

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

**Tuesday, November 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.

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

**5.1. Follow-up on existing projects and prelude to future meeting items:** Possible subjects may include the FY 16 Citizen Survey preparation; well-testing program preparation; Town Manager evaluation forms; University of Arizona Superfund research program presentation.

**5.2. Review of Proposed Public Body Policy 15-01 Council Representation at Regional Organizations.** (Council direction made at the November 3 meeting)

**6. Consent Agenda.**

**6.1. Minutes.** Minutes from the September 29, 2015 Special Study Session; October 6, 2015 Regular Council Meeting; October 13, 2015 Work Session; and October 20, 2015 Regular Meeting.

**7. Comments from the Public (on non-agendized items only).** 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. A 3 minute per speaker limit may be imposed. The audience is asked to please be courteous and silent while others are speaking.

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.

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

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9.1. **Contract for Town Independent Public Defender with Patricia O’Connor, Esq. for a term of two years.** Accept, reject or modify the contract.

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9.2. **Contract for Town Prosecutor Legal Services with Carrie. A. Montavon, P.L.L.C. for a term of two years.** Accept, reject or modify the contract.

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9.3. **Magistrate Judge Re-appointment. Discussion and possible action to continue Catherine Kelley’s appointment as Magistrate of Dewey-Humboldt, and set salary and term.** 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.

9.3.1. **Recess into and hold an executive session** pursuant to A.R.S. § 38-431.03(A)(1) for discussion or consultation of employment, term and salary of Catherine Kelley for Magistrate.

9.3.2. **Reconvene Open Meeting.**

**10. Public Hearing Agenda.**

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

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**11. Adjourn.**

**For Your Information:**

Next Town Council Meeting: Tuesday, December 1, 2015, at 6:30 p.m.

Next Planning & Zoning Meeting: Thursday, December 3, 2015, at 6:00 p.m.

Next Town Council Work Session: Tuesday, December 8, 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.

 <b>TOWN OF DEWEY-HUMBOLDT TO BE DETERMINED</b>	<b>PG № TC15-01</b>
<b>All Public Bodies : Town Council, Board, Commission, and Committees</b>	<b>Effective Date: TBD</b>
<b>Subject: <i>Regional organization appointments</i></b>	

1. **Purpose and Scope:** To provide a procedure for Council or other public bodies to appoint representatives to regional organizations. Town staff representation at regional organizations is not subject to this policy.

2. **Background:**

The Town participates in the activities of several regional organizations, such as the Central Yavapai Metropolitan Planning Organization (CYMPO), the Northern Arizona Council of Governments (NACOG), the Greater Prescott Regional Economic Partnership (GPREP), the League of Cities and Towns, and so on. It is important that the Town has representation at these regional organizations. Town Council often appoints Mayor or Council Members to these organizations as Town’s official representatives.

3. **Policy and Appointment procedures:**

3.1 Town Council usually appoints the Mayor or a Council Member to represent the town at a regional organization. The appointment can be a result of either a request of the agency or a council decision to ensure the Town is properly represented at a regional organization. The Council appointee may or may not serve on a board, commission or committee within the regional organization.

Currently, Town Council has appointed Mayor and/or Council members to represent the Town at the following organizations:

CYMPO - Executive Governing Board

GPREP - Governing Board

NACOG - ????

Yavapai Medical Center - Board of Directors

3.2 When an invitation or a request is received to seek a public body member as a town representative at a regional organization, the invitation shall be placed on a regular meeting agenda for the Council to make an appointment decision.

3.3 It is recommended to appoint an alternate representative at the same time when the Representative is appointed by the Council.

3.4 Once appointed, the appointee shall make every effort to represent the town properly and provide periodical reports before Town Council. The appointee is also expected to

adhere to the applicable town codes and policies, such as Town Code section 30.085 representing an official town position.

**3.5** At the second regular meeting in December each year, the Council is recommended to review the Regional Organization appointee list to reappoint and/or continue the existing appointments.

**TERRY NOLAN, MAYOR** \_\_\_\_\_

**ATTEST:**

**JUDY MORGAN, TOWN CLERK** \_\_\_\_\_

Notes: \_\_\_\_\_

**TOWN OF DEWEY-HUMBOLDT  
TOWN COUNCIL  
SPECIAL STUDY SESSION MINUTES  
SEPTEMBER 29, 2015, 2:00 P.M.**

**A SPECIAL STUDY SESSION OF THE DEWEY-HUMBOLDT TOWN COUNCIL WAS HELD ON TUESDAY, SEPTEMBER 29, 2015, AT TOWN HALL AT 2735 S. STATE ROUTE 69, DEWEY-HUMBOLDT, ARIZONA. MAYOR TERRY NOLAN PRESIDED.**

1. **Call To Order.** The meeting was called to order at 2:02 p.m.
2. **Roll Call.** Town Council Members Arlene Alen, Mark McBrady, Dennis Repan, Doug Treadway; Vice Mayor Jack Hamilton; and Mayor Terry Nolan were present. Councilmember Nancy Wright was absent.
3. **Study Session.** No legal action to be taken.

**3.1. Discussion of the 2016 Citizen Survey.** Facilitated by Ms. Alexandria M. Wright, Director, Yavapai College Regional Economic Development Center (YCREDC).

**3.1.1. Overview of Community Profile Data.**

Ms. Alexandria Wright was present and reviewed the demographics, with a population change of 3% over 5 years. There was discussion on the stats available and concerns over inaccuracy due to the “Dewey” location also being within unincorporated Yavapai County and Prescott Valley.

**3.1.2. Reflection of the Purpose of the Survey.**

Ms. Wright reviewed the purpose of the survey: public understanding of services and how people want their tax monies spent and whether to add taxes. Councilmember Repan added Council is looking to ask the community if anything has changed since the last survey and feedback on budget allocations. There was discussion on using the past questionnaire as a baseline.

**3.1.3. Review of Proposed Survey Questions.**

Council reviewed the survey questionnaire, question by question. Modifications to the survey were recommended by Council on the following: Traffic signal timing question will be removed; #12 change Fed and State to Mayor and Council; #18 reworded to make clear that “Young’s Farm” is private property; D10-13 will be scratched (demographic questions). Council reviewed other aspects of questions and gave comment.

