

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

**Tuesday, March 17, 2015, 6:30 P.M.**

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

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

**AGENDA**

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

1. **Call To Order.**
2. **Opening Ceremonies.**
  - 2.1. **Pledge of Allegiance.**
  - 2.2. **Invocation.**
3. **Roll Call.** Town Council Members Arlene Alen, Mark McBrady, Dennis Repan, Doug Treadway, Nancy Wright; Vice Mayor Jack Hamilton; and Mayor Terry Nolan.
4. **Announcements Regarding Current Events, Guests, Appointments, and Proclamations.** Announcements of items brought to the attention of the Mayor not requiring legal action by the Council. Guest Presentations, Appointments, and Proclamations may require Council discussion and action.
  - 4.1. **Brief Verbal Presentation, “Yavapai College Update”.** A representative of the College to provide update about services provided by Yavapai College. [Mayor Nolan CAARF approved at March 3, 2015 Regular Meeting]
  - 4.2. **Central Yavapai Fire District presenting the 50<sup>th</sup> anniversary challenge coins to Mayor and Council by Chief Scott Freitag.**
  - 4.3. **Proclamation for Mayors Day of Recognition for National Service – April 7, 2015.**
5. **Town Manager’s Report.** Update on Current Events.
  - 5.1. **Old Black Canyon Highway letters to property owners follow up (directed at the January 10, 2015 meeting)**
6. **Consent Agenda.**
  - 6.1. **Minutes.** Minutes from the February 3, 2015 Regular Meeting and February 17, 2015 Regular Meeting.
7. **Comments from the Public (on non-agendized items only).** The Council wishes to hear from

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Citizens at each meeting. Those wishing to address the Council need not request permission or give notice in advance. For the official record, individuals are asked to state their name. Public comments may appear on any video or audio record of this meeting. Please direct your comments to the Council. Individuals may address the Council on any issue within its jurisdiction. At the conclusion of Comments from the Public, Council members may respond to criticism made by those who have addressed the public body, may ask Town staff to review a matter, or may ask that a matter be put on a future agenda; however, Council members are forbidden by law from discussing or taking legal action on matters raised during the Comments from the Public unless the matters are properly noticed for discussion and legal action. A 3 minute per speaker limit may be imposed. The audience is asked to please be courteous and silent while others are speaking.

Page 19 **8. Discussion Agenda – Unfinished Business.** Discussion and Possible Action on any issue which was not concluded, was postponed, or was tabled during a prior meeting.

**8.1. Discussion with the Town Attorney in Executive Session on Town Manager’s contract, duties as listed in Town Code, and clarification of some related issues.** [CAARF requested by CM Wright]

**8.1.1. Recess into and hold an executive session** pursuant to A.R.S. § 38-431.03(A)(1) for discussions or consideration of employment, assignment, appointment, promotion, demotion, dismissal, salaries, disciplining or resignation of a public officer, appointee or employee of any public body and pursuant to A.R.S. § 38-431.03(A)(3) for discussion or consultation for legal advice with the Town Attorney regarding the employment contract with the Town Manager.

**8.1.2. Reconvene Regular Meeting.**

27 **8.2. Discussion and possible action or direction related to the Lease Agreement for the Town Hall and Yavapai County Sheriff’s Substation at Humboldt Station.** The Council may, by majority vote, recess the regular meeting, hold an executive session and then reconvene the regular meeting for discussion and possible action on this item.

**8.2.1. Recess into and hold an executive session** pursuant to A.R.S. § 38-431.03(A)(7) for discussions or consultations with designated representatives of the Town in order to consider its position and instruct its representatives regarding negotiations for the lease Agreement for the Town Hall and YCSO Substation located at 2735 S. Highway 69, Dewey-Humboldt, Arizona.

**8.2.2. Reconvene Regular Meeting.**

29 **8.3. Consideration of the option to obtain “First Right of Refusal” for the property located at 12925 E. Main Street., Dewey-Humboldt. (continued from the March 3, 2015 meeting in response to CM Treadway CAARF)**

**8.3.1. Recess into and hold an executive session** pursuant to A.R.S. § 38-431.03(A) (3) Discussion or consultation for legal advice with the attorney or attorneys of the public body regarding legal issues related to property acquisition.

**8.3.2. Reconvene Regular Meeting.**

33 **8.4. Further discussion on the draft Franchise agreement with Arizona Public service (APS) and obtaining legal advice (continued from the December 19, 2014 meeting).** Discussion and possible actions on the draft agreement, including direction of next steps upon obtaining legal advice.

**8.4.1. Recess into and hold an executive session** pursuant to A.R.S. § 38-431.03(A (4) for discussion or consultation with the Town Attorney in order to consider its position and instruct the Town Attorney regarding the Town's position regarding a franchise agreement with Arizona Public Service Company.

**8.4.2. Reconvene Regular Meeting.**

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

**9.1. Discuss and Possible Action on what to do about Chaparral Street and obtain legal advice.** [CAARF requested by CM Hamilton]

**9.1.1. Recess into and hold an executive session** pursuant to A.R.S. § 38-431.03(A (3) Discussion or consultation for legal advice with the attorney or attorneys of the public body regarding legal liability issues and options related to Chaparral Street.

**9.1.2. Reconvene Regular Meeting.**

**10. Public Hearing Agenda.**

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**THIS CONCLUDES THE LEGAL ACTION PORTION OF THE AGENDA.**

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**11. Comments from the Public.** The Council wishes to hear from Citizens at each meeting. Those wishing to address the Council need not request permission or give notice in advance. For the official record, individuals are asked to state their name. Public comments may appear on any video or audio record of this meeting. Please direct your comments to the Council. Individuals may address the Council on any issue within its jurisdiction. At the conclusion of Comments from the Public, Council members may respond to criticism made by those who have addressed the public body, may ask Town staff to review a matter, or may ask that a matter be put on a future agenda; however, Council members are forbidden by law from discussing or taking legal action on matters raised during the Comments from the Public unless the matters are properly noticed for discussion and legal action. The total time for Public Comment is **3** minutes per person. The audience is asked to please be courteous and silent while others are speaking.

**12. Adjourn.**

**For Your Information:**

Next Town Council Meeting: Tuesday, April 7, 2015, at 6:30 p.m.

Next Planning & Zoning Meeting: Thursday, April 9, 2015, at 6:00 p.m.

Next Town Council Work Session: Tuesday, April 14, 2015, at 2:00 p.m.

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

**Certification of Posting**

The undersigned hereby certifies that a copy of the attached notice was duly posted at the following locations: Dewey-Humboldt Town Hall, 2735 South Highway 69, Humboldt, Arizona, Chevron Station, 2735 South Highway 69, Humboldt, Arizona, Blue Ridge Market, Highway 69 and Kachina Drive, Dewey, Arizona, on the \_\_\_\_ day of \_\_\_\_\_, 2015, at \_\_\_\_ p.m. in accordance with the statement filed by the Town of Dewey-Humboldt with the Town Clerk, Town of Dewey-Humboldt. By: \_\_\_\_\_, Town Clerk's Office.

