



TOWN COUNCIL

MEETING MINUTES

Tuesday, February 6, 2024- 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, February 6, 2024, at 7:00 p.m. The roll was called which determined the presence of a quorum.
Present: Mayor, Peter Boyer. Councilmembers: Steven Clark, Tyler Martin, Tim Ficken, and Frank Schwarzrock
- 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) **Minutes of January 16, 2024:** Moved by Tyler Martin, seconded by Tim Ficken, Frank Schwarzrock and Steven Clark were recused due to their absence. The motion carried without dissent to approve the minutes for January 16, 2024.
- 4) **Current Payables List:** Moved by Steven Clark, seconded by Tim Ficken, and carried without dissent to approve the payables list of February 6, 2024.
- 5) **Payable List for December 2023 & The 23-24 Year-to-date Budget Report:**
Checks #31927–31999, Direct Deposit #2496–2484, ACH #32182473 & ACH #20059827. Moved by Tim Ficken, seconded by Steven Clark, and carried without dissent to approve the Payables List for January 2024.
- 6) **Resolution No. 2024-09** A RESOLUTION OF THE TOWN OF BAR NUNN ACKNOWLEDGING AND ACCEPTING BEING NAMED AS THE OWNER OF RECORD ON THE CERTIFICATES OF APPROPRIATION FOR:

PERMIT NO. 30386
O.R. 51, P. 425; C.R 82, P. 11; PROOF NO. 35593,
AND
PERMIT NO. 6101
O.R. 51, P. 425; C.R 82, P. 10; PROOF NO. 25409”
Moved by Steven Clark, seconded by Tim Ficken, and carried without dissent to approve Resolution No. 2024-09.
- 7) **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 that two of the items in his report will be the subject of the executive sessions.

-Blair Lane Improvement

Attorney Holscher noted that one of the oddities of taking over the Wardwell Water and Sewer District is that Wardwell had created a special improvement and service district within its district, which they're allowed to do under W.S.41-10-129. That had to do with the paving of Blair Lane. Blair Lane had an existing improvement service district prior to this. So, there are two districts on that particular street. One of them hasn't elected a board in quite some time, so it's inactive. Due to the statute that the latest improvement district was authorized under, its governing body is the Wardwell Board. What it did was expend a certain amount of money, which it is directly assessing over 5 years to pay for the improvements to that street.

The rationale was that the street was in pretty bad shape, and it was creating problems for Wardwell vehicles when they went down that street. Now that Wardwell is dissolving and we are taking over the operations of the district, it creates a problem in that the special service and improvement district is that it doesn't have a legal means to continue to exist as it presently is. Once Wardwell ceases to exist, the debt is still owed, so it will pass on to the Town of Bar Nunn. The question becomes how to legally keep collecting on it.

There is several options. We could simply treat it as a debt owed to the town. It's been transferred from Wardwell and directly assessed and regard it as an implied contract. Or a new special district could be formed, but that would have to be formed by the county because this street is not inside of the Town of Bar Nunn's boundaries. Those are the only realistic options.

Councilman Schwarzrock stated he read the attorney's report and noted there was some verbiage in it that said the town couldn't just

take on that debt and essentially pay it. He inquired why. Attorney Holscher clarified that a town cannot absorb the debt and simply excuse it like a private business can because it is a public debt. Councilman Schwarzrock inquired what the total of the debt was. Attorney Holscher stated that the total cost of the project wasn't large and totaled \$106,916.56, but he was unsure how much had been collected on it to date. Councilman Ficken clarified that the debt was a five-year note and Attorney Holscher confirmed that it was.

Councilman Schwarzrock stated the amount was not astronomical and it seemed like Wardwell had cash and assets that could just pay for the project. Attorney Holscher stated that the problem was that Wardwell did pay for it. It advanced its funds to pay for the project. Wardwell had pursued a grant through Natrona County and was refused the grant, so it advanced its own funds and created a special service improvement district to recover their funds.

