

**BURNS CITY COUNCIL  
MARCH 13, 2024**

The Burns City Council met in regular session on March 13, 2024, at 6:00 p.m. Members present were as follows:

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

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

**PUBLIC COMMENT**

There was no public comment given.

**AGENDA APPROVAL AND ADDED ITEMS**

Mayor Woodfin added Resolution No. 24-778 to Ordinances/Resolutions and changed the Department Head Report from Cliff Stoutenberg and David Ravenburg to Fire Chief Scott Williamson.

Councilor Hoke made a motion to approve the agenda with the added and changed items. Councilor Smith seconded the motion. All ayes.

**CONSENT AGENDA**

**1. Regular Meeting Minutes – February 28, 2024**

Councilor Smith made a motion to approve the Consent Agenda. Councilor Patterson seconded the motion. All ayes.

**DEPARTMENT HEAD REPORT – BURNS FIRE DEPARTMENT**

There hadn't been a Department Report given since last year and Fire Chief Scott Williamson wanted to give the Council an update on what had been going on over the last few months. He informed the Council that in 2023 they had 117 calls in the City of Burns, 19 mutual aid calls, and 43 calls outside the city, for a total of 179 calls. To date for 2024 they have had 29 calls in the City of Burns, 7 mutual aid calls, and 5 calls outside the city, for a total of 41 calls. There were 21 calls in January, 11 calls in February, and 9 calls so far in March. The previous year from January 2023 to March 2023, they had 15 calls to the City of Burns, 1 mutual aid call, and 6 calls outside of the city. He said this year has been considerably more busy than last year and he expects that this year's will double last year's call volume.

The volunteer crew made up of 20 students, currently has 213 hours of training logged. He said there were 3 CPR first aid courses and 1 skills only Course. There are currently 7 students enrolled in the basic EMT class. So far to date they have had 37 classes and have logged 777 hours of classroom time. That evening they were up at the hospital doing hands on training and they are planning to graduate the classroom part of it by mid-April.

Fire Chief Scott Williamson gave an update on Engine 101. They were coming up on almost a year since they had been approved to receive Engine 101 and paint and graphics just got done. It will now go to have the pump rebuilt, some electrical that needs done, and a few other things and they are hoping to see it by maybe June. He then showed a few pictures of the new Engine 103 that the Burns Fire Department will be receiving from the State Fire Marshal's Office.

There are 26 of these types of engines that they will be giving out to cities in Oregon and the City of Burns was lucky enough to receive one. He also informed them that they had added a custom roll out extendable bed to Rescue Engine 106. This will make it easier for the crew to get to emergencies quicker and safer. They can carry all of their extraction equipment and rescue equipment on this truck and have it all organized and ready for use. This will allow for them to have 4 to 5 guys respond safely and will also save a lot of wear and tear on the big trucks.

Fire Chief Scott Williamson gave them a brief update on the new training facility. He said they have the outside staircase in place and electricity to the building now. The next step as the weather gets nicer is to start building the burn room. There will be rooms and staircases built inside to be set up just like a house would be. This will be a great tool for future trainings.

### **NEW BUSINESS**

1. There was no new business.

### **OLD BUSINESS**

**Update to the Zoning Map and to allow for a limited number or density of dwelling units in the Open Space Zone**  
- City Manager Judy Erwin had sent all the councilors out a memo explaining in more detail what the reasoning behind wanting to do this amendment was. It read as such:

#### **Planning & Zoning Department**

**APPLICATION DATE: February 29, 2024**

**PLANNING FILE: SAZR-002-2024**

On February 29, 2024, the City of Burns Planning and Zoning Department received a submission for the replacement of a non-conforming dwelling. The application indicates the dwelling to be replaced was removed from the ~112-acre property identified as Tax Lot 900 on Harney County Assessor's Plat 23-31E-18 within the last two years. The subject property is zoned Open Space in which new dwellings are not permitted; however, a non-conforming use is allowed to be re-established within 24 months after the non-conforming use is discontinued, provided that the preponderance of the factual information demonstrates the non-conforming use was in existence within the preceding 24-month period.

