

**Minutes of a Special Meeting of the Common Council of the Town of Clarkdale  
Held on Tuesday, August 31, 2010.**

A Special Meeting of the Common Council of the Town of Clarkdale was held on Tuesday, August 31, 2010, at 3:00 PM at the Community Room of the Clarkdale Administration Building, 39 North Ninth Street, Clarkdale, Arizona.

**CALL TO ORDER** - Meeting was called to order at 3:00 PM by Mayor Von Gausig at the Community Room of the Clarkdale Administration Building and immediately adjourned and reconvened in the Men's Lounge in the Clark Memorial Clubhouse.

Town Council:

Mayor Doug Von Gausig  
Vice Mayor Richard Dehnert

Councilmember Patricia Williams  
Councilmember Curtiss Bohall  
Councilmember Bill Regner

Town Staff:

Town Manager Gayle Mabery  
Town Clerk/Finance Director Kathy Bainbridge  
Community Development Director Sherry Bailey  
Human Resources/Community Services Director Janet Perry  
Public Works Director Burroughs  
Acting Police Chief Troy Smith

Town Attorney Robert Pecharich

**PUBLIC COMMENT** – The Town Council invites the public to provide comments at this time. Members of the Council may not discuss items that are not specifically identified on the agenda. Therefore, pursuant to A.R.S. §38-431.01(G), action taken as a result of public comment will be limited to directing staff to study the matter, responding to any criticism or scheduling the matter for further consideration and decision at a later date. Persons interested in making a comment on a specific agenda item are asked to complete a brief form and submit it to the Town Clerk during the meeting. Each speaker is asked to limit their comments to five minutes.

**There was no public comment**

**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 are approved with one motion. Any items may be removed for discussion at the request of any Council Member.

- A. Reports** - Approval of written Reports from Town Departments and Other Agencies  
Building Permit Report – July 2010  
Capital Improvements Report – July 2010  
Magistrate Court Report – July 2010  
Police Department Report – July 2010  
Water and Wastewater Report – July 2010  
Clarkdale Fire District Report and Mutual Aid Responses Report – July 2010

Cottonwood Area Transit (CAT) Operations Report – July 2010  
Verde Valley Humane Society – July 2010

- B. Resignation of John Stevenson from the Library Advisory Board** – Acceptance of the letter of resignation from John Stevenson from the Library Advisory Board.
- C. Resignation of Paul Peck from the Heritage Conservancy Board** – Acceptance of the letter of resignation from Paul Peck from the Heritage Conservancy Board.
- D. Resignation of Krysta Dehnert from the Parks and Recreation Commission** – Acceptance of the letter of resignation from Krysta Dehnert from the Parks and Recreation Commission.
- E. Joint Funding Agreement with the United States Geological Survey (USGS) for Water Resources Investigations** - Approval of the Joint Funding Agreement provides the mechanism for the Town to provide a sub-grant to the Verde River Basin Partnership/USGS for the Walton Family Foundation Grant.
- F. Intergovernmental Agreement Between Yavapai County Flood Control District and the Town of Clarkdale** – Approval of the IGA with the Yavapai County Flood Control District for flood control projects not to exceed \$100,000.00.
- G. A Resolution Amending Resolution #1291 by Changing the Composition of the General Plan Update Committee of the Town of Clarkdale** - Discussion and consideration of Resolution #1344, a Resolution amending Resolution #1291, changing the composition of the General Plan Update Committee.

Councilmember Williams moved to accept the Consent Agenda Items A – G as prepared by staff. Motion seconded by Councilmember Bohall. Motion approved unanimously.

## **NEW BUSINESS**

Upon general consent, Mayor Doug Von Gausig re-ordered the agenda to take Item #6 out of order.

### **STEWARDS OF PUBLIC LANDS – A report relating to the Stewards of Public Lands recent receipt of a 2010 Conservation Organization of the Year Award from the Arizona Wildlife Federation.**

The Arizona Wildlife Federation (AWF) is a non-profit organization dedicated to educating, inspiring, and assisting individuals and organizations to value, conserve, enhance, manage, and protect wildlife and wildlife habitat. The AWF was founded in 1923 to take politics out of fish and game management and to promote the management of Arizona's natural resources on a scientific basis. Each year, the AWF selects an Arizona organization to receive their Conservation Organization of the Year Award. Organizations are selected in recognition of their efforts towards conservation of Arizona's wildlife and natural resources for the preceding calendar year.

