

Minutes of a Regular Meeting of the Common Council of the Town of Clarkdale Held on Tuesday, March 8, 2005.

A Regular meeting of the Common Council of the Town of Clarkdale was held on Tuesday, March 8, 2005 at 6:00 a.m. in the Men's Lounge of the Clark Memorial Clubhouse, 19 N. Ninth Street, Clarkdale, Arizona.

Town Council:

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

Town Staff:

Town Manager	Gayle Mabery
Town Attorney	Robert Pecharich
Com. Dev. Director	Steven Brown
Police Chief	Pat Haynie
Finance Director	Coleen Gilboy
Building Official	Mike Baker
Public Works Mgr.	Steven Burroughs
Deputy Town Clerk	Janet Perry

Others in Attendance: Robyn Prudhomme-Bauer, Curt Bohall, Marsha Foutz, Shelby Maynard, Cate Mugasis, Stan and Lynn Makow, Leah Sevier, Lee and Gail Daniels, Jerry Doerksen, Hank and Peggy Chaikin, Veronica Vida, Jeff Neugebauer, Erie Randall, Richard and Krysta Dehnert, Howell Usher, Eva and Janusz Sosnowski, Deborah Behr, Dave and Linda McDonough, Roberta Serface, Otto Behr, Scott Fassett, Charles Drummond, Mark Duffy, Alicia O'Neill, Kahlil rinaldi, John Munderloh, Anke Pitrella, Tommie and Jo Bain, Deborah Alkin-Adair, Chris Boothe, Tom Evans, Janice Paul, Robin and Nancy Bonfield, Howard Poole, Mark and Misha Randall, Joe Gramont, Monty and Chris Bondurant, Brian Nicoll, Carolyn Gary, Ellie Bauer and others whose names were not legible.

CALL TO ORDER - Mayor Von Gausig called the meeting to order at 6:02 p.m. and noted that all members were present.

PUBLIC COMMENT

Joe Gramont, 1985 Old Jerome Highway, stated he

feels misinformed about information he's heard about the reasons Rex Williams left the Council. Mayor Von Gausig suggested he contact Town Manager Mabery for information on the matter.

INFORMATIONAL REPORTS

MAYOR'S REPORT - A report from the Mayor on current events. Mayor Von Gausig reported on the following items: discussion on opening Peck's Lake with County Supervisor Davis; informal meeting with residents regarding Cliffrose; water usage, particularly in Prescott and Prescott Valley; how water and wastewater charges are developed; the gazebo dedication.

TOWN MANAGER'S REPORT - A report from the Town Manager on current events. Town Manager Mabery stated that Mr. Watson has presented her with a picture of the gazebo and has been instrumental in the restoration project. He will be recognized with a special plaque. The Fire district petitions have been submitted and the County Board of Supervisors will address the item on April 18th. Rex Williams submitted his resignation last week and the Council accepted his resignation on March 1st. Future considerations include focusing on better communication with the public, including upgrades to the town website.

NACOG - A report regarding the Northern Arizona Council of Governments. Vice-Mayor Wiley described upcoming items on their agenda.

NAMWUA - A report regarding the Northern Arizona Municipal Water Users Association. Mayor Von Gausig stated that the board approved a letter of opposition to the US Forest Service designation of new critical habitat for the Southwest Willow Flycatcher in its currently proposed form. The letter stated that there are several concerns that the municipal water providers have about the impact of the designation and asks that these questions and concerns be answered to their satisfaction prior to designation.

WAC - A report regarding the Yavapai County

Water Advisory Committee. Mayor Von Gausig stated he would address this at a future meeting.

COCOPAI – A report regarding the Coconino Yavapai Resource Conservation District.

Councilmember P. Williams stated the next meeting would be on March 21st.

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 Sa stated he wants to remove Items B, I and K. Vice-Mayor Wiley moved to approve Items A, C, D, E, F, G, H, and J. Councilmember P. Williams seconded and the motion passed unanimously.

Item B – Councilmember Sa stated he wants a copy of the credit card bill for the past few months. Without objection the Council approved Item B.

