

**TOWN OF KEARNY
SPECIAL MEETING MINUTES**

**A SPECIAL MEETING OF THE TOWN COUNCIL OF THE TOWN OF KEARNY,
ARIZONA, AT THE KEARNY TOWN HALL LOCATED AT 912-C TILBURY DRIVE
ON MONDAY, NOVEMBER 28, 2016, AT 6:00 P.M.**

COUNCILMEMBERS PRESENT

Mayor	Sam Hosler
Vice Mayor	Daniel Radcliffe Sr.
Councilmember	Rudy Flores
Councilmember	David Herrera
Councilmember	Nancy Hinojos
Councilmember	Sheila Stephenson

TOWN STAFF PRESENT

Town Manager	Anna Flores
Town Clerk	Cathy Woolery
Public Works Director	Ramon Camacho

VISITORS PRESENT

Gwen Dinwiddie	Larna Warren
Mike Dinwiddie	Edna Lawrence
Rose Bradford	Ron Buckley
Tino Flores	Diana Herrick
Joe Weller	Don Jones

CALL TO ORDER/PLEDGE OF ALLEGIANCE

Mayor Hosler called the meeting to order at 6:00 p.m. followed by the Pledge of Allegiance.

ROLL CALL

Mayor Hosler requested Town Clerk, Cathy Woolery, to call the roll. Quorum was present.

CALL TO THE PUBLIC

Mayor Hosler invited the public to address the Council on any non-agenda item. No persons addressed the Council.

**POSSIBLE DISCUSSION AND POSSIBLE APPROVAL OF THE REVISED IGA
BETWEEN THE TOWN OF HAYDEN AND THE TOWNS OF KEARNY,
WINKELMAN, AND MAMMOTH**

Town Manager Anna Flores provided the original IGA between the Town of Hayden, Town of Winkelman, Town of Kearny, and Town of Mammoth. This is the original agreement that is being proposed with minor changes requested by the Town of Kearny. The other modified copy received by the towns is not to be considered. Councilmember Herrera commented this is an agreement to share our resources as a coalition with the other communities but does not have enough details to understand the full scope of the coalition and feels like it is a costly venture and is not really in favor of this. Councilmember Stephenson clarified that this is not the coalition and this IGA is strictly to share the Chief and is 100% separate. Councilmember Herrera stated

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he feels the IGA will eventually head into the direction of a coalition. Mayor Hosler also stated that it is important to draw a distinction between the two. The coalition group has not met since April because they wanted the four towns to decide on and get settled on a common chief. Also, the Town of Hayden will probably go ahead and move ahead to get a chief if we do not approve this. This would leave Kearny at a disadvantage because we will have to go and get a chief on our own. Mayor Hosler is in favor of the IGA despite difficulties with Chief Martinez. This IGA is much clearer with direction, and it does give us an opportunity for a possible coalition. He trusts the process. Councilmember Herrera still has questions about the chief's interaction with the town and how much time will be allotted to the Town of Kearny. Mayor Hosler explained that he feels the Chief is working with all the officers and would not be concerned with how many hours he is working specifically in the town as he is a supervisor. He would be spending a lot of time working with officers, time on the road, and in office with paperwork. He personally feels he would be perhaps spending more time in Kearny and in Hayden simply because it is more convenient with where the office and dispatchers are. Mike Dinwiddie questioned Winkelman and payment of their portion of the cost of the chief. Vice Mayor Radcliffe explained Winkelman already has a service contract with Hayden and pays Hayden directly. The only ones that are paying under this IGA are Kearny, Hayden, and Mammoth. Councilmember Stephenson asked if Hayden has an IGA solely with Winkelman for police services. Vice Mayor Radcliffe stated the IGA should say the agreement is with Hayden, Kearny, and Mammoth. Mayor Hosler stated it is spelled out clearly under Section IV Funding, but it is an agreement for a chief for all four towns. Vice Mayor Radcliffe thinks it could be great and save a lot of money with sharing a chief for costs but is questioning the liability under Section IX Liability. He feels if something happens in Hayden or Mammoth then Kearny should not be held responsible for any liability claims. Councilmember Hinojos also stated even with Winkelman because the IGA references all parties. Councilmember Herrera also agrees that Winkelman needs to be either in or out because all applicable laws apply to all parties as stated under Section X Applicable Law. Vice Mayor Radcliffe suggests changing the liability section and then he believes it will be a good deal. Councilmember Hinojos requested input from Don Jones, the Mayor of Mammoth. Mayor Jones expressed his opinion in agreement with Councilmember Herrera regarding a coalition, but with the chief position he feels it is a go. The chief is not a big major management situation and all towns will save big bucks as much as \$40K to \$50K. We have had the county and DPS in here and saved a bunch of money. Vice Mayor Radcliffe commented again he had concerns about the liability occurring in other towns and Kearny being held responsible for that. Mayor Jones stated that according to Mayor Bobbie Smith the liability is covered under their umbrella. Vice Mayor Radcliffe explained if there are any claims or attorneys are hired then Kearny will have to pay a third of the cost. Mayor Jones stated each town has their own insurance. Vice Mayor Radcliffe expressed yes we all have the same risk pool but our costs are currently going down. If there is another claim with one of the other towns then our rates are going to go back up again. Mayor Jones said he is looking at it passing three different towns due to it being \$30K for a chief. Mayor Jones stated the IGA is under Hayden and the attorney was consulted. They are having a special meeting tomorrow night and passing the original IGA. They don't want to hire someone that is going to go out and mess up. Vice Mayor Radcliffe stated he has no problem with the IGA but the liability part needs to be changed to each town being held liable for their town. Councilmember Hinojos asked Mayor Jones if they have a problem with that. He said not really because they also have high liability rates due to situations with a chief in the past, does not want to have a bunch of claims, but their rates are also coming down. He said according to Bobby it will fall under Hayden and they will take care of it. Vice

