

Minutes of a Regular Meeting of the Common Council of the Town of Clarkdale Held on Tuesday, February 8, 2005 in the Men’s Lounge, Clark Memorial Clubhouse, Clarkdale, Arizona

A Regular meeting of the Common Council of the Town of Clarkdale was held on Tuesday, February 8, 2005 at 6:00 p.m. in the Men’s Lounge, Clark Memorial Clubhouse, 19 North Ninth St., Clarkdale, Arizona.

Town Council:

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| Mayor | Doug Von Gausig |
| Vice Mayor | Jerry Wiley |
| Councilmember | Patricia Williams |
| | Rex Williams |
| | Frank Sa |

Staff:

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| Town Manager | Gayle Mabery |
| Town Clerk | Joyce Driscoll |
| Community Dev. Dir | Steven Brown |
| Fire Chief | Don Eberle |
| Police Chief | Pat Haynie |

Others in attendance: Robyn Prud’homme-Bauer, Ellie Bauer, Monty Bondurant, Chris Bondurant, David Mann, Deborah and Otto Behr, Jerry Doerksen, Larry and Louise Annen, Joe Gramont, Lee and Gail Daniels, Stan Makow, Gary Hansen, and Fred Piper.

CALL TO ORDER – Mayor Von Gausig called the meeting to order at 6:01 p.m. and noted that all Councilmembers were present.

PUBLIC COMMENT -

Fred Piper, stated there was an article in the paper that upset him about tearing down a historic building. He stated the 10/12 was not that old, but he wonders if the café adjacent to it is next on the list? What about the bank building? St. Cecelia’s Church has been here eighty years. Why not level the whole thing? These people should be run out of town. He stated he has been to lots of meetings in this building.

INFORMATIONAL REPORTS

MAYOR’S REPORT – A report from the Mayor on current events. Mayor Von Gausig outlined his activities since the last regular meeting.

TOWN MANAGER’S REPORT – A report from the Town Manager on current events. Town Manager Mabery reported the following.

1. The 5K Fun Run begins at 7 a.m. on Saturday.
2. There will be a public meeting on 2/17 regarding the proposal from Fish and Wildlife on the willow flycatcher habitat.
3. The gazebo rededication will be on 2/26 at 10 a.m.
4. She attended the city managers conference and was elected to the Board of Directors.
5. Relay for Life

NACOG - A report regarding the Northern Arizona Council of Governments. Vice-Mayor Wiley stated he had no report.

NAMWUA - A report regarding the Northern Arizona Municipal Water Users Association. Town Manager Mabery stated they would be reviewing the proposed water legislation and the flycatcher designation.

WAC - A report regarding the Yavapai County Water Advisory Committee. Mayor Von Gausig stated he covered this in the Mayor’s report.

CATS – A report regarding the Cottonwood Area Transit System. Councilmember P. Williams stated that there was no meeting.

COCOPAI - A report regarding the Coconino Yavapai Resource Conservation District. Councilmember P. Williams stated that Clarkdale hosted the last meeting. Tomorrow there will be a presentation by a USDA representative describing a water filtering system. They discussed helping the Stewards of Public Land. There was a presentation of the state land trust legislation. There is a map in the Sedona library showing these lands. Tom O’Halloran is proposing a bill including rural areas.

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.

Vice-Mayor Wiley moved to approve all of the consent agenda items. Mayor Von Gausig seconded and the motion passed unanimously.

A) **Approval of Minutes of the Common Council** - Approval of the minutes of the Special Meeting held November 6, 2004, the Regular Meeting held January 11, 2005 and the Special Meeting held January 25, 2005.

B) **Claims** - List of specific expenditures made by the Town during December 2004 and January 2005.

C) **Board and Commission Minutes** - Acknowledgement of receipt of minutes and draft minutes of the previous month's Board and Commission Meetings.

