

**Minutes of a Special Session of the Common Council of the Town of Clarkdale
Held on Tuesday, June 24, 2014**

A Special Meeting of the Common Council of the Town of Clarkdale was held on Tuesday, June 24, 2014, at 3:00 p.m. in the Clark Memorial Clubhouse, Men's Lounge, 19 N. Ninth Street, Clarkdale, Arizona.

CALL TO ORDER – Meeting was called to order at 3:00 P.M. by Mayor Von Gausig.

Town Council:

Mayor Doug Von Gausig
Vice Mayor Richard Dehnert

Councilmember Reynold Radoccia
Councilmember Curtiss Bohall
Councilmember Bill Regner

Town Staff:

Town Manager Gayle Mabery
Town Clerk/Finance Director Kathy Bainbridge
Community Development/Economic Director Jodie Filardo
Senior Planner Beth Escobar
Community Services/Human Resources Director Janet Perry
Community Services Supervisor Dawn Norman
Utilities/Public Works Director Wayne Debrosky
Police Chief Randy Taylor
Sergeant Bill Relyea
Deputy Clerk 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.

There was no public comment.

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. Reports** - Approval of written Reports from Town Departments and Other Agencies
Building Permit Report – May, 2014
Capital Improvements Report – May, 2014
Magistrate Court Report – May, 2014
Water and Wastewater Report – April, 2014
Police Department Report – May, 2014
NAIPTA Transit Report – May, 2014

- B. Proclamation for Independents Week** – Approval of a Proclamation designating June 29 – July 6, 2014 as Independents Week
- C. Facility Reimbursement Agreement for Use of Town Facilities by the Clarkdale-Jerome Lions Club** – Approval of the 2014-2015 Facility Reimbursement Agreement between the Town and the Clarkdale-Jerome Lions Club.
- D. Facility Reimbursement Agreement for Use of Town Facilities by the Clarkdale Historical Society and Museum** – Approval of the 2014-2015 Facility Reimbursement Agreement between the Town and the Clarkdale Historical Society and Museum.
- E. Facility Reimbursement Agreement for Use of Town Facilities by Made In Clarkdale, Inc.** – Approval of the 2014-2015 Facility Reimbursement Agreement between the Town and Made In Clarkdale, Inc.

Vice Mayor Dehnert moved to approve Consent Agenda items A – E as presented. Councilmember Bohall seconded the motion. The motion passed unanimously.

NEW BUSINESS

YAVAPAI COUNTY LIBRARY SUPPORT AGREEMENT – Discussion and consideration of approving the Library Support Agreement between the Yavapai County Free Library District and the Town of Clarkdale for the Clark Memorial Library.

Historically the Town of Clarkdale has maintained an annual Library Service Agreement with the Yavapai County Free Library District (YCFLD or District) for services and monetary funding. As presented to Council on March 25, 2014, the YCFLD has transitioned to re-classify both the Clark Memorial Library and Jerome Public Library from the ‘small rural unincorporated community libraries’ to the ‘incorporated city/town public libraries’. This re-classification has resulted in a new agreement outlining different terms which impacts both the operational and funding responsibilities placed upon the Town; while this agreement is new to both Clarkdale and Jerome, it is the same agreement contracted with all other incorporated city/town libraries.

Since the presentation made in March, staff was able to determine the financial benefit and advantages of having the library IT services and maintenance handled ‘in-house’ by our contracted IT provider. As a result, YCFLD has agreed to assign ownership of all the IT equipment and software licenses to the Town. The equipment that will be retained by the Town includes:

1. Two staff computers and barcode scanners – including the hardware and software
2. Two receipt printers
3. Two label printers for cataloging
4. Ten public computers – including the hardware and software
 - a. Six desktop PCs
 - b. Four laptops
5. One desktop PC designated for patron catalog access
6. One Early Literacy Station PC – children’s section
7. Color printer
8. Multi-function printer

9. Wi-Fi equipment
10. Server and DSL Router/Modem
11. The required filtering software to comply with ARS §34-502(B) (1) and (2) and as defined under ARS §34-501 Children's Internet Protection Act (CIPA)
12. The equipment required for the filtering system: Bluesocket and Barracuda

The following fees and services will no longer fall under District funding or support, and also result in additional costs to the Town:

- YLN membership fees
- IT/Computer service and support
- Internet service
- Equipment/Hardware/Software Maintenance Fees
- Computer and equipment parts
- Computer and equipment replacements
- PC warranties
- Battery back-ups/replacements
- Misc. Office/Shelving Supplies

With maintaining YLN membership, Clarkdale's library will continue receiving membership benefits which include: online catalog system/software, online databases for e.g. Overdrive for eBooks and Audio books, the circulation system/software used by all of the YLN libraries, professional assistance and consultation services, continuing education opportunities and trainings for staff and volunteers, and coordination of county-wide library services.

