rural, Residential) to C2 (Commercial) to be used for a car dealership and vehicle storage.

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

Atty. Frost stated the application was to rezone the property identified as parcel B48 011, a 6-acre lot on Hwy 441, from ARR (Agricultural, Rural, Residential) to C2 (Commercial) to be used for a car dealership and vehicle storage.

Zoning Officer Paul Ruark stated that the Planning Commission recommended approval of the application at the June 1, 2021 meeting.

In Favor of the Application

James Irvin, Foothills Land Design – 164 Professional Drive, Baldwin, GA – Stated he was the site/civil engineer for the applicant Chelsea Patterson. He stated the applicant was respectfully requesting a rezoning from ARR to C2 for the purpose of her business Chelsea's Classic Cars on 6-acres on Hwy. 441 just south of Sample Scales Road. He further stated the business specializes in selling classic cars and Mr. Irvin further stated there would be a metal building on the side with a sales office up front and a storage area for some nicer cars in the back. He stated the plan also allowed for some cars outside like any typical car dealership.

He stated any vehicle stored on the property would be for the intent of sale. Mr. Irvin also stated the building would be about 250 ft. from Hwy. 441 so it wouldn't be right on the road, although they could move the building to the front of the property, they wanted to have a 30 ft. vegetative barrier along Hwy. 441.

Mr. Irvin stated this 6-acre tract was subdivided from the original 44-acre tract that was surrounding it so there was ample buffering between the building and any neighbors. He stated the closest house was 500 ft. away and the building would be 1,000 ft. away from the adjacent property to the south and over 1,300 ft. in the back from a creek. He further stated there would be security fencing and would have a non-spill lighting so it doesn't shine into the highway or onto any adjacent properties. Mr. Irvin stated a lot of the business was done on-line so not a lot of traffic was expected on the site at this time. He stated they thought this was an ideal place on 441 because you were not near any homes.

Ch. Turk asked if there would be a turning lane? Mr. Irvin stated that had not been determined yet by GDOT.

Ch. Turk asked if there would be vegetation on three sides? Mr. Irvin stated yes.

Vice Ch. Maxwell asked what was going to be behind the building, was it new cars, used cars, vintage cars? Mr. Irvin stated the intent was that it would be for used vintage cars.

Ch. Turk asked if it was just going to be an office? Mr. Irvin stated the office would be upfront and a showcase for the cars in the back.

Ch. Turk also asked if there would be a shop on site as an additional metal building? Mr. Irvin stated there would only be one building.

Ch. Turk asked if all the cars on the lot would be operational and not a wrecker yard? Mr. Irvin stated there would be no junk vehicles.

Comm. Reece asked if Mr. Irvin had spoken with GDOT about a turning lane? Mr. Irvin stated he had a preliminary discussion with them and they leave it up to the design engineers, dependent on the speed limit, the amount of traffic on 441 or the amount of traffic the business anticipated.

Comm. Garrison stated it was right across from his farm and he had no issues with the rezoning.

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

Motion to accept the Planning Commission recommendation to approve the rezoning application: Bo Garrison

Second: Sammy Reece

Vote: 5:0

All aye votes and the motion passed.

(Copy of Resolution filed in Attachment to Minute Book 10-3)

c. Planning Commission Recommendations: CU-21-03 – Caroline Wilson Christie – An application has been submitted to conditionally use the property identified as parcel B58 007, located at 810 Spring Rd, for a multi-use facility including farming, dairy, timber, office space, classes, catering, event venue, and camping.

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

Atty. Frost stated CU-21-03 – Caroline Wilson Christie – An application had been submitted to conditionally use the property identified as parcel B58 007, located at 810 Spring Rd, for a multi-use facility including farming, dairy, timber, office space, classes, catering, event venue, and camping.

Officer Ruark stated the report of the Planning Commission was not to recommend this application for approval.

