

CITY COUNCIL MEETING

**September 28, 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"

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. In addition to Mayor Bob Young, elected officials attending were Deputy Mayor Dan Swatman, Councilmember Phil DeLeo, Councilmember Mark Hamilton, Councilmember Neil Johnson, Councilmember Dave King, and Councilmember Jim Rackley. Councilmember Cheryle Noble was absent.

Staff present were Administrative Services Coordinator Don Morrison, Finance Director John Weidenfeller, Police Chief Bryan Jeter, Public Works Director Daniel Grigsby, Planning & Community Development Director Bob Leedy, Judge James Helbling, City Attorney Jim Dionne and City Clerk Harwood Edvalson.

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

1. Announcements:

a. Mayor Young recognized Boy Scout Troop 548 in attendance at the meeting.

2. Appointments: None.

3. Presentations:

a. Character First Presentation: Generosity – Takasaki Family for donating property to preserve a critical transportation link. Although representatives of the Takasaki family chose not to be present, Mayor Young recognized the family for their contribution to the City and its transportation needs.

D. Agenda Modifications [A3.6.6]:

Mayor Young noted that John Kirner, Water Superintendent with Tacoma Utilities was present this evening and asked the Council to move Agenda Item #IX C. up to be the first item considered under the Finance Committee Issues – Section VI.

Councilmember Rackley moved to modify the agenda as proposed. Deputy Mayor Swatman seconded the motion.

Motion approved 6 – 0.

Mayor Young asked the Council if they had any inclination to cancel the November 2 Workshop due to the elections. There was general consensus by the Council that the meeting would be held as scheduled.

II. PUBLIC HEARINGS, CITIZEN COMMENTS & CORRESPONDENCE:

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

- A. Public Hearings [A3.6.12]: None.
- B. Citizen Comments [A3.6.4]:

Brian Brandt, 2123 97th Pl. S., Kent, WA, a spokesman for the WSU Demonstration Forest, addressed the Council about a proposal to help fund an AmeriCorps position to promote joint programs between Bonney Lake and the Demonstration Forest. He distributed two brochures and a draft funding agreement. He said if the City will pay the initial \$6,000, then WSU will provide office space, phone and transportation and supervision. He said WSU Demonstration Forest has worked with AmeriCorps members before. In return, they would offer specific days for Bonney Lake area youth to participate in the challenge course. He said they would also do life-skill training and youth job skills workshops. He added that they would help develop more volunteers in the community to work with the youth. He said they are also proposing an art/theater day camp and a leadership day camp, and are looking to develop two new 4-H clubs out of the site.

Mayor Young said that the Council is not prepared to discuss the topic this evening, but suggested that some Councilmembers may have questions. Councilmember DeLeo noted that the original request was for \$3,000, and asked why it had increased to \$6,000. Mr. Brandt responded that they did not get the additional funding they had hoped to receive and had underestimated the ancillary costs that the Demonstration Forest program would be funding.

Councilmember King asked about the letter to the Park Board that referenced ½ of the funds this fiscal year and the remainder in 2005. Mr. Brandt said it was thought that it would be easier for the City to fund the agreement that way. Councilmember Rackley asked how many youth were anticipated to be served by these programs. Mr. Brandt responded that they would serve a minimum of three to four hundred.

Scott Millburn, 20508 125th St. Ct. E., asked why the bulldozer was moved from the property near the entrance to Bonney Lake. Councilmember Rackley said the bulldozer was on private property. He said the Council is unaware why it was moved.

Dan Decker, 20401 70th St. E., referred to the comments at the last Council meeting about the fairness of sewer rates. He said the fact that some large businesses pay as much as a single family resident should be discussed. He said businesses should receive some consideration for the expense involved in installing and maintaining restrooms that are open for the public convenience. He suggested that a rate system that has one rate for one hookup would be fair in Bonney Lake.

