



# BANKS COUNTY BOARD OF COMMISSIONERS MEETING

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

Tuesday, November 08, 2022 at 6:30 PM

## MINUTES

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### 1. CALL TO ORDER

Ch. Turk called the meeting to order.

#### PRESENT

Chairman Charles Turk  
Vice Chairman Danny Maxwell  
Commissioner Bo Garrison  
Commissioner Sammy Reece  
Commissioner Keith Gardiner

#### STAFF

County Clerk Regina Gailey  
Asst County Clerk Erin Decker

### 2. APPROVAL OF AGENDA

Motion to approve the agenda.

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.

### 3. APPROVAL OF MINUTES

- a. 10/11/2022 Appeal Hearing-TGriffith
- b. 10/11/2022 Regular Meeting
- c. 10/25/2022 Called Meeting
- d. 10/25/2022 Regular Meeting

Motion to approve the minutes.

Motion made by Commissioner Garrison, 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:

Comm. Gardiner led the Pledge to the American Flag.

## 5. CHAIRMAN'S REPORT

Ch. Turk reported on the following:

- E911 calls - 311 Fire/EMS - 3,298 Sheriff's Office
- Wanted to congratulate Banks County FFA Forestry Team who won 1st place at the National competition. The members of the team were Carlie Cochran, Martin Suggs, Luke Johnson, and Matt Sanders.
- Wanted to congratulate Banks County Ag Mechanics Team who also won 1st place in the National competition. The members of the team were Grayson Segars, Luke Edwards, David Adams, and Matthew Anderson. The advisors were Kip Jackson and Chris Crump.
- Wanted to congratulate Taylor Cheek who won the World Record Combination Bench Press/Dead Lift competition.
- Thanked all veterans for their service and sacrifice.

## 6. PUBLIC COMMENT:

### a. Trash on Hwy 51N & Hwy 441 - Sam Moon

**Sam Moon - 726 Hwy 51N** - Stated the trash problem on Hwy 51N & Hwy 441 had been ongoing and wanted the Commissioners to develop an ordinance that had some teeth in it. He stated CEIT was the biggest offender of littering. He stated the Commissioners job was to come up with a solution to this problem. He further stated that Hwy 51N and Hwy 441 were the dirtiest roads in the State of Georgia.

## 7. PUBLIC HEARINGS:

### a. CU-22-10 - Wayne Murphy application for conditional use for a Home Occupation Business in an accessory structure for sporting goods retail, storage of firearms & ammo for Federal Firearms Licenses located at 360 Apple Valley Rd Alto, GA 30510 on property identified as map and parcel B23 027A

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

Atty. Frost stated CU-22-10 was an application for Wayne Murphy for a conditional use for a Home Occupation Business in an accessory structure for sporting goods retail, storage of firearms & ammunition for Federal Firearms Licenses located at 360 Apple Valley Rd Alto, GA 30510 on property identified as map and parcel B23 027A.

Ch. Turk stated the report of the Planning Commission was to recommend approval of the application with the following conditions:

Condition 1: No retail sales of firearms

Condition 2: No retail display of firearms

Condition 3: Hours of operation Tuesday-Saturday 9-5

Condition 4: No advertising firearms

Condition 5: No commercial shooting activity

Condition 6: No physical expansion of structure

**Applicant**

**Wayne Murphy – 360 Apple Valley Road** – Stated Banks County code required that a conditional use permit be granted to operate a home occupation out of an accessory structure, and this was not made known to me when he first received his business license in 2020.

Mr. Murphy further stated for him to rectify this, he had submitted a conditional use application to request approval for the retail sale of hunting and sporting goods, and the storage of firearms and ammunition to satisfy the requirements to receive his federal firearms license.

My business does not rely on heavy traffic, with an average of only 10 customers coming into my location per week. He further stated that the firearms would be located safely in his home and he would not advertise firearm sales in any way. He also stated he had a complete security system that was kept activated at all times.

I respectfully request approval of this conditional use in order to continue operation of my rural agricultural business in a manner that would be consistent with Banks County code and appropriate for my agricultural surroundings.

#### **In Favor of the Application**

**John Millwood – 200 Baldwin Heights** – Stated he had listened to the process from start to finish and hadn't heard anybody make the point that there were no complaints about Mr. Murphy's business for two years until this conditional use permit came up and so he doesn't think it would be an issue now for the business to continue to operate.

**Blake Griffith – 170 Apple Valley Road** – Stated he was currently building a house and had never had a problem with Mr. Murphy since he had been over there. He further stated this had been a business for two years that had falsely been approved by the County even though it didn't meet code to be a business there, but it had been there for two years and there had never been a problem with the business being there until now. He stated if there really had been a problem, the neighbors would have called the Commissioners and notified you of the problem. He stated the business was a home occupation with retail sales and those type businesses were all over the County.

#### **In Opposition of the Application**

**Justin LaHayne – 105 Apple Valley Road** – He stated his biggest concern would be the increase in traffic since the business would be open to the public and this would also be turning his driveway into a public road. He further stated this would be unfair to the fair and honest business owners in the County that went through the proper zoning procedures.

**Whitney Lewallen LaHayne – 105 Apple Valley Road** – Stated Mr. Murphy's business started with a small shed/barn to sell feed out of, and it now had become a full-blown business and was larger than some people's homes and also located down a private drive. Ms. LaHayne further stated Mr. Murphy accessed his property through a 10 ft. easement and stated when they put up their fence there would not be room for vehicles to pass. This would make the operation of this business more difficult because of the increased traffic. She stated she did not have any problem with his business, but it needed to happen somewhere else.

