

**BURNS CITY COUNCIL
JANUARY 24, 2024**

The Burns City Council met in regular session on January 24, 2024, at 6:00 p.m. Members present were as follows:

Mayor: Jerry Woodfin - Excused
Councilors: Jen Keady
Jen Hoke
Heather Smith - Via Zoom
Chase Patterson
Tod Gahley

Also, in attendance were City Manager Judy Erwin, Fire Chief Scott Williamson, Public Works Director Ty Richardson, Police Chief Steve Macartney, and City Clerk Tiffany Leffler. Also, Via Zoom, Land Use Planner Jay Harland and Nick Green.

PUBLIC COMMENT

There was no public comment given.

AGENDA APPROVAL AND ADDED ITEMS

Councilor Keady made a motion to approve the agenda as presented. Councilor Gahley seconded the motion. All ayes.

CONSENT AGENDA

1. Regular Meeting Minutes – January 10, 2024

Councilor Keady made a motion to approve the Consent Agenda. Councilor Gahley seconded the motion. All ayes.

APPLICATION FOR CITY COUNCIL POSITION – ANDREW ROY

Andrew Roy submitted a letter of interest to the Burns City Council for open Council Seat #5 and it read as such:

Dear City Council members.

I am writing to express my intent and interest in serving as a member of the Burns City Council. As a dedicated resident with a strong commitment to community growth and development, I believe my background as a small business owner and my lifelong involvement in community activities uniquely qualify me for this important position,

Through the successful operation of Steens Mountain Brewing since 2016, I have gained valuable experience and understanding of the needs of a small business. I have also had the pleasure of fostering positive relationships with customers, community members, and fellow business owners. This experience has provided me with a comprehensive understanding of the economic factors that contribute to the vitality of our community.

Growing up here, I have witnessed the positive impact that active community engagement can have on shaping a thriving community. My roots in this community run deep, I have actively participated in various community initiatives from 4-H programs to The Ford Foundation, along with other volunteer work.

If elected to the Burns City Council, I am dedicated to leveraging my skills and experiences to address the challenges and opportunities facing our city. My priorities include fostering an inclusive environment that encourages collaboration and community input.

I look forward to the opportunity to serve Burns as a member of the City Council and contribute to the continued growth and prosperity of our community. Thank you for considering my candidacy. I am available for an interview or any additional information you may require.

Sincerely,

Andrew Roy

Counselor Keady felt he would make a great addition and was happy to have him step up to the plate.

Councilor Gahley thought maybe moving forward the city could look into doing background checks. He made it clear that his comment had nothing to do with Andrew Roy and he felt he would be a good addition as well.

Councilor Hoke felt it was probably something good to look into moving forward but said she would love to have him on the council.

Councilor Keady made a motion to appoint Andrew Roy to Councilor Seat #5. Councilor Smith seconded the motion. All ayes.

PUBLIC HEARING

Councilor Hoke opened the Public Hearing at 6:10 p.m.

LUP Jay Harland gave the admonishment.

Councilor Hoke asked if there were any conflicts of interest.

Councilor Keady made the council and the public aware that it may be possible that she has property on Broadway Avenue coming out of the Flood Zone.

Councilor Gahley also informed them that he was unsure if the Commercial Property he owned would also be affected by this.

LUP Jay Harland asked them with those disclosures, if it would change the way they would review this legislative matter for the city in any way.

Councilor Keady and Councilor Gahley informed him it would not.

Councilor Hoke then asked LUP Jay Harland for the staff report.

LUP Jay Harland read the staff report as following:

CITY COUNCIL REPORT

Adoption of New FEMA Flood Insurance Rate Maps & an Associated Development Code Amendment and Floodplain Administrator Resolution Planning File No. LAPF-002-2023

APPLICANT: City of Burns

PLANNING FILE: LAPF-002-2023

NATURE OF APPLICATION: A proposed legislative amendment to adopt new FEMA Flood Insurance Rate Maps (FIRMs) for the City of Burns, and associated amendments to the flood hazard regulations of Section 18.30.325 of the City of Burns Zoning Ordinance. A new Resolution outlining the duties and responsibilities of the City's Floodplain Administrator is also proposed to reference the applicable sections of the new Zoning Ordinance that was recently adopted.

