



BANKS COUNTY BOARD OF COMMISSIONERS MEETING

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

Tuesday, March 08, 2022 at 6:30 PM

MINUTES

1. CALL TO ORDER

Chairman Turk called the meeting to order.

PRESENT

Chairman Charles Turk

Vice Chairman Danny Maxwell

Commissioner Bo Garrison

Commissioner Sammy Reece

Commissioner Keith Gardiner

County Clerk Regina Gailey

Assistant County Clerk Erin Decker

County Attorney Randall Frost

Code Enforcement Officer Paul Ruark

2. APPROVAL OF AGENDA

Motion to approve the agenda.

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

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

Vote: 5:0

All yea votes and the motion passed.

3. APPROVAL OF MINUTES

a. 2/08/2022 Minutes

Motion to approve the minutes.

Motion made by Commissioner Gardiner, Seconded by Commissioner Reece.

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

Vote: 5:0

All yea votes and the motion passed.

4. PLEDGE TO THE AMERICAN FLAG

Commissioner Keith Gardiner led the Pledge to the American Flag.

5. CHAIRMAN'S REPORT

Ch. Turk reported on the following:

- E911 calls received – Fire/EMS 265 calls – Sheriff’s Office 2,633 calls
- Covid Cases – 14 cases in the last 14 days.
- Senior Life Center – Congregate Meals 339 – Meals on Wheels 937 for the month of February. They also had an average of 15 clients a day.
- Recreation Department had 594 registrations for T-Ball, Baseball, Soccer and Volleyball.

6. PUBLIC COMMENT:

a. GA Hwy 59 Traffic - Jim Bryson

Jim Bryson - 784 Hwy 59 - Stated the traffic had increased two or three-fold since 2006 when he and his wife moved to Banks County. He further stated the amount of traffic was unbearable and he had talked to Sheriff Speed and contacted GDOT about decreasing the speed limit. Also, he stated the decisions that the Commissioners made about businesses in the County had an affect on the traffic issues in the area.

7. PUBLIC HEARINGS:

a. Planning Commission: Z-22-03 - Adam Sibcy - An application to rezone the property identified as parcel B46 044 (2-acre lot) located at 1431 W. Ridgeway Rd from ARR (Agriculture, Rural Residential) to C2 (General Commercial) to be used for mini-storage warehouses

Ch. Turk explained the procedures for the public hearing.

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

Atty. Frost stated the application Z-22-03 was an application to rezone the property identified as parcel B46 044 (2 acre lot) located at 1431 W. Ridgeway Rd from ARR (Agriculture, Rural Residential) to C2 (General Commercial) to be used for mini-storage warehouses.

Code Enforcement Officer Paul Ruark stated the PC recommended approval of the application.

Adam Sibcy - 237 Skeeter Drive, Maysville - Stated he was the applicant and would like to increase the income of his property. He currently had a tract of 2 acres with a double wide on it and it was getting run down and he would like to replace it with storage buildings.

Atty. Frost closed the public hearing and Ch. 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 Garrison, Commissioner Reece, Commissioner Gardiner

Vote: 5:0

All yea votes and the motion passed.

(Copy of resolution filed in attachment to Minute Book 10-4)

b. Planning Commission: Z-22-02 - PNK Holdings, LLC - An application to rezone the following parcels: B77 012 (167.07-acre lot), B77 010 (38.3-acre lot), B76 022 (212.08-acre lot) from ARR (Agricultural, Rural, Residential) to M1 (Industrial) and B77 008 (137.17-acre lot) from C2 (General Commercial) to M1 (Industrial)

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

Atty Frost stated this application was for Z-22-02 - PNK Holdings, LLC to rezone the following parcels: B77 012 (167.07-acre lot), B77 010 (38.3-acre lot), B76 022 (212.08-acre lot) from ARR (Agricultural, Rural, Residential) to M1 (Industrial) and B77 008 (137.17-acre lot) from C2 (General Commercial) to M1 (Industrial).

