

**Minutes of a Regular Session of the Common Council of the Town of Clarkdale
Held on Tuesday, January 10, 2012**

A Regular Meeting of the Common Council of the Town of Clarkdale was held on Tuesday, January 10, 2012, at 6:00 P.M. in the Men's Lounge of the Clark Memorial Clubhouse, 19 N. Ninth Street, Clarkdale, Arizona.

CALL TO ORDER – Meeting was called to order at 6:00 P.M. by Mayor Von Gausig.

Town Council:

Mayor Doug Von Gausig

Councilmember Patricia Williams - absent

Vice Mayor Richard Dehnert

Councilmember Curtiss Bohall

Councilmember Bill Regner

Town Staff:

Town Manager Gayle Mabery

Town Clerk/Finance Director Kathy Bainbridge

Interim Public Safety Director John Wintersteen

Human Resources/Community Services Director Janet Perry

Community Development/Economic Director Jodie Filardo

Administrative Assistant Mary Ellen Dunn

PUBLIC COMMENT – The Town Council invites the public to provide comments at this time. Members of the Council may not discuss items that are not specifically identified on the agenda. Therefore, pursuant to A.R.S. §38-431.01(G), action taken as a result of public comment will be limited to directing staff to study the matter, responding to any criticism or scheduling the matter for further consideration and decision at a later date. Persons interested in making a comment on a specific agenda item are asked to complete a brief form and submit it to the Town Clerk during the meeting. Each speaker is asked to limit their comments to five minutes.

Mayor opens to public for comment. There was no public comment.

REPORTS

Current Events – A brief summary of current events. The Council will not propose, discuss, deliberate or take legal action on any matter in the summary.

Mayor's Report:

- Lunch with Sarah Luna from Arizona Forward, a non-profit organization
- Met with Al Filardo, Chip Scatarri and Dave Sizlac about Arizona League of Cities and Towns business. Mayor Von Gausig is new president of that organization.
- Worked on retreat materials for Arizona League of Cities and Towns.
- Met with Cottonwood Mayor Diane Joens regarding Blue Trails and other fresh water initiatives. First night of Arizona League of Cities and Towns executive retreat strategic planning session.
- Verde Valley Birding and Nature festival organizational meeting in Cottonwood. Will become its own organization separate from Cottonwood Chamber of Commerce and will be called the Verde River Nature Organization and will have

a much broader mission

- Met with Jamie Mireau and Dan Campbell regarding Blue Trails and with Margaret Bowman from Walton Family Foundation and Town staff regarding expanding mission of grant.
- Reported trash dumped at Tuzigoot and was quickly cleaned up by staff
- Wrote letter to Senator Pierce (President of Senate) regarding Senator Gail Griffin's proposed bill that would eliminate the \$7 million assessment placed on us by the legislature last year to pay part of expenses for the Department of Water Resources. Letter stated that expenses should be equally distributed to all of Arizona's residents.

Vice-Mayor's Report:

- Attended Legislative Forecast Luncheon sponsored by the Arizona Chamber of Commerce and Industry in Phoenix with Governor. Governor reported a possible \$1.2 – 1.5 billion surplus in budget this year.

Councilmember Bohall's Report:

- Will attend the Rural Transportation Summit in Yuma next week.
- Scheduled to meet with Representative Gosar in Flagstaff
- Reported on his three times daily sidewalk inspection on Friday (a day off) a Town employee was picking up signs from Thursday meeting that were on the street without being to do so.

Town Manager's Report:

- Gave a brief overview of Arizona League of Cities and Towns and congratulated Mayor Von Gausig's appointment as President of that organization
- Town will be closed in honor of Civil Rights Day/Martin Luther King Day
- Meetings scheduled and public input welcome on Clarkdale General Plan (3 meetings on that day at 8 – 9:30 a.m.; 11:30 a.m. – 1 p.m.; and 5:30 – 7 p.m.)
- Reminder that the legislature went back into session this week and items on agenda that are results of 2011 session, i.e., new mandates and further restrictions on cities and towns
- Met this afternoon with Margaret Bowman from Walton Family Foundation which provided Town with a grant that has funded the bulk of our Sustainable Clarkdale efforts in last 16 months. Discussed the Verde River at Clarkdale Project at that meeting: preserving flows, access, and economic development.
- The Clarkdale Historical Society Museum and Clarkdale Jerome School have partnered an event timed to coordinate State Centennial Bell Ringing celebration. The program will begin at 1 p.m. Clarkdale Centennial Year is same as state's. At 2:14 p.m. the bell ringing will take place.

