

CITY COUNCIL MEETING

April 14, 2009
7:00 P.M.

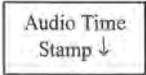
MINUTES



"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



I. **CALL TO ORDER** – Deputy Mayor Dan Swatman called the meeting to order at 7:01 p.m.

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

B. **Roll Call:** [A 1.3]

City Clerk Edvalson called the roll. In addition to Deputy Mayor 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 Johnson was absent from the meeting.

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

C. **Announcements, Appointments and Presentations:** [A 3.6.9]

1. Announcements: None.

2. Appointments: None.

3. Presentations:

a. **Proclamation:** April 18th – Arbor Day in Bonney Lake.

b. **Proclamation:** April 18th – Parks Appreciation Day in Bonney Lake

Deputy Mayor Swatman read both proclamations aloud. Community Services Director Leaf invited all to attend the events happening around the city on April 18, 2009. The day will begin at 9:00 a.m. at Cedarview Park in Bonney Lake, where the Arbor Day Award recipient will be named and Parks Appreciation Day clean-up will get started. Parks Appreciation Day volunteers will be planting trees and cleaning up city parks. In addition, two Eagle Scouts will be working on projects, and volunteers will be installing a memorial at the Public Safety Building in honor of Fire Chief Dan Packer. He said Beautify Bonney Lake and other volunteers are involved in the activities.

D. **Agenda Modifications:**

Councilmember King proposed adding a motion to the agenda under Public Safety Issues to authorize the Public Safety Committee to act on behalf of the City Council to determine a short list of projects for a Justice Assistance Grant Application valued at \$26,000. He said the action is needed to meet the fast-approaching grant deadline.

Councilmember Hamilton moved to add the proposed motion to the agenda under Public Safety Issues, Item A. Councilmember Decker seconded the motion.

Motion approved 7 – 0.

7:08:49

II. PUBLIC HEARINGS, CITIZEN COMMENTS & CORRESPONDENCE:

A. Public Hearings: None. [A 3.6.12]

B. Citizen Comments: [A 1.5]

Melanie Castrelli, 18610 88th St E, Bonney Lake, said she shares a property line with the Diamond Lounge, and has waited for peace and quiet from them for three years. She said the City has tried to help but the noise reduction has not lasted for more than a week at a time. She invited the Council to spend a night at her house to experience the noise levels. She said she has purchased and moved to another home in Bonney Lake, and is now renting her home to a family with two children. They have lived in the house for two weeks and have already complained. She said today they emailed that their sons found several bottles that were thrown into the yard from the Diamond Lounge. She said the Diamond Lounge is advertising a party with go-go dancers and drink specials that begins tonight at 9:00 p.m., which is a work night. She said if she had known that the City was going to let the small Italian restaurant convert into a night club, she would not have moved there.

Stuart Battle, 14041st NE, Seattle, works with the LaRouche Political Action Committee. He asked the Council to consider passing the Homeowner's and Bank Protection Act, which was drafted by LaRouche PAC. He said the act will help fix the root problems of the economic crisis, and has been passed by over 150 city councils and 6 state legislatures.

Dave Fabrotz, 13204 37th Ave NE, Seattle, also spoke for the LaRouche PAC and said the act Mr. Battle described must be passed by the federal government to be enacted. He said due to corruption at the federal level, action must begin at the local level. He said no cities in Washington State have passed the act yet, and encouraged the Council to make a statement by passing the act.

Councilmember Bowen thanked Mr. Battle and Fabrotz for their information and said though he has sympathy for their thoughts, he would abstain from voting on this act if it came before the Council. He said as an elected official, he always abstains from endorsing or voting on issues that are not directly related to running the City.

Lora Butterfield, Bonney Lake Chamber of Commerce, said the new business directory and community guide is available. She said there are a few incorrect phone numbers that they are working to correct. She invited everyone to attend the grand opening of the Chamber of Commerce's new offices at the Harborstone Credit Union in Bonney Lake at 5:30-7:00 p.m. on Thursday, April 16, 2009.

Phil DeLeo, 4610 N Island Drive, Bonney Lake, said he received a guide to 25 great walks in Pierce County, and requested copies for the Senior Center, where he works. He said the guide includes a large map and information on trail etiquette. He said he hopes Bonney Lake can work to get included on the trail list, with walks at Fennel Creek, Lake Bonney, etc. He said the Senior Center is starting a monthly walking trip, starting this month with a walk at Bradley Lake Park in Puyallup. The Senior Center also has regular walks around the area three times per week.

