

CITY COUNCIL MEETING

**June 14, 2011
7:00 P.M.**

AGENDA

City of



“Where Dreams Can Soar”

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.

Website: www.ci.bonney-lake.wa.us

SIGN-UP TO SPEAK FOR SPECIFIC ACTION ITEMS ON THE AGENDA: *If you have signed-up prior to the Council meeting to speak with respect to a particular ordinance or resolution appearing on the agenda, you will be recognized to address the Council for up to one minute before the Council takes action on that item. Those wishing to address such items on the “Consent Agenda” should do so during the “Citizen Comments” portion of the Agenda. If the Council chooses to discuss the item further after taking comments, they may restrict additional public comment before taking action. Please look for the sign-up sheets near the Council Chamber doorway. (See Item II B. for Citizen Comments on other items of City business.)*

Location: Bonney Lake Justice Center, 9002 Main Street East, Bonney Lake, Washington.

I. CALL TO ORDER – Mayor Neil Johnson, Jr.

A. Flag Salute – Mayor Neil Johnson, Jr.

B. Roll Call:

Elected Officials: Mayor Neil Johnson, Jr., Deputy Mayor Dan Swatman, Councilmember Laurie Carter, Councilmember Dan Decker, Councilmember Mark Hamilton, Councilmember Donn Lewis, Councilmember Randy McKibbin and Councilmember James Rackley.

C. Announcements, Appointments and Presentations:

1. Announcements:

a. **Proclamation:** Panther Day – Saturday, June 18, 2011.

3. Appointments: None.

4. Presentations: None.

D. Agenda Modifications:

II. PUBLIC HEARINGS, CITIZEN COMMENTS & CORRESPONDENCE:

A. Public Hearings: None.

B. Citizen Comments:

You may address the City Council on matters of City business for up to 5 minutes. Those commenting about ordinances or resolutions on the “Consent Agenda” should limit their comments to one minute per item. When recognized by the Mayor, please state your name and address for the official record. Designated representatives speaking on behalf of a group may take up to 10 minutes on matters of general City business.

C. Correspondence: None.

III. COUNCIL COMMITTEE REPORTS:

A. Finance Committee

B. Community Development Committee

- C. Public Safety Committee
- D. Other Reports

IV. CONSENT AGENDA:

The items listed below may be acted upon by a single motion and second of the City Council. By simple request to the Chair, any Councilmember may remove items from the Consent Agenda for separate consideration after the adoption of the remainder of the Consent Agenda items.

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- A. **Approval of Corrected Minutes:** May 17, 2011 Council Workshop and May 24, 2011 Council Meeting.
- B. **Approval of Accounts Payable Checks/Vouchers:** #61155 thru 61214 (including wire transfer #'s 5162011 & 7529462) in the amount of \$314,761.38; Accounts Payable checks/vouchers #61215 thru 61276 (including wire transfer # 20110523) in the amount of \$435,905.74; Accounts Payable checks/vouchers #61277 in the amount of \$198.26; Accounts Payable checks/vouchers #61278 thru 61307 (including wire transfer #'s 20110601,20110602 & 201106011) in the amount of \$425,612.05; Accounts Payable checks/vouchers #61308 in the amount of \$456.22 for a grand total of \$1,176,933.65. Voided Checks: 60805 – Wrong vendor. Replaced with check number 61206; 61156 – Wrong vendor. Replaced with check number 61217; 61189 – Wrong vendor. Replaced with check number 61218.
- C. **Approval of Payroll:** Payroll for May 16–31, 2011 for checks #29793-29819, including Direct Deposits and Electronic Transfers in the amount of \$602,947.75.

V. FINANCE COMMITTEE ISSUES: None.

VI. COMMUNITY DEVELOPMENT COMMITTEE ISSUES:

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- A. **AB11-65 – Resolution 2127** – A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing An Annexation And Utility Agreement With Capri Investment, LLC For The Falling Water Planned Development District.

VII. PUBLIC SAFETY COMMITTEE ISSUES: None.

VIII. FULL COUNCIL ISSUES: None.

IX. EXECUTIVE SESSION: Pursuant to RCW 42.30.110, the City Council may hold an executive session. The topic(s) and the session duration will be announced prior to the executive session.

X. ADJOURNMENT

For citizens with disabilities requesting translators or adaptive equipment for communication purposes, the City requests notification as soon as possible of the type of service or equipment needed. THE COUNCIL MAY ADD AND TAKE ACTION ON OTHER ITEMS NOT LISTED ON THIS AGENDA



PROCLAMATION

WHEREAS, Bonney Lake High School is preparing to graduate its fifth class of seniors; and

WHEREAS, Bonney Lake High School makes a broad range of extracurricular activities including clubs, musical groups and dramatic events, sports teams and sports activities available to the youth it serves; and

WHEREAS, Activities at Bonney Lake High add an important dimension to the physical, mental and social development of many youth; and

WHEREAS, Bonney Lake High School students and teams have distinguished themselves in competitions in the district, region and state, and

WHEREAS, Bonney Lake High School students also contribute to the community through participation in senior projects, Beautify Bonney Lake and other service opportunities in the area; and

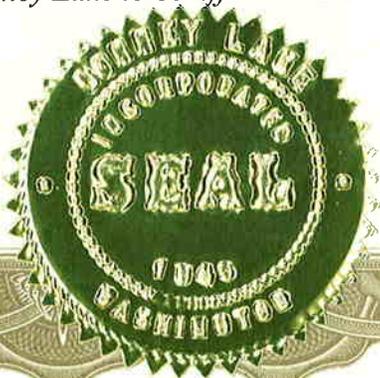
WHEREAS, The City of Bonney Lake wishes to honor its namesake high school and congratulate all those associated with its successes.

NOW, THEREFORE, I, Mayor Neil Johnson Jr, by virtue of the authority vested in me by the City of Bonney Lake, do hereby proclaim

June 18, 2011 as Bonney Lake Panther Day – GO PANTHERS!

and extend congratulations to Bonney Lake High School students, teachers, coaches and administrators; and encourage residents and businesses to support Bonney Lake High School as an important asset of the community.

IN WITNESS THEREOF, I have hereunto set my hand and caused the Seal of the City of Bonney Lake to be affixed this 14th day of June, 2011.



Neil Johnson, Jr., Mayor

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COUNCIL WORKSHOP

**May 17, 2011
5:30 p.m.**

MINUTES



“Where Dreams Can Soar”

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.

Website: www.ci.bonney-lake.wa.us

Location: Bonney Lake Justice Center, 9002 Main Street East, Bonney Lake, Washington.

Audio Time Stamp ↓

I. Call to Order: Deputy Mayor Dan Swatman called the Workshop to order at 5:30 p.m.

II. Roll Call: [A1.3]

Administrative Services Director/City Clerk Harwood Edvalson called the roll. In addition to Deputy Mayor Dan Swatman, elected officials attending were Councilmember Laurie Carter, Councilmember Dan Decker, Councilmember Mark Hamilton, Councilmember Randy McKibbin and Councilmember James Rackley. Deputy Mayor Swatman explained that Mayor Johnson was absent due to employment obligations for the evening.

Staff members in attendance were City Administrator Don Morrison, Chief Financial Officer Al Juarez, Police Chief Mike Mitchell, Community Development Director John Vodopich, Public Works Director Dan Grigsby, Community Services Director Gary Leaf, Community Services Maintenance Worker H.D. Messinger, Administrative Services Director/City Clerk Harwood Edvalson, and Administrative Specialist Shawn Campbell.

III. Agenda Items:

5:30:44

A. Presentation/Discussion: Community Forestry Report – Urban Tree Canopy Assessment.

City Arborist and Community Services Maintenance Worker H.D. Messinger said the assessment covered the City limits as well as possible future growth areas through annexation. He said 61% of the tree canopy is within the City limits. He said 43% of the land in the City is within the tree canopy cover classification, and the recommendation from American Forest Association is a minimum of 40%. He showed areas that are at risk of losing tree canopy due to development, most of which are along the SR410 corridor. He shared ideas to increase the tree canopy and suggested a tree bank fund for developers. He discussed the ways Community Development, Public Works and Community Services are working together to help citizens save or create tree canopy.

