

**TOWN COUNCIL OF DEWEY-HUMBOLDT  
SPECIAL MEETING & STUDY SESSION NOTICE**

**Tuesday, October 2, 2018, 2:00 P.M.**

**SPECIAL MEETING & STUDY SESSION  
2735 S. HWY 69, SUITE 10**

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

## **AGENDA SUMMARY**

1. **Call To Order.** Mayor Nolan called the meeting to order at 2 p.m.
2. **Roll Call.** Town Council Members Jack Hamilton, Mark McBrady, Doug Treadway, Victoria Wendt, Vice Mayor John Hughes and Mayor Terry Nolan were present. Council Member Timmons was absent.

Council Member Timmons arrived to the meeting at 2:02 p.m.

3. **Special Meeting.** Legal action may be taken

**A. Request for Council – Budget Transfer Authority**

Town Accountant Moore gave an overview of the budget transfer explaining that this was the last step to complete the audit. There were impact fees in the budget, previously, that were not dispensed. The Public Works Department used this on road improvement. It is required that money be moved from grants to the General Fund to the HURF fund. That will result in compliance and the auditors have made this recommendation.

Councilmember Hamilton made a motion to approve the transfer, seconded by Vice Mayor Hughes.

Mayor Nolan called for the vote: CM Hamilton – aye; CM McBrady – aye; CM Timmons – aye; CM Treadway – aye; CM Wendt – aye; Vice Mayor Hughes – aye; Mayor Nolan – aye. The motion passed unanimously.

4. **Study Session.** No legal action to be taken

**A. Discussion of Economic Development Conference - Broadbanding Communities (Mayor Nolan)**

Mayor Nolan gave an overview of his CAARF explaining that broad banding could be important to the community, it could bring business in without bringing in buildings as people could work from home. He spoke of it being too late to register for the California conference, but would like to attend any upcoming conferences that may be held in Phoenix. He noted this was not an action item, just up for discussion.

There was Council discussion about the feasibility of broad band, as well as interest in researching this further through trade magazines or seminars, and there as to be followed up by Staff.

Public Comment

Leigh Cluff – Inquired if someone doesn't want this, did they still have to pay for it. Mayor Nolan answered that only those that want it would pay for it. Ms. Cluff inquired if there were fiber optics in Blue Hill and recommended this be research before wasting time and money, because this is the first thing required.

Karen Brooks – spoke of noticing a list of events on the brochure and the need for more research on the dates of events noted in the brochure.

Gary Mortimer – spoke of having looked up information on the conference and that the registration was extended from August 1 to October 1, and that there were still openings. He spoke of needing factual information from Town Staff, so the community does not have to fact-check. Town Manager Wilson explained that there was an inquiry made and the hotel reservations at the block rate were booked. Other reservations would have been more expensive and prohibitive, so the decision was made to not attend, simply bring the topic forward for discussion.

There was further Council discussion. It was noted that this was brought forth as educational and for discussion with consideration for attendance at any future, local conferences.

Public Comment

Ulys Brooks – recommended checking with someone at Yavapai College that may know something about broad band and have them come in and speak on this.

**B. Discussion on Establishing a Dewey-Humboldt Committee or Commission for Firewise (CM Wendt – CAARF)**

Councilmember Wendt spoke of the 9/18/18 Firewise meeting and a short history on the growth of the Committee. She is grateful to the Staff and Community Members that have assisted. She reminded Council

that she received permission from the Council to pay for attorney fees to establish a 501(c) (3) status. She gave an overview of the abatement grant history and future grant predictions. She explained that she wrote a grant with the assistance of the Town Manager for the Title III Forest Project Funding Grant through the County and it appears that Firewise may receive a grant for \$25K. This should be available in early 2019, that will make a total of two grants. At the September Firewise meeting she asked the committee members if anyone was interested in stepping up to act as the Director; Chair; Vice Chair or Secretary/Treasurer. There was no response. She said without that type of participation, it would be hard to have a successful 501 (c) (3). The Committee then voted to turn Firewise to a town-established Committee. There is not an ordinance for Firewise. She would like to have Council's permission to work with the Town Attorney to establish some processes and ordinances that would be effective for Firewise to keep it sustainable now and in the future. She brought this forth to Council to consider and discuss, as she does not want Firewise to disappear.

There was extensive Council discussion on the pros and cons of the Firewise status as a town committee vs. a 501(c)(3). Council spoke of the success of Firewise, as well as Ms. Wendt, the Committee, and Community Planner Brown's dedication and efforts in getting this off the ground.

#### Public Comment

Leigh Cluff thanked CM Wendt for acknowledging that Ms. Cluff has worked on the Firewise Committee for a long time. She recommended another Councilmember step up and help CM Wendt, along with putting it on the front page of the Newsletter that if volunteers don't step up, it will become a Town Committee. That should help, because people don't trust some of the people on the Council. She spoke of a complaint situation on Hopi Drive and being disappointed that more Council Members did not drive up to view it after she asked them to.