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

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

**Town Council Presentation Request Form**

Requests to make a formal Town Council presentation must be approved by the Town Council as a whole at a council meeting. The request form is used to accompany a council member's Council Agenda Request Form (CARF) which would sponsor the presentation request. The Form must be submitted at least four weeks to the sponsoring council member prior to the requested Town Council meeting date. The CARF will be discussed at a council meeting for the Council to determine whether to approve the presentation request. The Town Council meets every first and third Tuesday of the month at 6:30 p.m. for regular sessions. The Council also meets every second Tuesday of the month at 2:00 p.m. for study sessions. The Town Council attempts to limit the length of individual presentations to 30 minutes unless the Council votes to extend that time. If any special equipment is requested, please notify the Town Clerk no less than 72 hours before the Council meeting.

Nature and Description of Presentation (Please note that this form does not apply to commendation and /or proclamation presentations, and individuals who wish to speak at the Comments from the public item on an agenda):

Brief verbal presentation, "Yavapai College Update"

A Yavapai College Vice President and a member of the District Governing Board

Please describe the number of participants, any audio or visual equipment that you will set up and utilize, and how long you will require to set up your equipment.

2 participants - verbal presentation

No equipment needed

Individual, agency, and/or organization attending Town Council meeting:

Name: Yavapai College Phone: (928) 776-2023  
Council Meeting Date Requested: March 17, 2015; alternate date: \_\_\_\_\_

Requested by:  
Name: Barbara Robinson Phone: (928) 776-2023  
Address: Yavapai College Email: barbara.robinson@yc.edu  
1100 E. Sheldon, Prescott, AZ

If you have any questions about the application process, please contact the Town Clerk's Office at (928) 632-7362. Please return this form to the sponsoring council member, Dewey- Humboldt Town Hall, 2735 S. Highway 69, P.O. Box 69, Humboldt, AZ 86329, by fax to (928) 632-7365 or by email to the council member (Town Council contact information can be found at [www.dhaz.gov/contacts](http://www.dhaz.gov/contacts)).

S:\FORMS1\Town Clerk\Presentation Form\council presentation request form-final and adopted.docx

For Town Clerk Office Use Only:

|                         |                |                               |                    |
|-------------------------|----------------|-------------------------------|--------------------|
| Date requested received | <u>2/17/15</u> | Sponsoring Council Member     | <u>Mayor Nolan</u> |
| Approved by Council at  | _____          | meeting (Mayor Initial _____) |                    |
| Not Approved            | _____          | Applicant Notified and Notes: | _____              |

# *Mayors Day of Recognition for National Service Proclamation*

*WHEREAS, service to others is a hallmark of the American character, and central to how we meet our challenges; and*

*WHEREAS, the nation's mayors are increasingly turning to national service and volunteerism as a cost-effective strategy to meet city needs; and*

*WHEREAS, AmeriCorp and Senior Corps address the most pressing challenges facing our cities and nations, from educating students for the jobs of the 21<sup>st</sup> century and supporting veterans and military families to preserving the environment and helping communities recover from natural disasters; and*

*WHEREAS, national service expands economic opportunity by creating more sustainable, resilient communities and providing education, career skills, and leadership abilities for those we serve; and*

*WHEREAS, national service participants serve in more than 70,000 locations across the country, bolstering the civic, neighborhood, and faith-based organizations that are so vital to our economic and social well-being; and*

*WHEREAS, national service participants increase the impact of the organizations they serve with, both through their direct service and by recruiting and managing millions of additional volunteer; and*

*WHEREAS, national service represents a unique public-private partnership that invests in community solutions and leverages non-federal resources to strengthen community impact and increase the return on taxpayer dollars; and*

*WHEREAS, AmeriCorps members and Senior Corps volunteers demonstrate commitment, dedication, and patriotism by making an intensive commitment to service, a commitment that remains with them in their future endeavors; and*

*WHEREAS, the Corporation for National and Community Service shares a priority with mayors nationwide to engage citizens, improve lives, and strengthen communities; and is joining with Mayors across the country to support the Mayors Day of Recognition for National Service on April 7, 2015.*

*NOW, THEREFORE, I, Terry Nolan, Mayor of the Town of Dewey-Humboldt, do hereby proclaim April 7, 2015, as National Service Recognition Day, and encourage residents to recognize the positive impact of national service in our town, to thank those who serve; and to find ways to give back to their communities.*

*In witness whereof, I have hereunto set my hand this 17<sup>th</sup> day of March, 2015.*

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*Mayor Terry Nolan  
Town of Dewey-Humboldt*

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*Judy Morgan  
Town Clerk*

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**TOWN OF DEWEY-HUMBOLDT  
TOWN COUNCIL  
REGULAR MEETING MINUTES  
FEBRUARY 3, 2015, 6:30 P.M.**

**A REGULAR MEETING OF THE DEWEY-HUMBOLDT TOWN COUNCIL WAS HELD ON TUESDAY, FEBRUARY 3, 2015, AT TOWN HALL AT 2735 S. HIGHWAY 69, DEWEY-HUMBOLDT, ARIZONA. MAYOR TERRY NOLAN PRESIDED.**

1. **Call To Order.** The meeting was called to order at 6:30 p.m. Mayor Nolan presided.
2. **Opening Ceremonies.**
  - 2.1. **Pledge of Allegiance.** Done.
  - 2.2. **Invocation.** Given by Councilmember Nancy Wright.
3. **Roll Call.** Town Council Members Mark McBrady, Dennis Repan, Doug Treadway, Nancy Wright; Vice Mayor Jack Hamilton; and Mayor Terry Nolan were present. Councilmember Arlene Alen was absent.
4. **Announcements Regarding Current Events, Guests, Appointments, and Proclamations.**

Mayor Nolan announced a certificate of appreciation from the Dewey-Humboldt Historical Society to the Town for the Old West Days 2014.

**4.1. Public Safety Quarterly Update – 4<sup>th</sup> Quarter 2014 and/or 2014 year summary.**

- 4.1.1. **Yavapai County Sheriff's Office report presented by Lt. Auvenshine.** Topics for possible discussion include: Overview - Self-Initiated, Calls for Service, Traffic Stops including number of citations, Arrests (Family Fight, Disorderly, DUI/Drugs); Criminal Investigation; Animal Control - Calls for Service; Calls for Service Comparison-Days of Week, Time of Day; Average Response Times; Part 1 Crimes Comparison.

Lt. Auvenshine gave a presentation (PowerPoint provided in packet) on the 4<sup>th</sup> quarter of 2014 and an overview of 2014. Everything is about where it should be; burglaries up from 1-2 to 3; some increase in vandalism in town.

Council asked questions on animal control report; standard response to family fights; percentage of time spent patrolling Mayer and Dewey-Humboldt; aircraft problem. Lt. Auvenshine answered those questions.