The estimated additional cost associated with this new agreement would be \$5,474.47 for the FY14-15. However, this figure does not include IT/computer services, PC warranties, computer and equipment parts and replacement, and battery back-up replacements. Consideration of these potential expenses have been included in the Town's FY14-15 Preliminary Budget.

Note: none of the changes being presented affect the annual contribution the Town receives from Yavapai County for library operations; this is separate funding which will continue. However, beginning July 1, 2014 this funding amount also will be calculated each year with the same formula used to determine the distribution amounts for all incorporated city/town public libraries. (For your information Clarkdale received: in FY 13-14 \$37,752.02; in FY 12-13 that amount was \$30,613.)

Town Manager Gayle Mabery presented information on this agenda item. She stated that the total budget impact is about \$9,000 which includes monies for IT.

Vice Mayor Dehnert moved to approve the Library Support Agreement between the Yavapai County Free Library District and the Town of Clarkdale for the Clark Memorial Library for FY14-15. Councilmember Bohall seconded the motion. The motion passed unanimously.

PUBLIC HEARING FOR CDBG PROJECTS– Public Hearing to receive input regarding the use of FY14 federal Community Development Block Grant (CDBG) funds.

The Town of Clarkdale is scheduled to receive approximately \$266,693.00 in FY14 federal Community Development Block Grant (CDBG) funds from the Arizona Department of Housing Regional Account. CDBG funds must be used to benefit low to moderate income persons and areas,

alleviate slum and blight, or address health and safety hazards. A public hearing is required to gather citizen input on the use of the CDBG funds.

The Town of Clarkdale staff recommendations for the use of the CDBG funding are:

- Installation of ADA bathrooms in the Clubhouse Complex.
- Updating ADA structures in the Town Hall Complex
- Removal of architectural barriers in Town Hall Complex buildings.

These projects have a high priority and the Town does not have to satisfy low income requirements to qualify.

Utilities/Public Works Director Wayne Debrosky presented the second public hearing for this agenda item.

Mayor Von Gausig opened the discussion to public comment. There was no public comment.

No Council action required. This agenda item is to receive input from the public regarding the use of FY14 federal Community Development Block Grant (CDBG) funds.

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF CLARKDALE, ARIZONA ABANDONING A PORTION OF FIFTH STREET AS SET FORTH IN THE PAZ AND COTA SUBDIVISION PLAT RECORDED IN BOOK 2, PAGE 128 OF THE OFFICIAL RECORDS OF YAVAPAI COUNTY - Discussion and consideration of Resolution #1469, a resolution abandoning a portion of Fifth Street.

Mr. Bill Fries, owner of Assessor's Parcel Number (APN) 406-21-013B, has submitted a request for abandonment of a portion of the right-of way known as Fifth Street in the Paz and Cota Subdivision.

The Paz and Cota subdivision plat was recorded December 28, 1917. This project is located west of Broadway Street between Clarkdale and Cottonwood. The area is accessed from Palisades Drive off of Broadway. There are twelve existing houses within the subdivision. Paz and Cota was originally platted as forty blocks. The blocks range in size from 1.5 to 2 acres and were platted to be broken into lots approximately 30 feet by 60 feet. However, the actual sales and construction in the area have occurred in the blocks. The first home in this area was constructed in 1982.

Verde Street and Copper Street, both which run approximately west to east, serve as the primary street access for the existing homes.

The Paz and Cota subdivision plat dedicates the street system designated on the map for 'the use and benefit of the general public.'

Even though the plat was dedicated prior to the incorporation of the Town, these streets are considered public right-of-way because of the original dedication. The street system within this subdivision has never been improved, therefore the streets have never been adopted into the Clarkdale street system.

Section 9-240(B)(3)(e) of Arizona State Statutes provides Council the power to abandon public right-of-way.

Section 28-7208 of Arizona Revised Statutes provides for the abandonment of a roadway and vesting of title in the adjacent owners 'subject to the giving of consideration to the owner of the abutting property to the governing body in an amount deemed by the governing body to be commensurate with the value of the abandoned roadway'.

