

**Town of Superior  
Regular Council Meeting  
Thursday, June 7, 2012, 7:00 P.M.  
Superior Senior Center  
360 W. Main Street, Superior, AZ 85173  
MINUTES**

**A. CALL TO ORDER**

Mayor Jayme Valenzuela called the meeting to order at 7:04 p.m.

**B. SALUTE TO THE FLAG**

Mayor Valenzuela led the Salute to the Flag.

**C. OPENING PRAYER**

Mayor Valenzuela led the opening prayer.

**D. ROLL CALL**

**Present:** Council Members Hank Gutierrez, Chris Tomerlin (arrived at 7:38 p.m. after roll call), John Tameron, Gilbert Aguilar, Soyla “Kiki” Peralta, Mayor Jayme Valenzuela and Vice Mayor Olga Lopez; **Absent:** N/A

**E. CONSENT AGENDA**

1. Approval of Minutes for Work Session and Regular Meeting of May 17, 2012

**MOTION:** Vice Mayor Lopez moved to approve the minutes for the work session and regular meeting of May 17, 2012. Council Member Aguilar seconded. **VOTE:** The motion passed unanimously.

2. Approval of Alcohol Beverage Permit—June 30, 2012. Robert Mendoza would like to hold a fundraiser Horseshoe Tournament at the U.S. 60 Park from 10 a.m. to 8 p.m.

**MOTION:** Vice Mayor Lopez moved to approve the alcohol beverage permit for June 30 Council Member Aguilar seconded. **VOTE:** The motion passed with a vote of 4-1. Council Member Gutierrez was opposed. Council Member Tomerlin had not yet arrived.

3. Approval of Minutes for Executive Meeting of May 17, 2012

**MOTION:** Council Member Tameron moved to enter executive session. Council Member Aguilar seconded. **VOTE:** The motion passed unanimously.

Council entered executive session at 7:13 p.m. and returned to open session at 7:30 p.m.

**MOTION:** Council Member Aguilar moved to approve the minutes. Mayor Valenzuela seconded the motion.

**VOTE:** Council Member Gutierrez voted aye. Mayor Valenzuela voted aye. Vice Mayor Lopez abstained. Mr. Tameron abstained. Ms. Peralta abstained. Mr. Aguilar voted aye.

Attorney Wencker advised that if the abstentions were for a conflict of interest and would prevent council from taking action, they could declare their conflict of interest and vote so that council could have a quorum. Mr. Tameron said he was abstaining because he had a conflict, first of all because he left the room because of what was on the agenda. Ms. Lopez said she was abstaining because she wasn't there for that portion of the meeting. Mr. Wencker indicated that in order for the Minutes to be approved, there needed to be a quorum of the Council—which would require four (4) Council members eligible to vote.

**MOTION:** Vice Mayor Lopez moved to table the item. Council Member Peralta seconded.

**VOTE:** The motion passed unanimously.

A quorum being present later in the meeting before adjournment, the executive session minutes were approved as follows:

**MOTION:** Council Member Aguilar moved to accept the minutes of the executive session. Council Member Tomerlin seconded. **VOTE:** The motion passed unanimously of those voting. Mr. Tameron, Ms. Lopez and Ms. Peralta abstained.

## **F. REPORTS**

N/A

## **G. COMMUNICATION**

### **1. Manager's Report—Interim Town Clerk Rita M. Wentzel**

Ms. Wentzel reported and responded to questions regarding "Superior scenery ..." in the June 3, 2012 Arizona Republic; open house invitation from Resolution Copper for June 13, 2012; Auditor General's Office correspondence regarding the Performance Audit, Pinal County Transportation Excise Tax Report No. 11-05; public works employee termination and part-time job opportunity; kennel custodial part-time job opportunity; police dispatcher resignation June 8, 2012 and full-time job opportunity; police detective June 1, 2012 resignation, position to remain open; repair and return to service of Rescue 632; fire department receipt of \$1,000 funding from Resolution Copper; Pinal County Attorney \$5,000 RICO contribution for summer recreation program; schedule/hours for aquatics center; update on expanded summer recreation program; check presentation by Chief Digirolamo to Elizabeth Magallanez for Superior Substance Abuse Coalition.