BACKGROUND: The Federal Emergency Management Agency (FEMA) has prepared an updated Flood Insurance Study (FIS) and Flood Insurance Rate Maps (FIRMs) for Harney County and its incorporated areas. See, Exhibit A to the attached Planning Commission Report dated December 26, 2023, which is attached hereto as Exhibit B. The FIS and related FIRMs revise and update information on the existence and severity of flood hazards within the study area, which includes the City of Burns, and will be used to establish actuarial flood insurance rates and assist communities in their efforts to implement their floodplain management regulations. The updated FIS and FIRMs are slated to take effect on February 8, 2024, and need to be adopted by the City on or before that date in order for the City to remain in compliance with its obligations under the National Flood Insurance Program in which it is a participant. As part of the formal adoption of the updated FIS and FIRMs, an amendment to the Flood Hazard Area regulations in Section 18.30.325 of the Zoning Ordinance is necessary to update the FIS effective date and the FIRM panel numbers that are referenced therein. See, Exhibit B to the attached Planning Commission Report. Along the same lines, a new City Council Resolution outlining the duties and responsibilities of the Floodplain Administrator is proposed to replace the Resolution that was adopted by the Council in 2022. The updates to the Floodplain Administrator Resolution only involve references to the applicable sections of the new Zoning Ordinance that was adopted by the Council in October. See, Exhibit C to the attached Planning Commission Report. 242 S. Broadway Street, Burns, Oregon 97720 | (541) 573-5255 | (541) 573-5622 Fax cityofburnsor.gov

PLANNING COMMISSION HEARING: The updated FIS and FIRMs, along with the associated Zoning Ordinance amendment and Floodplain Administrator resolution were presented to the Planning Commission at a public hearing on January 3, 2024. At the conclusion of the hearing, the Planning Commission voted unanimously to recommend that the City Council adopt the new FEMA Flood Insurance Rate Maps as well as the associated amendments to the Zoning Ordinance. See, Exhibit A to this report. The proposed Resolution to adopt Duties and Responsibilities of the Floodplain Administrator was provided to the Planning Commission as part of the staff report, but it is a largely administrative matter for the Council to adopt said Resolution.

CONCLUSION: The updated FIS and FIRMs are slated to take effect on February 8, 2024, and need to be adopted by the City on or before that date in order for the City to remain in compliance with its obligations under the National Flood Insurance Program in which it is a participant. The FIS and FIRMs have been reviewed by the Planning Commission which voted to recommend that the City Council adopt said FIS and FIRMs, as well as the associated amendments to the Zoning Ordinance. Accordingly, staff recommends that the City Council adopt the FIS, FIRMs, and Zoning Ordinance amendments as recommended by the Planning Commission. Staff also recommends that the Council adopt the proposed Resolution outlining the duties and obligations of the Floodplain Administrator so that the references therein will be consistent with the recently adopted new Zoning Ordinance. Given the quickly approaching FEMA effective date of February 8, 2024, a draft version of the adoption ordinance has been prepared, and if necessary, staff will be able to edit its language on the spot so that it can be available for signature at the conclusion of the hearing.

CITY OF BURNS PLANNING & ZONING DEPARTMENT



By: Jay Harland

Exhibits

- A. Planning Commission Recommendation for LAPF-002-2023
- B. Planning Commission Staff Report dated December 26, 2023, including Exhibits A – D
- C. Copy of Required Public Notice Publication

Councilor Hoke said she was excited to finally get this project done and felt it was a very big deal. She then asked if there was any written testimony or any public comment to be given.

City Clerk Tiffany Leffler said there was no written testimony.

Arlene Hurd – 982 East Jefferson – She wanted to know if there were any maps currently available showing the individual properties. She said her own property was in the Flood Plain about 5 inches and she was hoping it had changed.

CM Judy Erwin informed her that the city had been sent a set of paper maps that did not show specific addresses and were hard to read and it would probably be better to wait until they were released on February 8th. She also informed her that the County would be posting them on their GIS website so they could be viewed digitally.

Arlene Hurd asked if she could do that at the County after February 8th.

CM Judy Erwin informed her she could.

There were no further comments.

Councilor Hoke then closed the hearing at 6:22 p.m.

Councilor Keady asked LUP Jay Harland if she had understood him correctly and there was an ordinance for them to consider this evening.

LUP Jay Harland then shared the draft ordinance on the screen and went over it with the council.

