

**TOWN COUNCIL OF DEWEY-HUMBOLDT
REGULAR MEETING NOTICE**

Tuesday, June 20, 2017, 6:30 P.M.

**COUNCIL REGULAR MEETING
2735 S. HWY 69**

**COUNCIL CHAMBERS, TOWN HALL
DEWEY-HUMBOLDT, ARIZONA**

AGENDA SUMMARY

1. **Call To Order.** The meeting was called or order at 6:30 p.m.
2. **Opening Ceremonies.**
 - 2.1. **Pledge of Allegiance.** Led by Carl Marsee.
 - 2.2. **Invocation.** Given by Amy Timmons.
3. **Roll Call.** Town Council Members Jack Hamilton, John Hughes (arrived late at 6:41 p.m.), Amy Timmons, Doug Treadway, Victoria Wendt; Vice Mayor Mark McBrady; and Mayor Terry Nolan were present.
4. **Announcements Regarding Current Events, Guests, Appointments, and Proclamations.**

Mayor Nolan announced that there were various residents without power at this time due to high winds and APS was currently working to restore power.
5. **Town Manager's Report.** Update on Current Events.
 - 5.1. **Meeting with the Bureau of Land Management regarding the right of way through BLM property in the lower Blue Hills area for emergency access purposes.**

Town Manager (TM) Kimball explained to Council that she and Community Planner (CP) Steven Brown had a meeting last week to begin the dialogue with the Bureau of Land Management (BLM) to achieve a right-of-way regarding the property in the lower Blue Hills area necessary for emergency access purposes. The BLM team was supportive of the Town's request and Town Staff will move forward filling out Form 299 - Transportation and Utilities System Facilities on Federal Land. This form will be submitted to BLM and they will then add the environmental and biological assessments to their work list for the next fiscal year that begins 10/1/17. The Town will need to conduct an archeology study and coordinate with BLM on the public involvement process. This process could take one year. If all the prep work is completed by Summer 2017, construction could begin. The construction will be paid for by local funds, possibly grants. BLM is supportive of the Town's desire to reduce the wildland fire danger.

Councilmember Hamilton asked how much the archeology study would run. TM Kimball said it would run a few thousand dollars. BLM would provide a list of possible firms to employ for this study.

Councilmember Treadway inquired why the BLM was not using their own archeology resources. TM Kimball said that BLM is short-handed in this area due to funding cuts. They agreed to do the environmental and biological assessments, but expect the Town to complete the archeology study. Councilmember Treadway inquired as to the cost of the biological assessment TM Kimball said that an internal estimate was made at approximately \$200K.

Councilmember Wendt referred to using grant money and recommended achieving a 501C3 status to help in this grant-seeking process. TM Kimball clarified that with BLM support the Town would score higher in the grant process. She will make a note to put \$200K or more in next year's budget for this project, and Council can discuss it further.

6. Consent Agenda.

6.1. Minutes. Minutes from the April 25, 2017 Special Budget Meeting and May 2, 2017 Regular Council Meeting.

Councilmember Treadway made a motion to accept the Minutes from the April 25, 2017 Special Budget Meeting and May 2, 2017, Regular Council Meeting as presented, seconded by Councilmember Hamilton, the motion passed unanimously.

7. Comments from the Public (on non-agendized items only).

Carl Marsee of the Dewey-Humboldt Historical Society (DHHS) thanked the Council for including DHHS in their budget.

Councilmember Hughes arrived to the meeting at 6:41 p.m.

Mr. Marsee continued to share that DHHS is in discussion with the Baptist Church regarding a long-term lease with an option to buy. There is a new exhibit opening 6/24/17 called the "Rough Riders" and the Railroad exhibit has been updated and revised. The documentary project is moving forward and the necessary people have been notified that there will be a drone operated by his son filming for the documentary. There are plans to include a fly over the Humboldt Station/Town Hall area on 7/5/17 near 6 p.m. wherein the community and people that helped with this project are invited to assemble and stand on the Town Hall boardwalk and wave to the drone. This footage would be part of the film credits. Invitations will be going out. Mr. Marsee also said he would report on a quarterly basis to the Town Council on the DHHS events and updates.

Bart Brush clarified that he believed that this meeting was to have included the Public Safety Report. He spoke of his concern for safety issues involving Highway 169 and Foothills Drive and excessive speeding. He also spoke of further safety concerns involving speed at Prescott and Hecla Streets, noting that there was a death, as a result of a vehicle accident, in the last year. He also noted speeding vehicles at Phoenix and Hecla Streets, where there are often skateboarders present, which is another safety issue. Mr. Brush said that he has not seen police presence in any of those areas in two years and would like to see this changed.

