



**Regular City Council Meeting
Tuesday, July 14, 2020
MEETING MINUTES**

CALL TO ORDER Mayor Edison called to order the Regular Meeting of the Banks City Council at 7:14 pm.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present were: Mayor Pete Edison, Councilor Marsha Kirk, Councilor Stephanie Jones, Councilor Michael Nelson, Councilor Mark Gregg, Councilor Mike Lyda, Councilor Erica Harold-Heine

Staff Present: City Manager Jolynn Becker, City Recorder Angie Lanter, City Attorney Dan Kearns

Staff Absent: Library Director Denise Holmes

CEREMONIAL PRESENTATIONS & PROCLAMATIONS – None

CITY REPORTS, BRIEFINGS, AND PROGRAMS

1. Police Monthly Briefing – Washington County Sheriff's Office – Deputy Pope presented the Police Monthly Briefing for June. He noted Deputy Ward was scheduled to return to duty on Sunday, and that today was the closing day for applications for the full-time, permanent second deputy position in Banks, so a decision would be made within the next few days. Three BLM protests were held in the city in June, two of which were permitted and planned, but all were peaceful. A couple criminal incidents involved behavioral issues in which the deputies were assisted by the mental health response team in counseling the people involved. He concluded that overall, June was an easygoing month for the police, and Deputy Ward was doing all of his return-to-duty training this week.

Councilor Jones asked if this was Deputy Pope's last report for the Council. Deputy Pope replied that he had applied for the full-time, permanent position in Banks, and while Lieutenant Ray had told him he was a strong contender, there were no guarantees.

2. Library Director Report – City Manager Becker noted Library Director Holmes was on vacation and that her report was in packet.

3. 100 Year Celebration Update – City Recorder Lanter reported the July items were out: a deck of playing cards with a case with the 100 Year logo on it. The Movie in the Park event was tentative, but the event would depend on social gathering restrictions and City Council’s direction.
4. Economic Development Commission Update – City Manager Becker stated no meeting was held last month, but the Commission would meet in August.
5. Planning Commission Update – City Manager Becker reported a public hearing was held last month regarding the development plans for the apartment building on Banks Rd. A couple people called in, but based on the criteria, the Planning Commission approved the development application. (SPR-20-01)
6. City Manager Report – City Manager Becker noted her report was included in the packet. She noted Washington County was establishing several new programs, including a small business grant, a reimbursement assistance grant for COVID-19 related expenses, program funding for future City events, and funding for Col-Pac, a portion of which would be allocated to the City of Banks. The Banks School District was also looking at putting in a new flashing light at the elementary school, but moving it 100 to 150 feet away from the entryway. The City was also applying for an ODOT Safe Routes to School project and would need a consultant service to identify infrastructure needs at the three schools. The City, School District, and ODOT applied as a partnership for the grant. She was not certain how much the Safe Routes to School grant was, but it would help traffic going in and out of schools, since the crossing would be moved. She clarified that ODOT believed the pedestrian crossing should be located north of the existing high school entry way, closer to the front of the School District Office building. She would share the final plans with Council.

CONSENT CALENDAR

7. City Council Meeting Minutes – June 9, 2020.

Councilor Jones moved to approve the Consent Calendar, seconded by Councilor Gregg. MOTION CARRIED 6-0. Ayes: Gregg, Kirk, Jones, Harold-Heine, Lyda, Nelson; Nays: None

PUBLIC HEARING

None

BUSINESS AGENDA

8. Shall the City Council authorize staff to proceed with the Entry Way Sign Project at a cost not to exceed \$20,000.00?

Clint Jackson with Five Star Builders reported that he had been working with the EDC to replace the south entry sign coming into the city, and they had come up with a design and price. Washington County had put a hold on the money for the grant project when COVID-19 hit. The EDC wanted to see the sign go in, so Clint and his partner were willing to donate \$36,324 to the project, which would leave a remaining cost of \$20,000. The sign was 20 ft. wide and 16 ft. tall. He described the design.

City Manager Becker explained that the City had budgeted \$69,644 for the entryway sign project through Fund 13.

