

**TOWN COUNCIL OF DEWEY-HUMBOLDT
STUDY SESSION MEETING NOTICE AND AGENDA**

Tuesday, September 8, 2020, 6:30 P.M.

**DEWEY-HUMBOLDT TOWN HALL
COUNCIL CHAMBERS
2735 S. HWY 69, SUITE 10
HUMBOLDT, ARIZONA 86329**

NOTICE OF MEETING OF THE DEWEY-HUMBOLDT TOWN COUNCIL

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the Dewey-Humboldt Town Council and to the general public that the Town Council will hold a public meeting (see notes about public participation below) on **Tuesday, September 8, 2020, at 6:30 p.m.**, at the **Dewey-Humboldt Town Hall Council Chambers, 2735 S. Highway 69, Suite 10, Humboldt, Arizona 86329**. Members of the Town Council will attend by audio/video conference call.

THIS MEETING WILL BE HELD BY REMOTE PARTICIPATION ONLY

Due to the federal government's declaration of a COVID-19 pandemic and the resulting Executive Orders from Arizona Governor Ducey to limit events of people in personal contact and Mayor Nolan's declaration of an emergency based on the COVID-19 pandemic, the following accommodations are provided for public participation at the Council Meeting:

- Viewing live streaming audio only on the Town's website, at <http://az-deweyhumboldt.civicplus.com/2164/Town-Meeting-Documents-and-Videos>
- Viewing and potentially participating in the meeting via Join Zoom Meeting
 - Computer: <https://zoom.us/j/86789149128>
 - Telephone: (301) 715-8592; Meeting ID: 867 8914 9128
- Submitting comments via email to the Town Clerk at TimMattix@dhaz.gov. Comments should be submitted no later than 3:30 p.m. on the day of the meeting. Please identify the agenda item and your first and last name.

DEWEY-HUMBOLDT TOWN COUNCIL STUDY SESSION AGENDA

The issues that come before the Town Council are often challenging and potentially divisive. To make sure we benefit from the diverse views to be presented, the Council believes public meetings to be a safe place for people to speak, and 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 the 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. Council Meetings are 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. Town Council Members Karen Brooks; Lynn Collins, John Hughes, Mark McBrady, Victoria Wendt, Vice Mayor Amy Lance and Mayor Terry Nolan.

3. Public Comment on Non-agendized Items

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. According to the Arizona Open Meeting Law, Councilmembers 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, Councilmembers are forbidden from discussing or taking legal action on matters raised during Public Comment unless the matters are properly noticed for discussion and legal action. A 3 minute per speaker limit shall be imposed. Everyone is asked to please be courteous and silent while others are speaking.

Page 4. **Study Session.** Study Sessions are held for the purpose of detailed review and Council discussion. As such, Council may discuss and provide feedback on any matter listed on the agenda. No final decisions or voting occurs at Study Sessions. Agenda language may vary from that in CAARFs for Open Meeting Law purposes.

3 A. **Discussion and staff clarification on proposed changes to the Fee Schedule in Title XV, Chapter 153, Dewey-Humboldt Code of Ordinances, relating to fees for Lot Splits, Lot Combinations, and Lot Line Adjustments** (Staff CC)

9 B. **Discussion on creating a Dewey-Humboldt Code of Ordinances provision to require first and second read/adoption of ordinances and resolutions, making conforming changes to the Code, and of modifying Town Council Policy PG TC20-04 accordingly** (Staff CC; CAARF – Councilmember Collins)

15 C. **Discussion and Council input on options for a Code of Conduct for members of the Town Council. The discussion will include the subjects of a Prescott Valley Tribune article of October 26, 2011 and a Prescott Valley Tribune editorial of December 28, 2011, both of which are included in the Council packet materials.** (Staff CC)

5. Adjourn.

For Your Information:

Next Town Council Meeting: Tuesday, September 15, 2020 at 6:30 p.m.

Next Planning & Zoning Meeting: Thursday, October 8, 2020 at 6:00 p.m.

Next Town Council Work Session: Tuesday, October 13, 2020 at 6:30 p.m.

Persons with a disability may request reasonable accommodations by contacting the Town Hall at (928) 632-7362 at least 24 hours in advance of the meeting.

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 _____ of _____, 2020, at _____ a.m./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.

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



COUNCIL COMMUNICATION

Study Session Meeting Date: **September 8, 2020**

Agenda Item: **4.A.**

Submitted by: Edward L. Hanks, Jr., Town Manager

Subject:

Discussion and clarification on proposed changes to the Fee Schedule in Title XV, Chapter 153, Dewey-Humboldt Code of Ordinances, relating to fees for Lot Splits, Lot Combinations, and Lot Line Adjustments.

Purpose:

This item is on tonight's agenda to discuss a proposed change to the Dewey-Humboldt Code of Ordinances, Title XV, Chapter 153, Fee Schedule, specifically relating to Lot Splits, Lot Combinations, and Lot Line Adjustments. Following discussion tonight, this item will be brought back to the October 6, 2020, Council Meeting for a vote on whether to proceed with the process for the proposed changes.

Background:

This item was initially introduced to Council at the August 11, 2020, Study Session. During Council's discussion, it was brought up that a member of the Council considered the item to be controversial. On August 18, Council voted to direct staff to bring the item back in October following publication in the September edition of the Town Newsletter. As Council has raised concerns about the item, staff is initially bringing this back to tonight's meeting to clear up misconceptions. The item will be included in the October Newsletter again so that members of the public see it again before Council votes.

Specifically, one of the attachments that staff presented to Council was a User Fee Study that was completed in 2010. One of the fees listed in the User Fee Study is entitled "Citizen-Initiated Text Amendment". It should be noted that this fee was never implemented and is not the subject of these discussions. This discussion is strictly for Lot Splits, Lot Combinations, and Lot Line Adjustments.

By Ordinance 05-09, adopted June 21, 2005, Council established a Development Services fee schedule that includes a \$500 fee for "Record of survey in lieu of subdivision (for 3 lots or less)". Historically, the Town has charged \$500 this fee for Lot Splits, Lot Combinations, and Lot Line Adjustments.

The Town's practice since 2005 has been to consider Lot Splits, Lot Combinations, and Lot Line Adjustments all part of the same fee. All three follow the same process and utilize the same amount of Town resources.

In order to clarify and properly charge a fee for all three processes, staff is proposing that the fee schedule be amended to list each separately.

This item will be brought back to Council at the October 6, 2020, Council Meeting for a formal vote on whether to proceed with the process for the proposed changes. The posting requirements in A.R.S. § 9-499.15 will be followed prior to a vote in favor of or against implementing the fees.

Financial Impact:

The fee is \$500 per application. The proposed changes will keep the fee at the same amount, so that there is no change in the fee amount collected for each process.

Attachments:

Current Fee Schedule

Town of Dewey-Humboldt
P.O. Box 69
Humboldt, AZ 86329
Phone: 928-632-7362 | Fax: 928-632-7365
www.dhaz.gov

APPENDIX A: FEE SCHEDULE

The Town Manager, Town Clerk, Town Engineer, Town Attorney and any other necessary persons are hereby authorized to prepare the agreements, forms and instruments contemplated to be used by the town in implementing the provisions of this Fee Schedule.

Fee Type	Base Fee
Zoning Clearance Fees	Metes and Bounds and Recorded Lots
1. Residential: Site built house; mobile home; duplex; triplex; quad; multi-family; motel w/cooking facilities.	\$100 per dwelling unit
a. Detached accessory structures, such as courts, pools, garages, water tanks, barns, stables and sheds greater than 400 square feet	\$25
b. Fences, walls, sheds, 400 square feet or less in size, and extensions to existing detached accessory structures	\$15
2. Residential follow-on (means attached to a primary structure): Attached accessory/additions (including enclosures)	\$35
a. Remodel	\$15
b. Slabs, paving, patios, and sheds 400 square feet or less	\$15
3. Nonresidential: noncommercial; motels; camps; commercial; industrial; changes of use; includes slabs, paving, walls, fences, sign supports, permits	\$.125 per sq. ft. under roof
Otherwise, minimum permit	\$125
4. Minimum permit	\$15
5. Permit renewals (within 180 days of original permit)	
a. Single family residential	\$10
b. Non-single family residential	\$50
6. Revised plot plan	\$10
7. Refunds of zoning clearance fees	
a. Denied or withdrawn zoning clearance	Retain \$10 or 25%, whichever is greater
b. Department errors, such as duplicates	\$0
8. Mobile home parks (RV)	\$200 plus \$10 per space
9. Commercial permit review fee	\$100 (nonrefundable)
10. Lighting permit	\$50
11. Home occupation	\$25
Temporary Dwelling Permits	
1. New	\$25
2. Renewal	\$50
3. Second renewal	See use permit
Sign Permits	
Sign Type:	
1. Temporary signs, directional signs (both on- and off-premises)	\$10
2. All on-premises signs intended for advertising regardless of use or size	\$60
3. All off-premises signs (other than directional)	\$200
Note: Structures other than purely supports (such as monuments, poles and standards) must be permitted as structures separate from their associated signs with permits under general zoning clearance procedures or have a proven pre-existing legal status.	
Hearing Applications to Boards of Adjustment and Appeals	Base Fee (Includes Electronic Document Fee)

