

Town of Superior
Regular Council Meeting
Thursday, April 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 7:07 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, Chris Tomerlin, John Tameron, Soyla "Kiki" Peralta (arrived after roll call at 7:11 p.m.), Mayor Jayme Valenzuela and Vice Mayor Olga Lopez;
Absent: Council Member Gilbert Aguilar

E. CONSENT AGENDA

1. Approval of Minutes for Regular Meeting April 5, 2012

MOTION: Council Member Tomerlin moved to approve the consent agenda. Vice Mayor Lopez seconded. **VOTE:** The motion passed unanimously.

F. REPORTS

1. **Library:** Mayor Valenzuela asked Library Director Josie Campos to give a brief description of any highlights in her submitted report (on file with TOS) that she would like to point out. She said everything is going okay at the library. They are able to operate because of help received from the Pinal County Library District. The Superior Library will receive a computer work station from a grant that the state library received to provide computers for the library so people can do job searches. The library also received a grant for an oral history project and is busy with the summer reading program.
2. **Public Works:** Public Works Director Jed Lant reported on goals for the public works department as a whole and individually. Available funding for the wastewater treatment plant upgrade is approximately \$340,000 and in the process of doing environmental review. Then they will revise their scope of work and it will go out to bid. Work is expected to begin in June or July. He gave a detailed breakdown of the utilization of public works man hours.

He thanked Mayor Valenzuela for locating the 1000-gallon water truck. Council Member Tameron asked what inmate training was. Mr. Lant said it was getting everyone recertified. Mayor Valenzuela said it was a certification the staff had to go through for Department of Corrections to work with inmates. The mayor commended the department for the job they are doing in the streets.

3. **Fire:** Fire Operations Chief Todd Pryor reported on activities and topics having to do with the Superior Fire Department. They are working on getting back into the schools and have materials prepared. He also reported on facilities, ISO rating information and other items.
4. **Police:** Police Chief/Public Safety Director Lou Digirolamo presented the police report. He also informed council there are two officers on leave right now. One is on medical leave and the other is on industrial leave. Right now what they are doing is switching shifts and having some help with the reserves to cover some shifts. Several council meetings ago there was a complaint brought up against one of the officers. The report is done. He did not attach it to the packet due to the fact that there would be a lot of redactions. The report is not sustained, which means that there is no violation of policy. Also the person who had made the complaint has entered into a plea agreement on the charge that initiated the complaint. The plea agreement was made March 27 and scheduled for Superior Court sentencing on May 7. Chief Digirolamo also reported that they had assisted Adult Probation that day with a probation revocation incident at 199 Porphyry. It has been their number one call for service address for several years because of transient influx. The homeowner's probation was revoked and then they had an additional felony charge on that person as a result of that day. Chief Digirolamo also said they had discussed the two armed robberies before at a previous council meeting. Council Member Tameron asked the Chief to explain what happened and the Chief gave a synopsis.
5. **Senior Center:** Ms. Wentzel said this month she is the senior center director by default because the position is open. She referenced reports in their packet she had prepared and went over some of the items. During the month they had spent \$2,814.95 for food and based on the number of meals served, the cost per meal was \$2.69. The optimal meal price is \$2 or less and they are working to achieve that. They served 430 congregate meals and 618 home delivered meals. There were 110 trips for congregate members to and from locations such as the post office, the market, the library. She was just informed of additional funding for both congregate and home delivered meals.
6. **Recreation:** Parks & Recreation Director Barbara Arriola reported on the April 7 Easter in the Park event. It was a great success. It was attended by more than 200 adults and children. They had games and prizes thanks to donations from the wonderful residents of Superior. She wanted to thank everyone for donating their time. She also updated council that on weekends she worked at the recreation center four hours on both Friday and Saturday. They have a lot of things to do; they keep the kids busy with art, games, and different things. Then there are a lot of kids who show up on the basketball court. They like to play out there so it has been great. She hopes to get more participation with the adults who can come and volunteer because they really need that. It is very important because their children are their future and they need to keep them interested in activities and keep them busy. She also had Tae Kwon Do on Saturdays from 4:30 to 6:30 p.m. Adults and children are welcome. Also she has Zumba on Monday and Wednesday nights at the senior center.