City Recorder Lanter noted Councilor Harold-Heine was having internet issues and relayed some questions she had sent in. Councilor Harold-Heine had asked if the City had gotten more than one bid on the project, and if it would be a conflict of interest for the City to receive a bid from someone on the EDC.

Councilor Kirk noted that Five Star was not originally planning to donate money because the project was going to be done through a grant. She asked if Division 26 Sign, Lighting, and Power included \$7,000 for the PGE connection.

City Manager Becker understood Five Star had already looked at solar power, so the \$7,000 would not be needed for PGE.

Mr. Jackson confirmed Five Star had gotten solar lighting to work for the signs, which saved about \$5,000.

Councilor Kirk said she was concerned about inconsistencies in price between the paperwork submitted to the grant and what the Council received tonight for the donation.

City Manager Becker explained that Five Star had redone the proposal to review all the costs, and that the costs provided to Council tonight were the current cost revisions.

City Attorney Kearns stated that with regard to the conflict of interest question, the decision-maker was the City Council. The public bidding question was totally separate as the City would follow the City Code when bidding public projects. He had not looked at the total cost of the project for goods and services, but he suspected it was below the threshold for full competitive public bidding, based on the \$20,000 estimate needed for a public contract.

City Recorder Lanter noted Councilor Harold-Heine had asked how the Council could make an informed decision if the City only got one bid and did not solicit for other bids.

Councilor Lyda noted that the entire package, the scope of work and design, was developed by Five Star. The City had not solicited any work from anyone.

Councilor Kirk said the cost originally given to the WCVA was \$4,000 less than the \$56,000 currently being discussed, yet at the last EDC meeting, Mr. Jackson had said that he would try to reduce the cost.

Mr. Jackson explained at the EDC meeting, he had been asked to put together a budget for the conceptual design of the sign Five Star developed if the project had gone out to public bid. When there was no money available for the grant program due to the pandemic, he and his partner decided to give back to the community by making a donation to help get the sign done.

Councilor Kirk said she appreciated the donation, but was concerned about whether the Five Star project recently approved by the Planning Commission might become a slippery slope for the City.

Mayor Edison believed the donation had occurred after those plans had been approved.

City Attorney Kearns explained the Planning Commission was different body and, to his knowledge, the Commission was unaware of anything regarding the entrance sign. Conflict of interest involved direct financial stake in the outcome of the matter. Mr. Jackson was an EDC member and also a member of the community who also did contracting and could do the work. The EDC only made recommendations and City Council made the decisions. He did not see that there was a conflict of interest. The implication was that making the donation would get Five Star a more favorable decision by the Planning Commission for the apartment complex site plan, but the two bodies were not connected. The Planning Commission had a

full public process, and he did not believe the Commission knew about the sign project; therefore he did not see a conflict of interest. Under the public bidding requirements for the City, projects between \$5,000 and \$100,000 required three competitive quotes, so the \$20,000 would need to comply with the City's procurement Code requirements.

City Recorder Lanter relayed that Councilor Harold-Heine asked if the \$20,000 balance would be paid to Five Star for the remainder.

City Attorney Kearns replied that as a public project, that would be a public bidding question. He did not know whether competitive quotes were gathered, but suspected that it might be grounds for an exemption to the public bidding if the cost of bidding the project out to someone else would be more than \$20,000.

Councilor Lyda suggested that the City buy the materials up to the \$20,000 limit to avoid the potential bidding issues.

Mr. Jackson confirmed that could be done or the City could put the project out to bid as he expected the bids to come in a lot higher. He noted that when Five Star put in the application for the apartment complex, it was done to the Planning Code and nothing out of the ordinary was requested. If the City were to deny the application, it would be based on the Code.

City Recorder Lanter relayed that Councilor Harold-Heine commented that she wanted to be sure the City was above board on the sign project.

