

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

Tuesday, November 3, 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, November 3, 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/83640727475>
 - Telephone: (301) 715-8592; Meeting ID: 836 4072 7475
- 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 REGULAR MEETING 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. Pledge of Allegiance

4. Moment of Silence

5. Announcements regarding Town Current Events; Guests; Appointments; and Proclamations

Announcements of items brought to the attention of the Mayor not requiring legal action by the Council. Guest Presentations, Appointments, and Proclamations may require Council discussion and action. Pursuant to the Arizona Open Meeting Law, the Town Council may present a brief summary of current events; however, the Council may not discuss, deliberate, or take legal action on any matter in the summary.

A. Council announcements about outside meetings and committees

B. Proclamation – November 11, 2020 – Veterans Day Recognition

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6. 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.

7. Consent Agenda

All those items listed below are considered to be routine and may be enacted by one motion. Any Councilmember may request to remove an item from the Consent Agenda to be considered and discussed separately.

7 A. Adopt Resolution No. 20-147, approving, and authorizing the Town Manager to execute, a grant agreement with the State of Arizona Office of the Governor for the AZCARES Fund Program for Grant Number ERMT-20-030, in the amount of \$474,955 (Staff CC)

8. Town Manager’s Report Update on Current Events. The Town Council may ask clarifying questions about any item listed on the agenda under Town Manager’s Report or ask that any item listed on the agenda under Town Manager’s Report be placed on a future agenda for Council deliberation and action. No legal action will be taken on items listed under Town Manager’s Report. From time to time, as authorized by A.R.S. § 38-431.02(K), the Town Manager may present a brief summary of a current event that, due to its timeliness, is not listed on the agenda. In such cases, the Town Council shall not propose, discuss, deliberate or take legal action on the matter.

A. Town Manager’s Report on staff vacancy recruitment efforts

9. General Business Discussion and possible legal action may be taken. Agenda language may vary from that in CAARFs for Open Meeting Law purposes.

17 A. Discussion and possible action relating to the recruitment process for the Interim Town Manager position. Staff is seeking direction from Council as to the minimum qualifications and duties of the Interim Town Manager; salary; use of a recruitment firm or an advertising and application process; recruiting and advertising timeframe; and any additional next steps. (Staff CC)

25 B. Discussion and possible action relating to the recruitment process for the Town Manager position. Staff is seeking Council input and direction on the applicant screening process and the preparation of a letter to applicants who are not selected to move forward. Note: Following tonight’s discussion and direction, staff will prepare documents that will be brought forward for formal approval at a future Council Meeting. (Staff CC)

31 C. Discussion and possible action about a draft ordinance for adding Dewey-Humboldt Town Code Section 30.020 and repealing Subsections 30.031(C) and (D), renumbering Subsections (E) and (F) of Section 30.031. This item pertains to a draft Code of Conduct for members of the Town Council. (Staff CC)

10. Consideration of additional Special Session(s) Whether to hold and, if so, set the date

11. Adjourn.

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 _____ day 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.

For Your Information:

Next Planning & Zoning Meeting: Thursday, November 5, 2020, at 6:00 p.m.

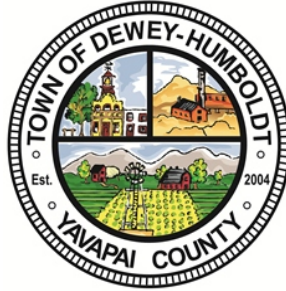
Next Town Council Study Session: Tuesday, November 10, 2020, at 6:30 p.m.

Next Town Council Regular Meeting: Tuesday, November 17, 2020 at 6:30 p.m.

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.

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PROCLAMATION



Veterans Day Proclamation

WHEREAS, on November 11, 1918, the United States and its allies signed an armistice with Germany to end hostilities in World War I; the Great War exacted a tremendous toll on our Nation and thousands of American service members perished in the war, and the lives of countless others were forever altered, and;

WHEREAS, in 1919, to honor and memorialize the loss of lives, President Woodrow Wilson proclaimed November 11 as Armistice Day, the precursor to Veterans Day, expressing “solemn pride in the heroism of those who died in the country’s service”, and;

WHEREAS, we humbly thank our veterans and their families for their selflessness and love of country as we remember their service and their gallantry; and we pray for the safety of all currently serving in harm’s way, and;

WHEREAS, this day, and every day, we pay tribute to America’s sons and daughters who have answered our country’s call, we recognize the sacrifice of those who have been part of the finest fighting force the world has ever known and we will never forget the heroes who paid the ultimate price.

NOW, THEREFORE, I, Terry Nolan, Mayor of the Town of Dewey-Humboldt, do hereby acknowledge November 11, 2020 as Veterans Day; and as a grateful Nation, let us show our appreciation by honoring all our veterans and work to ensure the promise of America is within the reach of all who have protected it.

IN WITNESS WHEREOF, I have hereunto set my hand this 3rd day of November 2020.

Terry Nolan, Mayor

ATTEST:

Timothy A. Mattix, Town Clerk

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CONSENT AGENDA ITEM OVERVIEW

Regular Council Meeting Date: **November 3, 2020**

Consent Agenda Item: **7.A.**

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

Subject:

Consent Agenda Adoption of Resolution No. 20-147, approving, and authorizing the Town Manager to execute, a grant agreement with the State of Arizona Office of the Governor for the AZCARES Fund Program for grant number ERMT-20-030 in the amount of \$474,955.

Background:

As reported at the October 20, 2020 Regular Council Meeting, the Town has received confirmation that it will receive the full amount of the CARES Act funding for which the Town was eligible. By adopting this Resolution, Council will be:

- Approving a grant agreement with the Arizona Governor's Office for the Town to receive the full allocation; and,
- Authorizing the Town Manager to execute and submit the grant agreement to the state.

Financial Impact:

The Town will receive the full allocation for which it was eligible, \$474,955. Sufficient budgetary authority for the receipt and expenditure of the funds was authorized in the current Fiscal Year 2020-21 budget.

Direction Requested:

Staff is seeking Council adoption of the Resolution, approving the grant agreement and authorizing the Town Manager to execute the agreement.

Suggested Motion:

For: I move to adopt Resolution No. 20-147.

Against: No motion is necessary.

Attachments:

Resolution No. 20-147; Grant Agreement

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

www.dhaz.gov

November 3, 2020

RESOLUTION 2020-147

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF DEWEY-HUMBOLDT, YAVAPAI COUNTY, ARIZONA, APPROVING AND AUTHORIZING THE TOWN MANAGER TO EXECUTE A GRANT AGREEMENT WITH THE STATE OF ARIZONA OFFICE OF THE GOVERNOR FOR THE AZCARES FUND PROGRAM FOR GRANT NUMBER ERMT-20-030 IN THE AMOUNT OF \$474,955.00

BE IT RESOLVED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF DEWEY-HUMBOLDT, YAVAPAI COUNTY, ARIZONA, AS FOLLOWS:

Section 1: The Grant Agreement for the AZCares Fund Program with the State of Arizona Office of the Governor, is hereby approved.

Section 2: The Town Manager is authorized to execute the Grant Agreement and any and all documents related to the grant.

Section 3: The various Town officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this resolution.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF DEWEY-HUMBOLDT, ARIZONA, this 3rd day of November, 2020.

Terry Nolan, Mayor

ATTEST:

APPROVED AS TO FORM:

Timothy A. Mattix, Town Clerk

Bigelow Law Offices, PLC
Town Attorney
By: Kay Bigelow

State of Arizona
Office of the Governor
AZCares Fund Program

ERMT Grant Number: ERMT-20-030
Award Amount: \$474,955

Grant Agreement Terms and Conditions

This Grant Agreement (“Agreement”) is between the Town of Dewey-Humboldt (“Grantee”) and the State of Arizona, acting through the Governor’s Office (“Grantor”), (sometimes, individually, a “Party,” or collectively, “Parties”).

I. Purpose

Distribution to local Arizona jurisdictions of federal financial assistance from The U.S. Department of the Treasury’s Coronavirus Relief Fund (CRF), Catalog of Federal Domestic Assistance (CFDA) number 21.019, as part of the Coronavirus Aid, Relief, and Economic Security (CARES) Act.

II. Term, Effective Date, and Termination

The Agreement commences when it is signed by both Parties. The Agreement project period is March 1, 2020 through December 30, 2020. The Agreement expires at the end of the award term. The Agreement shall not bind nor purport to bind the Grantor for any commitment in excess of the original Agreement award term or amount.

