



**Regular City Council Meeting
August 12, 2014
MEETING MINUTES**

CALL TO ORDER Mayor Pete Edison called to order the Regular Meeting of the Banks City Council at 7:00 PM.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

ROLL CALL

Present were: Mayor Pete Edison, Brian Biehl, Dan Keller, Mark Gregg and Teri Branstitre. Michael Nelson and Rob Fowler were excused.

Staff present: City Manager Jolynn Becker, City Recorder Angie Lanter, City Attorney Dan Kearns, City Planner Stacey Goldstein

APPEARANCE OF INTERESTED CITIZENS – None

CEREMONIAL PRESENTATIONS & PROCLAMATIONS – None

BRIEFINGS AND PROGRAMS

1. Police Monthly Briefing – Deputy Hanlon presented the police report for July 2014. He described the processes involved with cases that are suspended versus pending or cleared. He was uncertain the Sheriff's Office was involved with the fire at the pellet mill, but understood from Levi Eckhardt that the fire department was still trying to figure out how it ignited.
2. Planning Commission Liaison – Planning Commissioner Gene Stout reviewed the actions of the July 29th meeting, which included the unanimously approval of two annexations and discussion about the Banks Lumber Mill water meter and expected update on the progress of the West Coast Pellet Mill's plans at the next meeting.
3. City Council Goals Updates
 - Prepare new goals for City Council Retreat in October 2014. Mayor Edison charged each Councilor to email three goals for next year to City Recorder Lanter within the next week. City Manager Becker confirmed the Council retreat was scheduled for October 1st and 2nd.

CITY REPORTS

4. City Manager Report – City Manager Becker presented the City Manager Report via PowerPoint, which was included in the meeting packet. She also presented before and after photos of the water tanks to illustrate the difference following the cleaning, which was part of the City's maintenance program. She confirmed that the school district was still working on a couple sections of their Emergency Response Plan.

CONSENT CALENDAR:

5. City Council Meeting Minutes – July 12th, 2014.
6. Shall the City Council authorize the Mayor to sign the amendment to the Intergovernmental Agreement with Washington County Consolidated Communications Agency (WCCCA) on behalf of the City of Banks? (CL 2014-42)
7. Shall the City Council appoint Ms. Marion Steinbach to Park, Recreation and Tree Board Position PRT7 (Term will expire on December 31, 2015)? (CL 2014-43)
8. ***Placeholder***
9. Shall the City Council approve a recommendation from the Park, Recreation and Tree Board on a request from Jeff & Bobbi Jo Schwartz to remove one tree at 12859 NW Scottston Terrace without replacement? (CL 2014-45)

10. Shall the City Council approve the Mayor to sign the 2014-15 Lease Agreement with the Banks Historical Society? (CL 2014-46)

Councilor Gregg moved to approve the Consent Calendar as presented. Councilor Biehl seconded the motion. MOTION CARRIED 4-0. Ayes: Biehl, Keller, Gregg and Branstitre; Nays: None.

BUSINESS AGENDA

Public Hearing

Mayor Edison read the conduct of public hearing format into the record for both hearing items.

11. Annexation Request – Application for annexation and corresponding zone change for approximately 172.93 acres. Quail Valley Golf Course. City file no. ANX1-14/ZC1-14.

Mayor Edison called the public hearing to order at 7:32 pm. No City Councilor or the Mayor declared a conflict of interest, bias, or conclusion regarding the application and no Councilor's participation was challenged by any member of the audience. He called for the Staff report.

City Planner Goldstein presented the Staff report, noting the criteria applicable to the application began on Page 8. She explained that the Planning Commission's approval of the annexation was subject to Quail Valley having a developer agreement with the City assuring that the primary economic burden for infrastructure and urban services be on the annexed property and not the City. Therefore, both the resolution and an annexation agreement were presented to City Council.

- She noted memorandums from her and ODOT, which she entered into the record. While ODOT supported the annexation, additional findings were requested in the Staff report to address the Transportation Planning Rule (TPR). The findings were submitted to ODOT and DLCD and the City received email confirmation of acceptance from ODOT. The memorandums, findings and email would be incorporated into the Staff report by reference.
- She confirmed with the City Attorney that upon approval, the adjacent streets would come into the city limits; however, this differed from ownership. The County and City would negotiate and enter into an agreement regarding the ownership of the adjacent streets when adjacent property was developed and approved to city standards.
- She clarified the Low Density Single Family (LDSF) zoning designation, discussed as being 6 dwelling units per acre (du/ac), on the purple page of Staff report, was actually a range of 4 du/ac minimum to 6 du/ac maximum because the Code required a minimum lot size of 7,000 sq ft and a maximum of 10,000 square feet.