1. Base variance	R: \$250/C: \$500*
2. Each additional variance	
a. BOA appeals (must be separate hearing application)	\$400*
b. Hearing Officer appeal (payable to Zoning Administrator)	\$400*
c. Zoning verification letter	\$150*
d. Minor administrative variance (administrative review)	\$85
2. Conditional use permits	
a. Residential	\$750 plus \$10 per acre
b. Commercial	\$1,000 plus \$10 per acre
c. Industrial	\$1,000 plus \$10 per acre
Zoning Map Change (to following district) OR use permit (determined by district in which the requested use would most closely be allowed in as a matter of right)	Base Fee + Multiplier (Includes Electronic Document Fee)
1. Residential (R1L; RMM; R1; RCU; R2; OS)	\$750 plus \$20 per acre
2. Commercial (RCD; RS; PI; C1; C2)	\$1,000 plus \$50 per acre
3. Industrial (C3; PM; M1; M2)	\$1,000 plus \$50 per acre
4. Planned Area Development (PAD)	\$750 plus \$20 per acre
5. Planned Area Development (PAD) Major amendment (P&Z and Town Council hearing required)	\$750 plus \$10 per acre
6. Planned Area Development (PAD) Minor amendment (staff review)	\$500*
7. Administrative amendment	\$1,000
8. Density district change ONLY, which results in a decrease in the overall density with no change to the use district	\$0
9. Density district change ONLY, which results in an increase in the overall density with no change to the use district	New application fee for corresponding use district type (i.e., residential, commercial, industrial)
10. Extension of time for time limited zoning.	Base fee only
11. Amendment of conditional zoning	Full fee less 25%
12. UP renewal with NO modifications	Full fee less 50%
13. UP renewal with modifications	Full fee
14. UP mobile home/RV park	\$700 plus \$10 per space
15. UP home occupation (uses are distinguishable from normal residential uses and do not meet all requirements of the home occupation ordinance)	\$300
16. Administrative UP with comment	\$350
17. UP or conditional zoning amendment	Same as full fee less 25%
Street Names and Addressing	Base Fee + Multiplier (Includes Electronic Document Fee)
1. Change existing street name	\$250
2. Change existing address number (per request and not initiated by Yavapai County for 911 purposes)	\$250
Wireless Use Permits	Base Fee (Includes Electronic Document Fee)
1. Applications to be processed by administrative review	\$250
2. Applications to be processed by administrative review with comment period	\$350
3. Applications requiring a use permit	\$1,000
4. Applications to review/renew an existing approved facility	50% of base fee

Final Site Plan	Base Fee (Includes Electronic Document Fee)
1. Amendment or review requiring a new public hearing	\$700*
2. Amendment or review requiring staff review only	\$250
3. Preliminary site plan review by P&Z and Town Council	\$500*
Development Agreements	
Base Fee	\$1,500
4. Amendment to approved development agreement	\$500
General Plan Amendments (Includes Community Plans)	Base Fee + Multiplier [\$50 per acre] (Includes Electronic Document Fee)
1. Minor	\$3,743
2. Major (heard once per year)	\$4,417
Subdivisions	Base Fee + Multiplier (Includes Environmental and Electronic Document Fee)
1. Sketch plan	\$350
2. Administrative preliminary plat	\$350 plus \$20 per lot
3. Preliminary plat	\$1,000 plus \$10 per lot
4. Final plat	\$750 plus \$10 per lot
5. Record of survey in lieu of subdivision (for 3 lots or less)	\$500
6. Abandonment of a final plat/zoning/reversion to acreage	\$750
7. Extension of time for pre-plat	\$500
8. Administrative consideration of a 6-month extension for final plat recording	\$100
9. Second and any subsequent extension(s) of final plat recording (requiring public hearing)	\$500
10. Traffic report related to platting	Actual cost to review
11. Drainage report related to platting	Actual cost to review
Base P&Z Commission Review	
1. (Examples: review of miscellaneous applications such as Alternative Financial Assurances; Section Line Setback Waiver and the like)	\$500
2. Site/development plan/lotting layout	\$750
Re-advertising — Any Public Hearing	
1. Deferred to date specific	No fee
2. Deferred to date unspecified; application to be reheard between 0 and 179 days of original hearing date. Requires re-advertising only	\$250*
3. Deferred date unspecified; application to be reheard between 180 and 364 days of original hearing date. Requires re-advertising, posting, and public hearing notices mailed to surrounding property owners	\$250*
4. Deferred date unspecified; application to be reheard 365 days or longer after original hearing date. Requires new application	New full application fee
Annexations	
1. Base fee	\$750*
Professional Services	
1. Engineering review - base fee for any of the above	\$250 per sheet for first and second reviews, \$100 per hour thereafter
2. Engineer	Actual cost
3. Planner	Actual cost

4. Clerical	Actual cost
*Plus direct expenses, i.e., postage, advertising and the like	

(Ord. 05-09, passed 6-21-2005; Am. Ord. 10-73, passed 8-17-2010; Am. Ord. 11-81, passed 3-15-2011)

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COUNCIL COMMUNICATION

Study Session Meeting Date: **September 8, 2020**

Agenda Item: **4.B.**

Submitted by: Edward L. Hanks, Jr., Town Manager

Subject:

Discussion on creating a Dewey-Humboldt Code of Ordinances provision to require first and second read/adoption of ordinances and resolutions, making conforming changes to the Code, and of modifying Town Council Policy PG TC 20-04 accordingly.

Purpose:

This item is on tonight's agenda to review and discuss the potential of requiring first and second read/adoption of ordinances and resolutions. Tonight's item is for a discussion and background information. The item will be on the September 15, 2020, Council Meeting agenda for a vote.

Background:

This item was first presented and discussed at the August 11, 2020, Study Session. At the time, a member of the Council made mention that the item was controversial. On August 18, 2020, the item was brought back to Council to vote on whether the item was controversial. On August 18, Council voted to bring it back to a voting session, after it was published in the Newsletter. It was included in the September Newsletter with tonight's meeting date and has been added to tonight's meeting to allow Council to fully discuss the matter and staff to present information.

Staff recommends that if Council wishes to proceed, Council consider requiring first and second read for ordinances only. Resolutions are generally more temporary and are used for council action on administrative or executive matters, or for statements of general council policy (League of Arizona Cities and Towns, *Guide to Preparing & Adopting Local Laws* – September 2019). Examples of recent Resolutions include:

- Resolution No. 20-146, designating the Town's authorized agent for CARES Act funding;
- Resolution No. 20-145, for the Fiscal Year 2021 Final Budget, which has its own hearing requirements in state statute;
- Resolution No. 20-144, designating the Town's Chief Fiscal Officer for state audit requirements;
- Resolution Nos. 20-143 and 20-142 (not adopted), relating to procedurally calling an election and approving ballot language;
- Resolution No. 20-141 (presented in a Council packet but never voted on), relating to the Town Manager's authority in an emergency;
- Resolution No. 20-140, relating to the public participation plan; and,
- Resolution No. 20-139, adopting the Hazard Mitigation Plan for FEMA purposes.

It should be noted that Council may always vote to continue a Resolution to a second meeting for additional public feedback.

Financial Impact:

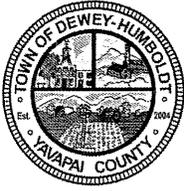
Standard costs for any ordinance include:

- Publication costs to publish the ordinance after adoption;
- Printing costs for posting the ordinance after adoption; and,
- Costs for the third-party codifier to codify the changes into the Town Code.

Attachments:

CAARF from August 11 Study Session

Town of Dewey-Humboldt
P.O. Box 69
Humboldt, AZ 86329
Phone: 928-632-7362 | Fax: 928-632-7365
www.dhaz.gov



TOWN OF DEWEY-HUMBOLDT
P.O. BOX 69
HUMBOLDT, AZ 86329
Phone 928-632-7362 • Fax 928-632-7365

RECEIVED

JUL 24 2020

~~Dewey-Humboldt~~

COUNCIL AGENDA ACTION REQUEST FORM

Meeting Type: Regular Special Work Session

Meeting Date: 8-11-20 Discussion ~~8-11-20~~ ~~8-11-20~~ ~~8-11-20~~

Date of Request: _____

Requesting: ~~Action~~ Discussion or Report Only

Type of Action: Routine/Consent Agenda Regular

Agenda Item Text (a brief description for placement on the agenda; please be exact as this will be the wording used for the agenda):

Discuss ordinance to amend Town Code 10.15, adding provision to it for first and second read/adoption of ordinances, resolutions and authorize staff to include conforming changes to Code and PG TC 20-04

Purpose and Background Information (Detail of requested action). _____

I have seen in 2018 minutes where this used to be done. This would help with accommodating public participation and provide more transparency

Staff Recommendation(s): _____

Budgeted Amount: _____

List All Attachments: Town Code 10.15, PG TC 20-04

Type of Presentation: _____

Special Equipment needed: Laptop Remote Microphone
 Overhead Projector Other: _____

Contact Person: Lynn Collins

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.

§ 10.15 ORDINANCES AND RESOLUTIONS; FORM; EFFECTIVE DATE.

(A) *Form of ordinances and resolutions.* All ordinances and resolutions shall be in writing, with a copy provided to each member of the Council and the Town Clerk. If a proposed ordinance or resolution is amended by Council during the meeting at which it is approved, the Town Clerk shall record the amendments and read the amended provisions back to Council prior to the final vote.

(B) *Record of vote.* For any resolution or ordinance approved by Council, the Town Clerk shall record the yeas, nays and abstentions. If the Council approves extensive or complicated amendments to a proposed ordinance or resolution, the Town Clerk shall prepare a revised version as approved by Council, and obtain the Mayor's signature as soon as practicable.

(C) *Effective date.* No ordinance, resolution or franchise shall become operative until 30 days after its passage by the Council and signature by the Mayor, except emergency measures necessary for the immediate preservation of the peace, health, or safety of the town.

(D) *Votes required for approval.* All ordinances and resolutions, except emergency ordinances and resolutions, shall require the affirmative vote of a majority of all Councilmembers present at any regular or special Council meeting in order to become effective. Emergency ordinances and resolutions shall require the affirmative vote of three-fourths of all the members of the Council. No ordinance shall be passed unless all Councilmembers present at the meeting are in possession of copies of such ordinance.

