CITY COUNCIL MEETING

June 12, 2007
7:00 P.M.

AGENDA

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

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

SIGN-UP TO SPEAK FOR SPECIFIC ACTION ITEMS ON THE AGENDA: If you have signed-up prior to the Council meeting to speak with respect to a particular ordinance or resolution 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 – Deputy Mayor Dan Swatman

A. Flag Salute:

B. Roll Call: [A1.3]

Councilmembers: 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: Administrative Services Director/City Clerk Harwood Edvalson, Interim Planning & Community Development Director Marvin Vialle, Assistant Public Works Director Rick Shannon, Police Chief Mike Mitchell, Community Services Director Gary Leaf, Chief Financial Officer Beth Anne Wroe and City Attorney Jim Dionne.]

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

1. Announcements:

2. Appointments:

   a. Administration of Oath of Office to Reserve Officer Natasha Pierce

3. Presentations:

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: May 15th Special Council Meeting, May 15th Council Workshop, May 22nd Regular Council Meeting and May 29th Special Joint Council/Planning Commission Meeting. [A3.6.2]

B. Checks/Vouchers: Accounts Payable checks/vouchers #47565 thru 47706 in the amount of $542,037.97. Accounts Payable checks/vouchers #47707 thru 47709 for Accounts Receivable deposit refunds in the amount of $1,043.38. Accounts Payable checks/vouchers #47564 and 47710 thru 47745 for utility account refunds in the amount of $4,299.12. [F4.9]


E. AB07-136 – Ordinance D07-136 - An Ordinance Of The City Of Bonney Lake, Pierce County, Washington, Amending BLMC Chapter 5.14, And Section 2 Of Ordinance No. 1235, Establishing Fees For The Sale And Use Of Fireworks Within The City Of Bonney Lake. [A3.5.5][F4.3]


G. AB07-127 – Resolution 1699 - A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing A Personal Services Agreement With KPG For The 75th Street East Improvements. [O 4.8.1]

H. AB07-134 – Resolution 1702 - A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing Notice Of Award For Deer Island Water Main Replacement To A&A Excavating, Inc. [O 4.10.2]

I. AB07-131 – A Motion Of The Bonney Lake City Council Setting A Public Hearing For 7:00 P.M. During The Regular Council Meeting Of June 26, 2007 Regarding The Proposed Six-Year Transportation Improvement Program For 2008-2013 [A3.6.10]

J. AB07-137 – A Motion Of The City Council Of The City Of Bonney Lake Setting A Public Hearing For 7:00 P.M., Or As Soon Thereafter As Possible, During The Regular Council
Meeting Of June 26, 2007 Regarding The Possible Declaration Of A Sewer Grinder Pump And Associated Easement As Surplus. [A 3.6.10]

V. FINANCE COMMITTEE ISSUES: None.

VI. COMMUNITY DEVELOPMENT COMMITTEE ISSUES:


B. **AB07-133 – Resolution 1704** - A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Approving The 192nd Right-Of-Way Plan And Directing The Mayor To Proceed With Negotiating Purchases Of Necessary Right-Of-Way. [A 3.13.3.3]

C. **AB07-129 – Resolution 1700** - A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing A Personal Services Agreement With Universal Field Services For 192nd Corridor Right Of Way Acquisition And Relocation Services. [A 3.13.3.3] [O 4.8.1]

VII. PUBLIC SAFETY COMMITTEE ISSUES: None.

VIII. FULL COUNCIL ISSUES:

A. **AB07-138 – Ordinance D07-138** - An Ordinance Of The City Of Bonney Lake, Pierce County, Washington, Authorizing The Acquisition Of Property By Purchase Or Condemnation. [A 3.13.3.3]

B. **AB07-135** – A Motion Of The Bonney Lake City Council Approving The Final Plat Of Legacy Park With The Conditions And Findings In The Attached Staff Report Dated 6/7/07. (Closed Record Hearing). [A 3.6.10] [A 3.6.10]

IX. EXECUTIVE SESSION: Pursuant to RCW 42.30.110(b)(i), the City Council will meet in executive session to consider issues of property acquisition and current/pending litigation. The duration will be announced prior to the executive session.

VIII. FULL COUNCIL ISSUES (Cont’d):

C. **AB07-129 – Resolution 1700** - A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Giving The City Attorney The Authority To Appeal From The Judgment Of The Pierce County Superior Court In The Matter Of Milestone Homes, Inc. V. City Of Bonney Lake, Cause No. 07-2-05050-2. [A 3.13.2.3]

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
Location: Bonney Lake City Council Chambers – 19306 Bonney Lake Blvd.

I. CALL TO ORDER – Deputy Mayor Dan Swatman called the special meeting to order at 5:05 p.m.

A. Roll Call: [A1.3]

Elected Officials in attendance were Deputy Mayor Dan Swatman, Councilmember David Bowen, Councilmember Phil DeLeo, and Councilmember Jim Rackley. Councilmember Dave King and Councilmember Mark Hamilton arrived at 5:26 p.m. Councilmember Cheryle Noble was absent.

Staff Members Present were: City Administrator Don Morrison, Interim Planning & Community Development Director Marvin Vialle, Public Works Director Dan Grigsby, Administrative Services Director/City Clerk Harwood Edvalson, Chief Financial Officer Beth Anne Wroe, Detective Dana Hubbard, Senior Accountant Barbara Barth, Accountant Donna Berube and Records & Information Specialist Virginia Phelan.

Agenda Items:


State Auditor June Li explained the State Auditor’s Office conducts exit meetings to provide formal closure on 2005 business, the year for which the audit was performed. She distributed two reports. The first of was the Financial Statements Audit Report. This report consists of two parts, the first of which is the State’s opinion of the City’s internal control on financial reporting and compliance. Auditor Li summarized this and explained that the City was found to have no instances of non-compliance and received a clean report. She and State Auditor Joanne McInelly went on to describe the second part of the report as being the State’s opinion on the Financial Statements as a whole. This is also a clean report. Lastly, the Auditors described the second distributed report, the Accountability Audit Report. This is a report on accountability and compliance and is written in plain language for the average person to understand. Auditor Li said it essentially summarizes the audit and then detailed the content for those in attendance.

Council questioned the auditing methods and value of a clean report. The Auditors explained this is the 6th year in a row the City has had clean reports. They only review certain areas each year, but rotate so they are able to evaluate all of the City’s financial areas over the course of a
few years. There was discussion on the difference between incident items noted in the report and official findings, as well as the role of the change in management in the City’s Finance Department and how that affects the reports. Auditor Li explained these are draft copies of the reports and the finals would be issued in a couple of months.

2. Adjournment

Councilmember Rackley made a motion to adjourn. Deputy Mayor Swatman seconded the motion.

Motion approved 6 – 0.

The meeting adjourned at 5:30 p.m.

Harwood T. Edvalson, CMC
City Clerk

Neil Johnson, Mayor

Items submitted to the May 15, 2007 Special Meeting:

- Washington State Auditor’s Office – Accountability Audit Report for City of Bonney Lake – State Auditor June Li.
Call to Order:
Deputy Mayor Swatman called the May 15th Council Workshop to order at 5:37 p.m.

Roll Call:
Elected Officials in attendance were Deputy Mayor Dan Swatman, Councilmember David Bowen, Councilmember Phil DeLeo, Councilmember Mark Hamilton, Councilmember Dave King, and Councilmember Jim Rackley. Mayor Johnson and Councilmember Cheryle Noble were absent.

[Staff members attending were City Administrator Don Morrison, Interim Planning and Community Development Director Marvin Vialle, Public Works Director Dan Grigsby, Community Services Director Gary Leaf, Administrative Services Director / City Clerk Harwood Edvalson, Chief Finance Officer Beth Anne Wroe, City Attorney Jim Dionne, Planning Manager Steve Ladd, Human Resources Officer Jenna Young and Records & Information Specialist Virginia Phelan.]

Agenda Items:

1. Council Open Discussion

Kiwanis Golf Tournament.
Councilmember DeLeo asked if the City will be compiling a team for the upcoming Golf Tournament. City Administrator Morrison said Rick Shannon, Mike Mitchell, The Mayor and himself would be forming a team. Councilmember DeLeo said the Tournament has been moved to June 28th and the money would be used for scholarships. The first scholarships from last years tournament money are being awarded now and are based on service to the community.

Ecology Blocks at Allan Yorke Park
Councilmember DeLeo inquired about the ecology blocks planned for Puget Sound Energy’s property at the Park. City Administrator Morrison said PSE is not opposed to the placement of the blocks; however, their pending purchase and sale agreement with Cascade Water Alliance requires they run all property decisions past the CWA. The City is now waiting on a response from them.

Cascadia Sewer.
Councilmember Hamilton sought discussion on the results of Deputy Mayor Swatman’s public disclosure request to the Pierce County Public Works Department. Deputy Mayor Swatman noted he received a copy of a letter from the City Administrator of Orting to Pierce County Public
Works Director Brian Ziegler from June of 2006, which indicated Orting’s interest in the County taking over the sewer utility at Cascadia. Council conversed about the timeline of this sewer issue, as well as their concern about the City being left out of discussions and the County’s perceived dishonesty on the topic. Public Works Director Grigsby said the Department of Ecology agrees the City should be involved with any regional concepts for sewer on the Plateau, but the community septic is far along at this point and is needed for Cascadia to get the first phase moving forward. In the future there will be an opportunity for the City to appeal at a public hearing.

Deputy Mayor Swatman inquired as to a Pierce County meeting being planned during which the interlocal agreement with Orting will be discussed. Director Grigsby noted it is at the Pierce County Annex, but the date has been changed. The City should testify there and let the County know their desire to be involved.

