

**TOWN COUNCIL OF DEWEY-HUMBOLDT  
REGULAR MEETING NOTICE**

**Tuesday, May 15, 2018, 6:30 P.M.**

**COUNCIL REGULAR 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 6:30 p.m.

### **2. Pledge of Allegiance**

Done

### **3. Invocation**

Given by Councilmember Timmons

### **4. Roll Call**

Town Council Members: Jack Hamilton, Mark McBrady, Amy Timmons, Doug Treadway, Victoria Wendt, Vice Mayor John Hughes and Mayor Terry Nolan were present.

### **5. Announcements regarding Current Events; Guests; Appointments; and Proclamations**

#### **A. Yavapai College Update Presentation**

Rodney Jenkins, VP of Communications for Yavapai College gave a review of updates concerning the college including local economic news of the relocation of a footwear company to the community which has created education and job opportunities. There was also discussion regarding the retirement of President Penny Mills.

#### **B. Presentation by Jeanne Trupiano on behalf of the Garry Rogers' Family regarding the donation of property to the Central Arizona Land Trust**

Ms. Trupiano gave a Power Point presentation explaining the purpose and guidelines surrounding the Roger's 20 acre property donation to a land conservancy through the Central Arizona Land Trust. Ms. Trupiano described the birds and wildlife that occupy the land, as well as the location and characteristics of the property. The organization is in the process of acquiring monetary donations to help achieve and sustain the conservancy status.

Council spoke in support of the project.

Public Comment

J.D. Greenburg of the audience spoke to this project being a bonus to the community. She noted she will be making a personal contribution to the fund and hopes there are other matches. She appreciates the Rogers' donation.

Current Event Announcement

Linda Marley and Jan Adams of the of the Mountain Top Quilters Guild invited the public to attend the "2018 Quilts of the High Desert" event being held June 1<sup>st</sup> and 2<sup>nd</sup> at the Prescott Valley Event Center. Mayor Nolan will be presenting one of the awards for a display quilt.

### **12. Public Hearing Agenda**

Discussion and Possible Legal Action may be taken.

Agenda Item #12 was moved forward in the meeting ahead of Agenda Item #6.

**A. Request for a Use Permit UP 17-003 for approximately 2.99 acres of real property, applied for by Luis Pena, representing Heli Swift Aviation, located at 2845 S. State Route 69, also known as Yavapai County Assessor's Parcel Number 402-08-069W in the C3-35 (Commercial and Minor Industrial) zoning district to allow the operation of a helicopter training facility, which utilizes flightless helicopter trainers on concrete pad, and with the trainer being stored inside a building when not in use**

**1. Staff Report**

Steven Brown, Community Planner, gave an overview of the Special Use Permit application and supporting documents, as well as the process of public notification that was followed. CP Brown played a video covering the Cicare SVH4, the simulator helicopter that will be used at the Pena's training school. The property is zoned C3-35 Commercial and Minor Industrial. The surrounding properties are zoned commercial with the exception of the east boundary which is residential. Staff suggests that the applicants in our discussions with them, and throughout the Planning and Zoning Commission public hearing have exhibited a willingness to address valid issues and concerns with a positive attitude toward identifying mitigations that can be implemented to address them. Therefore, Staff recommends that the Council should consider approving this application as meeting the approval criteria and the necessary findings of fact can be supported in that decision.

Staff recommends that, if the Council chooses to approve this application, that the following conditions be made a part of the approval.

1. The Council in granting approval of this Use Permit has made the following findings of fact:
  - a. The use is compatible with permitted uses in the underlying zoning district.
  - b. The use is in compliance with the Town's General Plan and applicable town regulations.
  - c. The use, if approved with conditions, meets or exceeds the conditions and criteria described in Town Code Section 153.091.
2. The Hours of operation of the flight simulator outdoors shall be limited to Monday-Friday 9am -5pm and Saturday 10am-4pm.
3. The flight trainer shall not operate at noise levels in excess of 90 dB at any time. The applicant will be required to provide monthly monitoring of noise levels for the first six (6) months of operation on a monthly basis. The noise levels will be taken in the presence of the Community Planner by appointment. If after the end of six (6) months the noise levels have averaged 90 or less, the monitoring will go to annual monitoring and reporting.
4. The applicant, prior to approval of a building permit for the use on that property, shall submit to Community Development Department of the Town of Dewey-Humboldt, a dust mitigation plan that will delineate the measures that will be taken to limit or reduce the generation of dust as a result of the outdoor operation of the trainer. Some of the measures that may be included are:
  - Provision of plantings around the interior perimeter of the fencing.
  - Application of a dust sealant to all open space surfaces.
  - Provision of rock and gravel surfaces surrounding the trainer operation pad.