Councilmember Carter asked for the definition of tree canopy. She said the current codes require developers to maintain the landscaping for one year, but the enforcement of that is a problem. She asked if the City codes need to be updated. Mr. Messinger said a tree canopy is a tree of a minimum of 20 feet. He also said the different departments are working together to update the development standards. Councilmember Rackley asked about the mix of trees being planted in the City. Mr. Messinger listed the different types of trees and the types of areas each variety could be planted. He said it is important to have a large mix of trees to protect against disease. Councilmember Hamilton said he has noticed some trees being illegally cut down in the WSU forest.

5:32:18

B. Council Open Discussion:

Cottage Housing: Councilmember Rackley said the Community Development Committee will be submitting a two-year extension to the cottage housing ordinance for consideration at the next Council Meeting.

AWC Conference: Councilmember Lewis noted the Council needs to decide on the voting delegates for the conference at the next meeting.

Bonney Lake History Book: Councilmember Carter said the Bonney Lake History Book is now available to purchase from the Historical Society.

Senior Boards: Councilmember Carter noted the Bonney Lake High School Senior Boards are Wednesday, May 18, 2011. She encouraged others to participate in the judging.

YMCA Tour: Councilmember Carter asked Council if they are interested in having a tour of either the Gig Harbor or the Mel Korum YMCA. Several Councilmembers are interested in touring both facilities, and will invite the Design Commission to join the Council on the tour. Councilmember Carter noted an article in the Nation's Cities Weekly newspaper, which said the teen unemployment rate is extremely high and YMCAs employ a large number of teens. Deputy Mayor Swatman asked for confirmation that the swimming pool planned for the Bonney Lake YMCA will be competition size.

Lake Tapps Park: Councilmember Carter listed several items that are a concern regarding Pierce County needing more assistance from the Bonney Lake Police Department. Police Chief Mitchell said the Police Department is seeing an increase in cases where the City is backing up the County.

Justice Center: City Administrator Morrison said the City's leasing agent has contacted him, and there are a couple businesses interested in leasing space at the Justice Center. He said neither is walk-in retail. He asked Council for direction regarding moving City staff from other locations to the Justice Center or leasing to a non walk-in retail tenant, and explained some funding options. Councilmember Rackley said he would like to have staff move into the Justice Center. He said the potential revenue of leasing the space is not enough to make having a tenant a viable option. Councilmember Decker said he would like to vacate the City Hall Annex, cancel the lease on the modular building and lease the existing Annex building. Councilmember Lewis said having staff together in one location adds more than just monetary value. Council consensus was that staff provide the council with options to move additional staff to the Justice Center.

Swiss Park: Community Development Director Vodopich said he has made two attempts to contact the Swiss Park regarding the restroom issue. He said they have not returned his calls.

Council Meeting Schedule: Councilmember Carter stated National Night Out is August 2nd. She asked if Council would like to consider canceling the workshop so Council could attend National Night Out. Councilmember Lewis asked if Council would like to cancel the June 21, 2011 due to the AWC conference starting at 11:30am in Spokane, WA the following morning.

Councilmember Rackley moved to cancel the June 21, 2011 Council Workshop. Councilmember Decker seconded the motion.

Councilmember McKibbin said it is too early to decide. He said several people have not finalized their travel plans.

**Motion Approved 5-2.
Deputy Mayor Swatman and
Councilmember Lewis voted no.**

Pierce Transit: Councilmember Hamilton said the Bonney Lake Courier Herald stated that Pierce Transit is eliminating all bus routes to East Pierce County as of October 2011. He asked if the City is going to send the Transit Authority a letter stating the City will no longer be collecting sales tax for Pierce Transit as of October 2011. Councilmember Decker said the transit authority is also collecting a tax on vehicle registrations. He said if the transit authority does not service this area, citizens should not be paying a tax to them.

6:39:54

- C. **Review of Council Minutes:** April 17, 2011 Council Workshop, and April 24, 2011 Council Meeting

Councilmember Carter said the May 3, 2011 minutes p. 2, need to read Pierce County Regional Council. Councilmember Hamilton said Heather Stinson is on the Growth Management Coordinating Committee, while he is on the Pierce County Regional Council. The corrected minutes were forwarded to the May 10, 2011 Meeting for action.

- D. **Discussion:** AB11-57 – Ordinance D11-57 – Updating Title 14 of the Municipal Code Regarding the Development Code.

Planning Commission Chair Grant Sulham said there is a disconnect between the Municipal Code and the Growth Management Act. He said as the Municipal Code is currently written, all Comprehensive Plan Amendments have to go before the GMA Committee. He said per the GMA requirements not all amendments are required to go through the full process. He said this ordinance will clear up the confusion.

- E. **Discussion:** AB11-58 – Ordinance D11-58 – Updating the Municipal Code Regarding Impacts between Commercial and Residential Development.

Planning Commission Chair Grant Sulham said this ordinance considers the potential for light and noise pollution. He said the definition for nightclubs as defined would prohibit an outdoor beer garden or a second story restaurant with an outdoor patio. He said the Planning Commission could not find a way to prohibit outdoor seating or piped in music without hurting businesses. He said the Planning Commission recommends using the noise ordinance to regulate noise issues from these businesses. He said the City could require landscaping to mitigate the noise and light pollution.

Councilmember Lewis suggested the Council add two items to the Planning Commission workplan at the next Council Meeting; updating of Title 16.14 Landscaping to enhance buffering between commercial and residential properties and updating the definition of “Nightclub” and determine which zones they should be allowed. Councilmember Carter said the Code should require a buffer between R1 and High Density zones also. She said the City should only allow nightclubs along the transportation corridor. She asked about the businesses that currently have outdoor seating. Director Vodopich said nightclubs are

talked about in the business section of the Bonney Lake Municipal Code. Councilmember Hamilton said the Council should allow nightclubs only in the downtown core. Deputy Mayor Swatman said the Council needs to have more discussion and a clear vision before sending this item back to the Planning Commission.

IV. Executive Session: None

V. Adjournment:

At 6:57:p.m. Councilmember Rackley moved to adjourn the Workshop. Councilmember Lewis seconded the motion.

Motion to adjourn approved 7 – 0.

6:57pm

Harwood T. Edvalson, CMC
City Clerk

Neil Johnson, Jr.
Mayor

CITY COUNCIL MEETING

**May 24, 2011
7:00 P.M.**

MINUTES



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Website: www.ci.bonney-lake.wa.us

Audio Time Stamp ↓

Location: Bonney Lake Justice Center, 9002 Main Street East, Bonney Lake, Washington.

I. CALL TO ORDER – Mayor Neil Johnson, Jr. called the meeting to order at 7:00 p.m.

A. Flag Salute: Mayor Johnson led the audience in the Pledge of Allegiance.

B. Roll Call:

Administrative Services Director/City Clerk Harwood Edvalson called the roll. In addition to Mayor Johnson, elected officials attending were Deputy Mayor Dan Swatman, Councilmember Laurie Carter, Councilmember Dan Decker, Councilmember Mark Hamilton, Councilmember Donn Lewis, Councilmember Randy McKibbin, and Councilmember Jim Rackley.

Staff members in attendance were City Administrator Don Morrison, Public Works Director Dan Grigsby, Public Works Assistant Engineer Andrew Fonda, Community Development Director John Vodopich, Assistant Police Chief Dana Powers, Chief Financial Officer Al Juarez, Community Services Director Gary Leaf, Administrative Services Director/City Clerk Harwood Edvalson, City Attorney Jim Dionne, and Administrative Specialist Shawn Campbell.

C. Announcements, Appointments and Presentations:

1. Announcements:

a. **Proclamation:** Paint the Town Purple Day – Relay for Life – June 9, 2011.

Mayor Johnson read the proclamation aloud, and proclaimed Thursday, June 9, 2011 as Paint the Town Purple Day in Bonney Lake. He thanked Katrina Minton-Davis for all her hard work and dedication.

Katrina Minton-Davis thanked the Mayor and Council for their continued support of Relay for Life. She said Team Bonney Lake has always been a big Relay for Life supporter. She said this year’s theme is Night at the Movies. She presented the Council with Relay for Life Mugs.

2. Appointments: None.

3. Presentations:

a. **Presentation:** AB11-55 – Stormwater Pollution Prevention Art Contest Winners.