House Bill 1858
Councilmember Hamilton asked for clarification on HB1858 regarding the City’s possible ability to receive monies from fees for vehicle tabs. He wanted to know whether this would prohibit the City from requiring Traffic Mitigation Fees. Administrator Morrison said his understanding is this bill is independent of mitigation fees. He described the history of the bill. Councilmember Hamilton said the Impact Fees are essential to getting any support from citizens to help pay for traffic problems, since the development is what has caused the congestion in the first place. He promoted taking this to the citizens for a vote if it is put in the City’s jurisdiction. Councilmember Rackley agreed.

Administrator Morrison suggested using something like this to supplement neighborhood street work, rather than the larger projects for which the impact fees are used. Councilmember King said the discussion is moot until after November when the current transportation bills come up to a vote.

Bollards at Allan Yorke Park
Deputy Mayor Swatman inquired as to the space between the bollards on the boat launch. Community Services Director Leaf said an ecology block would be placed in the middle of the 14 foot gap.

Absentee ballot
Deputy Mayor Swatman asked if anyone was cognizant of the postage rate increase when they mailed their absentee ballots. Councilmember Rackley said the County picks up the cost when people do not use sufficient postage, additionally they may be dropped off at Fred Meyer.

Proactive Code Enforcement
Deputy Mayor Swatman said he is opposed to Code Enforcement Officers seeking out violations of code. This type of behavior would likely cause neighborhood disputes and is not necessary. Council debated the value of proactive code enforcement. Councilmember Bowen suggested there are enough complaints to keep Code Enforcement busy without driving around in search of violations in order to write up tickets. Director Grigsby said the staff needs Council support to enforce the codes. Interim Planning & Community Development Director Vialle noted the difference between proactive enforcement and responding to violations seen, but not yet the object of a citizen complaint.

Council discussed the nature of the City’s majority of code violations and the best way to enforce these. City Attorney Dionne said this topic comes up often, but it is Council’s responsibility to
make it a priority if they want enforcement to be more successful. In response to questions as to why repeat offenders are allowed to continue working in the City, he said each property has to be treated as a new case. He suggested Council be more aggressive. Deputy Mayor Swatman said many cases are not ambiguous and should not be a problem to enforce, yet they are not being dealt with properly. There was increased discussion on the best methods to strengthen the City’s ability to enforce its code, as well as the associated costs. Councilmember King said this topic would again be addressed in the Public Safety Committee.

Lowe’s
Councilmember Rackley asked about the Lowe’s situation. Director Grigsby said the Hearing Examiner will be in City Hall Council Chambers on June 4th to address the appeals. Councilmember Hamilton said he was in receipt of an email from one of the property owners of the four homes Lowe’s said they were trying to purchase. The email indicates there has been no attempt by Lowe’s to purchase their home and Lowe’s claimed to the citizen that their home is neither needed nor wanted, which is contradictory to the statements made by Lowe’s. Council also discussed Lowe’s study of installing a frontage road.

Deputy Mayor Swatman and Director Grigsby described the possibilities for Lowe’s to get permission to build an access road from 200th Ave. Director Vialle noted there had been a request for an administrative interpretation of the City Code as it relates to the problem of commercial access through residentially zoned property.

Utility Complaint
Deputy Mayor Swatman said a citizen had complained to Council at the previous meeting regarding the urbanization of Lake Tapps and an occasion when her water was allegedly shut off without proper reason. The City researched this and found the citizen had not paid her bill and her service was disconnected according to procedure.

Workshop Action Items
Deputy Mayor Swatman said he had researched Council Workshops wherein there had been action taken. His conclusion is in the last year and a half the Council has primarily limited these occasions to approval of preliminary and final plats, as well as Public Works Trust Fund Loan applications. Generally the topics are those which are time-sensitive and not controversial to the citizens. Deputy Mayor Swatman also noted that he makes a point to indicate possible action items on the Workshop agendas and offer citizens the opportunity to speak.

Council Role in Citizen Complaints
Deputy Mayor Swatman questioned what Council can do when citizens bring complaints to them while working with administration on the same topics. Councilmember King said he and others are sometimes too quick to accuse staff before giving them the opportunity to research the complaints brought forth by the Citizens. He admitted Council does not always know the full situation and suggested they be more careful to direct concerns to the Mayor.

Councilmember Bowen moved for a five minute break. Councilmember Rackley seconded the motion.

Motion approved 6 – 0.

The workshop reconvened at 6:38 p.m.

Deputy Mayor Swatman inquired as to what could be done in the May 8th minutes to reflect the inaccurate statement of Mrs. Moore that her water had been shut off without good reason. Council discussed this with the City Attorney and City Clerk and it was determined the minutes could not be changed, but the current record could reflect the findings of staff. Councilmember Hamilton asked that the May 1st minutes also be considered because of the statements of Lowe’s which were contradicted by the email he received from a homeowner. It was decided the may 15th minutes would document these prior stated inaccuracies.

Deputy Mayor Swatman also asked that the May 8th minutes reflect his statement that the City should not reduce the Traffic Impact Fees at all as a result of Lowe’s mitigation measures on South Prairie Road and Hwy 410.


Councilmember Bowen asked if a permit would be required if a group of six or even twenty neighbors set off their fireworks together. Councilmember King said it generally applies to massive displays put on by pyrotechnicians. Citizens with consumer fireworks will not need a permit. The fee is $50 and covers the expense for staff to process the paperwork involved. There is no set limit in the Bonney Lake Municipal Code for the number of permits permitted, but due to the City’s population only six fireworks stands are allowed according to the State Code. There may be a similar rule for displays. Also, the Fire Marshal is responsible for inspections and advising the City on the safety of fireworks related events. Councilmember King noted there was discussion on the cost of police patrols and traffic control problems, but at this time it is not anticipated those costs will be excessive enough to warrant additional fees. If this changes in the future the fees may be revised.


Human Resource Officer Young said Administrator Morrison, Director Edvalson and herself had met with AWC in response to a program they are offering for L&I management services. Currently the City contracts with Segway Administrators, but Segway has been purchased by Comp Management, who partners with the AWC Retro Program. The Retro Program is a pool of 73 cities who, when rated together, should have a lower industrial accident rate and consequently get lower premium rebate rates. The Program charges a 6.5% administrative fee and offers aggressive safety training to Human Resources and staff, as well as rebates of the administrative fees. The City’s current L&I management company charges a 5% fee, offers no training and no rebates.

Administrator Morrison said if the City had been in the Program last year AWC suggested they may have saved nearly $20,000. Officer Young added AWC also designates a Claims Manager to the City. This person assists Human Resources in helping those who are out on L&I return to work sooner. Council discussed the fees, the value of employee safety to both employees and citizens and the other cities involved.

Deputy Mayor Swatman said the June 19th Workshop is scheduled for cancellation because of the Annual AWC conference and the July 3rd Workshop is scheduled for cancellation due to the Fourth of July Holiday. He said they can always be rescheduled if necessary.

6. Discussion: Downtown Redevelopment Update.

Director Vialle said the Draft Downtown Design Guidelines have been received by the Planning Department. On May 16th there will be a joint meeting of the Planning Commission, the Design Commission and the Downtown Developers Group, to which Council is also invited. The meeting will be in Council Chambers at 5:30 p.m. Councilmember Rackley noted he will be attending the RCC meeting in Councilmember DeLeo’s place. Director Vialle said at the time of the meeting there will be copies of the Draft Downtown Design Guidelines available. The next steps are SEPA, hearings, recommendations from the advisory boards, and Council review and action in early August. In response to inquiry as to whether there have been any problems, Director Vialle responded in the negative. Deputy Mayor Swatman reminded Council that this is a multimillion dollar project and will not always be easy.

7. Executive Session: None.

8. Adjournment.

Councilmember Rackley moved to adjourn the workshop at 7:17 p.m. Councilmember Bowen seconded the motion.

Motion approved 6 – 0.

Harwood T. Edvalson, CMC
City Clerk

Mayor Neil Johnson, Jr.

Items submitted to the Council Workshop of May 15, 2007:

➢ City of Bonney Lake – Email from C. Roger and Karen Allen – Councilmember Hamilton.
➢ City of Bonney Lake – Email in response to Mrs. Moore comment regarding $25 turn on fee and being without water over the weekend – Chief Financial Officer Wroe.
I. CALL TO ORDER – Mayor Johnson called the meeting to order at 7:06 p.m.

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

B. Roll Call [A1.3]

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

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

Deputy Mayor Swatman moved to excuse Councilmember Noble. Councilmember DeLeo seconded the motion.

Motion approved 5 – 0.

Councilmember Rackley moved to excuse Councilmember King. Councilmember Bowen seconded the motion.

Motion approved 5 – 0.

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

1. Announcements: None.

2. Appointments: None.

3. Presentations:
   a. Proclamation – Public Works Week – May 20-26
      Mayor Johnson read the proclamation noting the motto for this year’s Public
Works Week is “Public Works: Moving Life Forward”. Director Grigsby thanked the Mayor and Council and said the points in the proclamation are proven every day by the Public Works employees. He said Assistant Director Shannon is in attendance to represent the shops, who do a great service to the City by being on the front lines in the same way as the Police and Fire Department employees.

D. Agenda Modifications:

Councilmember Rackley moved to add three contracts: Resolution 1690, Resolution 1691 and Resolution 1696 to the Community Development Department Issues portion of the agenda. Councilmember Bowen seconded the motion.

Councilmember Bowen noted the importance of paying contractors in a timely manner, so they know the City is reputable.

Motion approved 5 – 0.