Public comment was taken on this item.

Jerry Brady spoke in support of the survey; water issues in the Blue Hills area of Town and emergency funding available; advised obtaining water data from the area from ADWR and ADEQ; history based tourism; asked if the Council is to retain control over the museum.

Town Manager Kimball reviewed with Ms. Wright and Council a few things for clarification: #11 will keep the options A-H with a comment box; Code Enforcement – if a priority then it will require more funding; #5 Town owned roads – 6 choices only and there are problems with the choices – this question will be removed. She asked for timeline confirmation of the draft questionnaire with changes. It will be made available to the Council on October 6<sup>th</sup> but Ms. Wright will not be able to attend the October 6<sup>th</sup> regular meeting but will send it to Council for their review. The survey

Town Council Special Study Session Minutes for September 29, 2015 questionnaire will be on the October 13<sup>th</sup> work session, next (Ms. Wright will not be available at that meeting either).

There was discussion on “water” questions and data already available. Councilmember McBrady indicated many people are concerned their wells are running dry.

Ms. Alex Wright stated she will make these changes and send them back to the Council through Town Staff by October 6<sup>th</sup>. The timeline will be to review those changes at the October 13<sup>th</sup> work session and have it on the agenda for action October 20<sup>th</sup>.

**3.2. Discussion of change in process and code to have ALL CAARF’s submitted to a work study session for discussion and review prior to moving them to a regular meeting for any action. [CAARF requested by CM Alen]**

Councilmember Alen gave an overview on her request explaining a process she is proposing where every CAARF goes on a work study, then research, more work study if necessary and once consensus then move to a voting agenda.

There was discussion on the pros and cons of putting all Council Agenda Action Requests (CAARFs) initially on a work session rather than a regular session. Council discussed whether a change to scheduled meetings would need to occur to accommodate an additional work session each month.

Public comment was taken on this item.

Jerry Brady spoke on state law and public participation if voting on something.

Staff was asked to find out how this could be tried out on a trial period without having to modify all the places in the town code that address this.

Town Manager Kimball asked about also seeking legal opinion on what the CAARF form currently says (which meeting it is placed on is up to the requesting council member) and what this new direction means if required to move all CARRFs to a work session.

**4. Comments from the Public.**

Jerry Brady spoke on the City of Prescott’s history on public comment at public hearings; Line of Duty legal requirements; D-H not being on the Mayer Fire Department distribution list.

**5. Adjourn.** The meeting was adjourned at 4:40 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  
OCTOBER 6, 2015, 6:30 P.M.**

**A REGULAR MEETING OF THE DEWEY-HUMBOLDT TOWN COUNCIL WAS HELD ON TUESDAY, OCTOBER 6, 2015, AT TOWN HALL AT 2735 S. HIGHWAY 69, DEWEY-HUMBOLDT, ARIZONA. VICE MAYOR JACK HAMILTON PRESIDED.**

1. **Call To Order.** The meeting was called to order at 6:30 p.m.
2. **Opening Ceremonies.**
  - 2.1. **Pledge of Allegiance.** Done.
  - 2.2. **Invocation.** Given by Councilmember Doug Treadway.
3. **Roll Call.** Town Council Members Arlene Alen, Mark McBrady (arrived late at 6:34 p.m.), Dennis Repan, Doug Treadway, Vice Mayor Jack Hamilton were present. Councilmember Nancy Wright and Mayor Terry Nolan were absent.
4. **Announcements Regarding Current Events, Guests, Appointments, and Proclamations.** Announcements of items brought to the attention of the Mayor not requiring legal action by the Council. Guest Presentations, Appointments, and Proclamations may require Council discussion and action.

Vice Mayor Hamilton stated the Town Clerk, Judy Morgan was filling in for the Town Manager at this meeting, in her absence.
5. **Town Manager's Report.** Update on Current Events.

None.
6. **Consent Agenda.**

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

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

None.
9. **Discussion Agenda – New Business.** Discussion and Possible Action on matters not previously presented to the Council.
  - 9.1. **Ordinance 15-117 adding new Code Section 30.044 Recall Elections.** (Direction from September 1, 2015 meeting to send to Town Attorney)

Councilmember Repan made a motion to approve Ordinance 15-117 adding new Code Section 30.044 Recall Elections, as presented by attorney. The motion was seconded by CM Alen and approved by a 4-0 vote in favor, CM McBrady being absent from the vote.

Councilmember McBrady arrived at 6:34 p.m.
  - 9.2. **Discuss Genetically Modified Organics (GMO's) and see if Council wants to take a position on them.** [CAARF requested by VM Hamilton]

Vice Mayor Hamilton gave an overview on his requested agenda item, explaining the Mayor wanted to make a proclamation on GMOs, which he thought was controversial and

Town Council Regular Meeting Minutes for October 6, 2015 should require the Council's agreement/buy-in. There was discussion on this with 4 of the 5 attending Council members agreeing on GMOs being controversial and not wanting to take a stand on the subject.

Councilmember Repan made a motion to not take a Town position on GMOs, seconded by CM Alen. It was approved unanimously (5-9).

**10. Public Hearing Agenda.**

None.

**11. Comments from the Public.**

None.

**12. Adjourn.**

The meeting was adjourned at 6:41 p.m.

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Terry Nolan, Mayor

ATTEST:

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Judy Morgan, Town Clerk

**TOWN OF DEWEY-HUMBOLDT  
TOWN COUNCIL  
STUDY SESSION MINUTES  
OCTOBER 13, 2015, 2:00 P.M.**

**A STUDY SESSION OF THE DEWEY-HUMBOLDT TOWN COUNCIL WAS HELD ON TUESDAY, OCTOBER 13, 2015, AT TOWN HALL AT 2735 S. STATE ROUTE 69, DEWEY-HUMBOLDT, ARIZONA. MAYOR TERRY NOLAN PRESIDED.**

1. **Call To Order.** The meeting was called to order at 2:01 p.m.
2. **Roll Call.** Town Council Members, Dennis Repan, Doug Treadway, Nancy Wright; Vice Mayor Jack Hamilton; and Mayor Terry Nolan were present. Councilmembers Arlene Alen, and Mark McBrady were absent.
3. **Study Session.** No legal action to be taken.

