



**Regular City Council Meeting
May 14, 2024
MEETING MINUTES**

CALL TO ORDER

Council President Edison called to order the Regular Meeting of the Banks City Council at 6:02 PM.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

ROLL CALL

Present were: Council President Peter Edison, Marsha Kirk, Marilyn McCalister, Catherine Sawyer (Zoom), and Niki Walters

Excused: Mayor Stephanie Jones and Councilor Don Giannetti

Staff Present: City Manager Jolynn Becker, City Recorder/Assistant City Manager Angie Lanter, City Attorney Dan Kearns (Zoom), Deputy Frank Ward, and Chief Mitch Coley

APPEARANCE OF INTERESTED CITIZENS

There were none.

CEREMONIAL PRESENTATIONS & PROCLAMATIONS

3. 2024 National Drinking Water Week Coloring Contest Winners

Council President Edison announced the winners of the National Drinking Water Week Coloring Contest as follows:

- Ages 2-4: 1st Place, Isabell Duncan; 2nd Place, Adeline Votta; 3rd Place, Benjamin Aguilar
- Ages 5-6: 1st Place, Madeline Fisher; 2nd Place, Mason Nusser; 3rd Place, Emmett Huggett
- Ages 7-9: 1st Place, Zoraya Robles; 2nd Place, Paisley Hitson; 3rd Place, Madilynn Marsden
- Ages 10-12: 1st Place, Guadalupe C; 2nd Place, Lexy Gray; 3rd Place, Lyla Jacobs

First place winners received a \$25 gift card to Eazy Peazy Eatz and a \$25 water bill credit; second place winners received \$15 to Eazy Peazy Eatz and a \$15 water bill credit; and third place winners received \$10 to Eazy Peazy Eatz and a \$10 water bill credit.

4. 2024 National Bike Month Proclamation

Council President Edison proclaimed May 2024 as National Bike Month and Friday, May 17, 2024, as Bike to Work Day in the City of Banks.

CITY REPORTS, BRIEFINGS, AND PROGRAMS

5. Police Monthly Briefing – Washington County Sheriff’s Office – Deputy Frank Ward presented the briefing for April, included in the packet, and responded to questions and concerns as follows:
 - As the temperatures got warmer and people were driving to the beach and trailheads, Main Street and Banks Road got busier. Speeding was probably more prevalent, but he did not know for certain.
 - He reminded people to lock their doors and cars as bad guys also like the warmer weather.
 - Typically, a handful of thefts and car break-ins were reported each month from the trailhead during the busy summer months, and while busier areas were patrolled more, he could not confirm a direct decrease in crime resulted. Thefts occurred to both locked and unlocked cars.
6. Library Director Report – Denise Holmes, Library Director. The Library Report was included in the agenda packet. City Manager Becker noted with Director Holmes on vacation for three weeks Council could contact her with any questions.

Staff reported about 150 people participated in the Library’s Annual Plant Swap last weekend, doubling last year’s attendance.

Councilor McCalister noted tickets for the Raise A Glass fundraiser were not easy to find on the Auctria website referenced in the report. City Manager Becker agreed to check the website and report back on the status.

7. Public Works Report – Conner Hayes, Public Works Supervisor. The Public Works Report was included in the agenda packet. Staff provided additional comments and answered Council questions as follows:
 - The software used to detect water leaks was purchased because funding was available from this year’s budget. The City will now be able to do some leak detection and repairs in-house while hiring leak detection companies for bigger jobs as needed.
 - Public Works Supervisor Hayes passed the Treatment 1 certification exam for treatment and the Distribution 1 certification exam for distribution. He could take the Treatment 2 exam in about a year-and-a-half, allowing the City to appoint him as the Direct Responsible Charge (DRC). Later this year, another Staff member would likely have enough hours to test for certification to be a backup.
 - A leak on Oak Way scheduled to be fixed by Staff the first week of May broke loose the night before the scheduled repair. Due to the early (1:00 am) notice of the leak, Assistant City Manager Lanter and Public Works Supervisor Hayes decided to shut off the water and notified customers via door hangers and follow up with phone calls the next morning at 6:00 am. There were only a few homes affected by the shut off. The repair was fixed within about four hours.
8. City Recorder/Assistant City Manager Report – City Recorder/Assistant City Manager Lanter noted her report was in the packet and responded to Council questions and concerns as follows:
 - The City has contracted with ABC Transcription, owned by Banks resident Paula Pinyerd, to provide meeting minutes for about 15 years. The company was trying to get all the cities it services in the same format with brief summary minutes and not as much detail because audio was now available.
 - City Attorney Kearns added cities providing very detailed minutes, almost like transcripts, were providing more detail than required by State law.
 - Transcribing conversations led to almost verbatim minutes, leading to longer and longer minutes, such as happened with the public hearings with Holt Homes.

