

CITY COUNCIL WORKSHOP

**October 2, 2012
5:30 p.m.**

AGENDA

City of



“Where Dreams Can Soar”

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

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

*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.

III. Agenda Items:

A. **Council Open Discussion.**

Pg. 3 B. **Review of Draft Minutes:** September 18, 2012 Workshop and September 25, 2012 Meeting.

Pg. 15 C. **Discussion:** AB12-133 – Ordinance D12-133 – Amending Chapter 2.08.080(B) of the BLMC and Ordinance 1399 Relating to Limited Command Position Retention of Civil Service Status.

Pg. 21 D. **Discussion:** AB-138 – Ordinance D12-138 – Adding A New Section 8.20.100 of the BLMC, Relating To Code Enforcement And Nuisance Abatement.

E. **Presentation:** County Executive Pat McCarthy (No advance materials provided)

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.

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CITY COUNCIL WORKSHOP

**September 18, 2012
5:30 P.M.**

DRAFT MINUTES



“Where Dreams Can Soar”

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

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

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

I. CALL TO ORDER –Mayor Neil Johnson called the workshop to order at 5:32 p.m.

II. ROLL CALL:

Administrative Services Director/City Clerk Harwood Edvalson called the roll. Elected officials attending were Mayor Neil Johnson, 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, Assistant City Attorney Jeff Ganson, Administrative Services Director/City Clerk Harwood Edvalson, and Administrative Specialist II Renee Cameron.

AGENDA ITEMS:

A. Council Open Discussion:

Pierce County Flood Control Zone Advisory Committee: Mayor Johnson gave an update regarding the Pierce County Flood Control Zone Advisory Committee. He advised that he attended a meeting yesterday adopting rules and discussing different budget scenarios, assessments, and the differences with the different entities and their assessments. He said many cities that are not affected by the rivers want to see the assessments staggered. The Committee needs to have a recommendation to the Pierce County Council at the beginning of November and he believes the Committee will recommend a staggered assessment. He said a 10% opportunity fund is available, which would be approximately \$80,000 for Bonney Lake. He said the cities did agree to send current stormwater utility funding information to the Committee so the Committee can get a sense on what is currently being spent on stormwater. He said the Committee is considering advising the Pierce County Council to wait a year for the recommendation so the Committee can advise appropriately.

Councilmember Rackley said he thinks the Committee should consider the sewer development charges for new construction in the flood zone, or impact fees so they could generate additional income for the flood zone. Mayor Johnson said if the County keeps allowing development to occur in flood prone areas then the County should be accountable for it. He said if the Committee suggested land use designation changes to flood control zones then the County would not be able to permit redevelopment if a flood occurs in that area. Councilmember McKibbin said he likes the idea. Councilmember Lewis said certain cities should get a higher rebate than others, as the Council previously discussed. Mayor Johnson discussed the different fees assessed including the stormwater charge and the fire department connection (FDC) charge assessed to properties and how much of the opportunity fund would help to reduce rates. Councilmember Hamilton said

the flood control legislature was put in place by the legislature in 1902, before people were aware of the sensitivity of the environment. He said he is curious if all of the developments that pay stormwater fees and FDC fees are paying a double taxation, and if so, what do those funds get used for. Councilmember Lewis agreed that if a property owner develops and pays for a stormwater system which does not flood their neighbor, then they should not be charged for the stormwater and FDC fees. Mayor Johnson said he will continue to provide monthly Committee updates to the Council.

Beautify Bonney Lake: Councilmember Watson thanked everyone who participated in Beautify Bonney Lake, which had over 600 volunteers. He said everyone did a great job. Council especially noted what a great job the Bonney Lake football players did, and how well-managed they were by their coach.

Take the Plunge Against Domestic Violence: Councilmember Watson reminded all about the opportunity to participate in the 3rd annual fundraising and community education Take the Plunge Against Domestic Violence event to be held on Saturday, October 27th from 8:30 a.m. until Noon at Allan Yorke Parke. The event is a unique opportunity for individuals, organizations and businesses to support homeless families affected by domestic violence by jumping, walking, or splashing into the waters of Lake Tapps. Many of the Councilmembers said they plan to participate.

Local Drug Infiltration: Councilmember Watson asked Interim Police Chief Powers about the drugs infiltrating the City, especially heroin. Interim Chief Powers said there has been a noticeable increase in usage of heroin and bath salts which is very concerning. Interim Chief Powers said meth and marijuana use are still abundant, and she said the Police Department, detectives and DEA are well aware of the increased presence in all of the drugs and are working diligently to reduce the presence and risks associated with its usage.

Eastown: Councilmember Watson inquired about any updates regarding Eastown. Deputy Mayor Swatman said the Eastown LLC property owners had a meeting and they would be interested in partnering with the City in the \$2 million sewer extension project. He said the City is also looking at the overlay surcharge for sewer development charges. City Administrator Morrison said the City Attorney is researching a legally defensible approach for such a charge. Deputy Mayor Swatman said this gives the City at least two options regarding sewer development charges that that the City is looking at, and possibly another option if the Council is willing to consider it.

Red Robin Development: Mayor Johnson said the City is working with Red Robin Restaurants regarding their interest in coming to Bonney Lake and has been talking with Master Builders Association staff about doing some research regarding economic development incentives and making sure all of the criteria is legal and that any developers that applied for an incentive are guided appropriately. Councilmember Watson inquired about development behind Target. Community Development Director Vodopich said there has not been any new information regarding Red Robin.

Public Safety Open House: Councilmember Hamilton reminded everyone that the Public Safety Open House hosted by East Pierce County Fire & Rescue will be held on Saturday, September 29th from 1:00 p.m. to 4:00 p.m. at the Public Safety Building, located at 18421 Old Buckley Highway East.

Naches Trail Tour: Councilmember Hamilton said he plans to attend the tour of the Naches Trail that the Greater Bonney Lake Historical Society is hosting. He said the history of the trail will be given and the different phases of use of the trail. He said the tour will be on Saturday, September 29, 2012 at 1:00 p.m. and will start at the Foothills Museum in Buckley, located at 130 N River Avenue, in Buckley, WA.

Milotte Wildlife Film Festival: Councilmember Hamilton reminded everyone about the October 20, 2012 Milotte Wildlife Film Festival, to be held at the Justice Center from 11:00 a.m. to 4:00 p.m. During the film festival the Greater Bonney Lake Historical Society will be showing three Disney films created by Alfred and Emma Milotte, and will discuss the history of their films, their relationship with Disney, and their legacy. Councilmember Hamilton said some of the Milotte's filming equipment collection will be available for viewing. He said that the film "Seal Island" was the very first film done for Disney which won an Academy Award. He said the event is open to the general public and admission is free; however, donations are welcome. He said the Relay for Life team will have a small concession stand and funds will go towards their cause.