In Favor of the Application

Allen Metsel – 810 Spring Road – Stated his wife and himself had amended their application for a conditional use to delete several of the categories. He stated they would like to seek approval for the following:

1. Office Space – Stated he was a licensed psychologist and conducted evaluations for third-party clients and was semi-retired and only saw 5 – 10 evaluations a week.
2. Classes – His wife would like to offer classes about how a farm works and how to be more self-sufficient.
3. Catering – He stated his wife would like to offer her baked goods to local restaurants and to clients of weddings.
4. Event Venue – He stated this property was permitted and developed to be an off-the-grid wedding and event venue. He further stated he worked with the fire marshal and built everything to his specifications and had occupancy to serve 105 people. Mr. Metsel further stated his wife and himself previously owned a wedding venue before coming to Banks County.

He stated there were objections raised during the Planning Commission meeting, in which many of the objections were emotional theatrics not based on any legal relevant facts. He stated two speakers accused him of causing erosion by showing drone footage of the garden in Spring. He said it was very hard to see the hundred of baby plants there because of the red clay dirt. He said it wasn't erosion but even if it was that was not a legal reason for denial. He stated Mr. Brady and Mr. Mothershed were angry with them because Mr. Metsel and his wife refused to

sell some land to them and Mr. Mothershed told his wife when they first met, that he wanted to hold a wedding venue on his land at the waterfalls and that was why Mr. Metsel was surprised that Mr. Mothershed was in opposition to the wedding venue. He stated Mr. Mothershed turned in drone photos as evidence and Mr. Metsel stated they felt violated because his bedroom overlooked the watershed where Mr. Mothershed had taken pictures of the silt.

He stated Mr. Mothershed felt that traffic would increase the maintenance of the private road but failed to state that he didn't own the road and just had an easement that went through Mr. Metsel's property. Mr. Metsel stated that it was unfair of Mr. Mothershed to misrepresent this and he also showed some pictures of Watershed #17 that had been filling since 1967 and that was the cause of the silt. Mr. Metsel further stated Mr. Mothershed's angst and taking a stand against them had caused undue citizen concern based on the belief that they had tons of silt that go into the reservoir.

Mr. Metsel stated that his wife was shocked and somewhat frightened by all the anger and rage expressed toward her and Officer Ruark by their neighbors at the June 2, 2021 Planning Commission meeting. He said more than one person yelled at Mr. Ruark saying that the building permit never should have been issued and Mr. Metsel stated that Mr. Ruark didn't issue the permit. He said the citizens stated that they and the County had put the cart before the horse and Mr. Metsel stated he disagreed. He further stated that since they were asking for a conditional use and business license before they opened showed that the cart was behind the horse, as it should be.

He said there were concerns about noise that could be a problem. Mr. Metsel stated they would use the same schedule that they used at their previous facility. He further stated 9 hours for the wedding, the bride arrives by 1:00 p.m., the ceremony starts around 4:00 p.m. and the reception and music end at 9:00 p.m., she had until 10:00 p.m. to remove all the food and then they would start cleanup.

Mr. Metsel stated that he asked that the Commissioners vote on each of the items separately So that if there is one use that was denied, the other use could be approved.

Ch. Turk stated that each item couldn't be voted on separately because they were all listed together.

Ch. Turk asked if there would be bands and amplified music? Mr. Metsel stated if a bride wanted a band/music there would be.

Ch. Turk stated as far as the agricultural stuff you don't have to have conditions to do that.

Ch. Turk clarified with Officer Ruark that if Mr. Metsel was tele-advising you don't have to have a conditional use for that. Mr. Metsel asked about occasionally seeing a patient in person. Ch. Turk stated that would fall under a home-occupation.

Ch. Turk stated catering would be a home occupation. Comm. Garrison asked if it was on-site catering or taking food out. Mr. Metsel stated it would be for his wife's baked goods.

Ch. Turk asked how many people would be attending the classes? Mr. Metsel stated he didn't have an exact number.

