

CITY COUNCIL MEETING

City of

**June 14, 2005
7:00 P.M.**

MINUTES



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 Bob Young called the meeting to order at 7:00 p.m.

- A. Flag Salute - Mayor Young led the audience in the Pledge of Allegiance.
- B. Roll Call [A1.3]

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

Staff present were Administrative Services Coordinator Don Morrison, Finance Director John Weidenfeller, Public Works Director Daniel Grigsby, Planning & Community Development Director Bob Leedy, Senior Human Resources Analyst Karen Meeks, City Attorney Jim Dionne and City Clerk Harwood Edvalson.

Councilmember Rackley moved to excuse Councilmember DeLeo from the meeting. Councilmember Noble seconded the motion.

Motion approved 6 – 0.

Mayor Young suggested that the Council pass a motion to amend the agenda and add an executive session between Items 2 and 3 of Section IC. There was a brief discussion with the Council regarding the need for such an executive session. Several Councilmembers expressed a desire to have received advance materials for review before the executive session.

Councilmember King moved to amend the agenda by adding an executive session between Items 2 and 3 of IC, and by adding the following agenda items:

II. PUBLIC HEARINGS, CITIZEN COMMENTS & CORRESPONDENCE:

- A. Public Hearings: [A3.6.12]
 - 1. **AB05-166** – A Public Hearing to consider the surplusing and sale of Public Works materials, dirt, top soil, and fill materials from property owned by the Public Works Water Fund. (The sale of these materials up to but not to exceed \$49,999.00.)

V. FINANCE COMMITTEE ISSUES:

- A. **AB05-166 – Resolution 1456** – A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing The Disposal Of Surplus Materials In Accordance With The Provisions Outlined By Ordinance 872.
- B. **AB05-154 – Resolution 1448** – A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing Out Of State Travel.

VII. FULL COUNCIL ISSUES:

- A. **AB05-167 – Ordinance 1140** – An Ordinance Of The City Of Bonney Lake, Pierce County, Washington, Amending Chapter 18.38 Of The Bonney Lake Municipal Code And Ordinance No. 515, Relating To Legal Nonconforming Uses.

Councilmember Hamilton seconded the motion to amend the agenda.

Motion approved 6 – 0.

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

- 1. Announcements: Mayor Young announced that the Regular City Council Workshop for June 21st has been canceled to allow the Council's attendance at the opening session of the AWC Annual Conference at the Three Rivers Convention Center in Kennewick, WA, June 21 – 24.

Councilmember Rackley announced that he has received his Advanced Certificate for Leadership Training from the Association of Washington Cities (AWC). Councilmember Noble announced that she has received her Core Certification from AWC in Leadership Training.

- 2. Appointments: Judge Helbling administered the Oath of Office to Police Officer Ryan D. Boyle.

Under authority of RCW 42.30.110(a), Mayor Young announced that the City Council will hold an executive session to discuss matters of real estate acquisition. He informed the audience that the session is anticipated to last 30 minutes. The session began at 7:11 p.m. At 7:41 p.m., it was announced that the executive session will be extended 15 minutes. At 7:56 p.m., it was announced the session will be extended another 10 minutes. At 8:06 p.m., it was announced the session would last another 5 minutes.

At 8:13 p.m., Mayor Young announced that the executive session had concluded and that the Council will take a 5 minute break. The regular session was reconvened at 8:18 p.m.

- 3. Presentations: Planning Commissioner Dennis Poulsen addressed the Council on behalf of the Planning Commission regarding their consideration of AB05-157 – Ordinance 1137 – Allowing For Manufactured Homes In All Single Family Zones. He reviewed the history of the Planning Commission's consideration of this issue. He said the Planning Commission recommends allowing manufactured homes in all the City's residential zones. He noted that the ordinance as proposed includes some minor text changes as suggested by Building Official Hight after a technical workshop on the topic.

Councilmember Rackley asked if the proposed ordinance brings the City into compliance with state law. Commissioner Poulsen said that it does, as well as with federal law. Deputy Mayor Swatman asked questions about the ordinance and its impact on the City's current code. Mayor Young suggested that the issues be discussed later in the evening's agenda.

- D. Agenda Modifications [A3.6.6]:
(See additions to the Agenda under Section IB. of these minutes.)