In reviewing the submitted materials, the supporting information was difficult to discern. The application that was submitted states that in addition to the primary dwelling, the subject property had also contained a "one-story bunkhouse" of 891 square feet that was removed from the site within the last two years. The application further states that the applicant proposes to site a single-family detached manufactured home in the same general footprint of the former bunkhouse, which is shown in the application to be to the north of the main dwelling and on the east side of the driveway. While a historic aerial photo was included and does depict a structure in that general location, there is no date provided for said historic aerial, and after looking through historic aerial images on Google Earth, it appears that there has not been a structure of any kind in that location since prior to July of 2001.

That being said, we did note from historic aerial photos and undated historic property real estate listings for the property, that there appears to have been a dwelling like structure on the property at a location just to the northeast of the location that is represented and depicted in the application. This structure does not, however, appear to be an 891 square foot bunkhouse which is still reflected on the current tax assessment rolls, and which is shown and described in a historic real estate listing as being the structure located immediately adjacent to the southeast corner of the primary dwelling. From the online photos this bunkhouse structure has been significantly improved and renovated. Thus, the city is having trouble squaring the submitted evidence and narrative because it does not appear that 891 square foot bunkhouse is the dwelling being requested to be replaced, and in fact, it appears the 891 square foot bunkhouse still exists.

With regards to the other apparent dwelling structure that was shown in the historic real estate listing, the historic aerial photos on Google Earth show that it was removed from the property sometime between April 19, 2020, and August 22, 2022, as evidenced by the attached screen shots of said Google Earth aerial photos. As such, the application should be

updated to make it clear which structure was removed from the site, where its location was, and factual evidence of its removal date within the required two-year timeframe for replacement.

In addition to clarifying the factual basis to support the application, it may make sense to also address some other aspects of the request:

1. The application narrative includes citations to the Comprehensive Plan policies and land use considerations regarding the Open Space zoning. These are not regulations the City considers to be approval criteria for the subject application.

2. Our reading of the application is that the floodplain development permit information proposes to utilize a base flood elevation determined by the AtkinsRealis engineer Josha Crowley in an email. The submitted email information cuts off part of his statement (not sure how much is cutoff). Please provide the whole email. Moreover, it would be preferable to the city if the determination was made in the form of a stamped letter from the engineer stating the base flood elevation for the site.

Councilor Keady remembered reading that the dwelling units had to be comprised within a certain zone so that it would still keep the feel of an open area and wondered if City Manager Judy Erwin knew what that number of dwellings were.

City Manager Judy Erwin said they could not have more than 4 dwelling units in the Open Space Zone. It reads the density standard cannot exceed 4 dwellings per 10 acres of the inclusive or accessory dwelling units. This includes ADUs and accessory buildings such as barns and things like that.

Mayor Woodfin made a motion to initiate a code amendment to do some "housekeeping", update the Zoning Map, and allow for a limited number or density of dwelling units in the Open Space Zone. Councilor Smith seconded the motion. All ayes.

## **RESOLUTIONS/ORDINANCES**

**Ordinance No. 24-892 – An Ordinance of the City of Burns amending Ordinance No. 09-802, which Ordinance granted Oregon Trail Electric Consumers Cooperative, Inc. a franchise to provide certain electrical energy services within City of Burns, to adjust the franchise fee payable to the City of Burns.**

Councilor Hoke made a motion to read Ordinance No. 24-892 by title only. Councilor Keady seconded the motion. All ayes.

Councilor Keady asked what the current Franchise Fee was and what they were suggesting it be changed to.

City Manager Judy Erwin informed her that the current Franchise Fee was 3% and they were adjusting it to 7%.

Councilor Keady said she knew there was probably a rational reason why they were adjusting the fee and asked if it fell into line with what other districts were paying. Also, she wanted to know when the last time this Franchise Fee was adjusted.

City Manager Judy Erwin said it does, and the previous Ordinance was passed in 2009.