- Library Advisory Board - January 6, 2005
- Parks & Recreation - January 3 & 10, 2005
- Parks and Recreation Board - December 13, 2004
- Heritage Conservancy Board - January 19, 2005
- Board of Adjustment January 26, 2005

D) **Reports** - Approval of written Reports from Town Departments and Other Agencies
Fire Department Report and Mutual Aid Responses - November 2004
Police Department Report - January 2005
Cottonwood Area Transit System (CATS) Operations Report -December 2004
Verde Valley Humane Society - December 2004
Verde Valley Transportation Planning Organization (VVTPO) - January 2005

E) **Contract** - Approval of a contract with Stantec Consulting, Inc. for wastewater engineering services and approval of an amendment to provide additional services for the Effluent Force Main and Reuse Site projects.

REPORT - A report from Councilmember R. Williams regarding the Northern Regional Focused Future Forum held in December 2004.

Councilmember R. Williams moved to table this item indefinitely. Councilmember Sa seconded and the motion passed unanimously.

FACILITY IMPROVEMENT PROJECT CONTRACTS - Consideration of settlement agreement, release and assignment between Capitol Indemnity Corporation and Town of Clarkdale, consideration of acceptance and assignment of completion agreement between Capitol Indemnity Corporation as Surety and Straightline Builders, Inc., the completing contractor on the project known as the Clarkdale Facility Improvements Project and related documents.

Town Attorney Pecharich noted that this agreement allows the Town to complete the project. ETW, the original contractor, went bankrupt. The Town has been successful in getting funds from the bonding company to reimburse the Town for 100% of the costs incurred due to the default and has secured a new contractor. There is a sixty-day completion date, beginning seven days from approval of this agreement.

Mayor Von Gausig moved to approve the documents, conditioned on his review of the following items:

1. The town attorney's review and approval of the payment and performance bond,
2. Insurance certificate, and an
3. Assignment agreement between Straightline Builders and the bond company to the Town being signed.

Councilmember P. Williams seconded and the motion passed unanimously.

Councilmember R. Williams left the meeting. Town Manager Mabery noted that Councilmember R. Williams has previously declared a conflict of interest.

RESOLUTION - Consideration of a Resolution adopting a minor amendment to the Town of Clarkdale 2002 General Plan.

Town Manager Mabery stated that the developer has requested that the next three items regarding Cliffrose Village be tabled for two weeks, as they were unable to provide exhibits tonight.

Mayor Von Gausig moved to table this item to February 22, 2005. Vice-Mayor Wiley seconded and the motion passed unanimously.

RESOLUTION – Consideration of a Resolution adopting a Development Agreement with the Wright Trust governing the development of the Cliffrose Planned Area Development (PAD) and subdivision.

Mayor Von Gausig moved to table this item to February 22, 2005. Vice-Mayor Wiley seconded and the motion passed unanimously.

ORDINANCE – Consideration of an Ordinance amending the Zoning Map of the Town of Clarkdale to rezone certain real property (proposed Cliffrose Development area) from R1, Single Family Residential to Planned Area Development (PAD).

Mayor Von Gausig opened the item to public comment.

Joe Gramont, 1985 Old Jerome Highway, stated that the additional information should be required before the PAD is approved. He would like to see this go to a public vote. He stated he has been told that Councilmember R. Williams stepped down and that he had financial dealings regarding the development.

Town Attorney Pecharich stated that Councilmember R. Williams disclosed his past dealings to him. The finance company Councilmember R. Williams works for did not finance this development, but may finance houses within the development in the future, so he declared a conflict.

Deborah Behr, 1881 Peregrine Lane, stated her property looks out on the proposed church site. From her home she will not be looking at a residential buffer, but will be looking at commercial development. She stated she bought knowing it was zoned residential. Pictures shown in the previous council meeting of development in Utah were

hideous. The whole thing is like a cart before the horse. She sees public hearings and walking through the steps of the process, but she doesn't see people being heard. She wonders if their voices matter. She stated she feels it is being hurried before there is legislation on water. Everything is so rushed. The Council is the voice of the people. Are we really being heard? She understands development. She wants to see responsible development. She feels that at prior meetings she heard one thing and saw another. Are there threats of developers pulling out? As a group they want to continue to be part of the town. They don't feel heard. She hopes the Council will really look at this. They don't want to put their houses up for sale.

Mayor Von Gausig suggested that he and another Councilmember meet with the group before this comes back to the Council.

