

**Town of Superior
Regular Council Meeting
Thursday, July 19, 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 7:08 p.m.

B. SALUTE TO THE FLAG

Mayor Valenzuela led the Salute to the Flag.

C. OPENING PRAYER

Council Member Chris Tomerlin led the opening prayer.

D. ROLL CALL

Present: Council Members Hank Gutierrez (via phone from 7:19 p.m.), Chris Tomerlin, John Tameron, Gilbert Aguilar (arrived 7:14 p.m. following roll call), Mayor Jayme Valenzuela and Vice Mayor Olga Lopez; **Absent:** Council Member Soyla “Kiki” Peralta

The Mayor and Council may vote to go into executive session for legal advice with the attorney or attorneys of the public body, pursuant to A.R.S. section 38-431.01(A)(3) or for discussion or consideration of records exempt by law from public inspection, pursuant to A.R.S section 38-431.01(A)(2), on any item listed on the agenda.

E. CONSENT AGENDA

1. Approval of Minutes for the Work Session and Regular Meeting of July 11, 2012
2. Approval of Blanket Permit for Michael Trevino—Marcos Maderid to fundraise for a Basketball League for kids
3. Approval of Blanket Permit for Candy Hollenbeck to fundraise for rebuilding Sylvia Longoria’s residence
4. Approval of Minutes for Executive Session Meetings of June 7 and July 11, 2012

MOTION: Mr. Tomerlin moved to approve the consent agenda. Vice Mayor Lopez seconded.

VOTE: The motion passed unanimously.

F. REPORTS

1. **Fire Department:** Public Safety Director/Police Chief Lou Digirolamo reported and responded to questions for Fire Operations Chief Todd Pryor, who had a scheduling conflict. Topics included grant applications made to Homeland Security for an Assistance to

Firefighters Grant and one for a wildland brush truck, as well as the department's Hepatitis B Vaccinations, NIMS Compliance Policy, and updates on vehicles and code enforcement.

2. **Police Department:** Chief Digirolamo said there was a three year average of calls in the month of June of approximately 261. Arrests over that period were up slightly. Citations are down and he attributed that to officers on leave: one on industrial and one on sick leave. He said they were back. He also discussed Part 1 Crime stats and EMS stats for police and fire. Mayor Valenzuela asked about dispatching for QV Fire. Chief Digirolamo said yes. They had done it on a volunteer basis and he explained the details of the Memorandum of Understanding. Superior had taken it on. It passed council. Now they are talking about charging approximately \$200 a month for the dispatch. The Chief also talked in generalities of a narcotics search warrant they had executed in Superior and the outcome.
3. **Public Works Department:** Public Works Director Jed Lant reported and responded to council questions. Areas covered included public works hours and activities and the Planning and Zoning Commission. He said the next P&Z session will be a review of changes made to the zoning ordinance before it is to be rewritten and given to council for approval.
4. **Library:** Library Director Josie Campos said the library was okay. They were still hanging in there. She gave June circulation, monies collected and client stats. From August 3-9 CAC will be coming on to the online system and migrating records. The library and public will not be able to use the computers. She had talked to Ms. Wentzel to see if they could close that week. There is some training at the county for the staff and it will also give them time to weed out the collection and do anything they need to do without interruption. It will be posted and also be in the newspaper. She answered questions from council on the summer reading program and circulation.
5. **Senior Center:** Ms. Wentzel reported on the senior center. She asked Senior Center Director Debbie Casillas to come and stand by her to answer questions. Ms. Wentzel gave stats on the center's usage. Mr. Tameron asked the meaning of ALTCs-60+ in the stats. Ms. Wentzel said it was Arizona Long Term Care Service. The mayor asked if any of the seniors had responded or the information gotten out about attending the Diamondbacks game on Tuesday. Ms. Wentzel said she thought the next day they would know for sure.
6. **Finance:** Ms. Wentzel reported that during the month they had received \$125,752 in the General Fund, \$93,140 in the Enterprise Fund, \$9,061 in the Special Revenue Fund, and in Grants \$1,005. The monthly total revenue was \$228,777. She said this month they would see in the Enterprise a significant amount in the ambulance revenue. She didn't know why collections were up but it was good. Not as good news was accounts payable; up to last month they had their payables down to \$70,000 and were current up to 30 days. This month they fell short because revenues are cut in half during the summer; they also had the large GADA Loan payment during the month so they show a total of \$150,964.61 in outstanding payables. It was going to be a difficult time during the summer and they may be hearing from some of their vendors. Hopefully, they can resolve some of these issues.
7. **Parks & Recreation:** Ms. Wentzel said this was not on the original agenda but had been added. She referred them to a report in front of them on the summer recreation. Ms. Mila Lira would explain how the program had gone. As a reminder, the County Sheriff and the

