

**TOWN OF DEWEY-HUMBOLDT
TOWN COUNCIL
REGULAR MEETING MINUTES
JANUARY 5, 2016, 6:30 P.M.**

A REGULAR MEETING OF THE DEWEY-HUMBOLDT TOWN COUNCIL WAS HELD ON TUESDAY, JANUARY 5, 2016, AT TOWN HALL AT 2735 S. HIGHWAY 69, DEWEY-HUMBOLDT, ARIZONA. MAYOR TERRY NOLAN PRESIDED.

1. **Call To Order.** The meeting was called to order at 6:32 p.m. Mayor Terry Nolan presided.
2. **Opening Ceremonies.**
 - 2.1. **Pledge of Allegiance.** Done.
 - 2.2. **Invocation.** Given by Councilmember Nancy Wright.
3. **Roll Call.** Town Council Members Jack Hamilton, Mark McBrady, Dennis Repan, Nancy Wright; Vice Mayor Doug Treadway; and Mayor Terry Nolan were present. Councilmember Arlene Alen was absent.
4. **Announcements Regarding Current Events, Guests, Appointments, and Proclamations.**

Announcements of items brought to the attention of the Mayor not requiring legal action by the Council. Guest Presentations, Appointments, and Proclamations may require Council discussion and action.

None.

5. **Town Manager's Report.** Update on Current Events.

5.1. Newtown Trailhead project update.

Town Manager Yvonne Kimball gave an overview, explaining Open Space & Trails Committee Chair Sandra Goodwin advised her that the project is going well with the Prescott National Forest (PNF), with a completion estimated for May 2016. PNF will be contacted regarding the commitments made by the town (law enforcement coverage; signage; trash maintenance; improving Newtown Avenue dirt portion; design & construction confirmation at trailhead area along with fencing and cattle guard). Intergovernmental Agreement (IGA) will come to the Council in the future for authorization.

5.2. Town attendance at the January 2017 Rural Transportation Summit in Yuma.

Town Manager Kimball gave an overview explaining that Mayor Nolan was removed from the CYMPO board, but this Yuma Rural Transportation conference was scheduled for the Mayor's attendance and reservations were made. Councilmember Alen (replacement to board) is unavailable for attendance. It was determined that Public Works Supervisor Ed Hanks shall attend the conference as the Town's representative at this event.

Mayor Nolan questioned the primary and alternate representatives not being able to attend the conference and how important it is to attend these meetings. Town Manager Kimball reiterated the circumstances regarding this decision and expressed appreciation of support in this matter.

6. Consent Agenda.

- 6.1. **Minutes.** Minutes from the November 17, 2015 Regular Council Meeting; December 1, 2015 Regular Council Meeting.

Mayor Nolan made a motion to approve the minutes from the November 17, 2015 and December 1, 2015 Regular Council meetings, as presented. It was seconded by Vice

Mayor Doug Treadway and approved unanimously.

7. **Comments from the Public (on non-agendized items only)**. None.
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.

There was council discussion that various items on the Unfinished Business Agenda (8.1, 8.2 and 8.3) seemed similar. There was discussion on who was responsible for putting these items on and how they differ. Town Attorney Goodwin explained the “Evaluation process” is a public discussion but in order to hold an Executive Session the second agenda item allowed for attorney consultation, which could occur in Executive Session.

Councilmember Hamilton made a motion to move items 8.2 and 8.3 Executive sessions to the end of the agenda, seconded by Councilmember Repan. It was approved unanimously. Agenda Items 8.2 and 8.3 will be addressed following Agenda 10. *Public Hearing*.

8.1. Discussion of mutually agreed upon process of Town Manager performance review and next steps. [Continued from the December 8th meeting]

This agenda item was not addressed at this meeting.

8.2. Possible legal consultation regarding a town manager evaluation process. The Council may, by majority vote, recess the regular meeting, hold an executive session and then reconvene the regular meeting for discussion and possible action on elements of this item covered under A.R.S. § 38-431.03(A)(3).

Moved to the end of the agenda (following Agenda item 10 Public Hearing).

8.3. Possible discussion and direction on the Town Manager’s employment contract.

The Council may, by majority vote, recess the regular meeting, hold an executive session and then reconvene the regular meeting for discussion and possible action on elements of this item covered under A.R.S. § 38-431.03(A)(4).

Moved to the end of the agenda (following Agenda item 10 Public Hearing).

8.4. Discussion with Current Town Attorney on feedback of future legal representation for the Town. The Council may, by majority vote, recess the regular meeting, hold an executive session and then reconvene the regular meeting for discussion and possible action on elements of this item covered under ARS 38-431.03(A)(1). [CAARF requested by Mayor Nolan]

Councilmember Hamilton spoke on this item and feeling it necessary due to the dissolution of Ms. Goodwin’s previous firm. Town Attorney Susan Goodwin gave an overview about agenda item 8.4 and reasons for the wording chosen, allowing Council to do those things that they might want to do either in Executive Session or Open Session.

Councilmember Hamilton stated that he did not think this qualified as an Executive Session item. He stated Council decided to go out for an RFQ for legal services so that is what they will do.

