AGENDA

The City Council may act on items listed on this agenda, or by consensus give direction for future action. The Council may also add and take action on other items not listed on this agenda.

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

I. Call to Order: Mayor Neil Johnson

II. Roll Call:
Elected Officials: Mayor Neil Johnson, Jr., Deputy Mayor Dan Swatman, Councilmember Mark Hamilton, Councilmember Donn Lewis, Councilmember Randy McKibbin, Councilmember Katrina Minton-Davis, Councilmember James Rackley, and Councilmember Tom Watson.

Planning Commissioners: Chairperson Grant Sulham, Commissioner David Eck, Commissioner Brad Doll, Commissioner Brandon Frederick, Commissioner Richards Rawlings, Commissioner Dennis Poulsen, and Commissioner Winona Jacobsen.

III. Agenda Items:
A. Presentation: Community Summit Presentation, David Wells, Special Events Coordinator.
B. Discussion: Review and amendments to Planning Commission Workplan.
C. Special Meeting Open Discussion.

** End of Special Joint City Council/Planning Commission Meeting **
Followed by Regular Council Workshop Items.

D. Presentation: Dave Baus, Development Coordinator, Village Concepts Retirement Communities.
F. Discussion: (Tabled from 4/10) AB12-44 – Ordinance D12-44 – Sewer SDC Rates.

I. Council Open Discussion.

IV. Executive Session: Pursuant to RCW 42.30.110(b), the City Council may hold an executive session. The topic(s) and the session duration will be announced prior to the executive session.

V. Adjournment

For citizens with disabilities requesting translators or adaptive equipment for listening or other communication purposes, the City requests notification as soon as possible of the type of service or equipment needed.
Item III. A. Presentation: Community Summit Presentation, David Wells, Special Events Coordinator.

There are no advance materials for this item.
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<th>Description</th>
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<th>Note</th>
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<tr>
<td>Modify the definition / procedures for updating the Development Code</td>
<td>CD</td>
<td>1st Quarter</td>
<td></td>
<td>Staff</td>
<td>5/25/2010</td>
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<tr>
<td>Addressing noise and acoustics between nightclubs and residential areas</td>
<td>CD</td>
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<td>CC</td>
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<td>Develop standards and options for controlling noise in mixed use zones or on commercial/residential borders</td>
<td>CD</td>
<td>3rd Quarter</td>
<td></td>
<td>CC</td>
<td>12/14/2010</td>
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<tr>
<td>Required to be consistent with State law</td>
<td>PW / CD</td>
<td>3rd Quarter</td>
<td>Administrative provisions for Civil Permits</td>
<td>Staff</td>
<td>12/14/2010</td>
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<tr>
<td>Update Comp Plan with Cultural Resource Plan including Historically significant items</td>
<td>CD, CS</td>
<td>3rd Quarter</td>
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<td>CC, Exec</td>
<td>5/25/2010</td>
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<tr>
<td>Update Transportation Plan / Transportation element of the Comprehensive Plan to be consistent with the Land Use element and certifiable by PSRC</td>
<td>CD</td>
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<td></td>
<td>Exec/PW</td>
<td>12/14/2010</td>
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<td>Update Transportation Plan / Transportation element of the Comprehensive Plan to be consistent with the Land Use element and certifiable by PSRC</td>
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<tr>
<td>Complete update of Parks Element of Comprehensive Plan</td>
<td>CD, CS</td>
<td>3rd Quarter</td>
<td>General update of Parks Element, revisit Moriarty Plan</td>
<td>Staff / Exec</td>
<td>5/25/2010</td>
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<td>Update of Title 16.14 to enhance landscape buffering between incompatible uses.</td>
<td>CD</td>
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<tr>
<td>Complete Shoreline Master Plan Update</td>
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<td>5/12/2009</td>
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<td>Update Economic Development Element of Comp Plan</td>
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<td>Exec anticipates that this will not be complete in 2012.</td>
<td>Staff / Exec</td>
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<td>Begin work on 2015 major Comp Plan update</td>
<td>CD</td>
<td>4th Quarter</td>
<td>State legislature pushed deadline out another year.</td>
<td>Staff</td>
<td>6/7/2011</td>
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<td>Add &quot;proposed UGA&quot; to Zoning Map</td>
<td>CD</td>
<td>4th Quarter</td>
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<td>Exec</td>
<td>6/7/2011</td>
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<td>Update Comp Plan to include Falling Water as proposed UGA area.</td>
<td>CD</td>
<td>4th Quarter</td>
<td>Add to FLUM</td>
<td>Exec</td>
<td>6/7/2011</td>
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<tr>
<td>Amend Comp Plan to include Cascadia as proposed UGA</td>
<td>CD</td>
<td>4th Quarter</td>
<td></td>
<td>Exec</td>
<td>6/7/2011</td>
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<tr>
<td>Amend Comprehensive Sewer Plan to include analysis of proposed UGA areas.</td>
<td>CD</td>
<td>4th Quarter</td>
<td>Exec anticipates that this will not be complete in 2012.</td>
<td>Exec</td>
<td>6/7/2011</td>
</tr>
<tr>
<td>Update Transportation Element of the Comprehensive Plan</td>
<td>CD / PW</td>
<td>4th Quarter</td>
<td></td>
<td>Exec</td>
<td>12/14/2010</td>
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<tr>
<td>Amend BLMC to include new zoning designations for proposed annexation areas.</td>
<td>CD</td>
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<td>Exec</td>
<td>6/7/2011</td>
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<tr>
<td>Continue work on 2015 major Comp Plan update including update of Transportation Element</td>
<td>CD</td>
<td>4th Quarter</td>
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Item III. D. **Presentation:** Dave Baus, Development Coordinator, Village Concepts Retirement Communities.

*There are no advance materials for this item.*
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I. CALL TO ORDER – Mayor Neil Johnson, Jr. called the meeting to order at 7:03 p.m.

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

B. Roll Call: Administrative Services Director/City Clerk Harwood Edvalson called the roll. In addition to Mayor Johnson, elected officials attending were Deputy Mayor Dan Swatman, Councilmember Mark Hamilton, Councilmember Donn Lewis, Councilmember Randy McKibbin, Councilmember Katrina Minton-Davis, Councilmember Jim Rackley, and Councilmember Tom Watson.

Staff members in attendance were City Administrator Don Morrison, Public Works Director Dan Grigsby, Community Development Director John Vodopich, Chief Financial Officer Al Juarez, Interim Police Chief Dana Powers, Administrative Services Director/City Clerk Harwood Edvalson, City Attorney Jim Dionne, and Records & Information Specialist Susan Duis.

C. Announcements, Appointments and Presentations:
   1. Announcements: None.
   2. Appointments: None.
   3. Presentations: None.

D. Agenda Modifications: None.

II. PUBLIC HEARINGS, CITIZEN COMMENTS & CORRESPONDENCE:

A. Public Hearings: None.

B. Citizen Comments:

Sean Hoey, Master Builders Association of Pierce County, addressed the proposed Ordinances to reduce School Impact Fees and Transportation Impact Fees (AB12-35 and AB12-45). He said the MBA of Pierce County supports both ordinances and recognizes them as first steps to encourage development in Bonney Lake. He reminded the Council of Dr. Elliot Eisenberg’s presentation in February, and described the estimated revenues that come from each new home that is built in the City. He said there are 700 undeveloped lots available in Bonney Lake today. Even if only a portion of those lots are developed, he said the City would realize a lot of revenue. He said encouraging these sites to be developed will not encourage over-development since they are already in place. Councilmembers thanked Mr. Hoey for his remarks.
Dan Decker, 20401 70th St E, Bonney Lake, asked why a photograph that includes himself, past councilmember Laurie Carter, and other councilmembers has appeared on local news broadcasts. Mayor Johnson said the photo is being used in relation to a story on current Municipal Court Judge Ron Heslop, who owns two towing companies outside of Bonney Lake. He said the photo is likely an old newspaper photo from when the Judge joined the City staff. He said anyone with questions about the story can contact him any time.

Lora Butterfield, Bonney Lake Chamber of Commerce, said the Chamber supports the proposed impact fee reduction ordinances on the current agenda. She said the Chamber feels that lowering fees will create revenue for the City.

C. Correspondence: None.

III. COUNCIL COMMITTEE REPORTS

A. Finance Committee: Deputy Mayor Swatman said the committee met at 5:30 p.m. earlier in the evening and discussed setting a public hearing for surplus items (AB12-38) and upcoming resolutions to surplus vehicles that are no longer in use or too costly to repair. The committee also discussed a proposed lease with Anderson Dairy to use pasture on the the Reed Property located at 7109 Barkubein Rd. In addition, they discussed the City’s staff policy for per diem allowances for meals and getting appropriate receipts.