Councilor Keller was concerned that Tax Lot 101 was split by Washington Ave, which was not included in the boundary change language, making the small section of Tax Lot 101 across Washington Ave not contiguous and therefore, ineligible for annexation. He also noted inconsistencies in the different drawings provided throughout the packet by the City as some showed the small piece of Tax Lot 101 included in the annexation and others did not. City manager Goldstein deferred to the Applicant.

City Attorney Kearns clarified that approval of the annexation included all adjacent rights-of-way, which was included in both the resolution and the draft ballot title provided as an example of what would be seen in November. Not including the rights-of-way would create problems, including having noncontiguous land pieces, such as the subject portion of Tax Lot 101. Including the rights-of-way also enabled the City to eventually assume control and responsibility of the rights-of-way, sometime in the future. He also briefly reviewed the benefits and protections regarding urban services provided to the City by the draft annexation agreement, which essentially implemented the condition as a binding contract recorded with the title of the property. He explained that the annexation agreement had to be executed before the election documents were submitted to the County elections official, September 4, 2014. He reviewed the timeline of putting the annexation on the ballot. If approved by the voters in November, the annexation would return to Council for a final ordinance, which would be the official annexation of the property into the city.

Mayor Edison called for the Applicant's testimony.

Mike Cerbone, Land Use Planner, Cardno, 5415 SW Westgate Dr, Portland, OR 97221, stated the request was pretty straightforward, although the City had a heavy procedural process for annexations. The application demonstrated the timeliness of the annexation, noting the land need analysis demonstrating the

market demand for residential land in the community especially given the development and increased jobs in nearby cities. Some people want to live in a small town, so adding residential land to the community would be beneficial. He assured the Applicant was aware and comfortable with their responsibilities to provide the infrastructure as outlined in the annexation requirements and was prepared to execute the annexation agreement. He explained that the Applicant had not included the small piece of Tax Lot 101 on the other side of Washington Ave, primarily because that property was not buildable. Once the right-of-way was developed to City standards and the final design completed for the intersection by ODOT, he believed the piece of property would be used. Washington County had a hefty process for legally certifying the legal description of the actual boundary change. The legal description was verified by the County, having been approved by the Oregon Department of Revenue so no issues would exist with the legal description when the resolution was approved. He clarified that Council was voting on the annexation which included only a portion of Tax Lot 100, as described in the legal description, plus the adjacent rights of way.

Councilor Keller noted that without that southern piece of Tax Lot 101, the 172.93 acres identified in the annexation request was incorrect. Mr. Cerbone explained that the table in packet was based on acreage from the Tax Lot Map which provides only a rough sketch of the size and location of property because tax lots are not to be used for anything other than taxing purposes. The actual meets and balance description was the accurate legal description for the piece of property to be annexed and the accurate adjacent rights-of-way, which were part of what would be taxed. Approval of the resolution subject to the legal description would annex the property described in the legal description and the adjacent rights-of-way, whether or not the table included acreages from the Tax Map. City Attorney Kearns added the official action being requested regarded the resolution and the legal description, Exhibit A to the resolution, proposed for annexation by the Applicant, who stated the southern piece of Tax Lot 101 south of Washington Ave was not included.

Councilor Keller asked how the tax lot would be affected with two different zonings.

Mr. Cerbone replied it would be a legal lot, with a portion annexed into the City. A subdivision plat would be submitted for residential development to occur. That plat would reconcile that boundary for what was within the city and the remaining piece would still remain outside the city. It could still be annexed with the adjacent property eventually, and he believed it would ultimately be put in a right-of-way. City Attorney Kearns added the property owner and City endeavor to keep the boundaries so they encompass entire tax lots, but not always. Snippets of tax lots were not unusual on city peripheries, such as along the western edge of the current Banks city limits. Eventually property owners would want to do something and would ask to annex those pieces. The subject portion of Tax Lot 101 was microscopic compared to the rest of the lot, and he believed Mr. Cerbone was correct that when the property developed, additional deduction of right-of-way would be required reducing the small piece even further.

