

**CITY COUNCIL MEETING**

**January 27, 2004  
7:00 P.M.**

**MINUTES**

City of



*The City of Bonney Lake's Mission is to protect the community's livable identity and scenic beauty through responsible growth planning and by providing accountable, accessible and efficient local government services.*

*"Where Dreams Can Soar"*

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**I. CALL TO ORDER** - Mayor Young called the meeting to order at 7:00 p.m.

A. Flag Salute - Mayor Young led the Pledge of Allegiance.

B. Roll Call [A1.3]

City Clerk Edvalson called the roll. Elected officials attending were Mayor Bob Young, Deputy Mayor Dan Swatman, Councilmember Phil DeLeo, Councilmember Mark Hamilton, Councilmember Neil Johnson, Councilmember Dave King, Councilmember Cheryle Noble and Councilmember James Rackley.

Staff present were Finance Director John Weidenfeller, Planning & Community Development Director Bob Leedy, Police Chief Bryan Jeter, Assistant Public Works Director Gary Leaf, Operations and Maintenance Supervisor Rick Shannon, City Engineer John Woodcock, Judge Jim Helbling, Court Administrator Kathy Seymour, Deputy City Attorney Jeff Ganson and City Clerk Harwood Edvalson.

C. Announcements, Appointments and Presentations [A3.6.9]

1. Announcements:

2. Appointments:

a. Planning Commission, Design Commission, and Park Board

Mayor Young advised that he would present his appointments to these vacancies at the next Council meeting.

3. Presentations:

a. *Freedom Flag* – Equipment Operator / Chief Petty Officer Steve Willadson – U.S. Navy Seabees – Deployed in Kuwait-Iraq during Operations Enduring and Iraqi Freedom. Chief Petty Officer Steve Willadson, also an employee of the City of Bonney Lake, summarized the histories of his recent call-up to active military service and the American Flag flown at Camp 93 on the Kuwait-Iraq border. He dedicated the flag to the City of Bonney Lake.

D. Agenda Modifications [A3.6.6] :

Mayor Young proposed that the Agenda Item IX B. be moved to Item VI. B on the night's agenda, and that Resolutions 1219 and 1220 be added as Items VI. C and D.

**Councilmember Rackley moved to reorder the agenda as proposed.  
Councilmember Hamilton seconded the motion.**

**Motion approved 7 – 0.**

## II. PUBLIC HEARINGS, CITIZEN COMMENTS & CORRESPONDENCE:

[A3.6.11, A3.6.12, A3.6.4, 3.6.5]

A. Public Hearings: None.

B. Citizen Comments [A3.6.4]

Don Sangesand, 5616 195<sup>th</sup> Pl. E., reminded the Mayor that he had been promised updates to the schedule on the Ball Park Well improvements. He said he had not received any. Mayor Young invited him to call City Engineer Woodcock, who would provide the schedules. Mr. Sangesand praised Councilmember Noble for starting the discussion about a building moratorium until the City's water concerns are addressed. He said he is concerned about uncontrolled growth. He praised the Council's action to reject the recent proposed annexation. He noted that Bonney Lakes' production costs for water are only about 1/3 of the cost passed on to consumers.

Betty Erdahl, 20630 Church Lake Dr. E., reminded Council that she had requested an evening hearing for the proposed Lake Tappps Rezone. She reported that the Hearing Examiner did not continue the daytime hearing which she attended. She asked if it was possible for the hearing to be reopened for an evening hearing to allow other residents to participate.

The City Council asked Staff to report on the status of the hearing and why their request for an evening hearing on this issue was not considered by the Hearing Examiner. Deputy City Attorney Ganson said that the Hearing Examiner could reopen the hearing and advised the City to put in writing its request and reasons for requesting the hearing be reopened. Ms. Erdahl reported that one of her neighbors never received notice of the hearing, and suggested this might be used as grounds to justify reopening the hearing. Mayor Young said that the administration would follow up on the issue.

Ms. Erdahl also asked if the City would still consider a rezone of her area from R-2 to R-1 in its Comprehensive Plan Amendment Process. She said that much of her area has developed with single family residences. She suggested that some areas zoned R-1 located behind commercial zones could be rezoned to R-2 to satisfy the State's residential density concerns.

