**REGULAR MEETING**

**DOWNEY CITY COUNCIL**

Downey Community Center, 21 South Main

**TUESDAY, FEBRUARY 9, 2021**

**7:00 PM**

**ATTENDANCE:** - Mayor Rex Nielsen, Grant Johnson, Dan Wilson, Bonnie Hill, Matthew Henderson, Selena Guthrie, Jennifer Cooper, Gary Barnes (Telephone Conference)

**PATRONS-** Barbara Hill, Ron and Sarah Matkin, Officer Iverson, Officer Armstrong, Clayton Hulet, Wendy John, Brent Brown, (virtually) Paul Stewart - Investment Officer, Shawn Nydegger, CGIP - Investment Officer from the Idaho State Treasurer’s Office

**CALL TO ORDER:** **Mayor Nielsen called the meeting to order and welcomed those attending the meeting.**

Selena Guthrie offered the invocation and led the group in the Pledge of Allegiance.

**ACTION ITEM - Consider Approval of the Agenda**

**Dan Wilson made the motion to approve the Agenda, seconded by Bonnie Hill, all voted aye, motion carried.**

**ACTION ITEM - CONSENT AGENDA**

**The following business items may be approved by one motion and a vote. If any one member of the Council so desires, any matter listed can be moved to a separate agenda item.**

1. **Council Minutes** – January 12, 2021
2. **Accounts Payable** – February 2021

C. **Business Licenses**- Richard Austin Construction and Vivint, Inc.

**Bonnie Hill made the motion to approve the Consent Agenda, seconded by Grant Johnson****, all voted aye, motion carried.**

**Law Enforcement**

**NOTES-** Bannock County Sheriff’s Department had nothing to address at this meeting.

- Mayor Rex Nielsen thanked the Sheriff’s department for all they do for our community.

**DISCUSSION ITEM- The Idaho State Treasurer’s Office Presenting Information on The State Investment Pool (Virtually by Zoom)**

**Paul Stewart** - Investment Officer

**Shawn Nydegger, CGIP** - Investment Officer

Idaho State Treasurer’s office  
Local Government investment Pool

Overview -

Local Government Investment Pool (LGIP), Short-term cash alternative, intended for operating momies, Municipal funds pooled, together for greater purchasing power, Objectives, Safety, Liquidity, Yield

**Who invests in the LGIP?**

School Districts, Health Districts, Hospital Districts, Public Charter School, Soil Districts, Irrigation Districts, Library Districts, Counties, Highway Districts, Sewer and Water Districts, Fire Districts, Miscellaneous Districts and Cities

**Allowable Investments**

Bank Deposits, Idaho Municipal Bonds, General Obligation and Revenue bonds of the State and any taxing district in Idaho, Corporate Bonds, Must be rated A or better by two ratings agencies at time of purchase, Commercial Paper, Asset Backed Securities, Repurchase Agreements

**LGIP Operation**

Next day liquidity (ACH transactions), 2pm cutoff time, Same day liquidity if funds are available (wire), 10:00am cutoff time, eBank, Request transactions, Print monthly statements, Forms

**Disclaimer**

An investment in the LGIP is not insured or guaranteed by the Federal Deposit Insurance Corporation, the State of Idaho, or any other government agency.

Although the LGIP seeks to preserve the value of your investment at $1.00 per share, it is possible to lose money by investing in the LGIP.

The LGIP deposits monthly and January’s percentage was 0.29%

Grant Johnson asked Paul Stewart how the City of Downey would set up an account.

Paul replied, by filling out the application Selena Guthrie has printed out and has put in the City Councils’ packets.

