

## ORDINANCE N<sup>o</sup> 09-55

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF DEWEY-HUMBOLDT, AN ARIZONA MUNICIPAL CORPORATION, DECLARING THE DEANNEXATION AND ANNEXATION OF CERTAIN DESCRIBED PROPERTIES LOCATED ADJACENT TO THE COMMON BOUNDARY LINE OF THE TOWN OF DEWEY-HUMBOLDT AND THE TOWN OF PRESCOTT VALLEY, IN ACCORDANCE WITH A.R.S. § 9-471.02; PROVIDING THAT THIS ORDINANCE SHALL BE FILED WITH THE YAVAPAI COUNTY BOARD OF SUPERVISORS FOR THE PURPOSE OF HOLDING A PUBLIC HEARING, AND PROVIDING FOR NOTICE TO AFFECTED PROPERTY OWNERS OF SAID HEARING; AND PROVIDING THAT THIS ORDINANCE SHALL BE AN EMERGENCY MEASURE IN ACCORDANCE WITH A.R.S. § 19-142(B).

WHEREAS, in 2003 the Dewey-Humboldt Community Organization ("DHCO") developed its campaign to incorporate the Town of Dewey-Humboldt ("Dewey-Humboldt"); and

WHEREAS, A.R.S § 9-101.01 requires approval from existing municipalities prior to incorporation of new communities located within 6 miles of the existing municipality; and

WHEREAS, after considerable discussion between community leaders, the Council of the Town of Prescott Valley ("Prescott Valley") adopted Resolution No. 1255 on March 11, 2004 declaring its support of the proposed Dewey-Humboldt incorporation, contingent upon the necessary petition signatures being obtained for a public vote; and

WHEREAS, after DHCO advised it had obtained the necessary signatures, the Prescott Valley Town Council adopted Resolution No. 1271 on June 24, 2004 approving the proposed incorporation; and

WHEREAS, on November 2, 2004, the qualified electors approved the proposed incorporation and the Yavapai County Board of Supervisors subsequently ordered the incorporation of Dewey-Humboldt on December 20, 2004; and

WHEREAS, when DHCO representatives and Prescott Valley Town staff worked together on the boundary description for the new community, it was agreed to leave a 200-foot strip as unincorporated land on the east side of State Route 69 (between Dewey-Humboldt and Prescott Valley) in order not to create a prohibited County island; and

WHEREAS, this unfortunately resulted in certain parcels having the same owners but being located in different jurisdictions; and

WHEREAS, a portion of the 200-foot strip has subsequently been annexed by Prescott Valley, which has perpetuated the result of certain parcels being under the same ownership but in different jurisdictions; and

WHEREAS, A.R.S § 9-471.02(B) requires the governing body of a city or town which intends to deannex property to, by ordinance, set forth a legal description of the property and declare the deannexation (contingent upon fulfillment of certain conditions); and

WHEREAS, A.R.S § 9-471.02(C) requires the governing body of the city or town which intends to annex property which has been deannexed to, by ordinance, set forth the legal description and declare the annexation (contingent upon fulfillment of certain conditions); and

WHEREAS, A.R.S § 9-471.02(D) requires these ordinances to be filed with the County Board of Supervisors and for the Supervisors to set a hearing date of not less than thirty (30) nor more than sixty (60) days from the date of the filing; and

WHEREAS, A.R.S § 9-471.02(E) requires notice of the hearing to the owners of the property to be deannexed within twenty (20) days of the hearing date; and

WHEREAS, in accordance with A.R.S § 9-471.02(B) the Town of Dewey-Humboldt approved Ordinance No. 08-39 on May 20, 2008 providing the intent to deannex the property shown in Exhibit "A" (attached hereto and expressly made a part hereof); and

WHEREAS, in accordance with A.R.S § 9-471.02(C) the Town of Prescott Valley approved Ordinance No. 715 on June 12, 2008 providing the intent to annex the property shown in Exhibit "A"; and

WHEREAS in accordance with A.R.S § 9-471.02(D) the above Ordinances were filed with the Yavapai County Board of Supervisors on September 15, 2008 and a public hearing date was set for November 3, 2008 being not less than thirty (30) nor more than sixty (60) days from the date of the filing; and

