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 action item 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 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 they take 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.)

I. CALL TO ORDER – Mayor Neil Johnson

A. Flag Salute:

B. Roll Call: [A1.3]

Elected Officials: Deputy Mayor Dan Swatman, Councilmember David Bowen, Councilmember Phil DeLeo, Councilmember Mark Hamilton, Councilmember Dave King, Councilmember Cheryle Noble and Councilmember Jim Rackley.

[Staff expected to be in attendance: City Administrator Don Morrison, Interim Planning & Community Development Director Marvin Vialle, Public Works Director Dan Grigsby, Police Chief Mike Mitchell, Community Services Director Gary Leaf, Administrative Services Director/City Clerk Harwood Edvalson, Chief Financial Officer Beth Anne Wroe and City Attorney Jim Dionne.]

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

1. Announcements:
2. Appointments:
3. Presentations: Proclamations - Washington Native Plants Week - Municipal Clerk’s Week

D. Agenda Modifications:

II. PUBLIC HEARINGS, CITIZEN COMMENTS & CORRESPONDENCE:


B. Citizen Comments: [A1.5]

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 speakers representing a group may take up to 10 minutes on matters of general City business.

C. Correspondence:
III. COUNCIL COMMITTEE REPORTS: [A3.6.4]

A. Finance Committee
B. Community Development Committee
C. Public Safety Committee
D. Other Reports

IV. CONSENT AGENDA: [A3.6]

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.

A. Approval of Corrected Minutes: April 3rd Council Workshop and April 10th Regular Council Meeting. [A3.6.2]

B. Checks/Vouchers: Accounts Payable checks/vouchers #47079 in the amount of $5,404.15. Accounts Payable checks/vouchers #47080 thru 47191 (and wire transfer numbers 2675763, 3200700, and 3200701) in the amount of $1,285,784.90. Accounts Payable check/voucher #47192 for AR deposit refund in the amount of $500.00. Accounts Payable check/voucher #47193 thru 47229 for Utility refunds in the amount of $2,290.15. [F4.9]

C. Payroll: Payroll for April 1-15, 2007 for checks 25900-25905, including Deposits and Electronic Transfers for $93,133.63. (Police Department) Payroll for April 1-15 for checks 25906-25940, including Deposits and Electronic Transfer for $218,213.56. (AFSCME and Non-represented) [F4.9]

D. AB07-83 – Resolution 1670 - A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing A Permissive Use Agreement Between Bob Cantrall And The City Of Bonney Lake To Allow The City To Attach The Swim Line At Allan Yorke Park To Mr. Cantrall’s Private Bulkhead. [O 5.2]

E. AB07-93 – Resolution 1679 - A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Giving Public Works Staff The Authority To Execute Maintenance Covenant, Release And Hold Harmless Agreements For Private Sewer Grinder Pumps. [O 4.5.1]

F. AB07-99 – A Motion Of The Bonney Lake City Council Authorizing The Mayor To Submit Public Works Trust Fund Loan Applications For The Upcoming Loan Cycle. [A 3.6.10]

V. FINANCE COMMITTEE ISSUES: None.

VI. COMMUNITY DEVELOPMENT COMMITTEE ISSUES: None.

VII. PUBLIC SAFETY COMMITTEE ISSUES: None.
VIII. FULL COUNCIL ISSUES:
A. **AB07-68 – Ordinance D07-68** - An Ordinance Of The City Of Bonney Lake, Pierce County, Washington, Regulating The Sale, Purchase, Use, And Possession Of Fireworks Within The City Of Bonney Lake; Providing For Civil And Criminal Enforcement Of Consumer Fireworks Regulations, Incorporating By Reference Provisions Of Title 70.77 Of The Revised Code Of Washington (RCW); Repealing Chapter 5.14 Of The Municipal Code, And Adopting A New Chapter 5.14. [A 3.5.5] [O 1.8.10]

IX. EXECUTIVE SESSION: Pursuant to RCW 42.30.110 the City Council may hold an executive session. If an executive session is held, the presiding officer shall publicly announce the purpose for convening the executive session and the time it will be concluded.

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
City of

BONNEY

Lake

Proclamation

WHEREAS, native plant species are an important part of Bonney Lake’s heritage, providing valuable aesthetic, economic, and ecological contributions that make our city a special place to live; and

WHEREAS, Washington enjoys an amazing biodiversity with over 3,000 native plant species, many of which are found in Bonney Lake; and

WHEREAS, preserving native plant ecosystems is critical for protecting wildlife, birds, fish, and water quality in our state; and

WHEREAS, over 350 of our native plant species in Washington State are listed as rare by the Washington Natural Heritage Program; and

WHEREAS, invasive species present a great threat to sustaining our native plant ecosystems and biodiversity.

NOW, THEREFORE, I, Neil Johnson, Jr., Mayor of the City of Bonney Lake, Washington, do hereby proclaim the week of:

April 29 through May 5, 2007 as Native Plant Appreciation Week

In the City of Bonney Lake; and urge all citizens to join me in celebrating our floral diversity by learning more about our native plants and their habitats.

Mayor Neil Johnson          Date
City of
BONNEY Lake

Proclamation

WHEREAS, the Office of the Municipal Clerk, is a time honored and vital part of local
government and exists throughout the world; and

WHEREAS, the Office of the Municipal Clerk is the one of the oldest recognized
positions of public service; and

WHEREAS, the Office of the Municipal Clerk provides a professional link between the
citizens and the City Council, as well as other agencies of the City; and

WHEREAS, Municipal Clerks strive to be neutral and impartial in rendering equal service
to all; and

WHEREAS, Municipal Clerks continually strive to improve public communication and
public access to the administrative affairs of municipal government.

NOW, THEREFORE, I, Neil Johnson, Jr., Mayor of the City of Bonney Lake,
Washington, do hereby proclaim:

April 29 through May 5, 2007 as
Municipal Clerk’s Week

And extend appreciation on behalf of the City to our City Clerk, and to all the
employees in the City Clerk’s Office for the vital administrative and
community services they perform.

Mayor Neil Johnson                        Date
Call to Order:
Mayor Johnson called the April 3rd Council Workshop to order at 5:32 p.m.

Roll Call:
Also in attendance were Deputy Mayor Dan Swatman, Councilmember David Bowen, Councilmember Phil DeLeo, Councilmember Mark Hamilton, Councilmember Dave King, Councilmember Cheryle Noble and Councilmember Jim Rackley. Councilmember Noble left the meeting at 8:12 p.m.

[Staff members attending were City Administrator Don Morrison, Interim Planning and Community Development Director Marvin Vialle, Public Works Director Dan Grigsby, Police Chief Mike Mitchell, Community Services Director Gary Leaf, Administrative Services Director / City Clerk Harwood Edvalson, Chief Finance Officer Wroe, City Attorney Jim Dionne, and Records & Information Specialist Virginia Phelan.]

Agenda Items:

1. Presentation: Rainier Media Center – Marc Pease

Mayor Johnson introduced Marc Pease from the Rainier Media Center. Mr. Pease explained the services offered by the Media Center and the benefits for the City of Bonney Lake. The Rainier Media Center offers government programming so citizens may be better informed about what is happening in their local government. The programming ranges from filmed Council Meetings to short “magazine” type films about topics of interest to the community. These films have the ability to air on the Comcast government programming channel, can be placed online or distributed in DVD format. Mr. Pease offered statistics on who watches government programming and details on how other local cities are using these services.

City Administrator Morrison said Council set a goal to increase communications and had consequently budgeted $24,000 for services of this nature. The intent was not to begin filming Council Meetings, but rather to make informative “shorts” about some of the projects and special events in the City. Councilmember DeLeo noted the Rainier Media Center has a won many local and national trophies for their fine work.

Council discussed the cost of membership and productions, and debated the pros and cons of filming Council Meetings. Mayor Johnson recommended compiling individual lists of what
topics deserved films, then returning to a future meeting to agree on the most favored topics. At that time an ad hoc committee could be created to delve into the process in further detail. He added that this would allow the City to experiment with these additional mediums of communicating with the public, before committing the necessary time and money to larger projects such as broadcasting Council Meetings.

A five minute break was called at 6:11 p.m. The meeting reconvened at 6:17 p.m.

2. Presentation: White River Preserve – Ryan Mello – Cascade Land Conservancy

Mayor Johnson introduced Ryan Mello, Pierce County Conservation Director for the Cascade Land Conservancy. Mr. Mello said he was in attendance to update the Council on the status of the White River Corridor Project. There have been discussions with all the cities adjacent to this project because the CLC is interested in each concern. The project includes a 2,500 acre area of land around the White River. The riparian corridor from 150 feet in either direction of the center of the river would be under a conservation easement negotiated by the State Department of Ecology. As it stands, the State does not desire this land for a state park, but the Department of Fish and Wildlife may be interested in a portion of it. There are other agencies which may help pay for this preserve, but the cost as estimated will far exceed available funding sources so far identified.

Mr. Mello said the CLC has a signed purchase and sale agreement for the property and is exploring all options for financing, including seeking assistance from local jurisdictions. He explained the CLC wants to extinguish the development rights for the properties compiling the reserve in order to prevent any possible future development. In response to questions as to whether future local governments associated with these lands could change the laws and allow them to be developed, he responded the RCW assures the extinguishment of development rights will ride with the deeds to those parcels forever. It is unlikely, he added, the State would ever change those laws to allow development in areas with conservation easements. The development rights would be liquidated, however, and could be used in areas more logical for development.

Council discussed the process of extinguishing development rights and the consequences of CLC’s plans to allow the timber rights to be retained. Councilmember Hamilton expressed concern that the land would be clear cut and never replanted. Mr. Mello held hope that the purchase of the development rights would make it more economically feasible for the timber companies to continue logging the land and replanting.

Council debated the value of getting the City of Bonney Lake involved in this project and whether the City may ever expand North towards this area. Mayor Johnson offered to meet with Mr. Mello and bring forward any information he receives to Council if they feel they are interested in getting involved.

Deputy Mayor Swatman announced the Mayor would be absent from the meeting for a few minutes and suggested moving Council Discussion to a later portion of the meeting when the Mayor will have returned.

Councilmember Noble asked that the March 20th minutes be corrected on page 3, 3rd paragraph to read that she had received one complaint, not a number of complaints, in regards to the Bikini Baristas.

