

**Town of Superior
Regular Council Meeting
Thursday, April 4, 2013, 7:00 P.M.
Superior Senior Center
360 W. Main St., Superior, AZ 85173
MINUTES**

CALL TO ORDER:

Mayor Jayme Valenzuela called the meeting to order at 7:14 p.m.

ROLL CALL:

Present: Council Members Irene Hansen, Chris Tomerlin, John Tameron, Gilbert Aguilar, Soyla “Kiki” Peralta, Vice Mayor Olga Lopez and Mayor Jayme Valenzuela **Absent:** N/A

INVOCATION:

Council Member Chris Tomerlin led the Invocation.

PLEDGE OF ALLEGIANCE:

Mayor Valenzuela led the Pledge of Allegiance.

Mayor Valenzuela moved Summary of Current Events to after Call to the Public on the Agenda.

1. SUMMARY OF CURRENT EVENTS:

A. Council Members

Council Member Soyla “Kiki” Peralta indicated no comment.

Council Member Gilbert Aguilar indicated that over the last couple of months you keep saying transparency and how we did this behind somebody’s back. Well, you know, when we make decisions, a lot of it comes from our lawyers. They flat out told us that this Agreement is bad and that’s why we did what we did. Everybody said why did we slap them in the face? Well, guess what? They tried to get this bill through another committee to make sure that nothing . . . they knew this Agreement was already null and void. But did they come to us? No. And everybody keeps saying, “Why didn’t you call them?” Well we did. We’ve met them. We had lunch with them. They wined us and dined us, like a lot of us. They made us feel like we were someone important. We mattered. They never met with us. They said they offered us money. We never met with them about any money. It’s become more than that now. We’ve asked just to have these studies done before the exchange. It doesn’t take a rocket scientist to figure out what’s going on. If they get the land, they could sell it at any time whether the NEPA passes or not. We’ve made some decisions. And by the way, this Town Council did not pay for us to go to Washington. [Audience comment—“Well, who did?” Council member Peralta comment—“It doesn’t matter.” Audience comment—“It does matter.” Mayor Valenzuela interjected for the audience to hold their comments and indicated that nobody interrupted you while you were talking.] You made a comment and it was the wrong comment. It just wasn’t true. We live in this Town and a lot of people here have moved into this Town because they love this Town. They like the quietness, like to be able to just take a ride out in the hills whenever you want. This is why we are here. You didn’t move over here because of the mine. Now, would I like the mining industry to be here. Yes. When we get these things done. . .I’m for the mining industry. We’ve always been. We’ve worked mines. Not a whole lot of

people can say that. We did work these mines. We were part of it. We were also part of the day we went to work and they said, "Go home." But, this Town survived. And it will continue to survive. I hate to burst your bubble, but this thing is not going to happen overnight. You're looking at five or ten more years. Whether we made this decision or not. It's going to go through the Committee, and it's going to pass the House of Representatives, and it's going to stall there. Like it did last time—and we supported it at that time. That's what's going to happen. That's the reality. We can fight each other and keep showing hate to each other. But in God's eyes, there is not hate. You can disapprove of things, you can have your own opinion of things. We did try. Have they come to talk to us at all? No. A lot of you have tried to discredit us, belittle us, ignore us. I've always treated people as I want to be treated. I've never mistreated the people here. And I've been mistreated. To me that was bad. All we are asking is do these studies before the exchange. If it gets done then fine, let's get going. The sooner the better. But you don't hate, like I said. Hate is not in God's world and it never will be. Try to work together and do the best we can. We'll disagree. I know that for a fact. But, the more I sit here, I get more and more educated on what's going on. I've tried to talk to a lot of you. You won't listen. You won't hear me.

Council Member Irene Hansen indicated no comment.

Council Member Chris Tomerlin indicated no comment.