- Audio from the meetings are always loaded to the website the following morning so everyone had access.
 - When summary minutes were provided in the past, people who wanted verbatim transcripts had to pay for the service, which cost several hundred dollars because the transcripts took 10 to 15 hours to produce.
 - City Council's audio and minutes were available on the website back through 2015, with an archive site containing material through 2022 when the new website went live. From June 2022 through the present, links were provided on a calendar.
9. City Manager Report – City Manager Becker provided additional comments to her report as follows:
- Due to the two new developer agreements, the length of time since the City has had these types of applications, and the complexity of the applications, training for land use applications and a three-hour joint work session with the Planning Commission and City Council was being considered, probably in July. She would send several dates and ask for feedback.
 - City Attorney Kearns noted the application for the West side had already been submitted, and the application for the East side was expected within the next few weeks. Public hearings for the Planning Commission should occur in the middle of the summer, and the City Council should have its public hearings by the end of the summer.
 - The West side application had been deemed complete. The earliest date the Planning Commission would hold a public hearing on the West side development was the last Tuesday of July, with City Council considering the application in August. Staff still had to review the application, write the Staff report, and work with consultants to create conditions of approval based on the developer agreement and other factors. Since the application was now deemed complete, the City had 120 days to render a decision.
 - The timeline for the public hearings and City Council consideration on the East side development would be determined once the application was received.
 - The developer agreement with Holt had been signed for development on the East side. She was creating a timeline showing when the water projects had to be funded and completed over the next ten years. The timeline would include projects for both the East side and the West side as well as looking at future water needs, as she wanted to be proactive, not reactive, to events. Once completed, the timeline would be shared so Council could see what was being used as a checklist.
 - The City did not receive the safe drinking water loan/grant. Several projects had to be completed within the next year, so she was applying for a loan from the State of Oregon Public Works. She was waiting for details on whether the City qualified for the loans and would ask Council for approval once received. She was requesting another one-stop meeting with Department of Environmental Quality (DEQ), Business Oregon, Rural USDA, and other State agencies to request assistance for the other ten projects on the list, whether funding was provided through grants or low-cost loans. A few weeks ago, she met with representatives from the governor's office, DEQ, USDA, ODOT, and Business Oregon to present what the City had been doing and what projects it wanted to do. The group was very impressed with directions from the City Council to Staff, what the City had been doing, the City being proactive, the prep work being done, updates to the Master Plans and Code, and all the steps undertaken to get ready for development. The State agencies would consider funding for projects.
 - The open house initially scheduled in June for the Banks Road-Cedar Canyon-Highway 47 Intersection Project was postponed since the project would not go out for bid until the end of June or July. The rescheduled open house was set for August 8th at the Fire Department from 4:00 PM to 7:30 PM. By then, the contractor and project start date should be determined.