Councilmember Treadway concurred with Mr. Brush and spoke of his similar concerns. Town Attorney Goodwin redirected Councilmember Treadway that this agenda item was for public comment only. Councilmember Treadway apologized for his oversight.

Leigh Cluff spoke of a neighbor asking her to bring forth the need for review of the stop sign at Cranberry and Smoki in the Blue Hills area. She noted that you have to pull out into the intersection in order to check for oncoming traffic due to sight impairment from the corner and trees. She cited this as a danger issue.

8. Discussion Agenda – Unfinished Business. Discussion and Possible Action on any issue which was not concluded, was postponed, or was tabled during a prior meeting.

8.1. Consideration to enter into an Agreement or a Memorandum of Understanding (MOU) with the Prescott Area Wildland Urban Interface Commission (PAWUIC) for a defensible space grant. [continued from the May 2nd meeting]

TM Kimball gave an overview of the agenda item and the attachments. There were two documents drafted, a Memorandum of Understanding and an Agreement. Council needs to choose which method they would like to use. She turned the issue over to the Town Attorney for further explanation.

Town Attorney (TA) Goodwin stated that the Memorandum looked much like an agreement to her, but it did not have much of a legal status. She recommended going with the agreement and avoiding the possibility of spending money to defend a memorandum.

Mayor Nolan noted that the wording appeared the same on both documents.

Councilmember Treadway inquired how much Staff time would be dedicated to documentation in regard to this agreement, who would perform these duties and how much expense would be incurred. TM Kimball said she and CP Brown discussed this process. As the Town has not done anything like this previously it would be hard to anticipate. She confirmed that CP Brown would spearhead this project.

Councilmember Wendt spoke of the Firewise board submitting the documentation. There would be volunteers receiving training as abatement inspectors and Firewise would do the majority of the paperwork for this project.

CP Brown supported Councilmember Wendt's statement. The Town's work will be minimal in this process. They will pass the provided information from Firewise onto PAWUIC for reimbursement. There will be a checklist, if it is not complete, it will be returned to Firewise for follow-up. CP Brown estimated that each application might require an hour of work. Firewise members will be trained on the process. Anyone coming directly to the Town with paperwork will be redirected to the Firewise committee.

Councilmember Hamilton made a motion to enter into an Agreement with the Prescott Area Wildland Urban Interface Commission (PAWUIC) for a defensible space grant.

Mayor Nolan asked for clarification regarding the attachment. TM Kimball explained that Attachment 1 would be the correct agreement.

Councilmember Hamilton clarified that he meant Agreement #1.

Councilmember Timmons seconded the motion. The motion passed unanimously.

8.2. Discussion and possible adoption of Ordinance 17-135 Amending Town Code Section 31.17(D) Appointment for Boards, Committees and Commissions, deleting the requirement for Background Check on and interviews with appointees. [Directed by Council to bring back for adoption at June 6, 2017 meeting]

Mayor Nolan gave an overview of the agenda item and recommended a motion to approve this for codification.

Councilmember Hamilton made a motion to adopt Ordinance 17-135 Amending Town Code Section 31.17(D) Appointment for Boards, Committees and Commissions, deleting the requirement for Background Check on and interviews with appointees, seconded by Councilmember Treadway. The motion passed unanimously.

9. Discussion Agenda – New Business. Discussion and Possible Action on matters not previously presented to the Council.

9.1. Intergovernmental Agreement (IGA) with Yavapai County Library District for the Dewey-Humboldt Library services. Possible rejection, adoption or modification of the agreement.

TM Kimball introduced Corey Christians, Chief Librarian for the Yavapai County Library District (YCLD). Mayor Nolan spoke to the complicated formula used to determine the service fees. Mr. Christians explained that it was based on such factors as property valuation; a 5% base total;

performance indicators; the number of people using the library; and demographics. The formula actually determines what is fair for each branch. The contract amount has shifted because the money going to Dewey-Humboldt as a subsidy did not equal what they were paying out. Dewey-Humboldt was receiving more subsidy than other locales. The rate has increased as the contract has expired and the new contract is based on past expenses and estimated future expenses.

There was Council discussion regarding the basis for the current increase, as well as the possible increase over the next five years.

The total cost for running the library was estimated at \$73,683 and the subsidy being provided by the Library District is estimated to be \$30-32K which would offset the overall cost, leaving Dewey-Humboldt with an expense at the lower end of approximately \$41,683K and at the upper end of approximately \$43,683. Any reimbursements or fines received would also offset this cost, as well.

