



**MINUTES OF THE
HUACHUCA CITY TOWN COUNCIL
MEETS
THURSDAY, APRIL 11 2019, AT 7:00PM
HUACHUCA CITY TOWN HALL-500 N. GONZALES BLVD. HUACHUCA CITY,
AZ 85616**

AGENDA

A. Call to Order

Mayor

- Pledge of Allegiance
- Roll Call and Ascertain Quorum
- Invocation

Any prayer/invocation that may be offered before the start of regular Council business shall be the voluntary offering of a private citizen, for the benefit of the Council and the citizens present. The views or beliefs expressed by the prayer/invocation speaker have not been previously reviewed or approved by the Council, and the Council does not endorse the religious beliefs or views of this, or any other speaker. A list of volunteers is maintained by the Town Clerk's Office and interested persons should contact the Town Clerk's Office for further information.

The meeting was called to order at 7:00pm. The Pledge of Allegiance was led by Mayor Johann Wallace.

Roll Call.

Present: Johann Wallace, Donna Johnson, Debra Trate, Joy Banks, Cynthia Butterworth, Christy Hirshberg, Walt Welsch, Matthew Williams (Not Voting), Thomas Benavidez, Attorney (Not Voting)

The invocation was led by Elder James Thomas.

B. Call to the Public

Mayor

A.R.S. 38-431.01 states the Public Body may make an open call to the public during a public meeting, subject to reasonable time, place and manner restrictions, to allow individuals to address the public body on any issue within the jurisdiction of the Public Body. At the conclusion of an open call to the public, individual members of the Public Body may respond to criticism made by those who have addressed the Public Body, may ask staff to review a matter or may ask that a matter be put on a future agenda. However, members of the Public Body shall not discuss or take legal action on matters raised during an open call to the public unless the matters are properly noticed for discussion and legal action.

C. Consent Agenda

Mayor

All items listed in the Consent Agenda are considered routine matters and will be enacted by one motion of the Council. There will be no separate discussion of these items unless a Member of the Town Council requests that an item or items be removed for discussion. Council Members may ask questions without the removal of the item from the Consent Agenda. Items removed from the Consent Agenda are considered in their normal sequence as listed on the agenda, unless called out of sequence.

- C.1 Consider approval of the minutes of the regular Council meeting held on March 14, 2019.
- C.2 Consider approval of the minutes of the regular Council meeting held on March 28, 2019.
- C.3 Consider approval of the minutes of the Council executive session held on March 28, 2019.
- C.4 Consider approval of the Payment Approval Report in the amount of **\$64,765.55**
- C.5 Authorize the declaration as surplus property the following items, to be sold by auction or otherwise disposed of in accordance with Town Policy:
 - a. Lot of Library NOOK readers

Motion: Consider approval of the Consent Agenda, **Action:** Open for discussion and/or Action, **Moved By** Mayor Wallace **Seconded by** Councilmember Hirshberg.

Councilmember Trate abstained from consent agenda item C.1 as she did not attend the March 14th Council meeting.

Motion: Approval of Consent Agenda, **Action:** Approve consent agenda as presented. **Moved by** Mayor Wallace **Seconded by** Mayor Pro-Tem Johnson

D. Unfinished Business before the Council

Mayor

Public comment will be taken at the beginning of each agenda item, after the subject has been announced by the Mayor and explained by staff. Any citizen, who wishes, may speak one time for five minutes on each agenda item before or after Council discussion. Questions from Council Members, however, may be directed to staff or a member of the public through the Mayor at any time.

- D.1 Discussion and/or Action: [Manager Williams]: Adoption of Resolution 2019-13 adopting a revised School Road agreement with Tombstone Unified School District.

Motion: Open D.1 for discussion **Action:** Open for discussion
Moved by Mayor Wallace **Seconded by** Councilmember Butterworth.

Motion: Approve resolution 2019-13 to adopt revised School Road agreement, **Motioned by** Mayor Wallace, **Seconded by** Councilmember Banks. Motion Passed unanimously.

D.2 Discussion and/or Action: [Mayor Pro-Tem Johnson]: Behavior of Councilmember Walter Welsch in light of the Town's Code of Conduct for Elected Officials.

Motion: Open D.2 for discussion. **Action:** Open for discussion. **Moved by** Mayor Wallace. **Seconded by** Mayor Pro-Tem Johnson.

