

**Minutes of a Regular Meeting of the Common Council of the Town of Clarkdale
Held on Tuesday, May 13, 2008**

A Regular Meeting of the Common Council of the Town of Clarkdale was held on Tuesday, May 13, 2008, at 6:00 PM. 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 - Absent

Councilmember Patricia Williams
Councilmember Curtiss Bohall
Councilmember Frank Sa

Town Staff:

Town Manger Gayle Mabery
Public Works Director Steve Burroughs
Finance Director Carlton Woodruff
Town Clerk Kathy Bainbridge
Magistrate Harry Cipriano

Assistant Town Manger Janet Perry
Community Development Director Sherry Bailey
Police Chief Pat Haynie
Utility Director Wayne Debrosky

Town Attorney Rob Pecharich

CALL TO ORDER - Mayor Von Gausig called the meeting to order at 6:00 PM and noted that all Council members were present except Vice Mayor Wiley.

PUBLIC COMMENT – Mayor Von Gausig informed the audience that the Council could not reply to comments on items that were not on the posted agenda per state law. The Council is interested in the public’s comments, but may not be able to respond other than to offer clarification or direct staff.

Robyn Prud'homme-Bauer – Clarkdale, Thanked everyone for coming to Chamber of Commerce Block Party and thanked Public Works for their help and the Town’s support. She also noted that Dewey Reiersen, Planning Commissioner 2003-2005 passed away.

Ellie Bauer – Clarkdale, Thanked Chief Haynie for scheduling Officer Wiley and Laser to be on duty at the Block Party.

INFORMATIONAL REPORTS

MAYOR’S REPORT – A report from the Mayor on current events

Mayor’s Report

1. Met in Jerome with coordinators and Chairs of the Verde River Basin Partnership, Yavapai County Water Advisory Committee, and Upper Verde River Watershed Protection Coalition. The meeting was an effort to see if there was some way the three organizations could consolidate some or possibly all of their operations recognizing that they all have similar goals with overlapping stakeholders. If they were all able to join forces they may be able to obtain State and Federal funding.

2. Attended a Natural Resources Committee meeting, the local WAC group.
3. Attended a water resources meeting with Community Development regarding the water resources element of the new General Plan.
4. Met with WAC in Prescott with a presentation on emerging contaminants. Emerging contaminants are pharmaceuticals, detergents, etc. in the water which are not broken down by natural processes. How to get rid of them in the effluent or how to get rid of them through the water treatment phase of potable water systems were discussed. Education programs are needed to let people know how to dispose of pharmaceuticals.
5. Met with Town Manager Mabery, Councilmember Bohall, and Virginia Turner from the Governor's Office regarding the transportation initiative.
6. Attended the Volunteer Appreciation Dinner which served 110 volunteers.
7. Judged the custom car show at Mingus High School.
8. Attended a water work group with Cottonwood Mayor Joens, Cottonwood City Manager Bartosh, Town Manager Mabery.
9. Lead trips into the Tavasi Marsh for the birding festival.
10. Department of Water Resource has posted all new major wells in the State on www.azwater.gov/wellsondemand. It shows any production well that has been applied for and will allow municipalities to see what type of wells are going in their area.
11. Attended the Hands Across Border welcome.
12. Talked to Mathew Mosk, reporter from Washington Post about the Ruskin Exchange.
13. Carlos Sierra from Senator McCain's office did not like Washington Post article and wanted the Mayor to sign a letter of opposition because of Mayor Von Gausig's position with Verde River Basin Partnership. The Mayor made clear to both that his name would not be signed to either because the Partnership was an apolitical science based organization.
14. Met with Town Manager Mabery, Community Development Director Bailey, Attorney Pecharich, and Southwest Risk Management Pool attorneys regarding legal issues.
15. Met with Jerome Vice Mayor Moore and Attorney Pecharich regarding what Jerome would like to see as annexations.
16. Of the two recent rains the first was 12/100 inch = 160 gallons and 4/10 inch = 500 gallons total. Would probably get about \$16 per month of water.
17. Read the Bureau of Reclamation Study for Coconino Plateau appraisal level study. It identifies whether or not there is a shortage of water out to 2050, decides if there are any potential shortages, potential fixes, and if there is a Federal nexus for help. Costs about a billion dollars to get water from Colorado River. Shows where/how to get future water and cost and is not focused on conservation.