There was further Council discussion regarding the fees and the possible increase estimated to fall between 0% and 5%, as well as the hypothetical possibility of Dewey-Humboldt hiring their own librarian. There was also further clarification by Mr. Christians that the Dewey-Humboldt Library was receiving additional subsidy up and above, as they were unable to cover all expenses.

Councilmember Hamilton made a motion to approve the Intergovernmental Agreement (IGA) with Yavapai County Library District for the Dewey-Humboldt Library services, seconded by Councilmember Wendt.

Vice Mayor McBrady asked for information regarding the library use. Mr. Christians spoke of the library usage figures being available at the Yavapai Library Network website (YLN.info).

Councilmember Timmons asked if the amount that D-H gets from the Library District is a reflection of how many people utilize the library each year. Mr. Christians confirmed this. Councilmember Timmons spoke of encouraging library use.

Mayor Nolan called for the vote which passed by a 6-1 margin with Mayor Nolan voting against.

Mayor Nolan cited that the formula is too complicated and needed improvement before the next contract renewal in five years.

9.2. Accountability contracts with Mayer Area Meals on Wheels (MAMOW) for Town's financial support, and with Dewey Humboldt Historical Society (DHHS) for the Museum rent and the Agua Fria Festival. Possible rejection, adoption or modification of the agreements.

Mayor Nolan introduced this agenda item.

Councilmember Hamilton made a motion to approve the Accountability contracts with Mayer Area Meals on Wheels (MAMOW) for Town's financial support and with Dewey Humboldt Historical Society (DHHS) for the Museum rent and the Agua Fria Festival, seconded by Councilmember Hughes. The motion passed unanimously.

9.3. Discussion and possible adoption of a Code of Ethics for members of the Town Council and Town Boards, Committees and Commissions by ordinance or resolution [Directed by Council at May 9, 2017 meeting]

a. Adoption of Resolution No. 17-126 Establishing a Code of Ethics for Public Officials **OR**

b. Adoption of Ordinance No. 17-136 Adopting by reference new *Chapter 35 Public Officials Code of Ethics* related to standards of ethics and conduct by the Mayor and Council members and Members of Boards, Commissions and Committees of the Town.

Mayor Nolan introduced the agenda item, recommending Council consider going with an Ordinance rather than a Resolution, and asked for TA Goodwin's input.

Councilmember Hamilton asked for clarification regarding the lack of a penalty clause. TA Goodwin explained that the document she worked off did not have a penalty for violation. She had no problem with this. The document she reviewed had no provisions for penalties. Any similar penalty clause would be limited to a misdemeanor or fine and that would have to go in an ordinance. The proposed resolution is simple and appropriate for a community of this size, but it does not have consequences, therefore she had no preference regarding this being a resolution or ordinance.

Councilmember Wendt stated that there is a penalty in the resolution and that it provided for a complaint being placed on a future Council Agenda for discussion. Speaking for herself, she would be so humiliated to have this brought up and spoke of before the Council. If it were criminal, it would go directly to the Attorney General. She does not think this is necessary for this little Town at this time as the proposed resolution certainly covers it.

Councilmember Treadway spoke of being bothered that there is no process or procedures to deal with unforeseen circumstances, as well as a lack of process for the public to initiate something. There is no process for a public complaint and there is no way to defend yourself as a Councilmember. He asked TA Goodwin how she views this with other communities of this size.

TA Goodwin said she has not actually done a comparison; however, some small communities do not have a Code of Ethics and gave some example from other communities. Codes of Ethics can run the gambit from very simple to very complex with Council having to decide.

Councilmember Timmons spoke of TA Goodwin saying this resolution was appropriate for this size Town. TA Goodwin clarified her previous comment, that because of the nature of the content included, she did not care, and a resolution would be fine. CM Timmons also asked about other options for the community members to take for reprimand. TA Goodwin said if there were issues involving conflict of interest or financial reporting requirements, there were other consequences. Councilmember Timmons spoke of the State having imposed a Code of Ethics when they were appointed. TA Goodwin clarified that this was an Oath of Office, not a Code of Ethics.

Vice Mayor McBrady spoke of violations being used as a basis for a recall, if it was serious enough. He noted that this new Code would replace the current ordinance. TA Goodwin corrected him that Council repealed the Code of Ethics a month ago. Vice Mayor McBrady recommended replacing an ordinance with an ordinance.

Councilmember Hamilton spoke of demonstrating how this will become a nightmare. Once this Code goes into effect, he will file a complaint regarding a code that every member has violated, including himself. The Council will have to decide what to do with it and what the process will be. He feels a "can of worms" is being opened. The last Council kept finding error in the process and had to change it three or four times and they still did not get it right. They were 95% there and the current Code of Ethics is could have just been revised. He spoke against the proposed Code of Ethics.

