**BINGEN CITY COUNCIL MINUTES**

**April 4, 2023**

**Meeting Via Teleconference and In-Person**

The meeting was called to order by Mayor Pro Tempore Joseph O’Sullivan at 7:00 p.m.

Council members present: Phil Jones, Ryan O’Connor, Izzy Schroder, and Brittany Spratt. Staff present: City Administrator Krista Loney, City Attorney Christopher R Lanz, Fire Chief Carl Spratt, Police Chief Mike Hepner

Audience Present: Stan Dickey, Lori Kreps, Greg Kish, Jacob Bertram

**Public Comment**

None.

**Meeting Minutes – 3/21/2023**

The Council identified three changes:

1. The entire Voucher Approval section was from the previous meeting and needs to be replaced.
2. Councilor O’Connor was not in attendance at the March 21 meeting but was credited with providing the second for a motion.

Councilor Jones made a motion to approve the March 21, 2023 meetings with changes. Councilor Schroder provided the second, and the motion carried. Councilor O’Connor abstained as he was absent from the March 21, 2023 meeting.

**Bingen Fire Update**

Fire Chief Spratt provided the March 2023 fire report which includes 37 incident responses. The $100,000 grant funds from the Department of Natural Resources has been received and is ready to be spent. Chief Spratt is working to get quotes on the radios and transmission repairs. All 5 of the Bingen fire fighters who went through the EMT course passed their exams. Chief Spratt took the national exam today and passed.

**Bingen-White Salmon Police Update**

Police Chief Hepner stated that he will have the response numbers available by the next meeting. The Bingen-White Salmon Police are currently short-staffed. He is working to hire another officer that will need to go through a two-week equivalency course if this person gets hired. If anyone noticed a large police presence in Bingen on March 29, 2023, there was a stolen car out of Vancouver and the occupants stole some tools from Coastal. The police made arrests for possession of stolen property and the stolen car.

**Public Hearing-Short Term Rental Progress**

Mayor Pro Tempore O’Sullivan opened the public hearing at 7:09 p.m. Commenters were provided with 5 minutes each and no cross-talk was requested.

Greg Kish attended the meeting in person and asked why Bingen had no policy for years and is implementing a policy now. Mayor Pro Tempore O’Sullivan stated that this was encouraged as part of the Community Planning Event held on October 28, 2022. At that event local employers were vocal about the challenges of keeping employees due to their inability to find or afford local housing and associated need to commute. Greg stated that the issue is complex and not necessarily because of short-term rentals. Many people want to live in the Gorge, which drives up prices. He added that local employers don’t necessarily pay a wage that is high enough to fund the cost of living in the local area.

Administrator Loney provided council with a memo regarding progress made towards establishing a policy. Research has been conducted, a small citizen group met on Monday, March 27, additional research was requested which she is working on now, and the invitation to participate in the Short-Term Rental Workgroup is extended to the community.

Administrator Loney read in a public comment that was submitted via email from an author who wanted to remain anonymous. That comment reads:

*Regarding Ordinance 2022-09-730, also known as the "Short-Term Rental Moratorium", as a rental property owner in Bingen, I have the following concerns:*

*1.  Notice of a public hearing regarding short-term rentals was published in the Columbia Gorge News on 10.12.22.   The hearing was held on 10.18.22, yet no one from the public was in attendance.  I won't speak for all property owners in Bingen, but I for one, would have appreciated being notified in an additional format as the City of Bingen's previous website was not being kept current during that time (no notification of the hearing was posted on the City of Bingen website.  Per Mayor Kiewit, "Staff were not consistent with updating the old website once the new one was close to being finished” and "The RCW leaves the responsibility for establishing a noticing procedure to the City. The City of Bingen does not have a noticing procedure in place". The public understands that posting a notice of public hearing on a municipality's website is not a requirement for a municipality of Bingen’s size but believe the city should make some kind of effort to reach business owners who do not reside in Bingen in the future and surely the city needs to establish a noticing procedure.*

*2. Ordinance 2022-09-730 passed by vote of the majority plus one, which prompted the Council to declare the ordinance an emergency ordinance.*