Mayor Nolan requested to move agenda item 3.2 to item 3.1 to allow guest speakers from Wells Fargo Bank to give their presentation prior to having review of the Proposed Citizen Survey Questionnaire. Council members concurred with the request. Agenda item order changed.

**3.1. Wells Fargo Presentation on investment funds.** Todd Bowden and John Ikner, representatives from Wells Fargo Bank, spoke on Investment banking options for municipalities and provided handouts to Council which revealed numbers and various banking options; municipal savings accounts and security of funds; the structure of WFB and services provided; points, fees and guarantees; option of approving transactions through online portal.

Council asked questions about the services and requirements; how these accounts compare to LGIP accounts; credit cards and access to funds; building project funding options; town is not tax exempt. Council thanked Mr. Bowden and Mr. Ikner for coming and sharing investment options.

**3.2. Proposed Citizen Survey Questionnaire review and possible direction.** Council reviewed the proposed Citizen Survey Questionnaire and provided corrections and changes to the following:

- #1 – TYPO: Correct last sentence Dewy to Dewey.
- #11 – REMOVE: Street cleaning; Power (electric and/or gas) utility; Cable television
- #13 – QUESTION: What D-H specific info are you looking for. Council was unclear on this notation.
- #15 – CORRECTION: “Go to Question...” numbers are not accurate and need to be corrected.
- #21 – MODIFY QUESTION: Are you currently employed? (removing “for pay”) and removed “Go to Question” section.
- #34 – REMOVE: This question is a duplicate of #27.
- #37 – REMOVE: Entire question should be removed.
- #39 – REMOVE: Entire question should be removed.
- #43 – MODIFY QUESTION: Would you be willing to use your tax dollars to support the Dewey-Humboldt Historic Society? (Removing “public funding” and replace with “your tax dollars”. Removing “Town” and replacing with “Dewey-Humboldt”)
- #44 – REMOVE: This question will be rolled into #45 (see below).
- #45 – MODIFY QUESTION: Should the TOWN provide development incentives to encourage growth? (TOWN added)

Reduction of sales tax for a limited period.	Yes	No	No opinion
Creating expeditious Permitting process.	Yes	No	No opinion

Revamping local code restrictions. Yes No No opinion

None of the above Yes No No opinion

\*\* (this is the general concept of combining questions #44 and #45)

#47 – MODIFY QUESTION AND ANSWERS: Should Dewey-Humboldt purchase or build a Town Hall or continue to rent? (remove “thus using public funds to build a permanent capital investment” and “to save initial capital investment needed”)

Buy/Build (removing “yes” choice)

Rent (removing “no” choice)

No Opinion

#53 – MODIFY QUESTION: Do you utilize a private water company? (remove “have city water”).

#54 – REMOVE: Entire question should be removed.

#55 – TYPO: Do your water levels vary? (Change you to YOUR)

NEW QUESTION: Do you think Dewey-Humboldt owned roads are being adequately maintained?

Yes

No

No Opinion

\*\* (insert this question wherever it is appropriate)

Town Clerk Morgan reviewed the proposed changes with the council.

Public comment was taken on this item.

Jerry Brady spoke about unfunded liability; state-wide water emergency; federal and state gas funds; Mortimer farms being in the floodplain and cost for developing the land being higher.

Victoria Wendt spoke in support of distributing the survey to target all town citizens.

**3.3. 2015 Volunteer of the Year (VOTY) program plan and expectations.**

Town Clerk Morgan gave an overview of the current process for recognition: original intent was to have nominations submitted with committee review and selection of one individual to receive the award; changes have been made each year and staff is asking for decision of how the Council would like it done moving forward.

Ms. Morgan asked if the program is serving the intended purpose and for direction on whether the council has a desire to have Council recognition (at council meeting) or a community event, or both; and who should be involved in the recognition of the volunteers.

Councilmember Wright spoke about the initial process. Would like to see everyone recognized.

There were questions about a past recognition event for town committee/commission/board and council volunteers and how it was different from what is being done currently.

Council considered various components of this program: recognize one person as the Volunteer of the Year with recognition for the other nominees; hosting a picnic at the park for the event.

Councilmember Treadway spoke about this year’s VOTY picnic, stating he felt that everyone who attended enjoyed the event and the event was successful.

Councilmember Wright suggested selecting an annual date for the event and keeping it consistent each year. There was discussion on scheduling challenges and making sure each nominee can attend.

Council discussed the picnic event: whether to include the community or be limited to nominees and their guests, agency representatives, council and staff; involving the agencies where the nominees volunteer with their speeches of appreciation; catering the event for simplification.

Council considered the criteria for nomination and the selection process: council does not want to be involved in the selection or make any final recommendations or changes.

Suggested nominating requirements discussed were: the nominee must have volunteered in the year they are nominated for; requiring the person making the nomination explain how the nominee has contributed to the community; have one volunteer awarded as Volunteer of the Year (VOTY) and other nominees recognized through the council meeting awarding of certificates of appreciation; Council should not change the selection made by the committee or make additional recommendations.

Council gave suggestions on how the staff should select the committee members, having a diverse group of organizations involved from the community; it would not matter if they resided out of town jurisdiction as long as they are connected to the community; the one Council liaison on the committee serves only as an arbitrator and does not get involved with the selection process.

### **3.4. An update on the 2012 International Building Codes (I-codes) amendments adoption preparation.**

Don Roberts, Building Official, gave a PowerPoint presentation of the proposed changes for the 2012 I-codes. Code changes are for safety issues. Dewey-Humboldt will use Chino Valley's adoption of the 2012 I-codes as a benchmark. Most changes are for clarification purposes. Many codes will remain the same as the 2006 I-codes. The Town has chosen to adopt Category C for adoption of 2012 codes. The three main changes in the new code are Wall bracing/lateral analysis, Ark Faults, and smoke and carbon monoxide detectors.

Mr. Robert spoke about the purpose for wall bracing and confirmed they would require engineered plans. Due to the type of structures built in DH and the average wind load, we will not require the lateral analysis. Do not have tornados or earthquakes typically. County did adopt the requirement for lateral analysis but he does not feel it is necessary for our area.