Lifeguards at Allan Yorke Park: Councilmember Hamilton said the Public Safety Committee has come to the decision not to recommend hiring lifeguards at Allan Yorke Park. He said the Committee's decision came down to the fact that hiring lifeguards gives a false sense of security that everyone is protected and lives will be saved. He said that he does believe that lifeguards can save lives, but, it is not a guaranteed prevention. He said the Committee wants it to be known that swimming at Allan Yorke Park is an individual's choice and swimmers and parents need to be responsible for themselves and their actions. Mayor Johnson said Administration will support the Public Safety Committee's recommendation. Councilmember Lewis said the best prevention is educating on a yearly basis with the schools, the community, and signage at the park. He said everyone needs to be educated and aware of the dangers of the water. Councilmember Minton-Davis asked about the effects of the decision to remove the dock. Interim Police Chief Powers said it is just a visual change, however the issue of pushing and shoving does not occur anymore. Council believe that removal of the floating dock, the new signage, education and awareness has created a safer environment at Allan Yorke Park.

- B. Review of Draft Council Minutes:** The September 4, 2012 Workshop, and September 11, 2012 Meeting minutes were forwarded to the September 25, 2012 meeting for action, with no corrections.
- C. Discussion:** AB12-131 – Resolution 2243 – Interlocal Agreement with the Town of Eatonville for Bonney Lake to Provide Municipal Court Services.

City Administrator Morrison presented the Interlocal Agreement with the Town of Eatonville for the City of Bonney Lake to provide municipal court services to Eatonville. He said that Bonney Lake currently provides municipal court services for the Town of South Prairie, and has considered providing court for other smaller courts. The Town of Eatonville has determined that a contract with Bonney Lake for the provision of municipal court services under the Interlocal Cooperation Act would be more efficient and cost effective than providing its own facilities, materials and personnel. The Town of Eatonville has approached the City about assuming their court functions. He advised that the similar contract with South Prairie has worked well, and Court staff anticipate a seamless assumption of the Eatonville court as well. He said in 2011 Eatonville had 460

case filings, compared to Bonney Lakes 6,280 cases, which represents a 7% increase in the court's caseload. He said that the City's current court workload is such that court staff would be able to absorb this small increase in cases without additional staffing. The value of the contract would be approximately \$50,000 per year in revenue, depending on the number and type of cases filed. He advised that the Eatonville Town Council approved the interlocal agreement at their September 10th meeting. He also said Bonney Lake plans to review the contract with South Prairie as it has not been looked at for some time. Councilmember Watson asked about an increase in staffing; and City Administrator Morrison said it would not be necessary with the City's current caseload and the Town of Eatonville would be responsible for all inmate costs. Councilmember Rackley asked at what point the City would have to consider hiring a full time judge. City Administrator Morrison said that right now the City is at about 80% of a full time judge. He said another option could be hiring a part-time commissioner.

Council consensus was to forward the matter to the September 25, 2012 Council Meeting for action.

D. Discussion: Metropolitan Park District and Park Facilities Options.

Facilities & Special Projects Manager Gary Leaf provided an update regarding the Metropolitan Park District (MPD) and Park Facilities Options. He said the Mayor is scheduled to meet with the Park Board on September 24th to discuss the Park Plan Options. He advised Council that on Thursday, September 27, 2012, at 6:00 p.m. the City will be hosting a second Park Summit at the Justice Center to gauge the current level of interest in and support for a April 2013 voter measure to provide additional park funding.

Mayor Johnson said City Administration have come to the conclusion after thorough research that the Reed Property, located on Barkubein Road, is not feasible for this park plan, especially since it is outside the City limits. He said a new proposed option to be presented to the Park Board would be a remodel and other park options utilizing the Moriarty and the old City Hall property on 192nd Avenue East together to come up with a complex style field and possibly two to three miles of trails, as well as a pavilion. He is not recommending a recreational center at this time for a park bond. He said the City can look at using the WSU Forest property for one or two fields in the future. He said land is scarce and if Council is adamant on using the Reed property then he will do it, but, he wants to make sure the land is sellable and thinks having park proposals within City limits is a better idea.

Councilmember Rackley said he really supports this plan and he would like staff to get advice from a city that has already gone through this type of funding to find out about their marketing program. He wants to see the plan done professionally and marketed accordingly. Mayor Johnson said he wants to make sure that whatever recommendation comes back from the Park Board and the Park Summit that the City's recommended proposal is fully identified and presented.

Facilities and Special Projects Manager Leaf said he and City staff have been working on identifying other properties within the City to consider for a future sports complex

Councilmember Watson said he really likes the pavilion idea and wants to encourage a recreational center. He read a letter from a local father who would love to see a sports facility in Bonney Lake as his family are currently going to neighboring cities to swim,

dine, etc. Mayor Johnson said that until things are decided in Sumner for the Orton Junction property he wants to wait and see what need is truly needed and in what phases. He said the City needs to lay out the plan and take it in phases.

Councilmember Hamilton commented about a previous comment from Councilmember Minton-Davis about property in Eastown for a community center as an anchor and then develop it commercially from there. Mayor Johnson said that does sound like a good idea, but, the City would need to find the right property for the right value.

Councilmember Lewis said he is continually being asked by students and parents about where and when they are going to see fields and parks. He said a large amount of the population do not want to be outside in the rain, but, they love performing arts and indoor recreation. He would like to see an option for citizens to have indoor activities for kids and residents to have an indoor community center. He said not all residents live near Allan Yorke Park, and with no local transit services that there should be recreational options throughout the City.

Mayor Johnson said a proposed pavilion could also serve as a recreation center and the City needs to be practical about the space needed for the different proposed facilities, fields and trails. Councilmember Minton-Davis said the pavilion is really a multi-use facility that could have classrooms, fitness facilities, etc. She wanted to know if the idea at the Parks Summit II is to figure out the next step of the Parks Plan. Mayor Johnson said the main component is usage of the Reed property and to discuss the trails and the use of other properties. Councilmember Minton-Davis said there were two options for the ropes courses and a playground at the Midtown Park (WSU Forest) and she would like to see them added to the Parks Plan as they are minimal in cost.

Councilmember Watson asked about the idea of putting AstroTurf on the fields. Mayor Johnson said the best way to fully utilize the fields is to install turf on them as they last much longer, require less maintenance, allow for multipurpose sports usage throughout the year, and still allow continued use of Allan Yorke Park for the events that occur there. It was mentioned that instead of utilizing Allan Yorke Park for Bonney Lake Days to possibly move it to Main Street or even the proposed pavilion. Mayor Johnson said he wants to see the pavilion as part of the civic campus.