*3.  The definition of the "short term rental" contained in the ordinance 2022-09-730 at the time it was signed/enacted on 10/18/22, was unclear, confusing, and rather ambiguous; it defined a short-term rental as "a few or fewer than thirty days".*

*4.  Bingen's City Administrator sent "Cease and Desist" letters to all rental property owners who did not know that the ordinance even existed or went into effect on 10/18/22 and stated that “In order to run a short-term rental, you must have a Washington State Business License for that purpose”. The letter made no mention of a City business license or a City endorsement, and neither did the ordinance or public news article that was related to the ordinance.  Yet, further correspondence by Bingen's City Administrator contradicted the original information passed on to rental property owners by stating "In addition to having a Washington State business license, you also must have a City of Bingen business license with Rental as the business category”.  The City should have been clear and concise with this information from the start before sending "Cease and Desist" letters by mail, referring to our "ignorance of the law", and threatening to charge us with a gross misdemeanor for non-compliance with the ordinance.*

*3.  No meeting minutes from the 10.18.22 Council meeting or Public hearing that followed appeared on the City of Bingen website for public viewing until after 11.15.22.  Per Mayor Kiewit, "Staff were not consistent with updating the old website once the new one was close to being finished".*

*4.  An article, as mentioned above, was published regarding the ordinance/moratorium in the Columbia Gorge News on 10.26.22, however, the article did not meet the legal definition of a summary nor did the article give the location of where readers could find a copy of the actual ordinance.*

*5.  The article mentioned above was written as a news story and quite frankly, an opinion piece.  Bingen's City Administrator clearly stated in the article that "Before the moratorium there were no regulations limiting the use of short-term rentals in the City of Bingen. City staff have verbally discouraged interested parties calling into City Hall due to the extent of the housing problem in Bingen and across the county and state”.   Ref. Bertram, Jacob “Bingen enacts moratorium on short-term rentals” Columbia Gorge News 10.26.22 Vol. 3 Issue 43. pg.1/continued on pg.3 under “Rentals No restrictions prior to moratorium”*

*For city staff to have openly discouraged/ dissuaded interested parties (which, in this scenario, would include property investors, property owners, and/or small business owners, would-be owners, and others) from operating short-term rentals because of your/their personal and/or political views is highly unethical/extremely troubling. RCW 42.30.010 states “The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know.” I think I speak for the public when I say that I sincerely hope that city staff gave these interested parties the information they were seeking, not just the personal and/or political opinions of the city staff.*

*6.  Ordinance 2022-09-730 did not appear on the City's website for public viewing until after 11.15.22.  Per Mayor Kiewit, "Staff were not consistent with updating the old website once the new one was close to being finished".*

*7.  Ordinance 2022-09-730 No. 6 clearly stated that the council was to conduct “a public hearing within 60 (sixty) days of the moratorium” (which should have commenced on or before December 17, 2022). The same very article in the Columbia Gorge News on Oct. 26 2022 as referenced above speaks to this also; however, it was confusing, unclear, and ambiguous as it stated that the moratorium “requires a public hearing to be held 60 days in advance of the passage of the moratorium".   Per Mayor Kiewit, "This was reported incorrectly. The 60 day hearing is to be held after the moratorium is enacted. Councils can then decide to either reverse the moratorium or allow it to go through the full six months, when it would automatically expire unless councilors voted to extend it further.”*

*Mayor Kiewit made it a point to speak about the 60 day Public Hearing requirement when Ordinance 2022-09-730 passed during the 10.18.22 meeting and said that she was "sure people would have big feelings about this".  Yet no 60 day public hearing was ever scheduled.  Per Mayor Kiewit, "This was an honest mistake. Staff overlooked our own requirement. We did fail to do something that we said we were going to do. We consulted our attorney and the City will have a hearing as quickly as is reasonable to address that this was missed. It has already been scheduled for the next Council Meeting on April 4, 2023" (which is TODAY. at 7 p.m... only two weeks before expiration of Ordinance 2022-09-730, which from the sounds of the last City council meeting, the City council plans to extend another six months, unless something has changed.*

