**MINUTES**

**REGULAR MEETING**

**DOWNEY CITY COUNCIL**

**TUESDAY, JUNE 11, 2019**

**7:00 PM**

**Attendance:** Council President Gary Barnes, Rex Nielsen, Dan Wilson, Grant

Johnson, Tony Hancock, and Brenda Kay. Mayor Dennis Phillips was excused.

**Patrons:** Terry and Bonnie Beck, Bonnie and Barbara Hill, Ramona Barger, Larry and

Dianna Burden, Shari Steimle, Blair Morrison, Sheldon Barfuss, Heather Clark, Zoe Liptak, from SICOG, Dean Moser, Wade and Carol Christiansen, and Officer Fullmer from the Bannock County Sheriff’s Department. August Starr arrived late.

**Call to Order:** Council President Gary Barnes called the meeting to order at

7:05 p.m. and welcomed everyone.

Grant Johnson offered the invocation and led the group in the Pledge of Allegiance.

**Reading of Agenda:** President Gary Barnes read the Agenda.

**ACTION ITEM - Approve Minutes:** **Grant Johnson moved to approve the**

**Minutes for the Regular City Council Meeting held on Tuesday, May 14, 2019, seconded by Dan Wilson, all voted aye, motion carried.**

**ACTION ITEM - Approve Accounts Payable:** **Dan Wilson moved to approve**

**the Accounts Payable of June 2019, seconded by Rex Wilson, all voted aye, motion carried.**

**Law Enforcement:** Officer Fullmer, from the Bannock County Sheriff’s

Department reported they have been watching for people speeding on Cambridge Road. He is hopeful it has been better. He asked if there are any concerns, they need to be aware of. There were no concerns addressed.

President Barnes thanked Officer Fullmer for being here tonight and for all the Sheriff’s Department does for the City.

**Comments from the audience on Agenda items only:** Bonnie Hill

thanked Grant Johnson for bringing the splash pad idea to Downey and encouraged the council to seek funding for it through SICOG.

Sheldon Barfuss reported the fair board might be willing to exchange land for the splash pad project. The fair board would like to help make it work. They will consider exchanging the Downey Lumber property for property west of the barns.

**ACTION ITEM – Alcohol Ordinance Review and Approval:** City Attorney,

Steve Fuller suggested the Council consider adding a section to the Alcohol Ordinance regarding Catering Permits. A Catering Permit addresses selling alcohol at a particular time, in a particular location, such as the Bannock County Fair. The council agreed to add a section for a Catering Permit. Steve suggested adding it under Hours of Sale.

**Ordinance No. \_\_\_\_\_\_\_\_\_\_\_**

**CHAPTER 2**

**ALCOHOLIC BEVERAGES, BEER, AND WINE AND LIQUOR**

**SECTION:**

**2-2-0: REPEAL**

**2‑2‑1: STATE STATUTE ADOPTED**

**2‑2-2: Definitions**

**2‑2-3: License Required**

**2‑2-4: Application For License**

**2‑2-5: License Fees; Term**

**2‑2-6: Hours Of Sale**

**2‑2-7: ALCOHOLIC BEVERAGE Sales To Underage Persons**

**2‑2-8: Open Containers In Public Places**

**2-2-9: grounds for revocation or suspension or denial of**

**renewal**

**2‑2-10: Revocation Of License**

**2-2-11 SAVINGS CLAUSE**

**2-2-12 SEVERABILITY**

**2-2-13 EFFECTIVE DATE**

**2-2-0 REPEAL:** Ordinance No’s 2-2A-1, 2-2B-1 through 2-2B-8 and 2-2C-1 through 2-2C-5, are repealed.

**2‑2‑1: STATE STATUTE ADOPTED**:

There is adopted for the purpose of governing the licensing, sale and use of alcoholic beverages within the city, the laws of the state of Idaho, being particularly Idaho Code Title 23, as presently in effect or as may hereafter be amended by the legislature; and the same are adopted and incorporated as an ordinance of the city as if fully set forth herein. Additional regulations or restrictions may be enacted by ordinance where not in conflict with state law.