Councilor Smith said she believed it was one of the Franchise Fees that previous City Manager Dan Brown was working on and also what he increased the others also based on other Franchise Fees across the State.

Councilor Keady asked what she meant by other Franchise Fees.

Councilor Smith informed her ones such as Internet or Broadband type of Franchise Agreements the city already had in place.

Councilor Keady also wanted to know if Oregon Trail Electric had or would have the chance to come talk with them about it.

City Manager Judy Erwin said she sent them a letter along with the Ordinance a few weeks ago to notify them and Eric at OTEC informed her that they would just pass it on to customers.

Councilor Keady asked what that dollar amount looked like for the city and how often these agreements should really be updated.

City Manager Judy Erwin said it would ruffly put around \$100,000.00 into the General Fund and she would suggest it be updated or reviewed every 2 years or definitely at least updated and reviewed a lot more regularly than they have been. If they are updated more regularly than there won't be such a jump in fees. Unfortunately, this wasn't handled in a timely manner, but they are hoping moving forward, any future increase will be slowly over a period of time instead of playing catch up

Councilor Keady said she agreed, and she felt they needed to start looking at some of these things that just got pushed aside.

Councilor Smith made a motion to approve Ordinance No. 24-892. Councilor Hoke seconded the motion. Councilor Keady, Councilor Hoke, Councilor Smith, and Mayor Woodfin voted in Favor. Councilor Patterson and Councilor Roy were opposed.

Councilor Roy said he understood it hadn't been updated since 2009 but going from 3% to 7% in a big increase. If there were some way to slowly get from 3% to 7% over a period of time, it may be more favorable for him. He also worries this could be an issue for people who live paycheck to paycheck and that the raise in costs to the customer could be a big shock for them. He would like to see a little more on what those numbers would actually look like for cost to the customer.

Councilor Patterson said he agreed with Councilor Roy and pointed out that OTEC passing the fees on to their customers is their choice and the city has no say in, it was their decision as a business. The increase of more than double at one time, and he would be more in favor of seeing it happen in increments. He felt if the city explained that it was no one's fault but just a mistake that had gone too long. That slowly over time the city would like to correct it, OTEC may feel more willing to cooperate.

**Eric Wirfs, Director of Operations for OTEC – 1356 Dewey Ave., Baker City, Oregon** - He said they were a Non-profit Organization, they don't have customers, they have members that own it. The community owns it, and it isn't something that comes out of their bottom line. They have various Franchise Fees in about the 23 cities they serve. They vary around 3%. He said some have gradually stepped it up to the 6.5%-7% level. He does agree with City Manager Judy Erwin on that being where things are headed, but currently that fee is a line item on everyone's bill. LaGrande has their own fee, just as Burns and other cities do, because it is ultimately decided by the City's Council and will be strictly for those citizens. He apologized if he came across to City Manager Judy Erwin that he was just passing it on to customers and said he hoped he was able to shed more light on the way things worked at OTEC. They take it very seriously when it comes to defending and standing up for their customers to make sure they are all treated fairly because it is something that directly affects the citizens.

City Manager Judy Erwin asked if he could roughly estimate what kind of jump in cost that would look like to each citizen.

Eric Wirfs said he could not right off hand but could get that number for the Council. He said the average residential bill is around \$120.00 per month, so it would be adding 4 more percent to that. He also said they were as diligent as they could be and would get notices out to the customers letting them know of any new changes to come and explaining where these charges derived from.

Councilor Keady worked out the math and said it would be around \$6.00 a month extra.

**Resolution No. 24-778 – A Resolution of the City of Burns, Oregon, accepting certain identified and unanticipated revenues from the Oregon Department of Emergency Management Homeland Security Program in the amount of \$12,468.00.**

Councilor Hoke made a motion to read Resolution No. 24-778 by title only. Councilor Smith seconded the motion. All ayes.

