



**Regular City Council Meeting  
Tuesday, May 14, 2019  
MEETING MINUTES**

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**CALL TO ORDER** Mayor Edison called to order the Regular Meeting of the Banks City Council at 7:08 pm.

**PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was recited.

**ROLL CALL**

Present were: Mayor Pete Edison, Marsha Kirk, Michael Nelson, Erica Harold-Heine, and Mark Gregg

Excused: Stephanie Jones

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

**APPEARANCE OF INTERESTED CITIZENS**

There were none.

**CEREMONIAL PRESENTATIONS & PROCLAMATIONS**

1. 2019 National Bicycle Month Proclamation – Mayor Edison read the Proclamation declaring May 2019 as National Bicycle Month and May 17, 2019 as Bike to Work Day in the City of Banks.
2. 2019 EMS Week Proclamation – Mayor Edison read the Proclamation declaring May 19-25, 2019 as EMS Week in the City of Banks.

Jennifer Dunbar, MetroWest Ambulance, received the signed Proclamation from Mayor Edison and read a brief statement thanking everyone for their continued support of emergency medical personnel.

**CITY REPORTS, BRIEFINGS, AND PROGRAMS**

3. Police Monthly Briefing – Washington County Sheriff's Office – Deputy King presented the Police Monthly Briefing for April 2019, noting he would be filling in for Deputy Ward as he recovered from the injuries he sustained during a car crash. He reported Deputy Ward was recovering well and was in good spirits.

4. Library Director Report – Library Director Holmes stated her report was included in the packet and added that the catalog-only computer was now operational, allowing patrons to access the catalog without the required sign-on for public terminals. The Friends of the Library Book Sale would begin on Thursday where tickets would be sold for the Raise-A-Glass event to be held on July 13<sup>th</sup> at 6 pm at Pumpkin Ridge Golf Course.
5. 100 Year Celebration Update – City Recorder Lanter stated the next Committee meeting would be on June 4<sup>th</sup>. Plans were also progressing for the kickoff party in January 2020, and for the Music in the Parks event for May 2020.
6. Economic Development Commission Update – City Manager Becker reported the EDC did an overview of its history and current progress for the new members, so the EDC would be ready to start the next phase with the Oregon Main Street Program. The City had hired Michele Reeves as a contractor for the EDC’s Business Outreach Initiative. Six or seven steering committees would be formed consisting of members from a variety of business and property owners in town.
7. Planning Commission Update – City Manager Becker reported the Planning Commission had made a recommendation for City Council’s review at tonight's public hearing.
8. City Manager Report – City Manager Becker stated her report was in the packet and noted two items not mentioned in the report. Staff met with the Oregon Business One-Stop today who came up with about \$180,000 to fund the first phase of researching a new water source. The City would apply to One-Stop for a seven-year loan with a 1.5 percent interest rate and an unforgivable amount of \$20,000 to \$25,000. The water transmission line with its additional costs due to higher construction costs was also discussed, as was how to request additional money. She would bring the details to Council at the next meeting.

**CONSENT CALENDAR**

9. City Council Meeting Minutes – April 9, 2019
10. Shall the City Council authorize the City Manager to sign the FY 2019-2020 Budget Estimate for the cost of Police Services from the Washington County Sheriff's Office (CL 2019-12)?

Councilor Gregg moved to approve the Consent Calendar. Councilor Harold-Heine seconded the motion. MOTION CARRIED 4-0. Ayes: Kirk, Nelson, Harold-Heine, and Gregg; Nays: None.

**PUBLIC HEARING**

11. CPA 19-01. Comprehensive Plan Map Amendment to change the plan designation of the Property from Low Density Single-Family Residential (R-5) to Multi-Family Residential (R-2.5).

ZC 19-01. Zoning Map Amendment to change the zoning of the Property from Single-Family Residential (R-5) to Multi-Family Residential (R-2.5)

- a. Staff Report CPA 19-01/ZC 19-01 for May 14, 2019 City Council Meeting
- b. Staff Report CPA 19-01/ZC 19-01 for March 26, 2019 Planning Commission Meeting.
  1. Comments to the record
  2. City of Banks Resolution No. 2018-19
  3. Application Submittal from Ardor Consulting, including: Narrative, Application and TIA.
  4. Planning maps
  5. City of Banks Housing Needs Analysis 2011 UGB Report (on file – please contact the City to view)
- c. Approved minutes from the March 26, 2019 Planning Commission Meeting
- d. Staff Report CPA 19-01/ZC 19-01 Addendum for April 30, 2019 Planning Commission Meeting.
  1. Comments to the record
- e. Letter for the Record for May 14, 2019 Public Hearing

Mayor Edison read the conduct of hearing format and called the public hearing to order at 7:30 pm. He called for disclosure of any bias, conflicts of interest, or ex parte contacts from the Councilors. There were none. He confirmed there were no questions of the Councilors from the audience regarding any of the disclosures and called for the Staff report.

City Planner Goldstein emphasized that the requested changes to the Comprehensive Plan Map and Zoning Map and were not development applications. If approved, the Applicant would be required to submit a development application to the City, which would require additional studies regarding traffic, architecture, water use, engineering studies, etc., in order to develop the property in the future. The requested Comprehensive Plan Map and the Zoning Map amendments would allow for a multi-family project that was consistent with the Banks Development Moratorium Ordinance. An exception had been provided to allow for a minimum of 25 units and a maximum of 30 multi-family units.

