

**BURNS CITY COUNCIL**  
**November 8, 2023**

The Burns City Council met in regular session on November 8, 2023, at 6:00 p.m. Members present were as follows:

Mayor: Jerry Woodfin  
Councilors: Jen Keady  
Jen Hoke - Excused  
Heather Smith  
Bobby Long - Excused  
Tod Gahley

Also, in attendance were City Manager Judy Erwin, Fire Chief Scott Williamson, Public Works Director Ty Richardson, and City Clerk Tiffany Leffler.

**PUBLIC COMMENT**

Kim Rollins – 931 Riverside Drive – Wanted to discuss Ordinance No. 888 with the council. He thanked Councilor Gahley for asking that it be tabled and the rest of council for agreeing to do so. He informed the council that him and his wife have lived in the community for over forty years, and they have both made investments and worked hard to be good citizens. In his neighborhood they own six different properties. Two of the properties have no services whatsoever. On the other four properties they have four sewer hookups and six water hookups. Currently they are only using one sewer and water hookup. He explained the reason for this was because they had purchased these properties for investment purposes, and they would like to develop them, but they have a big problem with the Cotton Wood trees in that area. There was a situation about ten years ago where the Cotton Wood trees had fallen on some houses, and they hesitate to put something there and put anyone in danger of being harmed if one should fall. He then explained to the council that if they were to put Ordinance No. 888 into effect it would be devastating to his family because the extra charges for water and sewer hookups, they would have to pay would be around three to four hundred dollars each billing cycle. He said the fees on some of those properties could sometimes amount to higher than their taxes. A lot of the times when he is speaking with the council, he asks them to slow down, and this is one of those instances that he believes it would be good to do just that. He felt it could have other effects on the community as well. If certain organizations, such as RV Parks, can't shut things off in the winter and save some expense while there is no use, it could seriously affect what they will have to charge tourists when they are here. He informed the council that City Manager Judy Erwin had said they could have a work session on this, and he would like to be involved in that. Also, he asked if they would involve the Public Works Director Ty Richardson and Code Enforcement Officer Emerson Budreau as well.

**AGENDA APPROVAL AND ADDED ITEMS**

Mayor Woodfin removed the request from the Fresh Start Café for an approval to encroach on the city right of way from New Business.

Councilor Smith moved to approve the agenda with the removed item. Councilor Gahley seconded the motion. All ayes.

## CONSENT AGENDA

1. Regular Meeting Minutes – October 25, 2023

Councilor Smith moved to approve the Consent Agenda. Councilor Gahley seconded the motion. All ayes.

## NEW BUSINESS

1. **Approve the Pay Plan for the City Manager Judy Erwin** – City Manager Judy Erwin said she knew that the council had all agreed to this previously, but she was advised by the city attorney to have council in a meeting agree to the pay plan that was brought forth.

Mayor Woodfin made a motion to approve the pay plan for City Manager Judy Erwin. Councilor Galey seconded the motion. All ayes.

2. **Approval for Propane Placement for Boys and Girls Club** – Their General Contractor Richard Brown informed the council at this point in the project they have realized they need more propane to heat the building, but there is technically no where to put the propane tank because the size of the building. It is right up against the limits for the property lines. He said the initial thought was to put it on the west side and try and get an easement from the neighbor behind, but the State Fire Marshal, Clara Butler, and Fire Chief Scott Williamson informed them they could not do that due to Fire Ordinances. The next option would be to put it on the East side (the park side), but a propane tank needs to be ten feet away from a building and ten feet from a property line. In this case the building is ten feet away from the property line, so they don't have that extra ten feet. To get the ten feet they would need to be splitting the property line with the street right-of-way, which is about seventy feet in that area. From the edge of the road the propane tank would be fifteen feet. He informed council at the that current time he had the propane tank drum ten feet away from the property line and ten feet away from the property line. He then let them know that all the parking was going into the right-of-way as well as the curbs that need to be put in. They are trying to figure out a solution with this and were wanting to see if they could edge the propane tank into the right of way a little bit.

Fire Chief Scott Williamson said they must follow Oregon State Fire Codes and NFPA Standards. He said he had been working with the State Fire Marshal Clara Butler on this to try and find an exception but have been unable to find one. He informed them that she would be in town the following Monday, and he suggested they meet up and take a look at it and see if they can come up with a solution.