Organizational Reports – Reports regarding regional organizations.

CAT/VVTPO – Cottonwood Area Transit and the Verde Valley Transportation Planning Organization & other transportation affiliations. No report.

VVLP – Verde Valley Land Preservation. No report.

NACOG - Northern Arizona Council of Governments. No report.

NAMWUA - Northern Arizona Municipal Water Users Association. No report.

VRBP – Verde River Basin Partnership. No report.

WAC - Yavapai County Water Advisory Committee. No report.

VVREO – Verde Valley Regional Economic Organization. There is discussion that the Verde Valley Agricultural Coalition may come under the structure of VVREO. Councilmember Regner will attend a Community Dialogue at Yavapai College to discuss the Verde River's economic and growth opportunities.

YCL – A report from the Yavapai College Liaison. Councilmember Regner reported a summer closure will take place due to construction. Verde Campus changes and updates will be discussed on January 12, 2012. Spring semester classes begin January 18.

CONSENT AGENDA - The consent agenda portion of the agenda is a means of expediting routine matters that must be acted on by the Council. All items are approved with one motion. Any items may be removed for discussion at the request of any Council Member.

- A. Approval of Minutes of the Common Council** - Approval of the minutes of the Regular Meeting and Special Session held December 13, 2011 and Special Meeting held December 19, 2011.
- B. Claims** - List of specific expenditures made by the Town during the previous month. **December, 2012 check log and PPE dated 12/3/11, 12/12/11, and 12/17/11.**
- C. Board and Commission Minutes** – Acknowledgement of receipt of minutes and draft minutes of the previous month's Board and Commission Meetings.
Board of Adjustments Notice of Cancellation of Meeting on 12-28-11
Design Review Board Notice of Cancellation of Meeting on 1-4-12
Planning Commission minutes of the meeting held 12-20-11
General Plan Update Committee Notice of Cancellation of Meeting on 12-19-11 & 1-16-12
Parks and Recreation Committee Notice of Cancellation of Meeting on 12-14-11
- D. Resolution Making an Appointment to the Library Advisory Board** – Approval of Resolution #1387, amending Resolution #1378, making an appointment to the Library Advisory Board.
- E. Approval for a Request for Extension of the Financial Assurance Time Requirement for Wildhorse Acres Estates Minor Subdivision** - Approval for a request for extension of the financial assurance time requirement for Wildhorse Acres Estates Minor Subdivision.

Vice Mayor Dehnert moved to approve Consent Agenda Items A - E as presented. Councilmember Bohall seconded the motion. Motion approved unanimously.

NEW BUSINESS

CURBSIDE RECYCLING PROGRAM PRESENTATION – A presentation by Patriot Disposal, Inc. on their new recycling process and the options that their new system makes available to the Town of Clarkdale.

Patriot Disposal, Inc. (“Patriot”) currently is under an agreement with the Town of Clarkdale to provide solid waste collection and disposal services (including recycling services) within the Town of Clarkdale. The current agreement will expire in February, 2013.

Patriot recently upgraded their recycling capabilities with a system that allows them to separate and remove recyclable materials directly from refuse containers, eliminating the need for customers to continue to have two separate containers for these purposes.

The following is information that Patriot provided to their customers in the Prescott area as they converted over to the new recycling system:

“Patriot Disposal, Inc. proudly introduces Freedom Recycle Center!! This center, located at our Prescott Valley facility, will revolutionize recycling in Yavapai County. As of December 12th, 2011 all solid waste collected by Patriot Disposal, Inc. will be brought to the Freedom Recycle Center. All waste will be sorted through by hand on a new conveyer system at which time all recyclable material will be removed from the waste stream. This means that it is no longer necessary for a second truck to drive down each street or to separate recyclable materials from trash at home.