4. Discussion: Bonney Lake Downtown Redevelopment.

Interim Planning & Community Development Director Vialle handed out a memo from Planning Manager Ladd about the progress of the Downtown Redevelopment. There is a flat screen monitor in the City Hall Annex now looping fly-through videos of the Downtown Plan during business hours. Downtown owners have been notified about the Moratorium, which includes all development permits. Director Vialle described the timeline for the moratorium, explaining the draft design guidelines being created by Maker's should be prepared as soon as possible, after which discussions can move forward and a final draft can be created. Following those steps, the adoption process can begin. City Administrator Morrison noted the volume of changes required to the first draft would be a major factor in determining the amount of time until the Moratorium can be lifted.

Council discussed the possibility of allowing tenant improvements in the area affected by the moratorium if they are only to the inside of a building. Mayor Johnson asked Council to consider presently making any changes to the moratorium. There will be a public hearing at the upcoming meeting to hear citizens’ comments on the moratorium after which Council may want to make modifications. Council also discussed sign code problems their hope that the code will be changed to require signs conducive to the atmosphere desired for Downtown.

At 7:15 p.m. Councilmember Bowen moved for a 10 minute recess. Councilmember Rackley seconded the motion.

Motion approved 7 – 0.

The meeting reconvened at 7:26 p.m. with the Mayor in attendance.

5. Council Open Discussion.

Garage Rentals.
Councilmember DeLeo said it had come to his attention that developers in R-2 zones are building free standing garages and renting them out as storage units. He said he is working on an ordinance prohibiting this. Administrator Morrison said there is already enforcement in action because this prohibition presently exists in the code.

Illegal Trailer Dwellers.
Councilmember King thanked the City’s Code Enforcement Officer for taking action on people living in camping trailers. He said this has been a problem for years and is a health issue. It causes sanitation problems when people live in a trailer intended for camping and not built to accommodate full time use.

Plaza West Stormwater.
Councilmember Hamilton asked if the retention pond at the Plaza West Development fell under the new or old rules regarding fencing the parameter. Public Works Director Grigsby said it does not require a fence and only requires a 2:1 slope because it fell under County requirements for a
private use retention pond. He added that there are some other concerns regarding drainage, with which the contractor still needs to work. It only requires a deeper swell for the water to run and should be a relatively simple task to complete.

CUGA
Councilmember Rackley asked the status on discussions with the County regarding annexation of the CUGA. Administrator Morrison said there was an additional copy submitted to Chip Vincent for the Pierce County Planning Department, but as of yet, there has been no response. Mayor Johnson said the City needs to determine the County’s willingness to investigate this possibility and he will contact them if a response is not soon received.

Committee Minutes.
Deputy Mayor Swatman mentioned the need for City councils, committees and boards to create minutes for their meetings. There was discussion on whether this affects groups such as the Fennel Creek Preservation Society, the Senior Center Board and others with which the City works. Consensus was decided that it had no affect, because the City is not and does not desire to be, in control of these organizations. Additionally, ad hoc committees will have no need to create minutes.

Bikini Baristas.
Deputy Mayor Swatman commented that he read a letter to the editor saying the Council had directed the closing of the coffee stand at the 76 Gas Station on Old Sumner-Buckley Hwy. He noted the Council cannot direct staff. Mayor Johnson said the coffee stand violation involved the installation of a sliding door. Director Vialle added there were some electrical problems, as well.

Alderton-McMillin Plan.
Deputy Mayor Swatman said there is a meeting to be held regarding the Alderton-McMillin Plan on Wednesday, April 4th. Administrator Morrison said it is the first of four hearings scheduled. The Mayor and Deputy Mayor co-signed a letter outlining the City’s main concerns: the need for trail connectivity between the future Fennel Creek Trail and the Foothills Trail; the critical need for a road from the plateau which connects to SR 162; and the concept of transfer of development rights, the choice of the plateau and the implications to sewer service areas and growth which this choice implies. Council debated the County’s choice of singling out the Plateau for the transfer of development rights and the best timing to submit a resolution outlining their position. They also discussed the difficulties of annexing the southern areas of the Plateau if this plan is implemented, and whether annexation is preferable.

Councilmember Hamilton expressed concern that this Plan would have a negative impact on the possibility of getting private funding for the Rhodes Lake Road Corridor, noting that the County would likely let the high density development continue without concern for the need for a road. Mayor Johnson said the rumor is that the PTP will stay together granting this Alderton-McMillin Plan goes into effect.

Lowe’s Traffic Mitigation.
Deputy Mayor Swatman inquired of the City’s role in the road improvements being planned for 200th and Highway 410. They are considering having three left turn lanes onto Hwy 410 and a third lane on Hwy 410 extending from S. Prairie Road to 192nd receive these lanes. Additionally left turns would be allowed from Lowe’s over 2 lanes of traffic, with the intention of restriction during peak traffic periods. Councilmember Rackley said according to the engineers, this will raise the future service level of the intersection from an E- to an E+. Deputy Mayor Swatman
surmised this solution would actually make things much worse. Mayor Johnson said there has been discussion on installing a frontage road instead.

Public Works Director Grigsby said the company involved is currently having a traffic impact analysis done. Presently, the frontage road option is more expensive, thus the company is dismissive of it. Deputy Mayor Swatman questioned whether the City is obligated to allow this project and how it may effect future plans for the 192nd intersection. In regards to the frontage road, Councilmember Hamilton expressed concern the City would have to pay for some of it if they tried to require it. Councilmember Rackley said it would just move the impending traffic jam to a different part of Hwy 410. According to Director Grigsby, the benefits of an intersection improvement such as the one proposed by Lowe’s would be for everyone, whereas a frontage road would only benefit the people going from store to store. Also, Lowe’s peak period does not coincide with the City’s peak period. There has yet to be a study of the impact on a frontage road to traffic, he added.

Puget Sound Regional Council.
Administrative Services Director Edvalson said he was contacted by the Puget Sound Regional Council who is looking for a quorum for business at their general assembly Thursday, April 5th. He said it will be held at the Westin Hotel in Seattle. It starts at 3:30 p.m. and will be followed by a dinner. Councilmember Hamilton said he would attend.

6. Discussion: South Sewer Service Area

Councilmember Rackley said he asked Director Grigsby to schedule a meeting with Plateau 465 to discuss their plans for sewer. Deputy Mayor Swatman asked the Mayor if he had been speaking with County Executive Ladenburg about the County’s plan to buy Orting’s sewer service area. Mayor Johnson responded there has been some discussion about why the City of Bonney Lake has been omitted from discussions regarding the Cascadia Development’s sewer plans. Councilmember Hamilton said the City of Bonney Lake would be in a much better position to service the sewer and asked if Executive Ladenburg was aware of this.

Mayor Johnson said he spoke with the Mayor of Orting and Administrator Morrison spoke with Orting’s City Administrator, who said negotiations with Pierce County are too far along to begin such a discussion. Council discussed speaking with Orting’s City Council about this and whether Orting would have a preference as to who assumes the sewer area. Councilmember Hamilton said the property owner appears to be the one who desires the County to usurp this and Bonney Lake needs to be sure Executive Ladenburg is fully aware of the City’s desire to provide sewer on the Plateau. Deputy Mayor Swatman said the City should be in charge of the Sewer merely because it’s the right thing to do. He added that he suspects there is a hidden agenda, which would explain this unlikely development. Mayor Johnson said he will gather additional information and will keep Council updated. Councilmember Hamilton said sewer is the first step toward the ultimate goal of getting Cascadia in the City’s UGA so if it fails the City can be in charge of the imminent development of the land and consequently protect itself.

7. Executive Session: Pursuant to RCW 42.30.110(1)(i) the City Council adjourned to Executive Session at 8:50 p.m. for 10 minutes to discuss litigation. The meeting reconvened at 8:55 p.m.
8. Adjournment

Councilmember Rackley moved to adjourn the workshop at 8:55 p.m. Councilmember Hamilton seconded the motion.

Motion approved 6 – 0.

Harwood T. Edvalson, CMC
City Clerk

Mayor Neil Johnson, Jr.

Items submitted to the Council Meeting of April 3, 2007:

➤ Rainier Media Center – *Clover Park Technical College: Media Communications Center* – Marc Pease.
➤ Cascade Land Conservancy – *White River Corridor Project Map* – Ryan Mello, Pierce County Conservation Director.
➤ City of Bonney Lake – *Memo from Planning Manager Ladd Re: Downtown Plan Implementation Progress* – Interim Planning & Community Development Director Marvin Vialle.
CALL TO ORDER – Deputy Mayor Swatman called the meeting to order at 7:01 p.m.

A. Flag Salute – Deputy Mayor Swatman led the audience in the Pledge of Allegiance.

B. Roll Call [A1.3]

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

Staff members present were City Administrator Don Morrison, Interim Planning & Community Development Director Marvin Vialle, Public Works Director Dan Grigsby, Police Chief Mike Mitchell, City Attorney James Dionne, Administrative Services Director/City Clerk Harwood Edvalson and Records & Information Specialist Virginia Phelan.

Councilmember Rackley moved to excuse the Mayor and Councilmember Noble. Councilmember Hamilton seconded the motion.

Motion approved 6 – 0.

C. Announcements, Appointments and Presentations [A3 6.9]

1. Announcements: None.
2. Appointments: None.
Deputy Mayor Swatman read the proclamation for Parks Appreciation Day and said the annual Beautify Bonney Lake Day would happen simultaneously. He encouraged people to participate.

D. Agenda Modifications: None.

II. PUBLIC HEARINGS, CITIZEN COMMENTS & CORRESPONDENCE
A. Public Hearings:

1. **AB07-92** – Moratorium on Downtown Development Permits
   Deputy Mayor Swatman opened the hearing at 7:04 p.m. There was a correspondence from Winona Jacobsen entered into the record. There being no speakers, the hearing was closed at 7:05 p.m.

B. Citizen Comments:

**Don Sangesand, 5616 195th Pl. E.,** said it is becoming more and more evident that there is corruption in all levels of government. He said the government is not open and is run by a few who have only their own best interests at heart. Mr. Sangesand asked if Bonney Lake leaders are continuing or correcting these problems. The City officials tell him to get his facts straight, but make it difficult to get those facts. He referenced a comment made by Councilmember King at the retreat which did not appear in the minutes. He said the minutes were distorted or incomplete to meet a devious motivation. The City is hiding information and moving towards a dictatorship. The citizens are being treated badly, not being listened to or informed. He concluded with an accusation that the City did nothing to try and stop the water tower which was built at the base of Elhi hill.

Councilmember King confirmed that he had stated at the retreat he would not run for re-election in 2009. He said he felt it was not relevant to the retreat, but had not asked for it to be included or omitted from the minutes. In reference to Mr. Sangesand’s water tower comment, Councilmember Rackley said the City had spoken with the City of Sumner months ago and tried to work out alternatives with them to prevent the construction of the tower as it is now. Director Grigsby confirmed that, saying the City offered to provide water to Sumner and alternatively asked the tower be shorter and wider, or built across the road. He said Sumner was unable or unwilling to pursue these alternatives.