ORDINANCE NO. 24-891

**AN EMERGENCY ORDINANCE APPROVING THE ADOPTION OF NEW
FEMA FLOOD INSURANCE RATE MAPS AND AN AMENDMENT TO THE
FLOOD HAZARD REGULATIONS OF THE CITY OF BURNS ZONING ORDINANCE**

WHEREAS, the Federal Emergency Management Agency (FEMA) has prepared an updated Flood Insurance Study (FIS) and Flood Insurance Rate Maps (FIRMs) for the City of Burns; and

WHEREAS, the new FIS and FIRMs revise and update information on the existence and severity of flood hazards within the City of Burns, and will be used to establish actuarial flood insurance rates and assist the City in its efforts to implement its flood hazard management regulations; and

WHEREAS, the new FIS and FIRMs will take regulatory effect on February 8, 2024; and

WHEREAS, the City is a participant in the National Flood Insurance Program (NFIP) and the adoption of the new FIS and FIRMs is necessary for the City to remain in compliance with its obligations under the NFIP; and

WHEREAS, the City desires to maintain its participation in the National Flood Insurance Program (NFIP) as it provides direct economic benefits to the residents of the City of Burns in the form of reduced flood insurance premiums; and

WHEREAS, the FIS and FIRMs aid the City in protecting the health, safety, and general welfare of the public by indicating where flood damages are most likely to occur within the City of Burns, and as such, the City desires to have the effective date of this Ordinance coincide with the effective date set by FEMA for the new FIS and FIRMs; and

WHEREAS, an amendment to the Flood Hazard regulations in Section 18.30.325 of the City of Burns Zoning Ordinance is needed to update the effective date of the new FIS and the new FIRM panel numbers referenced therein; and

WHEREAS, all required notices of the new FIS, FIRMs, and Zoning Ordinance amendment were provided in accordance with State legal requirements; and

WHEREAS, a public hearing was appropriately noticed and duly held before the Planning Commission on January 3, 2024, at which it considered the new FIS, FIRMs, and Zoning Ordinance amendment, and recommended City Council approval thereof; and

WHEREAS, a public hearing was appropriately noticed and duly held before the City Council on January 24, 2024, in accordance with all City requirements for legislative amendments; and

WHEREAS, the proposed amendment to the Flood Hazard regulations of the City's Zoning Ordinance is found to comply with all applicable State laws, administrative rules, and Statewide Planning Goals, and with all applicable local criteria and the City of Burn Comprehensive Plan;

NOW, THEREFORE, THE CITY OF BURNS ORDAINS AS FOLLOWS:

The FEMA Flood Insurance Study Number 41025CV000B, Revised February 8, 2024, and the Flood Insurance Rate Maps dated February 8, 2024, attached at Exhibit "A" are hereby adopted by the City of Burns; and

Section 18.30.325 of the Burns Municipal Code is hereby amended to read as stated in Exhibit "B."

PASSED unanimously by the City Council and signed by me in authentication of its passage on the 7th day of February 2024, this Ordinance shall take effect on February 8, 2024.

Jerry Woodfin, Mayor

ATTEST: _____
Tiffany Leffler, City Clerk

CM Judy Erwin informed LUP Jay Harland that it needed to be posted at least 5 days prior to consideration, so they would have to consider it at a future meeting after they had done so.

Councilor Keady made a motion to adopt the new FIRM, Flood Insurance Rate Study, Development Code Regulations, and schedule a meeting for the adoption of the ordinance. Councilor Smith seconded the motion. All ayes.

There was no further discussion.

PUBLIC HEARING

Nick Green said there was a 90-day notice given to the public prior to this meeting. It was posted in the Burns Times Herald, Burns City Hall, Burns Post Office, Harney County Court House, and online as well. Then he provided a little background before the hearing began. He said Oregon Revised Statutes (ORS) 223.297 to 223.316 provide a uniform framework imposing system development charges (SDCs) by local governments. SDCs are one-time fees charged on new development to help pay for the infrastructure needed to support it.

Local governments are required to deposit SDC revenues into dedicated accounts and provide an annual accounting of revenues and expenditures. Expenditures of SDC revenues are limited to payment for capital improvements (including repayment of indebtedness) for the systems for which the fees are collected. Furthermore, local governments must create administrative procedures for individuals to challenge SDC revenue expenditures or calculations and to provide adequate notice regarding review procedures, including the right to petition for review pursuant to ORS 34.010 to 34.100.

Councilor Hoke opened the hearing on the City of Burns proposed System Development Charge adoption and fee Schedule at 6:32 p.m. on January 24, 2024.

She informed them that ORS 223.304(3) allows a local government to establish and impose a system development charge that is a combination of a reimbursement fee and an improvement fee, if the methodology demonstrates that the charge is not based on providing the same system capacity.

The City of Burns has elected this option. The city council has established a proposed fee schedule for its SDCs, which is described in detail in the City's SDC report, dated October 12, 2023, and included as Exhibit A to this memo.

The City's proposed fee schedule consists of a reimbursement fee and improvement fee based on water meter capacity equivalents, to be applied to all new water and sewer connections.

