

**SPECIAL STUDY SESSION MEETING NOTICE  
TOWN COUNCIL OF DEWEY-HUMBOLDT  
Tuesday, September 10, 2013, 2:00 P.M.**

**COUNCIL SPECIAL STUDY SESSION MEETING  
2735 S. HWY 69**

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

## **AGENDA**

The issues that come before the Town Council are often challenging and potentially divisive. In order to make sure we benefit from the diverse views to be presented, the Council believes that the meeting be a safe place for people to speak. With this in mind, the Council asks that everyone refrain from clapping, heckling and any other expressions of approval or disapproval. Council may vote to go into Executive Session for legal advice regarding any matter on the open agenda pursuant to A.R.S. 38-431.03 (A) (3), which will be held immediately after the vote and will not be open to the public. Upon completion of Executive Session, the Council may resume the meeting, open to the public, to address the remaining items on the agenda. Agenda items may be taken out of order. Please turn off all cell phones. The Council meeting may be broadcast via live streaming video on the internet in both audio and visual formats. One or more members of the Council may attend either in person or by telephone, video or internet conferencing. **NOTICE TO PARENTS:** Parents and legal guardians have the right to consent before the Town of Dewey-Humboldt makes a video or voice recording of a minor child. A.R.S. § 1-602.A.9. Dewey-Humboldt Council Meetings are recorded and may be viewed on the Dewey-Humboldt website. If you permit your child to participate in the Council Meeting, a recording will be made. You may exercise your right not to consent by not permitting your child to participate or by submitting your request to the Town Clerk that your child not be recorded.

**1. Call To Order.**

**2. Roll Call.**

**2.1. Town Council.** Town Council Members Arlene Alen, Jack Hamilton, Mark McBrady, Sonya Williams-Rowe, Nancy Wright; Vice Mayor Dennis Repan; and Mayor Terry Nolan.

**3. Study Agenda.** No legal action to be taken.

**3.1. Council Code of Conduct Summary – Consolidated version.** Review and Further Discussion.

**3.2. Continuation of Old Black Canyon Highway Research Issues Discussion.** Continued from the July 16<sup>th</sup> Regular session [original CAARF for July 2<sup>nd</sup> meeting by CM Hamilton].

**3.3. Council Discussion of Town Manager Evaluation.** Continued from the July 16<sup>th</sup> Regular session [original CAARF CM Wright].

**3.4. Discuss and direct the Town Manager to add one full-time employee to Public Works.** Continued from the July 16<sup>th</sup> Regular session [original CAARF VM Repan].

**4. Special Session.** Legal Action can be taken.

**4.1. Whether to hold additional special session(s) this month.** This is an established agenda item for Council’s discussion on whether to add an additional special study session and if so, to set the date.

**5. Comments from the Public.** The Council wishes to hear from Citizens at each meeting. Those wishing to address the Council need not request permission or give notice in advance. For the official record, individuals are asked to state their name. Public comments may appear on any video or audio record of this meeting. Please direct your comments to the Council. Individuals may address the Council on any issue within its jurisdiction. At the conclusion of Comments from the Public, Council members may respond to criticism made by those who have addressed the public

body, may ask Town staff to review a matter, or may ask that a matter be put on a future agenda; however, Council members are forbidden by law from discussing or taking legal action on matters raised during the Comments from the Public unless the matters are properly noticed for discussion and legal action. The total time for Public Comment is 3 minutes per person. The audience is asked to please be courteous and silent while others are speaking.

**6. Adjourn.**

**For Your Information:**

Next Town Council Meeting: Tuesday, September 17, 2013, at 6:30 p.m.

Next Planning & Zoning Commission Meeting: Thursday, October 3, 2013, at 6:00 p.m.

Next Town Council Work Session: Tuesday, October 8, 2013, at 2:00 p.m.

If you would like to receive Town Council agendas via email, please sign up at [AgendaList@dhaz.gov](mailto:AgendaList@dhaz.gov) and type Subscribe in the subject line, or call 928-632-7362 and speak with Judy Morgan, Town Clerk.

**Certification of Posting**

The undersigned hereby certifies that a copy of the attached notice was duly posted at the following locations: Dewey-Humboldt Town Hall, 2735 South Highway 69, Humboldt, Arizona, Chevron Station, 2735 South Highway 69, Humboldt, Arizona, Blue Ridge Market, Highway 69 and Kachina Drive, Dewey, Arizona, on the \_\_\_\_ day of \_\_\_\_\_, 2013, at \_\_\_\_ p.m. in accordance with the statement filed by the Town of Dewey-Humboldt with the Town Clerk, Town of Dewey-Humboldt.

By: \_\_\_\_\_, Town Clerk's Office.

Persons with a disability may request reasonable accommodations by contacting the Town Hall at 632-7362 at least 24 hours in advance of the meeting.



**TOWN OF DEWEY-HUMBOLDT**  
**P.O. BOX 69**  
**HUMBOLDT, AZ 86329**  
**Phone 928-632-8562 ▪ Fax 928-632-7365**

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**TOWN COUNCIL SPECIAL STUDY SESSION MEETING**  
**September 10, 2013 – 2:00 p.m. Town Council Meeting Chambers**

**Agenda Item # 3.1.**

**To: Mayor and Town Council Members**

**From: Judy Morgan, Town Clerk**

**Date submitted: September 5, 2013**

**Agenda Item: Code of Conduct Summary – Consolidated version.** Review and Further Discussion.

**Recommended action:** Review, revision and direction on next steps.

**Summary:** This is the continuation of the May 14<sup>th</sup>, June 11<sup>th</sup>, July 23<sup>rd</sup> and August 13<sup>th</sup> Council meeting discussions. Enclosed is a compilation of those changes made and/or requested by the Council at those meetings. Changes made by council members are marked in red; language from 2009 “Town Council Rules and Procedures” is in black.

TOWN OF DEWEY-HUMBOLDT CODE OF ETHICS and CONDUCT (ORIG. 8/2009, REVISED 8/2011)

Dewey-Humboldt Citizen Participation Guide

As a citizen . . . you can take an active role in shaping Dewey-Humboldt government policies, programs and decisions.

Participating in government can be as simple as voting at each election. But you can go a step further by participating in the day-to-day process of local government.

- You can submit a transformative idea via email to the Town Clerk: judymorgan@dhaz.gov.
• You can volunteer for advisory boards or committees that make recommendations to the Town Council and Town departments.
• You can influence decisions when it comes to adopting laws, the biennial budget, or where to site a new park.
• You can be an active member of a neighborhood association or help form one in your neighborhood.
• You can speak at a Council study session or Council meeting
• You can seek elected office.

One of the greatest challenges of governance is finding a balance between the interests of the community as a whole and those who have a special stake in a particular issue. Citizens can help strike that balance by looking for solutions that work for the entire community, not just a small group.

Although participating does not always mean prevailing, it does make government a partnership effort. That's something positive, because when citizens are actively involved in their government, decisions can better reflect the will of the people.

Commented [JM1]: CM Alen's Participation Guide

PREAMBLE

Commented [JM2]: VM Repan's document with his additions in red.

The residents and businesses of Dewey-Humboldt are entitled to have a fair, ethical and accountable local government and also demand the highest standard of ethics from all its officials. All members of town boards, commissions, committees and the Town Council shall maintain the utmost standards of personal integrity, truthfulness, honesty and fairness in carrying out their public duties, avoid any improprieties in their roles as public servants, comply with all applicable laws, whether local, state or federal, and never use their position or powers improperly or for personal gain.

Commented [JM3]: "Town" replaced "City". Council liked how this section was written with this one minor change.

DEFINITIONS

Commented [JM4]: Any ARS or Code referenced will be included as a definition.

Ethics is defined here as the rules or standards governing those persons functioning as representatives of the Town Dewey-Humboldt. These rules and standards are based upon a set of values judged to be moral to the extent that they enhance society and an

individual's relationship to others. **Honesty and integrity shall be the primary values in all issues whether it be in their duties for the Town of Dewey-Humboldt, or in any regard to their constituents.**

A representative of the Town of Dewey-Humboldt is defined here as a public official, elected or appointed, salaried or unpaid, including the mayor, Town council members, and any board or commission member.

The purpose of this code is to establish ethical standards of conduct for these public officials acting in their official public capacity.

#### **I. Responsibilities of Public Office**

By oath of office each representative is responsible to uphold the Constitution of the United States, the Constitution of the State of Arizona, and the ordinances and regulations of the Town of Dewey-Humboldt. **Elected officials and board and commission members are often asked to make decisions that affect various groups and individuals adversely. Balancing diverse constituent interests is a difficult task and therefore the public official shall perform his or her obligations in a manner that is impartial and responsible to all people and shall adhere to ethical standards that eliminate disappointment borne of dishonesty, conflicts of interest, unfairness or illegality.**

The public official shall not use his position for personal or monetary gain, **whether directly or indirectly or any other manner in which the possibility of gain might be perceived by the public or another member of the public body and as described here within in section II.**

The public official shall not disclose confidential information concerning the property, government, or affairs of the Town of Dewey-Humboldt without proper legal authorization. **Arizona law provides that during a person's employment or service to the town and for two years thereafter, no member of a Town board, commission, committee or the Town of Dewey-Humboldt council may disclose or use confidential information without appropriate authorization as outlined in A.R.S. 38-5504(B).**

**Councilmember's and citizen advisory boards and commissions have an obligation to be accessible, open and direct, not only with the other members of the Council and/or boards and commissions, but also to the citizens and business representatives that appear before them, both in the public forum and in private. The public is entitled to communicate with their public servants and understand the position of the Council and boards and/or commissions on public issues.**

**Elected officials and advisory board/commission members have an obligation to attend meetings and be prepared. It is expected that these officials will review the materials, participate in discussions and make informed decision of the merits of the issue as opposed to acting out of emotional bias.**

**Commented [JM5]:** Council satisfied with how this section was written by VM Repan with option of going back and editing it.