**Pat Miller, 19205 79th St. Pl. E.,** asked the City to do what it can to prevent advertising being allowed on the water tower. He questioned the need to prohibit fishing in parts of Allan Yorke Park. Fishing should be allowed from the docks for those who arrive early preceding swimmers. He recommended the City change the ordinance to allow fishing during certain hours. Lastly, Mr. Miller asked the City explain the cost benefits of providing sewer service to the entire plateau.

Councilmember Rackley said the City prohibits fishing near the swimming area to keep hooks and other dangers free from that vicinity. These things can cause problems for swimmers when no one is actively fishing. Deputy Mayor Swatman said it is too soon to know the costs of servicing the whole plateau, but he is sure
it will be more expensive for sewer customers if the City does not service the entire area.

Dan Decker 20401 70th St. said the City Attorney had sent him a letter in response to his concerns about the legality of the LIDAR enforcement. He said the attorney’s statements do not change the law written in the RCW which regulates speed trap distances. He explained in detail how LIDAR and RADAR work and their many technical differences, despite the attorney’s statements that they are similar. He reminded Council that the RCW requires a quarter mile distance and he believes this applies to the photo enforcement.

C. Correspondence: None.

III. COUNCIL COMMITTEE REPORTS:

[A3.6.4]

A. Finance Committee
Deputy Mayor Swatman said the Finance Committee met this evening and discussed:
1. Resolution 1676 – Hiring an Assistant Police Chief;
2. Request for Out of State Travel for some of the Finance Staff;
3. Request for Proposals for Banking Services; and
4. Ordinance for revision of Park Regulations;

B. Community Development Committee
Councilmember Rackley said the Community Development Committee met on April 2nd and discussed traffic impact fee collection timing, stormwater permitting, the Alderton-McMillin Plan, the RAMP Meeting and Lowe’s Traffic Impact Analysis, and Fiber Optic Cables. He said two items were forwarded to this Council Meeting:
1. Resolution 1674 – A Personal Services Agreement for Design of Eastown Water Main Project;
2. Resolution 1675 – Bonney Lake Blvd Reconstruction Project.

C. Public Safety Committee
Councilmember DeLeo said the Public Safety Committee met on April 2nd and discussed park safety. Additionally, the Fireworks Ordinance on this evening’s agenda was forwarded.

D. Other Reports:

Alderton-McMillin Plan Meeting.
Deputy Mayor Swatman said he attended the recent land use meeting of the Pierce County Planning Agency for the Alderton-McMillin Plan. Many developers in the area attended and attempted to disburden themselves from the Plan. He added that he had spoken at the hearing, but as a city representative was outnumbered. City Administrator Morrison said there are more hearings coming up and he will provide a schedule to Council. Councilmember Rackley said he is opposed to this plan and
IV. CONSENT AGENDA: [A3.6]

A. Approval of Corrected Minutes: March 20th Council Workshop and March 27th Council Meeting. [A3.6.2]

B. Checks/Vouchers: Accounts Payable checks/vouchers #46954 thru 47077 in the amount of $404,933.88. Accounts Payable check/voucher #47078 for AR deposit refund in the amount of $815.37. [F4.9]

C. Payroll: Payroll for March 16-31, 2007 for checks 25858-25867, including Deposits and Electronic Transfers for $147,240.02. (Police Department)
Payroll for March 16-31, 2007 for checks 25868-25899, including Deposits and Electronic Transfer for $304,645.41. (AFSCME and Non-represented) [F4.9]


E. AB07-65 – Ordinance 1233 [D07-65] - An Ordinance Of The City Of Bonney Lake, Pierce County, Washington, Amending Chapter 3.90 Of The Bonney Lake Municipal Code And Ordinance No. 826, Relating To Miscellaneous Fees. [A 3.5.5][F 4.3]

F. AB07-56 – Resolution 1663 - A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing The Mayor To Sign A Grant Agreement With Pierce County For A $10,000 Grant For Senior Center Operations In 2007. [F 5.3.4]

G. AB07-71 – Resolution 1668 - A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing The Use Of Special Purchasing Procedures For The Bonney Lake Days Celebration And Other Special Events. [F 4.8]

H. AB07-81 – Resolution 1674 - A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing A Professional Services Agreement With KPFF Consulting Engineers For The Eastown 96th Street Water Main Project. [O 4.10.2]


J. AB07-89 – A Motion Of The Bonney Lake City Council Approving Out-of-State Travel for Barbara Barth and Donna Berube to Portland, OR. [A 3.6.10][A 4.7]

Councilmember Rackley moved to approve the Consent Agenda. Councilmember DeLéo seconded the motion.
Motion approved 6 – 0.

V. FINANCE COMMITTEE ISSUES:

A. **AB07-21 – Ordinance 1232 [D07-21]** - An Ordinance Of The City Of Bonney Lake, Pierce County, Washington, Amending Chapter 12.12 Of The Bonney Lake Municipal Code And The Corresponding Portions Of Ordinance Nos. 1150, 1037, 1015, 826, 669, 661, And 454 Relating To Park Regulations. [A 3.5.5]

Deputy Mayor Swatman said passage of this ordinance is urgent. The system needs to be programmed and cards created for the residents. This year will be a chance to collect data and next year the ordinance can be reworked.

Motion approved 6 – 0.

B. **AB07-85 – Resolution 1676** - A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing The Mayor To Hire An Assistant Chief Of Police and A Patrol Officer In Lieu Of The Administrative Lieutenant’s Position. [A 3.9.1]

Councilmember Rackley moved to approve Resolution 1676. Councilmember DeLeo seconded the motion.

Chief Mitchell explained that one of his first tasks upon employment in the City was to evaluate the Department’s organization to see if it is meeting the needs of the citizens. The City presently needs less administration and more officers. The resolution would be a significant savings, which could be used for hiring additional officers. Also, this position offers logical progression for promotion so the City may retain its force. Councilmember Rackley suggested increasing the Lieutenant’s pay to encourage sergeants to apply. Councilmember King said there is no lack of work for administration and soon the City will need an Operations Lieutenant.

Motion passed 6 – 0.

VI. COMMUNITY DEVELOPMENT COMMITTEE ISSUES: None.

VII. PUBLIC SAFETY COMMITTEE ISSUES:

A. **AB07-68 – Ordinance D07-68** - An Ordinance Of The City Of Bonney Lake, Pierce County, Washington, Regulating The Sale, Purchase, Use, And Possession Of Fireworks Within The City Of Bonney Lake; Providing For Civil And Criminal Enforcement Of Consumer Fireworks Regulations, Incorporating By Reference Provisions Of Title 70.77 Of The Revised Code Of Washington (RCW); Repealing Chapter 5.14 Of The Municipal Code, And Adopting A New Chapter 5.14. [A 3.5.5]

[O1 10]
Councilmember DeLeo moved to approve Ordinance D07-68. Councilmember King seconded the motion.

Councilmember Hamilton inquired as to the amount of public input received on this ordinance. Councilmember King responded there had been communications from homeowners who were dissatisfied with fireworks activities, some who desired a ban and others who felt the opposite. He said there was also input from the Fire Marshall. The result was a balance between opposing viewpoints in the form of an ordinance adopting state regulations by reference and additional, more stringent rules.

Councilmember Bowen moved to strike section 5.14.170. Councilmember Hamilton seconded the motion.

Councilmember Bowen explained his view that the mayor should not have full control to ban fireworks. He suggested this stipulation may be exploited by a future Mayor to ban fireworks all together, instead of temporarily banning them for emergency reasons. Councilmember DeLeo suggested allowing Council this authority.

Councilmember DeLeo moved to amend the amendment by giving the authority to declare temporary fireworks bans to the Council instead of the Mayor.

There was excessive discussion on the benefits and potential problems of putting this authority in the hands of the Council versus the Mayor.

Councilmember Rackley moved to table Ordinance D07-68. Councilmember Bowen seconded.

Motion to table Failed 3 – 3. Councilmembers King, DeLeo and Bowen voted no.

Motion to amend the amendment passed 4 – 2. Councilmembers King and Rackley voted no.

Council discussed the semantics of the original amendment motion in detail and the effect it will have on the amendment’s amendment.

Motion to amend Ordinance D07-68 Failed 1 – 5 with Councilmember Hamilton voting yes.
Councilmember DeLeo moved to amend the Ordinance in section 5.14.170 by replacing the first “Mayor” to “City Council”, removing the sentence beginning with “temporary emergency order shall…” and striking the last two sentences. Councilmember Bowen seconded the motion.

Council again discussed the possible difficulty of establishing a quorum for an emergency meeting to set the emergency order. There was additional debate on the value of giving this authority to the Mayor and the role of the Council in declaring emergency fireworks bans. Councilmember Rackley asked that the ordinance return to committee for further evaluation.

Motion to amend Ordinance D07-68 failed 3 – 3 with Councilmembers Rackley, King and Hamilton voting no.

Deputy Mayor Swatman inquired as to the zones where fireworks stands would be allowed. Councilmember King said it is determined by the state, but essentially they are prohibited in residential areas. Additionally, the locations have many restrictions.

Deputy Mayor Swatman moved to amend section F to include the language “No temporary fireworks stands shall be located within 500 feet of each other”

There was no second.

Councilmember Hamilton speculated as to the futility of enforcing fireworks laws. Chief Mitchell outlined his plan for educating the public and enforcing the new ordinance. Councilmember DeLeo said the ordinance does not require much additional enforcement as its main impact is to further limit the days in which fireworks are allowed to be ignited. Councilmember King added that the ordinance had also been changed to allow perpetrators to voluntarily relinquish fireworks to officers in exchange for a misdemeanor charge not being filed.

Motion to approve Ordinance D07-68 Failed 3 – 3 with Deputy Mayor Swatman and Councilmembers Bowen and Rackley voting no.

At 8:36 p.m. Councilmember Rackley moved for a ten minute break. Councilmember Bowen seconded the motion.

Motion approved 6 – 0.

The meeting reconvened at 8:48 p.m.
VIII. FULL COUNCIL ISSUES:

A.  **AB07-91 – Resolution 1678 - A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Supporting The City Of Bonney Lake As The Principal Sewer Provider On the Bonney Lake Plateau.** [A 1.1.1]

Councilmember Rackley moved to approve Resolution 1678. Councilmember Hamilton seconded the motion.

