

Minutes of a Regular Meeting of the Common Council of the Town of Clarkdale Held on Tuesday, February 14, 2006.

A Regular meeting of the Common Council of the Town of Clarkdale was held on Tuesday, February 14, 2006 at 6:00 p.m. in the Men's Lounge of the Clark Memorial Clubhouse, 19 North Ninth Street, Clarkdale, Arizona.

Town Council:

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

Town Staff:

Town Manager	Gayle Mabery
Town Clerk	Joyce Driscoll
Town Attorney	Anna Young
Com. Dev. Director	Sherry Bailey
Fire Chief	Jerry Doerksen
Police Chief	Pat Haynie

Others in Attendance: Robyn Prud'homme-Bauer, Ellie Bauer, Felix Rocha, Anke Pitrella, Greta Schwig, Brandon Wilson and Curt Bohall.

AGENDA ITEM: CALL TO ORDER - Mayor Von Gausig called the meeting to order at 6:00 p.m. and noted that all Council members were present.

AGENDA ITEM: PUBLIC COMMENT -

Robyn Prud'homme-Bauer, 1750 Cholla, stated that the Gala opening of the play, The Flaming Guns of the Purple Sage, will be on Friday and she hopes everyone can attend. She stated that the League of Women Voters and Clarkdale Chamber of Commerce are hosting a candidate forum on Wednesday.

Ellie Bauer, 1201 Main, stated that she received a letter from the League of Women Voters to support an initiative

Steve Rosse, from the Phoenix Water Department, spoke to the Water Advisory Group and noted that Phoenix has a water budget.

AGENDA ITEM: INFORMATIONAL REPORTS-

MAYOR'S REPORT - A report from the Mayor on

current events. Mayor Von Gausig stated the following:

1. He sat in on several conference calls regarding water and one on the state budget with the governor and other mayors.
2. He attended the ACC hearing regarding the water company.
3. He attended a meeting to discuss how to help youth in Clarkdale.
4. He participated in the water company closing activities.
5. He attended meetings about Highway 260 with the mayors of Camp Verde and Sedona and County Supervisor Davis.
6. He attended the League of Cities and Towns day at the Capitol.
7. He attended a firemen's pension meeting.
8. He attended a WAC meeting.
9. He attended a Verde River Basin Partnership Committee meeting where they saw a wonderful DVD that anyone can borrow from the library.
10. He met with a citizen about the water tank site.
11. He met with the Town Magistrate.
12. He attended a presentation on growth with Vice Mayor Wiley.
13. He attended a presentation from USGS about how an aquifer works.
14. He received a letter from Chip Davis congratulating the town on the acquisition of the water company.

TOWN MANAGER'S REPORT - A report from the Town Manager on current events.

Town Manager Mabery reported the following.

1. On February 23rd the Town of Camp Verde

is sponsoring the next intergovernmental meeting.

2. The highest priority for the CDBG grant application was to develop a new park in Patio Park. Staff has been meeting with property owners and has not found a willing seller for a suitable piece of property.
3. Mail ballots go out next week and must be returned by March 14th.
4. Phelps Dodge started mobilizing equipment for capping the tailings.
5. The town team is gearing up for Relay for Life. She invited everyone to be a member.

NACOG - A report regarding the Northern Arizona Council of Governments. No report.

NAMWUA - A report regarding the Northern Arizona Municipal Water Users Association.

Town Manager Mabery stated they discussed the ongoing projects of the different municipalities and membership. The group is working on changing their bylaws by not requiring the municipal representative to be elected officials, but still encourage their participation.

Mayor Von Gausig stated that Prescott Valley is selling water rights, which is going to put a price on what water is worth. He stated that Flagstaff purchased a ranch to develop water in the future. Sedona's private water company is expected to have two rate increases.

WAC - A report regarding the Yavapai County Water Advisory Committee. Mayor Von Gausig stated that they heard legislative reports on proposed bills.

CATS - A report regarding the Cottonwood Area Transit System. No report.

COCOPAI - A report regarding the Coconino Yavapai Resource Conservation District. Councilmember Williams stated they discussed the regional trails project and a trail from Dead Horse to Red Rock. They discussed the repair of the Copperhead Trail. They heard an update on the on-line grant reference software at the Cottonwood

Library. COCOPAI partnered with the Stewards for Public Lands to submit grant. They plan to have a meeting about not trashing public lands.

VVLPI - A report regarding the Verde Valley land Preservation Institute. Councilmember Williams stated they discussed open space planning and the preservation of the state lands bill. They decided to send a letter of inquiry to 35 grantors.

AGENDA ITEM: 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 the Consent Agenda items. Councilmember Wills seconded and the motion passed unanimously.