- 4.1.2. **Central Yavapai Fire District report presented by Rick Chase.** Topics for possible discussion include: calls responded; outreach programs and services, construction permitting.

Rick Chase reviewed his PowerPoint presentation with the Council. He spoke on the 50<sup>th</sup> anniversary of the Fire District and a special event planned to commemorate it on March 14<sup>th</sup> at 2:00 p.m. on Valley Road in Prescott Valley.

He answered council questions on the status of the donated land in the Blue Hills area (some problems with the easements and possible problems with the well - with

the legal team now).

**4.1.3. Magistrate Court report presented by Judge Catherine Kelley.** Topics for possible discussion include: Customer Service and citations.

Magistrate Judge Catherine Kelley explained her report is similar to the YCSO report since they correlate. There is one case up on appeal to the superior court on the barking dog ordinance, which will confirm or not whether the ordinance is workable; decision expected in a couple of months. It will determine if the Sheriff's guidelines are mandatory to the town or not.

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

None.

**6. Consent Agenda.**

**6.1. Minutes.** Minutes from the October 21, 2014 Regular meeting, November 4, 2014 Regular Meeting and January 20, 2015 Regular Meeting.

Councilmember Wright asked for an amendment to the November 4th minutes, Agenda item 9.1. – Vote should be 5-2, not 5-1.

Vice Mayor Hamilton made a motion to approve the minutes from the October 21, 2014 Regular meeting as presented, November 4, 2014 Regular meeting as amended, and January 20, 2015 Regular meeting as presented, seconded by Councilmember Repan. It was approved unanimously.

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

David Nystrom spoke on a proposal sent out to the Council to place on an agenda ("Right of First Refusal" for the museum property). He spoke on reasons for the town pursuing the options to purchase the museum property for the museum; requests this be discussed at the special "Visioning #3" meeting and place this on a future regular agenda.

John Young spoke on the benefits of the museum for the community and the work put into it by volunteers.

Kevin Leonard thanked the Council for their support in getting the museum going and asked for their continued support to keep it at its current location.

Sue Palacio spoke on the fundraisers for the museum and visitors to the museum.

Bart Brush invited council to attend the museum programs.

Sandy Geiger asked for the audience's show of hands if they support this (museum) issue and spoke on the number of members in the D-H Historical Society.

Mayor Nolan thanked them for coming and for the amount of work the volunteers do for the museum.

**8. Discussion Agenda – Unfinished Business.** Discussion and Possible Action on any issue which was not concluded, was postponed, or was tabled during a prior meeting. None.

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

### **9.1. Preliminary discussion of FY2016 Budget preparation.**

Town Manager Kimball gave an overview and suggested some matters for the Council to consider: input on calendar of budget events; council retreat to give priorities on budget proposals; creating their wish lists for discretionary expenditures and submitting those after she provides council with the operations figures (after April 6<sup>th</sup>). She recommended they discontinue the Strategic Community Partnership Grant as the town is not in the business of supporting non-profit organizations. They could still consider the Museum and Agua Fria Festival support due to the close relationship and history of these two non-profits.

Council discussed these matters and their preferences on them.

Councilmember McBrady made a motion to direct staff to change the meeting time for the March 10<sup>th</sup> Work Session to 6:30 p.m., seconded by CM Treadway. It was explained this would replace the regularly scheduled 2:00 p.m. meeting, allowing people to come in the evening and give their ideas on what they want the Council to budget for.

Public comment was taken on this item.

Phillip Condrey spoke in support of adding trailheads and improving areas for hiking.

Karen Brooks spoke on the community meetings and the convenience for most people to attend night meetings rather than day meetings. She asked for information to be provided to the public on the number of employees, fines, leases, etc.; keeping reserve funds for emergencies; providing more services to the public like a ballpark, trails, etc.

David Nystrom spoke in support of having tax dollars work for the community.

Bart Brush spoke on the cost of renting the Elementary School ball-field and suggested the town work with the school district on this.

Mayor Nolan spoke on needing an IGA with the school and Councilmember McBrady suggested Mr. Brush talk with the school on this issue.

There was discussion on whether to have the work session at the Cherry Creek Ranch.

CM McBrady, the maker of the motion, agreed to amend the motion to include holding the work session at the Cherry Creek Ranch venue. CM Treadway, the seconder agreed to the amendment. A vote was taken which failed by a tie vote (3-3), CMs Repan, Wright and VM Hamilton voting against.

Vice Mayor Hamilton made a motion to hold the meeting on March 10<sup>th</sup> in the evening (6:30 p.m.) at Town Hall Council Chambers, seconded by CM Wright. It was approved unanimously (6-0).

Town Manager Kimball gave an overview on how the process currently is done: current budget is posted on website and at the Library; public involvement has always been encouraged; many budget meetings with public comments encouraged; revenues and expenditures are balanced; services paid by taxes without a separate town property tax; property taxes paid to the County do not come to the town; Town Manager can provide explanation on the process. Ms. Kimball gave explanation on engineer report and additional employee for Finance department needs.

**10. Public Hearing Agenda.** None.

**11. Comments from the Public.** None.

**12. Adjourn.** The meeting was adjourned at 8:24 p.m.

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Terry Nolan, Mayor

ATTEST:

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Judy Morgan, Town Clerk

**TOWN OF DEWEY-HUMBOLDT  
TOWN COUNCIL  
REGULAR MEETING MINUTES  
FEBRUARY 17, 2015, 6:30 P.M.**

**A REGULAR MEETING OF THE DEWEY-HUMBOLDT TOWN COUNCIL WAS HELD ON TUESDAY, FEBRUARY 17, 2015, AT TOWN HALL AT 2735 S. HIGHWAY 69, DEWEY-HUMBOLDT, ARIZONA. MAYOR TERRY NOLAN PRESIDED.**

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

None.

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

**5.1. Community Development Block Grant program update and time frame.**

Town Accountant, Deni Thompson gave an update on the CDBG grant and timeline of the process, to date and upcoming. She spoke on getting the message out on the income survey that will need to be done to qualify the areas for the proposed work. She answered questions on deadline to complete survey (March 30<sup>th</sup>), cost of review to come out of the CDBG funds.

Public comment was taken.

Jerry Brady spoke on income levels being available through FEMA and recommended Council communicate with the Rural Economic Development Group.

6. **Consent Agenda.**

**6.1. Minutes.** Minutes from the November 14, 2014 Special Study Session, November 18, 2014 Regular Council Meeting, December 2, 2014 Regular Council Meeting, December 9, 2014 Work Session, December 16, 2014 Regular Meeting and January 6, 2015 Regular Meeting.

Councilmember Repan requested the addition of an ethics violation comment for the December 9<sup>th</sup> minutes so it is entered into the record.

Vice Mayor Hamilton made a motion to approve the November 14, 2014 Special Study Session, November 18, 2014 Regular Council Meeting, December 2, 2014 Regular Council Meeting, December 16, 2014 Regular Meeting and January 6, 2015, Regular Meeting Minutes as presented, and December 9, 2014 Work Session Minutes as amended. Councilmember Wright seconded the motion. It was approved unanimously.

