CITY COUNCIL MEETING

February 24, 2009
7:00 P.M.

MINUTES

City of
BONNEY Lake
"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

Audio Time Stamp ↓

I. CALL TO ORDER – Deputy Mayor Dan Swatman called the meeting to order at 7:02 p.m.

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

B. Roll Call:

City Clerk Edvalson called the roll. In addition to Deputy Mayor Dan Swatman, elected officials attending were Councilmember David Bowen, Councilmember Laurie Carter, Councilmember Dan Decker, Councilmember Mark Hamilton, Councilmember Dave King and Councilmember Jim Rackley. Mayor Neil Johnson, Jr. was absent.

[Staff members in attendance were City Administrator Don Morrison, City Attorney Jim Dionne, Chief Financial Officer Al Juarez, Public Works Director Dan Grigsby, Community Development Director John Vodopich, Police Chief Mike Mitchell, Community Services Director Gary Leaf, Administrative Services Director/City Clerk Harwood Edvalson, Executive Assistant Brian Hartsell and Records & Information Specialist Susan Duis.]

C. Announcements, Appointments and Presentations:

1. Announcements:

City Administrator Don Morrison said a case of salmon filets were donated to the Food Bank and Senior Center, but there were too many to fit in the freezers. He said the remaining filets were at City Hall and encouraged all those attending to take a filet after the meeting.

City Administrator Morrison introduced the new Executive Assistant, Brian Hartsell, to the Councilmembers. He said the Executive Assistant provides assistance to the City Administrator and Mayor and his duties include grant writing, management analysis and community partnerships. The Council welcomed Mr. Hartsell to the staff.

2. Appointments:

a. **AB09-33** – A Motion of the Bonney Lake City Council Confirming the Mayor's Reappointment of Robert Dalton to the Civil Service Commission for a term expiring on April 6, 2014.

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

Motion approved 7 – 0.

3. Presentations: None.

D. Agenda Modifications:

Deputy Mayor Swatman said draft Ordinance D09-35, creating a new section relating to public nudity, should be removed from the agenda. He said additional information that needs to be considered was not included in the agenda packet. Councilmembers had also been provided with a copy of AB09-12, an ordinance relating to permits and application extensions, for consideration at the Meeting.

Councilmember Hamilton moved to table AB09-35 to the March 10, 2009 Council Meeting and to add AB09-12 to Full Council Issues, Item A., for discussion. Councilmember Carter seconded the motion.

Motion approved 5 – 2. Councilmembers Bowen and Decker voted no.

7:07:51 **II. PUBLIC HEARINGS, CITIZEN COMMENTS & CORRESPONDENCE:**

A. Public Hearings: None. [A 3.6.12]

B. Citizen Comments: [A 1.5]

Pat Miller, 19205 79th St Pl E, said he was concerned about recent Council actions and discussions he read about in the Courier Herald. He said he is surprised that the City is considering offering sales tax incentives to developers. He said in the past, developers argued for reduced Traffic Impact Fees and permit fees but did not give the City any extra money. He said the proposed incentives seem like a gift of public funds, and he does not want tax dollars spent to help developers. He said roads need to be improved and Traffic Impact Fees are necessary to help share these costs with developers and home buyers.

Mr. Miller also spoke against the contract between the City and the Chamber of Commerce. He said this also seems to be a gift of public funds, and the Chamber of Commerce lobbies against minimum wage laws and health care issues. He said it is the City's responsibility to work on economic development and to establish growth in the whole city, not just businesses. Councilmember Decker thanked Mr. Miller and agreed with his points.

Roger Watt, 22719 Hwy 410, asked if anyone could give a certain date when sewer will be built in Eastown. He said he comes to Council meetings to get the sewer and believes it will mutually benefit the City and property owners. He said he had hoped his request to reclassify SR 410 would help clear a hurdle in getting sewers, but it is not the main issue. He asked the Council to help facilitate discussions between property owners, City staff, developers and others who have concerns in Eastown. He said the Council discussed setting up an Eastown 'tsar' to oversee Eastown issues, but nothing was ever implemented. He said the sewer issue was in discussion for years before Eastown was annexed.

Councilmember Bowen spoke as the Council representative for Eastown, and agreed with Mr. Watt. He said his position is sometimes awkward, as he is both an elected official and Eastown property owner. He said part of the issue is a lack of

communication and complex issues, and a facilitator may be able to help with these problems.