The Stewards of Public Lands is a group that organizes volunteers, government agencies and businesses to clean up and maintain the Verde Valley's beautiful public lands. Stewards work in creative ways to encourage collaboration of governmental entities at the federal, state and local level, working across jurisdictional lines and pooling resources.

This summer the Stewards of Public Lands were recognized by the Arizona Wildlife Federation with the 2010 Conservation Organization of the Year Award.

The Stewards of Public Lands "lead by doing." Stewards have provided more than 2000 hours of volunteer effort to clean 3300 acres of public lands in the Verde Valley since the organization formed. Stewards facilitated a process whereby towns, cities, counties, and state and federal governmental entities collaborated beyond jurisdictional boundaries, combining resources to remove more than 110 tons of trash and litter from upper Verde Valley public lands. Stewards have maintained the cleaned lands, as well as coordinated monitoring and law enforcement activities. The Stewards and their partners placed 'No Dumping' signs covering more than 2200 acres, with plans in progress to place signage over the remaining 1100 acres. Additional dumping is greatly reduced and Stewards' maintenance efforts keep the minimal additional dumping cleaned up, thanks to the law enforcement and signage deterrents.

The Town of Clarkdale, through the leadership of Police Chief Patrick Haynie, has been involved with the Stewards of Public Lands since its beginning. Among the many Stewards volunteers, there are numerous Clarkdale citizens involved, and people like Debbie LaFrance (Clarkdale Utilities Department) who spends countless volunteer hours for this organization. Because the Stewards of Public Lands especially appreciate their municipal and county partners, Cottonwood's Mayor Diane Joens, who has been tirelessly involved with the organization since its inception, attended the Council meeting to show the Council a presentation.

Mayor Joens and Debra LaFrance presented the Mayor an award from the Stewards: "We appreciate the continued support of the Town of Clarkdale. Together we make a difference, and we appreciate your dedication. Thank you!"

**PRESENTATION REGARDING YAVAPAI COUNTY WATER ADVISORY COMMITTEE'S (WAC) ROLE IN WATER STUDIES – John Rasmussen, WAC Coordinator, presentation on water and Yavapai County Water Advisory Committee's role in water studies.**

The Yavapai County Water Advisory Committee (WAC) has been the principal water advisory and research organization in Yavapai County for more than 10 years. WAC is supported by all of the incorporated communities in Yavapai County and the county itself. Dues are set at \$1.00 per citizen. The WAC has a paid coordinator, Mr. Rasmussen, and holds monthly board meetings that alternate between Prescott and Cottonwood. There are two Co-chairs on the board, and they are currently Councilman Mike Flannery, of Prescott Valley, and Mayor Von Gausig. The board consists of elected

officials or their representatives from all incorporated communities and the three County Supervisors. It operates on a "consensus" basis.

WAC has been responsible for coordinating and contributing to several important USGS and consultant-conducted studies that have helped us define our water resources, and allow us to make more accurate decisions based on water usage patterns. WAC also supports several public education campaigns, including the "Project WET" classes and field days given to our area primary school students.

Funding for WAC studies is generally leveraged by grants from USGS, DWR and other agencies who cooperate with WAC. The WAC Technical Advisory Committee has members from "both sides of the mountain" and consists of water managers, hydrologists and other water professionals. The TAC advises the WAC board on technical issues and provides analysis of studies performed by the organization. The TAC members are appointed by the board.

WAC is currently involved in two major projects. The "Northern Arizona Groundwater Flow Model" is just being completed. It will provide us with the most accurate available data on how the groundwater in our area is flowing and allow us to make more informed decisions about the effects of pumping on our groundwater resources. WAC is also a major contributor and cooperator in the Central Yavapai Highlands Water Resource Management Study (CYHWRMS) currently being coordinated by the Bureau of Reclamation. This study will help predict population patterns for the next 40 years and provide guidance regarding the supply and demand of our current and future water resources."

