

**Minutes of a Regular Session of the Common Council of the Town of Clarkdale  
Held on Tuesday, April 9, 2013**

A Regular Meeting of the Common Council of the Town of Clarkdale was held on Tuesday, April 9, 2013, 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  
Vice Mayor Richard Dehnert  
Councilmember Rennie Radoccia

Councilmember Bill Regner  
Councilmember Curtiss Bohall

Town Staff:

Town Manager Gayle Mabery  
Town Clerk/Financial Director Kathy Bainbridge  
Community Services/Human Resources Director Janet Perry  
Community Development/Economic Director Jodie Filardo  
Utilities/Public Works Director Wayne Debrosky  
Police Chief Randy Taylor  
Senior Planner Beth Escobar  
Accounting Supervisor Kathy Cwiok  
Deputy Clerk Mary Ellen Dunn

Others:

Town Attorneys Rob Pecharich and Jonathan Millett

**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.

**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 –

March 12 and 13 - in Washington, D.C. at National League of Cities conference; met with Senators McCain and Flake and discussed the Marketplace Fairness Act which would make internet sales taxable in various states.

March 14 – met with WAC Director John Rasmussen and discussed the future of WAC; participated in a Clarkdale Water Resources Studies conference call.

March 19 – met with Sarah Porter of Arizona Audubon Association and Sara Luna of the Wildlife Federation of Arizona to discuss how Clarkdale’s sustainability initiatives could coincide with their organizations.

WAC meeting – it was decided to continue regular WAC but create two subcommittees on each side of mountain that would operate their own smaller WACs but meet with each other quarterly to keep apprised of progress and coordinate paying for on-going studies, set dues, etc. These two subcommittees will be able to set their own rules as far as voting procedure, types of projects, funding, etc. The first meeting will be sometime later this month.

March 22 – spoke at Verde Valley Leadership Day on topic of sustainability.

March 23 – attended Verde River Run-off sponsored by Verde River Valley Nature Organization and Camp Verde. There were 110 entrants to the kayak and canoe race.

March 25 – Legislative call with Arizona League of Cities and Towns. The major topics of that call was the transaction privilege tax legislation and amendments to that. Participated in another legislative call that afternoon.

March 27 – Participated in League Conference planning meeting.

March 29 - River Familiarization trip with John Rasmussen and Rob Adams, Mayor of Sedona, and a young student from Prescott college who is studying sustainability ecology and adventure recreation.

April 2 - Arizona Forward Water Committee meeting; Mayor Von Gausig is Vice Chair of Water Committee; discussed what to do in the future to get the word out for water; settled on discussion about rates, depreciation, appreciation, depletion, subsidization, etc. They will be studying the rate question and trying to explain to public and policymakers.

April 3 – Attended webinar on Colorado River Basin Outreach. Recently completed study; alternatives to having more water are impractical and expensive. Recommended reading the study.

April 4 – Met with Tom O’Halleron from the Verde River Basin Partnership to discuss water policy.

April 6 – Went out to Rock’n River Ranch to do a nature photography workshop with the Verde Valley Leadership group.

#### Vice-Mayor’s Report –

March 1<sup>st</sup> week – Was part of group that met at Verde Valley Medical Center to wrap up

community health improvement plan that VVMC and Yavapai County Health Department are cooperating on. Study commissioned on public opinion on health care priorities in the community. The number one priority from a health care standpoint was mental health. The Plan is available on the internet.

March 26 – Met at 10/12 Lounge with some of Town staff and business owners and received information about the entertainment district that Town staff is working on to allow for economic development there. Heard from project manager who is working on the new winetasting room opening this summer in the former bank building. Town staff, Councilmember Regner, some of the few existing merchants, and Vice Mayor got a feel for what Maynard Keene has in mind for the building and what ideas they have for attracting business to that district. Helped promote productive uses for historic buildings to keep them standing for a long time for people to enjoy.

March 30 – Attended Vietnam Veteran’s Welcome Home celebration in Cottonwood.

Councilmember Bohall’s Report –

Conversation with Catholic Church priest who is doing amazing renovations to the building. Councilmember Bohall encouraged members of the audience to visit with the priest to learn more about what this man has accomplished.

Councilmember Regner’s Report –

March 11 – Attended Yavapai College Foundation Greater Verde Valley Chapter Board meeting.

March 13 – Went to Senior Officials Workshop for all hazards awareness with Finance Director/Town Clerk Bainbridge. This is a FEMA-designed course to instruct elected officials and senior officials as to their roles during emergencies.

March 14 - Attended WAC meeting with mayor.

March 19 – Attended Yavapai College Foundation Greater Verde Valley Chapter fund-raising committee.

March 26 – Attended meeting at the 10/12 Lounge with Vice Mayor Dehnert. Drake Meinke discussed the opening of the Copper Art Museum sometime in June; Matt Levour, project manager for renovations on building for tasting room. There were a lot of possibilities being discussed regarding the district’s future.