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

Karla Livingston spoke on the ingress/egress access for a few homeowners living across from the Humboldt Post Office and the recent placement of a stop sign at that location, entering on to Main Street. Mayor Nolan stated he would put this item on a future agenda for discussion by Council.

Jerry Brady spoke on the rules of evidence and procedure for a peri-local education

Town Council Regular Meeting Minutes, February 17, 2015  
association civil issue and provided copies of relevant information for Council's attention.

## **8. Public Hearing Agenda.**

### **8.1. CDBG Resolution 15-115 Authorizing the Submission of an Application for FY15 CDBG Funds and Resolution 15-116 Adopting a Residential Anti-displacement and Relocation Assistance Plan for FY15.**

Accountant, Deni Thompson gave an overview on the two resolutions before the Council for approval.

Vice Mayor Hamilton made a motion to approve Resolution 15-115 - Authorizing the submission of an application for FY15 CDBG Funds, as presented, seconded by CM Alen. It was approved unanimously.

Councilmember Repan made a motion to approve Resolution 15-116 Adopting a residential Anti-displacement and Relocation Assistance Plan for FY15, as presented, seconded by CM Alen. It was approved unanimously.

At 6:54 p.m. Mayor Nolan opened the public hearing. No comments were received. Hearing was closed. It was discussed that the motions should have come after the public hearing, so Council should make those motions again to ratify the earlier motions approved out of turn.

Councilmember Wright made a motion to approve CDBG Resolution 15-115 - Authorizing the submission of an application for FY15 CDBG Funds, as presented, seconded by CM Repan. It was approved unanimously.

Councilmember Repan made a motion to approve Resolution 15-116 Adopting a residential Anti-displacement and Relocation Assistance Plan for FY15, as presented, seconded by CM Alen. It was approved unanimously.

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

### **9.1. Discussion in Executive Session and action on changing the Town Manager's contract to a date certain, preferably for two years.** [CM Wright's CAARF continued from January 6, 2015 meeting]

Councilmember Wright made a motion to approve amending the agenda to move item 9.1 down to precede item 10.4, seconded by Vice Mayor Hamilton. It was approved unanimously.

**9.1.1. Recess into and hold an executive session** pursuant to A.R.S. § 38-431.03(A)(1) for discussions or consideration of employment, assignment, appointment, promotion, demotion, dismissal, salaries, disciplining or resignation of a public officer, appointee or employee of any public body.

**9.1.2. Reconvene Regular Meeting.**

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

### **10.1. Discussion and possible change of date when deciding if another work session is needed in the month.** [CAARF requested by VM Hamilton]

Vice Mayor Hamilton gave an overview on his request explaining he doesn't want action items on work sessions and recommended moving that agenda item to the third meeting of the month.

There was discussion on the pros and cons of doing so.

Vice Mayor Hamilton made a motion to move this agenda item to the first regular session of the month, seconded by CM Wright.

Public comment was taken on this item.

Jerry Brady suggested council review notoriety items before voting on this.

Karen Brooks stated it would restrict the Council by limiting this decision on the first meeting of the month.

Bob Baker asked about voting at work sessions and asked for clarification on why they were spending so much time on this decision. VM Hamilton explained the “special study session” status to allow voting on this item at a work session.

Town Manager Kimball explained staff does not put action items on work sessions and Council has the ability to move action items to a regular session. CM Alen spoke on council following the rules they have established. There was discussion on the motion made and whether this accomplishes what the item requestor intended.

Councilmember Repan made a motion to move this item to a work study session, seconded by CM Alen. There was continued discussion on this. The mover and seconder (Repan/Alen) withdrew the last motion. A vote was taken on the original motion which failed by a 2-5 vote, Councilmembers Alen, McBrady, Repan, Treadway and Mayor Nolan voting against.

**10.2. Town Council Members’ Bios (for the Town website).** [CAARF requested by Mayor Nolan]

Mayor Nolan gave an overview explaining this is standard information on other cities’ and towns’ websites. There was discussion on whether this was appropriate information to provide the citizens or whether this is considered campaigning. Councilmember Wright suggested only posting a photo and name. It was explained contact information is already on the town’s website. CM Repan suggested having a group photo for Council and one for Planning and Zoning Commission.

Public comment was taken.

Karla Livingston spoke in support of proving a photo and contact information.

Mayor Nolan made a motion to approve posting a photo of each Council Member and an optional bio of no more than 150 words. The motion failed for lack of a second.

Councilmember Wright made a motion to approve a photo, name and contact information on the website, and nothing else. It was seconded by Vice Mayor Hamilton.

There was discussion on whether this was mandatory or optional. Mayor Nolan explained it would not be mandatory.

The motion passed by a 5-2 vote in favor, Councilmembers McBrady and Repan voting against.

**10.3. Newtown Ave. Trailhead Project (located within Prescott National Forest land boundary) update and possible actions to proceed with next steps, including signing letters of support and direction to Town’s Open Space and Trails Committee (OSAT) and staff.**

Town Manager Kimball gave an overview with OSAT Committee Chair Sandra Goodwin elaborating on the process to date. Prescott National Forest (PNF) is applying for a grant to pay for the project. The PNF team wants the Town to partner in the trailhead. OSAT voted to assist in organizing volunteers for clean-up on the trailhead. They are recruiting volunteers and local contractors willing to provide services for free. OSAT and Staff are recommending these proposals: 1. Letter of support in response to scope letter. 2. Letter of support for the grant (PNF). 3. Authorize OSAT for the three things they can do (volunteers, etc.). PNF is applying for the grant from the state to conduct the project.

Mayor Nolan spoke on the map of the trailhead being different than the version published in the paper.

Vice Mayor Hamilton made a motion to accept all staff recommendations on the Newtown Trailhead, seconded by CM Alen.

There was discussion in support of the project and why the grant project did not get approved last year (NEPA study required first, this year they were told it wasn't necessary).

Public comment was taken on this item.

Jerry Brady spoke on approving this for the community; procedural requirements; visiting the Fain Park Trailhead to observe its use as a firebreak.

Sandra Goodwin spoke on a meeting with PNF and the Town Manager; working with Rink Goswick on the project to accommodate ranching concerns; letters of support from local groups and neighbors.

The motion passed by a unanimous vote in favor.

**9.1. Discussion in Executive Session and action on changing the Town Manager's contract to a date certain, preferably for two years.** [CM Wright's CAARF continued from January 6, 2015 meeting]

Mayor Nolan made a motion to recess into Executive Session to address 9.1 and 10.4, seconded by Vice Mayor Hamilton. It was approved unanimously.

**9.1.1. Recess into and hold an executive session** pursuant to A.R.S. § 38-431.03(A)(1) for discussions or consideration of employment, assignment, appointment, promotion, demotion, dismissal, salaries, disciplining or resignation of a public officer, appointee or employee of any public body.