Assistant City Engineer Andrew Fonda gave a brief description of the Stormwater Pollution Prevention Project. He said one of the criteria of the grant is public education. He said the City met this criteria with the calendar contest. Mayor Johnson and Mr. Fonda presented the awards to the contest winners. The twelve

winners are - Friendly Vehicle Washing: Natalie Gleason and Baylee Littlefield, Household Hazardous Waste Disposal: Breanna Zirnelman and Julia Medrano, Pet Waste Disposal, Megan Body and Zach Lewandowski, Pollution / Illegal Dumping Reporting: Makenna Pope and Anna Gomez, Used Oil Recycling: Whuckara Jensen and Emma Sulkosky, Water Conservation: Tristan Glivar and Jacob Bohl.

Mayor Johnson thanked Mr. Fonda for his hard work and dedication to this project.

At 7:14 p.m. Councilmember Rackley moved for a ten-minute break. Mayor Johnson reconvened the Meeting at 7:23 p.m.

D. Agenda Modifications: None.

7:23 p.m.

II. PUBLIC HEARINGS, CITIZEN COMMENTS & CORRESPONDENCE:

A. Public Hearings: None.

B. Citizen Comments:

Keith Martin, 5202 Rainier Drive E., Bonney Lake, said he is concerned about an article he read in the Courier Herald regarding updates to the City ordinance for recreational vehicles. He said this ordinance could have a huge impact on a large number of citizens in Bonney Lake. He said he does not feel for a lakeside community these restrictions are practical and this ordinance will be a hardship on many citizens. He asked about the definition of adjacent. He said some citizens choose not to live in a neighborhood with a homeowners association and this ordinance needs to be revised.

Community Development Director Vodopich clarified this ordinance has been on the books since 1967. He clarified the regulations for Recreational Vehicles and the setbacks required. Mayor Johnson said the City is not actively looking for violations of this ordinance. He said it would take a complaint to have code enforcement come to investigate. He said each case would be reviewed individually. Councilmember Carter said the only update to this ordinance is in the penalty portion. She said this ordinance was meant to dovetail with the City's nuisance ordinance.

Debbie McDonald, PO Box 7125, Bonney Lake, she thanked Council for signing the Paint the Town Purple proclamation. She said Pierce County Relay for Life is in the top ten in the nation for raising money and Pierce County is number one per capita. She presented Council with a framed certificate for their continued support.

Shawn Hoey, MBA Pierce County, He said the Master Builders Association would like to share two concerns with proposed Ordinance D11-58, the restrictions and design standards being placed on the residential builders instead of commercial developers and the 500 feet buffer requirement. He said 500 feet is a substantial amount of land. He said this requirement would have a large impact on builders.

- C. Correspondence:
A letter from Lance and Patricia Davis, dated May 23, 2011, regarding a commercial nightclub property adjacent to residential property and the associated noise, was received for the meeting and entered into the record.

7:27p.m.

III. COUNCIL COMMITTEE REPORTS:

- A. Finance Committee: Deputy Mayor Swatman said the committee met at 5:30 p.m. earlier in the evening and discussed personnel updates, minutes review, and a utility latecomer agreement, which is being referred back to legal council to clear up language. He said they also discussed how utility taxes are assessed on wireless telecommunications.
- B. Community Development Committee: Councilmember Rackley said the committee met on May 17, 2011 and discussed water system backflow testing, and forwarded AB11-62 – Resolution 2125 – Cottage Housing extension, AB11-60 – Resolution 2123 – Agreement with Parametrix for design of VFD Installation Project, AB11-61 – Resolution 2124 – Agreement with Parametrix for design of 97th Street and 208th Ave Improvement Project, and AB11-59 – Resolution 2122 – 2011 Street Striping and Pavement Marking to the May 24, 2011 Council Meeting.
- C. Public Safety Committee: Councilmember Hamilton said the committee has not met since the last Council Meeting.
- D. Other Reports:

Pierce County Regional Council: Councilmember Hamilton said he attended the May 19, 2011 meeting. He noted there was not a quorum. He said they discussed the amount each jurisdiction pays to belong to the PCRC. He said the Port District is currently only paying \$100. He said the discussion indicated they should pay closer to the amount the City of Tacoma pays.

White River Families First Coalition: Councilmember Carter said she, Councilmember Lewis, and David Wells attended the May 23rd meeting. She said they have nomination forms for acknowledging the behind the scenes people. She said the Buckley activities center has dovetailed their summer program with the City of Bonney Lake's. She invited people to the Pierce County Council meeting on May 31, 2011 at the Bonney Lake Justice Center and to the Pierce Transit Save our Buses meeting in June. She said the Franciscan Foundation may have grant money available for future use in the area.

Rainier School: Councilmember Lewis said the Mayor of Buckley said the Rainier School will have funding through the end of the 2011. He said they will need to find additional funding for next year.

Pierce Transit: Mayor Johnson said he attended the Pierce Transit Board meeting. He said Pierce Transit is looking to eliminate service in Bonney Lake but keep the tax revenue from the City. He said the City would need to have Pierce Transit give up the area as a taxing district for the small cities in the area to set up their own transportation district. He added the Sounder service will not be affected.

Eastown Steering Committee Report: Councilmember Carter requested a Steering Committee report. Councilmember McKibbin stated one will be available at the end of the process.

7:42 p.m.

IV. CONSENT AGENDA:

- A. **Approval of Corrected Minutes:** May 3, 2011 Council Workshop and May 10, 2011 Council Meeting.
- B. **Approval of Accounts Payable Checks/Vouchers:** Accounts Payable checks/vouchers #61056 thru 61100 (including wire transfer #'s 5032011 & 5042011) in the amount of \$269,899.82; Accounts Payable checks/vouchers #61101 thru 61121 in the amount of \$5,304.89; Accounts Payable checks/vouchers #61122 thru 61154 (including wire transfer #'s 5052011, 5132011, 20110516 & 20110517) in the amount of \$318,109.03 for a grand total of \$593,313.74.
- C. **Approval of Payroll:** Payroll for April 16-30th 2011 for checks 29739-29769 including Direct Deposits and Electronic Transfers in the amount of \$ 579,574.28. Payroll for May 1st-15th 2011 for checks 29770-29792 including Direct Deposits and Electronic Transfers in the amount of \$ 404,042.73.
- D. **AB11-59 – Resolution 2122** – A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing A Professional Services Agreement With Strip Ripe Rite, Inc. For The 2011 Street Striping And Pavement Markings Project.
- E. **AB11-60 – Resolution 2123** – A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing A Contract With Paramatrix Engineering For The Design Effort Of The VFD Installation Grant Project.

Councilmember Carter requested that Item A., Approval of Corrected Minutes be moved for consideration as Full Council Issues, Item E.

Consent Agenda approved as amended 7 – 0.

V. FINANCE COMMITTEE ISSUES: *None.*

7:43 p.m.

VI. COMMUNITY DEVELOPMENT COMMITTEE ISSUES:

- A. **AB11-61 – Resolution 2124** – A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing A Contract With Paramatrix Engineering For The 97th Street And 208th Avenue Sidewalk, Watermain, And Sewermain Improvements.

Councilmember Rackley moved to approve Resolution 2124. Councilmember Lewis seconded the motion.

Deputy Mayor Swatman said it is very important to connect open spaces within the City. He said even though Cerderview is zoned R2, residents cannot build duplexes until the City puts in sewers. He asked Public Works Director Grigsby to give some background information on the sewers. Director Grigsby said the City will place a dry line sewer in the area since the road will already be under construction. He said the septic systems in this area are old and the area needs to be connected to the City sewer system. He said part of the funding for this project will be used to make a priority list for adding sewers.

Resolution 2124 approved 7 – 0.

VII. PUBLIC SAFETY COMMITTEE ISSUES: *None.*

7:49 p.m.

VIII. FULL COUNCIL ISSUES:

- A. **AB11-57 – Ordinance 1389 [D11-57]** – An Ordinance Of The City Of Bonney Lake, Pierce County, Washington, Amending Title 14 Of Bonney Lake Municipal Code.

Councilmember Hamilton moved to approve Ordinance 1389. Councilmember Lewis seconded the motion.

Deputy Mayor Swatman asked the City Attorney if this ordinance would give citizens increased ability to challenge the regulations. City Attorney Dionne said this should reduce the challenges.