Regarding the expanded summer recreation program, Ms. Wentzel recognized Parks & Recreation Director Barbara Arriola. Ms. Arriola said she had not been advised of the items on the schedule. Ms. Wentzel said since Ms. Arriola had been off due to an injury, Ms. Mila Lira had been assigned to put a program together. Mr. Pete Casillas of the Recreation Board

had helped. Ms. Arriola discussed having asked for funds from a previously received RICO contribution that was for recreation and being told that it had been earmarked. Ms. Wentzel said this perhaps was not the best venue to address these issues but that the council now had Ms. Arriola's thoughts. Ms. Arriola said she had asked about having a pool party. Ms. Wentzel and also the mayor said a pool party was on the schedule.

Regarding the check presentation to the Superior Substance Abuse Coalition Chief Digirolamo said that last month he had attended the Cinco de Mayo alcohol/drug free festival in Superior. Looking at time and expense that goes into that, he decided they should try to give some RICO money. He presented a check for \$300 from the Superior Police RICO fund to help pay for past or future SSAC events. He committed to try to continue providing funds for events as SSAC is doing a great job.

Ms. Elizabeth Magallanez of SSAC received the check and thanked the chief for coming to their meetings and the check on behalf of the police department. She said SSAC had a very good town hall meeting last year and are closer to updating their strategic plan. They can't do that without assistance from the community so thanks for all their help.

#### **H. CALL TO THE PUBLIC**

No one answered the call to the public.

#### **I. BUSINESS, POSSIBLE DISCUSSION AND/OR ACTION ON THE FOLLOWING:**

1. Discuss/Approve/Reject: Arizona Department of Environmental Quality Inspection of Superior Solid Waste Transfer Station; Watershed: Middle Gila; Insp. ID: 185074

Ms. Wentzel presented the findings of the report from the ADEQ inspection of the Superior Solid Waste Transfer Station. She referenced the report attached to their packets. This was for discussion only and no action was required. Mr. Gutierrez asked what this really meant. Ms. Wentzel said they were concerned about the potential for ponding. They do have the permit for the wastewater treatment plant but they were concerned there might be areas perhaps next door that did have pollution. They wanted to make sure before they issued the notice of violation, which is next on the agenda, that there were no additional issues. They didn't see any ponding. There is potential for ponding so they needed to address that outside of the scope of this or the other inspection. Mr. Aguilar said he thought they were going to start burning. Ms. Wentzel said they were not until they actually had the action plan to make sure they were not doing the wrong thing.

2. Discuss/Approve/Reject: Arizona Department of Environmental Quality Notice of Violation Issued to Town of Superior—Solid Waste Transfer Station

Ms. Wentzel said a notice of violation was issued on the 17<sup>th</sup> and received on May 31 by ADEQ regarding the solid waste transfer station in follow-up to their March 1, 2012 inspection. A notice of violation is an informal compliance assurance tool used by ADEQ to put a responsible party, which in this case is the Town of Superior, on notice that a violation in environmental quality has occurred. This provides the opportunity to take several steps before enforcement action. She advised of the steps and time frame. She said the

recommendation is to authorize the town clerk to meet with ADEQ to discuss an aggressive action plan to remedy all six violations to compliance standards, to include publishing any necessary request for proposals to obtain consultant assistance in clean-up efforts.

**MOTION:** Vice Mayor Lopez moved to authorize the town clerk to meet with representatives from ADEQ to discuss an aggressive action plan to remedy all six violations to compliance standards, to include publishing any necessary request for proposals to obtain consultant assistance in clean-up efforts. Council Member Tameron seconded. **VOTE:** The motion passed unanimously.

3. Discuss/Approve/Reject: Sale of 669, 679, 681 Main Street property with conditions

Mr. Gutierrez asked whether they had voted on this before. Ms. Wentzel said there had been new requests. Mr. Gutierrez asked if this vote would supersede the previous. Mr. Wencker advised that if circumstances had changed they could take action on an item again. He said there was an executive item on the agenda for this and advised they have the executive session first. Mayor Valenzuela said they would move on to Item I-7 and move I-3 towards the end. Consideration of I-7 then took place, followed by an executive session (**See J, EXECUTIVE SESSION**) and then consideration of I-3, I-4, I-5 and I-6.