**ACTION ITEM- Consider approval of Amending the Livestock Ordinance**

*The Council and the City Attorney have reviewed the following amendments to the Livestock Ordinance.*

**Dan Wilson made the motion to approve the Amending of the Livestock Ordinance, seconded by Bonnie Hill, all voted aye, motion carried.**

*1. The minimum area livestock are required to have is one-half (1/2) acre FENCED per large animal over 200 lbs., such as a Horse or Cow. Small animals are required to have one-half (1/2) acre FENCED per two animals; such as 2 sheep or 2 goats. Said fence must be adequate in preventing the animal from trespassing upon the property of others or annoying or chasing other persons.*

*2. No more than 10 fowl will be allowed per residence.*

*3. No Roosters, male goats, bulls or stud horses will be allowed.*

*4. Temporary Permit upon written application by a property owner within the City Council may issue a temporary grazing permit to allow livestock to graze within the City limits for a period of time set by the Council but not to exceed ~~six (6) months~~ one (1) year. The member of livestock to be allowed shall be determined by the City Council. The applicant shall set forth in his or her application the reasons why he or she believes the temporary permit should be granted.*

*4‑3A‑3: EXISTING USES:*

*Any person who heretofore has kept livestock within the city limits shall have the right to continue to do so; provided, however, that should any such landowner or city resident fail to exercise his rights to keep such animals for a period of ~~six (6) months~~ one (1) year or more, such existing use shall be deemed forfeited and future harboring of livestock shall require the permit as set forth herein. Provided further, however, that for those types of livestock which traditionally are seasonally pastured at places other than within the city limits, such ~~six (6) month~~ one (1) year time limitation shall be tolled during the period when said livestock are being pastured seasonally elsewhere. (2010 Code)*

**ACTION ITEM- Consider approval of Amending the Animal Control Ordinance**

*The Council and the City Attorney have reviewed the following amendments to the Animal Control Ordinance*:

**Bonnie Hill made the motion to approve; Amending of the Animal Control Ordinance, seconded by Grant Johnson, all voted aye, motion carried.**

*4‑3‑4: COMMERCIAL KENNEL LICENSING AND REQUIREMENTS:*

*A. License Required; Compliance: An owner of a commercial kennel shall obtain a commercial kennel license according to the terms specified in this section. A maximum of five (5) dogs will be allowed per residence. A Commercial Kennel license must be renewed and reviewed annually by the City Council. No person may own or harbor a pit bull breed of dog.*

*B. Use and Premises Requirements; Payment Of License Fee:*

*1. Commercial kennel licenses shall be issued only when the use of the premises upon which the kennel is located conforms with zoning statutes and ordinances adopted by the city.*

*2. When the premises are in conformity with applicable zoning requirements and regulations, a commercial kennel license shall be issued upon payment of the fees specified in section 4‑3‑3 of this chapter, and shall be in lieu of individual dog licenses.*

*C. License Nontransferable; Annual Renewal: Commercial kennel licenses shall not be transferable, and shall be subject to annual renewal and reviewal by the City Council as specified in section 4‑3‑3 of this chapter.*

*D. Maintenance Of Animals: All dogs covered by a kennel license shall be maintained and kept within the kennel or under leash. (2010 Code)*

*E. Permit Requirements: Permission of Adjacent property owners: That permission of seventy-five percent (75%) of neighbors within four hundred foot (400) radius of the place where the animals are to be kept is obtained by the Applicant and written confirmation of the permission is presented to the city council.* *Signatures of nearby property owners will be required on ~~an annual basis~~ an initial license application ~~before a Commercial License may be renewed~~; however, a Commercial Kennel License must be renewed annually in order for City Council to review such license to determine if all requirements have been met to maintain such license and if complaints by neighbors justify a hearing to revoke such license.*

*4‑3‑5: NONCOMMERCIAL KENNEL LICENSING AND REQUIREMENTS:*

1. *License Required; Compliance: The owner of a noncommercial kennel shall obtain a noncommercial kennel license from the Downey city office according to the terms specified in this section. A maximum of five (5) dogs will be allowed per residence. A noncommercial kennel license must be renewed and reviewed annually by the City Council. No person may own or harbor a pit bull breed of dog.*

*B. Application For License; Information Required: The application for a noncommercial kennel license shall include the name and address of the owner and the number of dogs to be kept.*

*C. Payment Of Dog License Fees: In addition to the above requirements, a noncommercial kennel licensee shall pay all individual license fees required in section 4‑3‑3 of this chapter.*