Councilmember Hamilton asked about what would be on the proposed April 2013 ballot. He wanted to know if there would be two items on the ballot, one being the MPD, and another measure for the bonds. Facilities and Special Projects Manager Leaf said it would just be the MPD, which would impose the \$15 million levy to issue bonds. Mr. Leaf said that the City could eventually bring forward another bond during another election. City Administrator Morrison said the ballot issue would list the projects under the MPD and would give the City the authority to impose a levy. Mayor Johnson said it depends on what the voters want and how they want to proceed. He asked City Administrator Morrison about the levy cap and City Administrator Morrison said the City will need to completely list the projects associated with the levy.

Deputy Mayor Swatman said once the MPD is created the amount is set. Facilities and Special Projects Manager Leaf confirmed that the City would be locked into the amount set in the ballot issue, unless it is taken back to the voters. Assistant City Attorney Jeff Ganson advised that the levy capacity is statutory and so the yes or no question that the voters would be asking is would they support a park bond or a MPD.

Mayor Johnson asked which is better for the funding, a park bond or a MPD. Councilmember Lewis asked if it could be limited to a certain amount/percentage and spelled out for the voters. Facilities and Special Projects Manager Leaf said he thinks the City needs clarification on City Attorney Ganson's legal opinion regarding the levy capacity so they can advise the residents and voters appropriately.

Councilmember Watson said if a MPD is approved when would the next action occur. Mayor Johnson said if a MPD is approved then the City could move forward with the projects included in the Plan, and then the City could show the voters what the next phases are planned for a future park bond. Councilmember Watson said he thinks maybe it would be better for the City to just propose a park bond, as it would be easier. Deputy Mayor Swatman said it is his opinion that a park bond would never get passed. City Administrator Morrison said the challenge of getting a park bond passed, is that even if it is passed, the City still has no money available to pay for projects.

Facilities and Special Projects Manager Leaf spoke about the City of Forks which had a park bond pass, but, the MPD operations and maintenance ballot item did not pass so the facility was closed down.

Deputy Mayor Swatman said the City needs to educate the public about the MPD and explain that it is the funding mechanism available to complete these projects.

Mayor Johnson said this is the time for voters to step up and speak about what they want to see in Bonney Lake. He said there are a lot of energetic people ready to support a MPD and he has no concerns standing behind it.

Councilmember Hamilton asked Assistant City Attorney Ganson if the City is allowed to support a public information campaign at the same time it is asking voters to propose a MPD. Assistant City Attorney Ganson said it is valid to have the City put out communications regarding initiatives the City is considering, even connecting it to the MPD proposal. The communication to the public needs to be normal and regular regarding the City's suggested proposals.

Councilmember Lewis said the City has done open houses, and promoted public information campaigns. He said he does not see a difference in making decisions on behalf of the residents and voters as to what the proposals and initiatives will be, as that is what the voters elect us for. He said as long as the City is just making open statements and getting information out there, it is acceptable and what Council is elected to do.

Mayor Johnson said he would like staff to work with Assistant City Attorney Ganson to make sure the language is clear to the residents and voters regarding what the City is promoting in the projects list and the proposed MPD.

IV. ADJOURNMENT:

At 7:11 p.m., Councilmember Rackley moved to adjourn the Council Workshop. Councilmember Lewis seconded the motion.

Motion to adjourn approved 7-0.

Harwood Edvalson, MMC
City Clerk

Neil Johnson, Jr.
Mayor

Items presented to Council at the September 18th Workshop:

- Letter from Thad Huff, Lead Pastor of Open Life Church – Councilmember Watson

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CITY COUNCIL MEETING

September 25, 2012
7:00 P.M.

MINUTES

City of



“Where Dreams Can Soar”

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

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

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

I. CALL TO ORDER – Mayor Neil Johnson, Jr. called the meeting to order at 7:03 p.m.

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

B. Roll Call: Records & Information Specialist Susan Duis 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, Assistant City Attorney Kathleen Haggard, Records & Information Specialist Susan Duis, and Administrative Specialist II Renee Cameron.

C. Announcements, Appointments and Presentations:

1. Announcements:

a. **Proclamation:** Community Planning Month – October 2012.

Mayor Johnson read the proclamation aloud and urged all to participate in the Community Planning Month. He presented the proclamation to Community Development Director Vodopich. Mayor Johnson thanked the Planning Commission and those who volunteer their time toward planning needs.

2. Appointments: None.

3. Presentations: None.

D. Agenda Modifications: None

II. PUBLIC HEARINGS, CITIZEN COMMENTS & CORRESPONDENCE:

A. Public Hearings: None.

B. Citizen Comments: Winona Jacobsen, 9100 189th Avenue Court E, Bonney Lake, spoke on behalf of the Greater Bonney Lake Historical Society (GBLHS) and thanked the City for supporting and letting them occupy unused space in the Justice Center so they can inventory and catalog the Milotte collection. She also thanks the City for their assistance with the grant opportunity from Pierce County, which could allow GBLHS to receive up to \$200,000. Mrs. Jacobsen advised that it could take GBLHS years to complete their

work, and, it will require a secure and heated facility. She reminded Council of GBLHS' participation in Bonney Lake Days and many other City events. GBLHS understands that the City will fully be occupying the Justice Center at the beginning of the year strictly for City business. GBLHS needs to find another location to complete their project on the Milotte collection and is hopeful that the City will be able to assist them in finding them a location, which can be open to the public by September 2013. Mayor Johnson said he is already working with the Planning Commission to find space for the GBLHS through the summer of 2013. Councilmember Hamilton advised that the Pierce County Historical Preservation Commission informed Pierce County that the Commission supports the work GBLHS is doing and the Commission has voted unanimously to delegate \$5,000 toward the grant for the GBLHS. He said the Commission recognizes the value of the GBLHS work on the Milotte collection. Councilmember Rackley said he has had the opportunity to view the GBLHS in their work on the Milotte collection and they are doing an amazing job and he would like to see the City assist them. Mayor Johnson said the City is going to do everything possible to find a location for them once the tenant improvement projects begin at the Justice Center.

Lillian McGinnis, 11002 203rd Avenue E, Bonney Lake, read a letter prepared and signed by the GBHLS President, Dennis Dhaese, asking for the City's support in finding an alternate location for the GBLHS to continue its work on the Milotte collection. Mrs. McGinnis then read her own letter to Council which also requested the City support GBLHS in finding an alternative location to continue their work on the Milotte collection. She said that to qualify for the grant from Pierce County, GBLHS has until September 1, 2013 to complete 1,000 volunteer hours toward inventorying and organizing the Milotte collection. She was grateful to hear that the Mayor, on behalf of the City, is willing to assist in finding a secured and heated facility, which can eventually be open to the public as an alternative location to complete their project.