Councilmember King thanked Mr. Decker for his perspective on the issue and said it would be given consideration in the Council's rate deliberations.

- C. Correspondence – None.

III. COUNCIL COMMITTEE REPORTS:

[A3.6.4]

A. Finance Committee

Deputy Mayor Swatman reported that the Committee discussed proposed Resolution 1319, which is intended to address the issue of payment for employee meals under emergency situations. He said the Committee also considered Resolution 1320 covering the proposed service agreement and mail meter rental associated with a new mailing machine. He added that the Clerk's Office did a good job selecting among the vendors to get the City a low price. Deputy Mayor Swatman said that Committee consideration also included planning, building and public works fees. He said a plan to allow for payment of fees over time is being considered. The Committee discussed Judge Helbling's leave accumulation and a resolution intended to vary the standard accrual policy. Deputy Mayor Swatman said the last item was a discussion on the proper distribution of monies remaining in the Garbage Fund.

B. Community Development Committee

Councilmember Rackley reported that the Committee met on September 20th. He said they considered the proposed renewal of a franchise agreement with Pierce County, the completion of the Senior Center flooring project, the proposed developer's extensions and the RH2 Emergency Plan. He noted that all these items are on the current agenda.

C. Public Safety Committee

Councilmember DeLeo said the Committee has not met since the last Council meeting.

D. Other Reports:

Councilmember DeLeo explained to the Council that the City's contribution to the Rainier Communications Commission is based on ½ of 1 percent of the 6.4% the City collects from Comcast for its cable franchise in the City. He said that amount comes to \$13,000.

IV. MINUTES: [A3.6.2]

- A. Approval Of Corrected Meeting Minutes: September 7 Workshop and September 14 Council Meeting.

Councilmember Rackley moved to accept and approve both sets of minutes as presented with one motion. Councilmember Johnson seconded the motion.

Motion approved 6 – 0.

V. VOUCHERS AND PAYROLL: [F4.9]

- A. Vouchers – City Clerk Edvalson read a motion to approve the claims and payroll as follows:

- Claims: Accounts payable Checks/Vouchers #38345 thru 38503 and wire transfer #863139 in the amount of \$1,698,271.69.
- Payroll: Payroll for September 1-15, 2004 for checks 22844-22897, including Deposits and Electronic Transfers in the amount of \$221,853.57.

Councilmember Rackley moved to approve claims and payroll as read. Councilmember DeLeo seconded the motion.

Motion approved 6 – 0.

VI. FINANCE COMMITTEE ISSUES:

- A. **AB04-184 – Resolution 1305** – A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing An Emergency Intertie Agreement Between The City Of Bonney Lake And The City Of Tacoma Water Division. [04.10.1]

(This item was moved to this position on the agenda by action taken during Agenda Modifications.)

Councilmember Rackley moved to approve Resolution 1305. Councilmember Hamilton seconded the motion.

Public Works Director Grigsby reported that the agreement covers two interties. One is for Bonney Lake and the other for Tacoma. He added that they are beneficial because they provide mutual emergency support between the two systems. He introduced John Kirner, Water Superintendent with Tacoma Utilities. Mr. Kirner recalled that in 1987, Bonney Lake provided Tacoma with water during a severe drought. He noted that Tacoma has provided Bonney Lake water as well. He said the interties are important because they allow the systems to shut down their intake works for short periods when contaminated or turbid water is detected. He said that without the intertie, Tacoma would be forced to interrupt service rather than allow contaminated water to be passed on to its consumers in the area served by the intertie.

After receiving confirmation that the proposed agreement only addressed Interties #1 & #2, Councilmember Rackley said he was in support of the agreement. Deputy Mayor Swatman asked if Intertie #3, which was not on the table this evening, would have the net effect of making Bonney Lake a water tank for Falling Waters. Mr. Kirner agreed that it would have that effect. When asked if Tacoma would build a water tank in lieu of the proposed intertie, Mr. Kirner said, no. He added that Tacoma would just shut down water service to Falling Waters for the necessary period. He added that Falling Waters, as do all their regular customers, pays a system development fee and the regular water rates. He said there would be no mechanism for Tacoma to recover the extra cost associated with a water tank for Falling Waters, or an equivalent fee if attached to Intertie #3.