Craig Neher, a propane provider for Ed Stub and Sons, gave the council an inset from the National Liquefied Petroleum Gas Code 58. He informed the council that it stated under Figure 8641.1 of the national code, that a propane tank could sit on the easement, as long as it was ten feet away from the next billable property line which would be across the street, and it needs to be ten feet away from the building as well. He asked that fire Chief Scott Williamson and State Fire Marshal Clara Butler take this into consideration. He wanted the council to understand as a propane company, they do not want to do anything unsafe. Also, their company holds ninety percent of the liability of the entire system so the number one thing, they look at is safety first. They are following all the national guidelines as well as the industry standards. He then informed the council that with the propane tank sitting in that location would be protected by bang posts, which have to meet certain requirement as well, so that it can't be hit by any car going down the street. He also asked the council to look at the big picture of what the city has here with the Kids Club. He felt this was a gift to the community and was built for the kids with grant funding. He thought the better job they can do at putting this project together and being cohesive as a city, a state, and as a contractor, the better it will improve the city's chances

down the road to have other projects like this happen. He just wanted to ask they take this into consideration. He said to service the building properly they would need a five-hundred-gallon tank. This would be about forty-two inches in diameter and roughly eight feet long.

City Manager Judy Erwin said she wondered why it's just being realized this far in the project that there was no place to put the propane tank.

Craig Neher said he could not answer how it got there because he was under the understanding that a lot of these conversations had already taken place. He said this was the first time he had been in a situation where they have to approach the city to make sure they can have the proper placement of a propane tank. He said he was unsure, but in the past, he's seen that a lot of the time the engineer knows and is used to working with natural gas and not propane. Natural gas doesn't require the vaporization of the propane in the tank, so they don't think about the size of the tank, they simply think of a propane tank. He said though they have the four propane tanks along the East side that heat the building from phase one, they do not provide enough vaporization to run this system under a full load. He felt what they need to find a solution and move forward.

Councilor Gahley clarified that what they were wanting was the city to grant them the right to place the propane tank onto the city easement.

Craig Neher informed Councilor Gahley that was correct.

Councilor Gahley said if that was the case, and he did not need to look into the legalities of it then he did not see any issues having the propane tank on the city easement for that building. He felt the only time that city easement would be a consideration would be if the building didn't exist, which then either would the propane tank.

Craig Neher also informed council the propane tank would be at least ten to fifteen feet away from the existing sewer line and the water line was across the street and probably thirty to forty feet away. He felt from a city standpoint it should be based on whether it would impede on the city's services, or will they have to move things to get to a repair, and he said at this time those won't exist with where they are asking to put the propane tank.

Councilor Smith asked if there was an alternative heat source or if any other heating sources were being considered so this wouldn't be an issue.

Richard Brown said they had gone with an electric system for heat, but they also added a commercial kitchen, which caused a big propane trail for the make-up air. They added radiant heat for the sidewalks to keep ice off of them. It was also asked by funders that donated the property as well, that two fireplaces be put in also. He said the propane tank had been approved but it just was not there in the drawings.

More discussion was had.

Councilor Keady asked if the propane tank would be taking up two car spaces.

Craig Neher said he believed it would take up the space of one parking spot, but they could move it either direction. It has to be visible because it becomes a safety issue if not. They would put bang posts and a chain link fence around it to keep people from getting into it.

Councilor Keady asked if the property people were going to be parking on was the Kids Club property or the city's property.

Richard Brown informed her that it was the city's property.

Councilor Keady said she agreed with Craig Neher that they all need to be working together and it is a great project. She is unsure why it wasn't considered earlier because when you're dealing with commercial property, the setbacks are known right from the beginning. She felt it was a problem but moving forward with things that are good for the city is what they want. She did not have a problem with them putting the propane tank where they are requesting to put it with regards to the safety side of it as well.

More discussion was had on ideas for the propane placement.

Councilor Smith asked if there was any possibility for it to be placed on the East Washinton side where the drainage is.

Richard Brown said they would run into the same issue as on the East side as far as being up against the property line and in the city easement. He said they were not against putting it on the North end, it would just take some looking into.

Mayor Woodfin said he felt the same as Councilor Keady and Councilor Gahley and he was not opposed to the propane tank being placed where they were requesting with making sure it is a safe and legal.

City Manager Judy Erwin agreed with them as well, and wanted to make sure the Fire Chief Scott Williamson was ok with it also.

Public Works Director Ty Richardson felt if the city was going to allow the propane tank to be placed into the city easement, that some sort of legal agreement be written up so that the tank can be removed at any time if needed for repairs.

Craig Neher said there were propane tanks all over the city that were placed into city easements.

Public Works Director Ty Richardson informed him that just because it was done in the past doesn't make it what is ok right now. There is a starting point to doing things right and putting in place agreements that protect the city and let the city retain legal access to their easements if repairs are needed. He also informed the council that the fire department connect was right there at the mechanical room, so he would be working with the contractor closely if approved because that can not be blocked or covered. If the tank was moved to the North, it would not block the FDC connection.