**Ordinance 1389 approved 6-1.
Councilmember Decker voted no.**

- B. **AB11-58 – Ordinance D11-58** – An Ordinance Of The City Of Bonney Lake, Pierce County, Washington, Amending Bonney Lake Municipal Code Chapter 18.22 And 18.31 To Provide Performance Standards For Commercial And Residential Zones And Uses Within 500 Feet Of Each Other.

**Councilmember Swatman moved to approve Ordinance D11-58.
Councilmember Carter seconded the motion.**

Mayor Johnson said two citizens signed up to speak on the proposed ordinance. Kirk Tower, 8416 182nd Ave E, Bonney Lake, He said he believes this ordinance needs to add a section regarding buffers between R1 and R3 as well.

Deputy Mayor Swatman asked if Mr. Tower would like to have similar buffers between R1 and R3 that are proposed between commercial and R1. Mr. Tower said the City needs to have similar buffers.

Shawn Hoey, Master Builders Association of Pierce County, reiterated his concern with the 500 foot requirement and asked Council to consider changing the requirement. Deputy Mayor Swatman asked if Mr. Hoey has a different number in mind. Mr. Hoey said the regulation is normally put on the commercial builders and not the residential builders.

Councilmember Carter said the commercial property already exists in the area. She said it would be difficult to require existing commercial businesses to retrofit to the new requirements.

Councilmember Lewis moved to table Ordinance D11-58 to the June 7, 2011 workshop. Councilmember Decker seconded the motion.

Motion approved 7-0.

- C. **AB11-62 – Resolution 2125** – A Resolution Of The City Of Bonney Lake, Pierce County, Washington, Extending The Submittal Period For Cottage Housing Proposals Per Ordinance No. 1347.

Councilmember Rackley moved to approve Resolution 2125. Councilmember Decker seconded the motion.

Councilmember Rackley said the only change is extending the deadline by two years. Councilmember Carter asked if the City was only going to accept one application. She referenced the section in the ordinance that states the City will choose from a pool of applications. Councilmember Rackley said the City has not had one application to date. He said the City needs to get one to be able to move forward. Community Development Director Vodopich said all extensions need to be approved by Council. Deputy Mayor Swatman said the City of Puyallup is also looking at Cottage Housing options. He said they have not had much interest either.

**Resolution 2125 approved 6-1.
Councilmember Decker voted no.**

- D. **AB11-63** – A Motion Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Appointing Three Voting Delegates To The 2011 AWC Annual Conference.

Mayor Johnson asked for volunteers. Deputy Mayor Swatman, Councilmember McKibbin, and Councilmember Lewis volunteered to be the voting delegates.

Councilmember Rackley moved to approve motion AB11-63 to include the three volunteers. Councilmember Decker seconded the motion.

Motion approved 7-0.

- E. **Approval of Corrected Minutes:** May 3, 2011 Council Workshop and May 10, 2011 Council Meeting.

Councilmember Carter noted that Council received a corrected set of the May 3, 2011 minutes. She said the only change is on p. 1, removing Regional in the section titled Pierce County Regional Council.

Councilmember Decker moved to approve the Corrected Minutes. Councilmember Lewis seconded the motion.

Motion approved 7-0.

8:04p.m.

- I. EXECUTIVE SESSION:** Pursuant to RCW 42.30.110(1)(i) the Council recessed to an executive session with the City Attorney at 8:04 p.m. for 10 minutes to discuss potential litigation. The Council returned to Chambers at 8:16 p.m.

8:17p.m.

- X. ADJOURNMENT:**

At 8:17 p.m., Councilmember Rackley moved to adjourn the meeting. Councilmember Lewis seconded the motion.

Motion to adjourn approved 7 – 0.

Harwood Edvalson, CMC
City Clerk

Neil Johnson
Mayor

Items presented to Council at the May 24, 2011 Meeting:

- City of Bonney Lake – *May 3, 2011 Council Workshop Minutes* – Harwood Edvalson.
- Letter – *Noise Concern between Commercial and Residential* – Lance and Patricia Davis

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City of Bonney Lake, Washington
City Council Agenda Bill (AB)

Department/Staff Contact: CD / Cole Elliott	Meeting/Workshop Date: 14 June 2011	Agenda Bill Number: AB11-65
Agenda Item Type: Resolution	Ordinance/Resolution Number: 2127	Councilmember Sponsor: James Rackley

Agenda Subject: Agreement between Falling Water Developer and City

Full Title/Motion: A Motion Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Falling Water Annexation And Utility Agreement.

Administrative Recommendation:

Background Summary: The Developers of Falling Water has requested the City provide installation, observation and testing for the future “dry” sanitary sewer mains in Div 3 Phase 2 of the Falling Water Plat.
 The City has recognized that it is in the citizens’ best interest to observe the installation of infrastructure that may in the future be conveyed to the City. The City has provided observation and inspection services for the previous phases of this plat. This agreement is required due the changes made by the City to the code regarding permitting, fees and inspection since the last phase of Falling Water was constructed.
Attachments: Resolution 2127, Falling Water Extesion Agreement

BUDGET INFORMATION			
Budget Amount	Current Balance	Required Expenditure	Budget Balance
Budget Explanation:			

COMMITTEE, BOARD & COMMISSION REVIEW			
Council Committee Review:	<i>Approvals:</i>		Yes No
Date:	Chair/Councilmember James Rackley		<input checked="" type="checkbox"/> <input type="checkbox"/>
	Councilmember Randy McKibbin		<input checked="" type="checkbox"/> <input type="checkbox"/>
	Councilmember Donn Lewis		<input checked="" type="checkbox"/> <input type="checkbox"/>
Forward to:	Consent Agenda: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Commission/Board Review:			
Hearing Examiner Review:			

COUNCIL ACTION	
Workshop Date(s):	Public Hearing Date(s):
Meeting Date(s):	Tabled to Date:

APPROVALS		
Director: <i>John Vodopich</i>	Mayor:	Date Reviewed by City Attorney: (if applicable):

RESOLUTION NO. 2127

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BONNEY LAKE, PIERCE COUNTY, WASHINGTON, AUTHORIZING
A ANNEXATION AND UTILITY AGREEMENT WITH CAPRI
INVESTMENT, LLC FOR THE FALLING WATER PLANNED
DEVELOPMENT DISTRICT.**

Whereas, Owner owns certain real property located in Pierce County, Washington, outside the corporate limits of the City, but which is adjacent to and abutting the corporate limits of the City; and

Whereas, Owner has obtained development approval for the project, which is known as Falling Water Preliminary Plat/Planned Development District, AE11-96 and AE12-96 from Pierce County on April 28, 1997, for the property; and

Whereas, Owner has requested that the City provide sanitary sewer utility service to the property; and

Whereas, it is generally the policy of the City to condition the provision of sanitary sewer service outside the corporate limits of the City upon actual annexation of the property to the City; and

Whereas, The City Council finds that it is in the public interest that this agreement be carried out at this time;

Now therefore, be it resolved;

that the City Council of the City of Bonney Lake, Washington, does hereby authorize the Mayor to sign the attached Annexation and Utility Agreement with Capri Investments LLC for the Falling Water Planned Development District.

PASSED by the City Council this 14th day of June, 2011

Neil Johnson Jr., Mayor

ATTEST:

Harwood T. Edvalson, City Clerk

APPROVED AS TO FORM:

James Dionne, City Attorney

Return To:

City Clerk's Office
City of Bonney Lake
PO Box 7380
Bonney Lake, WA 98390-0944

ANNEXATION AND UTILITY AGREEMENT

THIS AGREEMENT (“Agreement”) is entered into this _____ day of _____, 2011 by and between the City of Bonney Lake (“City”), a municipal corporation, and Capri Investments, L.L.C., a Washington State limited liability company (“Owner”).

