

**- THE PLANNING & ZONING ADVISORY COMMISSION  
FOR THE TOWN OF DEWEY-HUMBOLDT  
REGULAR MEETING NOTICE  
Thursday, January 7, 2016 6:00 P.M.**

**P&Z MEETING  
2735 S. HWY 69**

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

## **AGENDA SUMMARY**

1. **Call To Order.** Meeting was called to order at 6:05 p.m. Chair Barry Smylie presiding
2. **Opening Ceremonies.**
  - 2.1. **Pledge of Allegiance.** Done
  - 2.2. **Swearing in newly appointed commissioner, Rich Schauwecker to the Planning and Zoning Commission.** Town Clerk Judy Morgan performed the swearing in of newly appointed commissioner, Rich Schauwecker.
3. **Roll Call.** Commissioners, Victor Hambrick, Joe Garcia, Rich Schauwecker, and Chair Barry Smylie were present. Commissioner Jeff Siereveld and Vice Chair Dee Parker were absent. Commissioner Siereveld later arrived at 6:21 p.m.
4. **Informational Reports.** None
5. **Planner's Update on current events and activities.** Community Development Coordinator, Steven Brown welcomed Commissioner Schauwecker.
6. **Consent Agenda.**
  - 6.1. **Minutes.** Chair Smylie made the motion to approved the meeting minutes from the November 5, 2015 Planning & Zoning Regular Meeting as presented. Motion was seconded by Commissioner Hambrick. Minutes approved.
7. **Discussion Agenda –New Business.**
  - 7.1. **Kennels** - Discussion of Section 153 of the Town Code, and recommendation on possible definition and code language providing for the management of Kennels in the Town of Dewey-Humboldt.

Community Development Coordinator, Steven Brown reviewed the summary from the staff report. Town Council meeting of November 10, 2015 discussed proposed amendments to Section 153 Zoning Ordinance. There was considerable discussion about the definition of Kennels. At the meeting there were comments from the public and resistance on how the town would determine household pets vs. animals used for breeding purpose or training when using one's home as kennels. The Council requested the Planning and Zoning Commission to review the definition and to consider options presented by staff for revision of the definition of Kennel and to make a recommendation to the Council. The staff has compiled research from Prescott Valley and Chino Valley's ordinances as well as ARS regarding their definitions of Kennels, and has provided the commission with three possible alternatives for the revised definition of Kennel for consideration. The staff's recommendation is option 1 as it is least imposing and would exempt household pets from regulation and does not include any restriction on the districts in which Kennels would be permitted.

Chair Smylie opened the discussion for members of the commission. Commission members discussed the options presented by staff for consideration. Commissioners spoke of; limitation of the number of pets; kennel licensing requirements for a commercial enterprise; enforcement measures; current kennels in operation in DH or complaints of kennels in operation; policies for law enforcement involvement; definition presented from Prescott Valley and adding language to identify non-profit status into the definition of option 1; exclusion of "household pets" from the definition of Kennels; purpose for recommendation to Council is intended to add to the current definition and not change the current code; original intended purpose for limitations on the number of animals allowed per property size and household. During this discussion, Commissioner Siereveld arrived at 6:21 p.m.

Steven Brown responded to comments made by commissioners and spoke about the three options presented for recommendation by staff. Option 1 is recommended by staff and considered to be less restrictive for animal owners and excludes "household pets" from definition of Kennel and does not include any restriction on the districts in which Kennels would be permitted as it does now.

Chair Smylie asked for public comment.

Jerry Brady spoke about the enforcement of animal codes and pre-existing uses cannot be regulated.

Victoria Wendt spoke about dictionary definitions of commercial and kennel. Town should not classify pets. Not aware of any animal owner in DH who breeds to the scale to be considered commercial. Violating constitutional rights to have household pets. The town does not want or need to have a definition of kennel.

Ulysis Brooks spoke about being a goat farmer in DH for the past 30 years. Have complied with county requirements in the past and are now grandfathered in. Worried that if an ordinance was passed it could put me out of business. Others raising animals for profit can be effected if there are changes made in the ordinance. Need to consider that decisions made can put people out of business.

Chair Smylie spoke about the intent of the proposed change in the ordinance. Not intended to change or impact people's life or to change the general plan of the town. At some point we have to tighten up language to function as a public body. As a commission we have to make decisions and have to take action. Chair Smylie requested to consider comments from the commission and the public and review ideas and considerations at a work session at the regular meeting in February. Chair Smylie made a motion to table item 7.1 until the February meeting and to include a work session on the agenda. Motion was seconded by Jeff Siereveld. Motion passed unanimously.

**Discussion Agenda – Unfinished Business.** Discussion and Possible Action on any issue which was not concluded, was postponed, or was tabled during a prior meeting. None

## **8. Public Hearing Agenda.**

### **9.1 Public Hearing on Ordinance Number 15-118 which adds a new § 153.024**

**REASONABLE ACCOMMODATIONS providing a procedure for granting reasonable accommodations to handicapped persons pursuant to federal and state Fair Housing and Disabilities laws.**

Community Development Coordinator Steven Brown reviewed the Reasonable Accommodations Ordinance Number 15-118 and its purpose in regards to zoning requirements. The Town needs to provide a process to be in compliance with Arizona Disability Act to accommodate individuals with disabilities. Along with the ordinance, the staff is proposing an application form to be used for individuals seeking a reasonable accommodation request. Mr. Brown asked the commission to make a recommendation from the commission for the council to consider this ordinance.

Chair Smylie opened the Public Hearing at 7:11 pm.

Jerry Brady spoke about the Federal and State Statutes and general assembly standards act. Mr. Brady spoke about mandated laws on the Federal level for persons receiving a doctor prescription for medical purpose; i.e. marijuana. Mr. Brady spoke about the limitations of the Town's legal authority to enforce state codes.

Dr. Heather Eckles spoke about recommendations to change some of the wording in the ordinance and Federal mandates involving Americans with Disabilities and having a medical doctor on staff to review application requests. Dr. Eckles spoke about the annual review process and who makes the recommendations and evaluation of the disability of the individual requesting reasonable accommodations.

The commission held discussion about the ordinance and spoke about the following: requirements; State and Federal regulations; internal policies; language within in the ordinance to identify the Federal Americans with Disabilities Act; simplifying the language within the ordinance; policies on how staff will handle requests internally; policy for a denial; process for annual review; disagreement with annual review process.

Jerry Brady spoke about the Federal manual of Americans with Disability Act.

Public Hearing closed at 7:31 p.m.

Chair Smylie thanked the public for their comments. Mr. Smylie spoke about the intent of the proposed Ordinance; to relieve the building official of the responsibility of enforcing code restrictions for persons who are requesting a variance in the code to meet their needs. The burden of proof is on the administration. The ordinance will afford anyone with a disability the same privileges as anyone else.

Commissioner Hambrick spoke about the understanding of the Ordinance is for making accommodations in the zoning restrictions and not in town code. The ordinance would provide authority to the staff to make adjustment in the zoning restrictions to provide needs of people with disabilities.

Steven Brown spoke about the current variance request process for allowing an adjustment within the zoning code. Much more difficult and time consuming. The ordinance will simplify the process and make approval process much easier for the requestor. The Arizona's with Disability Act is a direct outflow from of the Federal Disability Act. Brown asked for the commission to consider recommending the ordinance for the Council adoption, and make recommendation for amendments to the application form if the commission desired to do so.

Chair Smylie asked commissioners if they were prepared to make a recommendation to the council to adopt the ordinance as presented. Commissioners agreed unanimously to not make a

recommendation at this time.

Chair Smylie made a motion to take the recommendations made tonight and consider making modifications to the language within the ordinance to include Federal American's with Disability Act, and table the recommendation until the next regular meeting. The motion was seconded by Commissioner Hambrick. Motion passed unanimously.

9. **Comments from the Public**. Jerry Brady spoke about his prior experience with US Department of Justice, Law Enforcement Academy. Duties included dealing with ADA. Already a legal appeals process defined in the basic federal law. Appeals must be challenged through the Food and Drug Administration. Mr. Brady spoke about past reasonable accommodations cases and review board process.

Timothy Eckles spoke about the kennel definition changes. Mr. Eckles spoke about service animals being raised in Dewey-Humboldt and the current kennel definition appears to be less restrictive for raising dogs for service animals and would recommend not changing the definition for the benefit for this cause.

10. **Adjourn**. Chair Smylie adjourned the meeting at 8:17 p.m.

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Chairman Barry Smylie

ATTEST:

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Penney Bell, Administrative Assistant