

THE HONORABLE BOARD OF COUNTY COMMISSIONERS, MADISON, GEORGIA,  
MET THIS DAY IN REGULAR SESSION.

MEETING WAS HELD ON THE SECOND FLOOR OF THE ADMINISTRATION BUILDING.

**PRESENT:** Chairman Ben Riden, Jr., Vice-Chair Bill Kurtz, Commissioners Philipp von Hanstein, Donald Harris, and Blake McCormack.

**STAFF:** County Manager Adam Mestres, Assistant County Manager Mark Williams, County Attorney Christian Henry, and County Clerk Leslie Brandt.

**The meeting was called to order at 10:00 a.m., followed by the Pledge of Allegiance and Invocation.**

### **AGENDA APPROVAL**

**Motion** by Commissioner Harris, Seconded by Commissioner Kurtz to approve the agenda as presented. Motion Passed Unanimously.

### **SCHEDULED PUBLIC COMMENT-MARK WILKINS**

Mark Wilkins spoke before the Board regarding qualifications and criteria for family divisions of land in Morgan County.

The Board advised Mr. Wilkins to work with the Planning Office and Planning Board regarding his issue.

### **MINUTES**

January 17, 2023 BOC Meeting

**MOTION** by Commissioner Kurtz, Seconded by Commissioner Harris to approve the minutes as presented. Motion Passed Unanimously.

### **CONSENT AGENDA**

Motion to accept as information the January 2023 payables to include General Fund in the amount of \$858,696.47, TSPLOST in the amount of \$360,446.85, SPLOST in the amount of \$504,208.54, and the January 2023 financials.

**MOTION** by Commissioner Harris, Seconded by Commissioner von Hanstein to approve the consent agenda as presented. Motion Passed Unanimously.

### **JOEY BREWER IS REQUESTING CONDITIONAL USE APPROVAL TO ALLOW A FAMILY CEMETERY ON 4.53 ACRES LOCATED AT 2551 KINGSTON ROAD (TAX PARCEL 060-047A)**

Joey Brewer, on behalf of ACRE Group, Inc. and Sharon Huff is requesting conditional use approval for a family cemetery on 4.53 acres located at 2551 Kingston Road. This item originally came before the Planning Board on October 27, 2022 at that meeting an attorney representing Mr. Huff's son stated that he had records that Mr. Huff was the sole owner of the property and that Ms. Huff could not sign documents relating to the estate as the property owner. Considering the dispute, the Planning Commission tabled the application request until legal ownership of the property could be resolved.

Since the item was tabled in October, the estate of Dennis Huff has been confirmed that Sharon Huff is the executor of the estate. It has also been confirmed that per the last will and testament that Ms. Huff was assigned both tract 1 of 98.62 acres and tract 2 of 4.53 acres of land.

The Planning Board removed this item from the table at their January 26, 2023 meeting. Mr. Brewer presented a revised and more accurate site plan showing the actual distances for the proposed cemetery from structures and property boundaries. Per the site plan Ms. Huff will add 0.51 acres to tax parcel 060-047A from the 98 acres to increase the lot size to 5.04 acres to comply with the ordinance. The required setbacks of 200' from any water source, 100' from any structure, and 50' from any property boundaries are met with the exception of one distance to a wood shed. The shed is 45.5' from the proposed burial site. Ms. Huff stated to the Planning

Board that the shed was sentimental to her as it is a structure that she and Mr. Huff had constructed together from the remnants of Mr. Huff's old dairy barn. She also stated that Mr. Huff had chosen the burial location and that she is trying to fulfill his wishes.

The Planning Board voted unanimously to recommend approval of the conditional use application for a family cemetery on 4.53 acres at 2551 Kingston Road with the conditions that the property meet the minimum 5 acres (surveys have already been prepared), and that the wood shed structure remain as is in its current size.

Chairman Riden allowed proponents to speak:

Chas Moore spoke in favor of the request, stating that the request should be approved as it was Mr. Huff's wish to be buried on his property.

Chairman Riden allowed opponents to speak:

No one spoke in opposition.

**MOTION** by Commissioner McCormack, seconded by Commissioner Kurtz to approve the conditional use request to allow a family cemetery on 4.53 acres located at 2551 Kingston Road (Tax Parcel 060-047A), including the conditions recommended by the Planning Board. Motion Passed Unanimously.

**MANJIT KAUR IS REQUESTING A ZONING MAP AMENDMENT, FROM C1 TO C2, FOR 1.2 ACRES LOCATED AT 4281 GREENSBORO HIGHWAY (TAX PARCEL 043-111A)**

This application was heard at the January 26, 2023 Planning Commission meeting, requesting a zoning map amendment from Neighborhood Commercial (C1) to General Commercial (C2). The applicant is making the request to rezone the parcel to install a freestanding digital sign to advertise gas prices. This type of sign is not currently permitted in the C1 zoning district. The C1 zoning district only allows a wall sign on the building. Staff had encouraged the applicant to wait for revisions to the sign ordinance, which were in the process of being revised and would allow a freestanding sign in the C1 district. However, the applicant chose to move forward with the rezoning request.

