

**TOWN OF DEWEY-HUMBOLDT
TOWN COUNCIL
STUDY SESSION MINUTES
MARCH 22, 2016, 2:00 P.M.**

A STUDY SESSION OF THE DEWEY-HUMBOLDT TOWN COUNCIL WAS HELD ON TUESDAY, MARCH 22, 2016, AT TOWN HALL AT 2735 S. STATE ROUTE 69, DEWEY-HUMBOLDT, ARIZONA. MAYOR TERRY NOLAN PRESIDED.

1. **Call To Order.** The meeting was called to order at 2:02 p.m. Vice Mayor Treadway presided.
2. **Roll Call.** Town Council Members Arlene Alen, Jack Hamilton, Nancy Wright; and Vice Mayor Doug Treadway were present. Council Members Mark McBrady, Dennis Repan and Mayor Terry Nolan were absent.
3. **Study Session.** No legal action to be taken.

3.1. Continued discussion of proposed Animal Ordinances(s) [as directed at February 23, 2016 Special Session]. Vice Mayor Treadway opened the meeting by thanking the community for their interest and participation. VM Treadway recognized the attendance of Judge Catherine Kelley, Town Attorney Susan Goodwin, Officer Dean of Yavapai County Animal Control; and Steven Brown, D-H Community Planner/Code Officer (CP/CO). Vice Mayor Treadway also acknowledged Debby Pomeroy's review of the animal ordinances.

CP/CO Brown gave an overview of the results of his research pursuant to the direction given by Town Council at the February 23, 2016, Special Council Meeting.

CP/CO Brown spoke to Council regarding their request that research be done on the current town code section regarding unclaimed, impounded dogs being considered abandoned at 72 hours, and what the implications would be of increasing this time period to 14 days. CP/CO Brown stated that research gleaned that 72 hours is the minimum state statute requirement. Captain Jeff Newnum, YCSO, deemed the 14-day hold period to be cost restrictive, at an estimated \$200,000 fiscal year cost, citing that the Board of Supervisors would not condone this.

Council directed staff to compare the proposed ordinance 16-124 to Yavapai County's ordinances regarding animals. The comparison (included in attachments) resulted in D-H and YC ordinances being consistent in enforcement actions while D-H provided more detail on care and maintenance. Additionally, D-H is more expansive in its addressing Dangerous Animals than YC.

Council directed staff to research how other agencies in the County handle "allowed animal chart" comparing the town's quota to other agencies. (Memo attached) Mr. Brown spoke that in conclusion, each jurisdiction has its own regulations, Prescott Valley provided for unlimited animals in AG district, but makes limitations within all other districts by simply stating that other than AG, they are limited to 2 per acre, and you must have a minimum 1 acre to have animals. In Chino Valley, it appears that animals are unlimited in all zoning districts with a requirement for a minimum of 1 acre. In Yavapai County, the districts and the animals allowed are identical to the Town except where they are more permissive with regard to swine.

Council directed staff to come up with suggested language to clarify the enforcement authorities for animal control and property maintenance standards. Mr. Brown's proposed revision: " 90:98 CITATION ISSUE TO OWNERS (A) For the purposes of this section and 90.50, the enforcement officer shall be the town code enforcement officer or designee and for the enforcement of all other sections, the enforcement officer shall be the Yavapai County Animal Control Officer or other designated agent.

CP/CO Brown spoke that the two proposed animal ordinances were posted online March 4, 2016 - attachment #4. The current ordinances were posted as well - attachment #5.

CP/CO Brown cited that Council and Staff received proposed language and revisions from Debby Pomeroy in regard to the proposed ordinances - attachment #6. Councilmember Wright incorporated attachment #6 into the originally proposed ordinance amending Chapter 90 Animals - attachment #7.

Councilmember Wright recommended reviewing the ordinance with Ms. Pomeroy's additional proposed changes, paragraph by paragraph, beginning with the Definitions - Pg. 35 of the agenda packet. Ms. Pomeroy's proposed revisions were highlighted in the packet. [Page numbers reference the Agenda Packet of 3/22/16.]