*D. License Nontransferable; Annual Renewal: Noncommercial kennel licenses shall not be transferable, and shall be subject to annual renewal and reviewal by City Council as specified in subsection 4‑3‑3E of this chapter.*

*E. PERMIT REQUIREMENTS: Permission of Adjacent property owners: That permission of seventy-five percent (75%) of neighbors within four hundred foot (400) radius of the place where the animals are to be kept is obtained by the Applicant and written confirmation of the permission is presented to the city council Signatures of nearby property owners will be required on ~~an annual basis~~ an initial license application ~~before a Noncommercial Kennel License may be renewed~~; however, a Noncommercial Kennel License must be renewed annually in order for City Council to review such license to determine if all requirements have been met to maintain such license and if complaints by neighbors justify a hearing to revoke such license.*

**DISCUSSION ITEM- Nuisance Ordinance**

CHAPTER 1

NUISANCES

**ARTICLE B. WEED AND WASTE MATTER ABATEMENT**

SECTION:

3-1B-1: Nuisances Prohibited

3-1B-2: Public Nuisances Designated

3-1B-3: Nuisance Abatement Notice

3-1B-4: Serving Abatement Notice

3-1B-5: Appeal Procedure

3-1B-6: Removal Of Nuisance: Time Limit

3-1B-7: Failure To Abate; Remedial Action

3-1B-8: Abatement By City; Assessment Of Costs

3-1B-1: **NUISANCES PROHIBITED:** No owner of any lot, place or area within the city, or occupant or person in control of same, shall permit on such lot, place or area, or upon any street, sidewalk or public right of way abutting the same, a public nuisance to exist, as herein defined and found to exist by the ~~fire chief or his authorized representative, or the Bannock County sheriff or his~~ city authorized representative~~s~~. (2010 Code)

3-1B-2: **PUBLIC NUISANCES DESIGNATED:**

1. Public Nuisances Described; Vegetation, Garbage As Fire Hazard: All Weeds, dry grass, trees, shrubs and other vegetation; rubbish, garbage, trash or any material present upon the streets, sidewalks adjacent to public rights of way or upon private property within the city, which by reason of size, manner of growth or location, constitute a fire hazard to any building, improvement, crops or other property, as well as weeds and other vegetation, which by reason of promiscuous propagation are likely to cause damage to public streets and sidewalks or which interfere with the reasonable enjoyment by the neighbors, are declared to be a public nuisance. Accumulations of weeds, grasses, old haystacks and other vegetable growth, which are unsightly or injurious to the public or to neighboring residents or owners of property within the city.

B. Exceptions; Firebreak: Regularly cultivated, mowed and useful grasses and pastures shall not be declared a public nuisance. If, however the ~~fire chief or his~~ city authorized representative determines it necessary to protect adjacent improved property from fire exposure, an adequate firebreak may be required.

C. Waste Matter Declared Nuisance: “Waste matter”, as defined in subsection D of this section, which, by reason of its location and character, is unsightly or which interferes with the reasonable enjoyment of property by the neighbors, or which would materially hamper or interfere with the prevention or suppression of fires upon the premises, or any adjoining premises, or the abatement of a nuisance as described in this section, is declared a public nuisance.

D. Waste matter Defined: “Waste matter” is defined, for the purpose of this article, as unused or discarded matter having little or not substantial market value, which is exposed to the elements and/or is not enclosed in any structure or otherwise completely concealed from public view, and which consists (without limitation or exclusive enumeration) as such matter and material as:

1. Rubble, to include asphalt, concrete, plaster, tile, dirt and/or gravel piles, unused building or mobile home foundations.
2. Rubbish, to include crated cartons, metal and glass containers, newspapers, boxes, wood shavings, PLASTICS, lumber scraps, bedding, lawn clippings, furniture, home appliances, washers, dryers, freezers, refrigerators, dilapidated outbuildings, and fragments of buildings.
3. Vehicular components, to include automotive bodies, trailers, tires, farm equipment and commercial equipment components and parts thereof. (2010 Code)