County Attorney each gave them \$5,000 for the recreation, so they had a total of \$10,000 to spend and they had created some programs that had never before been offered in Superior. As Ms. Campos had said, it in a way diminished the summer reading program, which they did not intend but now they know for next year they don't have to overlap it. But they have had some really positive response, been able to put on a lot of programs and hopefully be able to continue. She then introduced Ms. Lira who presented details and a full report on the summer program and activities. She said she felt this was a really good kick-off to continue traditions that were important to the community.

G. COMMUNICATION

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

Ms. Wentzel reported and responded to questions on items of communication, including: Letter of Resignation from Public Works Director Jed Lant, Notice of Hearing regarding the Salt River Project application for a Certificate of Environmental Compatibility authorizing the relocation of approximately one mile of the Superior-Silver King 115kV transmission line, Rural Water Association of Arizona Notice of Annual Membership Meeting and Board Elections on Tuesday, Sept. 28, 2012 at 9:45.-10:45 a.m. at the Hon-Dah Resort and Casino in the White Mountains, Request from Taylor Luke to make a Music Video in Superior, Arizona and utilize Main Street and the Magma Club on August 10-11, 2012, and Employee Recognition. Employees recognized included Council Member Chris Tomerlin for his achievement in obtaining his GED in an Arizona high school equivalency program, former Parks & Recreation Director Barbara Arriola for her many years and countless hours devoted to the recreation department, Library Director Josie Campos in recognition for her retirement from and for 24 years of dedicated service to the town, and Public Works Director Jed Lant in appreciation for his valuable contribution to the town.

H. CALL TO THE PUBLIC

Lois Schablow: There to speak on BHP cleanup. She had concerns regarding contaminants from the mining industry. She read a portion of a 1992 letter written by her brother regarding the impact on family. She also has symptoms of heavy metal toxins.

Council Member Tameron: Asked Ms. Schablow where she had resided then and she gave the address.

Janette Allison Wickwire: Spoke as a follow-up to Ms. Schablow regarding exposure to contaminants. She gave information to council about the effects of exposure. Lawyers look at the children. Also being looked at is acid rain from tailings. The town will need to take some responsibility to look into exposure. It affects the DNA and the next generation of children. Miami-Globe and Hayden did do some actions against the mine and Miami did win.

Robert Hernandez: Had concerns about his health due to this contamination. How long is he going to live? Once it is there it is not going away. Why are they not informed? Police tactics are being used to keep them quiet. He also had a concern about misappropriation of funds.

Anna Natal: Gave paperwork to council. She had concerns about chromium and other metals in the water and made further comments.

Lois Schablow: Added concerns about lead and copper coming off of her dad's property. She also advised everyone to use bottled water.

Freddie Miramon: Spoke about BHP. They have heard a lot of testimony. There are probably more who haven't come out and given their testimonies. There are a lot of questions that haven't been answered. He understood BHP was supposed to give the public quarterly input, telling them what is going on. He doesn't see that. He was talking to some town staff members that they had to move forward on that. He hoped BHP does come and tell them what is going on. He wondered if the town attorney could represent them if there is a meeting.

Mila Lira: Was at Chamber luncheon the day before. She wanted to commend Mayor Valenzuela and Ms. Wentzel for really going in depth on the budget. She thought they all knew what they were up against and really, really difficult times in the community. They can all work together. She commended the council. Having had the opportunity to work with the town for a long time, it is rough to see daunting things ahead but she thinks they are headed in the right direction. They can move forward together if they put some things aside and bring out what they need to do to keep things moving and continue to move forward.

Janette Wickwire: Said her brother died of mercury poisoning at age 11. Her niece, when she was a year old, had copper poisoning. There are things going on. They need to have it checked.

Lois Schablow: Asked about a \$400,000 allocation for a campground and for the people. What happened to all of these things? Where did that money go?

