

**TOWN OF DEWEY-HUMBOLDT  
TOWN COUNCIL  
REGULAR MEETING MINUTES  
TUESDAY, JULY 15, 2014, 6:30 P.M.**

**A REGULAR MEETING OF THE DEWEY-HUMBOLDT TOWN COUNCIL WAS HELD ON TUESDAY, JULY 15, 2014, 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 6:33 p.m.
2. **Opening Ceremonies.**
  - 2.1. **Pledge of Allegiance.** Made.
  - 2.2. **Invocation.** Given by Councilmember Nancy Wright.
3. **Roll Call.** Town Council Members Jack Hamilton, Mark McBrady, Dennis Repan, Nancy Wright; Vice Mayor Arlene Alen; and Mayor Terry Nolan were present. Council Member Sonya Williams-Rowe was absent.
4. **Announcements Regarding Current Events, Guests, Appointments, and Proclamations.**

None.
5. **Town Manager's Report.** Update on Current Events.

None.
6. **Consent Agenda.**
  - 6.1. **Minutes.** Minutes from the May 20, 2014 Regular Meeting, June 3, 2014 Special Budget Workshop #4, June 3, 2014 Regular Meeting, June 17, 2014 Special Budget Workshop #5 and June 17, 2014 Regular Meeting.

Mayor Nolan explained amended minutes were provided for the June 3, 2014 Regular Meeting.

Councilmember Hamilton spoke on the June 17, 2014 Regular Meeting minutes. He thought a vote had been taken on agenda item 8.1 Budget, at this meeting. Town Clerk Judy Morgan was asked to research this for verification.

Councilmember Hamilton made a motion to approve the minutes for the May 20, 2014 Regular Meeting; June 3, 2014 Special Budget Workshop #4; June 3, 2014 Regular Meeting (as amended and presented at meeting); June 17, 2014 Special Budget Workshop #5; and June 17, 2014 Regular Meeting as amended by CM Hamilton to add a motion on 8.1. The motion was seconded by Vice Mayor Alen. It was approved unanimously (6-0 vote).
7. **Comments from the Public (on non-agendized items only).**

Jerry Brady spoke on records provided to council pertaining to land and mineral rights and the Town's legal history for this town related to same.

Karen Brooks spoke on what should be required for complaints and the history of complaints against her property.
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. **Ordinance 14-107: Fireworks and Explosives** [CM Wright CAARF and directed by Council at the April 15, 2014 meeting.]

There was discussion on the addition of “explosives” in this ordinance; definition of “explosives”; state and federal law controlling same.

Public comment was taken on this item.

Jerry Brady spoke on explosives and pyrotechnics; coastguard standards, military explosives, federal standards and local laws.

Town Manager Kimball spoke on not receiving any negative feedback from the Central Yavapai Fire District (CYFD) or Yavapai County Emergency Management (YCEM), regarding the ordinance.

Public comment was taken on this item.

Ulys Brooks spoke on black powder firearms and constitutional rights.

Jerry Brady spoke on reporting standards for explosives and what can become explosive.

Councilmember Repan spoke on the ordinance originally being requested to control fireworks and considering omitting the explosives wording. Other Councilmembers commented on whether to omit explosives from the ordinance.

Councilmember Wright made a motion to accept the ordinance excluding 130.15 and 130.16 (B), seconded by Councilmember Hamilton.

Ms. Kimball explained she will contact the attorney to let her know the council’s desire so she can do the amendment in the case that there might be other concerns. The amended ordinance will come back to the council under a future consent agenda to give one more look at it before adopting.

A vote was taken on the motion which failed by a tie vote, Councilmember McBrady, Vice Mayor Alen and Mayor Nolan voting against.

Councilmember Hamilton made a motion to NOT send the ordinance back to the attorney for further work on explosives, seconded by CM Wright.

There was discussion on the motion; whether to have the attorney clean up the ordinance and add an “explosives” definition, moving forward with adoption of the ordinance once this is done.

A vote was taken on the motion which failed by a 2-4 vote, Councilmembers McBrady, Repan, Vice Mayor Alen and Mayor Nolan voting against.