Councilmember Wendt made a motion to approve the Adoption of Resolution No. 17-126 Establishing a Code of Ethics for Public Officials, seconded by Councilmember Timmons. Mayor

Nolan called for a vote. Councilmember Treadway requested a roll call vote. The vote passed by a 6-2 vote, with Councilmember Hamilton and Councilmember Treadway voting against.

9.4. Administrative Regulations concerning Sick Leave: AR 15-01 Employee Benefits amendments and AR 17-01 Employee Sick Leave. Possible approval of the Regulations.

Mayor Nolan introduced the agenda item and asked TM Kimball to give an overview.

TM Kimball explained that these resolutions needed to be accomplished subsequent to a State Law change. The most notable change is providing sick leave for part-time employees. She worked with the Town Attorney to meet the required regulations. These regulations need to be in effect by 7/1/17.

Councilmember Hamilton made a motion to approve Administrative Regulations concerning Sick Leave: AR 15-01 Employee Benefits amendments and AR 17-01 Employee Sick Leave, seconded by Councilmember Hughes. The motion passed unanimously.

9.5. Open Meeting Law Discussion and Training.

9.5.1. Discussion of Letter of Concern dated May 19, 2017 received from Arizona Attorney General's office related to complaint of open meeting law violation – February 21, 2017 and March 21, 2017 meetings.

Town Attorney Goodwin explained that this agenda item covers two issues, one being two Open Meeting Law violations and the second being required Open Meeting Law (OML) training. She explained that there two violation complaints filed with the Attorney General's Office (AG), one in reference to the February 21, 2017 meeting where the agenda included language that there would be two members appointed to the Planning & Zoning Commission, Council actually appointed three. A reported second violation occurred at the same meeting wherein the Town Code requires background checks for Boards and Commission appointees, and that was not completed in regard to one of the appointees.

The second meeting in violation was the March 21, 2017, meeting where an agenda item included ratification for the February 21, 2017, action in this matter. The complaint was that the ratification did not follow the requirements of the statute.

TA Goodwin responded to the AG and agreed that the appointment of three Commissioners was a violation, as the agenda provided for two. She responded that the AG's office had no jurisdiction over the Town Code violations. While the ratification that took place at the March 21, 2017, meeting did not meet with the requirements of the specific ratification statute, that only meant that the ratification/actions of the Council was effective March 21, 2017, as opposed to being retroactive to February 21, 2017. The AG responded that they agreed with TA Goodwin's summary, however, the AG did have concern after reviewing videos of the meetings that it appeared that some of the Council Members were unfamiliar with Arizona's OML, thereby recommending TA Goodwin review the AG's letter with the Council and that formal training be provided. TA Goodwin said this was typical procedure.

9.5.2. Open meeting law training by Town Attorney pursuant to Letter of Concern dated May 19, 2017.

TA Goodwin presented a Power Point presentation on the basics of Open Meeting Law procedures. She recommended that other Town Committees or Boards might benefit from this presentation, as well.

There was Council consensus that the training was understood and there were no further questions. TA Goodwin passed a handout to Council Members regarding email guidelines.

9.6. Discussion and possible action regarding the Building Lease extension with Community Action Program (CAP) for Dewey-Humboldt Town Library located at 2735 S. Corral St., Dewey-Humboldt.

Mayor Nolan gave an overview of the agenda item and did not recommend going into Executive Session. Councilmember Treadway concurred that Executive Session was not required. Mayor Nolan noted that this was the standard lease with no additions.

Town Manager Kimball clarified that only the dollar amount had changed.

Councilmember Hughes spoke of this already being included in the budget.

Councilmember Timmons made a motion to accept the Building Lease extension with Community Action Program (CAP) for Dewey-Humboldt Town Library located at 2735 S. Corral St., Dewey-Humboldt, seconded by Councilmember Hamilton. The motion passed unanimously.

9.6.1. Recess into and hold an Executive Session pursuant to A.R.S. 38-431.03(A)(7) for discussion and consultation with designated representatives of the Town in order to consider its position and instruct its representatives regarding the real estate property lease for the Town Library located at 2735 S. Corral St., Dewey-Humboldt, Arizona (APN 402-09-030C).

Council did not recess to Executive Session.

9.6.2. Reconvene Regular Meeting.

Council did not recess to Executive Session.

10. Public Hearing Agenda.

None

11. Adjourn.

The meeting was adjourned at 8:18 p.m.