



TOWN COUNCIL

MEETING MINUTES

Tuesday, November 7, 2023- 7:00 P.M.

4820 N. Wardwell Industrial Avenue,

Bar Nunn, Wyoming

1. **Roll Call:** Mayor Peter Boyer called the meeting to order on Tuesday, November 7, 2023, at 7:00 p.m.
Present: Mayor, Peter Boyer. Councilmembers: Steven Clark, Tyler Martin, and Tim Ficken.
2. **Pledge of Allegiance:** The Town Council and all those present stood in service to the United States Flag and pledged allegiance to the United States of America.
3. **Appointment:** Council Seat Vacancy
Mayor Boyer stated the council conducted 4 interviews for the council seat vacancy. After much consideration, the council determined unanimously that the council seat appointment be extended to Frank Schwarzrock. Moved by Steven Clark, seconded by Tim Ficken, and carried without dissent to approve the council appointment to Frank Schwarzrock.
4. **Oath of Office:** Council Member
Mayor Peter Boyer administered the Oath of Office for Frank Schwarzrock.
5. **Minutes of October 17, 2023 & Special Meeting Minutes of October 23, 2023:** Moved by Steven Clark, seconded by Tyler Martin, Frank Schwarzrock was recused. The motion carried without dissent to approve the minutes for October 17, 2023 & Special Meeting Minutes of October 23, 2023.
6. **Current Payables List:** Moved by Tyler Martin, seconded by Tim Ficken, and carried without dissent to approve the current payables list of November 7, 2023.
7. **Payable List for October 2023 & The 23-24 Year-to-date Budget Report:**
Checks #31687-#31768 , Direct Deposits #2374-#2408, ACH #80427352 & ACH #20007515. Moved by Tim Ficken, seconded by Steven Clark, and carried without dissent to approve Payable List for October 2023.
8. **Resolution No. 2023-19:** “A RESOLUTION SETTING MUNICIPAL SALARIES”. Moved by Tyler Martin, seconded by Tim Ficken, and carried without dissent to approve Resolution No. 2023-19.
9. **Resolution No. 2023-20:** “A RESOLUTION AUTHORIZING PARTICIPATION IN WYOMING CLASS”. Moved by Tim Ficken, seconded by Steven Clark, and carried without dissent to approve Resolution No. 2023-20.
10. **Attorney's Report:** A written report was submitted to the mayor and council. Town Attorney Patrick Holscher was present for questions or comments from the council. Attorney Holscher noted many of the legal items for discussion would be addressed in a later executive session.
 - Sheriff’s Department MOU: To be Discussed in Council Business.
 - Anticline Energy Project Accounting: Attorney Holscher mentioned that the Anticline Energy Project has an accounting report due on November 17, 2023. Town Clerk, Kalista Schwarzrock, stated that the report is in progress. Attorney Holscher commented on the strange thing of accounting for money you do not have and have not received. He noted that the industrial siting council has a meeting on November 28th that Mayor Boyer and Mayor Juarez of Mills should be in contact so that they can coordinate topics to discuss with the council. Mayor Boyer commented that he has already been in contact with Mayor Juarez on this topic. He stated they would like to address the discombobulated nature of how the industrial siting council is handling the Anticline Project. Attorney Holscher noted that Bar Nunn and Mills are the only municipalities that have requested to be on the siting council’s agenda.

Mayor Boyer instructed Attorney Holscher to disseminate information about Bar Nunn and Mill's participation in the meeting. Attorney Holscher stated he would let Casper, Evansville, and Natrona County know that we are speaking and ask if they have any concerns they would like Bar Nunn and Mills to address while meeting with the committee.

- Mayor Boyer stated he was reading through the minutes and noted that code enforcement officer, Marshal Wyatt, stated he could not issue a warning because of the construction dumpster sitting on the street on Nez Perce. Mayor Boyer inquired of Attorney Holscher if that is accurate. Attorney Holscher stated no, we can do that. Councilman Clark confirmed that the residents did move the dumpster when contacted.
- Councilman Martin stated he had a resident who mentioned by proxy to him that we said their college kids can't come and stay in a camper on the property. He inquired of Attorney Holscher if that is true or if they can stay in a camper on the property, such as in the driveway. Attorney Holscher stated that if it's very temporary, yes, but you cannot convert your driveway into an axillary residence. A few days is acceptable, but a few weeks or months is not.