- She cited the substantive approval criteria and presented the Staff report, highlighting the findings of the Planning Commission, which recommended approval of the amendments by a 5 to 1 vote. Her key comments were as follows:
- The packet contained information on how the proposed changes met the criteria in the Banks Zoning Code, how the changes were consistent with Comprehensive Plan goals, objectives, and policies, how the changes were compatible with the surrounding existing and planned land use pattern, whether public facilities were capable of supporting the permitted uses in the zone, and whether the changes were consistent with state-wide planning goals.
- The current site contained a single-family residence. Maps were provided in the packet showing that the surrounding uses included single-family dwellings, a lumber mill directly adjacent, and the historic downtown core of Banks with a mix of retail, industrial, office, and park uses.
- Findings showed the following: The property's location was suitable for multi-family uses, a mix of uses existed in the area, the site was located near existing public facilities which minimized the up-front costs to develop the property and minimized the public cost for maintenance of the infrastructure in the long term, rezoning the site would support the downtown hub and would also address the future need for 153 multi-family housing units as shown by the urban growth boundary (UGB) Expansion Study in 2011.
- The Applicant supplied a Traffic Impact Study (TIA) showing the surrounding streets were capable of handling a multi-family development on the site. Future analyses would be requested, if the Applicant chose to develop the site.
- A non-binding preliminary concept plan submitted by the Applicant as required by Code showed how the site could be developed in the future. For any future development, the Applicant would have to demonstrate compliance with the Zoning Code, Public Works Design Standards, Clean Water Services, and Building Code.
- The record had been left open from the Planning Commission's March 26<sup>th</sup> meeting to allow for submittal of additional letters of testimony and for the Applicant's rebuttal. The packet included the Planning Commission's Staff reports from March 26<sup>th</sup> and April 30<sup>th</sup>, as well as a Staff report addendum dated April 30, 2019 that summarized the letters of testimony. She highlighted the public testimony received and Staff's responses to many of the comments.
- The Planning Commission decided found the Applicant had met the required criteria and recommended Council's approval of the Zoning Map and Comprehensive Map changes.
- She introduced Mr. Pence, who was considered a staff related agency and wanted to provide testimony regarding the school district's situation.

Jacob Pence, Principal, Banks High School, stated he was concerned about the School District's enrollment. School funding was a current topic and \$500,000 in cuts was being considered for the upcoming school year at Banks, which represented one to two staff members in each building.

- One big reason for the cuts was declining enrollment. High school enrollment had declined by about 50 students in the 15 years he had been employed by the district. School districts were funded by money allocated from the State School Fund based on the number of students at the school, and the District's enrollment was down.
- Open enrollment or inter-district transfers had helped increase the number of students in the District. Different grades could accommodate more students depending on the size of each class.
- The District's 98 percent graduation rate, successful sports teams, and small school setting attracted students and parents who wanted to enroll their children, but parents had told him that they could not find or afford a place to live in Banks.
- Open enrollment was enacted by the legislature that allowed the District to open a certain number of spots per grade. After those spots were filled, a lottery system was used. Some grades had no open spots because there was no room, or because the number of kindergarten enrollments was unknown.
  - Open enrollment had sunsetted. Students in the district admitted through open enrollment were grandfathered in and could stay, but no more students could be admitted through open enrollment. The only option for more students was an inter-district transfer, which required the student's home district to release them and for them to be accepted by Banks School District. Most surrounding districts would not release students because funding was based on student enrollment.
- Banks School District had typically averaged about 1,200 students but was down to about 1,100 students currently. Due to some large class sizes, it might appear the high school was full, but if enrollment increased, more teachers would likely be hired. Each building had empty classrooms where those teachers could be placed and the result would be smaller class sizes. Room was definitely available for more students in many of the grades, though a couple of grades were full. Declining enrollment was worrisome and would affect school funding and what the District could offer the students in Banks.

Richard Smith, 42180 NW Wilkes Rd, said he had recently spoken to Mr. Pence because kids had been jumping over his fence at lunch time. He stated Mr. Pence had indicated the reason for an open campus was because the cafeteria could not accommodate the number of kids, which was why he was under the impression that the District could not handle more students. He wanted to see Banks grow and wanted it to be a great town, but he wanted it done the right way. The number of students had a direct impact on him and his family. He had an ongoing problem with students on his property getting home for lunch. If capacity was available for 660 students at the high school, why could they not fit in the cafeteria?

Mr. Pence replied Banks High School was built in 1958 and 660 students was the number that could be educated, but in 1958 not as many students drove cars to school. The school had issues with parking, and the cafeteria was not large enough for the current 374 students, so many students left campus for lunch elsewhere. About 70 lunches were served each day.

Mayor Edison confirmed there were no further questions for Mr. Pence or Staff and called for the Applicant's presentation.

Greta Holmstrom, Ardor Consulting, stated she represented the Applicant, and they were in agreement with the Planning Commission's findings. The proposal would further Banks' Comprehensive Plan by

providing for a diversity of housing types and housing choice. The Applicant believed the location was great as it provided access to the amenities available in downtown Banks. The proposal furthered the Statewide planning policies to provide choice in housing. Currently, a documented lack of multi-family housing existed in the city.

Greg Henes, Applicant, H & J Properties, PO Box 555, Banks, OR, stated he owned the property on Banks Rd for which the zoning change was requested. He had purchased the property almost 15 years ago, looking to develop it in the future. About 10 years ago, he had gone through the planning process and had invested a lot of time and money to complete a full set of civil-engineered drawings for a six-lot subdivision. Unfortunately, that was before the school bond measure had been approved and the school construction completed. After speaking with the Banks School District Superintendent at that time, he learned no room was available for additional students, so he tabled the project, even though by State guidelines, the lack of capacity in the District could not stop the development. Now, 10 years later, he had proved all requirements could be met, and capacity was available for new enrollment in the school.