Patriot Disposal, Inc. wants to thank you for being a loyal recycle customer and helping with the recycle effort while it was a manual process. You can choose to maintain your “2nd” container at the current rate or have the option of commingling your waste in one container and have us remove your 2nd container.”

They list the benefits of the new recycle center as follows:

- *Recycling with Patriot Disposal, Inc. is now FREE!*
- *Full, 100% recycling participation of Patriot Disposal, Inc. 's customers - up from 18%!*
- *Currently Patriot Disposal, Inc. collects about 80 tons of recyclables per month using the old curbside method; using the new recycle center we estimate we will recycle about 1000 tons per month!*
- *Reduces truck traffic in half, all materials will be picked up in one vehicle which reduces diesel fuel usage and emissions!!*
- *Adds 20 new jobs to Yavapai County!*

Although Patriot has the technology and equipment available to begin this process immediately, the Clarkdale Town Council needs to determine how these changes will impact our current contract with Patriot, and how our customers will be impacted.

For their Prescott customers, Patriot offered to allow customers to keep their second container at the same cost that they were currently being charged. If the customer reduced down to one, co-mingled container, Patriot reduced the cost of service by the amount previously charged for recycling.

Because Patriot is under a contract with the Town of Clarkdale, and Clarkdale sets our customer rates and provides billing services, the Town and Patriot need to agree on changes to the recycling program before they are implemented for Clarkdale customers.

Unfortunately, during the week of December 20th, recycling containers for many customers were removed in anticipation of implementing changes to the recycling program. The removal of the containers was premature, and recycling containers were delivered back to customers during the week of December 26th. We have assured our recycling customers that any future changes will be implemented with ample notice to customers.

At the January 10, 2012 Council meeting, Patriot's President/CEO Jay Eby will make a presentation to the Council about the upgrades to their recycling program and how those upgrades might translate into benefits for the Town, our customers and the environment (through increased recycling).

This agenda item is for a presentation only. Any action to move forward with changes to the Town's recycling program and its pricing would come before the Council at a later meeting.

Jay Eby from Patriot Disposal Company, which serves Clarkdale, gave presentation. Reported that last year his company started a transfer station at their site due to only one landfill in Yavapai County. Transfer station gave opportunity to revisit their operation and they began to set up their own recycle center. All garbage is brought to recycle center commingled. Sorting through it is done at their center. The recyclable material sales will pay for processing and labor costs. Jay gave further explanation of the process and noted a significant increase in recyclable materials, partly due to increased number of haulers using his recycle center. The old recyclable materials amount was 20 tons per week average and is now 82 tons, therefore reducing landfill tipping by 62 tons, truck traffic, and fuel usage and emissions. This has created thirty new jobs in Yavapai County. The new system has only been in place for about three weeks so statistical information presented is estimated and not firm at this time.

Town Manager Mabery stated that there may need to be some actions by council due to contract changes. There is a paragraph in contract that says if contents in receptacle are less than 5% recyclable Patriot has the option of throwing all in the landfill. The possibility of removing that clause was discussed.

Mayor opened discussion to public comment:

- Chris Casey – citizen: Stated he is in favor and “all for cut in rate charge”.

- Lynda Zanolli – citizen: Stated she is mainly concerned about the educating process of recycling if everything is commingled and would like information to be included in any literature that goes out to the community.

- Tommie Bain – citizen: Stated that 99% of people in lower Clarkdale have dogs and their animal waste goes into trash. Further noted concern about contamination if mixed.

- Bethany Besdeck – citizen: Asked about items going down conveyor belt much faster and if commingled wouldn't it be easier if consumers continued to sort?

- Hugh Taylor – citizen: Stated that Tempe has recycle system and benefits by reducing number of trucks. Also stated he doesn't understand incentive for commingling because your labor costs increase when the company separates out rather than customers.

- Tom Parmarter – citizen: Stated he is excited about this initiative.

Tricia Cavanaugh – citizen: Stated she is skeptical because of communication history the Town has experienced.

Mayor closed public comment.

WORKSESSION - Discussion regarding changes to the Development Impact Fees collected by the Town of Clarkdale.

During the 50th Arizona State legislative session, Senate Bill 1525 was adopted changing the ability of municipalities to assess development impact fees. This new regulation, ARS 9-463.05, becomes effective January 1, 2012.

