

**TOWN OF DEWEY-HUMBOLDT
TOWN COUNCIL
REGULAR MEETING MINUTES
JUNE 21, 2016, 6:30 P.M.**

A REGULAR MEETING OF THE DEWEY-HUMBOLDT TOWN COUNCIL WAS HELD ON TUESDAY, JUNE 21, 2016, AT TOWN HALL AT 2735 S. HIGHWAY 69, DEWEY-HUMBOLDT, ARIZONA. MAYOR TERRY NOLAN PRESIDED.

1. **Call to order.** The meeting was called to order at 6:32 p.m.
2. **Opening Ceremonies.**
 - 2.1. **Pledge of Allegiance.** Done.
 - 2.2. **Invocation.** Given by Councilmember Nancy Wright.
3. **Roll Call.** Town Council Members Arlene Alen, Mark McBrady, Dennis Repan, Nancy Wright; Vice Mayor Treadway and Mayor Terry Nolan were present. Council Member Jack Hamilton was 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.
 - 4.1. **Presentation by Pamela Pearsall, Yavapai County Assessor, to educate qualified tax payers about property tax assistance programs in Arizona offered through the Assessor's Office.** As approved at the June 7th meeting.

Pamela Pearsall, Yavapai County Assessor, gave a presentation on exemption and programs for constituents in the community. There are disability exemptions, and widower's exemption; a \$200-\$300 credit; Senior Freeze wherein property value, (not taxes) for qualifying seniors is frozen for three-year terms, and can be extended for three year intervals, if guidelines are still met. Ms. Pearsall said that although efforts have been made for a Veteran's disability deduction or program, this as yet has been unsuccessful. Ms. Pearsall is visiting local community meetings to educate on these programs, as the citizens have to contact the Assessor's office to enroll in these programs. A property owner could possibly qualify for more than one program.

Councilmember Repan inquired of Ms. Pearsall what she sees as far as economy and valuation in the upcoming year. Ms. Pearsall said that her office just updated to look at the trend and noted a flat line trend which is typical for an election year, but has heard there is a huge demand, so she expects to see an increase.

Public Comment was taken on this item.

Troy O'Dell spoke to owning property in the Superfund site location; it having influenced his property value negatively. He asked why the property is being taxed at full value if you can't sell or enjoy it?

Ms. Pearsall explained that the EPA furnishes a map to the Assessor's office on what they consider contaminated. The Department of Revenue says that the way to handle this issue is if property in the Superfund site is still considered contaminated it is figured at full market value, as if not contaminated, and then the assessed value is 1% of that. If there is a market response for a property not contaminated that falls within the Superfund area, is figured at 10%, which is the assessed value. If a property is not contaminated but still falls within the Superfund site an appeal can be filed with the Assessor's office who would

research the market response. The EPA provided a map on contaminated properties, it is not discretionary by the Assessor. Ms. Pearsall explained the appeal process; tools for assessing market value; and defined the process for a market stigma adjustment.

5. **Town Manager's Report**. Update on Current Events. No legal actions can be taken. Council may ask town staff to review an operational matter at this time, or may ask that a matter be put on a future agenda for actions or further discussion. Possible matters and projects are related to Town general administration, Finance, Public Works, Community Development.

5.1. Staff report on Planning and Zoning Commission's recommendation regarding Animal Code 153. Ad Council direction on next steps.

Community Planner/Code Officer (CP/CO) Steven Brown gave an overview stating that the Planning & Zoning Commission reviewed Code 153 and voted to recommend their latest amendments to Council with the following change. First the Planning Commission recommends that farm animals be "permitted uses" rather than "accessory uses" in the R1-; RMM; R1; C1; C2; C3; M1; and M2 zoning districts. Accessory uses would require someone occupying the premises where the animals are being kept; if they are to just be permitted and not as an accessory to the residence then animals could be kept on vacant property without the benefit of someone there to care for them. Staff recommends that animals remain as accessory uses, because of problems with absentee owners and perhaps many times there is a lack of care when there is no one living on the premises to care for them. Staff disagreed with the Commission's recommendation.

Mayor Nolan inquired what CP/CO Brown's recommendation was. CP/CO Brown recommended that the clause remain the same and they remain as accessory uses.

There was discussion amongst Council on situations favoring the recommendation by the Commission and problems with it: grazing uses; care of animals, etc.

CP/CO Brown described that permitted use there are no precursors to their exercising that use. An accessory use is sublimated to the primary use, it has to be accessory to something, many cases that would be a residence. It could also be commercial properties that have sheds, corrals, for the keeping of animals. So those would be considered accessory to the primary use of that property.