Councilmember Rackley agreed that it has been difficult to share information, and the City needs a better solution. He invited Mr. Watt to attend the Community Development Committee Meeting on March 2, 2009 to discuss the options. Deputy Mayor Swatman said the Council is following State Bill #1533 which is under review, and which could help cities to recoup funds spent to develop sewer systems.

Izzy Anaya, 9910 233rd Ave E, owns A&S Auto Repair in Bonney Lake. He spoke in support of Resolution 1911 for an agreement with the Chamber of Commerce. He said it is difficult for small business owners and support from the City Council and Chamber of Commerce is very important.

Mr. Anaya also said he has found it difficult to approach City staff to find out how his company can compete for contracts to repair city vehicles. He said he has tried calling but has never spoken with a manager, only to assistants who were not sure about the process. He said he still wants to know the process and has not received an answer. City Administrator Don Morrison said he has spoken with Mr. Anaya in the past. He said he has also spoken with the new Assistant Public Works Director Charlie Simpson about putting service contracts out to bid, which was a recommendation of the ER&R study. He said this is in progress and may take a few weeks or months to implement. Once in place, these contracts would be advertised as a request for bids like other City projects and contracts. Public Works Director Dan Grigsby said his department will send a copy of the request for bid to area auto shops once it is ready to advertise.

David Colbeth, 21816 113th St E, presented a memo titled "A Memorial Drive" to the Council. He said he spoke to the Council before about renaming a City street as a memorial drive to honor those who have served in the military, civil service, volunteering, etc. He said the Old Sumner Buckley Hwy, which is also part of the historic Naches Trail, would be a good option. He asked the Council to consider a motion or discussions to help move the idea forward. Councilmember Hamilton suggested that Mr. Colbeth present his idea to Shawn Bunney of the Pierce County Regional Council, as part of Old Sumner Buckley Highway is in the County.

Mr. Colbeth invited everyone to attend the upcoming Lions Club fundraiser, Death by Chocolate. Dinner will be provided by the Bonney Lake High School students, and there are many auction items available including lunch with the Mayor, ride-along with the Police Chief, gifts and trips.

C. Correspondence: None. [A 1.2]

7:38:05 **III. COUNCIL COMMITTEE REPORTS:** [A 3.6.4]

A. Finance Committee: Deputy Mayor Swatman said the committee met at 5:30 p.m. earlier in the evening and discussed several items that will come to the Council in the future, including a city-wide purchasing card program and differential pay for military reservists. The committee also discussed providing a utility reduction program for disabled veterans, modifying the water shut-off fee, a potential sub-

meter ordinance, special election costs, and options for TIF rebates, freezes, or rollbacks.

B. Community Development Committee: Councilmember Rackley said the committee has not met since the last Council Meeting. The next CDC meeting is March 2, 2009.

C. Public Safety Committee: Councilmember Hamilton said the committee has not met since the last Council Meeting. The next meeting is scheduled for March 2, 2009.

D. Other Reports:

Joint Sewer Advisory Committee
Deputy Mayor Swatman said he and Councilmembers Hamilton and Rackley will attend a meeting of the Joint Sewer Advisory Committee tomorrow at the Sumner City Hall.

7:41:15 **IV. CONSENT AGENDA:** [A 3.6]

A. **Approval of Corrected Minutes**: February 3rd Council Workshop and February 10th Council Meeting.

B. **Accounts Payable Checks/Vouchers:** Accounts Payable checks/vouchers #54440 thru #54525 in the amount of $212,627.01; Accounts Payable checks/vouchers #54526 thru #54539 in the amount of $1774.81; and Accounts Payable checks/vouchers #54540 thru 54612 (including wire transfer #'s 11609, 20509, 2152008, 9172008 & 23784140) in the amount of $3,862,642.97.

C. **AB09-29 – Ordinance 1304** – An Ordinance of the City of Bonney Lake, Pierce County, Relating to Enforcement of Violations of Orders for Protection Amending Chapter 9.23 of the Bonney Lake Municipal Code and Ord. No. 703 §2.

D. **AB09-30 – Ordinance 1305** – An Ordinance of the City of Bonney Lake, Pierce County, Washington Relating to Enforcement of Violations of Anti-harassment Protection Orders and Amending Chapter 9.25 of the Bonney Lake Municipal Code and No. 703 §2.

E. **AB09-31 – Ordinance 1306** – An Ordinance of the City of Bonney Lake, Pierce County, Washington, Relating to the Enforcement of Dangerous Weapons Violations Amending Chapter 9.86 of the Bonney Lake Municipal Code and Ord. No. 1058 § 1.

