

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

Tuesday, September 19, 2017, 6:30 P.M.

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

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

AGENDA SUMMARY

1. **Call To Order.** Mayor Nolan called the meeting to order at 6:30 p.m.
2. **Opening Ceremonies.**
 - 2.1. **Pledge of Allegiance.** Led by Councilmember Hamilton.
 - 2.2. **Invocation.** Given by Councilmember Timmons.
3. **Roll Call.** Town Council Members Jack Hamilton, John Hughes, Amy Timmons, Doug Treadway, Victoria Wendt, Vice Mayor Mark McBrady (arrived at 6:33 p.m.), 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.

Mayor Nolan reminded Council and the audience of the Agua Fria Festival being held on 10/7/17.

4.1 Firewise Board report.

Victoria Wendt, Firewise Liaison, noted that her last report was given three days before the Goodwin Fire. The PAWUIC grant work had just started and few properties had been abated. There has been much more community participation since the Goodwin Fire with four residences in the upper Blue Hills area having been completed with another in progress, nearing completion. Five additional property owners have expressed interest. Ms. Wendt spoke of the increased participation in the Firewise program; however, they recently lost their secretarial assistance. She noted there is a new Firewise website and spoke on their participation with the community Dumpster Days. Ms. Wendt spoke in appreciation of the Public Work Crew's hard work. The next Firewise meeting is tomorrow night, September 20th. Participants have been hanging doorknocker advertisements in the Foothills East area; however, no response has been received to pursue abatement. Ms. Wendt reiterated this area's extreme fire danger and the need for participation.

4.2 Interviews and possible appointments of applicants to the Planning and Zoning Commission to fill the two vacancies.

Council interviewed three applicants for two vacancies on the Planning and Zoning Commission, Nancy Wright, Lon Ullmann and Michael Gill. The applicants were invited to the podium to tell of their interest in serving on the committee and answered questions presented by the Council.

Council received paper ballots to vote for two of the applicants. The ballots were collected and tallied with each Council Member's selection recorded as follows: Councilmember Hamilton – Nancy Wright and Michael Gill; Councilmember Hughes – Lon Ullmann and Nancy Wright; Councilmember Timmons – Lon Ullmann and Michael Gill; Councilmember Treadway – Lon Ullmann and Michael Gill; Councilmember Wendt – Lon Ullmann and Nancy Wright; Vice Mayor McBrady – Michael Gill and Lon Ullmann; Mayor Nolan – Lon Ullmann and Michael Gill. Lon Ullmann received six votes; Michael Gill received five votes and Nancy Wright received three votes.

Attorney Goodwin noted that the declaration of the vote was sufficient and a motion was not necessary.

5. **Town Manager's Report.** Update on Current Events.

None.

6. **Consent Agenda.**

6.1. Minutes. Approval of Minutes from the September 5, 2017 Regular Council Meeting.

Councilmember Hughes made a motion to approve the Minutes from the September 5, 2017 Regular Council Meeting, seconded by Councilmember Wendt. The motion passed unanimously.

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

Karen Brooks explained that she was speaking as a private citizen, not as a Planning & Zoning Commissioner. Ms. Brooks spoke of purchasing their property in Humboldt 40 years ago and having ongoing issues through the years with the address and assumed property frontage changing and how frustrating this issue was. She spoke of political games and property owners getting caught in this and becoming angry with Town management.

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

8.1. Discussion and possible action to rescind Ordinance No. 17-137 adopted on September 5, 2017 related to the regulation of dogs, dangerous and biting dogs, maintenance standards for dogs and enforcement.

Councilmember Hamilton noted there was confusion when Ordinance 17-137 previously passed and this is the easiest way to correct the issue.

Councilmember Hamilton made a motion to rescind Ordinance No. 17-137, seconded by Councilmember Wendt. The motion passed unanimously.

8.2. Discussion and possible action to adopt Ordinance No. 17-140 amending the Town of Dewey-Humboldt, Arizona Code of Ordinances, Title IX General Regulations, Chapter 90 ANIMALS by renaming Chapter 90 as DOGS related to the control and regulation of dogs, dangerous and biting dogs, maintenance standards for dogs and enforcement.