Code Enforcement Officer Ruark stated the Planning Commission recommended denial of the application.

Ch. Turk stated he received an email from the attorney at Kitchen, Kelley, Gaynes PC that represented PNK Holdings, LLC where they submitted a letter dated March 4, 2022 which read as follows:

RE: Banks County Board of Commissioners Hearing Postponement

PNK Holdings, LLC ("Applicant"), with respect to its rezoning applications concerning four parcels (B77 012, B77 010, B76 022, and B77 008) in Banks County, Georgia, is represented by this law firm.

We respectfully request on behalf of the Applicant that the public hearing for the rezoning application scheduled for Tuesday, March 8, 2022, be postponed for sixty (60) days.

Applicant will use this time to address the concerns and needs voiced by the citizens of Banks County and the Planning Commission last Tuesday, March 1, as well as those of the Board of Commissioners. Applicant will also separately assess and reevaluate each of the parcels with a view to modify the plan to create an amendable solution, coordinated with all of the civil agencies, that will be enduring and economically beneficial project for the community, region and State of Georgia.

Thank you for your consideration.

Sincerely, Joseph Hoffman

(Copy of letter filed in attachment to Minute Book 10-4)

Comm. Garrison asked if one of the members of PNK could explain what they would be possibly looking at for the area?

In Favor

Mark Stiles - 2795 Peachtree Road, Atlanta - Comm. Garrison asked Mr. Stiles what were the intentions of tabling the application for sixty days. Mr. Stiles stated it wouldn't be the same in sixty days and he would be looking at all the concerns of the community and Planning Commission. He stated they heard a lot of feedback from the citizens of the County and their concerns about traffic and the overall project.

Comm. Garrison asked Mr. Stiles if he was at liberty to say what would be happening on the property.

Mr. Stiles stated he was the decision maker and stated they understood that the community wasn't happy with the planned project.

Comm. Garrison stated the communities main concern was the traffic. He stated the first plan he saw was maybe doable but then they came back with a white elephant. He stated he felt like the county would be better off with three smaller warehouses and maybe some hydroponics or data centers. Those type facilities would not create as much traffic.

Vice Ch. Maxwell stated also that what was being proposed tonight was not satisfactory for Banks County. He wanted to make sure that everything was beneficial to the county and the people of Banks County.

Mr. Stiles stated this was a long-term project. He stated his plan would be to put the buildings in the front first. He stated it would take 2 years to put everything together and it would be 3 to 4 years before the first phase would be developed. He also stated the entrance would resemble a country club with landscaping.

Ch. Turk stated Banks County was not a county for warehouses. He stated it needed to be something agricultural.

Comm. Gardiner stated this was one of the first times that Mr. Stiles had met with all the Commissioners collectively.

Mr. Styles stated that he didn't have a deal with the Commissioners and there were no abatements.

Comm. Gardiner stated that the County did not do tax abatements.

In Opposition

Chris Ausburn - 218 Dooley Drive – Stated the application had already been postponed for 90 days so go ahead and vote to deny the application and bring it back under the new zoning laws.

Jeff Jones - 870 Hwy 63 – Stated this property was right next to his property. He stated he moved here because it was rural. He furthermore stated he wasn't 100 percent opposed to the project if it was smaller but the plan now was way too big.

Tim Garrett - 1803 Wilson Bridge Road – He stated this was a Russian based company and that was why we don't need it in Banks County.

Randy Nix – 202 Neal Road – Stated one of the questions the Planning Commission had was what would be going in the warehouses and PNK never gave a definite answer and he further stated he didn't believe 60 days was enough time to come up with another plan. Mr. Nix stated this was not something Banks County needed.

William Kopecky - 247 Hudson River Drive – Stated he wasn't familiar with zoning but wanted to know if the Commissioners could condition the zoning change and he was concerned with the development.