Mayor Pro-Tem Johnson discussed comments made during the March 14th council meeting by Councilmember Welsch that were heard by herself, Mayor Wallace, and Manager Williams. Mayor Pro-Tem Johnson reminded everyone that they were all given a Code of Ethics that helps dictate how councilmembers should act with each other. Councilmember asks that Councilmember Walt Welsch watch his comments from now on. Councilmember Walt Welsch apologized for saying it out loud but not for thinking it.

Mayor Wallace asked Mayor Pro-Tem Johnson if this was satisfactory and she agreed that it was.

E. **New Business before the Council**

Mayor

Public comment will be taken at the beginning of each agenda item, after the subject has been announced by the Mayor and explained by staff. Any citizen, who wishes, may speak one time for five minutes on each agenda item before or after Council discussion. Questions from Council Members, however, may be directed to staff or a member of the public through the Mayor at any time.

E.1 Discussion and/or Action: [Mayor Wallace]: Scheduling of Town Manager's annual performance evaluation and review of rating criteria.

Motion: Open Item E.1 for discussion. **Action:** Open Item for discussion. **Moved by** Mayor Wallace **Seconded by** Mayor Pro-Tem Johnson.

Mayor Wallace provided Councilmembers with a suggested evaluation form to aid in being prepared for Manager Williams' upcoming evaluation. Mayor Wallace requested that they review it and provide him with any suggestions for changes/ feedback and he will then have Mr. Benavidez review it along with any changes that are made.

Councilmember Welsch asked if this was on the agenda.

Councilmember assisted Councilmember Welsch in finding it on the agenda.

Mayor Wallace clarified that the review was not being done tonight, they were just trying to set the criteria.

Mr. Benavidez informed Councilmember Trate, since she was not here last year, that in May of last year the Council did a really cursory review because Manager Williams had only been here for 4 months.

Mayor Wallace requested that the Councilmembers have any suggestions/ feedback at the next council meeting so that the changes can be incorporated and the final product can be reviewed by Mr. Benavidez before it is actually used.

Councilmember Johnson suggested that the review take place at the first meeting in May.

Councilmember Welsch stated he believes that for an annual review, the suggested evaluation form is inadequate.

Mayor Wallace asked that Councilmember Welsch write up his concerns/ suggestions and give it to him.

Mayor Wallace asked Manager Williams if the first meeting in May would work for him. Manager Williams agreed.

Motion: To set Manager Williams' annual performance evaluation for the first council meeting in May 2019. **Moved by** Mayor Wallace, **Seconded by** Mayor Pro-Tem Johnson. Motion passed unanimously.

Manager Williams asked if Mayor Wallace would like this form at the meeting on April 25, so that it is approved in advance of the review in May. Mayor Wallace confirmed this.

E.2 Discussion and/or Action: [Manager Williams]: Approval of Town Clerk job description and Council direction to staff to begin the hiring process.

Motion: Open E.2 for discussion and/ or action. **Action:** Open for discussion. **Moved by** Mayor Wallace, **Seconded by** Councilmember Butterworth.

Manager Williams provided several different job descriptions for this position from other small towns in Arizona, along with a copy of the old job description for comparison reasons. He asked that Councilmembers look at this because now is the time to change the job description if the decision is made to do so.

Councilmember Trate stated she liked the job description provided by Dewey-Humboldt the most. She did recommend a couple of changes to it though. She also asked if employees have background checks and drug/ alcohol testing. Manager Williams confirmed that those things are done. She did express concern about the ability to find someone with the qualifications that are being sought.

Manager Williams stated he believes that we will get someone early in their career or at the end of their career, especially because of the pay for the position.

Mayor Wallace states the job description provided had been reviewed by the Mr. Benavidez and that Mayor Wallace like it and did not see a problem with it.

Councilmember Butterworth asked about the physical requirements and ADA. Manager Williams and Mayor Wallace answered her questions. Mr. Benavidez stated it is best to have these things out front and deal with accommodations.

Motion: Approve job description for Town Clerk Position and direct Manager Williams to begin the hiring process to fill that position. **Moved by Mayor Wallace, Seconded by Councilmember Hirshberg.** Motion passed unanimously.

E.3 Discussion and/or Action: [Mayor Wallace]: Appointment of Matthew Williams as Interim Town Clerk until a new Town Clerk is hired.