WHEREAS, Owner owns certain real property located in Pierce County, Washington, outside the corporate limits of the City, but which is adjacent to and abutting the corporate limits of the City; and

WHEREAS, Owner has obtained development approval for the project, which is known as Falling Water Preliminary Plat/Planned Development District, AE11-96 and AE12-96 from Pierce County on April 28, 1997, for the property; and

WHEREAS, Owner has requested that the City provide sanitary sewer utility service to the property; and

WHEREAS, it is generally the policy of the City to condition the provision of sanitary sewer service outside the corporate limits of the City upon actual annexation of the property to the City; and

NOW, THEREFORE, the parties agree as follows:

1. Property. This Agreement shall be applicable to the property owned by Owner, which consist of approximately 19.15 acres, and shown on Exhibit “A,” and specifically and legally described in Exhibit “B,” hereafter referred to as “the Property”.
2. Acknowledgments and Representations. The Owner and the City hereby acknowledge and agree as follows:

- (a) The Property is located in Pierce County, Washington, which is outside the corporate limits of the City, but which is adjacent to and abutting the corporate limits of the City.
- (b) Owner has obtained development approvals for the project, which is known as Falling Water Preliminary Plat/Planned Development District, AE11-96 and AE12-96 from Pierce County on April 28, 1997, for the Property
- (c) The Owner has requested that the City provide sanitary sewer utility service to the Property.
- (d) This Agreement to extend utility service outside the corporate limits of the City is authorized by RCW 35.92.020 and RCW 35.67.310, and shall not be construed as a voluntary agreement pursuant to RCW 82.02.020 and therefore the provisions of RCW 82.02.020 shall not be applied hereto.
- (e) A City's requirement of an annexation agreement as a condition of extending utility service to properties contiguous to the corporate limits of the City is recognized by Washington law.
- (f) The Property is not currently located within the City's Urban Growth Area as adopted by the City in its Comprehensive Plan. Owner request the City to initiate an urban growth amendment for the Property. Pierce County has repeatedly acknowledged its support of the Property to be within the City's urban growth area, in order for the City to provide sewer to the Property. On November 12, 2003, the City approved the "Agreement For On-Site Sewage System Services", attached and marked Exhibit "C".
- (g) In the event of violation or breach of the terms of this Agreement, or upon the invalidation of this Agreement by judicial action, operation of law or otherwise, the City reserves the right, at its sole discretion, to immediately terminate the provision of utility services to areas within the Property not already being served at the time of violation, breach, or invalidation.
- (h) At some time in the future, the City may, in its sole discretion, elect to annex all or part of the Property.
- (i) Until annexation of the Property by the City, Pierce County shall retain jurisdiction over the permitting and processing of development approvals relating to the Property, subject to the limitations of *Schneider Homes, Inc. v. City of Kent*, 87 Wn. App. 774 (1997).

3. Petition and Covenant for Annexation. In consideration of the City's agreement and commitment to provide sewer to the Property, the Owner hereby petitions, agrees and covenants as follows:

- (a) This Agreement shall be considered an irrevocable petition for annexation of the Property to the City. Owner agrees, promises and covenants that if at any time the Property is included within any area which is being considered for annexation to the City, Owner shall join in said annexation and by this petition does provide this Notice of Intention to Annex, and further agrees not to oppose any such annexation. Owner expressly acknowledges that by so agreeing, it waives the right to oppose such annexation.
- (b) The Owner agrees to execute all necessary documents such as letters, notices, petitions or other instruments initiating, furthering or accomplishing the annexation of the Property to the City. This Agreement is a covenant running with the Property described in Exhibit "B" and shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns.
- (c) The Owner understands and agrees that the laws of the State of Washington relating to the annexation of property by a city provide that property may be annexed to a city if property owners, equal to sixty percent of the assessed value of property within the area proposed to be annexed, sign a petition for such an annexation.
- (d) The Owner understands and agrees that upon annexation by the City, the Property shall be assessed and taxed at the same rate and on the same basis as property within the City is assessed and taxed to pay for any then outstanding indebtedness of the City which was contracted prior to, or existing at the date of annexation.
- (e) The undersigned Owner, on behalf of himself/herself/themselves, his/her/their heirs, successors and assigns, hereby designate(s) the City as Owner's true and lawful attorney-in-fact for the purpose of signing any petition leading to the annexation of the Property to the City, with full power to do and perform any proper act which the Owner may do with respect to the annexation of said Property. The City may exercise this power through its City Clerk or otherwise as the City Council may direct. This Special Power of Attorney is given for the valuable consideration of the furnishing of sanitary sewer utility service by the City, and this Special Power of Attorney is further given as security for performance of the annexation covenant obligation set forth herein. This Special Power of Attorney is not revocable and shall not be affected by the disability of the principal.
- (f) The Owner shall not protest the future formation of any local improvement district for sewers which includes property within the Property described in

4. Conditions. In consideration for the City's agreement and commitment to provide sewer to the Property, and in recognition of the City's conditions for annexation, the Owner and City hereby agree and covenant as follows:

- (a) The Falling Water PDD/Preliminary Plat is attached and marked Exhibit "D".
- (b) The City has reviewed and approved the Falling Water PDD/Preliminary Plat, which complies with all Pierce County policies, subdivision and zoning requirements. The City acknowledges that it may not comply with all City policies, subdivisions and zoning requirements.
- (c) All public improvements related to sanitary sewer constructed within the Property shall be constructed consistent with City standards, plans, policies and regulations. In February 2004, the City approved the "dry-line sewer plans" for Falling Water, Division One.
- (d) The Owner shall allow City inspection during construction of all public improvements related to sanitary sewer as they are built, regardless of the ownership of such improvements, and shall reimburse the City for any reasonable costs incurred in such inspection.

5. Sanitary Sewer Service. The City agrees to provide sanitary sewer utility service to the Property as described in Exhibit "B", subject to the City's ability to obtain the necessary approvals, agreements and franchises from other agencies. The City agrees to diligently exert all reasonable efforts to obtain such approvals, agreements and franchises and to provide these services in a timely manner. The Owner agrees to pay to the City the System Development Charges for sanitary sewer service on the same terms and conditions as other similarly situated users within the City's sanitary service areas and after review and approval by Owner to execute any developer extension agreement required by the City.

6. General Provisions. The Owner and the City hereby acknowledge and agree to the following provisions, which shall apply to the entire Agreement:

- (a) This Agreement represents the entire agreement between the parties. No change, modification, termination or attempted waiver of any of the provisions of the Agreement shall be binding on either party except by means of a signed writing by authorized representatives of each party. This Agreement shall not be modified, supplemented or otherwise affected by the course of dealing between the parties.

- (b) The terms and provisions of this Agreement shall inure to the benefit of and become binding upon the heirs, assigns, and/or successors in interest of the parties hereto, and related entities (i.e. entities with elements of common ownership) and principal owners of the Owner.
- (c) Failure by either party to enforce any provision of this Agreement or to declare a breach shall not constitute a waiver thereof, nor shall it impair any party's right to demand strict compliance and performance of that or any other provision of this Agreement at any time thereafter.
- (d) Except as provided in section 2(g), if any provision of this Agreement or its application is held invalid, the remainder of this Agreement or the application of the remainder of the Agreement shall not be affected.
- (e) Upon execution, this Agreement, or memorandum thereof, shall be recorded with the Pierce County Auditor's office. The Owner shall be responsible for recording and shall provide evidence of such recording to the City.

IN WITNESS WHEREOF, the Owner and the City have executed this Agreement on the date first written above.

CITY OF BONNEY LAKE

Neil Johnson, Mayor

ATTEST:

APPROVED AS TO FORM:

Harwood T. Edvalson, City Clerk

James Dionne, City Attorney

State of Washington)
) ss.
County of Pierce)

I certify that I know or have satisfactory evidence that Robert L. Young is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledge it as the Mayor of the City of Bonney Lake to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this _____ day of _____, 2011.

Print or Type Name: _____
Notary Public in and for the State of Washington,
residing at _____.
My appointment expires: _____

OWNER: CAPRI INVESTMENTS, L.L.C.

BY: FALLING WATER LAND CO., L.L.C.,
Its Manager

BY:- _____

William P. Hurme Manager

State of Washington)
) ss.
County of _____)

I certify that I know or have satisfactory evidence that William P. Hurme is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledge it as the manager of Falling Water Land Co., LLC, which is the manager of Capri Investments, LLC, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this _____ day of _____, 2011.

