

**TOWN COUNCIL OF DEWEY-HUMBOLDT
STUDY SESSION & SPECIAL MEETING NOTICE**

Tuesday, March 6, 2018, 2:00 P.M.

**COUNCIL STUDY SESSION & SPECIAL MEETING
2735 S. HWY 69**

**COUNCIL CHAMBERS, TOWN HALL
DEWEY-HUMBOLDT, ARIZONA**

AGENDA SUMMARY

1. **Call To Order.** Mayor Nolan called the meeting to order at 2:03 p.m.
2. **Roll Call.** Town Council Members Jack Hamilton Doug Treadway, Victoria Wendt and Mayor Terry Nolan were present. Vice Mayor John Hughes and Council Member Mark McBrady arrived late at 2:05 p.m. Councilmember Amy Timmons was absent.
3. **Study Session.** No legal action to be taken.

3.1. Presentation and Request for Sponsorship from Dewey-Humboldt Historical Society on the Agua Fria Festival and request for \$2500 sponsorship. (CAARF/Presentation Request approved by Council on 2/20/18)

David Nystrom, President & Board Chair of the Dewey-Humboldt Historical Society gave a Power Point presentation covering the 2017 Agua Fria Festival report. Mr. Nystrom noted that DHHS received support in donations from the Town of \$2,000 and \$500 from APS. There were approximately 300 attendees. The 2018 Festival will be held on Saturday, September 29th.

Mr. Nystrom requested Council to consider a \$2,500.00 sponsorship for the 2018 Festival that includes all the perks of the past – booth, parade entry, and sponsorship acknowledgement.

Mayor Nolan explained that this would be considered during upcoming budget sessions and no action would be taken at this time.

Councilmember Hamilton mentioned more money for the museum. Mr. Nystrom noted that the only request at this time was for the Festival, not for the Museum.

Council thanked Mr. Nystrom for his presentation.

3.2. Council Discussion with area Regional Manager of APS to discuss condition of town utility poles and transformers. (CAARF approved by Council on 2/20/18)

Mackenzie Rogers, Regional Manager for APS presented a Power Pont presentation. She spoke of APS's goal to safely and reliably provide services to the customers. She noted there were 500,000 power poles in the entire system with 6,000 of them located in Dewey-Humboldt. There is a pole inspection program and she explained this process to Council. She also spoke of the defensible space around the poles vegetation clearing process.

Public Comment

Gary Mortimer spoke of having a couple poles on their property that looked rickety. He asked about the pesticide treatment used in their vegetation clearing process noting that they are transitioning to an organic farm and it takes five years to become certified with no pesticides. He inquired if APS were coming on to their farm. Ms. Rogers offered to get information to Mr. Mortimer on this subject. Mr. Mortimer also spoke of concern for some cables hanging down on some shared pole locations along Old Black Canyon Highway and that they cause concern to some customers.

3.3. Discussion with Town Attorney regarding Conflicts of Interest Statutes.

Town Attorney Goodwin gave a refresher on the conflict of interest statute using guidelines from the Attorney General's handbook. Any professional or financial interest could bias a decision. A Council Member that has a substantial interest that comes before the Council is a conflict of interest and they would need to recuse themselves from the discussion and any voting. Attorney Goodwin gave definitions for substantial interest and explained that if there is the appearance of a conflict, it is best to excuse yourself. Any conflict should be noted by the Council Member and noted in the record. Failure to do so could result in felony penalties, forfeiture of office, lawsuit.

There was Council discussion for more clarification. Town Attorney Goodwin said that Chapter 8 of the Attorney General guidelines was the one she studied. Open Meeting Law covers this topic.

Public Comment

Carole Stensrud spoke of consulting for two organizations for 20 years and working with boards. She described a hypothetical situation and asked for clarification on conflicts. Town Attorney Goodwin explained that the Conflict of Interest laws that she addressed apply only to public bodies.

There was further Council discussion and Town Attorney Goodwin clarified that if it is an issue that Council is never going to vote on comes up, you still have to be concerned with the appearance of a conflict of interest. A suspected conflict of interest would be discussed with the Town Manager and the Town Manager would consult the Town Attorney, if necessary. Generally, these issues resolve with discussion.

Public Comment

Gary Mortimer spoke of the ability to construe a conflict of interest in almost any situation and spoke of hypothetical situations as examples.

Attorney Goodwin clarified further on the definition of conflict of interest.

3.4. Discussion of Arizona Department of Transportation's approval for the ingress and egress/to and from the Giant Gas Station to be located at the intersection of Highways 69 and 169.

Town Manager Wilson explained that Town Attorney Goodwin would address this issue as it falls into the area of authority to act and decision-making capacity.

Attorney Goodwin explained that some decisions are outside the Council's jurisdiction. The matter of Highways 69 and 169 intersection area has the necessary zoning. The ingress and egress is the exclusive jurisdiction of ADOT. They have followed the safety standards. Again, the Town has no jurisdiction over this matter. The Council may have opinions and may take certain stands, but ADOT will have the final decision and will make this final decision according to the safety standards. If ADOT were to put aside its standards and agreed with the Town's proposed ingress/egress solution that would be the only situation where she could see liability for the Town. Hence, if someone got in an accident as a result of ADOT setting aside their safety standards and adopted the Town's, both parties would be sued.