Councilmember Hamilton spoke in favor of Intertie #3 for emergency support purposes. Deputy Mayor Swatman asked Mr. Kirner if Tacoma would have an interest in serving customers outside its current area if the City were to reduce the size of its water service area.

Mr. Kirner said that Tacoma would be willing to review and discuss the possibilities. Councilmember Johnson asked for clarification of language in the agreement. He asked if a vote of the Council would be required to supplement this agreement. City Attorney Dionne affirmed that it would.

Motion approved 6 – 0.

- B. **AB04-202 – Resolution 1312** - A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing An Agreement With U.S. Data Trust In The Amount Of \$2,300 Per Year For A Minimum Service Agreement Term Of 12 Months With Term Beginning On Date Of Service September 28, 2004. [A2.1]

Councilmember Rackley moved to approve Resolution 1312. Councilmember King seconded the motion.

Mayor Young said this will serve as the computer system server backup.

Motion approved 6 – 0.

- C. **AB04-218 – Resolution 1320** - A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing Agreements With Excel Business Systems And Hasler, Inc. For Mail Machine Maintenance And Mail Meter Rental. [A2.3]

Councilmember Rackley moved to approve Resolution 1320. Councilmember DeLeo seconded the motion.

Mayor Young said the Finance Committee received a good presentation, and that the City Clerk did a good job of researching this issue.

Motion approved 6 – 0.

- D. **AB04-209** – A Motion Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Accepting The Senior Center Flooring Project By The Invironmentalists As Complete And Authorizing The Release Of Retainage Once Contract Closeout Requirements Have Been Met. [A3.6.10] [F5.3.4]

Councilmember DeLeo moved to approve the motion as presented. Councilmember Rackley seconded the motion.

Mayor Young said this action concludes the project which has been inspected and determined to be complete by the Public Works Department.

Motion approved 6 – 0.

VII. COMMUNITY DEVELOPMENT COMMITTEE ISSUES:

- A. **AB04-206 – Resolution 1314** – A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing An Application For A Franchise Agreement With Pierce County For The Construction And Operation Of A Water System Within Pierce County Roads. [A3.15]

Councilmember Rackley moved to approve Resolution 1314. Councilmember Johnson seconded the motion.

Deputy Mayor Swatman and Councilmember Johnson expressed interest in seeing the franchise agreement. Director Grigsby said it would be in the same form as the one signed in 1999. Councilmember King suggested that if the two Councilmembers have reservations, there is sufficient time before the renewal is due to allow further review of the issue. Deputy Mayor Swatman said his main concern is how the responsibilities are defined for relocating facilities within the County's rights-of-way.

Councilmember Rackley moved to table Resolution 1314 and refer it back for further review by the Council Community Development Committee (CDC). Councilmember King seconded the motion.

Motion to table approved 6 – 0.

- B. **AB04-207 – Resolution 1315** – A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing A Water Developer's Extension Agreement With Jim Gillespie To Extend An 8" Water Main 170' For Parcel 0520181044 In Ridgeview Estates. [A3.13.7]

Councilmember Rackley moved to approve Resolution 1315. Councilmember Hamilton seconded the motion.

Councilmember Rackley mentioned that the extension covers one more house in the development.

Motion approved 6 – 0.

- C. **AB04-208 – Resolution 1316** – A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing A Water And Sewer Developer's Extension Agreement With Euro-Way Homes For Bohemian Estates. [A3.13.7]

Councilmember Rackley moved to approve Resolution 1316. Councilmember Hamilton seconded the motion.