Councilmember Rackley said area resident Paul Qualey has created a Bonney Lake bicycle trail map. Councilmember King noted the Council's recent authorization to purchase property beyond Allan Yorke Park that will help extend the trail system plan. Councilmember Bowen noted that he has seen City employees walking during their lunch breaks.

Diana Ranger, 8412 184th Ave E, Bonney Lake, said she has lived in Bonney Lake since 2002. She said after separating from her husband, she installed an alarm system in her house and had multiple break-ins up through 2007. This past Saturday, she received four separate invoices for false alarm charges from 2007; the initial fine was \$50 and the other three were \$100 charges. She called the City and was told the only way to solve the issue was to speak to the Council. Finance Officer Juarez explained the Municipal Code requirements for alarm system permits and false alarm charges. He confirmed that there was an error in the system and false alarm charges were not being sent. The department has sent out invoices and decided not to try to recoup charges that are dated prior to 2007. He said training is important, and noted that two of his staff members attended a workshop this afternoon about how various cities handle false alarms. He said he had copies of Ms. Rangers' invoices and planned to bring them to the Finance Committee for discussion.

Councilmembers discussed the intent of the false alarm ordinance, and whether the attempted break-ins Ms. Ranger described should classify as 'false alarms' if they were legitimate. Councilmember Hamilton said he was concerned that the City sent out invoices for false alarms that had occurred 1-2 years prior with no warning. Councilmember King proposed that the Finance Director, Police Chief and City Administrator review the issues and present information at the next Finance Committee meeting. In the meantime, he suggested disputed billings such as Ms. Ranger's be suspended until the situation can be reviewed.

Sarah Tierney, 18511 94th St Ct E, Bonney Lake, spoke against the proposed Hulburt Rezone ordinance (D09-64). She asked the Council to consider the history of the property, which was purchased by Mr. Hulburt four years ago and was then subdivided into four parcels. She said the owner managed to get the City to initiate a rezone instead of applying during the normal cycle. She said he made promises to neighboring homeowners about how he intended to develop the property, but that has changed from residential to multi-family housing with no conditions. She said the development will adversely affect the neighborhood, and her concerns have been shot down by the Planning Commission. She said she would have appealed the issue when the City changed the Land Use Map in 2008, but at the time they believed he was going to build a nursing home on the site. She said her group's only avenue if the Council approves the rezone is to appeal to the Supreme Court.

Josh Hulburt, 9202 184th Ave E, Bonney Lake, owns the 'Hulburt property' and thanked the Council for considering the rezone.

Deputy Mayor Swatman asked the City Attorney to advise the Council on taking input from citizens on the proposed ordinance, which is a quasi-judicial issue. Assistant City Attorney Haggard said the City's code allows citizens to comment for one minute on any ordinance or action item. However, she noted that the proposed rezone ordinance is a quasi-judicial, site-specific rezone and as such the Council must base their decision on the evidence and comments in the Hearing Examiner's record only. She advised the Council not to ask questions or invite debate on the citizen comments made at the Meeting regarding this item.

Mr. Hulburt said he has been working to develop the property and worked extensively with the neighboring property owners. He said he understands that they did not get the conditions they wanted in writing, but he plans to continue to work with them to make sure it is positive for the neighborhood and in the city's best interest. He said city staff and the Hearing Examiner reviewed the proposed rezone and found it consistent with the City's plan.

David Wells (no address given), is the City's Special Events Coordinator, and updated the Council on the previous weekend's events. He said about 350 people took part in the first-ever adult Easter Egg flashlight hunt on April 10, 2009. He said it was a success, though there are some problems to be worked out. He said they are considering a costumed Halloween 'egg hunt' for the fall as well. On Saturday, April 11, 2009, about 1,000 children hunted for 17,000 eggs. He thanked Mayor Johnson, Deputy Mayor Swatman and Councilmember Carter for their donations. He said the proceeds of the adult Easter egg hunt will go to support Summer recreation programs. The event was held in Bonney Lake because the City offered volunteers.