5. Prior to the issuance of a Certificate of Occupancy, the applicant shall submit to the Community Planner, a landscaping plan that provides perimeter plantings to soften noise and dust impacts.
6. To limit any distraction to motorists along Highway 69, the trainer will be housed within the building at any time that students are not taking flight lessons actively.
7. The Use Permit is approved for a term of five (5) years, to be reviewed at the end of that period to determine if renewal for an additional period is appropriate. Application for Renewal shall be made by the owners of the property following the same process as for a new Use Permit.

Community Planner Brown stated that in addition the Penas have agreed to comply with monthly monitoring of noise levels every month for six months for the first year, then annually thereafter. Planning and Zoning reviewed this issue at a Public Hearing on May 3, 2018, and voted 4 -1 to not approve the Use Permit.

There was Council discussion regarding noise decibels and the application process.

Mr. Pena came forward and answered Council questions. He explained that he expected about 15 students, possibly one to three per week operating the simulator about 3 hours per day. He noted that the Prescott Airport is surrounded by homes. He noted that he is shielding the flight pad by a large building and will landscape to abate sound, as well as build a fence. He expects the wind power generated by the helicopter to be approximately 120-140 knots. The pad is about 60 feet in diameter and when utilized the helicopter will lift to a height of 9 feet. Mr. Pena believes that his initial application always purported the simulator.

Community Planner Brown stated that he and the Building Official each were both under the impression that the simulator would be housed in the building. Upon learning the pad was located outside it was recommended that a Use Permit would be required.

There was further Council comment and discussion.

## **2. Open Public Hearing**

Mayor Nolan opened the Public Hearing at 7:40 p.m.

Kirk Brauner (sp) spoke about noise decibels and that many people have equipment in their possession that exceed the noise level the simulator would create. He spoke in support of the opportunity this affords the community. He cannot conceive that Council would turn this down.

Myron King stated that he lives on Omega Drive. He is concerned with the traffic on the road and maintains the road. His other concern is noise, his house is actually insulated by the mountain and that won't be maintained with the installation of the helicopter pad. He also noted the dust factor and his wife's health that could be impacted.

Mrs. King spoke of being the lady with the asthma. Her lung capacity has improved greatly greatly by moving to D-H. She spoke of the comparison of a motor bike and the helicopter noise. She likes the Penas plan, but not here.

Lynn Collins stated she had a question regarding rock around the pad and asked for a translation on the meters vs. feet.

Steve Burton is a resident of Omega Drive, closest to the main gate. He hears the highway, but if you start another loud noise, it will be bounce up the hill to his property. He did not buy his property to have more noise. He grew up around a military base and

has experience with helicopters. He is against this, although he appreciates the Pena's plan.

Claire Clark, Architect for Luis & Diana Pena. The Penas are willing to make accommodations to soften the noise by building fencing and other types of plants and they would pave around the pad so there would not be gravel to deal with making it possible to greatly reduce the noise from the equipment. I have been involved for a few months and the plan was always for a simulator which can be rolled into the building.

Leigh Cluff likes the idea of the heliport but does not like this area for the idea as it she believes it will upset Vietnam Veterans. She questioned how big the property is and if a building could house the simulator.

Phillip Brauner (sp) spoke of attending the P & Z meeting and that he was hearing of some concessions not previously shared. They moved her for the tranquility of the area, which would be lost, by this type of noisy business. If this is approved, could a wall be built along Highway 69, could there be access from some other street besides Omega, and could the business be closed on Saturdays.

Lori Crofutt approached the lectern to speak. Mayor Nolan pointed out that Ms. Crofutt is a member of the Planning & Zoning Commission and already expressed her opinion at that meeting. Ms. Crofutt said she was speaking as a resident and asked Council how many of them would want the heliport next to their home. She spoke about noise decibels and the risk for people's hearing.

Sandy Geiger spoke of being familiar with Omega Drive off Third Street. It is near the entrance on Highway 69 to Humboldt located near the "Arizona's Country Town" sign and there will be a heliport located there? She spoke of wondering where the trainees that would be attending the school are coming from.

Augustus Brauner (sp) spoke of the sound decibels of various equipment that is operated on a daily basis in the Town, from lawn mowers to diesel trucks. He spoke of the accommodations that the Penas are making to reduce the noise factor of their proposed training site.