Mayor Young said this was another developer extension agreement.

Motion approved 5 – 1. Councilmember DeLeo voted no.

- D. **AB04-211 – Resolution 1317** – A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing An Agreement With RH2 For Emergency Response Plan. [03.5.1.16]

Councilmember Rackley moved to approve Resolution 1317. Councilmember Hamilton seconded the motion.

Deputy Mayor Swatman asked about the background on this agreement. Councilmember Rackley said that a temporary employee tasked with the project had not completed it before leaving the City's employment. Director Grigsby confirmed that a temporary employee had produced a product that does not comply with the requirements for the study. When asked, Mayor Young identified the employee as Tom Dozal.

Councilmember Johnson expressed dismay that Mr. Dozal was paid for unsatisfactory work. Mayor Young said that Mr. Dozal's primary task was completed, and that when it was determined that his further work on the emergency plan was inadequate, his further assistance was terminated. At Councilmember Johnson's request, City Attorney Dionne agreed to take a close look at the employment agreement with Mr. Dozal.

Deputy Mayor Swatman said the requirement is for two parts. One is the vulnerability assessment and the second the mitigation portion of the plan. He said the vulnerability assessment has already been done by the City and submitted. He expressed concern that the Council did not have an opportunity to review the assessment. He also expressed concern that the remainder of the report should cost nearly \$50,000, when the solutions seemed so obvious. He pointed out further that there are many cities who would have complied by now that could serve as a basis for a boilerplate plan. Director Grigsby responded that consultants knowledgeable in preparing the plan are important because time is of the essence to comply with the requirement.

Responding to Councilmember DeLeo's questions, Director Weidenfeller responded that the project was a specific line-item in the budget, and that \$50,000 was budgeted. He confirmed that approximately \$7,500 has already been expended from that line item. Councilmember King said that terrorist acts already occurring on water systems justifies the need for such plans. He cited a specific occurrence in Oregon of domestic terrorism on a water system. Deputy Mayor Swatman said that the information would also be useful for response to man-made and natural disasters affecting the water system.

Motion approved 6 – 0.

Mayor Young said that the earlier work completed by Mr. Dozal on other projects was acceptable and he did not wish his comments to be construed otherwise. Councilmember Johnson said that despite the assurances, he now questions the validity of the work performed by Mr. Dozal.

- E. AB04-210 – A Motion Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Setting A Public Hearing For October 12, 2004 During The Regular Council Meeting To Continue The August 12, 2003 Public Hearing On The Ashton Woods Latecomer Agreement. [A3.6.10] [A3.6.12]**

Councilmember Rackley moved to approve the motion as read. Councilmember DeLeo seconded the motion.

Motion approved 6 – 0.

VIII. PUBLIC SAFETY COMMITTEE ISSUES: None.

IX. FULL COUNCIL ISSUES:

- A. **AB04-212 – Ordinance 1063** – An Ordinance Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Amending Chapter 14.140 Of The Bonney Lake Municipal Code And Ordinance Nos. 789 And 988, Relating To Initiating Amendments To The Comprehensive Plan And Development Code. [O3.5.2] [A3.5.5]

Councilmember King moved to adopt Ordinance 1063. Councilmember Hamilton seconded the motion.

Councilmember King asked for verification that there were no speakers signed up to address the Council on this or preceding issues. Administrative Services Coordinator Morrison confirmed there were none.

Motion approved 6 – 0.

- B. **AB04-178 – Resolution 1299** – A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing Water Developer's Extension Agreements With Lakeland For Area 5, Division 2A & 2B And Wedgewood II In Lakeland Hills. [A3.13.7]

Councilmember Rackley moved to approve Resolution 1299. Councilmember Hamilton seconded the motion.