Print or Type Name: _____
Notary Public in and for the State of Washington,
residing at _____.
My appointment expires: _____

EXHIBIT B
LEGAL DESCRIPTION
DIVISION 3, PHASE 2

A PORTION OF THE SOUTHEAST QUARTER OF THE SECTION 8,
TOWNSHIP 19 NORTH, RANGE 5 EAST OF THE WILLAMETTE MERIDAN
MORE PARTICULARLY DESCRIBES AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 8;
THENCE N 02°18'54"E ALONG THE EAST LINE OF SAID SECTION 8 AND
ALONG THE SAME BEARING DATUM AS THAT PARTICULAR RECORD OF
A.L.T.A SURVEY RECORDED UNDER AUDITOR'S RECORDING NUMBER
200210295001 A DISTANCE OF 2660.74 FEET TO THE EAST QUARTER
CORNER SAID SECTION 8; THENCE N 89°19'53"W ALONG THE SOUTH
LINE OF A STRIP OF LAND PER DEED RECORDED UNDER AUDITOR'S
RECORDING NUMBERS 8406220250 AND AS DISCLOSED ON THAT
PARTICULAR RECORD OF SURVEY FOR BOUNDARY LINE AGREEMENT
RECORDED UNDER AUDITORS RECORDING NUMBER 9911305006 A
DISTANCE OF 403.49 FEET TO THE NORTHWEST CORNER OF THE PLAT
OF FALLING WATER DIVISION 1, PHASE 1, A P.D.D. AS RECORDED UNDER
AUDITORS FEE NO. 200409295004; THENCE S23°29'13"E ALONG THE
WESTERLY LINE OF SAID PLAT A DISTANCE OF 1293.29 FEET; THENCE
CONTINUING ALONG SAID WESTERLY LINE S35°42'14"E , A DISTANCE OF
190.35 FEET; THENCE S59°04'56"E A DISTANCE OF 190.66 FEET TO THE
NORTHERLY MARGIN OF FALLING WATER BLVD AND A POINT ON A
CURVE TO THE RIGHT HAVING A RADIAL BEARING WHICH BEARS
S54°14'26"E FROM THE RADIUS POINT; THENCE ALONG SAID
NORTHERLY MARGIN AND CURVE TO THE RIGHT THROUGH A CENTRAL
ANGLE OF 5°29'20" WITH A RADIUS OF 885.00 FEET FOR AN ARC LENGTH
OF 84.78 FEET; THENCE CONTINUING ALONG SAID NORTHERLY MARGIN
S41°14'54"W A DISTANCE OF 552.30 FEET **TO THE TRUE POINT OF
BEGINNING**; THENCE N60°53'10"W, LEAVING SAID NORTHERLY MARGIN,
A DISTANCE OF 105.32 FEET TO A POINT ON A CURVE TO THE LEFT FOR
WHICH THE RADIAL BEARING BEARS N60°53'10"W; THENCE ALONG SAID
CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 59°36'21" WITH A
RADIUS OF 35.00 FEET AN ARC LENGTH OF 36.41 FEET TO A POINT OF
REVERSE CURVATURE TO THE LEFT HAVING A RADIAL BEARING OF
N42°37'02"W; THENCE ALONG SAID REVERSE CURVE TO THE LEFT
THROUGH A CENTRAL ANGLE OF 41°20'12" WITH A RADIUS OF 20.00 FEET
AN ARC LENGTH OF 14.43 FEET TO A POINT OF COMPOUND CURVATURE
TO THE LEFT FOR WHICH THE RADIAL BEARING BEARS S42°37'02"E;
THENCE ALONG SAID COMPOUND CURVE TO THE LEFT THROUGH A
CENTRAL ANGLE OF 3°46'49" WITH A RADIUS OF 155.00 FEET AN ARC
LENGTH OF 10.23 FEET TO A POINT OF REVERSE CURVATURE TO THE
LEFT FOR WHICH THE RADIAL BEARING BEARS N46°23'51"W; THENCE

ALONG SAID REVERSE CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 3°02'28" WITH A RADIUS OF 765.00 FEET AN ARC LENGTH OF 40.60 FEET; THENCE N43°21'23"W A DISTANCE OF 50.00 FEET TO A POINT OF CURVATURE TO THE LEFT FOR WHICH THE RADIAL BEARING BEARS N43°21'23"W; THENCE ALONG SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 2°44'46" WITH A RADIUS OF 715.00 FEET AN ARC LENGTH OF 34.27 FEET; THENCE N30°36'11"W A DISTANCE OF 228.23 FEET; THENCE N48°45'06"W A DISTANCE OF 206.58 FEET; THENCE N66°01'29"W A DISTANCE OF 772.95 FEET; THENCE N23°58'31"E A DISTANCE OF 152.19 FEET TO A POINT OF CURVATURE TO THE RIGHT FOR WHICH THE RADIAL BEARING BEARS N25°34'54"E; THENCE ALONG SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 0°18'11" HAVING A RADIUS OF 475.00 FEET AN ARC LENGTH OF 2.51 FEET TO A POINT OF COMPOUND CURVATURE FOR WHICH THE RADIAL BEARING BEARS N25°16'43"E; THENCE ALONG SAID COMPOUND CURVE THROUGH A CENTRAL ANGLE OF 91°18'12" WITH A RADIUS OF 20.00 FEET AN ARC LENGTH OF 31.87 FEET; THENCE N23°58'31"E A DISTANCE OF 79.88 FEET TO A POINT OF CURVATURE TO THE LEFT FOR WHICH THE RADIAL BEARING BEARS N66°01'29"W; THENCE ALONG SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 90°00'00" HAVING A RADIUS OF 20.00 FEET AN ARC LENGTH OF 31.42 FEET; THENCE N66°01'29"W A DISTANCE OF 70.12 FEET TO A POINT OF CURVATURE TO THE RIGHT FOR WHICH THE RADIAL BEARING BEARS N28°58'31"E; THENCE ALONG SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 18°41'34" HAVING A RADIUS OF 340.00 FEET AN ARC LENGTH OF 110.93 FEET; N47°19'55"W A DISTANCE OF 356.47 FEET TO A POINT OF CURVATURE TO THE LEFT FOR WHICH THE RADIAL BEARING BEARS S42°40'05"W; THENCE ALONG SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 20°21'01" HAVING A RADIUS OF 460.00 FEET AN ARC LENGTH OF 163.38 FEET; THENCE N67°40'56"W A DISTANCE OF 134.80 FEET; N19°16'56"W A DISTANCE OF 7.23 FEET; THENCE S87°56'01"W A DISTANCE OF 28.45 FEET; THENCE S71°37'22"W A DISTANCE OF 59.20 FEET; S81°05'50"W A DISTANCE OF 66.86 FEET; THENCE S78°32'28"W A DISTANCE OF 68.51 FEET; THENCE S73°20'20"W A DISTANCE OF 85.74 FEET; THENCE S28°16'36"W A DISTANCE OF 48.98 FEET; THENCE S12°54'14"W A DISTANCE OF 128.91 FEET; THENCE S47°19'55"E A DISTANCE OF 992.34 FEET; THENCE S66°01'29"E A DISTANCE OF 834.48 FEET; THENCE S48°45'06"E A DISTANCE OF 128.68 FEET; THENCE S30°36'11"E A DISTANCE OF 360.20 FEET TO SAID NORTHERLY MARGIN OF FALLING WATER BLVD AND A POINT ON A CURVE TO THE LEFT FOR WHICH THE RADIAL BEARING BEARS N22°26'03"W; THENCE ALONG SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 26°19'03" WITH A RADIUS OF 885.00 FEET AND ARC DISTANCE OF 406.50 FEET; THENCE N41°14'54"E 46.66 FEET TO THE **POINT OF BEGINNING**.

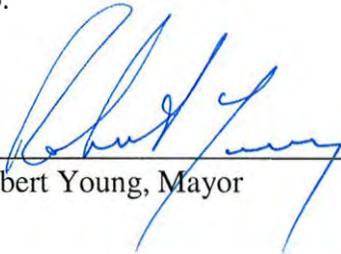
CONTAINING 19.15 ACRES MORE OR LESS

RESOLUTION NO. 1185

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE,
PIERCE COUNTY, WASHINGTON, AUTHORIZING A SEPTIC MAINTENANCE
AGREEMENT WITH THE FALLING WATER DEVELOPMENT.**

The City Council of the City of Bonney Lake, Washington, does hereby resolve that the Mayor is authorized to sign the agreement attached hereto and incorporated herein by this reference.

PASSED by the City Council this 11th day of November 2003.