II. PUBLIC HEARINGS, CITIZEN COMMENTS & CORRESPONDENCE:

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

- A. Public Hearings [A3.6.12]:

1. **AB05-166** – A Public Hearing to consider the surplusing and sale of Public Works materials, dirt, top soil, and fill materials from property owned by the Public Works Water Fund. (The sale of these materials up to but not to exceed \$49,999.00.)

Mayor Young opened the public hearing at 8:28 p.m. Finance Director Weidenfeller explained that the dirt from the At-grade Water Storage Project has value and a prospective buyer identified. He added that in conformance with City ordinance, the amount sold would be valued at less than \$50,000, and the proceeds would accrue to the Public Water Utility.

Linda Youngberg, 8507 182nd Ave. E., said that she has given away dirt from her properties in the past and that she would be willing to accept the dirt for free from the City now that her sites need dirt for development.

Daniel Decker, 20401 70th St. E., asked if the dirt could be broken up into multiple lots of more manageable size. He suggested the City might get a better return on its sale of the dirt and more people benefited from the offering.

Director Weidenfeller said an ad would be placed in the paper advertising the sale of the dirt and accepting sealed bids. He said the bid deadline will be Wednesday, June 22nd at 1:00 p.m.

There being no further speakers, Mayor Young closed the public hearing at 8:32 p.m.

- B. Citizen Comments [A3.6.4]:

Fred Jacobsen, 9100 189th Ave. Ct. E., said that he is a member of the Puyallup Watershed Council. He distributed a map to Councilmembers of the watershed and said there would be a cooperative effort among governments to improve the map's accuracy. He said the Watershed Council is looking for volunteers to help with a 25 yr. Watershed Plan for Fennel Creek. He described an upcoming June 29th tour of Fennel Creek sites and announced guest speakers who will be at the tour stops. Mr. Jacobsen confirmed that the date for comments has been extended to June 20th.

Les McCluggage, 19624 96th St. E., thanked the Council and staff for getting the code enforcement efforts started on the properties adjacent to his. He explained that the nuisance vehicles have been cleared from the City's right-of-way. He encouraged continued efforts to require cleanup of adjacent private properties.

Michelle Gunn, 8708 188th Ave E., expressed disappointment in the way the City has kept track of the claim form she submitted regarding additional expenses and fees regarding the tree removal on her property. She said the City has lost all the documentation she paid her attorney to compile. She said the additional cost to recompile the information will be added to her claim. She also referenced an instance where Planning Staff disavowed knowledge of a 7 – 8 page memo distributed at a Planning Commission meeting. Ms. Gunn said an individual attending the meeting later made a copy of the memo from the meeting and provided it to her. She also reported that a public disclosure form submitted a few months ago took over 19 days for her to receive any response from the City. She said that although an apology was made, the error explained and the information provided, she questioned if these are just her experiences or if they are common to all citizens.

Ms. Gunn also suggested that the Council consider the amount of City staff time required to fill some of the public disclosure requests. She noted that a recent request involved more than 40 hours of staff time to compile. She added that after it was compiled she too obtained a copy of the same information. She suggested that the Council consider limits on the amount of time spent, the number of copies produced for disclosure requests, or an increase in the fees paid to produce the information.

Mayor Young said that the Revised Code of Washington limits the amount the City can charge for preparation of a response to a public disclosure request. He added the City can only fill the request as described by the person submitting it. He said if it takes 40 hours, the City has no way to recover the cost other than for the copies.

Councilmember Rackley asked how the City is losing documents. Mayor Young said he is not aware of the circumstances and will provide a report to the Council. Administrative Services Coordinator Morrison said as he understands it, the City has the face sheet of the claim, but no record of having received the supporting documentation that was reported to have been attached. Mayor Young added that public disclosure requests are treated seriously by the City.

Councilmember King asked if the Washington Administrative Code provides for covering the costs of preparing public disclosure requests. City Attorney Dionne said there is a provision for recovering some of the costs, but not all. He added that most public entities charge the per page copy charge allowed by state law rather than trying to determine costs on a case-by-case basis. He said allowed costs do not include the amount of time it takes to retrieve the document. Councilmember King asked if the City's own municipal code could address an additional fee associated with staff time required to compile the documents beyond a minimal amount time. City Attorney Dionne responded that he will look into it, but that the state law is very narrow on this point, to the extent that most entities ignore the calculation in favor of the per page cost. Councilmember Rackley said he thought it would be an appropriate item for workshop discussion. Mayor Young asked the City Clerk to take note and put it on the agenda.