B. Community Development Committee: Councilmember McKibbin said the committee met on March 20th and forwarded three items to the agenda.

C. Public Safety Committee: Councilmember Hamilton said the committee has not met since the last regular Council meeting.

D. Other Reports:

Pierce County Regional Council: Councilmember Hamilton said he attended the PCRC meeting on March 15th. The Council discussed transportation funding and job center creation. He said the job center program now includes ‘local centers’, and has become disorganized and too fragmented to do much good to local communities.

Community News: Councilmember Lewis said he attended the White River Families First Coalition meeting at Glacier Middle School in Buckley in March. Representatives from Wilkeson and Carbonado, and the Mayor of Buckley attended and discussed their local schools and support groups. The group also discussed school transportation concerns and water availability and flooding issues.

Councilmember Watson reminded the Council of the annual Death By Chocolate fundraiser for the Lions Club on March 31st. He said the event will support various programs including the backpack program and vision program. He said he and Councilmembers Minton-Davis and McKibbin plan to attend the event.

Pierce County Executive: Mayor Johnson said he will be meeting with Kerry Rooney from Pierce County Executive Pat McCarthy’s office on Friday April 6th. He asked councilmembers to let him know if there are any topics or questions they would like him
to discuss with them. He said he plans to push for partnerships and get answers to
councilmembers’ questions.

Senator Patty Murray: Mayor Johnson said the staff are working to schedule a date for
him to visit U.S. Senator Patty Murray’s office to discuss issues related to Bonney Lake.

Community Updates: Mayor Johnson said he attended a White River School District
fundraiser at the Corliss farm several weeks ago. In addition, he said he received a phone
call from a resident who was upset because she had purchased a “lemon” vehicle from a
sale in the Bonney Lake Wal-Mart parking lot the previous weekend. When the Mayor
called her back he learned she had also contacted State Senator Pam Roach, who had
already helped her resolve the issue.

IV. CONSENT AGENDA:

A. Approval of Corrected Minutes: March 6, 2012 Council Workshop and March 13, 2012
   Council Meeting.

B. Approval of Accounts Payable and Utility Refund Checks/Vouchers: Accounts
   Payable checks/vouchers #63178-63222 (including wire transfer, #20120316) in the
   amount of $710,006.40.

C. Approval of Payroll: Payroll for January 1-15th for checks 30351-30375 including Direct
   Deposits and Electronic Transfers in the amount of $416,707.98.

D. AB12-36 – Resolution 2194 – A Resolution Of The City Council Of The City Of Bonney
   Lake, Pierce County, Washington, Authorizing The Mayor To Sign An Agreement With
   FCS Group To Develop An Indirect Cost Allocation Plan For The City Of Bonney Lake.

E. AB12-37 – Resolution 2195 – A Resolution Of The City Council Of The City Of Bonney
   Lake, Pierce County, Washington, Authorizing The Amendment To Agreement With
   WSDOT Due To The Purchase Of Surplus Real Estate For Eastown Sewer Lift Station.

F. AB12-41 – Resolution 2198 – A Resolution Of The City Council Of The City Of
   Bonney Lake, Pierce County, Washington, Authorizing A Professional Service
   Agreement With Parametrix Consultants For The Angeline Road Monument Recovery
   And Overlay Survey Project.

G. AB12-38 – A Motion Of The City Council Of The City Of Bonney Lake, Pierce County,
   Washington, Setting A Public Hearing At 7:00 P.M., Or As Soon Thereafter As Possible,
   During The Regular Council Meeting Of April 10, 2012 For The Surplus And Disposal
   Of City Utility Items And A Utility Vehicle

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

Consent Agenda approved 7 – 0.

V. FINANCE COMMITTEE ISSUES: None.

VI. COMMUNITY DEVELOPMENT ISSUES:

   Councilmember Rackley moved to approve Resolution 2190. Councilmember Watson seconded the motion.

   Mayor Johnson thanked Deputy Mayor Swatman for helping to keep this project moving forward.

   Resolution 2190 approved 7 – 0.

VII. **PUBLIC SAFETY COMMITTEE ISSUES:** None.

VIII. **FULL COUNCIL ISSUES:**


   Deputy Mayor Swatman moved to approve Ordinance 1419. Councilmember Lewis seconded the motion.

   Mayor Johnson said Daniel Decker had signed up to speak. Mr. Decker said he intended to speak on Ordinance D12-45, and not this ordinance.

   Deputy Mayor Swatman said the same program was in place previously and this ordinance simply renews it. He said the program does not reduce fees, and instead rebates sales tax back to a retailer that comes to the City. Councilmember Rackley said the City takes in the impact fee payments up-front, but then rebates a portion back to the business owner in the following years.

   Ordinance 1419 approved 7 – 0.


   Councilmember Lewis moved to approve Ordinance 1420. Deputy Mayor Swatman seconded the motion.

   Mayor Johnson said this is a ‘house cleaning’ ordinance to bring the City’s code in line with the fee proposed by the School District. Deputy Mayor Swatman said developers already pay this lower fee, and the code needs to be updated to reflect the actual fee. Director Vodopich confirmed that the School District decided to lower the School Impact Fee after they reviewed and reduced their capital projects list.

   Ordinance 1420 approved 7 – 0.

Councilmember Watson moved to approve Ordinance D12-45. Deputy Mayor Swatman seconded the motion.

Daniel Decker, 20401 70th St E, Bonney Lake, said he would like the City of Bonney Lake’s Traffic Impact Fee to match the City of Sumner. He said Sumner is in a better position to receive industry and they ask for a much lower traffic impact fee. He said Bonney Lake would benefit from having more industry. He said Bonney Lake is not attractive to industry for several reasons, including transportation issues and proximity to other cities. He said high TIF fees stop industry from coming to Bonney Lake.

Councilmember Rackley moved to table Ordinance D12-45 to the April 3, 2012 Workshop for discussion. Councilmember Hamilton seconded the motion.

Motion to table approved 6 – 1. Councilmember Minton-Davis voted no.

IX. **EXECUTIVE SESSION:**

Pursuant to RCW 42.30.110(1)(i), the Council adjourned to an Executive Session with the City Attorney at 7:43 p.m. for 10 minutes to discuss potential litigation. No action was anticipated after the session. The Council returned to Chambers at 8:01 p.m.

X. **ADJOURNMENT:**

At 8:01 p.m., Councilmember Rackley moved to adjourn the Council Meeting. Councilmember Lewis seconded the motion.

Motion to adjourn approved 7 – 0.

Harwood Edvalson, CMC
City Clerk

Neil Johnson, Jr.
Mayor

Items presented to Council at the March 27, 2012 Meeting: None.
City of Bonney Lake, Washington

City Council Agenda Bill (AB)

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<td>Ordinance/Resolution Number: D12-44</td>
<td>Councilmember Sponsor:</td>
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**Agenda Subject:** Temporary Reduction of Sewer SDC Charges

**Full Title/Motion:** A Motion Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Adopting Ordinance No. D12-44, Relating To Sewer System Development Charges.

**Administrative Recommendation:**

**Background Summary:** One version proposes only to CAP Sewer SDC re-assessemnts after the core and shell and first and second tenant improvements have been made and paid the appropriate SDC. The other version proposes the came SDC TI cap as well as a temporary 25% reduction to Sewer SDC charges until 200 new homes have been built.

**Attachments:** Ordinance D12-44

**BUDGET INFORMATION**

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**Budget Explanation:**

**COMMITTEE, BOARD & COMMISSION REVIEW**

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**Commission/Board Review:**

**Hearing Examiner Review:**

**COUNCIL ACTION**

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**APPROVALS**

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ORDINANCE NO. D12-44

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, AMENDING CHAPTER 13.12 OF THE BONNEY LAKE MUNICIPAL CODE, SECTION ONE OF ORDINANCE NO. 1395, SECTION THREE OF ORDINANCE NO. 1333, AND SECTION FIVE OF ORDINANCE NO. 571C, RELATING TO NON-RESIDENTIAL SEWER SYSTEM DEVELOPMENT CHARGES AND TENANT IMPROVEMENTS.

WHEREAS, RCW 35.92.025 authorizes cities to charge a reasonable connection charge as the legislative body of the city or town shall determine proper so that such property owners pay an equitable share of the cost of such system; and

WHEREAS, the City Council desires to reduce the system development charges related to non-residential tenant improvements.

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

Section 1. BLMC Section 13.12.105 is hereby amended to read as follows:

13.12.105 Calculation of nonresidential sewer connection charges.

A. System development charges (SDCs) shall be levied for each new sewer service connection to the city sewer system and for service upgrades generating additional flow or loading.

B. Nonresidential Connections – Existing Buildings.

1. SDCs for existing nonresidential customers who convert from septic to sewer shall be based on the most recent 12 months of water use records. The following formula shall be used to determine the number of REs an existing building is equivalent to: (average daily water use plus 113 gallons per day) divided by 275 gallons per day.

