



BURNS CITY COUNCIL MEETING

Wednesday, March 13, 2024, at 6:00 p.m.

**Burns City Hall
242 S. Broadway
Burns, Oregon 97720**

Mayor Jerry Woodfin
Council President Jennifer Hoke
Councilor Jennifer Keady Councilor Heather Smith
Councilor Chase Patterson Councilor Andrew Roy
Councilor Tod Gahley

**COUNCILORS AND CITIZENS ARE WELCOME AND ENCOURAGED TO JOIN THE
REGULAR COUNCIL VIA ZOOM.**

Members of the public and media wishing to address the council during any public comment period will be able to join the webinar as an “attendee.” Attendees will be able to view the Webinar on a desktop, laptop or mobile device such as a smartphone or iPad by using the following link:

<https://uso2web.zoom.us/j/9020143459> Meeting ID: 902 014 3459

- I. Call to Order
- II. Pledge of Allegiance
- III. Establish Quorum (*Roll Call*)
- IV. Public Comments

Members of the public desiring to address the Mayor and Council shall first be recognized by the Presiding Officer and then state their name and address for the record. Unless otherwise designated by the presiding officer, each person shall have up to three minutes to present their comments. City Councilors normally should not directly respond to a public comment during the public comment period. Councilor comments should be held until the Councilor comment period.



V. Agenda Approval and Added Agenda Items (*Discussion/Action*)

Any matters added to the agenda at this time will be discussed during the “New Business” portion of this Agenda or such other time selected by the council.

VI. Consent Agenda (*Discussion/Action*)

Information concerning matters listed in the Consent Agenda has been distributed to each member of the council for reading and study, is routine, and will be enacted or approved by one motion of the council without separate discussion. If separate discussion is desired, concerning a particular matter listed in the Consent Agenda, that matter may be removed from the Consent Agenda and placed on the regular agenda by request of any council member.

1. Regular Meeting Minutes February 28, 2024

VII. Department Head Report – Burns Fire Department – EMS Director Cliff Stoutenburg & Burns Fire Captain David Ravenberg

VIII. New Business

IX. Old Business

1. Update to the Zoning Map and to allow for a limited number or density of dwelling units in the Open Space Zone (*Discussion/Action*)

X. Resolutions/Ordinances (*Discussion/Action*)

1. **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 City of Burns.

XI. City Manager Report (*Discussion/Action*)

XII. Committee Reports (*Discussion*)

XIII. Councilor Comments (*Discussion/Action*)

1. Cemetery
2. Safety
3. Airport
4. R3



5. URA
6. Event Committee
7. Planning

XIII. Adjourn

The Burns City Council meetings are available via Zoom and in accordance with ORS 192.610 to 192.690, these meetings conform to guidelines set forth on public meeting law. In accordance with the Americans with Disabilities Act, this meeting location is accessible to persons with disabilities. This institution is an equal opportunity provider. Discrimination is prohibited by Federal law. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to City Recorder Tiffany Leffler (541) 573-5255 or use the TTY Relay Service at 1-800-735-2900 for appropriate assistance. If a request is made, the city will make a reasonable attempt to honor the request.

Posted: March 6, 2024, at Burns City Hall, Burns Post Office, Harney County Courthouse, City of Burns Website, and City of Burns Facebook Page.

**BURNS CITY COUNCIL
FEBRUARY 28, 2024**

The Burns City Council met in regular session on February 28, 2024, at 6:00 p.m. Members present were as follows:

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

PUBLIC COMMENT

There was no public comment given.

AGENDA APPROVAL AND ADDED ITEMS

- I. Mayor Woodfin added Business Banner Sponsor Request for Harney County Little League with Amie Scott, the Dupont and 3M Settlement, and Ratification for the Police Department to New Business and removed Resolution No. 24-778 from Ordinances/Resolutions.

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

CONSENT AGENDA

- I. Regular Meeting Minutes – February 14, 2024

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

APPTEGY PRESENTATION

Sloan Connerly gave a presentation on the software company Apptegy and what they offer to municipalities. They offer a one stop shop for communities to stay informed and have a smoother and easier time doing so. He gave a few examples of other cities they have designed such as, the City of Hollister and the City of Lynx. It would let the city enter their information in one spot and send it out to all plat forms at once. They would create a platform for the city, completely redoing the website and adding new ways to help stay transparent and keep the community informed. They have an app that allows all the information to be in one space, easily found, and can all be accessible from a cellular device. It can also be monitored and maintained through that same app. There are push notifications as well. If there is information that needs to be sent out to the community in real time, they can send it out to all the app users at once. The notification can be sent by text or email. Their system provides a way to keep communities informed on many levels and they feel it could be beneficial for the City of Burns. He continued to show the functions of their software and informed the council and staff that they would personalize the app and website to what the city’s needs and wants are, so it will be specific to the needs and wants of the City of Burns. There can be many users and designated admin that will be in charge of approving posts.