CP/CO Brown explained he shared his concerns with the commission, however, the Commission disagreed with him.

Public Comment was taken on this item.

Amy Timmons asked a specific question about use of a vacant property for animals, but being on-site with them; would this not be allowed according to the code?

CP/CO Brown responded with the code's accessory use definition.

Town Attorney Goodwin suggested an agricultural zoning as a response to what she was hearing.

Public Comment - Amy Timmons then spoke to the rural lifestyle of D-H and inquired as to why vacant property has to be contiguous to primary use property.

CP/CO Brown advised the Council that if there was desire to change the existing code that could happen tonight.

Town Attorney Goodwin defined that the Town could have a different agricultural exemption; create a zoning district that would permit these uses; or allow farm animals as

a permitted use as opposed to an accessory use. There are three ways to approach it.

CP/CO Brown commented that the Commission was not unanimous in their recommendation.

Public Comment - Ulys Brooks spoke on problems with property taxes if changing the size of a property.

There was Council consensus to send this matter to a work session.

CP/CO Brown addressed the definition for "Kennel" pointing out contradictory language in the definition recommended by the P & Z Commission regarding the use of the term "solely and primarily".

Town Attorney Goodwin stated the language would not be able to be enforced as written.

Public Comment - Victoria J. Wendt recommended going with the word primary and taking the word solely out of the kennel definition. Ms. Wendt also spoke of the definition of "household pet" having changed from what was discussed at the 3/22/16 workshop, and the old definition having been put back in the ordinance inquiring if this could be discussed at this time.

Council was unable to discuss this as the subject of "household pet" definition was not on the agenda.

Town Manager Kimball recommended having a meeting with Ms. Wendt to sort this issue out.

Public Comment - Amy Timmons spoke against number limitations regarding animals. Ms. Timmons spoke against delaying this to a future meetings.

Councilmember McBrady recommended the kennel and household pet definitions being put on the same work meeting as the previous issue of the zoning accessory and permitted use.

Public Comment - Amy Timmons asked Council to hold the work session in the evening so she could attend.

Vice Mayor Treadway recommended tackling all these animal ordinance issues at the same meeting.

Public Comment - Dakota Porter asked about the status of exotic pets in the animal code.

CP/CO Brown defined the exotic pet definition and that there were not expected changes regarding this issue.

Public Comment - Mike Simms spoke on Robert's Rules regarding no motions having been made to have previous issues mentioned placed on future agendas.

Town Attorney Goodwin advised that a motion could be made, but that it was not legally required, due to the nature of the items as listed on the agenda.

Town Manager Kimball asked for clarification on the items to be addressed at further work session. The items included Chapter 153 zoning regulations; Chapter 93 animal related regulations; kennel definition and household pet definition. It was determined to hold this work session on September 13, 2016, at 6:30 p.m.

5.2 Report on EPA Iron King and Smelter Superfund "Assistance Group" quarterly phone call.

Town Manager Kimball reported that this was her first time participating in the quarterly phone conference. TM Kimball included her report in the packet, but shared highlights of the phone call, including her report to the group regarding the successful well water test this fiscal year. TM Kimball spoke to the "Assistance Group" on the Council's letter to Senator McCain regarding the Superfund clean-up process being completed soon. The group sounded surprised that the Council took such a firm action. In preparation for FY16-17 well water testing, TM Kimball asked the group to follow up on the number of wells in Dewey-Humboldt. No one had an answer to that query. CP/CO Brown followed up and it appears there are approximately 2,000 wells in the D-H area; stating the information came from the ADWR well registry, some of the wells may not be currently active but they are tracked.

Public Comment - Amy Timmons spoke that during her campaign efforts she was informed by many citizens that they did not receive well water test results after the last testing.

CP/CO Brown reported that there were a couple individuals that reported not receiving results and they were given the information to contact the lab to follow up. Mr. Brown requested that anyone who did not receive results should contact the Town office.

6. Consent Agenda.

6.1. Minutes. Minutes from the May 17, 2016, Regular Council Meeting.

Councilmember Wright made a motion to approve the minutes from the May 17, 2016, Regular Council Meeting, seconded by Mayor Nolan. It was approved unanimously.

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

Victoria J. Wendt spoke on researching the historical areas in town and gave kudos to Councilmember Alen for her tremendous work in that area.

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

8.1. Discussion and possible action regarding a resolution to authorize condemnation of real property located at 13101 E. Phoenix Street, Dewey-Humboldt.