Council recessed into executive session at 8:03 p.m.

**9.1.2. Reconvene Regular Meeting.**

After addressing 9.1 and 10.4. Council reconvened in to Open Session at 8:31 p.m. No discussion or action was taken on 9.1.

**10.4. Discussion and possible action or direction related to the Lease Agreement for the Town Hall and Yavapai County Sheriff's Substation at Humboldt Station.** The Council may, by majority vote, recess the regular meeting, hold an executive session and then reconvene the regular meeting for discussion and possible action on this item.

**10.4.1. Recess into and hold an executive session** pursuant to A.R.S. § 38-431.03(A)(7) for discussions or consultations with designated representatives of the Town in order to consider its position and instruct its representatives

Town Council Regular Meeting Minutes, February 17, 2015  
regarding negotiations for the lease Agreement for the Town Hall and YCSO  
Substation located at 2735 S. Highway 69, Dewey-Humboldt, Arizona.

Councilmember McBrady recused himself from this executive session agenda  
item.

**10.4.2. Reconvene Regular Meeting.**

Council reconvened in to open session at 8:31 p.m. No discussion or action was  
taken on 10.4.

**11. Comments from the Public.** None.

**12. Adjourn.**

Councilmember McBrady returned to the dais. The meeting was adjourned at 8:31 p.m.

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Terry Nolan, Mayor

ATTEST:

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Judy Morgan, Town Clerk

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## EMPLOYMENT AGREEMENT

This EMPLOYMENT AGREEMENT ("Agreement") is entered into this 21<sup>st</sup> day of October, 2011 between the Town of Dewey Humboldt ("Town") and Yvonne Kimball ("Kimball") under the following terms, conditions and obligations.

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

### 1. EMPLOYMENT AND DUTIES

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

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

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

### 2. TERM

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

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

### 3. COMPENSATION AND BENEFITS

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

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

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

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

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

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

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

One personal day and 10 holidays.

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

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

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

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

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

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

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

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

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

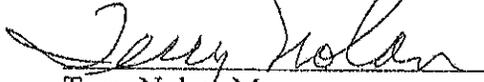
4.3 If the Town Council or citizens act to amend any provisions of the Town Code or Ordinances pertaining to the role, powers, duties, authority, responsibilities of Kimball's position (Town Manager) that substantially changes the form of government, Kimball shall have the right to declare that such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

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

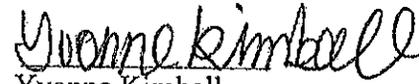
6. ENTIRE AGREEMENT. This Agreement contains the entire agreement between the parties and shall be governed by and construed in accordance with the laws of the State of Arizona.

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

TOWN OF DEWEY-HUMBOLDT

  
Terry Nolan, Mayor

TOWN MANAGER

  
Yvonne Kimball

10-21-2011

ATTEST:

  
Judy Morgan, Town Clerk

Approved as to form:

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

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

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

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

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

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

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

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

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

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

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

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

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

or the  
Council.

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

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

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

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

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

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

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

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

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

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

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

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

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**TOWN COUNCIL REGULAR SESSION**

**March 17, 2015, 6:30 p.m. Town Council Meeting Chambers**

**Agenda Item: #8.2. Discussion and possible action or direction related to the Lease Agreement for the Town Hall and Yavapai County Sheriff's Substation at Humboldt Station.**

**To: Mayor and Town Council Members**

**From: Yvonne Kimball, Town Manager**

**Date submitted: March 9, 2015**

**Summary:**

At the February 17<sup>th</sup> meeting, Town Council and staff discussed the Town Hall Lease issue. At your direction, staff made proper preparation. At this meeting, we wish to report to you the outcome so far. Additional material will be provided to you separately.

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

**COUNCIL AGENDA ACTION REQUEST FORM**

Meeting Type:  Regular  Special  Work Session

Meeting Date: March 3, 2015

Date of Request: February, 17, 2015

Requesting:  Action  Discussion or Report Only

Type of Action:  Routine/Consent Agenda  Regular

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

*Discussion possible action whether the*

Town of Dewey-Humboldt assumes "Right of First Refusal" for the old bank building now leased by the Dewey-Humboldt Historical Society.

Purpose and Background Information (Detail of requested action):

I believe this action would be advantageous to both parties by demonstrating the Town's commitment to revitalize historic downtown Humboldt.

Staff Recommendation(s):

Budgeted Amount: Minimal legal expense.

List All Attachments: Copy of the proposal submitted by the Historical Society.

Type of Presentation: Oral

Special Equipment needed:  Laptop  Remote Microphone  
 Overhead Projector  Other:

Contact Person: Doug Treadway

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

## **Proposal by the Dewey-Humboldt Historical Society to Assign our Lease Agreement "Right of First Refusal" to the Town of Dewey-Humboldt**

Currently, the Dewey-Humboldt Historical Society lease agreement with the Gateway Baptist Church allows the Historical Society to operate the Museum at 12925 Main Street, Humboldt Arizona 86329.

The current lease runs from 5th July 2014 until 4th July 2015. This lease contains Clause 10 which reads as follows:

Sale of Property: The Owner / Landlord retains the right to list or sale the Premise any time during the course of this written rental agreement. Tenant will be offered the Right of First Refusal.

As you may have heard or observed, the property has recently been put of for sale by the owner, Gateway Baptist Church. In considering various options for the future sale of the property, the Historical Society wishes to make the following proposal.

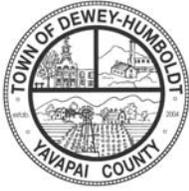
The Historical Society recommends we assign our lease agreement Right of First Refusal to the Town of Dewey-Humboldt. We believe this assignment would be advantageous to both the Historical Society and the Town.

- 1) As our Town Council, you are on record that you wish to revitalize historic downtown Humboldt. You have recently accepted a property donation on Main Street across from the Museum. The Town also owns the storage lot next to the museum, currently utilized by the Historical Society for parking and storage of outside displays. The Town has also discussed establishing a Historic District along Main Street and attracting related businesses for this revitalization.
- 2) The Museum already is attracting historic minded visitors to our Town. With the financial assistance from the Town, the museum is open and staffed by volunteers for 18 hours per week. During 2014, visitor attendance has averaged approximately 35 per week for a total of 1825 per year (based on those visitors that signed our guest book).
- 3) Museums in most small towns are housed in a historic building owned by the town but staffed by volunteers organizations that acquire and manage the collection and staff the building for the public. The Bank Building, constructed in 1918 certainly qualifies as a historic part of our Main Street.

**Proposal by the Dewey-Humboldt Historical Society to Assign our Lease Agreement "Right of First Refusal" to the Town of Dewey-Humboldt**

- 4) Should the Town accept assignment of the Right of First Refusal, there is a high probability that a long-term lease could be negotiated in escrow that would keep the museum open as a traffic generator in downtown Humboldt.
  