- Last summer, he was involved with many other Banks business leaders and owners in a meeting with the City regarding future needs for the community. One issue raised repeatedly was housing, or the lack of it. Banks had one of the highest median home prices in Washington County at \$382,000 and had less than 1 percent vacancy rate for rentals. Few options existed for anyone at any price.
- A total of three properties in the city were zoned for multi-family, all of which had been built-out or developed. If he could not develop his property now, when and where else could development take place?
- It seemed the definition of affordable housing was misunderstood. In this case, the definition meant that because he was the owner of the property as well as the developer and general contractor, and that his employees would complete the construction, the cost would be much lower. That would allow him to charge less for rent; hence, the housing would be affordable. H & J's goal was to be 15 to 20 percent cheaper than surrounding areas.
- Residents like himself who had lived in Banks a long time had seen their children grow up and move away. He believed the community had to grow employment and ensure people could live and work here in order to stay vibrant. Less than 5 percent of his more than 70 employees could afford to live in Banks, if they could even find a place.
- He and the companies he owned, had taken a pretty good beating on local social media over the last few weeks. He wished he could say he had not taken it personally, but he had. As a contractor and developer, he had been through this process many times in the past, just never in the city that he supported in so many ways with his time and money. Anyone who really knew him or his business partner, and all of the 5 Star companies, knew that they would never do anything to hurt the city they loved.

Mayor Edison confirmed there were no questions for the Applicant and called for public testimony in favor of or neutral to the application. Seeing none, he called for testimony in opposition.

Tamara Stewart, 42120 Banks Rd, stated that at the April 30<sup>th</sup> Planning Commission meeting, the Commission was instructed to focus on Code criteria. When asked about compatibility, the City Planner stated that the rezoning would work with the neighborhood. The neighborhood was not mixed use and Banks Lumber Mill was not part of the neighborhood. The mill sat on the south side of half of the properties, and adjacent to some of the properties, but not the majority of the neighborhood. The neighborhood was separated from other businesses by the trailhead and the railway. The downtown core community was on Main St and not on Banks Rd.

- The Comprehensive Plan already included areas designated for R-2.5. The application was requesting changes to the Comprehensive Plan and if allowed would create an isolated island of less than 1 acre zoned as R-2.5 and set a precedent to allow other R-5 landowners to ask to modify the Comprehensive Plan. As the Banks grew, was the City prepared to have other landowners request the rezoning of their property to build apartment complexes, like in the Arbor Subdivision?

Richard Smith, 42180 NW Wilkes St, stated he lived adjacent to the high school track. He had attended the last Planning Commission meeting for a reason other than the proposed zoning change, but he was present tonight because he was unhappy with how things were presented. He had read up on the planning and on the meeting and was very surprised to learn no more evidence would be allowed to be presented, and that the Planning Commission would not take any input from the public until after the vote, even though the previous month's minutes had said those things would happen.

- Concerns were raised about System Development Charges (SDCs) and no one could provide an answer regarding them because again, according to the City Planner, the conceptual development plan, per the meeting minutes in the Staff report, was not binding. According to City Planner Goldstein, the Applicant could build as few as three units or as many as 40. As an interested party, he was trying to figure out what was going on. The process was not very transparent and he believed that upset a lot of people in Banks.
- He had commented earlier in tonight's meeting about the high school, and maybe that was a misperception. He thought highly of Mr. Pence, but at the same time, his conversation with Mr. Pence and the Staff report in his hands was causing him some incredulity, and he was trying to figure out what was going on.
- He had done his homework, and Code Section 151.004 stated the highest standard would apply. Banks was part of Washington County. He understood the city was incorporated and had its own set of rules, but according to the City Planner, a grant had been applied for to rewrite the City Code, which was confusing. He noted that a sign inviting the public's input was usually placed on a property to be rezoned, but no sign was on the Applicant's property.
- Online, he had stated that people needed to start attending the Planning Commission and City Council meetings to be aware of what was going on. His comments were mainly addressed to the Planning Commission about trying to understand the process. He did not live on Banks Rd, but the zone change would impact everybody who lived next to the school and everybody who wanted to water their lawn but was restricted by the water moratorium.
- Part of the evidence excluded by the Planning Commission was the 5 Star apartment complex built in Forest Grove. The complex did not look good, and parking seemed to be an issue on the street. He presented a photo of the apartment complex and noted a house that was now right next door, adding that if he was the owner of the house, he would be very angry. He acknowledged the Council could not speak to Forest Grove's planning, and he was sure the builder had done exactly what he was supposed to do.
- The town should be given a voice and allowed to give input on this issue. He was not responsible for the "good ol' boy" comments or anything else said on social media. His comments were that this did not look right. Staff's own notes stated the City was looking for more water. The water system had a huge leak and no one knew how much was leaking. Everyone knew that Banks and Washington County needed more housing that people could afford, and so in this case, he considered himself neutral.
  - He understood Council/the City needed to make things move and do things according to the law, and he understood that the time would come when Council would need to stop, deliberate, and make a decision, but where would the water come from and what would the parking be like? No

one knew for certain what would be built because there was no solid plan. The Staff report said a maximum of 30 multi-family units and a minimum of 25 units, but the City Planner said it could be as little as three as it was nonbinding, which he found confusing.