7. **Finance:** Ms. Wentzel said she was sorry they did not have a financial report last month. But this one was actually some pretty good news, or good news and bad news. Last month's accounts receivables were \$218,000 and this month they have gone up to \$248,000. There were two reasons she thought they went up: first of all they charged an extra dollar per month for the refuse service and this includes the bills for this month, so they will see an inflation of about \$20,000 a month. The other thing that is happening is people have stopped paying for bills and are asking for write-offs. They will get that straightened out. On her desk that day she had 114 requests for credit on bills. The next part of the report is the outstanding accounts payable. In December when she came in, their accounts payables were more than six months behind and over \$300,000. Today they were within 30 days current on bills except for some credits and were at \$84,297. Everybody who is working for the town and cutting back and waiting for their purchases is making a difference. They are approaching the summer where they have very little revenue so it is tough to catch up. The last part of the report is different than they have seen before because she is going to start reporting activity by fund. It would be difficult to do the accounts payable by fund but they will see the revenue stream by fund. She went over the figures detailed in these reports. She made further comments and responded to questions.

G. COMMUNICATION

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

Ms. Wentzel updated council and responded to questions on the senior center director position, the recreation commission posting, lifeguard position posting, CDBG 140-12 for the wastewater treatment plant improvements, CDBG 139-12 for the Housing Rehabilitation Plan, Energy Efficiency Grant for the wastewater treatment plant air conditioning, student film production/insurance requirements, Cobre Valley Regional Medical Center construction, Town of Superior website, vandalism at Town Hall and the Magma Hotel.

H. CALL TO THE PUBLIC

Sonnie Sansom: Saw they were going to be talking about the sound system that night. Most people back there could not hear. He went to his pet peeve: the rule of law. He could not understand how they could read a codebook two different ways. He discussed a ramp on a building at 201 Main. In every code he reads it is illegal to put a permanent structure in a public right of way, especially a fire lane. Also if this is a variance, it does not appear to be the proper way to go for it and hasn't been done. The owner of a property under the International Building Code is responsible for removing anything that he put in that is illegal at his own expense.

Judah Nelson: Discussed dogs-at-large in her neighborhood for six days and she doesn't know who some of them belong to. She has called to report but they are still out there. How are they dealing with animal control in the town? Mayor Valenzuela asked about the police response. Where did she call to? Ms. Nelson said she called the police department and the dispatcher said they would let the officer know. Town Attorney Chris Wencker said during the call to the public they are not allowed to engage in question and answer with the member of the public. Mayor Valenzuela said he disagreed with Mr. Wencker because he had seen it done in many towns.

Attorney Wencker said the law says they can respond to personal criticism, direct staff to place on a future agenda or ask staff to bring back to council. Mayor Valenzuela said they would research it some more and thanked Mr. Wencker.

Roy Chavez: On behalf of Concerned Citizens and Retired Miners Coalition, this week is Earth Day and they are hosting a picnic/rally at Oak Flat on Friday and Saturday. The public was invited and he had flyers. Also, he didn't know how many of the community were aware of it and it hadn't been disclosed publicly that he had seen but they have had the information now for two months re waste from the Resolution Copper project. People in Superior don't realize how the project is going to impact the environment. Superior used to do between 3,000 to 5,000 tons per day. That is why they don't see much waste there. When San Manuel was developed in the '50s, they ended up at about 55,000 tons a day. The project here at Oak Flat is going to produce about 115,000-120,000 tons per day. Resolution has been for at least the past 2.5 years talking to and negotiating with the state land department re this waste in reference to 12 square miles at the base of Gonzales Pass to Florence Junction. Superior is four square miles, so they are talking three times the size of Superior. He doesn't know how many people know about this. He doesn't know how many people care about it. It is a double whammy in regard to the environment. Their land on the east side is going to be destroyed and now the land west of them on state land has the potential to be destroyed. Also, re a certain individual in town writing editorials, he said they had to be thick skinned and understanding but if he is talking about certain council members, he should disclose names.

Pam Rabago: Just wanted to find out if somebody is keeping up with the ADOT bypass or route. She has heard nothing about it but seeing a lot of surveying. She doesn't know if anyone in town knows what is going on. But it is important to the life blood of the town. Mayor Valenzuela said they are aware of what is going on and they are involved. They will direct staff to meet with her.