A copy of the new legislation is included with this report for reference.

The Town will need to complete several steps to comply with this new legislation:

Creation of an Infrastructure Improvement Plan (IIP)

The new legislation requires all development impact fees collected by the Town to have a direct relationship to an Infrastructure Improvements Plan (IIP). This is a written plan adopted by the municipality identifying necessary public services needing to be developed. The IIP must assign an approximate cost of development for each proposed infrastructure project. The IIP must also provide funding details for each infrastructure project.

Details of what needs to be included in the IIP are provided in Subsection E of the new legislation. A consolidated Infrastructure Improvement Plan will also need to be reviewed through public hearing and adopted by the Town Council. The plan needs to be compiled by a 'qualified professional', such as a financial consultant or engineering firm.

Identification of Necessary Public Services

The new legislation requires development impact fees may only be collected for a 'necessary public service'. Those items qualifying as a necessary public service are listed in Subsection T.7 of the new law. These include water, wastewater, and storm water facilities, fire and police facilities and equipment and vehicles, neighborhood parks and recreational facilities under 30 acres and library facilities up to ten thousand square-feet. The necessary public service must have a life expectancy of three or more years and must be owned and operated by the Town.

Per Subsection B.1 of the legislation, development fees collected must result in a beneficial use to the development. The developer's share must be proportionate to the benefits the development will gain.

In specific instances, a developer is entitled to a refund of paid impact fees if the facility for which the fee was collected is not completed within three years.

Formation of an Advisory Committee

The new legislation requires an advisory committee of at least five members be appointed by the Town Council to review the IIP and provide comments. At least fifty percent of the advisory committee must be representatives of the real estate or development industry. Members of this committee cannot be employees or officials of the town.

The Town may choose to provide a biennial certified audit of our land use assumptions, infrastructure improvement plans and development fee structure prepared by a qualified professional in lieu of forming the advisory committee.

Amendment to Chapter 20 of the Town Code

In response to this new legislation, the Town will need to adopt, through an ordinance, new rules for the collection of development fees and a new fee schedule. The Arizona League of Cities and Towns has produced a draft ordinance and this is included in the Council's packet for reference. The IIP, and any related financial records, are subject to audit by the State.

Reporting and Updating Requirements

Once adopted, the IIP will need to be updated and reviewed every five years. The Town will be required to submit an annual report to the state regarding the collection and disbursement of development impact fees.

Previously collected Development Impact Fees

Per staff's interpretation of the new legislation, any development impact fees collected by the Town previous to the effective date of this legislation must be placed in a separate fund and accounted for separately. Any development fees collected based on the previous fee schedule, which do not qualify under the new legislation, must be used for the purpose they were collected prior to January 1, 2020 or disbursed among categories qualifying as necessary public services.

Until the required IIP is adopted, the Town may continue to collect development fees in force prior to January 1, 2012 as long as these fees meet the new definition of a 'necessary public service' and the fees collected will be replaced by a development fee created under the new IIP.

Under the new legislation, development impact fees may no longer be collected for construction or expansion of public facilities not qualifying as a necessary public service, repair, operation or maintenance of existing facilities, upgrading of existing facilities or administrative costs.

Responses of other Arizona Communities

At the time this report was prepared a few communities in Arizona had initiated action in response to this new legislation:

The City of Sedona eliminated several categories of development impact fees not be directly connected to the 'necessary public services' defined in Section T.7 of the new statute or could

not be supported by an existing infrastructure development plan. This resulted in a reduction of \$1,072 in development impact fees assessed to a single-family residential unit, \$921 to a multi-family residential unit, and an average reduction of 0.58- cents per square foot of commercial development.

The City of Fountain Hills is proposing to reduce their development impact fees per residential dwelling from \$1,549 to \$168. Their non-residential fees are proposed to drop from 96-cents per square foot to 10-cents per square foot.

The communities of El Mirage and Carefree are examining the possibility of eliminating development impact fees entirely.

The City of Gilbert has adopted legislation reducing their impact fees by six percent.

Summary

Historically, the development impact fees assessed by the Town have not paid for the necessary improvements to address growth throughout the community. It is staff's opinion that costs associated in meeting the new regulation, both in staff time and consulting fees could exceed potential development impact fees collected under the new regulation.

