

**Town of Superior
Council Work Session
Thursday, November 15, 2012, 6:00 P.M.
Superior Senior Center
360 W. Main Street, Superior, AZ 85173
MINUTES**

A. CALL TO ORDER

Mayor Jayme Valenzuela called the work session to order at 6:12 p.m.

B. SALUTE TO THE FLAG

Mayor Valenzuela led the Salute to the Flag.

C. OPENING PRAYER

Vice Mayor Olga Lopez led the opening prayer.

D. ROLL CALL

Present: Vice Mayor Olga Lopez, Councilmembers: John Tameron, Gilbert Aguilar, and Mayor Jayme Valenzuela; Chris Tomerlin (arrived at 6:20) and Soyla "Kiki" Peralta (arrived at 6:30)
Absent: N/A.

E. Discussion

1. Discussion of Fees for Rental of the Magma Club

Interim Town Manager/Town Clerk Rita Wentzel opened the discussion referring to the survey of rental facilities in Superior and in outlying areas. She reviewed the list and pointed out that there are factors to be considered such as insurance requirements, whether there would be alcohol, rentals to members and non-members and the availability of kitchen facilities. Reviewing the list specifically noted was the Los Hermanos Ballroom that has a capacity of 400 which is three times the capacity of the Magma Club although Todd is re-evaluating the capacity and it may be closer to 165 depending if they are all seated and if tables are out. The Los Hermanos Ballroom charges a flat fee of \$300 per hour. Ms. Wentzel also mentioned that the VFW capacity is 100 and charges a flat fee of \$150 and the Senior Center also in town charge is \$45.00 per hour and has approximately the same capacity of the Magma Club. Vice Mayor Olga Lopez asked if flat fees were considered for all day usage. Ms. Wentzel stated that until the fee schedule had been established that the Town charged hourly rates until a cap was provided due to the Prickle Pear Festival; which is available for non-profit groups. Ms. Wentzel also pointed out on the listing additional places in Apache Junction some higher some lower some noted the views of the Superstition Mountains. She mentioned another thing to consider is the requirement of insurance for individuals or groups and noted that it is not reasonable to acquire their own insurance due to the high cost specifically if alcohol is a factor.

Councilmember Tameron mentioned they have rented their liquor services in Mesa and go under their own insurance. Vice Mayor asked what their insurance would cover and he stated that in Superior it covers their whole building and in Mesa the service area but that it is expensive. Ms. Wentzel said these were some of the options and that the Mayor had done some of the research and the preliminary suggestions from \$65.00 - \$100 per hour. Her recommendation is to look at each event for example a baby shower could be charged \$45.00 per hour if there is no food and after evaluation could warrant an increase if there would be food. She mentioned that typically they did not allow food in the Senior Center due to the grant but that exceptions had been made in the past specifically on an occasion that Resolution Copper used Los Hermanos as the caterer. Councilmember Tameron added that when they (Los Hermanos) served food it was because it was a licensed establishment and permitted through the county. Ms. Wentzel stated that at a previous meeting Ms. Vogler had asked about renting out the kitchen at the Senior Center but that that was prohibited due to the grant funding received from Pinal-Gila for all the equipment in the kitchen. Councilmember Tameron mentioned that consideration needed to be given regarding County codes of food being brought in. She said there could be liabilities issues and the fact that there are no facilities to cook that is something that needs to be taken into consideration, that perhaps finger foods may be permissible, but set guidelines similar to the Senior Center that unless food is brought in by an established restaurant with their licenses that might be acceptable but for people to try to cook there it would be unreasonable because lack of utilities or plug in a bunch of roasters not knowing what the load can handle but perhaps a bbq outside may be permitted, just suggestions she stated. Mayor Valenzuela stated that he did not agree with the last comment that roasters shouldn't be allowed. He stated he believed that was the purpose was for, not to cook. Ms. Wentzel clarified that food should not be cooked there in roasters, Vice Mayor Olga commented for clarification that if they were bringing food already cooked there and just keeping it warm in roasters that should be o.k. and Ms. Wentzel agreed that would not require permitting. Councilmember Tameron added that at Los Hermanos the fee fluctuates depending on the party such as a baptismal or baby shower versus a wedding, that it is not a set fee schedule.