Deputy Mayor Swatman said this resolution is a statement of intent, not a takeover, so the Administration is aware of Council’s position. Councilmember Hamilton said he intends to support this resolution because a single utility on the Plateau is preferable to many and the City could better serve the public. He added it is in the best interest of the customers to control rate costs. Councilmember Rackley said he supports it for the same reasons.

Director Grigsby explained his belief that the intent is to provide a policy statement for guidance to Staff. Councilmember Bowen added his understanding that it was unclear Bonney Lake was interested in providing sewer. The City does not intend to interfere or cause problems, but want to ensure its voice is heard. Councilmember King questioned the phrase “Bonney Lake Plateau” and asked that the area in question be described more specifically. Council discussed how to describe the area.

Councilmember Bowen moved to amend the resolution to add the description after “Greater Bonney Lake Plateau...” as “being the contiguous area West of 234th Ave. and having greater than 300 feet in elevation”. Councilmember Rackley seconded the motion.

Motion to amend approved 4 – 2 with Councilmembers Hamilton and King voting no.

Motion to approve resolution 1678 as amended approved 5 – 1 with Councilmember King voting no.

B.  **AB07-87 – A Motion Of The Bonney Lake City Council Indicating Councilmember Jim Rackley as the City’s Vote For The Small Cities Representative Position On The Pierce Transit Board.** [A 3.6.10]

Councilmember Bowen moved to approve AB07-87. Councilmember King seconded the motion.

Motion approved 6 – 0.
Councilmember Rackley moved to reopen public comment on Resolution 1678. Councilmember Bowen seconded the motion.

Motion approved 6 – 0.

City Attorney Dionne invited speakers Chuck Lappenbusch, Cascadia Director of Development and Brian Ziegler, Pierce County Director of Public Works and Utilities. Mr. Ziegler said he was unsure his testimony would be meaningful as the resolution had been passed, but wanted to clarify some points. He said the County has a responsibility to ensure cost effective, environmentally sensitive sewer service to all county residents and the final decision on the best provider will be made by the State Department of Ecology. He invited the City to open the lines of communication with the County and participate in a study to determine who will best serve the area.

Councilmember Rackley said the resolution is an attempt to illuminate the fact the City desires inclusion on discussions. He said the City has been omitted from the loop thus far and the rumors Council has been hearing regarding events on the Plateau have them very nervous. He agreed the need exists for more communication and stated his belief is that the City is in the best position to provide sewer service to the area.

There was discussion on the semantics and facts of the resolution and the possible future role of Bonney Lake in providing sewer. Mr. Ziegler clarified that the County will not be providing the sewer, rather they will be assisting with the operations and maintenance of the system for the City of Orting. Orting will continue to be the service provider and in coming years, the area may be better served by Bonney Lake. He said in the future the State DOE will probably recommend the service in Cascadia and Bonney Lake’s potential new membrane plant be consolidated. There was continued debate on the role of Pierce County on the Plateau and the City’s interests. Councilmember Rackley said Mr. Ziegler would be coming to an upcoming CDC meeting for more in-depth discussion.

Chuck Lappenbusch explained the progress of Cascadia’s development and the schedule for completion of Phase one. Councilmember Rackley invited him to join Mr. Ziegler at a future CDC. Mr. Lappenbusch accepted the invitation and reminded Council that Cascadia is very open to all discussions. He referenced various projects on the Plateau to which Cascadia has been a party and said they cannot regress in their progress, but will continue to be open to discussions on the future of Cascadia. Councilmember Hamilton stated the City has no intention of delaying the project or putting it in any jeopardy; they desire solutions to accommodate everyone.

IX. EXECUTIVE SESSION: Pursuant to RCW 42.30.110(1)(b) the City Council announced an Executive Session for 20 minutes to discuss property acquisition. At 9:40 p.m. the meeting adjourned to Executive Session. The regular Council meeting reconvened at 9:59 p.m.

X. ADJOURNMENT

At 9:59 p.m., Councilmember Bowen moved to adjourn the meeting. Councilmember Rackley seconded.
Motion approved 6 – 0.

Harwood Edvalson, CMC
City Clerk

Mayor Neil Johnson, Jr.
ACCOUNTS PAYABLE AND
UTILITY REFUND CHECKS/VOUCHERS

04/24/2007

Accounts Payable checks/vouchers #47079 in the amount of $5,404.15.

Accounts Payable checks/vouchers #47080 thru 47191 (and wire transfer numbers 2675763, 3200700, and 3200701) in the amount of $1,285,784.90.

Accounts Payable check/voucher #47192 for AR deposit refund in the amount of $500.00.

Accounts Payable check/voucher #47193 thru 47229 for Utility refunds in the amount of $2,290.15.
PAYROLL CERTIFICATION
2007

Payroll for April 1-15, 2007 for checks 25900-25905, including Deposits and Electronic Transfers for $93,133.63. (Police Department)

Payroll for April 1-15 for checks 25906-25940, including Deposits and Electronic Transfer for $218,213.56. (AFSCME and Non-represented)
City of Bonney Lake, Washington
Council Agenda Bill (C.A.B.) Approval Form

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**BUDGET INFORMATION**

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**Explanation:** Nonmonetary transaction

**Agenda Subject:** Allan Yorke Park

**Administrative Recommendation:** Approve Mayor to sign the agreement

**Background Summary:** Bob Cantrall lives adjacent to Allan Yorke Park on West Tapps Highway. He has noticed kids occasionally swimming to the buoys beyond the swim line. Sometimes boats go around the buoys to the shore to mingle with parkgoers on the shore. This represents a potential safety hazard for swimmers. This hazard could be reduced by moving the swim line farther out so boats cannot have direct access to the shore. Bob offered to sign a permissive use agreement that would allow the City to attach its swim line to Bob’s private bulkhead. Bob can cancel this agreement with 20 days’ notice.

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<th>Commission Dates:</th>
<th>Board/Hearing Examiner Dates:</th>
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**Signatures:**

Dir. Authorization: [Signature]
Mayor: [Signature]
Date City Attorney Reviewed: 3/13/07
RESOLUTION NO. 1670

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, AUTHORIZING A PERMISSIVE USE AGREEMENT BETWEEN BOB CANTRALL AND THE CITY OF BONNEY LAKE TO ALLOW THE CITY TO ATTACH THE SWIM LINE AT ALLAN YORKE PARK TO MR. CANTRALL’S PRIVATE BULKHEAD.

The City Council of the City of Bonney Lake, Washington, does hereby resolve that the Mayor is authorized to execute the agreement attached hereto as Exhibit “A” and incorporated herein by this reference.

PASSED by the City Council this _______ day of __________________ 2007

______________________________
Neil Johnson Jr., Mayor

ATTEST:

______________________________
Harwood T. Edvalson, CMC
City Clerk

APPROVED AS TO FORM:

______________________________
James Dionne, City Attorney
AGREEMENT ALLOWING PERMISSIVE USE OF PRIVATE BULK-HEAD

The Parties, the City of Bonney Lake and Bob and Debbie Cantrall, residents of Bonney Lake, hereby execute this Agreement.

WHEREAS, Bob and Debbie Cantrall reside at 7318 West Tapps Highway East, in the City limits of Bonney Lake; and

WHEREAS, the Cantrall residence abuts Lake Tapps and is adjacent to Allan Yorke Park; and

WHEREAS, the Cantralls have a private bulk-head that is adjacent to the designated swimming area at Allan Yorke Park; and

WHEREAS, the Cantralls have noticed that watercraft cross through the designated swimming area to get to the shore, presenting a safety hazard; and

WHEREAS, the Cantralls proposed to the City Council that the rope designating the swimming area (hereinafter the "swim line") be moved from its current tie-off on the shore to a tie-off on his private bulk head, to block boats from crossing through the swimming area; and

WHEREAS, the City Council agrees that moving the swim line as suggested by the Cantralls would help create a safer environment for swimmers in Lake Tapps.

NOW, THEREFORE, the parties agree as follows:

1. The City shall be granted access to the Cantrall property for the purpose of attaching the swim line. The City shall be permitted access to the Cantrall property to re-attach the swim line any time it becomes detached from the bulk-head. At all times City employees shall restrict their activities on the Cantrall property to attaching or re-attaching the swim line only as necessary.

2. The Cantralls shall not detach the swim line from the bulk head, or allow anyone else to do so, without the City's advance written permission. In the event the Cantralls want the swim line removed from their bulk head, they shall request that the City remove the swim line, rather than removing it themselves. The City shall have no fewer than twenty (20) days, after receiving a request from the Cantralls, to detach the swim line from the bulk head.

3. The Cantralls assume no liability for any accident, injury, or claim arising out of the swim line being attached to their bulk head. The City will defend, indemnify, and hold harmless the Cantralls from any claim arising out of the swim line being attached to the Cantralls’ bulk-head.

4. This Agreement gives the City no permanent easement, or right of any kind, to use the bulk-head, absent the Cantralls’ continuing permission, provided that any notice by the Cantralls to the City to disconnect the swim line from the bulk head shall not be effective until twenty (20) days after the notice is received by the City, as outlined in Section 2 of this Agreement.

IN WITNESS WHEREOF, this Agreement is executed this __________ day of ____________________________, 2007.
OWNERS

Bob Cantrall

Debbie Cantrall

State of Washington

) ss.

County of _______________________

I certify that I know or have satisfactory evidence that ____________________________ is the person who appeared before me, and said person acknowledged that he/she signed this instrument and acknowledged it to be his/her free and voluntary act for the uses and purposes mentioned in the instrument.

DATED this __________ day of __________________________, 2007.

Notary Public in and for the state of Washington, residing at ____________________________.
My appointment expires ____________________________.

State of Washington

) ss.

County of _______________________

I certify that I know or have satisfactory evidence that ____________________________ is the person who appeared before me, and said person acknowledged that he/she signed this instrument and acknowledged it to be his/her free and voluntary act for the uses and purposes mentioned in the instrument.

DATED this __________ day of __________________________, 2007.

Notary Public in and for the state of Washington, residing at ____________________________.
My appointment expires ____________________________.

CITY OF BONNEY LAKE

______________

Neil Johnson, Mayor

State of Washington

) ss.

County of _______________________

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

DATED this __________ day of __________________________, 2007.