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

1. Town Manager Gayle Mabery stated that the Clarkdale Lion's Club continued their generosity while disbanding their organization by donating a new diving board for the pool which opens on May 24th.
2. The May 27th meeting will be the first Council meeting at Yavapai College for the summer.
3. May 1st started Stage 1 of the Drought and Water Shortage Preparedness Plan and there have only been a few warnings issued.
4. Spirit of Clarkdale nominations are due by May 16.

5. Talk About the Town meeting will be on Thursday at Alcora Marble.
6. Concerts in the Park start May 24th with Major Lingo and on June 14th Aces N Eights
7. Police Neighborhood Block Party at Foothills Terrace on May 24th
8. Police Neighborhood Block Party at Lamplighter Village on June 7th

NACOG – A report regarding Northern Arizona Council of Governments – Met April 24, 2008. Feds were pleased with Head Start and Early Head Start Programs as a result of recent extensive on site review. Victor Mendez reviewed ADOT's Statewide Transportation Planning with the Council where they strongly urged increased dollars for rural Arizona. Council approved rate reimbursement changes for congregate and home delivered meals, which greatly benefit local programs. The increase will be 20%– 50%.

NAMWUA - A report regarding Northern Arizona Municipal Water Users Association – No meeting.

WAC - A report regarding Yavapai County Water Advisory Council. Report given above.

CATS – A report regarding Cottonwood Area Transit System – No Report

COCOPAI - A report regarding Coconino Yavapai Resource Conservation District - No meeting.

VVLPI – A report regarding Verde Valley Land Preservation Institute – April Minutes presented.

VVTPO - A report regarding Verde Valley Transportation Planning Organization – No Report

VERDE RIVER BASIN PARTNERSHIP – Coordinating Committee met with the main item of discussion being the money collected from Clarkdale, Cottonwood, Camp Verde, and Jerome to install some monitoring wells somewhere in the basin. They are working with USGS to identify well sites and how many monitor wells the \$24,000 would afford. Probably 5 to 10 wells would be paid for but the money only pays for first year of monitoring. One year worth of data would not be very valuable, so no monitoring wells will be installed until they know they have grant funds to get five years of studies. If they find there are no grant funds for a five year study, the funds would be returned to the communities.

CONSENT AGENDA – The consent agenda portions of the agenda is a means of expediting routine matters that must be acted on by the Council. All items are approved with one motion. Any items may be removed for discussion at the request of any Council Member.

- A) **Approval of Minutes of the Common Council** - Approval of the minutes of the Regular Meeting held 3/4/08, 4/8/08 and the Special Meeting held 4/22/08.

- B) Claims** - List of specific expenditures made by the Town during the previous month.
PPE 03/29/08, PPE 04/12/08, PPE 04/26/08, April Check Summary Report

- C) Board and Commission Minutes** – Acknowledgement of receipt of minutes and draft minutes of the previous month’s Board and Commission Meetings.
 - Board of Adjustments minutes of the meeting held 4/23/08
 - Design Review Board minutes of the meeting held 4/9/08
 - Library Advisory Board minutes of the meeting held 4/3/08
 - Planning Commission minutes of the meeting held 4/3/08, 4/24/08
 - Parks and Recreation Board minutes of the meeting held 4/9/08
 - Heritage Conservancy Board minutes of the meeting 4/16/08

- D) Reports** - Approval of written Reports from Town Departments and Other Agencies
 - Magistrate Court Report – March 2008
 - Building Permit Report – April 2008
 - Police Department Report – April 2008
 - Clarkdale Fire District Report and Mutual Aid Responses Report – April 2008
 - Capital Improvement Report – April 2008
 - Cottonwood Area Transit (CAT) Operations Report – March 2008
 - Verde Valley Humane Society – March 2008

Councilmember Sa pulled Consent Item B.