Mayor Valenzuela: Commented on the Northwest Study. They are addressing that. It is not falling on deaf ears. They are meeting with BHP currently. They have been in contact with them. They have had meetings in the Phoenix area. They meet again in two weeks. From that meeting will hopefully be an open house where people can come and ask questions. They are bringing it to the table. They have challenged them on it and they are willing to come out now. ADEQ will be coming to those meetings also. They are working on it. He also commented that the \$400,000 comes when the land exchange is passed.

Council Member Aguilar: Commented on how it was addressed that the town is supposed to have money. But monies go into different areas and you can't always use it for other areas. It doesn't all go into one pocket.

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

1. Presentation: Draft of the 2009-2010 Annual Financial Statement and Independent Auditor's Report, Annual Expenditure Limitation Report and Report on Internal Controls over Financial Reporting and on Compliance and on Other Matters Based on an Audit of Financial Statements by Scott Powell, Colby & Powell, PLC.

Mr. Scott Powell of Colby & Powell presented the draft audit report and related reports and other matters for FY 2009-2010. He discussed various details and points in the audit and responded to council questions. *(Audit documents on file with TOS)*

2. Discuss/Approve/Reject: Approval of the draft of the 2009-2010 Annual Financial Statement and Independent Auditor's Report, Annual Expenditure Limitation Report and Report on Internal Controls over Financial Reporting and on Compliance and on Matters Based on an Audit of Financial Statements as presented by Colby & Powell, PLC

Ms. Wentzel said Mr. Powell had provided the council with the FYE 2010 audit and answered questions. The recommendation was for approval.

MOTION: Mr. Tomerlin moved for approval. Ms. Lopez seconded. **VOTE:** The motion passed unanimously.

3. Discuss/Approve/Reject: Adoption of the Town of Superior Tentative Budget for 2012-2013

Ms. Wentzel said the council had held several work sessions with the staff to review the budget figures and discuss. She stated deadline and publishing dates for the budget so they could hold a public hearing on August 2 prior to the date for adoption of the final budget. The fiscal impact of the budget is \$4,039,624 budgeted expenditures and expenses.

Vice Mayor Lopez commented that it was comforting to see Schedule D filled out in contrast to other years when it hasn't been, and that was the debt servicing.

Mayor Valenzuela asked if there were any questions or comments. There were none. The mayor said they would entertain a motion.

MOTION: Ms. Lopez moved to adopt the tentative budget for 2012-2013. Mr. Tameron seconded. **VOTE:** The motion passed unanimously.

4. Discuss/Approve/Reject: Approval of an Arizona Department of Liquor License and Control Application for Special Event License for St. Francis of Assisi Church during the Annual Fiestas to be held September 15-16, 2012

Ms. Wentzel said St. Francis has traditionally sponsored the annual Fiestas Patrias at the outdoor areas of the church for more than 25 years. Each year they obtain a special event license from the Arizona Department of Liquor License and Control to serve beer as a part of their fund-raising event. This year the event will be held on September 15-16. Their application indicates that they will have police officers and provide fencing and barriers as security. Monies raised help offset expenses and sustain church activities throughout the year. The recommendation is to approve the special event license and authorize the mayor to sign the local body approval section of the application recommending this special event application. They had Ms. Gloria Martinez in the audience if they had questions and Ms. Lopez is the chair of the fiesta.

Mr. Gutierrez asked about the permit. Mayor Valenzuela said the permit is submitted to the Liquor Board. Mr. Gutierrez asked if that was to sell beer. The mayor said yes. Mr. Aguilar said, "Just beer."

Vice Mayor Lopez consulted the attorney as to whether she should abstain from voting since she is the co-chair. Town Attorney Chris Wencker advised regarding the conflict of interest statute and that if she stood to gain monetarily, that would be a conflict. But his understanding is that she is an unpaid person serving on the board and as such that really shouldn't cause any conflict of interest. If she would feel better abstaining, she could go ahead and abstain. Ms. Lopez said she had just needed a clarification and thanked him.

Mr. Tameron asked either Ms. Martinez or Ms. Lopez if there had ever been any problems in the past. Ms. Lopez said the police chief was there and could probably answer that best. As far as she is aware, it had been handled well. She had not heard any complaints or issues from the police department.

