



**Regular City Council Meeting
Tuesday, December 11, 2018
MEETING MINUTES**

CALL TO ORDER Mayor Edison called to order the Regular Meeting of the Banks City Council at 7:03 pm.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited

ROLL CALL

Present were: Mayor Pete Edison, Dan Keller, Stephanie Jones, Michael Nelson, Teri Branstitre, and Mark Walsh

Excused: Mark Gregg

Staff present: City Manager Jolynn Becker, City Recorder Angie Lanter, Library Director Denise Holmes, and City Attorney Dan Kearns

APPEARANCE OF INTERESTED CITIZENS

Marsha Kirk, 13674 NW Main St, Banks, expressed concerns regarding proposed City practices. She was a proud, founding member of and had served for the last three years on the City's Economic Development Commission (EDC). However, it seemed that soon she would no longer be a member. She had not been informed exactly why. A couple of weeks ago at City Hall, she was told by City Manager Becker that she, newly-elected City Councilor Erica Harold-Heine, and Councilor Nelson could no longer be voting members of the EDC, but they could stay on as advisors. When asked what would happen to Ms. Kirk's community outreach projects, she was told they would be reassigned because the EDC would now have a quorum of City Councilors, and it had been discussed in City Council meetings for the last couple of months. Upon reviewing the last few months of City Council's agendas and minutes, she noted little, if any, mention of the two-month-long discussion. From the City Council work session agenda dated November 13, 2018, it might be assumed that Item 6, City Council Committee Participation Discussion was where the item might be examined, but no minutes were available to confirm what was said. In the minutes from the City Council Meeting on November 13th, which were in the packet tonight, the only reference to a possible topic was on the bottom of Page 4, which said, "At this time City Council addressed unfinished Work Session Agenda Item 6, City Council Committee Participation Discussion." The documents were to be public information to the citizens of Banks but did not address what was proposed.

- The Mayor's vision for the EDC was to have up to 19 members. Right now, there were nine, but one would be stepping down with the new year, one had moved out of Banks and no longer qualified for participation. If

three City Councilors were removed, only four members of the EDC would remain. If the reason was truly because of a quorum with several City Council members and the Mayor, the Mayor was not shown to be a voting member on the website and in the last three years had attended only half of the meetings.

- She attended the Elected Essentials Workshop last week hosted by the League of Oregon Cities (LOC). Items reviewed at the meeting included Oregon Public Meeting law and Oregon Public Records law. It was a great experience and she learned a lot of good information. During the Public Meetings class, she asked the LOC's attorney if any meeting laws would be broken by having all of the current members on the EDC. The attorney, as well as city mayors and managers on the discussion panel agreed no laws or rules would be broken by what she had shared about City Manager Becker's comments to her.
- She asked the Council to tell her tonight why she would no longer be able to serve the community on the EDC and why she could not complete her volunteer community outreach initiative. It would be beneficial if the Mayor, City Manager, Council members, Board members, and City employees had a refresher class from the LOC because current practices seemed to be a little out-of-date.

CEREMONIAL PRESENTATIONS & PROCLAMATIONS

1. Presentation for outgoing City Councilors
 - a. Councilor Dan Keller
 - b. Councilor Mark Walsh

Mayor Edison presented plaques of appreciation to Councilors Keller and Walsh for their service on the City Council, noting Councilor Keller served two terms, July 2005 to April 2008 and June 2013 to December 2018; and Councilor Walsh served from January 2015 to December 2018.

Councilors Walsh and Keller shared that they enjoyed serving on City Council. Councilor Keller said he was glad the Council was able to keep the 4th of July celebration going.

Mayor Edison called for a brief recess for refreshments at 7:10 pm and reconvened the meeting at 7:16 pm.

BRIEFINGS AND PROGRAMS

2. Police Monthly Briefing – Deputy Ward presented the police report for November 2018.
3. Planning Commission Update – Jolynn Becker, City Manager
4. Economic Development Commission Update – City Manager Becker reported that a joint work session held by the Planning Commission and Economic Development (EDC) to discuss the façade program. A presentation was given by those who created a façade program in the City of Sandy.

CITY REPORTS

5. City Manager Report – City Manager Becker noted the City Manager's report was included in the packet and updated Council on three items not included in the report, the work being done in Arbor Village to move mailboxes and erect no parking signage, which would improve line-of-sight; the Tree and Sidewalk Project in Arbor Village, noting Staff was renegotiating the contract to reduce costs; and a contractor meeting scheduled to create more work space in the administration office to accommodate future growth.

