

CITY OF BANKS, OREGON
Planning Commission Meeting
February 24, 2015
Banks City Hall, Banks, OR

Chair Gene Stout called the meeting to order at 6:30 PM. The proceedings were recorded in digital format.

ROLL CALL

Present were: Gene Stout, Ray Deeth, Michael Lyda, Lisa McAllister, Rodney Jacobs, and Rachel Nelson. Sam Van Dyke was absent.

Attending: Jolynn Becker, City Manager; Stacey Goldstein, City Planner.

APPROVAL OF MINUTES

1. Approval of minutes from the January 27, 2015 meeting
Ray Deeth moved to approve the Planning Commission minutes of January 27, 2015 as submitted. Michael Lyda seconded the motion, which passed unanimously.

CITY COUNCIL REPORT

2. Verbal Report. Ray Deeth reported on the City Council's agenda items for February 10, 2015, adding he believed Banks was well served by the Washington County Sheriff's Office after hearing the 2014 annual report and that arrests and incidences had decreased from 2013.
City Manager Jolynn clarified that the City allotted 1.25 FTE for the Sheriff's Office and that West Hills had requested a continuance to allow time to consider additional options to present to City Council. She confirmed that the meeting held with Mayor Edison, City Staff, the City attorney, and the attorney for West Hills was a private meeting.
City Planner Goldstein noted the mayor would go through the proper channels to disclose his meeting with the applicants at the next Council meeting. The Planning Commission would have no more involvement with the application unless Council remanded it back to the Commission.
3. Assignment of City Council Liaison
The Commission assigned Sam Van Dyke as the Planning Commission Liaison for the March 10, 2015 City Council meeting. Chair Stout and Ray Deeth agreed to serve as alternates if Mr. Van Dyke could not attend.

PUBLIC COMMENT – There was none.

WORK SESSION – (None)

PUBLIC HEARING – (None)

BUILDING PERMIT REVIEWS – INFORMATION ONLY (None)

VERBAL STAFF REPORTS AND UPDATES–

4. Discussion regarding Medical and Recreational Marijuana Ordinances
Stacey Goldstein, City Planner, noted at the January joint work session with City Council and the Planning Commission, Staff received direction to return with one ordinance to address both medical and recreational marijuana facilities with the goal to severely limit where such facilities could be located within the city. An information packet was presented for the Commission's

consideration, which included ordinances from the cities of Keizer and Salem, as well as an article titled, “Marijuana What Now?” from the February 2015 publication from the League of Oregon Cities. She briefly highlighted the commonalities found in the sample ordinances. Staff would present a draft ordinance for the Commission’s feedback at next Planning Commission meeting. The goal was to forward a recommendation to City Council by June.

Discussion from the Planning Commission continued with questions addressed by Staff as follows:

- Having separate medical and recreational marijuana ordinances would be better to delineate the issues.
 - Ms. Goldstein explained that at this point, combining medical and recreational marijuana regulations into one ordinance seemed an easier way to capture all the various uses, paraphernalia, etc. that might be involved. While guidelines currently exist for medical marijuana, the State legislature was still working to create guidelines for recreational marijuana. Once the State figured out the specifics, the City could split the ordinance into two separate ordinances.
- Ms. Goldstein did not believe the City could require that medical marijuana be sold only at a licensed, full-service pharmacy. She was unsure of any legal implications regarding a regular pharmacy dispensing marijuana, but would return with a factual explanation about the matter.
- Locations in town that were not close to schools or homes were limited, essentially leaving the shopping center as the only location. The shopping center raised questions as a place where minors could congregate.
 - A pharmacy selling medical marijuana would be concerned about loitering and would address it. Medical dispensaries allow loitering, and even have smoking lounges in the back.
 - Based the current zoning and the state regulations in place today, the only place a dispensary could be located in Banks was on Wilkesboro Rd across Highway 6 if the area was developed to all industrial. The area was zoned industrial and was outside the 1,000 ft school and residential buffers.
- City Council wanted to severely limit where marijuana dispensaries could be located within the city. Staff would work with the Planning Commission to determine appropriate limitations that fit or exceeded State law, while still ensuring the policy needs would be met.
 - The goal was to create enough buffers and limitations to restrict marijuana dispensaries to a very limited area without them being outright banned, which would open the City to lawsuits.
 - City Council discussed the restrictions on marijuana at the joint work session with the Planning Commission. City Council is the policy maker for the City. Staff takes policy direction from Council and works with the Planning Commission to implement those policies into the regulations and Code.
- The marijuana ordinance would be enforced by the City through the Code. A new marijuana business would have to meet certain standards in Code in order for the business to be approved.
 - As in the sample ordinances, Code language could prohibit smoking on the premises and state that inspections could occur at any point in time. If offenses occur, the business permit could be revoked, putting the facility out of business.
 - Code compliance in the City of Banks is complaint driven. The City did not have the personnel or budget to actively enforce the Code. Complaints have resulted in citations and Staff would begin including those in the monthly report.
- Staff would research to confirm whether the City could impose more restrictive regulations than the State, and also if the City had the right to prohibit dispensaries in town.
 - Staff would check to see how Washington County was addressing marijuana dispensaries