Mayor Radcliffe says that can be what he says but that is not what the IGA says. Mike Dinwiddie requested the Council not to get tunnel vision and focus on saving \$40K or \$50K. He does not like the police chief and thinks it is a good idea with one police chief if it was a different one. He believes the liability portion does need to be rewritten for each town especially if something massive would happen. Councilmember Herrera stated it would be even worse if the liability involved a Winkelman issue. Vice Mayor expressed this has nothing to do with who the chief of police is over in Hayden, whether it is Dave Blue or the chief from Phoenix. His concern is the liability issue. Gwen Dinwiddie requested the liability portion of the IGA be read aloud. Mayor Hosler read the portion. Gwen confirmed that in the first sentence it states "each party shall share equal responsibility" which means we all pay one third of all costs. Mayor Jones stated that Bobby has Southwest Risk which we all have. The hiring and firing is being done by Hayden. Scheduling is not an issue for him as far as equal time and thinks we can work that out. The one thing he believes in is he feels the insurance is covered by Hayden just like car insurance works. Mayor Hosler thinks that is partially correct as Hayden is the prime hirer. He thinks the way it is worded that it only allows for one lawsuit. Mayor Jones thinks it is all one boundary for all towns. He mentioned that the last he heard was that Blue would like all towns to sign the IGA and if not then he may or may not be the chief. Councilmember Herrera reiterated that we have not heard anything where Winkelman will hold us harmless for any liabilities. Mayor Jones said that Winkelman is on the IGA, but they are under contract with Hayden and cannot come to Kearny and say something happened and Kearny is liable. They would have to go to Hayden because they are contracted with Hayden for approximately \$65K per year. Councilmember Hinojos stated if there is a person who gets injured and files a lawsuit and gets hold of the IGA then the person can put a lawsuit against each town. That is all they need to place a claim against each town. It is simple to just change it to where each town will still take responsibility for what they need to take for. Mayor Jones expressed that he will be going to his Council tomorrow night and is asking them to sign the IGA because he does not see a problem with it. Councilmember Hinojos said we are getting closer because there is more communication but the Mayors need to sit down and really look at the IGA. Vice Mayor Radcliffe stated again that he can agree to the IGA if the liability part is changed. Councilmember Hinojos agreed. Mayor Jones asked if they could make the change and pencil it in. Carol Lewis asked, is there a 60 day drop-out clause so if a liability presents a problem then we can just opt out. Mayor Hosler stated again that if Section III and Section IX are combined then that affects the liability, and he believes that means they can only sue one town and not three separately. Vice Mayor Radcliffe stated he spoke with Steve Cooper who said he cannot give us legal advice because he is over all three towns. Mayor Jones stated all towns can get out of this with the drop-out clause. Vice Mayor Radcliffe said not if the situation happens with a liability before we opt out. We would still be liable. Mike Dinwiddie expressed that Blue wanting all three towns to approve it or he is going to not come is a problem. That is saying something about him not wanting to come unless he has the money in his back pocket. We need to get the contract right the first time and he is asking the Council to get it right. Vice Mayor Radcliffe expressed everything is good on the IGA except the liability section, and he doesn't care who the police chief is. Mayor Jones asked the Council to pencil the changes in. Vice Mayor Radcliffe said he will make a motion to pencil the changes in. Councilmember Herrera stated that he knows that if you own a building and someone else owns a building then unless there is a hold harmless clause both parties are liable. Councilmember Stephenson said she likes Dan's idea. Councilmember Herrera stated this is talking about shared liability. Mayor Hosler stated he has

concerns about the interpretation because as he sees it is an attempt to keep us from getting sued three different times for malfeasance. Councilmember Herrera stated this is only liability as to the conduct of the police chief. Mayor Hosler stated that is correct because we have liability for each of our police departments. Mayor Jones also commented that he is not sure Blue would even take this for a one year contract. Mayor Hosler asked Town Manager Anna Flores if the risk pool has looked at the IGA and said anything. Town Manager Anna Flores stated not that she is aware of. Councilmember Stephenson asked Vice Mayor Radcliffe about the IGA under liability if they penciled in "each party shall have individual liability and responsibility for claims" changing the two words. Take out the words "share equally the". Mayor Hosler is concerned that the change will then allow all three towns will be sued individually and not as one. Mayor Hosler suggested they approve it and then immediately consult with an attorney for the modifications. Mayor Jones said he already tried changing it, but Bobby Smith said no. Hayden will pull out and Mayor Jones stated he is not prepared to pay \$100K for an individual chief. Mayor Hosler expressed he does not like the change of wording because he feels it will make us more liability, but he will vote for it because it can be modified down the line if need be.