Councilmember Radoccia’s Report –

March – Attended Yavapai College meetings previously discussed by Councilmember Regner. Attended the State Conference on Sustainability, the Arizona Chapter of the U.S. Green Building Council. Attended a Verde Valley Land Preservation meeting. Gave a presentation to the Kiwanis Club.

Town Manager's Report –

Signed lease agreement for the new winetasting room – targeting Labor Day weekend in September for opening.

Volunteer Appreciation Event will be held April 22<sup>nd</sup>.

Entertainment district – originally came up during strategic planning – has been moving forward and there will be a public hearing at next meeting.

As of yesterday our new Wastewater Treatment Plant is operational! Commendations to the Utilities Director, Wayne Debrosky.

**Organizational Reports** – Reports regarding regional organizations.

CAT/ VVTPO – Cottonwood Area Transit and the Verde Valley Transportation Planning Organization & other transportation affiliations.

VVTPO —

Councilmember Bohall reported:

Attended the VVTPO meeting March 27<sup>th</sup>. Construction on the two-mile long climbing lane is beginning and some closures will occur as well as single lane restrictions for next 3 months.

CAT – the ridership is stable. There will be a second bus going to Sedona. As of now CATS and LYNX meet up only two times of day. The Yavapai-Apache tribe is in process of trying to purchase a bus that will interact with CAT system and intersect Camp Verde and Clarkdale.

NACOG - Northern Arizona Council of Governments.

Vice Mayor Dehnert reported:

Attended February 26<sup>th</sup> meeting – agenda included information on the transfer of several hundred thousand dollars from the revolving loan fund to the City of Flagstaff. Applications will be available for future dollars. There was some discussion of the sequester of federal budget which is expected to have a 5% impact on NACOG budget for remainder of fiscal year and in October with new fiscal year an 8% impact. Updated its personnel rules and regulations. There was a pitch for the Tourism Forum which occurred last month in Page. The Council passed a resolution against the diversion of HURF funds.

NAMWUA - Northern Arizona Municipal Water Users Association – no report.

VRBP – Verde River Basin Partnership – Mayor Von Gausig had no meeting report however noted that there will be an important presentation on Thursday on the release of USGS Water Budget Study which will give us a good idea of what

the future of water in the Verde Valley will be.

VVLP – Verde Valley Land Preservation –

Councilmember Radoccia reported:

There was a meeting in Camp Verde at the ranger station. The highlight was articles in paper about The River Runs Through It. The artist that will be part of that would like to have a show and have contacted Clarkdale library regarding a show of artwork in November and December. Would like to have that art leave the library during the Made in Clarkdale time and have that transferred from library to the Clark Memorial Clubhouse for that event.

The cleanup along the Verde River is going well.

WAC - Yavapai County Water Advisory Committee – Mayor Von Gausig presented report in Mayor's report.

VVREO – Verde Valley Regional Economic Organization – no report

YCL – Councilmember Regner reported:

The Southwest Wine Center will have a final review of construction documents on April 23<sup>rd</sup>. The renovation of Building O is scheduled to begin in early July, 2013. Occupancy is planned for the Fall 2014.

An agreement to provide reclaimed water to the vineyard is to be finalized between the City of Cottonwood and Yavapai College.

The vineyard irrigation infrastructure is under construction and is scheduled for completion May 15<sup>th</sup>. Members of the ground team are working with the Vinology program to prepare the site for 3000 new vines.

Reminder that on May 4<sup>th</sup> is Plant A Vine day at Yavapai College.

There is a manufacturing fair at the CTEC Building of Yavapai College April 18<sup>th</sup>.

April 25<sup>th</sup> 6 – 7:30 there will be a Yavapai College evening of recognition at the Verde Valley campus. This year's winner of the Yavapai College President's Outstanding Alumni Award in the Verde Valley is Pam Miller, CEO and Publisher of Verde Valley Newspapers, Inc.

**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 held March 12, 2013.

- B. Claims** - List of specific expenditures made by the Town during the previous month. March, 2013 check log and PPE dated March 9, 2013 and March 23, 2013.
- 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 March 27, 2013  
Design Review Board minutes of the meeting held March 6, 2013 and Notice of Cancellation of meeting April 3, 2013  
Planning Commission minutes of the meeting held March 19, 2013
- D. Reports** - Approval of written Reports from Town Departments and Other Agencies  
Building Permit Report – February, March 2013  
Capital Improvements Report – February 2013  
Magistrate Court Report – February 2013  
Water and Wastewater Report – February 2013  
Clarkdale Fire District Report and Mutual Aid Responses Report – February 2013  
Police Department Report – February 2013  
NAIPTA Transit Report – February 2013
- E. Proclamation Declaring April 21 to April 27, 2013 As Volunteer Appreciation Week** – Approval of a Proclamation declaring April 21 to April 27 as Volunteer Appreciation Week in the Town of Clarkdale.
- F. Resolution Adopting a Residential Antidisplacement and Relocation Assistance Plan for FY 2014 - FY 2019** – Approval of Resolution # 1426, adopting a Residential Antidisplacement and Relocation Assistance Plan as required under Section 104(d) of the Housing and Community Development Act of 1974 as amended.
- H. Mutual Aid Agreement** – Approval of an Intergovernmental Agreement among Members of the Arizona Water and Wastewater Agency Response Network (AZWARN).