Councilmember Wendt made a motion to adopt Ordinance No. 17-140, have the strikeouts removed and bring it forward to the meeting we have, where we will, together with the other ordinance on the livestock and bring them forward together.

Attorney Goodwin noted that it is the practice of most cities and towns in Arizona, including Dewey-Humboldt, to adopt legislative format, which has capitalization for the new language and strikeouts for the old. This ordinance It is ready for adoption to replace the previous version. It governs dogs, not other animals. When it is codified in your code, it will be clean.

Councilmember Wendt revised her motion: That we adopt the Dog Ordinance No. 17-140, seconded by Councilmember Treadway.

Councilmember Hamilton spoke of the two areas that he had a problem with. It was over discretion, he likes authorities to have a little discretion when they enforce the law and this did away with it.

Public Comment

Ted Brooks spoke of discretion being a cover-up for transparency. People have a right to face their accuser, so things can be remedied without back room deals which leaving you feeling insecure in your own home due to veiled threats.

Karen Brooks noted that she was again speaking as a private citizen. She spoke of the last sentence in the ordinance and the problems it could cause. She spoke of a personal scenario involving their dairy goats and neighbor issues. She spoke of neighbors resorting to using ordinances against each other for personal issues.

Richard Martel spoke of his hope that the Council had read Ordinance No. 17-140. He is sure that most of the people behind him in the audience have not. Mayor Nolan explained to Mr. Martel that this ordinance has been an ongoing discussion for over a year and that people have to check the agenda to see what is going on. Mr. Martel spoke of not being able to attend all the meetings and doubts that others were able to either. Councilmember Wendt spoke of this being worked on for over a year citing that the dogs were separated and this is now strictly a dog ordinance. She noted meetings were held at 6:30 p.m. to receive public comment, it was published, and AKC liaisons reviewed it. It has been studied and the public had ample time to participate. It is now ready to finish out and they will be looking at something further for other animals. Councilmember Timmons noted that previously the ordinances was very restrictive and untransparent. They wanted to broaden it up. She spoke of this now being more pro-animal than anti-animal.

Leigh Cluff spoke of having read Ordinance 17-140 but she did not raise her hand because she knew she was not to respond to others during Public Comment. She was sure others that did not respond had read it as well.

Councilmember Wendt asked to have her motion restated: To approve Ordinance No. 17-140 amending the Town of Dewey-Humboldt, Arizona Code of Ordinances.

Mayor Nolan called for the vote. The motion passed by a 6-1 margin with Councilmember Hamilton voting against.

Councilmember Timmons commented on her appreciation of the community attendance at this session and the need for the continued public input.

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

Mayor Nolan adjourned the regular meeting and opened the Public Hearing at 7:23 p.m.

10. Public Hearing Agenda.

10.1.ZTC-17-001 Request to amend the Town of Dewey-Humboldt, County of Yavapai, Arizona, declaring that certain document entitled “Town of Dewey-Humboldt, Arizona Sign Code, dated September 19, 2017” to be a public record; adopting the “Town of Dewey-Humboldt, Arizona Sign Code, dated September 19, 2017” by reference; amending the Town of Dewey-Humboldt, Arizona Code of Ordinances, Title XV Land Usage, Chapter 153 Zoning Regulations by repealing the provisions of Subchapter Sign Code and replacing it with the provisions set forth in the “Town of Dewey-Humboldt, Arizona Sign Code, dated September 19, 2017”, consisting of Subchapter Signs and including the following sections: § 153.125 Purpose, § 153.126 Definitions, § 153.127 Permits required, § 153.128 General Provisions, § 153.129 Sign Regulations for Use Districts, and 153.130 Sign Regulations, Mobile Home, Travel Trailer and Recreational Vehicles and providing penalties. Possible approval, rejection or modification.

Mayor Nolan introduced the item and explained that there was a lawsuit involving signs and as a result, these amendments would bring the Town into compliance with Arizona Statues. The Sign Code would be amended and codified for the Code of Ordinances.

