

TOWN OF SUPERIOR
Regular Council Meeting
Thursday, June 2, 2011– 7:00pm
Superior Senior Center
360 W. Main St.
Superior, AZ 85173

M I N U T E S

A. CALL TO ORDER:

Mayor Hing called the meeting to order at 7:04pm.

B. SALUTE TO THE FLAG:

Mayor Hing led the council, staff, and audience in the Pledge of Allegiance.

C. OPENING PRAYER:

Mayor Hing led the council, staff and audience in a brief word of prayer.

D. ROLL CALL:

Council Present: Councilmember Gutierrez, Councilmember Tomerlin, Councilmember Peralta, Vice Mayor Lopez & Mayor Hing, Councilmember Tameron (once sworn in)

Absent: Councilmember Heglie, Councilmember Aguilar

E. CONSENT AGENDA: *Mayor Hing introduced the items on the consent agenda. He asked for any comments, questions or suggestions in regards to each item on the consent agenda.*

1. Approval of Minutes Regular Meeting May 19, 2011 and the work session of April 30, 2011 & May 19, 2011

Councilmember Tomerlin stated the motion for the sale of the property on 85 High School avenue was to be stated that work would begin in 3 months not have the house demolished in 3 months.

Vice Mayor Lopez stated that in the work session minutes of the May 19th meeting she did not suggest a flat fee but that it was Councilwoman Peralta. Councilmember Peralta agreed.

Mayor Hing directed staff to make the corrections but requested that the minutes be approved with corrections.

2. Blanket Permit for Superior Historical Society, Inc. to fundraise

There were no questions or discussions on this consent agenda item.

3. **Superior Chamber of Commerce request to waive 2011 business license fee for souvenir sales to visitors**

Ms. Oliver explained that staff was asking to approve this waiver which will allow the Chamber of Commerce to sell souvenir items at the caboose without having to pay the business licenses fee of \$40.00. She stated that the town code allows for waivers of non-profits, however, they need to complete business license application.

4. **Approval for Mayor Hing to testify on behalf of Resolution Copper Company during a congressional session in Washington D.C.**

Mayor Hing explained that he has been asked by Resolution Copper to possibly testify in a Congressional Hearing in support of the land exchange. Discussion followed on who would pay for the expense. Mayor Hing stated that Resolution Copper has offered to cover the cost. Councilmember Gutierrez suggested that the Town pay for the costs, especially in light of the recent Fiesta Bowl scandals involving Elected Officials and the fact that this should be expensed as an Economic Development project. Other members of the council stated that the town could not afford those costs at this time.

MOTION: Councilmember Peralta made a motion to approve the consent agenda as presented, with the minutes being approved with the corrections, and that Resolution Copper pay for the Mayor's trip to Washington DC. Vice Mayor Lopez seconded the motion.

VOTE: *The motion passed. 4 aye votes, 1 nay vote.*

Ayes: Councilmembers: Peralta, Tomerlin, Mayor Hing & Vice Mayor Lopez

Nays: Councilmember Gutierrez (Councilmember Gutierrez stated his nay vote was only in regards to consent agenda item #4)

F. COMMUNICATION:

1. Managers Report

a. Discovery Core/Parks and Recreation Chairman – Mr. Pete Casillas explained that he has been working with Ms. Arriola on Parks and Recreation programs and he complimented her on the programs she has put together such as the Zumba and Tae Kwon Do program. He stated that now they are working on a small gym at the Roosevelt and programming in their room there. He also explained that he is working with Ms. Taylor Ritter on the Discovery Core program which is similar to the Boy Scouts but not as scouting oriented. He said it was for boys 13 and up and that eventually Ms. Ritter will be helping him add a female component.

b. Superior Little League Field Update – Ms. Oliver introduced Mr. Martin Navarrette from the Superior Little League. She stated that they were here at the request of the council to discuss budgetary matters in regards to the field improvements. Mr. Navarrette thanked the Council and staff for their time. He stated that this year they were able to make significant upgrades to the field and for the first time ever they now have grass on the Little League field. He stated that the league had budgeted for the water costs but underestimated and they were looking to work out a partnership with

the town to help cover the costs. He stated at this time the Town covers utility costs during the 3-4 month season. Those utilities are sewer, trash, electricity and water. Mr. Navarrette explained that with these improvements to the field the league could possibly now host All Star Tournaments in Superior which would bring people from other communities to Superior.

