

Minutes of a Regular Meeting of The Common Council of The Town of Clarkdale
Held on Tuesday, August 12, 2003, in the
Basement Meeting Room, Clarkdale Memorial Library, Clarkdale, Arizona.

A Regular meeting of the Common Council of the Town of Clarkdale was held on Tuesday, August 12, 2003, at 6:00 p.m. in the Basement Meeting Room of the Clark Memorial Library.

Town Council:

Mayor	Michael Bluff
Vice Mayor	Ellie Bauer
Councilmember	David Leibforth
	Rex Williams
	Tom Groom

Staff:

Town Attorney	Rob Pecharich
Town Manager	Gayle Mabery
Town Clerk	Joyce Driscoll
Planning Director	Lyle Richardson
Police Chief	Pat Haynie
Finance Director	Coleen Gilboy
Parks & Rec Assist.	Nancy Elkins
Admin. Assistant	Charlotte Hawken

Others in attendance: Robyn Prud'homme-Bauer, Angela Welles, Pat Williams, Curt Boholl, Elizabeth-Rose Augusto, Linda McDonough, David McDonough, Barbara Williams Robert (Ed) Williams, Rodney Fielitz, Henri Prudhomme, John Sherman, George Benatz, Frank Sa and others who did not sign in.

CALL TO ORDER - Mayor Bluff called the meeting to order at 6:03 p.m. and noted that all Council members were present.

PUBLIC COMMENT - *Curtis Boholl*, Third North and Broadway, distributed copies of an article to the Council on low flow water devices from the Monday, 8/17, Verde Independent. He noted that Phoenix areas are giving financial incentives for low
TOWN MANAGER'S REPORT - Town Manager Mabery stated that the August 26 special Council meeting has been moved to August 19 because of a conflict. She stated that the Arizona Department of Environmental Quality and Town staff met for a pre-application meeting for a permit for a wastewater treatment plant. She stated she

water usage. He pointed out the mention of hot water recirculation systems, which are usually a line going from the farthest faucet to the hot water heater. He stated that he wants the Council to forgive all or part of the fees for permits to install water saving devices.

Henri Prudhomme, 1750 Cholla, Clarkdale Chamber of Commerce, thanked everyone for turning out for National Night Out last week. He especially thanked Mayor Bluff and Police Chief Haynie for cooking the burgers.

Mayor Bluff closed public comment.

INFORMATIONAL REPORTS

MAYOR'S REPORT - Mayor Bluff distributed copies of possible League resolutions to the Council and stated they would be on the August 19 special meeting agenda.

VICE MAYOR'S REPORT - Vice Mayor Bauer noted that Jerry Wiley has been elected to the Executive Council of the Northern Arizona Council of Governments (NACOG). She stated that Clarkdale has been awarded a Regional Road Project by NACOG for alternate access to the industrial area of Town to be constructed in 2008. She stated that a regional traffic counting program has been initiated that would cost \$475 to participate. She stated that NAGOG supports Head Start remaining a federal program and not becoming a state-based program.

She stated that the Northern Arizona Municipal Water Users Association will hold a workshop to review the data collected so far on September 19.

anticipates submitting the application by September 30th. She noted that Police Chief Haynie has started a group called Explorers for teen boys and girls to expose them to police work. She noted that Officer Church, the group coordinator, raised \$3500 with a softball tournament last weekend, and that he is now the

school resource officer. She welcomed Nancy Elkins, the new Parks and Recreation Administrative Assistant for the Town.

EAST MINGUS LAND EXCHANGE REPORT-

Planning Director Richardson described why the group was formed. The group is working to review a possible exchange making three private parcels on the east side of Mingus Mountain into Forest Service land.

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 approved with one motion. Any items may be removed for discussion at the request of any Council Member.

Councilmember Williams pulled Item A and Mayor Bluff pulled Item I. Without objection, Mayor Bluff moved by unanimous consent to approve Items B, C, D, E, F, G and H.