Josh Davison – 138 Pless Circle -Stated the majority of people he had talked with were totally against this project and wanted Banks County to stay a smaller rural agricultural county.

John Pendergrass – Property owner on Wilson Bridge Road - Request that if the committee decides to approve the request for delay, then the site plans, traffic study and the DRI be made public before the next meeting.

Kyle Cassell – Banks County - Stated he was a resident of Banks County and his family had been here for over 35 years. He further stated he worked here and had children in the Banks County School System. He stated he wanted his kids to grow up in the country. He also stated this development wasn't right for the County and he would like for the Commissioners to turn it down.

Stanley Beasley - 592 Neal Road - Stated when Mr. Stiles said it wasn't his problem of how the back property owners got to their property if only the front developed then that should tell you that Mr. Stiles was not for Banks County. He further stated this project was way too much for Banks County.

Michelle Peterson - 766 McCoy Bridge Road – Stated Banks County didn't care if the development looked like a country club, we cared about our animals, our wildlife and our farms. She further asked the Commissioners if they would please take that into consideration.

Lawrence Hulford - 1147 Sims Bridge Road - Stated to change the zoning of the property for warehouses would require increased emergency services because all of the extra people.

Elizabeth Reynolds - 2153 Westbrook Road – Stated she didn't want her way of life to change because in 2003 she moved from Gwinnett to Banks County to live a rural life.

Clifford Ward - Baldwin – Stated he didn't even know why we were listening to this right now because of what was going on in the world and Russia.

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

Ch. Turk stated the Commissioners had heard the request to delay for 60 days and had also heard from the citizens to deny the request to delay the application and let PNK Holdings, LLC reapply.

Motion to deny the request for the 60-day extension period.

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

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

Vote: 5:0

All yea votes and motion passed.

Atty. Joe Hoffman with Kitchens Kelley and Gaynes which represented PNK stated the motion was to postpone the hearing on the actual application itself and he further stated they still had a right to be heard on the application.

Ch. Turk asked for a motion to deny the application. Atty. Hoffman stated that he had a right to be heard for his 10 minutes in respect to the application itself.

In Favor

Joe Hoffman – 5555 Glenwood Connector, Atlanta- Stated he lived in Marietta, was born and raised in Gwinnett County and had lived in Georgia all his life. He stated that to be clear PNK Holdings had four separate applications in which they paid \$500 for each application and submitted one site plan that coincided with the four applications. Comm. Reece asked if the Planning Commission voted on each application separately. Ch. Turk stated they voted on all applications at one time. Atty. Hoffman stated they had heard a lot of concern about the applications and understand the concerns of the community. He stated tonight the Commissioners have the ability to set any special conditions that they wanted to.

Atty. Hoffman stated to County Attorney Randall Frost that he was raising a constitutional challenge and read the following:

Constitutional Challenge and Notice of Constitutional Claims

Based upon the history of rezoning within the Martin Bridge corridor and the information submitted by Applicant PNK Holdings, LLC (“Applicant”) from November 2, 2021 through and including the final hearing on March 8, 2022, Applicant and the Property Owners who have each signed and approved of the respective rezoning application state unequivocally that a denial of the four rezoning application will deny the Applicant and the Property Owners due process of law and the equal protection of the laws, under both the State of Georgia and U.S. Constitutions. Accordingly, Applicant and Property Owners give notice of their constitutional challenge to their denial and notice of constitutional claims arising therefrom.

*We offer that statement to enable Banks County the opportunity to address and resolve constitutional claims of the Applicant and the Property Owners, as required by Georgia law.
(Copy of challenge in attachment to Minute Book 10-4)*

Atty. Hoffman asked for the Constitutional Challenge to be entered into the minutes and he also went over the history of the zoning of the Martin Bridge area that was mentioned in the constitutional challenge. Atty. Hoffman further stated PNK had a DRI and a Traffic Study of the area that had been submitted to Officer Ruark.