Mayor Hing explained that he asked the Little League to come and make this presentation so the council can be aware of the costs etc. Ms. Navarrette from the Superior Little League gave an overview of the profits and expenses for the league. She reviewed the registration fees, scholarships, costs per player, insurance, district fees and equipment. She also gave an overview on the sponsorship program that helps the league to cover costs.

She stated that overall the league takes in about \$27,000 in income but to date has had about \$31,000 in expenses. She stated they budgeted \$300 a month for water for the grass and were off in their estimate as the bills are coming in at \$750.00 a month.

Discussion with the council continued on a variety of topics including the connection of the effluent line to the field to effluent water could be used on the grass. Councilmember Gutierrez expressed his concern that they needed to look at a plan for that even if it was more expensive because in the long run that is a better investment. He also questioned how the council justifies this when there are a lot of other non-profits in the community who would like to help with this such as the library, swimming pool, parks and recreation.

Councilmember Peralta stated that you justify it because it is for the kids, and it is the main program for the kids in town. She stated that we don't have any other sports programs for the kids in Superior and this was important.

The Council asked the Attorney if it was legal for the town to provide funds to a non-profit. The Attorney stated that the town can make contributions to non-profits. He also stated that they could not vote or make action on this tonight because it was not on the agenda as an action item.

Mayor Hing stated that he has always seen the Little League as an extension of the Parks and Recreation program in the community.

Discussion followed on how many volunteers the Little League has. Several of the councilmember expressed many compliments about the improvements at the field.

Ms. Navarrette said they don't have an exact count but stated that there are no paid staff and that between the parents, coaches, and board they complete all the tasks from keeping the field clean and dressed, concession duties, clean up and bathroom maintenance.

Mayor Hing requested that the Council think about this information that was presented and prepare to discuss it at a budget retreat.

G. PUBLIC HEARING (Motion to go into public hearing)

Councilmember Tomerlin made a motion to move into public hearing. Vice Mayor Lopez seconded the motion. The motion passed unanimously. Public Hearing began at 7:44pm

1. Public hearing on Variance Request for 140 W. Copper St., requesting variance for setbacks for a garage carport. Parcel #106-12-034

Ms. Brothers explained that Mr. Green is requesting a variance on his property to construct a garage carport. She explained that he needed 1 ft. in the rear and side for a 5 ft setback.

Mr. Green stated that the home was built in 1915 as a 500sq ft. adobe duplex. He stated that in 1926 they added a 6x8 kitchen. He stated that he purchased the home in 2005 and that he has done extensive repairs and remodeling to the property including removing some cement pads that were on the property. He stated that is he requesting this variance to build a Home Depot Kit Garage. He stated that he plans to construct that to attach to another existing structure on the property that will construct a carport/garage. He stated that when this project is complete he will have spent \$10,000 on improvements to his property.

Ms. Brothers reported that all the of neighbors were notified via a newspaper posting and personal letter. She stated that they had not had any complaints. Discussion followed on the neighbor to the north Ms. Devine. Mr. Green stated that he tried to contact her personally but did not receive any response back from her via his personal contact of the mandatory notifications.

Councilmember Gutierrez stated that he actually went to the property to see where things would be constructed. He thanked Mr. Green for providing such a concise plan.

Mayor Hing asked for any comments from the public. No comments were made.

Councilmember Peralta made a motion to move into public hearing. Councilmember Tomerlin seconded the motion. The motion passed unanimously. Public Hearing began at 7:54pm

H. BUSINESS; POSSIBLE DISCUSSION AND/OR ACTION ON THE FOLLOWING:

1. **Discuss/Approve/Reject canvas of the votes of the May 17, 2011 election.**

Ms. Oliver read the canvass of the votes from the May Election. The votes cast were read as follows:

250 Votes Soyla Kiki Peralta

224 Votes Lynn Heglie

3 Write In's

477 Total Votes Cast

Councilmember Gutierrez commented that the election was a close race.

ACTION: Vice Mayor Lopez made a motion to accept the canvassing of the votes. Councilmember Tomerlin seconded the motion.

VOTE: *The motion passed unanimously.*

2. Oath of Office for newly elected Councilmembers: Lopez, Tameron, & Peralta

Judge Bravo administered the oath of office for the newly elected Councilmembers:

John A. Tameron

Olga D. Lopez

Soyla Kiki Peralta

Mayor Hing and the other councilmember's congratulated the newly sworn in councilmember's. The newly sworn in councilmember's each took a moment to thank their supporters and stated they looked forward to serving their community.