- He did not have as much stake in the zone change as the homeowners and others who lived on Banks Rd, but the entire town did have a stake in it. He understood the landowner owned and had invested in the land, but some very valid concerns were raised that were summarily dismissed, and not fairly.
- The builder's past history did have an impact on what he would do in the future. Doing it the right way was important so that affordable housing was available, and a disaster would be avoided on that two-lane road. The difference in parking between Banks and Forest Grove was that at least Forest Grove was flat. Banks Rd had no shoulders. If parking for 25 to 30 units would not fit, where would those cars go? That was what the Code was supposed to address. He was not trying to tell someone what they could do with their land; he wanted to understand what was going on.
- Based on Code Section 151.005.2.D, he requested that an interpretation of and basis for Council's decision be sent to him. He doubted he would appeal the decision, but he wanted it on the record in case it did need to be appealed should the neighbors find this to be unpalatable, they would have a chance to appeal. He believed more people should have attended tonight's meeting.

Diann Torre stated she had given her testimony time to Richard Smith.

Jamie Benke, 42271 Banks Rd, stated she lived across the street from the Applicant's site. As a real estate broker, she saw the need for growth, the housing crisis, and that Banks was a hard town to move into. Affordable housing was needed, and she completely supported that. She also realized the Applicant had crossed all the t's and dotted all the i's, but she was uncertain the site was the right one, unless further investigation and potential improvements were done.

- She had young kids and came to Banks because it was a small town. Her kids were at the age where they were more independent and liked to walk home after school or sports, but no adequate infrastructure existed. She understood some improvement would be done if the site was developed, but the only crosswalk was at the trailhead. She saw kids walking in the ditch alongside Banks Rd. More improvement to the road was needed for safety beyond just the small stretch where the apartment complex would be. She knew of the traffic study completed in the fall; however, she strongly recommended one be done now.
- The recent nice weather made the overflow parking situation for the trailhead insane. Cars were parked in front of her house, along the ditch, or anywhere a car could fit, and that was without a potential 30-unit building or buildings on the Applicant's site. Apartment buildings created overflow parking and there was already no room for that.
- She was concerned for the kids in the neighborhood. Crossing the road was already dangerous. The speed limit was 25 mph there, but drivers exceeded that going up and down the hill.
  - She was neutral to the application because she saw the housing issues in her profession. However, the intersection with the railway, trailhead and Sellers Rd did not have an adequate safe crossing or sidewalks on either side. The Planning Commission noted the sidewalk would be improved where the apartments were located; however, adequate improvements were needed on both sides.
- The only room for additional parking was in front of her property because there was no ditch and parking piled up along the huge retaining wall. As a homeowner, a new development concerned her because she already had overflow parking from the trailhead during the last part of the week and on weekends.

- She understood the requirements had been met by the owner and that only a zone change was being discussed before any arguments about what would be built and how it would be built, but it was still frustrating not being able to argue the case. Major issues already existed, and the site might not be the right spot for a zone change. Her home was 103 years old, and her neighbors' houses were of similar age. The lot sizes were similar as well, so this zone change would impact the neighborhood.

Jodi Cain, 42023 NW Broadshire Ln, stated she did not know 5 Star Builders. She came to Banks from Sioux City, IA, for the opportunity to live in a small community, and the rezoning could harm that. The community was not overgrown and not overdone. She understood the need to expand and grow and develop. She agreed that opportunity was needed to welcome others into the community, but that did not mean it needed to take away from the look or small-town feel.

- She had three children in the school district, and she was concerned about the high school because her daughter was a sophomore, which was one of the largest classes. Another child went through the Talented and Gifted program (TAG) and no ample TAG classes or amenities were offered at Banks.
  - Classroom size also concerned her. She appreciated Mr. Pence's input that increased enrollments would provide funding for more teachers, but the high school was not new and modern. Her kids were not coming home with tablets on which to do their homework. No specialized classes were offered to bring skills in trade areas, such as millwork or other types of employment the community provided. She hoped developers would want to come in with their own land or purchase land and consider developing space that would benefit the community, such as a community center if an area was rezoned or a space that would better fit the community.
- Rezoning the site from single-family to multi-family would not fit the neighborhood's motif with its 103 year-old homes, which were much different than a brand-new multiplex of any kind.
- The school district said it had plenty of room, but she did not see that because her daughter was in one of the largest classes and was not learning at her speed. No tutors were available to help kids struggling in class. Adding 30 more households with an average of 2.5 kids meant a lot of kids would come into the community who might need help that could not be provided.
- She loved the community and worked in affordable housing selling manufactured homes. She was always looking for ways to put people in great places that they could afford and have home ownership. Multi-family dwellings did not do that and did not offer pride in ownership as rentals. Renters tended to not care for their dwellings or maintain them. She had a lot of pride in her home as a homeowner. Affordable housing was a great idea and a great plan for the community because it would show respect for the homes and the community. A multi-plex at that particular location would not be a good fit for several reasons, namely for safety and for the community.

Julian Quist, 12727 NW Hamond Pl, expressed concern about the property's proximity to the lumber mill. High-quality condos in close proximity to the lumber mill might result in clashes and people not behaving like good neighbors.

Mayor Edison confirmed there was no further public testimony and called for the Applicant's rebuttal.

Ms. Holmstrom stated many of the issues raised would be addressed during the actual development review, including parking, aesthetics, and any kind of buffering or screening. The project could take any shape moving forward. The Applicant did not know that it would be specifically 30 apartment units, it could become something else, but it would be reviewed for compliance with the City's Code at that time.