In the event of a material breach of any provision of this Agreement, the non-breaching Party shall give written notice to the breaching Party specifically setting forth the nature of the breach. Upon being served with such notice, the breaching Party shall have ten (10) days in which to cure said breach. If said breach has not been cured within the ten (10) days, then the non-breaching Party may terminate this Agreement.

III. Renewal and Amendments

This Agreement is issued under the authority of the authorized Grantor representative who signed this Agreement. The Grantor shall have the right, at its sole and unfettered discretion, whether or not to extend this Agreement. If so, the Parties must execute a written Amendment or a new Agreement. A renewal may be considered if the Grantor adds additional funding and subsequent rounds of awards to the AZCares Fund, the State of Arizona receives additional federal Coronavirus Disease 2019 (COVID-19) public health emergency funding, and/or the State of Arizona Legislature chooses to appropriate funding for this specific purpose. Also, consideration for renewal will be based on results of program and fiscal monitoring.

The Agreement may be modified only through an Agreement Amendment within the scope of the Agreement. Any changes to the Agreement by a person who is not specifically authorized by the Grantor representative in writing or made unilaterally by the Grantee are violations of the Agreement and of applicable law. Such changes, including unauthorized written Agreement Amendments shall be void and without effect, and the Grantee shall not be entitled to any claim under this Agreement based on those changes.

IV. Obligations of the Parties

Responsibilities of the Grantee:

- a. Grantee agrees that grant funds will be used in accordance with applicable statutes, program rules, guidelines and special conditions.
- b. Grantee agrees that it will submit financial and activity reports to Grantor in a format provided by the Grantor, documenting the activities supported by these grant funds and

providing an assessment of the impact of these activities. In the event reports are not received on or before the indicated date(s), funding may be suspended until such time as delinquent report(s) are received.

- c. Grantee understands that financial reports are required as an accounting of expenditures for either reimbursement or Grantor-approved payments. Reports are due pursuant to the schedule listed in this Agreement.
- d. The final request for reimbursement of grant funds must be received by the Grantor on or before the last day of the project period.
- e. Grantee agrees to remit all unexpended grant funds to the Grantor within thirty (30) days of written request received from the Grantor.
- f. Grantee agrees that all encumbered funds must be expended and that payroll and Employee Related Expenses (ERE) must be paid on or before the expiration of this Agreement.
- g. Grantee agrees to cooperate and participate with any and all assessments, evaluation efforts or information and data collection requests, and acknowledges that the Grantor has the right to obtain, reproduce, publish, or use data provided under this award in accordance with applicable statutes, rules, and guidelines.
- h. Grantee understands that the Agreement may not be closed until Grantee is compliant with all requirements of the Agreement.
- i. Required programmatic and financial reports are submitted according to the schedule below. At any point, the Grantee can submit its final report thus ending its need to submit any subsequent reports:

Programmatic and Financial Reports	
Report Period:	Due Date:
March 1 st – June 30 th	July 3 rd
July 1 st – September 30 th	October 5 th
October 1 st – December 30 th	January 4 th

Responsibilities of the Grantor:

- a. Once the following actions and documents are completed by Grantee and have been received, verified, and approved by the Grantor, payment to the Grantee will be completed within 5 business days:
 - i. Obtained a Duns & Bradstreet number;
 - ii. SAM.gov registration completed;
 - iii. AZCares Fund application submitted;
 - iv. AZCares Fund Certification Form submitted;
 - v. Budget/expense request submitted;
 - vi. Award acceptance submitted;
 - vii. State of Arizona General Accounting Office (GAO) Automated Clearing House (ACH) set-up completed; and
 - viii. The Agreement executed by the Grantee or an email from the Grantee sent to ospber@az.gov stating that the Agreement is on the Grantee's board/council agenda for review and execution. Grantee will provide the exact date of the board/council meeting in that email.

V. Fund Management

Grantee must receive these funds under this Agreement in a separate ledger account/fund and cannot mix these funds with other sources. The Grantee must manage funds according to applicable federal regulations for administrative requirements, cost principles and audits.

The Grantee must maintain adequate business systems to comply with Federal requirements. The business systems that must be maintained are:

- a. Financial Management
- b. Procurement
- d. Property
- e. Travel

c. Personnel

A system is adequate if it is: 1) **written**; 2) **consistently followed** - it applies in all similar circumstances; and 3) **consistently applied** – it applies to all sources of funds. The Grantor reserves the right to review all business systems policies.

The Grantee shall manage funds according to applicable [federal regulations for administrative requirements, cost principles and audits](#)

VI. DUNS/CCR

Each Grantee must provide the following prior to an Agreement being executed: (a) Dun and Bradstreet Universal Numbering System (DUNS) number for the fiscal agent; and (b) proof of current registration in the [System for Award Management](#) (“SAM”). SAM is the Official U.S. Government system that consolidated the capabilities of Central Contractor Registration (“CCR”), Fed Reg, ORCA and EPLS. SAM registration must be maintained for the term of the Agreement. The DUNS website is located [here](#).

VII. Reporting Requirements

In compliance with the CARES Act reporting requirements, the Grantee is required to provide the following information:

- a. the total amount of funding received from the AZCares Fund;
- b. the amount of funding received that was expended or obligated for each project or activity;
- c. a detailed list of all projects or activities for which large covered funds were expended or obligated, including—
 - i. the name of the project or activity;
 - ii. a description of the project or activity; and
 - iii. the estimated number of jobs created or retained by the project or activity, where applicable; and
- d. detailed information on any level of subcontracts or subgrants awarded by the covered recipient or its subcontractors or subgrantees, to include the data elements required to comply with the Federal Funding Accountability and Transparency Act (FFATA) of 2006 (31 U.S.C. 6101 note) allowing aggregate reporting on awards below \$50,000 or to individuals, as prescribed by the Director of the Office of Management and Budget.

VIII. Organizational Audit Requirements

Grantee agrees to comply with the organizational audit requirements of 2 CFR Part 200 *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, and further understands and agrees that funds may be withheld, or other related requirements may be imposed, if outstanding audit issues (if any) from their organization’s single audit are not satisfactorily and promptly addressed. This CFR Title 2 Part 200 can be found [online](#).

Single Audit: Grantee expending \$750,000 or more of Federal funds from all sources during the organization’s fiscal year, must have an annual audit conducted in accordance with 2 CFR Part 200.

- a. If your organization is subject to the requirements of 2 CFR Part 200, then attach one copy of your organization’s most recently completed Single Audit with the Management Letter, Findings and Questioned Costs to the completed application.
- b. If your organization is not subject to the requirements of 2 CFR Part 200, submit one copy of the most recently completed audit of financial statements.
- c. If your organization does not have a recently completed audit, attach one copy of the most recently prepared financial statements including a Balance Sheet, Income Statement, and Statement of Cash Flows along with a description of the source of the documents.

IX. Unallowable Costs

All costs incurred prior to the project period start date and costs not consistent with the funding opportunity solicitation are not allowable under this award.

X. Conflicts of Interest Policy

Grantee must establish written policies and procedures to prevent employees, consultants, and others (including family, business, or other ties) involved in grant-supported activities, from involvement in actual or perceived conflicts of interest. The policies and procedures must:

- a. address conditions under which outside activities, relationships, or financial interests are proper or improper;
- b. provide for advance disclosure of outside activities, relationships, or financial interests to a responsible organizational official;
- c. include a process for notification and review by the responsible official of potential or actual violations of the standards; and
- d. specify the nature of penalties that may be imposed for violations.

XI. Acknowledgement of Federal Funding in Communications and Contracting

Grantee must acknowledge Federal funding when issuing statements, press releases, requests for proposals, bid invitations, and other documents describing projects or programs funded in whole or in part with Federal funds. Grantee is required to state: (1) the percentage and dollar amounts of the total program or project costs financed with Federal funds; and (2) the percentage and dollar amount of the total costs financed by nongovernmental sources.

XII. Mandatory Disclosures

Consistent with 45 CFR 75.113, Grantee must disclose in a timely manner, in writing, all information related to violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Disclosures must be sent in writing to the Grantor as stated in Section XVII.

Failure to make required disclosures can result in any of the remedies described in 45 CFR 75.371 remedies for noncompliance, including suspension or debarment (see 2 CFR parts 180 & 376 and 31 U.S.C. 3321).