Councilor Keady asked if there was an app right now that they could go through and look over.

Sloan Connerly informed her there was and she could look at the app for the City of Hollister or the City of Lynx.

Councilor Keady asked if the app and the website would be the same, just one being a mobile version.

Sloan Connerly informed her that they would be.

Councilor Keady then asked if there were different options for the mobile app design layout.

Sloan Connerly informed her there was and it would be designed to cater to the specific needs of Burns.

Councilor Gahley asked if the designated admin would receive notifications when there was a post waiting to be approved.

Sloan Connerly informed him that there would be, either by a text or email notification. He said one of the things he believed the partners loved most was the Thrillshare mobile. It really helps with transparency, building trust with your community, and it can be done from an app anywhere.

Councilor Keady asked City Manager Judy Erwin how much the city currently paid for their website.

City Manager Judy Erwin said she was unsure. She knew it was more, but it offered a lot more as well.

Councilor Keady said after the initial one-time fees it looks like it breaks down to about \$600 a month.

City Manager Judy Erwin thought the city currently paid about half of that.

Councilor Smith felt it would be good to look at the city's current contract as far as the timeline.

City Manager agreed but said the only issue with that was the city would get a discount of \$2500.00 if they sign up before March 1, 2024.

Councilor Keady asked City Clerk Tiffany Leffler if she handled the website, and if so, how the function of it was.

City Clerk Tiffany Leffler said she did, and it did not have the capabilities that the other did and sometimes it doesn't prove to provide an easy path for people to navigate. A lot of the time people will call just to be walked through finding what they need.

City Manager Judy Erwin said that it also did not post things in the correct place or category.

Code Enforcement Officer Emerson Budreau said he also helped with the website, and it was not user friendly at all. They will send emails or newsletters but anytime he reaches out to the company to get help he never gets a response. He believes it would save a lot of time, and there for funds in the long run with how much extra time is spent trying to navigate the current system.

City Manager Judy Erwin said one thing she really liked was that Police, Fire, or Public Works can post information they need out immediately from their mobile devices.

Councilor Keady said she thought it looked fantastic and one of the things she wants to discuss later had to do with this.

Councilor Smith said she was in favor as well.

Mayor Woodfin said it seemed like a lot of money. He sees how it could be better for people who are not as able to navigate technology, but it was still a lot of money.

Code Enforcement Officer Emerson Budreau said if you factor the time spent on having to figure out the website, the time it takes to go to each social media page, and things such as that it will come close to the same.

Councilor Keady said something had been brought to her attention by a friend and business owner about what she was under the impression was going on at the council meetings. She was under the impression that the council was talking about her business, and they were going to mandate her business to do certain things. She was upset about it and couldn't find minutes on the website. She said she wanted people to know what we were talking about so they could try to eliminate misinformation. She feels this new app looks amazing because the community will have it all in a mobile app at a click of a button. She is in full support of it with the time it will save and the information it is going to get out.

Police Chief Steve Macartney said from their standpoint he wants it. When things happen, having to go to multiple platforms is difficult and this does it in a push of a button. It also allows everyone in the city to sign up with email or push notifications for all sorts of things from water issues to Police or Fire. It has a lot of potential, and the city can design it together. It's nice to have everything in one place.

Fire Chief Scott Williamson said it would also give them more information on the departments and things that the city may be looking for. He said it's a huge benefit to be able to get the message out there and quickly.

Councilor Smith said that it gets everyone on the same page. She said it allows them to not have to create an account they don't want but still stay connected. She said one of the things she loves specifically about the app is the push notifications because it will send a text or email notifying the community right away. On a city aspect the fact that each person can input things and it's not all on 1 or 2 people will be a huge benefit and will make the communication a whole lot better.

Public Works Director Ty Richardson said people could also pay their bills and do work orders from the app.

Councilor Keady made a motion to Authorize City Manager Judy Erwin to sign a contract with AppTegy. Councilor Smith seconded the motion. All ayes.

NEW BUSINESS

1. **Donation Request – Old Time Fiddlers - Country Music Jamboree** – Mr. Larry Koskela said they were going to put on their 33rd Annual High Desert Country Music Jamboree from June 13th to June 15th. Up until last year they had been keeping their financial heads above water. Last year their expenses were a little over \$900.00, and they are concerned some about this. They are planning on having over 200 people attend. He really feels this is one of the events that puts Burns on the map and was hoping that Burns would help out by donating.

Councilor Keady asked where it was being held this year.

Mr. Larry Koskela said it would be held at the Fairgrounds.

Councilor Keady made a motion to donate \$150 dollars to the Old Time Fiddlers County Music Jamboree.