**MOTION:** Council Member Peralta moved to reject the sale of property at of 669, 679 and 681 Main Street and take the property off the market. Council Member Tomerlin seconded. **VOTE:** The motion passed 4-1. Vice Mayor Lopez voted no. Council Member Tameron abstained.

4. Discuss/Approve/Reject: In lieu of Chief Digirolamo's allowance for a take-home vehicle, provide a \$400 per month vehicle allowance.

**MOTION:** Council Member Peralta moved to approve that in lieu of Chief Digirolamo's take-home vehicle they provide a \$400 per month vehicle allowance.

Mr. Gutierrez asked why they were revisiting this when they already voted on it. He thought they voted on the status quo. Were they talking about one individual? Ms. Wentzel said the item on the agenda was for one individual. Mr. Gutierrez asked her to explain how this fits in a contractual view. Mr. Wencker explained. Mr. Gutierrez said he understood. But, he wanted to go over that at the last session council had given an approval and staff decided to go in a different direction beyond council approval. He had a problem with that. They took a vote as a council. Mayor Valenzuela said that was why they were taking another vote. Mr. Gutierrez said he knew that but staff took it upon themselves not to act on their initial vote. He knows where they are going with this but he is saying he has a problem when they take a vote and staff decides to go in a different direction.

Council Member Tomerlin seconded the motion.

Ms. Peralta said she was the one who requested it be brought back since she wasn't there last time. She found it offensive that the council did not support the administration's recommendations. They need to support her and do what she says, so they can get out of the hole.

Mr. Gutierrez said that was up for discussion.

Mayor Valenzuela said there was a motion and a second and asked for all those in favor.

**VOTE:** The motion passed 6-1. Council Member Gutierrez voted no.

5. Discuss/Approve/Reject: Request from Chief Luigi Digirolamo to be reimbursed \$120 for use of his personal vehicle for six days from May 23, 2012 through May 31, 2012

**MOTION:** Council Member Tomerlin moved to approve the request from Chief Luigi Digirolamo to be reimbursed \$120 for use of his personal vehicle for six days from May 23, 2012 through May 31, 2012. Council Member Peralta seconded. (Following her second, Council Member Tameron also said that he seconded).

Mr. Gutierrez asked what this item was about. Mr. Tomerlin called for the vote. The mayor said he would give Mr. Gutierrez a chance to discuss. He asked Ms. Wentzel for a briefing. She said that based on the information provided in Action Item #4, Chief Luigi Digirolamo made arrangements to drive his personal vehicle to and from work in lieu of his assigned Town vehicle. His contract provides for either use of a vehicle or remuneration of \$400 per month. Based upon 22 business days in May, this would cost \$18.181 per day or \$109.086 for six days. Chief Digirolamo is asking for \$20 a day for each of the six days or a total of \$120. This stipend is considered taxable income to the employee. The recommended motion is to provide staff with direction regarding payment to Chief Digirolamo for use of his personal vehicle for six days in May.

Mr. Gutierrez said there have been a lot of resources on these topics with the police department. The differential is \$1.81. He doesn't know how much time she spent on it. Why is staff coming to council to authorize? He asked where the line is between what staff does on a day-by-day basis as opposed to taking the time of council for \$1.81.

Mayor Valenzuela said he didn't think that was the issue. He thought it was the issue of the contract they discussed earlier.

Mr. Wencker said he believed it is appropriate for the council to take action on this for two reasons: The Town Marshal/Chief of Police generally reports to the council, and also the contract clause at issue that relates to the take-home vehicle versus the allowance specifies that the town council approve that decision. He believed it appropriate that the council vote on it, even though it is only a request for \$120. Did that answer the question?

Mr. Gutierrez said yes. It is primarily for clarification of process and how they deal with the departments between this body, since they don't have a town manager and their mayor is giving direction to their clerk for a lot of things.

Mr. Tomerlin called for the vote. There were further comments and then the mayor also called for the vote.

**VOTE:** The motion passed 6-1. Council Member Gutierrez voted no.

6. Discuss/Approve/Reject: Regarding settlement of a claim made by Luigi Digirolamo and Michael Campbell

**MOTION:** Council Member Peralta moved to table until further information is obtained. Council Member Tameron seconded. **VOTE:** The motion passed unanimously.