Jim Shortt, 10419 Wilderness Ct., presented information about Deputy Mayor Swatman's change of residence. He asked the Deputy Mayor why he had delayed for six months the reporting his change of address. He questioned whether the Deputy Mayor was really living in the reported address in Ward 4. He asked that the Council evaluate Deputy Mayor Swatman's true address.

Deputy Mayor Swatman asked Mr. Shortt to affirm if he had run against him in the last election and if he, Deputy Mayor Swatman, had filed a complaint against him with the Public Disclosure Commission. He also informed Mr. Shortt that a news reporter present in the Council Chambers had been provided ownership documentation on his residence in Ward 4, and offered to provide him a copy if desired.

Dan Decker, 20401 70<sup>th</sup> St. E., asked how much is paid annually for the legal services of the City Attorney, and suggested that the City's legal counsel should be under the control of the Council rather than the Mayor. He asked if Councilmember Rackley had investigated the incident reported at the last Council meeting. He again charged that on or about January 2, 2003, four employees spent four hours or more cleaning up Mayor Young's yard. Mr. Decker asked the Council to investigate this incident. He concluded his remarks by asking who appoints the Hearing Examiner. Responding to a further question by Deputy Mayor Swatman, Deputy City Attorney Ganson said that the Mayor appoints the Hearing Examiner, and that the appointment is normally formalized by a contract.

Councilmember King asked Director Weidenfeller to verify the cost of legal services. Director Weidenfeller confirmed that the \$156,000 noted in the budget is the amount for general legal services. He added that additional legal service costs are included within the various funds.

Councilmember Noble asked Mr. Decker what constitutes malfeasance of office. Mr. Decker said that if it were true that an employee was doing work on City time for a supervisor outside of the City's realm, then that would be illegal. He added that an illegal act is misfeasance or malfeasance of office.

Michelle Gunn, property owner at 20613 97<sup>th</sup> St. E., spoke in favor of proposed Ordinance 1011 stating that it would have a positive impact on her property.

Paul Qualey, 6008 184<sup>th</sup> Ave. E., said that he bought a property for the purpose of moving his bicycle shop. He said the proposed ordinance would allow for a rezone of the property to allow him to continue operation of his shop. He said if he can't move his shop, he will have to close. He said he supports the ordinance.

Linda Youngberg, 8507 182<sup>nd</sup> Ave. E., said she supports the ordinance. She said businesses need to come into town today. She said without passage some businesses will be lost. She encouraged passage tonight.

- C. Correspondence – None.

### III. COUNCIL COMMITTEE REPORTS:

(A3.6.4)

- A. Finance Committee

Deputy Mayor Swatman reported that the Committee discussed the resolutions that were added to the agenda, i.e., Resolution 1219 and 1220. He said the Committee discussed other items that will be brought forward at a future date.

- B. Community Development Committee

Councilmember Rackley said the Committee met on January 20th. He said the Committee's discussion resulted in Resolution 1211 being added to the evening's agenda.

- C. Public Safety Committee

Councilmember DeLeo said the Committee did not meet.

- D. Other Reports

Councilmember DeLeo reported on a recent meeting of the Rainier Communications Commission. He said the Commission had their new \$90,000 mobile broadcast van on display. He said it would be used to make on-site broadcast of special events to the major networks from the participating cities. He said the agreement to allow Tacoma to be a non-funding, non-voting member of the Commission was finally approved. He said Tacoma would remain a member allowed to participate in discussions, but without a vote. Councilmember DeLeo also reported that the Commission would be discussing SB 151 in a special conference in March.

Councilmember Noble said she had received a copy of a staff proposal in her box in City Hall to remove the 6,000 sq. ft. minimum lot size from a Planned Unit Development and accommodating zero lot-line development especially in the R-2 zone. She asked how staff can initiate an ordinance without direction of the Council. Deputy City Attorney Ganson said anyone, including administration can propose policy. Director Leedy said the item was an application submitted to the City, and therefore, had to be brought forward. He said that during their deliberations the staff expanded the consideration in several areas. He said it was a text amendment application.