- Regarding the issue raised about the isolated nature of the property, the current Banks Comprehensive Plan and Zoning Map showed that was how multi-family projects had occurred in

Banks over time. The properties were all very small and developed with a small number of units, which was a good planning practice because it promoted pedestrian travel to nearby uses. The proposed rezone just continued the trend of Banks providing a small-town feel where people could walk to places of employment and retail.

Mayor Edison confirmed there was no further public testimony and asked if Staff had further comments.

City Attorney Kearns stated that due to a couple unusual factors, he wished to address the number of units possible with the rezone. The base zone dictated the density, the minimum and maximum number of units allowed on a property the size of the Applicant's. Also controlling the number of units was the water moratorium and the specific exception Council adopted for development applications for multi-family housing, including apartments, condominiums, and multi-family affordable housing projects that proposed a minimum of 25 and a maximum of 40 dwelling units. While water conservation measures and other items needed considered, Council was focused on water conservation at the time, but also wanted to encourage multi-family affordable housing, so that compromise was struck in the water moratorium.

- He was struck by the lack of multi-family zoned property in Banks. Noting the Banks Plan and Zoning Maps on Pages 109 and 110 of the packet. He said Ms. Goldstein had informed him that not only were there very few small pieces of property zoned multi-family, those that were had already been built up.
- If the desire was to achieve multi-family housing in Banks, a zone needed to be created somewhere. Whether the Applicant's site was appropriate was the fundamental discretionary criterion that Council had to be addressed.

Mayor Edison noted a comment was made that the number of units could vary from three to 40 units and asked where that came from. City Planner Goldstein replied she had made that comment at the Planning Commission meeting where she misspoke, not recognizing that the Development Moratorium had a 25-unit minimum. The Applicant chose to propose 30 units in the application.

City Attorney Kearns noted the proposed ordinance included a condition that if the rezone was approved, it would be limited to a multi-family development with no fewer than 25 units, as called for by the water moratorium, and no more than 30 units because that was what the Applicant represented.

Councilor Harold-Heine asked how the mixed use was determined for the subject area. City Planner Goldstein replied that as part of the Applicant's submittal, the Applicant stated the area was a mixed environment and Staff and the Planning Commission concurred, but part of the question before the Council was how it defined the mix of use in that area. Did Council concur with Staff, the Commission, and the Applicant, or did Council believe the mix of uses was something different?

Councilor Harold-Heine clarified her question was how Staff came to the mixed use determination. City Planner Goldstein said Staff's decision was based on the City's existing Zoning Map and Comprehensive Plan Map and looking at the uses on the ground. The distance considered for the mixed of uses in the area was based on walkability, but no specific standard existed to define a mixed use environment.

Councilor Nelson noted Mr. Smith had stated his belief that the procedural issues during the April Planning Commission hearing were not very transparent and believed that evidence was not being included or that he was not allowed to have evidence included during that hearing. City Planner Goldstein clarified the Planning Commission had left the record open to allow for written materials to be submitted. At the April meeting, the Commission decided to deliberate and made the recommendation, recognizing

that people would have the opportunity to testify before Council. They also recognized that time to review the application was restricted by the 120-day land use clock.

Mayor Edison confirmed there were no further questions and closed the hearing at 8:36 pm. He called for a brief recess and reconvened the meeting at 8:42 pm.

12. Shall the City Council adopt Ordinance No. 2019-05-01, an Ordinance Approving with Conditions a Comprehensive Plan Amendment and Zone Change for 0.98 acres owned by H & J from Single-Family Residential (R5) to Multi-Family (R2.5)

Mayor Edison stated he was the tie-breaker tonight. He would participate in the discussion and offer clarifications as needed. He appreciated all of the testimony this evening, recognizing some people were in favor and some against. He personally appreciated the attendance of those present. He confirmed the Councilors had read the proposed ordinance and clarified the zone change would be from one type of residential zone to another type of residential zone.

Councilor Nelson said he also appreciated those who took time out of their evening to testify before Council. As he listened to testimony, he noted three of the five people who had signed up to testify in opposition had all indicated they were neutral to the application, which would help inform his decision. Many good concerns were raised, but most people said they understood the need for growth in Banks. The City Planner had done a good job ensuring the proper procedures were used and in line with the Comprehensive Plan and recently passed water moratorium. The vote was just for a zone change. Any development of the property would go through the entire process again, and all of those questions asked, reviewed, discussed, and debated.

Councilor Harold-Heine also thanked those who attended and gave testimony, noting their words really did matter. Council actively listened to every single person. Today, only a zone change was being considered, not what would end up on the property, which would be another conversation. The change to the zone and what the City said could be done on the site needed to be contemplated, which was what she was considering right now.

Councilor Gregg also expressed his appreciation for the testimony and feedback. He explained Council needed to base its decisions on evidence presented for and against, and not on Councilors' personal feelings and opinions, so he had taken notes and paid attention to the testimony. In its recommendation, the Planning Commission believed the location was suitable for facilities, recreation, was near the downtown hub, and fit the documented need for multi-family housing.

- Owners' property rights were valuable and legal processes existed to allow owners to do certain things within their property rights.
- Council also recognized the documented need for housing, water curtailment, and what could and could not be done for growth or expansion.
- According to the Zoning Map, the subject site was within walking distance, or about 800 ft, of four different zones, including another R-2.5 zone, as well as commercial and industrial, so it was difficult to say the site was not mixed-use. Mixed use zoning looked similar elsewhere in the Metro area, which was how he was framing his decision.