City Attorney Kearns agreed it was important to consider such circumstances, adding donations to local governments often added complications. He believed the project might qualify for an exemption to the public bidding requirements because so much of the money was donated by one contractor. There was no way that any competitive contractor could come up with a bid that would come close to the remaining amount. The project would be considered an intermediate sized project, so only competitive quotes were required, not a full bid. The public procurement requirements were designed to get value for government dollars and expenditures and to provide competition for those expenditures. When more than half the estimated cost of the project was donated, it was not a sweetheart deal for the contractor. He clarified the exemption process would be addressed by a resolution before Council next month or the City would need to solicit competitive quotes for the project. A full bid process would not be required.

Councilor Lyda added going out for public bid would require the City Engineer to prepare a design and a bid package, which would also cost time and money.

City Council consented to address the item as an exemption and deferred it to the August City Council meeting.

9. Shall the City Council adopt Ordinance No. 2020-06-01, an Ordinance Amending Title III (Administration), Chapter 32 (City Organizations) of the Banks Code of Ordinances to Allow Planning Commission Members to be Reappointed to Serve Additional Terms After Sitting out for Three Months? (Second Reading and Final Adoption) (CL 2020-26)

City Attorney Kearns highlighted the purpose of the Ordinance and confirmed no changes had been made since the first reading.

Councilor Gregg moved to adopt to adopt Ordinance No. 2020-06-01 by title only, seconded by Councilor Harold-Heine. MOTION CARRIED 6-0. Ayes: Gregg, Kirk, Jones, Harold-Heine, Lyda, Nelson; Nays: None

City Recorder Lanter read the title into the record.

10. Shall the City Council submit their selections for the League of Oregon Cities Legislative Priority Survey?

Councilor Gregg moved to adopt the top four Legislative Priorities for the League of Oregon Cities (LOC) as identified, seconded by Councilor Harold-Heine. MOTION CARRIED 6-0. Ayes: Gregg, Kirk, Jones, Harold-Heine, Lyda, Nelson; Nays: None

11. Shall the City Council adopt the revised City of Banks Employee Handbook? (CL 2020-27)

City Manager Becker explained that every time changes were made, the Handbook was sent to the CIS legal team for review and recommendations. The basic information that CIS changed regarded sick leave, maternity leave, and assisting a pregnant person, based on changes made to federal laws in the last year.

Councilor Harold-Heine noted the Handbook directed people with work place complaints to the City Recorder and/or the City Manager, and asked if a third party, other than BOLI, was utilized if someone had issues directly with the main leadership.

City Manager Becker replied there was no third party. Employee issues would be vetted through CIS.

City Attorney Kearns clarified if an employee had a problem with the main supervisors, they could either go to one of the elected officials, like the Mayor or a City Councilor, or to himself because he was not considered a City employee. He would look to see if the language was already in the Handbook.

Staff confirmed the City had current BOLI signs posted.

Councilor Kirk said she would like the Council to consider going through a contract for the City's HR needs, noting City Recorder Lanter and City Manager Becker already wore a lot of hats. She had heard concerns about confusion about who was in charge of HR. She asked for clarification about City Manager Becker's comment about going through CIS.

City Manager Becker explained the City had to vet any employee concerns through CIS so they were aware of the issue and could advise the City properly, if the issue ended up in litigation. Items like employee performance evaluations were submitted to ensure the City's documentation was correct, for example, and only took a day or two.

City Attorney Kearns noted CIS was the City's insurance carrier, so it represented the City as a governing body. He could not find language regarding a chain of command for people within the City that employees could go to if they were having a problem with the City Manager or City Recorder. While BOLI was mentioned, there was no good sounding board if there was a whistleblower complaint. It was worth expressly adding language stating where employees could go to should they have whistleblower issues. He read from the Complaint procedure on Page 21 of the Handbook and said it would be useful to add elected official or city attorney to the list of people employees could talk to. However, this issue was

separate from the proposed Handbook changes before Council tonight which implemented recent changes in the law.

Mayor Edison suggested adding the issue to the agenda for next month's meeting.

Councilor Kirk moved to adopt the revised City of Banks Employee Handbook, seconded by Councilor Jones. MOTION CARRIED 6-0. Ayes: Jones, Lyda, Kirk, Nelson, Gregg, Harold-Heine; Nays: None

12. Shall the City Council authorize the Mayor to sign the Inter-Governmental Agreement with Washington County for the CARE's Act Small Business Grant?