Councilmember Regner pulled Item G from the Consent Agenda.

**Councilmember Radoccia moved to approve Consent Agenda items A – F and H as presented. Councilmember Regner seconded the motion. The motion was approved unanimously.**

- G. Letter of Resignation from Planning Commission Member Dave Puzas** – Acceptance of a letter of resignation from Dave Puzas effective March 31, 2013 from the Planning Commission.

David Puzas, appointed to the Planning Commission in August, 2005, has submitted a letter of resignation from his position on the Planning Commission which will create a vacant term expiring September 30, 2013. We are thankful for his many years of service to Clarkdale.

**Councilmember Regner moved to accept David Puzas's Letter of Resignation from the Planning Commission. Councilmember Bohall seconded the motion. The motion was passed unanimously.**  
**NEW BUSINESS**

**WORKSESSION ON THE SECOND AMENDMENT TO THE DEVELOPMENT AGREEMENT FOR MOUNTAIN GATE SUBDIVISION** – Discussion regarding the Second Amendment to the Development Agreement for Mountain Gate Subdivision.

*(Staff Note: This document reflects modifications and new information since your March 26, 2013 packet.)*

BC Land Group and Town staff have been involved in the renegotiation of the Second Amendment to the Development Agreement for several months and have a draft ready for review by Town Council.

The following topics are encompassed in the draft agreement:

- **Recital A:** Acknowledgment of BC Land Group as the new Owner/Developer and delineation of property subject to the development agreement. (Exhibit A)
- **Recital D.3:** The adoption of a new phasing plan attached to the document as Exhibit B. BC Land Group intends to complete infill in the project as the first phase, building homes on the empty lots near completed homes. Nine subsequent phases are planned concentrating development in one area at a time. At the time this document is before Council for adoption, staff will also be presenting a revised Subdivision Agreement that includes the new proposed phasing plan.
- **Agreement 1.3:** Acknowledgement that the Town does not currently assess development impact fees. If the Town does adopt development impact fees in the future, these will apply to the development.

#### **Infrastructure**

- **Agreement 1.4 Infrastructure Construction:**
  - Within 3 months of the approval of the Second Amendment the developer will begin improvements to create a road surface across Tract T. These improvements shall be completed within 6 months. Tract T will subsequently be dedicated to the Town as part of the Centerville Road extension.
  - The Town will negotiate the acquisition of the properties within the Centerville subdivision required to the Centerville Road extension to SR 89A.
  - The Developer shall pay the cost of this acquisition up to \$300,000. If the cost of this acquisition exceeds \$300,000 the Town and Developer agree to enter into mediation to determine funding for the excess.
  - Developer shall pay for the design of the Centerville Road extension.
  - The Developer shall provide financial assurances, in a form acceptable to the Town, for the construction of the extension.
  - Construction of the extension shall begin before issuance of the 200<sup>th</sup> residential building permit and shall be completed before issuance of the 300<sup>th</sup> building permit.
  - Upon completion and acceptance, the Centerville Road Extension shall be dedicated to the Town.

- The emergency access road extending from Company Hill Circle shall be abandoned by the Town upon completion of the Centerville Road extension.
- Developer agrees to replace the Cottonwood trees along Mountain Gate Drive with drought-tolerant trees.
- Paragraph 12-4: Developer shall retest the water and wastewater infrastructure prior to initiation of each phase. Developer shall complete any necessary repairs.
- Paragraph 12.5: Developer shall pay the Town, within 10 days of approval of this document, \$285,658 to reimburse the cost of the arsenic treatment plant and other water system expenses completed by the Town.
- Paragraphs 12.6 and 12.7: Developer shall remedy all items on the outstanding punch list prior to issuance of any building permits for each separate phase. Failure to remedy all items will constitute default of the agreement.
- Paragraph 13.6: Developer shall provide financial assurances acceptable to the Town for each phase.
- Paragraph 15.1: Developer shall be responsible for the costs to repair the Clarkdale Parkway round-about, including re-engineering if necessary.

#### **Wastewater System**

- The Town acknowledges payment of \$1,018,080 in cost sharing for the new wastewater plant.
- The Town agrees to provide 363 additional connections to the developer.
- The developer agrees to pay, in 12 payments over the next two 2.5 years, the remaining balance of \$1,981,920 towards the cost of the new wastewater plant. (See Exhibit C)
- Failure to make a scheduled payment will result in default of the agreement.
- The Town reserves the right to sell any unused excess capacity at the wastewater treatment plant to another party.
- The Town will reimburse to the Developer wastewater connection and capacity fees collected upon issuance of building permits up to \$1,981,920. Reimbursement will be paid annually by check to the Developer within 60 days of the close of the Town's fiscal year on June 30th.