Attorney Holscher stated it was probably not legal to do in the first place because it's a water and sewer district, which doesn't involve paving roads even if you create a special district to do it. So, if it wasn't proper to pay for the pavement of the road in the first place with their cash, forming a special district to do it doesn't change the fact that a water and sewer district should not be involved in road repair and maintenance. Councilman Schwarzrock inquired if the legality is in question and the Wardwell board will soon be dissolved, is the problem that there is no one to oversee the road improvement district? Attorney Holscher stated that the problem is that right now the board of trustees is still in place and the funds can still be assessed, but once Wardwell ceases to exist, the board ceases to exist with it, and the town does not become the board.

Councilman Ficken clarified with Attorney Holscher that the town can assume the liability of that debt and bill those residents the remainder of what is owed. Attorney Holscher stated that the debt is now the town's, but the town could regard it as an implied contract, and the cleanest thing to do is to have a new special district formed, which would require the cooperation of Natrona County. The county would probably have no interest in doing this because it would be a very weird special district if Natrona County formed it simply to facilitate the debt that we acquired. Attorney Holscher stated he did not believe the county would have much interest in doing that, but it could be done. The problem with the implied contract theory is that it is a theory, and it's not perfect. But it's a debt that's owed to Bar Nunn.

Attorney Holscher stated if we want to extinguish the debt, what we would have to do, though it would be unusual, would be to file a declaratory judgment action in the seventh judicial district naming the defunct board as a defendant, which would not exist and say that it ceases to exist so it's an uncollectible debt and ask for an order to extinguish it. Regardless, the matter needs to be addressed somehow.

Councilman Ficken inquired if, with some agreement with the county, the town would take over maintenance and ownership of that road. Attorney Holscher stated that no we would not. A municipality can form a special district, but it can't form one outside of the municipal boundaries.

Mayor Boyer asked the town clerk if she had any idea how much had been paid so far. She stated that less than a dozen residents have paid in full and some have made regular payments, but more have not paid than have. Councilman Schwarzrock inquired how the payments were structured. The town clerk stated that each parcel was billed \$937.87 and had five years to pay it in full.

Attorney Holscher stated that another possible solution would be to file a declaratory judgment action declaring it to have been an invalid entity in the first place and this to have just been an expenditure of the district and to which we now inherit and wipe it out. Attorney Holscher recommended that the council give the discussion some more thought and he would create an outline of the different options for how to approach this matter.

-Destruction of property

Attorney Holscher noted that he had been contacted by town staff regarding the destruction of locks and water valves at meter pits and what can be done about it. That is a crime that our property is being damaged on top of it being a violation of W.S. 6-3-408-Theft of Services. The town doesn't have an ordinance addressing this because it was never needed before. The town needs to create one that would impose a fee for tampering and it could just be added to the water bill for that account when it happens. He also recommended that in addition to that, the properties where locks have been cut and damage has been observed to the pit need to be reported to the Sheriff's office for theft of services and destruction of property.

Attorney Holscher stated that Mills imposes a \$50 fee to turn the water back on that had been turned off due to nonpayment. Bar Nunn could do that and have a fee for the destruction of property. To add those items to the water bills, the town would need to adopt an ordinance declaring those fees, otherwise, the town would have to consider civil action in these situations. The criminal penalty in extreme cases would be the biggest thing that may get their attention.

Mayor Boyer inquired if Attorney Holscher could have an ordinance ready by the next meeting. Attorney Holscher said he could, but the destruction of property and theft of services could be reported to the sheriff immediately since that is a violation of state statute. Director of public works, Robert Hoover reported to the council that it is not just cutting padlocks off meter pits, but cutting tabs off the water lines of the valve assemblies where we can't padlock them. To fix that, water will need to be shut the water down at the curb stop, take everything apart, change the fittings, and change the valve. Attorney Holscher inquired how much cost is involved in all of that. Mr. Hoover stated that with time and materials, it comes to about \$2,500. Holscher noted that would be worth pursuing civil action.