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

1. Presentation: Town-wide recognition of National Volunteer Appreciation Week (April 15-21, 2012).

Ms. Wentzel explained the history of the national volunteer appreciation week established in 1974 by former President Richard Nixon. She introduced Ms. Mila Lira who had names of those in the community who have given of themselves and created Certificates of Appreciation for the mayor to present. Ms. Lira read the names of those receiving certificates (on file at TOS). Mayor Valenzuela and Vice Mayor Lopez handed the certificates to recipients. There was a recess for refreshments from 8:21 p.m. to 8:45 p.m.

2. Discuss/Approve/Reject: Neary Street closure from Main to Lime Streets Saturday, May 5, 2012 to host the annual Superior Substance Abuse Coalition drug and alcohol free Cinco de Mayo Celebration.

Ms. Wentzel discussed the history and purpose of this annual event, its fiscal impact and the staff recommendation to approve. Ms. Elizabeth Magallanez of the Coalition also spoke.

MOTION: Council Member Peralta moved to authorize staff to close Neary from Main to Lime Streets on Saturday, May 5, 2012 from 7 a.m. to host the Superior Substance Abuse

Coalition drug and alcohol free Cinco de Mayo Celebration. Vice Mayor Lopez seconded. **VOTE:** The motion passed unanimously.

3. Discuss/Approve/Reject: Fulfillment of verbal contract with Mr. Jesse Baltierra for sound system equipment purchase and set-up (**CONSIDERATION AND ACTION OF THIS ITEM WAS MOVED TO THE END OF THE BUSINESS SECTION FOLLOWING AN EXECUTIVE SESSION.**)

MOTION: Council Member Peralta moved to direct staff to pay Mr. Jesse Baltierra \$250 for five meetings outside his contract after receipt of an invoice/signed letter and \$49 plus tax and freight to replace the broken speaker stand. Vice Mayor Lopez seconded. **VOTE:** The motion passed unanimously.

4. Discuss/Approve/Reject: Corrective action plan regarding the Arizona Department of Environmental Quality (ADEQ) Inspection of the Superior Solid Waste Transfer Station (SWTS) located at 101 South Airport Road

Ms. Wentzel said ADEQ had conducted an unannounced, routine inspection of the SWTS facility on March 1, 2012. The inspection, including any in-office record review, was done to evaluate compliance with ARS 44-1301 to 44-1307—Waste Tire Disposal—and ARS 49-801 to 49-818—Used Oil Management. A copy of the inspection report and photographic log was included in council's packet to apprise them of the conditions observed during the inspection. Potential deficiencies were noted during the course of the inspection, so additional correspondence regarding the inspection may be forthcoming. ADEQ will provide monthly updates on the status of any agency action, e.g., sanctions, resulting from the inspection as required by ARS 41-1009(H). It should also be noted that the Certificate of Insurance that East Valley Trading, LLC provided on Orion Recycling's behalf naming the Town of Superior as additional insured and loss payee was cancelled effective February 6, 2012. A copy of a letter to the TOS was attached.

She read the staff recommendation to close the Superior Solid Waste Transfer Station (SWTS) located at 101 South Airport Road from operation and direct staff to work with Mr. Larry Jochai, Orion Recycling, to develop a corrective action plan and timeline to bring the SWTS up to ADEQ standards.

Mayor Valenzuela said he was out there that day and saw brush piled up by the fence. He did not know where that came from. Public Works Director Jed Lant said that must be from the community cleanup day. He said another problem is he understands they are going to use dump trucks. That is a day's work. Council Member Gutierrez asked if it were possible to get a roll-off. They are going to end up going backwards. They just had a big effort with Community Pride Day. This will get out of control quickly. Ms. Wentzel said one of those dumpsters costs approximately \$1,000 every time. Mr. Gutierrez said he understood. It doesn't take very long, though, to fill up and that is what they are going to see. They have to make a decision. He agrees with closing.

Council Member Tameron asked Mr. Lant and Ms. Wentzel how long it is going to take to put a plan together. He knew they were very busy but did Mr. Jochai have an idea? Does he know how long it will take? Ms. Wentzel said Mr. Jochai would like to continue to operate out there. The person he owes money to for the purchase of the scale has offered to come

out and create a project plan and timelines for the next six months. They do not have six months. She feels he has been telling them on a regular basis that it is getting better and he is doing what is needed, but ADEQ doesn't accept his timeline. The town has the license so they get the penalty and they don't receive any money from Mr. Jochai from any of the activities that are happening out there and he has no insurance so there are huge liabilities.

