

**TOWN OF DEWEY-HUMBOLDT  
TOWN COUNCIL  
SPECIAL STUDY SESSION MINUTES  
FRIDAY, NOVEMBER 14, 2014, 6:30 P.M.**

**A SPECIAL STUDY SESSION OF THE DEWEY-HUMBOLDT TOWN COUNCIL WAS HELD ON FRIDAY, NOVEMBER 14, 2014, 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 2:01 p.m.

2. **Roll Call.**

**2.1. Town Council.** Town Council Members Jack Hamilton, Mark McBrady, Dennis Repan, Nancy Wright; Vice Mayor Arlene Alen; and Mayor Terry Nolan were present. Councilmember Sonya Williams-Rowe was absent.

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

None.

4. **Special Session.** Legal Action can be taken.

**4.1. Code Enforcement Process Staff Review and Council Direction in regards to Code Enforcement Operation.** (Continued from October 14, 2014 Council meeting)

Town Manager Kimball gave an overview on what the existing town code allows (code violations can be penalized as criminal cases). The current code enforcement (CE) operation procedure does not have any “teeth” for those difficult cases.

Magistrate Judge Kelley was also present to speak on a proposed hybrid CE procedure. This procedure would allow for certain severe cases to go to the prosecutor for determination whether to pursue or dismiss the case.

Town Attorney Susan Goodwin spoke on fixing existing code regarding “filing liens” against a property.

Public comment was taken on this item.

Jerry Brady spoke on the Town’s enactment of the P&Z codes and signature authority.

Karen Brooks spoke against adding the civil/criminal part and shortening the timeline. She recommend they err on the side of caution.

Cheryl Taylor spoke against shortening the CE timeline and on her concerns about the possibility of abuse of the complaint process.

Ulys Brooks spoke on the violation fines. Judge Kelley responded this proposed process is for those persons who will not pay their fines and explained the Town’s inability to lien a property for non-payment of fines.

Jerry Piper spoke on the complaint process and recommended modifying existing code to not allow anonymous complaints or third parties submitting complaints for someone else.

Jerry Brady spoke on the County liening properties for non-payment of fines.

There were discussions on what current code allows for enforcement; what could be codified (liens for abatement); where the procedure is defined.

Public comment was taken on this item.

Jerry Brady spoke on the Uniform Safety and federal codes.

Patrick McGill spoke in support of keeping the current timeframe and process prior to sending it out as a criminal case.

Karen Brooks spoke on keeping the 115 day process and adding the 45 day process, keeping it under 6 months; complaints against her property that came in after the community meetings on animal codes; suppression of the constituents' freedom of speech.

Vickie Wendt spoke on the community meeting and getting complaints against her; changing the complaint process restricting who can file complaints (complainant must be directly affected by the property).

Debbie Pomeroy spoke about attention paid to her property since attending the community meetings, and fixing the current complaint process.

Councilmember Hamilton (responding to a comment made by Jerry Brady) asked the Town Attorney Susan Goodwin about whether the town needed to do something additional (filing additional paperwork) in order to enforce the Planning and Zoning Code. Ms. Goodwin responded it was not true.

Jerry Brady called a point of order since his name was mentioned. He spoke on enforcing weeds and brush due to health safety concerns, but no law to take effect unless a signature authority, a date, a notarization and an order for publication.

Ms. Goodwin responded the legal requirement under title 9 – must be posted in three public places with an affidavit of posting on file.

Town Manager Kimball asked for Council's input on whether there is consensus that the current code has the provision for criminal penalty then they can concur on that.

There were discussions on timeline and current process versus proposed hybrid process.

Public comment was taken on this item.

Karen Brooks suggested including a timeline with each complaint.

Patrick McGill asked a questions on the complainant's rights to take the process to a civil action and what the statute of limitations are for code complaints; having the opportunity to "face your accuser".

Karen Brooks asked about certified letters requiring signatures, therefore needing a longer timeframe to process through.

Jerry Brady told a story about a code complaint that had occurred in the past.

Town Manager Kimball explained this proposal is only for extreme cases.

Councilmember Hamilton made a motion to follow the Town Manager's recommendation for a 40-day procedure for extreme cases, seconded by Mayor Nolan.

It failed by a tie (3-3) vote, Councilmembers McBrady, Repan and Vice Mayor Alen voting against.

Councilmember Wright made a motion to accept the procedure but make the process a total of 90-days and at that time it goes to the town prosecutor, seconded by CM Repan. The motion passed by a 5-1 vote in favor, CM McBrady voting against.

Town Manager Kimball, for clarification, reiterated the entire process timeline would be limited to 90 days.

#### **4.2. Continued discussion on Public Body Code of Ethics Complaint Process.**

(Continued from November 4, 2014 regular Council meeting)

Council reviewed the submittals from Council on an Ethics Complaint process and considered whether to continue with an ethics committee or go with a hearing officer or outside arbitrator to hear the complaints.

Town Manager Kimball explained the heavy involvement for staff with the current process due to the Open Meeting Law requirements.

There was discussion on the first step of the process determining if complaint is frivolous and whether this could be done by the committee or if the complaints would be best to go directly to an arbitrator from the beginning; who would be on the committee and how to rotate them; who handles the various steps of notifying committee members and scheduling meetings; how to notify members.

Mayor Nolan opened the floor for public comment. CM Wright called a point of order. Mayor Nolan explained he made a determination as the Chair of the meeting, to hear from the public.

Public comment was taken.

Karen Brooks spoke in support of having the judge handle the initial determination of complaint and a third party arbitrator handle the hearing process rather than the council.

Jerry Brady spoke on Executive Sessions under A.R.S.; Attorney General's role with ethics issues; open meeting law.

CM Repan asked about raising a point of censure. Town Attorney Goodwin explained they would reference Roberts Rules of Order and it would probably fall under the Chair being able to call members of the assembly. She said she can come back with the correct citation. There was discussion on the meeting protocol.

Council resumed talking about the ethics complaint procedure; who might serve in the capacity of arbitrator on ethics complaints; who makes the final decision on whether a violation has occurred.

Vice Mayor Alen made a motion to schedule this on the January Work Session to bring in data compiled for the process for the ethics committee meetings, then move it forward, seconded by Mayor Nolan. It was approved by a (4-2) vote in favor, Councilmember McBrady and Mayor Nolan voting against.

Vice Mayor Alen made a motion to approve suspending hearing any ethics complaints/violations currently submitted or to be submitted until such time as they have the new process in place, seconded by CM Repan. It was approved by a (5-1) vote in favor, Mayor Nolan voting against.

**4.3. Whether to hold additional special session(s) this month.** This is an established agenda item for Council's discussion on whether to add an additional special study session and if so, to set the date.

No additional session was needed or scheduled.

**5. Comments from the Public.**

None.

**6. Adjourn.** The meeting was adjourned at 5:37 p.m.

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Terry Nolan, Mayor

ATTEST:

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Judy Morgan, Town Clerk