



# Baldwin County Commission

## Legislation Text

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**Meeting Type:** BCC Regular Meeting

**Meeting Date:** 5/16/2023

**Item Status:** New

**From:** Matthew Brown, Planning Director

**Submitted by:** Matthew Brown, Planning Director

### **ITEM TITLE**

Proposed Planning (Zoning) District 14 - Making Judge of Probate Order for Election Part of the Record

### **STAFF RECOMMENDATION**

Make a part of the record the attached Order from Baldwin County Judge of Probate setting the date for the Planning (Zoning) District 14 election for June 6, 2023, to be held at:

Marlow Volunteer Fire Department  
13355 County Road 32  
Summerdale, Alabama

### **BACKGROUND INFORMATION**

#### **Background:**

Citizens Marla Barnes (residing at 14740 Ridge Rd Summerdale, Alabama 36580), Amy Smith (residing at 15100 Vasko Road Silverhill Alabama 36576), and Steve Mannhard (residing at 13982 Woodhaven Dairy Road E Summerdale, Alabama 36580) live in the portion of current Planning (Zoning) District 14 that is east of Fish River. These citizens have approached the Planning and Zoning staff seeking zoning for the balance of Planning (Zoning) District 14 (that portion east of Fish River) and to request a referendum for Zoning in this portion of the district.

The portion of Planning District 14 on the west side of Fish River is currently part of separate zoning efforts under the proposed Planning Districts 38 and 39.

Coming under the Planning and Zoning Jurisdiction of Baldwin County is a citizen driven effort. The process must be initiated and led by the citizens. Alabama Code §45-2-261.07. In the present situation, the citizens are not requesting to form a new Planning (Zoning) District, but to utilize that portion of the existing Planning (Zoning) District 14 boundary that is not already part of a zoning referendum effort-that portion of Planning (Zoning) District 14 that is east of Fish River.

Because a new district is not being established (citizens are seeking to use the boundaries of existing Planning (Zoning) District 14 that will exist if current efforts for proposed districts 38 and 39 are successful) Planning and Zoning staff have determined that the citizens will not be required to form a

new district that aligns with their voting precinct.

Furthermore, the citizens requesting the petition have reported support for the effort through Planning (Zoning) District 14 east of Fish River, on the basis that the effort will support the protection of the river. Excluding a portion of District 14 based on precinct boundaries would result in a significant portion of Fish River near Weeks Bay without zoning protections. It would also leave a strip of un-zoned land around the Town of Silverhill.

Finally, even though Planning and Zoning Staff does not believe a precinct feasibility analysis is required, it is noted that it is not technically feasible to utilize the Voting Precinct boundaries of precinct 30 because a portion of the municipal limits of the Town of Silverhill is within precinct 30 and would need to be excluded from the Planning (Zoning) District Boundary.

A map showing the balance of Planning (Zoning) District 14 (green color area) is attached to this agenda item.

The steps for exercising Planning and Zoning authority are found in Alabama Code §45-2-261 and the proceeding sections.

1) A party or parties seeking to file a petition shall notify the County Commission in writing that the parties will petition for the formation of a Planning District and the proposed boundaries of the district.

2) Within 15 days of notice to the County Commission, the Judge of Probate shall give a preliminary estimate of the number of signatures needed to call the election. Ten percent of the qualified electors residing within the proposed planning district will need to sign the petition. Planning and Zoning staff will notify the Judge of Probate.

3) The County Commission shall notify the principal party in writing, within 30 days of written notification of intent to request a referendum, that the proposed district is acceptable for planning, zoning and voting purposes, and shall furnish forms for use in seeking the required signatures.

4) The party or parties will have 120 days to gather the signatures and file the petition. Upon receipt, the County Commission and Judge of Probate will have 45 days to certify or reject the accuracy of the petition. If the number of signatures is not sufficient, the party or parties will have an additional 60 days in which to obtain signatures and have the petition certified.

5) Upon certification, the County Commission shall instruct the Judge of Probate to provide for an election within the district no later than 90 days after certification. If the petition is not certified, a new petition cannot be refiled for two years.

Based on information provided by the Probate Office and the Board of Registrars, there are approximately 4,899 active registered voters in proposed Planning District 14. As a result, 490 signatures (10 percent of the qualified electors) were needed for the petition.

On January 30, 2023, the parties seeking a zoning referendum submitted a petition. Of the

signatures submitted, 490 or more have been verified by the Probate Office. On this basis, the petition is accepted and certified. Planning staff now respectfully requests that the County Commission instruct the Judge of Probate to provide for an election, in Proposed Planning (Zoning) District 14, to be held no later than June 6, 2023.

**Previous Commission action/date:** September 20, 2022 BCC Regular Meeting - Pursuant to Alabama Code §45-2-261.07, took the following actions: 1) Accept the notice of intent to request a referendum for Planning and Zoning purposes for that portion of Planning (Zoning) District 14 east of Fish River (that was not included in the proposed Planning Districts 38 and 39); and 2) Make a determination that it is not feasible to utilize the Voting Precinct boundaries of precinct 30; and 3) Accept the Planning (Zoning) District 14 boundaries subject to a subsequent affirmative referendum vote pursuant to Alabama Code §45-2-261.07

March 7, 2023 BCC Regular Meeting - Pursuant to Alabama Code §45-2-261.07, took the following actions: 1) Adopt Resolution #2023-076 which certifies the accuracy of the petition for the Proposed Planning (Zoning) District 14; and 2) Instruct the Judge of Probate to provide a Zoning Election for Proposed Planning (Zoning) District 14, to be held no later than June 6, 2023.

### **FINANCIAL IMPACT**

**Total cost of recommendation:** N/A

**Budget line item(s) to be used:** N/A

**If this is not a budgeted expenditure, does the recommendation create a need for funding?**  
N/A

### **LEGAL IMPACT**

**Is legal review necessary for this staff recommendation and related documents?**  
N/A

**Reviewed/approved by:** N/A

**Additional comments:** N/A

### **ADVERTISING REQUIREMENTS**

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**Is advertising required for this recommendation?** N/A

**If the proof of publication affidavit is not attached, list the reason:** N/A

### **FOLLOW UP IMPLEMENTATION**

**For time-sensitive follow up, select deadline date for follow up:** N/A

**Individual(s) responsible for follow up:** Commission Administration Staff

**Action required (list contact persons/addresses if documents are to be mailed or emailed):**  
Make Judge of Probate's Order part of the record.

**Additional instructions/notes:** Planning and Zoning Department - Provide support as needed.