- C. Correspondence: None.

III. COUNCIL COMMITTEE REPORTS

Finance Committee: Deputy Mayor Swatman said the committee met at 5:30 p.m. earlier in the evening and discussed personnel updates for the Senior Planner and Accounting Specialist I open positions. He advised that reference checks are occurring regarding the top candidate for the Senior Planner position, and interviews are being conducted tomorrow for the Accounting Specialist II. The committee reviewed a proposed ordinance for the retention of Civil Service status for police personnel promoted which will be moved forward to workshop; they reviewed an amendment to the employment agreement for Community Development Director John Vodopich; they reviewed prior minutes; looked at a preliminary certification of assessed values and limit factors; and discussed a proposal for Eastown for the City to charge a surcharge for a specialized district for putting a sewer facility in Eastown. The Committee asked Administration to get a model together for Council's review regarding the rates for a surcharge for a specialized district.

- A. Community Development Committee: Councilmember McKibbin said the committee met on September 18, 2012 and forwarded one item on the current Consent Agenda.

- B. Public Safety Committee: Councilmember Hamilton said the Committee met on September 17th and is going to be making a recommendation to the full Council to not hire or provide for lifeguards at Allan Yorke Park. The Committee had discussion with the public, did substantial research, and sought legal advice. He said the Committee did not want to give the public a false sense of security by having lifeguards on duty, as having a lifeguard on duty does not greatly increase the security at an open water pool like Allan Yorke Park. He said the Committee's recommendation may change in the future, however, the Committee does not see a reasonable reason to do provide lifeguards now and worries that it might increase the issues of drowning by having a lifeguard on duty. Councilmember Lewis wanted to state for the record that it was a unanimous decision by the Committee. Mayor Johnson advised he will support the Public Safety Committee's recommendation, and appreciates all of the Committee's hard work.

C. Other Reports:

Community Reports: Councilmember Watson said he and Councilmember Lewis attended the White River Communities Families First Coalition on September 24th and heard a presentation from Herb Ents regarding his work in obtaining a grant for substance abuse prevention in the White River area. The grant would provide for up to \$180,000 a year for the next five years if Mr. Ents is successful in receiving the grant. He said Jenny Nicholas from Big Brothers and Big Sisters spoke about a program which would create a mentoring program in the White River area, to be held once a month. He said the White River Community Family Coalition is also looking at a bicycle lending program as they have transportation issues in the area, otherwise if they can afford to they may be looking at giving bikes away. Councilmember Watson said he will follow up with the Coalition to see its success with these programs and consider on bringing similar programs to Bonney Lake.

Councilmember Watson said Molen Orthodontics will be doing their annual candy buyback for Halloween.

Transportation Funding: Councilmember Hamilton said, Pierce County Councilmember Roger Bush brought to his attention the fairness factor of the distribution of federal fund contributions for transportation amongst local cities. He said some cities have never collected any federal dollars for transportation in the past ten years. He said next year's report will show a small portion of what the City of Bonney Lake has received. He discussed examples of projects which could benefit if they received their contributions. He said he wants to talk with other small city mayors to make them aware of their distribution rights. He said the Port of Tacoma should have to be more accountable for their federal contribution distributions and not dominate the federal monies. Mayor Johnson said he would like to bring this to the local cities and towns meeting and have them work together to make this happen. He also suggested sending letters to our senators and congressman for their assistance.

IV. **CONSENT AGENDA:**

- A. **Approval of Minutes**: September 4, 2012 Workshop and September 11, 2012 Meeting.
- B. **Approval of Accounts Payable and Utility Refund Checks/Vouchers**: Accounts Payable checks/vouchers #64510-64574 (including wire transfer #9112012, 20120904, and 2012091301) in the amount of \$544,879.02. Accounts Payable wire transfer #2012091701 in the amount of \$36,703.11.

- C. **Approval of Payroll:** Payroll for September 1-15th, 2012 for checks 30685-30706 including Direct Deposits and Electronic Transfers in the amount of \$437,933.02.
- D. **AB12-131 – Resolution 2243** – A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing The Mayor To Sign An Interlocal Agreement With The Town Of Eatonville For The Provision Of Municipal Court Services.
- E. **AB12-130** – A Motion Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, To Accept As Complete The Sewer Manhole Rehabilitation-2011/12 Project With NWCW, LLC.

Councilmember Rackley moved to approve the Consent Agenda. Councilmember Watson seconded the motion.

Consent Agenda approved 7 – 0.

- V. **FINANCE COMMITTEE ISSUES:** None.
- VI. **COMMUNITY DEVELOPMENT ISSUES:** None.
- VII. **PUBLIC SAFETY COMMITTEE ISSUES:** None.
- VIII. **FULL COUNCIL ISSUES:** None.
- IX. **EXECUTIVE SESSION:** None.
- X. **ADJOURNMENT:**

At 7:33 p.m., Councilmember Rackley moved to adjourn the Council Meeting. Councilmember Watson seconded the motion.

Motion to adjourn approved 7 – 0.

Harwood Edvalson, CMC
City Clerk

Neil Johnson, Jr.
Mayor

Items presented to Council at the September 25, 2012 Meeting:

- Letter from Winona Jacobsen, Greater Bonney Lake Historical Society dated September 25, 2012
- Letter from Dennis Dhaese, President, Greater Bonney Lake Historical Society, dated September 22, 2012
- Federal Grants 2000-2010 Spreadsheet – Councilmember Hamilton

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

Department/Staff Contact: Executive / Don Morrison	Meeting/Workshop Date: 2 October 2012	Agenda Bill Number: AB12-133
Agenda Item Type: Ordinance	Ordinance/Resolution Number: D12-133	Councilmember Sponsor: Mark Hamilton

Agenda Subject: Retention of Civil Service Status for Police Personnel Promoted to CSC Exempt Positions

Full Title/Motion: A Motion Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Adopting Ordinance No. D12-133 Relating To Retention Of Civil Service Status.

Administrative Recommendation: Approve

Background Summary: Dana Powers was hired and promoted through the Bonney Lake Civil Service system. Mayor Johnson intends to appoint her as the regular police chief following her successful year of service as the Interim Chief. Powers requested "bumping rights" (reassignment back to Asst. Chief) should the Mayor determine to make a change chiefs at some time in the future. Both the Mayor and Council had a variety of concerns regarding this proposal, however, an acceptable alternative is to "grandfather" Dana under her current civil service status to assure that any adverse future employment action is based on a just cause. This ordinance allows internal police personnel who are promoted to a Civil Service exempt position to retain their civil service status.