Councilor Smith seconded. All ayes

2. **Business Banner Sponsor Request for the Harney County Little League - Amie Scott** - Amie Scott informed the council that she was the Sponsorship Coordinator for the Little League. She was asking for a donation to renew the city's Banner Sponsorship. She believed the City of Burns banner had blown away or been stolen, so it would need to be replaced. It will be hung out on the field from April 1st to the beginning of June when the season is over.

Councilor Keady made a motion that the city renew their banner sponsorship with the little league for \$150.00. Councilor Smith seconded the motion. all ayes.

Amie Scott also wanted to know if they could put up cones or barriers down that road to block people from driving where the kids are playing. It was for their safety. They would put them out and also have their own cones.

City Manager Judy Erwin asked how long she would need them there and then asked Public Works Director Ty Richardson what he thought.

Public Works Director Ty Richardson said he would have no issue with it.

Police Chief said he was ok with it as long as the barriers were appropriate so that drivers are well aware that they are there. If they are cones, they will just run over them.

Amie Scott said they were big barriers.

- 3. Update to the Zoning Map and to allow for a limited number or density of dwelling units in the Open Space Zone** - City Clerk Tiffany Leffler said that the city was looking into doing an update to the Zoning map, such as the labeling of the zones, and trying to allow a limited number or density of dwelling units in the Open Space Zone. They had currently run across a situation where there was a portion in the city limits that was in Open Space. It was a privately owned family ranch for many years, and they were wanting to replace a home that used to be on the property. This wasn't usual for open space to be in the city limits and privately owned like that. They were unsure how it happened but were trying to find a more simple and less costly way of fixing the issue. There was a good amount of property out there and they would like for those property owners to be able to develop some on their properties. They were asking that the council initiate this cleanup and the modification of the Open Space Zone.

Councilor Keady asked if they could get an example of where some of the Open Space was and where the density dwelling units would go.

City Manager Judy Erwin said it was the old Clemens Ranch, and there was a large amount of acreage that was Open Space. They wanted to put an additional house out there for their family.

City Clerk Tiffany Leffler explained that 2 had been taken down over the years, but as it stood now in the Zoning Ordinance, nothing could be built there but a security tower.

Councilor Keady asked if someone wanted to build in Open Space would they have to go before the Planning Commission first.

City Clerk Tiffany Leffler said it would depend, but it really was just allowing it to be done or making it a permitted use. There is also not a lot of Open space in the city limits, and they can't really be sure why this happened. They think it may have just been that in the past they needed to hook to city water and sewer, and they were maybe annexed into the city, but the zone was never changed. She was unsure. They were trying to find a simple cleanup. She does not feel like they will run across it often.

City Manager Judy Erwin thinks it is the only Open Space they have and the way she thinks it came about was they wanted to maintain their tax break so it was zoned Open Space because she doesn't believe you can have farm use in the city limits.

Councilor Keady said she felt like what was being asked was so vague.

Councilor Roy said he definitely would like more clarity on things before he approves something like that. He would like to know if there are more situations like this in the city, maybe a map.

There was more discussion had on where the property in question was located.

City Clerk Tiffany Leffler said she also wanted to inform them that there were already structures located on this property. The main house, a smaller additional dwelling, barns, sheds, and storage buildings.

City Manager Judy Erwin said they could get them more information, but she believed that it was the only Open Space in the City.

Councilor Keady asked if it would make more sense to make it specific to that property instead of all Open Space.

City Clerk said she was unsure, but she could find out how much Open Space was in the city limits and how much actual acreage that property was.

Councilor Gahley asked if the properties to the East and South were also in the Open Space Zone.

Code Enforcement Officer Emerson Budreau said that property belonged to the Doverspike and may be Open Space as well.

Councilor Smith asked if we would be rezoning it Residential.

City Clerk Tiffany Leffler informed her that they would not they would just be allowing a certain number or density of dwellings on Open Space, so what was permitted in the Open Space Zone. She also said they would be switching the labeling of the zones on the Zoning Map.

Councilor Smith asked if there were already water and sewer connections.

City Clerk Tiffany Leffler informed her they were.

Councilor Smith said felt since it was the only one, she would be inclined to change it to Residential more than adapting the rules for what it is.

City Clerk Tiffany Leffler said she believed it was because this was a less expensive way for the city to correct a mistake, and it wouldn't be a common issue.

City Manager Judy Erwin said they wanted to allow a certain number of dwellings right now, but they could make look into rezoning it later. She thought it would be good to get more information for council.

Councilor Smith made motion to table this item until the next meeting. Councilor Keady seconded. All ayes.

Dupont and 3M Settlement - Councilor Smith made a motion to move forward with submitting a claim for the Dupont and 3M Settlement. Councilor Roy seconded the motion. All ayes.