- 5) With a Right of First Refusal in hand at the opening of an escrow, the Town would also be in a position to acquire the building (without any obligation to do so), depending on the sale price.
  
- 6) With a secure location for the museum (long-term lease or Town ownership), the Historical Society could begin using its financial reserves in promoting & advertising the Museum, greatly increasing visitor attendance at the Museum and exposure to our historic Main Street.

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**TOWN COUNCIL REGULAR SESSION**

**March 17, 2015, 6:30 p.m. Town Council Meeting Chambers**

**Agenda Item: # 10.1. APS Franchise agreement continued discussion.**

**To: Mayor and Town Council Members**

**From: Yvonne Kimball, Town Manager**

**Date submitted: March 9, 2015**

**Summary:**

At the December 9, 2014 meeting, Council reviewed the proposed Franchise with APS and directed a couple of revisions:

1. 0% franchise fee for the time being, but require APS to continue to pay permit fees.
2. Requests APS to bear the cost for any and all improvements to ROW, including "protection of existing trees within the ROW".

APS has responded with their positions on these matters. Staff wishes to discuss these and other matters relating to the Franchise agreement. We then seek your direction for the next steps.

August 1, 2004  
December 19, 2014

FRANCHISE AGREEMENT  
BETWEEN  
ARIZONA PUBLIC SERVICE COMPANY  
AND  
TOWN OF DEWEY-HUMBOLDT, ARIZONA

Section 1. - Grant of Franchise:

There is hereby granted to Arizona Public Service Company, a corporation organized and existing under and by virtue of the laws of the State of Arizona (herein called "Grantee"), its successors and assigns, a franchise (herein called the "Franchise") to construct, maintain and operate its electrical system, as defined herein, upon, over, along, across and under the present and future public rights-of-way. These rights-of-way include but are not limited to streets, alleys, ways and highways in the Town of Dewey-Humboldt, Arizona (herein called "Town of Dewey-Humboldt"). Grantee's system includes electric power lines, together with all necessary or desirable appurtenances, including, but not limited to, poles, towers, wires, cables, conduits, transmission lines, transformers, switches and communication lines for its own use. This Franchise is for Grantee's use of Town's public rights-of-way to supply and deliver electric energy to Town, its successors, the inhabitants thereof, and all individuals and entities either within or beyond the limits thereof, for all purposes.

Any street lighting service furnished by Grantee to Town or to any street lighting improvement district within Town shall be the subject of a separate agreement and shall not be governed by the provisions of this Franchise.

[File: 1908-019-0000-0000; Desc: APS Franchise July 2014 12-19-14 SG recline; Doc#: 202015v5](#)[File: 1908-019-0000-0000; Desc: APS Franchise July 2014 12-18-14 SG recline; Doc#: 202015v4](#)

This Franchise includes the right to use public rights-of-way for the location of communication lines and appurtenances owned and operated by Grantee incidental to supplying electric energy under this Franchise. This Franchise does not include the right to use public rights-of-way for one-way transmissions directly to customers, users or subscribers of video programming, if any, which is required for the selection of or response to video programming. For purposes of the foregoing, the term “video programming” means programming provided by or generally considered comparable to programming provided by a television broadcast station. Grantee agrees that if Grantee uses or leases to others, the wires, towers, cables or lines for any purpose other than supplying electric services, before such use or lease, Grantee or Grantee’s lessee shall apply for and obtain a separate license from Town.

Town shall not be liable to Grantee should Grantee construct facilities pursuant to this Franchise in an area over which Town has erroneously exercised jurisdiction.

Section 2. – Grantee’s Compliance with Town Code; Plans Submitted for Approval; Town Construction near Grantee’s Facilities:

Town expressly reserves unto itself, subject to the limitations of the Constitution and laws of Arizona, the right to ensure the safety and welfare of the public, including without limitation to, pass and enforce ordinances to protect the public from danger or inconvenience in the operation of any work performed in the public rights-of-way, including without limitation enforcement of this Franchise.

All construction under this Franchise shall be performed in accordance with applicable codes and ordinances of Town with respect to such public rights-of-way. Such construction shall be completed within a reasonable time. Before Grantee makes any installations in the public rights-of-way, Grantee shall upon request or direction from Town obtain a construction

[File: 1908-019-0000-0000; Desc: APS Franchise July 2014 12-19-14 SG recline; Doc#: 202015v5](#)[File: 1908-019-0000-0000; Desc: APS Franchise July 2014 12-18-14 SG recline; Doc#: 202015v4](#)

permit and submit for approval a map showing the location of such proposed installations to the designated Town official. Town and Grantee agree and understand that there may be instances when Grantee is required to make repairs that are of an emergency nature. Grantee shall notify Town prior to such repairs, to the extent practicable, and shall obtain the necessary permits in a reasonable time after notification, showing the work performed in the public rights-of-way.

If Town authorizes either directly or through a contractor any construction project adjacent to or near Grantee's facilities operated pursuant to this Franchise, Town shall include in all such construction specifications, bids, and contracts, a requirement that the contractor or his designee must comply with the overhead power line safety laws (A.R.S. § 40-360.41 *et. seq.* as amended).

Section 3. – Construction and Relocation of Grantee's Facilities; Payment:

Annually, Town and Grantee shall provide one another with a general schedule of its known future construction projects in order that construction projects may be coordinated to the extent practicable. Neither party shall finalize the design of any facility without providing the other party notice as set forth in Section 15 below, and a reasonable opportunity to comment. If either party identifies a potential conflict between their existing facilities and the other party's proposed facilities, said party shall immediately notify the other party of such conflict and the parties shall use their best efforts to resolve such conflict.

All facilities installed or constructed pursuant to this Franchise shall be so located or relocated and so erected as to minimize the interference with traffic, or other authorized uses over, under or through the public rights-of-way. Furthermore, Grantee shall not install, construct, maintain or use its facilities in a manner that damages or interferes with any existing

[File: 1908-019-0000-0000; Desc: APS Franchise July 2014 12-19-14 SG recline; Doc#: 202015v5](#)[File: 1908-019-0000-0000; Desc: APS Franchise July 2014 12-18-14 SG recline; Doc#: 202015v4](#)

facilities of another utility located in the public rights-of-way and agrees to relocate its facilities, if necessary, to accommodate another facility relocation that has a prior rights interest in the public rights-of-way.