#### **Community Facilities**

- Paragraph 17 regarding Community Facilities is deleted.

#### **Trails and Recreational Facilities/Landscape Buffer**

- Paragraph 18: Developer shall complete construction of the trail system and pocket parks per Exhibit E. The trail system shall be completed before the issuance of the 300<sup>th</sup> building permit. Developer shall maintain the trails for 3 years following completion.
- A new design review of the proposed Park and Recreational facility shall be required. No portion of this facility will be dedicated to the Town.

#### **School Site**

- Paragraph 20: Developer shall provide written proof that it has met the obligation to Clarkdale/Jerome School and Mingus Union High School.

#### **Term of the Agreement**

- Paragraph 21.28.3: The term of all of the related development agreements shall be ten years.

**Additional Information**

There are two items on which staff and the Developer have not yet reached an agreement:

**Reimbursement of Water Fees**

As Council is aware, the Town adopted Water Capacity Fees effective January 8, 2013. These fees apply equally to all new customers connecting into the Town's water system. Water Capacity Fees are not Development Impact Fees; therefore, they are not reimbursable to the Developer.

The Developer requests that the first 200 units of water capacity shall be waived as a reimbursement for costs previously incurred. The Developer would agree to pay \$1,500 per connection for the balance of 205 lots for a total payment of \$308,500. A second option the Developer is offering is a payment of \$700 per connection for the 405 lots the developer owns for a total payment of \$283,500.

Fee credits for water system related fees were not addressed in either the original Development Agreement or the subsequent Amendment to the Development Agreement.

**Future Development Impact Fees**

Staff has included language in the Second Amendment stating any development impact fees adopted in the future by the Town will apply to the project. As discussed during consideration by the Council to eliminate development impact fees, the Town may consider adopting impact fees for parks, civic facilities, library facilities or police facilities in the future. Staff believes that if these fees are adopted, they should apply equally to all new development. The Developer is requesting a five-year moratorium on any new development impact fees for the Mountain Gate project.

Community Development/Economic Director Jodie Filardo presented information on this agenda item.

Discussion followed with regard to the possible future development impact fees. Due to concerns of the developer and discussions with legal counsel, the Town staff proposes to set aside Section 3 - DEVELOPMENT IMPACT AND CONNECTION FEES found in the Second Amendment to the Development Agreement of the Mountain Gate Subdivision and allow Section 8. DEVELOPMENT IMPACT AND CONNECTION FEES in the original Agreement to stand. The agreement would state that the developer could receive credit for connection fees if infrastructure they put in place would be subject to a future development impact fee. It would not entitle the developer for reimbursement of water capacity fees. Town attorney Pecharich stated that this would not limit the town from creating future development impact fees.

Vice Mayor Dehnert asked if this would include infrastructure that was built by the previous developer or if it would only be applicable to new infrastructure. Pecharich stated that the present developer has bought all the rights and responsibilities of the original developer.

Filardo added that there was one other amendment which is 16.2.6 Breach which states that as long as the developer keeps paying their payments on time from the wastewater connection schedule they will have their 363 connections available plus their 42 purchased but not yet used. Pecharich stated that this section includes a 5 day grace period.

Town Manager Mabery stated that the risk to the developer is that they would lose the guaranteed service. Town Attorney Millett stated that the late payment would have a cure of ten days after receipt of notice.

Vice Mayor Dehnert asked what is left of capacity if all of these 363 connections are made and Town Manager Mabery stated that it would take us to capacity of the new plant if all of these build out and we would need to expand the plant.

Councilmember Regner stated he would like to read Paragraph 17 before it is deleted. Mabery stated that the paragraph was to be used as a financing tool.

Councilmember Radoccia stated it would be helpful to have a clear map of the tracts and phasing. Also asked how the figure of \$300,000 was determined. Filardo stated that the estimation was done in her office based on current estimated market value; Mabery stated that it was only an estimate used to make sure there was more than enough. With regard to the school site, Radoccia asked what the price per student was. Mabery noted that traditionally the developer and the school come to an agreement and they provide us with documentation to that effect.

Mayor Von Gausig noted that the cottonwood trees will be replaced with trees that are more drought tolerant and appropriate for the area.

Filardo confirmed that the roundabout repairs would be re-engineered per the Town's specifications as to what is necessary.

Vice Mayor Dehnert asked why the pocket parks would need to be dedicated. Mabery stated that they are called pocket parks but they are really trail heads. Filardo stated there were about five of these.