II. PUBLIC HEARINGS, CITIZEN COMMENTS & CORRESPONDENCE

A. Public Hearings: None.

B. Citizen Comments: None.

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 1694 – a contract with TRAIN for employee training;
2. Draft Ordinance D07-122 regarding mandatory refuse service exemptions for those whose driveways are too long or are otherwise difficult for the disposal company to serve;
3. Draft Ordinance D07-79 regarding Planning application fee changes;
4. SDC Charges for public parks;
5. The new 112 auditing standards; and

B. Community Development Committee
Councilmember Rackley said the Community Development Committee met on May 21st and forwarded three items to this evening’s agenda, which were added as an agenda modification.
1. Resolution 1690 – Chip Seal contract with Doolittle Construction Company;
2. Resolution 1691 – Seal Coat contract with Cascade Asphalt Sealing Company; and

C. Public Safety Committee
Councilmember DeLeo said the Public Safety Committee had not met since the last Council Meeting.

D. Other Reports:

Bonney Lake High School Sports.
Mayor Johnson said the Bonney Lake High School Baseball Team is going to State for the first time and will be playing at the Safeco Field in Seattle. Additionally, the Fast Pitch Team has made it to State for the second year in a row.

Rainier Communications Commission.
Councilmember Rackley said he attended the recent RCC meeting on behalf of Councilmember DeLeo. He alerted Council that the FCC is changing the rules on awarding franchises. The changes may go into effect as early as July. City Administrator Morrison said the City Attorney’s Office is reviewing a draft ordinance to address these changes, which should be ready for the upcoming Council Workshop.

IV. CONSENT AGENDA:

A. Approval of Corrected Minutes: May 1st Council Workshop and May 8th Regular Council Meeting. [A3.6]

B. Checks/Vouchers: Accounts Payable checks/vouchers #47358 thru 47500 (and wire transfer numbers 175595, 271451, and 5042007) in the amount of $1,464,737.54. Accounts Payable checks/vouchers #47501 thru 47512 for Accounts Receivable deposit refunds in the amount of $8,613.34. Accounts Payable checks/vouchers #47513 thru 47563 for utility account refunds in the amount of $4,587.05. [F4.9]


D. AB07-100 – Resolution 1682 - A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing A Contract With A&A Asphaltting, Inc. For Road Repaving Repair On 197th Avenue Due To New Water Main Installation. [O4.8.2]

F. **AB07-103 – Resolution 1685** - A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing A Contract With WM Dickson For House Demolition & Removal At 7405 West Lake Tapps Hwy., Bonney Lake, WA 98391. [A.3.13.3.3]

G. **AB07-104 – Resolution 1686** - A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Establishing And Supporting A Comprehensive City Wellness Program. [A.4.16]


I. **AB07-114 – Resolution 1692** - A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing The Mayor To Sign A Participation Agreement And Group Enrollment Application For The AWC Workers' Compensation And Group Retro Program. [A.4.1.6]


K. **AB07-121 – Resolution 1695** - A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Designating And Appointing The City Clerk And/Or City Administrator As Agents Of The City Of Bonney Lake To Receive Claims For Damages Under The Provisions Of RCW 4.96.020. [A.3.12.4]

L. **AB07-108** – A Motion Of The Bonney Lake City Council Accepting As Final The Stump Grinding Contract With West Coast Stump Grinding And Authorizing Release Of Retainage At The Completion Of Project Closeout And Waiting Period. [A.3.6.10]

M. **AB07-115** – A Motion Of The City Council Of The City Of Bonney Lake To Cancel The June 19, 2007 And July 3, 2007 Council Workshops. [A.1.2] [A.3.6.10]

Councilmember Rackley moved to approve the Consent Agenda. Deputy Mayor Swatman seconded the motion.

Motion approved 5 – 0.

V. **FINANCE COMMITTEE ISSUES:**

And The Corresponding Portions Of Ordinance Nos. 990, 894, 847, 826, 307, And 307A, Related To Business Licenses. [A 3.5.5] [F 4.3] [O 7.1]

Councilmember Rackley moved to approve Ordinance 1236 [D07-98]. Deputy Mayor Swatman seconded the motion.

Administrator Morrison explained the ordinance will amend the fee for a business license to a flat rate, instead of the current method which is to charge according to the number of people employed by the business. The business license ordinance has not been reviewed in many years and this change will allow the City to participate in the State’s Master Business License Program. The Program assures a higher level of compliance and eases the licensing process for both the City and the business owners. The Program will not go into effect until the beginning of the year however, as the State needs sufficient time to prepare their system for the addition of Bonney Lake licensing.

Deputy Mayor Swatman noted the prospect of joining the State Master Business Licensing Program has been discussed for years in Finance Committee. The State and City licenses will be processed simultaneously and will become due annually on the same date.

Motion approved 5 – 0.

B. **AB07-110 – Resolution 1689** - A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing An Interagency Data Sharing Agreement Between The City And The State Of Washington For The Master License Service Program. [O 7.1]

Councilmember Rackley moved to approve Resolution 1689. Deputy Mayor Swatman seconded the motion.

Mayor Johnson said this resolution is the companion piece to the ordinance which was just passed. Councilmember Rackley explained the agreement allows the City to implement the ordinance.

Motion approved 5 – 0.

VI. COMMUNITY DEVELOPMENT COMMITTEE ISSUES:


Councilmember Rackley moved to approve Resolution 1690. Deputy Mayor Swatman seconded the motion.
Mayor Johnson asked if anyone wanted to speak to the resolution. There being none Director Grigsby took the floor. He explained there are two contracts, this one is for chip sealing and the next item on the agenda is for seal coating the areas which are too difficult to chip seal. Council discussed the processes of these street improvements and Director Grigsby said citizens would be notified as to the time required before the street may be used following treatment.

Motion approved 5 – 0.


Councilmember Rackley moved to approve Resolution 1691. Councilmember Bowen seconded the motion.

Motion approved 5 – 0.

C. **AB07-123 – Resolution 1696** - A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing A Contract With Everson’s Econo Vac For Sewer Main Video Inspection. [04.5.1]

Councilmember Rackley moved to approve Resolution 1696. Deputy Mayor Swatman seconded the motion.

Motion approved 5 – 0.

VII. PUBLIC SAFETY COMMITTEE ISSUES: None.

VIII. FULL COUNCIL ISSUES:

A. **AB07-116** – A Motion Of The Bonney Lake City Council Designating Three Voting Delegates To Represent The City At The 2007 AWC Annual Conference. [A 3.6.10]

Deputy Mayor Swatman moved to approve AB07-116 with the appointment of Councilmembers DeLeo and Hamilton, as well as Deputy Mayor Swatman. Councilmember Rackley seconded the motion.

Motion to approve AB07-116 appointments approved 5 – 0.

IX. EXECUTIVE SESSION: Pursuant to RCW 42.30.110(1)(b) and RCW 42.30.110(1)(i) the City Council adjourned to an Executive Session at 7:30 p.m. for 20 minutes to discuss property acquisition and potential litigation. At 7:50 p.m. the Executive Session was
extended by 15 minutes. At 8:07 p.m. the Executive Session was extended by an additional 5 minutes. The Council meeting reconvened at 8:09 p.m.

X. ADJOURNMENT

At 8:09 p.m., Councilmember Rackley moved to adjourn the meeting. Councilmember Bowen seconded the motion.

Motion approved 5 – 0.

Harwood Edvalson, CMC
City Clerk

Mayor Neil Johnson, Jr.
Location: Bonney Lake City Council Chambers – 19306 Bonney Lake Blvd.

I. CALL TO ORDER – Deputy Mayor Swatman called the joint meeting to order at 5:33 p.m.

A. Roll Call: [M 3]

Elected and Appointed Officials In Attendance: Deputy Mayor Dan Swatman, Councilmember David Bowen, Councilmember Mark Hamilton, and Councilmember Jim Rackley, Planning Commission Chairman Randy McKibbin, Vice Chairman Grant Sulham, Commissioner David Eck, Commissioner Winona Jacobsen, Commissioner Donn Lewis and Commissioner Katrina Minton-Davis. Councilmember Phil DeLeo arrived just following the roll call. Mayor Neil Johnson and Planning Commissioner Dennis Poulson were absent.

Staff Members Present were: City Administrator Don Morrison, Public Works Director Dan Grigsby, Planning Manager Steve Ladd, Judge James Helbling, Administrative Services Director/City Clerk Harwood Edvalson and Executive Assistant Joel Thompson.

Agenda Items:

5:36:43 A. Discussion: Downtown Plan.

Planning Manager Ladd reported the Makers Planning and Architectural Firm are involved in last minute enhancements to the Downtown Plan. He said once their work is finished, staff will start on an interim, phased EIS process for the plan. He added the original concept to pursue a planned-action EIS would delay progress in the plan implementation.

Deputy Mayor Swatman asked about the Stormwater Plan for the Downtown. Director Grigsby replied with a description of the current efforts to test a site south of SR410 for use as a regional stormwater pond for the Downtown area below 184th Ave. E. Commissioner Jacobsen asked if more natural drainage features similar to Seattle's SEA-Street projects will be considered in the Downtown. Director Grigsby responded that those options will be reviewed during the Master Stormwater Plan and Design for the Downtown.

Councilmember DeLeo asked about the timing of building design versus stormwater design. Director Grigsby responded the City will need a regional stormwater pond to handle street runoff in the area, but each building will have to individually consider on-site treatment of water from roofs, downspouts, etc. He added each building site is unique.
B. Discussion: Non-Motorized Transportation Plan.