(Am. Ord. 12-91, passed 6-12-2012; Am. Ord. 15-116, passed 9-15-2015)

	TOWN OF DEWEY-HUMBOLDT	PG No TC20-04
Town Council and Town Employees		Effective Date: March 3, 2020
Subject: <i>Town Council Ordinance Preparation and Review Process</i>		

1. **Scope.** This policy applies to the Town Council and Town Employees.
2. **Purpose.** The purpose of this reference guide is to establish a procedure by which Councilmembers may initiate an ordinance amending the Town Code, including administrative provisions and the Zoning Ordinance.
 - 2.1. This policy:
 - 2.1.1. Formalizes a process by which Councilmembers may initiate changes to the Town Code, and guidelines that staff will follow.
 - 2.1.2. Formalizes a process by which staff-initiated ordinances will be prepared and reviewed by the Town Council.
 - 2.2. This policy is to be used in conjunction with Council Policy PG No. TC20-03, Town Council Agenda Process.
3. **Ordinances in General¹.**
 - 3.1. An ordinance is a local law of a city or town. It is formally defined as a local law of a municipal corporation, duly enacted by the proper authorities, prescribing general, uniform and permanent rules of conduct relating to the corporate affairs of the municipality.
 - 3.2. General ordinances impose certain restrictions upon the community and upon the administration of the municipal government. General ordinances amend, repeal or add to the Town Code.
 - 3.3. Special ordinances are specific to a property, person or corporation and are not usually placed in the town code.
4. **Process for Council-initiated general ordinances.**
 - 4.1.1. A Councilmember will submit a CAARF to consider a broad issue or area of concern. The CAARF may identify a specific area of the Town Code or Zoning Ordinance that the Councilmember is interested in reviewing.
 - 4.1.1.1. The CAARF shall be submitted and placed on an upcoming agenda in accordance with Council Policy PG No. TC20-03.
 - 4.1.1.2. Specific code sections that a Councilmember wishes to review should be attached to the CAARF for inclusion in the Council packet materials.
 - 4.1.1.3. If a Councilmember has recommended changes to a code section, the CAARF should indicate such, and the Councilmember's recommended changes attached to the CAARF.
 - 4.1.2. Upon receipt of a CAARF, staff will spend no more than one hour performing an initial review of the request to prepare the item for Council's consideration. The initial review will include:

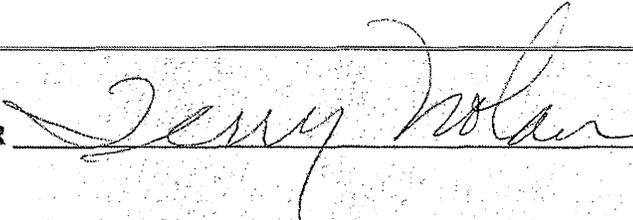
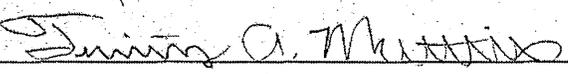
¹ Excerpted from *Guide to Preparing and Adopting Local Laws*, September 2019 edition, prepared by the League of Arizona Cities and Towns

- 4.1.2.1. An preliminary analysis of which Town Code sections would need to be amended to address the issue or area of concern;
 - 4.1.2.2. A high-level analysis of the financial impact to the Town, to include whether the resources to carry out the purpose of the recommendation are currently available;
 - 4.1.2.3. Staff's recommendation to pursue or not pursue drafting an ordinance.
- 4.1.3. Staff will place the matter on an upcoming Regular or Special Meeting agenda for Council to vote on how to proceed.
- 4.1.3.1. Pursuant to the Town Code, Council may not vote on matters at Study Sessions. Staff may place the matter on a Study Session agenda, however, if the matter entails a detailed review or educational discussion prior to a vote at a future non-Study Session meeting.
- 4.1.4. In a Regular or Special Town Council meeting, Council will vote to:
- 4.1.4.1. Refer the matter to staff to review and prepare an ordinance;
 - 4.1.4.2. Refer the matter to staff for further research, as outlined by Council, and report back to Council;
 - 4.1.4.3. Refer the matter to a future meeting for an in-depth review or educational discussion;
 - 4.1.4.4. Take no action to draft an ordinance.
- 4.1.5. If moved forward by Council, staff will draft an ordinance, ensuring that all impacted sections of the Code are reviewed, and any necessary conforming changes are included in the ordinance.
- 4.1.6. If the ordinance amends the Zoning Ordinance, staff will jointly advertise and post for public hearings at both Planning and Zoning Advisory Commission ("P&Z") and Town Council meetings.
- 4.1.6.1. At the P&Z hearing, P&Z may consider any public input and staff's analysis of the matter in formulating its recommendation to Council.
 - 4.1.6.2. Following the P&Z hearing, staff will prepare a report for Council's consideration that includes P&Z's recommendation on the matter.
 - 4.1.6.3. Council will hold its public hearing, consider the recommendation from P&Z, and vote on the Ordinance. Council action may include:
 - 4.1.6.3.1. Approve the ordinance as presented or with modifications as stated in the motion for approval;
 - 4.1.6.3.2. Deny the ordinance;
 - 4.1.6.3.3. Direct staff to take other actions before another presentation of the ordinance;
 - 4.1.6.3.4. If continued for further action, Council should specify the date at which the ordinance will be considered again.
- 4.1.7. If the ordinance does not amend the Zoning Code, staff will proceed with scheduling the item for an upcoming Regular Council Meeting. At the Council meeting, Council may take the following action:

- 4.1.7.1. Approve the ordinance as presented or with modifications as stated in the motion for approval;
 - 4.1.7.2. Deny the ordinance;
 - 4.1.7.3. Direct staff to take further actions and bring back to Council in accordance with Council's direction;
 - 4.1.7.4. If continued for further work, Council should specify the date at which the ordinance will be considered again.
- 4.1.8. After an ordinance is adopted by Council, except in the rare event of an emergency clause, there will be a thirty-day period before the ordinance is effective during which the ordinance will be advertised and posted in accordance with state law.

5. Process for Staff-initiated ordinances.

- 5.1. From time to time, due to changing state laws, trends, or best practices, or for any other reason, staff may initiate a proposal to draft an ordinance amending the Town Code or Zoning Ordinance.
- 5.2. The subject will be brought to Council via the following method:
 - 5.2.1. As the schedule permits, the subject will be brought to Council at a Study Session for a detailed report on why an ordinance is being recommended.
 - 5.2.2. If staff deems the matter to require action earlier than the next available Study Session, the item will be introduced at a Regular Meeting.
 - 5.2.3. When warranted, the subject will be brought to Council at an Executive Session for legal advice on the matter prior to taking any action.
- 5.3. When appropriate, staff will provide sample provisions from surrounding jurisdictions for Council to review, as background information.
- 5.4. If the ordinance amends the Zoning Ordinance, the process outlined in Section 4.1.6 shall be followed. If the ordinance does not amend the Zoning Ordinance, the process outlined in Section 4.1.7 shall be followed.

<p>TERRY NOLAN, MAYOR</p> <p>ATTEST:</p> <p>TIMOTHY A. MATTIX, TOWN CLERK</p>	 
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COUNCIL COMMUNICATION

Study Session Meeting Date: **September 8, 2020**

Agenda Item: **4.C.**

Submitted by: Edward L. Hanks, Jr., Town Manager

Subject:

Discussion and Council input on options for a Code of Conduct for members of the Town Council, including a *Prescott Valley Tribune* article and editorial.

Purpose:

This item is on tonight's agenda for a discussion and preliminary review of options for a Code of Conduct for members of the Town Council.

Background:

This item was previously discussed on June 16 and July 21, 2020. At the July 21, 2020, Council Meeting, Council consensus was for Council to hand in their notes on the sample Codes of Conduct that staff had provided as reference. Staff received comments from Councilmembers Brooks, Collins and Wendt.

Staff has compiled all notes received into one document, which is attached for Council review. If Council wishes to consider with this as its Code of Conduct, staff will prepare an ordinance to work the provisions into the appropriate location into the Town Code.

Alternatively, Council may also wish to consider utilizing the provisions currently in the Town Code as its Code of Conduct. The Town Code provisions could be organized by grouping them together in a new division in the Town Code. If this is the case, a separate provision outlining the process – complaint filing, investigation, hearing, etc. – could be inserted into the Code.

Financial Impact:

At this time, no costs have been specifically identified. Standard costs for any ordinance include:

- Publication costs to publish the ordinance after adoption;
- Printing costs for posting the ordinance after adoption; and,
- Costs for the third-party codifier to codify the changes into the Town Code.

Attachments:

Code of Conduct – Council feedback compilation; Town Code provisions; CAARFs from Councilmember Collins with October 6, 2011 news article and December 28, 2011 editorial

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PRINCIPLES OF ETHICAL CONDUCT FOR ELECTED AND APPOINTED OFFICIALS

The following principles are meant to reflect a commitment to the integrity, responsibility, and leadership required of those holding public office. Public officials pledge to uphold these Principles of Ethical Conduct in their behavior and actions in order to merit the trust bestowed upon them by the citizens they serve.

- I will make no unauthorized commitments or promises of any kind purporting to bind the Town of Dewey-Humboldt government.
- I will act impartially and not give preferential treatment to any private organization or individual.
- I will treat everyone with respect and fairness at all times.
- I will endeavor to avoid any actions creating the appearance that I am violating the law or these ethical standards.

PRINCIPLES OF PROPER CONDUCT

Proper conduct IS:

- Keeping promises
- Being dependable
- Building a solid reputation
- Participating and being available
- Demonstrating patience
- Showing empathy
- Holding onto ethical principles under stress
- Listening attentively
- Studying thoroughly
- Keeping integrity intact
- Overcoming discouragement
- Going above and beyond, time and time again
- Modeling a professional manner

Proper conduct IS NOT:

- Showing antagonism or hostility
- Deliberately lying or misleading
- Speaking recklessly
- Spreading rumors
- Stirring up bad feelings, divisiveness
- Acting in a self-righteous manner

It all comes down to respect. Respect for one another as individuals...respect for the validity of different opinions...respect for the democratic process...respect for the community that we serve.

CHECKLIST FOR MONITORING CONDUCT

- Will my decision/statement/action violate the trust, rights or good will of others?
- What are my interior motives and the spirit behind my actions?

- If I have to justify my conduct in public tomorrow, will I do so with pride or shame?
- How would my conduct be evaluated by people whose integrity and character I respect?
- Even if my conduct is not illegal or unethical, is it done at someone else's painful expense? Will it destroy their trust in me? Will it harm their reputation?
- Is my conduct fair? Just? Morally right?
- If I were on the receiving end of my conduct, would I approve and agree, or would I take offense?
- Does my conduct give others reason to trust or distrust me?
- Am I willing to take an ethical stand when it is called for? Am I willing to make my ethical beliefs public in a way that makes it clear what I stand for?
- Do I exhibit the same conduct in my private life as I do in my public life?
- Can I take legitimate pride in the way I conduct myself and the example I set?
- Do I listen and understand the views of others?
- Do I question and confront different points of view in a constructive manner?
- Do I work to resolve differences and come to mutual agreement?
- Do I support others and show respect for their ideas?
- Will my conduct cause public embarrassment to someone else?