Item A: Councilmember Williams noted corrections to the July 22, 2003 Council minutes. Vice Mayor Bauer moved to approve Item A as corrected, Mayor Bluff seconded and the motion passed unanimously. Mayor Bluff seconded and the motion passed unanimously.

Item I: Mayor Bluff moved to table Item I to the September 9th meeting, Councilmember Williams seconded and the motion passed unanimously.

- A. Approval of Minutes of the Common Council - Approval of the minutes of the Regular Meeting held June 10, 2003 and the Special meetings held June 3, 10, 24, July 21, July 22, 2003.
- B. **Claims** - List of specific expenditures made by the Town during the previous month.
- C. **Board and Commission Minutes**
 - Library Advisory Board- June 4 and July 3, 2003.
 - Planning Commission -
 - June 16, 2003 and July 21, 2003.
 - Parks and Recreation Commission -
 - June 16 and July 21, 2003.
 - Design Review Board -

- June 11, 2003 and July 9, 2003.
- Board of Adjustment -
 - June 25, 2003 and July 23, 2003.
- Heritage Conservancy Board -
 - May 14, 28 and June 25, 2003.

- D. **Reports** - Approval of written Reports from Town Departments and Other Agencies
 - Building Permit Reports - June & July, 2003
 - Fire Department Report - June & July, 2003
 - Police Department Report - June & July, 2003
 - Cottonwood Area Transportation System -
 - June & July, 2003
 - Magistrate Court Report -
 - May, June and July, 2003
 - Verde Valley Humane Society -
 - June & July, 2003
 - Clark Memorial Library Report - June, 2003
- E. **Agreement** - Approval of an Intergovernmental Agreement for police dispatching with the City of Cottonwood.
- F. **Agreement** - Approval of an Intergovernmental Agreement with the City of Cottonwood regarding the Cottonwood Area Transit System (C.A.T.S.).
- G. **Agreement Amendment** - Approval of an Amendment to a State Housing Fund Agreement with the State of Arizona Department of Housing to extend the expiration date for a housing rehabilitation grant.
- H. **Resolution #1078** - Approval of a resolution authorizing 2004 elections to be held by mail ballot only.
- I. **Resignation** - Acceptance of a resignation from a Parks and Recreation Commissioner.

ORDINANCE - Consideration of an ordinance setting forth the valuations of property in the Town of Clarkdale for the year 2003-2004, also the tax rate for said property. Finance Director Gilboy noted that the state sets the allowable amount of tax the Town receives.

Mayor Bluff opened public comment. *Joan Goodrich*, 417 Main Street, asked about the state regulation.

Rodney Fielitz, 1580 North Cholla, stated that “personal property” not being taxed is unfair because trailers that are not fixed to the site are not taxed. Mayor Bluff closed public comment.

Vice Mayor Bauer moved to adopt Ordinance #252, setting forth the valuations of property in the Town of Clarkdale for the year 2003-2004, and also the tax rate for said property. Councilmember Williams seconded and the motion passed unanimously by roll call: Mayor Bluff, yea; Vice Mayor Bauer, yea; Councilmember Groom, yea; Councilmember Leibforth, yea; and Councilmember Williams, yea.

GAZEBO - Consideration of the Town Gazebo and if it should be restored/repared or replaced. It was noted that the lead paint in question is what has flaked off and is in the dirt around the gazebo. The dirt will be removed in sections. The paint remaining on the gazebo would be treated. Both processes must meet regulated disposal procedures.

Mayor Bluff opened public comment.

Pat Williams, 1130 Sunrise Drive, Heritage Conservancy Board Chairperson, read the following statement:

I would just like to present a few important points to the Council to help in their decision regarding the Gazebo/Bandstand:

- B) There is no reason to move the Gazebo.
- C) The Gazebo is the “symbol of Clarkdale”.
- D) This “grand old lady” can be restored to her original beauty and everyone will be proud of her once again.
- D) If moved, the Gazebo will be removed from the National Register of Historic Sites since it will destroy its “historic sense of place”.
- E) This proposed moved can’t even be
- K) You have all been given copies of three very moving e-mails we have received, one from a

accomplished until FY2006-07, if then. ADOT can change their plans. What will be its fate for this three to four year period? Where do we put it until then? In the event of an accident, what about the liability issue. Who will be responsible—the driver, ADOT, the town? The bottom line is that the Gazebo must be fixed now, without delay.