Councilor Smith said the city is not trying to do a blanket kind of statement across the board. Every scenario is different.

Fire Chief Scott Williamson echoed what Public Works Director Ty Richardson said with the fact they are trying to move forward and follow the codes that are put in front of them to enforce. If council agreed on their chosen placement, he also agreed with Public Works Ty Richardson on putting some type of legal document in place for removal of the tank if needed for repairs.

Councilor Smith asked if this was something that needed a decision tonight or if they could wait until after the State Fire Marshal came on Monday and get her input.

Richard Brown let her know that they have a little time before they needed the answer.

Brad Erby said everyone wants to move forward, and it sounded like everyone was comfortable if the Fire Marshal things work and the code. He wanted to put it on the record that Craig Neher wasn't doing this to earn a profit for Ed Stubs but to figure out how we can we come together as a community and make this happen.

Craig Neher said that was why he referenced the importance of this project, so that other projects like this could happen and our community could grow.

Councilor Keady said she couldn't agree more, she thinks there is a lot of things that could move the community forward if everyone could look at it from a commonsense approach. She felt we would get there and hoped in this situation sooner than later.

Fire Chief Scott Williamson said his suggestion was to wait until Monday and go out there and take a hard look at everything and see what would be best, with still following state fire codes.

More discussion was had.

Mayor Woodfin made a motion to approve the placement of the propane tank at the proposed spot pending approval of the State Fire Marshal Clara Butler and Fire Chief Scott Williamson while also retaining the legal write to move the tank if needed by the city. Councilor Gahley Seconded the motion. All ayes.

### **OLD BUSINESS**

1. There was no old business.

### **RESOLUTIONS/ORDINANCES**

1. Ordinance No. 888 – An ordinance of the City of Burns amending Chapter 13 of the Burns Municipal Code concerning sewer and water service rates and charges.

City manager Judy had a conversation with the city's attorney, Jeremy Green, on the issues that had been raised. She asked him if the city could pick and choose how and when they choose to enforce the ordinance and he said that the city can no because it has to be enforced equitably on all citizens. She felt maybe they should look into making it for just vacant houses and commercial properties, or vacant building in general.

Mayor Woodfin said he felt that it was a good idea to tailor it to a structure on the property but thinks that this ordinance should have a little more time and conversation.

City Manager Judy Erwin asked if the council would like her to get together with a few other people and come up with some ideas to bring to council or whether they would all like to be involved.

Mayor Woodfin said he thought if she felt she could take that challenge on with a few other people and bring it to council he would really like that idea.

Councilor Smith said the whole idea around it was vacant properties, so she thinks if they revise it, then they can present a draft for council to review and revisit at a council meeting.

Councilor Gahley thought that they should consider who has the benefit of the meter. The property owner paid to have the meter installed but they do not own the meter, the meter still belongs to the city. They should take into consideration when the property gets sold, because when it is sold, the property owner selling the property gets to keep the benefit of the unused meter that no one has been paying a monthly fee on, verses saying I don't want this meter anymore so it becomes essentially disconnected and not part of the system anymore, but if it was going to be used they would have to pay SDC fees to reuse that meter. He is unsure where he stood on this completely, but he was not sure that the property owner should necessarily have the benefit of the value of the meter being there just because it was put there once and isn't being used, when it was put there with the expectations that the city got to collect fees for it. He believed it really needed to be considered when they redraft this ordinance.

City Manager Judy Erwin thought it may be good to have him on the committee.

There was more discussion had.

The council came to a consensus on tabling the Ordinance and furthering discussion on it at a later time.

2. Ordinance No. 23-889 – An ordinance amending the City of Burns Comprehensive Plan Map and Zoning Map.

Councilor Smith made a motion to read Resolution 23-768 by title only. Councilor Keady seconded the motion. All ayes.

Councilor Smith made a motion to approve Resolution 23-768. Councilor Gahley seconded the motion. All ayes.

## **CITY MANAGER REPORT**

Interim City Manager Judy Erwin reported the following:

1. She informed council that the city had received a letter from FEMA informing them that they have set a date for the new flood maps to go into effect and it will be February 8, 2023. She said when it is complete the city will have to approve an ordinance to accept the new maps.
2. She informed everyone that City Hall would be closed the following day in observance of Veteran's Day, because they are not regularly open on Friday.
3. She said the city had received a letter from the County on the City Center Motel stating that the County was no longer qualifying them to be a motel anymore because the property was in poor living conditions. She said the city would be moving forward with an abatement process on that property and get it closed.