- In conjunction, discussions had been ongoing with property owners regarding a potential lease or shared parking agreement for an acre of land which would eventually be owned by the City, as the current overflow parking could be closed with the intersection redesign. However, the property owners were hesitant due to concerns about losing their farmer deferred tax, which would increase tax expenses on the property.
- She was hopeful the delay would allow the City to obtain a shared parking lease for overflow parking on the Hampton property, which was currently closed and unsold. Hampton preferred not to proceed with any shared parking agreement until full ownership of the Port of Tillamook's property was obtained. A deal for the property had been reached and was in the closing process, so she anticipated the ownership issue to be resolved soon and planned to follow up on the status in the next month.
- The Zoning Code for Industrial land needed to be reviewed and possibly revised to Light Industrial inside the city limits, rather than Heavy Commercial, which would define the types of trucks and vehicles allowed. Staff would consider modifications to make the Code more friendly for residents around Industrial land, especially inside the downtown area. She confirmed the City Council agreed with the project.
- Library Director Holmes was retiring as of December 31, 2024, but she would continue with workback for the next eight months in 2025. On September 1, 2025, the Library Director and Supervisor positions would be combined into one position, and Library Director Holmes would be on call for another six months. A personal service agreement was being created because Library Director Holmes would participate in the work back program, allowing her to receive her PERS retirement. The City would pay the employer side of PERS, with Library Director Holmes receiving contributions to PERS during the workback period. Library Director Holmes would have six months to train the Supervisor for the new position.
- The Urban Renewal Agency (URA) budget was approved by the Budget Committee, but she had missed the possibility of purchasing the Cop's Towing property. The budget did not account for the need to have income through a loan and payments going out for the property purchase. The Budget Committee would reconvene to amend the URA budget prior the June City Council Meeting.
 - City Attorney Kearns explained the property acquisition strategy was to engage the property owner to work out an arm's length transaction. He was not receptive, so the City was going through the condemnation statutory process. As hoped, the property owner had hired a qualified, competent lawyer who was engaging with the City's attorney. A signed access agreement was in place to get onto the property while the purchase and sale agreement was under negotiation. The City should hear something from the other attorney by Friday. The access agreement would also allow the City an opportunity to conduct the Phase 2 Environmental Site Assessment, which was one of the purposes for the statute.
 - The approved purchase price was \$850,000, but negotiations based on the results of the Phase 2 assessment were possible. The purchase had contingencies for items such as a satisfactory environmental audit. Staff approved the property owner's counter offer of \$860,000 to cover his \$10,000 in attorney fees, but City Council would have to approve the final sale, which was a long way off due to the big unknowns of the property's condition and what might be needed. Fortunately, the owner wanted to remove his own personal property, avoiding a huge headache for the City, and had started doing so.
 - City Attorney Kearns confirmed the condemnation statute was designed to bring about an arm's length transaction, and it was working for this case.
- The acre of land designated for a water facility site in prior meetings would probably have a fourth well and a pipe to Dairy Creek installed in addition to the water treatment facility. The other portion of the parcel would be converted to 20 extra parking spots at the trailhead, which the engineer believed could be added. A rough concept plan had been created but was

subject to change as the water facilities were designed and developed.

- The parcel backed right up to Five Star, who could use the parking because the lot would be open access. Since peak times for the trailhead and Five Star did not conflict, the City could reach an agreement for Five Star to build and maintain the parking area on the City's behalf. The City had previously talked with Five Star about a potential agreement, but it was still in the discussion phase until a final plan was in place.
- City Manager Becker had thought temporary parking would be in place by now, but that was not going to happen now. She was still clarifying the timeline, but the developers anticipated starting construction in the spring and summer of 2025. The site needed to be cleared and graded so the land was all level. The area needed to be clean and attractive, as it also served as the entryway into the development.
 - City Attorney Kearns explained that under the development agreement, the property owners were obligated to transfer the title before going to final plat for the first phase, which was anticipated to happen next spring. The developer could not create or sell lots until the property went to final plat, when the title transfer would occur.
 - Once the applications were approved, the developer could work on the plat and submit it early.
- One of the two parking spots by the tanning salon at the intersection could be retained, but written approval had not been received from ODOT yet. Although ODOT had provided verbal agreement, the County would not guarantee the parking spot with written approval from ODOT.
- The City was responsible for some water work at the intersection. Staff was considering using the County's contractor for the work while the ground was open to save money.
- Councilor Kirk noted project information on the County's website had not been updated for about two years. City Manager Becker replied she would contact the County and let them know the website needed to be updated.

Council President Edison noted the reason for the lease deal was when the intersection project begins, Five Star would lose their parking and the City would lose overflow parking. City Manager Becker confirmed the lease for temporary parking would not happen now unless the property owner changed their mind.

City Attorney Kearns noted the development agreement did not discuss who was responsible for grading the parcel. It was the current owners property until it was conveyed prior to the final plat of the first phase. Prior to conveyance, the current owners could do whatever they wanted. The City wanted the parcel as soon as possible, and the earliest that could be negotiated was prior to final plat of the first phase.

CONSENT AGENDA

10. City Council Meeting Minutes – April 9, 2024.

Councilor Walters moved to approve the Consent Agenda as presented. Councilor McCalister seconded the motion. MOTION CARRIED 4-0. Ayes: Kirk, McCalister, Sawyer, Walters; Nays: None.

Council President Edison called for a three-minute break and reconvened the meeting at 7:00 PM.