## II. Conflict of Interest

Elected officials and advisory board members must be constantly on guard against conflicts of interest and shall not be involved in any activity which conflicts with their responsibilities to the town of Dewey-Humboldt and its residents. The people of this town have a right to expect independence and fairness towards all groups without favoring individuals or personal interest.

Arizona conflict-of-interest laws apply to all elected officials and advisory board/commission members. And as such, this code shall reinforce any existing affirmation regarding conflict of interest contained in the public official's oath of office. When acting in a public capacity, the public official shall abstain from participating in discussion and vote on any pending matter that would result in his financial or private gain.

The public official shall not directly or indirectly solicit, accept or receive any gift-- whether it be money, services, loan, travel, entertainment, hospitality, promise, or any other form that could be reasonably inferred to influence the performance of his official duties and actions or serve as a reward for any official action. In addition and extended under this issue, under no circumstances shall a council or board/commission member accept a gift or favor that is a bribe, or reflects, to a reasonable person, an effort to improperly influence the member contrary to that members responsibility to the public in total or to act impartially and on the merits of the matter. Officials must not be involved in discussing issues that appear to be self-dealing. That is, officials must not be involved in discussing or deciding on any issue over which they have jurisdiction as a Council or board/commission member, which may impact the member or the members family or members business, financially or in any way that may be perceived by any reasonable member of the community as advantageous to that council, board/commission member.

It should also be noted that Councilmember's must comply annually with the Financial Disclosure Act, as outlined in A.R.S. 38-541-545. Arizona law also prohibits elected officials and board/commission members from receiving anything of value or any compensation other than their normal salary or stipend for any service rendered in connection with that person's duties with the Town of Dewey-Humboldt.

**Commented [JM6]:** Consensus that Council liked how this section was written by VM Repan.

## III. Conduct in Public Office

The public official shall not discuss or divulge confidential information acquired by him in the course of his official duties nor shall he use this information for his own personal interest or aggrandizement and as a minimum, utilize A.R.S. 38-504 as, but not limited to, a guideline.

The public official shall respect the rights, privileges and opinions of his fellow officials. Propriety dictates that the public official be sensitive to the possible confidential or personal nature of directives addressed to other individuals.

**Commented [JM7]:** Consensus to keep this section as written by VM Repan with the exception of adding "in the future" to the last paragraph. Nepotism sentence was left in by consensus.

In his dealings with Town of Dewey-Humboldt employees, the public official shall maintain professional conduct with respect to the employee's work assignments and obligations. The office of the public official shall in no situation be used to wrongfully obtain information either by intimidation or by deliberately violating the privacy of an employee's work station.

Public decision making must be fair and impartial and shall be non-discriminatory on the basis of those protected classes, such as racial and religious groups, outlined in federal, state and town laws and ordinances. Elected officials and advisory board/commission members must conduct business and operate in a manner that is free from illegal discrimination on the basis of age, sex, color, race, disability, national origin, or religious persuasion, both and in the relationships of the elected officials and advisory board/commission members with their constituencies.

Elected officials and advisory board/commission members shall not use their political or appointed office to advance private interests and engage in political campaigning at Town meetings or within city buildings.

No relative of a sitting council member, sitting advisory board/commission member may be hired by the town.

**Commented [JM8]:** Council consensus to leave this sentence in for now.

Discussion of issues which may appear in the future before the Council or citizen board shall be prohibited when a situation arises where a quorum of the Council or board exists. Numerous Arizona laws require that meetings of public bodies be open to the public and that public records be available for inspection.

**Commented [JM9]:** CM Wright's suggested addition

### Complaint of Violation Process

**Commented [JM10]:** CM Alen's suggestion to put a process in place prior to IV. Compliance and Enforcement.

#### IV. Compliance and Enforcement with the Dewey-Humboldt Code of Ethics.

**Commented [JM11]:** Council discussed sanctions and censure. CM Alen was asked to come back with a process. She provided a flowchart at the August 13<sup>th</sup> meeting for discussion.

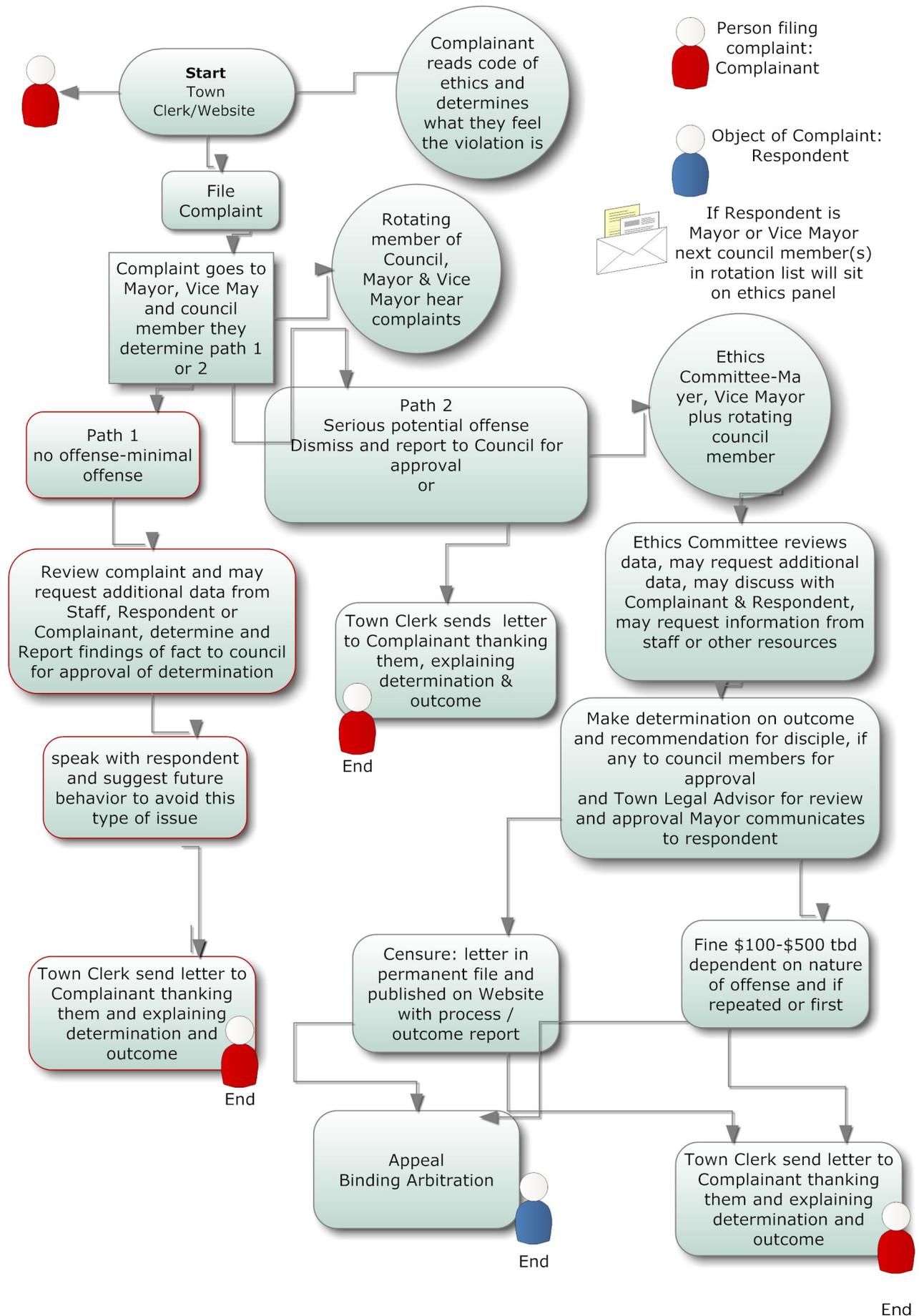
Public officials take an oath when they assume their duties to uphold the laws of the state of Arizona, the town of Dewey-Humboldt and the United States of America. Therefore, it is the intent of the Town Council to educate, and where necessary, discipline council members or board/commission members who violate this code. Consistent with this oath, any possible violation of this code should be reported to the mayor or vice mayor, or in the case of staff, to the Town Manager. Upon this report, one of two protocols can be utilized:

1. If the Mayor, Vice Mayor, and Town Manager all agree that the violation is minor in nature, they may contact the individual in question directly and advise them of the concern and seek to resolve the matter.
2. If the Mayor, Vice Mayor, and Town Manager all agree that the alleged violation is not minor in nature, they may meet with the Town Attorney and appropriate staff and witnesses to determine how the matter should proceed, be resolved or be reported to

the appropriate authorities. These protocols are set forth and can be used as alternatives to any remedial action that otherwise might be available or prudent.

In any regard, other than violations for criminal conduct, discipline shall be progressive in nature, from the least punitive to the most punitive measures, unless the Council believes that progressive discipline does not provide the appropriate sanction because of the gravity of the offense, or because the Council does not believe the sanction would deter future misconduct or actions. In all instances, the totality of the circumstances shall be taken into consideration in resolving the matter, including the intent of the one accused of wrongdoing.

All public officials are expected to honor the mandates set forth in the Town of Dewey-Humboldt Code of Ethics.



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### Old Black Canyon Highway Research

9 meetings since Jan 1 2012 to July 16, 2013

Work Sessions (5): June 12, 2012, July 10, 2012, August 14, 2012, February 12, 2013, April 9, 2013

Regular Sessions (4): September 4, 2012, November 6, 2012, July 2, 2013, July 16, 2013

Minutes are included from those meetings below.

June 12, 2012 Work Session

**5.2 Discussion and possible action to direct the Town Attorney to find out the legal status of Old Black Canyon from Edd's Sand Trail to Highway 169.** Councilmember Wright stated the Town has spent a lot of time on whether to maintain Old Black Canyon Highway and she spoke in favor of resolving the issue, of finding out the status and whether to leave it status quo or move forward. The Town Attorney noted that it is currently at a standstill, but it appears to be similar to the Kachina Place as portions are owned by the Town, private property used as a road and Town property used as private property. There was discussion on cost comparison for maintenance on a dirt road versus a paved road, maintaining the shoulder and safety concerns.