The Arizona Wildlife Federation (AWF) is a non-profit organization dedicated to educating, inspiring, and assisting individuals and organizations to value, conserve, enhance, manage, and protect wildlife and wildlife habitat. The AWF was founded in 1923 to take politics out of fish and game management and to promote the management of Arizona's natural resources on a scientific basis. Each year, the AWF selects an Arizona organization to receive their Conservation Organization of the Year Award. Organizations are selected in recognition of their efforts towards conservation of Arizona's wildlife and natural resources for the preceding calendar year.

John Rasmussen, WAC Coordinator, attended the Council meeting to show the Council a presentation regarding membership and funding, mission and goals, past successes, current priorities and future plans.

Mayor Von Gausig reported that the Management Strategies of Safe Yield and Integrated Management were adopted by the Town of Clarkdale previously.

**SECOND AMENDMENT TO THE DEVELOPMENT AGREEMENT FOR THE HIGHLANDS SUBDIVISION BETWEEN THE TOWN OF CLARKDALE AND PTM ENTERPRISES, LLC – Discussion and consideration of the Second Amendment to the Development Agreement for the Highlands Subdivision with PTM Enterprises, LLC.**

Community Development Director Bailey explained that on April 27, 2010, the Town Council held a worksession to discuss development issues relating to The Highlands Subdivision, which included several proposals being explored by PTM Enterprises (the current owner of the project) that focused specifically on wastewater service for the project. During the worksession, the Council expressed support for the efforts to move the development forward, but also expressed reservations about looking at wastewater options that included septic systems as part of the wastewater solution. Since that time, Town staff and the representatives of PTM have been working on a proposal for a 2<sup>nd</sup> Amendment to the Development Agreement that will provide a framework for both an interim wastewater solution as well as a permanent solution that both parties can agree to support.

The proposed 2<sup>nd</sup> Amendment to the Development Agreement includes the following provisions:

- ***Amends a paragraph in Section 8 of the Original Development Agreement with regard to Wastewater Development Impact and Wastewater Connection Fees.***

The amendment states: “The wastewater development impact and wastewater connection fees outlined above will be calculated throughout the development of the project, and will be subject to fee credits or reimbursements to the Developer if the Developer provides funds or constructs wastewater infrastructure that is the subject of the development impact and/or connection fees.”

The original Development Agreement and the 1<sup>st</sup> Amendment to the Development Agreement anticipated that, in exchange for the developer’s contribution towards wastewater infrastructure, the wastewater development and connection fees for the project would be waived (up to an amount that equaled the developer’s contribution). However, the current developer anticipates that many of the lots in this subdivision will be sold individually, and that custom homes will be built by individual owners. The new language in the proposed amendment will ensure that, as lot owners pay their individual fees, that appropriate amounts are credited to the developer in recognition of the developer’s up-front contribution towards the infrastructure. Were those fees simply waived, as anticipated in previous agreements, there is no way for the developer to recoup his contributions.

- ***Replaces Section 16 (which deals with the Wastewater System) of the original Development Agreement and the 1<sup>st</sup> Amendment to the Development Agreement in its entirety to reflect existing conditions today and define expectations for moving forward***

Section 16 of the original Development Agreement (which was approved in February, 2005) included provisions that, 1) identified the developer’s contribution towards the construction of a new wastewater treatment plant, 2) established fee credits for wastewater development and connection fees, 3) included provisions for the developer to install a on-site, temporary wastewater package plant to handle wastewater flows prior to the construction of the permanent solution (i.e. the new plant); and 4) called for the construction of sewer transmission lines and effluent deliver lines.

The proposed amendment provides specifications to guide the Developer and the Town to work towards adoption of a Permanent Wastewater Treatment Agreement, and establishes an initial 6-month time frame to do so. It also provides more specific provisions for the conditions under which the developer can proceed with construction of an Alternate Plant, if a Permanent Wastewater Treatment Agreement is not reached between the parties. The 2<sup>nd</sup> Amendment also establishes the uses for the \$1,826,200 of assurance funds that remain from the developer's original \$2,012,520 contribution towards construction of a new wastewater treatment plant.

The 2<sup>nd</sup> Amendment also calls for the town to allocate 25,000 gallons per day (gpd) of capacity at the existing wastewater treatment plant to be used for the initial phase of the subdivision. The total wastewater needs for this subdivision are estimated at 90,000 gpd, so the 25,000 gpd will serve approximately 28% of the subdivision's wastewater treatment needs. The initial phase (Phase 1) would include the commercial property, the existing 46 sold lots and the lots in the lower section, east of Old Jerome Highway. This provision provides the opportunity for the owners of the lots already sold to develop their lots in a timely manner, if they so desire.