3. Discuss/Approve/Reject the appointment of a Vice-Mayor

Mayor Hing read the town code 2-2-2 which states that the Council will appoint a vice mayor each year in June. He stated that Ms. Lopez has been serving on the council for over 8 years and has served as the Vice Mayor for a while now; he opened the floor for nominations.

Councilmember Gutierrez nominated Councilmember Tameron for Vice Mayor. He stated that Mr. Tameron has had previous service on the council and would be a good fit. Councilmember Peralta stated that she likes Mr. Tameron but nominated Ms. Lopez for Vice Mayor because of all the things that are going on it would be better to stay consistent. Mr. Tameron stated that he agreed it would be best to fill the position with Ms. Lopez.

ACTION: Councilmember Gutierrez made a motion to appoint Ms. Lopez as the Vice Mayor. Councilmember Peralta seconded the motion. Mayor Hing announced that he would abstain on this vote.

VOTE: *The motion passed with 5 aye votes & 1 abstention.*

Ayes: Gutierrez, Tomerlin, Tameron, Lopez, Peralta

Abstain: Mayor Hing

4. Discuss/Approve/Reject the rescinding of Triplet Mountain Communication, Inc. vote for contract approval of Land Use Agreement and Easement

Ms. Oliver explained that after working with the Triplet Mountain Communications group there were some additional concerns and potential negotiations. She explained that in order

for these other negotiations to be considered by the council they would need to ratify the previous decisions which then kills the action of the meeting of 4/17/2011. She explained that they would need to ratify the decision before they could consider other negotiations which are a later item on the agenda. She said if the council wishes to keep the original agreement in place they could just vote to not ratify the decision.

Discussion followed on the previous motions made at different meetings.

MOTION: Mayor Hing made a motion to ratify the contract approval with Triplet Mountain Communications. Councilmember Peralta seconded the motion.

ACTION: *The motion passed unanimously.*

5. Discuss/Approve/Reject Triplet Mountain Communication, Inc. Land Use Lease for 20 years reviewed every 5 years.

Ms. Oliver explained that staff has been working with representatives from Triplet Mountain Communications and there is a need to renegotiate the contract with the company to allow them to build their infrastructure. She reviewed the contents of their packet which included a cover letter, site plan, and lease. She stated that they did not have an easement with this agenda item as at this time it was not needed.

Bill Marshall with Triplet Mountain introduced himself and thanked the council for allowing him to clarify a few of the issues that surrounded this agenda item. He gave a brief overview and stated that Triplet Mountain was a subsidiary of SCATUI who is assisting with bringing high speed broadband internet to the rural south east area of the state. He stated that he did not want to see Superior miss out on the opportunity to have an off ramp for the internet here in Superior. He stated that at this time they are just constructing the housing for the infrastructure and that it would be another service provider such as CopperNet, Cable One, or Quest that would eventually purchase the bandwidth and sell the services. He stated that they have received some interest from these companies to provide services but no commitments at this time. He stated that this agreement will allow them to review the agreement every 5 years. Discussion followed on the amount that would be assessed to Triplet Mountain and if there could be a trigger that would automatically increase the rental rate based on the business model and sales of the bandwidth. Mr. Marshall stated that he is not authorized to make these changes to the agreement of the rent amount or changing the amount based on the profits of infrastructure but he would take this information back to the company.

Councilmember Gutierrez expressed his concern over the confusion this agreement has caused. He stated that he is familiar with the telecommunications business and his questions are only directed to protect the tax payer but he is supportive of this technology. He referenced the amount of money cell towers pay to lease land for their towers and infrastructure.

Councilmember Peralta asked if the attorney had read the agreement. The Attorney responded that he had read the agreement and it was sound but any decision would need to be made by the Council.

MOTION: Councilmember Peralta made a motion to approve the agreement and add a clause that the lease amount could be amended during the review of the contract. Vice Mayor Lopez seconded the motion.

During the motion and second, it was brought to Councilmember Gutierrez's attention that he previously abstained from the vote on this item because he may potentially be in business with this company. Councilmember Gutierrez agreed and stated that he would abstain from voting on this item.