Effective January 1, 2012, the Town manager issued an administrative policy suspending the collection of development impact fees pending Council action. In researching options for Council, staff is exploring other funding possibilities available to secure funding to mitigate the cost of growth. Such changes may include changes to current regulations and fees, including but not limited to the Subdivision regulations included in the Town Code.

Staff presented this information to the Planning Commission at their December 20, 2011 meeting.

Senior Planner Escobar presented background on development impact fee legislation. Town Code Article 20 requires re-crafting. Town Council will be required to appoint an advisory committee according to the legislation. State legislation defines what can be assessed as a development impact fee and the collected fee must result in a beneficial use to the development. Reporting and updating required by the legislation creates additional pressure for staff and does not provide a clear sense of fiscal responsibilities at this time.

The Staff's interpretation is that impact fees collected prior to the January 1, 2012 date set by the legislature must be separately accounted for and must be allocated to a project before January 1, 2020 or reimbursed. Staff is requesting that Council make recommendations on how they wish the department to proceed. Town Manager Mabery noted that there may be a provision in the new statute that states that new projects undertaken with development fees have to be completed within a ten (10) year time frame. Vice Mayor Dehnert asked what the chances of repeal or modification of this bill to make it less onerous for towns? Mayor Von Gausig stated he believes the chances are "close to nil". Town Manager Mabery suggested that Council consider that development impact fees have never worked well for Clarkdale even under optimum conditions; also suggested exploring other opportunities, i.e., negotiated development agreements with subdivisions which have been the most effective way to obtain infrastructure improvements in Clarkdale for the greater good of the community. Building permit fees are being reviewed and other fee structures outside of development impact fees that may work. Councilmember Regner

stated that it appears that a review of alternative fee structures should be considered that would be more cost effective for the Town than the fees set by the legislature. Vice Mayor Dehnert expressed concern with the single family residential construction project. Town Manager Mabery explained that the solution for that concern would need to be a part of the overall solution. Mayor Von Gausig stated that the recommendation to the staff is to continue the process of figuring out the best way to handle the situation and develop other ways to accomplish same goals as collecting impact fees.

Council directs staff to investigate restructuring of the Town's fees, including identifying alternative methods for funding growth in the Town and the impact of possible changes for reporting back to Council. Councilmember Regner suggested the additional direction that staff continues to evaluate the law A.R.S. 9-463-05 to determine further that is not an acceptable avenue for the Town. Town Manager Mabery noted that the timeline for the current development impact fee ordinance is a primary concern.

WORKSESSION - Discussion regarding adoption of an 'Abatement of Rubbish and Dilapidated Structures' Ordinance.

Since May 2011, the Town has struggled to remediate a single family residence following a devastating structural fire. These events have highlighted the need for the Town to have a stronger, enforceable position on property maintenance issues.

Arizona Revised Statute 9-499, Subsection D, permits the Town to adopt an ordinance allowing for:

'the cost of removal, abatement or injunction of such rubbish, trash, weeds, filth, debris or dilapidated structures from any lot or tract of land, and associated legal costs for abatement or injunctions, shall be assessed on the property from which the rubbish, trash, weeds, accumulations or dilapidated structures are removed, abated or enjoined, The city or town may record the assessment in the county recorder's office in the county in which the property is located, including the date and amount of assessment, the legal description of the property and the name of the city or town imposing the assessment. Any assessment recorded after July 15, 1996 is prior and superior to all other liens, obligations, mortgages or other encumbrances, except liens for general taxes. A sale of the property to satisfy an assessment obtained under the provisions of this section shall be made upon judgment of foreclosure and order of sale. A city or town shall have the right to bring an action to enforce the assessment in the superior court in the county in which the property is located at any time after the recording of the assessment, but failure to enforce the assessment by such action shall not affect its validity.'