Comm. Maxwell asked where would people stay for the classes and if they would be overnight or camping? Mr. Metsel stated they would not be staying overnight. Mr. Metsel stated they would be 5 – 20 people per class.

In Opposition of the Application

Matthew Poole – 680 Spring Road – Stated he had presented the Commissioners with a picture of where his property was and where the event venue would be held. He stated his father and mother and children were here tonight and they were against the application. He stated they had built a house in 2016 and was not aware that the adjoining property would clear the trees and not even leave a buffer. He further stated they had no issues with people in Banks County farming but the only problem that he would have against the application was if Mr. Metsel had a lot of heavy tractor trailers coming in everyday to pick up his produce. He stated all the nearby property owners were against this application. He stated his house was the closest to the property lines and the noise from the bands would affect him. He stated the safety of the road was a major concern. He further stated the concerns of the office visits and the mental capacity of the patients that would be coming into the area.

Steven Mothershed – 808 Spring Road – Stated he was a direct neighbor of Mr. Metsel and they do have a shared driveway and they have an easement that was bought and paid for. He stated his house was probably only going to be 250ft. from the access roads going and coming from the property. Mr. Mothershed stated that he was a developer and never had built something and then gotten permission later. Mr. Mothershed stated that Mr. Metsel was denying the erosion and silt and he further stated on a shared driveway he didn't want the expense of maintaining the drive for 55 plus cars and that he had just recently purchased the property and planned on building a house there but not developing a subdivision as Mr. Metsel stated. He stated the noise from the venue would be about 300 ft. from the venue that set at the top of the hill.

Rebecca Poole – 594 Spring Road – Stated her concerns were the volume of traffic on a rural road, would alcohol be served at the wedding venue, the tents and camping, and the septic system not being a sufficient size.

David Sanders – 943 Spring Road – Stated his family moved to Spring Road in November and enjoyed the quietness of rural country life. He stated he respectfully opposed the application.

Comm. Garrison asked Mr. Metsel when the building was built, was it before or after he met with Mr. Ruark. Mr. Metsel stated he worked with Stoney Harness at the time and had never met Officer Ruark until the June 2, 2021 meeting. Mr. Metsel further stated they built the building to code and had compliments from his neighbors about the quality of construction. Mr. Metsel stated he did what was permitted by law.

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

Motion to accept the recommendation of the Planning Commission to deny the conditional use application: Charles Turk

Second: Keith Gardiner

Vote: 5:0

All aye votes and the motion passed.

(Copy of Resolution filed in Attachment to Minute Book 10-3)

d. Planning Commission Recommendations: V-21-01 – Carla Brown and Kaleigh Henderson – Application for a variance on the property identified as parcel B67 027, a 34.12-acre lot on Lord Rd., to allow for two dwellings to be placed on one parcel.

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

Atty. Frost stated an application had been submitted for V-21-01 – Carla Brown and Kaleigh Henderson – a variance on the property identified as parcel B67 027, 34.12-acre lot on Lord Rd., to allow for two dwellings to be placed on one parcel.

In Favor of the Application

Carla Brown – 76 Franklin Street, Braselton, GA – Stated she had plans to move to Lord Road. She further stated she was requesting a hardship variance in order to put two dwellings on the land. She stated there were seven clauses that talked about what would be needed to grant the hardship variance.

Ms. Brown stated Criteria 1 and 2 being extraordinary and exceptional circumstances. She stated the circumstances have changed since the code was written. She further stated when it was written we didn't have Covid and delays caused from Covid. She stated she purchased the land in February 2021. She stated no one mentioned to her that there was only one dwelling permitted per lot and she had spent a lot of money already on the property. She stated it would be less expense to her if water taps, electricity hook ups, septic systems, etc. were put in at the same time. She also stated some other situations she was in identified as extraordinary which included her mother living with her, the sale of her house, having to move into an apartment and her daughter going through a divorce.