Motion: Open E.3 for discussion and/or action. **Action:** Open for discussion. **Moved by Mayor Wallace, Seconded by Councilmember Joy Banks.**

Mayor Wallace explained that this is just a formality since there has to be someone named in the position of Town Clerk for records releases and such.

Councilmember Butterworth asked if we would be paying him more for this. Mayor Wallace stated no, he would not be paid more for this.

Motion: Appoint Matthew Williams as Interim Town Clerk until a new Town Clerk is hired. **Moved by Mayor Wallace, Seconded by Mayor Pro-Tem Johnson** Motion passed unanimously.

E.4 Discussion and/or Action: [Manager Williams]: Council consideration and possible adoption of Town volunteer policy.

Motion: Open E.4 for discussion and/or action. **Action:** Open for discussion. **Moved by Mayor Wallace, Seconded by Councilmember Butterworth.**

Manager Williams brought up the lengthy discussion during the March 14th council meeting regarding insurance policies and if volunteers need to be covered. He provided a document that lays out state laws regarding who is covered by insurance. He clarified the difference between volunteers and people who are working with the city. He broke it down as a volunteer is being supervised by a city employee, while someone just working with the city would be someone who is doing work under their own supervision with no direction from staff. These groups often times

carry their own insurance. He stated that if we want to put volunteers on our insurance we can, however that requires council resolution listing all their names out and costs \$116 per year/ per volunteer. These volunteers would need to be long term to make it worth it. He stated that he did not write a policy because he did not know if that would be something the council would want to do. He stated that Sierra Vista has no standard volunteer policy, just numerous forms to fill out to be a volunteer.

Mayor Wallace requested questions from council for Manager Williams so that he could think this information over for a little longer.

Councilmember asked for further clarification about if a group were to come and want to do work for the town, how they were not considered to be a volunteer of the town. Manager Williams again stated that the difference is between supervision and non-supervision.

Councilmember asked about the shelter and the volunteers there. Manager Williams clarified that if they are being directed then they would be considered volunteers. He brought up Sierra Vista dealing with something similar recently in which a group was doing things yet not being directed by staff, the staff were simply the liaison between the group and the city.

Mayor Wallace agreed and reiterated Manager Williams' distinction between volunteers and groups acting on their own.

Manager Williams stated that you can never have enough insurance for every lawyer in the world. The town's buildings are covered by insurance already, so that if someone were to fall at the community center, it is already covered by insurance.

Councilmember brought up the gentleman at the library who cleans up the park and other things, stating that he is doing that on his own and is not being directed to do so by staff. This to her would be a volunteer and she stated that we wouldn't carry insurance on him.

Mayor Wallace asked if we have had anybody come and say they want to come and volunteer time for the city. Manager Williams stated that that happens quite often, especially by Boy Scout troops and Eagle troops and that sort of group. They ask for lists of things that the city would like to have done and the group chooses a project they are interested in doing and does it on their own.

Mayor Wallace has concerns about when someone asks to volunteer their time are we going to say yes and let them do it or are we going to say we have no policy and not allow it. He stated he is on the fence about whether one is needed or not and it needs to be decided if there is a need and if not then there need to be forms in place for people to come in and fill out when they want to volunteer.

Manager Williams stated that a volunteer policy and volunteer form are two different things. Mayor Wallace agreed.

Manager Williams stated that he believes it also depends on what the volunteer is doing. If they were supervising a youth basketball league, for example, then they would need to have a background check done before being allowed to do so.

Councilmember Welsch stated he thinks we are making assumptions that could prove problematic for the city. He stated that he does not know what the ARS means when they say deemed to be status to be an employee. He believed status as an employee meant you get a w-2 but they are saying that volunteers are covered. Mayor Wallace corrected that to be deemed by statute to be volunteers. Councilmember Welsch stated that the ARS is clear as mud.

Mr. Benavidez addressed the council to say that the statutes cover workers compensation, and if you want to cover volunteers you are allowed to make them employees for the purpose of workers compensation. It provides the volunteer an avenue in case they get injured and prevents the city from being sued for something like ordinary negligence or something because they would be under workers comp. Otherwise it is an issue of general liability such as unsafe premises, bees, a dog that you didn't know about that you could get sued for. He stated it's hard to protect from all these things but a town can put its volunteers under its workers comp policy.

Mayor Wallace asked how many times someone comes in off the street wanting to volunteer. He stated that right now he doesn't believe we need a volunteer policy until there is a massive influx of people who want to volunteer. Councilmember stated she thinks if we get a massive influx of people we should get on our knees and say thank you.