The Morgan County Character Area Map from the Comprehensive Plan shows the subject property as Lake Community. The current zoning designation does not meet the Character Area Map, but the commercial use is serving the surrounding lake community.

Planning Director, Chuck Jarrell noted that the sign design submitted is not compliant with C2 zoning district signage, current or proposed (the ordinance allows a maximum 48 square foot sign with a maximum height of 10 feet).

The Planning Board voted to recommend denial of the application.

Commissioners discussed and felt the request was spot zoning and not in compliance with the current Comprehensive Plan.

Chairman Riden allowed proponents to speak:

No one spoke in favor.

Chairman Riden allowed opponents to speak:

Debbie Crowe, Morgan County property owner spoke in opposition of the application with concerns that rezoning to C2 would open the possibility of future expansion that would not otherwise be allowed under C1.

**MOTION** by Commissioner Kurtz, seconded by Commissioner McCormack to deny the zoning map amendment request from C1 to C2 for 1.2 acres located at 4281 Greensboro Highway (Tax Parcel 043-111A). Motion Passed Unanimously.

**REPLACE BACKSTOPS AT WOOD PARK**

Replacement of backstops on the baseball fields at Wood Park was approved in the FY23 Capital Budget. Bids were obtained from two vendors. Staff recommends purchasing from A Better Built Fence for \$ 16,945.

<b>Bids Received</b>	
A Better Built Fence	\$16,945.00
Seabolt Fencing Co.	\$20,895.00

**MOTION** by Commissioner Harris, seconded by Commissioner von Hanstein to approve the purchase of backstops from A Better Built Fence for \$16,945. Motion Passed Unanimously.

**BUDGET AMENDMENT**

This budget amendment request is to transfer \$9,500 from general fund contingency to solid waste fund for repairs and maintenance to the scale house.

**MOTION** by Commissioner Kurtz, seconded by Commissioner von Hanstein to amend the budget to transfer \$9,500 from general fund contingency to solid waste fund. Motion Passed Unanimously.

**SETTLEMENT AGREEMENT-JIMMY A. GAY**

Jimmy Gay filed case against the County, seeking damages for alleged nuisance, trespass and inverse condemnation allegedly caused by the migration of methane from County's property onto his property. A jury trial concluded on June 10, 2022, determining that County was not liable for any such nuisance, trespass or inverse condemnation.

The County filed a motion for attorneys' fees and expenses of litigation on June 21, 2022. Gay filed a Notice of Appeal on July 13, 2022. The Parties have agreed to several extensions of time for Gay to file the transcript while they pursued the possibility of settlement.

Rather than continue to litigate this matter and incurring substantial expenses to do so, Gay and County desire to enter into a settlement agreement in order to provide for full, settlement and discharge of all claims, which are, or might have been, the subject matter of Case, including the appeal thereof and County's motion for attorneys' fees, upon the terms and conditions set forth below.

The Parties agree as follows:

1. Payment of Attorneys' Fees

In consideration of Gay's payment of \$125,000.00, the receipt and sufficiency of which is hereby acknowledged, County shall withdraw its motion for attorneys' fees.

2. Withdrawal of Appeal

In exchange for County's withdrawal of its motion for attorneys' fees, Gay shall withdraw his notice of appeal, foregoing any right to appeal or otherwise contest the jury verdict and judgment in the County's favor.

3. Statement by County

In consideration for Gay's payment and withdrawal of his appeal above, County agrees to issue a statement from the appropriate County official that the County is unaware of any reason why Property cannot be developed into a residential subdivision solely due to the proposed subdivision's proximity to the County's closed landfill. In other words, the County is unaware of any environmental or health reasons precluding the development of Property due to its location near the County's closed landfill. Nothing in such statement shall relieve Gay or any other developer from complying with all other regulations and ordinances applicable to the development of residential subdivisions.

**MOTION** by Commissioner Harris, seconded by Commissioner Kurtz to approve the settlement agreement as presented. Motion Passed Unanimously.

**COUNTY MANAGER REPORT**

County Manager, Adam Mestres, presented a monthly overview of Morgan County government's current projects and/or issues.

**PUBLIC COMMENTS ON AGENDA ITEMS**

JoEllen Artz, Rutledge resident thanked the Board for sticking with the comprehensive plan regarding an agenda item.

**MOTION** by Commissioner McCormack, seconded by Commissioner von Hanstein to exit regular session at 11:04 a.m. Motion Passed Unanimously.

**EXECUTIVE SESSION- PERSONNEL & POTENTIAL LITIGATION**

**MOTION** by Commissioner McCormack, seconded by Commissioner von Hanstein to enter Executive Session to discuss personnel and potential litigation at 11:13 a.m. Motion Passed Unanimously. (Original signed Affidavit in Executive Session Legal Requirement Book).

**MOTION** by Commissioner von Hanstein, seconded by Commissioner McCormack to exit Executive Session and adjourn at 1:03 p.m. Motion Passed Unanimously.

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Ben Riden, Jr., Chairman

ATTEST:

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Leslie Brandt, County Clerk