Representatives from BC Land Group, the managing partners of the entity that owns Mountain Gate Clarkdale, were present and John Andreotti presented information about the project to the Council. He stated that they want to make this project a jewel for the 196 families that live there now in addition to the other 405 families that will live there when they get through. They have negotiated this development agreement and both they and the Town have made a lot of concessions and are close to having an agreement. The BC Land Group sits on the board of the HOA. Andreotti stated he would like to address: 1) development fees – BC Land Group has the right to those fees as long as they don't default; believes the penalty is severe if default occurs; 2) regarding water capacity, because of the changes they discussed there isn't a clause that states that they are entitled to the capacity; they would like to know that they are entitled to that and would like a clause in the agreement to that effect. They would like to see a guarantee of capacity as well as a guarantee of hookup (water).

Filardo stated that she believes that the developer wants the Town to agree to provide 405 water connections to them. Mabery stated that allowing them to develop, the Town has agreed to serve them with water and believes that can be worded to everyone's satisfaction.

Andreotti stated they have talked to the schools and the issue is resolved as of tonight. The developer has given the Clarkdale Jerome School District approximately \$240,000 voluntarily that would be sufficient to satisfy the impacts of the new homes.

Andreotti further discussed the roundabout and stated there is a schedule that shows where the phasing is, i.e., access road to water well, landscaping around the water tank, extension over Tract T, etc. falls into Phase 1. The extension of Centerville road that is scheduled to start and they are moving forward and have committed to start the design immediately.

Trails location is all determined by original plan agreement and they plan to install exactly in that manner and they will maintain for three years.

Radoccia asked if the trails and pocket parks will go to Design Review for oversight. Mabery stated that they would go to the Parks and Recreation Commission.

Andreotti stated that the major punch list items are in Phase 1 and is either done or will be done immediately.

Mayor Von Gausig stated that he has heard many times from staff that the negotiations with BC Land Group have been very cooperative and professional and the Town appreciates that.

Councilmember Regner asked about Tract U and what Andreotti's thoughts were regarding the recreation facility. Andreotti stated that the CC and Rs require that the facility be maintained by the HOA and they don't want to burden the HOA with lots of assessments for a recreation center that won't be used but do want a nice rec center. They are trying to figure out a way to start it immediately so they can show people what they will have to use.

Vice Mayor Dehnert stated that Clarkdale has branded itself as "sustainable Clarkdale" and inquired what BC Land Group's thoughts were toward implementing that. Andreotti stated that BC Land Group is involved in 'green homes' and has been involved in the green movement for years. The philosophy of their group is that doing the right thing with your project brings better home prices.

Councilmember Radoccia asked about the possibility of a lead-certified or Energy Star community building and Andreotti stated that at this time they could not commit to what type of certification they would use nor have they chosen the architect.

Councilmember Regner asked if there was some type of willingness on the part of the Town to participate in a community effort would their group be open to that. Andreotti stated that the question would be who pays to maintain and the HOA would not want to be open if they were solely paying for the maintenance, however they would be open to discussion.

Andreotti stated that the Town staff "is a breath of fresh air", fair and easy to work with.

Mayor opened to public comment. There was no public comment.

Attorney Pecharich reported that they will be adding to the draft agreement the provision that clarifies that the Town has water capacity fees, those fees are payable by this development, and will also recommend that as far as development impact fees we will rely on paragraph 8 of the existing development agreement.

**This is a worksession only. No Council action is required, however staff is requesting input from the Council regarding the document.**

**WORKSESSION REGARDING PROPOSED CHANGES TO THE ZONING CODE TO ADOPT DEFINITIONS FOR AGRICULTURAL USES** – Discussion regarding the definitions of agricultural uses to allow commercial and non-commercial agricultural uses in residential zoning districts, and to define what agricultural uses are allowed in the Commercial Zoning District.

The Planning Commission and staff began discussing the possibility of allowing agriculture uses in residential zones in June 2012. The impetus behind this consideration is twofold. First, staff has received specific requests from developers who are interested in incorporating vineyards and agricultural uses, similar to the Agritopia development near Gilbert, into their subdivisions. Second is the desire to support and promote local food production. Local food production can help provide food security to residents and become a driver for economic development.

#### **Existing Code**

Currently, agriculture uses are not permitted in residential zoning districts, with the exception of the RS-3 zoning district. The majority of the RS-3 district is National Forest property and is undeveloped. In addition, agricultural uses are not currently defined in the Zoning Code.

Non-commercial agricultural uses, such as a backyard garden or fruit trees, are typically considered ancillary to residential uses.

Agricultural uses are not listed as permitted uses in either the Commercial or Industrial Zone.

While some government entities in the Verde Valley have an agriculture zone, none of our neighbors specifically permit commercial agricultural uses in residential zoning districts.

#### **Proposed Code:**

Staff and the Planning Commission believe it is worthwhile to examine the possibility of allowing some agricultural uses in residential zoning districts to address the following goals:

- promote local food production and use
- promote sustainable agriculture
- reinforce the Town's commitment to water conservation

The challenge with the proposed ordinance is to allow commercial agriculture uses in residential zoning districts while minimizing the impact on surrounding residential areas.