Item I – Councilmember Sa stated he would like a description of and qualification for the police detective position. Councilmember Sa moved to approve Item I. Councilmember P. Williams seconded and the motion passed unanimously.

Item K – Councilmember Sa requested this item be moved on the agenda before Item 8, request for extended construction hours by Empire Construction Company.

A) **Approval of Minutes of the Common Council** - Approval of the minutes of the Special Meeting held February 1, 2005, and the Regular Meeting held February 8, 2005.

B) **Claims** - List of specific expenditures made by the Town during the previous month.

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 – February 3, 2005.

Heritage Conservancy Board – February 16, 2005.

Design Review Board - February 9, 2005.

Planning Commission – February 22, 2005.

Parks and Recreation Board – February 14, 2005.

Board of Adjustment - February 23, 2005.

D) **Reports** - Approval of written Reports from Town Departments and Other Agencies. Fire Department Report and Mutual Aid Responses - February 2005.

Building Permit - February 2005.

Police Department - February 2005.

Cottonwood Area Transit System (CATS)

Operations - January 2005.

Verde Valley Transportation Planning Organization (VVTPO) – February 2005.

Verde Valley Humane Society – January 2005.

Clark Memorial Library – October 2004.

E) **Authorization** – Authorization for the Mayor to send a letter of support for NAMWUA’s request for water allocation.

F) **Request Waiver of Fees** – Request by Operation Graduation to waive fees for the use of a town facility.

G) **Proclamation** – Approval of a proclamation declaring April 22 and 23, 2005 as “Relay for Life Days”.

H) **Resolution** – Adoption of a resolution opposing President Bush’s Strengthening America’s Communities Initiative.

I) **Resolution** – Adoption of a resolution changing the employee wage rate schedule.

J) **Resolution** – Adoption of a resolution endorsing the Center for the Future of Arizona’s Vision for Arizona.

K) **Request** – A request by Empire Construction to extend the termination date of Mountain Gate preliminary plat to April 13, 2006.

DISTRIBUTION OF GAMING REVENUES – A presentation of a donation to the Town by the Yavapai-Apache Nation. Jamie Fullmer, Chairman of the Yavapai-Apache Nation, stated that when Proposition 202 was passed allowing Indian gaming to continue, it was stipulated that 3% go to the State of Arizona. Of that percentage, the Y-A Nation lobbied to have control over a portion of the distribution. He spoke of the great pride among his people and the strong connection with this area and Clarkdale. Their leaders acknowledge their good relationship, in particular, with Clarkdale and they appreciate this very much. There was a debate among his people about how they would like to see

these funds used. They see Clarkdale as a good neighbor and they asked that 60% of the funds go toward the town parks, 20% go directly to school athletic programs and 20% go to the Chamber of Commerce to strengthen commerce in the area. He stated his appreciation of Mayor Von Gausig's ethics and values. He presented a check in the amount of \$31,196.60. Mayor Von Gausig thanked Chairman Fuller for the check and for their good work at the casino.

PRESENTATION – A presentation by John Munderloh on Water Conservation Strategies.

John Munderloh stated that in 2003 the Water Advisory Committee determined that a board needed to be formed for governing water issues. He presented a brief geography of the area. Prescott has purchased approximately 45,000 acres north of Paulden for an additional watershed area. Arizona Game and Fish purchased 5,000,000 acres for water management. He explained the Verde River base flow and the impact to the base flow if the Prescott area is allowed larger usage. These are issues WAC is looking at. The assignment to WAC is to develop possible approaches to water management. Water needs for Yavapai County residents will likely increase two and a half fold by 2050. Water management is critical. Making the best use of existing water, as opposed to creating new sources, is the best approach. If there is effective management, there is a potential of Federal intervention. The group hopes to keep control on a local basis. He described how understanding of the existing aquifer is important and protecting it is critical. He described different strategy proposals and how they can or cannot be effective. WAC is considering all of these for realistic decisions. Figures are obtained by long-term balanced figures. Prescott is currently mining their aquifer. Sustainability is important, requiring developing resources for continued quality of life.

Mayor Von Gausig noted the economic costs to the region from each of the different strategies described.