Notary Public in and for the state of Washington, residing at ____________________________.
My appointment expires ____________________________.
City of Bonney Lake, Washington
Council Agenda Bill (C.A.B.) Approval Form

**Department/Staff Contact:**
John Woodcock – City Engineer

**Council/Wrkshp Mtg Date:**
24 April 2007

**Agenda Bill Number:**
AB07-93

**Ordinance Number:**

**Resolution Number:**
1679

**Councilmember Sponsor:**

**BUDGET INFORMATION**

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**Explanation**

**Agenda Subject:** Maintenance Covenant, Release and Hold Harmless Agreement for Private Sewer Grinder Pumps.

**Administrative Recommendation:**

**Background Summary:** Maintenance Covenant, Release and Hold Harmless Agreement for Private Sewer Grinder Pumps.

These two customers have voluntarily requested to cease use of their City Sewer Grinder Pump. PW-Engineering has worked with legal to establish the procedures and documents necessary for this and future actions to eliminate City Grinder Pumps.

Grantor – Garry L. Totman and Mary S. Sullivan, Description - Lot 87, Church Lake Waterfront Tracts Division 1 Volume 22, PGS. 1-4, Parcel # 3037000870.

Grantor – The Marie Ward Trust, Christopher Ward TTE, Description – Section 27 Township 20 Range 05 Quarter 24 Church Lake Waterfront Tracts Division #1: Church Lake Waterfront TR Division #1 86 VE 1/19th INT T/E 1976 GoldW Villa West S#21998 –Parcel #3037000860

**Council Committee Dates:**
- Finance Committee:
- Public Safety Committee:
- Community Development & Planning Committee: 4/16/07
- Council Workshops:

**Commission Dates:**
- Planning Commission:
- Civil Service Commission:

**Board/Hearing Examiner Dates:**
- Park Board:
- Hearing Examiner:

**Council Action:**
- Council Call for Hearing:
- Council Hearings Date:
- Council Referred Back to:
- Workshop:
- Committee:
- Council Tabled Until:
- Council Meeting Dates:

**Signatures:**
- Dir. Authorization
- Mayor
- Date City Attorney Reviewed: yes.
DATE: April 16, 2007

ORIGINATOR: John Woodcock         TITLE: City Engineer

SUBJECT: Maintenance Covenant, Release and Hold Harmless Agreement for Private Sewer Grinder Pumps.

ORDINANCE/RESOLUTION # 1679

REQUEST OR RECOMMENDATION BY ORIGINATOR: Maintenance Covenant, Release and Hold Harmless Agreement for Private Sewer Grinder Pumps.

These two customers have voluntarily requested to cease use of their City Sewer Grinder Pump. PW-Engineering has worked with legal to establish the procedures and documents necessary for this and future actions to eliminate City Grinder Pumps.

Grantor – Garry L. Totman and Mary S. Sullivan, Description - Lot 87, Church Lake Waterfront Tracts Division 1 Volume 22, PGS. 1-4, Parcel # 3037000870.

Grantor – The Marie Ward Trust, Christopher Ward TTE, Description – Section 27 Township 20 Range 05 Quarter 24 Church Lake Waterfront Tracts Division #1: Church Lake Waterfront TR Division #1 86 VE !/19th INT T/E 1976 GoldW Villa West S#21998 –Parcel #3037000860

ISSUE AND DOCUMENTS HAVE BEEN REVIEWED AND APPROVED BY THE

FINANCE DIRECTOR

CITY ATTORNEY           N/A

2007 Budgeted Item:      Required Expenditure      Impact      Remaining Balance
N/A                N/A                    N/A

COMMITTEE ACTION: RECOMMEND APPROVAL TO COUNCIL

DATE              APPROVED            DISAPPROVED
James Rackley, Chairman

Mark Hamilton

David Bowen

COMMITTEE COMMENTS: ___________________________________________________________

COMMITTEE’S RECOMMENDATION TO FORWARD TO:

CITY CLERK

CITY ATTORNEY

Please schedule for City Council Meeting date of: April 24, 2007

Consent Agenda: ☑ Yes        □ No
RESOLUTION NO. 1679

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, GIVING PUBLIC WORKS STAFF THE AUTHORITY TO EXECUTE MAINTENANCE COVENANT, RELEASE AND HOLD HARMLESS AGREEMENTS FOR PRIVATE SEWER GRINDER PUMPS

WHEREAS, certain private property owners within the Bonney Lake sewer service area desire to disconnect from City-owned sewer grinder pumps, in favor of installing and using their own private pumps; and

WHEREAS, the Bonney Lake Comprehensive Sewer System Plan states that, “The City will not assume maintenance responsibility for additional grinder pressure sewer pumps;” and

WHEREAS, property owners agree to assume all responsibility for maintaining their own private pumps; and

WHEREAS, it benefits the City to allow owners to disconnect from City-owned grinder pumps when they desire, because the City’s maintenance responsibility for grinder pumps is then reduced; and

WHEREAS, it is necessary for the City to enter into a Maintenance Covenant, Release and Hold Harmless Agreement for Private Sewer Grinder Pump ("Agreement") with property owners who wish to use private grinder pumps, so that maintenance responsibilities are clear and recorded against the properties.

NOW THEREFORE, the City Council of the City of Bonney Lake, Washington, does hereby resolve that Public Works Staff is authorized to execute the form Agreement attached as Exhibit A with private property owners who wish to discontinue use of the City’s sewer grinder pumps in favor of a private sewer grinder pump.

PASSED BY BONNEY LAKE CITY COUNCIL this ___ day of April, 2007.

__________________________
Neil Johnson, Mayor

ATTEST:

__________________________
Harwood T. Edvalson, CMC, City Clerk

APPROVED AS TO FORM:

__________________________
City Attorney Jim Dionne
MAINTENANCE COVENANT, RELEASE AND HOLD HARMLESS AGREEMENT FOR PRIVATE SEWER GRINDER PUMP

Grantor(s): Garry L. Torman and Mary S. Sullivan

Grantee: City of Bonney Lake

Abbreviated Legal Description: Lot 87, Church Lake Waterfront Tracts Division 1 Volume 22, PGS. 1-4.

Full legal description appears on page 5 herein.

Assessor’s Property Tax Parcel or Account Number: 303700-087-0

Reference Numbers of Documents Assigned or Released: n/a
MAINTENANCE COVENANT, RELEASE AND HOLD HARMLESS AGREEMENT FOR PRIVATE SEWER GRINDER PUMP

The Parties, the City of Bonney Lake and [name], the Owners of the Real Property located at [address] (as legally described in Exhibit A of this Agreement, hereinafter "the Property"), execute the following Agreement.

WHEREAS, the Property is in the Bonney Lake sewer service area; and
WHEREAS, the Property currently uses a sewer grinder pressure pump owned and operated by the City of Bonney Lake; and
WHEREAS, the City holds an easement over the Property for maintenance of the sewer grinder pressure pump; and
WHEREAS, the owners of the Property wish to discontinue use of the City-owned sewer grinder pressure pump and install and use a private sewer grinder pressure pump (hereinafter "Pump"), and to have the City's Easement extinguished; and
WHEREAS, the Bonney Lake Comprehensive Sewer System Plan states that, "The City will not assume maintenance responsibility for additional grinder pressure sewer pumps."

NOW, THEREFORE, the Parties hereby agree as follows:

1. Prior to disconnecting from the City-owned sewer grinder pump, the Property Owner shall install a private sewer grinder pump in conformance with all applicable codes and standards.

2. After installing the Pump to serve their premises, Property owners will discontinue use of the City-owned pump.

3. The City assumes no responsibility for inspecting or warranting the private Pump. All maintenance and upkeep will be the sole responsibility of the Property Owners. The Owners agree to maintain the Pump in accordance with City standards and recommendations; any federal, state or local law or regulation; and manufacturer's recommendations. Owners shall maintain records of all maintenance of the Pump, which Owners shall furnish to the City upon request. The Owners agree that should the Pump ever require repair or replacement, the Owners shall be responsible for all costs of such repair or replacement.

4. The Property Owners will release, hold harmless, defend, and indemnify the City for all disputes, claims, lawsuits, or damages arising out of the installation and use of the Pump.

5. In consideration of the Owner's commitments herein, the City shall convey the Easement to the Owner via Quit Claim Deed.

6. This Agreement shall be in effect as long as the Property continues to be served by a private Pump, and shall run with the land and shall bind subsequent property owners. The terms of this Agreement shall be binding upon Owner's heirs, successors and assigns. Owner shall condition any future sale or conveyance of the Property upon the
assigns. Owner shall condition any future sale or conveyance of the Property upon the purchaser's or grantee's agreement to the terms of this Agreement. The City will record this Agreement with the Pierce County Auditor.

7. This Agreement represents the entire agreement between the parties. No change, modification, termination or attempted waiver of any of the provisions of this Agreement shall be binding upon 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.

8. 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.

9. If any provision of this Agreement or its application is held invalid, the remainder of this Agreement or the application of the remainder of this Agreement shall not be affected.

10. Nothing in this Agreement is intended to create any rights in favor of any person or entity not a party to this Agreement, or to create any third-party beneficiaries.

IN WITNESS WHEREOF, this Agreement is executed this 27th day of February, 2007.

OWNERS(S)  

Mary S. Sullivan

State of Washington  

County of Pierce  

I certify that I know or have satisfactory evidence that Gary Totman & Mary Sullivan is the person who appeared before me, and said person acknowledged that he/she signed this instrument and acknowledged it to be his/her free and voluntary act for the uses and purposes mentioned in the instrument.

DATED this 27th day of February, 2007.

Anne M. Link

Notary Public in and for the state of Washington, residing at Buckley, WA.  

My appointment expires 6-2-2010.

State of Washington  

County of  

Anne M. Link  

Notary Public  

STATE OF WASHINGTON  

MAY 02, 2010

3
CITY OF BONNEY LAKE

State of Washington ss.
County of Pierce

I certify that I know or have satisfactory evidence that John Woodcock is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the City Engineer of 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 6th day of March, 2007

Geri Resch
Notary Public in and for the state of Washington, residing at Puyallup
My appointment expires 4-19-2010
EXHIBIT A

LOT 87, CHURCH LAKE WATERFRONT TRACTS, DIVISION NO. 1, TOWN OF BONNEY LAKE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 22 OF PLATS, PAGES 1 THROUGH 4, INCLUSIVE, IN PIERCE COUNTY, WASHINGTON
MAINTENANCE COVENANT, RELEASE AND HOLD HARMLESS AGREEMENT FOR PRIVATE SEWER GRINDER PUMP

Grantor(s): The Marie Ward Trust, Christopher Ward TTE.

Grantee: City of Bonney Lake

Abbreviated Legal Description: Section 27 Township 20 Range 05 Quarter 24 Church Lake Waterfront Tracts Division #1: Church Lake Waterfront TR Division #1 TR 86 VE 1/19th INT T/E 1976 GoldW Villa West S# 21998

Full legal description appears on page 5 herein.