**Section 2 – Definitions:** In order to clarify the terminology being used in the draft ordinance, several definitions are proposed to be added to Section 2 of the Zoning Code.

**Section 3 – Zoning Districts:** For residentially zoned property, the proposed draft ordinance is crafted to allow non-commercial agricultural uses on property less than ½ acre as a permitted use. Any non-commercial agricultural use on more than ½ acre of property would require an administrative review so staff could determine there was no commercial component associated with the use. Other specific agricultural uses would be permitted in residential zoning districts with a Conditional Use Permit. These

uses include agribusinesses, the production of a crop for sale, community gardens, community supported agriculture disbursement and farmers markets.

A residential use must be established on the subject property prior to any agricultural use being started. This preserves the intent of the underlying zoning district and prevents the residentially zoned property from being used for solely a commercial use.

In the Central Business District, indoor retail sale of bulk agricultural products is added as a permitted use and community gardens and farmers markets are added as a conditional use.

In the Commercial Zoning District, indoor retail sale of bulk agricultural products is added as a permitted use and community gardens, farmers markets, and agribusiness related uses would be permitted with a Conditional Use Permit. All uses permitted in the Commercial Zone are also permitted in the Industrial Zone.

In Section 5 – Conditional Use Permit: Language is included in this Section to guide development of agricultural uses and promote sustainable agriculture by minimizing water use and impact to the environment. As noted above, every use that involves the growing of an agricultural product for commercial use will be required to go through the conditional use process.

Finally, Section 11-9 has been reworded to require Site Plan Review for agribusiness uses, farmers markets and community gardens.

**Public Comment:**

The Planning Commission held a Public Hearing regarding the proposed changes on March 19, 2013. No public spoke at this meeting.

The draft ordinance has been distributed to the Verde Valley Agricultural Coalition and the Verde Food Council as well as various other community members for review and comments.

Two members of the public provided direct input to the wording of the proposed ordinance.

**Prop 207 Impact:**

In granting new permitted uses, it is staff's interpretation that there is no violation of the Private Property Rights Protection Act. Agricultural uses are not currently permitted in residential zoning districts. To allow the use adds value to the property, so crafting specific requirements for this additional permitted use does not diminish property values.

**Property Tax Impact:**

In Yavapai County, property owners can ask for a reduction of assessed taxes on land used for agricultural production. This reduction only applies to the amount of land used in agricultural production. In general, the reduction is from the straight commercial rate of a 20 percent ratio of the Full Cash Value to a 17 percent ratio. Residentially zoned property is currently assessed at the ratio of 10 percent of the full cash value. The county bases assessments on use, not zoning, so technically, conversion of residential property to commercial agriculture could have a small positive impact on tax collections.

Properties of over 5 contiguous commercial acres may apply for a tax exemption from the county. The primary use of the property must be the production of an agricultural product, and the property must be capable of producing a profit. Removal, through exemption, could have a small negative impact on tax collections, although there are few parcels of the required size (a commercial acre is 36,000 square feet, 5 commercial acres is 180,000 square feet) in our residential zoning districts.

Senior Planner Beth Escobar presented information on this agenda item. Escobar emphasized the Town's concern about water consumption. Yavapai College studies show that vineyards use less water than residential units. Tomatoes, alfalfa, etc. consume more water; however they are not in production year around.

Mayor Von Gausig stated that we could demand some sort of performance standard for water consumption. Once established grapes will use an acre foot of water per acre, corn will use seven acre feet of water per acre. We don't want people planting large tracts of crops requiring large amounts of water. Von Gausig stated that he understood water security more than food security, although both are important. Would like to see performance standards which would indicate how much water each crop would use, how you regulate and enforce is difficult.

Escobar stated that the Planning Commission directed the department to delineate a size requirement. The department denoted that  $\frac{1}{2}$  acre or less would have no regulatory requirements. If the size is over  $\frac{1}{2}$  acre but not a commercial crop, that would receive a waiver from the director and would have no regulatory restrictions. The intent is not to discourage people from growing their own food but want to monitor people growing food for sale.

Councilmember Radoccia stated that the concept of rain harvesting in our area is difficult for use in irrigation, especially in a drought year; however drip irrigation would be critical for irrigation.

Escobar stated that she would like to leave the rainwater harvesting as a backup component.

Radoccia stated that it costs about \$1 per gallon to store water. To irrigate a  $\frac{1}{2}$  acre of any kind of crop you would be using multiple thousands of gallons of water per week and if it doesn't rain the tanks lay empty or you fill them with domestic water from the town or your well, so it becomes impractical.

Mayor Von Gausig suggested using a combination of techniques that people use that add up to a certain quantitative amount and Radoccia agreed that that was a good option.