Mr. Munderloh stated that one strategy requires that we pay for water now vs. paying for water later. As

an example, Prescott is currently paying \$10,000,000 annually for water, but they do not have enough. He stated water conservations positive points, what it means to growth, and that it will probably become mandatory. He stated that he looks forward to feedback and cautioned that a community approach is important as we proceed.

Mayor Von Gausig noted that conservation is reflected in the town's partnership with Cottonwood in the water company acquisition.

REPORT – A report from Empire Construction on the status of the Mountain Gate Project and the well. Brian Rhoton, representing, Empire Construction, reported that the Mountain Gate well has a twelve inch casing to 1700 feet. The test pump installation began on February 1st, generating 800 gallons per minute. Various discharge tests have been done and remain fairly consistent, with 6.5 gallons per minute as the highest rate. Recovery tests were then conducted. The water that is being pumped is coming from rock beds and formations containing some calcium. Arsenic levels are above standards, 30 parts per billion. The estimated drawdown after 100 years of pumping is 43 feet. SGC recommends the maximum drawdown rate not exceed 350 feet. It is capable of yielding 1400 gpm. They did not have a pump large enough in the test to adequately rate the flow. They are waiting on the town's response to proceed.

Council discussion included the following issues:

1. Using only one pump large enough to service only the Mountain Gate area could be an option.
2. A detailed report (in draft form) will be available at Town Hall.
3. Where is this water coming from in relation to other wells?
4. Mountain Gate is in the works with staff on permits and is in the third round of plan checks with the town engineer.

Mr. Rhoton stated Empire Construction hope to go to the next step in two weeks and be ready in April for final plat approval. It is a large project because

there is no current infrastructure in the area. Because of that, new standards are being created. A \$1,000,000 payment was made in December 2004 for the sewer. A \$2,000,000 additional assurance is to be paid for the sewer at the time of final plat approval. New architects at Empire Construction have redesigned the floor plans and they will present them to the Council.

Due to a request, Item K of the Consent Agenda was taken before the next item on the agenda.

Consent Agenda Item K - Request - A request by Empire Construction to extend the termination date of Mountain Gate preliminary plat to April 13, 2006.

Councilmember Sa stated he would like clarification on why the timing of the final plat approval happened as it did. Mr. Rhoton stated that the preliminary plat was approved on time and was not influenced by Town Hall. Community Development Director Brown noted that staff recommended the Council approve the extension. Town Attorney Pecharich questioned the timing of the request. Community Development Director Brown stated the timing was appropriate. Councilmember Sa moved to approve Item K of the Consent Agenda. Vice-Mayor Wiley seconded and the motion passed unanimously.

REQUEST FOR EXTENDED CONSTRUCTION HOURS - Consideration of a request from Empire Residential Construction L.P. to allow the Building Official to use his discretion and approve 20-hour/day construction shifts during 30 days of grading for the Mountain Gate Project.

Brian Rhoton, representative for Empire Construction stated that the company spoke to the contractor and they are able to work within the current ordinance definition of work hours. Mr. Rhoton requested that the request to alter the hours of operation be withdrawn. Without objection, the Council accepted withdrawal of the request to change grading work hours.

AT RISK GRADING PERMIT AGREEMENT - An agreement with Empire Residential Construction L.P. to begin grading on the

Mountain Gate Subdivision prior to the Town's approval of the final subdivision plat.

Brian Rhoton, representative of Empire Construction, explained that water issues and starting the project are imminent. He stated that per Community Development Director Brown the staff recommends approval of the agreement. Empire Construction is over bonding the project to accommodate any 'at risk' aspects.

Community Development Director Brown clarified contractual issues and stated there are risks for both Clarkdale and the developer. He stated that Empire Construction has proven to be good to work with. Town Attorney Pecharich noted that the agreement is drafted with as much risk as possible on the developer and the Town is as protected as it can be under these circumstances.

Mr. Rhoton spoke of the stability of Empire Construction in past projects.