The purpose of this hearing is to comply with Oregon State Statutes that provide the opportunity for public comment on the proposed fees before they are adopted by ordinance or resolution. Specifically:

- ORS 223.304(6) and (7) requires the City to give a 90-day notice to interested parties before adopting or amending SDC costs. The city published its notice in the Burns Times-Herald on October 18, 2023, and at three public locations in addition to online on the City's website.
- ORS 294.160 requires the city to provide opportunity for public comment on a new fee or fee increase.

Council Hoke said they would now accept public comment related to the SDC adoption, implementation, and proposed fee schedule. Following the public comments, she will close the hearing and Council will deliberate. Councilors may then propose any amendments to the fee schedule or report at that time.

Any changes thus recommended will be included in the SDC Adopting Ordinance and Fee Resolution, which will be adopted at a subsequent meeting of the city council. Said Ordinance will also prescribe procedures related to challenging SDC assessments and expenditures, in accordance with applicable statutes in ORS 223.302.

She then asked for any public comment. She asked anyone wishing to comment, to please state their name and address for the record, and keep their comments to 3 minutes unless granted an extension by the council.

There was no public comment given.

Councilor Hoke closed the hearing at 6:35 p.m.

Councilor Patterson said he had a few questions because he was not on the council at the time this had all been discussed. He wanted to know how these numbers came to be and if or how they were compared to other communities the same size.

CM Judy Erwin informed him that it was based off communities of a similar size.

PWD Ty Richardson also wanted to point out that these charges are also for the future development of the city's system and also based off what the value currently is. He said the SDCs were something that would help build the system up to be better and support the growth that will be coming into the community.

Councilor Patterson was worried it may deter people from wanting to develop due to the new charges.

CM Judy Erwin said she didn't believe it would. There are fees all over Oregon and a lot of them much higher. She said it was a typical charge and the city was trying to get us to where it should be for a city this size. She also informed him that if the property was in the URA, and they chose to take part in the program, these fees can be reimbursed to the owners.

Police Chief Steve Macartney informed the newer councilors that these new developments haven't paid for the current system in place, so the SDC charges are also paying to gain access to the current system as well helping develop and maintain is as our city grows.

Councilor Keady informed them as well that over the last few years they have done studies on water rates and things such as that because the city hasn't been up to speed. They have been working on a Water Master Plan and will be doing many upgrades to the system. These fees will help offset the cost some. Also, with a lot of the grants the city currently has they are required to be at certain level of charges to get and keep the grants so the State can see Burns is where they are supposed to be.

Councilor Gahley said there were a lot of moving pieces with the URA and everything else but there is a plan to try and help offset those costs if someone were in the URA. A lot of this has to do with a large, proposed development the city already has in the works, and it will require that the system can handle it.

Councilor Gahley made a motion to approve the fee schedule and have an ordinance drawn up to reflect the said fee schedule. Councilor Keady seconded the motion. All ayes.

There were no further comments.

NEW BUSINESS

1. There was no new business.

OLD BUSINESS

1. There was no old business.

RESOLUTIONS/ORDINANCES

1. **Resolution No. 24-775** – A resolution of the City of Burns, Oregon, accepting certain identified and unanticipated revenues from City County Insurance Services for CIS Public Safety Traumatic Incident Grant in the amount of \$3000.00.

Police Chief Steve Macartney informed the council that this was a grant that was obtained from City County Insurance Services for mental health services associated with a local homicide that

ended in use of force by police officers. It's so that both police and fire can obtain mental health services when needed.

Councilor Keady made a motion to read Resolution 24-775 by title only. Councilor Gahley seconded the motion. All ayes.

Councilor Keady made a motion to approve Resolution 24-775. Councilor Patterson seconded the motion. All ayes.

2. **Resolution No. 24-776** –A resolution declaring certain city property owned by the City of Burns to be surplus property and indicating the intent and method for the disposal of such surplus property.

Councilor Keady made a motion to read Resolution 24-776 by title only. Councilor Gahley seconded the motion. All ayes.

Councilor Gahley made a motion to approve Resolution 24-776. Councilor Patterson seconded the motion. All ayes.

CITY MANAGER REPORT/DEPARTMENT REPORT

City Manager Judy Erwin reported the following:

- The city has recently signed a contract with local contractors to help with snow removal during major snow events. The city has struggled with the aging equipment not functioning and there have been times they have worried they would not be able to remove the snow.
- She informed the council that LUP Jay Harland and his crew at CSA Planning had prepared new planning forms to correlate with the new Zoning Ordinance. She had hoped this would make the planning process much more efficient.
- Public Works had been experiencing issues with the pumps at the lagoon.