Council Member John Tameron indicated that he had a question for the attorney. Are we breaking the Open Meeting Law by the way the Agendas are set? Response: Mr. Kane Graves indicated the Open Meeting Law allows for two (2) areas that are not specifically listed on the Agenda. What the requirement is that we specifically list the topics to be discussed. A few general exceptions to that. First there is a Summary of Current Events. That's usually where Council Members, the Mayor and the Manager say what's going on, e.g., there's a new Circle K coming. The second area is in Call to the Public that allows the public to make comments. Under either of these two (2) exceptions, no real discussion or decisions are to be made or are allowable under the Open Meeting Law. In Call to the Public, however, at the conclusion, individual Town Council Members may: 1) Respond to criticism made by those who have spoken; 2) Ask staff to review a matter; or 3) Ask that a matter be put on a future agenda. So long as you stick to those three (3) you are okay. But often times, just like now, you get into discussions, decisions. Those are not allowed under the Open Meeting Law. I would suggest we follow the Summary of Current Events protocol and the Call to the Public protocol as set forth in the statute and as verbatim put on here. I will never say you are violating it publicly. Well I might and probably have an occasion. But, I prefer we just stick to the script.

Council Member John Tameron said one other thing and indicated he didn't know who asked as he wasn't here at the time, but when Resolution Copper was putting together the Mutual Benefits Agreement, was it ever brought out to the public like you guys want it to be brought out now? It was brought out to the public and the public had input in it? Audience Response: Yes. There were several executive sessions, there were public sessions—the very first agreement there was a big, huge meeting where Resolution sat there and went through the steps and everything. It was a very long meeting with comments from both sides.

Vice Mayor Olga Lopez indicated no comment.

B. Mayor

Mayor Jayme Valenzuela indicated no comment.

C. Town Manager

The Town Manager reported on a recent School lock-down due to the report of a woman near the elementary school with a firearm. The woman was later apprehended; however, no firearm was found.

Town Manager Kane Graves reported that there is a new business in process—A 5,000 square foot Circle K with 10 gas pumps locating at the RV Park near Main and the US60. There are also two other commercial entities looking to relocate and more information will be forthcoming.

2. **SPECIAL PRESENTATIONS:** Presentations, Proclamations, Awards, Guest Introductions and Announcements.

A. Pinal County Sheriff Paul Babeu Presentation of RICO Funding for the Town's Summer Recreation Program

Sheriff Babeu Presented a check for \$10,000.00 for the Town's Summer Recreation Program and indicated that he had asked the County Attorney to do the same.

B. Pinal County Sheriff Paul Babeu and Chief Luigi Digirolamo Presentation of RICO Funding for the School's Robotics Program

Superior Police Chief Luigi Digirolamo presented a check for \$1,200.00 for the Robotics Program.

C. Presentation on the Drug Box to be located at the Superior Police Department

Superior Police Chief Luigi Digirolamo displayed the Drug Box that was received from the Sheriff's Department. The Drug Box will be located in the lobby of the Police Department. There will be a ribbon cutting, a press release and a pamphlet distribution at a later date. Ms. Elizabeth Magallanez, SSAC Chairperson, and Mr. Jim Stephens, Pinal County Sheriff, spoke regarding the importance of drug interception in the community.

D. Linda Weinberg Presentation of Cenpatico Community Reinvestment Grant Award to the Town of Superior as the Fiscal Agent for the Superior Substance Abuse Coalition

Linda Weinberg, Cenpatico, presented a \$16,080 check to Superior Substance Abuse Coalition, with the Town acting as their fiscal agent, to assist with the Cinco de Mayo and Win 2 Swim events.

E. Proclamation – National Library Week 2013

F. Proclamation – Fair Housing Month 2013

Ms. Rita Wentzel, Town Clerk, read the National Library Week 2013 and Fair Housing Month 2013 Proclamations

3. **CONSENT CALENDAR:** Pursuant to Section 2-4-6 (D), matters listed under the Consent Calendar are considered to be routine and will be enacted by one motion and one vote. Prior to consideration of the Consent Agenda, the Mayor will ask whether any members of the Council request any item be removed from the Consent Agenda for separate discussion.
- A. Consideration of Approval of Council Meeting Minutes (to be provided at the meeting):
 - 1. Regular Meetings of March 7, 2013, March 13, 2013, March 21, 2013 and March 26, 2013
 - 2. Executive Session Meeting of March 7, 2013
 - B. Alcohol Beverage Permit for Thelma Ybarra for a wedding to be held at the Magma Club on September 28, 2013 from 3pm to 1am
 - C. Special Event Use Permit for Superior Head Start Preschool Annual Clean-up of Old Phoenix Road on April 19, 2013 from 8am to 12noon – Road Closure Requested
 - D. Blanket Permit for St. Francis Church for fundraising during the fiscal year 2013-2014
 - E. Authorization to Advertise for Planning & Zoning Commissioner to Replace William Vogler, Sr.