Council has previously approved the abandonment of other public right-of-way in the Paz and Cota subdivision, including the abandonment of a portion of Fourth Street, directly west of the property involved in this application. Compensation for the value of the property being abandoned was not required for these previous actions. The portion of right-of-way proposed to be abandoned is approximately 0.58 acres. It would be difficult to assign a compensation amount to this property since it has no value except to the abutting property owners.

There are no recorded easements noted in the section of Fifth Street being requested to be abandoned. The property owner directly to the east, APN406-21-018 is in support of the abandonment. Upon abandonment, half of the right-of-way would be absorbed into each adjacent parcel.

The applicant has provided legal descriptions in preparation for the right-of-way being abandoned and absorbed into the adjacent parcels.

Senior Planner Beth Escobar presented information on this agenda item.

Mayor Von Gausig asked about the benefits of a re-plat process. Escobar and Mabery stated that there were many owners and there might not be a benefit to go through that lengthy process.

Escobar stated that we inherited the rights-of-way from Yavapai County when we incorporated as a Town and according to the County we still own all the rights-of-way. She further stated that there is no fee for this process so at a future date, for a future action, staff will be presenting a fee proposal for this type of process.

Councilmember Regner moved for the approval of Resolution #1469, a Resolution of the Mayor and Council of the Town of Clarkdale, Arizona abandoning a portion of Fifth Street as set forth in the Paz and Cota Subdivision Plat as recorded in Book 2, Page 128 of the Official Records of Yavapai County. Vice Mayor Dehnert seconded the motion. The motion passed unanimously.

WORKSESSION REGARDING ORDINANCE #362 WHICH ADDS LANGUAGE TO CHAPTER 2 OF THE TOWN CODE ALLOWING FOR CHARGING OUTSIDE CONSULTANT'S FEES - discussion regarding changes to Section 2-5-8 of the Town Code adopting language allowing for the charging of outside consultant's fees.

Community Development staff have been asked to explore options for ensuring recovery of outside consultant fees, including legal expenses, related to development.

Current Situation

Section 12-1-18 of the Subdivision Regulations contains the following:

'In the event staff, the Commission or the Council find it necessary to use the professional services of any person, either in their regular employ or retained outside of their regular employ, in connection with their examination, approval,

inspection or acceptance of any subdivision; said services shall be paid for by the subdivider. The Council may approve a fee schedule incorporating standard professional costs and in such case a subdivider may only have to pay for excessive costs and the standard fee.'

The ability to charge fees back to the developer appears to terminate with the acceptance of the subdivision and approval of the final plat.

For subdivisions developed in the recent past, the following standard development agreement language has been used:

'If legal action by any party is brought because of a breach of this Agreement or to enforce a provision of this Agreement, the prevailing party is entitled to reasonable attorneys' fees and court costs.'

This language does not assign responsibility to pay for fees incurred to the developer if a negotiated agreement is reached without legal action being taken.

The Town has exposure therefore in cases where a final plat is approved and disagreements arise regarding the interpretation of either the plat, the development agreement, the subdivision agreement or any related documents. If a negotiated agreement is reached in any dispute, the Town is left with the responsibility of paying fees for legal and other services.

In addition, the Town has no formal mechanism to protect from having to pay for outside consultant's fees in the cases of non-subdivision development.

Procedures in other municipalities:

Similar to Clarkdale, the Town of Camp Verde does not have an attorney on staff and they are billed by the hour for all legal services. Per Mike Jenkins, the Community Development Director for Camp Verde, they had a legal issue in 2013 with a development. The issue occurred post construction. A settlement was negotiated, so the issue never went to court. Camp Verde incurred and paid over \$40 thousand in legal fees to settle this issue, and will not be receiving any compensation to off-set this expenses.

The Town of Jerome also does not have an attorney on staff. They do not have any fee mechanism in place to collect attorney fees for issues occurring post development.

The City of Sedona, which has attorneys and engineers on staff, has a separate line item on their fee schedule:

'City Consultant Fees: 100 percent of the City's cost associated with outside consultant review fees'

Per discussion with one of Sedona's attorneys, no one has ever challenged the City over these fees.

State Regulations

Other than Section 9-499.15 of Arizona Revised Statutes which allows a municipality to set fees, staff has been unable to find any specific citation providing the ability to bill developers for expenses, specifically post development.

Proposed Changes:

Rather than adopting a fee into the fee schedule, staff is proposing a multi-layered approach to address this issue.