Ratification for the Burns Police Department - Councilor Keady made a motion to ratify the contract with the Burns Police Association. Councilor Smith seconded the motion. All ayes.

ORDINANCE/RESOLUTION

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 -

Councilor Hoke made a motion to read Ordinance No. 888 by title only. Councilor Gahley seconded the motion. All ayes.

Councilor Keady made a motion to approve Ordinance No. 888. Councilor Hoke seconded the motion. All ayes.

OLD BUSINESS

1. There was no old business.

CITY MANAGER REPORT/DEPARTMENT REPORT

City Manager Judy Erwin reported the following:

- The councilors were given the amended City of Burns Strategic Plan, and she would like all the councilors to look it over and give their feedback on it. She said Councilor Keady compiled the information from the Strategic Plan meeting that they previously had.
- They ran into a snag with the engineering company that was overseeing a lot of the projects the city has going on. It is a contract issue, and she is working on getting it resolved. If they cannot, they will be starting at square one again.
- They are moving forward with B Street and Miller Springs. They anticipate on having the water and sewer lines and the paving done by next Fall. There is a lot of pressure right now to get things organized. She said there was so much planning going on right now she thought City Clerk Tiffany Leffler has had more people come in with Planning projects and issues in the last month then the city has had in the last 2 years. It has been nonstop.

COMMITTEE REPORTS

Airport Committee – Councilor Smith said they are submitting an application tomorrow in the amount of \$650,000.00 for infrastructure as well as a potential Range Manager position. The funding they are applying for is \$47 million dollar allocation from the State. They went over the budget as far as what they need and want in order to make a legitimate UAS Range at the Burns Airport. It would also start building out launch pads. They are going to do 2 concrete launch pads and 3 gravel launch pads. They have different drone sizes and different down vehicles which have different requirements for whether or not they need to launch off or gravel or concrete.

Event Committee - Mayor Woodfin said they had not met but they were going to get with the Chamber and the City of Hines to discuss the Parade liability. He would get back to the council on that.

R3 - Councilor Smith said they reviewed applications for different projects in the cities of Lakeview, Baker, and Burns. Lakeview has a plotted property that it ready to go with 17 plots for houses and it was approved that week. Baker has projected and proposed a renovation for a Mixed-Use for the Antlers Hotel. It is currently being used on the 1st floor as a Commercial Business and they want to use the 2nd and 3rd floor as a Mixed-Use loft hotel type spaces for residential units. Burns was a big discussion and big win for Miller Springs. They approved Phase One A and they are revamping Phase One B. Phase One A includes 14 residential units and 55 cottage clusters. Phase One B includes 92 apartment spaces and that is the one they are currently looking at numbers and figures. Currently R3 is funding approximately \$20,000.00 per unit to get it going. They hope to break ground for the vertical improvements (roads, sewer, utilities) in April and the horizontal improvements done by November. Then they can start building out those cottage clusters and residential houses and apartments. She also informed them that funding had come in and it was a 10-million-dollar Legislative Grant. They also applied to administer the Heat Pump Program for the State of Oregon. It would be for heating and cooling systems for residential owners in Eastern Oregon.

COUNCILOR COMMENTS

Councilor Gahley said he was still concerned with the issue with the planning in the County and the city. He hoped they could get that moving forward but wasn't sure if Councilor Hoke had had any discussion with them on that.

Councilor Hoke said that Brandon McMullen had contacted her last week and they have hired a Commercial Inspector for the County Planning. He will start March 18th and he comes with a lot of experience. For the residential side they are going to start partnering with Klamath Falls to go through them instead of the State which should hopefully cut down the red tape. They are hoping to do a meet and greet with the new Commercial Inspector and then they would be looking into putting the committee together because they do want to move forward with the relationship with Burns. She also wanted to mention a new CEO for the hospital, and they had been doing site visits and she said it will be a

huge asset to the community. There was a lot of leadership changes happening up there. They had their final candidate interview the following day.

Councilor Keady mentioned the Strategic Plan and asked that the councilors go over it and mark down any ideas or changes they think there should be. She said they could return them to City Manager Judy Erwin or City Clerk Tiffany Leffler, and she would then compile them. She had tried to put it together in a way that they had talked about. She felt the decision to go with this new way to communicate is going to be great and wondered if that was the issue with the minutes.

City Clerk Tiffany Leffler said no. Sadly with the multitude of jobs and duties from Planning, Cemetery, and with all the other city duties, that had just fallen behind. She said most days she doesn't know what direction she is going. There are a lot of duties and there is little staff to accomplish all of them. She is hoping that this new system being able to do it all in one spot will help with that issue because right now things are very busy at the city.

The council agreed that when the agenda was posted the entire agenda packet can be posted at the same time.