Mayor Nolan recommended moving this item to the end of the agenda as it would require Executive Session and moved on to Item 9.1. CM Repan questioned that a motion may be necessary. Town Attorney Goodwin noted usually, unless there is an objection, if the Mayor wants to take something out of order, it's done, you can also do it by motion, if somebody objects she suggests it be done by motion. CM Repan made a motion to move on to Agenda Item 9.0, seconded by VM Treadway; motion passed unanimously.

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

9.1. Fiscal Year 2016-17 Tentative Budget adoption. (total Tentative Budget in the amount of \$4,182,302)

Mayor Nolan recommended a motion to adopt this so it can go to print and Council can continue to work on it.

Vice Mayor Treadway noted that on Page 25 in the 3rd paragraph the former town law firm was noted and should be corrected to the current representation.

Councilmember Repan made a motion to adopt the annual 2016-17 tentative budget, as corrected, CM Alen seconded; motion passed unanimously.

9.2 Codified Resolutions follow-up. Direction from Council on next steps.

Town Clerk Judy Morgan gave an overview of the revisions and recommended creating a policy on the NIMS authorization (National Information Management System) referencing the Council will pursue training in this. Two resolutions could be addressed through a generic ordinance on Private Road Transition policy and Yavapai County Emergency Hazard Mitigation (Emergency Management being provided in conjunction with Yavapai County and Town Officials are trained in that Emergency Management), for awareness of these two issues. There is one resolution that requires a repealing resolution, the contract with Bank of America, noting the Town no longer banks there. If Council gives direction on moving forward on these changes that are recommended, this can be accomplished.

There was Council discussion and questions regarding Resolutions 08-61 and 07-25 which Town Attorney Goodwin clarified and explained that the difference between a policy and an ordinance or something in the code is that policies don't have penalty clauses. You have to adopt penalty clauses by ordinance. If it's a policy it's just a policy, if you want to be able to cite or enforce it when somebody violates, it needs to be an ordinance which would be codified through the code.

Councilmember Repan asked about the timeline of the creation of a policy.

Town Manager Kimball clarified more details about resolutions and repeals noting that Town Council direction was to remove resolutions from the Town Code and cited that policies could be put online. TM Kimball said this is an administrative task, prepared for Council review, and forwarded for attorney review, subsequently returned to Council.

Councilmember Repan made a motion to direct staff to go ahead and make the motions as presented to Council, seconded by Councilmember Wright; motion passed unanimously.

10. Public Hearing Agenda. None.

Council returned to agenda item 8.1 as it was moved to the end of the agenda.

8.1 Discussion and possible action regarding a resolution to authorize condemnation of real property located at 13101 E. Phoenix Street, Dewey-Humboldt.

Mayor Nolan recommended CP/CO Brown give an overview of the circumstances leading to this condemnation process before going into Executive Session.

The complaint originated about an unsafe, unsanitary situation at 13101 E. Phoenix Street. It was determined that an individual was receiving tax bills and paying them for years while the owner of the property had been deceased for many years. The Town had an appraisal done to determine what may be a figure if the property were condemned. That appraisal came in at approximately \$20,000. The Town was advised by Counsel to obtain a litigation guarantee because condemnation was likely and has been obtained. The Town needs this resolution to move to the next step to begin that process.

CM Repan asked if the Town did due diligence trying to find family. CP/CO Brown spoke to the Town Attorney doing a trace on the individual and the litigation guarantee is about trying to find any potential heirs that might raise question during our question.

Public Comment was taken.

Ulys Brooks spoke on knowing the owner of the home and that she had a son, but had no idea of how to find him or if he had family.

TA Goodwin explained to Council that they have exhausted all efforts to locate any heirs. The condemnation route is recommended.

CM Repan made a motion, seconded by CM Wright to go into Executive Session. It was approved unanimously. The Council went into Executive Session at 8:10 p.m.

8.1.1 Recess into and hold an executive session pursuant to A.R.S. Section 38-431.03 (A)(7) Discussion or consultations with designated representative of the public body in order to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property located at 13101 E. Phoenix Street, Dewey-Humboldt.

The Executive Session was held.

8.1.2 Reconvene into Open Session.

Council reconvened to Open Session at 9:00 p.m. Mayor Nolan explained Council gave Staff direction on this item in Executive Session.

11. Adjourn. The meeting was adjourned at 9:00 p.m.

Terry Nolan, Mayor

ATTEST:

Judy Morgan, Town Clerk