The first recommendation is proposed revisions to Section 2 of the Town Code. These revisions would add a requirement for any developer entering into a contract with the Town, such as a development agreement or subdivision agreement, to place \$5,000 in a deposit account for use for any future outside consultant fees. The new language would require the deposit amount to be replenished if exhausted, and returned to the developer at termination of the contract.

The second recommendation is to add standardized language to both subdivision and development agreements:

In the event the necessity arises requiring interpretation of this agreement, the recorded plat or any associated documents, the Developer shall be responsible for the payment of any related fees for outside consultant services, including legal fees. Per Section 2-5-8 of the Town Code, a \$5,000 deposit towards any future outside consultant services shall be required to be made to the Town upon recording of this Agreement.

The third recommendation is a stipulation be included in every design review and site plan review approval for new development requiring either a development agreement or contract including the above language.

By adopting the new ordinance language, and establishing these new procedures, the Town is protected from incurring additional costs and the developer has been made aware of their responsibilities regarding reimbursement of outside consultant's fees.

Senior Planner Escobar presented information on this agenda item.

Councilmember Radoccia asked for a clearer delineation for whether or not the \$5000 deposit would be required. Escobar stated that the size of the project would not necessarily trigger the deposit and other factors could contribute. Therefore, it would be difficult to determine on other than a case by case basis. The trigger for the deposit as they propose now would occur in the permitting process. Discussion followed regarding legal implications and equitability.

Von Gausig stated his perspective was that high-quality developers would not be deterred by this proposal. Mabery stated that the deposit streamlines the process and decreases the risk for the Town.

Councilmembers all agreed on the idea for reasons of protection for the Town from unseen expenses. Radoccia stated he would like a clearer definition of what would trigger the deposit fee.

Councilmember Regner noted that the language in the Title does not continue in the subsection and would like the subsection to reflect the title more consistently. Escobar stated that this could be amended.

This agenda item is scheduled as a work session only. No council action is required.

LOWER TAPCO OPENING – A report regarding the opening of TAPCO RAP.

On June 18, 2014, the Town of Clarkdale celebrated the opening of the Tapco River Access Point (RAP) with a Ribbon Cutting Ceremony. A verbal update regarding this opening is presented to the Town Council.

Town Manager Mabery reported on the opening and ribbon cutting ceremony. Since the opening the following tasks have been completed in six days of operation:

- 1) Verde River Ambassadors have been hired and are working (under 20 hours per week each) at Tapco Monday through Friday from 8 a.m. – 8 p.m. and Saturday and Sunday from 6 a.m. – 8 p.m. Four of the seven are Clarkdale residents. They are Jim Bruno, Cindy Masters, Clint McKean, Marsha Messier, Andrea Meyer, Lindsey Plas, and Elaine Zimmer and have all worked a shift at this time. They have uniforms and are reporting back to staff what issues they confront during the day. There have been no major difficulties at this point.
- 2) There is a self-pay kiosk at the site. There is not an adopted fee structure but encourage a \$5 donation per vehicle per day and for the first five days we took in approximately \$175. Registration of the vehicle is required. Thirty percent of the people who filled out the envelope were from Clarkdale, 16% were from Cottonwood, 10 % from Camp Verde, some from Sedona, Prescott, Prescott Valley, Chino Valley, Phoenix, Yuma, California, North Carolina, Indiana, Texas and one from British Columbia.
- 3) Another commercial outfitter has approached the Town. They have a trip planned in July for 50 people and will get permitted and launch as a commercial operation.
- 4) A Boy Scout who attended dedication ceremony looking for Eagle Scout project. He met with Gayle about doing an interpretive sign in the boat launch parking area and also wants to build a set of steps from parking lot down into the picnic area. He will develop a proposal to bring to the Town for approval.
- 5) There have been two instances of people driving in the river. There is clear signage that such activity is prohibited.
- 6) Chief Taylor stated that there were about six incidences during the five days the site has been opened. The incidences were minor. Ambassadors have been issued their own radios for police contact and response time has been minimal.
- 7) Mabery reported anecdotal information regarding positive feedback from property owners and visitors to the river who expressed appreciation for what the Town has done to minimize traffic and preserve property and the river.

Vice Mayor Dehnert asked where the outfitter's customers are coming from and Mabery stated that the first quarterly report with that information is due July 7th about the numbers of customers.