Public comment was taken on this item.

Lydia Chapman spoke on being told by County and Town staff the road was originally a County road, therefore it became a Town road.

David Nystrom spoke on the Town making a decision whether they own the road and take care of it or not and he will ask for the documentation that the Town owns Old Black Canyon.

Jerry Brady spoke on mixed-land use, encroachment on the land that the Town owns, planning for it in the Budget and restoring the Town's fire access roads and fire reservoir.

Councilmember Hiles left the meeting at 4:23PM.

Danny Tomerlin spoke on his family paying taxes on that property for the last 30 years and the previous owner paid before that. He noted the road is a shortcut and suggested the Town not do maintenance, cut the road off and make it local traffic only.

Jack Hamilton spoke against blocking the road off since it is public access. He also spoke on the history of the road and the assumed liability.

Walt Statler spoke on the history of the road and his family has owned that piece of property since the 1930's. He spoke in favor of the Town purchasing the road but he does not intend to walk away from it.

Andy Peters spoke in favor of getting a legal opinion considering the complexities of the issue.

Jerry Brady spoke on taking under consideration any prior decisions made by the Supreme Court. He spoke on Old Black Canyon Highway as a frontage road for Highway 69; once a permit is received for development within ½ mile of the boundary of the road, the frontage road must be back to legal status and suggested budgeting to rebuild it.

There was discussion about researching this issue, the Town's liability, whether the Town can abandon it. The Town Attorney stated she would research the issue and come back to Council in July with options, assessment of liabilities and costs.

July 10, 2012 Work Session

**3.1 Old Black Canyon Highway Update by the Town Attorney.** Review and possible direction.

Town Attorney Phyllis Smiley was in attendance, and reviewed the Old Black Canyon Highway ownership issue, asking for direction on what they want to see with this issue.

Councilmember Wright gave her request to find out what portions the town owns, which in turn will determine what parts are maintained by the town. She asked if there is a requirement that they continue maintaining the road, if it is determined they do not have ownership of it.

Mayor Nolan spoke on a County Board of Supervisor's document abandoning Old Black Canyon Highway; possible discrepancy of where the road is located from the designated easement; and town's ownership of it on the end coming out on Highway 169.

Phyllis Smiley spoke on a portion that is Third Street which is not a portion that is being contested.

Councilmember Rogers explained every council has wanted to know the status of this roadway and she spoke on adverse possession and whether it would apply in this case.

Ms. Smiley spoke on how adverse possession works and explained municipalities cannot obtain roadways this way but must purchase by paying fair market value or through dedication.

There was further discussion on finding out the ownership of the roadway and determining if the roadway was in the right-of-way. Ms. Smiley will bring that information back to the Council.

Public comment was taken on this item.

Walt Statler spoke on an indication of town ownership of a right-of-way being an 800 number on the GIS system, which the portion of Old Black Canyon Highway north of Edds Sand Trail does not have; his family paying the taxes on that property since 1939 and his belief that the ownership is his not the town's; blocking access to everyone but those people living off that section of the road.

Mayor Nolan suggested if traffic did not flow through that area it would increase traffic flow through Main Street which might help them get a light at Main and Highway 69.

Dean Cameron stated he is in favor of slowing people down on Old Black Canyon Highway.

Town Manager Kimball spoke on GIS showing the town's ownership of Old Black Canyon Highway from Edds Sand Trail to Prescott Street and the confusion being the transfer of the northern section of right-of-way to the town when incorporated.

Phyllis Smiley spoke on assessor's parcels not being legal documents, but needing to refer to the deeds instead. She will get back with them with information within 2-4 weeks.

August 14, 2012 Work Session

**3.3 Old Black Canyon Highway right-of-way acquisition, ownership and maintenance issues.** Report and discussion.

Mayor Nolan made a motion to waive the Client/Counsel Privilege on the Town Attorney opinion regarding this. Town Attorney Phyllis Smiley explained it would not need to be waived to have discussion. The motion failed for lack of a second.

Ms. Smiley explained the next step is to do a title search through a title company, and she is currently collecting quotes for this. She spoke on the history of this research and stated the previously received quit claims were not adequate to deed to the town. There was discussion on: liability for the road; concerns if maintenance is stopped; whether to spend more money on this issue; abandoning the road; town's conservatorship of the property; whether roadway is in the right-of-way or not.

Public comment was taken on this issue.

Dean Cameron spoke on his attorney's response regarding the liability for the property owners if someone is hurt along their section of the road and a title search indicating they own the property.

Jerry Brady spoke on the town never acquiring ownership of the roads except for some subdivisions; Old Black Canyon's history as a supply route for Fort Whipple; a permanent lien easement and paying back the federal investment on the road.

Jack Hamilton stated he would not accept the roadway if the town wanted to abandon it; suggested putting this on a future agenda to make that determination.

Walt Statler spoke on being willing to build a gate at the bridge to close the road but would want something in writing that the property owners do not hold liability if someone is injured.

Councilmember Repan asked Mr. Cameron if his attorney made a suggestion of what to do.

Dean Cameron stated it was suggested the road be closed then address the issue of reimbursement for taxes paid over the years.

Phyllis Smiley stated that if a property owner is paying taxes on publicly owned land then they are entitled to reimbursement.

Council decided that once more quotes for title searching are received it will go on a future agenda for a decision.

September 4, 2012 Regular Council Meeting

**8.3 Old Black Canyon Highway right-of-way acquisition, ownership and maintenance issues.** "Next Step" discussion and possible action.

Town Manager Kimball state the attorney contacted four companies for the Town and received four quotes, two of which are piecemeal approach, one low and one high bid.

Councilmember Hiles made a motion to go with the lowest bid, seconded by Councilmember Dibble.

There was discussion regarding the specifications that the attorney provided and if the companies knew exactly what the Town was asking for. Town Manager Kimball stated the attorney's office handled all aspects of this request at their request so they could be consistent. Town Manager Kimball can clarify that information from the attorney.

Public comment was taken on this item.

Jerry Brady spoke on the attorney's recommendation to get a title abstract at a previous meeting; complex ownership history; recommended getting a title abstract.

Bob Greene stated he has obtained all of the records from the Black Canyon Highway Association which is now in the hands of the Dewey-Humboldt Historical Society; the Town might want to borrow them for research.

The motion to go with the lowest bid passed by a unanimous vote.

November 6, 2012 Regular Council Meeting

**8.1 Old Black Canyon Highway Title Search Status – Attorney Report.** Discussion and possible action.

Town Attorney, Phyllis Smiley was in attendance to discuss this item. Title report is done and 5 property owners were identified as having an interest in parts of the roadway. Her recommendation is to have either the town engineer or a surveyor go through the legal descriptions of properties and find out where their interests are and draw up legal descriptions for each of these properties. Then, the Council can move forward on an informed decision. There was discussion on surveying these properties; obtaining legal documents; which portion of the road in question; how much spent so far on this issue; waiving the client/counsel privilege on the Attorney memo.

Councilmember Repan made a motion to direct staff to contact the three on-call engineering firms for an estimate on this work, seconded by Councilmember Hiles.

Public comment was taken on this item.

Jack Hamilton spoke on matching the original road right-of-way to the location of the existing road and finding if owners might be interested in a swap.

Jerry Brady spoke on working with the Forest Service Land Management surveys and his research on Old Black Canyon Highway and no conveyance of right to ownership for the town.

David Nystrom asked that Council consider waiving the client/counsel privilege for the Attorney memo regarding the title report.

A vote was taken on the motion on the floor which passed by a 5-1 vote in favor, Mayor Nolan voting against.

David Hiles made a motion to waive the attorney client privilege on the memo regarding the title report, seconded by Councilmember Repan. It was approved unanimously.

There was discussion on whether to share the ownership information at this time in the meeting. Town Manager Kimball stated it is available by information request.

February 12, 2013 Work Session

**3.2 Old Black Canyon Highway issue review, update and next steps.** Pat Naville, Land Surveyor with SWI, will be in attendance.

Town Manager, Yvonne Kimball gave an overview on the Old Black Canyon (OBC) Highway issue. Pat Naville and Richard Aldridge were present to speak on SWI's earlier survey done on the highway for the Town and conflicting information identified from the title report. Mr. Naville reported they did not find anything in archives of when the roadway was legally created.

Public comment was taken on this issue.

Jerry Brady spoke on other areas with similar issues; monies available to survey the town; requirements for keeping it as a frontage/secondary road for development; historically being an arms and post road; requirement to obtain permission from Army Secretary and Army Corp of Engineers to make any changes to it.

Town Attorney Phyllis Smiley spoke on the recommendation to clear title to the properties, and obtain ownership. There was discussion on what to do if someone will not agree to have their property surveyed; costs to date and expected legal, engineering and appraisal costs to proceed; "Due on Sale" clause concerns. Town Attorney Susan Goodwin spoke on not maintaining the road if the ownership does not belong to the Town and ways to mark the road where maintenance will end. There was a suggestion that the property owners transition the road into the Town Maintenance System.

Public comment was taken on this item.

Jack Hamilton spoke on there being a right-of-way that is not aligned with the current roadway, and recommended they find out where that ROW is located.

Jerry Brady spoke on the establishment of public lands and enumeration of properties under the Federal Fortification Act.

Vice Mayor Repan recommended directing staff to put this on another meeting for direction/action on what to do next, finding the end point for town owned section of roadway. Town Manager Kimball explained they would need to get a cost for the engineer to determine the end point through a survey.

April 9, 2013 Work Session

**3.2 Old Black Canyon Highway Update.**

Town Manager Kimball gave an update on the Old Black Canyon (OBC) Highway roadway: Surveyor has provided town with an assessment. Ms. Kimball recommended the Council "wait and see" due to complications and wanting collaboration from all parties before moving forward. The Town will need an accurate survey to determine all encroaching properties.