Discussion included the following issues:

1. There have been no drawings presented since the preliminary Plat. What assurance is there that the final plans will be consistent with the original intent?
2. Engineers are currently reviewing the grading plans. No grading would proceed unless plans are properly carried out. All possible protections will be, and are, being put in to place.
3. Grading would not begin until all is done and signed off. The grading equipment will mobilize in the next ten days or so if the Council approves this request.
4. Clarification of the final plat and technical phase completion. Processes insure that all phases are done.
5. Confirmed that drainage studies are being done to satisfaction.
6. How could a grading permit be issued without approval of the final plat?
7. Reminder that Empire Construction's initial presentation contained assurances of everything being done by the rules. How could that be

- changed now?
8. This request is not a change as it is included in current ordinance definitions.
 9. Even though the Code is in place, it does not allow for or accommodate intricacies and stipulations for projects of this size. The Code may need to be altered to allow for stipulations of this type.
 10. There is nothing out of line being done. All possible safeguards are in place. The Town is taking no increased risk by accepting this request.
 11. The worst that could happen is that the grading starts and then Empire defaults.
 12. The early grading permit would help Empire financially and with water use issues. For example, summer months require much more water use for dust control. If they start early, less water would be required. This is an efficient plan that is of benefit to the Town.
 13. The early grading presented a unique challenge to the Town and that's why it needs to be addressed in an agreement.
 14. Does this agreement set a precedent that puts the Town in jeopardy for future developments? All assurances are in place already to monitor proper growth.
 15. The area was to be developed according to the natural land. It looks like it is heading toward a flat land development. How can they know for sure until the final plat is seen and approved? The final plat will be the same as the preliminary plat.
 16. Empire Construction has stayed within all laws and accepted stipulations beyond usual and have worked with staff throughout the process.
 17. The Town accepted this project based on the initial proposal. How could it accept an unknown finish? There are no unknowns or changes.
 18. No technical information would be included in the final plat.

19. The developer has asked that only the grading phase be brought forward in timing. This gives the Town the opportunity to add stipulations at this point in the process.
20. The staff has spent much time making sure that each part of this process is being done correctly. Nothing would be finalized until each step is done to satisfaction.

Without objection Mayor Von Gausig opened public comment.

Joe Gramont, 1985 Old Jerome Highway, stated he is aware of pre-grading in the ordinance. His concern is that, if the development is allowed to proceed with the information half there, why won't work performed be half there? How could we be sure that the work will be done to the level of promised quality?

Roberta Serface, 1507 First Street South, encouraged the Council to let Empire do early grading due to water issues. She assumes an archaeological study was completed and wants to see the report. Community Development Director Brown stated he could provide it.

Kahlil Rinaldi, 114 Fifteenth Street, asked what would be the hauling route once the final plat is accepted? He was also curious about the location of the staging area. He stated his appreciation that the 20-hour grading times won't be used.

Hank Chaikin, 215 Hollow Reed, asked about the financial risks and about what has happened to public input and participation? He and his wife reviewed the technical drawings available at Town Hall and were surprised that the lot lines they saw did not conform to the preliminary plat. He noted a number of items that did not concur with the preliminary plat. Lot lines were then corrected, but not in the Centerville area. Why has this never been addressed by the Council? Awaiting third submittal now. Are his comments and concerns invited? Town Attorney Pecharich and Town Manager Mabery assured Mr. Chaikin they were. Mr. Chaikin stated he does not feel that this attitude has been reflected. The problem with entering into an early approval is that public input is taken away. He asked that the

Council adhere to the PAD process. He feels the public process is being truncated. The Town has too much to lose. He does not feel that these water issues (dust control) warrants making a decision not in the best interest of the Town.

In response to a question from Mayor Von Gausig as to whether there is a danger, if something is allowed in the grading permit before the final plat, that something could change in the final plat that would be or become a problem, Community Development Director Brown stated that all issues would have been handled and details attended to. He stated he has made all of the information available. Any major changes/issues would be brought to the Council as a fail safe.

Deborah Behr, 1881 Peregrine Lane, stated that these issues don't affect one person; rather they affect the town and its principles. She feels that, if a person comments, they are then negated or not listened to. She is a community-oriented person. They all need to be heard as a community. There is too much cart-before-the-horse going on. She hopes people will be listened to more by the Council.