Section E of ARS 9-499 provides time limits for the repayment of assessed liens:

'Assessments that are imposed under subsection D of this section run against the property until paid and are due and payable in equal annual installments as follows:

1. Assessments of less than five hundred dollars shall be paid within one year after the assessment is recorded.

- 2. Assessments of five hundred dollars or more but less than one thousand dollars shall be paid within two years after the assessment is recorded.*
- 3. Assessments of one thousand dollars or more but less than five thousand dollars shall be paid within three years after the assessment is recorded.*
- 4. Assessments of five thousand dollars or more but less than ten thousand dollars shall be paid within six years after the assessment is recorded.*
- 5. Assessments of ten thousand dollars or more shall be paid within ten years after the assessment is recorded.*
- F. An assessment that is past due accrues interest at the rate prescribed by section.'*

Attached with this staff report is a draft ordinance for the Council to consider. This ordinance is modeled after similar regulations in the City of Prescott and the City of Sedona. The ordinance would add a section to Chapter 9 – Health and Sanitation of the Town Code. The new section, 9-5, would provide the Town with a mechanism to take action on properties that are a risk to public health and safety. This mechanism would be a final resort after all other attempts to remedy the situation with the property owner have failed.

If this ordinance was adopted, the Town could choose to record an assessment on a property to cover the costs, including legal costs, of abating a hazardous situation. If the assessment was not paid within the specified ten (10) day time period, then the Town could record an assessment lien with the Yavapai County Recorder. If the assessment lien was not satisfied within the time period specified in ARS 9-499.E, as paraphrased above, the Town could choose to initiate foreclosure proceedings against the property in an effort to recover costs. **Per the state statute, the right of the Town to recover any recorded assessment is primary over any other liens on the property except for outstanding property taxes.** If foreclosure proceedings were initiated by another party, such as a mortgage holder, against the said property prior to the time periods specified in ARS 9-499.E, the Town's lien would remain the primary lien and would need to be satisfied first upon sale of the property.

Adoption of this ordinance would provide an additional tool for staff to ameliorate hazardous situations on private property. The use of this additional level of enforcement might not be appropriate in all instances and would be utilized at the discretion of the Town Manager.

If the Town chooses to apply this lien and acquire private property, a policy would need to be developed as to what the Town does with the property in the future.

Senior Planner Escobar presented information about the Town having a stronger arm for enforcing the property maintenance ordinance allowing discretion for the Town Manager to employ more leverage in dealing with this issue.

Mayor Von Gausig noted that there has been an existing problem for more than one year on one specific structure. This statute doesn't give the Town the right to act unless a public safety issue but does give the Town the option of placing a lien. Town Manager Mabery noted that it would be a tool that wouldn't be used very often. Mayor Von Gausig introduced the subject of the use condemnations, however Town Manager

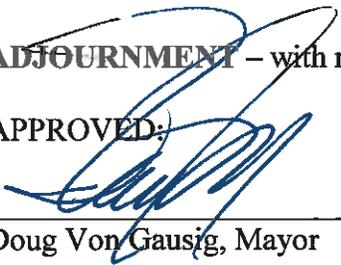
Mabery noted the expense of condemnations is much greater. Council supports the development of this ordinance. Vice Mayor Dehnert asked if this statute applies to foreclosed or abandoned structures. Senior Manager Escobar stated that if the lien is recorded at the County it applies to that property no matter what title changes the property goes through. The Town would be first in line to receive compensation if a sale occurs. Tracking the status of the property would be the job of staff. Town Manager Mabery noted that cleanup is often more favorable to the public good than a condemnation and the public interest is best served by the Town having the leverage to take action.

This was a worksession only – no council action required.

FUTURE AGENDA ITEMS - Listing of items to be placed on a future council agenda

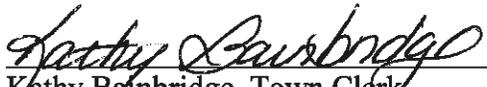
ADJOURNMENT – with no further business, Mayor adjourned the meeting at 7:57 P.M.

APPROVED:



Doug Von Gausig, Mayor

ATTESTED/SUBMITTED:



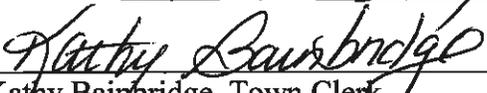
Kathy Bainbridge, Town Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the regular meeting of the Town Council of the Town of Clarkdale, Arizona held on the 10th day of January, 2012. I further certify that meeting was duly called and held and that a quorum was present.

Dated this 16 day of February, 2012.

SEAL



Kathy Bainbridge, Town Clerk