Attorney Goodwin explained that everyone in the country would be changing their Sign Ordinances due to the Supreme Court ruling back in June on how cities address their sign codes. Former Town Manager Kimball was waiting to see what other cities would do and felt they should hold off until the ruling came in. Many cities are now adopting the new language and changes. TM Kimball later advised the attorneys to start working on it. There are not substantive changes other than what was described as result of the Supreme Court case.

There was Council discussion regarding political signs. Attorney Goodwin noted that many cities have prohibitions on political signs in the right of way and rights of way. The Legislature ruled that during the election season a city cannot remove a political sign in the right of way. Attorney Goodwin's recommendation is to keep the prohibition on political signs in the right of way and deal with it as an enforcement issue, other than during the election season when you will acquiesce to state law. There is no solution under the current law.

There was further Council discussion with proposed scenarios involving signs for Community Planner Brown to clarify.

Public Comment

Leigh Cluff asked for clarification on different signs that could be placed in yards and if they were prohibited, such as contractor signs, political signs, and ideological signs. Town Attorney Goodwin deferred to Community Planner Brown, who noted that contractor signs are temporary signs allowed when the work is going on. CP Brown did not know of anything preventing political or ideological signs.

Councilmember Timmons noted that a good portion of the Town is under the impression that when it comes to signs the Town Staff are trying to pit neighbor against neighbor. Community Planner Brown explained the code enforcement process and that many complaints are actually not the issue at hand with neighbors. He explained that sometimes it comes down to refereeing, but he is objective as to the actual code.

Mayor Nolan closed the Public Hearing at 7:48 p.m. and reopened the Regular Council Meeting at 7:49 p.m.

Councilmember Hamilton made a motion to approve the sign changes as stated, seconded by Councilmember Treadway. The motion passed unanimously.

10.2. MGPA-17-001 Request for a Minor Amendment to the General Plan to change the Land Use Designation of Assessor's Parcel Numbers 402-02-003R, 402-02-003T, 402-02-003V and 402-02-003W from Low Density Residential to Community Core. Possible approval, rejection or modification.

Mayor Nolan opened the second Public Hearing at 7:50 p.m.

Councilmember Hughes recused himself from the next two agenda items and left the dais at 7:50 p.m.

Community Planner Brown gave an overview of the agenda item explaining that the applicants have operated Cherry Creek Ranch (CCR) since the purchase in 2013. CCR's first use permit was issued on June 9, 1997, by Yavapai County and stipulated a permit review be conducted every five years. During the most recent 2017 review, Staff originally determined that some of the uses approved were expressly prohibited on residentially zoned property, which this property is. Staff's original advice to the applicant was that a General Plan amendment and rezoning were necessary to legitimize the uses. The Town Attorney has since determined that the uses were ongoing and permitted for at least the past 20 years and are pre-existing, non-conforming and Staff's advice was incorrect. The applicants have, however, decided that their plans are best served by continuing with the request for the General

Plan minor amendment. CP Brown showed information regarding this on an overhead and explained that CCR has been a staple in the community for over 25 years and they have no plans to do anything different. CP Brown cited the “community core” designation included in the General Plan, noting the language is straight out of the General Plan. There are two “community cores” indicated in the General Plan, one in the central town, and the other is the property that encompasses the Mortimer event center. This property in question is located at the Foothills and Highway 169 intersection. It is designated to be a future collector that intersects at a state route. The Town is zoned commercial up to 100 feet of the applicant’s property. There were concerns at the Planning & Zoning hearing that there would be loss of control over the property, if the applicant’s petitions were granted. CP Brown noted that is not the case, there would actually be higher scrutiny, noting that any changes would require application and again the neighbors within 300 feet of the property would be notified of any applications. He also described all the other criteria that would have to be met before any changes could be enacted.

CP Brown noted the applicants are asking for the General Plan amendment, which is required before the rezoning application can be considered.

There was extensive Council discussion and questions regarding the zoning and possible impacts of the zoning change.

Councilmember Timmons asked newly appointed P & Z Commissioner Lon Ullmann to step to the podium and expound on a Michigan zoning issue that he had mentioned during his interview earlier for the P & Z Committee. Mr. Ullmann said that he had a good friend in a similar situation and that the hypothetical question as to what would happen, if the current owner no longer possessed the property, was accurate. The next owner will do whatever they want. If the zoning requirements were met by an applicant, the Council would not have any say or control.