Councilor Smith made a motion to approve Resolution No. 24-778. Councilor Patterson seconded the motion. All ayes

### **CITY MANAGER REPORT/DEPARTMENT REPORT**

City Manager Judy Erwin reported the following:

- She asked the Council if they had the chance to look over the revised Strategic Plan and whether they had any questions or concerns. She then informed them of one of hers. She said the question she had was on page 10 and had to do with the Burns Municipal Airport and it is speaking of infrastructure for water and sewer out there being priorities. She said as far as she was aware they had all the water and sewer they were going to put out there at this point and wasn't sure why they had it worded that way. She believed when this all started, they were thinking of running water and sewer to all the hangars but have since then decided not to after being informed that most hangar owners install their own water and sewer, the airport owner does not.

Councilor Smith said she didn't believe it needed to be one of the city's top priorities because it had pivoted in a different direction. She does believe there are some things for the airport directly, that would be beneficial to have on the Strategic Plan.

Councilor Keady asked City Manager Judy Erwin and Councilor Smith if they would come up with the verbiage that they think would be relevant coming from the Airport Committee and get what is needed. That way they have an actual objective they are working towards.

City Manager Judy Erwin said that her and Councilor Smith would work on that and come up with something. She also wanted to inform them that they would have one more meeting to review the Strategic Plan and see if there is anything they would like to change.

Councilor Keady said if City Manager Judy Erwin and Councilor Smith would make the changes they want, she would update it on the final document they have been working on and get it out to everyone before the next meeting.

- She informed the Council that the city had been given a corrective action on the sewer system. They were tough on them, but they were able to get an extension and the city's first deadline will be May 1, 2024. They have decided to contract with HECO Engineering to give them a hand because it is all pretty complicated. She said the sewer system hasn't been updated for decades and the main lift station was built in the 40s. This is something that needs to be handled, especially with the new housing projects coming up.

Councilor Smith asked what was due on May 1<sup>st</sup>.

Public Works Director Ty Richardson informed her that May 1<sup>st</sup> would be their Recycled Water Use Plan. It is a complicated plan, and it is used for them to describe how the city is going to use their wastewater for crops and irrigation, which hasn't been done here in 10 years. They are hoping their engineer firms can help them out with creating that. DEQ is looking for very specific and adequate language in this plan. Also, on August 1<sup>st</sup> they have to submit their Inflow and Infiltration Analysis. That consists of doing a study and seeing what our collection system retains in Ionone. He said Ionone is from the Silvie's water that reaches into your pipes, or illegal connections that are doing storm water that shouldn't be in sewer. That entails flow monitoring reports during the nighttime to determine whether a line is taking in inflow. He did say that DEQ was happy with the progress the city has made. They are hoping to get working on the Wastewater Master Plan and hopefully that will help litigate some of these issues with DEQ.

City Manager Judy Erwin let them know that the pumps they had purchased were one of the things DEQ was pleased with.

- She discussed the new Airport Management Contract with the Council and informed them that it hadn't been updated since 2020. She wanted the Council's permission to be able to sign this contract. It is a 2-year agreement, which she feels will give them time to decide what direction they would like to go moving forward.

Councilor Keady said with Hailey Walker coming on she wasn't sure how much she was being paid or if she was being paid by a grant. Also, if what she is doing is alleviating any of the work that the current managers have had to do.

City Manager Judy Erwin said she couldn't tell her what the agreement was right off her head, but the majority of Hailey Walker's pay comes from the grants she administers for the airport. The current managers never handled grants and things such as that. Before Hailey the City Manager handled that part of it. For a while it wasn't being done and they had to play catch up, which is when they decided to hire Hailey Walker. She said the city currently has so many grants going on, there is no way she can administer them by herself, especially one as complicated as a FAA Grant. What the current managers do now is maintain the airport. They keep the runways open in the Wintertime and do the general upkeep of the airport.

Councilor Keady said looking at the dates it didn't seem to be retroactive. They would be paid one amount starting in February 2024, another amount starting on March 1<sup>st</sup> of 2024, and that would continue for the next year. She also asked City Manager Judy Erwin how often she thought the Council should review this agreement.