**2‑2-2: DEFINITIONS:**

For the purpose of this article, the following terms shall have the meanings ascribed to them in this section:

ALCOHOLIC BEVERAGE: Shall be deemed to include beer, wine, and liquor as defined by the Idaho State Code.

RETAILER: A person licensed to sell alcoholic beverages to consumers at premises described in the license.

**2‑2-3: LICENSE REQUIRED:**

It shall be unlawful for any person to sell or dispense alcoholic beverages without first obtaining a proper license.

**2‑2-4: APPLICATION FOR LICENSE:**

**A. Filing of Application:** Application for a retail alcoholic beverage license shall be made under oath to the city clerk-treasurer, and the application shall show that the applicant possesses all of the qualifications required by this code.

**B. Approval:** Each application must be accompanied by a current state and county alcoholic beverage license. Each application shall be forwarded along with a copy of their state and county alcoholic beverage license to the city council for approval.

**2‑2-5: LICENSE FEES; TERM:**

**A. Fees Imposed:** The fees for the sale of alcoholic beverages shall be as follows:

|  |  |
| --- | --- |
| **Type of License** | **Fee** |
|  |  |
| Liquor | $100.00 |
| Beer, on premises | 100.00 |
| Beer, off premises | 25.00 |
| Wine, on premises | 100.00 |
| Wine, off premises | 100.00 |

**B. Term of License:** Each license issued shall expire on

December 31, of the year, following the date of issuance.

**2‑2-6 HOURS OF SALE:**

**A. Hours:** It shall be unlawful and a misdemeanor for any person in any place licensed to sell, whether conducted for pleasure or profit, to sell, dispense or give away any alcoholic beverages between the hours of:

|  |  |
| --- | --- |
| Beer/Wine | Between the hours of one o’clock (1:00) a.m. and six o’clock (6:00) a.m. on any day of the week. |
| Liquor | Between the hours of one o’clock (1:00) a.m. and ten o’clock (10:00) a.m. on any day of the week; |
|  | From two o’clock (2:00) a.m. on Memorial Day,  Thanksgiving Day, and Christmas Day until ten o’clock (10:00) a.m. the following day. |
|  |  |

**B. Consumption After Closing Hours**: Any patron on the licensed premises after the sale of alcoholic beverages has stopped, as provided in subsection A of this section, shall have a reasonable time, not to exceed thirty (30) minutes, to consume any beverage already served.

**C. Violation A Misdemeanor:** Any person who consumes or intentionally permits the consumption of any alcoholic beverage upon the licensed premises after the time provided in subsection A of this section shall be guilty of a misdemeanor.

**D. CATERING PERMITS:** A licensee may also serve and sell beer in an unopened container for which he is licensed, at the Bannock County Fairgrounds, during the week of the Bannock County Fair, not to exceed three (3) consecutive days, provided the licensee applies in advance and obtains a catering permit from the city clerk. The nonrefundable fee for the permit shall be twenty ($20.00), or such other amount as set by the city. The application must contain the name and address of the applicant and the number of his state beer license; the dates and hours during which the permit is to be effective; the name(s) of the sponsoring organization(s), group(s), or person(s); the address at which the beer will be served/sold, and if a public building, the rooms in which the beer is to be served/sold.

**2‑2-7: ALCOHOLIC BEVERAGE SALES TO UNDERAGE PERSONS:**

It shall be unlawful for any person to offer alcoholic beverages to any person under the legal age, as established by Idaho law, and it shall be unlawful for any person under legal age to frequent, loiter in or about, or patronize any alcoholic beverage dispensary. It shall likewise be unlawful for any owner of such alcoholic beverage dispensary or his employee to permit any such person under the legal age, as set by Idaho law, to be in or to be employed in such dispensary.

**2‑2-8: OPEN CONTAINERS IN PUBLIC PLACES:**

It shall be unlawful for any person to have in his or her possession an open container of beer or any other alcoholic beverage while upon the public sidewalks, streets or any other public place within the city limits.