Planning Manager Ladd said the Plan has been approved by the Planning Commission and been through SEPA review. He said there are some minor changes to be made. This includes comments on the plan from other reviewing agencies. A prioritization matrix to allow for phased implementation will also be added, as well as the correlation of tables within the document. Chairman McKibbin indicated the Planning Commission is aware of these changes and doesn’t see the need for further review before the Plan is presented to the City Council.

C. Discussion: Planning Commission Work Plan.

Planning Manager Ladd noted State law only allows the City’s Comprehensive Plan to be amended once per year. He said this restriction requires the City to package the proposed amendments for consideration. He described the proposed amendments requiring Planning Commission action. These include the school districts’ Capital Improvement Plans and associated impact fee rate increases, as well as changes to land use and zoning for the proposed Lowes site and the former City Hall site next to Target. He also described the site-specific proposals that will go to the Hearing Examiner before review by the Council. These involve the Tuggle, Greenwood and Simmons properties.

The Council and Commission discussed the need for additional R-3 zoned properties and development of multi-family housing. Councilmember Rackley asked that staff consider the rezone of the former City Hall site to a C-2 designation, allowing for mixed use development of that property. He also asked that the boundaries of the proposed zoning changes for the Greenwood Project be carefully considered for future impacts as the Downtown develops. Councilmember Bowen asked if the proposed Comprehensive Plan amendments need to include the pedestrian underpasses along SR410. Planning Manager Ladd responded that the Councilmember’s continuing interest in these features is noted.

Planning Manager Ladd said the Commission will also consider setting limits for the site-plan approval process. He suggested a two-year limit be applied to dormant applications. The Council and Commission discussed this time frame, and suggested a more restrictive timeframe be considered. The concern was expressed that a site-plan may be proposed which may not be compatible with future existing conditions after a lengthy delay of years.

Planning Manager Ladd also described the need for the Commission to consider setbacks for trails within sensitive areas. He noted the Council had originally adopted a fairly strict standard based on Department of Ecology recommendations, which places trails 200 ft. from Fennel Creek. A less strict standard will be needed to implement the Fennel Creek Trail Plan. However, the City will still be required to mitigate the impacts of trail construction.

The final item discussed was a proposal to rectify the difference between the International Building Code and the City’s Zoning Code regarding the calculation of heights for single-family homes on slopes. He said the proposal is to use the average lot grade to establish the baseline for building height.

D. Discussion: Review of Schematic Design for New City-owned Commercial Building and Interim City Offices.

Planning Manager Ladd introduced Eric Anderson, an architect with Makers. Mr. Anderson displayed some schematics for layout of the proposed two-story commercial building. He
noted a proposed interim municipal-use for a portion of the building. The Council and Commission discussed building design and the number of planned stories with the Consultant. Some expressed favor for a three-story building. Planning Manager Ladd reminded the group that recent economic studies indicate an independent developer would not find it economical to build a three-story structure in the Downtown. After further discussion, there appeared to be general consensus to stay with a two-story commercial building. The group noted the importance of this building as an example for future developers in the Downtown area.

Councilmember Rackley motioned for a ten minute break. Councilmember Bowen seconded.

Motion approved unanimously.

The meeting break started at 6:58 p.m. and concluded at 7:09 p.m. Councilmember DeLeo left the meeting at this time.


The Council and Planning Commission discussed the sign code, the introduction of new sign technology into the local business environment and concerns about enforcement of the sign code. Issuing from the discussion was a general consensus that the Council Public Safety Committee will address the topic of enforcement. The Planning Commission also agreed to consider City Attorney Dionne’s concerns for the regulation of electronic signs and portable signs.

F. Discussion: Council Concerns, Commission Concerns and Staff Concerns.

Councilmember King asked the Planning Commission to be cognizant of affordable housing needs as they pursue their work plan. He suggested the Commission consider the need for mixed levels of housing affordability as they address multi-family land uses and zoning.

Commissioner Jacobsen expressed concern that there were so few attendees at the Planning and Community Director Candidate’s open-house. Councilmember Rackley noted he and Chairman McKibbon participated in the interview process. He said there was a good cross section of personalities and abilities represented in the participating candidates.

Commissioner Jacobsen also noted the need for additional information from the Planning Department for the Commission’s work efforts. She asked if additional staffing is anticipated for the Department. City Administrator Morrison replied that another assistant planner position is in the biennial budget for 2008. He noted, however, consideration is being given to filling the position with a plans examiner.

Commissioner Lewis asked that as the Council purchases land for municipal uses, they keep in mind the need for a cemetery in Bonney Lake. Councilmember King noted recent comments by members of the Sumner Council regarding possible cemetery rate surcharges for non-Sumner residents were recanted.

G. Council Executive Session – the planned Executive Session was canceled.

I. Adjournment of Special Council Meeting.
Councilmember Rackley made a motion to adjourn. Deputy Mayor Swatman seconded the motion.

Motion approved unanimously.

The meeting adjourned at 7:50 p.m.

Harwood T. Edvalson, CMC  
City Clerk

Neil Johnson, Mayor

Item submitted for the May 29, 2007 Special Joint Council/Planning Commission Meeting:

➤ Bonney Lake Citizen – Email Regarding Chain Stores in Downtown – Sandra Jeppsson.
➤ Makers Architecture + Urban Design – Memo Regarding Bonney Lake Spec Office Building Design Program – Eric Anderson, Partner
Accounts Payable checks/vouchers #47565 thru 47706 in the amount of $542,037.97.

Accounts Payable checks/vouchers #47707 thru 47709 for Accounts Receivable deposit refunds in the amount of $1,043.38.

Accounts Payable checks/vouchers #47564 and 47710 thru 47745 for utility account refunds in the amount of $4,299.12.
PAYROLL CERTIFICATION
2007

Payroll for May 16-31st, 2007 for checks 26028-26034, including Deposits and Electronic Transfers for $131,081.20. (Police Department)

Payroll for May 16-31st, 2007 for checks 26035-26077, including Deposits and Electronic Transfer for $315,508.68 (AFSCME and Non-represented)
City of Bonney Lake, Washington
Council Agenda Bill (C.A.B.) Approval Form

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**Explanation:** NA

**Agenda Subject:** CABLE TV FRANCHISING

**Administrative Recommendation:** Approve

**Background Summary:** The Federal Communications Commission adopted a new rule that provides a separate, nonexclusive process for the issuance of cable franchises for areas currently served by another cable operator (the "Competitive Franchise Application Rule" or "CFAR"). Cities are advised to adopt an ordinance to set the requirements for such a franchise. This ordinance codifies the process for reviewing applications for competitive cable franchises, and the criteria upon which a franchise decision will be based. The application requirements and the processes for application review and determination set forth in this Ordinance are intended to comply with the new FCC rules.

### Council Committee Dates:
- Finance Committee:
- Public Safety Committee:
- Community Development & Planning Committee:
- Council Workshops: 6/5/07

### Commission Dates:
- Planning Commission:
- Civil Service Commission:

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

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

### Signatures:
- Dir. Authorization:  
- Mayor:  
- Date City Attorney Reviewed:
ORDINANCE NO. D07-124

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, ADDING A NEW CHAPTER, 5.18, TO THE BONNEY LAKE MUNICIPAL CODE RELATING TO FRANCHISE APPLICATIONS, AND DECLARING AN EMERGENCY.

WHEREAS, On December 20, 2006, the Federal Communications Commission ("FCC") adopted a new rule, set forth in a Report and Order and Further Notice of Proposed Rulemaking that was released March 5, 2007, that among other things, provides a separate, nonexclusive process for the issuance of cable franchises for areas currently served by another cable operator (the "Competitive Franchise Application Rule" or "CFAR"); and

WHEREAS, the CFAR provides that local franchising authorities may require application information from an applicant for a competitive cable franchise, in addition to the information set forth in the CFAR; and

WHEREAS, the City Council has determined that in order to comprehensively evaluate whether or not to grant a competitive cable franchise, it will require certain information from applicants in addition to the information required by the CFAR, and

WHEREAS, to ensure compliance with the CFAR, the City additionally seeks to codify the process for reviewing applications for competitive cable franchises, and the criteria upon which the final decision of the City will be based; and

WHEREAS, the application requirements and the processes for application review and determination set forth in this Ordinance are intended to comply with the new FCC rules.

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

Section 1.
A new Chapter 5.18 of the Bonney Lake Municipal Code, entitled “Competitive Cable Franchise Applications,” is hereby adopted to read as follows:

5.18.010 Instructions and Definitions.

A. An applicant for a competitive cable franchise ("Applicant") shall include the requisite information set forth in this Chapter, in writing, in its franchise application, in addition to any information required by 47 CFR 576.41 and applicable state and local laws and the application fee set by resolution of the City Council.

B. The City shall accept and review only those applications that include complete responses to every requirement of Section 2. Submission of an application that does not include the requisite information set forth in Section 2 and the application fee shall not commence the time period for granting or denying the
application set forth in 47 C.F.R. 576.41(d). The Applicant shall submit additional or updated information as necessary to ensure the requisite information provided is complete and accurate throughout the City's review of the application.

C. Upon request, the City will promptly provide access to documents or information in its possession or control that are necessary for the completion of this application, provided that the Applicant does not otherwise have access to such documents or information and that such documents or information are subject to disclosure under the Washington Public Records Act.

D. For the purposes of the application, the terms, phrases, and their derivations set forth below shall have the meanings given unless the context indicates otherwise. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular include the plural number. The word "shall" is always mandatory and not merely directory.

1. "Affiliated Entity" or "Affiliate" means any entity having ownership or control in common with the Grantee, in whole or in part, including, without limitation, Grantee's Parent Corporations and any subsidiaries or affiliates of such Parent Corporations.