DEFINITIONS/GLOSSARY OF TERMS

Appropriate behavior – It is the Town's policy to provide its employees and members of the public with an environment that encourages safe, efficient and productive work, and which is free of discrimination, including all forms of harassment. The Town will not tolerate discrimination or verbal or physical conduct by any person which harasses, disrupts, or interferes with another person's work performance or which creates an intimidating, offensive, or hostile environment.

Administrative function -

Attitude – The manner in which one shows one's dispositions, opinions and feelings.

Behavior – External appearance or action; manner of behaving; carriage of oneself.

Civility – Politeness, consideration, courtesy

Conduct – The way one acts; personal behavior.

Councilmember –

Courtesy – Politeness connected with kindness.

Decorum – Suitable; proper; good taste in behavior.

Manners – A way of acting; a style, method or form; the way in which things are done.

Point of order – An interruption of a meeting to question whether rules or bylaws are being broken, such as the speaker has strayed from the motion currently under consideration.

Point of personal privilege – A challenge to a speaker to defend or apologize for comments that a fellow Councilmember considers offensive.

Propriety – Conforming to acceptable standards of behavior.

Protocol – The courtesies that are established as proper and correct.

Public Official –

Respect – The act of noticing with attention; holding in esteem; courteous regard.

APPLICABILITY

OPEN GOVERNMENT

The citizens of Dewey-Humboldt expect and deserve open government. Arizona has an official public policy “that meetings of public bodies be conducted openly,” and that any doubt should always be resolved “in favor of public meetings”.

Therefore, Town officials shall conduct themselves in a manner that fully adheres to and preferably exceeds state laws concerning open meetings and transparency of actions. Town officials are encouraged to employ a mindset of openness in conducting the affairs of the Town and should be cautious before voting to hold a portion of a meeting in executive session. If a matter can be discussed in open session without damage to the public interest, public officials are encouraged to do so. Moreover, Town officials are reminded that any attempt to circumvent the open meeting law, such as by using electronic technology, a “hub and spoke” scheme, or any other technique involving less than a quorum designed to communicate with the quorum of a public body will violate the open meeting law and is prohibited. Town officials are reminded that any time a quorum of a public body is present in one location, or in communication by telephone, email, or by other means, and either propose, discuss, consider or vote on any Town issue, that such conduct constitutes a violation of the open meeting law and is prohibited.

Please note that the Arizona Open Meeting Law (see Exhibit A) prohibits a discussion in a meeting on any item which is not listed on the agenda unless it is reasonably related to an item listed on the agenda. Reasonably related requires that reasonable members of the public would or should expect such reasonably related items to be discussed under the published agenda item. This ensures that members of the public will have adequate notice of the possible discussion so that they can decide whether they wish to attend the meeting in question.

The Town Attorney is directed to vigorously promote and enforce state laws regulating open meetings, and be assertive in ensuring strict adherence to those laws reflecting the Town’s mindset of openness.

During a person’s employment or service with the Town, and for two years thereafter, no member of a Town board, commission, committee or of the Town Council may disclose or use confidential information without appropriate authorization. Confidential information includes certain economic development information and other non-public information that may affect the Town’s economic interests.

CONDUCT OF TOWN COUNCILMEMBERS

1. Attendance at Scheduled Meetings
 - a. Councilmembers will notify both the Mayor and the Town Manager in writing (email is appropriate) of their inability to attend any scheduled Town Council meeting. In the event the

Mayor is unable to attend any scheduled Town Council meeting, the Mayor shall notify both the Vice Mayor and the Town Manager in writing.

- b. Should a Councilmember be unable to attend any scheduled Town Council meeting by unforeseen circumstances, that member shall notify the Mayor and Town Manager as soon as possible after the meeting. In the event the Mayor was unable to attend any scheduled Town Council Meeting due to unforeseen circumstances, the Mayor shall notify both the Vice Mayor and Town Manager as soon as possible after the meeting.
- c. The second failure to properly provide notification of anticipated or unforeseen absences may result in actions as outlined in Section 4.G. of the Complaint Process outlined below.

2. General Rules of Decorum

Elected and appointed officials have an obligation to attend meetings and to be prepared. It is expected that these officials will review the materials, participate in discussions, and make an informed decision on the merits of the issue.

- a. Members of the Town Council shall fully participate in Town Council meetings and other public forums while demonstrating respect, kindness, consideration, and courtesy to others.
- b. Town Councilmembers shall conduct themselves so as to serve as a model of leadership and civility to the community, inspire public confidence in Town government, and demonstrate honesty and integrity in every action and statement.

3. Conduct in Public Meetings

Making the public feel welcome is an important part of the democratic process. No signs of partiality, prejudice or disrespect should be evident on the part of individual Councilmembers toward an individual participating in a public forum. Every effort should be made to be fair and impartial in listening to public comments. The Council should listen to comments from the public and concerns raised by the public or disagreements voiced by the public. The Council should be welcoming to speakers and treat them with respect, and be fair and equitable in allocating public hearing time to individual speakers.

- a. Personal attacks on other members of the Town Council shall be avoided.
 - i. If a Councilmember is personally offended by the remarks of another Councilmember, the offended Councilmember should make notes of the actual words used and call for a "point of personal privilege" that challenges the other Councilmember to justify or apologize for the language used. The Chair will maintain control of this discussion. To that end, all discussion in public meetings must go through the Chair.
- b. Councilmembers shall be polite to speakers and treat everyone equally and with respect, regardless of their race, age, religion, gender, sexual orientation, or disability. Councilmembers should be respectful of citizens, citizen opinions, and citizen issues.
- c. Councilmembers shall refrain from debating and arguing with the public.
- d. Councilmembers shall not disparage or insult members of the public during any Council meetings.
- e. Councilmembers should listen to speakers and take into consideration their comments before voting or deciding on issues.
- f. Everyone attending Council meetings will turn off all cell phones. If an imminent emergency or serious family matter is anticipated, cell phones may be set on vibrate.
- g. Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of a free democracy in action. This does not allow,

however, elected or appointed officials to make belligerent, personal, impertinent, slanderous, threatening, abusive, or disparaging comments. No shouting or physical actions that could be construed as threatening will be tolerated.

- h. Elected and appointed officials shall fully participate in Council, commission and committee meetings and other public forums while demonstrating respect and courtesy to others, practicing civility and decorum in discussions and debate, listening courteously and attentively, and engaging in effective communications and problem solving approaches.
 - i. The presiding officer maintains order, decorum, and the fair and equitable treatment of all speakers.
 - j. An issue may be contentious without being hostile, degrading or defamatory. Councilmembers have a duty not to insult, instigate or discourage others. Councilmembers must try to be constructive and tolerant.
 - k. Public hearings. The goal of a public hearing is to give people the opportunity to have a meaningful impact on the items under discussion. Councilmembers should not express opinions during a public hearing, except to ask pertinent questions of the speaker or staff. "I think" and "I feel" comments by Councilmembers are not appropriate until after the close of the public hearing.
4. Conduct in Unofficial Public Settings
- a. Councilmembers will refrain from making promises on behalf of the Town Council unless such promises have been approved by official action.
 - b. Councilmembers shall refrain from making negative personal comments about other Councilmembers that go beyond appropriate criticism of another Councilmember's opinion or position on a matter.
5. Public Communications
- a. If a Councilmember appears before another governmental agency or organization to give a statement on an issue, the Councilmember must clearly state: 1) if his or her statement reflects personal opinion or is the official stance of the Town; 2) whether this is the majority or minority opinion of the Council.
 - i. When speaking publicly regarding Town issues, Councilmembers will inform their listeners that "any expressions of opinion can only be attributed to me and do not necessarily represent the position or opinion of the Town Council or Town staff," or words to that effect.
 - b. Councilmembers should not personally criticize other Councilmembers, nor impugn their integrity. Councilmembers should treat each other with respect when discussing Council issues outside of Council meetings, and should convey to the public their respect and appreciation for other Councilmembers and their positions.
 - c. Town letterhead may be used when the Councilmember is representing the Town and the Town's official position. A copy of official correspondence shall be given to the Town Clerk to be filed as part of the public record. See Section 10 for information on when Town letterhead may not be used.
6. Councilmember Conduct with Town Staff
- Governance of the Town relies on the cooperative efforts of elected and appointed officials who set policy and the Town staff who implements and administers the Council's policies. Therefore, every effort should be made to be cooperative and show mutual respect for the contributions made by each other for the good of the community.

- a. Councilmembers shall treat all Town staff as professionals. Clear, honest communication that respects the abilities, experience and dignity of each staff member is required. Inappropriate behavior or comments toward staff are not acceptable.
- b. Councilmembers should attempt to avoid unnecessary or prolonged disruption of Town staff from their jobs. Councilmembers should not disrupt Town staff while they are in meetings, on the phone, or engrossed in performing their duties, unless there is a compelling time-sensitive concern that must be addressed immediately.
- c. Upon receipt of a citizen's complaint, a Councilmember shall refer the complaint to the Town Manager for review and response. Before responding to a citizen complaint, Councilmembers should check with the Town Manager to see if any action has already been taken on the issue.
- d. Councilmembers shall not exert or attempt to exert any influence on the Town Manager on issues relating to hiring, promotion, or discipline of Town employees.
 - i. Neither the Council nor any of its members shall direct or request the appointment of any person to, or the removal or suspension from, office by the Town Manager or any of the Town Manager's employees, or in any manner take part in the appointment or removal of such officer(s) and employee(s) in the administrative services of the Town.
- e. Chain of command.
 - i. Staff works within a chain of command under the ultimate direction of the Town Manager.
 - ii. Councilmembers should generally direct questions and suggestions to the Town Manager and allow the Town Manager to assign out those tasks or responsibilities. When Councilmembers give specific direction to a staff member, the Councilmember may in fact be giving direction contrary to direction already given to the staff member by a superior, or may be giving direction to the staff member which the staff members knows to be ineffective or inappropriate. The Council should attempt to work through the Town Manager for all communication with staff and expect the Town Manager to be responsive to the Council's needs, questions and comments.
 - iii. Councilmembers shall not give any direct orders or instructions to any employees of the Town.
 - iv. Councilmembers should avoid asking for information which will unduly burden the staff and, when asking for information, should go through the Town Manager.
 - v. If a Councilmember has a question regarding a matter that is on a Council agenda, the Councilmember should contact the Town Manager prior to the meeting and indicate the concern or question that the Councilmember has to the Town Manager, so that the Town Manager can either research the question and be prepared to provide an answer, or have a staff member research the question and be prepared to provide an answer.
 - vi. Councilmembers should not attempt to influence the decisions or opinions of Town staff members on issues that may come before the Town Council, Boards, Commissions or Committees.
- f. The Town Council should never publicly criticize or express concerns about the performance of Town employees, from the Town Manager through the front-line staff members. Public criticism of Town employees leads to poor morale of the Town employees, undermines their effectiveness with the public and is detrimental to their performance and to the ability of the Town Manager to administer the Town and implement Council policy.

