

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

**Tuesday, February 18, 2014, 6:30 P.M.**

**COUNCIL REGULAR MEETING  
2735 S. HWY 69**

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

**AGENDA SUMMARY**

1. **Call To Order.** The meeting was called to order at 6:32 p.m. Mayor Nolan presided.
2. **Opening Ceremonies.**
  - 2.1. **Pledge of Allegiance.** Made.
  - 2.2. **Invocation.** Given by Councilmember Nancy Wright.
3. **Roll Call.** Town Council Members Jack Hamilton, Mark McBrady, Dennis Repan, Sonya Williams-Rowe, Nancy Wright; Vice Mayor Arlene Alen; and Mayor Terry Nolan were present.
4. **Announcements Regarding Current Events, Guests, Appointments, and Proclamations.**

Announcements of items brought to the attention of the Mayor not requiring legal action by the Council. Guest Presentations, Appointments, and Proclamations may require Council discussion and action.

None.
5. **Town Manager's Report.** Update on Current Events.

None.
6. **Consent Agenda.**
  - 6.1. **Minutes.** Minutes from the February 4, 2014 Regular meeting.

Councilmember Jack Hamilton stated he wanted it noted in the minutes under agenda item 9.2 that he strongly objected to stopping maintenance on Outback Road for moral and possible legal reasons.

Councilmember Hamilton made a motion to accept the minutes from the February 4, 2014 meeting, as amended. It was seconded by Vice Mayor Alen. The motion passed unanimously.
7. **Comments from the Public (on non-agendized items only).**

Jerry Brady spoke on Arizona State Senate bills pertaining to federal standards for firefighter safety; upgrading street addressing system to meet GIS requirements.
8. **Public Hearing Agenda.**
  - 8.1. **Public Hearing on Ordinance 14-104 Accessory Dwelling Units. Request to Amend the Town of Dewey-Humboldt, Arizona Code of Ordinances, Title XV Land Usage, Chapter 153 Zoning regulations, General Provisions, § 153.005 Definitions: Use Districts, related to amending the definition of "Accessory Dwelling Unit", deleting the definition of "Guest Home" and adding new definitions of "Resident Camp Sleeping Units" and "Resident Camping"; Amending Sections 153.036 R1L District, 153.037 RMM District, 153.038 R1 District, 153.041 RS District, 153.042 C1 District, 153.043 C2 District, 153.048 PAD District, 153.049 RCD District; and General Regulations § 153.066 Accessory Uses and Structures, and § 153.072 Guest Home all related to permitting accessory dwelling units in the R1L, RMM and R1 zoning districts, subject to certain regulations, and prohibiting accessory dwelling units within the C1, C2, PAD and ECD**

**zoning districts and providing regulations for accessory dwelling units related to lot size, setbacks, utility hookups, driveways, structure size, kitchens and restricting the use to non-paying guests.**

Mayor Nolan opened the public hearing at 6:37 p.m.

Community Development Coordinator Warren Colvin summarized the ordinance, explaining it cleans up the inconsistencies in the code and simplifies the regulations for secondary medical dwellings, guest homes and accessory dwellings.

PUBLIC COMMENT was taken at 6:46 p.m.

Jerry Brady spoke on medical dwelling laws through ADA and Prescott's laws on same.

Deb Wallace spoke on her experience with secondary medical dwellings and prior town laws; she recommended they take into consideration what is happening to families.

Mayor Nolan and CDC Warren Colvin responded to Ms. Wallace's comments explaining it cleans up the current code.

PUBLIC COMMENT

Deb Wallace spoke on reading a flyer distributed in town that was misleading.

Cody Weslin spoke on concerns about existing accessory dwelling structures and possible legalities and fines.

CDC Colvin stated this affects new structures. Anything built prior to this is considered existing, non-conforming use/structure and is grandfathered in.

Councilmember Hamilton spoke his concerns for undersized septic and leech fields for additional structures and costs for putting additional septic systems in to accommodate kitchens in ADUs.

There was discussion on this and whether to send this to a Council work session. CDC Colvin explained a kitchen is required through the ICC to be considered occupiable.

Jerry Brady spoke on U.S. Statutes defining reasonable accommodations and the town not responding to a comment from the audience (moments before) to turn up the volume of the microphones.

Town Manager Kimball responded to Mr. Brady's comment and pointed out that a disclaimer is included on each agenda explaining persons with disability may request reasonable accommodations, at least 24 hours in advance of the meeting. No such request had been received for this meeting.

Councilmember Hamilton recommended at a work session they could look at "mandatory kitchen" requirements, ADA issues, language to address medical.

