

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 5:00 p.m., followed by the Pledge of Allegiance and Invocation.

AGENDA APPROVAL

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

MINUTES

September 05, 2023 BOC Meeting

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

RETIREMENT BENEFIT PLAN PROPOSAL

The county currently has two different retirement plans - a frozen defined benefit (DB) plan and an active defined contribution (DC) plan. The proposal before the Board is to modify our retirement benefit plans by eliminating the current DC plan and moving all current DC employees and new employees as of 01/01/2024 over to a hybrid retirement plan consisting of both a DB and DC component for county employees. ACCG Retirement Field Services Manager, Greg Gease presented the proposed plans to the Board.

If the Board wishes to formally make changes to the retirement plan, authorizing resolutions will be presented at the October 17, 2023 board meeting for approval.

Morgan County Summary of Scenarios

Scenario 1	<u>Add 401a Participants</u> Entry into the Plan: Immediate Normal Retirement Age: Age 65 with 5 years of service Formula: 1.25% x FAE x CS Credited Service: From Date of Hire (max of 30 years) Reduced Early: Age 60 with 10 years of service Unreduced Early: Age 60 with 25 years of service Disability Benefit: Accrued Benefit at Disability Pre-retirement Death: None Vesting: 100% after 10 years of service EE Contributions: 3.00% 401(a) Balance Offset: \$553,100
	<u>Current Participants</u> Add 30 year service cap to current formula
Scenario 2	<u>Add 401a Participants</u> Entry into the Plan: Immediate Normal Retirement Age: Age 65 with 5 years of service Formula: 1.25% x FAE x CS Credited Service: From 1/1/2023 (max of 30 years) Reduced Early: Age 60 with 10 years of service Unreduced Early: Age 60 with 25 years of service Disability Benefit: Accrued Benefit at Disability Pre-retirement Death: None Vesting: 100% after 10 years of service EE Contributions: 3.00%
	<u>Current Participants</u> Add 30 year service cap to current formula

Motion by Commissioner Harris, Seconded by Commissioner von Hanstein to authorize ACCG to draw up the necessary resolutions for the proposed plan changes for consideration at the October 17, 2023 Board Meeting. Motion Passed Unanimously.

5311 GRANT APPLICATION

The 5311 Grant is the support Morgan County Transit receives from the Federal Transit Administration (FTA) through the Georgia Department of Transportation (GDOT). The application presented today is an annual requirement to continue receiving funding assistance.

Motion by Commissioner McCormack, Seconded by Commissioner Kurtz to approve the resolution authorizing the filing of the application and authorize the Chairman to sign all grant applications, certificates, and award documents as presented. Motion Passed Unanimously.

PORTER-TAX REFUND REQUEST

Attorney Lee M. Abney, representing Sarah H. Porter spoke before the Board to request a refund for penalties paid in relation to a conservation breach for tax years 2014-2022 (tax map 060, parcel 058).

The application for the tax refund request submitted by Attorney Abney states that Ms. Porter is seeking a refund of the penalty paid in relation to an alleged conservation breach for tax years 2014-2022 in the amount of \$33,217.66. The summary statement for the grounds upon which the taxpayer relies for the refund is as follows:

On April 14, 2022, Sarah H. Porter visited the tax assessor's office and asked a series of questions regarding the potential sale of her property to Atkinson Developments, LLC. She informed Eddie Tolbert that she was over 65 years old, and it was her understanding that she could sell the property without a conservation use breach. She was informed that due to these circumstances, she could sell the property without penalty, and she was "good to go." She again inquired if she would be penalized and was told, "you are good to go and sell." She then asked if she was required to sign documentation and was again told, "you are good to go and sell." In reliance upon this meeting, Ms. Porter sold her property under the belief she would have a non-penalty breach as discussed.

On April 22, 2022, Sarah H. Porter sold her property to Atkinson Developments, LLC. On July 11, 2023, she received a call from the Tax Commissioner. After discussing the matter with her, she was transferred to the Tax Assessor who informed her verbally she had breached her conservation use covenant. She has not received any communication in writing regarding this matter, or been given a time period to appeal any decision made regarding her alleged breach as required by O.C.G.A. section § 48-5-7.4(k.1):

"(k.1) In the case of an alleged breach of the covenant, the owner shall be notified in writing by the board of tax assessors. The owner shall have a period of 30 days from the date of such notice to cease and desist the activity alleged in the notice to be in breach of the covenant or to remediate or correct the condition or conditions alleged in the notice to be in breach of the covenant. Following a physical inspection of property, the board of tax assessors shall notify the owner that such activity or activities have or have not properly ceased or that the condition or conditions have or have not been remediated or corrected. The owner shall be entitled to appeal the decision of the board of tax assessors and file an appeal disputing the findings of the board of tax assessors. Such appeal shall be conducted in the same manner that other property tax appeals are made pursuant to Code Section 48-5-31 I. If the final determination on appeal to superior court is to reverse the decision of the board of tax assessors to enforce the breach of the covenant, the taxpayer shall recover costs of litigation and reasonable attorney's fees incurred in the action."