- g. Councilmembers should avoid attending Town staff meetings unless they are requested by the Town Manager to attend and should also avoid attending advisory committee meetings because of the likelihood that the members of the committee will be affected by the Councilmember's attendance.
 - h. Councilmembers shall not attempt to influence Town staff on any administrative functions.
 - i. In any dealings with Town staff, including any individuals the Town contracts with to perform normal duties, the Councilmember shall maintain professional conduct with respect to the employee's work assignments and obligations. The office of the Councilmember shall in no situation be used to wrongfully obtain information either by intimidation or by deliberately violating the privacy of an employee's workstation.
7. Councilmember Conduct with Boards, Commissions and Committees
- The Town has established Boards, Commissions and Committees as a means of gathering more community input. Citizens who serve on Boards, Commissions and Committees become more involved in government and serve as advisors to the Council. They are a valuable resource to the Town's leadership and should be treated with appreciation and respect.
- a. The Town Council, as a whole, appoints members to serve on Boards, Commissions and Committees.
 - b. Board, Commission and Committee members do not report to individual Councilmembers.
 - c. Councilmembers do not have the power or right to threaten Board, Commission and Committee members with removal if they disagree about an issue.
 - d. Appointment and re-appointment to a Board, Commission or Committee should be based on criteria such as expertise, ability to work with staff and the public, and commitment to fulfilling official duties.
 - e. Appointment to a Board, Commission or Committee should not be used as a political reward.
 - f. A primary role of Boards, Commissions and Committees is to represent many points of view in the community and to provide the Council with advice based on a full spectrum of concerns and perspectives. Councilmembers may have a closer working relationship with some individuals serving on Boards, Commissions and Committees, but must be fair and respectful of all citizens serving on Boards and Commissions.
8. Intra-Council Relationships
- a. Councilmembers should practice civility and decorum in discussion and debates.
 - b. Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of an effective Town Council. However, Councilmembers who are belligerent, impertinent, slanderous, threatening, abusive, or who engage in personal or disparaging attacks on other Councilmembers denigrate the process and preclude effective discussions and the successful resolution of issues.
 - c. Councilmembers should assume the other members of the Council have the appropriate motives and interest of the public in mind and not criticize differing opinions because they believe them to be lacking in judgment or improperly motivated.
 - d. An issue may be contentious without being hostile, degrading, or defamatory.
9. Response to Communications from the Public
- a. Before sending correspondence, Councilmembers should check with the Town Manager to see if an official Town response has already been sent or is in progress.

- b. For matters concerning administrative functions, Councilmembers should refer the matter to the Town Manager for a response.
- c. When responding to inquiries from the public regarding Town issues, Councilmembers should indicate a disclaimer such as, "Any expression of opinion that may be read into this response can only be attributed to me as the author and does not necessarily represent the position or opinion of the Town Council or Town staff," or words to that effect.
- d. Councilmembers shall always be courteous and professional in any correspondence or interaction with members of the public.

10. Improper Influence

- a. Councilmembers may not use Town staff or letterhead to support personal or non-City functions or fundraisers. Should a Councilmember use Town letterhead to express a dissenting point of view, the official Town position must be stated clearly so the reader understands the difference between the official Town position and the viewpoint of the Councilmember.
- b. Councilmembers shall not use their official office as a means of advancing personal opinions through public statements whereby an inference can be drawn that they are speaking on behalf of the Town. Any such public statements shall contain clear language indicating that such statements are the opinions and comments of the individual and are not necessarily the position of the Town of Dewey-Humboldt.

11. Mail

- a. All mail received at Town Hall for Councilmembers is presumed to be official business and is opened by Town staff to verify whether administrative action needs to be taken.
- b. Invitations received at Town Hall or via the Town's email are presumed to be for official Town representation. Invitations addressed to Councilmembers at their homes or personal email addresses are presumed to be for unofficial, personal consideration.

FORMER COUNCILMEMBERS

Former members of the Town Council who speak to the current Town Council about a pending issue should disclose for whom they are speaking.

MEMBERS OF THE PUBLIC

Members of the public who do not follow the same rules of conduct conferred on elected and appointed officials after verbal warning in a Town Council meeting may be barred from further testimony at that meeting or removed from that meeting. No speaker will be turned away unless they exhibit inappropriate behavior.

COMPLAINT PROCESS

1. Filing of Complaints

Any person who believes a Town official, in his/her official capacity, has violated a requirement or prohibition or guideline set out herein, or any other federal, state or local law, may file a sworn complaint with the Town Clerk, on behalf of the Town Attorney and for forwarding to the independent investigator, identifying 1) the complainant's name, address and telephone number; 2) the name and position of the Town official who is the subject of the complaint; 3) the nature of the alleged violation, including the specific provision of this code or law allegedly violated, and 4) a statement of facts

constituting the alleged violation and the dates on which, or period of time during which, the alleged violation occurred.

Attached to the complaint the person making the complaint shall provide all documents or other materials in the complainant's possession that are relevant to the allegation, a list of all documents or other materials relevant to the allegation that are available to the complainant but not in the complainant's possession, and a list of all other documents or other materials relevant to the allegation but unavailable to the complainant, including the location of the documents if known, and a list of witnesses, what they may know, and information to contact those witnesses.

The complaint shall include an affidavit at the end of the complaint stating that the "information contained in the complaint is true and correct, or that the complainant has good reason to believe and does believe that the facts alleged are true and correct and that they constitute a violation of the ethics code, guidelines set out therein, or federal, state or local law or ordinance." If the complaint is based on information and belief, including all sources, contact information for those sources, and how and when the information and/or belief was conveyed to the complainant by those sources. The complainant shall swear to the facts by oath before a notary public, or before the Town Clerk. The notary public or Town Clerk shall verify the signature.

2. Time for Filing

A complaint under this code must be filed no later than one year from the date of discovery of the alleged violation. However, anyone having information on which a complaint is based is encouraged to file the complaint as soon as the information is obtained so that immediate action may be taken by the Council or the appropriate staff member or agency. The delay in filing a complaint may be considered in determining the sanction to be imposed.

3. False or Frivolous Complaints

A person who knowingly makes a false, misleading or unsubstantiated statement in a complaint is subject to criminal prosecution for perjury and possible civil liability. If, after reviewing an ethics complaint, it is determined that a sworn complaint is groundless and appears to have been filed in bad faith or for the purpose of harassment, or that intentionally false or malicious information has been provided under penalty of perjury, the Town Attorney may refer the matter to the appropriate law enforcement authority for possible prosecution. A Town official who seeks to take civil action regarding any such complaint shall do so at his or her expense.

4. Complaints against Councilmembers

- a. Investigator Appointment – The Town shall use independent, non-Town personnel to handle complaints lodged against Councilmembers. The independent non-Town investigator shall be appointed by the Town Attorney.
- b. Investigator Initial Action – The Town Attorney shall immediately transfer any complaint filed against a Councilmember to the Town's independent investigator who will conduct the initial screening of the complaint and, within 15 business days, absent an extension granted by the Town Council shall issue a report, including findings of fact and conclusions of law and recommend that the Town Attorney handle the complaint in one of the following ways:
 - i. Return the complaint to the complainant because it is not complete;

- ii. Dismiss the complaint if, on its face, it fails to state allegations which, if true, would violate a prohibition or guideline as set out in this Code of Conduct;
- iii. Dismiss the complaint for lack of merit and refer the complaint to the appropriate authorities for action against the complainant, if the independent investigator determines the complaint was false, misleading, frivolous, or unsubstantiated; or
- iv. Refer any alleged violations of Arizona or federal laws to an appropriate law enforcement agency if the complaint, on its face, states allegations which, if true, would constitute a violation of Arizona or federal law.

Upon taking any of the above actions, the Town Attorney shall submit a copy of the investigator's report to the official who is the subject of the complaint, unless, in the discretion of the City Attorney, to do so will impede a possible investigation of an alleged violation of Arizona or federal law.

- c. Investigation – If the complaint appears valid on its face, the investigator shall conduct such investigation as he/she deems appropriate to determine the accuracy/truthfulness of the allegations made, and if such allegations violate any provision of this code or state or federal law. The independent investigator may request the assistance of the Town Attorney in such investigation. The investigator shall then submit findings of fact and conclusions of law to the Town Attorney and the Town Council.
- d. Appointment of Hearing Officer and Presenting Attorney – If the investigator concludes that this code has been violated or that a violation of Town, state or federal law has occurred, the Town Attorney shall appoint a hearing officer to conduct a hearing on the matter. The Town Attorney shall also designate an outside attorney to present the matter to the Hearing officer on behalf of the complainant.
- e. Rules of Procedure – The Town Council will adopt written rules of procedure to govern the hearing process, including the right of a Town official against whom a complaint has been lodged to respond to the complaint, attend any hearing, present witnesses and offer evidence, and be represented by counsel at his or her own expense.
The hearing officer shall conduct the hearing in accordance with the rules of procedure adopted by the Council. After completion of the hearing, the hearing officer shall make findings of fact and conclusions of law and transmit the same to the Council for a determination of the sanction/s to be imposed. The Council shall accept the findings and conclusions of the hearing officer as true and correct, but shall have the discretion to determine the appropriate sanction/s to be imposed. If the Town official against whom the complaint was filed is exonerated by the hearing officer, the Town may, in the discretion of the Council, pay part or all of the reasonable attorney's fees and costs incurred by the Town official in his/her defense.
- f. Penalties and Sanctions Policy – It is the intent of the Town Council to educate and when necessary discipline Councilmembers who violate this Code of Conduct. Discipline shall be progressive, from the least punitive to the most punitive measures, unless the Council believes that the 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. 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 wrong doing.

