

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

Tuesday, April 11, 2017 6:30 P.M.

**COUNCIL STUDY SESSION 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 6:31 p.m.
2. **Roll Call.** Town Council Members Jack Hamilton, John Hughes, Amy Timmons, Doug Treadway, Victoria Wendt; Vice Mayor Mark McBrady; and Mayor Terry Nolan were present.
3. **Study Session.** No legal action to be taken.

3.1. Earl Goodwin's presentation regarding Road Improvement Program. [As directed at March 7th meeting]

Earl Goodwin gave his presentation on a Road Improvement Program based on his experience in helping problem-solve these types of issues in public service. He was approached last fall by former Council Member Dennis Repan. It has taken some to put this plan together. Mr. Goodwin noted the Town's legal responsibility for the roads. He cited that the current road transition policy provides for property owners with private easements to bring their roads into the system, but noted that the Town's requirements involve too much cost, resulting in few transfers over the last 11 years. A couple of the restraints facing the town were addressed in this proposal: not enough funds to fix all the roads; HURF funds can only be used on town-owned roads; Arizona constitution prohibits using public money on private property; there is a risk to the Town using General Fund money on private roads and finally that we don't really know how important the road problem is in the minds of the citizens. This proposal copes with each of these constraints. The ten points of his proposal are:

1. Everyone contributes - \$200.00 per year per family including those who live on private roads.
2. Not enough dollars overall – HURF funds do not permit much expansion for paved roads and maintenance. Public money cannot be spend on private easements.
3. HURF Growth – Could increase, if shifted to local agencies.
4. Beware of MOE – Legislation increases HURF to local agencies there will be a requirement for MOE – Maintenance of Effort.
5. ROW Lease – Could lease the private right-of-way for the purpose of completing the circulation element of its General Plan.
6. General plan – circulation of element could be included in updated plan.
7. Sales Tax – increase a one-cent hike in sales tax to add up over 5 years.
8. Council decides carryover – using carryover to add up over 5 years.
9. Public Hearings – development of circulation element of the General Plan and the proposed Ordinance for allocating carryover and leasing private easements would require a series of public hearings held over a seven-month period.
10. Voter approval – voter decision in 2018. This would result in in a 4 million dollar road program over a five-year period.

Mr. Goodwin passed out materials covering these ten points and his overall program.

Councilmember Hamilton spoke of the right-of-way lease being key to this program and that he would like to run this by the Town Attorney. Mr. Goodwin spoke of a similar situation in Cave Creek involving water service and they leased the ROW for this purpose.

Councilmember Treadway felt the program showed a lot of promise with the key being the ROW leases. He questioned if surveys would be needed. Mr. Goodwin replied that there would be no need for surveys. Councilmember Treadway asked if the property owner is responsible for the road maintenance after the five-year lease. Mr. Goodwin confirmed this and spoke of the Town needing to work with the legislature on a road improvement district.

Councilmember Wendt inquired about road improvements through a property tax. Mr. Goodwin described Prescott Valley's method using districts to pay for those improvements. He referred to property values that went down in the recession. Legislature passed a bill that only allows them to raise property taxes 5% per year. Takes a while to get caught up on market value at 5% per year. He spoke of many factors that will increase HURF funds. Councilmember Wendt spoke of no one wanting property taxes, and if it would need to go to the voters for approval. Mr. Goodwin said it would need to go to a vote. There is no payment on property tax for five years.

Councilmember Hamilton spoke of a possible conflict with the gift clause. Mr. Goodwin spoke of his knowledge of using funds for public purposes. He compared it to the leased Town Hall offices. Leased property can be improved with public funds.

Councilmember Treadway believes the concept is great and should be explored with the Town Attorney. There are 50 miles of private road, how do you prioritize. Mr. Goodwin explained that public input would be obtained and shared his ideas for this process.

Mayor Nolan spoke of the continued reduction of HURF funds while Governor Ducey is in office. Mr. Goodwin spoke of being at a meeting with legislators where he was able to talk to Noel Campbell. HURF funds are reallocated to local government. Noel Campbell can steer this toward more HURF funds. Mayor Nolan replied that the Governor won't go for a tax increase. Mr. Goodwin spoke of using HURF money they get, then determine how much is to be carried over to contingency and use up to \$250K to go to road projects that aren't HURF-worth. Prescott used the penny on sales tax dedication for roads. Most DH residents don't pay much in sales tax to DH. Mayor Nolan reiterated that people don't want to increase the sales tax. Mr. Goodwin spoke of surveying the community and connecting it up to the General Plan process. Council has responsibility for the roads.