A) Approval of Minutes of the Common Council - Approval of the minutes of the Regular Meeting held January 10, 2006 and the Special Meeting held January 24, 2006.

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.

- Board of Adjustment - January 18, 2006,
- Design Review Board - December 7, 2005 and January 11, 2006,
- Heritage Conservancy - January 18, 2006,
- Library Advisory Board - February 6, 2006,
- Planning Commission - January 17, 2006,
- Parks and Recreation Board - January 9, 2006.

D) Reports - Approval of written Reports from Town Departments and Other Agencies.

- Fire Department Report and Mutual Aid Responses Report - January 2006,
- Magistrate Court Report - December 2005,
- Police Department Report - January 2006,
- Verde Valley Humane Society - December 2005 and January 2006

AGENDA ITEM: RESOLUTION - Discussion

and consideration of Resolution adopting compensation for the Mayor and Council.

Discussion included the following issues:

1. This has been a busy year for the Council and especially for the mayor and the time has come for the town to reimburse some of their time.
2. Most towns have compensation for council members.
3. Staff recommends that the Council adopt compensation with the work load that council members have.
4. Compensation would begin in June 2006 under state law.
5. Would like to see employees on the low end of the pay scale get something more.
6. Did not become a council member for pay.
7. Did not expect the amount of work and hours. Mayor puts in 20 hours a week.
8. The time has come and the proposed amount would not prohibit taking care of staff through the regular budgeting process.
9. Knew it was voluntary so did not expect compensation, but do not see any harm as long as it is budgeted.
10. Towns that pay a higher amount have a larger commercial base.
11. It is tough to volunteer for the hours required, but would like to see half of the proposed amount until there is commercial growth in town.

Councilmember Williams moved to approve Resolution #1181 adopting compensation for the Mayor and the Common Council of the Town of Clarkdale, providing for the pro-ration of compensation, and setting an effective date. Vice Mayor Wiley seconded and the motion passed four to one, with Councilmember Wills opposing.

AGENDA ITEM: DISCUSSION - A discussion regarding the USGS Verde River Watershed Study presented at the January 26, 2006 Yavapai County

Water Advisory Committee (WAC) meeting.

Curt Bohall, 721 Third North, stated that there will be a presentation on the geology of the Verde Valley tomorrow by reservation at 3:00 p.m. at the Jerome State Park.

Mayor Von Gausig stated that this study was commissioned by WAC and the purpose and scope of the Report was:

1. Assimilate the historical climactic, geologic, hydrologic, and water use data within the study area.
2. Describe the hydrogeologic framework, surface-water flow systems and the ground-water flow systems.
3. Present a conceptual model of the occurrence and movement of water.
4. Provide an estimated water budget for the watersheds and regional aquifers.

The purpose and scope of the Numerical Model, constructed by the data and conceptual model in the report:

1. Evaluation of the conceptual model and will provide numerical values for boundary conditions, ground-water flow rates, recharge rates and locations of ground-water flow.
2. Description of flow patterns on a regional scale.

The presentation included the following:

1. Map of subbasin boundaries and chemistry subbasin boundaries.
2. Geology of subbasin boundaries.
3. Cross section of fault areas.
4. Surface-water flow systems.
5. Monthly precipitation chart.
6. Rainfall and snowfall since 1900. Snowfall has been below average for years and is what recharges aquifers vs. rainfall, which ends up in the Verde River.
7. Evapotranspiration and aridity.

8. Baseflows in the Verde River, 1960-2006. Study shows Big Chino as the headwaters of the Verde River.
9. Baseflows in the Verde River in Clarkdale are also in steep decline.
10. Baseflow of the Verde River and what contributes to the base flow along the way.
11. Altitude of water table. Water accumulating and recharging higher and accumulating down hill toward the river. Wells intercept water.
12. Topographic map.
13. Depiction of how water flows in Upper Verde watershed.
14. Ground water as it traditionally and currently flows in Chino Valley.
15. Verde Valley subbasin.
16. Water level has declined 30-40 feet in Verde formation over the past 40 years.
17. Cross section from Colorado River to Verde Valley.
18. Cenozoic sediments and volcanic rocks in study area.
19. Potential recharge.
20. Precipitation that does not run into the aquifer.
21. Water quality.
22. Arsenic distribution in ground water.

AGENDA ITEM: WORKSESSION - A work session with representatives from Empire Companies regarding the Mountain Gate Subdivision Water Service Agreement.

Brian Nicoll, of Empire companies, stated that the Mountain Gate project was in the works for a number of years. They started water negotiations last year with Cottonwood Water Works. In those negotiations, they were given a standard contract they use that was regulated by the ACC. Part of the negotiations with Cottonwood Water Works was a refund policy. They refunded 15% of revenues for

20 years for the infrastructure they constructed. The water meter fee at that time was \$250.