Daniel Decker, 20401 70th St. E., commented on the proposal to make Area 56 conform with the City's Comprehensive Plan by changing the zoning from commercial to residential. He said it was commercial property in 1966 and should remain commercial property today. He asked why the property is being down-graded and who is profiting from this proposal. He asked for a response to his questions within 14 days. He predicted that Michelle's Studio of Dance in Area 56 would not be able to continue profitably if the adjacent property is down-graded. He urged the preservation of good activities for children. Mr. Decker suggested that if the vision is to make SR410 the new center of Bonney Lake, then the traffic signals should be synchronized to reduce congestion. He noted that some time ago, he asked for public disclosure of the Mayor Young's claims for mileage reimbursement. He asked rhetorically if there is a form that all employees of the City are supposed to use for that purpose. He said there is such a form and encouraged all elected officials to use the appropriate forms.

Linda Youngberg, 8507 182nd Ave. E., said she appreciates the Council looking into the waste of taxpayer's money it took to look up over 6½ pounds of documents dating from 1972. She also asked about the cost for the entry sign to Bonney Lake at the Ascent Monument. Mayor Young said the project is not yet complete. Councilmember Hamilton said the cost is about \$30,000. Mayor Young said it was erroneously reported as a much larger amount in the newspaper. Ms. Youngberg said she is disappointed by what is there so far. Councilmember Rackley noted that it is not what the City thought it was getting. Mayor Young said the project is not quite complete and that a new sign is coming.

Ms. Youngberg said her neighbors from Area 41 will be speaking at the Planning Commission meeting tomorrow night. She said she fails to understand why the City would take commercial zoning away from some, while others are trying to obtain commercial zoning. On another note, Ms. Youngberg observed that on June 10th at 10:00 a.m., the roadway at 214th and SR410 was a mess of dirt. She added that she has moved dirt in the City before, and was required to keep sweepers moving to clean the roads. She said that important phone calls to John Woodcock and Dan Grigsby have not been returned since that time. She suggested they should show her the respect to return her phone calls.

Councilmember Rackley said he also observed the condition, but saw the street sweeper out there cleaning the streets. Councilmember Johnson asked if there is a customer service policy or standard for returning phone calls. Mayor Young said the standard is that the person should receive a return call on the same day if at all possible. He added that he will find out what happened in this instance. Ms. Youngberg added that Rick Shannon is the best one in the City to return phone calls. She said he always returns his phone calls.

Robert Ceola, 9104 189th Ave. E., said that at the last Council meeting there was a discussion about zoning. He said he wrote the City Council and staff a letter inviting an "open discussion." In the letter, he described how he believes the staff and City Attorney's Office mis-applied the law and misled the public in provided responses to questions about boundary line adjustments within properties. He asked if there were any who would like to comment on his letter.

Councilmember King thanked Mr. Ceola for the discussion in his letter. He said that he believes some of the misunderstanding between Mr. Ceola and the Attorney and staff comes from attempts to render the legal language of the statutes to a more commonly understood language for the purpose of explanation. He suggested that if an ordinance is needed to

address the combination and division of lots in the City of Bonney Lake, then it should be prepared in language that is understandable to the average citizen. He said the City must always balance the language of its ordinances between what is most sustainable in the system of legal jurisprudence and what is easiest to understand and implement by the average citizen.

C. Correspondence : None.

III. COUNCIL COMMITTEE REPORTS:

[A3.6.4]

A. Finance Committee

Deputy Mayor Swatman reported that the Committee met earlier in the evening and discussed the following items:

1. Discussion of the creation of a technology infrastructure fund, and transfer of some drug fund monies to work with the Wi-Fi installation;
2. Ordinance 1136 for merit increases;
3. Resolution 1453 authorizing an AWC master agreement;
4. Discussion on some utility and park rates;
5. Consideration of a request for use of funds by the Fire District to pay for air conditioning in their side of the basement of the Public Safety Building;
6. Resolution 1452 for disposal of surplus property at 184th Ave. E.;
7. Resolution 1454 authorizing purchase of properties from the Water Fund by the General Fund to allow cell tower revenues to be used by the General Fund;
8. Ordinance 1140 resolving some non-conforming zoning use issues;
9. Resolution 1456 surplusing public works materials.

B. Community Development Committee

Councilmember Rackley said the CDC met on June 6th and discussed the following:

1. A presentation by CH2MHill on membrane waste treatment plant technology;
2. Falling Waters recharge area;
3. Street lighting;
4. A Water Extension Developer Agreement with Euro-way Homes; and
5. A Water Developer and Sewer Extension Agreements with Cedar Ridge Retirement and Assisted Living Community.