**2-2-9: FOR REVOCATION OR SUSPENSION OR DENIAL OF**

**RENEWAL:**

Grounds for revocation or suspension of a license or renewal thereof shall include, but not be limited to:

**A.** False material statements on the application;

**B.** Inability to make an affirmative showing of any requirement for licensing;

**C.** Failure to give notice of any change in information on the application form;

**D.** The occurrence on the premises of activities prohibited under Idaho Code;

**E.** The occurrence on the premises of repeated and/or frequent violations of state or city regulations, whether directly related to alcoholic beverage sales regulations or not;

**F.** The revocation/suspension of any county or state alcoholic beverage license;

**G.** Any violation of the provisions of this chapter.

**2‑2-10 REVOCATION OF LICENSE:**

The city council shall retain the right at all times to revoke or suspend any license for just cause. When any license is revoked or suspended, the licensee shall have the privilege of appearing before the city council to appeal such revocation. Any cause for revocation of the license shall be brought to the attention of the city council.

**2-2-11 SAVINGS CLAUSE:** Ordinance No’s 2-2A-1, 2-2B-1 through 2-2B-8 and 2-2C-1 through 2-2C-5, repealed by this Ordinance, shall remain in force to authorize the arrest, prosecution, conviction and punishment of a person who violates Ordinance No’s 2-2A-1, 2-2B-1 through 2-2B-8 and 2-2C-1 through 2-2C-5, prior to the effective date of this Ordinance.

**2-2-12 SEVERABILITY:** The Sections of this Ordinance are severable. The invalidity of a Section shall not affect the validity of the remaining sections.

**2-2-13 EFFECTIVE DATE:** This Ordinance shall be in full force and effect upon it’s passage, approval and publication, effective the 21st day of June, 2019.

**PASSED AND APPROVED THIS 11th day of June, 2019.**

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**GARY BARNES, Council President**

**ATTEST:**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Brenda Kay, City Clerk**

**Dan Wilson moved to suspend reading the proposed Alcoholic Beverages, Beer, Wine and Liquor Ordinance on three different days and propose the Ordinance be read once by Title only, seconded by Rex Nielsen, by roll call vote: Gary Barnes, aye; Rex Nielsen, aye; Dan Wilson, aye; and Grant Johnson, aye; motion carried.**

President Barnes read the Title of the Ordinance.

**Dan Wilson moved to repeal the Alcoholic Beverages, Beer, Wine and Liquor Ordinance, Title Two, Chapter Two, and to adopt the proposed Ordinance, seconded by Rex Nielsen, by roll call vote: Gary Barnes, aye; Rex Nielsen, aye; Dan Wilson, aye, and Grant Johnson, aye: motion carried.**

The Ordinance will be No. 2019-01.

President Barnes informed those present a Summary of the Ordinance will be

published. The Ordinance will become effective once the Summary has been published.

**ACTION ITEM – Animal Control and Livestock Ordinance Review:**  The

Council reviewed the Animal Control and Livestock Ordinance with the City Attorney, Steve Fuller. Steve informed the Council he is just making comments; the council sets policy. The changes the Council made to the Ordinance were noted by the attorney. The Ordinance will be updated prior to further review and approval.

**ACTION ITEM – SICOG Contract for a Splash Pad Grant:** Zoe Lipstack,

from SICOG (Southeast Idaho Council of Governments), informed the Council

if the City wants to pursue funding for a splash pad, the deadline is

September 17th. She also mentioned if the City is going to trade property, it needs to be done prior to the grant being submitted.

Grant Johnson reported he does not feel like the city is ready to move forward with the project at this time. The Council agreed.

Zoe stated the city needs to have a good idea of where they want to put a splash pad and what they want prior to submitting a grant. The city also needs to know what they want to do with the water.

Grant feels there are too many questions currently. City employee, Matt

Henderson has had some experience with this kind of work. Tony and Matt may be able to construct a splash pad. The county owns Downey Lumber, and it would be a great place to put a splash pad. Later, playground equipment and/or a skateboard park could be added. There is also room for parking. It will have to be done in stages. Grant reported we had a little bit of feedback from the community, which has been mostly positive.

