

**TOWN OF DEWEY-HUMBOLDT  
TOWN COUNCIL  
STUDY SESSION MINUTES  
TUESDAY, DECEMBER 9, 2014, 2:00 P.M.**

**A STUDY SESSION OF THE DEWEY-HUMBOLDT TOWN COUNCIL WAS HELD ON TUESDAY, DECEMBER 9, 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 2:03 p.m.

2. **Roll Call.**

**2.1. Town Council.** Town Council Members Arlene Alen, Mark McBrady, Dennis Repan, Doug Treadway, Nancy Wright; Vice Mayor Jack Hamilton; and Mayor Terry Nolan were present.

3. **Study Agenda.** No legal action to be taken.

**3.1. Town Building Code (Town Code of Ordinances Title XV Land Usage Chapter 150 Building Codes) changes as related to the 2012 International Code Council Codes (2012 I-codes) summary presentation.** A presentation by Town Building Safety Staff.

Town Manager Yvonne Kimball introduced Joe Janusz as the new Building Official/Inspector for Dewey-Humboldt, replacing Terry Ford, whose last day with the town is Thursday, December 11<sup>th</sup>. Terry Ford gave his PowerPoint presentation to the Council, explaining the process they have gone through so far on this. He spoke on those 7 items of concern in the 2012 i-codes that he is recommending they not require. He mentioned additional considerations: plumb for gray water system, removing garbage disposal requirements; alternative building methods such as rammed earth or tires, harvesting rainwater. There was discussion.

Public comment was taken.

Jerry Brady spoke on the fire codes, firefighter life safety; ethics complaint being investigated, having an executive session to set an agenda.

There was additional discussion on gray-water pre-plumbing. Council thanked Mr. Ford for the presentation and for his service to the town.

Council moved on to the next agenda item with no action and no further discussion.

**3.2. APS Franchise Agreement Preliminary Discussion.**

Town Attorney Susan Goodwin explained the Town does not have a franchise with APS. CM Wright interjected the Town did have a franchise with APS for \$0. Ms. Goodwin went on to explain why most jurisdictions have this type of franchise for public utilities and its requirement to be approved by the voters. Typical franchise amount is 2%. APS has requested this agreement. If the Council decides to proceed with "In Lieu of" then no additional costs are paid for repairs to the town's roads. This franchise would require a special election. Ms. Goodwin explained the standards provisions.

Council spoke on establishing a franchise starting with a 0% fee with the possibility to raise it in the future. Ms. Goodwin explained a 0% fee would only need to be approved by a resolution, rather than an election. Franchise fees are normally in lieu of permit fees, so the town would need to recoup costs for repairs on roads by an annual work permit, which is not a permanent right to do business in the rights-of-way.

Public comment was taken on this item.

Jerry Brady spoke on this issue being addressed early in the Town's incorporation during the Monogram Development period. He spoke on the need to upgrade this area for the power load being put on it and by not doing a franchise it will cost the town millions.

Mayor Nolan asked if the Council approved the 0% now if it would need to go back to the voters if the Council increased it in the future. Ms. Goodwin answered no.

Council moved on to the next agenda item with no action and no further discussion.

**3.3. Council discussion on the three tasks given to the Planning and Zoning Commission (P&Z) prior to the January joint meeting with P&Z; three projects being "accessory dwelling unit ordinance (proposed ordinance 2014-104)", "animal related codes review" and "zoning setbacks review".** Council deliberation of its positions on any or all of the three tasks.

Town Manager Kimball gave an overview: Review of ADU is complete; community input received on animal code; setback issue have been reviewed. P&Z is requesting direction on all three of these items.

Vice Mayor Hamilton stated he favors Option #2 on the animal code and asked how to enforce maintenance/nuisance requirements. He explained the animal control officers do not follow the town code procedure for enforcement but rather the YCSO procedure. He suggested going through the Town Prosecutor to determine if there is enough evidence to enforce, providing another avenue to address these nuisance issues.

Vice Mayor Alen spoke on the original direction given by Council on the animal code (clean up the code on missing links, definitions and such).

Town Manager Kimball explained the review of the animal related code sections brought up some issues and wanting it to apply to as many issues as possible without creating new problems by addressing it piece meal was not the best approach. She gave the example that the ADU ordinance did not receive much public input until it came before the Council for adoption. Public outreach was done to gather the community's concerns at the start of the process.

Council discussed different solutions for higher and lower density areas; enforcing nuisance laws; farm animal limitations adequate; developing a maintenance code; enforcement of town procedures; statistical data on complaints show an insignificant issue.

Public comment was taken.

Victoria Wendt spoke on providing the Town with ordinances to review and recommended having a review board; requested the HOUSEHOLD PETS definition regarding allowed animal numbers be nullified at this time; spoke against limiting number of pets by number.

Jerry Brady spoke on enacting a law so the Sheriff's department can act on the Town's codes (order for publication to appropriate authorities).

Ted Brooks spoke in favor of revising the code on animals and livestock to "fit the town"; current YCSO procedure for nuisance/barking dogs.

Karen Brooks spoke on the community meeting involvement and input and providing clarification to the P&Z; modifying the complaint form and limiting who can make

complaints; benefits of kids working with animals; superfund designation devaluing her property; taking away her business; working with neighbors; toxic waste and sinkholes on the farm; maintenance issues needing to be measurable.

Cheryl Taylor spoke on livestock problems coming up; ambiguous and subjective ordinances and making them more concrete; not making "nuisance" too tight; maintain rural characteristics and rewriting the complaint system.

John Dibble spoke on his selecting a rural area so he is not being bothered and not bothering neighbors; consider the rural area and not changing that; densely populated areas needing restriction, but not sure how to handle that.