**Mark White – 102 Apple Valley Road** – Stated he moved down there to get away from businesses and did not like having a business at the end of his easement no matter what type it was. He stated he did not have a clue that Mr. Murphy had applied for a business license, and he had honored Mr. Murphy's 10-ft. easement, but he just did not want the business down there. Mr. White stated that it would just cause more problems and advertising on the internet will just bring more people, that Mr. Murphy does not know, down his private drive.

**Gail Lewallen – 105 Apple Valley Road** – Stated they had no way of knowing who came up and down the road. Like Ms. Jody Parks said last week at the Planning Commission meeting, there was no way of knowing when a registered child offender might be coming down the road and Ms. Lewallen's

grandchildren might be playing up and down the road. She further stated people would come down her driveway looking for the store even though they had their address posted. She stated Mr. Murphy's business had grown tremendously from what it was originally planned to be. Mrs. Lewallen asked how was this fair to her and the other property owners on the road.

### **Rebuttal**

Mr. Murphy stated there was a cemetery on Mr. White's property where there were two 12-foot gates that total 24-foot wide. Mr. Murphy stated he had people that came down to his house and park on his property and walk up to the cemetery. Mr. Murphy said it was not right for Mr. White to have two 12-foot gates and him to have 10-foot.

Mr. Murphy stated most of his customers called before they came to his business. He further stated that most of the guys that came to his business were hunters and do not tear up the road. He also only got UPS trucks about 2 times a week but everybody on the road gets Amazon deliveries.

Comm. Gardiner asked Mr. Murphy how many people on the road got Amazon deliveries and how many people were on the easement? Mr. Murphy stated everybody got deliveries and only five people were on the easement.

Comm. Gardiner asked who gave the 10-foot easement? Mr. Murphy said it came from the previous owners, the Hinson's.

Comm. Garrison asked Mr. Murphy how it would affect traffic flow if the LaHayne's put up a pasture fence? Mr. Murphy said it was their land, they could do what they wanted to. Ch. Turk said they would just have to stay off the easement. Mr. Murphy said the road had been there for 23 years.

Comm. Garrison also asked about the online gun sales that were approved in September. Mr. Murphy said he didn't and wasn't going to advertise guns on the internet. Mr. Murphy said he had not even applied for his Federal Firearms License.

Vice Ch. Maxwell asked Mr. Murphy if he had the sales tax number corrected? Ch. Turk stated that Mr. Murphy's accountant had applied for a new number, so it was now corrected.

Comm. Garrison asked if he was only selling sporting goods now? Mr. Murphy said yes, he sold dog collars, boxes and Garmins and worked on Garmins and also sold a small amount of clothing.

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

Ch. Turk stated that if traffic was the problem, he would like to suggest conditions as follows:

- Either online sales or sales where you met someone at a different location and no sales on the property.
- Tax Assessors would do a field audit of the merchandise in the store.
- Stamp the parcel non-conforming because the building was in front of the house.

Ch. Turk made a motion to approve the conditional use with the conditions stated above.

Atty. Frost stated that the Commissioners needed to make it clear that this approval would supersede the other application that was approved so if there was something in the other one, make it a condition of this one. Ch. Turk said so combine them into one. Atty. Frost stated yes so the owners would know what they could and could not do.

Ch. Turk stated that he would add that all firearms and ammunition would be kept in the residence in the safe.

Mr. Murphy stated that he couldn't haul dog boxes and load them off site because of his back.

Vice Ch. Maxwell asked if there couldn't be a specific time of operation where people could come and pick stuff up? Mr. Murphy stated that 70% of his customers called him before they came.

Comm. Garrison stated the hours of operation that the Planning Commission suggested could be reduced.

Ch. Turk withdrew his motion.

Vice Ch. Maxwell made the following motion:

Motion to approve the application with the following conditions:

- Stamp the parcel non-conforming because the building was in front of the house.
- Hours of Operation: Wednesday – Saturday, 10:00 a.m. – 3:00 p.m.
- Only sales of guns and ammunition at gun shows or online and guns and ammunition shall be stored in a safe at the residence.
- Tax Assessors would do a field audit of the merchandise in the store.

Seconded by Commissioner Reece.

Voting Yea: Vice Chairman Maxwell, Commissioner Reece

Voting Nay: Chairman Turk, Commissioner Garrison, Commissioner Gardiner

Vote: 3:2

Motion failed by majority vote.

*(Copy of Resolution filed in Attachment to Minutes Book 10-5)*

## **8. CURRENT BUSINESS:**

### **a. Roads & Bridges: Industrial Blvd Patching**

Ch. Turk stated there was a 650 ft. x 12 ft. portion of road that needed to be patched on Industrial Park Blvd. He further stated it was in bad shape and probably would not last through the winter.

Motion to approve the patching.

Motion made by Commissioner Garrison, 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.

### **b. GIS/Mapping: 2023 Digital Orthophotography Letter of Intent**

Ch. Turk stated this was the 2023 orthophotography project that was done every two years. He stated the amount was \$20,902.

Motion to approve the Letter of Intent with GMRC.

Motion made by Chairman Turk, Seconded by Commissioner Garrison.

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 LOI filed in Attachment to Minutes Book 10-5)*

## **9. ADJOURNMENT**

Motion to adjourn the meeting at 7:40 p.m.

Motion made by Commissioner Garrison, Seconded by Chairman Turk.

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

Vote: 5:0

All yea votes and motion passed.

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Chairman

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Assistant County Clerk