Assessor's Property Tax Parcel or Account Number: 3037000860

Reference Numbers of Documents Assigned or Released: n/a
MAINTENANCE COVENANT, RELEASE AND HOLD HARMLESS
AGREEMENT FOR PRIVATE SEWER GRINDER PUMP

The Parties, the City of Bonney Lake and [name], the Owners of the Real Property located
at [address] (as legally described in Exhibit A of this Agreement, hereinafter “the Property”),
execute the following Agreement.

WHEREAS, the Property is in the Bonney Lake sewer service area; and

WHEREAS, the Property currently uses a sewer grinder pressure pump owned and
operated by the City of Bonney Lake; and

WHEREAS, the City holds an easement over the Property for maintenance of the sewer
grinder pressure pump; and

WHEREAS, the owners of the Property wish to discontinue use of the City-owned sewer
grinder pressure pump and install and use a private sewer grinder pressure pump (hereinafter
“Pump”), and to have the City’s Easement extinguished; and

WHEREAS, the Bonney Lake Comprehensive Sewer System Plan states that, “The City
will not assume maintenance responsibility for additional grinder pressure sewer pumps.”

NOW, THEREFORE, the Parties hereby agree as follows:

1. Prior to disconnecting from the City-owned sewer grinder pump, the Property Owner shall
install a private sewer grinder pump in conformance with all applicable codes and standards.

2. After installing the Pump to serve their premises, Property owners will discontinue use of the
City-owned pump.

3. The City assumes no responsibility for inspecting or warranting the private Pump. All
maintenance and upkeep will be the sole responsibility of the Property Owners. The Owners
agree to maintain the Pump in accordance with City standards and recommendations; any
federal, state or local law or regulation; and manufacturer’s recommendations. Owners shall
maintain records of all maintenance of the Pump, which Owners shall furnish to the City
upon request. The Owners agree that should the Pump ever require repair or replacement, the Owners shall be responsible for all costs of such repair or replacement.

4. The Property Owners will release, hold harmless, defend, and indemnify the City for all disputes, claims, lawsuits, or damages arising out of the installation and use of the Pump.

5. In consideration of the Owner’s commitments herein, the City shall convey the Easement to the Owner via Quit Claim Deed.

6. This Agreement shall be in effect as long as the Property continues to be served by a private Pump, and shall run with the land and shall bind subsequent property owners. The terms of this Agreement shall be binding upon Owner’s heirs, successors and assigns. Owner shall condition any future sale or conveyance of the Property upon the assigns. Owners shall condition any future sale or conveyance of the Property upon the purchaser’s or rantee’s agreement to the terms of this Agreement. The City will record this Agreement with the Pierce County Auditor.

7. This Agreement represents the entire agreement between the parties. No change, modification, termination or attempted waiver of any of the provisions of this Agreement shall be binding upon 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.

8. 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.

9. If any provision of this Agreement or its application is held invalid, the remainder of this Agreement or the application of the remainder of this Agreement shall not be affected.

10. Nothing in this Agreement is intended to create any rights in favor of any person or entity not a party to this Agreement, or to create any third-party beneficiaries.
OWNERS(S)

State of Washington
County of ________________

I certify that I know or have satisfactory evidence that ___________ is the person who appeared before me, and said person acknowledged that he/she signed this instrument and acknowledged it to be his/her free and voluntary act for the uses and purposes mentioned in the instrument.

DATED this __________ day of ______________________, 20_________.

Notary Public in and for the state of Washington, residing at ____________________________
My appointment expires ____________________________

State of Washington
County of _______ ss.

I certify that I know or have satisfactory evidence that ___________________ is the person who appeared before me, and said person acknowledged that he/she signed this instrument and acknowledged it to be his/her free and voluntary act for the uses and purposes mentioned in the instrument.

DATED this __________ day of ________________, 20_________.

Notary Public in and for the state of Washington, residing at ____________________________
My appointment expires ____________________________

CITY OF BONNEY LAKE

State of Washington
County of __________ ss.

I certify that I know or have satisfactory evidence that ___________ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the __________ 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 ________________, 20_________.

Notary Public in and for the state of Washington, residing at ____________________________
My appointment expires ____________________________
EXHIBIT A

SECTION 27 TOWNSHIP 20 RANGE 05 QUARTER 24 CHURCH LAKE WATERFRONT
TR DIV #1: CHURCH LAKE WATERFRONT TR DIV #1 TR 86 VE 1/19TH INT T/E 1976
GOLDW BILIA WEST S#21998 24X52 (P50000-15410) CT 06-01
City of Bonney Lake, Washington  
Council Agenda Bill (C.A.B.) Approval Form

<table>
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<tr>
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**BUDGET INFORMATION**

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<tr>
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<th>Impact</th>
<th>Remaining Balance</th>
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**Explanation:**

**Agenda Subject:** A motion to authorizing the Mayor to submit up to two Public Works Trust Fund loan applications.

**Administrative Recommendation:** Approve

**Background Summary:**
The Public Works Board recently announced its 2008 call for Public Works projects. This year approximately $200 million is available for construction loans. This is 15% less than the previous biennium due to reassignment of funds to other programs by the state legislature. Future appropriations are expected to continue to decline as the legislature finds other ways to use this funding source. Over the past five years, Public Works Trust Fund loans have been an essential tool to finance needed Public Works projects such as the Sumner wastewater treatment facility upgrade, the Ballpark Well treatment plant, new treatment facilities at Victor Falls and Grainger Springs, and various water main replacements. At an interest rate of 0.5%, Public Works Trust Fund loans have approximately half the rate impact as conventional financing (revenue bonds). This year staff would like to re-submit loan applications for two projects, the trunk sewer main replacement and the rest of the first phase of the “Leaky Mains” project. Both of these applications failed last year when only $71 million was available. The two loan applications, if approved, would be for approximately $10 million. These loans can be repaid with rate revenues, system development charges, or a combination of the two. Execution of any loan agreement will require an additional future Council action.

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<th>Council Committee Dates:</th>
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<td>Community Development &amp; Planning Committee:</td>
<td>Civil Service Commission:</td>
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<td>Council Meeting:</td>
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**Council Action:**

**Council Call for Hearing:**

**Council Hearings Date:**

**Council Referred Back to:**

Workshop:

Committee

**Council Tabled Until:**

**Council Meeting Dates:**

**Signatures:**

Depl. Dir.  

Mayor  

Date City Attorney reviewed
City of Bonney Lake, Washington
Council Agenda Bill (C.A.B.) Approval Form

<table>
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<tr>
<th>Department/Staff Contact: Executive/Morrison</th>
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<td>Ordinance Number: D07-96</td>
<td>Resolution Number:</td>
<td>Councilmember Sponsor: Dave King</td>
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**BUDGET INFORMATION**

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**Explanation:**

**Agenda Subject:** Proposed ordinance to replace BLMC 5.14 related to fireworks.

**Administrative Recommendation:**

**Background Summary:**
The City Council considered an ordinance at its April 10th Council meeting to replace the current Bonney Lake Municipal Code section regarding fireworks. After several attempts at amendment, the motion to adopt the ordinance failed on a tie vote. The Council again considered the ordinance along with alternative language at the April 17th Council Workshop. At the conclusion of Council discussion, there appeared to be a majority opinion that authority to issue an emergency suspension for the sale/discharge of fireworks should reside with the legislative authority rather than the administration. The attached draft of the ordinance incorporates the majority language. However, it does not address increasing the spacing of temporary fireworks sales structures to a distance greater than that established by the State of Washington.

**Council Committee Dates:**
Financing Committee:
Public Safety Committee:
Community Development & Planning Committee:
Council Workshops:

**Commission Dates:**
Planning Commission:
Civil Service Commission:

**Board/Hearing Examiner Dates:**
Park Board:
Hearing Examiner:

**Council Action:**
Council Call for Hearing:
Council Hearings Date:
Council Referred Back to:
Workshop:
Committee:
Council Tabled Until:
Council Meeting Dates: 04.10.07

**Signatures:**
Director Authorized: [Signature]
Mayor: [Signature]
Date City Attorney Reviewed:
ORDINANCE NO. D07-96


WHEREAS, the City of Bonney Lake possesses authority under Article XI, section 11 of the State Constitution, and RCW 70.77.240, to adopt and enforce laws that regulate the sale, purchase, and use of consumer fireworks; and,

WHEREAS, the City of Bonney Lake is obliged to provide consistency and concurrency in local application and enforcement of State laws regarding consumer fireworks; and,

WHEREAS, the City Council finds that protection of the lives, property, and repose of the citizens will be enhanced by limitation of the days, hours, and locations of sale and use of fireworks greater than those afforded by RCW 70.77; and,

WHEREAS, the City Council finds it prudent to provide the Mayor with power, under emergency circumstances or conditions, to temporarily prohibit the sale and/or use of fireworks;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BONNEY LAKE DO ORDAIN AS FOLLOWS:

Section 1. Chapter 5.14 of the Bonney Lake Municipal Code is hereby repealed.

Section 2. A new Chapter 5.14 of the same title is hereby added to read as follows:
Chapter 5.14

FIREWORKS

Sections:

5.14.040 Designee – Director of Planning and Community Development
5.14.045 “Consumer fireworks” and “display fireworks” – Additional definitions.
5.14.050 State license and city permit required.
5.14.055 Inspections.
5.14.060 Copy of license to be filed.
5.14.070 Certificate of insurance required.
5.14.080 Activities to be conducted in a safe and reasonable manner.
5.14.090 Permit required for sales – Application.
5.14.100 Retail fireworks temporary structures.
5.14.110 Sale and Discharge of fireworks.
5.14.120 Special purchase and use permits.
5.14.130 Permit for public display.
5.14.140 Agreement to confiscate and destroy illegal fireworks – Alternative to seizure process.
5.14.150 Permit revocation.
5.14.170 Emergency prohibition of fireworks sale and/or use

The following laws contained within the Revised Code of Washington (RCW) are hereby adopted by reference as currently enacted and as hereafter amended from time to time, and shall be given the same force and effect as if set forth herein in full; provided, that any provision in the RCW dealing solely and exclusively with the investigation, prosecution, or sentencing of a felony crime is not adopted herein.