Councilor Kirk said she was glad to see so many people in attendance, adding citizens often did not get the chance to talk, or use their opportunity to voice their opinions. As a citizen of Banks, she was glad to see other citizens present. She reminded that if the ordinance passed tonight, citizens could also address their

concerns when the property was developed. She noted people often express concerns elsewhere, rather than where it really needed to be heard.

Mayor Edison stated he appreciated the comments about transparency. The Council's desire was to be 100 percent transparent. He referred to the April 30<sup>th</sup> meeting where people thought they could testify, but the Commission was only going to deliberate because the record had closed seven days after the March 26<sup>th</sup> hearing and noted that was an unfortunate circumstance.

- He also learned that people drove too fast on Banks Rd, sidewalks were needed, and overflow parking for the trailhead was an issue. The Council understood all those concerns and wanted to do something about it. He believed a lot of good work had been done.

Councilor Gregg reiterated this was only a zone change. He shared the concerns about sidewalks and traffic. The conceptual design was not to be considered in their decision and the big challenge ahead was to make a design work on that property with turns, sight-distance, parking, sidewalks, etc., which would be addressed down the road.

Councilor Nelson moved to conduct the First Reading, by title only, of Ordinance No. 2019-05-01, an Ordinance Approving with Conditions a Comprehensive Plan Amendment and Zone Change for 0.98 acres owned by H & J Properties from Single-Family Residential (R-5) to Multi-Family Residential (R-2.5). Councilor Kirk seconded the motion. MOTION CARRIED 4-0. Ayes: Kirk, Nelson, Harold-Heine, and Gregg; Nays: None.

City Recorder Lanter read the title into the record.

Mayor Edison noted the ordinance would be on City Council's June meeting agenda for Second Reading.

### 13. Public Hearing for City of Banks Fiscal Year 2019-2020 Operating Budget and Capital Improvement Plan

Mayor Edison opened the public hearing at 8:56 pm and called for the Staff report.

City Manager Becker stated the Operating Budget and Capital Improvement Plan for Fiscal Year 2019-2020 had been approved in April and tonight was the public's chance to make comments before the budget was adopted in June. No changes had been made to the budget since the Budget Committee meeting.

Mayor Edison called for public testimony regarding the Operating Budget. City Recorder Lanter clarified the budget summary was in the packet and the budget document was on the City's website. Mayor Edison noted the proposed FY 2019-2020 Budget was \$9.366 million. City Manager Becker added that amount consisted mostly of costs for several construction projects, one on Park St and another for the transmission line to take place in the fall. Mayor Edison stated the Park St project was not in progress currently, but would be done next, and that the transmission line replacement would be a capital outlay of about \$6 million, which was why the budget was much higher than normal.

Mayor Edison confirmed there was no public testimony and no comments from Council and closed the public hearing at 8:59 pm.

## **BUSINESS AGENDA**

14. Shall the City Council grant a noise extension to Jodi Cain, 42023 NW Broadshire Lane? (CL 2019-13)

Mayor Edison read the request, noting that Ms. Cain would hold an event on May 25, 2019 that would go until midnight. A DJ would be present at the event and Council would need to grant an exception to the noise ordinance. He noted the racetrack could operate until 11 pm, but it tried not to operate that late. He suggested 11 pm might be a more reasonable time. Secondly, he would like Ms. Cain to talk to her immediate neighbors for their approval as well. Ms. Cain replied the reason she asked for the noise extension was because she had neighbors she did not talk to, and she did not want the event to be an issue. The DJ needed to be paid in advance, which she had already done, and that was the only block of time the DJ was available. Mayor Edison clarified his point was if Council granted the noise extension, she should notify her neighbors. Ms. Cain replied she had no problem doing that.

Councilor Kirk said she believed the noise extension would have been easier to grant if Ms. Cain had already asked her neighbors and they had agreed. Ms. Cain replied she had been in conflict with her neighbors for two years and she did not want them to cause a problem for her get together. It was a celebration of her mother's 60<sup>th</sup> birthday and she was flying in from Nebraska.

Councilor Gregg stated he was trying to imagine the noise level for using the backyard for dancing and socializing. Ms. Cain confirmed no heavy metal rock would be played or mosh pits set up. Councilor Gregg added he was trying to determine what a reasonable level of noise was to entertain and have a party, while still being respectful to the neighbors and complying with the extension.

Councilor Harold-Heine asked Ms. Cain to notify her neighbors at least a week in advance of the event so they could make plans to be away if they chose. Ms. Cain noted that when she called about the noise extension, the City stated it did not exist and would have to check into it. She asked if a sign or notice was available indicating she had received a noise extension. If so, she would be happy to display it a week before the party.

City Manager Becker clarified that if the noise extension was approved with the conditions to notify the neighbors attached, the City would issue a noise permit like Sunset Speedway's. She clarified no application for a noise extension existed.

City Planner Goldstein confirmed she could not recall a noise extension being granted for one specific residence.

Councilor Gregg said he appreciated that Ms. Cain requested the extension instead of holding the party without it as most would do.

City Manager Becker asked for clarification on how to follow through on the condition. Councilor Harold-Heine believed Council should receive verification that the neighbors had been notified.

Ms. Cain understood the City normally sent notification to the public regarding such requests and asked if the City would distribute a notification on her behalf, or was she expected to do more than others were required. City Manager Becker explained that normally any conditions that were part of an approval would need to be fulfilled before a permit was issued stating the extension was approved. She clarified that she was asking how Staff should verify that the condition had been addressed.