Activities related to the construction of Grantee's facilities within the rights-of-way such as traffic control, backfilling, compaction and paving, and the location or relocation of lines and related facilities shall be subject to regulation by Town. Grantee shall keep accurate records of the location of all facilities in the public rights-of-way and furnish them to Town upon request. Upon completion of new or relocation construction of underground facilities in the public rights-of-way, Grantee shall, upon request or direction from Town, provide Town's Engineer with corrected drawings showing the location of the underground facilities in those cases where the actual location differs significantly from the proposed location. Grantee shall provide to Town the actual location of such new or relocated facilities in the public rights-of-way in an electronic format. Such format shall conform to utility industry best-practice standards. Grantee shall be required to obtain and pay all required fees and charges for construction permits and inspections of all non-electrical transmission or distribution facilities constructed within Town, including but not limited to, office buildings, storage buildings, or repair shops. Permits for electrical transmission or distribution facilities will be issued at no cost under this Franchise

- A. If Town requires Grantee to relocate Grantee's facilities which are located in private easements obtained by Grantee prior to Town's acquisition of said property from which the facilities must be relocated, the entire cost of relocating Grantee's facilities (including the cost of purchasing a new private easement if necessary) shall be borne by Town. Town shall also bear the entire cost of all

[File: 1908-019-0000-0000; Desc: APS Franchise July 2014 12-19-14 SG recline; Doc#: 202015v5](#)[File: 1908-019-0000-0000; Desc: APS Franchise July 2014 12-18-14 SG recline; Doc#: 202015v4](#)

subsequent relocations of the relocated facilities required by Town, until such time as Town condemns or purchases Grantee's private easement.

B. Except as covered in Paragraph A above, Grantee shall bear the entire cost of relocating its facilities located on public rights-of-way, the relocation of which is necessary for Town's or a contractor of Town carrying out of Town's governmental functions. Notwithstanding the foregoing, if Grantee is requested to perform work of a temporary nature on a governmental project to relieve construction problems which could be relieved by other means, the cost of said temporary work will be borne by Town or Town's contractor working on the governmental project. Governmental functions are those duties imposed on Town, where the duties involve a general public benefit, not in the nature of a corporate or business undertaking for the corporate benefit and interest of Town. Governmental functions include, but are not limited to, the following:

1. Any and all improvements to Town's public rights-of-way including protection of existing trees within the public rights-of-way;
2. Establishing and maintaining domestic water systems, sanitary sewers, storm drains, and related facilities;
3. Establishing and maintaining municipal parks, parking spaces, parkways, pedestrian malls, or grass, shrubs, trees and other vegetation for the purpose of landscaping any street or public property;
4. Providing fire protection and other public safety functions; and
5. Collection and disposal of garbage and recyclables.

6. The relocation of Grantee's facilities necessary to carry out the exercise of the Town's police power for urban renewal.
- C. Town will bear the entire cost of relocating any of Grantee's facilities, the relocation of which is necessitated by the construction of improvements by or on behalf of Town in furtherance of a proprietary function. All functions of Town which are not governmental are proprietary.
- D. If Town participates in the cost of relocating Grantee's facilities for any reason, the cost of relocation to Town shall not include any upgrade or improvement of Grantee's facilities as they existed prior to relocation.
- E. Town will not exercise its right to require Grantee's facilities to be relocated in an unreasonable or arbitrary manner, or to avoid its obligation under the Franchise. Town agrees to notify Grantee during the planning and design of Town's projects in rights-of-way that may require relocation of Grantee's facilities and to coordinate its construction plans and schedules with Grantee to determine the most cost-effective design to mitigate Grantee's cost to relocate its facilities.
- F. Town agrees it will not require Grantee to relocate its facilities located within the public rights-of-way without providing Grantee adequate space within the rights-of-way to relocate the facilities that must be moved.
- G. Town will not plant any new tree that can normally grow to a height of more than 25 feet under or adjacent to Grantee's overhead power lines in the public rights-of-way. Grantee shall have the authority to prune or remove any trees or shrubs located within or hanging over the limits of the public rights-of-way of Town that in the judgment of Grantee may interfere with the construction, or endanger the

operation, of the lines and/or facilities of Grantee. All said vegetation management work is to be done at Grantee's expense and pursuant to A.N.S.I. Standard A300.

Section 4. – Indemnification:

Town, its departments, officers, employees, agents, successors and assigns, shall in no way be liable or responsible for any accident or damage that may occur in the construction, operation or maintenance by Grantee of its appurtenances hereunder, except to the extent such accident or damage may be proximately caused by the negligent or willful and wanton acts or omissions of Town, its departments, officers, employees, agents, successors and assigns. The acceptance of this Franchise shall be deemed an agreement on the part of Grantee that Grantee shall, to the fullest extent permitted by law, defend, indemnify, and hold Town harmless from and against any and all claims, costs, suits, damages, judgments, expenses and losses including, but not limited to attorney fees and court costs relating to, arising out of, or alleged to have resulted from the exercise of this Franchise by Grantee; provided, however, that such claims, expenses and losses are not the result of the willful misconduct or negligent acts or omissions of Town

Grantee, so long as it maintains, operates or owns facilities, within rights-of-way of Town, at its own cost and expense, shall keep, or cause to be kept, in force insurance against claims and liability for personal injury, death and property damage arising from the construction, operation or maintenance by Grantee of its facilities in a reasonable amount sufficient to insure Grantee's obligations under this Section, with Town named as an additional insured. Grantee shall provide Town with 30 days written notice of material change,

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cancellation or nonrenewal by the insurer. The policy shall be primary and noncontributing with any policy of Town.

Section 5. – Restoration of Rights-of-Way:

Whenever Grantee shall cause any opening or alteration whatsoever to be made for any purpose in any public right-of-way, the work shall be completed with due diligence within a reasonably prompt time. Grantee will restore the disturbed property to a condition as good as it was prior to such opening or alteration. Town agrees that this requirement shall be deemed met if the disturbed property is restored with comparable materials, so that the restoration meets or exceeds industry and Town standards as adopted by the Town Council.

Section 6. – Franchise Fee:

Grantee shall pay to Town in consideration of the grant of this Franchise a sum equal to ~~zero~~ ~~two~~ percent (20%) of all revenues of Grantee, including Regulatory Assessments, but excluding transaction privilege taxes and similar governmental impositions, from the retail sales and/or delivery by it of electric energy and other charges for services attendant to the retail sale and/or delivery of electric energy delivered through Grantee's electric distribution system within the present and any future corporate limits of Town, as shown by Grantee's billing records. Grantee shall not, however, pay said franchise fee on revenues charged to Grantee's retail customers by third party electric service providers. Except as otherwise provided in this Section 6. Said payments shall be in lieu of any and all fees, charges or exaction of any kind otherwise assessed by Town in any way associated with Grantee's use of the rights-of-way, including but not limited to, the construction of Grantee's facilities hereunder or for inspections thereof during the term of this Franchise.

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At any time during the term of this this franchise, the Town Council may adopt a resolution changing the franchise fee to a sum between zero percent (0%.) and. two percent (2%) If the franchise fee is zero percent (0%), Grantee shall pay for permit fees for work in the right-of-way pursuant to the fee schedule adopted by the Town Cououncil for work in the public right-of-way. Upon adoption of the aforementioned resolution, Town must submit the notice of resolution in writing to the Grantee at:

Arizona Public Service Company  
Office of the Corporate Secretary  
400 North 5<sup>th</sup> Street, M.S. 8602  
Phoenix, Arizona 85004

Grantee will have 30 days, after receiving said written notice from Town, to implement the change to the franchise fee percentage. Grantee will not be required to retroactively collect, pay, or refund franchise fees due to improper notice, or any delay in providing notice to Grantee by Town.