Public Comment

Dennis Repan spoke of understanding that there was correspondence regarding this issue received by the Town and what were the results of the correspondence. Mayor Nolan stated that the correspondence received showed 5 people opposed and 20 people in favor. Mr. Repan commented that in the interest of transparency, it would have been nice to have known that.

Attorney Tony Cullum advised that is the attorney representing the Hughes Family. He spoke of it being unusual for a zoning request, but the Hughes don’t want to change anything. He spoke of how this situation originated with the Town review. He spoke of the original liquor license for CCR being issued back in 1960. Attorney Cullum explained the reason why the Hughes are continuing with the General Plan amendment and rezoning applications with the goal being to eliminate non-conformity and not have a repeat of this issue in the future.

Jennifer Combs (sp?) spoke of the scenario that has been presented of concern as to, what if something happened to the Hughes, what would become of the property if it were rezoned. Ms. Combs noted that any changes have to go under review and neighbors would again be notified. She spoke of it not having been necessary to go this far and that Council were elected to make valid choices in the best interest of the Town. Councilmember Timmons gave Ms. Combs scenarios of what could happen, if the Hughes were no longer involved, and the property were re-zoned. Ms. Combs spoke of not being in fear of a grocery store opening in that area as there is not the populous to support it. She spoke of the need for more open-mindedness and being put at a crossroads due to an error and the need to move forward.

Vice Mayor McBrady referred to having a problem with Attorney Cullum's statement and was in disagreement with his statement that a building could not be rebuilt if it burned down. Attorney Goodwin agreed that a building could be rebuilt under the conditional use permit, which is permanent and transferable. She did not think the non-conforming use principles and provisions of the zoning code apply.

Mayor Nolan asked if this were zoned RL-170 and the business burned down, how can they get a loan to rebuild. You can't get a loan for commercial on something zoned residential. Attorney Goodwin said she felt they could rebuild. Mayor Nolan reiterated that they wouldn't be able to get a commercial loan on residential-zoned property.

Attorney Cullum said that, practically speaking, they wouldn't be able to rebuild, they may want to and legally may be able to, but in practicality they won't be able to. He noted that he sits on the boards of four banks and none of them would lend the money due to the zoning issue.

Public Comment

Leslie Chester spoke of the rezoning initiative having been referred to as a compliance issue and it appears now that it is not. Why does 18 acres need to be rezoned? What does Dewey-Humboldt want in the future? This should not be decided by one family or seven Council Members. If you rezone the entire 18 acres to C2, it opens Pandora's Box. You have others that will fit this and there will be multiple applications. She advised Council to look at their conscience and ask yourself can you look at all these people in the eyes that voted you in and tell them this is a good thing for you. Councilmember Timmons asked Ms. Chester if she was opposed to the zoning change. Ms. Chester confirmed this with a head nod. CM Timmons asked if she was opposed to CCR continuing business, or growing the business. Ms. Chester replied that she was not; however, now that she has heard they can continue business as usual without changing a thing, she is now against any rezoning.

Lon Ullmann inquired if the business only wants to continue as they are, wouldn't they be better off to come in ask for a special use permit, and the Town could restrict it, put whatever kind of restrictions you want in it and then it couldn't change hands or uses forever. He wondered if this would be simpler. Vice Mayor McBrady responded that this would not work due to some of the uses. VM McBrady spoke against amending the General Plan and rezoning.

Bill Chester noted that he lives across the street from CCR. He asked to have a particular slide on the overhead that pertained to C2 zoning. He said any of the things listed on the slide could be put on the property and there is nothing the Council can do about it. He asked, if someone wanted to put an apartment building on the property, could they do so. Attorney Goodwin noted that this slide was a summary only and she would have to research his question. He spoke of being a neighbor within 300 feet of CCR and, if they are against it, it cannot move forward, so why are they having this discussion. Attorney Goodwin clarified the code. Mr. Chester began asking questions of the audience and was reminded that he is not to address the audience during Public Comment. He spoke of an analogy of the rezoning to the Hughes property being worth \$5M and the property values of the surrounding neighbors dropping.