Town Attorney Goodwin explained she was willing to answer any questions and very willing to continue with the current contract at her new firm Gust Rosenberg. A simple letter may be prepared to continue with the existing contract. Councilmember Hamilton questioned if the contract extension required the RFQ process.

Councilmember Hamilton made a motion to approve the “interim” form of assignment contract with Ms. Goodwin’s new firm, Gust Rosenberg until they complete the RFQ

process for legal services. Ms. Goodwin explained the formal assignment could be placed on the next agenda, and no formal action to be taken at this meeting.

- 8.4.1. Recess into and hold an executive session** pursuant to A.R.S. § 38-431.03(A)(1) for discussions or consideration of employment, assignment, appointment, promotion, demotion, dismissal, salaries, disciplining or resignation of the Town Attorney.

Council did not go in to Executive Session for this agenda item.

8.4.2. Reconvene Regular Meeting.

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

9.1. Insurance Services Office/Community Rating Services (CRS) verification and approval.

Town Manager Kimball explained this is for a 5-year term rather than the previous 1-year terms.

Public Works Supervisor Ed Hanks gave an overview on what this process is and what service it provides to the town. This is part of the Intergovernmental Agreement (IGA) the Town has with Yavapai County Flood Control. He answered questions on flood plain mapping; the maintenance of the flood plain; and resources through this contract.

Councilmember Hamilton made a motion to approve the verification form with the information provided, seconded by Councilmember Repan and approved unanimously.

9.2. Ordinance 16-122 adopting (with amendments) the 2012 Editions of the International Building Code, Residential Code for one and Two family dwellings, International Plumbing Code, International Mechanical code, International Fuel Gas code, and International Property Maintenance Code, and the ICC Electrical Code (administrative provisions, 2006 edition), National Electrical Code (2011 edition).

Building Official Don Roberts gave an overview explaining some of the changes with the new codes, which increased (minor) safety requirements. He explained that the adoption of the 2012 I-Code Series will help insurance rates and reporting, as well as keep up with other municipalities in the region. He spoke on Soils Report requirements and providing a waiver in lieu of requiring this report. There was discussion on examples when Soils Report would be requested.

Councilmember Hamilton asked Mr. Roberts to advise Council if someone refuses to get the report.

Mr. Roberts answered questions about the rating, explaining that the higher the number, the higher the insurance costs for residents. A lower rating is better. The average is based on the age of the community.

Councilmember Repan made a motion to approve Ordinance 16-122 adopting (with amendments) the 2012 Editions of the International Building Code, Residential Code for one and Two family dwellings, International Plumbing Code, International Mechanical code, International Fuel Gas code, and International Property Maintenance Code, and the ICC Electrical Code (administrative provisions, 2006 edition), National Electrical Code(2011 edition). It was seconded by Vice Mayor Hamilton, and approved unanimously.

9.3. Enterprise Technical Support Service Agreement renewal for Fiscal Year 2017 (July 1, 2016 to June 30, 2017).

Peter LeBlanc of FourD LLC, Enterprise Technical Support Service addressed Council concerns regarding cloud computing; backups; website hacking; antivirus software and the budget.

Town Manager Kimball addressed the questions regarding the budget stating that the Town works with the firm when developing the budget and the budgeted amount is used only if needed, being careful not to exceed it.

A motion was made to approve the renewal agreement with FourD LLC for Fiscal Year 2017 (July 1, 2016 to June 30, 2017) by Councilmember Hamilton, seconded by Vice Mayor Treadway

Town Accountant Deni Thompson explained that the last year of the contract provided for \$95 per hour, up from \$85. Ms. Thompson recommended extending the contract for the fourth year at the hourly rate of \$95.

The motion was approved unanimously.

9.4. Presentation on a Regional Airport. [CAARF requested by Mayor Nolan]

Mayor Nolan gave an overview on a new proposal for a regional airport. The proposal is in its infancy and he wanted to make sure the Council was aware of it. This would involve construction of a new terminal and the strengthening and extension of the runway.

Vice Mayor Treadway asked about carriers interested in serving the area and if they would contribute to construction costs.

Mayor Nolan stated that there is an existing carrier, but they would not make this investment as that is not how it is done. Mayor Nolan recommended consulting with local area executives for input to determine whether they wish to invest in this endeavor.

Councilmember Wright asked what the role of the Town of Dewey-Humboldt would be, other than giving money, authority to run it and whether the Council wants Dewey-Humboldt to be involved. Mayor Nolan explained a Transit Authority would be established rather than remaining under Prescott jurisdiction.

Councilmember Repan asked when this information was sent out to Council (December 15th).

Mayor Nolan will keep the Council updated on this issue.

9.5. Discussion and possible action on having the Town Seal trademarked or registered. [CAARF requested by CM Hamilton]

Councilmember Hamilton explained that without a trademark or registering of the Town Seal anyone can use the logo/seal without any repercussions.

Vice Mayor Treadway asked if seals are usually trademarked.