Councilor Roy said that he felt that Apptedgy was going to be huge. He tries to be involved as much as he can but with life, but it is hard to go to many different places to find information. He figured it was going to cost a lot more. He said even looking at a part time assistant to help out would cost more than \$600.00 a month.

Councilor Smith wanted to thank everyone that wrote letters of support for the airport grant. She ran around and got signatures that day and Mayor Woodfin was one of them. She also felt that Apptedgy was really going to streamline everything and make it much better. She is interested and excited to see how it looks from different people's postings and other things like that.

There was no further discussion.

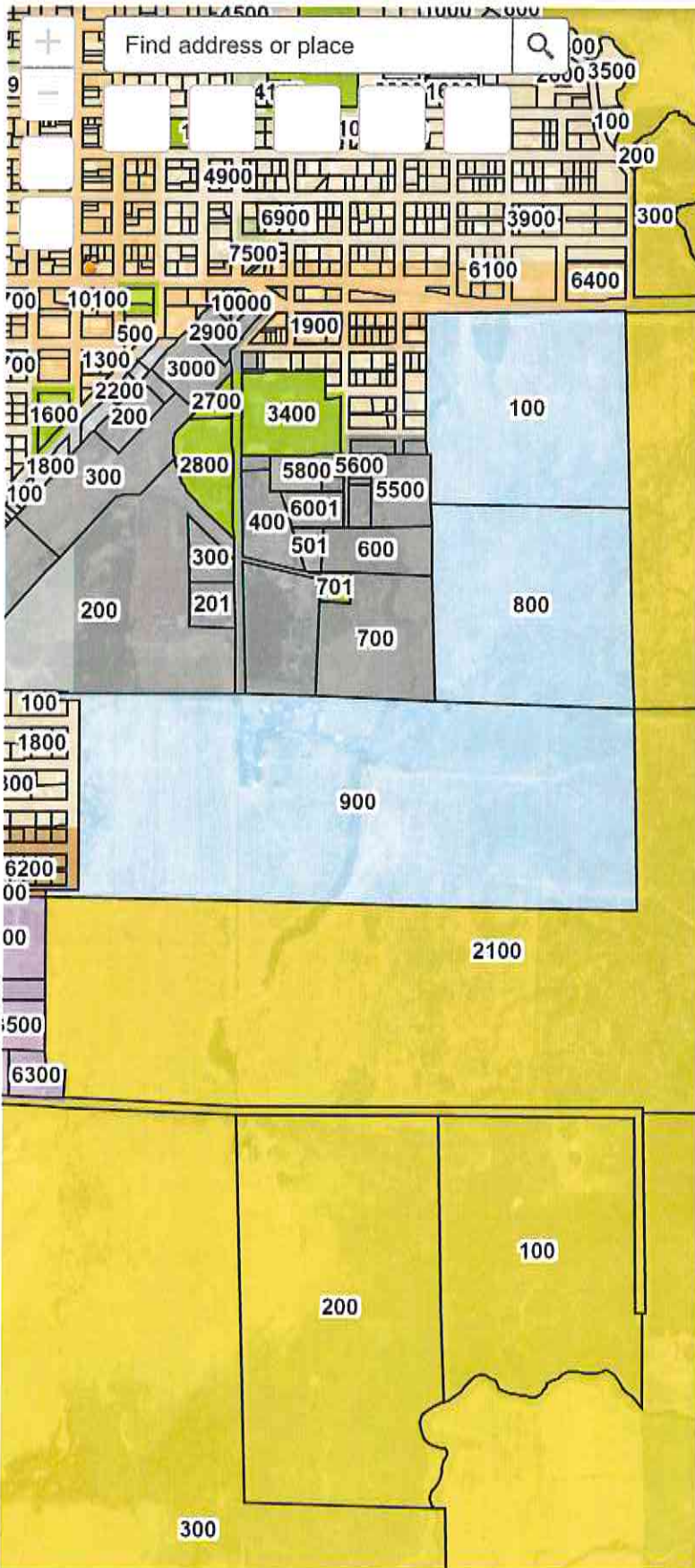
The next meeting will be March 13, 2024, at 6:00 p.m.

ADJOURN

Councilor Smith moved to adjourn at 7:28 p.m. Councilor Gahley seconded the motion. All ayes.