Councilor Keller asked what the current FD10 County designation on the tax lots indicated. City Manager Becker replied that the tax lots were switched from farmland to FD10, essentially an urban holding zone, when the property came into the City of Banks urban growth boundary (UGB) indicating that eventually a zoning could be designated to it. City Attorney Kearns explained that although it was unusual for a city boundary to split lots in Banks, a single property with multiple zonings was pretty common. Mr. Cerbone added that Metro's urban reserve program split lots all over the region. Part of a lot could be brought into the city and then the boundary reconciled when subdivided. He understood concerns about creating an illegal lot, but it was a moot point because that southern portion was not buildable. The County surveyor agreed it made sense to use the right-of-way as the boundary in the legal description. A Lot line adjustment was another option but the costs involved did not make sense considering the almost valueless piece of property. City Attorney Kearns added the issue was not germane to the annexation or approval criteria.

Councilor Keller recalled seeing an easement over the railway on a City map years ago and asked if it was owned by the golf course.

Tim Schauer mann, Quail Valley Golf Course, confirmed the golf course's easement extended over the eastern track. Another easement that extended over the western track had been amended, so no easement existed across both tracks today.

Mayor Edison called for public testimony in favor of, opposed, and neutral to the application.

Lesley Carp, 41108 NW Washington Ave, Banks, OR stated she owned three acres and had not seen any pictures or information about any road being built. City Planner Goldstein replied that a copy of the materials could be requested from the City and that all the annexation reports and mapping materials were available on the City website. She explained that the land use notification process did not require mailing all the application materials, which were voluminous, but they were available upon request.

Mayor Edison called for the Applicant's rebuttal.

Mr. Cerbone stated he had provided Ms. Carp with a copy of the application package submitted to the City, including the legal description referenced in the resolution.

Councilor Keller said he was uncertain about the pros and cons, but was still uncomfortable with the remnant piece and suggested rewriting the resolution to not be contiguous. Mr. Cerbone noted State law limits the City's ability to annex land to only that land that is contiguous, which was the request. As proposed, the annexation did not violate state law.

City Attorney Kearns said including the remnant piece would be contiguous if the adjacent right-of-way was annexed, but a new legal description would be required. Mr. Cerbone believed the Applicant would be amenable to dedicating the small subject portion as part of the adjacent right-of-way if that would address the concern. He confirmed the remnant parcel was less than 100 sq ft.

City Attorney Kearns stated tonight's exercise was to draw the city's boundaries, noting that even if the subject piece was dedicated to the City, it would still not be within the city boundary.

The City's concern regarded what was within the city limits to maintain control, regulatory authority, and the ability to serve that land. Property owners have remnants of their tax lots outside the city limits, but that was not the City's concern. He reminded that the legal lot boundaries of tax lots are not certain and little relationship exists between tax lots and legal lot boundaries. The issue had no bearing regarding the matter before City Council, which was to expand the city's boundary to incorporate a certain, specific piece of land. Council had to determine whether the condition in the resolution addressing the provision of public services, which was a legal requirement, was appropriate. The Applicant did not care about the small parcel and did not seem to object to the Council imposing a condition, but Council had no authority to do so.

Mayor Edison called for further comments from Staff. City Attorney Kearns clarified for Ms. Carp that no development was yet proposed. The matter before Council regarded only the expansion of the city limits. The land could not be developed until a proposal was submitted which would prompt the public process, evaluation of public facilities, etc.

Mayor Edison closed the public hearing at 8:13 pm.

- a. Shall the City Council adopt Resolution #2014-14 to place a measure on the November 2014 Election Ballot for the Annexation of Quail Valley Golf Course?

Mayor Edison confirmed there was no further discussion and called for a motion.

Councilor Gregg moved to adopt Resolution #2014-14, a Resolution granting conditional preliminary approval for the annexation of approximately 172.93 acres adjacent to the City and authorizing a public vote on the annexation request (Quail Valley Golf Course Corp.). Councilor Biehl seconded the motion. MOTION CARRIED 4-0. Ayes: Biehl, Keller, Gregg and Branstitre; Nays: None.

12. Annexation Request – Application for annexation and corresponding zone change for approximately 27.5 acres. VanDyke Family Land, LLC. City file no. ANX2-14/ZC2-14.

Mayor Edison called the public hearing to order at 8:16 pm. No City Councilor or the mayor declared a conflict of interest, bias, or conclusion regarding the application and no Councilor's participation was challenged by any member of the audience. He called for the Staff report.