Vice Mayor Alen made a motion to send the ordinance back to legal counsel for clarification as it relates to the explosives section, why she included it and the definition of explosives, and bring it back to council for a decision on whether to include or exclude “explosives”, and for adoption of the fireworks portion.

The motion passed by a 5-1 vote in favor, Councilmember Hamilton voting against.

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

**9.1. Accountability Contracts with Dewey-Humboldt Historical Society, Agua Fria Festival Committee, and Mayer Area Meals on Wheels.**

Town Manager Kimball gave an overview explaining the Council needs to review, one-by-one, the scope of work and other terms under the contracts, and whether they meet their expectations. The Town Attorney has reviewed them all.

Councilmember Repan made a motion to approve the **Dewey-Humboldt Historical Society** contract and scope of work, seconded by Vice Mayor Alen. It was approved unanimously (6-0).

TM Kimball reviewed the **Agua Fria Festival contract**: Bob Greene has reviewed it; Agua Fria Festival Committee receives the funds; Liability insurance only covers the period of the event and contract term is for a year, change it to "duration of the event"; not sure if town can be named as additionally insured, if not then that wording will be removed. Event will be free of charge and free parking to resident. One stipulation is a special event permit will need to be obtained and granted for the event.

There was discussion on whether this is a grant or a sponsorship and clarifying what the town's expectations are: event will continue to be free; recognized event for the Dewey-Humboldt community; offer a free booth space for the town; include wording on form regarding remittance of sales tax for vendors. There was discussion on who receives the profits from the event (Agua Fria Festival or Lions Club). Mr. Greene explained there was no place on the form for tax ID #.

Public comment was taken on this item.

Jerry Brady spoke on the Festival's benefit to the public and requirements if expending public funds, the council must exercise due diligence and due process disclosure.

There was discussion on sales tax enforcement; the contract and scope of work; whether the town should receive any monetary return on their contribution.

Public comment was taken on this item.

David Nystrom cautioned council about expectations of receiving monies back and to look instead at the festival being an identity of the community, bringing community together and branding the town.

A motion was made by Councilmember Hamilton to approve the Accountability Contract and consider it as a \$5k grant for the Agua Fria Festival as a benefit for the community, seconded by Mayor Nolan.

Councilmember Repan spoke on ROI and how the festival benefits the town as a whole.

A vote was taken on the motion which failed by a tie vote, Councilmembers McBrady, Wright, and Vice Mayor Alen voting against.

There was discussion on whether to add any wording on what to do with any profit on the festival.

Public comment was taken on this item.

Ted Brooks suggested putting any profits in an interest bearing funds and use that money to fund future festivals each year.

Councilmember Hamilton responded the Agua Fria Festival Committee should keep the profits to fund future festivals.

Jerry Brady cautioned council about being involved in the profits for the festival and recommended they support the AFF in the least complex way, giving them a one-time grant and expect they fund themselves in the future.

There was council discussion on funding and profits.

Councilmember Wright made a motion to approve the Accountability Contract with the Agua Fria Festival Committee and add the special use permit requirement and include the

wording this is a one-time contribution for the 2014 event only, seconded by Councilmember Hamilton. The motion passed by a 6-0 vote in favor.

Council discussed the **Mayer Area Meals on Wheels** contract. Wording “will be in compliance with their contract with NACOG and Area Agency on Aging (AAA)” will be added. There were questions on whether some of the wording in the contract was necessary. TM Kimball explained the attorney indicated it was. CM Wright asked MAMOW to provide a list of who they served and addresses so they could confirm they live within D-H. There was discussion on why this information would not be provided to council but MAMOW could provide a quarter report of numbers and MAMOW could be provided a map to confirm whether customers are within the incorporated D-H limits.

Public comment was taken on this item.

David Nystrom spoke on accepting the accuracy of the report from MAMOW. Many people think they live in D-H but don't.

Jerry Brady explained that national organizations such as (AAA, MOW and NACOG) have the same accountability as the Red Cross and social service agencies and their reporting is to the U.S. government.

Town Manager Kimball reviewed the changes to this document: page 50: #4 and 5 will be revised to include “quarterly reports”.