Councilmember Williams moved to accept the consent agenda items A, C & D as presented. Councilmember Bohall seconded the motion. Passed unanimously.

Councilmember Sa inquired about the ACH debt service payment for the water company acquisition. Carlton replied that there would be a new report included for ACH payments also.

Councilmember Sa also inquired what the Town was doing to cut expenditures when the expense reports shows the same dollar amounts spent as previous years. Town Manager Mabery explained that normal operational expenditures have been held to previous years expenditures along with additional budgeted items not being purchased.

Councilmember Sa moved to accept the consent agenda item B as presented. Councilmember Williams seconded the motion. Passed unanimously.

NEW BUSINESS

UPDATE ON CLARKDALE MAGISTRATE COURT – An update to discuss the administration, budget and upcoming fiscal year of the Clarkdale Magistrate Court.

Magistrate Cipriano presented a summary of the past 18 months in the Clarkdale Magistrate Court and the proposal for the future. Magistrate Cipriano reported some of his accomplishments being:

1. Improved customer service with the addition of a part time clerk
2. Obtained an additional AZTEC computer for the courtroom

3. Enrolled in the FARE program for collection of fines, fees and restitution
 4. Started participation in the Debt Set-Off Program and Tax Intercept Program
 5. Obtained a digital recorder
 6. Remodeled the court room, clerk's office and lobby
 7. Acquired a credit/debit terminal for payments
 8. Appointment of an Associate Magistrate
 9. Started a fine collection policy
 10. Reporting due to other entities have been submitted correctly and on time
- The Mayor thanked Magistrate Cipriano for the great job being done in the Court.

**LEGAL SERVICES AGREEMENT FOR COURT-APPOINTED ATTORNEY SERVICES
– Discussion and consideration of a Legal Services Agreement between the Town and
Michael Shaw, attorney at law, for Clarkdale Magistrate Court appointed attorney services.**

Magistrate Cipriano explained the need for a legal services agreement for an independent contractor agreement with private legal council to provide competent representation to and advocate for the position of indigent criminal defendants in the Magistrate Court. Attorney Pecharich explained the proposed changes as requested by Mr. Shaw to the Council. Town Manager Mabery explained that we should have an Agreement with Shaw and the Schlegel Law Firm and then separate contracts with Sabrina Shaw and Gary Horton. The Agreement is with the Town and should be modified so the Mayor signs the Agreement and the presiding Magistrate of the Clarkdale Court signs as to form and content. Transcription services in section VII needs to be clarified to be court reporter transcription costs, not secretary services.

Mayor Von Gausig moved to approve the Legal Services Agreement for A Court-Appointed Attorney as presented by Judge Cipriano with the following changes:

1. The Legal Services Agreement will be between the Town of Clarkdale and Shaw and Schlegel Law Offices PLLC
 2. Signature blocks will be changed such as the Mayor of the Town signs on behalf of the Town and the Magistrate signs as to form and content
 3. Other minor changes as discussed with the Town Attorney
- Seconded by Councilmember Sa. Approved unanimously.