PUBLIC HEARING: NONE

BUSINESS AGENDA

11. Shall the City Council adopt Ordinance No. 2024-05-01, an Ordinance Establishing Title III (Administration), Chapter 41 (Liability Limitation for Recreational Use Pursuant to ORS 105.688 *et seq.*), of the Banks Municipal Code Limiting Liability for Use of Recreational Trails and other Recreational Property Allowed by State Law and Declaring an Emergency? (First Reading, Second Reading and Final Adoption)

City Attorney Kearns provided the Staff report, advising the First and Second Readings would be done tonight, and an emergency clause declared to make the Ordinance effective immediately. Recreational immunity was a State law giving property owners, including local governments, an immunity defense against personal injury or property damage when City property was open for recreational purposes and no fees were charged. A lot of case law had happened since the statute was enacted. A recent case involved a person who fell while walking to the coast over a trail in Newport. The City claimed immunity and moved for summary judgment on the pleadings. The Court of Appeals ruled it was not clear whether the person walking on the trail was using it for recreational purposes, creating problems for any local government in the State with a recreational trail and its insurance carrier. In this last session, the State legislature passed a bill declaring that any trail use could be assumed to be for recreational purposes, but local governments had to opt in to regain status under the Recreational Immunity statute. Many cities shut down their trails for the past year-and-a-half because of the case against the City of Newport. (Agenda Packet Page 32)

He addressed Council concerns and answered questions as follows:

- Recreational Immunity would apply to other City recreational facilities such as basketball courts and unapproved rights-of-way. Bike paths on the road were not included, as they were within the right-of-way.
- City buildings would be covered by other insurance, and the immunity defense would not apply. Since the City of Banks would soon become a “community of trails,” the Recreational Immunity defense would be important to have.

Councilor Sawyer moved to adopt Ordinance No. 2024-05-01, an Ordinance Establishing Title III (Administration), Chapter 41 (Liability Limitation for Recreational Use Pursuant to ORS 105.688 *et seq.*), of the Banks Municipal Code Limiting Liability for Use of Recreational Trails and other Recreational Property Allowed by State Law and Declaring an Emergency for First Reading. Councilor Kirk seconded the motion. MOTION CARRIED 4-0. Ayes: Kirk, McCalister, Sawyer, Walters; Nays: None.

Councilor Sawyer moved to adopt Ordinance No. 2024-05-01, an Ordinance Establishing Title III (Administration), Chapter 41 (Liability Limitation for Recreational Use Pursuant to ORS 105.688 *et seq.*), of the Banks Municipal Code Limiting Liability for Use of Recreational Trails and other Recreational Property Allowed by State Law and Declaring an Emergency for Second Reading and adoption. Councilor McCalister seconded the motion. MOTION CARRIED 4-0. Ayes: Kirk, McCalister, Sawyer, Walters; Nays: None.

City Attorney Kearns advised the Ordinance was effective immediately.

12. Request from Sunset Park Association for the City of Banks to cover the cost of traffic control for the 78th Annual Banks BBQ Parade?

City Manager Becker reported she had been talking with the County about the Banks BBQ Parade. Mitch Coley, Cornelius Chief of Police, noted they were trying to mitigate costs to keep them nominal, but a contractual agreement required the County to provide public service to the City. Contracted deputies would work the event and the County would augment with other deputies, but Chief Coley could not guarantee coverage at future events. If police services

became required through mutual aid or even to another part of the City, the Fire Department would try to step in to help with traffic control, assuming they were not needed at the other event as well.

Councilor Kirk questioned the rationale behind the costs, noting Sunset Park was willing to cancel the event after 78 years because the Chamber of Commerce held the first barbeque, and the Park did not feel the expense was worthwhile. City Manager Becker replied she did not know how the overall cost was being calculated, but the City would not be a party to the contract because it would be between Sunset Park and Washington County.

Chief Coley added he was part of the conversations initially. The Park was presented with an option of having deputies at a cost of \$150 an hour, which was a non-negotiable cost. Due to union rules, officers working outside of their duties were guaranteed a minimum number of hours, explaining why four hours was required. The County was not in negotiations with Sunset Park yet, and the Park could not be forced to have security measures, although they were risking liability if they chose not to have security.

Council and Staff continued discussing how costs were being calculated and conflicting cost information being reported from various entities, with security costs ranging from \$1,900 to \$7,000.

Council President Edison agreed to Chief Coley's request for a break and reconvened the meeting at 7:20 pm.