Councilmember Repan made a motion to accept the Mayer Area Meals on Wheels contract with the addition to the contract Paragraph 4 and 5 and adding “quarterly” reporting on the number served and providing them with a D-H area map and include AAA along with NACOG, seconded by Vice Mayor Alen. It was approved by a 6-0 vote in favor.

### **9.2. Manufactured Home Intergovernmental Agreement with the State of Arizona Department of Fire, Building and Life Safety office of Manufactured Housing.**

Town Manager Kimball gave an overview and explained staff's recommendation to adopt the IGA for Manufactured Homes.

Councilmember Repan made a motion to approve the Manufactured Home Intergovernmental Agreement with the State of Arizona Department of Fire, Building and Life Safety office of Manufactured Housing, seconded by Vice Mayor Alen.

Public comment was taken on this item.

Jerry Brady spoke on propaganda being distributed around town against the IGA; whether to adopt the state's standards as the town's standards and leaving this duty with the state.

A vote was taken on the motion which passed by a 6-0 vote in favor.

### **9.3. Seeking approval to contact Town Attorney with Town Manager, to discuss and obtain legal opinion on ethics violation investigations and hearings during election season. [CAARF requested by VM Alen]**

Vice Mayor Alen explained she felt it was necessary for the town to obtain a legal opinion on whether they should/could hold ethics violation investigations and hearings during election season. She referenced ARS § 9-500.14 Use of town resources to influence elections.

Councilmember Hamilton made a motion to discuss and obtain a legal opinion from the town attorney on the ethics violation investigations and hearings during election season, and to include the ethics committee members in the phone call with the attorney, seconded by Councilmember Wright.

Public comment was taken on this item.

Jerry Brady spoke on the County Recorder's office having an election board pertaining to election law complaints and recommended they talk with them.

There was discussion on the purpose of the ethics complaint process; whether the policy is complete or needs to be modified; concerns of possibly violating state statute.

Town Manager Kimball explained if a quorum of the committee is present for the phone call with the attorney it would then need to abide by Open Meeting Law. Council discussed having the attorney present at the next regular meeting and ask her then (August 5<sup>th</sup>).

Councilmember Hamilton rescinded his motion and made a new motion that at the August 5<sup>th</sup> Council meeting the attorney will be requested to speak on the laws on the ethics violation and research question, seconded by Councilmember Repan.

Public comment was taken on this item.

Jerry Brady cautioned about potential conflict of interest; other local government dealing with ethics issues investigations; cost to review ethics complaints.

A vote was taken on the motion which passed by a 6-0 vote in favor.

Town Manager Kimball explained she will contact the attorney for her attendance at the August 5<sup>th</sup> meeting. She asked council whether they wanted this to be agendized as a possible Executive Session. Consensus was to do so.

**9.4. [Hold] an Executive Session to discuss purchase of property/properties for Town use. [CAARF requested by CM Wright]**

Vice Mayor Alen made a motion to go in to Executive Session to discuss purchase of property/properties for Town use, seconded by Councilmember Hamilton. It was approved unanimously.

**9.4.1. 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 regarding negotiations for the purchase, sale or lease of real properties located at 2735 S. Corral Street and 12925 E. Main Street, Humboldt.

Council convened into Executive Session at 9:17 p.m.

**9.4.2. Reconvene into Regular Meeting.**

Council reconvened into regular session at 9:39 p.m.

Councilmember Wright made a motion to have the Town Manager investigate whether the properties are available and the cost, seconded by Councilmember Repan. It was approved by a 5-1 vote in favor, Mayor Nolan voting against.

Public comment was taken on this item.

Jerry Brady spoke on problems with surveys not being accurate or lack of surveys and the need for warranty deed or clear title to convey property. He spoke on the County Assessor's office and a community assets list.

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

**11. Comments from the Public.**

Jerry Brady spoke on the firefighter life safety initiative and infrastructure development affected by this.

**12. Adjourn.** The meeting was adjourned at 9:45 p.m.

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Terry Nolan, Mayor

ATTEST:

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Judy Morgan, Town Clerk