Kent Coulter asked what type of device this helicopter was and if it were approved by the F.A.A. He inquired if Mr. Pena was an instructor and where he used this simulator. He also inquired where he took his flight training. He spoke of the increase in traffic and not seeing an economic advantage for the town. Mr. Pena replied that he is an instructor and has trained on this equipment in Argentina and at Falcon Field.

Mr. Pena spoke of trying to give back to the community. He is a Marine Corp Veteran who was stationed in Afghanistan and had his life saved by a helicopter pilot after being shot at in the helicopter. He came back from the duty and earned his certifications and he wants to give back. The Penas have invested their life savings in this project. Mr. Pena again spoke of the opportunity this provides to the community.

### **3. Close Public Hearing**

Mayor Nolan closed the Public Hearing at 8:15 p.m.

### **4. Commission Discussion and Possible Action**

There was further Council discussion and comment including discussion that prior to the July 17, 2018, meeting Mr. Pena would bring the simulator on a truck to Dewey-Humboldt and a time and place would be arranged for a demonstration of the equipment for Council and the community.

Councilmember Hamilton made a motion to call the question. There was Council consensus, the motion passed unanimously.

Vice Mayor Hughes made a motion for a continuance of this matter until the July 17, 2018, Regular Council meeting agenda, and the public will be noticed as to the opportunity for the public to when the equipment would be demonstrated in operation during the day, not the same time as the meeting. The Council Meeting will be the time when Council makes a decision on the conditional Use Permit. Councilmember Hamilton seconded the motion. The motion passed unanimously.

Mayor Nolan called a five-minute recess.

## **6. Town Manager's Report**

Town Manager Wilson noted to the public that technical difficulties with the recording process and the live stream was not currently working. Video may be available tomorrow on the website.

## **7. Consent Agenda**

None

## **8. Public Comment on Non-agendized Items**

Joe Garcia spoke of a family member having an issue when applying for a permit for an outbuilding (shed). Mr. Garcia believes that it is wrong that outbuildings have the same property line setbacks on small lots as larger lots. He notes that there are many structures close to the property edge and there are other jurisdictions that allow for this. He recommended Council have Staff look into this.

Bart Brush spoke of an issue with the lower parking lot at the library building. He noted there used to be horseshoe courts there that were torn up during sidewalk installation and are no longer there. There is a permanent dirt driveway there now and vehicles use this a short cut. He noted there were heavy trucks that got stuck in that area. He recommended posts and chains to prevent this from being used as a short cut.

## **9. Unfinished Business**

Discussion and Possible Legal Action on any issue which was not concluded, was postponed, or was tabled during a prior meeting.

**A. Review of revisions and consideration of adoption of Chapter 92 "The Dewey-Humboldt Nuisance Abatement Ordinance" by reference as the nuisance abatement regulations of the Town; amending the Dewey-Humboldt Code of Ordinances, Title IX General Regulations to add new Chapter 92 Nuisance Abatement related to requiring persons in control of real property and structures thereon to maintain premises in a safe and sanitary condition; declaring failure to maintain premises to be a public nuisance and providing for inspections, enforcement, penalties, abatement and assessment processes for failing to maintain premises as required**

(As directed by Council 4/17/18)

Town Manager Wilson explained that this ordinance was brought back as requested by the Council. The Council's requested revisions were captured. These types of ordinances are common across the country and he provided a memo with a list of local smaller communities and their corresponding ordinance information. The proposed ordinance mirrors those that he researched and includes an appeal process. Due process has to be followed throughout the process and provides an appeal process and can be reversed. In 40 years' experience, he has never been aware of the process actually resulting in

foreclosure. The situation is normally resolved before foreclosure. He was unable, upon research, to locate a community that did not have a nuisance/abatement ordinance.

Community Planner Brown displayed photos of a couple properties which have gone through the complaint process and still exist despite judgments. There have been no efforts by property owners to comply. The proposed ordinance would provide the tools for the Town to rectify this situation.

There was extensive Council discussion regarding the proposed ordinance

Councilmember Treadway spoke in support of the Ordinance, with some possible minor revisions.

Councilmember Wendt spoke in support of the Ordinance with some revision, as she is concerned that the \$500 fine that would increase daily was too strict and should be reduced to \$250. She also indicated that the process needs to be based on complaints only or probable cause of imminent danger for Code Enforcement involvement.