- F) Sitting in the center of a traffic circle serves no useful purpose—no one would be able to use it or enjoy it. Further, in all my years of driving around traffic circles (in New Jersey) I have never seen any visual obstruction in the middle of a traffic circle.
- G) Sitting in the middle of a traffic circle/round-about insures total destruction of this historic structure.

Having said all that, the fact is this is another action by some people to destroy the Gazebo.

- H) When all the ballots were tabulated after the Town Meeting, a total of 267 were received, it was absolutely apparent that of those who voted, 173 favored restoration vs. 53 to tear it down. This is three to one in favor of restoration.
- I) Opinions on the ballots totaled 33 (I believe you all have received copies of these opinions). Of these 33, 5 wanted to rebuild but on the rest of these ballots, 28 said they would not contribute either time or money to build a new one—only to restore the current Gazebo.
- J) I believe you also have received a copy of a letter from the Verde Valley Historical Society, headquartered in the Clemenceau Museum, in support of restoration, not destruction. Sixteen members signed this letter.

former resident and two from direct descendents of Senator William A. Clark

asking us to restore the Gazebo. One from the great, great grand-daughter of W.A. Clark, one from the great grand-son of Senator Clark and one from the family of an 81 year old woman who lived in Clarkdale and she and her family are returning this Saturday for a tour of the Clubhouse.

- L) The HCB has in our archives a photo of Charles Clark and William A. Clark, Jr. speaking to a gathering after the death of Senator Clark and another taken shortly after World War I, with residents, a band and veterans in World War I helmets.
- M) The Park & Recreation Board recommended to keep the main parts of the Gazebo and rebuild it in the park. This is basically "restoration". The Heritage Conservancy Board also submitted a recommendation to restore the Gazebo in its place in the park.

This council must listen to the voice of the people and particularly the descendants of William A. Clark. We are dealing in the court of public opinion here. I strongly urge the Council to listen and evaluate all the support expressed for restoration of the Gazebo and vote to keep it in place and restore it to its former grandeur. The residents have spoken out loudly and clearly for restoration. Thank you.

Curtis Boholl, Third North and Broadway, questioned the difference between restoration, repair and replacement. He stated he is 100% in favor of restoring the gazebo.

Elizabeth-Rose Augusto read the following statement:

My name is Elizabeth-Rose Augusto. I live at 940 Calle Tomallo in the neighborhood of Centerville in Clarkdale. I am speaking to you as a Parks and Recreation Commissioner about our final recommendation concerning what to do with our

So as our Commission deliberated, we recognized that the public was divided into *at least* a "repair" group and into a "replace" group. In our

Gazebo.

A week ago today, on August 5, we were called to a special meeting, and at which we changed the wording of our recommendation a bit so that it now reads as follows:

The Parks and Recreation Commission recommends to the Town Council to replace the Gazebo, using the 6 original posts, to put historical markers on the original posts, and that it (the Gazebo) meet all applicable building codes. And that the style and size of the current Gazebo remain the same.

I'd like to explain our position a little. To begin, while I was studying all of the information and input we had received, I came to see that some language that was being used became a stumbling block to our clear understanding. This language or words are the 3 words: repair, restore and replace. In the flier on which we asked the public's opinion on what should be done with the current Gazebo, we gave the public 2 choices: to repair/restore or to replace. We're all sure about what the words repair and replace mean, but there are different meanings to the word "restore" and that became our challenge. To some, restore means to do what you can to make the Gazebo look like it used to look. To some, restore means to "repair" it by changing a little bit here and a little bit there. And to some, restore means to "replace" it with a new structure that looks like it used to look. These differences of meaning from the word "restore" became especially evident during the public meeting we held on July 16. There, people had the chance to *explain* their opinions. I began to realize that the choices on the paper opinion ballots might have given us a clearer understanding had they been worded repair" or replace or even three choices of repair or replace or restore.

recommendation, we have tried to **blend** the wishes of both groups, and we have tried to be **logical** concerning safety issues for the Town.