XIII. Data Collection and Performance Measurement

Grantee must comply with the performance goals, milestones, and expected outcomes as reflected in the funding opportunity solicitation and are required to submit data via the Grantor's data-entry and reporting system, eCivis.

XIV. Ad Hoc Submissions

Throughout the award term, the Grantor may determine that additional information is required beyond the standard deliverables.

XV. Applicable law

In accordance with A.R.S. § 41-2701, *et seq.*, and Arizona Administrative Code, this Agreement shall be governed and interpreted by the laws of the State of Arizona.

XVI. Documents incorporated by reference

The AZCares Fund Allocations and Certification Form are both incorporated into this Agreement in its entirety. Grantee warrants that it has read and understands the AZCares Fund Allocations and Certification Form and agrees to be bound by them in their entirety. In the event of any divergence between this Agreement and the AZCares Fund Allocations and Certification Form, this Agreement shall control.

XVII. Payments

Grantee reimbursements are based only on expenditures approved in its Application budget and budget narrative. A Grantee shall be reimbursed initially for actual public health and safety payroll expenses and EREs for the time period of March 1, 2020 up to the Grantee's application submission or the most recent pay period. If an allocation award balance exists, then the Grantee will either include forecasted payroll expenses and EREs in its application or submit further reimbursement request(s) of its actual public health and safety payroll expenses and EREs until its allocation is fully expended. The Grantee will need to provide its previous year's total actual expense(s) for that category(ies) to validate projection. Overtime is not an eligible expense for reimbursement request(s) from the AZCares Fund. For purposes of the AZCares Fund, Fire, Emergency Medical Services (EMS), 9-1-1, and Sheriff/Police personnel are considered public safety. The Grantee shall use the forms provided by the Grantor to submit reimbursement requests.

Per Federal guidance:

- a. these public health and safety expenses do NOT need to be materially related to the Coronavirus Disease 2019 (COVID-19) public health emergency.
- b. these funds are designed to address unforeseen financial needs and risks created by the COVID-19 public health emergency. For this reason, and as a matter of administrative convenience in light of the emergency nature of this program, the Grantee may presume that payroll costs for public health and public safety employees are payments for services substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

Grantee must:

- a. register for the U.S. Department of Homeland Security, Federal Emergency Management Agency's (FEMA's) Public Assistance (PA) Grant Program via the Arizona Department of Emergency and Military Affairs (DEMA) [portal](#).
- b. submit an application for FEMA PA Grant Program to be verified by DEMA to successfully complete, maintain compliance, and closeout the Public Health and Safety Stabilization Program.
- c. enroll in automatic clearing house (ACH) payments. Grantee must complete the document titled "State of Arizona Substitute W-9 and ACH Vendor Authorization Forms & Instructions." Vendor account set-up and payment information can be found [here](#).

Notwithstanding any other payment provision of this Agreement, failure of the Grantee to submit required reports when due, or failure to perform or deliver required work, supplies, or services, will result in the withholding of payment under this Agreement unless such failure arises due to causes beyond the control and without the fault or negligence of the Grantee.

XVIII. Notification of Program Changes

Grantee agrees to notify the Grantor in writing, thirty (30) calendar days in advance, of any changes in the program that will directly affect service delivery under the terms of the Agreement. No changes shall be implemented without the prior written approval of a formal Agreement Amendment issued by the Grantor.

XIX. Relationship of Parties

The individuals performing work on behalf of Grantee, its subgrantees or its subcontractors are not employees, servants, agents, partners, or joint venturers of the Grantor. The State

of Arizona and the Grantor retains no control or direction over such individuals or over the detail, manner, or methods of performance of their services, and they do not have the authority to supervise or control their work. The individuals performing work on behalf of the Grantee, its subgrantees or its subcontractors are not entitled to receive benefits that employees of the State of Arizona are entitled to receive, including but not limited to, workers' compensation, unemployment compensation, health, vision, or dental insurance, retirement benefits, annual leave, and holiday pay.

XX. Other

- a. Grantee shall follow all applicable laws, rules, and regulations in the performance of work in furtherance of the solicitation, application, and award.
- b. In accordance with ARS § 35-154, every payment obligation of the Grantor under this Agreement is conditioned upon the availability of funds appropriated or allocated for payment of such obligation. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the Grantor at the end of the period for which funds are available. No liability shall accrue to the Grantor in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.
- c. In accordance with A.R.S. § 35-214, the Grantee shall retain all data, books, and other records ("records") relating to this Agreement for a period of five years from the last financial report submitted to the Grantor. All such documents shall be subject to inspection and audit at reasonable times, including such records of any subgrantee, contractor, or subcontractor. Upon request, the Grantee shall produce the original of any or all such records to the offices of the Grantor.
- d. The Parties warrant that they are in compliance with A.R.S. § 41-4401 and further acknowledge that:
 - i. Any contractor or subcontractor who is contracted by a Party to perform work related to this Agreement shall warrant its compliance with all federal immigration laws and regulations that relate to its employees and its compliance with A.R.S. § 23-214(A);
 - ii. That any breach of the warranty in paragraph "b." above shall be deemed a material breach of this Agreement that is subject to penalties up to and including termination of this Agreement;
 - iii. The Parties retain the legal right to inspect the employment records of any employee of any contractor or subcontractor who performs work related to this Agreement to ensure that the contractor or subcontractor is complying with the warranty in paragraph "b." above and that the contractor agrees to make all employment records of said employee available during normal working hours to facilitate such an inspection; and
 - iv. Nothing in this Agreement shall make any contractor or subcontractor an agent or employee of the Parties to this Agreement.
- e. The Parties shall comply with the provisions of State Executive Order 2009-9, Title VI of the Civil Rights Act of 1964, as amended, Section 504 of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act, as amended.
- f. This Agreement does not imply authority to perform any tasks or accept any responsibility not expressly stated in this Agreement.
- g. This Agreement does not create a duty or responsibility unless the intention to do so is clearly and unambiguously stated in this Agreement. This Agreement shall not relieve the Parties of any obligation or responsibility imposed on it by law.
- h. This Agreement contains the entire agreement of the Parties with respect to its subject matter and supersedes all prior and contemporaneous agreements, understandings, and inducements, whether express or implied, oral or written.

- i. Any change, modification, or extension of this Agreement must be submitted through the Grantor's online grant management system, eCivis, and approved by Grantor.
- j. This Agreement has been arrived at by negotiation and shall not be construed for or against any Party.
- k. The Parties agree that all the conditions set forth herein are material to this Agreement and a breach of any condition is a breach of this Agreement.
- l. The failure of either Party to insist in any one or more instances upon the full and complete performance of any of the terms and provisions of this Agreement to be performed by the other Party or to take any action permitted by this Agreement shall not be construed as a waiver or relinquishment of the right to insist upon full and complete performance of the same or any other covenant or condition either in the past or in the future. The acceptance by either Party of sums less than may be due and owing at any time shall not be construed as an accord and satisfaction.
- m. The substantive laws of Arizona (without reference to any choice of law principles) shall govern the interpretation, validity, performance and enforcement of this Agreement. The Parties further agree to cooperate in all ways reasonable and necessary to comply with the applicable statutes, including amending this Agreement as needed in the future and making any refunds or payments that might be required to bring the Parties into full compliance with applicable law.
- n. Nothing in this Agreement is intended to create any third-party beneficiary rights; and the Grantor and the Grantee expressly state that this Agreement does not create any third-party rights of enforcement.
- o. This Agreement may be executed in any number of counterparts, all such counterparts shall be deemed to constitute one and the same instrument, and each of said counterparts shall be deemed an original hereof.
- p. If the last day of any time stated herein shall fall on a Saturday, Sunday, or legal holiday in the State of Arizona, then the duration of such time shall be extended so that it shall end on the next succeeding day which is not a Saturday, Sunday, or legal holiday.
- q. Except as expressly provided herein, no Party may delegate or assign its rights or responsibilities under this Agreement without prior written approval of the other Party and any purported assignment or delegation in violation of this provision shall be void.
- r. The Parties to this Agreement agree to resolve all disputes arising out of or relating to this Agreement through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12-1518, except as may be required by other applicable statutes.
- s. If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall be in full force and effect.
- t. Any deviation or failure to comply with the purpose and/or conditions of this Agreement without prior approval may constitute sufficient reason for the Grantor to terminate this Agreement, revoke the grant, require the return of all unspent funds, perform an audit of expended funds, and require the return of any previously spent funds which are deemed to have been spent in violation of the purpose or conditions of this grant.
- u. The Parties acknowledge they have been advised by counsel, or have had the opportunity to be advised by counsel, in the execution of the Agreement.