Town Attorney Goodwin responded to council questions on noticing another public hearing (only necessary if substantial changes); "Secondary Medical Dwelling" reference in code is being removed, therefore removes running afoul of violating ADA regulations and is much more accommodating to the ADA.

There was discussion by council and staff on the ICC and how it might be amended.

PUBLIC COMMENT

Deb Wallace spoke on size restrictions with the new code for the accessory dwelling and stating she felt it should be allowed to be larger than the 750 SF or 25% of the primary structure (whichever is greater).

Ron Whitman spoke on allowing larger accessory dwellings.

Cody Weslin spoke on garbage disposal requirements and needing a separate septic; cost for requiring a kitchen; having this discussion at a larger meeting.

Mayor Nolan and CDC Colvin responded to Mr. Weslin's comments, explaining requirements for sizing septic, using primary structures septic if large enough, or possibly needing a separate septic system.

Jerry Brady spoke on medical accessory dwellings versus guest homes; conferring with disabled veterans (DAV) on this.

Angela Peterson spoke on the need for families to care for their ill family members.

CDC Colvin explained this ordinance doesn't affect having a sick or elderly loved one come live with them.

The Public hearing was closed at 7:02 p.m.

Council discussed definitions for sleeping units for residential; original zoning restriction minimums for guest homes in R1L-70 or R1-35 and how this ordinance expands to additional zoning.

**9. Discussion Agenda – Unfinished Business.** Discussion and Possible Action on any issue which was not concluded, was postponed, or was tabled during a prior meeting.

**9.1. Ordinance 14-104 Accessory Dwelling Units, Amending Sections of Town Code 153 Zoning Regulations pertaining to Accessory Dwelling Units, Guest Homes and Secondary Medical Dwelling Units.** Discussion and possible adoption or rejection.

Councilmember Hamilton made a motion to move this to a work session, seconded by Councilmember McBrady.

Town Manager Kimball explained this subject was given to the Planning and Zoning Commission in 2012. Since then there have been council changes, but council has since discussed the priority list and the updated list was given to P&Z in August 2013. This subject has been in front of the public for more than 6 months. She thanked Mr. Colvin and P&Z for the work that has been done on this. The public can call town hall with any concerns. She suggested council wait a couple of months to look into these concerns and an article written for the newsletter to solicit feedback from the public.

A vote was taken on the motion to send this to a work session. It passed by a 4-3 vote in favor, Councilmembers Repan, Williams-Rowe and Mayor Nolan voting against.

**9.2. Outback Rd. situation continued discussion.** (Continued discussion from CM Repan's CAARF from the February 4<sup>th</sup> meeting) Discussion and possible action to Town Attorney's response to options.

Town Attorney Susan Goodwin explained the council's options regarding this issue:

1. Stop maintenance – designating a dirt road as primitive, but must meet criteria;
2. Abandon the road. "No public use", but there is still a public use;

3. Annex the subdivision which would give the town a slightly larger revenue sharing and tax base to help with maintaining the road;
4. Continue to maintain it at the current level.

There was discussion on the legal ownership of the road and whether it is a road or easement.

Public comment was taken on this item.

Jerry Brady spoke on the history with the Department of Defense regarding rights-of-way; conveyance of all rights to the town from the Board of Supervisors; upgrading the road to fire service access.

Councilmember Repan spoke on leasing land from the state and not being able to grant that to someone else.

The town attorney was directed to research some of the answers to the questions raised.

Public comment was taken.

Ron Whitman questioned on why an aerial survey was done for Dewey Rd., by the town (many years ago).

Mayor Nolan responded to his question.

**10. Discussion Agenda – New Business.** Discussion and Possible Action on matters not previously presented to the Council.

**10.1. HURF Resolution 14-109 at the request of the League of Cities and Towns.** Discussion and possible adoption or rejection.

Mayor Nolan gave an overview on what the resolution was for (requesting HURF funds come back to cities and towns).

Councilmember Hamilton made a motion to approve the resolution, seconded by Councilmember Repan.

Public comment was taken on this item.

Jerry Brady spoke in support of this and expense of updating mapping system for roads.

The motion passed unanimously.

**10.2. Revisit policy relating to educational, conference and event reimbursements to council members to clarify what types of these activities will be deemed acceptable.**

[CAARF requested by VM Alen]

Vice Mayor Alen spoke on her preference to move this to a work session. She made a motion to move this to the next available study session, seconded by Councilmember Repan. It was approved unanimously.