2. "Applicant" means an applicant for a cable franchise pursuant to the provisions of the Competitive Franchise Application Rule ("CFAR") set forth in Part 76 of Title 47 of the Code of Federal Regulations, §76.41, and includes the Parent Corporation, its subsidiaries and Principals.

3. "City" means the City of Bonney Lake, Washington.

4. "Control" is not limited to majority stock ownership, but includes actual working control in whatever manner exercised.

5. "Interest" includes officers, directors and shareholders owning five percent (5%) or more of the Applicant's outstanding stock or any equivalent voting interest of a partnership or joint venture.

6. "Parent Corporation" includes any entity with ownership or control of the Applicant.

7. "Principal" includes any person, firm, corporation, partnership, joint venture, affiliates, or other entity, who or which owns or controls five percent or more of the voting stock (or any equivalent voting interest of a partnership or joint venture) of the Applicant.

8. "Regulatory Authority" includes any governmental or quasi-governmental organization or entity with jurisdiction over all or any portion of the Applicant or its operations.

5.18.020 Requisite Information.

A. Identification and Ownership Information. The application shall include:

1. The name, address, telephone number and web site (if applicable) of the Applicant and the proposed franchisee (if different from Applicant), and

2. The name, address, primary telephone number and primary e-mail address of all individual(s) authorized to represent the Applicant before the City during
its consideration of the franchise(s) requested, including the Applicant's primary contact and any additional authorized contacts.

B. Business Structure.

1. If a corporation, the Applicant shall provide:

   (a) A list all officers and members of the Board of Directors, their principal affiliations and their addresses;

   (b) A certificate of good standing indicating that the Applicant is licensed to do business in the State of Washington; and

   (c) A statement indicating whether the Applicant is directly or indirectly controlled by another corporation or legal entity. If so, Applicant shall attach an explanatory statement and respond to subsections 1.a. and b above concerning the controlling corporation.

2. If a partnership, the Applicant shall:

   (a) Describe the structure of the partnership and the interests of general and limited partners; and

   (b) State whether the Applicant is controlled directly or indirectly by any corporation or other legal entity. If so, Applicant shall attach an explanatory statement and respond to subsections 1.a. and b, or 2.a above, as applicable, concerning the controlling entity.

C. Experience.

1. Current Franchises. An Applicant shall list all cable systems in which it or any Affiliate owns more than five percent of the system. For each system Applicant shall include name of system, address, communities served, number of subscribers, number of homes passed, date of system award, duration (start and end date) of franchise, status of construction, and percent of penetration of homes passed as of most recently available date (indicate date).

2. Potential Franchises. An Applicant shall list communities where it or any Affiliate currently has a formal or informal request pending for an initial franchise, the renewal of a franchise, or the approval of a transfer of ownership. The Applicant shall include the name of communities, date of application, and date of expected action.

D. Management Structure.

1. Every application for a competitive franchise shall include a management/organizational chart, showing the management structure of the Applicant. A similar chart shall also be provided showing the relationship of
the Applicant to all general partners, Parent Corporations, subsidiaries, Affiliates and all other subsidiaries of Parent Corporations, including a brief description of each entity's relationship to the Applicant.

5.18.030 Legal Qualifications

A. Media Cross-Ownership.

1. Section 613 of the Cable Communications Policy Act of 1984, 47 U.S.C. 5533 (a), and applicable FCC rules prohibit certain forms of media cross-ownership. An Applicant shall state whether it or an Affiliate directly or indirectly owns, operates, controls or has an Interest in any of the following, or whether the Applicant holds or operates any company or business operating jointly with any of the following:

   (a) A national broadcast television network (such as ABC, CBS or NBC, etc.).

   (b) A television broadcast station whose predicted Grade B contour, computed in accordance with Section 73.684 of the FCC's rules, overlaps in whole or in part the City's service area, or an application for license to operate such a station.

   (c) A telecommunications or telephone company whose service area includes any portion of the City's service area.

2. If the response to any of Subsections a -c above is affirmative, the Applicant shall state the name of the Applicant or Affiliate, the nature and percentage of ownership or Interest and the company that is owned or in which the Interest is held.

B. Franchise Violations.

1. An Applicant shall state whether it or any Affiliate has been found in violation by a Regulatory Authority or franchising authority of any franchise ordinance or agreement, contract or regulation governing a cable system. If so, the Applicant shall identify the judicial or administrative proceeding, giving the date, name of tribunal and result or disposition of that proceeding.

C. Other Violations.

1. An Applicant shall state whether it has been found in violation by a Regulatory Authority of any other type (e.g. utility) of franchise, ordinance, agreement, permit, contract or regulation. If so, the Applicant shall identify the judicial or administrative proceeding, giving the date, name of tribunal and result or disposition of that proceeding.

5.18.040 Financial Qualifications
A. Unless SEC Forms 10K and 10Q are available on the EDGAR database, Applicants with existing operations shall provide audited financial statements, including statements of income, balance sheets and cash flow statements, together with any notes necessary to the understanding of the financial statements for the last three fiscal years for the Applicant and any Parent Corporation.

B. Applicants that are new (start-up) entities shall provide pro forma projections for the next five fiscal years, if available, but at a minimum the next three fiscal years from the date of the application.

5.18.050 Technical Qualifications, Planned Services and Operations

A. The application shall describe the Applicant's planned initial and proposed cable services geographic area, including a map of all areas proposed to be served and proposed dates for offering service to each area. The application shall additionally state whether the Applicant proposes to provide cable services to the entire franchise area, and if so, a proposed timetable for meeting that goal;

B. If the Applicant has or asserts existing authority to access the public right of way in any of the initial or proposed service areas listed in Section 5.A above, the Applicant shall state the basis for such authority or asserted authority and attach the relevant agreements or other documentation of such authority;

C. The Applicant shall describe with particularity its planned residential Cable services, including basic cable services, other cable programming service tiers, and any additional pay-per-view, on-demand or digital services; and the projected rates for each category or tier or service;

D. The Applicant shall describe with particularity its planned system technical design, upstream and downstream capacity and speed, provision for analog or digital services or packages, distribution of fiber, planned count of households per residential node, and any other information necessary to demonstrate that the Applicant's technology will be deployed so as to be able to successfully offer cable services in the proposed locations;

E. The Applicant shall describe with particularity its planned non-residential cable

F. The Applicant shall describe its planned construction and extension or phase schedule, as applicable, including system extension plans or policy; and describe the current status of the Applicant's existing or proposed arrangements with area utilities, including pole attachments, vault, or conduit sharing agreements as applicable;

G. The Applicant shall describe its plan to ensure that the safety, functioning and appearance of property and convenience and safety of other persons not be adversely affected by installation or construction of the Applicant's facilities, and that property owners are justly compensated for any damages caused by the installation, construction, operation or removal of the facilities;
H. The Applicant shall describe its plan to comply with the subscriber privacy protections set forth in 47 U.S.C. § 551, and the privacy protections of the City's local cable customer service standards.

5.18.060   Affidavit of Applicant

A. Each application shall be accompanied by an affidavit substantially in the form set forth below:

This application is submitted by the undersigned who has been duly authorized to make the representations within on behalf of the Applicant and certifies the representations are true and correct.

The Applicant recognizes that all representations are binding on it, that all application commitments are enforceable, and that material misrepresentations or omissions, or failure to adhere to any such representation may result in a denial of an application by the City.

The Applicant shall comply with all applicable local laws. Consent is hereby given to the City, and its representatives to make inquiry into the legal, character, technical, financial and other qualifications of the Applicant by contacting any persons or organizations named herein as references, or by any other appropriate means.

Name of Applicant's Authorized Representative: ____________________________

Affiant's Signature: __________________________________________

Official Position: _____________________________________________

Date: ________________

STATE OF WASHINGTON    )
  ) ss.
COUNTY OF ___________ )

Subscribed and sworn to before me this ___day of 20__.

WITNESS MY HAND AND OFFICIAL SEAL.
My Commission expires: ____________.

NOTARY PUBLIC

5.18.070   Open Records/Confidentiality

A. Unless otherwise provided by law, information submitted as part of an application is open to public inspection and subject to the Washington Public Records Act. It
is the Applicant's responsibility to be familiar with the Washington Public Records Act. An Applicant may specifically identify any information it considers proprietary. In the event that the City receives a request from another party to disclose any information which the Applicant has deemed proprietary, the City will tender to the Applicant the defense of any request to compel disclosure. By submitting information which the Applicant deems proprietary or otherwise exempt from disclosure, the Applicant agrees to defend, indemnify, and hold harmless the City from any claim for disclosure including but not limited to any expenses including out-of-pocket costs and attorneys’ fees, as well as any judgment entered against the City for the attorney fees of the party requesting disclosure.

5.18.080 Application Fee

The City shall, by resolution, set an application fee sufficient to cover the reasonable cost of processing applications under this ordinance. Upon request of the Applicant, the City may reduce or waive the application fee. In evaluating such a request, the City will consider the following factors: (1) the size of the proposed franchise area; (2) the number of potential subscribers in the proposed franchise area; (3) the financial hardship to the Applicant (including any parent corporation or affiliate); and (4) other information relevant to the cost of processing the application and/or the Applicant's ability to pay the fee.

5.18.090 Review Process

A. Acceptance of Application.

1. Within 5 business days of receipt of an application, the City shall review the application to ensure all requisite information is included in the application.

2. If the application is not complete, the City will notify the Applicant in writing, listing the requisite information that is required to complete the application and notifying the Applicant the that time period for granting or denying the application set forth in 47 C.F.R. 9 76.41(d) will not begin to run until such information is received.

3. If the application is complete, the City will notify the Applicant in writing that all requisite information has been received.