There was discussion on the OBC Hwy Right-of-Way compared to location of roadway; options regarding ownership and maintenance.

Public comment was taken on this item.

Jack Hamilton spoke on plotting the Town's ROW using the title reports and the Town's ownership of and responsibility for parts of the roadway.

Jerry Brady spoke on creating a list of community assets for the town; previous efforts to determine ownership; historic ownership of Old Black Canyon Highway and information available through the U.S. War Department.

There was further discussion of options. It was decided that a Council person can ask for a future agenda item if they are interested in pursuing this further, but at this time no action or direction was given on this.

July 2, 2013 Regular Council Meeting

**9.4 What to do about Old Black Canyon Highway.** [CAARF requested by CM Hamilton]

Councilmember Hamilton gave an overview. Old Black Canyon Highway was a territorial, state and county road; Councilmember Hamilton thinks he has an easement on this. He spoke on a slight conflict of interest as he is not sure if it describes his land. He suggested having staff follow up on this information by checking with ADOT on project S38 for any further information and check on Green Gulch Bridge. If ADOT does not have anything then copy the other five documents from Yavapai County and plot on a map to see what road area is covered. Town should proceed as if Town owns the road, currently doing this by filling pot-holes. He suggested moving it up on the list for repair and maintenance.

Councilmember Wright spoke on finding out who owns the road and assert eminent domain.

Councilmember Alen spoke on Council needing to address this item and would like to see it in a Study Session with cost factors; not in favor of eminent domain; requested the history of this project.

Councilmember Hamilton made a motion to direct staff to do some research on the documents for project S38 that he has provided and bring it back to council when determination is made, seconded by Councilmember Wright.

Councilmember McBrady spoke on finding out cost to determine who owns the road; surprised Staff repaired the road.

Town Manager Kimball spoke on Council being informed of the practice on Old Black Canyon Highway to fill pot-holes when there was a safety concern, the procedure for Staff to do a project that is not on Town-owned property; conflicting information received and the Town has spent quite a bit of money on this complex issue already; a detailed survey (estimated \$60,000) would be necessary to determine where the road easement is versus where the road currently is.

There was further discussion on property owners having to prove they own it; complexity of the road history; budget for this item; safety and liability concerns of filling potholes until ownership determined; forming a road committee; repercussions of abandonment; procedure for property owners to have the Town take over a road.

Jerry Brady spoke on Highway 69 being a pre-existing legal non-conforming use; survey system has not been rectified; incorporate this issue into the emergency responder drill that is being planned; he spoke on Prescott Valley backing off on annexing due to Old Black Canyon Highway and the requirement of bringing the road up to current standards all the way to Cordes.

The motion to direct staff to do some research on the documents for project S38 that Councilmember Hamilton has provided and bring it back to council when determination is made passed 4-3 (Alen, Repan, Nolan voting against).

July 16, 2013 Regular Council Meeting – **DRAFT SUMMARY**

### **8.1 Old Black Canyon Highway follow-up from July 2<sup>nd</sup> meeting and next steps.** Discussion and possible next steps.

Councilmember Hamilton made a motion to repealing the motion made last meeting regarding research on a document he provided, seconded by Vice Mayor Repan. It was approved unanimously.

Councilmember Hamilton made a motion to waive the client/counsel privilege for the Old Black Canyon Highway communication dated August 10, 2012, seconded by Councilmember Wright.

There was discussion on waiting until the Council could review this document and/or verifying if the privilege had already been waived previously; and on previous decisions regarding the OBC ownership issue. Councilmember Hamilton spoke on questions he has for the attorney and recommended they submit an article for the newsletter informing the citizens on the reasons for the decision made about this roadway.

A vote was taken on the motion to waive the client/counsel privilege. It failed by a 3-4 vote, Councilmembers Alen, McBrady, Williams-Rowe and Mayor Nolan voting against.

Councilmember Alen made a motion to ask staff to aggregate all the data on Old Black Canyon Highway and then set a study session once that data is gathered and the council has had a chance to review it, seconded by Councilmember McBrady.

There was discussion on how far back to research and gather. It was decided that going back to 2012 was adequate.

Public comment was taken on this item.

Jerry Brady spoke on there being no legal descriptions of the town, only for those subdivisions within town. He spoke on records being burned in a fire in 1900.

Town Manager Kimball spoke on three options she felt the Council had: 1. Do a legal description then proceed with the dedication, purchase or condemnation. 2. Do nothing and continue doing what has been done so far. 3. Treat the road as the town's and maintain it as such. Just say it is ours. She spoke on the level of work that the road needs and liability issues with options 2 and 3. Mayor Nolan spoke on the previous council decision to not spend more money on this but wait until the property owners go through the process to bring the road into the town maintained plan through the established "Private to Public Roadway" process.

A vote was taken on the motion to set a study session for this item. It was approved by a 5-2 vote in favor, Vice Mayor Repan and Mayor Nolan voting against.



INSTRUMENT # 9047846  
 OFFICIAL RECORDS OF  
 YAVAPAI COUNTY  
 PATSY C. JENNEY  
 REQUEST OF:  
 YAVAPAI TITLE COMPANY  
 DATE: 12/13/90 TIME: 11:00  
 FEE: 5.00 SC: 4.00 RT: 1.00  
 BOOK 2313 PAGE 930 PAGES: 003

MAIL TO:  
 M/M ELMER YOUNG  
 P.O. BOX 113  
 DEWEY, AZ 86327  
 444032

EASEMENT

THIS INSTRUMENT made this 6th day of December 1990

between WILLIAM A. GARY AND MARION L. GARY HUSBAND AND WIFE AND SWAYZE E. MC CRAINE JR AND KATHY G. MC CRAINE, HUSBAND AND WIFE, Grantor(s) and ELMER EDWARD YOUNG AND LAVERA W. YOUNG, TRUSTEES OF THE ELMER EDWARD YOUNG AND LAVERA W. YOUNG IRRECOVERABLE TRUST DATED MARCH 3, 1989, Grantee(s);

WITNESSETH:

That for and in consideration of \$1.00 and other good and valuable consideration, the receipt of which is hereby acknowledged, the Grantor(s) does (do) hereby grant, bargain, sell, and convey unto the Grantee(s), and their assigns, an easement over a strip of land 10 feet in width, lying 5 feet on either side of said pipeline as shown by the sketch attached herewith marked "EXHIBIT B" and across the following described property:  
 Portion of pipeline over McCraine's property may be removed over to fence line at McCraines expense if he desires.

SEE EXHIBIT 'A' ATTACHED HERETO

Said easement is for an existing 10 inch irrigation water pipeline including the right of access for repair and maintenance.

If at any time this easement is abandoned by Grantee(s), or their assigns, the rights granted herein shall cease and terminate and the land traversed by or included in the easement so abandoned shall revert to the then owner of the above described land and be free of said easement as fully and completely as if this indenture had not been made.

IN WITNESS WHEREOF the Grantor(s) has (have) caused this indenture to be signed on the day and year first written above.

*William A. Gary, Marion L. Gary*  
 WILLIAM A. GARY MARION L. GARY

*Swayze E. McCraine Jr, Kathy G. McCraine*  
 SWAYZE E. MC CRAINE JR KATHY G. MC CRAINE

ACKNOWLEDGMENT

STATE OF ARIZONA )  
 ) ss.  
 COUNTY OF YAVAPAI )

On this 12 day of December, 1990, before me, the undersigned, a Notary Public, personally appeared WILLIAM A. GARY, MARION L. GARY SWAYZE E. MC CRAINE JR, AND KATHY G. MC CRAINE known to me to be the person(s) whose name(s) is (are) subscribed to the within instrument and acknowledged that he(they) executed the same for the purpose and consideration therein contained.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

SEAL

My Commission will expire  
2-18-93

*Sharon A. Finley*  
 Notary Public

BOOK 2313 PAGE 930

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WILL NOT REPRODUCE

## McCraine Property

That portion of Sections 11 and 14, Township 13 North, Range 1 East of the Gila and Salt River Base and Meridian, Yavapai County, Arizona described as follows:

beginning at the U.S. General Land Office brass cap designating the southwest corner of said Section 11 and the Northwest corner of said Section 14; thence North 89°56'10" East, 1344.81 feet along said section line to the true point of beginning; thence North 17°07'23" West, 4.51 feet; thence North 65°42'13" East, 126.31 feet to a nail set in the North concrete abutment of a small water line suspension bridge; thence South 84°49'13" East, 522.61 feet to a 1/2 inch pin; thence South 53°42'05" East, 261.09 feet to a nail set in top of a 4 foot square concrete block 3 feet high; thence South 01°18'55" West, 311.55 feet to a 1/2 inch iron pin; thence South 85°49'51" West, 713.24 feet, more or less, partly along a fence to a point on the easterly boundary line of the "old Black Canyon Highway"; thence in a northerly direction, along the easterly boundary line of said Highway, to the point of intersection with the North section line of said Section 14; thence North 89°56'10" East, along said North section line, to the true point of beginning.