Councilmember stated that if Sierra Vista, who is so much bigger, doesn't have one then she feels we shouldn't have to be locked into one either. She suggested we follow Sierra Vista's lead. Mayor Wallace agreed and stated that in some things we can follow their lead, and he believes this is one of those things.

Mayor Wallace stated he does not believe that we need to adopt a volunteer policy. He stated that the direction was to create one and he does not think we need one so no motion needs to be made.

No motion made on this item.

E.5 Discussion and/or action: [Councilmember Welsch]: Consideration of the status/definition of the relationship of the Friends of the Huachuca City Library and the Town of Huachuca City.

Motion: Open E.5 for discussion and/or action. Action: Open for discussion. Moved by Mayor Wallace, Seconded by Councilmember Hirshberg.

Councilmember Welsch reminded everyone that at the council meeting on March 14th, there was a statement made that the Friends of the Huachuca City Library were not volunteers, but were service providers. He states that he questioned that and neither the council nor the staff voiced any opinion at all so that statement stood so if they have been determined to be a service organization to the city, he is sorry to say because of what was passed in the request for proposal for the senior center, a precedent was set that an organization providing a service to the city on a regular basis was required to be an LLC, carry insurance, and possibly pay for costs incurred such as electricity, building rent, and all those other things. He is saying that if that is the policy, then with them being a service organization, then that is being ignored. He further states if that is the policy, the precedent, that he doesn't agree with which he voted against when he was allowed, and the council hadn't recused him when the ARS said they didn't have to, if the council made that ruling then he suggests that they support it.

Mayor Wallace asked Councilmember Welsch what ruling they made. He responded that he doesn't have the RFP to read. He only knows that if they were going to submit an RFP, they had to be an LLC, have group liability insurance, and be responsible for in kind services equivalent to something close to \$25,000.00.

Mayor Wallace states the Councilmember Welsch is missing a key factor which is that whatever entity was running the Senior Center, was actually running the Senior Center. The Friends of the Library are not running the Library. He states there is a huge difference between those two items so there was no precedent that was set. Councilmember states that they are a service organization that was defined at the council meeting. Councilmember Welsch states that he tried to comment that they were volunteers, she became very upset. Councilmember Welsch states that she became abusive to him because he said they were volunteers.

Mayor Wallace states that they did not make a motion to define the Friends of the Library as a service organization therefore they are not a service organization. He further stated that we don't make that determination for them. He also reiterated the difference between who was running the Senior Center and who is running the Library.

Councilmember Welsch questioned why running the book sales, having the Conex and using electricity are just ignored. Mayor Wallace questioned if we own the Conex, Councilmember Welsch stated that we paid for it and then donated it to them as he understood it. Mayor Wallace verified that we made the donation and asked how long ago that was. It was debated amongst council about how long ago that was. Councilmember stated that it was 15 years ago. Mayor Wallace asked Mr. Mascato if they have electricity in the Conex. Mr. Mascato confirmed that they do and Mayor Wallace asked where it comes from. Mr. Mascato stated it is connected to the library building. Mayor Wallace stated that the town pays their electricity. Mr. Mascato states that they use it for 4 hours once a month.

Mayor Wallace questions the gift clause, states that he knows that the Friends of the Library routinely financially support the Library through their book sales and that all the monies from the book sales go back into the library. He questions how that plays out. Mr. Benavidez states that by law, if the town pays something out, they must get a quid pro quo back. Mayor Wallace states that they are getting more than that in return.

Mayor Wallace asked if there are any other questions from council. Councilmember wanted to say that what was talked about regarding the Senior Center was specific only to the Senior Center. She states that the discussion around the RFP and the potential contract with the LLC running it was a separate issue. We were not defining a service organization. We do not have a definition of a service organization that covers all the various service organizations that might be interacting with the town. She states that there is no comparison that can be made.

Mayor Wallace has a call to the public.