Councilman Schwarzrock had a comment that he felt was pertinent for Sheriff Harlin, who was in attendance. He stated that he knows personnel security is also an issue in these types of situations and that it had come up that personnel can try to do something for their own security. He stated he didn't feel comfortable with that because that is not their skill set and he didn't believe that is something that should be asked of them. He inquired if there was a reason staff was not contacting the Sheriff's department when

dealing with customers who have made threats and are posturing like that. Mayor Boyer stated that this is a problem that had come up recently that seems to be escalating and we are at the point where they will have to call the Sheriff's office when handling these situations. Mr. Hoover stated there had been some instances in the last few months where they had called for someone to be on standby during shut-offs.

-Wyoming Downs

Attorney Holscher stated that Wyoming Downs is contacting all the municipalities and the county. They spoke with representatives from every municipality in the Casper area except for Bar Nunn because they were not aware that we were here. Now that they know Bar Nunn is here, they would like to address the council. They are addressing the councils of Casper, Evansville, and the Natrona County Commissioners as well. They want to visit about putting in distance requirements between entities that have skill games, and they want Bar Nunn to support what is being proposed in the county. Holscher advised the council that there is currently nothing on the books pertaining to restrictions for these entities for the town.

Attorney Holscher asked the council if they wanted him to extend an invitation to Wyoming Downs to address them. The council determined that Wyoming Downs could attend a meeting and address them during the public comment portion.

- 8) **Engineer's Report:** A written report was submitted. Town Engineer, Ray Catellier, PE was present for council questions or comments. Mr. Catellier updated the council on the following items:

-Community Center & Town Hall Project: Mr. Catellier reported that the town still hall has the same completion deadline because the air handling units are still set to arrive in March. They are putting the finishing touches on a lot of different things, but there is no real push like there will be when the air handling unit arrives.

-Salt Creek Highway: Preliminary design for drainage improvements has been done in addition to the work that was talked about at the last meeting. Proposed solutions include putting concrete drainage into the WYDOT right-of-way with their blessing. Then doing some cleanup things to make maintenance easier, such as putting in concrete catch basins as opposed to the dirt swells that are currently there. Then it will just be a matter of removing a lid and cleaning it out instead of trying to get through the vegetation that will have grown over the years. Mr. Catellier said he plans to take this proposal to WYDOT to see if that's something that they agree with or if they have other ideas. Once he has their feedback, he will present that to the council.

-2024 Road Improvements: Originally, the plan was to improve Sunset Blvd in front of the new town hall because that road has been on the list for improvement for several years. A contractor will be coming to do a mill on the eastbound lane of Sunset by the new town hall. They will also be doing some minor milling on the bumps on Salt Creek. Mr. Catellier inquired if the council would want to move forward with doing the full reconstruction of Sunset on the half block or the full block from Antelope to Arena. That's the amount of street that needs to be redone. With the new curb and gutter on the half of the block, it makes sense to redo that portion. Mr. Catellier recommended that the council do something with the road from Antelope to the entrance of the building site in this next construction season. Mayor Boyer stated that the town would be doing a major road project on Salt Creek, so saving the money by doing the half-block option for now would be prudent. Mr. Catellier stated he would have some preliminary cost estimates and designs for the council's approval at the next meeting.

-Miscellaneous for Town Engineer: Councilman Clark asked if Sampson Construction approved a walk-through video of the new town hall. Mr. Catellier stated it had been approved and filmed with Councilman Martin but had fallen through the cracks with the holidays. He and Councilman Martin are planning to reshoot the video.

Mr. Catellier asked the council for permission to add an exterior door to the weight room. He presented very preliminary cost estimates to add an egress door of \$15,000-\$40,000. He proposed they add a door to the exterior that would be wide enough to get a lift in from the outside and then potentially a double door from the weight room into the gymnasium that could accommodate a lift for maintenance. Mr. Catellier stated that the council had cut costs in other areas and that enough has built up in the contingency to cover the expense. The council determined that was a necessary addition for the maintenance of the building and instructed Mr. Catellier to pursue design options and report back.