City Manager Becker reviewed the background regarding the CARE's grant, which provided money for Cities to create their own programs to help small businesses. Banks' allocation would be about \$75,000, and the City had to describe the type of program it would create. The City had to the end of September to grant all the money to businesses within the community. Additional comments and her responses to questions were as follows:

- Requirements for eligibility were simple. Any businesses that lost any income between March and June would be eligible, and it could cover the cost of utilities, rent, retrofitting their buildings, and reopening the business.
- In the first draft of the grant, the limits were \$2,500 to \$10,000 per business; however, Washington County might lower the lower limit to \$1,500.
- The City would accept applications August 3rd to 28th. Once received, a committee group would review the applications to determine recommendations for the award, and Council would approve the awards to be given and a check would be issued by September 15th. Eligible for-profit businesses must have had a 50% loss in revenue from March to May compared to January and February 2020. Nonprofits revenue had to be less than 50% of what it was the prior year. The County was also offering the grant to businesses not within the city limits.

Mayor Edison agreed with the lower limit, noting that \$1500 could be a big deal for a business and that the criteria were simple. He confirmed that only businesses within the city limits qualified for the small business assistance grants and noted it should be added to the information sheet.

Councilor Kirk noted Washington County had received a certain amount of money from the federal government and had a contractor to figure out the applications and cut checks. Col-Pac decided that because the contractor would be so overwhelmed with dealing with the rest of the county, they would distribute the funds for unincorporated Western Washington County.

Mayor Edison clarified that the County and Col-Pac program involved a separate pool of money, a different set of rules and a different timeline than the \$75,000 under discussion.

Councilor Jones added the rules stated that businesses could not claim reimbursement twice, so perhaps the application should include a question asking whether the business had applied to other agencies for the same expenses.

City Manager Becker said that even though a business may have applied for funding from federal, state, or county grant cycles, the City of Banks did not have to take that into account because the program was being created for Banks and the eligibility criteria could be as open as they wanted so businesses could

get additional funding. The \$75,000 was going directly to the City. Many larger cities were using a third party to receive applications and distribute checks and were charging the cities a percentage to perform that service, so the community group was electing not to have a third party.

Councilor Harold-Heine agreed there should be a criterion in place to ensure there was no double-dipping so businesses were not profiting from the pandemic.

City Manager Becker replied many cities were only getting a certain amount, so the money was not covering the overall costs. The City could ask what other funding the business had received; however most cities were not asking about that. The grant was an opportunity for some businesses that had lost a lot of money to get some additional money without having a lot of eligibility or criteria issues.

Councilor Kirk said that she had heard from certain businesses that because they had received PPE, they could not apply for the CARE's grant.

City Manager Becker clarified those businesses could not apply for the Columbia Pacific Grant because the grant only accepted applications from businesses that had 10 employees or less, and they could not have received federal funding for their payroll.

Mayor Edison noted with the signed intergovernmental agreement (IGA), Washington County had to review and approve the City's plan before giving the City the money.

City Manager Becker said that the County's economic person who had been working with the different cities and commissioners, reviewed the City's plan and made a few suggestions, but said it was in a good format for the City to send to the County with the IGA.

Councilor Jones said that she was not sure how some things in the IGA applied to the City's specific part of the grant, such as the Solid Waste Disposal Act and Davis Bacon rates. However, if the application was being vetted by people who understood it better, she believed the City would be fine.

City Manager Becker confirmed she would add the language about the requirement to be within the City limits, as well as the words "resulting from COVID-19" on the second page of the information sheet regarding the replacement of spoiled or outdated inventory.

Councilor Lyda commented on the irony of the federal and state government putting this hardship on businesses, yet grant money was being sought from the federal, state, and county governments. He understood this was the system provided, but he opposed the welfare system, and commented that this was business welfare.