Otto Behr, 1881 Peregrine, stated that last month there was discussion of the cost of the police force, fire hydrants, security and maintenance of new roads. They don't like the idea of selling their house because the Council won't require testing and studies before they pass the PAD. They just moved here and don't want to move again, but people will move. He hates to see Clarkdale get a bad name.

Mayor Von Gausig suggested the Behrs meet with Community Development Director Brown.

Lee Daniels, 1880 Wildflower, stated there are too many open issues and questions to make a decision at this time. The council should only make a decision after meetings with the community to hear from as many citizens as possible. He stated he has a problem with how the Town interprets the General Plan. Zoning should be the controlling factor, as he reads it. Changing from single family to a variety of zonings is not what the voters in the General Plan approved.

Community Development Director Brown stated that the General Plan discusses minor and major amendments and states the determination is decided by the Community Development Director. His determination is that this change is minor.

Community Development Director Brown

presented the staff report, as follows:

Background:

The Community Development Department has submitted a Resolution for Council consideration that would adopt a Minor Amendment to the town of Clarkdale, 2002 General Plan Update, in response to the request by Land Design Group L.L.C. for approval of a change in zoning from R1 to PAD.

The General Plan, in Section 1.d discusses “Major and Minor Amendments”, and stipulates that ***“The Planning Director shall make the determination as to whether a proposed amendment constitutes a major or minor amendment. Appeals of such determinations shall be made to Council. It should be noted that major amendments cannot be enacted through emergency measures and that any such enactments could be subject to a further public referendum”***

The following represents my basis for determining that this proposal requires a “Minor Amendment to the General Plan.

”Major Amendments” are defined in the General Plan as:

1. “Change in residential land use designation exceeding 100 acres.”

Approximately 40 acres is being changed by this zoning action from a land use designation of Low Residential (5 units/acre) to Medium Residential (9 units/acre)

2. “Change in non-residential land use designation exceeding 100 acres.”

There are no changes being proposed to non-residential land uses.

3. “Change from a residential to a non-residential land use classification on 100 acres or more.”

There approximately 11.26 acres that are being changed from residential to non-residential classification.

4. “Change from a non-residential to a residential land use on 100 acres or more.”

There will be no land changed from non-residential to residential land use.

5. “Any proposal in aggregate that includes changes in land use designations exceeding 100 acres.”

The total aggregate change in land use designations proposed is approximately 51.26 acres.

6. “Any proposal that results in a significant change to Circulation Plan, including but not limited to, a change in the functional classification of existing or planned public roadways and/or the relocation or displacement of existing or planned public roadways.”

There are no changes proposed in the Circulation Plan.

The General Plan further states that:

“A minor amendment is any proposal that effects an area twenty (20) acres in size or greater and does not otherwise meet the criteria for a major amendment. Minor amendments are subject to the requirements for public participation and input as defined in the General Plan Public Participation Program but may be scheduled for consideration by the Common Council at any time throughout the year. A minor amendment may be enacted by emergency clause.”

The General Plan Public Participation Program provides clear guidance on the procedures for public participation in “Major Amendments”, but does not mention “Minor Amendments”. The procedures for “Major Amendments” include:

- a. ***“Broad dissemination of proposals and alternatives.***
- b. ***Opportunities for written comments.***
- c. ***Public hearings after effective notice.***
- d. ***Open discussions, communications programs and information services.***
- e. ***Consideration of public comments.”***

Items a through e of this process were followed during the review of the PAD, and are standard procedure for public participation in the Town of Clarkdale, and we feel that we have met this test for Public Participation, even if the standard for "Major Amendments" is applied, which it is not mandated by the General Plan.

Community Development Director Brown stated that zoning is the controlling document. The General Plan is guidance for development and zoning implements the General Plan.

Mayor Von Gausig closed public comment.

Mayor Von Gausig moved to table this item to February 22, 2005. Vice-Mayor Wiley seconded and the motion passed unanimously.

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, the meeting adjourned at 7:00 p.m.

APPROVE:

Doug Von Gausig, Mayor

ATTEST:

Joyce Driscoll, town Clerk

SUBMIT:

Charlotte Hawken, Admin. Assistant