Tax Assessor representative, Eddie Tolbert addressed the Board. Tolbert gave the Board a copy of Rule 560-11-6-.04 Applications for conservation use property:

- (8) When property receiving current use assessment and subject to a conservation use covenant is transferred to a new owner and the new owner fails to apply for continuation

of the current use assessment on or before the deadline for filing tax returns in the year following the year in which the transfer occurred, such failure may be taken by the board of tax assessors as evidence that a breach of the covenant has occurred. In such event the board of tax assessors shall send to both the transfer or and the transferee a notice of the board's intent to assess a penalty for breach of the covenant. The notice shall be entitled "Notice of Intent to Assess Penalty for Breach of a Conservation Use Covenant".

Tolbert stated he first met with Ms. Porter in April 2022 to discuss options to sell land she currently had in the CUVA program. He explained her option to get out of her conservation agreement based on her age, and that if she chose this option, she would begin paying fair market value on her property. Per Tolbert, Ms. Porter declined this option. She informed him that she wanted to sell 20 acres of her 35-acre tract. Tolbert informed her if she sold 20 acres from her 35-acre parcel, that it would be enough acreage to qualify it to be a stand-alone parcel as a CUVA piece. However, the new owner would need to qualify for CUVA the same way she did. Failure of the new owner to continue the CUVA would result in a breach. This breach would fall back on the original property owner because they signed the original agreement stating the total acreage would remain in conservation untouched for 10 years. In Ms. Porter's case, the new property owner failed to continue the conservation on their 20-acre tract which resulted in a breach.

Ms. Porter stated her husband previously handled the conservation use on their property and that she didn't know much about the program. She also said that when she sold the land, she had no intention of defrauding the county. She visited the Tax Assessor's office to see what steps she needed to take to sell her land and was told she was good to go. Ms. Porter said she was not made aware that the new owner had to continue the conservation on the 20-acre parcel she sold.

Motion by Commissioner von Hanstein, Seconded by Commissioner Kurtz to approve the refund for the amount of the penalty paid, except for the difference between the current use valuation and fair market valuation of the year of the breach. Commissioner Harris voted in favor of the motion and Commissioner McCormack voted against the motion. Motion Passed 3-1.

ALCOHOLIC BEVERAGE LICENSE FOR THE GENERAL STORE AT 4420 BUCKHEAD ROAD

The General Store at 4420 Buckhead Road has been sold to a new owner, Mohammad Farid. He has applied for a business license and has applied for his alcoholic beverage license. Mr. Farid has met all of the requirements to qualify for an alcoholic beverage license.

Motion by Commissioner Kurtz, Seconded by Commissioner McCormack to approve the alcoholic beverage license for the General Store. Motion Passed Unanimously.

PROPERTY TO DECLARE SURPLUS

PROPERTY TO BE DECLARED SURPLUS AND SOLD

DESCRIPTION	DEPT
2018 Ford F150: VIN: 1FTMF1EB4JFE69350	Public Works
2012 Ford E350 Van VIN: 1FBNE3BL9CDA61090	Ag. Extension
2015 Dodge Charger VIN: 2C3CDXAT3FH890652	Sheriff's Office
2015 Dodge Charger VIN: 2C3CDXAT1FH890651	Sheriff's Office
2015 Dodge Charger VIN: 2C3CDXAT2FH759907	Sheriff's Office
2003 Ford Crown Vic VIN: 2FAFP71W34X124682	Sheriff's Office
2011 Chevy Tahoe VIN: 1GNLG2E04BR261341	Sheriff's Office
2012 Chevy Tahoe VIN: 1GNLC2E04CR188781	Sheriff's Office
2008 Ford Expedition VIN: 1FMFK15598LA80452	Sheriff's Office
2011 Ford Expedition VIN: 1FMJU1G55BEF36766	Sheriff's Office
2016 Ford F150 VIN: 1FTFX1EF1GFB29588	Planning
2011 Ford F150 VIN: 1FTFW1CF4BFD15608	Animal Services

Motion by Commissioner McCormack, Seconded by Commissioner von Hanstein to approve the items to be declared surplus and sold/disposed of. Motion Passed Unanimously.

PUBLIC COMMENTS ON AGENDA ITEMS

Robert Bailey, Morgan County Resident and County Chief Appraiser commented on the Porter tax refund request.

JoEllen Artz, a Rutledge resident commented on the Porter tax refund request.

COMMISSIONER COMMENTS

Commissioners made comments and gave updates on Liaison assignments.

MOTION by Commissioner McCormack, seconded by Commissioner Harris to exit regular session at 6:26 p.m. Motion Passed Unanimously.

EXECUTIVE SESSION- POTENTIAL LITIGATION

MOTION by Commissioner McCormack, seconded by Commissioner Harris to enter Executive Session to discuss potential litigation at 6:35 p.m. Motion Passed Unanimously. (Original signed Affidavit in Executive Session Legal Requirement Book).

MOTION by Commissioner Harris, seconded by Commissioner Kurtz to exit Executive Session and adjourn at 7:49 p.m. Motion Passed Unanimously.

Ben Riden, Jr., Chairman

ATTEST:

Leslie Brandt, County Clerk