Motion by Vice Mayor Radcliffe, **second** by Councilmember Stephenson to adopt the IGA between the towns with the following modification under Section IX Liability to read as follows: "Each party shall have individual liability and responsibility for claims, demands or judgments (including costs, expenses, and attorney's fees) resulting in personal injury to any person or damage to any property arising out of the performance of the chief in their respective towns." **Vote** –Mayor Hosler, Vice Mayor Radcliffe, Councilmember Flores, Councilmember Hinojos, and Councilmember Stephenson – Aye; result unanimous vote. Councilmember Herrera – Nay. **MOTION PASSED.**

POSSIBLE DISCUSSION AND POSSIBLE APPROVAL OF REPAIRING WELLS #3, 6, 7, 8

Town Manager Anna Flores presented information from the site visit of wells #3, 6, 7, 8 done by BLM. The road to Wells 6, 7, & 8 must be repaired before BLM will approve the MOU. Also, the team informed her that all wells can be repaired for \$250,000 if the town can repair the road. Ray informed her that well #4 is beginning to show signs of less production and is shutting off on its own. This will be an approximate cost of \$12K. Well #4 is the reliable well in that location. They spoke with Mike Kotraba who says that ASARCO can help with repair of the road and possible pump test free of charge. Also, Bill Stanbaugh said he will also help with road repairs. In order for Wells #6, 7, 8, we will need to purchase a chlorine pump station at some point. Ray Camacho, Public Works Director, is here to answer any questions. Bill Stanbaugh can help us get culverts and size. Vice Mayor Radcliffe suggested maybe have him come out and then determine the length of the road and go from there. Ray agreed Mr. Stanbaugh could be asked to go out to look everything over. Town Manager Anna Flores asked if this is something Council wants us to investigate further. Vice Mayor Radcliffe said if we can get the wells operating then that will cut our dependency on the Indians. Mayor Hosler asked where the \$12K would be funded. Town Manager Anna Flores explained it would be from a WIFA loan with the other water issues funded from the WIFA loan. Vice Mayor Radcliffe asked if we ever heard back from Ram. Town Manager Anna Flores stated yes, and he wanted to ask Council what they wanted to do. Vice Mayor Radcliffe said his cost was much more just to have well #3 repaired and asked for Ramon's ideas. Ramon explained history shows for those wells, particularly well #8, which pumps at 450 gallons/minute that was pump tested for 24 hours. We can use those wells to supplement and cut down use of well 2A from this time of year until April. Get three

wells pumping on a regular basis. It is also recommended at least a minimum of 72 hours for a pump test. According to Mike and the research that was done definitely the pumps that are on the three wells were oversized and that affects the draw-down and is harder for the well to recharge. It is worth a try but need to make sure everyone is in agreement, and spend money that needs to be spent. We need a decent road to do this. Vice Mayor Radcliffe thinks it may lead to a more permanent solution for our water. Ramon stated the wells and distribution lines to tanks are in good shape, and the project was just abandoned about 12 years ago. He says the work done on the wells before never really felt right and needs to be investigated if we have the money. Vice Mayor Radcliffe said with a smaller pump and pumping less it will not have to work as hard and has a chance to recover which will cut our usage down of well #2. Ramon said the cost of four wells would be \$250,000 compared to the \$250,000 just to repair well #3. Mayor Hosler stated these wells are not under the Gila Water equity. Vice Mayor Radcliffe commented the extra wells pumping would help supplement even if they pumped 45 to 50 gallons/minute especially in the winter. If they pump as much as 200 gallons/minute then Ray said that would be too much for the chlorine station to chlorinate. Ray did state the water up there is better water and would go right into the tank and would not have to go into the water treatment plant. Ramon feels it is a win/win. Vice Mayor Radcliffe said he feels we need to look into this more. Councilmember Stephenson agreed to look into the wells. Mayor Hosler agreed and stated the town has needed to look into this since 1958.

Motion by Vice Mayor Radcliffe, **second** by Councilmember Hinojos to direct staff to get further information on wells #3, 6, 7, and 8. **Vote** – All members voted in favor. **MOTION PASSED.**

ADJOURNMENT

Motion by Vice Mayor Radcliffe, **second** by Councilmember Stephenson to adjourn. **Vote** – All members voted in favor. **MOTION PASSED.** Meeting was adjourned at 7:02 p.m.



Sam Hosler, Mayor



Anna Flores, Town Manager

ATTEST:



Cathy Woolery, Town Clerk