RCW

70.77.126 Definitions – “Fireworks.”
70.77.131 Definitions – “Display fireworks.”
70.77.136 Definitions – “Consumer fireworks.”
70.77.138 Definitions – “Articles pyrotechnic”
70.77.141 Definitions – “Agricultural and wildlife fireworks.”
70.77.146 Definitions – “Special effects.”
70.77.160 Definitions – “Public display of fireworks.”
70.77.165 Definitions – “Fire nuisance.”
70.77.170 Definitions – “License.”
70.77.175 Definitions – “Licensee.”
70.77.180 Definitions – “Permit.”
70.77.182 Definitions – “Permittee”
70.77.190 Definitions – “Person.”
70.77.200 Definitions – “Importer.”
70.77.205 Definitions – “Manufacturer.”
70.77.210 Definitions – “Wholesaler.”
70.77.215 Definitions – “Retailer.”
70.77.230 Definitions – “Pyrotechnic operator.”
70.77.236 Definitions – “New fireworks item.”
70.77.241 Definitions – “Permanent storage” – “Temporary storage”
70.77.255 Acts prohibited without appropriate licenses and permits – Minimum age
   for license or permit – Activities permitted without license or permit.
70.77.260 Application for permit.
70.77.265 Investigation, report on permit application.
70.77.270 Governing body to grant permits – State-wide standards – Liability insurance.
70.77.280 Public display permit – Investigation – Governing body to grant – Conditions.
70.77.285 Public display permit – Bond or insurance for liability.
70.77.290 Public display permit – Granted for exclusive purpose.
70.77.295 Public display permit – Amount of bond or insurance.
70.77.345 Duration of licenses and retail fireworks sales permits.
70.77.381 Wholesalers and retailers – Liability insurance requirements.
70.77.386 Retailers – Purchase from licensed wholesalers.
70.77.401 Sale of certain fireworks prohibited.
70.77.405 Authorized sales of toy caps, tricks, and novelties.
70.77.410 Public displays not to be hazardous.
70.77.415 Supervision of public displays.
70.77.420 Storage permit required – Application – Investigation – Grant or denial – Conditions.
70.77.425 Approved permanent storage facilities required.
70.77.435 Seizure of fireworks.
70.77.440 Seizure of fireworks – Proceedings for forfeiture – Disposal of confiscated fireworks.
70.77.480 Prohibited transfers of fireworks.
70.77.485 Unlawful possession of fireworks – Penalties.
70.77.488 Unlawful discharge or use of fireworks – Penalty.
70.77.495 Forestry permit to set off fireworks in forest, brush, fallow, etc.
70.77.510 Unlawful sales or transfers of special fireworks – Penalty.
70.77.515 Unlawful sales or transfers of consumer fireworks – Penalty.
70.77.517 Unlawful transportation of fireworks – Penalty.
70.77.520 Unlawful to permit fire nuisance where fireworks kept – Penalty.
70.77.525 Manufacture or sale of fireworks for out-of-state shipment.
70.77.535 Special effects for entertainment media.
70.77.540 Penalty.
70.77.545 Violation a separate, continuing offense.
70.77.547 Civil enforcement not precluded.
70.77.580 Retailers to post list of consumer fireworks.

The terms “city,” “local public agency,” and “local government,” as used in
the sections of Chapter 70.77 RCW that are adopted by reference in this
Chapter, shall mean the City of Bonney Lake.

The term “local fire official,” as used in the provisions of the Revised Code
of Washington adopted by this chapter, shall mean the chief (or his designee) of East
Pierce Fire and Rescue. The fire marshal referred to in this chapter shall mean the fire
marshal of East Pierce Fire and Rescue.

5.14.040 Designee – Director of Planning and Community Development.
Pursuant to RCW 70.77.270, the city council hereby designates the Director of Planning
and Community Development (or his or her qualified designee) as the person with
authority, subject to the concurrence of the local fire official, to grant or deny permits
that are sought pursuant to this chapter.

5.14.045 “Consumer fireworks” and “display fireworks” – Additional definitions.

A. The term “consumer fireworks,” shall, in addition to the definition set forth in RCW
70.77.136, include the types of fireworks set forth in WAC 212-17-035.

B. The term “display fireworks,” shall, in addition to the definition set forth in RCW
70.77.131, include the types of fireworks set forth in WAC 212-17-040.

5.14.050 State license and city permit required.

A. Pursuant to Chapter 70.77 RCW and this chapter, a permit issued by the Director of
Planning and Community Development or his or her designee shall be required for any
activity enumerated in RCW 70.77.255(1).

B. No permit for the activities set forth in RCW 70.77.255(1) shall be issued until:

1. A license issued by the Chief of the Washington State Patrol is filed with the
local fire official or his or her designee; and

2. A certificate of insurance as required by BLMC 5.14.070 and Chapter 70.77
RCW is filed.
5.14.055 Inspections.

Prior to the issuance of any permit, and at any time thereafter during its permitted use, the local fire official or his or her designee may perform an inspection of any structure or building intended for retail activity, wholesale activity, manufacturing activity, fireworks storage, or public display of fireworks, to determine whether such structures or buildings comply with the requirements of the Revised Code of Washington, the Washington Administrative Code or the city code. No permit shall be issued, or remain in effect, unless such structures or buildings comply with applicable laws and the Bonney Lake Municipal Code.

5.14.060 Copy of license to be filed.
Any person who obtains a permit as required by this chapter shall file with the police and local fire official, a copy of each license for such activity required by Chapter 70.77 RCW.

5.14.070 Certificate of insurance required.

A. As a condition of the issuance of any permit required by this chapter, and at all times during the sale, storage, or display of fireworks pursuant to the authority granted by a permit issued pursuant to this chapter, every retailer, wholesaler, manufacturer, or pyrotechnic operator operating within the city limits of Bonney Lake shall obtain and have in effect a bond or insurance in the amounts required by RCW 70.77.270, 70.77.285 and 70.77.295. The Director of Planning and Community Development, shall approve the bond or insurance if it meets the requirements of this section.

B. Any certificate of insurance or bond required by this chapter or the sections of Chapter 70.77 RCW adopted by this chapter shall provide that:

1. The insurer will not cancel the insured’s coverage without 15 days prior written notice to the Director of Planning and Community Development of the City of Bonney Lake and the Chief of the Washington State Patrol through the local fire official; and

2. The City of Bonney Lake, its employees, officer, agents, volunteers, and officials are included as additional insured; and

3. The City of Bonney Lake is not responsible for any premiums or assessments on the policy.

C. Nothing in this section shall relieve any person of the insurance requirements in Chapter 70.77 RCW.
5.14.080 Activities to be conducted in a safe and reasonable manner.

A. All retailers of fireworks and persons publicly displaying fireworks shall be responsible for conducting activities in a manner that is safe and responsible and in compliance with all federal, state, and local ordinances and regulations. The issuance of any permit required by this chapter shall in no way relieve any person from the duty of complying with all federal, state, and local ordinances and regulations or conducting activities in a safe and reasonable manner. The issuance of a permit shall not be deemed an endorsement by the City of Bonney Lake of the activity engaged in.

B. The city shall not be liable to any person, corporation, entity or holder of property for any damage that is caused by or derived from the display of fireworks. The person permitted for or displaying fireworks assumes all risks of such display, and shall hold the city and its employees and officials harmless from any and all claims or causes of action for damage caused by or derived from such display.

5.14.090 Permit required for sales – Application.

A. An application for a permit to sell fireworks shall be made in writing to the Director of Planning and Community Development (normally processed at the Permit Center, on forms provided for that purpose) no later than March 15 of the year for which permit is sought. Permit fees, inspection, and site plan review charges shall be charged as required by resolution of the city council. The applicant shall include with the application the following:

1. a completed Bonney Lake Business License application and fee (non-profit entities are exempt from this requirement), and
2. a copy of the signed and approved State License Application for Retail Firework Temporary structure Permit, and
3. a copy of the signed and approved Washington State Patrol Fire Protection Bureau, Office of the State Fire Marshal-issued Fireworks Temporary structure License Permit (with printed permit number), and
4. a copy of the lease agreement or permission from the property owner for the site location, and
5. a site plan diagram of the proposed sale location, and
6. a Certificate of Insurance as required by BLMC 5.14.070, and
7. a performance bond or cleaning damage deposit of $50.

The Director of Planning and Community Development or his or her designee shall deny or grant any such application in writing no more than thirty days after receipt of an application. The Director of Planning and Community Development or his or her designee may place reasonable conditions on any permit issued. The person applying for a permit may appeal in writing the denial of the permit or the conditions of the permit to the Director of Planning and Community Development. The appeal shall be based solely
upon written information provided by the applicant and information obtained or held by the Director of Planning and Community Development, and no hearing shall be required. The determination of the Director of Planning and Community Development of the appeal shall be final.

B. The applicant shall post with the city a performance bond or cash deposit in an amount of $50, conditioned upon the prompt removal of the temporary structure and the cleaning up of all debris from the site of the temporary structure. The removal of the temporary structure and the required cleanup shall be performed no later than 5 days after termination of the temporary structure’s permitted operation. In the event that the required cleanup is not performed to the satisfaction of the inspecting official of the city, the entire amount of the bond shall be forfeited to the city. Extraordinary expenses in excess of the bond amount in addition to all other remedies, if suffered by the city in cleanup or site remediation, shall be billed to the permit holder. Failure of the permit holder to pay such a billing, in full and within 30 days, may result in refusal of the city to grant a future firework temporary structures permit to the same person, charity, or business.

5.14.100 Retail fireworks temporary structures.

The following requirements shall apply to the operation of retail fireworks temporary structures:

A. Prior to opening for business, a temporary retail sales fireworks structure must be inspected and approved by the fire marshal.

B. Inspections of temporary structures shall not be conducted until the local fire official is notified by the temporary structure operator that the temporary structure is configured in the manner intended for opening for business.

C. Temporary structures shall comply with all requirements of WAC 212-17-21505; 21509; 21511; 21513; 21515; and 21517. Where there are practical difficulties in achieving compliance, and alternatives are sought that do not compromise public safety, the permit holder shall fully inform the police and fire chiefs in writing, of the non-compliance issue and seek a written approval of the alternative proposed.

D. No person, firm, corporation, or charitable organization shall receive more than one permit from the city for the sale of fireworks during any one calendar year. The maximum number of permits that may be issued pursuant to this chapter shall not exceed one license for each 2,500 residents of the city, according to the last official census or the last estimate of the state’s census board.

E. Transfer to any other person, firm, corporation, or charitable organization by the permit holder of the permit issued by the city shall be deemed void and a violation of this chapter.
5.14.110 Sale and Discharge of fireworks.

A. Except as permitted by this chapter and state law, it is unlawful to possess, discharge or sell at wholesale or retail any fireworks other than consumer fireworks.

B. No consumer fireworks shall be sold or offered for sale at retail within the city except from 12:00 noon on the twenty-eighth day of June to 11:00 p.m. on the fourth day of July of each year. No consumer fireworks may be sold between the hours of 11:00 p.m. and 9:00 a.m.