11. **Engineer's Report:** A written report was submitted. Town Engineer, Ray Catellier, P.E. was present for questions or comments from the council. Mr. Catellier updated the council on the following items:

Community Center & Town Hall Project

- Sampson Construction received a shipping date from Daikin for the large air handling unit. The unit will ship on March 8, 2024. Sampson is trying to figure out if they can get 4 of the 5 readily available pieces and then get the 5th piece later so that they can finish everything else while they wait for the last piece. Other than that, things are moving along very well.
- The final paint color is finished on many of the walls. Tile work and drop ceilings are starting in the coming days.
- Basketball hoops are in, and they are waiting on an inspection in the gym before they start the rubber flooring. Finishing touches are happening daily.
- As far as site work, they will be pouring the curb and gutter with the curb machine on Thursday, November 9. That is step 1 of getting the parking lot into place.

Salt Creek Highway

- Salt Creek Highway continues to move. Advanced Geotechnical Solutions will be performing four test bores in the highway to determine what the road is built on and its overall strength. Mr. Catellier was unsure of the exact schedule, but it should be soon. With the information from Advanced Geotechnical Solutions, we will be able to determine why the highway is moving and how to stop it.

Miscellaneous Discussion for Town Engineer

- Mayor Boyer commented that he drove by the New Town Hall and that it looks very good. Councilman Clark stated he walked through with former Councilwoman Sorenson and also said it is looking great.
- Councilman Martin inquired what the projected opening date is for the Community Center/Town Hall. Mr. Catellier stated that is currently looking like mid to late April for completion, likely May for opening.

12. **Preparedness Committee Report:** A written report was submitted. Committee Secretary, Andrea Boyer was present for questions or comments from the council.

- Mayor Boyer inquired about a resident who was in attendance at the first Preparedness Committee meeting, Mr. Ken Hume. He asked if Mrs. Boyer was planning on reaching out to him and using him as a resource. Mrs. Boyer stated Mr. Hume was interested in volunteering because his professional background was in emergency management planning and thought he could be of service to the town. Mayor Boyer stated he would like to utilize him as an asset to the town. Having someone like him on hand to help with any kind of emergency would be beneficial. Mrs. Boyer stated that Mr. Hume inquired if Town Hall itself had an emergency plan in place, for example, if something were to knock out power, is there a way to communicate with residents. He offered to volunteer his experience to create a plan if there wasn't something in place for the town.

13. **Fire Department Report:** A written report was submitted. Fire Chief, Rober Hoover was available for questions or comments from the council.