Councilmember Aguilar asked if the bathroom were good to go, it was confirmed that they were. Vice Mayor Olga Lopez inquired about cleaning. Ms. Wentzel replied that a cleaning deposit was appropriate and could actually be set higher than \$45.00 due to the size of the space and the fact that in addition to the indoor space there is also the outdoor area to consider. She also noted that after the Prickly Pear festival there was a mess left but that Lynn Heglie paid someone \$65.00 to come in and clean up. Councilmember Aguilar stated he would agree to a higher cleaning deposit but if cleaned they would get it back. Councilmember Tameron mentioned that they (Los Hermanos) don't charge a cleaning deposit because it may not be cleaned as good as it should be, they have their own cleaners and just work that into the fee. Councilmember Aguilar suggested a \$100 cleaning deposit, however Councilmember Tameron questioned who would decide if it was clean enough. Councilmember Aguilar's response was the people who are doing the cleaning. Mayor Valenzuela added what if the toilet is broken and that there are other things to take into consideration. Vice Mayor Lopez questioned if the cleaning deposit would also include if things were broken and Ms. Wentzel's response was that perhaps that should require a security deposit especially since there is no oversight there and since the Magma Club is very isolated unlike the Senior Center where it is very visible. Vice Mayor Lopez suggested

that it should be checked at the end of a program right away. Ms. Wentzel agreed as that has come up with park rentals where it is not checked for a couple of days and could become dirty again during that time especially with the wood floors it should be checked right away. Ms. Wentzel commented that the floors have not been re-treated but that they may look dirty because they need to be and that special consideration should be given to take care of them. Councilmember Tameron added that they also have wood floors and that it is necessary to ensure the equipment has cushion to prevent scratching, if you allowed the renter to use their own equipment it is possible it could damage the wood floor and that after two or three parties there could be significant damage that may require replacement of the entire floor. Vice Mayor Lopez added that is something to consider as some of the tables in the Club are not light. Councilmember Tameron added that there would be wear and tear as well.

Mayor Valenzuela referenced the price comparison list and noted that if you looked at the backside regarding the Magma Club and work from the right to the left, he asked if they would allow catered food only? Regarding the kitchen he commented that since there is no kitchen there is no kitchen preparation and it should be stated as such in that slot. Councilmember Tameron suggested that they get clarification from the health department to find out what is allowed. He deferred to Attorney Chris Wencker to answer the question regarding liability of the food since they are a municipality. Attorney Chris Wencker stated that it would depend on what the health department allows. He stated that it is always a liability if they know people are preparing food and not preparing it properly and serving it to people and they get sick and they know about it. Whatever is said in the agreement might not change our liability but if the food department gives a list of requirements and they meet the requirements then we could go ahead and allow people to have food there. Councilmember Tameron asked the attorney if food is cooked at home would the County have to go and inspect the house to give the o.k. Attorney answered that he didn't know but that if you bring fully cooked food to the premises and just serve it, Ms. Wentzel and Vice Mayor Olga both interjected a key point that the food is just being served and not sold, the Attorney expressed that he didn't think the health department really cares. Councilmember Tameron disagreed due to his experience at the school. Mr. Wencker stated that he didn't know but that under those circumstances the person who cooks the food bears the responsibility of the condition of that food. Councilmember asked if there was some kind of waiver to hold harmless. **Mr. Wencker said he could come up with something, that he hasn't seen one but could prepare one and would also recommend a release for food and alcohol.**

Due to the previous discussion Mr. Wencker also recommended that either it be required to hire a trained bartender or alcohol permit for any alcohol being served that way there is something between the Town and the renters to protect from someone getting drunk and going out and crashing their car and killing someone. Councilmember Tameron stated that the code in Mesa requires a trained bartender, so they know how much to serve, and removes the Town or organization out of it. Ms. Wentzel inquired if that was pertaining to sales or serving and Councilmember Tameron responded that it is for serving as well. Mr. Wencker noted that he just looked it up the statute and that the social host is not liable, however even to serve socially to an intoxicated person there could be some liability. Ms. Wentzel added that there is also available an alcohol permit currently that allows one to bring in the alcohol, not sold and pay \$50.00 fee or should we ask for bartender instead.