Ulys Brooks spoke of doing much volunteer work in his life and understands that people get tired, but if there is grant money and it is not used by the Committee, it will go to the Town.

CM Wendt responded to Mr. Brooks comment how the Firewise grants work and the grant is designed for a specific function. If you don't use it for that purpose, you don't get the money.

She said there will be \$50-60K to help the community for Firewise. CM Wendt stated that Firewise can continue as it is currently for a while. Maybe one of the new Council Members will step up or someone new to the community. She invited the community and other Council Members to attend future Firewise meetings. She is open to ideas.

#### **C. Discussion and possible change to language of Town Code Penalty, Sections §153.999 and §10.99 (CM Hamilton - CAARF)**

CM Hamilton spoke of researching the zoning and building code and he was surprised to find that penalties can be imposed, but the Town cannot collect it. The building code depends on the zoning code for enforcement. By adding it to the §10.99, if the Town sees there is a problem and the person doesn't do anything about it, it can be referred to the Court. That person can present evidence to the Judge, the Town presents their evidence and the Judge rules. The Judge has leeway and can waive the fine, if the work is completed.

CM Treadway left the meeting at 8:08 p.m. and returned at 8:10 p.m.

CM Hamilton said the main thing is to get compliance, without it the Town is at a loss to enforce things because the Town does not have the code to do it.

TM Wilson informed the Council that CM Hamilton presented this and asked to have this pursued by the Town Attorney. There was a telephone conversation with the Town Attorney on this idea. She did not see any difficulty with appropriately structuring a combination of these penalties and opportunities with the exception that on §10.99 there is a lien process that is provided. She could not find any state law that supported that to be on a civil infraction. CM Hamilton was not concerned with that portion, but he believes that CM Hamilton's intent is to combine the effectiveness of these two codes to create a process whereby violations will become a civil infraction, no criminal penalties associated with it, and the criminal infraction can go to the Magistrate for a full hearing in front of the Town Magistrate. The Town Magistrate will have a range of ability to try to seek enforcement or solve the problem. There could be fines, increased fines, or impose a time frame to satisfy the infraction or they come back to court, if it is not satisfied. This would require some legal work, but could be accomplished.

CM Hamilton said the Town Manager's summary was correct. He would like to remove the lien requirement from §10.99. If there is enough agreement on the Council to move it forward to a Regular Session, it can be discussed there. TM Wilson said it could be brought forward to a Regular Session pursuant to the CAARF process.

There was further Council discussion on this proposal.

#### Public Comment

Lynn Collins stated that in 2012 the Town Attorney told Council that no part of the Town Code had been properly adopted per state statute, so was this an end run tactic to sidestep that problem. She feels the current fines are too high. She noted that there is stuff in the Town Code that needs to be cleaned up.

Karen Brooks spoke of running her recent campaign on the abatement and lien issue during the campaign. She advised people to look at page 13 of 16, under B, it says "misdemeanor", it can fine you and put you in jail up to six months, she considers this criminal. Everyone knows in this Town that the codes are not good codes. They were adopted from an urban area, a lot of the codes were never codified and they had to run back in 2012 and fix that. She, Ms. Collins and CM McBrady want to address the Code and make it for the Country Town. She believes that the abatement proposal brought forth by Ms. Wendt, sunk her campaign. Mayor Nolan said at the Town Candidate forum the Mayor said this issue would be kicked down the timeline for the new Council to address it. CM Hamilton maybe didn't know what was said, but the people spoke very loudly. People want this addressed to be a more friendly Town. She wants everyone to know this is on the docket the 16<sup>th</sup> and hopes they can fill the room.

Leigh Cluff said that she believes that CM Hamilton previously spoke of passing this matter on to the new Council. Mayor Nolan said at the Candidate Forum that this was not going to be done until there was a new Council. She feels like this was being sneaked in at the last minute. She recommended that the Council needs to be more transparent. She spoke of the problem with trust being because of this.

CM Hamilton said that things were misconstrued. The Candidate Forum touched on abatement and liens, this is not what this is about. This is about enforcement of the Town Code. It does not pertain to abatement. This proposal removes the liens. It is a way to enforce the zoning code. If you don't have a way to enforce it, you may as well do away with it. You can put a fine out there, but if they don't want to pay it, it's tough luck.

CM Wendt stated that if she feels something is right for this Town and it is for the good of the community, she will stand up, whether you vote for her as the Town Mayor or Councilmember or not. She appreciates that the community members come in to speak but they are not the only citizens of the Town. She spoke of the abatement issue being used as a political tool. She does not agree with everything, but if she had someone coming after her, she'd rather have a lien, then go to jail.

CM Treadway concurred with much of what CM Wendt stated. He recommends consideration of striking §10.99 altogether.

CM Timmons said she appreciates the public showing up and wasting their opinions even if they are not the same as hers. She is disappointed in fellow Council Members who ran 2.5 years ago on a forum of doing away with abatement liens and property liens, who got into office and flip-flopped. She concurs with CM Treadway that they should strike the whole thing.