There was discussion on Arc Fault requirements throughout the entire house, which will be a minimal increase in cost for the homebuilder, but it is a life safety issue.

Mr. Roberts spoke about the new requirement of combination of smoke detectors and carbon monoxide detectors, which is only required for attached garages and homes with fuel/fire source.

Mr. Roberts spoke about the Seismic D vs. the Seismic C codes. The County went with the Seismic D and we are going with C. Terrain, weather and wind speed are all a factor in making this recommendation. Most of the builders are already exceeding the current building codes now.

Mr. Roberts explained that conservation of grey water is acceptable and the town has handouts with information on the process to provide to homeowners currently.

VM Hamilton asked about requirements for foam along the edge of foundation. And using copper wire for plumbing. Mr. Roberts replied that the requirement for foam is for areas with extreme low temperatures. Not necessary for our area. Alkaline can cause problems for copper wire. Most contractors use plastic. Copper can be recommended. Cost is about the same. Recommendations can be made to help the homebuilder to help save on energy costs.

VM Hamilton commended Mr. Roberts for taking the extra step to make recommendations to help homeowners in the community.

Public comment was taken on this item.

Jerry Brady spoke about President Obama signing executive order amending the code for firefighter life safety. Violations in code restrictions could result in a civil or criminal liability.

Don Roberts spoke about the life safety requirements for building codes. Now the main focus for building codes. Commercial and high rise buildings have had this liability for a long time.

**4. Special Session.**

**4.1. Whether to hold additional special session(s) this month.**

Council decided to not hold an additional special session this month.

**5. Comments from the Public. None**

**6. Adjourn. Meeting adjourned at 5:15 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  
OCTOBER 20, 2015, 6:30 P.M.**

**A REGULAR MEETING OF THE DEWEY-HUMBOLDT TOWN COUNCIL WAS HELD ON TUESDAY, OCTOBER 20, 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. 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 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.** 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. **Tax Credit Giving Month Proclamation.**

The proclamation was read by Mayor Nolan.
  - 4.2. **Arizona Cities and Towns Week – October 18-24, 2015, Proclamation.**

The proclamation was ready by Mayor Nolan.
5. **Town Manager’s Report.** Update on Current Events.

Town Manager Kimball announced a Domestic Water Workshop being held at the Humboldt Elementary School, put on by the University of Arizona Extension program (Saturday, October 24<sup>th</sup> at 10 am).
6. **Consent Agenda.**
  - 6.1. **Minutes.** Minutes from the September 1, 2015 Regular meeting and September 8, 2015 Work Session.

Councilmember Repan made a motion to approve the September 1, 2015 Regular meeting minutes and September 8, 2015 Work Session minutes, as presented. The motion was seconded by Vice Mayor Hamilton and approved unanimously.
7. **Comments from the Public (on non-agendized items only).** None.
8. **Discussion Agenda – Unfinished Business.** Discussion and Possible Action on any issue which was not concluded, was postponed, or was tabled during a prior meeting.
  - 8.1. **Possible action on Proposed Citizen Survey Questionnaire.** (Continued from the September 29, 2015 Special Study Session and October 13, 2015 Work Session)

Town Manager Kimball gave a background review on the survey questionnaire process to date, explaining Alex Wright has made some suggestions and wants the Council to review these and provide feedback. Ms. Alex Wright was not able to attend this meeting.

Mayor Nolan made a motion to hold this agenda item until the November 3<sup>rd</sup> meeting when Ms. A. Wright is available to be in attendance and the public will have a chance to review the materials, as well. Vice Mayor Hamilton seconded the motion. The motion failed by a

3-4 vote in favor, Councilmembers Alen, Repan, Wright and Vice Mayor Hamilton voting against.

Council proceeded with reviewing the proposed suggestions.

Vice Mayor Hamilton made a motion to leave survey question #16 as is (without Ms. Wright's suggestion), seconded by Councilmember Repan. The motion failed by a 3-4 vote, Councilmembers Alen, McBrady, Treadway and Mayor Nolan voting against.

Mayor Nolan made a motion to allow Alex Wright to clarify survey question #16 as she suggests, seconded by Councilmember Alen. It was approved unanimously.

Councilmember Repan made a motion to leave survey question #40 as edited at the October 13<sup>th</sup> meeting (tax dollars), seconded by Councilmember Nancy Wright. The motion failed by a 3-4 vote, Councilmembers Alen, McBrady, Treadway and Mayor Nolan voting against.

Councilmember Alen made a motion to send the survey back to Alex Wright and ask her to rewrite the highlighted items in the final format that she would like it to be in and bring it back as a contrast at the next regular meeting, seconded by CM Repan. It was approved unanimously.

**8.2. Discussion and possible action or direction related to the Lease Agreement for Town Hall.** 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.

Councilmember Repan made a motion to not go into Executive Session on this agenda item, seconded by CM Alen. Councilmember McBrady recused himself from this agenda item. It was approved by a 5-1-1 vote in favor, Mayor Nolan voting against and CM McBrady recusing himself from the vote.

Town Attorney Susan Goodwin was present and reviewed the lease agreement with the Council. She explained it has been agreed to by the landlord. Change to the lease is: base rent is the same, but collapsed it into one amount. Town to pay \$400 in a proportionate share of property taxes. This lease is for a 2-year term with 2 1-year extensions at the option of the town. She explained there were two typographical corrections she would make: 1. Second line – Suites 5, 10A, 11 (not 1)...; 2A sixth line – wording not correct and will reword to something like, "exercise the option to extend...". There was discussion on the repairs and maintenance (listed in the lease). She spoke on some corrections to the document. She will make those corrections.

Landlord Mark McBrady spoke on his behalf explaining the cost for property taxes and not having charged for those in the past. He spoke on units 13 and 14 being part of the same exterior, which is stained wood rather than paint and would like the wording changed to not include #13 for painting.

Vice Mayor Hamilton made a motion to approve the agreement with the two typo corrections the attorney agreed to make, and to modify paragraph C to not paint units #13 or #14. The motion was seconded by Councilmember Repan and approved unanimously (6-0-1 vote with CM McBrady being recused).

Town Manager Kimball clarified the amount for lease each month will be \$4418, with an additional 2% rental sales tax.