F. **AB09-32 – Ordinance 1307** – An Ordinance of the City of Bonney Lake, Pierce County, Washington, Relating to the Regulation of Precursor Drugs and Legend Drugs, Amending Section 9.36.010 of the Bonney Lake Municipal Code and the Corresponding Portions of Ord. Nos. 1194 § 1, 2006; 845 § 1, 2000; 703 § 2, 1995.

G. **AB09-07 – Resolution 1911** – A Resolution of the City Council of the City of Bonney Lake, Pierce County, Washington, Authorizing a Personal Services Agreement Between the City of Bonney Lake and the Bonney Lake Chamber of Commerce.

H. **AB09-37 – Resolution 1919** – A Resolution of the City Council of the City of Bonney Lake, Pierce County, Washington, Authorizing an Agreement with Les

Russell Construction Company for Cedar View (Phase 1) and 188th Avenue East Water Main Replacement Project.

I. **AB09-21** – A Motion of the Bonney Lake City Council Approving the 2009 Planning Commission Annual Workplan.

J. **AB09-34** – A Motion of the Bonney Lake City Council Authorizing Out of State Travel for Court Administrator Seymour to Williamsburg, VA, for Court Management Training.

Councilmember Decker asked that item AB09-07, Resolution 1911, be moved to Full Council Issues, item B.

Councilmember Rackley moved to approve the Consent Agenda as modified. Councilmember King seconded the motion.

Consent Agenda approved 7 – 0.

V. FINANCE COMMITTEE ISSUES: None.

VI. COMMUNITY DEVELOPMENT COMMITTEE ISSUES: None.

VII. PUBLIC SAFETY COMMITTEE ISSUES:

A. ~~**AB09-35 – Ordinance D09-35** – An Ordinance of the City of Bonney Lake, Pierce County, Washington, Amending Chapter 9 of the Bonney Lake Municipal Code to Create a New Section 9.35 Relating to Public Nudity~~. *This item was tabled to the March 10, 2009 Council Meeting during Agenda Modifications.*

7:42:45

VIII. FULL COUNCIL ISSUES:

A. **AB09-12 – Ordinance 1308** – An Ordinance of the City of Bonney Lake, Pierce County, Washington, Relating to the Permit and Permit Application Extensions and Amending Section 15.04.081 of the Bonney Lake Municipal Code and the Corresponding Sections of Ordinances 1230 and 1035. *This item was added to the agenda during Agenda Modifications.*

Deputy Mayor Swatman said this is the same item that was discussed by Council at the February 10, 2009 Meeting and tabled to the CDC for review at that time.

Councilmember Rackley moved to approve Ordinance 1308. Councilmember Carter seconded the motion.

Councilmember Bowen said he moved to table the ordinance at the last meeting because there were not enough votes to approve it at that time, and he respects the work that has been done. He said he does not object to the original intent, which was to help builders with expiring permits. He said the issue has now morphed to include

a requirement that no permits will extend past four years. He said these two issues should be dealt with separately.

Councilmember Decker also spoke against the proposed ordinance. He said the ordinance takes rights away from builders, who currently have the right to extend permits as long as it takes to build the home. He said when his father built a house in Bonney Lake, it took over four years to finish as they both worked full time and did the work on weekends. He added that this item was added to the agenda at the last minute and more time should be spent to discuss the issues. He said the potential public safety concerns brought up in previous discussions are not the issue. He said the ordinance will take away citizen's rights and will require them to pay for new permit processes and fees.

Deputy Mayor Swatman asked if there would be a potential conflict of interest if councilmembers had permits underway at their residence or property. City Attorney Dionne said this ordinance has a general application and is not directed at a specific permit, and his opinion was it would not create a conflict of interest for councilmembers. He said there are ordinances that describe conflicts of interest related to contracts or using an elected position for personal benefit, but neither seems applicable to the draft permit ordinance.

Councilmember Carter said the Council has spent a lot of time discussing this item and the ordinance addresses how permits are affected by code cycles. She said several weeks ago the Council learned that 36 letters were sent to those who have permits that will expire soon, and five already expired in January 2009. She said the Council needs to move on the issue. Community Development Director Vodopich confirmed that the item has been before the Planning Commission before coming to the Council.