- Councilman Ficken inquired if the City of Mills still had the fire truck that Bar Nunn lent them. Chief Hoover stated that they did.
- Mayor Boyer inquired how much was made by the annual haunted house. Chief Hoover stated the haunted house made a little over \$19k total this year. He stated the event went well. Councilman Ficken also inquired if the haunted house is their best fundraiser for the year, and Chief Hoover said that it is. They had more people go through multiple times this year than other years before.
- Chief Hoover stated we have had some success in our ISO certification. We retrograded down to the lowest we can go, which is a 4F. We have now been bumped up to class 2. Chief Hoover stated that he would be meeting with the company that issues those ratings to discuss some of the issues that came into play to drop our rating down as low as it was. This year, we started at square one to rebuild our rating. We completed all of the hydrant inspections and hydrant tests in the Wardwell area. We are 10 points away from being able to progress back to class 1. So, they are going to come out and go over some of the fire department information to see if we can make up those 10 points. Councilman Schwarzrock inquired if there was any pending documentation that had been submitted that would change that. Chief Hoover responded that the current rating is with all of the documentation. Councilman Schwarzrock clarified that the class 2 rating is a solid rating to which Chief Hoover replied that it is.
- Chief Hoover stated the fire department would like the council to consider some changes to the fire department buildings with consideration of the new town hall being so close to those buildings. He proposed the main building be done this budget cycle and the wildland building be done next budget cycle. Chief Hoover turned the floor over to firefighters, Ashley & Cody Edgington to discuss and request changes to the Firehall. Mrs. Ashley Edgington stated that the fire department would like to match the town hall so that aesthetically our town looks pleasing in that area. It would be \$8,000 to paint the main building where all of the equipment is, and then an additional \$8,000 for the building to the west. Mrs. Edgington stated that window replacements are more of a need as they do not open very well at all. To replace the windows, the fire department received a quote of \$7,500. At this time, they would like the council to consider the windows as a priority but also consider painting the main building as well. Councilman Clark attested he had seen the windows and that they are bad. They are old and condensate and weep causing all kinds of water damage and problems. The exterior of the building is in great condition considering the age of the building. He stated it doesn't need paint for the maintenance of the building, mainly just for the aesthetic. Painting it will bring more maintenance because it's a painted finish rather than a baked-on factory finish that is already on the building. Councilman Ficken inquired if the quote for paint was from someone accustomed to painting metal buildings. He stated from personal experience that it has to be a very specific kind of paint on metal. Firefighter Cody Edgington stated he received 3 bids. The proposed price was the lower end of the bids, but every single bid said that kind of job is not for normal paint. That is why the bid is a little higher because that paint is more expensive. Councilman Schwarzrock inquired what the range of the quotes was. Mr. Edgington stated that \$8,000 was the low end. The highest bid was for \$16,000 for one building and \$12,000 for the other building. Councilman Schwarzrock then inquired if someone is willing to come do the work for half of the highest bid, is that going to shorten the lifespan of that paint? Mr. Edgington stated he spoke with the painters he received bids from and they all stated that the cheaper the paint, the shorter the life. Mayor Boyer asked if they were given a lifespan on the paint. Mr. Edgington could not recall if they were provided with that information. Mayor Boyer stated that he was on board with moving forward with replacing the windows but believes it would be wiser to invest more time in getting a good idea of what all the paint is going to require, such as how long it's going to last and how much it's going to cost long-term. Councilman Schwarzrock stated that he was not sure what the perception of the rest of the community is, but he sees them as two separate entities and did not believe matching was necessary. Mayor Boyer and Councilman Ficken agreed they didn't know if it needed to match and Mayor Boyer stated that's why he would like to vet this process more. Councilman Ficken stated that in the future it would be nice to have it all matching, but maybe not until it is in more need of it from a maintenance standpoint. Mayor Boyer stated for the number and size of the windows, the quote the fire department received for the windows is a great price and that he would be okay with the council moving forward with that improvement. Moved by Steven Clark, seconded by Frank Schwarzrock, and carried without dissent to approve window replacements for the fire hall not to exceed \$8,500.
- Chief Hoover stated that he would also like the council to consider shortening the 90-day probationary period for new volunteers to receive their pay per call. He stated he knows that is set by ordinance, so it would take some time. Councilman Clark inquired if this is because they are not receiving pay within the first 90 days even if they are responding to a call. Councilman Ficken stated that if someone is competent enough to go out on calls, they should

be paid. Chief Hoover asked the council if it would be okay for him to work with the town attorney to discuss how he believes the ordinance should be rewritten and then present it to the council. Mayor Boyer stated that would be fine.