Ms. Brown stated with Criteria 3 they would be in compliance with everything and all they wanted to do was beautify the land and didn't want it to come out of ARR even if it was only two acres.

Ms. Brown stated with Criteria 4 it was not going to affect the health or welfare of the public. She further stated none of her neighbors were in complaint with her having the property. She said she had one driveway and didn't want to create anything more hazardous.

Ms. Brown stated with Criteria 5 it was to consider special circumstances. She stated to make the tract two parcels she would have an additional expense of having an attorney and surveyor and possibly having to pay back taxes if the property came out of Conservation Use.

Ch. Turk stated he had a farm in Conservation Use and had to cut two acres out for his house and his daughter's house and his grandparents' house. He stated it looked like to him that Ms. Brown was just not wanting to have to pay the regular rate of taxes on two acres. Ch. Turk further stated that Ms. Brown sold a house and bought 34-acres, so he just couldn't wrap his

mind around having a hardship. Ms. Brown stated the hardship focuses more on her mother. Ch. Turk stated he understood that but what he didn't understand was that Ms. Brown talked about expenses and delays and we've all had to go through Covid. Ms. Brown stated she didn't have a problem with the additional expenses but the delay was where she was having a problem.

Comm. Garrison asked how long Ms. Brown had owned the property. Ms. Brown stated that she purchased the property in February. Comm. Garrison stated that since your daughter was a realtor did she not realize for you to put two homes you would have to cut out an additional two-acre lot. Ms. Brown stated not at the time of the purchase and that was not how the land was advertised.

Vice Ch. Maxwell asked Ms. Brown when she purchased the land it was all in one tract? Ms. Brown stated yes and they had a surveyor come out but there had been a delay on marking off a two-acre lot. She stated they hadn't received the results of the survey yet.

Ms. Brown stated that she wasn't aware of the CUVA rule and the Commissioners stated she need to go to the Tax Assessors office for that.

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

Motion to accept the Planning Commission recommendation to deny the application: Sammy Reece

Second: Keith Gardiner

Vote: 5:0

All aye votes and the motion passed.

(Copy of Resolution filed in Attachment to Minute Book 10-3)

8. FY2022 Budget

Finance Officer Randy Failyer stated there were a few items that needed to be addressed that would allow him to proceed on the FY2022 Budget. He stated the following line items needed to be changed to the following:

Liability insurance \$302,000

Group Insurance/Jail \$168,600

Group Insurance/Sheriff \$384,408

Gas/Diesel/Coroner to \$500

Prison Detail/Road Dept \$49,318

Mr. Failyer stated the group insurance numbers were based on 25 employees for the Jail and 57 employees for the Sheriff Office. He further stated the prison detail would remain in the Road budget until we get confirmation from Sheriff Speed and at that time it would be transferred to the Sheriff's budget.

Ch. Turk stated the budget hearing would be on June 22, 2021 at 6:30 p.m.

9. Contracts & Agreements

a. School Speed Zone Device: Service Agreement between Banks County Commissioners, Banks County Board of Education, Banks County Sheriff's Office and Optotraffic, LLC. Tabled: 5/11/2021

Motion to bring the item off the table: Danny Maxwell

Second: Charles Turk
Vote: 5:0
All aye votes and the motion passed.

No action was taken.

b. E911 Southern Software, Inc. Maintenance Agreement

Ch. Turk stated these were the MDT's. He stated the cost was in the budget in the amount of \$45,942.

Motion to renew the contract in the amount of \$45,942 and authorize the Chairman to sign the contract: Bo Garrison

Second: Charles Turk

Vote: 5:0

All aye votes and the motion passed.

(Copy of Agreement filed in Attachment to Minute Book 10-3)

c. Tates Creek Fire Protection Service Agreement

Fire Chief Steve Nichols stated there was an area around Hwy. 105 that's hard for Banks County to cover. This contract was an annual contract in the amount of \$3,000.