Escobar stated that she will re-word and describe some options.

Mayor Von Gausig made some statements and suggestions regarding non-chemical pest control. Escobar stated that people would be steered to EPA's best management practices with regard to chemical/non-chemical pest control.

Mayor Von Gausig referred to a section that stated that a residential use of property had to be established prior to any non-commercial agricultural use and would like it to also state that the residential usage had to be currently and continuously occupied or at least currently occupied.

Councilmember Regner asked that if there's a vacant piece of property next to an established residential property and the resident buys the vacant land can they join those two properties together and satisfy that requirement. Escobar stated that they advised that the property owners would have to combine them in order to fulfill the requirement.

Councilmember Regner also asked for clarity in the conditional use permit required for community supported agriculture disbursement locations. Escobar stated that it can be clarified that the permit would be required if in residential zoned districts. The permit is already required in commercially zoned districts.

Regner then referred to page 6, item B which states that if connection to the town's water system is not available approval of agricultural uses irrigating with well water will be considered on a case by case basis and asked what the criteria would be. Escobar stated that if town water was not available it had previously been discussed that agricultural use would not be permitted, however some of the residents are on a well and it would not be economically feasible to connect to the town's water; therefore it was considered that permits would be considered on a case by case basis. Some of the things the Town would look for in the regulation would be how deep the resident's well is, how much water do they use residentially, are they in an area where the wells are going dry. The use permit might be denied in these cases or conditions stipulated in the use.

Councilmember Radoccia commended the staff for bringing this draft ordinance forward. He further stated that the task is difficult. The regulation of water use for wells is impossible and might be difficult legally. Recommends the book "The Intelligent Gardener" which discusses a lot of the issues addressed in this discussion and would be helpful as a reference.

Radoccia further stated that he was not completely clear on the property tax impact. He remarked that a seventeen percent (17%) rate is very high and questioned whether the Town had control over that rate. Escobar informed Council that the Town did not have control over the assessment. The information was provided to Council to see if there was any concern over using that property tax income from the housing development to see if there is a risk of the Town losing property tax income. The County Assessor informed Escobar that the determination was based on individual cases. One of the criteria was whether the production showed a profit.

Vice Mayor Dehnert asked about ditch irrigation in the town of Clarkdale that would provide for agricultural surface water and wondered if we might be looking for problems that may not exist in terms of trying to regulate what people can grow. It is not up to the town to regulate that but supports the department giving people more flexibility with their land.

Councilmember Bohall agreed and said that if it were not economically viable then it wouldn't be done.

Councilmember Radoccia would like to see some inclusion in reference to permaculture.

Mayor Von Gausig opened the discussion to public comment.

Mike Wise: Realtor – spoke in favor of the agricultural component in residential land. There's an opportunity to take an acre parcel and plant grapes, for example, and define ourselves with different varieties we can grow. It also offers opportunities for wine-based tourism.

Mayor closed public comment.

**This is a worksession only. No Council action is required, however staff is requesting the Council provide direction regarding the proposed draft ordinance.**

**ARIZONA “OPENBOOKS” TRANSPARENCY WEBSITE PRESENTATION** – Presentation regarding the Arizona “openbooks” website.

The Town of Clarkdale became the first city or town in Arizona to provide a comprehensive reporting of all its revenues and expenditures through the State of Arizona’s official transparency website, [www.openbooks.az.gov](http://www.openbooks.az.gov).

A.R.S. 41-725 requires that each local government (local governments are defined in this statute as cities, towns and counties with more than 2,500 population; community college and school district’s with more than 600 pupils; and state universities) in Arizona establish and maintain an official internet website that is accessible to the public at no cost and that contains a comprehensive reporting of revenues and expenditures over \$5,000.

The Arizona Department of Administration developed “Arizona OpenBooks” to help facilitate the transparency requirements, provide local governments an opportunity to meet their requirements and provide the public with a single point of reference for Arizona governmental financial activities. While local governments can choose to provide the required financial information on their own websites, Clarkdale chose to work with the State and the OpenBooks system to provide a searchable, user-friendly public website for citizens to view information about the financial activities of multiple jurisdictions.

The Town of Clarkdale’s financial records for the current fiscal year (which began July 1, 2012) are available on the website, and will be updated on a monthly basis in order to ensure continuing access to up-to-date financial information for the public. While the statute only requires reporting of revenues and expenses over \$5,000, the Town of Clarkdale chose to list all revenues and expenses, regardless of the amount.

Accounting Supervisor, Kathy Cwiok, gave information on this agenda item. Clarkdale was the first city/town to have its books on the website. The Town’s books went live March 7 and two others joined on April 8<sup>th</sup>. The website is user friendly and there are many ways to get to the data. Cwiok then gave a demonstration of the navigation through the website.