IN WITNESS WHEREOF, the Parties have made and executed the Agreement the day and year first above written.

FOR GRANTEE:

Authorized Signatory Date

Printed Name and Title

Additional signature(s) if required by political subdivision Date

Printed Name and Title Date

Attest:

Clerk Date

Note: If applicable, the Agreement must be approved by the appropriate county supervisory board or municipal council and appropriate local counsel (i.e. county or city attorney). Furthermore, if applicable, resolutions and meeting minutes must be forwarded to the Governor’s Office with the signed Agreement.

Approved as to form and authority to enter into Agreement (Excluding non-profits):

Legal counsel for Grantee Date

Printed Name and Title

Statutory or other legal authority to enter into Agreement (Excluding non-profits):

Appropriate A.R.S., ordinance, or charter reference

FOR GOVERNOR’S OFFICE:

Matthew Gress, Director Date
State of Arizona
Governor’s Office of Strategic Planning and Budgeting



COUNCIL COMMUNICATION

Regular Council Meeting Date: **November 3, 2020**

Agenda Item: **9.A.**

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

Subject:

Discussion and possible action relating to the recruitment process for the Interim Town Manager position. Staff is seeking direction from Council as to the minimum qualifications and duties of the Interim Town Manager; salary; use of a recruitment firm or an advertising and application process; recruiting and advertising timeframe; and any additional next steps.

Background:

In following with the Town Manager Recruitment Roadmap, which was approved by Council on October 20, 2020, this item has been placed on the agenda so that staff can receive direction from Council as to the Interim Town Manager recruitment process.

Staff is specifically seeking direction from Council on:

- Minimum qualifications and duties of the Interim Town Manager;
- Salary;
- Recruitment firm or advertising and application process;
- Recruiting and advertising timeframe;
- Any additional next steps.

Minimum qualifications and duties of the Interim Town Manager

In order to ensure a good fit for the Town, Council may wish to identify the minimum qualifications desired, and duties that the Interim Town Manager will be responsible for. Council may wish to select certain qualifications and duties from the Town Manager's position description, a copy of which is attached for reference. There are certain time-sensitive projects that Council may wish the Interim Town Manager to focus on, such as the new Town Hall and a potential loan through the United States Department of Agriculture for the new Town Hall project.

Salary

Staff is seeking direction from Council as to the salary for the Interim Town Manager. Most recently, in the 2017 timeframe, Council paid an Interim Town Manager \$6,000/month. Council could consider utilizing the permanent Town Manager's salary as a base for the Interim Town Manager. For example, if Council sets the salary at the low end of the pay scale, it would equal to approximately \$8,300/month.

Recruitment firm or advertising and application process

Staff is seeking direction from Council as to using a recruitment firm or an advertising and application process. The League's 2017 Executive Recruitment Guide included one firm for Interim/Temporary Manager Services (excerpt attached). Other firms are also available – materials from firms brought to staff's attention are attached for Council's consideration.

Another option for Council to consider would be an advertising and application process that the Town coordinates. However, in the interest of time, staff recommends Council consider using a recruitment firm.

Recruiting and advertising timeframe

If Council chooses an advertising and application process, staff recommends Council provide a timeframe in which to advertise.

Financial Impact:

Costs will vary depending on the outcome of tonight's agenda item.

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

Direction Requested:

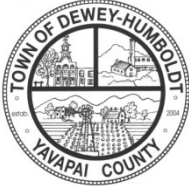
Staff is seeking direction from Council on the aspects outlined above.

Suggested Motion:

Council's pleasure.

Attachments:

Town Manager position description (for reference); Excerpt from 2017 League Executive Recruitment Guide; Excerpt from Strategic Government Resources and Municipal Solutions (firms who offer Interim Town Manager placement)



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

TOWN MANAGER

JOB CLASSIFICATION INFORMATION			
<i>Department/Division:</i>	Town Manager		<i>FLSA Status:</i> Exempt
<i>Supervision Level:</i>	Appointed		<i>Salary Minimum:</i> \$100,000.00
<i>Status:</i>	Unclassified		<i>Salary Maximum:</i> \$150,000.00
<i>Background Check/ Drug Screen</i>	Y	Y	<i>Retirement:</i> ICMA-RC 401(a) Town 2:1 match up to 12%

REPORTING RELATIONSHIPS
Receives policy direction from, and reports to, the Town Council.
Exercises direct supervision over administrative, professional and clerical staff.

MINIMUM QUALIFICATIONS	
<i>Experience:</i>	At least five years of progressively responsible experience in a local government or an organization of comparable complexity. Preferred qualifications include 10 years of managerial and administrative experience in a municipal government, county, school district or working directly for an elected governing body, including five years' experience in a senior management (department head or higher) position; strong financial management and budgeting skills; grants management; and management of a capital improvement plan.
<i>Education:</i>	Bachelor's degree in public administration, business management, or equivalent. A Master's degree in public administration or related field is preferred.
<i>Certification:</i>	ICMA-Credentialed Manager designation or ability to obtain within three years of appointment is preferred.
<i>Additional:</i>	Residency within the Town of Dewey-Humboldt or a 25-mile radius within 18 months of appointment.

ESSENTIAL JOB FUNCTIONS
Essential job functions are the fundamental duties of a position; the things a person holding the job must be able to do consistently.
To actively perform the duties of the chief administrative officer of the Town and be responsible to the Town Council for all affairs of the Town; implement policy set by the Town Council; to oversee and manage the day-to-day operations of the Town; responsible for Council, Board, Commission and Committee Meeting agendas; serves as the Town's Zoning Administrator; and, to perform such duties as may be directed by the Town Council or as required to ensure the effective and efficient operations of the Town. See Dewey-Humboldt Town Code § 30.030 for the authorities and duties of the Town Manager; see also Town Code § 30.001 and § 30.015(E).

TYPICAL DUTIES/RESPONSIBILITIES

This position description is not designed to cover or contain a comprehensive listing of all activities, duties or responsibilities that are required of the employee for this job. Duties, responsibilities and activities may change at any time with or without notice.

- Show respect, tact and courtesy in dealing with the public, elected officials and staff;
- Ensure compliance with all ordinances, resolutions, acts of the Town Council and applicable state law;
- Work closely with the Town Council to define and accomplish strategic goals and objectives, and execute successful business practices;
- Keep the Town Council fully advised as to the condition and needs of the Town and make recommendations;
- Direct, guide, and supervise the activities of all Town departments and staff who report to the Town Manager;
- Communicate orally and in writing with the general public, the media, external stakeholders and Town Council to discuss concerns, answer questions, resolve problems, and present programs and information;
- Respond to and diplomatically resolve resident concerns/complaints about Town services, staff or infrastructure;
- Respond to general inquiries about the Town;
- Actively search for and bring to Council's attention grant opportunities that may be beneficial to the Town;
- Participate in Planning/Zoning and Building cases and any pre-application meetings;
- Build relationships and effective networks with peers in neighboring communities; participate in regional organization activities;
- Negotiate contracts and solutions on a variety of administrative, fiscal and special projects;
- Oversee all department expenditures, compile budget information and present to council;
- Other duties as assigned.