Richard Schauwecker spoke of serving on the Planning & Zoning Commission. He advised Council that the motion to approve the rezoning to make it come forward to the Council was not approved. It was a tie vote at 2-2. Councilmember Timmons pointed out that if it tied, it failed. Mr. Schauwecker spoke of the Hughes purchasing the property with the conditional use permit, which has been grandfathered in, and they can move forward as it is. Approving C2 zoning would allow different businesses or entities to come in. He believes that it was important to him to allow the Hughes to move forward with the operations they are doing now, as they say they only want to do what they have been doing all along.

He has no problem with them doing that as long as they are the things that are in the conditional permit.

Public Comment

Nancy Wright – Spoke of having watched the Planning & Zoning meeting. At that time, she did not know it was grandfathered in, a valid permit. There were only three items that were a problem, liquor, dancing, and sales. She felt that there had to be a way to fix it without rezoning, and if the Special Use Permit can be continued, then it seems it is a happy solution for all. The other issue - non-conforming - is a nice goal, but here in D-H there is a lot of property that can't be conforming. Non-compliance is a non-issue. The idea of this being a precedent is that you will have a hard time turning it down, politically. She had a question for the attorney. There are four parcels, so if all four were rezoned, there is one parcel that would not be contiguous to any residential, so then wouldn't they be able to do what they wanted. She recommended giving this thought.

Audrey Stroud spoke of appreciating CM Timmons's prayer and hoping to maintain the good will of her neighbors. Ms. Stroud summarized her understanding of the events surrounding the September 7th P & Z meeting findings and that they are here discussing options. She asked what the other options available are to amend the situation. She recommended looking at other options to bring the property into compliance.

There was Council discussion that good points were raised with recommendation to not rush on this issue until the General Plan is updated and reviewed. The Hughes were asked how they found out they were not in compliance.

John Hughes spoke of the filing of his applications having been recommended by the former Town Manager, Yvonne Kimball, and that the applications would cover all the uses and bring the property use into conformity. He spoke of refraining from telling other property owners what they can and cannot do with their own property. He spoke of not being a developer, he does not intend to develop the land, but noted that the gentleman who is strongly opposed to this rezoning is the same man who attempted to rezone his land five years ago for a different reason, a convenience store. Mr. Hughes met with the Town Manager and the Community Planner and as a result they are here today and he spent \$5,800 in application fees. He has no problem with carrying on the way he was but the Town can't do that, as there are codes that don't allow it. If he gets C2 zoning on this property, the Town can control what goes on. Continuing with the Special Use Permit only gives him five years before this issue arises again.

Councilmember Timmons asked Mr. Hughes when he knew he was not out of compliance. Mr. Hughes answered that he found out Friday of last week. He noted that the Town Code still says you can't have liquor, dances, or sales. Mr. Hughes spoke of having a letter from a neighbor that borders three-quarters of the property, who is not against the rezoning. CM Timmons doesn't think half the letters knew he was still in compliance. She expressed her disappointment in the Town Planner for not doing his homework. She spoke of wanting the best situation and that there has to be middle ground.

Councilmember Wendt asked if it was possible to reimburse the Hughes for the application expense, as they are in compliance.

Vice Mayor McBrady asked if the Hughes were in full compliance and could get their \$5,800 back, would they be satisfied. Mr. Hughes confirmed satisfaction with this. Vice Mayor McBrady stated that he wanted to make a motion. Mayor Nolan pointed out they were in public hearing and no motions could be made.

Public Comment

Richard Martel noted that it is hard to get loans for commercial activity, if the property is not zoned C2. He commented, "You all enjoy the facility you want to see it stay, but you don't want to help it stay". He noted that one gentleman indicated the property was worth \$5M, then the Town should give the Hughes \$5M and make it into an event center and we can all go home.

Leigh Cluff spoke of the Hughes being smart people, despite others indicating if their property burned down today, they would not be able to rebuild. She wanted to defend the Hughes.