Councilmember McBrady was opposed to the proposed ordinances citing it has lots of problems and needs to be gone through paragraph by paragraph and spoke in support of a citizen committee to help with this ordinance. He was against any town employee entering private property as a result of the complaint process. He indicated the need for more detail and to slow down the implementation and for Council to take their time with this matter.

Councilmember Timmons was opposed to the ordinance calling it far-reaching, over-grasping, and strangulating. A year ago, Council voted down a proposed ordinance that was not this severe.

Councilmember Hamilton spoke of this going on for four or five years now. There is a problem and no way to take care of it. He noted Council has gone through this repeatedly. If nothing is decided, he does not want it brought back again.

Mayor Nolan was in favor of the ordinance and felt that many concerns were based on the language being misconstrued.

Councilmember Hughes spoke of the ordinance not being overreaching. Something has to be done about the problem areas and there has to be a rule to get this established. This ordinance is limited health safety. The Town has to do something to get rid of the blight. He recommended that the Attorney include the input provided by the community. Let's get this done.

#### Public Comment

Melody Smith appreciates that no one in the community wants this. She recommended initially knocking on doors, find out what the problem is, and how can the community help. As a community, everyone has the responsibility to stand up and help.

Councilmember McBrady made a motion to extend the meeting to 10:30 p.m., seconded by Councilmember Wendt. The motion passed by a 6-1 vote, with Councilmember Hamilton voting against.

Nadine Lalich appreciates the frustrations and believes there needs to be some type of ordinance. She asked Council to review a memo of recommendations and read it, as well. She cited the current ordinance language as vague and confusing.

Ulys Brooks knows what right and wrong is. A man works his lifetime to pay for a home and after that he shouldn't have to live in fear of the He worked a lifetime for his home and he should not have to live in fear of the Code Enforcement man for the rest of his life.

Lynn Collins noted that the proposed ordinance is similar to Prescott Valley's ordinance and cited details of a nuisance case there involving planters, which was cited as a health and safety issue. She noted language that she did not approve of in the proposed version. She recommended the proposed ordinance be put online in its entirety. All that is needed is a "dangerous building" law, not a Prescott Valley-style law.

Leigh Cluff spoke of one of the properties used in the overhead display. She noted that she feels the property looks better than it ever has. She recommended the Town help pay to have the tires removed. She spoke of community support to help with these types of situations.

Wanda Clark-Wood spoke of being a resident for 30 years. The people, who live in the Town, make the Town. She spoke of some residents being elderly or financially distressed and unable to clean up their yards and the need for community assistance in these matters. She spoke further on the rural lifestyle and why people reside here. She asked about the process regarding abandoned properties.

Gary Mortimer noted the effort spent talking about this, paying the staff and attorney could have paid to clean up a few properties. He spoke in support of taking care of your neighbors and being service-oriented through volunteerism. He is not in favor of the Town telling him what he can do on his property. He spoke against the bickering, fighting and relying on the Town Attorney to solve the problems. Everyone needs to bind together and make that happen.

Mickey Chinchek (sp) asked what happens after foreclosure, where does the revenue go, back into the Town. What will you do with the properties you foreclose on?

Dan Wendt spoke of having done service work but some people just don't want the help. What is something that is endangering a house? Gas cans, propane tanks, no electric, cooking outside during the summer... He feels there has to be an ordinance.

Dale Creel read the Town Mission Statement to the Council. Mr. Creel recommended that this mission statement be read before Town meetings. He spoke of the properties used in the overhead displays and recommended the Council focus.

Maria Papademetri spoke of not knowing the solution to this and there were aspects of the ordinance that concerned her, however, she is concerned about one property in particular near her home. The owner has had the home 2-1/2 years and he has not done anything about it despite the exercise of the complaint process. He also leaves two dogs on the property unattended the majority of the week. Animal Control has been contacted, with no results. Something has to be done about that property. She understands that no one wants people telling them what to do on their property but here has to be some recourse, especially for an absentee homeowner. People need to respect their neighbors.

Tom Mallette suggested that the Building Inspector declare them condemned, the Judge declares them abandoned, then you get the Fire Department burn them as a training exercise. He noted that was what they did back east where he lived.

David Sim (sp) spoke of receiving a citation for the lighting ordinance. Someone complained, however, they were decorative signposts that had no electricity to them. There were no lights. He was confused by the complaint process and that there needs to be definition for the person making determinations on complaints.

Ron Llewellyn spoke of living in Prescott Valley and a citation issue that resulted in a ticket for \$450. He spoke of false complaints and the determination process. He came back here to be let alone. There is fine line and he believes it is being crossed.

Ken Dolan (sp) spoke of the need for community involvement and that there are retired contractor/builders with heavy equipment and would like to help those people to avoid fines and take care of the safety problems. He also spoke of having a lighting issue with a neighbor and was told by the Mayor that someone would be up to look at it. It has been over a month and no one has been up to view the problem. He gave his name on the complaint and nothing was done.

Councilmember McBrady does not think the abandoned home near the park is that bad looking. Some plywood could be added to enclose it, paint the outside to look like an old western town building. He signed a check for the attorneys for charges of \$5,300, this needs to be spent in a different way. He recommended the Town get dumpsters up there, clean it up, and pay for it.

Town Manager Wilson explained that town money could not be spent to abate a nuisance on private property. There are things to do to make the ordinance better. TM Wilson reminded CM McBrady that he started out by saying in his 40 years' experience he has never seen these situations lead to foreclosure. The foreclosure language can be taken out of the ordinance. This ordinance can be fixed to include the initial processes that the Town already uses. TM Wilson also spoke of hypothetical abuse by an employee, and if this happened in D-H, and if there were that type of occurrence there would be action to address this. He feels the current employees have the highest regard and respect for the citizens. He recommends that Council give Staff the opportunity to take the revisions provided, incorporate them and bring this back. There is a need for the ordinance and not allow situations to become public problems. It is important that this be done, because of what is being seen in the community.

Mayor Nolan made a motion to extend the meeting to 11:15 p.m. Councilmember Wendt said that she would make the motion to extend the meeting to 11:00 p.m.

Councilmember Wendt recommended that a citizen committee be formed to assist residents that need help in complying with the nuisance ordinance. She noted the Council could do this, just like they did the Dog Ordinance. There needs to be something and would like the Attorney to try again. She recommended citizens to put recommendations forth to Council.

Councilmember McBrady made a motion to extend the meeting to 11:15 p.m., seconded by Councilmember Timmons. The motion passed by a 5-2 vote, with Councilmember Hamilton and Councilmember Treadway voting against.

Councilmember Timmons motion failed due to a lack of a second to the motion.

**B. Review of revisions and consideration of adoption of amended Town Code §30.105 Council Agenda; §30.107 Time of Adjournment; and §30.108 Agenda Packets related to council meetings and agendas (As directed by Council 5/1/18)**

Town Manager Wilson recommended that this item could be postponed.

**10. New Business**

Discussion and Possible Legal Action on matters not previously presented to the Council.

**A. Call of Election**

Town Clerk Gibson gave an overview of the Call of Election including election event dates for the Town Council vacancies of one Mayor and three Council positions. The Primary Election will be held August 28, 2018. If necessary, the General Election will be held on November 6, 2018. No council action was needed. Notification only.



## **B. 2017 Volunteer of the Year update and recommendation**

Lindsay Statler was nominated for the 2017 Volunteer of the Year award. Ms. Statler, President of the Dewey-Humboldt Little League is extremely involved and instrumental in the success of the program. The Volunteer of the Year award picnic will be held on June 19, 2018, at the Butte Park from 4 – 6 p.m. The community is encouraged to attend.

Vice Mayor Hughes made a motion to approve Lindsay Statler as the 2017 Volunteer of the Year, seconded by Councilmember Timmons. The motion passed unanimously.

## **11. Executive Session**

Council may vote to hold an Executive Session for the purpose of obtaining legal advice from the Town's attorney on any matter listed on the agenda pursuant to A.R.S. § 38.431.03(A)(3).

Council may vote to recess the Regular Meeting to hold an Executive Session, which will not be open to the public, for the following purposes:

### **Vote to recess to Executive Session**

Councilmember Treadway made a motion to move to Executive Session, seconded by Vice Mayor Hughes. The motion passed unanimously. Council entered Executive Session at 10:50 p.m.

- 1. Pursuant to A.R.S. §38-431.03(A)(4) for discussion or consultation with the Town Attorney in order to consider its position and instruct the Town Attorney regarding the Town's position regarding:**
  - a. 2018/19 Sheriff Contract for Police Services**
  - b. 2018/19 Library District Contract for Library Services**

### **Reconvene Regular Meeting**

The Executive Session adjourned at 11:08 p.m. and the Regular Meeting was reconvened.

## **12. Public Hearing Agenda**

This agenda item was moved forward ahead of Agenda Item #6.

- 13. Adjourn** The meeting was adjourned at 11:08 p.m.