EXECUTIVE RECRUITING FIRMS

The following firms are engaged in recruitment for cities and towns in Arizona. This list is not all-inclusive:

Slavin Management Consultants
<http://www.slavinmanagementconsultants.com/welcome.shtml>
3040 Holcomb Bridge Road, Suite A-1
Norcross, Georgia 30071
Robert E. Slavin, President
Paul Wenbert, Western Regional Manager (Arizona)
pwconsulting@cox.net

Colin Baenziger & Associates
<http://www.cb-asso.com/>
12970 Dartford Trail, Suite 8 Wellington, FL 33414
(561) 707-3537
Colin@cb-asso.com

Bob Murray & Associates
<http://www.bobmurrayassoc.com/>
1677 Eureka Road, Suite 202
Roseville, CA 95661
(916) 784-9080
apply@bobmurrayassoc.com

The Mercer Group
<http://www.mercergroupinc.com/>
James L. Mercer, President and CEO

1000 Cordova Place, #726
Santa Fe, NM 87505
(505) 466-9500
jmercerc@mercergroupinc.com

Mike Letcher (Arizona)
10501 E. Seven Generations Way, Suite 201-07
Tucson Arizona 85747
(520) 891-1953
mletcher@mercergroupinc.com

Peckham & McKenney
Drew Gorgey
www.peckhamandmckenney.com
513 Easy Street
Glenwood, CO 81601
(866)912-1919; cell (970) 987-1238

Interim/Temporary Manager Services:

Interim Public Management
Tim Pickering
<http://interimpublicmgmt.com/>
16868 North Stoneridge Court
Fountain Hills, AZ 85268
(480) 577-0949
timpickering@cox.net



Request An Interim Professional

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Interim Staffing Solutions for Local Government

SGR works closely with local governments across the nation to provide experienced interim professionals who can begin work quickly to keep teams and objectives on track. As the largest interim services firm in Texas, and one of the largest in the nation, we have more than 500 highly qualified local government professionals available for interim assignments in all local government professions including:

- | | |
|--------------------------|----------------------|
| • City/County Management | • Human Resources |
| • Administration | • Law Enforcement |
| • Animal Services | • Legal |
| • Building Inspection | • Library |
| • Community Development | • Municipal Clerks |
| • Courts | • Parks & Recreation |
| • Economic Development | • Planning |
| • Engineering | • Public Works |

Finance

- Fire Service
- Human Resources

Purchasing

- Risk Management
- Utilities

Our Interim Professionals are:

- Proven leaders
- Exceptionally experienced
- Results-oriented
- Available quickly

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Contact Us

Contact Wendle Medford at 817-753-3157 or by [email](#).

STRATEGIC
GOVERNMENT
RESOURCES

PO Box 1642, Keller, TX 76244

P: 817.337.8581

F: 817.796.1228



Website created by VISION – Where Communities & Government Meet



INTERIM PUBLIC MANAGEMENT STAFFING



Regional & National Experts

New England
Southern States
Midwest / Intermountain
West Coast



Temporary Staffing for the Public Sector

City Managers & Administrators Clerks,
Finance, HR, IT, Police, Fire, Public Works,
Utilities, Schools & Special Districts



In-Transition Assistance?

Career Marketing
Out-placement Services
Part-time Consulting
Severance Negotiation

FIND CANDIDATES NOW

CONTACT DAVID

~ A Safe Pair of Hands ~

- ~ 100s of highly-qualified professionals
- ~ temp services **BELOW** your 'total cost of compensation'
- ~ Immediately effective
- ~ on-site w/in 5 business days

Sample client list Consultant / Client interim experience

ARIZONA

Buckeye (Town / City Manager) Chino Valley (Town / Manager)
El Mirage (City Manager, Fire Chief) Glendale (City Manager)
Guadalupe (Town Manager) Tusayan (Town Manager)

CALIFORNIA

Burbank (Public Works Director) California City (City Manager)
Coachella (PW Director) Stockton (Finance Director)
Desert Hot Springs (City Manager, Community Dev. Dir., Sr. Planner)
Madera (HR Director, Finance Services Director, Public Works Dir.)

DELAWARE

Dover (City Manager) Milford (City Manager)

FLORIDA

Largo (Planning Manager) Fruitland Park (City Manager)
Isle Morada Village (Manager) Tamarac (Utilities Director)
St. Cloud (Finance Director x2) West Palm Beach (City Manager)

MARYLAND

Brentwood (City Manager) Ridgely (Town Manager)

NEW JERSEY

Mountain Lakes (Borough Manager)

TEXAS

Bellville (City Manager), Hutchins (Finance Director),
Lampasas (City Manager), Port Arthur (Finance Director)

UTAH

Sandy City (Chief Administrative Officer)

VIRGINIA

Loudoun County (Transportation Services Dir.)



David Evertsen
Tel: (888) 545-7333

CONTACT AL



Al Haines
Tel: (888) 545-7333



USA ADDRESS

875 S. ESTRELLA PKWY #5038
GOODYEAR, AZ 85338 USA

MARKETPLACE

Coming soon

WORKPLACE JOB BOARD

Coming soon





COUNCIL COMMUNICATION

Regular Council Meeting Date: **November 3, 2020**

Agenda Item: **9.B.**

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

Subject:

Discussion and possible action relating to the recruitment process for the Town Manager position. Staff is seeking Council input and direction on the applicant screening process and the preparation of a letter to applicants who are not selected to move forward. **Note:** Following tonight's discussion and direction, staff will prepare documents that will be brought forward for formal approval at a future Council Meeting.

Background:

In following with the Town Manager Recruitment Roadmap, which was approved by Council on October 20, 2020, this item has been placed on the agenda for Council to begin discussing the applicant screening process and a letter to send to applicants who are not selected to move forward. Tonight's discussion is preliminary only; documents memorializing the direction received tonight will be prepared and brought back to Council at a later meeting for formal approval.

Applicant Screening Process

Staff recommends the applicant screening process be broken into the following two steps:

- Applicants who do not meet the minimum qualifications
- Applicants who meet the minimum qualifications

The following are the minimum qualifications, as approved by Council in the position description:

- At least five years of progressively responsible experience in a local government or an organization of comparable complexity;
- Bachelor's degree in public administration, business management, or equivalent.

Applicants who **do not** meet the minimum qualifications. Staff recommends that the Town Attorney be authorized to review all applications and remove from further consideration applicants who do not meet the minimum qualifications.

Applicants who meet the minimum qualifications could then be reviewed by Council to narrow down to a list of finalists. Options for the screening of applicants meeting the minimum qualifications include:

- Use of a private firm;
- Town Council as a whole;
- Subcommittee of the Town Council.

As a consideration, if Council chooses to be involved (as a whole or as a subcommittee), Open Meeting Law requirements must be met. From the 2017 League Executive Recruitment Guide:

Confidentiality is an important consideration in any recruitment. The elected body should determine at the outset, the extent to which the recruitment process will be public. Until the finalists are selected, the confidentiality of résumés should be maintained and should be consistent with applicable with [sic] state law and advice of local governments.

Letter to applicants not selected to move forward

Letters will be sent to applicants throughout the process at each appropriate step along the way. The League provided two sample letters, both of which are attached for Council consideration.

Financial Impact:

Costs will vary depending on the outcome of tonight's agenda item.

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

Direction Requested:

Staff is seeking direction from Council on the aspects outlined above.

Suggested Motion:

Council's pleasure.

Attachments:

Excerpt from 2017 League Executive Recruitment Guide; League Sample Letters – reprinted exactly as included in the 2017 League Executive Recruitment Guide

- Type of services provided
- Statement of starting salary, or that salary is open and commensurate with background and experience. A local government with a formal salary policy should openly declare it on the announcement.
- Filing deadline, including any special items of information desired such as salary history, writing sample, and work related references.
- Brief description of key areas of interest and desirable experiences and qualifications
- Where and to whom to send resumes
- Web site address of local government

Step 3. Decide Where to Advertise

The most common publications in which Arizona cities advertise are the League website, ICMA Newsletter, and online job boards. These publications will generally reach the vast majority of interested and qualified applicants. Addresses and general publication information are also found in Appendix C. Many jurisdictions also choose to advertise in their local newspapers, primarily as a courtesy notification.

Step 4. Acknowledgement Letter

A letter thanking the candidate for his or her interest should be sent on city/town letterhead over the chief elected official's signature as soon as an application is received. This is a good opportunity to tell the candidate a little more about the city/town and the geographic area. If you don't already have a prepared job brochure, cities may choose to insert a publication describing the community. A general outline of the selection process and timeline should also be provided to avoid numerous phone calls and personal inquires. A sample can be found in Appendix D.

Step 5. Screening of Applicants

Time required: 2 weeks

Screening can begin following the closing date. Whether the full council (or a subcommittee), a private firm conducts the screening, the primary document used in the screening should be the profile developed earlier in the process by the council. Narrowing the applicant list using only the applicant's cover letter and resume can often be a difficult process.

Occasionally, a city/town prefers to further narrow applicants by asking for submission of writing sample or response to essay questions relative to the position. The council can use the responses to further evaluate the applicant's opinions, breadth of experience and expertise. The written response is useful to evaluate timeliness, thoroughness, use of English language, etc. From these responses, a smaller number of candidates are selected for background checks or interviews. Note: IF this option is taken, generally allow three to four weeks additional time.