Councilmember Rackley asked City Attorney Dionne what the impact would be if this proposed action was denied. Deputy Mayor Swatman said his understanding is that most of the construction is already completed. Mayor Young said the agreement provides for reimbursement to the City for land review, inspections, testing, etc. City Attorney Dionne said that if the City has already done this and unless there are extenuating circumstances, then the City must agree to approve the extension agreement.

Councilmember Johnson asked if the position that the City has exhausted its available water supply and should preserve its capacity for residents inside the City limits is an acceptable reason to deny the agreement. City Attorney Dionne said, no. He added that this development has been previously guaranteed service within the City's water service area and must, therefore, be served on the same basis as all the other customers in the service area. He added that differential fees can be charged, such as the differential between in-city and outside-of-city water rates.

Councilmember Rackley said the Council must come to grips with its role as a water purveyor. He said the Council gave direction to staff during the February retreat to be a water purveyor and to pursue the availability of Tacoma water to serve the eastside of the service area. Deputy Mayor Swatman said that the City has several options on the table and

that none have yet been ruled out. He agreed with the City Attorney that the City's water service area is independent of the City limits and that customer's have the right to expect equal treatment regardless of the location of the City limits. Councilmember King pointed out that the Equivalent Residential Units (ERU) have already been calculated for these projects and availability already communicated to the developer. He said the rest of the discussion is not germane to the issue before the Council this evening.

Councilmember Johnson expressed concern for his ability to serve water service customers both inside and outside the City limits with equanimity. He said he was elected by the citizens of Bonney Lake. He asked if a water district board might not better serve the water service area. City Attorney Dionne said the Councilmembers had an equal duty to represent all the customers in the water service area. He questioned the wisdom in allowing an independent body to determine the water service policies and issues of the City of Bonney Lake and its water service area.

Mayor Young said the Council made a policy decision to develop the City's own water resources. He said the Public Works Department did the analysis and determined that our resources were insufficient for the future. He said the Council gave direction to pursue Tacoma water as a source for the eastside of the service area. He said the discussions with Tacoma are on this subject. He said the City would be remiss to give up its water service area while it still benefits the citizens. Councilmember Rackley said the large service area has allowed Bonney Lake to hold down its water service costs.

Deputy Mayor Swatman said the issue at hand is different because there was a settlement agreement between Bonney Lake and Auburn to serve this area. However, he said, if this was Eastland with 700 developable lots that came into Bonney Lake with water available, he would want to see the City follow its comprehensive plan relative to water service in these areas. He added that this would not mean that the City would have to allow a developer's extension to get water immediately to them. Councilmember Hamilton asked if the City would have to give up its production facilities outside the city limits if it gave up the water service area. City Attorney Dionne responded that the City could maintain its facilities, but asked who would be willing to pump water uphill onto the plateau to serve the areas that Bonney Lake now has in its service area.

Councilmember King reminded the Council that water storage capacity has been a key element of the Council's guidance and direction. He said the earlier addition of 13 million gallons of peaking water storage, as had been planned, would have reduced the past years impacts of the droughts. He said the current state of the City's water supply is not only an issue of sources, but of storage capacity. Councilmember DeLeo asked about the status of the at-grade storage tank project. Mayor Young replied that the Hearing Examiner has rejected the objections to the project, and the City is moving ahead with the clearing and grading permit. He added that an update will be provided at the next workshop.

Motion approved 4 – 2. Deputy Mayor Swatman and Councilmember Johnson voted no.

X. EXECUTIVE SESSION

Mayor Young announced that pursuant to RCW 42.30.110(1)(i) the City Council would hold an executive session to discuss issues dealing with potential litigation. The executive session started at 8:32 p.m. The session was extended for five minutes at 8:37 p.m.

The regular meeting was reconvened at 8:43 p.m.

XI. ADJOURNMENT

At 8:43 p.m., Councilmember Hamilton moved to adjourn the meeting. Deputy Mayor Swatman seconded the motion.

Motion approved 6 – 0.

Harwood T. Edvalson, City Clerk

Robert Young, Mayor