- g. Possible Penalties and Sanctions – The City Council shall determine the appropriate penalty or sanction for violations of this Code of Conduct. Possible sanctions may include an informal censure by the Council, which would only be made as part of a motion in a public meeting; a formal censure by the Council, which would be made by motion in a public meeting and then published in the Town newspaper. The Council may also vote to impose a dollar fine on the Councilmember, up to \$500.00. The Council may also vote to prohibit a Councilmember’s participation on the Council for a specified number of days or may vote to remove a Councilmember from office in the event of the most serious violations of this code. The imposition of any of these penalties or sanctions will require five affirmative votes of the Council.

§ 30.015 TOWN COUNCIL GENERALLY.

(A) *Number and term.* The elected officials of the town shall be seven Councilmembers (including the Mayor) who shall constitute the Town Council. Councilmembers shall serve four-year, staggered terms as provided by state law. Each Councilmember shall continue in office until the assumption of duties of office by his or her duly elected and sworn successor. Councilmembers elected in 2011 or appointed to fill the term of a Councilmember elected in 2011 shall serve until the assumption of duties by Councilmembers elected in the Fall 2014 election. Councilmembers elected in the Spring 2013 election shall serve until the assumption of duties by Councilmembers elected in the Fall 2016 election.

(B) *Any form of action permissible.* The corporate powers of the town shall be vested in the Council and shall be exercised only as directed or authorized by law. All powers of the Council shall be exercised by ordinance, resolution, order, or motion.

(C) *No artificial limit.* The Town Council has the power, in the name of the town, to do and perform all acts and things appropriate to a municipal corporation and the general welfare of its inhabitants, which are not specifically prohibited by the constitution, the town ordinance or state or federal laws.

(D) *Majority rule.* The Council acts as a body. Policy is established by majority vote. A decision of the majority binds the Council to a course of action. The Council majority may be a majority of the quorum of the Council.

(E) *No special powers.* No Councilmember has extraordinary powers beyond those of other members (except as may otherwise be provided in state law). All members, including the Mayor, have equal powers.

(F) *One office.* No member of the Council is permitted to hold any other town office or town employment (except as may otherwise be provided in the town ordinance).

(G) *Assumption of office.* Immediately prior to assumption of the duties of office, each Councilmember shall sign the Council Code of Ethics and take and subscribe to the oath of office. The oath shall be given by the Town Magistrate or by the Town Clerk. Councilmembers of the town shall assume the duties of office at the first regular meeting of the Council in December next following the date of the primary or general election at which the Councilmembers were elected. Assumption of an elected office will result in the automatic resignation of all other town offices, elected or appointed.

§ 30.018 COUNCIL ACTIONS.

(D) Agenda items submitted by a Councilmember shall be introduced by the submitting Councilmember without restrictions, interference or comment from other Councilmembers, the Mayor or the public. Discussion on the item shall not be commenced until the submitting Councilmember yields the floor.

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

(A) *Preamble.* Pursuant to Arizona Revised Statutes, in addition to being a member of the Town Council, the Mayor is the town's Chief Executive Officer. All authority in town government ultimately resides with the Town Council of which the mayor comprises one-seventh of its membership. Except as set forth in the Arizona Constitution and the Arizona Revised Statutes, the Mayor has no duties, responsibility or authority not delegated by the Council. This section sets forth the duties, responsibilities and authority delegated by the Common Council to the Mayor.

(B) The Mayor shall perform such duties as prescribed by town ordinance, as imposed by the Town Council, or as required by the constitution and laws of the State of Arizona, including the following:

Councilmember Code of Conduct

- (1) The Mayor is the official head of the town for all ceremonial purposes.
- (2) The Mayor does not possess any power of veto.
- (3) The Mayor (and any other member of Council) shall not use town letterhead for any correspondence without the express approval of a majority of the Town Council and unless it reflects the view of the majority of the Council as expressed by either vote or consensus.
- (4) The Mayor shall not act as a representative of the town before any other town, city, county, state, or federal government or agency without the express approval of a majority of the Town Council. If Council has previously appointed a Councilmember to act as the town's representative to such a body or meeting, the Mayor may attend as an observer and shall not participate in the meeting unless acting as an alternate representative of the town.
- (5) Reserved.
- (6) The Mayor shall act as the Chairman of the Council and preside over its meetings in accordance with *Robert's Rules of Order* and with the Council procedures set forth in §§ [30.107](#) and [30.109](#) of this code.
- (7) As a member of the Council, the Mayor shall have the same rights and privileges as all other Councilmembers, including the ability to make, second, and vote on motions made by the Council.
- (8) The Mayor may make inquiries to town staff but shall not interfere with the Town Manager's authority, either by giving orders or explicit directions, suggestions, or requests, publicly or privately, regarding town matters to any subordinates of the Town Manager whether it be financial, budgetary, human resources, or operational in manner. The Mayor shall not attempt to exert influence on the Town Manager on issues relating to the hiring or removal of persons employed by the town or on issues yet to be decided on by the Council.
- (9) The Mayor shall sign any ordinance, resolution, contract, warrant, demand or other document or instrument requiring the Mayor's signature within five business days from the date the Council took action requiring the Mayor's signature or from notification by the Town Manager that such document requires the Mayor's signature. If the Mayor refuses or fails to sign any ordinance, resolution, contract, warrant, demand or other document or instrument authorized to be signed and requiring his signature, then the Vice-Mayor shall sign such ordinance, resolution, contract, warrant, demand or other document or instrument and when so signed such document shall have the same force and effect as if signed by the Mayor. If the Vice Mayor refuses or fails to sign any ordinance, resolution, contract, warrant, demand or other document or instrument within five days from notification by the Town Manager that such document requires his signature, then any member of the Council may sign such document and when so signed such document shall have the same force and effect as if signed by the Mayor.
- (10) The Mayor may, by proclamation, declare a local emergency to exist due to any natural or man-made calamity or disaster. The Mayor may also declare such an emergency in the event of a threat of occurrence of riot or other acts of civil disobedience which endanger life or property within the town. After declaration of any such emergency, the Mayor shall govern by proclamation and impose any and all necessary regulations to preserve the peace and order of the town, including but not limited to:
 - (a) Imposition of a curfew for all or any portion of the town;
 - (b) Ordering the closing of any business;

Councilmember Code of Conduct

(c) Closing to the public access to any public building, street or other public place; or

(d) Calling upon regular or auxiliary law enforcement agencies and organizations within or without the town for assistance in providing for the safety of the town, its citizens and property.

(11) As the Mayor may deem appropriate, and upon request by an organization or individual, the Mayor may prepare proclamations that identify particular days or events to be of special interest to the town and its citizens.

(12) The Mayor shall prepare and submit to the Council an annual update on the external memberships and committees that the Mayor participates in or serves on in his or her official capacity. The update shall include the entity's mission and purpose, associated costs, the role of the Mayor, and the town's position/policy for each of the external memberships or committees. The report shall be submitted at the first regular Council Meeting in December. Exception: if any member of Council requests a report on an activity or meeting that the Mayor has attended prior to the annual report date that member may request such report by action of Council action agenda request form. Upon majority affirmative vote of the Council, the Mayor shall provide said report, including direct effects and justification for the use of town funds, at a Council meeting within 30 days of the request.

(13) The Mayor may perform such other duties consistent with the Mayoral duties set forth herein and as required by town ordinance or resolution, action of council, or Arizona State Law.

(C) *Action in excess of delegation.* If a majority of the Town Council possesses a reasonable belief that the Mayor has acted in excess of the Town Council's delegation of duties, responsibilities, or authority, the Town Council shall direct the Town Prosecutor to consider charging the Mayor with a civil violation of this section. If the Town Prosecutor brings such a charge and if the Town Magistrate determines by a preponderance of evidence that the Mayor has exceeded his or her delegated authority, the Magistrate shall impose a fine within the guidelines of his or her authority and the general penalties set forth in [§ 10.99](#).

(D) *Failure to perform.* If a majority of the Town Council possesses a reasonable belief that the Mayor has failed to perform any duty or responsibility imposed on him or her by this section, any other ordinance, statute, or law, the Town Council shall direct the Town Prosecutor to consider charging the Mayor with a civil violation under this section or a criminal charge of nonfeasance in public office as defined by Arizona Revised Statutes, or the Town Prosecutor may, of his or her own volition, charge the Mayor with a civil violation under this section or a criminal charge of nonfeasance in public office as defined by Arizona Revised Statutes. If the Town Prosecutor brings a civil charge and if the Town Magistrate determines by a preponderance of evidence that the Mayor has failed to perform as required by this section, the Magistrate shall impose a fine within the guidelines of his or her authority and general penalties set forth in the town code. If the Town Prosecutor brings a criminal charge of nonfeasance in public office and the Town Magistrate finds the Mayor guilty, the Mayor shall be subject to the maximum criminal penalty available for such a violation. If the Town Prosecutor brings both a civil and a criminal charge and the Mayor is found responsible for the civil charge and guilty of the criminal charge, the Mayor shall be subject to both the criminal penalties and the civil fine, but if fines are imposed for the criminal offense, they shall offset any fines imposed for the civil offense.

(E) *Appointment of Vice Mayor; term.* Absent a vote of no-confidence, at the second regular Council Meeting in December each year, the Town Council shall appoint the most senior Councilmember who has not already been the Vice Mayor and has served on Council for at least one year to the Vice Mayor position for a one-year term or until a new Vice Mayor is appointed. If no Councilmember meets the

Councilmember Code of Conduct

above criteria or the person to be appointed declines the appointment, the most senior Councilmember shall be appointed to serve as Vice Mayor for a one-year term.

(F) *Duties of Vice Mayor.* The Vice Mayor shall perform the duties of the Mayor in the Mayor's absence and shall perform such other duties as may be, from time to time, delegated by the Town Council.

§ 30.081 REQUEST FOR STAFF RESOURCES.

(A) Council requests for research or other staff work must be directed to the Town Manager, or the Town Attorney regarding legal matters, or the Town Clerk regarding matters within the Clerk's authority.

(B) If more than one hour of staff time will be required to complete the task/project, the item will be agendaized to ask the Town Council if time should be spent on preparing a report on the proposed item.