1. Adequate Care - Council did not adopt Pg. 44
2. At Large - Council kept the current definition – “Being neither confined by an enclosure nor an electronic fence capable of restraining the animal, nor physically restrained on a leash.” Pg. 44
3. Cruelly Mistreat - Accepted proposed version – “To beat, cruelly ill-treat, abandon, torment, overwork or otherwise abuse an animal, torture or inflict unnecessary serious physical injury on an animal or to kill an animal in a manner that causes protracted suffering to the animal.” Pg. 44
4. Cruelly Neglect - Council kept the current definition – “To fail to provide an animal with necessary food, water or shelter.” Pg. 44
5. Dangerous Animal - Council kept the current version Pg. 45
7. Dog – No Change – Council kept the current version Pg. 45
6. Code Enforcement Officer - Changed to Enforcement Officer – “Any person responsible for the enforcement of this chapter.” Pg. 45
Farm Animals – Council discussed and accepted as the definition – “Any animals other than household pets” Pg. 45 (pets (household) already in code. It will be changed to confirm with direction given at his meeting)
8. Micro Chip – Accepted Definition – “A device implanted in a dog, used for identification, usually between the withers of a canine.” Pg. 45
9. Nuisance – Council did not adopt the proposed version Pg. 45 & 46
10. Owner – Delete both definition versions Pg. 46
11. Responsible Person – Council chose to delete the term and definition for “Owner” and go with “Responsible Person – “Person who has the responsibility for the possession, care, custody, or control of an animal.” Pg. 46
12. Vaccination – Accepted proposed definition adding “rabies” to definition name, and removing “anti-”, from anti-rabies in description; Pg. 46
13. Under Control – Council did not adopt Pg. 46
14. Working dogs – Accepted proposed definition with addition of “guardian dogs” and including “under supervision of a responsible person and while carrying out these purposes” Pg. 46

Public Comment: Debby Pomeroy spoke to the basis for her definition of “working dogs”, that is a substitute for all other terms, i.e. hunting, service, guardian..., more concise was the goal.

15. Move it to "Definitions" (Town Attorney Goodwin excluded YCACO and CEO from definitions intentionally) Pg. 46

90.02 General Provisions 2,3, & 4 accepted Pg. 46

6. At Large – (A) Council kept current this version substituting "responsible person's" for "owner's" Pg. 47

7. Council did not accept this version Pg. 47

(B) Council accepted this version with the substitution of "a responsible person" instead of "owner" – "Any dog over the age of four months shall have a current identification number issued by Yavapai County and, except as otherwise provided in this paragraph, wear a collar or harness to which is attached a valid rabies tag. Dogs shall not be required to wear a collar or harness with a valid rabies tag attached while being used for control of farm animals, while being used or trained for hunting, while being exhibited or trained a kennel club event, while engaged in races approved by the Arizona Racing Commission or while be transported to and from such events, provided that they are properly vaccinated and controlled on the property of a responsible person." Pg. 47

19. & 20. Council did not accept these versions Pg. 47

Public Comment: Lindsey Statler asked if micro-chips were a requirement. Council negated this assumption.

20. (C) Council did not accept this version Pg. 47

26. Council accepted this version – "it shall be unlawful for a responsible person to maintain a dog that excessively barks, howls, or other noises or otherwise disturbs the peace and quiet of nearby neighbors." Pg. 47

Public Comment: Ulys Brooks spoke that limiting complaints to nearby neighbors within a reasonable distance being a good idea.

27. & 28. Council did not accept Pg. 48

(D) Council accepted this version changing "owner" to "responsible person" – It shall be unlawful for the responsible person of farm animals, to permit such farm animals to run at large within the corporate limits of the town. Farm animals roaming at large within the corporate limits of the town shall be retrieved by the responsible person within a reasonable period of time after notification." Pg. 48

(E) Council did not accept this version Pg. 48

(F) ANIMAL CARE (1) Council did not accept this version Pg. 48

22. Council accepted this version - "No Responsible Person shall fail to provide his animals with sufficient food and water, proper shelter and protection from the weather, or veterinary care when needed. Pg. 48

(2.) Council accepted this version – "No person shall cruelly mistreat or neglect an animal, or cause, instigate or permit any dogfight, cockfight, bullfight or other combat between animals or between animals and humans." Pg. 48