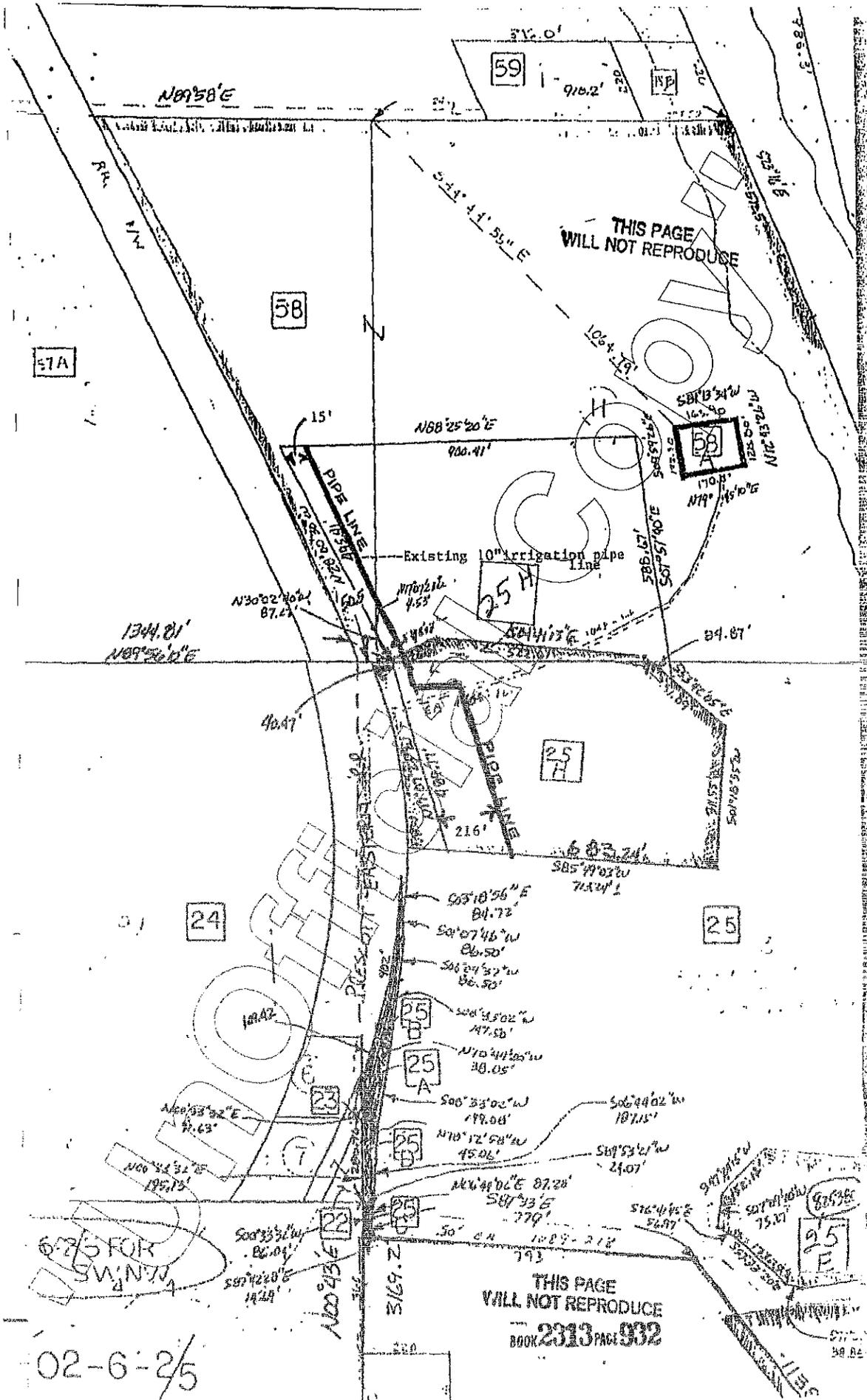
## Gary Property

That portion of Sections 11 and 14, Township 13 North, Range 1 East of the Gila and Salt River Base and meridian, Yavapai County, Arizona, described as follows:

beginning at a 1/2 inch pin which bears South 65°42'13" West, 126.31 feet from a nail set in the North concrete abutment of a small water line suspension bridge, said nail being the most Northwesterly corner of that certain parcel of land as described in Book 1892 of Official Records, page 455, records of Yavapai County, Arizona; thence along the easterly right of way line of the old Black Canyon Highway North 39°02'40" West, 81.27 feet partly along a fence to a 1/2 inch pin; thence continuing along said easterly right of way line of the old Black Canyon Highway, North 28°08'30" West, 495.41 feet along a fence to a 1/2 inch pin; thence North 89°25'29" East, 990.41 feet to a 1/2 inch pin; thence South 07°51'48" East, 588.67 feet partly along a fence to a 1/2 inch pin being on the Northeastly line of that certain parcel of land described in Book 1892 of Official Records, page 455, (herein referred to as that certain parcel); thence North 51°41'50" West, 84.07 feet (recorded North 53°42'05" West) along the Northeastly line of that certain parcel to a 1/2 inch pin; thence North 84°49'19" West, 522.61 feet (recorded North 84°49'13" West, 522.61 feet) along the Northwesterly line of that certain parcel to a nail set in the North concrete abutment of a small water line suspension bridge; thence South 65°42'13" West, 126.31 feet along the Northwesterly line of that certain parcel to the POINT OF BEGINNING.

BOOK 2313 PAGE 831

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BOOK 2313 PAGE 932

02-6-2/5



**TOWN OF DEWEY-HUMBOLDT**  
**P.O. BOX 69**  
**HUMBOLDT, AZ 86329**  
**Phone 928-632-8562 • Fax 928-632-7365**

**COUNCIL AGENDA ACTION REQUEST FORM**

**Meeting Type:**  Regular  Special  Work Session

**Meeting Date:** July 8, 2013

**Date of Request:** June 18, 2012

**Type of Action:**  Routine/Consent  Regular

**Requesting:**  Action  Report Only

**Agenda Item Text (a brief description for placement on the agenda; please be exact):**

Discussion on what criteria will be used and how the Council will conduct its performance review for the Town Manager (TM).

*\* Council Action on Evaluation form and time frame to conduct the review.*

**Purpose and Background Information (Detail of requested action).** It is normal practice to have a performance review for the TM prior to the anniversary date.

Council needs to decide when, how and where the review will take place. It will be up to the TM to decide if she wishes this in open or executive session.

**Staff Recommendation(s):** \_\_\_\_\_

**Budgeted Amount:** \_\_\_\_\_

**List All Attachments:** TM's Contract and Town Code and IMCA Review Form

**Type of Presentation:** \_\_\_\_\_

**Special Equipment needed:**  Laptop  Remote Microphone  
 Overhead Projector  Other: \_\_\_\_\_

**Contact Person:** CM Wright

**Note: Per Town Code §30.105(D): Any new item will be placed under "New Business" for the council to determine its disposition. It can be acted upon at that meeting, sent to staff for more work, sent to the appropriate board or commission, set for a work session or tabled for a future date, etc.**

S:\FORMS\Council Action Request Form Template.docx

### 30.030 TOWN MANAGER.

The town hereby identifies the following as the authority and duties of the Town Manager:

(A) *Office created.* The Office of the Town Manager is created and established by this section. The Town Manager shall be appointed by the Council on the basis of his or her administrative and executive ability and qualifications.

(B) *Reserved.*

(C) *Bond.* The Town Manager shall furnish a corporate surety bond to be approved by the Council in a sum as may be determined by the Council, and shall be conditioned upon the faithful performance of the duties imposed upon the Town Manager as herein prescribed. The cost of the bond will be paid by the town.

(D) *Compensation package.*

(1) The Manager shall receive compensation as determined by the Town Council. The Council shall from time to time examine at the salary range to determine if an adjustment should be made.

(2) Health and retirement benefits are the same as for all salaried town employees.

(3) The Town Manager shall be reimbursed for all sums necessarily incurred or spent in the performance of duties, or incurred when traveling on business pertaining to the town under direction of the Council. Reimbursement will be made in accordance with Administrative Rule 10-04.

(E) *Removal from office.* The Town Manager may be removed, with or without cause by the Town Council, by simple majority vote of its members.

(F) *Absence; duties during vacancy.* The Town Clerk will perform the duties of Town Manager during the temporary absence or disability of the permanent Town Manager unless otherwise specified by the Town Manager. In the event the office of Town Manager is vacant and no interim Town Manager has been appointed by the Council, the Clerk shall carry out certain administrative duties of the Town Manager as directed by Council until a Manager or Interim Manager has been appointed.

(G) *Authority and responsibilities.* The Town Manager shall be responsible to the Council for the proper administration of all affairs of the town under the specific direction and control of the Council. The responsibilities are set forth as follows:

(1) Coordinate and execute on behalf of the Town Council general administration and supervision of town employees, and implement the policies set by Council by motions, ordinances, resolutions and codes of the town;

(2) Analyze and supervise the functions, duties and activities of the various departments and services of the town and of all employees thereof, and make such recommendations to the Town Council with reference thereto as in his or her judgment will result in improved efficiency in the overall operation of the town;

(3) Attend all meetings of the Council unless excused by the Mayor individually or the Council. He or she shall present options and recommendations relative to each item on the agenda for approval, rejection or modification by the Council. Also be prepared to report on or discuss any matter concerning the affairs of the departments, services, or activities under his or her supervision upon which the Council shall be informed;

(4) Keep the Town Council, committees, commissions and boards fully advised about relevant information including, but not limited to legal actions involving the town, upcoming discussions and events that pertain to their respective functions. Any information received should be transmitted, as it comes in, so that the committees, commissions and boards will have plenty of lead time to investigate and advise the Council;

(5) Recommend to the Council for their consideration resolutions, ordinances or other measures as needed or appropriate. The Manager is bound by whatever action the Council takes;

(6) Appoint, promote, demote, suspend, and remove employees of the town with the ratification of the Town Council. Town Manager may recommend to the Council appointment and removal of the Attorney and Magistrate;

(7) Keep the Council at all times fully advised as to the financial conditions and needs of the town and to provide whatever reports to the Council as it may deem necessary. It shall further be his or her duty to see that no indebtedness is incurred or expenditure made in violation of the Arizona Constitution, the State Budget Law, A.R.S. §§ 42-17101 *et seq.* and the *Principles of Sound Financial Management*, Resolution 08-58;

(8) Supervise the expenditures of all departments or services of the town and act as purchasing agent for the purchase of all supplies, goods, wares, merchandise, equipment and materials which may be required for any of the departments or services within the existing budget;

(9) Receive from each department of the town, itemized annual estimates of expenditures required by them for capital outlay, salaries, wages and operating costs; to tabulate the same into a preliminary consolidated town budget and submit the same to the Town Council annually on the date specified by them, with his or her recommendations for all expenses and revenues;

(10) Either the Town Manager or the Town Clerk shall recommend the issuance of all warrants or checks drawn on the bank account or accounts of the town to be signed by two Council Members;

(11) Follow through and endeavor to resolve all complaints filed against any employee, department or service within two weeks. All such complaints and resolutions shall be forwarded to the Town Council as they are received;

(12) Keep the Town Council informed of all opportunities available from or sought by organizations or individuals whose aim and purpose it is to advance the interests of the town and its residents;

(13) Make and keep an up-to-date inventory of all property owned by the town and exercise general supervision over all property that is under the town's control and jurisdiction of the Council. Recommend to the Town Council the purchase of machinery, and equipment as deemed needed;

(14) See that all franchises, permits and privileges granted by the town are faithfully observed;

(15) Performs such other duties as may be directed by the Town Council.