CONSENT CALENDAR

6. City Council Meeting Minutes – November 13, 2018
7. Canvass the November 6, 2018 Election (CL 2018-51)
8. Shall the City Council accept the proposal to amend the scope of work of the Water Transmission Line Improvements Project? (CL 2018-52)

9. Shall the City Council authorize the City Manager to sign an Inter-Governmental Maintenance Agreement (IGA) with Oregon Department of Transportation (ODOT) for Oregon Route 47 (NW Main Street)? (CL 2018-53)

Councilor Jones moved to approve the Consent Calendar. Councilor Nelson seconded the motion. MOTION CARRIED 5-0. Ayes: Branstitre, Keller, Jones, Nelson, Walsh; Nays: None.

PUBLIC HEARING

10. Shall the City Council Adopt Resolution No. 2018-19, A Resolution Declaring a Moratorium on New Development Throughout the City of Banks Due to a Documented Shortage of Municipal Water Supply? (CL 2018-54)

City Attorney Kearns explained the background regarding why the moratorium was needed and how State law allowed the City to declare the moratorium. He explained how a moratorium on development would allow the City time to correct the city's limited water capacity and noted the work the City was doing to help improve capacity. The water situation would be assessed every six months and the Resolution could be readopted if a water shortage still existed. Certain types of development related to affordable housing and needed economic development within the city were exempted from the Resolution. He anticipated some testimony about the amorphous language regarding the limits set for industrial development in the Resolution.

Mayor Edison opened the public hearing and called for public testimony.

Robert Bobosky, 6770 SW Canyon Dr, Portland, OR, stated he was the co-owner of a large tract of land on the west side of town with the Cropp family, some of whom were present tonight. He wished to address Exemption 2.c in the draft Resolution and noted City Manager Kearns had pointed out industrial water users would be limited to 5,000 gallons per day or the amount used by two single-family dwelling units, whichever was less. He asked how much water a single-family dwelling used. He recalled from water studies that current usage would be between 200 and 300 gallons per dwelling unit. If the Council did consider adopting an exception for this use, he urged them to consider coming up with a specific number rather than referencing dwelling units. Two dwelling units would use far less than the 5,000 gallons mentioned in the draft. He referred to information he had submitted via email to the City a couple of weeks ago from a major industrial broker regarding different water users. The email cited two relevant examples of low-water users, one used roughly 500 gallons per day and another that used 2,200 gallons per day. A high-water user was described as one who used hundreds of thousands of gallons per day. He did not know how much water industrial businesses used, so the broker provided a couple examples. If the Council adopted a limit of 5,000 gallons, for example, that would allow more than one user at the usage rates of 500 gallons or 2,200 gallons, possibly three or four users. He asked that Council use an objective known number and to consider the data he had provided.

City Manager Becker provided background on what the City was doing to solve the water issue. Staff had 60 days to come up with some information on how to solve the issue, but a consultant was also working on how the City could find a new water source and how much it would cost. Also, the Department of Land Conservation and Development (DLCD) had seen the Resolution was very interested in the outcome of the consultant's study, so DLCD could help the City on how to accomplish its goals or by possibly locating some funding. She expected the consultant to get back to her this week. She clarified the consultant's findings would be in the 60-day plan, but the City would be able to review the plan, ask questions, and make sure the steps were achievable.

Mayor Edison commented that the City had been working on the water issue from the moment the report was received in June and continued to do so constantly. A short break in development was needed, which

was what the moratorium was about. The Council would keep working on it, and he hoped everyone else would, too.

Councilor Branstitre asked if the cause of the lack of water in the reservoir on Sellers Rd was due to climate change, irrigation, or development. City Manager Becker replied the shortage happened only during the hot time of year, and the transmission line on Sellers Rd would be replaced. The replacement project would go out for bid in the spring with plans to start next summer. She believed it would take about a year to complete, so the transmission line would be back up with no leaks in the middle of 2020. Also, additional homes were being developed that would take up the water capacity. She described the range of water loss noting it varied based on the time of year because when more water was used, the lines did not seem to leak as much. The amount was anywhere from 25 to 39 percent water loss each month. On Sellers Rd, the City was losing more than 1 million gallons of water per month.