Mayor Von Gausig asked how this information gets updated. Cwiok informed the Council that she uploads the file monthly. Cwiok stated that our “Incode” software support team really came through for us in getting this information online. Cwiok also noted that the file is a text file and we can run a report that is in a format that is acceptable to OpenBooks. She first runs a test file, balances to our books and finally loads to a live file.

Mayor Von Gausig asked what happens if the figures are wrong. Town Manager Mabery stated that if the information is wrong here then it’s wrong in our accounting system and we can fix it. Cwiok also stated that the accounts are balanced monthly before going live online.

Vice Mayor Dehnert asked if there were any concerns about confidentiality. Cwiok stated that initially there were however the accounts and information has been reviewed and edited to ensure no confidential information would be divulged. Employee names are not used unless a reimbursement is made in accounts payable and the employee is listed as a vendor and our attorney bills are not specific other than what line item they are budgeted to. There is no attorney/client privilege divulged in this system.

Dehnert confirmed that this was required by last legislature but they didn't give us any money. Cwiok noted that they not only did not give us money but we were charged \$5000. The Town took the League's recommendations seriously that this new transparency is not going away. Dehnert asked if there was a way to keep track of how many hits on this site and Cwiok noted that she has contacted the State with that question and the answer is pending.

**This is a presentation only. No Council action is required.**

**FISCAL YEAR 2013 BUDGET UPDATE** – A worksession to discuss the third quarter of the 2013 FY budget.

This budget update is designed to provide the Town Council with an overview of the current budget position, discuss current budget and revenue projections.

Finance Director/Town Clerk Kathy Bainbridge presented information on this agenda item.

<b><u>Account</u></b>	<b><u>YTD Actual</u></b>	<b><u>% of Budget</u></b>
Streets – Revenue	\$ 303,919.16	44.64%
Streets – Expenses	\$ 259,306.14	38.08%
Wastewater – Revenue	\$ 277,003.06	58.07%
Wastewater – Expenses	\$ 207,275.28	43.45%
Sanitation – Revenue	\$ 216,238.81	78.20%
Sanitation – Expenses	\$ 180,182.91	65.16%
Water – Revenue	\$ 868,357.72	63.10%
Water – Expenses	\$ 829,504.80	60.27%
Cemetery – Revenue	\$ 37,640.40	89.20%
Cemetery – Expenses	\$ 35,282.13	83.61%
General Fund – Revenue	\$2,131,690.32	72.70%
General Fund – Expenses	\$1,980,989.43	67.56%

**This item is scheduled as a worksession only, and no official action is necessary from the council.**

**STATE LEGISLATION** – Discussion and possible action relating to legislation being considered by the Arizona legislature that may impact the Town of Clarkdale.

The League of Arizona Cities and Towns reviews drafted legislation prior to introduction to the Arizona legislature and monitors discussions and amendments throughout the legislative process.

Each week the League has phone conferences with various groups such as the Mayors & Managers, Financial departments, and Clerk departments. The pros and cons of pending legislation are discussed during the League's phone conferences with the various groups. Quite often, the League will ask municipalities to contact their legislators in order to let them know the impact legislation being considered will have on their municipality. The majority of these requests are last minute attempts to change legislative outcomes.

Regional Boards and Commissions may also call upon the Town to contact their legislators regarding pending legislation.

Under this portion of the agenda, Council will be able to discuss and take any action necessary to inform the legislature how pending legislation may impact the Town of Clarkdale, or report on those actions taken.

Town Manager Mabery stated there was no current information.

Mayor Von Gausig stated that there were two bills being tracked:

- 1) The Transaction Privilege Tax (TPT) bill. It looks like the League has been able to amend the three things it has been concerned about: auditing, administration, and treatment of construction sales tax. The indicators are that the construction sales tax will not make it into this bill meaning that we may still collect it the way we have been; and
- 2) Amendment to SB1262. The amendment is to allow us to extend terms and forgive Home Rule violation fines.

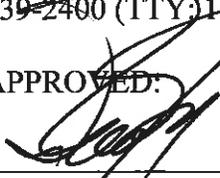
**Action relating to legislation being considered by the Arizona legislature that may impact the Town of Clarkdale.**

**FUTURE AGENDA ITEMS** - Listing of items to be placed on a future council agenda. There were no future agenda items.

**ADJOURNMENT – Without objection, Mayor Von Gausig adjourned the meeting at 9:14 P.M.**

Persons with a disability may request reasonable accommodations by contacting the Town Hall at 639-2400 (TTY: 1-800-367-8939) at least 72 hours in advance of the meeting.

APPROVED:

  
\_\_\_\_\_  
Doug Von Gausig, Acting Mayor

ATTESTED/SUBMITTED:

  
\_\_\_\_\_  
Kathy Bambridge, 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 9<sup>th</sup> day of April, 2013. I further certify that meeting was duly called and held and that a quorum was present.

Dated this 15 day of May, 2013.

SEAL

Kathy Bainbridge  
Kathy Bainbridge, Town Clerk