C. Nonresidential Connections – New Buildings

1. Sewer system development charges for all new nonresidential construction buildings shall be the calculated residential equivalents based on the residential equivalent value given in Schedule A, Non-Residential Sewer Equivalents, which is hereby incorporated by reference as now or hereafter amended.

2. SDCs for nonresidential applicants which do not fall into the categories listed in Schedule A shall be charged based on the developer’s engineer’s certified estimate of flow and shall be reviewed for adjusted fees after one year of water use data. The
D. Nonresidential Connections – Tenant Improvements

1. Sewer system development charges for all new tenant improvements shall be the calculated residential equivalents based on the residential equivalent value listed in Schedule A. If a former tenant or building owner paid an SDC for the space a new tenant is occupying, the new tenant shall be charged only that portion of the SDC which reflects the increased use over the previous tenant(s), based upon the business types of the new and previous tenant found in Schedule A, provided however, that once a connection charge has been paid for the original connection and the first and second tenant improvements for the same space, there shall be no additional connection charges assessed thereafter for subsequent tenant improvements.

2. Sewer system development charges shall not be charged for tenant improvements which are accessory to the primary use of the structure, less than 2,000 square feet in size, and have an occupancy load of less than 50 occupants.

E. The calculation of residential equivalents given in Schedule A, Non-Residential Sewer Equivalents, and attached to the ordinance codified in this section, shall be updated annually as needed.

F. SDCs shall be due and payable at the time of issuance of the building permit for the structure to be served by the sewer connection, and shall be charged at the rate in effect at the time of application for sewer service. An application for sewer service will only be accepted if a complete building permit application is submitted concurrently or is already on file, or from an applicant with an existing building served by a septic system and that also has sewer available. If the building permit expires through suspension or abandonment under BLMC 15.04.081, the SDC shall be refunded at the request of the applicant; provided, that if the applicant chooses to leave the SDC on deposit with the City and re-applies for a new building permit pursuant to BLMC 15.04.081, the SDC shall be recalculated at current rates and the amount of the SDC already paid and not refunded may be credited toward the new SDC.

Section 2. BLMC Section 13.12.108 is hereby amended to read as follows:

13.12.108 Changed conditions – Increased wastewater flows, BOD or S.S.

Except as provided under subsection “C” below, the city shall have the right to charge an owner of a nonresidential parcel of property already connected to the city sewer system an additional connection charge and increase the monthly sewer service charge if:
A. Wastewater flows disposed of into the city sewer system have increased above originally paid for flows; or

B. BOD and/or S.S. are found to be greater than 250 mg/l and 250 mg/l, respectively.

C. Once a connection charge has been paid for the original connection and the first tenant improvement, an additional connection charge may be required for the next tenant improvement to the same space if wastewater flows are projected to increase above the previously paid for flows. Thereafter, there shall be no additional connection charges.

**Section 3.** The Mayor is hereby authorized to implement such administrative policies and procedures as may be necessary to carry out the intent of this ordinance.

**Section 4.** This Ordinance shall take effect and be in force thirty (30) days from and after its passage, approval and publication, as required by law.

**PASSED** by the City Council and approved by the Mayor this ___ day of ______, 2012.

_____________________________
Neil Johnson, Jr., Mayor

ATTEST:

_____________________________
Harwood T. Edvalson, CMC, City Clerk

APPROVED AS TO FORM:

_____________________________
James Dionne, City Attorney
ORDINANCE NO. D12-44

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, AMENDING CHAPTER 13.12 OF THE BONNEY LAKE MUNICIPAL CODE, AND THE CORRESPONDING PORTIONS OF ORDINANCE NOS. 1395 AND 571C, RELATING TO SEWER DEVELOPMENT CHARGES.

WHEREAS, RCW 35.92.025 authorizes cities to charge a reasonable connection charge as the legislative body of the city or town shall determine proper so that such property owners pay an equitable share of the cost of such system; and

WHEREAS, the City Council desires to reduce the system development charge until such time as previously planned growth rates return;

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

Section 1. BLMC Section 13.12.100 is hereby amended to read as follows:

13.12.100 System development charges.

A. Except as provided in subsection A(5) below, the fees for connection to the city’s sewer utility shall be due and payable at the time of building permit issuance, as follows:

1. The fee for a single-family residence (new construction) shall be $9,099.

2. The fee for an existing single-family residence served by an on-site septic disposal system shall be $9,099.

3. The fee for duplexes shall be $9,099 per dwelling unit.

4. The fee for multifamily residential buildings with more than two units shall be as follows:
   a. Eighty percent of $9,099 per dwelling unit for three or more bed/bonus room units;
   b. Seventy percent of $9,099 per dwelling unit for two bed/bonus room units;
   c. Sixty percent of $9,099 per dwelling unit for one bed/bonus room units;
   d. Fifty percent of $9,099 per dwelling unit for studio/efficiency units.

   5. Temporary Rate Reduction. The system development charges listed in Section 13.12.100(A) above shall be temporarily reduced as of April 30, 2012, by twenty-five percent (25%) until such time that the City has issued 200 new single family residential building permits since the effective date of this ordinance.
§ 6. CCI Adjustment. Beginning January 1, 2010, and for every year thereafter, the SDCs shall be adjusted by the annual change in the most recent Engineering News Record (ENR) Construction Cost (CCI) for the Seattle area, using a November through November annual measure to establish revised fee schedules effective January 1st of each year.

B. SDCs shall be due and payable at the time of building permit issuance, and shall be charged at the rate in effect at the time of application for sewer service. An application for sewer service will only be accepted if a complete building permit application is submitted concurrently or is already on file, or from an applicant with an existing residence served by a septic system and that also has sewer available. If the building permit expires through suspension or abandonment under BLMC 15.04.081, the SDC shall be refunded at the request of the applicant; provided, that if the applicant chooses to leave the SDC on deposit with the city and re-applies for a new building permit pursuant to BLMC 15.04.081, the SDC shall be re-calculated at current rates and the amount of the SDC already paid and not refunded may be credited toward the new SDC.

C. The charges set out in this section shall not be applicable to an accessory dwelling unit permitted pursuant to BLMC 18.22.090, so long as a second connection to the city’s sewer system is not required by applicable codes or requested by the owner. Should the property upon which an accessory dwelling unit is located be sold, platted or otherwise segregated from the property upon which the primary residence is located, and, because of the exemption provided for in this subsection, the owner of the accessory dwelling unit did not previously pay a full, separate sewer connection charge for the accessory dwelling unit, then the following shall apply:

1. If no additional connection charge was paid for the accessory dwelling unit, the owner of the segregated accessory dwelling unit shall be required to pay a connection charge in the amount provided for in this section at the time of segregation.

2. If a reduced connection charge was paid for the accessory dwelling unit, the owner of the segregated accessory dwelling unit shall be required to pay the difference between that reduced charge and the amount of the connection charge provided for in this section at the time of segregation.

D. When connection to the sewer system for an existing residence becomes mandatory due to a failed septic system, septic design flaw, or other reason, and the home is not being sold contemporaneously with the mandatory sewer application, a homeowner may apply to the city to pay the connection fee on an installment payment plan. The application shall state that paying the connection fee poses a financial hardship. The city may permit the applicant to pay the fee in monthly or annual installments (not both) for a period of not more than 10 years. A reasonable interest rate, as determined by the city’s chief financial officer, will be charged on the balance owing to the city. The entire remaining balance of the connection fee plus interest shall be due and payable at the time of sale of the home. Any past-due installments and any remaining balance that is not paid at the sale of the home will become a lien on the property pursuant to BLMC 13.12.110.

Section 2. BLMC Section 12.12.105 is hereby amended to read as follows:

13.12.105 Calculation of nonresidential sewer connection charges.
A. System development charges (SDCs) shall be levied for each new sewer service connection to the city sewer system and for service upgrades generating additional flow or loading.

B. Nonresidential Connections – Existing Buildings.

1. SDCs for existing nonresidential customers who convert from septic to sewer shall be based on the most recent 12 months of water use records. The following formula shall be used to determine the number of REs an existing building is equivalent to: (average daily water use plus 113 gallons per day) divided by 275 gallons per day.


1. Sewer system development charges for all new nonresidential construction buildings shall be the calculated residential equivalents based on the residential equivalent value given in schedule A, Non-Residential Sewer Equivalents, which is hereby incorporated by reference as now or hereafter amended.

2. SDCs for nonresidential applicants which do not fall into the categories listed in Schedule A shall be charged based on the developer’s engineer’s certified estimate of flow and shall be reviewed for adjusted fees after one year of water use data. The formula described in subsection (B)(1) of this section will apply in each case and the calculated SDC shall be subject to approval by the public works director. If one year of water use data shows that the SDC requires adjustment, the city will adjust the SDC up or down and either refund the difference or include an additional charge on the customer’s sewer bill.