Attachments: Attorney Letter, Ordinance

BUDGET INFORMATION

Budget Amount	Current Balance	Required Expenditure	Budget Balance
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Budget Explanation: N/A

COMMITTEE, BOARD & COMMISSION REVIEW

Council Committee Review:	Finance Committee Date: 25 September 2012	<i>Approvals:</i> Chair/Councilmember Dan Swatman Councilmember Mark Hamilton Councilmember Randy McKibbin	Yes	No
			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>

Forward to: Workshop without recommendation **Consent Agenda:** Yes No

Commission/Board Review:

Hearing Examiner Review:

COUNCIL ACTION

Workshop Date(s): October 2, 2012	Public Hearing Date(s):
Meeting Date(s):	Tabled to Date:

APPROVALS

Director:	Mayor:	Date Reviewed by City Attorney: (if applicable):
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Civil Service and Discipline/Discharge

Municipal Research Services Center (MRSC) of Washington

Unlike "at will" employees, an employee covered by civil service has certain job protections; the employee may only be removed, suspended, demoted, or discharged from his or her position "for cause" and then only after a written accusation, set out in general terms, has been given. See RCW 41.08.090, 41.12.090, and 41.14.120. If the employee objects or disagrees with the action, he or she may submit a written "demand" to the civil service commission for an investigation. (The demand for a hearing/investigation must be filed within ten days of the employment action. See RCW 41.12.090, 41.14.120, and 41.08.090.) The commission (within 30 days in counties) must schedule a public hearing for an investigation. In counties, the hearing should be held within 30 days of the demand's receipt. See RCW 41.14.120. The hearing is confined to the determination of whether the employment action (removal, suspension, etc.) was "for just cause." After the investigation is complete, the commission issues a written determination (within ten days for commissions serving a sheriff's department) either affirming, reversing, or modifying the employment action.

What is "for cause"? Each of the three civil service statutes sets out grounds for discharge, reductions or deprivation of privilege, which include:

- (1) Incompetency, inefficiency or inattention to or dereliction of duty;
- (2) Dishonesty, intemperance, immoral conduct, insubordination, discourteous treatment of the public or a fellow employee, or any other act of omission or commission tending to injure the public service; or any other willful failure on the part of the employee to properly conduct himself; or any willful violation of civil service statutes, rules, or regulations;
- (3) Mental or physical unfitness for the position which the employee holds;
- (4) Dishonest, disgraceful, immoral or prejudicial conduct;
- (5) Drunkenness or use of intoxicating liquors, narcotics, or any other habit forming drug, liquid or preparation to such extent the use interferes with the efficiency or mental or physical fitness of the employee, or which precludes the employee from properly performing the functions and duties of any position under civil service;
- (6) Conviction of a felony, or a misdemeanor, involving moral turpitude;
- (7) Any other act or failure to act which in the judgment of the civil service commissioners is sufficient to show the offender to be an unsuitable and unfit person to be employed in the public service.

See RCW 41.08.080, 41.12.080, and 41.14.110.

The courts have given guidance, construing several of the terms set out in the above statutory excerpt. In *Eiden v. Snohomish Civil Service Commission*, 13 Wn. App. 32 (1975), for example, the court concluded a sheriff deputy who had jokingly answered the phone using another deputy's name was not "incompetent," as he otherwise performed his duties. The court, quoting from a Florida decision, offered the following definition for the term "incompetent":

Incompetency as a ground for suspension and removal has reference to any physical, moral or intellectual quality, the lack of which incapacitate[s] one to perform the duties of his office. Incompetency may arise from gross ignorance of official duties or gross

carelessness in the discharge of them. It may also arise from lack of judgment and discretion or from a serious physical or mental defect not present at the time of election, though we do not imply that all physical and mental defects so arising would give ground for suspension.

In *Nickerson v. Anacortes*, 45 Wn. App. 432 (1986), the court upheld a decision of the civil service commission that held the possession and use of marijuana constituted "for cause." The court in *Danielson v. Seattle*, 45 Wn. App. 235 (1986), upheld a determination by the civil service commission that a police officer, who unlawfully used a credit card of another, was properly discharged for incompetency, insubordination, and conduct unbecoming a police officer.

ORDINANCE NO. D12-133

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, AMENDING CHAPTER 2.08.080(B) OF THE BONNEY LAKE MUNICIPAL CODE AND SECTION ONE OF ORDINANCE NO. NO. 1399 RELATING TO POLICE POSITION EXEMPT FROM CIVIL SERVICE.

WHEREAS, BLMC Section 2.08.080(B) currently exempts the positions of chief of police, assistant police chief, and department assistant from civil service; and

WHEREAS, the code is not clear as to whether existing police department employees currently covered by Civil Service would lose civil service status upon appointment to a civil-service exempt position; and

WHEREAS, the Council finds it appropriate to grandfather existing Bonney Lake civil service employees upon promotion to a civil-service exempt position;

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

Section 1. Chapter 2.08.080(B) of the Bonney Lake Municipal Code and the corresponding Section One of Ordinance No. 1399 are hereby amended to read as follows:

2.08.080

B. Police Positions Exempted from Civil Service – Existing Employees Grandfathered. The positions of chief of police, assistant police chief (or similar command position title denoting the 2nd in command), and department assistant shall be excluded from civil service and the Bonney Lake civil service commission rules and regulations pursuant to RCW 41.12.050; provided, however, that any current Bonney Lake civil service employee who is promoted to a civil service exempt position may elect to retain his or her right to a just cause determination before the Bonney Lake Civil Service Commission for any adverse employment decision, along with related rights under RCW 41.12.090.

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. 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 _____th day of _____, 2012.

Neil Johnson, Jr.
Mayor

ATTEST:

Harwood T. Edvalson
City Clerk, MMC

APPROVED AS TO FORM:

James Dionne
City Attorney

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

Department/Staff Contact: Executive / Don Morrison	Meeting/Workshop Date: 2 October 2012	Agenda Bill Number: AB12-138
Agenda Item Type: Ordinance	Ordinance/Resolution Number: D12-138	Councilmember Sponsor:

Agenda Subject: Adoption of alternative civil infraction process for code enforcement

Full Title/Motion: An Ordinance Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Adding A New Section 8.20.100 To The Bonney Lake Municipal Code, Relating To Code Enforcement And Nuisance Abatement..