- C. Correspondence: None. [A 1.2]

7:55:25

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 personnel updates, renewal of the Wash Wise program, other rebate program options, accounts aging reports, a possible sub-meter ordinance, cable franchise agreements, 2009 budget status, Eastown sewer status and Stream Team funding.
- B. Community Development Committee: Councilmember Rackley said the committee met on April 6, 2009 and forwarded several items to the Consent Agenda, including contract awards and completion of the Public Works modular building.
- C. Public Safety Committee: Councilmember King said the committee met on April 6, 2009 and discussed the Metro Animal Services agreement, which is currently under review. The committee heard a presentation from City Administrator Morrison on the night club ordinance and Ms. Castrelli's noise complaints. He said the committee plans to review the noise ordinance and zoning code related to night clubs and residential areas. They heard a presentation on domestic violence ordinances used by

other cities. The committee also discussed the federal Justice Assistance Grant application, which relates to the motion that was added to the agenda.

- D. Other Reports: None.

8:01:47

IV. CONSENT AGENDA: [A 3.6]

- A. **Approval of Corrected Minutes:** March 17, 2009 Council Workshop, March 24, 2009 Council Meeting, and March 28, 2009 Special Council Meeting.
- B. **Accounts Payable Checks/Vouchers:** Accounts Payable checks/vouchers #54940 thru 55015 in the amount of \$149,928.40; Accounts Payable checks/vouchers #54941 in the amount of \$50.00; Accounts Payable checks/vouchers #55016 in the amount of \$52.23 for utility account refund; Accounts Payable checks/vouchers #55017 thru 55091 in the amount of \$391,752.30; Accounts Payable checks/vouchers #55092 thru 55162 in the amount of \$591,552.95; Accounts Payable checks/vouchers #55163 thru 55199 in the amount of \$1,675.28 for utility account refunds.
- C. **Approval of Payroll:** Payroll for March 16-31, 2009 for checks 28112-28144 including Direct Deposits and Electronic Transfers in the amount of: \$ 547,884.43.
- D. **AB09-14 – Ordinance 1314** – An Ordinance of the City of Bonney Lake, Pierce County, Washington, Adding a New Section to Bonney Lake Municipal Code Chapter 12.04 and Amending Public Works Design Standard 606.
- E. ~~**AB09-59 – Ordinance 1315** – An Ordinance of the City of Bonney Lake, Pierce County, Washington, Amending Section 5.17.010 of the Bonney Lake Municipal Code and Section 1 of Ordinance No. 1256 Relating to the Licensing and Regulation of Nightclub Establishments.~~ Moved to Full Council Issues, Item E.
- F. **AB09-63 – Resolution 1934** – A Resolution of the City Council of the City of Bonney Lake, Pierce County, Washington, Authorizing a Contractor Agreement with Doolittle Construction, LLC for the 2009 Chip Seal Application.
- G. **AB09-65 – Resolution 1935** – A Resolution of the City Council of the City of Bonney Lake, Pierce County, Washington, Awarding the 82nd Street Court E Sanitary Sewer Contract to Big Mountain Enterprises.
- H. **AB09-55** – A Motion of the Bonney Lake City Council, Pierce County, Washington, Accepting as Complete the Public Works Prefabricated Modular Building Contract with Modern Building Systems, Inc.

City Administrator Morrison noted there is a typographical error in proposed Ordinance 1315. Councilmember Decker requested the item be moved to Full Council issues, Item E., for discussion.

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

**Consent Agenda
approved 7 - 0.**

8:03:57

V. FINANCE COMMITTEE ISSUES:

- A. **AB09-67 – Resolution 1937** – A Resolution of the City Council of the City of Bonney Lake, Pierce County, Washington, Authorizing the Mayor to Accept a Donated Parcel of Land from the Crystal Meadows HOA.

Councilmember Decker moved to approve Resolution 1937. Councilmember King seconded the motion.

Motion approved 7 - 0.

VI. COMMUNITY DEVELOPMENT COMMITTEE ISSUES: None.

8:04:43

VII. PUBLIC SAFETY COMMITTEE ISSUES:

- A. **AB09-75** – A Motion of the Bonney Lake City Council, Pierce County, Washington, Authorizing the Public Safety Committee to Develop a Short List of Eligible Justice Assistance Grant Projects and Present it to the Mayor to Recommend a Project to Present to the Council for Public Comment at the April 28, 2009 Council Meeting in Advance of the May 17, 2009 Filing Deadline.

