



Staff Report

Agenda Item: **ORDINANCE** – Consideration and possible adoption of Ordinance # _____ amending Section 19-1 “Definitions” of the Town Water Code calling for a clarification of the Hearing Officer verbiage.

Staff Contact: Janet Perry, Assistant Town Manager

Meeting Date: April 22, 2008

Background:

Council discussed the final draft of the Town’s new Water Code during a Worksession at its January 8, 2008 meeting, with adoption of that Code passing unanimously at the February 26, 2008 meeting. During that process, worksession discussions focusing on the intent for the Hearing Officer included that this person be appointed by the Council, with an initial preference of Judge Harry Cipriano filling the position.

The Code as it was adopted, however, includes confusing “boiler plate” verbiage for the Hearing Officer definition which actually achieves the exact opposite of Council’s original intention. A change to the definition of a Hearing Officer is being proposed at this time to correct the Code verbiage so that staff can move forward based on Council’s original direction for filling this position.

The change to the Town Code by the passage of this ordinance is shown below:

“Article 19-1 Definitions”

Hearing Officer – an individual appointed by the Town Council for the purposes of hearing appeals from customers dissatisfied with decisions of the Town made under this chapter. In the event that the Hearing Officer may have a conflict of interest on an appeal, the Hearing Officer shall declare the conflict and remove himself from hearing the appeal. The Town Council shall then appoint a replacement Hearing Officer, for that particular appeal.

Recommendation: To adopt Ordinance # _____ amending Section 19-1 “Definitions” of the Town Water Code calling for a clarification of the Hearing Officer.

ORDINANCE # _____

AN ORDINANCE OF THE TOWN OF CLARKDALE, YAVAPAI COUNTY, ARIZONA, AMENDING ARTICLE 19-1 "DEFINITIONS" OF THE TOWN CODE OF THE TOWN OF CLARKDALE; REPEALING CONFLICTING ORDINANCES; AND PROVIDING FOR SEVERABILITY.

WHEREAS it is the desire of the Mayor and Common Council of the Town of Clarkdale that definitions are provided in each section of the Town Code for clarification of intent;

THEREFORE, BE IT ORDAINED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CLARKDALE, ARIZONA THAT:

Section 1: That Section 19-1, definition 23 of the Town Code of the Town of Clarkdale be amended to read as follows:

Hearing Officer – an individual appointed by the Town Council for the purposes of hearing appeals from customers dissatisfied with decisions of the Town made under this chapter. In the event that the Hearing Officer may have a conflict of interest on an appeal, the Hearing Officer shall declare the conflict and remove himself from hearing the appeal. The Town Council shall then appoint a replacement Hearing Officer, for that particular appeal.

Section 2: That all ordinances and parts of ordinances in conflict with the provisions of this ordinance are hereby repealed; and

Section 3: That any portion of the Town Code repealed by this ordinance does not affect rights and duties that matured or penalties that were incurred, and proceedings that were begun before the effective date of the repeal.

Section 4: If any section, subsection sentence, clause, phrase, or portion of this ordinance or any part of this document adopted herein by reference is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED by the Mayor and Council of the Town of Clarkdale, Arizona, this 22nd day of April, 2008.

Doug Von Gausig, Mayor

ATTEST:

APPROVED AS TO FORM:
Boyle, Pecharich, Cline & Whittington, Town
Attorneys by:

Kathy Bainbridge, Town Clerk

Rob Pecharich, Town Attorney