Administrative Recommendation: Approve as written

Background Summary: Current City processes for nuisance abatement and general code enforcement can be cumbersome, slow, and expensive. Adoption of a civil infraction process as provided in RCW 7.80 will provide City enforcement staff with an alternative process that can levy civil fines; this additional alternative will provide another tool to achieve code compliance.
Attachments: D12-138

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

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

COUNCIL ACTION	
Workshop Date(s): October 4, 2012	Public Hearing Date(s):
Meeting Date(s):	Tabled to Date:

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

Chapter 7.80 RCW

Civil infractions

RCW Sections

7.80.005 Legislative finding -- 1987 c 456.

7.80.010 Jurisdiction of courts.

7.80.020 Issuance of process.

7.80.030 Training of judicial officers.

7.80.040 "Enforcement officer" defined.

7.80.050 Notice of infraction -- Issuance, service, filing.

7.80.060 Person receiving notice -- Identification and detention.

7.80.070 Notice -- Determination final unless contested -- Form.

7.80.080 Response to notice -- Contesting determination -- Mitigating circumstances -- Hearing -- Failure to respond or appear.

7.80.090 Hearings -- Rules of procedure -- Counsel.

7.80.100 Hearings -- Contesting determination that infraction committed -- Appeal.

7.80.110 Hearings -- Explanation of mitigating circumstances.

7.80.120 Monetary penalties -- Restitution.

7.80.130 Order of court -- Civil nature -- Modification of penalty -- Community restitution.

7.80.140 Costs and attorney fees.

7.80.150 Notices -- Record of -- Cancellation prohibited, penalty -- Audit.

7.80.160 Failure to exercise notice options -- Failure to satisfy penalty.

7.80.900 Decriminalization of certain municipal ordinances.

7.80.901 Effective date -- 1987 c 456 §§ 9-31.

7.80.005

Legislative finding — 1987 c 456.

The legislature finds that many minor offenses that are established as misdemeanors are obsolete or can be more appropriately punished by the imposition of civil fines. The legislature finds that some misdemeanors should be decriminalized to allow resources of the legal system, such as judges, prosecutors, juries, and jails, to be used to punish serious criminal behavior, since acts characterized as criminal behavior have a tremendous fiscal impact on the legal system.

The establishment of a system of civil infractions is a more expeditious and less expensive method of disposing of minor offenses and will decrease the cost and workload of the courts of limited jurisdiction.

[1987 c 456 § 6.]

7.80.010

Jurisdiction of courts.

(1) All violations of state law, local law, ordinance, regulation, or resolution designated as civil infractions may be heard and determined by a district court, except as otherwise provided in this section.

(2) Any municipal court has the authority to hear and determine pursuant to this chapter civil infractions that are established by municipal ordinance or by local law or resolution of a transit agency authorized to issue civil infractions, and that are committed within the jurisdiction of the municipality.

(3) Any city or town with a municipal court under chapter 3.50 RCW may contract with the county to have civil infractions that are established by city or town ordinance and that are committed within the city or town adjudicated by a district court.

(4) District court commissioners have the authority to hear and determine civil infractions pursuant to this chapter.

(5) Nothing in this chapter prevents any city, town, or county from hearing and determining civil infractions pursuant to its own system established by ordinance.

[2009 c 279 § 2; 1987 c 456 § 9.]

7.80.020

Issuance of process.

Notwithstanding any other provision of law governing service of process in civil cases, a court of limited jurisdiction having jurisdiction over an alleged civil infraction may issue process anywhere within the state.

[1987 c 456 § 10.]

7.80.030

Training of judicial officers.

All judges and court commissioners adjudicating civil infractions shall complete such training requirements as are promulgated by the supreme court.

[1987 c 456 § 11.]

7.80.040

"enforcement officer" defined.

As used in this chapter, "enforcement officer" means a person authorized to enforce the provisions of the title or ordinance in which the civil infraction is established.

[1987 c 456 § 12.]

7.80.050

Notice of infraction — issuance, service, filing.

(1) A civil infraction proceeding is initiated by the issuance, service, and filing of a notice of civil infraction.

(2) A notice of civil infraction may be issued by an enforcement officer when the civil infraction occurs in the officer's presence.

(3) A court may issue a notice of civil infraction if an enforcement officer files with the court a written statement that the civil infraction was committed in the officer's presence or that the officer has reasonable cause to believe that a civil infraction was committed.

(4) Service of a notice of civil infraction issued under subsection (2) or (3) of this section shall be as provided by court rule. Until such a rule is adopted, service shall be as provided in *JTIR 2.2(c)(1) and (3), as applicable.

(5) A notice of infraction shall be filed with a court having jurisdiction within forty-eight hours of issuance, excluding Saturdays, Sundays, and holidays. A notice of infraction not filed within the time limits prescribed in this section may be dismissed without prejudice.

[1987 c 456 § 13.]

Notes:

*Reviser's note: The Justice Court Traffic Infraction Rules (JTIR) were replaced by the Infraction Rules for Courts of Limited Jurisdiction (IRLJ), effective September 1, 1992.

7.80.060

Person receiving notice — identification and detention.

A person who is to receive a notice of civil infraction under RCW 7.80.050 is required to identify himself or herself to the enforcement officer by giving his or her name, address, and date of birth. Upon the request of the officer, the person shall produce reasonable identification, including a driver's license or identicaid.

A person who is unable or unwilling to reasonably identify himself or herself to an enforcement officer may be detained for a period of time not longer than is reasonably necessary to identify the person for purposes of issuing a civil infraction.

Each agency authorized to issue civil infractions shall adopt rules on identification and detention of persons committing civil infractions.

[1987 c 456 § 14.]

7.80.070

Notice — determination final unless contested — form.

(1) A notice of civil infraction represents a determination that a civil infraction has been committed. The determination is final unless contested as provided in this chapter.

(2) The form for the notice of civil infraction shall be prescribed by rule of the supreme court and shall include the following:

(a) A statement that the notice represents a determination that a civil infraction has been committed by the person named in the notice and that the determination is final unless contested as provided in this chapter;

(b) A statement that a civil infraction is a noncriminal offense for which imprisonment may not be imposed as a sanction;

(c) A statement of the specific civil infraction for which the notice was issued;

(d) A statement of the monetary penalty established for the civil infraction;

(e) A statement of the options provided in this chapter for responding to the notice and the procedures necessary to exercise these options;

(f) A statement that at any hearing to contest the determination the state has the burden of proving, by a preponderance of the evidence, that the civil infraction was committed and that the person may subpoena witnesses including the enforcement officer who issued the notice of civil infraction;

(g) A statement that at any hearing requested for the purpose of explaining mitigating circumstances surrounding the commission of the civil infraction, the person will be deemed to have committed the civil infraction and may not subpoena witnesses;

(h) A statement that the person must respond to the notice as provided in this chapter within fifteen days;

(i) A statement that failure to respond to the notice or a failure to appear at a hearing requested for the purpose of contesting the determination or for the purpose of explaining mitigating circumstances will result in a default judgment against the person in the amount of the penalty and that this failure may be referred to the prosecuting attorney for criminal prosecution for failure to respond or appear;

(j) A statement that failure to respond to a notice of civil infraction or to appear at a requested hearing is a misdemeanor and may be punished by a fine or imprisonment in jail.
[2006 c 270 § 5; 1987 c 456 § 15.]