23. Same as #2 – Strike Pg. 48

(3) Council accepted this version – "The Enforcement Officer, on a reasonable belief that very prompt action is required to protect the health or safety of an animal or the health or safety of other animals may immediately impound any animal that appears to be cruelly neglected or

otherwise cruelly mistreated as described in this section. The Enforcement Officer shall then request a hearing pursuant to this chapter for the disposition of the impounded animal." Pg. 48 & 49

24. Council did not accept this version Pg. 48

(4) Council accepted this version – "Nothing contained herein shall prohibit or restrict any activity involving a dog, whether the dog is restrained or not, if the activity is directly related to the business of shepherding or herding livestock and the activity is necessary for the safety of a human, the dog or livestock or is permitted by or pursuant to Title 3 of the Arizona Revised Statutes. Pg. 49

24. Second version – Council did not accept this version - Pg. 49

90.03 Exemptions – Dogs Running at Large

(A) Council accepted this version with the addition of "while under control of a responsible person" - "A dog may run at large while participating in field trials, obedience classes, kennel club events, organized school or park-sponsored shows, while assisting the responsible person or being trained in legal hunting or in herding livestock, while assisting a police officer engaged in law enforcement duties, or while assisting its blind or deaf master, so long as sufficient control is exercised and the responsible person's control would permit immediate leashing of the dog upon any person' reasonable request." Pg. 49

8. & 9. Council did not accept this version Pg. 50

9.(B) Council accepted this version - "A dog is allowed to occupy vehicles, including truck beds, without restraint, but upon leaving a vehicle or truck bed, it is considered to be at large." Pg. 50

10. Council did not accept this version Pg. 50

90.04 Enforcement – Running at Large

Public Comment: Zach Adams spoke to this discussion having been solely on dogs, now with 90.04 farm animals are worked in – "Where is that coming from?"

(A) Council accepted this version, with the strike of "farm animal" – "Any dog which is running at large may be apprehended and impounded by the Enforcement Officer. The Enforcement Officer shall have the right to enter upon private property in order to apprehend any dog or farm animal that has been running at large, provided the Enforcement Officer is in reasonable pursuit of the dog." Pg. 50

12. Strike Pg. 50

(B) Council did not accept this version Pg. 50

Public Comment: Elaine Carnes spoke on whether Enforcement would break down her gates if they are attempting to apprehend an animal on her property.

YCAC Officer Dean stated if they are in pursuit of an animal they have the authority to go on private property, but that they do so, only if it is an extreme situation or vicious animal. No, they would not break down gates.

13. Council accepted this version using the term "Enforcement Officer" – "Enforcement Officers may issue citations to the responsible person. The procedure for the issuance of a notice to appear shall be as provided by Peace Officers in A.R.S. 13-3903, except that the Enforcement Officer shall not make an arrest before issuing the notice. The issuance of

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citations pursuant to this subchapter shall be subject to the provisions of A.R.S. 13-3899.”
Pg. 51

13. (C) Accept – should be part of (D) Pg. 51

16. Struck (not addressed by Council Pg. 51

17. Not addressed by Council Pg. 51

17. (A) Struck Pg. 51

90.05 Release of Impounded Dog or Farm Animal (strike Farm Animal)

Public Comment: Cheryl Taylor spoke on #17 on Pg. 51 regarding the working-dogs definition including guardian dogs.

A. Council did not accept this version Pg. 51

50. Council accepted this version with the change from anti-rabies to rabies and striking the word “applicable” – “Any person requesting the release of an impounded dog shall provide proof of rabies vaccination, or shall obtain a rabies vaccination and shall pay for the costs of impoundment. Proof of ownership may be required prior to release.” Pg. 51

B. Council accepted this version striking “farm animals”; “applicable” and “anti” – “Any impounded dog which is not claimed within 72 hours shall be deemed abandoned. Enforcement Officers may take possession of abandoned dogs or may place the dog for sale or may dispose of the dog in a humane manner. Any person purchasing an abandoned dog shall obtain a rabies vaccination and pay the applicable impoundment fees.” Pg. 51

51. Council struck this version – Pg. 51

90.16 Determination of Town Magistrate

(A) Council accepted this version – “If the Enforcement Officer has reason to believe an animal is a dangerous animal, he may file a petition with the Town’s Magistrate Court for a determination that the animal is dangerous as defined in Section 90.01.” Pg. 52

54. Council did not accept this version Pg. 2

54.(B) Council accepted this version with the change of “owner” to “responsible person” – “The town’s magistrate shall notify the responsible person of the animal of the date, time and place of a hearing for a determination of a dangerous animal.”