Councilmember Treadway inquired if every road upgrade would not need to be paved, or could dirt roads just be upgraded. Mr. Goodwin spoke of chip-seal lasting approximately seven years. His suggestion is to pick a road, pave it and chip-seal it. Problem with DH roads are all the garbage trucks going up and down the roads. The hilly terrain with stops and starts on these hills cause the problems on the road. Councilmember Treadway spoke of going into this with an open mind and believing it would behoove the Council to give it consideration. He thanked Mr. Goodwin for his time and effort on this project. Mr. Goodwin spoke of there being no rush and not all the elements need to go in the plan. The Town needs to protect itself with voter approval and ordinance approval to use General Fund money with Council picking the General Fund amount each year to spend money on this.

Councilmember Hughes thanked Mr. Goodwin for his proposal and presentation. Would like to review and consider all aspects.

Councilmember Hamilton agreed with Councilmember Hughes, then spoke on the HURF fund being raided by the State so they don't have to raise taxes. They want local taxes raised.

Mayor Nolan spoke of the major universities wanting sales tax pulled from HURF. Mr. Goodwin spoke of there being a fee put on vehicles through insurance policies. Noel Campbell is committed to rural HURF relief.

Councilmember Hamilton commented that this is per capita. 2020 there is a census, growing Towns will get more money. The Town is not growing like others.

Public Comment was taken

Ellie Demesquita spoke of starting the process with the policy that is in place right now in January. The first roadblock is a property owner not using the road (S. Charles Way). He is out of state, so they haven't heard back from this property owner yet. Would the lease help them in this way, if the property owner doesn't sign the paperwork? None of the owners who use the easement, own it.

Mayor Nolan explained they need to have the property owner sign off on the lease and to keep working on this with the Owner. Mr. Goodwin asked if the Town would be able to be a party in contacting the owner. Ms. Demesquita said that Ed Hanks, Public Works Director, is trying to make contact with the property owner by letter.

Councilmember Timmons thanked Mr. Goodwin for this presentation. Councilmember Timmons said if the Town is not willing to do anything about the roads, how does the Town expect the area to grow? There is no infrastructure. Figure out something, or you won't get more of the pot. Mayor Nolan mentioned soliciting people to move to the area. Councilmember Timmons spoke of the Town's reputation preceding it.

Ms. Demesquita added that the current property owners have taken care of the road's maintenance for over 30 years.

Town Manager Kimball will contact the Town Attorney about this concept. She said she will contact Cave Creek City Manager to inquire about the water project mentioned by Mr. Goodwin, citing that water and roads are different subjects.

3.2. Discuss how appointments are made to Town boards, commissions or committees under [Town Code Section] 33.17 Appointments. [CAARF requested by CM Hamilton]

Councilmember Hamilton gave an overview of his CAARF, pointing out that under this Code applicants need to be interviewed by the Chair and the Board prior to Council for appointment. Councilmember Hamilton does not think this is right. Council makes the decisions about appointments, so Council should hear all the questions and answers. The Chair of the Board should be able to ask questions, but do that at the same time with Council, so they can ask questions and hear answers, as well. He recommends doing away with the separate processes.

Councilmember Timmons disagreed saying this has no relevance. Council can still ask the questions they want, as well as learn the Chair's opinion with the current process.

Mayor Nolan spoke against background checks.

Councilmember Wendt agreed with Mayor Nolan about the background checks. Doesn't give enough information anyway, only slows down the process. She does agree with Councilmember Hamilton in that the last time the Commission Chair was not able to interview all applicants and this could be eliminated if the process took place at one time.

Mayor Nolan also asked for a cut-off date on applications for commission vacancies.

Councilmember Treadway agreed with Mayor Nolan regarding cut-off dates. He would also like to be able to hear the questions being asked by the Chair of the Commission. As far as background checks, what is good for the goose is good for the gander, and he is surprised that Town Council isn't subject to background checks.

Councilmember Hamilton feels the cut-off date for applications should be the issuance of the next Town Meeting Agenda. Councilmember Hughes feels that should be bumped back a day more.

