

**TOWN OF DEWEY-HUMBOLDT
TOWN COUNCIL
SPECIAL STUDY SESSION MEETING MINUTES
TUESDAY, AUGUST 14, 2012, 2:00 P.M.**

A SPECIAL STUDY SESSION OF THE DEWEY-HUMBOLDT TOWN COUNCIL WAS HELD ON TUESDAY, AUGUST 14, 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 2:02 p.m. Mayor Nolan presided.

2. **Roll Call.**

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

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

3.1. Southwest Fair Housing Council Presentation on Free Services. A presentation by Jo Ann Reyes.

Ms. Reyes gave a presentation on the services offered: free education and assistance on housing discrimination. Council agreed to allow placement of materials on their services at town hall.

Mayor Nolan asked about a problem with lending agencies not loaning within Dewey-Humboldt due to the Superfund site. Ms. Reyes responded she will look into it.

3.2. Intent to bid out the Pavement Preservation Project. Discussion and possible direction.

Town Manager Kimball gave an overview on the work to be done and Public Works Supervisor, Ed Hanks was in attendance to answer questions. There was discussion on minor corrections to the contract and clarification on bonds and payment terms.

Public comment was taken on this item. Jack Hamilton asked about money set aside for chip sealing in the budget and when that work is to occur.

TM Kimball explained this is step one of a two-step process with the second step to occur in the spring.

3.3. Old Black Canyon Highway right-of-way acquisition, ownership and maintenance issues. Report and discussion.

Mayor Nolan made a motion to waive the Client/Counsel Privilege on the Town Attorney opinion regarding this. Town Attorney Phyllis Smiley explained it would not need to be waived to have discussion. The motion failed for lack of a second.

Ms. Smiley explained the next step is to do a title search through a title company, and she is currently collecting quotes for this. She spoke on the history of this research and stated the previously received quit claims were not adequate to deed to the town. There was discussion on: liability for the road; concerns if maintenance is stopped; whether to spend more money on this issue; abandoning the road; town's conservatorship of the property; whether roadway is in the right-of-way or not.

Public comment was taken on this issue.

Dean Cameron spoke on his attorney's response regarding the liability for the property owners if someone is hurt along their section of the road and a title search indicating they own the property.

Jerry Brady spoke on the town never acquiring ownership of the roads except for some subdivisions; Old Black Canyon's history as a supply route for Fort Whipple; a permanent lien easement and paying back the federal investment on the road.

Jack Hamilton stated he would not accept the roadway if the town wanted to abandon it; suggested putting this on a future agenda to make that determination.

Walt Statler spoke on being willing to build a gate at the bridge to close the road but would want something in writing that the property owners do not hold liability if someone is injured.

Councilmember Repan asked Mr. Cameron if his attorney made a suggestion of what to do.

Dean Cameron stated it was suggested the road be closed then address the issue of reimbursement for taxes paid over the years.

Phyllis Smiley stated that if a property owner is paying taxes on publicly owned land then they are entitled to reimbursement.

Council decided that once more quotes for title searching are received it will go on a future agenda for a decision.

4. Special Session. Legal Action can be taken.

4.1. Centennial Monument discussion. Discussion and possible action (continued from July 3, 2012 Council meeting).

Town Manager Kimball gave an overview explaining that no decision was reached previously and it was directed for it to come back to the council. There was discussion on the location of the monument and the desired location at Humboldt Station.

Public comment was taken on this item.

Skip Rains asked about it being on private property and possibly deeding the property to the town where the monument would be placed. He also suggested placing the monument at the museum location.

There was discussion on whether to partner with the Historical Society on this monument.

Gerald Hoyer spoke on the decision to place a monument at this location as a way to tell a story of the area, and offering to share the monument to save money.

Jerry Brady spoke on the National Parks Service providing monuments and sites for these plaques; GIS/GPS mapped documents for mining districts; history based tourism, combining interests and assets with the Dewey-Humboldt Historical Society (DHHS).

Doris Lake spoke on supporting the actions of the people trying to make this a tourist attraction.

Councilmember Rogers suggested placing the other two plaques at the Butte Street Park and on the corner of 69 and 169 Highways.