Council Member Gutierrez said they had to come up with a plan. It is going to cost them in the front end or in the back end. They are between a rock and a hard place. Mr. Lant said it would help if the brush would be burned and the ash put in the dumpster. Ms. Wentzel asked Mr. Lant to correct her if she is wrong but he doesn't have any staff to do that so it is going to require more staffing. Mr. Tomerlin said it is going to require more staffing to clean this up anyway. Was Mr. Jochai going to do this at his expense? Ms. Wentzel said she didn't know. She discussed the cost effectiveness of private contractors. Mr. Gutierrez asked if the staff believed one dump truck was going to suffice. Ms. Wentzel said they had two dump trucks. She did not think it was going to suffice but it is at least something. Mr. Gutierrez said he thought she was underestimating the magnitude of this step they may or may not take. They spent too many years doing pickup and he thought they were going to take a giant step backwards. Mr. Tameron said they were going to get hit by ADEQ. Mr. Gutierrez said he was not saying to not close it. He was saying they had to find an alternative method to at least collect mattresses, yard clippings, tree clippings, all that. Ms. Wentzel discussed the public calling and listing for pickup and said their biggest emphasis ought to be communication with the public so they can manage and get on an aggressive timeline. Mr. Gutierrez asked how they handle construction material. Ms. Wentzel said they are not supposed to handle construction material. Mr. Gutierrez said he knew they are not supposed to. There was further discussion of construction material as well as pickups on the 1st and 4th Wednesdays of the month in addition to the dump trucks at town hall. Ms. Pam Rabago from the audience asked if people who clean their yards on the weekend are going to wait until Wednesday. Ms. Wentzel said that is what they do today. Ms. Rabago said they were getting cited for that. Mayor Valenzuela asked Todd Pryor if that were true. Mr. Pryor said they had sent 30 days' notice but there was a program over a year ago asking public works to take it away. Mayor Valenzuela asked how long after that they were cited. Mr. Pryor said that was only used in extreme cases with big piles that had been there for a while. Mr. Gutierrez said based on what he had seen people don't even call in. They just put it on the street. That is the reality of it. Mr. Tameron said, "Isn't that where enforcement comes in?" Doesn't public works go back and forth 10-15 times a day? Mayor Valenzuela said they had just recently asked public works to address this issue and write down the addresses so on the 1st and 4th Wednesdays of the month, if they see a pile out there, that address is added to the list. Mr. Gutierrez said everybody has to be involved. Mayor Valenzuela said everyone. There was further general discussion on the process and issues of the list.

Mr. Sonnie Sansom and Ms. Sue Anderson gave input from the audience and Chief Digirolamo discussed a past plan for RFP or RFQ. There was further discussion regarding restriction of Mr. Jochai's access, and the topic of liability and corrective action. Town Attorney Wencker, Ms. Wentzel and Chief Digirolamo responded to council questions. Mayor Valenzuela said he had been waiting since November to see some action from Mr. Jochai but he hasn't done anything.

MOTION: Council Member Tomerlin moved to close the Superior Solid Waste Transfer Station (SWTS) located at 101 South Airport Road from operation and direct staff to work with Mr. Larry Jochai, Orion Recycling, to develop a corrective action plan and timeline to bring the SWTS up to ADEQ standards and to order a picture and inventory of all items out there including trash piles. Council Member Peralta seconded.

Council Member Gutierrez asked how they control that. The motion is fine but doesn't control anything but the date. Chief Digirolamo said that once Mr. Jochai gets whatever equipment he says is his and is given a reasonable time, he is going to have to call them and say he is coming to get his property. They do have an option to stand by and keep the peace. Once he removes that and is not scheduled to come back, if he is in that yard, they are going to arrest him for trespassing. Mr. Gutierrez said he is not suggesting they prevent him. It just goes back to control and to be aware. He asked Mr. Tomerlin if he had an amendment to his motion.

Mr. Tomerlin said, yes, to direct staff to 1) keep the peace and 2) make this as smooth as possible.

Mr. Gutierrez said that still doesn't go far enough. Mr. Tameron asked him what he wanted. Ms. Peralta called for the question. Mayor Valenzuela asked if there were any other questions or comments. Mr. Gutierrez said, "So be it."