Town Manager Kimball recommended that Town Council set the date for acceptance and closing of an application submission.

Town Clerk Morgan explained the current application process, as well as the recent situation where an application was received late in the process. There was Council discussion how applications for vacancies were handled prior to the current code, as well as Open Meeting Law concerns.

Mayor Nolan spoke on problems with background checks.

Councilmember Hughes shared his opinion that, if Council Members aren't required to have background checks, then neither should other commissions.

Councilmember Hamilton spoke of apparent consensus on deleting the background check. He supported deleting the second part from the Code regarding the Chairman interview, as well as having the cutoff date for applications concurrent with the agenda setting date.

Town Manager Kimball summarized the directive she received to amend this chapter, deleting the current background and interview wording; the addition of language regarding a cut-off date for applications; and the Chair can attend Council's interview meeting and ask questions of the applicant(s) there. Town Manager Kimball asked what would happen if the Chair of said Committee could not make it to the Council meeting. There was consensus that the process would proceed without the Chair, if necessary.

3.3. Discussion of Public Body Code of Ethics; options for possible replacement of repealed Code Section Chapter 35. [As directed at March 7th meeting]

Mayor Nolan spoke of three samples of different Ethics Codes, which Council had an opportunity to review. He inquired if Council wanted to use any of these models.

Councilmember Treadway spoke of his submission as being wordy. He inquired of Councilmembers Timmons and Hughes what prompted them to revoke the old Code of Ethics in order to have clarity.

Councilmember Wendt said that she saw repetitive wording. It was overdone. She objects to the language that the compliance and enforcement section was to educate and discipline. The second reason is because in reading this, the Public was allowed to file complaints and she feels this needs to be kept within the Council. If there is a problem with the Public, they can have a Council Member bring it forward. The Code has been used as ammunition against Council. The Council does not need this. It is so far gone, she recommends starting from scratch. This was not out of anger at anyone. The 2011 version is short and sweet and the Chino Valley model wasn't too bad either, as complaints come from the Council in their procedure.

Councilmember Hughes spoke of looking at the 2011 version, then look at changes to the new one, it appears that they wanted to come to battle, if you don't follow the steps. He disagrees that there can be grief caused at any time without any recourse. Feels the wording was open to interpretation. He would like to see something clear and simple to understand, cut and dried. He

is not saying citizens shouldn't have an avenue to file a complaint, but it needs to go to the Town first, then it could go to the State. If you are going to complain about something, you have to be accountable for it as well. Make this more realistic and not so vague on interpretation. Needs to be narrowed up. There are too many avenues for people to have a grudge.

Councilmember Treadway agrees with Councilmember Hamilton that issues should be dealt with in-house first, but he does feel their needs to be some avenue for citizens to hold Councilmembers accountable.

Councilmember Timmons stated that, no offense to previous Council Members, but she can't tell you how many people would say they wouldn't file a complaint against Council, for fear of repercussions. Volunteers shouldn't have fines against them. She spoke of not being paid to be here, and sometimes she pays to be here, referring to having to take time off work to attend Study Sessions during the day. The Public can write a letter of unsatisfaction to the Council regarding any member of a Council, Committee, Staff, whoever.

Councilmember Wendt agreed with Councilmember Timmons. In reference to heavy fines, how do you expect Councilmembers to pay this, when they are not even paid for being here. On the 2011 version she would like to see a change made under #1, Page 11, second paragraph, Conduct of Public Office. She would like to substitute this paragraph and handed out copies of her substitution to Council. In addition, she inquired if Council would consider replacing Page 15, Code of Ethics, 35.05 Code of Ethics Filing and Procedures and just substitute that for Section 5 in the Town of Dewey-Humboldt 2011 version. That would cover, it is simple, easy to understand and has a process to it.

Mayor Nolan said he could go with this, if Paragraph D and E were worded for complaints to go to the Town Attorney and not involve Town Staff.

Councilmember Treadway would like to see some wording in Paragraph A about members of the public to go through Town Council.

Councilmember Wendt agrees that the public shouldn't be excluded, but they should take a complaint to the Mayor or Vice Mayor first, if they agree, then it can proceed from there. But a public member should not be allowed to directly file. It isn't allowed in Show Low. They do not allow public members to file complaints directly, it goes through Council, either the Mayor or Vice Mayor, but it gives the Public Body that ability if they think there is something there.

