

**TOWN OF DEWEY-HUMBOLDT
TOWN COUNCIL
STUDY SESSION MINUTES
AUGUST 9, 2016, 2:00 P.M.**

A STUDY SESSION OF THE DEWEY-HUMBOLDT TOWN COUNCIL WAS HELD ON TUESDAY, AUGUST 9, 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 2:04 p.m.
2. **Roll Call.** Town Council Members Arlene Alen, Jack Hamilton, Mark McBrady, Dennis Repan, Nancy Wright; and Mayor Terry Nolan were present. Vice Mayor Treadway was absent.
3. **Study Session.** No legal action to be taken.

3.1. Code Enforcement Report [January to July 2016]

Community Planner (CP) Steven Brown presented a Power Point presentation on Code Enforcement statistics covering the time period of January - July 2016.

Councilmember Repan asked if D-H's enforcement process was parallel to the county procedure.

CP Brown stated that he believes the County's enforcement action process is complaint-driven as well. A proactive approach is extremely time-consuming and D-H does not have the staff to pursue this method. CP Brown spoke on having worked for code enforcement in Coconino County, where unresolved cases would go to Superior Court and obtain liens on property, if necessary.

Councilmember Hamilton endorsed CP Brown's success; questioned that proper documentation was occurring citing a problem with this in the past.

CP Brown described his chronological documentation system.

Councilmember Hamilton commended CP Brown's work.

3.2. Portion of E. Antelope Way Right-of-Way abandonment request.

Public Works Supervisor (PWS) Ed Hanks gave an overview of the abandonment request and pointed out the property specifics on an overhead map. PWS Hanks shared this is the second time this request has come up. It's a Town right-of-way that serves one residence. PWS does not envision the Town ever using that road in the future, considering the complexity of the bridge that would be required for the wash.

Mayor Nolan spoke on granting the abandonment.

Councilmember Repan asked if the purpose of the request was to get to a driveway to the property.

PWS Hanks explained that was not the purpose. The property owners do access their properties from other roads at this time. One property owner would like to make it a nice drive with a gated front. It would be listed as an easement and shown for utilities. The abandoned right-of-way would be included as part of their property owners' parcels with an easement across it. PWS Hanks clarified the property and boundaries on an overhead map.

Councilmember Wright spoke that previously when this same issue arose she recalled that there was to have been a purchase price determined.

PWS Hanks said that the parties involved have paid all the application fees and spelled out what information was needed to go to the County. This would require a plat revision, so a mylar would have to be submitted with the change.

Town Manager (TM) Kimball clarified that legal consult determined that abandonment was the best approach, as the alternate process of a selling situation would be a highest bidder process and could be complicated.

Councilmember Hamilton spoke of the right-of-way property all going to Lot 139.

PWS clarified that some of the property was going to Lot 136 and the remainder to Lot 139. Originally, only Lot 139 owner was interested, but the owners of Lot 136 have recently become involved.

There was further Council discussion regarding the property in question and clarification regarding nearby property and the concern to not create an island of the remaining right-of-way property.

Councilmember Wright spoke to considering some previous county abandonments and thinking in retrospect that maybe they shouldn't have happened. Ms. Wright spoke against abandonment.

Councilmember Hamilton is not in favor of creating a little island, therefore does not tend to be in favor of abandonment.

Councilmember Repan commented that he has seen water run through that area and cannot imagine how a bridge could be engineered for that area.

TM Kimball recalls that the Town went down that path previously but recalls that the Attorney felt this route was more appropriate than the bidding process. TM Kimball indicated she would have a conversation with the Town Attorney on this matter again, if Council chose.

Councilmember Repan commented on the downfall of an open bid where someone could come in bid a \$1 and buys it. Need to consider what you would spend on the auction process.

There was further Council discussion regarding the boundaries of the area and the remaining land possibly not being accessible.

Mayor Nolan spoke to the logical solution of the four surrounding properties acquiring the right of way bordering their properties.

Councilmember Hamilton pointed out that the other two property owners are not a part of this process.

Councilmember Alen sees giving land through the abandonment process as setting a bad precedent and recommended staff going back to the Attorney to check the process of selling it.

Councilmember Wright noted that it wouldn't make sense to go out to bid and doubted the necessity of going to bid.

Councilmember McBrady cited a personal situation of this nature where he bought property from the County. He stated that a price was set by the County and it was a take it or leave it situation for him as the interested party. Councilmember McBrady recommended a process for the future, should this situation arise again, wanting it to be a fair, consistent process. He expressed doubt that it has to be a bid process.

Councilmember Hamilton agreed with Mr. McBrady regarding establishing a policy.

TM Kimball explained that there is a process in place governed by state law and is addressed in the Town Code. She will verify with the Attorney the purchase price process and return with a response.

Councilmember Wright asked if the Town Attorney could address this issue at next week's meeting.

TM Kimball said she would check with the Town Attorney and add this to the agenda.

Councilmember Hamilton said that depending on the information provided by the Town Attorney the Town Code may need to be addressed regarding abandonment.