D. Nonresidential Connections – Tenant Improvement.

1. Sewer system development charges for all new tenant improvements shall be the calculated residential equivalents based on the residential equivalent value listed in Schedule A. If a former tenant or building owner paid an SDC for the space a new tenant is occupying, the new tenant shall be charged only that portion of the SDC which reflects the increased use over the previous tenant(s), based upon the business types of the new and previous tenant found in Schedule A, provided however, that once a connection charge has been paid for the original connection and the first and second tenant improvements for the same space, there shall be no additional connection charges assessed thereafter for subsequent tenant improvements.

2. Sewer system development charges shall not be charged for tenant improvements which are accessory to the primary use of the structure, less than 2,000 square feet in size, and have an occupancy load of less than 50 occupants.

E. The calculation of residential equivalents given in Schedule A, Non-Residential Sewer Equivalents, and attached to the ordinance codified in this section, shall be updated annually as needed.

F. SDCs shall be due and payable at the time of issuance of the building permit for the structure to be served by the sewer connection, and shall be charged at the rate in effect at the time of application for sewer service. An application for sewer service will only be accepted if a
Version with 25% SDC reduction

complete building permit application is submitted concurrently or is already on file, or from an applicant with an existing building served by a septic system and that also has sewer available. If the building permit expires through suspension or abandonment under BLMC 15.04.081, the SDC shall be refunded at the request of the applicant; provided, that if the applicant chooses to leave the SDC on deposit with the City and re-applies for a new building permit pursuant to BLMC 15.04.081, the SDC shall be recalculated at current rates and the amount of the SDC already paid and not refunded may be credited toward the new SDC.

**Section 3.** BLMC Section 12.12.108 is hereby amended to read as follows:

**13.12.108 Changed conditions – Increased wastewater flows, BOD or S.S.**

Except as provided under subsection “C” below, the city shall have the right to charge an owner of a nonresidential parcel of property already connected to the city sewer system an additional connection charge and increase the monthly sewer service-charge if:

A. Wastewater flows disposed of into the city sewer system have increased above originally paid for flows; or

B. BOD and/or S.S. are found to be greater than 250 mg/l and 250 mg/l, respectively.

C. Once a connection charge has been paid for the original connection and first tenant improvement, an additional connection charge may be required for the next tenant improvement to the same space if wastewater flows are projected to increase above the previously paid for flows. Thereafter, there shall be no additional connection charges.

**Section 4.** The Mayor is hereby authorized to implement such administrative policies and procedures as may be necessary to carry out the intent of this ordinance.

**Section 5.** This Ordinance shall take effect and be in force thirty (30) days from and after its passage, approval and publication, as required by law.

**PASSED** by the City Council and approved by the Mayor this ___ day of ___, 2012.

_____________________________
Neil Johnson, Jr., Mayor

ATTEST:

_________________________________
Harwood T. Edvalson, CMC, City Clerk

APPROVED AS TO FORM:

_________________________________
James Dionne, City Attorney
City of Bonney Lake, Washington
City Council Agenda Bill (AB)

Department/Staff Contact: Executive / Don Morrison
Meeting/Workshop Date: 17 April 2012
Agenda Bill Number: AB12-45

Agenda Item Type: Ordinance
Ordinance/Resolution Number: D12-45
Councilmember Sponsor:

Agenda Subject: Update of Traffic Impact Fee Ordinance, including Temporary Reduction of TIF Charges


Administrative Recommendation: Approve

Background Summary: Policy P 1.10 of the adopted Economic Development Element of the Comprehensive Plan provides that the City will review and update its zoning, impact fees, and incentives to better encourage prioritized economic development.

The attached summary sheet shows the main changes to the ordinance. Among those are a temporary reduction in the TIF rate of whichever results in the greater rate reduction: 1) 25% reduction in TIF rates or 2) a deduction for the first charged PM trip per building permit.

Attachments: Ordinance D12-45, Ordinance Summary Sheet

BUDGET INFORMATION

<table>
<thead>
<tr>
<th>Budget Amount</th>
<th>Current Balance</th>
<th>Required Expenditure</th>
<th>Budget Balance</th>
</tr>
</thead>
</table>

Budget Explanation: UNK

COMMITTEE, BOARD & COMMISSION REVIEW

Council Committee Review: Approval:
Date: Chair/Councilmember Yes No
Councilmember
Councilmember

Forward to: Consent Agenda: Yes No
Commission/Board Review:
Hearing Examiner Review:

COUNCIL ACTION

Workshop Date(s): March 20, 2012; April 3, 2012 Public Hearing Date(s):
Meeting Date(s): March 27, 2012; April 10, 2012 Tabled to Date:

APPROVALS

Director: Mayor: Date Reviewed by City Attorney:
(if applicable):

Agenda Packet p. 23 of 46
Summary Sheet
Ordinance D12-45
Traffic Impact Fee Ordinance Changes

- Clarifies language to be more consistent with GMA and SEPA
- Raises threshold of development activity from $15K to $35K (no TIF if the construction is under $35K)
- Adopts 8th or most recent edition of ITE Manual
- Payment is still due at building permit issuance unless a development agreement specifies alternate terms.
- Does not adopt a new Schedule B, which has been updated by CCI increases.
- TIF Rate Reduction Whichever results in the greater rate reduction of:
  1) Twenty-five percent (25%) rate reduction, or
  2) Deduction of the first ITE Manual PM peak hour trip rate trips
- Reduction Temporary. The ordinance sunsets the TIF reduction when building permits have been issued for 200 new single family residences. Other sunset options discussed included: 1) Until new permit valuations in the City reach $33 million over nine month period, or 2) October 1, 2013 (or other date, e.g. 12/31/13).
ORDINANCE NO. D12-45

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, AMENDING CHAPTER 19.04 OF THE BONNEY LAKE MUNICIPAL CODE AND ORDINANCE NOS. 984, 1282, 1316, AND 1318 RELATING TO TRAFFIC IMPACT FEES.

WHEREAS, Policy P 1.10 of the adopted Economic Development Element of the Comprehensive Plan provides that the City will review and update its zoning, impact fees, and incentives to better encourage prioritized economic development consistent with the adopted Economic Development Element; and

WHEREAS, the City Council finds it necessary to encourage development during the current economic downturn by providing alternative payment alternatives and other modifications to traffic impact fee requirements in order to encourage economic development;

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

Section 1. BLMC Section 19.04 and the corresponding sections or ordinance nos. 984, 1282, 1316, and 1318 are hereby amended to read as follows:

19.04.010 Authority and purpose.

A. This title is enacted pursuant to the city’s police powers, the Growth Management Act as codified in Chapter 36.70A RCW, the enabling authority in Chapter 82.02 RCW, Chapter 58.17 RCW relating to platting and subdivisions, and the State Environmental Policy Act (SEPA), Chapter 42.21C RCW.

B. The purpose of this title is to:

1. Develop a transportation impact fee program consistent with the Bonney Lake comprehensive plan for joint public and private financing of transportation improvements necessitated in whole or in part by development in the city;

2. Ensure adequate levels of transportation and traffic service within the city consistent with the comprehensive plan;

3. Create a mechanism to charge and collect fees to ensure that all new development bears its proportionate share of the capital costs of off-site transportation facilities directly necessitated by new development, in order to provide an adequate level of transportation service consistent with the comprehensive plan;

4. Ensure that the city pays its fair share of the capital costs of transportation facilities necessitated by public use of the transportation system; and

5. Ensure fair collection and administration of such impact fees.
C. The provisions of this chapter shall be liberally construed to effectively carry out its purpose in the interests of the public health, safety and welfare.

19.04.015 Definitions.

The following are definitions provided for administering the transportation impact fee. The mayor or mayor’s designee shall have the authority to resolve questions of interpretation or conflicts between definitions.

A. “Adequate level of transportation service” means a system of transportation facilities which have the capacity to serve development without decreasing levels of service below the city’s established minimum (see Chapter 19.02 BLMC).

B. “Capacity” means the maximum sustainable flow rate at which vehicles or persons can be expected to traverse a point or uniform segment of a lane or roadway during a specified time period, usually expressed as vehicles per hour, passengers per hour, or persons per hour.

C. “Development activity” means any construction or expansion of a building, or structure, or use, or any changes in the use of land, that creates additional demand and need for public facilities. For the purposes of this chapter, the remodel of existing buildings where the permit valuation is less than $15,000 $35,000 shall not be considered development activity.

D. “Director” means the director of the department of public works community development of the city of Bonney Lake or his/her designee.

E. “Chief financial officer” means the chief financial officer of the city of Bonney Lake or his/her designee.

F. “Health care provider” means a licensed physician, chiropractic physician, optometrist, dentist, dental hygienist, or nurse practitioner, or a clinic providing one or more of these services.