Confidentiality is an important consideration in any recruitment. The elected body should determine at the outset, the extent to which the recruitment process will be public. Until the

finalists are selected, the confidentiality of résumés should be maintained and should be consistent with applicable with state law and advice of local governments.

Regret letters will be mailed throughout the process at each appropriate step along the way. (Samples are in Appendix D.)

Step 6. Reference Checks

Time required: 3-4 weeks depending on the number of candidates and who performs the checks.

Generally, a list of four to seven finalists is a good beginning point for reference checks. This should produce three to six suitable candidates for interviews. A larger starting list is necessary if the city/town wishes to interview more candidates.

If you are contracting with a professional firm, they will do the reference checks and candidate pre-screening interviews for you. If you are doing the recruitment in-house, we recommend that you consult with your attorney and HR department about the kinds of inquiries you can legally make in reference interviews. Given the federal and state laws regarding personnel matters and the potential liability with improper questions, you may choose to contract with a professional reference service for this portion of the recruitment. Additionally, it can sometimes take multiple calls and time scheduling to complete all the background checks. A minimum of three weeks is normally necessary to complete this step. See Appendix J for more details.

Step 7. Interviews

Time required: 2 weeks

Prior to the interviews, the council may wish to send the applicants additional information about the city, such as the budget, comprehensive plan, charter, etc. Occasionally, applicants will request information about housing costs, spousal employment opportunities, schools, etc. The local chamber of commerce can provide helpful information to respond to these requests.

Also prior to interviewing applicants, the council needs to decide whether to pay travel expenses, whether to pay for spouse's expenses, and whether or not to arrange tours, etc. It is common for a city/town to pay for transportation costs, meals and lodging for candidates being interviewed. Many cities and towns arrange for tours of the community and facilities for candidates prior to their interview.

Consensus among council members is critical when selecting a new manager and is not likely to be achieved if only some council members are conducting the interviews, the entire council should interview the finalists. In compliance with the Arizona Open Meetings Laws, interviews may be conducted in executive session since the council is dealing with personnel matters.

Interviews should be scheduled as close together as possible—preferably the same day- in order to assure equal treatment of the candidates. Job-related questions should be prepared in advance and each of them asked of all candidates. The manager profile is useful in deciding

APPENDIX D.1

Sample Acknowledgement Letter

(City/Town Letterhead)

Date:

Dear _____:

Thank you for your application for the position of City Manager for the City of Generic, Arizona. Here are some details about our selection process and an outline of our general time frame.

Applications will be reviewed based on a profile that was developed by the city council. Approximately 10-12 applicants will be presented to the council for further consideration. The council will screen those applications and by mid-January identify a smaller group on which to perform background checks. We expect that the background checks will be completed by late January. Shortly thereafter, a few individuals will be scheduled for interviews. The council hopes to make their final selection by late July.

We will try to keep you advised of the status of your application as decisions in the selection process are made.

Enclosed is some information about our community that you might find interesting and helpful.

Please contact our staff if you have any additional questions. Thank you for your interest in the City of Generic.

Sincerely,

Mayor
City of Generic, Arizona

APPENDIX D.2

Sample Regret Letter

(City/Town Letterhead)

Date:

Dear _____:

Thank you for submitting your resume for the City Manager position and for your patience in waiting to hear from us.

The City has completed a thorough review of all the applications for this position and is now focused on a limited number of top qualifying candidates with the most closely related professional experience. Unfortunately, your application is not included in this top qualifying group.

We truly appreciate your interest in the City of Generic as an employer of choice, and we thank you for taking the time to complete and submit your materials. If there is anything else we can do for you please don't hesitate to contact us.

Sincerely,

HR Representative



COUNCIL COMMUNICATION

Regular Council Meeting Date: **November 3, 2020**

Agenda Item: **9.C.**

Submitted by: Kay Bigelow, Town Attorney

Subject:

Discussion and possible action about a draft ordinance for adding Dewey Humboldt Town Code Section 30.020 and repealing Subsections 30.031(C) and (D), renumbering Subsections (E) and (F) of Section 30.031.

Background:

At the Town Study Session of September 8, 2020, Town Council reviewed a draft prepared by Town Clerk Tim Mattix from other jurisdictions conduct codes and notes from Town council members. At the September meeting, the Council directed shortening the presented draft to provide the procedural process for adjudicating alleged violations of the Town Council's duties or violations of state or federal laws.

This draft will give you a chance to look at the portion of the earlier draft that you directed to prepare for adoption to the Town Code. Since this procedure will replace the process for adjudicating allegations against the mayor, such an ordinance needs to repeal the "mayor-only" in Subsections 30.031(C) and (D) of the Code. It is redlined to the draft reviewed at the 09/08/2020 Study Session or Town Code Subsections 30.031(C) and (D).

A separate email with legal advice will be sent to Council separately.

Financial Impact:

None at this point.

Direction Requested:

Staff requests Council read and prepare to give direction at the 11/3/2020 Town Council meeting.

Suggested Motion:

For: I move for Town staff make the following modifications to the draft and return to council as an ordinance to be codified as part of Dewey Humboldt Town Code; or

For: I move for Town staff return the attached draft to council as an ordinance to be codified as part of Dewey Humboldt Town Code; or

Against: I move to leave the Dewey Humboldt Town Code as-is on the issue of Council Members' Conduct regulation.deny the.

Attachments:

Draft of Procedural and Adjudication code provisions, 09/08/2020 prior draft compiled by Tim Mattix; 09/08/2020 Minutes;

Ordinance adding Section 30.020 and repealing Subsections 30.031(C) and (D), renumbering Subsections (E) and (F)

SECTION I

Add Section 30.020 to Dewey Humboldt Town Code as follows:

30.020 COMPLAINT PROCESS

1. Filing of Complaints

A. Any person who believes ~~the mayor or council members a Town official, in his/her official capacity,~~ has violated a requirement, ~~or prohibition,~~ or guideline ~~outlined set out herein in the Dewey Humboldt Town Code for the elected officials,~~ or has been charged with a criminal violation of 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,

B. The Complainant shall identify identifying:

- 1) the complainant's name, address and telephone number;
- 2) the name and position of the ~~Town-elected~~ 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.

C. Attached to the complaint the ~~person complainant 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.

D. 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 duties of the mayor or a council member as set forth in the ~~ethics Dewey Humboldt Town Ceode,~~ guidelines set out therein, or a criminal violation of 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 45 days ~~one year~~ from the date of discovery of the alleged violation could have reasonably occurred. 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 A 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 may be subject to criminal prosecution for perjury and possible civil liability. If, after reviewing ~~an ethiesthe~~ complaint, it is determined that a sworn complaint is was 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 elected official subject to a false or frivolous complaint ~~Town official~~ who seeks to take civil action regarding any such complaint shall may do so at his or her expense.

4. Complaints against Councilmembers

1. 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.

2. 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:

- 1) Return the complaint to the complainant because it is not complete;
- 2) Dismiss the complaint if, on its face, it fails to state allegations which, if true, would violate a prohibition requirement or guideline as set out in this the Code of Conduct;
- 3) 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
- 4) Refer any alleged criminal 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 criminal violation of Arizona or federal law. If the criminal violation of Arizona or federal laws have been charged by the relevant state or federal agency prior to the complaint filed with Town Clerk, the independent investigator shall procure the reports supporting such criminal charges and submit to Town Attorney.

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

3.4. 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.

5. Appointment of Hearing Officer and Presenting Attorney – If the investigator concludes that this code has been violated or that a criminal 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.

~~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.~~

6. The hearing officer shall conduct the hearing in accordance with the rules of procedure ~~set forth herein adopted by the Council~~

4.7. 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)/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)/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.

8. Penalties and Sanctions Policy – It is the intent of the Town Council to educate and when necessary discipline ~~elected official~~ Councilmembers who violate their duties outlined in the Town Code ~~is 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.

9. 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.

10. Rules of Procedures

A. Discovery.

- 1) No prehearing discovery shall be permitted absent extraordinary circumstances.
- 2) Immediately prior to the hearing, both parties shall produce for inspection any pre-prepared exhibits and written or recorded statements of any witness. Failure to comply with this rule may result, in the court's discretion, in the sanction of granting a recess or continuance to permit such inspection or denying admission of the evidence not so exchanged.
- 3) During the hearing, upon request of the defendant, the citing officer shall produce any notes made by the officer in reference to the civil traffic complaint. This rule shall not be construed to create a duty on the officer to maintain or preserve notes.