There was Council discussion as to whether this specific abandonment case should be included in the Town Attorney discussion at the next meeting, or addressed separately.

TM Kimball pointed out that there would be follow-up documents necessary including a resolution to formalize any approved abandonment process.

After discussion Council consensus was to hold a general discussion with the Town Attorney at the next meeting regarding the abandonment process and hold off on any further action on this specific abandonment issue until that has been accomplished.

Councilmember Alen asked that Agenda Item 3.4 be moved ahead of Agenda Item 3.3, as she needed to leave the meeting early and Judge Kelley was present for the discussion. There was no objection and Mayor Nolan acknowledged this request.

3.4. Ethics Hearing Process modification discussion, to include Judge Kelley. (as directed at April 12, 2016 meeting following CAARF request by CM Alen)

At Council Member Alen's request there was Council consensus to move Agenda Item 3.4 ahead of Agenda Item 3.3, as CM Alen would need to leave this meeting at 4 p.m. CM Alen gave an overview of her CAARF referring to the need for refinement in the Ethics Hearing process ensuring fairness and consistency for all.

Councilmember (CM) Alen reminded Council of a previous discussion regarding the process. CM Alen cited that the hearing in question was unfair to the Respondent in the case. CM Alen questions two things 1. Evidence – the rules of evidence would not apply 2. Actual Process – Complainant states their case – the Respondent responds – then the Complainant has a final statement where they bring in whole new evidence with whole new things to discuss, that is not due process, that is not fair and will produce the need for someone to go into the judicial system. She explained the process should be fixed so new information should not be allowed to be brought forth that was not presented previously.

Mayor Nolan recommended postponing this issue till after the upcoming election.

Councilmember Alen cited to the Mayor that this is true with everything the Council does. She pointed out that they are not talking about scheduling more hearings, it is about the process that is being used. That there are cases pending, cases unfiled, and there is not a process in place to back the code. CM Alen cited this not being fair to the cases that are pending; this matter having been put off for several months; and Judge Kelley was here to discuss it now.

Councilmember Hamilton agreed with CM Alen saying it should be discussed now, getting it off the table.

Councilmember Repan spoke of wanting to hear from the Judge.

Judge Kelley addressed the Council and provided two documents for review "The Council's Legislative Function" and the "Town of Dewey-Humboldt Hearing Officer Rules of Procedure for Land Use and Building Safety Violations".

There was Council discussion regarding the current process.

Judge Kelley recommended writing a policy and using in-house resources, those familiar with the process. Town Manager Kimball suggested she have the Town Attorney and the Hearing Officer work on rules that would be fair to all and she would follow up on this.

Judge Kelley left the meeting at 3:37 p.m.

3.3. Council consensus and direction regarding the Environmental Protection Agency [EPA] response to McCain Letter discussion. [continuation from the July 5th meeting; originally CAARF's requested by CM Alen and Mayor Nolan]

Mayor Nolan introduced the item and referred to the response from the EPA and said it read like a block letter not providing any deadlines or anything and the need to respond to Senator McCain's office on this.

Councilmember Repan spoke to being confused by the CAARF, as he did not see where there was a response requested by Senator McCain's office.

Councilmember Alen spoke on her conversation with Senator McCain at a recent breakfast and that Senator McCain is willing to act for the Town but seeks direction from a Council consensus as to what their specific requests of the EPA are.

Councilmember Repan asked if this was a verbal request.

Councilmember Alen referred to it also being in writing and that the letter was not included in the packet.

Town Manager (TM) Kimball stated that she did not receive an additional letter that Councilmember Alen spoke of.

Councilmember Alen spoke to her dialogue with Senator McCain and that he did verbally request information on how to proceed.

Councilmember Repan stated that he thought there was an additional letter but he could not find it in his emails.

Councilmember Alen believed that there was a fourth letter, but acknowledged not looking for it, not knowing it was an issue.

TM Kimball stated that she did not receive a fourth letter, however, was contacted by an aide from Senator McCain's office, regarding the letter of response from the EPA. The aide had intended to be at this meeting but was unable to attend due to a co-worker's illness.

There was extensive Council discussion as to what should be included in a second letter to Senator McCain.

Councilmember Alen left the meeting at 4:02 p.m.

Public Comment - Victoria Wendt spoke of the Council having good ideas and that this issue continues to impact the Town in regard to health and economic concerns. She spoke of keeping the pressure on the EPA and the request for quarterly meetings is great.

There was Council consensus to be specific in asking Senator McCain's assistance on two tasks 1.) To request that the EPA attend quarterly meetings providing status updates on the Superfund site progress to be held at D-H; 2.) Request of the EPA that the Iron King Mine tailings be capped (using the EPA map of the Superfund site)

Town Manager Kimball will draft a letter to Senator McCain for Council review at the 8/16/16 Council Meeting.

4. Special Session. Legal action can be taken.

4.1. Whether to hold additional special session(s) this month.

There was Council consensus that no additional special meetings were necessary.

5. Adjourn.

The meeting was adjourned at 4:26 p.m.

Terry Nolan, Mayor

ATTEST:

Judy Morgan, CMC
Town Clerk