Community Development Director Bailey explained that the 25,000 gpd commitment was arrived by looking at the peak usage over the year as a starting point. Then all of the lots around Town that had been guaranteed sewer connections which included vacant lots that had not been built on yet and had a right to be hooked up were looked at. About 40 lots in Mountain Gate have already paid fees which were allocated for along with development areas that had commitments and future areas such as the churches and existing small subdivisions that are on the books were also considered. That baseline allocation and what was available above that along with reserving what the Utilities Director felt comfortable reserving based upon ADEQ's requirement all went into the calculation.

Attorney Pecharich explained that under the 2<sup>nd</sup> Amendment the owners of the 46 lots have priority reservations for 11,000 gpd of the 25,000 gpd.

The 2<sup>nd</sup> Amendment also provides more specific requirements relating to the construction of a new wastewater treatment plant or permanent alternate treatment plant on site, lift stations, flow monitoring equipment and sewer interceptor lines from Mescal Spur to the connection point at Lisa Street from the remaining amount of assurance funds for construction of the wastewater treatment plant of about \$1,826,200. A requirement regarding the infrastructure construction occurring during the next year has also been included.

Mayor Von Gausig reiterated that there is no septic system alternative for this development.

- *Replaces Section 17, Construction of Town Facility, in its entirety.*

The original Development Agreement called for the Developer to dedicate land within the development and dedicate and construct a 3,000 square foot municipal building within 24 months of approval of the Final Plat of the subdivision.

The 2<sup>nd</sup> Amendment requires the Developer, within 48 hours of approval of the 2<sup>nd</sup> Amendment, to provide the Town with \$300,000 to be used for purchase of facilities or property, construction, or remodel of existing Town facilities. Such facilities and/or improvements shall be in a location and manner as deemed appropriate solely by the Town.

Market and economic conditions have changed considerably since this development was originally proposed in 2004 and finally approved in 2005. To their credit, the Developer (PTM Enterprises) have worked diligently to try to ensure that this project was not simply turned over to their financing institution (as so many projects across the state have been) as a victim of the economic downturn. Staff believes the proposed 2<sup>nd</sup> Amendment to the Development Agreement greatly improves the previous version of the Development Agreement, more accurately reflects the current and future needs of the Town, is fair to both the Town and the Developer and provides the best effort by all parties to move this development forward.

The funding for the \$300,000 building will be deposited into building fund for the Council to establish use at a later date.

There will be a \$100,000 deposit in an escrow account as agreed upon in the Escrow Agreement between PTM Enterprises, LLC and the Town of Clarkdale which will be simultaneously executed with the 2<sup>nd</sup> Amendment to the Development Agreement.

Vice Mayor Dehnert inquired about the lot owners as stakeholders - this Agreement gives priority to those 46 lots. Impact fees will be required when a building permit is pulled by the owners. The Town has tried to assure through the Agreement that any new costs incurred by the developer would not be subject to new liens going forward by owners of the original 46 lots.

The Town received a letter from Don and Carla Williams regarding their hardships with past development of this area which is on file.

Mayor Von Gausig opened Public Comment:

Barbara VanNye, Clarkdale – wondered about the timing of the wastewater treatment solution. Town Manager Mabery stated that the Agreement provides for a 6 month timeline, but gives as long as is needed for a long term solution. Ms VanNye also asked if there was a timeframe for completion of infrastructure. Town Manager Mabery explained that the only specific timeframe is moving forward with the interceptor.

Steve Biaisini, Project Manager – bids out for paving currently and design work for connection to Lisa Street is under way. The current package plant will certainly go away.

Mayor Von Gausig closed public comment.

Attorney Pecharich stated that under Section 16.5 there is a deadline of September 30, 2011 for the developer to arrange for completion for the lift station, flow monitoring equipment and sewer interceptor lines leading to and through the property to the Town's existing sewer connection line located in Lisa Street.