(H) *Limitations upon responsibility.* The Town Manager, other than making recommendations, shall not exercise any policy-making or legislative functions whatsoever, nor attempt to commit or bind the Town Council or any member thereof to any action, plan or program requiring official action of the Town Council. This section does not grant any authority to the Town Manager that is vested in or imposed by general law or town ordinances in any town committee, commission, board, officer or employee.

(I) *Conduct.* The Town Manager shall endeavor at all times to exercise tact, patience, impartiality and courtesy in his or her contacts with the public, the Town Council, all town boards, committees, commissions, departments and employees.

(J) *Resignation of Manager.* The Manager shall provide the Council with 30 days' written notice of intention to resign his or her position. The Manager shall assist the Council on their recruitment and selection of a replacement if requested by the Council. In the event of resignation due to health reasons or other reasons which a majority vote of the Council deems an emergency, the period of written notice shall be determined in conference between the Manager and the Town Council. During the time that the town has no interim or permanent Manager, the Town Council may act in a limited capacity until a permanent Manager is hired and on board at Town Hall. The duties of the Council will be:

(1) To receive information sent via e-mail or snail mail to the Manager so that no information slips through the cracks;

(2) Answer any questions that come in via phone or in person from citizens or others that would normally be handled by the Town Manager; and

(3) To relay any information without opinions to the whole Council.

(Ord. 08-36, passed 1-15-2008; Am. Ord. 10-76, passed 11-30-2010; Am. Ord. 11-82, passed 3-22-2011; Am. Ord. 11-84, passed 4-5-2011)

### 30.017 COMPENSATION, BOND AND FINANCIAL DISCLOSURE STATEMENT

(B) *Bond.* Prior to taking office, the town will provide for each Councilmember an official bond enforceable against the principal and his or her sureties. The bond shall be payable to the state, and to and for the use and benefit of the town or any person who may be injured or aggrieved by acts of the officer in his or her official capacity. A person so injured or aggrieved may bring suit on the bond under provisions identical to those contained in A.R.S. § 38-260. Bonds shall be in a sum as shall be determined by the Town Manager and the premium for the bonds shall be paid by the town.

### 30.031 MAYOR AND VICE MAYOR; APPOINTMENT, POWER AND DUTIES.

(C) The Mayor, or Council designee, coordinates with the Town Manager in the development of agendas for meetings of the Town Council.

### 30.032 TOWN MAGISTRATE

(E) *Duties of Town Council and Town Manager.* The compensation (in an amount to be determined by Council) and the town pro rata portion of the annual "Judicial" membership fee of the State Bar, if any, shall be borne by the town. All training required by the AOC for service to the town (pro rata) shall be paid for by the town. The Town Council shall provide for the financial, physical, personnel and consulting requirements of the Town Court. The Town Council may adopt those additional orders and resolutions which are deemed necessary for the consistent implementation of this section. The duties and responsibilities of the Town Manager in respect to the Town Court shall include but are not limited to:

(1) Establishing such rules, regulations, policies and directives which are not inconsistent with the constitution, state law, town charter, town ordinances or administrative orders of the Supreme Court or lawfully delegated authority; as may be deemed reasonably necessary to the effective operation of the court as a part of the town government and to ensure that the personnel, budgeting and expenditure rules, regulations and requirements are followed by the town court.

(2) Providing for a system for the collection and safeguarding of all fines, sanctions, restitution and bond payments, which may come into the possession of the town court, and for transferring such public monies to the Town Treasurer.

### 30.105 COUNCIL AGENDA

(A) The Manager and Clerk are responsible for receiving and organizing all materials for the agenda, in collaboration with the Mayor and Vice-Mayor. The Manager will then prepare a memorandum for distribution to the Council containing all agenda items currently scheduled. The Mayor or Vice Mayor should be contacted if an individual Councilmember wishes to modify that schedule.

# City Manager Performance Evaluation

City of \_\_\_\_\_

Evaluation period: \_\_\_\_\_ to \_\_\_\_\_

\_\_\_\_\_  
Governing Body Member's Name

Each member of the governing body should complete this evaluation form, sign it in the space below, and return it to \_\_\_\_\_. The deadline for submitting this performance evaluation is \_\_\_\_\_. Evaluations will be summarized and included on the agenda for discussion at the work session on \_\_\_\_\_.

\_\_\_\_\_  
Mayor's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governing Body Member's Signature

\_\_\_\_\_  
Date Submitted

## INSTRUCTIONS

This evaluation form contains ten categories of evaluation criteria. Each category contains a statement to describe a behavior standard in that category. For each statement, use the following scale to indicate your rating of the city manager's performance.

- 5 = Excellent** (almost always exceeds the performance standard)
- 4 = Above average** (generally exceeds the performance standard)
- 3 = Average** (generally meets the performance standard)
- 2 = Below average** (usually does not meet the performance standard)
- 1 = Poor** (rarely meets the performance standard)

Any item left blank will be interpreted as a score of "3 = Average"

This evaluation form also contains a provision for entering narrative comments, including an opportunity to enter responses to specific questions and an opportunity to list any comments you believe appropriate and pertinent to the rating period. Please write legibly.

Leave all pages of this evaluation form attached. Initial each page. Sign and date the cover page. On the date space of the cover page, enter the date the evaluation form was submitted. All evaluations presented prior to the deadline identified on the cover page will be summarized into a performance evaluation to be presented by the governing body to the city manager as part of the agenda for the meeting indicated on the cover page.

## PERFORMANCE CATEGORY SCORING

### 1. INDIVIDUAL CHARACTERISTICS

- \_\_\_\_\_ Diligent and thorough in the discharge of duties, "self-starter"
- \_\_\_\_\_ Exercises good judgment
- \_\_\_\_\_ Displays enthusiasm, cooperation, and will to adapt
- \_\_\_\_\_ Mental and physical stamina appropriate for the position
- \_\_\_\_\_ Exhibits composure, appearance and attitude appropriate for executive position

Add the values from above and enter the subtotal \_\_\_\_\_ ÷ 5 = \_\_\_\_\_ score for this category

Page 2 of 7 Initials \_\_\_\_\_

**2. PROFESSIONAL SKILLS AND STATUS**

- Maintains knowledge of current developments affecting the practice of local government management
- Demonstrates a capacity for innovation and creativity
- Anticipates and analyzes problems to develop effective approaches for solving them
- Willing to try new ideas proposed by governing body members and/or staff
- Sets a professional example by handling affairs of the public office in a fair and impartial manner

Add the values from above and enter the subtotal \_\_\_\_\_ ÷ 5 = \_\_\_\_\_ score for this category

**3. RELATIONS WITH ELECTED MEMBERS OF THE GOVERNING BODY**

- Carries out directives of the body as a whole as opposed to those of any one member or minority group
- Sets meeting agendas that reflect the guidance of the governing body and avoids unnecessary involvement in administrative actions
- Disseminates complete and accurate information equally to all members in a timely manner
- Assists by facilitating decision making without usurping authority
- Responds well to requests, advice, and constructive criticism

Add the values from above and enter the subtotal \_\_\_\_\_ ÷ 5 = \_\_\_\_\_ score for this category

**4. POLICY EXECUTION**

- Implements governing body actions in accordance with the intent of council
- Supports the actions of the governing body after a decision has been reached, both inside and outside the organization
- Understands, supports, and enforces local government's laws, policies, and ordinances
- Reviews ordinance and policy procedures periodically to suggest improvements to their effectiveness
- Offers workable alternatives to the governing body for changes in law or policy when an existing policy or ordinance is no longer practical

Add the values from above and enter the subtotal \_\_\_\_\_ ÷ 5 = \_\_\_\_\_ score for this category

Page 3 of 7 Initials \_\_\_\_\_

**5. REPORTING**

- \_\_\_\_\_ Provides regular information and reports to the governing body concerning matters of importance to the local government, using the city charter as guide
- \_\_\_\_\_ Responds in a timely manner to requests from the governing body for special reports
- \_\_\_\_\_ Takes the initiative to provide information, advice, and recommendations to the governing body on matters that are non-routine and not administrative in nature
- \_\_\_\_\_ Reports produced by the manager are accurate, comprehensive, concise and written to their intended audience
- \_\_\_\_\_ Produces and handles reports in a way to convey the message that affairs of the organization are open to public scrutiny

Add the values from above and enter the subtotal \_\_\_\_\_ ÷ 5 = \_\_\_\_\_ score for this category

**6. CITIZEN RELATIONS**

- \_\_\_\_\_ Responsive to requests from citizens
- \_\_\_\_\_ Demonstrates a dedication to service to the community and its citizens
- \_\_\_\_\_ Maintains a nonpartisan approach in dealing with the news media
- \_\_\_\_\_ Meets with and listens to members of the community to discuss their concerns and strives to understand their interests
- \_\_\_\_\_ Gives an appropriate effort to maintain citizen satisfaction with city services

Add the values from above and enter the subtotal \_\_\_\_\_ ÷ 5 = \_\_\_\_\_ score for this category