B. Schedule Hearing

- 1) Hearing officer shall schedule a hearing within 30 days of the transmittal from Town Attorney

C. Oath and Questioning of Witnesses

D. All testimony shall be given under oath or affirmation.

E. The hearing officer may, on its own motion, call and examine witnesses, including the defending elected official in the hearing.

F. No person may be examined or cross-examined at a hearing except by the hearing officer, the complainant (or his/her attorney), or independent attorney representing the Town or the defending elected official or his/her attorney.

G. Rules of Evidence and Burden of Proof

1) The Rules of Evidence shall not apply in hearings on complaint. Evidence may be admitted subject to a determination that the evidence has some probative value to a fact at issue. Nothing in this rule is to be construed as abrogating any statutory provision relating to privileged communications.

2) The State's burden of proof shall be by a **preponderance of the evidence**

H. Witnesses

1) All witnesses for the State's case in chief shall be required to testify prior to the elected official's case. However, a witness not called to testify in the Complainant's case in chief may be called in rebuttal to testify to an issue raised by the defense.

I. Order of Proceedings. The order of proceedings shall be as follows:

- 1) Direct, cross, and redirect examination of the Complainant's witnesses.
- 2) Direct, cross, and redirect examination of the defending elected official's witnesses.
- 3) Direct, cross, and redirect examination of the Complainant's rebuttal witnesses, if any.
- 4) Direct, cross, and redirect examination of the defending elected official's surrebuttal witnesses, if any.
- 5) Argument of the parties or their counsel if permitted by the hearing officer.
- 6) Ruling by the hearing officer.

J. Records of the proceedings shall be recorded by the same system used for Town Council meetings.

SECTION II

Repeal § 30.031(C) and (D) in their entirety and renumbering of Subsections 30.031(E) and (F) to:

~~—(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.~~

~~(CE)~~ 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 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.

~~(DF)~~ 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.

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.

**TOWN OF DEWEY-HUMBOLDT
TOWN COUNCIL
STUDY SESSION MEETING MINUTES
SEPTEMBER 8, 2020, 6:30 P.M.**

A STUDY SESSION MEETING OF THE DEWEY-HUMBOLDT TOWN COUNCIL WAS HELD ON TUESDAY, SEPTEMBER 8, 2020, AT TOWN HALL AT 2735 S. STATE ROUTE 69, DEWEY-HUMBOLDT, ARIZONA. THE MEETING WAS HELD VIA ZOOM VIDEO/TELECONFERENCE. MAYOR TERRY NOLAN PRESIDED.

1. **Call To Order** Mayor Nolan called the meeting to order at 6:30 p.m.
2. **Roll Call** Town Councilmembers Karen Brooks, Lynn Collins, John Hughes, Mark McBrady, Victoria Wendt, Vice Mayor Amy Lance and Mayor Terry Nolan were present. **Town Clerk Note** (as required by Public Body Rules of Policies and Procedures PG No. TC12-01): Town staff implemented and tested Zoom Video Communications – Pro prior to the first Council Meeting at which Zoom was utilized. Permissions in Zoom prevented the use of a chat feature, to ensure that members could not communicate except for verbally to all members. The first page of the agenda included instructions for public participation via video or calling in to the meeting; members of the public were also able to submit comments via email to the Town Clerk to be read at the meeting. After the meeting, Town staff downloaded the meeting video from Zoom. Additionally, Town staff attended the meeting in the Council Chambers and utilized the video recording system; the video recording system recorded all audio from the Council discussions and actions, and video of staff.
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.

No one spoke.
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.
 - 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)

Ed Hanks, Town Manager, stated that Council discussed this at the August 11 and August 18, 2020 Council Meetings; staff brought it forward based on the fees that the Town has been charging, which are not in the fee schedule. It has been advertised in the Town Newsletter, as directed by Council; staff added it to tonight's agenda for additional discussion and will bring it back in October for a vote. The fee schedule does not specify lot splits, lot line adjustments or lot combinations. Staff has been charging the \$500 fee based on the fee for the record of survey in lieu of subdivision for three lots or less in the fee schedule.

Councilmember Collins spoke relating to having read state law that all pieces of land within the same class of use need to have the same rules applied equally; and, asked if a lot split and lot combination take the same amount of time for staff. Mr. Hanks confirmed that it is the same process and has the same steps involved. Councilmember Collins spoke relating to the Town not wanting to encourage more lot divisions; Mr. Hanks confirmed and stated that the Town has been charging this fee under multiple managers. Councilmember Collins spoke relating to Town Code Chapter 152, and the steps required and time spent in review.

Nancy Wright spoke relating to a concern with the September, 2020 Town Newsletter article stating that often a property owner becomes aware of underlying lots when a building permit is applied for; having purchased four lots in the Parker-Hill subdivision; the lots being legal, nonconforming lots because the property was made a subdivision in 1917; having applied for a building permit and received a Certificate of Occupancy from Yavapai County in 1999; and, having always received one tax bill for the four parcels. She spoke relating to seven more homes having been built in the subdivision, all of which receive one property tax bill while using multiple lots for their building; lot sizes and not being able to meet 50-foot setback requirements; the Town having issued building permits for those properties; and, asked why the Town did so. She spoke relating to the lots being legal, non-conforming lots and current zoning rules not applying to them; and, asked if the Town wants to penalize residents for choosing to combine lots for a larger home and lower density and if Council wants high density development. She spoke relating to lot combinations being in Town Code Chapter 152; the Code showing that joining lots was

never a part of the section under Subdivisions in the fee study; and, asked Council to vote against the proposed change as it is not clear and needs more research.

Councilmember Collins spoke relating to Town Code sections 152.02, 152.03, 152.04 and 152.05; and, the codes being adopted in 2009.

Ms. Wright spoke relating to Yavapai County not charging a fee for combining lots or requiring that a survey.

Councilmember Collins asked if there is a hurry on this; Mr. Hanks responded that staff was bringing it forward to discuss, and will check to see what Yavapai County does on lot splits and combinations.

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)

Councilmember Collins introduced the item as follows: this being a way to get people extra time to address concerns that they may have; it giving an extra step on ordinances; agreeing that it doesn't need to be done on resolutions; and, that it should be done on ordinances and items that have fines attached to them; and, that it would increase public involvement and transparency.

In response to Mayor Nolan, Mr. Hanks confirmed that the Planning and Zoning Advisory Commission ("P&Z") holds a public hearing on zoning code items before going to Council and that P&Z would constitute the first read and Council the second. Mayor Nolan spoke relating to not thinking it should be changed. Kay Bigelow, Town Attorney, noted that there are ordinances other than zoning changes or changes to the Zoning Map, such as Zoning Ordinance text changes and others; rezonings are not the only things done by ordinance.

Councilmember Collins spoke relating to having found a P&Z practice from 2010 to have a first and second read; having seen it in other municipalities; and, that it is good to add an extra step so things get worked out before getting to a potential referendum. She also spoke relating to giving more transparency and building trust.

Mayor Nolan asked why P&Z dropped the practice; Mr. Hanks responded that he is not sure but will research to see if he can find out why and when it occurred.

Nancy Wright spoke relating to her husband having brought up two meetings when he was on Council; thinking it is generally a good idea; and, that people will complain because it takes too long to get anything done.

Councilmember Brooks spoke relating to allowing enough time to print in the Town Newsletter at least once; a lot of Town citizens not participating in every meeting; there being few attendees at P&Z meetings; Council having a few attendees; and, having liked all of the information that was in the September Newsletter.

Judy Kerber spoke and clarified that this is for all ordinances, not just P&Z; focusing on P&Z can't be the entirety of the conversation; and, needing to have a wider scope.

Vice Mayor Lance spoke relating to having at least two visits to Council, including a Study Session and a Regular Meeting; and, putting it in the Town Newsletter so that any Town resident can voice their opinions.

Mayor Nolan spoke relating to bringing it back to the next meeting for a vote. Vice Mayor Lance spoke relating to not bringing it back to the next meeting for a vote; it being controversial as members of the public spoke about it tonight; and, there not being Council agreement on it. Mr. Hanks stated that staff will look at bringing it back at next month's Study Session once staff has additional information.