Councilmember Mark McBrady returned to the dais.

**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 located at 2735 S. Highway 69, Dewey-Humboldt, Arizona.

Council did not go into Executive Session but discussed 8.2 in open session instead.

**8.2.2. Reconvene Regular Meeting.** N/A

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

**9.1. On-call Maintenance Contractor Contract Award.**

Ed Hanks, Public Works Supervisor, gave an overview explaining it had been two years since the last on-call contractor agreement, and 1 bid was received. He spoke on increases in pricing over the last 3 years being in materials and personnel costs. He gave examples of when this service would be needed.

Vice Mayor Hamilton made a motion to approve the Earth Resources Corporation On-Call Maintenance Agreement, seconded by CM Repan. It was approved unanimously.

**9.2. To Release the Council-Client Privilege on the Animal Control Ordinance Memo from the Town Attorney.** [CAARF requested by Mayor Nolan]

Mayor Nolan gave an overview, explaining he thought it was important to release this information to the public.

Councilmember Repan made a motion to approve releasing the Council-Client Privilege on the Animal Control Ordinance Memo (September 8<sup>th</sup>) from the Town Attorney, seconded by CM Treadway. It was approved unanimously.

Town Manager Kimball explained this item is tentatively scheduled for discussion on the November 10<sup>th</sup> Work Session.

**9.3. Request Mayor's attendance at the Rural Transportation Summit.** [CAARF requested by Mayor Nolan]

Mayor Nolan gave an overview on his request explaining that CYMPO is requesting his attendance at the Summit, being held January 12-15<sup>th</sup>.

There was discussion on the content of the summit and Council requested a report by the Mayor on what he learned that benefits the Town of Dewey-Humboldt. Some Council members indicated they would like this report soon following the summit, rather than waiting for the annual report by the Mayor. Mayor Nolan spoke on following the town code regarding this matter (reports).

Mayor Nolan made a motion to authorize sending the Mayor to the Rural Transportation Summit, seconded by CM McBrady. It was approved by a 5-2 vote in favor, Councilmembers Repan and Wright voting against.

**9.4. Approve Presentation of Brief Update on Yavapai College for November 3<sup>rd</sup>.** [CAARF requested by Mayor Nolan sponsoring presentation request from Yavapai College-Barbara Robinson)

Mayor Nolan gave an overview of a request by Yavapai College to come to a council meeting to give an update on the College. Council reviewed the workload on the November 3<sup>rd</sup> meeting.

Mayor Nolan made a motion to approve allowing the presentation by Yavapai College giving a brief update at the November 3<sup>rd</sup> Council meeting, seconded by Vice Mayor Hamilton. It was approved by a 6-1 vote in favor, Councilmember Repan voting against.

Mayor Nolan explained he would not be at that meeting. He asked Council to make a recommendation of placing the new proposed science facility campus on the State property off 169 and Outback Road. Vice Mayor Hamilton thought this might not be an agendized subject matter. Town Attorney Goodwin explained it could be a consideration of the college and would be within Open Meeting Law at the presentation.

**9.5. [Consideration of whether] Controversial proclamations must be approved by a majority of the Council before they are issued. [CAARF requested by VM Hamilton]**

Vice Mayor Hamilton gave an overview on his agenda item, explaining he wanted to hear from Council whether they feel they need a policy on controversial proclamations. There was discussion on the one controversial proclamation recently. Mayor Nolan explained proclamations are from the Mayor not the Council. There was discussion on the cost to make town code changes. Town Attorney Susan Goodwin explained it is up to the Council if they want to come up with a procedure for proclamations.

Vice Mayor Hamilton made a motion to table this for now, but it could be readdressed in the future, seconded by Councilmember McBrady. It was approved unanimously.

**9.6. Whether to support Senator Pierce's letter to Governor Ducey regarding Forest and Watershed Restoration. [CAARF requested by Mayor Nolan]**

Mayor Nolan gave an overview. There was discussion on this issue; the Governor's support of this issue during his candidacy; general concept support but concerns there is more than meets the eye.

Vice Mayor Hamilton made a motion to approve having the Mayor sign Senator Pierce's letter to Governor Ducey regarding Forest Watershed Restoration, seconded by Mayor Nolan. The motion failed by a 3-4 vote, Councilmembers Alen, Repan, Treadway and Wright voting against.

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

**11. Adjourn. The meeting was adjourned at 8:44 p.m.**

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Terry Nolan, Mayor

ATTEST:

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Judy Morgan, Town Clerk



**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 MEETING**

**November 17, 2015 – 6:30 pm Town Council Meeting Chambers**

**Agenda Item # 9.1 and 9.2 Court legal service contracts.**

**To: Mayor and Town Council Members**

**From: Yvonne Kimball, Town Manager**

**Date submitted: November 13, 2015**

**Recommendation: Accept the contracts for the Public Defender and Prosecutor services.**

Enclosed are the legal service contracts with the Public Defender Patricia O'Connor and the Prosecutor Carrie Montavon.

Both the Public Defender and the Prosecutor have been providing services to Town. The Public Defender's contract was originally entered into in April 2010 while the Prosecutor's was in March 2013. Both contracts had two-year terms.

Judge Catherine Kelley recently advised me that their contracts have expired from their original terms. Staff has updated the contracts for Council to approve. Each contract continues to have a term of two years. There is no change to the Public Defender's contract; the Prosecutor has requested a \$200 /month fee increase which has been included in the enclosed contract.

Attachments: Public Defender Patricia O'Connor contract; Prosecutor Carrie Montavon contract.