Councilor Keady asked if the county had been the one to assess that they were no longer allowed to be a motel.

City Manager Judy Erwin said she was informed the County had talked with the owners of the motel and they had clarified they were no longer renting overnight stays because of an infestation of bed bugs. Due to them not being able to rent out overnight stays, they will not be

able to get that type of license through the County and they will not be approved for a license until the issue is resolved. She didn't believe they had paid for their city license either. She informed the council that the city would have to go through the abatement process as well because there are currently people living there and they would need to be evicted. It would then be condemned or deemed an unsafe building.

Councilor Keady asked if the building itself was unsafe or if it was just the bed bug issue.

City Manager Judy Erwin said it was also her understanding there was black mold in the building.

Councilor Gahley asked if City Manager Judy Erwin had any idea of how many tenants were currently living there because it could displace a lot of people that won't find anything else as affordable as that and felt it could be a real issue.

City Manager Judy Ewin said she was unsure of the exact number of people that were living there.

## **COMMITTEE REPORTS**

**Airport Committee** – Councilor Smith said stuff at the airport was still moving forward. She informed the council that the paving for the Apron Project was finished. She said she was also approached by a citizen who had interest in renting the city's airport hangar, at least through the Winter. The Airport Committee will discuss this more, but most of her personal time has been taken up with working with the drone stuff. She said they were still meeting with Pendleton and working on renewing and updating their CO-OP certification. She also said they had submitted a Core Grant for a Drone Range Improvement Development. That money would go for funding a position for a Ranger Manager, working on the infrastructure to create the launch pads, and also water and internet at each site.

Mayor Woodfin asked if she knew what the citizen was wanting to rent the hangar for.

Councilor Smith informed Mayor Woodfin it was for airplane storage.

**Safety Committee** – Councilor Smith said they would be meeting the following week.

**Event Committee** – Councilor Smith said that they have officially decided to do the tree lighting and bon fire at Triangle Park for the end point to the Christmas Parade. The bon fire would be held at the Memorial Field side of the park though. She said they were working on getting an established tree to be planted at Triangle Park. It will be the city's forever tree and the city will start the tradition of having it there every year in the future. She felt it was better to have it on the city's property. It would not eliminate, but definitely lower the safety factor. She reminded everyone that the Christmas Parade was on December 9<sup>th</sup> along with the Winter Fest, the Christmas Jamboree, and all the other events downtown as well. She also said Police Chief Steve Macartney and the Public Works crew also have some good ideas on how the city could use the snow for some fun events, such as building an amphitheater out of snow.

**R3** – Councilor Smith informed the council that R3's next meeting would be held on November 20, 2023.

**URA-** Councilor Keady said they had received an application from the Anderson's who are redoing the old Bon Temps building. She said they were just waiting on before pictures prior to approving the application. She also informed the council that they would not be having any more meetings until after the 1<sup>st</sup> of the year. She felt that during their Strategic Plan meeting that subject needed to be at the forefront.

**COUNCILOR COMMENTS**

**Councilor Keady** – She hoped the city would get more projects that would move us towards beautification and better things all around. She felt it was very important that we work together as a County and a city to make these things happens and as smooth as possible. She said the conversation with the County is one that has not yet been resolved. Councilor Hoke was working on it, but it was definitely something that needed to get resolved because it's been going on for way too long. She'd like to start something new that will work for everyone and would like to put it at the forefront of the Strategic Plan meeting in January.

**Councilor Gahley** – had recalled Councilor Hoke saying she was waiting to hear back from Brandon McMullen after a meeting he was due to have which was to be sometime in November. He informed the council that he was going to call the County and see if he could find out what was holding up the process. He also said he wanted to make a big deal about the new FEMA Flood Plain Map. It is something the city has been working on for about the last fifteen years and it's taken a long time to get to this point, so he was very pleased to be at the point they are now with it. He thought it was a great thing and felt having the new map updated and right will be a huge deal for a lot of property owners.

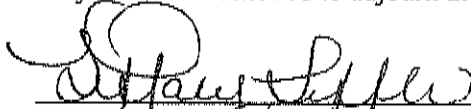
**Councilor Smith** – requested Public Works change the flags on the light poles down Broadway because they were still from the 4th of July. She also wanted to remind everyone there was a council seat open.


There was no further discussion.

The next meeting will be December 13, 2023, at 6:00 p.m.

**ADJOURN**

Mayor Woodfin moved to adjourn at 7:46 p.m. Councilor Smith seconded the motion. All ayes.

  
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Tiffany Leffler, City Clerk

  
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Jerry Woodfin, Mayor