WHEREAS, in accordance with A.R.S § 9-471.02(E) the Town of Dewey-Humboldt has notified by letter the owner(s) of any real property in the territory to be deannexed at least twenty days before the hearing and the notification specified that the area is to be deannexed and annexed shall continue to be subject to any tax lawfully assessed against it for the purpose of paying any indebtedness lawfully contracted by the governing body of the city or town while the property was within the corporate limits; and

WHEREAS, the notification letter stated that the property owner may protest the action by letter to the board of supervisors prior to the hearing or in person at the hearing; and

WHEREAS, it was determined that the requirements of A.R.S § 9-471.02(F) had been satisfied and that no protests were filed in sufficient amounts to prevent the Yavapai County Board of Supervisors from ordering the deannexation of the property shown in Exhibit "A" from the Town of Dewey-Humboldt and the annexation of said property into the Town of Prescott Valley; and

WHEREAS, at its regular meeting of November 3, 2008 the Yavapai County Board of Supervisors voted unanimously to approve Resolution No. 1695 ordering deannexation of certain real property from the Town of Dewey-Humboldt and the annexation of said real property into the Town of Prescott Valley; and

WHEREAS, properties still exist where owners have different portions but located in different jurisdictions as a result of the original 200-foot strip and the Towns of Dewey-Humboldt and Prescott Valley wish to clear up these jurisdictional boundaries; and

WHEREAS, the owners were sent a survey asking which jurisdiction they preferred to be in and the staff of both Towns discussed the requests and agreed to honor the requests of a majority of the owners excepting one parcel that abutted Kachina Way in the Town limits of Dewey-Humboldt; and

WHEREAS, a boundary configuration was agreed to by both Towns and the procedures of A.R.S § 9-471.02 will again be followed as in the previous deannexation and annexation in order to reconfigure properties adjacent to each Town's boundary in order to have ownership of the subject real properties in one jurisdiction or the other as shown in Exhibit "B."

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Common Council of the Town of Dewey-Humboldt, as follows:

Section 1. That this Ordinance declares the intent of the Town of Dewey-Humboldt for the properties shown in **Exhibit "B"** and described in **Exhibit "C"** (attached hereto and expressly made a part hereof) to be deannexed from Prescott Valley and annexed into Dewey-Humboldt and the properties shown in **Exhibit "B"** and described in **Exhibit "D"** (attached hereto and expressly made a part hereof) to be deannexed from Dewey-Humboldt and annexed into Prescott Valley.

Section 2. That this Ordinance shall be filed with the Yavapai County Board of Supervisors for the purpose of setting a public hearing before that Board, and providing that Town staff shall ensure that required notice of the hearing is provided to the owners of the described property.

Section 3. That, subject to approval of the deannexation and annexation of the described property by the Yavapai County Board of Supervisors (and upon the recording of the order of approval in accordance with A.R.S. § 9-471.02(I)), it is understood that the zoning classification for the property shall be R1-35 and R1-70 (Residential; Single-Family), as currently designated in Dewey-Humboldt R1L-35 and R1L-70 (Residential; Single-Family Limited), as currently designated in Prescott Valley.

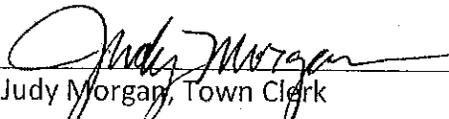
Section 4. That, inasmuch as it is necessary for the peace, health and safety of the Town of Dewey-Humboldt that this Ordinance be effective immediately upon its passage and approval according to A.R.S. § 19-142(B) (due to the need to facilitate the land uses proposed for the described property), this Ordinance is hereby declared to be an emergency measure and effective upon its passage and approval.

PASSED AND APPROVED by the Mayor and Common Council of the Town of Dewey-Humboldt Arizona, this 18<sup>th</sup> day of August, 2009.



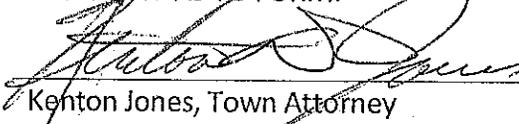
Len Marinaccio, Mayor

ATTEST:



Judy Morgan, Town Clerk

APPROVED AS TO FORM:



Kenton Jones, Town Attorney