Robert Young, Mayor

ATTEST:



Harwood T. Edvalson, City Clerk

APPROVED AS TO FORM:



James Dionne, City Attorney

AGREEMENT FOR ON-SITE SEWAGE SYSTEM SERVICES

This AGREEMENT is entered into on the date noted at bottom, by and between the City of Bonney Lake, a municipal corporation, hereinafter referred to as “City”, and Capri Investments, LLC hereinafter referred to as “Developer”.

Whereas, the City has a vested interest in the design, construction, monitoring, operation and maintenance of the community on-site sewage disposal systems, including the gravity sewer mains, in the vicinity of the aquifer recharge area of Victor Falls Springs, which is an important source of domestic water supply for the City;

Whereas, there is a reasonable possibility that someday the Falling Water vested plat, portions of which lie within that recharge area, may come within the Urban Growth Area of Bonney Lake and the transfer of this area from septic to sewers needs to be anticipated;

Whereas, the City can provide monitoring, maintenance and stable operation of the community septic systems and has an appropriate system in place to collect monthly sewer fees and keep appropriate records related to monitoring, operation and maintenance of the septic systems and septic system users of Division 1-3 of the plat of Falling Water.

THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. The Developer shall submit the plans and specifications for each community on-site sewage disposal system for the Falling Water Plat Division 1 Phase 1 (115 lots) to the City of Bonney Lake for review and input prior to submittal to the State Department of Health. These plans and specifications include a system of gravity sewer mains to be used as part of the effluent collection system for the community septic systems. If sewer becomes available, these gravity sewer mains are intended for use within that system.

The plans and specifications for the system of gravity sewer mains shall be reviewed and approved by the City of Bonney Lake Public Works Department.

The Developer shall design and construct the community on-site septic systems for Division 1 Phase 1 of Falling Water according to State Department of Health regulations and guidelines. If the City of Bonney Lake desires septic system design features not required by the guidelines or regulations, the City will be financially responsible for those features. Those features, if any, can only be considered if they are not in conflict with the appropriate regulations, guidelines or accepted best practices.

2. The Developer shall provide the City a written schedule of inspections for community septic systems. Joint inspections with the Developer’s engineer and the City shall be scheduled whenever possible. The Developer’s contractor shall coordinate the inspections for the dry-line sewer as appropriate.

3. The Developer shall provide the City of Bonney Lake with an easement for the community septic system with at least 20 feet of area around the drainfields and reserve areas. The Developer shall also provide the City of Bonney Lake with access easements to the drainfield sites.

4. The Developer shall construct gravity sewer mains for future conversion to public sanitary sewers for Division 1 Phase 1 of the Falling Water Plat.
5. The Developer shall record covenants on the land and all future lots of Division 1 Phase 1 of Falling Water requiring the owners of the land and lots to pay the City of Bonney Lake the then-current sewer system development charge prior to building permitting, and to pay the then-current monthly sewer rates for the services provided by the City herein. The covenant shall also allow the City to establish a lien on the property if the monthly sewer charges are not paid. The covenant shall be in a form agreeable to the City, and shall be executed and recorded prior to Developer's sale of any lot.
6. The Developer shall record as part of the plat a right of entry for the City of Bonney Lake to inspect, monitor and maintain any portion of the septic system on private property. The Developer shall provide the homeowner and the homeowners association with their respective responsibilities and obligations necessary to assist the City of Bonney Lake in fulfilling its responsibilities and obligations for monitoring, maintenance and operation of the septic systems. These responsibilities and obligations will be addressed during the design and review of plans and specifications for the septic systems. With respect to the homeowners association, these obligations shall include, without limitation, collecting the bi-monthly water billing records for each lot owner and submitting such records to the City for review upon such schedule, as the City shall establish.
7. If, at some point in the future the Falling Water Development is brought into the City's UGA and therefore the Developer provides sewer to the remainder of the subdivision, the Developer shall, at its sole expense, also provide sanitary sewer lift stations and conveyance capacity for Division 1 Phase 1 of the Falling Water Development to a connection point of the Bonney Lake's sewer system according to the City's comprehensive sewer plan.
8. The City shall provide oversight and maintenance of the community on-site sewage disposal systems as deemed reasonably necessary to provide continuous sanitary sewer service for Division 1 Phase 1 of Falling Water, consistent with the regulations, guidelines and operation and maintenance manual approved by the Washington State Department of Health pursuant to WAC 246-272-08001(2)(d). If any portion of the community system ever needs to be replaced, the City will replace that portion of the system as deemed necessary by the Washington State Department of Health to restore sewer service.
9. The City will bill each individual homeowner directly for sewer service on a monthly basis according to the current regular rates established by City ordinance.
10. If public sewers become available to the Falling Water Plat, the Developer builds the infrastructure necessary to provide sewer conveyance from Division 1 Phase 1 to the Sumner Treatment Plant, and the Falling Water community on-site sewage disposal system is connected to the City's sewer system, the City of Bonney Lake will then rescind and release the community septic system easements on the property, and the Developer shall be responsible for decommissioning the on-site system as is appropriate,

as required by law. In that event, the City's responsibilities under this Agreement shall cease.

11. Pursuant to RCW 35.67.020 and RCW 35.92.020, the City may cause any of its obligations under this Agreement to be performed by a third party, public or private.

12. The City's obligations under this Agreement are conditioned upon the Developer's full compliance with all applicable laws and regulations with respect to the design and construction of the Falling Water community on-site sewage disposal system.

13. The term of this Agreement shall be five (5) years from the date of execution. This Agreement shall automatically renew for subsequent five-year terms unless either party notifies the other of its intent not to renew the Agreement at least one year prior to the end of the current term. Should this Agreement expire and an entity other than the City assume responsibility for the operation, maintenance and repair of the Falling Water community on-site sewage disposal system, the failure of such entity to follow all applicable laws, regulations and operation and maintenance manual(s) with respect to such operation, maintenance and repair shall constitute a public nuisance, and the City shall be entitled to seek injunctive and other relief, including damages, with respect to the same. The City's right to inspect the system and records of maintenance and repair shall survive the termination of this Agreement, and shall be provided for in a covenant binding the property and the homeowner's association.

14. The Developer shall defend, indemnify and hold the City harmless from and against any claim or lawsuit challenging the City's authority to undertake the obligations set forth herein. Should this Agreement be declared void, the City shall have the right to monitor the operation, maintenance and repair of the Falling Water community on-site sewage disposal systems, including access to all facilities upon four (4) hours notice to the homeowners association, and including access to all records regarding the same. The Developer agrees that in the event this Agreement is declared void, the failure of the party subsequently responsible for the operation, maintenance and repair of the Falling Water community on-site sewage disposal systems to follow all applicable laws, regulations and operation and maintenance manual(s) with respect to such operation, maintenance and repair shall constitute a public nuisance, and the City shall be entitled to seek injunctive and other relief, including damages, with respect to the same.

15. Nothing in this Agreement shall be construed to act as a waiver of any claim that the City may have, now or in the future, for damages caused by the development and/or its sewage disposal system to the City's aquifer recharge area for Victor Falls Springs.

16. The term "Developer" as used herein shall include all successors, heirs, and assigns, including without limitation any homeowners association established for the Falling Water Plat. The Developer shall ensure that all of its obligations under this Agreement are assumed by such homeowners association.

17. If any legal proceeding is brought for the enforcement of this Agreement, or because of a dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the prevailing party shall be entitled to recover from the

other party, in addition to any other relief to which such party may be entitled, reasonable attorney's fees and other costs incurred in that action or proceeding. This Agreement shall be governed by the laws of the State of Washington, and venue for any suit to enforce this Agreement shall be in Pierce County, Washington, provided the legal proceeding is not brought by an agency of the United States Government.

18. The parties agree that this Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated herein are excluded. Any modification of this Agreement shall be in writing and signed by both parties. The parties agree that the forgiveness of the nonperformance of any provision of this Agreement shall not constitute a waiver of that or any other provision of this Agreement. Items and/or issues not addressed in this Agreement, which are brought forth during the review of the plans and specifications by the Washington State Department of Health, must be agreed to by the Developer and the City and reduced to writing to be enforceable.

SUBMITTED this 30th day of October 2003

DEVELOPER: Capri Investments, L.L.C.
By: Falling Water Land Company, L.L.C.