Deputy Mayor Swatman asked if the City is required to have a process to allow private parties to request text amendments. Deputy City Attorney Ganson responded that anyone can petition their legislators for a change of policy, but he does not believe the City is required to have within its code a process to allow text amendment applications. Deputy Mayor Swatman expressed concern that the staff may spend time working with an application to develop a proposal that is far from the Council's interest. Mayor Young said the issue would be on a workshop for Council discussion.

**IV. MINUTES (A3.6.2) -**

- A. Approval Of Corrected Meeting Minutes: November 25 Council Meeting, December 2 Workshop, December 9 Council Meeting, January 13 Special Meeting/Workshop and January 13 Council Meeting.

**Councilmember Rackley moved to approve the minutes as a whole with no further corrections.**

**Motion approved 7 – 0.**

**V. VOUCHERS AND PAYROLL: (F4.9)**

- A. Vouchers: City Clerk Edvalson read the following summary of Claims and Payroll as follows:

1. Claims:

- \* Accounts payable checks/voucher #36399 thru 36511 voiding # 36471, in the amount of \$520,877.51.

2. Payroll:

- Payroll for January 1st-15th 2004, for checks 21982-22032 including Direct Deposits and Electronic Transfers in the amount of \$204,950.63.

**Deputy Mayor Swatman moved the approval of the claims and payroll. Councilmember Johnson seconded the motion.**

**Councilmember DeLeo moved to amend the motion and to amend the accounts payable checks/vouchers #36399 through 36511 voiding #36741 and #36436 (Dionne and Rorick in the amount of \$18,209.80) for a total of \$502, 567.71 and authorizing the Finance Director to issue a check in the amount of \$15,941.70 to replace check #36436 to Dionne and Rorick. The \$15,941.70 is the amount owed to Dionne and Rorick less \$1,285.20 for AFSCME bargaining on 12/18/03 and \$1,082.90 for AFSCME bargaining on 12/19/03. Councilmember Swatman seconded the motion.**

Councilmember DeLeo expressed the position that Dionne and Rorick should not be paid for employee bargaining because it is not specifically identified in their contract. He said these vouchers were the first one's he had an opportunity to comment on as a member of the Voucher Review Committee. Both Councilmember DeLeo and Deputy Mayor Swatman said they objected to the substitution of Dionne & Rorick for the previous negotiator, Bruce Disend. Mayor Young said he feels he doesn't need a specific contract for Dionne & Rorick to conduct employee bargaining, that it is part of the general legal services they provide the City.

Councilmember King pointed out that the vouchers are for services already rendered, and that failure to pay may trigger an arbitration clause in the contract with Dionne & Rorick. He said the Council provided no specific direction to the Mayor by resolution or ordinance, and that absent specific direction, the Mayor was left to pursue his best administrative decision. He said he felt there should be future Council discussion to determine whether to modify the contracted services by resolution or ordinance. Councilmember Hamilton asked if the hourly rates differed between negotiating and other legal services in the contract. Deputy City Attorney Ganson said the rates are the same.

**Motion to amend failed 2 – 5. Voting no were Councilmembers Hamilton, Johnson, King, Noble and Rackley.**

Councilmember Johnson asked about the payment regarding voucher #36431- the postage payment to Databar, Inc. for the utility bills and newsletter. Finance Director Weidenfeller said the check would be held until the service is ready to be used. He said the timing was such that it may occur early in February. He added that it would be unfair to ask the contractor to cover the City's cost if the service is performed before the next voucher approval.

**Motion to approve the vouchers approved 7 – 0.**

**At 8:17 p.m., Councilmember Rackley moved that the Council take a ten minute break. Deputy Mayor Swatman seconded the motion.**

**Motion approved 7 – 0.**

The Council reconvened the meeting at 8:31 p.m.

