

The Banks County Board of Commissioners held the regular meeting on April 26, 2011 at 6:30 p.m. in the Board Room of the Banks County Courthouse Annex. Present were Chairman Milton Dalton, Vice Chairman Charles Turk and Commissioners Danny Maxwell, Sammy Reece and Ernest Rogers. County Attorney Randall Frost was also present.

1. Call to Order

Ch. Dalton called the meeting to order.

2. Approval of Agenda

Commissioner Reece made a motion to approve the agenda. Vice Chairman Turk seconded. All aye votes and the agenda was approved.

3. Public Comment: NONE

4. Public Hearings to Consider Planning Commission Recommendations: NONE

5. Commerce Business Center Alleged Ordinance Violation Hearing

Ch. Dalton turned the hearing over to Attorney Frost. Atty Frost asked that the letter with date received by Ms. Alex Davis be attached as an Exhibit to the minutes. (Copy of letter filed in Attachment to Minutes Book #9-2) He stated this would be an informal hearing. He then asked Assistant District Attorney Sam Skelton to present the allegations. Atty Skelton handed a copy of O.C.G.A. § 16-12-20 and §16-12-22 (Copy of document filed in Attachment to Minutes Book #9-2). He stated on April 15, 2011 at 10:05 a.m. they responded to a gambling complaint at the Commerce Business Center. Undercover Investigators Mike Wood and Brian Lord of the Banks County Sheriff's Office attempted to enter the business but the front door was locked. A clerk came from the back of the business and unlocked the door, allowed them to enter and then locked the door behind them. The investigators expressed interest in playing the games. The employee advised in order to play the internet games, one must purchase credits at a rate of 100 credits per one dollar. She further explained that if games are won, the winnings may be redeemed for cash. The investigators played the games and Investigator Lord was paid \$18.10 and Investigator Wood was paid \$44.00. Both were paid in cash. The investigators then left the business. At 2:30 p.m. the investigators returned to the business and played the games again and were paid out in cash again. At 5:00 p.m. a search warrant was issued and Atty Skelton with Investigators Lord and Wood returned to the business. Fifty seven desktop computers and \$2,284 in cash were confiscated along with a safe and two televisions. No arrests were made due to further investigation. Two store clerks were questioned and one acknowledged she had redeemed winnings for cash ranging from \$10 to \$150 within the three days she had been working at the business. The other clerk had been working since February and acknowledged she had redeemed winnings for cash ranging from \$41 to \$500. She further explained the customers were purchasing internet time and along with the internet time they receive free entries – the more money you spend - the more entries you receive. Atty Skelton stated that several customers had been questioned and admitted they had been paid out in cash on several occasions. He said several of the customers questioned stated they had internet access at their home and were coming to the business for the sole purpose of playing the games. He sited multiple sections of the code sections presented to the board which helps define gambling practices.

Present representing the Commerce Business Center were Ms. Alex Davis, Manager and Kenneth Hodges, Attorney. Atty Hodges stated he represented IIT – Interactive Internet Technology. This is a software company that handles the lottery. He stated there is not a lot of disagreement with how the Commerce Business Center is operating. He stated there were more than 40 locations similar to this in the state of Georgia. He stated four weeks before the business opened, he sent a letter to the District Attorney Brad Smith as well as the Sheriff Charles Chapman notifying them that the business was opening. He stated the door was locked because there was only one clerk present in the establishment at the time and for security – she locked the door while she was in the back of the store. He disputed that the clerk stated that credits for the internet must be purchased. He said no purchase was necessary to go onto the internet. He stated they are an office supply business that sells office supplies and internet time. He stated he needed the business today in order to obtain copies of documents for this meeting. He stated this business was not different than the surveys that restaurants print on receipts to win money or prizes. He also stated soft drink companies have chances to win in bottle caps. He stated he was given a letter from the landlord of the business that stated the tenant was a model tenant. He stated one does not have to pay to play, however the more money spent – the more chances to win are given. He stated there had been no proven violation of Georgia law by Commerce Business Center or by any other business center operating under the same model in the state of Georgia. He stated Commerce Business Center was selling internet time by simply incentivizing people to come by the business by giving them promotional chances to win money. He further stated they wished to do a declaratory judgment action in front of a Superior Court judge so the judge may hear the facts and decide if the business is complying with state law. He stated if they are found in violation then they would pack up and leave and the Commission board would not have to take action. He asked that the board delay decision on the matter until the judge has made a ruling and to allow the business to work with the District Attorney to get their equipment back.

Comm. Rogers asked if arrests had been made and when will they be made. Atty Skelton stated no warrants had been issued due to ongoing investigation. Comm. Rogers also asked for the percentage of the patrons that are paid out cash. Atty Hodges stated he did not have the numbers but could get them.

Investigator Mike Wood was sworn in and stated he asked the clerk if money is paid and if a jackpot is hit will cash be paid out and she said yes. He stated he played for approximately 15 to 20 minutes and one other person was in the store at the time. Comm. Rogers asked Inv. Wood if the same clerk was there when he returned. He said yes and that he received a payout the second time as well.

Atty Skelton read from a letter from the Attorney General dated March 15, 2011 that stated if the primary purpose of the business is the operation of a gambling establishment, these exceptions do not apply and the activities are commercial gambling. He further stated they had gathered evidence that the primary purpose for patrons going into the business is to play games. He also stated the difference in this business and the restaurant receipts or soft drink bottle caps is that the citizen comes into the Commerce Business Center to strictly play for money. The citizen who eats at the restaurant or buys a soft drink is doing it for the primary purpose of eating or drinking - not winning sweepstakes. Atty Skelton asked that the Commissioners take a strong look at the letter from the Attorney General. Atty Frost closed the public hearing.

Comm. Rogers made a motion to table this item until the May 24, 2011 meeting to provide time for more investigation toward the allegations and to hold the license. Vice Ch. Turk seconded. Atty Frost recommended not to hold the business license since it is being tabled and since it is not a criminal issue but a business issue. Comm. Rogers changed to a motion to table this item until the May 24, 2011 meeting to provide time for more investigation toward the allegations. Vice Ch. Turk seconded. All aye votes and motion carried. *(Copy of exhibits filed in Attachment to Minutes Book #9-2)*

6. Executive Session: Personnel

Comm. Reece made a motion to go into executive session to discuss personnel at 7:30 p.m. Vice Ch. Turk seconded. All aye votes and motion carried. Comm. Maxwell made a motion to come out of executive session at 7:52 p.m. Comm. Rogers seconded. All aye votes and motion carried. Comm. Reece made a motion to change the employment status of part-time Technology Assistant Derrick DeLee to Fulltime Salary Exempt Technology Administrator with an annual salary of \$32,500. Vice Ch. Turk seconded. All aye votes and motion carried. *(Copy of affidavit filed in Attachment to Minutes Book #9-2)*

7. 2012 Budget

Randy Failyer

Mr. Failyer presented the budget one department at a time for Commissioners review. The board agreed to meet Friday, May 6, 2011 at 9:00 a.m. to continue work on the budget.

Department budgets reviewed were as follows:

Contingency	Governing Body
Registrars	Technology
Human Resources	Tax Commissioner
Tax Assessors	Mapping
Courthouse Building	Annex

8. Adjournment

With no more business, Comm. Rogers made a motion to adjourn the meeting. Comm. Reece seconded. All aye votes and motion carried. The meeting adjourned at 9:30 p.m.

Chairman

County Clerk