RESOLUTION DECLARING THE “ZONING CODE ORDINANCE AMENDMENT TO CHAPTER 11, SECTIONS 11-1 THROUGH 11-19; DESIGN REVIEW AND SITE PLAN REVIEW” A PUBLIC RECORD – Consideration of resolution # _____ declaring as a public record those certain documents filed with the Town Clerk and entitled “Zoning Code Ordinance Amendment to Chapter 11, Sections 11-1 Through 11-19; Design Review and Site Plan Review” Town of Clarkdale – Town Zoning Code. Resolution # 1261

Community Development Director Bailey presented Council the entitled “Zoning Code Ordinance Amendment to Chapter 11, Sections 11-1 Through 11-19; Design Review and Site Plan Review”. The majority of the Design Review and Site Plan portions of the Zoning Code were clarified with housekeeping measures. Additional measures were added so that the ordinance applied to new buildings and redevelopment, except single-family

dwellings and accessory uses, and also applied to public buildings and facilities. Signage language was added identifying when, where, and size of signs to be posted. The sign will be 18 inches by 18 inches and will be made so that they will not curl up and be unreadable.

Councilmember Williams moved to approve Resolution #1261 declaring as a public record those certain documents filed with the Town Clerk and entitled “Zoning Code Ordinance Amendment to Chapter 11, Sections 11-1 Through 11-19; Design Review and Site Plan Review”. Seconded by Councilmember Sa. Approved unanimously

ZONING CODE ORDINANCE AMENDMENT TO CHAPTER 11, SECTIONS 11-1 THROUGH 11-19; DESIGN REVIEW AND SITE PLAN REVIEW – Discussion and consideration of adopting by reference a document entitled “Zoning Code Ordinance Amendment to Chapter 11, Sections 11-1 Through 11-19; Design Review and Site Plan Review” on file as a public record with the Town Clerk as an Ordinance amending the Zoning Code Chapter 11, Sections 11-1 through 11-19; Design Review and Site Plan Review, of the Town Zoning Code of the Town of Clarkdale; Providing for severability; and Repealing Conflicting Ordinances. Ordinance #310

Sherry Bailey, Community Development Director informed the Council of the changes in the Public Record “Zoning Code Ordinance Amendment to Chapter 11, Sections 11-1 Through 11-19; Design Review and Site Plan Review”. Most of the changes were housekeeping items to bring the document current with good practices and state statutes. The two major changes were the posting of the site on zoning change request and the notification of adjacent property owners of the proposed changes.

Councilmember Sa moved to adopt Ordinance Number 310, an Ordinance entitled “Zoning Code Ordinance Amendment to Chapter 11, Sections 11-1 Through 11-19; Design Review and Site Plan Review” as recommended. Seconded by Councilmember Bohall. Approved unanimously.

MOUNTAIN GATE SUBDIVISION UPDATE – Update on issues relating to the Mountain Gate Subdivision and Empire Construction.

Town Attorney Pecharich informed Council and citizens that Empire Construction had filed Chapter 11 with the Bankruptcy Court for reorganization, which indicates that they are trying to find other financing. Clarkdale and Attorney Pecharich have met with the bond companies Arch Insurance and Bond Safeguard. Both companies have sent their engineers to Clarkdale and have inspected the site, have indicated a willingness to work with the Town to determine what is covered under their bond, and will prioritize items of priority in terms of public health and safety. They will determine if they are able to complete items with their contractors at their expense or write a check to the Town and the Town would complete. Attorney Pecharich has been in contact with Indy Mac Bank and their position is to wait for the outcome of the bankruptcy proceedings, but remain in first position as the lender. They either get paid in full or the trustee of the bankruptcy court will determine if the value of the subdivision is less than the amount owed to the bank, in which case, the bankruptcy court can release the property to the bank. The bank may then

sell the property, but the future owner has to meet both the subdivision and development agreement with the Town.

Attorney Pecharich further recommended to the Council that they should contract with a bankruptcy attorney to follow the Town's position through the bankruptcy procedure. Town Manager Mabery informed the Council that this will take place at a future meeting.

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

None

ADJOURNMENT - With no further business before the Council and without objection the meeting adjourned at 7:30 PM. The meeting reconvened to executive session.

APPROVED:

Doug Von Gausig, Mayor

ATTESTED:

Kathy Bainbridge, Town Clerk

SUBMITTED:

Walt Good, Deputy Town Clerk