Councilor Harold-Heine explained the City needed proof that Ms. Cain followed through with the condition of notifying her neighbors; for example, by providing the City with a copy of the letter she sent

to her neighbors. City Manager Becker confirmed that all neighbors adjacent to Ms. Cain's property should be notified.

Councilor Gregg moved to grant a noise extension to Jodi Cain, 42023 NW Broadshire Lane, with the condition that the neighbors immediately adjacent to her property be notified a week in advance of the event and that she provide evidence to the City that she had given the notification, after which the permit would be issued. Councilor Harold-Heine seconded the motion. MOTION CARRIED 3-1. Ayes: Nelson, Harold-Heine, and Gregg; Nays: Kirk.

City Manager Becker confirmed Ms. Cain would receive a noise extension permit to midnight, the same as Sunset Park and Sunset Speedway, after providing evidence she had notified her neighbors.

15. Shall the City Council make a donation to the Washington County Museum?

Mayor Edison stated he had met with County Commissioner Schouten and Tom Hughes, who were both on the Washington County Museum Board. They were trying to reboot the museum which had moved to several different locations, and they were asking cities for donations of 10 cents per citizen. Based on Banks having about 2,000 people, the donation would be \$200. Several cities, including Beaverton and Hillsboro had contributed. He believed getting all the cities to donate was a good idea because it would show funders or grantors that the Museum had full County support in its endeavor.

Councilor Harold-Heine moved to approve a \$200 donation to the Washington County Museum. Councilor Kirk seconded the motion. MOTION CARRIED 4-0. Ayes: Kirk, Nelson, Harold-Heine, and Gregg; Nays: None.

16. Shall the City Council adopt Resolution No. 2019-05, a Resolution Transferring Appropriations in the Water Fund #02? (CL 2019-14)

City Manager Becker stated that for Agenda Items 16, 17, and 18, certain categories under the appropriation totals could possibly have a negative balance, which was not allowed, so money would be moved from one appropriation category to another to cover possible deficiencies in other categories. By the end of the year, all appropriation categories would be in the black.

Councilor Nelson moved to adopt Resolution No. 2019-05, a Resolution Transferring Appropriations in the Water Fund #02. Councilor Gregg seconded the motion. MOTION CARRIED 4-0. Ayes: Kirk, Nelson, Harold-Heine, and Gregg; Nays: None.

17. Shall the City Council adopt Resolution No. 2019-06, a Resolution Transferring Appropriations in the Library Fund #03? (2019-15)

Mayor Edison noted that the transfers for Agenda Items 16 and 17 were both \$5,000.

Councilor Nelson moved to adopt Resolution No. 2019-06, a Resolution Transferring Appropriations in the Library Fund #03. Councilor Harold-Heine seconded by motion. MOTION CARRIED 4-0. Ayes: Kirk, Nelson, Harold-Heine, and Gregg; Nays: None.

18. Shall the City Council adopt Resolution No. 2019-07, a Resolution Transferring Appropriations in the Park and Tree Fund #10? (2019-16)

City Manager Becker noted this transfer amount was \$15,000 because of additional work done on tree removal and sidewalk repair included in the original project with West Hills/Lennar.

Councilor Nelson moved to adopt Resolution No. 2019-07, a Resolution Transferring Appropriations in the Park and Tree Fund #10. Councilor Kirk seconded the motion. MOTION CARRIED 4-0. Ayes: Kirk, Nelson, Harold-Heine, and Gregg; Nays: None.

19. Shall the City Council approve the letter to the State Audits Division regarding the Plan of Action for the City of Banks? (CL 2019-17)

City Manager Becker said a letter was received from the State of Oregon Audit Division noting a deficiency the City had due to a segregation of duties which required the City to establish a plan to resolve the issue. She noted Banks was not the only city to receive a letter. Banks did not have the funding or workload for additional staff to allow for segregation of duties and to have six employees at City Hall. A letter from the City was required annually 30 days after the submission of the audit explaining what the City's Plan of Action was for the year.

Mayor Edison stated the issue was recognized every year by the auditor. A certain number of staff was required to be fully segregated, but Banks was aware it did not have that number and had policies in place to deal with it. The State had been told about the City's limited resources and that more staff would not be hired. That explanation comprised the City's plan. City Manager Becker added that the State was told Banks had a financial policy and an Audit Committee comprised of City Councilors.

Councilor Harold-Heine moved to approve the letter to the State Audits Division regarding the Plan of Action for the City of Banks. Councilor Kirk seconded the motion. MOTION CARRIED 4-0. Ayes: Kirk, Nelson, Harold-Heine, and Gregg; Nays: None.

20. Shall the City Council adopt Resolution No. 2019-08, a Resolution amending the Public Works Design Standards of the City of Banks? (CL 2019-18)

City Manager Becker noted the redlined version of the Public Works Design Standards in the meeting packet showed the proposed changes, most of which regarded infrastructure for roads, etc., as seen in the resolution Council had passed in January/February. Additional changes to instructions for planting trees and options for planting strips were included and required the Council's approval. The Resolution essentially reapproved the Street and Rows and updated the Design Standards with the tree planting standards and then update would be made throughout the Code.

Councilor Gregg moved to adopt Resolution No. 2019-08, a Resolution amending the Public Works Design Standards of the City of Banks. Councilor Kirk seconded the motion. MOTION CARRIED 4-0. Ayes: Kirk, Nelson, Harold-Heine, and Gregg; Nays: None.

21. Shall the City Council approve the Mayor and Council President recommendation for appointment to City Council Position CC6?