**10.3. Ask Attorney questions about 1) What is legality of Council members addressing public during *Comments from the Public* agenda space? 2) Council discussing items in the Town Manager's report. 3) Gift clause on how it relates to Council duties and if challenged in court who pays attorney fees?** These items are for discussion purposes.

[CAARF requested by CM Hamilton]

Town Attorney Goodwin was present to answer these questions.

1. She doesn't recommend council speak as a member of the public, although they still have that right. There was discussion about whether it was necessary to step down from the dais

if they choose to do so. There was additional discussion on this issue as well as commenting on an earlier agenda item at the end of the meeting. Ms. Goodwin explained she didn't feel that was a violation if the agenda item was agendized.

2. Ms. Goodwin explained if the individual items on the report are agendized it is legal to discuss, otherwise it is not.
3. Councilmember Hamilton asked if a suspected violation of the gift clause has occurred, how it is prosecuted. Attorney Goodwin explained gift clause challenges are usually a private lawsuit and would be against the entity (council) and defended by the town attorney.

Public comment was taken on this item.

Jerry Brady spoke on Modern Rules of Order; Council's rights as citizens; proper protocol for (council) speaking as an individual/citizen at a meeting.

#### **10.4. Invitation to be issued to Animal Disaster Services to do a presentation for council and community on preparedness and plans of action. [CAARF requested by VM Alen]**

Vice Mayor Alen gave an overview on providing information to the town's citizens on preparedness and plans of action during a disaster pertaining to their animals.

Vice Mayor Alen made a motion to issue an invitation to Animal Disaster Services to do a presentation for council and community on preparedness and plans of action, seconded by Councilmember Williams-Rowe.

There was discussion on how this was different than what was covered during the Emergency Management disaster response meeting. VM Alen explained this is for public education and a service to the community.

Public comment was taken on this item.

Jerry Brady spoke on standards for emergency management; cooperating with the Sheriff's department on these matters.

CM Wright suggested this would be better as an article in the town's newsletter.

A vote was taken on the motion which passed unanimously.

#### **10.5. Report on Branding Initiatives per Budget. [CAARF requested by VM Alen]**

Vice Mayor Alen gave her report, explaining the process: #1 a sign on the highway for the town; #2 a Dewey-Humboldt T-shirt; #3 a tri-fold brochure.

Council discussed #1 Sign, considering ADOT requirements/criteria, location, more than one sign, cost for sign.

Public comment was taken on this item.

Jerry Brady spoke on placement considerations; establishing a legal identity; submitting to a GIS GPS location system for state roadside attractions.

No action was taken as it was not agendized for action.

#### **10.6. Discuss Format of Budget. [CAARF requested by CM Hamilton]**

Councilmember Hamilton spoke on wanting the budget changed for more transparency.

There was discussion on how the budget already meets requirements for transparency.

Councilmember detailed what he would like to see: list each project under each line item; spell out the OSP line items; HURF projects listed out specifically; what equipment to purchase under equipment; wages listed separately; travel and training broken out for each department; benefits listed as a whole not individually.

There was discussion on whether the rest of council felt this was necessary. Councilmember Hamilton agreed to take a budget class if one is available.

Public comment was taken on this item.

Jerry Brady spoke on complying with federal aid standards for federal funds; fiduciary or public duty, due diligence research and due process disclosure; publishing in a comprehensible manner.

Ron Whitman spoke on knowing where the money is going.

Councilmember Hamilton made a motion to move this to the first work session in March, seconded by Councilmember Wright.

Town Manager Kimball responded to CM Hamilton's comments by explaining the budget process is very transparent. The town has a very small budget with no debt; this budget season is scheduled for a longer period with more meetings, all the meetings are public and recorded. She explained what CM Hamilton is asking for is accounting rather than the budget and as the Town Manager her job is to make sure the money budgeted is being spent correctly.

Public comment was taken on this item.

Ron Whitman spoke on his difficulty in getting notification of meeting through the state mandated postings. He spoke on the courtesy agenda items that are listed in the town's newsletter and the timing for receiving the newsletter.

Jerry Brady spoke on publications and mail service.

A roll call vote was taken on the motion. It failed by a 3-4 vote, with Councilmember Repan, Williams-Rowe, Vice Mayor Alen and Mayor Nolan voting against.

### **11. Comments from the Public.**

Jerry Brady spoke on another entity's fine for not filing accountability reports and recommended the town look up the status of our reports.

Ron Whitman spoke on his work history and council staying out of trouble.

Angela Teski Peterson complimented the council for their good work.

### **12. Adjourn.**

The meeting was adjourned at 9:12 p.m.