Mr. Wencker said that he would prefer that they are trained not to serve to an intoxicated person because if someone hurts someone a personal injury lawyer could sue especially if the Town issued a \$50.00 permit to serve alcohol, it would have to follow the notice of claim statute which would be better to avoid. Vice Mayor Lopez asked about the fundraisers currently held and gave an example of a horse shoe tournament, where people bring their own beer, how would a bartender be able to monitor that. Mr. Wencker responded that it is a difficult situation and that it is harder to pin the liability on the town in such an area or at a private function such as a street festival where people are coming and going than in our club where there is a greater chance of someone having too much in a controlled area there would be an expectation to cut people off it would be a potential liability, not great but possible. Mr. Wencker talked mentioned that the average family may rent the Magma Club for a family gathering and everyone goes home safe, but if there was a fender bender and someone was injured it would be the family's responsibility where an insurance company might get involved, but since you never know the circumstances someone could say well you should have known the "Smith" family and due to their reputation should not have been allowed the beer permit. Councilmember Aguilar inquired about what Councilmember Tameron said earlier about signing a waiver and how it would work. **Mr. Wencker responded by stating that he could draft a waiver pretty easily stating that in exchange for having their event at the club they would hold the Town completely harmless from anything that happens.** Ms. Wentzel added to release the Town from liability. Councilmember Aguilar commented that would be the best deal. Ms. Wentzel commented that she couldn't imagine that a family would pay a bartender because it is too expensive and that the intent of a bartender is for sales and tips as part of their pay. Councilmember Aguilar stated that we should just do that as to not worry about it (the release) and to do it right away.

Additional discussion began regarding food noting only serving should be allowed no cooking or grilling onsite. Vice Mayor Lopez brought up the pancake breakfast held by the LOST Trail Committee and the fact that they held a pancake breakfast where food was sold. **Ms. Wentzel stated that she could call the Health Department to ask their opinion.** Councilmember Aguilar added that he felt strongly against propane grills due to the possibility of explosion but felt that wood fire or charcoal would be fine. Ms. Wentzel stated that town code prohibits open fire but that charcoal would be o.k. Vice Mayor Olga Lopez clarified that at her upcoming family event all food would be prepared prior and brought in already cooked.

Councilmember Peralta brought up the amount of money that had been put into the building and furniture and the need to recoup those costs in the rental fees. Ms. Wentzel noted the importance of putting the building to use due to the federal funds used by the ADOH and their desire to see it open and put to use.

Ms. Wentzel noted that a security deposit as well as a refundable cleaning deposit be required especially if there were any damages. Councilmember Tameron stated that they didn't know what the utilities would be like. Ms. Wentzel responded that we are currently running two ac units that are cost efficient and the cost is approximately \$500 a month with no current gas service, noting that heat would be provided by a gas pack. Councilmember Aguilar suggested that for utilities there should be a read before and after each rental. Ms. Wentzel stated that would work for APS and gas but that for water it

would be too difficult. Mayor Valenzuela read information sent to him from APS that per the square footage of the building it would cost 82 cents per hour for each unit which would be approximately \$1.64 per hour to run the two units based on their ratings.

There were several suggestions of fees for the cleaning and security deposits, Councilmember's Tomerlin and Peralta were in agreement that the most reasonable would be \$65.00 per hour with a \$100 cleaning deposit as well as a \$100 security deposit, Councilmember Aguilar agreed that was reasonable. Mayor Valenzuela commented that for an 8 hour rental someone is looking at approximately \$800.00 out of pocket and that he feels it is too high that we are making it impossible for people to rent, that they will choose to go to Los Hermanos where they charge a flat rate of \$300. Community member and business owner Richard Tameron also commented that the Town can't be too generous but that you also can't be too expensive or people will go somewhere else. Councilmember Tomerlin suggested that the fees could be set and re-evaluated after 6 months or 5 events. Mayor Valenzuela questioned if they could establish the fees based on a case by case scenario. Mr. Wencker advised the Mayor, Councilmember's and audience that it was listed as an action item on the regular Town Council agenda.

F. ADJOURNMENT

MOTION: Council Member Tameron moved to adjourn. Council Member Peralta seconded.
VOTE: The motion passed unanimously. Mayor Valenzuela adjourned the meeting at 7:10 p.m.

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Work Session of the Town Council of the Town of Superior held on the 15th day of November, 2012. I further certify that the meeting was duly called and held and that a quorum was present.

/s/

Elizabeth Magallanez, Finance Clerk