(C) Staff responses prepared to Council inquiries shall be distributed to all Town Councilmembers.

§ 30.082 RELATIONSHIP AND COMMUNICATIONS WITH STAFF.

Staff serves the Town Council as a whole, therefore:

(A) A Councilmember shall not direct staff to initiate any action, change a course of action or prepare any report, nor shall a Councilmember initiate any project or study without the approval of the Council.

(B) Councilmembers shall not attempt to pressure or influence discussions, recommendations, workloads, schedules or department priorities absent the approval of the Council.

(C) When preparing for Council meetings, Councilmembers should direct questions ahead of time to the Town Manager so that staff can provide the desired information at the Council meeting.

(D) Any concerns by a member of the Town Council regarding the behavior or work of a town employee should be directed to the Town Manager privately to ensure the concern is resolved. Councilmembers shall not reprimand employees directly nor should they communicate their concerns to anyone other than the Town Manager.

(E) Councilmembers serving on Council committees or as the town's representative to an outside agency may interact directly with town staff assigned to that effort as the Town Manager's designee. The town staff member so designated and assigned will keep the Town Manager appropriately informed.

(F) Soliciting political support from staff (e.g., financial contributions, display of posters or lawn signs, name on support list, etc.) is prohibited. Town staff may, as private citizens with constitutional rights, support political candidates, but all such activities must be done away from the workplace and may not be conducted while in uniform or wearing indicia of association with the town.

§ 30.083 RELATIONSHIP AND COMMUNICATION WITH BOARDS, COMMISSIONS AND COMMITTEES.

Individual Councilmembers shall not attempt to pressure or influence board, commission or committee (each, an "agency") decisions, recommendations or priorities, absent the approval of the Council. The role of Council liaison is to observe and report to the Council and the agency the activities and actions of the agency and the Council, respectively. Councilmembers may not serve as members of any Town Agency.

§ 30.084 HANDLING OF LITIGATION AND OTHER CONFIDENTIAL INFORMATION.

Councilmember Code of Conduct

(A) All written materials and verbal information provided to Councilmembers on matters that are confidential under state law shall be kept in complete confidence to ensure that the town's position is not compromised. No disclosure or mention of any information in these materials may be made to anyone other than Councilmembers, the Town Attorney or Town Manager.

(B) Confidential materials provided in preparation for and during executive sessions must be returned to staff at the conclusion of the executive session.

(C) Confidential materials provided to Councilmembers outside of executive sessions must be destroyed or returned to staff within 30 days of their receipt.

(D) Councilmembers may not request confidential written information from staff that has not been provided to all Councilmembers.

§ 30.085 REPRESENTING AN OFFICIAL TOWN POSITION.

(A) Town Councilmembers may use their title only when conducting official town business, for information purposes, or as an indication of background and expertise, carefully considering whether they are exceeding or appearing to exceed their authority.

(B) Once the Town Council has taken a position on an issue, all official town correspondence regarding that issue will reflect the Council's adopted position.

(C) In most instances, the Council will authorize the Mayor to send letters stating the town's official position to appropriate legislators.

(D) If a member of the Town Council, including the Mayor, appears before another governmental agency organization to give a statement on an issue affecting the town, the Councilmember should indicate the majority position adopted by the Council. If the Council is divided on an issue, the member should make no statement.

(E) Personal opinions and comments may be expressed only if the Councilmember clarifies that these statements do not reflect the official position of the Town Council.

(F) Any Councilmember, including the Mayor, who has been directed by Council action (either by Council vote or by direction) to represent the town at any meeting of an outside organization and who cannot attend the meeting, shall immediately notify the alternate attendee, who shall attend the meeting. If there is not an alternate or the alternate is not available to attend, the representative shall immediately notify the Mayor and, in the absence of the Mayor, the Vice Mayor, of the attendance conflict.

(G) If a Councilmember or the Mayor, appears on or is interviewed by any news media, whether radio, television, newspaper, newsletter, or other communication outlet, the Councilmember shall indicate the majority position adopted by Council. If a majority position has not been reached on the subject, the Councilmember shall indicate that no majority position has been adopted and the Councilmember may give a statement expressing his personal opinion, but only if he states that it is his own opinion and not the opinion of the town.

§ 30.105 COUNCIL AGENDA.

(B)

Councilmember Code of Conduct

(2) Any member of the Town Council may request an item be placed on a future Council agenda. A request to modify or remove an agenda item may be made by the Councilmember who requested the item be placed on the agenda, in which case it shall be modified or removed without further action. The Mayor or any other Councilmember may request an item that was submitted by another Councilmember be modified or removed, in which case it may only be modified or removed with the concurrence of the Councilmember who requested it be put on the agenda.

(C) Agenda item requests shall be submitted using a "Council Agenda Action Request Form" as outlined in Council-approved policy. The Town Manager or Town Clerk shall place the item on the next appropriate agenda. An emergency agenda request may be submitted after the deadline pursuant to § 30.031(B)(10).

(E) *Modifications to the agenda.*

(1) The presiding officer or any Councilmember may request a change in the order of the agenda items which, if approved by a majority of the Council, shall be granted.

§ 30.106 DECORUM.

(A) The presiding officer shall preserve the decorum of the meeting.

(B) While the Town Council is in session, all persons shall conduct themselves with reasonable decorum. Any person who is disorderly or who persistently disrupts the business meeting so far as to interfere with the proper conduct of the business may be ordered by the presiding officer to be removed from the meeting place. At such time, the presiding officer may call a recess.

(C) If the presiding officer fails to act on a matter of decorum, Council may, by majority approval of a motion, require the presiding officer to act.

§ 30.109 PROTOCOL AT MEETINGS.

(A) *Preamble.* Members of the Town Council are elected to represent their voting constituents and the citizens of Dewey-Humboldt. As such, each member of Council has the right to express his or her representation without being assailed in regard to that representation or in regards to their own personal political affiliations, religious preference, marital status, sexual orientation. Further, members of Council shall not be the subject of retribution from the Chair in any manner or form or in a manner of retribution for holding their view in all matters that come before Council. In addition, the right of a member to address the City Council on a question of personal privilege shall be limited to cases in which the member's integrity, character, or motives are assailed, questioned or impugned.

(B) *Basic rules of order.* Meetings will be conducted in accordance with the latest edition of *Robert's Rules of Order (Robert's Rules)*, with the following exceptions and changes:

(1) In case of conflict between *Robert's Rules* and the constitution or laws of the State of Arizona, the state law will prevail.

(2) In case of conflict between *Robert's Rules* and the Dewey-Humboldt code of ordinances, the code of ordinances shall prevail.

(C) *Procedures in general.*

Councilmember Code of Conduct

(1) The presiding officer at any meeting shall rule on any point of order raised by a Councilmember. Only Councilmembers may raise points of order. The presiding officer shall request advice from other members of the body or an appointed parliamentarian before making a ruling. However, any member may, on a point of order, call for a vote on the ruling and specify an alternative ruling. A vote shall then be called on the point of order and, if a majority of members vote in favor of the proposed alternative ruling, the presiding officer shall defer to the opinion of the majority of the members for that meeting of the body. Otherwise the presiding officer's ruling shall stand. The presiding officer may impose reasonable limits to the time allotted for each member to speak during the discussion phase of the proceedings, but if additional time is requested by the member, the presiding officer shall ask for a vote to extend additional time, and if a majority of members agree, the time shall be granted.

(2) The presiding officer shall not use his position as Chair of the meeting to debate other Councilmembers in a condescending manner and shall avoid questioning the motives of others or using indecorous language.

(D) *Meeting operational procedures.*

(1) A Councilmember desiring to speak shall address the presiding officer and, upon recognition, shall confine his or her comments to the agenda item, avoid discussion of personalities and indecorous language and refrain from personal attacks and verbal abuse.

(2) A Councilmember or the presiding officer who desires to ask a question of staff shall address the question to the Town Manager who shall address the question or may designate another staff member to address the question. Councilmembers shall not berate or admonish staff members or the Town Manager.

(3) A Councilmember who has been recognized and given the floor, shall not be interrupted while speaking unless called to order by the presiding officer; a point of order is raised by another member; or the speaker chooses to yield the floor. If a Councilmember is called to order, that member shall immediately cease speaking until the question of order is settled by a vote of Council. If ruled to be in order, the member shall be permitted to proceed. If ruled out of order, the member shall remain silent or may make additional remarks only in compliance with Council rules.

(4) The Mayor and Councilmembers shall comply with the Arizona open meeting law and confine their questions, comments and discussions to the agenda item under consideration by Council.

(5) The Mayor and every Councilmember have a duty to vote and shall vote on all matters except a matter involving his or her own official conduct or where he or she declares a conflict of interest, whether actual or apparent. A Councilmember who declares a conflict of interest shall leave the dais, not participate in the discussion, and refrain from influencing the votes of the remaining Councilmembers. A failure to vote or a voluntary abstention shall count as an "aye" vote unless the Councilmember has declared a conflict of interest.

(6) All motions require a second to be considered by Council. The Councilmember seconding a motion is not required to vote or speak in favor of the motion. If there is no second, the motion fails for lack of a second.

(7) Except as provided in division (D)(9), a Councilmember may change his or her opinion or vote at any time up and until the vote is taken and the final result is announced.

(8) At the request of any Councilmember, a roll call vote shall be taken. Councilmembers shall not explain their vote during the roll call but shall respond either yea or nay to the question.

Councilmember Code of Conduct

(9) After a decision on a motion, any Councilmember who voted with the majority may move to reconsider the item during the same meeting at which the decision being reconsidered was made. Once a motion to reconsider has been approved by majority vote, the original motion may again be discussed. After discussion, a revote on the original motion is taken. No more than one reconsideration of an item shall be permitted without unanimous consent of the Council.

(10) During a meeting, the Mayor or a Councilmember may propose a short intermission or recess by moving to recess for a specified length of time. A motion to recess may be made while business is pending; shall not interrupt a speaker; must be seconded; is not debatable; can only be amended to change the length of the recess; cannot be reconsidered; and requires a majority vote for approval. The length of time for the recess shall not detract from finishing the meeting agenda within the limits set forth in § [30.107](#).

(11) An act or motion to suspend the Council rules requires a majority vote of the Council for approval and shall not be made while another motion is pending unless it directly applies to the pending motion.