MOTION: Council Member Chris Tomerlin moved to approve the Consent Calendar. Council Member Soyla “Kiki” Peralta seconded the motion. **VOTE:** The motion passed unanimously.

4. **NEW BUSINESS:**

There was no New Business to discuss.

5. **ACTION ITEMS:**

There were no Action Items to discuss.

6. **CALL TO THE PUBLIC:**

Mr. Sonnie Sansom, 203 W. Main Street, Superior, complimented the staff on getting the agenda on the website. Sansom also provided a December 2012 letter from Rio Tinto and BHP regarding their financial reports. He said that the job lay-offs were not due to the Town Council action but corporate economics. He also indicated that it was great to see all the people attending the meeting and it would be great to see them at every meeting so we could all get together and come out with a great deal in Town. Finally, he offered copies of the financial reports on the two companies to anyone who was interested and indicated that he had sent it to each of the Council via e-mail.

Ms. Nancy Vogler, 502 S. Church, Superior, indicated that she had lived here for six years and was deeply disappointed in the recent actions of the Council. The people of the Town do not know what the plans for the Town are as they have not been made clear. The Council is not transparent and it makes

her scared. She provided her list of reasons why. First, she provided her input regarding her fear that the Council was getting ready to disband the local Police Department and rely on Pinal County Sheriff to do their job. Next, she fears that we will close the Fire Department in the near future. Being dependent on an ambulance coming up from Pinal County, it was like signing a DNR for every resident of Superior. She didn't understand if the ADEQ Consent Order meant the Council was getting ready to close the sewer plant. She indicated that if there was a problem then we should discuss and talk about it before the Council adjourns to go to Executive Session. People would like to know before there is a vote.

Mr. Bill Vogler, Chairman of the Superior Copper Alliance, 502 S. Church, Superior, indicated he was speaking for himself tonight. He wanted to let the Council know of his disappointment with the actions of the Council over the last two months and wondered who they were listening to. He felt it was not the members of the community and indicated that some fundamental changes needed to take place if the Council wanted support from the residents. He feels decision-making is taking place outside the public forum. He hoped it is not true but feels that the actions make it questionable. Second, allow the public to know what exactly what is on the agenda. He indicated that an acronym and use of false names to hide the true discussion item is not acceptable. Third, do not bring items up for a vote the first time on the Agenda. The first time on the Agenda should be a time to inform the public as to the details of the item and then vote at the next Council meeting. Present policy only allows the public to speak on Agenda items after they have been passed or rejected. That is why a lot of us are upset. Mainly, stop trying to hide your true intentions with smoke and mirrors and actually be truthful and up front. You have angered many by your attempts to try to do things behind closed doors and we find this insulting to every member of this community. Decisions such as the Mutual Benefits Agreement and a Resolution should never have been rejected or accepted without letting the public know exactly the reasons for the vote were. You owe it to the public to decide which is best for us and not any group of four (4) Council members. Far too many things are being decided by Council without the opportunity for the public to voice their opinion. Please get back on track and represent your community as expected to in a realistic, trusting manner and with due respect.

Ms. Aja DeZeeuw, 320 W. Magma Flat, Superior, stated her full support of the local Police Department. She feels that our public safety department is excellent and one we should be proud to support. She also indicated that this was one of the benefits of living in an incorporated community. She wanted to comment on it just in case there would be some action on that issue tonight. She further indicated that she was concerned regarding the Town's change of position regarding supporting the land exchange. She read the Town's position and has several questions: 1) Since Resolution gave the Town it's 2013 portion of the Mutual Benefits Agreement early, does the Town intend on repaying any of those funds? If so, where is that money going to come from? 2) If the Town is under such financial duress, how are we able to send not one but two of our Council members to Washington DC to oppose this project? She also expressed her disappointment of the way those who attended the March 13, 2013 Special Council Meeting were addressed. They were told if they wanted to speak on the issue, they should have been at the prior meeting; however, after review of the agendas for both February 21 and March 7 there was no indication that this issue would have been discussed. So how could I have been here? I think you know that I am very passionate about this issue and if I would have seen this item on the agenda, I would have made a point to have been here to express my opinion. Somehow Wendsler Nosie knew he should be here to voice his opinion, but I did not. I think that everyone in the audience here that day was disrespected and she respectfully requested an apology from the Council for the way they were addressed.