City manager Judy Erwin said that was correct. The city would not be able to go back that far and add that kind of money to the budget to make it retroactive, so they have agreed to this arrangement. She said as far as when to review this it is a 2-year contract and they have already built in the cost of living raise into the last year, so this will not need to be reviewed until closer to time for the contract to end. She also thinks the city should be looking at this at least 6 months before so that they know what they are going to do.

Mayor Woodfin made a motion to authorize City Manager Judy Erwin to sign the new Airport Management Agreement. Councilor Smith seconded the motion. All ayes.

- She also wanted to let them know that she spent the last hour and a half of her day with Kathleen Cathey from Senator Wyden's office. City Manager Judy Erwin informed her of all the things Burns has going on and she was impressed with everything the city has been doing.

Councilor Keady asked City Manager Judy Erwin if they had started to get the new App/ptedgy program in the works.

Judy Erwin said that they have. Their main trainer is currently out of town, but they do have the next meeting set for March 19<sup>th</sup>.

Councilor Smith said they started building out the new program/site and pulling everything from the old, essentially just mirroring what is already there. They have only sent one example for the city to look over, but they still have plenty of time to review what they like, what they want to change, and also options that they currently don't have but may like to add. She said she had been going over the training courses, and there is some terminology and language they will have to go over, such as calling the Council and Public Works projects when the city calls then departments. She said City Clerk Tiffany Leffler had submitted the Employee Directory and they have also submitted logos and things of that nature. She said the actual App creation will be the City of Burn Logo, and BurnsLive will be what the App is called. They will also be creating a QR Code so that it can be placed on the water bills and all residents can scan and access it from their own homes. She said essentially this will be a one stop shop for everyone involved. She believes it will be truly beneficial for City Clerk Tiffany Leffler so she can get all her information out in one place and not have to go to many different places to post things.

## COMMITTEE REPORTS

**Airport Committee** - Councilor Smith said they had a meeting this week. She informed the Council that they had submitted their final application for the \$650,000.00 grant they applied for. They had 37 people who wrote letters of support from the community, and she wanted to thank everyone who did and let them know that she appreciated them doing so.

**R3-** Councilor Smith informed the council that they were officially set up for the LGIP account and they had finally received the money. They have started paying out invoices that have been backdated. The City of Burns is included in that.

**Safety Committee** – Councilor Hoke said they had met the previous day. They meet the second Tuesday of every month. She said it was brought to her attention that the city was having issues with permitting and communication with the County. She said they really just hope having a new Commercial inspector on board would hopefully help. He will start on March 18<sup>th</sup>. Once they got the inspector on board, they were going to try and get a committee together to start finding a way to streamline the planning process. She said she would be contacting Brandon McMullen and discussing all this with him. They are also trying to work with the Tribe to get an MOU in place for the Fire and Police.

**URA** – Councilor Keady said they had just had the meeting prior to the City Council meeting that evening. They still need to make decisions on are SDC Charges verses Connection Charges and what those will look like. She asked City Manager Judy Erwin if they could discuss this later.

City Manager Judy Erwin said yes, and she would have Public Works Director Ty Richardson there for the meeting as well.

Councilor Keady said once they have that final piece of the puzzle, they will be able to approve the final payment out for the Tharp Project. They technically have until October, but she would like to finalize their payout as the URA's initial application. She also informed the council that the Dominick's gave them an update and they seemed to be running into some roadblocks as far as what they need to do in terms of the structure. She was hoping to get them in touch with Mr. Rogers who works for the State Planning Department and see if he could give them any assistance. They still need to make a final decision as a board on how they want to address payouts and how that money is going to come about. The next scheduled meeting will be April 10<sup>th</sup> at 5:15 prior to the City Council meeting and hopefully they will make some decisions then.

Councilor Smith wanted to remind Council Keady that they had not approved the URA meeting minutes from the last meeting and will have to add those on to the next meeting agenda.

Merle Reid asked the council if he could have a few minutes to speak.

The council agreed.