14. **Maintenance & Water Report:** A written report was submitted. Director of Public Works, Robert Hoover, was present for questions or comments from the council.
- Mr. Hoover reported the public works department dealt with a major water main break at Howard and Harvey where the line came apart. After examining the line, Mr. Hoover stated it was amazing that there was not an issue with this line before now. The line was installed in 1977 and the pipes weren't even attached. Councilman Schwarzrock inquired if the line had corroded out. Mr. Hoover stated the line itself did not appear to have ever been attached and the ground seemed to hold it together. Water was turned off the morning of October 20th, and the water line was repaired and turned back on by 7 p.m. that evening.
 - Mr. Hoover stated the public works department has run into some issues in the district with a lot of meter pits and water valves that are buried under mounds of trash, concrete rubble, and inoperable vehicles. This has also caused issues with CEPI while they are working on the meter inventory and cannot gain access to some meter pits. Mr. Hoover would like to get a message out to those residents to say please uncover your meter pits and refrain from placing anything on top of them, but he is unsure of the proper way to do that or how we want to address that. Mayor Boyer suspects many people are not even aware that the meter pits are there. Councilman Clark inquired if it is preventing the monthly reading or wireless transmission of those meters. Mr. Hoover stated it is not, but if we need to get in and repair or replace a meter or radio, it will create issues there. Attorney Holscher stated that the town can send out a notice without any problem. It can be sent with the statement. Councilman Clark inquired if the town could have any kind of fee tied to being unable to gain access to the meter pits. Attorney Holscher said that yes we can. Councilman Clark suggested that we advertise that in the notice as well.
 - Mr. Hoover mentioned that the town did have one ice event. He stated that the new plow, Betty White, is all set up. The maintenance crew built a skirt for the back of the power to accommodate the sander and it is ready for winter.
 - The maintenance crew is working on setting up a light at the new gate to help with the payment drop box.
 - Cameras are installed at Romie Nunn Park and are operable.
 - The sewer lift stations are operated by a software called Mission. The Town was informed by the software company that effective the end of the year, they will no longer be supporting the Legacy software, which is what the town's systems are. We have 2 lift stations; the Wardwell lift station and lift station number 1 that we will need a software upgrade. Mayor Boyer inquired how much the upgrade would cost. Mr. Hoover stated it will run between \$3k-\$4k a piece and we have the funds in the budget for the upgrade. Councilman Schwarzrock inquired what the schedule was to upgrade the lift stations. Mr. Hoover stated that Mission is waiting for parts, but it needs to be completed by the end of the year. Mr. Hoover stated the upgrade won't affect the function of the lift station itself, but the alarm system, such as low water or high water alarms.
 - The Wardwell Board approved the town to move forward with the tank repair on the Coleman Circle tank. It is in the scheduling queue for repair. We are still unsure what the source of the problem is, but the company coming out specializes in elevated tank repairs. The company quoted \$7,500 for the repair after speaking with Midco Diving and the town. Councilman Schwarzrock inquired what the quote for the repair was based on. Mr. Hoover said it is based on what Midco found while cleaning the tank.
15. **Zoning & Planning Report:** Chairman, Gary Geiger was present for questions or comments from the council. There was no meeting held for October 2023.
16. **Office Staff Report:** A written report was submitted. Clerk Treasurer, Kalista Schwarzrock, was present for questions or comments from the council. The town clerk noted that the office is replacing the main large printer. Office staff has been dealing with connectivity issues for some time with the current printer, so we reached out for some quotes. It was decided to move forward with a printer from Capital Business Systems. The monthly maintenance fee will be a quarter of what the current monthly maintenance fee is. Councilman Clark inquired if the printer would be leased. Mrs. Schwarzrock stated that no, it would be

purchased outright.

Petitions & Public Comment:

- Mayor Boyer stated he had been reading the ordinances and state statutes. It states, “A member of the public shall not be required to register his name, to supply information, to complete a questionnaire, or to fulfill any other condition precedent to his attendance except that a person seeking recognition may be required to give his name and affiliation.” Mayor Boyer stated it is up to his discretion to require anyone to supply their name and affiliation. Resident Mike Schoolcraft stated that the previous mayor required a name and address and that was where the arguments came into play. Mayor Boyer stated that given the public nature of the meeting, he would like it if people would state their name, and city so that the council knows you are a member of the community, and if you have any affiliation.
- Resident Jan Schoolcraft is curious if the council has any desire or thought about changing the process for public interviews for open council seats. Mayor Boyer stated that as the code reads, it is up to the council’s discretion. He stated the only issue he would see with public interviews is the privacy of the candidate being interviewed because yes, they are going for a public office, and though they are being appointed by the council, they are still a private citizen. They don’t forfeit their private citizen rights once they decide to run for public office or seek a council seat. It is a respect for their rights as a private citizen. Jan Schoolcraft stated that when they sat in on interviews for Councilman Ficken’s seat, they did not hear any questions that were so private. Nothing personal was said about the person. She stated other surrounding municipalities conduct their interviews in a public session. It was discussed that the City of Mill’s ordinances are similar to Bar Nunn’s. Evansville conducts their meetings in public sessions, but they do not have a code specifying one way or another. Attorney Holscher stated that when Councilman Ficken’s interview was done, it was done incorrectly because that was supposed to be done in executive session. Bar Nunn’s ordinance has always read that way. Councilman Ficken stated he didn’t even remember if his interview was public or not. The way he looks at it is when there is an open seat, they are appointed by the members of the council, not the public. They don’t run for office; it’s not voted on by the public. The public has voted the other members of the council in, they have voted for the council to represent them and their best interests. When we meet in an executive session, no matter what the topic is, you trust our abilities and our judgment to do what’s best for the town. The community is giving us their trust and faith that we will do the right thing. If the public does not agree with the council’s decision and who they appoint, that person will have to run for re-election when the time comes. At the time, it will be the public’s decision based on how they’ve performed and what they’ve done. Including the people you trusted to make that decision and that is your opportunity to hold them accountable. Attorney Holscher stated that to be clear, the decision was not and cannot be made in executive session. Jan Schoolcraft stated that last time it was interesting getting to know who the people interviewing for the vacancy were and understood why deliberation would take place in an executive session. Mike Schoolcraft welcomed Councilman Schwarzrock to the Bar Nunn Council and stated that based on his performance this evening and the questions he had been asking, he thought the council made a wise decision appointing him. He stated that he looked forward to Mr. Schwarzrock representing the town well and believes he will be based on his first impression and what he has seen so far. Councilman Schwarzrock stated he would have been perfectly comfortable interviewing either publicly or in executive session. He stated his thought is if he is not comfortable speaking in an interview in front of residents, then he would be very uncomfortable doing the job. He stated that one question that was posed during a discussion he thought was interesting was if you have 4 or 5 interviewees, you either have to have 5 different sets of questions or you give an unfair advantage to the person interviewing last if they can listen and preparing more for the questions they will be asked. This way the council gets a genuine off-the-cuff answer.
- Mr. Schoolcraft reminded the council of a discussion that had taken place previously about planning a work session regarding the rezoning of certain properties before the end of the year. Attorney Holscher stated he had finalized the Zoning & Planning portions that were being rewritten but would like the Zoning & Planning committee to look over it before it progresses any further.
- Resident Robert Hoover asked if anyone from the council is planning to attend the community input session regarding the West Winds extension. He does not want to see the town have the county dictate what is done within town boundaries. Mayor Boyer stated he has attended 4 meetings regarding the extension. The estimated cost of that project is \$30-45M and there is no will on the county commission to do the West Wind extension. Councilman Clark commented he spoke with Peter Nicolaysen at the last MPO meeting and his comment during the meeting was that they need to make sure Bar Nunn is ok with the project. He mentioned to Nicolaysen that Bar Nunn is not adamantly against it, but it likely won’t happen for a long time. Mr. Hoover stated that the town has already lost a lot of potential growth west due to the solar farm and does not want to see the town lose out on other opportunities that the West Winds extension may bring.
- Mr. Hoover stated the town needs to find a way to urge the Sheriff’s department to start issuing citations. He placed 3 calls to the Sheriff’s department. Two were for reckless driving, the other was for someone driving at a high speed and almost hit a group of school kids after they got off the bus at Sunset and Mustang. The response he has received from the Sheriff’s department is they did not see it so they cannot do anything about it. Mayor Boyer stated he has spoken with the attorney

about this subject extensively and has placed many calls to the Sheriff's department and spoken with both Sheriff Harlin and the Undersheriff. The situation is not going to change. It comes down to the town needs its own law enforcement. This next budget cycle, we will be looking at ways to fund a police department. Resident, Marshall Hood inquired if anyone had spoken with the school district to see if we could get the bus drivers to leave their lights and signs on. His understanding was that there are cameras on when the lights and signs are on so they can get a shot of whoever is blasting by.