Charles Mascato, 2340 N. Hummingbird Rd., Huachuca City, Whetstone area. He states he is currently the President of the Huachuca City Library Friends Group. He just wanted to state that they are not in any way volunteering directly to the library. Councilmember Welsch wants to know if he can ask questions. Mayor Wallace confirms that he can. Councilmember Welsch asks if they maintain the garden, Mr. Mascato states that they help maintain the garden. They have volunteers that occasionally come in to water and/or plant, but they are not there daily to water the garden. Councilmember Welsch states that a volunteer does not have to be there daily. Councilmember states that she understands the difference between the Friends of the Library and the Library. She states that they don't own the Library, they don't listen to the Library or anything. Mayor Wallace helps clarify what she is saying, which is not that they don't listen to the Library and its needs, just that they are not directed what to do by the Library.

Mayor Wallace asks Mrs. Harvey to tell him about the garden real quick. She states that the garden was a project that the Friends of the Library overtook because there was an empty space there. She clarifies that she was not the Director at the time, this was before her time as Director, and she was an employee at the time. The Friends of the Library asked permission to put a garden in half of the space and had Grasshopper Landscaping do the rest. It was not a Library project or funds, the Library simply gave them the space to do it. She further states that if a child comes in wanting to plant a flower, they let them plant a flower. That space is like a community space in which anyone can come and work. There is no schedule for the work that gets done, the Friends of the Library manage their project and decide what gets done and when. She compares it to a Cochise County project that does the book boxes in Whetstone. She is not involved in this program, and the entity that does it assumes responsibility, Cochise County does not direct them in any way.

Councilmember states that a lot of rural libraries in Cochise County have groups that support them, and not once has she heard that they were considered a service organization. They just help to raise funds for the town because they needed the help and extra money.

Mayor Wallace tells Ms. Woodruff that he can't allow her to speak at this time due to the rules.

Motion: Temporarily suspend the rules so Ms. Woodruff may speak. **Moved by Councilmember Welsch, Seconded by Councilmember Butterworth.** Motion passed unanimously.

Ms. Woodruff states she has been around since the garden wasn't maintained or watched and nothing would grow because it wasn't tended. It was dead space outside the Library. She states it was a resource that needed to be used.

Mayor Wallace wants to know if Councilmember Welsch has any questions for Ms. Woodruff. Councilmember asks if this will be back in order now. It is agreed that meeting is back in order.

Councilmember Welsch states he has been a volunteer in this state for 18 years. What he is concerned about is that comments were made saying they are a service organization and nobody in the council or management corrected that. That was allowed to stand as part of the minutes of the meeting and that is a problem because it is changing it from being an advisory committee and a group that helps the Library to a service organization by declaration during council.

Mayor Pro-Tem Johnson asks to be shown that because she cannot find it.

Mayor Wallace concedes that they do provide a financial service to the Library. Councilmember Welsch has no problem with that, just a problem with them being declared in council as a service organization. Mayor Wallace states that the Town of Huachuca City has not made a decision to define the Friends of the Library as a service organization.

Mayor Wallace asks for council questions and then allows Mr. Mascato to speak again. Mr. Mascato states that Mrs. Harvey simply tells them what she is working on and trying to figure out and they go and make a decision how to help. She has no say in what they do or how they help.

Councilmember Welsch states that he is only upset because she stated that they were a service organization and he considered that a wrong call and nobody corrected that.

Mayor Wallace asks Councilmember Welsch for his definition of a service organization. Councilmember Welsch states that it is any group that provides a service to the town. He clarifies as a group.

Mayor Wallace wants to know why that has anything to do with what the Friends of the Library do. Councilmember Welsch states that he believes that that was addressed by the council when they approved the content of the RFP for the Senior Center. Mayor Wallace states that they are two different things.

Mayor Pro-Tem Johnson states that she is not attempting to upset Councilmember Welsch but that the people being talked about have names and he should refer to them by name as opposed to she or her or him. She requests that he be respectful and say their names.

Mayor Wallace asks what motion Councilmember Welsch wants. Councilmember Welsch states he does not have one he just wants people to realize that they created a problem.

Mayor Wallace states that there is no problem, if there was the attorney would be all over it. Mayor Wallace determines there is no motion to be made regarding E.5 and thanks the Friends of the Library for everything they do.

No motion. No Council action taken.

E.6 Discussion and/or Action [Mayor Wallace]: Proclamation declaring April 2019 as Fair Housing Month.

Motion: Open E.6 for Discussion and/or Action. **Action:** Open for discussion. **Moved by** Mayor Wallace, **Seconded by** Councilmember Butterworth.

Mayor Wallace reads the Fair Housing Proclamation. Mayor Wallace proclaims April 2019 as Fair Housing Month and urges all citizens to comply with all laws regarding fair housing.