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)

Mr. Hanks stated that Council reviewed the Code of Conduct at the June 16 and July 21, 2020 Council Meetings. Staff had provided samples for Council to consider and send back with comments; comments that staff received were compiled and are in the Code of Conduct document for discussion. Staff is seeking Council input, such as scaling it down, or additional items that Council would like included.

Councilmember Collins spoke relating to Conduct being a visible, measurable action, while Ethics are not; the Town sometimes having had problems with situational ethics; and, the Oath of Office, required by state law, requires public officials to uphold the U.S. constitution, the laws and Constitution of Arizona and the regulations and ordinances of the Town. She spoke relating to the number of ordinances and regulations dealing with processes, meetings and member conduct; and, that everything she has read in the Code of Conduct is covered

by codes or state laws. She spoke relating to the \$20 fine specified in A.R.S. 9-234 not helping with compliance; the cost for a Hearing Officer and investigative officer; and, wanting one Code of Conduct dealing with staff, Council and Commission, and another dealing with Council or Commission members that cause a risk of litigation or hazard to the Town's assets. She spoke relating to the money involved with having a legitimate process; spending money on measurable things rather than abstract theories; and, having a Code of Conduct rather than a Code of Ethics.

Vice Mayor Lance spoke relating to Councilmembers signing a Code of Ethics at the beginning of their terms of office; and, everyone being adults and being able to handle themselves as such.

Councilmember Brooks spoke relating to correcting a reference to the document name; reducing the time in which a complaint must be filed to thirty days; and, following state law and the current Town codes instead of an additional code.

Councilmember Wendt spoke relating to reducing the amount of time to file a complaint to 30 or 60 days; Council having signed the Code of Ethics but still having problems with bullying, degrading, yelling and disregard for other Councilmembers; Goodyear having a better Code; this being too wordy; and, the Town needing a Code of Conduct or Ethics and a way to file a complaint against Councilmembers.

Judy Kerber spoke relating to agreeing that ethics can't be legislated; that Council should try to do something about conduct; the document needing to be pared down; and, following the Goodyear or Carefree examples.

Councilmember Collins clarified that staff compiled notes and comments from Councilmembers; Mr. Hanks confirmed. Councilmember Collins spoke relating to the document being long because it took everyone's input into account; money that is spent needs to be for something that benefits the Town; it being effective when a member of the public embarrasses a Councilmember during public comments and that it gets on record that there is a problem; and, being more concerned with protecting assets and making sure Council and staff work as a team and promote the Town moving forward. She also spoke relating to past issues with Councilmembers doing investigative work and adding something to the Town Code to make things enforceable.

Ms. Bigelow stated that the Town Clerk compiled all of the comments; staff wanted to give Council the broadest amount of information that Council had provided; and, that the document has three parts. The first part talks about aspirational things; there is no use in putting it into Code language, though it can be part of the information that is given to the Councilmembers at the beginning of their service and they can sign that they've received it. Aspirational qualities can't be proven to be absent or present in a Councilmember. The second section in many parts has reprints or slightly revised versions of things that appear in the Town Code already on Council conduct. The third part is a process for taking care of the complaints and is missing from the current Code; something like this is very much needed. Given the comments tonight, the only thing that gets codified, or that staff returns with, may be the complaint and penalty assessment processes. The Code has a process that is applicable only to the Mayoral position; it should be taken out, and the same process should be applied to all Councilmembers and the Mayor. The Resolution, which was a stopgap, needs to be repealed. These are legal suggestions for how to do it; the Town should not reinvent state law or what is already in the Town Code. If Council wants to be able to have some sort of process for adjudicating these, the complaint process needs to be in place or Council can't take care of violations.

Councilmember Brooks spoke relating to the code needing to be measurable; and, needing to be careful, look it over and take time to get it right.

Councilmember Wendt spoke relating to cutting out the excess and going right into the complaint filing and penalties; a lot currently being in codes; and, bringing another copy back to Council for review.

Councilmember Collins spoke relating to code provisions that intermingle when they shouldn't; only enforcing things that Council wants to spend money on, such as protecting the Town and its employees; and, wanting things that keep the Town out of court to be enforced.

Judy Kerber spoke relating to agreeing that less is more for the Code of Conduct and thanked staff for compiling the comments.

Nancy Wright spoke relating to the document being too long; the *Prescott Valley Tribune* article and being unaware of anybody on Council bullying anyone on staff during her time on Council; having been in the meeting with previous Interim Town Manager Art Castricone and being unsure what caused him to become so upset as referenced in the article; it being unfair to say that previous Councils bullied staff based on what one person said; and, having previously had a simple Code of Conduct.

Vice Mayor Lance spoke relating to Council taking accountability for themselves; needing to realize that staff are

humans; and, that Council as a collective need to step back and look at it.

Councilmember Collins spoke relating to not inferring that it is just past Councils; Council being aware of what they are doing and thinking things through more carefully; and, her hope that Council will improve to be an effective team with staff and citizens. She spoke relating to having received an email saying that if Council voted to remove somebody from Council, that they would be sued; and, her understanding that if someone signs a Code of Conduct they agree to be bound by it. Ms. Bigelow responded that if Council comes up with a complaint process and a way of adjudicating the complaints, yes, that is what they are stuck with; not being able to complain about somebody and then go through a different procedure to find out whether or not they committed that act. Ms. Bigelow stated that any kind of penalty should have some sort of proportionality worked into it and spoke relating to the City of Tempe having expelled a member and the background; they held hearings and decided to expel him because they found it to be actions that would draw bad feelings on the Council and of citizens if he remained a Councilmember. She stated that it is not one of those where Council says if someone should be fined or is not worthy of being a Councilmember; there needing to be some sort of proportionality; and gave an example of a first offense by a new Councilmember when they did not understand what they were doing, and giving that person a fine. There should always be a range of penalties that can be imposed, so Council is not having to do a one-size fits all solution. In response to Councilmember Collins, Ms. Bigelow stated that if a complaint is made, Council could get the complainant to withdraw if the Councilperson being complained about goes to that person and says here's what I'll do that's better, and the person withdraws the complaint; however, if they want the complaint process, it will need to get processed.

Councilmember Wendt recommended that the Town Attorney take this herself and condense it down to where it's reasonable, and figure out the complaint and adjudication process and bring it back to Council to look at.

Councilmember Hughes spoke relating to having it at the basics and to the point so people understand what it is; and, making it basic, doing the fines in a stepped process and going from there.

Vice Mayor Lance asked what is being talked about complainant-wise, such as Council to Council or Council to staff. Ms. Bigelow responded that is an open question and she would like to hear from Council. Vice Mayor Lance spoke relating to wanting to hear feedback from Council, the Town Manager, and the public.

Councilmember Collins spoke relating to thinking it needs to be compartmentalized to the two sections; address the risk issue and relationship with staff; and, asked Councilmembers if they want to spend more time on it.

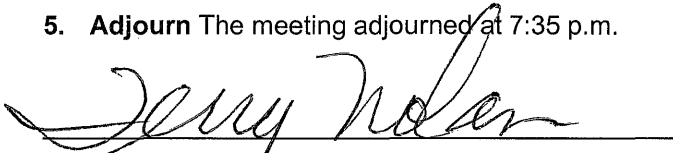
Leigh Cluff spoke relating to her hope that the public can file complaints; her experience at public meetings; that Council should not try to humiliate citizens at meetings; and, that several handicapped people have come and been humiliated.

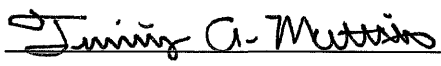
Judy Kerber spoke relating to having it be all three aspects and it being interactive between staff, Council and the public to some extent.

Councilmember Wendt spoke relating to anyone in the public, staff or Council being able to file a complaint.

Mayor Nolan requested that Ms. Bigelow and Mr. Hanks remain until after everyone is gone.

5. Adjourn The meeting adjourned at 7:35 p.m.


Terry Nolan, Mayor

ATTEST: 
Timothy A. Mattix, Town Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Study Session of the Town Council of the Town of Dewey-Humboldt, Arizona, held on the 8th day of September, 2020. I further certify the meeting was duly called and held and that a quorum was present.

Dated this 8th day of Oct., 2020.


Timothy A. Mattix, Town Clerk