7. Discuss/Approve/Reject: Schedule budget work session(s) for 2012-2013 Town of Superior budget and Property Tax Levy and potential Truth in Taxation hearings

Ms. Wentzel said this is the time of year when cities and towns develop their fiscal year budgets. A tentative budget must be adopted before July 16. Property tax levies must be evaluated and identified for the upcoming year. If the proposed primary property tax levy, excluding amounts attributable to new construction, is greater than the amount levied by the town in a previous year, Truth in Taxation hearings must be held. A public hearing on the budget, property tax levy and Truth in Taxation hearings if necessary must be held no later than August 6, 2012. At this time, the final proposed budget should be adopted. The property tax levy must be adopted no later than August 20, 2012. Attached is the 2012-2013 Budget Calendar provided by the League of Arizona Cities & Towns. The recommendation is to direct staff to schedule three budget work sessions as needed to approve the 2012-2013 tentative budget and property tax worksheet. The suggestions she offered were Thursday, June 14 between 4-9 p.m., Thursday, June 21 from 5 to 7 p.m. before the council meeting and Thursday, June 28 from 5 to 8 p.m. There was a discussion of the dates and times and scheduling these tentatively.

Mr. Tameron also asked Ms. Wentzel if they had been told by the League of Cities and Towns that they were looking at any types of cuts. Ms. Wentzel reminded him that last year their property taxes were in violation of Truth in Taxation so even though they raised their property tax rates, they were not allowed to receive all of that revenue. So this year it may be not that there is more money coming in a revenue stream but that they'll be able to receive more money without actually increasing rates. Re State Shared Revenue without HURF and excise tax included in that statement is pretty flat. There is no drastic reduction or increase expected. Re HURF and excise tax there will be some increases.

**MOTION:** Vice Mayor Lopez moved that they go with the tentative dates. Council Member Tomerlin seconded. **VOTE:** The motion passed unanimously.

## J. EXECUTIVE SESSION

The Town Council may or may not vote to go into Executive Session pursuant to ARS 38-431.03 (A-1), A-3) & (A-7)

1. A-1—PERSONNEL: The Mayor and Council may vote to go into executive session pursuant to A.R.S. section 38-431.03(A)(1) for discussion or consultation for legal advice with the Town's attorney or attorneys regarding modification of Employment Contract.
2. A-3—LEGAL ADVICE WITH ATTORNEY: The Mayor and Council may vote to go into executive session pursuant to A.R.S. section 38-431.03(A)(3) for discussion or consultation for legal

advice with the Town's attorney or attorneys regarding legal advice with the Town Attorney regarding possible settlement of a claim made by Luigi Digirolamo and Michael Campbell.

3. A-7—LEGAL ADVICE WITH ATTORNEY REGARDING SALE, LEASE OR PURCHASE OF REAL PROPERTY: The Mayor and Council may vote to go into executive session pursuant to A.R.S. section 38-431.03(A)(7) for discussion or consultation for legal advice with attorney or attorneys regarding the 669, 679, 681 Main Street property.

**MOTION:** Council Member Tomerlin made a motion to move into executive session regarding Item J-1, J-2, J-3 allowing the mayor and town council in, Interim Town Clerk Rita Wentzel, Town Attorney Chris Wencker and their minute taker Cindy Tracy. Vice Mayor Lopez seconded. **VOTE:** The motion passed unanimously. Council entered executive session at 8:09 p.m. and returned to open session at 8:50 p.m.

#### K. COUNCIL COMMENTS

**Council Member Peralta:** N/A

**Council Member Aguilar:** Said when comments came out in the paper he wished the whole truth came out in these articles, that the whole truth is told, not just part of it, because it reflects on the council members. He got a call that day from his human resources about this. He takes his job seriously. When things come up like this, he is not too happy about it because it should never have been to that point. He hoped again that they come together as one. This town, this council, everybody has to come together and start doing things for the best of the town. It is not about him or you, it is about the town. When are they going to learn that? He is getting tired of it. He is so tired of seeing this, hearing about this. Aren't they going forward a little bit? To him things are starting to get better. He guessed not all of them felt the same way. This council needs to come together. This staff needs to come together. They have got to quit playing games. Let's do what is best for this town.