Councilmember Bowen reiterated his concern about how code cycles affect permits. He said he spoke with Building Official Jerry Hight but did not resolve all his questions, and did not realize it would come before the Council this night. He said the ordinance as written protects those who let their permit expire, so they would not have to tear out and rebuild if their project does not meet the current code. He said the ordinance penalizes those who do not miss their inspections and do not let their permits expire. He suggested changing the maximum life of a permit to six years, instead of four years.

Councilmember Bowen moved to amend language in Ordinance 1308 to replace "four years" with "six years." Councilmember Decker seconded the motion.

Councilmember Bowen moved to take a five minute recess. Councilmember Decker seconded the motion.

Motion to recess failed 2 – 5. Deputy Mayor Swatman and Councilmembers Carter, Hamilton, King and Rackley voted no.

Councilmember Hamilton said the Building Official's concern is about extending permits beyond more than 2 code cycles, which is why four years was suggested as the maximum life for permits. Director Vodopich said this summary was correct, and that each code cycle is three years. Councilmember Rackley said changes in code cycles can make a dramatic difference in outcomes, and he supports the proposed ordinance.

Councilmember Bowen asked if there was any interest in amending the ordinance to six years, as the City Attorney advised that his motion to amend was poorly worded and should be restated. Councilmember Hamilton called for the question. Councilmember Decker said this ordinance will squash all permits after two years. He moved to change all references to "two years" in Section A. of the ordinance to "six years." The motion died for lack of a second. Councilmember Decker said he believed there was new language in the proposed ordinance that the Council has not had time to review. Councilmember Hamilton called for the vote on Councilmember Bowen's proposed amendment.

Motion to amend the ordinance failed 2 – 5. Deputy Mayor Swatman and Councilmembers Carter, Hamilton, King and Rackley voted no.

Deputy Mayor Swatman said the ordinance language presented to Council is the same as what was presented at the previous meeting. He added that any ordinance can be modified by the Council through a majority vote. Councilmember Decker disagreed that amending an ordinance is an easy process. City Attorney Dionne noted that at the February 10, 2009 Meeting the Council approved a motion to modify the language in 15.04.081, A.3., "No permit shall be active beyond more than one code cycle," to avoid confusion. He said the amendment does not appear in the draft ordinance now before the Council.

Councilmember Hamilton moved to amend language in Ordinance 1308, Chapter 15.04.081, Section A.3., from "No permit shall be active beyond more than one code cycle," to "No permit shall be active beyond four years." Councilmember Rackley seconded the motion.

Motion to amend approved 6 – 1. Councilmember Decker voted no.

Original main motion approved 5 – 2. Councilmembers Bowen and Decker voted no.

Councilmember Decker asked to explain his no vote, and said he believes this is the third time in four months that the Council has taken property rights away from Bonney Lake residents.

B. **AB09-07 – Resolution 1911** – A Resolution of the City Council of the City of Bonney Lake, Pierce County, Washington, Authorizing a Personal Services

Agreement Between the City of Bonney Lake and the Bonney Lake Chamber of Commerce.

Councilmember Rackley moved to approve Resolution 1911. Councilmember Bowen seconded the motion.

Councilmember Decker said he pulled the item to Full Council Issues because he does not wish to vote in favor of the Resolution. Deputy Mayor Swatman said businesses are an important part of the community. He responded to citizen comments from Mr. Miller, saying the resolution has been reviewed by the City Attorney and is not a gift of public funds. He said this is a contract for services that the Chamber can provide and is an appropriate expenditure for the times. Mr. Miller was invited to speak; he asked if there would be a conflict of interest if members of the Council are members of the Chamber of Commerce. Councilmember Hamilton and King said they have some reservations, but plan to vote for the Resolution. They said the City expects deliverables, and said oversight and tracking expenditures is important. City Administrator Morrison confirmed that the contract is for one year only and the Council would have to readopt it in order for the contract to continue.

Councilmembers confirmed that none of them are current Chamber of Commerce members or officers. City Attorney Dionne said a potential conflict of interest could exist if anyone had a financial interest in the contract, but he could not see any conflict for councilmembers with the resolution.

Motion approved 7 – 0.

IX. EXECUTIVE SESSION: None.

8:22:19

X. ADJOURNMENT:

At 8:22 p.m. Councilmember Bowen moved to adjourn the meeting. Councilmember Rackley seconded the motion.

Motion approved 7 – 0.

Harwood Edvalson, CMC
City Clerk

Neil Johnson
Mayor

Items submitted to the Council Meeting of February 24, 2009:

- Bonney Lake Citizen – *"A Memorial Drive"* – David Colbeth.