

**TOWN OF DEWEY-HUMBOLDT
TOWN COUNCIL
SPECIAL STUDY SESSION MEETING MINUTES
TUESDAY, JULY 10, 2012, 2:00 P.M.**

A SPECIAL STUDY SESSION OF THE DEWEY-HUMBOLDT TOWN COUNCIL WAS HELD ON TUESDAY, JULY 10, 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 2:00 p.m.

2. **Roll Call.**

2.1. Town Council. Town Council Members, David Hiles, Mark McBrady, Dennis Repan, Denise Rogers, Nancy Wright; Vice Mayor John Dibble; and Mayor Terry Nolan were present.

3. **Study Agenda.** No legal action to be taken.

3.1. Old Black Canyon Highway Update by the Town Attorney. Review and possible direction.

Town Attorney Phyllis Smiley was in attendance, and reviewed the Old Black Canyon Highway ownership issue, asking for direction on what they want to see with this issue.

Councilmember Wright gave her request to find out what portions the town owns, which in turn will determine what parts are maintained by the town. She asked if there is a requirement that they continue maintaining the road, if it is determined they do not have ownership of it.

Mayor Nolan spoke on a County Board of Supervisor's document abandoning Old Black Canyon Highway; possible discrepancy of where the road is located from the designated easement; and town's ownership of it on the end coming out on Highway 169.

Phyllis Smiley spoke on a portion that is Third Street which is not a portion that is being contested.

Councilmember Rogers explained every council has wanted to know the status of this roadway and she spoke on adverse possession and whether it would apply in this case.

Ms. Smiley spoke on how adverse possession works and explained municipalities cannot obtain roadways this way but must purchase by paying fair market value or through dedication.

There was further discussion on finding out the ownership of the roadway and determining if the roadway was in the right-of-way. Ms. Smiley will bring that information back to the Council.

Public comment was taken on this item.

Walt Statler spoke on an indication of town ownership of a right-of-way being an 800 number on the GIS system, which the portion of Old Black Canyon Highway north of Edds Sand Trail does not have; his family paying the taxes on that property since 1939 and his belief that the ownership is his not the town's; blocking access to everyone but those people living off that section of the road.

Mayor Nolan suggested if traffic did not flow through that area it would increase traffic flow through Main Street which might help them get a light at Main and Highway 69.

Dean Cameron stated he is in favor of slowing people down on Old Black Canyon Highway.

Town Manager Kimball spoke on GIS showing the town's ownership of Old Black Canyon Highway from Edds Sand Trail to Prescott Street and the confusion being the transfer of the northern section of right-of-way to the town when incorporated.

Phyllis Smiley spoke on assessor's parcels not being legal documents, but needing to refer to the deeds instead. She will get back with them with information within 2-4 weeks.

3.2. Local Transaction Privilege Tax (TPT) research update by Staff. Review and possible direction.

Accountant, Deni Thompson gave a presentation to the Council on Transaction Privilege Tax (TPT), explaining what it is, who is responsible (business not consumer), often referred to as *Local Tax* or *City General Tax*. She spoke on reports received from the Department of Revenue (DOR) for payment of taxes and staff reviewing those more closely for payment of the TPT. There was discussion on the advantages and disadvantages of a local town license.

Town Manager Kimball spoke on having a DOR representative to the work session in September to discuss this further with the Council and asked for any questions for the representative to be submitted to her no later than August 1st.

4. Special Session. Legal Action can be taken.

4.1. Ordinance 12-92 to Amend Town Code provisions 31.22 Board of Adjustment, 34.01 Fee Schedule for Town Documents, and 153.021 Board of Adjustment; Zoning Administrator; and to Appoint Either the Town Council or the Planning and Zoning Advisory Commission to Serve as the Board of Adjustment. Discussion and possible action.

Councilmember Rogers asked about ordinance wording that she had concerns with: posting at property wording; "potential" wording; number of votes – questioned if simple or super-majority. Ms. Smiley spoke on the wording and explained the reasons for the wording being appropriate, simpler and broader.

Mayor Nolan asked about the Zoning Administrator (B) wording regarding whether the chair should be able to call a meeting. Ms. Smiley explained the reasons for the wording and her opinion to keep it as is.

There was discussion on who would take the minutes and selection of a chairman. Councilmember Wright spoke against dissolving the BOA and against the Council serving in the BOA capacity. There was discussion on administrative adjustments and variances and how they are handled in the current town code. Councilmember Wright asked about wording related to posting in newspaper. Ms. Smiley explained the wording comes out of state law.

Councilmember Hiles made a motion to appoint the Town Council to serve as the Board of Adjustment, seconded by Vice Mayor Dibble.

Public comment was taken on this item.

Jerry Brady spoke on the Arizona Commerce Commission having a community assistance program for training; NACOGs authority for grants for BOA; needing an ordinance for the BOA; this being a major amendment to the General Plan; order for publication in the town newsletter.

A vote was taken on the motion, which passed by a 5-2 vote in favor, Councilmembers Rogers and Wright voting against.

Town Attorney Smiley explained they need to act on one of the ordinances. Councilmember Repan asked about for the attorney's recommendation to keep the mayor as chairman of the BOA. She responded yes it was her recommendation.

Councilmember Repan made a motion to approve Ordinance 12-92 to Amend Town Code provisions 31.22 Board of Adjustment, 34.01 Fee Schedule for Town Documents, and 153.021 Board of Adjustment; Zoning Administrator; as it applies to the Town Council being appointed as Board of Adjustment, seconded by Councilmember Hiles. It was approved by a 5-2 vote in favor, Councilmembers Rogers and Wright voting against.

Councilmember Repan asked for staff to look at any supporting town codes that might conflict with this ordinance. Ms. Smiley agreed to look at that and bring back an ordinance to amend if she finds it is needed.

5. Comments from the Public.

Jerry Brady spoke on an informal opinion by Sheila Polk and the Superior Court Clerk that appeals would be defer directly to the Arizona Court of Appeals or the Arizona Supreme Court; an appropriations bill for transportation enacted last week by congress; National Defense highways and secondary roads and how it applies to Old Black Canyon Highway; funding for evacuation/fire connector roads and his recommendation to pursuing that funding through the EFF.

6. Adjourn. The meeting was adjourned at 3:51 p.m.

Terry Nolan, Mayor

ATTEST:

Judy Morgan, Town Clerk