Councilor Lyda moved to authorize the Mayor to sign the IGA with Washington County for the CARE's Act Small Business Grant, seconded by Councilor Gregg. MOTION CARRIED 6-0. Ayes: Gregg, Jones, Kirk, Nelson, Harold-Heine, Lyda; Nays: None

Mayor Edison confirmed the clarifications discussed should be added to the City's information for the packet sent with the IGA and suggested any further recommendations be sent to Staff.

City Manager Becker confirmed the County suggested allowing businesses only three days to submit their applications, but she had allowed a month to allow businesses time to get their research done. She noted the process and procedures related to the committee and grant awards were in the plan.

Mayor Edison replied they could use the information from their other grants.

Councilor Jones suggested shortening the application period to allow the community group time to review the applications. She noted she would have a conflict if the Friends of the Banks Library could apply for the grant.

COUNCIL ROUND TABLE DISCUSSION

Councilor Jones said there had been lot of positive response to the 4th of July fireworks, and she thanked the businesses that had donated. She would be attending a School Board work session tomorrow to iron out the plan for the upcoming school year. She believed the School District would do something similar to Portland. Currently, students had the option to be fully online or partially attending in person at school, but the schools needed to know how many families would choose either option before making a decision. The July meeting for the Public Advisor Board had been canceled.

Councilor Nelson stated the new Hornshuh Creek Fire Station was coming along very well and was expected to open mid-August.

Councilor Harold-Heine stated the meeting with the West Tuality Habitat for Humanity would not occur until September because they were too busy doing build-outs over the summer with COVID-19 limitations. She had been attending the LOC's weekly COVID meeting calls, which included OEM, the Governor's office, the Oregon Health Authority, other agencies and government representatives on the calls. The meetings were very informative and often discussed material not yet released to the general public.

Councilor Kirk stated she had received a complaint over the weekend from a business owner about parking in Banks. She hoped that with everyone going to the trailhead, the City could start implementing the EDC Parking Plan. She asked for an update on the golf course in the next session, and asked why it was taking so long to install the sidewalks for the Park Street project.

City Manager Becker reminded the sidewalks on the west side of Park St had been added to the project and some engineering was being done to ensure the slope was correct. The entire project was expected to be done at the end of July. Installing sidewalks on Woodman St was part of the original plan.

Mayor Edison agreed the 4th of July Fireworks Display was great. He thanked the donors, staff, and the volunteers.

City Manager Becker reminded that the Port of Tillamook's right-of-way would be cleaned out within the next month and described some of the work that would be done. The Port would send out notifications to the property owners. The confusion between ODOT and Port of Tillamook about the ownership of the easement related to the wayfinding sign had been cleared up on Friday. The Port of Tillamook owned the land and the sign could be placed by the box that controls the railroad gates. Staff worked up the costs associated with the sign, frame, permit, and additional planning and engineering costs, which would be around \$6,400. Staff hoped to get \$1,000 from the Chamber and \$3,000 from the WCVA. Additional information would be available next month. She noted the City wanted to cancel the National Night Out and Movies in the Park due to social distancing guidelines and mask

regulations. The National Night Out organization was trying to reschedule the event for October. She noted Staff had said they would talk with Council about any canceled events.

Following a brief discussion about the ability to social distance for Movies in the Park, City Manager Becker stated she would do some research on the Executive Orders associated with social gathering to see what could be done.

City Recorder Lanter reported that the Mayor position and Council Positions 2, 4, and 6, currently held by Councilors Jones, Nelson, and Lyda, would be up for election this year, so she would begin advertising for candidates to pick up the filing forms tomorrow. Staff was encouraging people to pick up the forms in person at City Hall so Staff could explain the commitments involved. The filing period with the City would be July 15th through August 17th at 1 pm. Candidates have until August 27th to put a candidate statement in the election manual. She also noted the LOC Conference would be held virtually on October 14th and 15th. She confirmed she could include the link to the LOC Conference with the candidate application materials.

City Manager Becker reminded that the virtual community workshop on the Code Assistance Project would be held on July 16th from 6:30 pm to 8:00 pm.

ADJOURN The meeting adjourned at 8:53 pm.

Submitted by:


Angie Lanter – City Recorder