VOTE: The motion passed unanimously.

Mayor Valenzuela directed staff to lock it up the next morning and inventory it with pictures. He suggested Mr. Lant take the Chief out there with him and do a detailed inventory. Chief Digirolamo inquired about a letter. The mayor directed staff to do that first thing in the morning to deliver to Mr. Jochai. Mayor Valenzuela asked all the public to work with them to keep the trash off the streets and call in addresses with trash.

5. Discuss/Approve/Reject: Finalize sale of 679 W. Main Street, Superior, Arizona to Betty Gallego

Ms. Wentzel said on November 2, 2010 the TOS was awarded a Warranty Deed in Lieu of Foreclosure on the property of Guadalupe Gonzales at 669, 679 and 681 W. Main Street for full release and satisfaction of approximately \$6,000 in past due utility payments and costs of collection owed to the town. On July 20, 2011 another Warranty Deed was filed due to a lot line change as a result of a survey. After the town did significant cleanup, the property was put out to bid on June 1, 2011. Ms. Betty Gallego was the successful bidder for \$8,000 and an escrow was established October 11, 2011. The sale was delayed due to the discovery of an existing TEFRA lien and another amount due the Superior Court. The TEFRA lien has now been transferred to another property in the name of Guadalupe Gonzales. This escrow is now ready to close with the outstanding Superior Court fees and delinquent taxes being paid out of escrow. The fiscal impact included \$6,000 foreclosure for sewer lien/attorney fees, \$2,128 survey of property, \$1,424 public works expenses, property cleanup, \$1,147 delinquent taxes parcel 1, \$97 delinquent taxes parcel 2, \$450 for 5 percent seller's commission and escrow fee. Total cost being \$11,246, less the \$8,000 sales price, giving

them a loss of \$3,246 on the property. The recommendation was to direct staff to close escrow and finalize the sale.

MOTION: Council Member Tomerlin moved to direct staff to close escrow and finalize the sale of 679 W. Main Street between the Town of Superior and Ms. Betty Gallego. Council Member Tameron seconded. **VOTE:** The motion passed 5-1. Council Members Tomerlin, Tameron, Peralta, Vice Mayor Lopez and Mayor Valenzuela voted aye. Council Member Gutierrez voted nay.

6. Discuss/Approve/Reject: Establish annual Cleanup Day for the Superior Fairview Cemetery

Ms. Wentzel said the Superior Fairview Cemetery requires ongoing maintenance to keep it free of weeds and in good repair. Staff is unable to keep up with the volume of work during the spring when there is elevated plant growth. Establishing an annual, volunteer cleanup day for the cemetery would not only assist the town but also provide a sense of residents working together and fostering a positive transformation in the community. The recommendation is to direct staff to establish an annual volunteer Superior Cemetery Cleanup Day as set by the Council and to advertise the activity and to provide lunch and drinks for volunteers as well as bulk refuse pickup.

Mayor Valenzuela said he brought this to Rita because he knew the cemetery hasn't been addressed. There had been a lot of people commenting on how it looks. It is bad. The north side has looked that way for years; it is not something that just happened in the last six months. He is looking at involving all the churches in the community, all the different groups, the Chamber, BHP, Resolution, the contractors, everybody that can have heavy equipment in there, their own staff from fire to police to street crews, even ask the schools. They will make it a day that everybody goes out there. The city will provide food and drinks. He will be able to hopefully bring at least 10-15 inmates up. With different businesses also maybe they can get donations for the roll-offs. There are some people who want to address the need right now. One of the suggestions is they want to donate the block and infrastructure for the building of restrooms out there. People want to do it; hopefully, people want to get out there and clean it up too. He had dates in mind.

Ms. Wentzel made a point of clarification. A lot of people have asked why the street crew is not cleaning the cemetery and why their inmates are not out there. They have hired a temporary contractor to handle the street crew. They have had a problem with the street crew not being paid out of appropriate funding while other people who are not street crew are being paid out of street crew funding. What they have done is isolate the street workers and equipment being paid under HURF and excise tax so that 100 percent of what they are doing is paid from the appropriate fund. They are not authorized to go into the cemetery. It is on private property.

Mayor Valenzuela said they addressed that the previous day in the Chamber luncheon. The inmates he is talking about are county inmates he will be bringing up, so there will not be any issue with that. They will be free of charge.