- 9) **Zoning & Planning Report:** A written report was submitted. Chairman, Gary Geiger was present for questions or comments from the council. He stated that at the last meeting on January 18, 2024, the zoning and planning commission approved a 60'x 60'x18' cold-formed steel building at 5069 Wardwell Industrial Avenue pending the removal of a trailer that is currently on the property.
- 10) **Fire Department Report:** A written report was submitted. Fire Chief, Robert Hoover, was present for questions or comments from the council. Mayor Boyer thanked Chief Hoover for the Fire Department attendance at the funeral for the daughter of one of Bar Nunn's firefighters. He stated that firefighter Crim is an impressive individual and is a blessing to the Bar Nunn Fire Department.

- 11) **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 on a water line break that took place on Circle Drive North and Trails End. Currently it's just backfilled and compacted with rotamill. In the spring, a contractor will remove the rotamill and put base in and get asphalt back in place. Water service was disrupted to the area for 5.5 hours. Mr. Hoover stated that a common issue with water line breaks is that the water isolation valves are to shut down water mains aren't working. The maintenance department is going through the valves and trying different options to get them operational. The valves become seized up, and since they are 6-7 feet in the ground, it would require excavation to repair them. The maintenance crew is exhausting other options to try to get those valves open so they don't have to resort to excavation. Councilman Schwarzrock inquired if Ferguson Waterworks may have a product to help flush those valves and loosen them. Mr. Hoover stated there is nothing they can do with them once they seize up. Councilman Schwarzrock asked what would be done moving forward for annual maintenance. Mr. Hoover said valves will be exercised twice a year. Mr. Schwarzrock asked how that would be tracked. Mr. Hoover stated that there is currently a spreadsheet. The maintenance department is in the process of identifying all of the valves in the system.
- 12) **Office Staff Report:** A written report was submitted. Clerk Treasurer, Kalista Schwarzrock, was present for questions or comments from the council. Mrs. Schwarzrock stated she implemented the new expense cards and has closed the other accounts. The new expense account will streamline and make tracking expenditures easier.
- 13) **Petitions & Public Comment:** Zoning and Planning Chairman, Gary Geiger, inquired of the town clerk if she had been able to reach to new appointee to the Zoning and Planning Commission. Mrs. Schwarzrock stated that she had no been successful in reaching her. Mr. Geiger stated she must not have wanted to position. Mayor Boyer instructed the town clerk to advertise the Zoning and Planning vacancy. Resident, Allan Burkindine, stated he was driving past the Fire Department and noticed that the flag was in bad shape. He stated that he took it upon himself to buy an all-weather flag and install it. He noticed that the flag at the Fire Department was not lit like the flag at the town hall and inquired why. Chief Hoover stated that the lighting system on the pole needs to be changed out. Mr. Burkindine stated that the electronic billboard outside of the Fire Department needs to be updated. Chief Hoover replied he had been out of duty for medical leave and had not updated the sign. Mayor Boyer stated that the council is considering placing electronic signs at each of the major intersections coming into town over the next few years and it will be discussed during the budget meetings. Councilman Schwarzrock asked Chief Hoover if the task of updating the billboard could be delegated to anyone else at the fire department. Chief Hoover stated he was considering it.-
- 14) **Council Business:**
- A. Discussion: Security Camera Quotes with Sanner IT**
Emily Sanner with Sanner IT presented the council with multiple options for security cameras and her recommendations. The council was also presented with a quote from Sound & Cellular. After reviewing the information presented, Mayor Boyer determined it would be best to designate an entire work session on the topic to review the options in depth.
- B. WyoStar Accounts**
The town clerk presented the council with the most recent WyoStar investment statements for the council to discuss how much to place into a new investment account through Wyoming Class. Moved by Tyler Martine, seconded by Steven Clark, and carried without dissent to move \$500,000 out of the WyoStar Bar Nunn general account to the Wyoming Class account named as the same.
- C. Official Letter Requesting Seat on Central Regional Water Board**
Attorney Holscher stated he had sent out the letter to Regional under the council's direction.
- D. Discussion: Blair Lane Improvement District**
Discussed under the attorney's report.
- E. Discussion: Wyoming Downs**
Discussed under the attorney's report.
- F. Business Licenses No. 2024-24 Through 2024-25**
Moved by Tyler Martin, seconded by Steven Clark, and carried without dissent to approve Business Licenses 2024-24 through 2024-25.