G. “Impact fee” or “transportation impact fee” means a payment of money imposed upon development approval to pay for public streets and roads needed to serve new growth and development, and that is reasonably related to the new development that creates additional demand and need for public streets and roads, that is a proportionate share of the cost of the public streets and roads, and that is used for public streets and roads that reasonably benefit the new development. “Impact fee” does not include a reasonable permit or application fee otherwise established by city council resolution.

H. “Jurisdiction” means a municipality or county.

I. “New commercial retail business” means a new retail business which sells retail goods and services which are subject to retail sales tax and which applies for a building permit, and which has not operated nor been licensed to operate in the city of Bonney Lake within 12 months previous to the date of opening the business in Bonney Lake. For the purposes of this definition, an additional location of an existing business shall qualify as a new business, provided all other business locations are maintained throughout the source adjustment period as defined in BLMC 19.04.150.
J. “Off-site transportation road improvement” means improvement, except a frontage improvement, to an existing or proposed city road or street outside the boundaries of a development, which improvement is required or recommended in accordance with this title.

K. “Project improvements” means on-site improvements and facilities that are planned and designed to provide service for a particular development project that are necessary for the use and convenience of the occupants or users of the project, and are not system improvements. No improvement or facility included in the capital facilities plan approved by the city council shall be considered a project improvement.

L. “Service area” means a geographic area defined by ordinance or intergovernmental agreement in which a defined set of public streets and roads provide service to the development within the area.

M. “Six-year transportation improvement program (TIP)” means a subset of projects contained in the city’s capital facilities element of the comprehensive plan, improvement program. The TIP is a set of comprehensive street programs/projects which after a public hearing is annually adopted by the city council for the purpose of qualifying for Federal and/or state transportation funding and advancing plans for not less than six years as a guide for carrying out the coordinated transportation/street construction program. The six-year TIP shall contain a small group of capacity projects which will be considered reasonably funded for determining transportation concurrency and impact fees. The adoption of the six-year TIP will obligate the city to actively pursue funds to implement the capacity component of the transportation improvement program as best possible with the available resources.

N. “System improvements” means public facilities that are included in the capital facilities element of the comprehensive plan and are designed to provide service areas within the community at large, in contrast to project improvements.

O. “ITE Manual” means the 8th or most recent edition of the Institute of Transportation Engineers (ITE) trip generation manual.

19.04.020 Applicability.

A. The requirements of this chapter apply to all development activity in the city of Bonney Lake.

B. Mitigation of impacts on transportation facilities located in jurisdictions outside the city will may be required when as part of an Environmental Impact Statement (EIS) or mitigated declaration of non-significance (MDNS) pursuant to the Washington State Environmental Policy Act (SEPA) process.

1. The other effective jurisdiction has reviewed the development’s impact under its adopted impact fee/mitigation regulations and has recommended to the city that the city impose a requirement to mitigate the impacts; and

2. There is an interlocal agreement between the city and the effective jurisdiction specifically addressing transportation impact identification and mitigation.
19.04.030 Geographic scope.

The boundaries within which impact fees shall be charged and collected are co-extensive with the corporate city limits, and shall include all unincorporated areas annexed to the city on and after the effective date of the ordinance codified in this chapter. Attachment A of the ordinance codified in this section includes a map, on file in the city clerk’s office, of the corporate city limits and unincorporated areas likely to be annexed. After the adoption of interlocal agreements with other local and regional governments, geographic boundaries may be expanded consistent therewith.

19.04.040 Imposition of transportation impact fees.

A. The director is hereby authorized to impose transportation impact fees on new development according to the provisions of this chapter. Pursuant to BLMC 19.04.070, impact fees are due at the time of building permit issuance. Impact fees shall be due and payable as specified in BLMC Chapter 19.04.070. When a development used to exist on a parcel, and the owner applies for a permit to build a comparable or replacement development within five years of the previous development’s demolition, destruction or removal, and the director determines that the new development will not substantially increase the impact upon transportation facilities, no impact fee will be charged.

B. Transportation impact fees:

1. Shall only be imposed for system improvements that are reasonably related to the new development;

2. Shall not exceed a proportionate share of the costs of system improvements that are reasonably related to the new development;

3. Shall be used for system improvements that will reasonably benefit the new development;

4. May be collected and spent only for system improvements which are addressed by the Bonney Lake comprehensive plan, identifying:

   a. Deficiencies in public facilities serving existing development and the means by which existing deficiencies will be eliminated within a reasonable period of time;

   b. Additional demands placed on existing public facilities by new developments; and

   c. Additional public facility improvements required to serve new development;

5. Shall not be imposed to mitigate the same off-site transportation facility impacts that are mitigated pursuant to any other law;

6. Shall not be collected for improvements to state transportation facilities outside the city boundaries unless the state requests such improvements and an agreement to collect such fees has been executed between the state/county and the city; said improvements have been required as mitigation actions pursuant to the state environment policy act (SEPA).
7. Shall not be collected for improvements to transportation facilities in other jurisdictions unless the affected jurisdiction requests such improvement and an interlocal agreement has been executed between the city and the affected jurisdiction for the collection of such fees; said improvements have been required as mitigation actions pursuant to the state environment policy act (SEPA).

8. Shall be collected only once for each building permit, unless changes or modifications to the building permit are proposed which result in greater direct impacts on transportation facilities than were considered when the building permit was first approved;

9. Shall not be collected from any new or expanded city facilities, post offices or libraries; and

10. Shall not be collected from any health care provider who supplies to the city documentation proving that at least 51 percent of his or her patients are covered by Medicare; provided, that the impact fees for such development activity shall be paid from public funds other than impact fee accounts.

19.04.050 Fee schedules and establishment of service area – Temporary Reduction.

A. A transportation impact fee (TIF) schedule setting forth the amount of the transportation impact fees to be paid by a development is set out in Attachment B, attached to the ordinance codified in this section, and incorporated herein by this reference.

B. The impact fee schedule of costs, as set out in Attachment B, attached to the ordinance codified in this section, shall be updated annually at a rate adjusted in accordance with the Washington State Department of Transportation Construction Cost Index, using an October to October annual measure to establish revised fee schedules effective January 1st of the subsequent year; provided, however, that said annual rate adjustment shall not go into effect except by an authorizing motion of the city council duly recorded in the minutes of the council meeting.

C. For the purpose of this chapter, the entire city shall be considered one service area.

D. Temporary Rate Reduction. The system development charges set out in Attachment B shall be reduced by whichever of the following results in the greater rate reduction: 1) twenty-five percent (25%) reduction of the Attachment B rate or 2) a deduction for the first charged ITE Manual PM Peak Hour Rate trip per building permit. These reduced rates shall remain in effect until 200 new single family residential building permits have been issued after the effective date of the ordinance.

19.04.060 Calculation of impact fees.

A. The director shall calculate the transportation impact fees as set forth in Attachment B subject to the provisions of this chapter.

B. In determining the proportionate share, the method of calculating impact fees shall incorporate, among other things, the following:

1. The cost of public streets and roads necessitated by new development;
2. An adjustment to the cost of the public streets and roadways for past or future payments made or reasonably anticipated to be made by new development to pay for particular system improvements in the form of user fees, debt service payments, taxes, or other payments earmarked for or proratable to the particular system improvement;

3. The availability of other means of funding public street and roadway improvements;

4. The cost of existing public street and roadway improvements; and

5. The methods by which public street and roadway improvements were financed.

C. A credit, not to exceed the impact fee otherwise payable, shall be provided for the value of any dedication of land for, improvement to, or new construction of any system improvements provided by the developer, to facilities that are identified in the capital facilities plan and that are required by the city as a condition of approving the development activity. The determination of “value” shall be consistent with the assumptions and methodology used by the city in estimating the capital improvement costs.

D. The director may adjust the standard impact fee at the time the fee is imposed to consider unusual circumstances in specific cases to ensure that impact fees are imposed fairly.

E. The amount of fee to be imposed on a particular development may be adjusted by the director giving consideration to studies and other data available to the director or submitted by the developer demonstrating to the satisfaction of the director that an adjustment should be made in order to carry out the purposes of this chapter.

F. The impact fee shall provide for system improvement costs previously incurred by the city to the extent that new growth and development will be served by the previously constructed improvements; provided, that such fees shall not be imposed to make up for any system improvement deficiencies.

G. As applies to residential development activity, the amount of the impact fee calculated pursuant to this section shall be charged for each single-family residential unit (including new accessory dwelling units), and for each dwelling unit included in a multifamily residential development (e.g., duplex, apartment, condominium, mobile home park).

H. As described in this section, the impact fees set forth in the schedule included in Attachment B shall be the presumptive impact fees, subject to revision as required by subsections C through E of this section.