Atty. Hoffman asked that each of the applications be considered and voted upon because they were actually four separate applications.

Atty. Hoffman also referenced Banks County Zoning Code Section 16-22 stating it allowed the Commissioners to restrict the property with very specific conditions without turning down the

application(s). He further stated if you deny all the applications at once we can't come back for 6 months but if you give us 60 days, we can put something together for one or more of the applications. If one is a no-go then deny it but if some had potential success then postpone it for 60 days to give us a shot at it.

Comm. Gardiner stated that when RAI was approved the Commissioners knew what the business would be.

Atty. Frost recommended voting on each application even though the Planning Commission voted on them as one.

In Opposition

Chris Ausburn - 218 Dooley Drive – Stated he thought PNK needed to change directions a little bit. He further stated times had changed and we had some new commissioners and the citizens don't agree with Economic Development Blueprint. He further stated none of the comparisons Atty. Hoffman talked about were relevant because when those businesses were approved, they had a plan and not just a concept.

Larissa Campbell – 2868 Hwy 51 N. – Stated that the County plan had to be the gospel but they (PNK) could change their plan and keep on asking for extensions. Maybe they should meet with the community at a round table meeting and explain what they wanted before they come here and tried to shove it down our throats.

Ashley Fountain – 425 Gardiner Road, Homer – Stated the criteria for re-zoning from our own County Code and asked the Commissioners to deny the applications.

James Shy – 584 Line Church Road – Stated he worked for the Sheriff's Office and food wasn't what he had in mind when he heard the word grow houses. He stated there had been occasions when people rented these warehouses for illegal purposes. He also asked how one zoning officer would monitor the conditional uses that could be approved with the application. He thought it was a useless suggestion to make conditions when the County does not have the staff to enforce them.

Randall Ramsey – 1120 N Mangum Bridge Road, Commerce – Asked did the Commissioners have a legal commitment to allow these warehouses to come in where they join Interstate 85? He further stated he had researched PNK Group and in light of world events we need to not do any business with anyone associated with Russia. He stated the reason they can't tell us what is going into the buildings was because they just build buildings and furthermore, he stated he was opposed to all 4 applications.

Jill Brown – 207 Painted Horse Lane, Baldwin – Stated she would like to see the Commissioners vote the same as the Planning Commission.

Jeff Jones - 870 Hwy 63 -Stated he wanted to clarify a previous statement from Mr. Ramsey and asked if there was anyway the State could mandate the development to come here because it was joined to the I-85 Corridor.

Ch. Turk stated that the crowd wanted to know who the owner of PNK Group was. Mr. Stiles stated PNK Group is a partnership in the United States.

Kenneth Bennett – 1112 Bennett Road, Homer – Stated according to an article in the Atlanta Business Chronicle on January 14, 2022 that stated PNK Group was a Russian based industrial developer that was based in Moscow. He further stated the people have spoken here tonight and showed up to the meeting so are the Commissioners listening?

Mr. Stiles stated that people work for profit and he came here because of Banks County's Business Plan. He further stated that the County should consider very carefully the Comprehensive and Economic Development Blueprint and if the County really doesn't want warehouses on this corner the County needs to make it public to everyone.

1. Z-22-02 - PNK Holdings, LLC - An application to rezone B77 012 (167.07-acre lot) from ARR (Agricultural, Rural, Residential) to M1 (Industrial).

Officer Ruark stated B77 012 was owned by Interstate 85 Group and the applicant was PNK Holdings, LLC. The current zoning was ARR (Agricultural, Rural, Residential) and the proposed zoning was from ARR (Agricultural, Rural, Residential) to M1 (Industrial).

Motion to deny the application.

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

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

Vote: 5:0

All yea votes and the motion passed.