Tiffany Leffler, City Clerk

Jerry Woodfin, Mayor



Legend

Communities










Tax Lot



County Boundary

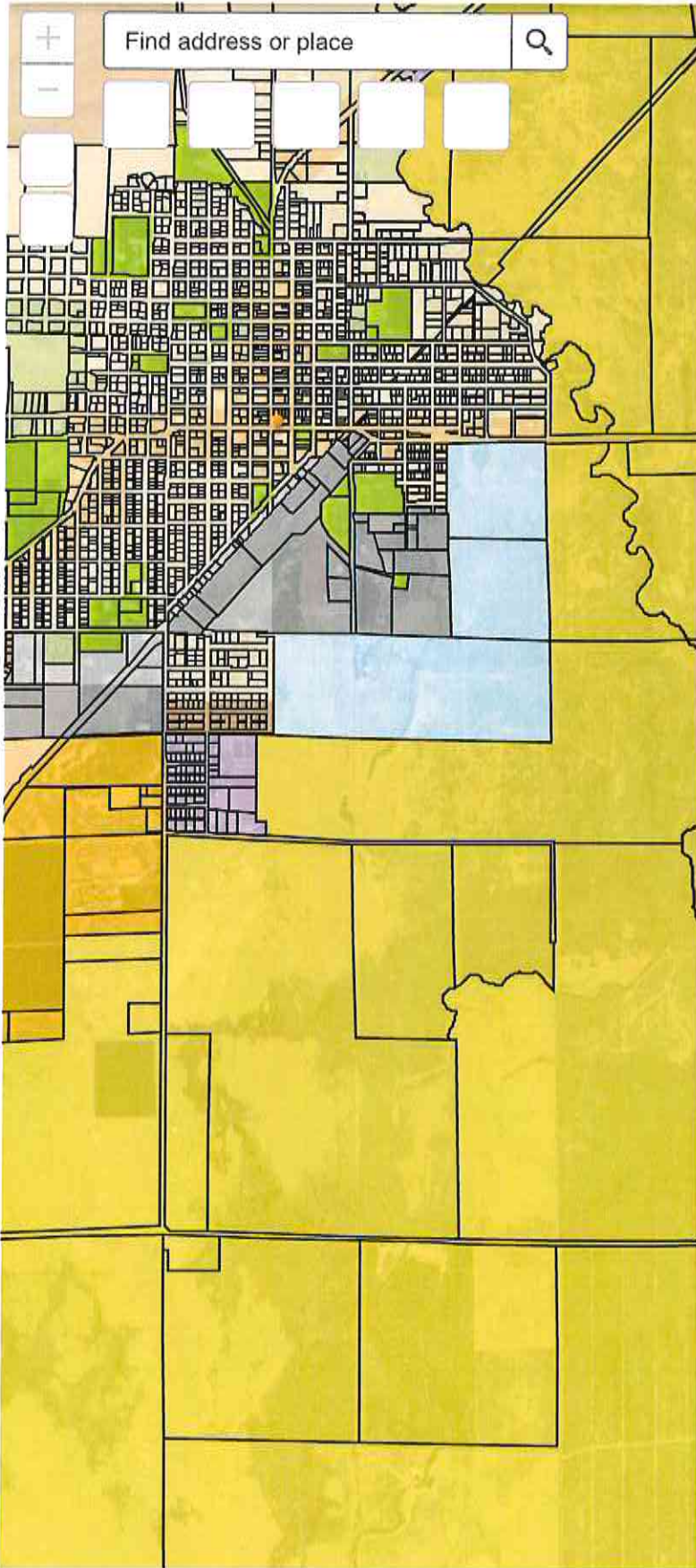


Land Use Zoning

-  AD-1, Airport
-  EFRU-1, Farm Ranch Use-160 AC
-  EFRU-2, Farm Ranch Use-80 AC
-  FU-80, Forest Use
-  IT, Indian Trust
-  RCA, Rural Commercial Area
-  RC, Rural Community
-  RSC, Rural Service Center
-  R-1, Rural Residential
-  R-2, Rural Recreation
-  C-1, Rural Commercial
-  C/ CG, Commercial
-  EFU, Exclusive Farm Use
-  I, Industrial
-  IL, Light Industrial
-  IH, Heavy Industrial
-  I/ED, Industrial/ Energy Develop.
-  OS, Open Space
-  P-PF, Public Facility
-  RM, Multiple Family Residential
-  RS, Single Family Residential
-  RS/MH, Single Family/Mobile Home

0.2mi

-119 019 43.585 Degrees



Legend

Communities



Tax Lot



County Boundary



Land Use Zoning



AD-1, Airport



EFRU-1, Farm Ranch Use-160 AC



EFRU-2, Farm Ranch Use-80 AC



FU-80, Forest Use



IT, Indian Trust



RCA, Rural Commercial Area



RC, Rural Community



RSC, Rural Service Center



R-1, Rural Residential



R-2, Rural Recreation



C-1, Rural Commercial



C/CG, Commercial



EFU, Exclusive Farm Use



I, Industrial



IL, Light Industrial



IH, Heavy Industrial



I/ED, Industrial/ Energy Develop.