7.80.080

Response to notice — contesting determination — mitigating circumstances — hearing — failure to respond or appear.

(1) Any person who receives a notice of civil infraction shall respond to such notice as provided in this section within fifteen days of the date of the notice.

(2) If the person determined to have committed the civil infraction does not contest the determination, the person shall respond by completing the appropriate portion of the notice of civil infraction and submitting it, either by mail or in person, to the court specified on the notice. A check or money order in the amount of the penalty prescribed for the civil infraction must be submitted with the response. The clerk of a court may accept cash in payment for an infraction. When a response which does not contest the determination is received, an appropriate order shall be entered in the court's records.

(3) If the person determined to have committed the civil infraction wishes to contest the determination, the person shall respond by completing the portion of the notice of civil infraction requesting a hearing and submitting it, either by mail or in person, to the court specified on the notice. The court shall notify the person in writing of the time, place, and date of the hearing, and that date shall not be earlier than seven days nor more than ninety days from the date of the notice of hearing, except by agreement.

(4) If the person determined to have committed the civil infraction does not contest the determination but wishes to explain mitigating circumstances surrounding the infraction, the person shall respond by completing the portion of the notice of civil infraction requesting a hearing for that purpose and submitting it, either by mail or in person, to the court specified on the notice. The court shall notify the person in writing of the time, place, and date of the hearing, and that date shall not be earlier than seven days nor more than ninety days from the date of the notice of hearing, except by agreement.

(5) The court shall enter a default judgment assessing the monetary penalty prescribed for the civil infraction and may notify the prosecuting attorney of the failure to respond to the notice of civil infraction or to appear at a requested hearing if any person issued a notice of civil infraction:

(a) Fails to respond to the notice of civil infraction as provided in subsection (2) of this section; or

(b) Fails to appear at a hearing requested pursuant to subsection (3) or (4) of this section.
[1987 c 456 § 16.]

7.80.090

Hearings — rules of procedure — counsel.

(1) Procedures for the conduct of all hearings provided in this chapter may be established by rule of the supreme court.

(2) Any person subject to proceedings under this chapter may be represented by counsel.

(3) The attorney representing the state, county, city, town, or transit agency authorized to issue civil infractions may appear in any proceedings under this chapter but need not appear, notwithstanding any statute or rule of court to the contrary.
[2009 c 279 § 1; 1987 c 456 § 17.]

7.80.100

Hearings — contesting determination that infraction committed — appeal.

(1) A hearing held for the purpose of contesting the determination that a civil infraction has been committed shall be without a jury and shall be recorded in the manner provided for in courts of limited jurisdiction.

(2) The court may consider the notice of civil infraction and any other written report made under oath submitted by the enforcement officer who issued the notice or whose written statement was the basis for the issuance of the notice in lieu of the officer's personal appearance at the hearing. The person named in the notice may request the court for issuance of subpoena of witnesses, including the enforcement officer who issued the notice, and has the right to present evidence and examine witnesses present in court.

(3) The burden of proof is upon the state to establish the commission of the civil infraction by a preponderance of the evidence.

(4) After consideration of the evidence and argument, the court shall determine whether the civil infraction was committed. Where it has not been established that the civil infraction was committed, an order dismissing the notice shall be entered in the court's records. Where it has been established that the civil infraction was committed, an appropriate order shall be entered in the court's records.

(5) An appeal from the court's determination or order shall be to the superior court in the manner provided by the Rules for Appeal of Decisions of Courts of Limited Jurisdiction. The decision of the superior court is subject only to discretionary review pursuant to the Rules of Appellate Procedure.
[1987 c 456 § 18.]

7.80.110

Hearings — explanation of mitigating circumstances.

(1) A hearing held for the purpose of allowing a person to explain mitigating circumstances surrounding the commission of a civil infraction shall be an informal proceeding. The person may not subpoena witnesses. The determination that a civil infraction has been committed may not be contested at a hearing held for the purpose of explaining mitigating circumstances.

(2) After the court has heard the explanation of the circumstances surrounding the commission of the civil infraction, an appropriate order shall be entered in the court's records.

(3) There is no appeal from the court's determination or order.
[1987 c 456 § 19.]

7.80.120

Monetary penalties — restitution.

(1) A person found to have committed a civil infraction shall be assessed a monetary penalty.

(a) The maximum penalty and the default amount for a class 1 civil infraction shall be two hundred fifty dollars, not including statutory assessments, except for an infraction of state law involving potentially dangerous litter as specified in RCW 70.93.060(4) and an infraction of state law involving violent video or computer games under RCW 9.91.180, in which case the maximum penalty and default amount is five hundred dollars;

(b) The maximum penalty and the default amount for a class 2 civil infraction shall be one hundred twenty-five dollars, not including statutory assessments;

(c) The maximum penalty and the default amount for a class 3 civil infraction shall be fifty dollars, not including statutory assessments; and

(d) The maximum penalty and the default amount for a class 4 civil infraction shall be twenty-five dollars, not including statutory assessments.

(2) The supreme court shall prescribe by rule the conditions under which local courts may exercise discretion in assessing fines for civil infractions.

(3) Whenever a monetary penalty is imposed by a court under this chapter it is immediately payable. If the person is unable to pay at that time the court may grant an extension of the period in which the penalty may be paid. If the penalty is not paid on or before the time established for payment, the court may proceed to collect the penalty in the same manner as other civil judgments and may notify the prosecuting authority of the failure to pay.

(4) The court may also order a person found to have committed a civil infraction to make restitution.
[2003 c 365 § 3; 2003 c 337 § 4; 1997 c 159 § 2; 1987 c 456 § 20.]

Notes:

Reviser's note: This section was amended by 2003 c 337 § 4 and by 2003 c 365 § 3, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings -- 2003 c 365: See note following RCW 9.91.180.

Findings -- 2003 c 337: See note following RCW 70.93.060.

7.80.130

Order of court — civil nature — modification of penalty — community restitution.

(1) An order entered after the receipt of a response which does not contest the determination, or after it has been established at a hearing that the civil infraction was committed, or after a hearing for the purpose of explaining mitigating circumstances is civil in nature.

(2) The court may waive, reduce, or suspend the monetary penalty prescribed for the civil infraction. If the court determines that a person has insufficient funds to pay the monetary penalty, the court may order performance of a number of hours of community restitution in lieu of a monetary penalty, at the rate of the then state minimum wage per hour.