Merle Reid wanted to inform the Council about the water survey that Harney County has been facing over the last 6 years, which has been looking at the recharge of water usage out in the pivots. The prior week he attended a 4-hour meeting, and they are actually coming out with the restrictions. Right now, they are talking about cutting 76% of the Counties pivots. He said if this happened it will truly devastate Harney County. He strongly recommends contacting Mark Owens, who is one of the committee members dealing with this, to come do a presentation for the city explaining how much of an impact this will be to Harney County. He said Fred Flippence, with Harney Electric, gave a presentation and said with the pivots going down as much as they are talking about going down and with the infrastructure they have built in, the loss of water would over triple the cost of electricity. He truly believes if the Oregon Water Board chooses to do the cuts they are talking about, this will be a larger impact to this County than the mill shutting down. At first, The Water Board Association was saying they were going to work with the Farmers and Ranches and not reduce this much, but they came out with the critical areas like Weaver Springs and Crane. He said this is something that people need to get the word out about and as community members get involved in so we can help support or entire County. He then said he will ask Mark Owens himself to come do a presentation for the city.

**COUNCILOR COMMENTS**

**Councilor Keady** wanted to give a shout out to Councilor Hoke for her promotion to the new HR Director at the Hospital. She congratulated her and said she really feels like she will do an amazing job. She also said she had seen that minutes were updated to the website and thanked City Clerk Tiffany Leffler for getting those up. She said as far as the OTEC discussion goes, she wished they would have known beforehand that Eric Wirfs was going to be there so they could have heard what he had to say before they voted. Based off what he is saying it looks like the average price increase would be about 4 to 5 dollars a month. She is hoping this will be something that people can work with. She said she agreed with Councilor Patterson and Councilor Roy that it would be easier to ease into those things and let them know they can bring forward and discuss their thoughts and opinions beforehand.

**Councilor Hoke** wanted to thank Eric Wirfs for coming and she agrees and wishes they would have had the discussion prior to voting. She thinks they need to be looking at these more regularly but they as a Council recognize that and are trying to right a lot of things right now because things haven't been done in so long. She thanked Merle Reid for informing them of the issue with water restrictions. She believes it could be truly devastating to the community and would love to have someone come to council and speak to them more about it.

**Councilor Patterson** said he wanted to speak to what Merle Reid had mentioned. He was unable to make the meeting the previous week but has discussed it with a lot of community members. He believes right now there is a lot coming out of fear. He thinks that for the County, Burns, and Hines, this should be at the top of everyone's heads because whether they are involved in Ag or not, this will devastate this community.

**Councilor Smith** asked Merle Reid when the next meeting concerning that would be.

Merle Reid said he believed it was going to be April 17<sup>th</sup> at the Harney County Chamber Office.

**Councilor Smith** thanked him and said she would also like to eco all the other thank yous. She said thank you to everyone that was there or shared things they weren't aware of. She also thanked Public works Director Ty Richardson and Fire Chief Scott Williamson for all their hard work and felt they were making huge strides. She also felt the Council was doing amazing things as well.

**Mayor Woodfin** said he wanted everyone to keep it on the top of their heads the City Managers Position. He doesn't want to sit back and take advantage of the situation they do have with City Manager Judy Erwin. The haven't actually talked about what they are going to do, and he would sure hate to get to the end of the 2 years and not have a plan.

Councilor Keady asked how long they had left with her contract.

City Manager Judy Erwin said she believed she had agreed to 2 years, and it will be a year in June, so she had about a year left. She said is someone came along that really wanted it and was qualified, it would be crazy not to take them.

Mayor Woodfin thinks it will take some time to find a replacement because they are not the only city looking for a City Manager and struggling to find one. He just wants to make sure they are more prepared this time.


There was no further discussion.

The next meeting will be April 10, 2024, at 6:00 p.m.

**ADJOURN**

Councilor Smith moved to adjourn at 7:13 p.m. Councilor Hoke seconded the motion. All ayes.

  
Tiffany Leffler, City Clerk

  
Jerry Woodfin, Mayor