Mr. Ben Hernandez, II, 72 Pinal Ave., Superior, indicated that six months ago he had an issued with the Police Department regarding his daughter being sexually assaulted at the school. The officer gave all

kinds of excuses and then blamed it on the department secretary who didn't file the appropriate paperwork. He continues to ask questions and there continues to be excuses. It is not right that nothing be done about this. With County here the Police Department have not stepped it up. How would you feel if it was your daughter, or your child, or your sister, Chris, since you're so friendly with these people. It's ridiculous that it has been six months and he has not gotten any answers. He is looking for some answers and he is not getting them.

Ms. Diana Crispin, 651 W. Gibbs, Superior, former teacher and counselor at the school expressed her strong support for the local Police Department. She indicated that there were rumors around Town that Pinal County would be taking over for the Superior Police Department. She indicated that we are an incorporated town and we should have a police department. The police officers should be commended for the way they protect and serve. When she worked at the school, the police officers would assist. At the Casa Denogean, her mother is frequently there late at night and the local police officers check on her to make sure she is safe. She asked that the Council keep the police department.

Sheriff Paul Babeu spoke regarding the Pinal County Sheriff Office law enforcement assistance being provided for the Town of Superior. He reminded the group that he and Supervisor Pete Rios attended a Town Council meeting about four months ago and provided input regarding Pinal County's efforts to work in partnership to support the public safety effort. At that time many individuals stepped forward in support of those efforts. Sheriff Babeu indicated that he had provided a proposal to the Town Council and wanted to explain it from a financial and direct law enforcement perspective. He felt that the service would be vastly improved with this exclusive service in the community. He felt that the service would be deliberate and in focus with Pinal County and local law enforcement needs.

Mayor Valenzuela indicated that we would go back to Item 1. Summary of Current Events.

MOTION: Council Member Chris Tomerlin moved to recess the Regular Meeting and go into Executive Session at 8:30 p.m. Council Member Soyla "Kiki" Peralta seconded the motion. **VOTE:** The motion passed unanimously.

7. EXECUTIVE SESSION:

- A. Confidentiality Statement
- B. Discussion or consultation with the attorneys of the public body for legal advice and in order to consider its position and instruct its attorneys regarding the public body's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation, or in settlement discussions conducted in order to avoid or resolve litigation. Pursuant to A.R.S. Section 38-431.03 (A) (3) & (4).
 - a. Wilt Litigation
 - b. Republic Services Proposal
 - c. Redflex Agreement Amendment
 - d. IGA with Pinal County Sheriff's Office

e. ADEQ Consent Order

MOTION: Vice Mayor Olga Lopez moved to reconvene Regular Session at 10:10 pm. Council Member Chris Tomerlin seconded the motion. **VOTE:** The motion passed unanimously.

9. POST EXECUTIVE SESSION:

A. Republic Services Contract.

MOTION: Council Member Chris Tomerlin moved to approve the Republic Services Amendment #4. Manager Kane Graves provided the background and terms of the proposed agreement. Council Member John Tameron asked how long it would take to get a copy of the complete agreement and Manager Graves indicated he would get it to the Council as soon as he could. Council Member Aguilar asked what happened to the recycling. Manager Graves indicated that he would talk to Republic Services to see how a community program could be established. Vice Mayor Olga Lopez indicated that the curb-side recycling was gone due to misuse. Manager Graves indicated that there was so much contamination that it was simply being discarded. Vice Mayor Olga Lopez seconded the motion. **VOTE:** The motion passed with four (4) Yes votes (Peralta, Aguilar, Lopez and Tomerlin and three (3) No votes (Hansen, Tameron, Valenzuela.)

Manager Kane Graves indicated there were no other Action Items in Executive Session—the remainder of the items was for discussion only.

10. SCHEDULING OF MEETINGS:

There were no new meeting schedules brought up.

11. ADJOURNMENT.

MOTION: Council Member Chris Tomerlin moved to adjourn the meeting. Council Member John Tameron seconded the motion. **VOTE:** Motion passed unanimously. The meeting was adjourned at 10:20 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 4th day of April, 2013. I further certify that the meeting was duly called and held and that a quorum was present.

/s/ _____
Rita M. Wentzel, Town Clerk