*Lastly, tonight's Public Hearing announcement has been advertised as an "extension" of the moratorium (see below).  It makes no mention of it being a delayed 60 Day Public Hearing for the public to weigh in on the initial moratorium that is due to expire on 4.18.22 OR for council to reverse the moratorium.  I am officially voicing that I believe, for all of the reasons above, that Ordinance 2022-09-730 should be noted as INVALID and I for one, would like for Council to consider reversing the ordinance.  Otherwise, I believe that it calls for a submission of a proposition for the repeal of the ordinance.*

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A person who attended via phone was asked if they had a comment to make and they stated that they did not. The public hearing was closed at 7:28 p.m.

**Public Hearing – Possible Extension of Short-Term Rental Moratorium**

Mayor Pro Tempore O’Sullivan opened the public hearing at 7:29 p.m. Commenters were given five minutes to speak and no cross-talk was requested.

Councilor Schroder asked what would happen if the moratorium was allowed to expire. Administrator Loney responded that the process to operate a short-term rental in Bingen would revert to what they previously were: having a Washington State Business License with a City of Bingen license/endorsement to run a short-term rental.

The public hearing was closed at 7:34 p.m.

**Dickey Farms Leak Appeal Hearing**

Mayor Pro Tempore opened the hearing at 7:35 p.m. by asking if there were any conflicts of interest for council to not be able to make a ruling. None of the Councilors stated that they had a conflict.

Stan Dickey turned the presentation over to Lori Kreps. Lori provided the following chronology:

* At the time of the initial leak Dickey Farms was issued a water shutoff notice because of DR O’Hara. They were told they had to pay their bill or service would get shutoff.
* 8/8/2019 the master meter was installed on the line
* 8/12/2019 Dickey Farms received a bill for $84.51 that was DR O’Hara’s responsibility. They sent notice to the City of the error.
* 8/31/2019 Dickey Farms received a shutoff notice and sent a letter requesting a hearing.
* 12/10/2019 Dickey Farms’ attorney advised Dickey Farms to stop payment until ownership of the waterline was determined. Dickey Farms was paying the minimum balance out of courtesy.
* 1/22/2020 Dickey Farms received shutoff notice
* 2/27/2020 Dickey Farms received shutoff notice
* 4/24/2020 A repair agreement was made between the City and Dickey Farms stating that if Dickey Farms repairs the line and is successful in the lawsuit the City would be required to repay the funds that were spent to fix the line.
* 11/3/2022 Dickey Farms and all tenants on the disputed line received shutoff notices
* 11/10/2022 Dickey Farms was told that their balance owed is $12,245.76 which they paid under protest.
* 11/23/2022 City of Bingen issued a leak adjustment offer of $9,595 back to Dickey Farms.
* 2/3/2023 City of Bingen issued a follow-up leak adjustment offer of $9,595 to Dickey Farms setting a deadline of March 10, 2023.
* 3/10/2023 Dickey Farms submits paperwork stating that they don’t agree with the $9,595 and requesting $17,388.71.

Lori Kreps stated that Dickey Farms doesn’t feel it should be held accountable for the leak, that they were threatened with shutoff, that the master meter was not requested, and she passed out a spreadsheet for council to review. Council would like time to review the math. Councilor Schroder made a motion to defer this discussion for a special meeting to be held on or before April 12, 2023. Mayor Pro Tempore O’Sullivan provided the second and the motion carried. The hearing was closed at 7:55 p.m.

The special meeting will be held on Tuesday, April 11, 2023 at 7 p.m. in Council Chambers. Lori Kreps will attend.

**The Society Hotel Signage Review**

The Society Hotel would like directional signage on SR-14 to help visitors find their establishment. Jonathan Cohen worked with Mayor Kiewit and Gary Weiss at WSDOT. Gary provided a hardcopy presentation for Council’s review. Councilor Schroder stated that the signage may lead to other businesses up in White Salmon asking for directional signage. Councilor Jones made a motion to approve the signage for The Society Hotel. Councilor Schroder provided the second and the motion carried.