Gary Mortimer spoke in support of the Hughes noting that he doesn't care which way it goes, zoning or use permit. He spoke of the D-H area and that it is the best place in the world to live – heaven on earth. He spoke of the employees being paid to be at the meeting and that it is more than he makes at 9:30 p.m. He spoke of the time and money spent on this issue. He has heard of people having a difficult time getting things done and that this shouldn't be so hard. He spoke of John Hughes not being the bad guy in this deal; he is the good guy and wants to do the right thing, so does Mrs. Hughes.

Carol White spoke of having contingent property to the CCR Ranch over 20 years. She commented that it goes without saying that people change. Everyone bought their property for a specific reason and that the Hughes should be allowed to do what they want with their property. When you purchase property, it is natural to want to grow, things don't say the same. You can't keep passing the buck and putting things off in reference to the Town plan. With the C2 zoning, you have to ask for changes and the Town has control over what goes on. Let's all live our lives and do what we want with our properties.

Dennis Repan spoke of the Council having extraordinary power. During his tenure, he cannot recall one time where they did not try to help one business or organization that came before them despite political differences. He does not think it is fair to blame Staff as they read black and white, it is up to the Council to teach them to read gray, as the previous Council did.

Mayor Nolan pointed out a development that the Council turned down, which subsequently went to Prescott Valley to do what they wanted to do. Mayor Nolan read a section of the General Plan that spoke of the area at State Route 169 and the Foothills Drive area, which is noted in the Circulation Plan as an existing public connector and as a future corridor connector. The intent of the property running along said highway is appropriate for commercial development, additionally sound planning would dictate that the intersection of a major arterial and a public connector could be an appropriate development for commercial nodes. The Town should keep this in mind during the update of the General Plan. Mayor Nolan read further from this section and pointed out that this is in the current General Plan. Mayor Nolan noted and addressed a disturbance from the audience. Mayor Nolan noted that with the update of the General Plan next year, the Hughes could come back and ask for rezoning, possibly more property. The Town is going to grow and you can't stop the growth, people are going to come in and they are going to want to rezone their property and the Town will be in lawsuits because state law ways you can't prevent people from developing their property.

There was further Council discussion regarding the General Plan updates and other options to consider and past properties that were rezoned and the plans never came to fruition.

Councilmember Hamilton spoke in favor of the Hughes having their application fees refunded, as they did not receive correct information from the Town.

Interim Manager Elliott noted that Staff made a mistake and they apologize. The mistake was brought forth on Thursday. The Hughes were advised that their application fees would be immediately refunded and they could have withdrawn up to this moment. They decided to move forward with the

rezoning challenge. Staff alerted them and as the Mayor pointed out, and Staff has been attacked by a couple Council Members, and the black and white stated, that Staff goes by, was read by the Mayor, which was the recommendation by his predecessor and by Staff, if there was a zoning change to be there. That is a very good black and white explanation of what was brought forth and he would like to defend Staff on this issue.

Councilmember Hamilton stated he was not aware of this and withdrew his previous comments.

Councilmember Timmons asked if the new information was brought to light before or after the P & Z Meeting. Interim Manager Elliott provided that it was not known at the P & Z meeting, just the previous Thursday, 9/14.

Attorney Goodwin noted that this was a complicated question. After the P & Z meeting the attorneys decided that they needed to reexamine the permit. They disagreed with Community Planner Brown's interpretation, although he does a great job.

Mayor Nolan asked for a motion to extend the meeting past 10 p.m. Vice Mayor McBrady made a motion to extend the meeting past 10 p.m., seconded by Councilmember Hamilton. The motion passed unanimously.

There was further Council discussion regarding the Attorney's ruling that the uses were valid under the Special Use Permit subject to review every five years. There was clarification sought as to why the Hughes were still proceeding with the rezoning.

Mr. Hughes explained that in two years this could all happen again, if it is grandfathered in. The three issues are still hanging up there until the code is changed again. He spoke of other issues with the Town in the past. If he goes ahead and gets the C2 zoning the issues are no longer present and he won't have to worry about what will happen in five years. He said that after the P & Z meeting, all of a sudden he was in compliance, however, no codes changed. He felt as if it was thrown under the rug for now, to come back later. That is why he is still worried; there is no guarantee without changing the zoning.