19.04.070 Payment of fees.

A. All developers shall pay an impact fee in accordance with the provisions of this chapter at the time that the applicable building permit is ready for issuance; provided however, that when a commercial or multi-family residential development is subject to a development agreement approved by the City Council, said agreement may contain alternate terms and conditions under which the impact fees shall be paid. The fee paid shall be the amount calculated pursuant to BLMC 19.04.060. B. All developers shall pay an impact administrative fee at the time of
application for a building permit as set forth in the fee schedule adopted by resolution of the city council.

C. If the development is modified or conditioned in such a way as to alter the trip generation rate for the development after building permit issuance, the impact fee will be recalculated accordingly.

D. No building permit shall be issued until the impact fee is paid unless the development is the subject of a development agreement with alternate payment terms as provided in Section 19.04.070(A). If the building permit expires through suspension or abandonment under BLMC 15.04.081, the impact fee shall be refunded at the request of the applicant as provided in BLMC 19.04.100(A); provided, that if the applicant re-applies for a new permit pursuant to BLMC 15.04.081, the impact fee shall be re-calculated at current rates and the amount of the impact fee already paid and not refunded may be credited toward the new impact fee.

E. Impact fees may be paid under protest in order to obtain a permit or other approval of development activity.

19.04.080 Project list.

A. The director shall annually periodically review the city’s capital facilities element of the comprehensive plan, including those transportation related plans adopted by reference, comprehensive land use and transportation plan (“comprehensive plan”), capital facilities plan, including the projects in Attachment A and shall:

1. Identify each project in the comprehensive plan that is growth-related and the proportion of each such project that is growth-related;

2. Forecast the total moneys available from taxes and other public sources for road improvements over the next six years;

3. Calculate the amount of impact fees already paid; and

4. Identify those comprehensive plan projects that have been or are being built but whose performance capacity has not been fully utilized.

B. The director may use this information to prepare a transportation system improvement project list, draft amendment to Attachment A, which shall comprise:

1. The projects in the comprehensive plan that are growth-related and that should be funded with forecast public moneys and the impact fees already paid;

2. The projects already built or funded pursuant to this chapter whose performance capacity has not been fully utilized; and

3. An update of the estimated costs of the projects listed.

C. The council, at the same time that it adopts the annual budget and appropriates funds for capital improvement projects, shall by separate ordinance establish the annual Attachment A by
D. Once a project is placed on Attachment A, the transportation system improvement project list a fee shall be imposed on every development that impacts the project until the project is removed from the list by one of the following means:

1. The council by ordinance removes the project from Attachment A, the transportation system improvement project list in which case the fees already collected will be refunded if necessary to ensure that impact fees remain reasonably related to the traffic impacts of development that have paid an impact fee; provided, that a refund shall not be necessary if the council transfers the fees to the budget of another project that the council determines will mitigate essentially the same traffic impacts; or

2. The impact fee share of the project has been fully funded, in which case the director shall administratively remove the project from the project list.

19.04.090 Funding of projects.

A. Transportation impact fees shall be placed in appropriate deposit accounts within the streets capital improvement fund.

B. The transportation impact fees paid to the city shall be held and disbursed as follows:

1. The transportation impact fees collected shall be deposited in accordance with subsection A of this section;

2. When the council appropriates streets capital improvement fund funds for a project on the project list, impact fees held within such fund may be used in accordance with the project list. The non-impact fee moneys appropriated for the project may comprise both the public share of the project cost and an advancement of that portion of the private share that has not yet been collected in transportation impact fees;

3. The first money spent by the director on a project after a council appropriation shall be deemed to be the fees from the impact fee account;

4. Fees collected after a project has been fully funded by means of one or more council appropriations shall constitute reimbursement to the city of the public moneys advanced for the private share of the project;

5. All interest earned on transportation impact fees paid shall be retained in the account and expended for the purpose or purposes for which the transportation impact fees were imposed.

C. Projects shall be funded by a balance between transportation impact fees and other sources of public funds, and shall not be funded solely by transportation impact fees.

D. Transportation impact fees shall be expended or encumbered for a permissible use within six ten years of receipt, unless there exists an extraordinary or compelling reason for fees to be held longer than six ten years. The finance director may recommend to the council that the city hold
fees beyond six years in cases where extraordinary or compelling reasons exist. Such reasons shall be identified in written findings by the council.

E. The city shall prepare an annual report on the transportation impact fee account showing the source and amount of all moneys collected, earned or received and projects that were financed in whole or in part by transportation impact fees.

19.04.100 Refunds and Credits.

A. A developer may request and shall receive a refund when the developer does not proceed with the development activity for which transportation impact fees were paid, and the developer shows that no impact has resulted; however, the impact fee administrative fee shall not be refunded.

B. If an owner appears to be entitled to a refund of transportation impact fees, the finance director shall notify the owner by first class mail deposited with the United States Postal Service at their last known address. The owner must submit a request for a refund to the finance director in writing within one year of the date the right to claim the refund arises or the date the notice is given, whichever is later. Any transportation impact fees that are not expended or encumbered within the time limitations established by this chapter and for which no application for a refund has been made within this one-year period, shall be retained and expended on any project.

C. In the event that transportation impact fees must be refunded for any reason, they shall be refunded with interest earned to the owners as they appear of record with the Pierce County assessor at the time of refund.

D. When the city seeks to terminate any or all impact fee requirements, all unexpended or unencumbered funds shall be refunded pursuant to this section. Upon the finding that any or all fee requirements are to be terminated, the city shall place notice of such termination and the availability of refunds in a newspaper of general circulation at least two times and shall notify all potential claimants by first class mail to the last known address of claimants. Claimants shall request refunds as in subsection B of this section. All funds available for refund shall be retained for a period of one year. At the end of one year, any remaining funds shall be retained by the city, but must be expended on any city projects. This notice requirement shall not apply if there are no unexpended or unencumbered balances within an account or accounts being terminated.

E. Credits. Should a business who is the owner occupant of a commercial building construct a new business in another part of the City of Bonney Lake for the purpose of relocating said business, said business owner shall be entitled to a credit towards the new building of up to fifty percent (50%) of any transportation impact fees said business owner had previously paid on the building that is being vacated.

19.04.110 Appeals.

A developer may appeal the amount of an impact fee determined by the director as provided in BLMC 14.120.020. The developer shall bear the burden of proving:
A. That the director committed material and substantial error in calculating the developer’s proportionate share, as determined by an individual fee calculation or, if relevant, as set forth in the fee schedule, or in granting credit for the benefit factors; or

B. That the director’s decision was based on data that was materially and substantially incorrect and which, therefore, necessarily resulted in an erroneous decision.

19.04.120 Relationship to SEPA.

A. All development shall be subject to environmental review pursuant to SEPA and other applicable city ordinances and regulations. Any off-site in-city transportation actual mitigation costs required by SEPA for public facilities that are included in the capital facilities plan’s transportation element component of the Comprehensive Plan shall be credited against traffic impact fees paid to the City.

B. Payment of the impact fee shall constitute satisfactory mitigation of those traffic impacts related to the specific improvements identified on the project list (see Attachment A) the transportation system improvement project list

C. Further mitigation in addition to the impact fee shall may be required for identified on-site adverse impacts appropriate for mitigation pursuant to SEPA that are not mitigated by an impact fee.

D. Nothing in this chapter shall be construed to limit the city’s authority to deny building permits when a proposal would result in significant adverse traffic impacts identified in an environmental impact statement and reasonable mitigation measures are insufficient to mitigate the identified impact

19.04.130 Relationship to concurrency.

Neither compliance with this chapter or the payment of any fee hereunder shall constitute a determination of concurrency under Chapter 19.02 BLMC.

19.04.140 Necessity of compliance.

A building permit issued after the effective date of the ordinance codified in this chapter shall be null and void if issued without substantial compliance with this chapter by the department, the approving authority and the director.

19.04.150 Traffic impact fee (TIF) funding source adjustments.

A. Traffic Impact Fee Funding Source Adjustment Established – Purpose. The purpose of this policy is to encourage and facilitate certain businesses to locate in designated areas of the city where development is desired, and to recruit into the city those types of businesses deemed beneficial to the city and the community and/or which the city currently lacks in sufficient number or volume. Pursuant to RCW 82.02.060(2) and (4) there is hereby established a funding source adjustment from the traffic impact fee set forth in this chapter for development activity which meets the criteria of subsection C of this section.
B. Application for Traffic Impact Fee Adjustment. Any developer applying for or receiving a building permit which meets the criteria set forth in subsection C of this section may apply to the mayor or designee for an adjustment from the traffic impact fee established pursuant to this chapter. Said application shall be on forms provided by the city and shall be accompanied by all information and data the city deems necessary to process the application. A full and complete application must be filed on or before the date of certificate of occupancy in order to be eligible for a potential adjustment to the TIF.