Attorney Goodwin said that although the Town would not be making a decision on this matter, if Council was going to discuss this further, and a Council Member had a pecuniary interest she recommended they recuse themselves from the discussion on the appearance of a conflict. However, Council has no jurisdiction, there is nothing to act, absent that, she did not see how a conflict of interest would arise.

Additionally, Attorney Goodwin explained that after ADOT approval, when the building permits are to be issued, if all requirements are met, the Town cannot deny that permit.

Mayor Nolan asked, if the Town tries to push ADOT to make what people perceive a better decision, the Town would be liable. Attorney Goodwin clarified that if the standards were below ADOT's there would be a liability factor. She feels the Town should allow ADOT to comply with their safety standards. Mayor Nolan said it should be left to ADOT and they should not interfere individually. Attorney Goodwin replied that Council is free to express their individual opinions, but she recommends against the Council to force a decision on ADOT that is below their safety standards. ADOT has exclusive jurisdiction over the road. If she were the Council, she would not want to make a decision to override ADOT's decision, in any way.

Town Manager Wilson spoke of Staff having maintained contact. He intended to have the opportunity with the developer, project team and ADOT. The ADOT project team is John Litterer and Richard Perez and are the primaries on this project. Mr. Sheehan had intended to have his Traffic Engineer at the last meeting, but she was unable to attend. There was to have been a meeting the previous day that did not take place. TM Wilson was unable to contact Mr. Sheehan in the last few days. Mr. Litterer of ADOT called in Andy Roth and they chatted over the phone regarding the Council's concerns for safety and the public concerns. They are not at a point of issuing approvals of the work at this time; there are still issues to be worked out. This work will establish the record for this intersection and it is a unique intersection commanding their highest interest and responsibility. TM Wilson indicated that the Town would remain concerned and they trusted ADOT to make the best choices for safety and the best interest of the state's organization. They committed to be available for further dialogue as TM Wilson expressed that it was important for the Council and Public to be updated on the status. ADOT assured they would be applying their best efforts to the program. ADOT also shared that there was still much engineering involved, as well as involvement from Flood Control, County agencies such as the Health Department, and ADEQ have to come forward with their approvals before ADOT puts the final seal on their plans. TM Wilson said he would keep the Council informed.

There was Council comment and discussion.

Public Comment

Gary Mortimer asked Mayor and Council why the public was being told the last few months that the Gas Stations was a done deal by the Public and Town Staff. Where was the disconnect? Mayor Nolan noted that there was mention of the development in Town Council minutes a year ago. Mr. Mortimer said this takes away from the credibility of the Council and Town Staff. Mr. Mortimer said that he is not against development in Dewey, not against the gas station. We have to be sure to do it right. He spoke of what he perceived as a negative process applying for a Use Permit when he assumed Mortimer Farms. Councilmember Hamilton warned against giving validity to rumors and information in a citizen news flyer that is out there. Council never put out that this was approved. Mr. Mortimer said that his claims were based on factual situations.

Councilmember Wendt asked to have Staff bring up those minutes that the Mayor referred to. TM Wilson made note that Council had a copy of communication between former Town Manager Kimball and Nancy Wright. TM Wilson spoke with Ms. Wright and verified that there was a communication from TM Kimball to Council in a monthly report that referenced the Gas Station. TM Wilson said they would be located and shared. The application for the Gas Station was made on November 11, 2017, for the project with the developers previously purchasing multiple parcels and combining them into one parcel. This did not change the use or zoning. CM Wendt spoke of

these things being taken out of context and she looks forward to a CAARF that is scheduled to be heard on March 20, 2018, on establishing processes to keep Council informed. TM Wilson spoke of this being a learning experience for Council and Staff as there has not been a lot of activity of this nature. This is the most significant thing to happen on a significant corner since incorporation. There was further Council comment and discussion on how this project was handled by the former Town Manager.

Councilmember McBrady asked for it to be part of the record that Staff employees wanted to inform Council what was going on, but if they did, they would be fired. CM McBrady spoke of transparency and this needs to be on the record and needs to be looked into. TM Wilson said that it has been looked into; it did not happen on his watch. He believes that something of this nature did occur in regard to former Town Manager Kimball. TM Wilson spoke of some Managers holding tightly to control and information, this is not unique. Some jurisdictions practice this way. Staff was directed in that fashion and it is not happening anymore. This could have been handled better.

Councilmember Hamilton spoke of the previous mention of the project and that former Town Manager Kimball denied the allegation. It is up to you who you believe.

Public Comment

Carole Stensrud – Commended Council for hiring the new Town Manager. She recommended that everyone strike the words “done deal” from their vocabulary. This makes the Town feels that they do not have a voice. She is being more careful about what she says and encourages others to do so as well. If you know there is something coming down the road that could be a conflict, she encourages Council Members to take a high moral stand and recuse themselves from the issue.

4. **Special Meeting.** Discussion and possible Legal Action may be taken.

4.1. Request Council to review and approve a tentative budget for Central Arizona Fire & Medical Authority and Firewise proposed Blue Hills water storage tank site. (Mayor Nolan and CM Wendt CAARF)

Mayor Nolan noted that this item was being withdrawn from the agenda. The Fire Chief is entering a budget for this project.

4.2. 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.

Mayor Nolan did not see any reason for a special meeting this month.

5. **Adjourn.**

The meeting was adjourned at 4:13 p.m.