(E) Understanding Council's intent to receive public comments prior to voting on any matter on which Council will make a decision, the presiding officer shall allow public comments on all such matters subject to the following:

(1) Prior to receiving public comments on an item, the presiding officer shall ensure Council's questions and concerns have been addressed by asking if there are other Council questions or concerns.

(2) No individual member of the public shall comment more than once on any item.

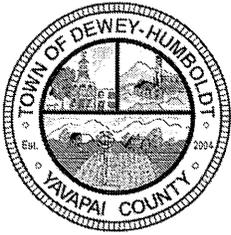
(3) Comments shall be limited to three minutes per person per item.

(4) Without consent from a majority of Councilmembers, the public comment period for each item shall be no more than 15 minutes.

(5) No public comments are permitted on executive session items.

(6) Public comments are permitted during all types of Council sessions without motion of any Councilmembers on all items except executive session items.

(F) *Changes to the rules of order.* Additional exceptions to *Robert's Rules* may be incorporated into the Town Council's rules and procedures at any time by formally amending this chapter, provided they are consistent with the laws of the State of Arizona. Amendments to any motion may be made according to the basic *Robert's Rules*.



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Dewey-Humboldt

AUG - 4 2020

Received

COUNCIL AGENDA ACTION REQUEST FORM

Meeting Type: Regular Special Work Session

Meeting Date: When the conduct code is next discussed

Date of Request: 8-4-20

Requesting: Action Discussion or Report Only

Type of Action: Routine/Consent Agenda Regular

Agenda Item Text (a brief description for placement on the agenda; please be exact as this will be the wording used for the agenda): Need emphasis on Council and commission interaction. This is example of why. This should never be allowed to happen

Purpose and Background Information (Detail of requested action): The video of this is still online and should be watched. Very instructive, March 1, 2011 Art Castricone explained his resignation.

Staff Recommendation(s): _____

Budgeted Amount: _____

List All Attachments: _____

Type of Presentation: Oral

Special Equipment Needed: Laptop Remote Microphone

Overhead Projector Other: _____

Contact Person: Lynn Collins

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.

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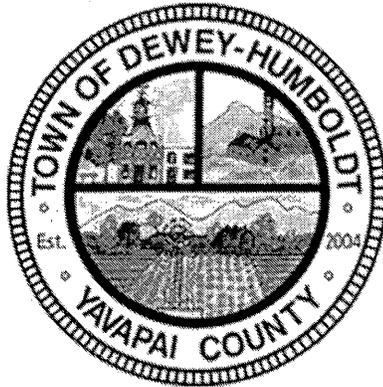
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10/26/2011 10:36:00 AM

Dewey-Humboldt: Town Council meeting turns ugly; 1 official fired, 2 resign



Sue Tone
Reporter



Another empty desk graces the Dewey-Humboldt Town Hall after the council terminated its community development director at the Oct. 18 council meeting.

By the next morning, Linda Baker, records manager, submitted her resignation letter stating she could no longer work in a hostile situation. Board of Adjustments member G. Odis Brockman, who works directly with Dennis Price on permit and code issues, also resigned.

The council fired Price, who worked as community development director for the past three years, by a 4-3 vote, on a motion by Councilman David Hiles.

Council members Hiles, John Dibble, Denise Rogers and Vice Mayor Mark McBrady voted to terminate Price; council members Nancy Wright, Dennis Repan and Mayor Terry Nolan voted against the termination.

Most councils are not involved in hiring and firing town employees, the town manager is responsible for staff. But D-H has not had a town manager for more than a year, and if Yvonne Kimball accepts the position, her start date will be Jan. 3, too long to wait, Hiles said.

Hiles related several instances to support his motion to terminate Price immediately. In one instance he believed Price had held up issuing a permit and was "holding a family hostage." He brought up Price's "anger and defensiveness" during a Sept. 7 council discussion about Price's difficulty obtaining permit applications from Gary Mortimer, a Dewey-Humboldt business owner. Hiles also said Price provided the Planning and Zoning Commission with inaccurate information from council at a Sept. 8 P&Z meeting. "He seems to relish in the ability to tell somebody 'no' rather than giving suggestions," Hiles said.

In a Sept. 14 meeting with Price, Mayor Nolan and Town Clerk Judy Morgan, the mayor told Hiles, "you have to stop ridiculing staff," and Price said to Hiles, "You're nothing but a (expletive) bully."

Price isn't the first to call a D-H council member a bully. When Interim Town Manager Art Castricone left his position after 10 weeks, he said in a March 1 council meeting, "What we're getting from council is anger, abuse and a whole lot of bullying."

Rogers, McBrady and Dibble did not add to the discussion. Repan said he wasn't sure what Price was accused of, given his expertise.

Nolan pointed out that Price's job set him up to be the bad guy when residents came in to the planning department and were unhappy about some town ordinances and restrictions.

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"That's his position. That's his job to give that information out. Our job is to amend the ordinances," Nolan said.

Hiles said he had nothing against the way Price enforces codes or ordinances, but questioned whether Price's name calling should be tolerated.

Nolan said he agreed with Price, "and I think you are a (expletive) bully. It's just a statement. Sorry if you're offended by it," to which Hiles said he was.

After the meeting, Rogers said she felt Price was doing his job, but it was his attitude that was the problem. Dibble, who also voted to terminate Price, called it an unfortunate situation and an unfortunate way to handle it, and declined to talk about his working relationship with Price.

Several people from the community spoke to the council both in support and against Price. Mortimer said he had no opinion about firing Price, but cautioned the council and mayor about showing respect to co-workers.

Business owner Chris Berry said outside of town government matters he would call Price a friend, but said Price was not the person to be in the community development position. The job requires someone willing to work toward solutions and be less "rigid."

Jerry Piper said Price held up a project of his for a year and a half, and he hoped the council wouldn't wait for the new town manager to deal with the director. "If you're going to get rid of somebody, get rid of him now. I could fill that school gym with people who've had problems with Dennis," Piper said.

Lydia Chapman, D-H Board of Adjustments member, suggested the council first document the complaints, then talk with Price, set a timeline, and watch for improvement.

"I feel uncomfortable doing this to a person in public. It's a spectacle, it's unkind and cruel," Chapman said.

Cathy Jackson said she was at the Sept. 7 meeting and didn't think Price was at fault in his interaction with the Mortimers, but rather Hiles was the one with the attitude.

"If staff does anything, does their job and it doesn't suit the council, their employment is at risk or you become so miserable you will resign. The bullying comes from the council members," Jackson said.

She, too, questioned the history of complaints against Price and said she believes the request for termination was a personal vendetta by one or more council members.

After a records request, Town Clerk Morgan said Price's file has no record of any disciplinary action. Price said on Wednesday that his last performance evaluation by former town manager William Emerson indicated there was nothing wrong with his work other than he needed to work on his public speaking skills.

"You're never going to make everybody happy in this job. It's all about rules, regulations and enforcement. Anybody who says, 'Gee, he wasn't flexible enough,' well, there are things in place like state law, you don't have the choice to be flexible. It is what it is. It's black and white. You can't deal in shades of gray," Price said.

At attorney Susan Goodwin's suggestion, council asked Price if he had anything to say before the council voted.

"I think that a lot of what was said here is untrue, it's unfounded, and unfair. I just want to do my job," he said.

Council member Wright, who voted against termination, said after the meeting that it wouldn't have been a hardship to wait until the new town manager was on board, and that she thought the action was because of a personality issue between two people.

Castricone, who still lives in D-H, expressed his shock at the council's action and said he hopes the town has justification for the dismissal; otherwise, the town could lose additional community assets through a form of settlement.

With the absence of Price, five of the eight fulltime positions at town hall stand vacant. Morgan and Ed Hanks, public works employee, will hold down the fort, along with Gregory Arrington, part-time code enforcement and community outreach person.

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Dewey-Humboldt must get its act together to survive

Every small community has growing pains, and Dewey-Humboldt, incorporated in December 2004, is in the throes of them now.

Dewey-Humboldt residents were in favor of incorporation because the majority of them wanted to keep their rural lifestyle and keep the growing town of Prescott Valley from encroaching on the area. Since the incorporation, however, the community has seen a string of problems, including resignation after resignation of town employees, and squabbling among elected officials.

In the past year, the community has lost to resignation or firing its town manager, interim town manager, public works director, financial director, accountant, community development director, magistrate, administrative assistant and town attorney.

Some of these employees moved on to further their own careers. Some left by mutual agreement. Still others, however, left because they said they found the working conditions in the town intolerable. Latest among these was administrative assistant Linda Baker, who in her resignation letter stated that she could no longer work in a hostile situation after the council fired Community Development Director Dennis Price in October. Price this past week cited wrongful discharge, failure to provide due process rights, and retaliation for exercising whistle-blowing rights in a Notice of Claim against the town, Vice Mayor Mark McBrady and councilmember David Hiles. He is asking for \$750,000 in damages.

Most small communities endure their fair share of angst as they find their direction and vision. But Dewey-Humboldt has created such a revolving door that prospective employees who might have the skills needed to carry the town into the future could be scared off by its instability.

In fact, a recent choice for the community's town manager position withdrew on Sept. 7. The second choice, Yvonne Kimball, will take the reins in January.

If Dewey-Humboldt is to leave its turmoil behind and join the ranks of stable, progressive communities, it must do a number of things.

First, the community, in collaboration between residents and elected officials, must establish its direction and vision, and clearly communicate and adhere to that direction.

Dewey-Humboldt must find a way make customer service paramount. The council must first listen to residents, set clear policies and procedures, and then support town staff in fairly enforcing them across the board. Customer service dictates that council and staff communicate with each other and residents with tact and respect.

Another crucial action for this community to move beyond the current mayhem is for the council to hire good people and then let them do their jobs. The role of a town council is to set policies and directives. The town manager is usually responsible for implementing those policies, and for hiring and firing employees. If a council insists on micromanaging its town staff, it is in danger of making mistakes that put the community at risk.

Dewey-Humboldt, under former town manager William Emerson, completed a good deal of town planning. And, in January, the town will have a new opportunity as Kimball steps into the town manager's position. Perhaps it's time for the council to dust off those plans, work together with residents, support town staff, and move on.

Not a bad New Year's resolution.