Director Grigsby said that the Street Lighting Ordinance had been pulled because it addresses only part of the relevant issues. He said the revised ordinance would address all the issues, including associated fees.

C. Public Safety Committee

Councilmember King reported that the Committee met on June 6th. He said they received a briefing by Assistant Fire Chief McDonald on recommendations for fireworks during the July 4th holiday. He said that Chief McDonald reported that there is no apparent drought-related fire danger this year that would prohibit the use of fireworks within the limits of the municipal code. Councilmember King said they also continued discussion of the possibilities to replace the Humane Society contract for animal control services. He said a program

should be in place by the time the current contract expires at the end of the year. He added that the one agenda item brought forward for this evening appears under the Finance Committee section and involves out-of-state travel for the Court Clerk. He acknowledged her receipt of a scholarship covering the largest portion of the costs to participate in this conference for administrative officers of courts.

D. Other Reports:

Councilmember Noble said that a letter from the Secretary of the Senior Center Board has been received concerning signs limiting boat trailer parking around the Senior Center during Senior Center activity times. She asked if this is being addressed. ASC Morrison said that a resolution to the parking conflict is being considered. Deputy Mayor Swatman suggested the posting of "No Boat-Trailer Parking" signs. He also mentioned the possible use of the Moriarty property as an overflow parking solution for boat trailers.

IV. **CONSENT AGENDA:** [A3.6] -

Councilmember Rackley moved to approve the consent agenda items occurring below. Councilmember King seconded the motion.

- A. **Claims:** Accounts payable checks/voucher #40661 thru 40783 and Wire Transfer #1298710 and 50405111 (voiding check #40737) in the amount of \$417,546.65. [F4.9]
- B. **Payroll:** Payroll for May 16-31st, 2005 for checks 23748-23800, including Deposits and Electronic Transfers in the amount of \$331,744.62. [F4.9]
- C. **AB05-156 – Resolution 1450** - A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing A Water Developer Extension Agreement With Euro-Way Homes, Inc. For Lakeside. [A3.13.7]
- D. **AB05-158 - Resolution 1451** – A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing A Water Developer Extension Agreement With MWSH Bonney Lake LLC For The Cedar Ridge Retirement & Assisted Living Community. [A3.13.7]
- E. **AB05-159 – Resolution 1453** - A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing An Agreement With The Association Of Washington Cities For The Employer Master Participation Agreement. [A1.1.4]
- F. **AB05-153** – A Motion of the City Council of the City of Bonney Lake, WA, To Set A Public Hearing For The Council Meeting Of June 28, 2005 At 7:00 P.M., Or As Soon Thereafter As Possible, To Consider The Surplus And Sale Of Real Property. [A3.6.10][A3.6.12]

At the Mayor's request, City Clerk Edvalson read the titles of items appearing on the Consent Agenda.

Consent Agenda approved 6 – 0.

V. **FINANCE COMMITTEE ISSUES:**

- A. **AB05-166 – Resolution 1456** – A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing The Disposal Of Surplus Materials In Accordance With The Provisions Outlined By Ordinance 872.

Councilmember Hamilton moved to approve Resolution 1456. Councilmember Rackley seconded the motion.

Finance Director Weidenfeller said the Finance Committee discussed the possibility of allowing an exchange for services or property of equal value for the surplus property. He said this could be advantageous to the City if a suitable item in exchange could be identified. He said the City Attorney has amended the language to allow for an exchange. He recommended Council's adoption of the amended resolution. He added that the ultimate value of the exchange would be credited to the Water Utility.

Deputy Mayor Swatman asked if the house on the property is impacted by the movement of dirt on the site. Director Grigsby confirmed that the house will not be affected by the removal of the topsoil. Deputy Mayor Swatman said the house should be surplused before it is removed or destroyed. City Attorney Dionne responded that since the house has been determined to have no value to the City, it can be disposed of without a surplusing action. Director Grigsby said that consultants have determined that both the house on this property and on the Moriarty property will cost in excess of \$100,000 each to repair and bring up to building codes. Councilmember Rackley said there is already a low-bidder waiting to destroy the house. Councilmember Noble added that there is the potential for a land swap with the property. She said the City should wait to see if the land swap is feasible to possibly allow the new owner to deal with the house.