in unincorporated areas. Generally, the bigger the jurisdiction, the bigger the buffers and locational standards.

- At a Joint Chamber of Commerce meeting today, Tualatin and Tigard were advised that doing certain things would open that city to a lawsuit. Both Cities decided that pharmacies could not sell medical marijuana because pharmacies are federally regulated and issues exist between federal and State law.
- Buffers did not matter. Opening a dispensary was a business decision; if someone wanted to open one, they would.
 - The reality would be enforcement and how the dispensaries are regulated. Shutting dispensaries out of town would cause them to spring up elsewhere and be unregulated. This was a money issue.
 - If Council's direction was based from a public health, safety and welfare standpoint, then they should shut down the biggest liquor store in Oregon, the one at Jim's Thriftway.
- Marijuana dispensaries would be treated no differently than other business applications; limitations on these businesses would be no different than those of another business. Having the ordinances in place would enable the Commission to consider all impacts and how the community might be affected.
- A House bill in Colorado, if passed, would rescind the vote on recreational marijuana, making marijuana illegal again in that state.
- Council wanted to impose as many restrictions as possible with regard to allowing dispensaries without banning that type of business. Council was deciding the community's opinion. Ordinances are different than opinions, goals, or visions for the city.
 - A legitimate discussion was needed about whether these businesses would be beneficial economically or bring about some kind of social tradeoffs/negatives as so many perceive. Decisions should not be based on fear. Actual data must be evaluated regarding the social and economic impacts of having a marijuana dispensary, whether medical or recreational.
- City Manager Becker understood the State would share most of the tax revenue with the City for the first two years, and then most of it would go to the State.
 - Last fall, many cities created ordinances to tax recreational marijuana in case Measure 91 passed, hoping that the ordinance would be grandfathered in once recreational marijuana became legal, and then that city could also impose an additional tax.
 - Banks' City Council declined passing a tax on recreational marijuana and questioned whether the State would acknowledge such ordinances, as all marijuana would be taxed by the State.
 - City Attorney Kearns had kept discussing the legal implications that could come back on the City. His main concern was from a legal perspective; that the ordinance be directed so the final decision would minimize the City's legal liability.
- Ms. Goldstein noted that in addition to the marijuana facilities, Staff would be presenting regulations regarding adult businesses, which were another item Council wanted to have addressed.
- Marijuana is different than other vices, like hard alcohol and beer, because everyone can grow it. The purpose of even addressing marijuana was questioned. Washington was not making money, and it was likely costing that state more to regulate marijuana. The number of people using the shops has dropped dramatically; it was just a big hassle. The issue was fleeting, but addressing the issue would set a precedent for other things that are coming.
 - The City wants to be prepared for the commercial aspects of medical and recreational marijuana.
- Was Council interested in vice ordinances, in general, since strip clubs were also being considered? No vice ordinances exist in Code, so perhaps this was a time to package such things all together.
 - Defining vice would be difficult.

- The Commission and Staff briefly discussed food carts, which are currently not an allowed business in town, but another business to address. The City Council would be considering the impacts of food carts and whether they would be beneficial for the city, Main Street economic development, and etc. The coffee stand in Jim’s parking lot is a similar use.
- Marijuana food byproducts would also be addressed in the draft ordinance.

Ms. Goldstein stated that she and the city attorney would develop some draft Code language for the Planning Commission to work through at the next meeting. She encouraged the Commissioners to read the background material provided in the packet.

OTHER BUSINESS

The Planning Commission discussed their concerns about the process involved with the decision to eliminate Condition 9 of Phase 9 in the West Hills development. Potential actions and process improvements related to holding businesses and developers accountable were also vetted. Staff also reviewed the City’s process for following up on Code violations and open files of prior approvals to ensure applicants comply with the conditions.

ADJOURN: The Planning Commission meeting adjourned at approximately 7:48 pm.

Submitted by: _____
Stacey Goldstein, City Planner