Dated 10-30-03



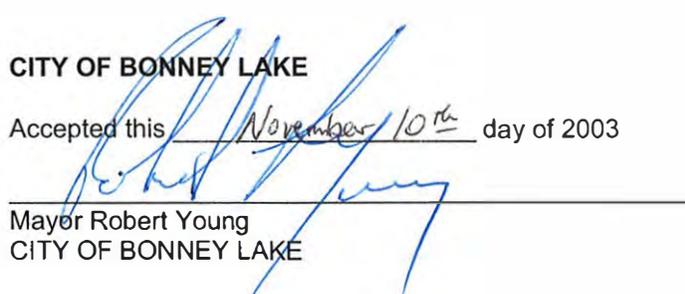
William P. Hurme, Manager

ADDRESS:
3106 Sumner Tapps Highway East, Suite A #116
Sumner WA 98390

PHONE: 206-200-1679
FAX: 425- 865-0750

CITY OF BONNEY LAKE

Accepted this November 10th day of 2003



Mayor Robert Young
CITY OF BONNEY LAKE

FALLING WATER - DIVISION 3

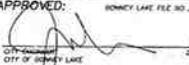
SEC.8 AND SEC.9, TWN.19 N., RING. 5 E., W.M.
PHASE I AND PHASE II

SITE DATA

ACREAGE: 58.73
ZONING: RURAL D
PROPOSED USE: SINGLE-FAMILY RESIDENTIAL
DENSITY: 4.11 UNITS / ACRE
NO. OF LOTS: 243
WATER: CITY OF TACOMA
SEWERAGE: CITY OF SEASIDE
HYDRO: PUDOT TOWN ENERGY
TELEPHONE: QWEST COMMUNICATIONS
FIRE DISTRICT: PRAIRIE COUNTY #21
SCHOOL: CITY OF BONNEY LAKE

LINE	BEARING	LENGTH
11	S89°23'27"W	63.89
12	S29°30'00"W	83.49
13	S52°30'00"W	73.74
14	S41°14'31"W	131.44
15	S82°14'31"W	131.44
16	S89°23'27"W	63.89
17	S70°23'27"W	142.27

CHORD	LENGTH	ANGLE	BEARING
11	101.70	90°00'	S89°23'27"W
12	101.70	90°00'	S29°30'00"W
13	101.70	90°00'	S52°30'00"W
14	101.70	90°00'	S41°14'31"W
15	101.70	90°00'	S82°14'31"W
16	101.70	90°00'	S89°23'27"W
17	101.70	90°00'	S70°23'27"W

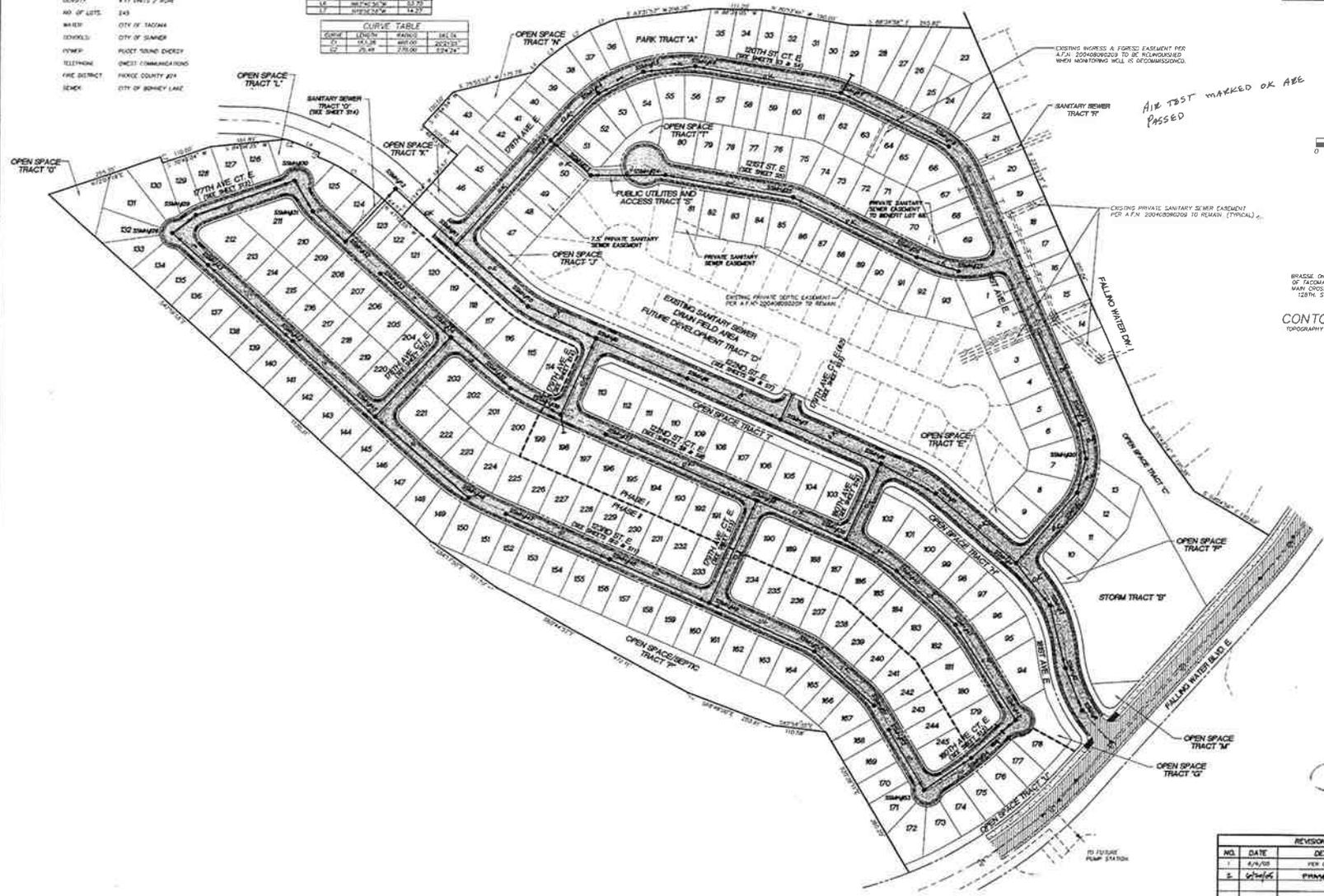
APPROVED:  BONNEY LAKE FILE NO. 0229
DATE: 6-22-05
CITY OF BONNEY LAKE

THE PLAN IS GENERAL CONFORMANCE WITH CITY OF BONNEY LAKE DEVELOPMENT PLAN APPROVAL IS VALID FOR A PERIOD OF TWO YEARS FROM DATE OF APPROVAL.

DESIGNED BY	JPS
DRAWN BY	JPS
CHECKED BY	JPS

SCALE: 1"=100'
0 50 100 200

VERTICAL DATUM
PERCE COUNTY
BM: 55-10
BRASS ON N. SIDE OF R.W. CONC. PIER OF CITY OF TACOMA WATER TREAT. HIGH PRESSURE WATER MAIN CROSSING OF THE PUYALLUP RIVER, E. OF 128TH STAINED FROM B.C.S., ON 11/25/27
ELEV: 118.138
CONTOUR INTERVAL=2'
TOPOGRAPHY PREPARED BY LARSON & ASSOCIATES



NO.	DATE	REVISION BLOCK	BY
1	6/2/05	PER CITY COMMENTS	JPS
2	6/22/05	FRAME LINE	JPS

NOTE: CALL 1-800-424-5555 BEFORE YOU DIG.

PROJECT: **LARSON and ASSOCIATES**
Land Development & Construction, Inc.
14715 5th. Blvd. SE, Tacoma, WA 98506 (253) 424-3000

DATE: 06.06.05
DRAWING NO: 0229SAL3
SHEET 2 OF 3

COMPOSITE SANITARY SEWER PLAN

P:\PROJECTS\RESIDING\040502\2229SAL3.DWG, 05/27/05 1:48:15 PM, LARSON
 LARSON AND ASSOCIATES
 14715 5TH BLVD SE
 TACOMA, WA 98506
 (253) 424-3000
 FAX (253) 424-3001
 WWW.LARSONANDASSOCIATES.COM