Councilmember King moved to amend the resolution provided as part of the agenda packet to include the language supplied by the Finance Director during the meeting. Councilmember Rackley seconded the motion.

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

Amended main motion approved 4 – 3. Mayor Young voted in favor to break a 3 – 3 tie. Deputy Mayor Swatman and Councilmembers Johnson and Noble voted no.

- B. **AB05-154 – Resolution 1448** – A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing Out Of State Travel.

Councilmember Rackley moved to approve Resolution 1448. Councilmember King seconded the motion.

Judge Helbling reported that Court Administrator Seymour was elected as Vice President of the Municipal and District Court Administrators Association for the State of Washington. He added that in two years, she will ascend to the Office of President of the Association.

Motion approved 6 – 0.

VI. COMMUNITY DEVELOPMENT COMMITTEE ISSUES: None.

VII. PUBLIC SAFETY COMMITTEE ISSUES: None.

VIII. FULL COUNCIL ISSUES:

- A. **AB05-157 – Ordinance 1137 – For First Reading** - An Ordinance Of The City Of Bonney Lake, Pierce County, Washington, Relating To The Installation Of Manufactured Homes Within The City Of Bonney Lake. [A3.5.5]

City Attorney Dionne said that this item is before the Council to discuss as if it were at a workshop. Deputy Mayor Swatman said he has numerous comments and proposed that it be moved to a workshop for discussion. Mayor Young said the proposed ordinance will be placed on the workshop agenda for Council discussion.

- B. **AB05-167 – Ordinance 1140** – An Ordinance Of The City Of Bonney Lake, Pierce County, Washington, Amending Chapter 18.38 Of The Bonney Lake Municipal Code And Ordinance No. 515, Relating To Legal Nonconforming Uses.

Before accepting a motion, Mayor Young asked City Attorney Dionne if this item should go back through the process of Planning Commission consideration and public hearing. City Attorney Dionne said that he would support the Director of Planning and Community Development in this approach. He added, however, that if this is an emergency, he believes it could be justified that this is not a development code and deals with continuing development, and could be acted upon without the Planning Commission process. He added that it would be subject to the 30-day referendum provision.

Deputy Mayor Swatman said the C2-C3 area in the City east of 214th has the Clearwater residential development in this zone. He said that residents doing refinancing or sales in this development are having trouble getting financing with lenders due to the non-conforming nature of their properties. Director Leedy suggested that the Council could adopt this ordinance and then direct staff to take the issue through the Planning Commission process. Councilmember King expressed concern that there may be additional ramifications with this proposed ordinance that would impact other areas of the City. Director Leedy said he appreciates Councilmember King's concerns, but does not believe there are many other areas in the City with the same circumstances.

City Attorney Dionne suggested that the ordinance have a limiting clause making it valid for only 120 days to allow the City to go through a more formal consideration process with a replacement ordinance. Councilmember King said that although he is concerned there are other problems with non-conforming land uses in the City, he would be willing to accept the 120-day limited scope of the ordinance. Councilmember Hamilton asked why this inconsistency was overlooked. He urged greater caution in the Comprehensive Plan

amendment process. Mayor Young said that the Comprehensive Plan is a constantly changing and evolving plan and is regularly amended. Deputy Mayor Swatman added that this area was annexed under the C2-C3 zone. He suggested that the non-conforming area may have been overlooked in the annexation process, or allowed by those sponsoring the annexation in order to bring the entire block of property east of 214th in at the same time. Councilmember King proposed that Subsection B be amended by adding, "The provisions of this subparagraph shall expire 120 days after the enabling date of this ordinance."

Deputy Mayor Swatman moved to adopt Ordinance 1140 with the additional language proposed by Councilmember King limiting the effectiveness of the ordinance to 120 days. Councilmember Rackley seconded the motion.

Motion approved 6 – 0.

Councilmember Rackley asked that the Council be apprised of the status of the new ordinance as it moves through the Planning Commission process.

IX. EXECUTIVE SESSION: (Session moved to beginning of the meeting by Council action. See Section IB. of these minutes.)

X. ADJOURNMENT

At 9:45 p.m., Councilmember Hamilton moved to adjourn the meeting. Councilmember Noble seconded the motion.

Motion approved 6 – 0.

Documents submitted for or at the Council Meeting of June 14, 2005:

- Bonney Lake Citizen – *An Open Discussion on Vexing Letters- Area 56 (March 22, 2005)* – Robert Ceola.

Harwood T. Edvalson, CMC
City Clerk

Robert Young, Mayor