A break is requested on behalf of Councilmember Welsch at 7:57pm.

Motion: take a 10 minute break to return at 8:10pm **Moved by** Mayor Wallace, **Seconded by** Councilmember Hirshberg. Motion passed unanimously.

Mayor Wallace states back in open session at 8:10pm.

E.7 Discussion and/or Action: [Mayor Wallace]: The Council might vote to go into executive [closed] session, pursuant to A.R.S. 38-431.03(A) (1), to discuss employment matters regarding the Library Director, Suzanne D. Harvey. Any action on this item would be taken in public [open] session.

Motion: Open E.7 for Discussion and/or Action. **Action:** Open for discussion. **Moved by** Mayor Wallace, **Seconded by** Councilmember Joy Banks.

Mayor Wallace asks Mrs. Harvey if she would prefer executive session or open session in this matter. Mrs. Harvey states she would like an open session. Mayor Wallace acknowledges her wish for open session and no executive session will be required.

Mayor Wallace states this is on the agenda because a few meetings back they pushed something to the City of Sierra Vista for them to review regarding a claim of hostile work environment made by Mrs. Harvey against Councilmember Welsch. The report is back and Mr. Benavidez has reviewed it, which is confirmed by Mayor Wallace with Mr. Benavidez. Mayor Wallace also confirms with council that they have seen it.

Mayor Wallace refers to the summary of the review, stating that the claim of a hostile work environment doesn't stand however there are several violations of the council code of conduct on the behalf of Councilmember Welsch.

Mayor Wallace states that there is nothing more to add, the claim was investigated through interviews and found that there is no hostile work environment but clear violation of council code of conduct.

Mayor Wallace asks for council comments or questions. None are presented.

Mr. Benavidez suggests that Mayor Wallace ask Mrs. Harvey if she would like to comment.

Mrs. Harvey states that her desire with pushing this forward was just for this behavior to stop. That is all she wants. She asks that any interactions between herself and Councilmember Welsch done in public and when necessary only. Mrs. Harvey states she feels like based on past experiences if the council does not take formal action, the behavior will not stop.

Mr. Benavidez suggests that Councilmember Welsch also be allowed to speak if he wishes.

Councilmember Welsch states that prior conclusions to comments were made due to her belief that he retaliated. The first item pertains to his recusal of himself from signing a letter. That was done because of a letter he received from our attorney requesting he take a hands off approach to the Library until this was resolved. Councilmember Welsch states that that is why he did it, it was not retaliation, and he was following a request from the city attorney. Councilmember states that he was told that everyone received a copy of that letter.

Councilmember Welsch states that secondly she talks about him being berating and aggressive. He states he believes she was snubbing and not appropriate in her responses to the question of "Do you have volunteers?" Councilmember Welsch states he believes she became hostile and he takes offence that her declaring these two things in a written document and submitting it to those evaluators on a situation that had occurred previously and he finds it unacceptable behavior for an employee of the city. Councilmember Welsch further states that if she had a problem it should have been taken to Matthew Williams and Manager Williams should have taken it to him. Councilmember Welsch states that instead she ran to the Sierra Vista Human Resource Department.

Mayor Wallace states that the sequence of events were that something happened in 2017 and she brought it to her supervisor at that time. Councilmember Welsch stated "she says". The former supervisor did nothing. There was apparently some email correspondence but nothing came of it at that time. This time she brought the issue to her supervisor, Matthew Williams, and Manager Williams is the one that did it, not Mrs. Harvey.

Mayor Wallace states that with that being said, these conclusions are a result of an investigation done by a third party entity, not anybody with the town. This is their findings.

Mayor Wallace reiterates that this was a claim of hostile work environment and that claim doesn't stand but there are clear violations of the council code of conduct.

Mayor Wallace asks Mr. Benavidez for any further comments. Mr. Benavidez states that his recollection is that Ms. Harvey asked that the complaint go to the council but even if she hadn't he believes that that is what would have happened anyway. He just wanted to make sure that that was clear on the record.

Mayor Wallace confirms that it was her request that it come to council. Councilmember Welsch asked why we didn't investigate.

Mayor Wallace states that he heard Ms. Harvey's request. He states that tonight's agenda item is about her and her employment status and he has no motion because he has no concern with her employment status. He further states that he has no concerns about her employment capabilities. He states that there is no action to be taken against her. Mayor Wallace states that the investigation is done, and there is no motion to be made about her employment status because it is not going to change.