C. Funding Source Adjustment Criteria. To be eligible for the traffic impact fee adjustment established by this section, the applicant shall be a commercial retail business which locates or establishes a commercial retail business that is not considered to be ineligible pursuant to subsection (C)(5) of this section. Qualified applicants must meet each of the following criteria as applicable:

1. Downtown. The applicant must be a retail business, either new or existing, located within the downtown core (DC) or downtown mixed use (DM) zoning district. Any permitted commercial uses in the DC or DM district are eligible to apply for the TIF adjustment. In order to qualify for a TIF adjustment in the downtown, the retail applicant or underlying developer must redevelop a portion of the downtown core or downtown mixed use zone. Said redevelopment shall include, at a minimum, the demolition of an existing structure on the site of the proposed new construction, and the subsequent construction of a new structure of not less than 10,000 square feet in conformance with the downtown plan and accompanying design guidelines.

2. Eastown Zone. The applicant must be a new retail business located within the Eastown combined retail-commercial, warehousing and light manufacturing zone, and not considered to be an ineligible business under subsection (C)(5) of this section. Based on similar store sales or other reliable data, as determined by the city, the applicant must demonstrate that it is likely to generate to the city of Bonney Lake average annual city of Bonney Lake portion sales and use tax revenue of at least $15,000 per year over the three-year period commencing from date of certificate of occupancy.

3. Midtown and Other Areas Outside Downtown or Eastown. The applicant must be a new retail business located within a C1, C2, or C3 zoning district, and not considered an ineligible business under subsection (C)(5) of this section. Based on similar store sales or other reliable data, as determined by the city, the applicant must demonstrate that it is likely to generate to the city of Bonney Lake average annual city of Bonney Lake portion sales and use tax revenue of at least $15,000 per year over the three-year period commencing from date of certificate of occupancy.

4. Special Criteria for Sit-Down Restaurants. The applicant must be a new otherwise eligible sit-down restaurant in which patrons are typically served by wait-staff and orders are not normally placed at a counter or drive-through window, and which employs 18 or more full-time equivalent (FTE) employees, or which generates to the city of Bonney Lake average annual city of Bonney Lake portion sales and use tax revenue of at least $25,000 per year over the three-year period commencing from date of certificate of occupancy.

5. Ineligible Businesses. The council finds that there are several types of businesses which are either currently well represented in the city, or otherwise do not have a broad public purpose, and thus no TIF incentive is appropriate. The following business types are hereby expressly excluded:
from application for the TIF adjustment program in all areas outside of the downtown: fast food restaurants, sandwich, teriyaki and other related eating establishments in which orders are normally placed at a counter or drive-through window; coffee stands; beauty, nail, or hair salons; adult entertainment establishments; kennels; salvage yards; antique shops; convenience stores; gas stations; bars and taverns; thrift shops; self storage units; second hand or antique stores.

D. Funding Source Adjustment Amount.

1. Sit-Down Restaurants and All Areas Outside Downtown. For any commercial retail business, including a qualified sit-down restaurant, which is deemed to qualify under the provisions of subsection (C)(2) or (C)(3) of this section, there shall be an adjustment to the TIF equal to 75 percent of the three-year city of Bonney Lake portion of sales and use tax revenue, but not to exceed 75 percent of the traffic impact fees otherwise due pursuant to this chapter. The amount of the TIF adjustment shall be refunded, without interest. The remainder of the funds deposited pursuant to subsection F of this section shall remain with the city. In those cases in which the applicant is not the business which had paid the traffic impact fee, the city will refund the TIF to the developer or building owner who paid the TIF, absent an assignment to the applicant.

2. Downtown. For any commercial retail business which is deemed to qualify under the provisions of subsection (C)(1) of this section, there shall be an adjustment to the TIF equal to 100 percent of the three-year city of Bonney Lake portion of sales and use tax revenue, but not to exceed 100 percent of the traffic impact fees otherwise due pursuant to this chapter. The amount of the TIF adjustment shall be refunded, without interest. The remainder of the funds deposited pursuant to subsection E of this section shall remain with the city. In those cases in which the applicant is not the business which had paid the traffic impact fee, the city will refund the TIF to the developer or building owner who paid the TIF, absent an assignment to the applicant.

E. Administration of Traffic Impact Fee Adjustment.

1. Upon acceptance of an application for adjustment from traffic impact fees pursuant to subsection B of this section, the applicant shall pay to the city the full amount of the traffic impact fees required pursuant to this chapter. Following receipt of the traffic impact fees the city shall deposit and manage the fees as set forth in subsection E of this section. At the expiration of a three-year period commencing from the date of issuance of a certificate of occupancy, the mayor’s designee, with the assistance of the chief financial officer, shall determine the city of Bonney Lake portion of sales and use tax revenue received by the city during the three-year period commencing from the date of issuance of a certificate of occupancy.

2. For any commercial retail business which is deemed to qualify under the provisions of subsection C of this section, there shall be an adjustment to the TIF as provided in subsection D of this section.

F. Deposit and Management of Traffic Impact Fees. Traffic impact fees paid by an applicant pursuant to this section and the provisions of this chapter shall be deposited by the city into Fund 136 (Transportation Impact). The city may at its option utilize said funds at any time for eligible and budgeted transportation purposes.

G. Appeals. Any applicant aggrieved by the determination of the mayor or designee as to whether the criteria of subsection C of this section have been met, or regarding eligibility for an
adjustment from this chapter, or the amount of refund to which an applicant is entitled pursuant to subsection D of this section, may file a written appeal to the city’s hearing examiner as established by Chapter 2.18 BLMC. The city hearing examiner is hereby specifically authorized to hear and decide such appeals and the decision of the hearing examiner shall be the final action of the city and subject to further appeal pursuant to BLMC 2.18.180.

H. Application of Sales and Use Tax Revenue from Businesses Which Apply for and/or Receive an Adjustment or Partial Adjustment. An estimated amount of sales and use tax received by the city from applicants who apply for an adjustment or partial adjustment from the requirements of this title shall be placed in an appropriate account within the general fund. Said account shall be established to pay traffic impact fees that otherwise would have been paid had an adjustment or partial adjustment not been granted. Said amounts shall be expended for purposes authorized by and in accordance with the provisions of this title and the provisions of the city’s capital improvement plan for streets. All sales and use tax revenues in excess of the amount paid as traffic impact fees received by the city from the applicant shall be deposited in the city’s general fund and may be expended for any lawful purpose as directed by the city council.

Section 2. Severability. If any section, sentence, clause, or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this ordinance.

Section 3. The Mayor is hereby authorized to implement such administrative policies and procedures as may be necessary to carry out the directions of this legislation.

Section 4. Effective Date. 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 10th day of April, 2012.

_____________________________
Neil Johnson, Jr., Mayor

ATTEST:

Harwood T. Edvalson, CMC, City Clerk

APPROVED AS TO FORM:

_____________________________
James Dionne, City Attorney
City of Bonney Lake, Washington

City Council Agenda Bill (AB)

Department/Staff Contact: PW / Director Dan Grigsby
Meeting/Workshop Date: 17 April 2012
Agenda Bill Number: AB12-56

Agenda Item Type: Ordinance
Ordinance/Resolution Number: D12-56
Councilmember Sponsor: Randy McKibbin

Agenda Subject: MODIFICATION OF LATECOMER AGREEMENT CONDITIONS

Full Title/Motion: An Ordinance Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Relating To Latecomer Agreement Conditions.

Administrative Recommendation: Recommend Adoption

Background Summary: The City Council approved a non-binding MOU with the Eastown Sewer Development Association LLC to build a sewer lift station with Resolution 2165 last October. This Ordinance would reduce the Latecomer Agreement City Administrative Fee set by BLMC 13.16.050(F) from 10% to 5%. It will also base the 5% participation amount from a developer(s) participating in a ULA on the Engineer's Estimate and Actual Construction Costs instead of the Total Project Cost. This is consistent with the presentation made to the City Council during the 3 April Workshop.

Attachments: Ordinance; Eastown ULA Latecomer Fee Cost Summary

BUDGET INFORMATION

<table>
<thead>
<tr>
<th>Budget Amount</th>
<th>Current Balance</th>
<th>Required Expenditure</th>
<th>Budget Balance</th>
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Budget Explanation:

COMMITTEE, BOARD & COMMISSION REVIEW

Council Committee Review: Other
Date: Approval:
Chair/Councilmember Randy McKibbin
Councilmember Katrina Minton-Davis
Councilmember Jim Rackley
Forward to:
Consent Agenda: Yes No

Commission/Board Review:
Hearing Examiner Review:

COUNCIL ACTION

Workshop Date(s): 3APR2012, 17APR2012
Meeting Date(s): 18OCT2011
Public Hearing Date(s): 24APR2012
Tabled to Date:

APPROVALS

Director: DAN GRIGSBY
Mayor:

Date Reviewed by City Attorney: (if applicable):
ORDINANCE NO. D12-56

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, AMENDING CHAPTER 13.16 OF THE BONNEY LAKE MUNICIPAL CODE AND THE CORRESPONDING PORTIONS OF ORDINANCE NO. 1386 RELATED TO DEVELOPER EXTENSIONS AND LATECOMER AGREEMENTS

WHEREAS, the Bonney Lake City Council wishes to clarify the minimum participation by, and fees charged to, private “partners” and beneficiaries of developer extensions and latecomer agreements.