3-1B-3: **NUISANCE ABATEMENT NOTICE:** If it is determined by the ~~fire chief or his authorized agent, or the Bannock County sheriff or his~~ city authorized representative that a public nuisance, as described in this article, exists on any lot, place, or area, or upon any street, sidewalk or public right of way abutting the same, the ~~chief of the fire department or the Bannock County sheriff or an authorized agent~~  city authorized representative shall cause a notice to be issued to abate such nuisance. Such notice shall be headed “Notice To Clean Premises”; shall contain a description of the property in general terms reasonably sufficient to identify the same; shall direct the abatement of the nuisance; shall specify the penalty provision as provided herein; and shall specify the appeal process as provided herein. Such notice may be on a form prescribed by the city. (2010 Code)

3-1B-4: **SERVING ABATEMENT NOTICE:** An abatement notice may be served in the following manner:

A. Personal Service To Owner Or Occupant: By personal service on the owner of said lot, if the owner lives within the city: and by personal service on the occupant or person in charge or control of the property, if such person can be identified.

B. Registered Mail To Owner: If said owner does not live within the city, by registered mail to the owner at the address shown on the last available assessment roll, or as otherwise known; and, by personal service on the occupant or person in charge or control of the property, if such person can be identified.

C. Owner Unknown; Publication; Posting On Property:

1. Should the owner not be known or have an available address, by posting at a conspicuous place on the land or abutting a public right of way and by publication of said notice at last once a week for the period of two (2) weeks in a newspaper of general circulation in the city and by personal service on the occupant or person in charge or control of the property, if such person can be identified.
2. Said newspaper advertisement shall be a general notice that property in the city has been posted in accordance with this article and shall contain a general statement of the effect of such posting.
3. The date of such newspaper advertisements shall not be considered in computing the appeal periods provided by this article. (2010 Code)

3-1B-5: **APPEAL PROCEDURE:** Withing ten (10) days from the date of posting, mailing or serving an individual an abatement notice, the owner or person occupying or controlling such lot, place or area affected may appeal to the city council. Such appeal shall be in writing and shall be filed with the city clerk-treasurer. At the regular meeting, or recessed meeting of the city council, not less than ten (10) days nor more than twenty-six (26) days thereafter, the city council shall proceed to hear and pass upon such appeal, and the decision of the city council thereupon shall be final and conclusive, (2010 Code)

3-1B-6: **REMOVAL OF NUISANCE; TIME LIMIT:** It shall be the duty of the owner or person occupying or controlling any lot, place or area in the city which has been declared a public nuisance as provided in this article, within ten (10) days from the date of notification as provided in this article, or in case of an appeal to the city council, within ten (10) days from the determination thereof, unless the same is sustained, to remove the nuisance as stated. (2010 Code)

3-1B-7: **FAILURE TO ABATE; REMEDIAL ACTION:** Failure to abate the stated nuisance shall be a misdemeanor. The provisions of this article are not exclusive remedies, and the city may invoke all remedies, civil and criminal, provided for abatement of nuisances. (2010 Code)

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3-1B-8: **ABATEMENT BY CITY; ASSESSMENT OF COSTS:**

A. Abatement: Upon the failure to abate a stated nuisance within the time limits provided for in this article, the city may removed the same, doing whatever is necessary to accomplish the abatement, cleanup, removal and related work.

B. Collection Of Costs: The costs thereof may be assessed against the property and collected as provided by law, or the city may collect the costs by civil action. (2010 Code)

CHAPTER 2

**TOXIC OR HAZARDOUS CHEMICALS**

SECTION:

3-2-1: Transporting Toxic Or Hazardous Chemicals

3-2-2: Storage Of Chemicals

3-2-3: Failure To Remove; Impoundment By City

3-2-4: Violation; Fine

3-2-1: **TRANSPORTING TOXIC OR HAZARDOUS CHEMICALS:** It shall be unlawful for any person, firm or corporation to allow vehicles carrying or transporting toxic or hazardous chemicals or any agricultural chemicals or empty containers, which chemicals are to be or may have been used for commercial spray application, to be parked within the city limits for any length of time; provided, however, that such vehicles may be parked at the Downey airport, but only if such containers are closed and not easily opened. (2010 Code)