# AGREEMENT FOR PUBLIC DEFENDER SERVICES

(Independent Contractor Agreement)

THIS AGREEMENT made this \_\_\_\_ day of \_\_\_\_ 2015, by and between the Town Council of the Town of Dewey-Humboldt, a municipal corporation organized pursuant to the laws of the State of Arizona (hereafter referred to as "the Town"), and attorney Patricia O'Connor, Esq. (State Bar #[\_\_\_\_]) (hereafter "O'Connor"), (the Town and O'Connor are hereafter collectively referred to as "the Parties") witnesseth:

WHEREAS, the Town desires to enter into an Agreement with O'Connor to serve as Public Defender for the Town and to provide for the terms and conditions upon which O'Connor might be so contracted; and,

WHEREAS, O'Connor desires to serve in such position, under the terms and conditions outlined, herein;

NOW THEREFORE, in consideration of the foregoing and based upon the mutual covenants, promises and payments hereinafter set forth, it is agreed between the Parties as follows:

1. **APPOINTMENT OF PUBLIC DEFENDER:** The Town hereby appoints O'Connor as the Public Defender to handle all legal matters of the Town. In that regard, O'Connor shall perform the functions and duties of Public Defender as allowed for by the controlling rules of professional ethics for attorneys, applicable Federal and Arizona Statute, and any lawfully enacted Codes and Ordinances of the Town of Dewey-Humboldt.
2. **TERM:** The term of this Agreement shall be for approximately two (2) years, beginning on the date first listed above, and ending on \_\_\_\_\_, with such term being served at the pleasure of the Town and terminable, at any time, by the Town Council without cause. In light of this Agreement being terminable without cause at the direction of the Town Council, O'Connor shall, likewise, be entitled to resign at any time. O'Connor shall provide a minimum of thirty (30) days notice in the event of such resignation.
3. **COMPENSATION:** O'Connor's compensation for the services provided, hereunder, shall be \$60 per hour worked and billed to the Town. Such sum shall be payable monthly in the course of the regular and normal bill paying cycle of the Town. Beyond those sums stated herein, O'Connor shall be entitled to no additional or further compensation of any type for the services contracted for, herein.
4. **MISCELLANEOUS.**
  - 4.1. **INDEPENDENT CONTRACTOR STATUS:** Nothing agreed upon, hereunder, creates or shall be construed to create any nature or form of employment relationship between O'Connor and the Town, and the Parties acknowledge, understand and agree that O'Connor shall be deemed an independent contractor with the Town, pursuant to this Agreement and for all purposes for which this Agreement is made. In that regard, the Town shall provide O'Connor with a form 1099 to verify and report all contract payments, hereunder, to Federal and State taxing authorities, as required by law. O'Connor understands that it is his sole responsibility to report all income earned pursuant to this Agreement, as required by law, and that he shall be solely responsible for all related taxes due to any and ever taxing authority as and for social security, income, and every other applicable governmental tax.
  - 4.2. **NON-EXCLUSIVE NATURE OF SERVICES:** It is specifically understood and agreed by the Parties that this Agreement is a non-exclusive contract for services and O'Connor shall be and is fully entitled, during the term of this Agreement, to take any other or further employment as he deems appropriate so long as such other or further work does not professionally conflict with his responsibilities and obligations to the Town, hereunder.
  - 4.3. **CANCELLATION:** Pursuant to the specific language and allowances of A.R.S. § 38-511, the Town may cancel this Agreement, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the Agreement on behalf of the Town of Dewey-

Humboldt is at any time while the Agreement or any extension of the Agreement is in effect, an employee or agent of any other party to the contract in any capacity or a consultant to any other party of the Agreement with respect to the subject matter of the Agreement.

- 4.4. ENTIRE AGREEMENT: The text of this Agreement constitutes the entire Agreement between the Parties. With the execution of this Agreement, any further or additional representations, statements, promises, or understandings not contained herein shall be of no continued force, effect or validity.
- 4.5. SEVERABILITY: The invalidity, in whole or in part, of any provision hereof, shall not affect the validity of any other provision, hereof, and this Agreement shall remain in full force and effect except as to such invalid provision.
- 4.6. WRITINGS REQUIRED. This Agreement constitutes the entire Agreement between the parties. In that regard, the content, terms, provisions, understandings and entitlements of any and all additional documents, conversations, understandings, etc., alleged to otherwise exist or have occurred, shall be deemed to have been merged into the specific contents of this Agreement, with the provisions of this Agreement being all that remains enforceable. This Agreement shall only be amended or modified in writing executed by the parties, and this Agreement and any such modifications and amendments shall be binding upon the parties. Notices are proper when sent by U.S. Mail or by facsimile to the following addresses.

If to the Town: Town of Dewey-Humboldt  
 P.O. Box 69  
 Humboldt, AZ 86329  
 Facsimile: 928-632-7365

If to O'Connor: Law Office of Patricia O'Connor  
 PO Box 434  
 Chino Valley, AZ 86323-0434  
 Facsimile: 480-302-5848

IN WITNESS WHEREOF, the Town of Dewey-Humboldt, Arizona, has caused this Agreement to be signed and executed on its behalf by its Mayor, and duly attested by its Town Clerk and O'Connor has signed and executed this Agreement as well; both signing in duplicate, on the day and year stated above.

APPROVED:

ACCEPTED:

\_\_\_\_\_  
 Honorable Terry Nolan, Mayor

\_\_\_\_\_  
 Patricia A. O'Connor, Esq.

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
 Judy Morgan, Town Clerk

\_\_\_\_\_  
 Town Attorney

## CONTRACT FOR LEGAL SERVICES

This Contract made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2015 between the Town of Dewey-Humboldt, Arizona, a municipal corporation organized and existing under and by virtue of the laws of the State of Arizona, hereinafter "Town" and Carrie A. Montavon, P.L.L.C., an Arizona professional limited liability company, hereinafter "Montavon" or "Contractor".

### RECITALS

1. Town requires the services of a Town Prosecutor to provide legal services to it.
2. Montavon desires to provide prosecutorial legal services as an independent contractor for Town in the capacity of Town Prosecutor.

NOW, THEREFORE, in consideration of the promises and covenants contained herein, Town and Montavon agree as follows:

### TERMS

1. Appointment of Town Prosecutor: Town hereby appoints and retains Montavon as its Town Prosecutor. Town shall retain separate counsel to provide general civil municipal services.
2. Scope of Work:
  - a. Montavon shall provide the services described and set forth in Exhibit A, Scope of Services ("Work"), which is attached hereto and incorporated herein.
  - b. Montavon shall supervise and direct the Work, using its best skill and attention and Town shall not have authority to supervise or control the work of Montavon or Montavon's employees. Montavon shall be solely responsible for all means, methods, techniques, sequences, procedures and for coordinating all portions of the Work. Montavon shall be responsible to the Town for the acts and omissions of its employees, subcontractors and their agents and employees, and other persons performing any of the Work.
  - c. Montavon is not entitled to worker's compensation benefits from Town.
  - d. Montavon is free to establish and control its times of performance of the Work and Town shall not dictate times of performance.
  - e. Montavon is not required to perform work exclusively for the Town during the term of this Contract.

f. Town and Montavon will retain separate business operations.