Therefore, in our recommendation, we are addressing the *historically-minded wishes* by stating that the six original posts be kept and restored to meet safety measures so that these six original posts can be used to support the new Gazebo and be marked with historical plaques. We also recommend that the size and style of the new Gazebo be kept the same as the current one. We can also keep the finial to top off our new and "restored" Gazebo.

As for addressing the *safety issues for the Town*, we decided it best to replace the Gazebo since there are construction concerns and safety hazards in the current Gazebo's foundation, stairs, siding, railings and roof...which seemed to us to be pretty much the entire structure.

My personal recommendation is for the Town to purchase a prefabricated gazebo structure, such as is available thru Amish Country Gazebos. In the information that I will pass on to you, there is a price guide that indicates the price of a 20 ft. wood gazebo (the size of our current Gazebo) to be \$9,000. A wooden access ramp would be an additional @ \$3,000. The catalogue here shows a style called, Majestic, that looks very similar to our current Gazebo's style. (see p. 12 & 21) Page 17 shows an example of an access ramp that blends aesthetically with the gazebo's style. And p. 18 pictures a 20 ft. gazebo on a raised foundation with steps and an access ramp. Just right! The assembly is "easy" as is shown on p. 20 and on the outside of the envelope of the catalogue. We could simply replace *their* posts with *our* historical posts and "Voila!"...low labor costs. This company offers a 100% guarantee on the lumber, and the parts are fashioned by skilled wood craftsmen. (And these gazebos are being used in public parks as well as in backyards, both uses being pictured in the catalogue.)

In closing, I hope that the Parks and Recreation Commission has offered a recommendation that, to quote Frank Sa at the meeting of July 16, is a "happy medium, a happy common ground."

Councilmember Leibforth moved to restore the

John Sherman, 571 Fiesta, stated that the floor joists, rafters, beams, and ceiling are also original and in good shape, not just the posts. He stated he estimates it would cost \$6000 in materials to restore it. He stated he moved to Clarkdale because of having seen the gazebo.

Roberta Westcott stated she has been here 39 years and the gazebo has been part of all of her family's lives and they want it to remain. She asked the Council to do what the people want.

Robyn Prud'homme-Bauer, 1750 Cholla Lane, stated that even if it is restored it will be modified to meet safety and access codes. She added that it is not accessible to all and costs are still unknown.

Dave McDonough, 1404 Second South, stated he is in favor of restoring the gazebo and asked why it is currently considered unsafe.

It was noted that once the lead paint was officially identified, the gazebo could not be used until that issue was remediated.

Joanne Goodrich, 417 Main Street, stated she moved here because of the small town look. The gazebo and park reminded her of where she grew up and she is in favor of restoring it.

Ed Williams, 1413 Second South, stated that if the gazebo has lead based paint, so does the entire town.

Barbara Williams, 1413 Second South, stated she can't see taking away the one thing the town has that sets it apart.

George Benatz, 1418 Main, stated that without question the gazebo should remain in its present location and be restored to its original condition.

Mayor Bluff closed public comment.

gazebo consistent with the Heritage Conservancy

Board recommendations, as follows:

based on the board's belief that saving as much of the history of Clarkdale as possible is imperative, it is the recommendation of the Heritage Conservancy Board that the Town Council proceed with plans to restore the current gazebo/bandstand in its present location, retaining as much of the original materials as possible; and further that:

- if necessary, it is acceptable to raise the height of the railing to current code;
- if necessary for safety, it is acceptable to change the rise, tread and width of the steps to meet current code;
- it is acceptable to add provisions on the inside of the railing to meet safety concerns, i.e. metal mesh, hardware cloth or lattice, however the current railing design should be retained;
- materials be used that are comparable to the original materials used;
- the restored gazebo/bandstand be painted the original color scheme; and
- the flag pole which was attached to the gazebo/bandstand be reconstructed to appear as it was originally.