## **VI. FINANCE COMMITTEE ISSUES:**

- A. **AB03-290 – Ordinance 1010** – An Ordinance Of The City Council Of The City Of Bonney Lake, Washington, Accepting The Donation Of A Bike Rack/Bench At Allan Yorke Park. [F4.6.7]

**Councilmember DeLeo moved to adopt Ordinance 1010. Councilmember Noble seconded the motion.**

**Motion approved 7 – 0.**

- B. **AB04-07 – Resolution 1214** – A Resolution Of The City Of Bonney Lake, Pierce County, Washington, Authorizing A Professional Services Contract For A Water Resources Manager. [O4.10.1]

**Councilmember Rackley moved to approve Resolution 1214. Councilmember King seconded the motion.**

Deputy Mayor Swatman expressed concern about some of the provisions in the scope of work, e.g., purchasing water from Tacoma. Mayor Young said the item was intended to obtain costs to help the City evaluate its options. Councilmember Noble wanted the record to clearly reflect that the item came to the Community Development Committee, but was not forwarded with the Committee's recommendation. She added that it was forwarded to allow full Council discussion.

**Motion approved 7 – 0.**

- C. **AB04-13 – Resolution 1219** – A Resolution Of The City Of Bonney Lake, Pierce County, Washington, Authorizing A Contract With William R. Gilbert. [O4.14.1]

**Councilmember Rackley moved to approve Resolution 1219. Councilmember Johnson seconded the motion.**

Council briefly discussed the responsibilities of this position and the provisions of the agreement. City Engineer Woodcock offered his opinion that Mr. Gilbert would provide needed assistance and direction in helping to move along the work of the department. Deputy Mayor Swatman expressed how valuable an employee the City lost with Director Boettcher's departure.

**Motion approved 7 – 0.**

- D. **AB04-14 – Resolution 1220** – A Resolution Of The City Of Bonney Lake, Pierce County, Washington, Authorizing A Contract With The Prothman Company. [A4.11]

**Councilmember Rackley moved to approve Resolution 1220. Councilmember Johnson seconded the motion.**

Councilmember Johnson clarified that the consultant would conduct the recruitment all the way up to providing finalist candidates for the City to interview. Mayor Young assured him that a Councilmember would be on the selection committee.

Councilmember Noble asked if hiring an interim public works director would allow the City to conduct its own recruitment. Director Weidenfeller gave a brief history of the City's recent recruitment efforts. He commented on the Prothman Company's recent recruitment experience with public works directors and concluded that a nationwide search would require a great deal of staff time. Councilmember King reminded staff of its obligation under Council policy to provide the information for Council review within the established time frames. He said this would allow the Council to be informed before

making a decision. Councilmembers Johnson and Hamilton asked about the success of Prothman's placements and if staff had checked their references. Director Weidenfeller said that the City has a good history of working with Prothman and has received several employees through him. Deputy Mayor Swatman commented that the Council will have confirmation of the Mayor's appointment and suggested that they be presented with more than one person to consider.

**Motion approved 6 – 1.  
Councilmember Noble voted no.**

**VII. COMMUNITY DEVELOPMENT COMMITTEE ISSUES:**

- A. **AB04-01 – Resolution 1211** - A Resolution Of The City Of Bonney Lake, Pierce County, Washington, Authorizing A Professional Services Agreement For On-Call Services With Cascade Design Collaborative For Park Improvements At Allan Yorke Park. [05.10]

**Councilmember Rackley moved to approve Resolution 1211. Councilmember Johnson seconded the motion.**

Mayor Young said that he met with the consultants this evening to discuss the scope of work. Assistant Director Leaf said that the consultants would look at Allan Yorke Park and a potential park at the new water tank site. He said they would analyze parking arrangements in front of Ball Field #4 and some creative possibilities for Ascent Park. He introduced Erik Sweet, landscape architect, who described his qualifications and thoughts about the range of possible improvements at Allan Yorke Park. The Council discussed briefly some of the concepts that Mr. Sweet presented about the ball fields and woodland areas of the park. Councilmember DeLeo reported that the Kiwanis Club is interested in assisting with the development of the woodland trail and exercise course. Councilmember King said he favored community involvement and suggested there are other groups that may be willing to help.