G. Audible Addition to the Agenda: Ken Balor with Octane Associates

Mr. Balor was present to discuss with the council the 2024 drag racing season. He stated that it would be the same setup as last year. He asked if the council had any questions, comments, or suggestions. Mayor Boyer stated they ran it so well last year and he was pleased with how clean the site was left after the races. Mr. Balor said there are a few things that will be different this year. He stated the June 15th race will be a suicide awareness fundraiser with J.R.'s Hunt; For Life. The September 7th race will be a fundraiser for

breast cancer awareness.

Mr. Balor inquired of Chief Hoover if the Fire Department might be interested in hosting their 2024 car show on the same day as the July 13th races to utilize a shared crowd. Mayor Boyer commented that would be a fun event. He also asked Chief Hoover if EMS would still be available to be on standby. Chief Hoover said they would be available.

Mr. Balor stated he would be contacting the property owners on the east side of Tonkawa to see if they could utilize that area more. That way, since they are doing fundraisers, vendors can set up booths and not be in the way of the races. He inquired if it would be possible to do road closures the night before because at the last race, several people had to be asked to move their vehicles late at night before the races. Discussion followed about signage and advertising the closures for upper Salt Creek, Tonkawa, and the western portion of West Winds.

Resident, Ken Hume, raised concerns about closing down the north side of the subdivision. He stated that is the residents of the northern part of Bar Nunn's primary evacuation route. He was concerned this closure would make residents have to reroute through the community to evacuate in the case of an emergency. Mr. Balor responded that everyone who parks on those streets for the event is told they have to leave egress for emergency services. The prior year, 30' car trailers left in the middle of the event with no issues getting through. Mr. Hume was still concerned that in the event of a mass evacuation, that area would be a mess. Mr. Balor stated he would only request that the west end of West Winds be closed the night before the races. Attorney Holscher stated that if there was a major town disaster, the racers would be evacuating as well. Councilman Ficken stated that a Sheriff deputy attended the races last year as well as the Fire Department. If an issue arises, they usually know before residents are alerted and can get the racers cleared out to make it easier for residents to evacuate. Mayor Boyer assured Mr. Hume that he appreciated his input and it was something to consider. Last year, racers had to park on the west side of Tonkawa for the very reason of making emergency evacuations easier.

- 15) **Miscellaneous Business:** None
- 16) **Executive Session-Property Matter:** Mayor Boyer adjourned the regular council meeting and entered Executive Session at 9:02 p.m. Moved by Tim Ficken, seconded by Tyler Martin, and carried without dissent to enter the Executive Session.
- 17) **Reconvene Regular Council Meeting:** Mayor Boyer reconvened the regular council meeting at 9:11 p.m.
Roll Call: Mayor, Peter Boyer. Councilmembers: Tim Ficken, Steven Clark, and Frank Schwarzrock.
Excused: Tyler Martin- Exited after the first Executive Session
No action was taken.
- 18) **Executive Session-Legal Matter:** Mayor Boyer adjourned the regular council meeting and entered Executive Session at 9:12 p.m. Moved by Tim Ficken, seconded by Steven Clark, and carried without dissent to enter the Executive Session.
- 19) **Reconvene Regular Council Meeting:** Mayor Boyer reconvened the regular council meeting at 9:24 p.m.
Roll Call: Mayor, Peter Boyer. Councilmembers: Tim Ficken, Steven Clark, and Frank Schwarzrock.
Excused: Tyler Martin
No action was taken.
- 20) **Adjournment:** Moved by Steven Clark, seconded by Tim Ficken, and carried without dissent that there being no further business the meeting of February 6th, 2024, be adjourned at 9:26 p.m.

Peter Boyer, Mayor

ATTEST: (seal)

Kalista Schwarzrock, Town Clerk-Treasurer