B. Staff Review. The City staff shall review all completed applications based on the review criteria set forth herein. If, during the review of an application, staff reasonably requires additional information from the Applicant, staff will promptly request the information from the Applicant, in writing, along with a notification that the time period for granting or denying the application set forth in 47 C.F.R. 3 76.41(d) will be tolled until such information is received by the City. After completing the review, staff shall provide an analysis of the application to the City Council.
C. Franchise Negotiations. Within the time period set forth in 47 C.F.R. 3 76.41(d), the City shall attempt to negotiate a cable franchise agreement with the applicant, and within that time period, schedule the application and any proposed franchise for public hearing as set forth in Section 10.

5.18.100 Public Hearing

The City shall hold a public hearing before acting on the application, affording participants a process substantially equivalent to that required by 47 U.S.C. §546(c)(2) governing renewal of cable franchises.

5.18.110 Review Criteria

The City may deny an application if, based on the information provided in the application, at the public hearing and/or any terms of a proposed franchise agreement:

A. The Applicant does not have the financial, technical, or legal qualifications to provide cable service;

B. The Applicant will not provide adequate public, educational, and governmental access channel capacity, facilities, or financial support; or

C. The Applicant's proposed terms do not comply with applicable federal, state and local laws and regulations including, but not limited to, local customer service standards, or relevant existing contractual obligations of the City.

5.18.120 Non-CFAR Franchise Applications

Notwithstanding any other provisions of this ordinance, any competitive cable services franchise applicant may elect to submit a cable franchise application to the City and/or engage in cable franchise negotiations without regard to the application of the FCC CFAR. In such cases, the City will negotiate the terms of a competitive cable franchise without regard to 47 CFR 76.41 and the other provisions of this ordinance. Agreement by any applicant to negotiate a franchise without regard to 47 CFR 76.41 and the other provisions of this ordinance shall not be deemed by the City to effect a waiver of any applicant's right under applicable law to trigger application of 47 CFR 576.41 and this ordinance, where applicable.

Section 2. Emergency

The adoption of this ordinance is hereby determined and declared to be an emergency due to the fact that the FCC CFAR regarding timing for consideration of competitive franchise applications, including information to be provided pursuant to such applications will be effective upon approval of federal application forms by the Office of Management and Budget, expected by July, 2007, and therefore, it is necessary for the preservation of public property, health, peace and safety that the status quo will be preserved pending publication of the ordinance. This ordinance shall be in full force and effect upon its passage by the City Council.
Section 3.

This ordinance shall be in full force and effect upon its passage by the City Council.

PASSED by the City Council and approved by the Mayor this 12th day of June, 2007.

__________________________
Neil Johnson, Jr.
Mayor

ATTEST:

__________________________
Harwood T. Edvalson
City Clerk, CMC

APPROVED AS TO FORM:

__________________________
James Dionne
City Attorney

Passed:
Valid:
Published:
Effective Date:
City of Bonney Lake, Washington
Council Agenda Bill (C.A.B.) Approval Form

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**Explanation:** NA

**Agenda Subject:** Fireworks Fees

**Administrative Recommendation:** Approve

**Background Summary:** The newly adopted fireworks ordinance (BLMC 5.14.090) calls for a permit fee for fireworks stands to be set. The fee in the old ordinance was $10. The new proposed fee is $25.00. Section 5.14.130 of the new fireworks ordinance also called for an annual public display permit and fee. The proposed fee is $50.00. These are the recommendations of the Public Safety Committee, with which the Administration concurs.

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**Signatures:**

[Signature]

[Signature]

Date City Attorney Reviewed:
ORDINANCE NO. D07-136

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE,
PIERCE COUNTY, WASHINGTON, AMENDING BLMC CHAPTER 5.14, AND
SECTION 2 OF ORDINANCE NO. 1235, ESTABLISHING FEES FOR THE SALE AND
USE OF FIREWORKS WITHIN THE CITY OF BONNEY LAKE.

WHEREAS, the City of Bonney Lake adopted Ordinance No. 1235 and BLMC Chapter
5.14 establishing regulations for the sale and use of fireworks, and

WHEREAS, BLMC 5.14.090 and 5.14.130 require fireworks fees to be set by the City
Council;

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

Section 1. A new Section in hereby added to BLMC Chapter 5.14 to read as follows:

The annual permit fee for the sale of fireworks as authorized under BLMC 5.14.090 shall be
$25.00. The City Council finds that this fee is necessary to cover the actual administrative costs
of processing, inspection, and issuance of the permit.

The annual permit fee for the public display of fireworks as authorized under BLMC 5.14.130
shall be $50.00, provided that any amount of this fee not necessary to cover actual costs of
processing, inspection, and issuance of the permit shall be reimbursed to the applicant. No permit
fee shall be required for special use permits authorized under BLMC 5.14.120.

Section 2. 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 12th day of June, 2007.

____________________________
Neil Johnson, Mayor

ATTEST: APPROVED AS TO FORM:

Harwood T. Edvalson, CMC, City Clerk

James J. Dionne, City Attorney

Passed:
Valid:
Published:
Effective Date:
City of Bonney Lake, Washington  
Council Agenda Bill (C.A.B.) Approval Form

Department/Staff Contact: City Engineer - John Woodcock  
Council/Wrkshp Mtg Date: 12 June 2007  
Agenda Bill Number: AB07-74  

Ordinance Number:  
Resolution Number: 1672  
Councilmember Sponsor:  

BUDGET INFORMATION

2007 Budget Amount: N/A  
Required Expenditure: N/A  
Impact:  
Remaining Balance: N/A  

Explanation

Agenda Subject: Water Developer Extension Agreement for Rainier Plateau.

Administrative Recommendation:

Background Summary: Approve a Water Developer Extension Agreement for Rainier Plateau.

The location is between Dieringer Elementary School and the Northeast Quadrant of 219th Ave East and 34th St East Intersection, approximately on 13.67 acres and subdivided into ten large lots with ten single family homes. Dan Jensen is the developer for Rainier Plateau.

Council Committee Dates:  
Finance Committee:  
Public Safety Committee:  
Community Development & Planning Committee: 6/4/07  
Council Workshops:  

Commission Dates:  
Planning Commission:  
Civil Service Commission:  

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

Council Action:  
Council Call for Hearing:  
Council Referred Back to: Workshop:  
Council Tabled Until: Council Meeting Dates:  

Signatures:  
Dir. Authorization  
Mayor  
Date City Attorney Reviewed:  

[Signatures]
COMMUNITY DEVELOPMENT COMMITTEE

DATE: June 4, 2007

ORIGINATOR: John Woodcock TITLE: City Engineer

SUBJECT/DISCUSSION: Water Developer Extension for Rainier Plateau

ORDINANCE/RESOLUTION: #1672

REQUEST OR RECOMMENDATION BY ORIGINATOR: Approve Water Developer Extension for Rainier Plateau.

The location is between Dieringer Elementary School and the Northeast Quadrant of 219th Ave East and 34th St, East Intersection, approximately on 13.67 acres and subdivided into ten large lots with ten single family homes. Dan Jensen is the developer for Rainier Plateau.

ISSUE AND DOCUMENTS HAVE BEEN REVIEWED AND APPROVED BY THE

FINANCE DIRECTOR

CITY ATTORNEY

BUDGETED ITEM:

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COMMITTEE ACTION: RECOMMEND APPROVAL TO COUNCIL

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COMMITTEE COMMENTS:

COMMITTEE’S RECOMMENDATION TO FORWARD TO:

CITY CLERK CITY ATTORNEY

Please schedule for Council Meeting date of: June 12, 2007

Consent Agenda: ☑ Yes ☐ NO
RESOLUTION NO. 1672

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, AUTHORIZING A WATER DEVELOPERS AGREEMENT FOR RAINIER PLATEAU.

The City Council of the City of Bonney Lake, Washington, does hereby resolve that the Mayor is authorized to sign the Water Developers Agreement with Dan Jensen attached hereto and incorporated herein by this reference.

PASSED by the City Council this 12th day of June, 2007.

_________________________________
Neil Johnson Jr., Mayor

ATTEST:

Harwood T. Edvalson, CMC
City Clerk

APPROVED AS TO FORM:

_________________________________
James Dionne, City Attorney
THIS AGREEMENT, by and between the City of Bonney Lake, a municipal corporation, hereinafter referred to as "City", and _______________, hereinafter referred to as "Developer".

WITNESSETH: That whereas the City of Bonney Lake, a municipal corporation, provides WATER service within the corresponding WATER service area boundary, and the above-named Developer is preparing to construct a WATER system, or additions thereto, and said development requires the City's WATER service.

WHEREFORE, THE PARTIES AGREE AS FOLLOWS:

I. Developer agrees to design and/or construct the WATER system, or additions thereto, to be connected to the City's WATER lines, and to maintain such additions until such time as the improvements are accepted by the City, with the agreements conditioned as set forth below. The WATER system, or additions thereto, shall be located within that area commonly referred to as ________________, which property is described in Exhibit "A" attached hereto and referred to hereinafter as "Premises".

II. As a condition precedent to City obligations under this agreement, the Developer shall design and/or construct the proposed WATER system, or additions thereto, within said premises in conformance with the City's "Development Policies and Public Works Standards", as adopted (and by reference made a part hereof), together with any City approved amendments thereto made, and further to conform with the City's comprehensive WATER plan, which agreement shall include oversizing of WATER mains as may be identified in the City's adopted WATER comprehensive plan or as approved by the City Engineer. As an additional condition to the City obligations under this agreement the developer shall:

A. Apply for irrigation meters separate from residential meters where the irrigation serves common areas or more than one single-family residence.

B. The applicant shall submit landscaping and irrigation plans for review and employ the best management practices available for the efficient use of water.