Councilmember Treadway said it needs to be stated in the Code.

Councilmember Hamilton questioned how this would work if the public can only file an ethics complaint through Council.

Mayor Nolan summarized that if a public member has a complaint they contact a Council Member and they file the complaint together and the complaint is forwarded to the Town Attorney.

Councilmember Timmons gave a hypothetical scenario of the proposed complaint process.

Councilmember Hamilton spoke of having a problem with the concept. The last Council thought they were doing what was best and this Council thinks they are doing well. If someone filed a complaint there could be factions involved. A negative perception will go out in the community. It's politics, and if you use ethics codes for politics it will come back to bite you. Second thing is if there is an Ethics Code, there has to be consequences or this is just a feel-good document. He would prefer to do away with it and not open that can of worms.

Councilmember Hughes spoke of the proposed complaint process with the presenter given a chance to speak on the violation, but it has to be an ethics violation.

Councilmember Timmons spoke of the public having the ability to vote Council out of office or file a recall action.

Councilmember Wendt asked Councilmember Hamilton if he would just prefer to not have an ethics code, if there aren't penalties or consequences. Councilmember Hamilton reiterated that without consequence, it is just a feel-good document. Councilmember Wendt said "that's true" and asked Councilmember Treadway for his opinion.

Councilmember Treadway said if he gets censured by his peers it would be a public humiliation. If he is doing that bad of a job, he should probably resign. You need to keep the consequences, though not financial. You need something with merit or teeth to it so Council is held accountable.

Councilmember Timmons asked Councilmembers Hamilton and Treadway, if she came to them and asked to talk with them about some things they said that were offensive to her, would they have a problem with that. They both said they would not.

Councilmember Hamilton spoke of being called a liar by Council Members and being offended by this. If it were outside of public office, it would be considered slander.

Councilmember Timmons referred to a previous incident where she said that Councilmember Hamilton was saying untruths, they weren't being said, they were being printed, and they were untrue because we were not proposing to purchase the bank building for the Historical Society, if that is what he was referring to. But would he be opposed to sitting down with any of the Council to work things out.

Councilmember Hamilton spoke of them each having different viewpoints and not be able to change each other's minds.

Councilmember Timmons asked how he knows that, explaining to Councilmember Hamilton that she has a very open mind.

Councilmember Hamilton said that is neither here nor there, and this isn't the place to bring up the referendum.

Councilmember Timmons said that wasn't what she was saying, she was suggesting that things could be discussed civilly.

Councilmember Hamilton spoke of having raised his voice a couple meetings ago and that he was wrong for it and apologized. He tries not to interrupt others, be courteous, and waits to be called on by the Mayor. These things are not serious ethical violations. An actual violation of Town Code is what he considers a valid complaint.

There was further Council discussion regarding previous ethics issues.

Councilmember Wendt reiterated that she wants this easier, less complex. If there is a serious violation, than it may need to go to the Attorney General. She inquired of Councilmember Treadway's stance on this issue, as he appears to think there needs to be something.

Councilmember Treadway said he would like to have more thought on this issue. He believes in keeping it simple. He has issue with some wording that included the word "moral". How is that word defined? It is a very ambiguous word.

Councilmember Timmons stated it goes back to the oath that Council Members took and that it defined "moral". There are plenty of larger Towns around here that don't have a Code of Ethics.

Councilmember Treadway doubted that anyone could repeat the oath they took, he certainly couldn't. He feels there needs to be more thought on this. He could go with some of what he heard this evening, if there is a provision for the public filing procedure.

Vice Mayor McBrady would like to think more about this too, citing it has been a long day and it could be brought up at the next Work Session.

Councilmember Timmons wants wording included such as "without fear of retaliation".

There was a request to bring this back at the next Study Session in May.

Town Manager Kimball clarified that May 9th already has a Study Session scheduled and a morning Budget Session on the same day.

Councilmember Hamilton recommended not doing it right now. Move it out a couple months until the budget is done.

Town Manager Kimball recommended the September 12th Work Session.

Councilmember Hamilton noted they could schedule a fourth week meeting. There was not consensus for this.

Councilmember Wendt recommended letting this ride until September.

4. **Special Session.** Legal action can be taken.

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

No additional session to be held this month.

5. **Adjourn.**

The meeting was adjourned at 8:28 p.m.