OS, Open Space



P-PF, Public Facility



RM, Multiple Family Residential



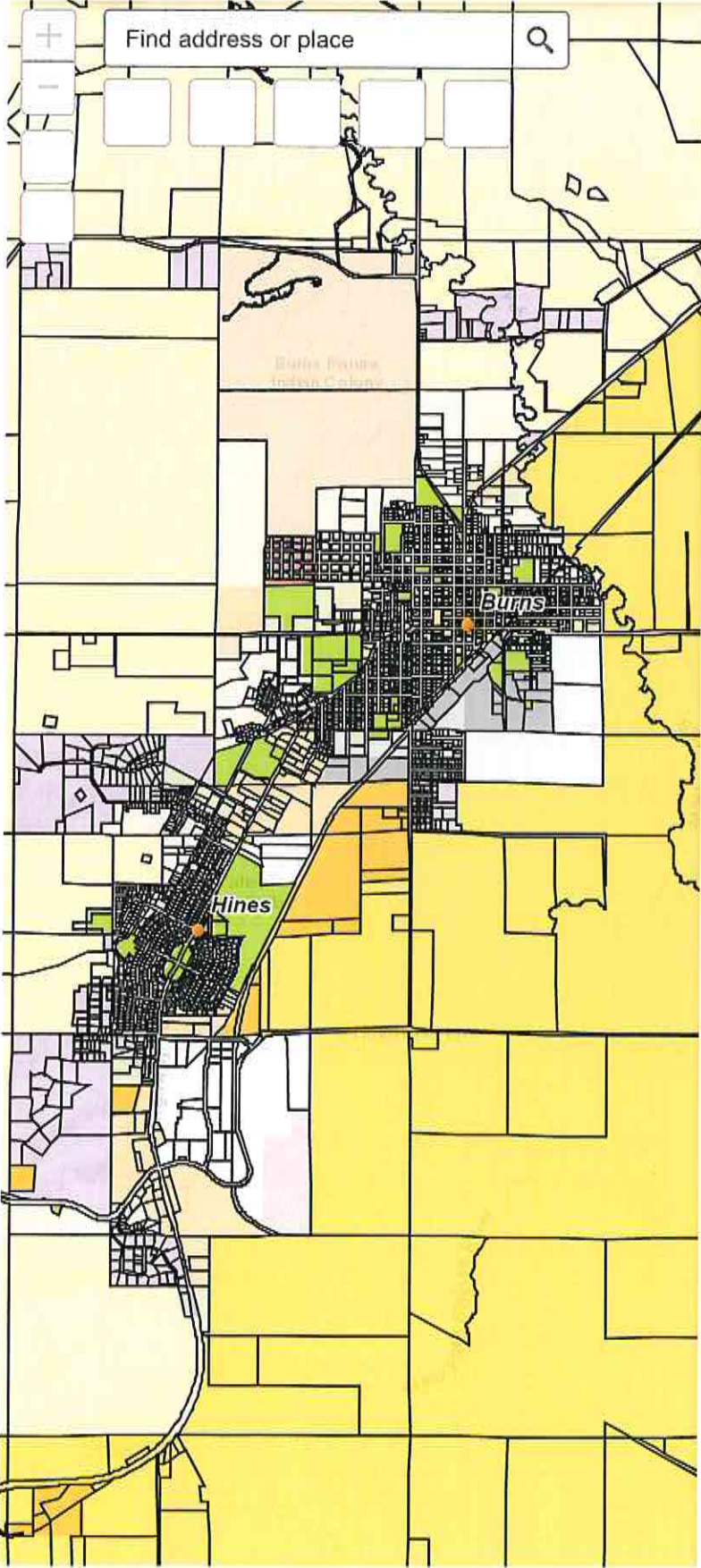
RS, Single Family Residential



RS/MH, Single Family/Mobile Home

0.4mi

-118.968 43.567 Degrees



Legend

Communities



Tax Lot



County Boundary



Land Use Zoning

-  AD-1, Airport
-  EFRU-1, Farm Ranch Use-160 AC
-  EFRU-2, Farm Ranch Use-80 AC
-  FU-80, Forest Use
-  IT, Indian Trust
-  RCA, Rural Commercial Area
-  RC, Rural Community
-  RSC, Rural Service Center
-  R-1, Rural Residential
-  R-2, Rural Recreation
-  C-1, Rural Commercial
-  C/ CG, Commercial
-  EFU, Exclusive Farm Use
-  I, Industrial
-  IL, Light Industrial
-  IH, Heavy Industrial
-  I/ED, Industrial/ Energy Develop.
-  OS, Open Space
-  P-PF, Public Facility
-  RM, Multiple Family Residential
-  RS, Single Family Residential
-  RS/MH, Single Family/Mobile Home

1mi

118.910 43.554 Degrees

ORDINANCE NO. 24-892

AN ORDINANCE OF 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 FRANCHISEE FEE PAYABLE TO CITY OF BURNS.