Police Chief Lou Digirolamo said over the six years he has been there, they have had no notable events. If people have gotten out of the fenced area where alcohol is served, the police would take appropriate action. But to his knowledge they haven't had anything. This is the first year the church hired an off-duty officer to be there; there are also extra patrols.

MOTION: Mr. Aguilar moved to approve the application for a special event license for St. Francis of Assisi Church. Ms. Lopez seconded. **VOTE:** The motion passed 5-1 of the six members present at the meeting in person or telephonically. Mr. Gutierrez voted no.

5. Discuss/Approve/Reject: Naming a Road in the Cemetery in Honor and Memory of Charles Lucas, former Town of Superior employee

Ms. Lucas noted the presence of Mr. Lucas' daughter in the audience. She asked Public Works Director Jed Lant to make the presentation.

Mr. Lant said they are all familiar with Mr. Lucas, the former town employee who died tragically in an auto accident June 19. He was a valued employee to the town as well as to the community. From a personal standpoint, Mr. Lant said he had never seen someone so dedicated to their job. Charles had worked in the cemetery since Mr. Lant had been there. It is his duty to request from the council a road name change. Mr. Lant explained where the road was and that it was known as "Almond" (name unclear) and the request was to name it "Charles Lucas Road." Mr. Lucas will never be forgotten but also to give him the recognition he deserves in a place he enjoyed so much.

MOTION: Mr. Tomerlin moved to change the name in the cemetery from Almond (name unclear) Road to Charles Lucas Road effective as of midnight that night. Mr. Tameron seconded. **VOTE:** The motion passed unanimously.

6. Discuss/Approve/Reject: Adoption of Resolution No. 536 Amending and Correcting the Number Originally Assigned to the Town's Resolution No. 535 Regarding the "Medical Marijuana Model Ordinance."

Ms. Wentzel this resolution was original adopted May 17, 2012. They did not know at the time that number had already been assigned to a previous resolution. All this is doing is correcting a number so it is not duplicated. The recommendation is to approve.

MOTION: Ms. Lopez moved to approve the adoption of Resolution No. 536 Amending and Correcting the Number Originally Assigned to the Town’s Resolution No. 535 regarding the “Medical Marijuana Model Ordinance.” Mr. Aguilar seconded. **VOTE:** The motion passed unanimously.

7. Discuss/Approve/Reject: Adoption of Resolution No. 537 amending Resolution No. 531 to withdraw a portion of the originally abandoned area as it is owned by Arizona Department of Transportation.

Ms. Wentzel said Resolution No. 531 originally abandoned the entire area of Gibbs Street from Belmont to U.S. 60. Unfortunately, some of that property was not owned by the Town of Superior. The purpose of this resolution is to withdraw that area that was owned by ADOT so that it goes back into ADOT’s possession. The deed was recorded as to ADOT’s possession on July 25, 1953 and for some reason the town did not discover that until recently notified. The recommendation was for approval.

MOTION: Ms. Lopez moved to approve the Adoption of Resolution No. 537 amending Resolution No. 531 to withdraw a portion of the originally abandoned area as it is owned by the Arizona Department of Transportation and waived the reading of the heading. Mr. Tameron seconded.

Mr. Gutierrez asked if they were withdrawing the whole thing. Ms. Wentzel said only the portion that is owned by ADOT at this time. There was further discussion and Ms. Wentzel noted that Town Attorney Chad Niven was not available that night. Mayor Valenzuela said they could table it until the next meeting if they wanted to.

MOTION: Ms. Lopez said she would amend her motion and change it to table until Mr. Niven was available. Mr. Tameron seconded. **VOTE:** The motion passed unanimously.

J. EXECUTIVE SESSION (Held following Item K, Council Comments)

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
2. A-3—LEGAL ADVICE WITH ATTORNEY: Discussion or consultation for legal advice with the attorney or attorneys of the Town regarding Terminated Council Member Employee Insurance payments; and Discussion or consultation for legal advice with the Town’s attorney or attorneys of the Town 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

MOTION: Vice Mayor Lopez moved to enter executive session. Council Member Tomerlin seconded. **VOTE:** The motion passed unanimously. Council entered executive session at 9:06 p.m. and returned to open session at 9:30 p.m.