Resolution 2023-006 Cancelling Certain Warrants and Checks

Administrator Loney provided a memo to council and a copy of resolution 2023-006. This resolution is necessary because two members of the Bingen Fire Department did not cash their compensation checks and the time has runout to do so. This resolution authorizes staff to cancel these checks and issue new ones.

Councilor Jones made a motion to adopt Resolution 2023-006 Cancelling Certain Warrants and Checks. Councilor O’Connor provided the second and the motion carried.

**National Public Safety Telecommunicators Week Declaration**

Mayor Pro Tempore made a motion to proclaim April 9-15, 2023 as National Public Safety Telecommunicators Week. Councilor Schroder provided the second and the motion carried.

**Staff Reports**

Administrator Loney presented the following updates:

* The Transportation Alternative Program application was submitted 3/31/2023. The request is $100,000 for design work for sidewalks on Alder and Cedar.
* Bingen will find out next week if the city is encouraged or discouraged to apply for the Commerce grant to install a Level 3 vehicle charger.
* The Fire Department has asked if the City can purchase AEDs for City Hall, the treatment plant, and the public works shop. Available grants are being researched.
* Councilor Spratt, David Spratt, and Administrator Loney are going to meet this week to review the vision for the park and see how far the footprint of the playground can be expanded.
* The reporting window for the AROA funds expended between April of 2022 and March of 2023 opened 4/3/2023 and the City’s report is already submitted. With the expenditures and $35,000 pledged to the pool, there is $103,031.93 in ARPA funds remaining. These must be allocated by 2024 and spent by 2027.
* The interlocal agreement with the Klickitat County Sheriff for housing of prisoners is expired. Loney is working to get a new one in place.
* Loney is going to begin work on the 1991/1995 interlocal agreement with White Salmon on wastewater treatment. This will be a long process.
* Smoke testing is scheduled to happen in Bingen on 4/5/2023. Many thanks to Justin Black of Doc Roscoe’s, Lupe Lemon, and the youth of the LDS church for putting out door tags.
* The treatment plant has hired a part-time, seasonal worker and she will begin work on 4/10/2023.
* The tank order has gone in meaning that the Oak Street reservoir project won’t be finished until 2024. Funds that were being set-aside for loan payments will be diverted to funding a rate study. The small works roster for this has gone out and bids are due by 3 p.m. on Friday, April 21, 2023.
* Street light work is complete and paid for. Tree work is complete and needs to be reviewed by Mayor Kiewit.
* Staff conducted a duplicate bill fee audit and discovered 5 people who were paying duplicate bill fees and duplicate bills were not being sent. This error has been corrected and Bingen issued $144 in refunds or bill credits to these 5 people.
* The Fire Department has requested the same silver metal sign that is on the west side of City Hall. Loney is procuring quotes.
* The annual report to JLARC for lodging taxes is complete.
* The annual report to the SAO is ready for budget committee review on 4/20/2023.

**Mayor’s Update**

None.

**Council Comments**

Councilor Schroder stated that she met with Councilor Jones, Mayor Kiewit, and Administrator Loney recently to work on the Transportation Improvement Program (TIP) which went well.

**Voucher Approval**

Payroll Checks (Dated 3/31/2023) and Payroll EFT (Dated 3/31/2023) totaling $32,928.83; General Fund - $11,785.62, Street Fund - $6,757.43, Water Fund - $3,872.00, Sewer Fund - $1,131.97, and Treatment Plant Fund - $9,381.81

Councilor O’Sullivan made a motion to approve the Payroll dated March 31, 2023. Councilor O’Connor seconded the motion, and it passed unanimously.

Claims Checks 23674-23701 (Dated 4/4/2023) totaling $86,038.39; General Fund - $38,102.62, Street Fund - $3,116, Water Fund - $14,187.32, Sewer Fund - $3,387.60, Treatment Plant Fund - $5,079.01, Water Short-Lived Assets Reserve - $16,061.05, and Water Capital Reserve Fund - $6,104.79

Councilor Schroder made a motion to approve the Claims dated March 21, 2023. Councilor Spratt provided the second and it passed unanimously.

**Adjournment**

Mayor Pro Tempore O’Sullivan adjourned the meeting at 8:24 p.m.