III. The developer agrees that the construction of the WATER system, or additions thereto, shall not commence until the following conditions have been fulfilled:

A. The developer shall furnish the City with three (3) sets of detailed plans for the water system, or additions thereto, at Developer's own expense, prepared by a qualified engineer licensed in the State of Washington.
B. The above plans shall require the review and approval by the City and its Engineer, and the cost of such review shall be at the Developer's own expense.

C. Minimum requirements for all plans for WATER system, or additions thereto, submitted to the City for review are:

1. Three (3) sets of plans and documents shall be submitted, wherein one (1) set will be returned to the applicant. Additional sets may be required by the City.

2. A preliminary plat of the area in which said WATER system, or additions thereto, are to be constructed, which plat has been approved by the City, or County as applicable.

3. A map showing the location of the plat in relation to the surrounding area.

4. A contour map of the plat with contour intervals of two feet or less.

5. A map showing the location and depth of all proposed utilities and any connections and/or interconnections to existing facilities or future extensions and connections.

6. A 1" = 50' plan of the water system showing streets, lot lines, dimensions, and location of bench marks and monuments for the proposed plat, together with an indication of the development of the adjacent property.

7. A profile 1" = 50' horizontal and 1" = 5' vertical of the finished road grades with the water system and other pertinent underground utilities located, with elevations noted thereon. The elevation datum shall be the same as used by the City. It shall be the responsibility of the Developer to confirm such datum with the City.

8. Full-sized detail sheets shall be included as part of the construction drawings, as required to clearly indicate the details for all of the water system, or additions thereto, to be constructed, consistent with City standards.

9. Specifications sufficient to fully describe the work, consistent with City's "Development Policies and Public Works Design Standard".

10. Approvals from all regulatory agencies.

D. Construction requirements in addition to the City standards and details for developer extensions, as adopted, are as follows:

1. Unless otherwise approved in writing, by the City, all streets and/or roadways shall be graded to within six inches of final grade before installation of WATER improvements.
2. All lots shall be fully staked to assist all parties involved in the proper location of the WATER system including services.

3. All hydrants and valves shall be fully staked in the field and reviewed and approved by the City prior to installation of same. Adjustments to "approval construction drawings" may be warranted and required by the City, based on actual local field conditions.

4. All contractors and subcontractors shall have a current Washington State Contractors License.

5. The Developer's WATER system, or additions thereto, on Premises shall not be connected to the City WATER system until authorized by the City, and such connection shall be performed under the supervision and direction of the City.

E. For the purpose of applying RCW 4.24.115 to this Contract, the Developer and the City agree that the term "damages" applies only to the finding in a judicial proceeding and is exclusive of third party claims for damages preliminary thereto.

The Developer agrees to indemnify and hold harmless the City from all claims for damages by third parties, including costs and reasonable attorney's fees in the defense of claims for damages, arising from performance of the Developer's express or implied obligations under this Agreement. The Developer waives any right of contribution against the City.

It is agreed and mutually negotiated that in any and all claims against the City or any of its agents or employees by any employee of the Developer, any contractor or subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation hereunder shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Developer or any contractor or Subcontractor under Workman's Compensation Acts, disability benefits acts or other employees' benefit acts. The City and the Developer agree that all third party claims for damages against the City for which the Developer's insurance carrier does not accept defense of the City may be tendered by the City by the Developer who shall, if so tendered by the City, accept and undertake to defend or settle with the Claimant. The City retains the right to approve claim investigation and counsel assigned to said claim and all investigation and legal work product regarding said claim shall be performed under a fiduciary relationship to the City. In the event that the City agrees or a court finds that the claim arises from the sole negligence of the City, this indemnification shall be void and the City shall be responsible for all damages payable to the third party claimant. In the event that the City and the Developer agree or a court finds that the claim arises from or includes negligence of both the Developer and the City, the Developer shall be responsible for all damages payable by the Developer to the third party claimant under the court findings, and, in addition thereto, the Developer shall hereunder indemnify the City for all damages paid or payable to the City under the court findings in an amount not to exceed the percentage of total fault attributable to the Developer. For example, where the Developer is 25%
negligent, the Developer shall not be required to indemnify the City for any amount in excess of 25% of the claimant's total damages.

F. In the event the Developer in his operation damages or disrupts existing improvements, the repairs shall be made at the Developer's expense. In the event they are so damaged or the service disrupted and the Developer fails or is unable to immediately restore the service, then the Owners of the improvements may cause the repairs to be made by others and all costs for the same shall be at the Developer's own expense.

Where the construction crosses or is adjacent to existing utilities, the Developer shall exercise extreme care to protect such utilities from damage.

If any damage is done to an existing utility, the Developer shall notify the utility company involved who will dispatch a crew to repair the damage at the Developer's expense. All costs for the same shall be at the Developer's own expense.

The Developer shall be aware that some existing WATER facilities are known to contain asbestos cement pipe. The Developer shall conduct all work related to existing asbestos cement pipe in strict accordance with WISHA safety regulations and provisions contained within WAC 296-62077. All costs related to work in compliance with established rules and regulations shall be the responsibility of the Developer. Demolition of existing, asbestos cement pipe, if required, will be permitted only after the proper permits are obtained from the Puget Sound Air Pollution Control Agency. The Developer shall be responsible for all associated fees and permits required for asbestos removal and disposal. Work crews shall be provided with proper protective clothing and equipment. Hand tools shall be used, and the asbestos cement pipe shall be scored and broken in lieu of the sawing or other methods which release fibers into the atmosphere. Waste asbestos pipe shall be buried in the trench. Asbestos pipe to be abandoned in - place shall not be disturbed, except as noted herein, and shall remain in its original position.

The Developer is cautioned that all existing drainage systems, whether open ditch, buried pipe, or drainage structures, are not on record. It shall be the responsibility of the Developer to repair or replace all such systems found during construction, which are damaged by the Developer's construction in a manner which is satisfactory to the City.

Where the Developer is allowed to use private property adjacent to the work, the property so used shall be returned to its original or superior condition. The Developer shall make all arrangements in advance with such property owners, to insure that no conflicts will ensue after the property is restored as described above. The Developer will be required to furnish the City with a written release from said private property owners, if the City deems it to be necessary to obtain such document.

IV. The construction, of the Developer's WATER system, or additions thereto, on the Premises shall be supervised by the City in such a manner and at such times as the City deems reasonably necessary to assure that construction of the system will conform with the above-mentioned plans and specifications. The Developer herewith
agrees to allow such inspections and agrees to cooperate providing reasonable advance notice on his construction schedule during, the various construction phases as requested by the City.

V. The Developer further agrees to deposit an estimated amount of money to cover the City’s expected review fees and construction supervision expenses incurred plus 10% administrative costs, for such supervision. The City will pay for these bills out of the monies deposited. If the amount of money on deposit is depleted or reduced such that there is inadequate coverage for expected expenses, the City will stop work until the deposit account is adequate to cover expected expenses. Any accrued interest will be to the benefit of the City.

VI. The Developer’s WATER system, or additions thereto, on Premises shall not be accepted for service and use until the same have been fully inspected and approved, and the following requirements have been performed:

A. Submit to the City in Auto-CADD format, latest revision (unless otherwise approved by the City), the computer file supplied on a three and one half (3-1/2) inch disc accompanied by the original mylars, with all changes from the original design clearly marked to reflect the as-built conditions. The Developer’s Engineer shall certify the accuracy of the record drawings and shall affix his seal and signature.

B. Payment of all permit fees and equivalent assessment changes and any other applicable City charges required for Premises.

C. Payment of all plan check and inspection fees.

D. Prepare and furnish the required easements in compliance with the City’s standard form, and furnish same to the City for approval by the City Attorney, prior to recording of same. The proponent shall pay all the necessary recording, fees.

E. Furnish the City with an affidavit warranting there are no liens against the improvements constructed on Premises by the Developers, this affidavit shall be in the form prescribed by the City.

F. Furnish the City with a Bill of Sale conveying, the WATER system to the City.

G. Furnish a one year maintenance bond for 15% (or $2,000 whichever is greater) of the amount of the Bill of Sale guaranteeing that the water system will be free of defects in labor and materials. Form to be prescribed by the City.

VII. In the event any warranty repairs are required, the City agrees, whenever feasible, to provide the Developer with reasonable notice, before directly undertaking such repairs. The City reserves the right, however, to effect emergency repairs as deemed necessary by the City. The City shall be reimbursed by the Developer for all costs thereof.

VIII. Upon performing all requirements, including those as set forth in Paragraph 5 above, the City shall accept the water system, and agree therewith to operate and maintain said system.
IX. Nothing in this Agreement shall be construed to excuse Developer from requirements and conditions found in any City ordinance, resolution, plan or policy, with respect to the provision of utility service, including without limitation requirements regarding annexation or execution of covenants to annex, and the City will not provide utility service to Developer prior to Developer's satisfaction of all such requirements and conditions.

SUBMITTED this 9th day of March 2002

DEVELOPER: 

Signature

Date 3-9-07

Printed Name

Company Title (as applicable)

Address

TACOMA, WA. 98446

City State Zip

Phone No. 253-531-6745 FAX No. 253-531-5797

Cell # 253-686-6281 EMAIL: JENSENW@COMCAST.NET

CITY OF BONNEY LAKE
DEVELOPER AGREEMENT

ACCEPTED this ____ day of ______________________ 20___

Neil Johnson Jr., Mayor
CITY OF BONNEY LAKE

DEVELOPER AGREEMENT

EXHIBIT 'A'

PLAT NAME ____________________________
DEVELOPER: ____________________________

LEGAL DESCRIPTION: NE 1/4 of the NE 1/4 Section 14 Township 20 N. Range 5 E W.M.
Lot 2 of Pierce & Large Lot Sub. According to plat recorded 3-6-85 under auditors No. 8903060135 in Pierce Co. WA. Except the west 130 feet thereof
PROJECT LOCATION

LEGAL DESCRIPTION
LOT 2 OF PIERCE COUNTY LARGE LOT SUBDIVISION ACCORDING TO PLAT RECORDED MARCH 6, 1989 UNDER AUDITOR'S NO. 8903606135, IN PIERCE COUNTY, WA. EXCEPT THE WEST 130 FEET THEREOF.