K. COUNCIL COMMENTS (Held before Executive Session, Item J)

Council Member Aguilar: Wanted to thank staff for working hard on the budget. It was extremely difficult. Some of the things brought up to do have been very hard. He hoped all citizens of the town understand that they are looking at every avenue. They are trying to make the best decisions they can and hopefully they will get out of this. It might take a little while. It could take years, but they are going to go in that direction. Their outlook on the council is nothing but for the town. There is no gain for them, only for the town. They want what is best for the town. He wanted to thank Ms. Lira for doing an outstanding job on the program for the kids. There again, those monies, they are only allocated for that. They can't use them for anything else. They would like to pay some bills with them but they can't.

Council Member Tomerlin: Wished Mr. Lant luck in his next job or whatever his endeavor is going to be. He worked for the town and had always been very helpful and answered Mr. Tomerlin's questions very straight up and he thanked him for that.

Council Member Tameron: No comment.

Council Member Gutierrez: Thanked Colby & Powell re the audit. He commented on the \$3 million deficit. It was hard for him to believe looking at the last four years that they had that level of misallocation. He looked forward to the 2010-2011 audit and hopefully they will have a clearer picture of what happened over the last four years. If you look at the numbers, he is still having a little trouble getting his mind around that. Hopefully, they will move forward with the additional audit that will bring more clarification to him and maybe answer questions that he has a little bit. He thanked the staff. Hopefully it will shed light on where they are going and how they will address some of the challenges they have moving forward.

Vice Mayor Lopez: Thanked Ms. Lira for doing such a good job on the summer program. It was needed. She hoped they would get more funds next year so they could have another program and maybe a little more time to coordinate with the library and schools. But it was good and she thought all the kids involved really enjoyed it. Thanks once again and to the staff that helped. Also, Colby and Powell gave them a picture, not the picture they wanted to hear but the true picture. The one the year before was kind of the same and now they are stuck with kind of the same information. They have one more year to go. The staff has been very diligent putting things together and providing the information for Colby and Powell to put together and present. Hopefully, the next one will be in progress so maybe in January they will get the other one and the town needs to stay on top of it so they do get their audits on time. They had plenty of excuses why it wasn't done. That is what they heard but it shouldn't happen and maybe it won't happen in the future. Good luck to Mr. Lant in his new job, a new chapter in his life.

Mayor Valenzuela: Recognized employees again. Ms. Campos had done an outstanding job through the years. They really appreciated it and are glad she is staying on the two days a week to see it through and to keep it going. He really appreciated that and is sure the whole council

does and the town does, too, the people of the town. To Mr. Lant, he wished him well in his new job. He hoped Mr. Lant did well and things worked out and that the town was a good teacher for him to move on to his next endeavor. Ms. Barbara Arriola was not there that night, but he would also like to thank her personally for the years of service that she put into the recreation department. She was there three days a week and she had 20-25 kids every day on those three days. She was also there at the Zumba class. She was working hard to get donations and he just wanted to recognize her. He also wanted to recognize the police department for the job they are doing. It shows, as the Chief had said, once they have gotten them once, they are still going to keep after them and that is good. That is what they need to show the public. They appreciate that. The last thing he had to say was in reference to the budget. They talked about that a lot at the Chamber of Commerce the previous day. He appreciated the kind words Ms. Lira expressed for this council and the direction they are moving. They are working hard. They all don't agree, but that is good. They will get there because every one of the council members up there had owned up. They own it and they are going to fix it. It will take a little bit of time but they will get there. As Ms. Lopez said, they have completed two of the three audits that had to be done. They have completed 2009 and 2010. It took them a little while. They thought they would have them done in six months. But when they cost about \$20,000 apiece and they don't have the money, that really hampers the situation. He appreciated all the town staff for working hard. Continue to work hard. They are going to lose some people in the near future and they don't know if they are going to be able to replace them right off the bat. Everybody else is going to have to pick it up another notch until they can get through this.

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

Mayor Valenzuela read the items for future agendas. Vice Mayor Lopez asked if they wanted to ask BHP to come and do a presentation. The mayor said they are going to meet with them in two weeks and from there they will plan the open house.

M. ADJOURNMENT

MOTION: Vice Mayor Lopez moved to adjourn. Council Member Aguilar seconded. **VOTE:** The motion passed unanimously. Mayor Valenzuela adjourned the meeting at 9:32 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 19th day of July, 2012. I further certify that the meeting was duly called and held and that a quorum was present.

/s/

Rita M. Wentzel, Interim Town Clerk/Interim Town Manager

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.