**7. STAFFING**

- \_\_\_\_\_ Recruits and retains competent personnel for staff positions
- \_\_\_\_\_ Applies an appropriate level of supervision to improve any areas of substandard performance
- \_\_\_\_\_ Stays accurately informed and appropriately concerned about employee relations
- \_\_\_\_\_ Professionally manages the compensation and benefits plan
- \_\_\_\_\_ Promotes training and development opportunities for employees at all levels of the organization

Add the values from above and enter the subtotal \_\_\_\_\_ ÷ 5 = \_\_\_\_\_ score for this category

Page 4 of 7 Initials \_\_\_\_\_

**8. SUPERVISION**

- \_\_\_\_\_ Encourages heads of departments to make decisions within their jurisdictions with minimal city manager involvement, yet maintains general control of operations by providing the right amount of communication to the staff
- \_\_\_\_\_ Instills confidence and promotes initiative in subordinates through supportive rather than restrictive controls for their programs while still monitoring operations at the department level
- \_\_\_\_\_ Develops and maintains a friendly and informal relationship with the staff and work force in general, yet maintains the professional dignity of the city manager's office
- \_\_\_\_\_ Sustains or improves staff performance by evaluating the performance of staff members at least annually, setting goals and objectives for them, periodically assessing their progress, and providing appropriate feedback
- \_\_\_\_\_ Encourages teamwork, innovation, and effective problem-solving among the staff members

Add the values from above and enter the subtotal \_\_\_\_\_ ÷ 5 = \_\_\_\_\_ score for this category

**9. FISCAL MANAGEMENT**

- \_\_\_\_\_ Prepares a balanced budget to provide services at a level directed by council
- \_\_\_\_\_ Makes the best possible use of available funds, conscious of the need to operate the local government efficiently and effectively
- \_\_\_\_\_ Prepares a budget and budgetary recommendations in an intelligent and accessible format
- \_\_\_\_\_ Ensures actions and decisions reflect an appropriate level of responsibility for financial planning and accountability
- \_\_\_\_\_ Appropriately monitors and manages fiscal activities of the organization

Add the values from above and enter the subtotal \_\_\_\_\_ ÷ 5 = \_\_\_\_\_ score for this category

Page 5 of 7 Initials \_\_\_\_\_

**10. COMMUNITY**

- \_\_\_\_\_ Shares responsibility for addressing the difficult issues facing the city
- \_\_\_\_\_ Avoids unnecessary controversy
- \_\_\_\_\_ Cooperates with neighboring communities and the county
- \_\_\_\_\_ Helps the council address future needs and develop adequate plans to address long term trends
- \_\_\_\_\_ Cooperates with other regional, state and federal government agencies

Add the values from above and enter the subtotal \_\_\_\_\_ ÷ 5 = \_\_\_\_\_ score for this category

**NARRATIVE EVALUATION**

What would you identify as the manager's strength(s), expressed in terms of the principle results achieved during the rating period? \_\_\_\_\_

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What performance area(s) would you identify as most critical for improvement? \_\_\_\_\_

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Page 6 of 7 Initials \_\_\_\_\_



## EMPLOYMENT AGREEMENT

This EMPLOYMENT AGREEMENT ("Agreement") is entered into this \_\_\_ day of ~~October~~, 2011 between the Town of Dewey Humboldt ("Town") and Yvonne Kimball ("Kimball") under the following terms, conditions and obligations.

In consideration of the mutual covenants contained herein, the Parties agree as follows:

### 1. EMPLOYMENT AND DUTIES

1.1 Town employs Kimball and Kimball accepts said employment subject to the terms and conditions of this Agreement, Section 30.030 of the Dewey – Humboldt Town Code ("Town Code"), and to the supervision and direction of the Common Council of Town ("Town Council"). Kimball shall carry out the duties set forth in Section 30.030 of the Town Code, comply with applicable laws of the State of Arizona and perform such other legally permissible administrative and executive duties as required by her position or assigned to her by Town Council.

1.2 Kimball will devote her working day to the business of Town, it being recognized and agreed that the position of Town Manager is full-time and that she will hold no other positions for monetary gains without approval of the Town Council.

1.3 Kimball shall be an exempt employee under the Fair Labor Standards Act and is therefore not eligible for overtime.

### 2. TERM

2.1 This Agreement commences on January 3, 2012. Kimball, as Town Manager serves at the pleasure of the Town Council and nothing herein shall be taken to prevent, limit or otherwise interfere with the right of the Town Council to terminate the services of Kimball as Town Manager, with or without cause pursuant to section 4 and 5 of this agreement.

2.2 In the event Kimball voluntarily resigns as Town Manager, Kimball shall give the Town Council sixty (60) days' advance notice unless the Parties agree otherwise.

### 3. COMPENSATION AND BENEFITS

3.1 Town shall pay Kimball an annual salary of Seventy Thousand dollars (\$70,000.00). Payment shall be in equal biweekly installments by direct deposit. At the discretion of the Town Council, the annual base salary may be reviewed either as part of the budget process or by other action of the Town Council. As a result of the review, the decision to increase or not increase the compensation of Kimball is solely within the discretion of the Town Council.

3.2 In addition to the salary and benefits described in Paragraph 3.1 of this Agreement, Kimball will receive the following benefits:

A. Town-provided benefits provided to exempt employees, which currently includes the following:

ICMA-RC 401 (a) retirement account: The Town provides a 2-to-1 match of up to 12% for an employee contribution of 6% (for a total of 18%). The Town does not participate in Social Security or the Arizona State Retirement System. An employee-funded ICMA-RC 457 plan is also available.

After 30 days from commencement of work as set forth in Paragraph 2.1, health (2 plans: one high deductible plan a Health Savings Account), dental, life (\$20,000 from Town, employee paid up to \$300,000), and vision insurance paid by the Town for the employee only (dependent coverage available at employee's expense), supplemented with a Health Savings Account contribution by the Town of \$100 per month (if using the HSA-qualified plan).

Sick leave accruing at the rate of 2.7692 hours each pay period (9 days per year), available after 30 days from commencement of work as set forth in Paragraph 2.1.

Vacation leave accruing at a rate of 4.6154 hours each pay period (15 days per year), available after 30 days from commencement of work as set forth in Paragraph 2.1.

One personal day and 10 holidays.

Off-site training (conferences, etc), on-line training, professional membership dues, civic club dues and associated travel, not to exceed \$2100 per fiscal year.

Hours of Work: Kimball will devote her working day to the business of the Town, it being recognized and agreed that the position of town manager is full-time and that she will hold no other positions for monetary gains without approval of the Town Council. Notwithstanding the full-time nature of Kimball's duties, she shall conduct her work hours as an executive employee, thereby giving to Kimball the discretion as to her actual time and place of work which may include occasional working after regular work hours and on holidays. Such executive obligation will include the privilege that Kimball also has the discretion to absent herself from Town offices for personal reasons, provided that the operations of the Town will not suffer and that she can be reached on short notice.

The Town Council reserves the right to modify the benefits currently provided to its exempt employees.

B. A vehicle allowance in the amount of \$3600 per fiscal year.

C. A telephone allowance in the amount of \$80.00 per month.

3.3 For transition assistance, Town agrees to reimburse Kimball for qualified moving expenses, not to exceed \$5000.00 upon presentation of itemized receipts.

4. **TERMINATION.** For the purpose of this agreement, termination shall occur when:

4.1 The Town Council votes to terminate Kimball as the Town Manager at a duly authorized public meeting by an affirmative vote of the Town Council with all seven (7) members present.

4.2 If the Town reduces the base salary, compensation or any other financial benefit of Kimball, unless it is applied in no greater percentage than the average reduction of all other employees, such action shall constitute a breach of this Agreement and will be regarded as a termination without cause for severance purpose.

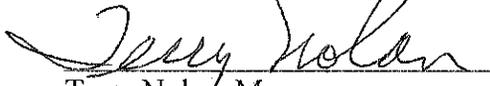
4.3 If the Town Council or citizens act to amend any provisions of the Town Code or Ordinances pertaining to the role, powers, duties, authority, responsibilities of Kimball's position (Town Manager) that substantially changes the form of government, Kimball shall have the right to declare that such amendments constitute termination without cause for severance purpose.

5. **SEVERANCE.** In the event that Kimball is terminated as defined in section 4 TERMINATION or is forced to resign by the Town Council during the time that Kimball is willing and able to perform the duties of Town Manager, then the Town Council agrees to pay Kimball a lump sum cash payment in full settlement of any causes of action, claims, damages, attorney's fees and costs arising out of the termination in the amount of three (3) months annual total base compensation. Prior to receipt of severance pay, Kimball shall execute a waiver and release of claims in a form satisfactory to the Town Attorney. If Kimball is terminated with cause, Town shall have no obligation to pay severance damages. "Cause" includes the following (i) failure to abide by applicable provisions of Town Code 30.030 Town Manager (ii) breach of this Agreement by Kimball, (iii) refusal to carry out a lawful direction of the Town Council made by the affirmative vote of the Town Council at a public meeting, (iv) conviction of a criminal offense, or (v) continuing to act in a manner that causes discredit to the Town after receiving notice from the Council that Kimball's actions cause discredit to the Town.

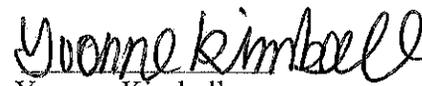
6. **ENTIRE AGREEMENT.** This Agreement contains the entire agreement between the parties and shall be governed by and construed in accordance with the laws of the State of Arizona.