Jerry Brady spoke on wild animals not being part of this and the animal control officer's understanding of wild animals.

Council asked the Town Attorney if Towns can arbitrarily adopt a pet limit. Ms. Goodwin explained that jurisdictions do set limits under health and safety, and there are two kinds of regulations for animals: Zoning (land use) and Town Code Regulations (policing/regulations). She recommended adopting the code to include maintenance regulations.

Councilmember Treadway stepped away from the dais at 4:07 p.m.

Town Manager Kimball responded to public input that complaints were filed against citizens who attended the community meetings. She explained no Council Members have filed any animal related complaints.

Public comment was taken.

Karen Brooks stated that 3 of the 4 complaints the town received were after the animal ordinance community meetings were held.

Councilmember Treadway returned to the dais.

Karen Brooks spoke on feeling retaliated against for speaking and wanting to continue living her current lifestyle.

Vice Mayor Hamilton asked to move on to "setbacks" He explained he brought it up since he wanted to make sure the setbacks still apply to the town, are they valid and why did the county establish them?

Connie Christian, Community Development Officer, responded setbacks are inherent to what was established in 1969 to keep the rural nature and livestock with a variance procedure provided for hardships.

Mayor Nolan explained they will bring this back for discussion at the Joint meeting between Council and P&Z.

#### **4. Special Session.** Legal Action can be taken.

##### **4.1. Discussion and possible action on changing TC's 30.031, 30.105, and 30.109.** [CAARF requested by CM Wright and CM Repan]

Councilmember Repan explained the request is providing an avenue for discourse among council. VM Hamilton added these proposed changes give options if someone on Council is not willing to uphold the codes as they swear to do in the oath of office. Mayor Nolan responded that this seemed to be directed at him and he suggested if he has made mistakes at a meeting they should talk with him after the meeting to address it at that time. VM Hamilton stated he feels the mayor chooses to run the meetings as he

wants to rather than by the code. There was discussion on the ethics complaint hearings; looking at how other communities run meetings; the mayor being a separately elected position and considered the CEO of the town. During this discussion, the mayor stated there was an ethics complaint filed against Councilmember Repan.

Town Attorney Susan Goodwin suggested putting all the protocols on a work session so they are all on the same page. She spoke on ARS 9-236 and the assumption that the mayor runs the meeting, although it is not specifically defined. She referenced the inclusion of "and" between the two statements, "9-236. Mayor; duties The mayor of the common council shall be the chief executive officer of the town, AND shall perform such duties as may be prescribed by law and ordinance...".

Council discussed the town's history of the mayor running the meetings; consideration of changing that protocol; meetings affected by the style of the mayor; personal attack of the mayor having a negative effect on the community.

Public comment was taken.

Ted Brooks spoke on the voters electing the mayor to represent them and the council questioning that decision.

Cheryl Taylor spoke against bad behavior at the council meetings and recommended conflict resolution classes for the council. She stated there are three people on the council she is considering filing ethics complaints against.

Patrick McGill spoke on the mayor being elected for that role specifically, like the president; less is more when developing laws.

Earl Goodwin spoke on his experience on council and as mayor, explaining his style of leadership; he spoke against Mayor Nolan's leadership skills; recommended the council participate by taking more action.

Jerry Brady spoke on the history of the laws that govern local municipalities; the oath of office; believes the town did not incorporate properly to allow the town to follow its' town codes.

Karen Brooks spoke on previous council decisions that did not follow Roberts Rules of Order and a statement by CM Wright that they operate under Modern Rules of Order; the mayor supporting the constituents by allowing them public comment; voting their beliefs rather than consensus; taking personalities out of this and discussing the issues.

There was discussion establishing a policy for listening to the public; mayor's powers being equal to the rest of council.

Councilmember Alen made a motion to set up a special study session to discuss the meeting protocols and how it relates to the council, seconded by VM Hamilton.

Councilmember Alen withdrew her motion and suggested Council give direction to staff to set up a work session to review how meetings are held and an educational session on how to have more consensus so they can move the constituents' agenda forward, having the town attorney present for that meeting.

There was discussion on Mr. Brady's public comment pertaining to incorporation procedure, with the attorney answering she did not think it was accurate. Upon this statement Mr. Brady called a point of order. A discussion on who can call a point of order occurred. Mayor Nolan stated he would research this and bring it to the council.

Councilmember Repan moved on to proposed changes to Section 30.031 (E)2 of town code. Town Attorney Goodwin explained this is a common provision and in order to fully adopt it, it must be in ordinance format, council can give direction to alter it as proposed.

Mayor Nolan read the proposal and stated there appeared to be consensus to generate the ordinance. There was discussion on the 5-day wording and confusion on how it is applied. Ms. Goodwin explained she will rework that language for clarity.

**4.2. Council ratification of allocating funds from the Contingency Fund account for the purchase of the Ford SUV, as authorized in the FY 14-15 Budget.** Ratify the purchase.

Vice Mayor Hamilton made a motion to ratify the purchase and allocation of funds for the vehicle, as authorized in the FY 14-15 budget. The motion was seconded by Councilmember Wright. It was approved unanimously.

**4.3. Whether to hold additional special session(s) this month.** This is an established agenda item for Council's discussion on whether to add an additional special study session and if so, to set the date.

The council did not schedule an additional special session for December.

**5. Comments from the Public.**

Ted Brooks stated a point of order may be raised by anyone in the session and can be called upon at the discretion of the chair.

Jerry Brady spoke on seceding from the US; asked if the town is not covered under Title 5; stated he will move ahead on the substantive denial under title 5 and historicity of Moreland Commission.

**6. Adjourn.** The meeting was adjourned at 5:22 p.m.

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Terry Nolan, Mayor

ATTEST:

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Judy Morgan, Town Clerk