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

Councilmember King explained that the City plans to apply for a \$26,000 Justice Assistance Grant. However, the selection of projects must go through a process of being reviewed, opened for public comment, and approved by the Council before it can be placed on the grant application. He said the best option is to have the Public Safety Committee work on a recommended list of projects. He said this is a bit unusual but necessary due to the deadlines. He said when the Mayor narrows down the options, the item will come back to Council for a vote. City Administrator Morrison confirmed that the grant requires the appropriate body to pick a project within 30 days of the deadline, and allow public comment prior to submittal. Some possible projects include e-ticketing, dual monitors for court clerks, etc. Public Safety Committee members elected to schedule a special committee meeting on Friday, April 17, 2009 at 5:00 p.m. to review project options.

Motion approved 7 – 0.

8:12:36

VIII. FULL COUNCIL ISSUES:

- A. **AB09-64 – Ordinance 1317** – An Ordinance of the City of Bonney Lake, Pierce County, Washington, Changing the Zoning Designation on Parcels 5640001864, 5640001865, 5640001866, and 5640001867 from Single Family Residential (R-1) to High Density Residential (R-3) Under the Name of Hulburt Under the File Number PLN-2009-01152 through a Site-Specific Rezone (BLMC 18.52.030).

Assistant City Attorney Haggard described how a quasi-judicial action differs from legislative actions of the Council. She said Councilmembers must disclose any ex parte contacts with opponents or proponents, and recuse themselves if they have a conflict of interest. She said the Council must base its decision on evidence in the Hearing Examiner's record only. She reminded the Council that while citizens have the opportunity to speak for one minute on this and any ordinance, their comments should not become a debate, and cannot be used as testimony or evidence related to the Council's decision on the proposed ordinance.

Councilmember Decker moved to approve Ordinance 1317. Councilmember Hamilton seconded the motion.

Councilmember Rackley moved to table the item to a Workshop. Councilmember Decker seconded the motion.

**Motion failed 2 – 5.
Councilmembers Bowen,
Carter, King and Hamilton,
and Deputy Mayor
Swatman voted no.**

Keri Hyytinen, 9306 185th Avenue Pl E, Bonney Lake, is new to the area and lives in Angeline Heights. She said seeing the Council convene has rejuvenated her hopes. She said she worked on a petition where 21 of 25 homeowners signed against rezoning the Hulburt property. She said they have concerns about a large multi-family building and issues like traffic.

Steve Boerstler, 9301 185th Ave Pl E, Bonney Lake, said the homeowners had a verbal agreement with the owner though the Hearing Examiner evidence says there is no covenant. He said he and others did not attend the Hearing Examiner meeting because they believed they would work out an agreement ahead of time. He said a representative from the City was involved, and citizens assumed there was an agreement, but it turns out there is no binding agreement.

Community Development Director Vodopich confirmed for the Council that no developer's agreement currently exists between the developer and the City. Deputy Mayor Swatman asked about the agreements mentioned by citizens. Assistant City Attorney Haggard said any agreements between private parties are not relevant to the Council's decision whether to approve the rezone. The Council must approve or deny based on its code and Comprehensive Plan, not to enforce agreements between private parties. She noted that the Comprehensive Plan was amended in December 2008 and there were no appeals during the 60-day period following, and this rezone makes the property consistent with the Comprehensive Plan.

**Motion approved 6 – 0 – 1.
Councilmember Rackley
abstained from voting.**

At 8:31 p.m., Councilmember Bowen moved for a five minute recess. Councilmember Decker seconded the motion.

Motion approved 7 – 0.

- B. **AB09-61 – Ordinance 1316** – An Ordinance of the City Council of the City of Bonney Lake, Pierce County, Washington, Amending Chapter 19.04.015 of the Bonney Lake Municipal Code Relating to a Temporary Traffic Impact Fee Rebate Program.

Councilmember Rackley moved to approve Ordinance 1316. Councilmember Decker seconded the motion.

Councilmember Bowen moved to amend Section 2. Eastown Zone to read “sales and use tax revenue of at least fifteen thousand dollars (\$15,000) per year” rather than \$25,000. Councilmember Hamilton seconded the motion.

Councilmember Hamilton said the proposed ordinance helps level the playing field, and supports the amendment. Deputy Mayor Swatman said the City wants Eastown development to include big box stores, restaurants, and grocery stores, not small stores and strip malls. Councilmember Rackley noted that lowering the tax threshold to \$15,000 still means the business must have \$2 million per year in sales.