Mayor Edison stated the City Council had thought all along that once the pipeline was replaced, there would be enough water to support all the new development. A nine-month study was received in June and provided detailed, empirical evidence that the city would not have sufficient water, which was what brought Council to suggest a moratorium.

Mayor Edison confirmed there was no further comments or public testimony and closed the public hearing at 7:41 pm.

Councilor Jones noted the Council needed to edit Item 2.c under the Exceptions, so it was not 5,000 gallons versus the usage by two, single-family dwelling units. She agreed using 5,000 gallons was sufficient as a specific number.

Councilor Jones moved to adopt Resolution No. 2018-19, a Resolution Declaring a Moratorium on New Development Throughout the City of Banks Due to a Documented Shortage of Municipal Water Supply, amending Item 2.c under Exceptions regarding industrial users to state, “..to use no more than [a maximum of] 5,000 gallons per day ~~or the equivalent of no more than two single-family dwellings, whichever is less,~~ and incorporate...” Councilor Keller seconded the motion. MOTION CARRIED 4-1. Ayes: Branstitre, Keller, Jones, Walsh; Nays: Nelson.

BUSINESS AGENDA

11. Shall the City Council adopt Ordinance No. 2018-10-01, an Ordinance Repealing and Replacing Title V (Public Works), Chapter 5 (Water), Section 50.01 (Rules and Regulations) and Adopting a New Section 5.24 (Water Conservation) of the Banks Code of Ordinances to Promote and Enforce Water Conservation Within the City? (Second Reading and Final Adoption) (CL 2018-49).

City Manager Becker stated no changes were made based on what was discussed at last month’s Council meeting.

Councilor Jones moved to conduct a second reading and final adoption of Ordinance No. 2018-10-01, an Ordinance Repealing and Replacing Title V (Public Works), Chapter 5 (Water), Section 50.01 (Rules and Regulations) and Adopting a New Section 5.24 (Water Conservation) of the Banks Code of Ordinances to Promote and Enforce Water Conservation within the City. Councilor Nelson seconded the motion. MOTION CARRIED 5-0. Ayes: Branstitre, Keller, Jones, Nelson, Walsh; Nays: None.

City Recorder Lanter read the title into the record.

12. Shall the City Council adopt Ordinance No. 2018-11-01, an Ordinance Amending Title VII (Traffic Code), Chapter 70 (General Provisions), Sections 70.46 (Existing Control Devices and Markings) and 70.99

(Penalty) of the Banks Code of Ordinances to Give City-Erected Traffic Signs and Control Devices the Force of Law and to Increase Penalties for Violations Thereof? (Second Reading and Final Adoption) (CL 2018-50) Councilor Jones moved to conduct second reading and final adoption of Ordinance No. 201 8-1 1-01, an Ordinance Amending Title VII (Traffic Code), Chapter 70 (General Provisions), Sections 70.46 (Existing Control Devices and Markings) and 70.99 (Penalty) of the Banks Code of Ordinances to Give City-Erected Traffic Signs and Control Devices the Force of Law and to Increase Penalties for Violations Thereof. Councilor Keller seconded the motion. MOTION CARRIED 5-0. Ayes: Branstitre, Keller, Jones, Nelson, Walsh; Nays: None.

City Recorder Lanter read the title into the record.

13. Shall the City Council approve appointments to the Board, Commission and Committee positions listed below, based on recommendations from the Mayor? (CL 2018-57)
- a. Kim Post, DVM - Economic Development Commission Position ED15 (New Term will expire December 31, 2023).
 - b. Michael Davis - Park, Recreation and Tree Board Position PRT3 (New Term will expire December 31, 2020)
 - c. Jesse Orange-Hough - Economic Development Commission Position ED5 (New Term will expire December 31, 2021)
 - d. Philip Darrah - Planning Commission Position PC7 (New Term will expire December 31, 2021)

Councilor Branstitre moved to confirm the Mayor's appointments to the Board, Commission and Committees. Councilor Nelson seconded the motion. MOTION CARRIED 5-0. Ayes: Branstitre, Keller, Jones, Nelson, Walsh; Nays: None.

14. Shall the City Council receive the Fiscal Year 2017-2018 Audit? (CL 2018-58)

Councilor Nelson moved to receive the Fiscal Year 2017-2018 Annual Audit Report as presented. Councilor Jones seconded the motion. MOTION CARRIED 5-0. Ayes: Branstitre, Keller, Jones, Nelson, Walsh; Nays: None.