CM Hamilton spoke against people taking matters into their own hands. He described a scenario of a neighbor who can't sell his property because another neighbor is storing old cars on the property and the Town can't do anything. He spoke of the Town not having control, as there is no enforcement.

CM Wendt spoke of appreciating CM Timmons passion on this. She would like her to recall that when they first came on Council, there was an abatement going around. It came in January and she asked Council to wait and let her see what was actually happening in the community. Through working with Firewise she has been out and about this community and she has heard from people about their issues and wants to help protect those that have serious issues. She credits CM Timmons for her passion and desire to not have anything out there.

CM Timmons stated that in response to CM Wendt, her actual statement was that "we ran on a forum, there were several of us that did not want an abatement or too much government". She also informed CM Hamilton that she did not speak of going on anyone else's property, she believes that people should leave other people alone. Everyone has the right to have their property without government sticking their nose in except for devastating health and safety issues.

CM Wendt stated that the abatement issue was initially discussed in January after they took office in 2017. She spoke of the animal ordinance and that was her cause when she ran for Council. She noted there are times when actual problems are health issues.

CM McBrady noted that what Council Member-Elect Brooks had to say was important that not only did they need to look at fines, they need to look at the code itself. The Council coming on board will look at this, get back to the basics, and go through the laws and make them reasonable for the community.

#### **D. Discussion on Environmental Protection Agency Superfund Site Update**

There was an extensive presentation on the Superfund site at the last meeting. There was a follow up citizen participation meeting the next day to meet a contracted firm to help the community look at re-use which was attended by the Mayor and Staff.

#### **E. Discussion on General Plan Readoption**

Town Manager Wilson presented a proposed timeline for the General Plan readoption process. He explained the state statutes regarding General Plan amendments or readoption. The Town needs to consider extending the current General Plan and putting into place efforts for a new General Plan in the forthcoming years. Staff would expect an 18 to 24 month period to accomplish a full General Plan process. In order to readopt the current General Plan a super majority vote is required, more than four votes. There was further clarification that at the least a 5-2 vote would be needed to constitute a super majority.

There was further Council discussion regarding the need to readopt or have a new plan in place by May. There was conversation regarding the Community Planner vacancy and that there are no candidates at this time. There was an inquiry as to what would happen if they did not readopt the General Plan and if there would be fines imposed with the concluding assumption that if there was not a new General Plan that fines could be incurred. TM Wilson said he would check on this and advise Council as to what happens if the timeline expires with the Council doing nothing by May 2019.

#### **Public Comment**

Karen Brooks said that at the Candidate Forum the Mayor said the General Plan would be kicked down the road to the new Council. She feels this needs more time and the new Town Council should be involved in the process with more community input and approval. The previous General Plan was voted down twice by the public. We have until May 19, 2019, to make a decision on readoption or brand new General Plan.

CM Timmons questioned why the recent Planning & Zoning (P & Z) meetings were cancelled and could the P & Z have been helping with zoning issues, etc... TM Wilson related some of the issues that Planning & Zoning have been working on. There was extensive Council discussion regarding the responsibilities of the P & Z Commission and their role in the General Plan process. TM Wilson explained the statutory role of the P & Z Commission in this process.

CM Hamilton said that he thought the Town Manager was wrong on one point. The State delegates powers and those are the only powers the Town has as a General Law town. They do not have it in there that a town this size votes on the General Plan. He said the Town Manager was assuming something that was not true. Town Manager Wilson replied that he has a legal opinion from the Town Attorney that covered his statements.

There was further discussion and clarification on the role of the P & Z Commission and their general duties and the General Plan involvement.

CM Treadway recommended that each Council Member should review their copies of the Town's codes. The duties and responsibilities of the P & Z Commission are outlined in there. A lot of questions would be answered by reading that.

#### **Public Comment**

Ulys Brooks said that in the last nine or ten months someone called him and asked if he would like to be on a committee for the General Plan. He was excited. He has not heard anything further. He asked CM Wendt about the status and she said she knew nothing more than he did. He inquired of Community Planner Steven Brown the status and Mr. Brown said that Council had not given authority to move forward on the General Plan. He feels in the last year and a half they could have accomplished much more and the community would feel better.

Thomas Mallette asked if there is not a planner, why does it say on certain documents to contact Steven Brown for information. TM Wilson said that the document was prepared before Mr. Brown left the Town's employ. Mr. Mallette asked for confirmation that Mr. Brown was no longer an employee and that he was not going to be re-hired. Mr. Wilson stated that he had not re-hired Mr. Brown. Mr. Mallette asked if he was going to re-hire Mr. Brown, TM Wilson responded that Mr. Brown had not been re-hired.

CM Timmons apologized to the citizens that volunteered to work on the General Plan Citizen Committee, as unbeknownst to her, it was a futile effort.

#### **5. Adjourn. Mayor Nolan adjourned the meeting at 8:52 p.m.**