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For the purpose of verifying amounts payable hereunder, the books and records of Grantee shall be subject to inspection by duly authorized officers or representatives of Town at reasonable times.

Beginning AAAAA, AA, AAAAA, payment as described in the preceding paragraphs shall be payable in quarterly amounts within 30 days after the end of each calendar quarter.

Notwithstanding the provisions of this Franchise, if during the term of this Franchise Grantee enters into any electric franchise with any other municipality in Arizona during the term of this Franchise that provides for a higher percentage of Grantee's revenues than two percent (2%) or includes more categories of revenues than set forth in this Franchise, Grantee shall notify Town Council of such higher percentage or expanded revenue base. Town Council, at its sole discretion, shall have the option to, as applicable: (i) increase Grantee's franchise fee to the

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higher percentage rate; or (ii) include other revenue categories set forth in the franchise agreement Grantee has with the other entity of this State. Following Town Council's action, Grantee agrees to henceforth pay to Town a new franchise fee at the higher franchise percentage or to include the additional revenue categories.

Section 7. – Additional Fees and Taxes:

Notwithstanding any provision contained herein to the contrary, Grantee shall pay, in addition to the payment provided in Section 6, the following charges, taxes and fees as established in a code or ordinance properly adopted by Town:

- A. General ad valorem property taxes and special district assessments;
- B. Transaction privilege and use tax as authorized by law and collected by Grantee for its retail sales to its electric customers within the present and any future corporate limits of Town;
- C. Other charges, taxes or fees generally levied upon businesses by Town, provided said charge, tax or fee is a flat fee per year and that the annual amount of such fee does not exceed the amount of similar fees paid by any other businesses operated within Town.

Section 8. – Term:

This Franchise shall continue and exist for a period of twenty-five (25) years from DATE; provided, however, that either party may terminate this Franchise on its tenth anniversary by giving written notice of its intention to do so not less than one (1) year before the date of termination. If such notice is given for the purpose of negotiating a new franchise and such negotiation is successful, the party giving the notice of termination shall be responsible for the costs of the resulting franchise election.

Section 9. – Franchise; Non-Exclusive:

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This Franchise is not exclusive, and nothing contained herein shall be construed to prevent Town from granting other like or similar grants or privileges to any other person, firm or corporation.

Section 10. – Conflicting Ordinances:

Notwithstanding any other provisions hereof, all ordinances and parts of ordinances in conflict with the provisions hereof, to the extent applicable to a franchised electric public service corporation, are hereby superseded.

Section 11. – Independent Provisions:

If any section, paragraph, clause, phrase or provision of this Franchise, shall be adjudged invalid or unconstitutional, the same shall not affect the validity of this Franchise as a whole or any part of the provisions hereof other than the part so adjudged to be invalid or unconstitutional.

Section 12. – Town Use of Facilities:

In consideration of this Franchise and the rights granted hereby, Town shall, if the following six criteria are met, have the right to place, maintain, and operate on Grantee's poles located on public rights-of-way within Town's corporate limits, any and all wires and appurtenances (other than steps or climbing devices) for Town's fire alarm, police telephone or other municipal communications services utilized for governmental functions:

- A. Town must notify Grantee in writing of Town's intended use of Grantee's poles;
- B. Town shall, to the fullest extent permitted by law, defend, indemnify and hold Grantee harmless from any and all claims, costs, damages, expenses and losses, including but not limited to attorney fees and court costs relating to, arising out of, or alleged to have resulted from Town's use of Grantee's facilities pursuant to

this Franchise; provided however, that such claims, expenses and losses are not the result of the willful misconduct or negligent acts or omissions of Grantee.

- C. Town's facilities and the installation and maintenance thereof must comply with the applicable requirements of the Occupational Safety and Health Act, the National Electrical Safety Code, and all other applicable rules and regulations as amended. If Town does not comply with all applicable laws, ordinances and regulations, or if Town's facilities create an immediate safety hazard, Grantee retains the right to remove or correct Town's facilities at Town's expense;
- D. Town's facilities and the installation and maintenance thereof must not cause Grantee's facilities and the installation and maintenance thereof to be out of compliance with all applicable requirements of the Occupational Safety and Health Act and the National Electrical Safety Code and all other applicable rules and regulations as amended. If Town does not comply with all applicable laws, ordinances and regulations, or if Town's facilities create an immediate safety hazard, Grantee retains the right to remove or correct Town's facilities at Town's expense;
- E. Town's use of its facilities shall not interfere with Grantee's use of Grantee's facilities, and;
- F. Town shall be responsible for any incremental costs incurred by Grantee as a result of Town's use of Grantee's facilities.

**Section 13. – No Third Party Beneficiaries:**

There are no third party beneficiaries to this Franchise agreement between Town and Grantee.

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Section 14. – Voter Approval Required:

This Franchise is subject to the approval of the electors of Town. Grantee shall pay all of the costs incurred in conducting the franchise election, except that, if one or more additional propositions are presented to the electors at such election, Grantee shall pay only that portion of Town's election expense determined by dividing all of Town's expenses by the number of issues presented on the ballot.

Section 15. – Notices:

Any notice required or permitted to be given hereunder shall be in writing, unless otherwise expressly permitted or required, and shall be deemed effective either (i) upon hand delivery to the person then holding the office shown on the attention line of the address below, or, if such office is vacant or no longer exists, to a person holding a comparable office, or (ii) on the third business day following its deposit with the United States Postal Service, first class and certified or registered mail, return receipt requested, postage prepaid, addressed as follows:

- A. To Town: Town Clerk  
Town of Dewey-Humboldt  
PO Box 69  
Humboldt, AZ 86329
  
- B. To Arizona Public Service: APS Franchise Department  
Arizona Public Service Company  
P.O. Box 53999, M.S. 3111  
Phoenix, Arizona 85072-3999

Section 16. – Adoption:

We, the undersigned, have adopted this document on the dates written below in accordance with the results of the Town Election on DATE.

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*Amended 3/9/15*



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

**COUNCIL AGENDA ACTION REQUEST FORM**

Meeting Type:  Regular     Special     Work Session

Meeting Date: 3/17/15

Date of Request: 3/4/15

Requesting:  Action     Discussion or Report Only

Type of Action:  Routine/Consent Agenda     Regular

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

DISCUSS AND POSSIBLE ACTION ON WHAT TO DO  
ABOUT CHAPARREL STREET AND OBTAIN LEGAL DEVICE

Purpose and Background Information (Detail of requested action):

HOW TOWN SHOULD PROCEED WITH CHAPARREL ST.

Staff Recommendation(s):

Budgeted Amount:

List All Attachments:

Type of Presentation:

Special Equipment needed:  Laptop     Remote Microphone  
 Overhead Projector     Other:

Contact Person: JACK HAMILTON

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