ACTION: The motion passed

Ayes: Mayor Hing, Vice Mayor Lopez, Councilmembers: Tomerlin, Tameron, & Peralta.

Abstain: Councilmember Gutierrez

6. Presentation of the Planning and Zoning Commission applicants Gina Lopez and Joy Eveland

Ms. Brothers explained that there were two applicants for the Planning and Zoning commission vacancies. She stated that these were both current members re-applying for their positions on the commission. She stated that the positions were advertised for public notification. Ms. Brothers thanked both Ms. Lopez and Ms. Eveland for their time. During this time Ms. Lopez and Ms. Eveland both gave brief speeches stating why they wished to remain on the Planning and Zoning Commission. Both stated they wished to remain on the commission until the zoning revisions are complete. Mayor Hing and the council thanked both for their presentations and their service to the commission.

7. Discuss/Approve/Reject the selection of two (2) vacant Planning and Zoning Commission seats. Applicants Gina Lopez and Joy Eveland.

MOTION: Vice Mayor Lopez made a motion to approve both Ms. Lopez and Ms. Eveland to serve on the Planning and Zoning Commission. Councilmember Peralta seconded the motion.

ACTION: The motion passed unanimously.

8. Discuss/Approve/Reject variance request for 140 Copper St. for setbacks for a garage/carport. Parcel#106-12-034

Mayor Hing explained that this item was discussed at the public hearing earlier in the meeting and there were no comments from the public. He asked for any further comments or discussion. There was no further discussion.

MOTION: Councilmember Peralta made a motion to approve the variance request for 140 Copper Parcel# 106-12-034. Councilmember Tomerlin seconded the motion.

ACTION: *The motion passed unanimously.*

9. Discuss/Approve/Reject the bids for the purchase of the following properties
a. 125 W. Main St. – Minimum bid \$45,000

Chief Digirolamo explained that the council had tabled this item at the May meeting to allow the attorney time to review the proposal. The Attorney explained that they basically added a lot of legalese in the proposal to protect themselves if they cannot redevelop a movie theatre although that is their desire to do so this would allow them to build something else should it not be financially viable for them to build a movie theatre.

Discussion followed on the parameters of the bid and the time frames to ensure that the procedures were followed fairly. The Attorney stated that they could accept the bid or decline it. Vice Mayor Lopez suggested tabling the item again to have a discussion with the bidder to discuss some of their requirements to build a theatre.

Pam Peck who was the listing agent for the property explained that she had worked with the bidder and they are working to do historic preservation on the Magma Hotel and would like to also rebuild the theatre to be an additional amenity for the hotel and the community. She expressed that they had an attorney draw up the bid proposal for this property because she was the listing agent. She stated that he has had some delays in moving forward with the Magma Hotel because they are doing all they can to preserve it historically.

Ms. Oliver stated that if the town holds on to the properties then they are going to have to make some improvements to make it look nicer, she also stated that the town paid \$47,000 to demolish the theatre and the other legal fees. She stated that staff recommends accepting the bid.

MOTION: Councilmember Gutierrez made a motion to accept the bid, and allow them to move forward. Councilmember Peralta seconded the motion.

ACTION: *The motion passed unanimously.*

10. Discuss/Approve/Reject Resolution 521 of the Mayor and Town Council accepting bids for the purchase of real property owned by the Town. Commonly referred to as 85 High School, 308 Mine St. and 125 West Main St. Authorizing the Town Manager to execute documents necessary to carry out said sale.

Ms. Oliver read Resolution 521 by title and stated that staff recommended approval of the agenda item. She stated this resolution allowed the Town Manager to execute the documents to carry out the sale of the properties. Councilmember Tameron explained that he would abstain from voting on this item because he was purchasing one of the above properties.

MOTION: Councilmember Tomerlin made a motion to accept Resolution 521 as read. Councilmember Peralta seconded the motion.

ACTION: *The motion passed. 5 aye votes, 1 abstain.*

Ayes: Mayor Hing, Vice Mayor Lopez, Councilmembers: Peralta, Tomerlin & Gutierrez

Abstain: Councilmember Tameron

11. Discuss/Approve/Reject Don Petrone's offer to quick deed 226 Pinal Ave. to the the Town of Superior for the use of a park or community garden.