Councilmember asked about the letter, and if it remains in effect or if it is a separate agenda item to be taken up at a later time. Mayor Wallace responded stating that Councilmember Welsch is still a member of this council and as such has every right to ask questions and visit the Library. He is still a member of the council and a member of the community. Mayor Wallace states that they can't prevent him from doing these things. Mayor Wallace further states that the council code of conduct does say that it should be filtered through the town manager to set up a meeting and he does expect that to happen should Councilmember Welsch want to speak to Ms. Harvey.

Mayor Wallace reiterates that as far as the agenda item is concerned there is nothing to do. Councilmember reminds that there is a code of conduct that they all have to abide by.

Councilmember Butterworth asks what the repercussions are for violating the code of ethics. Mayor Wallace states that they can censure or vote no confidence but that is not for tonight. Tonight was about Ms. Harvey and her job performance and nothing is changing regarding that.

Councilmember Welsch would like the code of conduct for employees, Mayor Wallace directs the question to Manager Williams. Councilmember Welsch states that he asked for it yesterday and was given the one for the council. Manager Williams states that he thought Councilmember Welsch had asked for the council one. Councilmember states that no, he wanted the employee one. Manager Williams apologizes for the misunderstanding. Councilmember Welsch asks Chief Thies, who was present at the time of him asking for it, if perhaps he wasn't clear when he asked

Manager Williams for it. Manager Williams will ensure that Councilmember Welsch receives a copy. Manager Williams apologizes again and Councilmember Welsch states that he did not realize it until an hour before this meeting when he sat down to read it.

Mr. Benavidez asks Mayor Wallace if he may ask a question. Mayor Wallace agrees and Mr. Benavidez asks if the council feels that the investigation into this was sufficient with the complaint. Mayor Wallace states that he feels it was. Mr. Benavidez then asks Ms. Harvey if she feels the investigation was sufficient to evaluate her complaint. Ms. Harvey states that she does.

Mayor Wallace reiterates no motion at this time, apologizes to Councilmember Welsch as well about the mistake regarding the code of conduct. No action to be taken.

No motion at this time. No Council action taken.

E.8 Discussion and/or Action [Manager Williams]: Executive [closed] session, pursuant to A.R.S. 38-431.03(A) (3) and (4) for the purpose of discussion and consultation with the Town's attorneys pertaining to the pending litigation with ME Management [Dusk Till Dawn]. Following the executive session, the Council may take action in open session to direct the attorneys and/or approve Resolution No. 2019-14, authorizing an agreement to settle the litigation and acquire the Dusk Till Dawn property and the adjacent parking area.

Motion: Open E.8 for discussion and/or Action **Action:** Open for discussion. **Moved by** Mayor Wallace, **Seconded by** Councilmember Hirshberg.

Executive session began 8:20pm.

Executive session ended 8:43pm.

Motion: Enter back into public session. **Moved by** Mayor Wallace, **Seconded by**. Motion passed unanimously.

Mayor Wallace calls back in public session.

Motion: Approve Resolution No. 2019-14. **Moved by** Mayor Wallace, **Seconded by** Mayor Pro-Tem Johnson. Motion passed unanimously.

Councilmember Welsch asks if since they approved this motion, do we also need to approve the method of acquiring the funds or will it be dealt with another time. Manager Williams states it will be dealt with another time. Councilmember Welsch states that he believes that with that much money involved they should be involved. Manager Williams agreed.

F. Items to be placed on future agendas

Councilmember Welsch requests that there be a discussion/decision related to the managed direction to the council related to violations of the code of ethics.

Mayor Wallace asks for an agenda item regarding the possible censure of Councilmember Welsch.

G. Adjournment

Motion to Adjourn. Action: Meeting adjourned. Motion by Mayor Wallace. Seconded by Mayor Pro-Tem Johnson. Meeting adjourned at 8:47pm.

Approved by Mayor Wallace on April 11, 2019



Johann Wallace, Mayor

Attest: 

Matthew Williams, Interim Town Clerk

Seal:



Certification

I hereby certify that the foregoing is a true and correct copy of the Minutes of the Meeting for the Huachuca City Town Council held on April 11, 2019. I further certify that the meeting was duly called and a quorum was present.



Matthew Williams, Interim Town Clerk