There was further Council discussion and scenarios regarding zoning issues.

Councilmember Hamilton requested to go out of Public Hearing and return to the regular meeting.

Public Comment

Leigh Cluff spoke of this being a big waste of time. She asked Council why they can't encourage the Town Enforcer to let Council know before they nail a community member. This has caused split feelings in the community. She doesn't want to see Foothills suffer as Blue Hills has suffered to be a part of this Town. She feels they need to be kind and loving.

Karen Brooks reiterated that she is speaking as a citizen, not part of the P & Z Committee. She understands what Mr. Hughes has gone through in a minor capacity. Since the area became a Town, they have gone through five or six community developers and three Town Managers. The Brooks dealt with the same zoning issue five times with the Town and it goes on and on. She feels for the Hughes and agrees with Mr. Hughes that you try to do everything right and they come after you again.

Mayor Nolan closed the Public Hearing and re-opened the regular meeting at 10:10 p.m.

Councilmember Treadway made a motion to bring this back to a special Work Session on October 24, 2017, seconded by Councilmember Hamilton.

Vice Mayor McBrady made a motion: Now that the problem has been resolved and he is not being have to shut down, the motion is to give back the \$5800 to John, for not having it correctly the first

time and his property is now in compliance, and we go to this Work Session, and see the other three things that John has a problem with, and see if we can resolve those, and change the codes to fix those so that he feels not, take a look at those and see if we are able to change them to make it so that he can move on with his property, seconded by Councilmember Timmons.

Attorney Goodwin asked for clarification. There is an application before the Council, usually the motions are to deny, continue or approve. She was not sure what the motion was.

Vice Mayor McBrady explained that his motion is, well we heard information that since this was put on the agenda we find that he is in compliance because he has been doing it for so long that he is grandfather in.

Attorney Goodwin clarified that the Hughes are in compliance.

Vice Mayor McBrady said, "Since it was our mistake in the first place, give the \$5800 that he has paid out back to him and that we go into study session and look where this problem area is and see if we need to make any changes to our ordinances to correct those problems that created this in the first place."

Attorney Goodwin asked if Vice Mayor McBrady's motion included denying the General Plan...Vice Mayor McBrady said he was denying the C2, yes. Attorney Goodwin clarified it was the application for the General Plan amendment and the C2 zoning and to bring this back to deal with codes. Vice Mayor McBrady clarified that he gets his money back. Attorney Goodwin confirmed this. Vice Mayor McBrady said, "then that is my motion", Councilmember Wendt seconded the motion.

Councilmember Timmons requested that the Special Session be held in the evening. Mayor Nolan confirmed this.

Councilmember Hamilton spoke against the second motion. He wanted to discuss at the Work Session the measures to return the money. He would like to see more information on that. He will vote against this because he would like to see it denied at this time and then address the other issues at the Work Session.

Attorney Goodwin said that the motion covered this and restated the motion: To deny the applications for the General Plan amendment and rezoning and to refund Mr. Hughes the \$5800 application fee and to have a special meeting to look at the code issues, seconded by Councilmember Wendt.

Mayor Nolan asked for a roll call vote. The motion passed unanimously.

There was discussion regarding Councilmember Treadway's motion having been covered by the Vice Mayor's motion, nullifying Councilmember Treadway's motion. There was also discussion as to whether it was necessary to hold a second Public Hearing. The Attorney felt that both items were discussed as one, if the applicant was fine with this. Attorney Cullum confirmed this as being acceptable to the Hughes.

10.3. ZDC-17-001 Request for a Zoning District Change to change the Zoning District designation of Assessor's Parcel Numbers 402-02-003R, 402-02-003T, 402-02-003V and 402-02-003W from R1L-70 to C-2. Possible approval, rejection or modification.

This agenda item was addressed during agenda item 10.2. Mayor Nolan closed the Public Hearing at 10:18 p.m. and reopened the regular meeting.

11. Adjourn. The meeting was adjourned at 10:19 p.m.