Further, if the gazebo is moved it will destroy the historical significance of place and it will be removed from the National Register of historic Places. Therefore the Heritage Conservancy Board is vehemently opposed to any attempt to relocate the gazebo from its present location for any reason.

The Board requests that it be involved in the decision making regarding the project and that it will conduct research to aid in the process.

Vice Mayor Bauer referred to a current issue in Italy regarding the restoration of Michaelangelo's statue of David. She wondered if we will recognize the gazebo if it looks like the original since we have seen the disrepaired version for so long. She asked how we as a community would carry forward the spirit that made that bandstand? She stated that she would love to keep it but this gazebo is not suitable

Mayor Bluff seconded. Councilmember Leibforth stated that for some time the gazebo has been a memorial rather than a usable structure. He stated that a new one would lose the historic value of the current one. He stated that kits tend to be residential grade and that a bandstand requires more structural soundness than a family gazebo from a kit. He stated that plexiglass could be used to back up the railing structure to meet safety codes. Safety issues can be addressed. He stated he doesn't see the point of demolishing the current structure and starting over and that better lighting could be added without compromising the appearance. He stated that parts can be replicated if they need to be replaced.

Town Clerk Driscoll clarified that the Parks and Recreation Commission recommended saving only the posts of the current structure, while the Heritage Conservancy Board recommends restoring all salvageable parts. She stated there is some debate on when ADA regulations kick in. It has been discussed that it depended on the percentage being repaired. ADA accommodations are required for remodeled structures, but the historic designation causes some confusion.

Town Manager Mabery noted that the current structure could be restored and a ramp added and that a conservative interpretation of the laws means meeting the ADA requirements.

Planning Director Richardson noted that Section 11-14 of the Historic Preservation guidelines provide an exception only if the historic significance of a structure would be destroyed with the changes. He stated the question is how a ramp would be designed to minimize its impact.

for current uses, but it could be kept intact in another part of the historic district in Clarkdale. It could be put in condition to use some successful way. She stated a larger one is needed in the park for a growing community. She stated she would like to see it 2-4 feet larger in diameter. She stated that its being looked at with the wrong perspective of "I" and that we need to move forward in such a

way that it doesn't stifle tomorrow - honor and celebrate the old one with a new one. She stated she could support the motion if the bandstand were moved and a larger one was built in the park.

Councilmember Williams stated that Clarkdale needs a gazebo, but the council doesn't have sufficient information to make a decision. He stated that if it costs three times as much to restore it as replacing it, then a new one would cost less and last longer. He stated people think that their memories are tied to these boards.

Councilmember Groom stated that it is a replica of the original when you replace parts. He stated that not all the information was available to people voted on this issue. He stated that if it is restored it will be a replica that looks different because of ADA issues. He stated he had concerns with the public input tear-off sheets and he still doesn't feel all the information is available and people are making a decision on feelings regarding spending this money.

Vice Mayor Bauer stated that the Clarkdale Foundation has \$11,000 to go toward the gazebo project.

Councilmember Leibforth stated that the Town has responsibility to remediate the lead no matter what. He stated that some people have stated they will contribute money toward restoration but not replacement. He stated that a new gazebo could be build elsewhere and that this is where the current gazebo belongs and it should stay.

Mayor Bluff stated that, if restored, the gazebo will look different, because ADA issues may require a larger pad at the top. He stated that the contractor would determine what can be salvaged and that if it can be salvaged, then do it.

The motion failed to pass three to two, with Vice Mayor Bauer, Councilmember Groom and Councilmember Williams voting no.

Vice Mayor Bauer moved to postpone this item for lack of information to September 9th.

Councilmember Williams seconded and the motion

4. Paragraph 6.5. The Developer agrees to pay

passed unanimously.