17. **Council Business:**

A. Discussion: Sheriff Department MOU

Attorney Holscher stated that when we received the 2023 MOU with the Sheriff's Department, it was represented that it was the same as 2022, when in fact it is not. They have changed it some. The basic provision is that they will provide no less than 40 hours per week of coverage for the town. They will not under the contract provided to us enforce Bar Nunn town ordinances. Attorney Holscher's recommendation is not to sign the MOU as it is written. He wants to amend it so that they have the authority and will issue citations and/or warnings under the municipal ordinances as well as the state statutes. The amount they will receive with this contract is \$85,600 per year. He believes it is not satisfactory that they're contracting their duties rather than keeping them as expansive as they originally were. Attorney Holscher stated he would amend the MOU and send it back to the Sheriff's Department.

B. Automatic Meter Infrastructure Service Agreement

As discussed in the previous meeting, it was determined that the town council had a responsibility to pick up the Sensus contract as the Wardwell Board had already approved the purchase of the system. Wardwell Attorney, Alia Scott, did not want to board entering into a 5-year contract as they are so close to dissolving. Attorney Holscher stated he agreed and it should be the responsibility of the Town of Bar Nunn.

C. Discussion: Exercise Equipment Bids

Mrs. Erica Ficken was present to advise the council on the distinctions between the 3 exercise equipment bids that were received. She recommended that the council choose Advanced Fitness for the Life Fitness equipment because it will be the best value due to the quality and durability of the equipment they would provide. Mrs. Ficken stated it would last a long time. Delivery and set-up fees were also included in their quoted price. They will also install the equipment as well. Attorney Holscher stated the question ultimately is whether the low bids met what the town was specifically requesting. Mrs. Ficken stated that the other bids had some pieces of equipment they could not provide, and they substituted other pieces of equipment in their bids. Attorney Holscher stated he did not understand the equipment, as told by his physique. Councilman Martin stated that Holscher's mustache is all the muscle he needs. Holscher responded, for a man with a mighty fine beard, that is the best compliment you can get.

Councilman Schwarzrock inquired how the town needs to document the rejection of the other 2 bids. Holscher stated we need to formulate why we rejected those bids, for example, we did not receive the complete material that had been sought. The bid was for that exact brand and setup, and none of the other bids were apples-to-apples what was requested.

Town Engineer, Ray Catellier stated that when CEPI has done similar processes, they did not necessarily reject other bids, but they accepted a bid because it was the only bid that met all the requirements. Attorney Holscher stated he could write up the acceptance with the assistance of someone who understands the equipment better than he does. As the bid from Advanced Fitness was the only bid that matched the request for bid as written, the council chose the bid from Advanced Fitness.

Moved by Tim Ficken, seconded by Tyler Martin, and carried without dissent to accept the bid from Advanced Fitness for the exercise equipment for the price of \$87,322.04 on the basis and for the reasons it was the only bid that fully complied with the request for bid proposal that was issued by the town and duly advertised.

18. **Miscellaneous Business:** None

19. **Executive Session:** Legal Matter

Mayor Boyer adjourned the regular council meeting and entered Executive Session at 8:48 p.m. Moved by Tyler Martin, seconded by Steven Clark, and carried without dissent to adjourn the regular council meeting to enter executive session.

20. **Reconvene Regular Council Meeting:** Mayor Boyer reconvened the regular council meeting at 9:12 p.m.

Roll Call: Mayor, Peter Boyer. Councilmembers: Tyler Martin, Tim Ficken, Steven Clark, and Frank Schwarzrock.

Moved by Tim Ficken, seconded by Tyler Martin, and carried without dissent to approve the town attorney to send the draft MOU to Casper, Natrona County, and Regional Water.

21. **Adjournment:** Moved by Steven Clark, seconded by Tim Ficken, and carried without dissent that there being no further business the meeting of November 7th, 2023, be adjourned at 9:17 p.m.

Respectfully Submitted by:
Kalista Schwarzrock, Town Clerk Treasurer

Peter Boyer, Mayor

ATTEST: (seal)

Kalista Schwarzrock, Town Clerk-Treasurer