55. No change Pg. 52

55. (C) Council accepted this version – “Following the hearing, the Town Magistrate may declare the animal to be dangerous as defined in Section 90.01.

56. Council did not accept this version Pg. 52

57. No Change Pg. 52

90.17 Control of Dangerous Animals

90.17 1st paragraph - Council did not accept this version Pg. 52

Public Comment: Debby Pomeroy spoke to the basis for the language regarding “responsible person”, giving the example of a child not being physically able to control a vicious or aggressive animal.

42. Council accepted this version – “No person having charge, care, custody or control of an animal determined to be a dangerous animal shall permit the animal off his or her premises

unless the animal is securely restrained by a responsible person who can physically keep the animal in control." Pg. 52

43. Council did not accept this version Pg. 52

Attorney Goodwin and Judge Kelley left the meeting at 4:07 p.m.

90.18 Killing of Dangerous Animals - Council kept this version – "Any law enforcement officer is hereby authorized to destroy any animal determined to be a dangerous animal when immediately necessary to protect any person or property." Pg. 53

Mark Niebold spoke that anyone should be able to destroy a dangerous animal (not just law enforcement).

47. Council did not accept this version Pg. 53

90.19 Biting Animals – Council accepted this version Pg. 53

YCAC Officer Dean spoke to the statute saying you have the right to protect your family and property.

90.50 Maintenance Standards – No Change "Premises on which animals or fowl are kept shall be maintained in a manner not to unreasonably interfere with the use and employment of the properties of others, including but not limited to, compliance with the following maintenance standards;" Pg. 54

31. Council did not accept this version Pg. 54

(A) Council accepted this version Pg. 54

33. Council rejected this version Pg. 54

Last Paragraph Pg. 54 – Council accepted the following: "Animal manure and droppings shall be removed from enclosures such as pens, stables, yards, cages, and other enclosures and handled or disposed of in a manner free of health hazard or public health nuisance. Nothing in this subsection shall be deemed to prohibit the use of animal manure or droppings on any far, garden, lawn or ranch."

Public Comment: Cheryl Taylor spoke to having 5 acres without a flat inch of land and the difficulties removing animal waste, if this were required by ordinance.

34. Council did not accept this version Pg. 55

(B) Council did not accept this version Pg. 55

Public Comment: Jerry Brady spoke to established Arizona laws that cover the subject matter of these ordinances and also referred to the original D-H mission statement which cited revising the rural nature of this community. Mr. Brady also spoke to this ordinance containing 57 pages and challenged anyone to remember even one page.

35. Council accepted a revised version as follows: "Watering troughs shall be equipped with adequate drainage to allow for adequate run-off to prevent a health hazard." Pg. 55

C. Council did not accept this version Pg. 55 Council briefly discussed this section being covered under maintenance and not wanting to hold people to a daily requirement.

37. Council did not accept this version Pg. 55 (Comment above (C) referred to this section as well).

90.51 Nuisance Prohibited – this sub-chapter referred for Attorney Review Pg. 55

90.98 Enforcement – Citation Issued to Owners – (A); 59; (B); and 60 referred for Attorney Review Pg. 55

(C) Council accepted this version – (C) Enforcement will only occur upon signed complaint and a preliminary investigation to verify that a violation has in fact occurred.” Pg. 56

61. Council did not accept this version Pg. 56

(D) Council accepted this version – “If the Enforcement Officer determines there is a probable cause to believe that a violation of this chapter has occurred, he may file a complaint in the Magistrate Court and cause the complaint to be served on the person alleged to be violating this chapter. The citation shall set forth the specific violation with which the person is charged and the time and place of such violation.” Pg. 56

63. Council did not accept this version Pg. 56

64. Council did not accept this version Pg. 56 (already part of the process)

(E) Accept this version – “Each day a violation continues shall constitute a separate offense.” Pg. 56

65. Council did not accept this version Pg. 56

(F) Council accepted this version – “Fines for violating the provisions of this chapter shall be adopted from time to time by resolution of the council. Any person charged with a violation of this chapter who does not pay the fine shall appear in the Magistrate’s Court at a date and time set by the court for disposition in accordance with §90.99, unless all fines imposed have been paid at least 24 hours in advance of the scheduled court appearance.” Pg. 56

66. Council did not accept this version Pg. 56

90.99 Penalty Pg. 56

Public Comment: Debby Pomeroy spoke to #65 and replacing the word “shall” with “may”, which she felt gave leeway. She urged the Council to consider this change. Council will defer to Judge Kelley.