NOW, THEREFORE, the City Council of the City of Bonney Lake do hereby ordain as follows:

Section 1. Bonney Lake Municipal Code § 13.16.030 and the corresponding portions of Ordinance No. 1386 (2011) are hereby amended to read as follows:


A. In any case where a latecomer agreement is contemplated in connection with a developer extension, the latecomer agreement shall be finalized, approved by the council and executed prior to or simultaneous with the city’s acceptance of ownership of the developer extension.

B. No developer extension shall be undertaken without prior execution of a developer extension agreement. Where the person undertaking a developer extension wishes to be reimbursed pursuant to a latecomer agreement, such desire shall be made clear to the city in writing prior to the execution of the developer extension agreement relating to the developer extension. Where a latecomer agreement is contemplated, the city’s standard form latecomer agreement should be made an exhibit to and included by reference in the developer extension agreement executed between the city and the developer of the extension, and the developer extension agreement should clearly provide that the latecomer agreement must be finalized and executed prior to the city accepting ownership of the extension. Should no request for a latecomer agreement made pursuant to this subsection be made prior to execution of a developer extension agreement, the person undertaking such developer extension shall be deemed to have waived any entitlement to a latecomer agreement, and no latecomer agreement shall subsequently be considered or executed with respect to such developer extension.

C. Should a developer extension be transferred to and accepted by the city without the execution of a latecomer agreement, the person undertaking such developer extension shall be deemed to have waived any entitlement to a latecomer agreement, and no latecomer agreement shall subsequently be considered or executed with respect to such developer extension.

D. Nothing in this chapter shall be deemed to preclude the city from initiating the latecomer agreement, or the city inclusion of further terms or conditions within any developer extension agreement or latecomer agreement, nor shall this chapter be deemed to preclude the city from
applying further conditions to the approval of any developer extension agreement or latecomer agreement.

E. Project Size – Amount of City Participation. In order to be eligible for a latecomer agreement, the estimated cost of the proposed improvement must not be less than $10,000. The estimated cost of the improvement shall be determined by the public works director, based upon a construction contract for the project, bids, engineering or architectural estimates, or other information deemed by the director to be a reliable basis for estimating costs. The determination of the director shall be final. No latecomer agreement may be approved in which the city participation amounts to funds more than 95 percent of the total direct construction cost, as defined in BLMC § 13.16.020(B)(1). Initially this cost will be as determined by the Engineer’s Estimate for construction costs. The final amount will be based on the actual cost of construction. City participation amounts will be considered on a case by case basis in relation to the expected benefit the improvements will have on the city’s rate base, the extent to which the improvements implement the comprehensive plan of the city, and the benefits to the utility’s efficiency and economy of scale. Should the actual direct construction costs be less than the Engineer’s Estimate, the developer(s) contribution amount shall be reduced accordingly. A refund of any reduced amount shall be provided to the developer(s) contributing to the financing of the improvement after Final Completion and Project Close-out. Should the actual direct construction costs be more than the Engineer’s Estimate, the developer’s contribution shall be no more than the amount calculated using the Engineer’s Estimate even though this may increase the City’s contribution to more than 95 percent.

Section 2. Bonney Lake Municipal Code § 13.16.050 and the corresponding portions of Ordinance No. 1386 (2011) are hereby amended to read as follows:

13.16.050 Allowable costs – Cost recovery methodology.

The following general guidance shall govern the cost recovery methodology for calculating the amount of the Latecomer Fee assessed to all benefitting properties covered by the Latecomer Agreement; provided, that the city council may approve additional or different terms in any particular latecomer agreement:

A. The cost of extension of utility lines across the developer’s property within public or private roadways may be required in both north-south and east-west roadways in order to complete the utility grid identified in the utility comprehensive plan. Construction of the utility grid(s) is the expected duty of the applicant and will not be cost recoverable through a latecomer agreement, except for beneficiaries directly across the road or adjacent to the utility extension.

B. Pipe size upgrades shall be required consistent with the future sizing identified in the utility comprehensive plan. Pipe size upgrades will be reimbursed by the city to the developer only when a planned capital improvement is contemplated within three years of the execution of a developer extension agreement.
C. Any developments or short plats that are connecting to a utility where a latecomer agreement applies shall pay the latecomer fees at final plat. Latecomer fees paid at final plat will be exempt from administration fees.

D. All lots of record identified in the latecomer agreement will pay the applicable latecomer fee when their building permit is issued or, for existing buildings, when the utility connection is made.

E. The city’s administration fee for a latecomer agreement shall be 40.5 percent of the direct construction cost and shall be charged to each latecomer.

F. Extension of the sewer, storm water and water systems or addition of new facilities shall be designed according to the adopted water, sanitary sewer, and stormwater comprehensive plans or per the public works director’s direction when unique site conditions exist.

G. The public works director or designee will make recommendations to the city council as to an appropriate pro rata share for latecomer fee assessment.

H. Recoverable costs may include all costs reasonably associated with this extension. These costs include but are not limited to both direct construction costs and pre-construction costs deemed appropriate by the city to establish complete cost compilation and assessment of costs on a fair, pro rata share of the extension, subject to such rules and regulations adopted by the city. Recoverable costs may include the cost of acquiring utility easements or rights-of-way only if said easement or ROW would not have been a required developer contribution under city development codes. If the developer would have been required to dedicate the easement or ROW as a condition to project approval, then the value of those contributions may not be included as a recoverable cost under a utility latecomer agreement.

I. An assessment reimbursement area shall be formulated by the city based upon a determination by the city of which parcels adjacent to the utility extension would require similar utility improvements upon development. Properties benefitting from the utility extension will be identified at the time the Latecomer Agreement is established. The latecomer fee will be assessed to and remain with each parcel. The terms of this Agreement shall run with the land and bind subsequent owners of the properties affected.

1. The public works director shall prepare and recommend to the city council the method of cost allocation to be used for each latecomer agreement. This allocation of pro-rata share costs will normally be based on total square feet of each benefitting parcel utilizing the parcel square footage identified in the Pierce County assessor’s records. Other equitable methods of pro-rata cost allocation may be considered and approved by the city council.

2. The preliminary determination of benefitting area boundaries and assessments, along with a description of the property owners’ rights and options, shall be forwarded by certified mail to the property owners of record within the proposed assessment area. If any property owner requests a hearing in writing within 20 days of the mailing of the preliminary determination, a hearing shall be held before the legislative body, notice of which shall be given to all affected property owners.
owners. Subsequent to all requested hearings and execution of the latecomer agreement, the city council’s ruling is determinative and final.

3. The utility latecomer agreement must be recorded in the Pierce County auditor’s office within 30 days of the final execution of the agreement. If the utility latecomer agreement is so filed, it shall be binding on owners of record within the assessment area who are not party to the latecomer agreement contract.

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

Passed by the City Council this ____ day of April, 2012.

_______________________
Neil Johnson, Jr., Mayor

ATTEST:

__________________________
Harwood Edvalson, CMC, City Clerk

APPROVED AS TO FORM:

__________________________
James J. Dionne, City Attorney
## EASTOWN SEWER SYSTEM - LATECOMER FEE - PRELIMINARY COST SUMMARY

<table>
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<th>Resolution Number</th>
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<td>Bond Underwriter/Origination Fee</td>
<td></td>
<td></td>
<td>$60,000</td>
<td></td>
<td>$4,850,190</td>
<td></td>
</tr>
<tr>
<td>Bond Reserve</td>
<td></td>
<td></td>
<td>$0</td>
<td></td>
<td>$4,850,190</td>
<td></td>
</tr>
<tr>
<td>TOTAL ULA COSTS</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$4,850,190</td>
<td></td>
</tr>
</tbody>
</table>

Note:
1. Did not include any City staff time.
2. Bond Reserve. $350,000 set aside in City Account for twenty years.
3. BLMC 13.16.050 (F): The city's administration fee for a latecomer agreement shall be 10 percent and shall be charged to the latecomer.
   **Proposed Ordinance:** The city's administration fee for a latecomer agreement shall be 5 percent of actual construction costs and shall be charged to the all latecomers.