DATUM:
PIERCE COUNTY BENCHMARK # 88-2 ELEV. 545.166 SOUTHWEST CORNER CONCRETE SLAB (PHONE BOX) LOCATED IN THE NORTHEAST QUADRANT OF 214TH AVE. E. AND 34TH ST. E. INTERSECTION.

BASIS OF BEARING
NORTH LINE OF SECTION, PIERCE COUNTY LARGE LOT AFN # 8903606135

BASIS OF SUBDIVISION
PIERCE COUNTY LARGE LOT AFN # 8903606135, FIELD TRAVERSE

PROJECT DATA
COUNTY ASSESSMENT NO. 052014-2039
TRACT AREA 13.677 ACRES
LOTS AS APPROVED: 10 TOTAL LOTS
CURRENT ZONING SA-1 AC (R10)

OWNER/DEVELOPER DAN JENSEN
2801 PACIFIC AVE SE
OLYMPIA WA 98501-2038
(253) 531-6745

LAND SURVEYOR DIVERSIFIED SURVEYING SERVICES
P.O. BOX 44828
TACOMA, WA 98444
(253) 537-3705

ENGINEER RYKELS ENGINEERING
28301 183RD AVENUE SE
KENT WA 98042
ph 253-631-6598 fax 253-253-1982

SEPTIC DRAINAGE WORKS DAN VILLWOCK
16511-112TH AVE E, PUYALLUP WA 98374
PHONE AND FAX: (253) 845-9625

WATER CITY OF BONNEY LAKE
P.O. BOX 7380
19306 BONNEY LAKE BLVD.
BONNEY LAKE WA 98390-0944

APPROVED BY CITY OF BONNEY LAKE
BY ____________________________
City of Bonney Lake, Washington
Council Agenda Bill (C.A.B.) Approval Form

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<th>Department/Staff Contact:</th>
<th>Council/Wrkshp Mtg Date:</th>
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**BUDGET INFORMATION**

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**Explanation:**
301-013-595-30-041

**Agenda Subject:** Personal Services Agreement with KPG for improvements to 75th Street East from Locust Avenue East to 190th Avenue East.

**Administrative Recommendation:**

**Background Summary:** Approve Personal Services Agreement with KPG for improvements to 75th Street East from Locust Avenue East to 190th Avenue East.

The City of Bonney Lake plans to provide improvements to 75th Street East from Locust Avenue East to 190th Avenue East. The improvements to be included within the project are the following:
- Overlay existing roadway and widen to provide two 12 foot driving lanes
- Provide curb, gutter and 5-foot wide sidewalk along south side of roadway
- Provide open swale drainage and infiltration along north side of roadway.

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**Signatures:**

Dir. Authorization

Mayor

Date City Attorney Reviewed:
COMMUNITY DEVELOPMENT COMMITTEE

DATE: June 4, 2007

ORIGINATOR: John Woodcock TITLE: City Engineer

SUBJECT/DISCUSSION: Personal Services Agreement with KPG for improvements to 75th Street East from Locust Avenue East to 190th Avenue East.

ORDINANCE/RESOLUTION: 1699

REQUEST OR RECOMMENDATION BY ORIGINATOR: Personal Services Agreement with KPG for improvements to 75th Street East from Locust Avenue East to 190th Avenue East.

The improvements to be included within the project are the following:
- Overlay existing roadway and widen to provide two 12 foot driving lanes
- Provide curb, gutter and 5-foot wide sidewalk along south side of roadway
- Provide open swale drainage and infiltration along north side of roadway.

ISSUE AND DOCUMENTS HAVE BEEN REVIEWED AND APPROVED BY THE

FINANCE DIRECTOR

CITY ATTORNEY

BUDGETED ITEM:

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301-013-595-30-041

COMMITTEE ACTION: RECOMMEND APPROVAL TO COUNCIL

DATE APPROVED DISAPPROVED

James Rackley, Chairperson 6-4-07 OK

Mark Hamilton 4 June 07 FKONECON

David Bowen June 07 David Bowen

COMMITTEE COMMENTS:

COMMITTEE’S RECOMMENDATION TO FORWARD TO:
CITY CLERK
CITY ATTORNEY

Please schedule for Council Meeting date of: June 12, 2007

Consent Agenda: Yes □ No
RESOLUTION NO. 1699

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, AUTHORIZING A PERSONAL SERVICES AGREEMENT WITH KPG FOR THE 75TH STREET EAST IMPROVEMENTS.

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

PASSED by the City Council this 12th day of June, 2007.

______________________________
Neil Johnson Jr., Mayor

ATTEST:

Harwood T. Edvalson, CMC
City Clerk

APPROVED AS TO FORM:

______________________________
James Dionne, City Attorney
PERSONAL SERVICES AGREEMENT

THIS PERSONAL SERVICES AGREEMENT ("Agreement") is made and entered into this 12th day of June, 2007, by and between the City of Bonney Lake ("City") and KPG ("Consultant").

The parties hereby agree as follows:

1. **Scope of Work.** The Consultant shall perform all work and provide all materials described in the Scope of Work set out in Exhibit A attached hereto and incorporated herein by this reference. Such work shall be performed using facilities, equipment and staff provided by Consultant, and shall be performed in accordance with all applicable federal, state and local laws, ordinances and regulations. The Consultant shall exercise reasonable care and judgment in the performance of work pursuant to this Agreement. The Consultant shall make minor changes, amendments or revisions in the detail of the work as may be required by the City, such work not to constitute Extra Work under this Agreement.

2. **Ownership of Work Product.** Documents, presentations and any other work product produced by the Consultant in performance of work under this Agreement shall be tendered to the City upon completion of the work, and all such product shall become and remain the property of the City and may be used by the City without restriction; provided, that any such use by the City not directly related to the particular purposes for which the work product was produced shall be without any liability whatsoever to the Consultant.

3. **Payment.** The Consultant shall be paid by the City for completed work and services rendered under this Agreement pursuant to the rates and charges set out in Exhibit B, attached hereto and incorporated herein by this reference. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete the work. All billings for compensation for work performed under this Agreement shall list actual time and dates during which the work was performed and the compensation shall be figured using the rates set out in Exhibit B; provided, that payment for work within the Scope of Work (Exhibit A) shall not exceed the fee/hour estimate set out in Exhibit B without written amendment to this Agreement, agreed to and signed by both parties.

Acceptance of final payment by the Consultant shall constitute a release of all claims, related to payment under this Agreement, which the Consultant may have against the City unless such claims are specifically reserved in writing and transmitted to the City by the Consultant prior to acceptance of final payment. Final payment shall not, however, be a bar to any claims that the City may have against the Consultant or to any remedies the City may pursue with respect to such claims.
The Consultant and its subconsultants shall keep available for inspection, by the City, for a period of three years after final payment, the cost records and accounts pertaining to this Agreement and all items related to, or bearing upon, such records. If any litigation, claim or audit is started before the expiration of the three-year retention period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved. The three-year retention period shall commence when the Consultant receives final payment.

4. **Changes in Work.** The Consultant shall make all revisions and changes in the work completed under this Agreement as are necessary to correct errors, when required to do so by the City, without additional compensation.

5. **Extra Work.** The City may desire to have the Consultant perform work or render services in addition to or other than work provided for by the expressed intent of the Scope of Work. Such work will be considered Extra Work and will be specified in a written supplement which will set forth the nature and scope thereof. Work under a supplement shall not proceed until authorized in writing by the City. Any dispute as to whether work is Extra Work or work already covered by this Agreement shall be resolved before the work is undertaken. Performance of the work by the Consultant prior to resolution of any such dispute shall waive any claim by the Consultant for compensation as Extra Work.

6. **Employment.** Any and all employees of Consultant, while engaged in the performance of any work or services required by the Consultant under this Agreement, shall be considered employees of the Consultant only and not of the City, and any and all claims that may or might arise under the Workman’s Compensation Act on behalf of said employees, while so engaged; any and all taxes arising out of Consultant’s or Consultant’s employees’ work under this Agreement; and any and all claims made by a third party as a consequence of any acts, errors, or omissions on the part of the Consultant’s employees, while so engaged, shall be the sole obligation and responsibility of the Consultant, except as provided in Section 12 of this agreement. The Consultant’s relation to the City shall at all times be as an independent contractor.

7. **Nondiscrimination and Legal Compliance.** Consultant agrees not to discriminate against any client, employee or applicant for employment or for services because of race, creed, color, national origin, marital status, gender, age or handicap except for a bona fide occupational qualification with regard to, but not limited to, the following: employment upgrading; demotion or transfer; recruitment or any recruitment advertising; layoff or termination; rates of pay or other forms of compensation; selection for training; and rendition of services. The consultant represents and warrants that it is in compliance with and agrees that it will remain in compliance with the provisions of the Immigration Reform and Control Act of 1986, including but not limited to the provisions of the Act prohibiting the hiring and continued employment of unauthorized aliens and requiring verification and record keeping with respect to the status of each of its employees’ eligibility for employment. The consultant shall include a provision substantially the same as this