**Motion to amend passed 4 – 3.
Deputy Mayor Swatman and
Councilmembers Carter and
King voted no.**

**Amended main motion
approved 6 – 1.
Councilmember King
voted no.**

- C. **AB09-62 – Ordinance D09-62** – An Ordinance of the City Council of the City of Bonney Lake, Pierce County, Washington, Adding a New Chapter 3.70 to the Bonney Lake Municipal Code Relating to Temporary Incentives to Encourage Business Investment in Commercial Building.

Councilmember King moved to approve Ordinance D09-62. Councilmember Rackley seconded the motion.

Councilmembers discussed the definition of ‘new commercial building’ in the ordinance, noting that the city’s Commercial zone allows some multi-family residential uses as well as retail commercial business.

Councilmember Rackley moved to table Ordinance D09-62 to the April 21, 2009 Workshop for action. Councilmember Bowen seconded the motion.

Motion to table approved 7 – 0.

- D. **AB09-69 – Ordinance 1318** – 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 the Corresponding Portions of Ordinance Nos. 1230, 1123, and 984 Relating to Transportation Impact Fees.

Councilmember Rackley moved to approve Ordinance 1318. Councilmember Decker seconded the motion.

Councilmembers discussed the proposed ordinance's incentives for health care providers who serve at least 51% or more Medicare patients. City Administrator Morrison confirmed that the ordinance applies to health care providers already operating in the city and any who move their practice to the city in the future.

Motion approved 7 – 0.

- E. **AB09-59 – Ordinance 1315** – An Ordinance of the City of Bonney Lake, Pierce County, Washington, Amending Section 5.17.010 of the Bonney Lake Municipal Code and Section 1 of Ordinance No. 1256 Relating to the Licensing and Regulation of Nightclub Establishments.

Councilmember Decker moved to approve Ordinance 1315. Councilmember Hamilton seconded the motion.

Councilmember Decker moved to amend Section 1. B. 1. to “at any time between the hours of 6:00 a.m. and 2:00 a.m. liquor is sold to the public.” Councilmember Bowen seconded the motion.

City Administrator Morrison reminded the Council that the proposed ordinance needed an amendment to correct a typographical error, to change the time in this section from 12:00 p.m. to 12:00 a.m. (midnight). Councilmember Decker said the ordinance should include businesses who sell alcohol during any hours possible under State law, not for just two hours as proposed in this amendment. Councilmembers discussed the ordinance's intent to cover any business that serves alcohol at any time between 10:00 p.m. and midnight. The Council also discussed how the proposed ordinance strikes the requirement that 51% of sales revenue come from liquor sales in order to be defined as a night club. Councilmembers said this data is very difficult to obtain from the Liquor Control Board and is not necessary for the definition of a night club.

Councilmember Bowen moved to table Ordinance 1315 to a Workshop.
Councilmember Rackley seconded the motion.

**Motion to table failed 3 – 4.
Deputy Mayor Swatman and
Councilmembers Carter,
King and Hamilton voted no.**

Councilmember Decker restated the full text of his motion to amend the ordinance language for the Council.

**Motion to amend failed 1 – 6.
Deputy Mayor Swatman and
Councilmembers Bowen,
Carter, Hamilton, King, and
Rackley voted no.**

**Councilmember Rackley moved to amend the language in Section 1. B. 1. from
“12:00 p.m.” to “12:00 a.m.” Councilmember King seconded the motion.**

Councilmember King summarized the proposed ordinance, and how it defines a night club as a place that sells liquor between the hours of 10:00 p.m. and midnight, has an assembly space such as a dance floor, and has an occupancy of 30 or more people. He noted that the ordinance excludes establishments like fraternal organizations that have private membership and are not open to the public.

**Motion to amend Ordinance
1315 approved 7 – 0.**

**Amended main motion
approved 7 - 0.**

IX. EXECUTIVE SESSION: None.

9:14:10

X. ADJOURNMENT:

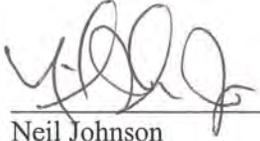
At 9:14 p.m. Councilmember Rackley moved to adjourn the meeting. Councilmember Decker seconded the motion.

Councilmember King noted that he would not be able to attend the April 21, 2009 Workshop due to an out-of-state work commitment.

Motion approved 7 – 0.



Harwood Edvalson, CMC
City Clerk



Neil Johnson
Mayor

Items submitted to the Council Meeting of April 17, 2009: None.