Attorney Pecharich stated that the Agreement in the council packet does not have two recent updates regarding the rights to the 46 property owners, which is included in the final 2<sup>nd</sup> Amendment as follows:

A language change under Recitals, paragraph B which states "Other than approximately 46 lots which have been conveyed to third parties ("Third Party Owners"), the Property, which has been known in the past as "Cliffrose" and "Verde Highlands", currently is owned by the Developer. Land Design Group L.L.C. no longer has any right, title, or interest in or to the Property."

The addition of Number 6. Third Parties. "The Third Parties who own the "Sold Lots" (reference above) shall not be responsible for the covenants and obligations of Developer which are imposed by, or agreed to in, this Amendment. Further, in absence of an express assumption of the provisions of the Agreement, as amended by this Amendment, the benefits and burdens of the Agreement shall remain vested solely with Developer."

Attorney Pecharich asked Attorney Dana Belnap, attorney for the developer, if she agreed that Attorney Pecharich had correctly read in the two provisions as described to the Council. Attorney Belnap agreed.

Councilmember Regner moved to approve the 2<sup>nd</sup> Amendment to the Development Agreement for the Highlands Subdivision between the Town of Clarkdale and PTM Enterprises L.L.C. as clarified by the Town Attorney with the additions read into the record. Motion seconded by Vice Mayor Dehnert. Motion approved unanimously.

**RESOLUTION DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE TOWN CLERK AND ENTITLED "AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF CLARKDALE, YAVAPAI COUNTY, ARIZONA, DELETING CHAPTER 13, FLOOD DAMAGE PREVENTION, OF THE CLARKDALE TOWN CODE IN ITS ENTIRETY, AND RECREATING CHAPTER 13, DAMAGE PREVENTION, SECTION 13-1-1, ESTABLISHMENT OF SPECIAL FLOOD HAZARD AREAS, OF THE CLARKDALE TOWN CODE; ADOPTING BY REFERENCE REVISED FLOOD INSURANCE STUDY AND FLOOD INSURANCE RATE MAPS, AND FLOODPLAIN MANAGEMENT REGULATIONS FOR YAVAPAI COUNTY, ARIZONA; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND ADOPTING BY EMERGENCY MEASURES"-- Discussion and consideration of Resolution #1345, declaring Ordinance #328 to be a public record.**

The Town of Clarkdale has previously delegated the responsibility of floodplain review and management to the Flood Control District of Yavapai County as provided for in ARS 48-3610. The referenced ordinance updates that agreement and brings Chapter 13 of the Town Code into compliance with the federal program. The Town has been a party to the Federal Insurance Program since the original Ordinance 71 was passed December 28, 1982. Working cooperatively with the County, the Town reviews each building application to see if the ordinance comes into play. Once that has been determined, the building division reviews their application to make sure everything complies with the floodplain ordinance. This relationship is beneficial to the Town, and to the individual applicant.

FEMA has informed the Town that they must adopt floodplain management measures, such as a floodplain management ordinance, that meet or exceed the minimum NFIP requirements by September 3, 2010, to avoid suspension from the NFIP. If suspended, the community becomes ineligible for flood insurance through the NFIP, new insurance policies cannot be sold, and existing policies cannot be renewed.

Whereas it is necessary for the preservation of the peace, health and safety of the Town of Clarkdale, Arizona, an emergency may be declared to exist and this Ordinance would become effective immediately, operative and in full force after the date of the posting with an affirmative vote of three-fourths of all the members elected to the Town Council, taken by ayes and noes, and also approved by the Mayor.

To save the cost of publishing in the newspaper a lengthy ordinance, this change is being first made a public record by resolution (this agenda item) and then is adopted by reference by an ordinance.

Councilmember Bohall moved to adopt Resolution # 1345, a Resolution declaring as a public record that certain document filed with the Town Clerk and entitled "An Ordinance Of The Mayor And Council Of The Town Of Clarkdale, Yavapai County, Arizona, Deleting Chapter 13 – Flood Damage Prevention of the Clarkdale Town Code In Its Entirety, And Recreating Chapter 13, Section 13-1-1; Flood Damage Prevention-Establishment Of Special Flood Hazard Areas; Adopting By Reference Revised Flood Insurance Study And Flood Insurance Rate Maps, And Floodplain Management Regulations For Yavapai County, Arizona; Providing For Repeal Of Conflicting Ordinances; Providing For Severability; And Adopting By Emergency Measures" . Motion seconded by Councilmember Regner. Motion approved unanimously.

**AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF CLARKDALE, YAVAPAI COUNTY, ARIZONA, DELETING CHAPTER 13, FLOOD DAMAGE PREVENTION, OF THE CLARKDALE TOWN CODE IN ITS ENTIRETY, AND RECREATING CHAPTER 13, DAMAGE PREVENTION, SECTION 13-1-1, ESTABLISHMENT OF SPECIAL FLOOD HAZARD AREAS, OF THE CLARKDALE TOWN CODE; ADOPTING BY REFERENCE REVISED FLOOD INSURANCE STUDY AND FLOOD INSURANCE RATE MAPS, AND FLOODPLAIN MANAGEMENT REGULATIONS FOR YAVAPAI COUNTY, ARIZONA; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND ADOPTING BY EMERGENCY MEASURES - Discussion and consideration of Ordinance #328 , an Ordinance deleting Chapter 13, Flood Damage Prevention, of the Clarkdale Town Code in its**

**entirety, and recreating Chapter 13, Damage Prevention, Section 13-1-1, establishment of Special Flood Hazard Areas, of the Clarkdale Town Code, adopting by reference revised Flood Insurance Study and Flood Insurance Rate Maps, and Floodplain Management Regulations for Yavapai County, Arizona; providing for repeal of conflicting ordinances; providing for severability; and adopting by emergency measures.**

The Town of Clarkdale has previously delegated the responsibility of floodplain review and management to the Flood Control District of Yavapai County as provided for in ARS 48-3610. This ordinance updates that agreement and brings Chapter 13 of the Town Code into compliance with the federal program. The Town has been a party to the Federal Insurance Program since the original Ordinance 71 was passed December 28, 1982. Working cooperatively with the County, the Town reviews each building application to see if the ordinance comes into play. Once that has been determined, the building division reviews their application to make sure everything complies with the floodplain ordinance. This relationship is beneficial to the Town, and to the individual applicant.

FEMA has informed the Town that they must adopt floodplain management measures, such as a floodplain management ordinance, that meet or exceed the minimum NFIP requirements by September 3, 2010, to avoid suspension from the NFIP. If suspended, the community becomes ineligible for flood insurance through the NFIP, new insurance policies cannot be sold, and existing policies cannot be renewed.

Whereas it is necessary for the preservation of the peace, health and safety of the Town of Clarkdale, Arizona, an emergency may be declared to exist and this Ordinance would become effective immediately, operative and in full force after the date of the posting with an affirmative vote of three-fourths of all the members elected to the Town Council, taken by ayes and noes, and also approved by the Mayor.

Vice Mayor Dehnert moved to approve Ordinance #328, an Ordinance of the Mayor and Council of the Town of Clarkdale, Yavapai County, Arizona, deleting Chapter 13 – Flood Damage Prevention of the Clarkdale Town Code in its entirety, and recreating Chapter 13, Section 13-1-1 ; Flood Damage Prevention- Establishment of Special Flood Hazard Areas; adopting by reference revised flood insurance study and flood insurance rate maps, and floodplain management regulations for Yavapai County, Arizona; providing for repeal of conflicting ordinances; providing for severability; and adopting by emergency measures. Motion seconded by Councilmember Regner. Motion approved by roll call vote.

Councilmember Curtiss Bohall	Yes
Vice Mayor Richard Dehnert	Yes
Councilmember Bill Regner	Yes
Mayor Doug Von Gausig	Yes
Councilmember Patricia Williams	Yes

Upon general consent, Mayor Doug Von Gausig re-ordered the agenda to take Items #10 and #11 out of order.

**A RESOLUTION OF THE TOWN OF CLARKDALE INCREASING THE PROJECT LIMIT UNDER THE MOHAVE JOB ORDER CONTRACT (JOC), FOR THE LOWER TOWN WATER MAIN REPLACEMENT PROJECT (LTWMRP), TO ONE MILLION SIX HUNDRED THOUSAND DOLLARD (\$1,600,000.00) –Discussion and consideration of Resolution #1346, A Resolution Increasing the Project Limit Under the Mohave Job Order Contract (JOC), for the Lower Town Water Main Replacement Project (LTWMRP), to \$1,600,000.00.**

Utilities Director Debrosky reported that Arizona Revised Statutes 34-605 sets a one million (\$1,000,000) dollar job-order-contracting limit, but provides for an “agent”, by following public meeting procedures, to establish a higher or lower limit per job order.