COUNCIL ROUND TABLE DISCUSSION

Councilor Walsh reported that he was ill last month and did not attend the Fire Department meeting.

Councilor Branstitre reported that she was relocating and could no longer hold a position on the Council because she would no longer be a resident of the City of Banks. Her last meeting would be in January 2019.

Councilor Jones reported on last night's School Board meeting, which was very well attended because of the review of the latest plan for developing new facilities. The cost for all of the development was \$120 million and involved some demolition and rebuilding the high school in a different location on the campus. The middle-of-the-road option would cost \$60.5 million and involved remodeling the existing high school, tearing down the administration building and the barn, and doing a two-story addition. A comment was made at the meeting that plans were being considered without looking back at the last time renovations were discussed. She clarified most attendees at the School Board meeting were aware of the proposals because they had been part of the committee that had reviewed the project. Those that were not part of the committee were very pointed about asking why the other work done previously was being thrown away. She reported the contract for classified staff and teachers which had expired last July had been approved. She was grateful to the wonderful people who continued working without a contract. The Policy Advisory Board did not meet last month, and the next meeting would be held Thursday. She added the tree lighting last month was fun.

Councilor Nelson reported he was unable to attend either the Library Board or Economic Development Commission (EDC) meetings due to illness and other conflicts.

Mayor Edison stated he was the Chair of the Facilities Planning Committee from 2004 to 2010 that produced four bond measures, three of which were defeated, and the plan for the high school rebuild was to cost \$18 million. He attended the School Board meeting last night and was surprised by the \$60 million estimate. The Board had not looked at anything the Facilities Planning Committee had done while he was Chair and he would be paying more attention to the School Board meetings. The tree lighting was great, and he congratulated City Manager Becker and Staff. City Manager Becker said she appreciated the School District helping with the entertainment. Mayor Edison also reported the boys' varsity football team won the first State title for any boys' team in 98 years a couple of Saturdays ago. He would attend their banquet next Monday night to do a proclamation and to distribute certificates.

City Attorney Kearns suggested photographs be displayed of the Holiday Decoration Contest participants' displays at the awards ceremony, as well as photographs of next season's kids' coloring contest. He did not believe there was a legal reason why Councilors should not be voting members of advisory committees. There was no potential violation of the Public Meetings Act, because even if there was a quorum of City Council, all committees complied with the Open Meetings Law already. The reason was that the ability of the independent advisory committees to give independent advice to the Council would be lost when multiple committee members were City Councilors. The Council made decisions considering the valuable, independent advice of the committees. It would be better for a committee to contain many citizens with diverse views to provide input to the Council for consideration in their decision making. Councilors already had a lot of commitments and if they were voting members, they had to show up or the committee would have a harder time functioning. An additional problem with quasi-judicial functions, such as at the Planning Commission, was that an appeal heard by the Planning Commission could be appealed to City Council and the same person should not vote on both decision-making bodies. The quasi-judicial issue raised an additional problem, but it was not a legal impediment, just a policy reason for not having Councilors as voting members on advisory committees.

Mayor Edison recalled the discussion was that some of these committees had voting members and some did not. It was the Council's desire to make it uniform and a number of cities were polled to see what they were doing and found city councilors were liaisons and still active on the committees. City Attorney Kearns encouraged participation on the committees, but not as a voting member because the independence would be lost.

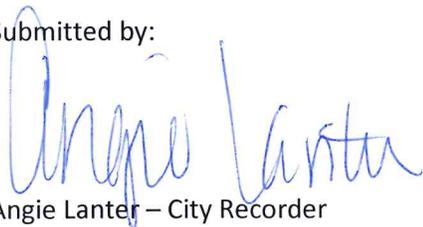
Library Director Holmes said the Library's programming was continuing, and Staff was looking at possible grants and working on having a completed Strategic Plan to present.

City Manager Becker stated regarding the Tree Project, some people would like to have trees put back in planting strips that were less than 3-ft wide. Staff was working with a landscaper to see if something could be done that would not create any future problems. The proposal would be brought to the Tree Board. She confirmed the City was offering to plant trees in the yards of those people who had trees removed from the planting strip. A form was created for those with planting strips less than 3-ft wide to fill out and choose no tree, a tree in their yard, or a tree in the planting strip if it would not cause future damage.

Mayor Edison confirmed the plans to reface Main St had been adopted and were being worked on.

ADJOURN The meeting adjourned at 8:03 pm.

Submitted by:



Angie Lanter – City Recorder