City Planner Goldstein presented the Staff report, noting that similar to the Quail Valley Golf Course annexation request, the Planning Commission's approval of the annexation was subject to the Applicant having a developer agreement with the City assuring that the primary economic burden for infrastructure and urban services be on the annexed property and not the City. Therefore, both the resolution and an annexation agreement were presented to City Council.

Mayor Edison confirmed there were no questions for Staff. City Attorney Kearns noted the same draft annexation agreement regarding urban services made with Quail Valley was included in the packet; however, the names would be changed to reflect the VanDyke Family Land, LLC annexation, but the same terms would apply. City Recorder Lanter noted an updated copy of the draft agreement with VanDyke's name were available.

Mayor Edison called for the Applicant's testimony.

Cliff VanDyke, 12415 NE 36th Place, Bellevue, WA, 98005 said the Applicant intended on signing the annexation agreement and understood that the names would be changed.

Mayor Edison called for public testimony in favor of, opposed, and neutral to the application. There being none, the Applicant declined rebuttal. He confirmed there was no further comment from Staff or the Councilors and closed the public hearing at 8:22 pm.

- a. Shall the City Council adopt Resolution #2014-15 to place a measure on the November 2014 Election Ballot for the Annexation of VanDyke Family Land, LLC?

Councilor Biehl moved to adopt Resolution #2014-15, a Resolution granting conditional preliminary approval for the annexation of approximately 27.5 acres adjacent to the City and authorizing a public vote on the annexation request (VanDyke Family Land, LLC.). Councilor Gregg seconded the motion. MOTION CARRIED 4-0. Ayes: Biehl, Keller, Gregg and Branstire; Nays: None.

Mayor Edison recessed the meeting at 8:23 pm and reconvened the meeting at 8:33 pm.

Regular Business

13. Shall the City Council adopt Resolution #2014-16 adopting the Banks Human Resource Management Guidelines for Supervisors? (CL 2014-47) City Manager Becker noted items already included in the Employee Handbook had been removed to eliminate duplicative update processes. She noted that during a workers' compensation claim last month, the Management Guidelines proved to address everything the City was required to do, assuring the document would be helpful to supervisors.

Councilor Gregg moved to adopt Resolution #2014-16 adopting the Banks Human Resource Management Guidelines for Supervisors (CL 2014-47). Councilor Biehl seconded the motion. MOTION CARRIED 4-0. Ayes: Biehl, Keller, Gregg and Branstire; Nays: None

14. Shall the City Council discuss the research done on the process for the potential annexation of the Walters Property (Island) – Tax Map 2N436TL1001/1002? City Planner Goldstein reviewed Staff's memorandum, which explained that the complete annexation process was required, including a public vote, for the annexation of the island property. The City would incur costs because the agreement did not put the burden of the annexation onto the property owner. The costs would include Staff and consultant time, as well as the costs related to holding a special election if it went on the ballot in 2015.

Councilor Biehl inquired why the property owner did not want to come into the city before. City Planner Goldstein deferred to Mr. Walters.

Greg Walters, 12683 NW Main St, Banks, OR, explained that he discussed annexing into the city with KJ Won after purchasing the property in 2006. The application fee and related costs were estimated at \$20,000 but the only benefit was to connect to City sewer rather than being on a septic system, which had many complications given the location of the sewer line and the City's contract with Clean Water Services. Following a long, expensive process reviewing all possible options, the best option was to have the City request that the property be annexed. He would have to sign a non waiver clause, but the City would bear all the costs for annexation. The property was finally connected to Clean Water Services this summer. He was told Council would be discussing potential annexation. He questioned the advantages of annexing one dwelling given the costs and if a bigger motive was involved. The subject property included two tax lots, and he inquired if they would be divided. The one tax lot was the 1.24 acres on the corner. He asked how the properties would be zoned when brought into the city limits.

Mayor Edison replied Mr. Walters had great questions, but they could not be answered until sometime in the future. Tonight, the Council was discussing whether to start the annexation process. Mr. Walters clarified he had not initiated the discussion, but did sign a non-waiver clause years ago, stating he legally could not oppose the annexation.