Mayor Von Gausig clarified that all plan will have to be approved. Empire is not asking not to have any of the process changed. They are asking for a permit date to be moved forward. Nothing will be approved out of the entire process. They only want to do a particular, normal part of a phase earlier. Everyone is making sure the final plat process will be done properly. Nothing will be done without proper permits being issued.

Tommie Bain, 408 Main Street, asked why Empire didn't build, or the town require them to build, a holding tank to capture water lost in the process of dust control and well testing?

Community Development Director Brown stated that he thought the actual water quality was at issue, which might have had an impact. Overall the issue of capturing water is not normally considered in any such agreement.

Mark Duffy, 1508 third South, stated that Empire has given only empty promises. He asked the council to wake up to Empire pulling the wool over our eyes.

He is suspicious of the working relationship between the town and Empire, which it is not in the best interests of the citizens.

Lee Daniels, 1880 Wildflower Lane, stated he feels the worst-case scenario would be defaulting on the grading. He feels the Council is shirking its duty by letting staff issue permits. Mayor Von Gausig noted that issuing permits is a function of staff. Mr. Daniels asked the Council to not let grading be approved prior to the final plat approval. He feels a piece-meal approval is being done. What can the Council do if the grading, at the end of that phase, is unacceptable?

Tom Evans, 115 Hollow Reed Lane, asked if ADEQ is supposed to approve water, why did someone else approve it? To grant the grading permit prior to final approval is wrong. Mayor Von Gausig stated that what they were talking about was only that the grading phase be moved forward. Mr. Evans feels that there is an effort being made by the developer to gain ground to get the project underway before the town has a clear picture. He feels deceived by the staff and council in this and other projects, including past density issues and the PAD.

Chris Boothe, 123 Sunset Blvd, asked if he could question Town Attorney Pecharich directly. Mayor Von Gausig stated he needed to go through the Mayor. Mr. Boothe read from a copy of the town's noise ordinance. It reflected no time constraints for construction. He played a tape of construction sounds. He asked why the grading would proceed before arsenic levels in the water were addressed.

Peggy Chaikin, 215 Hollow Reed, stated she wanted to reinforce what Mr. Chaikin had said earlier. They were surprised to discover errors made in lot line being redrawn. It has eroded her confidence in the whole project. She wants to see the big picture and doesn't care about attempts at technical comments. Her level of faith is now gone. How could the changes or errors in lot lines be redrawn and not be caught? She has lost confidence in the developer and the staff.

Cate Mugasis, Centerville, asked how we can even be considering giving final approval to land before grading has started?

Marsha Foutz, 313 Main Street, stated that many feel a lack of faith in the process. Why can't plans be put somewhere that would make them accessible at times other than normal working hours? Town Manager Mabery stated staff would do all it can to accommodate any requests to view plans.

Mark Randall, 102 S. Fifteenth Street, asked if the town could do something to help assure the public about Empire? Past projects haven't given him confidence about the project being overseen in the interests the town.

Carolyn Gary, 410 Antelope Drive, stated she want the definition of the extension clarified. Mayor Von Gausig stated that the development agreement anticipates the project will be done "in due course" for the benefit of the town and the developer.

Gerald Maser requested that the next time Empire comes before the Council, that they be better prepared.

Without objection, Mayor Von Gausig closed public comment.

Councilmember P. Williams read from the development agreement with Mountain Gate dated May 5, 2004, regarding processes, which are stipulated on Ordinance #254. Community Development Director Brown stated that all issues stipulated in the ordinance are being addressed in some way at this time.

Vice-Mayor Wiley moved that the At Risk Grading Permit Agreement for Empire Residential Construction L.P. be approved. Mayor Von Gausig seconded and the motion failed with two for and two against. Those against were Councilmember Sa and Councilmember P. Williams.

WORKSESSION – A worksession to discuss proposed changes to building permit fees.