[2002 c 175 § 1; 1987 c 456 § 21.]

Notes:

Effective date -- 2002 c 175: "This act takes effect July 1, 2002." [2002 c 175 § 53.]

7.80.140

Costs and attorney fees.

Each party to a civil infraction case is responsible for costs incurred by that party, but the court may assess witness fees against a nonprevailing respondent. Attorney fees may be awarded to either party in a civil infraction case.

[1987 c 456 § 22.]

7.80.150

Notices — record of — cancellation prohibited, penalty — audit.

(1) Every law enforcement agency in this state or other agency authorized to issue notices of civil infractions shall provide in appropriate form notices of civil infractions which shall be issued in books with notices in quadruplicate and meeting the requirements of this section, or issued by an electronic device capable of producing a printed copy and electronic copies of the citations.

The chief administrative officer of every such agency shall be responsible for the issuance of such books or electronic devices and shall maintain a record of every such book or electronic device and each notice contained therein issued to individual members or employees of the agency and shall require and retain a receipt for every book or electronic device so issued.

(2) Every law enforcement officer or other person upon issuing a notice of civil infraction to an alleged perpetrator of a civil infraction under the laws of this state or of any ordinance of any city or town shall deposit the original or a printed or electronic copy of such notice of civil infraction with a court having competent jurisdiction over the civil infraction, as provided in RCW 7.80.050.

Upon the deposit of the original or a printed or electronic copy of such notice of civil infraction with a court having competent jurisdiction over the civil infraction, the original or copy may be disposed of only as provided in this chapter.

(3) It is unlawful and is official misconduct for any law enforcement officer or other officer or public employee to dispose of a notice of civil infraction or copies thereof or of the record of the issuance of the same in a manner other than as required in this section.

(4) The chief administrative officer of every law enforcement agency or other agency authorized to issue notices of civil infractions shall require the return to him or her of a copy of every notice issued by a person under his or her supervision to an alleged perpetrator of a civil infraction under any law or ordinance and of all copies of every notice which has been spoiled or upon which any entry has been made and not issued to an alleged perpetrator.

Such chief administrative officer shall also maintain or cause to be maintained in connection with every notice issued by a person under his or her supervision a record of the disposition of the charge by the court in which the original or copy of the notice was deposited.

(5) Any person who cancels or solicits the cancellation of any notice of civil infraction, in any manner other than as provided in this section, is guilty of a misdemeanor.

(6) Every record of notices required in this section shall be audited monthly by the appropriate fiscal officer of the government agency to which the law enforcement agency or other agency authorized to issue notices of civil infractions is responsible.
[2004 c 43 § 1; 1987 c 456 § 23.]

Notes:

Effective date -- 2004 c 43: "This act takes effect July 1, 2004." [2004 c 43 § 6.]

7.80.160

Failure to exercise notice options — failure to satisfy penalty.

(1) Any person who, after receiving a statement of the options provided in this chapter for responding to the notice of civil infraction and the procedures necessary to exercise these options, fails to exercise one of the options in a timely manner is guilty of a misdemeanor regardless of the disposition of the notice of civil infraction. A notice of civil infraction may be complied with by an appearance by counsel.

(2) A person who willfully fails to pay a monetary penalty or to perform community restitution as required by a court under this chapter may be found in contempt of court as provided in chapter 7.21 RCW.

[2006 c 270 § 6; 2002 c 175 § 2; 1989 c 373 § 12; 1987 c 456 § 24.]

Notes:

Effective date -- 2002 c 175: See note following RCW 7.80.130.

Severability -- 1989 c 373: See RCW 7.21.900.

7.80.900

Decriminalization of certain municipal ordinances.

Any municipal criminal ordinance in existence on the January 1, 1989, which is the same as or substantially similar to a statute which is decriminalized by sections 25 through 30 and 32, chapter 456, Laws of 1987 is deemed to be civil in nature and shall be punished as provided in this chapter.

[1987 c 456 § 31.]

7.80.901

Effective date — 1987 c 456 §§ 9-31.

Sections 9 through 31 of this act shall take effect January 1, 1989.

[1987 c 456 § 34.]

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ORDINANCE NO. D12-138

AN ORDINANCE OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, ADDING A NEW SECTION 8.20.100 TO THE BONNEY LAKE MUNICIPAL CODE, RELATING TO CODE ENFORCEMENT AND NUISANCE ABATEMENT.

WHEREAS, the Bonney Lake City Council desires to adopt a civil infraction process for enforcement of the municipal code with regard to public nuisances and other code violations, as an available alternative to the existing process that levies civil fines; and

WHEREAS, to adopt a civil infraction remedy, it is necessary to give the Code Enforcement Officer a limited commission to issue civil infractions.

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

Section 1. A new section 8.20.100 is hereby added to the Bonney Lake Municipal Code to read as follows:

BLMC 8.20.100 Alternative enforcement – civil infraction - misdemeanor

A. As an alternative to or in conjunction with other procedures contained in this Chapter, the Code Enforcement Officer may issue a civil infraction pursuant to Chapter 7.80 RCW, if the Code Enforcement Officer reasonably believes that the provisions of this chapter have been violated. A notice of infraction may be served either by:

(1) The Code Enforcement Officer serving the notice of infraction on the person named in the notice of infraction at the time of issuance; or

(2) The Code Enforcement Officer filing the notice of infraction with the municipal court, in which case the court shall have the notice served either personally or by mail, postage prepaid, on the person named in the notice of infraction at his or her address.

B. Code violations shall be Class 1 civil infractions. Each day of violation shall be deemed a separate infraction.

C. If the same violator has been found, in any court of competent jurisdiction, to have previously committed an infraction for the same or similar conduct three or more separate times, with the infraction violations occurring at the same location and involving the same or similar sections of the Code, any further violations shall constitute misdemeanors. For the purposes hereof, it shall be prima facie evidence that the same violator has previously been found to have committed any infraction if a certified copy of the judgment, docket or other court document showing that such violation was found committed is filed with the court.

D. The provisions of Chapter 7.80 RCW are incorporated by reference, except as modified in this Chapter. The Code Enforcement Officer shall have a limited

commission for the purpose of taking enforcement action against public nuisances, including the power to issue civil infractions pursuant to RCW 7.80.040.

Section 2. This Ordinance shall take effect and be in force thirty (30) days after passage, approval, and publication as provided by law.

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

Neil Johnson, Jr.
Mayor

ATTEST:

Harwood T. Edvalson
City Clerk, CMC

APPROVED AS TO FORM:

James Dionne
City Attorney

Passed:
Valid:
Published:
Effective Date: