

**BOARD OF ADJUSTMENT OF
THE TOWN OF DEWEY-HUMBOLDT
REGULAR PUBLIC MEETING NOTICE
Thursday, January 27, 2011, 2:00 P.M.**

**BOA REGULAR PUBLIC MEETING
2735 S. HWY 69**

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

AGENDA

The issues that come before the Board of Adjustment are often challenging and potentially divisive. In order to make sure we benefit from the diverse views to be presented, the Board believes that the meeting be a safe place for people to speak. With this in mind, the Board asks that everyone refrain from clapping, heckling and any other expressions of approval or disapproval. Please turn off all cell phones. The Board meeting may be broadcast via live streaming video on the internet in both audio and visual formats. A majority/quorum of the Dewey-Humboldt Town Council may be in attendance at this meeting, but no Council deliberation will occur.

1. Call To Order

2. Opening Ceremonies

2.1. Pledge of Allegiance

2.2. Oath of Office. Swearing in of Board of Adjustment Members.

3. Roll Call. Board Members Odis Brockman, Jack Hamilton, Doyle Wiste, Vice Chair Bob Bowman, and Chair Lydia Chapman.

4. Consent Agenda.

4.1. Approval of minutes from the December 16, 2010 meeting.

5. Study Session Agenda

5.1. Introduction and Viewing of an informational video recording on Boards of Adjustment: Powers and Limitations (June 14, 2010) presented by Wayne J. Peck Esq., Senior General Council of the Maricopa County Office of General Litigation Services.

5.1.a. History of Zoning

5.1.b. Planning versus Zoning

5.1.c. Statutory Mandates

5.1.d. Powers of Board of Adjustment

5.1.e. End video - remainder to be viewed by the Board at a later date.

5.2. Questions and or Discussion of the Wayne Peck recording and other Board of Adjustments materials.

5.3. Meeting Processes

5.6.a. Swearing of Applicants and Witnesses

5.6.b. Having the Mayor or Council members "request" a Board of Adjustments meeting (Town Code Section 31.22).

5.4. Board Members and Public discussion regarding the Wayne Peck recording and agenda topics.

5.5. List of Items for clarification to be answered by Town Planner. These items will be addressed at the next scheduled meeting.

6. Determination of date for next Study Session. Board Members shall determine a mutually acceptable date for the next Work Study Session.

THIS CONCLUDES THE LEGAL ACTION PORTION OF THE AGENDA.

7. **Comments from the Public.** The Board wishes to hear from Citizens at each meeting. Those wishing to address the Board need not request permission or give notice in advance. For the official record, individuals are asked to state their name. Public comments may appear on any video or audio record of this meeting. Please direct your comments to the Board. Comments are accepted regarding any services or individuals in Town government or about others doing business or who might do business with or for the Town. Topics can include all services the Town provides or could provide under State Law. At the conclusion of Comments from the Public, Board Members may respond to criticism made by those who have addressed the public body, may ask Town staff to review a matter, or may ask that a matter be put on a future agenda; however, Board is forbidden by law from discussing or taking legal action on matters raised during the Comments from the Public unless the matters are properly noticed for discussion and legal action. The total time for Comments from the Public is **20** minutes. No time limit is imposed on individuals within this total. The audience is asked to please be courteous and silent while others are speaking.

8. **Planner's Report**

9. **Adjourn.**

For Your Information:

Next Town Council Work Session: Tuesday, February 8, 2011 at 3:00 p.m.

Next Town Council Meeting: Tuesday, February 1, 2011 at 6:30 p.m.

Next Planning & Zoning Commission Meeting: Thursday, February 3, 2011 at 6:00 p.m.

If you would like to receive Town Council agendas via email, please sign up at AgendaList@dhaz.gov and type Subscribe in the subject line, or call 928-632-7362 and speak with Judy Morgan, Town Clerk.

Certification of Posting

The undersigned hereby certifies that a copy of the attached notice was duly posted at the following locations: Dewey-Humboldt Town Hall, 2735 South Highway 69, Humboldt, Arizona, Chevron Station, 2735 South Highway 69, Humboldt, Arizona, Blue Ridge Market, Highway 69 and Kachina Drive, Dewey, Arizona, on the ____ day of _____, 2011, at ____ p.m. in accordance with the statement filed by the Town of Dewey-Humboldt with the Town Clerk, Town of Dewey-Humboldt.

By: _____, Town Clerk's Office.

**TOWN OF DEWEY-HUMBOLDT
BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
DECEMBER 16, 2010, 10:00 A.M.**

A REGULAR MEETING OF THE DEWEY-HUMBOLDT BOARD OF ADJUSTMENT WAS HELD ON THURSDAY, DECEMBER 16, 2010, AT THE HUMBOLDT LIBRARY, 2735 CORRAL STREET, HUMBOLDT, ARIZONA.

1. **Call To Order.** The meeting was called to order at 10:00a.m.
2. **Opening Ceremonies.**
 - 2.1. Invocation. A moment of silence was led by Lydia Chapman.
 - 2.2. Pledge of Allegiance. Made.
3. **Roll Call.** Bob Bowman, Odis Brockman, Lydia Chapman, Jack Hamilton, and Doyle Wiste were present.
4. **Special Agenda.**
 - 4.1 Appointment of a Chairman and Vice Chairman to the Board. The board members discussed the appointment of a Chairman and Vice Chairman. Bob Bowman nominated Lydia Chapman as Chairman. Doyle Wiste seconded the nomination. Jack Hamilton nominated Bob Bowman as Vice Chairman. Lydia Chapman seconded the nomination. The nominations were approved unanimously.
 - 4.2 Discussion on information received at the Arizona Planning Association Conference in Phoenix, November 4, 2010 regarding the role and procedures of the Board of Adjustment. Chair Chapman spoke on attending the Arizona Planning Association conference in November. She asked each member of their perception of the role of Board of Adjustment; some of those perceptions being: the need for variances, change of zoning, BOA being the final appeal after P&Z ruling; to interpret zoning ordinances; applicants needing to prove hardship due to geographics; variances being carefully decided; and the BOA being quasi-legal. There was discussion of not granting a variance for a “use” that is not permitted; and BOA not setting precedents but rather doing it for posterity.

There was discussion on the difference between Title 11 County Boards of Adjustment and Title 9 Municipal Boards of Adjustment.

Chair Chapman asked for copies of the Planning & Zoning Handbook for the members that don't have a copy; she summarized from the handbook about not being able to make laws or change zoning laws. There was discussion on the Town Code vs. P&Z Handbook; conflict between the two; Council and P&Z (not BOA) being able to modify Town Code; and the Town Code being the law and the P&Z Handbook being a reference. There was discussion on reviewing materials and then meeting in mid-January to study the role and

legal authority of the BOA; and resolving issues of disagreements between the Town Code and the P&Z Handbook. There was agreement to have a training session on the role of the BOA, however, not bringing in a specialized trainer unless the Board can't agree on an issue.

There was discussion on non-conforming uses; non-conforming lots; variances; setbacks; and medical dwellings.

There was discussion on evidence being presented to BOA being a hearing of the evidence; not having ex parte communication between P&Z and BOA; the issue of 3 of the BOA members serving on both the P&Z Commission and the BOA because those 3 members have information that the rest of the BOA doesn't have; and the possible legal issues if the BOA makes a ruling that agrees with P&Z.

There was a suggestion to add a Comment/Question Period agenda item for anyone wanting having questions or comments on any topics not being discussed during the meeting to have a chance, however, there will be no discussion on what has transpired during the meeting; not to exceed 5 minutes; and not when the BOA meets for a hearing.

There was a suggestion and discussion on removing the Invocation and Pledge of Allegiance from the beginning of the BOA meeting unless the Board is hearing a case. The Board agreed unanimously to remove the invocation from all meetings. There was a 4-1 vote to have the Pledge of Allegiance at all meetings with Jack Hamilton voting no.

- 4.3** Possible recommendation of changes to the Rules and Procedures of the Board. There was discussion on having a work session to review the Rules and Procedures prior to making recommendations for changes.

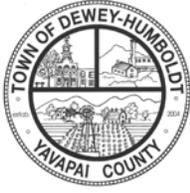
5. Comments from the Public. No comments received.

6. Adjourn. The meeting was adjourned at 11:30 a.m.

Lydia Chapman, Chair

ATTEST:

Linda M. Baker, Records Manager/Admin Assistant



TOWN OF DEWEY-HUMBOLDT
P.O. BOX 69
HUMBOLDT, AZ 86329
Phone 928-632-8562 • Fax 928-63

BOARD OF ADJUSTMENTS

January 27, 2011 2:00 p.m. Town Council Meeting Chambers

Agenda Item #5.1. Study Session

To: Board of Adjustments

From: Dennis Price, Community Development Director

Date Submitted: January 18, 2011

Agenda Item: Discussion – Study Session

Summary:

The purpose of this and following study sessions is to inform each board member about the functions and purpose of the Board of Adjustment in the system of municipal government. Additionally it is helpful if the board member has a basic understanding of why zoning regulations exist and how they are an important to community planning. The Board of Adjustment is a quasi-judicial body which means that it functions similar to a formal court of law. The decisions rendered by this body are to be based on evidence and testimony. You, as member of the Board of Adjustments have a unique duty to fulfill as your decisions are, in particular cases, not subjective but are required to be measured against specific criteria. Therefore, the decisions must be supported by written findings which then become very important records especially when cases are appealed.

As a member of the Board of Adjustments you may consider Variances which are site specific modifications of the zoning regulations due to conditions of the land. Conversely, the board may not grant a variance for a self-imposed hardship. Boards of Adjustments may hear appeals of decisions rendered by the Zoning Administrator. The Board, in specific cases, may determine the location of a zoning district or modify a zoning district where two or more districts divide a parcel.

You will receive a DVD of the video presentation, *Board of Adjustment: Powers and Limitations* by Steven Peck. It will not only serve to introduce you to the functions of Planning, Zoning and the Board of Adjustments during these study sessions but will remain a source for your reference any time in the future.

Provided Information:

1. *Board of Adjustment: Powers and Limitations* by Steven Peck, Esq. A. Handout for Power Point portion of presentation. B. Extended Notes and Citations for the Presentation. C. Each Board Member will receive a CD of the presentation at the meeting.
2. Chapter 3, Section 5.2 of the Planning & Zoning Handbook
3. DH Town Code Section 31.19 Board Commission and Citizen Committee Duty of Loyalty to the Town Council.
4. AZ Revised Statutes 9-462.06 Board of Adjustment
5. DH Town Code Section 153.021 Board of Adjustments
6. Oath for swearing-in applicants and witnesses

Vision Criteria:

Active Citizenship – each Dewey-Humboldt citizen has the right and responsibility to participate in the governance of the Town.

Volunteering as a member of the Board of Adjustments allows a citizen to participate in Town government and contribute to the betterment of the community.

Sustainable Development – the land regulated by the Town should be developed such that it remains at least as valuable in future generations as it is today, *ceteris paribus*, with no additional external resources.

Creating Community – Town activities should tend to create mutual respect and understanding between citizens; shared resources like air, the river, the mountains, and the feeling of openness should be preserved by governance, public investment, and celebration.

Self-Reliance – whenever civil, each person should earn the benefits and bear the burdens of his or her own actions.

Efficient Public Services – the few services of the Town should be delivered as efficiently and fairly as possible, with strong fiscal discipline.

Limited Public Services – the Town should only deliver those public services that cannot be efficiently provided by the private sector.

Budget: Undetermined Cost

Attachments: See above Provided Information.