AGREEMENT - Consideration of a Restated Development Agreement with the Phelps Dodge Corporation and Phelps Dodge Development Corporation. Town Attorney Pecharich stated that staff had worked three years to update the agreement. It started under the leadership of a previous Council and was followed through with this Council. Town Attorney Pecharich read the staff report, as follows:

Agenda Item: Restated Development Agreement Verde Valley Ranch

Background Information:

As you know, representatives of the Town of Clarkdale and Phelps Dodge have been meeting to reach agreement on a Restated Development Agreement, incorporating changes to the Development Agreement on the Verde Valley Ranch necessitated by changes in circumstance and the passage of time. Phelps Dodge has made the changes to the Restated Development Agreement requested by the Town of Clarkdale. The primary changes are:

1. Paragraph 2.5 of the Development Agreement providing for annexation of the Hilltop Property has been deleted in its entirety.

2. Paragraph 5.3 of the Development Agreement providing that the Town would assume maintenance obligations under the Stormwater Pollution Prevention Plan (SWPPP) has been deleted.

3. The Developer has agreed to provide the plans and specifications for the Wastewater Treatment Plant, that were previously prepared by Coe & Van Loo to the Town without charge (see Paragraph 6.2 of the Restated Development Agreement). As a result, the Town will release the Developer from any liability by reason of the Town's use of those plans.

to the Town one-half of the cost of design and

construction of the Bitter Creek line, which is a reclaimed water pipeline which will permit the transport for disposal or reuse of reclaimed water to the Bitter Creek area.

The Restated Development Agreement refers to reclaimed water discharge line, instead of the Bitter Creek line. The Agreement no longer refers to effluent; instead the Agreement refers to reclaimed water (Paragraph 6.5 and 6.6).

5. Paragraph 6.6. The Developer will receive a credit in the amount of the Developer's contribution of one-half of the Bitter Creek line costs, for reclaimed water that the Developer may use for construction or golf course/open space irrigation. When that credit is exhausted, the Developer shall pay to the Town the value of the reclaimed water thereafter used by the Developer. This paragraph also recognizes the Developer's priority for the amount of reclaimed water. In the event that overall demand from other parties for reclaimed water exceeds the supply, the Developer has priority over any other third party who requests reclaimed water after the Developer's initial request. This paragraph also clarifies that once development of the Property is complete, the Developer shall be entitled to receive from the Town only an amount of reclaimed water equal to that generated by the development on the Property.

6. Paragraph 9.13 has been clarified to indicate that the venue of any dispute shall be Yavapai County, Arizona, i.e., not Maricopa County, where the Developer is based.

7. The Developer has verbally agreed that temporary effluent disposal on the tailings may continue. However, the Developer does not believe that it is permitted to put that agreement in writing, due to the outstanding 'cease and desist' order issued against the Town and Phelps Dodge by EPA, to cease using the tailings for effluent disposal.

Staff has requested legible copies of the agreement exhibits from Phelps Dodge, however at the time of this staff report they have not yet been received.

Staff Recommendation: Staff recommends approval of the agreement, IF legible copies of the exhibits are received and reviewed by the Town Attorney prior to the Council Meeting.

Mayor Bluff moved to approve the agreement with three condition:

- 1) the insertion of appropriate information in the blanks
- 2) correct a paragraph reference in Paragraph 6.3
- 3) correct Paragraph 6.4 by adding numbers to clarify the language
- 4) final approval by the Town Council after the review of legible exhibits by the Town Attorney.

Vice Mayor Bauer seconded and the motion passed unanimously.

MEETING DATE - Consideration of setting a date for a Strategic Planning Session. The Strategic Session will be on Saturday, October 4, 2003 and the Council will set the agenda for the session at its September 9th meeting.

FUTURE AGENDA ITEMS - Listing of items to be placed on a future council agenda. There were none.

ADJOURNMENT - With no further business before the Council and without objection, Mayor Bluff adjourned the meeting at 8:07 p.m.

APPROVED:

Michael Bluff, Mayor

SUBMITTED:

Charlotte Hawken, Admin. Assistant

ATTESTED:

Joyce Driscoll, Town Clerk