Ms. Oliver and Ms. Pamela Rabago each assisted in presenting this item. Ms. Rabago explained that Mr. Petrone wishes to quick claim deed the property to the town as he is no longer able to care for the property or bring it up to code. She explained that he would be willing to do this if the Town would build a park or community garden.

Discussion followed on the property and it's exact location. It was discussed that this used to be the old mortuary and had a well/windmill on it. Ms. Rabago stated that you cannot sell property that is quick claim deeded only property that has a warranty deed. She explained the difference and procedures. Mayor Hing suggested that staff do a little more research to ensure taxes are up to date and for any affect by the tailing dam break aka Northwest Study.

MOTION: Councilmember Tomerlin made a motion to table this item and direct staff to do more research. Vice Mayor Lopez seconded the motion.

ACTION: *The motion passed unanimously.*

I. CALL TO THE PUBLIC:

Mayor Hing reminded the members of the public that they may make their comments directly to the Mayor.

Sonny Samson, expressed his concern that there are too many heavy haul trucks traveling down Main St. He suggested that the mine traffic use the Magma Ave. Entrance. He also expressed his concern about the drug houses in town and asked what the town can do about it.

Freddy Miramon, greeted the Mayor, Council and staff. He updated the council on the BHP Northwest Study meeting and he suggested that the town should play a more active role in making sure the residents of that area are aware of the study and reclamation. He suggested that there be more of an Open Forum meeting versus just an open house. He also suggested that there be a bulletin board in that neighborhood so residents can get all the information.

He also congratulated the newly elected and appointed Councilmembers. He reminded them that they represent Superior and encouraged them to use professionalism and other key value traits. He made several suggestions on how the council could better work with the staff and the staff with the community. He stressed communication between the council, staff and the community.

Mayor Hing Announced there were no items for the executive session. He moved onto Council Comments.

J. EXECUTIVE SESSION:

The Town Council may or may not vote to go into Executive Session pursuant to ARS38-431.03 (A-1) & (A-7).

A-1 –PERSONNEL: A-3 LEGAL ADVICE WITH ATTORNEY:

A-7 – LEGAL ADVICE ON SALE, LEASE OR PURCHASE OF REAL PROPERTY

K. COUNCIL COMMENTS:

1. Councilmember Aguilar

Absent

2. Councilmember Peralta

No Comments

3. Councilmember Gutierrez

Councilmember Gutierrez congratulated the new members to the council. He stated that he is looking forward to working with them over the next few years. He mentioned the improvements on the LOST trail where the Arizona Water Company is placing the underground water pipeline. He also commented on the heavy haul trucks and said at times these trucks get misplaced when making local deliveries. He comments on the drug houses and stated that the Police Department has made many efforts but the residents still need to report it and turn their family and friends in as needed. He encouraged the residents living in the Northwest Study area to contact BHP and reach out for the information as well.

4. Councilmember Tomerlin

Councilmember Tomerlin said that he has had an inside look of the Police and Fire Departments. He complimented that both entities were communicating seamlessly during the last two fires and that he was very impressed with their work.

5. Councilmember Tameron

No Comments

6. Vice Mayor Lopez

Vice Mayor Lopez invited everyone to attend a meeting with the Kennecott Lands Group who will be doing a values study on the community. She stated that the meeting will be on June 9th at 6pm at the Superior Jr./Sr. High Multipurpose Room.

She also stated that they requested a copy of the goals and objectives for the Town Manager and the Chief of Police, and that they have not received it. She requested that it be provided soon.

She also requested that the police department consider hosting an open house on the drug issues to educate the public on what they are doing to stop some of the drug problems.

7. Mayor Hing

Mayor Hing congratulated Ms. Peralta, Ms. Lopez, & Mr. Tameron on being sworn in as council members to the council. He stated that he looks forward to working with them.

L. ADJOURNMENT:

MOTION: Vice Mayor Lopez made a motion to adjourn the meeting. Councilmember Peralta seconded the motion.

VOTE: *The motion was approved unanimously and the meeting adjourned at 9:36 pm*

CERTIFICATION:

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Town Council of the Town of Superior held on the 2nd day of June 2011. I further certify that the meeting was duly called and held and that a quorum was present.

/s/

Melanie Oliver _____

Melanie Oliver
Town Clerk/Manager

These Minutes were compiled and transcribed by

Mila Lira

Miracle Executive Services

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*Final editing of these minutes and their content is completed and verified by staff members of the Town of Superior.