Building Official Baker presented information about building permit fees and asked for a change in current code valuations. Fees are based on the estimated cost of construction, not including the cost of the land. The current fees are outdated. The proposed changes would put the Town more in line with current costs. Changing the 65% industry-

standard multiplier would not make much difference because the system is designed to be able to move the multiplier, if need in certain cases. This proposal is the result of an in-depth analysis and just covers costs.

Without objection the Council agreed for the restructuring of the building permit fees to proceed with the 65% rate.

TOWN ENGINEER – Consideration of accepting a proposal for Town Engineer and direction to staff to prepare and execute a contract.

Community Development Director Brown noted that the existing engineering contract has expired. Willdan was a previous town engineer. Some fees would be passed on to the developers. Timing is the reason not to go to bid.

Town Manager Mabery noted that the prior request for qualification process in the fall of 2003 was a formal request process. Willdan was ranked second at the time. She feels current demands are a specialty of Willdan.

Vice-Mayor Wiley moved to direct staff to prepare a contract for engineering services with Willdan, based on their proposal, and authorize the Mayor to sign the contract on behalf of the Town. Councilmember Sa seconded and the motion passed unanimously.

DISCUSSION – A discussion of the interview and appointment process for appointing a Town Council member.

Discussion included the following issues:

1. The process used in 1997 seemed to work well.
2. A thirty-day process is adequate.
3. Questions posed to candidates in 1997 may need to be updated to current issues.
4. Interview would be in open meeting. Decision could be at the next meeting.
5. There should be no public comment.

Councilmember Sa moved for the Council to accept the appointment process established in 1997, put out an ad for 30 days, have one to two weeks between meetings and use questions from the board

and commission application. Councilmember P. Williams seconded and the motion passed unanimously.

FUTURE AGENDA ITEMS

Holding three Council meetings per month.

The meeting recessed to an Executive Session at 10:20 p.m.

The Regular session reconvened at 11:00 p.m.

The Council revisited the **At Risk Grading Permit Agreement** item.

Town Attorney Pecharich noted that the Council could not address the well water earlier in the meeting. Empire Construction needs to proceed as quickly as possible with the project. If they were proceeding on their issues alone, the issues would be the type of water structure, routing of reclaimed water and wastewater. All of these are substantive issues, but they will take time. While waiting on final plat approval, they are being held back on overall project time. They will be trucking water from the Cottonwood water treatment plant. The Town wants deal directly with Empire Construction Company rather than lead them to deal with another party. Empire Construction Company will use non-potable water until a certificate of occupancy is needed, probably near October 2005. They are trying to avoid a temporary pump situation.

Council discussion included the following issues:

1. Could a temporary pump be rented?
2. At Risk Grading issue could be put off to summer. It is being held up with infrastructure issues.
3. What is Empire’s recourse? Will there be a repeat of tonight’s procedure? It appears the public wants the Town to have more control in the process.
4. Town Attorney Pecharich thinks more control by the Town could be written into the new agreement.
5. Town Attorney Pecharich noted it is a private well for construction activities.

6. Could the infrastructure issues be separated and left out until it gets going?
7. Possibilities and existing time frame of project.
8. Purchase of the water company is delaying the process.
9. If Cottonwood Water Works owns the water company at the time, Empire is obligated to sell the well to them.
10. Public seems to want to see that the grading permit conforms to the preliminary plat. There is nothing from the Town or engineer saying that it does or will.
11. Town Attorney Pecharich noted that the issue is partly the well. The water company acquisition not occurring is delaying Empire’s ability to proceed. Delayed time is wasted time to them. They wanted to proceed with another portion of the process during the delay, which prompted a request to move the grading phase forward.
12. Having the engineers at the meeting to give a verbal report.
13. Suggestion that when next large development occurs, the Council could insist on a 3-D plan from the engineers to assist with public understanding and perceptions.
14. There are 50,000 linear feet of retaining walls in the current plan, all part of the review process.
15. Getting the item back on the agenda after receiving the engineer’s report.

ADJOURNMENT - With no further business before the Council, and without objection, the meeting adjourned at 11:40 p.m.

APPROVE:

Doug Von Gausig, Mayor

ATTEST:

Janet Perry, Deputy Town Clerk

SUBMIT:

Charlotte Hawken, Admin. Assistant