(Copy of resolution filed in attachment to Minute Book 10-4)

2. Z-22-02 - PNK Holdings, LLC - An application to rezone B77 010 (38.3-acre lot) from ARR (Agricultural, Rural, Residential) to M1 (Industrial)

Officer Ruark stated B77 010 was owned by Southeastern PVC Pipe Mfg., Inc. and the applicant was PNK Holdings, LLC. The current zoning was ARR (Agricultural, Rural, Residential) and the proposed zoning was from ARR (Agricultural, Rural, Residential) to M1 (Industrial).

Motion to deny the application.

Motion made by Commissioner Garrison, Seconded by Commissioner Gardiner.

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

Vote: 5:0

All aye votes and the motion passed.

(Copy of resolution filed in attachment to Minute Book 10-4)

3. Z-22-02 - PNK Holdings, LLC - An application to rezone B76 022 (212.08-acre lot) from ARR (Agricultural, Rural, Residential) to M1 (Industrial).

Officer Ruark stated B76 022 was owned by NG Banks County 206 LLC. and the applicant was PNK Holdings, LLC. The current zoning was ARR (Agricultural, Rural, Residential) and the proposed zoning was from ARR (Agricultural, Rural, Residential) to M1 (Industrial).

Motion to deny the application.

Motion made by Chairman Turk, Seconded by Commissioner Reece.

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

Vote: 5:0

All yea votes and the motion passed.

(Copy of resolution filed in attachment to Minute Book 10-4)

4. Z-22-02 - PNK Holdings, LLC - An application to rezone B77 008 (137.17-acre lot) from C2 (General Commercial) to M1 (Industrial).

Officer Ruark stated B77 008 was owned by Sanford H Orkin and Longboat Holding Co LLC. and the applicant was PNK Holdings, LLC. The current zoning was C2 (General Commercial) and the proposed zoning was from ARR (Agricultural, Rural, Residential) to M1 (Industrial).

Motion to deny the application.

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

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

Vote: 5:0

All yea votes and the motion passed.

(Copy of resolution filed in attachment to Minute Book 10-4)

8. CONTRACTS AND AGREEMENTS:

a. Roads & Bridges: Bid #222-0303 (1) Resurfacing Apple Pie Rd, Prospect Rd, Crump Rd, Jamison Place, Whippoorwill Way and Poole Rd Low Bid and Contract Approval

Ch. Turk stated bids were opened on March 3, 2022 for the resurfacing of Apple Pie Ridge, Prospect Rd, Crump Rd, Jamerson Pace, Whippoorwill Way and Poole Rd (Reclamation). Stratton and Sons Construction had the low bid in the amount of \$1,160,311.00. Ch. Turk further stated the funds would be paid from 2018 Road and Bridge SPLOST Funds.

Motion to approve the low bid and contract for Stratton and Sons Construction in the amount of \$1,160,311.00.

Motion made by Commissioner Reece, Seconded by Commissioner Gardiner.

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

Vote: 5:0

All yea votes and the motion passed.

(Copy of contract filed in attachment to Minute Book 10-4)

b. Roads & Bridges: Bid #222-0303 (2) Resurfacing Chatham Rd & Spring Rd 2022 LMIG Low Bid and Contract Approval

Ch. Turk stated bids were opened on March 3, 2022 for the resurfacing of Chatham Road and Spring Road. Stratton and Sons Construction had the low bid in the amount of \$609,178.00. Ch. Turk further stated the funds would be paid for 2022 LMIG and the match would come from the 2018 Road and Bridge SPLOST Funds.

Motion to approve the low bid and contract for Stratton and Sons Construction in the amount of \$609,178.00.

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

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

Vote: 5:0

All aye votes and the motion passed.

(Copy of contract filed in attachment to Minute Book 10-4)

9. ADJOURNMENT

Motion to adjourn the meeting at 7:48 p.m.

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

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

Vote: 5:0

All yea votes and the motion passed.

Chairman

Assistant County Clerk