Mayor Edison stated he and Councilor Gregg had interviewed all of the applicants for the Council position and concluded they would not recommend any of them because none had met all three of the basic criteria. He recommended reopening the application period for another one to two months. The criteria included having government experience, especially municipal government; breadth of knowledge

regarding the City of Banks and how it operated, and knowledge of the big picture: Was the applicant concerned about the entire community? Did the applicant exhibit forward thinking and have a vision for the future? A decision for an appointment was not needed at this time, and they recommended that one not be made. The position would be up for election a year from November, which might be the time that it was filled.

Councilor Gregg noted part of the discussion was to see if more applications were submitted and if no applicant met the criteria, the Council could recommend waiting for the election.

Mayor Edison directed Staff to readvertise the position and also notify the applicants who were not present tonight. City Manager Becker explained the application period could remain open until the position was filled. Mayor Edison thanked those who had applied and noted they were still being considered for the position.

### **COUNCIL ROUND TABLE DISCUSSION**

Councilor Kirk distributed handouts from the Col-Pac meeting she had attended last week. The handout described what Col-Pac was doing currently and she would let it speak for itself because of the late hour.

Councilor Nelson reported on both Banks Fire District monthly meetings he had attended since the last Council meeting. Primary items on the agenda concerned the new fire station being built west of town and the new tender expected to be delivered in June. Councilors should have already received notification of the local option tax levy that would be on the ballot. He highlighted the project status update provided on the emergency communications system upgrade being done by WCCCA, which was very comprehensive and cost \$16 million. He also attended the Fire District's annual budget meeting, as well as the Library Board meeting on April 16<sup>th</sup> which included discussion about the Community Room fee schedule and changing some of the daytime use requirements for the room. If the Library Board approved the updated form this month, it would be sent to Council as a fee schedule update. Discussion also included the budget, patron behavior policy, and whether open beverage containers and small amounts of food should be allowed. Library Supervisor Susan Cackler received a scholarship to attend a conference in September in Vermont.

Mayor Edison reported he had attended the Sunset Park meeting last month where discussion concerned installing a digital reader board. The boys' high school football and basketball teams won state titles and the baseball and softball teams both won their leagues 10 to 0. The track team was sending 19 qualifiers to the state track meet and the entire golf team qualified for the State Championships for the first time. The dance team went to State also, and the equestrian team qualified for State, even though the horses did not react well to the long trip to Redmond. The girls' basketball team took fifth place at State.

Councilor Harold-Heine reported on the West Tuality Habitat for Humanity meeting. They were working toward expanding their service area into Banks and North Plains, if possible, to assist the communities in developing a program called A Brush of Kindness, which would help homeowners who needed quick jobs done such as yard work or a fresh coat of paint on their home. On May 20<sup>th</sup>, a McMenamins Friends and Family night would be held with 50 percent of proceeds going to Habitat for Humanity repair programs. On June 29<sup>th</sup>, a Women's Build would take place to help empower women and a Builders Blitz would be done from September 9<sup>th</sup> through the 13<sup>th</sup>. She had recommended Habitat for Humanity come to Banks and look for homes that would qualify, then talk to the City on how to connect with the homeowners. Habitat for Humanity had asked for a lot of feedback at the meeting and sought referrals for contractors because volunteers may lack some skill sets. Discussion included how to provide them with more tools and contacts and people to reach out to for help in the community. City Manager

Becker noted a City Staff member would be working with Habitat for Humanity on its advertising and she had information in the Manager's Report about an activity planned for August or September.

Councilor Gregg reported on the Internal Audit Subcommittee, which was trying to find a time to meet. No WCCCA Board meeting was held, but the upgrade Councilor Nelson reported on dovetailed into some of the emergency planning and emergency management being done. The County was lucky to have the communications systems it did which were better than those available in other areas due to its redundancy, reliability, and robustness. An upgrade was just done for the automatic vehicle locators which show the closest unit, as well as maps showing the locations of all the units, from the Columbia River down to Salem, and including police, fire, and public works, so there was a lot of interoperability. The County was having trouble keeping positions filled for Emergency Communication Dispatcher because of the lack of qualified applicants. He asked the Councilors to let him know if they knew anyone who was interested. The last round of applications produced only two. Noting the EMS Week Proclamation, he stated the emergency telecommunicators were the first step in the process. They did triage and provided instructions for emergency care over the phone to distressed citizens.

City Recorder Lanter clarified that the Urban Renewal Agency (URA) Public Hearing would be addressed after the City Council meeting adjourned.

City Manager Becker stated she had sent to the Councilors a press release from Salmonberry Trail Foundation who would be doing a ribbon-cutting on June 14<sup>th</sup> at 2 pm for the Manning Trailhead parking lot. She would also send copies to the community through the City's Community Outreach as well. The City's franchise agreement with PG&E was up for its five-year renewal, and if the Councilors had any recommendations for changes, the City would need to notify PG&E by September 12<sup>th</sup>. She believed the rate looked okay based on the rate other cities paid for the franchise fee. City Attorney Kearns stated things like service issues from the constituents would be one example to consider for updating the agreement. He agreed to look at the agreement, and believed a five-year renewal seemed fine. City Manager Becker said she would bring the agreement back to Council next month after it had been reviewed by the City Attorney.

City Planner Goldstein noted discussions had taken place on a new approach to Council packets due to their length. Under consideration was assembling the packets in Adobe Acrobat and adding page numbers to make them easier to follow.

**ADJOURN** The meeting adjourned at 9:40 pm.

Submitted by:



Angie Lanter – City Recorder