The meeting reconvened at 7:22 pm.

City Manager Becker provided a brief Staff report, noting the option being presented was the least expensive for the City. The Park would still need funds for the negotiated contract between Sunset Park and the Sheriff's Office. Chief Coley added the barebones minimum cost would cover four deputies for four hours each, or 16 hours total, at the rate of \$150 an hour.

City Council and Staff continued to discuss details of the barbeque and fireworks show, especially regarding avoiding traffic jams at the end of the day, allowing everyone to get home safely.

Councilor Kirk noted parades required an ODOT permit, but ODOT did not require a law enforcement presence. A certified flagger could help with traffic control. Last year, she had talked to Mark Buffington with ODOT, who informed her the Christmas parade usually had certified flaggers volunteer their time to assist the deputies. ODOT in Manning was willing to provide flaggers, whose union contract required a minimum of only two hours at \$60 per hour. Those were options if anyone had the ODOT permit to use rather than the Sheriff's Office. The Christmas Parade and Banks Barbeque parade were the same length and time, so the costs should be comparable. City Manager Becker added the cost for the Christmas light parade was less than \$500.

City Manager Becker reported the City could accommodate the request for a low-cost option. With respect to the major contract with the County, the Park would have to work out the details and the cost associated with the contract. The City was able to help the Park offset some of the cost, and the Park had about \$1,500 available to use toward cost of the police service.

Councilor Sawyer moved that City Council approve the request from the Sunset Park Association for the City of Banks to cover the cost of traffic control for the 78th Annual Banks BBQ parade portion. Councilor Walters seconded the motion. MOTION CARRIED 4-0. Ayes: Kirk, McCalister, Sawyer, Walters; Nays: None.

COUNCIL COMMITTEE REPORTS AND ROUND TABLE DISCUSSION

Councilor Kirk reported the Pacific Economic Development District/Northwest Oregon Area Commission on Transportation (COLPAC/NWACT) would meet in June and she had no updates on the Historical Society. State Parks Day was Saturday, June 1 at Stub Stewart. State Parks Day was always the first Saturday in June. Camping was free, but not cabins, and reservations needed to be made and should be thought about six months ahead of time. Most State Parks had different activities. Stub Stewart would have an event including children's activities at Hilltop Day Use. She did not know who would provide food for the event because the vendor she usually used was not available. A Salmonberry meeting was scheduled for this Thursday at the Fire Station. A walk to show the Wilkes Creek trestle at the base of Stub Stewart would occur about an hour before the meeting. After six years, the State Parks has finally completed new logos for Stub Stewart and the Banks-Vernonia State Trail. Merchandise was available exclusively at the park store.

Councilor McCalister reported Councilor Gianetti had attended meetings for her last month and asked if the City had any requests she should report at the upcoming Habitat for Humanity meeting. City Manager Becker replied the Lepschat Apartments on Wilkes Street needed to be rehabilitated from mold, if possible. Assistant City Manager Lanter knew of several properties that might qualify for assistance. She would get a list together for Councilor McCalister prior to the Habitat for Humanity meeting.

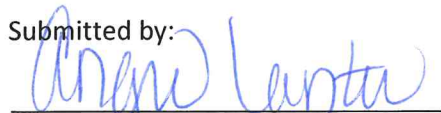
Councilor Edison reported the Economic Development Council (EDC) met on May 1, with discussions centering on the same issues as previous meeting. The newsletter idea was coming closer to fruition, with the EDC and writer reaching agreement on previous issues. A second chance to receive the broadband grant was available, so the grant was being pursued again. The City became involved in the State's Main Street Program five years ago, but participation had fizzled out. The program included creation of a volunteer group to provide work in the City, in turn making the City eligible for State funds to help fund Main Street improvements such as façades and other items. He anticipated EDC would revive the program in the coming months. He reminded everyone to vote as the ballot contained two local issues.

City Manager Becker reported on the possibility of holding a business outreach or business roundtable in September, probably on September 17. The agenda had not been set, but different options were under consideration, including discussions of bringing vocational training to the high school and asking businesses what they needed to grow within the City. The event would be held in the evening, possibly at the golf course, and light hors d'oeuvres and/or sandwiches could be catered.

ADJOURN

Council President Eidson adjourned the meeting at 7:37 PM.

Submitted by:



Angie Lanter, MMC

City Recorder/Assistant City Manager