They decided they were in agreement, but lacked an exhibit regarding the outside water improvements to finish the contract. The owner was approached by Cottonwood Water Works wanting to change the agreement. They wanted to lower the refund percentage to 10% for 15 years, which would likely result in full reimbursement.

During that time negotiations began between Cottonwood Water Works and the Town of Clarkdale. They approached Cottonwood Water Works concerned about how it would affect their negotiations. Cottonwood Water Works assured them there would not be any problems, so they proceeded. The off site water plans were approved by Cottonwood, Clarkdale and Cottonwood Water Works. Mountain Gate approached Cottonwood Water Works with the agreement and exhibit and the owner stated there was no problem and stated Clarkdale had to approve the water agreement. This led them to a final Corporation Commission hearing. Mr. Nicoll stated that they were expecting to receive \$3,500,000 on-site and \$1,500,000 off-site improvements through the refunds.

Mr. Nicoll stated that they supported the asset purchase agreement and they thought they were protected by negotiations with the prior owner. They considered approaching the Corporation Commission because of the inequitable position the previous owner put them in. They spoke to the town and realized that taking a claim to the Commission could have played a role in the purchase not being approved. They decided to not go to the Commission or file a complaint with the understanding they would be treated fairly by the Town of Clarkdale.

Mr. Nicoll stated he would like to discuss the need for a water service agreement when there is an ordinance setting the rates. They have plan approvals of all water improvements. Final plat sets aside easements where facilities are being placed.

Mayor Von Gausig stated they need the agreement in order to be served water by the town. It would normally be included in a development agreement.

Mr. Nicoll stated they are so far into the process, why do they need an agreement.

Mayor Von Gausig stated the agreement specifies the town's reimbursement for over sizing of lines for the town's use.

Vice Mayor Wiley stated they are putting a lot of money into a water system, but without it they would not have the water to service the homes being built. Why should citizens pay to provide water to the Empire development?

Town Manager Mabery stated there were many discussions and negotiations between Cottonwood Water Works and Empire and at the same time Clarkdale and Cottonwood were in negotiations. A provision of the asset purchase agreement that was executed in August 2005 was that Cottonwood Water Works would not enter into any contracts over \$25,000 without Clarkdale's approval. That was put in place because these could affect the amount needed for the bond and pricing.

Unfortunately there were verbal discussions but no written contract in place prior to the asset purchase agreement, so then Clarkdale had to approve any agreements. In a municipal system it is not normal to rebate developers for infrastructure, as it is under a private water company. Clarkdale had to look at the situation from a municipal perspective and tried to negotiate a separate water service agreement the town would accept. It has been a complicated and frustrating process.

Mr. Nicoll stated they feel they were "played" by Cottonwood Water Works, but they are still happy the town purchased the water company. He thought they would receive some reward for what they have done and are going to do. Empire would like the following:

1. The \$500 water connection fee reduced to \$250, the same as what Cottonwood Water Works had charged.
2. To be able to use potable water for free for construction uses.

Town Manager Mabery stated that one of the provisions of the water service agreement draft was

that developers use effluent water when practical and could use potable water if has excess water at the going rate. Staff talked with Empire about ways they could provide effluent.

Mr. Nicoll stated the current effluent is B quality and they normally don't use anything less than A. Its okay if the water can be brought up to A. If they have to have the water setting in a chlorination tank for an hour it effects construction costs. They are not asking for potable water, but want to draw from the well before the water is treated.

3. Requesting a fixed number of units be supplied with water prior to the well being brought on-line if there is capacity available.

Mayor Von Gausig stated that so far in discussions with engineers, previous owner, etc., they are only comfortable with twelve units.

4. They see the proposed type B connection fee of \$1500 as an impact fee that has put them in an inequitable position. The fee was not projected in the budget and the cash flow is a burden that will be passed on to home owners. Will pay under protest.
5. Well best in Verde Valley. In its existing state would pump 650-700 GPM. Empire would like to reserve excess capacity over 500 GPM in the well for future development for a number of years. Empire would pay for the excess capacity.

Town Manager Mabery clarified that would require a pump outside of the well. Mayor Von Gausig stated he is normally not in favor of this.

Mr. Nicoll stated he hopes the town will help out in any way feasible.

Mayor Von Gausig stated he feels they have been negotiating in good faith and don't find anything persuasive to change anything in the proposed water service agreement.

Vice Mayor Wiley stated that before they consider heavy pumping on this well, he would like to see more data.

AGENDA ITEM: CONDITIONAL USE PERMIT
- Discussion and consideration of an application for

a Conditional Use Permit allowing sales out of model homes in the Mountain Gate subdivision.