Town Attorneys Goodwin and Smiley spoke on the difference between logos and seals and explained only logos can be trademarked, seals cannot, but that it is a fairly easy process and many cities do this. It needs to be approved by the government in order to be copyrighted and must be unique in some way. There is a federal and a state copyright and Town may want to do both, Legal Counsel can look into this as well as cost to copyright.

Councilmember Hamilton made a motion to copyright the town logo, seconded by Councilmember Wright and approved unanimously.

9.6. Limitations on filing for elected office by incumbent council persons. [CAARF requested by Mayor Nolan]

Mayor Nolan read his request and gave an overview explaining that this clarifies an earlier CAARF for the same. Councilmember Wright noted that it was on the December 1st agenda and tabled to June 1st. Mayor Nolan explained that this would put this discussion in the middle of the election cycle where it is not an election cycle right now.

Councilmember Wright asked if the Town can do this – making separate stipulations requiring someone to resign to run. Town Attorney Goodwin said that state law has preempted the town so they cannot add this additional requirement as a general law town. The town can't have additional requirements for candidates to run for office.

Mayor Nolan reiterated his reason for wanting this and asked if there was a way to enact this. Attorney Goodwin again stated that state law prohibits putting additional requirements on holding office. There was discussion on whether to look in to this further or accept legal counsel's answer as it stands. No action or further discussion was taken on this item.

10. Public Hearing Agenda. None.

8.2. Possible legal consultation regarding a town manager evaluation process. The Council may, by majority vote, recess the regular meeting, hold an executive session and then reconvene the regular meeting for discussion and possible action on elements of this item covered under A.R.S. § 38-431.03(A)(3).

Town Manager Kimball addressed comments made by Council earlier on the agenda regarding 8.1, 8.2 and 8.3 and why they were on the agenda. At the December 8th meeting Council selected a form from Clarkdale for the process. They also directed Staff on how to word the agenda item (8.1) but also indicated they desired to go into Executive Session for discussion with the Town Attorney on matters of the evaluation process. Agenda Items 8.2 and 8.3 were placed on this agenda so Council could talk with legal counsel on this matter, as Arizona Revised Statutes (ARS) is specific about the options for holding executive sessions.

Councilmember Hamilton asked TM Kimball if she wanted to go into Executive Session.

Attorney Goodwin explained this agenda item would address what the steps are for evaluation, not the actual evaluation itself.

There was discussion on doing an evaluation without it being in the contract; why the Town Magistrate is not given a performance evaluation; which form they will use for the evaluation in a year but currently needing to do an evaluation and determine whether to give monetary compensation; Council direction at the December meeting to have an Executive Session to talk with legal counsel on the process and contract.

Councilmember Repan spoke of Councilmember Alen having some information regarding this and recommended postponing this to the next regular meeting; doing the Clarkdale form review at a future time, but doing the evaluation this year.

Council discussed how to evaluate the Clarkdale form, process to use for evaluation (who collates, time for TM response, one-on-one rather than written). Attorney Goodwin spoke on some standards which are similar for evaluating the Town Manager. Each Councilmember writes down thoughts on the Town Manager's performance, pass on to Mayor Nolan, then meet in Executive Session with goals for the next review.

Councilmember Repan made a motion to move the mechanics of doing the evaluation for the Town Manager to the next regular Town Council meeting. Motion was withdrawn.

Mayor Nolan made a motion to have Council write down their concerns (evaluation), give it to the Mayor who will get it to the Town Attorney to collate and forward to TM Kimball for her review, then return to the Council. Motion was withdrawn.

Public comment was taken.

Ulys Brooks stated the evaluation should be based on job description, and allow an opportunity for employee to write their own evaluation.

Councilmember Repan made a motion to submit council's individual evaluations/comments to the Town Attorney one week from tonight and review those submittals in an Executive Session at the next regular meeting January 19th, seconded by Vice Mayor Treadway. It was approved unanimously.

TM Kimball asked for a timeframe to work on the Clarkdale form for the following year's evaluation.

Councilmember Repan made a motion to move the mechanics of the evaluation (to adopt on a yearly basis) to the next study session (January 12, 2016), seconded by CM Hamilton. It was approved by a 5-1 vote in favor, Mayor Nolan voting against.

8.3 Possible discussion and direction on the Town Manager's employment contract.

There was discussion on this item: whether to move it to the 1/19/16 meeting; look at the Town Manager's contract and see whether to modify it; wait on this until a later date or sending this to the Town Attorney to renegotiate a contract with TM Kimball.

Councilmember Hamilton moved to approve going into Executive Session to discuss the Town Manager's employment contract, seconded by Councilmember Wright. The motion failed due to a tie vote, Councilmember McBrady, Vice Mayor Treadway and Mayor Nolan voting against.

Councilmember Hamilton stated he would not discuss this matter out of Executive Session.

Councilmember Wright moved to approve moving this agenda item to the February 2nd regular Council agenda, seconded by VM Treadway. It was approved unanimously.

9 Adjourn. The meeting was adjourned at 8:38 p.m.

Terry Nolan, Mayor

ATTEST:

Judy Morgan, Town Clerk