**Motion approved 7 – 0.**

**VIII. PUBLIC SAFETY COMMITTEE ISSUES: None.**

**IX. FULL COUNCIL ISSUES:**

- A. **AB03-291 – Ordinance 1011** – An Ordinance Of The City Council Of The City Of Bonney Lake, Washington, Adopting The Phase 1 Comprehensive Plan Amendment. [03.5.2]

**Councilmember Rackley moved to adopt Ordinance 1011. Councilmember Hamilton seconded the motion.**

Director Leedy explained that this amendment has been discussed several times by the Council. He said the intent of the 300' transition area in the proposed update is intended to provide for windows of opportunity where the hard and fast lines drawn currently on the future land use map are not viewed as hard and fast, but as general areas for general kinds of activities to occur. He said language has been added to the proposed amendment that puts in place safeguards so that the transitional zones do not have adverse impacts on existing or potential uses in adjacent zones.

The City Council discussed in detail the proposed transitional zone. Reservations were expressed for the potential impacts to existing areas of the City if the transitional zone were to apply to all land use areas of the City. Concerns were also discussed about the Hearing Examiner process of providing zoning recommendations to the Council. Deputy City Attorney Ganson advised that if the Council chose to make map amendments at this point rather than the proposed text change, then the Council should seek additional public comment.

**Councilmember Rackley moved the following changes as read by Director Leedy: The Plan Map notation be changed to read, "Note: Subject to the provisions of the Commercial Plan Policies 4-14c, boundaries between commercial land and other land use designations are not meant to be precise edges, but rather gradations 300 ft. wide..." The amendment to the commentary on the Land Use Element under Land Use Transitions, Policy 4-14c, reads, "Ensure protection of areas of land use transition by the following: 1. Recognize that lines separating commercial and other land use designations on the future land use plan map are not intended to be precise lines reflected on the zoning map, and that consideration can be given to reasonable movement of these lines for the purposes of zoning; 2. Except where extraordinary circumstances can be demonstrated, such areas of transition between commercial and other land use designations shall not exceed a distance of more than 300 feet in a single direction from the transitional line shown on the future land use map." Councilmember Johnson seconded the motion.**

**Amendment to the motion approved 4  
– 3. Deputy Mayor Swatman and  
Councilmembers King and Noble  
voted no.**

Pursuant to Bonney Lake Municipal Code 2.04.670, the Council took comment on this issue from those signed up to speak.

Ray Frey, 1075 Bellevue Way NE, Suite 117, Bellevue, WA – spoke in favor of the proposed ordinance stating that adoption would allow a major retailer to locate near the planned Target store.

Joe Clark, 9712 233<sup>rd</sup> Ave., Buckley, WA – spoke in favor of the ordinance and thanked the Council for the City's assistance with the use of his existing parcel.

Frank Stratton, 46907 260<sup>th</sup>, Enumclaw, WA – said he represented 10 clients with property in Bonney Lake. He said the timing on approval of the ordinance is critical for these property owners who are looking for a rezone of their property to commercial.

Paul Qualey, 6008 184<sup>th</sup> Ave. E., said that this ordinance is all about timing. He said the time typically required to build a commercial development would be shortened one year with the changes proposed by this ordinance. He favored adoption.

Terry Vanderpool, 19011 68<sup>th</sup> St., supports the ordinance. He said it would allow developers to aggregate sufficient commercial property to locate major tenants along the commercial corridor.

Louisa Smith, 20112 Church Lake Rd., thinks the ordinance will be good for building business in the City. She reminded the Council that the Council in the past has wanted to direct the growth down to the 214<sup>th</sup> area. She said that the Mayor's citizen visioning committees received input from hundreds of citizens that larger retail stores and restaurants are exactly what they want.

Linda Youngberg, 8507 182<sup>nd</sup> Ave. E., said that although the Council normally gets people speaking against an action, this evening all the speakers have spoken in favor of it. She added that the developments this ordinance impacts will add a lot of sales tax to the City.

Councilmember King said that to be consistent with his position on the ordinance amendment, he would vote against the ordinance. He said he felt the amendment has not been adequately described, nor its consequences fully explored. He said he wished to assure the citizens that he is not anti-business, anti-growth, nor anti-American capitalism. He said he was concerned the Council was acting in a precipitous manner, without giving due consideration to the issues. He expressed concern that all the information provided by the speakers in support of the ordinance is being presented at the last minute without opportunity for review and consideration.