C. It is unlawful for a person to ignite, discharge, use or explode any consumer fireworks except between the hours of 9:00 a.m. and 11:00 p.m. on July 3rd and on July 5th; between 9:00 a.m. and 12:00 midnight on July 4th; and between 6:00 p.m. on December 31st and 1 a.m. on January 1st.

D. The restrictions on the sale or discharge of fireworks contained in this section are effective starting on June 28, 2008 and every day thereafter. Until that date, the restrictions contained in RCW 70.77.395 govern the times when the sale and discharge of fireworks is permitted in the city.

E. It is unlawful for any person to discharge fireworks on the property of another without permission of the owner of such property. It is unlawful for any person to discharge fireworks in a public park unless a written permit has been obtained from the city. It is unlawful for any person to discharge fireworks on city property that is not a park without the express written permission of the city.

F. During hours of operation, the operator of a retail sales fireworks temporary structure shall prominently post a sign quoting the text of BLMC 5.14.110 B, C, and D, above, at every point where a sales transaction is completed.

G. The transfer of fireworks ownership, whether by sale at wholesale or retail, by gift or by other means of conveyance of title, or the delivery of any fireworks to any person who does not possess a valid permit at the time of such transfer where a permit is required by this chapter, is prohibited.

H. The sale, transportation, possession, or discharge of fireworks not marked as required by Chapter 70.77 RCW is prohibited.

5.14.120 Special purchase and use permits.

A. Religious organizations or private organizations or persons may purchase or use consumer fireworks on dates and at times other than that specified in BLMC 5.14.130 if such fireworks are:

1 Purchased from a manufacturer, importer or wholesaler licensed pursuant to
Chapter 70.77 RCW;

2. A special use permit is obtained from the Director of Planning and Community Development or his or her designee;

3. For use on dates and locations prescribed in the special use permit; and

4. For religious or specific purposes.

B. Applications for a permit required under this section shall be made in writing to the Director of Planning and Community Development or his or her designee on forms provided for that purpose [cannot charge a fee under RCW 70.77.311]. The fire marshal or his or her designee shall investigate whether the character and location of the proposed use would be hazardous or dangerous to any person or property. Based on such investigation, the Director of Planning and Community Development or his or her designee may grant or deny such permit and may place reasonable conditions on any permit issued. A copy of the permit, upon issuance, shall be provided to the Chief of Police by the Director or his designee.

C. No permit issued pursuant to this section shall be transferable. If such permit is issued it shall be lawful only for the prescribed uses. A permit authorized by this section shall not be issued unless the applicant is over the age of 18 years.

D. The permit holder shall, no less than two days prior to the display, notify city residents within 500 feet of the display of the display location(s) and time(s). This requirement may be waived by the Director of Planning and Community Development for displays that have been widely publicized in community newspapers.

5.14.130 Permit for public display.

A. An application to make a public display of fireworks (as defined in RCW 70.77.160) shall be made in writing to the Director of Planning and Community Development or his or her designee on forms provided for that purpose and shall be accompanied by a fee as required by resolution for each display. Application shall be submitted at least 10 days in advance of the proposed display.

B. The fire marshal or his or her designee shall investigate whether the character and location of the display would be hazardous or dangerous to any person or property.

C. If the Director of Planning and Community Development or his or her designee grants a permit for the public display of fireworks, the sale, possession and use of fireworks for the public display is lawful for that purpose only. No such permit shall be transferable.
D. The person applying for a permit may appeal in writing the denial of the permit or the conditions of the permit to the Director of Planning and Community Development. The appeal shall be based solely upon written information provided by the applicant and information obtained or held by the Director of Planning and Community Development, and no hearing shall be required. The determination by the Director of Planning and Community Development of the appeal shall be final.

E. The permit holder shall, no less than two days prior to the display, notify city residents within 500 feet of the display of the display location(s) and time(s). Such notification may be in writing, in person, via e-mail, or other authorized means. This requirement may be waived by the Director of Planning and Community Development for displays that have been widely publicized in community newspapers.

5.14.140 Agreement to confiscate and destroy illegal fireworks – Alternative to seizure process.

A. In lieu of the formal seizure and forfeiture process set forth in RCW 70.77.435 and 70.77.440, the city and the person possessing or selling fireworks subject to seizure may enter an agreement wherein the city, through action by the Bonney Lake Police Department, agrees to confiscate and destroy the fireworks subject to seizure.

B. An agreement made pursuant to this section vests all right, title and possession in the fireworks with the Bonney Lake Chief of Police. The fireworks may be immediately destroyed or otherwise disposed of at the discretion of the Bonney Lake Chief of Police or his or her designee.

5.14.150 Permit revocation.

Violations of any provision of Chapter 70.77 RCW, this chapter, or a permit issued hereunder, or any failure or refusal on the part of the permit holder to obey any rule, regulation or request of the fire chief or his or her designee concerning fireworks, shall be grounds for the revocation of a fireworks permit.


Except as otherwise provided in this chapter, any person violating any provision of this chapter or any permit issued pursuant to this chapter is guilty of a misdemeanor punishable by imprisonment for a maximum term fixed by the court of not more than 90 days, or by a fine in an amount fixed by the court of not more than $1,000, or by both such imprisonment and fine. A person is guilty of a separate offense for each day or occurrence during which he or she commits, continues, or permits a violation of any provision of, or permit issued under, this chapter. The inclusion in this chapter of criminal penalties does not preclude enforcement of this chapter through civil means.

5.14.170 Emergency prohibition of fireworks sale and/or use
Upon recommendation of the Mayor, the City Council of the City of Bonney Lake may issue a city-wide or site-specific temporary emergency order prohibiting the sale and/or use of fireworks. Said recommendation shall be based on a reasonable and articulable belief that conditions exist where use or sale of fireworks threatens public safety or poses a severe wild land or woodland fire hazard. Prior to making the recommendation, the Mayor shall consult with local law enforcement and fire officials for best available public safety information pertinent to the conditions. Said information shall be communicated to City Council as part of the Mayor’s recommendation. The temporary emergency order shall specify the time period it shall be in effect. The emergency order may be cancelled by the City Council prior to its expiration date, based on information from the local law enforcement and fire officials as to prevailing conditions.


If any provision of this chapter, or its application to any person or circumstance, is held invalid, the remainder of the chapter or the application of the provisions to other persons or circumstances is not affected.

Section 3. This ordinance shall take effect thirty (30) days after its passage, approval, and publication as required by law.

PASSED by the City Council and approved by the Mayor this ________ day of ________________________, 2007.

__________________________
Neil Johnson, Mayor

ATTEST:

__________________________
Harwood T. Edvalson, CMC, City Clerk

APPROVED AS TO FORM:

__________________________
James J. Dionne, City Attorney

Passed:
Valid:
Published:
Effective Date:
From: Jason Schumann [jason@dionne-rorick.com]  
Sent: Friday, April 20, 2007 7:54 AM  
To: Woody Edvalson

Woody,

Jim Dionne asked me to respond to concerns about the proposed fireworks ordinance. I conclude the City can restrict retail fireworks stands to only commercial zones. However, I believe the City is preempted from adopting additional restrictions on the proximity of these retail firework stands in relation to one another (i.e., at least 500 ft.). Chapter 70.77 RCW and WAC 212-17 are clearly intended to serve as the exclusive regulations for the location of retail fireworks stands in the state. RCW 70.77.270 states:

The chief of the Washington state patrol, through the director of fire protection, shall prescribe uniform, statewide standards for retail fireworks stands including, but not limited to, the location of the stands, setback requirements and siting of the stands, types of buildings and construction material that may be used for the stands, use of the stands and areas around the stands, cleanup of the area around the stands, transportation of fireworks to and from the stands, and temporary storage of fireworks associated with the retail fireworks stands. All cities and counties which allow retail fireworks sales shall comply with these standards.

Likewise, WAC 212-17-21505 states:

(1) The state of Washington hereby fully occupies the entire field of regulation relating to the construction and use of temporary and permanent structures for the retail sale and storage of fireworks including: The location of and areas surrounding, the operation of and the cleanup after the use of said structures, pursuant to RCW 70.77.270.

(2) The state of Washington hereby preempts the authority of local jurisdictions with respect to the retail sale and associated storage of consumer fireworks from temporary structures. This rule constitutes the entire and exclusive authority for regulation of all such matters. Subject to the limitations imposed by chapter 70.77 RCW, a city or county may ban fireworks; or a city or county may restrict the dates of sale, purchase, possession and use of fireworks; or a city or county may restrict the types of fireworks that may be sold and purchased within its boundaries. If a city or county allows the sale of fireworks classified as consumer fireworks from temporary structures these rules preempt that city’s or that county’s authority to enact or enforce any other regulations.

WAC 212-17-21509 spells out the relevant state standards for the location of retail fireworks stands. It states:

(1) Activities or uses subject to this rule shall not be limited in location except where such activities or uses are prohibited or controlled by local development regulation, traffic safety or road construction standards.

(2) Temporary retail fireworks stands shall not be located more than one hundred fifty feet from a private way, fire department access road, public road, street or highway as measured by an approved route around the exterior of the stand. The minimum requirements for a private way shall be determined by the local authority having jurisdiction, but shall not exceed the requirements of locally adopted street, road and access standards.

(3) Any two retail fireworks stands shall be at least one hundred feet apart or shall be separated by a road, street or highway not less than thirty feet in width.

(4) Retail fireworks stands shall be located as required by Table 212-17-21509 in this section. The minimum required area surrounding the stand shall be marked or flagged, except that flagging and marking shall not block a sidewalk or pedestrian pathway. Flagging need not exceed twenty feet in any direction.

(5) Retail fireworks stands shall not be located closer than one hundred feet from any motor vehicle dispensing station, retail propane dispensing station, flammable liquid storage, or combustible liquid storage. Retail fireworks stands shall not be located closer than three hundred feet from any bulk storage of flammable or combustible liquid or gas, including bulk plant dispensing areas.

I conclude that WAC 212-17-21509(1) allows the City to use its zoning regulations to prohibit the sale of fireworks in areas not zoned for commercial uses. However, I do not think the City can go any farther in imposing more specific restrictions on the location of fireworks sales by way of a zoning regulation.
On the proximity issue, WAC 212-17-21509(3) clearly spells out the requirement that the stands must be at least one hundred feet apart. The City is preempted from imposing a different proximity standard (even if the standard is more restrictive).

I hope this information was helpful. Please contact me if you have any additional questions or concerns.

Sincerely,

Jason Schumann