**ACTION ITEM – Carma Barger – Fireworks**: Carma Barger reported last year

the city put a flier out like one she presented to the council tonight. She appreciates the council doing this. She would like to ask in the years when there is a firework ban, the City notify residents the same way. The second page of her hand out includes a list of illegal fireworks. She would like to see this handed out to residents if fireworks are allowed.

Carma stated they have cedar trees going around their property and she is concerned about roman candles being shot into them. She was able to stop someone from shooting off a bottle rocket one year, which could have been detrimental to their property.

The council thanked Carma for her input.

**ACTION ITEM – Dick Lewis – Cat problems in the city:** Dick Lewis

expressed his concern about stray cats in the City. Dick is not anti-cat, but he has always believed that what he has, he should control. Dick does not burden neighbors with what is his. Dick reported a lot of the cats in his neighborhood have broken legs and mattery eyes. He tries to keep his yard nice and the cats are leaving waste and laying and digging in his flowers. He understands cats are roamers and hunters; however, he feels there should be some control over the cats.

It was suggested the stray cats be caught and taken to be neutered, however, the concern is the cost. Some areas have a CNR Program or Catch, Neuter and Release Program. They also clip the cat’s ear so they can be identified.

A section will be added to the newsletter asking residents not to feed stray cats.

We will also ask residents who own cats, to please take care of them and not allow them to roam.

**ACTION ITEM – Bekki Pope – Baseball program and donations:** Bekki

Pope was unable to attend the meeting and left a letter for the council regarding the baseball program. The Council would like to have Bekki come and talk to them at their next meeting.

**ACTION ITEM – Marsh Elmore with the Marsh Valley Senior Center – Concerns about Senior Center and Donations:** Due to the length of the

meeting, Marsha Elmore had to leave. Grant Johnson reported the Senior

Center does not have enough support. They are only serving 35 to 40 people.

They used to serve 70 to 80 people. Marsha does not feel the next generation of seniors is interested in the Center. Funding for the Senior Center comes through SICOG.

The clerk reported Ernie Moser, Bannock County Commissioner, wanted to attend tonight, but could not.He would like to be involved in what is happening with the Senior Center.

The Council feels more information on the needs of the Senior Center is needed.

We will try to set up a meeting with Marsha Elmore and Ernie Moser.

**ACTION ITEM** **– Consider approval of the Audit Engagement Letter with Ware & Associates:** **Dan Wilson moved to approve the Audit**

**Engagement Letter with Ware & Associates, seconded by Rex Nielsen, by roll call vote: Gary Barnes, aye; Rex Nielsen, aye; Dan Wilson, aye; and Grant Johnson, aye; motion carried.**

**ACTION ITEM – Consider Approval of Livestock Permits for Dean Moser, Hollie Schaeffer, Brad Bybee, Meagan Pierce and Erik and Krystyna Yeates:** Hollie Schaeffer and Megan Pierce were unable to get their

Livestock Permits turned in.

Dean Moser asked the Council to allow him to have his rooster and Billy goat on his property until they become a nuisance. If the neighbors will allow it, he feels the council should allow it.

Dean Moser’s Permit does not have 75% of the signatures he needs. He will get the needed signatures for next month’s meeting.

**Rex Nielsen moved to approve the Livestock Permits for Brad Bybee and Erik and Krystyna Yeates, with the condition they meet the conditions of the new Animal Control and Livestock Ordinance, seconded by Grant Johnson, all voted aye, motion carried.**

**ACTION ITEM – Consider Approval of Building Permits for Wade and Lorraine Wheatley – Garage and Starr August – Garage:** The Clerk

reported the Ground Snow Load for Starr August’s garage is only 40 pounds and it needs to be 50 pounds. The Clerk contacted Starr and she is going to contact the company she is purchasing her garage from. Starr was unable to provide the plans prior to the meeting. Her permit will be added to the Agenda next month.

Wade and Lorraine Wheatley’s permit is complete except for the Engineer stamped plans. The plans are being sent but have not arrived yet.