**Council Member Gutierrez:** Said he sees the paper but some of those questions are the same kind of questions he would ask. He is not one to just read in the paper. He needs to do some fact finding, do some research to find out. He is not one to just get the paper and bring it to the council. Some of those are really legitimate. He kind of wonders who is helping this individual write those articles because it is kind of interesting. But beside that point, he is still not clear when he comes to the meetings, the reporting structure of what they have on this council. He agreed with Mr. Aguilar but a lot of it has to do with they don't have a town manager. They have a mayor who is not in town who is giving responsibilities to a clerk. That is part of it. That is causing some issues in the long term. They have to recognize that. He thought they had to find a way to get a town manager as opposed to the way it is structured, because they have an absentee mayor who is out of town. He doesn't blame him for sitting there because you have to allow somebody to be the day-to-day operations and having finance do day-to-day and not having a town manager is really the wrong way to go. They have to find a way to do that ultimately in their budget session. He is still not clear of the reporting structure within their structure. There are some generalities. He would like to see a staffing chart from staff and he thought he had asked for that before and they haven't responded. He is looking for a staffing chart, hiring, who is working. He still does not have a clue. He sees that they have Miracle Executive doing something for the community and what Barbara is doing. They are paying

somebody for somebody that is volunteering. He thinks there is money involved there. He is just trying to get a handle on that. He would like to see reports from the staff on the cemetery operation. They don't talk about the cemetery. He wants to know what their revenues are, what their interments are. With the cemetery it seems there was a lot more going on; all of a sudden it is pretty quiet. He can't believe it can be that quiet that soon so he would like to find out what the cemetery is up to. Also, he said he was driving down Stone and a property on Stone was cleaned up; there was someone living there that had parts and all that. That was on a Friday and when he drove by on a Monday it was all cleaned up and he thought, what happened. He saw a tractor and knew these individuals couldn't probably do that so he started asking questions and found out the town was involved in this. He wanted a report from the clerk as to the status, who did the clean-up, who was involved, where was it taken, and all that. Back to voting, the reason he made a big deal about what they voted on is that they have a democratic process. They voted on certain things, staff took another direction. That is the way he looks at it. Regardless, there were changes made that may or may not put the community in jeopardy, so they have to be careful when they do things like that. It is easy for them to sit there and take the vote really quick, make a motion, no discussion and right to the second. No. He wanted to get out of there but that is not the way you run a government. They have to give everybody an opportunity to have a discussion. He looks forward to the budget. He thinks they talked about it right from the get-go. He brought it up when new staff came on that they had to start the process sooner than later because they are going to run into conflicts with vacations and all those other things and there they are. Hopefully, they have adequate time and their council members there can find it because this is a very important component of what they are going to do for 2012-2013. He knows it is tough. He doesn't like coming there and staying four or five hours but this is one time of year they have to. So he looks forward to that and wishes they had started the process sooner but they haven't. He said to Mr. Aguilar that is what it is all about; sometimes the democratic process is kind of ugly. And, he does want this community to be on the right track. They have to look forward to growth. Growth is on its way. They have a lot of structural things they have to work on, not only on infrastructure, but even between them. He thinks they are doing good. Besides what people may see, overall they are doing good. Even though there are some questions he is going to bring up on the budget, he thinks overall they are going in the right direction.

**Council Member Tomerlin:** Said to Mr. Aguilar that he agreed with him 100 percent. To Ms. Rita Wentzel: She and staff are doing an excellent job right now also. He has heard very few complaints. He has heard everything being addressed quickly and for what she had to work with she is making it work. He didn't know how she managed to take "this" and make it into "this" but whatever it is she is doing, keep doing it. Also expect him in for his weekly check-in.

**Council Member Tameron:** Said when he was appointed and sworn in to the council, he asked a question about the audit: "Where are we with the funds." The answer was they didn't know. He asked that the auditors come and give them an update on where they were. How can they do a budget and not know where they are at? He thinks the reason they are coming into this so late is they are still working on the audits, because they still don't know where they are at. Yes, it is late and budget time again. But they did it last year and he thinks they can do it this year with better vision of where they are at.