Councilmember Rogers made a motion to partner with the Historical Society on this one monument at Humboldt Station, seconded by Councilmember McBrady. There was

discussion on how the plaque monument would be oriented. Gerald Hoyer spoke on the steps the town will still need to take: select wording, send it for carving, mount it on the monument structure.

Town Manager Kimball suggested the Historical Society could pick up the cost of the project since the Town is paying for their museum rent.

Jerry Brady stated his support for the town partnering with the Historical Society; the museum establishing a general plan; the town not having a home rule charter; constraints on land uses for properties not surveyed; War Department performed accurate surveys on much of the town.

Skip Rains asked for a lease to place the signs from the Humboldt Station property owner, Mark McBrady.

Chris Berry spoke on not worrying so much about saving money; too much time and resources spent to get things done.

The motion passed by a unanimous vote.

Town Manager Kimball clarified the town will split the cost for the monument with the DHHS and the wording issue will be brought back at a future council meeting.

4.2. Accountability Contracts review and discussion. Implementing Council decisions on donations to the Little League and the D-H Historical Society.

Town Manager Kimball first reviewed the contract and scope of work for the D-H Little League and stated the D-HLL is in agreement with it. There was discussion on whether to pay for part of the uniforms, since the field rent was less than what was approved to be paid.

Councilmember Rogers identified wording in the contract that needed to be changed “public monies receiving” should be “town giving”. This will be updated.

Councilmember Hiles made a motion to approve paying \$2220 for the field rent and to include the town on the liability insurance, seconded by Councilmember Wright. It was approved unanimously.

Town Manager Kimball reviewed the contract and scope of work for the D-H Historical Society. She spoke on requiring certain things since the town is paying their rent: open and operate the museum; free admission for citizens; 3 days a week/minimum 6 hours open to public; deadline to open doors December 31, 2012.

Gerald Hoyer spoke on having their official opening already and having special community events with free admission but donations requested. He spoke on water damage which will slow them down on preparing the museum. Councilmember McBrady suggested that during the time of repairs they should not have to pay rent.

Public comment was taken on this item.

Skip Rains spoke on the repairs taking place and the restrooms for the public being out of operation.

Catherine Hoyer spoke on the scope demands not being anything they wrote up; donations for admission; needing the town’s input; hours of operation being reasonable.

Chris Berry stated the intention was to get the doors open as soon as possible.

Councilmember Repan wanted to know when they expect to open the doors for regular business.

Jack Hamilton spoke on agreeing to pay the first 6 months of rent and once obligations are met then paying the next 6 months.

Jerry Brady spoke on supplementing the D-HHS income from the special use permits allowing them to open on a temporary basis, and being open on various days for various purposes, using Jerome as an example.

Councilmember Hiles made a motion to approve the accountability contract with the D-H Historical Society, seconded by Councilmember Rogers.

Skip Rains spoke on not being able to open to the public until water damage is repaired and working with the school to determine what days to have the museum open so it is functional for them.

There was discussion on how and when payments would be processed. TM Kimball explained the D-HHS would invoice the town, and the D-HHS would need to be in compliance with local, state and federal laws. Payments would be made to the D-HHS rather than the church. She explained the boiler could be in violation which would delay payment.

A vote was taken on the motion and it passed by a unanimous vote.

4.3. Consideration of purchasing current town hall property. [CAARF Requested by CM Repan]

Councilmember McBrady excused himself from this agenda item discussion and stepped down from the dais.

Councilmember Repan explained why he requested this discussion, keep the discussion going and to make progress. He would like to see the town build equity rather than leasing. Property owner, Mark McBrady provided three options for breaking the property up for sale.

Town Attorney Phyllis Smiley stated the next step would be for the Council to approve a resolution authorizing the acquisition, which would allow staff to do what it needs to do and to obtain a title report.

Mark McBrady was asked if he was interested in pursuing this sale and he stated he was. He explained A1 would include the dirt lot across from the post office which could be fenced and used for storing equipment. The bank is currently doing a certified appraisal and environmental report on the property, which he will make available to the town.