WHEREAS, City of Burns ("City"), an Oregon municipal corporation, granted Oregon Trail Electric Consumers Cooperative, Inc. ("Franchisee"), an Oregon cooperative, the right, privilege, and franchise to provide electrical energy services within City pursuant to the terms of that certain Franchise Agreement dated February 25, 2009 (the "Original Franchise"); and

WHEREAS, under Section 7 of the Original Franchise, Franchisee pays City a franchise fee in the amount of 3% of Franchisee's gross monthly revenues; and

WHEREAS, ORS 221.420(2) grants City the authority to determine the terms and conditions, including the payment of fees, charges, and expenses, upon which an electric cooperative may be permitted to occupy a public right-of-way; and

WHEREAS, City finds it necessary and appropriate to increase the franchise fee payable under the Agreement to recover the increased costs and expenses City incurs to maintain the right-of-way, subject to and in accordance with this Ordinance No. 24-892 (this "Ordinance").

NOW, THEREFORE, the City of Burns ordains as follows:

1. Findings; Terms. The above-stated findings contained in this Ordinance are hereby adopted. Except as provided under this Ordinance, capitalized terms contained in this Ordinance and not otherwise defined herein have the meanings assigned to such terms under the Original Franchise. For purposes of this Ordinance, the term "Franchise Agreement" means, collectively, the Original Franchise (as amended) and this Ordinance.

2. Amendment. Subject to the terms and conditions contained in this Ordinance, effective April 13, 2024, Section 7 of the Original Franchise is amended to read in its entirety as follows:

"SECTION 7. Franchise Fee. In consideration of the rights, privileges, and franchise granted to Grantee under this franchise, Grantee will pay City a franchise fee (the "Franchise Fee") equal to seven percent (7%) of Grantee's gross revenues derived directly or indirectly from Grantee's provision of Grantee's sale and distribution of electrical energy within City, less net uncollectibles (the "Gross Revenues"). Gross revenues will include revenues from the use, rental, or lease of operating facilities of Grantee. Gross revenues do not include proceeds from the sale of bonds, mortgages, securities or stocks, sales at wholesale to another utility when the utility purchasing the service is not the ultimate consumer, revenue from joint pole use, revenue paid by the United States of America or any of its agencies or revenue paid by City.

Grantee will pay the Franchise Fee in monthly installments, which monthly installments will be due on or before the thirtieth day of the month immediately following the end of the applicable month. Contemporaneously with each quarterly payment of the Franchise Fee, Grantee will file with City a sworn statement describing the total gross revenues Franchisee received during the immediately preceding quarter (the "Accounting Statement"). City's acceptance of any payments under this Section 7 will not constitute a waiver by the City of any Grantee breach under this franchise. City may increase or decrease the Franchise Fee upon ninety (90) days' prior written notice to Grantee. If Grantee fails to timely and fully pay the Franchise Fee (or any other amount) due to City under this franchise, Grantee will pay a late fee equal to five percent (5%) of the unpaid amount or \$200.00, whichever is greater (a "Late Fee"). City may levy and collect a Late Fee in addition to all other remedies available to City for Grantee's failure to pay

City the Franchise Fee (or any other amount).”

3. Miscellaneous. This Ordinance is hereby made part of the Original Franchise. The provisions of the Original Franchise that are not amended by this Ordinance remain unchanged and in full force and effect. City’s adoption of this Ordinance will not be construed as an actual or implied waiver and/or release of any condition or obligation contained in the Franchise Agreement. Franchisee affirms and reaffirms all Franchisee’s obligations arising out of and/or under the Franchise Agreement. All pronouns contained in this Ordinance and any variations thereof will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the identity of the parties may require. The singular includes the plural and the plural includes the singular. The word “or” is not exclusive. The words “include,” “includes,” and “including” are not limiting. Any reference to a particular law, statute, rule, regulation, code, or ordinance includes the law, statute, rule, regulation, code, or ordinance as now in force and hereafter amended. The provisions of this Ordinance are hereby declared severable. If any section, subsection, sentence, clause, and/or portion of this Ordinance is for any reason held invalid, unenforceable, and/or unconstitutional, such invalid, unenforceable, and/or unconstitutional section, subsection, sentence, clause, and/or portion will (a) yield to a construction permitting enforcement to the maximum extent permitted by applicable law, and (b) not affect the validity, enforceability, and/or constitutionality of the remaining portion of this Ordinance. This Ordinance may be corrected by order of the Council to cure editorial and/or clerical errors.

This Ordinance was PASSED and ADOPTED by the Burns City Council by a vote of ____ for and __ against and APPROVED by the mayor on this 13th day of March, 2024.

Jerry Woodfin, Mayor

ATTEST:

Tiffany Leffler, City Clerk