There was a discussion of the time frame, with the mayor mentioning the possible weekends of May 12 or the 19th. He said if they elected not to do it, then they wouldn't do it, it was just a suggestion.

MOTION: Council Member Peralta moved to direct staff to establish an annual volunteer Superior Cemetery Cleanup Day as set by the Council and to advertise the activity and to provide lunch and drinks for volunteers as well as bulk refuse pickup. Vice Mayor Lopez seconded.

Council Member Tameron asked Leslie Martin of the Chamber if there is anything in the Chamber's calendar in May. Ms. Martin said there is nothing. Ms. Lopez mentioned an Optimist event on May 26. Mr. Tameron said that was also a long weekend.

Ms. Peralta was asked what day her motion was for. She said she would say the 12th as everyone likes to get out there and clean it up for Mother's Day.

Council Member Tomerlin asked if they were establishing an annual event, did they want to do it by the date or by something like "the second Saturday."

Ms. Peralta suggested "the Saturday before Mother's Day." Mr. Tomerlin said okay.

Council Member Gutierrez asked Ms. Wentzel if the staff had the bandwidth to put this forward without jeopardizing anything that is pressing. That was a yes or no answer. They are just piling more stuff on her. They are short staffed. The budget is coming up. He wanted to know from her if she can adequately do this with the staff she had to do it in a quality manner. Ms. Wentzel suggested putting Mila Lira in charge of this. Mr. Gutierrez asked if they could afford that. Ms. Wentzel said it is cheaper than allocating staff. Mr. Gutierrez said it is interesting that she is talking about that. Ms. Lira can do a very good job but they can't even replace the light bulbs on Main Street. And, all of a sudden, they can do this? Mayor Valenzuela said Mr. Gutierrez is reading the paper too much: "Go to Town Hall and get the facts." Mr. Gutierrez said this is fact.

Ms. Peralta asked if Mr. Gutierrez heard her motion. It recommended a volunteer day. It didn't say anything about staff. Mr. Gutierrez said, "Oh, you mean staff isn't going to organize it?" Ms. Peralta said it directed staff to establish a volunteer day. Mr. Gutierrez said okay and asked if there was a budget item, a dollar amount to that? Ms. Peralta said they would get donations. Mr. Gutierrez said, "So we're going to hire a consultant to do this?" Ms. Peralta said they didn't have to hire a consultant, she would do it. Mayor Valenzuela asked Mr. Gutierrez if he were satisfied. He said there had been a motion and second. Ms. Peralta called for the question.

VOTE: The motion passed 5-1. Council Members Tomerlin, Tameron, Peralta, Vice Mayor Lopez and Mayor Valenzuela voted aye. Council Member Gutierrez voted no.

7. Discuss/Approve/Reject: Authorizing the Town's attorneys to file and prosecute an appeal in Town of Superior v. Dr. Glenn Wilt, Maricopa County Superior Court case number TJ2010-000180, and to authorize payment to the Town's attorneys for their work on the appeal.

Mayor Valenzuela asked if this was going to move into executive. Attorney Wencker said they had held an executive session on it. There had been a hearing in January. There was a ruling. He calculated they would be going to court the 23rd of this month so he needed action on that. He did not believe they needed an executive session.

MOTION: Vice Mayor Lopez moved to approve the authorization of the Town's attorneys to file and prosecute an appeal in Town of Superior v. Dr. Glenn Wilt, Maricopa County Superior Court case number TJ2010-000180, and to authorize payment to the Town's attorneys for their work on the appeal. Council Member Peralta seconded. **VOTE:** The motion passed unanimously.

8. Discuss/Approve/Reject: Right of Way Permit for Joaquin Trujillo, 201 W. Main Street, Superior, Arizona

Ms. Wentzel said that in July 2011, Mr. Joaquin Trujillo submitted a building permit application and paid the associated fees to the Town of Superior to construct a second handicap-accessible exit for his building at 201 W. Main Street. Since the exit was above the grade, it required a ramp be constructed in the alley in the town's right-of-way. This was done at the suggestion of the town building officials at the time. The ramp was constructed according to code and met each inspection with a green tag. Since this ramp is in the public right of way, staff has now recommended that a right-of-way application be submitted with the associated fees, which have now been paid, and the appropriate documentation be developed. Staff recommended that a contract be developed with the stipulation that the property owner at 201 W. Main obtain \$1 million in general liability insurance naming the Town of Superior as additional insured.