(A) No Change Pg. 56

Public Comment: Danny Tomerlin inquired about possible fines and Council’s authority on this issue. Council Member Wright spoke to an available fine list, with penalties set by the Attorney and Judge.

(B) No Change Pg. 56

Public Comment: Carole Wagner spoke to her Humboldt residency and her operation of a working cattle ranch, with the number of animals on site varying at times. She spoke to D-H being “America’s Country Town”.

(C) No Change Pg. 56

Public Comment: Patrick McGill spoke to serving on the Planning & Zoning Commission. He pointed out that he was not speaking that capacity, but personally. He spoke to any limits being put on his property by way of an ordinance is a restriction of his constitutional rights.

(D) No Change Pg. 56

Public Comment: Kacie Tomerlin spoke to on the length of ordinance, appreciated Council Member Alen’s comments regarding Chino Valley’s ordinance, and encouraged Council to become familiar with who to call when there are farm animals at large.

Public Comment: Victoria Wendt spoke on miscommunication errors in the published ordinances, citing a staff problem and the need for removal of non-ratified, non-codified language.

Public Comment: Cheryl Taylor spoke to the length of the animal debate; maintaining the area's current lifestyle; animosity regarding the animal debate; and spoke against filing complaints on this matter.

Public Comment: Debby Pomeroy spoke to "Prosecution of Citation" on Pg. 9 citing and removal of six dog limit in code. She also spoke on 4th Amendment rights pertaining to Animal Control and needing warrants.

Public Comment: Victoria Wendt spoke on certain information not on the Town's website, but found elsewhere. She instructed staff to "do your job".

Public Comment: Kacie Tomerlin spoke to agriculture zonings and concerns with the proposed ordinances affecting this lifestyle.

Public Comment: Debby Pomeroy spoke on search and probable cause.

Public Comment: Zach Adams spoke to 90.05 Pg. 51 and whether the Council had stricken "Farm Animal" from this language. This was affirmed by the Council. Mr. Adams spoke to 90.50 (B) as it pertains to horticulture. Mr. Adams recommended Carole Wagner as a good resource in regard to horticulture.

Public Comment: Kacie Tomerlin spoke to the process after this meeting pertaining to posting the revised ordinances on the website. Ms. Tomerlin spoke in support of easing up on the animal number limit.

Council Member Alen spoke to Ms. Tomerlin's inquiry of the process after this meeting. CM Alen shared that generally staff would make the edits, go through and read it, send it to the Town Attorney and Magistrate for review, hold a meeting and review the revisions with public comment and post it on the website.

Public Comment: Carole Wagner spoke to some areas having agriculture use assigned by the assessor.

Town Manager Kimball spoke on the current zoning consisting of three zoning sections: residential; commercial and industrial and putting forth Council pursuing the option of creating an agricultural zone and including it in the general plan.

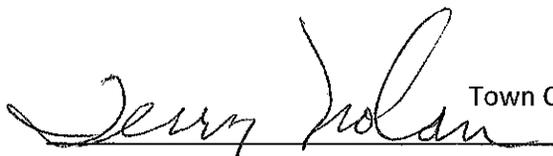
CP/CO Brown spoke of a change to the zoning possibly resulting in a "down zone", and could be perceived as a diminution of the value of property.

Council Member Wright spoke to the state passing Proposal 217, and that the Town could be sued if zoning were changed it affected property values.

Public Comment: Cheryl Taylor spoke in support of adopting residential/agricultural zoning for a rural lifestyle.

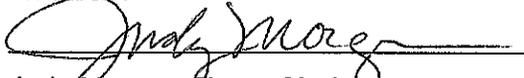
Public Comment: Zach Adams spoke to Pg. 55, (B) regarding watering troughs inquiring what was struck from the language.

4. **Special Session.** No legal action was taken.
5. **Adjourn.** The meeting was adjourned at 5:32 p.m.


Terry Nolan, Mayor

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ATTEST:


Judy Morgan, Town Clerk