Mabery stated she is working on developing a list of volunteer opportunities i.e., trail building, ambassador's assistance, etc. in exchange for free passes, etc. Highest priorities at the site for "what's next" are:

- Additional permanent signage regarding traffic direction, current county-wide fire bans, gate closing information
- Currently have a six panel kiosk sign with four panels completed; two more panels that are waiting completion (one with Tapco history and one with site map)
- Boulders strategically placed to help control vehicle access
- Improving signage and access management on west side of river
- Delineating trails from boat launch area downriver

Mayor Von Gausig stated that he has been out every day since opening, spoken with visitors, ambassadors, and groups from all over. From an economic development perspective this venture is working. The park is doing its job to support the Town. The ambassadors are impressed with the training they have received from the Clarkdale Police Department. There will be an upcoming river trip with the ambassadors explaining the habitat. He further stated that the yellow-billed cuckoo made an appearance. There have been inquiries from visitors about annual passes.

This is a verbal update and no Council action is required.

FISCAL YEAR 2014-2015 PRELIMINARY BUDGET APPROVAL – Discussion and consideration of adoption of a Preliminary Budget for Fiscal Year 2014-2015.

At the April 22nd, May 13th and June 10th 2014 Council Meetings, presentations of the 2014-2015 Fiscal Year Preliminary Budget were reviewed for the Major Operational Funds of the General Fund, HURF (Streets) Fund, Wastewater Fund, Sanitation Fund, Water Fund, Cemetery Fund, and Capital Improvement Fund. There were also budget presentations for the additional Non-Operational Funds of the Wastewater Plant & Equipment Improvements, Water Capital Improvements, Development Reimbursement Fund, Impact Fees, Wastewater Development Projects, Grant Fund and Donation Fund.

The preliminary budget must be fully itemized in conformance with forms supplied by the Arizona Auditor General's Office and entered as a public record in the council meeting minutes when it is adopted.

As part of the required State budget adoption process, the Town will publish the preliminary budget in the local newspaper and have the budget available for public viewing before the final budget hearing and approval on July 22nd. After the preliminary budget is approved, adjustments may still be made prior to when the Final Budget is adopted, but only if those adjustments reduce revenues and/or expenditures. In light of that, the adoption of the Preliminary Budget sets the expenditure limitation for the Town of Clarkdale for FY 2014-15.

The Preliminary Budget on the State Auditor General forms will be provided at the Council meeting.

Finance Director Kathy Bainbridge presented the information on this agenda item.

The forms submitted to the State for the Preliminary Budget summary are attached. The 2015 Budgeted Expenditures/Expenses are:

FUND	BUDGETED EXPENDITURES/EXPENSES
General Fund	\$ 4,066,311
Special Revenue Funds	6,510,803
Capital Projects Funds	696,657
Permanent Funds	41,004
Enterprise Funds Available	6,043,984
Total Enterprise Funds	6,043,984
TOTAL ALL FUNDS	\$ 17,358,758

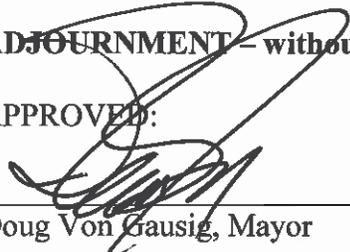
The Preliminary Budget of \$17,358,758 reflects a 14.52% reduction from last year's budget of \$20,306,578 which is \$2,947,820. The complete Summary Schedule of Estimated Revenues and Expenditures is attached.

Councilmember Radoccia moved to adopt the Preliminary Budget for Fiscal Year 2014-2015 as presented. Councilmember Bohall seconded the motion. The motion passed unanimously.

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

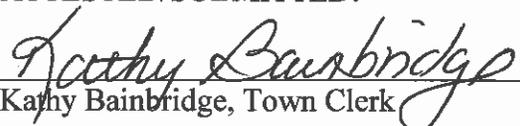
ADJOURNMENT - without objection, Mayor Von Gausig adjourned the meeting at 4:42 P.M.

APPROVED:



 Doug Von Gausig, Mayor

ATTESTED/SUBMITTED:



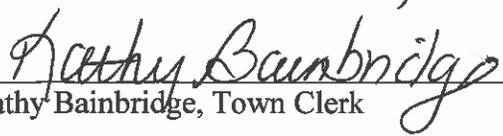
 Kathy Bainbridge, Town Clerk

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 24th day of June, 2014. I further certify that meeting was duly called and held and that a quorum was present.

Dated this 21 day of July, 2014.

SEAL



 Kathy Bainbridge, Town Clerk