Community Development Director Bailey presented the staff report as follows:

Background:

Empire Residential Construction L.P is requesting to create a model complex along the first block of Alfonse Road and Haynes Drive. This area would contain the model homes for the Mountain Gate Subdivision, a mix of types and styles, all except the custom homes. These homes would be open for viewing by prospective buyers and contain the offices of the sales staff. Six of the lots included in this complex will be paved and landscaped for customer parking. When the buildout schedule is reached, the model homes will be sold for individual residences and the parking lots will be changed into residential lots. The existing temporary trailers sales offices will be removed when the models are constructed. The models will have complete landscaping around them and the lots to be used for parking will also have landscaping. There will be small informational signs identifying the model homes and the sales offices.

Zoning Code Section 5-1:

Pursuant to Arizona Revised Statutes (A.R.S.) Article 6.1, Section 9462.01, within individual zones, there may be uses permitted on a conditional basis under which additional requirements for development must be met. The purpose of the Conditional Use Permit is to allow integration of uses into the community which may only be suitable in specific locations, or because of unusual operational or physical characteristics that require special consideration, or only if such uses are designed or developed to assure maximum compatibility with adjoining issues.

State law and the Town of Clarkdale of Clarkdale Zoning Code make provisions for allowing uses that would normally not be allow in specific zones by requiring the Town Council to make certain finding. Those findings are listed in Section 5-5. The Town Council must consider each finding in light of request and either concur with the findings, approve with conditions, or deny the request based on the findings.

Section 5-5

In order to make recommendations on a Conditional Use Permit, the Planning Commission should make findings based on the following elements (as applies to that

particular case):

1. **Applicable Regulations:** Those conditions necessary to assure compatibility of the development of the land in question will be consistent with the purpose of the Zoning Ordinance, Town of Clarkdale General Plan, other statutes, and any ordinance or policies that may be applicable.
2. **Bulk Regulations:** The site is adequate in size and topography to accommodate proposed use, population density, building height, lot coverage, setbacks, spaces, landscaping, fences, and parking. That these elements are compatible with the general character of development in the vicinity of the proposed conditional use and are adequate to properly relate the proposed use with the existing land uses in the vicinity.
3. **Performance:** That the location, design and operation characteristics of the proposed use are such that it will have minimal adverse impact on the livability, public health, safety, welfare, or convenience on persons residing or working in the vicinity, to adjacent property, to the neighborhood or to the public welfare in general.
4. **Traffic Impacts:** The provisions for ingress and egress, public streets and traffic circulation are adequate, or can be upgraded through street improvements as a condition of approval.
5. **Landscaping:** Landscaping, and/or fencing of the proposed development, assures that the site development will be compatible with adjoining areas and with the intent of Town policies.
6. **Nuisance:** That the proposed use will not create a hazard to persons and property from possible explosion, contamination, fire or flood. That the use will not create a nuisance arising from, but not limited to noise, smoke, odors, dust, vibration, signage or illumination.

Recommendation:

The Clarkdale Planning Commission voted to recommend to the Town Council they make the findings to approve the request with one stipulation.

Staff recommends that the Town Council approve the conditional use permit with the following stipulation:

- The four street lights at the Alfonse Drive model area shall be reduced to one light when the models are sold as individual owner homes.

Community Development Director Bailey noted the current sales office will be removed when the model homes are built.

Councilmember Sa moved to approve Conditional Use Permit 2006-9 allowing real estate sales out of the Mountain Gate Subdivision model homes on Alfonse Road and Haynes Drive, with the following stipulation: the four street lights at the Alfonse Drive model area shall be reduced to one light when the models are sold as individual owner homes. Vice Mayor Wiley seconded and the motion passed unanimously.

AGENDA ITEM: COUNCIL APPOINTMENTS

- Discussion and consideration of the process, interviews and deliberations for Council appointments.

Mayor Von Gausig stated that Avondale is treating council appointments as personnel actions and holding them in executive session. His research found that it is a gray area legally. He stated he feels very strongly that appointments should be in the open. The town attorney advises it is possible to pass an ordinance specifying this is done in public.

Vice Mayor Wiley agreed, noting that ordinances can be changed.

It was noted that changing the ordinance back would be in public.

Town Attorney Young advised that their firm recommends to their clients that appointments be done in open session.

There was Council consensus to direct staff to draft an ordinance.

AGENDA ITEM: FUTURE AGENDA ITEMS -

Listing of items to be placed on a future council agenda. There were none.

AGENDA ITEM: ADJOURNMENT - With no further business before the Council, and without objection, the meeting adjourned at 8:40 p.m.

APPROVE:

Doug Von Gausig, Mayor

ATTEST:

Joyce Driscoll, Town Clerk

SUBMIT:

Charlotte Hawken, Admin. Assistant