There was discussion on how binding the resolution is. The purchase contract would still go to the Council for approval, so the Council would not be bound to purchase if the negotiations fell through. TA Smiley stated they need to find out the condition of the property and the town should have their own appraisal done.

Public comment was taken on this item.

Jack Hamilton spoke against moving forward with this at this time, suggesting they wait until next year so they would have more options.

Jerry Brady spoke on the museum and the town hall needing permanent facilities and suggested one could be built as part of the remediation on the superfund sites.

Councilmember Hiles stepped away from the dais at 4:27 for two minutes and returned at 4:29 p.m.

Chris Berry spoke on looking at the availability of funds before moving forward; and the town getting their own independent appraisal and title search on the property.

There was discussion on which parts of the property the town would be interested in purchasing. Mayor Nolan made a motion to approve directing staff to develop a resolution to look at his property as a permanent home for this town, looking at all three options (A1, A2 and A3), seconded by Councilmember Repan.

There was discussion on moving the Sheriff's office down into the A2 section along with the Court.

The motion passed by a 4-1 vote, Councilmember Wright voting against, Councilmember McBrady not voting as he recused himself.

4.4. Discussion, direction and action on Ordinance No. 11-88. [CAARF Requested by CM Wright]

Councilmember McBrady returned to the dais. Councilmember Wright gave an overview of why she requested this agenda item. When the code of ethics was amended the new ethics code was not codified. During CM Wrights research she was told by the Town Clerk that the reason for not codifying it was it was more of a policy and therefore was placed in the policies and procedures for public bodies. Those parts of the code which were extinguished by the ordinance were codified.

TA Smiley was asked if it should be in the town code or kept as a policy. She responded ethics are typically policy rather than law, a moral duty rather than a legal duty.

Public comment was taken on this item.

Jerry Brady spoke on AZ Corporation Commission, and AZ Supreme Court training on related issues. These are provided through local colleges and Yavapai County Superior Court, with funding available for training. He recommended having Jack Hamilton or a Councilmember to attend.

Jack Hamilton spoke on keeping it a policy issue as if it is violated they can't do anything about it since they are elected officials. He asked what recourse the public has if it is violated.

TA Smiley explained the public can do a recall if violated, Council can't remove each other but the public has the decision to remove from office.

Councilmember McBrady made a motion to approve retaining the code of ethics as a policy, not as a code, seconded by Mayor Nolan. It was approved by a 5-1 vote in favor, Councilmember Wright voting against.

TM Kimball explained they will have everyone listed on the code of ethics sign it.

4.5. Discussion, direction and/or action on adopting all rules and procedures necessary or convenient for the conduct of business by the Board of Adjustment. [CAARF Requested by CM Wright]

Councilmember Wright gave an overview of the request, explaining the independent Board of Adjustment (BOA) chose their rules and procedures for the conduct of business. She felt the Council needs to do the same now that they will serve in that

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capacity. There was discussion on whether this is necessary, when to review the rules, and how to adopt the rules, using the state law guidelines and procedures.

Public comment was taken on this item.

Jack Hamilton spoke on the prior BOA adopting the County rules with minor modifications, but not in state law. He spoke on ex-parte communications and conflict of interest serving as Council and BOA and needing to address this problem.

Jerry Brady spoke on ethical violations historically in the Yavapai region and the creation of the gift clause. He spoke on ethical considerations needing to be defined.

TA Smiley was asked if Mr. Hamilton was correct. Ms. Smiley responded it depends on the circumstances as there is a potential for conflict. It is the duty of the board to disclose that (ex-parte) communication as part of the hearing. She explained that the town attorney can prepare a cheat sheet to help the board during a case, providing an outline of procedures and reminder about ex-parte and findings required by BOA to grant a variance or appeal. No action was taken on this item at this time.

5. Comments from the Public.

Jerry Brady spoke on land use articles/records not being maintained in local archives and legal rights to the Agua Fria River claims.

Jack Hamilton complimented the contractor doing the CDBG project. He asked that the quit claim deeds be given back to the property owners for the Old Black Canyon Highway.

6. Adjourn.

The meeting was adjourned at 5:11 p.m.

Terry Nolan, Mayor

ATTEST:

Judy Morgan, Town Clerk