3-2-2: **STORAGE OF CHEMICALS:** It shall further be unlawful for any person, firm or corporation to allow any agricultural chemical containers greater than 2 ½ gallons which are used for commercial applications to be placed or stored within the city, unless such containers are stored at the Downey airport. (2010 Code)

3-2-3: **FAILURE TO REMOVE: IMPOUNDMENT BY CITY:** Any person, firm or corporation who violates the provisions of this chapter and shall fail to remove such vehicle when requested shall have such vehicle removed by wrecker or other appropriate means to a place outside the city limits ~~or to the Downey airport~~ at the owner’s expense. The vehicle shall be impounded by the city until the owner shall pay all of the costs incurred by the city in the removal of such vehicle. (2010 Code)

3-2-4: **VIOLATION; FINE:** Any person, firm or corporation failing to comply with the provisions of this chapter shall, upon conviction thereof, be fined, in addition to having the vehicle removed as set forth in section 3-2-3 of this chapter, a fine as provided in section 1-4-1 of this code ~~for each parking violation. Each parking violation shall be deemed to be a separate offense, and a separate penalty shall be assessed for each violation.~~ (2010 Code)

**ACTION ITEM- Consider approval of Amending the Water Service Rates and Regulations Ordinance**

*The Council and the City Attorney has reviewed the following amendments to the Livestock Ordinance*:

**Dan Wilson made the motion to approve the Utility Deposit Ordinance, seconded by Grant Johnson, all voted aye, motion carried.**

*CHAPTER 1*

***WATER SERVICE RATES AND REGULATIONS***

*SECTION:*

*7-1- 1: Application For Service: Deposit Required*

*7-1- 2: Water Rate Billings; Payments; Delinquencies*

*7-1- 3: Hookup Fee Reduction For Certain Businesses*

*7-1- 4: Right Of Access For Inspection*

*7-1- 5: Service Connection Requirements; Applications*

*7-1- 6: Irrigation Water Regulations*

*7-1- 7: Turn Off By City For Repairs Or Extensions; Precautions*

*7-1- 8: Water Meters*

*7-1- 9: Abandoned Service Installations; Disconnection*

*7-1-10: Prohibited Acts*

*7-1-11: Violations; Penalties*

*7-1-1:* ***APPLICATION FOR SERVICE; DEPOSIT REQUIRED:***

1. *Monthly Payments: Payment for all water used by any users of water from the waterworks system owned and operated by the city shall be made monthly and shall be paid upon receipt of a water bill from the city.*
2. *Application For Service; Information Required: Any person desiring to be supplied with water from the city waterworks system shall make an application in writing. The application shall state:*
3. *The name and address of the applicant;*
4. *The purpose for which water service is requested;*
5. *A description of the premises or building;*
6. *Whether the applicant is the owner of said premises or building or a tenant or occupant under contract; and*

*5. An acceptance by such applicant of this chapter and the rules and regulations which may be prescribed by the city relating to water service or distribution.*

1. *Security Deposit Required; Exception:*
2. *A security deposit shall be required, by the applicant, of double the current utility bill, for each residence, building or lot and shall be deposited with the city clerk-treasurer.*

*2. This ~~water~~ security deposit for new applicants, excepting tenants, shall be returned one year from the date of deposit, provided the applicant has not been late on any payment, and all payments are current. If payments are not current, deposit may be applied to any past due payment. A water deposit made by a tenant shall not be returned until tenant vacates premises where he or she resides.*

*3. However, no such security deposit shall be required of any tenant, lessee or occupant under contract if such person shall present with his application for water service a guarantee of the owner or agent of the premises, in such form as provided for by the city.*

*4. The city may apply a security deposit to a past due account without prior notice to the water user. (2010 Code)*