On August 9, 2010 Parsons, under the Mohave Job-Order-Contract, submitted a scope of work, bid tab, and a cost estimate of \$1,383,499.91 for the Lower Town Water Main Replacement Project (LTWMRP) to upgrade water mains and appurtenances. A contingency line of \$138,350.00 or 10% of the project cost would bring the project total to \$1,521,849.91.

Since the purchase order for Parsons is above the \$1,000,000 limit, a Resolution increasing the project limit under the Mohave Job Order Contract (JOC), for the Lower Town Water Main Replacement Project (LTWMRP), not to exceed \$1,600,000.00 needs to be completed prior to acceptance of the purchase order.

Vice Mayor Dehnert moved to approve Resolution #1346, a Resolution Increasing the Project Limit Under the Mohave Job Order Contract (JOC), for the Lower Town Water Main Replacement Project (LTWMRP), not to exceed to One Million Six Hundred Thousand Dollars \$1,600,000.00. Motion seconded by Councilmember Bohall. Motion approved unanimously.

**PARSONS CONTRACTING PURCHASE ORDER FOR THE OLD TOWN WATERLINE REPLACEMENT PROJECT - Consideration and possible approval of purchase order with Parsons Contracting for the Old Town Waterline Replacement Project, in the amount of \$1,383,396.00 using the Mohave Educational Services Cooperative, as authorized by ARS 41-2632.**

On August 11, 2009 the Town Council approved a proposal from Wildan Engineering to design the above referenced water system infrastructure upgrades for Lower Town in the Town of Clarkdale.

These water system upgrades include replacing approximately 12,300 feet of aging waterlines located in Lower Town Clarkdale with new 8-inch C-900 PVC water mains, upgrading fire hydrants, and providing new customer service connections from the new mains to the water meters. The new Lower Town water mains would be tied into the recently completed Main Street water main and pressure reducing station. These improvements would reduce service outages, reduce water loss through system leaks, and improve fire protection for Lower Town.

The Mohave process is different than what everyone is used to for public procurement. Mohave is a non-profit corporation authorized by a fairly new statute (ARS 41-2632) to operate a co-op for the benefit of governmental entities. Mohave does all the competitive bidding, public notice, invitation to bid, etc in compliance with statute, so that its members, such as the Town of Clarkdale, do not have to. The advantage is that as a large co-op Mohave gets low prices that its individual members probably could not, due to the volume of business Mohave can send to approved vendors, through its membership. This is a contracting procedure that allows for the award of a competitively negotiated firm fixed price contract to the agency. It is based on unit pricing which is adjusted by an appropriate adjustment based on the appropriate work area. It allows more control of projects that just awarding a contract to a low bidder by limiting change orders. Parsons was qualified by Mohave to enter into contracts with entities and then Parsons acts as a project manager getting sub contractors and securing procurement of the items and providing the work. Parsons does the competitive bidding through approved contractors, providing the bonds, certificates of insurance, etc.

The Town has used Mohave JOC (Job Order Contracting) previously with the library renovations, paving, and Patio Park curb and gutters. Currently there are about 750 governmental entities using the Mohave Educational Services Job Order Contracting, including Phoenix.

Town Manager Mabery explained that there is a balancing act determining if you are going through a standard low bid process or using a job order contract. One thing looked at was the engineer's estimate, what is seen in the market, and where projects are coming in compared to the engineer's estimate. In this case going to the job order contractors, knowing what the engineer's estimate and working with them, knowing where we would come in. The engineer's estimate was about 1.5 million which did not allow a contingency. Those figures were a guiding factor, along with the other advantages of a JOC, and we felt that, from a pricing perspective, that we were in a good ball park compared to a standard low bidder scenario. Due to the various unknown factors that this project could run into, it was important to include a contingency so that we had enough funding. Contingency allows staff to add on additional cost saving items between the \$1,383,396 and \$1,521,736 amounts without bringing it forward to council.