Councilmember Noble also wished to let the audience know that she is not anti-business, nor anti-growth, but stands for smart growth based on a vision. She asked if these last-minute efforts reflect a vision for Bonney Lake. She asked where the appropriate due process is.

Councilmember Rackley said that the compromise reached this evening is part of the due process. Councilmember Johnson said he is in favor of the ordinance, but feels the process shows a lack of future vision. He said he feels the City needs a strong economic development committee and stronger Chamber of Commerce as part of the City's economic vision. He reminded the Council that a straw poll taken last week on this ordinance was 5 – 2 in favor. Councilmember Hamilton expressed appreciation for the compromise achieved by the approved amendment to the ordinance. Mayor Young concluded that it had been a good discussion and recommended adoption of the ordinance. Deputy Mayor Swatman called attention to the other part of the Comprehensive Plan amendment proposed by the Sumner School District for the Bonney

Lake Elementary site. Director Leedy confirmed that the ordinance as presented would authorize the amendment proposed by the school district.

**Motion to adopt Ordinance 1011 as amended was approved 5 – 2. Councilmembers King and Noble voted no.**

- B. **AB04-10 – Resolution 1217** – A Resolution Of The City Of Bonney Lake, Pierce County, Washington, Authorizing A Contract With Berk & Associates For The Services Of Marty Wine. [A2.12]

**Councilmember Johnson moved to approve Resolution 1217. Councilmember DeLeo seconded the motion.**

**Motion approved 7 – 0.**

- X. **EXECUTIVE SESSION** – Mayor Young announced that pursuant to RCW 42.30.110(1)(c), the City Council will hold an executive session to discuss issues dealing with property acquisition. It was announced the session would last approximately 15 minutes. The session commenced at 10:43 p.m. At 10:58 p.m., the Council reconvened in open session.

Councilmember DeLeo said that during the “Public Comments” section of the meeting two ethics issues were alleged. He said he feels the Council should form an ethics committee to look at both issues. He volunteered to be a part of the committee. Councilmember Noble voiced support for a committee as well. Mayor Young asked Councilmember Rackley if he wished to speak to the allegation related to the Mayor.

Councilmember Rackley said he would speak to both issues. He said he feels that what the Deputy Mayor has done is up to him and his constituents. Councilmember Rackley said he did look into the charge against the Mayor. He said that a tree fell in the yard, that it was pushed onto the side of the road and just happened to be in the Mayor’s yard. He added that the Mayor wasn’t even home at the time when the road crew went and got it. Mayor Young said there was a big wind storm that night and the road crew was picking up limbs all over the City. He said a piece of a tree fell across the road and the crew was picking it up. He said he had nothing to do with it. He affirmed he did not call anyone, nor knew that the crews were on his property. Councilmember Rackley said it is the road crew’s responsibility to clear the roads.

Councilmember DeLeo said the Mayor was lying on the record. He said he had talked to some of the Public Works employees who said they spent four hours on the Mayor’s property cutting up wood into cord size pieces and that the Mayor came out and talked to them. Mayor Young said he came home and they were finishing up. He added that he had nothing to do with it. He said they were on his property because they pulled the tree off of the street to let traffic go by. Councilmember DeLeo charged the Mayor with accepting City work on his personal property for personal gain. He added that he would like to look into it.

Councilmember King described a hypothetical situation where a tree falls on and blocks a city street. He

asked the Deputy City Attorney if the public crew removing the tree could be considered trespassing. Deputy City Attorney Ganson said there was a long-standing legal doctrine that people can do what's necessary to keep the roads clear. Councilmember King asked if it made a difference who owned the property. Deputy City Attorney Ganson said it made no difference and that the public employees would still have the responsibility and right to clear the road.

Councilmember King agreed to step onto the committee. Councilmember Johnson and Councilmember Noble volunteered. Councilmember Noble deferred to Councilmember Johnson. Mayor Young appointed Councilmembers DeLeo, Johnson and King to look into these things.

**XI. ADJOURNMENT**

**At 11:05 p.m., Councilmember Rackley moved to adjourn the meeting. Councilmember Johnson seconded the motion.**

**Motion approved 7 – 0.**

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Harwood T. Edvalson, City Clerk

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Robert Young, Mayor