*7-1-2:* ***WATER RATE BILLINGS; PAYMENTS; DELINQUENCIES:***

1. *General Billing: There shall be a minimum charge per month, to be set by the council, for the use of water from any outlet for any property. This charge shall be made for each and every month while the water is turned on for use at such outlet for such property or the occupant or user therefrom, until such water is ordered or requested shut off, or unless otherwise shut off by the city as herein provided, whether any water is used through such outlet for such property or consumer or not.*
2. *Due Date: All payments for water shall be due and payable on or before the expiration of the month following the use of the water. All payments for water shall be made at the Downey city office to the city clerk-treasurer.*
3. *Turn Off For Nonpayment:*

The City Council is reviewing Soda Springs’ and other Cities’ Nuisance Ordinances about storage of junk vehicles and will address them in City Council Meeting in March.

**ACTION ITEM- Consider approval of Clayton Hulet’s Livestock Permit**

**Dan Wilson made the motion to approve Clayton Hulet’s Livestock Permit for One Hawk and Nine Pigeons, seconded by Bonnie Hill, all voted aye, motion carried.**

**Comments from the audience on Agenda items only**

**Clayton Hulet**- Clayton gave the City Council a review on his experience with the livestock permit. He suggested the city council review the animal ordinance again and consider being more specific with types of animals allowed in town.

Mayor Rex Nielsen explained to Clatyon Hulet that the city council has worked on the animal ordinance for over two years and the city council cannot cover every issue, it is impossible. They feel like the ordinance is good how it is.

**Ron Matkin-** Thanked the City Council for their service and questioned the Council about the mess on Hwy 91. Rex Nielsen explained the situation; the gentleman that owns the property has been in prison and property has been foreclosed on. Rex is hopeful the mess will be cleaned up soon.

**REPORTS**

**Matt Henderson –**

-Matt reported the Spring is at 78 gmp

-Snowpack is currently around 21 to 24 inches

-Matt and Tony’s next project will be pruning the trees around town

**Selena Guthrie-**

-Selena reported there has been a few problems with the new software program. She is working hard to resolve the issues.

-Selena thanked Jennifer for all she does. Jennifer has made it possible for the ordinances to be reviewed.

-Selena thanked Matt and Tony for all they do.

-Selena thanked Rex for stopping in everyday and checking in.

-She also thanked the City Council for their service.

**Bonnie Hill-**

-Bonnie thanked the staff for all they do.

-Bonnie has been working with the Bannock County Emergency Management. She thanked the staff for posting the survey on the City’s website and in the City’s Newsletter. Downey came in fourth place with citizen participation. The placement is as follows; Pocatello, Chubbuck, Inkom and then Downey. In the next meeting Bonnie will attend, they will discuss weather and exit plans for their communities. Bonnie hopes this will bring a way for the City of Downey to have help in the future with the flood plain situation.

-Bonnie loved the new signs that were posted outside the city buildings but felt like the sign above the City Office needed to be updated as well.

**Daniel Wilson-**

-Daniel thanked the staff for all they do.

-Daniel reported, he is well pleased with the efforts given by our local Bannock County law Enforcement. Their presence has made a difference.

**Grant Johnson-**

-Grant thanked the staff for all they do.

-Grant also asked Selena Guthrie if the problems with the new software could be fixed. Selena stated yes, it is just going to take some time.

**Gary Barnes-**

-Gary thanked everyone for all they do in the community.

**Mayor Nielsen-**

Rex thanked the staff for all they do. He gave a special thanks the Matt and Tony for all they do in the field. And gave a special thanks for Selena and Jennifer for working so hard in the office.

Our Lawyer has drafted a letter demanding clean up at Wadsworth Jr. Lothrop home. The copy of the letter is in the city council packets. The letter will be sent out after the month of March if the mess at 413 NORTH MAIN is not cleaned up as promised.

Rex would like to call a meeting with Mrs. Sallie Lothrop and Mr. Lothrop and discuss the future plans of the property.

**ACTION ITEM - Adjournment**

**Dan Wilson made the motion to adjourn, seconded by Bonnie Hill, all voted aye, motion carried. Time- 8:21pm**

**APPROVED\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Rex Nielsen, Mayor**

**Attest\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Selena Guthrie, City Clerk**