**Vice Mayor Lopez:** Said she thinks they are on the right track. They had a very rough year. They knew that going in. They have new staff. They are doing the best they can with the information

they have. They have had some contractors come in and help. That has been a big saving. If anybody from the council can go in and volunteer time, she is sure Rita Wentzel can find some jobs for them to do on a regular basis. They are not always going to please the public out there. She is sorry they can't. They knew that from the get-go, so they are just trying to do the best they can with the information they have. Yes, it is hard to do a budget when they don't know what the last few years have done, what is in them. They are getting it together. She said, "We try to be patient and understanding. I think they are doing a good job and I appreciate it." She said they all need to come together. They are not always going to agree; maybe that is why the job is to agree to disagree, but the main thing is to move forward, make sure they are going in a forward direction.

**Mayor Valenzuela:** Said he had a couple of comments and they are in reference to Mr. Gutierrez:

"I don't know. I think I was sitting in the same meeting you were when we discussed the clean-up of Stone, when we discussed the staff recommendation about what we thought staff should do for budget cuts. We all sat in those same meetings. So for you to come here and say that you don't know is (sentence unfinished). I challenge anyone else on the council. I didn't make the decision on my own. It was made right here by this council. It was made right here and the direction was given. I am not micromanaging. Like he says, I am not here in town, and I don't want to micromanage the town. That is why we have a clerk for that position and a vice mayor and the council. That is why we have department heads, for them to step up and do their job. Spend less time out there spreading rumors and do your job. That is what he is telling department heads. If people have questions, send them to us. We'll answer the questions. I'll answer the questions. I have no problem answering the questions. What we're doing is for the betterment of this community, not for the betterment of a few, like Mr. Aguilar said. You know what? The rules apply to everyone now. The rules don't apply to certain people only. The rules apply to everyone. Just like I said in a meeting a couple of weeks ago and I'll say it again today because I am not afraid to say it, 'The bus is going forward; it is not going backward.' Let's get on and let's make Superior better. This structure, Hank, that you talk about, too, it's been in place for the town clerk, the town manager to act in the absence of the council. We're not here to micromanage her job in the day-to-day operations of the town. I'm not going to do that. That's not what I want to do. That's not what I signed on to be the mayor for. I signed on to help this community move forward, not micromanage it. So, like I said, we all need to just get along and like Ms. Lopez said, we're not going to get along. We're not always going to make decisions that make everybody on this council happy or make everybody in the public happy, but I think we're moving in the right direction. Financially, we're moving there. We're hurting, though, financially. We're in trouble. We're still in trouble. We can't see the light yet. The light is very bleak still. And, I'll say it here again. It is because of decisions that were made in the past and we have to move forward from those. But I take ownership of those decisions and we're going to fix them. We're going to make it right."

He also commented that he didn't see the Life Alert system on the agenda. He said to Chief Digirolamo that he had said he would have someone there at the next meeting for that system to be put in place. Chief Digirolamo said it had been postponed.

He also commented to Public Works Director Jed Lant that he had asked him to put things in the paper about the swimming pool. Could they get that information out there? Mr. Lant said he had sent it in. Mayor Valenzuela asked him to make sure it happened.

He said that was all he had for the night and “thank you.”

**L. FUTURE AGENDA ITEMS**

1. H.B. 2826 modifying the consolidated election dates for political subdivisions
2. David Smith presentation regarding Lot #3, Superior Industrial Park
3. Update regarding the IGA with Pinal County for Animal Control services
4. Provide dedicated communications line to monitor calls from alert pendants

Ms. Wentzel said Items L1-L4 needed to be put on the agenda in the near future.

**M. ADJOURNMENT**

**MOTION:** Council Member Tomerlin moved to adjourn. Vice Mayor Lopez seconded. **VOTE:** The motion passed unanimously. Mayor Valenzuela adjourned the meeting at 9:15 p.m.

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Council Meeting of the Town Council of the Town of Superior held on the 7<sup>th</sup> day of June, 2012. I further certify that the meeting was duly called and held and that a quorum was present.

/s/

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**Rita M. Wentzel, Interim Town Clerk**

These minutes were compiled and transcribed by Cindy Tracy, an independent contractor. Final editing of these minutes and their content is completed and verified by Town of Superior staff members.