3. Standard of Performance: Montavon agrees to faithfully represent the interests of Town as its Town Prosecutor and to provide, furnish, and pay for all of Montavon's non-reimbursable overhead expenses and to make available equipment necessary to accomplish those ends. Montavon employees shall be available at all reasonable times to render the services required hereunder.

4. Extent of Services: Montavon shall devote the necessary time and attention to its obligations as specified in this Contract. Town recognizes that Montavon shall also be allowed to engage in the private practice of law which includes representing clients other than Town. The parties acknowledge that there will be situations where Town may contract with other persons to provide legal services beyond the scope of Montavon's obligations under this Contract, in the event Montavon has a conflict, that would prevent Montavon from representing the Town in a matter.

5. Payment: All compensation shall be paid by Town within fifteen (15) days of receipt of invoices, statements or billings therefor, unless the Parties otherwise agree in writing. Invoices shall be provided by Montavon at least, but no more than, once monthly. No payment shall be made by Town without receipt of an invoice therefor.

6. Contract Fee: Montavon shall be paid \$1,800.00 per month for the Work as rendered by it and its employees.

7. Contract Term: The term of this Contract will commence on \_\_\_\_\_, 2015, and continue for a period of two (2) years therefrom or otherwise as may be set forth in Exhibit A.

8. Independent Contractor: This Contract does not create an employee/ employer relationship between the parties. It is the parties' intention that Montavon will be an independent contractor and not the Town's employee for all purposes including, but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, Arizona revenue and taxation laws, Arizona workers' compensation law, and Arizona unemployment insurance law. Montavon will retain sole and absolute discretion and judgment in the manner and means of carrying out Montavon's activities and responsibilities hereunder. Montavon agrees that it is a separate and independent enterprise from Town, that it has full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the Work. This Contract shall not be construed as creating any joint employment relationship between Montavon and Town and Town will not be liable for any obligation incurred by Montavon including, but not limited to, unpaid minimum wages and/or overtime premiums.

9. Office Facilities: Montavon shall furnish assistance to Town from Montavon's office, other attorneys' offices and such other facilities and services normally suitable and adequate for the performance of the duties as set forth in this Contract.

10. Labor and Materials: Montavon shall provide, pay for and insure, under the requisite laws and regulations, all labor, materials, equipment, and transportation and other facilities and services necessary for the proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

11. Indemnification: Montavon and its Surety, their successors and assigns, shall appear, defend, indemnify and hold harmless Town, members of Town's governing body, its officers, agents, representatives, successors and assigns from and against all claims of any character or nature, demands, suits, actions, costs including, but not limited to, wages or overtime compensation due employees in rendering services under this Contract, costs of defense, attorneys' fees, witness fees of any type, losses, damages, expenses and liabilities, whether direct or indirect, and whether to any person or property, including natural resources and any claim made under the Fair Labor Standards Act or any other federal or state laws, arising out of the Work performed under the terms of this Contract, or on account of any act or omission by Montavon or its agents, employees or representatives, or from any claims or amounts arising or recovered under Workers' Compensation laws or any other law, bylaw, or ordinance, order or decree or any failure on the part of Montavon, its agents, employees or representatives to fulfill Montavon's obligations under this Contract. It is the intent of the parties to this Contract that Town shall, in all instances, be indemnified against all liability, losses, and damages of any nature whatsoever for or on account of any injuries to or death of persons or damages to or destruction of property belonging to any person arising out of or in any way connected with the performance of this Contract. The provisions of this paragraph shall survive termination of this Contract.

12. Governing Law: This Contract shall be governed by the laws of the State of Arizona.

13. Insurance: Montavon shall purchase and maintain professional liability insurance in minimum amounts of \$250,000.00 per specific claim and \$500,000.00 per aggregate claim per occurrence. Certificates of Insurance, acceptable to Town and designating Town as an additional insured, shall be filed with Town prior to commencement of the Work. The Certificates shall contain a provision that coverage is supported and that the policies will not expire, be canceled or changed until all Work has been completed.

14. Termination: Town may terminate this Contract at any time, with or without cause, at the direction of the Town Council. Montavon may terminate this Contract upon a minimum of thirty (30) days' notice.

15. Successors and Assigns/Benefit: This Contract shall inure to the benefit of and be binding upon Montavon and its successors and assigns. Neither party to the Contract shall assign the Contract or sublet it as a whole without the written consent of the other, nor shall Contractor assign any monies due or to become due to it hereunder without the previous written consent of the Town. In the event any employee of Montavon should leave the firm or be unable to act during the term hereof, the remaining member or members of the firm shall perform all

services required hereunder and, at Montavon's option, additional qualified personnel may at any time be added to the firm to perform said services.

16. Rights and Remedies: The duties and obligations imposed by this Contract and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by Town or Montavon shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any action or failure to act constitute an approval of or acquiescence of any briefs thereunder, except as may be specifically agreed in writing.

17. Litigation: If either party to this Contract is required to enforce the provisions of any or all terms of this Contract by arbitration or litigation, the prevailing party shall be entitled to recover from the losing party all costs and attorneys' fees incurred herein.

18. Notices: Any notice required or permitted to be given under this Contract shall be sufficient if in writing and if sent by certified or registered mail to the other party at the respective offices listed below:

Town of Dewey-Humboldt  
P.O. Box 69  
2735 South Highway 89, Suite 12  
Humboldt Station, Humboldt, AZ 86329  
Attn: Town Manager

Carrie A. Montavon, P.L.L.C.  
P.O. Box 10461  
Prescott, Arizona 86304  

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Attn: Carrie A. Montavon

19. Conflict of Interest: Under Section 38-511, Arizona Revised Statutes, as amended, Town may cancel any contract it is a party to within three years after its execution and without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of Town is, at any time while the contract or any extension thereof is in effect, an employee or agent of any other party to the contract in any capacity or a consultant to any other party to the contract with respect to the subject matter of the contract. In the event Town elects to exercise its rights under § 38-511, Arizona Revised Statutes, as amended, Town agrees to immediately give notice thereof to Montavon at the address specified above.

