

**TOWN OF DEWEY-HUMBOLDT  
TOWN COUNCIL  
REGULAR MEETING MINUTES  
TUESDAY, AUGUST 7, 2012, 6:30 P.M.**

**A REGULAR MEETING OF THE DEWEY-HUMBOLDT TOWN COUNCIL WAS HELD ON TUESDAY, AUGUST 7, 2012, AT TOWN HALL AT 2735 S. HIGHWAY 69, DEWEY-HUMBOLDT, ARIZONA. MAYOR TERRY NOLAN PRESIDED.**

1. **Call To Order.** The meeting was called to order at 6:30 p.m. Mayor Nolan presided.
2. **Opening Ceremonies.**
  - 2.1. **Pledge of Allegiance.** Made.
  - 2.2. **Invocation.** Given by Councilmember Wright.
3. **Roll Call.** Town Council Members David Hiles, Mark McBrady, Denise Rogers, Nancy Wright; Vice Mayor John Dibble; and Mayor Terry Nolan were present. Councilmember Dennis Repan was absent.
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.

Mayor Nolan announced and congratulated Planning and Zoning Commissioner Arlene Alen's recent leadership award, Manager of the Year, through Lockheed Martin. She received this award for her volunteerism through the Neighbor to Neighbor program.

5. **Town Manager's Report.** Update on Current Events.  
None.
6. **Consent Agenda.**
  - 6.1. **Minutes.** Minutes from the July 10, 2012 Special Study Session and July 17, 2012 Regular Meeting.  
Vice Mayor Dibble made a motion to approve as presented, the minutes from the July 10, 2012 special study session and July 17, 2012 regular meeting, seconded by Councilmember Wright. It was approved unanimously.

7. **Comments from the Public (on non-agendized items only).**

Chris Berry spoke on Mortimer Family Farms sign code violation; lifting the moratorium on the sign code; signage in rights-of-way; P&Z agreeing to hold more meetings for special circumstances and the sign code modification being one of those reasons. He suggested handling sign code violations in a way other than enforcement of the current sign code.

Town Manager, Yvonne Kimball responded by stating how and when the moratorium on the sign code was lifted, the Planning and Zoning commissioners were notified at the July 5<sup>th</sup> meeting, and explained the sign code violations with Mortimer Farms being an operational issue and one she has discussed with the Mortimers.

Jerry Brady spoke on the ownership of Old Black Canyon (OBC) Highway; the County conveying the jurisdiction over the rights-of-way but not the ownership when the town incorporated; a comprehensive plan update; fire roads for national defense secondary roads; and not being able to abandon OBC Hwy if development is planned.

Jack Hamilton spoke on contacting the ombudsman's office regarding responding to criticism during public comment, explaining the Mayor was correct that he could respond from the dais; he announced his official resignation from the GRAC and stated it was a dead committee; identified where the town code needs to be updated so the Council may serve as the Board of Adjustment; agreed with lifting the sign code moratorium; the Council swearing an oath to uphold all laws-state, federal and local, and any councilmembers who have not paid town fines should resign from the council.

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

**8.1. Dewey-Humboldt Historical Society Boiler Display Location Report.** Discussion and possible action.

Town Manager Kimball gave an overview, explaining they reaffirmed the original assessment that the boiler is partially in the town's right-of-way (ROW) and that she will request they move the boiler unless the Council says otherwise. She recommended if the Council does not request the boiler be moved they consider a lease agreement with the Historical Society, laying out the terms and conditions for the boiler to remain in the ROW.

Councilmember Rogers stated it was a staff issue not a council issue and a survey needs to be done to determine the ROW location.

Councilmember Wright spoke on the history of that ROW, and finding it platted at 70 feet wide. She spoke on it being an enforcement issue for Outside Display (commercial), and read from that section of town code on requirements. She stated they are obligated to enforce the town's laws and if the Council doesn't like them they need to amend or remove them.

Councilmember Wright made a motion to give this issue back to Staff for their enforcement of the applicable laws (Town, State and Federal), seconded by Councilmember Hiles.

Vice Mayor Dibble spoke on the museum being an educational use rather than a commercial use.

Councilmember Hiles stated it was a task for staff to take care of and to seek legal counsel if necessary.

Public comment was taken on this item.

Jerry Brady spoke on a comprehensive plan and needing land use and transportation elements in the general plan to enforce this issue; the loss of a caboose to display; an historic overlay or district to address this issue; a subdivision plat not being a legal document and needing a survey; stated it was originally a 20' ROW with a 50' city lot.

Chris Berry spoke on staff asking for Council guidance on this issue; asked what the harm was in allowing the boiler to be displayed in the ROW; the unique features of the property; agreed with a lease agreement to use the area, especially since more historic artifacts are coming in the future; people working on declaring it an historic district; co-insuring the town for liability; not enforcing the laws that are in the process of being changed; being unhappy about moving the boiler.