**Dan Wilson moved to approvethe Building Permit for a garage for Wade and Lorraine Wheatley with the condition they provide the specs with an engineer stamp provided, seconded by Grant Johnson, all voted aye, motion carried.**

**ACTION ITEM – Consider Approval of adding a name to the Veteran’s Memorial and contracting with the monument company to add names and clean the monument yearly:** Bonnie Beck explained that she

received a call from someone stating Phillip Morrison and William Lynn Morrison are not on the Veteran’s Monument. Terry and Bonnie Beck discovered Phillip Morrison’s name is on the monument under the Korean War. It is the wrong war but there is nothing we can do now. William Lynn Morrison lives in McCammon. Terry and Bonnie Beck went to Walker Monument and the cost to add William’s name to the Monument is $192.74. Bonnie asked the City to pay the fee to have added William’s name added. The Auxiliary is happy to do the foot work on the monument. Bonnie also checked with Walker Monument about cleaning the monument yearly. The cost will be about $100.00. She provided a pamphlet with the information.

**Rex Nielsen moved to approve adding a name to the monument and contracting with Walker Monument to clean the monument annually, seconded by Dan Wilson, all voted aye, motion carried.**

**ACTION ITEM – Consider Approval of a Business License for Heather Clark – Yeti Shaved Ice:** Heather Clark informed the Council she will be putting

her shaved ice trailer on the north side of The Mart where it will not block parking.

**Dan Wilson moved to approve the Business License for Yeti Shaved Ice,**

**seconded by Grant Johnson, all voted aye, motion carried.**

**REPORTS**

**Tony Hancock:** Tony reported on the following items.

* The spring flow is 590 gpm, which is down a little bit. We have not been

using very much water.

* Road chipping will begin tomorrow. They will be chipping Fourth East from Dale Criddle’s property down around Grant Road, and down Fourth North from Dale Criddle’s property until they run out of oil.
* Clean up day was busy. It was very successful. There will be some steel to recycle.
* Tony and Matt will be catching up on mowing and spraying.
* Tony has been wondering about hiring someone to help with the dyer’s woad. The county is supposed to bring in their drone to spray it. Tony has talked to David Hertner, from Bannock County Weed Department, but they have not done any spraying yet.
* Rocky Mountain Power is doing a switch out on the inside office lights. They will pay 75% of the cost. It will put it on the Agenda for July.

**Brenda Kay:** Selena Guthrie will be sending post cards out to dog owners who have

not licensed their dogs yet. Dog owner’s will be given until July 1st to license their dogs. Dogs not licensed will then be handled by Tad Bybee, Animal Control Officer.

Brenda provided the Council with a Complaint form for handling complaints. The council agreed to use the forms.

Brenda asked if any of the Council will be able to help with the budget preparation. Rex and Gary would like to help.

**Gary Barnes:** Gary thanked the patrons for coming to the meeting and thanked the

staff for the things they do.

**Rex Nielsen:** Rex expressed appreciation for what everyone has been doing and

thanked the citizens.

**Daniel Wilson:** Dan thanked everyone for their participation and the things they do.

Dan asked about refacing the building. Tony reported Chase Graham, the contractor, said it would be about three weeks before he could get to it, so it should be any time.

**Grant Johnson:** Grant thanked the staff for the efforts they put forth.

He talked with Darlene Downs, at Downata, and there is a contractor out of Logan who does splash pads. He will try to check with him.

Grant reported we talked about putting some millings up at the airport. Bastian said it is $7 per ton for the millings. Dan hasn’t looked at it yet. Tony is hoping to get the millings for free so we can do it, but if we must pay for it, we will need to get approval. Tony does not think Parsons will give any millings away.

**Mayor Phillips:** Not present.

Barbara Hill asked about the condition of the auto place on Highway 91. A letter was sent to the owner, but it was returned. We will try to send it to his brother.

Barbara suggested putting a citizen committee together to work on the splash pad idea. This would allow some of the residents to get involved, and it isn’t all on the council.

**ACTION ITEM** **- ADJOURNMENT:** **Dan Wilson moved to adjourn at**

**10:30 p.m., seconded by Grant Johnson, all voted aye, motion carried.**

**APPROVED\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Gary Barnes, Council President**

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

**Brenda Kay, City Clerk**