City Manager Becker explained addressing the island property was noted as a clean-up item about one-and-a-half years ago at a Joint City Council/Planning Commission meeting, which included discussion about Main Street, zoning on Main Street and properties on the west edge of town with two tax lots, one within and one outside the city. Mr. Walters noted his property aligned with the properties along the western edge of town with two tax lots, one within and one outside of the city limits. City Planner Goldstein confirmed no zoning was identified with the island property.

City Manager Becker explained that following Council's consensus to proceed, it could be another six to nine months before a decision was made whether to annex the island property, but she would keep Mr. Walters informed about the process.

Council discussed that as a County property, city ordinances, such as discharging a firearm, would not apply, which was why islands should be eliminated. The City of Hillsboro was also cleaning up its island properties. Following discussion, Council asked Staff to return in September with more information about the process, timeline and costs involved in annexing the island property, as well as the zoning that might be anticipated should the property be annexed.

15. Shall the City Council have further discussion in open session regarding tonight's executive session, and take further action?

Councilor Gregg moved to approve a 3.16% salary increase for the City Manager. Councilor Biehl seconded the motion. MOTION CARRIED 5-0. Ayes: Biehl, Nelson, Fowler, Keller, and Branstitre; Nays: None.

Mayor Edison noted Council would have a more detailed presentation for City Manager Becker next month as the final evaluation was still being wordsmithed.

COUNCIL ROUND TABLE DISCUSSION

Ray Deeth thanked the Council on behalf of the Banks Historical Society for approving the Log Cabin lease for another year. He distributed information about the time capsule buried in front of the Log Cabin in 2003 and scheduled to be opened in 2102.

He noted the Year 2021 would mark the 100th anniversary of the incorporation of the City of Banks and he was starting a committee that would be comprised of members from the Historical Society, City Council and other organizations to begin preliminary discussions in preparation of the 100th celebration. Council members who were interested should contact him as he would begin organizing the committee to begin the celebration's strategy. He discussed a few historical items and pictures featuring the 1928 school building and Greenville area school, as well as the original plat and 1921 deed including all the signatures on the petition that was submitted to incorporate the City. He also shared about a couple recent visitors who were descendants of Anna and Payton Wilkes and John L Banks, adding that he hoped to have these families present for the 2021 celebration. Bob Withum supposedly has

Robert Banks' tractor in his machine shop and he hoped to bring it out at the 2021 celebration as well. He was working to create a walking tour for the city, fine tuning some of historic facts and creating a map of the city for tour.

City Manager Becker noted the Log Cabin was built by a student as a school project in 1928. She noted that the City had many resolutions from 1920 and 1921 that the Historical Society could review.

Councilor Gregg commended everyone involved in the National Night Out for doing a good job.

Councilor Biehl stated he would be gone for the September Council meeting.

Mayor Edison noted the grass at the new school looked great.

Councilor Keller stated that water and police services should be considered as the UGB expands, which would result in an increased population. He wanted to understand how effective the City's police services were and asked to see how public demand calls correlated with Deputy Hanlon's scheduled hours in the city. There seemed to be a lot of public demand calls. The City needed to effectively measure how well the services were working to determine if police services should be expanded or the scheduling simply needed changed. He also believed the police should patrol city-owned properties outside the city limits, noting the importance of protecting the city's water supply. Although other officers respond outside of Deputy Hanlon's schedule, only one officer was available within a large area of Washington County, so a response could take a long time.

The Council and Staff discussed water protection and the challenges of the officer taking two hours or more to check city properties, which were behind locked gates, noting the time taken away from city patrolling. Visiting city properties could require modifying the City's contract with the Sheriff's Office.

City Manager Becker noted the Capital Improvement Program included different security options for the City's properties. She agreed to follow up with Deputy Hanlon about the public demand questions.

City Recorder Lanter asked Councilors interested in attending the League of Oregon Cities Conference September 25 through 27 to contact her so she could get them registered and cancel the hotel rooms she had reserved if not needed. City Manager Becker noted a Planning Commissioner could also attend because some training on planning was being offered. City Recorder Lanter agreed to email the agenda to Gene Stout. She noted the results of the tobacco survey would be presented at the September work session; about 80 responses had been received with a majority being submitted online.

City Manager Becker noted she would be on vacation for about ten days, starting tomorrow. She reported that a display case would be built in the Council Chambers so that the City's historical items could be displayed in City Hall.

City Planner Goldstein agreed that displaying the waterline piece would be wonderful.

ADJOURN The meeting adjourned at 9:15 PM

Submitted by:

Angie Lanter – City Recorder