Ms. Wentzel declared a conflict as Mr. Trujillo is her client. She turned the item over to the mayor. The mayor asked other staff to provide input regarding this item.

Town Attorney Chad Niven said he was contacted to draft a right-of-way contract. He believed the contract required the owner to secure general liability insurance in the amount of \$1 million and have the town be the additional insured. He believed the owner has done that. Other highlights of the contract would be notifications to the town and zoning administrators for any more construction. There is also language in there that would have the right-of-way canceled if the title is transferred, have a new permit if the use changed at all or again if the title transfers in any way.

Mr. Pryor said he had been called for a fire inspection on the building. They informed them they needed a second exit. The town building official met with them. They approved that exit. He has inspected it since. He discussed that they had done it because the building official said it had to be ADA accessible. Town staff directed them to do it. Mr. Pryor indicated that the fire trucks have no problems with access through the alleyway with the existing ramp.

Jed Lant reported. Mayor Valenzuela verified with Mr. Lant that all the procedures were followed with the town: they called it in and they were instructed to do it by town officials at that time and that was why they built the ramp. Mr. Lant said yes.

Council Member Tameron asked what happens if the building next door opens up and they require an exit. Mr. Pryor said if they needed an exit the town does not say where it should go. The owner would apply for a permit. Mr. Tameron asked what if they want to come out to the alley. Mr. Pryor said they submit the plan; however, there is plenty of room in the rear of the building to provide a secondary exit.

MOTION: Council Member Peralta moved to authorize town staff to approve the right-of-way permit and enter into a right-of-way encroachment contract with Joaquin Trujillo at 201 West Main Street, Superior, Arizona. Vice Mayor Lopez 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 380-431.03 (A-1), A-3) & (A-7)

1. A-1—PERSONNEL
2. A-3—LEGAL ADVICE WITH ATTORNEY: Discussion or consultation for legal advice with attorney or attorneys of the Town regarding: the town's fulfillment of verbal contract with Mr. Jesse Baltierra for sound system equipment purchase and set-up; and authorizing the Town's attorneys to file and prosecute an appeal in Town of Superior v. Dr. Glenn Wilt, Maricopa County Superior Court case number TJ2010-000180, and to authorize payment to the Town's attorney's for their work on the appeal

MOTION: Council Member Tomerlin moved to enter executive session and Council Member Peralta seconded. **VOTE:** The motion passed unanimously. Council entered executive session at 9:59 p.m. and returned to open session at 10:23 p.m.

3. A-7—LEGAL ADVICE WITH ATTORNEY REGARDING SALE, LEASE OR PURCHASE OF REAL PROPERTY

K. COUNCIL COMMENTS

Council Member Peralta: No comment.

Council Member Gutierrez: Commented on the volunteers and the cleanup day. It does take a lot of time out of the day. He feels that volunteers are outstanding. That is what really takes care of the loose ends that staff and town would not be able to address. Congratulated committee on Community Pride Day and was impressed with how clean the community looked. Recognized again the police department regarding the felony cases filed percentage. Also last council meeting there was a comment by the mayor about transparency, the council being aware. He is not aware about ADOT. He knows about ADOT but doesn't know if there is any ongoing discussion with ADOT in regard to their right-of-way or bypass other than discussions they've had in the past. Regarding staff recommendations, he would like a report at the next meeting as to who staff is.

Council Member Tomerlin: No comment.

Council Member Tameron: Asked Ms. Wentzel about having time and money. They were questioned about hiring Mila Lira to do what she was asked to do. There was a comment they didn't have the time and the money. Do they have the time and the money for Ms. Wentzel to do that for them? Council Member Peralta said she had volunteered. Ms. Wentzel said the answer to the question is no, she does not have the time; they do not have the funding. She detailed further and referenced Ms. Peralta's volunteering. Mr. Tameron thanked her. He also said he would like to know if there was anything the council could do to send ADOT a letter so that when there are hearings about the highway in Superior, if they could hold the hearings here so more of their constituents could be there. Ms. Wentzel said she would look into that.