PWD Ty Richardson informed the council that they recently had to make an emergency purchase. Over the last 6 months they have had electrical control failures, PLC Program failures, and pump failures at the lagoons. He has people working on these issues. The biggest issue right now is there is no way for them to transfer the secondary treated water to the shared system, which is additional storage. With the recent storms the lagoon is at its capacity and the root cause of this issue is inflow and infiltration in the collection system. They currently have the pump that leads the water to the shared system being repaired in Portland and have since November. He said with these issues in mind they need a backup solution. Most cities have a bypass pump for these solutions, City of Burns does not. He informed them that they used emergency funds to purchase a bypass pumping system for a total of \$34,000.00. This system will help with emergency situations such as the lagoon station. It will be the backup solution for lift station failures, collection system failures, and flooding. He wanted to let the council know that Public Works crew was working diligently on this issue.

Councilor Keady said she appreciated them and all they are doing because she is unsure how the city would do it without them. She then asked him if there was anything else financially, he could think of they needed right now.

PWD Ty Richardson said they are working towards the city's Wastewater Master Plan, and they applied for a grant to help with funding. He said that was the first step in trying to fix the inflow and infiltration issues. It would also help with the modernization of station out at the lagoons. A lot of components are outdated and obsolete.

There was more discussion on the lagoons and the new pumps capabilities.

Councilor Keady asked him how long he anticipated it would take to move the water they need moved.

PWD Ty Richardson said he was going to operate the new pump on a daily basis for months to get the water down.

Councilor Gahley asked if he knew when they were scheduled to have the old pump returned.

PWD Ty Richardson said they were due to have it delivered on Wednesday along with the bypass pump.

Councilor Keady wanted to know when they had both pumps in their possession if they could run both simultaneously.

PWD Ty Richardson informed her they could, and they would be doing that.

- The city will be receiving a \$10,000.00 bill for the water system due to artifacts that were found while digging. The city must have a firm negotiate with the tribe in Chipso on what they would like to have done about the disturbing of those artifacts. She informed them without doing this the city would not receive the grant funds.

COMMITTEE REPORTS

Cemetery – CM Judy Erwin said she believed that there should only be an update at the beginning of the month since there is only one meeting a month.

Airport – Councilor Smith said they are working on setting up meetings and appointments with necessary partners for making solar possible. They are hoping to have one set up by the following week.

Safety – Councilor Hoke said they were meeting the second Tuesday of the month which will be February 13, 2024, at 10:00 a.m.

URA – Councilor Keady said their next meeting would be in March.

R3- CM Judy Erwin said the meeting was set for the upcoming Tuesday.

COUNCILOR COMMENTS

Councilor Gahley welcomed Andrew Roy to the City Council. He also thought it was interesting to see how long of a process like this can take to get to a point where the city can actually do something. He feels there is light at the end of the tunnel.

Councilor Smith wanted to welcome the new Council Members, Chase Patterson and Andrew Roy.

Councilor Keady thanked Chief Macartney for writing the grant they had discussed that evening and for making sure there was good resources in place for himself, his team, and the rest of the city's first responders. She also wanted to thank PWD Ty Richardson and said that he was doing a great job. She welcomed Andrew Roy to the City Council. She informed him and Councilor Patterson that there was a lot to bring them up to speed on and to let the other council members know if they had any questions. She urged them to ask any and all questions. She said she appreciated CM Judy Erwin as well and let her know she felt she was a great leader. Also, to her understanding LUP Jay Harland and his crew had created new planning forms for the city and she wanted to know if Councilor Hoke had heard anything back from the County on planning.

Councilor Hoke informed them that she had not heard anything yet.

Councilor Gahley said he had talked with them the previous month and they said they were trying to fill a position that could change the way they decided to go about doing things. He was unsure if they had filled that position yet.

Councilor Hoke said she would try and check in with them the following week.

Councilor Patterson wanted to make it known that he is behind on everything going on at the city right now and still had a lot to learn. He tends to throw his thoughts and ideas out there when they hit the top of his head, but he welcomed them educating him at any time.

Councilor Roy thanked everyone for the warm welcome and said he was very excited to start learning the ropes and contributing to the council and the city.

There was no further discussion.

Councilor Hoke thanked everyone and felt the meeting flowed very smoothly.

The next meeting will be January 24, 2024, at 6:00 p.m.

ADJOURN

Councilor Gahley made a motion to adjourn at 7:37 p.m. Heather Smith seconded the motion. All ayes.



Tiffany Leffler, City Clerk



Jerry Woodfin, Mayor