Motion to approve the contract in the amount of \$3,000 with Tates Creek: Charles Turk

Second: Sammy Reece

Vote: 5:0

All aye votes and the motion passed.

(Copy of Agreement filed in Attachment to Minute Book 10-3)

d. Commission Board Room A/V Maintenance Agreement – Nsync, Inc. - \$1,175

Mr. Failyer stated this was a renewal contract for the A/V Maintenance in the Annex.

Motion to approve the contract in the amount of \$1,175: Danny Maxwell

Second: Keith Gardiner

Vote: 5:0

All aye votes and the motion passed.

(Copy of Agreement filed in Attachment to Minute Book 10-3)

10. Boards & Authorities:

a. Region 2 EMS Board Representatives

Steve Nichols

Ch. Turk stated it was required to have two people on the board.

Motion to recommend Keith Freeman and Steve Nichols for the Region 2 EMS Board: Charles Turk

Second: Keith Gardiner

Vote: 5:0

All aye votes and the motion passed.

b. Department of Family & Children Services – 5-year term

Ch. Turk stated they had received an application from Mike Boyle and also Jerry Payne who currently served on the board.

Motion to reappoint Jerry Payne to the board: Danny Maxwell

Second: Keith Gardiner

Abstain: Bo Garrison – reason: Jerry Payne was his brother-in law

Vote: 4:0

All aye votes and the motion passed.

c. Library Board – 3-year term

Ch. Turk stated Zully Walker was currently serving in that position and no other application had been received.

Motion to reappoint Zully Walker to the Library Board: Charles Turk

Second: Bo Garrison

Vote: 5:0

All aye votes and the motion passed.

d. Georgia Mountains Regional Commission (private sector) – 1 year term

Ch. Turk stated that Vicki Boling was currently serving in this position.

Motion to reappoint Vicki Boling: Bo Garrison

Second: Danny Maxwell

Vote: 5:0

All aye votes and the motion passed.

e. Zoning Appeals Board – 4-year term

Ch. Turk stated that Richard Cochran was currently on the board and no one else applied.

Motion to reappoint Richard Cochran to the board: Sammy Reece

Second: Keith Gardiner

Vote: 5:0

All aye votes and the motion passed.

f. Zoning Appeals Board – 2-year term to finish term of Edward Barrett.

Ch. Turk stated there were no applicants for this board position so it would remain vacant.

g. Department of Behavioral Health & Development Disabilities – 3-year term

Ch. Turk stated there was a two-time term limit on the board and Dr. Melanie Stancil had already served two consecutive terms. Anita Bond had submitted an application to serve on the board.

Motion to appoint Anita Bond: Charles Turk

Second: Sammy Reece

Vote: 5:0

All aye votes and the motion passed.

h. Georgia Mountains Regional Commission (public sector) – 1 year term

Ch. Turk stated that Vice Ch. Maxwell currently served in this position.

Motion to reappoint Vice Ch. Maxwell: Charles Turk

Second: Keith Gardiner

Abstain: Danny Maxwell – reason: Currently on GMRC Board

Vote: 4:0

All aye votes and the motion passed.

i. Recreation Board

Ch. Turk stated there had been interest in reactivating the Recreation Board. He stated another resolution would need to be approved. He further stated this would be a 5-member board with

staggered terms with a maximum term limit. Comm. Gardiner stated he would like to make it a 7-member board. Ch. Turk stated this would become effective July 1, 2021.

Motion to reactivate the Recreation Board with 7 members, staggering terms and a maximum term limit beginning July 1, 2021: Bo Garrison

Second: Danny Maxwell

Vote: 5:0

All aye votes and the motion passed.

11. Adjournment

Motion to adjourn the meeting: Sammy Reece

Second: Danny Maxwell

Vote: 5:0

All aye votes and the motion passed.

Chairman

Assistant County Clerk