Council Member Gutierrez: Followed up on his previous comment and said to staff that is one of the most important things for him when he hears "staff recommendation;" he wants to know what "staff recommendation" means. Does that mean it is public works, public safety, fire department, finance? Who is "staff" that is making that recommendation? What is the genesis of that and how did it come about and who is involved? Are there individuals from this body or is it really "staff?" He wants that part of the update at the next meeting. When he hears "staff recommendations," he wants to know what the depth of that is when that happens—who is involved in that recommendation. Ms. Wentzel said she would make sure that happened.

Council Member Peralta: Said she would make her comment now. She said she thought it common knowledge when they refer to "staff" it is their acting town manager, because that is what she is hired for. Mr. Gutierrez said they don't have a town manager. Ms. Peralta said "interim." Mr. Gutierrez said they don't even have an interim town manager. Ms. Peralta said town clerk or whatever you want to call it, the one doing all the work, getting the facts in order. Mr. Gutierrez said that is why he wants to go through that formality because he thought there were some issues they have to address. Ms. Peralta commended Ms. Wentzel on the \$300,000 brought down to \$84,000.

Vice Mayor Lopez: Commended the volunteers. They are hard to come by and once they get them they need to make sure they do continue to honor them. It is a nonpaying job but their efforts are not going unnoticed. She also wanted to commend Ms. Wentzel and the staff. It wasn't just Ms. Wentzel but the staff worked together hard, really hard, to watch the money and make sure the things ordered were a necessity and not just to order and they didn't have money to pay as they did in the past. They are looking really good but it doesn't mean they are out of the woods yet. Also, 7th- and 8th-grade boys and girls will be going out the next Saturday to the Eloy area to compete in baseball and softball. The boys are undefeated.

Mayor Valenzuela: To follow up on Mr. Tameron's suggestion of a letter to ADOT, he wishes they could draft the letter as he has been approached by several residents re the chipping of the road at the top of the overpass as it goes on to the on-ramp. It is terrible. They need to address that, send a letter to them to see if they can patch it or do something because there are some deep holes there. He also commended staff, all the departments. Everybody is wearing different hats. It is tough times right now but they are going to get there. It just takes a little bit more hard work, a little bit more effort on cutting back and patience. As he did the previous day at the Chamber meeting, he addressed some of the issues that people asked in reference to some of the letters that are written. They are out there. As Mr. Chavez said, some of the biggest lies are what they are—nothing. They just sell newspapers. He said they addressed issue of the election

and correction of the "\$8,000 to run that election." He said that election ran them a little over \$3,000. He misspoke at the Chamber and said \$2,800, but it ran them a little over \$3,000. He thought \$2,200 went to elections and \$800 went to the county recorder's office. He had referenced also and talked about the hiring of staff as was referenced earlier. Temporary positions are filled with some people, but all the full-time positions have been filled. When Ms. Cervantes was hired there were 20-some applicants. When Mr. Otis Lara got hired there were 15 applicants. Now for the senior center, another full-time position, there are 13 applicants. They are going through the process and they are being transparent. There is nothing to hide. As he told them the previous day, if they have a question, come and ask. He will give them an answer and anyone on this body will give them an answer if they know the question. If they don't know it, they are going to find out the answer. He encouraged everyone there to go talk to Ms. Wentzel to find out what is going on day-to-day because they tell the council not to confer with each other day-to-day to make decisions as it is not legal. If they want to know, go to Town Hall and talk to Ms. Wentzel. He invited anyone from the public to go to Town Hall and talk to Ms. Wentzel. Hopefully they will have a great day for their turnout on the cemetery because it is badly needed. Don't forget, May 12! He said to Mr. Lant that hopefully on that weekend they can flex off give a day off during the week and work on that Saturday so they don't incur overtime. Hopefully all departments can do that. They want to see him in his scrubs. Hopefully all department heads will volunteer and come in and help out on that day. Bring anyone! Bring your weed eaters and bring your rakes. Mr. Tameron added, "And safety glasses."

L. FUTURE AGENDA ITEMS (THIS ITEM ON AGENDA BUT NOT ADDRESSED.)

1. Open Meeting Law Refresher for Town Council and Appointed Commissioners
2. Budget Work Session
3. Medical Marijuana Ordinance

M. ADJOURNMENT

MOTION: Vice Mayor Lopez moved to adjourn. Council Member Tomerlin seconded. **VOTE:** The motion passed unanimously. Mayor Valenzuela adjourned the meeting at 10:36 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 April, 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