On August 9, 2010 Parsons, under the Mojave Job Order Contracting (JOC), submitted a scope of work, bid tab, and a cost estimate of \$1,383,396.00 for the Lower Town Water Main Replacement Project (LTWMRP) to upgrade the above referenced water mains and appurtenances. A contingency line of \$138,340.00 or 10% of the project cost would bring the project total to \$1,521,736.00. Parsons is the management services and they will select the contractor from a pool of contractors. The funding source is the capital funds put aside at the time of purchase of the water company for infrastructure projects.

Parsons went through the Mohave bidding process and was approved by Mohave. Our Town Code allows us to work under a cooperative agreement such as this. Parsons is a licensed contractor. Parsons secures sub-contractors for pre screening under the Mohave guidelines.

The 10% contingency allows the staff the administrative authority to extend the contract up to 10% higher than the \$1,383,396 to add on additional cost savings projects. If it goes beyond that, staff needs to come back to Council for authority.

If the project went out for low bid, it could come in with a lesser price with a very real possibility for many change orders so the cost estimate would come in higher. With a low bid process, the Council must accept the lowest qualified bid.

Councilmember Bohall moved to approve the purchase order with Parsons Contracting for the Lower Town Waterline Replacement Project, as corrected (instead of Old Town Waterline Replacement), in the amount of \$1,383,396.00, using the Mohave Educational Services Cooperative, as authorized by ARS 41-2632. Motion seconded by Councilmember Regner.

Mayor Von Gausig opened Public Comment.

Ray Bluff, Gantry Constructions - Not necessarily a project that Gantry would bid on due to size. He questioned his thought of missing the public bid, but now understands that bidding process was not publicized due to the cooperative agreement process. The cooperative agreement process has two layers of project management overhead. No one came out and actually did on site cost estimate, they base their price on unit pricing. Richardson and Means were used which are estimates that are factored by area. The contracting method discourages change orders but change orders would occur due to changed conditions, changed designs, or poor initial designs. Who is the contract with – who is ultimately responsible? Project management could be done for a cost by the design engineer if the project is bid out. Wished the Town luck in the project.

Town Manager Mabery explained that Wildan will play a role in the project management and working closely with the project manager, contractor and Town. The Town opted last year not to put them in a full management role because it was about an extra \$300,000 and the Town felt they had the combined resources to have them do some of it and staff the other portion. It is their ultimate responsibility to sign off on the project.

Vice Mayor Dehnert is uncomfortable with the procurement process. Councilmember Regner still feels uncomfortable regarding the benefits of the change order process through a JOC discussion and feels the decision should not be made based upon limited change orders through this process.

Attorney Pecharich explained that we could go out for bid and reject all bids which could take another two months.

Mayor Von Gausig stated that a Utility Director has been hired to give the Council advice on how to proceed in their line of work, decisions should be made based upon that. Council agreed upon that.

Motion approved with Councilmember Regner opposed.

Councilmember Regner stated that his nay vote was no reflection on staff.

**FINANCIAL OPERATION GUIDE UPDATES- Discussion and consideration regarding updates to the Financial Operations Guide for the Town of Clarkdale.**

The purpose of the Financial Operation Guide (FOG) is to set policies and procedures established to govern and to implement fiscal policy and financial management related to the Town of Clarkdale. The general purpose of this document is to provide a working guide to established financial policies and procedures.

The Financial Operations Guide (FOG) working group, made up of representatives from various departments, reviewed the Introduction, Payroll, Cash Receipts, and Cash Disbursements sections of the FOG. Since the last update to these sections was in 2002, there were many changes referencing new staff positions, new accounting software and the actual working processes currently being used.

**Councilmember Regner moved to approve the Introduction, Payroll, Cash Receipts, and Cash Disbursements sections of the Financial Operations Guide as presented by staff. Motion seconded by Councilmember Williams. Motion approved unanimously.**

**FUTURE AGENDA ITEMS - Listing of items to be placed on a future council agenda**  
**None**

**ADJOURNMENT - Without opposition, the Council adjourned at 6:30 P.M.**

APPROVED:  


\_\_\_\_\_  
Doug Von Gausig, Mayor

ATTESTED/SUBMITTED:

  
\_\_\_\_\_  
Kathy Bainbridge, Town Clerk