Town Manager Kimball clarified the harm: liability, being consistent with enforcement of laws and not setting precedence; lease being managed through Council; her

understanding on Outside Display being for commercial purposes when the museum is for educational purposes.

Councilmember McBrady spoke on finding a way to mitigate the town's liability in this issue, but allowing the boiler to remain where it is, and helping the D-H Historical Society.

Councilmember McBrady made a motion to allow the D-H Historical Society to keep the boiler where it is located and direct staff to look into what the liabilities are and to ask legal counsel the best way to proceed, seconded by Vice Mayor Dibble.

There was discussion on the difference between the two motions on the floor; on whether the museum is a commercial or educational use; helping the museum in addition to paying their rent for a year.

Public comment was taken.

Gerald Hoyer spoke on a conversation with the church pastor where he was told the church tried to purchase the 50' piece of property between the ROW and the building but were unable to as they could not get all the adjoining property owners to agree to it. He suggested they find out who owns that lot before proceeding with anything.

Jerry Brady spoke on utility encroachments; land use designation; finding an equitable long-term use for the museum.

Councilmember Rogers called the question. A vote was taken on calling the question and it passed by a 4-2 vote in favor, Councilmembers Hiles and Wright voting against.

A vote was taken on the second motion to keep the boiler where it is but direct staff to look further into liabilities and best way to proceed. It failed by a tie vote, Councilmembers Hiles, Wright and Mayor Nolan voting against.

A vote was taken on the first motion to give this back to staff to enforce the laws. It was approved by a 4-2 vote in favor, Councilmember McBrady and Vice Mayor Dibble voting against.

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

**9.1. Potential future meeting subjects that require Council's attention.** Review, Discussion and possible action.

Town Manager Kimball gave an overview of the 6 items listed on the Council Communication.

1. Transaction Privilege Tax (TPT) presentation will be on the September 11<sup>th</sup> work session.
2. Fair Housing Presentation scheduled for the August 14, 2012 work session.
3. Planning and Zoning Joint meeting request tentatively scheduled for August 21. Council discussion brought recommendation to move it to the September work session (9/11/12).
4. Development Fees discussion with the League of Cities and Towns: This will be pushed to the January or February work session.
5. US Dept. of Agriculture grant programs presentation: TM Kimball explained citizens have asked why they do not pursue grants through this program but the town is not eligible for most of their grants due to limited services the town offers. This

presentation would be to clarify that situation. Council decided they did not need to have a meeting on this.

There was discussion on setting limits on presenters and relaying that in advance of the meetings.

6. Council Retreat Topics: Council will meet for a small 2-3 hour retreat meeting in November. Suggested topics will be submitted by Council to the Town Manager and compiled for discussion and selection.

**9.2. Vacancies on the Commission and Committees, and schedule for appointments.**

Discussion and direction.

Mayor Nolan reviewed the information provided. Staff will continue to collect applications and bring them to the Council at the September 18<sup>th</sup> meeting, for interviewing and appointing.

**9.3. Two Change Orders for CDBG Projects.** Discussion and possible action.

TM Kimball reviewed the two change order areas on the map; surveys were conducted and determined eligible; the sidewalk project will come as a separate project since design is required.

Vice Mayor Dibble made a motion to approve 9.3 Two Change Orders for CDBG Projects, seconded by Mayor Nolan. It was approved unanimously.

**9.4. Discussion, direction and/or action on potential grants from ADEQ's Brownfields Program or the Federal Resources for Sustainable Rural Communities.** [CAARF Requested by CM Wright]

Councilmember Wright gave an overview on the seminar she attended regarding the Brownfield program. She explained the Superfund sites are not eligible for Brownfield grants but there might be other areas in town that are eligible for these grants and she wanted to get the word out on this program. There was discussion. No action taken.

**10. Public Hearing Agenda.** None.

**11. Comments from the Public.**

Jack Hamilton spoke on calling the question requires a 2/3 vote rather than a simple majority; suggested a retreat topic of long-term road maintenance problem and recommended obtain legal clarification on what can be done if roads are removed from the maintenance program.

TM Kimball responded that the Old Black Canyon Highway legal report will be on the next, August 14<sup>th</sup> meeting and posting "non-maintained" might not alleviate liability.

Chris Berry spoke on recommending to the P&Z Commission the need to raise the priority of the sign code to get it done; museum status is not a commercial use but an educational group as monies are not for profit and go back into educational efforts.

**12. Adjourn.**

The meeting was adjourned at 8:18 p.m.

ATTEST:

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Judy Morgan, Town Clerk