7. CONFLICT OF INTEREST. This Agreement may be terminated pursuant to ARS Section 38-511.

TOWN OF DEWEY-HUMBOLDT

  
Terry Nolan, Mayor

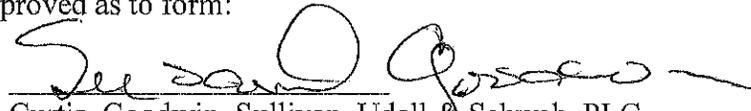
TOWN MANAGER

  
Yvonne Kimball  
10-21-2011

ATTEST:

  
Judy Morgan, Town Clerk

Approved as to form:

  
Curtis, Goodwin, Sullivan, Udall & Schwab, PLC  
Town Attorneys  
By: Susan D. Goodwin

**TOWN COUNCIL STUDY SESSION**

**September 10, 2013, 2:00 p.m. Town Council Meeting Chambers**

**Agenda Item # 3.4 Discussion and direct the Town Manager to add one full-time employee to the Public Works Department.** Continuation from Sept. 3 regular meeting.

**To: Mayor and Town Council Members**

**From: Yvonne Kimball, Town Manager**

**Date submitted: September 4, 2013**

**Purpose: Need for an additional Public Works Employee; cost matters (including comparison to contractor work)**

**Summary:**

At the September 4<sup>th</sup> meeting, the Council discussed the issue whether to add a full-time Public Works employee, hopefully, this fiscal year. Staff was asked to justify the need and explain funding the position so it would not become a budgetary burden.

The Need:

The Public Works Department currently has 2 full-time employees. The two-man crew is charged with maintaining the Town's 50 miles of roads with 12 miles being dirt. They repair potholes, clean ditches and culverts, maintain/construct/repair drainage facilities (such as the 60 low-water crossings throughout the Town). They also are responsible for mowing and trash pickup along Town rights-of-way (including Butte Park), repair and replacement of the Town signage and light facility maintenance (such as raising and lowering the flags daily), dumpster day and recycle bins (which will be over starting Jan. 2014). The Public Works Supervisor, who is one of the 2 employees, also coordinates and oversees road projects that are contracted out. He also has a certain amount of administrative work to conduct in the office at the request of the Town Manager, such as procurement tasks for the department, preparing for scope of work for contract projects, reviewing and oversight of private and public development/construction projects, preparing road plans, and analyzing the department's needs. The workload is so extremely heavy for the 2-man crew that considerations intended for improved level of services, training/professional development and being able to strive for a safer work environment in the field seem to be unrealistic. The Public Works Department is under-staffed.

Staff also did research on road department staff ratio. It appears that in municipalities with semi-rural settings like D-H, 11 - 12 workers per mile road maintained is a commonly acceptable ratio. By this standard, the Town needs at least 2 more employees for road work alone (not counting other miscellaneous duties such as facility maintenance). The Town of Chino Valley, which is similar to D-H road situation, has 140 miles of roads (paved and unpaved); 11 employees are budgeted under HURF to maintain them. The Town of Prescott Valley has about 260 miles of roads which are all paved and of better condition than those of D-H. 15 employees are budgeted under HURF for the roads. In addition, both Towns have supporting staff, supervisors and field workers under other departments, such as Park or Water/Sewer that can be called upon during busy or emergency situations while D-H does not.

When it comes to service delivery, road maintenance is the Town's first priority which has been expressed by the Town Council on many occasions. It is logical that the Town would allocate the most resources for the top priority service. Adequate human resource would enable the council and citizens' expectations and the town's obligations to its employees to be met.

The Cost:

The Town's starting hiring range for a full-time PW worker is \$30,000 a year (based on 2012's rate). Counting benefits, taxes, and insurances at today (2013)'s rates, the total cost is about \$44,000 a year.

Currently all personnel cost is paid in the General Fund while all project related cost is paid in the HURF. Staff examined this year's HURF budget. If one additional FTE had been hired and fully functioning at the beginning of the fiscal year, we estimate that by the end of the year \$40,000 worth of otherwise contracted work could be conducted in-house instead (with the right kind of rental equipment).

We also compared the direct cost of using contractors and in-house work in several scenarios (comparison sheet attached). We concluded that comparing to contractor work, in-house work saves about 25% to 35%.

Conclusion:

There are many factors to be considered when considering adding one additional FTE. First, the Council needs to determine the need. Staff believes that the need is apparent in order to keep up with what is necessary. With the Council's higher expectation of road conditions, the need seems even stronger. Affordability is certainly another pivotal element. It is Staff's position that the Town can afford an additional P.W. FTE under today's revenue trend. With the added FTE, certain work that is planned to pay contractors for would be conducted in-house; therefore, the cost of the FTE would be offset by the savings from reduced need to hire contractors. Staff estimates that in about 2 to 3 years, the benefits of hiring the FTE would become apparent: better maintained roads, quicker response, and safer work environment at an expense less than what the Town would have to pay the contractors.

### On Call Contractor/In-House Cost Comparison

<b>Ditch rebuild Prior to Chip Sealing Kachina Road (completed Project)</b>									
		<b>Contractor Cost (1 Day - 3 Men)</b>				<b>In-House Cost (1 Day - 2 Men)</b>			
<b>Item No.</b>	<b>Description</b>	<b>Quantity</b>	<b>Units</b>	<b>Unit Price</b>	<b>Total</b>	<b>Quantity</b>	<b>Units</b>	<b>Unit Price</b>	<b>Total</b>
<b>1</b>	<b>Mobilization</b>	1	LS	\$150.00	\$150.00	\$ -	\$ -	\$ -	\$ -
<b>2</b>	<b>Excavator</b>	8	Per HR	\$105.00	\$840.00	1	Per Day	\$ 225.19	\$ 225.19
<b>3</b>	<b>Water Truck</b>	8	Per HR	\$55.00	\$440.00	1	Per Day	\$ 310.66	\$ 310.66
<b>4</b>	<b>RamX Compactor</b>	8	Per HR	\$45.00	\$360.00	1	Per Day	\$ 283.50	\$ 283.50
<b>5</b>	<b>Trailer For Excavator</b>	0	0	\$ -	\$ -	1	Per Day	\$ 21.80	\$ 21.80
<b>6</b>	<b>Fuel</b>	0	0	0	0	Estimated			\$ 50.00
<b>7</b>	<b>Payroll - Estimated</b>					2 Men	Per Day	\$ 443.00	\$ 443.00
<b>8</b>	<b>Sales Tax</b>				\$108.79				\$ -
<b>9</b>									
<b>10</b>									
<b>11</b>									
<b>12</b>	<b>Totals</b>				<b>\$1,898.79</b>				<b>\$ 1,334.15</b>

### On Call Contractor/In-House Cost Comparison

<b>Rancho Place North of Lazy River and at Intersection 820LF Ditch rebuild (Planned work Prior to Chip Sealing)</b>									
		<b>Estimated Contractor Cost (1.5 day - 3 Men)</b>				<b>In-House Cost (2 Day - 2 Men)</b>			
<b>Item No.</b>	<b>Description</b>	<b>Quantity</b>	<b>Units</b>	<b>Unit Price</b>	<b>Total</b>	<b>Quantity</b>	<b>Units</b>	<b>Unit Cost</b>	<b>Total</b>
<b>1</b>	<b>Mobilization</b>	1	LS	\$150.00	\$150.00	0	0	0	0
<b>2</b>	<b>Excavator</b>	12	PerHR	\$105.00	\$1,260.00	2 Days	Per Day	\$ 225.19	\$ 450.38
<b>3</b>	<b>Water Truck</b>	12	PerHr	\$55.00	\$660.00	2 Days	Per Day	\$ 310.66	\$ 621.32
<b>4</b>	<b>RamX Compactor</b>	12	PerHR	\$45.00	\$540.00	2 Days	Per Day	\$ 283.50	\$ 567.00
<b>5</b>	<b>Trailer For Excavator</b>	0	0	\$0.00	\$0.00	2 Days	Per Day	\$ 21.80	\$ 43.60
<b>6</b>	<b>Dump Truck</b>	12	PerHR	\$55.00	\$ 660.00	0	0	\$ -	\$ -
<b>7</b>	<b>Fuel Estimated</b>	0	0	\$0.00	\$ -				\$ 100.00
<b>8</b>	<b>Payroll - Estimated</b>	0	0	\$0.00	\$ -	2 Men	Per Day	\$ 443.00	\$ 443.00
<b>9</b>									
<b>10</b>									
<b>11</b>	<b>Tax</b>				\$ 200.00	0	0	\$ -	\$ -
<b>12</b>	<b>TOTAL</b>				<b>\$3,470.00</b>				<b>\$ 2,225.30</b>

### On Call Contractor/In-House Cost Comparison

<b>Smoki Trail East of Acoma Rebuild Shoulder and Ditches 1660 LF (Planned work prior to Chip Sealing)</b>									
		<b>Estimated Contractor Cost (4 Days - 3 Men)</b>				<b>In-House Cost (5 Days - 2 Men)</b>			
Item No.	Description	Quantity	Units	Unit Price	Total	Quantity	Units	Unit Cost	Total
1	<b>Mobilization</b>	1	LS	\$150.00	\$150.00	0	0	\$ -	\$ -
2	<b>Excavator</b>	32	Per HR	\$105.00	\$3,360.00	1	Per WK	\$ 718.13	\$ 718.13
3	<b>Water Truck</b>	32	Per Hr	\$55.00	\$1,760.00	1	Per WK	\$ 1,070.86	\$ 1,070.86
4	<b>RamX Compactor</b>	32	Per HR	\$45.00	\$1,440.00	1	Per WK	\$ 1,057.50	\$ 1,057.50
5	<b>Trailer For Excavator</b>	0	0	\$0.00	\$0.00	1	Per WK	\$ 44.85	\$ 44.85
6	<b>Dump Truck</b>	32	Per HR	\$55.00	\$ 1,760.00	0	0	\$ -	\$ -
7	<b>Fuel Estimated</b>	0	0	\$0.00	\$ -				\$ 200.00
8	<b>Payroll - Estimated</b>	0	0	\$0.00	\$ -	2 Men	Per Wk	\$ 2,215.00	\$ 2,215.00
9									
10									
11	<b>Tax</b>				\$ 200.00				
12	<b>TOTAL</b>				<b>\$8,670.00</b>				<b>\$ 5,306.34</b>