20. Entire Agreement: This instrument contains the entire Agreement of the parties. This Contract may be changed only by a written agreement signed by both parties.

21. Sudan and Iran: Contractor warrants that it does not have scrutinized business operations in Sudan or Iran, as prohibited by A.R.S. §§ 35-391.06 and 35-393.06, and further acknowledges that any subcontractor who is contracted by Contractor to perform work pursuant to this Contract shall warrant that they do not have scrutinized business operations in Sudan or Iran.

22. Immigration Law Compliance Warranty:

a. As required by A.R.S. § 41-4401, Contractor hereby warrants its compliance with all federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A). Contractor further warrants that after hiring an employee, Contractor verifies the employment eligibility of the employee through the E-Verify program.

b. If Contractor uses any subcontractors in performance of the Work, subcontractors shall warrant their compliance with all federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A), and subcontractors shall further warrant that, after hiring an employee, such subcontractor verifies the employment eligibility of the employee through the E-Verify program.

c. A breach of this warranty shall be deemed a material breach of the Contract that is subject to penalties up to and including termination of the Contract. Contractor is subject to a penalty of \$100 per day for the first violation, \$500 per day for the second violation, and \$1,000 per day for the third violation. Town, at its option, may terminate the Contract after the third violation. Contractor shall not be deemed in material breach of this Contract if the Contractor and/or subcontractors establish compliance with the employment verification provisions of Sections 274A and 274B of the federal Immigration and Nationality Act and the E-Verify requirements contained in A.R.S. § 23-214(A).

d. Town retains the legal right to inspect the papers of any Contractor or subcontractor employee who works on the Contract to ensure that the Contractor or subcontractor is complying with the warranty. Any inspection will be conducted after reasonable notice and at reasonable times.

e. If state law is amended, the parties may modify this paragraph consistent with state law.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement at the Town of Dewey-Humboldt, Arizona the day and year first above written.

TOWN OF DEWEY-HUMBOLDT

CARRIE A. MONTAVON, PLLC

By: \_\_\_\_\_  
Terry Nolan, Mayor

By: \_\_\_\_\_  
Carrie A. Montavon

ATTEST:

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Judy Morgan, Town Clerk

APPROVED AS TO FORM:

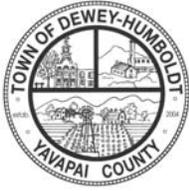
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Curtis, Goodwin, Sullivan Udall & Schwab, P.L.C., Town Attorney  
By Phyllis L.N. Smiley

## EXHIBIT A

### SCOPE OF SERVICES (“WORK”)

1. Montavon shall serve as a Town of Dewey-Humboldt Prosecutor and shall prosecute and/or manage the disposition of all misdemeanor criminal actions filed through the Magistrate Court in accordance with applicable State and Federal laws.
2. Montavon shall perform services in accordance with the standards, canons, and practices approved by the State Bar of Arizona and other applicable professional standards.
3. Montavon shall prepare for, and appear at, all court proceedings pertaining to all misdemeanor criminal actions including, but not limited to, pretrial conferences, motions, jury and non-jury trials, evidentiary hearings, sentence reviews, revocation of probation hearings, special hearings, oral arguments, sentencings, orders to show cause, appeal proceedings and special actions, as well as appeals to higher courts. Montavon shall confer with town staff on criminal cases at town staff’s request.
4. Montavon shall provide a substitute prosecutor when unable, for any reason, to appear in Court. Substitute counsel shall not be used routinely. In general, substitute counsel shall be used only when Montavon cannot serve as Prosecutor because of legal conflict, illness, vacation or prior legal commitment in another Court. Contractor shall provide Town and the Town Attorney with the name(s), address(es) and telephone number(s) and professional resumes of substitute counsel who will be responsible for providing prosecutorial services. No counsel shall be offered as a substitute for performance of prosecutorial services without the prior written consent of the Town Attorney. Such consent shall not be arbitrarily or unreasonably withheld or withdrawn.
5. At no time shall Montavon’s private practice caseload reach such a level, during Montavon’s service as Prosecutor, so as to jeopardize Montavon’s ability to complete a case as Prosecutor.
6. Montavon shall provide, furnish, and pay for all of its overhead expense including, but not limited to, office space, telephones, transportation, photocopies, photographs, office supplies, reports, secretarial services, publication of briefs, and shall make available equipment necessary to perform the services required by this Contract.
7. Montavon shall provide the Town Manager with a report of its active and resolved cases on a monthly basis. The report shall include summary information as to the nature of the case, and status of the proceedings on each case.



**TOWN OF DEWEY-HUMBOLDT**  
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**TOWN COUNCIL REGULAR MEETING**  
**November 17, 2015 – 6:30 pm Town Council Meeting Chambers**

**Agenda Item # 9.3 Magistrate re-appointment.**

**To: Mayor and Town Council Members**

**From: Yvonne Kimball, Town Manager**

**Date submitted: November 13, 2015**

**Recommendation: re-appoint the Magistrate Catherine Kelley**

Town Code Section 30.032 Town Magistrate provides for the appointment and removal of the Town Magistrate. “(A) *Town Magistrate*. The presiding officer of the Magistrate Court shall be the Town Magistrate, who shall be appointed by the Town Council to a term of no less than two years. The Magistrate may be removed by the Council only for cause during his or her term as Magistrate.”

Town Council originally appointed Catherine Kelley as the Magistrate on November 17, 2009. Subsequently, Council reappointed Judge Kelley in December 2011 and December 2013 for a two-year term, respectively. The appointment will expire.

The item is placed on the agenda for the Council to consider reappointment related matters.

*Additional notes for the Council: 1. the agenda language of this item is prepared by the Town Attorney and consistent with the December 2013 wording. 2. There is a separate council meeting agenda request (form) (CAARF) for the December 1<sup>st</sup> meeting regarding Judge Kelley’s annual bonus.*